IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NOS. 10866-10867 OF 2010

IN THE MATTER OF: -

M. Siddiq (D) Thr. Lrs.   ...   Appellant

VERSUS

Mahant Suresh Das & Ors. etc. etc.   ...   Respondents

AND
OTHER CONNECTED CIVIL APPEALS

SUBMISSION NO.2
BY
DR. RAJEEV DHAVAN, SENIOR ADVOCATE

**COMPILATION CONTAINING EXTRACTS FROM
P.V. KANE: HISTORY OF DHARMASASTRA**

(PLEASE SEE INDEX INSIDE)

ADVOCATE-ON-RECORD: EJAZ MAQBOOL

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HISTORY OF DHARMAŚĀSTRA
(ANCIENT AND MEDIÆVAL RELIGIOUS AND CIVIL LAW IN INDIA)

By

PANDURANG VAMAN KANE

National Professor of Indology

Volume 1

REVISED AND ENLARGED

Part 1

· It has been shown above that the Āśv. gṛ. sūtra, which represents the last phase of Vedic literature, includes the ācāryas of Bhārata, Mahābhārata and Dharma among the sages in the daily *tarpaṇa*. The Mārkaṇḍeya-purāṇa starts by saying that it has four doubts as to Bhārata (vide H. of Dh. Vol. V, p. 901 for the four questions and p. 903 for the date). The Mṛcchakaṭika (III. 12) refers to the Sauptika parva (mārgo hyeṣa narendra-Sauptikavadhe pūrvam kṛto Drauṇinā). In several places where the Vedāntasūtra relies on Smṛti for support Śaṅkarācārya quotes only verses from the Mahābhārata.[377] For example, on V. S. II. 3. 47 (smaranti ca) he quotes only two verses of the Mahābhārata. Vide note below. This establishes that Śaṅkarācārya held that the Mahābhārata including the Śāntiparva (which modern critics regard as interpolated later) was earlier than the Vedānta-sūtra. The present author has attempted to establish that when the Gītā (in 13.4) speaks of Brahmasūtrapadas it does not refer to the Brahmasūtra of Bādarāyaṇa but to several Brahmasūtras such as those of Bādari, Auḍulomi and Āśma-rathya (vide H. of Dh. Vol. V. pp. 1173–74). Śabara in his *bhāṣya* on the Pūrvamīmāṁsā-sūtra quotes passages from the present Mahābhārata text; vide a paper in Sukthankar volume pp. 221–229 by Prof. V. M. Apte and D. V. Garge.

Before proceeding further it must first be emphasized that the Mahābhārata claims to be *itihāsa* (history) as stated above, while the Rāmāyaṇa is a *kāvya* as expressly stated in the Rāmāyaṇa itself several times and as comparatively early

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Vide also JRAS 1909 pp. 1053–6 and 1087–92 and JBBRAS vol. 23 pp. 164–166 for prior attempts at reading this very important inscription. दमस्यागोऽप्रमादश्च एतैर्व्रतमसाहितम् । तानि संयमुहान्याहु-र्ब्राह्मणा ये मनीषिणः ॥ उद्योगपर्व ४३.२२; दमस्यागोऽप्रमादश्च ते त्रयो ब्रह्मणो ह्या: । स्त्रीपर्व ७. २३. Besnagar is about two miles to the north-west of Bhilsa in the Gwalior State.

377 (1) स्मरन्ति च । वे. सू. II. 3.47; शंकराचार्य remarks: स्मरन्ति च व्यासादयो यथा जैवेन दुःखेन न परमात्मा दुःखायत इति । तत्र यः परमात्मा...स सप्तदशकेनापि राशिना युज्यते पुनः ॥ These verses are Śānti

(*Continued on the next page*)

and famous poets like Kālidāsa often say.[378] Therefore, it was possible for Vālmīki to give free rein to his imagination, while in the Mahābhārata some restraint had to be observed) since what was being put forward was dubbed *itihāsa*.

The words Gāthā and Śloka occur in the Ṛgveda. Gāthā (derived from the root 'gai' to sing) means a song or verse. Vide Ṛg. VIII.32.1, VIII. 71.14, VIII.98.9, X.99.4, IX.85.6 for gāthā. The word Śloka occurs more frequently in the Ṛgveda than the word gāthā and means a verse. In the Mahābhārata Gāthās sung by the Pitṛs (Anuśāsana, 88.11–14), by Yama (Anu. 45.17 and 104.72) or by Janaka (Śānti 17.18–20), by Kāśyapa (about Kṣamā, Vanaparva 29.35–44), Gāthā about Paurava in Droṇa (57. 11) and about Bhagīratha (in Droṇa 60.8), of Yayāti (in Śānti 26.13 and in Droṇa 63.8-9), gāthās sung by Ambarīṣa and by Alarka (in Āśvamedhika 31. 12ff and 30. 30–31 respectively), by Bṛhaspati (Śānti 23.14–15),by Brahman (Śānti 136, about king's treasury), gāthās sung by Uśanas on distrust (Śānti 198.192) and many more occur. Ślokas also are quoted with the words 'Ślokau cātra bhavataḥ' (Vanaparva 192.27–29) or 'bhavanti cātra ślokāḥ' as in Vana-

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(*Continued from the previous page*)

351. 14–16 ; no other smṛti passages are quoted by him on this sūtra and also on the next sūtra quoted here. (2) अपि च संराधने प्रत्यक्षानुमानाभ्याम् । वे. सू. III. 2.24; शंकराचार्ये explains ' प्रत्यक्षानुमानाभ्याम् श्रुतिस्मृतिभ्यामित्यर्थः ' and quotes a verse and a half; the first occurs in Śānti 47. 54 and also in 284. 69 ; (3) स्मर्यते च । वे. सू. IV. 2. 14 शंकराचार्ये explains : स्मर्यतेपि च महाभारते गत्युक्कान्त्योरभावः–सर्वभूतात्मभूतस्य सम्यग्भूतानि पश्यतः । देवा अपि मार्गे मुह्यन्त्यपदस्य पदैषिणः ॥ इति...तथा च त तत्रैवोपसंहृतम् । शुक्स्तु मारुच्छीघ्रां गतिं कृत्वान्तरिक्षगः । दर्शयित्वा प्रभावं स्वं सर्वभूतगतोऽभवत् ॥ इति. The verses are Śāntiparva 262. 32 (and also 269. 22 and 333. 19–20).

378 न ते वागनृता काव्ये काचिदत्र भविष्यति । तस्य बुद्धिरियं जाता वाल्मीकेभविताऽऽत्मनः । कृत्स्नं रामायणं काव्यमीहृशैः करवाण्यहम्...समाक्षरैः श्लोकशतैर्यशस्विनो यशस्करं काव्यमुदारधीर्मुनिः ॥ बालकाण्ड 2. 35, 41; आदिकाव्यमिदं त्वार्षं पुरा वाल्मीकिना कृतम् । युद्धकाण्ड 131. 107; कविः कुशल्वावेव चकार किल नामतः । ... स्वकृतिं गापयामास कविप्रथमपद्धतिम् ॥ ... कवेरायस्य शासनात् । रघुवंश 15. 32, 33, 41.

parva (199. 13-15) ; Ślokas by one who ponders over dharma as in Sauptika (I.53–55). Then many ślokas and gāthās are quoted as Ānuvaṁśa or simply as Anuvaṁśam (meaning genealogies handed down in families) e. g. Vanaparva 129. 8 says 'atrānuvaṁśam paṭhataḥ śruṇu me kurunandana' and then quotes two verses. For 'Anuvaṁśam,' vide also Vanaparva 87. 16–17 (*yatrānuvaṁśam bhagavān Jāmadagnyastathā jagau*). For Ānuvaṁśa ślokas, vide Ādiparva 95. 8 (for sons[379] of Devayānī and Śarmiṣṭhā).

For other Ānuvaṁśa Ślokas, vide Ādi. 95. 27, 95. 30–31, 95.46 (about Śantanu). In Vanaparva 88. 5 there is an ānuvaṁśya gāthā about Nṛga. Sometimes, even itihāsa is spoken of as sung i.e. recited (gīta). The word itihāsa is ancient. It occurs in the Atharvaveda,[380] in the Śatapatha-Brāhmaṇa (XI. 1. 6. 9), in the Bṛhadāraṇyaka and Chāndogya Upaniṣads (III. 4. 2, VII. 2. 1 respectively).

The above brief statement is quite enough to show that before the Mahābhārata was composed there were numerous verses handed down in families and that the Mahābhārata utilizes and incorporates a large mass of ballads and bardic verses preserved in many prominent families. The Rāmāyaṇa, on the other hand, is a *Kāvya and not an itihāsa* and is confined to the life of Rāma, his brothers and their vicissitudes.

There is another quarter which sheds useful light on the epics. From Pāṇini's sūtras, the Vārtikas thereon and

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379 The com. on Vanaparva 129. 8 says अनुवंशं परम्परागतमाख्यानश्लोकम् .

380 Two ślokas are interesting : अत्रानुवंशश्लोकौ भवतः । भर्त्ता माता पितुः पुत्रो येन जातः स एव सः॥ भरस्व पुत्रं दुष्यन्त मावमंस्थाः शकुन्तलाम् ॥ रेतोधाः पुत्र उन्नयति नरदेव यमक्षयात् । त्वं चास्य धाता गर्भस्य सत्यमाह शकुन्तला ॥ आदिपर्वे ९५. ३०–31. Vide Udyogaparva 33. 103 अत्रैवोदाहरन्तीममितिहासं पुरातनम् । पुत्रार्थमसुरेन्द्रेण गीतं चैव सुधन्वना ॥; then twenty verses follow; तमितिहासः पुराणं च गाथाश्च नाराशंसीश्चानुव्यचलन् । अथर्ववेद XV. 6. 11; ऋचो अस्य महतो भूतस्य निःश्वसितमेतद्यद्वेदो यजुर्वेदः सामवेदोऽथर्वाङ्गिरसमितिहासः पुराणं विद्या उपनिषदः बृहदा. उप. II 4. 10, IV 1. 2. IV. 5. 11; The महाभाष्य on Pāṇ. IV. 2. 60 and Vārtika 'आख्यानाख्यायिकेतिहासपुराणेभ्यश्च ठग्वक्तव्यः' explains ऐतिहासिक (इतिहासमधीते वेत्ति वा इति ऐतिहासिकः).

Patañjali's Mahābhāṣya we learn a good deal about some of the prominent personages of the Mahābhārata, their associates, enemies and their doings.

There are in the Rāmāyaṇa hardly any Ānuvaṁśya Ślokas referring to Daśaratha or Rāma. According to the Sarvānukramaṇī Rāma, son of Jamadagni, is the seer of Ṛg. X. 110. Rāma appears to be the name of some person in Ṛgveda X. 93.14. Rāma Mārgaveya is the name of a person of the priestly family of Śyāparṇa in the Ait. Br. VII. 5. 1.

In Pāṇ. IV. 3. 98 Vāsudevaka,[381] a devotee of Vāsudeva, and Arjunaka (a devotee of or one who likes Arjuna) are derived in the sense of 'bhakti' (IV. 3. 95). In VIII. 3. 95 ('gaviyudhibhyām[382] sthiraḥ) the name Yudhiṣṭhira, one of the principal personages in Mahābhārata, is mentioned. On Vārtika 7 (bhrātuśca jyāyasaḥ) on Pāṇ. II. 2. 34 ('alpāctaram') Patañjali states the example 'Yudhiṣṭhirārjunau,' where the word Yudhiṣṭhira is put before Arjuna, though it has four vowels, because of his being the elder. In VI. 2. 38 Pāṇini provides for the accent (*svara*) of 'mahān' occurring in the compound Mahābhārata (along with nine other words). Vārtika 7 on Pāṇ. IV. 1. 85 provides for the name 'Aśvatthāmaḥ.' Kielhorn brings together (in I. A. vol. XIV pp. 326-27) all the verse quotations (of either whole verses or half verses or *pādas*) cited by Patañjali in the Mahābhāṣya,

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381 भक्ति: । वासुदेवार्जुनाभ्यां वुन् । पा. IV. 3. 95 and 98; भज्यते सेव्यते इति भक्ति: । सि. कौ. The Mahābhāṣya explains that Vāsudeva is not merely the name of a Kṣatriya but that it is a designation of the Divine.

382 गवि-युधिभ्यां स्थिर: । पा. VIII. 3. 95 (examples गविष्ठिर: युधिष्ठिर:). The word 'Bhakti' in the sense of worship occurs in श्वेताश्वतरोपनिषद् VI. 23. The word भक्ति: relates back to सोस्य निवास: (पा. IV. 3,89) and also reaches forward. Therefore 'bhakti' in 'Pāṇini' has a wider sense than *mere* worship; it also means 'resort', 'liking' as in 'Āpupika' (apūpā bhaktir-asya), the sense of object of worship is not excluded from the word 'bhakti' in Pāṇini, but that word is larger in meaning than 'worship' in Pāṇini. Therefore, in IV. 3. 95 (Vāsudevārjunābhyām vun) it is quite correct to take 'Vāsudevaka' as meaning worshipper of Vāsudeva, while Arjunaka may mean 'one who has a liking for Arjuna or who worships Arjuna '.

On Pāṇ. IV. 1. 97 (sudhātur-akaṅ ca) the first vārtika is 'Sudhātṛ-vyāsayoḥ' and we get 'Vaiyāsakiḥ' (as son of Vyāsa) i. e. Śuka 'and Mahābhāṣya on it says Vaiyasakiḥ Śukaḥ'). Some of the verses or their parts are very important and interesting about the heroes of the Mahābhārata. On Vārtika 22 on Pāṇ. II. 2. 24 we have two quotations, viz. 'asidvitīyoṣnusasāra Pāṇḍavam' (he, armed only with a sword, followed the Pāṇḍu hero) and 'Saṅkarṣaṇa-dvitīyasya balam Kṛṣṇasya vardhatām' (in this both Kṛṣṇa and his brother Saṅkarṣaṇa are mentioned). The first quotation (on II. 2. 24) clearly shows that it must have been taken from some work dealing with Pāṇḍava heroes. Another interesting quotation is 'Dhanañjayo raṇe raṇe' on' Vārtika 3 on Pāṇ. III. 3. 58. It is well-known that Arjuna was called Dhanañjaya (vide Bhagavadgītā X. 37 'Pāṇḍavānām Dhanañjayaḥ').

On Vārtika 11 on Pāṇ. IV. 2. 104 Patañjali cites the words ' Akrūra–vargyaḥ' and 'Akrūravargīṇaḥ' as well as Vāsudeva–vargyaḥ and Vāsudevavargīṇaḥ. This reminds one of the dialogue between Kṛṣṇa and Nārada reported in Śānti-parva, chap. 81. It appears from that chapter that there was jealousy among the Yādavas.[383] Akrūra and Āhukax were two chiefs among the Andhaka-Vṛṣṇis (verse 8) and Kṛṣṇa was the President of that Saṅgha and that Nārada advises Kṛṣṇa that a *saṅgha* comes to grief from internal dissensions (verse 25) and that Kṛṣṇa should act in such a way as not to lead to the destruction of the Saṅgha. Pāṇ. (IV. 1. 114) knew the Andhakavṛṣṇis and Kurus and Patañjali on Vārtika 7 cites and explains the words Augrasenya (from Ugrasena of the Andhaka clan), Vāsudeva and Bāladeva (among Vṛṣṇis) and Nākula, Sāhadeva and Bhaimasenya (among the Kuru clan)

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383   Ādi. 2 21. 29 shows that Akrūra was a Senāpati of the Vṛṣṇis and was called 'dānapati'. Kṛṣṇa says in Śānti 81. 9–10 ' यस्य न स्युर्न वै स स्वाद्यस्य स्युः क्रःत्स्नमेव तत् । द्वाभ्यां निवारितो नित्यं वृणोम्येकतरं न च ॥ स्यातां यस्याहुकाकूरौ किं नु दुःखतरं ततः । यस्यापि च न तौ स्यातां किं नु दुःखतरं ततः ॥ '. The com. makes this clear : द्वयोर्म-द्विषयोरिव युध्यतोर्वा रणे मध्यस्थस्य मम महद्दुःखं तथा द्वयोः सुहृदोस्त्यागेपि इत्याह स्यातामिति. Verse 11 is apt : सोहं कितवमात्रेन द्वयोरपि महा-मते । एकस्य जयमाशंसे द्वितीयस्यापराजयम् .

from Nakula, Sahadeva and Bhīmasena respectively. Vide also Pāṇ. VI. 2. 34 'Rājanyabahuvacana-dvandvesndhaka-vṛṣṇiṣu', which refers to several rājanyas among Andha-kavṛṣṇis.

From the above brief references in Pāṇini and Patañjali one may affirm that the central story of the Mahābhārata is certainly older by centuries than the story of the Rāmāyaṇa. Reference has been made to the fact that there is a Rāmopā-khyāna in Vanaparva (chap. 273-292 containing about 750 verses). It does not completely agree with the present Rāmāyaṇa text. In this Kumbhakarṇa is said to have been killed by Rāma (Yuddha. 67. 180-181), while in the Rāmopā-khyāna it is Lakṣmaṇa who does so (Vanaparva 287.18-19). Besides, in the Śāntiparva (chap. 29) there is a brief reference to Rāma's rule for 11000 years and the ideal happiness of the people under his rule. In the Droṇaparva also Rāma is briefly referred to in the Ṣoḍaśa-rājakīya section (chap. 55-71, that relating to Rāma being chap. 59). Stray references to a few other incidents of the Rāma story may be made here. For example, Rāma being led to pursue the gold-coloured deer ; the Śāntiparva refers briefly to the story of Śambūka. The Śalyaparva mentions that Rāma cut off the head of a *rākṣasa*, and the Śānti refers to the killing of Rāvaṇa by Rāma through anger (361. 15).[384]

Hopkins refers to certain passages where Vālmīki is mentioned in the Mahābhārata and divides them into two classes. In the first class he puts certain references to Vāl-mīki as meant for a mere saint (a ṛṣi), as in Sabhā 7. 16, Vanaparva 85. 119, Udyoga 93. 27, Śānti 207. 4 (along with Asita, Devala and many others). In my opinion Anuśāsana 13.8 (where Vālmīki is styled *bhagavān*) belongs to this first category. Then Hopkins mentions 'four passages as referring' directly to the Rāmāyaṇa (vide ' the great Epic of India') pp. 61 ff).

384 असम्भवे हेममयस्य जन्तोस्तथापि रामो लुलुभे मृगाय ॥ सभा, 76, 5 ; श्रूयते शम्बुके शूद्रे हते ब्राह्मणदारकः। जीवितो धर्ममासाद्य रामात्सलपराक्रमात् ॥ शान्ति 153. 67 ; पुरा वै दण्डकारण्ये राघवेण महात्मना । ... जनस्थाने शिर-भिछन्नं राक्षसस्य दुरात्मनः ॥ शल्य 39. 9-10.

H, D,—46

Before proceeding to examine these four passages relied upon by Hopkins a few words must be said about the present text of the Mahābhārata. There are three elements in it, viz. the bare story of the Pāṇḍava brothers and their cousins (usually referred to as Kauravas), the upākhyānas (abounding in the Vanaparva and scattered about in other *parvans* also) concerning gods, sages, brāhmaṇas, kings and others and didactic matter insisting on doing one's duties and the role of *dharma* as in Udyoga 148. 16 'yato dharmastato jayaḥ' and in Kuntī's last message to Yudhiṣṭhira in Āśramavāsika-parva 17.21 'Dharme te dhīytām budhir—manastu mahad-astu ca' and philosophy (Sānkhya, Yoga, Vedānta). There was, therefore, great scope at all times for adding stories and didactic matters. Thus the Mahābhārata became very much inflated by additions made at different times. Anyone could add a story by saying 'atrāpyudāharantīmam itihāsam purātanam'. In the Anuśāsanaparvan alone in 25 chapters stories are introduced with these words, apart from several stories introduced in a different manner. Chap. 98 of that parvan is remarkable. There Bhīṣma introduces (in the words 'atrāpyudāharanti') the story of a dialogue between Manu Prajāpati and one Suvarṇa who asks how the practice of the worship of deities with flowers originated and what the rewards of such worship are. Then Manu cites the story (again with the words 'atrāpyu' etc.) of the dialogue between Śukra and Bali Vairocana. Two examples may be cited about Rāma story being interpolated by devotees and enthusiasts. In chap. 74 of the Anuśāsana, apart from the evil results of the killing of a cow, the merit issuing from the gifts of cows or gold is praised and the chapter is wound up (verses 11–14) by Bhīṣma who says that he learnt all this from his Upā-dhyāya to whom it came from the sages, to whom Lakṣmaṇa imparted the story in the forest which Rāma had heard from his father Daśaratha who learnt it from Indra. Another similar example occurs in chap. 137 of the same *parvan*, which names numerous great men of the past that achieved highest worlds by making gifts of various kinds, among whom Rāma (in verse 14), son of Daśaratha, is mentioned as having reached inexhaustible worlds by offerings in *yajñas*.

Not only were tales interpolated but there are several repetitions in the Mahābhārata. A few examples may be noted. There is in Śānti (chap. 227) an enlarged version of

the brief dialogue between Indra and Bali in chap. 223 ; chap.
175 (dialogue between father and son) is practically the same
as chap. 277. Śalya 38. 39–45 are the same as Vanaparva 83.
116–121. The Ṣoḍaśarājakīya occurs twice, once in the
Droṇaparva (chap. 55–71) and again in the Śāntiparva chap.
29. The story of Āstika occurs twice, in Ādi 13ff and in
chap. 48ff again.

The literature known to the Mahābhārata furnishes some
data for making a statement about the probable date of the
extant text of the epic. But as the present text is very much
inflated owing to additions made at different times, it would
be impossible to assign definite dates, and references to Vedas
and Brāhmaṇa works need not be cited. The six Aṅgas are
mentioned in Ādi. 170. 75. In Śānti 342. 38 the Nāighaṇṭu-
ka–padas are mentioned and the word Vṛṣa therein. The
Nirukta of Yāska and its explanation of the word ' śipiviṣṭa '
(which occurs in Ṛg. VII. 100. 6–7) is mentioned in the
Śāntiparva.[385] The Nirukta (V. 8) gives the explanation of
the word provided by Aupamanyava which is derogatory (to
Viṣṇu), while Yāska appears to prefer a laudatory sense and
applies the word to Viṣṇu (as Sūrya), meaning 'in which rays
enter on all sides)'. The Śānti (310. 21–22) mentions that
Bṛhaspati knew (composed ?) the Vedāṅgas, Bhārgava Nīti-
śāstra (politics), Nārada music (Gāndharva), Bhāradvāja
archery, Gārgya the doings of *Devarṣis*, Kṛṣṇātreya medicine,
and some disputants (composed) several *siddhāntas* based on
logic (such as Tārkika, Vaiśeṣika and Kāpila). It will be stat-
ed in the section on Manusmṛti how hundreds of verses are
common to the Mahābhārata and the Manusmṛti. In the
Anuśāsana we have (in 47. 35) mention of the Śāstra declared
by Manu. Itihāsa and Purāṇa are called the fifth Veda as
early as the Chāndogya Up. VII. 1. 2–4 and the Śatapatha
Brāhmaṇa requires that in the Pāriplava some Purāṇa and
Itihāsa passages were to be recited on the 8th and 9th days
respectively. Therefore, the numerous references to Purāṇa
in the Great Epic are not here set out. It is important to
note that a Purāṇa declared by Vāyu is mentioned in Vana-
parva (191. 16). The Svargārohaṇaparva (5, 46–47) states
that there are 18 Purāṇas composed by Kṛṣṇa Dvaipāyana.

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385 स्तुत्वा मां शिपिविष्टेति यास्क ऋषिर्ददर्शी ः । मत्प्रसादादघो नष्टं निरुक्तमभि-
जग्मिवान् ॥ शान्ति 342–73.

Upavedas are mentioned in Droṇaparva 202. 75. Dhanur-veda is mentioned in Śānti 49. 32, 50. 233 and 167. 31.

The word 'Dharmaśāstreṣu' occurs frequently as shown above (vide pp. 13, 300–1). Individual writers on Dharma-śāstra (apart from Manu) are also quoted e. g. Yama in Śānti 82. 31, Aṅgiras (two verses) in Śānti 69. 71–73 ; Uśanas on slaying an ātatāyin[386] (a desperado like an incendiary or a poisoner) may be killed outright in self-defence.

In Anuśāsana 18. 38 Garga is said to have obtained the knowledge of the sixty-four *Kalās* (arts) and in Śalya-parva 37. 145 Garga is said to have gained on the banks of Sarasvatī knowledge of kāla and about the movements of heavenly bodies. Astronomer Garga is assigned to 50 B. C. by Kern (vide Preface to Bṛhat-samhitā p. 50) and H. of Dh. Vol. V pp. 79 and 592 n 878.

It appears that by the time the Mahābhārata assumed its present form Buddhist and Jain ideas had acquired influence among the people. For example, the Vanaparva[387] (181.42-43) says 'truthfulness, self-restraint, *tapas*, charity, ahimsā, constant adherence to dharma, these are the means (of higher life) among men, not caste nor family.' Śāntiparva says

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386 श्लोकौ चोशनसा गीतौ पुरा तात महर्षिणा । ... उद्यम्य शस्त्रमायान्तमपि वेदान्तगं रणे ॥ निगृह्णीयात्स्वधर्मेण धर्मापेक्षी नराधिपः । ... न तेन धर्महा स स्यान्मन्युस्तं मन्युमृच्छति ॥ शान्ति 56. 28–30. Compare मनुस्मृति 8. 348–351 (where in verse 351 we have the words मन्युस्तं मन्यु-मृच्छति '.

387 सत्यं दमस्तपो दानमहिंसा धर्मनित्यता । साधकानि सदा पुंसां न जातिर्न कुलं नृप ॥ वनपर्व 181. 42–43 ; न विशेषोस्ति वर्णानां सर्वं ब्राह्ममिदं जगत् । ब्रह्मणा पूर्वसृष्टं हि कर्मभिर्वर्णतां गतम् ॥ शान्ति 188. 10; सत्यं दानमथाद्रोह आनृशंस्यं त्रपा घृणा । तपश्च दृश्यते यत्र स ब्राह्मण इति स्मृतः । ... शूद्रे चैतद्भवेल्लक्षमं (द्विजे ?) द्विजे तच्च न द्यूयेत । न वै शूद्रो भवेच्छूद्रो ब्राह्मणो न च ब्राह्मणः ॥ शान्ति 189. 4 and 8; Compare Vanaparva 180. 21, 216. 14–15 ; उद्योगपर्व 43.49 (य एव सत्यानापैति स ज्ञेयो ब्राह्मणस्वया) ; अनुशासन 143. 48–49 (कर्मभिः शुचिभिर्देवि शूद्रात्मा विजितेन्द्रियः । शूद्रोऽपि द्विजवत्सेव्य इति ब्रह्मा-ब्रवीत्स्वयम् ॥).

(188. 10) 'there is no difference among the (four) varṇas; this world is Brāhma (belongs to Brahmā), because it was formerly created by Brahmā and was, (later) reduced to different varṇas by their (diverse) actions'. The Śāntiparva announces 'Truthfulness, charity, freedom from hatred and wickedness, humility, kindness and *tapas*,–where these are seen, he is known as brāhmaṇa. If these characteristics are found in a śūdra and these do not exist in a twice-born person then the Śūdra is not a śūdra and the so-called brāhmaṇa is not a brāhmaṇa. This approaches the teaching of the Dhammapada verses 383, 393 (yamhi satyam ca dhammo ca so sukhī so ca brāhmaṇaḥ). Similiarly, in Anuśāsana 115 Yudhiṣṭhira asked Bhīṣma 'you have often declared that *ahiṃsā* is the highest dharma and you also said that in śrāddhas the pitṛs desire to have flesh offered'. Buddhist vihāras (Vana° 188. 56) had come into existence and Eḍūkas (structures over the bones of the dead); are mentioned in Vanaparva (90. 65, 67). A naked Kṣapaṇaka (Digambara Jain) is mentioned in Ādi 3. 126 ; in Śānti 232. 21[388] the Jain position seems to have been alluded to and also in Āśvamedhika 49. 2. In Ādiparva 70. 46 it is stated that in Kaṇva's hermitage there were leaders of Lokāyatika views along with students of Vedas and Mokṣadharma.

On Pāṇ. III. 2. 111 the Mahābhāṣya cites 'jaghāna Kaṃsam kila Vāsudevaḥ' (on Vārtika 2 ' parokte ca lokavijñāte prayoktur-darśanaviṣaye') and on Vārtikas 6 and 15 the Mahābhāṣya makes very interesting remarks about Kaṃsavadha (the killing of Kaṃsa by Kṛṣṇa) described in stories, drawn in paintings and represented in dramas; vide Vol. V. p. 130 notes 329–30 and p. 203 note 521. The Mahābhāṣya asks the question how one can use the present tense (in Kaṃsam ghātayati) when Kaṃsa was killed in antiquity. That shows that centuries before the Mahābhāṣya) works (stories and dramas) had been composed on the killing of

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388 एतमेव च नैवं च चोमे नानुभे न च । कर्मस्था विषयं ब्रूयुः सत्त्वस्थाः समदर्शिनः । शान्ति 232. 21; ऊर्ध्वं देहाद्दृन्खेके नैतदस्तीति चापेरे । केचित्संशयितं सर्वं निःसंशयमथापरे ॥ आश्वमे॰ 49. 2.

Kaṁsa by Kṛṣṇa. That some verses quoted by the Mahā-bhāṣya are found in the Mahābhārata is shown in the note below.[389]

The date of the Mahābhāṣya is generally accepted to be about 150 B. C.; vide (pp. 75–79 above). It quotes a quarter of a verse stating that some person followed the Pāṇḍava hero with only a sword in his hand and Pāṇini knows the central figures of the great Epic viz. Yudhiṣṭhira and Arjuna. It has been shown above (p. 75) that Pāṇini flourished about 450 to 400 B. C. Therefore, it follows that there were poems about Pāṇḍava heroes and about Kṛṣṇa killing Kaṁsa some time before 400 B. C. Scholars would have to assign 500 B. C. as the latest date for the core of the Mahābhārata.

Another circumstance pointing to the same conclusion is that the Āśv. Gṛ. mentions " Bhārata-Mahābhārata-dharmā-cāryāḥ". The Gṛhyasūtras belong to the latest phase of the Vedic literature. The mention of Bhārata and Mahābhārata as preceding the Āśv. Gṛ. would make it very probable that the Mahābhārata was in existence at least just before the end of the Vedic period.

One warning already given by Winternitz in 'History of Indian Literature' (Calcutta, 1927 p. 469) and accepted by the late Dr. V. S. Sukthankar (in 'Epic Studies' VIII in Kane Festschrift p. 474) with an addition is that ' when we want to use a stanza for historical and comparative purposes each

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389   On Vārtika 6 on Pāṇ. III. 1.26 the examples are: कंसवधमाचष्टे कंसं घात-यति बलिबन्धमाचष्टे बलिं बन्धयति. Then on Vārtika 15 on the same sūtra the Mahābhāṣya has ' इह तु कथं वर्तमानकालता कंसं घातयति बलिं बन्धय-तीति चिरहते कंसे चिरबद्धे च बलौ ।; then Patañjali justifies it in the words ' अत्रापि युक्ता ' etc.

390   On Pāṇ III. 3. 167 (Kielhorn vol. II. p. 167) we have the half verse काल: पचति भूतानि काळ: संहरति प्रजा: ; this occurs in स्त्रीपर्वे 2.24 ; on Pāṇ. V. 1.115 the Mahābhāṣya remarks ' सर्वे एते शब्दा गुणसमुदायेषु वर्तन्ते ब्राह्मण: क्षत्रियो वैश्य: शूद्र इति । अतश्च गुणसमुदाय एवं ह्याह ' and quotes a verse ; तप: श्रुतं च योनिश्च एतद् ब्राह्मणकारकम् । तप:श्रुताभ्यां यो हीनो जातिब्राह्मण एव स: ॥'. The अनुशासनपर्वे 121.7 has ' तप: श्रुतं च योनिश्चायेतद् ब्राह्मण्यकारणम् । त्रिभिर्गुणै: समुदितस्ततो भवति वै द्विज: ॥

such stanza must be judged on its own merits'. But life being short, this would be an almost impossible task for one scholar for the one hundred thousand stanzas of the Mahābhārata.

But if we turn to the Rāmāyaṇa, none of the great personages depicted in that epic such as Daśaratha, Rāma, Lakṣmaṇa, Bharata (Rāma's brother), Hanūmat, Sugrīva, Bibhīṣaṇa is mentioned by Pāṇini or in quotations cited in the Mahābhāṣya. Those who want to argue that the present Rāmāyaṇa was known to Patañjali rely on a few matters, such as the reference to Kiṣkindhā and two verses[391] about *Vānarasainya* in the Mahābhāṣya. These two verses do not occur in the Rāmāyaṇa at all ; besides, here ' Vānarasainya' does not necessarily mean an ' army of monkeys' ; it may playfully be applied to a crowd or number of monkeys ; and moreover such verses illustrating the use of the same root in the *Parasmaipada* and *Ātmanepada* might have been composed by a teacher of grammar for the benefit of his pupils. As there is a parody of Daśaratha, Rāma and Sītā in the Daśarathajātaka, it is probable that some decades before 250 B. C. there existed a popular story about these three. Some further remarks will be made in the section on Rāmāyaṇa.

The first of the four passages relied upon by Hopkins is ' api cāyaṁ purā gītaḥ śloko Vālmīkinā bhuvi ǀ na hantavyāḥ striya iti yad-bravīṣi plavaṅgama...Pīḍākaram amitrāṇām

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391 किष्किन्धा is described as the capital (in Kiṣkindhā–kāṇḍa chap. 25.5) and also a cave (same chapter verse 10 and elsewhere). In modern days it is said to be a village on the north bank of the Tuṅgabhadrā near Hampī in Bellary District (Madras State).

Two verses on Vārtika 1 (उपाद्देवपूजासङ्गतकरणयोः) on Pāṇ. I. 3. 25 (उपान्मन्त्रकरणे) are (Kielhorn's ed. vol. I p. 281) : बहूनामप्यचिता-
नमेको भवति चित्तवान् । पश्य वानरसैन्येऽस्मिन् यदकर्सुपतिष्ठते ॥ मैवं
संख्याः सचितोयमेषोऽपि हि गथा पश्यम् । एतद्व्यस्य कार्येयं यदकर्सुपतिष्ठति ॥
These illustrate the rule that ' Sthā ' with ' upa ' takes Ātmanepada when it means ' to worship ' but if there is no question of worship but there is an action natural to some one it takes only Parasmaipada.

yat—syāt kartavyam eva tat' (Droṇaparva 14. 67–68).[392] The criticisms against this citation are several. One is that what is quoted is not a Śloka at all, but only a pāda (quarter) at the most; secondly, the Śloka in the Rāmāyaṇa does not amount to an absolute rule, but there is a counterpoise in the latter half of the *śloka* ; another criticism is that the Mahā-bhārata itself had already stated in the Ādiparya and Vana-parva the same rule against killing a woman. So it is proba-ble that some interpolator mentioned it in the Droṇaparva to show off his knowledge of the other epic. As regards the 2nd citation I am sorry to say that Hopkins is carried away by his enthusiasm to prove direct quotations from the Rāmā-yaṇa in the other epic. In the Rāmāyaṇa, the verse ' rājānam prathamam vindet' does not occur[393] at all. Hopkins is obliged to say that it agrees closely enough in sense and words with the verse in Ayodhyā 67. 11. The verse from Ayodhyā is not *ipsissima verba* '. There is another gratuitous assumption made by him. He thinks that Bhārgava is Vālmīki. Bhārgava means Uśanas. Vide Amarakośa[394] quoted below. Hopkins, in spite of his learning and industry, here forgets that the Śāntiparva (210. 20) ascribes a Nītiśāstra to Bhārgava and among the expounders of Rājaśāstra[395] the Śāntiparva mentions

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392 न हन्तव्याः स्त्रियश्चेति यदब्रवीषि प्रवंगम । पीडाकरमनित्राणां यत्र कर्त-
    व्यमेव तत् ॥ युद्धकाण्ड 81. 29-30 ; Compare अवध्यां स्त्रियमित्याह धर्म-
    साधमनिश्चये । आदि 158. 31 ; अवध्याः स्त्रियः सृष्टा मन्यन्ते धर्मचारिणः ।
    आदि 217. 4 ; vide also वनपर्व 206. 45.

393 आख्याते रामचरिते नृपति प्रति भारत ॥ राजानं प्रथमं विन्देत्ततो भार्यां
    ततो धनम् । राजन्यसति लोकस्य कुतो भार्या कुतो धनम् ॥ शान्ति 57. 40-41 ;
    अयोध्याकाण्ड 67. 11 is ' अराजके धनं नास्ति नास्ति भार्याप्यराजके ।
    इदमत्याहितं चान्यत्कुतः सत्यमराजके ॥ ' ; राज्येऽसति कुतो धर्मो धर्मेऽसति
    कुतः परम् । शान्ति॰ 320. 59.

394 शुक्रो दैत्यगुरुः काव्य उशना भार्गवः कविः । अमरकोश.

395 भार्गवो नीतिशास्त्रं तु जगाद जगतो हितम् । शान्तिपर्व 210.20. एतत्ते
    राजधर्माणां नवनीतं युधिष्ठिर । बृहस्पतिर्हि भगवान्यार्यं धर्मं प्रशंसति ।
    विशालाक्षश्च भगवान्काव्यश्चैव महातपाः । . . . राजशास्त्रप्रणेतारो
    ब्रह्मण्या ब्रह्मवादिनः ॥ शान्ति॰ 58. 1-3.

Kāvya (i.e. Uśanas) and Bhārgava[396] as identical. Vālmīki's
name has nowhere been mentioned as that of an expounder of
Rājaśāstra. The Rāmāyaṇa itself regards Uśanas (Śukra)
and Bhārgava as identical when it describes the auspicious
appearances on Rāma's invasion of Rāvaṇa's capital (Yuddha
4.49). Vide above under Kauṭilya's Arthaśāstra where passa-
ges from the Mahābhārata on the Rājaśāstra of Uśanas have
been quoted. Hopkins misunderstands the verse. What it
means is: the life of Rāma was recited to some king by a court
poet or possibly by Bhārgava Uśanas himself the expounder
of Rājaśāstra, who thereon recited the famous verse 'rājānam
prathamam vindet &c,' because the underlying idea of that
expounder was 'no king, no dharma nor security'. It is
quite possible that both (i. e. Mahābhārata and Rāmāyaṇa)
quote from a common source viz. the Rājaśāstra of Kāvya
Uśanas which once existed but has not yet been recovered.

The third passage occurs in the Vanaparva, where Bhīma
is said to have met Hanūmat on the Gandhamādana but did
not recognize him and took him to be a mere ordinary monkey
(chapters 146 ff). There he speaks of Hanūmat as his brother
and very famous[397] in the Rāmāyaṇa (147.11). Vālmīki's name
is not mentioned in those chapters and this story was proba-
bly interpolated later. The Vanaparva is in extent next to
the Śāntiparva. These two and the Anuśāsanaparva cover
about two-fifths of the whole of the extant Mahābhārata.
The 4th passage (quoted in the note below)[398] on which
Hopkins relies occurs in the last chapter of the Harivamśa
(which is a *khila*) and not at all in the text of the Mahā-
bhārata in the Chitrashala edition and others.

The above discussion shows that out of the four passages
relied upon by Hopkins one is wrongly interpreted, two are
not in the Mahābhārata at all and the remaining one is pro-
bably interpolated.

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396 उशना च प्रसन्नार्चिरनु त्वां भार्गवो गतः । युद्धकाण्ड 4. 49 (48 in some
editions).

397 भ्राता मम गुणज्याख्यो बुद्धिसत्त्वबलान्वितः । रामायणेऽतिविख्यातः श्रीमान्वा-
नरपुङ्गवः ॥ वनपर्वे 147. 11.

398 वेदे रामायणे पुण्ये भारते भरतर्षभ । आदौ चान्ते च मध्ये च हरिः सर्वत्र
गीयते ॥ हरिवंश 132. 95 (भविष्यपर्वे).

H. D.,—47

The most puzzling question concerning the Mahābhārata is how the members of a polyandrous family became the heroes of the great national epic. Even in the extant epic attempts are made to explain the matter in a supernatural way. In the Āśramavāsikaparva it is stated that after the carnage in the great war, Dhṛtarāṣṭra, Vidura, Kuntī (the mother of five Pāṇḍavas), Gāndhārī, Draupadī, Subhadrā met together and sages like Vyāsa, Nārada, Parvata and others also came when Dhṛtarāṣṭra complained that he had no sleep and no peace of mind and Gāndhārī requested Vyāsa to vouchsafe to Dhṛtarāṣṭra the sight of his fallen sons. Kuntī told Vyāsa (Āśramavāsikaparva chap. 30) how Durvāsas (an irate sage) came to her father (a king) for alms when she was yet a maiden and as she pleased the sage by her assiduous hospitality, he gave her five mantras on repeating any one of which the god addressed in that mantra would come to her. She proceeded to say that when she saw from her father's palace the rising sun, she called him to come by reciting the appropriate mantra; the sun came and she duly requested him to grant her a son, when the Sun's refulgence entered her and she secretly gave birth to a son (later) called Karṇa, whom she let down in a river. She wanted to see that son whom she abandoned. Then Vyāsa consoled her that she was not to be blamed, that deities enter human bodies, that human limitations do not apply to deities and he recited a verse that everything is pure and wholesome to the strong.[399]

In the Ādiparva (chap. 169) a similar story is repeated almost in the same words that a maiden requested God Śaṅkara five times to bestow on her a husband and so he blessed her that she would have five husbands (*pati*) and she became later Draupadī, daughter of king Drupada. Ādiparva (197. 35–36 and 44 ff) states the same kind of story, but it is Lakṣmī (in Svarga) who asks five times for a husband.

In Ādiparva the question how a polyandrous marriage was allowed in the case of the five Pāṇḍava heroes has been raised and dealt with in chapter 195, verses 27–31. Drupada (father of Draupadī) urges that five brothers should have one wife is *adharma*, it is opposed to the Veda and the usages

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399 सर्वं बलवतां पथ्यं सर्वं बलवतां शुचि । सर्वं बलवतां धर्मः सर्वं बलवतां स्वकम् ॥ आश्रमवासिक 30. 24.

of the people. The reply of Yudhiṣṭhira is: 'Dharma is
subtle; we only follow the path of our predecessors. I never
told a lie nor am I bent on adharma. But my mother says
that we five should have the same woman as wife.[400] If one
may speculate on the origin of the Pāṇḍavas, it is possible
that they hailed from the hilly regions in the Himālayas
where polyandry prevailed up to recent times, that they were
formidable warriors and made their way in the countries of
Kuru and Pañcāla and married a Pāñcāla princess. The
descendants of the Pāṇḍava heroes viz. Parikṣit and Janame-
jaya are well-known in the Vedic age. The Śat. Br. XIII.
4. 5 and Ait. Br. 35. 1 mention Pārikṣita Janamejaya as a
performer of Aśvamedha. Daśaratha, Rāma and their
descendants are not spoken of in these ancient works.

In Anuśāsana (115. 68–75) about fifty ancient kings are
named that gave up flesh-eating in Kaumuda (Kārtika)
month and therefore they went to heaven. These passages
of the great epic would have to be assigned at the most to a
century or two before the Christian era.

The Rāmāyaṇa (Ayodhyā 109.34) contains a down-right
condemnation of Buddha[401] as nāstika (atheist) and as a
thief and in chap. 108 of the same epic Jābāli is introduced as
an atheist who condemns in the presence of Rāma the finer
virtues of respect for parents and other relatives, the institu-
tion of Śrāddha, condemns those who talk of the other world
and asks Rāma not to leave the kingdom in favour of
Bharata.

The two epics have in common many striking verses. For
example, in the story of the Kapota bird and the *lubdhaka*
(hunter) where the Kapota burnt itself in order to offer food
to the hungry hunter and the female bird, on the death of the
male bird, entered fire and killed herself, a fine verse is put in

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400 सूक्ष्मो धर्मो महाराज नास्य विद्मो वयं गतिम् । पूर्वेषामनुपूर्व्येण यातं
वर्मानुयामहे ॥ न मे वागनृतं प्राह नाधर्मे धीयते मतिः । एवं चैव वदत्यम्बा
मम चैतन्मनोगतम् । एष धर्मो ध्रुवो राजंश्चरेनमविचारयन् । आदि
195. 29–31.

401 यथा हि चौरः स तथा हि बुद्धस्तथागतं नास्तिकमत्र विद्धि । तथादि यः
शक्यतरः प्रजानां न नास्तिकेनाभिमुखो बुधः स्यात् । अयोध्या 109. 34.

the mouth of the female bird in Śāntiparva 148. 6–7.[402] In the Ayodhyākāṇḍa 39. 30–31 Sītā repeats the same verse before Kausalyā when she prepares to go into exile with Rāma. Another famous verse of the propriety of punishing even a *guru* when he becomes conceited, fails to distinguish between what ought to be done or not to be done and who pursues the wrong path [403] occurs in both. The Śāntiparva (in 57.6) says that in former times king Marutta recited an ancient śloka in Bṛhaspati's treatise in the section on kings (Rājādhikāra) and that it is 57.7. Another verse that occurs in both epics is : all collections end in dissolution, all tall things end in falling down, unions end in separation, life ends in death.[404]

The discussions so far held make this clear that the main characters of the Mahābhārata were known long before Pāṇini and that tales relating to Pāṇḍava heroes had been embodied in a work or in works in verse long before Patañjali wrote i. e. that the core of the Mahābhārata existed before 500 B. C. The same cannot be said about the Rāmāyaṇa. There is no evidence to show that the principal characters of the Rāmāyaṇa were known to Pāṇini or even to Patañjali. At the most one can say that the three names, Daśaratha, Rāma and Sītā, were probably known about 250–200 B. C. but not described

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402　मितं ददाति हि पिता मितं भ्राता मितं सुतः । आमेतरय हि दातारं भर्तारं
　　　का न पूजयेत् ॥ शान्ति 148. 6–7, अयोध्य॰ 39. 30–31 (in this latter the
　　　Madras ed. reads भ्राता for भ्राता). It is noteworthy that the
　　　Mitākṣarā on Yāj. I. 86 refers to this Kapotikākhyāna, quotes
　　　verses 10 and 12 of Śānti 148 and remarks that in the guise of this
　　　story Vyāsa recommends 'anvārohaṇa' (burning oneself on the
　　　deceased husband's funeral pyre) as most meritorious. I am in-
　　　clined to hold that it is the author of the Rāmāyaṇa that probably
　　　borrows. Rāma was only going to a forest (no question of dying
　　　arose) and so the words are not so appropriate in the Rāmāyaṇa as
　　　they are in the Mahābhārata.

403　गुरोरप्यवलिप्तस्य कार्याकार्यमजानतः । उत्पथं प्रतिपन्नस्य दण्डो भवति शाश्वतः ॥
　　　शान्ति 57. 7; also in शान्ति 140. 48 (reads शासनम् for शाश्वतः);
　　　उद्योगपर्व 178. 48 reads last pāda as परित्यागो विधीयते ; कार्यं भवति
　　　शासनम् । अयोध्या 21. 13.

404　सर्वे क्षयान्ता निचयाः पतनान्ताः समुच्छ्रयाः । संयोगा विप्रयोगान्ता मरणान्तं
　　　च जीवितम् ॥ शान्ति 27. 31, 330. 20, स्त्रीपर्व II. 3; अयोध्या 105. 16.

as endowed with the qualities they bear in the extant Rāmā-
yaṇa. Therefore, one may conclude that there was a Bhārata
epic long before there was a Rāma epic. From the way in
which the Vānaras led by Aṅgada (Kiṣkindhā 41. 6ff) among
whom were included such doughty fighters as Hanūmat, Nīla,
Jāmbavat, were directed to go from Kiṣkindhā towards the
south in search of Sītā carried away to Laṅkā by Rāvaṇa, one
feels that the author did not correctly know the different
countries that the Vānaras would have had to traverse before
reaching Laṅkā. Sugrīva is said to have told them to go
from Kiṣkindhā to the south and one is surprised to read that
Sugrīva first mentions the Vindhya mountain with its
thousand peaks and immediately afterwards Narmadā (chap.
41.8) and then mentions Godāvarī, Kṛṣṇaveṇī, Varadā (41.9),
Mekala, Utkala, Daśārṇa towns, Avantī (41.10), Vidarbha,
Vaṅga, Kaliṅga (41.11). It is unnecessary to cite more. The
present writer is constrained to hold that whoever wrote that
chapter was an inhabitant of a place north of the Narmadā
(which springs from Mekala)[405] and knew only the names of
towns, rivers and countries without knowing their exact loca-
tion. The author had probably never been to the island of
Ceylon nor knew anything about the distance between India
and Ceylon nor had he any idea about the extent of Ceylon.
It was all a poetic fancy without any solid basis of known
facts, even ancient. Kiṣkindhā is now shown to be a village
on the Tuṅgabhadrā river in the Bellary District. We know
from the Araṇyakāṇḍa (chap. 13) that Agastya directed Rāma
to have a hut in Pañcavaṭī near Godāvarī and from that place
he later went to Ṛṣyamūka near Pampā where dwelt Sugrīva
with four others (Araṇya. 72.11–12).[406]

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405 Vide Amarakośa which says ' रेवा तु नर्मदा सोमोद्भवा मेकलकन्यका '.

406 Several scholars have written about the location of Laṅkā. Mr. M.
V. Kibe locates Laṅkā in central India (vide ABORI Vol. XVII
pp. 371–384; F. W. Thomas presentation Vol. pp. 144–5; J. C.
Ghosh in ABORI vol. XIX pp. 84–86; Daniel John in ABORI vol.
XXI pp. 270–279 (who holds that Mr. Kibe is wrong and that Laṅkā
must be some island in the midst of the sea off the southern or
south-eastern coast of the present island of Ceylon. Mr. G. K.
Ramdas holds that ' Rāvaṇa's Laṅkā ' was near Amarakaṇṭaka (vide
I. H. Q. vol. IV pp. 338–346). In A. B. O. R. I. Vol. XIX at p. 86 it
is pointed out that a portion of Orissa was known as Laṅkā. Shri
M. S. Aney in his paper ' The Rāmāyaṇa tradition in the present

(*Continued on the next page*)

It has been shown above that the Rāma story and characters are mentioned in the extant Mahābhārata and the legends and some well-known characters in the Mahābhārata are noted in the extant Rāmāyaṇa. Therefore, all that one can say is that both works have influenced each other. But as the core of the Mahābhārata is much older than that of the Rāmāyaṇa and as the Mahābhārata is four times as bulky as the Rāmāyaṇa, it is the latter that most probably borrowed several matters from the great Epic. It has been demonstrated above that the so-called four direct references in the Mahābhārata to the Rāmāyaṇa put forward by Hopkins are not so and that only one remains, which appears to me to be a later interpolation.

Just as the story of Nala-Damayantī was set out in the Mahābhārata from a tale current in early days, so the Rāma story might have been only a popular tale in the beginning and was later turned into an epic, but the Mahābhārata, if it had directly borrowed from the Rāmāyaṇa, would not have differed from the epic on such an important matter as the killer of Kumbhakarṇa. Therefore, it is very probable that the Rāma tale was included in the Vanaparva at a time when the Rāmāyaṇa in its present form did not exist. The present writer holds that the Mahābhārata assumed its present form certainly before the Christian era, but how much earlier it is difficult to say.

(*Continued from the previous page*)

day Ceylon' in the Proceedings of the A. I. O. Conference at Darbhanga (1946), pp. 206–218 tries to show that Laṅkā is the present Ceylon and supports his view by referring to the Sundarakāṇḍa, Mahāvaṁśa, Rājāvali and some similar works. I regret that his arguments are far from convincing. In the Sundarakāṇḍa Laṅkā is not an island but is described as the capital of Rāvaṇa situated beyond the sea on the slopes of Trikūṭa and surrounded by a wall as the verses quoted below testify. The Mahābhārata mentions Siṁhala and Laṅkā separately (Vanaparva 51. 23 *Siṁhalān Barbarān mlecchān ye ca Laṅkānivāsinaḥ*). The Dīpavaṁśa is the earliest chronicle (about Ceylon) and it is not earlier than the 4th century A. D. and the Mahāvaṁśa is much later (6th century or later). They are not reliable authorities for events that are supposed to have happened several centuries before Christ.

स सागरमनाधृष्यमतिक्रम्य महाबलः । त्रिकूटस्य तटे लङ्कां स्थितः ख्स्यो ददर्श ह ॥ ... समासाय च लक्ष्मीवाँल्लङ्कां रावणपालिताम् । परिखाभिः सपद्माभिः सोत्पलाभिरलङ्कृताम् । सुन्दरकाण्ड 2. 7–8; तां समीक्ष्य पुरीं लङ्कां राक्षसाधिपतेः शुभाम् । सुन्दर० 3. 13.

. Hopkins[407] devotes pp. 386–403 of his work 'The Great Epic of India' to the date of the Epic and summarises his conclusions on pp. 397–398. On p. 398 he says there is no date of the Epic' which will cover all its parts (though handbook makers may safely assign it in general to the 2nd century B. C.). A sizable volume would be required to criticize his remarks on several matters and to expose the hollowness of his hasty and one–sided conclusions. To take only one example at random. He relies (p. 387) on the occurrence of the word Dīnāra in the Harivaṁśa which is only a supplement to the Mahābhārata and on the fact that in the present text of the Epic (Ādiparva chap. 2.82–83) reference is made to the Harivaṁśa as a *Khila*, in which are included the deeds of Viṣṇu such as killing Kaṁsa and the Bhaviṣyaparva, which is a large and wonderful one among Khilas.[408] The Dīnāra is not mentioned in the 18 parvans of the Mahābhārata (not even in Śāntiparva nor in Anuśāsanaparva) as Hopkins admits on p. 387. Supposing for a moment that the mention of dīnāra in Harivaṁśa is not interpolated, still from the reference to Harivaṁśa in Ādi I. 2 in general it does not necessarily follow that the writer of Ādi. 2 had before him a Harivaṁśa containing the word Dīnāra. Besides, his dating about the Introduction of Dīnāras in India is not supported by satisfactory evidence. He states (on p. 387) " for the Roman *denarius* is known to the Harivaṁśa and the Harivaṁśa is known to the first part of the first book and the last book ; hence such parts of this book as recognize the Harivaṁśa must be later than

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407 Hopkins in ' Great Epic of India ' pp. 403–445 (Appendix A) sets out 337 cases of parallel phrases in the two Epics. Vide also JOR (Madras) vol. XI pp. 22–26 on the same topic.

408 महाप्रस्थानिकं पर्व स्वर्गारोहणिकं ततः ॥ हरिवंशस्ततः पर्व पुराणं खिलसंज्ञितम् । विष्णुपर्व शिशोश्चर्या विष्णोः कंसवधस्तथा ॥ भविष्यपर्व चाप्युक्तं खिलेष्वेवाद्भुतं महत् । एतत्पर्वशतं पूर्णं व्यासेनोक्तं महात्मना ॥ आदि 2. 81–83.

The commentator explains the word ' Khila ' as follows ; शाखान्तरस्थं शाखान्तरे यदपेक्षावशात्पठ्यते तत्खिलमिति वैदिकी प्रसिद्धि: । यथा बह्वृचानां श्रीसूक्तमेधासूक्तादीनां संहिताकाले पाठो दृश्यते । एवमस्मिन्नितिहासे यत्पुराणान्तरस्थमाकांक्षावशात्पठ्यते तत्खिलं हरिवंशाख्यमित्याह । ... अत एवास्य खिलस्य पुराणमिति विशेषणम् । तथाहि अत्र विष्णुचर्या विष्णुपुराणोक्ता साकल्येन दृश्यते । एवं भविष्यपुराणकथा च ।

the Introduction of Roman coins into the country (100–200 A. D.)'. He does not mention the evidence on which he bases his conclusion about the exact period of the Introduction of the Denarius in India. For the date of early Denarius coins, vide Pro. of British Academy, Vol. XVIII for 1932 pp. 211–266.[409]

The Romakas are mentioned in Sabhāparva 51.17. One remarkable matter is as follows. The Āpastamba Dh.S. II. 5. 11.5–6 are 'Rājñaḥ panthā brāhmaṇenāsametya' and 'sametya tu brāhmaṇasyaiva panthaḥ'. These two sūtras form the second half of the verse in Vanaparva 133.1 (the first half being 'Andhasya panthāḥ...bhāravāhasya panthāḥ &c).

Vyāsa or the Mahābhārata has been mentioned in some early inscriptions.

For example, the Pardi plates of Dahra-sena of *Samvat* 207 (probably of the Kalacuri or Chedi era i. e. of 456 A. D.) ascribes the verse 'ṣaṣṭiṁ varṣasahasrāṇi' &c. (in E. I. Vol. X. p. 53) to Vyāsa. Gupta Ins. No. 31 at p. 137 (the Khoh copper-plate of Mahārāja Śarvanātha dated in 204 of the Gupta era i.e. 533 A. D.) says 'uktam ca Mahābhārate Vyāsena'.[410] This inscription establishes that long before 530 A. D. the Great Epic was deemed to have one hundred thousand verses composed by Vyāsa. It has been already shown how in Bāṇa's day the Epic was recited to an audience of men and women. Several hundred verses are common to both the Manusmṛti and the Mahābhārata. Commentators of Dharmaśāstra works from early times quote the Mahābhārata. Medhātithi on Manu II. 94 quotes one of Yayāti's verses about Kāma (desire) being insatiable. On Manu

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409 That paper shows that formerly it was believed that the Denarius was introduced in 269 B. C. But on a fresh appraisal it is stated (on p. 214) that we may regard 190 B. C. as a close approximation to the true date. On. p. 254 it is shown that the first issue of the paper denarius was in 187 B. C. In plate III accompanying the vol. No. 32 is a denarius of 42 B. C. and No. 33 of 99, 94 B. C. Hence Dinarius could have been introduced in India in 150 B. C.

410 On p. 137 (Gupta Inscription No. 31) the Inscription ends with the words 'उक्तं च महाभारते शतसाहस्र्यां संहितायां परमर्षिणा पराशर-सुतेन वेद्व्यासेन व्यासेन । पूर्वदत्तां द्विजाति ... पालनम् ॥ प्रायेण हि ॥ ... वसुन्धराम् ॥ बहुभिर्वसुधा ... तदा फलम् ॥ षष्टिवर्षस...नरके वसेत् ॥ स्वदत्तां

(Continued on the next page)

XI.93 he quotes ' Ubhau Madhvāsavakṣībau ' (Udyoga 59.5); on IX.64 he quotes Śānti 63.13[411] that the Śūdra is entitled to three āśramas but not to that of parivrājaka. On Manu VII. 177 he quotes the well-known verse ' na kaścit kasyacit ' (quoted above). The Mit. quotes the Mahābhārata or Vyāsa frequently (e. g. on Yāj. I.72,86, 256, III. 6, 250, 258, 300). Aparārka quotes from the Mahābhārata dozens of verses, but the quotations from Vyāsa include many verses on Vyavahāra attributed to Vyāsa which do not occur in the Mahābhārata. The Kṛtyakalpataru sparingly quotes the Mahābhārata. It is unnecessary to refer to other and later digests on the question of the date and text of the Mahābhārata.

When ancient Indians came to Java they brought with them their sacred books. The Mahābhārata soon became most popular among the Javanese. Portions of the Mahābhārata were rendered into old Javanese or Kavi poetry. This work is known as Brata Yuda (modern Javanese) i.e. Bhārata Yuddha. The Kalasan Inscription of the *Śaka* year 700 (778 A. D.) found in a temple in central Java is the earliest Javanese Inscription written in a North Indian script. It was published by Dr. R. G. Bhandarkar in JBBRAS Vol. VII part 2 from a photograph copy sent to him from Batavia. It opens with a salutation to Tārā, Buddhist goddess. The temple was constructed by the Rājaguru (king's chaplain) of a king of the Śailendra dynasty. It contains twelve verses one of which is quoted below.[412] Sardar K. M. Panikkar's

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(*Continued from the previous page*).

परदत्तां वा...मज्जति ॥ अपानीयेषु...दायं हरन्ति ये ॥ *Vide the list of* imprecatory verses from inscriptions set out in H. of Dh. vol. II pp. 1271–77. The above five verses are respectively Nos. 6, 13 (reads नाशुभा), 1, 2, 4 and the last is not in that list. Vide under Manusmṛti about these verses being sometimes attributed to Manu and the criticism of Hopkin's views thereon.

411 ' न पृथिव्यां व्रीहियवं हिरण्यं पशवः स्त्रियः । नाल्मेकस्य तत्सर्वमिति मत्वा शमं व्रजेत् ॥ . The Ch. ed. reads this as ' पृथिवीरत्नसम्पूर्णा हिरण्यं ... व्रजेत् ' (आदि 75. 51); आश्रमा विहिताः सर्वे वर्जयित्वा निरामिषम् । शान्ति 63. 13.

412 सर्वानेवागामिनः पार्थिवेन्द्रान् भूयो भूयो याचते राजसिंहः । सामान्योयं धर्मसेतुर्नराणां काले काले पालनीयो भवद्भिः ॥ It is the same as

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HISTORY OF DHARMAŚĀSTRA

(ANCIENT AND MEDIÆVAL
RELIGIOUS AND CIVIL LAW)

BY

PANDURANG VAMAN KANE, M. A., LL. M.

ADVOCATE, HIGH COURT, BOMBAY; SENIOR ADVOCATE,
FEDERAL COURT OF INDIA; FELLOW AND VICE-
PRESIDENT OF THE BOMBAY ASIATIC SOCIETY;
AUTHOR OF 'HISTORY OF SANSKRIT POETICS' &c.

VOL. II PART II

RAJEEV DHAVAN
SENIOR ADVOCATE
SUPREME COURT OF INDIA

CHAPTER XXVI

PRATIṢṬHA AND UTSARGA

Pratiṣṭhā and *Utsarga* (foundation of temples and dedication of wells, tanks, parks &c. for the benefit of the public).

The subject of gifts naturally leads on to the topics of *pratiṣṭhā* and *utsarga*. We saw above (p. 157 *f. n.* 370) how the construction of temples, wells and similar religious and charitable foundations and institutions was included under pūrtadharma and how śūdras were entitled to perform such dharma. The Mit. on Yāj. II. 114 points [2066] out that women (and widows) were entitled to spend on *pūrta* objects, though they were not authorized to perform *iṣṭa* dharma (i. e. vedic sacrifices &c.). Modern decisions have gone so far that a Hindu widow whose powers of alienating for secular purposes property inherited from her husband are very limited has been held to possess greater powers of alienation if the alienation be made for the spiritual benefit of her deceased husband and dedications by her of a small fraction of the property for the continuous benefit of the soul of the deceased owner have been upheld.[2067] Such works of public utility have been highly recommended from very ancient times. Śabara [2068] on Jaimini I. 3. 2 refers to the smṛti rules about charitable objects which are based on such *śruti* passages as 'O Agni, who art ancient and a king, thou art to the man who desires to offer a sacrifice like *prapā* (shed where water is distributed to travellers) in a desert'. In

2066. किं च यज्ञशब्दस्य धर्मोपलक्षणपरत्वे स्त्रीणामपि पूर्तधर्माधिकाराद्धनग्रहणं युक्ततरम् । मिता. on या. II. 114.

2067. Vide *Sardar Singh* v. *Kunj Behari* L. R. 49 I. A. 383 p. 391 (a gift made by a widow of a small part of her husband's property to the temple of Jagannātha at Purī for bhoga i. e. food offerings to the deity was upheld); *Thakur Indraj Bux* v. *Thakur Sheo Naresh*, 2 Lucknow 713 (where a temple erected and endowed by a widow for the benefit of her husband's soul as well as of her own by alienating about $\frac{1}{16}$th part of the entire property left by her husband was held to be valid).

2068. प्रपास्तडागानि च परोपकाराय न धर्मायेत्येवावगम्यते । तथा च दर्शनम् । धन्व-जित्व प्रपा असीति ॥ तथा स्थलयोदृकं परिगृह्णन्वीति च । शबर on जै. I. 3. 2; धन्व-जित्व प्रपा असि त्वमग्न इयक्षवे पूर्वे प्रतन राजन् ॥ ऋ. X. 4. 1; भोजस्येदं पुष्करिणीव वेइम परिष्कृतं देवमानेव चित्रम् । ऋ. X. 107. 10.

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Ṛg. X. 107. 10 a puṣkariṇī (a tank) is mentioned. The Viṣṇu Dh. S. (chap. 91. 1-2) states ' one who digs a well (for the public) has (the consequences of) half his sins destroyed when the water has begun to flow forth; one who dedicates a pond is forever happy (free from thirst) and attains the world of Varuṇa.' Bāṇa in his Kādambarī (para 44) [2069] mentions that smṛtis enjoined upon men the foundation (for public use) of halls, shelters, wells, *prapās*, gardens, temples, embankments, water wheels &c. Some sages went so far as to say that the reward of sacrifices is only heaven, but by pūrta (consecration of temples, tanks and gardens) one secures release from *saṁsāra*.[2070] This shows that charitable works for the use of the public or large sections of the public came to be regarded as more meritorious than sacrifices the gifts in which benefited only brāhmaṇas.

From very ancient times the procedure of dedicating a well or tank to the public has been settled. Among the earliest is the one in the Śāṅkhyāyana gṛ. V. 2 (S. B. E. vol. 29 pp.134–135) which is as follows: Now about the censecration of ponds, wells and tanks. In the bright fortnight or on an auspicious *tithi* (day) having cooked a caru (boiled food) of barley in milk he (the donor) should sacrifice with the two verses ' tvam no agne' (Ṛg. IV. 1. 4-5) and with the verses ' ava te heḷa' (Ṛg. I. 24. 14), ' imam me varuṇa' (Ṛg. I. 25. 19), ' uduttamaṁ Varuṇa' (Ṛg. I. 24. 15), ' imām dhiyam' (Ṛg. VIII. 42. 3) and with the words ' the domestic one, he who goes away from the house, the refreshing one, he who goes into the kennel, he who dwells in the kennel, he who comes out of it, the greedy one, the destroyer of enemies ' to the different directions beginning with the west (Vāruṇī, one over which Varuṇa presided) from left to right. In the centre he makes oblations with milk with the verses ' viśvatas cakṣuruta' (Ṛg. X. 81. 3), ' idam Viṣṇur' (Ṛg. I. 22. 17); he plunges into the water with the verse ' yat kim cedam Varuṇa' (Ṛg. VII. 89. 5).[2071] A cow and a pair of

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2069. स्मृतिशास्त्रेणेव सभावसथकूपमपारामसुरसदनसेतुयन्त्रप्रवर्तनेन ... ... विला-सिजनेनाधिष्ठिता (उज्जयिनी) । कादम्बरी para 44.

2070. इष्टापूर्तौ स्मृतौ धर्मौ श्रुतौ तौ शिष्टसंमतौ । प्रतिष्ठार्थं तयोः पूर्तमिष्टं यज्ञादि-लक्षणम् ॥ मुक्तिमुक्तिप्रदं पूर्तमिष्टं भोगार्थसाधनम् । कालिकापुराण quoted in कृत्यरत्नाकर p. 10.

2071. Even in the e. g. Ṛg. in VII. 49. 3 (yāsām rājā varuṇo yāti madhye) Varuṇa is the lord of waters and therefore it is appropriate that in dedicating wells and tanks to the public Varuṇa should be invoked in several verses.

clothes are the fee for this sacrifice. Then follows the feeding of brāhmaṇas.

The Āśv. gr. pariśiṣṭa IV. 9, Pār. gr. pariśiṣṭa, Matsya-purāṇa chap. 58, Agnipurāṇa chap. 64 contain a more extensive procedure about the dedication of wells and reservoirs of water. That in the Pār. gr. pariśiṣṭa is briefly as [2072] follows : "In the northward passage of the sun, in the bright half, on an auspicious day, tithi, vāra (week day), *nakṣatra* and *karaṇa* the donor should cook *caru* sacred to Varuṇa of barley, offer the two ājyabhāgas and sacrifice in fire ten oblations of clarified butter with the mantras, Ṛg. IV. 1. 4, IV. 1. 5, I. 25. 19, I. 24. 11, Kāt. śr. 25. 1. 11 (ye te śatam Varuṇa), ayāścāgne (Kāt. śr. 25. 1. 11), Ṛg. I. 24. 15, Ṛg. I. 24. 8, Vāj. S. IV. 36, Vāj. S. VIII. 24.[2073] He then sacrifices (ten oblations) of the mess of cooked food to Agni, Soma, Varuṇa, Yajña, Ugra, Bhīma, Śatakratu (Indra), Vyuṣṭi (prosperity), Svarga (Heaven) and lastly to Agni Sviṣṭakṛt (with svāhā at the end of each as in 'agnaye svāhā'). After partaking of the remains of the cooked food he should introduce aquatic animals (like fishes and tortoises in the pond &c.) and having bathed and decked a cow he should make the cow enter the reservoir, repeat the Puruṣa-sūkta (Ṛg. X. 90. 1-16) and donate that cow to the ācārya and should also make presents to him of two ear-rings, clothes and of another cow as fee and give a dinner to brāhmaṇas." Aparārka (p. 413-414), the Nirṇayasindhu and others add from the Bahvṛca gr. pariśiṣṭa that when the cow enters the water, he should repeat a mantra 'may you make this water holy : may the water always be pure, holy and ambrosia-like ; while saving me (from sin) may you bathe in sacred water ; she crosses from region to region and also saves (me and others)'; and that the donor holds the end of the cow's tail, enters the water and brings her out in the north-east corner (of the reservoir). This procedure

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2072. अथातो वापीकूपतडागारामदेवतायतनानां प्रतिष्ठापनं व्याख्यास्यामस्तत्रोद्-गयन आपूर्यमाणपक्षे पुण्याहे तिथिवारनक्षत्रकरणे च गुणान्विते तत्र वारुणं यवमयं चरुं श्रपयित्वाज्यभागाविष्ट्वाज्याहुतीर्जुहोति त्वं नो अग्ने स त्वं नो अग्ने इमं मे वरुण तत्त्वा यामि ये ते शतमयाश्चाग्न उदुत्तमङ्करं हि राजा वरुणस्योत्तम्भनमग्नेरनीकिमिति दशर्चं हुत्वा स्थाली-पाकस्य जुहोत्यग्नये स्वाहा शतक्रतवे स्वाहा व्युष्ट्यै स्वाहा स्वर्गाय स्वाहेति यथोक्तं स्विष्ट-कृद्वाशनान्ते जलचराणि क्षिप्त्वालंकृत्य गां तारयित्वा पुरुषसूक्तं जपन्नाचार्याय वरं दत्त्वा कर्ण-वेष्टकौ वासांसि धेनुर्दक्षिणा ततो ब्राह्मणभोजनम् । पार. गृ. परिशिष्ट.

2073. The ten verses are quoted in full in the Dānakriyākaumudī pp. 175-17 6.

does not apply to the consecration of a well. In that case a cow is only made to go round the well.

Gradually the procedure prescribed in the purāṇas came to have the upper hand so much so that Aparārka (p. 15) says that in pratiṣṭhā the procedure prescribed in the purāṇas has to be followed and no other.[2074]

Aparārka (pp. 409-414), Hemādri (Dāna pp. 997-1029), Dānakriyākaumudī (pp. 160-181), Jalāśayotsarga-tattva of Raghunandana, the Pratiṣṭhāmayūkha and Utsargamayūkha of Nīlakaṇṭha, Rājadharmakaustubha (pp. 171-223) and several other works give a very comprehensive procedure of the consecration of wells, ponds and tanks, based upon the gṛhya-pariśiṣṭas, the purāṇas such as the Matsya chap. 58, the Tantras, Pāñcarātra and other works. This procedure is passed over here. The idea[2075] was that unless the reservoir was consecrated in the way prescribed its water was not holy and when consecrated it became holy. Pratiṣṭhā generally means dedicating to the public with prescribed[2076] rites. Utsarga means ' divesting one-self of ownership over a thing and dedicating it for the use of all.' There were four principal stages in the procedure of pratiṣṭhā; first the saṅkalpa,[2077] then the homa, then the utsarga (i. e. declaration that the thing has been dedicated) and lastly the dakṣiṇā and feeding of brāhmaṇas. In *Deosaran Bharthi* v. *Deoki Bharthi* 3 Patna 842 it was said (at p. 850) ' the essential ingredient that constitutes a gift whether of movable or of immovable property in the Hindu Law is the *Saṅkalpa* and the *Samarpaṇa* whereby the property is completely given away and the owner completely divests himself of the ownership in the

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2074. एवं प्रतिष्ठायामपि पुराणाङ्कुक्तेचेतिकर्तव्यता ग्राह्या नान्या । तेषामेव ग्यामिश्र-धर्मप्रमाणत्वेन भविष्यत्पुराणे परिज्ञातत्वात् । अपरार्कं p. 15.

2075. सदा जलं पवित्रं स्यादपवित्रमसंस्कृतम्। कुशाग्रेणापि राजेन्द्र न स्पष्टव्यमसंस्कृ-तम् ॥ वापीकूपतडागादौ यज्जलं स्यादसंस्कृतम् । अपेयं तन्नवेत्सर्वं पीत्वा चान्द्रायणं चरेत् ॥ भविष्यपुराण quoted in निर्णयसिन्धु III. पूर्वार्ध p. 334.

2076. प्रतिष्ठापनं सविधिकोत्सर्जनमित्यर्थः । दानक्रियाकौमुद्री p. 166.

2077. The सङ्कल्प would be in the form अद्येत्यादि अमुकगोत्रोऽमुकशर्माहं चतुर्णबान्तमहीदानफलसमफलदिव्यकामसमान्वितवरुणलोकप्राप्तिकामो वारुणविधिना जला-शयोत्सर्गकर्म करिष्ये । दानक्रियाकौमुद्री p. 167; the उत्सर्ग is made in some such words as ओं अद्येत्यादि अमुकगोत्रोऽमुकशर्माहं चतुर्णबान्त ...... प्राप्तिकामश्चतुः-सेत्ववच्छिन्नं वरुणादिदैवतमिमं जलाशयमर्चितं सर्वभूतेभ्य उत्सृजे । दानक्रिया० p. 179; at the end of the rite the donor recited the verse ' सामान्यं सर्वसत्त्वेभ्यो मया दत्तमिदं जलम् । धर्मार्थकाममोक्षेषु साधनं स्यादृढनिश्चयम् ॥ ' quoted in राजधर्मकौस्तुभ pp. 179 and 216.

property '.   In the case of temples, the proper word to use is pratiṣṭhā and not utsarga.

There is a difference in the technical meaning of *dāna* and *utsarga*.   In the former the donor gives up his ownership over a thing, makes another the owner of it and cannot thereafter use it nor has he any control over it.   When a man makes an *utsarga*, he no doubt gives up his ownership, but he gives up the thing for the benefit of all (as in the formula above he uses the word ' sarvabhūtebhyaḥ ') and so the opinion of most writers is that he can as a member of the public make use of the thing dedicated by him, though there were a few authors who recommended that he should not do so.[2077a]

Reservoirs of water that are dug out by man are of four kinds, kūpa, vāpī, puṣkariṇī and taḍāga.[2078]   Some of the works define kūpa as a well that is from five to fifty cubits in length (if rectangular) or in diameter (if it is circular).   It has generally no flight of steps to reach the water.   Vāpī is a well with a flight of steps on all sides or on three or two sides or one side only and its mouth may be from 50 to 100 cubits ; a puṣkariṇī is from 100 to 200 cubits in length or diameter and a taḍāga (a tank) is from 200 to 800 cubits.   The Matsyapurāṇa 154. 512 states that a vāpī is equal to ten kūpas (in merit) and a *hrada* (deep reservoir) is equal to ten vāpīs ; a son is equal to ten *hradas* and a tree is equal to ten sons.   According to the Vasiṣṭha-saṁhitā quoted by Raghunandana a puṣkariṇī is up to 400 cubits and a taḍāga is five times as much.   At certain auspicious times only the consecration of wells and tanks is to take place.[2079]

Trees have been highly prized in India at all times.   They were useful in sacrifices for making the yūpa (the post to

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2077a.   अत्र केचित् । स्वस्य जलाशयजलोपभोगो विरुद्धः । त्यक्तस्य पुनः स्वीकारानर्ह-त्वात् । न चैकस्य एकक्रियायां दानकर्तृत्वं संप्रदानत्वं च संभवति । अत एव सत्रयागे यष्टृणा-मेव स्वेषामृत्विक्त्वेन नास्ति दक्षिणेत्याहुः । तत्र । त्यक्तजलस्यापि नद्यादिद्विजखयूँपाद्यु-निकसत्त्वमविरोधात् । भोजयित्वा द्विजान्सम्यक् तोयस्तत्रजयेच्चतः । सर्वभूतान् सङ्कद्दिश्य इति वाचं सङ्कच्चरेत् ॥ इति हयशीर्षे असङ्कचितसर्वपदबलात् स्वस्यापि त्यागोद्देश्यवर्गान्तर्भावाच्च । दानक्रियाकौमुदी p. 126 ; compare जलाशयोत्सर्गतत्त्व (*Jiv*. part II. p. 526).

2078.   अथ जलाशयाः । ते च खननसाध्याश्चत्वारः कूपवापीपुष्करिणीतडागरूपाः । तथा च मत्स्यपुराणम् । ... ... कूपोद्धारको गर्तविशेषः बद्धसोपानकोयं वापीति द्वैतनिर्णयः । जलाशयोत्सर्गतत्त्व of रघुनन्दन.   Vide also दानक्रियाकौमुदी p. 126.

2079.   Vide दानक्रियाकौमुदी p. 132 and हेमाद्रि (दानखण्ड p. 1003) quoting विष्णुधर्मोत्तर.

which the sacrificial animal was tied), for idhma (samidhs which were thrown into fire), for the several ladles like sruva, juhū etc. The Tai. Br. I. 1. 3 speaks of seven holy trees. The Tai. S. III. 4. 8. 4 states that idhma (samidhs) should be of the nyagrodha, udumbara, aśvattha and plakṣa trees, as they are the abodes of Gandharvas and Apsarases.[2080] Besides trees with their verdant foliage looked beautiful and the leaves of some of them (such as the mango tree) are hung up even now in pandals and at entrances of houses as auspicious in marriage and other ceremonies. Hemādri cites a passage from the Brahmapurāṇa that the twigs and leaves of the Aśvattha (the *pipal* tree), udumbara, plakṣa, cūta (*mango*) and nya-grodha are styled pañcabhaṅga [2081] and are auspicious in all rites. The palāśa tree was held to be so sacred that one was not to make seats, sandals or tooth brush from it or its branches and twigs (Baud. Dh. S. II. 3. 25). Trees gave shelter against heat and also yielded flowers and fruits (for worship of gods and pitṛs). When felled their wood was useful in building houses, for making implements of husbandry and for producing heat and warmth. In his 7th Pillar Edict (of Delhi-Topra) Aśoka mentions the construction of wells at a distance of 8 krośas and the planting of banyan trees and mango groves (C. I. I. vol. I pp. 134–135). The Mahābhāṣya (vol. I. p. 14) quotes a portion of an ancient verse which conveys that if a person waters and tends mango trees, his pitṛs feel extremely pleased.[2082] Manu IV. 39 and Yāj. I. 133 require the snātaka to circumambulate well-known trees (like aśvattha) if he meets them on the way. The Kādambarī also refers to this practice of worshipping trees, particularly by women desiring to have a son.[2083] The Mahābhārata (Anuśāsanaparva 58. 23–32) highly eulogizes plant life and divides plants into six kinds viz. vṛkṣa (tree), latā (creepers that cling to trees), vallī (creepers that spread on the ground), gulma (bushes), tvaksāra

2080. नैयग्रोध औदुम्बर आश्वत्थः प्लाक्ष इतीध्मो भवत्येते वै गन्धर्वाप्सरसां गृहाः। तै. सं. III. 4. 8. 4.

2081. अश्वत्थोदुम्बरप्लक्षचूतन्यग्रोधपल्लवाः । पञ्चभङ्गा इति प्रोक्ताः सर्वकर्मसु शोभनाः ॥ हेमाद्रिव्रतखण्ड p. 47.

2082. आम्राश्च सिक्ताः पितरश्च प्रीणिताः ॥ महाभाष्य vol. I. p. 14. The several benefits mentioned above are narrated in Anuśāsana-parva 58. 28–30 and Viṣṇu Dh. S. 91. 5–8.

2083. अश्वत्थप्रभृतींश्चपरादितपूजाञ् महावनस्पतींद् कृतप्रदक्षिणा ववन्दे । कादम्बरी para 56.

(trees whose bark is strong, while the inside is hollow, like bamboos) and grass and adds that he who plants trees is saved (in a future existence) by them just as sons do and that they should be tended like sons.[2084] The Viṣṇu Dh.S.91.4 says the same thing. Hemādri (Dāna pp. 1030–31) cites a long passage from the Padmapurāṇa how by planting different trees and plants like aśvattha, aśoka, tamarind, pomegranate and others a man secures such rewards (respectively) as wealth, removal of sorrow, long life, a wife, &c. Vṛddha-Gautama (Jiv., part 2. p. 625) identifies the Aśvattha tree with Śrī Kṛṣṇa. The Mahābhārata (Śānti 69. 42) forbids even the felling of the leaves of trees like the aśvattha that have a platform [2085] built for them (caitya). Śāntiparva 184. 1–17 graphically describes how trees have life since they feel pain and pleasure and grow though cut. The Bhaviṣyapurāṇa quoted in the Utsarga-mayūkha (p. 16) states ' he who plants either one aśvattha or one picumarda or one nyagrodha or ten tamarind trees, or the three trees i. e. kapittha, bilva and āmalaka or plants five mango trees would not see hell (i. e. would not be condemned to hell for his sins).[2086] The Matsyapurāṇa (chap. 270. 28–29) requires that to the east of the *maṇḍapa* of a temple fruit-bearing trees should be planted, to the south trees that contain milky sap, to the west a reservoir of water with lotuses therein should be constructed and to the north a flower garden and *sarala* and tāla trees. Vas. Dh.S.19.11–12 prescribes that no one should injure (i. e. cut) trees that yield fruits and flowers except only for purposes of cultivating the land [2087] (and for sacrificial purposes, as laid down in Viṣṇu Dh. S. 51. 63). The Viṣṇu Dh. S. V. 55. 59 prescribes that the king should award the highest fine, the middling fine, or a fine of 100 kārṣāpaṇas or of one kārṣāpaṇa respectively against those who wrongfully cut a tree bearing fruit or a tree that bears flowers, or who cut creepers and shrubs or grass.

Hemādri (Dāna. pp. 1029–1055) deals at length with the planting of trees, the dedication of a garden and the merit

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2084. वृक्षवं पुत्रवद् वृक्षास्वारयन्ति परत्र च । तस्मात्तडागे सद्वृक्षा रोप्याः श्रेयो-र्थिना सदा । पुत्रवत्परिपाल्याश्च पुत्रास्ते धर्मतः स्मृताः ॥ अङ्गशासन 58. 30–31 ; वृक्षारोप-यितृवृक्षाः परलोके पुत्रा भवन्ति । विष्णुधर्मसूत्र 91. 4.

2085. चैत्यानां सर्वथा त्याज्यमपि पत्रस्य पातनम् । शान्ति 69. 42.

2086. अश्वत्थमेकं पिचुमर्दमेकं न्यग्रोधमेकं दश चिंचिणीकम् । कपित्थबिल्वामलक-त्रयं च पञ्चाम्रवापी नरकं न पश्येत् ॥ भविष्यपुराण in उत्सर्गमयूख p. 16 and in राजधर्म-कौस्तुभ p. 183.

2087. पुष्पफलोपगान्पादपान्न हिंस्यात् । कर्षणकारणार्थं चोपदन्यात् । वसिष्ठ 19.11-12

acquired by making gifts of various trees. The procedure of dedicating a garden is prescribed in Śāṅ. gṛ. V. 3, Āśv. gṛ. pariśiṣṭa IV. 10, the Matsyapurāṇa 59, Agnipurāṇa 70 and in many other works. It is modelled on the dedication of wells and tanks. The Matsyapurāṇa expressly states that the procedure of the consecration of a tank is extended to the consecration of everything, such as a *prāsāda* (a large house or hall for public use), a garden &c., the only difference being that the mantras are different.[2088] The procedure in Śāṅ. gṛ.[2089] (V. 3) is : Having established the sacred fire in that garden and having cooked a mess of food, the donor should sacrifice with the words (Viṣṇave svāhā, Indrāgnibhyām svāhā, Viśva-karmaṇe svāhā) and with verses R̥g. III. 8. 6 ff. (yān vo naro), verse by verse. Then he recites over the garden the verse R̥g. III. 8. 11 ' vanaspate śatavalśo vi roha.' The fee for the sacri-fice is gold.

Devatā-pratiṣṭhā—(Consecration of an image in a temple).

Though the dharmasūtras speak as shown above of images and temples, it strikes one as somewhat strange that none of the principal gṛhya and dharma-sūtras contains any procedure of consecrating an image in a temple, while in the purāṇas and some of the digests much space is devoted to the topic of devatā-pratiṣṭhā. The Matsyapurāṇa in chap. 264 and the Agnipurāṇa in chap. 60 and 66 deal with devatāpratiṣṭhā in general. There are special chapters in the purāṇas on the consecration of the image of Viṣṇu or of Śiva or the Liṅga. It would be impossible to deal in any detail with all this matter. The worship of god can be done in two ways, viz. without any outward symbol and with a symbol. The first is achieved by a prayer and offering oblations into fire ; the second by means of images. But even image worshippers are quite conscious that god is pure consciousness (*cit*), is one without a second, is without parts and without a physical body, and that the various images

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2088. एवमेव पुराणेषु तडागविधिरुच्यते । कूपवापीषु सर्वासु तथा पुष्करिणीषु च ॥
य एव विधिदृष्टः प्रतिष्ठासु तथैव च । मन्त्रतस्तु विशेषः स्यात् प्रासादोद्यानभूमिषु ॥ मत्स्यपुराण
58. 50-52. पादपानां विधिं वक्ष्ये तथैवोद्यानभूमिषु । तडागविधिवत्सर्वमासाद्य जगतीश्वर ।
मत्स्य 59. 3.

2089. अथारामेऽग्निमुपसमाधाय स्थालीपाकं श्रपयित्वा विष्णवे स्वाहेन्द्राग्निभ्यां
स्वाहा विश्वकर्मणे स्वाहेति यान्वो नर इति प्रत्यृचं जुहुयाद्वनस्पते शतवल्शा इत्यभिमन्त्र्य
हिरण्यं दक्षिणा च । शां. गृ. V. 3.

in which he is thought as in-dwelling are so imagined for the benefit of worshippers.[2090]

The worship of god through the medium of images is again two-fold, viz. done in one's house and in a public temple. The latter is, according to many works, the best and the completest, since it allows of the celebration of festivals and the performance of the varied items or modes of worship (*upacāra*). Private worship of idols in one's house has already been dealt with above (pp. 726-736) under Devapūjā. Now the worship of images in temples remains to be dealt with. The establishment of images in temples is again of two kinds viz. calārcā (where the image can be lifted up, moved to another place) and *sthirārcā* (where the image is fixed on a pedestal or is not meant to be lifted up or moved). The consecration of these two differs in certain details.

Here numerous matters have to be considered. The principal matters to be attended to according to the Matsyapurāṇa (264-66) are : the auspicious time for the consecration of an image, the erection of a maṇḍapa to the east or north of the temple, the erection of a vedi therein, erection of four *toraṇas* (arched gates) for the maṇḍapa, placing two auspicious jars at each of four gates filled with scented water and herbs and covered with mango leaves and white cloth, raising of banners all round the *maṇḍapa*, worship of lokapālas (guardian deities of quarters), erecting another maṇḍapa for bathing the image in, bringing the image and honouring the artizans, drawing lines on the image or liṅga with a golden needle to represent the lustre of eyes, the selection of a qualified sthāpaka or ācārya and of from eight to 32 other priests (called mūrtipa); taking the image or liṅga to the *maṇḍapa* meant for bathing the image, bathing the image to the accompaniment of music with pañcagavya mixture, with mṛttikā (loose earth), with holy ashes and water ; rendering it pure by repeating four mantras (viz. samudrajyeṣṭhāḥ, āpo divyāḥ, yāsām rājā and āpo hi sthā, which are respectively Ṛg. VII. 49. 1–3 and X. 9. 1); offering worship after the bath to the image with sandalwood paste and covering it with a garment (with the verse ' abhi vastrā ' Ṛg. IX. 97. 50), placing the image in a standing position with the mantra ' uttiṣṭha ' (Ṛg. I. 40. 1); placing the image in a chariot with the verses

2090. चिन्मयस्याद्वितीयस्य निष्कलस्याशरीरिणः । उपासकानां कार्यार्थं ब्रह्मणो रूपकल्पना ॥ quoted in the देवप्रतिष्ठातत्त्व of रघुनन्दन (p. 50).

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HISTORY OF DHARMAŚĀSTRA

(ANCIENT AND MEDIEVAL RELIGIOUS AND CIVIL LAW)

BY

MAHĀMAHOPĀDHYĀYA PANDURANG VAMAN KANE, M.A., LL.M,
ADVOCATE, HIGH COURT, BOMBAY; SENIOR ADVOCATE,
FEDERAL COURT OF INDIA; FELLOW AND VICE-
PRESIDENT OF THE BOMBAY ASIATIC SOCIETY,
AUTHOR OF "HISTORY OF SANSKRIT
POETICS", ETC.

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CHAPTER XXXII

SADĀCĀRA

CUSTOMS AND MODERN CUSTOMARY LAW[1606]

From Gautama[1606a] downwards many writers dilate upon the sources of *dharma*. Gautama I. 1-2 states: ' the Veda is the source (*mūla*) of dharma and also the tradition (or smṛtis) and practice of those who know the Veda'. Similarly Āp. Dh. S. (I. 1. 1. 1-2) says: ' we shall propound the acts (that produce merit) which are evolved from conventions and practices ; the authority (for finding out the *dharmas*) are the conventions of those who know the dharma and the Vedas'. Yas. I. 4-7 provides: ' dharma is declared by the Vedas and Smṛtis ; on failure of these two the practice of the śiṣṭas is the authority (for finding out what dharma is) ; a śiṣṭa however is one whose heart is free from (worldly) desires and (only) such acts of śiṣṭas are (to be held as) dharma for which no (worldly

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1606. This chapter and the next represent, with a few minor additions, two of the four lectures I delivered in November 1944 at the Bombay University as the Sir Lallubhai Shah Lecturer. I am thankful to the Syndicate of the Bombay University for permission to incorporate these two lectures in this volume.

1606a. वेदो धर्ममूलम् । तद्विदां च स्मृतिशीले । गौ. I. 1-2; अथातः सामयाचारि-कान्धर्मान् व्याख्यास्यामः । धर्मज्ञसमयः प्रमाणं वेदाश्च । आप. ध. सू. I. 1. 1. 1-3; श्रुतिस्मृतिविहितो धर्मः । तद्लाभे शिष्टाचारः प्रमाणम् । शिष्टः पुनरकामात्मा । अगृह्यमाण-कारणो धर्मः । वसिष्ठ I. 4-7; श्रुतिः स्मृतिः सदाचारः स्वस्य च प्रियमात्मनः । सम्य-क्सङ्कल्पजः कामः धर्ममूलमिदं स्मृतम् ॥ या. I. 7; वेदोऽखिलो धर्ममूलं स्मृतिशीले च तद्विदाम् । आचारश्चैव साधूनामात्मनस्तुष्टिरेव च ॥ मनु I. 6. हरदत्त explains mūla in Gaut. as pramāṇa and सामयाचारिकान् as ' पौरुषेयी व्यवस्था समयः स च त्रिविधः विधिनियमः प्रतिषेध इति । समयमूला आचाराः समयाचाराः तेषु भवाः सामयाचारिकाः एवं-भूतान्धर्मानिति । कर्मजन्योऽभ्युदयनिःश्रेयसहेतुरपूर्वाख्यः आत्मगुणो धर्मः. '. According to him सामयाचारिकान् means relating to practices based upon agreements or conventions. Manu distinguishes between śīla and ācāra. The first means; acc. to Kullūka and others, such moral qualities as ' devotion to learning, to gods and to parents' &c. mentioned in Hārita (quoted by Kullūka). All commentators connect 'svasya' in Manu II. 12 and Yāj. I. 7 with 'priyam', but Pandit Gaṭṭulal connects it with ' sadācāra ' which means according to him 'sampradāya' (in Satsiddhāntamārtaṇḍa I. 5 p. 49, Nir. ed. 1942).

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or secular) cause (or motive) can be assigned '.[1607]   Manu II. 6 and Yāj. I. 7 declare that Veda (or śruti), smṛti and the practices of the good are the principal *sources* of dharma.   The words employed in these works are *śīla, samaya, ācāra* or *sadācāra* or *śiṣṭācāra*[1607] (the latter three meaning the same thing)· Āp. employs both words viz. *samaya* and *ācāra*, the first of which probably means ' agreement or convention or usage ', while the latter means ' custom '.   The word ' custom ' now conveys the idea of some antiquity,[1608] while usage or convention does not necessarily convey that idea.   A usage may be recent or it may be established by agreement among a certain class of persons (such as traders or craftsmen).   We have to see what is meant when it is said that *ācāra* or *śiṣṭācāra* or *sadācāra* is the source (*mūla*) of dharma.   An indication of the meaning is furnished by the word *pramāṇa* employed by Āp. and Vas.   The meaning is that just as the revealed books (Veda) and the smṛtis authoritatively lay down what dharma is, so also in our quest to find out what dharma is in the varying circumstances of life the practices of those who may be called śiṣṭas furnish us with the necessary criterion or norm i. e. śiṣṭācāra is the touchstone for judging whether an act is in consonance with what the śāstras require us to do.   The theory of the ancient writers was that the smṛtis were based on parts of Veda (that consists of *mantras* and Brāhmaṇa texts) which though formerly existent are not now extant or available, that similarly the practices of those who were learned in the Vedas and were deemed to be śiṣṭas must be inferred to have been based on portions of Veda not now available.   This theory was advanced by such ancient

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1607.   As to the qualifications of śiṣṭas, vide H. of Dh. vol. II. pp. 971-72 where references are given to Baud. Dh. S., Manu, the Matsyapurāṇa and a few other works.   The Tai. Up. I. 11 contains perhaps the oldest extant indication as to who should be regarded as śiṣṭas, though that word itself is not used. अथ यदि ते कर्मविचिकित्सा वा वृत्तविचिकित्सा वा स्यात् । ये तत्र ब्राह्मणाः संमर्शिनः युक्ता आयुक्ता अलूक्षा धर्मकामाः स्युः यथा ते तत्र वर्तेरन् तथा तत्र वर्तेथाः । अथा-भ्याख्यातेषु । ये तत्र ब्राह्मणाः ... धर्मकामाः स्युः यथा ते तेषु वर्तेरन् तथा तेषु वर्तेथाः ।.

1608.   Vide *Dalglish v. Guzuffer* 23 Cal. 427, 429 and *Sariatullah v.* *Pran Nath* 26 Cal. 184, 187 for the meaning of usage in modern enactments as distinguished from ' custom '.   In *Juggomohun Ghose v. Manickchund* 7 Moo. I. A. 264 at p. 282 (mercantile) usage is sharply distinguished from custom in that the former need not possess the characteristics of antiquity, uniformity and notoriety that the latter must possess.

writers as Āp.[1609] and was taken up by many subsequent works.
Manu II. 7 also states that whatever dharma has been ordained
for any person by Manu, all that has been entirely declared in
the Veda for the Veda is full of all knowledge. But it does
not follow from this nor is it ever meant that all practices of
śiṣṭas are authoritative in matters of dharma. The qualifica-
tion was added that where the practices of śiṣṭas are clearly
referable to or are prompted by a seen motive or by the desire
to secure pleasure, there they are not authoritative. Manu
(II. 18) restricted the word sadācāra to the customs handed
down from generation to generation among the four varṇas
and the mixed castes in the country called by him Brahmā-
varta (II. 17). But many other writers did not so restrict it in
this way.

We have to distinguish between what are called the sources
(*mūla* or *pramāṇa*) of dharma and the *sthānas* of dharma (Yāj.
I. 3 and 7).[1610] The former indicate to the inquiring spirit
what dharma is (i. e. they are what are called *jñāpaka hetu*),
while the latter must be studied as aids by the expounders of
dharma in order to correctly grasp what dharma is, i. e. the
different lores (other than Veda and smṛti) are not directly
the sources of dharma, but are only mediately so. This distinc-
tion is an ancient one as even Gautama XI. 19 provides that
the king is helped in his administration of justice by the Veda,
the dharmaśāstras, the auxiliary lores (aṅgas), the Upavedas
and the Purāṇa.[1611]

The position of the Pūrvamīmāṁsā in relation to the
authoritativeness of smṛtis and customs requires careful and

1609. आर्यसमयो द्वारग्रह्यमानकारणः । ··· ब्राह्मणोक्ता विधयस्तेषादुरत्सन्नाः पाठाः
प्रयोगादुत्रमीयन्ते । यत्र तु प्रीत्युपलब्धितः प्रवृत्तिर्न तत्र शास्त्रमस्ति । तद्वर्तमानो नरकाय
राध्यति । आप. ध. सू. I. 4. 12. 8, 10–13. The first sūtra may be used for
explaining Vas. I. 4 ; ग्रह्यमाणकारण means ‘ that has a known or perceptible
worldly motive such as covetousness’. Vide note 1653 below. Compare जै.
I. 3. 7 अपि वा कारणग्रहणे &c. quoted below.

1610. पुराणन्यायमीमांसाधर्मशास्त्राङ्गमिश्रिताः । वेदाः स्थानानि विद्यानां धर्मस्य च
चतुर्दश ॥ या. I. 3, on which मिता. says, धर्मस्य च चतुर्दश स्थानानि हेतवः । एतानि च
त्रैवर्णिकैरध्येतव्यानि, while मित्रमिश्र explains, ‘ विद्यानां पुरुषार्थसाधनज्ञानानाम् । अत
एव धर्मस्यापि स्थानान्युपायाः विद्यायाः प्रवृत्तिद्वारा धर्मप्रयोजकत्वात्.’ On I. 7 मित्रमिश्र
says, पुराणादीनां स्वर्गादिकथाप्राधान्यादितिहासबहुल्वेनार्थवादादिरूपतया न्यायमीमांस-
योस्तर्कद्वारा शिक्षादीनामङ्गानां तत्तदुपकारसम्पादनेन वेदाध्याहकतया धर्मे प्रामाण्यं न
साक्षादिति न तान्यत्र गणितानि ।

1611. तस्य च व्यवहारो वेदो धर्मशास्त्राण्यङ्गान्युपवेदाः पुराणम् । गौ. XI, 19.

detailed consideration. In I. 3. 1-2[1612] Jaimini considers the question whether such smṛti injunctions as ' one should perform the Aṣṭakā śrāddhas ',[1613] or ' one should construct a tank or set up a *prapā* (place for free distribution of water to thirsty travellers'), or ' tufts of hair should be kept on the head ' (at *caula* according to the gotra) are authoritative and establishes the conclusion that they are authoritative, since such smṛti injunctions equally with Vedic ones are addressed to the same persons (viz. the followers of the Veda) who have to act according to them. The idea is that those who perform the acts expressly enjoined by the Veda are also seen to perform the acts enjoined by such smṛtis as that of Manu and therefore the principal reason why these smṛtis are authoritative is the fact that those who know the Veda accept these smṛtis as authoritative and hold fast by them, as Medhātithi on Manu II. 6 says citing some verses from his own work called Smṛtiviveka.[1614] Śabara endeavours to show that there are indications (*liṅga*) in the Vedic texts pointing to the existence of what is prescribed in the smṛtis e. g. he cites the Vedic verse 'yām janāḥ' as indicative

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1612. धर्मस्य शब्दमूलत्वादशब्दमनपेक्षं स्यात् । अपि वा कर्तृसामान्यात्प्रमाणमनु-मानं स्यात् । जै. I. 3. 1-2. The word अनुमान is here used in the sense of स्मृति. ' अपि वा पक्षो व्यावर्त्यते । प्रमाणं हि स्मृतिः । ... ग्रन्थस्त्वनुमीयेत कर्तृसामान्यात्स्मृति-वैदिकपदार्थयोः । तेनोपपन्नो वेदसंयोगस्त्रैवर्णिकानाम् ।' शबर; about अष्टका he says 'अष्टकालिङ्गाश्च मन्त्रा वेदे दृश्यन्ते यां जनाः प्रतिनन्दन्तीत्येवमादयः ।'. That verse is, यां जनाः प्रतिनन्दन्ति रात्रिं धेनुमिवायतीम् । संवत्सरस्य या पत्नी सा नो अस्तु सुमङ्गली ।. This occurs in आप. म. पा. II. 10. 27, in पारस्करगृह्य III. 2 and in अथर्ववेद III. 10. 2 where we have यां देवाः etc. Acc. to प्रभाकर the topic of Jai. I. 3. 1-2 is not such smṛti texts as those on Aṣṭakā, but the Vedic verse यां जनाः itself. The न्यायसुधा p. 126 adds ' अष्टकायै सुराधसे स्वाहेति तस्याष्टकादेवतारात्रिप्रकाश-कत्वादेषा वै संवत्सरस्य पत्नी यद्रत्रीति संवत्सरपत्नीत्वसंस्तुताष्टकाप्रकाशकत्वाच्चाष्टका-लिङ्गत्वं स्पष्टमेवेति ' . The word कर्तृसामान्यात् in the sūtra is explained in the मयूखमालिका as ' अग्निहोत्रादीनां वैदिकपदार्थानां ये कर्तारस्त एव अष्टकादिस्मृतीनामिति कर्तृसामान्यात्प्रमाणयुक्तम् ' (on जै. I. 3. 4 p. 27); while the न्यायसुधा (p. 125) proposes also another explanation ' यद्वा स्मृतिकर्तॄणां मन्वादीनां वैदिकपदार्थकर्तॄणां तदानींतनानां शिष्टानां त्रैवर्णिकत्वेन समानत्वात् इदानींतनवन्मन्वादीनामप्युपपन्नो वेद-संयोग इत्यर्थः '.

1613. Vide Āśv. Gṛ. II. 4. 1 ff., Śān. Gṛ. III. 12-14, Pār. Gṛ. III. 3 for Aṣṭakā śrāddhas. Passages of the smṛtis about tanks and prapās are set out in H. of Dh. vol. II pp. 889-890. For tufts of hair kept in *caula* vide H. of Dh. vol. II. pp. 261 and 264.

1614. वैदिकैः स्मर्यमाणत्वात्तत्परिग्रहद्राढ्यतः । संभाव्यवेद्मूलत्वात्स्मृतीनां वेदमूलता ॥ quoted in the ज्ञास्त्रदीपिका on जै. I. 3. 2; ' स्मार्तवैदिकयोर्नित्यं व्यतिषङ्गात्परस्परम् । कर्तृतः कर्मतो वापि विभुज्येते न जातु तौ । ...प्रामाण्यकारणं मुख्यं वेदाविद्धिः परिग्रहः । तदुक्तं कर्तृसामान्यादनुमानं श्रुतेः प्रति ॥ q. from स्मृतिविवेक by मेधा. on मनु. II. 6.

of aṣṭakās, Ṛg. X. 4. 1 of prapās, Ṛg. VI. 75. 17 of tufts of hair. The objection may be stated as follows :—The smṛtis are composed by human authors (i. e. they are *pauruṣeya*) and so have no independent authority in matters of dharma, as a man may say what is either false or mistaken. If it be said that the smṛtis really propound what is stated by the Veda, then they are practically superfluous and useless. and not being Veda they should be discarded (anapekṣa) To this the reply is that smṛtis are generally authoritative, as they must be held to be based on Veda because they are composed by men (like Manu) who were followers of the Veda, because what the smṛtis lay down has been consistently followed from generation to generation by the śiṣṭas and because it is possible to regard the Veda as their source. To the question why the Vedic passages on which the smṛti rules are postulated to have been based are not seen or found by us several answers were proposed by different writers. One view was that just as Vedic indications about locks of hair lead to the inference of śruti texts enjoining the keeping of tufts on the head, so the fact of the existence of such rules leads to the inference that śruti must have contained injunctions corresponding to all smṛti prescriptions. Kumārila raises objections to this view. Inference is based on perception (*pratyakṣa*) and invariable concomitance (*vyāpti*). There is no vyāpti between the smṛtis and śruti texts that are never found pronounced by any one, so no inference is possible and it would be like one blind man following another.[1615] Manu must have composed his smṛti on finding that ācāryas preceding him performed certain acts as based on Veda. These last must have believed that their predecessors also acted on the same belief. Hence there is what is called an ' andha-paramparā ' on this hypothesis. And further this hypothesis of the inference of Śruti in all cases is opposed to perception, since as a matter of fact hundreds of Śruti passages are known that can be the basis of corresponding smṛti texts. Another view is (and Kumārila holds that it is somewhat better than the preceding view) that one should infer that the Vedic passages that were the basis of smṛtis are lost (utsanna or pralīna). Some support is lent to this by such Vedic texts as ' anantā vai vedāḥ.' (Tai. Br. III 10.

1615. तस्माद्युक्तमन्धपरम्परान्यायादेव । या हि चोदना न कदाचिदुच्चार्यते तस्याः सर्वपुरुषप्रत्यक्षादिप्रसराभावाच्च दुर्लभतरमस्तित्वम् । ... लिङ्गादीनां तु नित्यत्वाज्जित्यमुच्च-रितश्रुत्यनुमानकारणत्वमविरुद्धम् । तेन वरं प्रलीनश्रुत्यनुमानमेव । तन्त्रवार्तिक p. 164 on जै. I. 3. 2.

11) and by Āp. Dh. S, I, 4, 12, 10. Even this view is not acceptable to the Tantravārtika and most of the Mīmāṁsakas. The objection against the 2nd view is raised as follows. Even Bauddhas and other heretical sects[1616] would advance the argument that their works also are based on śruti texts that are now lost, and any one may regard anything as authoritative by pretending that the basic vedic texts are lost. Further the Mīmāṁsā view that the Veda is eternal (*nitya*) would be refuted if it were admitted that some portion of the Veda is lost. There is not much difference between the first view and the second view. Therefore Kumārila propounds the third view viz. that smṛtis are to be inferred as based on Vedic texts that are already in existence[1617]. If an objection is raised against this hypothesis that it must be explained why such Vedic texts (the bases of smṛtis) are not seen or found, the Tantravārtika replies in a famous *kārikā* that as the Vedic *śākhās* (the several branches of the Veda) are scattered about (in various countries), as men (followers of the Veda) are negligent and unmindful (i. e. they do not visit all the countries and so are unable to have a complete knowledge of all Vedic texts) and as several rules are declared in different contexts even when occurring in the same śākhā (and not at one place) it is not always possible to point out the Vedic sources of smṛti texts. If an objector were to ask : ' why were not the Vedic passages themselves (that are the sources of smṛti rules) embodied bodily into the smṛtis,' Kumārila replies that this was not done from the fear of the loss of the correct arrangement of the Vedic texts as traditionally handed down. The Veda is principally concerned

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1616. यदि तु प्रलीनशाखामूलसा कल्प्येत ततः सर्वासां बुद्धादिस्मृतीनामपि तद्द्वारं प्रामाण्यं प्रसज्यते । यस्येव च यदभिप्रेतं स एव तत्प्रलीनशाखामस्तके निक्षिप्य प्रमाणीकुर्यात् । तन्त्रवार्तिक p. 163 ; नित्याच्चमेयपक्षो यो वाप्यागमपरम्परा । तयोरुत्धप्रवाहत्वं न भेदः कश्चि- दीक्ष्यते । स्मृतिविवेक q. by मेधा. on मनु II. 6.

1617. यद्वा विद्यमानशाखागतश्रुतिमूलत्वमेवास्तु । कथमनुपलब्धिरिति चेदुच्यते । शाखानां विप्रकीर्णत्वात्पुरुषाणां प्रमादतः । नानाप्रकरणस्थत्वात्स्मृतेर्मूलं न दृश्यते ॥ यत्तु किमर्थं वेदवाक्यान्येव नोपसंगृहीतानीति । संप्रदायविनाशभीतेः । विशिष्टानुपूर्व्यां हि स्वाध्यायोऽध्येतव्यः श्रूयते । स्मार्ताश्चाचाराः कोचित् क्वचिदस्यांचिच्छारवायाम् । तत्रापि तु कोचित्पुरुषमेवाधिकृत्याम्नायन्ते । येन क्रतुप्रकरणाम्नाताः केनचिन्निमित्तेनाक्रुप्यमाणाः पुरुषधर्मतां भजन्ते । यथा—मलवद्वाससा सह न संवदेत्—तस्मात्र ब्राह्मणायावगुरेत्—इत्येव- मादयः । तत्र यदि तावत्तान्येव वाक्यान्युद्धृत्याध्यापयेत्ततः क्रमान्यत्वात्स्वाध्यायाविधि- विरोधः स्यात् । अनेन च निर्देशेनान्येद्वर्थवादोद्धारेण विधिमात्रमधीयीरन् कर्मोपयिकमात्रं वा । तत्र वेदप्रलयः प्रसज्यते । तन्त्रवा. on जै. I. 3. 2. p. 164. For मलवद् &c. vide तै. सं. II. 5. 1. 5 and for तस्मात्र &c. तै. सं. II. 6. 10. 2 (q. in H. of Dh. vol. II p. 803 *n.* 1917 and p. 151 *n.* 346 respectively).

with sacrifices, though now and then there are rules addressed to men for regulating conduct only. People would only study the Vedic sentences contained in the smṛtis (that are concerned principally with conduct) where they would be arranged in a different order according to subjects and there would thus be loss of the arrangement of the Veda as originally delivered. Viśvarūpa[1618] (on Yāj. I. 7) quotes the above verse of Kumārila and states that there are thousands of smṛti rules that have their source in the Veda; he and Kumārila instance the rules against talking with (or coming in contact with) a woman in her monthly illness or the rule against assaulting a brāhmaṇa, or the rule about the sin of killing an ātreyī woman &c. Medhātithi on Manu II. 6 has an elaborate discussion on this very topic and quotes several verses from his own work called Smṛtiviveka[1619]. He does not approve of the first two views and follows Kumārila's view. Mīmāṁsā writers and commentators like Medhātithi say that Manu and other authors of smṛtis brought together for easy comprehension matters that are scattered about in the various Vedic texts, that are either not known to the students of the several śākhās or that cannot be brought together by men of ordinary or weak intellect.[1619a]

The general proposition that smṛtis are authoritative being established, a further question arises. What is to happen if a smṛti rule conflicts with the rule of the Veda? Jaimini deals

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1618. स्मृतिमूला हि विधयः सन्ति वेदे सहस्रशः । सम्प्रदायाविनाशाञ्च भीतैः साक्षाद्-संहृतिः ॥ उत्क्रष्टव्यस्तु यत्तोयं मलबद्धासा सह । न संवसेदिति विधिः स्मृतिमूलत्वसंमतः ॥ आत्रेय्या योषितेनस्त्री भवेद् घातयितेत्यपि । वृत्तं तस्मादनिन्द्यस्य नापक्रामेदिदीति च ॥ अना-रभ्य च सौवर्णं हिरण्यं भार्यमित्ययम् । रूपसंपत्तये चैवं भवितव्यं सुवाससा ॥ विश्वरूप on या. I. 7. pp. 14–15.

1619. शाखाः काश्चित्सहस्रसंख्याः पक्षो नैष मतो मम । पक्षेस्मिन्नप्रमाणं हि बह्वदृष्टं प्रसज्यते । उपपत्ततरः पक्षो विक्षिप्तानां ततस्ततः । उत्पत्यादिसमाहारः प्रायशो दृश्यते ह्यदः ॥ मेधा. on मनु. II. 6.

1619a. अथाद्यत्वे पच्यन्त एव ताः शाखाः किन्तु विप्रकीर्णास्ते धर्माः कस्यांचिच्छा-रवायामष्टकादीनां कर्मणाछुत्पत्तिः कस्यांचिद्द्रव्यं क्वचिद्देवता काचिन्मन्त्र इत्येवं विप्रकीर्णानां मन्वादयोऽङ्गोपसंहारं सुखावबोधार्थे चक्रुः । मेधा. on मनु. II. 6; उच्चार्यन्त एव स्मृतिमूलभूताः श्रुतयः संप्रत्यपि विप्रकीर्णाः काश्चित्क्वचित्कस्यांचिच्छाखायां विप्रकीर्णत्वाच्च शाखान्तराध्या-यिभिः शाखान्तरगतानामनुपलम्भात् तादर्थ्येनार्थसन्निबन्धनं तदुपलम्भेऽपि वा मन्दधीभि-रनुपसंहरणीयानायुपसंहारफलं स्मृतिप्रणयनमिति न वैयर्थ्यमतः स्मृतयः प्रमाणमिति सिद्धम् । शास्त्रदीपिका.

HISTORY OF DHARMAŚĀSTRA

(ANCIENT AND MEDIÆVAL
RELIGIOUS AND CIVIL LAW)

BY

PANDURANG VAMAN KANE, M. A., LL. M.
ADVOCATE, HIGH COURT, BOMBAY; SENIOR ADVOCATE,
FEDERAL COURT OF INDIA; FELLOW AND VICE-
PRESIDENT OF THE BOMBAY ASIATIC SOCIETY;
AUTHOR OF 'HISTORY OF SANSKRIT POETICS' &c.

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CHRONOLOGICAL TABLE.

(of some important works and authors referred to in this volume)

N. B.—Some dates, particularly of ancient works, are more or less conjectural.

4000 B. C. — 1000 B. C. — The period of the Vedic Saṃhitās, Brāhmaṇas and Upaniṣads. Some hymns of the Ṛgveda, the Taittirīya Saṃhitā and Brāhmaṇa and the Atharvaveda may possibly go back to a period earlier than even 4000 B. C, and some of the Upaniṣads (even from among those that are regarded as the earliest ones) may be later than 1000 B. C.

800 B. C. — 500 B. C. — The Nirukta.

800 B. C. — 400 B. C. — The principal śrauta sūtras (of Āpastamba, Āśvalāyana, Baudhāyana, Kātyāyana, Satyāṣāḍha and others) and some of the Gṛhyasūtras (such as those of Āpastamba and Āśvalāyana).

600 B. C. — 300 B. C. — The dharmasūtras of Gautama, Āpastamba, Baudhāyana, Vasiṣṭha and the Gṛhyasūtras of Pāraskara and a few others.

600 B. C. — 300 B. C. — Pāṇini.

500 B. C. — 200 B. C. — Jaimini's Pūrvamīmāṃsāsūtra.

300 B. C. — Vararuci Kātyāyana, author of Vārtikas on Pāṇini.

300 B. C. — 100 A. D. — Arthaśāstra of Kauṭilya.

150 B. C. — The Mahābhāṣya of Patañjali.

200 B. C. — 100 A. D. — Manusmṛti.

100 A. D. — 300 A. D. — Yājñavalkyasmṛti.

100 A. D. — 300 A. D. — Viṣṇudharmasūtra.

100 A. D. — 400 A. D. — Nāradasmṛti.

200 A. D. — 500 A. D. — Śabara, com. of Jaimini.

300 A. D. — 500 A. D. — Bṛhaspatismṛti on Vyavahāra (not yet found, Extracts translated in S. B. E. vol. 33).

300 A. D. — 600 A. D. — Some of the extant Purāṇas, such as Vāyu, Viṣṇu, Mārkaṇḍeya, Matsya, Kūrma.

400 A. D. — 600 A. D. — Kātyāyanasmṛti on Vyavahāra (not yet found. Extracts collected by me and translated in English).

400 A. D. — 600 A. D. — Kāmandakīyanītisāra.

505 A. D. — 587 A. D. — Varāhamihira, author of Bṛhatsaṃhitā, Bṛhajjātaka, Pañcasiddhāntikā and other works.

600 A. D. — 650 A. D. — Bāṇa, author of the Kādambarī and the Harṣacarita.

650 A. D. — 750 A. D. — Kumārilabhaṭṭa, author of Śloka-vārtika, Tantravārtika and Ṭup-ṭīkā.

600 A. D. — 900 A. D. — Most of the smṛtis and some of the Purāṇas.

788 A. D. — 820 A. D. — Śaṅkarācārya, the great Advaita philosopher.

800 A. D. — 850 A. D. — Viśvarūpa, com. of Yājñavalkyasmṛti.

900 A. D. — Medhātithi, com. of Manusmṛti.

900 A. D. — 1100 A. D.—Pārthasārathimiśra, author of Śāstra-dīpikā, Tantraratna, Nyāyaratnākara.

966 A. D. — Utpala, com. of Bṛhat-saṃhitā and Bṛhajjātaka.

1000 A. D. — 1055 A. D. — Dhāreśvara (Bhoja).

1070 A. D. — 1100 A. D. — Vijñāneśvara, the author of the Mitākṣarā com. on Yājñavalkya.

1080 — 1140 A. D.—Govindarāja, author of a com. on Manusmṛti.

1100 — 1150 A. D. — Lakṣmīdhara, author of a large digest called Kṛtya-kalpataru or simply Kalpataru.

1100 — 1150 A. D.—Jīmūtavāhana, author of Dāyabhāga, Kāla-viveka and Vyavahāramātṛkā.

1114 — 1183 A. D. — Bhāskarācārya, author of Siddhānta-śiromaṇi, of which Līlāvatī is a part.

1125 A. D. — Aparārka, author of a com. on the Yājñavalkya-smṛti.

1127 — 1138 A. D. — Mānasollāsa or Abhilaṣitārthacintāmaṇi of Someśvaradeva.

1150 — 1160 A. D. — Rājataraṅgiṇī of Kalhaṇa.

1150 — 1200 A. D. — Smṛtyarthasāra of Śrīdhara.

1200 — 1225 A. D. — Smṛticandrikā of Devaṇṇabhaṭṭa.

1150 — 1300 A. D. — Haradatta, com. on Gautamadharmasūtra and Āpastambadharmasūtra.

1150 — 1300 A. D. — Kullūka, com. of Manusmṛti.

1200 — 1300 A. D. — Vyavahāranirṇaya of Varadarāja.

1260 — 1270 A. D. — Caturvargacintāmaṇi of Hemādri.

1290 — 1370 A. D. — Caṇḍeśvara, author of Rājanītiratnākara, Vivādaratnākara, Gṛhastharatnākara and other works.

1300 — 1380 A. D. — Mādhavācārya, author of Parāśaramā-dhavīya.

1360 — 1390 A. D. — Madanapārijāta compiled under king Madanapāla.

1375 — 1460 A. D. — Śūlapāṇi, author of Dīpakalikā, com. on Yājñavalkya.

1400 — 1500 A. D. — Nyāyasudhā of Someśvara, com. on Tantravārtika.

1400 — 1450 A. D. — Vivādacandra of Misarumiśra.

1425 — 1450 A. D. — Madanaratna of Madanasiṁha.

1490 — 1512 — The Vyavahārasāra of Dalapati, a part of the Nṛsiṁhaprasāda.

1500 — 1525 A. D. —. The Sarasvatīvilāsa compiled under king Pratāparudradeva.

1500 — 1550 A. D. — Vardhamāna, author of Daṇḍaviveka.

1500 — 1550 — Vācaspatimiśra, author of Vivādacintāmaṇi and several other works.

1520 — 1575 A. D. — Raghunandana, author of Dāyatattva, Divyatattva, Vyavahāratattva and other Tattvas.

1560 — 1620 A. D. — Śaṅkarabhaṭṭa, author of Dvaitanirṇaya or Dharmadvaitanirṇaya.

1590 — 1630 A. D. — Nandapaṇḍita, author of the Dattakamī-māṁsā and Vaijayantī, com. on Viṣṇudharmasūtra.

1610—1640 A. D.—Kamalākarabhaṭṭa, author of Nirṇayasindhu, Vivādatāṇḍava, Śūdrakamalākara and other works.

1615 — 1645 A. D. — Nīlakanthabhaṭṭa, author of Nītimayūkha, Vyavahāramayūkha and other Mayūkhas.

1615 — 1645 A. D. — Mitramiśra, author of Vīramitrodaya, divided into Rājanītiprakāśa, Vyavhāraprakāśa and other prakāśas.

1650 — 1680 A. D. — Anantadeva, author of Rājadharma-kaustubha.

1750 — 1820 A. D. — Bālambhaṭṭa, author of the Bālambhaṭṭī, com. on the Mitākṣarā.

1790 A. D. — Dharmasindhu of Kaśīnātha.

sloping towards the east with the mantra 'uddhanyamānam-
asya' (Tai. Br. I. 2. 1), sprinkles it with water to the accom-
paniment of the mantra 'śam no devīr' (Ṛg. X. 9. 4=Tai. Br.
I. 2. 1), and constructs a shed having the end of the principal
bamboo or ridge turned northwards or eastwards. Beneath the
middle of the ridge of the hut towards one end is the place
(*āyatana*) meant for the gārhapatya fire ; the place of the
āhavanīya fire is to the east of the gārhapatya at a distance of
eight prakramas[2239] for a brāhmaṇa, eleven and twelve for a
kṣatriya and vaiśya respectively or all may have it 24 steps
(pada) or at a distance found by the eye to approximate to
the distances stated (without actual measurement). The place
for the dakṣiṇāgni is near the gārhapatya to the south-east after
a third of the distance between the gārhapatya and āhavanīya.
There are to be separate sheds for the āhavanīya fire and the
gārhapatya in elaborate sacrifices but for the ordinary sacrifices
like darśapūrṇamāsa one shed only is usually constructed which
houses all the three fires. It is laid down that only Vedic rites
are to be performed with the three fires, and that they were not
to be used for ordinary cooking or for secular purposes (vide
Jaimini XII. 2. 1–7). The sabhya fire is to be established in
front of the āhavanīya in the gambling hall and the āvasathya
fire is in a shed (for guests) to the east of the sabhya.[2240]

The sacrificer gets the hair on the head and face shaved,
pares his nails and then bathes ; the wife also does the same
except shaving the hair on the head. The husband and wife
are to establish fires after wearing two silken garments each,
which are to be given up to the adhvaryu at the time of distri-
buting dakṣiṇā (after the rite of agnyādheya is finished). The
sacrificer should perform the *saṁkalpa* (words indicating resolve)
of performing agnyādheya and choose his priests (ṛtvig-varaṇa)

2239. According to the com. on Āp. V. 4. 3 a *prakrama* is equal to
two or three *padas*, a pada being 15 aṅgulas (Baud.) or 12 aṅgulas (Kāt.).
But the com. on Kāt. VIII. 3. 14 says that a pada is equal to two
prakramas. The gārhapatya was also called prajahitā (vide Jaimini
XII. 1. 13) and the Dakṣiṇāgni was called anvāhāryapacana, because
on it was cooked the boiled rice with which piṇḍa-pitṛyajña was
performed on the new moon. Vide Manu III. 123, Tai. Br. I. 1. 10 and
'दक्षिणाग्नावन्वाहार्यं पचति' quoted by शबर on जै. XII. 2. 3.

2240. The com. on Āp. V. 17. 1 notices divergent views about
sabhya and āvasathya fires, some holding that these were not to be
established at all, others holding that they are optional, while Āp.
makes them obligatory.