

MAUNG HTIN AUNG

*Burmese  
Law Tales*

The Legal Element in  
Burmese Folk-lore

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To my teacher of English Law,  
Miss F. E. Moran

*Regius Professor of Laws in The University of Dublin,*  
this book is gratefully dedicated.

## Preface

When I was preparing the manuscript of my collection of *Burmese Folk-Tales* for publication in 1948, for some time I was unable to decide whether to include in that collection the Law Tales which are now given in the following pages. Finally, I decided that they should be left out because, first, I thought that they were borrowings from Hindu legal literature, and second, I thought that they had already been collected in the various Burmese legal writings. In both these assumptions I was wrong, and I was wrong because I then accepted the orthodox theory, first advanced by a European scholar of Burmese history<sup>1</sup> that Burmese law was merely a derivation of Hindu law.

After the publication of the *Folk-Tales*, I started my study of the Burmese legal writings (which still exist in hundreds in palm-leaf manuscript in the National Library, Rangoon), and I soon made the discovery that of the 65 Law Tales, only 28 were to be found in Burmese legal literature and of these 28, many were found merely as outlines and not as full-length stories. Further study led to the discovery that Burmese law was native in origin and was very little influenced by Hindu law. In 1950, in my lectures to the students of the Faculty of Law at the University of Rangoon, I criticized the orthodox theory of the Hindu origin of Burmese law, shocking not only the students, but also many scholars of Burmese law and Burmese history. My theory, however, was supported in 1951 by one of the most erudite jurists in Burma, Dr. U. E. Maung (at that time a judge of the Burmese Supreme Court) in a series of lectures. Today, of course, my new theory is generally accepted and is no longer considered heretical and far-fetched.

MAUNG HTIN AUNG

<sup>1</sup> Forchammer: *Jardine Prize Essay* (see Bibliography).

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# Introduction

## FOLK-TALE AND LAW TALE

In the Introduction to my collection of *Burmese Folk-Tales*<sup>1</sup> I wrote:

Tales told in a Burmese village could be divided into three categories, (i) folk-tales, (ii) folk-legends, and (iii) *Jatakas* or Buddhist Birth stories. But the village story-teller considered a tale as a tale and no more, and he would not distinguish or classify the stories that he told. For the folk-tale collector, then, there are many pitfalls: a tale which appears at first to be a perfect folk-tale may prove to be a *Jataka* on careful scrutiny as, for example, the account of the enmity between the Owl and the Crow . . .; and a tale which appears to be a folk-legend may prove to be a folk-tale after all. . . .

Folk-legends are of two classes, (i) those relating to persons who are either heroes or magicians mentioned in the chronicles, and (ii) those relating to places. In this second class are (a) place-name stories as, for example, the legend of the Wild Boar of Tagaung, dealing with places on the eastern bank of the Irrawaddy, the names of which begin with *Wet*, the Burmese word for 'boar' . . .; (b) stories about places as, for example, the Legend of the Indaw Lake . . .; and (c) stories relating to buried treasure. Most folk-legends are historical, and they attempt to amplify certain episodes mentioned in the chronicles. However, some of the folk-legends relating to persons and events before A.D. 1044 may originally have been folk-tales which were later incorporated in the chronicles. . . .

In 1056 Buddhism became the state religion of the Kingdom of Pagan, which now included the whole of Burma in its dominions. Pagan became a great centre of Buddhism, and there was a widespread study of the Buddhist scriptures by monks and scholars. The scriptures were in Pali, and had yet to be translated, but the villagers gradually became familiar with the *Jatakas* through the village monk, who would include one or two *Jatakas* in his sermon on the sabbath day. Many of the *Jatakas* are animal fables, and every *Jataka* contains some moral. The coming of the *Jatakas* to the village perhaps resulted in the disappearance of the folk-fable or moral tale. . . . The acceptance of Buddhism also meant the acceptance of Buddhist and semi-Buddhist mythology and as a result the native myths disappeared, except for a few which became degraded into folk-tales. . . .

In Burmese literature there are many tales, but they can be reduced into four groups, (i) *Jataka* tales, (ii) tales with some moral or religious

<sup>1</sup> Oxford University Press, 1948.

background, adapted from Sanskrit and Pali sources, (iii) Proverbial tales, and (iv) Juristic tales. But the classification is far from watertight; a Proverbial tale may often be also a *Jataka* tale or an adapted Sanskrit tale, and many Juristic tales are adaptations from Sanskrit and Pali sources. Pali and Sanskrit were widely studied after 1056. A Burmese Proverbial tale is not a fable. A fable points to some moral lesson, which can be expressed in the form of a proverb or saying, but a Proverbial tale narrates the particular set of circumstances which gave rise to a proverb or a saying. To make the difference clear let us suppose that 'If you give him an inch, he will take an ell' was a Burmese saying. Now Aesop's tale of the camel who first asked to be allowed to put his head in his master's tent and who in the end took possession of the whole tent, is a fable which will illustrate the above saying. But, a Proverbial tale to illustrate the saying would narrate how one inch was actually given and how one ell was actually taken. There are approximately about one thousand Proverbial tales in Burmese literature; some of them are *Jatakas*, as, for example, the tale of the saying, 'If one tries to rival one's teacher, one is hit with brickbats', which narrates how the wicked pupil of a great harpist was hit with stones and brickbats by an irate mob as he insolently challenged his teacher to a musical contest and was duly defeated<sup>2</sup>; some of them are adaptations from Pali or Sanskrit sources; but most of them, I think, were originally folk-tales, for surely most of the sayings originated from native tales.

A Juristic tale illustrates a point of law or describes a clever decision of a judge, and it has some official authority, for it could be cited by a disputant or his advocate before a court of law. A Juristic tale may be an adaptation from Sanskrit or Pali, or a modified folk-tale, or a tale invented by the writer, or a record of an actual decision made by a judge in a court of law. There exist many collections of Juristic tales, and they were written or collected by judges or lawyers. Burmese Law, like English Common Law, was customary, and the Juristic tales served as commentaries on the law. They were meant to guide, not so much the trained and experienced lawyers and judges of the King's capital and the big towns, but the honorary justices of the villages and the small towns, whom the people themselves elected to decide civil disputes which were too petty to be taken to the King's courts. These honorary justices were formally appointed by the King when the people had chosen them, and there was a right of appeal from the decision of an honorary justice to the King's courts; but that right was seldom exercised by the people, for a decision of their own judge was usually accepted as the correct interpretation of the law.

<sup>2</sup>E. B. Cowell: *The Jataka*, Vol. II, No. 243.



The above statements regarding Burmese juristic or law tales were based on the orthodox and accepted theory that Burmese customary law had its origin in the Hindu Code of Manu, and my researches in the history of Burmese customary law made during the intervening years since 1947 have proved that the orthodox theory was wrong. As Burmese customary law was native in origin, so were Burmese law tales, and for that reason, they were not merely translations and adaptations of Sanskrit and Pali tales. A tale containing a riddle or a problem to be solved is a common type of folk-tale and fairy-tale in all countries, and in Burma also there were such tales, but most of them later became law tales. The Burmese law tales were also influenced by those Buddhist Birth stories (*Jatakas*), which contained riddles or problems to be solved, especially the *Mahosadha Jataka* in which the Future Buddha Mahosadha solved not only a number of problems, but also a number of disputes, of which the following are two examples:

(a) Another day, to test the sage, they sent this message to the villagers: 'The king wishes to amuse himself in a swing, and the old rope is broken; you are to make a rope of sand, or else pay a fine of a thousand pieces.' They knew not what to do, and appealed to the sage, who saw that this was the place for a counter-question. He reassured the people, and sending for two or three clever speakers, he bade them go tell the king: 'My lord, the villagers do not know whether the sand-rope is to be thick or thin; send them a bit of the old rope, a span long or four fingers; this they will look at and twist a rope of the same size.' If the king replied, 'Sand-rope there never was in my house', they were to reply, 'If your majesty cannot make a sand-rope, how can the villagers do so?' They did so; and the king was pleased on hearing that the sage had thought of this counter-quip.

(b) A certain man who dwelt in the village of Yavamajjhaka bought some cattle from another village and brought them home. The next day he took them to a field of grass to graze and rode on the back of one of the cattle. Being tired he got down and sat on the ground and fell asleep, and meanwhile a thief came and carried off the cattle. When he woke he saw not his cattle, but as he gazed on every side he beheld the thief running away. Jumping up he shouted, 'Where are you taking my cattle?'

‘They are my cattle, and I am carrying them to the place which I wish.’ A great crowd collected as they heard the dispute. When the sage heard the noise as they passed by the door of the hall, he sent for them both. When he saw their behaviour he at once knew which was the thief and which the real owner. But though he felt sure, he asked them what they were quarrelling about. The owner said, ‘I bought these cattle from a certain person in such a village, and I brought them home and put them in a field of grass. This thief saw that I was not watching and came and carried them off. Looking in all directions I caught sight of him and pursued and caught him. The people of such a village know that I bought the cattle and took them.’ The thief replied, ‘This man speaks falsely, they were born in my house.’ The sage said, ‘I will decide your case fairly; will you abide by my decision?’ and they promised so to abide. Then thinking to himself that he must win the hearts of the people he first asked the thief, ‘What have you fed these cattle with, and what have you given them to drink?’ ‘They have drunk rice gruel and have been fed on sesame flour and kidney beans.’ Then he asked the real owner, who said, ‘My lord, how could a poor man like me get rice gruel and the rest? I fed them on grass.’ The pandit caused an assembly to be brought together and ordered panic seeds to be brought and ground in a mortar and moistened with water and given to the cattle, and they forthwith vomited only grass. He showed this to the assembly, and then asked the thief, ‘Art thou the thief or not?’ He confessed that he was the thief.<sup>3</sup>

However, it should be noted that in no *Jataka* tale was a legal principle ever laid down. To know the real nature of the law tale, it will be necessary to give an account of Burmese social and legal theory.

## BURMESE SOCIAL AND LEGAL THEORY

There were men in Burma at least some 5,000 years ago, but not much is known of those early men. Later on, some Indonesian tribes seem to have come from the West, settled for some time in coastal regions, and then passed on to the East. In the early centuries of the Christian era, the Mons entered Burma from the East, by way of the region now known as Thailand, and

<sup>3</sup> Cowell: *op cit.* vi, 546.

settled in the South, founding cities and kingdoms, which originally were parts of the Great Mon-Khmer Empire of south-east Asia. The Burmese and their allied tribes bound to them by blood and a common language, left their original homeland on the south-eastern slopes of the Tibetan Highlands, and migrated across the northern hills of Burma into the Irrawaddy valley. They had developed an advanced culture in their homeland, but when China became powerful and aggressive, the choice had to be made between comfort and culture on the one hand and liberty on the other. They started on their long trek in the centuries immediately before Christ. Their spear-head, the Pyus, first arrived in Burma, proceeded southwards and founded the kingdom of Prome about the same time or perhaps a little later than the Mon kingdoms mentioned above.

The Burmese themselves arrived some centuries later, their first great kingdom being Pagan. Their journey had been difficult and eventful, and long in distance and in time, and they forgot on their way much of their achievements in culture. They still retained their original pattern of society, however, the distinguishing feature of which was the emphasis given to individual liberty and individual equality. Burmese society before 1886 could have been described as a classless society, but for the fact that the term 'classless', because of its associations in the language of sociology, would be misleading. The pattern of society, even after 1886, the year of the British conquest, and even after 1948, the year of the Independence, has not changed very much. There was no middle class in Burma, not because as in Czarist Russia there were only the aristocrats and the serfs, but for the simple reason that there was neither an upper class nor a lower class. Under the Burmese kings, land was considered a free gift of nature and man could acquire land either by clearing a part of the forest, or reclaiming a piece of marshy ground. Private property was recognized as an institution, but in the simple agricultural society of those days, there was neither the desire nor the necessity to accumulate capital. In fact, it was legally impossible to build up huge estates, because the Burmese did not (and still do not) possess the right of disposing of property by will, and as the husband, the wife, and all their sons and daughters had equal rights of inheritance, the family estate had to be divided on the death of the parents, or even on the death

of one parent. There was more or less an equal distribution of wealth, for the village was the unit of society, and no one was very rich and no one very poor. The Burmese had always cherished a political theory that all men and women were equal, and every person of age seemed to have been a member of the old tribal councils. A man's birth was considered to be of no consequence to his status in society, and a person was judged according to his own merits and his own achievements. This emphasis given to the individual explains why the Burmese never had (and still do not have) surnames or family names, and every Burmese, whether male or female, married or unmarried, always retained his or her personal name. The village headman and the tribal chieftain were elected by the village and the tribal council respectively, and, therefore, when the tribes had settled down in the Irrawaddy valley and became a nation, their first kings also were elected. Even when centuries had passed and strong kings appeared, establishing dynasties, the theory of an elected king remained. The Burmese never knew a hereditary nobility, for the king chose his own officials, and their appointments lapsed with his death. It was true that as long as he lived, he and his officials were above others, but it was not considered a social inequality, because every man could hope to be chosen to serve the king either because of his physical agility and strength or valour, or because of his intellectual attainments, or for his outstanding ability; he could even hope to be elected king himself. Moreover, not everybody envied the king and his officials because although they had certain privileges, they were also liable to fulfil certain duties. The Burmese were fortunate in that they spoke the same common language, with the same intonation and in the same style; there was never a King's Burmese. They were fortunate also in that food and building materials were cheap, and silk and cotton dresses were plentiful. Consequently, except for special robes and shoes worn as insignia of office by the King and his officials, the Burmese more or less ate the same food, wore the same kind of dress, and lived in the same type of dwelling.

In such a society, it is not surprising that no one was considered to be above the law, and the King and his officials were bound by the same laws which bound others. According to Burmese legal theory, there was only one source of law, namely custom,

and the Burmese until the British conquest were not familiar with the idea of a king making laws or a parliament legislating for the people. The Burmese also evolved a legal theory, similar in many aspects to the Anglo-Saxon, and later the English, conception of the 'King's Peace'. It was the duty of the King to maintain order and discipline in the country, and the people were bound to obey his instructions, and if they disobeyed, they were liable to be punished for a breach of the King's Peace. In other words, to the Burmese, law meant only 'civil' law, and their equivalent of criminal law was the King's proclamation, containing his orders relating to peace in the land. As in England, the King's Peace was personal to the King and as in England until the time of Edward II, the death of a King cancelled his peace; in fact, crimes could be committed without liability of punishment and with only the liability to pay compensation under the 'civil' law, during the interval of time that had to elapse between the death or deposition of a King, and the proclamation relating to the peace made by his successor. Certain classes of civil suits also lapsed with the death of the King. The King was the fountain of justice, but he was so, not because of any divine right, but because one of his kingly duties was to administer justice. Until about the thirteenth century A.D., the King sat alone as the final court of appeal, but after the establishment of the supreme court of *Hluttaw*, he merely presided over a panel of judges. However, it must be mentioned that he, like his fellow-judges of the supreme court, was under the jurisdiction of this very court, and could be sued. That was not a mere empty theory, because as late as the year 1810, the powerful King, Bodawpaya, was a defendant in a suit for wrongful seizure of land.

## THE DEVELOPMENT OF BURMESE LAW AND THE RISE OF A BURMESE LEGAL LITERATURE

During the period of Hindu expansion in south-east Asia, not only Hindu religion, but also Hindu-Sanskrit writings were introduced into the new kingdoms of the region, and among the writings so introduced was the Code of Manu. The Code of Manu was compiled in Sanskrit in India, probably earlier than the sixth century B.C. and certainly not later than A.D. 200. It is the oldest known book on Hindu law and has been traditionally

regarded by all Hindus as the prime legal authority on Hindu law. The background of the Code of Manu was Hindu religious and political philosophy and, therefore, it was more than a mere code of laws. The special character of the Code is well brought out in the following observation of Dr. Kieth<sup>4</sup>:

It is unquestionably rather to be compared with the great poem of Lucretius, beside which it ranks as the expression of a philosophy of life.

The Mon kingdom of Thaton had a strong Hindu element in its culture, and it became familiar with the Code of Manu. However, it is not known whether the Mons used the Code in its original form or modified it to suit local customs and conditions. In any case when Buddhism reached Thaton, the Code of Manu was modified to such an extent that the sacerdotal element, in many ways the essence of Hindu law, disappeared from the Code. So, by about the fifth century A.D., there came into being a Mon-Buddhist version of Manu later to be referred to by Burmese jurists as the *Mon Manu Dhammathat*. The very term *Dhammathat* was derived from the Hindu *Dharmashastra* which meant 'treatise on law'. Burmese jurists in their writings consistently claimed that they had three *Dhammathats* of their own, before they became acquainted in the eleventh century with the *Mon-Buddhist Manu Dhammathat*, and those were the *Duttabaung Dhammathat* (fifth century B.C.), *Atitya Dhammathat* (first century A.D.) and *Pyuminhti Dhammathat* (second century A.D.). According to the Burmese chronicles, Duttabaung and Atitya were kings of Prome, and Pyuminhti was an early king of Pagan. We know very little about the Pyu Kingdom of Prome, except that Buddhism flourished there and writing was known in the court circles. The chronicles placed Prome in the period extending from the fifth to the first century B.C., but English scholars of Burmese history placed it in the eighth century A.D. The chronicles probably antedated the kingdom by a few centuries, but the English scholars were certainly too sceptical. Again, the chronicles placed the founding of Pagan in the first century A.D. whereas the English scholars would place it in the eighth century A.D. As these three *Dhammathats* have not come down, no comments on them need be made, except to note that (1) these law treatises

<sup>4</sup> A. B. Kieth: *Sanskrit Literature*.

did not bear the name of 'Manu', but bore the names of Burmese kings, under whose patronage the treatises were said to have been compiled, and (2) the first treatise was said to be the work of a Buddhist Arahāt, the second the work of a Hermit, and the third the work of a commission of eight 'Masters of Law'. One of these works did survive up to the sixteenth century, and was usually referred to as the *Pyu Dhammathat*, but it is not possible now to identify which one of the three it was, for Duttabaung and Atitya were Pyus and Pyuminhti, although a king of early Pagan was a Pyu by race.

In 1044, the great Anawrahta came to the throne, and united the tribes into one single nation, the Burmese. The great missionary, Shin Arahān, a Mon by birth and educated in India, came to Pagan, and with the help of the king wiped out the impure form of Buddhism prevailing in the country, and introduced Buddhism in one of its purest forms. The king felt the need of an alphabet and Buddhistic literature, and he conquered Thaton, bringing back to Pagan not only the alphabet and the literature, but also all the Mon scholars and artisans. He made these Mons teachers of the Burmese in the arts of civilization, and Pagan became a great centre of civilization in Indo-China. He conquered and united the whole of Burma into one kingdom.

At this time, Hindu persecution was driving away Buddhist scholars from India, and Anawrahta welcomed them to Pagan, which became the centre of Buddhism and Buddhistic learning in the East. It would seem that for some time Burmese at Pagan did not take over the Mon-Buddhist Manu. Burmese customary law, of course, was being administered by the king and his judges, but naturally Buddhist ethical ideas to some extent must have begun to influence the judges' conceptions of what the 'natural law and justice' was.

Anawrahta had established Pagan's power. His grandson, Alaungsithu, insisted that legal disputes must be decided according to native customary law, but must not run counter to the spirit of Buddhist ethics, and when he died, his decisions were collected in a work called *Alaungsithu's Judgements*, which served as a code of precedents for later generations. I have translated the Burmese term *Pyat-hton* as 'judgement', but its literal meaning is 'cutting', because when a Burmese judge gave his decision and the parties accepted it, the dispute was 'cut', in the sense that the dispute

was now ended. *Alaungsithu's Pyat-hton* existed up to the nineteenth century, but has not come down to us.

In the year A.D. 1173, Narapatisithu became king of Pagan. Like all kings of Pagan he was a great patron of Buddhism. He was looking for a learned monk to fill the office of Royal Tutor which had fallen vacant, when he heard of a monk, whose fame as a learned scholar was increasing day by day. This monk was a Mon by birth, and as a young novice, he came to sit at the feet of Shin Ananda, a Sinhalese monk who had come to the city of Pagan to teach. The king wanted to choose the young monk to be his Royal Tutor, but to his disappointment, it was found that the monk had been born without a toe.<sup>5</sup> However, the king gave a great feast in his honour and offered him the title of *Dhammavilasa*, meaning 'a great scholar of Buddhist scriptures'. Shin Dhammavilasa returned to Lower Burma and became famous all over the region as a teacher of other monks. He later wrote a treatise on law, which came to be known as *Dhammavilasa Dhammathat*. He wrote two versions, one in Pali and the other in Mon. Both these versions are now lost, but a Burmese translation of the Pali version by an unknown hand still exists. The style of its Burmese prose, however, shows that the translation was not contemporaneous with the original, and was later by two or three centuries.

The *Dhammavilasa Dhammathat* is the oldest surviving Burmese law book. According to Burmese legal tradition, it was based on the Mon Buddhist *Manu*, but if it was really so, it could not have been accepted by the Burmese as an authoritative treatise on their customary law, because the laws of Mons could not have been similar to Burmese customary law, since the social structures of the Burmese and Mons before the eleventh century were so different. As the Burmese believed custom to be the only source of law, they did not impose their own laws on the Mons after the conquest of the Mon kingdom. But there was the common bond of Buddhism, and by the time of Shin Dhammavilasa two hundred years later, the Burmese social structure must have been influencing the Mons and, as a result, Burmese customary law gradually replaced the Mon laws. Therefore, it may well be that Shin Dhammavilasa wrote his treatise for the

<sup>5</sup> A person born with an imperfect body was disqualified from becoming a king or king's tutor.



Mons rather than for the Burmese. However, to give authority to his treatise, he borrowed the Hindu myth of Manu with which the Mons were familiar, and gave it a Burmese and Buddhistic colouring.

In Hindu mythology, Manu was not only the first law-giver, but also the father of mankind. Like Noah, he escaped from a great flood. He was also considered to have been the first of the ancient Hindu kings, and a descendant of the Sun. In the *Dhammavilasa Dhammathat*, Manu became a simple cow-herd whose brilliant decisions in some local disputes won him fame. Before his time there were no suits at law and there was order and discipline among mankind, but as people became greedy and covetous, it became necessary to elect a king, and so the ablest person among them was duly elected as king, with the title of the 'Great President'. The Great President re-established order and discipline, but soon found that he needed a judge to decide suits at law. So, he summoned the cow-herd Manu and offered him the judgeship. Manu at first declined, pointing out that for a judge to give a wrong decision was to commit a great sin, but he was prevailed upon to accept the appointment by the king and the people. So Manu became the king's judge and gave a series of brilliant decisions, which won him praise and applause not only from human beings but also from the gods themselves. However, one day he gave a decision which was received in silence by the people and the gods, and on reconsideration, he found that his decision was wrong and reversed it, and the people and the gods applauded. But Manu rushed to the palace and tendered his resignation, which the king reluctantly accepted. Manu then became a hermit and went to live in the forest. He performed certain mental exercises, until one day he attained supernatural powers. The king followed him to the forest and begged him to compile a legal treatise for use by his judges. Manu, the hermit, using his supernatural powers went to the walls of the universe and read and studied the principles of natural law and natural justice written thereon.<sup>6</sup> Returning to the forest, he compiled his treatise, the *Manu Dhammathat*. 'And I', wrote Shin Dhammavilasa, 'compile this law treatise after having mastered that *Manu Dhammathat*.' Shin Dhammavilasa took over from the Code of Manu the division of the law into eighteen

<sup>6</sup> The Hindu Manu also found his laws written on the walls of the universe.

categories, but he introduced some changes, obviously to suit local conditions. According to Manu (and other classical Hindu jurists), the eighteen divisions of law were as follows:

1. Non-payment of debts.
2. Deposit and pledge.
3. Sale without ownership.
4. Concerns among partners.
5. Resumption of gifts.
6. Non-payment of wages.
7. Non-performance of agreements.
8. Rescission of sale and purchase.
9. Disputes between the owner and his servants.
10. Disputes regarding boundaries.
11. Assault.
12. Defamation.
13. Theft.
14. Robbery and violence.
15. Adultery.
16. Duties of man and wife.
17. Partition and inheritance.
18. Gambling and betting.

According to Shin Dhammavilasa, the eighteen divisions were as follows:

1. Debts.
2. Bailment of chattels.
3. Altering the appearance of a chattel and selling it, without the consent of the owner.
4. Resumption of gifts.
5. Partnership.
6. Wages of labourers, and fees for professional services.
7. Breach of undertakings and promises.
8. Owners and hirers of cattle, carts and boats.
9. Purchase and sale.
10. Boundaries of land.
11. False accusation, malicious prosecution, and defamation.
12. Theft and robbery.
13. Assault, including damage and destruction of property.
14. Homicide.

15. Husband and wife (their duties, their rights, marriage and divorce).
16. Slaves.
17. Inheritance.
18. Wagers.

The Burmese legal term for 'assault' was 'to go beyond one's rights *by action*', and therefore it covered any wrongful injury inflicted on the person or property of another, as the result of some physical force on the part of the tortfeasor, whether intentionally or negligently. Similarly, the Burmese legal term for 'defamation' was 'to go beyond one's rights *by words*', and so it covered malicious prosecution, and abuse. Both classes of wrongs constituted 'trespass' (to use the English Common Law term), and may be translated as 'trespass by action', and 'trespass by words'.

In dealing with the first sixteen divisions of the law, Shin Dhammavilasa had no occasion to borrow any legal term from *Manu*, for Burmese customary law in those divisions was entirely different from the relevant law of the Code of *Manu*. However, there was an echo of an unequal society, when in dealing with the matter of damages for assault, he mentioned a higher scale of compensation for assault by an 'ill-born' person on a 'well-born' person. But it was not an echo from Hindu society which was the background of the Code of *Manu*, but from Mon society, which was the background of the Mon-Buddhist *Manu*. In dealing with the law of inheritance, Shin Dhammavilasa attempted to enumerate the various kinds of Sons, as *Manu* had done. The following was *Manu*'s enumeration:

1. *Aurasa* or legitimate Son.
2. Son of a daughter specially appointed to continue the line.
3. Son begotten on the wife by a brother or near kinsman.
4. Son given, i.e. Son given by the parents to be adopted.
5. Son made, i.e. Son adopted with the consent of the parents.
6. Son secretly born, i.e. Son born to a man's wife when it is not certain whether the man is the natural father or an adulterer is the natural father.

7. Son abandoned, i.e. Son adopted after he had been abandoned by the parents.
8. Son born to an unmarried girl in her father's house.
9. Son who was already in the wife's womb when the husband married her, knowing or not knowing that she was already with child.
10. Son bought, i.e. Son bought for money from the parents.
11. Son of a twice-married wife.
12. Son self-given, i.e. Son adopted as he came and presented himself saying 'Let me become thy son' on being abandoned by the parents or on the death of the parents.
13. Son of a Brahmin by a Sudra wife.

Shin Dhammavilasa's classification is as follows:

1. *Aurasa* or Son born of a husband and wife who married because they loved each other and with the consent of their parents.
2. Son of a wife, who married her husband not because she loved him, but because the parents requested her to do so, with an adulterer.
3. Son taken in, out of pity.
4. Son of a young boy and a young girl, who are not of mature age to marry.
5. Son of a wife, who gave birth to him less than ten months after her marriage to the husband.
6. Son of an unmarried woman, who was expelled by her parents, and who gave birth to him after being received back in her home. (She was received back in her home already pregnant.)
7. Son of a woman who had many lovers.
8. Son of an unmarried woman who became pregnant secretly.
9. Son of a mistress, whose favours were bought for money.
10. Son of a wife, who was expelled by her husband and who gave birth to him on being received back by the husband. (She was already pregnant when received back by her husband.)

11. Son of an unmarried woman who was expelled from her home and who gave birth to him outside the parental home.
12. Son of a Hindu husband and a non-Hindu wife.
13. Son of a wife whose identity is not known to the public.
14. Son of a wife in a foreign land, and brought back to the homeland by the father.
15. Adopted Son.
16. Son who is really a pupil staying in the household of a teacher-father, or a craftsman-father, serving him and being taught by him.

Before considering the two enumerations, it will be necessary to note the basic differences in attitude of Hindu and Burmese laws towards marriage and Sons. According to Hindu law, marriage was a sacrament, which created an indissoluble bond between husband and wife; therefore, parents carefully arranged the marriage of their son and daughter, and a special ceremony was necessary to validate a marriage. In the early (lost) texts of the Hindu Code of Manu perhaps, divorce and remarriage of divorcees and widows were permissible under special circumstances, judging from the fact that in the list of Sons given above, Son by 'a twice married wife' was mentioned. However, by the time the 'finalized' version (i.e. the version that has come down to modern times) was evolved, divorce was no longer possible and widows could no longer marry. In contrast, under Burmese law, religion had naught to do with marriage; nor was a formal ceremony required, for the only two requisites of a valid marriage were (a) mutual consent to marry and (b) a public declaration either in word or behaviour by the man and the woman that they were living as husband and wife. Divorce was by mutual consent unless one of the parties was guilty of immoral conduct, when the innocent party had the right to decide whether there would be a divorce or otherwise. Divorcees and widows could marry again at will, and there was no social stigma attached to them. Again, under Hindu law, a Son was important, because the line of his father had to be continued, and he had to perform the funeral ceremonies of his father. In contrast, under Burmese law, the only question with regard to a Son was whether he could inherit the joint property of his parents, or the property of his

father or mother, for the Burmese wife, unlike the Hindu wife, was the joint owner with her husband of the family property, and a Burmese divorcee or widow, unlike her Hindu counterpart, could own property. In addition, with the Burmese, there was no question of continuing the father's line, because the family was certain to break up after the death of the parents, and at a Burmese funeral, there were no rites to be specially performed by a Son.

In Manu's list of Sons, the legitimate Son and the Son of a daughter specially appointed are equal in status, and in the absence of a legitimate Son, the Son of the daughter would continue the father's line. The remaining Sons were deemed to be Secondary Sons, and Manu described them as 'Bad Substitutes' for real Sons. The Son given, the Son bought, the Son made, the Son abandoned, and the Son self-given were all adopted Sons. Son begotten on the wife by a brother or near kinsman was so begotten with the consent of the husband, who found himself unable to procreate, and wanted his line to be continued; Son born to an unmarried girl became later the Son of the man who married her; Son born in secret was of doubtful paternity; these three classes of Sons were in fact adopted Sons also. The Son who was already in the wife's womb at the time of her marriage was begotten by the husband himself before marriage, and he did not become a legitimate Son, only because the wife was not a virgin at the time of her marriage; and again, the Son begotten on a twice-married wife, although begotten by the father himself, could not become a legitimate Son for the same reason, namely, the wife was not a virgin at the time of her marriage.

The chapter on inheritance was the one chapter in which Shin Dhammavilasa sounded uncertain and not so sure of himself. First, he explained in detail the two fundamental rules of the Burmese Law of Inheritance that (a) the husband and wife were heirs to each other and (b) all the sons and daughters had rights of inheritance on the death of both parents. But in the division of the estate between the sons and daughters, he maintained that the older in age received the greater share which was in direct opposition to the Burmese custom of dividing the estate equally among the sons and daughters. However, he did mention as an afterthought that 'one method of division among sons and

daughters was to divide the estate equally'. It may well be that his rule of giving larger shares to those older in age was an echo from Mon society. He gave his enumeration of the sixteen kinds of Sons only towards the end of the chapter, and he remarked that only the first, the *Aurasa* Son, had the right of inheritance to the family estate. His enumeration also could be an echo from Mon society, because the list was in direct contradiction of the principles of Burmese law that he had already described, namely that sons and daughters had rights of inheritance, unless, of course, he meant the term 'Son' to include 'Daughter' also. In Manu's list, of course, 'Son' meant only Son because daughters had no right of inheritance.

Returning to Shin Dhammavilasa's list, Son of a wife begotten by an adulterer, Son of a wife who gave birth to him less than ten months after marriage, and Son of a wife who was expelled by the husband and then received back by him, were legitimate Sons in Burmese law, because it was a cardinal principle of Burmese law that a child born in wedlock was presumed to be the Son of the husband even if it was physically impossible for the husband to be the natural father. Son taken in out of pity and the adopted Son were shown to be without any right of inheritance in Shin Dhammavilasa's list, but in Burmese law the adopted Son would have the right of inheritance. Son of an unmarried woman who was expelled from the family home and then received back, Son of an unmarried woman who after expulsion gave birth to him, Son of an unmarried woman who had many lovers, Son of an unmarried woman who became pregnant secretly all seemed out of place in the list, because the unmarried woman would not have a family estate, unless, of course, she married afterwards. Again, Son of a wife whose identity was not known and Son of a wife in a foreign land seemed out of place as the husband would not have a family estate, unless he married another wife afterwards. (If the unmarried woman and the husband whose wife was unknown or whose wife was in a foreign land did not marry afterwards, they would be holding personal estates to which the illegitimate Sons would have rights of inheritance.) Shin Dhammavilasa could have borrowed some of the Sanskrit terms for the thirteen Sons of the Code of Manu, but he borrowed only the term *Aurasa*, and coined his own Pali terms for the other fifteen Sons of his list. It seemed surprising

that he did not borrow the term *Kritrima* (the 'Son made', i.e. the adopted Son), especially as the term was borrowed by the compilers of the next Burmese law treatise, the *Wararu Dhammathat*, which appeared some ninety years later, to describe an adopted Son. With regard to the *Aurasa*, Shin Dhammavilasa had used it in a totally different sense at the beginning of the chapter on inheritance, before he gave his list of Sons. Under Burmese customary law, the eldest Son who helped in his father's business had the right to inherit the special tools of his trade, the personal ornaments and the personal dresses of the father, in addition to a general share of the family estate; and the eldest daughter, who had helped the mother in her business or in the management of the household, was entitled to inherit the special tools of her trade, the personal ornaments and dresses of the mother. Moreover, if the father should die before the mother, this eldest Son who had helped him in his trade had the right to take a quarter share of the family estate, and leave the family, so that only three quarters of the estate remained with the widow, which the other sons and daughters would share after her death. In the same way, if the mother should die before the father, this eldest daughter who had helped her in her trade or the household could take one fourth share of the family estate, so that only three-quarters remained with the widower, which the other sons and daughters would share after his death. To this special Son and daughter also, Shin Dhammavilasa applied the term *Aurasa*.

I have described the *Dhammavilasa Dhammathat* in some detail, as it contained nine full-length law tales. In fact, because it contained full-length law tales, some modern scholars would argue that the version that has survived is not a translation but a commentary on the original version in Pali. However, the rules given in the text are so precise and concise that it can not be a commentary at all. For the sake of completeness, I shall give an account of the later Burmese *Dhammathats*.

The Empire of Pagan broke up into the Burmese kingdom of Ava and the Mon kingdom of Pegu after the defeat of the Burmese by Kublai Khan's Tartar army in A.D. 1287. The Arakanese on the western sea-board also broke away to form a separate kingdom of Arakan. The Arakanese were of the same racial stock as the Burmese, although they spoke Burmese with an older pronunciation. For the Arakanese, Shin Dhammavilasa's



treatise remained the latest *Dhammathat*, because they did not recognize as authoritative any *Dhammathat* compiled after the fall of Pagan.

In 1287, Wareru came to the throne of Pegu, and although he was a mere soldier of fortune, he was wise enough to appoint a commission of monks, scholars, and lawyers to compile an authoritative *Dhammathat* in the Mon language, basing it on the *Pyu Dhammathat*, *Mon-Buddhist Dhammathat* and *Dhammavilasa Dhammathat*. In A.D. 1473 Dhamazedi ascended the throne of Pegu and during his reign, the Mon monk, Buddhaghosa, who was the leading monk at that time in the whole of Burma, translated the *Wareru* into Burmese. After this translation, two treatises were compiled, but they were unimportant. In 1580, the Burmese under Bayinnaung conquered the Mons and the whole of Burma was united again into one kingdom, and a new Burmese Empire was founded. Bayinnaung adopted the *Wareru* as translated by Buddhaghosa as the most authoritative treatise for the whole country. He later commissioned the compilation of two new treatises, the second of which is of great importance in the history of Burmese customary law. This *Dhammathat* was given the title of *Kozaungkyok* or the *Digest of Nine Volumes*, because it was a digest of nine *Dhammathats* compiled before Bayinnaung, including, of course, the *Pyu Dhammathat*, the *Mon-Buddhist Manu*, the *Dhammavilasa*, and the *Wareru*. It was written in both Pali and Burmese.

After the death of Bayinnaung, the country broke up again into two kingdoms and this resulted in yet another period of warfare between the Mons and the Burmese. In 1640, at the Burmese Court of Ava, a new *Dhammathat* was compiled; the compiler was a learned minister of the name of Kaingsa (Lord of the Kaing Village). This scholar regretted that the *Manu* of the previous *Dhammathats* had no Buddhistic origin, and did not like their practice of attributing the Burmese legal rulings to a legendary law-giver who did not have a real connexion with Burmese customary law. But to substitute his own opinions for *Manu's* opinions would appear presumptuous. As a solution of the problem, he prevailed upon his king to bestow on him the title of *Manu*, implying that he was a second *Manu*. Then, he compiled his book and called it, not a *Dhammathat*, but *The Sweet Golden Rules of Manu*. He quoted freely from the sacred

books, especially the *Jatakas* and often, after stating a particular ruling, he added: 'This rule is not contained in the *Tripitaka*,<sup>7</sup> nor in the Burmese law-books, but only in the *Dhammathat of the Mons*', thereby implying that the *Tripitaka* were a definite source of Burmese law. Thus he used the Buddhist scriptures as the background of his law-book, but he referred to the scriptures only to prove that the particular rules of law were just and equitable. The substantive law in his *Dhammathat* represented the customary law of his nation prevailing at his time. Written with the authority of the king and the assistance of a leading scholar-ecclesiast of the day, the new *Dhammathat* became very popular, and the two different Manus came to be merged into one in the minds of the Burmese people.

In 1752, Alaungpaya conquered the whole of Burma for the Burmese, and founded the third Burmese Empire. He 'Burmanized' the Mons by force, and until the first Anglo-Burmese War of 1824, Burma remained united. Under Alaungpaya, one of his soldier-ministers compiled the *Manu Kye*, which was a summary of the earlier *Dhammathats*. The new treatise appeared even more Buddhistic than its predecessors, for the author put in, side by side with the amount of compensation a wrongdoer was liable to pay, the punishment he would suffer in purgatory for his wrong-doing.

After the *Manu Kye*, no authoritative treatise appeared, and in 1886, the whole of Burma was annexed by the British. After the conquest, as Burma became a part of India, the Indian Penal Code, the Indian Contract Act and the English Common Law of Torts became applicable to Burma, but the Burmese scarcely noticed the change; with regard to criminal law, the king's criminal edicts became ineffective in any case with the dethronement of king Theebaw, and the Burmese considered the new criminal laws as merely equivalent to the edicts of a new king; with regard to contracts and torts, the fundamental principles of English Common Law relating to these subjects were found to be similar to the fundamental principles of the relevant Burmese customary law. In addition, the Burmese customary law relating to marriage, divorce, inheritance, ecclesiastical property and usage were recognized as law by the British, so that the relevant portions of the *Dhammathats* remained authorita-

<sup>7</sup> *The Three Baskets*, i.e. the Buddhist scriptures.

tive. The regaining of independence by the Burmese in 1948 did not change these legal arrangements of the British, as the Burmese decided to retain the British Acts and the English Law of Torts as valid laws.

## MACHINERY OF JUSTICE UNDER THE BURMESE KINGS

Under the Burmese kings, criminal and civil jurisdictions were kept separate so far as practicable. The village headman was the lowest administrative and judicial officer, but above him there were separate administrative officers and judges. The village headman, of course, was in a special position; his office was semi-hereditary, because other things being equal, the son (or sometimes the daughter) of the previous headman was likely to be the successor; it was also semi-elected, because the new headman would have to be a person approved by the majority of villagers; yet, as he was appointed by the king, he was a king's official. He possessed jurisdiction over petty criminal cases, and over civil disputes whose value did not exceed a certain maximum. In each important town, there was the King's Bench consisting of one special judge appointed by the king (the Burmese name for this court was *Khon-taw*, which meant literally 'Bench Royal'). These courts had no criminal jurisdiction, and they had original jurisdiction over suits above the maximum value prescribed for the headman, and appellate jurisdiction over cases from the headman. At the king's city, there was the *Hluttaw*, which had five branches, the criminal branch, the civil branch, and three administrative branches; of course, the criminal branch was the supreme court of criminal appeal and the civil branch the supreme court of civil appeal. The aim of Burmese justice was to satisfy the two contending parties as much as possible, and thus restore goodwill and harmony between them, and it was believed that this aim of justice could be realized only when the judge gave a decision which conformed not only to the principles of substantive law, but also to the abstract notions of equity and fair play. For that reason, arbitration was encouraged and the arbitrator, chosen by both parties, was given the duties and the privileges of a king's judge. The village headman, because of his special position, often decided cases ordinarily beyond his jurisdiction at the request of both parties, as his court then

became a court of arbitration. In addition, appeals could be taken to any of the King's Benches without any geographical limitation, and a famous King's Bencher would attract many appeals from towns other than his own. After a court had passed judgement, a dish of pickled tea was placed by an officer of the court before the two parties, and if either party refused to partake of the food, it was a gesture that he was dissatisfied with the judgement, and constituted notice of appeal to a higher court; on the other hand, if both parties ate the pickled tea, it meant that harmony had been restored and the dispute had finally ended.

The position of the Princess Learned-in-the-Law, who is the heroine of all the law tales in this collection is uncertain. She might have been a King's Bencher or a famous arbitrator. She was, of course, a fictitious personage, although a woman 'head-man', or a woman arbitrator, or a queen meting out justice was common in Burmese society. However, existing records show that, in spite of the social and legal equality of Burmese women with Burmese men, there has been no instance of a woman serving in the *Hluttaw* or on a King's Bench.

Until the expansion of the kingdom of Pagan into an empire, the majority of the headmen and arbitrators were unlettered and untrained in the profession of law, and they had to be warned against giving careless, casual, ignorant or corrupt decisions. It is not surprising, therefore, that in the *Dhammavilasa Dhammathat* even the great Manu was shown to have given a wrong decision in the famous Case of the Small Cucumber and a whole chapter was devoted to the subject of judges. In the later *Dhammathats*, however, only short references were made to the need for integrity among judges, because by the time of those *Dhammathats*, headmen and arbitrators had become well-read in legal literature or well-trained in the profession of law. In the above-mentioned chapter in the *Dhammavilasa Dhammathat*, the following advice to judges was given:

#### ADVICE TO JUDGES

To decide correctly between two parties, both of whom fiercely contend that they are in the right, is a very difficult task, and if a judge gives a wrong decision even inadvertently, not only his reputation will suffer, as men and gods alike will be displeased, but he will also become exposed to one or all of the following eight dangers:

1. The danger of being swallowed by the earth.
2. The danger of being eaten by a crocodile.
3. The danger of being caught and killed by a demon.
4. The danger of being drowned while going on a river-journey, as a result of the boat capsizing.
5. The danger of being struck by lightning.
6. The danger of being eaten by a tiger.
7. The danger of vomiting blood.
8. The danger of becoming insane.

He is also likely to suffer one or all of the following ten classes of 'pains':

1. Terrible and excessive pains in the body.
2. The pain of losing a limb or any other important part of his body.
3. The pain of a very serious malady.
4. The pain of a nervous break-down.
5. The pain of losing all his wealth.
6. The pain of tyrannical acts of the King.
7. The pain of a violent and false accusation.
8. The pain of leprosy.
9. The pain of losing one's dear relations.
10. The pain of losing one's dear friends.

After his death, he will be reborn in one of the four lower existences, namely Hell, the abode of unhappy suffering beings, the abode of those beings who live like gods during the hours of day, but who suffer the pains of hell during the hours of night, and the abode of animals.

A judge must undertake to avoid the following four classes of illegal decisions:

1. An illegal decision given because the judge favours one party.
2. An illegal decision given because the judge is under the influence of his anger or hatred against one of the parties.
3. An illegal decision given because the judge is in fear.
4. An illegal decision given at random because the judge is too indolent to listen.

A judge must be steadfast, fearless and alert, and that is why a judge is included in the following list of 7 Stone Pillars of Strength:

1. Judges.
2. Witnesses giving evidence.
3. Military Commanders in the actual battle-field.

4. Ambassadors and heralds.
5. Scribes and copyists.
6. Surveyors of land and assessors of property.
7. Professional tasters of food.

A judge must never take into consideration who the parties are. One of the parties may be his enemy and the other his friend or relation; one of the parties may have given him in the past a little deer as a present, and the other party a maned lion; one of the parties may have given him a bundle of grass, and the other a priceless ruby, but a judge shall decide according to the law. Bribery is like poison and like putrid fish. Just as poison on the hunter's arrow spreads quickly in the blood of the animal which the arrow wounds, so the evil of corruption will swiftly destroy a judge's wisdom, and just as the evil smell of putrid fish, although it is wrapped in a perfumed kerchief will pollute the air, so the evil of corruption will at once destroy a judge's reputation.

A judge must make to himself the following five promises:

1. From the Bench, I shall speak to the parties only when occasion demands it.
2. Even when occasion demands it, I shall not speak unless my words are according to the law.
3. Even when occasion demands it and the words are according to the law, I shall not speak unless the parties will be benefited by my words.
4. Even when occasion demands it and the words are according to the law and will benefit the parties, I shall speak in a gentle tone.
5. Moreover, I shall speak those gentle words with real goodwill.

From the above, a judge will realize that the main purpose of a court of law is to restore harmony and accord among the contending parties.

Although, as stated above, later *Dhammathats* did not reproduce Shin Dhammavilasa's 'advice to judges', it was assumed that all judges knew of it, and letters patent appointing judges and the oath of office taken by all judges had this advice as their background, as the following examples will show.

(i) *Letters patent appointing a Judge*

Lord Naymyo Thiri Yaza is hereby appointed to serve the King on the King's Bench at the town of Kyaukse, to hear and decide suits brought by the residents in towns, villages, and on any land situated

within the Nine Districts of Kyaukse, according to principles of justice, principles of law, and the advice given in the *Dhammathats*, and without fear or favour, thus restoring harmony between the litigants.

When litigants from the above-named villages, towns and territory come before him he shall give them fair and sound advice, so that a big dispute would be reduced into a small dispute, and a small dispute reduced to nothing. Then, if the litigants still want to continue the dispute, he shall hear the suit, without any delay, without accepting presents and bribes, and without fear, favour, anger and laziness. After he has come to a decision and given his judgement, he shall explain the legal reasons for his decision, so that the litigants may accept it and thus the dispute come to its final end.

If he does not follow the instructions given above, and gives his decision through fear, favour, anger or laziness, or if he accepts bribes and presents in money or in kind, or if he imposes undue delays in the disposal of the suit, he shall be punished according to the Provisions of the Proclamation of the King's Peace.

Sealed at the High Court of Hlut-taw in the Golden City at 15 minutes past noon on the 1st waxing of the month of Tabaung in the year 1228<sup>8</sup>, and delivered at the same hour and date to Nga Htun, the Clerk of the King's Bench at Kyaukse.

(ii) *Oath of Office taken by a Judge*

I, Naymyo Sithu Yaza, of the King's Bench for the towns of Taungbyon, Ngasingu, Madaya and for the village of Kut and all surrounding villages and territory, take oath and undertake as follows:

1. As long as I remain in the service of my lord the King on the King's Bench at Ngasingu, Madaya, Kut and Taungbyon, receiving a gracious grant of money from him, I shall not accept any present or bribe, in money or in kind, from any resident in the territory covered by the said King's Bench, or from any litigant.<sup>9</sup> I shall give my decisions without taking into consideration the social status of litigants and without fear, favour, anger and laziness, and according to what I honestly believe to be correct according to my knowledge of the scriptures, the *Dhammathats* and *Pyat-htons*.
2. I shall recover from the litigants the full amount of fees payable to the Court, and exactly in accordance with the scale of fees proclaimed by the King, and shall remit regularly the entire amount collected from the litigants without hiding or reserving for myself any fee or part of a fee.

<sup>8</sup> March 1866.

<sup>9</sup> For non-residents may come to his court choosing him as their arbitrator.

3. I shall report at once to the King whenever I hear or know of any executive official of the King in my district accepting bribes or acting against the law or proclamation of my lord the King whether he be the Governor of the town, Commander of the army unit, head of town or village, or merely royal clerk or prison official.
4. If I do not act according to this oath, may I be punished with all the dangers and disasters and sufferings enumerated in this book of curses and if I act according to my oath may I escape all the misfortunes and disasters of life, and may I be rewarded by the gods.

(iii) *Covenant signed by a Judge on accepting his appointment*

1. As long as I am in the service of my lord the King as a judge on the King's Bench, I undertake not to have any woman other than my wife as lover or mistress, nor to engage in any trade or commerce or lend or borrow monies. I undertake to be well satisfied with the grant of money graciously given by my lord the King. I shall undertake that neither myself nor my clerks nor members of my family shall accept any present or bribe in money or in kind from any resident within the territory of this King's Bench or from any litigant. I undertake to give my full service of loyalty and gratitude to my lord the King and shall serve him with full frankness and without guile.
2. I undertake also that I shall hear all suits without undue postponement and delay, and without bribes and according to my knowledge, training and experience in law, and shall give my decisions simply and correctly so that the litigants may understand and appreciate them, thus ending their disputes finally.
3. I undertake to make due inquiries and submit the full reports to my lord the King on the following matters:
  - (a) Cases of executive officials breaking the rules and regulations and orders proclaimed by my lord the King, especially extortion of money from the people, an illegal action abhorred and specially prohibited by my lord the King.
  - (b) Any matter which will give protection, prosperity and pleasure to the people, and thus preserve the King's Peace.

If I break this covenant in any way, I will accept all the punishments prescribed in the King's Proclamation of Peace for a breach of covenant.

Under the Burmese kings, the legal profession was not divided into advocates and solicitors, and lawyers were officers of the court. They were known as *Shay-nay*, *Shay-yat*, which meant



‘Those who stood and stayed in front’, because they sat or stood in front of their clients during the hearing of a case. They wore special gowns. They were entitled to a scale of fees based on the value of the suit, and they were entitled to sue for their fees. Like lawyers of all countries and all times, they were considered to be talkative, and there is still current a centuries-old Burmese saying that the tongue of a lawyer would not burn even in the fires of hell. Moreover, judges in their judgements often remarked that ‘The two lawyers had argued at great length, because they were clever, but the issue was quite clear.’ It is not known when the Burmese legal profession first came into being, but it must have been well-established by the time of Shin Dhammavilasa, because he mentioned that the lawyers were competent to sue for their fees.

With regard to evidence, the parties were neither required nor permitted to testify in their own cause unless one party agreed to be bound by the claim on oath of his adversary. Then the dispute would end and judgement would be passed on the adversary either refusing or taking the oath. Shin Dhammavilasa merely mentioned documentary evidence, although the later *Dhammathats* not only mentioned it, but laid down the rule that documentary evidence excluded oral evidence, and that must have been because documents were not yet in general use during Shin Dhammavilasa’s time.

The *Dhammavilasa Dhammathat* did not mention trials by ordeals although they are mentioned by later *Dhammathats*. Even these *Dhammathats*, however, advised against the reliance on ordeals. Moreover, ordeals in Burmese law were not too barbarous. There were four kinds: (a) the ordeal by fire, in which bees-wax candles of equal length and weight were required to be lit by both parties at the same time; they also had to hold one tical of water in their mouths, and the party whose candle went out first was considered to have lost the case; if one of the parties coughed out or swallowed the water in his mouth before any candle had gone out, that party was considered to have lost the case; should the candles go out at the same time, the parties were required to continue holding the water in their mouths, and the party who coughed out or swallowed the water first was deemed to have lost the case; (b) the ordeal by water, in which the two parties were required to jump into a pool of water or a stream, provided

they could swim, and then dive, and the party whose head first reappeared from the water was adjudged to have lost the case; (c) the ordeal by rice, in which the parties were made to chew one tical of rice and the party who finished first was declared to have won the case; or alternatively, each party was made to throw one tical of rice wrapped in a bundle into a boiling pot of water, and then to pull out the bundle again by the string attached to it, and the party whose rice was found to be better boiled was deemed to have won the case; and (d) the ordeal by molten lead, in which the parties had to dip the tips of their fingers in a pot of molten lead and the party whose fingers emerged unburnt was deemed to have won the case.

A trial by ordeal was resorted to only when neither party could produce any documentary or oral evidence, and then only with the consent of both parties. Shin Dhammavilasa warned witnesses against giving false evidence on oath, and although in later *Dhammathats* such warning was no longer included, there came to be established a rule of procedure that the evidence given by a witness, although on oath, was deemed to be invalid, if the judge had failed to explain to him beforehand the nature of the oath that he was taking and the dire consequences that would befall him if he spoke untruth. The Burmese oath used in a court of law was in the following form:

'I undertake and I promise to speak the truth; and if I speak untruth, may all the curses which are enumerated in writing in the palm-leaf manuscript that I hold in my hand, befall on me and all my relations to the seventh degree and also all my friends to the seventh degree. May all the *Nat* spirits witness this my oath.' The curses enumerated were terrible and fearsome, including those of leprosy, madness, vomiting blood, being eaten up by tigers and crocodiles, being swallowed up by the earth, and sudden and violent death. The form of the oath clearly shows that it was of pre-Buddhistic origin dating back to the days when the Burmese worshipped *Nat* spirits. These curses had to be explained in full by the judge, and Shin Dhammavilasa also insisted that the judge should explain the *Sin*<sup>10</sup> that a false witness would commit according to Buddhistic beliefs.

In addition, a witness was required to take the oath at the

<sup>10</sup> *Sin*: in the Buddhist sense of a deed which will have evil consequences in one's future existences.

top of the stairs of the court building, or at the bottom of the stairs, or under a large tree near by, or at a Buddhist temple, according to whether the value of the suit was small, moderate, large or very large. With regard to oath-taking at a Buddhist temple, Shin Dhammavilasa explained that it was not the Buddha, but the guardian spirit of the temple who was witnessing the oath. With regard to the other three places, the ancient beliefs that one of the guardian spirits of a building kept watch at the top of the stairs, that the chief guardian spirit kept guard at the bottom of the stairs, and the belief that every big tree had a guardian spirit, were too wide-spread for Shin Dhammavilasa to explain. Although Shin Dhammavilasa did not mention it, the palm-leaf manuscript or 'the book of curses' was wrapped in red cloth, red being the colour associated with the cult of the Thirty Seven Gods (or *Nats*), which was the religion of the Burmese before A.D. 1056, and which has managed to survive up to the present day as one of the folk elements in Burmese Buddhism. Later jurists increased the number of places for oath-taking to five, namely, the court room itself, the top of the stairs, the bottom of the stairs, a big tree, or a Buddhist temple, according to the value of the suit.

Shin Dhammavilasa did not actually classify evidence into the categories of documentary, direct, hearsay, and circumstantial evidence, but he did suggest that documentary evidence was stronger than oral evidence, and that evidence of an eye-witness was stronger than hearsay-evidence, and he specially advised persons giving out loans to record their transactions on documents, so that they could prove their debts later in a court of law, if found necessary. Again, in the chapter on the law dealing with physical injuries to a person, he mentioned that quarrels and fights often took place in the forest or in the field where there would not be any eye-witnesses, and that in such cases, circumstantial evidence would have to be relied upon. In other words, Burmese law did not exclude any sort of evidence, but recognized that some types of evidence were less reliable than the others. In the same way, Burmese law would not exclude any person from giving evidence, but it recognized that some types of witnesses were less reliable than the others. Shin Dhammavilasa devoted a whole chapter to witnesses, and the following is a summary of the chapter:

From outward appearances, all human beings look alike, and one may despair what to decide when witnesses supporting one party, give evidence entirely opposite to the evidence given by witnesses of the other party. But remember, ears of paddy plants look alike, yet the harvester knows which are ripe and which are still unripe; all bulls look alike, yet the herdsman knows which bull is strong and which bull is weak; all fans look alike, but the fan-bearer knows which fans are full of holes, and which fans are not. In the same way, a judge will know which witnesses are to be believed and which witnesses are not to be believed.

As a general rule, the following witnesses are to be believed:

1. One who is known to be religious.
2. One who is known to be moral.
3. One who has become rich through thrifty, just and honest means.
4. One who belongs to a noble family.
5. One who is respected by the public.
6. One who has become a monk, hermit or a lay-brother and who is known to keep his vows.
7. One who can differentiate between good and evil, merit and demerit.
8. One who is famous.
9. One who takes pleasure in doing many deeds of merit.
10. One who desires no property nor riches.
11. One who seeks to procure the happiness of the general public.
12. One who does not fear either the rich or the poor, the strong or the weak.

As a general rule, the following witnesses are not reliable:

1. One who has been found disloyal to the King or the King's officers.
2. One who is so old that he is no longer in full possession of his faculties.
3. One who is too young.
4. A dancer, a songster or a musician.
5. A goldsmith, an artist or a blacksmith.
6. One who has been disclaimed by all his relations, because of his misconduct.
7. One who, although a man, is womanish in speech and deportment.
8. A beggar.
9. A prisoner of war.
10. One who is known to be over-fond of women.
11. A thief.

12. A gambler.
13. A person who is brazen and rude.
14. A pregnant woman.
15. A drunkard.
16. An angry person.
17. A frightened person.
18. An acceptor of bribes.
19. A person who is brazen and shameless.
20. A traveller who has just arrived and is fatigued.
21. A person who sails the seas regularly to trade.
22. One to whom one of the parties has lent some money or from whom one of the parties has borrowed some money.
23. One who is too familiar with one of the parties.
24. One who is an enemy of one of the parties.
25. One who is an absolute pauper.
26. One who is heavily in debt.
27. One who is always jesting and clowning.
28. One who is related to one of the parties.
29. One who is a slave or servant to one of the parties.
30. One who lives on litigation.

A judge must not think that a female witness is less reliable than a male witness and vice versa. Eye-witnesses are reliable. Witnesses who merely heard reports of a certain incident are not eye-witnesses and are not reliable. The actual number of witnesses is of no great importance. Thirty witnesses may be telling untruth against one witness telling the truth, ten male witnesses may be speaking untruth against one female witness speaking truth; it is for the judge to find out which evidence is trustworthy. However, when all the witnesses on both sides are reliable and seem to be speaking the truth, a judge will have to decide in favour of the party who produces the greater number of witnesses.

Witnesses can be classified into five classes:

1. Eye-witness.
2. Hear-say witness.
3. One who is too eager to give evidence.
4. One who agrees to give evidence only when asked.
5. One who is reluctant to give evidence and has to be persuaded to do so.

Of these five classes of witnesses, hear-say witness and the witness who is too eager to give evidence are not usually reliable. A judge should remember that for the witnesses also, it is often difficult to say what is truth and what is untruth. For that reason, those witnesses whose evidence has not been accepted, shall not be found guilty of

perjury unless they are known to have given false evidence on previous occasions, or unless they are proved to have taken bribes to tender false evidence before the court. Witnesses who are found to have given false evidence deliberately shall be given five strokes with a cane by an officer of the court, and made to go round the village in disgrace and shame. The same punishment shall be given to those witnesses, who laugh or make faces at a judge while giving evidence, although their evidence is accepted as true. Witnesses whose evidence is accepted are entitled to payment of fees by the party on whose behalf they tender their evidence, for the success of his case is due to their intelligence and truthfulness. All witnesses must bear in mind the fact that their false testimony would affect not only themselves but their neighbours. False testimony would bring to the witness the King's punishment for perjury, would bring him suffering and death, and would bring him also suffering in the fires of hell in the next existence. If the false testimony related to a suit of trifling importance, six households to the East, to the West, to the North, and to the South of the false witness's household would be destroyed; if the suit was of small importance ten households in the four directions indicated above would be destroyed; if the suit was of moderate importance, one hundred households in the four aforesaid directions would be destroyed; and if the suit was of great importance, a thousand households in the four aforesaid directions would be destroyed. The actual number of witnesses to be called to prove a case is not to be fixed, but as a general rule, if the suit related to a wrong committed in a large village, at least nine witnesses should be called; if committed in a small village, at least five witnesses should be called; and if committed in the forest, at least three witnesses should be called.

The above principles of Burmese law regarding evidence and witnesses remained substantially unchanged until the British conquest of 1886.

## BURMESE LAW OF CIVIL WRONGS

As has been stated above, to the Burmese, law meant only civil law, and it was divided into eighteen branches. However, those eighteen branches could be grouped into five main categories by using modern legal terminology, (1) marriage, divorce, adoption, guardianship, (2) property, (3) inheritance, (4) contracts, and (5) torts. The Burmese, however, did not separate contracts from torts, and would classify these two together as civil wrongs, as the remedy for both was payment of compensation.

With regard to contracts, the Burmese did not have any theory comparable to the English doctrine of consideration, and instead Burmese law looked to the motive behind a particular undertaking, to decide whether it was valid in law. The Burmese law regarding contracts becoming void for illegality was a simple one: an agreement to commit a criminal offence was void; an agreement made under duress, and an agreement obtained through fraud or misrepresentation was void, because the consent was not real; an agreement by a child under the age of ten, and an agreement made by an imbecile were void, because they were deemed to be incapable of giving consent. Wagering contracts were not void, although Shin Dhammavilasa showed his displeasure regarding wagers by refusing to discuss the law regarding wagers in his *Dhammathat*. Jurists after him often wrote that gambling with dice and betting on fighting or running animals were vices which would destroy the kingdom eventually, and so gambling should be prohibited as constituting a breach of the King's Peace. Their advice, however, was never followed by the Burmese kings, perhaps because they realized that their subjects had always been fond of wagering. However, a wagering contract was void if it was based on an impossibility, as, for example, a wager on whether the sun would set in the east on a particular day or whether pink clouds would appear in the sky. Yet a contract other than a wagering one was not void merely because performance was impossible, since the remedy in Burmese law for a breach of contract was compensation.

A Burmese judge in special circumstances could order specific performance, but even in such a case, the party concerned could offer compensation in lieu of specific performance; in other words, an order for specific performance would merely increase the amount of compensation. An agreement made by an agent was binding on the principal and debts incurred by a child above ten years of age was binding on the parents, and a debt incurred by a parent was binding on the children. The same was true of grand-parent and grand-child (if there were no parents), husband and wife, master and slave, teacher and pupil. Rates of interest were fixed by law, and contracts could not go beyond the limits set. In the case of gold and silver, the interest was one hundred per cent. per year; if the period of the loan was less than one year, the amount of interest would be in proportion to the

number of months; if the period was more than one year, the amount of interest would not increase; in other words, whether the loan was repaid after one year or after nine years, the amount of interest would be the same.

In the case of grain, the interest was one hundred per cent. if the debt was repaid at the next harvest, two hundred per cent. if it was repaid after two harvests and three hundred per cent. if repaid after the third harvest; however, if the debt remained unpaid beyond the third harvest, the amount of interest would not increase. Hence, the Burmese jingle:

Borrowed grain can increase four-fold  
But borrowed silver only double.

The period of limitation was ten years, which would be equivalent to ten harvests with paddy, but would be equivalent to twenty harvests with those grains which had two harvests annually.

A creditor was permitted by Burmese law to resort to foul means within certain limits, if fair means to recover his debt had failed; for example, he could intimidate the debtor with sticks and cudgels but not with spears and swords. He could also resort to stratagem, or even to fraud. However, if he asked the debtor to borrow an equivalent sum from another person and then repay the debt on the promise that he would advance the amount again soon after the repayment, giving the excuse that he did not want the debt to be time-barred, and after the debtor had repaid the debt as suggested, he refused to advance the loan as he promised, then he was liable either to make the loan or to pay compensation. Moreover, the creditor would be liable in torts if he assaulted the debtor in any way or exposed him to any indignity, and he was not permitted to make his demand for repayment of the debt on Sabbath days, national holidays, or if the debtor was in his sick-bed, or was performing some religious rite.

Burmese law recognized a settlement between an insolvent debtor and his creditor or creditors. Moreover, Burmese law recognized the right of an insolvent debtor to petition the king for an advance to discharge the debt, and such advances were always forthcoming; they were free of interest and were repayable only after three years, and if the debtor through some misfortune of sickness or bodily injury or inclement weather found himself unable to repay the advance, it would be remitted by the king.



With regard to contracts of service also, Burmese law laid down certain limitations. Agricultural labourers were entitled to a full set of clothes at the end of the year, in addition to their wages received under contracts, and in return they were under a duty to gather from the forest materials for re-roofing their employer's house. They were entitled to full wages although absent from their duties, if the absence was due to sickness, and in return they were liable to keep the tools of their trade belonging to their employer in good condition, and to replace them if lost or broken, even though they had not been negligent with the tools. If a labourer was killed during the period of employment, his heirs were entitled to receive his full wages and two-thirds of the expenses of his funeral from the employer. Wages were not by month, but by the year or by the season.

In the contract of sale also, Burmese law imposed certain conditions outside the particular contracts. For example, a purchaser had the right to return the goods and receive back the price within seven days of the purchase. In a sale of cattle, if the cattle died through natural causes within ten days of the purchase, the purchaser was entitled to receive back the price. In a credit sale, if the purchaser failed to come and pay the price on the agreed date, the amount of money payable became a 'debt of silver', repayable with an interest of one hundred per cent.

In Burmese law, slavery was not a question of status but a question of contract. Slaves were not outside the pale of society or of law, and a slave lived in the household of his master, enjoying the same rights as those of a hired labourer, except that he did not actually receive his wages. However, the service he performed was measured and assessed, so that when a certain total amount was reached, he would cease to be a slave. All slaves were redeemable by their friends, relations, or even strangers. Slaves were of three kinds, slaves for debt, children born during the period of their parents' slavery, and prisoners captured on the battlefield. There was another class of slaves, namely, temple slaves, and they were outside the pale of society to a certain extent in that they were looked down upon, but so were the musicians, dancers, actors and beggars. Temple slaves had to look after the temples, and they also had certain special rights and privileges, as, for example, the right to dispose of flowers, candles and food offered to the temple. In other words,

like other slaves, they were, in effect, on a contract of service with the temple. Burmese law considered gifts to be a kind of contract, and as with contracts, the motive behind the gift was the factor which made the gift binding in law or otherwise.

The Burmese law relating to torts had certain features which made it closely resemble the English law of torts. A man was responsible for the consequences of his wrongful act, whether he intended them or not, if he had not exercised the degree of care a prudent man would have exercised in the circumstances. Burmese law took into consideration whether the damage was too remote, and also the behaviour of the victim, in case it might have contributed to the commission of the wrongful act. Thus, the law laid down that if a person wandered about the village at night without a light and was assaulted by another, he could not recover any damages, unless he was actually going to fetch a physician and kept shouting at regular intervals, 'There is sickness in my house, and I am going to fetch a physician'. In the same way, if a woman went about the village after dark alone and without a breast-cloth and was criminally assaulted, she could not recover any damages.

The principles of Burmese law of liability for dangerous things were well illustrated by the rules regarding liability for fire: when a fire burnt down a house or houses, if the fire originated from the kitchen of a house, its owner was liable, negligence being presumed since kitchen fire does not ordinarily burn down houses; similarly, if the fire originated from a cultivator or a woodsman clearing a patch of forest, he was liable, even though the house or houses burnt were quite a distance away; if the fire originated from a smithy, the smith was liable only on proof of actual negligence; and if the fire originated from the room of a woman giving birth to a child, the owner of the house was not liable even on proof of negligence, because it was the custom for a woman in such circumstances to have a fire burning in her room to warm herself, and as she was in pain and her attendants had to be looking after her, she or they could not be blamed for any negligence. If the victim, of his own accord, exposed himself to the consequences of the wrongful act, the wrong-doer was not exempted from liability, except in very special cases, but the amount of compensation payable was reduced. Thus, when a person was injured while trying to separate two other persons

engaged in an *unequal* combat, he was entitled to compensation, but the amount would be less than in an ordinary case of assault; on the other hand, when a person was injured while trying to separate two other persons in an *equal* combat, he was not entitled to any compensation.

Under Burmese law, a certain degree of care had to be used even when a person was exercising his rights. Thus, a person cutting down a tree on his own land had to exercise care that the falling tree did not damage properties and persons on the adjoining land; he had to exercise care also that the falling tree should not injure any person coming on to his land at the particular time; in the case of adults and normal persons, this duty was discharged by his shouting out a warning; but in the case of children under ten years of age, imbeciles and sick persons, mere verbal warning was not enough and, therefore, it was an absolute duty for him to prevent them from coming to the place of danger. Again, a hunter in the forest must give adequate warning by written words, written signs or through a watchman that he was hunting in a particular area or that he had set gins and traps and pitfalls, and in return, any person passing through the particular area had to exercise care that he did not frighten away the animals or disturb the hunter in his hunting. On the same principles, when a host had entertained his dinner-guest rather well, so that the latter had become quite drunk, the host was responsible for any injury or damage to the person or property of the guest suffered on his way home, for it was the duty of the host to see that the guest reached his home safely, and this duty ceased only when the guest actually crossed the threshold of his own home.

Burmese law recognized the principles of vicarious responsibility and joint responsibility in torts. Thus, a master was liable for the torts of his servants, parents for the torts of their children and teachers for the torts of their pupils. In the same way, persons travelling in the same cart or persons travelling in the same boat were liable for the wrongful acts of one or more of the company. In the case of those who actually took part in the commission of a tort, they were equally responsible, but in the case of persons who merely abetted the commission of a tort, the compensation payable by the abettors was one-third of the total amount payable for the tort. When separate actions on the

part of two or more persons resulted in an injury, the compensation payable was apportioned between them.

## COLLECTION OF JUDGEMENTS

In Burmese legal literature, there existed a number of collections of judgements, known as *Pyat-htons* (or *Old Judgements*). According to a list drawn up soon after the British conquest, there were thirty-five *Pyat-htons*, the latest being the *Pyat-hton* of the King's Bench at the town of Yezagyo. As a *Pyat-hton* was a collection of judgements passed by a famous king or a famous judge, all the thirty-five *Pyat-htons* bore the names of kings and judges. Five of the *Pyat-htons* were taken from the *Jatakas*, namely, *Mahosadha*<sup>11</sup> *Pyat-hton*, *Candakumara*<sup>12</sup> *Pyat-hton*, *Vidhura*<sup>13</sup> *Pyat-hton*, *King Sanjaya* (the father of Vessantara)<sup>14</sup> *Pyat-hton* and *Mahatundila*<sup>15</sup> *Pyat-hton*. In the case of the first three, the decisions were given in the *Jatakas*, but in the case of the fourth and the fifth, the *Jatakas* contained no particular decisions; the Vessantara *Jataka* did not even mention that the king in question was a great law-giver, but with regard to the fifth, the *Jataka* mentioned that Mahatundila, the Great Boar, who was the Future Buddha, preached the law to them on the holy days (new and full moon), and sitting in judgement decided cases; while he lived there were no bringers of unjust suits. Afterwards the king died. The Bodhisatta did the last honours to his body; then he caused a book of judgements to be written and said, 'By observing this book ye should settle suits.'

Two *Pyat-htons* purported to be the decisions of two kings from other countries, namely Elara, a famous Tamil invader, King of Ceylon in the second century B.C., and King Kunar of Chengmai whose identity is not known, and who might even have been a mythical personage. A few *Pyat-htons* were named after mythical kings and personages, as, for example, the King who built Pagodas, King Nobleman, King Wise-like-Rama, God Narada, the Hermit of the Bo-Tree, the Lad-Trained-in-the-Law, Judge Nobleman, Queen of Zalaka, and the Princess Learned-in-the-Law. Of these *Pyat-htons* attributed to mythical personages,

<sup>11</sup> Cowell: op. cit. vi, 546.

<sup>13</sup> Ibid. vi, 545.

<sup>12</sup> Ibid. vi, 542.

<sup>14</sup> Ibid. vi, 547.

<sup>15</sup> Ibid. iii, 388.

only one has survived, namely that of Princess Learned-in-the-Law. In this *Pyat-hton*, there were twenty tales out of which only nine were tales containing decisions of the Princess<sup>16</sup> and the remaining tales described no dispute, posed no problem, and did not mention the Princess at all. The actual date of this collection is not known but the style of its Burmese prose shows that it was compiled about three centuries after Shin Dhammavilasa wrote his *Dhammathat*. The oldest historical *Pyat-hton* was the *Pyat-hton* of the Pyu King Duttaboung, and next in point of time was the *Pyat-hton* of the Pagan King Alaungsithu, which has already been mentioned above. Neither of these have survived. Those historical *Pyat-htons* compiled after the period of Pagan still exist, and they are found to be collections of real judgements. The latest in point of time, as stated above, was the *Pyat-hton* of the Judge of the King's Bench at Yezagyo who was appointed to his high office in A.D. 1814, that is some ten years before the first Anglo-Burmese war.

### BURMESE LAW TALES

As has been stated above, the *Dhammavilasa Dhammathat* contained nine full-length tales, illustrating some particular points of Burmese law. Curiously enough, Shin Dhammavilasa attributed only three of the decisions contained in these tales to Manu, but attributed one to the Buddha Dipankara, who lived millions of worlds ago<sup>17</sup> and five to an unnamed king and an unnamed judge who lived during the time of that Buddha. In addition to the full-length tales, Shin Dhammavilasa gave a brief outline of the Case of the Small Cucumber which, as already mentioned above, led to Manu resigning his appointment as the king's judge. In later *Dhammathats*, only three or four of the full-length tales of Shin Dhammavilasa were reproduced, and that only in brief outline. In fact, in the later *Dhammathats* no full-length tale was ever given, and all the decisions contained in the outlines of the tales given were attributed to Manu.<sup>18</sup>

In my opinion, the tales which found their way into Shin Dhammavilasa and other *Dhammathats*, originally existed as full-

<sup>16</sup> These tales are identified in the Analysis, *infra*.

<sup>17</sup> The first Buddha of the 'Distant Epoch'. For an account of the 'Epochs of the Buddha', see Cowell: *op. cit.* iv, p. 179, note 1.

<sup>18</sup> The tales given in the *Dhammavilasa* and other *Dhammathats* are identified in the Analysis, *infra*.

length tales, and were told orally to guide village headmen and arbitrators, in the period before the introduction of Buddhism as the official religion of the people in A.D. 1056. In that pre-Pagan period, the Burmese language had yet to be reduced to writing and if written Pyu was known at all, it would have been known only to a handful of people. As the Burmese had learned to read and write after Shin Dhammavilasa, and as the body of Burmese legal literature grew, the law tales were too elementary to be of practical use, and came to be gradually forgotten.

The law tales contained in this collection were gathered by me during the period 1926-1929, in the villages round about Mindon in the remote territory lying between the mountains of Arakan and the Irrawaddy river at Thayetmyo. Mindon is a very old town dating back to the period of the Pyu Kingdom of Prome, and it had been the ancestral home of my family until the British conquest of 1886. It will be noticed that all the decisions in the tales, even including the decision in the Case of the Small Cucumber, are attributed to the Princess Learned-in-the-Law. These tales have in them the same gay and carefree atmosphere that is to be found also in all Burmese folk-tales. It seems clear that the situations described in the tales either actually happened or were based on actual happenings. These tales convey a general idea of the fundamental principles of Burmese law in a manner less learned than that of the *Dhammathats*, but perhaps more lucid and definitely more delightful. The fundamental principles of Burmese law did not change much in the eleven centuries that elapsed between the original period of the tales and the period that preceded the British conquest, because the fundamental features of Burmese society did not change much; therefore, it is not surprising that the judgements (some of which are reproduced below) of the King's Bench at Yezagyo at the beginning of the nineteenth century, showed a striking similarity of atmosphere, attitude and spirit with the law tales of long ago.

#### JUDGEMENT IN A CASE OF TRESPASS BY ACTION

*Summary of the Dispute:* Dispute between Moonface<sup>19</sup> the Manipurian and Hurry the Muslim. Moonface alleged that after a dispute over religion, he was assaulted by Hurry, who bent

<sup>19</sup> Burmese names are translated into English equivalents.

him down by the neck and pounded him on the back three or four times with his elbow.

*Moonface stated:* We were discussing who created the universe. Hurry insisted God Allah created it, but I said that the Manipuri God Tinemabu created it; in fact, He was reluctant to create human beings, after creating the universe, because human beings would not have anything to eat, until the Earth Goddess promised to create beasts and birds, the Water Goddess promised to create fishes, and the Tree Goddess promised to create grain plants. The God then made a clay model of a human being but as it was too ugly, He threw it into the water and it became a frog. He made another clay model and again it was too ugly; so He threw it into the forest and it became a monkey. Again He made a clay model, and this time He was satisfied and so it became the first man. Hurry became very angry at my account of the creation of the universe, and bending me down by the neck, pounded me on my back three or four times with his elbow.

*Hurry stated:* I admit that what Moonface had stated about the dispute is true, but I never touched him. In fact, when we were arguing, Strong-Muscle, the Brahmin, came walking by and joined in the dispute by maintaining that it was God Vishnu who created the universe. After some more arguments, we went back to our respective homes. As it was evening, there were no other persons besides us on the road.

*Remarks by the Judge:* I could even join in their dispute, by quoting from the Buddhist scriptures, and showing that nobody created the universe. But every one is entitled to his own opinion, and, in any case, after all my arguments, the Manipuri would still believe in Tinemabu, the Indian Muslim in Allah and the Brahmin in Vishnu.

*Judgement:* An argument over religion did not justify a trespass by action, and if Moonface was really assaulted by Hurry, he would be entitled to compensation. As both agreed that there was only one witness, namely the Brahmin, his evidence must decide whether Moonface's claim is true or Hurry's denial is true. Accordingly, I pass the following order:

1. The officers of this court shall take the Brahmin to a Hindu Temple, and make him take oath and give his evidence.
2. If the Brahmin's evidence supports Moonface's claim, Hurry shall pay compensation according to scale, and he shall also bear the costs of this suit.
3. If the Brahmin supports Hurry's denial, Moonface shall bear the costs of the suit.

*End of Dispute:* The Brahmin giving evidence in favour of Moonface, the two litigants accepted judgement by eating together the dish of pickled tea on the fifth waxing of the month of Waso in the Burmese year 1167<sup>20</sup> before Judge Yanta-Meik-Kyawhtin on the King's Bench at Momeik.<sup>21</sup>

#### JUDGEMENT IN A CASE OF TRESPASS BY WORD

*Summary of the Dispute:* Mistress White claimed compensation against Mistress Beautiful for calling her 'Conjunction-of-Stars-Woman'.

*Statement by Mistress White:* I was originally married to the brother of Mistress Beautiful, but through ill-fortune, the marriage was not happy and resulted in divorce. A few weeks ago, I married my second husband, and so when I visited her on the day of the trespass on which I now base my claim, she was not cordial to me, and as I was leaving her house, she called me 'Conjunction-of-Stars-Woman', meaning that I was a woman with many husbands.

*Statement by Mistress Beautiful:* I did say 'Conjunction-of-Stars-Woman', but I was not referring to her at all as we had by then finished our conversation, and she was already going down the stairs.

*Remarks by the Judge:* There is no doubt that Mistress Beautiful wanted to insult or abuse her former sister-in-law. None the less, according to astrology, a person born at a time when stars

<sup>20</sup> July 1805.

<sup>21</sup> The collection of judgements of the Yezagyo King's Bench contained not only his own judgements, but those of other judges under whom he served as a court official.



conjugate is extremely lucky, and so the term 'Conjunction-of-Stars-Woman' is not an abusive or a defamatory term.

*Judgement:* The suit is dismissed, but Mistress Beautiful shall pay the costs.

*End of the Dispute:* Mistress White and Mistress Beautiful ate the dish of pickled tea together before Maung Hmaing, a King's Advisor at the Golden City of Shwebo on the fourth waxing of Kason in the Burmese year 1151.<sup>22</sup>

#### JUDGEMENT IN A CASE OF TRESPASS BY ACTION AND TRESPASS BY WORD

*Summary of the Dispute:* Suit between Mistress Modern and Master Excellent for claim and counter-claim of trespass by their children on their children.

*Statement by Mistress Modern:* Master Excellent's daughters, Fatty and Frowny, had a quarrel with my daughters, Egg and Shorty, and my son, Jungli. His daughters abused my children and assaulted my daughter, Shorty. All the children are under the age of maturity,<sup>23</sup> and therefore I claim compensation from him for the assault committed on my children by his children.

*Statement by Master Excellent:* I admit that there was a quarrel, but contrary to what Mistress Modern has stated, her children abused my children and her son, Jungli, hit my daughter, Fatty, with a stick. So I make my counter-claim for compensation.

*Remarks by the Judge:* It was merely a children's quarrel. All the five are under the age of ten years and, therefore, they cannot be liable for any trespass. Moreover, an examination of the bodies of Fatty and Shorty shows that there are no scars, no cuts, no swellings, and no bruises. Although there is the allegation that Jungli used a stick, he denies it; in any case, he is under ten years of age. There is no necessity at all to examine witnesses. There are many *Jatakas* in the scriptures, which show that from a trivial thing, direful consequences can result. So I do not wish that enmity and hatred should result from a trivial quarrel among five children.

<sup>22</sup> May 1789.

<sup>23</sup> Age of maturity was sixteen years and age of liability was ten years.

*End of the Dispute:* I order Mistress Modern and Master Excellent to go to the nearest temple, light bees-wax candles and pray in front of the Buddha image for the health, happiness and prosperity of each other, and of all the five children. There will be no hearing of this suit, and the claim and counter-claim are cancelled and the case closed. As there is no trial, there will be no fees, and no costs are involved.

#### JUDGEMENT IN A CASE OF TRESPASS BY WORD

*Summary of the Dispute:* Claim and counter-claim for trespass by word. Both parties admitted that there was a quarrel, during which Mistress Diamond called Mistress Silk 'An Adulteress', and Mistress Silk in retaliation called the other 'A Stealer of other women's husbands'.

*Remarks by the Judge:* On questioning the two parties, it is learnt that they are neighbours, living side by side, and have been friends for many years. They are such close friends and neighbours that when one is too lazy to cook, she may say to the other 'Give me some of your rice and your curry as I am too lazy to cook this evening, and my beauty of a husband will soon be coming home roaring for his dinner.' They are such close friends and neighbours that they share each other's joys and sorrows, and when one dies, the other will have to arrange the funeral. If this case is heard, more bitterness will merely result between the two, and so I will not proceed with the case.

*Order:* The two women shall go to the nearest temple together, arm in arm as friends, and Mistress Silk shall offer one hundred bees-wax candles before the image of the Buddha, and Mistress Diamond shall offer two hundred bees-wax candles (as she first used an insulting term), and let them pray for each other's happiness. As the case is not heard, there are no costs to pay.

#### JUDGEMENT IN A SUIT UNDER THE LAWS OF MARRIAGE AND DIVORCE

*Summary of the Dispute:* In the Burmese year 1172,<sup>24</sup> the Governor of Momeik was on military duty in the Shan States. Mistress Misty alleged that she was pulled about and roughly handled by Master Iron in the Market Fair near the confluence

of the rivers, and sued for compensation for this trespass by action. Master Iron admitted that he did pull her about and roughly handle her, but he did so as she was his wife and would not follow him when asked to do so.

*Statement by Mistress Misty:* I am of the Palaung race<sup>25</sup> and so is Master Iron. We used to live in the Palaung village of Humai. It is true that we were married once, but there has been a valid divorce. As we could not get on together as man and wife, according to our custom, I offered him a basketful of flowers before the Village Headman, and asked to be divorced, but he refused. Sometime later, again I took him before the Headman, and offering a basket of flowers, I begged to be divorced, but again he refused. Again, sometime later, I took him before the Headman and begged to be divorced. The Headman instructed, 'This is the third time, Master Iron, and so you cannot refuse to accept the offered flowers', and Master Iron took the flowers, and he granted me the divorce.

*Statement by Master Iron:* I admit that I did finally agree to accept the flowers and divorce her. After the divorce, I migrated to the town of Momeik, where I joined this regiment. This morning, as I, with some Burmese and Shan companions, was visiting the Market Fair, I saw Mistress Misty and spoke about her to my friends. 'She is still your wife', exclaimed my friends, 'because no dish of pickled tea was offered for you two to eat together, and so the divorce proceedings are still pending.' Emboldened by their remarks, I went to her and ordered her to follow me as my lawful wedded wife, and on her refusing to do so, I pulled her and handled her roughly.

*Remarks by the Judge:* The procedure which was customary in a particular court of law at a particular time, although different from the procedure of other courts at other places or at other times, is deemed to be the correct procedure. This Court examined some Clerks of Courts in this region, and they all testified that (1) among the Palaungs, as with the Burmese, divorce is by mutual consent, but the husband or the wife is bound to give the consent when the other spouse makes the

<sup>25</sup> One of the Shan races, living on the eastern plateau of Burma.

request for a divorce for the third time before a Village Headman, and (2) at that particular village of Humai, and in the neighbouring villages, divorce proceedings are terminated on the husband and the wife agreeing to divorce, without a dish of pickled tea being offered. Accordingly, there is no doubt that there was a valid divorce between Mistress Misty and Master Iron, and, therefore, the latter committed a trespass on the former by pulling her and roughly handling her.

*Judgement:* (i) Master Iron shall pay compensation for trespass by action according to scale.

(ii) Master Iron is guilty of breach of army discipline. The fact that he was misled by the remarks of his Burmese and Shan friends, did not constitute a ground for consideration. Accordingly, he shall suffer ten strokes with the cane.<sup>26</sup>

*End of Dispute:* As the judgement is in favour of Mistress Misty, there is no question of her appealing against it. With regard to Master Iron, he is bound by his military oath to accept my judgement. So no dish of pickled tea will be served. Ordinarily, Master Iron would be liable for the costs of this suit, but in view of the fact that they had been man and wife 'for old time's sake' Mistress Misty should not claim any costs. Each party, therefore, will bear her or his own costs.

#### JUDGEMENT BY A MILITARY COMMANDER IN A CASE OF TRESPASS BY ACTION

*Summary of the Case:* This dispute took place in the Burmese year 1160,<sup>27</sup> when the Governor of Momeik was on duty as commander of a military unit. Regimental clerk, Moonshine, alleged that he was assaulted by another regimental clerk, Flea.

*Moonshine stated:* I was composing an official letter when Flea came and said that my spelling of the addressee was wrong. I denied that my spelling was wrong. Flea became angry at my

<sup>26</sup> As it was a military court, and as Master Iron was in military service, this order was passed. If Master Iron was not in military service, there would have to be two separate proceedings, namely a suit for compensation before a civil court, and criminal proceedings before a king's administrative official for a breach of the King's Peace.

<sup>27</sup> 1798.

reply and gave me blows with his elbow and his fists so that I suffered much bodily pain.

*Flea stated:* I admit that I gave him the blows, but he not only insisted that his wrong spelling was right, but also called me ‘Stupid Guesser’.

*Remarks by Judge:* All clerks should know how to spell correctly. Moreover, as the addressee was a Shan and Burmese clerks were not familiar with Shan names, Flea was justified in pointing out the spelling mistake, but it is always better to point out a spelling mistake in sweet words rather than sour words.

*Judgement:* Flea was justified in pointing out the spelling error to Moonshine, but as both were of equal rank, he had no right to admonish Moonshine. Moonshine was guilty of trespass by words in calling Flea a stupid guesser, but he was provoked by the other, and, moreover, a trespass by mouth is always cancelled by a trespass by action. Accordingly, I pass the following order:

1. Flea shall pay Moonshine compensation according to scale.
2. As this is a military court, and the parties are in military service, no costs are payable.
3. Flea shall also be given ten strokes with the cane for breach of military discipline.<sup>28</sup>

*End of Dispute:* No dish of pickled tea was served as the litigants were bound by their oath of military service to accept the orders of their superior. So the dispute was ended on the fifth waning of Pyatho in the Burmese year 1160,<sup>29</sup> before the Military Commander, Governor of Momeik.

<sup>28</sup> Please see note to the previous judgement.

<sup>29</sup> January 1798.

# *Analysis of the Law Tales*

## 1. TIGER AS JUDGE

IDENTIFICATION: Included in the *Princess Learned-in-the-Law Pyat-hton*.

LAW POINT INVOLVED: It contains an Advice to Judges.

SPECIAL FEATURES: The Tiger is the villain of Burmese folk-tales dealing with animals.

## 2. RABBIT AS JUDGE

IDENTIFICATION: Included in the *Princess Learned-in-the-Law Pyat-hton*.

LAW POINT INVOLVED: It contains an Advice to Judges.

SPECIAL FEATURES: The Rabbit is the hero of Burmese folk-tales dealing with animals. In one particular folk-tale, the Rabbit earns the title of 'Judge Rabbit'.

## 3. THE YOUNG SCHOLAR WHO WAS AFRAID TO BE BURIED

IDENTIFICATION: Not included in any *Pyat-htons* or *Dhammathats*.

LAW POINT INVOLVED: It contains an Advice to Judges.

SPECIAL FEATURES: This is similar in theme to a *Jataka* Tale (Cowell op. cit. i, 17). A dispute arose between two friends, a tiger and a lion; the tiger said that it was cold in the dark half of the month while the lion maintained that it was cold in the light half of the month. They took their dispute to a hermit (the Future Buddha) who replied as follows and thus made peace between the two friends:

'In light or dark half, whensoever the wind  
Doth blow, 'tis cold. For cold is caused by wind.  
And, therefore, I decide you both are right.'

## 4. THE DRUM OF JUSTICE

IDENTIFICATION: Not included in any *Pyat-htons* or *Dhammathats*.

LAW POINT INVOLVED: It contains an Advice to Judges.

SPECIAL FEATURES: Earlier Burmese kings often placed a special pillar in front of their palaces, known as the 'Pillar of Complaint', from where any person, aggrieved with the decision of a judge, could shout out his complaint to the king. The idea of a 'Drum of Justice', which could be sounded by a person demanding justice, was prevalent in India and Ceylon and other countries of south-east Asia.

## 5. A KINGDOM LOST FOR A DROP OF HONEY

IDENTIFICATION: Not included in any *Pyat-htons* or *Dhammathats*.

LAW POINT INVOLVED: It contains an Advice to Judges.

SPECIAL FEATURES: The same tale, but with slight variations, illustrates the point of the Burmese proverb: 'For a honey drop, A kingdom lost.'

## 6. THE ARDENT YOUNG LOVER AS JUDGE

IDENTIFICATION: Not included in any *Pyat-htons* or *Dhammathats*.

LAW POINT INVOLVED: It contains an Advice to Judges.

SPECIAL FEATURES: Similar in theme to No. 2.

## 7. THE THREE FAITHFUL LOVERS

IDENTIFICATION: Included in the *Princess Learned-in-the-Law Pyat-hton*.

LAW POINT INVOLVED: Nil—A Burmese judge was expected to solve a problem or to end an argument even though no law point was involved.

SPECIAL FEATURES: Although Burmese society was essentially 'classless', grave-diggers and other cemetery attendants were considered to be social outcasts. However, a grave-digger could easily rejoin society by giving up his profession and migrating to another village.

## 8. THE THREE ANIMAL LITIGANTS

IDENTIFICATION: Included in the *Princess Learned-in-the-Law Pyat-hton*.

LAW POINT INVOLVED: Nil—A problem solved.

## 9. THE PROMISE

IDENTIFICATION: Included in the *Princess Learned-in-the-Law Pyat-hton*.

LAW POINT INVOLVED: Nil—A problem solved.

## 10. THE DAINTIEST OF WOMEN AND THE ABLEST OF MEN

IDENTIFICATION: Included in the *Princess Learned-in-the-Law Pyat-hton*.

LAW POINT INVOLVED: Nil—A problem solved.

## 11. THE THREE MIGHTY MEN OF VALOUR

IDENTIFICATION: Not included in any *Pyat-htons* or *Dhammathats*.

LAW POINT INVOLVED: Nil—A problem solved.

## 12. EAST AND WEST

IDENTIFICATION: Not included in any *Pyat-htons* or *Dhammathats*.

LAW POINT INVOLVED: Nil—A problem solved.

## 13. THE FOUR OBSERVANT SCHOLARS

IDENTIFICATION: Not included in any *Pyat-htons* or *Dhammathats*.

LAW POINT INVOLVED: Nil—A problem solved.

## 14. THE FOUR YOUNG MEN WHO WERE SO REFINED

IDENTIFICATION: Not included in any *Pyat-htons* or *Dhammathats*.

LAW POINT INVOLVED: Nil—A problem solved.



## 15. LONGER FOREFINGER

IDENTIFICATION: Not included in any *Pyat-htons* or *Dhammathats*.

LAW POINT INVOLVED: Nil—A problem solved.

## 16. TAINTED WITNESSES

IDENTIFICATION: Not included in any *Pyat-htons* or *Dhammathats*.

LAW POINT INVOLVED: The weight of evidence tendered by certain suspected witnesses.

SPECIAL FEATURES: Queens, princesses and maids of honour found guilty of gross misconduct were punished by having their heads shaved and being made to work in the Royal Garden.

## 17. THE TWO WOODSMEN WHO QUARRELLED

IDENTIFICATION: Not included in any *Pyat-htons* or *Dhammathats*.

LAW POINT INVOLVED: Circumstantial evidence.

## 18. THE TWO WOODSMEN WHO FOUGHT

IDENTIFICATION: Not included in any *Pyat-htons* or *Dhammathats*.

LAW POINT INVOLVED: Evidence procured by the court.

## 19. THE KING'S SWORD

IDENTIFICATION: Included in the *Dhammavilasa Dhammathat*, combined with No. 59, and decision attributed to Manu.

LAW POINT INVOLVED: Circumstantial evidence, and adultery. The slave's remarks on catching the king contained a good summary of the law relating to adultery.

## 20. THE CORMORANT AND THE GUDGEON

IDENTIFICATION: Not included in any *Pyat-htons* or *Dhammathats*.

LAW POINT INVOLVED: Liability of a host for the property of his guest. This liability was absolute at the time of the *Dhamma-*

*vilasa*, but later the host could escape from liability if he could prove that (a) he was not guilty of negligence and (b) not only the guest's property but the host's own properties were lost at the same time.

SPECIAL FEATURES: A humorous version of this tale is the folk-tale 'Why the Cormorant is without a Tail'.

## 21. GOLD INTO BRASS AND CHILD INTO MONKEY

IDENTIFICATION: Included in the *Dhammavilasa* and later *Dhammathats*. Decision not attributed to Manu, but to a judge, unnamed in both *Dhammavilasa* and later *Dhammathats*.

LAW POINT INVOLVED: Liability of bailee for the loss of the property bailed. This liability was not absolute, and if gold had really been turned into brass and if the child had really been turned into monkey, the bailees would not have been liable, in the absence of negligence.

## 22. THE FOUR MENDICANTS

IDENTIFICATION: Included in the *Dhammavilasa* and later *Dhammathats*. Decision not attributed to Manu, but to a judge, unnamed in both *Dhammavilasa* and later *Dhammathats*.

LAW POINT INVOLVED: In the *Dhammavilasa*, the points involved were: (a) whether the transaction was a partnership or a bailment, (b) the right of the court to examine witnesses separately; but in the synopsis of the story given in the later *Dhammathats*, the only point involved was the right of the court to examine witnesses separately.

## 23. THE SEVEN MENDICANTS

IDENTIFICATION: Included in the *Dhammavilasa* and later *Dhammathats*. Decision not attributed to Manu, but to a king of ancient India, in both the *Dhammavilasa* and the later *Dhammathats*.

LAW POINT INVOLVED: A bailee was liable to return the property only if all the conditions of the bailment had been fulfilled.

## 24. IRON EATEN BY RATS, SON CARRIED AWAY BY HAWK

IDENTIFICATION: Not included in any *Pyat-htons* or *Dhammathats*.

LAW POINT INVOLVED: Same as in No. 21, i.e. Liability of bailee for the loss of the property bailed. This liability was not absolute, and if iron had really been eaten by rats and if son had really been carried away by hawk, the bailees would not have been liable, in the absence of negligence.

SPECIAL FEATURES: Another version of the story exists as a proverbial tale explaining the origin of the saying

‘If Iron can be eaten by Rats,  
Surely Son can also be carried away by a Hawk.’

## 25. THE FISHERMAN AND THE KING’S CHAMBERLAIN

IDENTIFICATION: Not included in any *Pyat-htons* or *Dhammathats*.

LAW POINT INVOLVED: Consequences of Partnership.

## 26. THE CAT WITH FOUR DIFFERENT LEGS

IDENTIFICATION: Not included in any *Pyat-htons* or *Dhammathats*.

LAW POINT INVOLVED: Consequences of Partnership.

## 27. THE FOUR JOLLY ADVENTURERS

IDENTIFICATION: Included in the later *Dhammathats*, but as usual with these *Dhammathats*, only a bare synopsis was given.

LAW POINT INVOLVED: Consequences of Partnership.

## 28. A DIVISION OF CATTLE

IDENTIFICATION: Not included in any *Pyat-htons* or *Dhammathats*.

LAW POINT INVOLVED: Consequences of Partnership.

SPECIAL FEATURES: Contrast this with No. 29.

### 29. ANOTHER DIVISION OF CATTLE

IDENTIFICATION: Included in later *Dhammathats*, but as usual, only a synopsis was given.

LAW POINT INVOLVED: Consequences of Partnership. Actually in this tale, no partnership was involved, but by contrasting this tale with the previous one (No. 28), the consequences of partnership were further illustrated.

SPECIAL FEATURES: Contrast this with No. 28.

### 30. THE ELEPHANT-DRIVER WHO LOST HIS ELEPHANT

IDENTIFICATION: Not included in any *Pyat-htons* or *Dhammathats*.

LAW POINT INVOLVED: Rights of a Creditor.

### 31. THE CUCKOO AND THE CROW

IDENTIFICATION: Not included in any *Pyat-htons* or *Dhammathats*.

LAW POINT INVOLVED: Liability of a surety to discharge a debt when the debtor could not be found.

SPECIAL FEATURES: A humorous version of this tale exists as a folk-tale 'Why the Crow looks after the Cuckoo's Eggs'.

### 32. CREDITOR AND DEBTOR

IDENTIFICATION: Included in the *Dhammavilasa* and the later *Dhammathats*, and decision attributed to Manu.

LAW POINT INVOLVED: The actual value of a debt should be determined in special circumstances.

### 33. A MAT AGAINST ONE HUNDRED BASKETS OF PADDY

IDENTIFICATION: Not included in any *Pyat-htons* or *Dhammathats*.

LAW POINT INVOLVED: Consequences of compounding a debt.

### 34. THE GREEDY STALL-KEEPER AND THE POOR TRAVELLER

IDENTIFICATION: Not included in any *Pyat-htons* or *Dhammathats*.

LAW POINT INVOLVED: Some 'things' cannot be bought and sold.

SPECIAL FEATURES: A version of this tale exists as a proverbial tale explaining the origin of the following saying:

'Fed but not eaten,  
Given but not received.'

### 35. THE TWO CAPTAINS

IDENTIFICATION: Not included in any *Pyat-htons* or *Dhammathats*.

LAW POINT INVOLVED: A fair exchange of goods constituted a sale.

### 36. THE IRATE WIFE

IDENTIFICATION: Included in the *Princess Learned-in-the-Law Pyat-hton*.

LAW POINT INVOLVED: Directness of damage, and joint responsibility in torts.

### 37. THE FOUR SCHOLARS WHO WERE KILLED BY A BOAR

IDENTIFICATION: Not included in any *Pyat-htons* or *Dhammathats*.

LAW POINT INVOLVED: Directness of damage, and joint responsibility in torts.

### 38. THE FOUR SCHOLARS WHO WERE KILLED BY A TIGER

IDENTIFICATION: Not included in any *Pyat-htons* or *Dhammathats*.

LAW POINT INVOLVED: Directness of damage, and joint responsibility in torts.

### 39. THE CHIEF MINISTER WHO LOST HIS WIFE

IDENTIFICATION: Not included in any *Pyat-htons* or *Dhammathats*.

LAW POINT INVOLVED: Negligence on the part of the victim.

### 40. THE OWL, THE SQUIRREL AND THE FROG

IDENTIFICATION: Included in later *Dhammathats* (as a synopsis) and decision attributed to Manu.

LAW POINT INVOLVED: Liability for damage to be apportioned among joint tort-feasors.

### 41. POISONED MUSHROOMS

IDENTIFICATION: Not included in any *Pyat-htons* or *Dhammathats*.

LAW POINT INVOLVED: Negligence on the part of the victim.

SPECIAL FEATURES: Just as a Burmese employee often offered some presents to the employer as a token of gratitude, so a Burmese debtor often offered presents to the creditor.

### 42. THE COLLISION ON THE BRIDGE

IDENTIFICATION: Included in later *Dhammathats* (as a synopsis) and decision attributed to Manu.

LAW POINT INVOLVED: In all cases of damage caused by a collision (of people, carts, and boats), liability was with the 'stronger' party, who should have given way to the other. When the parties were of equal 'strength', the one carrying less valuable goods would be liable as he should have given way.

### 43. THE BEE-HUNTER AND THE ELEPHANT-DRIVER

IDENTIFICATION: Not included in any *Pyat-htons* or *Dhammathats*.

LAW POINT INVOLVED: Liability for damage to be apportioned among joint tort-feasors.

## 44. THE WOODSMAN WHO COUGHED

IDENTIFICATION: Not included in any *Pyat-htons* or *Dhammathats*.

LAW POINT INVOLVED: The ground of liability in torts was a deviation from normal behaviour, but behaviour which would be normal in a town, would not necessarily be normal in a forest.

## 45. THE YOUNG MAN AND THE LOST COW

IDENTIFICATION: Not included in any *Pyat-htons* or *Dhammathats*.

LAW POINT INVOLVED: A person was liable for the consequences of his abnormal behaviour.

## 46. THE OLD COCK AND THE YOUNG COCK

IDENTIFICATION: Included in later *Dhammathats* (as a synopsis), and decision attributed to Manu.

LAW POINT INVOLVED: In an unequal combat, damage was presumed to have been caused by the 'stronger' party, but the contrary could be proved.

## 47. THE SQUIRREL AND THE RAT

IDENTIFICATION: Included in later *Dhammathats* (as a synopsis), and decision attributed to Manu.

LAW POINT INVOLVED: Liability for animals, whether dangerous or domesticated.

## 48. THE TODDY FRUIT

IDENTIFICATION: Included in later *Dhammathats* (as a synopsis), and decision attributed to Manu.

LAW POINT INVOLVED: The chain of causation following the wrongful action of the tort-feasor could be broken by an intervening incident.

## 49. THE RICH MAN WHO BECAME A BEGGAR

IDENTIFICATION: Included in the *Dhammavilasa Dhammathat*, and decision attributed to a king of ancient India.

LAW POINT INVOLVED: A son would lose his right of inheritance

if he treated his father with contempt and cruelty. Later *Dhammathats* coined the phrase 'Dog-Son' or 'Dog-Heir' to describe such sons (and daughters). It should be noted, however, that the right of inheritance of a son (or a daughter), was almost an absolute one, and to lose it, he would have to be guilty of wanton, wicked and cruel behaviour towards his parents, and habitual disobedience alone would not make him a Dog-Son.

### 50. THE RICH MAN'S SON WITH A RUBY RING

IDENTIFICATION: Included in the *Dhammavilasa Dhammathat*, and decision attributed to the Dipankara Buddha.

LAW POINT INVOLVED: (a) A gift normally could not be revoked, and the legal title of the gifted property passed to the donee. (b) A stranger normally could not inherit, but if he had nursed the deceased with loving care and had later given him honourable burial, he would be entitled to inherit.

### 51. THE SNAKE WHO CLAIMED HIS SHARE

IDENTIFICATION: Included in the *Dhammavilasa Dhammathat*, and decision attributed to a king of ancient India, who lived during the time of the Dipankara Buddha.

LAW POINT INVOLVED: Right of inheritance of a son (or a daughter) was an absolute right (subject, of course, to the rule regarding Dog-Son).

### 52. RICHMAN'S SON AND HIS THREE WIVES

IDENTIFICATION: Included in the *Princess Learned-in-the-Law Pyat-hton*.

LAW POINT INVOLVED: Marriage and Divorce.

### 53. MISTRESS MONEY AND THE LAZY FOOTMAN

IDENTIFICATION: Included in the *Princess Learned-in-the-Law Pyat-hton*.

LAW POINT INVOLVED: (a) Adultery, (b) the right of the court to examine witnesses apart.



#### 54. THE YOUNG MAN WHO CHANGED SEX

IDENTIFICATION: Not included in any *Pyat-htons* or *Dhammathats*.

LAW POINT INVOLVED: A child born in wedlock was presumed to have been begotten by the husband, and this presumption could not be rebutted.

#### 55. THE POOR SCHOLAR AND THE ALCHEMIST

IDENTIFICATION: Not included in any *Pyat-htons* or *Dhammathats*.

LAW POINT INVOLVED: No actual law point was involved, although the case in Burmese law would be described as a matrimonial suit. The Princess merely solved a problem.

#### 56. THE LADY AND HER TWO LOVERS

IDENTIFICATION: Included in later *Dhammathats* (as a synopsis), and decision attributed to Manu.

LAW POINT INVOLVED: A question of paternity.

#### 57. THE ADULTEROUS CROW

IDENTIFICATION: Not included in any *Pyat-htons* or *Dhammathats*.

LAW POINT INVOLVED: The right of a husband to kill the paramour of his wife (see Commentary on No. 19).

SPECIAL FEATURES: A version of the story exists as a folk-tale, entitled 'The Crow's-Leg Plant', which explains that a plant known in Burmese as 'Crow's-Leg Plant' obtained its name from the fact that it originally grew out of the grave of the adulterous crow.

#### 58. THE HUSBAND WHOSE WIFE WAS UNFAITHFUL

IDENTIFICATION: Not included in any *Pyat-htons* or *Dhammathats*.

LAW POINT INVOLVED: Payment by the adulterer to the joint

estate of the wife and the husband, even without the knowledge of the husband, constituted a valid defence against a claim for compensation for adultery.

### 59. THE KING WHO ELOPED WITH THE WIFE OF HIS SLAVE

IDENTIFICATION: Included in the *Dhammavilasa* combined with No. 19, and decision attributed to Manu.

LAW POINT INVOLVED: All the property of a slave belonged to his master.

SPECIAL FEATURES: The Burmese lawyer was an officer of the court, but he received fees from his client according to a scale. In addition, it was customary for him to receive presents from his client.

### 60. THE RICH MAN WHO DIED BY PROXY

IDENTIFICATION: Not included in any *Pyat-htons* or *Dhammathats*.

LAW POINT INVOLVED: Although a master owned all the property of his slave, an agreement between a master and his slave was binding on both.

### 61. THE GOD WHO LOST HIS TREE

IDENTIFICATION: Included in the later *Dhammathats*, and decision attributed to Manu.

LAW POINT INVOLVED: Adverse possession and limitation. The period of limitation in Burmese law was ten years.

### 62. THE CASE OF THE SMALL CUCUMBER

IDENTIFICATION: Included in the *Dhammavilasa* and later *Dhammathats*, and decision attributed to Manu.

LAW POINT INVOLVED: Ownership of property.

### 63. THE TIGER AND THE CAT

IDENTIFICATION: Not included in any *Pyat-htons* or *Dhammathats*.

LAW POINT INVOLVED: A gift could be revoked in very special circumstances.

SPECIAL FEATURES: A version of the story exists as a folk-tale entitled, 'Why the Tiger is so bitter against the Cat'. In the folk-tale, the Tiger did not go to law but swearing revenge had been chasing the Cat up to the present day.

This law tale illustrates the special relationship between teacher and pupil in Burmese society. The same relationship existed between craftsman and apprentice, for the craftsman was in reality teaching his trade to the apprentice.

#### 64. THE BOATMASTER AND THE BOATMAN

IDENTIFICATION: Not included in any *Pyat-htons* or *Dhammathats*.

LAW POINT INVOLVED: Wagering contracts.

SPECIAL FEATURES: A version of the story exists as a folk-tale. In the folk-tale, it was the boatman himself who made the wager regarding the pig's trotters.

#### 65. MAKE BELIEVE TALES

IDENTIFICATION: Not included in any *Pyat-htons* or *Dhammathats*.

LAW POINT INVOLVED: Wagering contracts.

SPECIAL FEATURES: A version of the story exists as a folk-tale. In the folk-tale, the parties did not go to law.

#### OF THE 65 TALES IN THIS COLLECTION:

1. Included in the <i>Princess Learned-in-the-Law Pyat-hton</i>	9	tales
2. Included in <i>Dhammavilasa</i> only . . . . .	5	
3. Included in later <i>Dhammathats</i> only . . . . .	9	
4. Included in both <i>Dhammavilasa</i> and later <i>Dhammathats</i>	5	
5. Not included in any <i>Pyat-htons</i> or <i>Dhammathats</i> . . . . .	37	
	<hr/>	
Total . . . . .	65	tales

## *The Tales*

## I

### *Tiger as Judge*

ONCE THERE WAS A JACKAL and he had a wife. They were happy for some years, and they had three little jackals, two female and one male. But afterwards Master and Mistress Jackal could not agree in many matters, and they decided to part. The father took one little she-jackal, and the mother took the other, but they quarrelled over the little he-jackal. 'I am the father and I trained him', argued Master Jackal, 'and so I am entitled to have him.' 'On the contrary', replied the mother, 'I gave birth to him and I fed him with the milk of my breast.' They could not come to an agreement, and so they went to the Tiger and asked him to decide their dispute.

'Ho! ho!' laughed Judge Tiger. 'It is a simple case. Does not the law say that when a husband and his wife part, the family property should be equally divided?' So saying, he seized hold of the little he-jackal and tore it in two. Then he gave one half of the little body to Master Jackal and the other half to Mistress Jackal.

My Lord Justices, do not decide as Judge Tiger did in cases that come up before you. The law must be strictly interpreted, but, at the same time, you must see that your decision does not impose unnecessary hardship on the litigants.

## 2

### *Rabbit as Judge*

MASTER OTTER AND MASTER JACKAL lived near a river, and after some time, they decided to form a partnership. They agreed that they would pool all the food each was able to gather, and then would carefully share it at the end of the day. The first day Master Otter caught some shrimps and Master Jackal gathered

some bananas. At close of day, the food was shared equally, and the two partners were satisfied. On the second day, Master Jackal gathered some bamboo-shoots, but Master Otter had an off day and caught nothing. Faithful to the agreement, Master Jackal shared the bamboo-shoots with Master Otter. On the third day, the Jackal could not find anything, but the Otter caught a fat gudgeon.

Master Otter was greedy. 'I will cut the fish into four equal parts. I will then take the head and the belly, and you can take the rest.' 'Be fair', replied Master Jackal. 'I shared the bamboo-shoots with you yesterday.' 'I am sharing the fish also', argued Master Otter. 'You will get two pieces and I shall get two pieces.' 'But you intend to take the two tastier parts', protested Master Jackal. 'Remember that it was I who caught the fish', boasted Master Otter. After a long argument, the two partners went to the Wise Rabbit and asked him to settle their dispute.

Judge Rabbit took a sharp stone, and cut the gudgeon into two halves, from head to tail. 'Now both of you shall eat the fat belly', explained the Judge, 'and both of you shall eat the tasteless tail.' The two animals went away satisfied and lived in accord for many years.

My Lord Justices, try to imitate the Wise Rabbit in giving your decisions. Apply the law strictly, but let both parties leave the court well satisfied.

### 3

## *The Young Scholar who was Afraid to be Buried*

AFTER THREE YEARS of arduous study at a University in a foreign country, the Young Scholar arrived back at his home, and his rich parents found for him a bride of great beauty and great wealth. For some weeks, he found life pleasant and happy, but suddenly he was stricken with fever and, in spite of the efforts

of the best physicians, he lay on the point of death. Turning to his young wife, he said, 'Beloved, I am not afraid to die, but I am afraid to be buried and I am afraid to be cremated. So, if you love me truly, wrap my dead body in a mat, and leave it at the cemetery.' He died soon after, and his sorrowing wife, in spite of the protests of his parents, followed his instructions to the letter, and left the dead body at the cemetery, wrapped in a mat. That night, two Ogresses wandered about the cemetery, discussing various matters of mutual interest. 'Oh, oh', exclaimed the first Ogress, 'the wind that blows at midnight is so cold.' 'Do not be silly', said the second Ogress, 'it is the wind that blows at dawn which is really cold.' That remark led to a heated argument as to which wind was colder, and finally the Ogresses decided to make one of the dead bodies in the cemetery come to life again. They looked round, and were very pleased to find the dead body of the Young Scholar, because they were not put to the trouble of having to dig up a grave to find a dead body. They made the Young Scholar come to life again by means of their magic and asked, 'If you value your newly-restored life, tell us which is colder, the wind that blows at midnight or the wind that blows at dawn.' 'Both of you are wrong', answered the Young Scholar, 'for both the winds are equally cold.' The two Ogresses frowned and shook their fists at the Young Scholar. Unperturbed, the Scholar said, 'Both of you are right, because both the winds are equally cold.' The two Ogresses smiled, called him a wise judge, and digging up from the ground two pots of gold, gave them to the Young Scholar. So, when the next day dawned, the Young Scholar, carrying the two pots of gold on his shoulders, returned to his obedient wife, and together they lived in happiness until they were one hundred and twenty years old.

My Lord Justices, when a judge gives his decision, he does so without any fear or favour. However, he must give his decision, not in harsh words, but in gentle words. In the case of the Young Scholar, his first and second decisions were in effect the same, but please note that when he said that both were wrong, the Ogresses were angry, but when he said that both were right they were pleased. A wise judge is firm, but at the same time he is gentle.

## 4

*The Drum of Justice*

ONCE THERE LIVED A KING who ruled over not only human beings but animals also. He was a just King, and in front of his palace there was placed a huge drum, on which were inscribed the words, 'Anyone who is dissatisfied with my judges and demands justice from me, let him beat on this drum.' The fame of this Drum of Justice spread far and wide, and after a few years the people and the animals themselves became fair and just, so that disputes were very few, and the King's Peace was seldom broken. One morning, as the King sat in audience with his ministers, he was informed by a maid of honour that his Southern Queen had given birth to a son, and he announced joyously, 'He shall be King in my place.' A few minutes later, he was informed by another maid of honour that his Northern Queen had given birth to a son. 'He shall be Crown Prince to his Brother', proclaimed the King joyously. The two Princes were brought up together in a golden tower, instructed by many tutors in the various arts which all princes had to master before they could become kings. As they approached the age of eighteen, their father, the King, announced that on the day they would attain the age of eighteen years, he would renounce the throne to retire to the forest as a hermit, leaving the Elder Prince as King and the Younger Prince as Crown Prince. So when that day dawned, the two Princes, dressed in full regalia, rode in a golden chariot along the streets of the golden city heading towards the golden palace. The sun shone too brightly, and the Elder Prince aimed an arrow at the sun and said loudly, 'Is the sun more powerful than my father that he shines too brightly above us?' 'My young lord,' soothed an attendant, 'the sun is your ancestor and so lower your bow, and kneel down and worship.' The Elder Prince, satisfied with this answer, lowered his bow and knelt and worshipped the sun. A few moments later, a Crane flew high above and the Younger Prince, saying that surely the Crane should not be above them, shot and killed it with an arrow. The Widow of the Crane, sad and indignant at this wanton breach of the King's Peace, went and reported the



matter to the Judges who, however, refused to take any action, saying to themselves, 'After all, it is only a Crane and the Prince will be Crown Prince within an hour.' The Widow Crane in despair beat the Drum of Justice with her beak, and the King, on hearing the sound of the Drum, held an inquiry, and after listening to witnesses, asked the Widow Crane, 'What redress do you desire?' 'Just as my poor husband lay on the ground covered with blood', replied the Widow Crane, 'his murderer shall lie on the ground covered with blood.' The King, although his heart was broken, ordered the Younger Prince to be executed that very day. 'My Lord, if my Brother is guilty', interceded the Elder Prince, 'I am guilty also, because I set him a bad example by aiming an arrow at the sun.' 'But I cannot pardon him, my beloved son', replied the King. 'Let me be executed along with him', pleaded the Prince, 'because on my own confession, I am an abettor of his crime.' The King finally had to agree.

As the sun was setting that evening, outside the Western gate, the executioners stood ready with their swords drawn astride the two Princes, bound and helpless. At their feet, the Southern and the Northern Queens wept, offering all their jewels and golden ornaments and begging them to disobey the King on this occasion. Thousands of people stood by and watched the scene. The sun now disappeared under the horizon and the executioners, refusing the gifts offered by the Queens, raised their swords, but at that moment, the people rushed in and disarmed the executioners. 'The King will now kill us', bewailed the executioners, 'because the Widow Crane is sure to go and sound the Drum again.' But the people did not care and gave the executioners some blows on their noses, until blood spurted out, and fell on the two Princes. Then an executioner had a bright idea and begged every one to leave them alone with the Princes for some time, so that the Widow Crane would be satisfied, on their solemn promise not to harm the Princes in any way. The Queens and the people withdrew some distance, and soon the Widow Crane appeared flying among the clouds, and then she came down and flew in circles above the heads of the executioners. She saw the two Princes lying on the ground covered with blood, and feeling that her husband's death had been fully avenged, flew away, never to return to the golden city.

My Lord Justices, sometimes the letter of the law may prove to be too harsh as in the case of the Younger Prince who was sentenced to death for killing a Crane. In addition, remember that the aim of justice is to give satisfaction to all parties, so that the King's subjects may live in accord and harmony.

## 5

*A Kingdom Lost for a Drop of Honey*

THE KING AND HIS CHIEF MINISTER were in a merry mood as they stood by the palace window, eating roasted rice and honey. They laughed so much that they spilled some honey on the window-sill. 'We have spilled some honey, Your Majesty', said the Chief Minister. 'Let me wipe it off.' 'My dear Lord,' laughed the King, 'it is beneath your dignity to do it, and if we call a servant to wipe it away, he will disturb our pleasant conversation. So let the spilt honey alone.' They went on eating and laughing while a drop of honey trickled down the window-sill on to the street below. 'Look, Chief Minister,' said the King, 'a drop of honey has fallen on the street and a fly is now feasting on it.' The Chief Minister looked and saw a spider pouncing on the fly. The King also looked down and saw the spider caught and swallowed by a house-lizard. However, the King continued to eat and laugh with the Minister and soon both saw the lizard eaten up by a cat. Then they noticed that a dog had appeared on the scene and was attacking the cat. But they went on laughing and eating and they did not pause even when they saw the owner of the cat and the owner of the dog quarrelling and fighting. Soon friends of both parties joined in the fight. Still the King and his Minister continued to make merry. The fighting now spread to other streets and only then did the King and the Chief Minister shout out orders to the palace guards to quell the fighting. However, by that time, the palace guards themselves had joined the fray, as some of them supported the owner of the dog while others supported the owner of the cat. Within the next few hours, civil war had broken out, the city burnt and the

palace destroyed together with the King and the Chief Minister.

My Lord Justices, take note that there is no such thing as a minor dispute, and judges must not delay but deal with each dispute swiftly and promptly, no matter how trivial it may appear to be. Remember always, my Lords, the case of the kingdom which was lost because of a mere drop of honey.

## 6

*The Ardent Young Lover as Judge*

THE YOUNG MAN had been paying court to a beautiful young woman, and he was so ardent a lover that he did not notice the passing of time. It was now nearing midnight, and the young woman's parents in the back room were yawning noisily and coughing deliberately, to hint that the visitor had overstayed his welcome. 'I must go now, Fair Maiden,' sighed the ardent Young Man, 'but let me give you yet another proof of my love for you. As you know, to get back to my home, I will have to pass through the cemetery at midnight, and I would not have stayed so late if I did not love you.' Seen off to the gate by the young woman, he walked away into the darkness, with brisk and bold steps. However, as he approached the cemetery, he did not feel so courageous after all, and wished that he had not been so ardent and stayed so late at the young woman's house. Suddenly he saw two Ogresses, carrying a dead body on their heads, approaching him. 'Alas!' exclaimed the Young Man, 'I could have dealt with a ghost or even an evil spirit but I have no chance against two Ogresses.' To his relief, the Ogresses proved to be friendly. 'Welcome, Young Man,' they greeted him, 'welcome Young Judge! We found this dead body together, but both of us want to eat the upper portion, so tell us who is entitled to it.' 'Surely, one of you must have seen the dead body first?' asked the Young Man. 'We saw it together, we ran towards it together and we reached it at the same time', replied the Ogresses. The Young Man remained silent for a few moments and then regretted aloud that he did not have a knife on him to divide the body.

‘There is no need to cut it up yourself,’ said the two Ogresses, ‘just tell us how you will divide it and we will follow your advice.’ ‘Cut it in half from the head downwards’, instructed the Young Man, ‘and both of you will get an equal share of the upper portion.’ The two Ogresses were so pleased with his decision that they gave him two pots of gold which they found buried near the cemetery gates.

My Lord Justices, remember that a good judgement is not only correct in law but also restores harmony between the two disputing parties.

## 7

*The Three Faithful Lovers*

ONCE THERE WAS A RICH MAN, and he had an only daughter, whose beauty was so great that it made men dizzy. Many princes and commoners, rich men’s sons and poor men’s sons came to seek her hand in marriage, but the Rich Man said, ‘My daughter is young yet’, so all the suitors went away except three rich men’s sons. ‘Rich Man,’ said the three Young Men, ‘let us be your apprentices and serve you faithfully and well for three long years, and let us stay in your house and gaze sometimes on your daughter. When the three years of our apprenticeship are over, your beautiful daughter will be old enough to marry, and you will have known us long enough to choose one of us to be your son-in-law.’ The Rich Man was pleased with their suggestion, and so the three Young Men served him faithfully and well. However, as their third year of apprenticeship was drawing to a close, the Rich Man’s daughter suddenly died, leaving the father and the three lovers grief-stricken.

The First Young Man said to the Rich Man, ‘Sire, I have served you faithfully and well for three long years for love of your daughter. In return, may I be given the honour of being the chief mourner and paying and arranging for the funeral?’ The Rich Man agreed, and the First Young Man gave a fitting funeral. After the dead body of the young woman had been

cremated, the First Young Man said to the Rich Man, 'Sire, I have no desire for worldly riches or glory, now that your daughter is dead. I will become a wandering mendicant.' So he became a mendicant and went away. Then the Second Young Man said, 'Sire, I have served you faithfully and well for three long years for love of your daughter. In return, may I be permitted to pick up the bones of your daughter, and wear them in a bundle on my neck, in memory of her whom I have loved so long?' The Rich Man agreeing, he picked up the bones of the dead girl and putting them in a bundle, he hung the bundle on his neck. He then returned to his home. The Third Young Man then said, 'Sire, I have served you faithfully and well for three long years for love of your daughter. In return, may I be the watcher of your daughter's grave, that is, the place where she was burnt on a pyre?' The Rich Man agreeing, the Young Man became a grave-watcher and stayed with the grave-diggers of the cemetery.

Time passed. The First Young Man, wandering about the country as a mendicant, became friends with an Alchemist. One day, the Alchemist asked the Young Man, 'Friend, you wear the garb of a holy man, and yet you shed tears often. Tell me your secret trouble that I may help you.' 'My heart is deeply laden with sorrow', replied the Young Man, 'for I long to see my loved one who is dead.' 'Oh, is that all?' asked the Alchemist. 'Here is a pot of magic water. Place the bones of your beautiful one back on the spot where her body was cremated, and sprinkle the bones with this magic water.' The First Young Man in great joy took the pot of magic water, and after thanking the Alchemist, hastened back to the Rich Man. 'Sire,' he said to the Rich Man, 'where is the vault in which you keep your daughter's bones, and can you remember the exact spot in the cemetery where her body was burnt?' 'Young Man, her bones are on the neck of the Second Young Man, and the place where she was burnt has been carefully watched and guarded by the Third Young Man.' On hearing the words of the Rich Man, the First Young Man sent an urgent message to the Second Young Man who at once came in haste with the bones. The Rich Man and the two Young Men went to the cemetery, where they met the Third Young Man who showed the exact place where the body was cremated. Placing the bones on the spot, the First Young Man sprinkled the

magic water on them, and lo, the young woman stood there, happy and smiling.

'Sire,' pleaded the First Young Man, 'may I be chosen as your son-in-law, for I have the strongest claim to the hand of your daughter. Just as a father gives the supreme gift of life to his child, have I not given the supreme gift of life to your daughter?' 'Sire,' said the Second Young Man, 'may I be chosen as your son-in-law, for, just as a mother carries the child in her womb for many long months so as to make the child live, I have carried the bones of your daughter on my body. Had I not looked after the bones well, in spite of the First Young Man's acquisition of the pot of magic water, your daughter would have remained dead.' 'Sire,' claimed the Third Young Man, 'may I be chosen as your son-in-law, for had I not watched over the place where the body was burnt, the bones could not have been placed on the spot for the First Young Man to sprinkle his magic water over them. Sire, the First Young Man compares himself to a father, and the Second Young Man compares himself to a mother, but I compare myself to an ardent lover who watches over his sleeping mistress, and surely I have the strongest claim?' 'Lordlings,' replied the Rich Man, 'all three of you are dear to me, and all three of you have earned my everlasting gratitude. I do not know how to choose, nor can I judge who has the best claim. Go you to the Princess Learned-in-the-Law and let us agree to abide by her decision.'

So the three Young Men went to the Princess Learned-in-the-Law, and put forward their claims. The Princess, after pondering over the case, passed the following judgement:

'For the young woman to become alive again, three things were necessary, the magic water, the bones, and the exact spot in the cemetery where the body was burnt. The First Young Man acquired the magic water, the Second Young Man kept the bones in safe custody, and the Third Young Man watched over the spot. So all the three young men have equal claims, so far as the bringing back to life of the young woman is concerned.

Therefore, I shall apply another test and consider which of the three young men showed the greatest love for the young woman, *before she died*. All the three served the Rich Man faithfully and well for three long years as apprentices, although they were all sons of rich men. All showed great, but equal, love for the daughter.

Therefore, I shall apply another test and consider which of the three young men showed the greatest love for the young woman *after she died*. The First Young Man gave the young woman a fitting funeral, but what personal sacrifice did he make after the funeral? True, he became a wandering mendicant, but to become a holy man is to better oneself, and so the young man did not lose anything by becoming a wandering mendicant. The Second Young Man hung the bundle of bones on his neck, and in addition to the physical discomfort that he suffered, he exposed himself to the jeers of the mockers and the gaze of the curious. None the less, he remained a rich man's son. In contrast, the Third Young Man made a definite sacrifice to his dead love by giving up his place in society, for he became a *sandala*, a grave-attendant, a social outcast. The Third Young Man showed the greatest love, and to him the young woman must be given in marriage.'

## 8

*The Three Animal Litigants*

ONCE THERE WERE FOUR RICH MEN, and they loved each other dearly. Although they lived in different cities, they strove for each other's welfare. Time passed, and one of the four died, leaving an only son, who was but sixteen years of age. The widow said to the boy, 'Son, before you take over the estate of your father, go and visit your father's friends and get their advice and their blessing first.' So the Young Man went to the city where the first rich man was living, and when he approached the city, he met a man carrying a Dog. 'Hey, man,' said the Young Man, 'sell me your Dog for one hundred silver coins.' Of course, the man accepted the offer at once, and he sold the Dog to the Young Man, who sent an attendant home with the animal, to his mother. The rich man's widow was surprised to hear that her son bought a common dog for one hundred silver coins, but she thought to herself: 'My darling husband's friends must have advised him to buy, and there must be reason for their advice.'

So she looked after the Dog well. At the city where the second rich man was living, the Young Man met a man carrying a Cat. 'Hey, man,' said the Young Man, 'sell me your Cat for one hundred silver coins.' Of course, the man accepted the offer at once, and he sold the Cat to the Young Man, who sent an attendant home with the animal, to his mother. The rich man's widow was surprised that her son had bought a common cat for one hundred silver coins, but she thought to herself, 'My darling husband's friends must have advised him to buy, and there must be reason for their advice.' So she looked after the Cat well. At the city where the third rich man was living, the Young Man met a man carrying a Mongoose. 'Hey, man,' said the Young Man, 'sell me your Mongoose for one hundred silver coins.' Of course, the man accepted the offer at once, and he sold the Mongoose to the Young Man, who sent an attendant home with the animal, to his mother. The rich man's widow was surprised to hear that her son had bought a common mongoose for one hundred silver coins, but she thought to herself, 'My darling husband's friends must have advised him to buy, and there must be reason for their advice.' So she looked after the Mongoose well. However, as the Mongoose was not a domestic animal like the Cat and the Dog, the rich man's widow was frightened of the animal. The Young Man stayed on with the third rich man, and the rich man's widow became pale and wan in appearance as she lived in fear of the Mongoose. The venerable monk that came to her house every day for alms noticed her pale and lean appearance, and said, 'Laywoman, you are pale and lean, and something must be troubling your mind.' The rich man's widow replied that she lived in fear of the Mongoose. 'Laywoman,' advised the monk, 'surely your son loves you better than he loves his pet. So if the Mongoose frightens you, take the animal to the nearby forest and let him free.' So the rich man's wife fed the animal with specially rich food as a farewell feast and, taking the Mongoose to the edge of the forest, set the animal free. After some time, the Young Man returned, and with his mother and his dog and his cat, he lived happily.

One day, the Mongoose found a ring with a wishing ruby. The Mongoose thought to himself, 'My master, the rich man's son, bought me and then caused me to be set free. Although I am in the forest and he in the city, he is my master still, and I must



repay his kindness'. So he went to the city and to the house of the Young Man, and said, 'Master, here is a ring with the wishing ruby. I am still your faithful servant, and if you call me from the edge of the forest, I will always come to you.' Then the animal went back to the forest. The Young Man rubbed the ruby and said, 'I want a golden palace with golden spires', and lo, there appeared at once a golden palace with golden spires. The King of the city came and inspected the palace, and felt so pleased that he gave his only daughter in marriage to the Young Man. So the Young Man lived happily with his mother, his princess, his dog and his cat.

Now the King had among his advisors a Brahmin, who was also tutor to the princess, and the wicked Brahmin coveted the priceless ruby. One day, while the Young Man was away, the Brahmin said to the princess, 'Are you sure that your husband loves you?' 'Of course he does', replied the princess. 'I doubt it', said the Brahmin, 'and you ought to test him. After all, he ought to have given you the priceless ruby that he wears himself. Why not ask for it?' 'All right, then,' said the princess, 'I assure you that you will find me wearing the ruby ring tomorrow afternoon.' When the Young Man returned, the princess said to him, 'Dearest husband, if you love me, please give me your ring.' 'My dear,' replied the Young Man, 'I love you and the ring is yours. But as the ruby is a wishing ruby, be careful not to part with the ring, even for a few seconds.' The next day the Brahmin came and the princess, in great pride, showed him the ring. 'Indeed he loves you', said the Brahmin. 'What a lovely ring! May I see it against the light, as my eyes are dim with age?' The unsuspecting princess took off the ring from her finger and gave it to the Brahmin. The moment the ring was in his hands, the Brahmin shouted, 'I wish to be transformed into a raven', and lo, he became a raven. With the ring in his beak, the Brahmin in the form of a raven flew to the middle of an ocean. By wishing on the ruby, the Brahmin created a floating palace, and reassuming human form, he lived in it.

When the Brahmin in the form of a raven flew out of the window, the golden palace of the Young Man disappeared, and the princess was stricken with remorse at her foolish act. But the Young Man did not blame her and, pointing out that he was still a very rich person even without the ring, he soothed the

princess. The Cat overheard the conversation between the young man and the princess, and it said to itself, 'I must somehow recover the ruby for my kind master.' So the Cat went to a fairy pool where goddesses were in the habit of bathing, and when a beautiful goddess was in the water, the Cat stole her dress and hid it. When the goddess finished her bath, she discovered her loss, and noticing the Cat watching her, said, 'Cat, you must know where my dress is. It is of no use to any human being, but it is a grievous loss to me, for how can I go back without any clothes to the city of gods?' 'I will show you where your dress is hidden', replied the Cat, 'if you will tell me where the Brahmin minister of the King is now living, and if you will help me to get to him.' The goddess, knowing through her supernatural powers where the Brahmin was living, caused a strip of dry land to appear, connecting the floating palace with the shore. Thanking the goddess, the Cat showed her where her dress was hidden. The Cat then ran along the strip of dry land to the floating palace. Finding the Brahmin asleep with the ring under his pillow, the Cat stealthily but swiftly obtained possession of the ruby, and ran back to the shore. The floating palace disappeared, and the wicked Brahmin was drowned. The Cat gave back the ring to the Young Man, who wished again on the ruby for a golden palace with golden towers, and lived in it happily with his mother, his princess, his dog and his cat.

One night, five hundred thieves came to the palace with the intention of killing the Young Man as he lay asleep, and then taking possession of the ring. As they silently climbed up the golden stairs in the darkness, the Dog attacked them and bit the captain of the thieves on the throat so that he died. The other thieves ran away. The Dog then dragged the dead body of the captain of the thieves to the garden of the palace and threw it down a disused well. When morning came, the Dog quietly told the Young Man what had happened during the night, and showed him the dead body in the disused well. The Young Man thought to himself, 'In my foolishness I bought three common animals at very high prices, and in return each of the three has served me well. I must show my gratitude to them.' So he went to the edge of the forest, and called for the Mongoose. When the Mongoose came, the Young Man asked the animal to come back to the city to live with him. The Mongoose agreed joyfully. The

Young Man put the three animals in little golden houses, and fed them with the choicest of food.

Whenever a dish of food was placed before the animals, there was a heated dispute among them as to who should be the first to eat out of the dish. 'I am the source of our master's happiness', claimed the Mongoose, 'for it was I who first found the ruby ring and gave it to him.' 'But it was stolen by the Brahmin', argued the Cat, 'and it was I who got it back for him.' 'But the ring would have been stolen again', disputed the Dog, 'and it was I who prevented the theft.' After heated debate, they decided to take their case to the Princess Learned-in-the-Law, who passed the following judgement:

'The Mongoose gave the ruby ring to the Young Man, and the Cat recovered the ruby ring for him. But the Mongoose found the ring just by accident, whereas the Cat had to make a great effort to get back the ring. Therefore, between the Mongoose and the Cat, the Cat has the better claim.

The Cat recovered the ruby ring by a display of sagacity and courage. The Dog prevented the theft of the ring by a display of sagacity and courage also. But the Cat only recovered the ring for the Young Man, whereas the Dog prevented the theft of the ring and also saved the life of the Young Man. Therefore, between the Cat and the Dog, the Dog has the better claim. So, when a dish of food is set before them under the orders of the Young Man their master, the Dog will eat first, the Cat second, and the Mongoose last.'

After passing judgement, the Princess advised the animals not to think too much of their rights, as they had proved themselves even better than some human beings, for they had thought more of their duties and had served their master well. The three animals returned to their master and lived in concord among themselves.

## 9

### *The Promise*

ONCE UPON A TIME the beautiful daughter of a Rich Man was studying at a University. She was a most assiduous scholar and

one day as she sat by the window of the classroom inscribing on a palm leaf with a stylus a valuable formula which the learned Teacher was reciting to the class, the stylus slipped through her tired fingers and fell through the window on to the ground. She thought that it would be disrespectful to the Teacher to ask him to pause, but if she left her seat to pick up the stylus, she would have missed the formula. While she was in that dilemma, a fellow-student passed by her window and she begged him in a whisper to pick up the stylus for her. Now the passer-by was a King's Son and a mischievous youth. In fun he replied, 'Promise me that you will offer me your First Flower on the First Night.' The Girl, engrossed in the Teacher's formula, comprehended at that moment only the word 'flower' and nodded. He forgot his joke in a short time, but thinking over the incident, the Girl comprehended later the full meaning of the Prince's words but thought no more of them and hoped that the words were said in fun.

At the end of their respective studies in the University, the Prince returned to his kingdom and soon after succeeded to his father's throne, and the Girl returned to her home in a neighbouring kingdom and soon after she married a Rich Man's Son. On the night of the wedding, her memory flew back to the incident of the stylus, and troubled by her conscience she confessed to her husband of her promise but expressed the belief that the young man was only joking. 'My dear,' replied the Husband, 'it is for him to say whether it was a joke or not. A promise made in honour must never be broken.' The Girl, after making obeisance to her husband, started at once on a journey to the neighbouring kingdom to fulfil her promise to the King if he should exact such fulfilment.

As she walked alone in the darkness, a Robber seized hold of her and said, 'What woman is this that walks in the night, bedecked with gold and jewels? Surrender me your jewels, and your silken dress.' 'Oh, Robber,' replied the Girl, 'take my jewels, but leave me my silken dress, as I cannot enter the King's palace, naked and ashamed.' 'No,' said the Robber, 'your silken dress is as precious as your jewels. Give me the dress also.' The Girl then explained to the Robber the reason why she was travelling all alone in the dark. 'I am impressed with your sense of honour,' said the Robber, 'and if you will but promise to return here after giving the First Flower to the King, I shall let

you go.' The Girl made the promise, and was allowed to continue her journey. She walked on until she passed under a banyan tree. 'What woman is this, that is so fresh and tender and yet walks alone at night?' said the Ogre of the tree. 'I will eat you up, as all those who pass under my tree during the hours of darkness belong to me.' 'Oh, Ogre,' pleaded the Girl, 'please spare me, for if you eat me now, my promise to the Prince will ever remain unkept.' After she had explained the purpose of her journey by night, the Ogre said, 'I am impressed by your sense of honour, and if you will but promise to return here after you have met the King, I will let you go.' The Girl made the promise and she was allowed to continue her journey.

At last, without further adventure, she arrived at the city and was soon knocking at the gates of the King's palace. 'What manner of woman are you?' asked the palace guards. 'What mean you by coming to the palace and demanding entry at this hour of midnight?' 'It is a matter of honour', replied the Girl. 'Please go and tell my lord the King that his fellow-student at the University has come to keep her promise.' The King, hearing the commotion, looked out of his bedroom window, and saw the Girl standing in the light of the torches of the guards, in the full bloom of her beauty. He recognized her and desired her, but when he had heard her tale he admired her for her loyalty to her oath, and her courage in facing all dangers and difficulties to keep her promise. 'My friend,' he said, 'you are a marvellous woman, for you prize your honour even above maidenly modesty. Your promise was demanded by me as a jest and I had forgotten it. So return you to your Husband.' So the Girl went back to the Ogre of the banyan tree, and said, 'Oh, Ogre, eat my body, but after eating, take my silken dress and my jewels, and give them to the Robber who is waiting for me only a few yards from here.' The Ogre said, 'Friend, you are a marvellous woman for you prize your honour even above your life. You are free to go, as I absolve you from your promise.' The Girl went back to the Robber, and said, 'Oh, Robber, take my jewels and my silken dress. Although I shall have to go back to my Husband naked and ashamed, the servants will let me in, for they will recognize me.' The Robber replied, 'Friend, you are a marvellous woman, for you prize your promise above jewels and fine dresses. You are free to go, as I absolve you from your promise.' So the Girl

returned to her Husband, who received her with affection and regard, and they lived happily ever after.

My lord justices, of these four noble beings, the Husband, the Robber, the Ogre, and the King, whom do you consider the most noble? This problem will give you an exercise to train you to come to a decision in complicated cases that must come up to you from time to time. The Husband, on his wedding night, was noble and allowed the Girl to go to the King to keep her promise. The King, in nobleness and magnanimity, absolved the Girl of her promise, although he became drunken with her beauty and desired her. The Ogre saw that the Girl's flesh was plump and tender, and yet he refrained from eating her. The Robber had in his grasp untold riches in the form of the jewels and the silken dress which the Girl was wearing, but he did not take anything, but let her go. Of these four, I ask you again, who was the most noble? In my opinion, my lord justices, the Robber was the most noble. Compared to greed, lust and hunger for food are easier to control, and so the Robber had the most difficult task in controlling his greed.

## IO

### *The Daintiest of Women and the Ablest of Men*

ONCE THERE WAS A KING, and he had a very handsome son and a very beautiful daughter. The Kings of the neighbouring countries offered their daughters for marriage to the young Prince, and the Princes of the neighbouring countries offered themselves for marriage to the young Princess. The King did not want to make a random choice, and so he announced that the daintiest of women would be chosen as the bride for the young Prince, and the ablest of men as the bridegroom for the young Princess.

There were many claimants, and finally three Princesses, and four Princes, heirs to kingdoms, were chosen as dainty women and able men.

The First Princess was so dainty that the glare from the marble flooring of the palace caused her to fall into a faint. The Second Princess was so dainty that the feel of the moonlight falling on her flesh made her faint. The Third Princess was so dainty that the sweet smell from the blue-brown lily flower made her faint.

The First Prince was well-trained in arms and had won high honours on the battlefield. The Second Prince was able to restore the dead to life, as he was a great master of magic, white and black. The Third Prince was a subtle alchemist, and could transmute base metals into gold. The Fourth Prince was a great scholar who could recite and explain all the religious writings of the country.

As the three Princesses were so dainty, and as the four Princes were so able, the King was unable to make the final choice, and so he appealed to the Princess Learned-in-the-Law to make the choice on his behalf. The Princess decided as follows:

‘All the three Princesses are worthy to be the consort of the handsome Prince, for they are all dainty. However, as only one can marry him, I must make my choice. The First Princess has a very dainty sense of sight, for even the soft light from the marble flooring caused her discomfort. The Second Princess has a very dainty sense of touch, for even the soft rays of the moon falling on her body made her faint. The Third Princess has a very dainty sense of smell, for even the sweet smell of the lily flower made her faint. Lords and Dames, among human beings the sense of touch and the sense of sight are well developed, but not the sense of smell. Therefore, to have a dainty sense of smell is a rare thing, and the Third Princess is chosen as the bride for my Prince.

All the Princes are able, and well qualified to rule over their respective kingdoms, and to be the consort of the beautiful Princess. However, as only one can marry her, I must make my choice. The Second Prince is a master of magic, and to be able to restore the dead to life is a wonderful thing. Doubtless he will be able to make his kingdom the most populous in the world, but mere numbers is not enough. How will he clothe his people and feed his people and arm his people, without wealth? The Third Prince is a master of alchemy and can transmute base metals into gold. Doubtless he will fill the treasuries of his Kingdom, but how will he protect his wealth, which must ever be

a source of temptation to other kings? The Fourth Prince is a learned scholar, and is a doctor of divinity and a master of literature. But, like a frog in a deep well, his interest is a narrow one, and his domain is the library with its dull and dusty manuscripts. Doubtless he can preach to his people to be good and pious, but can piety alone save a country from its enemies? Doubtless he will go to the abode of the gods when he dies, and doubtless he can show his people the way to paradise. But as king, he must also be able to look to this world, as different from the next. In contrast, the First Prince is an able soldier, and he will be able to guard his kingdom from its enemies, to suppress robbers and thieves, and to enforce discipline and order among his people. A king's primary duty is to keep the peace for his people both at home and abroad. And to the First Prince, my Princess shall be given in marriage.'

## II

### *The Three Mighty Men of Valour*

ONCE THERE WAS A KING'S MINISTER who had a very beautiful daughter. Many came to seek her hand, but the Minister insisted, 'Only the bravest of the brave shall take my daughter to wife.' At last, three Mighty Men of Valour from three different countries arrived, and each claimed that he was the bravest of the brave. To the First, the Minister said, 'Go you to our neighbouring kingdom and bring me the king's head within seven days.' To the Second, the Minister said, 'Go you to the neighbouring forest, and bring me the head of the man-eating ogre within seven days.' To the Third, the Minister said, 'Go you to the neighbouring island, and bring me the head of the fire-breathing dragon within seven days.' The three mighty men went forth, and well within seven days, each came back with his particular head. The Minister was unable to decide who had won his daughter, and so the three heroes took the matter to the Princess Learned-in-the-Law. The Princess gave the following judgement:

'Lordlings, all of you have been brave, and all of you are



indeed the bravest of the brave. But the Minister's daughter unfortunately cannot marry you all and can marry only one of you. As all the three missions were of equal difficulty and equal hazard, priority can be only in point of time. Who, among you, was the first to reach the Minister's house with his head? *He* shall marry the beautiful maiden.'

## 12

*East and West*

A MERCHANT had a beautiful daughter, and many young men came and asked for her hand, but he always gave the excuse, 'She is my only child and I cannot bear to give her to anyone. Moreover, she is still very young.' Two ardent young men, however, refused to be discouraged by these words. One of the two lived in a city exactly seven leagues away to the east, and the other lived in a city exactly seven leagues away to the west. Every day at dawn, they left their homes in their respective cities and they reached the Merchant's house together some time before noon; then they helped in the Merchant's shop as mere apprentices, leaving for their homes at dusk. This happened for three full years. Then the Merchant said, 'Both of you are really ardent, but I can give my daughter only to one of you. So I must make inquiries regarding your family, your character, and your wealth.' After due inquiry, to the surprise of all, it was found that both the young men were equal to each other in everything. Both were equally rich, both were equally noble, both were equally handsome; they were of the same stature and of the same strength; and they were born on the same day and at the same hour. So the two young men went before the Princess Learned-in-the-Law.

The Princess, after listening to witnesses, passed the following judgement:

'The two ardent lovers are equal in age, character, wealth, and so on. So, let us consider who has been more ardent. They left their homes at dawn every day, walked the same distance, reached the Merchant's house together at the same hour, and they stayed until nightfall. So they were equally ardent. But, let us pause a

little. One lives in a city west of the Merchant's house and the other in a city east of the Merchant's house. That means that the one who lives to the west has to travel facing the rising sun, and the other who lives to the east has to travel with the rising sun behind him. Therefore, the one who has to travel facing the rising sun feels the heat and the glare, and thus he is the more ardent one. So he shall have the Merchant's daughter.'

### 13

## *The Four Observant Scholars*

ONCE THERE WERE THREE KINGDOMS which neighboured each other. Four Scholars who belonged to the first kingdom had been studying in a University in the third kingdom, and were returning to their homes through the second kingdom. As they walked leisurely across a forest glade, they found some retainers of the King following some hoof marks of an animal. As the retainers carried no weapons, the Scholars at once knew that they were trying to recapture some pet animal of the King, which had strayed. The first Scholar, who was a King's Son, shouted to the retainers, 'You are looking for a tame deer.' The second Scholar, who was the Son of a Chief Minister, remarked, 'It is a female.' The third Scholar, who was the Son of a Rich Man, said, 'It is big with child.' The fourth Scholar, who was the Son of a Royal Tutor, announced, 'It is blind in the right eye.' The King's retainers were at first astonished, because the descriptions fitted the lost deer. Then they suspected that the four young Scholars had slain and eaten the missing deer, and so they took the young men to the King.

'Your Majesty,' pleaded the young men, 'we are Scholars returning to our own country, and we have not eaten your deer. In fact, we have never seen the animal.' 'Then how did you know that it was a doe, big with child and blind in the right eye?' asked the angry King. 'I knew that it was a deer', explained the first Scholar, 'by observing the hoof mark.' 'I knew that it was a female', explained the second Scholar, 'by observing the pattern of the urine stains on the ground.' 'I knew that it was with child',

explained the third Scholar, 'by observing that the hoof marks of the hind legs were much deeper than the hoof marks of the forelegs.' 'I knew that it was blind in the right eye', explained the fourth Scholar, 'by observing that it had eaten only the grass which was to the left of the hoof marks.'

The King did not believe them, but soon some retainers came back with the missing deer which they had recaptured. 'Lordlings,' said the King, 'you are wise indeed, and had I four daughters, I would give each of you a princess. But I have only one daughter. So she will be given in marriage to the cleverest one among you.' The four Scholars disputed and argued as to who was the cleverest of them all, and finally they took their dispute to the Princess Learned-in-the-Law.

The Princess decided that the third Scholar, the Son of a Rich Man, who knew from the hoof marks that the doe was with child, was the cleverest.

## 14

### *The Four Young Men who were so Refined*

A KING had an only daughter, who was as beautiful as a golden statue. He built her a tower of gold and brought her up in luxury and wealth. 'The young man who marries her', announced the King, 'must have been brought up on the same level of luxury and wealth.' When she came of age, four Young Men arrived to ask for her hand in marriage. All the four were as beautiful as golden statues, and had grown up in golden towers surrounded by luxury and wealth. 'I will have to submit you to a test', said the King, and the Young Men agreed.

The King chose a beautiful maid of honour, whose mother, however, was once a slave for seven days to discharge a debt. She was instructed to dress herself like a princess, and then take to the four suitors the choicest food from the King's table for them to eat.

Later, the King sent for the four Young Men. 'Lordlings,' said the King, 'I sent you the choicest food from my own table, and I hope you have enjoyed it?' The Young Men remained silent.

'You are too polite, my Young Sirs,' said the King, 'please let me know what defects you found in the meal, and I will not take your criticism amiss.' 'Sire,' explained the First Young Man, 'the meal was all right, but I did not enjoy it as the princess who waited on us smelled like a slave.' 'Sire,' said the Second Young Man, 'the meal was all right, but the betel leaf that followed the meal smelled of dung.' 'Sire,' said the Third Young Man, 'the dishes were tasty, but Your Majesty's cook must have been brought up on goat's milk.' 'Sire,' said the Fourth Young Man, 'I could not eat the cooked rice because it smelt of burnt human flesh.'

The King was indeed surprised. 'I merely wanted to find out whether you would notice that the girl who served the meal was not a princess at all', he explained. 'All these years, I have been having meals cooked by the same cook, eating rice supplied by the same keeper of the royal granaries, and chewing betel leaf grown by the same purveyor of royal betel, but I have never noticed anything was wrong. I must hold an Inquiry.'

The cook was examined, and she admitted that as her mother died soon after her birth, and as her father was poor and could not afford to give her cow's milk, she was brought up on goat's milk during her infancy. The keeper of the royal granaries pleaded that the rice came from a particular field, and as far as he knew, there was no explanation for the smell of burnt flesh. The King's officers went and inspected the field, and found that there was a cemetery where dead bodies were burnt some twenty miles away, and during the time of ripening paddy in January, a strong north wind blew across the cemetery towards the particular rice field. The purveyor of royal betel leaf pleaded that the betel leaf came from a particular betel garden, and as far as he knew, there was no explanation of the smell of dung. The King's officers went and inspected the garden, and discovered that there was a latrine twenty miles away, and that during the peak of the monsoon in July, the whole area was flooded. 'Lordlings,' said the King, after learning the results of the inquiry, 'all four of you are indeed refined but I have only one daughter, and I cannot choose.' So the four Young Men took their case to the Princess Learned-in-the-Law. The Princess decided that the Young Man who noticed the smell of burnt flesh in the rice should marry the King's daughter, as he was the most refined.

## 15

*Longer Forefinger*

TWO YOUNG MEN had come back from a University in a foreign land, after gaining the highest academic honours. The King was so pleased that he appointed them as his Senior Secretaries. The King's Minister who had to keep the Register of Officials was unable to determine who should be listed as the Senior of the two, as the King had appointed them at the same time. He made inquiries and found that the two young men were born on the same date and at the same hour, and they were of the same height and weight. Moreover, their academic honours and their learning were of equal standard, and they came from families of equal rank and status. They were equally handsome. So they were asked to run a race, and their speeds were found to be the same. They were tested in wrestling, archery, horsemanship, swordsmanship and boxing, and were found to be of equal strength and skill. They were asked to play a game of chess and as they were of equal skill, the game was drawn. In desperation, the Minister took an inventory of their personal possessions, and found to his chagrin that both possessed the same amount of wealth. He reported the matter to the King who referred the case to the Princess Learned-in-the-Law. She looked over the two young men carefully and noticed that the forefinger of one was a little longer than that of the other. 'Both of you are fine young men', she said, 'and the King is fortunate indeed to have you in his service. As your talents are so equal, it is a pity one has to be listed as senior to the other. I declare the one with the longer forefinger to be the Senior.'

## 16

*Tainted Witnesses*

THE VOYAGE had been uneventful, and some of the passengers stood idly watching the sea. 'I think that is a whale', suddenly said one, and 'Yes, it is a whale', replied another. Others, how-

ever, were not able to see it, and the conversation turned to the subject of the wonders of the sea. 'Oh, yes, oh, yes,' said a passenger who was a Merchant, 'once I even saw a rock that swam.' The Captain of the ship passed by, and hearing the Merchant's remarks, intervened, 'Surely, no rock can swim.' The Merchant and the Captain fell into a heated debate, until finally the Merchant proposed a wager of a thousand gold pieces that he would point out a swimming rock before the voyage's end, and the Captain accepted. On the last day of the voyage, the Merchant suddenly pointed astern, and cried out, 'Look, a swimming rock is following the ship.' Another passenger, who happened to be the Merchant's own Son, exclaimed, 'How wonderful! A rock following the ship like a whale!' The Captain and the other passengers strained their eyes and looked, and they could see a rock jutting out of the sea, which the ship had passed some minutes before, but the rock remained steadfast and stationary. The Merchant now demanded payment, claiming that he had won the wager, but the Captain and the other passengers protested and called the Merchant a cheat. 'What about the whale?' asked the Merchant indignantly. 'Only two of you saw the whale, and yet no one doubted that a whale was following the ship. Now also two of us saw the swimming rock and why are you doubting?'

The dispute remained unsettled, and so when the ship had entered port, the Captain and the Merchant went before the King. 'Certain facts', said the King, 'need neither proof nor disproof. They are obvious. Rocks cannot swim, and moreover, the Merchant's Son is a tainted witness. Let the Merchant pay a thousand gold pieces to the Captain.' The Merchant had no choice but to pay the gold pieces to the Captain. But in his heart, he swore revenge.

Now the King had a park, to which he would repair in the afternoons to rest and nap. The park was a large one with big trees, on which lived monkeys. The King always left his guards and courtiers near the gates, while he himself roamed the park at will, all by himself, except for the gardeners who were ordered to go on doing their work oblivious of the presence of the King. The Merchant and his Son shaved their heads, put on coarse clothes, and went to the Chief Royal Gardener. They pretended to be simple farmers from a remote village, who had come to

seek work as gardeners. When they had been given work as gardeners, they proceeded to win the goodwill and trust of the Chief Royal Gardener by a show of hard work and skill, and also by flattering words. In no time, they were posted to the park as gardeners. In the park also, they worked industriously and well, and at the same time, they endeavoured to appear simple, meek, and mild. Soon the King became used to meeting them in the park, never recognizing that they had appeared before him as litigants.

Then the two conspirators proceeded to tame the monkeys, and with infinite patience, they taught the monkeys to come down from the trees at a given signal, and appear before them, some playing fiddles, others playing drums, and all dancing in great glee, and to disappear into the tree-tops at another given signal. The King came as usual to the park one afternoon, and found the two gardeners watering a flower-bed. The Merchant then slyly gave the signal, and the monkeys came down from the trees, and played and danced before the King, to his great delight. He beat on an alarm gong to summon his courtiers from the park gates, but, of course, the monkeys had disappeared by the time the guards and the courtiers came running. He described to them what he had seen, but to his annoyance, he noticed doubt and puzzlement written on their faces. He turned to the seeming gardeners, and asked them whether they had seen the dancing monkeys. The seeming gardeners fully supported him, but the King became more annoyed when he heard the courtiers whispering to each other, 'Of course, they have to say yes, so as to humour him.' The King insisted that he had really seen the dancing monkeys, but the more he insisted, the more puzzled the courtiers became. Finally they decided that the King was mad, and binding him with silken cords, they took him back to the palace and locked him in his bedroom.

The Queen sent for Princess Learned-in-the-Law and requested her to look into the matter. The Princess examined the two gardeners, but the courtiers insisted that they were tainted witnesses, for they were the servants of the King. The Princess watched the two gardeners carefully, and she thought she could detect a gleam of joy in their eyes. She made discreet inquiries regarding recent incidents which happened in the palace and in the King's life, and she was interested to learn

about the King's decision in the dispute over the swimming rock. Finally, she in secret requested the Queen to disgrace her for her failure to solve the dispute, and so her hair was shaven off and she was assigned to the park as a gardener. With a shaven head and in coarse clothes, she was not recognized by the two gardeners as the famous Princess, and so she was able to watch their movements, and one afternoon she surprised them giving the signal to the monkeys to come down and dance and play on fiddles and drums. She made known her identity, arrested the two gardeners, and took them to the King's palace. Their confession cleared the mystery of the King's seeming madness.

My Lord Justices, our law considers that evidence is tainted when tendered by certain classes of persons, including, for example, those who are too young or too old to be reliable witnesses, dancers, singers, habitual players of dice, and those who are dependent for their living on the litigant, on whose behalf they are witnesses. In ordinary circumstances, such witnesses are not of any value. But in very special circumstances, even a tainted witness can give a clue to the truth.

## 17

### *The Two Woodsmen who Quarrelled*

THE TWO WOODSMEN, although living in the same village, were bitter rivals. One day, the First Woodsman noticed in the forest a specially big tree and said to himself, 'I will come at dawn tomorrow and cut down this tree.' A few minutes later, the Second Woodsman happened to pass by the same big tree, and he also said to himself, 'Tomorrow at dawn, I will come and cut down this tree.' Therefore, the next day at dawn, the two rivals found themselves face to face under the big tree. 'It is my tree', claimed the First Woodsman. 'On the contrary', replied the Second Woodsman, 'it is my tree, because I noticed it yesterday.' 'I also noticed it yesterday', retorted the First Woodsman. They went on arguing for some time, until finally they agreed not to cut down the tree at all. Then they each chose a nearby tree, and prepared to cut it down. But the First Woodsman was still very



angry, and so at every stroke with his axe, he abused the other with such epithets as 'Thieving Woodsman', 'Son of a Bitch', 'Opium Eater'. The Second Woodsman, equally angry, shouted back an abuse at every stroke of his axe. At noon, they stopped their work, and also their abuse, and returned to their own village. The whole afternoon the Second Woodsman thought over the morning's happenings, and feeling that he was the aggrieved party, sued the First Woodsman for compensation. The First Woodsman admitted that he did abuse the other woodsman many times, but the latter returned abuse for abuse and, therefore, he was not entitled to any compensation. The Second Woodsman insisted that the number of abuses hurled at him was less than the number he hurled back in return. The village headman refused to give a decision on the dispute on the ground that there were no witnesses to prove which litigant was telling the truth. The matter finally reached the Princess Learned-in-the-Law, who, after listening carefully to the contending parties, sent some royal officers to the forest, to count the number of strokes with the axe on the two trees which the two Woodsmen were felling at the time of their quarrel. On receiving their report that the number of strokes on one tree exactly equalled the number of strokes on the other, the Princess adjudged that the Second Woodsman had returned abuse for abuse and insult for insult and therefore he could not claim any compensation.

## 18

*The Two Woodsmen who Fought*

THE TWO WOODSMEN, although living in the same village, were bitter rivals. One day, the First Woodsman noticed in the forest a specially big tree and said to himself, 'I will come at dawn tomorrow and cut down this tree.' A few minutes later, the Second Woodsman happened to pass by the same big tree, and he also said to himself, 'Tomorrow at dawn, I will come and cut down this tree.' Therefore, the next day at dawn, the two rivals found themselves face to face under the big tree. 'It is my tree', claimed the First Woodsman. 'On the contrary', replied the Second Woodsman, 'it is my tree, because I noticed it yester-

day.' 'I also noticed it yesterday', retorted the First Woodsman. They argued and quarrelled, until the First Woodsman lost his temper. He caught hold of the Second Woodsman, and pressing him down by the neck, gave him three poundings with the elbow. He then walked away, leaving his rival fallen on the ground. The Second Woodsman soon recovered and running and catching up with the First Woodsman, gave him two kicks on the buttocks. There was no further fighting, and both went straight to the village headman, and sued each other for compensation for assault. The village headman, however, refused to give a decision on the ground that there were no witnesses. The matter finally reached the Princess Learned-in-the-Law, who, after listening carefully to what the Woodsmen had to say, frowned, and ordered a royal officer to shut up the two litigants in a cell, as they were dangerous rogues. The royal officer, knowing what the Princess wanted, shut the two in a prison cell and then listened from an ear-hole. The Two Woodsmen, not realising that a royal officer was secretly listening, started to talk. 'I gave you only two kicks for your three poundings', blamed the Second Woodsman, 'and yet you wanted to sue me, and now both of use are in trouble.' 'Blame not me but the Princess', replied the other Woodsman. 'I thought she was a gentle judge, and I nearly died with shock when she put on that ugly frown.' The two prisoners were then taken back to the Princess, who after listening to the report of the officer, adjudged that as the First Woodsman gave three poundings and the Second Woodsman gave only two kicks, the latter was entitled to receive some compensation.

## 19

*The King's Sword*

THE KING was very fond of his bay horse, and was in the habit of visiting the royal stables at all hours of the night to see that all was well with the animal. He always went alone and to reach the horse he had to pass by the quarters of the Night Attendant of the stables. The wife of the Night Attendant always watched the King go by and after a time, the King and the wife became

lovers, with the result that the King no longer visited the horse but visited the wife instead. From his wife's demeanour, the Night Attendant came to suspect that she was having a paramour, and so one night he came back to his quarters unexpectedly. Hearing the Attendant's footsteps, the King rushed out of the quarters, but met the wronged husband face to face on the steps. The Night Attendant, catching hold of the King, said in anger, 'You adulterer, it is fortunate for you that you are no longer in the room where my wife is, as I could have killed you then, but as you are still within my house, I have the right to maim you and so prepare yourself to be beaten black and blue.' 'I am your master,' cried the King, 'so let me go.' 'King or no King', rebuked the Night Attendant, 'you have stolen my wife and now you must submit to my beating.' 'If you will let me go and thus avoid a royal scandal, I will give you full compensation', offered the King. 'There are no witnesses', the Night Attendant replied, 'and if you should deny any knowledge of this affair in the morning, every one will believe you, because it will be the word of a King against the word of a lowly attendant.' 'Take my sword together with the scabbard', said the King, 'and that will be enough proof that something happened between us this night.' The Attendant accepted the King's sword together with the scabbard and let the King go. When morning came, the Night Attendant was too eager to get his compensation, and instead of waiting until the King was alone, marched, carrying the sword, into the audience hall where the King sat with his ministers. The King went pale with shame when he saw the Night Attendant, and fearing an open scandal asked, 'What ails you, my man?' The Attendant thinking that the King had gone back on his promise, left the palace in anger and went to the Princess Learned-in-the-Law, to whom he presented his case. The King soon followed and he was asked by the Princess, 'My Lord, do you deny the Attendant's allegation?' 'Suppose I denied,' asked the King, 'what would be your finding?' 'A King's sword is not easily stolen, my Lord', replied the Princess, 'and if it had been stolen, there would have been a commotion in the palace last night; and a King does not give up his sword to a lowly attendant for nothing.' 'I admit my liability', sighed the King. The Princess Learned-in-the-Law accordingly passed judgement in favour of the Night Attendant.

## 20

*The Cormorant and the Gudgeon*

ONCE THERE WAS A KING who ruled over human beings and animals. He had as his retainers not only human beings but animals also. The Cormorant was one of the animal retainers, and he was very proud of his appearance. He strutted about in the King's palace flourishing his long tail. Now the Cormorant had a beautiful tail: it was shaped like a 'V' at the end and was covered with black spots, as was the rest of the Cormorant's body.

One day the King ordered all his subjects to come and appear before him. The Gudgeon came in answer to the King's summons, and as he entered the throne room, he saw the Cormorant standing near the door. The Gudgeon's heart missed a beat, for the Cormorant was a fisher-bird with a special liking for gudgeons, but he remembered that all human beings and animals had to preserve the strictest truce while in the King's city, and felt reassured. The Cormorant's mouth watered when he saw the Gudgeon, but he knew he should not even touch the Gudgeon, for otherwise he would be executed for breaking the King's Peace. But he was tempted by the Gudgeon's timid behaviour to frighten him, and so he flapped his wings. The Gudgeon gave a wild shriek of fear, and ran out of the palace back to his home. The poor fish was later arrested, and was tried for breaking the King's Peace. However, when the King learnt the true reason for the Gudgeon's misbehaviour, he not only pardoned him, but ordered the Cormorant to give a banquet to the Gudgeon as a gesture of goodwill and friendship.

That evening the Cormorant gave a banquet to the Gudgeon and plied him with drinks, until the fish fell into a drunken sleep. Then the sly Cormorant took off the Gudgeon's tail, and hid it in the fork of a tree, meaning to eat it later when the hue and cry for it was over. When the fish woke up in the morning and missed his tail and broke into tears, the Cormorant suggested that as the city was full of thieves, they surely had stolen the missing tail. The Gudgeon, however, refused to accept the Cormorant's explanation, knowing him to be such a sly fellow,

and took the matter to the King, who, however, sent the two disputing animals before the Princess Learned-in-the-Law, and the following was her judgement:

‘As a host is liable for the safety of the person and the property of his guest, the Cormorant shall surrender his own tail to the Gudgeon as compensation.’

## 21

*Gold into Brass and Child into Monkey*

THERE ONCE LIVED A HERMIT in a forest hermitage, and he was looked upon as a very pious person. He ate no meat at all, and lived on fruits and vegetables. But he had with him a viss of gold, and he was always afraid lest people from the nearby village, who came to worship him on sabbath days, should discover that he was still in possession of worldly goods. One day, a Villager and his wife came to him, bringing their only son, Master Moonface, with them. ‘Lord,’ requested the Villager, ‘please accept our son as your pupil, and let him attend on you throughout the hours of night and day.’ The Hermit agreed, and as time passed, he became very friendly with the Villager. So one day he confided to the Villager about his viss of gold. ‘Do not worry, lord,’ said the Villager, ‘let me take it away and I shall keep it in safe custody, until you want it back.’ Feeling relieved, the Hermit put the gold in a packet, and gave it to the Villager for safe keeping. After some weeks, the Hermit was surprised to see the Villager come running to him with a long face. ‘What is the matter, Layman?’ inquired the Hermit anxiously. ‘Lord, look at this,’ replied the Villager, holding out the packet, ‘your Gold has turned into Brass.’ The Hermit realized that he had been cheated, but knowing that it would be useless to protest, he just nodded and took back his packet with the viss of brass inside. The Hermit brooded over the matter for days, and then he started to domesticate a young Monkey by tempting him with bananas and sugar-cane. After some time, the Monkey became so tame that he would leave his tree and come running into the hermitage, whenever the Hermit called out the name

'Master Moonface'. Satisfied that all was ready for his revenge, one sabbath day, he took his pupil, the young Master Moonface, to a remote part of the forest and left him atop a tall tree. Then he went back to his hermitage and calmly waited the usual visit of the Villager. When the Villager arrived, he was surprised to find the Hermit sitting by himself. 'Where is my son, Moonface, my Lord?' inquired the Villager. The Hermit put on a long face and said 'Do not be heartbroken over what you are going to see.' Then he called out, 'Master Moonface, your father is here', and the little Monkey came in running. 'You are an impostor', accused the Villager. 'You are a cheat. You are a teller of untruth. How can a Boy turn into a Monkey!' 'Layman,' replied the Hermit sweetly, 'if Gold can turn into Brass, surely Boy can turn into Monkey.' The Villager reported the matter to the Village Headman who sent it up to the Royal Bench, who in turn referred it to the Princess Learned-in-the-Law. She smiled on hearing the evidence and then passed the following judgement:

'A bailee is responsible for the safety of goods entrusted to him. Therefore, the Villager must return the viss of gold to the Hermit and the Hermit must return the Boy to the Villager. If this my Order is obeyed, we will procure the king's pardon for both the parties, although they have proved themselves to be cheats by insisting that Gold turned into Brass and Boy into Monkey.'

## 22

### *The Four Mendicants*

THE FOUR MENDICANTS arrived at a cross-road, and they agreed that the First Mendicant should take the road to the north, the Second to the south, the Third to the east and the Fourth to the west. They also agreed that each should come back to the cross-roads after seven days, and the monies obtained as alms would be pooled and then equally divided among the Four. The Fourth Mendicant was able to collect one hundred silver coins in seven days and returning to the cross-roads, he found that he was the first of the Four to arrive. As he waited

for the others, he saw three Bee-hunters passing by, and he suddenly thought of an idea to cheat his friends. So he said to the Bee-hunters, 'Friends, help me to earn some money, and you will also earn some money in return. I have one hundred silver coins here and I will give you thirty. Then, please support my statement that the whole amount tied in a bundle, was carried away by a dog.' The Bee-hunters accepted his offer. Soon after, the three Mendicants arrived and he greeted them with these words, 'Friends, I was able to collect one hundred silver coins and I tied them up in a bundle. But as I waited for you here, I stood up to obtain a light for my cheroot from these Bee-hunters, leaving the bundle on the ground, when a huge dog appeared from nowhere and ran off with it. So I have nothing to contribute but will take a share of the monies you three have collected.' The other three Mendicants were suspicious, but the three Bee-hunters vehemently testified that the Fourth Mendicant spoke the truth. The other Three Mendicants, still suspicious, argued that as the Fourth Mendicant, being a bailee, was responsible for the safety of the one hundred coins he had collected, and as they also had collected a hundred silver coins each, they were quits and there was no necessity to give any money to him. The matter finally reached the Princess Learned-in-the-Law, who after listening to the parties, cleared the Court, and then proceeded to examine the Fourth Mendicant and the three Bee-hunters separately. 'What was the colour of the dog, and in which direction did it run away with the bundle?' asked the Princess. The Fourth Mendicant said that it was a yellow dog and it ran towards the east, the First Bee-hunter said that it was a black dog and it ran towards the west, the Second Bee-hunter said that it was a spotted dog and it ran towards the north, and the Third Bee-hunter said that it was a brown dog and it ran towards the south. The Princess Learned-in-the-Law then passed the following judgement:

"The Fourth Mendicant was not a bailee but a partner, and therefore as long as he exercised due care and caution, he would not have been liable for the loss of the silver coins, provided his story of the dog was found to be true. But it is now found that the statements made by the Fourth Mendicant and the three Bee-hunters were false. Accordingly, the Fourth Mendicant and his witnesses are found guilty of perjury and the King's officers

will take necessary action against them. Of course, the Fourth Mendicant is now not entitled to receive any share of the monies collected by the other three Mendicants.'

## 23

*The Seven Mendicants*

THE SEVEN MENDICANTS, after sleeping the night at the Village Inn, were preparing to leave, and they said to the Inn-Keeper, 'Sir, will you keep this bag containing six hundred silver pieces with you until we call for it? But do not return it to us, unless all the seven of us are present.' The Youngest Mendicant, as he listened to the words of his Elders, thought out a trick to cheat them of the money, and so he left their conch shell on a bench. Then the Mendicants walked away, but when they reached the Inn gate, the Youngest Mendicant, saying that he had forgotten to bring the conch shell, turned and went back. Entering the Inn and quietly taking the conch shell, he said to the Inn-Keeper, 'Sir, my masters have changed their mind, and now they want to take away with them the bag containing the silver pieces.' 'But, Young Mendicant,' exclaimed the Inn-Keeper in surprise, 'they just told me that I should not give it back unless all the seven were present.' 'Oh, they are waiting at the gate', replied the Youngest Mendicant with an innocent look. 'You can shout to them and ask them whether you should give the bag to me.' The Inn-Keeper went to the door and shouted to the Mendicants, 'Masters, shall I give it to him?' The Six Mendicants, waiting impatiently at the gate, shouted back, 'Please give it to him, for we are in a hurry.' The Inn-Keeper then gave the bag to the Youngest Mendicant. Of course, the Six Mendicants thought that the Inn-Keeper was referring to the conch shell, and the Inn-Keeper thought that they were referring to the bag. In great glee, the Youngest Mendicant hid the bag under his dress, and followed the other Mendicants. After walking some miles, the Youngest Mendicant slipped into the wood and ran off with his booty. Some days later, the Six Mendicants returned to the Inn, and asked for the return of the bag containing the silver pieces.



The Inn-Keeper stared at them in wonder and asked, 'What bag, Masters, for you took away your bag that very morning?' After explanations had been made by both sides, the Mendicants said, 'Master, we are sorry that you were cheated by the young rascal, but we want our silver pieces.' The Inn-Keeper admitted his liability, but pointed out that he did not possess enough money to pay as compensation for their loss. Finally, he offered to be their slave and serve them faithfully until the debt was discharged. Leaving his Inn, he followed the Mendicants to their home and served them faithfully for a number of years, but the debt remained undischarged, for he incurred much expense when he married, and later when a little daughter was born to his wife. Time passed, and the little girl grew up into a beautiful young woman. One morning, the Daughter asked, 'Father, other slaves have to serve only one master, whereas you have to serve six masters. Why is that so?' On hearing her father's explanation, she smiled and said, 'Father, If you love me and trust me, please do not go to work today, and please remain silent when the Six Mendicants come here to look for you.' The Inn-Keeper, acceding to his daughter's request, did not go to work, and very soon the Six Mendicants came to look for their slave. 'I will pay the six hundred silver pieces', the Daughter announced, 'but to avoid any further dispute, I will pay the money to the Princess Learned-in-the-Law, who will decide whether you are entitled to the money or otherwise.' The Mendicants did not believe that she could pay the money, but they had to agree to go before the Princess Learned-in-the-Law on the following day. The Daughter then went with her Mother to the Village Headman and borrowed six hundred silver pieces, on the security that they would become his slaves if the money was not paid back with interest within one year. The following morning, the Daughter handed over the money to the Princess Learned-in-the-Law in full court, submitting however that her father was under no duty to return the money unless all seven Mendicants were present. The Princess Learned-in-the-Law, after listening to both sides, passed the following judgement:

'In a bailment, both the bailee and the bailor must conform to all the stipulations made at the time of the bailment. In the case before us, the bailee, namely the Inn-Keeper, should not return the six hundred silver pieces until and unless all the seven

Mendicants are present to receive the silver. I cannot now give the silver pieces to the Mendicants, as only six are present in court. Accordingly, I order that the money be kept in this court for three months; if at the end of this period, all the Seven Mendicants should come before me they will be given the silver, and if at the end of this period, the Seven Mendicants are unable to come before me, the silver shall be returned to the Inn-Keeper.'

The Six Mendicants searched and searched for the Youngest Mendicant, who, however, could not be found. So when the period of three months elapsed, they were unable to go before the Princess Learned-in-the-Law to claim their silver, which accordingly was returned to the Inn-Keeper.

## 24

*Iron Eaten by Rats,  
Son Carried Away by Hawk*

THE BOATMASTER AND THE MERCHANT were great friends, and the Boatmaster accepted the Merchant's little Son as an apprentice on his boats. One day, the price of iron fell, and the economical Boatmaster bought a large amount for future use on his boats, and stored it in the Merchant's warehouse. Then he sailed away on a voyage up the river, and during his absence the price of iron rose, and the greedy Merchant sold the iron left by the Boatmaster. When the Boatmaster returned, to his surprise, he was greeted by the Merchant with these words, 'Master of Boats, while you were away, all your Iron was eaten up by the Rats.' The Boatmaster, realizing that he had been cheated, at once thought of a plan to punish the Merchant for his treachery, but outwardly keeping calm, he replied, 'I should have known that Rats plagued you in your warehouses.' After a few days, the Boatmaster went up the river again with his boats, and after leaving the Merchant's Son in a remote village, came down the river again. Then he went to the Merchant, and informed him that the Son had been carried away by a Hawk, near the upper

reaches of the river. The indignant Merchant went and reported the matter to the Village Headman, who referred the case to the Princess Learned-in-the-Law, and she passed the following judgement:

‘As bailee, the Merchant is responsible for the loss of the Iron and the Boatmaster for the loss of the Son. But we all know that Iron cannot be eaten by Rats and young Lads cannot be carried away by Hawks. The Merchant is to be blamed for all this trouble, because it was he who first broke faith. So, Merchant, return the Iron, and Master of Boats, restore the Son, and be friends again and live in accord and harmony.’

## 25

*The Fisherman and the King's Chamberlain*

ONCE THERE WAS A KING who could not eat any meal unless there was included a dish of fried fish. One day, there blew a great storm and fishermen could not catch any fish. The King could not eat any breakfast because there was no fried fish and he was very annoyed. Lunch time came, but there was no fish and the King was very angry. Dinner time approached, but still there was no prospect of any fried fish, and the King was now desperate. ‘Let it be announced by beat of gong and drum’, ordered he, ‘that the Fisherman who brings me but one single fish will be given any reward that he may name.’ However, the storm continued to rage, and the waters remained turbulent. At last at dusk, a Fisherman, trying with a mere line and hook, caught a fat and oily fish, and he ran with all his might to the King’s palace. The guards, seeing the fish in the Fisherman’s hand, threw open the gates, and the Fisherman reached the King’s chamber without let or hindrance. But at the chamber door, the Chamberlain said, ‘Promise me half your reward and I will let you in.’ ‘One-tenth’, promised the Fisherman. ‘Oh, no,’ said the Chamberlain, ‘one half, and no less.’ ‘Agreed’, replied the Fisherman, and in great glee, the Chamberlain announced to the King the arrival of a Fisherman with a fish. The King,

in great joy, seized hold of the fish, and the Fisherman's hand, and rushed into the kitchen.

After the fish had been fried, the dinner laid before the King, and the King had eaten, he sat back hugging his well-filled stomach, and asked, 'Fisherman, name your reward. Do you want to have a priceless ruby, or a well-paid post, or a pretty maid from the queen's bower?' 'No, Sire, no, Sire,' replied the Fisherman, falling on his knees, 'I want twenty lashes with your cane.' 'The poor fellow is flabbergasted', mused the King, 'and he does not know what he is saying.' So he said gently to the Fisherman, 'My man, you mean twenty rubies, or twenty elephants or even twenty horses.' 'No, Sire, no, Sire,' replied the Fisherman, 'I want just twenty lashes with your cane.' 'I am sorry', sighed the King, 'but I must keep my promise and give you what you ask.' So saying, he took up a cane and beat the Fisherman gently. 'No, Sire, no, Sire,' said the Fisherman, 'not so soft, Sire, please hit me hard.' The King feeling annoyed, wielded the cane with some vigour, but when he had given the Fisherman ten lashes, to his astonishment he saw the Fisherman jump away. 'Have I hit you too hard?' the King inquired with concern and pity. 'No, Sire, no, Sire,' explained the Fisherman, 'but the remaining ten lashes are your Chamberlain's share.' The poor Chamberlain now had to confess what he had done, but pleaded, 'My Lord, I asked for a half share of his reward and not of his punishment.' 'But this is my reward, and not my punishment', argued the Fisherman. The King sent for the Princess Learned-in-the-Law to come and decide the case. 'My Lord King,' said the Princess Learned-in-the-Law after she had arrived and listened to the two litigants, 'the Chamberlain and the Fisherman were partners in a business, to wit, to supply a fish to the King, and they agreed to share. But, my lord, in a partnership, the agreement to share does not mean that only the profits are to be shared, but it means that gain and loss, income and expenditure, success and failure, reward and punishment are to be equally shared.' The King accepted the judgement of the Princess, and gave the Chamberlain ten good lashes with his cane. Then he said, 'The partnership is now dissolved as the business has ended. As a consequence, however, I order that the Chamberlain be dismissed for corruption and disloyalty, and the Fisherman appointed Chamberlain in his place.'

## 26

*The Cat with Four Different Legs*

ONCE FOUR YOUNG MEN bought some acres of land and turned them into a sugar-cane plantation. Their venture was successful, except that their profits would have been greater if their plantation had not been plagued with rats. So they agreed to buy a cat, but when the cat had been bought, they came to have certain misgivings. 'We are getting richer every day', they explained, 'and we may decide to partition our estate and continue our business separately. When that eventuality comes, it will be easy to divide the plantation. But how shall we divide the Cat?' So they tied to each leg of the Cat a string of a different colour, saying, 'The leg with the yellow string belongs to the First Young Man, the leg with the red string belongs to the Second Young Man, the leg with the blue string belongs to the Third Young Man, and the leg with the white string belongs to the Fourth Young Man.' The Cat proved to be excellent and everybody was satisfied until one afternoon a few weeks later, when disaster befell the plantation. The Cat chased a rat into the kitchen and on to the fire-place with the result that the string on his left hind-leg became entangled with a burning faggot, and as the Cat ran away in fear into the plantation, the burning faggot set fire to the sugar-cane plants. The Four Young Men were able to chase and catch the Cat and unentangle the burning faggot, but they were unable to put out the fire which finally burned down the plantation. They noticed that it was the white string which became entangled with the faggot and so the First, Second, and Third Young Men said to the Fourth, 'Friend, it was the leg with the white string that pulled the faggot all over the plantation and, therefore, you are responsible, and you must pay for the damage done.' 'Friends,' replied the Fourth Young Man, 'if you hold me responsible, I have no choice but to offer to serve as your slave, as I have no other property to give as compensation.' So he became a slave to the other three.

Time passed, but still the total value of his services had not come up to the total amount of compensation payable, and to

make matters worse for him, he ran further into debt as he took to himself a wife. Years passed, and a little Daughter was born to him, and then she grew up into womanhood. One day, she asked her father, 'Father, other slaves serve only one master, but why do you have to serve three masters?' When her father had explained the reason to her, she thought for a while, and said, 'Father, do not go to work tomorrow if you love me and trust me.' Although puzzled, the father agreed, and next day when it was already noon, the three Masters came and scolded the slave for not coming to work. 'My father is not your slave', intervened the Daughter. 'Do not be silly, Young Woman', scolded the three Masters. 'Your father had to become our slave as he could not pay us compensation for damage done to our property.' 'On the contrary', replied the Daughter, 'you have been misusing his services for the last eighteen years, and you three owe him compensation for damage done to his property. The leg of the Cat with the white string did not want to run into the plantation, and in any case, it would not have been able to go there by itself. In fact, it was taken to the plantation by the other three legs of the Cat, and, therefore, you three are responsible.' The dispute finally reached the Princess Learned-in-the-Law, who listened and smiled and praised the Daughter for her clever argument. She then passed the following judgement:

'Let us first consider the Cat. To begin with, the Cat was one of those chattels which could not be divided or partitioned, and in addition, it was a partnership property. No partnership property can be divided or partitioned until the partnership is dissolved. For this reason, all the four owners of the Cat were responsible for the damage done to the plantation. Let us now consider the plantation. Again as it was partnership property, the damage done was not to the property of any particular partner, but to the property of all the partners. From these facts, we can conclude that in this case damage was done by partners themselves to partnership property, and no compensation was payable by any particular partner or partners. Therefore, as the Fourth Young Man had no compensation to pay and no debt to discharge, he is now entitled to demand from the other three payment of his full wages for the period of eighteen years that he worked.'

## 27

*The Four Jolly Adventurers*

THE FOUR MEN, feeling jolly and reckless, entered the forest one early morning in search of adventure. 'If we find a tiger, we will take off his skin', they boasted. 'If we find an elephant, we will take off his tusks. If we find an alchemist, we will rob him of his magic wand.' Shouting and laughing, they wandered in the forest the whole day, but found nothing. The next day, however, as they rested under a tree at the hour of noon, a huge snake suddenly came out of a hole in the ground near the tree, and bit one of the Four Jolly Adventurers, killing him on the spot. The other three attacked and killed the snake. But they were not satisfied as they felt so furious at the loss of their friend, and they decided to dig up the hole, hoping to find more snakes to kill. However, they found not snakes, but a pot of gold. They gathered some tree branches, and making a funeral pyre, they reverently laid the dead body of their companion on the pyre and set fire to it. They waited and watched until the funeral pyre had burnt itself out, and then picked up the bones. On the following morning, they left the forest taking with them the bones of their dead companion and the pot of gold. When they arrived back at their village, they went and told the sad news to the Widow of the dead Jolly Adventurer, delivering the bones to her. 'But, what about the pot of gold?' asked the Widow. 'We are sorry to tell you', replied the Three Adventurers, 'that you are not entitled to any share of the gold, because we found it after your poor husband had died.' The Widow then demanded compensation for the death of her husband, but the Three Jolly Adventurers denied liability, pointing out that they were not responsible in any way for their companion's death. The dispute finally reached the Princess Learned-in-the-Law, who passed the following judgement:

'The Widow is not entitled to any compensation for the death of her husband, because the risk of attack by a wild animal was known and accepted by the unfortunate Adventurer. The other Adventurers were not negligent in any way, and their duty to their dead companion was to give him an honourable "burial",

which duty they duly performed. A joint venture is merely a form of partnership, and, therefore, both the losses and the profits are to be shared by the partners. In this case, the death of the Fourth Jolly Adventurer did not dissolve the partnership, because the joint venture would end only when the Jolly Adventurers had returned to their own village. Accordingly, he was entitled to a fourth share of the gold, but as he is dead, his wife inherits that share.'

## 28

*A Division of Cattle*

A VILLAGER owned a Bull and his Neighbour owned a Cow. They together bought a cart and the Bull and the Cow were used to draw it. As co-owners of the cart, they lived in accord for some years during which period the Bull and the Cow mated, and five calves, some male and some female, were born to the old Cow. One day, the two friends quarrelled and they sold the cart and divided the proceeds among themselves equally. But a dispute arose over the division of the cattle, for the Villager insisted that, as he was the owner of the Bull, he was entitled to all the five calves, and the Neighbour insisted that, as he was the owner of the Cow, he was entitled to the five animals. The matter finally reached the Princess Learned-in-the-Law, who passed the following judgement:

'The calves must be divided equally between the two litigants. Therefore, each litigant will get two calves and half the price of the fifth calf which will have to be sold as it is not divisible.'

## 29

*Another Division of Cattle*

A VILLAGER, living in the eastern quarter of the village, owned a Bull, and another Villager, living in the western quarter of the village, owned a Cow. When the two animals were out to graze,



they mated, and after a period of time, a number of calves were born to the Cow. The owner of the Bull now claimed that he was entitled to some of the calves, but the owner of the Cow insisted that all the calves belonged to him. The case finally reached the Princess Learned-in-the-Law, who passed the following judgement:

‘The Bull and the Cow mated of their own accord, without the connivance of their masters, and therefore all the calves belong to the owner of the Cow.’

## 30

*The Elephant-Driver who Lost his Elephant*

THE ELEPHANT-DRIVER AND HIS ELEPHANT were on a journey, and they reached a large village at the hour of noon. They had left their home at dawn and were now hungry and tired. So the Elephant-Driver decided to rest for a few hours and looked about for a place where he could tether his Elephant. As he did not want to leave his Elephant unattended in the street, he was very glad to notice an empty house. He boldly went in and tied the Elephant to a kitchen-post of the house. After feeding the Elephant with some fodder, he went for a stroll in the village. The house belonged to a Debtor, who, finding himself unable to repay the debt, had, that very morning, given up the house with all its contents to the Creditor. The Creditor now arrived to take possession of the house and all it contained, and was pleasantly surprised to find the Elephant. ‘I did not know that the contents of the house included an Elephant’, he said to himself, ‘but even with the Elephant thrown in, I will realize only the principal and not the interest.’ He then untied the Elephant and took it to the market place where he sold it to a Timber Merchant. Late in the afternoon, the Elephant-Driver returned, and to his dismay, he did not find the Elephant. He went and reported the matter to the Village Headman, who after due inquiry, traced the missing animal. But the Timber Merchant refused to part with the Elephant, saying that he had bought it in open market. The Creditor also

refused to pay any compensation to the Elephant-Driver, saying that he sold the Elephant with the genuine belief that it was part of the Debtor's property. The dispute finally reached the Princess Learned-in-the-Law, who passed the following judgement:

'As the Creditor and the Timber Merchant acted in good faith, the sale of the Elephant was valid. However, as the Elephant-Driver was the genuine owner, he has the right to buy back his Elephant at the exact price which the Timber Merchant paid.'

### 31

## *The Cuckoo and the Crow*

ONCE A MISCHIEVOUS BOY shot with his catapult a mud pellet at the Owl, and the mud pellet entered the rump. The Owl was in great pain, and went to his friend the Crow for help.

'I am no physician, friend,' said the Crow, 'but I could take you to the Cuckoo, who is a master of the art of healing. Let us go now.' So the Crow took the Owl to the Cuckoo who, however, refused his professional services, on the ground that the Owl was a treacherous bird and was not likely to pay his fees once his trouble had been cured. The Crow offered to stand surety, and the Cuckoo examined the Owl's body. The Cuckoo said that the water-treatment would meet the case, and asked the Owl to go and sit in a pool of water until the pain disappeared.

The Owl went and sat in a pool of water for some hours. The water melted the mud pellet, and the pain disappeared. He went home and moped the whole day, blaming himself for going to the Cuckoo for treatment. 'What a fool I was', he grumbled. 'If I had only sat down and thought it out, this simple idea of sitting in a pool of water would have crossed my mind.' So when the Cuckoo came and asked for his fee, the Owl refused to pay and drove the Cuckoo out of the house. The latter went and complained to the Crow, who rushed to the Owl's house to persuade him to pay, but the Owl had left it and was nowhere to be found. Some days elapsed, and still there was no trace of the Owl. The Cuckoo now demanded his fee from the Crow, who, however, insisted that the Owl should be found first. Then

he argued that he was liable only for half the amount of the fee. The dispute finally reached the Princess Learned-in-the-Law, and she decided that the Crow must pay the fee in full, as he stood surety for its payment.

## 32

*Creditor and Debtor*

THE HARVEST FAILED and the price of paddy went up by sixteen times, so that a basket of paddy came to be worth one silver coin. The Debtor borrowed from the Creditor a basket of paddy at the usual rate of interest, namely, one hundred per cent. The following year, however, the harvest was normal and the price of paddy was, as usual, one silver coin for sixteen baskets of paddy. The Debtor went to the Creditor with two baskets of paddy to discharge the debt, but the Creditor demanded two silver coins instead. 'You greedy fellow,' protested the Debtor, 'you lent me one basket of paddy and I give you two baskets, and yet you are not satisfied.' 'You are the greedy fellow,' argued the Creditor. 'You borrowed from me a basket of paddy worth one silver coin, and now you want to give me only two baskets, worth one-eighth of a silver coin only.' They took their dispute to the Village Headman, who, however, could not give a decision. The case finally reached the Princess Learned-in-the-Law, who passed the following judgement:

'In all transactions, one party must not have an unfair advantage over the other. If only two baskets of paddy were to be given, it would be grossly unfair to the Creditor. On the other hand, if two silver coins were to be given, it would be grossly unfair to the Debtor. Accordingly, the Debtor shall discharge the debt by giving to the Creditor one basket of paddy and one silver coin.'

## 33

*A Mat against One Hundred  
Baskets of Paddy*

THE TIME OF THE HARVEST was past and still the Debtor had not come to repay the debt of one hundred baskets of paddy. The Creditor, feeling anxious, went out across the fields to the hut of the Debtor and he found him sitting on a Mat looking sad and forlorn. 'Where is your paddy?' asked the Creditor. 'The harvest has failed completely, as there was not enough rain', replied the Debtor. 'I am sorry, I am unable to repay your debt. As you are aware, I have no wife or children and I cannot offer anyone to serve you for the debt. I am willing to serve you as a bondsman, but as you know, I am subjected to bouts of Malaria.' 'Oh, I do not want your services', said the Creditor, 'because I am certain to be ruined by having to buy you medicines throughout the year. So give me your household goods.' 'As you can see for yourself, Creditor,' explained the Debtor, 'I do not possess anything except this Mat on which I am sitting.' The Creditor looked round the hut and found that the Debtor was speaking the truth. 'He is indeed a pauper', thought the Creditor to himself, 'and it is no good waiting for the next year, as he will not be able to work in the fields again because of his Malaria.' So he took the Mat and went away. The Debtor went to the village monastery and became a lay brother. Every morning, he swept the grounds of the monastery, and watered the trees and plants so well that a tree-god gave him a pot of gold as reward. So the Debtor became very rich. Hearing of the Debtor's good fortune, the Creditor now demanded the repayment of his debt of one hundred baskets of paddy with interest less the price of a Mat. The Debtor refused to pay and took his case to the Princess Learned-in-the-Law who adjudged that the debt had been fully discharged from the moment the Creditor accepted the Mat from the Debtor.

## 34

*The Greedy Stall-Keeper and  
the Poor Traveller*

A POOR TRAVELLER stopped under a tree to eat his simple meal, which he had brought with him in a bundle. The meal consisted only of some cooked rice and boiled vegetables. It was the cool season, during which people travelled from one village to another, and there were many wayside stalls, selling fried fish and fried cakes. A few yards away to the north from where the poor Traveller was eating his meal, there stood a food-stall at which the owner was frying some fish. She carefully watched the Traveller eating his meal, and when the latter had finished, she demanded, 'Give me a silver quarter, for the fried fish.' 'But, Mistress,' protested the poor Traveller, 'I have not even come near your stall, let alone take some fish from you.' 'You Miser, you Cheat,' shouted the Woman, 'everybody can see that you have been enjoying your meal with the smell of my fried fish. Without the smell, your meal consisting merely of rice and salt could not have been so tasty.' A crowd soon collected, and although the sympathy was with the poor Traveller, all had to admit that as the wind was blowing from the north, it must have carried the smell from the frying-pan to the Traveller.

Finally, the Woman and the Traveller went before the Princess Learned-in-the-Law, and she passed the following judgement:

'The Woman insists that the Traveller ate his meal with the smell of her fried fish. The Traveller cannot deny that the wind did carry the smell of frying fish to his nostrils as he sat eating. Therefore, he must pay the price. But what was the price of fried fish? The Woman says it is fixed at a silver quarter for each plate of fried fish. Let the Woman and the Traveller go out of the court into the sunlight; let the Traveller hold out a silver quarter, and let the Woman take the shadow cast by that silver quarter. For if the price of a plate of fried fish is a silver quarter, the price of the *smell* of a plate of fried fish must be the *shadow* of a silver quarter.'

## 35

*The Two Captains*

WHENEVER THE KING went to spend an afternoon in his garden, he had two young men as his escorts, and after a period of time, he was so pleased with their work that he appointed them Captains of the Palace Guards. The day after they had taken up their new appointments, the King found them on duty at the palace gates. The King smiled and asked the young men, 'To what will you attribute your promotion?' 'My good fortune', answered the First young Captain. 'To Your Majesty's goodwill', answered the Second young Captain. 'I am pleased with both the answers', laughed the King, 'and as a mark of equal favour, I will give as presents a coco-nut to the First Captain and a bunch of bananas to the Second. They are of the same value and both are from my Royal Garden.' However, when he was handing over the fruits to the Captains, the King slipped off the Ruby ring from his finger and pushed it into one of the bananas, without anybody noticing it. When they had finished their period of duty for the day, the two young Captains walked back together to their homes and on the way, the Second Captain said to the First, 'My friend, my wife suffers from Malaria and she is frightened to eat bananas, so will you exchange your coco-nut with my bananas?' 'Coco-nuts are as bad as bananas for Malaria', replied the First Captain, 'but neither my wife nor I will mind. So take the coco-nut and give me the bananas.' So the exchange was made.

Later on, when the First Captain and his wife were eating the bananas, they found the Ruby ring. The Captain rushed back to the palace and returned the Ruby ring to the King, who at once summoned to his presence the Second Captain. 'As you believed so much in my goodwill, I wanted you to get the Ruby ring, but your friend's faith in his good luck seems to have given him the ring.' 'But, Sire,' protested the Second young Captain, 'I exchanged my bananas with the coconut and not the Ruby ring, and therefore I submit that I am entitled to the Ruby ring.' The King referred the case to the Princess Learned-in-the-Law, who adjudged that as it was a fair exchange, the exchange was valid

in law, and therefore the bananas together with the Ruby ring belonged to the First Captain.

## 36

*The Irate Wife*

ONCE THERE LIVED a very short-tempered Woman, who spent her time quarrelling with her neighbours. She was a shrew and quarrelled with her good-natured Husband every day. They had an only son, about three or four years old. The Husband was very fond of his child, but the Woman often scolded him.

One morning the Woman was in an exceptionally bad mood, and she refused to cook her Husband's breakfast. She walked about the house pouting and abusing him. But the Husband took no notice of her, and sat playing with his little son. 'I will divorce you, divorce you, divorce you', the Irate Wife shouted, 'and I will take the child along with me.' So saying, she ran out of the house with the child. The Husband went to the Village Headman's house to report the divorce and to plead for the custody of the child.

The Irate Wife walked along the high road for some miles, and feeling tired, she sat down in the shade of a toddy tree. A crow flying by alighted on a fruit on the toddy tree, and out of sheer mischief, pecked at it repeatedly until it fell off the tree on to the child sleeping in the lap of the Irate Woman, killing him instantaneously. The crow flew away, and the Irate Wife, shouting 'You mischievous murderer, you black crow', ran along the road after the bird.

A short distance away, a Villager was ploughing his field. Every day of the previous week, his breakfast, tied in a little bundle and hung on the hedge, had been snatched away by the crow. So that morning he had set a trap for the bird. The crow flew to the hedge to steal the Villager's breakfast as usual, and was caught in the trap. The Irate Woman ran to the hedge and tried to pull the crow from the trap. 'My crow, my crow', shouted the Villager. 'Oh, your crow is it?' said the Irate Woman, 'I am glad to hear it, you scarecrow of a man. Now come along with

me to the Headman.' So saying, she pulled the Villager by the hand and dragged him to the Headman's house.

The Headman first took up the matter of the divorce between the Irate Woman and her Husband, and he decided that the Husband was entitled to the custody of the child, as the divorce was entirely due to the Woman's ill-temper and the Husband was free from blame. So he ordered that the Woman should return the child to her Husband.

The Headman then took up the matter between the Irate Woman and the Villager. The Woman first asked the Villager, 'You say that the crow is yours?' 'Of course, the crow is mine', replied the simple Villager. The Woman then gave evidence as to how her son was killed as a direct result of the crow's action, and pleaded that as the crow belonged to the Villager, the Villager as master was liable for the act of his slave the crow. The Villager was unable to plead that the crow did not belong to him, as he was 'estopped' from so doing by his previous affirmation that the crow was his. The Headman, therefore, decided that the Villager should pay compensation to the Woman for the loss of her child, and the Woman should then make over the amount realized as compensation to the Husband, as she was no longer able to give the custody of the child to him.

The Villager was not satisfied with the decision, and took the matter on appeal to the Princess Learned-in-the-Law. The Princess, after considering the full facts of the case, passed the following judgement:

'There is no doubt that the Irate Woman should pay compensation to her Husband, as she is unable to return the child to him.

'The point in dispute is whether the Villager should pay compensation to the Woman. Although the crow was responsible for the death of the child, if the Woman had not been so short-tempered and left her Husband in a huff and sat under the toddy tree, the child would not have been killed. Therefore, she is also liable for the death of the child. The Villager is "estopped" from denying that the crow belongs to him, and as a master is responsible for the tortious acts of his slave, he is under a liability to make good the loss of the child. Therefore, the Irate Woman and the Villager shall pay in equal shares the usual amount payable as compensation for the loss of a child.'



A few days later, the parties again came before the Princess Learned-in-the-Law. The Irate Woman and the Villager informed her that they had decided to marry each other and pleaded that they were too poor to pay the compensation. At their request and with the consent of the Husband, the Princess passed the following Order:

‘Order—The Irate Woman will marry the Villager, and when a son is born to them, he shall be given to the first Husband of the Irate Woman, as compensation for the loss of his son.’

37

*The Four Scholars who were  
Killed by a Boar*

FOUR SCHOLARS ARRIVED BACK at their own country after an absence of three years studying at a University in another country. The first was the Son of a Rich Man, and he was skilled in wood carving. The second was the Son of the King’s Tutor and he was skilled in sculpture. The third was the Son of the Chief Minister and he was skilled in painting. The fourth was the Son of the King himself and he was skilled in sorcery. They chose and married four beautiful maidens, and some time after their marriages, they went hunting in the forest.

They were strong young men and dexterous with their weapons and rode on well-trained horses. Soon they had killed many a stag and many a deer. Then they ventured into the deepest part of the forest, where they came face to face with a fierce wild boar. The horses became frightened and turned round and fled as the boar charged, and the young men had to exercise their horsemanship to the utmost, so as to prevent themselves from being thrown off. The horses stopped only after they had run for more than an hour, and by that time darkness had fallen. So the four young men decided to rest for the night. They agreed to divide the night into four periods, and they were to keep watch in turn, in reverse order of seniority in rank. So the first watch was kept by the Rich Man’s Son, who found it difficult to keep

awake after the events of the day, and to stop himself from falling asleep he cut down a tree, and carved the trunk into the likeness of the fierce boar which had chased them. Soon the turn of the Royal Tutor's Son came, and as he found it difficult to keep awake he applied his skill as a sculptor to the wooden image of the wild boar which his friend had carved. Then it was the turn of the Minister's Son to keep watch, and to keep himself awake he made some paint out of charcoal, tree bark, and plant juice, and painted the carving of the boar. Finally, it was the turn of the King's Son to keep watch, and to keep himself awake he recited a magical formula and made the carving come to life. The wooden boar at once attacked the four young Scholars and killed them.

There resulted suits and counter-suits among the widows for compensation. One view was that the First Scholar who made the carving in wood was responsible for the deaths, so his widow should pay compensation to the others. Another view was that all four Scholars were equally responsible, and so the question of compensation did not arise. The four widows finally took their case to the Princess Learned-in-the-Law, and she gave the following judgement:

'Ladies, the first three Scholars could not be blamed for the disaster that followed, for their intention was merely to make a figure of the wild boar which had chased them, and the figure by itself brought them no harm. The Fourth Scholar, however, actually made the harmless figure harmful by putting life into it. His widow should, therefore, pay compensation to the others.'

## 38

*The Four Scholars who were  
Killed by a Tiger*

FOUR SCHOLARS ARRIVED BACK at their own country after three years of study at a University in another country. The first was a Rich Man's Son, and he had become proficient in the science of anatomy. The second was the son of the King's Tutor,

and he had become proficient in physiology. The third was the son of the Chief Minister, and he had become proficient in pharmacology. The fourth was the son of the King himself, and he had become proficient in the science of elixirs. They chose and married four beautiful maidens, and soon after their marriages they went hunting in the forest.

They were strong young men, dexterous with their weapons, and rode on well-trained horses. Soon they had killed many a stag and many a deer. But they were disappointed that they could not find any tigers. 'Oh, I will make one', said the Rich Man's Son and, out of the bones of the stags and the deer, he constructed a skeleton of a tiger. The Son of the King's Tutor covered the skeleton with sinew, muscle and flesh taken from the dead stags and deer. The Son of the Chief Minister then made from the herbs and roots of trees near by a medicine that could bring the dead to life, and poured it down the throat of the artificially made tiger, which soon started to breathe faintly. The King's Son obtained some fruit and honey from the near-by trees, and mixing the juice from the fruit and the honey, he concocted a special elixir-like food, and poured it down the throat of the tiger. At once the tiger, becoming not only alive but strong, jumped up, and killed and ate all the four Scholars.

There resulted suits and counter-suits among the widows. One view was that the First Scholar was responsible for he started the whole tragic affair. The other view was that the Third and Fourth Scholars were responsible for it was they who brought the artificially-made tiger to life and strength. The four widows finally took their case to the Princess Learned-in-the-Law, and she passed the following judgement:

'Fair ones, I must say that no one is entitled to any compensation. Each one of the four Scholars contributed to the emergence of the unnatural tiger, and each one of the four Scholars had the intention to make an artificial tiger. Thus, all four were jointly responsible for their deaths.'

## 39

*The Chief Minister who Lost his Wife*

THE CHIEF MINISTER was worried over his wife. She was very young and very beautiful, and he was old and ugly. There were so many young courtiers about, and to make matters worse, he had to be at the palace attending to the state matters at all hours of the day. So he built a golden tower for his wife, and it was always guarded by soldiers and retainers. In spite of his precautions, however, an alchemist with his philosopher's stone flew into the lady's chamber and stole her away. The Chief Minister, on finding that his bird had flown, became distraught, resigned his appointment, and assuming the guise of an ascetic, roamed the country in search of his beloved. He travelled a thousand miles and more, but he did not find his lost wife. One day, famished with hunger, and broken in heart, he sat leaning against a large tree by the side of a pond, with his begging-bowl placed in front. A kindly passer-by, noticing the dejected mien of the ascetic, bought some food from a nearby food-stall, and placed it in the begging-bowl. The Chief Minister thanked him and turned round to wash his hands in the pond. A black crow flew past, and noticing that the begging-bowl was left unguarded, alighted and started to eat the food. A female cobra, who had her nest in the hollow of the tree, thought that the crow would discover her nest and steal her eggs, and gliding out, she bit the crow with such great anger that it died on the spot. Some of the poison from the cobra's fangs splashed into the begging-bowl. The Chief Minister, after washing his hands, turned round again and ate the food, now stained with the cobra's poison, and he died.

The Mayor of the city conducted an inquiry over the death of the seeming ascetic and, discovering his true identity, gave him honourable burial. Then he traced and arrested the former wife, the alchemist, the food-stall keeper, the kindly passer-by and the cobra, and ordered them to pay the expenses of the funeral. The former wife and the alchemist demurred that they were merely guilty of adultery, and were not directly responsible

for the Chief Minister's death. The food-stall keeper and the kindly passer-by pleaded that the food when given to the seeming ascetic contained no poison, and therefore they were not directly responsible for the death. The cobra pleaded that she merely attacked her enemy the crow, and had no intention to harm the seeming ascetic in any way. They appealed to the Princess Learned-in-the-Law. The Princess passed the following judgment:

'The former wife and the alchemist were not responsible for the Chief Minister's death, for his death was not the direct result of their elopement. The food-stall keeper and the kindly passer-by were not responsible for the death, as the food when put in the begging-bowl did not contain any poison. The cobra had no intention of harming the seeming ascetic in any way; all the same, her action in attacking the crow directly led to the ascetic's death. But the seeming ascetic should have known that something was wrong on seeing the dead crow lying near his begging bowl, and therefore his own negligence alone was the real cause of his death. Accordingly, the question of compensation does not arise, and the Mayor will recover from the King the expenses of his former Minister's funeral.'

## 40

*The Owl, the Squirrel and the Frog*

THERE WAS PEACE AND QUIET in the forest and the animals went about their tasks in their accustomed ways. Underneath a tree there sat a Frog, enjoying his afternoon meal of insects. On the top of the same tree, a Squirrel had bitten off a tree-branch, and was holding it in his mouth. Inside the tree-trunk, an Owl had just wakened from his slumber and, through a hole, was watching the other two animals. He wanted to show that he was a learned bird, and instead of shouting his usual cry, 'Tu-whit, tu-whoo', suddenly cried out, 'Where the cliff has fallen, the grass shall not grow, and many disputes shall follow.' The Squirrel was so startled by this sudden and unusual cry that his mouth became wide open, dropping the tree-branch. Unfortun-

ately, the tree-branch fell on the Frog. As a result, the Frog's back was broken and he had to go to a Physician for treatment. The Frog now sued the Squirrel for payment of the Physician's fee, but the latter disclaimed liability, maintaining that it was the Owl who was really responsible. The Frog took the case to the Princess Learned-in-the-Law, and the following was her judgement:

'The Owl was responsible, because his unusual cry startled the Squirrel; however, the Squirrel was also responsible, because his negligent action of dropping the tree-branch actually broke the Frog's back. Thus, the Owl and the Squirrel are joint tortfeasors, and they must pay the Physician's fee in equal proportion.'

## 41

### *Poisoned Mushrooms*

A DEBTOR FOUND that the year was up but he was unable to pay the loan. So he decided to go to the Creditor and plead with him for another year's time to pay. 'We must take with us some presents', said he to his Wife, who thereupon fried some fish, roasted some beef, and cooked some pork. Then, the Debtor and his Wife started on their journey to the house of the Creditor, taking with them the cooked meat and a pot of rice-beer. On the way, they found some mushrooms growing in a field and they picked the mushrooms and took them along with them. When they arrived at the house of the Creditor, they found that he was away and only his Son, a fully grown man, was in. The Son saw the food, the pot of beer, and the mushrooms, and his mouth watered. 'Give them to me quickly', he demanded, 'for I am very hungry'. In vain that the Debtor pleaded that the food and the beer were for his father, and that the mushrooms were still uncooked and they meant to cook and eat them on their return to their own home. 'But am I not the Son of my father?' he shouted in anger. 'If I am not pleased with your presents, my father will not be pleased either, so cook the mushrooms and feed me quickly.' The Debtor and his Wife did not wish to incur the displeasure of the Son and so the Wife

cooked the mushrooms, and then served the meal. The Son ate the fish, the beef, the pork and the mushrooms, and drank the beer with great relish. Then he suddenly fell down dead.

The Creditor now arrived on the scene, and accusing the Debtor and his Wife of attempting to poison him as they were not able to repay his debt, demanded compensation for the loss of his Son. Before witnesses, the Creditor fed some cats and dogs with the remains of the meal and the beer, and only the dog which ate the mushrooms died. The Debtor and his Wife pleaded that they had never intended to offer the mushrooms to the Creditor or his Son, and they had meant to eat them themselves, as they were good mushrooms; and moreover, they had to cook and offer the mushrooms to the Son only because they were forced to do so by the Son himself. The dispute finally reached the Princess Learned-in-the-Law whose first action was to inquire what shrubs or trees used to grow at the site where the mushrooms were picked by the Debtor and his Wife, and it was discovered that poisonous shrubs used to grow there. Then she passed the following judgement:

‘It has been proved that the meat and the beer brought by the Debtor and his Wife were not poisonous. It is also proved that the Debtor and his Wife did not know that the mushrooms were poisonous. For that reason, it is obvious that there was never any intention in the minds of the Debtor and his Wife to kill the Creditor or the Son or anybody for that matter.

‘But were these two guilty of negligence in serving the Son with the dish of cooked mushrooms? First, the mushrooms to all appearance were edible, and so they could not know that the mushrooms were poisonous, and second, they did not want to cook and serve the mushrooms but they were prevailed upon to do so by the Son himself.

‘As they were not guilty of either intentionally or negligently causing the death of the Son, they are not liable to pay any compensation.

‘However, they did contribute to the Son’s death, as they served him with the mushrooms, and for this they should pay the expenses of the Son’s funeral.’

## 42

*The Collision on the Bridge*

TWO MEN, each carrying a basket of paddy on his shoulder and coming from opposite directions, collided against each other on a narrow bridge, and both fell down into the river. However, they happened to be strong swimmers, and were able to save themselves from drowning, but the baskets of paddy were lost. Each accused the other of negligence, and each claimed from the other compensation for the loss of the paddy. On inquiry, it was found that both were of the same age, and of the same strength. In addition, both were going at the same quick pace, and as both reached the bridge at the same time, the collision had taken place right at the middle of the bridge. As both were carrying a basket of paddy each, the value of the goods lost seemed to be equal. Finally, the matter was referred to the Princess Learned-in-the-Law and she passed the following judgement:

‘If one of the two parties had been sick or weaker or older, the other would have to be adjudged to have been more negligent, as the stronger would have to give way to the weaker. If one of the two men had reached the bridge first, he would have had the right to cross the bridge first. However, as they were of equal age and strength, and as they reached the bridge at the same time, and as they were going at the same pace, both were equally reckless and equally negligent.

‘Other things being equal, the person carrying the lighter load would have to give way, and if the loads were of equal weight, the person carrying the less valuable load would have to give priority to the other. In this case, the loads were of equal weight, but were they of equal value? They were of equal monetary value, but they were not of equal utilitarian value, because whereas the old paddy was good for eating only, the new paddy could also have been turned into seedlings, which would later produce more paddy. Accordingly, let the man carrying the basket of old paddy give compensation to the other.’



## 43

*The Bee-Hunter and the Elephant-Driver*

THE BEE-HUNTER saw a large beehive on a tree, and climbing it, he smoked out the bees from the hive. As the bees were very angry and persistent, he was quite tired and dizzy by the time they finally fled and the hive was ready for him to take. So when he stretched out his hands to seize hold of the hive, he lost his balance and fell, but fortunately he was able to catch hold of a tree branch with his right hand as he fell. He remained there dangling, unable to pull himself up on to the branch with one hand only, and frightened to let go of the branch as he was still some feet away from the ground. He shouted for help, and an Elephant-Driver on his Elephant came in answer to his shouts. The Elephant-Driver sitting on his Elephant, stopped right under the Bee-Hunter and lifted up his driving spear, saying, 'My Friend, do not be afraid, but just slide down my driving spear on to my shoulders and then on to the back of my Elephant.' The Bee-Hunter, in great joy, caught hold of the point of the driving spear with his left hand, but, at that very moment, the Elephant moved away, so that the Elephant-Driver was left dangling in the air, holding on to his driving spear. 'Now, now,' exclaimed the Elephant-Driver, 'do not let go of the branch and do not let go of the driving spear. Be patient and be strong. Help will come soon.' Some minutes passed, and the Bee-Hunter said, 'My Friend, my hands are getting tired and I must save myself by letting go of the driving spear.' 'Do not be mean', protested the Elephant-Driver. 'I am in this plight, only because I tried to save you from danger.' As the two went on arguing, Four Young Men, who had come to the forest for a picnic, arrived on the scene. On seeing the predicament of the Bee-Hunter and the Elephant-Driver, one of the Young Men took off his sarong, and he and his three companions held it by its four corners underneath the Elephant-Driver and the Bee-Hunter. Then they shouted, 'Jump, jump!' The Elephant-Driver and the Bee-Hunter jumped as directed and landed on the outspread sarong, but, as they were very heavy, the force of their

jump caused the Four Young Men to fall forward, knocking all the six heads together. All had to be treated by a physician, and the question of paying the physician's fee, which amounted to six silver coins, arose. The Young Men maintained that the other two should pay, because they were hurt in saving the latter's lives. The Elephant-Driver maintained that the fee should be paid by the Bee-Hunter, as he got into trouble in trying to save the Bee-Hunter's life. The Bee-Hunter argued that, although he did not want to be ungrateful, he was not under any liability to pay the fee, as the Young Men and the Elephant-Driver freely undertook to save his life on humanitarian grounds. The dispute finally reached the Princess Learned-in-the-Law and her judgement was as follows:

‘Just because the Four Young Men, of their own accord and on humanitarian grounds freely offered their assistance to the two dangling men, it did not mean that they had surrendered their legal right to compensation for any injury or loss. On the other hand, in effecting the rescue, they were under an obligation to use due care and caution. The same legal principles applied to the Elephant-Driver. Therefore, we must consider who were responsible for the injury caused to all the six litigants, and we find that none of the six was quite free from blame. It was negligent of the Elephant-Driver to lift up his spear to the Bee-Hunter, without first ensuring that the Elephant would not move away. The Bee-Hunter was also negligent in not anticipating the likelihood of the Elephant moving forward. The Four Young Men were also negligent in not anticipating that the weight of the two dangling men falling on their sarong, would throw them off their balance. But the degree of negligence was not the same. The Bee-Hunter was the root of the dispute, and so he shall contribute one silver coin towards the physician's fee. The Elephant-Driver was the trunk of the dispute and so he shall contribute three silver coins. The Four Young Men were the branch of the dispute, and so they shall contribute together two silver coins.’

## 44

*The Woodsman who Coughed*

THE WHOLE MORNING since dawn the Hunter had been trailing a deer, and now he felt he was at the end of his labours, for the deer had stopped to drink from a pool, and was presenting a perfect target. All was quiet in the forest, and the Hunter set an arrow on his cross-bow, and took careful aim. At that very moment, a Woodsman with an axe on his shoulder happened to pass by. He had been cutting wood since dawn, and he was now returning home, pleased with his morning's work. Feeling relaxed and carefree, and never noticing either the Hunter or the deer, he gave a loud cough. At the sudden sound of the cough, the deer bolted away, and although the Hunter made a desperate shot with his bow and arrow, the animal disappeared into the thickest part of the forest. The Hunter demanded from the Woodsman compensation for the loss of the deer, but the Woodsman indignantly replied that to cough was but human, and in any case, he never noticed either the Hunter or the deer. The dispute finally reached the Princess Learned-in-the-Law who passed the following judgement:

'In a village the sound of a cough is not an unusual sound, and a villager while in the village does not have to exercise any caution whether he should or should not cough. In a forest, however, everyone has to go about with caution and care, so as not to make noises which will be unnatural to the forest. As a cough was an unnatural and a frightening sound in the forest, the Woodsman should have exercised caution before making the sound. So he must pay compensation to the Hunter for the loss of the deer.'

## 45

*The Young Man and the Lost Cow*

A YOUNG MAN was visiting a Young Woman at her home and he was fervently declaring his love to her. Although the Young

Woman kept saying, 'I am too young to marry, so please give me time', the Young Man would not take no for an answer. He went on declaring his love and she went on refusing to love him in return. He had come at nightfall and already the evening was well advanced. The Young Woman did not want to be rude but she was getting bored, and so she hinted, 'It is getting very dark. Will you be able to find the way back to your house?' 'The moon will soon be rising', answered the Young Man, and continued to plead with her to marry him. She went on refusing until it was nearly midnight, and the cocks crowed their first watch. 'Midnight is approaching', reminded the Young Woman. 'The cocks have crowed the hour for elders to go to bed, and my parents in the back room must be feeling sleepy.' 'Let me stay until the cocks crow their second watch of the night', begged the Young Man, and for the next one and a half hours, he went on pressing his suit. 'The cocks are crowing the hour for ardent lovers to go home', remarked the Young Woman. The Young Man, realizing that it would be against good manners and social decorum to stay on any longer, stood up to go, and the Young Woman, taking the oil lamp in her hand, saw him down the steps. She then noticed that the family cow tethered to a house post, was missing. 'Oh, my parents will be very angry with you now', exclaimed the Young Woman. 'As you refused to leave and persisted in prolonging your visit, the garden gate could not be closed, and now through the open gate thieves must have come in and stolen our cow.' The Young Man left the Young Woman without another word and spent the whole night looking for the lost cow. But his efforts were fruitless and the next day he was asked to pay compensation by the Young Woman's Parents for the loss of the cow. 'You were negligent in not closing the gate by nightfall', argued the Young Man. 'It would have been an insult to you', explained the Parents, 'if we had closed the gate when you were still in the house, and it might have led to scandalous rumours against our daughter.' The dispute finally reached the Princess Learned-in-the-Law who passed the following judgement:

'The cow was stolen because the garden gate was open, and the garden gate remained open because the Young Man would not terminate his visit. So he is liable for the loss of the cow.'

## 46

*The Old Cock and the Young Cock*

A VILLAGER had an Old Cock and his Neighbour had a Young Cock. One day, the two animals fought, with the result that the Old Cock became blind in one eye. So the Villager sued the Neighbour for compensation, but the Village Headman decided that as both animals were to be blamed for the fight, no compensation was payable for any resulting injury or damage. The Villager was not satisfied, and the case finally reached the Princess Learned-in-the-Law, and she passed the following Order:

‘In disputes relating to fights between animals, the first thing to consider is whether one trespassed on the feeding-place of the other, and if that was so, the owner of the trespassing animal would be responsible for any injury. In the case before us, it has been made clear that the fight took place on neutral ground. So it is necessary to go a step further and consider whether the fight was fair, from the point of view of the comparative strength of the two animals. In this case, the evidence shows that the fight was not fair, because the Villager’s Cock was old and feeble, and the Neighbour’s Cock was young and strong. So on the face of it, the Villager will be entitled to compensation. However, let us first look at the two Cocks.’

The Cocks were duly brought before the Princess, and the moment they were set down on the floor, they started to fight. It was then seen that although the Young Cock was the stronger, its spurs were not fully grown and therefore it became obvious that in the previous fight, the Old Cock was blinded by its own spurs. Accordingly the Princess Learned-in-the-Law dismissed the suit.

## 47

*The Squirrel and the Rat*

IN A VILLAGE, there lived a man who earned his living by breeding Squirrels and another man who earned his by breeding Rats.

One night, on the branch of a tree, a Squirrel and a Rat met, and there was a fight in which the Squirrel bit the Rat, killing her on the spot. The Rat's Master sued the Squirrel's Master for compensation for the loss, not only of the Rat but also of the litter of young ones which she was carrying in her womb. The Village Headman dismissed the suit, on the ground that animals would be animals and would fight. The case finally reached the Princess Learned-in-the-Law, who passed the following judgement:

'In a dispute over fighting animals, the main question to be considered is whether one of the two animals was trespassing on the feeding-ground of the other. In this case, the fight took place on a tree branch, which is the usual feeding-ground of both Squirrels and Rats. However, as Squirrels feed during the day-time and Rats feed during the night-time, and as the fight took place at night, it is obvious that the tree branch at the moment of the fight was the feeding-ground of the Rat. Accordingly, the owner of the Rat is entitled to receive compensation for the loss of his Rat and her litter.'

## 48

### *The Toddy Fruit*

THE TRAVELLER suddenly felt sick from the heat of the sun, and, leaving the road, took shelter under a toddy tree growing in a plantation on the roadside. Soon he was shivering and delirious with high fever. At that moment, a crow, feeling suspicious of the man's behaviour, alighted on an over-ripe toddy fruit, and the toddy fruit fell on the Traveller's head, injuring him. The ill and injured Traveller was later found by a passer-by and taken to a physician. After recovery, the Traveller sued the Owner of the plantation for compensation, but his suit was dismissed by the Village Headman, who held that the fruit fell on the Traveller's head only because of the Crow's intervention. The Traveller feeling dissatisfied, took his case to the Princess Learned-in-the-Law, who passed the following judgement:

‘There was no question of the Traveller not exercising due care and caution, because he was ill and delirious at the time. Therefore, the only question to be considered is: what caused the fruit to fall, its over-ripeness or the Crow’s weight? The weight of a crow is so light that unless the fruit was already on the point of falling, it could not make it fall. Accordingly, the Traveller is entitled to receive compensation from the Owner of the plantation.’

## 49

*The Rich Man who Became a Beggar*

ONCE THERE LIVED TWO RICH MEN, who were very fond of each other. Both were widowers, but whereas the First Rich Man had an only son, the Second was childless. One day, the First Rich Man announced to the other, ‘Friend, I am getting old and my memory is failing. I can no longer carry the burden of my estate, and so I will hand it over to my Son.’ ‘I also feel tired’, sighed the other, ‘but will have to carry on as I have no Son to relieve me of my burden.’ The First Rich Man duly handed over his riches to his Son, and for the first two weeks he was an honoured guest in the house of his Son. He was given the best room, fed with the choicest food and attended by ten servants. Then the Daughter-in-Law started to complain about the expense, and the Son reduced the number of servants to one. After some time, the Daughter-in-Law said to her husband, ‘Our expenses are still heavy and we must economize. Surely your Father does not need a servant of his own as our servants can look after him.’ The Son protested at first, but he had to give way in the end and dismiss the only servant attending on his Father. After some time, the Daughter-in-Law complained again, ‘The Old Man eats too much, and apart from the expense to us, it is bad for him.’ As before, the Son gave in to his wife’s complaint, and he not only changed the quality of the food, but reduced the number of meals each day to one. After some time, the Daughter-in-Law again complained, ‘Surely the Old Man does not need the best room in the house for he can very well live in the small room

at the back of the house.' The Son, this time, agreed at once and asked his Father to move to the back room. At this insult, the Old Man walked out of the house and became a Beggar. Hearing of his friend's plight, the Second Rich Man rushed to the street corner where the Old Man was standing and begging and said, 'Friend, why did you not come to me?' 'I did not come to you', explained the Old Man, 'as I could not expect anybody else to look after me, when even my own Son found me too burdensome.' Insisting that a friend was always a friend, the Second Rich Man took the Old Man to his stately home and gave him the best room, the choicest food and ten attendants. Thus the two friends lived together in harmony and happiness until one day the Old Man lay dying of a sickness. The Old Man then said, 'Friend, as I now lie dying, the past events of my life have come back to my memory. When I was a very young man, I lived through a period of civil strife, and for safety, I put some of my gold in seven earthen pots, and buried them under the banyan tree near the eastern gate of the village monastery. As I became richer and richer, I forgot all about my hidden gold. I know that you are rich, but my friend, I want to make a very small recompense for your many kindnesses to me by giving you that buried gold.' Before the Second Rich Man could go and dig up the hidden gold, his friend died, so that the gift did not become valid. However, as the Second Rich Man did not want the ungrateful Son to inherit the gold, he took the case to the Princess Learned-in-the-Law, who summoned the Son to appear also, and after listening to their arguments, passed the following judgement:

'The question before me is whether the ungrateful Son or the Second Rich Man is the heir to the only property left by the Old Man, namely the pots of gold. Ordinarily, the Son would inherit, but he has shown himself to be an ungrateful Son and has been a stranger to his Father during the last years of the latter's life. The Second Rich Man is a stranger from the point of view of blood relationship, but it was he who cared for the Old Man, after the latter had turned himself into a pauper by giving away all his wealth to the ungrateful Son. Accordingly, the Second Rich Man is declared to be the rightful heir to inherit the gold.'



## 50

*The Rich Man's Son with a Ruby Ring*

THE RICH MAN was very fond of his only Son, and so he gave him a priceless ruby ring. However, as the Son grew up, both the Father and the Son became disappointed in each other. The Father became disappointed, because the Son took no interest in the family business, and spent his time in reading the scriptures. The Son was disappointed, because the Father did not give him permission to become a monk. The Son waited until he was twenty years of age, when, changing into coarse clothes, he ran away from his home. After he had gone some distance, he discovered that he had forgotten to take off the ruby ring from his finger and leave it in his room. So he took off the ring, and hid it under his coarse clothes. Begging for food all along the way, he travelled for days until he reached a remote village, where he took shelter in a monastery, hoping to become a monk and spend the rest of his days there in peace without his identity ever becoming known. However, before the day fixed for his ordination as a monk arrived, he fell ill of a fever, and was carefully nursed by the Lay Brother of the monastery. In spite of all care and attention, the fever did not abate and the Son realized that he was going to die. 'Lay Brother,' he called out feebly, 'in spite of your loving care, I am going to die. I am a Rich Man's Son who has left all his riches behind, but I still have a ruby ring hidden under my clothes. Take it after my death and sell it, and pay for my funeral expenses, and keep the balance for yourself.' So saying he died, and the Lay Brother kept the ring, and buried the Rich Man's Son with full pomp and ceremony. The Rich Man, in search of his Son, arrived some days later at the monastery, and was heartbroken to find that his Son was now dead and buried. Then he asked the Lay Brother whether his Son had a ruby ring on him when he died, and on learning that it was now with the Lay Brother, he demanded its return. 'But he gave it to me', protested the Lay Brother. 'But I gave it to him', replied the Rich Man, 'and now that he is dead, it will have to come back to me.' 'Your gift was a complete gift', retorted the Lay Brother, 'so it cannot revert to you.' 'But his gift to you

was invalid', argued the Rich Man, 'as the gift was not completed before he died. So I now claim it as his heir, because he left no wife nor children nor brothers nor sisters.' The dispute finally reached the Princess Learned-in-the-Law, who passed the following judgement:

'As the deceased was not married and had no children nor brothers nor sisters, ordinarily, his father the Rich Man would have been his heir. However, in the special circumstances of this case, the person, namely the Lay Brother, who looked after the deceased during his last illness and who gave him an honourable burial, is the heir and so the Lay Brother is entitled to the ruby ring.'

## 51

### *The Snake who Claimed his Share*

A MERCHANT had already five sons, when his wife gave birth not to a child but a Snake. The Merchant wanted to kill it but his wife begged him not to do so as after all he also was their offspring. So the little Snake was kept in the hollow of a tree in the garden, and was fed with milk and roasted rice. Some time later, the Merchant's wife again gave birth, this time to a little girl. Time passed, the Snake became full-grown, and he ceased to come out of the hollow of the tree to take his meals, so that he was more or less forgotten by his parents and his brothers and sister. Then both the parents died, and it became necessary to divide the family riches among the heirs. The eldest son took his special share and then the remaining property was divided into six equal portions. However, at that moment, the Snake glided in, and with his tail he mixed up the six portions of riches piled on the floor. The elders of the village who were witnessing the division of the inheritance watched in surprise and fear, until the eldest brother explained to them the family secret of the Snake. The elders then advised the eldest son to redivide the property into seven equal portions, pointing out that after all, the Snake was their co-heir. The brothers and the sister, accepting this advice, divided the property again, and piled up the riches

in seven equal portions on the floor. After the five brothers, one by one, had picked up their portions, the Snake with his tail mixed the two remaining portions and pushed them towards the sister. As his meaning was understood and the little sister picked up the two portions, the Snake glided away swiftly never to return.

My Lord Justices, take note that the right of inheritance to parents' property is the birthright of every child.

## 52

*Rich Man's Son and his Three Wives*

ONCE THERE WAS A RICH MAN'S SON, and he was very handsome. But he was obsessed with a fear of snakes. When he attained the age of eighteen years, he married a lovely maiden. He said to his wife often, 'Darling wife, should I ever be bitten by a snake and die, please do not cremate me, but put my body on a raft, and send it adrift down the river.' One day he was actually bitten by a snake, and lay as if dead. His wife thought to herself, 'My husband told me often not to cremate him if he should die through snake-bite, and I must now honour his wish.' So, she put her husband's body on a raft, and sent it adrift.

At some place down the river, the three beautiful daughters of a snake-charmer were bathing. The Eldest Daughter spied the raft, and said, 'Look, sisters, there is a raft with a dead body on it.' The Second Sister swam out, and pulled the raft to the shore. The Third Sister ran home, and fetched her father. The old snake-charmer gave a glance at the body, and said, 'Oh, he is not dead yet, and I can cure him.' So saying, he used his snake-charms, and sucked out the poison from the young man's body, and in a few moments, the Rich Man's Son regained consciousness. Then the sisters fought over the young man, as each sister wanted to marry him. The old snake-charmer went away in disgust at the behaviour of his daughters. 'I saw him first', claimed the Eldest Sister, 'so I am entitled to have him.' 'But you old Lazybones,' argued the Second Sister, 'you were too lazy to do anything about it, and it was I who bothered to swim

out and pull the raft towards the shore.' 'I beg your pardon, Stupid,' the Youngest Sister said with mock politeness, 'you were too stupid to notice the unusual blackness of his complexion, which was a certain sign that he had been bitten by a snake. But I knew, and so ran home and fetched my father.' They argued and argued, but they could not come to a definite decision. At last, the Eldest Sister said, 'Sisters, there are so many young men besides him in the world, so let us not quarrel. Let us decide that none of us should have him.' The Second Sister agreed, but the Youngest Sister said, 'If we cannot marry him, no other woman shall.' With these words, she tied a magic string on the leg of the young man, and at once he was transformed into a parrot, and flew away.

The parrot flew to a garden belonging to the King of the country. It was a pleasant garden, full of sweet-smelling flowers and sweet-tasting fruit. The parrot ate up many flowers and fruit, and destroyed the rest out of sheer mischief. The royal gardener was very angry to see his flowers and fruit damaged and spoilt by the parrot. So he set a trap, and the parrot was soon caught. The royal gardener took the parrot to the King, explaining what the parrot had done, and requesting the King to put the bird to death. But as the parrot was so beautiful, the King put him in a golden cage and gave it as a present to his beautiful daughter. The Princess was delighted, and for hours on end she played with the parrot in her golden tower. One day, she noticed the piece of string on the parrot's leg, and untied it, and lo, the parrot was retransformed into a handsome young man. The two fell in love with each other, and they played and laughed in the bed-chamber of the Princess. Whenever they heard someone coming, the Princess swiftly tied the magic string on the leg of the Rich Man's Son, and he at once became a parrot. Days passed until the maids-of-honour began to feel suspicious as they often heard sounds of laughter and merriment from the Princess's bed-chamber. So one day, they tiptoed towards the door, and looking through a crack in the door, they saw the young man. They gave a hue and cry, and the palace guards came running. Swiftly the Princess tied the magic string, and the young man became a parrot again. The palace guards entered the room, and searched everywhere, but of course they could find no trace of any young man. All would have been well if the parrot did not

lose its nerve. But the sight of the fierce-looking guards and their gleaming swords was too much for the poor parrot, and he flew out of the window. Unfortunately, the string on his leg caught on a nail on the window-sill and it became untied. The parrot became transformed into the Rich Man's Son, and no longer with wings, he fell down to the courtyard below. Luckily, he was not hurt, and picking himself up, he ran out of the palace grounds, followed by the guards.

The Rich Man's Son ran and ran until he felt himself fainting with exhaustion. In despair, he ran into an imposing mansion, and found a Rich Man, his wife, and their daughter at their mid-day meal. 'Please save me', he pleaded. 'The King's soldiers are after me.' 'Sit down and eat', instructed the Rich Man, giving him a plate, 'and look calm.' Soon the palace guards arrived, and asked, 'Sire Rich Man, did you see a thief? We were chasing him, and he ran into this house.' 'You can search the house, soldier,' replied the Rich Man politely, 'but permit my wife, my daughter, my son-in-law and myself to go on with our meal.' The palace guards, of course, did not suspect that the young man eating so calmly and heartily, was the young man they were looking for, and they proceeded to search the house. Satisfied that the young man was not in the house, they went away. When the soldiers had gone away, the Daughter said, 'Father, Mother, he is so handsome, may I really have him as my husband?' The parents agreeing, the Rich Man's Son and the Rich Man's daughter lived happily together.

But the Princess was pining and she became pale and wan. At last, the King, her father, said, 'My daughter, you are dearer to me than anything on this earth. Why are you pining? What do you want?' The Princess with tears told her story, and the King said, 'Daughter, you shall have your young man again.' He then engaged a troupe of actors to perform a play, and invited all the ministers, officials, and rich men to come and see the play, bringing every member of their households with them. He announced that any one not accepting the invitation would be put to death. When evening came, and all the ministers, officials, and rich men had arrived with their families, the actors gave a brilliant performance, and as the guests watched the play, the Princess went among them and carefully scrutinized everyone. At last, she found the Rich Man's Son and his wife. 'You

Husband-Snatcher', shouted the Princess, giving the wife a slap on her face. 'You Abandoned-Wife,' retorted the Rich Man's Daughter, 'he left you and I won him.' The First Wife of the Rich Man's Son also had come to the play, and she now staked her claim. 'You Foolish Women,' she said, 'both of you are merely concubines and mistresses. I am his first wife, the chief wife, the only wife.' Then she went on to relate how she was married to the young man, how he was bitten by a snake, and how his body was put on a raft and sent adrift down the river. The three women shouted and argued, and the King himself did not know what to do and how to decide. So he referred the matter to the Princess Learned-in-the-Law, who was as wise as she was beautiful, and as lovely as she was wise. And this was her finding:

'The First Wife thought the young man was dead, so she put his body on a raft and sent it adrift. By this act, she lost all legal rights over him. Moreover, he would never have recovered in the ordinary course of events. The Princess gained him as her husband by untying the string and thus disenchanting him. However, as she could not or did not give him adequate protection, he ran away from the golden tower. So she lost all legal rights over him. Moreover, if he had not been saved by the Rich Man and his family, he would have been caught and killed by the palace guards. Therefore, the Rich Man's Daughter is the only legal wife and the young man must remain with her.'

### 53

#### *Mistress Money and the Lazy Footman*

A RICH MAN AND HIS WIFE had an only daughter, who, being the sole heir to their wealth, was known as Mistress Money. A young man belonging to another wealthy family fell in love with her, and so they were married. The fond parents built a tower of gold for their daughter and their son-in-law. But after a few months, the young husband decided to sail the stormy seas in search of trade and wealth. 'Beloved,' protested Mistress Money, 'only needy merchants have to sail to unknown lands across the ocean. You are not needy, your parents are rich, and so are mine.'

‘Beautiful,’ replied the husband, ‘I do not want to breathe through another’s nose, and I do not want to live on wealth accumulated by others. I want to prove that I am a man, I want adventure, and I want to visit strange lands.’ The girl’s parents also pleaded with the young man not to go to strange lands in search of wealth and adventure, as he was happily married to a rich and beautiful girl. But the young man was adamant, and he bought a ship and sailed away.

Mistress Money felt that she had been treated with contempt by her husband, and thought to herself, ‘He disdains me, and so I will disdain him. He seeks adventure, and I too will seek adventure. He despises my riches, and so I will embrace poverty.’ She then sent for the poorest and laziest of her footmen, and made advances to him. In the darkness of night and in the secrecy of her bed-chamber, they made love, and after some weeks, the False Footman said, ‘Mistress, it is all very well for us now, but what will happen when your Husband returns?’ That reminded Mistress Money that time was passing. So the same night she and the False Footman went to a cemetery, dug up a fresh grave, took out the dead body of a woman, and placed it in her bed. Then the two set fire to the tower of gold and ran away to a remote village. The parents found the charred corpse, and thinking that it was their daughter’s body, made loud laments, and gave it honourable burial.

Mistress Money had taken with her her jewels, but as she and her paramour were great spendthrifts, in no time her jewels had been sold and the proceeds spent. The False Footman was too lazy to work, and now he had grown very fat because of easy living and fine food. Mistress Money thought out another plan. ‘You have grown very fat, my False Footman,’ she remarked, ‘and nobody in our city will recognize you. But I still look the same. If we now return to the city, my parents will believe that I am my own double. If we play our cards well, we shall live happily ever after.’ So they went back to the city, and taking a position at a short distance from her parents’ house, they held up their hands and begged for alms. Soon her mother passed by, and on seeing Mistress Money, she cried out aloud, ‘Oh, my daughter, my daughter, you look exactly like my poor daughter dead and buried some weeks ago.’ Mistress Money and the False Footman pretended to be surprised, and begged, ‘Give us

alms, my lady, we are two poor homeless wanderers from a remote village.' 'Come with us', invited the mother, and they followed her to her home, where they were given food and fine clothes. Another tower of gold, an exact replica of the old, was built, and they were asked to stay in it. 'My daughter, my daughter,' lamented the mother, 'you are gone, but the sight of this poor maiden, so like you, will give me some consolation.'

Time passed, and the Husband now returned from overseas with three fine ships, all laden with gold. But he was met by cries of lamentation from his parents-in-law, and on learning the news, he was overcome with grief. To console himself, he went to look at the burnt-out ruins of his golden tower, but to his surprise, he found the tower intact and standing exactly as he left it. He went up to his lady's chamber, and to his dismay, he found her asleep in the False Footman's arms. In vain did Mistress Money pretend that she was a complete stranger, in vain did the parents explain, and in vain did the neighbours testify to the fire, the body, and the funeral. 'Do I not know my own wife?' insisted the Husband. 'Have I not loved her always?' At last all went to the Princess Learned-in-the-Law for her decision. The Princess found the evidence clearly against the Husband, but she was impressed by his demeanour. 'This man seems sincere', she mused, and she ordered the court to be cleared. Then sending for the Husband, she said to him, 'My lord Merchant, if you are speaking the truth, you have lost a false wife, and shame on you for wanting her back; and if you are speaking untruth, you are trying to win a wife, and shame on you for wanting another man's wife. I am free, I am famous, and I am beautiful. Will you not take me as your wife?' 'Princess,' replied the Husband, 'you are too wise to want a husband, and I know that you are merely testing me. But, I assure you, she is my wife. I loved her and married her, but I left her in spite of her protests, to seek for unnecessary and unneeded wealth.' The Princess dismissed him and sent for the False Footman. 'Villager,' said the Princess, 'you look so fat, and gay and carefree. Why do you love another man's wife? Take me, and we shall live for ever in luxury.' 'I am willing', replied the False Footman in glee. 'One woman is as good as another, and moreover, you are my judge and have my fate in your hands.' She dismissed him and sent for Mistress Money. 'Friend,' said the Princess, 'why do



you refuse the good fortune that has come your way? Whether your story is true or untrue, why not forsake a village lout for a noble and rich merchant?' 'Princess,' replied Mistress Money, 'you are a woman and I am a woman. A woman is like a fruit. When it is on the tree, it belongs to the tree, but when it has fallen from the tree, it belongs to the dust and can return to the tree no more.' 'Oh, what a world of sorrow lies behind those words!' sighed the Princess. Then calling all the litigants together, she gave the following judgement:

'The Woman belongs to the Merchant, and the Villager is proved to be guilty of adultery. But what compensation can he give being only a false and foolish lout, possessing not even a single penny? My lady Money, the fruit can never return to the tree, but a daughter can always go back to her mother. My lord Merchant, your fruit has gone sour, but if you insist, you can have it. Or perhaps you will choose to sail the perilous seas again, this time in search of a new love?'

## 54

*The Young Man who Changed Sex*

A RICH MAN had a very beautiful daughter, and he kept her in a tower of gold, guarded by servants and retainers. A Minister's Son fell in love with her, and asked for her hand in marriage, but his request was refused by the Rich Man. The Minister's Son felt desperate, and he went to a sorcerer, who taught him a magic formula, which changed the sex of the person reciting it. With this formula, he turned himself into a young woman, and became a kitchen-maid at the golden tower. Gradually, by speaking to other servants sweetly, and by giving them presents, he became very popular and soon found himself attending on the Rich Man's daughter as her personal maid. When he was sure of her confidence, he recited the formula and becoming again a young man, he made love to her in the privacy of her bed-chamber. Whenever he left the bed-chamber, he changed himself into a woman by reciting the magic formula. After some time, the Rich Man's daughter became with child, and the Minister's Son,

losing his nerve, ran away, and she confessed the truth to her father. The Rich Man refused to marry her to the young man, and sent her away to another city, where she was married to a Rich Man's Son, who pitied her on learning her story. In due course, she gave birth to the child.

The Minister's Son claimed custody of the child, as he was the natural father. The Rich Man's Son claimed that the child was his, as his wife gave birth to it. They took their case to the Princess Learned-in-the-Law, and the Princess adjudged that the child belonged to the Rich Man's Son, because any child born to a woman in wedlock was deemed to be her husband's, even though the contrary was proved.

## 55

*The Poor Scholar and the Alchemist*

THE CLASS had been in session for three years, and the scholars who had come to study at the feet of the Professor were now preparing to go back to their homes many miles away. Most of the scholars were rich, and some were even sons of kings and princes, but one scholar was very poor. Others knelt down and gave farewell gifts of gold and silver to their beloved Teacher. The Poor Scholar, however, had nothing to give, and kneeling, he said, 'Sire Teacher, as you know, I have no silver or gold. I can give you but words of thanks.' 'My son,' replied the Teacher, 'you have been the best of your class, and as a prize for excellent work, I now give you my only daughter in marriage. Take her to your own country, for I know that she will be happy.' The Poor Scholar again thanked the Teacher, and taking the hand of the daughter, he started on his journey home.

On the way, they passed by a pond of singular beauty. The water was crystal clear, and there grew in abundance golden lilies. The two young people stopped, gazed at the lovely pond, and then washed their hands and faces in the clear, cool water. At that juncture, an Alchemist flew by, and seeing the beautiful maiden, fell in love with her at first sight. The Alchemist offered the Poor Scholar a philosopher's stone, in exchange for the

beautiful maiden, his wife. Infuriated at the blunt refusal of the young man, he drew his sword from the scabbard, and the Poor Scholar drew his also. Each attacked the other, and simultaneously each cut off the other's head.

As the beautiful maiden sat weeping, the guardian Goddess of the pond appeared. 'Do not be grief-stricken, beautiful maiden', consoled the Goddess. 'The water in my pond has magical qualities, and both your Husband and the Alchemist will soon be restored to life. But I must hide their weapons so that there shall be no more fighting.' 'Fetch me some water, maiden,' continued the Goddess, 'you can make a cup out of the lotus leaves and a few drops of the pond water will be enough.' The Goddess picked up the two heads which had rolled down the edge of the pond, while the maiden fetched the water. The Goddess then placed each head on a lifeless trunk, and sprinkled some water on both heads, and lo, both the Alchemist and the Scholar became alive.

But, which was the Alchemist and which was the Scholar? This question was pertinent, for, alas, the Goddess in her hurry had placed each head on the wrong trunk, and so there stood one man with the Alchemist's body and the Scholar's head, and another man with the Alchemist's head and the Scholar's body. The Man with the Scholar's head exclaimed, 'Come into my arms, my sweet wife, for I am your husband.' However, the Man with the Alchemist's head also said, 'Come into my arms, my sweet wife, for I am your husband.' The Man with the Scholar's head argued, 'I am the husband, for do I not possess the Scholar's head?' The Man with the Alchemist's head argued, 'I am the husband, for do I not possess the Scholar's body?' The Goddess ruled that the marriage had been dissolved, because the Scholar's whole body had disintegrated into two separate and distinct parts, and one woman could not be wedded to two husbands at the same time. However, as the two men went on arguing, the Goddess took all three of them to the Princess Learned-in-the-Law.

The Princess decided that a man's personality was in the head, and therefore the Man with the Scholar's head, although with the Alchemist's body, was still the legal husband of the beautiful maiden.

## 56

*The Lady and her Two Lovers*

ONCE THERE LIVED A RICH MAN whose only daughter was so beautiful that he placed her in a golden tower, guarded by men-at-arms. Two young scholars who were separately on their way to universities in other countries passed by the golden tower, and looking up, they saw the Lady gazing down on them from a window. They fell in love with her at once, and when they reached their universities, they endeavoured to learn the art of flying in the air. After three years of diligent study, the First Scholar became a master of incantation and the other became a master of runes. One moonlight night, after they had returned to their own country, the First Scholar recited a magic formula, and flying into the bed-chamber of the Lady in the golden tower, he made love to her, and the following night, the Second Scholar cast a rune and flying into the bed-chamber of the Lady in the golden tower, he made love to her. This romantic intrigue between the Lady and her two lovers continued for several months, and luckily the scholars never met. One day, the Lady found that she was with child, and confessed the truth to her father the Rich Man, who said that he would marry her to the father of the child. As both scholars claimed to be the father of the child, the Rich Man referred the matter to the Princess Learned-in-the-Law, who passed the following judgement:

‘The two scholars were the Lady’s lovers during the past several months, and, therefore, it is not possible to determine who is the father of the child. Accordingly, let the Lady choose between the two, and the one she chooses shall be declared the father of the child.’

## 57

*The Adulterous Crow*

ONCE THERE WAS A KING who ruled over all men and animals. The Crow was his special courier. One day the Crow was sent on

important state business. After accomplishing his mission, he came back with hopes of praise and reward, but on the way he met Mistress Pheasant. Mistress Pheasant, although she had a husband, fell in love with the dashing King's courier. So she made love to him and gave him a feast. They became intoxicated with love and wine, and fell asleep in each other's arms. Unfortunately, the husband Pheasant arrived on the scene, and killed the Crow with one mighty peck of his beak.

As the Crow did not return at the appointed time, the King sent out search parties, and at last the dead body of the Crow was discovered. The Pheasant was arrested, and brought to trial for breaking the King's Peace. The Pheasant, however, was a clever lawyer, and he argued his own case. He pleaded that he killed the Crow, not as the King's courier, but as an adulterer, caught in the very act of adultery. And as he was the wronged husband, he had the right to kill the adulterer Crow. The King had to accept this plea, and the Pheasant had to be acquitted.

The Widow of the Crow now sued the Pheasant for compensation for the death of her husband. The Pheasant, in great indignation, made a counter-claim against her for the compensation due by the Crow for his adultery. The dispute was referred by the King to the Princess Learned-in-the-Law and the following was her judgement:

'It is true that the adulterer is liable to pay compensation to the wronged husband, but the liability is wiped out when, on being caught in the act of adultery, he is killed by the husband. The husband who kills the adulterer caught in the act of adultery is not liable to pay any compensation. However, as he is the causer of the latter's death, he is liable to pay the funeral expenses of the adulterer, in this case, the Crow.'

## 58

*The Husband whose Wife was Unfaithful*

A RICH YOUNG MAN fell in love with the beautiful wife of a neighbour, who did not however return his love. So he sent her expensive presents of gold and jewels, which she duly put in the

Treasure Chest of her family. After some time, because of the ardent and persistent wooing of the Young Man and because of his expensive presents, she accepted him as her lover. Whenever the Husband was away from home, she signalled to her lover, and they spent happy hours together. After each visit, she was always given by her lover some gold or silver or a jewel as present, all of which she promptly put in her family Treasure Chest. After some months, the Husband discovered the liaison and demanded compensation from the Young Man, who however refused to pay, pointing out that the total value of his presents to the wife was more than a hundred times the amount of compensation payable under the law. 'The presents were for her and not for me', protested the Husband. 'But she put them in your family Treasure Chest', retorted the Young Man. The dispute finally reached the Princess Learned-in-the-Law, who adjudged that as payment to the Estate of the Wife and Husband constituted payment to either or both, the Husband was not entitled to demand any further compensation.

## 59

*The King who Eloped with  
the Wife of his Slave*

THE KING fell in love with the beautiful wife of one of his slaves, and eloped with her to his garden pavilion. The Slave soon followed, and demanded compensation for the loss of his wife, but the King refused to pay. The Slave took the matter to the Princess Learned-in-the-Law who fixed a day for the hearing of the case, and summoned both the King and the Slave to appear. On the appointed day, the King came to the Court, bringing with him six cups of gold and six cups of silver. The Slave left his home empty-handed, but on the way he was able to catch a turtle and an iguana. When their case was called, the King, with a flourish, gave the cups of gold and silver to his lawyer. The Slave was just on the point of offering the turtle and the iguana to his lawyer, when the King demanded, 'You are my Slave and

all you have is mine, so give me the turtle and the iguana.' The Slave had no choice but to obey, and so he gave the animals to the King, who promptly handed them to his lawyer as additional presents. The Princess Learned-in-the-Law now took her place as judge and listened patiently to the arguments of the lawyers. She then gave the following judgement:

'My Poor Slave, you yourself will admit that everything you possess belongs to your Master, My Lord the King, for even as this case was on the point of being heard, you had to hand over to the King the animals that you had meant to give to your lawyer. A wife is not a chattel, but the compensation that you will receive for her loss will belong to the King. Therefore, you are not entitled to demand any compensation from him.

'My Lord the King, as Judge I cannot order you either to pay compensation or to return the wife to the Slave, because I must order according to the law. But as a woman, and as your humble servant, I will say this: just as your lawyer finds the turtle and the iguana to be humble presents compared to your cups of gold and silver, you will find the wife of the Slave too humble a mistress compared to your beautiful queens. Just as your lawyer will set the animals free as they are of no value to him, Your Majesty will perhaps let the woman return to her husband immediately.'

## 60

### *The Rich Man who Died by Proxy*

THE RICH MAN was only middle-aged, but he contracted a fever and seemed to be on the point of death. His wife consulted an Astrologer, who read the Rich Man's horoscope and said that although the stars foretold that the patient would die, he could escape death by having a mock-funeral. So, it was announced that the Rich Man was dead, a coffin was brought, and it was put on a funeral carriage. 'The coffin is empty', exclaimed the Astrologer. 'It would be much better if somebody would get inside the coffin, and ride to the cemetery on the funeral carriage.' The Rich Man called his Slave and promised, 'If you will take

my place in the coffin, and ride to the cemetery, I will set you free.' The Slave consented and, dressed in the Rich Man's clothes, he lay down in the coffin and rode to the cemetery on the funeral carriage, followed by the weeping wife and children of the Rich Man. Some days elapsed, and the Rich Man recovered his health. However, when the Slave asked to be freed, the Rich Man in great anger called him an impertinent fellow, and said that he had recovered from his sickness through the skill of his Physician, and not because of the mock-funeral arranged by a stupid Charlatan who called himself an Astrologer. The matter finally reached the Princess Learned-in-the-Law, and the following was her judgement:

'The mock-funeral was a silly and stupid affair, and obviously the Rich Man recovered because of the skill of his Physician. Nonetheless, the promise of the Rich Man to free the Slave was made in earnest and not as a joke, and the Slave entered the coffin and rode to the cemetery on the funeral carriage in earnest, and not as a joke. Accordingly, the whole affair constituted a valid contract and as the Slave had performed his part of the contract, the Rich Man must perform his, by freeing the Slave immediately.'

## 61

### *The God who Lost his Tree*

ONCE THERE STOOD a very tall Yindaik tree, with many branches, and the Tree God who lived on it was very proud of his abode. One day, a bird dropped a seed on the fork of the tree, and from it, when the rains came, a Pepul plant appeared. 'Only a little plant', laughed the Tree God. A young god then came to the old god, and pleaded, 'Sir, may I live on the little Pepul tree?' 'Yes, yes,' laughed the old god, 'you are only a little god.' Years passed, and the Pepul tree grew bigger and bigger until it entirely covered the original tree, so that the Yindaik tree died. 'You have been a good host', said the God of the Pepul tree, 'but now that your tree is dead, please go and find another tree.' 'It is you who will have to go away', shouted the God of the



Yindaik tree in anger, 'for you came as my guest and out of sheer gratitude you should go away.' 'But this is the Pepul tree and not the Yindaik tree', laughed the God of the Pepul tree, 'so out you go, my friend.' As even the king of the gods failed to settle the dispute, the case reached the Princess Learned-in-the-Law, who passed the following judgement:

'The God of the Yindaik tree could have pulled up the Pepul tree and thrown it away, but he did not do that. Then, he could have refused permission to the other god to come and stay on the Pepul tree, but he did not. Thus, it was through his own negligence that he has lost his tree. Therefore, he must vacate the Pepul tree, and leave it for its own god to enjoy.'

## 62

*The Case of the Small Cucumber*

TWO NEIGHBOURS with only one fence separating their houses were always suspicious of each other, and were always quarrelling, because both earned their living by growing vegetables in their gardens. One day, the First Neighbour planted a cucumber seed which soon grew into a plant and, being a creeper, it climbed the fence and bore a small fruit on the other side. The Second Neighbour noticing the small cucumber, plucked it and took it away. The First Neighbour sued the Second for compensation for the loss of the cucumber. But the Village Headman decided that as the creeper had gone over the fencing and bore the fruit on the other side, the fruit belonged to the Second Neighbour, and in plucking the fruit, he was merely plucking his own property. The dispute finally reached the Princess Learned-in-the-Law, who passed the following judgement:

'The owner of the roots of a tree is the owner of the whole tree, and, therefore, as the roots of the cucumber plant were in the First Neighbour's garden, he was the owner of the plant and its fruit, and accordingly, he is entitled to receive compensation from the Second Neighbour for the loss of the small cucumber.'

## 63

*The Tiger and the Cat*

ALTHOUGH THE TIGER was big and strong and fierce, he was so clumsy in his movements that he became the laughing stock of the jungle. 'Look at the clumsy Tiger', the animals jeered. 'He will soon starve to death as he is so clumsy that he cannot catch any prey.'

The Tiger felt very unhappy until he remembered his cousin, the Cat. So he went to his cousin and said, 'Cousin, please teach me all your methods of hunting and catching prey, and I will serve you faithfully for three full years.' The Cat agreed.

So the Tiger became the pupil of the Cat, and although they were cousins and he the elder, he showed the Cat every respect due from a pupil to his teacher. He swept the house; he prepared the meals; he ran errands; he accompanied the Cat wherever he went; and he learnt his lessons. In short, the Tiger was the perfect pupil. The Cat at first was a good teacher but later he became jealous of his own pupil. 'The Tiger masters all the tricks I teach him', he reflected, 'and if I teach all I know, he will rival me, nay, he will surpass me, for he is stronger and bigger than me.' So he decided that he would not teach the Tiger one special trick.

The three years of apprenticeship drew to an end, and the Tiger respectfully asked, 'Sire Teacher, have I learnt everything?'

'Everything', replied the Cat untruthfully. The Tiger thanked the Cat and went away joyfully.

The Tiger now started hunting on his own, but he was soon disappointed with himself, for as he crouched to spring on a doe, the latter seemed to know that she was in danger, and ran away. He again crouched to spring on a bullock, and again the Tiger failed to get his prey. 'Hide yourself well and surprise your prey' was one of the maxims of his teacher, the Cat, and he had hidden himself well behind a bamboo thicket, but both the doe and the bullock knew that he was there. He was puzzled and, crouching as if to spring, he considered his position carefully. At last he realized that the thud, thud of his tail, as he swished it up and down, served as a warning to his would-be victims. 'It is that

treacherous Cat,' he cried out in anger. 'He never taught me to swish the tail about without making a noise.'

So he sued the Cat before the Village Headman for the recovery of wages for the three years of his apprenticeship. The Headman decided that the services the Tiger rendered to his teacher the Cat constituted a gift which was not revokable. The Tiger did not accept this decision and took his case to the Princess Learned-in-the-law, who passed the following judgement:

'A gift from a pupil to his teacher is usually an unrevokable gift, but in this case, as the Cat deliberately refrained from teaching the Tiger the hidden secret of his art, namely, how to swish the tail silently, the Tiger's gift of free services for three years can be revoked, and so this treacherous teacher must pay the wages for that period to his former pupil, the Tiger.'

## 64

### *The Boatmaster and the Boatman*

ONCE THERE LIVED A BOATMASTER who was so greedy that he cheated his own boatmen of their wages. A voyage up and down the Irrawaddy river lasted for two or three months, and so the wages were considerable. The Master gave his men food throughout the journey, but the actual wages were payable only when the voyage had been completed. Now on the last day of every voyage the Boatmaster would play some trick or challenge his men to a bet, and the more gullible of them were cheated out of their entire wages.

On the last day of one voyage the boats were stopping at a village. It was January, and the water was icy cold. The Boatmaster said, 'I wonder if there is any sturdy fellow among my boatmen. If anyone can stay in the water without any clothes, and throughout the night, I will give him all my boats. But, if he fails to stay in the water until dawn he loses his wages. It is a fair bet, and who will take it?' All the boatmen were strong and sturdy fellows, and in ordinary circumstances would have accepted the bet gladly; but they had been warned beforehand of their Master's tricks, and did not accept the bet. One of them,

however, was an obstinate fellow, who considered himself more cunning than his Master, and he accepted the bet. The boatman stripped himself and entered the water. His teeth chattered and his body shivered because of the cold, but he remained in the water. Hours passed and it was now nearly dawn. As the Boatmaster had foreseen, some fishermen on the other bank of the river got up from bed and made a fire in front of their hut, to warm themselves before going out fishing at dawn. After an interval, the Boatmaster cried out, 'Boatman, you are cheating. You are taking advantage of the fire on yonder bank. You have lost the bet by default.' 'But the fire is on the other side of the river', replied the Boatman indignantly, 'and surely a fire half a mile away cannot give me any warmth?' 'A fire is a fire', replied the Boatmaster, 'and as long as it is visible, it gives you warmth. You have lost the bet by default.' 'All right', replied the Boatman without any further protest. The Boatman left the water and, after dressing, sat with his fellow boatmen. 'You may think', he said, 'that I am a fool because I have lost my wages. But, although I may be a fool in other matters, at least in pig-roasting I have no equal. Even our clever Master does not know how to roast pig's trotters properly.'

The Boatmaster was feeling very pleased with himself over the trick he had played on the boatman, and he did not like it when the same boatman said that he was not clever enough to roast pig's trotters. 'I have just won your wages from you', he said with due pride, 'and yet you say that I do not know how to roast pig's trotters.' 'You may be able to roast other meat', replied the Boatman, 'but, Master, I am sure you do not know how to roast pig's trotters.' 'Of course I know how to do it', shouted the Master in anger, 'and I will accept any bet over it.'

'I have some pig's trotters with me', replied the Boatman, 'which I bought yesterday from a market boat, and I will give them to you to roast now. If you can roast them, I will serve you as a slave for seven years, but if you fail, you must give me all your boats. It is a fair bet, and if you think you can really roast pig's trotters, you ought to accept it.'

'I accept the bet', said the Boatmaster. The Boatman, after fetching the pig's trotters, said, 'Here are the trotters. Roast them now.' 'But where is the fire?' asked the Boatmaster. 'There is a fire on yonder bank of the river', replied the Boatman sweetly.

‘But it is half a mile away’, said the Boatmaster indignantly. ‘A fire is a fire, as you said’, replied the Boatman, ‘and surely if it was hot enough to give me warmth, it is hot enough for you to roast the trotters? Now I see that you do not know how to roast them. So the bet is won, and all the boats are mine.’

But the Boatmaster refused to accede defeat, and took the dispute before the Village Headman, who decided that as the second bet dealt with an impossibility, namely obtaining heat from a fire on the other side of the river, it fell in the category of ‘Fools’ Bets’, and therefore it was not a valid bet. The Boatman, not satisfied with the Headman’s decision, took his dispute to the Princess Learned-in-the-Law, who passed the following judgement:

‘“Fools’ Bets”, such as betting on whether the sun will rise the next day or a river will flow upwards, are not enforceable at law. If the second bet only was to be considered, it would have been a “Fools’ Bet”, as it amounted to a bet on whether pig’s trotters could be roasted by the heat of the fire from the other side of the river. But we must consider the two bets together, and as in the first bet the Boatmaster won on his contention that the fire on the other side of the river could give warmth to the Boatman, he is estopped from denying that the fire could give heat to roast the pig’s trotters. Accordingly, the Boatman has won his wager.’

## 65

### *Make Believe Tales*

IN A VILLAGE there lived Four Young Men, and they could make up strange and impossible tales. One day, they espied a Traveller resting in the rest-house outside the village and he was wearing fine clothes. The Young Men conspired to cheat him of his fine clothes. So they went to the Traveller and engaged him in conversation. After some time one of the Young Men suggested, ‘Let us make a bet. Let each of us tell his most wonderful adventure and any one doubting the truth of the story shall become the slave of the narrator.’ When the Traveller agreed to

the suggestion the Young Men smiled to themselves thinking the Traveller to be an old fool. They did not suspect that the Traveller also could tell impossible stories and they expected that as their stories would be so strange and impossible the Traveller would forget himself and express his doubt as to the truth of the stories. Of course, they did not really mean to make him their slave, but they meant to claim the clothes of the Traveller, as a master owned not only the person of a slave but also his property.

The First Young Man now narrated his wonderful adventure. 'When I was in my mother's womb my mother asked my father to pluck some plums from the tree in front of our house, but my father replied that the tree was too high for him to climb. My mother asked my brothers, but they gave the same answer. I could not bear to see my poor mother disappointed over her desire to eat a few plums, so I slipped out and climbed the tree. I plucked some plums and wrapped them up in my jacket. Then I left the plums wrapped in the jacket in the kitchen, and re-entered my mother's womb. Nobody guessed how the plums came to be there, but my mother was able to eat some plums. As there were many plums left over after my mother had eaten, she gave seven plums each to all the inmates of the house and to all the neighbours. Still there were many plums left over, so my mother piled them in front of the door and, do you know, the door could not be seen from the street, so high was the pile of plums!' The First Young Man looked at the Traveller hoping that he would express some doubt as to the truth of the story, but the Traveller merely nodded his head to signify that he believed the tale. The other Three Young Men also nodded their heads.

Now it was the Second Young Man's turn, and he said: 'When I was a week old I took a stroll in the forest, and saw a big tamarind tree with ripe tamarinds. I climbed up the tree swiftly as I felt so hungry. When I had eaten my fill, I felt so heavy and sleepy that I could not climb down. So I went back to the village and, bringing a ladder, I propped it against the tree. Then I came down by the ladder. It was really fortunate that I found a ladder in the village, otherwise I would still be up that tamarind tree.' The Second Young Man looked expectantly at the Traveller who, however, nodded his head to

signify that he believed the tale. The other Three Young Men also nodded their heads.

The Third Young Man now narrated his wonderful adventure. 'When I was of the ripe age of one year I chased what I thought to be a rabbit into a bush, but when I crawled into the bush I found that it was really a tiger. The animal opened his mouth wide, meaning to swallow me. I protested that it was grossly unfair of him for I was looking for a rabbit and not for a tiger. But the tiger took no notice of my protest and came nearer with his big mouth open. So I caught hold of his upper jaw with my left arm, and gave a jerk. To my surprise, the huge animal broke into two and died.' The Third Young Man looked expectantly at the Traveller who, however, merely nodded his head to signify that he believed the tale. The other Three Young Men also nodded their heads.

The Fourth Young Man then narrated his adventure. 'Last year I went fishing in a boat but I could not catch a single fish. I asked other fishermen, and they said that they had not caught a single fish either. So, deciding to investigate what was happening at the bottom of the river, I jumped out of my boat and dived. After about three days I touched bottom, and I discovered that a fish as huge as a mountain was eating up all the other fishes. I killed the fish with one blow of my fist. By that time I was feeling so hungry that I decided to eat it then and there. So I lit a fire and, after roasting the fish, ate it at one sitting. Then I floated back to the surface and regained my boat, none the worse for my little excursion to the bottom of the river.' The Fourth Young Man looked expectantly at the Traveller, who merely nodded his head to signify that he believed the tale. The other Three Young Men nodded their heads also.

The Traveller now told his adventure. 'Some years ago I had a cotton farm. One cotton tree was unusually big, and was bright red in colour. For a long time it had no leaf or branch, but four branches later appeared. The branches had no leaves but they had a fruit each. I plucked off the four fruits and, when I cut them open, a young man jumped out from each fruit. As they came from my cotton tree they were legally my slaves, and I made them work on my farm. But, being lazy fellows, they ran away after a few weeks. Since that time I have been travelling all over the country in search of them, and only now have I

found them. Young fellows, you know very well that you are my long-lost slaves. Come back to my farm with me now.'

The Four Young Men hung down their heads in mortification, for they were in a hopeless position: if they should say that they believed the story, it would amount to an admission that they were the Traveller's long-lost slaves; but on the other hand, if they should say that they did not believe the story, they would become his slaves according to the bet.

The Traveller asked the Young Men three times to indicate whether they believed his story, but as they remained speechless and motionless with downcast eyes, he claimed that he had won the bet. However, the Young Men refused to accede defeat and took the matter to the Village Headman, who decided that as the bet was on absurd and impossible incidents, it was a 'Fools' Bet' and therefore unenforceable in law. The Traveller, not satisfied with the decision of the Headman, took the dispute to the Princess Learned-in-the-Law, who passed the following judgement:

'It is true that the incidents contained in the stories told by the Four Young Men and the Traveller were absurd and impossible, but the bet was not on those incidents. On the contrary, the bet was on the game of telling 'Make Believe Tales', which is a game like, for example, a game of Chess, where both players imagine that the little wooden pieces are two great armies, and move them about on the chessboard, according to certain agreed rules. Just as a bet on a game of chess is valid in law, so a bet on a game of 'Make Believe Tales' is valid. However, although bets on such games as chess, checkers, marbles, and cards are valid, the winner is to be paid only what he can actually receive on the spot. In the case before us also, although according to the bet the Traveller is to receive all the property and all the services as slaves of the Four Young Men, he is in law entitled to take only the clothes and the money which were actually on the persons of the Four Young Men at the time of the game.'



## Appendix

I have not included the following tale among the Law Tales, because the decision in the tale does not conform to the principles of Burmese law relating to destruction of another's property, and it merely attempts to give a legal reason for the worship of *nat*-spirits by the Burmese. The tale however was included in the later *Dhammathats*.

### THE HOUSE-HOLDER AND THE TREE-GOD

THE HOUSE-HOLDER needed a house for his family to live in and so he cleared a part of the forest cutting down many trees, including one very old and very big. This big tree had a Tree-god living on it, and he sued the House-holder for compensation before Princess Learned-in-the-Law. 'The tree was my palace', pleaded the Tree-god, 'and I am now too senior and too dignified to go looking for another tree, disputing and quarrelling with gods junior to me.' 'But I needed a house for my family', explained the House-holder, 'and surely, I cannot be expected to make the old tree grow again?' After some thought, the Princess Learned-in-the-Law passed the following judgement:

'This is a case which can be settled only by compromise. Let the House-holder build a small artificial tree, to wit, a little wooden house perched on a wooden pole, and let the Tree-god have his abode there. The House-holder shall offer regular gifts of fruit and flowers to the Tree-god, and in return the Tree-god shall guard the House-holder's house and protect it with his supernatural powers.'

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Dr. Aung was a lecturer at Rangoon University in 1933, was raised to professorial rank in 1936, and in 1946 he was appointed Rector. Retiring from the service of the University in 1959, he was elected to the honorary post of Vice-Chancellor. He is at present Burmese Ambassador to Ceylon. He is the author of *Burmese Folk-Tales* published by the Oxford University Press in 1948 and subsequently reprinted.

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