

CHAPTER - V

DIVYAVIDHI

After discussing the general rules regarding the application of an ordeal, we shall now discuss here the procedure of the ordeals (Divyavidhi) described in the Dh. works. The procedure of any ordeal can be divided into three stages. (i) The Preparation (2) The Ritual and (iii) The Trial.

(1) THE PREPARATION :

Ordeal requires preparation before the trial could be conducted e.g. In the balance ordeal, one has to prepare the balance; in the Fire ordeal, the iron-ball is to be heated, and the necessary circles are to be drawn; in the water ordeal, proper site on the bank is to be selected, an arch is to be erected and so on. Similarly in other ordeals also we have to make some preparation. Observing fast and taking bath by the Prādvivāka and the accused person also come under preparation.

In this respect, we find that in the earlier days, only the person undergoing the trial was asked to observe fast, take bath and be present for the ordeal with wet clothes on.²³⁴ In the later days of the elaborate procedure, the Prādvivāka is also required to undergo these preliminaries.

The Prādvivāka should be a Brahmin well-versed in the Vada and the Vadāṅgas, possessed of factual knowledge, calm and composed, without any enviousness, adhering to truth, pure and

234. Visnu, IX.33, Yāj, II.97.

alert, sympathetic to all beings. He should observe fast, brush his teeth, take bath and with ^{clean} ~~wet~~ clothes on, he should offer adorations to all the deities with due procedure.²³⁵

He should administer the ordeal to the person who observes fast for three nights or one night and thus after getting purified presents himself with wet clothes on.²³⁶

The Mit. here points out that the option regarding the number of the days for which the person is required to observe fast should be decided on the basis of the personal health of the accused person and the seriousness or the lightness of the purpose for which he is tried. Of course, the rule of observing fast applies to both, the Prādvivāka and the accused person.²³⁷

(ii) THE RITUAL :

The Prādvivāka should conduct all the activities of the trial just as the Adhvarya would do in a sacrifice.²³⁸ The simile thus stresses the importance of the ritualistic part of the ordeal.

235. प्राद्विवकस्ततो विप्रो वेदवेदाङ्गपारगतः। श्रुतवृत्तौ पसं पन्नः शान्ताचित्तो विमत्सरः॥
सत्यसन्धः शुभेर्दक्षः सर्वप्राणिहिते रतः। उपोषितः शुद्धवासाः कृतदन्तानुधावनः॥
सर्वासां देवतानां च पूजां कुर्यादथानीधि॥ ~~Nār.~~ Nār. quoted by Mit (II.102)

236. Pit.41.

DT p 585, VP p.185.

237. उपवासविकल्पः पितामहेनोक्तो बलवदबलवन्महाकार्यलिपकार्यविषयत्वेन व्यवस्थितो
दृष्टव्यः। उपवासनिग्रमश्च कारयेत्तुः प्राद्विवकस्यापि।

Mit. on Yājñ. II.97

238. Pit.20.

The rituals to be performed at an ordeal can be divided into two parts. (a) Invoking the deities and offering due adorations. (b) offering oblations in the fire. (a) is personally conducted by the Prādvivāka while (b) is carried on by the various priests.

The Prādvivāka should invoke the gods to the accompaniment of music played on musical instruments and the beatings of the drum and offer sandal wood paste, flowers and other anointments. Folding his hand, he, facing east, should invoke Dharma along with the company of the Lokapātas (guardians of quarters) Ādityas, and the Maruts with the words, "come, come, oh god Dharma be present at this ordeal. "

Having thus invoked Dharma at the ordeal, he should assign places to the subsidiary deities. Having assigned places to Indra, Pretesa(Yama), Varuna and Kubera in the East, South, West and North respectively; he should assign places to Lokapālas such as Agni etc. in the corner-directions. He should then contemplate these deities having various colours i.e. Indra as yellow, Yama as dark, Varuna white as marble, Kubera as golden, Agni also golden, Nirṛti as dark, Vāyu as smokey, and Isāna as red. After this, he should invoke (a) 8 Vasus (b) 12 Ādityas (c) 11 Rudras (d) 7 mother goddesses (e) Gaṇeśa (f) Maruts (g) Durgā.

All these deities should be invoked by repeating their individual names.

- (a) 8 VASUS : Dhara, Dhruva, Soma, Āpah, Anila, Anala, Pratyūṣa, Prabhāṣa.

Place assigned : South of Indra.

- (b) 12 ĀDITYAS : Dhatṛ, Aryamā, Mitra, Varuṇa, Amsā, Bhaga, Indra, Vivasvān, Pūṣan, Parjanya, Tvastṛ, Viṣṇu.

Place assigned : Between Indra and Isāna.

- (c) 11 RUDRAS : Vīrabhadra, Sambhu, Girīśa, (-of great fame), Ajaikapāda, Ahirbudhnya, Pinākin, Aparājita, Bhuvanādhīśvara, Kapālin(-the lord of hosts), Sthānu, Bhava.

Place assigned : West of Agni.

- (d) 7 MOTHER GODDESSES : Brāhmī, Māheśvarī, Kaumārī, Vaiṣṇavī, Māhendrī, Gāmuṇḍā, Vārāhī.

Place assigned : Between Yama and Nirṛti.

(It must be pointed out that the seven mother-goddesses are often described as the embodiment of several passions).

- (e) ~~Ganēśa~~ GANESA : Place assigned : North of Nirṛti.

- (f) 8 MARUTS : Pavana, Sparsana, Vāyu, Anila, Marut, Prāṇa, Prāṇeśa, and Jīva.

Place assigned : North of Varuṇa.

(VN quotes the names of Maruts from Smṛtyantara as follows - Āvaha, Vivaha, Udvaha, Samvaha, Nyāvaha, Nivaha, Pravaha, Jīvaha).

- (g) DURGĀ : Place assigned : to the north of Dhaṭa (i.e. the place of ordeal that is being conducted).²³⁹

VM supplies us here the actual Mantras that are to be used for invoking the deities and contemplating them as possessed of the colours. The digest points out that "In the beginning the accused person should declare the auspicious place and the moment of performing the ritual of the ordeal and should declare the purpose in mind (Saṅkalpa) for which this whole ritual is undertaken e.g. 'I would now perform such and such ^{ordeal} ~~ritual~~ for knowing the purity of the self...' and ask the Prādvivāka and the priests (Rtviks) to undertake the responsibility of performing the whole ritual by presenting them pieces of clothes.

According to Bhaṭṭa(Raghunandana) after this, the Svastivācana also may be performed, VM points out.²⁴⁰

The Mantras given ^{by} VM (pp.63-66) are given in a tabulated form. (See Page - 182).

Offerings offered to the deities :

Pit. points out that the Prādvivāka should first offer several items of worship from Arghya to ornaments to Dharma and then to the subsidiary deities. After this, all the deities (i.e. from Dharma to Durga) should be offered Sandalwood paste, flowers, incense, lamp and Naivedya.²⁴¹

240. ततः शोधो देवाकालो संकीर्त्य लक्षुद्धि विज्ञापनायामुक्तादिव्यं करिष्य इति संकल्प्य प्राद्विवकमेकं चतुरश्रं त्रिजं वरुणादिना वृणुयात् । स्वास्तिवाचनायपि कार्यमिति स्मार्तभट्टाचार्यः । VM P 63 .

We find that Raghunandana also recommends Navagrahapūjā to be performed in the beginning, since the rites of Divya come under Kāmyakarma. Vide.... अथ काम्यत्वेन नवग्रहपूजा ग्राह मल्लपुराणम् - 'नवग्रहमखं कृत्वा ततः कर्म समाचरेत् । अन्यथा फलदं पुंसं न काम्यं जायते क्वचित् ॥' DT P 583-84 .

241. Pit.37.

TABLE SHOWING THE MANTRAS TO BE USED FOR ADORING VARIOUS DEITIES

Sr. No.	Deity	Colours	Place assigned.	MANTRAS USED					nature of	Ref'ence
				beginning from.	ascribed to	belonging to which deity.	metre			
				(a)	(b)	(c)	(d)	(e)	(f)	
1	2	3	4	5						
1.	Indra	Pita	East of Dharma.	Indram Visvā.	Madhuoc-handas.	Indra	Anustup	RG	RV I.11.1	
2.	Yama	Syāma	South of Dharma.	Yamāya somam.	Yama.	Yama	..do..	-do-	X.14.13	
3.	Varuṇa	Sphaṭi-kabha.	West	Tvam no Varuṇasya	Vamadeva	Varuṇa	Tristup	-do-	IV.1.4	
4.	Kubera	Suvarṇa-varṇa.	North	Rājādhi-rājāya.	-	-	-	Yajus	Tai. Ar. I.31.6	
5.	Agni	-do-	South-East.	Om agnih-dutam.	Medhātithi	Agni	Gāyatrī	RG	RV I.12.1	
6.	Nirrti	Syāma	South-West.	Mo su no-ghorah.	Kaṇva.	Nirrti	-do-	-do-	I.38.6	
7.	Vāyu	Dhūmra	West North.	Tava Vāyo	Vyasva	Vāyu	-do-	-do-	VIII.26.21	
8.	Isāna	Rakta	North West.	Tam Isānam.	Gautama	Isāna	Jagati	-do-	I.89.5	
9.	Eight Vasus.	-	South of Indra.	Jmayāatra vasavah. (The sūkta belongs to Viśvedevān)	Maitravaruṇa Vasavah Vasiṣṭha.	Maitravaruṇa Vasavah	Tristup	-do-	VII.39.3	
10.	Twelve Adityas	between Isāna and Indra.	Isāna and Indra.	Tyan nu	Sammada matsya.	Aditya	Gāyatrī	-do-	VIII.67.1	

	1	2	3	4	(a)	(b)	(c)	(d)	(e)	(f)
11. Eleven Rudras.	-	-	-	West of Agni.	A Rudra-sah.	Syavasva	Rudrah ekadasa.	-do-	-do-	VIII.67.1
12. Matarah.	-	-	-	Bet. Yama and Nirrti.	Brahma Jajñanam	Gautama Vamadeva	Brahma	Tristup	Yajus	Vaj. Sam. 13.13
13. Ganesa	-	-	-	North of Nirrti.	Gananam tva	Grt samada	Ganadhi-pati.	-do-	-do-	II.23.1
14. Marutam ganah.	-	-	-	North of Waruna.	Maruto yasya.	Rahuganah	Marutah	Gayatri	-do-	I.86.1
15. Durga	-	-	-	North of Dhata.	Jataved-ase.	Kasyapa	Durga	Tristup	-do-	I.99.1

Mit. explains this as follows :- After invoking Dharma with words "Ehi', ehi.." etc, the Prādvivāka should offer Arghya (water offered by way of respect) Pādya (offering water for washing feet), Ācamanīya (sipping water for rinsing mouth), Madhuparka (a respectful offering of honey, curds etc), Snāna (bath), Vāstra (clothes), Yajñopavīta (sacred thread), and ornaments like Crown, golden bracelet etc, muttering the words 'Dharmāya arghyam kalpayāmi namaḥ (I prepare these offerings to Dharma. Salutations to him). In case of the subsidiary deities like Indra etc., he should repeat the name of each deity in its dative form preceded with Pravāna (e.g. Om Indrāya Kalpayāmi, Indrāya namaḥ) and offer offerings from Arghya to ornaments according to the appropriateness of the item offered to that particular deity. (Padārthānusa-mayena.)²⁴²

This is further made clear by digests SC, VM, SV etc. by pointing out that the offerings offered to the subsidiary deities must be according to Padārthānusa-maya and not Kāṇḍānusa-maya, which means that the offerings must be offered looking to the appropriateness of the item offered and not promiscuously [i.e. following the words of the Prayoga] e.g. ornaments being particularly appropriate to female, the Bhūṣaṇa is to be offered to Durgā alone amongst the subsidiary deities. Arghya is thus offered to all the deities from Indra to Durgā one after another; then Pādya, then

242. अन च तुलां पताकाद्वज्राङ्कुरां विधाय तस्या 'मेधेहि' इति मन्त्रेण धर्मिणामाह
'धर्मिणाध्वं कल्पयामि नमः' इत्यादिना प्रयोगेण अर्घ्यपाद्याचमनीयमधुपर्कचमनीय-
-स्नानवस्त्रयज्ञोपवीतचमनीयमुकुटकटकादिभूषान्तं दत्त्वा इन्द्रादीनां दुर्गान्तीनां
प्रणवाधैः स्वनामभिः चतुर्थ्यन्तैरर्घ्यादिभूषान्तं पदार्थानुसमयेन दत्त्वा धर्मिण
मधुपर्कदीपनैवेद्यानि दत्त्वा इन्द्रादीनां गन्धादीनि पूर्ववत् दद्यात् ।

Acamanīya and so on, but Bhūṣana only to Durgā. After this, sandal-wood paste, flowers, incense, lamp and Naivedya should be offered to all.²⁴³

If these deities are offered Arghya etc. promiscuously the necessary 'togetherness of all the deities(sahabhāva)' will not be achieved, points out VP.²⁴⁴

The flowers and sandalwood paste offered to Dharma must be red while in the cases of the other deities they may be red (if available) or of any other colour since the texts do not prescribe any specific colour for them.

(b) Offering oblations in fire

After offering adorations to the deities by the Prādvivāka is thus over, the priests are asked to offer oblations in fire. Pit. says- Brahmins expert in Vedas should perform Homa in four directions with Ājya (clarified butter) Havi(Caru) and Samidh as the substances of the oblations, reciting Sāvitrī mantra with Pravāna in the beginning and Svāhā at the end.²⁴⁵

Mit. explains this as follows :- Four priests should perform Homa in four directions. The oblations should be offered in the Laukika Agni (i.e. Agni kindled for the purpose and not any of the three famous Agnis) reciting Gāyatrī Mantra (Tat

243. दुर्गायै भूषणं दत्त्वा धर्मस्येन्द्रादिदुर्गान्तानां च गन्धादिपरिचर्या पूर्ववत्कुर्वन् ।
SC p.251, VP184.

244. तेषामर्घ्याद्युपकल्पनं पदार्थानुसमयेन कार्यं न काण्डानुसमयेन । तथा च प्रयोग-
नन्वनामगतसहस्रवाधापत्तेः । VP p184, SC p251.

245. Pit 38

Savituh etc) beginning with Pravāṇa(Om) and again Pravāṇa(Om) ending with Svāhā. Each of the three substances, Ājya, Havih and Samidh must be offered for 108 times.²⁴⁶

In this respect, the SC quotes the general rule that when no specific number is mentioned, the thing should be done 108 times.²⁴⁷

Following the instructions in the Devīpurāṇa, the number of the oblations offered may be 108, 28, or 8 as per ability of the person, points out DT.²⁴⁸

It must be pointed out that the Mit. expresses above a view that each of the three substances should be offered separately...Most of the digests also have favoured the same view, but Raghunandana, the author of DT, holds that all the three substances should be combined and offered collectively. Nīlakaṇṭha the author of VM has however refuted his arguments and has supported the view of the Mit.

According to Raghunandana, the three substances i.e. Ājya, Havih and Samidh should be thrown together on to fire as is done in the case of Sānnāyā offerings.²⁴⁹ Sānnāyā is

246 ऋत्विग्निश्चतुर्भिश्चतसृषु दिक्षु लौकिकाग्रौ होमः कार्यः ।... प्रणवादिकां चतसरीं ।

त्रायत्रीमुच्चार्य पुनः स्वाहाकारान्तं प्रणवमुच्चार्य समिदाज्यचक्षुन् प्रत्येक-
मष्टोत्तरशतं जुहुयादित्यर्थः । Mit. on Yāj. II.102

247 यद्यप्यत्र संख्या नोक्ता तथापि 'अनुक्तसंख्या यत्र स्थाप्य तमष्टोत्तरं स्मृतम्'
इति स्मृत्यन्तरात् सिद्धेत्यवधेयम् । SC p. 252.

248 अशक्तौ तु, 'होमो ग्रहादिपूजायां शतगुणाधिकं भवेत् । अष्टाविंशतिरष्टौ वा
शक्यपेक्षमथापि वा ॥' इति देवीपुराणपददर्शनादनाव्यन्या संख्या उद्धृत्या ।

DT. p. 586.

249. वस्तुतस्तु...आज्यपायससमिधो मिथिलौ अष्टोत्तरशतं जुहुयात् साधवात् ।
अत एव देवतैक्ये दधिपयसोस्तन्नेणानुष्ठानम् । DT. p. 586.

the mixture of Dadhi and Payas. They are combined into a single offering because both of them are offered to the same deity (Indra). Ājya, Havih and Samidh in the present case are also offered to the same deity (i.e. Dharma as principal and Indra and others as subsidiary) and therefore all the three should be combined. In doing so, we achieve what is technically known as Tantra (i.e. avoiding unnecessary repetitions and achieving togetherness of the actions).

Nilakanṭha points out that Dadhi and Payas could be combined in the Sānnāyā offerings because (i) they are offered to the same deity and (ii) The same kind of vessel (Juhu) is used in offering them. In the case of the three substances under discussion we find that Ājya is offered with ^{Struvā} ~~Juhu~~, Havi with ^{Strc} ~~Struvā~~ and Samid by hand and therefore the three substances are of different nature requiring three different means. Therefore the principle of Tantra is not applicable here. All the three should therefore be offered separately.²⁵⁰ The ritual of the ordeal ends with these offerings.

Dakṣiṇā should be paid to the priests after the whole ritual is over.

After this, we find that a letter known as Śirahpatra is tied on the forehead of the person. The actual charge for

250. आज्यहविः समिधां संप्रोतिपन्नदेवताकत्वान्निहितानामेव होमः सान्नाययोरिव इति दिव्यतत्त्वे गौडगमिांसकाः। तन्न । आज्ये स्तुवेणावधतीति स्तुवस्य, यरौ सकृदुपस्तृणाति मध्यात् पूर्वदिक्षि द्विर्विधोऽवधति, आभिधारयति हविरवत्तं येषोऽवदानधर्मः । इत्याश्वायनसूत्रास्तुयः, सामेस्तु सामर्थ्याद्विस्तस्येति भिन्नसाधनकत्वान्नतन्तानुययन्ते । सान्नायहोमयोस्तु जुह्वा एव साधनत्वा-
-द्युक्ता तन्नता इति । V.M. p 54

which the person is undergoing the trial is written on the letter alongwith the following Mantra, 'The Sun, the Moon, the Wind, Fire, Heaven and Earth, Waters, the Heart, Yama, Day and Night, the two twilights and Dharma know the deeds of Men.'²⁵¹

In some cases, the mantras with which the person addresses the deity of the ordeal are also written on the *Sirappatra*. These mantras usually contain the signs of the success or the failure of trial.

This is the procedure common to all ordeals. With respect to the ritual of ordeal, we may observe following points :- (i) These rituals help in heightening the religious sentiments of the person. They thus help in enhancing the psychological effect of the trial. The ordeal thus becomes a religio-psychological test. (ii) With so many rituals the test turns out to ~~be~~^{be} mainly a religious performance. The person would therefore willingly undertake it. (iii) Particularly with the rituals, the ordeal becomes an elaborate and costly job involving a variety of men and matter. This may serve by itself as an indirect check over the mass-practice of the ordeal.

We will now discuss the procedure of the nine ordeals in the order given by the Dh.writers. The order is :- (1) Dhata (Balance), (2) Agni(Fire), (3) Jala(Water), (4) Viṣa(Poison), (5) Kośa(Sacred Libation), (6) Tanḍula(Rice grains), (7) Taptamāṣa (Hot coin), (8) Phāla(Ploughshare), (9) Dharmādharmau(the ordeal of Dharma and Adharma)²⁵²

THE DHATADIVYA(THE ORDEAL BY BALANCE) :

Dhata or Tulā is an important ordeal in the Dh.system. It is mainly developed as a model ordeal²⁵³ and is placed first in the list. All general rules regarding the procedure of an ordeal are therefore explained with reference to the Balance ordeal. This ordeal has a very simple form. It does not involve any risk. Probably from this point view only, the Dh. writers must have considered this ordeal worth developing as a model and an all-purpose ordeal.

The Dhata or the Balance is a typically Indian ordeal which symbolises the very concept of a judicial goal i.e. weighing the truth against falsehood. It is in fitness of things, therefore, that the Indian jurists develop it as a model ordeal.

The Śatapatha-Br. speaks of the balance in connection with the weighing of man's good and evil deeds in the next and in this world.²⁵⁴ Though this differs very considerably from the balance ordeal discussed in the Dh.works, its influence on the the development of the ordeal cannot be ruled out.

252.Br.10-11.

253. धातग्रहणमुपकारितदिव्योपलक्षणार्थम् । Sc 249

254.Śat.Br.11.2.7.33

The Balance ordeal emerges with the significant development of the Indian law. This can be explained as follows:- If we study the evolution of the Indian law, we find that the period after the sūtras and before the formation of the smṛtis forms an important stage by itself. Eventhough, the law was sufficiently developed in the sūtra age, this was the period when various concepts of the positive law(Vyavahāra) were becoming clear. It was also an important period for the development of the law of evidence. In this period various human proofs evolved and developed. In this period only, we find that the ordeals are regularly put under evidence, side by side with the human proofs and are treated as a regular means of proof. It was a stage when the idea of weighing of proofs and deciding its relative strength was getting clear. It is this idea of weighing which must have also given rise to the idea of weighing a person in a balance for the truth. The Dhātā or the balance ordeal thus symbolised the idea of weighing which was dominantly developing, particularly in the law of evidence. The developments are found crystallised in the laws of Viṣṇu and Yājñ. It is to be noted that Viṣṇu and Yājñ. are the first writers to discuss the set of five ordeals with Balance as the first and the model of all the ordeals.

Referring to the Dhātā ordeal DR N.C.Senagupta observes- 'from this discription one is reminded at once af the famous writing on the wall of Belshazza's dream, 'you have been weighed in balance and found wanting', that probably indicates a custom in Babylon of weighing accused persons not dissimilar

to the ordeal by balance as described by Kāt. It may be that this practice was borrowed by one community from another, or it may be, it was an institution common to all races inhabiting from India to Palastine. No one knows".²⁵⁵

It is not possible to say anything definite whether the Balance ordeal was known or practised by the other people also, but the Dhata-divya discussed in the smrtis appears to be typically Indian. A.E.Crawaley who has written on the world ordeal has described the 'Indian Balance Ordeal' as a curious ordeal.²⁵⁶

The ordeal by Balance has two names (i) Dhata and (ii) Tulā. In fact, Tulā is the beam of balance and Dhata is the cord connected with the centre of the balance (compare Dhata in Marathi), but the words Tulā and Dhata also signify the whole apparatus which is prepared for the purpose²⁵⁷, and therefore are often used as synonyms.

Pit. explains the word Dhata as follows :- 'The letter Dha indicates that the balance is the embodiment of Dharma, while Ta stands for the wicked person. This is known Dhata because it points out the guilt of the person when held in its scales.'²⁵⁸

The balance is called as Tulā because the person is weighed (Tolyate) in it.²⁵⁹ The Kkh has however explained the

255. N.C.Senagupta: Evolution of ancient Indian Law' p.64

256. ERE, Vol. IX. p. 511

257. तुलाग्रहणं तत्परिकरस्थापि प्रदर्शनायम् । sc p 245, तुलादीनां समुदायो द्रष्टः ।

258. Pit. 56.

Aparāśka on Yāj II. 102

259. Nār. suggests the etymology in ^{verse} 278.

word as follows : 'The letter Tu stands for magnanimity, while la for the lightness of the thing. Since there is a happy combination of the magnanimous and the light in this ordeal, it is known as Tulā.²⁶⁰

The Balance ordeal is magnanimous because it is the main ordeal, the model ordeal which explains the procedure of all the ordeals, but it is very mild in nature. It is used for the weaker sector of the society. It is thus a mild and magnanimous ordeal.

The Dh.writers have thus tried to bring out the significant character of the Balance ordeal.

The Dh.writers have recommended a very free use of this ordeal. It is made available for the persons of every caste and can be conducted in all the seasons. It is specially advised for (1) woman (2) Brahmin (3) mutilated, agitated or the weakened person (Vikalāḥ) (4) feeble persons and (5) the diseased according to Viṣṇu.²⁶¹ Yāj. adds (6) the minor (7) the old (8) the blind (9) the lame.²⁶² While Nār. includes (10) impotent (11) Sick. (12) persons void of vitality (13) and the persons oppressed by calamities on all sides.²⁶³ According to Pitāmaha the balance is particularly meant for the wicked person.²⁶⁴

Considered from the point of view of the cost of litigation, the Balance is used comparatively for the milder purposes, though it is one of the major ordeals used for 'greater cases'.

260. Kkh 44.39(b)-40(a).

261. Viṣṇu IX.23.

262. Yāj. II.98.

263. कौबलान् सखीनान् परितोषार्थितान् । वाक्पृथुलुरादिकं परीक्षेत द्रष्टे सदा ॥

264. Pit.56.

Nār. quoted by SC 239-40, VM P 47, VP 17.

Viṣṇu points out that the Balance should not be executed when the wind blows fast. According to Nār. it should be tried only in the absence of rain. Both these conditions are obviously meant for the correct execution of the trial. Nār. recommends Śisīra as the season for conducting this ordeal, however we find that the Dh.writers have relaxed all the seasons-restrictions for this ordeal. It is thus available in all the seasons. The balance must be executed in the former part of the day.²⁶⁵

The balance must be executed on a plain and levelled ground.²⁶⁶ This condition is also important for knowing the correct position of the scales in the trial.

Procedure :

VIṢṆU

Four Hastas high and two Hastas wide balance must be prepared out of the wood of the Sāla tree. Scales should be suspended on both the sides of a five Hastas long beam. The balance should be examined by the goldsmiths or the braziers. The accused person should be weighed in one scale against the weighing objects such as stones in the other. One should hold the two scales in a level, mark their positions and ask the person to get down. The balance and the persons who superintend the weighing should be put under restraint by oaths as follows : the persons considered to be the killers of brahmins and the persons giving false witnesses will be the person belonging to you if you hold the balance wrongfully'.

265. Pit.16,17.

266. NMS,5.

'Oh Dhata! you are called Dhata because you are synonymous of Dharma. Only you know the things that are not known by men. This person accused in the litigation is now weighed in you, and therefore be worthy of protecting him from doubt according to Dharma.'

Then the accused person should be mounted in the scale once again, and thus weighed, if he increases, he is pure according to Dharma.

If the scale or the transverse beam ~~breaks~~ breaks, the person should be mounted again so that a definite decision can be reached at.²⁶⁷

YĀJÑAVALKYA

The persons who know the weighing by balance should mount the accused person in the scale, hold the scale at a level against the weighing objects, mark them by drawing a line, and ask the person to get down.

'Oh Balance! you are created by gods, since the ancient times, as the abode of the truth. Oh Auspicious one! speak the truth and clear me from this doubt. Oh Mother! Bring me down, if I am a sinner, and take me up, if pure' 268

NĀRADA

Pits should be dug two Hastas deep in the ground according to the circumferences of the pillars, the length of which should be six Hastas each. The transverse beam should be four Hastas long, so should be the two feet (pillars). The

267. Viṣṇu, X.1-13.

268. Yāj. II.100-102.

distance between the two feet(pillars) should be a little more than half. The transverse beam should be square and straight, made of Khādira or Tinduka wood and must have iron-rings at three places. The balance must be made up of the Khādira wood without any notches, whithered portions or any rents, but a similar Sāmsapa or Sāla wood also can be used in its absence. The balance must be erected at the gate of the assembly hall or the royal palace or on a cross-road of a temple. The balance must be planted firmly in the ground and must be worshipped by offering sandal wood paste, garland and other unguents, as also the curds and the rice-grains, and should thus be made auspicious and sanctified by the fragrance of the oblations and the recitations of the mantras. Attended by the Lokapālas invited for the protection of Dharma, it should always be executed in the presence of many persons. The two scales should firmly be suspended from ~~be~~ the two hooks of the beam of the balance. The person should be weighed in one scale against the stones in the other. The person must be seated in the northern scale and the stone in the southern scale which may be filled also with bricks and clay. The experts should watch the positions(of the scales) of the first weighing. The expert knowers of the weighing machine, the goldsmiths, merchants and braziers should observe the position of the beam. Having first weighed the person and marked the position of the scales, they should bring him down from the balance.

After having tied the Śirahpatra and put him under restraints of oath, he should be asked to mount the balance again when there is neither wind nor rain. When the person thus

amounts the balance, the brahmins should address (the balance) as follows :

'Oh! Balance! since you are synonymous with the Dharma, you are called Dhātā. You know the sins and the good deeds of men. This person accused in this litigation is weighed by you. Oh Balance! you surpass the gods, demons, and the men in truth. You are created by the gods as an abode of truth, and therefore, Oh auspicious one! tell the truth and make me free from the doubt. Bring me down, if I am a sinner, or hold me up if you know me as pure.

In this way, when the balance is addressed in the presence of the Lokapālas and the gods, the person should mount it again. He should then be held (in the balance) and observed. Thus weighed if he increases, he is undoubtedly pure, but if he is equal or is losing, he is not pure (i.e. guilty). If there is any breaking in the transverse beam, or the scales or the iron-hooks or ropes, or the supporting beam, he should be declared as pure.²⁶⁹

NĀRADĪYA-MANUSAMHITĀ -

The king should get prepared according to the recommended specifications, a Sama balance of 4 Hastas size, with scales suspended at the (two) ends. The two pillars should be erected together south and north and the transverse beam (Tulā) should be placed on it. The balance stretched east and west must be well

-assembled with iron ring at the middle. The king should get the balance approved by the two litigents.²⁷⁰

BRHASPATI

If the accused person weighed in the balance finds himself less, he loses the case, but if he is equal or more at the second weighing, he wins it. If there is breaking in the transverse beam or the balance or the hooks or the ropes, that may account for the guilt of the person.²⁷¹

KĀTYĀYANA

If there is breaking in the scales or the balance or the ropes and thus if there is any doubt regarding the correct operation, the person may be tried again.²⁷²

PITĀMAHA

The balance must be facing east and must be erected firm on a clean ground in a famous temple, or on cross-road or at the gate of the royal palace. A white-washed, wide and high balance-house may be constructed so that the balance in it may not be disturbed by dogs, cāṇḍālas or the crows. Protected by watchmen, it must have doors and must be equipped with fire, water (and grains of rice or barley).

Offering salutations to the Lokapālas, the thoughtful persons should prepare the balance from a sacrificial wood, cutting it with the mantra used for cutting a sacrificial post.

270. NMS, 4-7(a)

271. Br. 18-19.

272. Kāt. 440.

The Somya and the Vānaspatya mantra may be recited for the purpose. The balance must be of ५ 4 Hastas size, so should be the two pillars. The distance between the two pillars must be two hastas and a half. Two hastas of each of the pillar must be buried in the ground. The transverse beam must be strong and stout and should be square and straight. There should be three hooks at three places.

Arches, ten angulis higher than the balance must be constructed on two sides of the balance, and two pendulums made of clay and string must be suspended down from the arches, touching the heads of the balance.

Two scales must be hanged on two sides. A brahmin with a composed mind should strew grass(in the scales) with its points turned towards east. The person undergoing the trial must be weighed in the western scale, while the other scale must be filled with white clay which has not got bricks,ashes, stones, skulls or bones mixed with it.

Experts in weighing by the balance-machine such as goldsmiths, merchants or the braziers must be appointed as examiners. The examiners should adjust the balance in such a way that the pendulums should touch the two heads correctly. The learned person should then pour water on the balance. A Sama balance is one in which the water so poured does not flow down. After having weighed the person(in this way),he should be brought down.

Folding his hands and facing east, the Prādvivāka should address the balance, 'Oh Dhātā! you have been created by Brahṁā

for testing the wicked person. Dha in you indicates that you are the very embodiment of Dharma, Ta indicates the wicked person, and since you declare (Bhāvayase) the (guilt of the) person held in you, you are rightly known as Dhātā. You know the sins and the good deeds of all beings, and Oh Balance! only you know that which is not known by men. This person, accused of a charge, is being weighed by you. Be therefore worthy to protect him from doubt according to Dharma.

A senior Brahmin knowing astrology should observe time. The experts knowing the time of the balance ordeal have recommended five Vinādis as the time (for watching the movements of the scales).

The king should appoint pure and nongreedy brahmins as witnesses who speak the facts observed by them, and the result regarding the guilt or the innocence of the person must be taken according to their words. If the person increases, he is pure according to Dharma. If he is less, he is not pure. According to some, the person is considered to be guilty if the ~~two~~ two scales remain equal, but if he is thus equal, he should be considered as less guilty. If he loses, then of course, he is more guilty and if he increases, he is pure.

The King surrounded by gentlemen should honour the person declared innocent. He should satisfy the priests, the Purohita and the learned persons with Dakṣiṇā. He must give a duly signed certificate of acquittance to the person and should banish the guilty person from his kingdom.²⁷³

VYĀSA

If the person goes down he is not pure, if he comes up, he is pure. If he is ~~equal~~ equal then ~~also~~ he is impure. This is the rule regarding the guilt(or the innocence) of the person. If there is any breakage in the scales(or in any other part of the balance) the person must be weighed again. The decision can thus be reached at when all the doubts are clear.²⁷⁴

KAUMĀRIKĀKHANDA

Two trunks(Mundakadvayam) of a sacrificial tree must be erected on a plain ground in the south-east direction. The trunks must be seven hastas long, out of which two hastas should be dug in the ground, so that the seen part of the trunks on the ground would be of five hastas. The distance between the two trunks should be of four hastas.

A strong piece of log should be placed on the two trunks and a Tulā of the size of 4 hastas, made of Khādira, Arjuna, Simsāpa or Sāla, wood, not having any notches, must be firmly placed on it. Similarly, two scales must be suspended from the tulā. The dhata can also be prepared on stone pillars. A merchant or a goldsmith or a brazier, who is equal (i.e. impartial) to a friend or a foe must be appointed for holding that balance with following words : 'The persons who are known as the killers of Brāhmaṇa or those killing women or infants will be the persons of him who holds the balance in a wrong way'.

The accused person who has observed fast and knows (what he is doing) should be weighed in one of the scales and

pure-white sand in the other by the wise person. Bricks ashes, stone, skulls and bones should be avoided as the weighing objects. After weighing the person, for the first time, he must be brought down from the scale. A letter (of accusation) should be tied on his head and he should be weighed again. Following Mantra, which is given first by the self-born one, must be written on the letter. 'The letter Tu is always for dignity, la is for its simplicity. Since there is a combination of dignity and simplicity you are known as Tulā. Oh Auspicious one! Free this accused person from doubt.

The person with letter on his forehead must be weighed second time, and if he weighs more, he is pure according to Dharma. If he loses, he is not pure, this has been said by the knowers of Dharma. If there is any breakage in the scales or in the Tulā, the person may be weighed again. In this way, the doubtless knowledge should be gained, and the injustice should not be hidden. All this should be conducted on Sunday after having worshipped sun.²⁷⁵

We thus find following important points to be studied in the Balance ordeal :-

- (A) The Preparation of the Balance : (i) Type and size of the wood. (ii) The design of the weighing machine. (iii) Other arrangements.
- (B) The Trial :- (i) First weighing of the person against the weighing objects and marking the positions of the scales. (ii) Conducting preliminary rites. (ii) addressing the

ordeal with proper mantras. (iv) re-weighing the person and watching the movements of the scales.

(C) Retrial - The conditions for-

(D) Signs of the success or the failure of the trial.

(A) The Preparation of the Balance

(i) The type and size of the wood -

According to Viṣṇu the balance must be made of the Sāla wood. Nār. recommends Khādīra as the principal wood, but Sāmsāpā, sāla and other varieties can be used as alternatives in the absence of the principal one. Other varieties include Añjana, Tinduka (Ebonite or Timber), Timisā, and Raktacandana. These also, if selected, should not have notches, points out Asahāya.²⁷⁶ According to Pit. however any wood that can be used for a sacrificial purpose (i.e. for preparing the sacrificial post) can be used for preparing the balance.

The required wood must be cut by reciting the due vedic mantras. These are 'Oṣadhe trāyasvainam' and 'Svadhīte mainam himsīh', (Vāj.Saṁ.IV.1).²⁷⁷ The other mantras to be recited are the Somya mantras i.e. 'Somo dhenum Somo arvantam' etc (RV I.91.20)

276. धृत्स्यैतानि दारुणि । परं मुख्यः प्रधानः खदिरः । ततस्तिन्दुकः टिम्बरुकः । तदभावे शाकवृक्षदारु । एतान्यपि शुक्लकोटरवर्जितानि कार्याणि । शुक्लं ग्रन्थिकोटिरन्ध्रम् ।
Asahāya quoted by DK474.

277 यूपवन्मन्त्रपूर्वकमित्यनेन ॐ ओषधे आयस्वैनमित्यादिद्येदनमन्त्रप्रयोगादिक-
मुक्तम् । VP. p. 186. यूपवादिति यूपे द्येदनविहितसर्वकर्तव्यतातिदेशः । सा च ॐ
'स्वधीते मैत्रं हिंसीः' इति द्येदनमन्त्रविशेषादिरूपेति । DT. p. 581-582.

and Āpyāyasva Sametu te', (I.19.16) and the Vānaspatya mantra i.e. Vanaspate Satabalso Viroha(RV.III.8.11).²⁷⁸

The digest-writers are divided in their opinions as regards to the utilisation of these mantras. The two views expressed are (i) Since the recitation of these mantras is meant for unseen results, both the mantras must be recited here (i.e. there should be a ^{ucca} Samanaya of the Mantras) (ii) Since both the mantras have a similar meaning, any of them turns out to be superfluous. There should therefore be an option (Vikalpa).²⁷⁹

The majority of the writers have preferred the first view.

Another point referred by the digest writers is that the recitation of the mantras is available here by the rule of extension (Atidesa) and not by any special recommendation.²⁸⁰

²⁷⁸ यूपवादिष्यतिदेशासिद्धं मन्त्रवदित्युक्तमेवानुवदति । मन्त्र इति वानस्पत्यश्चेदने इति समस्तम् । तच्चेदनकाते सोमदेवताकः 'सोमो धेनुं सोमो अर्वन्तम्' इत्यादि-
-मन्त्रो जप्य एवेत्यर्थः ।.. वानस्पत्यो मन्त्रो 'वनस्पते शतबलशो विरोहे'ति ।

Bālabattī (Yāj. II.102)

²⁷⁹ अत्र जप्य एव चेति च शब्दस्य वानस्पत्य 'इत्यनेनाव्यात् तस्य च समुच्चयश्चात-
-कत्वात् समुच्चय इति कोच्यत् । सौम्यवानस्पत्ययोरेकार्थत्वात् 'तुल्यार्थयोस्तु विकल्पेन'
इत्यनेन न्यायेन व्रीहियववाकिकल्प इत्यपरे । VP p 187

²⁸⁰ *वानस्पत्यो 'वनस्पते शतबलशो विरोहेति' अस्य यूपवादिष्यतिदेशासिद्धस्यैवानुवादः ।

The types of woods recommended here are meant for Tulā (The beam of the balance) and the mantras 'Oṣadhe Trayasva' etc. are naturally to be recited while cutting the wood for the Tulā, but according to the SC, the mantras are also to be recited while cutting the wood for the other parts of the balance, since the Tulā represents other parts also.²⁸¹

(ii) The Design of the Weighing Machine :

Before we discuss the design of the balance recommended by the Dh.writers, it will be convenient for us to know the parts of the apparatus :-

(1) Pāda :- The two pillers supporting the transverse beam(Akṣa). Nār. uses the word Mundaka which originally means 'a trunk of a tree stripped of its top branches'(Apte's Dictionary). Word is used here in the sense of the piller of the Balance.²⁸² According to Kkh, stone-pillars also could be used.²⁸³ These pillars were burried 2 Hastas deep in the ground so that they remained 4 Hastas high on the ground.²⁸⁴

281. तुलाग्रहणं तत्परिकरस्यापि प्रदर्शनार्थम् । तेन पादस्तम्भादर्थमापि वृक्षच्छेदनं कार्यम् । SC p 245.

282. मुण्डकौ पादस्तम्भौ । VPP 187.

283. Kkh. 44.33.

284. मुण्डकयोः षट्हस्तं निखातहस्तव्ययेन समं, अर्थात्मृत्कोपारि हस्तचतुष्टयमित्यर्थः ।

DT. 582.

... अत्र साधारणत्वेन शारदातिलकोक्तो हस्तो भातः यथा 'चतुर्विंशत्यङ्गुलाद्यं हस्तं तन्नाविशो विदुः । यवानामष्टाभिः कृत्स्नं मानाङ्गुलमुदीरितम् ॥' यवानां तत्पुत्रैरेकमङ्गुलं चाष्टाभिर्भवेत् । अदीर्घमोजितैर्हस्तैश्चतुर्विंशतिरङ्गुलैः ॥ DT. 582 Also vide तिर्यग्यबोदशोऽष्टावृध्वा वा व्रीहयश्चयः । प्रमाणमङ्गुलस्थोक्तं वितास्तिद्विदशाङ्गुलः । हस्ते वितास्तिद्वितयं दण्डो हस्तचतुष्टयम् । तत्सहस्रव्ययं कोशो योजनं तच्चतुष्टयम् ॥

Mit. on Yuj. II-106

(2) Akṣa :- It is the transverse beam fixed on the two pillars. It is meant for adjusting the beam of the Balance (Tulā).²⁸⁵ Since the size of the transverse beam is dependent on the distance between the two pillars, it is not mentioned specifically. It should naturally be of the same size as the distance between the two pillars. This is the view of SC²⁸⁶ According to the old thinkers, however, it should be little more than the distance between the pillars.²⁸⁷

(3) Tulā :- Tulā is the well-known beam of balance.

(4) Dhata :- The middle hook through which the Tulā is adjusted with the Akṣa.²⁸⁸

(5) Karkata or Kilaka - The two hooks at the two corners of the Tulā,²⁸⁹ meant for suspending the scales. These are iron-nails, the point of which are slightly curved like those of arrows.²⁹⁰ According to SV, they are like the horns of Karkata.²⁹¹

(6) Rajju : These are the ropes used for suspending the scales from the hooks attached to the beam of the balance. From the NMS Bhāṣya it appears that leather-straps were also used.²⁹²

285. अक्षः स्तम्भद्वयोपरि स्थितं तुलाधारभूतं काष्ठम् । Aparārka on Yāj. II.102.

286. अक्षस्य तु प्रमाणं पादयोरन्तरालाभिधानेनैवार्थसिद्धमिति न पृथगुक्तम् ।

SC p.246.

287 अक्षनामकतुलावलम्बनकाष्ठपरिमाणमन्तरालभूमिसमम् । तस्य चावलम्बन-स्तम्भात्क्रान्तिदाधिक्यमिति जीर्णाः । साम्भमेवेति चान्द्रिकाकारः ।

Vyavahāśodyota quoted by DK 481

288 धटक्षब्देनात्र तुलामध्यसम्बद्धी पादो लक्ष्यते । SC p.247

289 कर्कटकोऽन्यौ.. VP 188

290 शिख्यपादाधारणार्थाविधुवद्वकाशौ... SC p.246

291 धटकर्कटयोः कर्कटक्षुण्णोपमयोः लोहवलययोः कोटिलग्नयोः । SV p.191

292 तत्र नद्यावलम्बनं यावद्भूमिं न स्पृशति तावदर्थकार्यम् ।

Bhavaśwami on NMS 61.

According to VM, each scale should be tied with three ropes.²⁹³

(7) Sikyadvaya :- The two scales.

(8) Torana + The two arches constructed by the two sides of the balance, meant for marking the positions of the scales.

(9) Avalamba :- Two pendants or the pendulums suspended from the Toranas and touching the two heads of the balance.

It will appear that the Dh.writers have gradually tried to improve the kind of the apparatus, eliminating its defects, and thus have tried to make it work as efficiently as possible. With the newer arrangements in the apparatus, they have also made necessary changes in the rules of the trial.

The balance recommended by Viṣṇu is very simple. According to him the balance consists of two scales suspended on two sides of a beam which is fixed on a 4 Hastas'high pillar. It would appear that in this balance there is no indicator showing the position of the balance or of the scales. Viṣṇu says that the positions of the scales at the time of the first weighing must be marked well (Suciḥnitam Kṛtvā), but that does not make clear the actual method of marking. Yāj. also like Viṣṇu says that both, the person and the weighing objects, should be brought in a level and marked. Viśvarūpa, explaining the passage, says that one should mark the very position of the person pointing out that a particular limb is at a particular point,²⁹⁴ while Mit. says that the marking must be made at the base of the scale when it is in the levelled position.²⁹⁵ The SC, explaining

293. तस्मिंस्तुला.... प्रान्तयोश्च फलकद्वयं तिष्ठन्निस्तिष्ठन्नी रज्जुभिर्वन्धनीयम् । VM p62

294 स तुलामारुहः प्रतिमानसमवेन तुलाधारणावेवद्विर्विदा लाक्षितस्तदास्यास्मिन्प्रदेशे इदमङ्गमित्येवं चिह्नार्थं लेखाः कृत्वावतारणीयः । Viśvarūpa on Yāj. II-104.

295 रेखां कृत्वा... प्रतिमानसमीकरणदशायां शीघ्रतलेऽवस्थितस्तास्मिन् पाण्डुलेखेनाङ्क-
-यित्वा... Mit on Yāj. II-104.

the statement of Viṣṇu, says that the marking should be made to the part attached with the ^zStrings of the scales.²⁹⁶ From the above explanations, it is clear that though the commentators and the digest-writers have tried to be faithful in explaining the text-obviously, they have felt the difficulty in explaining the actual method of marking. In fact, the marking is necessary for indicating the difference of the positions of the scales at the time of the second weighing. If we take a wide sense of 'the part connected with the strings of the scales' and understand the pillar of the balance by that, it is possible to mark on the pillar, the position of the base of the levelled scale. This may go well with 'the marking of the base of the scale as explained by Mit.

The later Smṛtikāras have made improvements in the weighing machine and have thus overcome the difficulty in marking the position of the scales. Nār. has introduced the construction of two arches (Torāṇa) on the two sides of the two scales, so that the marking could be made on these Torāṇas, while Pit. has introduced two pendulums (Avalamba) to decide the positions of the scales. Let us study the kinds of the balances recommended by these writers.

From the description of the balance given by Nār., two types of balances are possible, (which may be called as the Sama Dhātā and the Vyastaka Dhātā).²⁹⁷ In the first variety,

296. सुनिहितौ समतादृशायां येष्वयवेष्टु शिक्त्ररज्जवः संयुक्तास्तत्र पाण्डुरेखाङ्कितावित्यर्थः।
297. अनेन श्लोकत्रयेण धटग्यासखरूपयुक्तां, तन्मध्यस्तकमध्युक्तं समं तत्र कृतो - SCP 255.
विधीयते। Asahāya quoted by DK p 473.

A Sama balance is technically 'The balance in the levelled position! Since the text of Asahāya here is not complete, it is not possible to make clear whether he takes Sama and Vyastaka as the two varieties of the balance, but the balance described by Nār. can be understood as having two types as is gathered from Asahāya's explanation.

the two pillars are burried close to each other and the balance is fixed in between the two pillars by an iron nail. This type of balance is described by NMS and is explained by SC.²⁹⁸

In the second variety, the two posts are burried ~~with~~ with some distance between them. Asahāya gives following description of the balance. There should be six pillars of six Hastas' length. Four of them should be burried on the four corners of a ground that is four Hastas long east and west and one and a half Hasta wide south and North. There should be two Toranas ~~fixed~~ on two pillars of each side. The pillars should be burried two Hastas deep in the ground so that they remain firm and steady. Remaining two pillars should be similarly burried at the mid-centre of the longer side and a Torana(Transverse beam?) should be fixed on it. The Balance of four Hastas should be suspended from this(Torana). An iron nail which can be a half-Hasta long should be fixed in the centre, so also the two rings at the two corners.²⁹⁹ The NMS Bhāṣya points out that the length of the strings must be such that they would not touch the ground. The scales also must be

298. (i) NMS 5,

(ii) समायां भूमौ दक्षिणोत्तरभावेन स्थितयोः पादस्तम्भयोः उभावनतौ एकत्राक्षकाष्ठे संघटितौ कृत्वा.। SC p 247

299. षट्हस्ताः षट्मुण्डकाश्चतुरश्रुचचतुररत्नाः भवन्ति । तेषां भूमिनिवेशनक्षेत्रं पूर्वापरतो हस्तचतुष्टयं दक्षिणोत्तरतः सार्धहस्तं । तस्मिन्क्षेत्रे... त्रेकं तोरणं चयोर-
प्यन्तयोस्तोरणद्वयम् । तेषां च मुण्डकानां च नैखाद्य निश्चयार्थं हस्तद्वयमुक्तं, ततो मध्यमतोरणे चतुर्हस्ता द्यटतुष्टा । Asahāya quoted by DK p 473-74.

prepared in such a way that the person must be able to sit in it with confort.³⁰⁰

The VP points out that the width and the heaviness of the pillars and the beam of balance are not mentioned, but they may be prepared according to the stouteness of the balance required and the practice of the people.³⁰¹

The distance between the two pillars should be 'Adhyardha' i.e.(a) more than the half of the size of the pillars i.e. $2\frac{1}{2}$ hastas or (b) it may be $1\frac{1}{2}$ Hastas. It should be pointed out that the size of Akṣa depends upon this distance.

Viṣṇu and Yāj. are silent as regards to the direction of the balance. Nār. says that the person should be weighed in the northern scale. This means that the pillars should be erected east and west. According to Pit, the whole apparatus should face east, which means that the pillars must be south and north. It appears that Pit's recommendations were generally followed, because according to Asahāya, also, the pillars are erected south and north. It must however be pointed out that Nār.'s recommendation was not out of practice and both the options were in vogue. Thus there was no hard and fast rule regarding the direction of the balance.³⁰²

300. उक्तयो. उच्यैः मनुष्यः सुखमास्ते यास्मिन्निक्षेपे तत् । } - Bhavaraswami on NIMS 5.
नद्यावत्तम्बनं यावत्कुमिं न स्पृशति तावदर्यात्कार्यम् --- }

301 पादस्तम्भादीनां स्थूलता तु विशेषानभिधानात् यावति स्थौल्ये दार्यं भवति तावत्केव कार्यम् । VPP 188 also cf. शिष्टाचारव्या विशेषोऽवगन्तव्यः Vyavahāravivekodyota p. 95

302 पादस्तम्भौ पूर्वपश्चिमसंस्थानौ कृत्वा लोदगायानां तुल्य कार्यम् ।.. उदग्दक्षिणसंस्थानौ पादस्तम्भौ कृत्वा प्राग्पश्चात् तुल्य कार्यम् । Vyavahāravivekodyota p. 95.

Introduction of Toranas was essentially meant for removing the difficulties in marking the positions of the scales, but such marking could not really help to know the correct movements of the scales. Pit. has therefore advised to raise these Toranas ten Angulis higher than the height of the balance and suspended two pendulums made of strings and lump of clay, touching the heads of the balance. Slightest movement in the scales could thus be noted by the movements in the pendulums. The rule of marking the scales was thus scrapped with the introduction of the pendulums.

First, the balance is levelled by putting a little water on the beam of the balance. If the beam is perfectly horizontal without any inclination on any side, the water will remain steady, otherwise it would flow down the length of the beam. Thus, Udakaparakṣepa and Avalamba decide the level and the subsequent movements of the scales.

We have seen that Pit. has advised to construct a balance house with so many equipments. According to Mit. this should be done when the balance prepared, is required to be preserved.³⁰³

Nār. and pit. say that the balance prepared for the ordeal must be decorated with garlands and flowers. One important point noted by NMS with regards to the preparation of the balance is that the balance prepared must be approved by the litigents.³⁰⁴

303. यदा तूक्तलक्षणं घटं तथैव स्थापयितुमिच्छति तदा वायसाद्युपधातनिरा-
-सार्थं कपायादिसहितं शाखां कुर्यात् । Mit. on Yāj. II.102.

304. NMS.7.

(B) THE TRIAL :(a) First Weighing of the person -

(a) The person is generally weighed in the Western scale, but according to Nār. he could be weighed in the northern scale also. This naturally depended upon as how the pillars were erected. According to some writers however the person could be weighed in any of the scale, and no specific rule was necessary in this respect.

(b) The Weighing objects -

Earlier writers have recommended stones as the weighing objects. One could also use lump of clay. According to Pit. however, it should be white sand only, and objects like bricks, ash, stones, skulls and bones should be avoided.

(c) As soon as the person is weighed, the levelled position of the scales is marked with white chalk. It would appear that with the introduction of the pendulums on the scales, no marking was necessary.

(d) The weighing must be conducted by the persons expert in weighing e.g. merchants, goldsmiths and braziers. According to Viṣṇu, these persons must be put under restraints of oaths.

(ii) The preliminary rites :

After completing the first weighing, the person should be asked to get down from the scale. The general rites common to the other ordeals, beginning with the invocation of Dharma and ending in the tying of the Śirā^hpatra should then follow.

(iii) Mantras to be recited :

Viṣṇu, Yāj., Nār. and Pit. have given various Mantras to be used in the balance ordeal. The mantras given by Viṣṇu and Yāj. are obviously meant for the Prādvivāka and the Sódhya respectively. Nār. has combined the mantras given by the two writers, while Pit. is found mainly accepting Viṣṇu's mantras with necessary changes considered as fit by him. The later writers have therefore accepted and advised to use Pit.'s mantras for the Prādvivāka and Yāj.'s mantras for the Sódhya.

The DT points out here that these mantras are Smārta(and not Śrauta) and therefore they could be used even by Śūdras. Similarly even if the person undergoing the trial is a woman, the mantras should not be altered(i.e. no Ūha is necessary), because the ordeal is ultimately meant for clearing the doubt or knowing the truth. and therefore it is immaterial whether the person undergoing the trial is a man or a woman.³⁰⁵

(iv) Reweighing the person :-

The person should be weighed in the scale for the second time. The movements of the scales should be watched for five Vinādis. Each Vinādi is equal to the time spent in reciting 60 long syllables,³⁰⁶ the movements of the scales should therefore

305. मन्त्रध्यायं स्मार्तः पौराणिकत्वात् । शूद्रैरपि पाठ्यः ... स्त्रीपरीक्षायां मापि अविश्रुत एव प्रयोज्यः । 'दिव्यानीह विमुद्ध्यते' इत्यनेन संदिग्धार्थसिद्धेर्निवृत्ति- फलतयाऽविशेषेण स्त्रीपुंसकर्तृकदिव्यविधानेन मानुषः शुद्धिभिन्द्याति - इत्यनेन प्रकृतकूहाप्रयोगात् । DT. P. 589

306. दशगुर्वक्षरः प्राणः षष्ट्याप्राणस्याविनाडिका । quoted by Mit on Yāj. II.102

be watched for the time required to recite 300 long syllables. DT puts it otherway. The movement of the scales should be watched for the time required for reciting five times the Mantra Mākānte etc.³⁰⁷ 'Mā Kānte is a verse in the metre Līlākhela in which there are 60 long letters. The words are addressed by a husband to his fair wife" (Dr.Kane's notes on VM.p.98), Since the time is to be watched accurately, a person expert in astrology, must be included in the panel of the experts of conducting Tulā ordeal, observes SV.³⁰⁸

(C) RETRIAL -

Retrial was allowed in the following cases. (i) when there was any defect in the weighing machine-this can be divided into two heads. (a) technical defect : for example, when there is a fast blowing wind making the scales unsteady throughout, or when the sign deciding the positions of the scales(such as water placed on the beam) fluctuates or the leaf tied on the forehead of the person blows away.³⁰⁹ (b) breakage in the weighing machine:

307. तुलारोपितं च नरं विनाडीपञ्चककाळं शतत्रयगुर्वक्षरोच्चारणयोग्यं 'मा कान्ते पक्ष-
-स्थान्ते पर्याकाशे देशे स्वाप्सीः कान्तं वक्त्रं वृत्तं पूर्णं चन्द्रं मत्वा रात्रौ चैक्षुःक्षामः प्राटंश्चे-
तश्चेतो राहुः क्रूरः प्राधान्यभाद्धान्ते हर्षस्यान्ते क्षयैकान्ते कर्तव्या' इति पञ्चधा
पाठयोग्यपञ्चकपञ्चकं भावत् तावत् स्थापयेत् । D.T. p.590

308 अनेन ज्योतिःशास्त्रपरिचयवानेकश्च तुलाकोविदेषु कार्यः । SV p.191

309 अथमर्थः । तुलायाः शिरोभ्यामुद्भ्रान्तं चावितं यदा भवति, यदा च तुलासाम्य-
-ज्ञानार्थं यज्जलादितक्षणं न्यस्तं तद्विचलाति, यदा च वायुना प्रेरितो धरो कूर्ध्व-
-मधो वा कल्पते, यदा च तुलाधारकेण सहसैव धरो विमुच्यते, तदा जयं पराजयं
वा न वदेत् (Aparādhaka on Yājñ. II.102) । तुलान्तयोस्तिर्यक् चलने,
उभयकोशचलने शिरःपत्रनाशे वायुना कम्पे वा शुद्धिमशुद्धिं वा न वदेत् ।

- Vivādatāṇḍava quoted by DKP 478

for example, breaking of scales, ropes, the transverse beam etc. The commentators and the digest-writers have repeatedly pointed out in this connection, that retrial in these conditions can be allowed only if the breakage in any of the part of the balance is due to the seen causes.³¹⁰ If the breakage in any of the parts cannot be accounted by any seen cause, it would declare the guilt of the person and no retrial can be allowed in that case.³¹¹

(ii) If the two scales remain in a levelled position at the second weighing, and are thus unable to give a clear verdict, retrial can be allowed in that case. According to some writers however, under these circumstances no retrial can be allowed. It is a clear case indicating the guilt of the person.

In the case of a retrial, it is not necessary to repeat the whole procedure. Only the weighing part of the trial should be conducted again. This is the view of the ancient thinkers. while Kamalākara(author of Vivādatāṇḍava) Mitrāmīśra(Author of Vyavahāraprakāśa) etc. hold the view that the whole procedure must be repeated again, because the defect in the trial will not be removed by mere repetition of the weighing.³¹² The argument here is in accordance with the Śrauta rule 'Pradhānadravyavyāpattau Sāṅgavṛttistadādesāt(Kātyāyanasrautasūtra I.7.28).

310. यदा तु दृष्टादेव हेतोः शिथिल्यच्चेदादि भवति, तदा पुनः क्रिया ।

Aparāśka m. ^{यजुः} II/102

311. यदा चानुपलब्धमाणा दृष्टकारण एव कक्षादीनां छेदो भङ्गो वा भवति तदाप्यशुद्धि-
-रेव । Mit. on ^{यजुः} II/102

312. तस्मिन्नेव प्रयोगे पुनस्तोत्र इति प्राच्याः, तन्न कर्मवैगुण्यसत्त्वात् । Vivādatāṇḍava
(quoted by DK p. 479) cf. also - अयमर्थः पुनर्देवतानाहनाद्यङ्गासाहितं सर्वकर्म
विधाय तोडनीयः । यैस्तु कैश्चि तस्मिन्नेव प्रयोगे तोडनमुक्तां तन्न । 'प्रधानानुत्तावङ्गा-
वृत्तिः' इति न्यायेन तोडनस्य फलसम्बन्धेन प्रधानत्वात् तदावृत्तौ देवतानाहनाद्यङ्गा-
नामानुत्तेरेवोचितत्वात् । VP p. 192-193. Also cf. Madana Ratna pradīp. 99.

(D) SIGNS OF THE SUCCESS OR THE FAILURE OF THE TRIAL

Following are the signs of the success or the failure of the person in the trial. (i) If the scale in which the person is seated goes up at the time of the second weighing, he is innocent. (ii) If the scale goes down, the person is guilty. (iii) If the two scales remain equal indicating the same position as that of the first weighing, there are three different views expressed as regards to the result of the trial. They are (a) It is a case for retrial. (b) The person is less guilty. (c) The person is guilty.

It will appear that these signs are clear by themselves when they are put under regular paragraphs of law, but when they are described, the description tends to be vague and an apparent contradiction comes in. For example, we find that while addressing the balance, the accused person requests it to clear him from doubts, and so doing, the person himself puts the conditions of his success or the failure of the trial : The balance should take him up if he is pure and bring him down, if guilty-he points out.

It is, however, subsequently stated that the person is pure if he increases at the second weighing. In fact, if he is to increase, the scale should go down.

It must be pointed out that increasing here does not mean increasing physically but increasing in piety. Asahāya removes the contradiction as follows : when a thing increases in weight, the scale goes down. The person who increases in piety also should go down and that should be the proof of his innocence, but the rule is that when the scale in which the person is seated goes up, he is innocent. This may be explained as follows :

Just as a piece gold heated in fire gies up its impurities and the scale in which it is weighed goes up after such purification of gold, Similarly, the person increased by piety may be pure because of the removal of impurities caused by doubts and false charges imposed on him, and may go up.³¹³

We have seen above, three views regarding the result of the trial, when the two scales remain in equal positions. We must examine here the second view given in (b). Pit. puts it as follows : 'If the person increases when weighed (second time), he happens to be pure according to Dharma, if he is less, he is not pure. According to some, he is not pure even when the scales

313. शकितु सुवर्णतुलायां यदेकस्यां दिशि षोडशगद्याणकं फलकद्वयमारोप्य द्वितीय-
- दिशि गद्याणकाः षोडश । तदुभयमपि समधृततुलास्थितमेव भवति । यदि पुनस्तस्य
समतुलाधृतस्य तदवस्थस्यैव सुवर्णस्य मध्ये कुतोऽपि धार्मिकः पुण्ययोगान्तर
सप्तदशमो गद्याणकः आकाशात्पातितो भवति, तदा तत्सुवर्णं वर्धते वृद्धिप्राप्तं सदधो-
गामि भवति नोर्ध्वगामीति । यदि षोडशगद्याणकाः एकगद्याणकेन हीनमाणाः पञ्चदश
भवन्ति ततस्तत्सुवर्णं हीयमानमूर्ध्वमेव गच्छति । ...लोके- प्राप्तिरेषा कूर्ध्वगच्छमानः
शुद्धो भवति, अधोगतिरर्धशुद्धो हीनमानश्च भवति । तत्कथमेतत् ? इत्यत्र परिहार उच्यते ।
यथा रौप्यमलसहितस्य सुवर्णस्य षोडश दीनाराः फलकद्वयसमधृताः सन्तः उत्तार्य
स्वतराग्रेमध्यान्तप्ताः दग्धमरुताः पञ्चदशानुर्दश वा गद्याणकाः दाहोत्तीर्णाः सुवर्णस्य
भूत्वोर्ध्वं गच्छन्ति । तथा पुरुषोऽपि समतुलाधृत उत्तारितः । आहूतलोकपालसत्त्व-
- श्रवणाधिवसनान्वतीर्णवर्णाग्निदग्धशङ्काभियोगारूढकल्मषमलसमूहः दाहोत्तीर्ण-
- भिवोर्ध्वमेव गच्छति । एवं विमलपुरुषस्योर्ध्वगमनाविशुद्धिरिति सिद्धमिदम् ।

Asahāya quoted by DKP. 477

The VP says that eventhough the writer refers here the view of 'Some' with respect, it does not mean that the himself holds the opposite view i.e. the person should be considered pure if the scales remain equal. (On the contrary, the writer believes that the equal position of the scales indicates that the person is less guilty), But, suppose we are able to decide whether the crime is light or severe one, [e.g. & merely embracing a women in case of an incesting person may be regarded as a light crime or suppose a thief merely enters the house (but does not steel) that can be a light crime], What difference does it make? A crime is afterall a crime and therefore even if the scale goes down or remains equal, the person is guilty in both the cases. Only thing is that one could just make some exemption in punishment in such a case. Therefore, both the statements i.e.

314. अभियुक्तस्यार्थस्याल्पत्वं बहुत्वं च न दिव्येनावधारयितुं शक्यते तथापि सकृदभाति पूर्वत्वेनाल्पत्वमसकृन्नातिपूर्वत्वेन च महत्त्वमिति दृष्टप्रायाश्चेत्ता-
-त्त्वमहत्त्वमहत्त्वमल्पत्वमहत्त्वमवधारयते । Mit an yājñ. II. 102

according to some the person is non-pure when the scales remain equal, and, 'he is less pure when the scales are equal-should be neglected since they are confusing and misleading.³¹⁵

315. अल्पत्वं व्यभिचारे समल्लिङ्गनादिना, -चौर्ये तद्देशगमनादिना। तत्र प्रकेषामिति पूजार्थं न तु स्वभते समस्य शुचित्वद्योतनार्थम्। अल्पपापिनेऽप्यशुचित्वात्। तेन हीयमान-समर्थोर्न काश्चिद्विशेषः। दण्डे प्रायश्चित्ते परं विशेषस्तयोर्दोषानुसारित्वात्। यत्तु कैश्चित् 'प्रकेषां तु समोऽशुचिः' इति वचनं, 'अल्पपापः समो ज्ञेयः' इति च वचनं साम्ये संशयपरमेवेत्युक्तम्। तत् क्लृष्टकल्पनया वाक्यानां जवात्तरूपेक्षणीयम्। VP p. 192

AGNI - DIVYA (THE FIRE ORDEAL) -

Appeal to god for the settlement of difficulty is deeply ingrained in human nature, and therefore we find examples of trial by ordeal among all the tribes of the world. The primitive man, under such circumstances, has always resorted to the Nature-Divine for solving his problems which he could not solve through human capacities. The fire and water which represent the objects of nature, were thus nearer to him as divine agents declaring justice. Fire and Water are thus the primitive ordeals. In every civilization, they are the most ancient of all the ordeals.

In India too, these two happen to be the most ancient ordeals. Manu refers to their remote antiquity. 'In order to establish the truth a person must be asked to carry fire or plunge into water', he points out. He quotes the example of Vatsa. Fire did not burn even a thin hair of Vatsa when charged by his younger brother', he points out.³¹⁶

The ordeal tried by Vatsa is described in the Tāndya Brāhmaṇa. According to this description Vatsa entered into fire to prove his caste³¹⁷. Explaining the example of Vatsa

316. Manu, 8, 114, 116.

317. वत्सस्य वै मेधातिथिश्च काष्ठावास्ताम् । तं वत्सं मेधातिथिराक्रोशत्- अत्राह्मणोऽसि शूद्रापुर इति । सोऽब्रवीद्वैतनाभिं व्ययाव यतरो नौ ब्रह्मीयानिति वात्सेन वत्सो व्यैनमेधातिथेन मेधातिथिस्तस्य न होम-च नौषत्तं द्वाव स तर्हिकामयत कामसनि साम वात्सं काममेवैतानवरुन्धे ।

Tāndya-Br. 14.6.6.

Sankarācārya explains अग्निं व्ययाव- आवां विशेषेण गच्छाम प्रविशाम इत्यर्थः ।

given by Manu, Medhātithi points out that the fire did not burn Vatsa who entered into it.³¹⁸

The old examples of the Fire ordeal thus show that the person undergoing this trial used to enter into the fire. But soon, this form underwent a change. The next form in which the fire ordeal evolved itself was to carry red-hot iron in hands. In the Chāndogya Up. we find that a person accused of theft carries red-hot axe (Parasū) in his hands.³¹⁹

It must be pointed out that ordeals concerning with fire- we may call them fire ordeals in general- were the most popular ordeals in all the civilizations. They were practised in various forms. In India too, we may well-infer the prevalence of the various forms of the fire ordeal. These can be classified as follows :-

318. वत्सो नाम काण्व ऋषिरभवत्। स च कनीयसा वैमात्रेण भ्रात्राऽभिशप्त आक्रुष्टो न त्वमसि ब्राह्मणः शूद्रपुत्र इति। स तं प्रत्युवाच सत्येनाग्निं प्रविशामि यदि न ब्राह्मण इति। तस्येदमुक्तवतः प्रविष्टस्य नाग्निर्ददाह रोमापि Medhātithi on Manu 8.116.

319. पुरुषं सोम्येत हस्तगृहीतमानयन्त्यपहर्षोत्स्तेयमकार्षीत्परशुमस्मै तपतेति स यदि तस्य कर्ता भवति तत प्रवानृतमात्मानं कुरुते सोऽनृतोऽभिसंधोऽनृतेनात्मानमन्तर्धाय परशुं तप्तं प्रतिगृह्णाति स दह्यतेऽथ हन्यते। अथ यदि तस्याकर्ता भवति तत प्रव सत्यात्मानं कुरुते स सत्याभिसन्धः सत्येनात्मानमन्तर्धाय परशुं तप्तं प्रतिगृह्णाति स न दह्यतेऽथ मुच्यते।

Chāndogya Up. 6.16.

- (i) Ordeals in which there is a direct contact with fire.
 - (a) Entering into fire. (b) Walking over burning charcoals.
 - (c) Touching the fire and swearing over it.
- (ii) Ordeals connected with red-hot iron.
 - (a) Carrying in hand red-hot iron ball or an axe.
 - (b) Licking the red-hot iron.
- (iii) Ordeals connected with boiled oil or ghee.
 - Taking out a piece of gold from the boiling oil.

It will appear that out of these various forms, the Dh.writers have sanctioned only those coming under (ii) and (iii). Technically speaking, (ii)a is the Agni-divya, (ii)b the Phāla divya and (iii) the Taptamāsa divya described by these writers. It must be pointed out that ordeals mentioned in (i), are straightway rejected by the Dh.writers. Prevalence of these practices can be inferred through other sources, but they have not been recognised and recommended by the Dh.writers. It must also be pointed out that Agni and Phāla are grouped here under one head(as (ii)a and (ii)b) simply because both of them are relating with red-hot iron, but essentially they are different from each other since they differ in the forms of their application. It should be noted that Br. has developed Phāla into an independent ordeal.

We have seen above that the example of Vatsa described in the Tāndya Brāhmaṇa reveals to us the older method of entering into fire which in due course is replaced by a milder form of carrying the red-hot axe described in the Chāndogya UP. The fire ordeal described by the Dh.writers is derived from this Parāśu-divya of the Chāndogya UP. [Pit. names it as Parāśu at

one place, while VN identifies the Yāj. phāla (which is the same as Agni) with the Paraśu).

The example referred to by Manu points out the old method of entering into fire but the words in which he actually recommends the ordeal clearly show that according to him the fire ordeal consists of carrying the fire. Manu who must be regarded as the first Dh. writer to describe the fire ordeal has thus in a way tried to explain the form of the ordeal accepted in the Dh. Śāstra. Explaining Manu, Medhātithi points out that the person should be asked to cross seven steps by carrying fire in hands covered by seven leaves of fig tree. Manu's ordeal should be thus connected with ordeal described in the other smṛtis, because the fire ordeal is traditionally known in this form only.³²⁰

Śaṅkha-Likhita therefore preferred to call this ordeal as the method of holding the iron (Lohadhāraṇam) and drop the word Agni, but Lohadhāraṇam was the form in which the Fire ordeal was practised and therefore other writers preferred to retain Agni as the name of the ordeal. Nār. and Pit. have optionally used the words Loham and Āyasam for Agni. NMS starts describing the procedure of the Fire ordeal calling it the procedure of iron. Bhavaswāmin explains it as follows : 'Now the Fire ordeal, second of the ordeal is being described. Since iron is the substratum of Fire, Fire is called here iron'.³²¹ Viśvarūpa also commenting upon Yāj. II.103 describes the procedure of the Agni Divya as

320. अग्निमाहारेदेन-हस्तेनाप्यत्यर्णव्यवहितेन ततो यो देशान्तरं सप्तपदसंनिहितमित्यादिस्मृत्यन्तरा-

द्विपुणतोऽन्वेष्टव्यम् | Medhātithi on Manu 8.114.

321. अग्निरिति द्वितीयं दिव्यमुक्तं तत्प्रसूयतेऽनन्तरम् | लोहाधारत्वाद्गोह इत्यभिरुच्यते,

तस्य विधिं वक्ष्यामि | Bhavaswāmin on NMS, II.

Taptāyah-pindadhāraṇasāstram. It is thus clear that the Agni divya in the Dh.Śāstra strictly consists of holding the red-hot iron in the hand.

Fire ordeal is mainly used for very severe charges. Considered from the cost point of view, it stands second in the list.

Considered from the caste-point of view we find that it is particularly recommended for Kṣatriyas. Viśvarūpa however records following options. (i) It is recommended to all except the Sūdras. (ii) It is particularly recommended for Kṣatriyas. (iii) The Kṣatriyas and others are given a choice to select any of the fire, water and Poison(vide f.n.123 above).

The Agni should be administered to a strong and stout person. It is prohibited to a person suffering from white leprosy, a weak person and a blacksmith. According to Nār., it is prohibited to a white leper(Svitrin), a blind(Andha) and a leper. (Kunakha). Nār. has prohibited ordeals for the persons who have undertaken vows, the persons who are full of miseries, the ascetics and the women. Asahāya explains that it is the fire ordeal ^{that is} prohibited in these cases. 322

Considered from the season-point of view we find that (1) Viṣṇu prohibits the use of Agni in the Grīṣma and the Śarad seasons. (ii) Nār. prohibits it only in the Grīṣma while he points out in general that the fire may not be used in hot seasons. (iii) Pit. restricts it only in śarad and recommends Śīsira, Hemanta and Varsā as the suitable seasons for it.

322. Nār., 255-56.

यद्यपि दिव्यशब्देन सर्वदिव्यमुच्यते तथाप्यनान्तरोक्तविधिप्रतिषेध इति ---
तेषामग्निदिव्यमेव निषिध्यम् | Asahāya quoted by DK p 452.

It is thus found that the use of the Fire ordeal was made open in all the seasons except when it was very hot.

The Fire ordeal should be conducted in the former part of the day.

The Procedure -

VISNU - Seven circles, each of 16 Angulas, having the same distance between each of them must be drawn. Seven leaves of Big tree should be put on both the hands stretched by the person who is facing east. The leaves should be tied alongwith the hands by means of threads. A red-hot iron-ball of the weight of 50 Palas should then be placed on the hands. Holding the iron ball in hands, the person should walk, stepping in the circles, neither very fast nor very slow. After crossing the seventh circle, he should throw the iron ball on the ground. The person whose hands are burnt should be known as guilty, but the person who is not burnt at all, is pure. If the person throws the ball out of fear or if his burns are not clearly visible, he should be asked to carry the iron-ball again, since the trial in that case has not found out the truth.

The person should first rub the grains of rice on his hands and if there are any signs on his hands, those should be marked. The iron-ball must be placed in both of his hands, after the Fire is (properly) addressed with the following Mantras 'Oh Agni! you remain as an inner witness in(the hearts of)all the beings,(and as such) Oh Agni! only you know the things that are not known to the human beings. This person who is accused in this dispute wants to get himself purified and it will be worthy of you if you protect him from doubt in accordance with Dharma.³²³

SANKHA AND LIKHITA

A person may go the distance of seven circles by holding in hands a red-hot iron ball of the weight of 16 Palas covered with seven leaves of fig tree.³²⁴

YĀJÑAVALKYA

The hands of the person who has rubbed the grains of rice, must be marked, seven leaves of fig tree must be placed on them and tied with the same number of threads. The person should address the fire with the following Mantras: 'Oh Agni! the Purifier! you remain in all beings. Oh wise! having observed like a witness the merits and the demerits, tell the truth for me'.

A red-hot iron ball equal on all sides must be placed on both the hands of the person who has recited the above mantras. Holding the ball, he should go slowly through the circles each of which should be of the size of 16 Angulas. If the person who has rubbed the grains of rice after throwing the ball is found unburnt, he is pure. If the ball falls down in between, or if there are doubts (regarding the burns) he should carry the iron-ball again.³²⁵

NĀRADA

There should be circles of 32 Angulas size one after the other. With eight such circles, the ground thus required will be of 256 Angulas. Seven leaves of fig tree must be put on both the hands of the accused person and must be tied with seven threads. The person, blacksmith by caste, proficient in heating iron and

324. SL.4.

325. Yāj. II.103-107.

having an experience of its kind should heat the iron in the fire. A pious brahmin should get the well-protected iron-ball of 50 Palas' weight heated again to make it blaze red-hot like fire. Supported by the truth, the brahmin should address the iron ball when it is heated for the third time, 'Listen, the duties of men attended by the Lokapālas. Oh! Agni! you are the most pious mouth of all gods. Residing in the hearts of all the beings, only you know their operations. The truth and the falsehood come from your tongue. This has been said by the Vedas and the other scriptures and you would not be-lie it. This has been said to this person now, and if he has spoken lie, I will make him hold fire for all his falsehood. Oh Agni! you should be cool for the person who speaks the truth, but should burn the hands of the guilty rogue who speaks lie'.

The contents of the address must be written on a paper as they are. Having read the same to the accused person the paper, must be tied on his forehead, and the iron-ball must be placed in his hands in due order. Having taken bath and standing in the circle, he, holding the fire, should walk straight through the other seven circles. Unconfused, he should go slow without any hatred for the fire. He should not throw the ball before reaching the recommended distance. He who throws the ball out of troubles or does not show the signs of burn clearly, should be asked to hold the fire again. There should be circles (i.e. sub-circles) according to the (size of the) feet of the person undergoing the trial. He should neither skip the circles at a random nor should he set his foot at a less distance than the

~~ONN 22~~

one in between the two immediate circles. The fire ordeal must always be tried in this very procedure, in the cool season and never in Grīṣma. Signs like the foot of a crow (Kākapada) must be marked on all the wounds of his hands, and all such marks must be reexamined after the trial. If the signs of burns are not clearly visible, the grains of rice must be rubbed pressingly, seven times, on his hands. Even after ~~xxx~~ rubbing rice in this way, if the person is confirmed as not burnt, he should be freed by the members, with due felicitations, but if he is found burnt then he must be punished.³²⁶

According NMS, (even) with eight circles, each of 32 Aṅgulas the ground required (to be walked) would be of 224 Aṅgulas. The person should observe fast and be pure. Having dipped himself in the water with clothes on, he should come to the site with, wet hair only.³²⁷

KĀTYĀYANA

If the person falls down or if it burns any of his other limbs, he is not considered as burnt. He should be allowed a retrial.³²⁸

PITĀMAHA

There should be eight circles, and beyond them, there should be the ninth circle. The nine circles belong to Agni, Varuna, Vāyu, Yama, Indra, Kubera, Soma, Savitr and All Gods, respectively. The circles must be besmeared with cow-dung and must be sprinkled with water. The circles should be of 32 Aṅgulas each.

326. Nar. 285-303.

327. NMS, 11-14(a).

328. Kāt. 441

one after the other. With eight such circles the ground required will be of 256 Angulas. There should be circles(i.e.sub-circles) according to the size of the foot of the person undergoing the trial. Dūrvās must be spread on the circles as per Sāstra, and the person should walk over these.

For the sake of pacification, 108 oblations of ghee must be offered in the fire. An iron-ball of 8 Angulas' size and 50 Palas' weight, smooth and without any angles must be heated equally on all sides in the fire. With red-sandal(Raktacandana), incense(Dhūpa) and red flowers, the king should offer adorations to (the Dharma in form of) Agni. Having purified himself, the person should stand in the western circle with folded hands, facing east. The person (conducting the ordeal) should mark the wounds and scars on the hands of the accused person. The marks should be detected before the trial, by rubbing the grains of rice.

Seven leaves of Pipal tree, curds, a few grains of rice (Aksata) and flowers must be placed on the hands and must be tied with threads. The wise should put the Pipal leaves on his hands because the Pipal gives birth to fire, the Pipal is known as the king of trees. He should first invoke the other gods and then after heating the ball, he should invoke the fire. 'Oh! Agni! you are the four Vedas, you are offered oblations in the sacrifice. you are the mouth of all gods, you are the mouth of the Brahma-vādin(the speaker of Brahma). Residing in the belly, you indeed know the auspicious and the inauspicious in every being. You are known Pāvaka (Purifier) since you purify the evils. Oh Pāvaka! be full of sparks and show yourself to the sinful ones. Oh! Hutāsana! (Eater of oblations), be otherwise cool for the persons who are pure. Oh Agni! you remain as an inner witness in (the

hearts of) all beings. Oh Agni, only you know the things that are not known to the human beings. Oh Agni! the Purifier! you remain in all beings. Oh Wise! (Having observed) like a witness, the merits and the demerits, tell the truth for me. This person who is accused in the dispute wants to get himself purified and it will be worthy of you, if you protect him from doubt, according to Dharma.

The King devoted to the Dharma, or the person appointed by him should then take the iron ball by a fork and place it on the hands of the person. The person should not cross the circles hastily. Undisturbed, he should go slow. Neither he should skip over the circles nor should he set his foot at a distance less than the one in between the two immediate circles. After going to the eighth circle, he should throw the ball in the ninth circle. If he throws the ball out of fear or if the signs of burns are not visible, the iron-ball may be put again on his hands. The grains of rice or Yavas should be rubbed on his hands and if the hands are free from burns, he must be declared innocent.³²⁹

Mit. summarises the important points of the procedure in the order in which they are followed.³³⁰

329. Pit. 66-90.

330. अत्र चायमनुष्ठानक्रमः। पूर्वद्युर्भूतशुद्धिं विधाय परद्युर्मण्डलानि यथा शास्त्रं निर्मान्य मण्डलाधिदेवतास्य मन्त्रैस्तत्र तत्र संपूज्य अग्निमुपसमाधाय शान्तिहोमं निर्वर्त्य उपोषितस्य स्नातस्यार्द्रवासस्यः पश्चिमे मण्डले तिष्ठतो ब्रीहिर्मर्दनादिकं-- संस्कारं विधाय प्रतिज्ञापत्रं समन्नाकं कर्तुः शिरसि बद्ध्वा प्राङ्निवाकस्मृतीये तापेडग्निमभिमन्त्र्य तप्तमयः पिष्टं संदंशेन गृहीत्वा कर्मभिर्मन्त्रितं तस्याग्नौ निदध्यात्। सोऽपि मण्डलानि सप्त गत्वा नवमे मण्डले प्राक्षिप्यादग्धः शुद्धो भवति।

Mit. on Yaj. III. 107.

- (1) On the previous day - the person to be tried must purify himself (by observing fast).
- (2) On the second day -(a) preparation of the circles as per recommendations of the Sāstra. (b) adoring the respective deities of the circle. (c) Invoking Agni and performing Śmāntihoma (d) Rubbing the grains of rice on the hands of the person. (e) tying the Śirahpatra with due Mantras (f) addressing the iron-ball when it is heated for the third time and putting it on the hands of the person (g) crossing the circles and throwing the ball.

Let us study the salient points.

(1) Preparation of the circles -

- (a) The number of the circles - We find that Viṣṇu, Yāj., and SL have recommended only seven circles. Nār. gives 8 circles of 32 Aṅgulas each, while according to NMS even with 8 circles of 32 Aṅgulas the ground required is of 224 Aṅgulas. Pit. recommends 9 circles.

Explaining Viṣṇu, the VP points out that the seven circles recommended here are the actual circles to be walked over.³³¹ Mit. observes that since the accused person is asked to go through seven circles, we have to presuppose the eighth circle for the person to stand.³³² Explaining the nine circles of Pit., the Mit. observes that the person stands in the first circle and throws ball in the ninth circle which does not have any specific dimension. Thus he actually crosses over only seven circles and is

331. (मण्डलसप्तकं कुर्यादिति) तत् गन्तव्यमण्डलविषयम्। VP p 195.

332. सप्तमण्डलानि ब्रजेदिति वदता प्रथममस्थानमण्डलमेकमुक्तम्। अतश्चाष्टमण्डलानि षोडशाङ्गुलकानि। Mit. on Yāj. II. 106.

thus not against the traditional recommendations.³³³

(b) Method of drawing circles :

According to Mit., there is one Avasthānamandala of 16 Angulas and seven circles are drawn subsequent to this Avasthānamandala in such a way that each of the circle and the distance between each of the circle remain 16 Angulas. The distance from the beginning of the first circle to the beginning of the second one thus comes to 32 Angulas. (16 Angulas of the circle and 16 Angulas of the space left (Antarāla) between the two circles. The total distance would thus come to 240 Angulas.

After the eighth circle, there should be a space of 16 Angulas left out and the ninth circle should be drawn after it. If we take into account this space after the 8th circle, the total distance would be of 256 Angulas as given

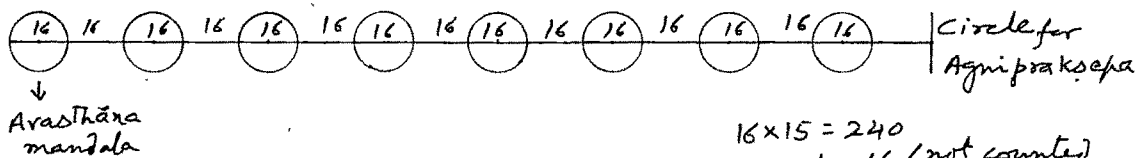
यन्नवमं सर्वदेवतयुपरिमिताङ्गुलप्रमाणं---- तत्रापि गन्तव्यानि सप्तमण्डलानि यतः प्रथमे तिष्ठति

↑ नवमे क्षिपति इति न विरुध्यते। Mit. on Yaj. II. 106.

333.

The two methods of drawing circles (vide f.n.s 334 and 335)

(A)



$$\begin{array}{r}
 16 \times 15 = 240 \\
 + 16 \text{ (not counted for walking)} \\
 \hline
 256
 \end{array}$$

by Nār. and Pit.³³⁴

There could be another method of drawing the circles. There should be an Avasthānamandala of 16 Angulas and seven circles of 32 Angulas each must be drawn from it, the total space thus required would be $(16 \times 1 + 32 \times 7 = 240)$ 240 Angulas. Each of the circle should be divided into two parts of 16 Angulas each and must have seven circles drawn in them according to the size of the foot of the person undergoing the trial.³³⁵

According to the NMS Bhāṣya, there should be 8 circles (of 32 Angulas) joined to each other so that each circle will have two joints and in all there will be seven such joints.

334. अयमर्थः अवस्थानमण्डलत् षोडशाङ्गुलात् मण्डलान्तरमन्यन्मण्डलम् द्वितीयाद्येकमेकं द्वात्रिंशदङ्गुलं

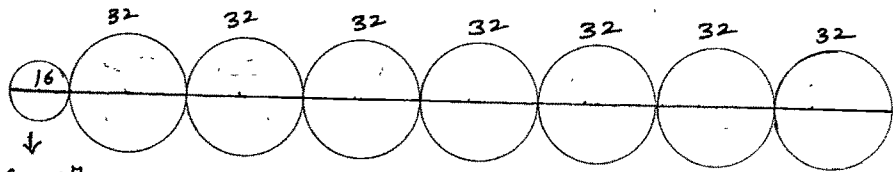
सान्तरालं, तदेवमवस्थानमण्डलं षोडशाङ्गुलम् गन्तव्यानि च सप्त मण्डलानि सान्तरालानि

द्वात्रिंशदङ्गुलान्येवमष्टमिर्मण्डलैर्मन्यत्वरिंशदधिकं शतद्वयं भूमेरङ्गुलमानतः। Mit. on Yāj. II. 106.

335. अस्मिन्तु षोडशवस्थानमण्डलं षोडशाङ्गुलं विधाय द्वात्रिंशदङ्गुलप्रमाणानां सप्तानां सान्तराल-
मण्डलभूभागानामेकमेकं भूभागं द्विधा विभज्यान्तरालभूभागानां षोडशाङ्गुलप्रमाणान् विहाय
मण्डलभूभागेषु द्विषोडशाङ्गुलप्रमाणेषु गन्तृपदप्रमाणानि सप्त मण्डलानि कार्याणि।

Mit. on Yāj. II. 106.

(B)



Avasthana
mandala

An Angula is equal to 8 Yavas taken widthwise or 3 grains of rice taken lengthwise (vide f.n. 284)

$$\begin{array}{r} 32 \times 7 = 224 \\ + 16 \\ \hline 240 \end{array}$$

Thus the total distance(to be walked over) with these (seven) joints will be $32 \times 7 = 224$ Angulas (i.e. the space covered by the first circle is not to be counted).³³⁶

We are asked to draw subcircles of the measurement of the foot of the person. If the foot of the person is smaller, the sub-circle would fall within the main circle, if it is large it would cover a part of the space left between the two circles, there would therefore be a smaller distance between the two circles.³³⁷

It should be observed that the circles should be drawn in a straight line from west to east. The person stands in the first i.e. the western most circle, facing east. According to SC the circles should be drawn before the famous temple or the place recommended for the ordeals. According to Kkh the circles should be drawn before god Sun.

336. द्वात्रिंशदङ्गुलान्यष्टौ मण्डलानि कृत्वा तेषु दूषितस्य पदमात्रं मण्डलानि कुर्यात्। अष्टानां द्वयोर्द्वयोः संघावष्टाभिर्मण्डलैश्चतुर्विंशत्यधिकमङ्गुलानां शतद्वयं भूमेः कल्पितं भवति। सप्त सन्धयः। द्वात्रिंशत् सप्तभिर्गुणिते पतावदङ्गुलप्रमाणं भवति। *Bhavāswamī on NMS 11-13.*

337. यदि शोध्यपदं षोडशाङ्गुलाधिकं तदान्तरालं षोडशाङ्गुलन्यूनमेव भवति। यदि शोध्यपदं षोडशाङ्गुलवत् तदा षोडशाङ्गुल मण्डलमध्ये पदपरिमाणमवान्तरमण्डलं कार्यम्।

VM pp. 69-70

Dr.Kane's observation that 'if his foot was more than 16 Angulas in length, then each circle and the interval were also to be of the same length as the foot(Notes on VM p.104) is not supported by the text. Besides, in no case the person should be required to cross more than the distance recommended.

(c) Adoring the respective deities of the circle -

The nine circles recommended by Pit. are Āgneya, Vārūṇa etc. SC points out that these words must be taken as the examples of Samākhyā. Just as the word Hotuścamasaḥ in the Mantra 'Praitu Hotuścamasaḥ' means that the Bhakṣana in the camas belongs to the Hotr, the word Āgneya means the circle in which Agni is worshipped. It thus follows that after sprinkling water on these circles, the respective deities must be worshipped.³³⁸

(2) Invoking Agni and Performing Sāntihoma

Mit. points out that the Prādvivāka should offer 108 oblations of ghee in Agni with 'Agnaye Pavakāya Svāhā' as its mantra, on the southern side of these circles.³³⁹ According to SC a Sāntihoma can also be performed alongwith this. The Sāntihoma consists of offering oblations of ghee to the deities like Vasu, Āditya, Rudra and various Lokapālas with Mantras like Ākrṣṇena rajasā etc. The performance of Sāntihoma is however optional.³⁴⁰ The iron-ball must be heated in the fire to which the oblations are thus offered.

338. अग्निरत्र पूज्यते 'इत्याग्नेयं हविष्त्वेन सूक्तहेन वा, मण्डलस्याग्नेयत्वासंभवात्। एवं वारुणादिकमपि मण्डलस्य पूजाधिकरणतया द्रष्टव्यम्। तेन 'प्रैतु होतुश्चमस' इत्यादि प्रैषमन्त्रस्थया होतुश्चमस इत्यादिसमाख्यया होजादीनां तत्र तत्र चमसे भक्षणप्राप्तिवदाग्नेयादि-समाख्ययैवाख्यादीनां तत्र तत्र मण्डले पूजनं कार्यमित्यस्मादेव च न तात्सिद्धम्। अतो मण्डलानां प्रोक्षणानन्तरं मण्डलाधिदेवतापूजनं कुर्यात्। SC p. 261

339. प्राङ्निवाकस्तु मण्डलभूभागादक्षिणप्रदेशे लौकिकमग्निमुपसमाधाय 'अग्नये पावकाय स्वाहा' इति आज्येनाष्टोत्तरशतवारं जुहुयात्। Mit. on Yaj. II. 104

340. मन्त्रैराकृष्णेन रजसा' इत्यादिभिर्नवग्रहप्रकाशकैः देवेषु वस्वादित्यरुद्रेषु लोकपालेषु च तत्तन्नाम्ना हुतद्युतादिभिः तर्पितेषु सत्तु--- तदेतत्सर्वं वैकल्पिकं मन्तव्यम्। SC p. 265.

Offering of the oblations and performing the *sāntihoma* were the later additions in the procedure. The SC points out that since *Viṣṇu* and *Yāj.* refer to the signing of the hands by rubbing the grains of rice directly after asking to prepare the seven circles, the oblations and the *sāntihoma* were not required to be performed according to these writers.³⁴¹

(3) Rubbing the Grains of Rice -

(a) Before the trial -

The *Smṛtikāras* have asked to mark the signs such as mole, wounds, scars etc. on the hands of the person, after detecting them by rubbing the grains of rice on his hands. The marking must be made by the *Alaktakadya* and may be in shape of the *Kākapada* or the *Hamsapada*.³⁴² This marking is absolutely necessary for distinguishing the old marks from the signs of burns caused by carrying the iron-ball, which decide the judgment of the trial.

According to the *Kkh* the person must be asked to stand in a square mandala while rubbing the grains of rice.³⁴³

341. उभयत्र ततश्चाद्येनेदं ज्ञायते हस्ताङ्कनपत्रन्यसनयोर्मध्ये यत्स्मृत्यन्तरोत्तं होमादि
तदस्मिन्मते न कर्तव्यमिति। SC p. 264

342. शोध्यस्य करद्वयस्थित-व्रणादिस्थानेषु अलक्तकादिरसेन हंसपदानि कुर्यात्।
SC p. 264

343. *Kkh*.44.34

(b) After the trial-

Dh.writers have asked to rub the grains of rice again after the trial. The grains must be rubbed pressingly, seven times, on the hands of the person. This helps in making the signs of burns more clear, if they are not sufficiently visible. According to Viśvarūpa, it also helps to know if any deceit is resorted to by the person. ³⁴⁴

(4) The Iron-ball : Heating and placing on the hands of the person

As per recommendations, the iron-ball must be of 50 Palas' weight. It must be smooth even and without any angles. It must be of 8 (or 12³⁴⁵ according to KP) Angulas' size. SL recommend it to be of 16 Palas. VP points out that the iron-ball is said to be of 16 Palas but this is optional. According to some, however, it is recommended for the weak persons. ³⁴⁶

The ball must be heated proficiently as the blacksmiths would do i.e. it must firstly be heated severely and then dropped into water. This must be repeated for the second time. By doing so, the iron gets purified. ³⁴⁷ Well-protected (i.e.

344. कृतलक्षणौ हस्तौ दर्शयित्वा पुनश्च मृदितग्रीहिरेष्यलक्षितदाहः पराजयव्यञ्जकललाटस्वेदादि-
लक्षणहीनः कुहकादिशङ्काविनिर्मुक्तः शुद्धिमाप्नुयात्। *Viśva on Yāj. II. 111.*

345. KP, 6

346. इति पिष्टस्य षोडशपलत्वमुक्तं तदपि वैकल्पिकं --- केचित्तु षोडशपलसंख्या असामर्थ्यं
इति प्राहुः। VP p. 196.

347. यथा लोके लोहशुद्धयर्थं सुतप्तं लोहमुदके निक्षिप्य पुनः संतपोदके निक्षिप्य पुनः संतापनं
लोहे कार्यसिद्ध्यर्थं क्रियते तथान्नापि कर्तव्यम्। SC p. 262.

untouched by Cāṇḍālas)³⁴⁸ it must be heated for the third time and then placed on the hands of the person. The ball must be heated equally on all sides. The ball must not be heated by any layman but by an expert. Asahāya points out that the person who heats the ball, must have got a training in the black-smiths tradition and must have a constant practice of heating iron. He must be experienced i.e. must have heated iron in other ordeals. He must not be a person having a casual training.³⁴⁹

(b) Placing the ball in hands -

Seven leaves of fig tree or pipal tree or sun tree or the Samī leaves and the Dūrvās should be tied on the hands of the person with seven threads.³⁵⁰ The threads must be white.³⁵¹ According to the Kkh. they must be freshly prepared from the cotton.³⁵² Curds, flowers and the grains of rice also must be put on the hands before placing the iron-ball.

³⁴⁸ सुरक्षितं चण्डालादिस्पर्शो यथा न संपद्यते तथा रक्षितम् | VP p. 196

³⁴⁹ यः लोहकारः पुरुषः पारम्पर्यकुशलो जातः लोहकर्मणि संततवृत्ताभ्यासः अन्यत्रापि दिव्यदानदृष्टकर्म तेन अग्नेौ प्रतापयेत्, न पुनरवान्तरशिक्षितकर्मणा

Asahāya quoted by DK p 491.

³⁵⁰ तावत्कृत्वः सप्तकृत्वः सूत्रेण वेष्टयेत् इति तावदित्यस्य क्रियाविशेषणमङ्गीकृत्य उक्तोर्थो मिताक्षरायाम् | तावतां सूत्राणां समाहारस्तावत्सूत्रं तेन सप्तभिः सूत्रैर्वेष्टयेदित्यर्थः | तावच्छब्दः संख्याशब्दस्तेन समाहारे द्विगुः | सप्तकृत्वे वेष्टनं तु वचनालक्षणेऽपि शिष्टाचारतः कर्तव्यमिति मद्वरत्ने | VP pp. 97-98.

³⁵¹ सूत्राणि च सप्त शुक्लानि भवन्ति | Mit. on Yāj. II. 103.

³⁵² KKh. 44-36.

(5) Invoking the fire -

Viṣṇu, Yāj., Nār., and Pit. have given various mantras for invoking the fire. Yāj. has given only one such mantram for the purpose, while Viṣṇu gives two. The SC points out that both the mantras given by Viṣṇu are to be used together for addressing the fire. They cannot be treated as in each other's option because both of them have distinct purposes. (The first Mantra glorifies the Agni, while in the second Mantra, the Agni is requested to make the person free from doubt).³⁵³

If we study the Mantras given by Pit., we find that some of the Mantras are of his own, while the rest of the Mantras are the same as those of Viṣṇu. (Using the same argument as that of SC), VP points out that all the Mantras together make a complete prayer and therefore all of them must be used together. They cannot be used in each other's option, because they have distinct purposes.³⁵⁴

The SC points out that the Mantras given by Nār. and those given by Viṣṇu and Pit. are in fact meant for a similar purpose and therefore both must be used as in each other's ~~option~~ ^{exception}.³⁵⁵

353. विष्णुस्तु लोहपिण्डस्थाग्निमन्त्रणे मन्त्रान्तरमाह त्वमग्ने इति । समुच्चयेनास्य मन्त्रस्थाभिर्मन्त्रैण-साधनत्वं न तु पुनः विकल्पेन प्रार्थनीयार्थस्य शोध्यव्याक्ति-विशेषनिष्ठतया प्रकाशकत्वेन । भिन्नकार्मत्वात् । SC p. 266-267.

354. विष्णुस्तु त्वमग्ने सर्वभूतानां मित्यादि 'धर्मतस्मात्तु महीसि' इत्यन्तं पितामहवचनं - न देवाभिर्मन्त्रणे मन्त्रमाह । तदस्य मन्त्रस्य समुच्चयेनाभिर्मन्त्रणसाधनत्वं न तु विकल्पेन ।... पितामहेन एकनाम्नतया पठनात् । VP p. 199.

355 इति नारदोक्ताग्नाभिर्मन्त्रणं तद्विष्णुपितामहोक्तेन अग्न्यभिर्मन्त्रेणैव विकल्प्यते । एकार्थत्वात् । SC p. 267.

It is interesting to note with reference to these Mantras that Nār. expects the contents of the Mantras to be written on the Śirahpatra.

(6) Signs of the success or the failure of the Trial.

After carrying the iron-ball upto the 8th circle the person should throw it in the 9th circle. If it burns him, he is guilty. If he is unburnt, he is innocent. The burns may not be detected immediately after throwing the ball, but may be inspected and known only after a lapse of time, points out Vyavahāravivekodyota. Gerund Ktvā (in Muktvāgnim mṛditavrīhiḥ) should thus mean Pūrvakālatā and not ānantarya because of the following reasons - (1) vide Pāṇini III.4.21 (ii) it is also supported by the Mīmāṃsā rules (Jaimini IV.3.36 and IX.3.48). e.g. In 'Prahṛtya paridhīṅjuhoti' the gerund has been taken as meaning Pūrvakālatā (iii) In popular examples like Bhuktvā gacchati,³⁵⁶ the person does not start walking immediately after meals.

The trial is said to be indecisive if the person throws the ball before reaching the seventh circle or if the signs of

356. तत्र भुक्त्वा नान्तर्यार्थस्य क्त्वा प्रयोगेण कृतव्रीहिर्मर्दनयोः करयोर्विकारस्यादर्शने तत्तायः पिण्डविमोक्तानन्तरमेव शुद्धिरवधारणीयेत्याभिधानादिति वाच्यम् । 'क्त्वा' प्रत्ययस्य हि पूर्वकात्त्वमर्थो न नान्तर्यं 'समानकर्तृकयोः पूर्वकात्वे' इति पाणिनिस्मरणात्, हारियोजनयागस्य... व्यवधानेन परिधिप्रहरणानन्तर्यभावेऽपि वेदे 'प्रहृत्य परिधिं जुहोति' इति क्त्वा प्रयोगात्, लोकेऽपि गमनस्योपनेशनादि-क्रियान्तरव्यवधानेन भोजनानन्तर्यभावेऽपि 'भुक्त्वा गच्छतीति' प्रयोगदर्शनात् ।

burns are not clear. The grains of rice are to be rubbed for making these signs clear and to detect that no deceit(Kuhaka) is resorted by the person. In these cases, the person is required to carry the iron-ball again. The DT points out that the whole procedure should not be repeated in such a case.³⁵⁷

Kāt. points out that if the person is found burnt on any other limb(i.e. other than the hands) he cannot be considered as guilty.

Thus, if we study the details of the fire ordeal, we find that the Dh.writers have made this ordeal as mild as possible. Taking into consideration, the following points - (i) it is favourably recommended in the rainy or the cold season.(ii) it is conducted in the morning. (iii) the person comes fresh after taking bath with wet clothes on (iv) seven leaves are tied on hand with seven threads. Cards, flowers and grains of rice are also put on the hands. (v) long prayers intervene before the hot iron ball is actually placed on the hands. (vi) person walks just seven steps(7or7½feet) with this ball-we find that the Dh.writers have hardly kept anything dangerous or risky in this trial.

We have numerous examples of the fire ordeal on record, in which the persons have successfully undergone the trial. This in fact supports our above conclusions.

It must be pointed out that the fire ordeal was uniformly popular in all the parts of India. It was an extensively practised ordeal.

...oo0oo...

357. दधत्वा दधत्वा संदेहे तस्मिन्नेव प्रयोगे पिण्डं पुनराशेष्य होमं समापयेत् । न तु प्रयोगान्तरम् । D. T. p. 597.

J A L A - D I V Y A
(The Water Ordeal)

While discussing the fire ordeal, we have observed that the fire and water, (the deffied objects of nature) were the primary ordeals, nearer to the primitive man. With the discussion of the water ordeal in this chapter, we can say that instead of making fall a person prey to the naked elements of nature (which can be ferocious in their wild forms) the Hindu Jurists have made these trials useful by standardising them in their refined and easy forms. In the case of the fire ordeal, we have seen that these writers have summarily rejected the ancient form of entering into uncontrolled fire practised by the people and have established the method of Molding the red-hot iron ball covered with seven leaves.

In the water ordeal described by the Dh.writers, the accused person is required to plunge(nimajjanam) into a navel-deep water for a specific time.

'It is very difficult', observes N.C Senagupta, 'to say what form the water test took in its primary stages, but the form in which it survives in Smrtis consists in the ability of the accused person to be under water for a length of time which is not unreasonably long.'³⁵⁸

SL perhaps give us a clue in this respect. They are found probably suggesting the older form of the trial, though

358. N.C.Senagupta : Evolution of ancient Indian law. p.64.

they actually describe the method accepted in the Dh. Śāstra. We have seen that SL in general do not describe the detailed procedure of the ordeals. They have simply enlisted these ordeals, but the very names of these ordeals make clear the forms of the trial, in addition to the fact that sometimes they also help us in getting a perspective view of the form of the trial, as we find in case of Lohadhāraṇam which straight way rejects the ancient form of entering into fire.

Now, these writers describe this ordeal as the ordeal of entering into waters (Apsu praveśaḥ) which of course reconciles with the Dh. method of plunging into the water (SL have described in short the procedure of the water ordeal which shows that they do not deviate from the Dh. tradition) but also suggests ~~in~~ its ancient form i.e. entering into (unfathomable) waters.

The conclusions thus received, agree with the view expressed by Hopkins regarding the older form of the water ordeal.

Hopkins observes, 'In the water test, one plunges under water and to prove innocence, must remain under as long as it takes for a dart shot at the moment of diving to be brought back. In the fire test one carries a red-hot iron-ball and if unburnt, is innocent. These two are alterations of old material in which the accused walks through fire as in epic tests or is thrown into water to see if he drown'.³⁵⁹

359. Rapson : Cambridge History of India Vol.I.p.284.

Manu happens to be the first writer to discuss these two primary ordeals. Dr. Keith believes that Manu's description of the fire and water ordeals speaks of the older method and not the normal ordeals described by the later commentators. Referring to the water ordeal Dr.Keith observes, 'the second form was presumably nothing more or less than ordinary ~~tentonic~~ ordeal in which the person was thrown into the water and held innocent if he sank. The commentators say in accord with the later usage.³⁶⁰

A closer study of the ordeals described by Manu would however point out that they do not depart from the accepted Dh. forms of these tests. (i) The ~~casual~~ forms Āhārayet and Nimajjayet clearly show that these ordeals were conducted (by the Prādvivāka) according to the accepted rules. (ii) It will be observed that the Dh. form of the water ordeal really happens to be Apsu nimajjanam (plunging into water). Manu's word Nimajjayet thus strictly confirms the Dh. method of the trial. To link Manu's ordeal with the ~~tentonic~~ form of its kind, therefore, appears to be rather far-fetched.

Considered from the caste-point of view the water ordeal was recommended particularly for the Vaisyas,³⁶¹ though it could be well used for Kṣatriyas also. The water ordeal ~~u~~ was recommended for strong and stout persons only.³⁶² It was therefore, prohibited for women, children, the old, the weak, the unenergetic or the person suffering from diseases and the

360. ERE.Vol.IX.p.522

361. Kāt,422.

362. Pit.11.

persons full of miseries, since these persons, if plunged, die instantly because of the lack of vitality.³⁶³ The NMS Bhāṣya points out that the water ordeal should not be forced upon these persons, but if they offer to undergo it on their own accord there is no objection in trying these persons with the test.³⁶⁴ The water ordeal is particularly prohibited for the fishermen and the persons suffering from asthma or having cough.³⁶⁵ From the cost-point-of-view, the water ordeal is a higher sort of ordeal, enlisted third in the order.

PROCEDURE -

V I S N U - Now, the water ordeal. The water should be void of mud, moss, shark, fish, leach and other animals. The accused person should enter into the consecrated water, holding the thighs of another person, who is free from love and hatred and is standing in the navel deep water. Another person should simultaneously discharge an arrow by the bow which is stretched neither too strong nor too mild. Another person should bring that arrow. If the person is not seen above waters, during this process, he is pure. If even a single part of his body is seen he is considered as guilty. 'Oh water, you know the facts that are not known to human beings, since you happen to be in the hearts of all beings like a witness. The person accused in this

363. Nār.313-14.

364. स्त्रियोऽनिच्छन्त्यो न ब्रह्मकार्याः। पुरुषश्चातिदुर्बलः। यदि स्वेच्छया कुर्वन्ति तदा न दोषः। Bhavaswāmī on NMS25.

365. Viṣṇu.IX.29.

litigation plunges in you. Be therefore worthy of protecting him from the doubt according to Dharma.³⁶⁶

SANKHA AND LIKHITA -

A person facing east should stand in the navel-deep water, holding a post made of the sacrificial tree. (The Mantra recited should be-) Oh! Varuna! you are the Existing and the Non-existing! you are established in both of them. Oh God! the truth as such resides in you, and therefore, Oh Desirable one! speak and direct the truth.³⁶⁷

YAJÑAVALKYA -

Having consecrated water with the words 'Oh Varuna! you protect me by Truth! The accused person should enter the water holding the thighs of the person standing in the navel-deep water. If the speedy person, while bringing the arrow that was shot at the same time of the plunging of the accused person, sees that accused person beneath the waters, he is pure.³⁶⁸

NĀRADA -

I would now tell the procedure ~~the~~ of the water ordeal which should be duly tried in the seasons other than Śisīra and Hemanta. The trial should not be conducted in the river flowing very fast or in the sea or in all sorts of flowing waters in general. It should be conducted in natural reservoirs of water (Devakhāteṣu) such as ponds and lakes. Three

366. Visnu.XII.1-8

367. SL, 4-5-6

368. Yaj.II.108-109.

arrows should be discharged with not-a-two-streched bow. The person should plunge in the water in such a way so as there may not be any doubt (regarding the results). The rule regarding the bow is : The fast or formidable one is of 700 Aṅgulas. The middling one of 600 Aṅgulas and the slow one of 500 Aṅgulas. A strong man should stand like a post in the navel-deep water. and the accused person should enter the waters, holding his things. A young speedy person should run with his maximum speed from the place of discharging the arrow, while another person should similarly come running to the place from where the former had started, holding the arrow shot by the middling bow. Bringing the arrow in this way, if he does not see the person in the water (i.e. if the person remains plunged beneath the waters) the person is pure. If he shows any of his limbs or is found at a place other than where he actually plunged, he is not pure. The water should be addressed with the following mantras : Oh water and Fire! you are most specific in distinguishing between the truth and the untruth, and the water is more so since the fire ~~has~~ come out of it. The knowers of Dharma conduct the investigation of the guilty or the accused persons. Oh God waters! Be therefore worthy of protecting him with truth.³⁶⁹

BRHASPATI -

After having made enter the accused person enter waters, one should shoot three arrows. If the person remains merged when the middling arrow is being brought, he is pure,³⁷⁰

369. Nār., 304-312, 316-317.

370. Br. 20

KĀTYĀYANA -

In order to test the purity (of the person) the arrows used be made of bamboos and should not have iron-points. The archer should discharge the arrows with might. After the arrows are shot, the plunging (of the accused person) and the running of the runners should take place simultaneously. There should be different persons for each of the activities i.e. for going (to the place where the arrow falls) and for bringing the arrow and also for entering into the water (with whose support, the accused person plunges into the water). When plunged, if the person sees any of the creatures in the water and thus comes out, he should be asked to plunge again after marking the actual place where he plunged. After plunging, if the person shows only his head but not the nose or ears, he is declared innocent.³⁷¹

PITĀMAHA

Now, I will tell an all-time (Sanātanam) practisable (Dharmyam) procedure of the water ordeal which has been recommended by Brahmā himself for testing the auspicious and the inauspicious. The Wise (king) should get a circle drawn and worshipped with devotion by offering incense (Dhūpa) and lamp (Dīpa) as also the arrows and the bow made of bamboo. He should then carry on the rest of the rituals.

The discharger should be a Kṣatriya or a Brāhmaṇa following that occupation. Pure and serene, without any cruelty at heart, he should observe fast. He should discharge three

arrows with the middling bow, aiming the target at the distance of 150 Hastas. As soon/^{as} the arrows are thus discharged according to the recommendations of the sāstra, a strong person should be asked to take the middle arrow. The actual place where the arrow falls should be considered and not where it subsequently goes on creeping, because an arrow may thus creep for any distance. The wise person should not discharge the arrow if the wind blows fast or if the ground is unclean i.e. full of trees, posts or full of grass, trunks of trees, creepers, mud or rocks. The person should plunge into the steady waters which should not be too little and should be void of grass, moss and animals like leech and fish. The plunging of the person must be conducted in natural lakes and all artificial reservoirs or the fast flowing rivers should invariably be avoided. The persons should be plunged in the lakes of steady waters, but never in the rivers or lakes with waters flowing very fast. The person must be asked to enter into the water which are always without whirls or mud.

The king should first ask a person to stand in the water like a pillar, banking upon whom, the person to be tested could plunge into the water. The person thus come for the purpose of undergoing the trial should stand in water, facing east. Various gods and the waters should be invoked as follows : 'Oh!water! you are indeed the first creation of the creator. Created as the very life of all beings, you are said to be the cause of the purity of men and wealth, and therefore, please show yourself in this test of the auspicious and the inauspicious. Both, the person undergoing the trial and the person going for bringing the arrow should do their jobs simultaneously. A speedy person

should go to the target from the place of the arch(Torana). The speedy youth should go with his maximum speed from the place of discharging the arrow to the place where the middle arrow falls. Similarly another person should take the middle arrow and go to the place from where the former had started. On arrival, if the person holding the arrow, does not see the person on account of being plunged in the water, that person is declared innocent. The person is guilty if he shows any of his limbs or is found at the place other than where he actually plunged.³⁷²

The procedure thus described by the Smṛtikāras can be discussed in the following heads : (1) Reservoir used. (2) Selection of the site on the bank. (3) Persons required - (a) for the support of the person undergoing the trial. (b) for discharging and bringing of the arrow. (4) The trial - (a) discharging and bringing of the arrow. (b) Preliminary rites (c) taking up the positions. (d) mantras recited (e) retrial (5) Signs of the success or the failure of the trial.

(1) Reservoir used - It has been unanimously and emphatically pointed out by every writer that the ordeal must be conducted in navel-deep water only.

Earlier writer like Viṣṇu has put only two conditions for the water to be used in the trial viz. it must be free from mass and mud and from animals like shark, leech, fish etc.

Later writers have following additions : The waters must not be flowing very fast(Nār.). Pit. has improved it by putting it positively i.e. it must be steady. As a result, we find that fast flowing rivers and oceans are prohibited and reservoirs like ponds and lakes are recommended, but in this case also we find that only natural reservoirs (Devakhāta i.e. dug by god) are accepted and not the artificial ones(Āhārya). VP explains the word Āhārya as the water stored in a big pan or in a tank collecting it from some river or other sources. 373

We have seen that the water ordeal is to be conducted only in a navel-deep water. It is therefore possible to collect that much water in a tank or a big pan and conduct the trial, but that is not allowed. In the case of the water ordeal therefore we find that the concerned parties had to go to the place where the recommended reservoirs were available as against all other ordeals which could be conducted locally.

(2) Selection of the site on the bank :

Earlier writers have not given any details regarding the site for conducting the trial. According to the later writers, an arch(Toraṇa) of the height of the ears of the accused person must be erected on the plain surface of the ground. The plot selected must be duly prepared (i.e. besmeared with cow-dung) for the purpose, points out VP. Pit. declares that the arrows must not be shot on an uneven ground or the ground full of trees,

trunks, creepers or stones. Naturally the site selected must not have such hindrances. The VM points out that the arch must be erected on the western bank.³⁷⁴ This has been concluded by the digest on the basis of the provision that all rites should be performed by the accused person, facing east.

(3) Persons required :

It will appear that these trial makers have assured maximum security to the person undergoing the trial. Such precaution is taken in case of the water ordeal also.

(a) The water ordeal is a thoroughly harmless ordeal. In this ordeal, the person is required to plunge into the navel-deep, non-flowing water, and that too, for the time which is not unreasonably long. This by itself is not risky at all, but the Dh. writers have provided a helping support for the plunging person by asking a strong and stout person to stand in water holding a sacred post(Dharmasthūnā) in hand. The accused person is supposed to plunge in the water by holding the thighs of the person. The person, free from love and hatred is asked to stand in water facing east. The sacred post is made of the sacrificial wood(such as Khādira). Holding of the post by the person serves a double purpose. Besides supplying an additional support, the post, the symbol of Dharma, helps heightening the religious sentiments of the accused person who banks upon it in this divine method of investigation.

374. तत्संनिधौ पश्चिमतीरदेशे शोधकगोचरितं तोरणं कार्यम्। VM p 79

(b) In all, three persons are required for discharging and bringing of the arrow, one for discharging and the other two for bringing.

Earlier writers have not given any details regarding the former one, but the two persons appointed for bringing the arrow must be good runners, they point out. Pit. however says that the person discharging the arrow(Kṣeptā) must be a Kṣatriya. or a Brahmin following his occupation. He should be pure, calm and uncruel at heart. He must have observed fast before undertaking the job. He should discharge the arrow with the middling bow. Two persons - one for each way i.e. from the place of discharge to the target and vice-versa are utilised for bringing the arrow. These two persons must be fast runners. A person who tops the speed amongst fifty contestant-runners is known as a fast runner, and two such persons must be selected for the purpose.³⁷⁵

(4) The Trial :

(a) Discharging and bringing of the arrow :-

Discharging of the arrow plays an important part in the trial. That is why we find that special worships are offered to the bow and the arrow. Following are the rules regarding the selection and the method of discharging the arrow. (i) The arrows must be made of bamboo. They should not have iron-points. (ii) the earlier writers are silent regarding the method

375. पञ्चाशत्ते धावकानां यौ स्यातामधिकौ जवे । तौ च तत्र नियोक्तव्यौ क्षरानयनकारणात् ।

Nār. quoted by Mit. Dhṛṣṭyā. II/109

of discharging the arrows. Kāt. only points out that the arrows must be discharged firmly (Sudrdham Kṣipet). We know from Nār. that the arrows in general can be discharged either by a formidable bow (Krūram Dhanuḥ) of 700 Aṅgulas, or a middling bow (Madhyam Dhanuḥ) of 600 Aṅgulas or a mild bow (Maṇḍam Dhanuḥ) of 500 Aṅgulas. According to the Mit. the Krūra Dhanu is of 4 Hastas and 11 Aṅgulas. The Madhya of 4 Hastas and 10 Aṅgulas and the Manda of 4 Hastas and nine Aṅgulas.³⁷⁶ (where one Hasta is equal to 24 Aṅgulas). In the Water ordeal, all the arrows are shot by the middling bow. (iii) The discharger (Kṣeptā) should aim the target at the distance of 150 Hastas (i.e. 300 ft. approx) and discharge three arrows by the middling bow. The exact place where the second arrow falls is to be counted i.e. the place where the arrow touches the ground first is to be considered. Subsequent creeping of the arrows is not to be taken into account.

It is clear that the accused person is expected to remain plunged in the water till the runners run up the distance between the arch and the target (i.e. where the second arrow falls).

It will appear that by asking the discharger to discharge the arrows to a fixed target of 150 Hastas distance, the Dh. writers have tried to be exact as regards to the distance to be covered by the runners, and since there could hardly be any fluctuation in the aiming of an expert discharger, the distance thus expected remains much exact, The place where the second arrow falls however remains undecided and therefore a scope

376. एवं त्रैकादशाङ्गुलाधिकं दृष्टव्यं क्रूरस्य धनुः प्रमाणम् । मध्यमस्य दशाङ्गुलाधिकम् । मन्दस्य नवाङ्गुलाधिकमित्युक्तं भवति । Mit. on Yāj. II:109

for chance cannot be ruled out.

Nār. therefore points out that discharging the arrow nearer or further the target should be considered as a fault.³⁷⁷

Some writers on the other hand plead that the discharging of the arrow should be considered as formal. According to them, discharging of the arrow is meant for Adrṣṭa. The runners should run a fixed distance of 150 Hastas disrespecting the distance indicated by the arrow. The VN points out that the runner should take the arrow falling nearer than the target to the fixed target, but if it falls beyond the target, he should stand at the place where the arrow falls and run the distance i.e. he should run the distance between the fixed target and the Torana or the place where the arrow falls and the Torana whichever is more.³⁷⁸

Majority of the writers however hold the view that the plunging of the person in the water for the time required for running the distance indicated by the arrow forms the nucleus of the trial. Discharging of the arrows indicating the distance has thus an important role in the trial. One therefore cannot neglect the results of the discharging of the arrows.

377. न्यूनाधिके तु दोषः स्यात् क्षिप्तः सायकांस्तथा । Nār. quoted by Miton 4aj. II.109

378. लक्ष्यविधानात्पतनं ग्राह्यमिति च विधानाद्दृष्ट्यादवक्ष्यतने शरमादाय तद्दृश्यं गत्वा वेगवता पुरुषेणागन्तव्यम् । लक्ष्यमतिक्रम्य पतने सति शरमादाय पतनदेशे स्थित्वा तत आरभ्य वेगवता पुरुषेणागन्तव्यम् । लक्ष्यपतनयोरुभयोर्दृष्टार्थत्वात् । VN p 168

It is interesting to note that Pratāparudra~~ra~~deva, has recorded both the views regarding the distance to be run by the runners given above,³⁷⁹ probably indicating that the local authorities were free to resort to any of the options.

(b) Preliminary rites :

After selecting the site on the bank of the reservoir, an auspicious circle should be drawn on the besmeared ground. An arch must be prepared and the target at the recommended distance must be fixed. The bow and the arrows must be worshipped by offering incense, lamp, flowers, etc. This should be followed by Varuna-pūjā. After this all the general rites such as invoking Dharma and performing various sacrifices should be conducted and the Śirāḥpatra should be tied on the forehead of the person.³⁸⁰

(c) Taking up the position :

After the Prādvivāka addresses the waters, the accused person should enter the water and stand near the strong person who is standing in the navel-deep water holding the sacred post in the hand.

379. सार्धशतहस्तपरिमिते देशे लक्ष्यं कृत्वा जविनोऽङ्गः पुरुषयोः लक्ष्यतोऽरण्यपर्यन्तं प्रधाना-
-नुधावने कार्ये । सार्धशतहस्तपरिमितदेशेन्यूनाधिकभावे दोषश्चवणादेतदेव प्रधानमिति
केचित् । धनुश्शरादिपूजास्मरणात्तन्नियमार्थमित्यपरे । SVp. 204 .

380 अथमन्न प्रयोगक्रमः । उक्तलक्षणजलाशयसंनिधावुक्तलक्षणं तोरणं विधाय
उक्तप्रमाणे देशे लक्ष्यं निधाय तोरणसंनिधौ सशरं धनुः संपूज्य जलाशये वरुणमावाह्य
पूजयित्वा तत्तीरे धर्मादीन् देवान् हवनान्तमिष्ट्वा शोधयस्य शिरसि प्रतिज्ञापत्रमाध्व
प्राङ्निवाको जलमभिमन्त्रयेत् । Mit. on Yāj. II/109

The discharger should then discharge three arrows. One of the two runners should then take his position to the place where the second arrow falls. While the other person should stand near the arch. As soon as the accused person and the two runners thus take their positions, the Prādvivāka gives three claps and at the third clap the accused plunges in the water holding the thighs of the strong person, and simultaneously, the person standing near the Torana starts running. As he reaches the ~~target~~ target, the person already standing near the target holding the arrow should run to the Torana and should see the accused person plunged in the waters.³⁸¹

It is to be noted that the plunging takes place only after all the persons take their positions. Thus, the accused person is required to be under waters for the minimum possible time i.e. the time required for actual running.

(d) Mantras recited :

Viṣṇu, ŚL, Yāj. Nār. and Pit. have given various Mantras that are to be used in the water ordeal. VP explains their use ~~views~~ as follows. (i) after performing the Varuṇa-pujā, the

381. एतदुक्तं भवति - त्रिषु शरेषु मुक्तेष्वेको वेगवान् मध्यमशरपातस्थानं गत्वा तमाशयं तत्रैव तिष्ठति । अन्यस्तु पुरुषो वेगवान् शरमोक्षस्थाने तोरणमूले तिष्ठति । एवं स्थितयोः तृतीयस्यां करतालिकायां शोध्यो निमज्जति । तत्कालसममेव तोरणमूलस्थितोऽपि द्रुततरं तैस्त्र्यम्बुलं मध्यमशरपातस्थानं गच्छति । शरग्राही च तस्मिन् प्राप्ते द्रुततरं तोरणमूलं प्राथान्तर्जलगतं यदि न पश्यति तदा द्युष्टो भवतीति । Mit. on Yāj. II.109

Prādvivāka should consecrate waters. For consecrating water (Jalābhimantraṇam), he should either use the Mantra Tvamamba. etc. given by Viṣṇu or Toya tvam etc. given by Pit. Any of these Mantras could be used optionally since both of them have a similar meaning. The Prādvivāka could use the Mantra 'x Trāhi enam' given by the KP while making the Sódhya enter water.

(ii) The Varuṇābhimantraṇa-Mantras to be recited by the Prādvivāka should be either 'Sadasacca' etc. given by SL or 'Satyānṛtavibhāgasya' etc. given by Nār.³⁸² It should be however pointed out that according to Asahāya the Mantra given by Nār. is a Jalābhimantraṇa Mantra.³⁸³

(iii) The accused person should address the water by the Mantra Satyena Mābhirakṣa' etc. given by Yāj.³⁸⁴

(e) Retrial :

According to Kāt. if the person is bitten by any of the animal in the water, he should be asked to plunge again after

382. जलमिमन्त्रणमन्त्रं विष्णुराह 'त्वमम्ब' इति । पितामहोऽपि 'तोयत्वम्' इति । अन्योर्मन्त्रयोर्विकल्पः । प्राद्विवकाऽभिप्रान्निते जले शोध्यं प्रवेशयेदित्याह काठिकापुराणे व्यासः 'जाह्येनैमिति । वरुणमिमन्त्रणमन्त्रः शंखातिस्त्रिताभ्यां दक्षितः 'सदसच्च' इति । नारदोऽपि 'सत्यावृत-विभागस्य' इति । VP p. 206.

383. अनेन श्लोकद्वयेन जलदेवताधिवासनमुक्तम् । Asahāya quoted by DK p. 502.

384. शोध्योऽपि कृताभिमन्त्रणो जलं प्रविशेत् । तथा च आश्वक्यः 'सत्येन' इति । VP p. 206.

having marked the signs of bite on his body.

Since other writers have clearly mentioned that the waters selected for the ordeal must be void of any animals they do not advise any retrial.

(5) Signs of the success or the failure of the trial -

Following are the conditions which declare the accused person guilty - (i) If the person bringing arrow sees any of the limbs of the accused person plunged in the water such as ears, nose etc. (but not so if he sees the head) (ii) If the person emerges from the water from the place other than where he actually plunged. It is noted above that the trials are conducted in the steady waters. Fast flowing rivers or sea were avoided. Hence, finding the person at a place other than where he actually plunged is a sign of the guilt of the person.

So far we have seen the water ordeal as discussed in the Dh.works. It is rather curious that Devāṇṇabhaṭṭa, the author of SC (1150 to 1225 A.D.) has boldly refused to discuss the ordeal on the ground that it was out of practice.³⁸⁵

Dr.Keith prefers to view Devāṇṇabhaṭṭa's statement as applicable 'only to the schools of lawyers in whose circle that work was produced.'³⁸⁶

It however appears that the remarks of Devāṇṇabhaṭṭa should not be taken literally. If he really wanted to drop the discussion of the water and poison ordeals, he should have done

385. अथ जलविषयो रुत्सन्नानुष्ठानत्वाच्च द्विधिमनारव्याय कोशविधिरुच्यते । sc p. 271

386. ERE. Vol. IX. p. 524.

it at all the levels, but we find that he does consider these two ordeals while discussing other aspects of the ordeals such as the values of the offences or the suitability of the seasons.

Moreover we find that the claim made by SC is straight-way rejected by Pratāparudradeva, the author of SW by pointing out that the water ordeal was particularly practised in Utkla (Orissa) while the poison was popular in the Saurasena and Magadha.³⁸⁷

It is however quite certain that the water ordeal was lagging behind as compared to the other forms of the ordeal. The trend probably started right from Yāj. who dropped its reference in the list of serious ordeals that could be valued over 1000 Paṇas(II.99).

The KKh devotes one complete chapter for describing various ordeals. In the beginning of the chapter, it makes a pratijñā of discussing 8 ordeals. The water ordeal is absent in the list of the ordeals taken here for the discussion. The Purāṇa has used the very Dharmasāstra-phraseology in describing these ordeals. It is thus acquainted with Dh.material on the

387. अथ जलाविधिरुच्यते । अत्र चान्दिकायां जलाविधिर्विषविधिश्च न प्रातिपादितौ । अथोक्तं चान्दिकाकारेण जलाविषयोऽसंगतानुष्ठानत्वात्तादृधिर्मनाख्याय कोशविधिरुच्यते । उक्तादिषु क्वचिद्देशेषु जलाविधिरेव प्रामाणिकत्वेन व्यवहियमाणत्वात् । शूरसेन-मागधादिषु न्वचिद्देशेषु विषविधिरेव प्रामाणिकत्वेन पारगृहीतत्वात् । अतः कथञ्चाप्यतः जलाविधिरुच्यते । SV pp. 199-200.

subject. Absence of the water ordeal in this list thus becomes more conspicuous. It must be pointed out that after formally concluding the chapter with the words *Evamaṣṭavidham divyam* etc, the writers adds by way of an appendix, two forms of the water ordeal. Out of these two varieties, the first happens to be 'the oath of water' referred to by the *Smṛtisāra* (vide Chapter VI) ~~IX~~ while the second one is the regular ordeal of water discussed by the Dh.writers. If we are to judge the importance of the subject by the order in which it is taken for discussion, we must point out that the water ordeal comes here last, that also not in the regular discussion of the chapter but only added by the way of passing reference.

It appears that the water ordeal was deviating from its form prescribed in the Dh.works. We find references to the water ordeal through all the centuries. *Yuan Chwang* has of course described it, but as we have observed elsewhere (Vide Chapter VII), we may not take his account as reliable since none of his ordeals tallies with any of the Indian ordeals described in the Dh.works. *Alberuni* describes it (Vide Chapter VII). It is rather curious to observe, that though other ordeals described by *Alberuni* closely follow the corresponding Dh.ordeals, water ordeal forms an exception. *Alberuni's* description shows that the water ordeal was deviating from its prescribed form. We can take *Devanṇabhaṭṭa* and *Alberuni* as contemporaries. It is possible that *Devanṇabhaṭṭa* also must have noted the changing form of the method and must have been discouraged in describing the method which was getting out of use.

Water ordeal was however not completely dead as Devaṇṇa-bhaṭṭa claims. (i) Śrīharṣa has referred to the ordeals in his Naisadhīyacaritam and the ordeals he stresses in particular ~~in~~ are the ordeals of fire and water.³⁸⁸ It is true that Śrīharṣa has not described the actual methods of these ordeals and therefore we are not able to know the actual forms intended by him, but the fact that he is a Sāstrakavi leads us to believe that he must be referring to these ordeals as described in the Sāstra (ii) We have already referred to the counter-claim made by Pratāparudradeva in his SV. Pratāparudradeva was a king directly concerned with the administration of justice (iii) It is very interesting to note that Ain-e-Akbari describes the Jala ordeal in its very Dh.form(Vide Chapter VII). (iv) A local variety of Jaladivya practised at Benares is noticed by Ali Ibrahim khan as follows :- 'In the villages near Benares, it is the practice for the person who is to be tried by this kind of ordeal to stand in water upto his navel and then holding the foot of a Brāhmaṇa, to dive under it as long as a man can walk fifty paces very gently. Iḥ, before the man has walked thus far, the accused rises above the water, he is condemned, if not, acquitted.'³⁸⁹

In the later period we find that this ordeal is developed in two different directions. In one case it is made simpler, in the other rather difficult.

388. Naisadhīyacaritam, II.27, IV.31, IX.55, XVII.86-87 eG.

389. D.C.Sircar : 'The Successors of Sātavāhanas'. p.368

- (A) (i) Nadicī Kriyā practised during the Maratha period is a simpler modification of the ordeal (For details vide Chapter VII).
- (ii) The accused person is required to stand in a river at some holy place and simply declare his intentions. This ordeal is practised in many tribes of India.
- (B) In the second variety, the person enters into fast running water with frightening animals inside the water. This was popular in south India and had various forms, the main variety was that of the crocodile ordeal.³⁹⁰.

...ooOoo...

390. Vide appendix I

V I S A - D I V Y A

(The Poison Ordeal)

Agni, Jala and Viṣa are the powerful ordeals.³⁹¹ Agni and Jala, the deified objects of nature form the base in the base in the first two ordeals. These are, obviously, the primitive ordeals. According to the Indian System, Viṣa comes next to these ordeals. The poison recommended for the purpose is derived from Sṛṅgī plant. It is thus an ordeal based on the object derived from nature.

The Poison ordeal is supposed to be the most powerful ordeal. Considered from the cost point of view, we find that it is recommended for the highest offence. Nār. particularly points out that it must be tried for very serious charges. The very serious charges as explained by NMS Bhāṣya mean the charges deserving death-punishment.³⁹²

The Poison ordeal was particularly recommended for the Sūdras. The Kṣatriyas and the Vaiśyas could opt for it. It was never advised for a Brahmin(Vide f.n.123).

The Poison ordeal is essentially meant for the strong and stout persons only. It was never to be given to the children, the old persons and the persons suffering from various diseases. It was prohibited to a woman. It was particularly denied to the persons suffering from Pitta(Bile) and Śleṣma(Phlegma), obviously

391. Pit.11.

392. महादोषवत्ते वधाद्दोषाय । Bhavaswāmī on NMS 34.

because, it has a very strong and quick reaction on the persons having these constitutions. Similarly, it was prohibited for a leper.

The poison was prohibited for the persons knowing Mantra and Yoga (because they could nullify the effects of poison)³⁹³

In making these prohibitions we find that the Dh.writers have taken into consideration the Āyurvedic functioning of the poison and have taken all precautions in recommending the ordeal. The poison ordeal is a test, a means of proof to detect the charges made against the person. The Dh.writers have therefore seen that the person is not allowed to die on that account. This will be clear from the following discussion. As regards to the above prohibitions, we find Susruta pointing out that the poison in general flares up disorders in the body constitution. It gets intensified in its effects when given in hot weather or in the rainy season, to the persons suffering indigestion, bile, heat, various other diseases and those suffering from urinary diseases as also in the cases of the children, pregnant women, old persons, the weak and the timid.³⁹⁴ The poison reacts more on the persons having skin diseases. Dh.writers have recommended the Śrīṅgī variety of the poison. Dr.V.G.Desai in his 'the materia medica and therapeutics of Indian medicinal plants' points out that this poison is particularly having elements harmful to the skin.³⁹⁵

393. Kat. 424 (a), 425 (b) ~~etc.~~

394. (दर्शिकराणां निधनामुद्धाति). सर्वाणि चोष्णे द्विरुष्णीभवन्ति । अजीर्णपित्ततण्डीतिषु जातप्रमेहेष्वथ गर्भिणीषु । वृधानुरक्षीणबुभुक्षितेषु रुक्षेषु भीरुष्वथ दुर्दिनेषु ॥ Susruta

395. Dr.V.G.Desai : 'The Materia Medica and Therapeutics of Indian medicinal plants' (Marathi Ed.). p.38.

Thus we find that the Dh.writers have thoughtfully prohibited this ordeal for the persons suffering from Bile, Phlegma and other diseases and for children, women, old persons, the weak and the timid.

Viṣṇu says that the Poison ordeal should not be tried in the Prāvṛt or the rainy season. Nār. also makes a similar statement restricting the use of the Poison ordeal in the rainy season. Nār., however, appears to be against recommending this ordeal simply on the basis of the seasons, what is important according to him is the weather and the quantity in which the poison is given. Thus according to him, the poison ordeal should essentially be tried in the cold weather. The Poison could be given upto 4 Yavas in Varṣā, 5 Yavas in the Grīṣma, 7 or 8 Yavas in Hemanta and a little less (i.e. 6 Yavas according to Mit.) in the Śarad.³⁹⁶ Hemanta here includes Śiśira also as it is pointed out by Mit. In the Vasanta also, the poison of 7 Yavas' quantity can be given since Vasanta is in general a season recommended for all the ordeals.³⁹⁷

Pit. recommends Hemanta and Śiśira as the two seasons fit for employing the poison ordeal. The only reason to prohibit the poison in the rainy season is that it gets inconsistent in its effects in the rainy season.³⁹⁸

396. Viṣṇu IX.26, Nār.254,259,324, अल्पेति बड्यवेत्यर्थः । Mit. on Yāj. II.111.

397. हेमन्तग्रहणेन शिशिरस्यापि ग्रहणम् । हेमन्ताशिशिरयोः समासेनेति श्रुतेः । वसन्तस्य सर्वदिव्यसाधारण्यात् तत्रापि सप्त यवाः । Mit. on Yāj. II.111.

398. Pit.15,16.

It will appear that the restrictions thus made by the Dh.writers find a sympathetic support from the Āyurveda works also. Vāgbhaṭa, for example, says that because of the humidity in the rainy season, the poison spreads fast like damp jaggery.³⁹⁹ We have already seen that it works intensely in the hot weather. That is why these writers insist that the poison must be given in cold weather, preferably when there is snow.

Pit. states that the poison should be given in the last watch of night. It could not be given in the noon, afternoon or in the evening, points out Nār.⁴⁰⁰

According to Nār., the poison ordeal is particularly conducted in the vicinity of the Brahmins. Lord Śiva is worshipped as a special deity in the trial by poison. (This is, obviously because of the drinking of poison by Lord Śiva at the time of the churning of the ocean). It is quite possible that the poison ordeal must have been conducted in Śiva's temple. Later on, we find Prajāpati mentioning Śiva's temple as a regular place for all the ordeals in general. It must however be noted that vicinity of Lord Śiva has a special significance in the case of the poison ordeal.

PROCEDURE

VISNU - Now, the poison ordeal. Not each and every variety of poison can be used for the trial but only one derived from

399. (पुरावातोऽप्यलामोदमदनैर्वर्धते विषम्।) .. अथसि चाम्बुयोनित्वात् सक्लेदं गुडवङ्गतम् ॥
विसर्पति... Aṣṭāṅgahṛdaya, Uttaraśhāra. 35-63

400. Pit.18, Nār.320.

Śṛṅga plant grown on the Himalayas. Seven Yavas of this poison mixed with ghee can be given to the accused person and if he is able to digest it with comfort, without any reaction as such, he should be declared as innocent and be relieved at the end of the day. (The following Mantra may be addressed) Oh Viṣa, since you are dreadfully poisonous, you are very terrific for all the beings. Only you know the things that are not known to men. This person convicted under law wants to get himself acquitted. It will therefore be proper for you to protect him from doubt, according to Dharma. 401

YAJÑAVALKYA

Oh Viṣa! You are the son of Brahmā, firm in the duty of (deciding) the truth. Save me from this accusation and be like nector to me by truth(if I be innocent). Having said this, the person should eat the poison of the Śṛṅgī plant grown on Himalayas and if he digests it without any reaction, he should be declared as innocent. 402

NĀRADA

I will now speak the best procedure of the poison ordeal - the time when and the way in which it has been recommended. The knowers of truth by Dharma advise to give poison in the Śarad season when there is snow, having measured it in the Yavas. The knowers of Dharma may not give it in the noon or afternoon nor in the evening and may avoid śarad, grīṣma, vasanta 401. Viṣṇu, XIII.1-7.

402. Yāj. II.110.111.

and Varṣā for practising it. The spoiled (Bhagna), distilled for processed (Cārita), heated or perfumed (Dhūpita) and mixed (Misrita) poison may not be used. Similarly, the Kālakūṭa and the Alābu poisons must be avoided. Only the fresh Śārṅga poison having colour, flavour and juice in it, availed from the Himalayas (must be used). It must be original and well-preserved and should not be affected by Mantras. Unspoiled as such, it must be given to a person born of a Kṣatriya, Vaiśya or a Sūdra caste. The poison mixed with ghee may be given in the quantity lesser by 1/8th part of the 6th of the 20th part of one Pala poison. Oh Viṣa! you are the son of Brahmā, firm in the duties of deciding the truth. Purify this person from the evils and be like nectar for him according to the truth. The person must be protected and kept under shade for the rest of the day, without allowing him to take meals and if he overcame the reaction or the fatigue of the poison, he was pure.⁴⁰³

Having worshipped Mahesvara by offering incense, presents and Mantras, (Prādvivāka) who has observed fast should give poison to the person in the vicinity of gods and brahmins. The Brahmin with a composed mind, facing east or north, should give poison to the person ~~to the~~ who facing south is in the company of the Brahmins.⁴⁰⁴

403. Nār., 318-326.

404. Following verses are attributed to Nār. by Mit. but they are not available in the printed Nārada:

दद्याद्विषं सोपवासो देवब्राह्मणसंनिधौ । धूपोपहारमंत्रैश्च पूजयेत्वा महेश्वरम् ॥

द्विजानां संनिधानेन दक्षिणाभिमुखे स्थिते । उद्भूमुखः प्राङ्मुखो वा दद्याद्विषः समाहितः ॥

Mit. on Yāj. II. III.

KĀTYĀYANA

The poison derived from the Śṛṅgī plant is dark like Ajāsṛṅga. When cut, it appears yellow like jinger(Śṛṅgavera). This is known the Śṛṅgī poison. Dropped in blood, it immediately clotts it and turns it black. This is the confirmatory test-known by the experts of the ordeals, for testing the genuine Śṛṅgī poison.

The Vatsnābha poison is yellow and can be known by its colour. When cut, it appears like couch or the mather of pearls. It must be purified immediately with milk and honey. These are the external signs of confirming this poison described by those who practise Dharma. The poison must be given in the former part of the day and in a cool place, after having rubbed it smooth with thirty times of ghee. (The Prādvivāka) should give to Sódhya the poison less by 1/8th from the 20th part of the 6th part of a Pala poison, mixed with ghee.⁴⁰⁵

BRHASPATI

He who digests the poison given in due procedure without using any mantra or medicine as an antidote, should be known as innocent, otherwise, he should be punished or asked to pay fine.⁴⁰⁶

PITĀMAHA

I would now speak the procedure of poison with its recommended specifications which should be given to the accused

405. Kāt.446-451.

406. Br. 21

person exactly in the recommended quantity. In order to purify a person without any doubt, only seven Yavas of the Śrṅgī or the Vatsanābha poison available in Himalayas should be used. Processed, old, artificial and Bhūmija poisons should be avoided. The poison to be given must be taken in hand and addressed as follows. Oh! Viṣa! You are created by Brahmā for examining the wicked persons. Show yourself to the sinful one and be nector for the innocent persons. Oh Viṣa! the Death Incarnate! you are properly created (Parinirmitam) by Brahman. Protect this person from sin and be nector for him by truth. The king should keep the person undergoing the ordeal under the watch of his own persons for three or five nights, just to confirm that no deceit (kuhaka) has been resorted to. An examination of the person should be conducted to know whether medicines, incantations or precious stones that are antidotes are secretly employed by him in his body. After taking the poison if the person does not swoon or vomit and remains hail and hearty he must be declared innocent at the end of the day.⁴⁰⁷

The procedure of the poison ordeal is very simple. After observing fast, the Prāḍvivāka should worship lord Śiva, place the poison before him, conduct general rites (i.e. beginning with the invocation of Dharma and ending in tying of the Śirahpatra) address the poison with proper mantras, give it to the person and watch the results. The important points are (i) taking the poison recommended (ii) watching the results. (iii) Mantras to be used

(iv) signs of the success or the failure of the trial.

(i) The Poison recommended :

Dh.writers have recommended a standard variety and perhaps only one variety i.e. the Sārṅga poison, the poison derived from the Śrṅgī plant available in the Himalayas.

The earlier writers have described only Sārṅga poison. Kāt. and Pit. have however described the Vatsanābha variety also.

As regards to these varieties, Dr.Kane observes that 'The poison to be selected is Sārṅga (derived from the Śrṅga plant) or Vatsanābha (aconite) or Haimavata. Pit. (quoted by Aparārka) treats the three as distinct, while Yāj.II.111 appears to prescribe Sārṅga growing on Himalayas as the poison to be selected.'⁴⁰⁸

But the word 'Himajasya' meaning 'grown on Himalayas' in the Pit. stanza obviously qualifies the poison described. So we get only two varieties the Sārṅga and the Vatsanābha.

Dr.V.G.Desai who has identified the Indian medicinal plants describes Vatsanābha (Aconite) as a group of herbs. The Śrṅgī plant (Aconite forex) is described by him as a species of the Vatsanābha group. The Vatsanābha group is available in the Himalayan range and the Śrṅgī plant which happens to be a dreadful poison is particularly available in Nepal.⁴⁰⁹

408. Dr.Kane, Hist.of Dh.Vol.III. p.373.

409. Dr.V.G.Desai : 'The materia medica and therapeutics of 'Indian medicinal plants', p.38.

It cannot be said definitely whether the old writers were knowing Vatsanābha as a group or at least were aware of this sort of co-relation between the Śārṅga and the Vatsanābha, but Pit.'s description may lead us to take Śrṅgī as a variety of Vatsanābha available in the Himalayas.

Though the description of the Śārṅga poison given by the Dh.writers is sufficiently clear, it has been wrongly identified by some scholars.

Regarding the poison described in the Dharmasāstra, N.C. Senagupta observes, 'the poison described is Śrṅga (probably derived from some kind of horn) which does not appear to be lethal in its effect and the dosage is very small'.⁴¹⁰

Dr.Kane has following observations in his note on the Kāt. stanza⁴⁴⁶. 'Nār. speaks of Śrṅga poison from Himalayas as the poison to be given in the ordeal and Kāt. appears to be explaining it. Dr. Jolly translates Śārṅga as from Śrṅga plants which is doubtful. That is said to be Śrṅgaka poison which being ~~red~~ tried to a cow's horn makes her milk red'.

In fact, the poison described by the Dh.writers is obviously the poison derived from the Śrṅgī plant (available in Himalayas).

It is interesting to compare the details given by the Dh.writers regarding the poison to be used with those available in the Āyurveda works.

410. N.C.Senagupta : 'The evolution of ancient Indian law', p.64.

Suśruta, for example, has discussed various poisons in the second and the third chapter of Kalpasthāna. The poisons are mainly divided by him into two (i) the Sthāvara poisons and (ii) the Jaṅgama poisons. The Sthāvara poisons have ten main varieties and each of them is divided into many sub-varieties. The Kanda is one of these ten varieties. It has 13 sub-varieties. Both the Sārṅga and the Vatsanābha poisons described by the Dh. writers belong to the Kanda variety of the Sthāvara poisons. The Kanda poisons are very strong and are very sharp and fast in their reaction.⁴¹¹

The Sthāvara (and the Kanda) poisons are available in roots or herbs as against the Jaṅgama poisons which are derived from the various parts of the bodies of various animals.

It is not possible for us to accept the view expressed by N.C. Senagupta, because as we have seen above, the Sārṅga poison technically comes under Sthāvara poison (i.e. derived from some root or herb.). As regards to the Jaṅgam poisons also, we find that Suśruta has given 16 places in the bodies of animals from where the poisons can be derived e.g. jaws, nails, bones etc. but horns are not mentioned in the list. Sārṅga, therefore, cannot be the poison derived from some kind of horn.⁴¹²

The test of the Sārṅga poison quoted by Dr. Kane is just a fanciful explanation of the word Sārṅgika available in Śāli-grāmanighaṇṭu⁴¹³. In fact Kātyāyana himself gives a confirmatory

411. कन्दजानि तु तीक्ष्णानि ।.. कन्दजान्युग्रवीर्याणि..। (suśruta : Kalpasthāna II.11, 18.

412. ibid III.4.

413. मासि गोशृङ्गाके बद्धे दुग्धं भवति लोहितम् । स ह्यक्षीक इति प्रोक्तः द्रव्यतत्त्वाविशारदैः ॥

Śāli-grāmanighaṇṭu p. 778.

test of the Śārṅga poison i.e. it clotts the blood and turns it dark. Which is rather realistic.

The Dh.writers have asked us to avoid spoiled (Bhagna), artificial (Kṛtrima), old (Jīrṇa) or processed (Cārita) poisons. It will appear that the Dh.writers were extremely realistic in putting these conditions.

Vāgbhata says that the artificial poison is different from the Sthāvara and the Jaṅgama poisons. It is known as gara and is prepared by mixing various medicines. Sometimes it brings instant death and sometimes it delays and prolongs the dying process.⁴¹⁴ Suśruta also says that the artificial poison brings instant death (but so do the Sthāvara and Jaṅgama poisons also), the important point is that it cannot be taken out completely from the body,⁴¹⁵ and is thus dangerous to the body, giving rise to many diseases which happen to be incurable.

In the poison ordeal we find that the effects or the reactions of the poison decide the guilt or innocence of the person and is therefore required to be consistent and definite in its results. Secondly, the poison tried must give its verdict instantly. It should not prove harmful to the health

414. स्थावरं जङ्गमं चेति विषं प्रोक्तमकृत्रिमम् । कृत्रिमं गरसंज्ञं तु क्रियते विविधौषधैः ॥
हन्ति योगवशेनाङ्गु चिरात् चिरतरश्च तत्... । Aṣṭāṅgahrdaya Uttaraśākhā
35.5-6(a)

415. स्थावरं जङ्गमं यच्च कृत्रिमं चापि यद्विषम् । सद्यो व्यापादयेत्तत्तु ज्ञेयं दृशगुणान्वितम् ॥
... देशदृशं यदनिर्गतं तत्...
suśruta, Kalpasthāna II.24, 25(a)

of the person in general. We have seen that the Kṛtrima viṣa cannot be extracted completely from the body. It is therefore regarded to be unfit for the purpose.

The spoiled, old and the processed poisons are technically known as Dūṣiṣas (spoiled poisons) in the Āyurveda works. The spoiled poison is very old or processed by mixing many poison-killing medicines or dried up by fire, wind or sun-heat, or it is the poison in which its natural qualities are not preserved. This poison grows very mild and slow affecting the constitution of the body. It cannot be easily detected in the body. The spoiled, old and processed poisons are therefore also unfit.⁴¹⁶

It has been pointed by the Dh.writers, that the poison must be given after mixing it with thirty times of ghee. In this connection again, we find that ghee is considered to be the best remedy for the poison. Ghee is unconquerable by the poison, says Vāgbhaṭa. There is no medicine like ghee for any kind or of any condition of poison, he points out.⁴¹⁷

(11) Watching the results :

The innocent person should be able to digest the poison without any reaction as such. According to Nār. the results become evident only at ~~the~~ the end of the day, but if the poison

416. जीर्णं विषघ्नौषधिभिर्हितं वा दवाग्निवातातपशोषितं वा । स्वभावतो वा न गुणैः सयुक्तं
दूषीविषाख्यां विषमभ्युपैति ॥ वीर्यल्पभावाद्दविभा०यमेतत्....

Aṣṭāṅgahrdaya, Uttaraśkhāṇa 35.33-34(a)

417. सर्वेषु सर्वावस्थेषु विषेषु न घृतोपमम् । विद्यते भेषजं किञ्चिद्विषात्प्रबलेऽनिले ।

ibid. 35.40.

reacts fast and the person is sinking, there could be a waiting period of 500 claps only. After this, immediate help should be rushed to the person.

In this connection, we find that the commentators and the digest-writers have discussed the way in which the poison reacts. 'The reaction of the poison means transferring swiftly in the body, the effects of poison from one supporting structure(Dhātu) to the other. There are seven such structures in the body. They are skin (Tvak), Blood(Asrk), Flesh(Mānsa), Fat(Meda), Bones(Asthi) Marrow(Majjā) and Vitality(Sūkra). Accordingly there are seven types of reactions for the details of which the Mit. asks us to refer to a work called Viṣatantra.⁴¹⁸ Aparārka explains these reactions as follows : The poison reacts on the skin by causing horripilation, reaching the blood, it causes^{६६} perspiration and drying up of the mouth, in flesh, it makes the person colourless and wane, in fat, it makes the person tremble in bones, it causes the weakness of sight, in the marrow it causes swomning and loss of senses, and when it reaches vitality

418. विषवेगे नाम धातोर्धात्वन्तरप्राप्तिः । 'धातोर्धात्वन्तरप्राप्तिर्विषवेग इति स्मृतः' इति वचनात् । धातवश्च त्वगसृग्भांसमेदोऽस्थिमज्जाशुक्राणीति सप्त । एवं च सप्तैव विषवेगा भवन्ति । तेषां च लक्षणाणि पृथगेव विषतन्त्रे कथितानि ।

Mit. on Yāj. II. III.

it causes death.⁴¹⁹

Vāgbhaṭa describes the process shortly as follows :
The poison entering the body first spoils the blood, then it disturbs the three Doṣas-Kapha(Phlegma), Pitta(Bile) and Vāta (Wind) alongwith their Āśayas; then it affects the heart and leads to the death.⁴²⁰

Thus we find that the commentators have explained the reaction of the poison which goes well with the description in the Āyurveda works. These explanations naturally help in bringing accuracy in the trial.

Br. and Pit. say that the person should be properly examined before he undergoes the trial to see that he has not used any mantra, medicine or precious stone as an antidote against the effects of poison.

In this respect also, we must point out that the Āyurveda authorities do not dismiss the idea of mantras being used

419. त्वगसृग्मांसभेदोऽस्थिमज्जाशुक्राणि धातवः । एतेष्वेकस्मिन्धातौ वर्तमानस्य विषस्य शीघ्रं धात्वन्तरप्राप्तिः । तत्र त्वचि वर्तमानं विषं रोमाभ्यं जनयति, तदेव लोहितं प्राप्य स्वेदं वक्त्रशोषं च, मांसं च प्राप्य वैवर्ण्यं, मेदः प्राप्य कम्पं, तदेवास्थिगतं नेत्रपारवश्यं, मज्जागतं तु विषादं मोहं, तदेव शुक्रगतं मरणं जनयति । Aparāṅka on Yāj. II ॥

420. विषं हि देहं संप्राप्य प्राग्दूषयति शोणितम् ॥ कफपित्तानि लांश्यानु समं दोषान् सहाशयान् । ततो हृदयमास्थाय देहोच्छेदय कल्पते ॥ Aṣṭāṅgahrdaya, Uttarasthāna 35.9-10

as antidotes.⁴²¹

NMS refers to one important point regarding the poison ordeal which has a legal significance. The accused person must be encouraged or rather made aware of the poison-taking. Thus encouraged, the accused person should ask for the poison (with full knowledge of its effects).⁴²²

(iii) Mantras to be used :

The Prādvivāka should address the Viṣa with the Mantra 'Viṣatvāt' etc. given by Viṣṇu or with 'Viṣa tvam' etc. given by Nār. Similarly, the Śodhya should address the poison with the Mantra 'Viṣa tvam' etc given by Yāj. or 'Viṣa tvam' etc. given by Pit.

In both the cases, any one set can be used, since it forms an option to the other, both the sets having parallel meaning, VP points out.⁴²³

(iv) Signs of the success or the failure of the trial

Viṣṇu, Yāj. Nār. and Br. state that if the person is able to digest the poison without any reaction, he must be declared as innocent. According to Nār., the immediate reaction of the poison must be observed within the time period of 500 claps. That declares the result. Then the person should be

421. देवमहर्षिभिः प्रोक्ता मंत्राः सत्यतपोमयाः । भवन्ति नान्यथा क्षिप्रं विषं हन्युः सुदुस्तरम् ॥
विषं तेजोमयैर्मन्त्रैः सत्यब्रह्मण्योमयैः । यथा निर्वीर्यते क्षिप्रं प्रयुक्तैः न तथोषधैः ॥

Suśrūta : Kalpasthāna, 5.9-10

422 अनुमोदितैः - देहीत्यनुमोदितैः Bhavaswāmī on NMS 37.

423. अत्रयोरेकार्थत्वाद्विकल्पः । VP p 210

medically treated. He should be kept in shade under observation without giving meals for the day. Pit. says that the person is known innocent at the end of the day.

Mit. points out that the waiting period till the end of the day recommended by Pit. relates to the poison given in a smaller quantity, while Nār.'s rule of waiting for 500 claps refers to the poison of a higher dose.⁴²⁴

Thus we find that these trial-makers have taken all precautions to see that the trial does not turn out to be fatal for the person who undergoes it (i) They have recommended a standard variety of the poison. (ii) The quantity of the poison is pre-confirmed and is seen that no spoiled poison is used. (iii) Maximum quantity that is recommended is of 7 or 8 Yavas which is not risky at all, because according to the materia medica a quantity of 1/16th to 1/4th Gunjā of the Śrṅgī poison can be given four times a day as a curative for certain diseases. (iv) The poison is given by mixing it with 20 times of ghee which serves as a preventive (v) it is given only to a strong and stout person, the weak or the diseased being prohibited. (vi) In case, the poison reacts severely, immediate medical help is rushed to (vii) it is recommended for very serious crimes.

424. तथा विधे पीते यावत्करतालिकाशतपञ्चकं तावत्प्रतीक्षणीयोऽनन्तरं चिकित्सनीयः ।
यथाह नारदः पञ्चोति । पितामहेन तु दिनान्तोऽवधिरुक्तोऽल्पमात्राविषयः ।

Mit. on Yāj. II. III

Inspite of these precautions it appears that this ordeal was getting rare. N.C.Senagupta observes, this form of ordeal also seems to have gone out of use early'.⁴²⁵

The remarks of Senagupta are obviously based on SC which does not treat the water and poison ordeals considering them as obsolete. The counter claim made by SV in this respect is already referred to.⁴²⁶

It has been observed above that though the water ordeal described by the Dh.writers was not actually dead, it was gradually getting rare or transferred in its other forms, but the poison ordeal appears to be consistently disappearing. Ordeals were revived during the Maratha period. Poison ordeal was however not revived.

Poison ordeal was practised in another form also. A hooded snake called Nāga is thrown in an earthen pot into which is also dropped a ring, seal or a coin. The accused person is then ordered to take it out with his hand. If the serpent does not bite him, he is proved innocent, otherwise he is guilty.

This form of trial is described by Sukranīti and Kkh.⁴²⁷ According to the Purāṇa, the accused person should address the hungry serpent in a pot with the mantras given for the poison ordeal and drop his hand in the pot and touch the serpent till

425. N.C.Senagupta : Evolution of ancient Indian Law,' p.64.

426. Vide notes 385 and 387.

427. Sukra IV.734 , Kkh 44.49.

seven claps are clapped. This form of ordeal is referred to in the Gadag inscription of Vikramāditya dated 1098 A.D. It was undergone by Chandaladevī or Chandrikā, wife of king Lakṣmīdhara in 1208 A.D.

The form of trial thus appears to be in practice from older times. It was gradually popular, so as to catch the attention of Raghunandana who referred to it in Divyatattva. The ordeal was however not officially recognised by the Dh.writers. It was not included in the Dh.system.

...ooOoo...

K O S' A - D I V Y A

(Ordeal by Sacred Libation)

Kosá comes last in the list of the five ordeals. Kosá, which is in fact a very mild type of ordeal, has been recognised and included in the list of the celebrated ordeals, mainly because of its psychological value and enhanced divinatory significance under the influence of which the accused person undergoes the trial. That is why, we find that some of the basic conditions necessary for applying any ordeal, are waved in the case of Kosá trial. For example, it is necessary for the plaintiff to declare a guarantee (in form of Śīrsaka) for the defendant undergoing the trial and no ordeal can be executed unless this guarantee is assured, but the Kosá is an exception. It could be tried even in the absence of such a guarantee (Kosó eko'sīrāḥ Smṛtaḥ).

In fact, the Kosá should have been included in the list of oaths, because, the result in it, unlike the ordeals, is not declared soon after the trial, but owing to its great psychological value it is not only included in the major ordeals, but is given a wide scope for application, waving some of the basic requirements. The major ordeals are used under grave charges, but the Kosá is not limited to these only. It could be used in the cases where the person is accused of vengeance (Sāvaṣṭambha) or in the law-suits based on suspicion.⁴²⁸

428 अष्पान्नियोगे महाभ्रियोगे शप्तासावष्टभ्योरथविशेषेण कोशो भवतीत्युक्तम् । ~~Mit on~~
 ... कोशस्य तु शपथत्वेऽपि द्वादिषु पाठः महाभ्रियोगान्निष्यत्वेन च द्वादिषु साम्यान् तु
 समनन्तरानिर्णयत्वेन । Mit on युक्ते II 95, 96 .

As it has been pointed out above, the Kosá is given a wide scope for application. There is no season-restriction for the use of Kosá. It could be used at all the times. The Kosá should be used in ~~the~~ the former part of the day, but according to NMS it could be tried even mid-day.⁴²⁹

NMS holds that the Kosá should not be given to a Sūdra,⁴³⁰ but barring this exclusive remark we find that all other writers have clearly pointed out that Kosá could be used for a person of any caste.

The Kosá is denied in the following cases :- (1) A person who has committed many offences. (2) a person who does not believe in religion. (3) a person who is ungrateful. (4) an impotent or vile (5) an athiest. (6) an outcast (7) a slave (8) a person who is addicted to wine or woman.⁴³¹

According to Nār., the Kosá should not be forced on anybody. It should be resorted to for the persons who believe in its efficacy and are willing to undergo it. It is particularly recommended for a Sasūka and a person free from all addicts.⁴³² Sasūka, according to Mit. is one who believes in God, while VP explains it as a person who believes that the ordeal is bound to bring adverse effects if undergone wrongfully.⁴³³

429. Pit.16(a),18(a); NMS 39.

430. NMS 40.

431. Nār.332, Kāt.426.

432. Nār.328.

433. सश्रकः आस्तिकः । Mit. on yāj. II.112

सश्रकः असत्येन दिव्यकरणेऽनिवृत्ताऽकायुक्तस्य । VP p.212

The Kosa has thus its own limitations. From the trial point of view, it is the most harmless ordeal which in fact does not involve any physical test as such, but psychologically it could influence the person and be useful-for the persons who believe in its efficacy. Nār. has made this point clear in recommending it for Sasūka and Śraddadhāna.

PROCEDURE -

V I S N U -

Having worshipped stern deities, the accused person should drink three handfuls of water in which these deities are bathed. Facing god, he should declare that he has not committed a particular act. He who faces some disease, fire, death of some relative or Royal punishment, is guilty, otherwise he is innocent. The religious king should felicitate the innocent person.⁴³⁴

YĀJÑAVALKYA

Having worshipped the stern deities, the water in which these deities are bathed should be brought(to the place of ordeal) The accused person should be warned(that it is not the ordinary water meant for quenching thirst) and asked to drink three handfuls of the water. He, who does not face any severe royal or unfortune calamity within a period of fourteen days is undoubtedly innocent.⁴³⁵

434. Viṣṇu XIV.1-5.

435. Yāj. II.112-113.

NĀRADA

Now I will tell the best procedure of the Kośa as it has been described by the knowers of the śāstra, so that it may not be against (the conventions of) all times. The Kośa is tried upon a Sasūka an unaddicted person who believes in it and is willing to undergo the trial, when he present himself before gods and brahmins with wet clothes on after having observed fast on the previous day and taken bath for the purpose. The deity worshipped and believed by the accused person should be offered adorations and the accused person should be asked to drink three handfuls of water in which that deity is bathed.

The person who experiences some disease, fire, death of some relative, loss of desired object (Arthabhramśa) or the loss of property or any other major inauspicious happening (Pratyātmikam) within a period of a week or two, that should be considered to be the sign of his guilt, but if he experiences even greater adversities after a fortnight he is not to be accused by the learned judges, since the person has crossed the declared period.⁴³⁶

Having asked the accused person to stand in a circle facing the Sun, he should be asked to drink three handfuls of water. Having bathed the deity in the water, it should be given to the accused person only after making him hear (i.e. warning him) of his guilts or charges. The ill-minded mischief-monger who willingly undertakes the Kosa and prefers to tell lie out

of greed would be suffering from colic. The person who contradicts or tells lie according to his whims and undertakes the Kosā (for his purpose) would be poor, diseased or lunatic for seven births(to come). The person (i.e. the plaintiff) who tries to gain his purpose by asking the accused person to undergo the Kosā under force, will ruin himself and will never succeed in his undertaking.⁴³⁷

According to NMS, following stanzas are addressed to the deity of the ordeal.: Oh Lord of Waters! you are the holding of the life of the world, the movable and the immovable! Oh! God! this person wants to acquit himself according to Dharma. Since the Fire is born out of water, it is particularly appropriate to examine(him) in the waters and therefore Oh God! Lord of waters! it will be worthy of you to protect him by truth.⁴³⁸

437. Following verses are attributed to Nār. by Mit, SC etc.; but they are not available in the printed Nār.

तमाहूयाभिदशस्तं तु मण्डलाभ्यन्तरे । स्थितम् । आदिष्ट्वा । अभिमुखं कृत्वा पाययेत्प्रसृतित्रयम् ॥
अर्चयेत्वा तु तं देवं प्रक्षाल्य साक्षितेन तु । एनश्च आवायेत्वा तु पाययेत्प्रसृतित्रयम् ॥
स्वेच्छया यः पिबेत्कोशं कश्चिन्नेद्भूषितो नरः । विसंवदेन्नरो लोभात् शूली भवति दुर्मतिः ॥
आत्मनः कागदारेण कोशं पीत्वा विसंवदेत् । दारिद्र्यो व्याधितो मूर्खः सप्तजन्तानि जयते ।
बलात्कोशं हि यो दत्त्वा हिताभिच्छेत्त चात्मनः । स विनाशी भवेत्तस्य तत्र कार्यं न सिध्यति ॥

Mit. on Yājñ. II.112; SC p.272; VP 213

438. NMS, 44-45.

BRHASPATI

The accused person should be kept under watch of the persons in authority for three or five days just to detect the deceipt (Kuhaka) if any. If the accused does not meet with any calamity relating to his son, wife or wealth within a week or two, he should be undoubtedly considered as innocent.⁴³⁹

KĀTYĀYANA

For a lighter offence, the accused person should be asked to drink water in which the weapons of gods are bathed and if he suffers on that account, he should be taken as guilty but innocent if reverse is the case.

The person who gets his jaw or chin injured and bleeding or limbs shivering should be declared as guilty. If due to the non-correspondance of fate, he suffers the miseries within a period of three weeks, he should be asked to pay that much money and to face punishment. Of course, if disease, fire, death of a relative or heavy debts experienced by the person are solely relating to that individual and not of general nature (such as epidimic) belonging to all he must be asked to pay fine, but if he suffers from high fever, dysentery, tumor, aching in the inner bones, disease of eyes or throat, insanity, headache, fracture in arms - these are the diseases (due to the divine intervention). The guilty person, in these cases, is awarded punishment. If the person is free from these, he is innocent. He should be paid 50 Panas.⁴⁴⁰

439. Br. 22-23

440. Kāt.452, 455-458.

PITĀMAHA

Now, I will tell an all-time (Sanātanam) method of Kosa ordeal and the cases in which it could be used. The (accused) person must be asked to drink the water in which is bathed the deity of which he is a worshipper. If he has an equal faith in all the deities, the water in which god Sun is bathed must be given. In the case of Durgā it is her spike that is to be bathed, the orb in the case of Sun and their respective weapons in the cases of other gods. The water of the bath of Durgā is to be offered as ordeal to the thieves and those who live by the profession of arms, while the water of the bath of God sun is not to be given to the Brahmins. The Kosa can be used in all cases of doubt as well as for declaring one's faith in all acts of collaboration, while it can always be used for declaring the purity of mind. The Kosa must be administered in the former part of the day, to an unaddicted person, believing in the efficacy of the tradl who having observed fast and taken bath presents himself with wet clothes on. The person who is purified in the said manner by bathing and presenting himself with wet clothes on should be asked to drink three handfuls of water facing east. The person who gets adversities within three, seven, ten or fourteen days is supposed to be the guilty person but if such calamities are belonging to all persons(i.e. if they are of general nature) and not belonging him individually such calamities cannot prove his guilt. If he faces disease, fire death of some relative, that is a sign of his guilt.⁴⁴¹

441. Pit, 120-128.

HĀRĪTA

The accused person must be asked to drink the Kosá on the ground that is besmeared with cow-dung.⁴⁴²

SĀTĀTAPA

If the person gets any calamities like disease, fire, death of some relative, severe pain, loss of cattle, corn or wealth, he is detected as guilty.⁴⁴³

Following are thus the important points to be discussed in the Kosá ordeal. (1) The place of the ordeal. (2) bathing the deities in water. (3) Preliminary rites. (4) Mantras to be addressed. (5) Signs of the success or the failure of the trial.

(1) The place of the ordeal :

According to Viṣṇu, the accused person should face the god while drinking the water. Nār. says that he should face Sun at the time of drinking water. According to Hārīta, the place must be plastered with cow-dung.

In the earlier times, the bathing of the deities was perhaps conducted before the accused person, but according to the later writers it was not necessary to do so. The Prādvivāka after observing the preliminary rites, should bathe the deity, bring the water to the place of ordeal and give it to the accused person. This is clearly mentioned by the commentators and the digest-writers.

442. Hārīta, 5.

443. Sātātapa, सदाहाभ्यन्तरे यस्य सदाहाभ्यन्तरेऽपि वा । रोगो वाक्षीर्ज्ञातिमृतिस्तथा राजिक दैविकम् । quoted by DK p 518.

According to VP the Kosá ordeal is conducted in some temple.⁴⁴⁴ This is also confirmed by Alberuni.

(2) Bathing the deities in the water -

(a) Viṣṇu says that the stern deities must be bathed in the water. Stern deities are Rudra, Āditya, Durgā and others, points out SC.⁴⁴⁵

Nār. brings an important change. The deity of which the accused person happens to be a devotee must be bathed for the purpose. Pit. supplements the rule by saying that if the person holds all the deities in equal esteem, image of Sun should be bathed. Important rule given by him is that of bathing a particular deity for a particular kind of offence. e.g. the image of Durgā in the case of theft or for the persons who live on profession of weapon. The water of the bath of Sun cannot be given to Brahmins.

Kāt. recommends the bathing of the weapon of the deity in case of a milder offence. According to DT, this means that actual deities could be bathed for heavier or grave offences and only weapons in the cases of milder nature.⁴⁴⁶ Pit. gives specific rules regarding the bathing of the weapons i.e. in the case of Durgā it must be her spike that must be bathed. According to VP a copper-image of God Sun can be bathed as the weapon of sun. (Āyudhagrahaṇam tāmṛādinirmitādityamaṇḍala-syāpyupalakṣaṇārtham - VP.p.213.)

444. देवताय तन स भीषे मण्डुलं विधाय । VP p 212.

445. उग्रा देवाः रुद्रदुर्गादिभ्यः । SC p 271

446. अत्र 'स्वल्पाय राधे देवानां स्नापयेत्वा युधोदकम्' इति कात्यायनोक्तविज्ञानोपनिषत् - राधे देवस्नानोदकमिति विषयभेदः । D.T. pp 605-606.

(b) The Water - Explaining Yāj. II.112, Viśvarūpa points out that the accused person should be properly warned that the water of the bath of the deity is not ordinary water as any other water meant for quenching thirst. It is the water which may bring to a liar any adversities like poverty or a disease like leprosy which may be incurable even in hundred births.⁴⁴⁷ According to Vīramitrodaya, the water must not be mixed with any other water.⁴⁴⁸ According to Mit. the water that is actually to be given to the person must be taken out in a separate vessel.⁴⁴⁹

(3) Preliminaries -

After observing fast and other preliminaries, the Prāḍ-vivāka should bathe the stern deities like Durgā, Āditya etc, take the water of the bath to the place of the ordeal. He should then conduct the general rites i.e. invoking the Dharma etc. It must be observed that when Kōśa is being tried for self-purification tying of the Śirahpatra is not necessary.

(4) Mantras to be addressed -

Viṣṇu expects a simple declaration of the content that 'I have not done such an act', to be made by the accused person before drinking the water.

447. तदीयं स्नानोदकमादायाभियुक्तं संश्राम्य, 'मैवं मंस्थाः यथाव्योदकपाममाभिप्रेत-
-वैतृव्यादिनिमित्तम्। एतास्मि मिथ्यावादिनं जन्मान्तरहातैरापि दारिद्र्यकुशाभ्युपद्रवैः
प्रातिकुर्वाणं दुर्निवारं भविष्यति इत्यालोच्य सावष्टममन्तरेण मा कुरु इत्युक्त्वा प्रसूतित्रयं
पायमेतत्। Viśva on Yāj. II.112

448 तु शब्देन जलान्तरमिश्रणमवच्छेदः। Vīramitrodaya quoted by DK p 612.

449 तत्तयेयं जलान्तरे कृत्वा.. Mit. on Yāj. II.112.

According to Yāj. the accused person must be given water after having made a hearing. As ~~he~~ we have seen above, this hearing, according to Viśvarūpa, is of a sort of warning to the accused person against underestimating the efficacy of and just playing with the water. According to Mit. however this hearing consists of the Mantras to be addressed to the water by the Prāḍvivāka and the Śodhya. The Prāḍvivāka should address the water with the mantra 'Toya Tvam' etc. given by Pit. while the Śodhya should do it with Satyena mābhirakṣa etc. given by Yāj. or with Satyā^{rt}ṁ~~avibhāgasya~~ etc. given by Nār.

(4) The Trial -

The trial part of the ordeal is possibly the simplest one i.e. the accused person should drink the holy water while standing in a circle facing Sun. Br. makes a curious statement in this respect. According to him the accused person must be kept under watch for three or five days to confirm that he has not resorted to any deceit.

In fact, the provision made here is uncalled for, particularly for the Kośa trial, because the Kośa is never forced on anybody. It is always recommended at the preference by the accused person, so the question of resorting to any deceit really does not arise, but it is possible that owing to its extra-simple form, the persons may be tempted to prefer it readily and then try their means to come out successful. Nār. has clearly warned against such a tendency, while Br. makes a regulation to see that no unfair means are used by the persons.

(5) Signs of the success or the failure of the trial -

Some royal or divine calamities befalling the person undergoing the trial within a particular period clearly indicates that he is guilty. These calamities are enlisted as follows.

- (i) Some disease : we find that Kāt. has specified these diseases i.e. fever, dysentary etc.
- (ii) Fire.
- (iii) Death of some relative - Vyavahāra-kalpataṛu quotes a stanza which explains the term 'relative' in a legal sense. A relative means mother, father, son, brethren and wife having son. ⁴⁵⁰ VN points out that while deciding a relative one should consider the persons coming upto five generations on the mother's side and upto 7 generations of the fathers' side. ⁴⁵¹
- (iv) Arthabhramśa- SC points out that the word Arthabhramśa should mean loss of Son etc. because if we take it as 'loss of wealth', the word Dhanakṣayaḥ following next will be redundant. ⁴⁵²

In fact, the meaning suggested by the SC (i.e. loss of son) does not appear appropriate because that meaning is included in loss of relative'. It is therefore preferable to take Arthabhramśa in the sense of 'the loss of desired object'.

450. शौचस्य जननी तातः पुत्रो व तत्सद्योदरः भार्या पुत्रवती धर्म्या ज्ञातयः पारिवर्तिताः ।
Vyavahāra-kalpataṛu - p.248

451. मातृपक्षे पञ्चपुरुषावधिरनर्थः । । पितृपक्षे सप्तपुरुषावधिरनर्थः । VN p.216.

452. अर्थोऽत्र पुत्रादिरभिप्रेतः, अन्यथा धनशब्दवैयर्थ्यम् । SC p.274

- (v) Loss of wealth.
- (vi) Loss of cattle, corn or wealth.
- (vii) Any major inauspicious happening.(Pratyātmikam).

Some of the important points regarding these calamities are pointed out by the commentators and the digest writers as follows :-

- (i) Mit. holds the view that it must be a major calamity. Minor calamities are inevitable in human life and therefore the person should be declared innocent if there are minor calamities.⁴⁵³
- (ii) In case of a disease, it is pointed out by these writers that the disease must be belonging to the person as an individual. If the person is a victim of some general epidemic, that would not be indicating his guilt.
- (iii) The calamities happen to be indicative of the result of the trial only if they befall within the recommended period.

All the writers in general have recommended a period of one to three weeks for any of the calamities to occur in case of a guilty person. A simple rule regarding the span of the time thus recommended is explained by Aparārka. A shorter or a longer span should respectively be co-related with the milder or the serious nature of the plaint. It should be a period of three weeks in the case of a very serious charge while a period

453. अतुर्दशादक्षः पूर्व यस्य ... महत् दुःखं न जायते । अपरस्य दोहनामपरिहार्यत्वात्
स शुद्धो वेदितव्यः । Mit. on Yāj. II.113.

of fortnight is advised for serious charges. According to Aparārka thus, the Kosā can be considered for serious or very serious charges only.⁴⁵⁴

Pit. has however recommended different spans. According to him, the calamity may befall within three, seven or ten nights or two weeks.

These spans, as it has been pointed out by the Mit. relate with the charges of lighter value, the value of a serious charge (i.e. more than 1000 Paṇas) should be divided into three kinds). The lighter charges also similarly can be divided into three kinds. The period of three, seven and ten days respectively correlates with the three kinds of the lighter charges.⁴⁵⁵

It is rather interesting to compare the relative positions of the Kosā and the water ordeal. Though both the ordeals have distinct forms of their own, knowingly or unknowingly the writers have tried to connect the two ordeals.

454. अत्र दिनसंख्याल्पत्वमहत्त्वे आभियोगविषयस्याल्पत्वमहत्त्वानुसारेण वेदितव्ये ।
तत्रात्यन्तमहाभियोगे । त्रिसप्ताहो महाभियोगमात्रे तु चतुर्दशाह इत्यादि-कल्प्यम् ।
Aparārka on Yāj. II. 113.

455. अवध्यन्तराणि त्रिंशत्तमनोक्तानि अल्पाविषयाणि.. महाभियोगोक्तद्रव्याद-
र्वाचीनं द्रव्यं त्रिंशत् विभज्य । त्रिरात्राद्यपि पक्षत्रयं व्यवस्थापनीयम् ।
Mit. on Yāj. II. 113.

We have seen that every ordeal has its main deity besides Dharma - the General presiding deity of all the ordeals. It is interesting to see that later writers recommend the same Mantras that are used in the water ordeal for the Kosā also. Both the ordeals have thus one main deity, i.e. the lord of waters, though Kosā is essentially different in form it is thus brought together with the water ordeal. Śukranīti has tried to bring these ordeals under one head. In cases of trial by water in certain tribes we find a fusion of two methods.

...ooOoo...

T A N D U L A - D I V Y A

(The Rice Ordeal)

.....

The nine ordeals discussed in the Dh.works are generally divided into two groups i.e. Dhatādīni (The Balance and others) and Tandulādīni (The Tandula and others).⁴⁵⁶ Obviously, we find that the Balance and others represent the original five ordeals, while Tandula etc. are the later additions. The Tandula thus comes first in the second list of the ordeals. These ordeals are used for minor charges.

According to Pit., the Dhata etc. are used in the cases of Avaṣṭambha, while Tandula and Kosa are utilised in the cases of Sankā. At another place, Pit. points out that Tandula should be used only in the cases of theft, and not in any other case.⁴⁵⁷ Explaining this, SC, VP point out that, this need not be taken literally. In fact, Tandula is to be used in general in all the cases relating with money and not only in case of theft as it is mentioned here. This can be concluded from the remarks of Kāt. according to which all the ordeals in general could be used in the cases like the resumption of gift. So the real case where the Tandula is restricted is that of adultery.⁴⁵⁸ This explanation given by the Digests is really intended for removing

456. Vide f.n.50 above.

457. Pit., 4, 129.

458. अन्धास्मिन् स्त्रीसंग्रहणाय धननिवादे इत्यर्थः । धननिवादे तु चौर्यदिन्यत्रापि तण्डुला देयाः 'तदर्थं धर्मस्य तण्डुलाः' इति कात्यायनोक्तं बाल् । न च तद्वचनं चौर्यनिषेधमेवास्त्विति वाच्यम्, 'दत्तस्यापह्नो यत्र' इत्युपक्रमनिरोधाय तैः ।

apparent contradiction between various Smṛti texts and making them consistent. It is however interesting that we actually get two instances of this ordeal recorded in inscriptions. The trials took place in 1241 and 1275 A.D. In the first, payment of some money was in question and the second was a boundary case.⁴⁵⁹ These instances thus support the explanation given by the commentators and the digest writers. It will however be seen that the Tanḍula was particularly meant for the cases of theft. According to Pit. however, the Tanḍula is meant for theft in general while for minor thefts, the Taptamāṣa is recommended. As per tribal information available the Tanḍula ordeal is particularly found used for the cases of theft.

According to Kāt. the Tanḍula should not be used for the person suffering from the diseases of mouth, and the person who has taken a vow i.e. the vow of not eating rice as it is explained by Vyavahāracintāmaṇi.⁴⁶⁰

No special rules regarding the time and place of administering the Tanḍula ordeal are mentioned. The ordeal was thus available in all the seasons. According to SC, the procedure of the Tanḍula ordeal continues for two days.⁴⁶¹ From the procedure of the ordeal described in the Smṛtis, the digest conclude that the Tanḍula ordeal must be performed in the temple of Sun.⁴⁶²

459. S.N.Sen : Administrative system of Marathas.p.575.

460. Kāt.424. च.वातिनं तपुःउभक्षमवतवन्तम् । Vyavahāracintāmaṇi quoted by
461. अत्र प्रयोगो ब्रह्मकाशः । SC p. 276 DKP459

462. श्रायः प्राङ्मनाकः सूर्यस्थाने धनविहनादि होमं कृत्वा... VPP.215.
... भक्षणं च सोपनासेन सूर्यस्त्रियमध्ये कर्तव्यम् ।... VPP 216.

PROCEDURENARADA

I will now tell the procedure recommended for eating rice. The rice should be given in cases of theft and none else, it has been decided so. Having purified himself (the worshipper of God Sun) should make white (i.e. unhusk) the grains of Sali rice and of no other corn. He should immerse them in the water in which the God is bathed, and should keep them in an earthen pot before God Sun for the night. Having divided the grains in three parts, the worshipper of the God should personally give them in early morning when it is (almost) night, to the accused person who has taken bath and observed fast and is facing east, after informing him of his duties in this test of the truth and the untruth and should ask him to eat and spit on an Asvattha or a Bhurja leaf, if the former is not available. If blood is traced or the teeth found decaying or limbs trembling, he is declared guilty.⁴⁶³

BRHASPATI

Having observed fast, the purified one should eat the grains of rice in a temple of Sun. He is pure if he ejects white saliva, but if it is mixed with blood he is guilty.⁴⁶⁴

KATYAYANA

After eating the grains of rice that are immersed in the water in which the deity is bathed, if the person ejects pure saliva, he is pure, otherwise guilty.⁴⁶⁵

463. Nār., 337-342.

464. Br., 24.

465. Kāt., 453.

PITAMĀHA

Grains of Sālī and not of any other corn must be unhusked. The pure one (The Prādvivāka) should keep these grains of rice before (the image of) god Sun, immersed in the water of the bath of Sun for the whole night. He should then perform on that night all the general rites (of the ordeal) such as invoking Dharma according to the recommended procedure.

In the morning, (the Prādvivāka) should give the rice grains in three parts to the accused person who has taken bath and observed fast and is facing east. Having made him eat this grains, he should be asked to spit on a Pipal or a Bhūrja leaf if the former is not available. If the grains are not chewed properly or are found mixed with blood or if his saliva is not pure, he should be considered as ~~guilt~~ guilty.⁴⁶⁶

KAUMĀRIKĀKHANDA

According to Kkh the Tandula should be addressed by the following Mantra. Oh Tandula! you are given (for eating) by the knowers of Dharma for testing (the truth) of the human beings. You are praised for Truthfulness. Be worthy of protecting this person according to Dharma.⁴⁶⁷

We thus find following points important in the procedure of the Tandula divya.

- (1) a) The grains of rice to be used.
- b) immersing them on the previous day.

466. Pit. 130-134.

467. Kkh. 44.77

- (ii) Preliminaries to be observed.
- (iii) The trial.
- (iv) Signs of the success or failure of the trial.

(1) a) The grains of rice to be used

It has been pointed out by every writer that only the grains of *Sali* should be used in the trial. The grains are first to be made white i.e. they are to be unhusked. This is essential because it will help in detecting even the slightest stain of blood if it is there.

The grains of rice are put before god Sun during the night. Obviously, it is the image of god Sun. Br. says that it must be the temple of god Sun. Later digests clearly point out that the ordeal must be conducted in Sun's temple.

b) The grains of rice are to be immersed in the water in which the god Sun is bathed. Obviously, we find here a clear influence of the *Kosa* ordeal in which the accused person is required to drink three handfuls of the water of the bath of the deity. In fact, the *Tandula* appears to be a modification of the *Kosa* ordeal. Both the *Tandula* and *Kosa* are recommended in the cases of suspicion. Chronologically, the *Tandula* comes to be recognised next after the *Kosa*. The *Kosa* is physically a very mild trial. It is therefore possible that the *Tandula* might have been developed out of the necessity of intensifying its effects. The grains of rice appear to be particularly selected for the purpose. Firstly, it would help in maintaining the divinatory significance of the trial on which the *Kosa* ordeal

itself is based, as the grains of rice are always used in worshipping gods and have a special significance in the Indian ritualism. They, thus, have a special religious sanctity. Secondly, the chewing of the hard grains of rice would be at least able to cut the gums i.e. would cause some physical hardship - and would thus intensify the trial part of the ordeal. It must however be observed that it will not be a difficult ordeal. It will work psychologically more than being physically injurious.

D.C.Sircar gives following details regarding the Tandula ordeal. The information is collected from the Asiatic Researches.

'The rice ordeal is generally applied to persons suspected of theft. Some dry rice is weighed with Śaṅgīrāma or some mantras are recited over it and the suspected persons are severally asked to chew a quantity of it. As soon as it is done, they are ordered to throw it on the pipal tree or on some Bhūrja-patra. The man from whose mouth rice comes dry or stained with blood is pronounced guilty and rest innocent.'⁴⁶⁸

If we compare the details regarding the grain of rice given here with those available in the Dh. works we find that (1) the earlier writers have not said anything regarding the quantity of rice that is used for the ordeal. Only Śukranīti makes a reference to it. according to which rice-grains of

468. D.C.Sircar : Successors of the Sātvahānas', p.363.

one Karṣa weight (=16 Māṣas) are used for the purpose. As per details given here the rice is weighed against Śāligrām and that much quantity is taken for the purpose. (ii) the procedure of immersing the rice in water of the bath of god Sun for the night is dropped. Instead, we find that the rice is consecrated and weighed against Śāligrāma. The divine intervention, the essential part of the trial is thus secured by a less elaborate and direct method. It has another advantage also. According to the Dh.description, the accused person chews wet rice which is in fact rendered soft by keeping it under water for the night. Here the accused person chewed dry rice which could be really testing.

(ii) Preliminaries to be observed :

According to Nār. we find that the preliminaries in the temple are performed by the worshipper of the God. Explaining the procedure of the Tanḍula ordeal, the Mit. points out that all the verbs used here are the causal forms. It therefore means that the Prādvivāka gets those various things done from the accused person.⁴⁶⁹ The DT observes that the causal forms also indicate that all the preliminary rites common to the other ordeals such as invoking Dharma etc. should be conducted here.⁴⁷⁰

469. क्षिरोरोपितपत्रकं तु तण्डुला भक्षयेत्वा निष्ठीवयेत् प्राद्विवोकः । भक्षयेत्प्रेते च व्यन्तात् क्वे रूपम् । Mit. on Yājñ II 143.

470. 'निष्ठीवयेत्' इति व्यन्तात्सिद्धं तुळानेरूपितं सर्वदिव्यसाधारणं च धर्मावाहनादि-हवनान्तं पूर्वविहापि कर्तव्यम् । D.T. p. 607.

(iii) The trial :

The trial part of the ordeal is the simplest possible one. The accused person should chew the given rice. According to the Dh.rules, the quantity of the grain should be chewed in three parts. According to the method described by D.C. Sircar, the accused person chewed the grains severally.

(iv) Signs of the success or the failure of the trial-

The person is considered to be guilty if (a) there is blood in the teeth. (b) if the jaw or palate is injured or bleeding (c) if the grains are not chewed properly, (d) if any of the limbs is found trembling.

We have already observed that the method operated psychologically more than being physically injurious. The signs mentioned in (c) and (d) above clearly show the psychological effects.

It must be pointed out that signs that determine the success or the failure of the trial are made consistent with the kind of grain that the person is required to chew, for, it is just possible that the hard particles of rice chewed under psychological tension may bruise and cut the gums causing them bleed. In a similar Anglo-saxon ordeal, we find that the accused person is required to eat bread and cheese consecrated. If the person swallows it, he is innocent. In case of guilt he would feel 'dry-mouthed and chocking with terror to get it down'.⁴⁷¹

Mr. A.E.Crawley, classifies the Indian Rice ordeal under 'the ordeals which depend on the influencing of the masticatory process. 'Ancient and modern Indian and Medieval Europe employed a test which depends on the influencing of the masticatory process.' In the rice ordeal, the Hindu took into his mouth some grains of rice and ejected them on a pipal leaf. If the grains were dry, his guilt was established. If they were moistened with saliva he is innocent. Previously, the rice was consecrated or charmed. The same ordeal is employed in Indonesia, he points out.⁴⁷²

The rice ordeal is a popular ordeal. It is often times found resorted to by the Indian people in general.

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472. Ibid. p.508.

T A P T A M Ā S Ā - D I V Y Ā

(Ordeal by Hot Coin)

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The Taptamāsa which happens to be the most extensively practised ordeal in India is introduced for the first time by Nār. The Taptamāsa has been created by Brahmā himself to test the auspicious and the inauspicious, he points out. He describes a short procedure of the ordeal. He has however not given any details regarding the subject or the charges for which it could be used or the rules regarding the eligibility of the person (i.e. his caste etc) undergoing the trial, or the rules regarding the time and place of conducting the trial.

According to KP, however, the Taptamāsa must be administered to a Sūdra.⁴⁷³

The Taptamāsa is often found grouped with the Tandula. Both the ordeals are introduced together by Nār. As we have seen above both the ordeals are recommended by Pit. for the disputes regarding thefts.

As the newly introduced ordeals, the Tandula and Taptamāsa were never considered to be on par with the original five ordeals. The Tandula and Taptamāsa can be ordeals alright since they declare the result immediately after the trial, but they are the inferior ordeals and therefore not included in the list of the ordeal by Balance and others, points out Mit.⁴⁷⁴

⁴⁷³. KP, 4.

⁴⁷⁴. तण्डुलानां तप्तमासस्य च समनन्तरनिर्णयानिमित्तत्वेऽपि, अल्पविषयत्वेन शङ्का-
विषयत्वेन च धरादिवैलक्षण्यात्तेष्वपाठ इति संतोष्यम् । Mit. on yāj. II. 96 .

Considered from the point of view of the seriousness of the charges valued according to the cost involved, the Taptamāsa happens to be an inferior ordeal.

PROCEDURE

NĀRADA

The purified one should immediately take some ghee in a vessel of gold, silver, iron or clay and put it on the fire. A well-decorated ring made of gold, silver, copper or iron after having been washed several times with water should be put into it. When it goes down round the whirls (of the boiling ghee) and is thus very terrifying to touch, he (i.e. the purified one, the Prādvivāka) should consecrate that ghee with this Mantra. Oh Ghee! you are the most pious nector in the sacrificial acts. Burn this person in front of you if he is sinful (i.e. guilty) otherwise be as cold as ice if he is pure. While examining the test, if his finger is found uninjured when touched, or if there are no boils on it, he is pure, otherwise not. (i.e. not guilty).⁴⁷⁵

BRHASPATI

Having invoked the truth, (the accused person) should take out, giving up fear, the heated piece from the well-heated oil and ghee by his thumb and fingers.⁴⁷⁶

PITĀMAHA

Now, I shall tell the unfaulty (śubha) method of taking out the heated coin. A round vessel of iron, copper or clay-

475. Nār. 343-348.

476, Br.25.

four Angulas deep and 16 Angulas wide (in diameter) - must be duly prepared. It must be filled in with 20 Palas of ghee and oil. A golden piece must be placed in it when it is properly heated. (The accused) person should take out the golden piece by his thumb and finger.

He who does not shake his forehead or does not get any boil, or he whose finger does not blister happens to be pure according to Dharma.

There is an optional method :

The purified one should heat the ghee of cow's milk in a vessel made of gold, silver, copper, iron or clay. A well-cleansed ring made of gold, silver, copper or iron, washed once with water must be dropped in it. When the ghee is full of whirly ripples, when (it is so hot that) it could not be touched even by nails, it should be tested by a fresh leaf which may produce 'churu' noise (if the ghee is properly heated). (The Prādvivāka) should then consecrate the ghee with this Mantra. 'Oh Ghee! you are the most pious nector in the sacrificial acts. Oh! Purifier! you burn the sinful one and be cold as ice if he is pure!

Having observed fast and taken bath, the accused person should then come there with wet clothes on. He should be asked to take out the ring dropped in the ghee. The examiners should then examine his fore finger. If there are no boils, he is pure, otherwise, he is guilty.⁴⁷⁷

KĀLIKĀPURĀNA

The person who does not shake his forehead or he whose forehead does not get red and remains free from the burning effects such as boils etc, is pure.⁴⁷⁸

KAUMĀRIKĀKHANDA

Listen, now I will tell henceforth the procedure of the Taptamāṣa. (The Prādvivāka) should get a vessel of copper, of the size of 16 Angulas duly prepared. It must be filled in with 20 Palas of ghee and oil. A piece of gold of one Māsa weight should be thrown in the liquid when it is properly heated. The Mantra given in the fire ordeal should then be (written on a paper and) tied on the forehead of the person. (to be tried). He may lift the heated coin by means of his thumb and the finger. The person should undoubtedly be taken as pure if he is free from (the burning effect such as) boils.⁴⁷⁹

The important stages in the procedure of the Taptamāṣa are thus, (i) performing the common rites. (ii) heating of the liquid. (iii) dropping the metal piece. (iv) taking it out by the accused person. (v) signs of the success or failure of the trial.

(i) Common rites -

All the general rites common to the other ordeals such as invoking the Dharma ending upto the tying of the Śirahpatra

478. KP, 10.

479. Kkh, 44.65-68(a).

must be followed here before commencing the trial, the commentators point out.⁴⁸⁰

(ii) Heating of the Liquid -

(a) The Vessel used -

Nār. has recommended any vessel made of gold, silver, iron or clay. He does not give the required size or the shape of the vessel. Br. is also silent on the point. Pit. is more specific in this respect. It must be a round vessel made of iron or clay. This is a realistic recommendation, golden or silver vessel is not practically advisable for the purpose. According to Pit. quoted by Smṛticintāmaṇi,⁴⁸¹ it must be a round earthen vessel of 4 Aṅgulas height and must be of the size of a normal pan (Kaṭāha or Caldron). The stanzas possibly suggest the very shape of the vessel. It is pointed out in the next stanza that any other vessel can be used only if the (Kaṭāha type of vessel) recommended vessel is not available. The Kaṭāha must be made of iron or clay. As per practices of the Uçālia tribe, we find that they use the earthen caldron which is specially prepared for the purpose by ordering to a potter, and the ordeal itself is known as Tel-Kaḍāi.

(b) Liquid used :

According to Nār., ghee must be heated in the recommended vessel. The variety of ghee is however not specified. Br. recommends the use of ghee and oil. So does Pit., but he

480. अनापि धर्मावाहनाधनुसंश्चितव्यम् । Mit on Yāj. II-113

481. Pit. 143-144.

appears to suggest two options i.e. either it must be a mixture of ghee and oil or it should be pure ghee of cow's milk.

The commentators have worked on these two options. Pit. according to them suggests here two alternative methods of the trial. The two methods differ in following respects. (i) the liquid used. (ii) the piece dropped and (iii) the way in which the accused person is asked to take it out.

As regards to the liquid to be used, we find a group of writers suggesting a third alternative i.e. a mixture of ghee oil and ghee of cow's milk. This is however not acceptable according to the SC since the mixture of ghee and oil on one hand and ghee of cow's milk on the other are two clear-cut alternatives of the option (Vikalpa) described in the Smṛtis as we find in the stock example of Vṛ̥thi and Yāva which are quite independent (nirapekṣa) of each other. Reconciliation between the two alternatives therefore cannot be advised. The two options thus available are (i) a mixture of ghee and oil and (ii) ghee of cow's milk.⁴⁸²

⁴⁸²
482. एवंविधं पात्रं द्यूततैलाभ्यां गव्यद्यूतेनैव वा पूरयित्वा लौकिकमग्निं दिग्भदेशे प्रतिष्ठाप्य तत्र तापयेत् ।... केचिदत्र वा शब्दाद्यवयवात् द्यूततैलं गव्यद्यूतानां समुच्चयमिच्छन्ति । तदसत् । व्रीहियवयोरेव निरपेक्षश्रुतिबलेनैव विकल्पावगतेः । अतो विंशतिपलद्यूततैलं गव्यं वा द्यूतं पात्रे निक्षिप्य तापयेत् । पक्षद्वयेऽपि तापे वर्तमाने धर्मावाहनादिशौद्ध्याशीरःपत्राशेषणान्तं सर्वदिग्भसाधारणं विधिं विदध्यात् ।

In the days of Alberuni we find that a mixture of ghee and oil was used (vide chapter VII) but the digests round about 15th century are found discouraging this option. Pit. quoted by Smṛticintāmaṇi points out that the liquid used must be pure. The oil is considered to be pure if it, visibly enough, is not very greezy or very thick. The ghee is considered to be pure if it ^{is} thick and does not flow down in throat like the stream (of water). Pure ghee does not dry or parch the lips, palate and the throat.⁴⁸³

Summarising the procedure of the Taptamāṣa ordeal, Pratāparudradeva recommends the use of oil or ghee. During the Maratha period we find that pure ghee or oil was used for the purpose, however a mixture of the two also appears to be in vogue. From the accounts of the practices of various tribes in India we find that in most of the cases pure ghee or oil was used.

The oil or ghee used must be properly heated. The ring dropped must go down round the whirls of the boiling liquid, points out Nār. Br. says that the ghee or oil must be well heated. According to Pit., the liquid must be so heated that there should be ripples and bubbles and that it could not be touched even by nails. A fresh leaf must be dropped into it which may produce 'churu' sound if the liquid is properly heated. It is to be noted that the method of testing the heated liquid by dropping a leaf into it described in the

483. Pit.148(b) - 149(a).

Smṛtis is referred to by Alberuni also. The method was also practised during the Maratha period.

Pit. quoted by the *Smṛticintāmaṇi* gives us the signs by which we can know whether the liquid used - oil or ghee - is, properly heated or not. In the case of oil, there is a foam on the surface, which indicates that the oil is properly heated, while in the case of pure ghee, reverse is the case i.e. the foam on the surface of ghee disappears when it is heated.⁴⁸⁴

According to Pit. the piece is to be dropped when the oil is set on the fire and should be allowed to be heated along-with it - till the liquid boils properly. According to the stanzas quoted by *Smṛticintāmaṇi*, the liquid must firstly be heated to the boiling point and the piece is dropped only after the heated liquid is removed on the ground.⁴⁸⁵

(iii) Dropping the metal piece :

The piece to be dropped must be of a *Māṣa* weight. The SC points out that it must obviously be the golden *Māṣa* (*Suvarṇamāṣa*) and which is equal to 1/16th *Karṣa* (or 5 *Kṛṣṇalas*) and not the Silver *Māṣa* (*Rajatamāṣa*) which is equal to 2 *Kṛṣṇals* only which is too small to hold. The *Māṣa* here therefore must be *Suvarṇamāṣa* or *Tāmramāṣa*.⁴⁸⁶ VP also arrives at similar conclusion. According to VP the piece to be dropped must be a lump of gold or copper.

484. Pit. 148(b)-149(a).

485. Pit. 145.

486. माषकं कर्षषोडशांशप्रमाणं सुवर्णग्रहणमत्र दिक्कण्डप्रमाणकराजतमाषनिवृत्त्यर्थम् ।
तस्याल्पत्वेन दुर्ग्रहणात् । ततश्च हैमं ताम्रं वा माषकं निक्षिपेदित्यर्थः । SC p. 278.

As an option to this lump of gold or copper, the writers have also recommended the use of a ring which may be made of gold silver copper or iron. We have already referred to the two options regarding the use of liquid. When the liquid used is the mixture of ghee, and oil, the piece to be dropped must be in a lump form, but when it is pure ghee of cow's milk it should only be the ring, the writers pointed out.

Alberunis' account strictly confirms the Dh.details. A piece of gold was accordingly dropped into the boiling mixture. During the Maratha period, they used to drop an iron-piece known as Ravā and the ordeal wa-s known as the Ravādivya. In most of the tribes however we find that no metal piece is used at all. In stead of that, the accused person is asked to dip his fingers in the boiling oil. In some tribes however we find following variations. The Koravans use a four-anna piece. The Ucalias drop a stone. The Tailangana Pariyan bride is asked to pick out hot cakes from the boiling oil to prove her chastity.

Mantras to be used - The Prādvivāka should invoke the boiling ghee with the Mantra Param pavatramamrtam. etc. He should invoke the fire with the Mantra Tvamagne vedāscatvārah etc. while the accused person should invoke with the Mantra 'Tva-magne Sarvabhūtānām. The SC points out that the fire used here must be ordinary fire(Laukikah Agnih).

(iv) Taking out the Metal piece :

When a mixture of ghee and oil is used and the piece dropped in the lump form, the accused person should take it out

by his thumb and the finger. and which according to the SC should mean the thumb and two neighbouring fingers known as Tarjanī and Madhyamā.⁴⁸⁷

When it is pure ghee of cow's milk and the piece dropped is a ring, the accused person should take it out by his fore-finger only. This is clear from the fact that in this variety the judges are asked to examine only the fore-finger. of the accused person, Mit. points out.⁴⁸⁸

The word 'Uddharet' according to VN suggests that the accused person should take out the piece from the boiling liquid (and hold it on). He should not throw it out.⁴⁸⁹

(v) Signs of the success or failure of the trial -

The accused person is supposed to have undergone the ordeal successfully. if (i) he does not shake his hand (ii) if there are no boils. (iii) if the part of the hand dipped does not get red or (iv) when the fore-finger used is not blistered. In all other cases, the person is declared guilty.

Jayapatra must be offered to the person who is acquitted, while the accused must be punished.

We have seen that the Taptamāsa as introduced by Nār. happens to be an ordinary or a second-rate ordeal., but by 11th century, we find that it is getting prominence. It is considered as one of the very powerful ordeals. It is becoming

487. अङ्गुष्ठाङ्गुलियोगेन तर्जन्यङ्गुलमध्यमाणां समूहेनेत्यर्थः । SC p. 278

488. प्रदेक्षिणीं परीक्षेयुरीति वचनात् प्रदेक्षिण्यैव मुद्रिकोद्धरणम् । Mit. on Yāj. II. 113

489. 'उद्धरेत्' इति वचनात् पात्रादुद्धरणमात्रं कर्तव्यं, न वहिः प्रक्षेपमादरणीयम् । VN p. 185

more and more popular. This is evidenced through the later Dh. works as well as through the contemporary historical references.

Āpastamba has asked the king to consider thoughtfully the cases in doubt either by inference or by an ordeal. (Saṇḍeḥa līngato daiveneti vicinity, II.29.6) Explaining the Sūtra, Haradatta (11th to 13th century) explains the word Daivena as Taptamāṣādinā which means that the Taptamāṣa must be a leading ordeal in the days of the commentator.

Subodhinī (1360-1390) a commentary on the Mit. describes Taptamāṣa as a very sharp and hence a very powerful ordeal.⁴⁹⁰

Dalapatirāja (1490-1570) the author of Nṛsiṃhaprasāda describes Taptamāṣa as the famous or the most established ordeal (Prasiddhaḥ).⁴⁹¹

Thus the prominence attained by the Taptamāṣa during the course of time is clearly reflected in these works. The Taptamāṣa was a powerful ordeal. There was a growing demand for this ordeal.

Alberuni has described the ordeals in their succeeding higher order. The Taptamāṣa according to him is the second highest, first being the Agni. But ~~the~~ during the Maratha period this ordeal has succeeded the ordeal of red hot iron ball i.e. the Agni divya. In Maharashtra, this ordeal is known as

490. तप्तमाषस्य तीक्ष्णत्वेन महादिव्यत्वात्...तप्तमाषानुसारेण...Subodhinī on Mit. on Yāj II-96.

491. तत्रापि प्रसिद्धस्तप्तमाषो महायौरेयशिक्षायामेव । Nṛsiṃhaprasāda, p 74.

Ravādivya or the Mahādivya. 'The Ravādivya was in practice for about a period of 500 years from 13th to 18th century... the Agni divya or the fire ordeal was not so common or popular as the Ravā divya' - observes Dr.V.T.Gune.⁴⁹²

The customs of the various tribes of India also show that the Taptamāsa was the most widely practised and the most dominating ordeal amongst all the ordeals.

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492. V.T.Gune : 'The Judicial System of the Marathas'.p.92,p.94.

PHĀLA - DIVYA

(Ordeal by Plough-Share)

The Phāla divya, the eighth of the nine ordeals discussed in the Dh. works provided an interesting study. It is mainly developed by Br. and is definitely a later addition to the list of the recognised ordeals. According to this method, the person is required to lick a red-hot iron bar (Phāla).

The word Phāla is as old as Yāj. It must however be pointed out that though Yāj. has referred to it once in II.99 he does not give any details regarding its procedure nor does he include it in the list of the recognised ordeals given by him (II.95).

The Mit. has however identified this Phāla with the Fire ordeal described by Yāj. This can be concluded on the following grounds (i) Explaining the stanza II.99 Mit. points out that 'Phāla, Tulā and Viṣa - as also the Jala which falls in between the ordeals referred to - should not be tried for the cases below 1000 Paṇas.' It is thus clear that the ordeals mentioned in II.99 should refer to the ordeals already given in II.95, which means that Phāla of II.99 should be taken as Agni of II.95. (ii) It is interesting to note that after explaining the five ordeals given by Yāj., the Mit. has explained, in a sort of appendix, other ordeals also subsequently recognised and discussed by the later writers. These are in fact four i.e. Taṇḍula, Taptamāṣa, Phāla and Dharmādharmau,

but the Mit. discusses three out of them dropping only one i.e. the Phāla. In fact there is no reason for dropping it, particularly when Yāj. himself has referred to it. The obvious reason as why Mit. should have dropped it could possibly be that it was not considered as a distinct method, but was identified more or less with the fire ordeal. We must point out that Mit.'s this identification of Phāla with the Agni-divya has left an all-time effect on the Indian mind.

Essentially Phāla is an independent ordeal. It has a different form than that of Agni. This Phāla is developed by Br. Save a single line attributed to Pit. there is no other Smṛtikāra except Br. who has described this ordeal. The latter Dh.writers have however accepted the Br.'s Phāla as an independent method. We have seen that the SC has brought Agni, Taptamāṣa and Phāla under one head calling them as Fire ordeals, but it only shows that all the three are in general related with fire. The SC itself treats all the three ordeals as independent ordeals. But VN is more specific and clear on this point. It has made a clear distinction between the Yāj.'s Phāla and the Br.'s Phāla. The latter is obviously the main Phāla(mukhyaphāla) discussed as an independent ordeal in the Dh.works. As regards to the former one, the digest points out that it is the same as Paraśu [we have already pointed out that the Agni divya of Dharmasāstra is essentially developed from the Paraśu-divya of the Chāndogya Up. The Agni divya is thus often referred

to as the Parasú divya also] while the latter is the Mukhya Phāla which is recommended for the lighter cases.⁴⁹³

The Phāla as identified with fire ordeal was naturally used for the severe charges. Viśvarūpa and SC have referred to this view, but the Phāla (developed as an independent ordeal) is used for lighter cases. In fact, considered from the cost point of view, Phāla comes last in the list of ordeals.

According to Br. Phāla is particularly used for the lifters of Cows(Gocora)⁴⁹⁴ This, according to SC should be taken to mean the accused person in general.⁴⁹⁵ The SV reads Gocārasya for Gocorasya and points out that the Phāla is used for gocāra i.e. pharmer or a Sūdra in general. The digest supports its conclusion by quoting a statement of Gautama that Phāla should be tried for a Sūdra.⁴⁹⁶

There are no special rules regarding the time and place of conducting the Phāla ordeal. The general rules of time and place are therefore applicable to the Phāla ordeal.

493. ... याज्ञवल्क्यवचनं 'नासहस्रात्' इति । अत्र फालशब्दः परशुपरः मुख्यफालस्याह्वयार्थ-विषयत्वस्य दर्शितत्वात् । VN p. 203.

494. Br. 16.

495. चोरग्रहणं शोधयोपलक्षणार्थम् । SC p. 279.

496. अस्मिन्नेवार्थे गोचारस्य फालम् । गोचारस्य कृषीवलस्य शूद्रस्येत्यर्थः । शूद्रस्य फालं दातव्यमिति गौतमस्मरणात् । SV pp. 176-177.

PROCEDUREBRHASPATI

The Phāla is made of iron. It is 12 Palas in weight and is 8 Aṅgulas long and 4 Aṅgulas wide. The Phāla is made red-hot. The thief should lick it once with his tongue. If the accused is not burnt, he is innocent, otherwise he loses it.⁴⁹⁷

PITĀMAHA

(The accused person) desirous of licking the (red-hot) iron should be asked to do so by his tongue.⁴⁹⁸

KAUMĀRIKĀKHANDA

Oh Dhanañjaya! Listen to the procedure of the Phāla which I will now tell to you. An iron piece of 12 Palas' weight, 8 Aṅgulas' length and 4 Aṅgulas' breadth is known as Phāla. The Mantras given in the Fire ordeal should be (written and) tied on the forehead of the accused person. He should be asked to rub his tongue upto 6 Aṅgulas on the red-hot Phāla. He should be given cow's milk to drink after the trial. This is the best method of conducting the Phāla ordeal. The tongue of the person should then be examined. If it is found burnt, the person is convicted. (Lit. not to be released) but if it remains unburnt, he should be considered as innocent.⁴⁹⁹

The important stages in the procedure of the Phāla ordeal are : (i) Performing the general rites. (ii) Heating the Phāla. (iii) Licking it by tongue. (iv) Signs of the success or failure of the trial.

497. Br. 26-27

498. Pit.151.

499. Kkh.69(b)-73(a)

Digests like SC, VP etc. point out that all general rites beginning with the invoking of ṣḍ Dharma and ending upto tying of the Śirahpatra should firstly be performed.

Heating of the Phāla should be conducted in a systematic way i.e. the fire in which it is to be heated should be invoked and established properly at the place of ordeal and then Phāla should be heated in it. The Prādvivāka should address the Agni by the Mantra (Tvamagne etc.) and the accused person also should do it, with the Mantra Tvamagne Sarvabhūtānām etc. [These Mantras are given in the Chapter of the Fire ordeal].⁵⁰⁰

Kkh gives two important points as regards to the licking of the Phāla. The accused person should rub his tongue on the Phāla as long as 6 Angulas (the whole Phāla is 8 Angulas long) and should do it three times. Secondly, the person should immediately be given cow's milk for drinking.

Signs of the success or failure of the person in the trial^{are} clear enough. If the person is free from burning as such, he is innocent. He should be taken as guilty, if reverse is the case.

500. एवंविधं कालं प्रतिष्ठितेऽग्नौ प्रक्षिप्य प्राङ्निवाको धर्मविहनादिशोद्ध्याशिरःपत्रारोपणान्तं साधारणं कर्म कृत्वा 'त्वमग्ने' इत्यादिना प्रागुक्तमन्त्रेणामिमन्त्र्य शोद्धयेत् त्वमग्ने सर्वभूतानामित्यादिना प्रागुक्तमन्त्रेणामन्त्रणं कृत्वा लेहयेत् । VP p. 218

'Phāla must have originally sprouted as a local variety in the Mithilā or the North India in general, gradually getting prominent so as to catch the attention of a Smṛti-kāra like Brhaspati who hailed from that region. 'The passage Gocourasya pradātavyam Taptaphālāvalehanam' iti smṛtiriti Maithilah (Śabdakalpadrūma - 8 sv Phālam) possibly goes to show that this form of Phāla-divya was very popular in North Bihar and that Brhaspati lived not far from the Mithilā region'. observes Mr.D.C.Sircar who further adds that 'This form of ordeal appears to have been unknown in South India'⁵⁰¹

Phāla was a popular ordeal practised in many parts of the world. J.A.MacCulloch observes that the 'red-hot metal is of wide occurrence among Arabs, Hindus and Chinese'⁵⁰²

The red-hot metal ordeal referred by MacCulloch to be popular in India is obviously in its licking form. This is the Phāla-divya described by Br. no doubt, but it is not of wide occurrence in India as referred by the scholar. On the contrary we find that it is the most neglected (or discouraged) ordeal in India. Br. is quite isolated as far as its recognition is concerned. From practical point of view also it is found very rarely practised. Alberuni does not describe it. It was absent during the Maratha period. The tribal account will also show that it was never favoured by the people. It is almost a dead method in India.

501. D.C.Sircar: 'The Successors of the Satavāhanas' p.367.

502. ERE, Vol.IX.p.515.

One of the reasons for such a development of this ordeal appears to be that it may not be a genuinely Indian ordeal, or must have rather come down to India through its contacts with the people of the neighbouring countries - say Arabs and Chinese among whom the ordeal is said to be popular.

In all its history, the ordeal has never been found really rooted in the Indian soil. We have already observed that it has been recognised only by Br. It has been rejected by Mit., and though it has been included by the later writers in their digests, these writers have simply done the job of quoting Br. They have not offered or added any comment or explanation to it.

Now, it is rather interesting to see that this method is described by Yuan Chwang, the Chinese pilgrim in India, but we have to note that none of the ordeal described by him tallies with any of Indian account (Vide Ch.VII)-Foreign element in Yuan Chwang's description of the ordeals in India is quite obvious - surely not with the descriptions of the Dh.writers. It is rather conspicuous that only the licking form which is described by the Chinese pilgrim to be the (Indian) fire ordeal has got place in Br.'s writings.

Any way, Br. might have found it convenient to name this new ordeal introduced by the old traditional word Phāla, passingly used by Yāj., which could support the new method with a possible identification of it with the traditionally established method - ordeal by fire. The old word Phāla

serving as the title of the new method (Br. has in a newer context already defined what a Phāla means) thus worked both the ways - as a form, Phāla got established as an independent method, while a free scope for its continuous confusion and identification with the Phāla - the fire ordeal- was left out.

We find very rare instances of this ordeal. The example of grasping red-hot iron in the presence of God Hoyasalesvara recorded in 1309 A.D. would show that it gradually travelled in the South also, but in most of the cases we find that it has been identified with Agni and is practised in that form only. We may refer to the following instances. (i) Kittur inscription records one instance of the Phāla-divya, but from the description it is quite clear that the trial was conducted in the form of the Agni divya described by the Dh. writers.(Vide Ch.VII). (ii) Phāla divya witnessed by Mr.Ali Ibrahim Khan, 'Chief Magistrate of Banares, was also really the Agni divya of the Dh.writers(vide Ch.VII) (iii) Phāla divya described by Mr.D.C.Sircar is also the Agni-divya of the Dh.writers.⁵⁰³

503. Referring to the differences in the view of different law-givers, D.C.Sircar observes that 'one of the most glaring instances of such differences may be seen in the views of Brhaspati on the eighth form of the nine ~~of~~ divyas, namely the Phāla-divya(p.367).

It must be pointed out that Mr.Sircar has mixed here the Agni-divya and the Phāla-divya which are in fact two independent ordeals. The Phāla is exclusively developed by Br. The Digest-writers have uniformly described the Phāla as described by Br. and there is thus no difference in view amongst these writers as far as the form of the eighth method is concerned.

The description of various methods given by Mr.Sircar is taken from Ali Ibrahim Khan's article 'on the trial by ordeal among Hindus' in the Asiatic Researches(Vol.I) It must be pointed out that the Phāla-divya described here is the Agni Divya described by the Dh.writers, while the Agni-divya given by him is not recognised in Dh.works.

These instances clearly show that the Phāla-divya was completely identified with the Agni-divya. Mit's identification of the Phāla with Agni had thus an all-time effect on the Indian mind. Phāla-divya in its licking form as described by Br. was rather rarely used by the Indian people.

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DHARMAJA - DIVYA

(The ordeal of Dharma and Adharma)

Dharmaja is the last ordeal discussed in the Dh.works. It has been added to the list of the recognised ordeals by Br. and Pit. taking thus the total number of the recognised ordeals to nine.

Br. and Pit. call this ordeal as Dharmaja, so do the digest writers, while commentators like Vijnānesvara call it as the ordeal of Dharma and Adharma. Dharmaja is obviously based on the principle of lots. Similar methods are found in other civilizations also.

We have already seen that Dharma is the principal deity of the ordeals. It is possible that this Dharma is still personified in form of a method developed by counterbalancing it with Adharma. Images of Dharma and Adharma are prepared. The person is asked to take any one of them, Judging by that, which of the two-the Dharma and Adharma - shall be on his side.

According to Pit. the Dharmaja ordeal is tried in the cases of killers, the persons claiming money and the persons undergoing expiation.⁵⁰⁴ Mit. therefore points out that the ordeal is used under criminal charges, civil charges and the charges regarding the sins.⁵⁰⁵ According to SC, however, the

504. Pit., 152

505. हस्तुणामिति साहसाभियोगेषु, याचमानानामिति अर्थभियोगेषु, प्रायश्चित्ता-
- र्थिनामिति पापाभियोगेषु। Mit. on yāj II/113

Dharmaja is applicable for minor charges of violence, money claims and sins.⁵⁰⁶ Considered from the cost point of view it is an inferior ordeal, coming last but one in the list.

The Dh.writers have not mentioned any special rules regarding the time and place of this ordeal.

PROCEDURE

BRHASPATI

The Dharma and Adharma must be drawn on two leaves, the former being in white and the latter in the dark, and should be invoked by the Mantras like *Om Jivādāna* etc. and *Sāmans* like *Gāyatrī* etc. (Having invoked Dharma and Adharma), the two should then be worshipped by sandal-wood paste and white and dark flowers and be sprinkled by *Pañcagavya* (five products of cow). The two should then be enveloped in two equal earthen balls and be placed in a new earthen pot, without getting them identified. The accused person should then swiftly, take one of the balls from the pot. If he holds the Dharma he is pure and innocent and should be felicitated by the persons conducting the trial. If he holds the Adharma, he should be punished and must be expelled from the country.⁵⁰⁷

PITĀMAHA

I will now tell the ordeal of Dharma and Adharma for the king who can use them for the killers, the persons claiming money as well as those who are desirous of expiation. The

506. Br. तस्यायमर्थः । हिंसा धन प्रातकाद्यभियोगेष्वप्येष्वभिशास्तानां धर्मज्ञं दिव्यामिति ।
SC p.229.

507. Br. 28-31

Dharma must be made of silver and the Adharma of iron and lead. The Dharma and Adharma could also be drawn in white and dark respectively.— On Bhūrja leaves or the pieces of cloth. They should be sprinkled by Pañcagavya and be worshipped by offering sandal-wood paste and garlands. The Dharma must have white flowers and the Adharma, the dark. Having enveloped them in this way, they should be put in two balls. The balls should be covered by mud or cow-dung on all sides and must be placed in an unbroken earthen pot without getting them identified. (Let the pot be placed on a clean besmeared ground near gods and brahmins.

(The Prādvivāka) should then invoke the gods and the Lokapālas (the guardians of the worlds) as said before (i.e. in the procedure common to all ordeals), after having invoked Dharma before that. The letter declaring the purpose of the trial should then be written. (The accused person should then address with following Mantra : 'If I am innocent (lit. free from sins) let Dharma come to my hand, if I am impure let sin come to my hand according to (this rule of) Dharma. The accused person should then swiftly take over one of the two (balls). If he takes the Dharma, he is pure. If he takes Adharma, he loses the case. This is in short, the ordeal of Dharma and Adharma.⁵⁰⁸

The procedure of the ordeal can be divided into following stages. (i) general procedure. (ii) establishing the images

of Dharma and Adharma, and placing them in respective balls and then in the earthen pot. (iii) the trial (iv) signs of the success or failure of the trial.

(1) General rites -

As in cases of other ordeals, here also, Prādvivāka should perform all the general rites such as invocation of Dharma etc.

(ii) Establishing the images of Dharma and Adharma -

The images of Dharma and Adharma may be drawn on the pieces of cloth or may be prepared from silver, and iron or lead(or iron and lead mixed) respectively. The images must be consecrated by the Jīvadāna Mantra and Gāyatrī Sāma.

Vyavahāra-kalpataṛu points out that the Jīvadāna mantra to be recited is 'Pragāmapatho Vayam' etc.⁵⁰⁹

DT and VM point out that the images must be consecrated and duly established according to the Prānapratisthā mantras described by Sāradātilaka. The procedure of Prānapratisthā consists of consecrating the image with the Mantra 'Ām, Hrīm, Krom, Yam, Ram, Lam, Sam, Sam, Sam, Hom, Mamsah Soham', and then establishing Prāna, Jīva and all Indriyas (such as Vāk, Manas, Tvak, Cakṣu, etc) in the image with the same mantra and performing various saṃskāras.⁵¹⁰

509. जीवक्षनादिकैः 'मा प्रगामपथो वयम्' इत्यादिभिः । Vyavahāra-kalpataṛu p.254

510. DT. pp.609-610, VM 86-87.

Vide Dr.Kane : Hist.of Dh.Vol.II p.1106 f.n.1097.

If one is not able to recite the Gāyatrī sāmā, one should recite Gāyatrī with the Pranava(Om) and the Vyāhrtis (i.e. Bhūh, Bhuvah, Svah).⁵¹¹

(iii) TRIAL -

The accused person should lift any of the balls containing Dharma and Adharma.

It will appear that Pit. recommends more covering for the images so that they would not be identified easily.

(iv) Signs of the success or failure of the trial -

If the person lifts the ball containing Dharma, he is successful. He should be feliciatated. If he takes Adharma, he is unsuccessful. He should be punished and expelled from the State.

This ordeal appears in Maratha period in form of 'Gorā Canā, Kālā Canā' (ordeal of white and black gram-Vide Ch.VII).

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511. गायत्र्यादिसामाज्ञाने तु सप्रणवव्याहृतिगायत्रीमात्रं पठितव्यम्। DT. p.610.