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No. II.

*THE LAWS OF THE BABYLONIANS, AS RECORDED
IN THE CODE OF HAMMURABI.* By THEOPHILUS
G. PINCHES, Esq., LL.D., M.R.A.S.

STRANGE to say, Hammurabi's Code of Laws, that remarkable addition to our knowledge of the rights of man when the world, in the sense of the people who inhabit it, was young, was not referred to by the Assyriologists who attended the Orientalist Congress at Hamburg. In all probability they had not had time to study it in all its bearings, and had nothing very new to say about it, for Father Scheil, in his hastily-published translation of the inscription, had practically covered all the ground, and new points worth writing a paper about had to be looked for, not only in the code itself, but in the many contract-tablets which illustrate it. Indeed, the work of illustrating this new edition to our knowledge of the legal system of the Babylonians and Assyrians is only now being done, requiring, as it does, scholars specially gifted with a talent for that branch of the work.

Notwithstanding all that has been written concerning this remarkable document, it is very probable that there are comparatively few persons who have a clear idea of what it is like, and the nature of the information which it gives, with the bearing of that information upon the legal literature of the Babylonians: and it is probably on this account that the Council of the Victoria Institute expressed the desire to know something about it—a request to which I willingly accede. At the outset I must say, however, that I do not come before you as the one who is to make this remarkable, but in many respects difficult document clear and plain in every respect to all, for that would not only require that legal knowledge in which I am deficient, but much more time than I have at my disposal. My desire is, therefore, to be regarded rather as the popularizer of the contents of the code as far as it is likely to interest the majority of the members of this Institute.

The monument upon which this important inscription is engraved is about 7 feet 6 inches in height, and is made of a dark-coloured stone described as diorite. It is covered with inscription on all four sides, except where the bas-relief representing King Hammurabi before the Sungod is, and a portion which has been erased, making a considerable gap, in

which, as Professor Scheil suggests, an Elamite king, Šutruk-nahhunte, who ruled a thousand years later, intended to carve his own name, as he had done on several other monuments found at the same place. The inscription itself consists of a rather long introduction, the code of laws itself in about 280 sections, and a recital of Hammurabi's perfections and noble deeds. Naturally a text like this, with 3638 lines of writing in all, notwithstanding that these lines are short, must be of considerable value, not only for the laws of the Babylonians, but also for their legal terminology, their manners and customs, and, indirectly, for the history of their civilization. The publication issued by the French Government, and the translation accompanying it, contributed by Professor Scheil, are worthy of the highest praise.

It would be difficult here to give a complete list of the laws, which, to say the truth, are not very well classified, but among them are to be found enactments dealing with attempts to thwart the ends of justice, theft, kidnapping, fugitive slaves, housebreaking, brigandage, the hiring and letting of fields, orchards, etc., the borrowing of money, commercial travellers, female drink-sellers, deposit and distraint, marriage, adultery, inheritance, the position of female-slaves (illustrating the story of Hagar and Sarah), apprenticeship, adoption, violence (illustrating the dictum "an eye for an eye and a tooth for a tooth"), medical treatment, housebuilding, navigation and freighting, the hire of animals and men, pasturing, and the hire of boats, and other things. These and many other matters are treated of, and not only is the law laid down, but the pay, for instance, of a workman, or a physician, or the amount of hire for objects required for temporary use, etc., are indicated.

Noteworthy is the fact that the first two sections deal with the casting of spells, which, if not justified, was evidently considered a serious offence. The following are the laws referring to this:—

"If a man ban a man, and cast a spell upon him, (if) he cannot justify it, he who has banned him shall be killed."

"If a man has cast a spell upon a man, and has not justified it, he upon whom the spell has been thrown shall go to the river-god, (and) shall plunge into the river. If the river-god take him, he who banned him may seize his house. If the river-god show him to be innocent, and he be saved, he who banned him shall be killed, (and) he who plunged into the river shall seize the house of him who banned him."

There is a certain amount of difficulty about these two laws,

and to understand them well, it would be necessary to have a more precise definition of the technical terms used. Professor Scheil states that they relate to witchcraft in the first and the second degree, the first referring to an anathema, the second to sorcery of the ordinary kind. This is probably correct, but it is still needful to know under what circumstances such banns or spells were cast, and what constituted justification. In all probability such things were done with the hope of preventing an opponent or rival from doing something to the disadvantage of the person banning—perhaps, at least in the first instance, to thwart the ends of justice. That this is probable, may be surmised from the two laws which immediately follow:—

“If, in a judgment, a man seek to discredit the witnesses, and has not justified the word he has spoken—if that judgment be a judgment of life (and death), that man shall be killed.”

“If he has offered wheat or silver (*i.e.*, money) to the witnesses, he shall bear the wrong of that judgment.”

“If a judge has given a judgment, has decided a decision, (and) has delivered a sealed tablet (referring thereto), (and) then afterwards has changed his judgment, that judge, for the judgment he has judged and changed, they shall summon, and the claim which was in that judgment he shall repay twelve-fold. And they shall make him rise up in the assembly from the seat of his judgeship, and he shall not return, and he shall not sit with the judges in judgment.”

Though enacted with the best of intentions, there is but little doubt that this was an unfortunate law, for in face of the penalty and disgrace attending it, few judges would be found who would reverse a decision once given. There is but little doubt that it was intended to lessen continuous litigation, to which the Babylonians seem to have been very inclined. Perhaps it simply means, that an appeal could not be heard before the judge who had given the decision, but had to be taken to another, and perhaps higher, court. That these three laws concerning the integrity of justice are among the first of the code, shows in what estimation absolutely just decisions were held, and suggest that the two preceding enactments, which head the code, probably had something to do with thwarting the ends of justice also, or with superseding it by the appeal to supernatural or demoniacal agencies.

The laws which follow have to do with theft. Stealing or receiving things stolen from a temple or a palace was punishable with death, and the same penalty attended the purchase or receipt on deposit of things from another man's son or servant,

which was also deemed theft. On the other hand, the stealing of such a thing as an ox, a sheep, an ass, a pig, or a ship (boat), either from a temple or from a palace, was attended by the penalty of thirtyfold restitution, unless the thief was a poor man, in which case he refunded tenfold only. If, however, he had not the wherewithal to pay, he was to be put to death.

The drastic nature of some of the enactments is well illustrated by the laws referring to the purchase of lost property, one of which states that if the owner of the object lost (*bél hulkim*) be unable to bring witnesses who recognize that object, he is a liar (or something of the kind),—he had stirred up deceit, and was to be put to death. In these and similar cases the intention apparently was to discourage the bringing of actions at law.

Further instances of severity, however, occur in the enactments dealing with the female drink-sellers, which, from their nature, are of more than ordinary interest, and point to the giving of credit extensively for the drink which they supplied. Indeed, from this and other inscriptions one gets the idea that the Babylonians were dreadful winebibbers:—

“If a wine-woman has not accepted grain as the price of drink, (but) has accepted silver by the great stone (probably the $\frac{1}{2}$ mana, the ‘little stone’ being $\frac{1}{3}$ mana), and has set the tariff of the drink below the tariff of the grain, they shall summon that wine-woman, and throw her into the water.”

In all probability every wine-woman took care to know how to swim.

“If a wine-woman, (when) riotous fellows are collected at her house, does not seize them and take them to the palace, that wine-woman shall be killed.”

Ladies of high degree, especially if they had anything to do with a temple, had to be careful of their conduct:—

“If a devotee, who dwells not in the cloister, open a wine-house, or enter a wine-house for drink, that female they shall burn.”

The wants of the thirsty field-labourers were carefully safeguarded:—

“If a wine-woman has given 60 qa of second (?) quality drink, for thirst, she shall take 50 qa of corn at harvest-time.”

But in all probability my audience will be most interested in the enactments which illustrate the Mosaic code, especially those of “an eye for an eye, and a tooth for a tooth.” In the space of a short paper, such as this must necessarily be, I am unable to treat of this branch of the subject fully, but the

points upon which I am able to touch will be found, I think, to be of interest both from the Biblical and other points of view.

Simple restitution was very justly exacted in kind—goods for goods, an ox for an ox, an ass for an ass, a slave for a slave. For cheating, for the loss of another's goods by carelessness, for theft, etc., the compensation varied from threefold to thirtyfold. Their system differed from ours in that they did not resort to the punishment of imprisonment to any great extent; the punishment was either restitution with proportionate and exceedingly heavy damages, or death.

Injury to the person, however, could not be made good. A member of the body could not be replaced, so that the punishment which seemed to the Babylonians, as to the Hebrews and other nations of antiquity, to be just, was that of making the evil-doer like the person upon whom he had inflicted the injury. But it was not only eye for eye, tooth for tooth, limb for limb, but also son for son, and slave for slave; for a man's son once departed this life, could never be restored to him; a substitute would not supply the loss, and the same, in a lesser degree, could be said for his slave, who was not always one purchased for money or corn, but born, or at least brought up, in his house, and therefore knowing his master's ways, and the special routine of his household, and probably also having a corner in his heart.

The following are the principal of the laws relating to retaliation:—

Šumma awēlum in nār awēlim uhtabbīt, in-šu uḥappadu.

“If a man has destroyed the eye of the son of a man, they shall destroy *his* eye.”

Šumma nerpaddu awēlim ištebir, nerpaddu-šu išebbirru.

“If he has broken the limb of a man, they shall break his limb.”

Šumma in muškini uhtabbīt, ū lu nerpaddu muškini ištebir, ištīn mana kaspi išagal.

“If he has destroyed the eye of a poor man, or broken the limb of a poor man, he shall pay 1 mana of silver.”

Šumma in arad awēlim uhtabbīt, ū lu nerpaddu arad awēlim ištebir, mišil šimi-šu išagal.

“If he has destroyed the eye of the servant of a man, or broken the limb of the servant of a man, he shall pay half his price.”

Šumma awēlum šinni awēlim meḥri-šu ittadi, šinna-šu inaddū.

“If a man has made the tooth of a man who is his peer to fall out, they shall make his tooth fall out.”

Šumma šinni muškini ittadi, šuššan mana kaspi išagal.

“If he has made the tooth of a poor man to fall out, he shall pay $\frac{1}{3}$ of a mana of silver.”

Here follow the laws concerning the breaking of the head of a superior, an equal, and a poorer man, the respective penalties being 60 blows with a whip, a mana of silver, and 10 shekels of silver. If the culprit was a slave, his ear was cut off.

Unintentional injuries inflicted in a quarrel entailed responsibility for the doctor's bill, or, if the person died of those injuries, the payment of half a mana of silver in the case of a free man and one-third in the case of a poor man, as compensation.

For the death of another man's daughter, the daughter of the aggressor was killed, unless the father of the slain woman was of inferior rank, in which a money penalty was provided.

It is after this part that the very interesting enactments concerning physicians, their pay when successful, and the penalties to which they were liable in case of non-success, are inserted:—

Šumma azu awēlam zimmam kabtam ina GIR-NI siparri ipuš-ma awēlam ubtallit u lu nagabti awēlim ina GIR-NI siparri iptē-ma in awēlim ubtallit, ēšrit šigli kaspi iliki.

“If a physician has treated a man for a severe wound with a bronze lancet, and has cured the man, or has opened the cataract of the man's eye with a bronze lancet, and has cured the eye of the man, he shall receive ten shekels of silver.”

“If he be a poor man, he shall receive 5 shekels.”

“If he be a man's slave, the master of the slave shall give two shekels of silver to the physician.”

Šumma azu awēlam zimmam kabtam ina GIR-NI siparri ipuš-ma awēlam uštamit u lu nagabti awēlim ina GIR-NI siparri iptē-ma in awēlim uhtabbit, rittē-šu inakizu.

“If a physician has treated a man for a severe wound with a bronze lancet, and has caused the man to die, or has opened the cataract of a man with a bronze lancet, and has destroyed the eye of the man, they shall cut off his hands.”

“If a physician has treated the slave of a poor man for a grave wound with a bronze lancet, and caused him to die, a slave like the slave he shall return to him.”

“If he has opened his cataract with a bronze lancet, and has destroyed his eye, he shall pay half his value in silver.”

Summa azu nerpaddu awēlim šebirtum uštālim, u lu šer hanam marsam ubtallit, bēl šimmim ana azu hamšet šigli kaspi inaddin.

"If a physician has made whole the broken limb of a man, or has cured a diseased bowel, the patient shall give to the physician five shekels of silver."

"If he be a poor man, he shall give 3 shekels of silver."

"If he be the slave of a man, the master of the slave shall give to the physician 2 shekels of silver."

These are followed by the rules for veterinary surgeons and surgeon-barbers.

Naturally there is a considerable amount of doubt as to the exact nature of the surgical operations referred to, especially that in connection with the curing of the eye. Both Professor Scheil and the Rev. C. H. W. Johns translate the word *zimmu* or *šimmu* (the latter is the correct form) as "wound," and in this I have followed them, but it seems to me, that the translation "operation"—"If a physician has performed a severe operation on a man"—is also worthy of consideration. I take this word to be quite distinct from *simmu* (with D), "malady," especially of the eye, on account of the differing sibilant. Be this, however, as it may, there is another still more important word, namely, *nagabtu* (as transcribed by Scheil), which he renders "taie," or "cataract," but which Mr. Johns translates by "abscess."

As to which is the right rendering, I do not express an opinion; to the lay mind one seems as good as the other. The question naturally arises, and can be best settled by medical men, namely, "Do abscesses commonly affect the eye?" For it to be the subject of a legal enactment, it must naturally be a fairly common disease, and dangerous to the sight. In the important tablets published in the 2nd edition of the *Cuneiform Inscriptions of Western Asia*, vol. iv, plate 29*, and "Additions and Corrections," pp. 7 and 8, which refer to remedies, including incantations, for diseases of the eye, *nagabtu* does not occur, though the ordinary word, *nagbu*, written both ideographically and spelled out in full, seems to be there. To all appearance we have in these inscriptions the most valuable data for deciding whether the disease of cataract was treated, and also what its name was. *Nagbu* or *naqbu* means "water-channel," "spring," also "mountain-torrent," and could, therefore, easily stand for "cataract," a meaning which the longer form *nagabtu* or *naqabtu* might also have. In this case, likewise, the question might be asked, whether the etymology suggested leads us in the right path.

From the medical point of view, however, a certain amount of information is available and may serve to indicate the true meaning. I learn from Dr. Emmeline Da Cunha that abscesses in the eye-ball are exceedingly rare, so that it is extremely improbable that laws would be made in which they were specially mentioned; and that it would be quite useless, moreover, to operate upon such abscesses with a lancet.* On the other hand, operations for cataract by native practitioners are common in the East, at least in India, and some of these men, who are mere quacks, simply push, by means of their instruments (a kind of spatula) the crystalline lens into the vitreous humour. The patient is then able to see, but loss of sight results in consequence of the lens not being completely removed, and it was probably to prevent such criminally unskilful treatment that the laws here referred to were made.

In the Mosaic law, it was enacted, that "if men strive together," and anyone get hurt, "then thou shalt give life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burning for burning, wound for wound, stripe for stripe," and though all these things are not mentioned here, there can be but little doubt that the intention of the Babylonian code was, that the principle should apply to all the cases of injury possible. It is not likely that they drew the line at the life, the eye, and the tooth of a man, or the breaking of his bones. The two codes may in this be regarded as in perfect agreement.

But not only are the enactments of the Laws of Moses illustrated, but we find, both in the interesting code which I am now briefly describing and in the legal documents of the period to which it belongs, noteworthy parallels to circumstances referred to in other parts of the Bible. Of special interest in this connection is the case of the giving of Hagar by Sarai to Abraham because Sarai had no children. Several tablets referring to the marriage of more than one wife by a man occur among the inscriptions of Babylonia, the most interesting of them being those referring to the two wives of Arad-Šamaš, and the conditions attending the marriage of the inferior wife. Another case is that of Šamaš-nūri, daughter of Ibi-Šân, who was brought by Bunini-âbi and Bêlisunu, his wife, from her father, "as a wife for Bunini-âbi, as a servant for

* The only operative treatment would be the removal of the eye-ball.

Bêlisunu." The price paid was 5 shekels of silver. In this inscription provision is only made for the eventuality that Šamaš-nûri might deny her mistress, in which case her hair was to be shaved off, and she was to be sold. Hagar, however, was apparently lower in station even than the woman referred to on this tablet, and was driven out with her son to perish for much less, apparently, than merely denying her mistress.

Naturally it seems strange that any woman should give to her husband, as in the case of Abraham and the man mentioned in this inscription, another wife, who was bound to be her rival. The desire that her husband should have children to perpetuate his name does not altogether explain it, and the adoption of an orphan-child, or the child of a poor man or a widow with little or no property, would have overcome the disadvantage of childlessness sufficiently well—at least, that would seem to be the case, and would certainly be the lesser evil of the two to the wife. It is here, however, that the code of Hammurabi is again of value, as the following enactment shows:—

Šumma awêlum aššata iħuz-ma aššatu šî amta ana muti-ša iddin-ma mârê uštabši, awêlum šû ana šugetim aħazim pani-šu ištakan, awêlam šuati ûl imaggaru-šu—šûgetim ûl iħħaz.

"If a man has taken a wife, and that wife has given a handmaid to her husband, and she has had children, (if) that man set his face to take a concubine, they shall not allow that man (to do so), he shall not take a concubine."

According to this, a childless woman gave another wife to her husband to prevent him from going himself and taking a concubine. The matter is therefore explained—a wife preferred to choose herself the woman who was to replace her, and she chose one who would be subordinate to her, not one who might become a really serious rival. Now that we know all the circumstances, the matter is more explicable to the European mind, and the Biblical narrative likewise gains, though we wish that both Sarai and Abraham had treated Hagar more considerately.

According to Pfarrer J. Jeremias, there are no less than twenty-four enactments in which the Laws of Hammurabi exhibit certain, or almost certain, analogies with the Book of the Covenant, in which sometimes the one, sometimes the other, seems to be the more primitive and rude. For all these, however, I have not at present time. My intention was to give simply a short description of the code, leaving the comparisons for some future communication. The examination of over 280 legal enactments is not to be compressed within the

compass of one short paper—not even the most important of them.

But besides the laws, there is the monument itself. It is a splendid example of Babylonian stone-work, and the relief showing the king before the sun-god is especially fine. The surface of the stone, which is described as diorite, has suffered in places, where it may be supposed that the material was a little soft, and has therefore been affected by the weather, but except where the Elamite king has erased a portion of the text to inscribe his own name—which, however, for some reason he failed to do—it is practically in the condition in which it was when it left the sculptor's hands. Besides the laws, the introduction and concluding peroration are worthy of attention. The former refers to the various gods and temples of Babylonia, and in this inscription it would seem that Ilu, God as the Lord of the world and the creator of all things, which Professor Scheil has boldly reproduced by the west-Semitic El—it will be remembered that Hammurabi belonged to a foreign dynasty, notwithstanding that he is regarded as having been a Babylonian—was probably really the god whom he worshipped, and this circumstance may prove to be of importance in the history of the religions of the Semitic East. In this introduction he not only speaks of all the principal cities of Babylonia: Babylon, Dur-ilu, Ur (of the Chaldees), Sippar, Erech, Nisin or Isin, Harsag-kalama, Cuthah, Borsippa, Dilmu (Dailem), Lagaš, Girsu, Hallabi, Muru, Adab, Malkā, Mera, Tulul, and Agadé, with their gods and their temples, but he also refers to the two principal cities of Assyria, namely, Aušar or Aššur, and Ninua (Nineveh). That Aušar or Aššur existed and was an important place at the time his dynasty reigned, we know from the tablets of the period to which that dynasty belonged, and which are now in the British Museum; but this is probably the earliest mention of Ninua (Nineveh) in Assyria, which is to be distinguished from Nina, near Kinunir, in Babylonia.

At the end he describes how he had made his people, with the help of the gods, dwell in security, and the long reference which he makes to the temple Ê-sagila at Babylon, the great temple of Belus, leads to the suggestion that the monument was carved to adorn the courtyard or some other prominent place in the grounds of that edifice. If this be the case, it is probable that the conjecture that the monument was carried off from Babylonia by some Elamite ruler, probably Šutruk-nabḥunte, is correct. For us it is a fortunate circumstance that it has been so well preserved—had it remained on the site

where it was first placed, injury or destruction at the hands of Sennacherib and his ruthless soldiers might have deprived posterity of one of the finest and most remarkable monuments which have come down to us of that great empire within whose centre the germs of civilization, if they did not have their birth there, were at least fostered, and encouraged to grow into that healthy tree which now overshadows the earth.

The knowledge of Hammurabi's code of laws was not confined to Babylonia. Though we did not know it, fragments of a copy of it have been in the British Museum for from twenty to fifty-five years, and notwithstanding that one of the fragments bore the colophon stating that it was the "Laws of Hammurabi"—*Dināni Hammurabi*—it was not recognized, and is even described in the Catalogue as a "Legend" of that king. This, however, shows that other copies of the document existed at Babylon, from which these Assyrian transcripts were made. It must have served, as many of the contract-tablets show, as the basis of the law of both countries for many hundred years, and if ever superseded—which is uncertain—must have formed the basis of any further enactments which were made.

DISCUSSION.

The SECRETARY (Professor HULL, M.A., etc.).—Mr. Chairman, ladies and gentlemen, I wish, on behalf of the Council, to express our deep gratitude to Dr. Pinches for the production of these two papers, but especially for the latter. He had promised, some time ago, to give us an account of the proceedings at the Congress of Orientalists, which he has done; but when this wonderful and interesting monument of ancient Babylonian art and history was found and became recognized and described in the *Times* and various other papers, the Council thought that some account of it from such an eminent Assyriologist as Dr. Pinches, would be very acceptable to the Institute. So he very kindly agreed to somewhat curtail the first paper in order to give time for the second, and I am sure we all feel deeply grateful to him for what he has brought forward this evening, and the paper gains special interest from the fact—as stated by Dr. Pinches himself—that the Babylonian king is the

Amraphel, King of Shinar, in Genesis, 14th chapter, and contemporary with Abraham.

The CHAIRMAN.—Perhaps Dr. Chaplin would tell us something about diseases of the eye, as that subject has been referred to.

Dr. CHAPLIN.—I am afraid I cannot say much about diseases of the eye in ancient Babylon, but judging from analogy I should say that diseases of the eye in that part of the world were and are very much the same as the diseases of the eye in Egypt and Assyria, where these diseases, owing to various circumstances, are much more frequent than they are in more temperate climates.

I was much interested in what was said in the paper about operations on the eye. I remember a quite common Persian came down to Jerusalem when I was living there—a man who had no pretence to education or position in society—but his business was to operate for cataract, and with very inferior instruments and inferior knowledge of the anatomy of the eye, he would very often perform successful operations.

Sir HENRY HOWORTH, D.C.L., F.R.S.—Mr. Chairman, ladies and gentlemen, I have no right to intervene at all, because my knowledge is not first-hand, as it ought to be in discussing a paper of this importance. I came here to-day for more than one reason. I am a trustee of the British Museum, and as trustee of that great establishment I am never tired of rehearsing the claim to our gratitude which we owe to my good friend who read these papers, and whose admirable work as an Assyriologist—not merely his cuteness, but his efforts and discoveries, are only matched by those of Professor Sayce in this realm. I am delighted that he is so active, and I hope he will go on with his activity until he is as old as Methuselah.

I remember how good an account he gave of what took place at the Congress. I have taken off my hat more than once in front of this great monolith of Hammurabi, and there it stands, it seems to me, a royal monument in stone with the inscriptions of Augustus, who was especially honoured all through the eastern world. Now the portrait of this wonderful king, the beautiful portrait of this very king, is on a large plate of clay or stone—I think a clay monument—at the British Museum, and it is drawn in bas-relief with all the precision of a beautiful cameo. There he is with his lovely beard, and it is so beautifully finished that I think you ought all to go and look at it. Now that this particular king has become so

famous, we must also remember as instancing the fact that he and his dynasty have nothing to do with Babylonia, that they belong to the same race that gave this early dynasty to the South Arabian District, that on the inscriptions were found the names of two members of the same dynasty exactly as they appear now on this inscription, so we have come to call this the South Arabian dynasty. Some people have been troubled (I do not know why) to find that a large number of enactments and laws which related to the civil status of the Jews, should have been found existing amongst the neighbours of the Jews at this very early date. Surely nothing could be more natural. You cannot, by any process under heaven, impose a great code of laws by a jump. Such codes are all the result of a long process of preparation, and they cannot go very far ahead of the moral standard of the people whom they affect. If they do, they fall in abeyance. They represent a long period of growth, a gradual development which we call the ethics of jurisprudence, and it is very natural that we should find that a large number of those enactments should relate to people so closely connected with the Jews. Vaghtler has published a beautiful edition of the text and translations, and a German pastor has published, within the last fortnight, an admirable monograph of the whole code, in which he takes the line I am trying to argue, and it is of great interest to us all to find that these laws, about which questions of all kinds have been raised, should have been proved to be the Laws of Western Semites in their growth and progress.

There is one point upon which I am inclined to differ from my friend. This enormous monolith, when I saw it in Paris, seemed to be a very difficult stone for even the Elamite king to carry across the country and up to the mountains of Susa. No doubt Cush was actually once a province of the empire of Hammurabi, and there were perpetual fights in those provinces. I have written many papers on the struggles of these people, and I believe when Hammurabi formed his great empire, extending into the countries of the west and into Palestine, that he also conquered and appropriated the kingdom which was afterwards the seat of the empire of the Elamite Kings, but which during his time was part of his empire, and that this monolith was simply planted in one of the cities of his empire and formed a portion of his own legal enactments, and that it is not a question of the removal of the stone.

It seems to me that nothing can well be more interesting than the description given by the author of this monument. In the British Museum we have by far the largest number of monuments relating to this king. A huge find was made of gods fabled and sacred for the British Museum, and they are being rapidly published. The subject is one that suggests every sort of idea, and I can only say in common with, I am sure, every one in this room, that we are very grateful to my good friend for the admirable account he has given.

Mr. MARTIN ROUSE.—A great deal has been made of this subject in the columns of the *Times*, for instance, as though the Code of Moses were based on it. Sir Henry Howorth says it is not to be wondered at that they should contain many points of similarity. But I beg, with all deference, to dissent from his conclusion that the law of Moses is to be regarded as having been developed from these other codes. No doubt all that existed and was practically good, was left unchanged, but in the review that was given in the *Times*, there are a number of features that are claimed to show a likeness, but which show a very distinct difference between the codes. For instance, it is possible that if an ox gored a man to death, and it was not known beforehand that the ox was spiteful, there was to be no compensation by the Code of Hammurabi. With greater justice the Scripture says the ox shall be slain, and his flesh shall not be eaten; that is to say, a dangerous animal was not to be allowed to exist, and the owner was to suffer the loss of the ox, whereas according to the Babylonian Law there was no provision of the kind.

Again, when men are striving one with another, and one wounds the other, the Code of Hammurabi simply says the doctor's bill is to be paid. The Bible adds that the offender shall pay for the loss of time for the one that suffered the injury. Again we see the Mosaic Law is the more just. We are told in the account that Dr. Pinches gave, that many of the thieves were punished with a thirty-fold penalty. There is nothing of the kind in Scripture, five-fold I think is the highest that is paid, and no distinction is made whether the theft is from a common man or from a palace. Again, is there anything like the cruelty and injustice of burning a woman who takes to the trade of a wine merchant, because she happens to be of high rank? Or again, of drowning a woman (which was not

mentioned to-day), or being divorced from her husband (this was quoted from the *Times* review), she might be drowned at the pleasure of her husband. On these points one can but condemn such codes. There is nothing of the kind in the Mosaic Law. Those ordeals do not exist. Again, Dr. Pinches showed that the laws of Hammurabi shed light on the custom of taking a second wife when the first wife was childless, and that a man might, if he chose, divorce his wife if she bore him no child. Certainly this was not laid down in the Law of Moses. Again, on behalf of the Bible story of Hagar, I would say in reply to Dr. Pinches that Abraham did not drive out Hagar to perish, or with any thought that she would perish, any more than when he made the attempt to sacrifice Isaac, for we read in the Old Testament he believed that he would be raised from the dead, and if we did not read it, God had already promised that through Isaac all nations should be blessed, and therefore, of course, he believed Isaac would be raised from the dead; and those who declaim on the nature of human sacrifice utterly shut their eyes to the plain teaching of Scripture. Hagar was not driven out to perish, for it had distinctly been told Abraham that Ishmael would become a great nation. There is, therefore, a very striking difference between the account that we have of Hammurabi, and that given in the pages of the Bible of the Code of Moses. Perhaps Dr. Pinches can supply the hiatus.

Rev. S. STEPHAN (who was not audible from where he spoke) was understood to say, in referring to the treatment of diseases in the East, that in most parts of Assyria the cure of certain diseases was almost entirely left to women. They gained the confidence of the people. They treated those diseases with compounds of which they kept the secret. In the case of disease of the eye they put the patient on the ground, with his head turned towards them, and held the head fast while they applied their compounds, which generally caused tremendous pain. He was brought once to undergo that treatment, but the pain was so great that he only allowed it to be applied to one eye.

Rev. JOHN TUCKWELL.—I should like to say a few words on this paper, which has so many points of interest upon which one might speak for a long time. What has struck me, however, is that the old idea that writing and civilization and legal enactments and legislation for nations, of a somewhat advanced character, are

comparatively modern, is completely destroyed. I do not think that even the most eminent Assyriologist would dispute that. It is thought that decisions were served out by the Judges by mere precedent. Now it is evident the Code of Hammurabi shows something considerably more in advance of that and, as Sir Henry Howorth well said, it indicates a long period of civilization before this code could have been drawn up. I think the temerity of that form of criticism which desires to show that all Mosaic legislation is so modern is completely knocked on the head. It ought to be remembered that Abraham's nationality was Babylonian. He was a wealthy and cultivated man, no doubt, and would hand on to succeeding generations all the enlightenment he possessed, and when Moses came to legislate for the children of Israel, as I take it, we may go back to the belief, notwithstanding criticism to the contrary, that he wrote the Pentateuch. When, therefore, we find Moses legislating, it is natural that he should incorporate the most enlightened and advanced views of national government that he could obtain from any source whatever, whether from experience or divine revelation. I confess I am surprised that anyone should think that this code does, in the slightest degree, affect the stability of any portion of Holy Scripture. In the New Testament, where you find our Lord referring to some of these enactments, He does not say that they were the enactments of Moses especially. It will be in the recollection of those who are familiar with the New Testament, as I hope we all are, that our Lord uses the words:—"It has been said by those of old time" (Matt. v, 21 *et seq.*), and that phrase occurs over and over again in the course of His Sermon on the Mount. So He does not commit us or Himself, or the legislation, especially to Moses—that enactment, for instance, "An eye for an eye and a tooth for a tooth." I think, therefore, the conclusion we may come to is one of satisfaction, that enables us more fully to understand that Bible that has been the light and comfort of our parents and grandparents before and I suppose is the joy of many of our hearts to-day. (Applause.)

The SECRETARY.—I hold in my hand the very paper that Mr. Tuckwell has referred to by Dr. Pinches entitled "Hammurabi's Code of Laws," printed from the *Proceedings of the Society of Biblical Archaeology*, November, 1902, showing that he was the first in the field.

I have also a communication from Professor Orchard on the subject of this evening, which I will read.

Professor ORCHARD.—The Laws of Hammurabi are undoubtedly remarkable, and bear testimony to a mind of commanding genius. They furnish yet another rebuke to the many rebukes which modern science has been administering to the foolish theory which depicts early man as a developing savage. These laws cannot, however, be seriously put upon anything like the same high level with the divine enactments in the Pentateuch. Hammurabi's laws are, in fact, unequal and unjust both in regard to *persons* and in regard to *offences*. A fatal injury done to a girl is punishable, if she is a *gentleman's* daughter, by the death of the delinquent's daughter; but if the injury be done to a *poor man's* daughter, the punishment is merely a fine of half a mina of silver. Anyone injuring a gentleman is to receive a like injury himself, but a simple fine is considered adequate compensation if the person who has been injured is poor. What can be thought of the justice (?) which visits with death such offences as theft, threatening witnesses, or harbouring a runaway slave? What a contrast to the careful graduation of punishment to offence, and the impartial equity, the non-respect of persons, which characterize the Laws of the Pentateuch.

Dr. PINCHES, in reply, said: I will not detain you very long. It is needless to say that I am much obliged to all who have so kindly commented on my papers, and not least, I can assure you, to my very good and learned friend, Sir Henry Howorth; in fact, I look upon him as one of the leading spirits, as it were, of the science of Assyriology in England. He is one who has probably taken more interest in it than anyone else, and I do not regard him as a layman at all. He makes a serious study of these subjects, and what he says I listen to with great respect, for it is always worth noting.

Referring to that matter, I am ready to admit the probability that Hammurabi did carry the monument to Elam itself and set it up at Susa. The indications on the monument itself may be misleading. In this case, as in many others, we must not place too much credence and reliance on what may be deduced from the inscriptions.

What Mr. Rouse says is also very interesting; but I do not think it necessary to refer to everything he said in detail. The code of Hammurabi, with regard to the ferocious bull of which he speaks, reminds me of what used to be regarded as a kind of dictum or law,

or legal practice, that "Every dog had his first bite free." You could not punish the owner of an animal who did not know that the animal was of a ferocious nature, and of course to destroy that animal seems to me to be a little hard on the possessor, especially when the animal was of value, like an ox, or some creature on his farm. As for those women who were burned alive for going into a wine-house, the enactment applied to devotees of the gods and those living in a cloister (for such it would seem to be), and applies to women who had performed a rite of purification or a religious ceremony carried out with that object. Though the punishment was dreadfully severe, yet perhaps it was hardly worse than the doings of the Middle Ages, when, for simply thinking otherwise than as his judges thought, a man was burned at the stake. It is true, as Mr. Rouse said, the enactments were uncharitable, and I believe there are none of the nature of those charitable ones of the Mosaic Code. I do not know that there is anything charitable by enactment in our English Code. I do not know with what eye that would be looked upon by a judge.

The SECRETARY.—There is the gleaning of corn.

Dr. PINCHES.—That is a custom, but not legalized I think.

It is needless to say that I listened with much pleasure to the remarks of my friend Mr. Stephan. There was a conflict between Hammurabi and the Elamites for many years, and it is very likely that at that time Hammurabi obtained possession of portions of the country and set up his monument there. That is a point, however, into which I will look and will add a note to my paper if necessary. He says eye diseases are not prevalent, except inflammation, and that was cured by means of herbs. That is a very important point. The diseases of the eye mentioned in the Code of Hammurabi were cured by means of the lancet. There is hardly any doubt, I think, of that. The word is composed of two characters, the Semitic pronunciation I do not know, but the first is the character *gir*, which means a short sword or dagger, and could only stand for *lancet*, or some instrument used for surgical purposes. Cataract may not have been so serious in ancient times, and it may be that it was more frequent in Babylonia than in Assyria. That is a point on which I know nothing, but upon which probably Mr. Stephan knows something—I mean whether cataract is more prevalent in Babylonia than in his native place.

I am much obliged to Mr. Tuckwell also for his kind remarks. I wish I had time to work out all the inscriptions that come to my hands. There are so many of them, but I hope to do a great deal of work in the near future. Like art, study is long and time is short. I think with him that the Bible—the Old Testament—has nothing to fear from the Code of Hammurabi. I do not myself think that it can be proved, by any means, that the Laws of Moses were derived from Babylonia. Every country would naturally have its own code of laws, and that they should borrow from one another is conceivable and quite natural. That has been done constantly. Every country has laws that seem to the legislature of that country to be most suitable for it, and so with Assyria, the Holy Land, and the nations around.

A vote of thanks to the author having been carried, the meeting adjourned.