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BRETHA CRÓLIGE

THIS interesting legal tract, which is here edited for the first time, has been preserved in No. 10297 of the Phillipps MSS., recently acquired by the National Library of Ireland. The bulk of this manuscript,¹ which was mainly written by Donnchadh Ua Bolgaidhi in the years 1468-74, consists of late translations of Latin medical works. But the last seventeen pages (439-56), though written in the same hand, contain legal material. The latter begins with the text cited as O 1, p. 80 f. *infra*, followed by a lengthy commentary similar to that printed in AL iii. 470. 18-484. 3. Pages 441-51 contain our tract, and the remainder of the manuscript (with the exception of the last six lines on p. 456) is occupied by *Bretha Dēin Chēcht*, another important legal tract which I hope to publish in a future number of ÉRIU.

It is curious that a manuscript which obviously belonged to one of the medical schools, and most of which is written in early modern Irish, should contain two legal texts, both of them of considerable antiquity and full of technical terms which must have been puzzling to a scribe 'unlearned in the law'. In general the Irish lawyers kept their wisdom to themselves and their class, and most of the surviving legal material comes to us from the law schools. True, the subject-matter of these two texts, the one dealing mainly with *othrus*, the other with the leech's share in the composition for bodily injury, were of professional interest to physicians. But their presence in a late medical collection is none the less surprising. Whatever be the explanation, we must be grateful to the scribe for having given us a remarkably good copy of two works of Irish law which would otherwise (except for a few fragments to be mentioned presently) have perished completely.

There can be little doubt that *Bretha Crólige* formed part of the great collection of Irish customary law known as the *Senchas Már*, the compilation of which is placed by Thurneysen (ZCP 16, 186) in the first half of the eighth century. The text (apart

¹ See the account given by R. I. Best in the Appendix to the Report of the Council of Trustees of the National Library of Ireland, 1930-1 (p. 17 f.).

from minor scribal errors) contains no forms which point to a later date, and the language closely resembles that of the accepted tracts of the *Senchas*.¹ Indeed, if Thurneysen's reconstruction of the latter (ZCP 16, 172 ff.; 18, 356 ff.) is correct, *Bretha Crölige* may be the only survivor of the last 'third' of the collection. The title is found in the list of important legal tracts published (from H. 3. 17, col. 656f.) in ZCP 18, 363, § 21, and there are several quotations from the text in O'Davoren's glossary, as may be seen from the notes at the end of this edition. Fragments of the text and a number of the commentaries are found in other legal manuscripts: I have given all the parallel passages which I have been able to discover in the notes to the relevant sections. Most of them are quite fragmentary and disjointed:² only one manuscript has a consecutive series of quotations from the tract, showing that the scribe had a copy of the complete text before him. This is RIA 23 Q 6 (written in O'Davoren's law school), where pp. 42b-47b (C 1800-30) deal with *othrus* in general, beginning (like our manuscript) with paragraph O 1 (p. 80 *infra*), and giving several citations from the text of *Bretha Crölige* (as well as a few from *Bretha Dein Chēcht*) with the appropriate glosses. A comparison of the order of these citations with that of the present text would seem to show that the scribe was working on a differently arranged recension (unless, indeed, his selections were made at random). His excerpts appear in the following order: §§ 18, 17, 12, 14, 41, 7, 11, 60, 59, 61²⁰, 22, 27, 50, 46, 24, 37, 61, 29, 38, 39.

In editing the manuscript I have used italics to mark the expansion of all suspensions and contractions (including the *m* and *n* strokes), but I have silently expanded all the ordinary symbols except in the case of inflected forms. Among the scribe's idiosyncrasies is his constant omission to aspirate *t*: I have not inserted *h* except where *t* is followed by a suspension, as in the passive sg. of verbs. In general I have made no attempt to normalize the spelling, but letters or syllables required by the sense are added in square brackets. Superfluous letters and

¹ O'Dav. 926 prefaces a quotation from § 54 with: *amail adeir senchas*.

² The source is mentioned in H 3. 18, pp. 167-8 (C 305-6): *Beim beg do breathaib crolighi annso*. The passage consists entirely of extracts from commentaries (§§ 41¹¹, 46¹², 61²⁵, 25¹²).

words, on the other hand, are enclosed in round brackets. In the text the point is the only punctuation used: a full stop is placed only where this occurs, but commas, colons, and semi-colons are added where required by the sense. In the glosses I punctuate according to the sense.¹ Suggested emendations are given in footnotes, but readings from other manuscripts are relegated to the notes at the end of the edition.

The tract deals mainly with *othrus*, and in the article which follows this edition I endeavour to summarize the law on this subject, using the present text as the basis of my researches. Other matters of legal interest, such as those contained in §§ 38-40, 57, &c., are discussed in the notes, where textual and grammatical difficulties are also dealt with and alternative translations of doubtful passages suggested. In citing unpublished legal material I give the reference to the transcripts of O'Donovan (O'D) and Curry (C), which are more accessible to students than the original manuscripts. The latter, however, have been invariably consulted, and all citations are copied directly from them, mistakes made by the transcribers (there are several in C 1800-30) being silently corrected.

Thanks mainly to the invaluable researches of Thurneysen² (to which my indebtedness is shown by the constant references to them in the notes), our knowledge of the legal language now rests on a much firmer basis than formerly. My translation has, accordingly, benefited by the researches of greater scholars who have been labouring before me in this most difficult field of Irish studies.³ Notwithstanding this advantage, I am painfully aware that I have left many problems unsolved, and that my suggested solutions of others are at best doubtful. In particular my translation of the text of the last seven sections must be regarded as purely tentative.

¹ For the sake of uniformity I have thought it better to omit the accents which the scribe occasionally inserts.

² In addition to his articles in ZCP, I refer frequently to the three larger works published by him in the *Abhandlungen der Berliner Akademie der Wissenschaften*: *Cóic Conara Fugill* (CCF), 1926; *Die Bürgschaft im Irischen Recht* (Bürgschaft), 1928; *Irishes Recht* (Ir. Recht), 1931.

³ I must not omit to mention the late Dr. Charles Plummer in this connexion. His admirable articles on Irish law in ÉRIU 8-10, and the manuscript glossary compiled by him (now deposited in the Royal Irish Academy) have been of the greatest assistance.

It only remains for me to thank those friends who have so generously helped a novice in this field of scholarship. I have already mentioned the great assistance which I have derived from Professor Thurneysen's published work, but this represents only a fraction of my debt to him. He has revised my edition and translation, corrected numerous errors, suggested several important emendations, and placed his unique knowledge of Irish law unreservedly at my disposal. Indeed, except for his lavish help, I should hardly have attempted any translation of the obscure sections which conclude the text. Practically everything of value which the present work contains may be ascribed to him. On the rare occasions where (at my peril) I venture to dissent from his suggestions, the latter are given in the notes. I have to thank Dr. Best for photographs of the manuscript and much helpful information about the edition. To Dr. Bergin, my teacher, I dedicate this work in grateful recognition, not merely of the assistance which he has given in regard to it, but also of the many hours which he has so generously sacrificed to initiating me into the mysteries of Old and Middle Irish.

BRETHA CRÓLIGE

TEXT

(*MS. p. 441.*) § 1. Bretha Crolige¹

Cis lir rosuidiged crolige² la fene? co direnaiter?³ co eirenaiter?⁴ co otruidter?⁵ direnar crolige mbais caich fo miad.⁶

¹ .i. breithemnus so berair do neoch iarna timarcad i llige chro. ² .i. cia ler no cia lin dia rosuidiged lige cro? ³ .i. imin corpdire. ⁴ .i. imin eneclann. ⁵ .i. imin logh othrusa. ⁶ eirnidhter inni uil do chach fa uaislecthaidh i crolige bais d'fertain air .i. ocus do bas 7 ni hinbreite for folach notrusa.

§ 2. Da secht cumal crolighe cach rig 7 cach epscuip cona comgradaibh. Secht cumala 7 leth croligi cac airec aird 7 caich bes airdi, cechtar de in da airech forgill is taire. inunn¹ otha airig nard conig airig tuisi.² .vii. cumala crolige cach airech tuisi 7 cech airech desa³ corige boairig. Teora cumala crolighi cach boairech 7 cach ocairech. Di cumail crolige cach flescaig 7 cach mogo.

¹ .i. .vii. cumala 7 leth. ² .i. airec echta 7 airech ard 7 airech coisring. ³ .i. arna gradaibh flattha.

§ 3. Comdire a ben fri cach recht hi mesaib croligi¹ di cach lanamain dligthig.² lethdire croligi cach lanamnasa dligtig di cac lanamnas indligtig³

¹ .i. cumtair leth inneich is dir do cac fir dia mnai iarna timargudh i lighe chro ² .i. in primhbhen. ³ .i. leth inneich is dir do gac æn bis co dlightec isin lanamnus iarna timargud i lighi cro do gach æn bis co hindlightec isin lanamnus. leth i mbia dho ina primnai do bheith do ina chartaigh.

§ 4. Comdire¹ cac deoradh de fri ri[g]² 7 espoc. .vii. ngraid ecalsa olcena direnaidhter hi comdiriu fri grada fene³ acht inni tormaig pennuid di diriu grad necalsa⁴

TRANSLATION

§ 1. Judgements on Blood-lyings¹

What number of blood-lyings have been fixed² in Irish law? How are *dire*³ and *wergild*⁴ paid for them? How are they nursed?⁵

Dire is paid for the mortal blood-lying of every one according to his rank.⁶

¹ This is the judgement which is given in favour of a person after he has been forced into blood-lying. ² What is the sea,^a or what is the number, for which blood-lying has been fixed? ³ as regards the body-fine. ⁴ as regards the honour-price. ⁵ as regards the nursing fee. ⁶ There is paid that which is due to each according to his high station for inflicting a mortal blood-lying upon him; [when] death is nigh unto him and he is not to be brought away on sick-maintenance.

§ 2. Twice seven *cumals* are [the penalty for] the blood-lying of every king and every bishop and their equals in rank; once and a half seven *cumals* for the blood-lying of every *aire ard* and every one of higher rank, [viz.] each of the two lower [classes of] *aire forgill*: the same amount¹ from an *aire ard* down to an *aire tūise*.² Seven *cumals* are [the penalty for] the blood-lying of every *aire tūise* and every *aire desa* down to a *bōaire*.³ Three *cumals* are [the penalty for] the blood-lying of every *bōaire* and every *ōaire*. Two *cumals* are [the penalty for] the blood-lying of every *flescach* and every slave.

¹ once and a half seven *cumals*. ² an *aire ēchta* and an *a. ard* and an *a. coisring*. ³ for the noble grades.

§ 3. In the assessments of blood-lying his wife has equal *dire* with each class [of husband]¹ in the case of every lawful couple.² Half the *dire* for blood-lying due to every lawful union [is payable] to every unlawful union.³

¹ Half of what is due to every man is fixed for his wife after she has been forced into blood-lying. ² the chief wife. ³ Half of what is due to every one who is lawfully in union after he has been forced into blood-lying [is payable] to every one who is unlawfully in union. Half of what is due to him for his chief wife is due to him for his paramour.

§ 4. Every 'exile of God' has equal *dire*¹ with king² and bishop. The remainder of the seven grades of the church are paid in equal *dire* with the [corresponding] lay grades³ save in so far as 'penance' increases the *dire* of the church grades.⁴

^a 'etymological' gloss.

¹ .i. comeneclann. ² .i. cenmotha in pennait. ³ .i. na .vii. ngraid ealsa uili cena—.i. cenmota espoc—eirnith^{er} cutrumus enecclainni doibh risna grada Feine—7 feine o [F]enius—amal a comgraidh isin tuaith. ⁴ .i. acht inni tormaides pennait imarcraidh don gradh ealsa maille [ri] heneclainn .i. diablað do neimtibh.

§ 5. Comdire cach fri aroile i nnos chana,¹ itir ri[g] 7 amrig, itir saor² 7 dær,³ itir lobur⁴ 7 tren.⁵ IMta samlaid dono it comdire hi lebruib⁶ acht inni tormaíd pennuit do dire graíd ealsa.⁷ Ar is a fenechus⁸ rosuidiged dire lethard⁹ (*p.* 442) do gradaib tuaithe¹⁰ i mmessaib crolige.¹¹

¹ .i. comheneclann cach dibh fri ceile a hurdracugud na riagla do reir arsata .i. im corpdiri 7 um enecclainn .i. eclais 7 tuath. ² .i. gradh flatha. ³ .i. gradh Fene. ⁴ .i. o eclais. ⁵ .i. o thuaithe. ⁶ .i. is comheneclann iad a leabraib in leidinn .i. do reir arsata sin. ⁷ acht ani tormaides pennuit dona gradaib ealsa .i. don eclais sech in tuaith. ⁸ .i. i ssenchus .i. ni i lleabraib ni hi cain. ⁹ ar robí in bith i cutrumus co^a tainic sencus mor. ¹⁰ in enecclainn 7 in logh othrusa. ¹¹ iarna mesemhnugud i lligi cro.

§ 6. Rosuidiged tra for smachtrud dingbail¹ cach cro otrais² 7 cach mic altrama.³ lethdire cro otrusa gac fir dia mnai⁴

¹ .i. rosamaided tra in smachtrud raiter muna dingbaith^{er} inti^b timaircther i ligi cro i notrus. ² .i. fri aid .i. bes inbrithi i notrus. ³ .i. iar ndialtre .i. donither ann d'altrum. ⁴ .i. leth inneich is dir do gac fir arna timarcad i ligi cro i notrus is ed ata dia primnai; no letheiric otrusa cro gac fir di[a] mnai.

§ 7. Cach cro nuibe¹ no nuidenais² iar mbaitius direnar hi comdire co cenn .vii. mbliadnae fri grada ealsa³ co nderlat a ngradh maice.⁴

Otha suidiu⁵ direnaiter a incaib a natar⁶ no a incaibh caich nodeail⁷ co cenn .vii. mbliadnae .x.; iar suidiu a gradaib fene direnaiter⁸ 7 asa ndirib fein.

¹ .i. in mac. ² .i. inn inghen. ³ .i. eirnidther comeneclann doibh risna grada bis isin eclais .i. risin liactreoir. ⁴ .i. co ro-derb-laiter a ngrada glana dibh a cinn .vii. mbliadna. ⁵ .i. otha sin amach .i. na .vii. mbliadna. ⁶ .i. ernither enecclann doibh a dualgus a nathar no

^a something deleted before co.

^b something deleted before inti.

¹ equal honour-price. ² apart from the 'penance' [in addition].
³ All the other seven church grades—apart from a bishop—are paid equal honour-price with the lay grades—and *Fēne* comes from *Fēnius*—like their equals in rank among the laity. ⁴ save what 'penance' adds in excess to the churchman together with honour-price: double for sacred persons.

§ 5. Each person has equal *dire* with another in *cāin* regulation¹—both king and subject, free² and servile,³ weak⁴ and strong.⁵ Moreover in like manner they have equal *dire* in the books [of Canon law?],⁶ apart from what penance adds to the *dire* of a church grade.⁷ For it is in the native law⁸ that unequal *dire*⁹ has been established for the lay grades¹⁰ in the assessments of blood-lyings.¹¹

¹ equal honour-price for each with another in the publication of the rules according to the ancients, as regards body-fine and honour-price, viz. church and laity. ² a member of the noble grades. ³ a member of the freemen grades. ⁴ from the church. ⁵ from the laity. ⁶ They have equal honour-price in the books of learning, that is according to the ancients. ⁷ save what penance adds to the church grades, viz. to the church over and above the laity. ⁸ in the *Senchas*—not in the books and not in *cāin*. ⁹ For the world was in equality until the *Senchas Már* came. ¹⁰ as regards honour-price and nursing fee. ¹¹ after they have been estimated in a lying of blood.

§ 6. Moreover there has been laid down under pain of penalties the bringing away¹ of every [person who has received a] wound which entitles him to nursing² and of every boy in fosterage.³ Half the *dire* for the nursing wound of every man [is due] to his wife.⁴

¹ The penalties which are [here] declared have been established if he who is forced into a blood-lying is not brought away to be nursed. ² ... which is fit to be brought [away] on sick-maintenance. ³ after the conclusion of fosterage. . . . ⁴ Half of what is due to each man on sick-maintenance after he has been forced into blood-lying is due to his chief wife; or half the penalty for the nursing wound of every man [is due] to his wife.

§ 7. Every wound of sanctity¹ or infancy² after baptism is paid for by equal *dire* with the church grades³ up to the end of seven years until they [the children] have put off their status of childhood.⁴

From that on⁵ they are paid *dire* according to the honour of their father⁶ or of any person who is fostering them⁷ up to the conclusion of seventeen years; after that they are paid *dire* according to [that given to] the freemen grades and according to their own deserts.⁸

¹ the boy. ² the girl. ³ There is paid to them equal honour-price with the grades which are in the church, i.e. with the lector. ⁴ until their pure grades have been definitely put^a from them at the conclusion of

^a 'etymological' gloss.

a senathar no co rogabat fein tochus. ⁷ .i. roail. ⁸ .i. ernith^{er} dona feinib fo aicned a ngraidh tochusa 7 freagrad do beth tochusa acu fein sin.

§ 8. Ata triar hi tuaith is, la fine a nothrus; ¹ ni tuille fiachu na otrus ceni fulustar nach ae: ² omhnach esconn, ³ tecla lige, ⁴ sirechtach tuile. ^{5, 6}

= Dar, 1474

¹ .i. is 'ca fine fein tall bid for othrus. ² .i. noca nairilltnighinn feich ann .i. smacht metha gi(a)n co ructhar iad for folach notrus[a]. ³ .i. int eschodnac omhnach. ⁴ .i. in duine sirg. Doloris alicuius absque vulneracione. ⁵ .i. duine nac ruidenn^a a nimill lepta. ⁶ .i. fer rogradac cum a toili ni fhetann can comrac re mnai do ghnath.

§ 9. Ata lanamuin i tuaith dlegtai a notrus ¹ 7 a mbiatad ² do tairiug cach tratha, ³ nach friu fofechar ⁴ sech is ecen a folag for othrus. ⁵

¹ .i. a nimfulung. ² .i. i^b mbiad. ³ .i. a mbreith la cach fer berair for othrus. ⁴ .i. nocha riu donither an fuachtain .i. in liaig 7 a bean, no a mathair 7 a mac cichi. ⁵ seichim conid eigin a nimfulung for folach notrusa cid thall cidh amuigh.

§ 10. Cac fuil tra folongar la Fēne i nothrad ¹ digaib di diriu fiach a nothrusa. ²

¹ .i. gac fer tra fora ferthar fuil imfuilngther e for folach notrusa. ² .i. diberthar e imna fiachu robiad do cen a breith ar folach o bertar e ar folach nothrusa .i. acht corpdiri 7 eneclann.

§ 11. Cach fuil na dingabar for folag la Fēne di neoch nodeale ^{1, 2} direnar triun dire neich frisa fuachur ³

¹ .i. liaig rofocaiill a leiges 7 marbh e(e) 7 dalintar da ap[th]aib 7 croligibh. ² .i. is dligthech do breith for othrus amach in grad so. ³ ernither trian eneclainni inneich risa ndentar an fuachtain arin cetoidhchi 7 bo do smacht meth[a] treda in croligi bais .i. trian loigi a henech 7 fiach a crecht-naidhthi la sodhain.

§ 12. Atat da fer dec hi tuaith arrosuille cain otrusa; ^{1, 2} cia forruastur friu is focruic focrenaither dia finib techtaib, ³ ni

^a read ruibenn?

^b read a.

seven years. ⁵ from that on, viz. the seven years. ⁶ Honour-price is paid to them in right of their father or their grandfather until they themselves acquire property. ⁷ who has fostered. ⁸ The Fēni are paid according to the nature of their rank as to property, and that results from their having property themselves.

§ 8. There are three persons in the territory whose nursing devolves on their kin; ¹ none of them has a claim to fines or nursing [fee] though he be not maintained [by the injurer]: ² a timid dotard, ³ a *tecla lige* [bedridden person?], ⁴ a lustful longer (?). ^{5, 6}

¹ It is at home with their kin they are on sick-maintenance. ² He is not entitled to fines, viz. the penalty for omission [to provide nursing], though they have not been brought away on sick-maintenance. ³ the timid dotard. ⁴ the withered person *doloris alicuius absque vulneratione*. ⁵ a person who cannot stay in the edge of his bed (?). ⁶ a man over-fond of his desire—he has to cohabit constantly with a woman.

§ 9. There is a couple in the territory who are entitled to their nursing ¹ and to have their refection ² provided for them daily: ³ although injury be not committed against them, ⁴ still they have to be supported on sick-maintenance. ⁵

¹ their maintenance. ² their food. ³ They have to be brought along with every man who is brought away on maintenance. ⁴ Not against them is the injury committed—the leech and his wife, or the mother and her child at the breast. ⁵ I say ^a that they have to be supported on sick-maintenance, whether at home or away.

§ 10. In Irish law, then, every wound [the victim of which] is supported on sick-maintenance ¹ diminishes the *díre* [payable for it] by the expense of the nursing of it. ²

¹ Every man, then, on whom a wound is inflicted is supported on sick-maintenance. ² He is diminished as to the debts which would have been due to him had he not been brought away on sick-maintenance, once he is brought away on sick-maintenance, except wergild and honour-price.

§ 11. Every wound which is entitled thereto ² and is not brought away on maintenance ¹ is atoned for by one-third [extra] of the *díre* [honour-price] of the person who is injured. ³

¹ A leech has declared that he is curable, and [nevertheless] he died, and 'addition is made to deaths (?) and blood-lyings'. ² A person of this rank may be lawfully carried away on sick-maintenance. ³ One-third of the honour-price of the person against whom the injury is committed is paid for the first night, and a cow as penalty for the threefold default in regard to a mortal blood-lying: one-third of his honour-price and the fine for wounding him in addition.

§ 12. There are twelve men in the territory whom the rule of nursing excludes: ^{1, 2} though they have been injured, it is a fee that is paid to their appropriate kin, ³ [and] they are not

^a 'etymological' gloss.

dingbail dingbuid^{ther} dibh: ⁴ Ri 7 espu(i)c, briugu 7 deorad de ernidter ferta, ⁵ huibelteo(a)ir, ⁶ age rechta dilgetha, ⁷ file, aidne, brithem, ⁸ mer, ⁹ druth ^a, ¹⁰ dasachtagh. ¹¹ Ar is dicoimed cac econn 7 cach dasachtac. ¹² is dieit æs tuillema dar esi naigne 7 filed 7 brithemon; ¹³ ni fuilngiter taurrana ¹⁴ 7 tascuir ¹⁵ ri[g] 7 espuic 7 briuga(i)d. can ^b toagar deora[d] de dogni firta? ¹⁶ Ni alet ¹⁷ na daine so acht log a notrusa ¹⁸ a fir (*p.* 443) aicnid ¹⁹ 7 screptra ²⁰ 7 chuibhsi. ²¹

¹ .i. isin tuaith is urchuilte do breith for folach nothrusa .i. o tigibh fein.
² .i. Esceptaigi uithir na daine so: a nuaisli 7 a necodnaigi fodera can a mbreith for folach nothrusa. ³ .i. is de[g]crec logidechta ernither da finib dligteca im logh a nothrusa; no is a luad di eiric doberar doib coa fine techta anund (.i. for folach notrusa). ^c ⁴ .i. dona ^d finibh amach, for folach nothrusa. ⁵ .i. eirnid seic ferta do denumh .i. trena irnaighthi. ⁶ .i. mac oigi co crabud di[a] tuaith fein. ⁷ .i. int og-ae aca mbi dirgidetu dilgeda, in fer leiginn .i. sai chanoine. ⁸ .i. int ollum.
⁹ .i. gen rath. ¹⁰ .i. co rath de. ¹¹ .i. fo tabarr in dlai fulla. ¹² .i. is docair do coimet cidh be de. ¹³ .i. is doagbala lucht tuillim edala tara neisi .i. is annsa a fetachtain .i. fogaba comtuillem friu. ¹⁴ .i. nocha nimfuilngter a doforrana, a landamh leis amach fo cetoir. ¹⁵ .i. na daescair tecuid da thig tall dar eisi .i. a comgraidh for aididecht cuicce. ¹⁶ .i. can a fedtar in deora[d] de domi firta no mirbuili tar eis in deora[id] de? ¹⁷ .i. ni dlegaid. ¹⁸ .i. doib conuigi a teach. ¹⁹ .i. na fer firen. ²⁰ .i. ind fir leighinn. ²¹ .i. innracais.

§ 13. Cach otrus olcenai ¹ folongar ² la Fēne do cac nondlig

¹ .i. in cach cena bis i notrus cenmotha in da grad .x. so. ² .i. im-fuilngther a mbreth for folach nothrusa.

§ 14. Ni tualuing bretemnacht la Fēne for otrus nat fiastar tri bæglā otrusa. ¹

¹ .i. tri hernaili ima mbaodhlaighther inti domi in otrus .i. baoghal can a dingbail fo cetoir munob cunntabartac bais, 7 bædhal a dingbhail riasa .ix. masa cunntabartac bais, 7 bægal cen a dingbail iarsin .ix., cidh cunntabartac bais cin cob ed, acht munar focaill sai legha comad marb e. no bægal cen biadh 7 can liaigh 7 can fir mama modh.

^a MS. druith with punctum delens under i. ^b MS. cain with punctum delens over i. ^c omit. ^d read oa.

carried away [to be nursed]:⁴ king and bishop, hospitaller and 'exile of God' whose miracles are granted (?),⁵ an *aíbellteoir* [a thaumaturge],⁶ a 'pillar' of the law of forgiveness,⁷ a poet, an advocate, a judge,⁸ an idiot,⁹ a fool,¹⁰ a lunatic.¹¹ For impossible to guard is every unreasoning person and every lunatic;¹² impossible to obtain are people of their earning [powers] in place of advocate and poet and judge;¹³ the excursions (?)¹⁴ and arrivals¹⁵ of king and bishop and hospitaller are not supportable; [and] whence is to be procured an 'exile of God' who works miracles?¹⁶ These persons are only entitled¹⁷ to the fee for their nursing¹⁸ according to the justice of nature,¹⁹ scripture,²⁰ and conscience.²¹

¹ in the territory who are debarred from being brought on sick-maintenance from their own houses. ² These people are the exceptions to [the law of] nursing: their high rank and their want of reason [respectively] are the grounds for their not being brought on sick-maintenance. ³ It is a good purchase^a of value that is paid to their lawful kin as the price of their nursing; or it is their worth in wergild which is given over for them to their proper kin. ⁴ away from their kin on sick-maintenance.

⁵ He . . . to perform miracles through his prayers. ⁶ a virgin youth of pious life of his own territory. ⁷ the perfect one^a with whom is the rule of forgiveness, the man of [Latin] learning, a sage of Canon law. ⁸ the chief judge. ⁹ without grace. ¹⁰ with the grace of God. ¹¹ about whom is put the magic wisp. ¹² It is difficult to control either of them.

¹³ Difficult to get are people to earn their wages in place of them; i.e. it is difficult to get him who would get equal earnings with them. ¹⁴ His evil oppressions^a are not [to be] borne, his full retinue accompanying him away at once. ¹⁵ the rabble^a who come to his house afterwards, his equals in rank on a visit to him (§ 62). ¹⁶ Whence is brought the 'exile of God' who performs miracles or wonders instead of the [injured] 'exile of God'?

¹⁷ They have no right. ¹⁸ [to be brought] to their house to them. ¹⁹ of the just men. ²⁰ of the man of learning. ²¹ of honesty.

§ 13. In every other case the nursing of every person¹ who is entitled thereto is borne² according to Irish law.

¹ every one else who is on sick-maintenance apart from these twelve grades [aforementioned]. ² Their removal on sick-maintenance is effected.

§ 14. He who knows not the three errors of nursing¹ is in Irish law incapable of passing judgement on nursing.

¹ three things in regard to which he who performs the nursing is imperilled; viz. it is an error not to have him [the injured party] removed immediately if he is in no danger of death; and it is an error to have him removed before the ninth day if he is in danger of death; and it is an error not to have him removed after the ninth day, whether he is in danger of death or not, unless a skilled leech has stated that he would die. Or it is an error [to leave him] without food and leech and substitute.

^a 'etymological' gloss.

§ 15. Annsom i notrus¹ la *Fēne* folach fir frisna fuachur,² folach for fer nad fuic.^{3, 4}

¹ .i. is dona neicibh is doilgi *umin* otrus. ² .i. imfulung an fir risan^a dernad an fuachtain, in liaig. ³ .i. fer taurgaire druith .i. in codnac toriachtha, no aighi fine forsa teilgther .i. eneclann diabul (?) do inn. ⁴ .i. IS bægal mina dingbaither ria .ix. o oclus liaigh conidh inbreithi for otrus, 7 is bægal aili mina dingbaither iar .ix. o oclus liaig is infuluing, 7 is trian eneclainne forsin mbidbaid a cehtar in da bægal so; 7 is bægal don fir nodmbeir ria .ix. madh marb occa.

§ 16. Ata triar na dlig othrus la fene: fer islui fine, fer aslui flaith,¹ fer aslui ecluis,² ar ni aile otrus ind fine nad airnaidett a tir ina frithfoltaib coirib.³ Ni ditlither nech asa miad⁴ di neoch foloing a mammu.⁵

¹ .i. elodas o flaith co ndislidind a marbad. ² .i. dærmanacecalsa elodas o eaclais .i. ima primh 7 ima decmaid. ³ .i. uair noch a nairill[t]niginn no noch a ndliginn a breith for folach notrusa no logh otrusa doibh nad imaidenn na folta dledar dibh. ⁴ .i. ni dietlaither cin a othrus .i. na hadbul-ditlither nech fœ cen inni imfulnges e fo moam no fo greim a tabairt do. ⁵ .i. fuilnges a momuda .i. sloiged 7 cis 7 congball.

§ 17. Alidh cach recht a otrus la *Fēne*;¹ nach recht ales log a otrusa la *Fēne*² di nech is aircoillte brite for folug³ direnar dire, a lethdiri dia fine⁴ no a log^b o fine fofich fris cidh aircuillte.⁵ is di suidiu ata la fene: fiachach dogo.^{6, 7}

¹ .i. risa fodlaither tre anfort do nech nac esceptaig uithir; no dligid cach direnar a breith for folach nothrusa. ² .i. logh othrusa doib conig a teach do reir an fenechuis. ³ .i. do nech is aircoillti do breith for folach notrusa. ⁴ .i. leth in lethe .i. dire so fuil i leth inneic is dir do biadh 7 do liaidh, 7 is aseic eirnither a cuid don fir fine is fear (t)ocaib tocaib on fir fine rofuachtnaistear fris. ⁵ no no a imfulung do denam cidh urcuillti uithir he. ⁶ .i. don eadha isin ita do reir an fenechuis is laisin cach fiacaidther ann a rogha in fer ogaib tocaib dobera no in cutruma do setaibh ata ara sgath. ⁷ .i. leth in da .vii. cumal asberar do rig, .vii. cumala dibh, ina fer (ina fer) mam[a] [m]odh; 7 na .vii. cumala

^a read risna.

^b read folog with other MSS.

§ 15. Most difficult in regard to nursing in Irish law¹ is [the case where] a man to whom no injury is done has to be maintained,² and where a man who injures not has to maintain.^{3, 4}

¹ It is one of the hardest things relating to nursing. ² maintenance of the man on whom the injury has not been inflicted, the leech. ³ the person who urges on a fool, the normal person who incites [a fool to commit the injury], or the head of the kindred on whom [the obligation] is cast: he is to get double (?) honour-price for it. ^{4a} It is an error if he [the injured party] is not removed before the nine days period once a leech declares that he is fit to be brought away on sick maintenance; and it is another error if he is not removed after the nine days once a leech declares that he is fit for sick-maintenance, and for each of these two errors one-third of [the invalid's] honour-price is due from the guilty party; and it is an error for the man who brings him away before the ninth day if he dies on his hands.

§ 16. There are in Irish law three persons who are not entitled to nursing: a man who evades [his obligations to] kindred, a man who evades [his obligations to] lord,¹ a man who evades [his obligations to] church.² For the member of the kindred who does not sustain his land by performing the proper corresponding duties has no claim to nursing.³ Any person who carries out his duties⁵ is not fraudulently deprived of his status.⁴

¹ who absconds from his lord so that it makes his slaying legal. ² a servile church vassal who absconds from his church, as regards his first-fruits and his tithes. ³ For those who do not abide the duties which are owed by them do not deserve or are not entitled to be brought away on sick-maintenance nor to get a nursing fee. ⁴ He is not deprived [and left] without his nursing. Let nobody be greatly deprived^b by not being given what supports him under a yoke or under control. ⁵ who abides his duties, e.g. military service, tribute, and billeting.

§ 17. Every condition of person is entitled to his nursing in Irish law.¹ Any class of person who is debarred from being brought away on maintenance³ and is entitled in Irish law to his nursing fee² is paid *dire* [honour-price]—half his *dire* to his family⁴ or he may be maintained by the kindred [of him] who injures him, even though he be debarred [from sick-maintenance].⁵ Hence is [said] in Irish law: the debtor shall choose.^{6, 7}

¹ any one, not being one of the exceptions to nursing, against whom injury is done through negligence; or every one who is paid *dire* is entitled to be brought away on sick-maintenance. ² a nursing fee [to be brought] to them to their houses according to the Irish law. ³ who is debarred from being brought away on sick-maintenance. ⁴ half of the half. This is the *dire* which is [paid] in respect of what is due in refectory and medical attendance, and it is out of this that his share is paid to the member of his family who acts as nurse by the kindred which has injured him. ⁵ or else the performance of his maintenance, even though he be debarred from sick-

^a This refers to the preceding §.

^b 'etymological' gloss.

aili a leth sidhi *don fine aran* otrus, 7 in leth naill a leth sidhi *don liaidh*—is a otrus beres nì, cid fri coirp *dire* domitter—a leth naill dosum fein.

§ 18. Nac fer ales folach la *Fēne*¹ asboinn a dingbail,² asbonar na dingabar,³ direnar triun dire.^{4, 5}

¹ .i. nac fer dlidhes a breith for folach nothrusa do reir an fenechuis.
² .i. 'urfogruim mo dingbail,' ar in fer amuich. ³ .i. 'obuimsi conac dingabthar,' ar in fer thall. ⁴ .i. eirnither trian eneclainne ann arin cet-aidchi 7 bo do smacht .i. trian loigh a henech la fiach a crechtnaigti.
⁵ .i. Nocha reithenn smacht metha no co nderntar int urfogra. masa grad is dir do breith ar folach nothrusa dorigne int urfogra rithidh smacht metha do. Masa gradh is dir do thincisin corigi a tech ce(n) notaircta a breth for folach nothrusa(sa) ritid smacht meta dho.

§ 19. Nach fuil ales fiacha¹ 7 logh otrusa² ni dligh focruic leada³ on fir fodafich minub is[n]a fiachuib eirce airbernu.⁴

¹ .i. corpdiri. ² .i. logh otrusa. ³ .i. masa logh otrusa doberar do, uair ata ann cena cuitigh leagha. ⁴ .i. munob airbernad dona fiachaib doberar isin eiric .i. do logh in otrusa, uair ata ann cuid in leagha.

§ 20. Nach fer eclusa aracuile cain otrusa la *Fēne*¹ direnar i comdire fri otrus fene,² acht is pennuit ailes otrus cach fir ecalsa,^{3, 4} acht cuic lunnú set.^{5, 6}

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¹ .i. gac fer bis isin eclais di neoch is urchoillti do breith for folach do reir riagla .i. espoc 7 fer leiginn. ² .i. eirnither i cutrumus diri frisna feraib berar for folach nothrusa .i. frisna feraib di suidhibh is urcuillti do breith for folach nothrusa. ³ .i. achtaigim co ndliginn in grad ecalsa cutruma loighi na tincesin ar pennuit in tan is log na tincisin dober. ⁴ .i. biaid pennait imlan re logh na tincisin 7 ni tabair in fer uithir in penmaid sin don liaig; no dono in tan is liaig doberur anunn ni fuil penduit re cuit legha.
⁵ .i. na .v. lethuinge. ⁶ acht na .v. seoit lana no lendeaca, uair noca nadha penmaid leo do liaigh .i. na .iiii. ba 7 in samaisc .i. is a penmaid cach [fir] ecalsa dobertar na feich so do liaig.

maintenance. ⁶ From that lawful thing ^a is [laid down] according to the Irish law: every one who is made liable therefor has his choice whether he will provide a nurse or the equivalent in *sēts* in his stead. ⁷ Half of the fourteen *cumals* which are assigned to a king, viz. seven *cumals* of them, are for his substitute; and as for the other seven *cumals*—half of them goes to the family for the nursing; and the other half, half of it goes to the leech—it is out of the nursing fee that he takes a share, though it [the share] is estimated according to the wergild—the other half goes to himself.

§ 18. [When] any man who is entitled to sick-maintenance in Irish law ¹ [formally] demands that he be removed, ² and there is refusal [by the injurer] to remove him, ³ one-third of the *dire* [honour-price] is paid [as an additional penalty]. ^{4, 5}

¹ any person who is entitled to be brought away on sick-maintenance according to the Irish law. ² 'I demand my removal,' says the one man. ³ 'I decline to remove,' says the other man. ⁴ One-third of his honour-price is paid therefor for the first night and a cow as the [fixed] penalty; one-third of his honour-price together with the fine for wounding him. ⁵ The penalty for default does not [begin to] run until the demand is made. If he [the injured party] is of a rank which it is proper to bring away on sick-maintenance and has made the demand, the penalty for default begins to run for him [as from that moment]. If he is of a rank for whom attendance to his house is proper, even though there should be an offer to bring him away on sick-maintenance, the penalty for omission runs for him.

§ 19. Any wound which entails fines ¹ [werild] and nursing fee ² does not entitle [the injured party] to payment of the leech ³ by the man who commits the injury unless it [the leech's fee] make a gap in the fines of wergild. ⁴

¹ wergild. ² nursing fee. ³ if it is a nursing fee that is given to him, for the leech's share is already [included] in it. ⁴ unless it be a diminution of the fines which are given as the wergild, viz. of the nursing fee, for the leech's share is [included] in it.

§ 20. Any churchman whom the rule of nursing in Irish law debar¹ is paid in equal *dire* with the nursing [fee] of the laity ²—save that the nursing [fee] of every churchman entails a 'penance' [also?] ^{3, 4}—apart from . . . ^{5, 6}

¹ every man in the church who is debarred from being brought away on sick-maintenance according to rule, e.g. a bishop and a man of learning. ² He is paid in equal *dire* with the [lay]men who are brought away on sick-maintenance, viz. with those of them who are debarred from being brought away on sick-maintenance. ³ I stipulate ^a that the member of an ecclesiastical grade is entitled to the equivalent of the attendance fee as a penance, when it is the attendance fee that is given. ⁴ There shall be full penance corresponding to the attendance fee and the sick man does not give [any of] that penance to the leech; or else when a leech is sent over [to his house] there is no penance to correspond with the leech's share. ⁵ the five-half-ounces. ⁶ save for the five complete ^a or . . . *sēts*, for they do not deem it fitting that a penance should go to a leech; the four cattle and the heifer. These dues are given to a leech out of the penance payable to every churchman.

^a 'etymological' gloss.

§ 21. Folach caca ecalsa¹ alid uasalneimhed² (*p. 444*) co recht 7 riagail³ dia dite⁴ la biathad ninnraic adroille in gradh.⁵

¹ .i. gac fer ecalsa berar ar folach notrusa .i. cenmotha in as urcoilti dib do breith for folach. ² .i. dligid in neimed uasal. ³ .i. in nemcatham feola i(n) nainibh 7 a cedainibh .i. da mberthar for folach notrusa. ⁴ .i. dia comairghi. ⁵ .i. co tora do in biatad ninnraic dliges fo aigned a graid.

§ 22. Nach fer immurgu folongar i fenecus¹ dligid a biatad² a miadh a graidh;³ is ann is techta a folac⁴ mad grad no mad orrter^a a hincuib graidh.⁵

¹ .i. gac fer .v. imfuilngther do breith for folach do reir an fenechuis .i. a necmuis grad ecalsa. ² .i. dligid a tairbirt. ³ .i. fo uaislechtaidh a graid. ⁴ .i. folach graidh air. ⁵ .i. ma(d) eirnither eneclann do a dualgus einigh graid eli .i. mac no ben no amhus no rechtaire.

= *Dar. 821*

§ 23. Ata[t] .iii. teg[d]aise arocuile cain otrusa la *Fēne*:¹ tegdais ind fir fofich² minub aire innraic;³ tegdais frisbruide menma ind fir uitir;⁴ teagdais i naghathar in fuilech formag cnete,⁵ astuide^b tretan no eass no all, no ica mbiat muca no meclech caireg i nearrach no cu tuidbiugid, no dia tiagar do ghubha.⁶

¹ .i. is urcuillte gradh^c otrus ann do reir an feinechuis. ² .i. tegh an fir roferustar in cneid ar oman fill do air .i. doni an fuachtain. ³ munab tairisi le neche co hinnraic. ⁴ .i. tegdais da tabair menma ind fir uithir fritbrud menman ara sailci .i. tech salach seimdilleach. ⁵ .i. [i]n[i]d aigesta .i. egail lasinti forar ferad in fuil a cned do tormac, teac bidbad eli, 7 tre comraiti roferad air on cetlo .i. no tech neic fora mbi cogad 7 da soich crec co gnatach. ⁶ Mas e in liaig rofocair a tabairt isna hinaduib sin is a ic do fo aicned midaig techta no etechta, 7 minab e adubairt isna hinaduib sin cac fogail rofas do de is a ic d'fer fertana na cneide.

§ 24. Annsom i notrus la *Fēne* biatad¹ 7 tarrsunn² 7 mian

^a read ma dorether.

^b read astōidi.

^c read go raibh.

§ 21. The sick-maintenance of every church[man]¹ entails [his conveyance to] a high sanctuary² with authority and rule³ for his protection,⁴ together with the proper refection which the rank [of the injured man] merits.⁵

¹ every churchman who is brought away on sick-maintenance, apart from those debarred from being brought away on sick-maintenance. ² He is entitled to the high sanctuary. ³ as to non-eating of meat on Fridays and Wednesdays; if he be brought away on sick-maintenance. ⁴ for his protection. ⁵ that there accrue to him the proper fare to which he is entitled according to the nature of his rank.

§ 22. Any [lay]man, on the other hand, who is being maintained according to native law¹ is entitled to his refection² according to the dignity of his rank.³ It is in these circumstances that it is proper to maintain him:⁴ if he [himself] have a status or if he be paid honour-price according to the honour of [another's] rank.⁵

¹ every person, however, who is caused to be brought away on sick-maintenance according to the Irish law, apart from the church grades. ² He is entitled to be served [with food]. ³ according to the nobility of his rank. ⁴ the maintenance due to a [particular] rank for him. ⁵ if honour-price is paid to him in right of the honour of another's status, e.g. a son or a wife or a hireling or an official.

§ 23. There are three dwellings which the rule of nursing in Irish law excludes:¹ the dwelling of the man who commits the injury² unless he be an honourable freeman;³ a dwelling against which the mind of the sick man revolts;⁴ a dwelling in which the wounded man fears an increase of his hurt,⁵ [e.g.] where sea or waterfall or cliff dazzles (?), or where there are wont to be pigs or the bleating of sheep in spring or a . . . dog, or to which one goes to bewail the dead.⁶

¹ It is prohibited according to the Irish law that there be nursing there. ² the house of the man who has inflicted the wound, who commits the injury, for fear he might act treacherously towards him [the invalid]. ³ unless he be regarded as trustworthy and honourable. ⁴ a dwelling against which the invalid's mind feels revulsion on account of its dirty condition, a dirty, slimy (?) house. ⁵ in which it is to be feared, that is, he on whom the wound has been inflicted fears that his injury would be increased, the house of another enemy; and from the first day injury was inflicted on him with intent; or the house of one against whom there is a feud and to whom a foray constantly comes. ⁶ If it is the leech who has directed that he be brought into [any of] these places, he must pay for it according as he is a skilled or unskilled physician, and if he has not said [that he be brought] to these places, every injury which has accrued to him therefrom shall be paid for by the [original] wounder.

§ 24. Most difficult in nursing according to Irish law are the

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ngalair aesa inhuir.³ Ni dlig nach inuitir mani doa cuipre^{4, 5} acht ni bis i m(b)iad a aireagais.⁶ ar ni dithle nac duine asa thochus.⁷ ni aile(t) nach sesc air[r]ainn la *Fēne*.⁸

¹ .i. im biadh .i. im 7 arbar. ² .i. a toiritin di sunn .i. carna no mil no caindend. ³ .i. inni ima mianaidther in duine galair bis a ninn a uithir. ⁴ .i. muna tucthar do ara caradrad inni ara mbi a cuip, in linn, ni dlidh nisa mo .i. mina tucta[r] do ara cobolcaire. ⁵ .i. ailgine. ⁶ .i. fo uaislechtaidh a graidh .i. a thocusa .i. in otair. ⁷ .i. uair noch a nadbal-diclethar gac duine fo aicned a tochusa .i. noca coir (can) a dicell somh mad maith fadeisin. ⁸ .i. uair ni dliginn inti bis seisc gan tochus can innracus uasalrainn smachta metha na eneclainn do reir an feinechuis .i. naommar .i. in triar aslui flaith 7 fine (7 fine) 7 eclais, 7 fer astoing gac recht 7 ben [lasmbi] cuma [cip] lasa fia.

§ 25. Atat .iii. tarsu[i]nn arachuile cain othrusa¹ la *Fēne*: cac sailte² in(d)gniter³ fri muirtorad,⁴ Carna mairmil⁵ 7 eic 7 mil; ar adaig a mmairtorad do digh.⁶ Cain comlai eslaine i mbroinn carna(i) eich fri fuile caurad?⁷ ni fódhmad broinn ainfen[e]⁸ acht æs toderasa:⁹ carna eich ni coir a tabairt do nach inuithir.¹⁰ Conalai mil broinn i mbi lir.^{11, 12}

¹ .i. atait tri tarsuinn, .i. annla[i]nn, is urcuilte do tabairt donti bis a notrus. ² .i. gac saillti. ³ a ngnimaidther. ⁴ toradh in mara .i. lesaigther fri salann. ⁵ .i. carna in mil moir. ⁶ .i. cuincid torad in mara deoch ina degaid, in salann. ⁷ .i. cansu co tormaident eslainte isin broinn a mbi feoil eich .i. tormaidea dh fuil arna curadaibh. ⁸ .i. comtinoidh anfethuighi isin broinn .i. biada eigneche ingantaca. ⁹ .i. rofas as impi co n(n)asa .i. co nata. ¹⁰ noch a coir a tabairt do nac aon bis a ninni uithir. ¹¹ comtinoid in mil lira isin broinn a mbi. ¹² Ma rofoghair in liaigh can na biada urcoillte so do is fiach fo aicned a atha ar inti doratt 7 is slan in liaig. Munar fogair is eiric air fo aicned midaigh techta no etechta 7 is slan inti doratt muna fitir. Et mas e in liaig rofocail ni dona hurcoilltibh so aran othar icad amal rofearfad tre comraite, no comad eiric air fa aicned midaig techta no etechta. 7 damad e in cintac rooclaid, ma dorormacht cneid is mo is tuilledh re heiric na cetcnede 7 re heneclainn co rab lan na cneide dorormacht ann 7 a otrus. munar tormaig cneid is mo is a otrus nama don liaigh no don cinntach.

fare¹ and condiment² and sick craving of invalids.³ No patient is entitled, unless it be [given] out of kindness (?),^{4, 5} to anything save what is in accordance with the dignity of his rank.⁶ For thou shouldst not cheat any person out of his property.⁷ No 'barren' person is entitled to a share in Irish law.⁸

¹ as to food, e.g. butter and corn. ² his relief from here,^a fresh meat or honey or garlic. ³ that for which the diseased person who is in the depth of his sickness^a longs. ⁴ unless there be given to him, through friendship for him, that on which there is its froth,^a viz. the ale; he is entitled to nothing more, unless it be given to him through generosity. ⁵ kindness. ⁶ according to the nobility of his rank, his property, viz. the patient's. ⁷ For no person is greatly neglected^a according to the nature of his property: it is not right that he should be neglected if he be good himself. ⁸ For he who is barren, without property or honour, is not entitled to a high share^a of the penalty for failure [to provide nursing] or to honour-price according to the Irish law. Nine people [are referred to], viz. the three who evade lord and kin and church (§ 16), and a man who refuses every class of person (§ 43), and a woman who cares not with whom she may sleep (§ 44) [&c.].

§ 25. There are three condiments which the rule of nursing in Irish law excludes:¹ every salt fare² which is prepared³ with sea-produce,⁴ the flesh of a whale⁵ and of a horse, and honey. For the produce of the sea impels one to drink.⁶ Does not horseflesh stir up sickness in the stomach of wounded heroes?⁷ Stomachs endure not a storm⁸ save people who can retain it (?).⁹ It is not right to give horseflesh to any invalid.¹⁰ Honey disturbs the stomach in which there is looseness of the bowels.^{11, 12}

¹ There are three condiments, i.e. relishes, which it is forbidden to give to him who is being nursed. ² every salted thing. ³ which is made. ⁴ the produce of the sea, i.e. which is cured with salt. ⁵ the flesh of the whale. ⁶ The fruit of the sea, the salt, demands a drink afterwards. ⁷ Declare^a that horseflesh increases ill-health in the stomach in which it is: it increases bleeding for the heroes. ⁸ It accumulates disorder in the stomach, viz. violent, strange foods. ⁹ An excessive growth^a is the growth around it so that it grows, so that it swells. ¹⁰ It is not right to give it to any one who is in the depth of sickness^a. ¹¹ Honey accumulates diarrhoea in the stomach in which it is. ¹² If the leech has ordered that these prohibited foods are not to be [given] to him, a fine according to the nature of the case is due from the person who gave them, and the leech is free from liability. If he has not so ordered, he has to pay therefor according as he is a skilled or unskilled physician, and the person who gave them is free from liability if he acts in ignorance. And if it be the leech who has prescribed any of these prohibited things for the patient, he has to pay as if he had committed injury intentionally, or it may be he has [only] to pay according as he is a skilled or unskilled physician. And if it be the defendant who has so ordained and increased injury has ensued, he has to add to the wergild of the first injury and to the [proportion of] honour-price until full compensation for the increased injury is reached, as well as [providing] the nursing for it. If increased injury has not resulted, only the nursing has to be provided by the leech or the defendant [respectively].

^a 'etymological' gloss.

§ 26. Alid carnai cach aire¹ otha fer midbod² connicc airig na(i)rd,³ 7 alid⁴ lin a co[e]mthechta do gres i tuaith a ndol lais for folug notrusa.⁵ Atat .iiii. airig⁶ i tuaith alid annlunn cach trata⁷ do lin a coemtecta⁸ for otrus,⁹ amal no[n]dalett (*p.* 445) miad^a a fer hi folac tuaite.¹⁰

¹ .i. dligid feoil gaca donnaig no gaca sollamnuibh. ² .i. a nis isli.
³ .i. airig forgill a nas uaisli. ⁴ .i. dligidh. ⁵ .i. a damh comaes^b
.i. in lin bis ina coimitecht isin tuait a ndol lais for folach notrusa. ⁶ .i. na ceitri airig ata ardum dib .i. na tri airig forgill 7 int aire ard. ⁷ .i. dlegaid gaca tratha annlann don imad bis ana choimidecht. ⁸ .i. a ndaimhe.
⁹ .i. in tan berar for otrus. ¹⁰ .i. na fir uallcha sin bis isin tuaith a tabairt da ndaim .i. a mbiatadh .i. amal bis miad an fir ica mbiad.

§ 27. Cach inuitir la *Fēne*¹ is a reir leaga a bhiatad.² Ni dlig nach otrus tarsunn la *Fēne* acht lus lubgoirt.³ air is airi der[ō]nta lubgo[i]rt ar foichill notrusa.⁴ IS e biatadh innruic ales fer otrusa⁵ la *Fēne*: bairgin innruic cach trata⁶ do cac fir coemhtecta⁷ cona cainanlunn⁸ 7 a tarsunn,⁹ 7 da bairghin¹⁰ for mes srotha.¹¹ inti nad mbi arbur feruid a logh do saimbiud¹² a reir feine.¹³

¹ .i. gac æn bis a ninne uitir do reir an feinechuis. ² .i. amal is riar don liaigh biadtar e .i. bairgin ferfuine cona annlann gac naidchi 7 in cetna isin lo. ³ .i. noca dliginn gac æn bis i notrus tarsunn eli do reir an fenechuis acht in lus bis isin lubgort. .i. cenmota in æs uasal .i. do gres ar^c sollamain no domhnach. .i. do gradaib feine a samhrad no do gradaib feine 7 flatha i corgus acht mil 7 fircaindenn 7 imas. ⁴ .i. is aire is romo dorignidh in lubhgort d'urfoicill otrusa. ⁵ .i. is e biad innruic airillnighus no dligus in fer berar for folach nothrusa. .i. bairgen ferfuine i llo 7 bairgen i noidchi. ⁷ .i. bis ina coimidecht .i. da landhaimh. ⁸ .i. d'imum no do lomum. ⁹ .i. a toiritin di thunn .i. da cleithe la cach .xx. mbairgin ferfuine. ¹⁰ .i. i lo 7 da bairghin i naidchi do denam a einigh. ¹¹ .i. fer an otrusa. ¹² .i. do biadh in tsamraid .i. do gruth 7 d'im. ¹³ .i. a reir inti aca ta eolus an fenechuis.

^a read biad or biathad ?

^b read coemthechta ?

^c read acht ?

§ 26. Every freeman from a *fer midbad*² up to an *aire ard*³ is entitled to fresh meat,¹ and is entitled⁴ to have the full number of his usual retinue in the territory go with him on sick maintenance.⁵ There are four [classes of] freemen⁶ in the territory who are entitled, while on sick-maintenance,⁹ to relishes [as well as ordinary fare] every day⁷ for the full number of their retinues,⁸ just as they are entitled to the feeding of their men in [ordinary] maintenance in the territory.¹⁰

¹ He is entitled to meat every Sunday or every festival. ² the lowest. ³ the highest, viz. an *aire forgill*. ⁴ He has a right. ⁵ his accompanying retinue: the number who accompany him [on ordinary maintenance] in the territory are to go with him on sick-maintenance. ⁶ the four highest *aires* of them, viz. the three [classes of] *aire forgill* and the *aire ard*. ⁷ They are entitled to relish every day for the number of those who accompany them. ⁸ of their retinue. ⁹ when he is brought away on sick-maintenance. ¹⁰ those proud men in the territory [are entitled] to have it given to their retinue, viz. their refection, according to the rank of the man with whom they are.

§ 27. Every invalid in Irish law¹ is to be fed according to the direction of a leech.² No [person on] sick-maintenance is entitled in Irish law to any condiment except garden herbs;³ for it is for this purpose that gardens have been made, viz. for care of the sick.⁴

The proper refection to which a man on sick-maintenance is entitled⁵ in Irish law is a properly made loaf each day⁶ for each member of his suite,⁷ along with its due relish⁸ and condiment,⁹ and two loaves¹⁰ on the dish (?) of the master [the sick man] (?).¹¹ He who has no corn supplies the value [of the aforesaid refection] in summer food¹² according to the rule of Irish law.¹³

¹ every one who is in the depth of sickness^a according to the Irish law. ² He is fed as the leech decides, a loaf of men's baking with its relish every night and the same amount by day. ³ Nobody who is on sick-maintenance has a right to any other condiment according to the Irish law than the herbs which are in the garden, except the noble people; that is to say, ordinarily, except on a festival or on Sunday. The freemen grades in summer and both freemen and noble grades in Lent [have no right to condiments] except honey and fresh garlic and celery (cf. § 45). ⁴ It is for this most of all that the garden has been made, for the care of sickness. ⁵ It is the proper fare which the man who is brought away on sick-maintenance merits or is entitled to. ⁶ a loaf of men's baking in the day and a loaf at night. ⁷ who is accompanying him: for his full retinue. ⁸ of butter or of milk. ⁹ its help from here,^a two fitches with every twenty loaves of men's baking. ¹⁰ in the day and two loaves at night, to prove his honour (?). ¹¹ the man on sick-maintenance. ¹² of summer food, e.g. of curds and butter. ¹³ according to the rule of him who has knowledge of the Irish law.

^a 'etymological' gloss.

§ 28. Ata[t] aroile airic¹ i tuait na dledat acht letbiatad do aes a coemtechta² .i. im cona tarsunn cach la trat acht ni dofeilce carna(i)³ cona annlunn techtta.⁴

¹ .i. na hairic fil ona .iiii. hairechaib asrubhrumar tuas .i. aire tuise 7 aire desa 7 aire itir da airig 7 aire coisring. ² .i. nocha dlegat in biathad so doibh acht do leth (diri)^a .i. feoil indara trath 7 im no loim 7 aran in trat naill 7 da cliatan la gac .xx. mbairgin ferfuine. ³ acht inni teilces feoil doib .i. in trat aile. ⁴ .i. dibsidhi doibh, no do triun urai.

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§ 29. Ata triar hi tuait lasa tiada(i)t a mna for folac:¹ fer fora llither forcraid netraid,^{2,3} sesmach pecta,^{4,6} mathair cac mic ciche.⁵

¹ coa fine fein, ar ni dlidid a nothrus acht a logh otrusa do tabairt doibh. ² .i. duine nach ruidenn^b ar enmnai no fer nac fetann etarscarad re mnai ar a ro-ett. ³ .i. adhaltras. ⁴ .i. inti fora sesmac^c a boill pectaca. ⁵ .i. bis a notrus .i. ni fetar in mac do breith for othrus can a mathair lais. ⁶ Deitbir etir in sesmach pectac 7 in sirechtach tuile: in sesmac pectac imorro le lamhcartad dogeibh a toil, in sirechtach toile ni fetann cen comrac. No dono is inann in sesmac pectac 7 in sirechtac toili 7 ni berar in fer sin for folach nothrusa cen a mnai lais acht cid docair don bidbaid.

§ 30. Annsom i mbrithemnacht otrusa la Fene banotrus.¹ co berdar for otrus?² 7 co fuilngiter?³ 7 cis lir a nircoilte?⁴ letbiatad gach fir otrusa⁵ dia mnai.⁶

¹ .i. is dona nethibh is doilgi a notrus [othrus] na mban. ² .i. cinrus berar iat for folach notrusa? ³ .i. cinrus imfuilngther iad amuich? ⁴ .i. cia lear no cia lin is aircoillti doib .i. ni licter fair i tech druith na dasachtaig na ecuind 7rl. ⁵ .i. da bairgein cach fir cona nannlann. ⁶ .i. leth inneith is dir do gac fir berar ar folach is ed ata da primnai.

§ 31. Ata dono ben la Fene ales tri brithemna do mes¹ a folai²:² brithem eola(i) i mbiadaib³ 7 brithem belrai fene⁴

^a omit?

^b read ruibhenn?

^c read sesmat?

§ 28. There are other freemen¹ in the territory who are only entitled to half refection for the people accompanying them,² viz. butter and its condiment every second day save what [the giving of] meat with its proper relish⁴ remits.³

¹ the freemen [classes] which remain after the four freemen [classes] which we have mentioned above, viz. *aire túise* and *aire dēsa* and *aire itir dā airig* and *aire coisring*. ² They are not entitled to have this fare for them [their retinue] save to the extent of one-half, i.e. meat on the one day and butter or cheese and bread on the other day and two fitches with every twenty loaves of men's baking. ³ save that which meat remits for them, viz. the other day. ⁴ of these [relishes] for them [the retainers] or of one-third of fresh pork.

§ 29. There are three persons in the territory whom their women-folk accompany on sick-maintenance:¹ a man who is accused of excess of lust,^{2,3} a constant sinner (?),^{4,6} the mother of every child at the breast.⁵

¹ to their own kindred, for they are not entitled to sick-maintenance but to have their nursing fee given to them. ² a person who cannot exist with one woman (?), or a man who cannot separate from a woman owing to his great jealousy. ³ adultery. ⁴ he on whom his sinful members are persevering (?). ⁵ who is on sick-maintenance: it is impossible to bring the child away on sick-maintenance without its mother going with it. ⁶ The difference between the *sesmach pectha* and the *sirechtach toile*: the *s.p.* achieves his satisfaction per masturbationem, the *s.t.* cannot do so without connexion. Or else the *s.p.* is the same as the *s.t.*, and the man in question is not brought away on sick-maintenance without his wife accompanying him, though it be onerous for the defendant.

§ 30. Most difficult in the judgement of nursing in Irish law is the nursing of women.¹ How are they brought away on sick-maintenance?² And how are they maintained?³ And how many of them are debarred?⁴

Half the refection of every man⁵ on sick-maintenance is due to his wife.⁶

¹ One of the most difficult things in [the law of] nursing is the nursing of women. ² How are they brought away on sick-maintenance? ³ How are they maintained while away? ⁴ What is the sea^a or what is the number of things that are prohibited for them? There are not admitted into the house to him fools nor lunatics nor senseless persons, &c. (cf. § 61). ⁵ two loaves with their relish for every man. ⁶ Half of what is proper for every man who is brought away on sick-maintenance is what is due to his chief wife.

§ 31. There is also in Irish law a woman who is entitled to have three judges to estimate¹ her maintenance:² a judge who is knowledgeable about refectations³ and a judge of the language

^a 'etymological' gloss.

7 *brithem* cumlechte.⁵ Ben lamtoruid⁶ isi ales na tri so do *mes* a folai⁷.

¹ .i. ben dlides tri breitemna do mesemnacht. ² .i. a himfuluing.
³ .i. is eolach isna biaduib urcuillti .i. in liaigh. ⁴ .i. do *mes* a corp-
 dirí 7 lin a daimne 7 a heneclainne. ⁵ .i. comaisnetech .i. in boaire no
 int ocaire is ferr is eolach a ngnimrad. ⁶ .i. ben doni torad dia laim .i.
 druinech 7 mna doni bogad 7 bregad 7rl. ⁷ .i. do mhes a himfuluing.

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§ 32. Ata[t] di mnai dec hi tuait arosuille cain otrusa la *Fêne*:¹
 ben sues sruta cocta *for cula*,² Rechtaid geill,³ Maineach ferta,⁴ be
 rinnuis,^{5, 6} bansaer,⁷ airmitnech tuaite,⁸ banliaig tuaite,⁹ birach
 briatar,¹⁰ be foinrimme,^{11, 12} Confael conrecta,¹³ mer,¹⁴ dasach-
 tag.¹⁵ IS focruic focrenaiter na mna so dia finib;¹⁶ ni dingbail¹⁷
 (*p. 446*) dingbaidter dibh.¹⁸

¹ is urcuillti do breith *for folach* do reir an fenechuis. ² ut est banco-
 marba cille dara .i. in banaibellteoir .i. impodus imad peccad na cocad *for*
cula trena hirnaighi. ³ .i. gabus gialla .i. amal robi meadb cruacan.
⁴ .i. in banogh .i. in bandeorad de. ⁵ .i. in banfile no in bancainte.
⁶ Et cid fodera ni don be rinnais? is e in fath: æir iar setaibh dligid
 darinne 7 noca netirdibiginn a eneclainn im duine ær iar setaib do denumh.
⁷ .i. ben^a tigern .i. bis ac lamnad .i. ben fritaleas mna^b no druinec.
⁸ .i. dia tabair tua(i)t airmitin. ⁹ .i. in banbriughaid. ¹⁰ .i. briatra
 feochaire lei. ¹¹ .i. in ben buicnech .i. teit lasna sidaigibh. ¹² Cid
 fodera ni do beth don be foinrimi? is e in fath fodera: noca tecat cuice
 acht gac re fecht 7 in fecht tecuit ni da rinnis in tecuid, 7 coir ce do beth
 eneclainn di. ¹³ .i. ben conrecta .i. inti risa cartanach dol asa eol
 a richaib con amail atait i coirerca. ¹⁴ .i. gan rath. ¹⁵ fo tabarr
 in dlai fulla. ¹⁶ .i. is de[g]creic loididecht[a] doberar da finib .i. doberar
 a log dia finib. a mbeth ocaibh 7 ni dingbail. ¹⁷ .i. for otrus. ¹⁸ .i.
 dingbaidter dibh (iat).

§ 33. Fertair a focruic a incomus fer arocuile otrus la *Fêne*.¹
 ma rosmesadar na mna so fri nech natbi lanamnusa^{2, 3} direnar
 reir *brithemon* na tuaithe asa miadaib^{4, 5} 7 asa totgusaib.⁶

^a read ban-.

^b read ben fritaleas mnaī bis ac lamnad.

of the law,⁴ and a judge of mutual custom (?).⁵ A woman of profitable handicraft⁶ is she who is entitled to these three for the estimation of her maintenance.⁷

¹ a woman who is entitled to three judges for estimation. ² of her maintenance. ³ who is knowledgeable about the prohibited foods, the leech. ⁴ to estimate her wergild and the number of her retinue and her honour-price. ⁵ equally explaining,^a viz. the *bōaire* or the highest *ōcaire*, who is knowledgeable about work. ⁶ a woman who does profitable work with her hand, e.g. an embroideress and women who perform steeping and dressing [of flax], &c. ⁷ to estimate her maintenance.

§ 32. There are twelve women in the territory whom the rule of nursing in Irish law excludes:¹ a woman who turns back the streams of war,² a ruler entitled to hostages,³ one who is abundant (?) in miracles,⁴ a woman satirist,^{5, 6} a woman wright,⁷ a woman revered by the territory,⁸ a woman leech of a territory,⁹ a sharp-tongued virago,¹⁰ a vagrant (?) woman,^{11, 12} a werewolf in wolf's shape,¹³ an idiot,¹⁴ a lunatic.¹⁵ It is by a fee to their kin that these women are compensated:¹⁶ they are not brought away [to be nursed].^{17, 18}

¹ whom it is forbidden to bring away on sick-maintenance according to the Irish law. ² such as the abbess of Kildare or the female *aibellteoir*, one who turns back the manifold sins of wars through her prayers. ³ who takes hostages, such as was Medb of Cruachain. ⁴ the virgin, or the female 'exile of God'. ⁵ the poetess, or the female satirist. ⁶ What is the reason that something [is assigned here] to the *b.r.*? This is the reason: it is a satire along lawful lines that she has made, and to make a satire along lawful lines does not wipe out a person's honour-price. ⁷ a female *tigern*, a woman who attends on women in childbirth, or an embroideress. ⁸ to whom the territory gives honour. ⁹ the female hospitaller. ¹⁰ She has fierce words. ¹¹ the half-witted woman [who] goes with the fairies. ¹² What is the reason that something [is assigned here] to the *b.f.*? This is the reason: they [the fairies?] only come to her every second turn, and the time they do come they come not as a result of being called (?), and [thus] it is just that she should get honour-price. ¹³ a woman in wolf's shape, she who likes to stray in wolf-shapes, such as the Í Chon Erca (?). ¹⁴ without grace. ¹⁵ about whom the magic wisp is put. ¹⁶ It is a good purchase^a of value which is given to their kindred; their fee is given to their kindred. They are to stay with them and it is not a removal. ¹⁷ on sick-maintenance. ¹⁸ that is made (*lit.* removed) of them.

§ 33. The fee for them is given in proportion to [that for] men whom [the rule of] nursing in Irish law excludes.¹ If these women have estimated themselves as a person who has no partner (?)^{2, 3} *dire* is paid [to them] corresponding to their [own] dignities^{4, 5} and possessions⁶ according to the decision of the judge of the territory.

^a 'etymological' gloss.

¹ .i. atairgither a ndeidcreic loididechta d'emcoimsiugad doibsiu risna feraib is urcoillti do breith ar folach nothrusa do reir an feinechuis .i. no doaircither logh a notrusa doibh amal rohainmsiged dona feraibh ata urcoillti breithi for otrus .i. ri 7 espoc 7rl. ² .i. ma domesemnaigter na mna so can a mbeth ac nech i ndligud lanamnuis .i. in banaibeillteoir no in bandeorad [Dē]. ³ .i. nabi dingbala doib. ⁴ .i. a graid fein. ⁵ .i. asa nindili .i. in banbriugaid. ⁶ .i. asa ninnile .i. in banliaig.

§ 34. Ata[t] .iii. mna dib¹ ass a miad a lanamnasa direnaiter a notrusa^{2, 3} .i. birach briatar⁴ 7 confaol⁵ 7 be foimrime.^{6, 8} is aire ni berddar sidi for foluc la *Fēne* ar ni laimter arratas ar cin a leten.⁷

¹ .i. dona mnaib so anuas. ² .i. ni techtat logh neinech asa miadh. ³ .i. is fo uaislechtaid inti ica mbit eirnither ni dhoib .i. ina notrus. ⁴ .i. in banfile. ⁵ .i. inti thet asa eol a richt chon. ⁶ .i. in ben buicnech. ⁷ .i. uair nogu loimthenac le nech beith fo nuradus, .i. fo cinaid, ara loimthin-cidhi leo cin do denamh, uair dlegar d'fer fertana na cneidi a nimcoimet (7) cona dernat re nech olc .i. ærchas 7 marbad indili 7 tocuiri demna. ⁸ Et cid fodera ni don confaol uair is indligtec hi? is e in fath: digail deitbir doni 7 noca millinn a heneclainn impi; no dono cunadba asa ndualgas fein do beth ni doibh acht a dualgas a fer, uair adeir: atat tri mna dib is a miadh a lanamnuis direnaiter a notrus[a].

§ 35. Cach ben olcena¹ di aircuiltib brite for otrus² direnaiter lo(i)gh nen(n)ech asa feib³ 7 asa totgus⁴ amal direnar fer otrusa la *Fēne*.^{5, 6}

¹ .i. cenmotha na mna so roraides. ² .i. be sues sruta 7 rechteit geill 7rl. ³ .i. graidh. ⁴ .i. inuili. ⁵ .i. amal eirnither ni dona feraibh berar for folach notrusa, no amal ictar frisna firu na berar for otrus .i. ri 7 espoc 7rl. ⁶ Et ce do beth eneclann graid .vii. do mnai a dualgas a fir noch (an) fuil acht lethlogh otrusa a fir di.

§ 36. Cach ben tete for otrus ailid letdaim a ceile¹ do dol le² for otrus.

¹ .i. a fir. ² .i. lasin primhmhnai.

¹ The good purchase of value ^a for them is provided by prompt estimation ^a of them with the men who according to the Irish law are debarred from being brought away on sick-maintenance. Or their nursing fee is offered to them as it has been calculated for the men who are debarred from being brought away on sick-maintenance, e.g. king and bishop, &c. ² If these women be adjudged not to belong to any one in the law of marriage, e.g. the female *aíbellteoir* and the female 'exile of God'. ³ who is not worthy of them. ⁴ of their own rank. ⁵ according to their possessions, e.g. the woman hospitaller. ⁶ according to their possessions, e.g. the woman leech.

§ 34. There are three of these women [enumerated in § 32] ¹ whose nursing [fees] are paid according to the dignity of their marriage [i.e. of their husbands]: ^{2, 3} a sharp-tongued virago, ⁴ a werwolf, ⁵ and a vagrant (?) woman. ^{6, 8} The reason why these are not brought away on sick-maintenance in Irish law is that one dare not [assume] responsibility for a crime of their audacity. ⁷

¹ of these above-mentioned women. ² They do not possess honour-price on the basis of their own rank. ³ It is according to the high status of the person with whom they live that anything is paid to them for their nursing. ⁴ the poetess. ⁵ she who strays abroad in the shape of a wolf. ⁶ the half-witted woman. ⁷ For nobody dares to undertake responsibility for them, for their crime, on account of their audacity in committing crime. For the man who has committed the injury is bound to watch over them that they do not evil to any one, to wit satirizing, killing stock, and summoning demons [respectively]. ⁸ And why should the werwolf get anything, she being unlawful? This is the reason: it is justified vengeance that she wreaks, and that does not destroy her honour-price. Or it may not be in their own right that they get anything, but rather in right of their husbands; for it [the text] says: 'There are three of these women whose nursing [fees] are paid according to the dignity of their marriage.'

§ 35. Every other woman ¹ of those debarred from being brought away on sick-maintenance ² is paid honour-price according to her worth ³ and her property ⁴ just as a man entitled to nursing [fee] is paid according to Irish law. ^{5, 6}

¹ apart from these women whom I have mentioned [in § 34]. ² e.g. a woman who turns [back] streams and a ruler entitled to hostages, &c. ³ in rank. ⁴ in stock. ⁵ as payment is made to the men who are brought away on sick-maintenance; or as payment is made to the men who are not brought away on sick-maintenance, e.g. king and bishop, &c. ⁶ And although a woman have the honour-price of one of the seven *cumals* grades in right of her husband, she has only half the nursing fee of her husband.

§ 36. Every woman who goes on sick-maintenance is entitled to have half the number of retainers proper to her husband ¹ go with her on sick-maintenance. ²

¹ of her husband. ² with the chief wife.

^a 'etymological' gloss.

§ 37. *Atat dano di(a) mnai i tuait dlegtae a mbreith for otrus*¹ cen(n)i torgabtar friu:² teist³ la ben frisa fuachur⁴ doa imcoimet⁵ 7 teist la ben tete do denum gnima mna frisa fuachar;⁶ ar iss *ed ro[ē]cund insen*⁷ diba cen dire⁸ dia lleictir can imcoimet,⁸ conid ecen test la cac mben berur for folac la *Fēne*.^{9, 10}

¹ .i. in ben tet lasan mnai fora ferthar int otrus 7 in banteist tet d'imcoimet na mna doberar isin ngnimrad, cin co derntar ciuta friu.

² .i. cen co derntar gabail is tar i lleth friu. ³ .i. in biadh is ail re neach tabrad da mnai testaigti. ⁴ .i. fora ferthar int othrus. ⁵ na robrecthar

7 na rosena cia beithir le. ⁶ .i. siur no mathair ind fīr d'imcoimet [na mna] berar isin ngnimrad. ⁷ .i. ar iss ed roecodnaidetu insin. ⁸ dib-

daidter do reir na mbreitheman cen eneclainn doibh muna roibh imcoimhet orru, can ni d'ic re feraibh cia rosaraidhit, no cen eneclainn donti fora mbi seilbh, uair senlaid muna be test aice. ⁹ .i. in bean tet do denam gnima mna 7 in ben tet da himcoimet nocha ninnister biata airighthe doibh acht cumaidh frisin muinntir. ¹⁰ An ben ina mamu mod in cutruma nocaitfedh aca tig fein do tabairt di. Na mna testaigti imorro, in biad is

ail re cechtar de tabrad da mnai testaigti. Ma rosaraigit na mna iar ndenam in dligid so is eneclann d'ic riu fein 7 re coibdealab, 7 masa da ndeoin fein is slan i lleth riu fein nama. An tan imorro na dernad in dligid coimeta sin 7 rosaraidhit is eneclann d'ic riu fein nama. Mas da ndeoin imorro is slan i lleth riu fein 7 re cenn(ad)aibh.

§ 38. Annsom i mbreitemnacht otrusa la *Fēne*¹ airiadam coimperta² diam i naimseruib techtuib.³ ar is di bannoillcib tongatar la *Fēne* tonancatar aimsera techta.⁴

¹ .i. is annsa i mbrethemnacht do reir na feine. ² .i. friadad coimperta risna feraib tre cneid d'fertain forna mnaib. ³ .i. no in tan ata croligi bais forna firo cona fetaid comrac fri mnai cia dosi galar mista di. ⁴ .i. is

§ 37. There are, moreover, two women in the territory who are entitled to be brought away on sick-maintenance¹ although no wrong be done to them:² a witness³ accompanying the woman to whom injury is done⁴ for the purpose of guarding her,⁵ and a witness accompanying a woman who goes to do the work of a woman against whom injury is done.⁶ For that is excess of folly (?),⁷ a destruction of *díre* (?), if [such women] be let go without guarding,⁸ so that it is necessary that a witness accompany every woman who is brought away on sick-maintenance according to Irish law.^{9, 10}

¹ viz. the woman who accompanies the woman upon whom the [injury involving] sick-maintenance is inflicted, and the female witness who goes to watch over the woman who is given [by the injurer] to do the work [of the injured woman], although wrongs be not committed against them. ² al-

though a most base attack^a be not made in regard to them. ³ The fare

which a person wishes—let him [the injurer] give it to her woman witness.

⁴ on whom the [injury involving] nursing is inflicted. ⁵ so that there

may not be contradiction or denial should there be connexion with her.

⁶ the sister or mother of the husband in order to watch over the woman who is sent to do the work [of the injured woman]. ⁷ For that is

excessive foolishness. ⁸ They are obliterated according to the judges,

i.e. no honour-price is due to them, unless there be a guard on them, and

nothing is paid to their husbands although they have been outraged; or no

honour-price is due to the person to whom she belongs, for he [the guilty

party] will deny if she have no witness. ⁹ The woman who goes to do

the work of [the injured] woman and the woman who goes [with her] to

watch over her—no particular fare is stated for them but [merely] the same

fare as the household. ¹⁰ The woman substitute is to be given the

same amount of food as she would consume in her own house. As regards

the women witnesses, however, the fare which either of them [i.e. the invalid

or the substitute?] wishes let her give it to her woman witness. If the

women have been outraged after this obligation has been complied with,

honour-price shall be paid to themselves and their kinsfolk; if it have been

with their own consent, there is freedom from liability as to themselves only

[but not as to their kinsfolk]. On the other hand, when this obligation of

guarding has not been carried out and they have been outraged, honour-

price is to be paid to themselves only; but if it have been with their consent,

there is freedom from liability both as to themselves and their superiors.

§ 38. Most difficult in the judgement of sick-maintenance in Irish law¹ is the barring of procreation² if it occur in the proper periods [suitable for procreation];³ for it is one of the oaths which are sworn by women in Irish law that their proper periods have come to them.⁴

¹ It is difficult in judging according to Irish law. ² true closing^a of procreation against the men through injury being inflicted on the women.

³ or when there is a fatal blood-lying [inflicted] on the men so that they

^a 'etymological' gloss.

dona luigib luidit na *mna* do *reir* an *fenechuis* co tainig a naimsera coimperta dligthecha doibh; no is *æn* dona naillib toingit na *mna* do *reir* na fene condatic galar mista in mnai forar ferad in cnead.

§ 39. Tri seoit¹ i nairiudad coimperta rig ruireach² 7 rig tuaithe.³ da set i nairiudad coimperta airec aird. *inonn* ota suidhiu conic airic *itir* da airig⁴ cono fadesen. Set i nairiudad coimperta caic otha airig *itir* da airig conic fer midbod.^{5, 6}

¹ .i. tri samaisci. ² a friadhad coimperta righ ruirec .i. ri .v. id no ri eirenn. ³ is ed bias di *cech* ri a coitcennus i niadadh fri coimpert. ⁴ .i. is isle. ⁵ .i. samaisc a nairiudad coimperta cach graidh dona gradaib feine. ⁶ Seoit uri[a]ta coimperta do breith don fir cid be dib arar ferad in cnead 7 cutrumus sechtmaidh don mnai, 7 is as gabthar in cutrumus sin: asin cumail maitre. Cid nach i fine mathar berus in .vii. mad sin? uair is dire beocneidhí e, is airi beris in ben e uair is le fein eraic a beocnede.

§ 40. (*p.* 447) IMta dano airiudad coimperta do mnaib o feruib¹—acht it bangraid doniat²—na digaib a fiachu otrusa³ la *Fēne* cip magen inda tecmai na fiacha sa.⁴

¹ .i. friadhad coimperta risna mnaibh tre cneid d'fertain arna feraibh, no is inann lium 7 iadad coimperta na fer in tan fertar croiligi bais forna mnaibh. ² .i. co tainic a naimsera dligteca coimperta doibh, no it mna comgraid doniat na .iii. seotu 7 na da set 7 in set .i. ben in boairech medhonuig 7 ben an ocairech is dech 7 ben an ocairech is taire. ³ .i. in fiach do biad doibh ina notrus, na seoit uiriata coimperta. ⁴ .i. cid be inad a tecma na fiacha so.

§ 41. Ni aile nach fuil otrusa la *Fēne*¹ a dingbail² co dech-maid,³ ar diam etsectad^a bais ni aile otrus la *Fēne*⁴ acht fiachu huin⁵ 7 esbuide.⁶ ar is dia .x. derosc cacha fola⁷ imbi inuithir⁸ fa crolige⁹ fa mba fiach fuiscetachtaí ales.^{10, 11}

= *Daw.* 925¹

¹ .i. ni dlidh gac fer fora fertthar otrus do *reir* na fene ² .i. a imfulung for otrus. ³ .i. co .x. .i. in cunntabartac bais. ⁴ .i. mad fri hetsecht in bais beit ni dlidh a breith ar otrus do *reir* na fene. ⁵ .i. eneclann. ⁶ .i. corpdiri. ⁷ .i. a derb-cinned for folach nothrusa no cinnedh gac

^a read etsectach.

cannot cohabit with a woman, although the menses come to her. ⁴ It is one of the oaths which the women swear according to the Irish law that their lawful periods of conception have come to them, or it is one of the oaths which the [other] women swear according to the Irish law that the menses come to the woman on whom the injury has been inflicted.

§ 39. Three *sēts*¹ [are due] for barring of procreation in the case of a king over other kings² and the king of a territory;³ two *sēts* for barring of procreation in the case of an *aire ard*; the same amount from the latter down to the *aire itir dā airig*⁴ inclusive; one *sēt* for barring of procreation for every one from an *aire itir dā airig* down to a *fer midbad*.^{5, 6}

¹ three heifers. ² for true closing^a of procreation in the case of a king over other kings, e.g. the king of a province or the king of Ireland. ³ That is what is due to every king in general for closing against procreation. ⁴ the lowest. ⁵ one heifer for the barring of procreation in the case of every rank of the freemen grades. ⁶ The *sēts* for barring procreation are to be taken by the man, no matter to which of them [husband or wife] the injury has been done, and the equivalent of one-seventh [of this fine] goes to the woman, and this equivalent is deduced from the *cumal* of the maternal kin. Why [then] is it not her maternal kin who take that seventh? Because it is the penalty for a non-mortal injury; that is why the woman takes it, for the werigild of a non-mortal injury to her belongs to herself.

§ 40. Moreover there is the same [penalty] for barring of procreation for women from [an injury to their] husbands¹—save that [here] women dignitaries prove [it by evidence]²—which [penalty] does not diminish the obligations of sick-maintenance³ in Irish law in whatever place these debts may accrue.⁴

¹ true closing^a of procreation against the women through injury being inflicted on the men; or I deem it to be identical with closing of procreation for the men when fatal blood-lyings are inflicted on the women. ² that their lawful periods of conception have come to them; or it is women of equal rank who prove the three *sēts* and the two *sēts* and the one *sēt*, viz. the wife of the middle *bōaire* and the wife of the highest *ōcaire* and the wife of the lowest *ōcaire* [respectively]. ³ the penalty which would be due to them for their sick-maintenance, [or] the *sēts* due for the barring of procreation. ⁴ whatever be the place in which these debts accrue.

§ 41. In Irish law no bloodshed involving sick-maintenance entails¹ removal [of the invalid to be nursed]² until the tenth day;³ for if he be sick unto death he is not entitled to sick-maintenance in Irish law,⁴ but rather [eventually] to the fines for blemish⁵ and loss [of limb].⁶ For on the tenth day is [given the leech's] verdict on every wound,⁷ whether it is fit for nursing⁸ or whether it is entitled to [the penalty for a fatal] blood-lying⁹ or to a fine. . . .^{10, 11}

¹ Not every one to whom illness is caused is entitled according to the Irish law. ² to his support on sick-maintenance. ³ until ten days after-

^a 'etymological' gloss.

fir fora ferthar fuil. ⁸ .i. *in inbrithe for otrus amach .i. in croligi cumaile*
⁹ .i. *fa log a otrusa do coa tech .i. in croilige bais.* ¹⁰ .i. *in fiach firdligtec*
dligus, no in corpdire dlidus. ¹¹ *Masa cunntabartac bais e nocha dlegar*
a dingbail a haitli na naomaidi, 7 ma rodingbad e risin naemaid 7 is marb
cach ni docaithed ris do dol can airem, no dono comad a dol ar son a
cutruma don aithghen. 7 ni liaig rofocail air ann sin, 7 damad edh is a ic
do fo aicned midaig techta no etechta. Mas iarsin .ix. rodingbad e, cach ni
docaithed ris is a dol ar son na haitgina no in corpdire. Munar dingbad
etir co haitli na naomaige 7 ni marb e, acht ma[s] logh otrusa teit do,
doairtenn gach ni dochuaid seacha, masa biad 7 liaigh cach ni docuaidh
seacha d'ic ris.

§ 42. *Nach* fuil na digaibh di *mod* na *gnim* na *imtech* ni
ale¹ *otrus* na iartaidhi. *dlidid* dire a *cuirp* doibh.²

¹ .i. ni dlidh.

² .i. coa tech.

§ 43. *Ata* .iii.[ar] i tuaith nad ale¹ *otrus* na fiachu² *muna*
tabri cain no cairde: ³ *fer astoing cach recht,* ⁴ *fer [f]eallus fora*
enech, ⁵ *fer gatas innile caich,* ⁶ *nad oget a mama core.*⁷

¹ .i. na dlig.

² .i. logh a notrusa doibh coa tech acht corpdiri nama.

³ .i. iar pennait 7 iar neiric.

⁴ .i. eitches gach duine um biadh.

⁵ .i.

fellus fora comairci no fora colbha.

⁶ .i. in gadaighi.

⁷ .i. na comh-

oigenn in moam no in gnim dlegar de.

§ 44. *Atat* .iii. *mna* i tuaith nad alet *otrus*¹ na fiacha² *cia*
forruastar triu: ³ *ben las(a)m bi cuma cip cia las fia,* ⁴ *ben gadas*
ar cach recht, ⁵ *baislec aupta.*⁶

¹ .i. nocha dlegad otrus graidh doibh.

² .i. im eneclainn.

³ .i. cia

fuachtnaighther riu.

⁴ .i. merdreach oighes a corp cin logh.

⁵ .i. in

bangadaighe.

⁶ .i. ben basaiges nech i lluc, a ninadh, .i. in piseogac.

f. O'Dav. 139¹
and gloss

wards, i.e. the person in danger of death. ⁴ if he be nigh unto dying the death he is not entitled to be brought away on sick-maintenance according to Irish law. ⁵ honour-price. ⁶ wergild. ⁷ the definite determination ^a of him [to be removed] on sick-maintenance, or the determination for every man on whom bloodshed is inflicted. ⁸ whether he is fit to be brought away to be nursed, i.e. whether it is a *cumal*-blood-lying. ⁹ or the fee for his nursing [to be brought to him] to his house, i.e. whether it is a fatal blood-lying. ¹⁰ whether he is entitled to a truly lawful fine, or whether he is entitled to wergild. ¹¹ If he is in danger of death it is not lawful to remove him [even] after the ninth day, and if he has been removed before the ninth day and has died everything spent on him is not to be taken into account, or it may be that an amount equivalent to it is reckoned towards the 'restitution' [i.e. one-seventh of the wergild]. And in that case a leech has not ordered him [to be removed]; should one have done so, he has to pay for it according as he is a skilled or unskilled physician. If he has been removed after the ninth day [and has died], everything spent on him is to be reckoned towards the 'restitution' or the wergild. If he has not been removed at all until after the ninth day and has not died, provided it be a nursing fee that is due to him, he [the guilty party?] keeps everything which has been omitted; [but] if it is refection and [the provision of] a leech [which are due] everything omitted has to be paid to him [the patient].

§ 42. Any wounding which does not diminish [the injured party's capacity for] work or action or movement does not entail ¹ nursing or final payment (?). It entitles them [the injured, only] to wergild.²

¹ does not entitle to. ² [to be brought] to their house.

§ 43. There are three men in the territory who have no right to ¹ either nursing or fines,² unless *cáin* or treaty give it [to them]: ³ a man who refuses [hospitality to] every class of person,⁴ a man who is false to his honour,⁵ a man who steals everybody's property ⁶—[men] who do not observe their just obligations.⁷

¹ who are not entitled to. ² their nursing fee [to be sent] to them to their houses, but only wergild. ³ after [they have atoned for their wrongdoing by] penance and compensation. ⁴ who refuses food to everybody. ⁵ who is false to his protection or his bed [i.e. a person protected and sheltered by him]. ⁶ the thief. ⁷ who does not perform the obligation or the deed which is owed by him.

§ 44. There are three women in the territory who have no right to either nursing¹ or fines,² although injury have been done to them: ³ a woman who cares not with whom she may sleep,⁴ a woman who robs everybody,⁵ a sorceress who trafficks in charms.⁶

¹ They are not entitled to nursing according to rank. ² including honour-price. ³ although injury be done to them. ⁴ a wanton who gives the use of her body without payment. ⁵ the female thief. ⁶ a woman who does to death somebody in a spot,^a in a place: the user of charms.

^a 'etymological' gloss.

§ 45. Alid¹ *cach* aire ard² .iii. tarsuinn do thairiuc a otrusa³ acht ni aracuile riar lega dib⁴ .i. mil 7 fircainn 7 dirann humusa.^{5, 6} ar ailid cac otrus humus(a) la *Fēne* ota airig etir da airic corigi fer midbod, aragair eslane⁷ nad comlui,⁸ aragair luge ndige⁹ nat fuiben fuilē.¹⁰

¹ .i. dlidid. ² .i. dona .iiii. hairechib roraidus .i. aire forgill 7c̄. ³ .i. do tabairt do .i. do torrachtain do arna breith ar folach nothrusa. ⁴ acht imna biaduibh aurcoilti. ⁵ .i. adhbulrainn imhusa dona .iiii. airechaib 7 gebaid greim gac ni dibh sin tar eis a ceili cid be dibh is urcoilti .i. da aire forgill 7 tanaise rig 7 aire ard. fircaindenn 7 imhus do cach airig ota sin co grada feine, 7 imus do gradaibh fene. 7 is a corgus ata in slicht so .i. in sloinned. ⁶ .i. ma rofocail no ma dubairt in liaidh re fer fertana na cneidi na losa d'iarraid 7 nir šir is uada ata a neiric so, muna dubairt is uada fein. ⁷ .i. urgair na denann eslaini do nech int imhus. ⁸ .i. nocha comtinolann galar. ⁹ .i. urgair conid lughaidi a deoch ar imad a sugha. ¹⁰ .i. nocha tormaiddenn cneid fair no ni maidhi^a a fuil fair.

§ 46. Alidh *cach* aire¹ otha airig itir da airig corice airig forgill² fortgella for gradha³ (dlidid)^b saill fora mes *cach* trata⁴ o oidci kalne cosin cetdomnach di corgus⁵ mad amm hi fornuastur^c ris.⁶ lus lubgoirt immurgu is ed tarsunn ales a corgus erraig. (p. 448) Mad i samrud f[or]ruastar fris⁷ ni ale⁸ acht a ndomnuch 7 a ndardain; acht is a miadh biatadh^d caich hi tuaith⁹ nach isliu saill muice da mer¹⁰ techta(i) saille *cach* fir huitir.^{11, 12}

¹ .i. dligid gac grad flatha urcarna o samhuin co callaind 7 saill o kallaind co hinit. ² .i. is ferr. ³ .i. forglidh forna grada is i[s]le inass in tan dosnegmaic im comfiadhnuise. ⁴ gac aidhche. ⁵ init. ⁶ .i. mad ann fuachtnaidther riss. ⁷ .i. ferthar croiligi for gac ngradh flatha roraides. ⁸ .i. ni dlid acht saill co samhuin. ⁹ .i. acht is fo uaisl(i)etaid biatar gac aonduine isin tuaith. ¹⁰ .i. nac tairi na da mer a tiget. ¹¹ .i. berar for othrus. ¹² A lanbiathad do gac grad flatha do saill a ndomnac 7 a ndardain 7 im 7 arbar 7 da cliathan tsailte la gac .xx. bairgen in cac lo olcena a samhrad. Na tri hairig forgill 7 int aire ard 7 na righ: feoil doib 7 da ndamaibh cac tratha a ngeimred 7 i nerrach, masa ann roferad cnead orra, cusin cetdomnac do corgus, 7 im doib annside. Mas a samrad no fogmar roferad cnead orra feoil doib *catcha* dardain 7 *catcha*

^a read mōidi.^b omit.^c read forruastar.^d read biata?

§ 45. Every high *aire*² is entitled¹ to have three condiments supplied for his nursing³ save any of them which a leech's direction excludes:⁴ honey, fresh garlic, and an unlimited amount of celery;^{5, 6} for every [person on] sick-maintenance in Irish law from an *aire itir dā airig* down to a *fer midbad* is entitled to celery, which prevents sickness⁷ and does not stir it up,⁸ which prevents thirst⁹ and does not infect wounds.¹⁰

¹ has a right to. ² of the four *aires* whom I have mentioned, viz. an *aire f.*, &c. ³ to be given to him, to be provided for him after he has been brought away on sick-maintenance. ⁴ save as regards the prohibited foods. ⁵ a large share^a of celery for the four *aires* [aforesaid]—and each of these things will take the place of the other should any of them be prohibited—for the two [kinds of] *aire forgill* and the royal tanist and the *aire ard*; fresh garlic and celery for every *aire* from the latter down to the freemen grades, and [only] celery for the freemen grades. And it is in Lent that this rule, i.e. this description, applies. ⁶ If the leech has directed or has told the man who inflicted the injury to seek the herbs [in question] and he has not done so, he [the injurer] has to pay the mulct for this; if he has not so told him, he [the leech] has to pay it himself. ⁷ preventing, so that celery does not cause ill health to any one. ⁸ It does not accumulate sickness. ⁹ preventing, so that his [the patient's] drink is the less for it on account of the abundance of its juice. ¹⁰ It does not increase his injury, or his bleeding is not the greater for it.

§ 46. Every freeman¹ from an *aire itir dā airig* up to an *aire forgill*² who testifies upon [i.e. whose testimony is superior to that of the other] grades³ is entitled to salt meat on his dish (?) every twenty-four hours⁴ from New Year's Eve to the first Sunday of Lent,⁵ if it be during that period that he have been injured.⁶ On the other hand, garden herbs are the condiment to which he is entitled in the spring Lent.

If it be in summer time he have been injured⁷ he is only entitled [to salt meat]⁸ on Sunday and Thursday; but it is according to the dignity of refection of every one in the territory⁹ that the proper portion of salt meat for every invalid¹¹ shall not be less than a piece of bacon two fingers [thick].^{10, 12}

¹ Every member of the noble grades is entitled to fresh meat from Hallowe'en to New Year's Day and to salt meat from New Year's Day to Shrovetide. ² the highest. ³ He testifies upon the grades lower than himself when they chance to be joint witnesses. ⁴ every night. ⁵ Shrovetide. ⁶ if it be then that injury be done to him. ⁷ that a blood-lying be inflicted on a member of each of the noble grades which I have mentioned. ⁸ He is only entitled to salt meat up to Hallowe'en. ⁹ but it is according to his nobility that each person in the territory is fed. ¹⁰ that its thickness is not less than two fingers. ¹¹ who is brought away on sick-maintenance. ¹² His full refection of salt meat [is due] to each of the noble grades on Sunday and Thursday, and butter, corn, and two salt flitches with every twenty loaves on every other day in summer. The

^a 'etymological' gloss.

domnaig [7] da ndaim. Int aire ard 7 int aire tuisse 7 int aire desa: mas a ngeimred no i nerrach roferad cned orra, feoil doib cacha tratha 7 cach re trat da ndaimh, 7 im doib in trath eli co ria in corgus, 7 im doib annsidi. Mas a samrad no fodmar, feoil doibh gaca dardain 7 cacha domnaig da ndaim. Ant aire itir da airig 7 na grada feine: feoil doib cach ri trath 7 in cetrumad trath da ndaim, gach^a aon dib aca ta damh, 7 im doibh in trath nach rada^a feoil i ngeimred 7 i nerrach.

§ 47. *Dligid cach ocaire 7 cach boaire saill fora mes cach domnaig*.¹ Mad nech dib oca mbe *forcraid* innile^{2, 9} *intor-magar* do, daid na derbabar^{b 3} nech a fir aicnid⁴ 7 *screptra*⁵ 7 cuibse⁶ dia feib⁷ 7 a thotgus.⁸

¹ .i. a ndomnac 7 a ndardain do gradaib fene o kallaind co hinit. urcarna doib a ndomnac 7 i ndardain co callaind 7 nis be⁶ feoil i samrad.
² .i. in briugu .i. amal righ. ³ .i. na rodiubarar gan ni do breith do.
⁴ .i. na fer firen. ⁵ .i. nuibe, an fir leiginn. ⁶ .i. na cresen, im inuracus. ⁷ .i. di ceilib. ⁸ tire 7 indile. ⁹ Cid fodera in briugaid do breith for folach nothrusa ann so 7 conid esceptaigi uithir e? IS e in fath: comænta fuil acun bidbaid 7 acan fethemain toicheda ann, no no is grad feine rainic tocus graid flatha cena, no is briugu rogab faosamh air he.

§ 48. *Dligid cach fer coemthechta airec*¹ saill² 7 tarsunn 7 annlann³ tectai. lin bes coir di mancuine fir otrusa⁴ a mmiaid a dligid⁵ 7 a thothgusa⁶ domitter do gac gradh.

¹ .i. gac fear bis a coimidecht in airech .i. graid flatha. ² .i. o callaind co hinit .i. a ndomnac 7 a ndardain a samrad. ³ .i. d'im no do loim.
⁴ .i. don imad is coir do dol dia muinech somaine in fir bis for othrus.
⁵ .i. do ceilibh no a airmitiu graidh. ⁶ .i. tiri 7 indili.

§ 49. Ni ale cach otrus(a)¹ la *Fēne* lind acht a reir lega. Ata[t] .iii. tarsuinn immidfodnad la *Fēne*: cainenn humus

^a read raga (ragha C 1030).

^b read derbarthar.

^c read bī?

three [classes of] *aire forgill* and the *aire ard* and the kings are to get meat for themselves and their retainers every twenty-four hours in winter and spring, if it is then that injury has been inflicted on them, up to the first Sunday of Lent, and butter during the latter. If it is in summer or autumn that injury has been inflicted on them, they are to get meat every Thursday and Sunday [and also] their retainers. The *aire ard*, the *a. tūise*, and the *a. dēsa*, if it is in winter or spring that injury has been inflicted on them, are to get meat every day, and their retainers every second day, and butter on the alternate day up to Lent, and during the latter butter is given to them [every day]. If it is in summer or autumn [that they have been injured] meat is to be given to them every Thursday and to their retainers every Sunday. The *a. itir dā a.* and the freemen grades are to get meat every second day and their retinue every fourth day—any one of them who has a retinue—and butter on the day on which meat will not be due in winter and spring.

§ 47. Every *ōcaire* and every *bōaire* is entitled to salt meat on his dish (?) every Sunday; ¹ [but] if any one of them has extra property ^{2, 9} there shall be increase [of refection] for him, so that nobody be defrauded ³ of [what is due to him through] his worth ⁷ and his property ⁸ according to the justice of nature ⁴ and scripture ⁵ and conscience.⁶

¹ on Sunday and Thursday for the freemen grades from New Year's Day to Shrovetide; fresh meat for them on Sunday and Thursday [from Hallowe'en?] to New Year's Day, and they get no meat in summer.

² the hospitaller [who ranks] as a king. ³ that he be not overreached and get nothing. ⁴ of the just men. ⁵ of holiness, of the man of [Latin] learning. ⁶ of the pious, as regards worthiness. ⁷ arising from [the number of his] clients. ⁸ in land and stock. ⁹ Why is the hospitaller brought away on sick-maintenance in this case, he being one of the exceptions to sick-maintenance (§ 12)? This is the reason: there is a mutual arrangement for it between the defendant and the plaintiff; or else he [the man in question] is one of the freemen grades who has acquired the amount of property necessary for one of the noble grades; or he is a hospitaller who has accepted protection.

§ 48. Every man accompanying a freeman ¹ is entitled to salt meat ² and proper condiment and seasoning.³ The proper number of personal retainers of a man on sick-maintenance ⁴ is assigned to every rank according to the dignity of his rights ⁵ and his property.⁶

¹ every man who is in the company of the freeman, of one of the noble grades. ² [daily] from New Year's Day to Shrovetide; on Sunday and Thursday in summer. ³ of butter or milk. ⁴ of the number of his valuable services ⁵ of the man who is on sick-maintenance which it is proper to go with him. ⁶ from clients or the honour due to his rank. ⁷ in land and stock.

§ 49. Not every one on sick-maintenance ¹ is entitled in Irish law to ale, save by a leech's direction. There are three condi-

^a 'etymological' gloss.

cumrai.² gellaid *cach* æ di arailiu³ fodlai^a fene^{4, 5} ar rofodnam
lus lubgoirt a nothrus.⁶

¹ .i. ni dlid gach æn *berar for* otrus. ² .i. urcoillte mil ann *sin* 7 gebaid
greim cumhra tara esi. ³ .i. gabar *gac* æ i *ningregus* a celli .i. gellaid
gach æ dibh tar eis a ceile cid be dib is urcoillte. ⁴ .i. arna fodeiliugud
don lucht aca ta eolus an *fenechuis*. ⁵ .i. grada fene. ⁶ *imfodnam*
lus lubgoirt *for* othrus.

§ 50. Biatad caic fo miad la *Fēne* acht æs mancuine¹ fir
inhuitir. ni assa miad folongaitersaide acht iss a miad neich
dogniat mancuine.²

¹ .i. nochan fo uaisleatid *fein imfuilnigther* iatseic. ² .i. is a grad neich
a mbit coimitech *.i. da* fodnuid.

§ 51. Ata .iii.[ar] hi tuaith folongaiter folug mboairec.¹ ni tor-
maig² ni *fora* notrus a *mmiad*³ *nach* a nemthes⁴ *nach* a ndliged⁵
nach a cendgelt:⁶ drui⁷ *dibergad*^{b 8} cainte.⁹ AR is techtta la
dia a *ndinsed*^{c 10} oldas a *cumdac*.¹¹

¹ .i. *imfuilnigther* iat fo *imfulung* in boairech 7 tochus in boairech a[c] *cach*
fir dib. ² .i. doib *for* otrus in boairech. ³ .i. a *nairmhitin* a *nairechta*.
⁴ .i. in *druadh*. ⁵ .i. in cainte no in *dibergac*. ⁶ .i. doniad olc o
cennaibh. ⁷ .i. *doni in* fe fia. ⁸ .i. *int aire* echta. ⁹ .i. in *drisiuc*.
¹⁰ uair is *diglthech* la dia a tainsiumh, .i. tarcaisne, *in* ni is *mo* doibh *ina*
otrus in boairech. ¹¹ An drui 7 in cainte 7 int airi echta tochus in
boairech uil acu and sin in *tan* ata log tincisin boairech doibh; no *dono* cen
co beith tochus boairech accu co *mbeth* logh tincisen boairech doib. AR
dingbail greas tuath 7 cenel *don airig* echta, 7 arin feth fia *dobeir* in drui
tar in *cric* re hucht int sluaidh cona tísat isin *cric* do denamh fodla.^d Ar
aichni na nuili naisti acin *drisiuc*, cona licinn fili isin *cric* acht iar *setaib*
dligidh.

§ 52. Annsom¹ i mbrithemnacht otrusa la *Fēne* macotrus,²

^a Under fodlai in the MS. is written no fofodla. Read fod la ?

^b read dibergach.

^c read ndinsem.

^d read fogla.

ments which serve for it in Irish law: garlic, celery, and sweet fruit.² Each of them is a substitute for the other³ in Irish law (?)^{4, 5} on account of the great service (?) given by garden herbs in nursing.⁶

¹ Not every one who is brought away on sick-maintenance has a right.
² Honey is prohibited in this case and sweet fruit takes its place. ³ Each of them is taken in place of the other; each of them is a substitute (?) for the other, whichever [= should one] of them be prohibited. ⁴ after they have been divided by the people who have knowledge of the Irish law. ⁵ the freemen ranks. ⁶ service of garden herbs during nursing.

§ 50. In Irish law the refection of every one is according to his rank, save the personal retainers¹ of the invalid; these are maintained, not according to their own rank, but according to the rank of him to whom they do service.²

¹ It is not according to their own dignity that these are maintained.
² It is according to the rank of him whom they accompany, whom they serve.

§ 51. There are three persons in the territory who are maintained according to the [standard of] maintenance of a *bōaire*¹—neither their dignity³ nor their sacred character⁴ nor their rights⁵ nor their . . .⁶ make any increase² in [the standard of] their sick-maintenance—a druid,⁷ a reaver,⁸ a satirist.⁹ For it is more fitting in the sight of God to repudiate them¹⁰ than to protect them.¹¹

¹ They are maintained according to the [standard of] maintenance of the *bōaire*, and each man of them has the property [qualification] of a *bōaire*.
² for them in the nursing due to a *bōaire*. ³ their reverence at an assembly.
⁴ of the druid. ⁵ the satirist or the reaver. ⁶ [whereby?] they do evil by extempore chanting. ⁷ who causes the magic mist. ⁸ the *aire échta*. ⁹ the lampooner. ¹⁰ For it is righteous in the sight of God to revile, i.e. to insult them, as regards giving them anything more than the nursing due to a *bōaire*. ¹¹ In that case the druid and the satirist and the *aire échta* have the property [qualification] of the *bōaire* when the attendance fee of a *bōaire* is due to them; or even though they have not the property [qualification] of a *bōaire*, the attendance fee of a *bōaire* may be due to them [for the following reasons]: for the avenging of outrages on territory and race by the *aire échta*; and for the magic mist which the druid sends across the border into the midst of the [enemy] host so that they enter not the territory to do damage; for the knowledge of all the metres [classes of poems] which the lampooner possesses, so that he allows no poet to enter the territory save along lawful lines.

§ 52. Most difficult¹ in the judgement of nursing in Irish law is the nursing of children,² were it not for the law (?) by which every . . . of sanctity⁴ or infancy has been fixed in Irish law

manip ad rosuidiged hi comdire³ la *Fene* cach noad nuibe⁴ no nuidenais co cenn .vii. mbliadnae. Otha .vii. mbliadnaib conic .x. mbliadna folongaiter maotbiad altruma⁵ na fuben otrus a rreir legha.⁶ otha .x. mbliadnaib (*p.* 449) is for ferotrus¹⁰ folongar cach mac 7 cach ingen.⁷ a mmia⁸ 7 tothgus⁹ a natar folongar cach mac 7 cach ingen.

¹ .i. annsamh emh. ² .i. otrus mac. ³ .i. minap ann rosamhaiged no rohoruiged cned d'fertain orra isin re sutain inidh comeneclann iat ris inti aca nordaidhter gloine. no mina comsuigidis i comeneclainn fri liactreoir conid cutruma a damh 7 biatad doibh. ⁴ .i. gach naided nuibe. ⁵ .i. in buidecan 7 im 7 maotla 7 lictiu. ⁶ .i. nochan fodiupanar umpo inni do biad doibh ina notrus, in buidecan, no naro[b] biad done anfolllaine. ⁷ .i. is for otrus na fer is comgraidh d[o]ibh imfuilngither iat, cach mac 7 cach ingen. ⁸ .i. im airmhitin nairechta .i. do ceilibh. ⁹ .i. tire 7 inzili a natar mina fuil acu fein. ¹⁰ Ceitre baigrina cona nannlann inala lo co noidci don fir forar ferad in cned, 7 baigrin i llo 7 baigrin a noidchi do gac fir do lin a dhaimhe.

§ 53. Cid marb dono int atair¹ no cia rotreth(n)athar a grad² direnarsom amal ni fochmaide miad a tuisteda,³ ar ni fuben⁴ ni imom^a nennac⁵ mignim ind anenaicc.⁶

¹ .i. in ma[i]c. ² .i. mad dia tren-dicuirther e asa grad. ³ .i. eir(n)igther dosomh inni dligus .i. don mac dlightec amal na tucthar fodiubudh forin gradh or tuisnigestar. ⁴ .i. ni etirimdebenn. ⁵ .i. ni umin ennac, imun mac ndlightec. ⁶ .i. a nathar indligtigh.

§ 54. Ata[t] airlengaid^b huitir^{1,9} la *Fene* na(n)d alet a folag² acht a fochruic³ a reir briteimon: dretoll tegluigh,⁴ coemhtai flattha,⁵ mac⁶ filed, serc[g]nasaig boairec,⁷ mac banrigna.⁸

= *Dar.* 926²

¹ .i. firlinges cen a mbreith for otrus. ² .i. nocha nairiltngit a mbreith for folug. ³ .i. log a notrusa doibh coa tech. ⁴ .i. in brannaighi no in fitcellaige no in mac righ no in marcach. ⁵ .i. a fer gradha no a dalta. ⁶ .i. air fein. ⁷ .i. inti is sercach lais, bis ina gnais, a mac .i. no dalta .i. in boairech. ⁸ .i. cinco mac don righ. ⁹ adhon amal dunus int

^a read imon.

^b read airlengaid ?

at equal *dire*³ up to the end of seven years. From [the ages of] seven to ten years they are maintained on a soft fare of fosterage⁵ which does not injure their nursing under the direction of a leech.⁶ From [the age of] ten years on every boy and every girl are maintained on [i.e. according to the standard of] sick-maintenance for men:^{7, 10} it is according to the status⁸ and property⁹ of their father that every boy and every girl are maintained.

¹ most difficult indeed. ² nursing of children. ³ if it were not that it has been established or ordained [as to?] inflicting injury on them in the lasting period in which they are of equal honour-price with him for whom purity is ordained; or if they were not fixed at equal honour-price with a lector, so that the equivalent of his retinue and refection are due to them. ⁴ every slaying of sanctity. ⁵ e.g. the yolk of eggs, butter, curds, and gruel. ⁶ They are not deprived of anything which would be due to them in their sick-maintenance, [such as] the yolk of eggs; or it should not be food which may cause ill health. ⁷ It is according to the [standard of] nursing due to the men of equal rank with them that they, every boy and every girl, are maintained. ⁸ as regards honour at assembly [or] arising from [the number of his] clients. ⁹ in land and chattels of their father if they themselves have none. ¹⁰ Four loaves with their relish every other day and night [24 hours] for the man on whom the injury has been inflicted, and a loaf a day and a loaf a night for every man of the number of his retinue.

§ 53. Moreover, though the father¹ should die, or though he should have been cast down from his rank,² he [the son] is [still] paid *dire* as if the status of his progenitor had not been diminished;³ for the misdeed of the guilty⁶ does not entail any diminution⁴ for the innocent.⁵

¹ of the boy. ² if he be strongly removed^a from his rank. ³ That to which he is entitled is paid to him, viz. to the law-abiding son, as if no diminution were brought on the rank of him by whom he has been begotten. ⁴ It does not cut off ⁵ anything as regards the innocent, viz. the law-abiding son. ⁶ of their law-breaking father.

§ 54. There are [certain] persons debarred from sick-maintenance^{1, 9} in Irish law, who are not entitled to maintenance² but rather to a fee for them³ according to the decision of a judge: a household pet,⁴ a lord's cherished ones,⁵ a poet's son,⁶ a *bóaire*'s favourites (?),⁷ a queen's son.⁸

¹ who truly leap^a so that they are not brought away on sick-maintenance. ² They are not entitled to be brought away on sick-maintenance. ³ their nursing fee [sent] to them to their house. ⁴ e.g. the draught-player, or the chess-player, or the 'king's son', or the singer. ⁵ e.g. his chaplain or his fosterling. ⁶ in its own meaning. ⁷ he who is dear

^a 'etymological' gloss.

airling cro na muici is amlaid dunus frisín fer roferustar in croligi cona roit^a in fer eli do breith lais for otrus.

§ 55. Ailid cac otrus a arag hi coraib bel¹ conid ti a techtai cac aon dlígus otrus la *Fêne*.^{2, 3}

¹ .i. airiltnigid inti bis a notrus arach treabaire do co coir o beluib ris inti^b dlígis. ² .i. co ti don æn sin inni dlígus .i. int otrus. ³ *Cach* aon dib nachat graidh .vii.a is tre comraite roferadh cned orra, no is mac i tsgaire, ar ní berderside for folach notrusa.

§ 56. Ailid *cach* ben bis hi coir lanamnusa lethbiatad¹ a ceile di i notrus. Alid *cach* ben tanaísi lanamnusa trianbiathad² a ceili di i notrus. Alid *cach* ben olcena cetrumad biatad^{e 3} a ceile dhi i notrus. ar ní farcbad nech cen dire la *Fêne* act inti adroille olc asa besaibh.^{4, 5}

¹ .i. in primben. ² .i. an oireach. ³ .i. an cartach. ⁴ .i. acht inti roairiltniges olc usa^d bha-fís gnaí no aibinn: fer aslai fine, fer aslui flaith, fer aslui eclais. ⁵ Geall cetraman .vii. cumala fria biathad; dia nelaidther uime enoidhchi .vii.mad a marbtha do inn 7 diablad a bid 7 lo(i)g nenech. Geall .vii. cumal fri tairechtain a legha 7 a focruicthi 7 a leptha, 7 a letheneclann do dia nelaidther impo. Geall laneneclainne uad-somh don fir roferustar croligi fair da mbe ænoidhchi oige dara sarugad iarna leigis, 7 gell bes fiu letheneclainn uadh dia troisce tara biathad coir 7 dara fotrucchad coir, 7 gell .vii. cumal uad fri taisic in fir doberar ina mama mod.

§ 57. Direnar do *cach* a lanamnus a bescnu² inse erenn¹ ciapa lin³ ciapa nuaite.⁴ ar ata forcosnam la *Fêne* cia de as techtta in nilar comperta⁵ fa huathad.⁶ ar robattar tuiccsi de i (n)nilar lanamnusa,⁷ connach airissa a caithiugud oldas a molad.⁸

= Daw. 475

^a read roich.

^b read inni.

^c read cethramthin biata.

^d read asa.

to him, who is wont to be in his society, e.g. his son or his foster-son, viz. the *bóaire's*.⁸ though he be not one of the king's sons.⁹ That is to say: as the hurdle closes the pigsty, so does [this] close against the man who has inflicted the blood-lying so that he cannot bring away the other man on sick-maintenance.

§ 55. Every sick-maintenance entails its binding [i.e. must be secured] by contracts¹ so that his lawful due may accrue to every one who is entitled to sick-maintenance in Irish law.^{2, 3}

¹ He who is on sick-maintenance has a right to a bond of surety made properly by lips^a for that to which he is entitled.² that there may come to that individual the thing to which he is entitled, viz. the nursing.^{3 b} All of these who do not belong to the seven-*cumal* grades have been injured intentionally; or it refers to a son who is in the command [under the authority] of his father, for these are not brought away on sick-maintenance.

§ 56. Every woman who is living in a proper union¹ is entitled to half the refection due to her partner when on sick-maintenance. Every second [subordinate] woman of union² is entitled to a third of the refection due to her partner when on sick-maintenance. Every other woman [who lives with a man]³ is entitled to a fourth of the refection due to her partner when on sick-maintenance. For in Irish law nobody has been left without *dire* save the person who merits evil as a result of his conduct.^{4, 5}

¹ the chief wife. ² the concubine. ³ the paramour. ⁴ save the person who merits evil from his fair or beautiful good knowledge,^a e.g. a man who evades [his duties] to kin, lord, and church (§ 16). ^{5 c} A pledge worth a quarter of seven *cumals* [is due to him] for his refection; if there be evasion of this [duty] for one night, one-seventh of the wergild for slaying him [is due] to him for it as well as double the refection [involved] and honour-price. A pledge worth seven *cumals* [is due] for providing him with leech and bathing and bed, and half his honour-price [is due] to him if there be evasion of these [duties]. A pledge worth full honour-price is due from him [the invalid] to the man who has inflicted the injury on him against remaining [even] one night with him in violation of his right after he has been cured; and a pledge worth half-honour-price is due from him against his fasting despite [his having received] proper refection and bathing; and a pledge worth seven *cumals* is due from him for the [safe] restoration of the man who is given as his substitute.

§ 57. Every one is paid *dire* for his union according to the custom² of the island of Ireland,¹ whether it be manifold³ or single.⁴ For there is a dispute in Irish law as to which is more proper, whether many sexual unions⁵ or a single one:⁶ for the chosen [people] of God lived in plurality of unions,⁷ so that it is not easier to condemn it than to praise it.⁸

^a 'etymological' gloss.

^b This refers to § 54.

^c This refers to § 60.

¹ .i. eirni^{ther} sin don cac bis a lanam^{nus} a ba-fis gnai no aibinn in^{nsi} eirenn. ² .i. senchus. ³ .i. na .v. mna: primben, forech,^a cartac, d[ormaine?], b[ē nimruma?]. ⁴ .i. in ænben no cid sochaidī cid uathad iad d'aireachaib 7 do cartacaibh. ⁵ .i. na .v. mna. ⁶ .i. an ænbhen. ⁷ .i. uair do batar in lucht docuaid ar tuicsin de, no togaidī de .i. solumh 7 dauid 7 iacob, i milar comperta i lleith re mnaibh ilarda; uair .i. ban do bi ac solumh mac daibith. ⁸ .i. an ænben.

§ 58. Fociall^{tar} hi fuile^b fethe; ¹ otrus caich iarna miad mbrog-tair; ² samlad suire i mbi³ brat⁴-biud⁵ beo-feadain⁶ imad huaisle; ar is infulaig iar nomaid in^{huitir}; ⁷ for feraib fedair⁸ febe iar narilliud; ⁹ mad cæm-cairptech¹⁰ confedar fr̄is¹¹ fir as caindell inchoisc hi suithghernsa set.¹²

¹ .i. urfoichledh in cach ferus na fuili na rolet^{radh} na feithe. ² .i. urfhoclad inti rofer an fuil an otrus do denamh. ³ .i. firenaid^{ther} no rai^{ghther} c sin don cach fon uaislidhecht a mbi se, no samlaig^{ther} d brat 7 biadh do tabairt do fo sairi a tothghusa inad gradh no fo suire neich asa ndirenar in^{chui}bh. ⁴ .i. ar bre^{can}. ⁵ .i. air fein. ⁶ .i. bi fui da fedain .i. a com^{gradh} mar æn ris. ⁷ .i. im^{fuilng}ther e a haithli na næmaidhi cach nech is inuithir. ⁸ .i. atairgith^{er} e forna feraibh. ⁹ fon febh^{us} airilltnighes no dlig^{us}. ¹⁰ .i. aca mbia carbat caomh. ¹¹ .i. atairgith^{er} a carpat mar æn ris. ¹² .i. is fir lium conid coin^{nell} inchoisc a deg-tigernus dosum iar setaib, iar conair; no is fir conid incosc soillsi conidh set sotigernuis in carbad.

§ 59. Segair teora[ib] flathib: flaith foridm^{bi},¹ fiu-flaith² fuissiten³ i feine (p. 450) fresndul,⁴ flatha^c fiadnaisi fr̄i forgell.⁵

¹ .i. fir-bis forin ceili, flatha^c in fechemon toicheda. ² .i. a com^{graid}. ³ .i. is fuisi[te]n, in flaith fuisitnigh^{ther} acna feinibh, flaith in bidbad. ⁴ .i. frestlaith^{er} sin ona feinibh. ⁵ .i. is in^{fiadnaisi} aca forgell conidh coir rugad amac.

§ 60. frisgnith^{er} gellaib.¹ co treoda teit; ² geall foluic,³ gell

^a read airech. ^b read fuilib? ^c read roighther. ^d read samaigther?
^e read flaith.

¹ That is paid to every one who is in a union according to the fair or beautiful good knowledge^a of the island of Ireland. ² the *Senchas*.
³ the five women, viz. chief wife, concubine, paramour, [strumpet, and vagrant woman?]. ⁴ the one wife [only] or concubines and paramours, whether many or one. ⁵ the five women. ⁶ the one wife. ⁷ For the people who had gone to understand God,^a or the chosen [people] of God, e.g. Solomon and David and Jacob, lived in many unions with several women; for Solomon son of David had fifty wives. ⁸ the one wife.

§ 58. In woundings heed shall be given to sinews.¹ The nursing of every one shall be increased according to his rank.² Let it correspond to the dignity in which he [the injured party] is ³ with covering⁴ and refection⁵ and 'live carrying' [away on sick-maintenance]⁶ according to the fullness of his nobility (?). For a man who is fit for nursing is to be maintained after the ninth day.⁷ He is carried on [the shoulders of] men⁸ according to the meed of his worth;⁹ if he be a noble chariot warrior¹⁰ there is brought along with him¹¹ a proof [witness?] which is a candle of demonstration on the path of good lordship (?).¹²

¹ Let every one who inflicts the wounds take care that he sever not the sinews. ² Let him who has inflicted the wound take care to perform the nursing. ³ That is justified or extended for every one according to the nobility in which he is; or it is fixed that covering and food be given to him corresponding to the dignity of his property where he has a status [himself], or corresponding to the dignity of him according to whose honour he is paid *díre*. ⁴ meaning plaid. ⁵ in its own meaning. ⁶ live men under him^a to carry him [away], his equals in rank along with him. ⁷ Every one who is a case for nursing is maintained after the ninth day. ⁸ He is carried on [the shoulders of] the men. ⁹ according to the worth which he merits or to which he is entitled. ¹⁰ who has a noble chariot. ¹¹ His chariot is brought along with him. ¹² I deem it true^a that his good lordship is a 'candle of demonstration' to him along ways, i.e. along a path; or it is true that it is a demonstration of clearness that the chariot is a chattel of good lordship.

§ 59. He [the invalid] is sought out with [i.e. in the presence of] three lords: a lord who is over him,¹ a worthy lord² of acknowledgement (?),³ for attendance according to Irish law (?),⁴ a lord of testimony for testifying.⁵

¹ who is truly over^a the client, the plaintiff's lord. ² his equals in rank. ³ who is of acknowledgement, the lord who is acknowledged by the freemen, the defendant's lord. ⁴ That man is attended by the freemen. ⁵ who is fit to bear witness, testifying that he [the invalid] has been properly carried away.

§ 60. There is a service by pledges;¹ it extends to three things: ² a pledge for [proper] maintenance,³ a pledge for service

^a 'etymological' gloss.

*Translations
from here on
'purely tentative'
(see p. 3, bot)*

fritgnama,⁴ *gell* taisic iar frepaid⁵ fosisedar derosc.⁶ *cach* *gell* cona [f]ritgill⁷ do di[a] nascnai coir.⁸

¹ .i. *gell* do 7 uad. ² .i. *tet* co tri gellaibh. ³ .i. re biadh coir.
⁴ .i. re imfulung nech ina gnimrad .i. fo aicne a eladan .i. *gell* a gnima enla.
⁵ .i. *gell* re taisic amuig, *gell* .vii. *cumal*, *gell* in corpdire. ⁶ .i. o aisit-nighther derosc a slainte. ⁷ .i. dib sin doberar do go ngellaib fritiri riu ina adaig amach for cula .i. amlaid sin, *gell* fritfolaid.^a ⁸ .i. do nech uasal-innsaidther do iar coi coir.

§ 61. Dlomthair a urcoillte ina otharli(u)g[i]u len.¹ ni l[e]icter fair hi teg² druith³ na dasachtaig⁴ na ecuind⁵ na docuinn⁶ na æs necraite.⁷ ni fertar cluichi fair hi tig.⁸ ni taisciter scel.⁹ ni curtar m[a]ic.¹⁰ ni imesorgad mna na fir.¹¹ ni inorgaiter gaimin.¹² ni imgonar.¹³ ni diuchtraiter obonn.¹⁴ ni acaltar tarais¹⁵ *nach* thar adart.¹⁶ ni cuirter coin congail[e] fair¹⁷ *nach* ina cois imuich.¹⁸ ni gairther gairm.¹⁹ ni grithaidter muca.²⁰ ni fertar scannail.²¹ ni curtar^b ilach²² na gair cocluiche.²³ ni gairther gairm.²⁴ ni heghther.²⁵

¹ .i. faillsigther .i. raiter inni is urcoilte don liuntac in tan bis a minne uithir. ² .i. a mbi se. ³ .i. co rath. ⁴ fa tabarr in dlai fulla.
⁵ .i. int ecodnach bec no mer can rath. ⁶ .i. no dæ a codnaigetu, in mer cen rat no in mac bec. ⁷ .i. na in lucht risa mbi ecrachte do, a bidbaid.
⁸ .i. nocha natairgiter cluici fair isin tech a mbi int othar. ⁹ .i. ni tabartar tasc sceil breice na drochsceil chuite. ¹⁰ .i. ni buailter a nentigh ris.
¹¹ .i. ni denad fir na mna esorgain debtha a nentigh ris do dornaib na do slibrib. ¹² .i. nocha tabarr forgoin dara inn forin ngeimen a bualad. ¹³ .i. nocha dentar imghoin co ngaibh a nentigh ris.
¹⁴ .i. noca duiscther co hobonn asa codlud. ¹⁵ .i. in tan bis ina suidhe.
¹⁶ .i. in tan is ina lighe bis. ¹⁷ .i. ni licther conairt do conglec a nentig fris. ¹⁸ na ina comfocruibh amuich. ¹⁹ .i. a ainm fein ann.
²⁰ .i. noca lecur gritiugud dona muccaib ina farrad. ²¹ .i. debta no imcainte. ²² .i. commaidemh .i. int esba. ²³ .i. golium cona cluiche in tres bundsach. ²⁴ ni goirther gairm nard a nentig ris. ²⁵ Dairt in gac fodail doruirmisim dib so uili. Ma rofogair in liaigh cen na hernuili so do denamh is fiach fo aicned ar inti dorinne. Munar foccair .i. is slan inte dorinne 7 eiric fo aicned midaig techta no etechta d'ic don liaig. A ceitre comgraid do imcar an fir uitir for folach nothrusa, 7 na tri flaithe do beith ar aird aca breith amach, 7 a landamh mar æn ris amuich 7 a llan-

^a read frithfolaid ?

^b read cuirther.

[to be supplied in the invalid's stead],⁴ a pledge for restoration after cure⁵ which a [leech's] verdict acknowledges.⁶ Every pledge [shall be] with its counter-pledge⁷ to him [the defendant] on the basis of which he attains [his] right.⁸

¹ a pledge due to him and a pledge due by him. ² It extends to three pledges. ³ for proper refectation. ⁴ for supporting some one to perform his work, according to the nature of his craft; a pledge for his daily (?) work. ⁵ a pledge for his restoration home, a pledge worth seven *cumals*, the pledge for the wergild. ⁶ when the verdict on his [restoration to] health is acknowledged. ⁷ [Each] of these [pledges] is given to him with counter-pledges back against them; like that (?)—a pledge for counter-consideration. ⁸ for what is nobly sought^a for him after a proper way.

§ 61. Let there be proclaimed what things are forbidden in regard to him [who is] on his sick-bed of pain:¹ There are not admitted to him into the house² fools³ or lunatics⁴ or 'senseless' people⁵ or half-wits⁶ or enemies.⁷ No games are played in the house.⁸ No tidings are announced.⁹ No children are chastised.¹⁰ Neither women nor men exchange blows.¹¹ No hides are beaten.¹² There is no fighting.¹³ He [the patient] is not suddenly awakened.¹⁴ No conversation is held across him¹⁵ or across his pillow.¹⁶ No dogs are set fighting in his presence¹⁷ or in his neighbourhood outside.¹⁸ No shout is raised.¹⁹ No pigs grunt.²⁰ No brawls²¹ are made. No cry of victory²² is raised nor shout in playing games.²³ No shout or scream is raised.^{24, 25}

¹ Let there be revealed, let there be told what is prohibited in regard to the disabled person when he is in the depth of sickness.^a ² where he is. ³ with grace. ⁴ under whom is put the magic wisp. ⁵ the young 'senseless' one, or an idiot without grace. ⁶ or bad is his sense,^a the idiot without grace, or the little child. ⁷ nor the people with whom he has a feud, his enemies. ⁸ No games are introduced into the house in which the invalid is. ⁹ No announcement of false tidings or evil tidings is brought to him. ¹⁰ They are not beaten in the one house with him. ¹¹ Neither men nor women engage in quarrelsome smittings with fists or rods in the one house with him. ¹² No thrust over its end^a is dealt to the hide, striking it. ¹³ No mutual wounding with spears is done in the one house with him. ¹⁴ He is not awakened out of his sleep suddenly. ¹⁵ when he is sitting up. ¹⁶ when he is in bed. ¹⁷ No pack of dogs are allowed to fight in the one house with him. ¹⁸ nor in his vicinity outside. ¹⁹ his own name. ²⁰ Pigs are not allowed to grunt in his presence. ²¹ of strife or mutual reviling. ²² boasting, folly. ²³ prattle (?) and playing, the battle of rods. ²⁴ No loud shouting is raised in the one house with him. ²⁵ A yearling heifer is due for each injury of all these which we have enumerated. If the leech has given warning that these things are not to be

^a 'etymological' gloss.

biathad doib, .iiii. baigina ferfuine dosom fein gac laithe aicinta, 7 a com-gradh da fiss cona daim gaca nomaidhi. 7 na tri gill do gell[ad] do: gell do re biad 7 re liaig 7 is gell lethloigi enech (d)esec, gell do re fer mama mod 7 is gell lanloige [enech] (d)esec, gell .vii. cumal do re aisec amuich iar prepaib.^a Tri gill uadasom dono: gell uadh nar cuinge acht a biadh coir 7 gell lethloige enech esec. geall uad nar cuinge acht a fer mama mod coir, 7 gell uad na raib(i) amuich iar freabaid .i. gell lanloigi enech esein. No comad gell ara tarrasta gac ni dib acht langilli in corpdiri re aisec iar frebaid.

§ 62. Alid fossugud hi forromai fis¹—firchind cachá nomaide nuitir² inna bethamnasa bri[g]³ bith—lin bis for fuiririud fiad[a?]⁴ fon æn cosmail coir.^{5, 6}

¹ .i. airilltnigid se a fosugud, in lucht tic cuice da fis da foiritin. ² .i. irdraicidther a techt a fircenn gaca .ix. ³ .i. da fis i mbia bri bethad ann. ⁴ .i. bith sin do, in lin bis aige for foriurud fa uaislidhecht. ⁵ is faenan, inann, lium in cosmailiugud sin do reir choir. ⁶ a landam mar aon ris amuich, 7 a landhamh gaca nomhaidi, 7 a la(n)dam do biathad ina tigh tara eis, no is cutruma doberar do biad doib 7 don lin bis fora cinn .i. da baigina ferfuine gac fir tet d'fis scel i nan ala^b lo cona (n)oidci cona nannlann 7 a tarsunn.

§ 63. Confodlai fuile¹ fo mesu,² fo miadu,³ fo on,⁴ fo esbaid,⁵ fo slan,⁶ fo iarslan: ⁷ fuil folaic,⁸ fuil fritfolaig,⁹ fuil ruisc,¹⁰ fuil amruisc¹¹ fuil foluig da bro,¹² fuil formnai fosla¹³ corp suir,¹⁴ fuil slan,¹⁵ fuil setaibh¹⁶ (*p. 451*) acrai inerce,¹⁷ fuil imbil hi ræ,¹⁸ fuil laimhe, fuil chuisse, fuil chind, fuil cnamdig.^{c 19}

¹ corob cain fodaili no cinnus fodhailter eiric na fuili. ² .i. in corpdire. ³ .i. in(a) eneclann. ⁴ .i. i nincuibh. ⁵ .i. i mballaib. ⁶ .i. fo

^a read frepaid.

^b read i nōmad?

^c read cnāmb[a]ig.

done, a fine according to the nature [of the case] is due from him who has done any of them. On the other hand, if he has given no warning, the doer is free from liability and the leech must pay compensation according as he is a skilled or an unskilled physician. Four men of equal rank with him are to carry the sick man away on sick-maintenance, and the three lords (§ 59) are to be present while he is being brought away; and his full retinue are to stay with him while he is away and are to have their full refection, [and] he himself is to have four loaves of men's baking every natural day [24 hours]. And his compeers in rank come to visit him every ninth day together with their retinue. And three pledges are to be given to him: a pledge for refection and [attendance of] a leech—and this is a pledge worth half honour-price; a pledge for [the provision of] a man to do his work—and this is a pledge worth full honour-price; and a pledge worth seven *cumals* for his being restored after cure. Moreover, three pledges [are due] from him: a pledge that he will seek no more than his lawful refection—and this is a pledge worth half honour-price; a pledge that he will seek no more than his proper substitute; and a pledge that he will not remain away after cure—this is a pledge worth full honour-price. Or it may be a [single] pledge that each of these things be provided, apart from a pledge equal to the full *werigild* for his restoration after cure.

§ 62. He is entitled to entertainment [for those who come] to inquire as to nursing¹—at the exact end of every nine days he is announced² [by the visitors to be] in the vigour of life³ . . .—for the number which are wont to be in his presence (?) on a banqueting visit⁴ [to one of his clients when in health] according to the same proper analogy.^{5, 6}

¹ He is entitled to entertainment for them, the people who come to visit and succour him. ² Their going at the exact end of every ninth day is made known. ³ to inquire whether there is any vigour of life in him.

⁴ He has that, viz. the number whom he has on a banqueting visit according to his nobility. ⁵ I deem identical or the same that analogy according to justice.

⁶ His full retinue [are to be maintained] along with him away [where he is being nursed] and also his full retinue every ninth day, and his full retinue is to be fed in his house afterwards [at the injurer's expense?]; or the same amount is given to them as the retinue which are there before them, i.e. two loaves of men's baking for each man who goes to visit him on the ninth day together with their proper seasoning and condiment.

§ 63. Thou shalt divide wounds¹ according to estimations,² according to ranks³ [of the wounded], according to blemish,⁴ according to loss [of limb],⁵ according to [immediate?] healing,⁶ according to subsequent healing:⁷ a wound involving maintenance,⁸ a wound of non-maintenance (?),⁹ a wound of eye¹⁰ [which can be seen?], a wound of 'non-eye'¹¹ [which is invisible?], a wound with concealment of [which covers] the two eyebrows,¹² a wound on the shoulder which bespatters (?)¹³ the body of a free-born man,¹⁴ a wound which is free from liability,¹⁵ a wound [inflicted] in the course¹⁶ of levying a payment due,¹⁷ a wound

cetoir. ⁷ .i. iar tain. ⁸ .i. berar for folach. ⁹ .i. na berar for
folach acht conig a tech. ¹⁰ .i. osin rosc tuas. ¹¹ .i. doberar fa
rosch anis. ¹² .i. imfuilngither etir in da malaigh. ¹³ .i. silis.
¹⁴ .i. in fuil chain-inndli(g)ther ar formna cuirp in soir, in graid flata.
¹⁵ .i. etarru fo *cetoir.* ¹⁶ .i. iar tain, no *deichbir* torba. ¹⁷ .i. indat
ineirce seoit o acarar. ¹⁸ .i. in duine mer no *saides* comrag nindligthech.
¹⁹ .i. dia *combrister* cnama.

§ 64. *cocraide cach* ngruad naidbrithe.¹ eirnithe *cach* nard
iar feinib.² forannaiter datha; ³ direnaiter crotha cummai ⁴ com-
sechem set; samlaid ⁵ sechta *cach* fuil ⁶ druith ⁷ dinnap inna
ramot techtai torai.⁸

¹ .i. ciallruinidim eiric in gac gruaid iarna brisidh; no is coicerta eraic in
cach ngruaid donither d'aidbriugud. ² .i. ernither iarum do cech uasal
do *reir* in fenecuis a neneclann. ³ .i. o urranntar a ndata fene dona
tonnaib, no dia ruamnaiter in dat do bi forin corp. ⁴ .i. eirnither sin
do o urranntar cuma crotha eli uirre. ⁵ .i. cain-innsaidther seoit ann
buaitsiu minab amlaid bes. ⁶ .i. innsaighther eiric in *cach* fuil. ⁷ co
rath. ⁸ .i. in tan robo dliged do da toiritin 7 codnac ['c]a toriachad, no
minab ann tora uadh ina conair dligteac cin a tarrachtain acht argain
airdslechtea.

§ 65. Cis forcsen fola la *Fene*¹? firbretaib iar cubus,² dath,³
derosc;⁴ anfoccal conindle anfiadnaise fuidreg.⁵

¹ .i. cinrus firdecas eiric na fola do *reir* an fenechuis, .i. cadiat na
firdecasana filet foran fuil. ² .i. do *reir* na firbret cuibsech. ³ .i. coir
uirri curob inann 7 amal do bi ar tus. ⁴ .i. slaintri coir uirre. ⁵ .i. cen^a
indlid a drochfiadnaisi don liaigh co fordergann a anfiadnaisi as e .i. iss ed
indles as a drochfiadnaise fiderach drochfoccal.

^a read cain-.

[inflicted] by a fool in combat,¹⁸ a wound [inflicted] on a hand, a wound on a foot, a wound with breaking of bones.¹⁹

¹ Let it be well that thou dividest; or how is divided the wergild of bloodsheddings? ² the body-fine [wergild proper]. ³ the honour-price. ⁴ on faces. ⁵ on limbs. ⁶ immediately. ⁷ after a time. ⁸ which is brought away on sick-maintenance. ⁹ which is not brought away on sick-maintenance, but rather to his [the injured party's] house. ¹⁰ above the eye. ¹¹ which is inflicted under the eye. ¹² which is caused between the two eyebrows. ¹³ which drips. ¹⁴ the bloodshed which is well adjusted ^a on the shoulder of the free-born, the member of a noble grade. ¹⁵ as between them immediately. ¹⁶ after a time, or excusable injury. ¹⁷ for which chattels are payable when it is levied. ¹⁸ the idiot or the person who seeks an unlawful combat. ¹⁹ as a result of which bones are broken.

§ 64. Every cheek [insult ?] which is sued for is to be settled by agreement; ¹ every 'high thing' [every injury which causes a swelling ?] shall be compounded for according to Irish law; ² colours [of the injured skin after a blow ?] are classified; ³ *dire* is paid for maimed figures [appearance ?] ⁴ through following [levying ?] of *sets* [penalties]: in like manner ⁵ is to be followed every wounding ⁶ of a fool ⁷ if it be not in a lawful way that he has got it (?).⁸

¹ I reasonably decide ^a that there is to be wergild for every cheek after it has been broken [lacerated]; or the wergild for every cheek about which claim is made is to be adjusted. ² Their honour-price is paid afterwards to every noble person according to the Irish law. ³ when their colours are assigned to the skins; or if the colour which was on the body be reddened. ⁴ That is paid to him when the shape of another form is assigned to it (i.e. the wound). ⁵ *Sets* are well sought ^a from thee unless it be thus (?). ⁶ Wergild is sought for every wound. ⁷ with grace. ⁸ when it was his duty (?) to succour him and a sensible adult was inciting him; or if he come not away [escape] from him in his lawful path without being caught up on, save by an attack of . . .

§ 65. What belongs to the surveying [estimation ?] of a wound in Irish law ? ¹ With true judgements according to conscience, ² colour ³ [of the part injured], and [leech's] verdict. ⁴ Misrepresentation [by the leech ?] which brings about absence of evidence is a plundering [of the wounded ?].⁵

¹ How is the wergild for the wound truly surveyed ^a according to the Irish law ? What are the true surveyings ^a which are [made] on the wound ? ² according to the true conscientious judgements. ³ proper [colour] on it [the wounded spot] so that it be the same as it was formerly. ⁴ of proper health on it. ⁵ His bad testimony fairly brings about ^a for the leech that the absence of his testimony causes him to blush. That is what he brings about as a result of his bad testimony: evil stripping ^a through evil word (?).

^a 'etymological' gloss.

§ 66. Diamba breiteam arafeser derosc suir do dær 7 derosc duir do sær¹ setaib son^a cænchoir concerta fenech~~us~~ fir.²

¹ .i. diamba breithem co roibh a fis acad *in* derbcinned leidhis doberta arin særgrad flatha do tabairt arin dærgrad fene .i. curob inann re bes ecen do beit do slantaid do saor 7 do dær .i. derbcinned slainti int saoir don dær 7 cinned slainte int sair.^b ^a ² .i. is ænan inann lium rocoice[rta]stur in fenech~~us~~ seoit ann sin do reir coir; no is faenan cuma coicertas fir in fenech~~us~~ asa fit[his]ibh *in* re cindter do beith fae slantaid sær 7 dær 7rlā.

^a read fon.

^b read in dair dont saer.

From BN
(see Binchy's
note, p. 77)

§ 66. If thou be a judge, thou shouldst know [when] the test [period] of a freeman [applies] for a villein and the test [period] of a villein [applies] for a freeman :¹ on equally just paths Irish law adjusts the right (?).²

¹ If thou be a judge thou shouldst know that the certain determination^a of cure which thou wouldst give for the free noble rank should be given to the unfree rank of the churls, that it is the same period which is necessary for the healing of free and unfree ; the certain determination^a of healing of the free [applies] for the unfree, and the determination of healing of the unfree [applies] for the free. ² I deem that it is identically or in the same way that the Irish law adjusts the *sēts* [chattels] according to justice in that case ; or it is in the same way that the truth of the Irish law adjusts according to its paths the period which is fixed for the restoration to health of free and unfree, &c.

^a 'etymological' gloss.

NOTES

§ 1. *Crólige* is usually translated 'maim' in AL. But this does not reproduce its meaning accurately: there are several 'maims' which do not amount to *crólige*. I have accordingly adopted the awkward, but literal translation 'blood-lying' (it could be well rendered by the German *Blutlager*). It means the sickness and incapacitation which result from injuries inflicted by another party. Cf. *infra*, p. 91 f.

I have not attempted a translation of the treacherous word *dīre*. For its various meanings, cf. Ir. Recht, p. 14 f. In this paragraph it refers to the additional penalty, varying according to the rank of the injured party, which has to be paid for a *crólige mbāis* in addition to the fixed wergild for the injury. A list of these penalties is given in § 2. Cf. p. 94 f. *infra*. Glosses³ and ⁴ should be reversed: *corp dīre* is a synonym for *ēraic* (Ir. Recht, p. 14), and *eneclann* is frequently (though not here) identical with *dīre*.

§ 2. It would be impossible to describe the various ranks of society enumerated in this paragraph without opening up the whole law of personal status. (Cf. MacNeill: 'The Law of Status or Franchise', *PRIA* xxxvi, C 16; *CCF*, p. 66 f.) I must content myself with pointing out that our text, in placing the *aire ard* above the *aire tūise*, follows the order given in *Uraicecht becc* (AL v. 44) as against *Críth Gablach* (AL iv. 324). In ZCP 16, 197 f., Thurneysen controverts MacNeill's view as to the age of the former text, and declares that it cannot have been composed before the eleventh century. If that be so, it is at least obvious that the compiler must have been working on material more ancient than *Críth Gablach*; for the order of precedence given by him, in so far as it differs from that of *Críth Gablach*, is supported by the other tracts.

This section is frequently quoted in other commentaries: AL iii. 474; C 597, 1658, 1803; O'D. 2006, 2348; also in the present MS., p. 439. All of them differ from our text in regard to the closing items of the tariff of penalties: after the *bōaire* and *ōcaire* they insert the *fer midbad* (cf. Ir. Recht, p. 83 f.) who receives two *cumals*, and give only one *cumal* to the *flescach* and the *mug daer*; cf. p. 128 f. *infra*.

The words *cechtar de in dā airech forgill is taire . . . conig airig tūisi* were probably an old gloss on *cāich bes airdi* (= *ardu*), which was subsequently incorporated in the text. The subdivision of the *aire forgill* into three classes, highest (*a. f. is ferr*), middle (*a. f. medōnach*), and lowest (*a. f. is tairi*) does not occur in any old text and must date from the period of the commentaries.

§ 3. This rule applies to the *dīre* of *crólige mbāis* (cf. p. 94¹ *infra*). The glossator takes it as referring to an injury entailing *othrus*, where the wife is only entitled to half of what is due to her husband (§§ 6, 56). For the *carthach*, cf. AL ii. 398 f.

§ 4. *Pennit* (which I translate 'penance') means here, as frequently in the Laws, the mulct payable to the Church for which the original penance

had been commuted, cf. Meyer in RC 15, 485 ff.; Oakley, English Penitential Discipline and Anglo-Saxon Law (New York, 1923), p. 69 ff. For the *deorad Dē*, see note on § 12.

⁸ For the reference to Féníus Farsaidh, eponymous ancestor of the Féní, cf. the verse beginning: *Féni ó Féníus asberta*, quoted by MacNeill, Status, p. 267.

§ 5. For the meaning of *nōs*, cf. ZCP 18, 398-9; for that of *cāin*, cf. CCF., pp. 65-6. But I am not clear as to what precisely *nōs cāna* signifies in this connexion. Dr. Thurneysen has suggested to me that it may possibly refer to the Bible with its insistence on the equality of all men in the sight of God. On the other hand it is worthy of note that *Cāin Adamnāin* (§§ 44, 50-2), in laying down the penalties for offences against women and clerics, makes no mention of honour-price varying according to the rank of the person injured, and seems to contemplate the same amount for all classes. Similarly the various canonical regulations (such as those contained in the *Hibernensis*), which are probably the 'books' referred to in this section, make no provision for any extra payment based on the honour-price of the injured party in addition to the fixed penalty. To that extent all persons may be said to be 'equal' *hi cāin 7 a lebruib*. In the customary law (*fēnechas*), however, the penalty for manslaughter and mayhem consists of (1) *ēraic*, the fixed wergild of the particular offence; (2) the whole or a fraction of the *dīre*, honour-price, of the injured party (cf. Ir. Recht, p. 14). The *dīre* of a *crólige mbāis* (as laid down in § 2) varied according to the rank of the injured party, although not in any exact proportion to the amount of his honour-price (cf. p. 94 *infra*).

The celebrated passage in the introduction to the *Senchas Mār* (ZCP 16, 175, § 3; AL i. 40. 13 ff.), part of which is quoted in gloss ⁹, may be based on this section.

§ 6. It is not easy to see what connexion 'the bringing away of every boy in fosterage' has with the bringing away of an injured person entitled to *othrus*. The glossator takes it to mean the duty of the parents to fetch back the fosterling at the conclusion of his period of fosterage, but this seems a bad guess. Perhaps the foster-parents were obliged to take away the child within a certain period after they had agreed to receive it in fosterage. Is this the meaning of *dingbāil mic dī chích*, AL i. 124. 20?

² I do not understand *fri aid*.

§ 7. Most of this section is also in C 1818, which reads as follows (omitting the glosses): *Cach cro nuibhe no naidhenuis dorenar a comdire fri gradaib ecalsa co nnderlat a gradh maicne. Otha suilhe dorenar a hinchuib a nathar no a hinchuib caich do-ail (!) go cenn .vii. mbliadan ndeg.*

The glossator's attempted distinction between *nuibe* and *noidenas* is fantastic. All children from their baptism to the end of their seventh year are regarded as sacred (*ainglecda*, as they are called in the commentary published in Ir. Recht, p. 48). In the *Dīre* text (*ibid.*, p. 22, § 23^{1, 2}) it is stated that 'king's son and churl's son have equal *dīre* (i.e. honour-price) to

the end of seven years', and that this is accorded to them a *dualgus Dē*. According to the present section, this equal honour-price is the same as that of the lector, one of the lower ecclesiastical grades, whose honour-price is given in AL v. 22. 30 as three *cumals*; cf. the commentary already referred to, which begins: *Teora cumala do gach mac 7 do gach ingin . . . cu cenn seacht mbliadan*. Perhaps the secular law has been influenced here by ecclesiastical rule: *Cāin Adamnáin* (p. 24, § 35; p. 28, § 44) imposes equal penalties for the maim or manslaughter of a *mac-cléirech* and a *mac endac*.

co nderlat is *ro* subj. of *di-lā-* (vb. n. *dīl*), cf. ZCP 15, 320. I take *dīrib* here as pl. of *dīr* 'appropriate, gehörig' (Ir. Recht, p. 61), not as pl. of *dīre*.

§ 8. *escond*, 'an ex-cond' (sensible adult, the 'normal person' with full capacity in Irish law), is used of persons whose wits have been enfeebled by age, cf. *escuind* (misprinted *escunid*) i. na *senoraig*, AL i. 244. 30. *Tecla lige* probably means a chronic invalid (who accordingly has no claim to special nursing by any one who happens to injure him), but I cannot translate the first word. For the *sīrechtach tuile*, cf. note on § 29².

Daw. 1474 ⁵ This gloss is written over *otrus ceni fulustar*, but must refer to the *sīrechtach tuile*. My proposed emendation of *nac ruidenn* to *nac ruibenn* (cf. § 29²) is merely tentative. Keeping the MS. reading, Dr. Thurneysen suggests an alternative translation: 'der nicht errötet bei Verderbnis seines Bettes', taking *ī[m]mill* as a cpd. of *mell* 'ruin, destruction' (Meyer, Hail Brigit, p. 20, § 3).

§ 9. The glossator's attempts to identify this 'couple' are not convincing. It is true that the leech must be supported by the injurer during the period of *othrus* (cf. p. 114 *infra*), but there is no evidence that his wife is also entitled to support. The second guess is still more unfortunate, for here one of the *lānamain*, viz. the child, must have been injured, whereas the point of this section is that the 'couple' in question are entitled to *othrus* without any previous injury. Possibly the text refers to the aged parents who are entitled to *goire* ('pietas'), maintenance by their descendants, including nursing in illness. This *jeu d'esprit* was no longer understood by the glossators. Cf. § 15.

§ 10. Cf. p. 99 f. *infra*.

§ 11. Cf. p. 102 *infra*. The meaning of the text was no longer clear to the glossator, who seeks to interpret it in the light of subsequent practice. For the phrase in gloss ¹ *dalintar* (= *dolintar*) *do ap[th]aib 7 crōligibh*, cf. p. 95 *infra*.

§ 12. The opening words of this section occur in C 1812 as follows: *Athait a do .x. a tuaith ariscuille cain othrusa la Fēne*.

I am not sure of the translation of *ernidter ferta*. In C 1058 (apparently a quotation from this section) I find *deora de ernaigther ferta*. The *deorad Dē* and the *aíbellteoir* figure very frequently in the Laws. Although they do

not appear to have held any definite ecclesiastical rank, they are both credited with miraculous powers and assigned a high honour-price (cf. § 4). In O'D. 635 (commentary) it is provided in regard to a case where, after application to a series of judges, no decision has been obtained: *a breith docum aoibhilleora no deoraid de, uair is daigh foillseochaid dia doibh he*: 'it shall be brought to an *aibellteoir* or a *deorad Dē*, for God will probably reveal it to them.' As to what the distinction between these two classes of thaumaturges was the later jurists give conflicting information. According to gloss ⁶ (repeated in C 1058), the *aibellteoir* was a native of the territory, whereas the *deorad Dē* (as the name seems to show) was a stranger who came to settle there. But in C 275 another distinction is made: *dethbir itir in aiballtheoir 7 in deorad de .i. in deorad de, leigind aice 7 donither a firta*; in *aibillteoir, nogan fuil leigind 7 donither a firta*. For the *aibellteoir*, cf. also O'Dav. 86 and Stokes's note.

The *āge rechta dīlgetha* is doubtless identical with the *āgu rechta litre* who appears in the introduction to the *Senchas Mār* (ZCP 16, 175, § 4; AL i. 40. 16). In C 349 a commentary on the 'four laws' (cf. AL i. 260. 20 f.) gives the fourth as *dīlgudh i nuafadhnaise*.

For a number of legal passages bearing on *drúth*, *mer*, and *dāsachtach*, cf. Smith in ÉRIU II, 68 ff. The *drúth* was invested with a semi-sacred character, cf. C 554 *Naem in druth 7 ag adhairt do dia bis*. Hence he is glossed *co rath Dē*, or more usually *co rath* 'with grace' (misunderstood by Smith, *loc. cit.*); cf. Mod. Ir. *duine le Dia*. The *mer*, on the other hand, is 'without grace', and in the Laws a *dāsachtach* (cf. RIA Dict. Fasc. I, s.v.) seems to mean a person who has been deprived of his senses by witchcraft or possession. The word is almost invariably glossed: *fo tabarr in dlai fulla*, for an explanation of which, see Cóir Anmann, § 183.

For the meaning assigned to *tascor*, cf. ZCP 15, 333; it is also used in the concrete sense for the retinues which accompany king and bishop on their visitations. In gloss ¹⁵ it is explained as the company entitled to visit the sick man (§ 62), the glossator overlooking the fact that the king is excluded from *othrus*. The same applies to his explanation of *taurrāna* in ¹⁴. The latter word is associated with *tascor* in two other passages. In H 2. 15, p. 15a, 12 (Facs., p. 5) there is a paragraph beginning: *A hui chuinn co foelais turanau tascuru nimchomaid (?) airech ?* In C 1986 it is stated of a *rī tuaithe*: *Ni haile othrus, ar ni fulaing nech a thoruma . . . nach a tascar*. Here *thoruma*, which can also mean 'care, attention' (cf. *forromai* in § 62 and note), is probably a mistake for *thorāna*. It seems to be pl. of *taurrāin*, vb. n. of *to-air-ag-* (cf. *aurāin*, R.C. 33, 96 f.). In the obscure poem on the law of neighbourhood published by MacNeill (Status, pp. 310-11, ll. 81, 98) *tuurrāna* occurs twice in a list of trespasses, and is translated 'drivings across' (as if compounded with *tar-*; perhaps rather 'drivings forward'). The meaning which I have assigned to it, while of course uncertain, will fit most of these contexts.

§ 14. Cf. C 1817: *Ni tualaing brethemnacht la feine i nothrus na fiastar tri baogla othrusa*, followed by the gloss.

Bægal (tr. 'Rechtsfehler', ZCP 15, 307) means a mistake in law for the consequences of which the person guilty of the mistake is liable.

§ 15. *Annsom* sometimes means 'most difficult to determine', sometimes 'most troublesome, most oppressive', sometimes again (as in this section) 'most remarkable, most curious'. The glossator may be right in his interpretation of the two men in question. The leech has to be maintained by the guilty party during the *othrus* (cf. p. 114 *infra*), and the normal person who incites a fool to violence is liable for the consequences of his action (cf. AL iii. 156 f.), including, it may be assumed, the sick-maintenance of any one injured by him. The reference to the *āige fine*, 'head of the kindred', is not so clear. It may mean that where a person has been injured by a fool without incitement by a third party, the *āige fine* of the fool is responsible for the *othrus*. Or it may allude to the ultimate responsibility of the head for those members of the kin who do not meet their liabilities. Cf. AL i. 80. 29, *aige fine gusa cuinnegur cin comocu[i]s*.

§ 16. Cf. Triads 183: *Tri na dlegat othras: fer aslui flailh 7 fine 7 fili* (?). The average freeholder owed definite duties to his kin, to the lord from whom he had taken a fief of stock, and to the Church: if he evaded any of them, he was placed under heavy legal disabilities, including loss of his right to *othrus*. The glossator's attempt to restrict the meaning of *fer aslui eclais* to an ecclesiastical tenant is unjustified.

§ 17. Cf. p. 119 *infra*. The concluding portion of this section and glosses are frequently quoted, e.g. AL iii. 478 f.; C 1665 f., 1810; O'D. 2378 f. The emendation of *a log to folog* is supported by all of them and indeed is dictated by the context. For other uses of the phrase: *fiachach dogō* (which I take as jussive subjunctive), cf. AL iii. 154. 4; v. 390. 10.

§ 18. Cf. p. 102 *infra*. Part of this section (from *asboinn* to the end), with substantially the same glosses, is quoted in AL iii. 478. 17 f.; C 1664, 1809; O'D. 2379. All of these read *asboinn*, although the verb must be *ad-bond* as opposed to *asbonnar* (*os-bond*) immediately following. But the two compounds seem to have been confused even in the O.Ir. period, cf. Pedersen, ii. 476. (In ÉRIU 10, 127, § 51, Plummer seeks to establish the existence of a further compound, *ess-bond*-, meaning 'to lodge an objection', and quotes this passage—from AL iii. 478—in support. His other example—from AL ii. 306. 19—is equally wrong, the verb cited being pr. subj. of *os-bond*-, cf. ZCP 14, 381.)

§ 19. Cf. p. 120 *infra*. The last words offer considerable difficulty, but the general sense is, I think, correctly interpreted.

§ 20. The ambiguous wording of the text here has puzzled the glossator, who in ² gives two conflicting interpretations. The second is obviously the correct one. *Othrus fēne* is used in its widest sense, for the context shows that it means the nursing fee awarded to those members of the laity who are 'excluded' from *othrus* (cf. p. 117 *infra*).

I can only find two other references to the mysterious *cuiclunnu sēt*:

(1) O'Dav. 474: *Cuiclanna* [*Cuclanna* E] *seoit* (or *set*?) .i. *seoit lana no lainnecha*. The lemma given is the closing passage of this section: *is pennait ailes othras cach fir eclaisi acht cuiclanna set*, which is glossed as in ⁶: *na .iiii. ba 7 samaisc, 7 a pennait gach mic eclaisi doberar na feich sin do liagh*. (2) H 3. 18, p. 67 (C 95) *cuicliunn .i. cuic lethuinge*. *Sēt*, which is the reading in nearly all the examples, may be either nom. sing. or gen. pl.: if the former, *cuicliunnu* (-*lanna*) may be gen. Gloss ⁵ takes the expression to mean five *sēts*, for in general a 'half-ounce' = 1 *samaisc* (two-year-old heifer) = 1 *sēt*. But in ⁶ it works out at nine *sēts*, *.iiii. ba* (= 8 *sēts*) 7 *samaisc*. A late commentary on compensation for injuries (nominally based on § 2 of this text and on fragments of *Bretha Dēin Chēcht*) awards the leech precisely this amount out of the mulct payable for the *crólige mbáis* (used in its later sense, cf. p. 130 *infra*) of kings and their compeers: C 309, 1661, 1804-5; O'D. 2348. The fact that the glossator borrowed from this commentary (which has no relation to the earlier law of *othrus*) shows that he regarded the *cuicliunnu sēt* as payable to the leech, but he is not clear whether they are given by the injurer in addition to the extra mulct due to clerics (the 'penance') or whether they are paid out of the latter. The doubt as to the accuracy of his interpretation is increased by the fact that he is operating with completely new rules, which (assuming that they ever existed in practice) were quite different from those in our text.

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§ 22. Cf. p. 110 *infra*. *Fēnechas* here means the law applying to the laity as opposed to the special rules governing the *othrus* of clerics outlined in § 21. For *tairbirt* in gloss ², cf. *tairberta tuarastail*, Windisch TBC 3769 and p. 538⁷.

§ 23. O'Dav. 821, s.v. *frisbruidhi*, quotes from this section: *tegdaís frisbruidhi menma in fir uithir*, followed by the first part of gloss ⁴.

Dav. 821

I owe the emendation of *astuide* to *astōidi* to Dr. Thurneysen. He suggests that in these places the reflected glare of the sun might distress the invalid. On the other hand, Dr. Bergin has drawn my attention to the occasional use of this verb in connexion with noise, e.g. *astōided fogur*, ÉRIU, 2, 100, § 8, and Wb. 12 b 28, where *astōidi* seems to gloss 'tinniens'. This would certainly give better sense: the invalid is more likely to be distressed by the roaring of the sea (particularly against a cliff) or of a waterfall than by the reflected rays of the sun.

The glossator could obviously make nothing of *cū tuidbiugid*. Coming after the references to grunting pigs (cf. also § 61) and bleating sheep, it might be expected to mean a barking dog, but I am unable to explain *tuidbiugid*: the alteration to *taithbechtae* 'loosed', hence 'unchained', would be too violent. What may be the same word occurs in a rhetoric in LL 116 a 31: *atconnarc in tudbigid*, where it seems to mean, as Dr. Bergin (who has given me this reference) suggests, 'the destroyer' (from *to-ad-uss-bong*).

⁴ I do not know the precise meaning of *seimdilleach*, which also occurs in AL i. 130. 18 (*semdillech*) and v. 166. 19 (*soimdillach*), both of which are

repetitions of this gloss. Atkinson's derivation of it from *seilmid* (AL vi. 654) is not convincing.

§ 24. The phrase *maní doa cuipre* presents difficulties as to construction and meaning which the glossator does little to solve. The emendation to *manib doa* (= *diā*) *cuipre* (or *di ac[c]uipre*? see below) seems precluded by the fact that precisely the same reading appears in O'Mulconry 264 and C 92. O'Dav. 427 gives *maní tuca a cuipre*, but *tuca* is obviously a later interpolation. Can *dō* be a verb? Cf. *co ndā .i. co tuca*, Meyer, Contrib., s.v. *dā*, also ZCP 8, 103, but Marstrander (RIA Dictionary, s.v. 1 *dā*) declares this to be an artificial form. *Cuipre* (*cuihre* O'Mulc. and C) is glossed *conaircili no consuilge* in O'Mulc. and C, which resembles *ailgine* of gloss ⁵ and *cobold[h]aire* (abstr. fr. *cobel*, *cobal* 'generous') of gloss ⁴ and O'Dav. 427 (the latter also gives the foolish 'etymological' derivation from *cuip* 'froth'). The meaning which I have assigned to it is probably correct, but I cannot explain the word itself. Could it be *accuipre*, an abstract from *accobor*?

The two concluding maxims are of general import and are cited in reference to other matters in AL iv. 386. 13; C 1138, 1842, as well as in C 1823, a quotation from this text.

§ 25. Cf. Triads 184: *Tri tharsuinn archuille(t) othras: echmuir, mil* (read *ech, mairmil*?), *saillti*. The distinction between *tarsann* and *annlann* was no longer clear to the glossators, who frequently (as in ¹) confuse them: in mod. Irish they appear to be identical, cf. Dineen s.vv. Dr. Thurneysen suggests that *annlann* may have the same meaning as the German word 'Aufstrich', a relish consumed with bread, e.g. butter, cheese, or fat (cf. AL iv. 116. 6), whereas *tarsann* (cf. also §§ 45, 49) is used of condiments in general.

Conālai, prot. *comlai* (*comlui* § 45), I take to be the verb *com-ad-lu-*; vb. n. *comlūd* (Meyer, Contributions). For the correction of *ainfen* to *ainfene* (= *ainbthine*), cf. CCF, p. 34, § 38, where it is also glossed *anfeathaigi*. But *anfen* .i. *ingnad* appears in O'Mulconry 107 (and C 83), where the lemma is a corrupt (or perhaps an alternative) rendering of our text: *fri fail mil moir, ni fodma bronda anfen*.

I am indebted to Dr. Bergin for the explanation of *toderasa* as *ro* subj. of *to-oss-saig* with infixed pron. 3 sing. fem. on which my translation is based. On the other hand, Dr. Thurneysen has suggested a different translation for the whole passage: 'but horseflesh is a food (cf. *es .i. biad*, Corm. 736) of tearfulness (causing the eyes to water?)', cf. *todeōir* 'tränenreich', KZ 48, 69.

Lir (pl. *lira* ¹¹?) is translated 'cholera rubea' in O'Donovan, Supplement, p. 670; cf. also Plummer, Bethada Naem n'Érenn, i. 339, s.v. *lirach*. Honey which is forbidden here is specifically mentioned as a condiment in § 45, but not in § 49. The last three sentences of ¹² appear as a separate commentary in C 306 and O'D. 2315.

§ 26. The hesitation of the glossator in ¹⁰ is my only justification for emending *miad* to *biad* or *biathad*. Retaining *miad* (pl.) and altering *a* to

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na (cf. gloss¹⁰), one could translate: 'as the dignities of the men [i.e. the four *aires*] entitle them thereto', etc.

Comaes in ⁵ seems a mistake for *co[e]mtechtá* of the text (has the scribe copied *s* instead of *š*?).

§ 27. My translation of *for mes* (here and in §§ 46, 47) is based on a fragment of this section in C 1822 which reads *di bairgin for meis srotha*, i.e. dat. of *mias* 'dish'. For bread served on the latter, cf. *teora bairgean . . . for meis bic*, ZCP 18, 66. Against this, however, stands the fact that the word is written *mes* in all three sections of our MS. (cf., however, AL ii. 232. 15, where the glide is also suppressed). *Mes* in this context could be the word which occurs in *do mes a folraig*, § 31, but used in a more concrete sense: 'the amount estimated', hence 'allowance, ration'. After considerable hesitation I have adopted the former meaning as being the more probable. The glossator is doubtless right in regarding *srotha* as referring to the invalid: compared with his retainers, he is *sruith*, 'a dignitary'; the same word is used in a similar context in AL iii. 510. 1 f. = C 1688. Is this the explanation of the mysterious *do dēnam a einigh* in ¹⁰, the glossator regarding the double fare assigned to him as a proof of his honour?

One would expect this section, which lays down general rules as to fare and condiments, to come before § 26, which treats of the condiments due to particular grades and is obviously closely connected with § 28 (cf. *Atat. iiiii. airig*, § 26; . . . *Ata[t] aroile* (= *aróilí*) *airic*, § 28).

§ 29. C 1823 has the following fragment: *Ata triar a tuaith la(i)sa tiagať a mna for othrus .i. [fer] fora lithar forera nedraid*, followed by glosses ^{2, 3, 6}. The former has *duine na ruibann*, which has suggested my emendation of *ruidenn* here and in § 8⁵ to *ruibhenn* (from O.Ir. *rubi*); cf. also O'Dav. 1474. What kind of person is envisaged under this description I cannot say. According to a fragmentary text in C 72, among the plaintiffs who are debarred from pleading before a judge is *feichem forsa findathar forcraid neta(ig)*, which is glossed *i[m] mna*. Nor can I discover anything about the *sírechtach tuile* of § 8 and the *sesmach pectho* of this section. O'Dav. 1474 is obviously based on the explanations given here, for it merely repeats glosses ² and ⁶. The attempted differentiation between the two in ⁶ is doubtless as fantastic as their subsequent identification. According to § 8 the *othrus* of the *sírechtach tuile* devolves on his kin, whereas we learn here that the *sesmach pectho* (the glossator, through unfamiliarity with this construction, makes *pectho* into an adj.) is not merely entitled to *othrus* but to be accompanied by his wife.

Mathair gach(a) mic ciche occurs as an isolated fragment in C 1827, followed by gloss ⁵. Cf. p. 111 *infra*.

§ 30. The glossator takes *a nircoilte* to refer to the general prohibitions laid down in § 61, of which he quotes the opening words, forgetting to change the masc. *fair*. More probably it refers to the classes of women debarred from *othrus* which are enumerated in § 32.

§ 31. The glossator may be right in taking this section as a legal *jeu*

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d'esprit, the word *brithem* being used in its widest sense. *Cuimlecht* (Mey. Contrib.), doubtless a different word from *cuiimliucht*, gl. commodum (cf. ZCP 9, 41), appears usually in the expression *a cumlechtaið fēne*, which is variously translated 'rules, arrangements, exceptions' (cf. AL vi. 172). Dr. Thurneysen takes it as a cpd. *com-slicht* (cf. *a comslechtaið feine*, AL iv. 62. 13), meaning 'gemeinsame rechtliche Gewohnheit', and suggests that it refers to matters of purely domestic concern, which are not considered worthy of mention in the texts of the law (*bētra fēne*) and accordingly do not require a judge 'learned in the law' to decide them.

Bocad 7 brecadh (the latter word from A.Sax. *brecan*?) are given as examples of *lāmthorad* in AL i. 152. 5.

§ 32. Cf. p. 121 f. *infra*. For the 'woman who turns back the streams of war', cf. O'Dav. 536, 1416 = Ir. Recht, p. 4, § 1, where the gloss is *ban-flaith . . . amal Meidb Cruachna*. I do not know whether O'Davoren has misplaced this gloss, or whether it gives the original meaning correctly, viz. a woman leader in war; if this be so, then gloss ² here is merely an attempt to adapt it to more Christian surroundings. My translation of *mainech ferta* (gen. sing. or pl.) is uncertain. In AL v. 388. 1 there is a reference to the pledge-interest *cache mnā rindas*, 'of every woman who satirizes' (lit. 'cuts': perhaps one should read *rinnus* = *rindas* here also, or is *rinnuis* gen. of a noun *rindas*?). The glossator there defines her as *in banbard*. She belonged apparently to the more disreputable kind of satirists, for our glossator ⁽⁶⁾ asks why she should be entitled to honour-price (which she would receive as her *lōg nothrusa*, cf. p. 117 *infra*). His explanation is that she has made a satire *iar sētaib dligid*, 'along paths of law' (cf. § 51¹¹), perhaps within her legal rights. In AL v. 388. 2 ff. (partly mistranslated by Atkinson) it is stated: 'If it (the pledge which she has given for somebody else) has become forfeit, it is lawful for her to satirize the head of the kin of each person on whose behalf her pledge went security until he have submitted to adjudication for (i.e. to save) his honour.' A satire of this kind would doubtless be *iar sētaib dligid*.

The gloss *ben* (= *ban*-) *tigern* in ⁷ may mean either a 'woman-lord', an entirely mistaken interpretation of *bansaer*, or 'a female *tigern*', referring to the *bē rinnuis* or the *birach briathar*. The *tigern* was one of the lower satirists (cf. AL v. 388. 5). *Airmitnech tuaithe* may have originally meant a prophetess or seeress. The *birach briathar* (*berach briathrach* in AL v. 456. 5 is doubtless a mistake, cf. § 29⁶ and note) was also a low-class satirist, who is grouped together with the slave and the bondwoman in AL v. 456. 2. The expression probably means 'sharp of words', *birach* being adj. from *bir*: O'Reilly's *berach*, 'talkative, prattling, *Br. L.*', seems an invention.

Much more difficult to determine is the *bē foimrimme*. *Foimrimm* ordinarily means the unauthorized use of another's property, which entitles the owner to a mulct known as the *fiach foimrimme* (cf. AL vi. 388). But this gives no sense here. On the other hand a commentary in *Cāin Lānamna* (AL ii. 400. 16) mentions a *bē nimruma*, 'a vagrant woman' (cf. Lec. Gloss. 108, ACL i. 52), and I have tentatively given this translation, though of course

the whole meaning of the word may be changed by the extra prefix *fo*. The glossator describes her as a half-witted woman (*buicnech*, from *buicne*, cf. ÉRIU II, 73, § 7) who consorts with the fairies. In C 1997 she occurs in a series of excerpts from some lost text: *ben co foimrim .i. teit i sidh*, whereas, according to our glossator, the *sídaigi* come to her, though not (if I have translated *da ninnisin* correctly) on her invitation. In § 34⁷ she is credited with summoning demons. The same section makes it at least clear that she belonged to a man in some kind of union (*lānamnas*). This seems to have been overlooked by the glossator in the present section, for he is at pains in ¹² to establish a status of her own for her.

For references to the werwolf in Irish literature, cf. Ir. Texte, iii. 421. This is the only mention of it in the Laws, apart from a gloss in H 3. 18 (C 95) *conel .i. ben tet i cuanricht* (cf. O'Mulc. 269). The words in gloss ¹³ *inti risa cart[h]anach*, &c., would lead one to believe that originally some other word stood in the text instead of the superfluous *conrehta*: the latter is probably a gloss which has crept into the text and ousted an earlier word (cf. the first gloss in ¹³, *confael* alone in § 34, &c.). In § 34⁷ the killing of livestock is attributed to the werwolf, but in the next gloss, the glossator, again quite unnecessarily concerned to give her a status of her own, regards her as confining her activities to 'justified vengeance'; obviously he found difficulty in fitting her in. Indeed one cannot help wondering how much of this remarkable list, apparently of great antiquity, had any relevance whatever to the world of the glossators.

§ 33. Parts of my translation are doubtful and the meaning of the section is obscure. I take *ro-s-mesadar* as reflexive. *Fri* after this vb. means 'as equivalent to, at the value of': cf. *Mesta Mugdorn . . . fri cumail nuinge*, AL v. 394. 1.

According to § 35 all these female 'exceptions'—apart from the three mentioned in § 34—receive as their *fochraic* (= *lōg nothrusa*, cf. p. 117 *infra*) the amount of their honour-price based on their own status. In general a woman's honour-price was proportionate to that of the man with whom she lived: one half for a 'chief wife', a smaller fraction for a concubine. This rule applied to three of these 'exceptions' (§ 34), who had no status of their own. Honour-price based on the woman's own status (not on that of her husband) can only have developed when the original legal incapacity of women had begun to break down: it is significant that no text on status accords honour-price to a woman in her own right. When the latter principle was admitted, how was the amount of the honour-price to be estimated? An obvious analogy would have been to take a proportion of the honour-price of a man holding a similar rank or office. For legal purposes, then, the woman and her 'opposite number' of the male sex would be regarded as a *lānamuin*, a 'pair'. (*Lānamnas* is used to describe the relationship, not merely between man and wife, but also between other 'couples', e.g. lord and client, church and *manach*, cf. AL ii. 344 f.) But certain of the male 'exceptions' enumerated in § 12 could have no such 'partner' of the opposite sex, e.g. a bishop or an *aíbellteōir* (despite § 32²), and the same applied to some of the female 'exceptions'. In such cases, the women, owing to the

absence of this artificial *lānamnas*, would have their honour-price assessed by a judge on the basis of their 'worth' and property.

This suggested explanation (which is advanced with all diffidence), even if it be accepted, does not solve all the difficulties. The glossator knows nothing of the special meaning which I have attached to *lānamnas*. He understands the second sentence to mean that the women in question are living in an unequal marriage (*nā[d]bi dīngbāla doib* - an expression which still survives in Munster Irish) with a husband of lower status, who cannot be used as a basis for estimating their honour-price. But apart from the fact that this is not the meaning of *nātibī lānamnusa*, his interpretation merely increases the confusion.

§ 34. *Othrusa* is used here, as in § 20, to denote 'nursing fees', equivalent to the honour-prices of the three women concerned, which are estimated in proportion to those of their husbands. All three were regarded as highly dangerous—satirizing is attributed to the *birach briathar*, killing livestock to the *confael*, and summoning demons to the *bē foimrime*. As the person undertaking *othrus* was liable for damage done by the patient, these women were really excluded for the benefit of the injurer: cf. p. 121 f. *infra*.

§ 35. In ⁵ the glossator, again confused by the term *othrus*, which is once more used to denote nursing fee, gives two identically opposite interpretations. The second is, of course, the correct one.

§ 37. The passage *iss ed rocund insen diba cen dire* is certainly corrupt. Following gloss ⁷ (*ro-ēcodnaidnetu*) I read *ro-ēcund* for *rocund*, and translate 'excess of folly'. *Ēcond* is generally used of an 'unreasonable person' (what modern jurisprudence calls an 'abnormal' person, lacking legal capacity); it can also denote the condition of such a person. For *diba cen dire*—obviously an old mistake, for the glossator reads it so—Dr. Thurneysen suggests *dibad nāire* (*dn* in a former MS. misread as *cen*?). Another emendation would be *diba cech dīre* (*cē* wrongly extended?), 'every *dire* perishes'.

Teist, like lat. *testis*, means a person capable of giving valid evidence in court. Originally, in the Irish as in all other Indo-European legal systems, women were not valid witnesses. But with the breakdown of the archaic incapacity of women, their evidence came to be admitted in certain cases, cf. Caratnia, § 35, ZCP 15, 345 f. For *ben* (or *fer*) *māma mod*, translated 'substitute', cf. p. 115 *infra*.

§ 38. This section is quoted in C 1828 followed by glosses ^{2, 3, 4}. The text reads: *Annsom a mbrethennacht othrusa la Fēne airiadh[ad] coimperta diam a naimsera techta. Ar is bannaill tongadhur la Fēne donangadar a naimsera(ib) techta.*

The following three sections are sufficiently relevant to the subject of *othrus* to justify their treatment in our text, especially in connexion with the *othrus* of women. *Airiadad comperta*, 'barring of procreation', means the incapacitation of either husband or wife for cohabitation by the act of a third

party. This would frequently, though not invariably, occur through an injury entailing *othrus*. If as a result of such an injury cohabitation was impossible during one of the 'proper periods', then the injurer was liable for the penalties defined in § 39, in addition to the *othrus* or the nursing fee (§ 40). The 'proper periods' were those during which the chances of the wife's conceiving were considered most favourable: not indeed (as one might infer from the glossators) the actual period of the menses, but the period immediately following them. The present section deals with *airiabad comperta* which arises as a result of injuries to the wife. In this case an oath by the wife alone was accepted (contrary to the general rule about women's evidence) as sufficient proof that one of the 'proper periods' had occurred. In ⁴ the glossator, having first interpreted the text correctly, offers an alternative explanation that other women are called in to swear to this. He has been misled by another rule which is contained in a commentary published by Thurneysen in ZCP 16, 218 from C 1009 f. (more fully given in O'D 2366 f.), where female evidence is called in to decide a dispute on the same point between husband and wife.

§ 39. This tariff of fines (referred to as *na seoit uriata comperta*, AL i. 180. 27) is repeated as commentary in C 620, 1455, and 1828, all three of which, however, omit the archaic *cono fadesen* (lit. 'with himself', hence 'inclusive'?) of the text. This is a further example of the preposition *co*, 'with', with a suffix pronoun 3 sg. masc., cf. ÉRIU 10, 158. (The first example, *conu*, is much more likely to be 3 sg. n. dative than 3 pl. accusative, which never follows this preposition.) The pl. *condaib* appears in Auraicept na nÉces 954 (cf. ZCP 17, 283).

The apportionment of the penalty between husband and wife as outlined in ⁶ may be merely an example of the mathematical divisions so popular in the later law schools, or may represent a later practice. There is of course no analogy between the seventh share assigned to the wife here and the *cumal máithre*, the extra mulct payable in cases of unjustified manslaughter to the maternal kin of the deceased, except that the *cumal* represented a seventh part of the fixed wergild for manslaughter (seven *cumals*). Cf. Ir. Recht, p. 32.

§ 40. This represents the converse case to § 38: the *airiabad comperta* is caused by injury to the husband. The same tariff of penalties (§ 39) applies, and the only difference between the two cases is in regard to proof. In the former case (§ 38) the oath of the injured woman was sufficient evidence of the occurrence of a 'proper period'. Here, however, 'women-dignitaries' have to supply the proof. The glossator (²) is hardly right in regarding these as women of sufficiently high rank to prove the amount of the penalty involved, in other words whose honour-price amounted to three or two or one *sét* respectively. More probably it means no more than the *ban-fiadnaise* which settles this question in the commentary published in ZCP 16, 218.

The concluding words of this section I understand to mean that if the injury from which *airiabad comperta* arose also entailed *othrus* or 'nursing fee' (*lōg nothrusa*), the defendant had to discharge both obligations in full.

§ 41. Cf. pp. 92, 95 *infra*. The beginning of this section occurs in C 1818: *Ni aile nach fuil othrus[a] la Fēne a dingbail co dechmaid ar diamad estechtas bāis*; also in Caratnia, § 27¹, ZCP 15, 335. In the latter the MS. (Rawl. B. 502, Facs. p. 113 az) seems to read, as Dr. Thurneysen himself has pointed out to me, *etsechtach*; and *estechtas* in C may well be for *etsechtach* (a stroke over the final *s* having been omitted). Accordingly I have altered *etsectad* in the present text to *etsec[h]tach*, which I take to be the adj. from *estecht* (*etsecht*), with the meaning 'dying, at death's door' (cf. *cunntabartac[h]* *bāis* in ¹¹). In § 63^{4,5} *on* and *esbaid* are explained as injuries to face and limbs respectively: this may possibly be correct; at all events the glosses to them here are certainly wrong.

Doav. 925¹

The scribe of this MS. apparently took *fuiscchteatai* as gen. of *fāsc tēchta*, i.e. a fine 'of lawful notice' (cf. *fir-dlighthech* ¹⁰). But O'Dav. 925, s.v. *fuisceta* (which he explains as *obond*), quotes this phrase: *fon fiach fuisceta ailes .i. in fiach fasc obond airiltighes, fiach in bais no in coirpdire co luath dlighis*. As O'Dav. quotes a second lemma with *fuisceta*, the latter is probably one word, the meaning of which I am unable to discover. Perhaps O'Dav. interprets it correctly as 'sudden, immediate', although his first identification of *fiach fuisceta* with the 'death-fine' of the injured party (whom he apparently conceives as having succumbed to his injuries in the meantime) is quite wrong. His second attempt gives better sense: taking *coirpdire* as meaning (like *dire a cuirp* in § 42) the fixed mulct for the injury (which was always a proportion of the wergild for manslaughter), it may refer to the case described in the next section, where the injury has resulted in no serious incapacitation of the plaintiff, who accordingly can only claim this fixed mulct. This might well be decided at the *derosc*. The latter word (translated 'abschliessender Spruch', CCF, pp. 22 § 18, 79) means 'test, verdict' (usually glossed *derb-cinniud*). Here it refers to the leech's opinion.

The final commentary (¹¹) is also found (with occasional variations) in C 305, 1817, 1880; O'D. 2309. *Doairtenn* (*dothair* C 1880) seems a late form of *to-air-reth*: the subject would appear to be injurer, not the invalid, for there is obviously a contrast between the two cases (cf. p. 99 *infra*).

§ 42. Cf. p. 93 *infra*. The first sentence of this section is quoted in several commentaries: C 587, 1819, 2138; O'D. 828, 1586. *Iartaige* is one of the most elusive words in the legal vocabulary, cf. ZCP 14, 371 f.; 15, 239, 313⁴; Bürgschaft, p. 51; Ir. Recht, p. 16. Its general sense seems to be 'after-payment, subsequent liability'. It occurs in conjunction with *othrus* in a number of other passages, e.g. *ailid othrus iardaighi*, AL iii. 536. 24; *ni aile othrus na iardad* (!), iv. 386. 17; perhaps also in ii. 386. 28, where, however, the text is almost certainly corrupt. I believe *iartaige* in this context to be identical with *iarmbrethemnas* or *iarmbrethas*, the meaning of which was first correctly explained by Plummer in Ériu 10, 114, § 39: cf. p. 134 *infra*. A passage in *Bretha Dēin Chēcht* speaks of *imsercain . . . nad aile otrus na airgell na(tt) iarmbrethas*.

§ 43. This section and § 44 seem to be secondary interpolations. The present triad occurs also in C 338, 712. It refers to three men who through

their misdeeds have suffered complete *capitis deminutio*, losing not merely the rights mentioned here but, according to AL v. 172, 174, Caratnia, § 33¹ (ZCP 15, 342), &c., all claims to *díre* (= wergild?) and honour-price. It is accordingly doubtful if the glossator ⁽²⁾ is right in still allowing them the right to claim *corpódíre*, the fixed wergild for an injury which they have suffered.

What precisely is meant by the phrase: 'unless *cāin* or treaty give it'? The latter word admits of a comparatively easy explanation. While these men have no claim to *othrus*, &c., for injuries inflicted on them by members of their own *tuath*, they are entitled to such redress when they have been injured by a member of another *tuath*, between which and their own *tuath* the legal relationship known as *cairde* (cf. ZCP 15, 326) exists, in violation of its provisions. The same rule may apply, even as between members of the same *tuath*, when the injury has been inflicted in violation of a special rule of *cāin*, a law imposed by a king (perhaps by an over-king) or by the Church. But until the meaning of *cāin* has been more definitely established (cf. CCF, p. 65 f.; ZCP 16, 195¹; 18, 385 f.), the exact implication of this phrase must remain doubtful. The only thing which can be said with safety is that it limits the incapacity of these men to cases arising under *urradus*, the 'common law' obtaining between members of the same *tuath*. The glossator's attempts at an explanation ⁽³⁾ are merely transferred from AL v. 172. 25 and are completely beside the mark.

§ 44. Cf. Triads 185: *Trí mná ná dlegat díri: ben lasma cuma cipe las fai, ben gatach, ben aúphthach.*

Is *baislec*, used in this sense, derived from lat. 'basiliscus'? Perhaps we have the same word in *baisleac boair*, AL iv. 6. 9, O'Dav. 283. In both cases the translators have been misled by the 'etymological' gloss (*loc bāis* AL, *log bāsaighthi* O'Dav.).

§ 45. Cf. §§ 25, 49. In § 25 honey is actually prohibited as dangerous to the health of the invalid (though not, it may be noted, in Triads 184), whereas here it is ordered for certain classes. How explain this discrepancy? Dr. Thurneysen suggests that there were originally two distinct texts in this compilation, the second of which may have begun at § 43. But I am doubtful of this: contradictory rules are sometimes found in the same text. At all events the prohibition of honey (as in § 25) is in direct opposition to the evidence given by a very ancient tract, the *Bech-bretha* (AL iv. 162 f.). According to this, the owner of bees was obliged to supply his four immediate neighbours with honey for *miann ngalair*, 'sick craving' (cf. § 24). In § 49² the glossator tries to explain the omission of *mil* by assuming that it has been prohibited by the leech—quite unnecessarily, for that section deals with special condiments which are to be given instead of ale.

I am not sure whether *aire ard* is to be taken here in its technical sense or more generally to denote any of the noble grades (*grād flatha* as opposed to *grād fēne*). The *aire itir dā airig* mentioned here (and in §§ 39, 46) is a commoner whose wealth raises him to noble status (cf. AL iv. 316 ZCP 15, 245).

cf. Dav. 139.²
gloss.

Dírann I take to mean 'non-division' (cf. *dīārim*, &c.), hence 'unlimited supply'. The meaning assigned to *umus* (Mid.Ir. *imas*) is based on information kindly supplied to me by Dr. Winifred Wulff. It is used to translate lat. *apium* (cf. *imas na lafann* = *apium ranarum* RIA, 23 K 42, p. 257; *imhus coilleadh* = *apium rusticum* ACL i. 335), which, according to *Sinonoma Bartholomei* (ed. Mowat, *Anecdota Oxoniensa* I), is identical with 'small ache (smallage)'. The latter word is defined in the N.E.D. as 'one or other of the various kinds of celery or parsley'. The meaning 'celery' seems to be confirmed by the account of the properties of *umus* contained in this section (cf. also AL v. 88. 7, 90. 15).

For *comlui* cf. note on § 25. For *luge ndige*, 'need of drink, thirst', cf. Windisch, s.v. *lugu*; *Fianaigecht*, p. 12, § 20; ZCP 9, 186. The specialized meaning assigned to *foben* is based on Ml. 15a 11, where *fombia* glosses [*pestilentiae proprium est . . . corpora . . .*] *vitiae*.

§ 46. Cf. p. 108, *infra*. *Fora mes* could also be translated 'with his ration', cf. note on § 27. *Đlidid* (= *dligid*) is probably an old gloss on *ālid*, which has crept into the text. The title *aire forgill* is frequently explained as due to the fact that his testimony is superior to that of all the other noble grades (except the king and his compeers), cf. *is he fortgella forna grada doruirmisem*, AL iv. 326. 21.

I owe the emendation of *biatadh* to *biata* to Dr. Thurneysen. Keeping the former, an alternative (but not so satisfactory) translation is possible: 'but the refectation of every person in the territory (i.e. his ordinary entertainment while in health: *hi tuaith* is frequently contrasted with *for folach*, cf. p. 111 f., *infra*) is according to his rank and it is not lower; a piece of bacon two fingers [thick] is the proper portion of salt meat for every invalid.' For this method of measurement cf. *tinne dā mēr*, &c., AL ii. 246. 3; ZCP 14, 351, § 9.

The commentary contained in ¹², with the exception of the first sentence, occurs with minor alterations and additions in C 305 f., 1030, 1823; O'D. 2315 (the passage from *Int aire ard* to the end also in C 274). The meat rations of the *grād Fēne* are only given for winter and spring; O'D. 2315 adds them for the other seasons: *Madh i samrudh no i foghmhur imorro, feoil doib fein cacha domhnaig 7 cach ra domnach da ndaimh*, 'If it be in summer or autumn, however, they themselves are to get meat every Sunday and their retinue every second Sunday.' This conflicts with § 47¹, but in any event the elaborate tables drawn up by the glossators, assuming that they were ever used in practice, had little relation to the original text.

§ 47. The reference to the 'extra property' has given the glossator much difficulty. It obviously refers to the freeman who has increased his wealth sufficiently to allow him go a step higher in the social ladder and attain 'noble' status according to the rules laid down in AL iv. 316. 3 f., the person who is frequently called *aire itir dā airig* (cf. note on § 45), sometimes *flaith aithig* (cf. AL ii. 200. 21; ZCP 15, 245). The glossator, however, seeks to identify him with the *briugu*, 'hospitaller' (the latter under certain circumstances has equal honour-price with the king; cf. AL i. 40. 15 (ZCP

16, 179 § 4); v. 76. 12, &c.: this is the meaning of *amal rīgh* in ²). But remembering that the *briugu* is one of the 'exceptions' enumerated in § 12, he is at pains to 'explain' how and why *othrus* may arise for him. He suggests that the injured *briugu* and his injurer have mutually agreed that there shall be *othrus* in kind instead of the nursing fee (cf. § 17), or, alternatively, that the *briugu* in question has previously accepted the protection of somebody else, which *inter alia* reduces his honour-price to that of a *bōaire* according to the rule laid down in AL iii. 114. 9 f. This ingenious casuistry, so typical of the later commentators, is quite superfluous: the middle explanation in ³ gives the correct solution.

§ 49. Cf. p. 109 f. *infra*. If *ot[h]rusa* (gen.) is right, *fer* has been omitted immediately before it. But cf. §§ 13, 55.

My translation of *imm-id-fodnad* (= *-fognat*) seems justified by the context. I take the inf. pron. as referring to *lind*. The next sentence, however, presents more difficulty. The scribe evidently no longer understood it: as an alternative to *fodlai* he writes *fo fodla* (on which ⁵ is obviously an attempted gloss). I suggest reading *fod* = *foth*, which according to Thurneysen in ZCP 13, 302 'scheint etwas zu bezeichnen, was für etwas anderes stehen oder eintreten kann'. May we therefore assume an expression: *gellaid foth*, lit. 'assures equivalence', and hence 'represents, is a substitute for'? A cpd. of this verb, *ar-gella*, is used in precisely the same sense in AL iv. 326. 1, 328. 6, passages which deal with the actual subject-matter of the present section. Among the rations which the *aire tūise* and the *aire forgill* receive while on *othrus* are *im 7 coirm no ass aritgella*, 'butter and ale, or milk which is a substitute for it' (MacNeill, Status, pp. 298, 300, translates 'are his substitute for sick-maintenance'. He has been misled by a subsequent passage (iv. 330. 12) in which the same verb occurs). I have noted another example in C 2145: *Ni bia mias cen feoil aragella im*. I do not know whether *gellaid* in ³ is also used in this sense or is merely 'etymological'. *Ingregus* (also in ³) is doubtless the Mid.Irish form of *engracus*.

Rofodn̄ could also be extended as *rofodnai* (= *rofognai*) and the sentence translated: 'for garden herbage has been in use in nursing'. Similarly gloss ⁶.

§ 50. Cf. p. 111¹, *infra*. *Manchuine*, 'personal service' (used in the concrete sense in § 48), is doubtless rightly interpreted by the glossator as referring to those who form the invalid's retinue.

§ 51. At the time when this text was composed the 'druid' had become a mere magician or soothsayer, who, however, was still feared and was grudgingly accorded a legal status: cf. AL v. 90. 20 (MacNeill, Status, p. 277⁴), where the glossator also speaks of the *feth fia*. For the latter cf. Ir. Texte, iv. i, ll. 5235, 5239. It is strange that the *dibergach*, 'reaver', should be accorded a definite status: did he originally represent a member of a *fian*, 'war-band' (cf. Thurneysen, *Heldensage*, p. 78)? At all events the glossator no longer knew what to make of him and, in an attempt to fit him into his scheme of things, ludicrously identifies him with the *aire ēchta*,

a kind of public enforcer of penalties against alien offenders, cf. AL iv. 322. 20 ff.; ZCP 15, 319 f. Perhaps he was encouraged in this belief by the fact that some tracts give the *aire éichta* the same honour-price (i.e. status) as a *bōaire* (although in AL iv. 324. 1 he is equated with the *aire dēsa*, the lowest of the 'noble' grades). The poet (*file*) who debases his art and becomes a satirist also suffers a loss of status.

Despite the gloss (⁴), *nemthes* must refer to the degraded *file*. But what is *cendgelt*? If I have translated ⁶ correctly, the glossator takes it as referring to the process of divination called *dīchetel di chennaib* (AL i. 40. 16, transl. '[sofortiges] Absingen von den Enden [ihrer Knochen]' ZCP 16, 179, § 4) which, according to Cormac² 756 and AL i. 44, was not forbidden by Patrick. In the glossator's mind, this could refer both to the druid and the satirist, cf. *dichetal . . . filed 7 druad*, Ir. Texte, iii. 187. He seems, therefore, to attach some such meaning as 'inspiration' to *cendgelt*, but this may be a mere guess. I have no other examples of the word, which may be a cpd. of *cend*, 'head'; the second element could be the vb. n. of *gelid*, 'consumes, grazes', but it is difficult to find a suitable meaning.

The glossator (¹¹) shows his unfamiliarity with the three persons in question by his first assumption that in order to receive the *othrus* due to a *bōaire* they must have the property qualifications of a *bōaire*, as laid down e.g. in AL iv. 308. 17 ff., and by his further explanation to cover the case where they have not this amount of property. He completely overlooks the fact that the text is seeking rather to debase these men, who were doubtless often powerful and wealthy, to the level of mere 'commoners', not vice versa.

§ 52. Cf. § 7; p. III *infra*. I have taken *ad* to mean 'law, rule', but perhaps I should have followed Dr. Thurneysen's suggestion and emended to *ed* 'period of time'. The passage could then be translated: 'if it be not the period which is fixed at equal *dire* in Irish law, viz. every', &c. I can make no sense of *noad*: the corresponding sentence in § 7 has *crō*. One might be tempted to emend to *cach ngrād* were it not that the glossator certainly read *noad* (glossed *gach n-aided*⁴). It cannot be *noud*, *noad*, 'announcing, making public' (cf. *nuit[h]ir*, § 62). Nor would it be safe to assume from the very confused gloss³ that some words have been omitted from the text; *rē sut[h]ain* is the usual 'etymological' gloss on *aimser* (but perhaps it refers here to *ed*—another argument in favour of Dr. Thurneysen's suggestion?).

§ 53. For this rule of law, cf. Ir. Recht, p. 5, § 4; O'Dav. 926 (evidently a quotation from our text). *Fochmaide* in pass. sg. perfective past subj. (with *-com-*) of *fo-ben*.

§ 54. There is a fragment of the opening passage in C 1030: *Ataid air-lengaid uithir la Fēne*, followed by § 55³, which has been misplaced in our MS. and really belongs here.

This mysterious section apparently enumerates a list of young people (for the two preceding sections deal with *mac-othrus*) who, owing to the special ties of affection which bind them to the master of the house in which they

live, are 'estopped' from *othrus*. *Airleng*, lit. 'hurdle', is used in the Laws to denote 'legal barrier, estoppel'; cf. O'Dav. 125, O'D. 685, &c. (I hope to deal more fully with this word in a future number of Ériu). *Airlengaid* could be the nomen actoris, sg., from *airleng*, but (despite *ata* in our MS.) a pl. form seems to be required: hence my suggested emendation to *airlengaig*. The glossator was obviously unfamiliar with the persons involved, and his illustrations (which include adults as well as children) should be taken with great reserve. *Dretoll*, *tretell*, frequently used of a pet animal (cf. O'Dav. 1599, &c.), can also refer to a child; e.g. [Manannán] *bid tretel cach dag-thire*, Voyage of Bran, p. 25, § 52; ZCP 8, 312. 20. In O'Dav. 926 the lemma is *tretell teglaig* and the gloss gives the same examples as here. The precise difference between *brandub* and *fidhell* has not, so far as I know, been determined: I merely give the conventional translations. *Marcach* I take as equivalent to *marcach duaine*, a person who recites or sings the poet's compositions, cf. AL v. 230. 18 f.; O'Dav. 1226. I imagine that some technical meaning also lies behind *in mac rígh* in this gloss, or is the glossator merely drawing a foolish analogy with *mac banríghna* of the text? *Coemhtai* (*cuimtiu* O'Dav.) seems to be the partic. (pl.?) of *coimaid*, 'behandelt freundlich', discussed by Thurneysen in ZCP 11, 165; cf. *It coimti* (*coemti* v.1.) *ar Fiadat*, Fel. 2 March 11th. Its meaning must be similar to that of *dretoll*, and the same applies to *serc[g]nāsaig*, though I have no other examples of the latter word.

The glossator is at a loss to know why these young people should be debarred from *othrus*. In § 55³ (which really belongs here) he attempts an 'explanation': those of them who have not an honour-price of seven *cumals*, i.e. who are not compeers of a king (which would automatically 'except' them from *othrus*), have been injured intentionally. This is based on a rule the evolution of which is later than our text, cf. p. 125 *infra*.

§ 55. Cf. p. 103 f. *infra*.

§ 56. As the various classes of marital unions and their legal effects are studied in detail in a work which will be published shortly, I do not propose to discuss them here. The present text recognizes only three classes of married women: the glossator, however, tries to interpret them in the light of the *Cáin Lánamna* (AL ii. 342 f.) with its more detailed classification of unions. The first class he identifies accurately. The 'second woman' he interprets as the *airech*, 'concubine, Kebsweib' (cf. Indogerm. Forsch. 42, 146 f.), the name given by the glossators to the woman of the fourth kind of union (*lánamnas airite(n) for urail*) enumerated in *Cáin Lánamna* (AL ii. 398 f.); and 'every other woman', a very general description, he seeks to narrow down to the *carthach*, 'paramour', of the *lánamnas fir t[h]athigthe* (*ib.* 396 f.). Our text gives no warrant for such specialization.

Trian-biathad is a possible, though rare, compound (cf. *trian-gille*, AL i. 250. 19), but *ce[h]rumad biathad* could only mean 'fourth refectio[n]', and accordingly I have altered to *cethramthin biata* (there is much confusion between the ordinal and the fraction in the legal MSS., cf. AL v. 320).

§ 57. The last sentence is quoted in O'Dav. 475 (completely misunderstood by Stokes): *ar robatar a t[h]uicsi i nílur lanamnasa, connach urasa*

Dav. 926²

Dav. 475

a cathingud oldas a molad. The final phrase probably means: it is just as easy to defend as to censure it (polygamy), cf. Mod.Ir. *ní fearr Seán ná Séamas*, 'James is just as good as John'.

This section is of much interest as an open admission of the conflict between the older marriage customs and Christian teaching. The former yielded very slowly, as we know from several non-legal sources. It is interesting to find the native jurists falling back on the Old Testament as a defence of the polygamy which their law recognized. In some of the older and still unpublished tracts biblical events are solemnly discussed as 'leading cases'. The story of the Fall is construed as a 'contract' between Adam and Lucifer about the apple (in which the former was 'overreached', but none the less legally bound) in the introduction to the *Senchas Már*, AL i. 52; ZCP 16, 181.

In gloss ³ the last two of the 'five women' are represented only by the initials *d* and *b*. A list of women given in a commentary on *Cáin Lānamna* (AL ii. 400. 13 f.), which includes *prīm-ben*, *airech*, and *carthach*, contains also *dormuine* and *bē nimruma*, and I have supplied the blanks accordingly. *B* might also stand for *bē nindlis*, 'non-owned woman' (i.e. another man's wife who lives with a given man by her husband's permission, *ibid.* 400. 23-6), or for *bāitsech*, 'harlot'; but as the man who cohabits with either of these two women has no proprietary rights over them, their relationship to him can hardly be called a *lānamnas* at all. My first conjecture is therefore more probable.

§ 58. The first injunction applies either to the wounder (so the glossator thinks), who may have to pay an increased mulct if a sinew has been severed, or—more probably—to the leech, who is liable for any 'bloodshed' caused by cutting a sinew during treatment, cf. AL v. 142. 7 f., &c. I take *samlad* as imperative, and *brat-biud* as a dvandva cpd. *Imad* (= *imud*) *huaisle* might also mean 'many nobles', referring to the three 'lords' who are present at the removal of the invalid (§ 59). I am not sure whether *mad cœm-cairptech* belongs to the preceding or the following clause. If to the former, does it mean that this man is removed in his chariot, not on the shoulders of other men like the ordinary invalid? The gloss (¹¹) takes it together with *confedar fris*, which implies that the chariot is brought along with him (and acts as a *caindell inc[h]oisc*? cf. iv. 52. 5 f., where certain events, not chattels, however, are accepted as evidence and called *beocaindle*). But this construction leaves *fir* as hanging in the air. The 'proof' which is brought along with him may possibly refer to the *flaith fiadnaise* (§ 59) who accompanies him to testify that he has been properly removed (§ 59^b), and who is here called a 'candle of demonstration' (cf. *do ca[i]nnil remsoillsi*, AL i. 300. 35; ZCP 15, 328). The glossator (in ¹²) hesitates between the two meanings of *sēl*, 'path, way', and 'chattel' (referring to the chariot): I believe the former to be correct, otherwise how explain *hi*? In Ält. ir. Dichtung, ii. 26⁹ Meyer gives *suithchernas* the specialized meaning of 'Freigebigkeit', which would also suit here.

§ 59. This section is given in C 1821 as follows: *Seagur tri flathaib*:

[*flaith* ?] *foradbi, fiu-flaith fuisitiu* (!) *feine frestul, flaith fiadnaise fri forgell*. Cf. § 61²⁵ and p. 105 *infra*. The 'worthy lord' (an unusual cpd.) was obviously unknown to the glossators (in ² a *c[h]*omgráid, doubtless based on *fiu*-, refers to the four men of equal rank with the invalid who, according to § 61²⁵, carry him away on their shoulders—a typically wild guess). He may have been the defendant's lord, as stated in ³, but the gloss in C 1821 gives a different explanation: *is commaith frisín flaith fír-innlither dia comairce ce[i]n bes amuich*. As *foisitiu* can also mean 'protection' (both it and *faesam* serve as vb. n. of *fo-sissedar*, though the latter is the more usual in the sense of 'protection', cf. Pedersen, ii. 629), an alternative translation would be 'a lord of protection in (=during) the attendance of the freemen'. For *frestul* meaning attendance on a sick person, cf. *fresdal uithir* C 373 (p. 103 *infra*), also AL v. 260. 13 (gloss).

§ 60. C 1820 has the following fragment: *Frisgnither geallaib; go treodha tet*. Cf. §§ 56⁵, 61²⁵, and p. 104 *infra*. *Frisgnither* I take as impersonal. *Frithgell* must mean 'corresponding' or 'counter-' pledge, and in fact the pledges given by the injured party as enumerated in § 61²⁵ correspond exactly to those given by the defendant. This renders probable the emendation of *frit[h]folaiḡ* in ⁷ to *frithfolaid*. *Frithfolad* (trans. 'Gegenleistung' in ZCP 14, 374; cf. also ZCP 15, 343) frequently means a *quid pro quo* or what English law calls 'consideration'. But cf. *fuil frit[h]folaiḡ* in § 63.

§ 61. Cf. p. 107 *infra*. I take *dlomthair* as jussive subj., but it may well be indic., as are all the other vbs. despite the fact that they express 'prohibitions'. *Lēn* must be gen. pl., cf. *Ō do-m-rala i llige leōin*, trans. 'seit es mich auf das Schmerzenslager warf', An Crīnōḡ (SBBA 1918, xix), p. 371. *Liuntac[h]* in ¹ is usually transl. 'idle, indolent' (cf. AL vi. 536), from *lēn*, 'laziness' (cf. Ir. Texte, iii. 540), but it can also be adj. from *lēn*, 'hurt'.

C 1824 gives the commencement of the prohibitions: *Ni leicther fair druth*, followed by the first paragraph of ²⁵. Cf. also AL i. 130. 21 f. I take *fair* throughout this section as equivalent to modern Anglo-Irish 'on him', to his detriment. *Ina c[h]ois* usually means 'along with him': should one read *ina ocus*? The repetition of *ní gairther gairm* is probably a mere oversight, though the glossator (¹⁹, ²⁴) is at pains to find two separate interpretations for it. In gloss ²³ by reading *gō lium* one could translate: 'I deem false the battle of rods with its sport', but cf. *goileam*, 'prattle', O'Reilly.

Lā aicinta in ²⁵ is the 'natural day' of 24 hours as opposed to the 'artificial day' (*lā saerdha*) of 12 hours, cf. ZCP 14, 350. In the glosses and commentaries *lā* used alone invariably means the latter; hence *lā co noidchi* in § 62⁶, &c. = *lā aicinta* or *tráth*.

§ 62. Cf. p. 112f. *infra*. My translation is uncertain. *Fossugud* and *fothud* (cf. AL ii. 378. 4) are both used as vb. n. of *fo-suidi*. The meaning appears to be a day's entertainment: the same word is used in AL iv. 322. 14, 324. 15. 26 in passages which relate to the present section (cf. p. 113 *infra*), though MacNeill (Status, pp. 297 ff.) translates 'protection'. *Forruma* must have substantially the same meaning as *toruma*, *teruime*, 'care, attention'

(AL iii. 418. 32, mistranslated 'concourse'; iv. 18. 27, 20. 2; cf. also *torruma lobar*, ÉRIU 2, 210, § 33, and Windisch, s.v. *torroma*). For the expression *bethamnasa brī[g]*, cf. Imram Snedgusa (ed. Thurneysen 1904) p. 10 § 18 and p. 17. *Nuit[h]ir* is the vb. whose vb. n. *noad* (invariably glossed *urdarkugud*), 'proclaiming, making public', occurs in AL v. 228. 28 (mistranslated 'to magnify') and O'Dav. 1287. I do not know what to make of *bith*: cons. pr. of the copula? Ór *bith-līn*, 'constant, perpetual number'? *Fiad* is also a difficulty: my proposed emendation to *fiada* is doubtful. The noun *fiad*, 'honouring, welcome' (cf. O'Dav. 875), would make good sense, but one would then expect *fuiririuḍ* (as to which cf. ZCP 14, 359) to be in the gen. (or is *fiad* gen. pl.?). In gloss ⁶ the correction to *i nōmad lō* seems dictated by the general sense.

§ 63. The glossator is obviously out of his depth in dealing with some items of this classification and his explanations must be received with caution. Perhaps one should read *frit[h]folaid* instead of *fritfolais*, 'wound with counter-value' (viz. the 'nursing fee')? *Fuil ruisc*, *fuil amruisc* may mean, despite the glosses, wounds which are respectively visible or invisible to the eye. The curious *fuil foluig* (gen. sg. of vb. n.) *dā bro* may correspond, as the glossator thinks, to [*fuil*] . . . *itir da bru* which occurs in *Bretha Dēin Chēcht*. I have no other examples of the vb. *fo-sla* (the 'etymological' gloss *cain-inndliithir* in ¹⁴ shows that the glossator regarded it as a compound of *la-*), but Dr. Thurneysen suggests that it is a parallel formation with *con-sla*, 'goes', cf. ZCP 13, 104. For the meaning assigned to *sētaib* (in opposition to gloss ¹⁷), cf. *adbaill a ndire a setaib i* (= *a*) *tarrachta(i)n*, AL v. 162. 16, Caratnia, § 11² (ZCP 15, 318). *Imbil* = *ambil*, cf. AL ii. 46. 1, O'Dav. 293. In gloss ¹⁶ we should perhaps read *indeithbir torba*, 'inexcusable (unjustified) injury' (cf. ÉRIU 9, 32; ZCP 15, 330), which is the usual expression. But cf. AL v. 488. 10, which Plummer (ÉRIU 9, 32) regards as an example of the opposite, viz. 'excusable or justifiable injury'.

§ 64. I do not know the technical meanings of *gruad* and *ard* in this connexion. The former, when 'sued for, complained of' (*aidbriithe*, partic. of *ad-fīri*, cf. Bürgschaft, p. 72⁸), requires merely *cocor*, 'consultation'; the latter entails payment of wergild. *Gruad* is sometimes used in the abstract sense of 'insult' (causing to blush?), cf. *gruaidhe gris*, AL iv. 346. 12. *Ard* may possibly refer to the *cnoc-bēim*, 'blow which causes a lump or swelling', for which the wergild, according to AL iii. 352. 19, is two cows. From ⁸ it is obvious that the glossator hesitated between *forannaiter*, 'are apportioned', and *forondaiter*, 'are reddened, darkened' (cf. O'Dav. 818); the former is more probable. *Cummai* = *cumbai*, gen. sg. of vb. n. of *com-ben*. My translation of the remaining part of the text is very doubtful. I do not know whether *fuil drūith* means a wound inflicted on a fool or a wound inflicted by a fool (cf. AL v. 142. 4), as the glossator (⁸) believes. *Orgain airdšlehta* (*airrleachta*, &c.) was obviously a technical term, cf. ÉRIU 11, 71, where, however, the translation given, 'a fatal assault', is very improbable. O'Dav. 115 takes it to mean a wound in the face.

§ 65. The number of purely 'etymological' glosses shows that the text

was beyond the glossator's powers of explanation. My own rendering is largely conjectural. *Forcsen* is gen. sg. of a word which usually means 'looking on' (cf. AL vi, s.vv. *aircsiu*, *airgsiu*, *foircsin*; Pedersen ii. 489), but which here seems to have the meaning 'surveying', hence 'estimation'. *Anfocal* is frequently used in the sense of 'misrepresentation', cf. *anfocal galair*, C 640, O'D. 805, certifying an animal to be sound when it really is diseased. For *focal* in the sense of 'test, examination' (of the client's food-tribute), cf. ZCP 14, 350: perhaps, therefore, *anfocal* can mean 'absence of test', which would fit the present context well. I do not know the precise force of the extra prefix *fo-* in *fuidreg* (vb. n. of *fo-di-reg-*). The glossator contents himself with 'etymological' absurdities, *fordergann* and *fī-derach* (for the first element in the latter word cf. *fī .i. olc* Corm.² 636, &c.). We have probably the same word in *sloghadh fuidrechtla*, AL i. 176. 25; cf. Ir. Recht, p. 61³.

§ 66. The opening words and general style of this section show it to be a quotation from the *Bretha Nemed*, but I have not been able to locate it in the copies of the latter work (O'D. 918 ff., 2189 ff.). *Derosc* here refers to the *iarmbrethemnas* (cf. note on § 42), the *final* verdict of the leech on the health of an injured person: the period which elapsed before this verdict took place varied according to the nature of the wound (cf. the archaic passage in AL iii. 534. 15 ff. which is a quotation from *Bretha Dein Chēcht*), and apparently also according to the status of the person injured. Here again *sētaib* (as in § 63) must mean '[legal] courses, ways', rendered by *fith[is]ib* in the glossator's second interpretation. For the latter word cf. *tiachtain itir na da fithisi no itir na da conair*, C 576, 1245, 2094, 2099, &c. Perhaps I should have extended the second last word as *fēnechuis* and translated (following the gloss): 'on the paths which with equal justice the truth of Irish law adjusts.'

D. A. BINCHY.

SICK-MAINTENANCE IN IRISH LAW

STUDENTS of comparative law have long realized that the rules governing compensation for personal injuries offer perhaps the most fruitful field for the work of drawing parallels between ancient legal systems. One of these rules seems to have been a feature of the criminal law of a great many peoples: I refer to the rule that, where one person has suffered physical injury at the hands of another, the latter is, under certain circumstances, liable, not merely for the ordinary legal mulct, but also for the medical expenses of the injured party. This has received its most widely known formulation in Exodus xxi. 18-19: *Si rixati fuerint viri, et percusserit alter proximum suum lapide vel pugno, et ille mortuus non fuerit, sed iacuerit in lectulo, si surrexerit et ambulaverit foris super baculum suum, innocens erit qui percusserit, ita tamen ut operas eius et impensas in medicos restituat*.¹ Substantially the same rule may be found in the old Hindu law² and in the various Germanic systems.³ Sometimes this 'leech fee'—the *laecefœoh* of the Anglo-Saxons, the *merces medici* of the folk laws—is already standardized at a fixed rate, sometimes it is left indefinite.

Old Irish law preserves for us in this, as in many other respects, the relics of a more primitive system. In the earliest texts we find that the injurer, instead of paying the 'leech fee', must undertake the duty of nursing his victim back to health and providing him with medical attendance. The older name of this obligation seems to have been *folog* 'maintenance': in order to distinguish it from other kinds of maintenance it was frequently called *folog nothrusa* 'maintenance of sickness'. By

¹ This was probably the source of the rule in the medieval penitentials, where it frequently figures, cf. Wasserschleben, *Die Bussordnungen der abendländischen Kirche* 225, 265, 588, &c.

² e.g. *Manu* § 287; cf. Jolly in *Zeitschr. f. vergleichende Rechtswissenschaft* iii. 281.

³ e.g. Franks: *Lex Salica* xvii. 4 (cf. Brunner, *Deutsche Rechtsgeschichte* 2 ii. 796⁷); Lombards: *Edictum Rothari* c. 128; Old Norse: *Julapingslög* 185 (cf. Seebohm, *Tribal Custom in A.-Sax. Law*, p. 241); Anglo-Saxons: *Leis Wilelme* 10 (cf. Liebermann, *Gesetze der Angelsachsen*, ii. 289 s.v. 'Arzt', iii. 288). For the Welsh rules, cf. p. 126³ *infra*.

a process familiar both to jurists and philologists, the word *othrus*,¹ which originally meant 'sickness' and nothing more, comes to be used for 'sick-maintenance' or 'nursing' in the legal sense. In the course of time, as I hope to show in the present article, the more primitive obligation to provide sick-maintenance was commuted for a fixed payment,² thereby approximating to the practice of the other systems which I have mentioned. Whether these systems also had begun with an institution akin to *othrus*, which had been commuted before their rules were committed to writing, is a question which I may be excused from discussing in the pages of this journal.

Our knowledge of the law relating to *othrus* is considerably advanced by the discovery of *Bretha Crölige*. Most of the information which I endeavour to sift in the present article is based on this tract (cited as B). But it is not our sole authority. Scattered through the corpus of Irish juristic works we find various fragments of text dealing with *othrus*. Some of these fragments substantiate or supplement the rules contained in B: others again seem to controvert them. In the latter case it will be necessary to attempt to fix an order of priority as between the conflicting rules, perhaps the most difficult task in the study of ancient institutions. While all such reconstructions of primitive legal development are necessarily uncertain, I believe it to be possible to prove by extrinsic evidence³ that, in some cases at least, the rules laid down in B represent an earlier tradition than those found elsewhere.

A large proportion of the Old Irish legal texts survive merely in a fragmentary condition in such manuscripts of the law schools as have come down to us. The latter frequently consist of a series of brief excerpts from the ancient texts, followed by more or less elaborate glosses and commentaries.⁴ Accordingly it is

¹ Originally a masc. *u* stem, it sometimes appears as an *o* stem in Mid. Ir., which explains why the scribe of *Bretha Crölige* wrote *ot[h]rais* for the gen. in § 6. The vb. n. of the denom. vb., *othrad*, is found in § 10.

² I need hardly say that, in a description of the state of society mirrored for us in the legal texts, such words as 'payment', 'buying', 'selling', 'fee', &c., must be taken in their widest sense.

³ Apart from its special difficulties in connexion with Old Irish, linguistic evidence is in general unreliable for the dating of legal rules; cf. the warning given by Amira in his *Grundriss des germanischen Rechts*³, p. 12 f.

⁴ Cf. Plummer in ZCP 17, 157 ff. A good example of this is afforded by

impossible to discover whether some or all of the excerpts relating to *othrus* which I propose to cite here formed part of a single text on this subject, or whether they are drawn from various tracts. Although the latter is much more probable, I propose for the purpose of this article to cite them as if they were extracts from one text, which I call O (*Othrus*). They are seven in number, and I subjoin an edition (from all available manuscripts) and translation of each.

§ 1. This passage is given in full, with glosses, in Phillipps No. 1097 (P) p. 439 (cf. p. 1 *supra*) and in Egerton 90 (E) fol. 12 a 2 (O'D. 2003 f.). The text alone is also found in 23 Q 6 (Q) p. 22 a (C 1655), and again at p. 42 b (C 1800): I call the latter version R. The first four words are printed in AL III 470. 17 (from E. 3. 5, p. 55). It is followed in all manuscripts by the long commentary which is printed in AL III 470. 18–480. 32, and to which I shall frequently refer in the course of this article. I give a transcript of P, adding the principle variants from other manuscripts in footnotes.

Segar slicht otrus[a]: *urgnaiter*¹ *manib i nindtech*^a
tehta^b *daruibditar*^c *corp.*² *Slan frichnumha*^d *o*
*fuachar fuil.*³ *Fiach na dire dligh.*⁴ *Dingaibh cen*
*faill*⁵ *cen airgsin*^e *co fir*^f *mama*^g *mod.*⁷ *Mani*
dingba asren(ur)^h *fiachu*ⁱ *o fuachur fuil.*⁸

^a a nindtiuch E. ^b dilsí R. ^c doruibditer E, doruibdither Q,
doruibther R. ^d frithgnuma E, frithgnuma Q. ^e airgsin R, faircsin
EQ. ^f fer Q; ina add. EQR. ^g mamó E, mam[—] R. ^h asren E,
isren Q. ⁱ fiacho E, fiacha Q, fiach R.

¹ .i. *Insaidhtex in adh-foirithin uais otrusa so sis d'uasal-fodhnum do*
gac duine arna uasal-tsloinmedh don breitemuín. ² .i. *minub a ninne*
aigh is toith [toich E] a dhilse roitiximdhíbedh corp. ³ .i. *is slan lium*
donti feras an fuil acht co nderna frichnumh fria. ⁴ .i. *nocha d'legar*
dire fiach re taebh naitgina. ⁵ .i. *imin mbiad.* ⁶ .i. *imun liaidh.*
⁷ .i. *co fir ina mo(o)d mamdha.* ⁸ .i. *is uais ernebter no icabtar feich*
isin fuil sin.

RIA 23 Q 6, pp. 42b–47b (cf. p. 2 *supra*), a series of extracts from *Bretha Crólige*, the scantiness of which we can now appreciate by a comparison with the full text. At least one-third of the original *Senchas Már* survives only in this fragmentary condition.

Let the course of sick-maintenance be investigated. Let attendance be given¹ unless it be in a lawful path [i.e. on a lawful occasion] that [the victim's] body have been pierced.^{2a} There is freedom from liability on the ground of attendance (?)^b when bloodshed is inflicted; ³ [for] it is a debt which does not give a claim to *dire* [in addition].^{4c} He [the injurer] removes [his victim to be nursed] without negligence,⁵ without indifference,^{6d} together with [providing] a man for his duties.⁷ If he does not remove [him] when bloodshed is inflicted, he pays [the appropriate] penalties.⁸

¹ The very noble succour^e of sick-maintenance is sought hereunder for noble service^e to every person after he has been nobly mentioned by the judge. ² unless it be in the midst of battle (?), which renders its justification probable,^f that [the victim's] body has been pierced. ³ I deem that there is freedom from liability for him who inflicts the wound, provided that he supplies attendance for it. ⁴ There is not due [from the injurer] *dire* of debts as well as restitution.^g ⁵ as to the refection. ⁶ as to the leech. ⁷ with a man for his obligatory^g work. ⁸ Penalties shall be nobly paid^e for that bloodshed.

^a O'Grady, Catalogue of Irish MSS. in the British Museum i. 79, translates this sentence (from E) quite differently: '[Although] sick-maintenance be provided, it may be made the subject of a prosecution unless his body be nourished in the place [and style] to which he [the patient] is entitled.' He takes *doruibdither* (E) apparently as a cpd. *do-biatha*, but I have been unable to find any other examples which would justify the existence of this vb. I take it as *ro* subj. pass. of *do-ben*, as *doruibther* (R) seems to prove: the forms *doruibdither*, *doruibditar*, &c., seem to be the result of an early confusion of this vb. with *di-báid*-. The remainder of O'Grady's translation is certainly wrong.

^b One might also translate: 'Compensation (cf. *slán* followed by gen., transl. 'Entschädigung', Bürgschaft, p. 44, &c.) for attendance [is due from the guilty party, i.e. if he has neglected to perform this duty]'. But in view of the next sentence, the rendering which I have adopted seems more probable.

^c Tmesis for *na dlíg dire*. The problems arising out of this sentence and the gloss are discussed, *infra*, p. 96.

^d *Aircsiu* (*faircsiu*, *foircsiu*, &c.), lit. 'looking on', is sometimes a technical term for the negligence or indifference of a spectator who suffers an illegal act to be performed in his presence, and thereby incurs a certain liability; cf. AL vi. 389 s.v. *foircsin*.

^e 'etymological' gloss. ^f *Inne áigh*

I take to be an 'etymological' gloss on *indtech*, 'path, journey'; *toich* (= *doich*) is presumably intended to gloss *téchtu*. ^g Adj. from *mām*?

§ 2. Only one manuscript preserves the whole of this passage: 23 P 3 (P) fol. 23 a 2 (C 1879). The opening and concluding

phrases of the text are also found in H. 5. 15, p. 24 b (H) (O'D. 1666 f.), the latter being included in a commentary on the former. The beginning of the text occurs as a gloss in *Gūbretha Caratniad* (C) § 27³ (ZCP 15, 335). I give a transcript of P.¹

*Ni dingabur re ndae nomaide¹ nach inga[i]^{a 2} no nach
inuithir³ do nach findtar⁴ a beo nach [a] marb; ar as
muga^b ma folo neach tro[i]g^c di araile.⁵*

^a ingai C.

^b is mudu H

^c troich H; cf. ni fulaing troich

Caratnia § 27 (text).

¹ .i. *ni rodingbaidter in dine* (?) *resin nomaighi no resiu ti aircheand* (?) *na nomaighi, intan is cuntabartach bais.* ² .i. *doberar ar inn gai nach uais fo chetoir.* ³ .i. *nach inti* (?) . . . *uais* (?) *a ninde uithir co clochaib no co slibraib.* ⁴ .i. *mana fintar int.* . . . ⁵ .i. *ar as inand do neoch 7 do chuiread a seo[i]t amugha, a ndul gan aireamh uadh, ma dia nimfuilge neach in trog sin dia cheile re re nomaide, masa chundtabartach bais* (?).

Not removed before the ninth day¹ is any person transfixd by a spear² or any invalid³ of whom it is not known⁴ whether he will live or die. For it is wasted [labour] if any one maintain a doomed person for another.⁵

¹ The person (?) is not removed before the ninth day or before the end of the ninth day comes, when he is in danger of death. ² who is brought on the end of a noble spear^{a, b}, immediately. ³ nor he . . . in the depth of sickness^a with stones or sticks. ⁴ if it is not known. . . . ⁵ For it is the same for a person as if his chattels had been lost: no account is taken of them if he maintains that doomed person for another before the nine-days period, should he be in danger of death.

^a 'etymological' gloss.

^b *nach* is plainly legible, but as it is written immediately before the *nach* which commences the next gloss, it may be mere dittography.

§ 3. In *Crith Gablach*, AL iv 300.23-302.5, there is an interpolation dealing with *othrus* which, although most of it is based on ancient materials, must have been inserted at a later

¹ The glosses are almost illegible owing to a stain on the vellum. I have to thank Dr. Best for assistance in deciphering some of them which Curry failed to read. Readings which still remain doubtful are queried. The text is cited and translated by Thurneysen in ZCP 16, 223.

period.¹ Having referred to the desuetude of the institution known as *othrus* in words which I shall have occasion to cite subsequently, the interpolator (302. 1 ff.) gives what are apparently excerpts from some ancient text dealing with this subject. Although there is only one manuscript, H. 3. 18, p. 252 (C 489 f.), which has already been printed in AL, I think it well to give a fresh transcript. MacNeill's translation (Status, p. 285, § 71) corrects many of the errors in the official edition, but leaves some difficulties unsolved, and suggests solutions of others which I cannot always accept. Accordingly I offer a fresh translation, parts of which, however, owing to the obscurity (and possibly corruption) of the text, are very doubtful.²

*Tongar fri corp 7 anmain 7 dote(i)t aitiire ar fer
ferus in fuil i corus othrusa, i mboin; adnaig tar fot
cruach i nardnimed di[a] dite dieim ar diantola
sluaig; in aurgell tar eise cin lepaid arcuile liaigh,
i targo[d] lego co derosc (i)narslaine inna iarslaine,
i sslan lino^a leptha, a snadhad co forus tuaithe.*

*cadeat a folai[d] corai o cach frisa curthar aitiire ?
fribuith reir lego. Og-fritecht for ratha mana eta
nech a frepaid o fir cina(i)d. Combi ar egin do-
bongar; is co nog-dire 7 eneclainn fo mhiadh atgair-
ter, cid tre ed(n)ged rot^b othar.*

^a MS lina, corr. sup. lin. 1 o

^b read rop ?

Oath is made by body and soul [by the injured party], and an *aitiire* goes surety for the man who inflicts the wound for [his due observance of] the rule of sick-maintenance, [i.e.] for a cow [as penalty for non-observance?].^a He [the injurer] brings him [the victim] away over gory sod [i.e. from the scene of the injury] into a high sanctuary for his protection, which

¹ MacNeill (Status, p. 284²) does not advert to the fact that the passage is interpolated, but it seems to me to be beyond all doubt. It interrupts the description of the *fer midbad*, which is resumed immediately afterwards, at 302. 10 (cf. Ir. Recht, p. 83²), with an account of the latter's right to *othrus*. Obviously at this stage a late redactor or scribe of *Críth Gablach* was tempted to an excursus on the whole subject of *othrus*, which, although constantly figuring in the tract, was, as he tells us, obsolete in his day; cf. p. 128 *infra*.

² For the three sentences which refer to suretyship, cf. the translation given by Thurneysen in *Bürgschaft*, p. 34.

protects [him] from the swift tide of a [hostile] throng. Afterwards, [he gives] the fore-pledge^b against [providing the invalid with] a bed which a leech prohibits, [and] for providing a leech until [the latter's] verdict of fore-health in his after-health [i.e. that the patient has been restored to his former health?],^c for the safety of the bed[-carrying] party,^d for protecting them until [they reach] the appointed place in the territory (?).^e

What are the proper obligations due from each person for whom an *aitire*-surety is [thus] pledged? Cure [of the invalid] under a leech's direction. The full [amount of their] guarantee (?)^f [falls] on the sureties, should a person not obtain his cure [by sick-maintenance] from the guilty man. And it is levied [then by the sureties from the defendant?] by force. It is impleaded with full *díre* and honour-price, even though he [the victim] have been [made] an invalid (?)^g through wantonness [i.e. not wilfully].^h

^a I take this to be an 'explanatory' gloss inserted in the ancient text by the interpolator, who is thinking of the so-called *smachta metha*, 'penalties for failure' to provide proper nursing; cf. p. 102 f. *infra*. ^b For *aurgell* (transl. 'additional pledge' by MacNeill), cf. p. 105¹ *infra*. According to B 21, conveyance to a 'high sanctuary' is limited to injured clerics: in order to reconcile the present text with this rule, one would be compelled to take *tar éise* as meaning 'instead', i.e. introducing an alternative procedure for injured laymen; but cf. p. 106 *infra*. ^c My translation has only been adopted after much hesitation, for that given by MacNeill, 'in fore-health, in after-health', may be correct. This would mean that the leech must give a 'verdict' (*derosc*, not 'final cure', MacN.) on two occasions: first, when the patient has sufficiently recovered to return home (this, according to MacN., is the period of *arsláine*), and subsequently at the *iarmbrethemnas* (cf. p. 134 *infra*). But the pledges given by the injurer (cf. p. 104 *infra*) are limited to the period of *othrus*, and do not cover an eventual *iarmbrethemnas*. Further, the meaning assigned by MacN. to *arsláine* seems rather forced.

^d Or possibly: 'for compensation (*s/ān* = 'Entschädigung', cf. O I note ^b) of the bed-carrying party'. Keeping the original manuscript reading, one might construe as a separate sentence: *is slān lín a leptha*, 'his bed[-carrying] party are free from liability [i.e. immune from legal process, &c.]'; but such an abrupt transition is improbable. MacN.'s translation—'It is a fulfilment (of the due) of the carriers (lit. number) of the bed, to protect them' &c.—is hardly correct. ^e *Forus tuaithe* (transl. 'the station of the *tuaithe*') seems, according to MacNeill, 'to point to a public infirmary'; but the indefinite word *forus* is hardly a sufficient basis for this hypothesis, and cf. p. 105 f. *infra*. ^f Both MacNeill and Thurneysen take *fritecht* to mean 'attendance', the

latter (Bürgschaft, p. 34⁵) comparing it with W. *gwrtaith*. But I see two objections to this. First, should the principal default, the sureties would seem to be liable, not for the 'attendance' (the nursing of the invalid), but rather for the extra mulct (equivalent to one-third of the victim's honour-price, cf. B 18 and p. 102 *infra*) which the defendant has incurred through failure to provide *othrus*. Having paid this, together with the ordinary compensation for the injury, they then distrain the defaulter for the total amount, plus the compensation due to themselves (so I interpret the next sentence). Second, *frítecht* seems to be the vb. n. of *fris-iēt*, which never means 'attend'. The meaning which I have assigned to it is based on the expression *tēit fri* 'go surety for, guarantee' (cf. Bürgschaft, *passim*). The use of the cpd. in this sense, however, is difficult to establish with certainty, for the few possible examples which I have collected are in relative construction: e.g. C 987: *is ed* (sc. *eneclann*) *fristet a naidm 7 a rath*, 'that is the amount which his *naidm*- and *rath*-suretyship guarantees' (cf. Bürgschaft, p. 41), where one might also read *frissa tēt i n. 7 i r*. Accordingly the solution proposed is merely tentative. ⁸ At first sight *rotothar* looks like a simple vb., but if that is so, I have not been able to identify it. MacN. translates: 'though suit be made', but gives no explanation as to how this meaning has been arrived at. The emendation to *rop othar* makes tolerable sense, but the construction seems somewhat unnatural. ^h 'through a tongueless person', MacN. *Etngeð* may sometimes be a reduced form of *ētenga* (cf. ÉRIU II, 84 h), but here it seems almost certainly to stand for *ētge* (which is frequently written thus in legal manuscripts), in view of the important rôle which *ētge* plays in the later law relating to *othrus* (cf. p. 124 *infra*).

§ 4. A further passage dealing with *othrus* occurs later on in *Críth Gablach*, AL iv. 330.22-332.3, at the conclusion of a description of the highest lay dignitary known to this tract, the *rī ruirech*. This time, however, we are dealing, not with an interpolation, but with what MacNeill (Status p. 301³) rightly calls 'a digression'. It is mainly concerned with the standard of sick-maintenance which certain classes of dependants, whose status is measured according to that of their legal superiors, are to receive (cf. p. 110 *infra*). The only manuscript tradition is H. 3. 18, p. 5 a (C 11).¹

Dífolaiḡ rīi ruirech 7 rī[g]eicis 7 brugaid i ngradaib tuaithe; lethfolach cech graid doa macc dligtheḡ, doa mnai- ar is leth cech dligthig, cethramad cach indligthig. Banamus, a folac a incaib maicc no celi. Rech-tairi, techtairi folongt(h)ar lethfolac a flathi. Gniitt, cumala cairnom^a a ng[n]imo, a folach foa mbiathad lia flath.

¹ My translation agrees with that given by MacNeill (Status, p. 301) in all except one sentence.

*Cach dan dogni aicdi flatha no ecalsa folongar
lethfolach a miad caich asa aicdi dogni; folach cech
graid a eclais fo comgrad tuaiti; cach mathair lia
mac for folach, dia marathar.*

^a *read cainōgat?*

Among the lay grades an overking, royal poets, and hospitallers are not maintainable [i.e. are excluded from *othrus*]. Half the [standard of] maintenance due to [the member] of each grade is [due] to his law-abiding son [and] to his wife—for [the rule] is: half for every lawful person, a fourth for every unlawful person.^a The maintenance of a hired woman is according to the honour [status] of her son or her husband. Stewards [and] messengers are maintained at half the [standard of] maintenance due to their lords. Bondmen and bondwomen who perform their duties well (?)^b—their maintenance corresponds to the fare [ordinarily] provided for them by their lord.

Every craftsman who makes works of art for lord or church[man] [receives] half maintenance according to the rank of each person who owns the work which he is making [when injured]. The maintenance of every grade in the church corresponds to that of his lay compeer. Every mother [goes] with her son on sick-maintenance, should she be living.

^a This rule, which is of general application in assessing compensation for 'dependants', is stated more fully at p. 306. 17–19 of this tract. The editors have obscured the sense by making the concluding words of the sentence (*cethra[m]tha for suidib*) commence a fresh paragraph. Cf. MacNeill, *Status*, p. 289, where it is correctly translated. ^b The proposed emendation of *cainom* to *cainōgat* and of *gimo* to *gnīmo* (= -u) is, of course, doubtful, but at least gives an intelligible meaning to a sentence which has been completely misunderstood by previous translators (even MacNeill, *op. cit.*, p. 301, has been misled by the official edition).

§ 5. Heptad LX (AL v. 312) contains a list of people 'excluded' from *othrus*, the significance of which is discussed *infra* p. 122 f. The official edition is based on Rawl. 487 (R), fol. 62 b 1 (O'D. 2131), which only enumerates six classes. The full number are found in 23 Q 6, p. 47 b (C 1827), which is here

transcribed, important variants from R being given in foot-notes.¹

*Atat .vii. foluig ad^a andsom folongad la Fēne: ^b
folog righ, folog briugad, folog filed, folog saoir,
folog gobann,^c folog fir gaoith, folog druinigh[e];
ar is ecan nech rogaba a mama tara neis^d arnacon
tesba^e tuillem caich dhibh ina thig.*

^a ata R. ^b folongar (*recte*) i tuaith R. ^c gobund R. ^d cach
ae dia eis R. ^e 7 arna tesaib R.

There are seven sick-maintenances most difficult to support in Irish law: ^a maintenance of a king, maintenance of a hospitaller, maintenance of a poet, maintenance of an artificer, maintenance of a smith, maintenance of a wise man, maintenance of an embroideress. For it is necessary [to get] somebody to undertake their duties in their stead, so that the earnings of each of them may not be lacking in his house.

^a 'in the territory' R.

§ 6. A further list of 'exceptions' is contained in 23 P 3 (P) fol. 23 b 1 (C 1881), less fully in 23 Q 6 (Q) p. 45 b (C 1819). In P the list is headed simply: *Eisceptaighi uithir so sis*; in Q it has a longer introduction: *It e ann so na heisceptai[gi] tincister goa tighthe, sicib fogail eitgid tresar fera[d] cned orro*, 'These are the exceptions, who are attended to [= at] their houses, even though it be through wanton [i.e. non-wilful] damage that injury have been inflicted on them.'² My edition of the text and glosses is based on P.

*Na cetmuinte dligteach,¹ na trillseach re toga,² na
ri(g),^{a 3} na rigeigis,^{b 4} na hap,^{c 5} na heascop,^{c 6} na
huasalgrad,^{c 7} na deorad creitme,^{c 8} na sen,⁹ na sencha,^c
na conbuachail.^{10, 11}*

^a ri Q. ^b righeiges Q. ^c om. Q.

C. 1881

¹ .i. ar daig na derntar adhaltrach di 7 na rotruailter, gan a breith

¹ The first ten words are also cited in H. 3.17 col. 297 (O'D. 390), followed by the glosses and commentary which are printed (from R) in AL. I do not include the latter here, although I shall have occasion to refer to them in the course of this article.

² For this later rule, cf. p. 124 f. *infra*.

for folach nothrusa. ² .i. resiu ti aes codhnaidh, ar daig conach milltear a hoigi. ³ .i. ar esceptus [.i. air budein 7 gach grad .vii.[a] archena Q]. ⁴ .i. eceas in righ, file in righ, ar daigh conach fodhailter a seancus uada. ⁵ .i. na chilli ⁶ .i. ant innas cetna .i. na chilli ⁷ .i. in aibheallteoir ⁸ .i. in deora[d] de. ⁹ a nais, iarmota na hocht mbliadna ochtmoghad, [c]onach thuca beannachtain forsín lucht amaigh. ¹⁰ ar daigh connach tucadh aithné arna comaideachaibh, 7 conach robregait acu he, 7 conach tisait ina deaghaidh do breith a hindileadh uadh. ¹¹ Eisgebt(at)aidhe uithir uile sin, 7 is eadh dlegar: a nembreith amach for folach nothrusa, acht biad 7 liaig 7rl. doibh curuice a teach; uair adeir comad iat trí baegail in uithir .i. baegal gan biad 7 baegal gan liaigh, 7 baegal gan fear mama mog. [Instead of this commentary Q has: Ocus gach aon reisi foglaither tre comraiti, cebe grad, iss ed dlegar: biad 7 liaig doib goruigi a tighthi.]

Neither^a lawful first wife,¹ nor maiden before [the age of] choice,² nor king,³ nor royal poet,⁴ nor abbot,⁵ nor bishop,⁶ nor noble grade,⁷ nor 'exile of faith',⁸ nor senior,⁹ nor antiquary [judge?],^f nor watchdog.^{10, 11}

¹ She is not brought away on sick-maintenance lest she be made an adulteress, lest she be debauched. ² before she reaches the age of legal capacity, lest her virginity be destroyed. ³ as an exception [Q: in its own meaning, and every other member of the seven-cumals grades^g]. ⁴ the king's poet, lest his lore be robbed from him.^h ⁵ of the church (?).ⁱ ⁶ in the same way, of the church (?).ⁱ ⁷ the aibhellteoir.^o ⁸ the exile of God.^d ⁹ in age, from eighty-eight years on,^e lest he give his [dying] blessing to the people outside [i.e. to the members of the household where he has been in othrus]. ¹⁰ lest he grow acquainted [familiar] with the neighbours and lest they beguile him [while he is on sick-maintenance] with them, and come afterwards [i.e. when he is on duty once more] to carry off his cattle. ¹¹ All these are exceptions from sick-maintenance and what is due [in their case] is, not to bring them away on sick-maintenance, but [to send] food and leech, &c., to their house. For it [the text] says that the three errors of nursing are the error [of leaving the victim] without food, the error [of leaving him] without a leech, and the error [of leaving him] without a substitute. [Q: And as for every one to whom injury has been done with intent, whatever be their rank, what is due is [to send] food and leech to their houses to them].

^a One would expect this list of negative alternatives to be introduced by *ní*, but perhaps one or more of them have been omitted at the beginning. ^b *Trillsech* (from *triliss*) is used of a young girl who wears her hair in tresses. For *aes togu*, 'age of choice', hence 'marriageable age', cf. Ir. Recht, pp. 8 § 9, 38². ^c This vague description may be intended for a

member either of the higher ecclesiastical grades or of the seven-*cumals* grades (cf. note ^g). The glossator's explanation, which is based on B 12, where the *aíbellteoir* (cf. p. 59 *supra*) figures in the list of 'exceptions', is doubtless too narrow.

^d I have no other examples of this expression, but the glossator is probably right in his identification, especially in view of B 12.

^e The legal capacity of a person who had reached the age of eighty-eight was somewhat restricted, cf. ÉRIU 11, 73 § 6 (where *iarmothā* is mistranslated).

^f *Senchae* is occasionally used in the sense of judge, cf. Bürgschaft, p. 31 § 83^g. Here it probably corresponds to *brithem* in B 12.

^g *grād sechta* (invariably mistranslated in AL, cf. i. 96ⁱ, vi. 648 s.v. *secht*) means a member of any grade to which an honour-price of seven *cumals* is attached, in other words a compeer of the *rī tuaithe*, e.g. a bishop, a *deorad Dē* (cf. B 4), a hospitaller (cf. AL v. 76. 1), &c.

^h reading *fogailter*. Keeping the MS. form, one could translate: 'lest his lore be distributed', i.e. made known to others?

ⁱ Although it occurs twice, *na chilli* is an impossible reading and must stand for either *na cille* or 'na *chill*.

§ 7. Finally, an important rule as to the operation of *othrus*, the significance of which is discussed *infra* p. 124 f., is contained in a single sentence in 23 Q 6 (Q) p. 44 b (C 1812). The first seven words are also found in Egerton 90 (E) fol. 8 a 2 (O'D. 1966), with two glosses, in AL iii. 356 (from E. 3. 5, p. 44 b = A), and in O'Davoren 887. I give the text from Q and the glosses from E. The commentary which follows in E is practically the same as that in A (printed *ibid.* ll. 9 ff.): I give it here as ³, adding in square brackets the commentary in Q, which differs somewhat from EA.

O'Dav. 8

*Ferrdar^a a nothrusa^{b 1} uile acht a ferg;^{c 2} folongar
othrus eitgid, ni folungur ferg.³*

^a Ferdair A, O'Dav., Feardar E.
A, O'Dav. (ferg v.l.).

^b nothrus E, O'Dav.

^c ferga

¹ .i. berar iat uile for adh-foirithin uais bid 7 legha, na daine nachat esceptaide uithir.

² .i. acht gach aon dib ara fertar cned tria feirg comraite no tria anfor feirgi indeithbiri, uair ni berar iatsidhe amach for folach nothrusa.

³ Na huil̃ esceptaidi uithir (uili), cidh be fodhai[l] etgid uile tresa fertar cneda orra, is a nembreth imach for folach nothrusa, acht biadh 7 liaigh doib coruigi a tech, no logh othrusa. Na huil̃ daine nachet esceptaidi uithir, mas tria comraite no tre anfor feirgi indeithbiri roferad na cneda orra, is a nembreth imach for folach nothrusa, acht biadh 7 liaig doib coruigi a tech. Mas tre anfor cen feirg no tre indeithbir torba, is a mbreth amach for folach nothrusa 7 biadh 7 liaig doib amuigh. [Q: Na huile daine reisa foglaither tre comraiti no tre anfor fergi dethbiri 7 indetbiri, is loghacht a tinchisin doib goruigi a tech

Na huile daine reisa foglaithéir tre anfort gan ferg no tre espa no tre (tre) indetbir torba, is a mbreth for folach nothrusa cinmotha na heiscepthaigh[i] uithir, uair ma[s] iatsidhe, cebe fogail eitgid treisi ferfaighther cned orra, is loghacht a thinchisin doib goruigi a tech.]

All their sick-maintenances are provided,¹ save [those] resulting from anger.^{2 a.} Sick-maintenance of [unintentional injury inflicted through] wantonness is borne, [but that which results from] anger is not borne.³

¹ They are all brought on the very lofty succour ^b of leech and refection, [i.e.] the persons who are not exceptions to sick-maintenance. ² except any one of them to whom injury is done through wilful anger or through negligence [which is the result] of unjustifiable anger, for these latter are not brought away on sick-maintenance. ³ All the exceptions to sick-maintenance, even if it be through wanton [i.e. non-wilful] damage that injuries are inflicted on them, are not to be brought away on sick-maintenance, but [to have] refection and leech [sent] to them to their house, or a nursing fee. All persons who are not exceptions to sick-maintenance, if it is through wilfulness or negligence [which is the result] of unjustifiable anger that the injuries have been inflicted on them, are not to be brought away on sick-maintenance, but [to have] refection and leech [sent] to them to their house. If it is through negligence without anger or through unjustifiable damage [that their illness is caused], they are to be brought away on sick-maintenance, and refection and leech [are to be supplied] to them out there. [Q: All persons to whom injury is done through wilfulness, or through negligence [which is the result] of anger, justified or unjustified, are to get their attendance fee [sent] to them to their house. All persons to whom injury is done through negligence without anger, or through idle folly, or through unjustifiable damage, are to be brought on sick-maintenance, apart from the exceptions to sick-maintenance; for as regards the latter, even if it be through wanton [i.e. non-wilful] damage that injury is inflicted on them, it is their attendance fee [that is sent] to them to their house.

^a or, reading *ferga* (with A and O'Dav.), 'their angers', i.e. those injuries which they have intentionally inflicted. ^b 'etymological' gloss.

Apart from certain fragments of text and commentary, which will be cited in full in their particular context, the detailed study of *othrus* on which we now enter is based entirely on B and the passages here collected (and referred to as O).

It should be noted first of all that *othrus* is a complementary, not an original liability: in other words, it can only arise where

the injury which causes the sickness or incapacitation is of itself unlawful and involves the payment of legal compensation. When a person is injured 'on a lawful path' (O 1), i.e. under circumstances which justify the assailant, there is no question of *othrus*. Examples of circumstances that render 'bloodshed free from liability' (*fuil slán* B 63) will readily suggest themselves, the most obvious being the case of self-defence. Some of them are given in Heptad VI (AL v. 142 f.), a list of 'seven woundings which entail neither debts (wergild) nor *othrus*', and the list can be supplemented from other passages. But a discussion of such cases would open up the whole question of liability in Irish law, much of which would be irrelevant to my present subject. We may, accordingly, exclude these special defences, and confine ourselves to injuries in regard to which none of them exist.

Nor does *othrus* arise in the case of slight corporal injuries, which in the ordinary course of nature heal quickly and do not unfit the victim for his daily work. In such cases the defendant's liability is confined to the fixed mulct payable at law for the particular injury, usually a fraction of the wergild of homicide.¹ Total or partial incapacitation of the victim for a certain period of time is necessary in order to involve the injurer in further liabilities, which—as we shall see presently—may or may not include *othrus*. The victim may have been 'transfixed by a spear' (O 2), or wounded by a similar weapon; he may have suffered 'assault and battery' of so severe a nature as to leave him prostrate and ailing; or again he may have been incapacitated through pure accident as a result of the defendant's negligence. In the primitive civilization reflected in the Old Irish legal texts, I imagine that the extended liability of the defendant must have been confined to these and similar circumstances. The statement in a later commentary (AL ii. 32. 25) that a person who is supplied by another with food that makes him ill has a right to *othrus* represents a more modern view for which the ancient texts afford no justification.² At all events, it is certain

¹ Irish law has the usual elaborate tariff of compensation for physical injuries, which, even in its terminology, bears a striking resemblance to the tariffs of other early systems. I hope to deal with this subject when editing *Bretha Dēin Chēcht*.

² Thurneysen (ZCP 15, 336) seems to accept the evidence of this commentary as declaring settled law, but the commentator is clearly referring to later practice (when *othrus* had fallen into desuetude) and uses the

that before any question of increased liability for the defendant can arise, the condition of his victim must be sufficiently serious to demand medical attention and nursing over a period of time. Assuming that this is so, how and when is the increased liability determined?

Unfortunately, at this initial stage of our investigations, we are faced with a certain conflict of evidence between the texts. It would seem that two different traditions have come down to us, and the fact that one may accept either of them without impairing in any degree the general conclusions of this article does not dispense me from discussing them.

The first point of difference is unimportant: it is a matter of twenty-four hours. B 41 states that where an injury of the nature which I have described has been inflicted, the determination of the defendant's additional liability takes place on the tenth day afterwards: O 2, on the other hand, fixes the ninth day, and the same period is given in *Gúbretha Caratniad* § 27.¹ It should be noted also that, with one exception (B 41¹), all the glosses and commentaries in B (e.g. 14¹, 15⁴, 41¹¹, &c.) follow the tradition of the ninth day. B 58 (*iar nomaide*) is indecisive, but might be used to support the ten-day period. For the purposes of the present article, this slight difference may be ignored, for we may accept either period. Consideration of the second point of difference is best postponed until I have given some account of the determination of liability which takes place either on the ninth or tenth day after the injury.

This is called in B 41 'the verdict on every wound' (*derosc cacha folá*) and it is arrived at in the following manner. The patient, if still living, is examined by a leech, and on the latter's verdict depends the nature of the additional obligations to be assumed by the defendant. Four possibilities now present themselves, each of which must be considered separately.

expression *lōgh othrusa* in its later sense as an item in the new tariffs of compensation (cf. p. 129 *infra*).

¹ ZCP 15, 335. Strangely enough, the first gloss quotes B 41 (cf. p. 68 *supra*). The hesitation of the glossator in O 2¹ is also noteworthy. It may be a slight argument in favour of the ninth day that the latter is occasionally mentioned in the sagas in reference to the fatal consequences of a wound; e.g. *Inti asa teilced* (sc. Caur mac Daláth) *fuil, ba marb re nde nomaide*, TBC (Strachan and O'Keeffe) 1488; cf. also TBC (Windisch) 2941, &c.

1. The invalid has succumbed to his injuries in the interval. This case is not mentioned in our texts, and indeed does not come within the scope of the present article at all, for it renders the *derosc* superfluous. By the fact of death the defendant becomes liable for the penalties for homicide, which include (a) the fixed wergild (*ēraic* or *corpðire*), amounting to seven *cumals* for every freeman without distinction of rank, and payable to the nearest relatives of the deceased, (b) a series of mulcts, based on honour-price, and payable to a wider circle of the kin.¹ This case is, accordingly, treated as homicide *ab initio*.

2. The invalid has made such a rapid recovery that he is either completely cured, or at least able to go about his ordinary business. In this case no additional liability attaches to the defendant: he has merely to pay the ordinary fixed compensation, according to the nature of the original injury (B 42). Indeed it would seem that under certain circumstances he may not even have to pay this. There is a general rule of law under which he may escape completely:² *Ar nach cned bes slán re mes is dicaingín la Fêne*, 'For every injury which shall be whole before it is estimated is non-suited in Irish law.' The commentary on this text (in C 1820) takes the rule to refer to two cases: (a) where a person whose grass has been trampled down and eaten by trespassing cattle fails to sue their owner until the grass has grown again; (b) where a person who has been injured waits until his injuries are healed before instituting proceedings. If the second of these applications is correct, we may assume that an injured man who has completely recovered within the nine (or ten) days' interval will be 'non-suited' unless he has taken care to have his injury 'estimated', i.e. its character (and hence the fixed compensation due for it) determined by a physician, while its effects were still visible.

¹ For details of the distribution, &c., cf. Ir. Recht pp. 14 ff. In so far as comparison with other systems can be accepted as a guide, the establishment of a fixed wergild should be of more recent date than the compensation based on honour-price. The question (not discussed by Thurneysen) whether *ēraic* in the oldest texts really means the fixed wergild of seven *cumals* would repay investigation.

² It is quoted immediately after B 42 in C 1819 (cf. p. 2 *supra*), showing that the scribe of that recension regarded it as relevant to the present case. It is also found (in other contexts) in AL iv. 48. 14f. (where it is mis-translated), &c.

3. The patient is still living, but the leech declares that he will not recover. His injury is then said to be *crôlige mbâis*, 'a mortal blood-lying'. We shall see that this expression receives a somewhat altered meaning in the later commentaries, but when used in the texts it means precisely what it says, and is only used in connexion with an incurable injury. Instead of providing *othrus*, the defendant now becomes liable for the heavy fine called *dire crôligi bâis*, the detailed tariff of which is set out in B 2, 3. This tariff varies according to the rank of the injured party, but the actual basis of assessment is not easy to discover. One would expect it to be a multiple of the honour-price of each rank; and in fact the first item seems to confirm this: the fine for the 'mortal blood-lying' of a king and his compeers amounts to exactly twice their honour-price (seven *cumals*). But in all the other items no such proportion is observed: on the contrary, grades of society which are each assigned a different honour-price in the tracts on status are here classed together and awarded equal compensation, e.g. *aire tûise* and *aire désa*, *bôaire* and *ôcaire*. All that can be said is that the tariff is based on the ordinary divisions of rank, but does not observe the rigid differentiation between each of them which is characteristic of works like *Crith Gablach* and *Uraicecht Becc*. Some further rules of assessment are added in B 3. A lawful wife receives the same amount as her husband; ¹ a subordinate wife or concubine gets one half. Churchmen receive the same compensation as their compeers among the laity together with the special mulct (*penmit*, cf. p. 56 *supra*) payable for all offences against ecclesiastics (B 4). Children under seven years are paid 'equal *dire* with the church grades' (B 7), which means, according to the glossator, that the fine for their 'mortal blood-lying' amounts to that due to the lector, the lowest of the ecclesiastical grades (cf. p. 57 *supra*).

The question now presents itself: how far does the tender of

¹ Apparently it is not necessary that she should be a *cétmuinter*; a *ben aititen* (cf. Ir. Recht p. 27 f.) would also be regarded as living in a 'lawful' union. This section forms an important exception to the general rule that a wife is only entitled to half the amount of compensation, &c., due to her husband. The general rule applies in regard to *othrus* (B 6, 30, 56; O 4; cf. p. 110 *infra*), and is also followed here by the glossator (B 3¹) in flagrant contradiction to the text.

the 'fine for mortal blood-lying' discharge the defendant from future liability? If the invalid, in defiance of the leech's prognosis, happens to recover, it would seem that he cannot demand any further compensation, except the fines for a permanent blemish or disablement (*fiachu huin 7 esbada* B 41) left by the injury. Suppose, however, as is more probable, that he eventually succumbs. Is the defendant now liable for the full penalties for homicide, as in (1)? We might be encouraged to think so by an obscure fragment of text which is quoted in B 11¹, as well as in a more detailed commentary in C 1880 and O'D 1667: *lintar (dalintar B) do apthaib 7 croligib*, 'addition is made to deaths and blood-lyings(?)'. In C and O'D this is glossed: ¹ *tuillead re fiachaib in croligi co roib fiach a eipiltina and*, 'there is addition to the penalties for the blood-lying until the [full] penalty for his death is reached'. But we must beware of attaching undue importance to this isolated fragment. We have no means of knowing whether it has been correctly interpreted by the glossator, and in any event it should be noted that the context in which it is cited on all three occasions is not concerned with the defendant's obligations, but rather with the supposed liability of the leech (cf. p. 98 *infra*). That it represents the original rule as to the defendant's position in the event of his victim's death is more than doubtful. Is it likely that this carefully devised tariff of 'fines for mortal blood-lying' should have been drawn up merely in order to meet the infrequent contingency of the recovery of an invalid who has been declared incurable by a skilled leech? For if he dies, under the operation of this supposed rule, the whole system collapses: his aggressor is placed in precisely the same position as if he had killed him outright. Indeed, had he done so, he would have been saved the trouble of the complicated readjustment between the fine for *crólige mbáis*, which he has had to pay already, and the full penalties for homicide, for which he now becomes liable.² To my mind it seems quite clear that the original rule was just the opposite. The whole *raison d'être* of the 'penalty for mortal blood-lying' must have been that the tender of it operated as a complete discharge of the defendant's

¹ I quote from C.

² The idea that he should have to pay these penalties *in addition to* the fine is, of course, too ridiculous to merit discussion.

liability. If the victim died, his kin had no further claim on the injurer.¹ At a later stage, however, when the expression *crōlige mbāis* had lost its original significance (cf. p. 130f. *infra*), the commentators, through unfamiliarity with the older rule, adopted the general principle that any injury which resulted in death was equivalent to homicide *ab initio*. The law as found in the ancient texts gives no warrant for any such principle.

However this may be, it is at least certain that the tender of the fine for *crōlige mbāis* releases the defendant from the duty of undertaking the sick-maintenance (*othrus*) of his victim. The explicit assurance of B 41 on this point is confirmed by other texts. Thus, one of the so-called 'false judgements' of Caratnia (ZCP 15, 335 § 27, cf. *ibid.* 16, 214) is that he has decided in favour of 'non-removal (*nemdi[n]gbāil*) of an invalid [to be nursed] on the ninth day'. He justifies his decision on the ground that 'a skilled leech (*sai lega*) stated that he would be dead after a month'. Here we have a good example of *crōlige mbāis*: instead of providing *othrus* the defendant has to pay the appropriate fine.

4. The invalid is still living, and the leech declares him curable. This is a case of *crō othrusa* (B 6) or *fuil othrusa* (B 41). The person responsible for the injury is obliged to arrange for the removal (*dingbāil*) of his victim from the latter's home to another house, where he is nursed back to health under the direction of a physician.² This obligation, the incidents of which form the subject of the present study, is known as *folog* or *othrus*. Before beginning to describe it, however, I must deal with certain legal problems connected with it.

First of all, does the performance of this obligation free the defendant from liability for the fixed wergild of the injury? The statement in O 1 that, where *othrus* is provided, 'it is a debt (obligation) which does not give a claim to *dire*', is rather obscure, but might be an argument in favour of this view, for

¹ An intermediate solution would be that the defendant is still liable for the fixed wergild (*ēraic*), but not for the other (honour-price) fines; but there is no evidence in the texts to support this view.

² A different interpretation of *dingbāil* is given by Dr. Thurneysen in ZCP 15, 336, but he informs me that he now accepts the meaning assigned to it in the present article. His former view, arrived at before the discovery of B, was based on the passage in AL i. 226, which I discuss *infra* p. 100 f.

dire is sometimes used to describe the fixed wergild. This would correspond to the rule in Exodus quoted on p. 78 *supra*, but still I do not believe that it applies in Irish law. On general grounds, the latter is more likely to agree with the other Indo-European systems, and in all of these without exception the institution which corresponds to *othrus*, the 'leech fee', is given in addition to the ordinary compensation.¹ But there is more concrete evidence than this. In the case of the 'exceptions', where (as we shall see presently) a 'nursing fee' is tendered in lieu of *othrus*, the liability of the defendant for the fixed wergild remains unimpaired (B 19, cf. p. 120 *infra*). Similarly, when the party responsible fails to provide *othrus*, he is liable for a penalty equal to one-third of the victim's honour-price (cf. p. 102 *infra*), together with 'the fine for his injury' (*fiach a chrēcht naigthe* B 11³, 18⁴). In both cases, then, the fixed wergild is regarded as something distinct from the *othrus*, which shows that, even when the latter was normally provided, the defendant was still liable for the wergild.

A more serious difficulty must now be considered, which involves the second of those apparent conflicts of tradition between B and O to which I have already alluded. B 41 states quite clearly that no invalid is to be removed until the tenth day: in other words, there is no obligation to provide *othrus* until the *derosc* has taken place. There is no such definite prohibition in O 2, which merely rules that any person who has been so severely injured as to make his recovery doubtful is not to be removed before the ninth day. It could be implied from the wording of this text that *only* such seriously injured persons fall within the rule, and that where there is obviously no danger of death, the invalid is entitled to be brought away on *othrus* immediately. Indeed this is the interpretation which is found in all the later glosses and commentaries, including those on the text of B itself. Thus, according to one of the latter, if the sick man is in no danger of death (*munob cunntabartac[h] báis* B 14¹), he must be removed immediately; according to another, he must be removed even before the ninth day, once a leech has declared

¹ It is perhaps worth noting that the medieval penitentials also follow this rule; e.g. Bedae Poenit. iv. 9 (Wasserschleben 225), which declares that the injurer must pay 'inpenas in medicum et macule pretium'.

that his case is suitable for nursing, i.e. that he is in no danger (B 15⁴). This commentator, accordingly, thinks that in such a case the leech's verdict may be given immediately, without waiting for the ninth (or tenth) day. More than this, both commentators regard failure to remove a lightly injured person at once as constituting one of the 'three errors (or risks—*baegla*) of *othrus*',¹ referred to in B 14. Nobody who has studied the Old Irish legal texts will be surprised by the existence of conflicting rules on the same subject: possibly we have here a case in point, yet I do not feel quite convinced. The evidence of the commentators on this matter is rendered even more untrustworthy than usual by the fact that even before their time the old form of *othrus* had largely disappeared. Instead, under the system of *tincisin* (cf. p. 125 f. *infra*), the majority of invalids would be supplied with food, nursing, and medical attendance in their own homes at the defendant's charges. Now it may well be that this obligation arose immediately after the injury was inflicted, and that the commentators (who constantly confuse *othrus* and *tincisin*) applied the same rule to the older system. One would need more serious evidence before assuming the existence of a rule which appears to run directly counter to B 41, and the testimony of O 2 is negative rather than positive: it does not command the immediate removal of an invalid whose injuries are not serious. Besides, how is this fact to be established? Is a leech summoned to give his 'verdict' at once? From the medical point of view, prognosis at such an early stage would be very difficult, and to add to the unpleasantness of the leech's situation, one commentary (C 1880, O'D. 1667, cf. p. 95 *supra*) makes him liable for the balance of the penalties due from the defendant, should the patient, whose removal before the ninth day he has authorized, die subsequently. The last statement is

¹ Unfortunately the text does not enumerate the 'three errors', and the uncertainty of the commentators finds its customary outlet in two completely different 'explanations'. According to the first, they consist in (1) not removing the invalid immediately if he is in no danger of death, (2) removing him before the ninth day if he is in danger, and (3) not removing him after the ninth day if a leech has then declared him curable. The second interpretation gives them as failure on the part of the defendant to provide his victim with food, leech, and substitute respectively. Both explanations may be mere guess-work.

almost certainly a later 'construction',¹ and does not serve to increase our confidence in the other statements of the commentators. On the whole, while not excluding the possibility of two conflicting traditions, I am inclined to accept B 41 as declaring the original law: whatever be the character of the injury, the defendant's liability remains *in suspensu* until the *derosc* (on the ninth or tenth day) establishes it as either homicide (1), mere compensation (2), *crólige mbáis* (3), or *othrus*. In the interval the injured party is presumably left to the care of his own kin.²

It may also be well to consider at this stage the legal situation which arises if a patient, who has been removed to be nursed on the leech's assurance (given at the *derosc*) that he will recover, dies subsequently. The contingency is envisaged in B 10, where it is merely stated that the defendant is entitled to deduct the costs of the 'nursing' supplied by him from the *dire*. But which of its various meanings does the word *dire* bear here? The commentators have no hesitation in identifying it with the penalties for homicide, for which, in their view, the defendant now becomes liable, and they proceed to discuss the limits of the eventual set-off. According to B 41¹¹, the expenses of the nursing may be reckoned against the *aithgein* (lit. restitution, in this connexion a technical term for the first of the seven *cumals* which form the wergild of homicide, the remaining six being called the *dire*) or, if they are sufficiently high, against the whole wergild.³ But here again, as in the former case (3), the commentators' ignorance of the original distinction between manslaughter and *crólige mbáis* justifies the suspicion that they are interpreting old rules in the light of later practice. In con-

¹ The extension of liability to persons to whom the texts obviously attached none is a common feature of the later commentaries.

² The account given in O 3 refers, in my opinion, to special circumstances, which are discussed *infra* p. 106.

³ The idea that in certain cases *othrus* must be supplied immediately is at the basis of some of the distinctions drawn here. Thus it is held that if the deceased has been removed before the ninth day, the expenses of the nursing go for nothing; according to another view, however, they may be set off against the *aithgein*. If a leech has authorized removal on *othrus* at this early stage, he is liable for the balance of the penalties (cf. p. 98 *supra*). On the other hand, if the deceased has not been removed until after the ninth day, then the expenses may be set off against the entire wergild, if they are sufficiently high to cover it (*ma ta a díl ann* C 305).

nexion with (3) I have already argued that tender of the fine for *crōlige mbāis* discharges the defendant from any liability arising out of the subsequent death of the injured party. If this be accepted as correct, it seems a logical corollary that if the victim dies during *othrus*, the defendant cannot be liable for more than the same fine. It would be paradoxical indeed if he were to be mulcted in heavier damages (by having to pay the full penalties for manslaughter), merely because the physician's opinion proved inaccurate! For these reasons I believe that the *dire* here referred to is the *dire crōligi bāis*, and that the rule implied in B 10 is as follows: if the patient dies during *othrus*, the guilty party pays to the kin of the deceased the fine for *crōlige mbāis*, from which, however, he may deduct the costs of the nursing supplied by him to the date of death.¹

There is a phrase in AL i, 226. 34 which may also be relevant to the present context, although its precise meaning is uncertain. One of the distresses which may be levied without any stay of execution (*anad*) is a distress 'for the removal of an invalid after *difoilge* (*athgabail huithir do dingbail iar ndifoilgid*)'. Everything turns on the meaning of the last word, and at least two interpretations are possible. It may be a compound *dī-foilge* (abstr. from *folog*) meaning 'conclusion of sick-maintenance', formed like *dīailtre* 'conclusion of fosterage' from *altar*. If so, the sense of the passage is that when an invalid who has been nursed back to health refuses to return home from the place of *othrus*, the person who has had to provide the latter may take distress in order to compel his kin to come and fetch him.² But certain objections may be urged against this meaning. It

¹ Of course he may be liable for the full penalties of manslaughter if he has violated any of the rules as to nursing which are discussed subsequently, *a fortiori* if the patient's death is due to violence or gross neglect suffered during the period of *othrus*.

² This is the meaning adopted by D'Arbois de Jubainville, *Droit Celtique* I 330 ('après cessation de soins', with a note at p. 201: 'probablement après guérison'). It receives further support from the references in one commentary (AL iii. 322. 16; also O'D 708, 2447) to *langille re aise* [*ar dingbail* O'D. 2447] *in fir uithir iar n[d]ifoilge*: this is obviously the pledge received by the defendant against the invalid's being left on his hands *iar frepaid* (B 61²⁵), or, as it is more fully described in C 1030, *gell lanloighi enech do fri(a) dingbail in fir uithir iar nderosc slanti*; cf. p. 104 *infra*. Here the meaning 'conclusion of maintenance' seems almost certainly indicated.

is stated in B 61²⁵ (though not explicitly in the text, cf. p. 104 *infra*) that the defendant is secured against this contingency by a pledge worth full honour-price given to him on the victim's behalf before the *othrus* has even begun. Why, then, should he have to resort to levying distress? On the whole, it seems more likely that *difoilge* is the noun corresponding to *dífolaiḡ* 'unmaintainable', and that the sense is 'after he has been found to be unmaintainable', i.e. incurable.¹ So at least the glossators understand it.² If their interpretation is correct, we are dealing here with a patient who, having been removed on *othrus*, subsequently turns out to be incurable, perhaps in the sense that he is likely to remain a permanent invalid. The defendant is now apparently entitled, having had the facts verified by a second medical examination, to demand that the sick man's kin fetch him back to his own home: rather than continue the *othrus* indefinitely, he elects to discharge his liability by tender of the appropriate penalties. In what do the latter consist? Again I would be inclined to suggest the fine for *crólige mbáis* (minus the costs of *othrus* to date), although the glossator, as in the previous case, seems to imply the full penalties for manslaughter. But the ambiguity surrounding the word *difoilge* makes the exact meaning of this passage very doubtful.

The main facts resulting from the foregoing investigations may be summarized as follows. A term of nine (or ten) days is allowed to lapse before the liability of a person who has in-

¹ Another possible but rather far-fetched solution would be that the patient who has been removed in the ordinary way, is subsequently discovered to be one of the 'exceptions', and therefore *dífolaiḡ* (cf. p. 117 *infra*).

² e.g. AL i. 228. 14: *iarna dileigis*; but there is a second gloss, *iarna ic*, which the editors have emended to [*dí-*] *ic*: the emendation is doubtful, for it may well be that the glossator, as usual when in difficulties, is giving two alternative explanations. On the other hand, *iar ndifoilgid* is glossed in H. 3. 18, p. 372 a (C 802), in general a more reliable MS.: *iarna nepholug*, followed by words supposed to be addressed by the injurer to the sick man's kin: *.i. berid duib bar natha[i]r; tocoiscid fadheisin; ní congebaid duine a othrus do denam, 7 a eiric, 7 adbel ar adbela .i. berar fear feine 7 liaigh dia focol as ndífolaiḡ*: 'Take your father with you; support him (?) yourselves (ipv. pl. of *to-com-saig*? cf. ZCP 18, 336); nobody could undertake (?) his nursing, and [here is?] his wergild, and let him die. . . . A freeholder is brought [to witness?] and a leech to declare that he is unmaintainable.' Much of this translation is doubtful, but the glossator's interpretation of *dífoilge* seems clear enough.

flicted serious corporal injury on another is determined. At the end of this period the patient, if still living and still suffering from the effects of his injury, is examined by a leech, who gives his 'verdict' on the case. If he declares it to be hopeless, the defendant may tender a fine for a 'mortal blood-lying', varying according to the victim's rank, in full discharge of his obligations to the latter and his kin (except as regards permanent blemishes should he chance to recover). On the other hand, if the leech declares the sick man curable, the defendant must supply *othrus*. Should the patient, in spite of the favourable prognosis, subsequently die or prove to be incurable, the defendant may discharge all his liabilities by paying the fine for a mortal blood-lying, from which, however, he is entitled to deduct the expenses incurred by him through providing the *othrus*.

Such, then, are the circumstances under which the obligation of *othrus* arises. We may now proceed to examine the principle features of the institution itself and the history of its subsequent transformations.

The legal obligation to provide *othrus* exists as soon as the sick man formally 'demands his removal' (*asboinn a dingbail* B 18). I am not sure at what stage this demand is made, whether before or (as is, perhaps, more probable) immediately after the leech's 'verdict': from the legal point of view interest is centred rather on the contingency of its being ignored or refused by the defendant. In that event, the latter becomes liable for an additional penalty amounting to one-third of the victim's honour-price (B 11, 18). Round this apparently simple rule, however, the commentators have woven a tangled web of 'explanations', most of which, I think, are quite irrelevant. The additional mulct is identified by them with the so-called 'penalties for failure' (*smachta metha*), which figure so prominently in all late commentaries on this subject.¹ The tariff of these penalties distinguishes between three degrees of failure, single (*meth nain*), twofold (*meth deidhe*), and threefold (*meth treidhe*), according as the defendant has neglected to provide refection, medical attendance, and a substitute for his victim. This at

¹ A particularly elaborate account will be found in the long commentary which follows O 1 in nearly all the MSS. (cf. p. 80 *supra*), printed in AL iii. 470 ff.

once suggests, not *othrus*, but the later practice of *tincisin*, according to which the defendant has to supply these requirements to the patient's own home: if he fails to send one or more of them, he is mulcted in damages accordingly.¹ Apart from the fact that the *smachta metha* are more than once associated with *tincisin* in the commentaries,² a glance at the details of the tariff shows that it is based on a classification of injuries which only arose after *othrus* in its original form had disappeared.³ Accordingly we might dismiss the commentators' calculations completely were it not that their source, the original rule on which these later schematic structures are based, also survives, and may be relevant to the present issue. It is a sentence in *Bretha Dēin Checht: Frestal nuithir, ma me[h]aid, brogaid co boin cacha aidche ailes*,⁴ 'Attendance on an invalid—if there is failure [to provide it], it [the penalty] extends to a cow for every night that he [the invalid] is entitled to it.' I am not clear as to the precise significance of this. Does it govern the contingency of delay by the defendant in complying with the victim's demand to be removed? If so, the penalty increases by a cow for every night that he is *in mora*, but presumably cannot exceed the amount exacted for total failure to provide *othrus*, viz. one-third of the victim's honour-price. Or does it apply rather to failure to supply proper nursing *after* removal has taken place? Either solution is possible.⁵

The conclusion of a solemn contract between both parties is a necessary preliminary to the ceremony of removal (B 55). Ac-

¹ Only in *tincisin* would such damages appear to be an adequate remedy, for we may assume that the patient will get from his own kin whatever the defendant may have failed to provide. *Othrus*, on the other hand, would be quite inconceivable if the latter did not supply refectio and medical attendance to the invalid whom he has removed from his home and family.

² e.g. *Smacht metha so anuas 7 log na tincisin so sis*, AL iii. 474. 1; *smacht metha treda 7 tincisin cetharda*, *ibid.* 476. 27.

³ With the usual schematism, no less than twelve penalties are distinguished, according as failure is simple, twofold, or threefold, and according as the injury received is *crölige mbáis* (in its later meaning), *crölige cumaille*, *inindraig .vi. sēt* or *inindraig .vii. sēt*; cf. pp. 130–2 *infra*.

⁴ In C 373: *Frestal uithir ma methaig brogaid co boin*. For the concluding phrase, cf. *ar boin cach naidche ailes*, AL ii. 136. 8 = Bürgschaft p. 78 (where the translation is hardly correct).

⁵ In O 3 I take *i mboin* to be a mistaken explanation, based on this rule, of *i cōrus othrusa*.

cording to O 3, the defendant has to find a surety for his observance of the law of *othrus*. No doubt, the general rules governing the obligations of suretyship apply here: default by the principal involves the assumption of his liability by the surety, who, as soon as he has discharged it, may levy the full amount, plus the legal compensation (*slán*) due to himself, on the principal's property.¹ In the present case we may assume that default will consist in failure to provide *othrus*, which will render the surety liable for the mulct described in B 18, i.e. one-third of the victim's honour-price. The contract is also secured by mutual pledges. According to B 60, the defendant must give three pledges: for the supply of proper nursing, for the provision of a substitute (cf. p. 115 f. *infra*), and for the safe return of the invalid after a leech has declared him to be cured. On the other hand, three corresponding 'counter-pledges' must be given by the invalid (or his kin), but unfortunately the text does not enumerate them. As usual, the commentators² offer an excessive choice. From their various (and sometimes contradictory) lists of the pledges required from both parties I select the following as the most probable. From the defendant are due (1) a pledge equal to half his honour-price (or a quarter of seven *cumals* B 56⁵) that he will provide proper nursing; (2) a pledge worth his full honour-price that he will supply a suitable substitute; and (3) a pledge worth seven *cumals* (i.e. the wergild of manslaughter) that the invalid will be safely restored at the conclusion of the *othrus*. The latter, for his part, has to give (1) a pledge equal to half his honour-price that he will not demand a higher standard of maintenance than is due to his rank; (2) a pledge worth seven *cumals* that the person who has been provided to do his work be safely restored when he himself returns (*arna marbthar amaigh e*, 'that he may not be slain there' adds C 1030, cf. p. 116 *infra*); (3) a pledge equal to his full honour-price that he will not remain away on *othrus* after the leech has declared him to be cured. On the other hand, O 3 mentions only one pledge, given by the

¹ This is the meaning which I extract from O 3, but the whole passage is very obscure: cf. Bürgschaft p. 34, where it is pointed out that *ráth* and *aitire* seem to be used as interchangeable terms. It is noteworthy that B contains no mention of a personal surety.

² e.g. B 56⁵, 61²⁵; C 227, 306, 1030, 1821; O'D. 2315.

defendant for the provision of proper medical attendance and nursing.¹ It is not necessary, however, to assume a conflict of rules between the two texts, for the brief summary of the defendant's duties contained in O 3 need not be taken as exhaustive.

We have now reached the stage when the removal of the invalid takes place. As might be expected, it is a solemn ceremony, attended with the publicity that will ensure abundant testimony should any question arise subsequently. Unfortunately such descriptions of it as we possess (B 58, 59; O 3) were obscure even to the glossators, who seem to be out of their depth when endeavouring to explain them. The removal takes place in the presence of three lords or members of the noble grades (*flatha*). The first is identified (perhaps rightly) by the glossators with the injured man's 'superior', whether the head of his kin or the lord to whom he is bound by clientship. But who is the 'worthy lord of acknowledgement' (or 'protection')? The gloss in our text (B 59³) says that he is the defendant's lord, but another glossator (C 1821, cf. p. 75 *supra*) represents him as some powerful person under whose protection the invalid stands during the period of *othrus*: neither explanation seems very probable. The 'lord of witness' may be an *aire forgill*, or at all events an independent witness of high rank. Before the eyes of these exalted persons the sick man is borne away on a litter carried by 'men of worth', possibly the members of his 'company' or retinue, who—as we shall see presently—accompany him on *othrus*.

Whither is he borne? At this point there seems to be a certain discrepancy between B and O. O 3 speaks of his being conveyed to a 'high sanctuary' (*ardnemed*), which MacNeill (Status, p. 285¹) and other writers take to mean some kind of public infirmary. On the other hand, B 21 requires this only for injured clerics: subject to certain exceptions, members of

¹ It is here called *aurgell*, 'fore-pledge'. The same word occurs twice in *Bretha Dēin Chēcht*, where, however, it is glossed *uasalgell do liaig*, as though it were given to the leech rather than to the invalid. In B 61²⁶ the commentator gives as an alternative rule that a single pledge is sufficient to cover everything connected with the nursing: perhaps he is thinking of this *aurgell*.

the laity may be nursed in any house suitable for the purpose. But perhaps the discrepancy is more apparent than real. The case described in such obscure language in O 3 may be exceptional: the victim seems to have been injured in the course of a feud and to require immediate protection from a hostile throng (the defendant's comrades?). Possibly the duty of saving his life by conveying him to some 'sanctuary', where he will be immune from further attack, is cast on the injurer as from the moment of the injury, although the obligation to provide *othrus* (not necessarily in the 'sanctuary') will only arise nine (or ten) days afterwards.¹ Be that as it may, the account given in B 21, 23 represents the more generally known tradition. If the injured party is a cleric, he must be conveyed to 'a high sanctuary with authority and rule', obviously a monastic establishment. If he is a layman, he may be brought to any private house which is not specifically declared unsuitable for *othrus* under the terms of B 23. The latter section forbids three classes of houses: (1) the defendant's own home 'unless he be an honourable freeman (*aire*)', presumably a person who has not been guilty of any conduct involving *esinracus*, 'loss of honour'; (2) a house against which the invalid feels revulsion, according to the glossator on account of its being dirty or ill-kept; (3) a house which he has reason to fear will aggravate his sickness, either through its noisy situation or through agitating circumstances connected with it. How far the further requirements which the glossator in AL i. 130. 19 f. lays down for the house of healing—viz. that it must contain four openings, 'so that the invalid may be seen from every side', and a plentiful supply of water—are based on older rules, I am unable to say. In general, it is safe to assume that the defendant, if his own residence may not be used, will select, for reasons of economy and ordinary prudence, the house of a member of his kin.²

¹ The fact that the defendant has to give pledge subsequently not to supply 'a bed which a leech prohibits' would seem to indicate that the nursing is to take place elsewhere.

² Cf. the rule in B. 17, p. 119 *infra*. One of the only references to the institution of *othrus* in the saga texts is found in the LL version of the *Táin* (Windisch 1289), where Cúchulainn says of Tuachell mac Nechtan, with whom he is about to fight: 'He shall never have a house of healing or nursing (*teg legis no othrais*) from me', i.e. I shall kill him outright.

The treatment of the invalid by the members of the house where he is lodged is regulated in minute detail, and the interesting list of prohibitions in B 61 gives a more vivid picture of the whole situation than is usually supplied by the laconic texts of Irish law. No doubt some of these prohibitions had originally a more technical meaning than my translation suggests, such as that relating to the announcement of tidings. There are others which, unless our national characteristics have changed in the meantime, must have been more honoured in the breach than in the observance. But at least they bespeak an admirable solicitude for the invalid's comfort. If we may believe the commentator (B 61²⁵), the penalty for breaking one of these rules is the equivalent of a yearling heifer (*dairt*). But his next statement, which attempts to place this fine on the leech who neglects to acquaint the household with the list of prohibitions, is almost certainly incorrect. Why should the leech have any responsibility for the publication of legal rules? The old Irish lawyers were by no means inclined to share their functions with anybody. Accordingly the statement is merely part of the general tendency to extend liability which is so characteristic of the later law schools.

The fare supplied to the patient must next engage our attention, and here we can well agree with the compiler of B that it is 'one of the most difficult things in *othrus*' (B 24). In the interval it has been made even more difficult for us by the intervention of the commentators, whose table of rations frequently differs from that of the text. As might be expected, their tendency is to effect a substantial increase. How far this represents a genuine later development I do not intend to discuss here, and in general I shall only use the glosses and commentaries to supply any gaps in the information given by the text.

Let us begin with some general propositions laid down in B 27. Every patient is to be fed according to the directions of the leech who is attending him. Subject to this rule, his basic fare is two 'properly-baked' loaves of bread every day. Should the person providing the *othrus* have no corn, he may supply an equivalent amount of 'summer food', e.g. butter and milk products, such as were the ordinary food of the people in summer.

But in addition to this staple fare (*biathad*), to which patients of every rank are entitled, the defendant is bound to provide certain 'condiments' (*tarsuinn*), which vary in nature and amount according to the rank of the injured party. Considerable difficulty is found in drawing up the list of these condiments, for even the text of B itself appears to contain conflicting rules. Thus B 25 enumerates three condiments 'which the rule of *othrus* forbids'—fish or flesh cured with sea-salt, horseflesh, and honey—whereas in a later section (B 45) honey is specifically mentioned as due to every 'high *aire*',¹ together with fresh garlic and an unlimited amount of celery: the latter vegetable, indeed, must be supplied to patients of every rank on account of its remarkable healing properties. The rule found in B 27, that no sick man is entitled to any condiment other than 'garden herbs' (probably the *fircaindend* and *umus* of B 45) must be read in conjunction with B 46, which limits its operation to the season of Lent. To take it as entirely restrictive would be absurd, for the text mentions several other condiments. Most important among them is meat, both salt and fresh. Salt meat (*sail*) must be given to every member of the 'noble grades' every day from New Year's Eve to the beginning of Lent, and twice a week (on Sundays and Thursdays) during the summer. A patient belonging to one of the 'freemen grades', on the other hand, gets it only once a week during the first period, and not at all during summer. Fresh meat (*carna*) must be supplied to every one, states the loosely worded section B 26, without informing us how often and during what periods. The commentators offer conflicting suggestions: on all Sundays and festivals throughout the year (B 26¹), daily from Hallowe'en (*Samhain*, the beginning of winter) to New Year's Day (B 46¹)—a more likely solution, for it covers the precise period which the text leaves unmentioned. Thus the table of special 'condiments' for a member of the 'noble grades' would read as follows: salt meat daily from New Year's Eve to the beginning of Lent, garden herbs only during Lent, salt meat twice a week from Easter to the end of summer, fresh meat for the remainder of the year (perhaps every day). The same seasonal divisions are observed for the 'freemen grades', but they only get salt meat on Sundays

¹ Perhaps used in its widest sense, cf. note on p. 69 *supra*.

during the first period, and apparently not at all during the third: in the fourth, the details of their allowance of fresh meat are not specified.

Another table of 'condiments' may be reconstructed from an independent source, the tract on status known as *Críth Gablach* (AL iv. 298 ff.), where the description of each rank of society includes an account of the special fare to be supplied to its members during *othrus*. Unfortunately this account serves merely to increase the confusion, for not only does it differ from B in regard to particular items, but it seems to be based on quite a different principle of reckoning. Whereas in B the ordinary week forms the basis of calculation, we find here the *othrus* divided into ten-day periods (apart from Sundays).¹ The chief condiments mentioned are salt meat and butter, the latter being assigned to every patient, the former being given more liberally than in B. Thus, while it is not given to the two lowest orders, *fer midbad* (302. 11) and *ôcaire* (306. 11), the *bôaire réire brethe* is declared entitled to it on the third, fifth, ninth, and tenth days, as well as on Sundays (312. 7 f.): the same ration is assigned to the *aire itir dā airig* (316. 16, here called *fer fothlai*). All the 'noble grades' receive it on the second day in addition, and they are to get a further 'condiment', butter, on all these days. In the absence of any definite indication, it is impossible to decide whether the compiler of *Críth Gablach* regards the salt meat rations as due throughout the whole year or merely during the special seasons mentioned in B. At all events, we seem to be faced with two widely differing traditions, and the question of their temporal relationship is not easy to solve.

At first sight, there appears to be a similar conflict with regard to the duty of supplying the patient with ale (*lind*). A glance at B 49 might lead us to think that this duty only arises when ale is specifically prescribed by the leech: for the ordinary patient garlic, celery, or sweet fruit may be provided instead of it. In *Críth Gablach*, on the other hand, the two highest of the non-royal grades, viz. the *aire forgill* and the

¹ MacNeill (Status, p. 285²) suggests that 'this was probably an old Celtic division, the third part of a month'. One would like further examples before accepting this statement. The division is not referred to in MacNeill's study of the Coligny Calendar (ÉRIU 10, 1 ff.).

aire twise, are entitled (in addition to the 'condiments' mentioned in the preceding paragraph) to *coirm no ass aritgella* (326. 1, 328. 6), 'ale, or milk which is a substitute therefor'.¹ But in the present case a reconciliation is possible. The opening words of B 49 (*ní ále cach othrus(a)*) may well bear the meaning assigned to them in my translation, that 'not everybody on sick maintenance', but only patients of the highest ranks, may claim to be supplied with ale.

The foregoing rules as to refecton and condiment apply primarily to the 'normal person' of Irish law, the male adult of full status. But there are many persons who are not *sui iuris*, whose status is measured by that of the 'superior' under whose legal authority they stand. These persons receive as their honour-price, the most essential characteristic of status in Irish law, a certain proportion—usually one-half—of that due to their 'superiors'. The same principle is applied in estimating the standard of their *othrus*. The general rule seems to be that a person, who—to use the words of B 22—'is paid honour-price according to the honour of another's rank', is entitled to a corresponding proportion of the standard of sick-maintenance which would be due to that other. The most obvious example is a married woman, who, just as she is awarded half the honour-price of her husband, receives half the *othrus* (i.e. refecton, 'condiments', &c.) which he would get (B 6, 30; O 4).² That is, if she is a 'lawful wife': subordinate wives and concubines (the legal recognition of whom is attested by the remarkable passage in B 57) receive a smaller proportion. According to B 56, one-third is given to a 'second woman'—perhaps a wife whose agnatic superior has neither formally betrothed her to her husband nor subsequently recognized their union³—whereas other women are to get one-fourth.⁴ Certain classes of subordinates, such as officials, messengers, and skilled craftsmen,

¹ For this meaning of *argella*, cf. note on B 49, p. 71 *supra*.

² As opposed to the case of *crólige, mbáis* (p. 94 *supra*), where she is entitled to the same fine as her husband.

³ Cf. Ir. Recht, p. 29.

⁴ O 4 seems to know nothing of the intermediate division and considers only two classes: cf. also B 3, which, however, refers to *crólige mbáis*. I refrain from any discussion of the various kinds of marital unions, as they form the subject of a larger work, compiled under the direction of Dr. Thurneysen, which is to be published in the near future.

are entitled to half the standard of maintenance due to their superiors (O 4).

The case of children presents more difficulty. One might be tempted to conclude from the opening sentence of B 52 that children under the age of seven years are not removed on *othrus* at all, but receive instead the fine for *crólige mbáis* as laid down in B 7 (cf. p. 94 *supra*). But against this is the statement in B 29 that 'the mother of every child at the breast' is to accompany the latter on sick-maintenance. As the text of B 52 is obscure and possibly corrupt, perhaps we should accept B 29 as a more correct account of the law, although the existence of two conflicting rules is also possible. Between the ages of seven and ten, boys and girls are to be provided during *othrus* with the usual fare which they are entitled to receive while in fosterage.¹ From that on the standard of their *othrus* is half that of their father (B 52, O 4) until such time as they receive property and a status of their own.

The nursing and refection of the invalid represent but a fraction of the obligations inherent in *othrus*. A more formidable liability is the maintenance and feeding of his 'company' or retinue throughout the entire period of the nursing. The right of every freeman to a 'company' is one of the salient features of the law of status in ancient Ireland: on certain occasions he is entitled to entertainment for himself and a certain number of followers, varying according to his rank. During *othrus* he is attended by a similar number, who are fed at the defendant's charges.² This rule is formulated in B 26 (cf. also B 48), and it can be verified in detail by a study of the tracts on status. Thus *Críth Gablach* assigns to each of the various social ranks the same number of companions 'in the territory' (*i tuaithe*, cf.

¹ This varied according to the age and rank of the fosterling; cf. AL ii. 148. 20 ff.

² In B the members of this 'company' are called *lin a c[h]oemthechta* (26) or *aes a c[h]oemthechta* (28). The word *dām* is only once used. It should be noted that in *Críth Gablach* *dām* is never used to describe those who accompany a member of the *grād Fēne*, but is confined to the retainers of the *grād flatha*. The latter are attended by their free clients (*saerchēili*), for whom this attendance is a legal duty, forming part of the *manchuine*, 'personal service', due by them to their patron (cf. ZCP 15, 257). Hence the reference to *aes manc[h]uine* in B 50 (*manc[h]uine* alone, B 48).

B 26) and 'on sick-maintenance' (*for foluch*).¹ Another text, preserved in C 565, assigns to each grade the same 'companies' *for fecht feile 7 for crólige*: the numbers agree substantially with *Crith Gablach*. The latter tract, however, as is well known,² differs widely from the other important text on status, *Uraicecht Becc*, and the difference extends to the 'companies' assigned to the various ranks. But for our purposes the difference is immaterial, for here also the parity between the 'companies' during ordinary maintenance in the territory and during *othrus* is uniformly observed. It is also observed in the rule that a married woman is entitled to be attended by half the number of her husband's 'company' while on sick-maintenance (B 36), the same proportion as she receives 'in the territory'.

The basic fare (*biathad*) of each member of the 'company' is one 'properly baked' loaf of bread daily (it will be remembered that the sick man himself is entitled to double this amount) 'together with its due relish and condiment' (B 27). The condiments are assessed, not according to the status of the members themselves, but of the invalid whom they accompany (B 50). The text only mentions them in general terms (B 26, 28, 48): as usual, the commentators (e.g. B 46¹², cf. p. 70 *supra*) supply a detailed list, but its relevance to the older law may well be doubted.

The maintenance of the invalid's company is a charge on the defendant throughout the whole period of *othrus*. But he has the further duty, in certain cases at least, of entertaining a party of the invalid's friends, who are entitled to visit him on every ninth day in order to see for themselves that the nursing is being properly carried out (B 62). If I have interpreted the concluding words of B 62 correctly, the number of such visitors may not exceed the company which the invalid would normally be entitled to bring with him 'on a guesting' (*for fuiririud*), in other words his usual 'company' when in health. As

¹ The *fer midbad*, who is ordinarily entitled to refecton for himself alone, is accompanied by his mother on sick-maintenance (AL iv. 300. 4, 302. 10; cf. p. 114 *infra*). The *ōcaire* is accompanied by one person on both occasions (306. 9), the *bōaire* by two (310. 1), the *aire itir dā airig* by four (316. 14; he is called *fer fothlai* in this tract), the *aire dēsa* by six (322. 12), the *aire ard* by seven (324. 13), the *aire tūise* by eight (324. 24), the *aire forgill* by nine (328. 5). The anomalous case of the *rī benn* is discussed *infra* p. 117¹.

² Cf. MacNeill, *Status*, p. 59 f.

a similar number accompany him on *othrus*, the purport of the rule seems to be that on every ninth day the defendant must provide 'entertainment' (*fossugud*) for an extra party equivalent in number to the company whom he has to support for the whole period. This interpretation is amply confirmed by some passages in *Crith Gablach*, the precise significance of which has been hitherto obscure. It is stated, for example, of the *aire desa* (AL iv. 322. 12 f.): 'Six are his company in the territory. . . . He has six with him on sick-maintenance [and] entertainment for six' (*Seisser a dam i tuait. . . . Sessir do for folach: fossugud seisir*). Similarly the *aire ard* has seven on all three occasions (324. 13 f.), the *aire tūise* eight (324. 24 f.), and the *aire iter dā airig* four (316. 14 f.).¹ Beyond doubt we have here examples of the general rule laid down in B 62. But the examples also serve to modify it slightly, to show that it applies only to patients of the 'noble grades'. For *fossugud* is found only in connexion with the *grād flatha* and the *aire itir da airig*, who, as his name shows, stands midway between nobles and commoners, though usually ranking with the former. There is no mention of it in regard to any of the 'freemen grades', and in such a careful enumeration of the rights of each rank of society the omission cannot be accidental. Accordingly, despite the absence of words of limitation in B 62, the rule seems to exist for the benefit of patients of higher rank only. Glossators and commentators, it is true, know of no such restriction: on the contrary, they follow their usual practice of increasing the defendant's liabilities to breaking point. According to B 61²⁵, the patient may be visited every ninth day by his 'compeers' (perhaps a reference to the four men of equal rank with him who, according to this commentary, originally carried him away), *each* of whom is attended by his own company. Another commentator in AL v. 312. 12 ff. allows him to be visited by 'his full company of relations by marriage and blood': quite characteristically he overlooks the fact that the text is referring to a king, who—as we shall see presently—is not brought away on *othrus* at all!

¹ As regards the latter the text reads: . . . *Cethrar do for folach: fursunduth cethhair*. Instead of *fursunduth*, 'lighting, illumination', which gives no sense here, I suggest reading *fossugud*, as in all the other cases. No particulars are given for the *aire forgill*, the highest of the grades under royalty, but this seems a mere oversight.

Such sweeping statements obviously date from a period when *othrus* in its original form was neither practised nor understood.

Apart from these companies, permanent and transitory, certain other persons must also be maintained at the defendant's expense. An obvious example is the leech whom he has to provide to attend the invalid. The duty of maintaining him may possibly be referred to in the obscure section B 15, as the glossator seems to think: in any event it is self-evident. With the usual tendency to increase the defendant's liabilities, one commentator (C 1822) makes him support, not merely the leech himself, but also his full company of four men.¹ But the more correct rule seems to be that given in another commentary: 'The leech [shall be maintained] like every member of the company, and it is in addition to the company that the leech shall be [maintained]' (*In liaigh amhail cach fer don daim 7 d'imarcraid arin daim bis in liaig*, C 1055). Neither text nor commentary gives any information as to which of the two parties, invalid or injurer, is responsible for the leech's fee; but as the provision of a leech is one of the defendant's obligations, he is doubtless also liable for his fee, in opposition to the case—to be discussed presently—where neither *othrus* nor medical attendance is provided (cf. p. 120 *infra*).

In some cases the mother or wife of the patient accompanies him on sick-maintenance, and has to be maintained by the defendant (B 29). I have already touched on the difficulties in regard to the 'mother of every child at the breast', but apart from this special instance, O 4 lays down the general rule that every mother shall accompany her son, presumably if he is still a minor and entitled to no 'company' in his own right. This would explain the rule in *Crith Gablach*² that the *fer midbad*, a youth between the ages of fourteen and twenty,³ who under ordinary circumstances cannot claim refection for any one besides himself is accompanied by his mother on *othrus*.

A special safeguard is provided for every woman who is brought away on *othrus* by the requirement that she shall be

¹ The same number is assigned to the leech as his ordinary 'company' in AL v. 94. 20.

² AL iv. 302. 11, a continuation of 300. 22, from which it is separated by the interpolation discussed *supra* p. 83¹.

³ Cf. the detailed study of his legal position in Ir. Recht, 83 ff.

accompanied by another woman capable of bearing evidence in court (*banteist*),¹ the cost of whose maintenance also falls on the defendant. Her presence is designed to give the sick woman a certain protection against outrage while she is among a strange household by supplying a witness to reinforce her evidence against an aggressor. On the other hand, if she has been suffered to leave her home unaccompanied by this female witness, neither she herself nor her husband nor (should she be unmarried) her agnatic superior can claim compensation (*dire*) for any outrage offered to her (B 37).² It is difficult to see the reason for this rule in the case of a married woman, for the latter, as we know from B 36, is accompanied by half the number of her husband's 'company'. Surely she will then have sufficient protection and corroboration without the assistance of this special witness? The explanation probably is that the rule in B 37 survives from an earlier period, when women were not entitled to companies (or indeed to any of the marks of status), even in right of their husbands.

The defendant's liabilities are not exhausted by the performance of all the obligations hitherto described. He has the further duty of providing a substitute to carry on the ordinary work of the sick man in the latter's home during his absence.³ This important rule is not specifically formulated in the text of B, although there are at least two statements that postulate its existence (B 12, 37). But it is found in O 1, where the legal name for the substitute, so frequent in the commentaries, occurs for the only time in a text: *fer* (or *ben*) *māma mod*.⁴ He (or she) is sent to the house of the injured party and remains there

¹ Female evidence, originally unknown in Irish (as in all Indo-European) law, seems to have been admitted in certain cases even before the compilation of the *Senchas Már*; cf. ZCP 15. 345.

² The distinction drawn by the glossator (B 37¹⁰) between the cases of consent and force is doubtless too subtle for the primitive law.

³ A similar obligation, doubtless long commuted for a fixed payment, seems implied in the passage from Exodus quoted at the beginning of this article, as also in Edictum Rothari c. 128 (*Ille qui caput rumpit . . . et operas reddat et mercedes medici persolvat*).

⁴ Both *māma* and *mod* seem to be gen. pl.: the literal meaning will therefore be 'man of duties of (= and) works'. I am not sure of the syntax of *fer ina mamō* [E, *mama* R, *mam-* Q] *mod* (cf. B 37¹⁰). Is *mod* dat. sg. (= *mud*)?

during the entire period of the nursing. Naturally the situation of the substitute, at the mercy of the injured man's kin, is not without its dangers, and it is significant that the pledge given by the latter for his safe return from their midst amounts in value to the fixed wergild of homicide (cf. p. 104 *supra*). The liability of the defendant for the feeding of the substitute is a doubtful point: certainly we may dismiss as fantastic the suggestion of one commentator that he has to send down food to the house where the substitute is working (*biadh do thidnacul go tech in fir forar fera[d] in cuedh docum in fir mama mod*, C 1822). The statement in B 37¹⁰ that a woman substitute is to receive the same food as she would normally get in her own house may be equally well addressed to the injured woman's kin as to the defendant.¹ Like the injured woman who is brought away on *othrus*, the woman who is provided to act as her substitute must be accompanied by a female *teist* who will help to safeguard her honour in the house where she has to work. Doubtless any woman whose evidence is legally admissible may act in this capacity, although the glossator (B 37⁶) seeks to limit the choice to the sister- or mother-in-law of the defendant.

Where the injured party possesses no special rank or qualifications the task of providing somebody to perform his ordinary duties is not unduly onerous. But the difficulty of finding a substitute for a patient with exceptional qualifications is obvious: B 12, for example, points out the impossibility of securing a person capable of replacing a judge, a poet, or an advocate. I believe we have here one of the main reasons for the exclusion of certain classes from the law relating to *othrus*, which must now engage our attention. There are, of course, other reasons, other cases in which the performance of one or more of the obligations of sick-maintenance would involve the defendant in unusual difficulties. Suppose, for example, the victim is of the highest rank, a king or one of the compeers of royalty. Apart from the impossibility of finding a substitute, the expense of maintaining his vast retinue would be unbearable. Or suppose the injured party is a person of unsound mind, or a trafficker in magic. During *othrus* the injurer would be liable for any

¹ The former would seem to be indicated by the alternative suggestion in B 37⁹ that she is to get the same fare as the members of the house in which she is working.

damage caused or illegal action committed by his victim: to expect him to answer for the actions of such irresponsible or ill-disposed persons would be throwing on him a burden far beyond that contemplated by the ordinary rules of sick-maintenance.

It is, I believe, in order to give the defendant the option of avoiding one or more of these excessive obligations that the first 'exceptions' to the general law of *othrus* are admitted. I shall discuss presently the nature and extent of the 'excepted' classes: for the moment I am only concerned with the legal rules applying to them. If a person has inflicted injuries which would normally entail removal on sick-maintenance on a member of one of the 'excepted' classes, he is not obliged to perform the *othrus* of his victim. Instead, he may tender to the latter or his kin, in full satisfaction of all his obligations under that heading, a 'nursing fee', *lōg nothrusa* (also called *fochraic*). The amount of this nursing fee is invariably equivalent to the honour-price of the person injured. It is true that this important rule is nowhere directly stated, but it may be safely deduced from B 35, perhaps also from B 17, where *dīre* seems to be used in its frequent meaning of 'honour-price'. Further confirmation is supplied by a passage in *Crith Gablach* (AL iv. 330. 11 ff.) referring to the position of one of the higher kings in relation to *othrus*: 'A king of troops is unmaintainable (i.e. he is one of the "exceptions")':¹ eight *cumals* take the place of his sick-maintenance.' Immediately afterwards we are told that 'his honour-price is eight *cumals*'. (*Dífolaiḡ rī buden. Ocht cumala aragellat a folach. Ocht cumala a eneclann.*) The rule may, therefore, be taken as practically certain, and, given the rigid caste distinctions which form the basis of Old Irish law, its equity is obvious. As the incidental obligations of *othrus*, the number of retainers to be supported, the fare to be supplied

¹ Strangely enough, this tract regards the ordinary king of a petty state (*rī tuaithe*, here called *rī benn*) as a subject for *othrus*. But this is contradicted by every list of 'exceptions' (B 12; O 5, 6), and must be an error. The fact that the compiler further differentiates between the numbers of his company 'in the territory' (12) and 'on sick-maintenance' (10), whereas elsewhere strict parity is observed (cf. p. 111 f. *supra*) makes his 'law' still more suspect.

to them and to the invalid, &c., vary according to the latter's rank, it seems natural that the mulct given in commutation of these obligations should vary correspondingly. The fairest method of allowing for this variation is to equate the fee to the honour-price of the injured party, which serves as the basis on which compensation for many other wrongs is calculated.

The rule operates quite smoothly when the injured party is one of the male 'exceptions' (B 12): his 'nursing fee' will be the equivalent of the honour-price attaching to his particular rank, as laid down (though by no means uniformly) in the tracts on status. But the female 'exceptions' (B 32) present more difficulty. The general rule,¹ doubtless a survival of the complete incapacity of women in the primitive law, is that a married woman's honour-price is calculated at half that of her husband. The tracts on status contain no mention of honour-price for a woman in her own right, still less any direction as to the method of estimating such honour-price. Yet more than one legal text shows us women who have a status and honour-price of their own. This must be a later development, going hand in hand with the gradual recognition of separate legal personality to women, but it is at least as old as the text of B. For it is here (B 34) stated that only three of the excluded women enumerated in B 32 are to have their nursing fees reckoned in the traditional way, 'according to the dignity of their union'. The other nine are to be paid 'honour-price'² according to their worth (i.e. status) and property' (B 35). A glance at the list shows that they are either of exceptionally high rank or are possessed of some special skill.³ No doubt such women were the first to be accorded an independent honour-price in their own right. But how was its amount to be fixed? A convenient method would be to take either the whole or some proportion of the honour-price of those men whose rank or special craft corresponds to theirs; and indeed some such rule may be implied in B 33.

¹ Cf. Ir. Recht, p. 64, § 4; AL iv. 306. 17, &c.

² Note the implied equation of the nursing fee with their honour-price in this passage, already mentioned as an argument in favour of the rule which I have suggested.

³ The *mer* and *dāsachtach*, both male and female, are in a class by themselves. Whether they are entitled to honour-price at all is doubtful (cf. AL iv. 352. 6 ff.). Perhaps there is a fixed mulct payable to their agnatic guardians in lieu of *othrus*.

although the section is too obscure to permit of any definite conclusion.

An important rule as to the apportionment of the nursing fee appears in B 17. One-half of it is payable to the injured party personally, the other half to his kin as a recompense for the nursing which they must undertake in the defendant's stead.¹ But here the latter is given an option: 'the debtor (used in its widest sense, like lat. *debitor*) shall choose'. He may either comply with the foregoing rules, or he may arrange for his own kin to undertake the *folog* of the injured man, in which case he secures remission of the second half of the nursing fee. A great deal depends upon the precise meaning of *folog* here. The glossator (B 17⁶) construes it in a very restrictive sense: the defendant may either provide a man to nurse the invalid² (in the latter's own home), or recompense the member of the invalid's kin who undertakes this work. But his interpretation is much too narrow, and the meaning of the passage must rather be that half the nursing fee is remitted if the victim, instead of being cared for in his own home, is nursed back to health in the house of one of the defendant's kin. It is more doubtful whether *folog* means nursing *simpliciter*, or whether it implies the other duties inherent in *othrus*, including maintenance and refectio of the invalid's company (but not, presumably, the provision of a substitute, the difficulty of meeting this obligation being one of the chief reasons for the admission of 'exceptions'). If so, the advantages of adopting the alternative procedure here described are not obvious, for the remission of half the nursing fee

¹ One might, of course, regard the *lethdāre* as an extra fine, worth half the victim's honour-price, payable to his kin in addition to the *lōg nothrusa*. But this is most unlikely: the nursing fee is tendered in full satisfaction of all the obligations of *othrus*.

² The technical name for this nurse, *fer ōcaib tōcaib*, is only found in glosses and commentaries, never in the text; yet it seems ancient. Its literal meaning is, perhaps, 'a man who moves [the patient] hither and thither' (cf. *āin, tāin*), rather than 'who lifts up and lays down'. So far as I can see, the nurse is first mentioned in connexion with the later system of *tincisin* (cf. p. 126 *infra*), in which he is sent to the invalid's house by the defendant, together with food, leech, and refectio; cf. AL iii. 478. 6, &c. The references to him in late commentaries on the law of 'exceptions' probably date from a period when the earlier distinctions had broken down. There is no reason to believe that the defendant ever had to provide a special nurse, either in *othrus* proper, or in the case of an 'exception'.

may be more than offset by the expenses of the *othrus*.¹ On the whole, it seems more probable that nothing more than actual nursing is required, such as the injured person would receive from his own family.

Tender of the 'nursing fee' not merely releases the defendant from the ordinary obligations of *othrus*, but also frees him from liability for the leech's fee (B 19). Every injury which necessitates treatment by a physician entitles the latter to a certain proportion of the compensation paid. Some interesting rules for assessing the amount due to the leech personally are contained in *Bretha Dēin Chēcht*, and a discussion of them may be reserved for the edition of that text. Here it must suffice to say that, in general, a considerable proportion—sometimes a fourth, sometimes a third, sometimes even a half—of the wergild of the injury goes to the leech under whose direction it is healed. In the present case this fee is deemed to be included in the *lōg nothrusa*, out of which it must be paid by the injured party, although, as the glossator (B 17^r) rightly observes, it is calculated on the basis of the wergild. But there is an exception to this rule. If the half of the *lōg nothrusa* which is payable to the victim personally is not sufficient to discharge the whole of the leech's fee, with the result that the payment of the latter would cut into the fixed wergild (*ēraic*) of the injury, then the defendant is bound to provide the balance, viz. the excess of the leech's fee over half the nursing fee. Such is my interpretation of the obscure B 19. I am not sure whether the rule also applies to the case (discussed in the preceding paragraph) where the defendant elects to undertake the nursing of the invalid, thereby securing remission of half the nursing fee. In ordinary *othrus*, he would seem to be liable for all expenses connected with the leech (cf. p. 114 *supra*): perhaps, then, he is equally liable in these special circumstances. Incidentally, B 19 states by implication the important rule that the defendant must pay, in addition to the nursing fee, the fixed wergild (*ēraic*)² of the injury which he

¹ It should be remembered, however, that the defendant himself decides which course he will adopt. A commentary on O 5 (printed in AL v. 312. 8 ff.) apparently implies that he secures remission of the *whole* nursing fee by undertaking the *othrus*; but this is clearly a later 'construction'.

² The word *fēich*, 'debts, fines', is sometimes used to describe this fixed wergild, e.g. *ot[h]rus na fīachu* B. 43, 44; AL v. 142. 1; ZCP 15, 325 § 17³, &c. Cf. *a fīachuib ēirce* B 19.

has inflicted—a rule which, as I have already argued (p. 97 *supra*), must also apply to cases where he provides *othrus*.

The law in regard to the exceptions may now be summarized as follows. When the victim belongs to one of the excluded classes, the defendant may tender, in lieu of *othrus*, a 'nursing fee' equivalent in amount to the honour-price of the injured party, half of which goes to the latter personally and the other half to the members of his kin who maintain him during illness. The defendant is thereby discharged from all the obligations of *othrus*, including (as a general rule) any liability for the leech's fee, but not from paying the fixed wergild of the injury. He may, however, if he deems it less onerous, elect to have the nursing undertaken by his own kin, and by so doing secures remission of half the nursing fee.

It remains to consider the classes of persons excluded from *othrus*. I begin with the two lists in B, 12 (males), and 32 (females). They seem at first sight to be a mere haphazard collection of persons, differing widely in status and avocation; but a closer examination suggests a common principle at the basis of their exclusion. They are all excluded in the interests of the defendant: they are debarred from *othrus*, not in order to penalize him further, but rather to save him from unusual and unreasonable burdens. This is, in effect, stated in B 12, where the difficulties which would attend the provision of *othrus* for such persons are recited in explanation of their exclusion. Whether the distinctions drawn in that section are always logically sound is another matter: thus the exclusion of king, bishop, and hospitaller, which is explained by the difficulty of supporting their numerous retinues, &c., might be equally well based on the still greater difficulty of providing a substitute for any of them. Be that as it may, it is at least safe to conclude that, of the list in B 12, the first nine are 'excepted' on account of the undue expense which the defendant would incur in meeting the legal obligations incidental to their *othrus*, and the last three on account of the heavy contingent liabilities in which he might be involved through being compelled to answer for their conduct during the period of nursing. Applying the same test to the list of female 'exceptions' in B 32, we find that nos. 1-3 and 5-7 are excluded for the former reason, and

nos. 4 and 8-12 for the latter. Indeed, it is expressly stated of nos. 8-10 that the reason why they are not brought away on *othrus* is that nobody can be expected to answer for the 'crime of their audacity' (B 34), that is to say, for the illegal actions of which such irresponsible persons may be guilty at any moment.¹

It will be noted, however, that the glossators and commentators do not share this view. Thus, for example, B 12¹ justifies the exclusion of the male 'exceptions' on the ground of 'their high rank and their want of reason [respectively]', thereby implying, at least as regards the former, that they may be excluded out of consideration for their own dignity. Another commentary, preserved in C 1812 (also in C 1046), goes still further: it draws a distinction between exceptions made 'for the benefit of the defendant' (*ar maithi fri biubaid*) and 'for the benefit of the injured party' (*ar maithi frisinti arar fera[d] in cned*). There is no warrant for this distinction in the text of B 12 and 32: nobody is there excluded for his or her own benefit. The commentator, however, is not thinking in terms of B at all: he is referring to other, and as I believe, later lists, which are contained in the passages which I have printed as O 5 and 6. At first sight, one might be tempted to regard these two lists, on account of their apparent brevity and simplicity, as representing an earlier tradition than B 12 and 32. A more careful examination, however, shows that they belong to a distinctly later period when an attempt is being made to restrict the application of the older laws of *othrus* by extending the principle of 'exception'. The imposing array of classes set forth in B 12 and 32 should not blind us to the fact that the actual number of individuals excluded is small, for only a very limited section of the population is comprised in the twenty-four items. In O 5 and 6 the exact converse is true: the classes enumerated are fewer, but they are of a much wider nature, and thus the number of persons affected is correspondingly greater.

Of the two later lists, O 5 is the nearer to B in spirit as in

¹ An exception to this rule seems to be found in B 54, where certain favourite children are debarred from *othrus*. No reason is given for their exclusion, but it is probably to be sought in the peculiar ties of affection uniting them to the head of their own household, for whose benefit, therefore, they seem to be 'excepted'. Note, however, that the 'fee' payable by their injurer has to be fixed by a judge in every case. For the glossator's attempts to explain their exclusion, cf. p. 125 *infra*.

matter. It purports to enumerate those persons whose sick-maintenance is 'most difficult', i.e. impossible,¹ owing to the difficulty of providing a substitute for any of them. The first three are also found in B 12, and possibly the 'wise man' (*fer gaeth*) may be identical with one or more of the classes mentioned in that section. But the remaining three extend the principle of exception beyond the limits observed in B. Smiths, wrights, and skilled needlewomen² form part of the general community, and while the provision of a substitute for any of them would entail increased expense for the injurer, there are other classes of skilled workers whose place it would be equally difficult to fill. The field of 'exceptions' is, accordingly, widened in O 5, but it is important to note that the principle on which exclusion was originally founded is maintained: it is still in the interests of the defendant.

In O 6, on the other hand, not merely is this principle abandoned, but its exact contrary is adopted. The classes of 'exceptions' here enumerated are all excluded in their own interest or in that of their families, as the glossator rightly emphasizes. Thus the young maiden is 'excepted' from *othrus* lest she be deflowered while away from home, the *cétmuinter* (chief wife) lest she be corrupted, the 'senior' lest he bestow his dying blessing on the members of the household where he has been nursed rather than on his own family. But there is much more involved than a change of principle. The three exceptions just referred to are drawn from all classes and comprise a considerable section of the ordinary population. Such a broad basis of exclusion is manifestly incompatible with the whole tenor of B. If it had existed when the latter tract was compiled, the number of women eligible for *othrus* would have been so small as to render almost superfluous the elaborate rules about *ban-othrus* (B 30-7). And is it likely that the compiler would have omitted the *cétmuinter*, the normal married

¹ Cf. note on B 15, p. 60 *supra*.

² In B 31 the *ben lāmtoruid*, an expression which the glossator (*), no doubt rightly, holds to include the *druinech*, is given a specially high standard of sick-maintenance. The discrepancy between the two lists may well be due to the fact that, when the basis of exclusion was first widened, this woman, whose maintenance was particularly expensive and for whom a substitute was hard to find, was one of the earliest additions to the 'exceptions'.

woman, from his list of female 'exceptions' (B 32)? And if the *trillsech* had really been excluded in his day, would he not have mentioned that fact also in B 32, still more in B 52, when stating the rules for the *othrus* of 'every boy and every girl'? Again, he would surely have drawn attention to the exclusion of every 'senior', when compiling his list of male 'exceptions' (B 12). For these reasons, we may safely conclude that O 5 and still more O 6 represent a later tradition than B. The ancient system of *othrus* is still in existence, but its dangers and disadvantages are recognized, and attempts have already been made to restrict its operation by means of an expedient that has frequently commended itself to early lawyers—a heavy increase in the exceptions to the rule.

A still more drastic restriction is found in the fragment of text which I have quoted as O 7. This excludes from *othrus* all persons, whether belonging to the 'excepted' classes or not, who have been injured in 'anger', that is 'with intent' (*tre comvrāite*) as the glossators correctly explain. Only those who have been injured through 'wantonness' (*etge*), i.e. unintentionally, are to receive *othrus* in the traditional manner. It is hardly necessary to point out that a law of this kind makes *othrus* the exception rather than the rule, for the vast majority of injuries would come under the heading of wilful wrong. This fact alone would show that O 7 must be much later, in point of time, than B; but students of legal history will recognize still more conclusive evidence of this in the distinction drawn between wilful and unintentional injury. In all early systems a wrongful act is something purely objective, no account whatever being taken of the state of mind from which it proceeds. It is judged entirely from the external standard; and whether it be the outcome of malice, culpable negligence, or mere accident, the penalty is always the same.¹ The distinctions between wilful and negligent, malicious and unintentional, belong to a comparatively later and more developed stage of jurisprudence. There is no trace of them in the text of B, nor indeed in any of the earlier tracts.² But the glossators and

¹ Cf. K. Binding, *Das älteste Strafrecht der Kulturvölker*, *passim*; Schrader, *Reallexikon der indogermanischen Altertumskunde*² II 77 f. &c.

² I believe that such rules as *Diablad fiach ferg*, AL iii. 98. 1, must be comparatively late.

commentators are naturally familiar with them, and occasionally introduce them into their attempts to interpret our texts. Thus the general statement that 'every condition of person is entitled to his *othrus*' (B 17) is qualified in the gloss (B 17¹) by the words: 'who is injured through negligence'—a restriction for which the text gives no warrant whatever. This later rule is also used in an attempt to explain the mysterious B 54, which deals with the exclusion of certain children from *othrus* (cf. p. 122 *supra*). The glossators are unable to understand the reasons for their exclusion, and one of them (B 55³, which really belongs to the preceding section) hazards the typically wild guess that those of them who are not of 'the seven-*cumals* grades' (i.e. compeers of a king, and therefore automatically excluded from *othrus*) have been injured intentionally. He overlooks the obvious objection that, even assuming the existence of this rule, it would apply equally to all conditions of men, and, therefore, would not in the least explain the specific reference to the exclusion of a few children.

The original system of *othrus*, already attenuated by a considerable increase in the number of 'exceptions', is rendered largely obsolete by the adoption of the rule in O 7. The great majority of injured persons, who have hitherto figured in none of the lists of 'exceptions', are now excluded from sick-maintenance. What do they receive in lieu of *othrus*? One might be inclined to answer: a 'nursing fee' equivalent to their honour-price, as in the case of the 'exceptions'; but the evidence of several commentaries shows that this is not correct. Instead, a compromise is adopted: they remain in their own homes, but the materials of *othrus* are supplied to them there by the defendant; as the commentaries put it, he sends 'food and physician to their houses' (*biad 7 liaig coruigi a tech*, O 7³, &c.). This, if I am not mistaken, is the technical meaning of *tincisin* 'attendance' when used with reference to injuries. True, the sense of this word, so frequent in all the later commentaries on *othrus*, is not always clear.¹ Sometimes it seems to be just a synonym for *othrus*; but this is a later identification, dating

¹ It is apparently a Mid. Ir. form of the vb. n. of *to-in-ad-ci*; cf. Pedersen ii. 488. In C 2076 it is glossed *fritheoladh*; but its legal meaning seems to vary in different contexts, cf. AL vi. 720.

from a period when, in fact, *tincisin* had superseded the older system. I believe that its first meaning in this context is the nursing in their own homes of those persons who, prior to the rule in O 7, would have been brought away on *othrus*. The defendant must provide the requirements of this nursing, not merely refection and medical attendance (*bíad 7 liaig*), but also, as stated in several commentaries (e.g. AL iii. 474. 11 f.), a substitute (*fer māma mod*) and somebody to act as a nurse for the invalid (*fer ōcaib tōcaib*).¹ For practical purposes, then, *tincisin* is *othrus* provided by the defendant at the victim's own house. Nothing is said as to the maintenance of the latter's 'company' (in his own home) at the defendant's charges: perhaps it lapses under the new system.²

There may have been good reasons for this change of practice. Where one person has injured another of malice aforethought, the prospect for the victim of being nursed back to health by the kin or friends of his aggressor (possibly even in the latter's own house) is not calculated to reassure him. The new system is an improvement on the old, and this can only mean that in the course of time *tincisin* will completely supplant *othrus*.³ The latter is now restricted to that small number of persons, who, not being 'exceptions', have been unintentionally injured. But how is this fact to be established? And what interest has either party, plaintiff or defendant, in seeking to establish it? Both are more likely, for their own reasons, to prefer the new system, which is less onerous for the injurer and less perilous for the invalid. Under these circumstances the natural tendency would be to abandon in every case the older institution in favour of *tincisin*. The fact that *tincisin* is used in some commentaries when *othrus* appears in the text seems an argument for this view. I do not, of course, claim any degree of certainty for the latter; but it seems to me a plausible hypothesis, and,

¹ Cf. p. 119² *supra*. I believe that the obligation to provide this special nurse was peculiar to *tincisin*.

² An argument in favour of this view is possibly found in the duty which now rests on the defendant to supply a special nurse to attend the victim: perhaps he takes the place of the latter's 'company'.

³ The Welsh laws (e.g. Venedotian Code III, c. xxiii. 17. 20) describe a system somewhat similar to *tincisin*. The physician is sent to the victim's house, and the defendant may, if he wishes, supply him with food: if he does so, the fee which he must pay him is correspondingly diminished.

in the absence of other evidence than unreliable commentaries, much of the final stages of this sketch must remain hypothetical.

Accepting this hypothesis, we may trace a further stage in the break-down of the older form of *othrus*. In most, if not already in all cases (apart from the 'exceptions'), the defendant's liability now consists in supplying the victim in the latter's own home with refection, leech, substitute, and nurse: what more natural than that he should compound for these separate obligations by the tender of a single fee, to cover all of them? We shall see presently that this has in fact occurred by the time that the latest commentaries are being added. The transitional stage may be indicated in the conflicting versions of the commentary in O 7³: according to E and AL (iii. 356. 11 f.) all persons, who, not being 'exceptions', have been injured intentionally, are to be supplied with 'food and leech', i.e. they are to have *tincisin* in its original form; according to Q, on the other hand, they are to receive 'the fee for their attendance' (*lōghacht a tincisin*). There is evidence of similar confusion in other commentaries.

The obligations of nursing are thus commutable for a fixed mulct in the case of every injury, wilful and unintentional alike. Only one distinction still survives from older times: the 'exceptions' from sick-maintenance receive a 'nursing fee' equivalent to their honour-price, as opposed to ordinary persons who receive 'a fee for *tincisin*' (we shall see presently that the two 'fees' differed in amount). I believe that this distinction is also obliterated in the course of time: indeed, its *raison d'être* disappears when the older obligations of *othrus* have been commuted for a fixed payment. Contemporary evidence of its obliteration may be found in the confused treatment of the 'exceptions' by some commentators. Thus O 6¹¹ says that they are to get 'food and leech' (i.e. *tincisin*) at their own homes, a statement which ceases to make them 'exceptions' in any sense of the word. And in O 7³, E and AL are not sure whether to award them *tincisin* or nursing fee, whereas Q merely gives them *lōghacht a tincisin*, the same mulct as it provides for ordinary persons. Accordingly we find in the latest stratum of commentary, to which I must now refer, that the 'exceptions' have disappeared, and that a uniform payment for all classes

in lieu of nursing is now the rule. At last, after a long and complicated process of development, Irish law falls into line with the other systems to which I have referred at the beginning of this article.

Apparently it had reached this stage before the interpolation dealing with *othrus* was inserted in *Crith Gablach* (cf. p. 82 f. *supra*). The compiler of that tract prefaces the collection of ancient rules which I have cited as O 3 with the following words (AL iv. 300. 23 ff.): 'Sick-maintenance does not exist to-day at the present time, but rather the fee for [= appropriate to] his worthy qualities [is paid] to each according to his rank, including [compensation for] leech's fee and ale and refection, and also the fee for blemish, hurt, or loss of limb' (*Int othra[s], ní fil andiu isin aimsir so acht log a deggfolad do cach iarna m(b)iadh, iir fochraic lego 7 lin[d] 7 biatha[d], 7 log nainmhe, amaircc, easbodha*). Of the two 'fees' mentioned here, the second is the ordinary wergild of the injury, the liability for which remains unimpaired through all changes. The first is the mulct payable in lieu of nursing, called by the commentators *lōg* (or *lōgacht*) *na tincisín*: it corresponds to the 'leech fee' of other early systems.

What is the amount of this mulct? Once the distinction between 'exceptions' and ordinary victims has been obliterated—and it will be seen that there is no trace of it in the passage just cited—one might expect that the rule governing the former would be universalized, in other words that *lōg na tincisín* would be assessed on the same basis as the older *log nothrusa*, and that every injured person would receive the equivalent of his own honour-price as the 'leech fee'. But a study of the latest commentaries shows that this is not so: on the contrary, we find a rule of assessment that shows a radical change in the whole system of compensation for injuries. I do not propose to examine this later system in detail, partly because, like so much of the information supplied by the later commentaries, its existence in practice is at best doubtful, partly also because it marks the complete disappearance of the old institution of *othrus*, the subject of the present study. But a short investigation of it is indispensable in order to round off the picture, and the results of this investigation are surprising. They may be summarized

as follows. In the most recent versions of the law, the old tariff of fines for *crōlige mbāis* (B 2, cf. p. 94 *supra*) is taken as the basis for assessing the mulct due for the nursing of any injury, whether serious or slight, which necessitates treatment by a physician. The full amount of the tariff is reserved for more serious (but not necessarily fatal) injuries, and certain fractions of it, varying according to the degree of gravity, are payable for three other types of injury, according to a classification of which B and the older texts know nothing whatever.

The change has already occurred before the latest commentaries on B were composed, and it explains some statements in these commentaries, which, compared with the words in the text which they purport to interpret, look like the wildest nonsense. To take one example: according to B 2, fourteen *cumals* represent the fine for the *crōlige mbāis* of a king. To the commentator in B 17⁷, however, they obviously mean the fine payable in lieu of nursing. Quite oblivious of the older rules in the text, (1) that a 'fatal blood-lying' excludes all question of nursing by the defendant, and (2) that in any event the king is an 'exception', he proceeds to make an elaborate allocation of the fine between the invalid himself, the member of his kin who acts as nurse, the leech who attends him, and finally (a particularly ludicrous blunder) the person who acts as his substitute. A still more detailed set of rules for this allocation may be found in the commentary printed in AL iii. 474. 13 ff. The same commentary contains a number of other statements which are only intelligible on the basis of the new rule. Thus (AL iii. 472. 2 ff.) the person who does not 'do good' with his property 'gets no nursing fee (*lōgh othrusa*) except the lowest nursing fee which is found in the book, viz. a *cumal*'. The commentator is obviously thinking of the *cumal* which was the fine for a 'fatal blood-lying' inflicted on either of the two lowest ranks of society, the *flescach* ('strip-ling') and the slave.¹ The 'lowest nursing fee' means to him the lowest item in the tariff of fines for *crōlige mbāis*. *Lōg nothrusa* is no longer the fee (equivalent to honour-price) payable to a member of the 'excepted' classes: it is synonymous with *lōg na tincisin*, the extra mulct due for nursing, which is calculated

¹ In B 2 these are awarded two *cumals*, but the commentator is following the more usual version of the tariff, which allows them only one (cf. note on B 2, p. 56 *supra*).

on the basis of the older tariff of *crôlige mbāis*. Indeed, this is expressly stated more than once. Most of the commentaries which recite the tariff¹ call it simply *lōg na tincisin* (e.g. AL iii. 474. 1) and add the following explanatory note: 'The above is the fee for their refection, medical attendance, substitute, and nurse in *tincisin*.'

How is this drastic change to be explained? It is largely due to a change in the meaning of *crôlige mbāis*. By the time of the later commentators the old distinction between incurable and curable injuries has disappeared. All injuries which require medical treatment entail, in addition to their fixed wergild, the payment of a special mulct, calculated according to the old tariff of fines for *crôlige mbāis*. But the proportion of the tariff varies according to the gravity of the hurt, and from this point of view the commentators distinguish four classes: (1) *crôlige mbāis* (in its new meaning), (2) *crôlige cumaile*, (3) *inindraig sē set*, and (4) *inindraig secht sēt*. Each of these classes merits a brief description.

(1) *Crôlige mbāis* belies its name in so far as it is no longer necessarily mortal. But it is still the most serious form of injury, as is shown by a description of the symptoms which are deemed to amount to it: 'He [the patient] is unable to turn from side to side without somebody to raise him or turn him; or [he has] the three "waves" [bouts of sickness]² or the *cain ichtarach*, or perforation of the bowel (?)'³ (*nocha nfedann impo*

¹ Cf. p. 56 *supra*. The reason why this § of B is so frequently cited in the later commentaries is that it still has an active, if considerably changed significance. Whether the slight discrepancy referred to in the last note is due to a change made by the commentators or to a different recension of B 2 is impossible to decide.

² The 'three waves' are described in C 307 and C 2100 as *tonn sceithi 7 tonn fola 7 tonn comna*. The first two, vomiting and haemorrhage, offer no difficulty, but what is the third? Plummer (card index) suggests 'pollutio', referring to *comna* in *Auraicept na nÉces* 325 and *Félire*² 312. Our commentary adds that if the victim has the last two of these symptoms, his case is deemed to amount to *crôlige cumaile*, but if he has merely a bout of vomiting, it is an ordinary *fuilingud*, 'wounding', which entails no special compensation for medical attendance.

³ I do not know what is meant here by *cain*, whether 'upper' or 'lower'. In AL i. 126. 3 it may mean 'throat, neck'; cf. *cain* 'the smooth part', Meyer 302, *caoin* 'external surface, rind' Dinneen. C 305 adds *gearrta* 'cut'. For *sicne* 'peritoneum', cf. *Rosa Anglica* (ITS, vol. xxv), Glossary.

don taobh ar araile gan nech aga togbail no aga impo; no na tri tonna, no in cain ichtarach, no in sicne inathar, O'D 834; cf. also C 305, 592, 1825). Despite these grave symptoms, he may, of course, recover, but in that event he will require protracted nursing and medical attendance. Accordingly, he is entitled to the full mulct assigned to his particular rank by the tariff, in addition to the fixed wergild.¹ Should he die—and this presumably applies to the other classes of injuries also—the defendant is liable for the penalties for manslaughter, but is allowed to deduct the amount which he has already paid over (cf. p. 99 f. *supra*).

(2) In *Cāin Adamnāin* (§ 44) a *cumal* is fixed as the wergild of every injury requiring *othrus* inflicted on clerics, women, or children. This is doubtless the source of the *crōlige cumaile* which the commentators, ignoring the special circumstances to which the rule applied, have evolved as the second item of their classification.² The victim is not quite helpless as in the former case: 'he is able to go to the privy with some one to support him, or he has the *cain uachtarach*'³ (*conig de dul is tech coit-chenn 7 nech fo taobh, no in cain uachtarach*, O'D 834; cf. C 304-5, 592, 1825-6). He receives two-thirds of the mulct.

(3) *Inindraig sē sēt* is a class of injury developed by the commentators from an ancient rule, which survives as a fragment of text in O'D 831 (here followed) and C 694:⁴ *Se seoit cacha hininnraidh[e]* (*inindraighe* C) *oca regar legha les*, 'Six *sēts* [are due] for every bandage-wound'⁵ for which a leech is needed.' Obviously it first meant a wound that had to be dressed and bandaged by a physician, but required no further treatment:

¹ According to C 280, this amounts to half the wergild of manslaughter (i.e. three and a half *cumals*): the injured party is also entitled to his full honour-price. The injury is sometimes subdivided into *c. b. co nitirimdibe baill* and *c. b. cin itirimdibe baill*, according as a limb has been severed or not, but the mulct for medical attendance remains the same in both cases.

² In ordinary law (as opposed to this special *cāin*) the wergild of such an injury seems to have varied in accordance with its gravity. The expression *crōlige cumaile* occurs only in glosses and commentaries. In B 41⁸ the glossator uses it to describe an injury entailing *othrus* as opposed to *crōlige mbáis* (in its original sense).

³ See footnote ³ on opposite page.

⁴ The first four words are also found in C 591.

⁵ *Inindraig* 'that which requires a bandage (or tent)', from *indrach*. This forms a separate class in the tariff of injuries in many early systems.

no question of *othrus* would, therefore, arise. But the commentators, deceived by the mention of the leech,¹ have inserted it as an additional rung in their ladder of classifications. Their description of the victim's condition shows that he has suffered no serious incapacitation: 'In whatever part [of his body] the wound may be, he is able to travel about the cantred with his bandage on' (*cíd be inad ann a mbiadh in cned, doni a thurus ar fut in trichat cet 7 a innrach ann*, C 592; cf. C 304, 694, 1825; O'D 833). In O'D 834 it is added that 'he is able to go in and out of the house unaided and to remain up without needing a person to look after him' (*eirgidh ina haonar amuich 7 amach, 7 bidh ina suide gin duine ris*). He receives one-third of the special mulct for medical attendance.

(4) For a 'bandage-wound' inflicted on women, clerics, or children, *Cáin Adamnáin* (§ 44) increases the wergild to seven *sēts*: the commentators have seized on this slight change in the ordinary penalty in order to invent a new injury—the *inindraig secht set*.² The difference between the two 'bandage-wounds', according to O'D 834, is this: whereas the victim of (3) can move about unaided, he who has received an *inindraig .vii. set* 'can only sit up if his shoulder is [propped] against a pillow, or if he has some one to support him' (*ni bidh [ina suide] gin gualainn fri hadart no gin duine faoi*). Substantially the same description is given in C 694, where the pillow is said to be the origin of the old expression *in ime frisín nínindraig*, 'the fence [prop?] against the bandage-wound'. Still he is not quite helpless, for 'he is able to go round the townland in which he lives with his bandage on' (*cotic de cuairt an bhaile a mbi do chur 7 a innrach ann* C 304; cf. C 592, 1824; O'D 834). The commentators are in some doubt as to what proportion of the mulct for medical attendance is due to him: they say (e.g. AL iii. 472. 9) that it is either one-sixth or one-seventh more than the victim of the other 'bandage-wound'. As the latter is

¹ A typical example of such later 'interpretation' occurs in AL i. 266. 22, where the text enumerates, among the lawful excuses for delay in taking distress, *coingz[d] . . . lega do neoch bis(s) fri bas*, 'going in search of a leech for a person in danger of death'. This is obviously of general application, but the glossator (298. 22 f.) foolishly tries to restrict it to the liability of the injurer to provide a leech for his victim.

² Some obscure fragments of text in O'D 831 f. are also applied to it by the glossators, so far as I can see without any justification.

entitled to one-third of the mulct, the injured party in the present case will get either $\frac{1}{18}$ or $\frac{1}{21}$ extra.¹

This exhausts the catalogue of injuries which, according to the commentators, entail a special 'leech fee' in addition to the ordinary penalties. How far their distinctions had any basis in actual practice must remain doubtful: many features of the later commentaries, their hair-splitting distinctions and purely schematic constructions, seem to be the product of a writing school rather than of actual legal development.² This applies *a fortiori* to such further subdivisions as may be found e.g. in AL iii. 482. 5 ff., where an almost unlimited series of variations are introduced into the already complicated machinery for calculating the proportion of the 'leech fee' due in any given case. The proportion is made to vary further according to the circumstances under which the wound has been inflicted, according as the injurer or injured party is an *urrad*, a *deorad*, or a *mur-chuirthe*, &c.³ No legal significance can be attributed to mere mathematical exercises of this kind, but they are not entirely valueless for the purposes of the present article. They constantly use the word *othrus* in its later meaning, splitting it into fifths, sevenths, and even smaller fractions to suit their numerous classifications. Legal historians⁴ have often pointed out that the appearance of such fractional shares is strong evidence that a personal obligation has been commuted for a fixed payment. Accordingly, when we read of liability for two-sevenths and one-fourteenth of *othrus* (AL iii. 482. 21), we may be quite sure that the latter word retains but a faint echo of its original meaning, the personal obligation which it first connoted having been long since converted into a pecuniary liability. The terminology of every legal system is full of similar survivals.

¹ The fraction is presumably of the one-third, not of the whole mulct. It is so calculated in assessing the extra proportion of honour-price due for this injury, which according to O'D 831 is $\frac{1}{21}$ ($= \frac{1}{7}$ of $\frac{1}{3}$).

² Cf. Ir. Recht p. 60. This passion for classification and exaggerated casuistry is also a characteristic of the later commentators on Hindu law, cf. Jolly in Zeitschr. f. vergl. Rechtswissenschaft i. 235 f. It is apparently inevitable in systems of jurisprudence which consist of the interpretation of a sacrosanct text by a limited and privileged class.

³ Even these words have radically altered in meaning (cf. O'D 831, &c.), but a discussion of the change would be outside the scope of the present study.

⁴ e.g. Pollock and Maitland, History of English Law,² I. 256.

While making full allowance for the unreliability of much of the information supplied by the later commentaries, I believe that the development of the law relating to *othrus* was substantially what I have described. In the earliest period a person who had inflicted a non-fatal injury on another was bound to have his victim nursed back to health under a leech's direction, to maintain his full 'company' in the house where he was being nursed, and to provide a substitute to do his work at home. Owing to the difficulty of complying with these obligations (more particularly the last named) in the case of certain classes, the latter were excluded from the operation of this rule: if any of them was injured, the defendant was discharged from the liability to provide *othrus* by payment of a 'nursing fee' equivalent in amount to the honour-price of the injured party. At a later stage the number of persons 'excepted' from *othrus* was greatly increased: they were no longer confined to such classes as the defendant might find it difficult or impossible to maintain, but included people whom the law debarred from *othrus* in their own interest. A further blow at the primitive system was dealt by the still later rule that only those who had been injured unintentionally should receive *othrus* in its original form: where the injury had been wilfully caused, the victim was to be nursed back to health in his own home at the defendant's charges. In the course of time, the latter obligation was commuted for a fixed payment, and before the period of the latest commentaries the original *othrus* had completely disappeared, its place being taken by a 'leech fee', which varied, not only according to the rank of the injured party, but also according to to the degree of gravity of his injury.

I have not dealt in this article with another institution which was a frequent, but not invariable, sequel to *othrus*. This was called *iarmbrethennas* or *iarmbrethas*, 'after-judgement', and its meaning was first correctly explained by the late Dr. Plummer in the pages of this journal (ÉRIU 10, 114 f.). I am in a position to add a certain amount to his information, but deem it advisable, before doing so, to await the publication of *Bretha Déin Chécht*, a text which throws new light on the subject.

D. A. BINCHY.

MISCELLANEA

1. The 2 sg. absolute of *berid*.

THURNEYSSEN, KZ 44, 114, postulates *biri*. This is found in a poem composed about 1200, edited (with a very inaccurate translation) by Hennessy in Skene's *Celtic Scotland*, iii. 410-27. The metre is *rannaigeacht bec*, with internal rhymes throughout. The last couplet reads, Bk. of Fermoy, 26b31:

táin cu tra . . .¹ do thighi
biri o Traigh mbhárcglain mBaile.²

In 23. H. 8, f. 60a, copied in 1864 by Joseph Long (= O'Longan) from a manuscript of 1712, the reading is:

táin go tráchtaihb do thighe
bire o Thráigh mbarcghloin mBaile.

'a cattle-spoil to the shores of thy house thou bringest from
Tráig Baile, bright with ships.'

As final *i* and *é* are not distinguished in Mid.Ir., older *biri* and *thige* make a perfect rhyme.

2. O.Ir. *foc(c)ul*(1)

The forms in the glosses have been collected by Ascoli cccxli. On account of *da foccul* in LB Corm., s.v. *tre focal*, ZE 228 treats the word as masc.; but LL and YBL have *da foccul*, *da focul*, and the nom. pl. in YBL is *focla*. We may take it that the word was originally neut.; cf. *cach la focull . . . a n-aill*, Ml 24d30; *cid focal*, Bürgschaft 18, § 57; *findfocla*, IT i. 68, 20; *mo tri lanfocull*, ib. ii² 227, 31. In Mid.Ir. it became masc., with nom. pl. *focuil*.

In IGT ii. § 17, 20, *focal*, with its variants *facal*, *focall*, *facall*, is said to be a verbal noun (*ón phersain*). It occurs also in the tract on verbs in H. 2. 17, 219a, and an example of its pret. is given:

Cland Charrthaigh nár f(h)ocail fheall
gá fearr docair anfaidh and.

For other examples of this denominative, see AL Glossary. Pedersen, VG ii. 484, is doubtless right in reading *ara-foc(h)la-dar*, Sg. 209b26, which was formerly connected with *focul*.

¹ Illegible.

² recte bhárcglain Bhaile.

Etymologists are generally agreed in treating it as a loan-word from Lat. *vocabulum*, but we should not expect to find such a 'learned word' (Ped. i. 206) imbedded in the early Laws in the sense of 'test'. The phonetic development, too, would be surprising; even assuming arbitrary contraction (Thurn., Hdb. 519) or influence of *vōcula* and *vōcalis* (Stokes, Fél.², 330) the modern -c- is unexplained. Some years ago I suggested to my pupils that it was rather a native word with the same suffix as *cétal*, and postulated a form **uoktlon*, comparing Sk. *vaktram* 'mouth'. Thurneysen, by his convincing etymology of *anacul*, ZCP xi. 311, has shown that the group -*ktl*- becomes -*kkł*-. There is a difficulty about the vocalism of the first syllable; one would expect the *e*-grade, as in *cenél* < **cene-tlon*, &c. I can only suggest that as **k^uenk^ue* > **k^uonk^ue* > *cóic*, so *u^uek^u-* may have become *uok^u-* (> *uok*), though I have no parallel.

Prof. J. Lloyd-Jones, Bulletin of the Board of Celtic Studies, iv. 221, has adopted this etymology to explain Welsh *grwaeth(y)* 'strife, contention', which could also come from **uoktlon*. The development of meaning in Welsh would be similar to that of *brwydr* 'battle' = Ir. *briathar* 'word'.

3. *cro*- in compounds

In Met. Dind. iii. 344 Gwynn prints *chró-derg*: *rogerg*, and takes it as 'an imperfect rhyme', p. 540. Meyer, Zur Metrik von Saltair na Rann, 882, compares *crōdonn*: *atacomong*, SR 6919. But I think the short *o* is right. Cf. *crodeirg* (*sic leg.*): *comfeirg*, SG 24, 28; *crodaind*: *Conaill*, LL 43b17; *crodonnd*: *Colam* LB 39, m. inf.

The modern forms *craorag*, ZCP v. 346, *craorac*, Egan O'Rahilly (1911) 168, and others in which the first syllable fluctuates between a diphthong *ai* and an open *ē*, imply a Mid.Ir. *crōderg*.

OSBORN BERGIN.

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