I intend to make three points and one plea.

I.

The first point is this. As is well known, some ancient regulations attach legal consequences only to the most direct causation, say, a man hitting his slave with a stick and the slave dying there and then 2). It would be quite wrong to conclude that a restriction of this sort is due to a primitive incapacity for seeing through a less direct causation. The same code which contains the statute just quoted also contains one imposing liability on a man who digs a pit into which another man’s animal falls 3). It might perhaps be argued that the two statutes, though in the same code, date from different periods, the rule concerning the slave being prior to that concerning the pit. Even if correct, this would not alter the principal point here to be established: that however far back in time we go, we find a full understanding of the most lengthy and complicated chain of events linking cause and effect. The opposite view is founded on a naive belief (which captured the world of anthropology, ancient history and classics in the 19th century) in a progress of mankind from childishness to intelligence.

The narrative of David and Uriah is old. No murder could be less direct, yet Nathan charges David: ‘Uriah the Hittite thou hast smitten with the sword’4). Actually, there is a more precise repetition at the end of the verse, perhaps a gloss to explain and insist on the ascription

1) This lecture, delivered at London at a session of the Institute of Jewish Studies and at a meeting of the Society for Old Testament Study, is partially based on the author’s unpublished doctoral dissertation, Göttingen. For modern English jurisprudence, see the monumental work of HART and HONORÉ, Causation in the Law, 1959.

2) Ex. xxi 20.

3) Ex. xxi 33 f.

4) 2 Samuel xii 9.
of the deed to David: 'and him thou hast slain with the sword of the Ammonites'. It is interesting that a modern commentator, Caspari 1), finds it necessary to mitigate this in translation and make it less direct: hast den Uria erschlagen (lassen). David himself had been sent into battle by Saul when the latter wanted to get rid of him without doing the actual despatching. Saul's daughter, promised to David if he deserved her by his exploits, would, Saul hoped, be 'a snare to him' 2). 'Let not mine hand be upon him, but the hand of the Philistines' 3). 'But Saul thought to make David fall by the hand of the Philistines' 4).

In one of the earliest trials of the Bible, there is an almost formal Gewährszeug or remotio criminis from the accused to another delinquent named as intellectual author, and from the latter to a yet further intellectual author. 'Hast thou eaten of the tree?', God asks Adam, who replies: 'The woman whom thou gavest to be with me, she gave me of the tree and I did eat'. A (not very gallant) 5) shuffling off of the guilt to Eve and, indeed, in a way, to God himself whose present she was. Then God turns to Eve: 'What is this that thou hast done?' 'The serpent beguiled me, and I did eat'. In meting out their punishment, God begins with the serpent, proceeds to Eve and ends with Adam 6). The story of Abimelech and Sarah is steeped in legal language and pursues definite legal aims. Here Abimelech, having taken Sarah into his harem, tells Abraham, who has merely suppressed the fact of her being his wife: 'Thou hast brought on me and my kingdom a great sin' 7).

These instances could be multiplied — let us recall one from Greek mythology, Eriphyle killed by her son in revenge for his father's death, for which she was responsible because she made him take part in the war from which he did not return. They expose the baselessness of any theory which would explain the rigidity of early statutes in the matter of causation by an inability to grasp a less obvious nexus. Nothing could be further from the truth.

Why, then, do we get these narrow definitions? For practical,