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## ARTICLE V.

## HUMANE FEATURES OF THE HEBREW LAW.

By Rev. Henry M. Field, West Springfield, Mass.

ALL writers upon law accord in assigning to Moses a high place among the founders of States. He is ranked with Solon and Lycurgus. Yet this homage is often qualified by the remark, that his laws are altogether too severe to be adopted in modern legislation. Especially, the advocates of the abolition of capital punishment are wont to set aside an appeal to the Hebrew law by styling it a sanguinary code, only fitted for a nation of barbarians. We have now before us a long and very able argument for that reform by its most earnest American advocate.<sup>1</sup> The writer devotes many pages to the Hebrew legislation. Like every man of cultivated mind, he regards with great curiosity and veneration the most ancient body of laws which history has preserved to us, while, at the same time, he plainly considers it an obsolete barbarism. To the milder spirit of our times those ancient statutes appear "terrible" and "Draconian." "The code of Moses was indeed a scarcely less sanguinary one than that which the Athenian legislator was said to have written in blood." p. 10. Its punishment for many offences "it would be a perfect insanity of ferocity and fanaticism to dream of applying at the present day." p. 11.

Nor is this subject dismissed with an epithet. The writer is too candid and too intelligent to think that he can overthrow Moses with a sneer. He has, therefore, condensed into these pages all that is sternest, and darkest, and most terrible in these ancient laws, by which the mind is overwhelmed with images of horror. Against this sudden and severe judgment we enter a protest. Notwithstanding this formidable array, we doubt the justice of this mode of speaking. After examining with great care, both the general features and the details of this ancient code, it seems to us, not only a wise, but most humane body of laws.

We do not contend for a moment that every statute of Moses would be just at the present day. That law was framed for other

<sup>1</sup> Report in favor of the Abolition of the Punishment of Death, made to the Legislature of the State of New York, April 14, 1841. By John L. O'Sullivan.

times than ours, and for a different people; a people not yet formed into a State. The nomadic habits of the Hebrews, induced by forty years wandering in the desert, and their settlement in a new country, required peculiar laws. It is a merit of any legislation that, while founded in natural justice, it has a special fitness to the latitude and race over which it is to have sway. It is easy to pick out of every national code particular statutes which would be cruel, if they were not necessary; and which must appear harsh in those happier climes where extreme severity is not needed. But such isolated and extraordinary acts by no means justify us in calling a whole code barbarous and bloody. It is the general spirit of the law which is to be regarded. Does it lean to the side of severity, or of mercy?

Now we affirm of Moses that, though a stern ruler, he was never cruel. He never showed a tyrant's delight in human suffering. On the contrary, his laws, while they evince extraordinary sagacity and wisdom, are animated throughout by a very remarkable spirit of justice and humanity.

To meet the grave judgment which is pronounced against the Mosaic code, we must separate the charges. Our Reviewer instances two or three terrible punishments inflicted upon the nation at large for rebellion. He is appalled at retributions so swift and awful: "That history is impressed on every page with the stamp of the superhuman—the superhuman running at times seemingly into the inhuman." p. 10. These severities strictly have nothing to do with the written law, except as they may indicate in the Hebrew leader a fierceness of disposition which would prompt him to issue a code of barbarian justice. They merit, therefore, a passing remark.

All bodies of men are acknowledged to have the right to resort to extreme terrors, when encompassed by extraordinary dangers. The children of Israel were in a position of great peril, and their safety depended on the wisdom and firmness of one man. Never had a ruler a more difficult task. Moses did not legislate for the ideal republic of Plato, a community of perfect beings, but for hordes of half savage men. A nation of slaves, suddenly liberated, is always restless and lawless. Here were two millions and a half, a number nearly equal to our whole slave population. They had not even the advantage of a settled place of abode. Had these millions been dwelling in towns and cities, or scattered over the hill-sides of Judaea, the task of ruling them would have been easy. But they were a nation without a country—all assembled in one vast camp—where rebellion might spread through all the host in a day. Moses had to gov-

ern them by his single will. He had to do everything; to direct their marches, to order their battles, and even to provide for their subsistence; while all the time rose up around him, like the roaring of the sea, the factions and jealousies of the different tribes.

To preserve order among themselves, and to guard against hostile attacks, the whole nation was organized as a military body. They marched in armed array, and pitched their tents around the standards of their tribes. For the safety of this mighty host, Moses had to issue strict orders, such as all great commanders publish to their armies. In every military code, the first requirement is subordination to the chief. Rebellion threatens the very existence of an army. Whoever, therefore, attempts to stir a whole camp to rage and mutiny, must expect to be given up to instant destruction. In this Moses only enforced the ordinary laws of war.

Another charge, often brought against the Hebrew captain is, that he assumed the Divine authority for exterminating the Canaanites. This excites the indignation of infidels. What right, they exclaim, had the Israelites to Canaan? The country was not theirs. Their only title was founded on conquest. Thus the very existence of the Jewish State began in cruelty and blood. Such an act of aggression is enough to show that Moses had no clear sense of justice between nations or individuals. Nor could the moral feeling of a people be very nice that could thus, unprovoked, invade a foreign country, exterminate the inhabitants, and take possession of their lands.

Such conduct certainly requires explanation. Accordingly, Christian writers have sought for excuses to palliate the Hebrew invasion. Some say: The Israelites were the ancient inhabitants of Palestine, and had never relinquished their right to the country. It is true that this was the land which God had promised to Abraham, Isaac and Jacob. There the patriarchs had lived. There were their sepulchres. Their descendants had gone down into Egypt, on account of a famine, but fully intending to return. Jacob with his dying breath commanded his children to bury him with his fathers in the land of Canaan. Joseph on his death-bed charged his brethren: "God will surely visit you, and bring you out of this land—and ye shall carry up my bones from hence." Thus, while the Hebrews remained in Egypt, they preserved a sacred tradition, that they were one day to inhabit the country along the eastern coast of the Mediterranean; and when they left Egypt, it was their first impulse to direct their march towards that destined land.

But could this ancient occupation justify the Israelites in taking

forcible possession of Palestine after an absence of over two hundred years? We think not, without renewed authority from Heaven.

That authority was claimed by Moses, and given in the fullest manner<sup>1</sup>—and the question is: Whether in such a command there is anything so revolting to the justice and goodness of God as entirely to discredit his Divine commission?

The invasion of the Hebrews may be justified on two grounds: either as the free gift of God, in fulfilment of an ancient promise to their fathers, or as a means of punishing a people that, like the Sodomites, were no longer fit to live.

Infidel writers artfully give the impression that the native inhabitants of Canaan were an innocent, pastoral people; a simple, primitive race, that were hunted from their pasture-grounds by the Hebrew invaders. And their extermination was a Massacre of the Innocents.

But history speaks another language. It describes the aborigines as monsters, who offered human sacrifices to their hideous idols; who even burned their sons and daughters in fire unto their gods. Deut. 12: 31. Centuries later, the Carthaginians, a people of the same Phœnician origin, were found offering human victims upon their altars, on the shores of Africa; and the fact is beyond question, that among the Canaanites such sacrifices prevailed to a frightful extent. Indeed, they seemed to have a strange thirst for blood. Their favorite god Moloch, fitly represented the cruelty and ferocity of the national character. So enormous had their crimes become, that the land itself was ready to "vomit out its inhabitants." Lev. 18: 24, 25.

Now it may be a question, whether a nation of irreclaimable savages, such as are cannibals, or that offer their children as sacrifices, may not be considered as enemies of the human race, and to be destroyed like so many wild beasts. Certainly no one would argue against the justice of God, had these nations been swept off by the plague, or had the whole land been sunk in the Mediterranean like a volcanic island. Why then may not God employ war, as well as pestilence and earthquakes, to execute his justice upon those who are no longer worthy to have a place among the nations? This reasoning does not indeed warrant us to anticipate the vengeance of the Almighty. But it does soften the pity and horror excited in our breasts by that stern decree which dooms a cruel nation to perish utterly from the earth.

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<sup>1</sup> Exodus 23: 27—33. 34: 12—16. Deut. 7: 1—5. 20: 16, 17.

But leaving the just or unjust wars of Moses, we turn to the civil and criminal law of the Hebrews. Here our writer gives a formidable catalogue of their capital crimes. These were numerous, *though fewer than those until lately punishable by death in England.* But it is not the number, so much as the nature of the offences, subject to this awful punishment, which gives to the Mosaic code its aspect of severity. Of these, the most peculiar were the crimes against religion, which it judged as severely as crimes against society. This is the head and front of its offending in the eyes of modern criminal reformers.

The most extreme instance of its harshness and intolerance was, that a man was stoned for gathering wood on the Sabbath day. No infidel writer fails to brand this as an act of cruelty worthy of an eastern despot. See, they cry, what exaggerated importance Moses gave to a petty offence, and how inexorable must have been the law which punished such a trifle with death! This disproportion between the offences and the penalty always gives to a statute an appearance of injustice.

On this case we observe, that it is a solitary instance. There is not another like it in all the Jewish history. Wherefore it was probably attended with unknown aggravations. It may have been punished as an act of military disobedience, or as a wanton contempt of authority. Trifling as the offence seemed, it was a violation of the express command of God, then recently given, and if done in the face of the camp, it was a public insult to their Divine King, which could not be passed over.

But this brings up the whole question of religious laws. With our notions of liberty, any laws whatever in regard to man's faith or worship seem a violation of the inalienable rights of conscience. But here a ruler prescribes to all his nation the god to be worshipped, and enforces conformity by the most rigorous statutes. To other religions Moses extends no toleration whatever. Idolatry is put down by force of arms. For this, many writers would fasten odium upon the Hebrew legislator. He transcends, they say, the proper sphere of human law. He exalts ceremonies into duties, and denounces as crimes acts which have no moral wrong. Thus he rewards without merit, and punishes without guilt. Was not then the Hebrew law wanting in the first principle of justice — freedom to all religions?

Now it is quite absurd to suppose that any Israelite had conscientious scruples about worshipping Jehovah, or seriously doubted

whether Baal or Moloch were not the true God. They had been rescued from slavery by a direct interposition of the Almighty. The sea had opened its waves for their passage. Their Deliverer dwelt in the midst of them. They heard his awful voice from the cliffs of Sinai. They saw the cloudy column hovering over their march, and by night the pillar of fire shone afar on the waste. No Hebrew could doubt for a moment that they were under the protection of the One Living Deity.

Their religion, then, and that alone, was *true*. Granting this, had Moses a right to establish it by law, and to punish any departure from it? YES. Not merely because their Jehovah was the creator of heaven and earth, but because of the peculiar relation which he had assumed towards the Hebrew State, as its founder and protector. When God led forth the Israelites from Egypt, he placed himself at their head. To him the nation owed its existence, and in him was vested the supreme authority. The whole government was framed in acknowledgment of this Divine sovereignty. It was not a human monarchy, but a theocracy, a State in which God was the king. He was the immediate source of all authority and power. Therefore the first law of the State was that which Mohammed copied in a later age: "THERE IS NO GOD BUT GOD." This furnished an immutable and eternal source of power.

By keeping this in mind, we may understand the whole constitution of the Hebrew Commonwealth. They had a Divine Monarch. To blaspheme God was to insult the Supreme Majesty. Even to depart from his worship struck directly at the fundamental authority. To set up another altar was to set up a rival king. Hence idolatry was treason.

But further. The unity of God was a fixed centre of unity for the nation. The State was one because their God was one. The worship of Jehovah alone distinguished the Hebrews from all other people, and preserved their separate nationality. What bond of union could hold together millions of people pouring out of Egypt in wild and hurried flight, and scattering afar on the Arabian deserts? Not the ties of blood, nor even the instinct of self-preservation. Nothing but their common religion, which was one and indivisible. It was the tabernacle which was erected in the midst of their armies, and the smoke of sacrifices which daily floated heavenward, visible for leagues around, which held their spirits in awe. Hence the maintenance of this religion in its integrity was essential to their very existence. Once throw down the national altars, and the whole

nation would crumble to pieces. Admit other religions, and the bond which held together the twelve tribes was dissolved. Hence Moses did not suffer them for an hour. In this sense his laws were intolerant, but only, as infallible truth has a right to be intolerant of errors which are disorganizing and deadly.

If further proof be needed to remove from these laws the appearance of undue severity, it is furnished by the subsequent history of that people. We have but to follow the Jewish State for a few centuries, to exclaim: After all, how necessary were all those restrictions, and how wise was the great lawgiver in guarding his people against idolatry! The mighty influence of his name remained for a whole generation after he was in his sepulchre. "The people served the Lord all the days of Joshua, and of the elders that outlived Joshua, who had seen all the great works of the Lord, that he did for Israel." Judges 2: 7. But then began a decline. In spite of every precaution the nation fell back. They relapsed into idolatry, and even slaughtered human beings on their altars: "They sacrificed their sons and their daughters unto devils, and shed innocent blood, even the blood of their sons and of their daughters, whom they sacrificed unto the idols of Canaan, and the land was polluted with blood." Psalm 106: 37, 38. Then they reaped the bitter fruits of disregarded wisdom. Moses had foretold the greatest calamities from the neglect of their God. Lev. xxvi. and Deut. xxvii., xxviii. and xxxii. And to one who denies that he acted by Divine authority, it must appear strange that his predictions were literally fulfilled. The decline of the nation into idolatry, introduced an element of discord which tore them to pieces by civil wars, and left them a prey to their powerful neighbors. Weakened by division, they were subjected to a foreign yoke, and at last were transported to Babylon as a nation of slaves.

As the unity of God was the fundamental law of the State, idolatry of course was the first of crimes. This, therefore, was placed under the ban of absolute prohibition. Deut. 18: 6—11. Not only the false worship itself, but everything which could lead to it, was forbidden. All the diabolical arts by which it was upheld, divination, sorcery, magic, witchcraft, were torn up root and branch. Deut. 18: 10. Witches, those old Sybils who decoyed men by their juggling arts, were not allowed to live. Any individual, who sought to entice them away from their God, even though the nearest kindred, was to be stoned. If a whole city relapsed into idolatry, it was placed out of the pale of protection, and was to be utterly destroyed. Deut. xiii.

In every pagan nation there are men who claim to be prophets — practised liars, who impose on the credulity of an ignorant people. This class of impostors was, therefore, proscribed without mercy. False prophets, found in the country, were to be stoned to death.

We need not stop to defend the abstract justice of their laws. It is enough that every State has a right to consult for its own safety, and to proscribe or banish any class of men that are found to be dangerous. On this principle many European governments have driven out the Jesuits. They found this religious order plotting against the peace of their realms, and the tranquillity of great kingdoms required that they should be expelled. By the same rule of acting for the public safety, Moses had the right to rid his people of pestilent prophets and diviners. No good ever came of them. Often they have led princes to embark in disastrous wars, by promising victories in the name of their gods. In the last century the Turkish sultan, putting faith in certain Moslem prophecies, plunged into a war with Russia, which had nearly proved the ruin of his empire.<sup>1</sup>

Besides, the people whom Moses led, were advancing into great dangers. All around them were pagan nations. Egypt was behind them, and Canaan before them. They had just left the most powerful kingdom on earth where men prostrated themselves before beasts. They still had a lingering fondness for that hideous worship. On one occasion, Moses was absent from the camp for forty days, and on his return he found them singing and shouting around a golden calf, an image of the Egyptian god Apis. Often they showed a fanatical frenzy for idolatry. Against all this Moses stood alone, and combated the popular fury. If he had no Divine authority to sustain him, to impose such laws on hostile millions, showed a moral daring of which there is no example in history.

Nor did these dangers fade away with the memories of Egypt. As they seceded from Africa, they approached the hills of Canaan, which smoked with the altars of idolatry. Over all that land reigned a disgusting and cruel worship; not that purer form of idolatry, the worship of the sun, moon and stars, which anciently looked up to the skies of Arabia and Chaldaea, but a worship of wood and stone, by rites earthly, sensual and devilish. The religion of the Canaanites was a compound of cruelty and lust. They had their sacred groves, and their Pagan mysteries. The valley of Hinnom resounded with their drums, and with the shrieks of their burning children.

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<sup>1</sup> *Michaelis*, Vol. IV. p. 75.

Against all participation in these dark idolatries, Moses denounced the severest punishment; against prostration before their images, or offering sacrifices on their altars; against even attending their festivals (Exodus 34: 15), or in any way countenancing their infernal superstitions. Every monument of the old religion was to be exterminated: "Ye shall destroy their altars, break their images, and cut down their groves." Exodus 34: 13. Deut. 12: 2, 3.

It is vain here to make a comparison between the feeble Jewish commonwealth and the majestic Roman empire, which, when it ruled the earth, tolerated all religions, and received injury from none. That had other elements of unity — power, conquest and dominion. It was in no danger of being mingled and lost in other nations, since it ruled over all.

Far different was the state of the descendants of Jacob, not yet formed into a nation, wandering like a caravan across the desert, and ready to crumble into its sands. They had need to cast out every element of discord, and to employ every means of consolidation. Diversity of religions would soon destroy them. Idolatry, therefore, was not a harmless superstition. Every family of idolaters was a source of weakness and corruption.

We come now to consider the ordinary criminal law of the Hebrews. Here, if anywhere, the sanguinary character of this code will be apparent, either in its excessive strictness, by which petty offences are made great crimes, or in its barbarous and cruel punishments.

We have already seen that crimes against God, such as idolatry and blasphemy, were punished with death. So also was another class of offences, which our law visits with but a slight condemnation, indignities to parents. This was a relic of the patriarchal times. The earliest form of human government was the authority which a father assumed over his children. Traces of this primitive rule are found in all ancient nations. Among the early Romans a father had the right of life and death. Much of this spirit lingered among the Hebrews. The parent had not, indeed, absolute disposal of the life of a child. Still his authority was very great. And it is a beautiful feature of the Hebrew law that it made sacred that parental supremacy which nature ordains. It required the young to render to the aged outward marks of reverence: "Thou shalt rise up before the hoary head, and honor the face of the old man." Lev. 19: 32. Whoever struck his father or mother, or cursed them, committed a capital crime. Exodus 21: 5, 7. And in extreme cases, a son who was

utterly ungovernable, might be given up to the punishment of the law: "If a man have a stubborn and rebellious son, which will not obey the voice of his father, or the voice of his mother, and that when they have chastened him, will not hearken unto them; then shall his father and his mother lay hold on him, and bring him out unto the elders of his city, and unto the gate of his place; and they shall say unto the elders of his city, This our son is stubborn and rebellious, he will not obey our voice; he is a glutton and a drunkard. And all the men of his city shall stone him with stones that he die: so shalt thou put evil away from among you; and all Israel shall hear and fear." Deut. 21: 18—21. The great lawgiver judged that an incorrigible son was a hopeless member of society, and he was therefore cut off in the beginning of his career to ruin.

Again. The Hebrew laws were more strict than ours in protecting female chastity. The nations around the Israelites were sunk in all the vices of Sodom. Lest they should be snared in such practices, these horrible pollutions were punished with death. All licentious connection with strangers was a penal offence. In one instance an Israelite, who brought a foreign woman into the camp, was killed on the spot. Numbers xxv. This severity was necessary where the contagion of such examples, and the burning climate, tempted to frequent offences against purity. Something was conceded to the ancient customs of the East, in tolerating polygamy and divorce. Christ said that for the hardness of their hearts Moses suffered them to put away their wives. Matt. 19: 8. But beyond this hardship, the law surrounded the feebler sex with a wall of fire. Violence to them was a capital crime. So were adultery and incest. In cases of seduction, the guilty party was compelled to make reparation. A man who seduced a maiden, was obliged to marry her. And he forfeited the right, possessed by other husbands, of giving her a divorce. Deut. 22: 29. If her father refused to permit the marriage, the seducer was required to pay her a dowry. Exodus 22: 16, 17. Moses was jealous of intermarriage, and specified minutely the limits of kindred within which alliances were prohibited. Lev. xviii. The least contact with impurity, however innocent, inferred a ceremonial uncleanness, which had to be expiated by a seclusion, and rites of purification. Thus his law refined the popular sentiments, and manners, and morals. If the sacredness attached to the virtue of woman be a mark of the degree of a people's civilization, the Hebrews were greatly in advance of all other oriental nations.

The laws for the protection of property were singular, but cer-

tainly they were not severe. The main principle was restitution of whatever was wrongfully taken, with ample compensation for loss. The penalty of imprisonment was unknown among the Hebrews in the time of Moses. Twice a man is said to have been "put in ward" until the Divine sentence should be declared. But except the prison in which Joseph was confined in Egypt, we do not read of such a thing until the period of the Jewish kings. Then the prophets were imprisoned for rebuking too sternly their royal masters. But now another punishment was to be devised; and what corresponded so well to the nature of the offence as to require a thief to restore what he had taken, doubling the amount? Certain property was still further protected. The Israelites depended for food upon their flocks. He who stole a sheep, therefore, was compelled to restore fourfold. Oxen were still more necessary for their use in agriculture, as the Israelites had no horses until the time of Solomon. A stolen ox, therefore, was to be restored fivefold.

These laws might not be easily enforced against our modern thieves; but they could be among a simple agricultural people, where the kinds of property were few, and the same possessed by all. And they must have proved very effectual to deter from crime.

Lest, however, the thief should make way with the property, and then escape by a poor debtor's oath, the law provided that in case he could not make restitution, he should be sold as a slave to indemnify the man whom he had robbed. This may seem a harsh addition; but when it is remembered that no Hebrew could be sold for more than six years, the punishment will appear singularly mild, especially compared with the law of England, which, until recently, punished with death, not only highway robbery, and coining, counterfeiting and forgery, but even petty larcenies.

Next we come to the more deadly crimes against the human person and life — crimes of blood. Here we find a principle of great severity. It is the sanction given to the law of retaliation: "Life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burning for burning, wound for wound, stripe for stripe." Ex. 21: 23—25. This our Reformer designates as "a part of that savage and monstrous *lex talionis*, so abhorrent to the express injunctions, as well as to the whole spirit of Christianity." p. 13. This emboldens him to say that "the law of revenge constitutes one of the very fundamental principles in the code of Moses — its cruel injunctions sanctioning all the most cruel impulses of the savage heart." p. 19. It is true that this was perverted by the Jews to sanction private

revenge. For this Christ rebuked them. He repudiated it as a rule of individual conduct. But it was never intended to legalize hatred, and taking the law into one's own hands. The Old Testament, as well as the New, required a spirit of charity and forgiveness: "Thou shalt not hate thy brother in thine heart; thou shalt not avenge, nor bear any grudge against the children of thy people, but thou shalt love thy neighbor as thyself." Lev. 19: 17, 18.

The only sense in which retaliation was authorized, was as a high maxim of law, and as fixing the measure of punishment for crime. As such it is the first impulse of rude, primitive justice. And rigid as may seem the exaction, it was perfectly right. It was right that he who lay in wait to murder his neighbor, should himself be put to death; that he who ferociously tore his brother's eye from its socket, should forfeit his own.

It is worthy of note that the same law was adopted by the two most enlightened States of antiquity, Athens and Rome. Solon even went further than Moses, and enacted that "whoever put out the only eye of a one-eyed man, should lose both his own."<sup>1</sup> Is it said: This is still pressing the claim of justice beyond the limits of humanity? we reply: The extreme severity of these punishments may have been the only means to restrain the outbreaks of passion, and to prevent scenes of violence and blood.

It has been well observed, that such a law could be enforced only where there was a general equality among the citizens. In the later days of Rome, when the spoils of many lands had enriched a few powerful families, this principle of strict retaliation was abolished, and fines substituted as a compensation for crime. But as the fine was no punishment to a Roman patrician, the law was no protection to the poor. The old Hebrew justice alone made all men equal. By that the body of every man was sacred and inviolable. The hard hand of the laborer was as precious as the soft hand of the rich. The injured man might, indeed, take pecuniary indemnity. But he might refuse it, and insist on blood for blood. Certainly this was a stern law. But it afforded a powerful protection to the weak. No man dared to lay upon them the hand of violence.

The laws against murder were framed in a spirit of eastern justice, which is always summary, yet moderated, so far as possible, by wisdom and humanity. They cannot be understood without reference to the prejudices and habits of the people for whom Moses

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<sup>1</sup> Michaelis's Commentaries on the Laws of Moses, Vol. III. p. 453.

legislated. From time immemorial, it has been a point of honor in the East, when a man was killed, that his nearest kinsman should avenge his death. This is still the custom of the Arabs. It is the law of the desert, and prevails among all people in whose veins burns oriental blood. Thus a single murder often becomes the origin of family feuds, which are perpetuated from generation to generation. This custom had long existed among the Hebrews. Kindred in race with the Arabs, they had the same revengeful spirit. Their resentments were quick and uncontrollable. No sooner had a man fallen, than his nearest relation became his god, or the avenger of his blood, whose duty it was to pursue, and take the life of the murderer. To a certain extent, Moses was obliged to yield to this impulse of exasperation and of wounded honor. It were easy, indeed, to forbid the Hebrew to seek retaliation. But it was not easy to enforce such a law, where it was a point of honor for a man to take justice into his own hands.

The impossibility of legislating successfully against a national prejudice, is seen in the attempts to suppress duelling. This is a relic of the ancient barbarity, refined by notions of modern honor, which substitute open combat in place of secret assassination. Never was there a more wicked, savage, foul and foolish custom. Yet what law can prevent it? It is forbidden in the army; sometimes under penalty of death. Yet the reputation of personal courage proves dearer than life. An officer may be condemned by a court-martial for fighting a duel. But if he is disgraced among his comrades for not fighting, the law will not restrain him; for a brave man will prefer death to dishonor. The only terror which seems sufficient is, to inflict, not only punishment, but disgrace.

Moses adopted a novel method to disarm the rage of the injured Israelite, which shows his thorough understanding of the popular passions. He did not forbid the attempt to take revenge, but gave full scope to the natural feeling of resentment and indignation. The avenger of blood might follow with swift foot upon the murderer's track, and if he overtook him, and put him to death, the law held him free. But, at the same time, it gave the criminal a chance for his life. Six cities were designated — three on either side Jordan — as places of refuge. They were sacred cities, as inhabited by the priests, and the avenger of blood could not enter them. They stood on the great highways of the country, and the roads to them were always to be kept open. To these the manslayer might flee. Here he was safe until he could have a fair trial. He was

protected from the first burst of the avenger's fury till his crime should receive an impartial examination. In case of accidental homicide, or of manslaughter committed in a moment of passion, he was not put to death, although, as a matter of safety, he was compelled to reside for a time in the City of Refuge, since such was the popular feeling that he could not appear abroad.<sup>1</sup> Thus indirectly, but most effectually, did Moses guard against a sudden and bloody revenge. Even the author of this Report admits, that this feature of the Jewish law was "perhaps the utmost mitigation practicable of the existing practice and irresistible passion" of a "semi-savage" race. p. 12.

On the other hand, if, upon trial, the refugee were found to have committed deliberate murder, this sanctuary should not protect him. But he might be torn from the altar, and given up to justice. Ex. 21: 14. For this great crime the punishment was death, without redemption or commutation. Mohammed allowed the kinsman to take pecuniary compensation for the blood of his relative. But the law of Moses was absolute: "Ye shall take no satisfaction for the life of a murderer." Numbers 35: 31, 33. But the crime must be clearly proved. It must be premeditated, as when one lay in wait for his victim. The circumstances of the act must establish beyond a question that it was a cool, deliberate murder. Thus the death must be caused by a weapon, and not by a blow inflicted with the fist. And, lest the accused should be hastily condemned, Moses incorporated in his statutes that provision, which is deemed one of the greatest securities of modern law, that a man should not be convicted of a capital crime on the testimony of a single witness. Deut. 17: 6.

An additional barrier to a rash and unjust decision was the severity with which the law punished perjury. Whoever testified against another falsely, was liable to suffer the penalty of the very crime of which he had accused his neighbor: "Then shall ye do unto him, as he had thought to have done unto his brother. And thine eye shall not pity, but life shall go for life." Deut. 19: 16—20. With such a retribution in prospect, few would attempt to swear away the life of an enemy. But further; if the accused were condemned to die, when brought to the place of execution, the witnesses against him were required to throw the first stones. The most hardened villain, who had carried a brazen front through all the forms of trial,

<sup>1</sup> For the fullest account of the Cities of Refuge, see the 35th chapter of Numbers.

could hardly support this crowning infamy of being the executioner of an innocent man. He would tremble, and turn pale, and the fatal stone would drop from his perjured hand.

Perhaps nothing shows more the spirit of a law than the modes of execution for those who are to suffer its extreme penalty. Some may think, if a man is to die, it matters little in what way he is put to death. But if it affects not the fate of the criminal, it does matter as indicating the spirit of a people. Barbarous nations generally choose the most savage and cruel modes of punishment. Modern refinement has introduced the scaffold and the guillotine as the least revolting form of execution. Soldiers, who disobey orders, have the honor of being shot, while vulgar criminals are hanged.

But it is not two hundred years since torture has been laid aside by European nations. James the Second himself witnessed the wrenching of "the boot," as a favorite diversion. The assassin, who struck Henry the Fourth, was torn limb from limb by horses, under the eye of ladies of the Court. The Inquisition stretched its victims on the rack. Other modes of execution, such as burning alive, sawing asunder, and breaking on the wheel, were common in Europe until a late period. The Turks impaled men, or flayed them alive, and tied women in sacks with serpents, and threw them into the Bosphorus.

Among the ancients, punishments were still more excruciating. It was the Roman people, so famous for the justice of their laws, that inflicted the supreme agony of crucifixion, in which the victim lingered dying for hours, or even days.

Under the Hebrew code all these atrocities were unknown. Moses prescribed but two modes of capital punishment, the sword and stoning. The first was inflicted by the avenger of blood, who, pursuing a murderer, overtook him on the road, and instantly despatched him. The assassin was not beheaded, but thrust through, or despatched in any way. For a criminal who was tried and condemned, the ordinary mode of execution was stoning; certainly the most simple, as it required no scaffold, and no weapon but the stones of the desert, and which must have caused death almost instantly.<sup>1</sup> If a criminal had been a notorious offender, his body might be burned *after death*, or hanged on a tree (Deut. 21: 22), as a pirate is hung

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<sup>1</sup> Later in the Jewish history more cruel forms of punishment were introduced, such as casting headlong from a precipice, and exposure to wild beasts. But for these Moses was not responsible.

in chains on a gibbet. Sometimes a heap of stones was thrown over his grave, as over the grave of Absalom.

But while a wretch might be exposed to these posthumous indignities, still, however enormous his crime, its penalty stopped with himself. It was a first principle of the law of Moses, that no child should suffer for a father's crime; a declaration unnecessary in our codes, since no one thinks of punishing a murderer's child, but very necessary in the old Asiatic world, where high crimes were commonly avenged not only by the death of the criminal, but by the extermination of his family. But the law of Moses struck the head of the guilty, and there stopped. No son or daughter was ruined. And no hopeless attainer perpetuated the curse to those unborn.

But further. A lawgiver who delights in cruelty, will seek, where he does not inflict death, at least to inflict lasting infamy. Despots have often regaled themselves with putting out the eyes of malefactors, or of prisoners of war, or with cutting off their arms or legs, or branding them with a hot iron, so that they should carry a mark of degradation to the grave. But of all this not a trace appears in the laws of Moses. No torture, no branding, no infamous punishment! Stripes were inflicted for petty offences. But this punishment inferred no lasting dishonor, as we may be sure from the fact that it was often imposed on the proud Roman soldiers for slight breaches of discipline. Moses limited the number of stripes to forty, for the express reason, that there should not attach to this chastisement too great ignominy: "If the wicked man be worthy to be beaten, the judge shall cause him to lie down, and to be beaten before his face, according to his fault by a certain number. Forty stripes he may give him, and not exceed; lest if he should exceed, and beat him above these with many stripes, then thy brother shall seem vile unto thee." Deut. 25: 2, 3. So scrupulous were the Jews in regarding this prohibition, that they always stopped one short, and inflicted forty stripes save one. In a single instance only did the law allow maiming, and that was in case of just retaliation, where the criminal had mutilated the body of another. This stern rule, we have already seen, was adopted to restrain passion from breaking out in sudden acts of violence.

That the law was not animated by a vindictive spirit appears from this very significant token — that it discouraged informers. Deapotisms are always suspicious and cruel. They send out spies to watch the people. They bribe informers. But Moses employed no secret police. He forbade the propagating of malicious rumors:

"Thou shalt not go up and down as a tale-bearer among thy people." Informers were not allowed to approach the authorities, except in cases of idolatry or of unknown murder. But it is not the highest excellence of a law to show lenity to criminals, but to furnish protection and security to the great body of peaceful citizens. It is, therefore, a still higher merit of the Hebrew law, that it secured to all the unspeakable blessing of a *speedy administration of justice*. The statutes themselves were very simple and intelligible. They were not complicated with useless details and restrictions. And they were quickly and cheaply administered.

Moses had found soon after he left Egypt, that he could not administer justice in person to a whole nation. "How can I myself alone," he asked, "bear your burden, and your cumbrance, and your strife?" He therefore directed the tribes to choose out of their number their wisest men, whom he would make judges to decide every common cause, reserving to himself only the more important questions; a division of labor analogous to our inferior and superior courts. We observe here a close connection between the civil and the military constitution of the Hebrews. The same men who were their captains of thousands and captains of hundreds in war, were their magistrates in time of peace.

It is a proof of the patriarchal origin of the Hebrew customs, that the higher magistracy was committed to old men, whose white hairs and silver beards gave a venerable aspect to the judicial tribunal. Hence they were called the elders of the congregation. This council of the ancients sat at the gate of the city, which was the place of public resort. Here they received the homage of the people as they went forth to work in the field, or returned at evening to lodge within the walls. When they appeared abroad, they rode on white asses, as the Mollahs in Persia, or men of the law, do to this day, and the heads of families returning from their pilgrimage to Mecca. The authority of these magistrates was sacred. No one might rebel against their decisions, or even speak of them with disrespect: "Thou shalt not curse the ruler of thy people."

The judgment-seat was a holy place which no private malice might profane. Evidence was received with religious care. Oaths were administered to give solemnity to the testimony. Lev. 5: 1. Then the judge, standing in the place of God, was to pronounce equitably, whatever might be the rank of the contending parties: "Ye shall not respect persons in judgment; but ye shall hear the small as well as the great; ye shall not be afraid of the face of man, for the judg-

ment is God's." Deut. 1: 17. No form of government enforces justice in a manner so absolute and peremptory as a theocracy. The elevation of the lawgiver places all subjects on an equality among themselves. In the presence of God there is neither great nor small. All stand on the same level. The judge was, therefore, to know no difference. He was not to be biassed, even by sympathy for the poor: "Neither shalt thou countenance a poor man in his cause." Ex. 23: 3. "Thou shalt not respect the person of the poor, nor honor the person of the mighty; but in righteousness shalt thou judge thy neighbor." Lev. 19: 15. It is an universal custom in oriental countries to offer presents to magistrates to procure a favorable decision. But Moses forbade it for fear of bribery: "Thou shalt take no gift; for the gift blindeth the wise, and perverteth the words of the righteous." Ex. 23: 8.

In the general constitution of the Hebrew State we observe two features, very remarkable in that age, the element of liberty which pervades it, and the general equality of conditions which it secures among the people.

If we designate the Jewish Commonwealth according to the modern classification of governments, it approaches nearest to a republic. There was no king, but God. There was no nobility, exempted from burdens laid on the poor, and from punishments inflicted on the peasantry. In one sense, indeed, it approached more nearly to an absolute than a popular government. The people had no voice in the framing of their laws. It was the theory of the State that those laws emanated directly from the Almighty. God was enthroned on the mountains of Judaea. His commands could not be submitted to a vote. No clamorous populace debated with the Deity. The Israelites had only to hear and to obey. But in the administration of the government they had full political power. They elected their own rulers. Moses even gave them the power to change the general constitution of the State, if it should afterwards become necessary. At first, the land was governed by judges, officers, perhaps, not unlike the Roman consuls, but often having only a limited and local sway. In time, the Hebrew tribes, as they grew in power, like the Roman republic, became ambitious of a more imposing central authority. Foreseeing this, Moses had wisely abstained from making the constitution unchangeable, which might have led to a violent revolution. He permitted them to choose a king, but on condition that he should not be a foreigner, and that he should maintain firmly the laws of the State. Deut. 17: 14—20. And not only did all enjoy the same lib-

erty, and exercise the same political rights; not only were all equal before the law, having the same claim to justice and protection; but the Hebrew polity aimed to secure among the citizens a general social equality, an equality of property and of condition.

On the conquest of Canaan it was divided into twelve parts, which were assigned by lot to the different tribes. Thus the Hebrew State was a confederacy of twelve small provinces, like the Swiss cantons. The territory of each was then subdivided, so that a portion of land was assigned to every family. This was a military division of the country. A share in the soil might be considered as a reward of every soldier who had fought for the Promised Land. But in the eye of the great Lawgiver, it was designed to have the most important political effects.

First of all, it settled the country. It gave to every man a fixed and permanent home. For forty years the Israelites had lived in a camp. They had contracted the roving habits of all wandering tribes. Had they not been fed from heaven, they must have been driven by hunger to break into marauding parties, and to live, like other tribes of the desert, by predatory expeditions. Now an army was to be transformed into a nation. The cottage was to take the place of the tent, and the pruning hook of the spear. All this Moses secured by one simple law. Instead of introducing a feudal system, dividing the conquered country to military chiefs, for whom the people should labor as serfs, he gave the land to all. Each tribe was marched to its new possession, every family entered on its humble estate, and Israel began its national existence. The miracle was as great as if immense hordes of wandering Bedouins were instantly transformed into quiet husbandmen.

Further. This act determined the occupations of the people. By planting every father of a family upon a plot of ground which he was to cultivate, Moses formed a nation of farmers, deeming them the best citizens for a free Commonwealth.

In modern political economy, it is considered necessary to the prosperity of a nation, that it should have a varied industry; employing a part of its people in manufactures and in commerce. But Moses founded a State almost wholly upon agriculture. Manufactures he did not encourage. Doubtless the Israelites, while in Egypt, had acquired skill in mechanic arts, as they showed in working gold and tapestry for the tabernacle. But the Hebrew lawgiver took no pains to cherish this branch of industry. Probably the arts afterwards sunk into the hands of slaves.

Nor did he introduce commerce. There was an inland trade which sufficed for the simple wants of the people. Their festivals, besides their religious design, probably served as annual fairs. The caravans, which even at that day passed from Asia to Africa, carried down their products to Egypt. But of navigation they knew nothing. Though Palestine lay at the head of the Mediterranean, in the best maritime position in the world, scarcely a bark ventured from the coast before the time of Solomon. Zebulon and Naphtali dwelt by the sea. Yet nothing is said of the excellence of their ports and harbors. The attraction of Palestine was its fitness for agriculture: "The Lord thy God bringeth thee into a good land, a land of brooks of water, of fountains and depths that spring out of valleys and hills; a land of wheat, and barley, and vines, and figtrees, and pomegranates; and land of oil-olive and honey." Deut. 8: 7, 8.

This aversion to commerce Moses may have derived from the Egyptians, who had a horror of the sea. But he had other reasons for it. And his policy in this respect is another proof of his profound political sagacity. Commerce promotes intercourse with foreign nations, which for the best reasons he wished to discourage. By dispersing abroad the citizens of a State, it weakens the tie which binds them to their country and their God. A nation of traders quickly loses its nationality. Of this the Jews at this day are the best possible proof. Scattered in all countries, they are equally ready to lend their money to Christian or Turk, and to fight for or against any people or cause. Agriculture, on the other hand, keeping all the inhabitants at home, promotes patriotism, and attachment to the national religion. Farmers are the strength of a State, for they are generally both peaceful citizens and brave warriors. A small State is never so invincible, as when all its citizens are independent freeholders. Then every man has an interest rooted in the soil. He fights for his country because he fights for his home.

Commerce, too, would introduce foreign luxury, which would corrupt the simplicity of a democratic State. True, it might make the Hebrews rich. But it was not the object of Moses to make his people opulent, but free, contented and happy. He aimed not to erect a splendid monarchy, like those of Egypt and Assyria, but to found a simple and religious Commonwealth. By confining the Hebrews to rural occupations, he preserved a Spartan frugality and economy; the most proper to a free State. He preserved a general equality among the citizens. Even to the humblest of the people was secured such a degree of independence, that a Hebrew, however poor, could

never lose the feeling that he was a man, a citizen of the State, a member of the household of God.

But this simplicity and equality could not long have remained, since large estates would begin to swallow up the smaller, but for another law, *that the land was inalienable*. In Egypt the soil belonged to the king, of whom the people received it as tenants. So God reserved in his own hands the title to Canaan: "The land shall not be sold forever; for the land is mine, for ye are strangers and sojourners with me." Lev. 25: 28. A man could sell the produce of his farm, or make over the income of an estate for a term of years. But the land itself was the gift of God to his family, and remained in it from generation to generation.

Political writers may object to this as an Agrarian law. But its effect was most happy. It prevented the accumulation of great estates. It checked the ambition of the chiefs. It formed a barrier to the influx of foreign luxury, and to those civil discords which always spring from great inequalities of social condition. The disregard of this law at a later period was one of the crimes which hastened the ruin of the State. The prophet Isaiah denounces woe to those "who laid field to field, that they might be placed alone in the midst of the earth."

But for the present the Hebrew State presented the remarkable spectacle of two millions and a half of people, all equal in rank, and very nearly so in condition. This fact is the more surprising when contrasted with the monstrous inequalities which prevailed in other oriental countries. Indeed, a parallel to this it would not be possible to find in the most democratic modern State.

By this equal distribution of the landed property of the nation, the law furnished the strongest barrier against pauperism. Still, in the best regulated society, inequality of conditions must arise. Special enactments, therefore, were added to protect the poor from oppression, and to soften the hardships of their lot. The laborer, who depended on his daily wages, was to be paid promptly: "The wages of him that is hired shall not abide with thee all night until the morning." Lev. 19: 13. Deut. 24: 15. If a man took his poor neighbor's clothes as security for debt, he must give them back before sunset: "If thou at all take thy neighbor's raiment to pledge, thou shalt deliver it unto him by that the sun goeth down: For that is his covering only, it is his raiment for his skin: wherein shall he sleep?" Ex. 22: 26, 27. Certain property was sacred: "No man shall take the nether or the upper millstone to pledge; for he taketh a man's life." Deut. 24: 6, 10—12.

If, by a series of calamities, a man had become impoverished, his more prosperous neighbors were enjoined to lend him money; and, although this was not a statute, to the violation of which was annexed a legal penalty, it was a rule which could not be disregarded without a degree of infamy, such as would attach to an Arab chief, who should violate the laws of hospitality. Thus did the Hebrew law enjoin a spirit of kindness and brotherhood.

The humanity of the Hebrew code is further seen in its mitigation of slavery. This was a legal institution of Egypt, out of which they had just come. They themselves had been slaves. Their ancestors, the patriarchs, had held slaves. Abraham had over three hundred servants born in his house. Gen. 14: 14. The relation of master and slave they still recognized. But by how many limitations was this state of bondage alleviated! No man could be subjected to slavery by violence. Manstealing was punished with death. Ex. 21: 16 and Deut. 24: 7. The more common causes of servitude were theft or debt. A robber might be sold to expiate his crime; or a man, overwhelmed with debt, might sell himself to pay it; that is, he might bind himself to service for a term of years. Still, he could hold property, and the moment he acquired the means, might purchase back his freedom, or he might be redeemed by his nearest kinsman. Lev. 25: 49. If his master treated him with cruelty; if he beat him so as to cause injury, the servant recovered his freedom as indemnity. Ex. 21: 26, 27. At the longest, his servitude came to an end in six years. He then recovered his freedom as a natural right: "If thou buy an Hebrew servant, six years he shall serve; and in the seventh he shall go out free for nothing." Ex. 21: 2. A Hebrew slave was, therefore, merely a laborer hired for six years. Nor did the law permit the faithful servant to go forth in naked poverty, and with the abject feeling of a slave still clinging to him. He was to be loaded with presents by his late master, sheep, oil, fruits and wine, to enable him to begin housekeeping. Deut. 15: 13—15. Thus for a Hebrew there was no such thing as hopeless bondage. That people were not to feel the degradation of being slaves. God claimed them as his own servants, and as such they were not to be made bondmen. Lev. 25: 42. Every fiftieth year was a jubilee; a year of universal emancipation. Then "liberty was proclaimed throughout all the land to all the inhabitants thereof." Lev. 25: 10. This was the time of the restitution of all things. Though a man had sold himself as a slave, his right in the land was not alienated. It now returned to him free of all encumbrance. At

the year of jubilee all debts were extinguished. His native plot of ground, on which he played in childhood, was restored to him in his old age. Again he cultivated the paternal acres. He was not only a free man, but a holder of property.

It is true these rights were limited to slaves of Hebrew descent. The Canaanites were considered as captives in war, whose lives had been spared by the conquerors. The Gibeonites employed artifice to obtain this hard condition, that they might remain in the land as a servile race. A stranger, therefore, might be a servant forever. But even these foreign Helots had many rights. They, as well as the Hebrews, enjoyed the rest of the Sabbath. Ex. 20: 10. They shared the general rejoicing on the great festivals. To certain feasts they were especially to be invited. Deut. 12: 18 and 16: 11. Thus the heart of the bondman was lightened in the midst of his toil. They were always to be treated with humanity and kindness. In fact, they lived in the houses of their masters more as hired servants than as slaves. They were the family domestics, and were often the objects of extreme attachment and confidence. Says Michaelis: "The condition of slaves among the Hebrews was not merely tolerable, but often extremely comfortable."

That the sympathies of the law were with the oppressed against the oppressor, appears from the singular injunction that a foreign slave, who fled to him for protection, should not be given up: "Thou shalt not deliver unto his master the servant which is escaped from his master unto thee." Deut. 23: 16, 17.

Contrast this mild servitude with the iron bondage which crushed the servile class in other ancient nations: "Among the Romans slaves were held — *pro nullis* — *pro mortuis* — *pro quadrupedibus* — as no men — as dead men — as beasts; nay, were in a much worse state than any cattle whatever. They had no *head* in the State, no *name*, no tribe or register. They were not capable of being injured, nor could they take by purchase or descent; they had no heirs, and could make no will. Exclusive of what was called their *peculium*, whatever they acquired was their master's; they could neither plead, nor be pleaded, but were entirely excluded from all civil concerns; were not entitled to the rights of matrimony, and therefore had no relief in case of adultery; nor were they proper objects of cognation nor affinity. They might be sold, transferred, or pawned, like other goods or personal estate; for goods they were, and as such they were esteemed."<sup>1</sup>

<sup>1</sup> Horne's Introduction. American edition. Vol. II. p. 166. Note.

But not only did the law protect foreign slaves, it enjoined kindness to foreigners of every description: "Thou shalt not oppress a stranger, for ye know the heart of a stranger, seeing ye were strangers in the land of Egypt." Lev. 23: 9. They were entitled to the same protection as Hebrews: "Ye shall have one manner of law as well for the stranger as for one of your own country." Lev. 23: 22. If they chose to be naturalized, they became entitled to all the privileges of Jewish citizens.

It is often mentioned to the honor of Mohammed, that he enjoined hospitality. This is an oriental virtue. It dates back to the time of the patriarchs. Moses gave it the sanction of law, and thus formed that courtesy of manners, which prevails to this day in all the countries of the East.

He went still further, and required all to render acts of neighborly kindness, which would be considered too minute to be specified in modern law. Thus, whoever saw an ox going astray, was required to return it to the owner. The chief property of the husbandman was his cattle and his land. And thus the law saved to him his most valuable possession.

In several requirements, we discern a pity for the brute creation, which could not have proceeded from an unfeeling mind. Moses recognized even dumb beasts as having a claim to be defended from injury. He prohibited all cruelty to animals. If one saw the ass, even of an enemy, lying under its burden, he was to lift it up. Ex. 23: 4, 5. Birds' nests were protected from wanton destruction. Deut. 22: 6. Even the semblance of an unnatural act was forbidden: "Thou shalt not seethe a kid in his mother's milk." Ex. 23: 19. This may appear an over refinement of legislation. But it shows the delicacy of feeling of the lawgiver; that he shrank even from the appearance of barbarity. Thus he strove to extinguish the spirit of cruelty. If these enactments seem trifling, they at least indicate that strong instinct of humanity which framed these ancient statutes.

But perhaps the most beautiful provision of the whole law was for the poor. When the land was rejoicing at the time of the vintage, they were not forgotten: "When ye reap the harvest of your land, thou shalt not wholly reap the corners of thy field, neither shalt thou gather the gleanings of thy harvests. And thou shalt not glean thy vineyard, neither shalt thou gather every grape of thy vineyard; thou shalt leave them for the poor and the stranger." Lev. 19: 9, 10. If the reaper dropped a sheaf in the field, he might not return to take

it. Whatever olives hung on the bough, or clusters on the vine, after the first gathering, were the property of "the stranger, the fatherless and the widow." Deut. 24: 19—26. Under the shelter of this law came many a Ruth, gleaning the handfuls of golden corn to carry home to her mother, who was thus saved from utter destitution. By these means the law kept the poor from sinking to the extreme point of misery. It prevented that hopeless poverty which forces the Irish peasant to emigrate. It kept them in the country. At the same time, by throwing in their path these wayside gifts, it saved them from theft or vagabondage. As a proof of its successful operation, it is a curious fact that, in the five books of Moses, such a class as beggars is not once mentioned.

In these humane provisions may be traced the germ of those asylums and hospitals for the relief of human misery, which now cover the Christian world.

The law also took under its care all whom death had deprived of their natural protector: "Ye shall not afflict any widow, or fatherless child." They were sacred by misfortune. God would punish any cruelty to them: "If thou afflict them in any wise, and they cry at all unto me, I will surely hear their cry; and my wrath shall wax hot, and I will kill you with the sword; and your wives shall be widows, and your children fatherless." Ex. 22: 22—24. He was the guardian of the helpless: "Thou shalt not curse the deaf, nor put a stumbling-block before the blind." Lev. 19: 14. It is a beautiful trait of some savage tribes that they regard as sacred the persons of the insane. They do not dare to irritate the mind that has been troubled by a mysterious visitation of God. So under the Hebrew law, death, sorrow, widowhood, orphanage, all throw a shield of protection over the desolate and the unhappy.

And is this the bloody code that is held up to indignation by modern reformers? We can well believe that it presents to them few points of sympathy. Moses was no sentimental apologist for crime. He was a terror to the wicked. The murderer and the blasphemer of God felt his iron hand. Yet never was a lawgiver more gentle to all the children of sorrow. The orphans of many generations looked back to him as their father. The widow in the vale of Sarepta blessed him. The blind, that groped by the pool of Bethesda, had their way smoothed by his command. The deaf, that sat mute amid the laughs of a joyous company, were safe from cruel sneers. The slaves were grateful to him as their liberator, and all classes of the wretched, as having lightened the miseries of their condition.

Thus contemplated, Moses assumes the character of the divinity of his nation. He appears, not only as the founder of the Hebrew State, but as its guardian genius through all the periods of its history. When he ascended Mount Pisgah to die, and stretched out his arm towards the Promised Land, which lay in full view on the other side of the Jordan, he gave to that land the inestimable blessing of laws founded in eternal justice.

And not to them alone, but to all future ages. That mighty arm was to protect the oppressed as long as human governments endure. Moses was the king of legislators, and to the code which he left, rulers of all times have turned for instruction. Thence Alfred and Charlemagne derived statutes for their realms. To this day the influence of Moses is felt in the legislation of all civilized countries. Those who delight to trace the genealogy of our laws, may follow back many of them to a Hebrew origin. Even in this Western hemisphere, the poor and the depressed find shelter under the protection of that mighty name.

"Whence had this man this wisdom," surpassing all the ancient sages? Is it said: He was "learned in all the wisdom of the Egyptians," and derived his laws from them? Yet here is a breadth of wisdom such as came not from the land of the Nile. Many features of the Hebrew State had no example in the monarchies of Asia or Africa. They were wholly original, and must be ascribed to the genius of Moses, if they are not rather due to the inspiration of God. Hence they who deny the Divine origin of the Hebrew Polity, bear the highest testimony to the splendor of that intellect which created it. If all was the product of one mind, it is the most illustrious instance in history, of the power of a great spirit to impress itself on the race. The name of Moses stands alone, as the greatest of all antiquity, and the Hebrew law remains as its most wonderful monument.

What are the pyramids, beside the architecture of a State? Those mountains of rock, slumbering by the sacred river of Egypt, bear witness to the power of her ancient kings. Yet they have preserved little more than the names of the royal dead.

Moses had no such sepulchre. No vaulted chamber keeps his dust. They buried him in a valley of Moab, and his body has long since mingled with the boundless soil of Asia.

Yet that "sceptred spirit" still rules the earth. Though the voice of the Hebrew leader died away on the desert, yet across the waste of thirty-three hundred years, comes an echo, as if borne on the

hollow wind. Men of far distant lands, recognizing in his laws and maxims the immutable principles of justice, have caught up his words, and borne them on from age to age. Thus the dead survive, and the authority of greatness passes round the globe, transmitted by

"Airy tongues, that syllable men's names  
On sands, and shores, and desert wildernesses."

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## ARTICLE VI.

### THE DISTINCTIVE IDEA OF PREACHING.

By Calvin Pease, Professor in the University of Vermont.

ALL powerful and convincing utterance of religious truth is marked by these *three* things, viz. *it comes from the heart and personal experience of him who utters it; it is fresh and new like water from the spring; it is, moreover, that old and "sure word of prophecy," which has been tested and confirmed in the experience of all Christians in all ages of the church.* There is, therefore, equal accuracy and beauty in our Saviour's comparison of the well-instructed scribe to "a house-holder who bringeth forth out of *his own*<sup>1</sup> treasure things *new and old.*" Matt. 13: 52. The most effective and stirring thing which any man can utter, is that which he knows most clearly and feels most deeply. All laborious straining and painful reaching after something more and better and deeper, than one's own proper thoughts and sentiments, must always, inevitably, defeat itself, and bring out only that which is far weaker and far poorer than those familiar sentiments, which lie on the very surface of the mind. These, as far as they go, are real. But the strain to produce more than one has, and to do more and better than one can, will bring forth nothing but wind; mere resemblances to some pattern, which it would fain imitate; shadow without substance; form without life. And so nature and truth get their revenge upon the mind, by justifying its poor opinion of itself. The depths of human thought and

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<sup>1</sup> αὐτοῦ.