COMMENTARIES

ON THE

LAWS OF MOSES,

BY THE LATE

SIR JOHN DAVID MICHAELIS, K.P.S. F.R.S.

PROFESSOR OF PHILOSOPHY IN THE UNIVERSITY OF GOTTINGEN.

Translated from the German,

BY ALEXANDER SMITH, D.D.

MINISTER OF CHAPEL OF GARIOCH, AYRSHIRE.

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ERRATA.

The Reader is particularly requested to correct with a pen the following mistakes, as they materially affect the sense.

Page 17. line 14. for be, read was.
- 27. — 21. for amount, read amounts.
- 43. — 10. for debt, read loans.
- 64. — 32. for Whoever, &c. read, Nor did even the man, who acknowledged the revealed religion of the Jews to be divine, thereby come under, &c.
- 85. — 32. for Judea, read India.
- 90. — 24. for involuntary, read involuntarily.
- 119. — 26. for for, read in.
- 124. — 8. for of the, read of other.
- 127. — 28. for became, read become.
- 163. — 10. for בְּרָאשִׁית, read בְּרָאשִׁית.
- 164. — 9. for investigate, read enquire.
- 167. — 15, 17. for oven, read stove.
- 196. — 26. for decomposing, read discomposing.
- 207. — 4. for is, read was.
- 222. — 4. for him, read to him.
- 230. — 19. for left, read were, when they left, &c.
- 259. — 3. dele white.
- 262. — 27. for private information, read information obtained.
- 290. — 21. for it, read the evil.
- 304. — 1. for difficulty, read cruelty.
- — — 2, 4. transfer the parentheses to (but—preceptor)
- 326. — 21. for even, read likewise.
- 355. — 3 for rye, read brome.
- 372. — 5. for in, read of.
- 382. — 27. for 1768, read 1758.
- 428. — 15. for have, read here.
- 448. — 8. for with stripes, read rather resembles flogging.
- 450. — 24. for it, read the law of nature.
- 472. — 15. for the greatest, &c. read the greater, or a great.
ART. CLXXII.

The Ascertainment of Population by a periodical Census.

§ 1. It was a fundamental principle of the Mosaic law, that the people were to be numbered, I shall not just say, every year, but, at any rate, from time to time*. This principle is very distinctly implied in the words wherein God commands a poll-tax to be exacted from them, for the building of the tabernacle,

* This subject is more fully treated in my Dissertation, De Censibus Hebrorum.
when the first numeration was about to take place; when thou numberest the Israelites, every man shall give to Jehovah a ransom for his life, that no mortality may arise, on numbering the people, Exod. xxx. 12. Here, it is true, God does not expressly order the people to be numbered, but he does more; he presupposes it as a matter of course, that Moses would number them; and indeed this was a practice already so common in other nations, that we find Moses himself directly alluding to it, or rather borrowing an expression from it, in Exod. xxxii. 32. where he says, Erase me out of the book which thou hast written, that is, let me die; God being there represented as a king, who keeps a written list of the names of all his subjects. A reference to the same practice occurs in several passages of the later sacred books, as Psal. lxix. 28. lxxxvii. 6. Isa. iv. 3. Ezek. xiii. 9. Moses himself instituted at least two enumerations of the people of Israel; one, during the first and second year after their departure from Egypt; and the other, in the fortieth year from that event; but concerning these enumerations, my present purpose does not require me to speak more in detail here: the subject of the Hebrew Census having already been treated at full length, in one of my Commentationes Soc. Reg. Gott. oblatar, where, in § 2, 4, 5. besides the solution of other difficulties, the reader will find observations serving to shew, that in Exod. xxx. xxxviii. and Numb. i. ii. iii. two distinct enumerations are not to be understood, but only that the census, commenced in the first year, was completed in the second.

To take such a census frequently and accurately, is
Art. 172. Importance of a Census.

a measure dictated by the soundest national policy; and the sovereign who neglects it, acts no more wisely than the merchant who keeps no account of receipt and expenditure, and must of course be unacquainted with his own circumstances. In the more recent treatises on political oeconomy, particularly those published in Sweden, relative to what is there termed Tabell-Werk, or the framing of statistical tables, this point is so plainly proved, and the advantages, or rather the necessity, of enumerations of the people, so strikingly pointed out, that it were almost an insult to the reader, or, at least, but a useless repetition of what is already well understood, to expatiate farther upon it. A mistake in the number of the citizens may prove a matter of the most serious consequence to a state, nay, may lead directly to its ruin; in the case, for instance, of its rashly commencing a war, in the false confidence of its strength, without an actual enumeration; depending merely on theoretical calculations, such as we often find in books of geography and history, and which are, for the most part, sufficiently ridiculous. The only circumstance to which I have here to call the attention of the reader, is, that religion certainly does not prohibit numbering the people, as ignorant zealots among the clergy have sometimes imagined. At the first introduction of a census into Sweden, some clergymen of this description objected to its legality, from misunderstanding the history of David: But so far, in fact, is religion from opposing it, that in the only instance where God gave civil laws to any nation, we find it recognised as
a point fully understood, that a people ought to be numbered, and we see that they actually were so.

Among the Israelites, however, these enumerations only extended to the adult males of 20 years of age and upwards (Numb. i. 3.), wherein the strength of a nation properly consists; and in the case of the Levites, the procedure was somewhat different, in two respects. Their males only were reckoned; but an account was taken,

1. First, of all that were one month old, or more; and, according to that account, they were to be exchanged for the first-born sons of the Israelites, and consecrated to God, Numb. iii. 40,—51.

2. Secondly, of those from 30 to 50 years old, who were to be set apart for the service of the sanctuary.

In this way, no doubt, the Israelitish censuses were not useful for all the purposes to which we now apply national enumerations, in conjunction with tables of births and burials: for they served neither for the ascertainment of the proportion between the sexes, one sex only being numbered; nor for the decision of the moral and political question, whether polygamy be conformable to nature, and advantageous to a state; nor yet for the calculation and establishment of tontines and widows' funds; and the solution of other curious and important problems in political arithmetic. But still, they always shewed the strength, increase, and decrease, of the nation; in other words, those very particulars, of which an accurate knowledge is indispensably necessary to the ruler of a state: and we cannot sufficiently wonder at the long duration of the uncalculating barbarism of modern times,
when we consider, that although enumerations of the people were in very general use so many thousand years ago, they should only have been revived in the course of the present century; and that the attempts made for this purpose, should, in most countries, have been attended with difficulties, and in some, proved hitherto fruitless.

ART. CLXXIII.

Concerning the Periods of the Census, and the Tribute-money—A Mistake of the Jews in regard to the latter—Illustration of Matth. xvii. 24,—27. and xxii. 15.—22.

§ 2. How often the enumerations of the people were to take place, Moses has not specified by any statute; for his laws, strictly speaking, do not enjoin a national census, but only presuppose it as a measure so rational, that no prudent ruler would allow himself to neglect it. In regard to this point, however, the Jews of later times fell into a singular mistake. For of the statute in Exod. xxx. 11, 16. where it is merely commanded that every individual numbered, was to pay half a shekel of capitation, they gave such an exposition, as if Moses had enjoined an annual census; while yet they themselves held no such census, and at last, no censuses at all. The history of this error is too important to be passed over, without a particular detail.

A yearly enumeration would, in fact, have been too much. The census of a great people, if meant to be
Moses' first Census required Two Years. [Art. 178. correct, and worthy of credit, can scarcely be completed in the space of a year; and, if done hastily, the incorrectness of the results may occasion very serious mistakes and inconveniences. Even the first enumeration made by Moses himself, although begun (as we have said) in the first year of the Exodus, and that too before the commencement of the building of the tabernacle, was not finished but in the course of the second year; for to make of it two distinct enumerations, in the former of which, the first year, there were found 603,550 heads; and in the latter, the next year, the very same number, as if the amount of the adult males could, for several months, have continued perfectly similar in such a large population, is an idea that scarcely any man can allow his mind to harbour for a moment, who considers the perpetual variations that take place in the number of deaths and births*. It is therefore manifest, that Moses commenced his census in the beginning of the first year, even before the erection of the tabernacle took place, to which every individual numbered, had to contribute half a shekel, and that he, at that time, received from each that sum, to be appropriated, towards the

* See more on this point, in the Note to § 2. of the abovementioned Dissertation, De Censibus Hebræorum, or in the Note on Numb. i. 1. in my German Bible. The whole building of the tabernacle was finished within the first year; and as the ransom-money of 603,550 individuals was expended upon it, they must of course have been numbered before its erection. And yet, according to this idea, God ordered another census in the second month of the second year, the result of which again turned out to the very identical number, 603,550!
building of it; but he did not get the registration of their names completed, until the second year was so far advanced. Besides, Moses destined the half-shekel, payable on this occasion, to a use to which it could be but once applied, viz. to the furnishing of silver sockets to the boards and pillars of the tabernacle, and the making of some other things about the sanctuary, of silver, or overlaying them therewith, Exod. xxxviii. 25,—28. And hence we can hardly so understand him, as if, after the sanctuary was completed, he had designed to impose upon his people an yearly tax, which, as is the case with every poll-tax, must have borne very hard upon the poor, and concerning which, he nowhere so much as hints to what other purpose it was in future to be applied. Most probably, therefore, he ordained the capitation-money, or, as he terms it, ransom-money, to be exacted on the first census only; and we actually find, when the second took place, (Numb. xxvi.) not even the most distant intimation of any new payment: nor could we indeed conjecture to what use a second impost could have been appropriated; and yet he gives a most exact account of the application of the first. We find, moreover, in his writings, an account of but two enumerations of the people, in the course of 40 years; which would lead us to suppose, that it was a principle in his polity, that a national census should take place, at least once in every generation, (which we commonly reckon from about 33 to 40 years) in order to discover whether the population had increased or lessened, and likewise to correct all errors in their genealogical tables. Among the Romans, it was more
First so understood by the Pharisees. [Art. 173.

defrequent, viz. once every five years, but still not annually.

During the Babylonish captivity, the learning of the Jews, and their knowledge of the peculiar customs of their ancestors, perished; and then there arose a sect of religionists, whose opinions the people came by degrees implicitly to follow, viz. the Pharisees. Hence proceeded, but at how early or late a period*,

* Some have flattered themselves with the discovery of two passages of more ancient date, in which immediately before, or soon after the Babylonish captivity, the statute in question must have been understood in this way. I must not pass them over in silence, but they do not convince me.

1. In 2 Chron. xxiv. 6,— 11. King Joash rebukes the high-priest for not having made the Levites deliver in the tribute of Moses for the tabernacle of testimony, although the temple was gone to ruin, and required to be repaired. Some take this tribute to mean the half shekel. The point is, however, very doubtful; because it might just as well have been the voluntary contribution which Moses (Exod. xxiv 1,— 9, xxxv 4,— 29, xxxvi 3,— 7) received from the Israelites for the erection of the tabernacle; and this we may the rather infer, because Joash immediately after orders a chest to be placed in the temple, and a proclamation to be made, that every one should bring the tribute of Moses in the wilderness, that is, the tribute there formerly enjoined. Here, therefore, every man might bring what he chose; and it was not of a poll tax, but a free will gift, that the passage speaks; so that it bears not at all on the point before us.

2. After their return from the Babylonish captivity, the Jews, under Nehemiah, and at his instigation, (Nehem x 32, 33.) bind themselves to pay one-third of a shekel yearly to the temple and the public offerings. Here it is clear that the half shekel is not spoken of, as they promise but one-third; and it is as clear that they do so, not with any retrospect to a supposed command of Moses, but of their own good pleasure; for it is said, And we imposed a commandment on ourselves to pay yearly, &c. In those early times, therefore, the inter-

I do not particularly know, an exposition of the Mosaic statute of Exod. xxx. 12., according to which, every adult male had to pay a half-shekel annually to the temple; only, thus much is certain, that in the time of Christ, and when Philo and Josephus flourished, it had been very long introduced, and had the full force of a law. In Matth. xvii. 24. we find the usual collectors of the half-shekel (τὰ διδράχματα*) coming to Peter, and asking him whether Jesus paid that tax; upon which, Jesus, for himself and Peter, paid a Stater, which was equal to the then value of a whole shekel. Philo's explanation of the Mosaic statute also proves, that every one whose age exceeded 20 years, had to pay yearly to the temple that contribution which Moses termed ransom-money; and that not only was this done by the Jews in Palestine, and within the limits of the Roman empire, but by those also who lived in Parthia, beyond the Euphrates†. Josephus relates in his Antiquities, (book xviii. ch. 9. § 1.) that, while

pretation of the Mosaic statute, now to be considered, did not exist. Expositors have erred in maintaining the contrary; and that I may not be accused of casting an unseemly reproach upon others, I very willingly add, that I erred myself, and that too in my writings. But I am anxious to retract my error, because I see, that neither the book of Chronicles nor Nehemiah, can intend the poll tax paid at the time of the first census.

* Literally, the two drachmas. At this time, the half-shekel was so called in Greek; and it generally has the same name in Josephus; because, according to the supposition, and the then standard money of the Jews, the shekel was equivalent to four Attic drachmas—See Josephi Antiq. 1. iii. c. 8. § 2.

† In Lib. II. de Monarchia, p. 224. of Mangey's edition, Part II,

Nehardea and Nesibis continued long and closely besieged, the Jews in these cities continued to deposit the half-shekel (το ἡμίδραχμον) which every man was bound to pay to God, until an opportunity was found of conveying it safely to Jerusalem, under the protection of a great Jewish caravan of many thousand persons. Now, as Nesibis and Nehardea did not belong to the Roman empire, but were subject, the former to the king of Armenia, and the latter, to the king of Parthia, it is clear, that even the Jews without the limits of the empire, paid the half-shekel.—Josephus farther relates, in book vi. of the Jewish War, chap. 6. § 6. that after the destruction of Jerusalem, the emperor issued a mandate, requiring every Jew to pay in future to the capitol, the two drachmas of yearly tax before paid to the temple. I shall not quote any passages from the Talmud, which, in historical points, is but poor authority, especially compared with the strong evidence furnished by either of these cotemporary authors singly.

This exposition, however, or rather this application of the Mosaic statute, was singular, and, in several respects, erroneous. For,

1. According to that statute, the half-shekel was to be paid, when the people were numbered: so that this exposition presupposed, that Moses spoke of a census that was to take place every year; and yet the Jews of those days never attempted such a thing. That this was the case, appears very clear from the following relation given by Josephus, in his History of the Jewish War, book vi. chap. 9. § 3.—As Nero entertained a very contemptible opinion of the
Jews, the prefect Cestius was desirous to impress him with a juster idea of the greatness of that people. With this view, he inquired at the priests, whether they could not furnish him with some means of ascertaining the number of the Jews. They proposed counting the paschal-lambs, from the number of which, that of the people might, in some degree, be ascertained, because to each lamb there were never fewer than ten guests convened together: so that the company consisted of ten persons at least, but it was often more numerous. The paschal lambs were accordingly numbered, and found to amount to 256,500. This, however, was really a mode of calculation extremely vague and unsatisfactory, and quite inadequate to the purpose which Cestius had in view; because to each lamb there were often more than ten guests, Josephus says, sometimes as many as twenty. At the passover which Jesus ate with his disciples, we know that there were thirteen present. Besides no one that was unclean durst eat of the paschal-lamb; and many thousand Jews were prevented from being at Jerusalem at the feast of the passover, by the distance at which they lived, or by sickness, or by being on their travels. So that, if Cestius made use of a computation so uncertain, by way of census, the people certainly could not have been said to be numbered at all.

2. In fact, however, (and here we have a fresh instance of Jewish inconsistency) the collection of the half-shekel, if it was honestly accounted for, served for a sort of census; for the number of half-shekels received, shewed the number of adult male Jews of 20 years
old and upwards, that lived throughout all the world. Whether the collectors had been honest, I cannot tell; but although they had, it would seem the priests had not found it advisable to inform the prefect of that revenue of the temple, amounting to tons of gold, which it derived chiefly from the Parthian empire.

3. The tax to be paid by every individual was a half-shekel. In the time of Moses the shekel was much smaller, than in that of Christ or Josephus; as I have endeavoured to shew in my Commentatio de Siclo ante exilium Babylonicum. Its precise weight cannot, indeed, be perfectly ascertained; but that it was less than that of the common shekel at the Christian era, cannot be doubted: and, it is altogether without proof, and contrary to probability, that it has been admitted, that, during a period of 1500 years, and while the Jews were under so many foreign masters, its weight remained invariably the same. After the long continuance of their subjugation to the Babylonians, Persians, and Greeks successively, when they at length recovered their liberty by the victories of the Maccabees, they no longer knew what their ancient shekel had been. They, besides, regarded it as a coin, whereas in the time of Moses it was not a coin, but merely a weight. Silver being uncoined was then weighed: but now they thought fit to make the shekel a coin, and seem to have fixed its weight on etymological principles. As the word shekel comes from 'pEw, to weigh, and as the Greeks had a coin, named (2πο της ιπταμενος, ab appendendo) stater, they adopted this stater for their shekel, which they coined in silver, of the same weight, that is, the weight of
Art. 173.] Shekel coined after the Greek Stater.

half an ounce (Loth) nearly; (for the comparison is not perfectly exact) so that it approached very nearly in value to our Hanoverian Gulden, of which four make a Ducat. And one half of this shekel, highly raised as was its standard, they had now, even though never numbered, to pay every year to the temple, as a capitation tax.

From these remarks it is plain, that this tax is entirely a contrivance of the Jewish lawyers, in the times posterior to the Babylonish captivity; and the consideration of it consequently does not strictly belong to the subject of Mosaical jurisprudence. But still it is necessary that we should know this: and, besides, there are two passages in the New Testament, involving somewhat of legal discussion, that derive light from the preceding observations. Both of them are obscure: and as the one is not at all understood, so the other is, by those pious people who account themselves exclusively the children of God, and disciples of Christ, often applied to the justification of their consciences, for the frauds which they practice in the payment of customs, excise, and other public imposts. Such subterfuges are extremely prejudicial to a government: for it is not the strictest vigilance on the part of its officers, that will ever prevent fraudulent practices, unless conscience, religion, education, and a regard to character, co-operate with it; and, if they are not prevented, but rather sanctioned and extended by the infectious example of Pietists or preachers, the consequence is, that the rates of taxation must be raised, and other classes of people pay more, till at length, industry and trade
Frauds in the Payment of Taxes. [Art. 173.

may sink under the pressure of the public burdens. This is my apology for the two remarks which follow; although they do not properly belong to the Mosaic law, but to the Jewish jurisprudence of later times.

The first is, that we shall now understand the scope of the story in Matth. xvii. 24—27., which is so often quietly misinterpreted by fraudulent religionists, in order to pacify their consciences.

I once asked a person of this cast, a man of education and study, and certainly no fool, who was withal extremely devout, and what is called a Pietist, how he possibly could defraud the excise (which he was doing before my eyes) without making conscience of it. He referred me to this passage, The children of God, or the disciples of Christ, should be free, but they must give no offence. It was not in our part of Germany, that this happened, but in Prussia, as will be manifest from the term excise (accise): but even here we may see what mischief is occasioned by the propagation and prevalence of similar errors, arising from ignorance. Frauds in the payment of the taxeshave been carried to such an extent, as that the king has been compelled to introduce the practice of farming the revenues. This measure is very obnoxious to the country: but it has been occasioned entirely by want of conscience on the part of the people. All classes in Hanover groan under the burden of a most oppressive impost, called the Fixum: but it became necessary, from the many unconscionable frauds practised in the payment of a lighter tax.—When such an unfortunate spirit prevails in a country, it becomes peculiarly necessary, that the aid of religion should
be taken, and this truth, that whoever defrauds the revenue is, in the eye of God, a thief, strongly inculcated from the pulpit. But if, on the contrary, religion is employed but to palliate or vindicate fraudulent practices, the consequences to a country are most pernicious. Ignorance on the part of the spirituality, and their notion, that very little learning is necessary for a country-parson, if he can but speak well, is, therefore, the cause of a misfortune, under which whole countries groan. Were that article of religion which relates to the civil magistrate, believed and explained less on the principles of the Anabaptists, than it generally is, they would flourish more, and pay their taxes without murmuring.—But to return.

It is not of tribute due to an earthly ruler, that the passage in question speaks, as many a reader unacquainted with the Greek original imagines, when, in his German Bible, he finds the ill-chosen word Zinsgroschen, (or tribute-penny); but of the half-shekel, that was yearly to be paid for the support of the temple. That, indeed, was in fact no divine command, and Jesus might therefore very justly have refused it, as resting upon an improper exposition of the law, and being a mere addition made by the elders. Instead, however, of doing so, he only asks Peter, if earthly sovereigns take tribute of their sons, to which when Peter answers, No; “Well then,” says Jesus, “I am not strictly obliged to pay this tax to the temple; for I am the Son of God: but that no one may take offence at my refusal, and regard it as a piece of contempt offered to the temple, I will readily pay it, as I have always done hitherto.”—Had the pay-
ment of a tax to an earthly sovereign been the point in question, this reasoning would not have been at all suitable: more especially, as it is certain, from Matt. xxii. 15,—22., that Jesus must, without the least hesitation, have paid the tribute due to the Roman emperor. His answer, therefore, in this view, and when we once know that τα δραχμαί means the half-shekel, is perfectly intelligible. He merely wishes to tell Peter, that he is the Messiah, or Son of God.

The second remark relates to the passage just quoted, Matt. xxii. 15,—22., which is every year explained from the pulpit, but neither there, nor in the commentaries that I have consulted, so explained, as that a thinking man can comprehend, how the words, Give to Caesar what is Caesar's, and to God what is God's, could have at all decided the question proposed to Jesus, Is it right to give tribute to Caesar or not; and still more, have so decided it, as to send away the inquirers wondering. Indeed one is rather tempted to wonder that they should have rested satisfied with such an answer. My having in my possession a piece of money bearing the image or superscription of a sovereign, brings me under no obligation to give it to him; else might the king of France, whenever I had a louis d'or, impose a tax upon me. It would, besides, be wrong to suppose, that the emperor had had the right of coinage among the Jews, and that, consequently, they were bound to pay him tribute. For, in fact, although Judæa was now a Roman province, the Jews still retained that privilege themselves, and might coin shekels of the sanctuary. Nor does it follow, from our having coins with such and such a
Art. 173. ] Objection of the Pharisees—What? 17

man's superscription circulating in the country, that he whose image is impressed upon them, is our sove-
reign. Even the right of coinage, which one may have seized on by force, would be no proof at all, that he were our lawful sovereign.

Jesus, we must observe at the very outset, had here to do with the Pharisees. That sect was, indeed, more disaffected to the Roman government than the Sadducees; but still they did not account it a matter against their consciences to submit to it, as the fourth sect did, which arose when the first taxation took place, and which Josephus * very carefully distinguishes from the Pharisees, Sadducees, and Essenes. Besides, the question is not, whether it be right to obey Cæsar, or to pay him customs and other taxes, but relates merely to the tribute-penny, or, as we would term it, the annual poll-tax. So that the Jews, or, at any rate, the Pharisees, must have conceived that there was something in this poll-tax that would lie heavy on their consciences. Now what could that be?

I have no knowledge of it historically; for Josephus tells us nothing of objections made to the poll-tax alone; but from Christ's answer, and from the story of the half-shekel above related, it appears probable, that hypocritical zealots considered it as a sort of sacrilege, and said, This yearly tribute belongs to God, who, in his law, hath himself imposed it on us; and therefore we cannot but make it a point of conscience, not

* Antiq. Book XVIII, chap. i. throughout, but especially § 1. θ.
to give to Cæsar, what is God's. This, however, was mere chicane. Had the then emperor done what Vespasian did after the destruction of Jerusalem, and commanded the half-shekel before paid to the temple to be paid to the capitol, a Jew might then, no doubt, have found his conscience burdened. But the emperor never once thought of exacting this half-shekel. He was demanding quite a different poll-tax; different too in its amount: not half a gulden, but only a denarius, or quarter-gulden. And this at once shews us the excellence of our Lord's reply. He makes them shew him the tribute-money: they bring him a denarius, the sum, it would appear, which every Jew living in Palestine then paid of poll-tax. He then asks them, Whose is the image and superscription? To which they answer, Cæsar's. Now, such a denarius, with Cæsar's image and superscription, would not even have been accepted, in payment of the half-shekel in the temple, where shekels of the sanctuary were demanded; and for these, the Jew, if the money he had was foreign, was obliged to exchange it; for which purpose, within the temple itself, there generally sat those exchangers, whose tables, we are told that Jesus twice overturned. The most natural reply, therefore, that could be given to their question, would be to this effect: Ye see that the emperor demands not from you the poll-tax that you are wont to pay to the temple. He demands but a denarius, which would not so much as be taken in the temple. Ye may, therefore, in all good conscience pay to the emperor this annual poll-tax, in imperial coin with his own image and superscription; and in like manner, to God, in sacred
Art. 174. [David's Sin in numbering the People.

coin, the sum double the former, destined for the support of the temple; all which, Jesus expresses with greater brevity and beauty, when he says, Give then to Cæsar, what is Cæsar's, and to God what is God's.

ART. CLXXIV.

Of the Census ordered by David.

§ 3. If Moses in his law presupposes enumerations of the people as from time to time necessary, it certainly follows that the Christian religion does not prohibit them, and that it is but a piece of superstition, proceeding from ignorance, to imagine, that a state ought ever to have the smallest scruple in ordering an ascertainment of the population.

But here arises the question, If Moses presupposed the lawfulness of this measure, and did actually twice number the people, wherein consisted David's sin when he did the same? Yet the Bible says that he actually did sin in this matter, and was punished for it by God, with a pestilence, which lessened the sum of the people numbered, by 70,000. The history of this event is given in 2 Sam. xxiv. and 1 Chron. xxi.; and these passages I must beg the reader to peruse, if he wishes to understand what follows.

The common opinion is, that David offended God by his pride, and his desire to gratify it, by knowing over how many subjects he was king. This is, perhaps, the worst explanation that can be given, of the unlawfulness of his order. Were God to punish by pestilence every ambitious motion in the hearts of
kings, and every sin they commit in thought, pestilences would never cease. It must, besides, appear very strange indeed, how such a man as Joab should have expressed so great an abhorrence at a sin that consisted merely in pride of heart, and have so earnestly dissuaded David from it. Yet he thus remonstrates with him, saying, *May God multiply the people an hundred-fold, that the king may see it; but wherefore will the king urge this measure?* Or, as we read in Chronicles, *May God multiply the people an hundred-fold! They are entirely devoted to the king's service. But why seeketh the king to do this? and why should guilt be brought upon Israel?* Notwithstanding this remonstrance, however, the king, we are told by both historians, repeated his command with so much rigour, that Joab found it necessary to carry it into execution. Now Joab was not, on other occasions, a man of a narrow conscience. He had already deliberately planned, and, in cold blood, perpetrated, two murders, merely to rid himself of rivals*. And when David gave him the hint to place Uriah in the post of danger, he was by no means squeamish, but immediately planned and commenced an attack, in which, besides Uriah, a great number of his bravest soldiers were slain. His conscience, therefore, could not be incommode by a mandate relative to a matter in itself lawful, and where the sin, in whatever it consisted, lay altogether hid in the king's ambitious heart. If we think so, we must look upon him in the light of a court-chaplain, and a semi-pietist; and he certainly

* See 2 Sam. iii. 23,—37. xx. 8,—13. 1 Kings ii. 5, 6.

was neither. What he hesitated, therefore, about doing, must have appeared in his own eyes, something more serious than bare murder.

Josephus, however, has hit upon an idea, which may, by some, be thought to account somewhat more probably, than the opinion now mentioned, for the guilt which David is said to have incurred on this occasion. David, says he, made the people be numbered, without exacting for the sanctuary, the half-shekel of poll-tax enjoined by the Mosaic law. But this idea loses all its weight, if I am right in my opinion, that Moses enjoined the exaction of the half-shekel not upon every occasion of a census, but merely on the first; and even allowing me to be wrong in this, and the common exposition of the statute, in the time of Josephus, to be the more correct one, still the notion of Josephus is certainly inadmissible here. For neither in Samuel nor Chronicles do we find the least mention of the half-shekel; nor does David forbid the payment of it, but only orders the people to be numbered; so that every conscientious person had it in his power to pay it of himself, and the high-priest to demand it in virtue of his office. At any rate, David's census appears, in this respect, altogether as blameless as Moses' second one, in the account of which (Numb. xxvi.) not a word is said concerning the poll-tax. Nor do Joab and the other generals here represent to the king, that he ought to order the payment of the half-shekel, but only intreat him to desist from the census itself. And finally, David, who had amassed so many millions of shekels (1 Chron. xxix.) and, to the manifest prejudice of his own
family, destined so much for building a temple, must actually have been in the delirium of a hot fever, if, contrary to all his other views, he had not had a desire to grant for the future erection of that edifice, projected by himself, the half-shekel payable on the census, which was a mere trifle compared to his own donations, and came not out of his own purse.

But as far as I can understand the story, David caused the people to be numbered, neither out of that prudent solicitude which will always actuate a good king, nor yet out of mere curiosity, but that by means of such a census they might be enrolled for permanent military service, and to form a standing army; the many successful wars he had already carried on, having filled his mind with the spirit of conquest. We find, at least, that the enumeration was ordered to be carried on, not as had before been usual, by the priests, but by Joab and the other generals; and the very term here used, safar, (םָּשָׁר) numeravit, scripsit, includes also in itself the idea of numbering for military service, and is, without any addition, equivalent to our German military term, enrolliren, to enroll, or muster. This, indeed, is so much the case, that Hassofer, (טָלַת) the scribe, is that general who keeps the muster-rolls, and marks those called on to serve. In like manner, the officers are termed (סְּחוּר) scribes. The reader will find in the Articles immediately following, some remarks in illustration of this; and still more, in the third paragraph of the Dissertation, De Censibus Hebræorum, already quoted.

David's sin, therefore, or rather (not to speak so theologically, but more in the language of politics),
his injustice and tyranny towards a people who had subjected themselves to him on very different terms, and with the reservation of many liberties, (see Art. L.V.) consisted in this. Hitherto, the ancient and natural rule of nations, Quot cives, tot milites, had certainly been so far valid, as that, in cases of necessity, every citizen was obliged to bear arms in defence of the state. Such emergencies, however, occurred but very rarely; and at other times every Israelite was not obliged to become a soldier, and in peace, for instance, or even during a war not very urgent, subject himself to military discipline. David had made a regulation, that, exclusive of his life-guards, called in the Bible, Creti and Pleti *, 24,000 men should be on duty every month by turns; so that there were always 288,000 trained to arms within the year; which was certainly sufficient for the defence of the country, and for commanding respect from the neighbouring nations, especially considering the state of the times, and the advantages in point of situation already described, (Art. XX.—XXV.) which David’s dominions enjoyed. It would appear, however, that he did not think this enough. Agitated, in all probability, by the desire of conquest, he aspired at the establishment of a military government, such as was that of Rome in after-times, and at submitting, with that view, the whole people to martial regulations; that so every man might be duly enrolled to serve under such and such generals and officers, and be obliged to per-

* Terms, of which the best explanation is given by Iken, in the 4th of his Dissertiones Philologico-Theologica.
form military duty at stated periods, in order to acquire the use of arms.

Whether such a measure, if not absolutely necessary, to the preservation of the state, be a hardship on the people, every man may judge from his own feelings, or even from the most recent history of certain nations. For even in a country where the government is purely monarchical, and the people extremely martial, and the frontiers of which, from the uncompactness of its territories, are not, like those of the Israelitish empire, surrounded and secured by mountains or deserts, the enrollment of every individual for military service, introduced 40 years ago, has been of late spontaneously abolished by a very warlike sovereign, because he found that it was too oppressive, and furnished a pretext for a multitude of extortions.

Now if this was David's object, it is easy to conceive, that Joab, although in private life a very bad character, and twice guilty of murder, might yet have as much patriotism, or rather political sagacity, as to deprecate, in the most energetic terms, the execution of a royal mandate, the effect of which would have been to bring a free people under the worst military despotism. Very bad consequences were to be apprehended, if the subjects should not prove sufficiently patient to submit to such an innovation. The army, however, devoted as it was to David, and approved as was its valour in many campaigns, may, perhaps, have effected their patient submission; and, in fact, the expression, (2 Sam. xxiv. 5.) And they, viz. Joab, and the other generals to whom the task was committed, encamped near Aroer, appears to insinuate, that this
enumeration, or rather this enrollment of the people, required the support of a military force.

What David intended, Uzziah, his successor, in the eighth generation, may perhaps have accomplished. The martial measures of that prince (2 Chron. xxvi. 11,—14.) are not commended; the prophet Isaiah (chap. ii. 5,—8.) seems rather to describe them in the language of censure. It is to be observed, however, that the enrollment of the whole people by David, and by Uzziah, is by no means one and the same thing. The former ruled over a powerful nation, wherein there were nearly a million and a-half of people, able to bear arms, and which had a compact and secure frontier, from the Euphrates to the Mediterranean: so that, for the safety of the state, no such oppressive measure was requisite. But Uzziah had under him only two tribes, consisting probably of about 300,000 men, and his territories were not rounded, nor the frontiers distinct and strong. Here, therefore, that measure might be necessary for self-defence, or, at any rate, admit of a sufficient apology, which, in David's time, was quite needless, and if strictly enforced, must have proved absolutely tyrannical.
CHAPTER II.

MILITARY POLICE.

ART. CLXXV.

The obligation to Military Service universal. The whole people called upon; but a selection generally made.

§ 1. The maxim of ancient states, Quot cives, tot milites, which I have already had occasion to quote, I must here again repeat, observing that no maxim can be more reasonable; because whoever wishes to be defended, ought surely to defend himself and his fellow citizens. Those who think it a hardship, nay, a crying sin, as I have heard it declared from the pulpit, that they should be compelled to military service, may, in my opinion, unless they can produce special privileges and exemptions, be compared to those of a party travelling in a post-waggon through a wood, who, when threatened by robbers, beg to be excused from defending themselves, but have not the least objection that their companions should hazard their lives in their defence, nay have even the assurance to wish they would do so. In such a case, nothing could be fairer on the part of those who have the courage to defend themselves, than to ad-
dress the robbers, when they approach, in these terms, "If you attempt to take our purses, we are determined to fire at you. You had better, therefore, begin with these cowardly fellows; we are ready to alight, till you have settled matters with them."

The principle of this most natural law, *Whoever would be defended, must defend*, was so fully established in the Mosaic code, that, even in those enumerations undertaken by Moses himself, we find every man of 20 years of age and upwards, distinguished by this epithetical characteristic, that he goes forth to the host, (הבר לצבא) in other words, *is qualified for military service*, Numb. i. 3,—46. xxvi. 2. In the statutes relating to exemptions, which will be considered in Art. CLXXVII. it is also presupposed, that all those who cannot justly claim exemption, are bound, and may be compelled, to serve as soldiers.

This, however, is a law, which a state will not be apt to enforce to its utmost extent, particularly where the population is great, and amount to hundreds of thousands, that are able to bear arms. The service of a whole nation is seldom necessary to the carrying on of a war: and even if it furnish warriors to the extent of but some hundred thousands, it soon becomes impossible to support that number on a march, not to mention the neglect of agriculture occasioned by their absence from home. Accordingly we find, that Moses generally orders the selection of a certain number of troops suitable to the service required. Of this, the following examples deserve notice.

1. When the Israelites, in the very first year of the
Exodus, were attacked by the Amalekites, Joshua was ordered to choose out those who were to take the field against them, Exod. xvii. 9, 10.

2. In the war against the Midianites, a thousand men were selected from each tribe, making from all the tribes, the number of 12,000, for military service: but this was not one fiftieth part of the population liable to it, Numb. xxxi. 1,—6. On neither of these occasions had the Israelites any agriculture to neglect; for they were still wandering in the wilderness; and yet we see, the whole people did not take the field.

3. In the following instance, the event occurred, indeed, after the death of Moses, but nevertheless its consideration belongs truly to the Mosaic law, because it was the fulfilment of a promise made to him. The two and a-half tribes beyond Jordan had there obtained from Moses lands adapted to cattle-breeding, on condition of their assisting in the conquest of Palestine on this side that river, Numb. xxxii. 17,—32. Now, in the book of Joshua, we are informed, that they did so assist. Yet only 40,000 of them crossed Jordan; although there were certainly many more able to go to war. For at the second census, a little before the passage of the Jordan, the tribe of Reuben had 43,730, and that of Gad 40,500, and so both tribes together, 84,230 warriors; to which we have still to add those of the half tribe of Manasseh, which must have amounted to from 20 to 30,000 more. Here, therefore, although hotly as the war was carried on, only 40,000 of 100,000 went to the field; still the promise which these tribes had given to Moses was thus considered as fulfilled,
Art. 175.] The whole people rarely took the field. 29

We find in the Biblical history but very few instances, where the whole people took the field: and in these, it was only for a few days: for more, indeed, it could hardly have been possible.

One of these instances occurs in the book of Judges, chap. xx. where we find the other tribes uniting in a war of vengeance against the tribe of Benjamin, on account of its refusal to make acknowledgment of, and atonement for, an act of horrid wickedness, committed by some of its members. And here, without the help of observations from the historian, or his having any need to overstep the province of bare narration, we easily perceive the bad consequences of collecting an army so large as to become unmanageable, and of planning a campaign on too extensive a scale. The eleven tribes give battle to the tribe of Benjamin two days in succession; and renew the action the third day likewise, after keeping a fast; contrary, without all question, to the rules of war, which required more attention to a proper opportunity of engagement, and were not likely to approve two days successive fighting.—But then the multitude could not be long kept together: and they wished to make use of it while it could.—The unfortunate result was, that 400,000 men, merely because such a numerous body could not co-operate, nor come properly to action, were absolutely beaten twice in succession by 26,700.—Another instance we find in 1 Sam. xi. where Saul summons all the Israelites, in number 330,000, to attack the Ammonites: and here too the war was finished in a few days. On this occasion there was no exception allowed: for Saul hewed oxen in pieces and sent
them round all the tribes; ordering it to be proclaimed, that all who did not join the army should have their oxen hewed in the same manner. This universal requisition accompanied too, as it was, with a sort of oath, So shall it fare with his oxen, bears a very strong resemblance to that summary mode of levy, which the Romans term conjuratio, and which is commonly explained by that passage in Virgil's viiith Æneid, l. 4. 5.

The new military regulations, some of them commendable and others too oppressive, which, at an after period, were introduced by David, who may almost be considered as the creator of the military system of the Israelites, belong not to the Mosaic law, but to the history, and shall hereafter be noticed in the life of that monarch. Some cursory remarks on them have already been made.

ART. CLXXVI.

Of the persons by whom the general muster, and the Special Selection for Service was made; and of the Appointment of the Officers.

§ 2. Concerning the procedure used both in mustering the whole people, and also in choosing out a certain definite number for military service, I find only the following unconnected particulars recorded. Unless in extraordinary cases, Moses presupposes it the duty of those scribes (כתובים, schoterim) who
kept the genealogical tables, to make the selection of warriors, or to muster the people, if all summoned to the field; for, in Deut. xx. 5, 8, 9. he directs what, on such occasions, they were to do, in regard to the exemption of certain descriptions of persons, from service, and to the appointment of officers. An extraordinary case, however, seems to have occurred, in the very first campaign which the Israelites were obliged to undertake against the Amalekites. They had then scarcely left Egypt a month: and it is easy to perceive, that, among a people subjected from infancy to servitude and stripes, there were likely to be but few possessed of much martial spirit: and, of course, that whoever should select from them, every tenth or every fiftieth man indiscriminately, and as he came in order, would most probably light upon some cowards. On this occasion, therefore, Joshua, who was to command them, had the duty of making the selection assigned to him; and, of course, would take care to choose only the best men; such as manifested military courage and talents, or perhaps volunteered their services, Exod. xvii. 8, 13.

It would seem, that when one, out of such and such a number, was to be selected, the plan of proceeding resembled that which they commonly used in tithing cattle, described in Levit. xxvii. 32. The person who made the selection had a rod, with which he touched the given number, and thus ascertained the man that was destined for service. In this way all partiality was excluded: every thing depended on chance, according as death and birth made the rolls of the whole people to stand. In that part of the
song of Deborah, where the praises of those tribes are celebrated, who alone had the courage to take the field against Sisera, it is said of Zebulon, that out of that tribe there had come those, who grasped the rod of the reckoner, Judg. v. 14.

In later times mention is made of a chief officer under the denomination of (חַשְׁכֹּתֶר) hasschoter, or the scribe, who probably had charge of the whole muster rolls of the people; and we read also of the (סוֹפֵר) sofer, which may mean either the scribe, or the reckoner, by which last term, I shall, for distinction's sake, render it. Under the command of these two officers was placed the whole military force; and when Uzziah effected, what David attempted but did not accomplish, that is, brought the whole people under military discipline at once, he had then a force (which might be called a militia) of about 300,000 men, under Jegiel the scribe (Hasschoter) and Maaseja the reckoner (Hassofer). The former would seem to have been properly a civil officer, and the latter only a military character; because by the prophet Jeremiah, the Sofer is also denominated Prince of the Host, or general. For when Nebuchadnezzar, after the conquest of Jerusalem, inflicted capital punishment on those that had the principal concern in the rebellion, the Sofer, who had kept the people of the land to military service, and whom Jeremiah at the same time calls general, appears among the number of the condemned, Jer. lii. 25. It will, perhaps, be by this time recollected, that among David's principal officers there appears one with the title of Sofer, (2 Sam. viii. 17. xx. 25. 1 Chron. xviii. 16.) whom
Art. 176.] The Appointment of Officers, occasional. 39

Luther makes chancellor, Le Clerc, secretary of state, and, in short, every expositor what he thinks fit. He was probably, however, the very same officer of whom we read in the reign of Uzziah, and in the passage of Jeremiah just quoted; a general, who had the charge of the muster-rolls of the standing army, or of the 288,000 who did duty in divisions of 24,000, by monthly rotation; and whose business it likewise was to select from the mass of the people those fit for military service.—See § 3. of the Dissertation, De Censibus Hebræorum, for farther illustration of this.

From what has been already said, we shall be able to clear up the obscurity attending the passage of 1 Maccabees, chap. v. 42. where Judas, intending to give the enemy battle, stations the scribes of the people (γραμματεῖς τῶν λαῶν) close by the brook, with orders to let no one remain on the farther side of it, but to animate all the troops to cross over and engage him. These scribes were not the expounders of the law, and still less were they, as in Luther's translation, priests; but those very officers whose duty it was to muster the people, and select the troops for service.

When the scribes had mustered the people, they had then to appoint officers to command them, Deut. xx. 9. The Hebrew warrior was no miles perpetuus. Those who took the field were mere husbandmen, selected from the mass of their fellow-citizens; having those of the greatest valour and experience appointed their leaders for the occasion, and not previously arranged in regiments and companies.

In process of time, however, when military science was improved, and when the kings were able to give
permanent pay to officers, matters were put on a different footing in this respect, and also in regard to the muster and selection of the people; in the time of David, for instance, when 24,000 men did duty every month. Moses did not prohibit this, but only directed how the business was to be managed while yet there were no officers.

ART. CLXXVII.

Of Exemptions from Military Service.

§ 3. Moses expressly authorizes certain exemptions from military service, which the scribes were to announce to the people on every muster. Some of them are real immunities, of which any man might avail himself without reproach to his character; but there is one of them so dishonourable in its cause, of which, moreover, the public acknowledgment was indispensable, that I suppose very few even of those who might most justly and conscientiously have urged it, were ever found to do so.

Of those who enjoyed immunities unattended with personal disgrace, the following are the classes:

1. Whoever had built a house, and had not yet occupied it, was to be at liberty to return, lest, falling in battle, another should enjoy the fruits of his labour, Deut. xx. 5.

2. Whoever had planted a vineyard, or oliveyard, and had not yet eaten of its produce freely, was in like manner to be exempt from military service, and for the same reason; Deut. xx. 6. Now, although a
Art. 177. Exemptions from Military Service.

Tree bore fruit the very first year, it could not be used for food before the fifth year of its growth. During the first three years, it could not be eaten at all. In the fourth year, it was consecrated to God, and could only be eaten at the sacred feasts; so that the establishment of a vineyard or oliveyard, and probably also of a fruit-garden, exempted the owner from service for five whole years. The Hebrew word (ד') used in this passage, comprehends both vineyard and oliveyard, although best known in the former sense. Indeed, all the land strictly employed in horticulture, seems to have been denominated ד', and consequently to be included in this law; but of this I am not so certain.

3. Whoever had betrothed a wife, but had not yet consummated marriage, was likewise exempted, lest he should fall in battle, and another take his bride, Deut. xx. 7.

4. Every new-married man was, during the first year after marriage, freed from military service, and all other personal burdens, Deut. xxiv. 5.

These four immunities, independent of their manifest equity, were attended with two very great political benefits, in promoting, first, marriages, and, secondly, the culture of the soil, which are never more necessary than in time of war. The worst evil of war does not, perhaps, consist in this, that thousands perish in battle, but that the fields, from fear, remain untilled, and that few marriages are concluded; so that the next generation must necessarily fall off in point of numbers. Although the late war, from 1757 to 1762, was carried on with extreme moderation within the
Beneficial Effects of these Exemptions. [Art. 177.]

electorate of Hanover, and although the French were entitled to the highest praise for the good discipline they maintained, and for their lenity and even politeness to the inhabitants, marriages nevertheless were very rare. The clergy, not indeed from patriotism, but because they were sufferers, and could not live, complained of the unfrequency of weddings and christenings: and a diminution in the number of inhabitants, to the amount of one-fourth, was manifest from the population-lists after the peace. Yet it is certain that one-fourth of the inhabitants, that is, of the males capable of bearing arms, did not fall victims to the war; for, during the greatest part of it, the Hanoverian subjects could not so much as have been called out and engaged in it, because the country was in the hands of the enemy.—In the wars of ancient times, which were carried on with more cruelty, the evils now mentioned, were still more severely felt. Of the forcible violation of females, which, for the most part, deprives them of marriage, we now know almost nothing, but from the history of former ages; and in the late war, it was not so much as heard of, save in one district at a great distance from our land. But what devastation and depopulation must have been occasioned by the barbarities of ancient wars!

The abovementioned immunities, however, which are very happily defined, served in some measure to counteract the disasters inseparable from war. Whenever a war threatened, or broke out, every man who had no great inclination to take the field, and yet did not chuse publicly to declare himself a poltroon, would naturally think of taking a wife, if not already mar-
Art. 178. \textit{One dishonourable Ground of Exemption.} 37

ried, or of planting a vineyard, or of doing some of those other things, that, by their tendency to make amends for the mischiefs of war, would entitle him to exemption from its duties.

The ground of exemption yet remaining to be mentioned, was not quite so honourable. Whoever was fearful and fainthearted, was allowed to retire, that he might not infect others with cowardice, Deut. xx. 8. This law requires no explanation, particularly as it applies to an irregular militia, such as was the Israel- sitish force; for in our standing armies the strictness of military discipline compels the most dastardly cowards, as they are confined in close ranks, to fight nearly as well as the bravest warriors. Some thousand years ago, however, the case was in all points very different. Military operations were not so artificial and mechanical as now. It must, nevertheless, have cost a coward a great struggle to avail himself of this ground of exemption; and no doubt many, rather than do so, would repress their fears, and, of course, fight so much the better.

\textbf{ART. CLXXVIII.}

\textit{Of the Right of Spoil.}

§ 4. \textit{Where} there are no soldiers paid by the state, but all the citizens take the field, either as volunteers, or by selection, it is quite obvious that to take spoil must be permitted, and be the common practice; for the man who hazards his life must have some means of recompense put in his power; and what his country
SPOIL REASONABLE, WHERE NO PAY. [Art. 178.

does not give him, he must have to hope for from the enemy. Were this not the case, and had we nothing else to expect in the service than the loss of life, perhaps, or the being crippled by wounds, while yet we had to subsist ourselves without pay, it would certainly require a large stock of patriotism to carry a man to the field on such terms; and were not that patriotism universal and enthusiastic, the country, for want of defenders, could hardly fail to bow under a foreign yoke. Where there is not, therefore, a regular and a paid army, spoil must be the reward of victory, and war, in some measure, a lucrative object; and so much was it so in the opinion of the Israelites, that in the book of Judges (chap. xii.), we find the tribe of Ephraim making war on the tribes that dwelt on the east side of Jordan, on no other ground than this, that Jephtha, their leader, had carried on a war against the Ammonites without calling the Ephraimites to his assistance. Such a pretext would have been strange indeed, unless they had lost something, in consequence of having been uncalled; but in a successful war, there was plunder to be got, and they did not chuse that their eastern neighbours should exclusively obtain it, and keep it.

Among ancient nations, the acquisition of spoil was a more frequent and important object than it is among those of more modern times. When nations approach to the state of nature, and of course guided rather by the laws of nature than by those of national convenience, have recourse to war, not for the conquest of new provinces, whose inhabitants becoming their subjects may augment their power, but solely from motives
of revenge, and in order either to exterminate their enemies, or at least to plunder them;—while war is yet unreduced into an art, and the people, as they serve without pay, can perceive no great advantage from a mere victory, unaccompanied with spoil;—in one word, during the infancy of nations and of war, and before extended commerce, and the credit necessary to every people, suggests the expediency of respecting hostile property, even in war;—plunder must be a very great and general object with warriors, and require laws of distribution which we, under a different system, can scarcely conceive.

Among the Israelites, therefore, the right of spoil was recognized, just as among their enemies. We have already seen (in Art. LIX. No. 7.), that it formed part of the royal revenue; that David at first supported his standing army from it, (much in the same way as was not long ago the case with our Hussars, who received no pay, and subsisted merely on plunder); and (from Art. LXIV. C. CXXIII.) that women and children were considered as a part of it, and carried into slavery. This right of spoil continued so commonly acknowledged, even to the latest times of the kings, that we find the prophet Isaiah (chap. ix. 2.) alluding to it in a poetical figure, descriptive of extreme joy; They shall rejoice as in harvest, or as when the spoil is divided. Moses, in his more ancient history of the patriarchs from whom the Israelites were descended, repeatedly speaks of spoils. From Gen. xiv. we see, that the four eastern kings who invaded Palestine in the days of Abraham, did not seek to conquer the country, or to establish them-
Spoils taken by Abraham. [Art. 178.

selves in it, but merely took spoil, and made captives of the people, and were then proceeding back to their own land, when Abraham defeated them, retook their spoil, and gave the tenth part of it to the priest of the only true God. We find in like manner from Gen. xxxiv. 27. that when the sons of Jacob, in the barbarity of revenge, butchered the citizens of Sichem, they took all manner of spoil. All this, however, is just what every one would naturally conjecture, and excites but little interest; but there is one remarkable circumstance that merits attention, viz. that the king of Sodom offers to let Abraham, who had defeated the combined foes of the country, retain all the rest of the spoil, if he would but restore him the people. It would appear from this, that, according to the laws of war and nations in those times, the property of my friend, if by me recovered from the enemy, became my own; for it is only in behalf of his subjects that the king of Sodom implores any mitigation of their misfortune; and although Abraham’s magnanimity led him positively to refuse keeping any part of the spoil he had recovered, for his own use, he nevertheless expressly declared, that he by no means thereby intended that his associates, Aner, Eschkol, and Mamre, who had assisted in the defeat, should remit their share.
ART. CLXXIX.

Of the Retention of the Property of Enemies that happens to be in our possession at the commencement of a War—What right the Israelites had to keep the gold and silver Vessels which they had borrowed from the Egyptians.

§ 5. I am here in some measure obliged to copy from myself, and to repeat what I have said in my Note on Exod. xii. 16. In a treatise on the Mosaic law, I must not overlook this subject, and my readers might justly complain, were I, on a point so closely connected with it, merely to refer them to my translation of the Bible. I shall, therefore, be under the necessity of transcribing, and that almost verbatim, the note on the above passage; for were I to take the trouble of re-writing it in different words, they would probably be less suitable, and the style would be affected.

There are two ways in which we may acquire hostile property. We either find it already in our hands at the commencement of a war, and detain it, merely because our late friends have become enemies; or again, we may seize and carry it off after a victory, or in making an incursion into their country. According to the ancient and original law of war, and before the operation of commercial principles effected the mitigation of its rigours, every thing borrowed from an enemy was considered as spoil, whenever war broke out, and became the property of the person in whose
possession it happened to be. In the old Roman law, at least, the maxim of Celsus, quoted in the Pandects, was authoritative, *Quæ res hostiles apud nos sunt, non publicæ, sed occupantium sunt*.

If the modern law of war be milder, and leave the property reciprocally lent by the belligerent nations in perfect security, that mildness has its foundation in the equal interest which they have in maintaining their credit, and in the respect now paid to commerce as the source of wealth; and consequently, proceeds not so much from law, as from convenience, and the advantages with which it is attended. The commerce of a belligerent nation that should think fit to enforce the law of war in all its rigour, and, in the ancient Roman fashion, refuse to pay the debts due to its enemy, would suffer a severe shock. A nation may often be carrying on a war with the borrowed money of its enemies, or with that of foreign nations who may become so; as the French have done with English money, and the French, English, and Russians, with Dutch. Here, therefore, self-interest requires us to acknowledge, even in war, the validity of our enemy's claims upon us; else we can expect no future loan from him, nor even from other foreigners who may apprehend the slightest possibility of any future war. Would the Dutch have such immense sums in the English funds, if there were even a political possibility that England could, without making herself miserable for a hundred years, confiscate, in confor-

*L. 51. § 1. D. de adquirendo Rerum dominio; or, not to cite like a lawyer, Lib. 41. tit. 1. 51.*
mity to the Pandects, the property, and cancel the claims, of her enemies, on the breaking out of a war? If there were so, every Dutch merchant would tremble, lest England, to get rid at once of about 60 millions sterling of national debt, and pay it with hard blows, should lay hold of some frivolous pretext for war, such as that of stopping their herring-fishery on her coasts; or lest any war should even undesignedly break out between them. But if he were afraid of either, and so were to demand payment of his debt, nothing is more certain, than that England would in a few weeks become bankrupt.

And yet we find that, in some instances, the payment of debts due to the subjects of a hostile power has been prohibited; and even bills of exchange, which commerce holds so sacred, have been annulled by the government. In the late war, from 1757 to 1762, this last was done in some instances by the Emperor; and when the king of Prussia sent a rescript to the merchants of Berlin not to be on any hurry with the payment of certain bills, he may very probably have been meditating a similar procedure; but they drew up a representation to which he immediately listened; and the result was, that he found it expedient rather to take two millions out of his own treasury, which he presented to the city of Berlin for the service of the merchants *

In more ancient times, on the contrary, and before commercial intercourse had so closely connected the

* * See Geschichte eines patriotischen Kaufmanns, or, History of a Patriotic Merchant, p. 80.—85.
interests of contending nations, nothing was more common than the avowed cancelment of an enemy's claims at the commencement of a war; and if such a procedure appear strange to us, we have to look for the cause of our wonder, not in the injustice of the practice itself, but merely in the change which the extension of commerce has effected in our manners and our politics. Should it be objected, that private individuals thereby suffered, I answer, the very same thing happens in the case of every species of plunder and reprisal; as, for instance, the capture of an enemy's ship; and yet this is permitted by our laws of war. For each particular member of the state that attacks us, must suffer for the whole body.

The reason of my discussing this point at greater length, than might at first seem necessary, is, that, upon the right of retaining borrowed property on the breaking out of a war, rests the character of that transaction of the Israelites, which has brought the greatest reproach at once on Moses and on religion, namely, that by his orders they borrowed vessels of gold and silver from the Egyptians, and never returned them. The case was this:

For the celebration of a festival (the passover), which they were to hold while yet in Egypt, it was suggested by Moses (Exod. xi. 2.) to the Israelites, that they should borrow gold and silver vessels from the Egyptians; but neither then, nor previously, is it so much as insinuated to them, that they either should, or could keep them: for of what we find on record in Exod. iii. 22., as having been spoken by God to Moses on that point, the Israelites knew
The Israelites meant to restore them. 45

nothing. We may, indeed, easily conceive, that had 600,000 men been apprized of this, it could not possibly have remained a secret from the Egyptians: for, among that number of men, and as many women, there must have been some, whom honourable friendship for those who were so ready to oblige them, would have prompted to a disclosure; and although there had not, some babblers would unquestionably have betrayed the secret; and then the Egyptians would not have lent them any thing.

I must believe, therefore, that the Israelites all borrowed the vessels, with the honest intention of restoring them, and without knowing aught of the predetermination and hidden design of providence. On the very night of their festival, they were suddenly hurried away, and driven out of Egypt. They had no time allowed them to attend to any thing, not even so much as to leaven the dough of their bread: for they were compelled to depart on a moment's warning. On this Pharaoh and the Egyptians insisted, because there was a corpse in every house, and they were afraid of being all dead men, if the Israelites tarried any longer in their land. (Exod. xii. 29,—36.)

Now let us consider, what, in such a case, we ourselves could do with borrowed goods, allowing that we were perfectly honest people, and desirous of fulfilling all our obligations to our creditors, not only according to our conscience, but to the utmost legal strictness. We would not surely leave them behind us on the spot, because they might not thus come again into the hands of the right owners, but be car-
ried off by the person who first happened to find them. On the condition of just leaving it anywhere at our departure, no man will lend us any thing; but only in the conviction, that we are to keep it in our own custody, and be accountable for it until we can again restore it. We should, therefore, in such a case, as above supposed, take it along with us; but still with the determination of delivering it back to the owner on the first opportunity. And so, in like manner, must the Israelites have acted, if they wished to behave like honest debtors: and, consequently, there is here no reason to charge them with carrying away the borrowed vessels, with any other intention, than that of taking care of them, and restoring them safe to the owners, when demanded, or when an opportunity should present itself.

In the course of a few days, however, the state of the case became completely altered. The Egyptians, who had permitted them to depart, yea had thrust them out, all at once changed their minds, and pursued them with a great army. This was a breach of the agreement between the two peoples, and on the part of the Egyptians an offensive war. The case, therefore, now wholly hinges on the question formerly stated; May a nation, when unjustly attacked by another, seize the property of its enemy, or of his individual subjects? May it keep what of their goods it has already in possession, and consider them as lawful spoil? If this is allowable, then certainly the Israelites might now retain the gold and silver vessels of the Egyptians, and look upon them in that light. Providence, which so ordered events as that Pharaoh broke
Art. 180.] Various Opinions as to this point.

his agreement, and thereby gave them a right to indemnify themselves at the expense of his subjects, had made them a gift of these vessels; and against such gifts of Providence we can have nothing to object. When another nation, for example, unjustly attacks us, Providence gives us a right to conquer it; and can it then, supposing that we are victorious, be unjust to keep what we have conquered? Providence itself, by that unjust aggression, and the victory granted us, has made our nation the more powerful, and crowned it with a conquest; but even without referring this to Providence, but merely ascribing it to good fortune, we should be justified in keeping what we have acquired. But what is just on our part, in the case of the whole nation, cannot be unjust in respect to any part of its property; and of course we may keep both plunder and lent property that has fallen into our hands; and if this is to be held illegal, the whole system of our jurisprudence and morality must be overturned.

ART. CLXXX.

The Opinions of others on this Point.

§ 6. These are my sentiments with regard to the behaviour of the Israelites towards the Egyptians, which it is not just to denominate robbery, as it was only a detention of their property after their breach of peace with the Israelites. Viewed in this light, the matter has never afforded much scope for controversy; but I am bound in equity to state what others have advanced in justification of Moses and the Israel-
Ites, on different grounds, although it has afforded me no satisfaction.

1. In the first place, it is said by some, that "God being, properly speaking, the true proprietor of all things on the face of the earth, may give the property of them to whomsoever he will."—Very true; he may do so: but then will he do it? Will he permit any people to steal? God certainly observes the rules of decency and justice: but that religion which should authorize one man to lay hold of another's property, would have a very odious aspect, and appear to others as the invention of selfishness. If God therefore means that revealed religion should be believed, he will represent it to mankind in an amiable form.—It will be allowed that God, by his providence, may distribute the good things of this earth in a different way from what takes place at any given time; taking from one, and bestowing on another: and the gifts of his providence thus bestowed, we may certainly possess with perfect lawfulness. Thus, if a man has lost a purse, which Providence allows me to find, but gives me no means of discovering the owner; or if a ship is wrecked on our coast, and we cannot find out the owners, or the heirs of the lost crew; in such cases, we may very conscientiously appropriate to our own use what has fallen into our hands. In like manner, Providence dethrones one king, and enthrones another. It permits one to become a tyrant, and so obliges his subjects to drive him away; or it allows another to commence an unjust war, and thereby to lose part of his dominions; in which cases, the person whom the people calls to the throne may lawfully possess it; as
Art. 180. [God gave them no command to steal.]

may the conqueror, those provinces, which providence has enabled him to subdue. But between such operations of Providence as these, and a command from God to rob or to conquer provinces and kingdoms, there is a wide difference. As I have represented the case in question, Providence bestowed a gift on the Israelites, inasmuch as it so ordered events, as that the Egyptians should commence an unjust war; and God, who foreknew this, had suggested to the Israelites to borrow their vessels: but here-in, as far as I can see, there is nothing that can be justly construed into an offence, or an objection against religion: and if God were by a prophet, or a dream, to reveal to me, that in such a field I should find a treasure, either buried, or on the bare ground, I should have as little reason to be scrupulous about taking it away, as if I had found it by chance, and could not discover its owner. But had God, by the mouth of Moses, said to the Israelites, “Borrow the vessels with the view of not restoring them, for I give you them as a gift,” I should then look upon Moses exactly in the same light, as on the Pope, when he made a present of America to the Spaniards.

2. But, in the second place, it is said, “The Israelites had long served the Egyptians without pay-ment; and, therefore, they might justly take pay-ment at their own hands, on their departure.”—How ludicrously the Jews represent this pretended right, we have already seen in Art. CXXIX. In so far, however, it is agreeable to justice, that as the Israelites went down into Egypt a free people, and were there subjected to servitude, they had a claim
upon the Egyptians on that score, and might pay themselves: and that had they done so by downright force of arms, they could not have been censured: for where a people has no public judge or ruler, to whom they can appeal, they may take what is their due by force, if they cannot obtain it by gentle means. But were the Israelites to effect payment by fraud? Were they to borrow, and (as borrowing implies) to promise restitution; and then abuse the friendship of the Egyptians, and, like swindlers, carry off what they had borrowed? This appears contrary to all honesty and good faith, and whoever so acts, can never expect to have any thing lent him in future.

The mistake which inquirers into this matter, whether as objectors, or vindicators, have committed, consists in this, that, without a particle of historical evidence, they set out with the supposition of what is absolutely incredible, namely, that 600,000 men, and as many women, had received secret orders from Moses to borrow, without any intention of repayment, and that they had all kept the secret: for if it had been blabbed abroad, or but even hinted by any honest Israelite to his best friends among the Egyptians, they would not have been such simpletons as to lend them aught. Now such a secret, kept but for a single day among so many hundred thousand people, many of whom had particular friends among the Egyptians, is to me so wonderful, that I could with much less difficulty believe every miracle whatsoever: and yet, although Moses says not a word on the subject, this romantic supposition has been
admitted as perfectly obvious; and objections against religion founded upon it in the most arbitrary manner. In most cases, but little confidence is placed in the silence of the other sex; but here several hundred thousand women are presumed to have kept a secret, every one more sacredly than another.

ART. CLXXXI.

Of the Spoils actually taken in War; and their division.

§ 7. The spoil actually taken in the enemies' land by force of arms, consisted either of persons and cattle, or of things inanimate, as gold, silver, jewels, apparel, &c. The procedure that took place with regard to these two sorts of spoil, according to the Mosaic law, was different, as we shall see from Numb. xxxi., which is the principal proof-passage relating to this subject.

I. The spoil in persons and cattle did not belong to the individuals who took it, but was collected, reckoned, and distributed in the following proportion.

1. Those who went to the field against the enemy received one half; of which, however, they had to give every five hundredth individual to the priests.

2. All the other Israelites received the other half: but with the deduction of every fiftieth individual for the Levites.

II. Things inanimate belonged to the individual who seized them, as we see from verses 48th and 54th of the said chapter. For on this occasion the
commanders had taken 16,750 shekels of gold, and they voluntarily dedicated them to the sanctuary; but of the common soldiers it is said, that every man kept his plunder for himself.

According to this usage, we ought probably to explain the passage, Josh. xxii. 8.; and to understand what is there said of the partition of the spoil with the brethren that remained at home, with reference only to captives and cattle, and not to gold, silver, copper, iron, apparel, &c.

For the foundation of this distinction we have not far to dig. Had the law obliged the Israelites to deliver the gold, silver, and other valuables, into a common stock of spoil, it would not have been possible to have got them to keep it; (but a law that cannot be enforced, it is more rational not to make at all.) Every successive campaign would have furnished fresh temptations to fraud and concealment; and the people, by degrees, have thus lost their honesty and become thieves.

What is said, 1 Sam. xxx. 20,—25. of David's having introduced a partition of spoil betwixt those who went to the field and those who remained in camp, appears to relate not to any renewal of the Mosaic ordinance, that had gone into desuetude, but to be a law that regarded quite another description of persons, and enjoined a different mode of division. Moses divided the spoil betwixt the people and the soldiers; and gave to 12,000 soldiers just as much as to the whole people besides, amounting to about 600,000. But David divided betwixt the soldiers that actually fought, and those that guarded the baggage in the
Art. 182.] Camp Police—Levitical Impurities.

rear; there being of the former 400, and of the latter 200 only; yet he decreed that they should have, each party, one half of the spoil: that is, that every individual who remained with the baggage, was to receive the very same share, as if he had been one of those actually engaged with the enemy.

ART. CLXXXII.

Of the Cleanliness and Police of the Camp.

§ 8. For the cleanliness and police of the camp, which are objects of such importance to the health and duties of an army, Moses provided by two statutes, recorded in Deut. xxiii. 10,—15.

1. No person under any Levitical impurity, was to remain within the camp, but to retire without its precincts, until clean again. Coitus ut et pollutio nocturna unius dies impuritatem afferebat. The latter of these, in regard to which we might at first have expected an exception, Moses expressly specifies, as a species of impurity, which demanded retirement from the camp until next sunset. To the field of battle, however, a man in these circumstances might freely go, because there he would at any rate be defiled by the dead bodies of the enemy. However strange this regulation may seem to us, it must have contributed highly to the maintenance of morality in the Israelitish camp: for no man could be guilty of obscenity or whoredom, without discovering himself by his separation from the camp, which was made a point of religion; or, at least, without incur-
ring the suspicion of such guilt; if his brethren could think of no other impurity, under which they knew him to lie. In our armies, indeed, which consist of enlisted and permanent soldiers, such a measure would produce but little good effect: and a French soldier would probably be ashamed to be in the camp; and, from downright gallantry, pretend to be unclean, although really not so. But where the married citizen goes to the field, in company with other citizens of the same city, and where morals have not yet reached the highest stage of corruption, a law like this will certainly contribute much to preserve chastity and honour in a camp.

2. In our camps, the place where the soldiers do their needs, is usually about 50 or 100 paces in front of the camp. But, in addition to his injunction relative to a place for the same purpose, without the camp, Moses ordained, that, besides his weapon, every man that went to the field, should take along with him a shovel*, or spade, and, on such occasions, dig a hole, and fill it up again. Whoever has been in any of our camps, when the wind blows from the soil-pits towards the tents, will never hesitate to own that the Mosaic regulation is far better, and more effectual for preserving the purity of the air than ours; only that it cannot perhaps be applied in our camps, as our armies must keep close together, and

* So Luther very correctly renders the word הָרִית. It signifies, besides, a pointed stake, such as those used to fix tents in the ground; but that meaning is unsuitable here.—In Chaldee it is also certainly used to denote a broad iron instrument for digging, such as a plough-share.
often remain long in the same spot. The shovel is, besides, no useless implement for a soldier: for if each has one, a camp may be very speedily fortified, or a besieged city, according to the ancient plan, enclosed in a line of circumvallation; or what the Romans termed vallum, and the Hebrews, חֲרֵסָה.

These two regulations Moses enforced still farther, by connecting them with religion; declaring that they were to be sacredly observed out of respect to the Deity, as peculiarly present in the camp of Israel. For because God was in an especial manner the king and leader of the Israelites, and graciously present in their camp to give them victory; and because the ark of the covenant, which was his seat within the holy of holies, was taken with them to the field; their whole camp was to be considered as a sanctuary, and not to be dishonoured by any thing unsuitable to its sanctity. We must also here bear in mind, that the Orientals pay much more respect, in point of external cleanliness, to their sacred places, than we commonly do to our churches: for I recollect learning somewhere, that an Englishman, who thoughtlessly did on the wall of a mosque, what is done every day on the walls of churches at London, was instantly seized by the Turks as a defiler of their sanctuary, and could only escape being put to death, by turning Mahometan.
CHAPTER III.

ECCLESIASTICAL POLICE.

ART. CLXXXIII.

Premonition respecting the View taken of this Subject.

... Before entering on the consideration of that part of the Mosaic police law, which relates to ecclesiastical matters, I find it necessary, to give the reader a premonitory notice, that I may not be misunderstood, and, to well meaning people, who do not attend sufficiently to the design of this work, give either cause of offence, or of heretical accusation. — I must here speak of various Levitical laws, which God ordained as prefigurative of a future dispensation, and which, though somewhat darkly, yet still, according to the genuine explanation of the Old Testament, spoke to the Israelites the doctrines of the gospel. It is not, however, in this religious view that I am to consider them, but only in the light in which they would appear to a civilian, or to a person philosophizing on legislative policy. I do not, however, thereby deny their figurative signification and prophetical reference to Christ, as I have been charged with doing. I only do not speak of these things in this work, because they do not fall within its design. But if any one wishes to contemplate these ceremonial laws in
the other point of view, which is properly theological; and if, withal, he has as much resolution as, under the penalty of heresy, to take me for his guide, he has nothing more to do than peruse my (Entwurf der typischen Gottesgelahrtheit) Scheme of Typical Theology, in the edition of 1763; and I request that he will neither insist that I should disgust other readers by here improperly repeating what I have already written in a work which is in more hands than my Mosaic Law can be, nor conclude that I deny what I cannot now notice, in conformity with my present design.

To candid readers, a single example will suffice to explain my meaning. That I consider the sacrifices prescribed by Moses as typical of Christ, and that I believe them not only justly applied to him by the apostles in the New Testament, but to have been actually appointed by God with that express design, and previously explained in the book of Psalms in that as their genuine meaning, cannot be unknown to any reader of my Dogmatics, (§ 92.) or of my Exposition of the Epistle to the Hebrews, or of my Critical Lecture on the XLth. Psalm; although he may never have seen my Scheme of Typical Theology, above mentioned. But in the present work, I do not consider sacrifices in so far as they are types of Christ; I regard them merely in a legal and political view. If I did otherwise, I should deviate from my proposed design, and by drawing up a system not of Mosaic jurisprudence, but of Mosaic Theology in Types, become intolerable to all readers, who were not directly in quest of theological information.
The Author’s Defence of his Work. [Art. 184.

I should not have thought of giving this premonition, but have supposed that in this work, no one would have expected anything beyond what its title promised, had I not, with the view of preventing, as far as possible, all cause of offence, and all improper impression as to the nature of my book, been led to do so in consequence of two Reviews of the First Part, that have made their appearance; one of them, indeed, by a very worthy man, to whom, notwithstanding the favourable opinion he entertained of me, it appeared suspicious that I made no mention of Christ: but the other, by some anonymous fanatic in the Halle Journal, (Hallische Zeitung); the editor of which Journal being soon after changed, declared it, without any suggestion on my part, no better than a defamatory libel, and requested its unknown author to call for the remainder of his MS. as no more of it would be suffered to appear in that publication.

PART I.—OF CIRCUMCISION.

ART. CLXXXIV.

Who were to be circumcised?

§ 1. Every male, who was to become a member of the Israelitish church, was necessarily subjected to circumcision, and by that process he became, of course, at once a member of the nation and church of Israel.
Art. 184. ] Circumcision of Abraham's Posterity. 59

With the circumcision of females, which is also practised in some southern countries, we have here no concern, as it was not introduced among the Israelites; and Moses, in his laws, speaks only of the circumcision of males.

There were three descriptions of persons on whom this operation was ordered to be performed.

I. All the posterity of Abraham, and consequently, all born Israelites, Gen. xvii. 9,—14. Lev. xii. 3.

On this law I must make two remarks, which relate to history.

1. In the first place, the Ishmaelitish Arabs observed this law so sacredly until the time of Mahomet, that upon this very circumstance the circumcision of the Mahometans is founded. In the Koran, we find no command given on the subject of circumcision; but its author was an Ishmaelitish Arab, and preached to his countrymen. Now, the people to whom he originally published his religion, and who soon propagated it by their conquests, had previously used circumcision as a holy custom; and, from a misconception, in fact, they now universally introduced it as a part of religion. Mahometan circumcision is probably no imitation of Jewish, but an original Ishmaelitish, usage, which both Ishmaelites and Israelites had from their common ancestor, Abraham, and revered as a divine commandment. Jerom, who lived not quite 200 years before Mahomet, and might know the fact, informs us, in his remarks on Jer. ix. 24, 25. that the Saracens who inhabited the desert, were circumcised; which is precisely the very same thing as if he had said, that the Ishmaelitish Bedouins were so; of
which, whoever doubts, will be satisfied, from his calling them a little after, the Ishmaelites of the desert. The passages are, Multarum ex quadam parte gentium; et maxime, quae Judææ Palæstinaeque confines sunt, usque hodie populi circumcidentur, et præcipue—omnis regio Saracenorum quæ habitat in solitudine; and, Cum præter Egyptios, Idumæos, Ammonitas, Moabitas, et Ismaelitas in solitudine commorantes, quorum plerique pars circumcisa est, omnes aliae nationes in terra incircumcisæ sunt. So that the Ishmaelites were certainly circumcised 200, or at least 150, years before Mahomet, who therefore did not introduce the practice, but adopted it into his religion, as a national custom among his countrymen.

2. My second historical remark is the following.—When the Jewish king, John Hyrcanus, conquered Idumæa 129 years before the birth of Christ, he gave the people their choice either to leave the country, or to remain in it on condition of submitting to circumcision*. They preferred the latter alternative, and from that time became one people with the Jews.—Josephus does not, indeed, expressly mention it, but still it is very probable, that Hyrcanus may, on this occasion, have appealed to the command relative to circumcision given in Gen. xvii. to all the posterity of Abraham. The Edomites were Abraham's descendants as well as the Jews; and from Jer. ix. 24, 25., where they are numbered with the nations circumcised in the flesh, but uncircumcised in heart, it seems to follow, that circumcision was in use among them in

Art. 184.] Circumcis. of Edomites, not Persecution. 61

Jeremiah's time, that is, at the period when Nebuchadnezzar first destroyed Jerusalem. It must, however, afterwards have gone into disuse, probably in the reign of Antiochus Epiphanes*, else would not Hyrcanus have found it necessary to introduce it again. It would appear that this conqueror wished to incorporate the Edomites completely with the Jews, and with that view, insisted on the revival of their ancient practice of circumcision. At any rate, this object, which was quite suitable to the spirit of conquest, was so fully attained, that we find Josephus using this expression, From that period they have become Jews. Now although this was in a manner compelling them to naturalization, it was by no means subjecting them to religious constraint or persecution, in the proper sense of the term. Indeed it could not, with any justice, be so considered, because those who chose to abide by the opposite opinion, had it freely in their power to emigrate. At the same time, there must have been some special cause that could induce a whole people to submit so obsequiously to this irksome and painful condition imposed upon them by their conqueror, and to continue in the country; for among us, hundreds of thousands would be found determined either to emigrate, or to risk their lives anew to recover their liberties and their lands, were a Mahometan conqueror to issue an order for their circumcision. But, as I have just said, by being circumcised, a man did not so much change his religion, as his nation; with this sole exception, that he thereby

* See Macrob. i. 42, and my remark thereon.
Itureans circumcised, &c. [Art. 184.

bound himself to worship that one God, whom, as Hagedorn expresses it in his first poem,

The saint, the savage, and the sage,
Alike believes, and feels, and owns.

Now, besides this, circumcision had but a short time before, perhaps not 40 years, been a custom among the Edomites, derived from their ancestors, and was at this very time in use among their neighbours and relations the Ishmaelites.

In this view of the matter, it would be impossible to find in history any circumstance of the kind, that savoured less of persecution. But, at worst, it was not of the nature of that persecution to which Louis XIV. had recourse, when, in breach of sacred treaties, he determined to make the Hugonots Catholics, and would not so much as grant them liberty to become exiles from their country. It is rather to be classed with that more tolerable and equitable kind of it, of which we have an instance in the conduct of Leopold Antony Eleutherius, archbishop of Saltzburg, who, in 1730, allowed from 20,000 to 30,000 of his subjects to emigrate on account of their religion. Only there is this difference, that he was thereby a loser, whereas Hyrcanus was a gainer.

Upon the very same principle, and because they sprung from Abraham (Gen. xxv. 15.), Aristobulus appears to have insisted on the Itureans being circumcised, unless they chose rather to emigrate.—See Joseph, Antiq. lib. xiii. c. xi. § 3.

II. Every bond-servant among the Israelites, or rather, among the descendants of Abraham in general,
was obliged to submit to circumcision, Gen. xvii. 12, 13, 27. Exod. xii. 44. No option was here left him, nor is any thing said as to his having any course of previous instruction to attend, or as to the necessity of his being convinced of the truth of the revealed religion of the Israelites, as a prelude and a requisite to circumcision. It was not, therefore, what we term a change of religion, nor yet a sacrament, such as either of those which we have in the New Testament, whereby a spiritual grace could be communicated; but merely a political obligation on the part of the slave, to worship none save that only God whom all men acknowledge; and that was at any rate prohibited in Palestine under pain of death. If the slave bound himself to any religion, it was not to that revealed to, and in heart believed by, the Israelites, but to that of nature, rendered visible by external signs. In opposition to this last, no outward idolatry could be practised; and to internal belief of the heart, the circumcision to which the slave was compelled to submit, certainly could not bind him.—But on this subject I have already spoken more fully in Art. CXXVIII.

III. If a stranger wished to become a member of the Israelitish church and nation, and to partake of the passover lamb, it was necessary that he should be circumcised, Exod. xii. 48. It rested, therefore, entirely with himself, whether he would or would not submit to this operation; only in the latter case, he could not be nation-
that a stranger, even when in the service of an Israelite, if only not his slave, would not partake of the paschal lamb; and he was consequently regarded as remaining uncircumcised. The words of Moses are, *Foreigners and hired servants may not eat thereof.* If a stranger who dwelleth among you, wishes to celebrate the passover in honour of Jehovah, all the males of his house must be circumcised; and then he shall be regarded as a native, and may keep this feast; but no uncircumcised person shall partake of it. Here, therefore, circumcision was no conversion to the faith of an Israelite; for even an uncircumcised person might adopt the Jewish creed: but it was becoming naturalized, and renouncing foreign idolatry.

On this subject, it is necessary that we enter yet a little farther into detail, and distinctly point out those persons whom neither the civil law of Moses, nor any other divine command whatever, required to be circumcised. Foreigners living among the Israelites are nowhere enjoined to be so, but are left perfectly at liberty. A stranger, as indeed Solomon, in his dedication-prayer, (1 Kings viii. 41,—43.) seems to expect would happen, might bring an offering even into the temple, without being circumcised; and this I infer not only from the silence of Moses, and the want of any prohibition, but also from this, that even under the second temple, when the Jews were much stricter, offerings were accepted in the temple from heathens,—from absolute idolaters. Every one that chose, although even *more* than uncircumcised, might reverence the true God, and make offerings unto him.

Whoever also acknowledged the revealed religion
of the Jews to be divine, was not, according to it, under the least obligation to be circumcised. This is a point, which is very often misunderstood, from circumcision being always represented as a sacrament equivalent to baptism, and from its being inferred, without any authority from the Bible, and merely from that arbitrary notion, that since the time of Abraham, circumcision became universally necessary to eternal happiness.

Moses has nowhere given any command, nor even so much as an exhortation, inculcating the duty of circumcision upon any person not a descendant or slave of Abraham, or of his descendants, unless he wished to partake of the passover: and in the more ancient ordinance relative to it, mention is made only of Abraham's posterity and servants, Gen. xvii. In none of the historical books of the Old Testament do we any where find the smallest trace of a circumcision necessary to the salvation of foreigners, who acknowledged the true God, or requisite even to the confession of their faith; no, not so much as in the detailed story of Naaman, 2 Kings v.; in which, indeed, every circumstance rather indicates, that the circumcision of that illustrious personage can never be supposed. In later times, indeed, long after the Babylonish captivity, there arose among the Jews, a set of irrational zealots, with whom the apostle Paul has a great deal to do in his epistles, and who insisted on the circumcision even of heathens, as necessary to salvation. But they were opposed not only by the apostle, but also, even before his time, and without any view to Christianity, by other temperate, but

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Circumcision of converted Heathens. [Art. 184.]

Strictly religious Jews. Josephus, in book xx. chap. ii. § 5. of his Antiquities, has pointed out the following remarkable instance of this.

Ixates, king of Adiabene (that is, of Syria, in its most limited sense) had formerly, when an appanaged prince, got acquainted with a Jew, named Ananias, by whom he was brought to a conviction of the truth of the Jewish religion. When he mounted the throne, at his father's death, he discovered that his mother Helena was likewise very much inclined to that religion; and soon after, he began to entertain conscientious doubts, whether he could be a real Jew without circumcision; and, therefore wished to undergo that operation. But his mother, whose conscience does not seem to have been so strait-laced, opposed the scheme on political grounds, because it was too dangerous, and because the Assyrians, if he persisted, might probably dethrone him, and put one of his brothers in his room. Ananias, his instructor in the Jewish religion, being consulted, expressly declared himself entirely of the mother's opinion, and added, that he would instantly leave the king, if he received circumcision, because he would be in danger of being brought to trial and punishment, as a person who had suggested unseemly conduct to the king (ιδασκάλος το βασιλε απεσπευ αργων γενομένως); that the king might revere the true God, even without circumcision; and that that was the essential point, even if he did adopt the hereditary customs of the Jews.

This answer of Ananias was perfectly rational, and conformable to the Mosaic statute, which does not prescribe circumcision to heathen believers of the
true religion. It was just such an answer as the apostle Paul, or the Christian church at Jerusalem, whose decree we find in Acts xv., would have given. King Izates followed his advice for a time, and rested satisfied: but there afterwards came from Galilee, a foolish zealot, named Eleazar, who, exactly in the style of the zealots for this rite, described by St. Paul in his epistles, urged the king to circumcision. To this man he listened, and was circumcised accordingly. Fortunately it was attended with no bad consequences, and his Assyrian subjects did not take it amiss that their king had become a perfect Jew. But, in fact, Judaism was at this period by no means an unfashionable religion in a sovereign; many of the kings of Syria and Arabia, and especially those of Arabia Felix, being attached to the only rational religion, which inculcated the belief of one God.—The urgent zeal of this Galilaean, for circumcision, was what peculiarly characterized the period immediately preceding the destruction of Jerusalem. In the whole history of Josephus we find not before this period a single instance of it; nor can we read this author, without observing that he approves of the moderation of Ananias, in dissuading Izates from circumcision, and only relates, of its zealous advocate, what he did and effected.

The same zeal for the rite of circumcision, to which, contrary as it was to the law, the Jewish preachers of the law wished to make even heathens submit, is sufficiently known to us from St. Paul's epistles, which, in their turn, receive some light from the relation given by Josephus. A new sect, far sur-
passing even the Pharisees themselves in zeal, had at this time started up among the Jews, the members of which exhibited a degree of violence bordering on maniacal fury, and at last hurried the nation into the war, that terminated in the utter ruin of its whole polity. This sect, which sprang from a Galilæan of the name of Judas, professed, in general, Pharisaical principles, but carried them to an immoderate length, particularly in civil points. What Josephus, who was a moderate Pharisee, and disapproved their conduct, relates of their determined obstinacy towards the conclusion of the war, indicates almost absolute madness; at the same time that the bravery which it manifested, does them honour. But enthusiasts they were, and that to a certainty.

To return, however, to circumcision; Josephus informs us, that the Jewish rebels, who were under his command, wanted to compel even two Arabian Emirs, who joined him, to submit to this rite; but he adds, that he would not allow it, and had convinced his countrymen, that religion should never be under constraint, but every man left to worship God as he thinks fit*. It will now be manifest, on whose side those theologians are, who imagine, that under the Old Testament, every man who wished to be saved, or to worship the one true God, was obliged to submit to circumcision. They certainly are not of Paul; no, nor so much as even of Ananias or Josephus.

Still the remark of the apostle, Gal. v. 3. Whoever submits to circumcision is bound to keep the whole law.*

*Vita Josephi, § 23.
Art. 185.] Other nations practised Circumcision.

is highly important. In fact, every man who did so, thereby passed over to the Israelitish people, and bound himself to abide by all the Mosaic laws; which were never given to other nations, and affected that people alone. Paul, therefore, could not have made a more correct assertion than this: and the epistle to the Galatians will be better understood throughout, if we are acquainted with these Jewish controversies, and remember that God never commanded any but the descendants and slaves of Abraham to be circumcised. Only it will be observed, at the same time, that the very question which was started at the Assyrian court, is decided by the apostle much more fully, and with more scrupulous anxiety for the consciences of doubters, than by Ananias, in the case recorded by Josephus. Ananias, however, may on that occasion have said a great deal that Josephus neither recorded nor knew: for at the time of the conversations of Ananias with the Assyrian monarch, the Jewish historian was hardly born.

ART. CLXXXV.

Of Circumcision among the Egyptians and Abyssinians; and whether it be more ancient among the Egyptians than the Hebrews, or conversely.

§ 2. I must now beg leave to make a digression, pretty much of an antiquarian cast, and relating to a question, which I should in most cases rather leave to the subject of Jewish history or antiquities; but which I find it necessary to introduce here, from the
great influence it has, on what I shall afterwards have to say, concerning the design of the appointment of circumcision.

That other nations besides the Israelites had had this custom, and retain it even to the present day, is well known: but of these, in an investigation of the Mosaic law, only two can come into our consideration, namely, the Egyptians and Ethiopians, who have practised it from time immemorial; so long, indeed, before the commencement of the Grecian historical records, that even Herodotus acknowledges the impossibility of ascertaining, by reason of its antiquity, which of the two nations might have had it first, or adopted it from the other.

The oldest Greek author who speaks of circumcision among the Egyptians in express terms, is Herodotus, in book ii. § 36. and § 104., on which passages, Wesseling's Notes may likewise be consulted. For the convenience of my readers, of whom but few perhaps will have an opportunity of recurring to the original, I will here give these passages in a translation. In § 36. (or according to other editions, § 33.) it is said, Other nations, those only excepted who imitate the Egyptians, leave the Verenda in their natural state; but the Egyptians circumcise them. And in § 104. (or according to other edd. § 98.) among other circumstances, wherein he observethat the Colchians resemble the Egyptians, and from which he is inclined to conclude that they might be a remnant of the army of Sesostris, he adduces the following: It is a circumstance of still more weight, that only the Colchians, Egyptians, and Ethiopians, have used cir-
Art. 185.] Herodotus quoted on this point.

*With respect to the Phœnicians, Herodotus seems to be in a mistake; although, indeed, Origen, on Rom. ii. 13., says something similar; p. 495. part iv. Benedictine edition.

† These, as Josephus has already rightly remarked, are the Israelites, who are often called Syrians by Herodotus and other Greek authors, and may with justice bear that name, because their ancestors were natives of Mesopotamia, which in Hebrew is denominated אֲרָם יְרָעָן, that is, Aram, or Syria between two rivers, and on that account reckoned themselves Syrians, Deut. xxvi. 5. What I have in that passage translated a wandering Mesopotamian, properly means a wandering Aramean.—Only Herodotus, who was not sufficiently acquainted with the Jewish history, erred in thinking, that they themselves admitted their having adopted circumcision from the Egyptians. They allowed that their ancestors had once lived in Egypt; and that may have misled the historian: but their circumcision they deduced from a divine commandment given them at a still earlier period.

‡ Who these Syrians on the Thermodon and Parthenius (two rivers of Asia Minor, that fall into the Black sea) may have been, has not, to my knowledge, been investigated. Wesseling, whose remarks on Herodotus serve to clear up so many other obscurities, is quite silent upon this point.—Tiglath-Pileser, king of Assyria, after the destruction of the Syrian kingdom of Damascus, carried a Syrian colony to the river Cyrus, (the Kor of modern geography) of course, actually to the neighbourhood of Colchis, or perhaps to Colchis itself. Now, could new colonies have gone thence across the Black sea, and settled on the Thermodon and Parthenius? If so, they might very possibly have been circumcised; for Damascus had, in the time of David and Solomon, been long subject to the Israelites; not
they first received it but lately from the Colchians. These are the only nations who practise circumcision, and they seem all to have borrowed it from the Egyptians. But with regard to the Egyptians and Ethiopians themselves, I cannot tell which of the two nations learnt it from the other, because it is a custom of such high antiquity among them. But, that other nations had it from the Egyptians, this is to me a strong proof, that those Phœnicians, who have intercourse with the Greeks, no longer imitate the Egyptians, nor use circumcision.

Diodorus Siculus, the second Greek author whom I quote on the subject of circumcision, expresses himself with much more caution. Some, says he, book i. chap. 26., account the Colchians in Pontus, and the Jews between Syria and Arabia, Egyptian colonies; because these nations circumcise their male children soon after birth; which ancient practice they seem to have brought with them from Egypt.—Thus much, however, appears certain from his account, that the Egyptians must, even in his day, have had circumcision from time immemorial. In chap. 55. he repeats this more than once, but only as a saying; It is said that part of the army of Sesostris remained behind on the Palus Mæotis, and were the ancestors to mention, that ancient authors do, besides, sometimes ascribe circumcision to some Syrians who were not Israelites: Perhaps those very Colchians, with black, curled hair, who practised circumcision, were descendants not of Egyptians, but of the Syrians that were carried from Damascus to the Kor, or sprung at least from a mixture of those Syrians with the ancient inhabitants! I throw this out, however, merely as a conjecture; about the fate of which I am not very much interested.
of the people of Colchis. As a proof of their Egyptian origin, it is stated, that they use circumcision, as the Egyptians do; which custom may have been preserved in the colonies, as it still continues among the Jews.—

And in b. iii. chap. 32. he says of the African Troglodytes on the Red Sea, All the Troglodytes are circumcised like the Egyptians; those only excepted, who, on account of their bodily imperfection, are called Curti; that is, have naturally no prepuce.

The third author is Strabo, who, in b. xvii. p. 1140, (or 824) reckons it among the customs of the Egyptians, that they circumcise boys and girls, as the Jews also did; who were, however, originally Egyptians.

Philo Judaeus likewise, who had lived in Egypt, and consequently is an unexceptionable witness, in his book, De Circumcisione, (p. 210. of the 2d Part of Mangey's edition), in order to insult the Jewish circumcision, contrasts it with that of the Egyptians. It is, however, (says he) in use among other nations, particularly the Egyptians, who are accounted one of the most populous, ancient, and learned nations; and by them it is observed with very great zeal and strictness.

Josephus not only quotes Herodotus on the subject of Egyptian circumcision, without contradicting him; (in his Antiquities *, somewhat hastily, indeed, yet with this very accurate remark, that in Palestine there are no other circumcised Syrians than the Jews; and also in his treatise, Contra Apionem †, more correctly, and with the addition of the same remark;) but he likewise throws out against Apion, who was an Egyptian,

* Lib. VIII. c. 10. § 3. † Lib. i. c. 22.
and ridiculed the Jewish circumcision, this retort, that the Egyptians themselves used this practice, and, as Herodotus thinks, even carried it to other nations, (Contr. Apion. ii. 13.); while yet it is very clear from this very passage, that all the Egyptians were not circumcised: for he immediately adds, that Apion himself, whom he had described as an Egyptian, was circumcised in his old age, on account of an ulcer, and, of course, had been before uncircumcised. But, in fact, circumcision among the Egyptians, as shall immediately be shewn, was obligatory on the priests alone.

That Pythagoras must have submitted to circumcision before he could obtain access to instruction in the secret doctrines of the Egyptian priests, is too well known to require proof here by quotations. His example, in the mean time, confirms what has just been said of circumcision among the Egyptians. But that passage of Origen, which asserts in general, that no person uncircumcised could get access to the Egyptian sciences and sanctuaries, is so important, that I must give it entire. We find it in his Commentary on the Epistle to the Romans, chap. ii. 13. at p. 495. of part iv. of the Benedicinite edition of his works. Addressing himself to the heathens, he says; *Nam apud Aëgyptios, qui in superstitionibus vestris et vetustissimi habentur et erudissimi, a quibus proprie omnes reliqui ritum sacrorum et ceremonias mutuati sunt; apud hos inquam nullus aut geometrica studiabat aut astronomia, quae apud illos praecipue ducentur, nullus certe astrologiae et genesees, qua nihil divinius putant, secreta rimabatur, nisi circumcisione suscepta. Sacerdos apud eos, aruspex, aut quorumlibet sacrorum minister, vel ut*
Art. 183.] Egypt. Circumcision noticed in Scripture. 75

illi appellant, propheta omnis, circumcisus est. Literas quoque sacerdotales veterum Aegyptiorum, quas hieroglyphicas appellant, nemo discebat, nisi circumcisus.—

With everything relating to Egypt, Origen, who was not only a native of that country, but a man of uncommon erudition, had such a perfect acquaintance, that no one can hesitate to rely on his testimony.

Two other later authors, who merely borrowed their materials from Herodotus and Diodorus, and were, besides, controversial writers against the Christian religion, viz. Celsus and the Emperor Julian, I do not quote, because their testimony is of less weight; observing only, that Cyril, in his Refutation of Julian, (lib. ix. p. 298.) admits the circumcision of the Egyptians.

Even the Bible itself seems to represent the Egyptians as circumcised. When it is said in Jer. ix. 24, 25. Soon come the times when I will judge all the circumcised who are uncircumcised, Egypt and Judah, and Edom, and Ammon, and Moab, and all with round-shorn hair, who dwell in the desert; for all heathens are uncircumcised, and Israel has an uncircumcised heart;—it is manifest, that the Egyptians, Edomites, Ammonites, Moabites, and Bedouin Arabs, are described as nations who were circumcised as well as the Jews, but had withal uncircumcised hearts. Still more weighty is the passage, Josh. v. 9. from the antiquity of the period to which it refers. When the Israelites, who had long discontinued circumcision, were, at their entrance into Palestine, circumcised, God said, that he had now freed them from the reproach of the Egyptians. The Egyptians must, therefore, have been at that time circumcised, and have reproached the Israel-
76 Circumcision still in Use in Egypt, &c. | Art. 185.

On this passage, however, others have observed, that perhaps the whole people of Egypt were not circumcised, but that only the priests were obliged to be so, although persons of other classes might therein imitate them. This point is very clearly treated in Vonk's Specimen Criticum in varios auctores cum observationibus miscellaneis, p. 60. I shall only here add the words of Horapollo; A Cynocephalus (in the hieroglyphic language of the Egyptians) denotes a priest—because that animal is born circumcised, and the priests observe circumcision very carefully.

Circumcision has maintained itself in Egypt until this day, not merely through the influence of the Mahometan religion, but also as a national custom, and that even among the common people. From Niebuhr's Description of Arabia, p. 76,—80. we see, that in Egypt, Mahometan females are frequently circumcised; although this is no part of that religion, nor in use among the Turks; and also, that the Coptic Christians are wont to circumcise their sons. That the Abyssinians, although they be Christians, and do not deem circumcision a divine command; nevertheless practise it as a national custom, and upon both sexes; is well known from Jobi Ludolphi Historia Æthiopicæ, lib. iii. c. 1.; and that even in Western Africa, between 16 degrees north, and 16° south, many nations, not Mahometans, use circumcision, while others do not, and both are, therefore, to each other objects of contempt, we know for certain from Oldendorp's His.
A controversy has arisen on the question, whether the Israelites had circumcision from the Egyptians, or the Egyptians from them; in which, perhaps, neither party is altogether in the right. The one people must, no doubt, have had it first, and the other have got it at a later period; but it by no means thence follows that the one adopted it from the other.

Herodotus and Diodorus thought, that the Israelites might have had circumcision from Egypt; but from the manner in which they express themselves, and the mistakes intermingled with their narrations, we immediately perceive that they had been but very imperfectly informed with regard to the Jews, else would Diodorus have been able to say with perfect certainty, that the Jews were descended from the Egyptians, which he only mentions with hesitation; and Herodotus takes not the smallest notice of it.

Their testimony, or rather their opinion, is, besides, of no weight, because this is a point of antiquity going so far beyond the earliest accounts of the Grecian history, that both of them might have said, what Herodotus says of the Egyptians and Ethiopians, that the custom was too ancient for him to be able to decide which of the two nations had it first. From the writings of Moses, the native historian of the Hebrews, and who lived more than a thousand years before Herodotus, it is certain, that the ancestors of the Israelites were already circumcised, when they went down to Egypt, and, did not, therefore, first adopt the practice during their long continuance in that country.
That Josephus should quote Herodotus without contradicting him, is nothing to the purpose. He only means to prove from him, that the Jews had not been an unknown people, and that Sesostris had conquered Judæa; and if Herodotus was mistaken as to another fact, Josephus was not called upon to point out, and rectify, en passant, all his errors.

On this subject, therefore, no person who has the least idea of historical probability, can now assent to the opinions of Greek authors of so much later date, and more especially considering that they are besides chargeable with the faults of regarding all foreign nations, whom they termed barbarians, with contempt, and of not being acquainted with the languages and native authors of those countries whose histories they undertook to write. Their yea or nay, therefore, is worth nothing at all, where we have native documents that contradict them.

But there is another question very different from the preceding, although commonly confounded with it, viz. Was circumcision at the time when, according to the testimony of Moses, God gave Abraham the command respecting it, quite unknown on the face of the earth? or was it already a custom among other great nations, such, for instance, as the Egyptians and Ethiopians? I cannot deny that I am here of the latter opinion, and that for the following reasons.

When we consider the style of the xvii. chapter of Genesis, it does not look as if the command it contains, regarded a surgical operation altogether new, and before unknown; and one too, so painful and dangerous as the circumcision of adults—
Abraham is merely commanded to circumcise himself and all the males of his house. Now, although we have among us circumcised Jews, such a command would not, perhaps, even now be understood by many Europeans, unless a description were annexed, and express mention made of what the prepuce was (a term which most people, that are not physicians, know only from the Bible, without rightly understanding what it means), and how it was to be circumcised. If then circumcision had at that time been practised by no people whatever, a very circumstantial description of the operation must necessarily have been given. But we find nothing at all of the kind: the mere expression, Circumcise the prepuce of the parts, was sufficiently intelligible to Abraham.—We should almost think, that as long as circumcision was not at all in use, that part of the body would hardly have had a name in common language, because it is not very noticeable, and we have no need to speak of it. Even in German, we only know the word Vorhaut (prepuce) from the Bible; and it is easy to perceive the apposition by which our language became possessed of a word which it had not originally. But Orla (עַל), the well-known word for the prepuce, in the writings of Moses, is a word whose etymology cannot be at all traced farther.—Circumcision may be performed in more ways than one. The present Jewish mode is actually different from that of the Mahometans, Egyptians, and Ethiopians. But so little is said by God in the first passage where circumcision is instituted, that we cannot so much as know with any probability what species of it he commanded; yet Abra-
Abraham probably acquainted with it. [Art. 185.

ham must have understood him, and consequently the meaning of the term must at that time have been clear, from the practice it expressed.

Should it be said, that God may have given to Abraham a description of the surgical process, although Moses has omitted it, because it was sufficiently known in his time, it still remains incomprehensible how it could have been, as is expressly mentioned in Gen. xvii. 26, 27., in one and the same day, performed on the whole house of Abraham, to which even some years before, there belonged, exclusive of children and bought servants, 318 born servants, capable of bearing arms. This, we should think, must certainly have required the employment of people perfectly accustomed to the operation. If they had no such operators, the business could not have been dispatched so expeditiously; for the person who was to perform circumcision, must necessarily have first learned it by trials, and unsuccessful attempts upon some worthless slaves.—And how can we, without supposing a very great miracle, of which, however, Moses says not a word, imagine, that if all the servants of Abraham were previously uncircumcised, they would all have submitted to so painful an operation at his mere command. Let us only figure to ourselves what would now happen, if any nobleman should order several hundred peasants to be circumcised in one day?—They would all make resistance, or, at least, no one would assist in forcing others to submit to what they would afterwards compel him to submit in his turn. Now, what could Abraham alone, who could have no aid from the magistrate, have done in such a case?
Must we not think that the majority of his servants had been already circumcised, and that by their help he enforced obedience from the rest; but if so, circumcision could not have been very uncommon at that period among other nations besides the Egyptians.

In the xxxiv. chapter of Genesis, we find the sons of Jacob, when the prince of Sichem wished to marry their sister, insisting upon it as a preliminary condition, that he and his whole city should be circumcised; and adding the following reason, We cannot do such a thing as give our sister to a man uncircumcised. It would prove a reproach to us*. This would have been quite ridiculous, if Abraham's family had been the only one upon earth then circumcised: others would, perhaps, have laughed at them, but no one would have deemed it any reproach to them to let a daughter marry a man uncircumcised. To her lover, however, the proposal was so far from appearing preposterous, that he persuaded all the males of his city to submit to circumcision along with himself.

Now, if we farther recollect that the Egyptians certainly had circumcision when the Israelites left Egypt, and cast reproaches upon them for omitting that practice in the wilderness, we can scarcely avoid believing that it had been in use in Egypt before they

* This is precisely in the style in which Oldendorp, in p. 297. of his History of the Mission, &c. says, concerning the circumcised nations of Western Africa, "An uncircumcised person is an object of contempt; in their opinion he can have no understanding, nor speak rationally; and hence can obtain no wife."
came thither. For that the Egyptians, zealous as they were for the customs of their fathers, and considering their general aversion to foreigners, but above all, their great contempt of the Hebrew herdsmen, (Gen. xliii. 32. xlvi. 34.) should have adopted circumcision from a race of strangers so completely different in religion and manners, is indeed a very improbable conjecture.

Add to this, that circumcision still subsists, even where religion does not enjoin it, in Egypt and Abyssinia, and that, in these warm climates, it sometimes becomes necessary for medical reasons; and it will, at least, appear highly probable, that both these nations, whose land is, as it were, its natural seat, had had it earlier than the Israelites, to whom their great superiority in point of antiquity is indisputable.

From what Christ says in John vii. 22. Moses gave you circumcision, not indeed as if it had been properly of himself, but as a more ancient custom of the fathers; and therefore ye circumcise a man even on the Sabbath,—it seems almost to follow, that even among the people from whom Abraham sprung, circumcision had been in use, though he himself was not circumcised. For Christ makes this observation, in order to deprecate circumcision below other Mosaic commandments.

That, however, he would by no means have done, if by the fathers, from whom it was handed down; he had meant Abraham, who was circumcised by God's immediate command. It therefore appears, that by this term he meant the forefathers of Abraham; and it would not be improbable to suppose, that they might have been circumcised; for Abraham (as I
shall demonstrate in the 2d Part of my *Spicileg. Geog. Hebr. externte*), came from a northern province on the east side of the Black Sea; and that there were circumcised nations in that quarter, we have already seen from Herodotus and Diodorus. However, I do not chuse to build any historical facts on this obscure passage of Christ's discourse.

ART. CLXXXVI.

*The Designs of Circumcision.*

§ 3. **The first and most obvious design of circumcision**, as God expressly declared on its institution, was to serve as the sign of a covenant into which the posterity of Abraham were to enter with the only true God, to adore and reverence no other God but him alone. How it could be the sign of such a covenant, is now the more intelligible, when we recollect, that it already was, among the Egyptians, a custom of the priests. Abraham and his descendants, as soon as they were circumcised, were to be regarded as priests dedicated to the service of the true God. This institution, therefore, comes under that fundamental maxim of the Mosaic law, respecting the proscription of idolatry, of which we have treated in Art. XXXII.

But besides its figurative use, there may, perhaps, have been other purposes of a different kind, with a view to which, in a warm climate, God may, among many other possible signs of a covenant, have directly preferred this one: and it would, in fact, seem from John vii. 22, 23. as if Christ had considered it as an
ancient custom of the fathers, conducive to health. It is not my intention here to make a learned collection of what has been written on this subject, but only to speak of the matter as it now appears to me, since Captain Niebuhr has answered my 52d Question to the Arabian Travellers, in his Description of Arabia, p. 77,—80. I likewise overlook Dr. Vogel's Program, published in 1763, and entitled, Dubia de Usu circumcisionis medico, as not applicable to my design, because it treats the subject rather a priori, and without reference to accounts from the countries in question; and therefore, properly speaking, only starts doubts with regard to the medical uses of circumcision in Europe; which, however, cannot be directly applicable to more southern climates, and cannot, at least, controvert the information of writers who have lived in them, unless we admit, that there all physical circumstances are perfectly the same as in countries familiar to an European physician. But, at any rate, whether in Europe, and in those constitutions which a German physician commonly meets with in his practice, circumcision may have a medical use, was not the question which I proposed.

The ancient authors who treat of the circumcision of the Egyptians, and particularly of the priests, frequently consider it as a means of cleanliness. According to Philo, in his book, De Circumcisione, (ed. Mang. part ii. p. 211.) the cleanliness of the whole body, which in an especial manner is suited to the sacerdotal office, was meant to be the second object or recommendation of circumcision; and he adds, For this reason the Egyptian priests likewise cut off the hair;
Art. 186.]  A Preventive of Carbuncle.

for among the hair, and about the prepuce, all manner of filth collects, which ought to be removed.

That still more important use of it, to which Philo assigns the first place, seems to be a consequence of this cleanliness. This writer, to whom credit is due, at least in regard to Egyptian matters, says, in the passage just quoted, There are several reasons for which the ancients recommend circumcision, but particularly the four following. First, it prevents a very painful and troublesome disease, which, probably from the burning pain it occasions, is called carbuncle (ξυγαξε), and to which uncircumcised persons are more liable. This passage at once receives illustration and confirmation, when we consider what Niebuhr says in answer to my 52d Question. "It is certainly extremely useful in these warm climates, among those people who do not carefully wash themselves. Dr. Russel, the English physician at Aleppo, assured me, that in warm countries, humours collect about the glans, more abundantly than in cold ones; and a friend of mine in India, who, in that hot climate, kept himself clean only in the European way, was seized with a sort of tumour about the glans, which he would have had very little reason to apprehend, had he been circumcised. He afterwards washed that part of his body very carefully, and has since had no trace of any thing of the same kind. The washing, therefore, of the whole body, and especially of the Verenda, is very necessary in warm climates, and it is perhaps for this reason, that the founders of the religions of the Jews, Mahometans, Guebres, Pagans of Judea, &c. &c. have enjoined it.
"Christians who live among these nations, are also, "both for decency's sake, because they would other- "wise be despised, and from a regard to health, "obliged to pay particular attention to cleanliness. "And as a person who is circumcised, can wash him- "self with much less trouble than one who is not, "particularly if he dare only, like the Mahometans, "use one hand for the purpose, circumcision, in this "respect, affords a great convenience, and this may "be deemed a reason wherefore those nations among "whom it has been once introduced, take care to re- "tain it."—Now, although Niebuhr has in this pas- "sage no design of making this the main object of cir- "cumcision, it nevertheless becomes, from his relation, "a certain fact, that in warm climates it proves a pre- "ventive of that disease which Philocallas car- "buncle.—We find also in Josephus, a remarkable fact, illustra- "tive of this. It occurs in his second book, Contra "Apionem, § 13. and relates to Apion himself. This "man, who wrote with such virulence against the Jews, "and ridiculed their circumcision, was at last himself "obliged to submit to that operation, on account of a "tumour on his Verenda. But it was performed too late, "and availed him nothing. He died of the tumour in "great pain; and Josephus regards it as a just punish- "ment upon him, for his sneers at a custom which the "Egyptians themselves held sacred.

Philo ascribes yet another physical use to circum- "cision, conceiving it conducive to procreation. Qua- "rta et gravissima commendatio est, quod ad multitudinem "sobolis confert. Sic enim dicitur semen, neque dispersum "neque circumfluens proprutio rectius ejaculari, indeque
Whether he be right in this, I shall not here inquire, but leave it to the physicians to determine; and the reader may consult a Dissertation published at Halle, in 1742, by the Jewish physician, Solomon Benj. Wolfsheimer, *De Causis fœcunditatis Hebræorum, nonnullis codicis sacræ præceptis nitentibus*. But that in circumcised nations, the people are more numerous and prolific than in others, is, at least, not demonstrable from history. For we there find various instances where the very reverse appears to have been the fact: and at present, the countries, occupied by the Mahometans, are absolute deserts, compared to our Germany, although they neither suffer such loss of inhabitants by war, nor by emigration. At any rate, the influence of this practice on population, cannot be great; and I think that the physician who should most agree with Philo, would still allow, that what he says, can only apply to very weak constitutions, and not at all even to those of but a middling cast, and only bordering on weakness.

But, besides this case, there may be, and are examples of men, *quorum præputium nimis longum, ac coarc-tatum, opus est, ut circumcidatur, ut generando habiles fiant; quoniam coitum non sine magno dolore perferre possunt*. To this point, the 6th section of my 52d Question to the Arabian Travellers referred: and Mr. Niebuhr, in his answer, which I here subjoin, accounts this the most important use of circumcision. "We find (says he) both in the East, and in Europe, "cases, where it becomes necessary for this end; and "I think I myself saw one such case at Mosul."
Christian living there, who had been some years married to a young wife, without having any children, complained to me, that she upbraided him as the cause of her being obliged to denominate herself a barren tree. I assured him that I understood nothing of medicine, as he supposed from my observing the stars, because the Mahometan astronomers are generally physicians likewise. But as he begged day after day that I would give him medicines, I at last expressed a wish to accompany him home, that I might speak to his wife. To this he was at first averse, from the fear of his neighbours observing him to bring a stranger into his house. His wife, however, who in no other case would have appeared to a stranger, had not the least fear of conversing with the supposed physician; for European physicians and monks can visit the wives of Oriental Christians without suspicion, whereas other honest travellers must stop at the door, and be contented with the society of the husband. Maritumigitur quum illa perraro coeuntem exprobraret; Coitum, ait ille, nunquam expeteres, si meos inter coeuntum cruciatus tibi experiri liceret. It immediately occurred to me that a physician had, for a similar reason, loosened the constriction of the glans; and after a more minute enquiry and inspection, which I instituted with a very serious face, I found that this poor man would obtain relief by submitting to that operation. I thence conclude, that if he had been circumcised in his infancy, his wife would probably have had no cause of complaint, and he might have lived in peace, and had heirs. But the defect
"was not remedied, for the wife declared that she "would not allow the scalpel to be applied." But, after all, I do not believe, that any legislator or nation had, in the introduction of circumcision, any view whatever to this use of it: for the case is too rare to merit such consideration; and, as far as I can gather from Mr. Niebuhr's answer, it does not occur oftener in the most southern parts of Asia than in Europe.

A great naturalist, whose name, however, I am not yet at liberty to mention, some years ago, in an anonymous essay, threw out the idea, but merely *en passant*, that circumcision might have a moral use. This was a suggestion of much greater moment, and my readers might justly have charged me with unpardonable negligence, if, having it in my power, I had not inquired more particularly wherein this eminent scholar supposed the moral usefulness of circumcision to consist. I did so, in my first letter to him, and, in his answer of 21st April, 1770, he very briefly stated his conjecture, that it might serve to prevent self-pollution; and added, in a subsequent letter, that circumcised persons probably found it too painful.

Now, this would, indeed, be a very important use of circumcision, particularly in warm climates, where the propensity to the vice in question is much more violent, and where the manhood of boys is, at least, two years earlier, than with us: and we might almost ask, wherefore so benevolent a commandment, which thus prescribed an antidote to an evil so formidable, and not to be prevented by the greatest care of parents and tutors, should have been abrogated by God
under the New Testament, and not rather made universal by the Christian religion? or, wherefore he had not framed our nature otherwise in its original plan, and made, what is now but a rare exception, namely, the want of an elongated prepuce from birth, the rule of conformation in males? Were this moral use of circumcision demonstrable, every legislator would have reason, not only on moral, but also on political, grounds, to re-introduce this preventive of self-pollution, and to enjoin the circumcision of males soon after birth; because there cannot be a more dangerous enemy to population, than the prevalence of this habit.

These considerations made me still more attentive to the question, Whether circumcision was thus morally useful? but I have not been able to convince myself that it really is so, and I shall now state my reasons for adhering to the opposite opinion.

In the first place, it is obvious, that it never could prevent that species of self-pollution, which is effected merely by the power of imagination, and very closely approaches to the nature of *pollutiones nocturnae*, with this difference only, that the latter take place during sleep, and involuntary, but the former, while a person is awake, and altogether by the wilful indulgence of unchaste ideas, to a certain pitch. And this sort of self-pollution, in which the imagination alone operates, is, perhaps, worse than manustipation, properly so called; for it affects the mental powers the more, that the fancy alone is active in it, and does every thing. That almost fatuitous distraction of mind manifested by the victims of this
propensity, according to Tissot's description, must therefore, be the direct and pre-eminent consequence of indulging it; and to the enervation both of the mental and corporeal faculties, it cannot fail in other respects likewise to contribute. Nor will company, to which that man would naturally have recourse, who wished to avoid this abominable vice, always prove a sufficient preservative against it, because the fancy of such a man, distracted and unused to control, may, while he is silent, and seemingly immersed in contemplation, be at work, even in the society of others.—Against this worst species of self-pollution, therefore, circumcision can be no antidote.

But I should also doubt whether it were so even against actual manustupration; although I readily believe that there may be some particular species of self-pollution, that are painful to persons circumcised. In the Jewish books we find various extravagant regulations prescribed for the prevention of such practices; and the reader, who has no opportunity of consulting Rabbinical or Talmudical writings, will, in Buxtorf's Chaldaico-Talmudical Lexicon, p. 112, 113., meet with two passages, translated from them into Latin, explanatory of the nature of those practices. They must, of course, have been possible even to circumcised persons, and not so painful, as that the pain of them could serve as any preservative from them. A Jewish physician, of extensive practice among his brethren, would soon be able to decide this point: but Dr. Hirschel, of Berlin, the only one whom I personally knew, died just as I had it in view to ask him about it. Perhaps, however, some other Jewish phy-
Medical Use of Circumcision. [Art. 186.

sician may read this work, and answer the ques-

What circumcision does in men, nature herself
does in many species of apes, who, as circumcised
nations express it, are born circumcised*. Horapollo
expressly says, that this is the case with the Simia Cy-
nocephalus, or dog-snouted ape;—“γεννασιεριτερμη-
μενος,” lib. i. § 13. Now, were circumcision a preser-

Antic against manustupration, we might suppose that
nature herself had made apes, which are born cir-
cumcised, incapable of that odious act. And yet
they are addicted to it, even to madness, especially
the larger kinds of them. As I do not recollect any
book that I could quote in reference to this fact, I
shall merely mention, that as I once passed by the
cage of a large ape, in the city of Cassel, who was
very much circumcised, I observed him repeat this
disgusting act again and again, within a very short
space of time; and when I expressed to the keeper,
my astonishment at this, he informed me, that he
would do the same, times innumerable; and stated
the effects which it had on his bodily frame.

If I durst venture on such an abuse of the word
sin, I might say, that this would seem to be, in a pe-
culiar manner, the sin of apes. Can then circumci-
sion be any preservative from it?

It, therefore, appears to me at present, that we
must abide by the medical use of circumcision;

* That is, have the prepuce too short, and covering too little of
the glans. There are similar examples in the human species: and
the Jews reckoned seven saints, who were born circumcised. See my
Oriental Biblioth. part iv. p 94.
Art. 186.]  

**Medical Use of Circumcision.**

which, indeed, Christ, in John vii. 22, 23., as I have already hinted, seems to regard as a main design of its institution; *Moses commanded circumcision, which, however, comes not of Moses, but of the fathers; and ye circumcise on the sabbath. Now, if a man is circumcised on the sabbath, lest the law of Moses should be broken, how can ye be angry with me, because I have made a whole man sound on that day?—*I admit, however, that this passage has been very differently explained; and the reader who wishes to have more particular satisfaction respecting it, may consult Prof. Ernest Augustus Schulze's *Exercitationes philosophicae*, fasc. i. exercit. 3.
CHAPTER III.

PART II.—OF OFFERINGS.

ART. CLXXXVII.

Of Offerings, and their different kinds.

§ 1. In treating of the offerings of the Israelites, I do not enter into the consideration of their religious or typical purposes, the ceremonies wherewith they were accompanied, &c. &c.; as these particulars properly belong to Jewish theology or antiquities. I here consider them merely as connected with civil policy; and, indeed, much of what I have to say upon the subject, cannot be introduced even here, but must be reserved, till we come, in the sequel, to treat of penal laws.—To dispute about the definition of an offering would be no very pleasant entertainment for most readers; but the following division, which I repeat from my remarks on Levit. i., is indispensable to the illustration of the subsequent articles.

Offerings then, were either,

I. Bloody, that is, sacrifices properly so called, or animals slaughtered, which it was necessary should be clean. Human sacrifices, therefore, with which Voltaire charges the Israelites, could never be once thought of, according to the Mosaic statutes; and would, indeed,
Art. 187.] Bloody offerings—of clean animals only.

only have profaned the altar. This idea was carried so far, that we find Josiah, when he wished to desecrate the altars on which Jeroboam had sacrificed to the golden calf, causing human bones to be burnt upon them, 2 Kings xxiii. 15,—20. I do not, however, deny that the Israelites had, in imitation of Canaanitish idolatry, sometimes offered human victims: but this was an act prohibited by Moses, under the severest penalties, as will appear, under the head of Crimes against God, when we come to treat of criminal laws.—Nor were all even clean animals to be offered indiscriminately. Fishes were not brought to the altar, and hence to eat the blood of fishes is nowhere forbidden, but only that of birds and quadrupeds, Lev. vii. 26. It would seem, that all clean birds were allowed to be offered, Lev. xiv. 4,—7. The dove, however, was the most common offering of this class. Of quadrupeds, the three kinds of cattle, namely, oxen, sheep, and goats, were alone destined for the altar; but no wild beast durst be offered. And hence comes the expression, in the laws of Moses, Deut. xii. 15. 22. xv. 22. It shall be eaten, like the roe or the hart; when he means to intimate, that in killing a beast, all religious intention, and all idea of a sacrifice was to be avoided.—It is farther to be remarked, with regard to bloody offerings, that they were quite contrary to the custom of the ancient Egyptians, or at least, of many Egyptian districts, in which they were held in abhorrence; those offerings only being considered as morally good and acceptable to the Deity, which consisted of things without life; and besides, the beasts which the Israelites usually sacrificed, were so
highly esteemed, in those parts of Egypt, where the people accounted them sacred, or representative of the Deity, that the man who should have attempted to offer them, would have been stoned to death. Moses himself makes this remark, in Exod. viii. 26.; and it perfectly accords with the accounts, which the Greek authors give us of the Egyptian festivites often ending in bloody frays, on account of the victims slaughtered for offerings.

Bloody sacrifices were subdivided into three sorts.

1. **Burnt-offerings**, which were to be **wholly consumed** by fire, upon the altar.

2. **Sin-offerings** and **trespass-offerings**.—Of these, which were made on account of any sin committed, only a part was laid upon the altar; the rest either belonged to the priest, or was burnt without the camp. With regard to the distinction between them, which is here of no importance, my remarks on Deut. v. 1,—4. and vi. 2, 3., may be consulted. I am of opinion, that sin-offerings were made for sins of commission, and trespass-offerings for sins of omission; but in this, the reader, who only wishes to take a political view of the Mosaic law, will be little interested.

3. **Feast-offerings**, (שֵׁלָלָם) schelamim. Of these, only, the fat-pieces, such as the kidney-fat, and the fat-tail of a particular kind of sheep, were burnt on the altar: a small portion was allotted to the priest, and all the rest was appropriated to an offering-feast, and consumed by the offerer and his guests.

II. **Unbloody-offerings**, or those taken only from the vegetable kingdom, and in **Luther's translation**
Art. 188.][Unbloody Offerings.

Unbloody Offerings.

Art. 188.][Unbloody Offerings.

termed Speiseopfer, (meat-offerings). Their Hebrew name is (יהד) Mincha, or gift; and a Roman would have called them Farrea dona. They are fully described in the ii. chapter of Leviticus, and consisted of meal, bread, cakes, ears of corn, and parched grain. They could not regularly be presented as sin-offerings, except in the single case of the person who had sinned being so poor, that the offering of two young pigeons, or two turtle-doves, exceeded his means. To many meal-oblations, oil was necessarily added, or the cakes were baked with oil; but this was not the case, when they were the sin-offerings of poor people. To all meal-oblations, it was likewise necessary to add salt, and indeed, pure salt, that is, salt-petre, Lev. ii. 13.—See my Dissertation, De Nitro Hebræorum, § 7.

III. Drink-offerings, a sort of accompanyment to the two preceding kinds, and consisting of wine, which appears to have been partly poured upon the brow of the victim, in order to consecrate it; and partly allotted to the priests, who drank it along with their portions of both the bloody and unbloody offerings. See Exod. xxix. 40. Numb. xv. 5, 7.

ART. CLXXXVIII.

Offerings not allowed to be made in every place, but only at the place which God should afterwards appoint, and till that time, wherever the Tabernacle, or the Ark of the Covenant might be.

§ 2. These different offerings were not to be made any where, at the pleasure of the offerer, but only at
One appropriated Place of Offering. [Art. 188.

the particular place appointed for the public religious service of the whole people. A command to this effect was given even in the wilderness, and the punishment of extermination denounced against every one who should offer in any other place than at the tabernacle, Lev. xvii. 8, 9. This statute, however, must not have come into universal observance, nor the punishment been inflicted with the threatened severity; for the second statute relative to the unity of the place of offerings, which Moses gave almost 40 years after, and a little before his death, expressly says, (Deut. xii. 3,—14.) that they were not to do in Palestine every thing which they were then in the practice of doing in the desert, every one at his pleasure, not being yet come to their first habitation; and it commands them to offer nowhere, but at the place which God should choose as the seat of his worship. Wherever the tabernacle or the ark was, there they might, and should, in all ordinary cases, present their offerings, because there was the place chosen by God for the time. Nevertheless the statute did not prohibit offerings to be made at a place remote from the tabernacle, if a prophet so ordered; for in that case, the place was also of God's appointment. We must not, therefore, be astonished to find the prophets offering sacrifice at a great distance even from the temple, as Elijah did on Mount Carmel, 1 Kings xviii. 19,—40. It related merely to ordinary cases, and left it withal quite unascertained, what place of the promised land God meant, at a future period, to chuse, either for the erection of the tabernacle, or the building of a temple.

According to the prevailing ideas of mankind in
those times, the Israelites must have accounted many places in Palestine sacred, where their ancestors, Abraham, Isaac, and Jacob, had been favoured with divine manifestations, or had raised altars; such, for instance, as Sichem, Hebron, Beersheba, Mahanaim, Penuel, Bethel, and others. The expectation of the like cases (that rule, not indeed quite a logical, and yet a very natural one, by which we often regulate our ideas), would make it probable to them, that God would often appear where he had once done so, or that he would at least notice and accept, in a manner peculiarly gracious, the offerings and prayers presented in any such place. Yet they were not to be permitted to make their offerings in all such places, but only at one particular place, of which God reserved to himself the future choice.

The chief object of this law undoubtedly was, to prevent idolatry and other sorts of superstition, by a constant public superintendence of the offerings made by the people. This is clear from Lev. xvii. 1,—9. Had they had it in their power to offer anywhere, the universal propensity to idolatry in those times, would often have led them to make private offerings to idols, under the pretence of sacrificing to the true God; and even in those supposed holy places, where offerings would, perhaps, have been more frequently made to the true God, avarice might very likely have given rise to lying oracles; against the danger of both which evils, Moses seems desirous to provide, by the statutes in question.—See particularly Deut. xii. 4, 5, 6.

And, indeed, so scrupulously anxious is he with regard to the unity of the place of offering, that in the
passage where the prohibition (explained in Art. CLXIX.) of slaughtering oxen, sheep, and goats, for sacrifice, any where but at the altar, is repealed, and permission given to the Israelites to slaughter them at home at their pleasure; an express warning is also given them not to consider beasts thus killed at home, as at all sacrifices. *As the roe and the hart (which could not be offered) shall they be eaten, and the unclean shall partake of them as well as the clean, (which, in the case of a sacrifice, would have been a profanation), Deut. xii. 15, 16, 20,—22.* Among us, such an admonition from the lawgiver, would have been unnecessary; but if we figure to ourselves the case of a people who eat flesh seldomer than we do; who, indeed, rarely killed beasts but for sacrifices; and among whom, seasons of sacrifice were generally the only seasons of feasting; we shall easily conceive, that in slaughtering those kinds of beasts which were wont to be brought to the altar, they might very easily be led to entertain the idea of a sort of sacrifice, and make them offerings, *in intention*, at least, and perhaps too, even by some occasional ceremonies, had not Moses prevented it. We find him likewise giving, in Deut. xv. 21, 22. a similar warning with regard to the firstlings of oxen, sheep, and goats, that happened to have any bodily defect: they might kill and eat them at home, but were not to regard them as sacrifices, or as sacred.

What place God was afterwards to chuse as the scat of his worship, and to which offerings were to be brought, Moses no where signified, nor so much as hinted, but left it entirely to a future period to
ascertain. And before the time of David, perhaps no reader of his laws ever thought of Jerusalem, although in the Mosaic history it appears highly distinguished as the place where, as early as the days of Abraham, the true God had a priest, to whom the patriarch presented the tenth part of his spoils, Gen. xiv. 18,—20; and where, by the divine command, he was to offer up his son Isaac, and had, when on the point of doing so, a remarkable manifestation, from which Mount Moriah received the names, Jehovah seeth, and Jehovah is manifested, Gen. xxii. 14. It will now, therefore, be easy to conceive how it happened that the Samaritans received the Mosaic writings as divine, and yet had their temple, and made their offerings, not at Jerusalem, but on Mount Gerizzim, in the neighbourhood of Sichem. From the books of Moses, they could not be confuted; and if, as Josephus relates, the Jews held a dispute with them before Ptolemy Philometor, as to which temple was the right one, and both parties previously bound themselves by an oath to prove their pretensions from the law, I should be glad to know what evidence the Jews could have produced from any part of the law, in favour of Jerusalem, and against Sichem, which Moses himself mentions as an ancient offering-place of the patriarchs, Gen. xii. 6, 7. xxxiii. 18, 20.; and where, besides, the law was engraven on stones, an altar built, the observance of the law sworn to

* I beg those who have any doubts as to the identity of Salem and Jerusalem, to peruse the preface to my Typical Theology, ed. ii. p. 13. —72.
amidst sacrifices, and its blessings and curses pronounced, Deut. xxvii. 1,—8. (Art. LXIX. LXX.)—Verschuur * thinks, that they might have appealed to Deut. xxxiii. 12. The passage is well chosen, and I believe it really refers to the habitation of God at Jerusalem, which belonged to the tribe of Benjamin; but still, for a proof, it is somewhat obscure, and, after all, only proves, that God would have his sanctuary once within that tribe, but not that he would have it always. The ark and the tabernacle had been at several places, Shiloh, Kirjath-jeearim, and Zion, which last place lay in the tribe of Benjamin; and the Samaritans might therefore have answered, that that prophecy had been fulfilled by David's bringing the ark to Mount Zion, but that it did not thence follow that the temple ought to have been built on Mount Moriah, and that the pretensions of the temple near Sichem ought to be rejected. In fact, Josephus himself does not take notice of a single testimony from the law, but only of the testimonies furnished by history; and yet he tells us, that the Samaritans, being vanquished in the disputation, were punished with death. The whole story has the appearance of being a fable. Josephus, generally speaking, is an excellent and venerable historian; but still he might once light upon a fabulous document, and, from not criticising it, fail to remark its suspicious nature. The whole passage, however, which is very curious, deserves to be quoted, just because our knowledge of the Mosaic

* See his Dissertatio Critica, qua Lectio Hebr. Codicis, Deut. xxvii. 4. defenditur, § 18. p. 58,—60. of his Collected Dissertations.
law, proves it to be apocryphal; and I therefore here give it translated, as follows, from his Antiquities, b. xiii. ch. 3. § 4.

"The Jews and the Samaritans, the latter of whom had, in the time of Alexander the Great, built a temple on Mount Gerizzim, as the seat of their worship, quarrelled with each other at Alexandria about their respective temples; and their dispute proceeded so far, that Ptolemy himself became umpire between them. The Jews maintained that their temple at Jerusalem, and the Samaritans, that theirs on Mount Gerizzim, was the one built in conformity to the law of Moses; and they besought the king himself, together with the principal persons of his court, to hear the arguments of both parties, to pronounce a decision, and to punish the vanquished party with death."—It was rather strange to beg, that the advocate of the vanquished party should be capitally punished, particularly if both parties held the point which they respectively defended, to be, bona fide, as true as they here seem to have done. This, of itself, makes the whole story suspicious. It should rather have been agreed, that the temple of the party defeated, should be no longer resorted to.—"For the Samaritans, spake Sabbæus and Theodosius, and for the Jews, Andronicus the son of Messelam. Both parties had previously bound themselves by an oath, sworn by God and the king's life, to prove their pretensions from the law; and that under the king's guaranty, that the party whom he should find perjured, should suffer death. The king himself, therefore, sat in judgment, assisted by many of his court, and heard
"both parties."—How gracious and condescending! A strange sort of court, however, on a matter of religion; and a religion too, which, in the most essential point, differed so much from his majesty's creed, that he could hardly have any idea of it. Still, however, learned men may have been selected for his assessors.—"The Jews were in great anxiety for "the advocates of their temple;"—and, indeed, they had great reason to be so, if its claim was to be proved from the law;—"for nothing could have grieved them more than the idea of their ancient and renowned temple losing its credit. Sabbæus and Theodosius allowed Andronicus to speak first; and he began with proofs from the law, and the succession of the priests; and shewed, that the presidents of the Jewish temple had received the priesthood by legitimate hereditary succession from father to son;"—this he could not well prove from the law of Moses, who died so many centuries before its foundation;—"and farther, that all the kings of Asia had honoured this temple with magnificent donations, whereas to the temple on Gerizzim they paid as little attention as if it had never existed."—This was still less a proof from the law of Moses; but only from the history subsequent to the Babylonish captivity, and, after all, merely from the veneration or indifference of heathen kings towards the two temples. From the law, we have as yet had no proof whatever; and to all appearance, the executioner must have got some work to do, in dispatching the advocate of the Jewish cause. But!—"by these and other arguments of a like nature, Andronicus convinced the king, and obtained from
"him this decision, That the temple of Jerusalem " was built in conformity to the law of Moses; and " Sabbæus and Theodosius were put to death."—But to return.

As long, therefore, as there was no temple built, (a thing which Moses neither bade nor forbade), offerings were by this law necessarily made at the place where the tabernacle stood; in the fore-court of which, by the Mosaic ordinance, the altar of burnt-offerings was erected; but it seems at the same time obvious, that when the ark of the covenant, which was the greatest sanctuary of the Israelitish religion, and upon which God had his seat, happened to be in any other place, as, for instance, when it was taken with them into the field, there offerings might also be made.—Hence arose, in course of time, more than one place of offering; nor was this, properly speaking, repugnant to the Mosaic statute, which merely prohibited offerings in all places indiscriminately. In David's time, for example, the tabernacle and the altar of burnt-offerings, were upon what was called the great height of Gibeah (Gibeon, Eng. Vers.), and that, of course, was the solemn place of sacrifice.* David had had the ark of the covenant brought to Zion, and a tabernacle there erected for it, 2 Sam. vi. 17.; and thither also offerings were brought: and the Psalms frequently celebrate Jerusalem and Mount Zion, as the place that God had chosen. In addition to these, there was a third place, viz. Mount Moriah, on

* 1 Sam. vii. 1. 1 Chron. xxi. 29, 30. 2 Chron. i. 3,—6. 1 Kings ii. 4, 5.
which David was, by God himself, expressly commanded to offer sacrifices, and on which Solomon afterwards built the temple.

With these concessions, however, the Israelites were not satisfied; and in the times when they were governed by kings, the Mosaic statute went much into desuetude. It is true, indeed, that immediately after the conquest of Palestine, their zeal for it was so great, that the Cis-jordanic tribes menaced their brethren on the other side of the river, with a war, merely on account of a second altar which they had there built; and would have made good their threatening, if they had not received assurances that no offerings should ever be made upon it, Josh. xxii. 10,—34. But this zeal must, in process of time, have in a great measure evaporated; for in the reign of David, we find the law so much out of use, that Absalom, when in quest of a convenient place for commencing his rebellion, and getting himself crowned king, begged his father's permission to go and offer sacrifice at Hebron, in fulfilment of a vow, and obtained it, 2 Sam. xv. And yet at Hebron, there was neither tabernacle nor ark. The place, however, might have been deemed holy, because Abraham himself had there sacrificed, and had divine manifestations.—David had another son, Adonijah, who also wished to become king in his lifetime, and who likewise seems to have begun his rebellion at a sacrifice-feast; and this took place at Enrogel, a well about half a German mile from Jerusalem, on the east side of Mount Olivet, 1 Kings i. 9.—

* 2 Sam. xxiv. 18,—25. 2 Chron. iii. 1.
Art. 188.] Offerings illegally made on high places. 107

In the beginning of Solomon's reign, we are expressly told that the people sacrificed upon the high places; that is, here and there upon hills, which had been dedicated to the Deity, and were held sacred, 1 Kings iii. 2. And the historian (probably Nathan, 2 Chron. ix. 29.) who relates this, farther adds, that it was because the temple was not yet built. But the succeeding historians inform us, that even after the building of the temple, the same transgression of the Mosaic statute was still continued, even under the best of the kings*, until at last, but rather too late, Hezekiah and Josiah began to adhere more strictly to it. But when once a place had the character of sanctity, it became difficult to drive the idea out of the people's minds; and from the complaints of the prophets it appears, that the practice of sacrificing on the high places often degenerated into idolatry.—After their return from the Babylonish captivity, the Jews became, on the other hand, very strict observers of the law, and sacrificed nowhere but at Jerusalem; that single instance of transgression excepted, where Onias, rather immoderately officious, to fulfil a prophecy of Isaiah, which might have been already fulfilled long before, built a temple in Egypt†. But that piece of history is too remote from my present purpose; and I fear, many readers will think, that the whole of this historical digression might have been dispensed with.

* 1 Kings xxii. 43. 2 Kings xii. 3. xiv. 4. xv. 4, 35.
† Joseph. Antiq. xiii. 3.
Of the Influence of Sacrifices on Civil Society.

§ 3. Besides their primary and proper object, which regarded religion, the sacrifices of the Israelites had many political uses, or secondary objects. These will hereafter be considered separately, and at full length, when we come to treat of the celebration of the festivals; and also when, under Criminal Law, we speak of oaths, particularly of the oath of purgation. In the meantime, however, I think it will be useful previously to point them out in such a manner, as that they may be, as it were, surveyed at one view.

Among the Hebrews, long before the days of Moses, indeed from the earliest times, the most solemn oaths were wont to be sworn amidst sacrifices. They divided the victim in two, and passed between the pieces, and either in express words, or by that symbolic action, wished, if they were perjured, that they might perish in like manner. I shall not here repeat what I have observed on this head at greater length, in my 209th Remark on the Epistle to the Hebrews, but only thus far, that the oath of purgation, in the case of a wife suspected of adultery, was necessarily sworn over an imprecation-offering; and that the oath of allegiance seems likewise to have been taken amidst sacrifices, because we find that on the occasions when David's sons wished to have themselves proclaimed kings, sacrifice-feasts were prepared, as was noticed in the preceding Article.

By means of sin and trespass-offerings, after a pre-
vious confession of a crime, what may be called an 
abolitio criminis, took place, that is, the crime was no 
further punished, the offering being regarded as a sort 
of atonement, or mulct; which was a matter of pecu-
liar moment on this account, that it facilitated the re-
tractation of a perjury, and, at the same time, discom-
posed the conscience of a perjured person, or of one 
who had acquired any thing unjustly, until he thus rid 
himself of his guilt.

Feast-offerings were by far the most common kind; 
and the celebration of the high festivals in a great 
measure consisted of sacrifice-feasts. Only the fat 
pieces of these offerings were burnt upon the altar, 
and a special portion given to the priest. The offer-
er, with his guests, consumed the rest of the victim*.

Among many nations where sacrifices were used, we 
find that all the more considerable entertainments 
were sacrifice-feasts; and such might likewise be the 

case among the Israelites, as yet poor, and seldom 
able to afford a beast for slaughter, when Moses gave 
the law, (illustrated in Art. CLXIX.) prohibiting the 
killing of an ox, sheep, or goat, that was not to be 
brought as an offering. As soon, however, as the 
Israelites came into their land, that prohibition ceas-
ed, on account of the unity of the place at which alone 
offerings durst be made, and the distance of most of 
the people from it; and those banquets which they 
gave at home, in their own cities, were not sacrifice-
feasts. But still, at the high festivals, every opulent

* ἂν ὑμεῖς ἔχετε τινὰ τὴν ἀλοντικήν, says Josephus, who lived at the 
time, when they yet had sacrifices. Antiq. iii 9. 1.
Israelite was expected to give sacrifice-feasts, in which widows, orphans, strangers, and his own servants, should partake; and every man who reared cattle, was, in a most particular manner bound, to solemnize the festivals with such entertainments; for certain tenths, and firstlings of oxen, sheep, and goats, as we shall soon have occasion to shew more fully, were expressly to be appropriated to that purpose.

The positive appointment of these entertainments in a country like ours, would look like a superfluous interference of law, in a matter of mere indifference; and yet, even with us, entertainments have their use in the establishment and support of friendships, and in connecting the individual members of the community more closely one with another; in so much, that we really observe more friendship prevailing, where well-bred hospitality is practised, than where it is rare, and people merely bring their families and relations occasionally together, in a dull formal, stingy manner: but, in the case of a people just come from Egypt, and about to be settled in Palestine, the establishment of well-bred and benevolent hospitality, under the immediate superintendence of religion itself, was a matter of much higher importance.

It has been already remarked (Art. CLXIX.) that in southern countries, flesh is, by no means, in daily use as with us; so that but for such a law as this, poor people and slaves would have seldom or never tasted it, and even misers, in better circumstances, would have denied themselves such a luxury. Now, to speak medically, this is not expedient, for those who live merely on a vegetable diet, in general, not
only acquire too little bodily strength: but we find also, that in southern climates, it sometimes becomes a torture to the appetite, never to eat animal food. No doubt, the hotter the climate is, the less appetite will the people have for such food; which, in very hot weather, indeed, will not unfrequently prove absolutely loathsome, or, if often used, unwholesome; but, even in a country not just pertaining to the torrid zone, if a man is too long without animal food, his longing desire of it at last becomes a disease; as Moses experienced, while the Israelites were in the wilderness, Exod. xvi. 2. Numb. xi. To be sure, they were quite unreasonable, in not suiting themselves to the necessity of their situation, and in turbulently insisting to have in the wilderness, what it was unnatural to expect in it; but whoever peruses the chapter just quoted from Numbers, will probably perceive, that their anxious desire of flesh, which broke out in universal murmuring and discontent, was, in some measure, a bodily disease, arising from the want of that food, to which they had been accustomed, and which cannot conveniently be altogether dispensed with. We know it not, because we eat flesh every day; and the very poorest classes among us, our servants, our day-labourers, and our very beggars not excepted, will hardly pass whole years without tasting it; but in Arabia, where the people certainly live very poorly, and, according to my information from Mr. Niebuhr, the rich little better than our poor, it cannot be unknown; for it has in their very language a proper name, Karam*. We have already seen the

* See Schultens' remarks on Hamasa, at the end of his Arabic
tenderness of the Mosaic laws with respect to appetite; (Art. CXXX. CLXI.) and that their author never wishes to subject it to torture. Now, the statute before us provides a flesh dinner occasionally for the poor, and even for slaves; which would serve to appease their longing, before it amounted to a disease, in the proper medical sense of the term, in consequence of extreme privation; and it forced even the miser himself, not to abstain from the use of animal food altogether.

But the importance of these sacrifice-laws still increases, when we recollect, that the Israelites had hitherto dwelt in a country, from which a doctrine has been propagated over the rest of the world, which makes it a duty, or, at least, a virtue of an exalted nature, to live only on vegetable food. The Pythagoreans and the Christian Ascetics, derived from Egypt this rule of rigid abstinence from flesh, which is, however, little suited to a temperate climate; and even the Essenes, a Jewish sect who lived in Egypt, had, notwithstanding its inconsistency with the Mosaic law, and with the Jewish religion, adopted, from the Egyptians, the same practice, as indicating a preeminent pitch of philosophical sanctity. It was not, indeed, universal in Egypt, but peculiar to certain philosophers, priests, and saints. That country, however, was perhaps its original seat. Now, animal food can be, of all things, first dispensed with in a climate

Grammar, p. 593. The Arabic scholar will also find the word in p. 153. of my Chrestomathy, where the love of evil-speaking is termed, lusting after flesh; because among the Arabs, speaking evil of any person is called, eating a brother's flesh.
so warm as Egypt: for, although it lies not within the torrid zone, but from the 23d to the 31st degree of latitude, it is, by reason of its extreme flatness, perhaps as hot as many countries between it and the equator, and much hotter certainly than the high and mountainous region of Abyssinia; and this is more especially true, not only of those inhabited spots, that lie deep in the midst of the sandy deserts, but also of those deserts themselves, such as that of St. Macarius, the ancient seat of the Essenes and Ascetics; and likewise, of the still more southerly Elvachat, the Oases of the ancients*, where was the oracle of Jupiter Ammon, visited by Alexander the Great. Add to this, that the moral abhorrence of animal food, is most intimately connected with the Egyptian doctrine of the transmigration of souls; for if the souls of our own forefathers, or of other men, may now animate the beasts which are before our eyes, we must naturally abhor the idea of killing them; and our abhorrence in such a case, is, in fact, only a modification of philanthropy. This is still the doctrine of the Brahmins: and, indeed, among all the nations of India it operates so powerfully as to restrain them from killing animals, or tasting flesh at all. The Israelites had indeed eaten flesh in Egypt, which we find them recollecting with desire, in Exod. xvi. 3. and Numb. xi. 4.; although there, fish likewise, which they had from the Nile, seems to be included†. But still, that more

* See my 54th Note on Abulfeda's Description of Egypt.
† Numb. xi. 5. Immediately after the wish, Had we but flesh to eat, it follows, we still think on the fish which we eat freely in Egypt.
Moses hostile to Abstinence from Flesh. [Art. 189.]

rigorous and philosophical doctrine, which prohibited animal food, might, in process of time, have spread among a people that had come out of Egypt.

Now, to prevent any such occurrence, and to counteract that philosophical superstition which could only serve to produce individual, and of course national, debility, the plan of divine service among the Israelites, seems to have been most happily calculated; and their legislator must have looked upon a mere vegetable diet as by no means favourable to his people, or suited to human nature. At least, a contrariety so striking, in the laws of the Israelitish religion, to the philosophical doctrine of the country which they had just left, could not have been merely accidental.—God, who gave laws to the Israelites by the mouth of Moses, must have known and intended it; and even the disbeliever in the divine mission of Moses, and who regards him merely as a man of worldly wisdom, must allow, that he could not be unacquainted with the Egyptian doctrine of the Metempsychosis, and the precepts condemnatory of animal food, to which it gives birth. Even in the book of Genesis, wherein he only records historical facts, he seems to be paving the way for his laws, when he instructs his readers in this truth, that God had given to man not only domi-

They dwelt along the eastern bank of the Nile, and in the marshes formed partly by the Nile, and partly by the Mediterranean Sea.—In ver. 21, 22. fish are certainly included under flesh meat, when Moses asks, if God meant to let all the fish in the sea be collected, to give flesh to the people. In the very same manner, the Hebrew word-for flesh is used for the flesh of fish, in Lev xi. 11.; and so is the Arabic one, in the 16th chapter of the Koran, ver. 14.
Art. 189. Vegetable Food produces Debility.

Union over animals, but an express permission to kill and eat them, Gen. ix. 2, 3.; yea that even before the deluge, the fat pieces of beasts were offered to God (Gen. iv. 4.), exactly as in those sacrifices where the rest of the victim was consumed by the offerer.

To return to the main point: the Mosaic statutes directly opposed the introduction of a mere vegetable diet, which in fact, medically considered, is not the best. It does not, perhaps, produce unwholesome blood; but then it gives too little bodily strength. This is a subject on which my readers will not expect that I should expatiate; but will rather peruse what Haller says upon it in his great work on Physiology*. I should, indeed, but have to copy from him.—It may, perhaps, be true, that abstinence from animal food may not be ill suited to some countries in the torrid zone, and even to the very warm climate of Egypt, which is subject chiefly to putrid diseases; though on this point no physician will choose to decide, unless he has had long practice in those countries; but to the country of the Israelites, lying between the 31st and 35th degree of latitude †, and mostly mountainous, it certainly was not suited. I recollect, in history, no example of a people living entirely on vegetable food, that long maintained a character for valour, and became respectable in war. Most of those nations that have abstained from animal food, although, on some

† Thipheach, or Thapsacus, on the Euphrates, the most northern place of the Israelitish territory under Solomon, lay in lat. 35°.
particular fortunate occasions, they may have obtained victories, have generally become a very easy prey to their more robust carnivorous brethren; and to such a fate no legislator ought to expose his countrymen. But no more effectual means of excluding the use of a diet wholly vegetable, can be conceived, than that of making feasts, at which flesh must be eaten, a part of divine worship; and this Moses did so expressly, that one yearly sacrifice-feast, the passover, was enjoined under the penalty of extirpation, and durst not be neglected by any Israelite.

A feast-offering was to be wholly consumed the first, or at farthest, the second day; and if any part still remained, it could not be eaten, but must be burnt, Lev. vii. 15, 16, 17, 18. Every offerer was thus obliged to make it actually a feast, and to invite as many guests as were necessary to eat it up within the time; whereas some, perhaps, from avarice or poverty, would otherwise have divided it so economically, as to make it serve their own family many days. Offerings, in short, were not to be frugal, every-day meals; but real merry-meetings, for the different classes of the people, at which the offerer satisfied both himself and others, particularly widows, orphans, strangers, and poor people, and even his own slaves, with good cheer; and to which he invited also his friends, and thus formed and maintained friendships. And this was an object, in the attainment of which, the legislator seems to have been very much interested.
ART. CXC.

Of the use of Wine in Offerings.

§ 4. As accompanyments both to bloody and to meal-offerings, oil and wine were appointed in certain quantities, Numb. xv. 3, 7. This, among any other people, might have been a mere traditional custom, a mere ecclesiastical usage, and at all events it might be left to the investigator of antiquities; but in the case of a people going out of Egypt into Palestine, it becomes an important object of consideration to the philosopher who speculates upon legislative policy. And in order the more to excite the attention of my readers, I need only to remind them, that Egypt was very deficient in the produce of oil and wine, which are, on the other hand, the principal gifts of nature to Palestine; and that the Egyptians regarded wine as a poison that sprung from the blood of demons; while Moses, again, commanded it to be offered unto God, and to be drunken during the sacrifice-feasts. But I shall now enter upon a fuller and more circumstantial detail.

Throughout the greatest part of Egypt, the vine is not cultivated, nor indeed can be, because the whole country is perfectly flat, whereas the vine delights in hills; and besides, during those months when the grapes are approaching to maturity, the flats are over-flowed by the Nile, and become a lake. In the cities, indeed, vines are reared on the walls of the houses, and are said to be very beautiful*; and the province

* See Maillet Description de l’Egypte, Let. IX. tom. ii. p. 17.
of Fium *, which lies beyond a sandy desert, and quite separated from the rest of the country on its western side, has vineyards. So likewise has the middlemost Oasis, or Elvach, that lies still farther beyond the deserts †. According to Abulfeda †, in the city Esne, situated 145 leagues above Cairo, there are vineyards; and Leo Africanus (p. 71.) states, that grapes are said to grow about Munia. But all this is by far too little to supply Egypt with wine as a drink; nor can it be called a wine country. Add to this, that the wine of Fium, according to Wansleb §, is bad, and only drunken by the Jews, and that of the Elvach, nothing else than a vin du pays ||. Now that it is inhabited by Mahometans, who, according at least to the law of

* See *Voyage du Sieur Paul Lucas, fait en 1714, dans la Turquie, &c. tom. ii. p. 226. "L'on n'en trouve plus gueres que dans la pro-

vice de Fioum." See also my 233d Note on Abulfeda's Egypt.—

† This fact I take from Wansleb's Description of Egypt, in German, preserved in MS. in the Gottingen Library; p 82.

‡ P. 23. of his Description of Egypt; and in my Latin translation; p. 18.

§ See p. 37, 38. of Wansleb's MS. above quoted. The premature vintage, which is hurried on, on account of the overflowing of the Nile, is perhaps to blame for this; for I observe, from Wansleb's *Relation d' Egytpe*, that the vintage in Fium takes place as early as the end of June. Egypt is overflowed in August.

|| See p 82 of the Gottingen MS.
their religion, drink no wine, Egypt does not produce vines enough to supply itself with grapes and *Dibs*, (a syrup or honey made from grapes), but imports annually, according to Dr. Shaw *, 300 camel-loads of *Dibs* from Hebron alone. The case was precisely the same in the days of Jacob. When that patriarch wished to send to the Grand Vizier of Egypt, whom he did not yet know to be his son, a present of the best productions of Palestine, *Dibs*, or honey, was among the number, (Gen. xliii. 11.) ; certainly, however, not bee-honey, which Egypt, from its advantageous situation, had in the greatest perfection and abundance †, but raisin-honey. The consequence of this want of vineyards was, that the Egyptians, in the very earliest ages, prepared from grain an imitation of wine, which they called *Zythos*, and which seems to include both beer and brandy.

Herodotus, b. ii. ch. 77. says, *The Egyptians make use of a wine which they brew from barley; for in that country there are no vineyards.* Here every reader will immediately think of beer as their *Zythos*, but the word in other passages seems likewise to comprehend brandy.

In justification of Herodotus, I would fain take the liberty of expatiating a little on the want of wine in Egypt. It will no doubt be a digression, but for a philosophical investigation of laws, it is a point of too

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* In the 2d (English) edition of his Travels, p. 339. in the Note; or p. 293. Note G. of the German translation.
much importance to be overlooked, because it directly bears upon one of the greatest problems of legislative policy, viz. of the two opposite plans, of prohibiting wine, on the one hand; or of so consecrating it, on the other, as to secure it against all prohibition—which is the more judicious?

In the first place, I observe, that Herodotus, although he has been so understood and translated, does not, perhaps, mean to insinuate, that there are no vines, but only, that there are no vineyards, in Egypt; for ἀμπελός has both significations. Now, between the two assertions there is a great difference; for his denial of vines in Egypt, would be such a mistake, as it is not conceivable how a man could have committed, who was so long in Egypt, and made such accurate enquiries everywhere on every subject. For not only at present are there in the cities of Egypt, vines trained on the walls of the houses, but it is certain from the Bible, not to mention Grecian testimonies, that in the very earliest times there were vines in that country. See Gen. xl. 9,—11. Numb. xx. 5. Psal. lxxviii. 47. cv. 33. lxxx. 9.; in which last passage, however, it seems to be represented as an improper soil for them.—On the other hand, his saying that Egypt had no vineyards, is no doubt an error, but, comparatively speaking, quite a venial one. He had, perhaps, seen none in all that part of the country through which he passed. Confining his travels to the course of the Nile, he had not, perhaps, visited the detached province of Fium, where vines are still cultivated for wine.

In the second place, From the very circumstance of
Art. 190. Concerning the want of wine in Egypt.

his having been in Egypt, we ought, at least, to give him credit thus far—that he met with no vineyards in any part of the country through which he travelled, and which, of course, implies, that it had not a very extensive vintage;—but he has here experienced a very preposterous treatment from the learned. The many improbable, or incredible stories, which he relates, from hearsay, concerning other countries, and the many patriotic exaggerations he makes, when the renown of Greece is concerned, they believe, in a great measure, on his own word; but when he makes Egypt scarce of wine, instead of proposing the very natural question, "Can there, indeed, be much cultivation of vines in a flat country, which is, besides, annually laid under water, in the months of August and September?" or of examining later travellers, they generally oppose to him the authority of those authors, who could not know Egypt so well as he did. This is by no means critical justice; for where he speaks from report, he may, and must, relate many falsehoods; but, in regard to things, where he could trust his own eyes, I, for my part, would not, at once, hold him to be an absolute liar, because others, who did not see them with their own eyes, give a different account of them.

But now for the testimonies produced in support of the cultivation of the vine in Egypt:

1. Diiodorus Siculus, book i. chap. 15. says, that Osiris discovered the vine. Now, not to mention, that Osiris belongs to the fabulous period of the Egyptian history, and that, according to the Egyptian theology, the discovery of the vine would better suit the charac-
122 Diodorus, Strabo, and Pliny examined. [Art. 190.

ter of his malicious enemy Typhon*, it is expressly
added, that he found it in mount Nysa, and this un-
known mountain is placed without Egypt, sometimes
in Arabia, and sometimes elsewhere, as may be seen
more fully detailed in my Oriental. Biblioth. part viii.
No. 118.

no little wine.— On other points Strabo may, no doubt,
be entitled to more credit, but, in regard to Egypt,
he would scarcely be on a footing with Herodotus,
who had been so long in that country, and knew it so
thoroughly, if he really stood in direct contradiction
to him. But is this the case here? Whence comes it,
that it has occurred to nobody, that the word *no
little) considering that the assertion, by no means,
comports with the nature of Egypt, might be a false
reading? The whole passage hangs much better to-
gether, if read thus, without it, “Egypt produces but
little wine, but yields wheat, pulse, and other vegeta-
bles in great abundance.”

3. Pliny mentions among the finest wines, that of
Sebennytus, and adds, *In Aegypto, hoc nascitur tribus
generibus Uvarum, thalia, æthalo, peuce, Hist. Nat.
xiv. 9. But this universal compiler is not to be laid
in the balance against an eye-witness, like Herodotus;
more especially, as it is scarcely to be conceived, how
there could have been any considerable vintage in
the Sebennytic canton, which lies in the Delta, be-
tween the arms of the Nile, and must have been over-
flowed by it in August and September; and, besides,

* See Jablonski Pantheon Egypt. ii. 1. § 5, 6.
the Arabian geographers, who, on other occasions, commonly notice where vines are cultivated, make no mention of vineyards here. Perhaps the Sebennytic wine, mentioned by Pliny, did not grow in the district so called, but in Upper Egypt, where there is some vintage; and only had its name from its being imported into Italy from the Sebennytic mouth of the Nile, where Barlos now stands; or there was, perhaps, in this part of the Delta, a single hill, rising above the inundations of the river, which, in Pliny's time, was planted with vines; or again, in the city itself, vines were trained on the walls of the houses, from which a little wine might be made, whose rarity made it bear a high price, when luxury was at its greatest height in Rome, and which was, of course, found to have the more exquisite flavour, the dearer it cost; not to mention, that the merchants, no doubt, sent much more Sebennytic wine to Rome, than could possibly grow in all the district; just as at present, a thousand times more Pontac wine is drunken than grows.—Paul Lucas holds the wine of Fium to be the Sebennytic wine, and for that reason would misplace the Sebennytic branch of the Nile*. In opposition to his conjecture, the badness of the wine of Fium might be stated.

4. Athenæus (Deipnosophist. lib. i. p. 38.) says a great deal of Alexandrian wine, and observes likewise, that there is a great growth of wine along both sides of the Nile; for he speaks besides of the wine which grows in Upper Egypt, about Koptos, and is said to be

* See his Voyage fait en Asie mineure et en Afrique, t. ii. p. 45.
very light. That vines were cultivated about Koptos, I will not dispute. Into that quarter, Herodotus must not have travelled; for Koptos, now Kept (according to Abulfeda, No. 48.), lies nearer the mountains than the Nile. Nor yet will I deny that wine was made at Alexandria; Abulfeda himself, mentions it, p. 7.; and Strabo, p. 1150., says, what is singular, considering the badness of the Egyptian wines, that the wine made on the Lake Mareotis, was good, if kept till it grew old. Horace also praises the Mareotic, that is, Alexandrian wine, in Ode 37th of book i. But, in the earliest times, such as those of Homer, Alexandria was not included in Egypt: and it lies at a distance from the rest of Egypt, which is fertilized by the Nile. The canal, which at present brings the Nile to it, is merely a work of art; and before the time of Alexander the Great, this part of the country was almost totally neglected, because its importance was not known. There was at most but one spot, Rhacotis, inhabited only by soldiers, whose business it was to prevent strangers from landing on the coast*. Most probably, therefore, there had here been no cultivation of wine, until it was introduced by the Greeks, after Alexandria, in consequence of the pre-eminent excellence of its situation, became the capital of Egypt. The growth of wine along both sides of the Nile, is manifestly applicable not to all Egypt, but only to the country round Alexandria. Athenæus, therefore, means only to say, that it takes place along the banks of the canal, formed by the Greeks, from

* See Strabo, p. 1152, and Wood's Essay on the Original Genius of Homer, p. 128,—130.
the Nile to that city. To understand him otherwise, is to make him guilty, not only of falsehood, but of absurdity; because both sides of the Nile are under water in August and September.—So much in vindication of Herodotus, with regard to the want of wine in Egypt. To return;

The discovery and use of the Zythos was the natural effect of this want; and it was very fortunate for Egypt: but the operation of the principle of Egyptian policy, which, in this instance, as on many others, scrupled not to call in the aid of a religious fraud, produced an artificial effect of a very different description indeed. For that fraud had the usual result of all religious impostures, and did much more mischief in the world, than all its advantages could ever have amounted to; particularly when it afterwards came to be imitated by other nations, and received as a moral doctrine. Had the Egyptians wished to drink wine, they must have imported it from foreign parts: and we know that that was actually the case in the time of Herodotus*, and it is so still†. Now, this, to speak politically of it, is a very prejudicial sort of commerce, to which, however, all northern nations must submit, at the expense of sending money abroad. But the Egyptian politicians

* Book iii. ch 6. " Wine is twice every year carried to Egypt in earthen jars, from every part of Greece, and also from Phoenicia."
† See Maillet, Description de l’Egypte, lett. ix. p. 17. of part ii. " On ne fait point de Vin en Egypte, car je crois, qu’on doit comter pour rien, celui que font quelques Coptes pour leur usage particulier. " Ainsi on peut dire que tout le Vin qu’on boit ici vient de dehors. " Le meilleur vient de Chypre."
endeavoured to prevent it, and that with the greater zeal, that foreign commerce, in general, was contrary to their system. But how is the importation of wine to be prevented?—By prohibitions?—These are too weak, where the gratification of taste is concerned, and almost amount to a command to introduce it clandestinely, without paying duty, and to give just so much the higher price for it to those foreigners, who run the risk of its seizure, as contraband. Custom-house officers of all denominations, soon learn, in such cases, to come to an understanding with the citizens. They have no aversion to wine themselves, and they have some compassion likewise with the infirmities of human taste: so that they can either accept of a bribe, or seize so many hogsheads, and let the rest pass. Those who are acquainted with our modern laws against luxuries, and the contraband practices to which they give rise, will not object to this reasoning.

The Egyptians, however, availed themselves of the aid of a religious fraud, as a more effectual method of preventing the use of wine. It was declared to be an abomination to the gods, and, indeed, the blood of their ancient enemies*; and whoever believed this,

* Plutarch, in his book, De Iside, et Osiride, § 6. says, "Before the time of Psammeticus, they neither drank wine, nor used it in offerings; they deemed it odious to the gods, and the blood of those who had once waged war against them," (that is, of the giants, especially, the evil deity, Typhon, and his adherents) "for they believed, that, when they were slain, and mingled by corruption with the earth, the vine sprang up, from their remains; and hence the reason, why it makes men furious and frantic; because in drinking it, they drink the blood of their forefathers."
would certainly have no desire to taste any thing so execrable, but abide by the use of water, beer, brandy, and other liquors.

From the Egyptians, who were the great instructors of the ancient world in philosophy, superstition, and the sciences, this abhorrence of wine spread itself to other nations and sects; with some degree of alteration, indeed, in certain particulars, but with perfect uniformity in the main point, and, indeed, in the distinction which it made between wine and grape-juice. The Manicheans, who were, properly speaking, a philosophical sect in Persia, held wine to be the blood, or rather the gall, that is, the poison* of their supposed evil principle, and prohibited the use of it among the elect†; and hence the Manichean Christians, who had transferred the Persian philosophy into their Christianity, and framed their creed in conformity therewith, did not so much as permit the use of wine in the Lord's supper. Other Christian sects had their hatred of wine directly from Egypt; and the Jewish sect of the Essenes, who declared it to be an infuriating poison, had its principal seat in Egypt.

Among some Arabian nations, wine was likewise held in abhorrence, on political grounds; because it was repugnant to their ideas of liberty, to occupy fixed settlements, by which men may be compelled to subject themselves to a conqueror or a tyrant, and which thus became, as it were, hostages for their obedience. For, according to the notions of the Arabs,

* See my 48th Question to the Arabian Travellers.
† See Augustin. de Morib. Manichæor ii. § 44; and Beausobre, Histoire des Manicheens. Liv. ix. ch. 7 and 11.
he alone is noble and free, who can carry his all along with him,—the wandering herdsman, who penetrates with his cattle into the heart of deserts, whither no conqueror can follow him: and the Nabatheans carried this principle so far, as to inflict the punishment of death on those who built houses, sowed, planted, or drank wine*. Other tribes were not so strict; but still their regard to their honour and the custom of their ancestors, led them to forego the occupation of land, and the use of wine. Jeremiah, in chap. xxxiv. 6, 7, makes mention of an Arabian family, that had come into Palestine with the Israelites, and, after a residence of many hundred years, still sacredly adhered to the injunction of their ancestor Jonadab, not to build houses, but dwell in tents; not to sow, nor to plant, nor to possess any vineyard, and what is still more to my purpose at present, not to drink wine; for any people, or family, that dare possess no vineyards, must be naturally prohibited from the use of wine; else will they soon conceive a desire of having vineyards.

* See Diodorus Siculus, book xix. § 94. "Their laws prohibit the sowing of corn or any thing else that bears fruit, the planting of trees or vines, the drinking of wine, and the building of houses; and the transgression of them is punished capitally; and the reason is, their thinking, that those who are possessed of such property, can be easily forced to submit to the authority of their more powerful brethren."—Besides the passage from Ammianus Marcellinus, lib. xiv. which Wesseling here quotes in his note, the reader may consult Arvieux's Travels, part iii. p. 109., and Niebuhr's Arabia, p. 389. In the opinion of the Bedouins at this day, all manner of husbandry, and, of course, that of the vine, is beneath the dignity of a true and noble Arab.
It is possible that the Arabians may have borrowed from the Egyptians their religious pretext for the prohibition of wine, although it properly arose from their love of liberty; or at least, have learnt, by the previous practice of this early-civilized and sagacious people, to give it the venerable appearance of philosophical wisdom and moral duty; although, indeed, I know neither the one nor the other of these circumstances with historical certainty. But it is undeniable, that the abhorrence of wine in Arabia, is at least two thousand years older than Mahomet, and no invention of his. Jeremiah, who, as we have seen, found it an aboriginal custom of an Arabian family settled in Palestine, lived twelve hundred years before Mahomet, and that family had migrated from Arabia, at least eight hundred years before Jeremiah. Mahomet, therefore, when he gave himself out for a prophet, found the custom or precept, that prohibited wine, already in force, from time immemorial. He preached natural religion according to the best views he could take of it; an impostor certainly in this, that he pretended to know by divine revelation, doctrines which he chiefly learned from sound reason; but an enthusiast at the same time, because he believed that every man elected to eternal life, would be enlightened by an internal operation of the Deity, and convinced of their truth. The doctrines of natural religion he neither discovered himself, nor did he take them either from the Jews or the Christians; but chiefly followed a sect of Arabian philosophers (Naturalists, we would term them), who believed but in one only God, and a future life; and were by the Arabs
called Hanifin, that is, the profane, because they disowned their gods; just as Christians were denounced Atheists, because they did not believe in the heathen deities. The opinions of this philosophical sect, both true and false (their national prejudices in regard to morality not excepted), he in a great measure transferred into his pretended revelation from heaven, because they appeared to him as true. The abhorrence of wine, which he already found prevalent among the more noble part of the nation, and perhaps also among the Hanifin, he was the more inclined to approve, from the numberless extravagancies that proceed from its abuse, and accordingly adopted it into his religion. And this he did, precisely like the Manicheans and Egyptians, under the pretence of its being the work, that is, the invention of the Devil; making also the same distinction which they made between wine and grapes, of which we shall, by and bye, speak more particularly.

Little could he then think that his religion would so soon spread itself over the three quarters of the world, from the Ganges to the Atlantic, and, to their infinite loss, subject so many other nations to the Arabian prejudice against the use of wine. He has often got credit for having a political view in its prohibition, viz. that his Arabs might not intoxicate themselves, and so be defeated in battles. But if he had this notion, he certainly was a bad politician, and a bad general, and had but little knowledge of mankind; for a people accustomed to wine from infancy, are not much in danger of being beaten in action, though the whole army should be drunk; whereas an army not
acquainted to it, may easily be intoxicated by a stratagem, and then defeated. Of this, we actually find examples in the ancient history of the Scythians* and Istrians†, whose common drink at that time probably was not wine. But, at any rate, Mahomet nowhere takes notice of his having any such object in view, nor have we any historical accounts of it.

My readers will not be displeased with these remarks on the probable origin of the Mahometan prohibition of wine.—I now return to that of the Egyptians. Their kings, and the people of opulence and high rank, might still console themselves under it; for a distinction made between wine and must put it in their power to drink fresh grape-juice. The same distinction was also made, as above mentioned, by other sects, who considered wine as the work of the Devil, such as the Manicheans‡, and the Mahometans.§

* See Justin, lib. i. c. 8. "Omissis hostibus insuetos barbaros "vino se onerare patitur, priusque Scythæ ebrietate quam bello "vincuntur."

† See Florus, lib. ii. c. 10.


§ Mahomet's own words in Sura xvi. ver. 11. of the Koran are God causeth corn, and olives, and palm trees, and grapes, to grow for you; and, in ver. 69 he says of grapes, they may be employed for intoxication, and for good nourishment. Nor is there here any inconsistency, as Marracci unjustly asserts, with what is said in Sura v. ver. 92. Wine, play, images, and dice, are an abomination, and a work of the Devil: for wine is forbidden, but grapes and raisins are allowed to be eaten. And they are actually eaten by the Mahometans, who,
and it is a pretty luminous one; for grape-juice, according as it is or is not fermented, has very different effects. In the grapes themselves, it has no inebriating quality. In the state of must, it soon inebriates slightly. By fermentation, it passes from must, to intoxicating wine; and from wine, by a second fermentation, to vinegar; in the state of which, its effects are quite the reverse, being refrigerant. How the king of Egypt drank grape-juice, in Joseph’s time, we see from the chief butler’s dream, Gen. xl. 9,—13. He thought he took grapes, and after mixing their juice with water in the cup, presented it to Pharaoh. This was a luxury only for the great; and it could never drain Egypt of its money: for it is impossible to import from abroad to any considerable extent, either fresh grapes, or grape-juice, not fermented and made into wine.

Moses was conducting the Israelites into a country in which the vine was Nature’s chief bounty; and even in Arabia, cultivate vines for the purpose. See Niebuhr, p. 147, and other travellers. Nay, they even press the juice through a linen cloth, pour it into a cup, and drink it (under the name of Sherbet) exactly as Pharaoh did. See Schulze’s (Leitungen des Höchsten) Guidances of the Most High, part v. p. 286.

* Those who find any difficulty here in the Hebrew, will find a solution of it in Golii Lexicon Arab. p. 1147. Sachat, or rather according to the Hebrew pronunciation, Schachat, signifies to slaughter, and also, to mix wine with water.

† See Numb. xiii. 23. Deut. viii. 8. Even at present, though under the Mahometan sway, which is not favourable to wine-husbandry, though it does not prohibit the use of grapes, Palestine, after all its devastations, has still the preeminence in this point over the neighbouring countries. The annual exportation of 300 camel-loads
when he wished to animate the people with a desire to subdue it, he did not neglect to extol its preeminence in this respect over Egypt, which, though it yielded corn and bread in abundance, could not boast of many luxuries besides. The policy of the Egyptians might, properly enough perhaps, cry down the use of wine, by reason of the poverty of the country in vineyards; but it would not have been rational conduct in the legislator of a people going to reside in Palestine, to have done any such thing, but rather to take all possible measures for preventing the Egyptian abhorrence of wine from following them into that country, and so rendering its greatest natural treasure useless.

If we here contrast the Egyptian and the Mosaic legislative policy, we shall, indeed, immediately perceive, that they were both quite suited to the countries in which they were to operate; but the great difference in their principle will at the same time become very striking. For,

1. In the first place, the Mosaic is the more honest. — The policy of the Egyptians resorted to a religious fraud. Moses also availed himself of the aid of religion, but in a manner perfectly innocent, and without any mixture of imposture or superstition. He merely prescribed ceremonies, whereby wine was declared a

Bad Effects of forbidding Wine. [Art. 190.

pure liquor, and its use not sinful; and, of course, the doctrine which prohibited it, was counteracted.

2. In the second place, the Egyptian policy served to deprive the citizens of a part of their natural liberty, and that too in a matter wherein the innocent gratification of taste, was deeply concerned. The Mosaic policy, on the other hand, maintained that liberty.

As I have been under the necessity of saying so much on this subject, I cannot refrain from adding one more remark. The prohibition of wine appears to me one of the greatest errors in legislative policy: and when, by the interference of religion, it is declared an abomination, I look upon it as a very great misfortune for mankind. What precise effects, happy or unhappy, this dishonest policy had in ancient Egypt, I am unable, by reason of the remoteness of the period, to determine. I only judge of the prohibition as it appears in its effects, as produced by the Mahometan religion, throughout a large portion of the globe. — But I must premise, that I do not speak of the torrid zone, because, whether it be there pernicious, I do not know. It would indeed seem as if the use of wine were not quite suited to intra-tropical regions, from its being too heating, because in some such countries they only make use of must, though their grapes are most abundant and excellent*. Nor yet do I speak of northern countries, to which Nature has given no wine; for there it may, at any rate, be dis-

* Abyssinia, for instance. See Ludolphi Hist. Ethip. lib. i. c. 9. and the Commentary upon it, Note 81. p. 139. Also Lobo, Relation Historique d' Abessinie, tom i. p. 91.
Art. 130.] Mahometans drink Wine privately.

pensed with, while the people are in a state of sim-
plicity, and work hard; although even in these re-
gions, one bad consequence of the prohibition would
soon be discovered, though not, indeed, in such a for-
midable degree as in those countries which Nature
herself has destined for the production of wine. What
I allude to is this: that a people, when they arrive at
a certain stage of refinement, and have more relaxa-
tion from bodily labour, and begin to feel languor and
vapours, will, if precluded from wine, seek for a sub-
stitute for that exhilarating liquor, and, unfortunately,
will be sure to find one. The least dangerous, com-
paratively speaking, is brandy; which is the common
one in northern countries; although, indeed, it is now
introduced even in Turkey pretty extensively among
the soldiery, and is by many considered as not forbid-
den. The most dangerous, and that whose use is so
dreadfully inveterate in Persia and Turkey, is opium;
the effects of which, travellers, Chardin, for instance*,
describe in such terms as must prevent any man who
has read them, from ever making panegyrics on Ma-
hometism, for its prohibition of wine. Nor will any
law, no, nor any prohibition of religion, be sufficient,
after all, to prevent the drinking of wine; for all men
do not listen either to law or religion. The Mahome-
tans drink abundance of wine; but in consequence of
the prohibition, they do it secretly, and, of course,
may be said rather to gulp it down at large draughts,
than to drink it: in which case, it intoxicates sooner,

* See his Travels, p. 204,—206. the edition in large 12mo.
and more seriously, than when drunken at leisure in agreeable company. We hear, at least, of very great excesses, in consequence of drunkenness, among Mahometans, probably of still more than among Christians; and, taking all circumstances into consideration together, the prohibition of wine must be condemned as a cruel and pernicious device of mistaken policy.

ART. CXCI.

Of the use of Oil in Offerings.

§ 5. With the exception of two rare cases†, oil was ordered to accompany every meal-offering, in order to its being therewith prepared, and baked into cakes, Exod. xxix. 2, 3. Lev. ii. 1, 5, 7, 15. vi. 8, 4. (or, according to other Bibles, 15, 21.) vii. 12. With this law, in so far, as it is perhaps typical, and regards a holy ceremony, I have here nothing to do, because I consider it merely with respect to its political influence in the state; and that, among a people brought out of Egypt into Palestine, and still always hankering after Egypt, was important. It imperceptibly attached them to their new country, and served to render even the idea of a future residence in Egypt irksome; while it also imperceptibly gave them an inclination to cultivate the olive-tree, for which Nature seems to have preeminently adapted Palestine.

† These are, (1.) when the meal-offering was a poor man's sin-offering, Lev. v. 11.; and, (2.) when it was what is called an impeachment-offering, that is, one made on occasion of a wife suspected of adultery, taking the oath of purgation, Numb. v. 15.
Olives rare in Egypt, &c.

In the greatest part of Egypt, according to Strabo, (p. 1168.) no olives were cultivated. It was only in the Heracleotic canton, that they came to such perfection as that oil could be made from them. In the gardens around Alexandria, (which, however, did not exist in the time of the ancient kings, that part of the country being an uncultivated waste till the reign of Alexander the Great), there were olive-trees, but no oil was made *. The consequence of this want of oil was (as it still is) that in Egypt they made use of butter, as we do, and also of honey, in their pastry; and even at this day, travellers going from Egypt into Arabia, carry butter along with them; although, indeed, it is not very tempting to the appetite, because, in consequence of the great heat, it generally melts in the jars by the way. In those parts of Arabia likewise, which the Israelites traversed, and in which they might, perhaps, have thought of settling as wandering herdsman, scarcely any olives were produced. The oil of Palestine, on the other hand, was not only most abundant †, but also, peculiarly excellent; and Hasselquist prefers it even to that of Provence. By this gift of nature, stony places and mountains, which would

* Olive-oil is not at this day, an indigenous production of Egypt. See Sicard Memoires de la Compagnie de Jesus, par. ii. p. 135. Wansleb also says, (p. 80 of the Gottingen MS.) that the Egyptians get it from Tunis. Niebuhr indeed describes an Egyptian oil-press, but then it is not for olive-oil, but for oil of Sesamum. See my Oriental. Biblioth. part vii. p. 15, 176.

† Moses extolls it in Deut. viii. 8. xxxii. 13. See also Ezek. xxvii. 17. where oil is mentioned as an article exported from Judæa.

—Shaw's Travel's p 337.—339. (or p. 292 of the miserable German translation); and Relandi Palæstina, p. 380, 381.
otherwise have been barren, became not only useful, but even more productive, than the best fields could be made. The only part of Palestine which Strabo*, that much misquoted author, describes as unfruitful, is that about Jerusalem; and it really is so, in regard to the production of grain: but still the Jews say, that an acre about Jerusalem was formerly of much more value than in any other part of Palestine. This I should not believe on their word, if any degree of improbability attached to it; for Jewish accounts from hearsay and oral tradition, have little weight with me. But as long as Palestine was properly cultivated, an acre near Jerusalem, from its produce in wine and oil, must naturally have been more profitable, than as a corn-field. We need only call to mind the Mount of Olives, which lay to the east of the city. An acre planted with olives or vines, however rocky and arid the soil may be, will very easily be made worth ten times as much as an acre of the richest corn-land.—The account given by Abulfeda, in his Description of Syria (p. 10.), confirms this statement; for he says, that the country about Jerusalem is one of the most fertile in Palestine.

Let us now represent to ourselves the effects of a law which enjoined, that the pastry of offerings should be baked with oil (and, therefore, not with butter), and that to every meal-offering so much oil should be added. The priests, who, among the Hebrews, were persons of distinction by birth, were accustomed to oil-pastry; and as their entertainments were generally

Art. 191.] Means of attachment to Palestine.

offering-feasts, the people thus became acquainted with it. Now, what people have once tasted as a luxury at a feast, and found savoury, or heard of as eaten by the great, they begin first to imitate sparingly, and then, if they can, more and more frequently in their daily meals. This was an infallible means to accustom the Israelites to oil-pastry, with which, whoever is once acquainted, will always prefer it to that made with butter. For if the oil is fresh and good, it tastes much better; to which add, that as butter is very liable to spoil, it then communicates to pastry, and every other sort of meat, a disagreeable by-taste.—The worst faults in cookery arise from bad butter. This is a general maxim with our German housewives, particularly in Southern Germany.

The natural consequences, then, of the use of oil-pastry, as now mentioned, were, in the first place, that the olive-tree, which formed so principal a source of the riches of the new country of the Israelites, came to be more carefully cultivated, and thus its natural treasures properly improved; and, in the next place, that the people at length lost their desire of returning back to Egypt. That in the time of Moses, they often thought of Egypt with regret, and were even inclined to return to their ancient bondage, we know from his own accounts. Indeed, their penchant for this their ancient country was so strong and permanent, that he found it necessary to introduce into the fundamental and unalterable laws of the government, as affecting the king, an express ordinance against all return to Egypt, Deut. xvii. 16. (Art. XXI. and LIV.) No sooner, however, would the Israelite become rightly acquainted with the chief of nature's gifts to his
new country, and accustomed to the use of wine and oil, than his longing after a country, which produced neither, would totally cease.

In fact the object which the statutes, now considered, most probably had in view, was so completely attained, that,

1. Butter was entirely disused among the Israelites. In the whole Hebrew Bible, which contains so many other economical terms, we do not once find the word for butter; for גycin, which in Job xx. 17. xxix. 6. Deut. xxxii. 14. Judg. v. 25. Isa. vii. 15, 16, 22. is commonly so translated, does not mean butter, but thick milk. It would therefore appear, that butter had been as rarely to be seen in Palestine, as it now is in Spain; and that the people had made use of nothing but oil in their cookery, as being more delicious. The reason why the LXX. have improperly rendered it butter, was this; that their Greek version was made by Egyptian Jews, who, from the want of oil in their new country, were accustomed to the use of butter only.

2. From the time of Joshua until the destruction of their government, the desire of returning to Egypt never once arose among the Israelites. It was only after Nebuchadnezzar had destroyed Jerusalem, and when the remnant of the people no longer thought themselves secure against similar disasters within Palestine, that, contrary to the divine prohibition, the Jews took refuge in Egypt, Jer. xliv. xlv.; and when the kingdom of the ten tribes was destroyed, and Samaria conquered by the Assyrians, many of the Israelites, as we must infer from Hosea, in like manner withdrew thither.
CHAPTER III.

PART III.—OF TITHES AND FIRSTLINGS.

ART. CXCII.

Of Tithes.

§ 1. From the produce of their fields, gardens, vineyards, and herds, the Israelites had to give two tenths to the service of God, whom they were taught to consider as the proprietor of the whole land, and as king of Israel, (Art. XXXV. and LXXIII.) Of these tenths, however, only one could be truly called an impost; the other was destined to such a purpose as made it easy to be borne.

In the first place, the Levites received the tithe of all the fields and herds for their support, as we have stated in Art. LII. This tithe alone merited the name of a tax; but it was a very fair one, because the tribe of Levi had no landed property, and yet actually performed such important services in the Israelitish state, as justly entitled them to liberal remuneration. Besides, the payment of tithes was quite common among the neighbours of the Israelites, and the ancient inhabitants of Palestine. The Canaanites gave tithes to their gods; and even the Carthaginians, though an independent state, sent tithes to Tyre,
First and Second Tithes.

which was out of their own territories, (Diodor. Sic. xx. 24.) One tenth of the above tithe, the Levites had, in their turn, to pay to the priests, who thus received one hundredth part of the produce of the lands and herds. The statutes relative to this point, are recorded in Lev. xxvii. 30,—33. Numb. xviii. 21,—32.

It must in some situations have been a matter of convenience to the Israelites to purchase their tithes from the Levites; and this was permitted, as to the field tithes, under the condition of their paying one-fifth in addition; but all conversion of the tithes of cattle was prohibited, Lev. xxvii. 32, 33. This mode of redeeming tithes, and the nature of the advantage, for which they were glad to pay no less than 20 per cent. beyond their amount, I cannot perfectly understand, because I am ignorant whether the Israelites were bound to deliver their tithes in the cities of the Levites, at their own expense, or not. The case perhaps was, that the tithe of the fields was appreciated before harvest, while the corn and fruits were yet growing, and that this valuation was paid, with 20 per cent. additional.

The second tithe Moses, in his laws, always presupposes well known, and as already in common use before his time. Perhaps it was this tithe which Jacob vowed, Gen. xxviii. 22.; and it was continued among his posterity as a custom of their forefathers. The statutes relating to it, in which, however, we find nothing at all of its institution, are recorded in Deut. xii. 17,—19. xiv. 22,—29. xxvi. 12,—15.; and the purport of them is as follows.

It was not paid away to any person, but consumed
by the people themselves, at the offering-feasts, and other entertainments; to which, besides those friends whom they would have invited at any rate, they were reminded to invite Levites, widows, orphans, strangers, poor people, and their own servants, and thus give them a day of festivity. (Art. CXXVIII. CXLIII. No. 3.) It was, properly speaking, destined for offering-feasts only; for the Israelites were to come thrice every year at the high festivals to the tabernacle or the temple; where their religious service consisted partly of the feast-offerings already described, and which were to be made from the tithes. But because they could not always manage to consume their whole tithes at the altar in one and the same year, it was ordained, that an accurate reckoning of the unoffered tithes should be made once every three years; and what was then found to be due, they were to appropriate at home, not for offerings (for these could only be made where the altar stood), but for social and charitable entertainments. Only they were obliged to close the said reckoning within the year, and make a solemn declaration before God, that they had applied the whole tithe to the purpose now mentioned.

Those who lived at such a distance from the place of worship, as would have rendered the carriage of their tithes too expensive, were permitted to convert them into money at home, and to purchase therewith, at the place where the sanctuary stood, whatever they chose, for the purpose of devoting it to the offering-feasts: only, in addition to the sum for which they had sold their tithes, they were obliged to give one-fifth more; which certainly was quite reasonable, be-
cause at a place where so great a number of people convened, articles of food must necessarily have been much dearer than they could be in the remote parts of the country.

Of the tithes thus destined for offering-feasts, and other beneficent entertainments, some have been inclined to make two tithes, one for the offering-feasts, and the other for the entertainments at home; which would be making the Israelites have three-tenths of their produce to pay, besides a fourth, which, in after times, the king received, (Art. LIX. No. 2.) This would have been rather too much, especially for the poorer class; and when I confine my attention to the perusal of the words of Moses himself, I can elicit no other explanation than that now given; according to which, what other authors distinguish, and call the second and the third tithe, were but one and the same.

Both sorts of tithes, viz. that paid to the Levites, and that appropriated to the offering-feasts, were to be paid from the yearly produce of the fields, and from the increase of the herds; but Moses is not very precise in his enumeration of the things that were to be tithed; and it would appear, that it was not necessary to carry conscientious scruples and accuracy to trifling minutiae in this matter. At least Christ does not seem to regard excessive scrupulousness in the tithing of mint, dill, and cummin, in a favourable light, Matth. xxiii. 23. Wool, milk, and things of the like nature, were not tithed.

Upon the whole, it was the wish of Moses to make the tithes as little burdensome as possible on the conscience and liberty of his people. The payment and
the appreciation of them he left to their consciences, without subjecting them to judicial or sacerdotal visitations, but, at the same time, without prohibiting the Levites from taking care that they duly received what was their own. The conscientious accuracy of the people with respect to the second tithe, he secured merely by the declaration which they made every three years before God. But in order that conscientious persons might not vex themselves about trifles, he in no case required tithes to be paid from trifling articles, where the trouble of attending to them, would, perhaps, have been more than the worth of the tithe; and, on the other hand, he, in every case, established the right of redemption, at the expense of an additional fifth, as a relief always at hand, where conscience might be perplexed.

A legislator who would act prudently, can hardly be too tender to the consciences of his people, in the imposition of taxes; for if they once learn to tamper with conscience, they carry it always farther and farther, till the moral character of the whole nation becomes corrupted to a certain pitch; and then the collection of the taxes requires so many overseers, controllers, and other officers, that not only is the freedom of every individual, however honest, laid under irksome restraints, but the greater part of the revenue raised, is actually exhausted in the payment of harpies of these descriptions, instead of going to the public service.

If a person had committed a trespass against the sanctuary, that is, had not paid the tithe of any particular things, and if, at any time afterwards, his conscience was awakened to a sense of his guilt, he had it...
Of Firstlings and First-fruits. [Art. 195.

still in his power to make atonement, without incurring any civil disgrace. He had only to pay an additional fifth along with it, and to make a trespass-offering.

Lev. v. 14,—16.

ART. CXCHI.

Of Firstlings and First-fruits.

§ 2. Besides their tithes, the Israelites had to give to the priest, and for the offering-feasts, the firstlings of all their live stock, and the first-fruits of their fields. Of each there were two sorts.

1. The first sort of firstlings belonged to the priest, as a part of his salary. Ever since the night in which God, in bringing the Israelites out of Egypt, slew all the first-born of the Egyptians, and spared those of the Israelites, the first-born of every creature was consecrated to God in remembrance of that event. Only the following distinctions were to be observed.

Beasts which might be offered in sacrifice (that is, oxen, sheep, and goats), could not be redeemed. Their blood must be sprinkled on the altar, and their fat consumed upon it; while their flesh belonged to the priest, who used it as his share of the sacrifice, Numb. xviii. 17, 18.

All other creatures, which could not be offered as victims on the altar, such as human beings and unclean beasts, might be redeemed. In the case of a first-born son, this was an incumbent duty on his parents; but in the case of unclean beasts, such as asses, camels, horses, &c. it remained optional to the owners, to redeem them or not, as they pleased. The redemption of a child took place when it was a month
Art. 193.] Redemption of First-born, &c. 147

old: if it died sooner, the parents were not obliged to redeem it. It died as it were to God and to the priest, to whom it previously belonged.—The priest had to put a value on the child that was to be redeemed. All children, therefore, were not of the same worth. It would seem that a weakly child, whose end was daily looked for, and likewise the child of a person in indigent circumstances, were estimated at a lower rate; but the father had always to give something, at any rate, as a recognition of God's right to the first-born. Only there was a fixed tax, beyond which the priest durst never go, viz. five shekels, that is, according to the common wrong calculation, five guldens, (supposing the mark coined into 18 guldens), but according to mine, much less. The redemption-money belonged to the priest, Numb. xviii. 15, 16.

Unclean beasts were redeemed by giving a sheep or a goat instead of them; and if the owner did not choose to do so, he was obliged to break their necks, Exod. xiii. 12. Whether the priest, when an owner would not redeem a beast, had it in his power to take it, if he wished to bring it up, I do not find determined: it could not, however, ordinarily have been the case, because a person who devotes himself to literature, and who has no landed property, of course neither corn-field nor meadow, will hardly conceive any inclination to rear a colt, or reap any advantage from doing so.

The statutes relative to this point, are, Exod. xiii. 1, 2, 12,--16. Lev. xxvii. 26. Numb. xviii. 15,--19.

The first-fruits were given to the priest after the harvest and the vintage, from corn, must, oil, and
likewise from the first baked bread of the new crop, and from the wool of the sheep when shorn. This, however, was a gift, the greatness of which depended entirely on the giver’s pleasure. These first-fruit came not to the altar: they belonged merely to the priest; and hence it was lawful to use honey and leaven along with them. The passages that refer to them are, Lev. x. 12. Numb. xv. 19,—21. xviii. 11,—13. Deut. xviii. 4, 5.

2. The second sort of firstlings belonged to the altar, and were to be employed for feast-offerings, and of course to be consumed by the offerer himself, and his guests. They are thus sufficiently distinguished from the preceding sort of consecrated firstlings. The passages enjoining them are, Deut. xii. 6. xiv. 23. xv. 19,—23.; and they would seem to indicate, as if this application of the firstlings had been (just like that of the second tithe), an ancient and well-known usage, and that Moses here gave no new law, but merely confirmed the established custom. Only we see by the way, from Deut. xv. 19. that only males are spoken of; and in general, in the Mosaic statutes, no creature of the female sex seems to be denominated a firstling, even although it was first born. But this is a point which I would not contest, because it has but little effect on the spirit of the laws, and is, after all, only a secondary matter.

But here it will naturally be asked, How can there be firstlings of two sorts? I can understand the law here no otherwise than this; that what immediately succeeded the proper firstling, was to be employed for these offering-feasts. In my version of the Bible, I
have ventured to use the term Zweyerstgebohrnes, (second firstlings) because I could not otherwise denominate them briefly by one word; and I wish also to avail myself of it here. These second firstlings, then, served ordinarily for offering-feasts, like the second tithes: if they happened to have any bodily blemish, the owner was not only released from the duty of offering them, but was prohibited from doing so, and might use them for his common daily meals.

In like manner, a basket-full of field and garden-fruit, which Moses denominates first-fruits, was also to be brought to the feasts; and after being laid down before the priest, and consecrated to God as a recognition of the land, that produced them, being his gift, it was to be appropriated to the offering-feasts, Deut. xxvi. 1,—11. How much this gift of first-fruits was to amount to, the law does not fix, but leaves entirely to the pleasure of the giver. In later times, an alteration may have been made in this point, and either by custom or statute, a certain portion of the produce of fields, gardens, and vineyards, have been set apart as first-fruits; but with that my present work, on the Mosaic law, has no concern.
CHAPTER III.

PART IV.—OF THE SABBATH.

ART. CXCIV.

Some Preliminary Observations.

§ 1. The seventh day of the week was ordained to be a day of divine worship, of rest, of complete freedom from bodily labour, and of recreation. It is sufficiently known by the name of the Sabbath. The statutes respecting it, are recorded in Exod. xvi. 22,—30. xx. 8,—11. xxiii. 12. xxxi. 12,—17. xxxiv. 21. xxxv. 1,—3. Numb. xv. 32,—36. Deut. v. 12,—15.

I do not mean to speak of it here as a day of divine worship, but only as a day of recreation; partly because the former purpose more properly belongs to the province of theology and morals, and partly also, because we know little as to the manner in which the Sabbath was, in the most ancient times, devoted to what we call divine worship. For from the practice of the Jews after their return from Babylon, when they assembled for prayer in their synagogues, heard the Bible read and explained, and received exhortations to duty, we can draw no inference as to the time of Moses, concerning which we know nothing but what he himself records, and in which the law not requiring explanation (because the language in which it was written, was neither dead nor antiquated, but their
Art. 194.] Sabbath—Seasons of Rest needful.

Another-tongue understood by all), was only to be read over once every seven years.

For the better understanding of the Mosaic law on this subject, and its comparison with the general rules of legislative policy, I must premise a few observations.

That every people interested in the preservation of their religion, must set apart, I will not say a day, but certainly a specific time for divine worship, is obvious. This is a point, the proofs of which I willingly leave to theology, or even to philosophical ethics, from which I may here assume it as well understood. But besides this, (and here I must beg leave, as it is more agreeable to present usage to employ the word days for times, without meaning, by day, either the precise period of 24 hours, or that from sun-rise to sun-set), there is a necessity for days of rest and pleasure.

By unintermitted labour, the body becomes weakened, loses that activity and vigour which the alternations of labour, rest, and amusement, produce, and grows soon old. Bodily labour otherwise, no doubt, increases strength; and the peasant who works with his hands, will always be a stronger man than the person who folds them across his breast, or only writes with them; but then it must not be unceasing labour, and without repose, or else it will have the contrary effect. The man who is obliged to toil day after day without intermission, and especially if he has done so from infancy, becomes in a manner cramped, stiff, and awkward, at all other bodily exercises; continues, as it were naturally, of small stature, and, like a horse daily hacked, is prematurely worn out. Alternation

x 4
is the grand maxim of Dieteticks; which, indeed, holds good so universally, that the very best rules of diet prescribed by the ablest physician, will be found in most cases detrimental, if too strictly observed. Even the exercises which serve to strengthen and refresh us, if we constantly use any one of them without variation, such as walking or riding, will become irksome and hurtful, if we are obliged to take it every day without intermission. The daily runner, who knows no intervals of rest, will not, it is true, be affected with hypochondria, but will, nevertheless, feel his health otherwise impaired. The postillion who rides every day, Sunday not excepted, commonly grows old before his time; and his whole figure shews, that he has not had a healthy occupation. We see this, even in countries where posts travel so intolerably slow, that the violence of the motion can certainly not be blamed for the injury which incessant riding occasions to their health. The trooper in the field, and the sportsman in the chase, ride perhaps more and harder, and that too in all weathers; but yet we do not remark in them the appearances of premature old age and decrepitude, visible in the postillion, who sits on horse-back day after day, and must soon be discharged in consequence of his infirmities.

Putting all this, however, out of the question, that man can have no enjoyment of life, who is obliged to toil perpetually, and in the same irksome uniformity of employment. Yet every man ought to have some enjoyment of life, were it only for a single day of recreation occasionally: wherefore else is he in the world? If he never tastes the pleasures of life, he soon
Art. 194. ] All have a right to Social Enjoyments. 153

dwindles into wrinkled insignificance.—Nor is it merely rest from his daily toil, that he ought, in justice, to enjoy on such occasions; but he should have it in his power to sport away the time in social enjoyment, in feasting, dancing, or whatever else is most agreeable to his taste, if not contrary to good morals. By this variety of pleasure, the mind is roused from its usual dull uniformity, enlivened and restored; the powers of the body are renovated; and it becomes more supple, and fitted for greater exertion. In short, the common man throws off the slave, the porter, the hind, the tailor; and the man of learning the dull pedant. Augetur tum et coitus libido; quod viribus corporisque mentisque progeniei futurae multum conferre solet. Physicians who ought certainly to be consulted on many points of legislative policy, will give the reader more ample satisfaction on this subject; which, indeed, is handled in several medical books, commonly to be met with.—It were cruel to deprive even the slave of a share in such enjoyments, for they are, as it were, a recompence for the hardships of his life; and every man who lives, manifestly has a right to partake in them: and it were no less foolish than cruel; for his health, vivacity, and bodily vigour will suffer in consequence of such privations. It is, therefore, prudent to allow him seasons of recreation: although selfish and tyrannical masters, who only look to immediate advantages, are, from their ignorance of human nature, and the effects of unceasing labour, sometimes inclined to be of a different opinion.

* The Dutch colonists in Surinam have been charged with re-
There arises then a moral and political question, "Can the day of divine worship be aptly united with the day of rest and enjoyment?" For my own part, I think it may; provided only, we do not include all manner of vicious excesses under the term enjoyment: and, in fact, the question has been already thus unanimously decided many thousand years ago, by almost all the nations on the face of the earth; however much many gloomy moralists of these later times may have condemned entertainments, dancing, playing, and even afternoon companies and visits, as profanations of Sunday, and zealously, although much too late, endeavoured to prevent them. To set apart two days of every week for holidays, as Mr. Von Justi once proposed, would leave too little time for necessary labours, and would, in fact, be reviving, under the sanction of the magistrate, blue Monday, or St. Crispen's holiday, the abolition of which gave so much trouble to legislative authority, even to the Diet of Ratisbon itself, which only notices the most flagrant evils. It cannot be here objected, that amusements are apt to degenerate into immoral practices, repugnant to the sanctity of the sabbath—dancing, for instance, into intrigues—else must we also abolish going gretting the conversion of any of their slaves to Christianity, and with endeavouring to prevent their having any information concerning it; because they are obliged to permit Christian slaves to keep Sunday. Whether this charge is true, or was so, 30 or 40 years ago, (for, properly speaking, it depends on the time) I cannot tell. But, speaking hypothetically, and admitting its justice, the masters certainly did not understand their own interest, and, as is often the fate of avarice, deceived themselves.
Art. 194.] Intervals necessary in devout exercises. 155
to church itself, in regard to which, neither sex can
pretend to be always actuated by spiritual considera-
tions alone. It were rather to be hoped, that amuse-
ments would keep within the bounds of morality and
virtue, by being placed in the train of religion; and it
should rather be an object of inquiry, Whether they
might not be still more closely connected with reli-
gion, and thus many excesses be prevented.

At any rate, it is contrary to that desire of variety
which is implanted in human nature, to appropriate a
whole day every week to devotion alone. The appli-
cation of the mind for so long a time to one object,
and an object too which does not affect the senses, is
nothing less than labour of the hardest and most fa-
tiguing kind; and devotion of this nature, will gene-
really lose in intensity, tenderness, and unconstrained
spontaneous ardour, what it gains in duration. On
this account also, therefore, it is expedient to divide
the sabbath between religious duties and lawful en-
joyments; because one day will thus serve for what
would otherwise require two, and the more time for
labour thus be gained to the community.

That many zealous clergymen, and also many sabba-
tical laws, in framing which spiritual persons have had
a hand, proceed upon very different principles from
these, I am well aware; but this is not the place to
dispute the point with them, either morally or theo-
logically. Which of our principles are most according
to the spirit of that law, from which they borrow the
very word sabbath, will appear immediately.
§ 2. Moses found a custom among the people established from the very earliest period, by which they solemnized the sabbath day, and it is probable that even the Egyptians had left this day to them, as a day of rest: at least he describes this solemnity as instituted by God immediately after the creation, Gen. ii. 1—3.; and he nowhere mentions its having been abolished, or become obsolete. It appears, therefore, that he found it still subsisting* as a custom handed down from their ancestors; and thus it was not very necessary for him to describe circumstantially, wherein it should consist; that being already familiar through common use. Hence we have from him no account of

* Others prove this from Exod. xvi. 22, 23; where, according to them, the Israelites, even before the giving of the ten commandments, would gather no manna on the sabbath day, and therefore collected a double portion on the Friday. But of this proof I cannot avail myself, because I have given a version of the passage, different from the common one, and render ver. 23. in the plusquamperfect, *for the Lord had said*, &c. And thus I felt myself obliged to render it; for it were absurd to suppose, that Moses should only, after having been told that the Israelites had collected a double portion on account of the sabbath, say, *for the first time, This is the divine command, to-morrow is the sabbath in honour of Jehovah*, &c. As the Hebrew language has only a preterite tense, בְּצָאתָי may as well be the plusquamperfect, as the imperfect or perfect; and verbs in the preterites must be rendered, according as the scope and connection of the passage, and the idiom of our language, requires.
Art. 195.] Sabbath from the Creation.

the manner in which they were to worship the Deity on this day, excepting only the statute respecting the public sabbatical sacrifice, in Numb. xxviii. 9, 10.; for he adhered, in this point, to the usual practice from the days of their forefathers; and, at the same time, left the people at liberty to regulate their religious worship, which cannot always be perfectly uniform, and, as it were, fitted to one last, as circumstances, wants, or existing abuses might suggest.—For example, we have sermons preached to us on the sabbath day, wherein the Bible is explained, which, after so many thousand years, when so many ancient things spoken of in it have become unknown, requires explanation; but to have then given discourses every week, to illustrate a book still new, and, to every one that could read, perfectly plain and intelligible, would have been superfluous labour; and had Moses meant to institute any such practice, he must have been conscious of not writing perspicuously. And yet our weekly sermons, which have arisen from the needs of the common people, who can no longer understand the scriptures without aid and explanation, are actually one of the most important parts of our religious worship; and so useful, indeed, that we may almost rejoice in that defect which has occasioned them.

We know not, therefore, with historical certainty, wherein the most ancient worship of the Israelites on the sabbath day consisted. Probably they may, as on other festive days, have sung hymns of praise to God, accompanied with dancing, and held feasts, to which, besides other friends, the priests, Levites, and
indigent persons were invited; and if they resided near the sanctuary, they may have offered sacrifices, and thence made offering-feasts. In later times, we know, from history, that the Jews actually had sabbath-feasts, to which they invited even persons with whom they were unacquainted*. Perhaps likewise, parents were on this day to instruct their children in the knowledge of the Creator of heaven and earth; and public prayers were to be addressed to him, or whatever other service was customary. Only we must not at this period think of synagogues in every city, in which the law was read and expounded; for these were of much later origin, and Moses did not enjoin, what was afterwards introduced, the reading of his law every sabbath, but only at the feast of tabernacles, in the sabbatical year (Deut. xxxi. 9,—13.); nor did he introduce any thing like the office of a preacher, properly so called; see Art. LII.—We are, therefore, ignorant of many things relating to the ancient sabbath; but the following particulars we find more expressly stated in the Mosaic writings.

The seventh day was to be kept holy, in remembrance of God's having on that day rested from all his works; and was, therefore, sacred to the God, who, in six portions of time, which Moses calls days, created all things, and in the seventh ceased to create

* See Luke xiv. 1. and Wetstein's notes upon it. What Christ says in ver. 12, 13, 14. can only be fully understood, in reference to a feast, that formed a part of divine worship, and as such might look for a recompence from God: for we do not, in ordinary cases, expect that God should reward us in another world for every entertainment we give.
any thing more, because the world was now complete, and as he wished it to be, Gen. ii. 1,—3. Exod. xx. 11. xxxi. 17. Hence the celebration of the sabbath was making a weekly profession, that they received and revered the Creator of heaven and earth, as the true and only God, and was closely connected with the fundamental principle of the Mosaic legislation, illustrated in Art. XXXII., whose object was to keep the people from idolatry, and to maintain the worship of one God; and hence also the punishment of death was denounced against the wilful profanation of this solemnity. Here, however, an abuse might really still actually take place; for a superstitious worshipper of the stars, or as Moses usually expresses it, of the host of heaven, might have solemnized the seventh day in honour of Saturn, whom the Phœnicians revered as the Guardian God of their nation*, and to whom they offered human sacrifices; and, in fact, the Israelites themselves, when in the wilderness, in the days of Moses, clandestinely adored Saturn, and carried images of him in little booths about with them†. Such idolaters, then, in solemn-

* Eusebius, in his Prepar. evang. lib. i. p. 40 gives Sanconiaton's account of this; and Curtius, lib. iv. c. 15, says of the Tyrians, Sacrum multis saeculis intermissum, ut ingenuus puer Saturno immolare tur, &c. Mr. Bryant, in his Observations on Human Sacrifices, p. 278,—287, treats more fully of the worship of Saturn among the Phœnicians.

† The Chium (ךים) of Amos v. 26. is Saturn, as the late Nic. Wilh. Schröder has satisfactorily proved in his excellent Dissertation, De Tabernaculo Molochi et Stella Dei Rempban; and I merely add, that, according to the Masoretic points, the word should be pronounced
The Sabbath a day of rest from labour. [Art. 195]

nizing the seventh day, directed the secret intentions of their hearts to the planet Saturn. For this very reason, Moses found it necessary, not only most expressly to declare, that the sabbath was solemnized in honour of the God, who, in six days, had created the heavens and the earth, and all their host, (of course Saturn himself) and rested on the seventh day, but also to make the imitation of this rest, an essential part of the keeping of the sabbath. The reader may now peruse the passage relating to its institution and design, in Exod. xxxi. 13. 17. Observe my sabbaths, they are, to eternal ages, a sign of the engagement between me and you, wherein ye see that I have sanctified you to myself,—For in six days Jehovah made heaven and earth, but on the seventh he rested, and refreshed himself.

Among the Israelites, the day was not, as with us, reckoned from midnight to midnight, but from sunset to sunset. Of course the sabbath commenced at sunset.

The sabbath was to be a day of rest, partly as just mentioned, in honour of the God who created heaven and earth; but partly also, that man and beast might both be refreshed, and not have their bodily strength exhausted, by uninterrupted labour. Of course, it was a day of rest, in the sense in which, in the preceding Article, I distinguished it from a day of divine worship. Moses expressly states it in Exod.

not Kijjun, but Kevan (כען), which means the Just; a name well suited to Saturn, whose reign was regarded as the era of justice. The reader may nevertheless compare my Hist. Belli Nesib. § 8.
xxiii. 12. as a design of the Sabbath, that the ox and
the ass might have rest, and the servant and the stranger
be refreshed. For this reason, cessation from labour
is enjoined not only to those who worshipped the true
God on that day, but likewise to all foreigners residing
within the land, though not believers at heart in the
true religion, nor bound to any outward worship.—
Nor were even the beasts to be put to any work, as on
other days, Exod. xx. 10. Deut. v. 14, 15. No per-
son living under the Israelitish government, was to be
deprived of this rest, or to be prematurely stupified
by unceasing toil, without all relaxation and enjoy-
ment; nay, the very beasts were to partake in it.—
But on this point, I have said what was necessary, in
Art. CLXVII. and need not here repeat it.
This rest, however, was not to consist in perfect in-
activity, and abstinence from all bodily motion, or
from every thing that by the chicanery of a scrupulous
conscience, might be construed into labour. Indeed,
a day of this description, during which a person dares
not stir a foot for his amusement, but must be tortured
with doubts in his mind, whether, by stretching out
his hand, or by any other motion of his body, he may
not be committing a sin, would be directly the reverse
of a day of recreation. It would rather serve to
reader us melancholy, and we should only rejoice
when it drew to an end. No doubt the Sabbath of
the Jews did assume an aspect of this strange descrip-
tion, in consequence of the numerous additions of
minute observances introduced by the Pharisees, and
often reprobated by Christ; and it would have an
aspect still more gloomy, were we, according to the
doctrine of some Christians, to look upon all worldly intercourse and pleasure, as prohibited on this day, and to extend the prohibition likewise to all mental exertion, and, of course, to the repression of all thoughts not strictly devout, and to reading and writing. Such a day as this, without aught of what we call variety, would be a weekly plague of the most grievous kind. But of all those Jewish statutes which we find specified in the Talmud, and sometimes mentioned in the Evangelists as combated by Christ, Moses has not a word. Nor knows he any thing of the Sabbath-day's journey, as it has been called, that is, of the prohibition of going more than 2000 ells from the city*; which is a mere addition of the ancients, and the Pharisees. It is true no one would on the Sab-

* Whoever wishes to know more of this strange conceit, may consult Lightfoot's Hora Hebraica, on Acts i. 12. Moses, in Exod. xvi. 29. commanded the Israelites to stay at home on the Sabbath, and not go out, as on other days, to gather manna. Now, the Rabbins, detaching the clause, stay at home, or, as it strictly means, sit every one in his place, from its connection with the rest of the passage, insisted that it was a general prohibition against going out of the camp, and that when the Israelites were no longer in a camp, that it held in like manner, with respect to the city, out of which, of course, no one durst then go; but that as the space of 2000 ells round the city belonged thereto, consequently, if a person went only that distance from it, he did not go out of it; and his going thus far was lawful, and constituted what they termed a Sabbath-day's journey. A very ridiculous exposition certainly; and the beauty of it is, that on this principle, in London a Jew may quite easily go two good German miles without breaking the Sabbath. Other fooleries of the Rabbins on this subject, I will not produce; but this one I could not entirely overlook, because I perceive that some Christian literalists have actually acceded to the notion of its being a Mosaic ordinance.
bath have *gone* an errand for hire, nor durst any one have *ridden*, because, in that case, his horse, camel, or ass, would have had no day of rest; but, for his pleasure, he might have walked as far as he had a mind; and though he had fatigued himself dancing, he would not only have done nothing repugnant to the Mosaic law, but, on the contrary; have really acted conformably to its design.

What Moses prohibits on the Sabbath, he himself terms מֶלֶךְ עַבְרְיָה, which, according to the etymology of the word, means *the business of a servant*. But all bodily labour is so called, because we command our servants to perform it, or hire a workman for the purpose. What was to be comprehended under bodily labour, or, as it is elsewhere termed, מֶלֶךְ עַבְרְיָה, *business*, everybody then knew and understood, from the ancient manner of solemnizing the Sabbath, and from the usage of the language; and, therefore, Moses nowhere found it necessary to give any definition of it. Two examples of it from his own history, are, going out of the camp to gather manna, Exod. xvi. 22,—30., and gathering sticks, Numb. xv. 32. But if a person took up any thing that he saw lying before him, or, in passing by a field of corn, plucked the ears, and ate the grain, as the disciples of Christ did, Matth xii. 1., we must easily see, that this is by no means the same thing with collecting sticks or manna. Without chicane, it cannot be called bodily labour; and a Sabbath, on which such things were forbidden, would rather be a day of punishment than of comfort.

Of *mental labour*, Moses, in his sabbatical statutes, mentions not a word, nor was it necessary, considering
the circumstances and occupations of his people; for the exertion of the mind requisite in divine worship, must at any rate have been just as lawful as was the bodily labour, which a case of exception, that will appear in the sequel, required. How Moses would have acted, if he had had to do with a people, among whom, as with us at present, a great many learned persons are entirely occupied in study, I have no desire here to investigate.

Certain things, which those theologians who hold the fourth commandment as still obligatory, term works of necessity, and as such, permit, were nevertheless actually included in the work forbidden by Moses. The kindling of fire, and the dressing of victuals, on the Sabbath, was unlawful, Exod. xvi. 23. xxxv. 3. Now to us, considering our climate and domestic arrangements, this would appear a very hard prohibition; especially if we contemplate it in reference to a day that lasts from midnight to midnight: And a day of rest, or refreshment, we should by no means think a right name for a Sabbath, whereon we durst not, from morning to night, taste any thing warm, nor in winter have any fire—but rather, a day of penance. In fact, the Jews residing in northern climates, feel the unsuitableness of such a Sabbath to such climates. They indeed contrive, by ovens constructed for the purpose, so to prepare their food, as that if the fire be kindled in them immediately before the Sabbath begin, they can have a hot dinner next day; but still they often experience the inconvenience of having their victuals miscooked, unless they have very perfect cooks, which only rich people can afford; and a Jewish gentleman
whom I questioned on this point, told me, that he laid his account with having his Sabbath's dinner spoiled at least twelve times a year. They are often obliged likewise, to employ Christian servants on their Sabbath, and would be very ill off if they could not get them, or were themselves the only people, in a country like ours. Many Christian clergymen, however, who are of opinion that the fourth commandment still affects us under the New Testament, and that, excepting works of necessity and charity, all manner of labour is forbidden on our Sunday by God himself, do not abstain, notwithstanding, from having warm roast and boiled, on that day, at dinner; and thereby shew, how little that law is adapted to our climate, and to the arrangements of their kitchens.

Now in Palestine, the Sabbath, and especially as it commenced at sunset, had none of these inconveniences; and indeed, notwithstanding the prohibition of cooking and kindling fire, might have been a regular day of feasting. In our countries, the principal meal is dinner, but in more southerly climates, supper; because in summer, people have too little appetite for food in the heat of the day. Even in Italy, though not so far south as Palestine, we see that this plan had long prevailed; for among the Romans, the principal meal, and that at which company were entertained, was their Cena. In this case, dinner becomes rather like a Déjeuner, at which people are satisfied with a cold collation. Now the Israelite, in the evening when the Sabbath commenced, could not only have a warm supper for himself and family, prepared in the afternoon of Friday, but might easily give as costly
an entertainment as he had a mind. In Palestine, the 

sun, in the shortest days of winter, never sets before 
five o'clock in the afternoon; almost the very time 
when, at some courts, they now sit down to a dinner, 
which an ancient, without speaking very figuratively, 
would have called a Caena, or supper, and would have 
eaten with as much appetite as we do: and it was an 
easy matter to keep the victuals warm for an hour, 
when sunset happened too early. In their longest 
days, again, this takes place before seven, at latest; 
the precise hour of supper among our Bourgeois.— 
Those who wished for a hot dinner likewise, must 
have managed as our modern Jews do with their 
ovens; although, indeed, I suspect, considering the 
scarcity of wood in many parts of Palestine, that such 
instances were not so frequent as at present, and that 
they were then contented with cold victuals. To save 
fuel, indeed, they might, like the Jews in our great 
towns, have heated public ovens, in which meat could 
be dressed and kept warm till next day at noon. 
This, however, would, according to the Mosaic sta-
tute, though unaltered by any Rabbinical artifices, 
have had its difficulties; because they durst not have 
employed their servants, for whom, as well as them-
selves, the Sabbath was instituted, to bring home the 
meat from those ovens; the carrying of any thing on 
the streets being expressly prohibited on the Sabbath. 

Whether the prohibition of kindling fire extended 
to fire necessary for warmth, or only to fire for cook-
ing, I cannot with certainty say, and I almost doubt 
it; but allowing that they understood it in its strictest 

sense, they might easily hold out even in winter in so
mild a climate, if, immediately before sunset, they made such a fire as to keep heat until next day; more especially as in southern countries, they usually fortify themselves against frost more by the aid of warm clothing, than by the heat of fires. Even in France, which is but little farther south than Germany, they do this; and in Palestine, more furs are said to be worn at this day, than with us*. In fact, however, I believe the prohibition only affected kitchen-fires; for had fire for warmth been forbidden, I should have supposed, considering that in some parts of Palestine, such as those about Mount Lebanon, the cold in winter is pretty severe, that necessity would have taught the Israelites the discovery of some contrivance resembling the oven. Yet in their buildings, before the Babylonish captivity, we find no mention of either ovens or chimneys; for even their kings in winter, instead of having fire on a hearth, had only a portable stove, or pipkin, in their apartments, filled with hot coals. That this is the true meaning of the word הָעָל, in Jer. xxxvi. 22. the reader will be convinced by Dr. Sebald. Rau's Dissertation, De Ædibus Hebreworum. I only add, that in Arabic, it actually signifies a pot, when the Cheth is written with a point over it, Cha.

There is still another respect wherein the Mosaic statutes relative to the Sabbath, though perfectly suited to the climate of Palestine, are by no means adapted to ours, and that is, in their permitting no work

* See Busching's Geography of Asia, p. 326. 2d edit.
on that day, in seed-time, or even in harvest. For us, this would be a great hardship, because in harvest we have often rainy weather, and in wet years many a man would lose his crop, if he durst not avail himself of a favourable day for ingathering it, because it happened to be a Sunday. Hence our strictest regulations respecting the Sabbath, even those in the framing of which, clergymen, who believed in the divine authority of the day as still in force, have had a hand, are wont to regard this as a work of necessity, and to make an exception in favour of the harvest. In Palestine, however, this was not necessary; for the weather in harvest is in general so steadily favourable, that we find it, in 1 Sam. xii. 17. represented as a circumstance altogether extraordinary, that a thunder-storm should take place during wheat-harvest. In the warmest parts of that country, harvest begins about the middle of April*; and it is finished everywhere in seven weeks, that is, it lasts till the beginning of June; but the rainy season usually ends in April, though occasionally there may be some rain in the latter part of April, old style†, that is, in the very be-

* See my Commentatio de Mensibus Hebraorum, § 2, 3.
† See Shaw’s Travels, p. 335. Eng. edit.—This steadiness of the weather during the seven weeks of harvest, which ran between the second day of the Jewish passover and the feast of Pentecost, appears to be mentioned by the prophet Jeremiah, chap. v. 24. who counts it a blessing from God, that they should enjoy such a fortunate land.—His words are, This people thinketh not; Let us fear our God, who giveth us rain in spring and autumn, and so sacredly observeth the weeks destined for harvest. In fact, good weather in harvest is a precious gift of nature to a country; and the great complaint of many northern regions is, that it absolutely rains most during that season.
Art. 195.] The Priests worked without Sin.

ginning of May: but after that time, there falls no rain, or but very rarely, and it does no injury to the crop, because it does not last.

Bodily labour requisite for divine service, was not prohibited on the Sabbath; so that this formed an exception from the statute. Without severe labour, beasts could not be slaughtered, and offered on the altar; and yet the daily morning and evening sacrifice was to be made, and even doubled, on the Sabbath; and wood was to be procured every day for the fire of the altar, Lev. vii. 8,—13. Numb. xxviii. 3,—10.—

According to a just analogy of this law, the Jews likewise offered sacrifices of all other kinds on the Sabbath; and Christ remarks, in regard to this point, that the priests in the temple broke the Sabbath without incurring guilt, and that then also, a child was circumcised, if it happened to be eight days old, Mat. xii. 5. John vii. 23.

The consequence of this was, that at the sanctuary, where alone offerings durst be made, sacrifice-feasts were held on the Sabbath; for any thing that related to the preparation of the offering-meats, was a duty of religion, instead of being a profanation of the sanctity of the day.

On the wilful breach of the Sabbath by any kind of work, the punishment of death was inflicted, (Exod. xxxi. 14, 15. Numb. xv. 32,—36.) as we shall notice under the head of Penal Law. I only here remark, that the reason of the severity of the law was, that as the Sabbath was meant to be a sign of their acknowledging the Creator of heaven and earth for their God, so the man who broke the Sabbath was considered as
Scruples of later Jews as to the Sabbath. [Art. 196.
guilty of disowning that God, the worship of whom,
as we have stated in Art. XXXII., was a fundamental
principle of the Israelitish polity.

ART. CXCVI.

Fighting on the Sabbath, not forbidden.

§ 3. After the Jews, on their return from the Ba-
bylonish captivity, had been some hundred years un-
der the dominion of foreign powers, and had at last
recovered their liberty, certain conscientious but illi-
terate persons among them, began to entertain scru-
ples as to the lawfulness of fighting on the Sabbath;
and the exposition which they still give of the Mosaic
statutes relating to that day, altogether incapacitates
them from military service. Now the question is,
Can war be classed with those works which Moses
prohibited on the Sabbath? If so, it is not conceiv-
able how a state could subsist under such a law. It
would not so much as be secure against banditti; nor
would the magistrate be able to maintain the public
peace on the Sabbath, if any miscreants should then
take it into their heads to disturb it.

I am perfectly confident that Moses never gave any
such strange law. At least the word (ריצה) service,
gives us no handle for even thinking of war. Should
any one attack or strike us, we would defend ourselves
with our own hands, and not commit that task to our
servants or slaves; and therefore self-defence, and the
resistance of aggression, cannot be called service, or
the work of a servant. Nor indeed was war, among ancient nations, by any means the work of servants. They looked upon it as extremely dangerous to put arms into the hands of such persons. Free citizens were obliged to fight the battles of their country; and it was only in circumstances of absolute desperation, and when a state was quite exhausted by great defeats, that the slaves were armed as a last resource; and it was usual, previously, to give them their liberty.

I grant that this alone is not decisive. From the derivation of a word, we cannot always conclude as to its signification; for by use it often acquires a more extensive, or even an altered meaning. Thus, with us, the very word service, is in a pre-eminent sense applied to military service, as, in this instance, to enter, or to leave the service. I have, however, already observed, that Moses is very brief in his sabbatical laws, and nowhere finds it necessary to give definitions of the terms rest and work; because, from ancient usage, they were quite familiar to the Israelites of his day, in the sense in which he meant them. But his cotemporaries certainly never understood him to mean, that they were not to fight on the Sabbath; nor indeed does any, such ridiculous idea ever seem to have entered the head of an Israelite, prior to the Babylonish captivity. Had they held warlike operations unlawful on the Sabbath, we should frequently have read in their history, that their enemies had availed themselves of the advantage of attacking them on that day: but we read of no such thing; nor did their enemies ever recur to this very natural time of attack, earlier than some centuries after the captivity;
Absurdity of not fighting on Sabbath. [Art. 196.

and then, indeed, it had a very unfortunate result for the Jews, because God by no means thought it necessary, honourable as their motives were, to save them by a miracle.—David carried on wars with a number of nations differing in manners and religion, and who certainly could not all have concurred with the Israelites in keeping the seventh day holy; yet we never find, not even during the long-protracted sieges of great fortresses (2 Sam. xi. xii.), that the solemnizing of the Sabbath formed the least hindrance to his operations, or that the enemy ever attacked him, or made a sortie, and destroyed the works he had constructed for a siege, when his troops could not defend themselves on account of their religion. Zedekiah, the last king of the family of David, sustained in Jerusalem a long siege of a year and a half; but how could this have been possible, if the Jews had refused to fight on the Sabbath? Would not Nebuchadnezzar have been sagacious enough to have resorted to an escalade the very first Sabbath? Of the events of this year and a half, we have such a detail, as we seldom find, of any period of the Jewish history; because Jeremiah prophesied in the city during the siege; but even in his writings, which contain so many minute particulars relative to the siege, we find not a word of any collision between the duties of the Sabbath, and those of the defence of the city against the enemy.

I have called the idea of not fighting on the Sabbath, ridiculous, and in so doing, I think I have not gone too far. What should we think of the man who let another give him a sound beating, without making the least resistance, and only saying, "This is my
Art. 196. Absurdity of not fighting on Sabbath.

"day of rest and refreshment; at any other time I should not have taken it so quietly." Precisely so would the people act, who should refuse to fight on the Sabbath; and if an individual may defend himself against an assault, it is inconceivable that a nation should not have had the same right, when life and death, or, at any rate, slavery, depended upon it. Can any thing be more repugnant to the design of the Sabbath, than a rest like this? Is it rest, if a nation allows its citizens to be made slaves on the Sabbath, by enemies who will subject them to daily servitude, to whatever extent they chuse? The absurdity is so great, that a legislator might well think it unnecessary to guard against any such exposition of the terms labour and rest, by an explanation which none of his contemporaries would ever have thought of; particularly considering that God was regarded as king of Israel, and consequently every just war in which they were engaged, as in some measure a duty of religion, and as doing God service.

In fact, no doubt ever arose on the subject, till about 1300 years after the death of Moses, and when the Jews, having been subjected to foreign dominion, had, for four centuries, carried on no wars, and had consequently forgotten the relation which the Sabbath bore to war, and which otherwise they would have well understood. They were first under subjection to the Babylonians; afterwards, for more than 200 years, to the Persians*, who treated them with

* Under the Persian government, at least to the time of Nehemiah, they do not seem to have held it as a principle, that war on the Sab
great kindness; and then to the Greeks*; to the Greek kings of Egypt first, and at last, to those of

bath was sinful. Nehemiah was extremely zealous for the sanctity of the Sabbath, and for that reason, when the Tyrians brought all kinds of eatables into Jerusalem, and sold them on that day, he made the gates be shut against them; and when on this, these foreign merchants twice lodged about the city on the Sabbath, he sent them notice, that if they did so a third time, he would send out troops, and employ force against them, (Neh. xiii. 15,—19.) The man that would have thus acted, could never have considered war as unlawful on the Sabbath; for whether it is a city-guard or an army that makes the attack, alters not the case here in the least. If the one is work, so likewise is the other.

From a passage in Herodotus (book vii. ch. 89 ), some have been inclined to conclude, that there had been Jews in the army which Xerxes brought against Greece. I do not think so; for although the Jews might be called Syrians in Palestine, yet this appellation does not apply to them alone. Others speaking the same language, if only not Phœnicians, as, for example, Philistines, might just as well be here meant by Herodotus; nor can we easily suppose Jews intended, because it is not of land-forces, but of ships of war, that he speaks, which we certainly should not expect from Jews. His words are, “*The Phœnicians and Syrians in Palestine gave 300 ships.*”

The following passage from the poet Charilus, concerning the march of Xerxes, preserved by Josephus in his first book against Apion, chap. 22. is more explicit. “*After them a people crossed (the Hellespont) whose aspect excited astonishment. They spake Phœnician, and dwelt at Solyma, among mountains, which hang over a broad lake.*” But the words of a poet are not to be depended upon, in a question of history. Who would ever think of proving from Virgil’s viith. Æneid, what nations actually took the field against Æneas? A poet paints and invents; and what Charilus immediately adds, of their wearing on their crop ftlocks the heads of horses dried in smoke, looks more like poetical fiction, than historical truth.

I should rather be inclined to suspect, that the Jews, who were in favour with the Persians, and afterwards with Alexander the Great,
Syria. When the Syrians at length began to persecute them on account of their religion, and compelled them to sacrifice to idols, many conscientious Jews fled to the wilderness, and took refuge, with their wives and children, in large subterraneous caverns. In these they were enclosed by the Syrians on the Sabbath, and, without making the least resistance, butchered, or, as Josephus says (Antiq. xii. 6. 2.) burnt. These were, indeed, conscientious people, had had recourse to a small degree of artifice, and begged exemption from military service, under the pretext of their religion and the Sabbath. At least, I find an instance of such artifice at another period, when they were subject to the Romans; for they complained to Agrippa, that they were forced to serve as soldiers, and on representing it as repugnant to their religion, they were exempted, (Joseph. Antiq. lib. xvi. c. 2. § 3. 5.) and yet since the time of the Maccabees, they had not only actually fought on the Sabbath, when it was necessary, but they even served their own kings in war. In this way, therefore, may their unjust exposition of the command relative to the Sabbath, which, at last, proved so disastrous to themselves, have originated, while they were under the Persian kings, merely in the view of getting clear of military service.

* Josephus relates (Antiq. xi. 8. 5.), that Alexander the Great promised the Jews, if they would serve in his army, that they should have liberty to live conformably to the customs of their fathers; upon which, many of them joined him. But this appears somewhat incredible, as it was by no means the object of Alexander to make his army numerous by a variety of auxiliaries from foreign nations; and Josephus here produces no authority for his assertion. Indeed the Jews had no native creditable historian of the time, from whom he could have obtained it.

† In 1 Maccab. ii. 31,—38. it is related, that they did not cast a stone at the Syrians, nor even barricade the mouth of the caverns, but only said, Let us die in our innocence. Heaven and earth are our witnesses that ye put us to death unjustly. See my Notes on this passage.
but without a rational leader. Their fate made their brethren, who fought under Mattathias, the priest, more prudent; for they resolved to fight on the Sabbath, whenever it should be necessary; although still, it appears*, they would not on that day have made any attack, but have rested, if the enemy had done so. We read in 1 Macc. ix. 34, 43,—48. that they really acted on this principle, when Bacchides wished to take advantage of the Sabbath to attack them.

A limitation like this, however, is quite unsuitable to the rules of war; for we should thus frequently be compelled to forego the most advantageous opportunities. Nor did Moses ever give any such command, or make any such distinction between defence and attack. The Jews, nevertheless, on this occasion, in consequence of the gallantry of the Maccabees, which was perfectly incredible, suffered nothing from it. On the Sabbath, they fought on the defensive, and on other days, attacked their enemies with such resolution, in the maintenance of their liberties, that the Syrian armies hardly ventured to face them. It was not till long afterwards, and when they had a different enemy to contend with, that this remnant of superstition proved a source of calamity to them, and brought them again under a foreign yoke. Pompey laid siege to the temple, which was very strongly fortified, and Josephus is of opinion that he would not have reduced it, if the following stratagem had not succeeded with him. He knew that the Jews would not fight on the Sabbath, unless attacked: he therefore abstained from

* See 1 Mac. ii. 39,—41. Joseph. Antiq. xii. 6. 2. xiii. 1, 3.
Art. 177.

Pompey's advantage by this Prejudice. All attack on that day, and did not so much as let a stone be thrown against the temple; but kept steadily working at his approaches, constructing siege-towers, and advancing his military engines, (Jos. Antiq. xiv. 4. 2.) All this, the Jews, from misconceiving the nature and duties of their religion, beheld with patience, and thus Pompey was enabled to take the temple. They did not, however, act in this manner when Titus Vespasian besieged the city, but fought every day alike, and without making any distinction.

I must yet once more go back to the times of the Maccabees. The victories of the Jews, now made foreign princes eager to have them for soldiers, even although on the sabbath they would attack no enemy, that did not attack them. Demetrius, king of Syria, made them a proposal, of taking into his service 30,000 Jews, who were to have their own officers, to live with perfect freedom, according to their own laws, and to have equal pay with the royal troops; (1 Macc. x. 36, 37.) and Demetrius his son promised them even places among his body guards, (1 Macc. xiii. 40.) During the intestine commotions of Syria, they actually afforded aid sometimes to one king, and sometimes to another, against his anti-king; but without being properly in Syrian pay. Jonathan and Simon, however, contrived to have their assistance on these occasions well paid for, by the important privileges which they obtained.—Soon after, when Antiochus Sidetes, the last, whom the Jews acknowledged as sovereign, marched against the Parthians, he was accompanied by John Hyrcanus, the Jewish prince and high-priest, with a Jewish army; and the king
regulated his procedure with such condescension to the consciences of the Jews, as to halt for two successive days, on which they could not march, because to their sabbath, which was one of them, there immediately succeeded at this time, the first day of Pentecost, which was in like manner kept as a sabbath. Josephus in his Antiquities (xiii. 8. 4.) tells us this on the authority of Nicolaus Damascenus, whose very words he quotes. Much about the same period, there were in the army of Cleopatra, queen of Egypt, in the island of Cyprus, not only Jewish soldiers, but also two Jewish generals, Helkias and Ananias, who alone continued faithful to her, when the rest of her troops deserted her. Josephus also gives us this information, (Antiq. xiii. 10. 4.) and quotes Strabo as his authority.

Where the Jews were merely auxiliaries, the inconvenience of their not attacking on the sabbath, might in a great measure be obviated by then employing the rest of the army; but, in an army composed entirely of Jews, it certainly was very serious; and this their princes and kings must at last have perceived; at least, they began to take foreigners into their pay, and by them, in the time of Herod the Great, the native military force was at length altogether supplanted. Even prince John Hyrcanus, who led a body of Jews to aid the king of Syria against the Parthians, having plenty of money, began to employ some foreign troops. (Joseph. Antiq. xiii. 8. 4.) His son Alexander continued the practice; only instead of Syrians, whom his father seems to have taken into his service, he engaged Pisidians and Cilicians. (Jos. Antiq. xiii. 12. 5.) His widow,
Alexandra kept them up, but allowed the Pharisees to oppress them to such a degree, that they at length went to the queen, and demanded either dismission or protection. They appealed to their services and exploits, and told her, they could easily find bread in other countries: for that Aretas, king of Arabia Petraea, and other princes, would be glad to take troops into their pay, whose very name had previously been so formidable to them. Upon this the queen retained them, and removed them into garrisons without Jerusalem, not, however, in the three principal fortresses in which she kept her treasures; so that besides them, she must have had native troops. (Antiq. xviii. 16. 2, 3.) Herod the Great, on the contrary, must, at the end of his reign at least, have had none other than foreign soldiers, for in his funeral procession, the army marched in the following order, 1. His body guards, whom the tyrant, who was utterly abhorred by the Jews, would not have ventured to choose from among them, but, like the Roman emperors, from among foreigners. 2. Thracians. 3. Germans. 4. Galatians. (Antiq. xvii. 8. 3.) It is probable, that the armies of his sons, even those troops which the tetrarch of Galilee carried to the field against Aretas, may, in like manner, have been composed of these nations. (Antiq. xviii. 5.)

Under the Roman government, the Jews, those not excepted who were Roman citizens, enjoyed exemption from levies and military service; and that under pretext of the sabbath. (Antiq. xiv. 10. 6, 11—14.) The reason of this it is easy to comprehend. The Romans, according to the nature of their warfare,
would have been but poorly served with soldiers who would not fight every day. It was, indeed, an exception to this rule, and a punishment upon the Jews and proselytes living at Rome, when, in the reign of Tiberius, 4000 of them were compelled to serve, and sent into Sardinia, against the banditti there; although even then, many of them rather chose to undergo punishment, than wound their consciences by taking the oath of service, which seemed to them repugnant to their doctrine respecting the sabbath*. In Arabia Felix, Judaism had long been the prevailing religion†, and maintained itself upon the throne as late as the sixth century; but what these Arabian converts held to be right in regard to fighting on the sabbath, I do not know. As to the superstition of the Talmudical doctors, and of our modern Jews on this point, it is the less interesting to us, because they have no more any government of their own, but are protected by others. Only I must observe, that they still must feel the unhappy consequences of their misunderstanding the sabbatical law. For,

A people that cannot bear arms, and defend the state under which they live, can never be on a footing with other citizens, nor enjoy equal rights. They must be subjected to more taxes, in order to make up with their purses, for what they are not in a situation to do, with their swords and their hands. They cannot reasonably be allowed to possess landed property, because, if they were, and became masters of the

* See Tacit. Annal. ii. 85. and Joseph. Antiq. xviii. 3. 5.
greater part of all the estates in the country, then the state, which requires to have citizens that can fight pro aris et focis, would become more and more defenceless every year. They can only be tolerated in a country for the sake of their wealth, and protected, merely because they cannot protect themselves; at the same time, they will always be looked upon in much the same light as the mushroom, which we tread under our feet; and if they commit, or are said to have committed any crime, or if the people get disgusted with them, or at least with their poor, they will then be all hunted out of the country, or, at any rate, the poorer sort of them; because the state will suffer no loss in getting rid of inhabitants that cannot defend it, and are but beggars.—Whether these remarks are applicable to the situation of the Jews, every one will know. The law of Moses, however, is quite blameless of all the evils, to which they are thus subjected; for it never prohibited them from fighting on the sabbath.
Of the Celebration of the Three High Festivals.

§ 1. Moses instituted other festivals besides the sabbath; and three of them, which we usually denominate High Festivals, were distinguished from the sabbath and all other holy days, by this remarkable difference, that they lasted for seven, one of them, indeed, for eight, successive days; and that all the males in Israel were then obliged to assemble at the place where the sanctuary stood, Exod. xxiii. 14, — 17. Their attendance, however, was not so rigidly exacted, on the other two festivals, as on the first, which was,

1. The feast of the Passover, kept in remembrance of their departure from Egypt. This festival was to commence on the evening subsequent to the 14th day of the first moon of the year, with eating what was called the Paschal Lamb*, and it was to continue seven whole days, that is, until the 21st. Moons which begin with the new moon, cannot, indeed, with perfect accuracy, be accommodated to our months: but thus much we may with certainty affirm, that the

* Exod. xii. xxiii. 15. Lev. xxiii. 4, — 8. Numb. xxviii. 16, — 27. Those who entertain any doubt whether it was to commence with the evening preceding, or following the 14th day, may consult the Gotting. Gelchrt. Anzeig. for 1758, No. 135, and particularly p. 1276.
The Feast of the Passover.

first moon of the Israelitish year, must always have fallen within our April. It was that moon, in the course of which, in Palestine, ripe ears of corn could always be had, and hence it had the name of the Ear-Moon, (Abib). On the 16th day of it, which was the second day of the festival of the passover, the first fruits of the ripe ears of corn were to be presented to God; (Lev. xxiii. 9,—14.) and from that day they were permitted to begin harvest, which commonly was not completely finished till seven weeks after, because in the colder parts of Palestine, it was not commenced nearly so soon as in the warmest. For example, ripe ears may always be had about Jericho after the middle of our April*; and consequently, the Ear-moon must always have fallen within that month.

At this festival, every Israelite who possibly could, was bound to come to the sanctuary, to eat the paschal-lamb, which, being a sacrifice, could be slaughtered nowhere but at the sanctuary; and whoever omitted this, without absolute necessity, subjected himself to extirpation from among the people; (Numb. ix. 13.) which we shall treat of in the sequel. (Art. CCXXXVII.) As soon, however, as this feast was over, every one was at liberty the very next morning, of course, while the festival still lasted, to return to his home, if he pleased, Deut. xvi. 17.—This liberty it was, perhaps, necessary to grant for the following reason; that if the Ear-moon happened to fall later in the year, and new moon, for example, on the 17th of April, then the first day of the passover came to be

* See my Commentatio de Mensibus Hebraorum, § 2.
the first of May; and, by that time, in the southern parts of Palestine the harvest was always ready to commence; nor could the legislator mean to throw any obstacle in the way of reaping the crop.

2. After the conclusion of the seven harvest-weeks now mentioned, or, in other words, on the 50th day, reckoning from the 16th of the first moon, the festival of Pentecost was to be celebrated, and it continued in like manner for seven whole days. This was properly the harvest festival, in which they were to offer thanksgivings to God for the bounties of harvest, and to present unto him the first fruits thereof, in bread baked of the new corn, Exod. xxiii. 16. Levit. xxiii. 14,—21. Numb. xxviii. 26,—31.

3. The Feast of Tabernacles, which was the festival of gratitude for the fruitage and vintage, commenced on the evening of the 14th day of the 7th moon (about the month of October*) continued seven whole days until the 21st†, and then received the addition of the eighth day, which, if I am not mistaken, had, in the most ancient times, and also after the institution of this festival by Moses, been the Wine-press-feast of the Israelites. During these eight days the Israelites dwelt in booths, formed of green branches interwoven together, which, in the warm region of Palestine, answered extremely well, because in October the weather is dry.

We must here guard against entertaining the strange notion, which has been sometimes transferred from our three-day high festivals to the seven-day festivals of

* See my Commentatio de Mensibus Hebraorum, § 4.
† See Exod. xxiii. 16. Lev. xxiii. 33,—44. Numb. xxix. 1,—39.
Art. 197.] Idle Festivals very burdensome.

the Israelites, that, during all that period, labour had been interdicted. Even during our festivals, we perceive how burdensome and repugnant to human nature a cessation from labour becomes, when it is made a duty, and continues more than one day. For how many people do our three days of idleness prove so tedious, that they absolutely long for a working day again? The preachers sometimes mention this from the pulpit, and censure it; but with all their scolding, they will never be able to change human nature; and it is only their own doctrine which prohibits labour for three days in succession, that has the occasion of our three-day festivals proving a burden on their followers. Now, were people obliged to abstain from all manner of work for seven or eight days successively, how intolerable would the hardship become, and how severe a penance, a festival of such a long duration? A tyrant studying refinements in cruelty, and reflecting upon the insupportable burden of idleness, knows very well, that he cannot torture his victims more exquisitely, than by immuring them, not in a workhouse, but in a prison, where no work is permitted. A seven-day festival of perfect idleness, would just have been a shorter punishment of the same nature.

Festivals of this description, and so repugnant to human nature, may have been devised, and conceived to be moral duties, by illiterate priests, unacquainted with mankind, from a misunderstanding of the Mosaic statutes, and which, by a fresh misconception, they would, besides, have transferred to the New Testament: but Moses is quite blameless on this score;
for the seven days of his high festivals he appropriated as follows.

1. The first and last days were Sabbaths, on which there was to be no work, Exod. xii. 16. Lev. xxiii. 7, 21, 35, 36, 39. Yet the prohibition was not so rigorous, as in regard to the weekly Sabbath: for all work necessary for the preparation of food was permitted on a festival-sabbath, Exod. xii. 16. This permission was necessary, unless either the weekly or the festival Sabbath were twice every seven years to be converted into a sort of half fast-day; because in the course of seven years, every one of the six festival-sabbaths of the three high festivals, would fall once upon a Friday, and once upon a Sunday; in other words, would either immediately precede or follow the weekly Sabbath.

2. The remaining five days, on the other hand, were working days, on which the people might labour, if they pleased; and it is probable, as shall hereafter appear, that on them the great yearly fairs of the whole nation were held, and, of course, the most and greatest business done. We find, at least, in the writings of Moses, not a word of prohibition, either as to working, or as to buying and selling; and it would seem that he permitted both the more expressly, from his so often saying, that the first and last days were to be proclaimed as sacred*, and no work to be done upon

* Instead of announcing a festival by ringing of bells, as we do, the Hebrews, who had no bells, proclaimed it: and in Turkey, and other Mahometan countries, not only festivals, but even the hours of prayer, are still proclaimed by criers. In great cities, where there are towers on the mosques, this is done from them; and in the camp
The great annual Fairs on Festivals.

This, at any rate, implies thus much, that the five intervening days were not so proclaimed, and might be employed in working. The word חֹּ֥ג, Chagg, which Moses uses, in ordaining a festival, does not mean, to abstain from labour, but, among the Arabs, either to go a pilgrimage, (which signification seems to have arisen from the old Arabs, before Mahomet's time, being obliged, as the Mahometans are since, to make a pilgrimage at their festival, to the Kaaba of Mecca), or, to go round in a circle, that is, to make a certain sort of circle or procession around the holy places, which they did dancing. I cannot here expatiate philologically on this point; but whoever would translate the phrase which Moses uses with regard to the high festivals, וְהַֽחֹּ֥ג, Ye shall keep a festival, in such a manner as to express its etymology at the same time, would be obliged to render it, either, Ye shall hold a dance, or, Ye shall make a procession, to Jehovah.

But wherein, it will be asked, consisted the solemnization of the other five days? It consisted—but I must first beg the very rigid moralists not to be scandalized—it consisted in offerings and offering-feasts, and in dances, accompanied by hymns, in which the Deity, and his bounties, were celebrated; in other words, it consisted in pleasures united with religion, and thereby kept within due bounds, moralized and sanctified. Of this sort, were many of the festal solemnities of ancient nations, even of the heathen; of Israel, in the time of Moses, and afterwards, in the cities which had no towers, proclamation was made by criers going through the streets, in the same way as our police-advertisements are published.
only that in the course of them, their mythology related too many shameful stories of their imaginary gods; insomuch that the festivity of such occasions was not only not restrained by religion within the bounds of decency, but rather passed into absolute lewdness, from the fault of their abominable theology.

1. The five intermediate days then, of the Israelitish high festivals, were solemnized in the first place by offering-feasts. It will be recollected, as stated in Art. CXCII. CXCIII., that the second tythes, and the first-fruits, were to be appropriated for offerings; and as these could only be made at the sanctuary, those Israelites, whose abodes were not in its vicinity, could discharge their obligations in regard to them no otherwise than by going thither; and sufficient care was taken by the laws, that every Israelite who had any tithe to pay, that is, who was not quite indigent, should not have long time for parsimonious deliberation, as to what he would employ for an offering-feast. He might, no doubt, make additions to it, by vows, or free-will-offerings; but though he did not, still he was obliged to set on foot offering-feasts, in order to consume his first-fruits and tithes. In this way, the festivals consisted of days of pleasure, during which they gave or received entertainments, and in the joys of which, the poor and the slaves were entitled to participate. In Deut. xvi. 11,—17. this is expressly enjoined, first, with regard to the feasts of Pentecost and of Tabernacles, and then, with regard to all the three festivals; and from the command given in ver. 2. of the same chapter, Kill unto God the paschal sacrifice in the place which he shall chuse for his habitation, of
Art. 197. Dances and Songs during Festivals.

sheep, goats, and oxen, it is manifest, that it is not merely the paschal-lamb which can be meant, but that other sacrifices were also to be offered at the passover. The reader may likewise consult 2 Chron. xxxv. 7, 9, 12. to satisfy himself on this point. There is only this one remark which I must yet make, viz. that in his laws, Moses commonly terms the holding of these banquets, rejoicing before Jehovah*; and that, in order to make the intention of the festal-offerings which were enjoined, the more fully understood, he sometimes adds, that they should rejoice before Jehovah in the intervals of their labours, that is, interrupt the labours of the rest of the year by these merry-meetings, and lighten them by the good cheer of the feasts.

2. Secondly, That dances, during which songs of praise were sung, formed a very ancient part of the festal solemnities of the Hebrews, we also know from Moses himself. For immediately after the passage of the people through the Red Sea, a song of praise, composed for the occasion; was sung, accompanied with dancing, by the damsels of Israel, and Miriam at their head, with an Adiēf † in her hand, Exod. xv. 20, 21.

* Deut. xii. 18. xiv. 26. xvi. 11, 14, 15. xxvi. 11. xxvii. 7.
† I here use the Spanish name of the instrument, derived from the Arabic, as it is the only one that is sufficiently expressive of the thing. Adiēf, in Hebrew עיד, is not a kettle-drum, as we render it, an instrument not very suitable for females; but a skin stretched upon a ring of metal, which they hold in one hand, and beat with the other. On this ring are hung shells, which rattle as the instrument is whirled round. In Russell's Natural History of Aleppo, p. 94, the reader will find a more particular account of it, with an engraving, Plate 14.
In like manner, at the induction of the ark into the tabernacle on Mount Zion, David danced, at which Michal was much displeased, 2 Sam. vi. 16,—22.; and we learn from Psal. lxviii. 26. that singers and players on instruments accompanied the procession, together with damsels who beat the Adufe, and probably these danced also. The yearly festival held not far from Shiloh, and well known from the seizure of the damsels by the Benjaminites, consisted likewise of dances, Judg. xxi. 19,—23. The damsels of Shiloh assembled to dance in a certain place in the fields, and there they were surprised and carried off for wives by the Benjaminites who had concealed themselves in the vineyards.

We have, therefore, reason to maintain, that dancing was commanded, when Moses, in the name of God, gave the command, Thou shalt celebrate a festival to Jehovah; a command, which an Israelite could neither from national customs, nor from the idiom of his language, understand otherwise, than as authorising the use of dancing. If the reader wishes to have the command in terms still more express, he has only to turn to Psal. cxlix. 3. and cl. 4.—Now, considering this, we cannot but account it so much the more extraordinary, that the excessive and gloomy severity of so many theologians should have led them to condemn dancing as sinful, under the New Testament. To the Israelites, on account of the hardness of their hearts, many things might, on civil grounds, have been permitted, which, in point of morality, were sinful: but if Moses was really a divine messenger, and not an impostor, nothing that he commanded, and nothing,
that appertained to the religious worship of the Israelites, can be sinful.

I may here take some notice of the question that has sometimes been proposed to me, on occasions when I have maintained this doctrine in conversation, in opposition to the condemners of dancing; Did both sexes, said they, in these ancient times, dance together, or men with men, and women with women, separately? The purport and drift of this question, I really did not at first understand; but I soon found, that the sinfulness of dancing was considered as properly consisting in its excitement of the wicked lust of the sexes towards each other, particularly in the giving of hands; and that dancing was thus connected with impurity in heart. This, however, in my opinion, would actually go to prove more than the adversaries of dancing would wish to admit, as, for example, that for the same reason, neither ought both sexes to go to the same church, where impurity in heart often occurs; nor ought a man ever to accompany a young woman.—As the question, however, has been repeatedly put to me, I will here state those remarks which I have generally made in answer to it.

1. From the great remoteness of the period, and the want of documents, I am, no doubt, unable to determine with certainty, whether, in the most ancient times, both sexes danced together; for, in Jer. xxxi. 13, the only passage which could help us to a decision, both the lection and explanation are uncertain. However,

2. From 2 Sam. vi. 16,—22. and Psal. lxviii. 25,—27. thus much is certain, that, in dancing, the one sex was present with, and looked at the other; nay
more, that the young women who beat the Adúfe, had a chorus of men in the midst of them. Now this might, perhaps, be as likely to excite illicit desires, as when both sexes danced together. But,

3. Were it certainly and inevitably the case, as some adversaries of dancing represent it, that it always occasions impurity in heart, then in southern countries, like Palestine, the danger of men dancing only with men, would be still greater, than if both sexes danced together. The former practice might give birth to unnatural lusts, whereas the latter could, at worst, involve the danger of a less heinous sin; and in the case of unmarried persons, excite a violent, but certainly not an unlawful passion, which might end in marriage. In confirmation of this remark, we may refer to what Niebuhr says, in p. 184. part i. of his Travels into Arabia; where he is directly speaking of the licentious practice of young boys dancing before men in the wine-houses.

The point belongs properly to morals; and since, in regard to it, theological morality has to borrow its principles of decision from the Mosaic law, I shall be forgiven for this digression, especially as I am persuaded, that the prohibition of dancing, which is now becoming so common among our theologians, and which, fifty years ago, was considered as a doctrine peculiar to the Pietists, is productive of many very bad effects, and particularly in families in the higher classes, by disquieting the consciences of children, and early habituating them, either from obedience to their parents, or from the dread of ridicule, to act deliberately and intentionally against their convictions.
ART. CXCVIII.

The Political Effects, Objects, and Uses, of the Festivals.

§ 2. In this way, the three annual festivals were, in fact, so many additional and prolonged seasons of pleasure, in which the people were to indulge themselves, exclusive of the weekly enjoyment of the Sabbath. Seven successive days spent in such a manner, serve as a recreation both to body and mind, and we think ourselves after them, as it were, regenerated. To bodily health, such relaxations undoubtedly contribute; for that man will always have more strength and activity, who, from his youth, has occasionally mingled in the cheerful dance, than the person who has been subjected to unvaried and uninterrupted labour. For that particular sort of labour, the latter may, no doubt, manifest great strength; but he will become stiff, and in all other applications of his bodily powers, awkward, and almost as if lame. This is a dietetical remark, in regard to which, we find a coincidence of opinion, between learned physicians and those officers who have to inlist or select soldiers.—And as to the mind, by festivities of this nature, it likewise becomes better humoured, and more cheerful: We return to our ordinary labours with more spirit and activity, after spending a whole week in the enjoyment of the pleasures of such extraordinary occasions; which, however, certainly must not be the constant business of our whole lives, but only that of festal seasons. Hence it seems to have been one of the great objects of the
Mosaic polity, that every individual, without exception, should, along with the evils, occasionally taste also the pleasures of life; the legislator having taken care, that not even the poorest persons, not even the very slaves, should be excluded from sharing in these, during the festivals. The words which, without once thinking of any thing learned, or of the subject of the present work, I have, in the poem entitled Moses, and annexed to the second edition of my Poetical Sketch of the Ecclesiastes of Solomon, put into the mouth of Moses, when he is intreating Pharaoh for a three-days festival to the Israelites, will, perhaps, be found to express, with tolerable accuracy, his real ideas on this point, as far as the tenor of his laws enables us to portray them.

But three days rest they ask, to keep the feast
Commanded by their God; through all the year, besides,
Thy duteous slaves. They seek not to rebel
Against thy sway; 'e'en tho' the sacred rest
Of sabbath, in thy house of bondage dire,
They ne'er enjoy. And canst thou then withhold
From these poor slaves, this respite from their toils?
Or grudge, that they should taste the sweets of life
For three short days, and then, as too much blest,
Serve thee for ever?

But without reference to this point, the institution of the three high festivals had, in many other respects, salutary influences on the community. The most important of these, and what the legislator, without doubt, had had principally in his view, was, that the whole people would thus become more closely connected together, learn to regard each other as fel-
low citizens and brethren, and not be so likely to be perpetually splitting into different petty states. They consisted, as has been already mentioned, of twelve tribes, of which each had its own common weal, and sometimes one was jealous of another. The consequences of this might have been, considering the narrow-minded patriotism of those ancient times, that they might have hated, and, in process of time, been completely alienated from each other. The yearly festivals had the greatest possible effect in preventing this misfortune. For while the Israelites thus frequently assembled all together for the purposes of religious worship and social enjoyment, they learnt to be more intimately acquainted with each other, and laid the foundations of firm friendships. That such friendships often have their origin in social intercourse of this kind, and that when people are met at the festive board, many little grudges are forgotten or removed, is an ancient and well known observation. If, on a day of mirth and jollity, we experience pleasure in the society of others, we naturally wish for its frequent repetition; we seek fresh opportunities of intercourse with them, and thus form friendships before we are aware.—It was, indeed, only specially commanded, that males should go to the Israelitish festivals; but fathers, no doubt, gratified their daughters, by taking them along with them to these solemnities, which consisted in dancing, and entertainments; and thus the men had an opportunity of seeing all the young beauties of the different tribes. This must naturally have occasioned intermarriages of one tribe with another, by which the interests of
families belonging to different tribes would become more and more closely connected, and thus the twelve petty states, be not merely nominally, but really, and from social love, united into one great people.

If any of the tribes happened to be jealous of each other, or, as was sometimes the case, involved in civil war, still their meeting together in one place for the purposes of religion and sociality, had a tendency to prevent their being completely alienated, and forming themselves into two or more unconnected states; and even though this had at any time happened, it gave them an opportunity of again cementing their differences and re-uniting. This is so correctly true, that the separation of the ten tribes from the tribe of Judah under Rehoboam and Jeroboam, could never have been permanent, had not the latter abrogated one part of the law of Moses relative to the festivals. In every case it is quite a sufficient recommendation of any measure of legislative policy, when experience has proved that the evil, which it was its object to prevent, could not possibly have taken place without an abrogation of the law; and that the destroyer or revolutionizer of the state, could not have effected his purpose, without annulling the statutes that regard religion; difficult though it always be to manage such an attempt without decomposing, and exasperating the minds of the people.

Now, Jeroboam immediately perceived, that the ten tribes would one day re-unite with the tribe of Judah, and subject themselves again to the rightful sovereign of the house of David, if they continued to frequent the high festivals at Jerusalem; which, by
reason of the suspension of arms, (Art. LXV.) at the holy place, would still have been quite in their power with perfect safety: and, therefore, in order to maintain his own authority, and to perpetuate the separation, he prohibited the annual pilgrimages to Jerusalem, and, contrary to the law of Moses, appointed two places for divine service, within his own territories (1 Kings xii. 27,—30.); in which, no doubt, the true God was worshipped, but, in order to gratify the propensity of the Israelites to idolatry, it was under the similitude of a golden calf. In order to make still surer of his point, he transferred the celebration of the feast of tabernacles, and probably of the other two festivals likewise, to a different season from that appointed by Moses; making it a month later, (1 Kings xii. 33.); in doing which, he very likely availed himself of the harvest and vintage being, in the tract adjacent to Lebanon, and which extended through the mountains, sometimes a little later, than in the other parts of Palestine.

A similar artifice, to get the better of a similar law, we find in the history of the Arabs, a people very nearly related to the Israelites, and strongly resembling them in their manners. Walid Abdulmelk, a Caliph of the race of Ommiah, is accused of having very much frequented a certain mosque at Jerusalem, for the purpose of diverting his subjects from the pilgrimage to Mecca, in order to prevent them from being inspired with veneration for the family of the prophet, and so becoming alienated from the house of Ommiah. When Abulfeda relates this story,
198 Festivals promote Commerce, &c. [Art. 198.

ry*, he makes use of the very same language, in which he afterwards describes the policy of Jeroboam, in prohibiting his people from attending the festivals at Jerusalem†. This shews, in a very striking manner, how naturally one common place for national festivals produces the effect of preventing, or healing any such political breaches; and that the legislator, who should be desirous of inseparably uniting twelve petty states into one great nation, could not possibly adopt a more effectual plan, than that which Moses pursued by the command of God, in the case of the tribes of Israel.

Another effect of these festivals regarded the internal commerce of the Israelites. I will not positively assert, that Moses had this effect in his view; but God, who instructed him as to the laws which he was to enact, certainly foresaw all the future uses of those laws; and it was an object in his view, though Moses might not have known it.—From the annual conventions of the whole people of any country for religious purposes, there generally arise, without any direct intention on their part, annual fairs and internal commerce; for, even if it were for no other purpose, merchants, who are always on the watch to espy and embrace every favourable opportunity of a sale, will resort thither, in order to dispose of their commodities. That our yearly fairs in Germany originally arose in this manner, is evident from the name, which the principal ones bear, Messen, or Masses. In an-

* See his Tabula Syria, p. 10, 11.
† See p. 85. of the same work.
German Fairs—The Fair of Mecca.

Ancient Catholic times, masses were said on certain days, in particular places, in memory of different saints; as for instance, on the Wednesday after Easter, near Querfurt, in the place called the Asses-meadow, from the Ass, which is so much celebrated in the history of the church; and, as many people assembled for devotion on such occasions, merchants, who had various wares to sell, likewise made their appearance; and so from the masses then read by the Catholic priests, arose what we now, in mercantile language, denominate Messen. Our country, therefore, is indebted to religion, or rather to religious meetings, not indeed enjoined by God, but merely devised by men, for a great part of its trade and commerce; which still subsists, long after people destitute of education have ceased to know, wherefore our great yearly fairs, that are of such importance, have been called Messen.

Among the Mahometans similar festivals have had the very same effect; for, notwithstanding the difficulties of travelling through the deserts, and the dangers to which the caravans are exposed from banditti, and the great intolerance of Islamism, which is such, that no uncircumcised person dare approach Mecca, without the risque of circumcision; not to mention the perpetual variation of the time of the pilgrimage thither, in consequence of their strange mode of reckoning by lunar years;—circumstances which, anywhere else, would ruin the most flourishing fairs—still the annual pilgrimage of the Mahometans to Mecca has given birth to one of the greatest markets in the world, where people from the extremities of the east.
and of the west, meet for the purposes of trade and commerce.

Now the very same effects, and to a still higher degree, must, without any effort on the part of the legislator, have resulted from the high festivals of the Israelites, to which the whole people were bound to assemble; and more particularly, as far as regards internal trade, which is always the most essential branch of commerce to any people. Let us only figure to ourselves, what would follow from such festivals being once set a-going. Every man would bring along with him every portable article which he could spare, and wished to turn into money; and, as several individuals would go from the same place, they would contrive various expedients to render their goods portable: for they would, for one thing, have to carry the ipsa corpora of their tithes, that were to be consumed during the festivals; not to mention other articles necessary to their accommodation, and which would require means of conveyance. Nor are such means of conveyance, (or, as I might perhaps more properly term them, voitures) expensive in the regions of the east; for they consist, not as with us, of waggons and horses, but of asses and camels; beasts of burden which are highly serviceable in promoting the commerce of Arabia, and the neighbouring country of Palestine. There could never be any want of buyers, when the whole people were convened; and the wholesale merchants would soon find it for their advantage to attend and purchase the commodities offered to sale by individuals, especially manufactured articles; nor would the owners of goods, as they must
require money to make good cheer on such occasions, bold them at unreasonable rates. Whoever wished to buy any particular articles, would wait the festivals, in order to have a choice: and this too would lead great merchants to attend with all manner of goods for sale, for which they could hope to find purchasers.

That Moses was by no means anxious to engage the Israelites actively in foreign commerce, I have already admitted, in Art. XXXIX.; where I have adduced the probable reasons of a procedure, which appears very absurd in our commercial times; whereby, as we may see from the English commercial records, Germany is much impoverished, and become the prey of her neighbours. The most important species of commerce, however—that whereby every man has it in his power to convert at a particular place, whatever he can spare, that is at all portable, into money, and with that money to buy, at first hand, whatever he wants from any other quarter—must have been, by means of their festivals, much brisker among the Israelites, than we could ever hope to see it in Europe on such occasions. That people, having a national religion from God, and having God himself for their king, enjoyed, in this respect, an advantage, which no other people can enjoy: for if it is not God, but only the sovereign, who enjoins a pilgrimage to a festival, every one who can, will endeavour to get quit of the trouble of the journey, or, at best, make it with reluctance; and if religious imposture is resorted to, in order to enforce attendance, the fraud will soon be discovered, and the political artifice thereby come to nought.
ART. CXCIX.

The Important Influence of the Festivals on the Calendar, and the Correction of its Errors.

§ 3. That the Hebrews reckoned by lunar years, is incontrovertibly proved from this circumstance, that they were not acquainted with solar months, but began their moons with the new moon, and that one of them, the Ear-moon, (Abib) was the first in the year, Exod. xii. 2.; for had they reckoned by solar years, every one of the twelve moons must necessarily have, at one period, fallen in the beginning, and at another, in the end of the year.

Now, as the lunar year is about eleven days shorter than the solar, had there been no intercalary moons, they must have deviated totally from the solar year; and have been in the same predicament as the Turks now are; among whom every moon runs through all the seasons of the year, and falls sometimes in summer, sometimes in winter, and so on. Many inconveniences inseparably attend this mode of reckoning; and if unceasing acts of injustice are not to be tolerated, and the man, for instance, who has rented a field for three years, and paid for that period, is not to run the risk of losing his third crop, because the corn happens not to be ripe at the end of that year, which takes place 33 days earlier, calculating by moons, so that the harvest nows falls within the fourth year; a multitude of ordinances, founded upon the solar year, become indispensible necessary, and must be made;
although the people, not being acquainted with solar years in common life, will always have great difficulty in understanding them. Nor can the many useful provisions of agricultural police, that relate to seed-time, harvest, vintage, extirpation of vermin, &c. &c. be otherwise so contrived, as that every one shall be easily able to comprehend and observe them. I need hardly add, that the history of a people, who reckon upon this principle, becomes, by reason of its perplexed chronology, peculiarly difficult; especially when it is to be compared with the history of other nations, who measure time by solar years.

The question then is, How is the legislator to remedy those serious evils that arise from the use of the lunar year? In answer to this question, it will immediately occur to many people to say, He ought instantly to abolish it, and introduce the solar year; and they will perhaps be quite indignant at Moses for not having adopted this very plan. And, no doubt, it would have been quite unexceptionable, had the true length of the solar year been but then known. This, however, was not the case: for astronomy was, at this period, altogether in its infancy. The common year among ancient nations, consisting of 360 days, is manifestly much more inconvenient than the solar year, because regulated neither by the sun, nor by the moon. But allowing that the Egyptians had, in the time of Moses, been acquainted with the solar year of 365 days, and had reckoned in it, as Diodorus Siculus* describes to have been the case in Upper Egypt,

* See lib. i cap. 49, 50.
12 months, of 30 days each, with five intercalary days at the end of the year; still a solar year like this was by far too erroneous, for a legislator to have been justified in introducing it, instead of the old lunar year, if he was only so far acquainted with the heavens or the course of nature, as to discover its great defects. For, in the course of a century it falls about 24 days short of the truth; in four centuries nearly 97 days; and in 1506 years, every month and every day thereof, will have made the circuit of all the seasons and days in the year; and one whole year have been made out, beyond the number of true solar years, that have elapsed.—Strabo* says still more, in praise of the astronomy of the Egyptians, viz. that their priests reckoned the year at 365 days and something more, and that from them, the Greeks first learned the true length of the year. This was at most the Julian year; but whether the Egyptian priests had, in the time of Moses, been so far advanced in the science of the heavens, is extremely doubtful. For would they not, in the course of fifteen hundred years observation of the heavens, have learnt—would they not, even from experience, have perceived the defects of such a year, which are always becoming more and more visible?—But, though we should allow, that they had at that time been acquainted with what we denominate the Julian year, still that year could not have answered permanently, by reason of its length, because it is eleven minutes too long; a defect, which, in process of time,

* Lib. xvi. p 1160, al 805.
became very manifest, and was very sensibly felt by the nations of Europe.

It is true, that God, who sent Moses as a legislator to the Israelites, and honoured him with immediate revelations, then knew the length of the solar year much more accurately than any mortal will ever calculate it, and even to the smallest fraction of a second; and might, therefore, have instructed Moses in this point, to a degree of perfection which we shall never attain. This, however, is not God's usual plan of procedure: for he leaves to men's own industry the discovery of physical and mathematical truths; nor would he be acting kindly, or as a father, desirous to educate his children, and to habituate them to reflection, if he were by a prophet to inform them of the exact length of the solar year, and other truths of a similar nature, which they might discover themselves, and which are, at the same time, not indispensibly necessary to their well-being. In fact, the world was at that time so deficient in the mensuration of time, that they did not so much as divide the day even into hours, and still less hours into minutes, and these again into seconds; for they wanted our chronometer, the clock. In the Old Testament we do not once find a word which can signify hours, earlier than in the writings of Daniel, and even there, only in the Chaldee part of them. The different periods of the day are always paraphrastically described in a different manner; as for example, in the Mosaic laws, the time between the sunset and total darkness, was termed בֵּין הָעַרְבִּים, that is, between the two evenings. The greatest wisdom, therefore, that a legislator could
then manifest, consisted in his remarking, that the solar year, as then known, was defective—in fact, extremely defective; and, of course, in not, on any account, introducing it into use, but rather leaving his people to abide by the lunar year, which was at any rate familiar, and in so far pointed out by celestial phenomena; correcting, however, its defects as far as possible, and approximating it on all occasions to the solar year.

Now this is precisely what Moses did. He had it not in his power to adopt a strictly astronomical solar year, and thereby to correct the irregularities of the lunar year; but he availed himself of the aid of an economical solar year, which never admitted an error of a whole month, without correcting it, and which every husbandman could easily comprehend.*

The festivals appointed for a certain day of the moon, had all a reference to the beginning and end of harvest, and to the vintage, and could not by any means have been celebrated in an appropriate manner, nor even with the shadow of an allusion to these seasons, if the lunar year had been allowed to fall behind (as it really does) about 33 days in the course of 36 moons. The first moon, which nearly corresponds to our April, Moses does not denominate Nisan, the name which it bears among other Oriental nations, and even in Hebrew, but he gives it a name

* We find from Oldendorp's History of the Mission, &c. part i. p. 308. that a similar economical year, consisting of mere moons, but regulated and corrected by the harvests, is in use among the Negroes of Western Africa, between the 16th degree of north and of south latitude.
which includes a definition, calling it Abib (אֵיבִּים), or the Ear-moon, declaring it to be the first month of the year, and commanding, that on the sixteenth day of it, which is the second day of the feast of the pass-over, the first-fruits of the ripe ears of corn should be presented unto God. Now if, after the lapse of the twelve moons of the preceding year, there were to be found at the new moon, or could be expected by the middle thereof, as many single ears of corn as were sufficient to make a sheaf; then this became the Ear-moon, and the first of the new year: but if, by the discordance of the moons with the solar year, the end of the twelve moons fell back so far within March, as that, by the middle of the next moon, ripe ears were not to be expected, and of course the feast of the pass-over could not be celebrated; then they were obliged to reckon this as a thirteenth moon of the preceding year, that is, in other words, to intercalate a moon, which the Jews, in their calendar, now term Veaddar, or the second Adar. To ascertain when this intercalation was to take place, did not require astronomical observations of the heavenly bodies: it was a point which every husbandman could decide by merely looking at the corn-fields in the most southern part of Palestine. The priests had only to announce, that it was now the thirteenth moon, the intercalary moon, or by whatever name they chose to call it; and any such artifice, as Verres, to suit his own purposes, had recourse to in Sicily, by the arbitrary intercalation of a whole month, was here hardly practicable; because the ripe ears, which were the signs of this moon, and the offering of its sixteenth day, would have too pal-
The Error always less than one Moon. [Art. 199.

ably refuted the cheat. And so it was, precisely, with the other festivals. A harvest-festival falling in the midst of harvest, and interrupting it, or even before its commencement; and a feast of tabernacles in the midst of the vintage, or before it, or still more, in the rainy season of November and December—would have been such crying absurdities, that they must have immediately shewn and corrected themselves.

In this way it happened, that although the Israelitish lunar year was, with respect to the true solar year, always fluctuating—and, indeed, could never be otherwise, because even if the new moon fell upon the very first of April, still would the lunar year end eleven days sooner than the solar—it could not, in any case, deviate a whole moon from the solar year, but was, by the insertion of the intercalary moon, always re-approximated to it. No single year, taken by itself, was a solar year, but either from ten to eleven days shorter, or if a moon was intercalated, from eighteen to nineteen days longer; but 365 such years were certainly equal to as many true solar years, to a mere trifle; and if the calculation extended to millions of years, a million of lunar years regulated by the harvests, and on their account approximated, by intercalation, to solar ones, would, in like manner, amount to the very same number of the latter.

The adoption of an astronomical year not perfectly correct, occasions an error, which at first, indeed, is trifling and imperceptible, but, in process of time, becomes so materially increased, that, if it amount to but one minute, it will, in the space of little more than 500,000 years, carry every month through all the dif-
ferent seasons of the year. An oœconomical year, again, may, in every single instance, involve great errors, and, indeed, if regulated by the course of the moon, must do so; but then one error is always removing and rectifying another; and in the lapse of ever so many millions of years, none of its months can be dislocated so much as 29 days, before it be replaced in its true situation and season. Had the Babylonians, as was pretended, had astronomical observations of 470,000 years, they might, without any help from astronomy, but merely by means of the oœconomical year, have educed the true length of the solar year, without the risk of being so much as one minute wrong in their calculations. They would have had nothing more to do, than divide the whole number of days of those 470,000 years, by the number of harvests that had taken place in the course of them, in order to ascertain the true solar year correctly to a minute; for 470,000 minutes make more than three-fourths of a year; and yet the harvest of one year cannot fall above a month earlier or later than that of another. Even by dividing the days, in which there have been a thousand harvests, the solar year must come out without the error of an hour: and the more numerous the harvests are, the less will the error always become.

I do not here stop to consider, how the Hebrew moons in other respects coincide with our months, but refer the reader to my Dissertation De Mensibus Hebrœorum.
§ 4. Besides the three high festivals already considered, Moses appointed 13 or 14 other festal or holy days.

In the first place, the new moons were regarded as holy days, but still in such a manner, as that, with the exception of that of the seventh month, any kind of work might be done on all of them. This made twelve, and in a year that required the intercalary month, thirteen additional holy days within the year. Whether in the time of Moses, by the term *new moon* was understood the new moon properly so called, that is, the time when the moon is in conjunction with the sun, or only the day on which, in clear weather, the moon became first visible, that is, the *new light*, was the subject of a controversy even among the ancient Jews. To us, indeed, it may be considered as a matter of pretty much indifference: but as Moses regulated the year, not by astronomical calculations, but on economical principles, and according to the phenomena of the seasons, which are obvious to every common man; the opinion of those who think that by the term *new moon*, he meant her *first light*, seems the more probable.—And hence, by the way, we are enabled to remove a seeming contradiction between Jer. lii. 31. and 2 Kings xxv. 27.; for the 27th day of the moon, reckoned from the true astronomical *new moon*, may very often be but the 25th from her first appearance.
The former is the Babylonian, the latter the Jewish, mode of reckoning.

The celebration of the new moon seems to have merely consisted of certain ceremonies and offerings at the place where the sanctuary stood, (Numb. xxxix. 11,—15.) and to have been designed to supplant the superstitious solemnization of that day, or of the full moon. Little sports and dances, may, perhaps, have likewise been established throughout the whole land; but of this we find nothing either mentioned or enjoined by Moses. That Saul gave a great entertainment on occasion of the new moon, we find from 1 Sam. xx. 5, 6. 24,—29.

One particular new moon only was remarkably distinguished from the rest, and ordered to be kept as a sabbath, by the intermission of all manner of work*. This was the new moon of the seventh month, which would fall pretty generally in our month of October. Moses calls it the feast of trumpets; and it was the festival of the new year, which had always been observed from the earliest ages. The ancient year of the Hebrews ended with the first new moon, that falls in October; which was, by no means, an improper limit to the year, because by that time, in southern countries, the harvest, fruitage, and vintage, are generally finished. This conclusion of the old, and commencement of the new year, which is thus so natural, Moses did not alter. He did, indeed, in commemoration of the Exodus from Egypt.

declare the *Ea-month* (April) the first moon of the year, without, however, enjoining the keeping of its new moon in any peculiar manner, or making it a remarkable day: but, at the same time, he let the year commence as formerly with the month of October, that being the most convenient season for settling various bargains, and for renting of land, &c. &c., and least liable to exceptions. Even here in Germany, which is a much more northern country than Palestine, and where the commencement of the new year is not regulated by economical considerations, it is usual, in taking leases of lands or gardens for a term of years, to stipulate that the year shall be reckoned from Michaelmas (September 29th) to Michaelmas, or from Martinmas (November 10th) to Martinmas. In Palestine, therefore, the month of October could not be an inconvenient season for the commencement of the new year; particularly considering that in the colder districts, where the grapes were later in ripening, the vintage was thus secured to the farmers, by the thanksgiving for its commencement only beginning on the 15th day of the seventh moon, and ending on the 22nd—a term which, in such districts, they would naturally take care to stipulate, in renting vineyards, or purchasing them for a certain number of years.

Besides the new moons, there was, on the seventh day of the seventh month, a holy day, or rather a fast-day, known by the name of the *day of atonement*. It was, perhaps, the most sacred of all their solemn days, and it was the only day of fasting enjoined them. No
Art. 201. Amount of Sabbaths and Holy Days. 213

work was allowed to be done, nor durst food be tasted on it, Lev. xxiii. 26,—32.

The sacrificial ceremonies performed on the day of atonement, it is not the province of this work to detail or explain. The consideration of them belongs to the subject of Hebrew antiquities, or to the doctrine of the types of the Old Testament.

ART. CCl.

Calculation of the whole number of Sabbaths, and other Holy days ordered to be kept by the Israelites.

§ 5. At a time, when rational Catholics admit, that their church has more holy days than is consistent with the interest of the state, or can be approved by legislative policy, and when even Protestants are beginning to abolish such of them as they deem superfluous, it may, perhaps, be desirable to many of my readers to have a statement exhibited of the whole number of sabbaths and other holy days, which Moses prescribed to the Israelites, that they may survey them at one glance, and compare them with what is at present accounted sufficient, or more than sufficient, in this respect. For this purpose I shall adopt a year consisting of 52 weeks; because, although the lunar year of the Hebrews regularly included only 50 weeks and four days, yet the intercalary year of 56 or 57 weeks; reduced every thing to an equality with our solar year.
Amount of Sabbaths and Holy Days. [Art. 201.

In the course, then, of a year of 12 moons, the Israelites kept the following holy days:

1. Twelve new moons - - - 12 days
2. The feast of the Passover - - 7
3. The Pentecost - - - 7
4. The great day of Atonement - 1
5. The feast of Tabernacles - 8

In all 35 days; but of these 35 days, five would, one year with another, fall upon the weekly sabbath, and must therefore, if we are to reckon them therewith, be deducted from the number of holy days; and, besides, among the 35 holy days, there were but eight festal sabbaths, on which they durst not work.

According, therefore, to the Mosaic law, if we reckon 52 weekly sabbaths, the Israelites kept in all 82 (52 added to 30) sacred days in the year; (in the intercalary year, 83;) namely, 59, on which there was an entire cessation from labour, and 23, whereon they might work if they chose, and on some of which, indeed, their greatest traffic was carried on. Of fast days, there was only one, and that too, we should remark, in a southern climate, where fasting is easier and more common than with us.

The reader is now in a situation to compare the circumstances of the Israelites in regard to holy days, with those of the people of our times, when so many of them are abolished; on which point I have only to remark, that although our legislators do right in not tolerating so great a number of holy days, as Christians formerly kept, and on which, under a pretext of
Art. 201.] Festival Days necessary to Labourers. 215

religion, all manner of work was interdicted, they are, at the same time, in general, too inattentive to the institution of certain days of enjoyment; with which, exclusive of those of divine service, the people should be gratified, within moderate limits. They take but a partial view of the subject, in the light in which it is commonly represented by Theologians; and divide days only into two classes. 1. Those of devotion, on which no work is permitted; and, 2. Working days, on which labour is enjoined, and masters can keep their journeymen, and the magistrate, masters themselves, at work. But in this way among the days privileged by public authority, they totally lose eight of the third sort of holy days, namely, those in a peculiar manner devoted to pleasure, and on which people may work if they choose; and whether this be expedient, or whether Moses did not hit upon a preferable plan, deserves their serious consideration. Days of festivity, and especially if publicly authorized, are, to the labouring part of the community, not only acceptable, and looked forward to with desire, but they are also salutary, both to their bodies and minds. If the law does not give them, they will probably take them, and take them to excess; and were it not then better, that the law, considering their expediency, should itself authorise them, for the sake of those who are too good subjects to take them illegally, at their own hand, and in order to prevent others, less dutiful and tractable, from having any reason or temptation to carry their number beyond the limits of moderation? I have still to observe, before I conclude, that Mo-
Festivals added in latter Times. [Art. 201.

ses did not prohibit the future institution of other festivals besides those appointed by himself. The yearly festival, on which the young women of Shiloh danced by the high-way side, (Judg. xxi. 19.) appears to have been of this sort. Probably other cities likewise had their particular festivals; and from 1 Sam, xx. 29. we might almost conclude that individual families had kept yearly family-festivals; for Jonathan, to apologize for David's absence from the royal table, pretended that he had been obliged to attend a family-sacrifice at Bethlehem. This, indeed, was not true; but then the thing itself must not have been uncommon, else would not Jonathan have ventured to resort to any such pretence.

That in later times, during and after the Babylonish captivity, many feast, or fast, days were introduced, in addition to those instituted by Moses, is known to every reader who is acquainted with Jewish antiquities. Among these we may notice,

1. In the time of the captivity, certain fast days that were afterwards abolished, and yet kept after their abolition; see Zach. vii. 3—7. viii. 19.

2. The strange feast of Purim, on which Haman is still belaboured, and to which my applying the epithet strange, will not give offence to any person who is acquainted with the manner in which it was and is kept. Whether the book of Esther, in which it is appointed, merits a place among the inspired writings, is a point concerning which the reader will find my ideas along with those of other writers, in my Orient, Biblioth. part ii. No. 19. In the time of the Maccabees, the Jews in Palestine do not seem to have been
Jewish Festivals mostly in October.

yet acquainted with this festival. See my remark on 1 Mac. viii. 48.

3. The feast of the Dedication of the temple, a highly rational festival, and instituted on a very momentous occasion, 1 Mac. iv. 59. John x. 22.—But as these festivals form no part of the Mosaic law, I am not here concerned with them.

There is yet one circumstance connected with these festivals, that deserves to engage the contemplation of the philosopher; and although I, for my part, am not in a situation to account for it, I would fain direct the attention of others to it with that view.—Whether it has proceeded from accident, or from legislative policy, I know not; but the fact is undeniable, that many nations have had their festivals about the season of the shortest day. We ourselves have them so; and whoever looks back to his childish years, will at once recollect, that the most gloomy season of the year was enlivened to him, by the most cheerful of all our festivals, Christmas, (whose innocent joys, however, many clergymen condemn) and the other holidays that soon follow it. To the promotion of health and serenity of mind these festivals are not unimportant.—But Moses appointed none of his festivals for the months of December and January: for most of them, as that of the new year, the day of Atonement, and (which was the gayest of them all) the feast of Tabernacles, fell in October. Is this difference the effect of chance; or are we to seek for other reasons?—Perhaps in Palestine there was less occasion for festivals in December than with us, where, by reason of the shortness of the day, it wears a more gloomy
aspect? In Egypt, it is really the finest and most pleasant month of the whole year; but in Palestine it is rather more rainy*.—Is not this circumstance likewise to be taken into the account, that the high festivals, by reason of the public sacrifices then offered, made journeys to the place of the sanctuary necessary; for which, however, the weather in December was not suited? And may we not, therefore, consider the want of festivals among the Israelites, about the season of the shortest day, as perhaps nothing more than a consequence of the law, with regard to the place of sacrificing, illustrated already under Art. CLXXXVIII.?—In later times, however, the Jews actually enjoyed a festival of eight days continuance in December. This was the feast of Lights, or of the Dedication, instituted by Judas Maccabeus, to commemorate the purification of the temple, after its pollutions by Antiochus Epiphanes. It fell on the 25th day of the month Kislev, which coincides pretty nearly with our December†. A festival, however, of the æra of the Maccabees, does not come under our present subject.

* See Wansleb's MS. Description of Egypt, in the Gottingen university-library, p. 14.

CHAPTER IV.

POLICE REGULATIONS RELATIVE TO PRIVATE LIFE.

PART I.—CONCERNING MEATS.

ART. CCLI.

Of Beasts—Clean and Unclean—Which were to be so called?

§ 1. The Mosaic ordinances respecting clean and unclean beasts, other authors refer to the head of Ecclesiastical Laws; but as they relate not to any ceremonies of religious worship, but merely to matters of a secular nature, I choose rather to treat of them under the head of Police Law, as one would naturally do in the case of any other laws, that prohibited the use of certain meats.

And first of all, I must illustrate the terms clean and unclean, as applied to beasts; because we are apt to consider them as implying a division of animals with which we are entirely unacquainted, and then to wonder that Moses, as a historian, in describing the circumstances of the deluge, which took place many centuries before the era of his own laws, should mention clean and unclean beasts, and, by so doing, pre-
suppose that there was such a distinction made at that early period.

The fact however is, that we ourselves, and indeed almost all nations, make this very distinction, although we do not express it in these terms. Clean and unclean beasts is precisely tantamount to beasts usual and not usual for food. And how many animals are there not poisonous, but perfectly edible, which yet we do not eat, and at the flesh of which, many among us would feel a strong abhorrence, just because we have not been accustomed to it from infancy? I shall specify but a few examples, which, to every German, will be quite striking.

1. Horses. During sieges, the French easily bring themselves to eat horse-flesh; but a German would, in most cases, rather want flesh altogether, than taste it; a circumstance which Marshal Saxe himself has noticed in his Reveries sur la Guerre, and, what is more, has, in regard to it, given a decided preference to the military manners of the Germans.

—"No German soldier (says he) eats horse-flesh; " but French soldiers will eat it. They often do so, " and with great voracity, from indigence, and because, being under good discipline, they dare not " venture to extort victuals from their hosts, as I well " know from the last war; and hence it happens, that " they sometimes eat the flesh of dead horses, and such " as have died of disease—a circumstance which is " very apt to spread disorders among the troops." —Old horses killed during a siege, may not, perhaps, taste very well; nor, on the other hand, according to my information, is their flesh very nauseous; but Polish
Art. 202.] Meats—Asses, Dogs, Rabbits, &c. 221
gentlemen have assured me, that on their estates, in
the great forests of Southern Poland, wild horses are
shot as game (among us, they would rather be caught
and tamed), and that they taste very deliciously. Our
aversion at horse-flesh, therefore, probably deprives us
of a luxury; only that in Germany, where such an
infinite number of horses is used in agriculture, posting
on bad roads, and riding for pleasure; and where so
strong a force in cavalry is kept up by Austria and
Prussia, it would cost us too dear; so that we are
certainly in the right to abstain from a luxury so ex-
pensive. But, indeed, such is the prevalent abhor-
rence at horse-flesh, that most of us would look upon
it as an insult to have it presented at table, or to be
made to eat of it unwittingly.

2. Asses, dogs, and cats. Still less would these ani-
mals be tasted among us, how edible soever they may
really be. So far, indeed, is this prejudice carried,
that when the people of one city want to reproach
those of another, they call them dog-eaters, or cat-
eaters—terms of abuse which have often occasioned
bloody frays.

3. Rabbits. In some parts of Germany these are
eaten, but in others, by most people, reckoned un-
clean.

4. Frogs and snails. The greater part of our coun-
trymen have an antipathy at these creatures. It is
only at some of the tables of our nobility that they are
eaten, in imitation of the French.

5: Locusts. These are one of the most common
dishes in Southern Asia; but Ludolf*%, who was fain

* See Jobi Ludolphi Dissertatio de Locustis.
to make a trial of them, and had them cooked in the best style, and pressed his people to eat of them as delicious food, owns, that he was always afraid lest they should propose him to set the example himself: and Roessel*, in opposition to a multitude of evidences for their being actually eaten, attempts to prove, that they cannot be eaten, and that it is all a fable; to such a pitch of extravagance did he allow himself to be carried, from being unaccustomed to such food; although in other respects he was a very sensible man, and distinguished by the depth of his investigations. But, indeed, in regard to a matter of this kind, he was a worse judge than a man of any other part of Germany, because the Franconians are provincially and peculiarly chargeable with the weakness of representing to themselves many things as inedible, merely because unaccustomed to them from youth. A variety of dishes reckoned, in Lower Saxony, not only estable, but savoury, are, in their judgment, not food for human beings; a circumstance which frequently excites some merriment at table, when they plainly declare, that such and such things are food only for hogs. So great, among one and the same people, and speaking the same language, do we find to be the effect of difference of custom, in fixing what is and what is not estable. The greatest of all our delicacies, I mean, oysters, will excite nausea in many people within the empire, who are not acquainted with them from infancy, however fine and fresh they may be presented before them.

* See his Insecten-Belustigungen, in the preface to the article Locusts and Grasshoppers.
Now what Moses did in regard to this matter, was, in the main, nothing more than converting ancient national custom into positive law. The very same animals had, for the most part, previously been to the Israelites or their ancestors, clean or unclean, that is, usual or unusual for food; and we find that even in Joseph's time, the Egyptians, who had different customs with regard to meats, and observed them very rigidly, could not so much as eat at the same table with the Israelitish patriarchs, Gen. xliii. 32. These ancestorial usages Moses now prescribed as express laws; excluding, perhaps, some animals formerly made use of for food, and reducing the whole into what upon the principles of physiology was actually a very easy and natural system; concerning which as I shall have to speak in the sequel, I only observe at present, that its limits were, perhaps, before trespassed, both on the side of prohibition and permission.

As soon as we know what is the real meaning of clean and unclean beasts, many errors, some of them ludicrous, and from which, even men of great learning have not been wholly exempt, instantly vanish. The word unclean, applied to animals, is no epithet of degradation: Of all animals, man was the most unclean, that is, human flesh was least of all things to be eaten; and such is the case, in every nation not reckoned among cannibals. The lion and the horse are unclean beasts, but were to the Hebrews just as little the objects of contempt as they are to us.

It is another mistake to imagine that the Jews durst not have any unclean animals in their houses, nor have any thing to do with them; and hence has arisen our

strange German proverb, Like a sow in a Jew's house. But let us only recollect the instances of the ass and camel, the common beasts of burden among the Hebrews, in addition to which, in later times, we have the horse. All the three species were unclean. Even the keeping of swine, as articles of trade, was as little forbidden to the Jews as dealing in horses, which they carried on very commonly.

Even some men of real learning have been rashly led to believe, that images of unclean beasts would of all things have least suited the purity of the Jewish temple, and have applied this idea to confute the reproach which has been cast upon the Jews since the time of Antiochus Epiphanes, of having had, in the holy of holies, the image of an ass, as an object of adoration. Images, however, the Jews certainly did not worship; and an impartial witness, who was himself within the holy of holies, viz. Pompey the Great, gave a more correct account of it to the Romans. *Tacitus*, in his History, (lib. v. cap. 9.) says, Tempulum jure victoriae ingressus est. Inde evulgatum, nulla intus Deum effigie vacuam sedem et inania arcana. Pompey could not have spoken more truly, in relating what he saw. There was no image of a deity in the holy of holies; for the Cherubim lay bowed down to the ground, and had not the appearance of a deity. There was a seat for the invisible God, the ark of the covenant and the Cherubim; but on that seat, no visible deity, or image of the Godhead, appeared to the eye.

At the same time, it is undeniable that there were images of unclean beasts in the temple. The Cherubim were a sort of Sphinxes, which had something of
the figure of a human body (human hands and feet, and a form capable of an erect posture), together with wings, and the head now of one animal, and now of another, as of a man, a lion, an ox, an eagle, &c. &c. Now, by Moses' own law, there were to be two Cherubim cast, and placed upon the ark of the covenant, the Sanctum Sanctorum of the Israelites, Exod. xxv. 17, 22.; and Cherubim were to be worked in embroidery into all the hangings of the tabernacle, Exod. xxvi. 1. The walls of the temple had also figures of Cherubim, and these, in Ezekiel's vision of the temple, as purified from abuses, were men's and lion's heads, Ezek. xli. 19. On the triumphal arch of Titus Vespasian, we have yet extant, a representation of the sacred candlestick, as carried in his triumph*; the foot of which is, in like manner, formed of sphinxes, which every one must recognise as images, yet certainly not of edible animals, nor yet of angels. In still later times, we find some MSS. of the Bible, of which the large initial capitals are ornamented with figures of sphinxes and lions†. Images of unclean beasts, therefore, were not forbidden, nor unholy. It was eating their flesh only that was prohibited; and their dead bodies, like human corpses, defiled those who touched them, as we shall afterwards have occasion to notice under Art. CCXV. CCXVI.

* See Reland, De spoliis templi Hierosolymitani in Arcu Titiano. Rome conspicuis, p. 6. where is given a plate as well as a description.
† See an instance on the plate at p. 604. of Blanchini Evangeliarium quadruplex Versionis Italis, p. ii. t. ii.
§ 2. THE main design of Moses, in converting the ancient national customs of the Hebrews into immutable laws, might, no doubt be, to keep them more perfectly separate from other nations. They were to continue a distinct people by themselves, to dwell all together in Palestine, without spreading into other countries, or having too much intercourse with their inhabitants; in order to prevent their being infected, either with that idolatry, which was then the *sensus communis* of all mankind, or with the vices of the neighbouring nations, among whom the Canaanites were particularly specified. The first of these objects, the prevention of idolatry, and the maintenance of the worship of one only God, was the fundamental maxim of the Mosaic legislation, as stated in Art. XXXII.; and the second, namely, the preservation of his people from the contagion of various vices, previously uncommon among them, such as bestiality, sodomy, incest, incestuous marriages, which are always destructive to the happiness of a country, divinations, human sacrifices, &c. &c.; together with the maintaining among them their present morals, if but tolerably good, must be an object of great importance with every legislator; if a profligate race, such as Moses and the Roman writers describe the Canaanites to have been, happen to live in their vicinity. And this Moses himself seems to point out as his object, in the
Art. 208. ] Means of checking Foreign Intercourse. 227

xxth chapter of Leviticus, ver. 25, 26., and that too
after warning the Israelites against imitating the Ca-
nanites in the vices now mentioned; Ye shall, says
he, distinguish beasts clean and unclean, and birds clean
and unclean, from each other, and not defile yourselves
by four-footed, flying, or creeping creatures, which I
have separated as unclean; ye shall be holy to me, for
I Jehovah am holy, and have separated you from other
peoples, to be mine own.

The distinction of clean and unclean meats may be
a very effectual means of separating one nation from
another. Intimate friendships are, in most cases,
formed at table; and with the man, with whom I can
neither eat or drink, let our intercourse in business be
what it may, I shall seldom become so familiar, as
with him whose guest I am, and he mine. If we
have, besides, from education, an abhorrence of the
food which others eat, this forms a new obstacle to
closer intimacy. Now, all the neighbours of the Is-
raelites did make use of meats, which were forbidden
to them from their infancy. The Egyptians differed
most from them in this respect: for they had from
immemorial ages, a still more rigorous system of na-
tional laws on this point, which restrained them even
more strongly from intercourse with foreigners. Some
of the animals which the Israelites ate, were among
them not indeed unclean, but yet sacred; being so ex-
pressly consecrated to a deity, that they durst not be
slaughtered; because, according to the Egyptian doc-
ctrine of the transmigration of souls, a man could not
but be afraid of devouring his own forefathers, if he
tasted the flesh of those beasts, in which the souls of
the best of men usually resided. Even before the ancestors of the Israelites descended into Egypt, this had proceeded so far, that the Egyptians not only could not eat the same sort of food, but could not even so much as sit at the same table with Hebrews, Gen. xliii. 32.; and these wandering herdsmen, who eat the flesh of goats, sheep, and oxen, which were all forbidden in one or other of the provinces of Egypt, were so obnoxious to them, that they would not allow them to live among them, but assigned them a separate part of the country for a residence, Gen. xlvii. 33, 34. An Egyptian durst not so much as use a vessel, in which a foreigner ate his impure victuals; still less durst he kiss a foreigner: although I will not venture to assert, that this last command was, in all cases, inviolably observed, where a tawny Egyptian found a fair Grecian alone, how impure soever her food rendered her.—We may therefore conjecture, that Moses here borrowed somewhat from the legislative policy of the Egyptians, and with a view to a more complete and permanent separation of the two peoples, made that a law among the Israelites, which before was nothing else than a custom of their fathers.

The Canaanites, or, as they are called in Greek, Phœnicians, ate not only those meats prohibited by Moses, which we usually eat, but others besides; of which we know that dogs were one. Justin (lib. xix. cap. 1.) tells us, that Xerxes, who wanted to play a Don Quixote as to universal monarchy, prohibited the Carthaginians, under the penalty of war, from offering human sacrifices, burning the dead, and eating dog’s flesh. Here the eating of dog’s flesh stands
among the customs of the Carthaginians, and they doubtless had derived it, as well as the other two along with which it is mentioned, from their ancestors the Phœnicians.

Dr. Shaw, in his Travels, p. 67. (Eng. ed. of 1757) has a very probable conjecture, that the inhabitants of Zaab, a province of Sahara, on the south side of the kingdom of Algiers, on the river Gir, who are still known as dog-eaters, had derived that custom from the Carthaginians; and at no great distance from thence, if indeed it does not actually reach the Gir, lies the kingdom of Segelmesse, of whose inhabitants Abulfeda says, (No. 83.) that they fed up dogs for food, and quotes Ibn-Said as his authority.

Between the Israelites and Arabs, by reason of their near relationship, the difference in this point was least; but still it was quite enough to serve as a hindrance to the intimacy of the two nations. The camel is not only the principal wealth, but also the principal food of the Arabs. Hares form another article of their common food, and if forbidden them, they would be very badly off in travelling through the deserts, in which chiefly these animals are to be found, and that in considerable numbers*. The same is the case with the Arabic mountain-mouse, or two-legged Jerboa, which has two very long hind legs, and uses its fore feet rather as hands. All three were forbidden food to the Israelites.

* See **Itineraire de l'Arabie Deserte, ou Lettres sur un Voyage de Balæra d'Alep** fait par M. M. PLAISTED et Elliot; p. 18, 19, &c. &c.
Swine's Flesh excites Cutaneous Diseases. [Art. 203,

Besides this main object, there might, no doubt, in the case of certain animals, interfere dietetical considerations to influence Moses; only we are not to seek for them in all the prohibitions relative to unclean beasts. In regard to that respecting swines flesh, they are pretty obvious; and every prudent legislator must endeavour either to divert by fair means a people in the circumstances and climate of the Israelites, from the use of that food, or else expressly interdict it. For whoever is affected with any cutaneous disease, were it but the common Itch, if he wishes to be cured, must abstain from swines flesh. It has likewise been long ago observed, that the use of this food produces a peculiar susceptibility of itchy disorders. Now, throughout the whole climate under which Palestine is situated, and for a certain extent both south and north, the leprosy is an endemic disease; and with this disease, which is pre-eminently an Egyptian one, the Israelites left Egypt so terribly overrun, that Moses found it necessary to enact a variety of laws respecting it; and that the contagion might be weakened, and the people tolerably guarded against its influence, it became requisite to prohibit them from eating swines flesh altogether. This prohibition, however, is sufficiently distinguished, from all others of the kind, in these two respects; in the first place, the Arabs, who eat other sorts of food forbidden the Jews, yet hold swines flesh to be unclean; and, in conformity with their ideas, Mahomet forbade the use of it in the Koran; in the second place, every physician will interdict a person labouring under any cutaneous disease, from eating pork; and it has been remarked of our Germany—
country otherwise in general pretty clear of them,—
that such diseases are in a peculiar manner to be met
with in those places where a great deal of pork is
eaten.

I can scarcely help thinking, that there is one of these
forbidden animals, viz. the goose, which the present
Jews not only use frequently for food, but with the
fat of which they bake and cook victuals. The philo-
logical reasons of this opinion, I cannot here produce;
but thus much I may observe, that it may easily be
conjectured on what dietetical grounds a legislator of
the Israelites might have interdicted it: for to those
afflicted with, or inclined to, cutaneous complaints,
the goose is hurtful food. It would, no doubt, be
strange, if the Jews should so far misunderstand their
ancient, and now unsuitable law, as to prepare almost
all their pastry with the fat of a prohibited bird, and to
esteem the bird itself among their favourite dishes;
but from one of the names in the list of such birds,
there actually arises a philological probability that it
either means the goose, or else that it comprehends
the whole genus of water-birds, to which geese and
ducks belong. At any rate, the goose cannot have
been so common an article of food among the ancient
as among the modern Jews; since we either do not
find its name in the Bible at all, or else must seek it
in the list of prohibited birds; and yet that there were
geese both in Egypt and in Syria, is very certain.—
That the lake near Apamea, in Syria, bred abundance
of geese, is mentioned by Abulfeda, in his description
of lakes. The reader, if he understands Arabic,
should peruse the passage in the original of Abulfeda.
Tabulae Syriae, p. 158.; for it ought to be read in Arabic, and not in the Latin version. He may also be referred to Pliny’s Natural History, x. 28.—Among the Egyptians, the goose was an image of the god Osiris; and hence probably it was, that some of the Socratic philosophers, who imitated the Egyptians in many things, swore by the goose; only that thence an artful sort of perjury soon arose.

Some have been inclined to discover moral reasons for the laws in question, and to ascribe to the eating of certain animals a specific influence on the moral temperament. Thus the camel is extremely revengeful; and it has been pretended, that it is their eating camels' flesh so frequently, that makes the Arabs so prone to revenge. But of this there is too little proof. Other nations in the south of Europe, charged with the same national passion, and who either, as is the case with the Italians, have a pleasure in revenge, even in secret revenge, or, like the Portuguese, are by a strange point of honour necessitated to the exercise of implacable revenge, neither eat the flesh nor drink the milk of camels. Perhaps the vindictive propensity of the Arabs, is rather an effect of climate, or of their point of honour in regard to blood-avengement, than of eating camels' flesh. At the same time, I do not entirely deny the influence of food on the moral temperament; but I am by no means yet convinced, that the daily use of certain kinds of animal food will ever so far alter it, as to give a legislator reason to prohibit

† See Suidas, under λαμπρὺς ἑμοῦ τοῦ καρ.
Art. 204. Characteristic Marks of Clean Animals.

them; nor yet can I believe, that eating the flesh of any animal directly inspires us with the passions of that animal although it may operate upon us in other respects.

ART. CCIV.

What Animals Moses declares unclean.

§ 3. Of the laws relative to clean and unclean beasts, which are recorded in Lev. xi. and Deut. xiv., the following may, perhaps, serve as an abstract, sufficient for a reader who has not to observe them, but means only to contemplate them philosophically.

1. In regard to quadrupeds, Moses reduces the previous customs of the Israelites, together with the additional ordinances which he found it necessary to make, into a very simple and natural system. According to him, all beasts that have their feet completely cloven, above as well as below, and at the same time chew the cud, are clean. Those which have neither, or indeed want one of these distinguishing marks, are unclean. That in so early an age of the world, we should find a systematic division of quadrupeds so excellent, as never yet, after all the improvements in natural history, to have become obsolete, but, on the contrary, to be still considered as useful by the greatest masters of the science, cannot but be looked upon as truly wonderful.

In the case of certain quadrupeds, however, a doubt may arise, whether they do fully divide the hoof, or ruminate? For example, whether the hare ruminates
or not, is so undecided, that if we put the question to any two sportsmen, we shall rarely receive the same answer*. In such cases, to prevent difficulties, a legislator must authoritatively decide; by which I do not mean, that he is to prescribe to naturalists what their belief should be, but only to determine, for the sake of expounders or judges of the law, what animals are to be regarded as ruminating, or parting the hoof.

The camel ruminates, but whether it fully parts the hoof, is a question so undecided, that we do not, even in the Memoirs of the Academy of Paris, find a satisfactory answer to it on all points. The foot of the camel is actually divided into two toes, and the division even below is complete, so that the animal might be accounted clean; but then it does not extend the whole length of the foot, but only to the fore part; for behind, it is not parted, and we find, besides, under it, and connected with it, a ball on which the camel goes†. Now, in this dubious state of circum-

* See the remark on Lev. xi. 6, in my German version of the Bible.

† In order to come at the truth, on a point concerning which we find but imperfect satisfaction, if not errors, in the best books, I wrote, while translating the book of Genesis, to a friend at Cassel, where I had seen two camels in the Prince's menagerie, but had then forgotten to consult nature herself, as to what I afterwards found it necessary that I should have attended to. His answer, of 5th Sept. 1771, is in these words: "The two toes of the camel rest upon the " ball of the foot, and are of horn. In process of time, they grow " to a considerable length, and must be sawed off, to prevent their " incommoding the animal. I have myself two of them that were " thus removed. The cleft goes quite through, as my drawing will " shew; and after, yesterday, feeling accurately with my hand be-
Art. 204.] Why Moses prohibited Camels Flesh?

stances, Moses authoritatively declares (Lev. xi. 4.), that the camel has not the hoof fully divided. It would appear as if he had meant, that this animal, heretofore accounted clean by the Ishmaelites, Midianites, and all the rest of Abraham's Arabian descendants, should not be eaten by the Israelites; probably with a view to keep them, by this means, the more separate from these nations, with whom their connection, and their coincidence in manners, was otherwise so close; and perhaps too, to prevent them from conceiving any desire to continue in Arabia, or to devote themselves again to their favourite occupation of wandering herdsmen. For in Arabia, a people will always be in an uncomfortable situation, if

"twixt the toes, I can aver, that it extends almost a finger-length.
"The Parisians, therefore, could not justly say, The foot is only cleft
"above at the extremity. It is cleft also about a finger-length below, but
"only in the anterior part, where the toes are. The drawing like-
"wise shews, that the whole foot above, has a cleft reaching even
"to the tibia, though it does not go quite through."—The drawing
illustrative of these particulars, and which was made by Mr. Profes-
sor Tischbein, will hereafter be engraved for the publisher of my Ger-
man Bible, to accompany the book of Leviticus; and those who
have the first edition of that book, will then receive it. It was mere-
ly from forgetfulness, that it was not, according to the intention ex-
pressed in my note on Lev. xi. 4., engraved for my version of Deuter-
onomy.

* In Numb. xxxii. we find the two and a half tribes manifesting
an inclination to remain on the other side Jordan, as a country suited
to cattle-breeding, and on that account renouncing their inheritance
within Palestine. Moses acceded to their wish; but we easily per-
ceive, that they were not here acting according to his views.—See
Art. XLIV.
they dare not eat the flesh and drink the milk of the camel.

2. With regard to fishes, Moses has in like manner made a very simple systematic distinction. *All that have scales and fins are clean: all others unclean.*

3. Of birds, without founding on any systematic distribution, he merely specifies certain sorts as forbidden, thereby permitting all others to be eaten; but what the prohibited birds are, it is, from our ignorance of the language, in some instances impossible to ascertain; and the Jews, who still consider the Mosaic law as obligatory, are here placed in the awkward predicament of not understanding a statute which they have to observe, and of expounding it merely by guess.

4. *Insects, serpents, worms, &c.* are prohibited; and Moses is especially careful to interdict the use of various sorts of lizards; which, of course, must have been eaten in some parts of Egypt, or by the people in the adjacent countries; but concerning which, I must admit, that I have not met with any account besides. There is, indeed, as we find from Hasselquist's *Travels in Palestine* (under the class Amphibia, lvii.), one species of lizard in that country, viz. the *Gecko*, which is poisonous; so much so, that its poison kills, when it happens to be among meat. This is not the case with the poison of serpents, which is only noxious in a wound, and may, as well as the animals themselves, which are edible, be safely taken into the stomach, if only the mouth be perfectly sound, and free from bloody spots. This *Lacerta Gecko* must certainly not have been eaten by any of the neighbouring
nations, and Moses had therefore no occasion to prohibit it.

With regard, however, to those winged insects, which besides four walking legs, have also two longer springing legs (*Pedes saltatorii*), Moses makes an exception, and under the denomination of *locusts*, declares them clean in all their four stages of existence, and under as many different degrees of hardness. In Palestine, Arabia, and the adjoining countries, locusts are one of the most common articles of food, and the people would be very ill off if they durst not eat them. For when a swarm of them desolates the fields, they prove, in some measure, themselves an antidote to the famine which they occasion; so much so, indeed, that poor people look forward with anxiety to the arrival of a swarm of locusts, as yielding them sustenance without any trouble. They are not only eaten fresh, immediately on their appearance; but the people collect them, and know a method of preserving them for a long time for food, after they have dried them in an oven.

The law farther prohibited the touching the carcase of any unclean beast, Lev. xi. 8, 24, 25, 27, 31. This, however, does not mean, that a carcase was, in a literal sense, *never* to be touched, (for then it must always have been in the way, and we shall see in the sequel that it was expressly ordered to be buried); but only, that the person who touched it, was to be deemed unclean until the evening. The statutes re-

* See Niebuhr's Description of Arabia, p. 171.; and what he says at p. 170,—175. of the eating of locusts.
Law of Meats, National—not Moral. [Art. 204.

Relative to this point, will hereafter be considered under the head of Levitical Defilements, and I only notice this circumstance at present, that the reader may not be at a loss where to seek for them.

To strangers who dwelt among the Israelites, unclean beasts were not forbidden: for certainly the legislator never thought of making his prohibition of certain meats a moral law, by which every man, of whatever nation, was to be bound to regulate his conduct. If his design in these statutes was to separate the Israelites from other nations, it must have been his wish and intention, to prohibit the former from the use of those very meats, which were eaten by the latter; and had the people in any of the surrounding countries deemed all such meats unclean, Moses would probably have given a set of laws on this subject quite different from those which he did give. When a commander gives his soldiers a cockade to distinguish them from other troops, he by no means wishes that every body should indiscriminately wear it, but would rather have it taken from any foreigner who should mount it. The law relative to clean and unclean beasts was never, not even under the Old Testament, a precept of religion, which every individual, to whatever nation he belonged, was bound to observe, for the sake of his eternal salvation; it was only, if I may so term it, a cockade for the Israelites; but still one that they could not omit wearing, without committing a trespass of a divine commandment; and indeed it was so firmly pinned upon them by their earliest education, that it must certainly have been difficult for them ever to lay it aside.
§ 4. There were other kinds of food forbidden, besides the flesh of unclean beasts. For any article of meat or drink, or any baking oven, or cooking pot, into which there happened to fall the carcase of any sort of vermin, or of a mole, mouse, lizard, &c. &c. as mentioned in Levit. xi. 29, 30. was thereby defiled; and indeed to such a degree, that such oven and pot, could never be again used, ver. 32,—38. This obliged the Israelites to pay a very particular attention to cleanliness; whereby unfortunate accidents in regard to poisoning, will, if not always prevented, happen at least very rarely. Of the poisoning of liquors by toads creeping into casks, we often read; and Hasselquist relates an instance, where the poison of the Gecko in a cheese had nearly proved fatal. Mice and rats likewise sometimes poison meat that is uncovered, by means of the poison laid for themselves being vomited upon it. I remember the case of a brewing of beer, which, to all the people of a town who had drank of it, occasioned most violent agonies; and in regard to which, although it was peremptorily denied by the magistrates and the brewers, there appeared perfectly good reason for believing that arsenic had in this manner got among the malt.

No animal that had died of disease, or had been torn by a wild beast, could be eaten by the Israelites. Let it belong, says their lawgiver, to the dogs. At the
same time he permitted foreigners living in the land to
eat of it, if they chose; Exod. xxii. 31. Deut. xiv. 21.
This law, which the Arabs also have*, will not appear
strange to us; for it includes nothing but what is ex-
actly conformable to our ancient German usage. Nor
is it a matter of indifference to the preservation of
health; for Marshal Saxe, in his Reveries sur la Guerre,
notices it as an advantageous circumstance for
a German army, that its soldiers do not eat horse
flesh, and that it would bring reproach upon them to
do so; for thus they can never conceive any desire
to eat dead horses, which often brings diseases upon

* The principal passage in the Koran relative to it, and which will,
at the same time, serve as an illustration of the Mosaic prohibition,
from the customs of the Arabs, we find in Sura v. ver. 4. I quote the
verse according to the Koran of Maracci, partly because Hinkelmann's
is no longer to be had, and partly because most of my readers, not
understanding Arabic, will rather wish the citation from a Koran
with a Latin version. "Ye are forbidden to eat what dieth of
itself, and blood, and swines flesh, and what hath been offered to
any idol, or strangled, or killed by a blow or a fall, or gored to
death by another horned beast;" (for this reason, that in such a
case most of the blood remains in it, and the Arabs deem it pretty
much on a footing with what is strangled) "or again, what has been
torn by a wild beast, unless you yourselves shall still find life in it,
and kill it." Among the Arabs, therefore, exactly as with us, an
animal bitten by a wild beast, is eaten, if it have not died before it
comes under the butcher's knife. The reader will find other passages
to the same purpose, in Sura ii. v. 175. and xvi. v. 115.; and he may
consult Niebuhr's Description of Arabia, p. 178, 179., where he will
see, that the customs of the present Arabs are somewhat more rigid,
than the precept of their legislator requires; just because it is a
common weakness with man to make additions to the command-
ments both of true and of false religion, and to do more than they
bid him.
the French soldiers. This remark, at least, we ought to consider as creditable to the Marshal's knowledge of the influence which custom, in regard to meats, may have upon health.—In Palestine and Arabia, there is this farther consideration to be attended to, as adding materially to the uses of such a prohibition in these countries*, that there are great numbers of mad wolves, and consequently, of mad dogs and foxes, among which the Hydrophobia is propagated by bites; so that if a man find in the fields any beast torn, but not devoured, it is more than probable that it has been bitten by a mad dog, wolf, fox, or jackal, and would communicate this dreadful and fatal disease to the person who should eat of it. In such a case, it is always the better plan to prohibit too much, than too little.

The boiling and roasting of meat with butter was forbidden. We find the law on this point, Thou shalt not boil (or roast†) a kid in its mother's milk, thrice repeated, viz. in Exod. xxiii. 19. xxxiv. 26. and Deut. xiv. 21. Here we must remember, that the Orientals have a very great number of words, or circumlocutions, arising from composition, with the words son,...
242 Dressing a Kid in its Mother's Milk. [Art. 206.

daughter, sister, brother, mother, and that in Arabic, a kid's mother is really nothing but a sheep that has yeaned:—that Moses usually gives his laws in special examples, without directly mentioning all those of the like description to which they were applicable*; so that what he enjoins with respect to sheeps' milk, must hold likewise of that of cows;—that all butter is originally milk, and that we can dress no victuals with butter, without dressing it with milk;—and that the Jews have really always understood this law as prohibiting them from boiling or roasting with butter, as, indeed, they even at this day avoid using butter in their food.

No law has suffered more from expositors than this. Some of them have understood it of literally boiling a kid in its own mother's milk, and have given themselves a great deal of trouble to discover traces of this very strange species of cookery, but without ever asking a cook whether it be really possible, or whether a sheep would in one or two days give as much milk as would be requisite for boiling a lamb in. Perhaps ten different reasons for this law have been thus conjectured, every one of them more incredible than another; with the sole exception of that one which supposes that, in order to accustom the Israelites to compassion, Moses had meant to prohibit an act that had much the appearance of cruelty; although still, if we take this view of the law, the question remains, How came the Israelites to hit upon the strange whim of boiling a kid in milk, and just in the milk of its own

* See Art. CLXVI. near the beginning.
mother? The misfortune of expositors of this law, whether Rabbins or others, has been, that they never thought of looking at Palestine, even for a moment, with the eyes of political economists: for had they done so, they would have had no occasion to shed the sweat of their brows for a very long time, in toiling to explain a law so rational, and so well calculated at once to attach the people to their country, and to compel them to its improvement in the most essential point.

Palestine is the very best country that we know for the cultivation of the olive tree; for want of which, Egypt must make use of butter, which, in so warm a climate, will not keep so long good as in our colder regions;—facts which have been already stated under Art. CXCI. The Israelites had a penchant for Egypt; but their state was to be established in Palestine, in which land the whole people were to dwell together, without ever leaving it again. Now, in this view, it was a matter of the first consequence, to accustom them to a savoury sort of food, such as they could not have in Egypt. Those who are, from infancy, used to butter in the cooking of their food, no doubt, make a shift with it, and look upon that disagreeable flavour as unavoidable, which butter, with the very least fault, whether proceeding from age, improper keeping, or the provender of the cow, communicates to victuals. But the man, on the contrary, who has once been accustomed to good olive oil, will not be very willing to exchange it for the very best butter; and against melted butter, with which, among us, roast meat is usually basted, and which is so officiously poured out
to every one, sometimes contrary to his wish, he will, perhaps, conceive a small degree of disgust. This may be nicety,—many a reader in Germany will call it excessive nicety,—but for a people, carried into a country like Palestine, it would be highly advantageous. If they were once weaned from butter, and accustomed to oil, they would no longer have any anxiety to return to Egypt, where, notwithstanding the abundance of the crops of grain, they could not live by any means so well. At the same time, to the cultivation of the olive, as nature's chief bounty to their new country, they would pay the greatest possible attention, which would be still more for their interest.

I am here only repeating what I have already stated in Art. CXCI. on the use of oil in the meal-offerings; but with this difference, that there we had merely a command for the use of oil in the bread baked for the sacred feasts; whereas we have here a prohibition of butter in cookery of every kind. In order to render the law the more sacred, it has a sort of figurative moral impressed upon it; instead of saying, Thou shalt not dress meat with butter, its language is, Thou shalt not dress a kid in its mother's milk. To boil an animal in the very milk which nature destined for its food, may appear cruel. No doubt, the butter, wherewith we, who carry on so much traffic, roast a lamb or a calf, will really very seldom be that produced from the milk of its mother; but the case was quite the reverse with the Israelitish farmer, who did not buy his milk, or even his butter, from strangers, but had almost all his necessaries within his own premises; for, had he roasted a lamb in sheep-butter, it would usually
have been butter derived from its mother's milk.—Of the same rational expedient, to render a mere police-regulation more sacred, by making it an emblem of a moral precept, we have already had another instance in Art. CLXXI.

Since the Jews, in consequence of their dispersion, have come into more northern countries than that for which Moses gave his laws, the statute now under consideration, which is only suited to a very different climate, has had an effect directly contrary to what he intended. Our Jews dare not, indeed, use butter in boiling, roasting, or baking, nor can they, in our country, get good oil; and, therefore, they employ fat, goose fat principally, for these purposes. Probably no kind of fat whatever, would have been approved by Moses as a condiment; since he forbade the use of the fat of the kidneys, the fat-tail of their sheep, &c.; but, least of all, perhaps, would he have patronized the use of goose-fat; which no one can consider as wholesome for a people affected with cutaneous diseases; and from which physicians always strictly interdict those who are under cure for such diseases. I can never divest myself of the idea, that the goose had been an unclean bird; but if it was not so, still it is certain, that the ancient Israelites must have seldom eaten it; nor have used its grease, as our German and Polish Jews do, else would we have read something about geese in the Bible.—Here, then, we have an example of a law quite well adapted to one climate, producing in another a pernicious effect, directly repugnant to the design of the lawgiver; in Palestine excluding butter, to promote the use of oil; but in Germany, in—
Prohibition of Fat.

Introducing the use of goose-fat, in complete opposition to the views of the lawgiver.

ART. CCVI.

Prohibition of Fat and Blood, which were both to belong to the Altar, and to be deemed too sacred for use as food.

§ 5. What were called the Fat-pieces, in oxen, sheep, and goats, Moses, in like manner, prohibited the Israelites from eating; Lev. iii. 17. vii. 25. These I cannot term unclean, but they were regarded as too holy for food, and as belonging only to the altar. Yet by this law, all manner of fat was not forbidden (for that would have been a prohibition, almost impossible to be observed) but only these fat-pieces, which Moses himself, on the occasion of giving the laws relative to sacrifices, and to what was to be burnt on the altar, specifies as follows:

1. The fat with which the intestines are covered; called in Latin, Omentum, and in some parts of Germany, das Netz. (The net, or caul.)
2. All the fat upon the intestines; in Latin, Mesenterium; in German, Gekröse.
3. The fat of the kidneys,
4. The fat-tail of a certain sort of sheep; which tail usually weighed from 15 to 50 pounds, and concerning which the reader may consult either my remark on Levit. iii. 9.; or if he wishes a more detailed account, Bocharti Hierozoicon, p. i. lib. ii. cap. 45. p. 494. The description of it, which I have given in my note, is taken from Russel's Natural History of Aleppo.
Art. 206. ] One exception to the prohibition of Fat. 247

What they were to do with these fat pieces, when they slaughtered beasts at home, and, of course, could not consume them as offerings on the altar, Moses nowhere mentions. It must, therefore, have been well understood from more ancient usage, and consequently their abstaining from the use of the fat could not have been an institution entirely new. There was only one case, in which they were at liberty to use the fat for any purpose whatever, except for food, and that was when the beast died otherwise than under the knife, and was, of course, unclean; Levit. vii. 24. But whether this liberty extended also to the case of oxen, sheep, and goats, not brought to the altar, I do not know.

We may think it strange that these fat pieces, which are really so useful for food, were not allowed to be eaten; not even the fat of the kidneys, which, by most people, is considered as a delicacy, and indeed was so by Moses himself*. But the legislator of the Israelites must have had good reasons for converting this singular custom of their forefathers into a law, or if they did previously eat fat, for enacting a law, that occasioned such a waste of animal food.

* In Deut. xxxiii. 14, what I have rendered the best wheat, literally signifies the kidney-fat of wheat; a figure to us, who eat the kidney-fat, rather too harsh, but to the Hebrews quite familiar. See Psal. lxxxii. 17. cxlvii. 14 and Numb. xviii. 12. Among the people of the neighbouring countries, at least, among the Canaanites, whose language, properly speaking, is Hebrew, and from whom the Israelites may have borrowed this figure, the kidney-fat most probably was eaten.
One of these may have been, to keep them from eating and friendly intercourse with the neighbouring nations; but the principal one perhaps was, that the eating of those fat-pieces, and the use of fat in boiling, roasting, and baking, is to a people, among whom cutaneous diseases are endemic, highly pernicious, and never fails to aggravate them.—At the same time, this law compelled them to cultivate the olive tree with the greatest industry. For being interdicted from the use of butter, and from the fat of goats, sheep, and oxen, which are used in cookery as a substitute for butter, what other resource remained to them, than to apply themselves diligently to the culture of olives, and procure as much oil as possible? A people thus from their earliest infancy weaned from all other sorts of fat, and used only to the excellent and delicious olive-oil of Palestine, were by the very nature of their food, restrained from wandering into other countries: and ever since the time, when it pleased Providence to disperse them throughout the whole world, they have found the prohibition of butter and fat a very great hardship; and they would scarcely know among us, what shifts to make, if they did not resort to expositions of their law, which could not have been conformable to Moses' meaning, and if they were not thus led to the general use of goose-fat, which is unquestionably most repugnant to the designs which he had in view.

With the prohibition of fat, we find in two passages (Lev. iii. 17, and vii. 26, 27.) another prohibition joined, that of eating blood; which, however, occurs also in five other passages, (Lev. xvii. 10,—14. xix. 26.
Temptation of the Israelites to eat Blood.

Deut. xii. 23, 24; xv. 23; Lev. xvii. 10. This unusually frequent recurrence of the prohibition, together with the punishment of extirpation from among the people, annexed to the transgression of it; and the denunciation of God's peculiar vengeance against every man who should eat blood, is quite sufficient to shew, that the legislator must have been more interested in this, than in the other prohibitions relative to unclean meats, and likewise that the Israelites had had peculiar temptations to transgress it. These we really should not have, were blood forbidden to us; and one should think, that the person who had not, from infancy, eaten blood, would rather have an antipathy at it. Blood-puddings, it is true, (like goose and hare) boiled black, we eat with great relish; but I cannot recollect to have found any person pre-eminently fond of them, but in the single case of their being quite fresh; and that would be the precise case, in which, to a person, not previously accustomed to eat them, they would at first be most likely to cause sensations of abhorrence. Add to this, that blood-puddings of ox-blood are by no means so savoury, as ours made of swine's-blood are; which cannot, however, be here in question. For they have something of a meally taste; which, indeed, is very perceptible, when ox-blood is fraudulently mixed with swine's-blood.

The temptation, therefore, which the Israelites had had to violate this law, must have proceeded from another cause, than from an appetite for blood; and
Prohibited as leading to Idolatry. [Art. 206.

so much the more so, as the eating of blood would appear to have never been a custom of their ancestors; for even the Arabs, who are descended from Abraham, do not eat blood; and Mahomet (as we have seen) has forbidden them to taste of idol offerings and blood of beasts strangled, torn, or dead, and of swine's flesh.

But before I proceed to state the cause of this so remarkably rigid prohibition of blood, I must observe, that it only extended to the blood of quadrupeds and birds; for the blood of fishes was, on the contrary, permitted to be eaten; Lev. vii. 26. xvii. 13. This point is so clear, that even our modern Jews, who in most things overstretch the law of Moses, make no conscience of eating carp stewed in their own blood.

I now come to notice the reason of this prohibition, which we find so urgently repeated. It is connected with one of the grand objects, which the Hebrew legislator always had in view, namely, the exclusion of all manner of idolatry from among his people. (Art. XXXII.) Eating of blood, or rather drinking it, was quite customary among the pagan nations of Asia, in their sacrifices to idols, and in the taking of oaths*. This, indeed, was so much an Asiatic, and, in a particular manner, a Phoenician usage, that we find the Roman writers taking notice of it, as something outlandish at Rome, and peculiar to these nations; and as in the Roman persecutions, the Christians were compelled to burn incense, so were they, in the Per-

* See my Critisches Collegium (Critical Lecture) on Psalm xvi. 4. p. 107,—111. together with Note 209. of my Illustration of the Epistle to the Hebrews, on chap. ix. 20.
Art. 206.] Blood made Atonement for Sin.

sian, to eat blood. In the West the one, and in the East the other, was regarded as expressive of conversion to heathenism; because both were idolatrous practices. It was for this very reason, that Moses now prohibited blood so rigidly, and under the pain of death, not only among the Israelites themselves, but among all foreigners that lived within their land; and in order to render the prohibition the more sacred, and the more revered, by connecting with it a moral implication, God declared (Lev. xvii. 11,—14.), that the Israelites, on account of the sins which they daily committed, and which could never be fully expiated by offerings on the altar, owed to him all the blood of the beasts which they slaughtered, and were not to eat of it, because it was destined as an atonement for their sins. But for this very reason also, because it was an idolatrous usage among the neighbouring nations, were the Israelites in the greater danger of being led, by eating blood, into idolatry, from their great propensity to that universally-prevalent crime, and not from mere fondness for blood as a desirable article of food.

In regard to many other heathenish customs, Moses acted quite otherwise, consecrating, instead of prohibiting them, by commanding that they should be kept up, under an altered signification, in honour of the true God; but it is not to be wondered that he should not have done so with regard to the drinking of blood in sacrifices and oaths, but rather have forbidden the use of it altogether. The eating of blood is a matter of indifference in a moral view, and, if not carried to excess, in a medical view also. It will not make a man cruel and pitiless; nor yet will it
Danger of drinking Blood.  [Art. 206.

occasion disease and death. But drinking of blood is certainly not a becoming ceremony in religious worship. It is not a very refined custom, and if often repeated, it might probably habituate a people to cruelty, and make them unfeeling with regard to blood; and certainly religion should not give, nor even have the appearance of giving, any such direction to the manners of a nation. Add to this, that it is actually dangerous to drink blood; for if taken warm, and in large quantity, it may prove fatal; particularly ox-blood, which by coagulating in the stomach, causes convulsions and sudden death, and was with this view given to criminals in Greece, as a poisoned draught. It is true the blood of other animals may not always produce the same effects; but still, if it is not in very small quantity, its effects will be hurtful. At any rate, the custom of drinking blood in sacrifice, and in taking oaths, may, from imprudence, sometimes have the same effects which Valerius Maximus ascribes to it, in the case of Themistocles*; only that he purposely drank as much during a sacrifice, as was

* Lib. v. c. 6. Themistocles——instituto sacrificio, exceptum paterna tauri sanguinem haussit, et ante ipsam aram, quasi quadam pietatis clara victima, concidit. The meaning is, that Themistocles, who had promised to the king of Persia, to bring Greece under subjection to him, had, from love to his country, and in order not to fulfil his engagement, on occasion of a sacrifice, drunken a bowl of ox-blood (of which a few drops certainly would not have injured him), in order to cause his death. Whether this relation be true, is very doubtful. Every school-boy knows from Cornelius Nepos, that it is not certain whether Themistocles died of disease, or otherwise. The tradition however shews, what might be thought likely to happen, when the blood of victims was drunken; and every physician, of whatever theory,
sufficient to kill him; which others might also do from inadvertence, or from superstitious zeal.

will know, that it is very possible; although among us, where blood is never drunken, it is not easy to find a proof from practice.

The only thing like a practical example of it, which I have heard of in my time, is the case of a man, whom, indeed, I myself knew,—an enormous and notorious glutton,—who, being present at a slaughter-feast, devoured such a quantity of blood-puddings, as not indeed to kill him outright, but to induce a lethargy so like death, that he was considered as actually dead, and was too soon buried; for on being disinterred a few days after, it was found he had been buried alive; had awakened in his coffin from his swoon; and had felt all the horrors of a living entombment, in his vain efforts to break from the prison of the grave.—But as the foundation of a moral prohibition of blood, such as some people make to themselves, and such as even Bartholin, the physician, has defended on much weaker grounds, and without any medical proofs whatever, a fact like this is by no means sufficient; for it was merely excess that produced this unfortunate result; and for my own part, I should, a priori, rather have guessed, that the man would have died of excess in wine, than in blood-puddings; and yet if he had, nobody would therefore look upon the use of wine as sinful.—I make this remark, because I am aware that, owing to imperfect and inconsiderate explanations of Acts xv. 20,—29. many rational and conscientious Christians scruple to eat blood; and I would not, while illustrating the Mosaic law, wish to add to their scruples, by stating the real danger, which lies not in eating blood at all, but in doing so to excess, which is equally sinful in the case of all food whatever. If I did so, many readers would pay too dear for what they learned from the present work. It is my intention (which I cannot here with propriety fulfil), to write upon this subject hereafter, at greater length, because I see so many rational Christians discomposed by scruples of this nature; and in the meantime, those who have any doubts as to the morality of the practice, may read what I have already stated in my Paraphrase on St. Paul's smaller Epistles, in the Appendix to the Epistle to the Galatians.
This was sufficient reason to keep Moses from making the drinking of blood a part of religious worship; and this being the case, it was, as a heathen rite, on his principles, necessarily prohibited in the strictest terms. Nor need we, after this, be surprised to find the eating of blood forbidden, not only in the Acts of the Apostles (chap. xv. 20,—29.), but also among the Arabs, and in the Koran, and classed with the offerings made to idols; for it actually was a part of idolatrous worship very common in the East.

Concerning the castration of animals, I have already spoken, in Art. CLXVIII., to which I here refer.
CHAPTER IV.

POLICE OF PRIVATE LIFE.

PART II.—LEVITICAL DEFILEMENTS.

ART. CCVII.

Of Levitical Defilement in general.

§ 1. In the Mosaic law, those persons are termed unclean, whom others were obliged to avoid touching, or even meeting, unless they chose to be themselves defiled, that is, cut off from all intercourse with their brethren; and who, besides, were bound to abstain from frequenting the place where divine service, and the offering-feasts were held, under penalties still more severe.

The duration and degrees of impurity were different. In some instances, by the use of certain ceremonies, an unclean person became purified at sunset; in others, this did not take place, until eight days after the physical cause of defilement ceased. Lepers were obliged to live in a detached situation, separate from other people, and to keep themselves actually at a distance from them. They were distinguished by a peculiar dress; and if any person approached, they
were bound to give him warning, by crying out, Un-
clean! unclean! Other polluted persons, again, could
not directly touch those that were clean, without de-
filing them in like manner, and were obliged to re-
main without the camp, that they might not be in
their way (Numb. v. 1,– 4.); from which, however,
I would not just venture to conclude, that in after-
times, they durst not have remained within their own
houses, in cities; but still, even there, they were
obliged to keep themselves secluded, that they might
not pollute any one by their touch. That this was a
most troublesome predicament, and would prompt
every one to shun all manner of defilement to the ut-
most of his power, it is not necessary to mention.

A person that had been unclean, could not be
civilly re-purified, without certain ceremonies pre-
scribed by Moses, such as offerings, washings, sprin-
klings, &c. even although the physical pollution had
ceased; and if without purification he had ventured
to approach the sanctuary, or the offering-feasts, he
was liable to the punishment of extirpation. To be
unclean, or even to defile one’s self wittingly, did not
subject to punishment; for the physician, for instance,
who attended a person affected with Gonorrhcea, be-
came unclean by touching him, Lev. xv. 7.; and the
man who buried a dead body became unclean for
seven days, Numb. xix. 11,– 16.; and yet this was a
necessary duty, nay, it was an express design of the
statutes respecting defilements, to compel the Israel-
ites to bury their dead. Even the person who slaugh-
tered and burnt the red heifer, ordained by the com-
mand of Moses himself as a means of purification;
Art. 208.] Leprosy—its Symptoms & Progress. 257

the very priest who was present at that operation; the man who collected her ashes; and the man who sprinkled the water of consecration—were all thereby rendered unclean; Numb. xix. 7, 8, 10, 21.—But for a person not to purify himself, was a crime of the most heinous nature, and subjected him to the punishment of extirpation; ver. 20.

ART. CCVIII.

Of Leprosy—some general Remarks on the Nature of that Disease, and the Duty of a Legislator with respect to it, and other imperceptibly-infectious Disorders.

§ 2. The greatest, and, on the principles of legislative policy, in reality the most necessary civil defilement, was occasioned by the leprosy; an infectious disease, of slow and imperceptible progress, beginning very insidiously and gently, for the most part with only one little spot, that causes no trouble, though no means will make it disappear; but increasing with time, and imperceptibly passing into a disease, attended with the most formidable symptoms, such as mortification, and separation of whole limbs, and when arrived at a certain stage, altogether incurable. At last, death commonly follows a slight degree of fever, quite unexpectedly, and indeed so suddenly, that we have a case of a leper in the south of France, who had cohabited with his wife the very night before this febricula attacked and cut him off.

If the reader wishes for fuller information conser-
258 West Indies infected with Leprosy. [Art. 208.

ing this disease, he must, besides my remarks on Job ii. 7. peruse Nos. 11, 28, and 36. of my Questions to the Arabian Travellers; and as I have there given a good deal of new information, taken from French and English physicians, who became acquainted with leprosy, and investigated its nature, in a part of the southern coast of France, and in the sugar islands of the West Indies, into which it had been brought by African slaves; and whose accounts of it coincide more perfectly with those of Moses, than what we find in any writer, from his time to the year of Christ 1750; I have only here to add, that Mr. Professor Eyring has thence been induced to translate the greater part of these French and English documents into German; and that they will be found in the Hanoverian Contributions (Beträgen zum Nutzen und Vergnügen) to Utility and Amusement, for 1762. No. 32. and 48.; and in the Hanoverian Magazine for 1763, No. 86, 87.; and for 1764, No. 63, 64. I suppose these interesting pieces may be had separately, in the Intelligenz Comtoir, in Hanover; but if not, they deserve to be reprinted with some slight alterations. There is one passage from them, which I cannot refrain from transcribing, because it is here of direct importance to me, as shewing what legislative policy should do, and what the universal wish of the people requires of it, when leprosy makes its appearance.

M. Peyssonel, a physician, who was sent to Guadalupe to enquire into the nature of the leprosy that broke out in that island, writes as follows, on the 3d February, 1757: "It is now about 25 or 30 years,
since a singular disease appeared on many of the inhabitants of this island. Its commencement is imperceptible. There appear only some few white spots on the skin, which, in the Whites, are of a blackish red colour, and in the Blacks, of a copper red. At first, they are attended neither with pain, nor any sort of inconvenience; but no means whatever will remove them. The disease imperceptibly increases, and continues for many years to manifest itself more and more. The spots become larger, and spread over the skin of the whole body indiscriminately: sometimes a little elevated, though flat. When the disease advances, the upper part of the nose swells, the nostrils become enlarged, and the nose itself soft. Tumours appear on the jaws; the eye-brows swell; the ears become thick; the points of the fingers, as also the feet and toes, swell; the nails become scaly; the joints of the hands and feet separate, and drop off. On the palms of the hands, and on the soles of the feet, appear deep dry ulcers, which increase rapidly, and then disappear again. In short, in the last stage of the disease, the patient becomes a hideous spectacle, and falls in pieces. These symptoms supervene by very slow and successive steps, requiring often many years before they all occur. The patient suffers no violent pain, but feels a sort of numbness in his hands and feet. During the whole period of the disorder, those afflicted with it, experience no obstructions in what are called the Naturalia. They eat and drink as usual; and even when their fingers and toes mortify, the loss of the mortified part is the
"only consequence that ensues; for the wound heals of itself without any medical treatment or application. When, however, the unfortunate wretches come to the last period of the disease, they are hideously disfigured, and objects of the greatest compassion.

It has been remarked, that this horrible disorder has, besides, some very lamentable properties; as, in the first place, that it is hereditary; and hence some families are more affected with it than others: secondly, that it is infectious, being propagated by coition, and even by long-continued intercourse: thirdly, that it is incurable, or at least no means of cure have hitherto been discovered. Mercurial medicines, and diaphoretics, and all the usual prescriptions and plans of regimen for venereal complaints, have been tried, from an idea that the infection might be venereal; but in vain: for instead of relieving, they only hastened the destruction of the patients. The medicines serviceable in Lues venerea had no other effect than to bring the disease to its acmé; inducing all its most formidable symptoms, and making those thus treated, die some years sooner than other victims to it."

[By the way here, if I might venture to interrupt the detail, the Gottingen taylor, whose case will be mentioned in a little, was rendered incurable, from his complaint, contrary to his own protestations, being all along treated as venereal; until at last, but not till it was by far too late, he fell into the hands of the learned Dr. Vogel, physician in ordinary to his Majesty.]
Their very just apprehensions of being infected with this cruel disease; the difficulty of knowing infected persons before it arrives at its worst stage; together with the length of time requisite for the discovery, in consequence of the anxious desire of patients to keep it a secret; and the insufficiency of the symptoms at first, to furnish a distinction between it and some other disorders; occasioned a very great alarm among all the inhabitants of the island. They became suspicious of each other; because neither virtue nor rank proved any security against this cruel scourge. They called it the Le-prosy, and they presented various petitions to the Commandants and Intendants, stating all the circumstances now mentioned; the disturbance which mutual distrust had occasioned in that thriving colony; the complaints and enmities which charges of infection occasioned; the laws previously made against lepers, and their expulsion from civil society. They demanded an universal inspection of all persons suspected of labouring under this disease, in order that those found infected, might be removed into Lazarettos, or places at a distance from all communication with others.

He then proceeds to relate, that the Court of France granted the prayer of these petitioners, and sent him to Guadaloupe to institute the inspection; and then he describes the disease as he found it.—How anxious the infected were to conceal it, and how necessary it therefore becomes for legislative policy to pay attention to the means of its extermination, is manifest from No. 9. of his Accounts.
"most all of them, from a desire to conceal their "complaint, endeavoured to deceive me, by ascribing "their wounds and sores to false causes. The great-
"er number pretended, that the rats had eaten off "their toes, or that they had once burnt themselves. "Such were the evasions to which they had recourse, "and the stories which they wished to make us be-
"lieve."

Concerning the nature of the infection, he writes thus, in Nos. 11, 12.

"We were by our observations fully satisfied, that "the disease is infectious and hereditary; although "the infection is not so active and virulent as in the "plague and small-pox, nor yet as in the ring-worm, "itch, scab, and other cutaneous disorders.—We "thought that it only took place in consequence of "long-continued intercourse, or of carnal connection, "with an infected person. We however observed, "that neither the one nor the other of these, in all "cases, communicated the disease; for we saw both "husbands and wives, of whom the one party was "infected, and the other, notwithstanding their ma-
"trimonial cohabitation, still remained sound. And "there are instances of families living near leprous "persons, and having intercourse with them, and "yet not receiving infection. Although experience, "therefore, and the private information from patients, "prove that the disease is infectious, we are still of "opinion, that there must be a peculiar predisposition "of the body, in order to its becoming susceptible of "the poison."

I have myself seen an instance of leprosy, in a tay-
lhor of Gottingen; to whom, having been long mis-
taken, and thereby become incurable, it proved fatal. 
This case Professor Murray has described in a parti-
cular treatise, of which the title is, Joan. And. Mur-
ray, De Vermibus in lepra obviis, juxta leprosi histo-
ria, Goettingæ, 1769. The accounts of leprosy given 
at great length by the ancient physicians, under the 
nname of Elephantiasis, particularly by Araxæus Cap-
padox, and Paulus Aegina, I here omit, because 
I have excerpted them in another work, not yet 
printed.* 

That the leprosy is infectious, is very certain; only 
we find that in this respect, it is strangely capricious. 
Infection does not take place rapidly; and it would 
appear that, excepting in the case of coition, a person 
may be safe, although he once touch a leper. Nay, 
it is not (which is very singular), communicated in 
every case even by cohabitation; for married pairs 
have been found, of whom the one party was leprous, 
and yet the other, although they did not abstain from 
sleeping together, continued clean. With all these 
exceptions, however, experience fully shews that the 
infection, though slow, is formidable, and that the 
propagation of the disorder is very insidious. This is 

* Viz. in a Dissertation on those Circumstances in the Book of Job, 
which indicate that its Author was acquainted with Egypt; in which al-
so, by the way, the nature of Job's disease is particularly considered. 
This Dissertation was read before the Gottingen Society of Sciences 
in the years 1754 and 1755. That part of their Commentaries, how-
ever, to which it belongs, has not yet been printed, and the previous 
publishations of the Papers separately, is not permitted.
the universal information from every quarter in which it has raged; and when, in the course of the present century, it was carried by African slaves to the sugar plantations in the West Indies, it soon spread to a fearful extent over more of the islands than one. We have also had it even in Germany: for it was imported from what are called the *Holy Wars*; and Lazarettos were established on its account, in which, during the preceding century, the last remnants of infection were still sparingly to be found; but, probably because our climate, mode of life, and clothing*, were not favourable to its existence, it has at last disappeared so entirely, that a single case of it is now seldom to be heard of, and is noticed as a rarity.—

The late Dr. *Werlhof* assured me, that in the course of his long practice, he had had but one patient, in whom he observed the true characters of the Arabian leprosy; but nobody was infected by him†, nor in-

* Perhaps in no country is there such abundance of linen as in Germany, by which so many other countries are supplied with that article. Hence everybody, unless where a physician gives contrary orders, wears a linen shirt next his skin, and frequently changes it; whereas in eastern countries, they wear woollen stuffs in immediate contact with their bodies, and change their clothing by no means so often as we do our shirts. The very poorest people with us have commonly more than one shirt; which in many parts of Asia would be a little treasure, and a dozen of them would be an absolute luxury.

† The words of this sagacious and eminent physician merit preservation. "I recollect," says he, "but one single patient, in whom the true characters of the Arabian leprosy were manifest. He was a lieutenant of artillery, who, at the siege of Philipsburg, had lain for a long time in a damp barrack. He had been thrice salivated, but the evil was thus only more and more aggravated. When he
deed did he die of that disorder, but of a complaint in his breast, 15 years afterwards; so that perhaps, after all, he had not had the Oriental leprosy; and the Gottingen taylor, whose case Professor Murray has described, though he died of leprosy, yet never infected any one. His house was sold after his death, and inhabited by a particular friend of mine, without the smallest appearance of any bad effects.

The disease is also hereditary; not, however, perpetually so, but only for three or four generations; so that, according to the testimony of the French physicians, in the fourth generation, it no longer remains in its complete state, and shews no other symptom than that of the fetid breath. With regard also to its hereditary tendency, it manifests a singular sort of caprice, which might be termed benevolent, if it did not leave a man during his whole life under the tormenting apprehensions of an uncertain evil: The son of a leper will sometimes inherit only a more immediate disposition to the disorder, which may not break out till late in life, and perhaps never.* This is ob-

" returned hither to his native country, where he had a wife and children, he still continued to labour under it, but without infecting any other person, until he died of an epidemic disorder of the breast, 15 years afterwards. I do not, however, venture to affirm, notwithstanding the similarity of symptoms, that this man's complaint had had the very same origin as the Arabian leprosy, which is, without doubt, often infectious."

* I must here again quote the words of M. Peyssonel. What I have stated above, in addition to his information, is derived from other French physicians, who have described the disease, as it now appears in some parts of France; from Niebuhr's Travels; and from other authors of credit.—Peyssonel, in Nos. 13, 14. of his Accounts,
Leprosy hereditary for some generations. [Art. 208.

served in the east, where the children of lepers are subjected to a period of probation, in order that it may be seen whether they have inherited the disease or not*; and in France there have been proofs of hereditary leprosy breaking out suddenly with a spot, in consequence of some violent emotion of the mind,

thus writes, "Whatever may be thought of the hereditary nature of the disease, this may be depended on as a fact. We have seen whole families that were infected; and almost every child of a leprous father or mother, becomes generally leprous in its turn; and yet in various other families we have seen some of the children sound, and others leprous, whose father died of leprosy, and they themselves were old before they took it. Hence although it certainly is hereditary, we are nevertheless of opinion, that its procedure, in this respect, is the same as what is observed in asthma, stone, and other hereditary diseases, with which families are afflicted, and which often descend from father to son, without always keeping one regular course, but attacking sometimes one, and sometimes another of the progeny.

"We could never discover any constant rule, as to the age at which this disease might be expected to shew itself in the children of infected parents, at least, in regard to males. In regard to females, however, as far as our access to observation has extended, we have remarked, that it commences with the accession of the catamenia, but makes no considerable progress, until they have been once or twice in child-bed; after which its more striking and formidable symptoms make their appearance."

* See Niebuhr's Description of Arabia, p. 137. in the note.—The Christians at Aleppo, take the children of leprous parents, who are Christians, as soon as they are born, and give them in charge to sound nurses. If, after three months, no symptoms of leprosy are apparent on them, they are brought up within the city; but if the disease has shewn itself on any such child, it is given back to its parents, in the quarter appropriated to lepers. The woman who has suckled it need not be afraid of infection.
especially a fright, in people of 40 years of age, in whom it had till then lain dormant*.

Moses speaks of the divine judgments on idolatry, precisely in the same style, in which I have now been describing the leprosy. God is wont to threaten the Israelites with this disease, if they transgress his commandments. The sanction of what the Lutherans reckon the first, but the Reformed, the first and second commandment, is, I Jehovah, thy God, am a jealous God, who punish the sins of fathers upon children, in those that hate me, unto the third and fourth generation, Exod. xx. 5. This is unquestionably to be understood in reference to leprosy.

What should be done by the legislator of any people among whom such a disorder is either endemic or even but epidemic, and what not only policy and justice, but also, as in Gaudaloupe, the voice of the people loudly demands, may seemingly be comprehended in the following precautionary regulations.

1. Leprous persons should be separated from all others, and reside in a particular place by themselves. From marriages they cannot be prohibited without extreme cruelty, because their natural desires of pleasure are as strong, indeed, according to some accounts, even stronger, than those of persons in perfect health. It must, therefore, no doubt, be permitted; although the probability is, that they will only bring a new race of lepers into the world. Those people, however, who maintain close intercourse with them; of course,

their wives, and the children brought up by themselves, must lay their account with being confined to the same quarter, and being restrained from communication with persons who are clean. If this be not attended to, the disease will spread to a fearful extent, and infect many families for generations.

No man can be secure from infection, if such a separation be not made; but that natural security against involuntary infection, every member of civil society has a just right to expect from its laws; or else it must allow him to procure security for himself, by the very same means, which are allowed in a state of nature, and which we employ both by sea and land, in times of plague, when infected persons disembark on our shores, pass our barriers, force their way into our houses, or otherwise come too near us. But as no rational legislator can permit recourse to these means of self-defence, subject as they are to so many abuses, where the protection of the magistrate can possibly be effectual, it follows that every legislator ought to establish a public security against infection.

2. As the disease is so insidious, and so difficult to be known, and likewise, of which Peyssonel says nothing, sometimes begins on those parts of the body which are covered by the clothes*, there should be

* Aretæus Cappadox, De Causis et signis Morborum. lib. ii. cap. 15. p. 69. distinguishes two sorts of Elephantiasis (the worst kind of leprosy) of which,

1. The one appears first in the face, and so can be soon discovered.—This was the case with that of the Gottingen taylor, who, on my asking him, told me, without knowing the drift of my inquiry, that he had long before, he thought about ten years, observed a little spot
some tribunal, before which every one in the least suspected of leprosy, may be brought, whether he will or not, in order to be inspected and closely examined. On the smallest appearance of the disease, every citizen should have a right to insist on an inspection taking place, and those who are found to be clean, must be satisfied with this advantage, that they will be no longer avoided by their neighbours.

If there is no such provision as this made, not only will persons actually infected, and who endeavour, in all possible ways, to conceal their situation, taint others, that are susceptible of infection, and marry into clean families; deceiving their husbands or wives, to the great injury of their posterity and the public; but even those who are innocently suspected will, amidst the universal distrust that will prevail, as described by Peyssonel at Gaudaloupe, become to themselves and others an intolerable burden. Every man that knows himself to be clean will keep at a distance from all who are in the smallest degree suspicious, were it but by an innocent freckle in their face; will forbid them his house, and, perhaps, from rage and fear, have recourse to harsher measures for self-defence; and for this it would be hard to punish him, if he did not go very great lengths. Those who are that was not previously on his face, but to which he had paid no attention.—If, the instant that this spot is discovered, of which both ancient and modern writers take notice, proper steps be taken, a cure may be possible.

2. The other begins on the elbows, knees, and joints of the hands and feet, is more infectious, and is considered by Arctaus, as the more dangerous, that it is too late before it be observed.
innocently suspected will take great offence at the reproach cast upon them, and hence will arise enmities, injuries, outrages: and yet such persons being abandoned by other society, will have the misfortune of being, in a manner, driven into that of the leprous. Even those, whose cleanness is well known, and who are under no suspicion themselves, and only cast suspicions upon others, will, nevertheless, have the misery of living in perpetual, perhaps imaginary, dread of infection, and so shunning almost every man they meet. Nor is this merely a mental calamity, but an evil that claims the notice of the physician, because it puts the health of the body in danger. During the prevalence of infectious diseases, fear is extremely prejudicial to health; and although I do not believe that the leprosy can, like the plague, be originally caught by the mere influence of apprehension, yet other disorders may arise from continual fear, and from that confinement at home which it occasions.

3. Those persons who, after inspection, are found sound, or not affected with leprosy, or perfectly recovered, should, in some legal manner, be declared clean. How much they themselves are interested in being so, I need not say; but, even to society at large, it is a matter of importance, to know for certain, who is free from such a disease, in order to prevent the disquietude of unnecessary suspicion.

The declaration of cleanness should not be made on slight grounds, as, upon the principles of any medical theory, a priore, else it will not be relied on, and the tortures of universal suspicion will still con-
Why no Rules of Cure laid down.


But should be the result of satisfactory and long-confirmed experience. And in regard to this point, we must proceed on a maxim directly the reverse of that established in criminal jurisprudence, which holds, that it is better, that ten miscreants escape punishment, than that one innocent person be hanged; for it is better that ten innocent and clean persons should, for a time, be considered as lepers, than one leper should be declared clean. For if this last shall ever happen, from that moment the whole advantages will vanish, which not ten only, but in a great population, perhaps ten thousand, ought to derive from their bill of health. They will not be trusted, and universal suspicion will prevail as before.

So much for necessary regulations for preventing the spread of leprosy. But many readers will perhaps think that the most important point of all still remains unnoticed. For ought not the method of cure to be prescribed?—By no means. This is what I should neither ask nor wish; in the case, at least, of a disease considered in ancient times as incurable, and for which, when arrived at a certain stage, no remedy is really even yet known. When an epidemic disorder, such as the plague or dysentery, has raged for a short time, it is usual for the magistrate, after consulting the physicians, to publish an account of the best antidotes against it, rather, however, in the way of advice than command; but, in the case of either an endemic disease, or an epidemic one, that has subsisted for some generations, and where not a mere occasional advertisement, but a law to remain in force for ever, is in question, mandates relative to receipts and a method
Idolatry punished with Leprosy. [Art. 208.

of cure, or extending beyond the prohibition of any hurtful medicine, would be quite preposterous. For, not to mention, that the physicians, living at the time of the enactment of the law, might order an improper mode of treatment, of which we have had great examples in the cases of the smallpox and plague*, and that every one, considering that his own life is concerned, will be averse to be deprived of all freedom in the choice of his medical measures; new and improved remedies, unknown to the old physicians, are always coming to our knowledge. And should the legislator, who is giving laws for centuries, preclude his people from the use of such remedies, before he knows any thing about them? Let him leave it to posterity, and to the physicians of future ages, to employ those means of cure, which may be then deemed most effectual; especially considering, that diseases after certain periods, sometimes alter their aspect so much, that different remedies are requisite in different centuries; as we see very clearly in the case of Lues venerea.

But Moses, it will be said, was an inspired legislator, and God might, therefore, have made known by him the best method of curing the leprosy, and have enjoined in his laws the use of it for ever! Without doubt he might have done so; but such is not his usual procedure; for he leaves men to find out by their own industry, the proper remedies for their own

* See Hodges De Peste, p. 24.; Mead De Peste, part ii. of his Opera Medica, p. 48.
Art. 209.] Leprosy endemic in Syria & Egypt. 273

diseases*. Add to this, that even although an infallible remedy for leprosy had existed in nature, its disclosure would not have been altogether consistent with the tenor of the Mosaic legislation in other points. The leprosy is the very punishment with which Providence threatens transgressors of the Mosaic law, especially idolaters. And it is no more an impeachment of God's goodness, that he does not make known by an immediate revelation, what, in his infinite wisdom, he knows to be the most effectual cure for leprosy, than that in a world, created and governed by him, there should exist diseases, incurable diseases, and other physical evils, which he can employ for the purpose of punishments.

ART. CCIX.

Leprosy a common Disease of the People to whom Moses gave his Laws, and of the Countries in which they lived.

§ 3. LEPROSY is at this day, after several thousand years, a common disease throughout all Syria, whereof Palestine is a part; a disease, of course, endemic in the country into which Moses conducted the Israelites. In Egypt, where they had previously dwelt, it is said to be still more frequent and virulent; and many of the Roman writers imagined that the Elephantiasis existed only in Egypt.

* The reader may here apply the observations already made in Art. CXCIX. on the subject of mathematical and physical truths.
To this the climate may no doubt contribute in some degree. For although it will not of itself produce leprosy, because we know countries under the same and even a warmer climate, quite free of the disease, the West Indies, for instance, until the present century at least, when it was transported thither from Africa by the Negro slaves; still it may prevent it from ever becoming so completely extinct as it has become in Germany; where the physicians of our days, thank God, know the Lepra Arabum, as it is called by the learned, only from books, and by name.

Among the Israelites also at the time when Moses carried them out of Egypt, leprosy was certainly not unknown. As to what the Greek and Roman writers say, of their having been expelled from Egypt on account of leprosy, or other infectious diseases, I cannot here enquire into its foundation, as I am not writing their history. The authorities adduced in support of this charge, neither say all that they have been made to say, nor is their evidence uniform and consistent; but this is not the place to examine them. Thus much, however, I would suggest, that this question, which some adversaries of religion make of so much consequence, and some of its defenders so warmly answer, should be split into two. For, was leprosy a common disease among the Israelites at the time when they left Egypt? and, were they driven out of Egypt on account of leprosy? are very different questions indeed. The latter is scarcely credible. For what sovereign, not
an absolute blockhead, would expel a people consisting of 600,000 adult males, and therefore, with their wives and children, amounting to two millions and a half, on account of a disease endemic in his dominions? But without entering into the question of the probability of this story, which would, besides, here be the more unseasonable, because almost every author by whom it is retailed, gives a different edition of it; and I cannot here examine them all; let us take the two questions separately, and hear what answer is given to them by an author who lived at least 1000 years before any of the Greek or Roman writers, and who, moreover, did himself bring the Israelites out of Egypt. Moses then tells us,

1. That the Israelites were certainly not driven out of Egypt, on account of leprosy, but wished themselves to leave it, and did in a manner break loose from it. And this he tells us in the very book that he wrote for the special instruction of the Israelites, and in which, in regard to many other things, he is on no ceremony at all in casting reproaches upon them. At the same time he relates, that in one night all the first-born of the Egyptians were found dead together, (this might be called a plague, but from leprosy no such mortality could proceed); and that on this account the Israelites, who had before urged their right to depart, in vain, were forcibly driven out by night;—a circumstance which the Greek and Roman authors, who commonly took the history of the Barbarians, as they called them, at second, or perhaps at tenth hand, having, for the most part, no knowledge themselves of either their native historians, or their
language, may have embellished and misrepresented.

—Moses, however, also informs us,

2. That the leprosy was at this time endemic and extremely prevalent among the Israelites. Indeed his own statutes relative to it, are the clearest proof of this; for what legislator would ever have thought of making laws concerning a disease that had never once, or but very rarely, been seen among his people? or of compelling every person, on whose skin a pimple, spot, or boil arose, to let himself be inspected from head to foot, and then be confined for seven days, unless the leprosy had been a very prevalent disease, and there had been just reason to suspect, that such symptoms indicated its commencement? Moses, moreover, speaks of leprosy in the iv. chapter of the book of Exodus, ver. 6,—8. as a disease which he knew at first sight, and of course he must have often seen it before; and he relates, in Numb. chap. v. 1,—4, that lepers were removed from the camp, and had a place assigned them without it.

Nothing else, in fact, could have been expected among a people that had come out of Egypt, the principal seat of the leprosy. But other causes may, besides, have contributed to spread this disease among the Israelites. They were poor, and they had been oppressed; and cutaneous diseases, and indeed almost all infectious diseases whatever, attack poor people above all others, because they cannot keep themselves cleanly, and at a distance from infected persons. They had also partly dwelt in the damp and marshy parts of Egypt (Art. XXI.), and that was favourable to the increase of leprosy among them; at
Art. 209. | A Fish Diet promotes Leprosy. 277

least it has been found, that a very damp habitation will, even without any infection, produce, if not leprosy itself, a disease at any rate that strongly resembles it*. I have still to notice a most material circumstance, viz. that their residence along the Nile, and in the marshy districts, (Bucolia), put it in their power to eat fish at their pleasure, Numb. xi. 5. Now nothing is more effectual for aggravating and spreading cutaneous disorders, than a diet entirely, or frequently composed of fish; and we find at this day, in Norway and Iceland †, a disorder which, if not leprosy, comes very near it in similarity of symptoms, and which is ascribed to their eating great quantities of fish.

If, however, the residence of the Israelites in Egypt, seemingly served to promote the propagation of leprosy among them, their continuance for 40 years, wandering in the arid deserts of Arabia, may, perhaps, have also served to diminish its prevalence. There they could have no fish; and we find them actually complaining of the want of them, beneficial to them though it probably was. Arabia, indeed, is not, like other countries in the same latitude, exempt from leprosy; but the extreme dryness of its air is by no means so favourable to infection, as the moister atmosphere in some parts of Egypt, and even in Palestine. Whether their singular diet, during the forty years, when they eat nothing but manna, may have had any

* See the late Dr. Werthof's letter in the preceding Article.
† See Eggert Olafsen's Travels through Iceland, p. 493, 494.
effect in purifying their blood, and diminishing their cutaneous diseases, I leave it to physicians to enquire; being the less interested in this point here, as it belongs not to the laws, but to the history of the Israelites.

ART. CCX.

The Laws of Moses relative to Leprosy.

§ 4. The Mosaic statutes respecting leprosy, are recorded in Lev. xiii. and xiv. Numb. v. 1,—4. and Deut. xxiv. 8, 9.; and are in substance as follows.

1. Against the marriages of lepers, Moses gave no ordinance: they were, of course, lawful and common. It is indeed lamentable, that leprous parents beget children, who have the leprosy to the third or fourth generation, or at least are in danger of taking it: but so it is with all diseases of an hereditary nature. A statute, prohibiting the marriage of such persons, would not only be cruel, but in a great measure ineffectual also: for considering that their passions are as strong, or, according to Paulus Aegineta, even stronger than those of persons in health, restraining them from marriage would only serve to drive them to despair, and thus impel them to acts of violence or treachery towards clean women, whereby the evil would but spread the farther.

2. He commanded that all suspected persons should be inspected. No one on whose skin a suspicious pimple or spot appeared, or whose hair fell off in a suspicious manner, or who had burnt himself, and had a suspicious-looking spot too long remaining on the
place affected, could be exempted from submitting to inspection; which, by the way, is precisely what the people of Guadeloupe petitioned for. It was the more necessary to pay particular attention to the burn-mark, that lepers, who wished from shame to conceal their disorder, frequently pretended that they had only been burnt. Very possibly too, as I have already conjectured in my Note on Lev. xiii. 24., in persons who had a disposition to leprosy, any other sort of wound may have passed into it, and thus the disease have often been accidentally produced. It is besides said, that it breaks out in consequence of sudden frights, or other violent emotions of the mind.

The inspection of lepers was made by a priest, both as acting in a judicial capacity, and as skilled in medicine. That the whole tribe of Levi were to devote themselves to literary pursuits, has already been noticed in Art. XLII. Among the Egyptians, who divided the persons appointed for religious offices into three classes, 1. Prophets, who were the highest sort of priests; 2. Hierogrammaties, or those acquainted with hieroglyphic writing, and who were occupied with the study of most of the branches of literature; and, 3. Neocoroi, or attendants in the temples; these last had the medical department especially assigned them. It appears, however, that among the Israelites, the science of medicine justly enjoyed a higher rank; that some of the priests applied themselves to it; and that to them, ut in arte peritis, the inspection of leprous persons was intrusted.

The signs of the disease, to which they were to pay attention, are pointed out in the statute itself very

circumstantially, and really accord more exactly than we could have ventured previously to expect, with those which our modern physicians, who never quote, and would seem never once to have thought of the Bible, as a source of information on this subject, found in the American sugar islands, both French and English.

If, on the first inspection, there remained any doubt as to the spot being really a symptom of leprosy, the inspected person was shut up for seven days, in order that it might be ascertained, whether it spread, disappeared, or remained as it was; and this confinement might be repeated. During this time, it is probable that means were used to remove the spot, as we find was the case in the West India islands, during the like period of probation. If in the meantime it spread, or continued as it was, without becoming paler, it excited a strong suspicion of real leprosy, and the person inspected was declared unclean. If it disappeared, and after his liberation became again manifest, a fresh inspection took place, &c. &c. I cannot here copy the whole chapter. It contains a set of very accurate rules, which correspond with the latest observations made in the West-India islands; and it merits a particular consideration, which, for this work however, would be too medical and too extensive.

3. The unclean were separated from the rest of the people. As early as the second year of the Exodus, lepers were obliged to reside without the camp, Numb. v. 1,—4.; and so strictly was this law enforced, that the sister of Moses himself becoming leprous, was expelled from it, Numb. xii. 14,—16. When the Israel-
ites came into their own land, and lived in cities, the spirit of the law thus far operated, that lepers were obliged to reside in a separate place, which was called Beth Chofschith, or the house of uncleanness; and from this seclusion, not even kings, when they became leprous, were exempted, 2 Kings xv. 5. As, however, a leper cannot always be within doors*, and may, consequently, sometimes meet clean persons, he was obliged, in the first place, to make himself known by his dress, and to go about with torn clothes, a bare head, and his chin covered; and, in the next place, when any one came too near him, to cry out that he was unclean, Numb. xiii. 45, 46. No doubt he would not, for certain, have immediately infected a person by merely meeting and touching him. This is clear from all the medical accounts of leprosy; but then he was not, by his truly hideous aspect, to excite disgust in others, or, by unexpectedly touching them, to alarm their fears. Add to this, that by a single touch, he rendered a person at least Levitically unclean; for,

4. In order to prevent leprosy from spreading; in consequence of close communication, it was an established rule to consider a leprous person as likewise unclean in a Levitical or civil sense; and, consequently, whoever touched him, became also unclean; not in-

* In the East, lepers are not at this day absolutely interdicted from going abroad; for they are not considered as pestilential.—Niebuhr says (p. 136.), "I might have seen numbers of them; but whenever I observed any of them meeting me in the streets, I deemed it prudent to avoid them."

deemed medically or physically so, that is infected, by one single touch, but still unclean in a civil sense.

5. On the other hand, however, for the benefit of those found clean, the law itself specified those who were to be pronounced free from the disorder; and such persons were then clear of all reproach, until they again fell under accusation, from manifest symptoms of infection.

The man who on the first inspection was found clean, or in whom the supposed symptoms of leprosy disappeared during confinement, was declared clean; only in the latter case, he was obliged to have his clothes washed. If, again, he had actually had the disorder, and got rid of it, the law required him to make certain offerings, in the course of which he was pronounced clean. Moses, therefore, did not consider leprosy as altogether incurable; nor indeed is it so, when duly attended to, immediately on discovery of the first symptoms. It only becomes incurable, when this is neglected. At the same time, the testimony of the ancient physicians would seem to shew, that, in some instances, persons so deeply infected, as to be driven from society into deserts, had, by a regimen unknown to them, become cured. No doubt all medical means hitherto known to us, are insufficient to effect such a cure; but still it does not go beyond the hidden powers of nature; and the book of Job, which was probably written by Moses, shews, that the cure of this disorder, which to the patriarch himself appeared impossible, is to be considered as not absolutely beyond possibility, because he is represented as having been again restored to health.
Art. 210.]  The Bohak described. 283

6. Moses is at particular pains to specify two descriptions of persons who were not to be held as unclean.

Those, in the first place, who had a cutaneous disorder which he denominates not leprosy, but Bohak (בֹּחַק); Lev. xiii. 38, 39. His words are, If a man or a woman have white spots on the skin, and the priest see that the colour of these spots is faint and pale; it is, in this case, the Bohak that has broken out on their skin, and they are clean.

As it was not before sufficiently ascertained what sort of a disease this Bohak was, and as the word still remains in the Arabic language, I made this point the subject of my 28th Question to the Arabian Travellers; and Mr. Niebuhr's answer, at p. 135. of his Description of Arabia, is as follows: "Bohak is neither infectious nor dangerous. A black boy at Mocha, who was attacked with this sort of leprosy, had white spots here and there on his body*. It was said, that the use of sulphur had been for some time of service to this boy, but had not altogether removed the disease."—At p. 137, he adds the following excerpt from the papers of the late Dr. Forskal. "May 15th, 1763. I myself saw a case of the Bohak leprosy in a Jew at Mocha. The spots in this disease are of unequal size. They have no shining appearance; nor are they perceptibly elevated above the skin; and they do not change the

* I recollect to have read something similar, in the 6th Part of the accounts of the Mission to the East Indies. A physician at Tranquebar, therefore, might probably be able to ascertain the nature of this disease with more minuteness and certainty.

"colour of the hair. Their colour is an obscure "white, or somewhat reddish. The rest of the skin "of this patient was blacker than that of the people "of the country is in general; but the spots were not "so white as the skin of an European, when not sun-"burnt. The spots, in this species of leprosy, do "not appear on the hands, nor about the navel, but "on the neck and face; not, however, on that part "of the head where the hair grows very thick. They "gradually spread, and continue sometimes only a-"bout two months; but in some cases, indeed, as "long as two years, and then disappear, by degrees, "of themselves. This disorder is neither infectious "nor hereditary, nor does it occasion any inconvei-"nience."—From this account, we very easily perceive, that the reason why a person attacked with Bohak was not declared unclean, was because it is neither infectious nor hereditary, but quite harmless, and ra- ther an anomaly than a disease of the skin. And that all this should still be found exactly to hold, at the distance of 3500 years from the time of Moses, ought certainly to gain some credit to his laws, even with those who will not allow them to be of divine autho- rity.

The other description of persons, for whose exemp- tion from the charge and hardships of leprosy, Moses took care to provide, were those whose heads became bald. Among us, and indeed in any country where leprosy is not extremely prevalent, such persons re- quire no such attention; for nobody would think of accounting a man leprous, because his head happened to become prematurely bald, were it even in the days
Art. 210.] **Bald-head—One who has Boils.** 285

of his youth. As, however, the falling of the hair is sometimes, and in connection with other symptoms, a strong criterion of leprosy, and as there actually is a particular kind of leprosy, which might, perhaps, even then, have been observed to have the peculiarity of being limited either to the fore or hind part of the head, it was not strange that a person who became bald, and more especially if not very far advanced in years, should incur the suspicion of being leprous. Even the word *Kareach* (קְרַכּ), *bald-head*, means, in Hebrew, etymologically, *one who has boils*, and therefore originally, perhaps, *a leper*. Now, in such cases, we find Moses giving an explanation, which is not to be looked for in our laws, viz. that if no farther symptoms were found, than mere baldness, the person was not to lie under the suspicion of leprosy, but to be considered as clean, Lev. xiii. 40, 41. For the better understanding of which passage, we must remember, that the Orientals distinguish more carefully than we do, two sorts of baldness; 1. That which begins from the forehead; and, 2. That which begins behind; and that the Hebrews have a particular word for each of them. By the Arabian poets, the former, because it most frequently proceeds from wearing a helmet (as with us from wearing a peruke) is called the noble, and the latter, the servile baldness. The words of Moses, with these remarks, become very intelligible. *The man, whose hair is fallen off his head, is* (Kareach), a bald-head, and clean; and if he be too bald before, towards the brow, *he is then a Gibbeach* (גּיבִּך), a bald-pate, and clean. In the three verses that follow, 42, —44, he proceeds to specify in what cases they were.
Moses prescribed no Method of Cure. [Art. 210.]

to hold a person suspected or convicted of having the real leprosy of the head.

7. The method of cure, and the medicines to be used in cases of leprosy, Moses nowhere prescribes in his laws. Indeed, as perhaps every species of the disorder, and even every new stage and symptom of it, required a diversity of treatment, such prescriptions would have been too diffuse for a law book, and at the same time intelligible only to persons skilled in physic; there being great danger lest, in the hands of those who should attempt to cure themselves privately, they might be most grossly misapplied. For the cure, however, he seems to refer leprous persons to the priests, of whom, some at least devoted themselves to medicine. His words, literally taken, imply as much. Take heed, in cases of leprosy, and be very careful in doing all that the priests of the tribe of Levi shall inculcate. What I have commanded them, that shall ye take heed to do, Deut. xxiv. 8. Here, taking heed, seems to imply, 1. Guarding against infection, and intercourse with the diseased; and, 2. Guarding also against the sins which God would punish by the infliction of leprosy. Doing, likewise seems to refer to the means to be used for getting clear of the disorder, that is, for the cure. According to this explanation, I have given a periphrastic version of the passage, because the literal translation would be too obscure, or at least not according to the idiom of our language. "Be much on your guard against leprosy. Beware of infection as far as possible, and employ against the disease the means which the priests of the tribe of Levi shall prescribe. Act
Moses gave Directions to the Priests.

"exactly as I have enjoined them."—It would appear that Moses had given to the priests circumstantial directions as to the mode in which they were to proceed in every case of leprosy; not, however, interdicting the use of new and better remedies that might afterwards be discovered. In regard to these directions, which are not inserted in his laws, he did not desire to be considered as a prophet, or divine messenger, but only as a person acquainted with medicine, or one who had collected the results of the best-warranted experience of the Egyptian physicians.—Whether his instructions were drawn up in writing, or communicated only verbally, I cannot say; only it is certain, that among the Egyptians, and for a long time among other ancient nations, medicine was nothing more than a collection of experiments and prescriptions handed down from age to age by oral communication.

8. Of what importance to a people afflicted with cutaneous distempers, the Mosaic laws relative to meats must have been, I have already noticed, when treating of that subject. Even at this day, and when they have long ceased to bind the conscience as divine laws, many of them would be highly beneficial to a people living in Palestine.

ART. CCXI.

Leprosy of Clothes and Houses.

§ 5. The two statutes of Moses relative to the leprosy of clothes and houses, may appear to us at
first view very strange, because in Europe we have never heard of any such leprosy, and the name immediately suggests to us the idea of something akin to human leprosy. Learned men who write upon the Bible in their closets, sometimes know nothing but books; being quite unacquainted with nature, and often with their own houses, in which, perhaps, the Mosaic leprosy may actually be; and they are too much wrapt up in themselves to think of asking the unlearned about such things. Perhaps the leprosy in question does not, properly speaking, fall to be treated under the present head, but under the statutes of police respecting buildings, manufactures, and clothes. Here, however, it will be looked for; and although it were not, I must nevertheless offer some general remarks on both the laws given by Moses respecting it, which would lose their effect, were I to separate the one from the other.

In the first place then, when we hear of the leprosy of clothes and houses, we must not be so simple as to imagine it the very same disease, which is termed leprosy in man. Men, clothes, and stones, have not the same sort of diseases; but the names of human diseases are, by analogy, or as the Grammarian terms it, by a figure of speech, applied to the diseases of other things. In Bern, for instance, they speak of the cancer of buildings, but then that is not the distemper so called in the human body. The cancer of buildings, is with equal propriety a Swiss, as the leprosy of buildings, is a Hebrew expression. The late Dr. Forskal wrote me from Egypt, that two sorts of diseases of certain trees, proceeding from insects, are
there termed *leprosy*; but I do not print the words of his letter, because I am aware that a fuller account of this matter will be found in the Diary of his Travels, which is very soon to be published, and which I should not wish to anticipate. Hasselquist likewise, has, in p. 221. of his Travels in the Holy Land, spoken of a leprosy in the fig-trees.

In the second place, although Moses gives laws relative to the leprosy in clothes and houses, we must not imagine, considering that he lets not fall a single word on the subject, that any such leprosy could infect man. Of this Moses is so far from being afraid, that we find him, on the contrary, when a house lies under the suspicion of leprosy, commanding all the articles of furniture to be removed out of it, previous to its inspection, that the priest may not be obliged to pronounce them unclean. If there adhered to the walls any poisonous matter that could pass to human beings, and infect them with leprosy, this would be a very strange injunction indeed. Let us only conceive, in the case of a house infected with the plague, orders given to bring out every article within it, previous to its being examined, that it might not be declared infected. What else would the consequence be, than the direct propagation of the infection? It would be the very same, though in a less degree, if the house-leprosy infected man. But will those who have already any knowledge of Moses as a legislator, suppose him capable of committing such an oversight?

I. The leprosy of clothes is described in Lev. xiii. 47,—59. as consisting of green or reddish spots that remain in spite of washing, and still spread; and by
which the cloth becomes bald, or bare, sometimes on the one side, sometimes on the other. This Moses terms dropping or losing the hair; that is, if we are to give the literal truth of the Hebrew text, in a passage which might have its difficulties to a man of learning, if he knew nothing of the manufacture of woollen. These symptoms too, of leprosy, are said to be found sometimes only in the warp*, and at other times only in the woof:

To a person who has nothing to do with the manufactures of woollen, linen, or leather, but with books only, this must doubtless be obscure; or, at most, he will be led to think of specks of rottenness, but still without being rightly satisfied. I have not been able to obtain complete information on this subject; but in regard to wool, and woollen stuffs, I have consulted the greatest manufacturer in the electorate of Hanover; and he informs me, that what he has read in my German Bible, at this passage, will be found to hold good, at any rate with regard to woollen articles; and that it proceeds from what is called dead wool, that is, the wool of sheep that have died by disease, not by the knife; that such wool, if the disease has been but of short duration, is not altogether useless, but in a sheep that has been long diseased, becomes extremely bad, and loses the points; and that, according to the established usage of honest manufacturers, it is unfair to manufacture dead wool into any article worn by man; because vermin are so apt to establish them-

* This is properly the term (Aufzug) among the linen weavers. In the woollen manufactory it is, as I am informed, the word Ketten (chain) that is used. Both mean the same thing.
Art. 211. ] Frauds committed with Dead Wool. 291

selves in it, particularly when it is worn close to the body, and warmed thereby. When I told him, that in the countries, with a view to which I questioned him, the people, for want of linen and from poverty, had always worn, and still wear, woollen stuffs next the skin, he stated it as his opinion, that there the disagreeable effect just mentioned, must take place in a still higher degree than in countries where, according to our German fashion, which would there be a luxury, a linen shirt is worn between the woollen clothes and the body. He added, that dead wool was usually manufactured into sacks and horse-cloths; and he expressed his wish for a statute, in the style of Moses, which should discourage the use of dead wool, or inflict a punishment on those who either sold it, or knowingly manufactured it into human clothing.—I am likewise informed by Hamburghers, that in their neighbourhood, many frauds are committed with dead wool, from its being sold for good wool; in consequence of which, the stuffs made of it not only become very soon bare, but fall first of little depressions, and then of holes.

These accounts serve to render this law pretty intelligible, as far as regards wool and woollen stuffs. We see how the disease may appear sometimes only in the warp, and sometimes only in the woof, from good wool being used for the one, and dead wool for the other. Whether this dead wool will, in process of time, infect good wool, I do not know; but to bring into complete discredit and disuse, stuffs, which so soon become threadbare, and burst out in holes, and at the same time so readily shelter vermin, ab-
though they cannot proceed from the wool itself, but only find it a very suitable breeding place, unquestionably becomes the duty of legislative policy. How this end could be attained, without destroying stuffs thus manufactured contrary to law, our present system of police can scarcely conceive; and in that early age of the world, when every thing was yet in its infancy,—when merchants were not so knowing as now,—and when among the petty independent tribes, there was no police established for manufactures, nor any boards of inspection, the trick of using dead wool was probably more frequent than at present; while yet the cause of its effects was but imperfectly known; and these effects in those climates must have been still worse than with us, particularly in Egypt, which breeds such abundance of vermin. The best remedy was, in the language of Moses, to destroy the leprous article: for that would soon make every one careful to manufacture nothing either for himself, or for sale, that might be pronounced leprous; and people would soon observe where the fault lay, when they were losers, and found no sale for their goods, in consequence of former purchasers having suffered by them. The prohibition of dead wool, although the legislator be ever so fully satisfied that it is entirely to blame for the effects in question, is not sufficient of itself; for it will still be privately manufactured, and then denied, particularly where there is no board of survey. But where the stuff, in which leprous symptoms make their appearance, is destroyed in spite of the owner, every one will become attentive to guard against such a loss.
Art. 211. Injunctions respecting Clothes-Leprosy.

Moses therefore enjoined, first, that the place on which there were marks of leprosy that no washing could obliterate, should be torn out; and then, if the leprosy still recurred a second time, that the whole piece should be burnt.

With regard to leather and linen, I can say nothing with historical certainty; because I know no great wholesale manufacturer or merchant in either line, and I do not chuse to trouble my reader with conjectures, because they may occur to himself, just as well as to me. Perhaps, however, my book may find some readers better acquainted with such persons than I can be here in Gottingen, and who may hereafter communicate with me on the subject; for which purpose, I particularly request the attention of my readers in Holland, where I am inclined to think the best judges may be found. Now that the origin of the evil has been traced in wool, there will be no great difficulty in carrying on the investigation farther. Only I must deprecate closet-accounts, and learned conjectures. It is only from those who are acquainted with the manufacture or sale of linen, leather, and furriery, on a large scale, that I look for any useful information.

II. The house-leprosy is said in Lev. xiv. 33,—57. to consist of greenish or reddish dimples, which appear on the walls, and continually spread wider and wider; and its nature would probably have been understood long ago, but for the prevalence of the notion of its being a disease communicable to man, which notion arose from taking the word leprosy in too literal a sense. The bare description of it gives
by Moses is so clear, that I have known more than one example of children, who, shortly after reading it, having had occasion to go into the cellar, where, with terror, they thought they had observed it on the walls, on their return, described it distinctly or figuratively to their parents, and were laughed at for their pains. Laughed at they certainly ought not to have been, but instructed. Their acute vision had shown them what many a learned man has in vain sought to find out.—In short, what we usually term the Saltpetre, that appears on walls, has much the same symptoms as the Mosaic house-leprosy, and is at the same time attended with such noxious effects as require the attention of a well-regulated police. I expressed this idea first in my 12th Question to the Arabian Travellers; but I did so very briefly, and as addressing men of sense and skill. I have not yet, however, received any answer, because Forskal, the person to whose province the question belonged, is dead, and his Journal is not yet printed*. The oftener, how-

* A person, however, once a hearer of mine, who has written a Hebrew Archaeology, in which he quotes me, where he has anything to say against my opinion, but never does so, where many, who were my hearers before him, along with him, and after him, have observed a most remarkable parallelism between his work, and my lectures, with which, indeed, he has been upbraided even by my enemies,—then, in that work, taught me, that the Hebrews had no polished marble, in consequence of my saying, If the saltpetre that appears on walls, and particularly on polished marble, be like what I observed in a very striking degree in the church of Eisleben, it answers pretty exactly to the Mosaic description. Now, I was here speaking of this saltpetre, as I had seen it, and I specified the place; addressing myself to men of understanding, in a short Question, which I afterwards printed, with-
Art. 211. | The Author's Reply to Faber. 293

ever, I consider the matter, I am the more impressed
with the probability of this idea being the true one,
and here is the place to expatiate more fully upon it.

Our walls and houses are often attacked with some-
thing that corrodes and consumes them, and which
we commonly denominate Saltpetre. Its appearances
are nearly as Moses describes them, only that we sel-
dom find the spots greenish or reddish, although I
think I have met with them of the latter colour. As,
however, I cannot exactly recollect where, I must
appeal to the testimony of Mr. Professor Bekmann,
who, on my asking him, informed me, that he had

out seeking to reduce it to the level of every simpleton's capacity.
Whether the Hebrews could polish marble or not, is nothing to the
purpose, although it is here denied, without sufficient proof, by Mr.
Faber; for this is my quondam pupil, above alluded to, who is always
at such pains now to instruct me, whenever he thinks fit to quote
me, only that his lessons are sometimes delivered rather rudely.—
But what struck me so much on polished marble, will naturally take
place also in unpolished, though not so strikingly; and I only wish-
ed to make this disease of walls understood by the illustration of this
example. It is but fair that I, in my turn, repay Mr. Faber's instruc-
tion, by telling him that Eisleben is not in Palestine, but in the county of
Mansfeld, and that it is the birth-place of Luther. When, there-
fore, I speak of what I saw at Eisleben, and there mention polished
marble, I say nothing at all of Palestine, and still less of its ancient
state in Moses' time. If this gentleman, who so often agrees with
me, did not sometimes resort to quibbling, just for the purpose of
differing from me, he would not have needed to be reminded of this;
for he is not a fool; only ill-will sometimes makes people fool; when,
in order to make it appear that they are not indebted to others, they
wish to find fault with them, and directly stumble on what is ac-
ceptable.
seen an instance of reddish ones at Lubeck. With us, this disease of walls is most frequently found in cellars, but it also ascends into the higher parts of buildings, particularly in the case of a privy being directly under the wall, or where any other sort of filth can affect it. In my native city, Halle, it is extremely common, because the soil of all the country around is full of what is called Saltpetre; which is scraped off from the turf walls of the cottagers, by people who make it their business to collect it. Properly speaking, it is not saltpetre, but it contains the acid from which saltpetre is prepared. Wherever any part of these walls, that is pregnant with this substance, is suffered to remain, it always effloresces anew; and such parts the collectors take care to leave, when they repair the cottages with new earth, that after a few years they may find a fresh crop on the walls. But I have never seen it to such a degree as at Eisleben, in the church in which Luther was baptised. In the year 1757, I observed, on the left side of the choir of that church, a grave-stone, I think of marble, and dated in the present century, in which the inscription, though deeply cut, was in many places, by reason of numberless dimples, scarcely legible, while I read with perfect ease other two inscriptions, four times as old. On my asking the sexton the reason of this, he said, the saltpetre had come into the stone*, and told me a great deal more about it, which I did not sufficiently

* It might, no doubt, have been also occasioned by the effects of exposure to the weather: but the wasting of the stone, which was not old, appeared to me too great to be ascribable to that cause.
attend to, because I had no idea of its ever being useful to me in explaining the Bible.—In Bern, Mr. Apothecary Andrea heard the people complain of a disease that in an especial manner attacked sand-stone, so as to make it exfoliate, and become as it were cancerous*. They call it the Gall, and, in like manner, ascribe it to the saltpetre contained in the stone.—The Society of Naturalists at Dantzig some time ago proposed a prize question on the Causes of the destructive Corrosion of Walls by Saltpetre, and on the Means not only of preventing it in New Buildings, but of curing it in Old. It was answered, among others, by Mr. Pastor Luther, who obtained the prize: but his Essay, although, as the best, it might merit that distinction, has nevertheless given but little satisfaction to those who are versed in the subject, and particularly to Mr. Professor Bekmann, as we see from the third volume of his (Physicalisch ockonomische Bibliothek) Physical and Economical Library, p. 574.

It is not, properly speaking, saltpetre that is in these walls and buildings, but an acid of nitre, from which, by the addition of a fixed Alkali, we can make saltpetre. But the disease is likewise owing sometimes to other acids, to the acid of sea salt, for instance, as Professor Bekmann informs me; and, from other experiments, Mr. Andrea has found the component parts of the efflorescence, to approach very near to those of Epsom salt, that is, Vitriolic Acid and Magnesia.—See Bekmann’s Biblioth. above quoted, vol. iv. p. 250.

* See the Hanoverian Magazine for 1768. No. 7. p. 106.
The detrimental effects of this efflorescence in walls, or, if I may use the common name, of this saltpetre, are the following.

1. The walls become mouldy, and that to such a degree, as, in consequence of the corrosion spreading farther and farther, at last to occasion their tumbling down. Perhaps, however, this, at least in most parts of Germany, is the most tolerable evil attending the disease; for it is certain, that many houses affected with it last to a great age; only that the plaster of them requires very frequent repairing, because the lime with which they are coated, blisters, as it is called, that is, detaches itself from the wall, swells, and then falls off. I myself lived in a house at Halle, that was more than a hundred years old, and may probably stand a hundred years longer; in which, nevertheless, the saltpetre had on one side, at a period beyond all remembrance, penetrated as far as the second storey. The walls, however, were from three to four feet thick, and really of excellent stone; for which, indeed, Halle is remarkable. In other places, this evil may no doubt be more serious; and I very much suspect, that such may have been the case in the damp parts of Egypt, where the Israelites dwelt; Art. XXI. When I figure to myself those marshes, which the Greeks called Bucolia, at the mouth of the Nile, and the great quantity of saltpetre, or at any rate, of salt akin thereto, which Egypt produces, I cannot help thinking, that the saltpetre in buildings, must have been much more destructive there than with us. Only our travellers very seldom go into the marshy districts, but rather to Alexandria, Cairo, and
Art. 211.] The Saltpetre in Egypt.

along the Nile as far as Assouan, where the soil is quite different; and, of course, we can expect from them no information relative to the matter. Even the way along the coast, from Damietta to Alexandria, of which Abulfeda gives such a beautiful description, is, as far as I recollect, described by no other traveller.—As my work has had the good fortune to find numerous readers in Holland, of whom, perhaps, some have it in their power to obtain more particular information concerning those parts, I have to request, that they will take some pains for that purpose, and have the goodness to communicate to me whatever accounts they may procure, that are authentic, and illustrative of the subject.

2. Many things that lie near walls affected with saltpetre, thereby suffer damage, and are spoiled. I have myself seen great piles of books nearly ruined from this cause, and it is the same with other articles that cannot bear dampness and acids. The loss here may often be greater and more considerable, than by the slow decay of the building itself; for it shows itself very perceptibly in the course of a few years, by rendering such articles often perfectly useless.

3. If the saltpetre be strong in those apartments wherein people live, it is pernicious to health, particularly where they sleep close to the wall. Of this, I had long ago a general notion, at Halle, from observing that such apartments were not usually inhabited; but Professor Bekmann has just informed me of a re-

* See Abulfeda Descriptio Aegypti, under the article Damietta, p. 30 of my Arabic edition, or p. 24. of the version annexed to it.
A Case of its Noxious Effects, &c. [Art. 211.

Markable case of a person, who, by occupying a room infected by saltpetre, was seized with (Salzflüsse) saline defluxions, which the physicians ascribed to the apartment alone. This unfortunate patient, who could not procure himself any better abode, he had often visited in company with the physician, whose attendance he had procured for him.—Those people among us, who are in good circumstances, or not quite poor, may avoid the effects of the saltpetre corrosion, which seldom ascends higher than the lowest storey, by living in the second floor, which is not so apt to be affected by it, and using the ground-floor for kitchen, waiting-parlour, &c. &c. But in a country where there was but little knowledge of architecture, and where they were obliged to be satisfied, in general, with houses of but one storey, the pernicious effects of the house-leprosy could not be thus averted.

The consideration of these circumstances will render the Mosaic ordinances on this subject easily intelligible. Their object was to check the evil in the very bud; to extirpate it while it was yet extirpable, by making every one, from the loss to which it would subject him, careful to prevent his house from becoming affected with leprosy, which he could easily be, where the houses had no damp stone cellars below ground; and thus also, to place not only himself in perfect security, but his neighbours also, who might very reasonably dread having their houses contaminated by the infection. For this purpose, Moses proceeded in the following manner.

1. In the first place, he ordained that the owner of a house, when any suspicious spots or dimples appeared
Art. 211.3

Intimation—Inspection.

on the walls, should be bound to give notice of it, in order that the house might be inspected by a person of skill; and that person, as in the case of human leprosy, was to be the priest, whose duty it was to apply himself to the study of such things. Now this would serve to check the mischief in its very origin, and to make every one attentive to observe it. If we had any such regulations in our newly-founded cities, it is probable that the saltpetre would never acquire such a footing as it does. The cause of its establishment any where would soon be discovered and removed, instead of its being, as it now is, in our cities, suffered to increase to such a degree as to vitiate the whole atmosphere.

2. On notice being given, the priest was to inspect the house, but the occupant had liberty to remove every thing previously out of it; and that this might be done, the priest was empowered to order it ex officio; for whatever was found within a house declared unclean, became unclean along with it. Thus much is clear, that the legislator did not suppose that the furniture of an infected house could contaminate any other place, else would he not have allowed its removal, while the matter was doubtful; but here probably he yielded to the fears of the people (as every legislator should do in such cases, instead of saying, There can be no infection here, and ye must believe so; for the dread of infection, whether well founded or not, is an evil against which we are fain to be secure; and if a legislator neglects to make us so, we will either take forcible measures to effect security, or else take fright, and shut ourselves up): Or perhaps he
only meant to compel the possessor of a house, to a
more honest intimation of the very first suspicious
symptoms of the evil. For if he gave no such in-
timation, and his house, on being broke into, either
at the request of a neighbour, or any other informer,
interested in making a discovery, happened to be
found unclean, its whole contents became unclean
of course.

3. If, on the first inspection, the complaint did
not appear wholly without foundation, but suspicious
spots or dimples were actually to be seen, the house
was to continue shut up for eight days, and then to
be inspected anew. If, in this interval, the evil did
not spread, it was considered as having been a cir-
cumstance merely accidental, and the house was not
polluted; but if it had spread, it was not accounted
a harmless accident, but the real house-leprosy; and
the stones affected with it, were to be broken out of
the wall, and carried to an unclean place without
the city; and the walls of the whole house were
scraped and plastered anew.—These are the very
same things that must be done at this day, if we
want to clear a house of the saltpetre-evil. The
stone or spot which produces it, must be absolutely
removed: and the scraping, and fresh plastering, is
also necessary; for it is in the very lime that the
saltpetre, (or, to speak more properly, the acid of
sulphur), establishes itself most firmly. In our large
buildings, indeed, it is not just necessary to new-
plaster the whole house; but the houses of the He-
brews were very small; and even the temple of So-
-lomon itself, built some centuries posterior to the
time of Moses, notwithstanding all the fame of its magnificence, was by no means nearly so large as many a house in Gottingen; although certainly we cannot boast of palaces, and have only good bourgeois houses.

4. If, after this, the leprosy broke out afresh, the whole house was to be pulled down, and the materials carried to an unclean place without the city. Moses, therefore, it would appear, never suffered a leprous house to stand. The injury which such houses might do to the health of the inhabitants, or to the articles they contained, was of more consequence in his estimation, than the buildings themselves. Those to whom this appears strange, and who lament the fate of a house pulled down by legal authority, probably think of large and magnificent houses like ours, of many storeys high, which cost a great deal of money, and in the second storey of which, the people are generally secure from all danger of the saltpetre; but I have already mentioned that the houses of those days were low, and of very little value.

5. If, on the other hand, the house, being inspected a second time, was found clean, it was solemnly so declared, and an offering made on the occasion; in order that every one might know for certain that it was not infected, and the public be freed from all fears on that score.

By this law many evils were actually prevented,—the spreading of the saltpetre-infection, and even its beginning; for the people would guard against those impurities whence it arose, from its being so strictly enquired into; — the danger of their allowing their property or their health to suffer in an infected house,
from mere carelessness;—the difficulty of making
(among the Hebrews it would have been, their slaves,
but among us it would be) our hired servants, or per-
haps our children's preceptor, occupy an infected
apartment that was for no other use, and sleep close
to an unwholesome wall. With such a law, no man
can have any just ground of dissatisfaction; and we
might at all events ask, why we have it not put in
force in newly-built cities?

It is certainly very singular, that in this country,
or, at any rate, in some places of it, we have a law,
which is a most complete counterpart to it. No doubt
our house-leprosy is not attended with the same evils
as it was among the Hebrews, by reason of the change
of circumstances, and because the saltpetre, being
necessary for the manufacture of gunpowder, is often
scraped off; and herein we have a strong example of
the diversity occasioned in legislative policy, by differ-
ence of time and climate. We have occasion for great
quantities of saltpetre, in consequence of the inven-
tion of gunpowder; and, as in some parts of Germany
where the soil abounds with it, such as the Circle of
the Saal, in the duchy of Magdeburg, the cottages of
the peasants have, from time immemorial, had their
walls built only of earth, in which, by reason of that
want of cleanliness, in many respects, which prevails
in country villages, the saltpetre establishes itself; and
effloresces; there is an ancient consuetudinary law,
that the collectors of this substance may scrape it off;
which they can do without any damage whatever to
the houses; only they take care never to scrape it off
to the very roots, nor dare the occupants of the houses
extirpate it altogether. The walls are so thick, and so often cleaned by this operation, that, for my part at least, I never heard, that the health of the people was affected by the saltpetre; and in the houses themselves, though inhabited by very substantial tenants, there is not much to spoil.—At the same time, I should be glad to be more fully informed by any physician of that country, whether he had ever traced any pernicious effects to the cause in question?

ART. CCXII:

Of Gonorrhcea.

§ 6. The Gonorrhcea, or seed-flux, was a disorder that defiled both in a civil and ecclesiastical sense. Whether it ought, properly speaking, to be termed a seed-flux, that is, whether what is emitted be real semen, I leave to the determination of physicians; some of whom have objected to me against the name. I use it because it is common, and because I am not here teaching medicine. Perhaps to such objectors, the term flux from the Verenda (literally, from the flesh) which Moses uses, may appear more accurate; but that term I could not with propriety adopt in my German version of the Bible.

The statute on this point occurs in Lev. xv. 1—13. It is doubtful of which of the two sorts of Gonorrhcea Moses speaks; whether of the Gonorrhcea benigna, which proceeds from mere weakness; is attended with no pain, and has been well known from his time in every age; or of the Gonorrhcea virulenta. It may

...seem at first view extremely improbable, that he should mean the latter; because neither the Lues venerea, nor the Gonorrhoea virulenta, which appeared about 50 or 60 years after it, were known before the discovery of America; at least they are not descri- ed either by the Greek or Latin physicians, or even by the Arabian medical writers before the fifteenth cen-
tury. And yet, when we peruse the Mosaic statute, we can scarcely refrain from thinking, not indeed that the Lues venerea, properly so called, but, at any rate, that the Gonorrhoea virulenta, must have existed among the Israelites: and this idea seems to have the better foundation, that all the medical men, to whom I have ever read Lev. xv. 3. and asked them whether the words were in any respect applicable to Gonorr-
 rhoea benigna, have uniformly declared, that they could understand them of no other disorder than the Go-
 norrhoea virulenta.

I will not here lay any particular stress on the cir-
cumstance of Moses declaring everything, on which a person affected with the disorder had either sate or lain, unclean, with as much precision and care, as if there had at any rate been ground to apprehend infec-
tion from it, whereas the Gonorrhoea benigna is not in-
fecious; for to this argument it might be answered, that he prescribes similar regulations, though not quite so circumstantially, in regard to the menstrual purification. The following arguments, however, ap-
pear to me of more weight.

1. He specifies in ver. 3. two sorts of this disease; the one, where the discharge continues to flow, the other, where it has stopt; and he declares both unclean.
Art. 212. Mosaic Description of this Disease.

Now this is precisely the case in Gonorrhæa virulenta, in which too there is the greatest danger, where the Gonorrhæa, though stopt, is not cured. But how this could apply to Gonorrhæa benigna, no physician can tell me; for whenever the discharge ceases, it is no longer a disease, the cure being effected.

2. In ver. 7. he expressly declares, that the person who toucheth the Verenda of the diseased, shall be unclean. Now this would seem to be a superfluous regulation, if he means Gonorrhæa benigna; in which it is not likely that any one would be touching that part of the body; but he here presupposes that such would be the case, and that too so frequently, as to call for a legislative provision in reference to it. Now in Gonorrhæa virulenta, it cannot be avoided, when surgical operations become requisite, as they sometimes do.

3. What is said too of the spittle, in ver. 8. and occurs in none other of the laws relative to defilements, looks very singular, and can scarcely restrain one from thinking of the Gonorrhæa virulenta, which is cured by salivation. I am, indeed, well aware, that the use of mercury in medicine was formerly unknown; but may there not have been a still more ancient period, in which this disease prevailed, and when this antidote was known, at least, as an arcanum, among the physicians or the priests? Are not many things once known long ago, and afterwards forgotten, discovered again anew? However, we do not so much as know the Hebrew name of mercury: and, therefore, this probability is one of those on which I do not mean to lay any stress.

I by no means use the language of certainty, be-
cause I feel the strength of the objection, that from the time of Hippocrates until the discovery of the New World, neither Lues venerea nor Gonorrhæa virulentæ, were known. Here, however, Astruc, the principal author who has written on both diseases, and who also occupied himself very much in the investigation of the Mosaic records*, comes forward in support of my conjecture. After describing the different periods, which the disease brought from America has kept, and the mitigation of its violence in the course of each of them, he at last concludes with this idea, that if no fresh infection were transported hither from America itself, the probability is, that the disease would become more and more mild, until at length it entirely disappeared. What he thus looks forward to as probable, may, perhaps, have actually taken place in the interval between Moses and Hippocrates; for they were, at least, ten centuries asunder, and, indeed, I should think, for certain chronological reasons which I cannot here detail, somewhat longer. The disease in question might have been brought into Egypt from the south-west part of Africa; it might have become so much mildened, as to be no more Lues venerea, but merely Gonorrhæa; and in this state brought by the Israelites out of Egypt into Asia. In the time of David it still subsisted; for we find him, in 2 Sam. iii. 29., wishing both it and leprosy to light on the posterity of Joab. But when Hippocrates lived, who was the cotemporary of Artaxerxes king of

* Astruc is the author of a book published in 1752, intitled Conjectures sur les memoires originaux dont il paroit que Moysen a servi pour composer le livre de le Geneve.
Persia, and about 550 years posterior to David, it had so completely vanished, that the Greek physicians do not so much as mention it. Would not Astruc say, or has he not said, that the very same might be the case again, if we had no communication with America? I am very sorry, that I cannot lay before this great physician, for his judgment of it, this idea, which never occurred to him, and is nevertheless drawn from his own works. I should have been extremely curious to know what he would have said concerning it.

Admitting, then, that the Gonorrheal virulenta existed in the time of Moses, it is very easy to understand the object of his law. For he enjoined,

In the first place, that the seed-flux should be considered as a Levitical defilement, so that every one affected with it defiled in his turn all those who touched either himself, (unless he had previously washed,) or his bed, stool, &c. &c. No doubt a person would not be infected by a mere touch; but then the legislator who wishes to attain his end, must, in regard to contagion, carry his prohibitions farther than the physician does. The Mosaic statute most effectually prevents infection in a different way, by the sacred obligations of religion. For no one who had the Gonorrhea, whether the mild or virulent, durst conceal it, and venture, as a person free from defilement, to intrude into civil society. He was obliged to own himself unclean until cured; and thus the disease could not be so much spread by coition, because against a person notoriously infected, not only would she be on her guard, who sinned from weakness and love, but even the venal prostitute, who had been
hitherto uninfected. Now, in order to effect these purposes, God, who condescended to become a civil legislator to the Israelites, called in the aid of the most powerful of all engines, namely, religion; whose ceremonial laws many keep more conscientiously and sacredly than its moral precepts, because no such strong sensual propensities interfere with the former as with the latter. But even those whose consciences were not sufficiently powerful, were, nevertheless, obliged to avoid concealing a disease that constituted a Levitical defilement: because the punishment of extirpation awaited all such wilful concealment, if the unclean person either came to the sanctuary, or eat of the paschal lamb, or even but neglected the prescribed purifications. As soon as ever an acknowledgment of uncleanness was made, infection by coition was pretty much prevented. In Europe it merely creeps along in the dark, because the clean cannot be distinguished from the unclean.

In the second place, the beds, stools, benches, &c. of a person infected with Gonorrhcea became unclean. Whether such things could propagate the infection has been controverted. Certain it is, that by those who are afraid of infection, the matter has been carried much too far; else among those travellers who sleep without their clothes in inns, where, without inspecting him, they give a bed to every passenger in the character of a gentleman, indiscriminately, seldom would one come away without infection. Of facts relative to infection by beds, we have too many; and they are generally urged by those who wish to conceal the real cause of their infection. And yet in the present case,

a great exception must be made on account of the degree of the disease; for no one will deny, that when it does reach a certain stage, it does infect, at least, as readily as consumption, at a certain stage; for which reason, rational physicians forbid the bed of a person who has died of a consumption to be used. But without entering into all this, I shall only remark, that when physicians maintain that the Lues venerea is a disease not propagated by beds, they speak of our beds, that are on every occasion furnished with clean linen; and would never advise any one to sleep in the bed of a person infected with that disease, that was not so furnished. But we must never think of our abundance of linen, in speaking of eastern countries; where even at this day it is a luxury attainable only by the most opulent. We must, on the contrary, rather figure to ourselves, the universal use, first, of woollen cloth, which is much more apt to catch and to lodge infection; and remember next, that the very same piece is always used, without being almost ever washed, unless when declared unclean: and farther, that betwixt what is called the bed, and the naked body, there is nothing more than a blanket, in which they wrap themselves when they go to sleep, and not even that perhaps; so that the bed might communicate infection; although I will not assert the same of a stool or bench, or of the bed-steps, whereof Moses likewise speaks. We must, besides, bear in mind, that as many people are afraid of infection from such causes, a good legislator will prohibit in regard to it, not only what is really dangerous, but what is so in the common opinion of his people: for even ground-
less terror is an evil, and no diseased person has any
right to occasion it to his fellow citizens, and thereby
to discompose their minds. However certain, for
instance, a legislator might at this day be in his own
mind, that the beds of venereal patients, if furnished
with clean linen, will not communicate that disease,
still he would never think of making so strange a law,
as that they should be held in jure, incapable of lodg-
ing infection; but would leave the point to be regu-
lated by the common law, because the greater num-
ber of people avoid such beds.—In fine, the Mosaic
statute only constrained them to wash the bed, stool,
bench, and bed steps, before a clean person could
touch them without becoming defiled.

The remaining particulars of the law, relative to
the other means, whereby the infected person commu-
nicated defilement, and to the manner in which his
offering was to be made, when cured, in order that he
might be pronounced clean, I do not here repeat.
They may be perused in the writings of Moses
himself.

Thus much may suffice for its illustration, on the
supposition that the Gonorrhcea virulenta was known
in the time of Moses. Allowing, however, that this
was not the case, I can say nothing farther of his law,
than that in giving it he yielded to the prevailing
custom of the times, both among his own people and
their neighbours, and perhaps had it also in view to
compel every one affected with Gonorrhcea benigna
to be at the more pains, either by the use of me-
dical means, or (what is often of more importance)
by a change of habitation, to get clear of a disorder,
which, though not painful, is nevertheless extremely pernicious, as it gradually undermines the constitution, and incapacitates for the propagation of the species. As it is attended with no pain, and people are ashamed to own it, many allow it to go too far, and continue meanwhile the practice of manustupration, which is often the cause of it, to such an immoderate pitch, as utterly to unfit them for marriage.—Such a law, therefore, would, by its appearance of severity, serve to enforce attention to their health, and make them shun that vice which is peculiarly destructive to it, and which, indeed, Moses seems studious to prevent by more than one of his laws.

ART. CCXIII.

Why Moses gave no Laws relative either to the Plague, or the Small Pox?

§ 7. The philosophical reader of this work, who has happened never to peruse, or who has not a distinct recollection of, the writings of Moses himself, will here naturally expect some observations relative to the plague and the small-pox. As to the latter of these diseases, however, there can be no ground for such an expectation; because it did not make its appearance until long after the birth of Christ, when it was brought to us from the interior of Africa by the conquests or commerce of the Saracens. At present, it ought certainly to engage the attention of national police; and laws relative to its inoculation, have actually, and with some effect, been made in
some of the English American colonies, and are also in contemplation by the Parliament of Paris, which does not just merit all those reproaches that some zealous physicians, from misconception of its views, have thought fit to cast upon it.

But how comes it that Moses ordains nothing relative to the plague? That is properly an Egyptian disease, and indeed so completely domesticated in Egypt, that there never yet was a plague in any other country, that did not come either directly or indirectly from Egypt. The Israelites came out of Egypt, and were to have their abode in its vicinity. The Hebrew language has a name for the plague (דְּבֶר), Deber, which occurs frequently in the Bible. In David’s time, a severe plague actually took place in Palestine, 2 Sam. xxiv. Hezekiah’s disorder, where the crisis was a boil, and the disease by which 185,000 Assyrians died all at one time in Palestine, I cannot look upon in any other light than as the plague*. Did not this disease then, pre-eminently deserve to be made the subject of a law sanctioned by Levitical defilements, in order that its infection might be prevented?

This, however, was not done; and I doubt whether a wise legislator ought to do it. The plague is not a disease of long duration, else would it soon make a desert of any country: it only lasts for a short period, and therefore when it either actually breaks out, or is dreaded from its prevalence in the neighbour-

* See my Syntagma Commentationum, t. ii. p. 162. in the Note under the text.
Art. 214. Difficulty of detecting the Plague.

Difficulty of detecting the Plague. SIS

hood, temporary regulations according to circumstances, which will often vary, ought certainly to be made, but not statutes to endure for ever. Such statutes would either in times when there was no plague, be unnecessarily and intolerably oppressive, and would most mischievously circumscribe all commerce, and even the liberties of common life; or if they were not so rigorous, they would be of no avail in the time of a plague, and only serve to spread it by the tediousness of their operation. Extraordinary emergencies of this nature, require the interference of despotic authority, in the same way as when the appointment of a Dictator took place at Rome in critical emergencies of the state. Here the first question always is, Is it really the plague? and, in general, great pains are taken to deny it; nor can it be found out by legal rules; for the plague may actually exist, without occasioning many deaths at the time, because the weather happens not to be in the state which is requisite to its propagation. A conscientious physician perhaps discovers it from some extraordinary symptoms; but then they cannot be legally proved. If he does not discover it, it will still be insidiously spreading the contagion, and when circumstances favour it, thus become the more formidable and fatal in its devastations.

ART. CCXIV.

Of Defilements occasioned by Childbed, Manustupration, Coition, Menses, and Menorrhagia.

§ 8. I now come to notice some impurities of a more miscellaneous nature, in regard to which, as I
shall not always be able to state the design of the legislator, I may here satisfy myself with this general remark, that a legislator, if he would attain his ends, must regulate his procedure, not merely by the customs, but even by the prejudices, of his people. If Moses thought fit, from important considerations of public police, to regard leprosy, gonorrhoea, and touching dead bodies, as defilements in a civil sense; and if, by immemorial custom among his people, women in childbed were deemed unclean; it was his duty, instead of abolishing, to ratify those usages, in order to effect the necessary submission of the Israelites to laws, in the keeping of which he was more interested. At the same time, he probably had in view, by some of these laws, to represent theological truths in a figurative manner. This, however, is a point that does not belong to the design of the present work, but to the science of typical theology.

1. Every woman in child-bed was unclean, as stated in Lev. xii: where Moses very accurately distinguishes,

(a.) The *Lochia rubra*, or, as he terms it, the uncleanness of the disease, during the continuance of which she continued unclean, and also defiled whoever touched her, and whatever she lay upon. This period, which in Germany we term *Wochenbette* (inlying), in contradistinction to *Wochenstube* (confinement), Moses limits in the case of a son, to seven, and of a daughter, to fourteen days.

(b.) The *Lochia alba*, or, as we call it in Germany, *Wochenstube*, in the language of Moses, her purer blood-flux. During this period, which was fixed to 33
Art. 214. [ *Puerperal Defilements.* ]

317 days, when the child was a son, and 66, when a daughter, the mother was indeed clean, but then she was obliged to confine herself to the house; and after its accomplishment, to make an offering at the sanctuary.

I must here repeat the remark which I have made in my German version of the Bible, upon Lev. xii. 4, because my readers, at least those out of Germany, cannot be supposed to have that work. Moses places no medical limits to the *Lochia rubra* and *alba*; nor was this indeed possible, because in one case they may cease sooner; in another, later. He merely imposes a legal limitation on each of them; and if they happened to stop sooner, still the woman was obliged to keep the specified period. If, again, either of them continued beyond that period, the Levitical impurity would still continue, as long as the physical cause existed. Whether, besides, in southern countries, the symptoms of the puerperal state continue longer, when a woman has born a daughter, than when a son, I cannot tell. The ancient Greek physicians so assert; while our medical men, those of them, at least, whom I have questioned on the subject, deny the fact, as far as regards our countries. With regard to more southern climates, it ought not to be positively denied, until we learn from physicians there practising, that the contrary is the truth; for in matters of this nature, climate occasions differences, as has been remarked by the expositors of *Hippocrates*, in the case of fevers and other diseases. Thus much is manifest, that the Hebrews and Egyptians, in the time of Moses, must have had the same ideas of the point in question, as the Greeks. Perhaps the mode of
reckoning here, was originally derived from Egypt; for the Israelites had lived in that country, and the Greeks adopted and learned many things from the Egyptians. Whoever is disposed to trace this matter to its very origin, must obtain information relative to the puerperal state of women, from Egypt itself. A legislator, however, without giving himself any particular trouble about this medical truth, must declare a woman in childbed as long unclean, or half-unclean, as she is usually so regarded by the custom of her country. The less that the whole procedure can be attended with either beneficial or detrimental effects, particularly among a people where the mother nurses her child herself, and abstains of course from coition, not merely for six or twelve weeks, but for a longer period; the more reasonable is it that, in a matter of such insignificance, he should yield to the established opinions of the people.

2. Whoever had an emissio seminis, was unclean until evening, and had then to bathe; and whatever the semen fell upon, bed, clothing, skin, &c. was also to be washed, and to be deemed unclean until even, Lev. xv. 16, 17. Defilement was consequently occasioned as well by what has been termed pollutio nocturna, as by wilful self-pollution.

This was a law of greater importance. To the dangerous practice of self-pollution, which knows neither respite nor bounds, but is ever increasing, it annexed an irksome penance, which obliged the person who indulged in it to marry, unless he chose to be unclean, that is, to be shut out from all intercourse with other people, almost every day. It made sons
themselves, and also their parents, attentive not only to wilful self-pollution (a vice which, in a medical view, is more formidable, and, in a moral, more abominable, than whoredom), but also to involuntary nocturnal pollutions; both of which, for the most part, continue unknown, until they greatly injure health: and it taught parents to seek for an antidote to the mischiefs which they occasion. The concealment of either voluntary or involuntary pollution, among a people whose general dress was quite simple,—who were not, when in bed, enveloped with a weight of bed-clothes,—and whose blanket, thrown over them, served by day as an upper garment (Art. CL.), was not so easy a matter as with us. I cannot here enter into either the moral or the medical distinction of these two species of pollution. But we may easily see, that early marriages must have been the natural effect of the Mosaic statute; for even the civil defilement occasioned by nocturnal pollution, could not but, from its probable frequency, be extremely irksome to young men; and parents, who at present are often quite unconcerned as long as their sons do not make them grandfathers, would be attentive to their conduct in the point in question, and not, as we often do, prevent their marrying, until their health was ruined. Among people of opulence, it would occasion that species of concubinage which has been described in Art. LXXXVII.; and which, though certainly neither medically nor morally expedient, is at any rate preferable to the greater evil of self-pollution. Among the greater number, however, even the shame of an infamous practice, that could not but be known,
Its Effects described by Tissot. [Art. 214.]

would operate to the prevention of wilful self-pollution: and that was, in all respects, the best effect of the law; for too early marriage, though favourable to the number, is by no means so to the strength, of progeny.

The consequences of wilful self-pollution, when the habit of it is carried to a certain pitch, are in both a medical and a moral view so formidable, that we cannot but in our hearts bless the law which devises an expedient to prevent them. The most frightful consideration of all is, that it at last incapacitates for marriage, and of course deprives its unhappy victim of the only means of ever getting the better of it.—Tissot has described its effects fully, and I need not here repeat his observations. It is in vain to denounce punishments against it, as it can almost never be proved; for even where the visible signs of it are discovered, it is still impossible, without the confession of the culprit, as he has no accomplice, to determine whether it has been voluntary or not. Away, therefore, with all such punishments in a system of legislative policy! more especially as they must, in most cases, affect only boys under age, who are more the objects of parental discipline, than of judicial inflictions. Moses only annexes inconveniences to the indulgence of this habit, such as seclusion for a whole day from society, and the disclosure of what has happened to parents, not as now inattentive, but from aversion to the restraints of the ceremonial law, particularly attentive to the cleanliness of their sons' linen. This could not fail to have had more effect than any punishment whatever.
3. Every act of coition, matrimonial commerce not excepted, defiled both parties in the same manner; Lev. xv. 18.*—This law operated imperceptibly as a hindrance to polygamy; for as every wife had a right to this gratification once every week, polygamy, from this frequency of defilement, became inconvenient; Art. CXVIII. XCV. It served, moreover, so to limit matrimonial cohabitation, that it could not take place every day. When too often repeated, coition exhausts nature; whereas if seldom indulged in, and to a certain degree any how obstructed, and, if I may so speak, prohibited, it is for the most part not only more fruitful, but also productive of stronger, livelier children. The physician *speculates* upon this subject; but we see that in general he knows not how to render his speculations practically useful in those very cases, to which it is really of most importance that they should be applied. But the legislator who, to every act of coition, attaches such inconveniences as Moses has done, shews that he has not been inattentive to make due provision for the fruitfulness of marriage, the procreation of the finest children, and the preservation of health. As this, however, appears to have been conformable to the ancient and established usage of several Oriental nations, I will not positively assert, that *all* the useful effects of the law were also objects which Moses had in view in enacting it.

4. The menstrual evacuation, and *Menorrhagia*

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* Herodotus, book i. § 198. mentions something of the same kind among the Babylonians, who, after coition, were obliged to wash in the morning, and durst touch nothing till they did so.
were also among the number of Levitical impurities, Lev. xv. 19,—33. This seems to have been a national custom long before the time of Moses. Laban avoided coming too near to his daughter Rachel, when he understood that the custom of women was upon her; nor had he the least suspicion that, in such a state of impurity, she could be sitting on the stolen idols; Gen. xxxi. 35.—On this law I do not enlarge farther at present, because the question, whether coition during the time of the menstrual discharge be hurtful in those countries, does not belong to this place, but to criminal law, whereby, as we shall find in the sequel, it is prohibited under pain of death.

ART. CCXV.

Of Defilement from Human Corpses.

§ 9. All human corpses were considered as unclean. Whoever touched one was unclean for seven days, and was obliged on the third and seventh day to purify himself by certain ceremonies, not interesting to my readers, and too long to be detailed circumstantially here. Whoever happened to be in the tent, and probably afterwards, when the Israelites had houses, in the apartment (for I would not extend the inference from the tent to the whole house) where any one died, was, in like manner, unclean for a week; and so also were all the vessels therein, that were not covered and tied up. Whoever happened to go into the tent in which any one was lying dead, or whoever touched a corpse, or a human bone in the fields, or
Art. 215.] Dead Bodies, &c. propagate Diseases. 323

even so much as a grave, was unclean for the same period. Numb. xix. 11,—16.

In the case of the priests this went still farther; in so much, that even mourning for the dead by any external sign, such as tearing their clothes, defiled them. Hence such signs of mourning were absolutely forbidden to be used by the high priest in any case, and by the other priests also, except in the case of their very nearest relations, for whom they were still allowed to mourn. Lev. xxi. 1,—4. 10,—12.

This last statute is to be considered as founded on the ideas and customs of the people of those days, relative to the decency and purity of divine worship. The servants of the Deity were to keep themselves at a distance from every thing that in the least degree savoured of uncleanness, in the estimation of the people.—The other statutes, however, as police-laws, were also of importance to the preservation of life and health.

In the first place, they served at any rate to lessen the spreading of any infectious disease, of which a person had died. I speak not here of plague, against which it would be but a very insufficient precaution, to declare a tent unclean for a week; but of other infectious fevers, and particularly those of a putrid nature, which, by reason of the stench of a corpse, become after death more infectious than before it. Among us, many a man, by going unnecessarily into a dead-house, brings out a disease with him with which he infects others; but if a person cannot go into a tent without thereby incurring uncleanness and seclusion from society for a week, he will let it alone,
unless very urgent reasons require his entering it. No doubt, it is only a very small number of mankind that die of those infectious diseases, which render such precautions necessary; but that legislator is surest of attaining his object, whose prohibitions are extended rather beyond what necessity absolutely requires, and who avoids making too many exceptions. If he speaks merely of infectious diseases, people will deny that they are infectious.

For what reason the tying up of vessels was enjoined, I shall not pretend to determine. With regard, indeed, to some sort of furniture, such as chests, coffers, presses, in which things that catch and breed infection are laid, such as woollen clothes, linen, and the like, it is manifest that, when a person has died of a very infectious disease, and they stand open in the apartment, they may receive the infection, and afterwards spread it. And such were the pieces of furniture which it would appear that Moses had principally in his view; for were we to illustrate his expression from the Arabic, it might be quite properly translated, upon which there is not a leathern cover, and that too tied down. With regard to drinking-vessels perhaps the same idea was not entertained; and although, by reason of the general term used by Moses in this law, they became unclean also, it was not a matter of so much consequence, because all the people in the tent, who had to drink out of them, were likewise unclean. We would probably have expressed the law in these terms: All pieces of furniture wherein any thing is kept, such as chests and the like, which are not locked, become unclean. The Israelites of those
days, however, might not perhaps have had many locks.

In order to meet the objection which may here be made, that the Jews buried their dead so soon, that, if the sick person did not, in his life-time, infect the tent, (and it did not become unclean merely in consequence of his disease,) he did not get time to do so after his death; I must observe, that of the vile practice of precipitate interment, by which many Jews are actually buried alive, we do not find the smallest trace prior to the Babylonish captivity. On the contrary, the body of Joseph had, in the time of Moses, been for a century and a half kept in a coffin unburi ed, and it remained so at least forty years more, during the continuance of the Israelites in the wilderness; Gen. i. 26. Exod. xiii. 19. Josh. xxiv. 32. Sarah, likewise, appears to have lain unburied for a pretty long time; for Abraham was not present when she died, but came to mourn for her, and only purchased a grave for her, after the period of the deepest mourning, which among the later Hebrews lasted at least seven days; Gen. xxiii. 2, 3, 4. The reader may also see instances in Gen. xxv. 9. and xxxv. 29., where a father was not buried, until his two sons, who lived at a distance from each other, met for the purpose. The account of Jacob's death and burial, in Gen. iv. 1,—13. may also be considered. If then the corpse remained in the tent, until arrangements were made for a becoming funeral solemnity, and certain signs of death, among which incipient putrefaction is most to be depended on, began to shew themselves, it is not unlikely that infection might thus arise after death.
A second effect of the law was, that the Israelites were compelled to bury their dead somewhat sooner perhaps than they had formerly been wont to do, and had seen practised in Egypt. For in that country they sometimes kept the bodies of their forefathers embalmed in their houses, just as was done with the body of Joseph, for several generations; nay, what is more, they pawned, and borrowed money upon, them; and the passages above quoted relative to the burials of Sarah, Abraham, Isaac, and Jacob, at any rate shew, that it had not been usual among the early Hebrews to inter their dead until after a considerable time. This practice might be attended with danger: for dead bodies hasten to putrefaction, and thereby occasion diseases; and even when embalmed, it is not certain, at least, whether in cases of death from infectious diseases, infection may not at length arise from them and spread abroad, particularly when the state of the weather is favourable to its progress. That such would be the case in the plague, can hardly be doubted; but certain sorts of putrid fevers approach so nearly to that disorder, as even to give cause for alarm on this ground. The practice, therefore, of keeping dead bodies for such a length of time, it appears to have been the object of Moses imperceptibly to abolish by this law, which seems to presuppose, that interment should take place before the seventh day, on which the Hebrews ended their deepest mourning. Whoever, from excessive attachment, thought fit to keep a corpse longer in his tent, continued unclean along with the tent, during the whole time it was kept.
In the third place, even those dead bodies, with which nobody had any particular concern, were not to remain unburied. The law compelled the public, or the police, to bury them, because it was inconvenient for the living to be kept continually defiled by them. What may sometimes have happened de facto, particularly in the troublous times of any great national misfortune, I cannot determine; but this was at any rate the effect of the law, that after any battle that took place within the limits of Palestine, they must have felt themselves interested in burying the dead. Now this is not the general practice of the East; for they leave them as food for birds of prey (particularly for the Racham—a species of vulture) and for dogs, jackals, and hyenas. Not only are the Oriental poets full of allusions to this circumstance, but travellers also give the same account, even those more lately from India. No doubt its effects are not so bad there as they would be among us, because the animals now mentioned clear them away much sooner than could possibly be the case in Germany, where we have neither rachams, jackals, nor hyenas. Still, however, it could not be without its danger even in Asia, if after a great overthrow, the unburied dead contaminated the air for months; for more might soon die of disorders arising from that cause, than had been slain in the battle. How far they carried that caution, which the Mosaic statute enforced merely by the inconveniences of defilement, is manifest from Ezek. xxxix., where we are told, that when, after a great battle, they found any bones of the slain, they erected a mark hard by; that those, whose business it was,
328 Removal of Malefactors when executed. [Art. 224.

might find them and bury them, and so the people be
no longer defiled. The prophet, indeed, in that chap-
ter does not relate a history, but delivers a prediction.
He does so, however, in a manner consonant to the
customs of the times. In this instance, therefore,
there was done, not only what was necessary for pre-
serving the purity of the atmosphere (for bare bones
will not taint it) but even something more.—Even the
bodies of malefactors were not allowed to remain and
putridly above ground: for in their behalf there was a
special law, ordaining that a person hanged should be
removed and buried before sunset; with this addition,
that if he continued to hang one night, he polluted
the land. As they never hanged a person alive, but
only after having been stoned to death, and merely to
add to the ignominy of his exit, he was, in conse-
quence of the punishment thus inflicted after death,
considered as one accursed of God, and whose death
had not formed a sufficient expiation of his crimes;
Deut. xxi. 22, 23.—For the health of the living, and
even for their comfort, as far as regarded smell, this
law was undoubtedly preferable to our custom of al-
lowing criminals to rot on a gibbet, or of breaking
them on the wheel; of which passengers often feel
the inconvenience; because the putrid effluvia, when
applied to a person susceptible of contagion, may oc-
casion disease. Where the places of execution are in
the vicinity of a town, the complaints on this score
are still more frequent; and although it be only on
account of the smell that the loudest outcries are
made, no physician will doubt, that from that very
cause distempers may often proceed.
The Jews extended this law so far, as to consider defilement induced by the touching of a grave. I will not stickle for the truth of this explanation; but if it was correct, this law obliged the Israelites to keep the abodes of the dead at a sufficient distance from those of the living, because a person could not touch a grave without becoming defiled. They could never, therefore, have knowingly built houses or cities on sepulchral grounds; whereas in our very churches, to the great injury of men’s health and lives, there are often burial places; a practice first introduced from superstition, and still kept up from pride, fashion, and avarice. How important this effect of the law must have been, may be judged from the consequences of our contrary practice of thus burying in churches. The graves frequently emit very noxious effluvia, particularly when so imperfectly covered as is the case in some churches, or when water runs through them. On other occasions, the mischief is more insidious and slow in its progress, and does not betray itself by the smell; but still the diseases of the dead infect the living; for infection bursts forth at once with increased violence, when graves are opened, and begin to emit the poisonous vapours that have been long pent up in them. Of the effects of this we have a proof, in an account from France this very year, which states, that the greatest part of the people that happened to be in the church on such an occasion, were seized with a mortal sickness. In some coun-

* I add this word, because it is said that the city of Tiberias stood upon a cemetery. This may have been the case, but it was not known when that city was built.
tries, legislative authority has at length absolutely prohibited this abominable practice of burying in churches; and I am amazed that it is not abolished universally. It is, however, kept up in many places, under the pretext of its yielding a revenue to the churches; just as if the income of a building were to be put in competition with the health and lives of those that assemble in it. When I contemplate some of our churches here in Gottingen, how anxiously do I wish that this nuisance would but engage the attention of those in authority, that it might be removed by legal enactments.

ART. CCXVI.

Of Defilement from the Carcases of Beasts—the Effects of the Statutes on that subject.

§ 10. The body of a clean beast that fell not by the knife, but died in any other way, defiled the person who touched it, until the evening, Lev. xi. 39.; and the carcases of unclean beasts, by whatever means they died, did the same; Lev, v. 2. xi. 8, 11, 24, 25, 27, 28, 31. Deut. xiv. 8.

The consequence of this law was, that the carcases of beasts were not suffered to remain above ground, but were put into the earth, that passengers might not be in danger of pollution from them. The people were thus at any rate guarded against the effects of that most noxious species of filthiness, of which Hasselquist* gives an account in his description of Cairo;

* See his Travels in Palestine, p. 288, 289.
where the carcases of beasts are allowed to lie on the streets, and would poison the atmosphere, were it not that they are consumed by the vultures, or Rackams, of which there are great multitudes flying about unmolested. Such nuisances as our fleaing-places in Germany, where the carcases of beasts are thrown down, and left to rot, to the great annoyance of travellers, when the putrid stench is carried by the wind towards the roads, Moses certainly did not expect that there would be among his people; for the ancient Egyptians buried even animals, so that the Israelites were already habituated to that practice. I do not here speak particularly of the sacred animals which the Egyptians embalmed, and deposited in what may be called sepulchral temples*, erected at great expense (although even that, to a people residing in Egypt, would have given an example of sepulture); for their treatment of those animals, in all respects, was a piece of superstition directly repugnant to the religion of Moses and the Israelites. But they were in the practice of burying other animals; for Herodotus tells us (ii. 67.), that bears, of which, however, they had but few, and wolves, which were not much larger than foxes†, were buried wherever they found them; and this seems not to have been a sacred funeral solemnity, but mere interment, in order to put the carcase out of sight.

I must here take some farther notice of the numerous species of lizards which Moses mentions, and declares

* See Herodotus, lib. ii. c. 66, 67, 74, 75.; and Diodorus Siculus, lib. i. c. 83. where Wesseling’s Notes may be compared.
† In many other places of Africa, they are not so large as with us.
all unclean; and concerning which he ordained, that every person who touched them when dead, and every vessel, drinking cup, &c. into which they happened to fall, was to be unclean also; Lev. xi. 30.—38. It appears to me, that this law had its foundation in some circumstance peculiar to those regions, and more especially perhaps to Egypt. In that country, there are vast multitudes of lizards, and likewise a great variety of species, important in the view of the natural historian, many of which are described by Hasselquist*. Now, I am informed by a physician, who had it from another physician at Cairo, that after the overflow of the Nile, great numbers of dead lizards are found in the fields in a state of putrefaction; and that this the Cairo physician considered as a principal cause of the plague, of which Egypt is the native country. I cannot myself here decide; nor yet can I name my informer, until I have his leave, which, by reason of the great distance of his present situation, I cannot obtain, while I now write; for it might be possible that, in regard to a piece of information kept merely in memory by more people than one, some mistake had slipped in; which I would much rather have ascribed to myself as a layman, than to my professional friend. I only relate the circumstance to the best of my recollection; observing, however, that to the medical men of this place, with whom I have conversed on the subject, the conjecture of their Egyptian brother appears by no means improbable, from considering the extremely volatile salts of the lizards; al-

* See his Travels to Palestine, p. 344.—363. No. 53,—59.
though still it is on that account not absolutely true, or certain. It seems, nevertheless, as if the plague, which never arises of itself any where else than in Egypt, had not in ancient times been quite so common there as it is at present. We do not, at least, then hear so much of it; nor yet that even very unhealthy places, which carried on constant trade with Egypt, such as Rome, which thence received its corn every year, were so frequently attacked with the plague as Constantinople, which stands in a much more healthy situation, now is; or Smyrna, and many other unfortunate towns in Turkey. Now, may not the reason of this partly be, that in ancient Egypt, they prevented the plague from breaking out, by very great attention to cleanliness, and especially by burying all the dead animals which the Nile left behind it, of which lizards are the most noxious; whereas at present they do the very reverse, leaving it entirely to the birds of prey to purify the air, by consuming their carcases? These birds the ancient Egyptians also held in veneration, accounting them sacred and inviolable; but still they did not leave them to do every thing in this matter, but put a hand to it themselves, and buried the putrifying beasts and insects. Here, therefore, perhaps Moses has only retained a practice, to which the Israelites were already accustomed in Egypt; and which, although there peculiarly indispensable to the preservation of the purity of the air, was nevertheless of importance to Palestine also, and must be so to every country. But still it is observable, that he has done so, not by giving any such injunction, as Ye shall bury them, (for then the question would have

been with every one, *Who is to do so?* and those whose business it was made, would only have taken money for it, and neglected it); but by annexing an inconvenience to the touching of every carcase, which made all people attentive to have them removed out of sight. How they were to do so; how they were to regulate their police in this point, and when the superintendents were remiss, to make them attend to their duty,—he left it to themselves to determine: for against negligence and fraud, new precautions are perpetually requisite. It was enough for him, that, to what was the most noxious circumstance in the case, viz. their suffering the stench of unburied carcases to poison the atmosphere, he attached such a serious inconvenience, as could not fail to make even those who were least sensible of the putrid effluvia, and least concerned for their effects upon health, attentive nevertheless to cleanliness, both in themselves and others, on account of the daily restraints to which inattention would thus subject them.

ART. CCXVII.

Laws relative to Defiled Vessels—Singular Preference shewn to Copper Utensils, and Dislike to Earthen ones.

§ 11. Household utensils were liable to defilement in various ways, as,

1. By any unclean beast falling into them, Lev. xi. 38.; or,

2. By their being uncovered in a tent or apartment
where a person died, or a corpse lay, (Art. CCXV.); or again,

3. By the touch of any one affected with Gonorrhoea, Lev. xv. 12.

But Moses, in such cases, made a distinction very unfavourable to earthen vessels. If once defiled, they were to be broken in pieces; whereas those of wood were repurified by simple washing, Lev. xi. 33. xv. 12. Here it would seem, at first, as if the distinction hinged upon this, that earthen vessels were probably used for cooking victuals; while wooden vessels consisted of such things as presses, drawers, chests, &c.; and that cleanliness ought to be carried a step farther in regard to vessels employed for the former purpose. But upon this principle we cannot explain another law which occurs in Lev. vii. 28.; or, according to other Bibles, 21. If the flesh of an offering was dressed in either an earthen or copper vessel, it became—shall I say unclean, or—too sacred, for common use? and yet it was sufficient, if the copper one was scoured, whereas the other was obliged to be broken. And such too, was probably the fate of copper vessels, in cases of real defilement.

Here it would seem as if Moses had no great partiality for earthen cooking vessels, else might they have been washed clean as well as those of copper. No doubt they are of less value, and the loss by breaking them is less; but still, if frequently repeated, it amounts to something that a poor man, at any rate, will feel very sensibly. Did the legislator wish to wean the Israelites from earthen vessels, which, by reason of their continually breaking, occasion greater
loss in the long run, than the more costly ones of copper, and to habituate them to the latter, as constituting real and substantial wealth? I, for my part, do not pretend to decide. He might have had many other reasons, which we shall not discover, so long as we are unacquainted with the nature of the earthenware of those times. He might also have had the less favour for them, as they formed one of the principal manufactures of Egypt. I could not, however, with any propriety have avoided taking notice of this partiality, because the preference thus manifested to copper vessels must appear very strange indeed, to those who have heard the warnings against such vessels echoed through Germany, and cannot understand how they should act, in a case where the legislative policy of our times is so singularly repugnant to that of Moses. Still more reason would a Frenchman have to wonder at a law, which in France would certainly do a great deal of mischief.

The whole difficulty lies here. The use of copper utensils in kitchens, is attended with much danger, because the verdigrase which so easily dissolves on them, causes very bad symptoms, and if, in any great quantity, death itself; of which we have many dreadful instances, particularly from France. The French physicians, and especially M. Thierry, have, for that reason, warned the people against the use of copper vessels in cooking, and that so effectually, that they are throughout the whole nation in a great measure diverted from it; and in the late war, none were ta-

* See my 178th Remark on Abulfeda's Egypt.
Art. 217. ] Dirtiness of the French Cooks. 387

ken to the field with the troops. Whence then can it be, that Moses so much patronizes the use of copper utensils in kitchens?

On this point, in the hope that my mistakes may be forgiven in speaking on a medical subject, I shall venture to state my opinion; and with the more confidence, that M. Thierry himself, the great and patriotic adversary of copper vessels in France, has approved of my ideas, as communicated to him on a very different occasion, and has acknowledged a difference here between Germany and France. But lest I should be accused of impertinence and officiousness, in communicating to so great a physician my ideas on a question so much out of the way of my department in science, I must remark, that I have not a better friend in all France than M. Thierry; in so much indeed that I am always in his debt, and very probably shall still be so.

In the danger arising from the use of copper vessels in kitchens, it would appear that there were something national; in other words, that much depends upon the cleanliness and care of the people, and perhaps too on the cooks being mostly male or female; for men-cooks are commonly the dirtier of the two. In France, the want of cleanliness and attention in kitchens, is very great; and there the effects of using copper vessels in cookery have been fearfully exemplified. In Germany, again, where our kitchens are more cleanly, and where our dishes are not so much compounded, as in a manner to impose upon taste, and conceal the poison, the danger is very much diminished. On this point, I can appeal to no more
impartial judge than to M. Thierry himself. When he sent me, in 1768, the second edition of his Thesis, I took occasion to observe in my answer, that it appeared to me as if there were not the same danger from copper vessels in Germany as in France; that we really very seldom heard of any accidents from them in our country, whereas in France they were very frequent, and mentioned even in the public papers; that, at most, our food might occasionally be somewhat affected by the copper, where the tinning of the cooking vessel happened to be worn off; but it was in so very slight a degree as not to be attended with any formidable effects; and besides, the strange and nauseous taste of it furnished a sufficient warning against it. To this I added, that in the Orphan House at Halle, from 600 to 900 persons daily eat food dressed in large copper kettles, and these too, as far as I recollected, untinned, and yet I never heard there of any bad effects from them; that however, I must observe, that the cleanliness was quite exemplary; that in the afternoon, we observed with pleasure and admiration, the kitchen perfectly clean, and the copper vessels so bright, as he could scarcely conceive from looking at the paper on which I wrote; and that, on the whole, the purity of the Orphan House was in a high degree characteristic of its founder, Augustus Herman Frank, as well as his work.—His answer (of 28th October, 1769), was, that he looked on my observation as well founded, and would make use of it, if ever his Thesis came to a third edition; and that these relations from Germany, instead of being against his doctrine, were rather corroborative of it.
Upon the whole, the Mosaic statute could not but serve to introduce a very high degree of cleanliness among the Israelites, which would make copper vessels perfectly harmless. I should, nevertheless, as I have thus stated my sentiments on this subject, be very desirous, as they do not perfectly satisfy myself, to have the opinion of others, and more particularly of physicians, concerning this (to us so strange) predilection manifested by Moses for copper vessels, in opposition to earthen ones.

It is obvious, that in the course of such a disquisition, many questions might be brought forward, relative to points of antiquity, into which I cannot here enter; as, for instance, How old the practice of tinning copper vessels is? Whether their earthen ware was glazed or not? What was the nature of the glazing? and, Whether it was, by the cookery of victuals, more easily affected, and converted into poison, than clean kept copper?
CHAPTER V.

MISCELLANEOUS OBJECTS OF POLICE.

ART. CCXVIII.

Prohibition of sowing Fields with Mixed Seed.

§ 1. Moses gave various laws prohibitory of the practice of uniting together certain things of different kinds (heterogenea), or, as he himself terms them in Hebrew (חילם), Chilaim. Of these laws, one relates to agriculture; another, to the breeding and use of cattle; and a third, to clothing. As we find them all together in the Mosaic writings, and as it has been supposed that they had all one common typical object, I am unwilling to separate them. Whether they really had such an object, or at least, whether that object was to teach the Israelites that they were not to mingle with other nations, I do not venture to determine. Perhaps that, or something else, might be the point of morality which the legislator, in conformity to the contrivance already more than once pointed out as resorted to by him, connected with these laws, in order to render them more sacred and inviolable. At the same time, some of them could not but be productive of such important and salutary effects to agriculture, that we can scarcely help regarding these ef-
fects as their real object; and although even Moses had been so incredibly short-sighted, as not to perceive, or to have in view, the economical advantages which they would bring to agriculture, still we must allow, that God, who gave them by him, must have foreseen and intended those advantages to result from them.

The first and most important of them, prohibits the sowing of a field with mixed seed, and that under the penalty of both seed and crop being consecrated, that is, being forfeited to God and the priest, Lev. xix. 19. Deut. xxii. 9.

I suppose it will be scarcely necessary here to observe, that this law implies no prohibition against dividing a field into smaller parcels, on one of which one sort of seed might be sown, and on another, another; but merely against sowing two different kinds at once, into one and the same spot: barley, for instance, along with wheat. It is also clear from the very letter of the law, that it does not extend to the almost unavoidable cases of either seed of the preceding crop having fallen on the ground, and now coming up with the crop of the present year; or of a few grains of a neighbour's seed happening to light upon our contiguous ridge; or again, of the wind blowing the seeds of weeds, such as winged oats and the like, upon it; for in such cases, seed of different sorts is not actually sown by man; and at all events, it becomes manifest by certain marks, such as that of the mixture being equal or greater in the middle than at the edge of the field, whether the evil has arisen from unclean seed, or by accidents over which man has no
Intention of the Prohibition. [Art. 219

controil. The law meant nothing more than that care was to be taken to have the seed as pure as possible, and that it was to be selected and dressed with the greatest attention, to prevent two different kinds of grain from coming up together. And if not only I myself take this care, but my neighbours, as subject to the same law, are also equally careful in dressing their seed-corn, both our fields will be, if not perfectly clean, at least pretty nearly so; nor will brome-grass*, (to use the instance most familiar in Germany), be likely to grow among our rye, or at any rate, if that nuisance cannot be entirely prevented, it will appear but in a very inconsiderable degree.

It has been disputed among the Jews themselves, whether certain kinds of base grain are of the same or of a different species (homogenea vel heterogenea), from that corn among which they delight to grow; whether, for instance, wheat and darnel (Lolium, including both the intoxicating sort, Lolium temulentum, Linn., and the harmless), form two species of corn, or but only one. Most of them look upon them but as one; and, speaking somewhat more theologically than our husbandmen, who have the same erroneous notion as to the degeneracy of grain, they maintain, that as the human race before the flood became so very degenerate and wicked, so God in like manner allowed wheat and other sorts of corn also to degenerate. In fact, the Talmud itself, in the very beginning of the tract which treats of this subject, asserts the sameness of

* Bromus secalinus, Linnaei, expressly so called from its prevalence in rye-fields.
the two species. Natural history, however,—sound reason,—and even their very appearance, demonstrate the very reverse; and the Mosaic statute, if wheat and darnel were to be deemed the same grain, and seed-wheat not purged from darnel, would only have served to legalize their mixture, and, instead of doing any good, been productive of nothing but a grievance. The Talmudists, however, who lived 2000 years posterior to Moses, and after the Jews, in consequence of their long exiles and subjection to the yoke of foreign masters, had lost all knowledge of the customs and literature of their ancestors, are very bad expositors of the Mosaic laws in general; and in regard to none of them so little to be relied on, as to those relating to agriculture; because they compiled their accounts from mere hearsay, and a considerable time after the Jews had been driven from their country by Titus Vespasian, and had no longer any agricultural system of their own.—If we consult on this subject any person conversant with Botany, he will affirm the very reverse of what is asserted in the beginning of that Talmudical tract, which so unluckily undertakes to explain the law in question; although perhaps many of our farmers, clinging to their old prejudices, and, to their own and their neighbours' loss, still fancying, against the evidence of their own eyes, that brome and rye are of the very same species, and that the one degenerates into the other, have the honour of agreeing with the Talmud in their opinion. Nay if, by way of apology for the Talmud, its doctrine were to be explained on this footing, that wheat and darnel might be considered as the same, not in natura, but only in
jure, this even would go beyond all proof; for no one who had learnt any thing of logica probabilis, would admit any such exposition, on the mere word of anonymous book-worms, who lived more than twenty centuries after Moses, and had themselves neither experience of agriculture, nor knowledge of natural history.

Thus much at least seems certain from the parable of the darnel in the wheat field (Matth. xiii. 24,—30.), that in the time of Christ, that is, while the Jews still lived in their own land, and practised agriculture, instead of only having their agricultural laws expounded by Rabbins in their closets, they did look upon wheat and darnel (Lolium, Græce, Ζεακία), as different things; and when they sowed clean wheat, were very far from thinking that it could degenerate into darnel. It may be worth while to explain this parable, which forms one of the Sunday Gospels, in a plain and intelligible manner for once. If our country clergy would do so on the fifth Sunday after Epiphany, their congregations would not only comprehend the doctrine that lies in it, much better than they do in general, but would at the same time derive from it a material improvement in their œconomy, and be cured of those old prejudices which are so ruinous to the interests of agriculture. A sermon of such a description, would be of the highest œconomical use, and might be well worthy of a public premium, though, in point of style, it were full of imperfections, and pulpit phraseology.

If then, without putting on a black coat, I might for once venture to preach on the said fifth Sunday in
Art. 218.]  

Sermon on that Parable.

Epiphany, in illustration of this text, I would begin thus;—"A certain man, who appears from every particular related in the parable, to have been in good circumstances, and to have had several servants, after dressing his field properly, took a quantity of good, clean, well selected wheat to sow it with. During the operation of sowing, however, his people, probably overpowered by the mid-day heat, laid themselves down to sleep; when one of his enemies who had watched this opportunity, went up and down the field while yet unharrowed, and strewed darnel seed over every part of it. With this darnel, my beloved brethren, you are probably much better acquainted, than many a learned man, who has read of it, under its Latin name, Lolium, in some ancient author, without ever thinking what it was, any farther, at least, than recollecting a very beautiful passage in the poet Virgil, where he says,

"interque nitentia culta,  
Infelix Lolium, et steriles dominantur avenae.

"This remark, however, I only mean for the learned part of my audience; and I again address myself to you, my other friends, to relate what farther happened; because you may avail yourselves of the information to your advantage in the culture of your fields. I premise only this one remark, relative to darnel, if you, or, at least, the people of learning among you, should not be acquainted with its nature, that it is very apt to grow among wheat, and that the bread of such wheat, in which it is
"baked, has an intoxicating quality; in a very strong degree when it is fresh ground, and not inconsiderable even after pretty long keeping. Ye may easily suppose, that such bread cannot be wholesome, and that those who daily use it, must, in consequence of its intoxicating quality, be affected with head-achs, and ailments of various other kinds. I do not at present intend to say anything of my having sometimes seen you, or even your superiors (here I mean no offence to any individual) in a state of intoxication. Such conduct was not morally good and right; but, besides, it is not beneficial to health, and on that very account alone it was wrong. It is bad enough, in all conscience, when ye by beer or brandy, or your betters, (I mean, as I have said, no one in particular) by wine, or any other liquor, drink yourselves drunk; but it would be much worse, and more detrimental to health, were ye to eat yourselves drunk; as it would happen every day. Now this is precisely the effect of darnel-bread.—But to proceed;

"The darnel seed strewed by the enemy all over the field sprang up, and the servants of the farmer observed it at last growing to maturity among the wheat. They were very far from supposing that the wheat had changed into darnel, for they were not bred in our country; but it immediately struck them, that the wheat seed could not have been properly cleaned: and that in this idea they were not wrong. I am convinced from what I have heard in the course of our university lectures, when I was preparing myself for the church: and then, indeed, I
"heard many things, concerning which I did not know of what use they could be, but they pleased me, and I have since found them of the greatest importance. The servants then, at length, pointed out the circumstance to their master, and asked him, whether he was sure that the seed had been clean, considering what a quantity of darnel appeared among the wheat? and whence it could have come, if the seed had been clean? The master, in answer, said nothing at all of the wheat being changed into darnel, as our neighbours in the villages around believe to take place; nor yet did he say that this pest of a weed had grown of itself, and without having been sown; but he at once saw what must have happened. As enemy, replied he, has done this; and in this opinion he was right. The servants now proposed to pull out the darnel, but the master would not permit them. For the roots of wheat and darnel are—as all of you know, though learned men have never thought of such a thing, and so explain the text in a different way, supposing that they could not distinguish the one from the other; but country folks are not so stupid, and I would here pit my congregation with many men of learning—but, as I was saying, all of you know, that the roots of wheat and darnel are so intertwined in the earth, that it is often impossible to pull out the one without hurting the other, perhaps bringing it up along with it. Both, therefore, were left to grow together until harvest: but then the darnel was not to be suffered to remain any longer among the good wheat; else would it not only have intoxicated and sickened

"those who eat of the bread made from it; but like-wise have spoiled the succeeding crop in the same manner; because where we sow wheat and darnel together, we shall be sure to reap them together, and where we sow only clean wheat, we shall always reap the same. The farmer, therefore, would not allow it to be threshed along with the wheat; for, however perfectly we may winnow, or hand-clean seed-corn, as every wise man will take care to do, and here my learned hearers will call to mind the words of the ancient poet,

\[ \text{"" ni vis humana quotannis }
\]

\[ \text{"" Maxima quaeque, manu legeret ; } \]

"still some grains of bad corn will remain among the good. He, therefore, preferred making his servants pick out the darnel, stalk by stalk, on the field, and instead of throwing it, as some short-sighted people would have done, into the dunghill, and still less, instead of selling it, as a late bailiff did, for bread-corn, he had it burnt on the spot.—Having thus, with your leave, explained the literal meaning of this parable; let us now proceed to the consideration of its design, and &c. &c.—The rest of this sermon, which I had made for me by a country clergyman, well versed in the subject, though but poorly beneficed, my readers will not, perhaps, look for here. I now proceed to consider the effects of the law in question.

If the mixture of seed be prohibited, and if, in case of its discovery, it fall, as well as its produce, to the priest, every one will take care to examine his seed thorough-
Art. 218. Selection of Seed by Winnowing, &c. 349

ly, that he may sow none that is not clean. The priest, to whom unclean seed is forfeited, will probably not be quite asleep; for his own interest will make him attentive to the due observance of the agricultural laws by others.

The selection and cleaning of seed corn may be managed in three different ways:

1. In our manner, particularly on large farms, where the seed is repeatedly winnowed.

2. By picking it from among the dressed grain. This answers well in smaller farms, and the peasant may employ his children at it, as it is for their interest to have something to do, and not to grow up in habits of indolence. I am, however, acquainted with an extensive farmer in this county, who, since the year 1771, from patriotic zeal to extirpate the brome, makes his servants pick the seed with the hand, after it has been already winnowed.—It is probable that such was also the consequence of the Mosaic statute; for the portions into which the land was divided were small; and it was the study of the legislator to prevent the accumulation of landed property, (latifundia); although perhaps his enactments for this purpose were not always attended to. See Art. LXXIII. and LXXVI.

3. By gathering and burning the base grain, such as darnel, winged oats, &c. &c. on the field; and that this practice had not been unusual, we see from the parable above illustrated. In the case of darnel, at least, the practice was of the more importance, that it might not come up among the bread-corn; because the bread baked thereof is unwholesome; for
which reason it is called by our botanists Lolium temulentum; and, indeed, the Arabian botanists also take notice of its intoxicating quality*. When poison is burnt, instead of a loss, it is an advantage to the lives and health of the citizens; and that merits the name of poison, which is hurtful to health, though it do not kill outright, and all at once.

I cannot better shew the great importance of a law enjoining the selection of seed corn, than by contrasting what must have been the effect of the Mosaic statute, with what we find of an opposite character in Germany, and here particularly in Hanover, in such a reprehensible degree, that the very country which is the most advantageously situated of any in the empire for agriculture, actually suffers far more in that respect, from the want of such a law, than many other less favoured regions.

I do not mean to speak of darnel which is poisonous, or, at least, noxious to health; but only of brome, with a word afterwards of cornflowers. It is, manifest, that if we had the Mosaic statute, there would be no brome among our rye; because if there were, the crop would be forfeited to the priest, or, if we prefer, investing a person of a different description with that right, to the land owner, or the bailiff. How

* See Abulfadli under the word Zivan. This book is not in print. I cite it from a transcript of the passage on this subject, from a MS. in the library of Upsal. Abulfadli farther remarks, that the intoxication produced by the Zivan (for such is the Arabic name of the Lolium temulentum) is not of a cheerful nature, like that occasioned by wine, but accompanied with melancholy and depression of spirits. See also Nimbuhi's Arabia, p. 160.
Advantage of such a Law to Hanover.

Flourishing would our land be, which is so happily situated for the exportation of corn, between the Elbe and the Weser, Hamburgh and Bremen, if we only had the advantage of such a statute! The peasant would take care to forfeit his crop neither to the priest nor the land owner, neither to the bailiff nor the lease-holder; but would be at pains to select his seed corn, and make use of his children for the purpose. In this way, the long evenings of winter might be occupied in useful employment, which would have a salutary influence on the character of the whole nation, and its industry. Were this once the case, we should soon have clean grain, without any mixture of brome: and we should actually have an addition to our stock of food, together with a better rent for our land, than we possibly can, while from our fields, which are many of them extremely fertile, we only reap a mixture of rye and brome. Foreigners too would, in good seasons, take off our superfluous grain, and thus the peasant might make money of his crop. It would not be the grain of Thuringia but ours, that the Weser would transport; and certainly the Hartz would not take its bread-corn from Prussia and Saxony; if our land, which in many parts is really fertile, and might support more inhabitants than it has, were sufficiently employed in the service of agriculture. But unfortunately there prevails among us, a very general prejudice, which rational economists have in vain controverted, that rye changes into brome; and hence it has been the practice of the peasants, and was so still more, during the very fruitful seasons that succeeded the war, care-
Evils of Foul Seed.

1. That in common and middling, and even in good years, they reaped not a clean crop, but a mixture of brome and rye, and, of course, although the number of bushels was considerable, a far less produce on the whole, than clean seed would have yielded, because brome gives but a very small return of meal. To how much the difference amounts, has been stated by practical economists, in the periodical publications, and particularly in the Hanoverian magazine.

2. That, as, in the singularly fruitful years, that followed the late war, we had more corn than could be consumed, and the disproportion between the crops and the consumpt, was the greater, by reason of the great diminution of the population by the war, which sunk grain to a very low price, and would have sunk it still lower, had not some rich noblemen and bailiffs stored up a great deal of corn, much to their loss, in many instances, because the good seasons continued longer than could have been expected; the foulness of our grain prevented our being able to export it, and turn it into money, according to our wishes. At this very time there was a failure of the crop, and a scarcity in England. The English, it is true, do not eat rye-bread; but we had not only rye, but other sorts of corn in the country: and even the rye might have been used as a substitute in the manufacture of brandy, if it could only have been kept secret by the distillers. A great quantity of corn was actually brought from Thuringia, down the Weser to Bremen, and some corn dealers in Hanover, at last, took
the same plan. Yet when, at many economists who lamented the great misfortune of the extreme cheapness of the times, as ruinous to agriculture, and productive of future famines, I inquired whether any means could be devised to send our superfluous produce, to supply the want, which had occasioned such tumultuous proceedings in England; I was told it was impossible: and I understood at last from an economist, well acquainted with the state of husbandry in the duchy of Bremen, and also with the corn trade of the cities of Hamburgh and Bremen*, that the reason of it was, that our grain was so very unclean, that no merchant would buy it for exportation. And this I am the more inclined to believe to be the fact, because some other great accumulators of corn, who had cleaner grain, had recourse to this mode of getting it disposed of, particularly in the year 1769, the first of our bad years, and therefore somewhat too late.

It is a great misfortune for any country, not to have the necessary vent for its produce. During a succession of abundant crops, the want of such a vent may sink the price of corn to such a degree, that the farmer can no longer subsist, because it costs him more than it brings; and the consequence will be, first the neglect, and then the abandonment of farms, and so at last, when bad years return, absolute famine.

* This was Mr. Scharnweber, Collector of Taxes, and well known as an author, by his numerous Economical Essays in the Hanoverian magazine.
The country that wishes to be secure against such a crisis, must, in common years, produce more than the inhabitants consume; and that it cannot long do, if it has no foreign market for its corn.

3. If once a failure of the crop take place in consequence not of drought, but of too wet a season, the brome increases to an extraordinary degree among the rye, and almost chokes it: and as then the produce is not only much less than usual, in point of the number of bushels, but these bushels of a worse quality, and productive of very little meal; the evil of the mis-growth is thus doubled; whereas it would not have been half so great, had clean seed been universally sown, and, of course, the crop turned out not perhaps perfectly clean, but, at any rate, not polluted by such a large proportion of brome.

In addition to the mischiefs thus arising from the economical prejudice, respecting the conversion of rye into brome, we must take notice of that which flows from the canon law, as observed in the matter of tithes; which may, no doubt, be very lenient, but to the farmer, to whom it is meant to be so, proves, in fact, extremely detrimental. According to this law, the tithe-payer is not bound to give better produce than he reaps, not even when the tithe is actually paid in kind: so that if his rye be mixt with brome, or his other grain with other impurities, he just delivers it as he has it. Here we, no doubt, have an appearance of perfect equity; but, in fact, when the purity of the corn is taken into account, it is but an appearance: for the production of cleaner grain on his field depends entirely on the farmer.
Art. 218. Indolence and Prejudices of Farmers.

himself. He has only to sow clean, well selected, corn, in order to reap cleaner* crops; for as to the few grains of rye, which will remain among the most painfully selected seed, they are not worth mentioning. If then the person who receives the tithe-corn, had it in his power to re-dress it, and give the farmer back the brome, and insist on the same number of bushels of pure grain, (a practice, which is actually said to be already introduced in some parts of Germany) the farmer would, no doubt, complain bitterly, at first, but then he would soon learn to sow cleaner grain; which, while it would add so much more to the tithe-owners profit, would make his own profit ninefold, in the same proportion, because the nine-tenths which he kept, would be better grain also.

But here, methinks, it will be said in objection, "Is it not to be expected, that the farmer will, for his own nine-fold profit, sow his seed, as clean as he possibly can?"—Those, however, who start this objection, must be unacquainted with the characters of most people in this line in all countries: for they are, in general, too lazy to shake themselves clear of old habits of convenience, unless their disadvantage be very manifest indeed; whereas, the vexation of being obliged to take back foul grain and deliver

* Let me observe here, once for all, that I use the comparative degree intentionally, and do not wish any idea to be entertained of perfect cleanness. No man will ever expect a perfectly clean crop, because accident may always bring impurities into the field; but still it will be much cleaner, where it is purged as far as possible, than where mixed seed is sown.
cleaner, would make them bestir themselves, and be attentive to their seed. Besides, to the person to whom they have tithes to pay, they are, for the most part, so inimical and malicious, as to dress the tithe-field with less care than any of the rest, and willingly bear the loss thus occasioned, on their own nine bushels, to injure the rascal that receives the tithe, in the same proportion, on his one bushel. In fine, they cling hard to their old prejudices, which they would be compelled to lay aside, if the tithe law once adopted the following principle, He who sows clean seed will reap a clean crop: and, therefore, every one is bound to sow such seed, and if he does not, he must take the consequences. The effect of this remnant of the canon law, which never had it in view to support the cause of rural economy on the principles of legislative policy, but, even in its best and most unexceptionable state, only followed a principle of presumptive equity, is very clearly manifested in this, that the tithe-fields are, for the most part, sown with much fouler grain than others. This circumstance is so well known, that, in this country, tithe-rye, tithe-oats, &c. &c. are always cheaper, even by the exchequer appreciation, than other corn; for no dealer will ever offer the common market price for tithe-grain, who once knows what the term is understood to imply.

Still baser, perhaps, is the right which the feefarmers, in many places, arrogate to themselves, of delivering foul grain, and even mixing additional brome among the corn, that they may not have so much real grain to pay. I do not mean, however, to contrast all the contrarieties of our law to that of
Moses. Thus much is certain, that if we had but some such statute, as that of Moses now under consideration, brome would soon become a rare weed among our rye.

I have hitherto made use of rye for an example, just because I live in a country where it is the most abundant grain, and not at all from supposing Moses to have had the cleansing of the fields from brome directly in his view. It is probable that his attention was more directed to other species of impurities, and particularly to that species of Lolium, which is known among the Arabs, and in the Talmud, by the name of Zivan. This word does not, indeed, occur anywhere in the Hebrew Bible, but I am inclined to conjecture, that the word Rosch, (רֶשֶׁב,) where it does not signify poison in general, but a certain poisonous plant* found frequently in the fields, can be nothing else than the Lolium temulentum; my reasons for which I will state in the notes to the new edition of Celsii Hierobotanicon. Yet it is not against this weed alone, but against every one that pollutes the seed of corn, that the legislator declares war. Indeed it was a general prohibition, not to sow two sorts of corn together. This, however, is not seldom done in

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* See Hosea x. 4 ; also Deut. xxix. 18. Amos vi. 12. Psal. lxi. 92.—In other passages, where Rosch-berries, and Rosch-juice are spoken of, I take Rosch to mean, not the Lolium, but the Solanum, or night-shade. On this I cannot here expatiate. But those, who at once understand botany and the Oriental languages, will anticipate most of my observations; and others must wait till the new edition of Celsius be printed.
in Germany, although economists have long ago re-
marked the disadvantage of it. For both sorts will
not ripen at the same time; and the consequence is,
that in reaping there must be a loss on one of them.
Nor yet are both of the same height; so that the
higher of the two will deprive the other of sun-shine,
free air, and wind.

ART. CCXIX.

Qf the Statue of Deut. xxii. 9. as relating to Vineyards.

§ 2. Whether Moses in Deut. xxii. 9. gives any
special law relative to vineyards, may admit of some
doubt, because the word (כֶּרֶם) Kerem, which we
translate vineyard, has other significations; for an
olive-ground is so denominated, and perhaps any gar-
den whatever. It properly means the nobler sort of
land, in contradistinction to the common land of the
fields. Little stress, however, is to be laid on deri-
vation; and I only mention this, to shew how it may
happen, that the word has acquired such an extensive
signification. But what is still more remarkable, the
Syriac version here renders field, and even plough-
field; and that too, with a word (לב) differing from
the Hebrew term only in one letter ב, which, in the
Oriental languages, we often find exchanged for ב.
We may, therefore, really ask, Whether the Syrian
translator had had a different reading before him?
Were I to lay the passage before my readers, re-
taining all the ambiguity and obscurity of the He-
brew word, Kerem, it would run thus; Thou shalt not
sow thy Kerem with two sorts of seed; lest thou consecrate all, both the seed sown, and the crop of thy Kerem. Here it will occur to every one to remark, that a vineyard is not usually sown but planted; and that Moses himself, in Gen. ix. 20., uses the word plant, when he speaks of Noah as the first inventor of the culture of the vine, at a much earlier period. But what answer is to be made to this objection, we shall immediately see.

If then Moses takes the word Kerem in its more limited sense, and really speaks of vineyards, the prohibition seems to refer either to one or to both of two things, which I shall now mention, and with regard to the usefulness or hurtfulness of which, the opinions of economists are extremely different.

1. In the first place, we usually train vines upon trees, and particularly on elms and poplars; which the Latins express by the phrase vitem maritare. To this practice nature herself seems to have given the first hint; for the wild-growing vine, to which the hand of man has paid no attention, nor planted a pole whereon it may climb, generally twines up along the nearest tree it can find; as we see stated in those accounts of it from North America and Persia, which have been collected by Mr. Medicus, in the Observations of the Society established in the Palatinate for the improvement of Natural History and Economy. This is probably the most ancient method of training. 

the vine: for we first imitate nature, without thinking at the time, how we may improve and surpass her contrivances by art. It was a very common practice among the Romans, *Ulmis adjungere Vites*, as Virgil expresses it, *Georg. I. 2.*; and we are assured by Mr. Medicus *, that the same practice continues in Italy at this day. Both elms and poplars were first sown, and afterwards planted out for the purpose of supporting the vines†. In reference to this practice, the word would be in some measure suitable, and the meaning of the passage be, *In thy vineyard thou shalt not sow seeds of different sorts, such as of elms and poplars, which thou meanest afterwards to use as props for vines*. Still, however, there would remain a difficulty, from the mode of expression; for we should be obliged to presuppose, that it had been common to sow the ground destined for a vineyard previously with elms.—In countries where they endeavour to carry the culture of the vine to the highest pitch of perfection, it is much disputed, whether it succeeds best when trained on trees or poles. The latter are thought preferable in many parts of France,

* See *Bemerungen, &c. p. 263.
† See Plin. Hist. Nat. xvi. 15. *Ulmorum primum um foliis vestiendur Samara (the seeds) colligenda est circa Calendas Martias—deinde biduo in umbra siccatar serenda—Deferenda ex arearum venis post annum in Ultraria Maritas Ulmos (the elms that are to be wedded to the vines) autumno serere utilius, quia carent semine, nam e e plantis seruntur. In arbustum (the place where they are to serve as props to the vine) quinque annos sub Urbe transferunt.—Populis eadem ratio semine, qua Ulmos, serendi; transferendi quoque e seminariis eadem et aitris.*
where they are besides very nice in their selection of them. For my own part, I cannot have the effrontery to support either opinion, because I have never studied Economy, nor ever been in a wine country. But those economists whom I have consulted on the point, give the preference to poles, although indeed they do not chuse peremptorily to decide, because they are acquainted with the culture of the vine only from books, and not from having been in wine countries. Mr. Medicus, on the other hand, is for training vines to trees. If the statute in question has any reference to this matter, Moses must have been in favour of poles, and hostile to trees*. But from the preceding remarks, the reader will easily see that it is very doubtful whether he meant to be understood of elms or poplars: which are, to be sure, usually sown, but not sown in vineyards, being only planted out there, when at a certain age.

2. In the second place, vineyards are sometimes used for a double purpose; seeds being sown between the rows of the vines, for crops of garden vegetables. Ground which would otherwise lie fallow, is thus

* Some are inclined to explain Luke xiii. 6. in reference to the training of vines upon trees. If they are right, this must have been a common practice in Palestine in the time of Christ, and accounted lawful by the Jews. But the passage admits of a different explanation. Αμπελον (vineyard), may be taken in the same latitude of signification with the Hebrew Kerem; and then the fig-tree will have stood not in a vineyard, but in a garden. To me this appears the more probable sense: for if the barren fig-tree could have served as a vine-prop, it would not have been quite useless; nor could it have been cut down, without injuring the vine; as the gardener would no doubt have stated in objection to its being so.
gained; but some economists disapprove of this plan, and think that nourishment is hereby taken from the vines, and that their roots also run the risk of injury in digging the ground, which it is a preferable plan to loosen with a pointed mattock. There are arguments in favour of both practices; and in deciding on their merits, something seems to depend on the circumstance of the wine either being only of indifferent quality, and the profit of employing the ground otherwise, greater; or its being, on the other hand, the principal object, and the gain of a little ground not to be put in competition with the advantage of improving the quality and produce of the vines.—Now in the case of Palestine, wine, and that of the noblest and finest kinds, is the chief of Nature’s bounties; to which cabbages and turnips must of course give place, if they can only be raised in the vineyards at the risk of hurting the vines. Whether they do so, however, I cannot tell. Those of my readers who live in wine countries, will be better able to judge; and perhaps some such readers will have the goodness to communicate to an Author, who lives too far north, some information on this subject. I only wish it, however, from those persons who are acquainted with the practices of the places where the finest vines grow, such as Johannisberg, Hockheim, and Tokay. From other places, where wine has not attained its highest perfection, information would be indecisive of the question, and I should receive it with indifference.

The punishment of mixing seeds, which is not mentioned in the passage in Leviticus, xix. 19. is stated in the passage of Deuteronomy now under considera-
Art. 219.] Punishment of mixing Seeds.

tion, in the following terms; *lest thou consecrate all, both the seed sown, and the crop of thy Kerem.* The meaning is, "If any man transgress this law, not only "is the vintage itself, but also what other garden "fruits have been sown in the vineyard, forfeited to "God, and of course belongs to the priest." Here, however, a new difficulty arises whether Moses meant really to speak of vineyards; because, if so, he might have employed the usual term for vintage (בֵּית), Bazaar, and not ( غزة) Kazir, which signifies crop, or harvest in general. At the same time I do not deny, that Kazir is also sometimes used in reference to the gathering of fruit, and even to the vintage; although in regard to most of the passages adduced in support of that more extensive usage of it, some other meaning may be proposed.

Although, as I have just mentioned, the punishment of the crime in question is not in express terms stated under the statute in Lev. xix. 19. I have nevertheless admitted in the preceding Article, that, from analogy, it must apply to the case of fields sown with mixed seed, because, without a penalty, the statute relative thereto would have been useless, and could never be enforced. When an ox and an ass are yoked in the plough together, we see it, and can unyoke them; but the man who from laziness, or from prejudice, does not select his seed, but sows it foul, does so unobserved, and will always continue the same plan, unless deterred by the imposition of a punishment upon it. Were it ascertained, however, that the passage in Deuteronomy was not spoken of vineyards, but was exactly parallel
to that in Leviticus, I should have had still better ground, in the preceding Article, for annexing the penalty of forfeiture to the mixing of seed.

Some Jews have been disposed to consider the grafting of fruit-trees as prohibited by Moses. But this is merely one of those explanations and additions of the ancients, of which Christ speaks with such contempt in many passages of his sermons; for we find in Moses not a single word prohibitory of grafting. Whether it was even known in his time, no man can say: the most ancient trace of it in the Bible, I think I have discovered in these words of Isaiah, chap. xvii. 10. *Thou plantest goodly trees, and graffest them with strange scions*. Admitting, however, that the invention of grafting had been known in the days of Moses, still we cannot, merely from analogy, and without finding any express prohibition, admit, that he had disapproved a practice so extremely useful, and important to the acquirement of the finest fruits; more especially when we consider how much his laws are, in other instances, calculated for the advancement of economical science. If, on the other hand, this art was then unknown, it were certainly quite absurd to extend his laws to the condemnation of a practice not specified; not comprehended under the general prohibition; and not so much as discovered when they were given. Moses certainly did not prohibit every thing of a mixed or compound nature,—

* This passage, however, is still extremely obscure; and I do not choose to overpower the reader of this work with philological investigations that can be dispensed with.
building a house, for instance, of wood and stone, or a wall of stone and lime, &c. &c.

ART. CCXX.

Prohibitions relative to the pairing of Animals of different kinds—the yoking of Oxen and Asses in the Plough together—and the wearing of Linsey-Woolsey Garments.

§ 3. I now come to mention some other prohibitions of a similar nature with the preceding; but I have much less to say with regard to their design.

1. In the first place, the Israelites were not to permit the pairing of beasts of different species, Lev. xix. 19. This was perhaps forbidden, in order to impress them with so much the greater abhorrence of the crime of bestiality, which is so common in southern countries, or at any rate to give them no example of any such unnatural commixture, even where moral considerations were out of the question. And yet it would appear, that it had not been forbidden them to use beasts produced from such commixtures; at least, from the time of David, we find the mule frequently mentioned as used for riding; and in fact it would not have been rational to extend a law given in these words, Thou shalt not pair beasts of different species, to the using of such beasts; for how could an Israelite, who kept his herds in the wilderness, be sure whether his sheep-dog might not have littered him a half-fox, or wolf?

2. Oxen and asses were not to be yoked in the
plough together, Deut. xxii. 10. This is probably to be considered as a relic of the veneration and gratitude shewn to the ox in more ancient times; for even to animals, those especially that deserve well at the hand of man, Moses did not wish that the Israelites should manifest ingratitude, or contemptuous treatment. The reader is referred to Art. CLXVI. where this law is particularly treated of.

3. They were not permitted to wear any stuff, composed of flax and wool, or, as we term it, linsey-woolsey, Lev. xix. 19. Deut. xxii. 11. It is possible that this law might extend to linen garments embroidered with wool; and indeed some have adopted this idea. I will neither positively controvert nor maintain its justice. Josephus (Antiq. iv. 8, 11.) assigns a very probable reason for it, viz. that clothing of that sort was allowed only to the priests: for their robes are said to have been of linen, embroidered with wool dyed of various colours. In this way, we should have a sump- tuary law relative to apparel, forbidding the common Israelite to dress beyond his station. I am, however, really in doubt whether the priests, in the time of Moses, wore garments of linsey-woolsey, or even of linen embroidered with wool. In the days of Josephus, this last may perhaps have been the case; for he was himself a priest, and could not but know the nature of the sacerdotal vestments; but no conclusion can be drawn from the usage of his time, to that of the time of Moses; who, though he describes the dress of the priests very particularly, nowhere says a word of wool, but only of linen. For although in Exod. xxviii. 5. he names certain colours, dark blue,
Art. 221.] Law relative to Young Fruit Trees. 367

*purple*, *scarlet,* it by no means follows, that they must have been of dyed wool; for linen likewise takes these colours, and more especially *cotton,* which the Hebrews comprehended under the name of linen. It appears to me, that by the Mosaic statute, the garments of the priests must have been as free from any mixture of wool, as those of other Israelites; only that the latter were permitted to wear woollen dresses, whereas the former could wear none other than linen robes of office. No doubt gold was wrought into them; but then gold is not wool; and it was only wool mixed with flax that Moses prohibited.—With regard then to the design of this law, I will very readily acknowledge my ignorance.

ART. CCXXI.

Prohibition of eating the Fruit of Trees for the first Three Years of their Growth.

§ 4. The produce of planted fruit-trees was not to be eaten for the first three years, but to be considered as unclean, or, to use the Mosaic expression, as *uncircumcised,* Lev. xix. 23. The economical object of this law is very striking. Every gardener will teach us not to let fruit-trees bear in their earliest years, but to pluck off the blossoms; and for this reason, that they will thus thrive the better, and bear more abundantly afterwards. Now if we may not taste the fruit of the first three years, we will be the more disposed to pinch off the blossoms; and the son will learn to do this from his father. The very expression,
to regard them as uncircumcised, suggests the propriety of pinching them off; I do not say cutting them off, because it is generally the hand, and not a knife, that is employed in this operation.

ART. CCXXII.

Laws relative to Clothing.

§ 5. To the laws relative to dress, besides that prohibition of linsey-woolsey stuffs, just explained, and that concerning the leprosy of clothing, illustrated in Art. CCXI., there yet belongs the statute of Deut. xxii. 5, in which women are forbidden to wear the dress of men, and men that of women. The design of this prohibition is manifest. The honour of an innocent young woman will be in the greatest danger, if the seducer may wear a female dress. Of this there was lately an instance in London; where a man got himself engaged as a maid-servant in a boarding-school in which young ladies were educated; the consequences of which, in the course of a few months, became too visible. Nay, if a handsome youth dress himself as a woman merely in play, this, in a southern climate, where unnatural lusts are so common, may be attended with very bad consequences, and furnish the first hint to the crime of sodomy. The imagination of the profligate will be inflamed by the female dress, and from that moment, he will lay snares for the person that wore it. Against the dangers, therefore, of such disguises, too strong precautions can scarcely be taken in southern countries.
Art. 222.] Tassels worn as Memorials of Guilt.

That statute which, in consequence of an instance of the commission of a great crime, was given to the Israelites, in Numb. xv. 37,—40., enjoining them to put upon the four corners of the large piece of cloth which they wore wrapped round them by way of an upper-garment, four tassels, in order to keep them afterwards in remembrance of the commandments of God, might, properly speaking, be said to be nothing more, than a means of awakening shame and self-abasement in their hearts. Their divine legislator often declared, that they were a sinful race, and not one whit more pious and holy than other men; and we find him, likewise, contriving a variety of figurative laws, in such a manner as to serve them for accusations, or as St. Paul expresses it, for memorials of their guilt.—True it is, if we wear such tassels every day, we shall soon become so accustomed to the sight of them, as to recollect nothing at all of their use, and so commit sin, before we bethink ourselves of them; and Moses must have been but very poorly acquainted with the human heart, if this remark did not occur to him. Still, however, the very wearing of one such tassel is a humiliation: and the man who is obliged to do so, to remind him of the eighth commandment, must be a person, in whose presence we would think imprudent to take special care of our watch; because we should be ready to suppose, that he might have the misfortune of being somewhat forgetful in that point.—The design of this law, therefore, is more of a figurative and theological, than of a political nature.

I look upon the words in Deut. vi. 8, as not pro-
properly a law, but an admonition; because they merely occur in a harangue which Moses addressed to the people. The Orientals make great use of amulets—a subject on which I cannot here expatiate, but of which I generally treat under Art. 26. of my Hebrew Antiquities. These amulets consist sometimes of jewels and other ornaments, and sometimes of certain sentences, or unintelligible lines, and Abracadabra, written on billets, or embroidered on pieces of linen. Some such things the Israelites, in those days, seem to have worn on their foreheads, and on their hands; and the Mahometans do so still. For how often do we find upon their breasts a passage from the Koran, which is said to make them invulnerable, or rather actually does so; for this I know for certain, that no Turk, wearing any such billet, was ever yet slain or wounded in battle, excepting in the single case (which, indeed, they themselves except) of his death-hour being come, according to the decree of God. It would appear, that with regard to these embroidered phylacteries, the Israelites, in the days of Moses, did not entertain such superstitious ideas, (else would he probably have forbidden them) but only wore them as ornaments, and for fashions sake. As Moses, therefore, wished to exhort the Israelites, to maintain the remembrance of his laws in every possible way, and, in a particular manner, to impress it on the hearts of their children, he suggested to them a variety of expedients for the purpose; and this among others, that if they chose to wear any embroidered ornament on the hand or forehead, it should not consist of any thing useless, and still less of any su-
Art. 223.] Laws relative to Houses.

perstitious nonsense, but rather of sentences out of the laws, which their children would thus be in the way of learning. If, however, the fashion changed, and embroidery was no more worn, the Israelites were no longer bound to wear embroidered linen, or billets inscribed with sentences from the Mosaic law; and that the Jews, during the time of prayer, still use them under the name of Tefillin, proceeds from a misconception of the statute in question.—A farther detail on this subject, with the proofs that the words of Moses in this passage are not to be understood as only figurative, I cannot here give: but I give it, as I have said, in my Hebrew Antiquities. To most of the readers of the present work, who may be desirous of having a philosophical glance at the ancient laws of mankind, researches merely antiquarian, would not afford much gratification.

ART. CCXXIII.

Laws relative to Houses.

§ 6. The observation made in the beginning of the preceding article is equally applicable to the subject of the present one. The words of Moses in Deut. vi. 9, immediately following those just illustrated, are in like manner to be understood, not as a positive injunction, but as an exhortation to inscribe his laws on the door-posts of their houses. In Syria and the adjacent countries, it is usual at this day to place inscriptions above the doors of the houses, not, as the vulgar among us do, in doggrel rhyme, but consisting of pas-
sages from the Koran, or from the best poets; and some of them, that are quoted in books of travels, are truly elegant. This must now be a very ancient practice, as it existed in the time of Moses. For when he exhorts the Israelites to take every opportunity in inculcating his laws on their children, we find him suggesting to them this as one means of doing so; *Write them on the doors of your houses, and on the gates of your cities.* In these words we have not properly a statute; for if the Israelite did not choose to have an inscription over his door, he had no occasion to make one; but they are merely introduced in an exhortatory discourse to the people, as furnishing an instance of the means which they might take, to impress the laws upon the minds of their posterity in their earliest years. Among us, where, by the aid of printing, books are so abundantly multiplied, and may be put into the hands of every child, such measures would be quite superfluous; but if we would enter into the ideas of Moses, we must place ourselves in an age, when the book of the law could only come into the hands of a few opulent people.

The following passage, however, from Deut. xxii. 8, is not an exhortation, but a statute in the proper sense; *When thou buildest a new house, thou must give a parapet to the roof; that so if any one fall therefrom, the guilt of blood may not come upon thine house.* The flat roofs of the houses in eastern countries, on which the people sit, walk, and, in summer, sometimes sleep, and sometimes, where the houses are of equal height, go from roof to roof over the whole city, require this precaution; and to this day it is common to have on
the side towards the inner court a parapet, somewhat lower than the one on the other side towards the street, which is generally a wall breast-high. Moses seems to pre-suppose that many houses in the land, which the Israelites were to conquer, would have no parapet on the roof, and he does not require that any old house should be burdened with one, as it might not be able to bear it; but no new house was to have a roof without a parapet. And this is exactly what was done in the first part of the present century, when shingle-roofs were abolished among us. They were allowed for a time to old houses, which could not bear the weight of tiles, but were positively prohibited in all new buildings.

The statutes relative to the house-leprosy have been already illustrated; and I do not find any other Mosaic ordinances respecting houses. Nor, indeed, is this to be wondered at, considering that Moses gave his laws in the desert; and before the Israelites had any houses to live in.

ART. CCXXIV.

Land-marks not to be removed.

§ 7. This is a point that requires no illustration; only we may observe, that Moses, in giving this law, reminds the Israelites that it was God who gave them the land; thus insinuating that the march-stones should be all, in some measure, sacred to the Giver; Deut. xix. 14. Among the Romans they actually were held sacred. Indeed, they can be so easily
removed, and a man be thus so unobservedly bereft of his property, that it becomes necessary to call in the aid of religion and the fear of God, in order to prevent it. Now Moses, who gave his laws by command of God, did so with pre-eminent propriety. Any other legislator, however, might certainly adopt the same plan, without being at all guilty of religious imposture; because the removal of a landmark is certainly a piece of injustice which God will punish; and the man, who has any conscience, will deem himself bound to replace any one that has been removed through his fault.

ART. CCXXV.

The prohibition of various Fashions; such as tinging the Skin, wearing the hair and beard in a particular form, and exhibiting certain Signs of Mourning.

§ 8. 1. The people of the East are in the practice of using Alhenna, which yields an indelible blue colour, to burn various figures and characters into their skin, sometimes by way of ornament, and because they really think it looks beautiful, but at other times from superstition, in honour of some idol. Some have these marks in their face and hands, but others again in parts of the body that are covered by the clothes; those people, for instance, who have visited the holy sepulchre, or other sacred places in Palestine, generally have a memorial thereof burnt into the arm. This is certainly an ancient practice; and I have treated of it in my Antiquities. Here I can only say, that it
Art. 225. Cropping the Whiskers prohibited.

is prohibited by Moses in Levit. xix. 28.; but whether universally, or only on occasions of mourning, and in remembrance of the dead, is uncertain. To me the former appears the more probable supposition; at least, such a strange disfigurement of the body ought to be in all cases forbidden, even although the ridiculous goddess of fashion should declare it a beauty. If the fashion happen to change, still the marks are quite unalterable, and those who have them then become objects of ridicule to people who are not so foolish. That we sometimes find in the Bible allusions to those marks, is no objection against this doctrine; for, not to mention, that many things contrary to the Mosaic law continued in use, or came again into use; forms of expression, and images, may certainly be borrowed from the manners of neighbouring nations.

2. Two Arabian fashions relating to the beard and hair, are prohibited in Lev. xix. 27. Some of the Arabian nations, in honour of a certain deity, whom the Greeks compare to Bacchus*, shaved the hair of their heads in a round form, and cut the locks or hair on the temples, entirely away. That Moses would not suffer this, is not to be wondered, because it was an idolatrous fashion. The whiskers too, to which some other Oriental nations pay so much respect, are by the Arabs, according to the testimony of Niebuhr, still cut either entirely off, or, at any rate, worn quite short†; and from this circumstance it is, that the Arabs are by

* See Herodotus, III. 5.  
† See Niebuhr's Arabia, p. 68.
the prophet Jeremiah (ix. 26. xxv. 23.) called, those with cropt whiskers. But neither does Moses approve of this fashion, but forbids them to spoil, or, as we would say, to disfigure, their whiskers*; that is, to shave them off, or even but to crop them short. Perhaps some superstition of which we are ignorant, was connected herewith: but whether there was or not, considering that it was the object of Moses to keep the Israelites distinct from other nations, (Art. XXXVII.)

* In here taking the Hebrew word (וְקַסַּה), Peah, for the whiskers, I depart not only from the traditionary explanation of the Jewish commentators, but even from my own; for hitherto, and even in my German version of the book of Leviticus, I adhered to the common Jewish exposition, which considers the prohibition of spoiling the corners, as the same with the preceding one, of shaving the head round. My reasons for abandoning the common opinion are the following: 1. That Moses here expressly mentions the beard: "The Peah of thy beard thou shalt not disfigure." But who would reckon as beard (I will not say the hair on the temples, for that might perhaps occasion a controversy among barbers, but) the angle which the hair on some people makes in the middle of the forehead, and that backwards on the head? 2. That in Syriac the word (אעה) actually signifies whiskers. 3. That, according to Niculius's account, who knew nothing of our question relative to the Hebrew word, the Arabs have actually still the custom, by which Jeremiah describes them, of wearing their whiskers short, or even shaving them off entirely. 4. That Moses here uses the general term spoil, or disfigure, which applies to both acts. "But then, the Jews who cut off their whiskers, and do so on the good authority of the Rabbins and the Talmud, do not observe the Mosaic statute!"—Thus the Jews act, no doubt; but I mentioned in the very beginning of this work, that I did not intend to illustrate the Talmudical law, and by no means considered the Talmud, as an authentic exposition of the law of Moses.
it is quite enough, that the Arabs shaved off their whiskers, or cropped them short. Even from the Arabs, whose manners in so many respects resembled their own, and who were partly descended from Abraham as well as themselves, the Israelites were to remain a separate people; and to this the fashion of the beard, though among us it would have no effect, might contribute not a little among nations who paid such high respect to it, and thought it a matter of so much consequence.

3. In mourning for the dead, it had been usual, "in token of excessive grief, to disfigure their bodies in different ways, and, among others, by making slashes in their flesh. This is prohibited in Lev. xix. 28. and Deut. xiv. 1*. Mourning habits they might put on, if they chose, and, with the exception of the high-priest, rend their garments in token of grief, but they were not to disfigure their bodies. This, says Moses, is not becoming in a people, who consider death not as the worst of all evils, but expect another life beyond the grave†. The different modes of mourning, I do not mean here to particularize, as that belongs to the subject of antiquities, and not to jurisprudence.

* Yet in spite of this prohibition, the practice had again become common in the time of Jeremiah, who, in chap. xvi. 6. looks upon it as something uncommon, that they did not cut themselves in mourning for the dead. The custom, and imitation of other nations was more powerful than the law.

† See my Argumenta immortalitatis animarum ex Mose collecta, § 14. in the first part of the Syntagma Commentationum.
ART. CCXXVI.

General Observations on the subject of Weights and Measures.

§ 10. Although the attention of my readers were by this time perhaps worn out with the detail of so many police-regulations of a less important nature, and quite foreign to our customs, I should have no reason to take it amiss. But we now come at last to a chef d'œuvre of legislative wisdom, which I hope may make them ample amends.

An uniform and immutable standard of weights and measures, is a matter of the very highest importance in society; but it is difficult to find out a method of obtaining and preserving an invariable equality in regard to either; and there is besides another problem to solve in the present case, viz. as to the manner in which a people depending on their neighbours for the benefits of commerce, and obliged to dispose of their commodities by their hands, and to take foreign articles from them, ought to regulate their procedure; and whether they should be prohibited from dealing by other weights and measures than their own invariable standards.

Although a nation may at first have a perfect uniformity of weights and measures, yet in the course of time they will suffer alteration, and imperceptibly become different, if the greatest care be not taken to prevent it. That fraud will endeavour to alter them is very clear; as is also this truth, that a fraud long
practised, becomes in a manner justified and sanctioned by prescription; and then again a new fraud begins playing its part. I will not, however, so much as mention fraud, but suppose all men perfectly honourable; yet still weights and measures will not continue uniform. For, in the first place, the very individual ones which I now use, will alter by time. By frequent use, the weight that I employ loses somewhat, just as our coins do; and at present, as I have already observed, we have none of the louis d' ors of Louis the XIVth., of real and full weight, but by one of full weight, taken in the strictest sense, we are obliged to understand one that is really too light by two aesculapius. In like manner, measures both of wet and dry commodities, by various accidents have their shape altered; become imperceptibly bent out or bent in; acquire a periphery, which in a mathematical sense is not regular; a small curvature instead of an accurate angle; an imperceptible dint, &c. &c.; by which means their contents, though perhaps but immaterially, are yet, in some degree certainly, affected. They likewise contract or expand; and if a small splinter of the wood comes off inside, it increases the amount of the measure. Even measures of length do not continue for ever the same. And the less that the person who uses them, understands of mathematics, and of the importance of these apparent minutiae, the greater and more rapid will be the variations whereby he will deceive both himself and others.

But the difficulty goes still farther. By those already in use, new ones are made; but perfectly alike they will not be, at least not so much so as that Leib.
nitz perhaps would, on account of the principium indiscernibilium, be afraid to object to them. The difference indeed will, if the copy is made by a careful master of his business, be infinitely small, or, more properly speaking, imperceptible: but it will be more material, if he does not rightly know with what perfect accuracy he ought to go to work. We need only examine how inaccurately the different sorts of measures are made, even by those tradesmen who are employed for that purpose, by communities and cities, whose magistrates do not understand mathematics, in order to be convinced of their incredible ignorance. But even the most imperceptible error becomes greater in the lapse of years; and by the time that the ten thousandth or hundred thousandth copy is made, the difference amounts to something perceptible and considerable. What we see in our own country may convince us of this; for how dissimilar are our weights and measures in Germany? To go no farther than our own immediate neighbourhood: In Boventen, the very nearest spot to Gottingen, we find them different, indeed very perceptibly different from what they are in that city, because Boventen belongs to Hesse: for amidst the gradually increasing dissimilarity of standards, every territory has been obliged to choose one for itself, perhaps by guess, or according to its own usage at the time, and to declare the same legal; and yet it differs perhaps from that used in the very nearest principality, and thus gives birth to endless mistakes and impositions. But not even in the very same territory is the standard always the same. The laws may no doubt enjoin that it be
Art. 226.] Bad Effects of this in Commerce.

so; but if we go from city to city, and from district to district, we shall perhaps find but a very imperfect equality; which is not only a mischievous thing in itself, but opens a wide door for very great dishonesty.

The mischiefs arising from these inequalities are very great. We cannot always make bargains perfectly sure in all points; and hence we may, on this sole ground, often receive from a merchant less than we have paid for. We think perhaps to make a great profit, because we buy cheap; and at this very time it turns out that we come worst off, because the measure we have received is smaller, while yet its name is the same. On another occasion we sell, and the buyer has a large measure, particularly the foreign merchant who travels through our country purchasing goods, or the wholesale dealer in general: and in this case, the seller is the sufferer. It is impossible to describe all the variety of injustice, fraud, and self-deceit, which arises from this source, and brings cities at last to poverty, and ruins the most flourishing companies, in consequence of their not attending to it until too late. In ancient times, when there were yet no coins, and silver was paid by weight, (as appears to have been the case before and throughout the Mosaic times,) a still worse species of imposition or self-deceit must have arisen from the inequality of weights; for according as the weight was above or below the truth, a man might extort more, or receive less, than what was agreed for.

The result of these observations is this; that every country ought to have standards of its various weights
and measures carefully kept by men of skill, and out of the reach of all falsification. It is not unintentionally, and without due consideration, that I do not say, every city; for then two cities immediately contiguous might have different ones; but every country ought to have one common standard kept somewhere or other, for all its weights and measures, according to which all others might be rectified. In England, it has been proposed, (but whether the proposal has been carried into effect I do not know, and at present I have no means of information,) that these standards should be kept in the Exchange at London, with all possible care under numerous keys, that thus many people might always be present at the opening of this ancient national sanctuary, upon any momentous occasion.*

Once more: We generally have no superintendents of weights and measures, that are qualified for such an office. The magistrate, who is not aware of its importance, and of the effects which may here proceed from a trifling error once committed and continued, often devolves the superintendency of weights and measures, not indeed from unfaithfulness in the discharge of his duty, but from ignorance of mathe-

* This proposal, and the loss that arises from the otherwise unavoidable variation of weights and measures, was put in a very clear light, in a book well worth reading, published in 1768, and entitled, An Essay upon Money and Coins. That the Legislature noticed it, and took the matter seriously into consideration, I perceive from the account given of the parliamentary proceedings in the London Magazine for June 1759; but I do not know whether any Act of Parliament on the subject has yet passed.
matics, upon the lowest of his underlings: And how many cities are there in Germany, in which there is not one person invested with authority as a magistrate, who has as much knowledge of mathematical science, as would be requisite for the due oversight of this important branch of police?

ART. CCXXVII.

Of the Plans which Moses took for the Regulation of Weights and Measures.

§ 10. BEFORE I yet go on to state the manner in which Moses proceeded in relation to this important problem of legislative policy, it will be useful to make some remarks on the sciences of the Egyptians, in whose learning he was educated.

The intermediate class of their priests, the members of which, from their knowledge of hieroglyphic writing, were called Hierogrammateis, occupied themselves, as with other branches of science, so in a particular manner with that of weights and measures. In proof of this, I shall only quote the Stromata of Clemens Alexandrinus*; giving, however, the whole passage that relates to their different studies: "Now comes the Hierogrammatheus, who has a pen in his head, and in his hand a book and a ruler, with a vessel†


† The words, with a vessel, are indeed wanting in the Greek, but it is manifest that they must have been in it originally, for ink could not be kept in a ruler. I suspect that something more may
containing ink, and the reed used for writing. It is his province to understand the hieroglyphics, as they are called, cosmography, and geography, with the course of the sun, the moon, and the five planets; and in a more particular manner, the special geography of Egypt, and the description of the Nile. He must also be acquainted with the description of the sacred vessels, and the places consecrated to them, and the measures and all other things used in sacred transactions." From this passage, it is not only clear that this class of priests must have been acquainted with measures, but there arises this probable conjecture, that the measures both of length and capacity had belonged to the number of the sacred things, and that, for the conservation of the sacred standards thereof, a certain consecrated place, not known to every body, had been appropriated. With this conjecture accords what we are told of the weights and measures having been fully described in the books of the Egyptian Mercury, whom they called Thoth. Such a description is not possible by words alone, without models; but the principal books of Mercury were (what, indeed, Jablonski thinks, the god Thoth himself was,) the sacred stones (οὐθηκαί) inscribed with hieroglyphic figures, and partly kept in the most sacred chambers of the sanctuary, even concealed in

have dropped here from the original, and that the clause had been to this effect; and by his side a vessel with ink, &c. Such, at least, is the costume of literary persons in the East at this day, by which, when they go abroad, they are distinguished as such; and it was the same in the days of the prophet Ezekiel.—See my father's Dissertations, entitled, Ritualia Codicis sacri ex Corano illustrata, § 2.
deep subterraneous galleries. Some of these stones, then, might have been the standard both of the longitudinal measure, and likewise of the cube, which was equal to the measure of capacity, both for fluids and dry wares.

Here, then, we have a remarkable specimen of legislative policy; and when I consider Moses merely as a man, without any reference to his divine mission, he must, methinks, have profited by his education among the Egyptians; but he has, at the same time, far surpassed them, and acted with much more honesty, than their policy, which was so thoroughly interwoven with mystery and priestcraft, permitted them to do; for although he constituted the sacred tribe guardians of the sacred standards, and imposed upon them the duty of acquiring a knowledge of weights and measures with mathematical accuracy, yet of things in which all were thus interested, he made no priestly mystery, but placed certain models of them all in the view of all; besides describing these in the books which were put into the hands of the whole people. Considering him, on the other hand, as sent by God, it appears to me, that he had in this matter, by God's express command, done the very same thing that a wise people had done of their own accord, but in a much more honest and open manner, and, at the same time, in a much higher degree of perfection.

In the first place, then, the weights and measures were preserved in the tabernacle of testimony, in more ways than one, and partly in the view of every individual, for at least many hundred years. Some of them, it is true, might by use and time, suffer some
change; but for that very reason, there were various standards, so that the error of any one could always be rectified by the others, and some of them were kept within the sanctuary itself, and were thus less liable to variation.

In the description of the tabernacle we may, perhaps, have read, with some degree of weariness, many particulars relative to measures, in which we took no interest; and have often thought with ourselves in the mean time, "Why did not Moses rather leave this out? I should have dispensed with it."—Some people, in order to assign some use to these mensurations, endeavour to discover in them a variety of types and mysteries. But, although I am very far from denying the typical nature of many of the Mosaic ceremonial laws, yet I cannot here agree with such people, nor comprehend, what moral, doctrinal, or spiritual meaning there can be in ten ells long, one and a half ell broad, and a half ell thick.—Others again, equally short-sighted, are so vexed at finding that these things are of no use to them, as to conclude, with great theological depth, that they could not be written by the command of God, because they contain nothing useful or edifying; just as if God should have had the Bible written for them alone, (a requisition, by the way, which they would never think of making, in the case of any human work) or as if, in a book written by the immediate command of God, there ought to be nothing that did not minister to moral edification; and as if revealed religion did not inform us, that God had condescended to become a civil legislator to the people of Israel. This very
specification of longitudinal measures, which we find so frequently repeated, answered one of the most important purposes of police to the Israelites, and as a master-piece of legislative wisdom in this respect, it merits our admiration.

I shall now speak of their measures of length, measures of capacity, and weights, separately, and in succession.

1. The longitudinal measure was fixed for future ages in a great variety of ways. The measures of the court of the tabernacle and its hangings; (Exod. xxvii. 8,—19.) of the curtains that covered the tabernacle; (Exod. xxvi. 1,—13.) of the boards that framed it, which were made of a wood very little apt to alter; (Exod. xxvi. 15, 16.) of the tabernacle itself, which was 30 ells long, and 10 broad; of the altar of burnt-offerings, overlaid with copper; (Exod. xxvii. 1.) are all specified in ells, and that in a book which every Israelite was to read. It is true, that the curtains and the wood might be affected by exposure to the atmosphere, although, perhaps, one error would correct another; but still every Israelite that came to attend divine service, in any future age, would here obtain a pretty accurate view of the ell, and might, at any rate, measure some of those things with more perfect accuracy, and thus judge whether the nation still retained in common use the ancient original ell or not.

Still less variation was to be dreaded in those arche-types of the ell, that were kept in the sanctuary itself. Of the table of shew-bread, (Exod. xxv. 23.) the altar of incense, (Exod. xxx. 2.) and the ark of the cove-
nant, (Exod. xxv. 10.) all the dimensions are specified. These were made of Acacia wood, and only overlaid with gold. But the most invariable of all the standards of longitudinal measures, as being made entirely of gold, is the lid of the ark, which was two ells and a-half long, and one ell and a-half broad, (Exod. xxv. 17.) No doubt, this ark always remained in the obscurity of the sanctuary, unless it happened to be brought into light by any rare occurrence, as during a campaign in the time of war. But for that very reason it was so much the more invariable; and could thus, if necessity required, serve after many centuries to ascertain whether any errors, and what, had affected the other standards of the ell.

I admit, that at last a time would come, when all those standards of longitudinal measure would become useless, because nothing on earth endures for ever. But then new standards could be previously made from them; and we find that this was actually done. When the tabernacle (according to the reading in the printed Hebrew text) was 480 or (according to another reading, which Josephus and Paul found in the Bibles in common use in Palestine in their time) 592 years old, and must certainly have been pretty much decayed, Solomon began the building of his temple. At this time they would, from the remains of the tabernacle, still be able to ascertain the Mosaic ell. This measure was transferred to the temple; and that edifice which, being built of stone, was liable to still fewer changes, particularly in a southern country, where no severe frosts make the stones of a building separate from each
other, was 60 ells long and 20 broad; and thus, without taking into account other expedients that Solomon might have employed for the purpose, the ancient Mosaic ell was preserved until the time of Nebuchadnezzar, by whom this temple was destroyed. The numerous golden utensils which it contained, the vessel called the brasen sea, and the two copper columns, Boaz and Jachin, of which the altitude and circumference are specified, answered the same purpose.—

Now the question is, Have we ourselves such ancient and such authentically attested memorials of our ell, as it was 480, 592, or, reckoning to the time of Nebuchadnezzar, 903, 1015 years ago? (I know not whether we have or not; and I merely ask; for my readers will not be offended at me for my ignorance of many things:) And are these (I really do not ask this question, for I well know the contrary) specified in a book, that is in every-one's hands?

From what I find merely in the details relative to the structure of the tabernacle, where it is so manifestly his object to fix, in different ways, one uniform standard of measure, I am led to conjecture, that Moses had done still more with that view, and had given to the priests other special patterns of the ell, which they were ordinarily to use, and, moreover, one archetype which they were sacredly to preserve. Of this, however, he does not himself inform us; but if it was the case, the models mentioned in his writings, would always serve the purpose of preventing any alteration from being made upon them, either from carelessness or fraud, without its being quite manifest to posterity. This is actually more than
what the author of the excellent *Essay upon Money and Coins*, projected in the year 1758, and parliament took into consideration. And if the British legislature were desirous to insure to future ages the true measure of the ell, on the Mosaic principles and plan, they ought to have it ascertained by the mathematicians of St. Paul's church, with the most perfect accuracy, and to have an authentic record of the mensuration drawn up in the plainest and briefest terms, and published in a book, which every Briton might read, as easily, at any rate, as the Israelite heard the law read, once every seven years—in the catechism, for instance, or the calendar, which should not be allowed to be printed without this appendix concerning St. Paul’s.

It is to be hoped, that my readers are, by this time, somewhat reconciled to the Mosaic measures; and that they will no longer seek for types in the numbers; nor from the mensurations, whence they can derive neither edification nor amendment, deduce any more objections against the divine mission of Moses, and the inspiration of his writings; else must I class them with the man, who could not comprehend what could be the use of the rampart of a fort, because he saw no crop of either rye or wheat upon it, and therefore, could not be persuaded, by all the assurances that were given him, that it was formed after a plan drawn by the king himself. "It is not," persisted he, "for use, as a corn-field; neither wheat nor rye grows upon it; and our most gracious sovereign can have had no hand in any such thing."

2. The measures for corn and wine (*mensurae arido*...
Art. 227.] Hebrew Measures of Capacity.

rum et fluidorum) were among the Hebrews more uniform in their contents, than ours are. For their ephah, or bushel, and their bath (for liquids) were equally large.

It is very certain that there was a standard of these measures in the sanctum sanctorum, and that it stood before the ark of the covenant. Moses was ordered to place an homer of manna, (and the homer is the tenth part of the ephah, or Hebrew bushel) before God; and it appears that the vessel was not of wood, but of gold; Exod. xvi. 33. 36. Heb. ix. 4. It is probable that there were various other measures in use, although Moses has not inserted in his writings any account of their contents. At this no one need be offended, who joined in finding fault with the too frequent repetition of the ells; for, in fact, measures of this description could not properly be specified in the book of the law, because the standard vessel, which was of gold, could not, without risk of being injured, or stolen, be put in view of every Israelite, as the tabernacle was in all its specified dimensions.

To notice, however, some probable examples of standard measures of capacity, which may have been described in the catalogue, by which the sacred utensils were delivered to the priests and Levites; (Numb. i. iv.) I would remark, that, belonging to the table of shew-bread, there were not only golden tankards (מַגָּרֶת) in which wine stood, and from which it was to be poured out, but also small drinking vessels, shaped like our cups, likewise of gold. Now, considering Moses not as sent from God, but as merely versed in the learning of the Egyptians, we
must think it probable that all these vessels had their contents very accurately determined. I presume that the very same was the case with regard to the basons belonging to the altar of burnt-offerings; and for regulating the baking of the shew-bread, the flour for which the law fixed by bushels, there may have been a standard ephah within the sanctuary. Before the tabernacle stood the brasen laver. In the more particular description of the vessels delivered to the priests it was probably specified, how much water this laver contained, both when quite full, and when filled only to a certain mark; and accordingly we find, that the contents of this brazen sea, as it was called, are mentioned in both respects, in the historical books of 1 Kings (vii. 26.) and 2 Chronicles, (iv. 5.)

3. As to weights, Moses specifies them in the following manner,

20 gerahs make one shekel of the sanctuary*; 3000 such shekels make one kickar†, or talent.

By this information alone, however, posterity would not have been much benefited; for the question would be, How much is a gerah? and if it was replied, The twentieth part of a shekel; the question would recur, And what is a shekel? And if the answer was, Twenty gerahs, they would have been in the very same predicament.

* See Exod. xxx. 13. Levit. xxvii. 25. Numb. iii. 47. xviii. 16.
† This appears from Exod. xxxviii. 25, 26; where 301,775 shekels are reckoned 100 talents, and 1775 shekels more.—Moses gave no statute relative to the talent, as he did in the case of the gerah and shekel; probably, because there was no dispute about the talent, every one reckoning it at 3000 shekels; whereas the one shekel might comprise more, and the other fewer gerahs.
cament, in which the evil spirit stood, when he cate-
chised the orthodox collier on the subject of his be-
lief.—If, in the course of time, the shekel became
smaller, so likewise would the gerah diminish in the
same proportion.

But here too a standard was provided. The fifty
boards of which the walls of the tabernacle were
composed, rested each upon two silver sockets, and
every one of these hundred sockets was of the weight
of a talent; Exod. xxxviii. 27. Here, therefore, they
had no fewer than a hundred standards for the talent,
by which the shekel could at any future period be
determined. If they lost anything by friction, it was
in proportion very trifling; whereas, in the case of
smaller weights, like the shekel and gerah, the loss
by wear or friction amounts to something more mate-
rial.—The golden candlestick in the sanctuary, to-
gether with all its appurtenances, in like manner,
weighed a talent, Exod. xxv. 31,—89.; and in the
catalogue, according to which the different pieces of
furniture belonging to the tabernacle were given in
charge to their keepers, it was doubtless accurately
specified, what was the weight of the golden candle-
stick by itself, as well as of every golden pair of
snuffers, and of whatever else belonged to it; and
likewise that of all the golden articles belonging to the
table of shew-bread, and of the golden lid of the ark
with its cherubims. In this way they had a great
variety of standards for their weights, and if in any of
them, by the wear of the gold, any small diminution
of weight took place, others were always at hand to
rectify the defect. But it is not to be forgotten, that
these standards, of which some, at any rate, could certainly lose nothing by wear in the course of thousands of years, from their being so very sacredly preserved, were not of iron and copper, which, in process of time, are corroded by rust and verdigris, if exposed to dampness, or even to acids, but of gold and silver, which defy moisture and the common acids. Nor was there any reason to apprehend that the gold would ever be wilfully and feloniously filed down; for the profit of such sacrilege would have been too inconsiderable for people so rich as were the priests; and even though we should represent them to ourselves as ever so destitute of principle, they could scarcely have run the risk of being stoned for a few grains of gold. Besides, they must have had to re-deliver the articles under their charge, according to their weight, when required: not to mention that the sanctity of the golden standards, would make them shudder at the very thought of committing theft upon them in any shape. The best possible provision, therefore, was made for unalterable and authentic standards of weights.

And now, as to the superintendents of weights and measures. These were, much in the Egyptian style, the priests and Levites. To them the standards were delivered; and, indeed, article by article, to particular persons*; that so, if of gold or of silver, they

* See Numb. iv. the whole chapter. From verse 32. we see that the utensils of the tabernacle, those even of less value, were delivered to the Levites, one by one, or, as it is more properly expressed, with names. Every article, therefore, had its name, much in the same way as the two columns in the temple, Boaz and Jachin.
Art. 227.]

The Different Shekels.

might re-deliver it by weight; besides, the whole tribe of Levi were maintained by the public, in return for their devoting themselves to the sciences. (Art. LII.) Nay more, we find it expressly mentioned in 1 Chron. xxiii. 29., that David, when he assigned to each Levite his department, appointed some to superintend the weights and measures.

Thus were these things really consecrated; and thus are the words of Solomon in Prov. xi. 16. true, in a sense which readers seldom think of; A just balance is sacred to Jehovah; and all weights are his work.

At the same time, however, Moses nowhere prohibits the use of foreign weights and measures; at least I can recollect no such prohibition; and from his so often mentioning the sacred shekel, and in Lev. xxvii. expressly saying, All estimations of vows shall be made by the sacred shekel, it would appear, that there had been another shekel, which he did not prohibit, but only meant that every thing in his laws relative to imposts, penalties, &c. &c., should be understood in reference to the shekel of the sanctuary. At any rate, there seems, besides this sacred shekel, to have been many foreign ones, and, moreover, a royal shekel, established by later laws, (2 Sam. xiv. 26.) and of a smaller weight than that of Moses; concerning which I have treated in another place, and the origin of which may have been the following. As it was not

* Literally, over all division and measure. Division is here put for various measures; and Luther has given no bad version of the passage according to its meaning, zu allem Gewicht und Maas, to all weight and measure.

† Commentatio de Siclo ante Exilium Babylonicum.
Israelites used Foreign Weights, &c. [Art. 227.

forbidden to deal in common life by different weights, there arose, in process of time, a much smaller, but variable shekel; and to prevent uncertainty and imposition, the kings fixed the weight of this common shekel more accurately; so that from this time there were two lawful shekels current among the Israelites, the sacred and the royal.—Even Moses himself, in his historical relations, does not seem to adhere uniformly to his own measures; as, for instance, where he describes the coffin of Og, king of Bashan, as nine ells long, and four broad, measured by the elbow of a man; Deut. iii. 11.; concerning which passage, I request that the remark in my German version of the Bible may be perused.

It is, no doubt, an imperfection of police to permit the use of different weights and measures; and it may be asked, Why Moses did not go a step farther, and expressly prohibit all but one set? We must here, however, take into consideration the circumstances of the Israelites, and bear in mind, that, not being themselves a commercial people, they were dependent for trade upon other nations; upon the Phœnicians for maritime commerce, and upon the Arabs for the caravan trade that passed through Palestine. A people in such circumstances cannot altogether avoid making use of foreign weights and measures, if they would avoid being over-reached by the foreign merchants, in whose hands the whole trade is; only they should have one invariable standard of their own, to which all others can be reduced, and that they ought in justice to use in dealing one with another. This standard may, no doubt, be departed from by an
Art. 227.] Prophets mention False Weights, &c. 397
abuse, and other foreign weights, &c. become current among the citizens; and I suppose it was some such abuse that gave occasion to the establishment of the royal shekel. Some writers, however, look upon the royal and sacred shekels as the same; and if that be admitted, much of what I have here written falls to the ground.

That Moses enjoins the use of just balances, and just weights and measures, is very obvious. The statutes relative to this point occur in Lev. xix. 35,—37. and Deut. xxv. 14. 16. If it is forbidden then to have a great and a small bushel, a great and a small weight, the meaning is not, that beside the shekel of the sanctuary, they were not to have any other, nor even in their dealings with foreigners to use their shekel; but only, that they were not to have two different weights of the same denomination, a larger to purchase by, and a lesser to sell by.

It would appear, that these statutes were, in the time of Moses, pretty sacredly kept, because he does not once mention any punishment as being annexed to their violation; but deems it sufficient to say, Whoever committeth such unrighteous deeds is an abomination to Jehovah thy God. The very circumstance of their regarding balances, weights, and measures, as consecrated to the Deity, might keep a people, while yet honest and religious, from fraudulent practices, as being offences in the sight of a holy God. In later times, however, we find the prophets often charging them with the use of false weights, &c. &c.

Concerning silver money, which was not coined, but weighed, we have already spoken, in Art. LXXXII.
BOOK V.  
CRIMINAL LAW.

INTRODUCTION.

ART. CCXXVIII.

Plan of Treating the Subject.

§ 1. In treating of Criminal Law, I shall,
1. Make some remarks on the Mosaic ordinance respecting Imputation.
2. Illustrate the different Punishments which appear in the Mosaic law; because from the mere sound of their names, we often have false ideas of them, and the more so, in consequence of our credulity in copying Jewish fables.
3. Take a survey of the several Crimes mentioned by Moses, specifying the Punishment appointed for each; and,
4. Collect what little is to be gathered from his writings, with regard to the Investigation of Crimes, and the Form of Judicial Procedure.
CHAPTER I.

OF PUNISHMENTS.

ART. CCXXIX.

Of Imputation; or the Punishment of Parents for their Children, and Children for their Parents.

§ 1. The only statute which we meet with respecting imputation, is that in Deut. xxiv. 16. Parents shall not die for children, nor children for parents; every man shall die for his own crime. Here Moses abrogates that unnatural, but very ancient law, whereby, in the case, at least, of certain species of crimes, parents were obliged to suffer death for their children, and children for their parents. This abominable invention, which disgraces the laws of so many ancient nations, had its origin either in insatiable revenge, which could not be contented with the death of the guilty alone; or in a mistaken policy, which had it in view to interest the whole family in preventing any of its members from committing crimes against the state; (for it was only in regard to these, and especially in the case of attempts against the lives of cowardly tyrants, afraid but for their present existence, that this strange law generally operated) because the innocent would be sure at last to suffer with the guilty. So
short-sighted was that policy, as not to perceive, that it thus produced the very opposite effect to what it intended: for it certainly is not in our power to prevent even all the state-crimes and conspiracies in which our relations may be engaged; and if, living under so unnatural a law, we are unfortunate enough to discover any thing of that nature, which would not, perhaps, after all, be sufficient to impeach a brother, son, or father; unless we want, besides suffering the upbraiding of our own hearts, to become the abhorrence of the whole world, we will, rather than suffer innocently, not only wish success to the scheme, but also become partners in it, and do our utmost to promote its object. The very severity of the law will unite many hands, that would otherwise remain inactive, against the tyrant who thinks to secure himself beneath the shelter of such a barbarous law. Nor can we regard it in any other light, than as really a most wonderful specimen of legislative policy, that Moses should, in the very earliest age of the world, have been able to abolish among the Israelites a practice not only unjust, but also impolitic, which prevailed so long afterwards among the Greeks and other nations; and which, in reading even at school the history of Alexander the Great, strikes us, if we have any reflection, as at once absurd and cruel, and naturally suggests the thought, How happy is it for me, that I was not born in Greece in the days of Alexander!

But however rational the Mosaic statute was, we find that, in cases of treason, it did not always continue in force; and that Asiatic policy had more influence than the verdict of sound reason, supported even...
by the authority of religion. In the xxii. chapter of 1 Kings, we read, that Naboth was stoned for an alleged crime against the king; and although not one word is there said of his children having been stoned also, it is nevertheless evident from 2 Kings ix. 26. that this must have taken place; from which it is presumable, that it was so common, that the historian left it unnoticed, as a matter of course. On the other hand, it is related in 2 Kings xiv. 5, 6. of Amaziah, king of Judah, that he put the murderers of his father to death; but it is added, as a remarkable circumstance, that, in obedience to what is ordained in the law of Moses, he did not cause the children of the regicides to be put to death along with them; for God commanded that children should not die for their parents, nor parents for their children, but every one for his own crimes only; in regard to which passage we may remark, that where a historian finds it necessary to take notice of any such circumstance, it is fair to conclude, that it must have been something extraordinary, and contrary to the usual practice of the times.

Two objections have been devised against this law. The first of them, "How can Moses prohibit the capital punishment of children for the crimes of their parents, and yet in Exod. xx. 5. represent God as declaring, that he punishes the sins of the fathers upon the children, unto the third and fourth generation?" is a piece of mere chicane. For,

1. In the first place, there is a great difference between what Providence and the secular magistrate may do. For,

1. Providence, as it gives children to parents, may
therefore, to punish the latter, so regulate events, as that the father who merits punishment, shall have a wicked son, who also merits it for his own crimes. But on this principle an earthly monarch cannot proceed; else would he be under the necessity of punishing the son of a guilty father, however innocent and worthy of reward he might be.

2. Providence, besides, as daily observation may convince us, exercises the right of distributing happiness and misery in this world, otherwise than according to men's deserts; nor can we complain of this, because the present life is only a state of preparation and education for another; and because Providence has the power of rendering the worst evils of this life, which threaten the pious, subservient to their happiness. This too is out of the question with respect to punishments inflicted by the magistrate.

But we have farther to observe, with regard to this objection, that, in sanctioning the prohibition of idolatry in the terms above quoted, God seems merely to speak with a peculiar view to the leprosy, which is in fact generally hereditary to the third and fourth generation; and with this hereditary disorder, God may threaten transgressors of his law, with the very same justice with which he has regulated the course of nature in such a manner, as that some diseases, which are the natural consequences of sin, extend to the children of the sinner. Those who are disposed to complain of this threatening of leprosy, should begin by instituting a process against Nature, for making the debauchery of parents bring consumption, Lues Venerea, and other disorders of a similar kind upon their children.
II. The second objection is taken from the story of Achan, in the vii. chapter of Joshua, where we are told, that not only Achan himself, but also his sons and daughters, were stoned, ver. 24, 25. To this, the common answer, and most likely also the true one, is, that they must undoubtedly have been accessories to their father's crime; for he buried what he had sacrilegiously stolen, in his tent, which he could hardly have done, without the privity of his family.

It is obvious, that the rule of fathers not dying for their children, and conversely, could only hold in regard to penal laws, properly so called. It was not extended to the laws of war, any more than it was so by the Romans and other nations, when they took cities by storm. Of the laws of war, I have already treated; and the purpose for which I have made the present remark, will appear in the sequel.

ART. CCXXX.

Of the Design of Punishments.

§ 3. The purpose of inflicting punishments is expressed by Moses, (in the very same terms in which it is usually stated in our criminal indictments and sentences,) to be the determent of others from the commission of crimes. His language is, that others may hear and fear, and shun the like crimes, Deut. xvii. 13. xix. 20. He has, therefore, given no sanction to the fashionable and ridiculous notion which some people of the present day, who call themselves philosophers and theologians, have thought fit to entertain, viz. that the amendment of the criminal is the necessary
end of punishment. This pretended philosophy, however, or whatever else we may choose to call it, is utterly unknown in common life, and cannot be better illustrated than by a speech, altogether in point, and truly curious, which was stated in the English newspapers, about two years ago, to have been made by a woman in Dublin. She met her son going to the gallows to suffer for a highway robbery, and exclaimed, *I hope, my dear child, you will take a warning by it!*

Concerning the design of punishment, however, I have it in contemplation to give my thoughts at more length, in a particular Essay, which will form part of the concluding volume of this work.

**ART. CCXXXI.**

*Division of Punishments—with some Preliminary Observations.*

§ 4. The punishments appointed by Moses are remarkably different from ours that even bear the same names. *Hanging, burning, and the punishment of the sword,* do not mean, in his writings, what we understand by them; and therefore it is necessary to explain their meaning *in limine.*

I propose, then, to treat of punishments in the following order:

I. Of *capital* punishments, including those that were inflicted on the bodies of criminals after death.

II. Of *exile,* whether consisting of complete expulsion from among the people, or only of confinement to one particular city.

III. Of *corporal* punishments.
IV. Of pecuniary punishments; in addition to which I shall make some observations.

V. On offerings, considered as an abolitio criminis.

Concerning the Mosaic capital punishments, we commonly entertain very erroneous ideas, which have been taken from the Jewish Rabbins, and confidently repeated by authors upon their authority; such, for instance, as this, that in cases where criminals were to be burnt, they had melted lead poured down their throats, in order to consume their entrails; with a great deal of stuff to the same purpose. Those who have not had the misfortune to learn Rabbinical logic, or, in plainer terms, to lose their sense and understanding by studying Rabbinical nonsense, will easily conceive that those Rabbins, who lived long after the destruction of the Jewish polity, cannot possibly be considered as historical evidences, where the question is concerning the capital punishments of the Israelites, and that whatever they say beyond what can be proved from the Pentateuch, deserves not the least credit. Yet in regard to this point, they relate a great many particulars, in direct opposition to what the Mosaic writings testify; and we ought to bear in mind this farther circumstance, that the Jews, previous to the second destruction of Jerusalem, had been for many centuries subject, 1. to the Babylonians; 2. to the Persians; 3. to the Greeks; and, 4. to the Romans; and to these last indeed so completely, that Judea, on the deposition of Archelaus, was converted into a Roman province. During this long period of subjection, they had not had the power of inflicting capital punishments at their own pleasure, but...
were obliged to submit to those that happened to be in use among their foreign masters; and how then is it possible, that they could have preserved a correct remembrance of the customs of their ancestors; or that their Talmud, or Maimonides, or any one else among them, should deserve the smallest credit, with respect to the nature and kinds of their ancient capital punishments?

Here, therefore,—and it would perhaps afford but little gratification to my readers,—I should really be under the necessity, first of detailing, and then of confuting, the Rabbinical chimarbas, which have been transferred even into books of law on this subject; were it not that my father had previously treated of them so fully in a particular Dissertation, that I may entirely refer my readers to him for information.—The title of that Dissertation, which was first published at Halle, in the year 1730, and republished, with additions, in 1749, is the following: Christiani Benedicti Michaelis Tractatio de judiciis pennisque capitalibus in Sacra Scriptura commemoratis, ac Hebraorum imprimis; iterata hac Editione recognita, variisque accessionibus quanta. To this Dissertation, then, I am to be understood as referring, whenever I depart from the Rabbinical whims which are there controverted. With regard to any additional observations I may make, I do not think it necessary to distinguish on every occasion between my father's ideas and my own. Those, however, who wish to know what belongs to each, can have recourse to the Dissertation itself. Indeed the reader can hardly dispense with it, if he wishes to become acquainted with the dreams of
the Rabbins, and does not think fit to believe me, where I deviate from the common notions, on my bare word, without having the proofs before him. At the same time, it contains a great deal of matter not strictly connected with the Mosaic law; because it treats, beside, of the punishments that are mentioned in other parts of the Bible, and even in the New Testament, concerning which it illustrates many particulars not to be found in commentaries. Should it be no longer to be had, I am ready, if requested by the readers of this work, to publish it again with new additions and improvements; as indeed I should be to print a general collection of the Dissertations of my late father, with a great many additions which he left in manuscript.

I have just said that my readers will not here find an account of all the capital punishments mentioned in the Bible, or even in the Old Testament only; and I shall now state the reason, which will sufficiently excuse me with those, who have sought in this work what did not properly belong to its design.

Some of the capital punishments that are mentioned in Scripture, were only usual among other nations; such, for instance, as that of burning alive, (Jer. xxix. 22. Dan. iii. 6.) and that of Dichotomy*, or cutting the body in pieces, limb from limb, (Dan. ii. 5. Ezek. xvi. 40. xxiii. 47.) among the Chaldaens; either that of strangling, or hanging, (1 Kings xx. 31.) among the

* The reader may compare § 21. of my father's Dissertation above quoted, and (until I republish it with the additions above mentioned,) my Oriental. Bibliothek. part iv. p 89.
Syrians of Damascus; and what will naturally occur to every one, that of crucifixion among the Romans. None of these punishments have any connection with the Mosaic law.

Other punishments, again, were only inflicted on enemies in time of war, such as laying them on thorns, and then drawing threshing-waggons over them.—These, in like manner, do not fall to be considered here, but belong to the severe war-laws of ancient nations, of which we have already taken some notice in Art. LXIV.

ART. CCXXXII.

In Egypt and in Israel, under the Kings, the Life-Guards, and their Commander, were charged with the execution of Capital Punishments, but we do not find any such arrangement in the Mosaic Law.

§ 5. The office of executioner of capital punishments was neither among the Israelites, nor yet among their neighbours, as far at least as we know of them, considered as at all ignominious; so far otherwise, indeed, that it might be united to that of the priesthood. Moses, however, mentions no such office in his laws, although he knew it in Egypt, and although we find it subsequently revived under the Israelitish kings.

In Egypt, and at Babylon, it appears that a servant of the king's, and one too of very high rank, was charged with the execution of punishments. He was called (רְבֵּא תַבָּחִים) Rab Tabbachim, or (רְבֵּא תַבָּחִים)}
Egyptian Executioner, respectable. [Art. 242.

Sar Hattabachim, which the LXX., unless we apply ourselves of Jerom's * illustration, render very unsuitably, by chief cook, and Luther, by the term Hofmeister (Court Master.) Literally translated, it would either be chief of the butchers, (those, namely, who kill men,) or, taking the aid of the Arabic †, chief of the tormentors; both of which titles amount to pretty nearly the same thing. What sort of a personage he had been, we may judge from the following passages. In Gen. xxxvii. 36. xxxix. xl. he is a principal officer of the court of the king of Egypt; in whose house, or rather castle, state-prisoners were kept, and under whose authority they were. At Babylon, we find from Dan. ii. 14. that he was sent forth by Nebuchadrezzar to execute capital punishments. In Jeremiah, he is very frequently mentioned. In chap. lii. 15. he appears as a military character, having the command of an army; and a person too of very high distinction: for, in chap. xxxix. 13. he is placed before other military officers, mentioned in ver. 2., of whom one was, at the same time, grand marshal of the court, and another, chief of the Magi, or men of learning; and throughout the whole narrative, he appears as the principal character. In chap. xxxix. 9. lii. 15, 30. we find him sending a part of the people into exile, as the punishment of their rebellion. In

* Jerom, in his Quæstiones in Genesis, on chap. xxxviii. 28. says, In plerisque locis Archimagiros, id est, Cocorum principes pro magistris exercitus Scriptura commenmorat; μαγισσιν, quippe graece interpretatur occidere. Videbatur estigitur Josephus principi exercitus et bellatorum.

† Tabich, from the same root, is, in the theology of the Arabs, the angel who tortures the damned.
Art. 232.] Rab-Tabbachim commanded the Guards. 411

chap. xxxix. 10. xli. 10. xliii. 6. lii. 16. he leaves the poorest of them behind, to cultivate the lands, and delivers them over to the governor appointed by the king of Babylon. In chap. lii. 12,—14. he burns the city and temple; and in chap. lii. 24, 25. brings the prisoners who had the principal hand in the rebellion, and were on that account to be punished with death, to Ribla, where Nebuchadnezzar then resided, and where they were to receive the recompense of their rebellion. All this looks pretty like the duty of the commander of the life-guards, who, among many ancient nations, was charged with the execution of criminals; and the following singular circumstance serves for an additional confirmation of his being so. There is no doubt that the Rab Tabbachim of the prophet Jeremiah was a military personage of high rank, and yet he does not appear to have been present at the conquest of Jerusalem; at least he is not among the Babylonian generals mentioned in chap. xxxix. 3. who immediately posted themselves in the gate of the conquered city. This, however, is at once quite easily to be accounted for, if he was commander of the life-guards; because, as such, he would ordinarily be about the king's person; and Nebuchadnezzar was at that time, when Jerusalem was taken, residing at Ribla, at the distance of several days' journey, not having been present at the siege.

Some of the ancient versions accord, either entirely, or very nearly, with the explanation now given. The Chaldee has (רבי פלしました) Rab Katolaja, which means, not chief of the murderers, (for who would ever invest any one at court with such an office?) but
Profectus Carnificum, (chief executioner.) The Syriac has (רבע产业集聚) Rab Dachasha, that is, chief of the servants, or, in more explicit terms, Praefectus Lictorum. Even the LXX. may be said to coincide in the same interpretation, if we adopt Jerom's explanation of the Greek word αρχημαχος, already quoted; concerning which, Bief's lexicon may be consulted. It forms no objection to this opinion, if we only beware of confounding ancient with modern customs, but rather serves to confirm it, that Josephus, in his Antiquities (x. 8. 5.), calls him the general, στρατηγος; and the Vulgate, Magister Militum. But what I have now to mention, comes still nearer to the idea which I have given of him. Josephus, in another passage of the Antiquities (x. 10. 3.) mentions the Rab Tabbachim, who commanded the king's life-guards, Λοξως, τω την επι των σωματοφυλακων τω βασιλειως αρχην πεπιστευειναι; and the second Chaldee translation of the Pentateuch, called Pseudo-Jonathan, has (רבע产业集聚) Rab Speculatoria, that is, Princeps Spiculatororum. Now, these spicatores, or speculatores, were a sort of garde-du-corps armed with spears, who, as we know even from the New Testament (Mark vi. 27.), were employed by kings as executioners of criminals*. The Arabic version, or, to speak more accurately, several Arabic translations of the Bible, render Rais Essajjaffin, that is, the chief of the Sajjaffin, or sword-bearers; and that these, again, are none other than speculatores, appears

* The reader should consult Wetstein on this passage, where he will find much good information collected from Greek and Latin authors; as also Schwartz De Speculatoribus veterum Romanorum.
from the Arabic version of the above-quoted passage from Mark, where the Greek \( \sigma\pi\epsilon\kappa\nu\lambda\alpha\tau\omega\phi \) is rendered \( \text{Sajjaf} \).

Among the Egyptians, therefore, before and during the days of Moses, and among the Babylonians at the time of the destruction of Jerusalem, the king's life-guards were likewise the executioners of criminals, and their commander had the honour of being \textit{Provost Marshal}. But we find also, that the same was the case among the Israelites under the kings. The \textit{Creti} and \textit{Pleti}, who are repeatedly mentioned in the history of David, and concerning whom we have a very fine Dissertation by the late \textit{Iken*}, were David's life-guards; and \textit{Josephus} expressly calls them so, in his \textit{Antiquities} (vii. 5. 4.), where he says, \( \text{Βαβαϊα την ταν σωματοφυλακιών αρχήν παρεδωσαν} \)—a passage which I quote the rather, because \textit{Iken} appears to have overlooked it. The name \textit{Creti} is, as I think, given them from their office as executioners, and might be translated \textit{beheaders}, \textit{exterminators}, or \textit{destroyers†}. But without building on this etymology, we see pretty clearly from what is mentioned of their commander, Benaiah, the son of Jehoiada, that they had the very

* Being the \textit{ninth} of those collected and published at Leyden in 1749, under the title of \textit{Conradi Ikenii Dissertationes philologico-theologicae}

† From \textit{amputare, excindere}. The derivation given by \textit{Iker, § xi.} is not quite conformable to the rules of grammar; and those which he proposes conjecturally, from \( \text{בכר} \) or \( \text{בר} \), are still less so. His derivation of \textit{Pleti}, I adopt; and would render \textit{Creti} and \textit{Pleti}, in Latin, \textit{Carnifices et Celeres}, using the latter word in the ancient Roman meaning, which he has finely illustrated.
same duty as executioners of criminals, which the Tab-bachim had among the Babylonians. This man, who is celebrated in the catalogue of David's heroes on account of his personal prowess, and whose titles would in German form a very strange combination, unknown to our letter-writers and title-books, had, I know not whether three or five offices; and one thing is certain, that in the beginning of Solomon's reign, the duties of the last of them did not let him be idle. In the first place, he was priest, and high-priest too, that is, head of the family of Aaron, (1 Chron. xxvii. 5. compared with xii. 27.) next, commander of the 24,000 militia, who in the reign of David did duty during the third month of the year, (1 Chron. xxvii. 5.) then, commander of the life-guards, or the Creti and Pleti, (2 Sam. viii. 18. xx. 23. 1 Chron. xviii. 7.) and, lastly, provost-marshal, in the duties of which office we find him, in 1 Kings ii. 25, 34, 46. pretty fully employed.

It appears then, that the Israelitish kings had officers of the above description, and employed them more especially in the punishment of state criminals, or in executing capital sentences immediately pronounced by themselves. At the same time it is plain, that neither the life-guards, nor their commander, could execute all the capital sentences throughout the land; and moreover, that those persons whom the Mosaic law invested with the right of putting criminals to death, were not thereby superseded. Of them I must now speak, as strictly entitled to notice in the present work; what I have hitherto stated being a sort of digression, which, however, I was under the
Art. 233.] Execution of Despotic Sentences. 415

necessity of making, in order to render the subsequent particulars more intelligible.

ART. CCXXXIII.

Of the Mosaic Ordinances respecting the Execution of Capital Punishments.

§ 6. As Moses has in his law no king, of course we cannot expect to find life-guards as executioners of criminals. Persons of this description he must have known in Egypt; but it would appear, that he did not find it expedient to institute any such office, and very possibly was deterred from doing so, by observing how frequently it was abused to the purpose of executing despotic sentences, pronounced without any previous trial, or legal condemnation. Examples of such abuse from Egypt, I have none to state; but the danger of it is sufficiently illustrated by that noticed in the second chapter of Daniel, where the provost-marshal is ordered to dispatch all the learned men of Babylon, because they could not tell the king what he had dreamt; and by that also in the sixth chapter of Mark, where one of the guards is ordered to bring the head of John the Baptist, which Herod had at a banquet rashly pledged himself to give to the daughter of Herodias, for her elegant dancing. Many instances of the same kind might be collected from the history of the Roman Caesars; and methinks, the two sentences of Solomon, in 1 Kings ii. 25, 41,—46. have, with all their justice, a certain appearance of despotic precipitation, which we cannot well approve.
Hence it follows that Moses could not ordain any species of capital punishment, the execution of which presupposed *practice* and *experience* in the executioner; such, for instance, as beheading, whether performed with the sword, or with the axe: and for the same reason, hanging was out of the question; because the person who has not learnt the business, will be sure to make strange work of it, and only keep poor criminals in torture for a long time unnecessarily.

Here, however, from Exod. xxxii. 26,—29. and Numb. xxv. 6,—9. an objection will perhaps be started, and I may be asked, whether Phinehas and the Levites did not proceed exactly like Solomon’s provost-marshal, and his life-guards?—They, however, by no means did so. For *both* these cases must be considered as altogether extraordinary; and in the latter, we do not see so much of a crime, as of open contempt of the magistrate, accompanied with a degree of violence, which required and justified the use of forcible measures in return. The reader may recollect what we have stated at the end of Art. LXIII. in reference to this same story.

If the person to be put to death was a murderer, he ordinarily died by the hand of the Goël, described in Art. CXXXI—CXXXV., to whom he was delivered for that purpose, and who, by ancient usage, enjoyed the right of killing the murderer of his kinsman, when he met him without the limits of his legal asylum, not merely without any formal trial, but even without any warning; Numb. xxxv. 12, 19, 21, 24, 27. Deut. xix. 12. In this case, then, the execution of the criminal
though it may sometimes have been a little barbarous, was so far from being an ignominious act, that the point of honour expressly required it at the hand of the Goël*: and for the sake of this very point of honour, Moses left the ancient law, which, in other respects, was in some measure reprehensible, untouched, and as he found it. (Art. CXXXVI.)

In other cases, Moses usually ordains the witnesses to bear the first hand in the punishment of a criminal, and the whole people standing round to follow their example; for instance, the former were to throw the first stones, and the latter then to continue throwing, till he was dead†. By this plan no one could be put to death without a previous trial and exhibition of witnesses; whereas where capital punishments were executed by life-guards, the procedure was, doubtless, sufficiently summary. It would appear also, that the legislator very seldom expected to find an instance of such supernatural villainy as must be requisite to make a man bear false witness against the life of his neighbour, where he is aware, that he will himself, in cold blood, have to bear the first hand in his punishment. I should think that, on such occasions, a half-hardened miscreant must have let the stone fall from his trembling, irresolute hand. In so far, therefore, this plan served as a preventive of false witness in matters of life and death.

* Such also continued to be the case in the time of the kings. See 2 Sam. xiv. 7,—11.
† Deut. xiii. 10 xvii. 7. with which passages Josh. vii. 25. and John viii. 7. may be compared.
What is said in Deut. xiii. 13,—15. of the whole people destroying a whole city with the sword, is rather to be understood in reference to the laws of war, than to the subject now under consideration.

**ART. CCXXXIV.**

*The Sword and Stoning, the only two capital Punishments of the Mosaic Law.*

§ 7. Moses, properly speaking, has in his law only two sorts of capital punishment, the one of which was, in point of severity, much about equal to the other, namely, the *sword* and *stoning*. To many it will at first seem strange, that I thus put them so nearly on a footing—although, perhaps, not quite so strange as the Jewish doctrine which my father controverts in § 4. of his Dissertation, namely, *that stoning is a more painful punishment than burning alive*; but when they have heard the description of both punishments, they will agree with me in thinking, that although the punishment of the sword may often be the less painful, still it may, in many cases, have been *equally*, and even *more* painful than stoning.

I. The punishment of the sword did not, as among us, and as the Rabbins have conceived from the customs of other nations, consist of decapitation. Of *that* not one word appears in the *laws* of Moses; and it is merely once mentioned in his *history* (Gen. xl. 19.) as an Egyptian punishment, that the king's chief baker was to have his head cut off, and his body then hung on a tree: *nor, indeed, do we in all the Old*
Art. 284. ] In what cases the Sword was used. 419

Testament ever find an instance of a criminal being beheaded among the Israelites, or Jews. Add to this, that Moses, as I have already remarked, appoints no executioner; and beheading requires a certain degree of art or dexterity, in hitting the neck fairly with the sword or axe. Not even does Benaiah, the son of Jehoiada, Solomon's right worshipful executioner-general, appear to have cut off the heads of those whom he put to death. His master's order is, Fall upon him, (Joab, or whoever else it was) and kill him; and straightway this sturdy butcher falls upon him, and kills him, 1 Kings ii. 25. 29. 31. 34. 46. Now, this does not look as if the malefactor was to be beheaded; for, in that case, he must stretch out his head, or lay it down, else he is sure to be horribly massacred. Now Joab, who had fled for refuge to the altar, certainly had not the least intention or idea of stretching out his neck to the sword; else would he have gone from the altar, and have delivered himself up to justice; but he was just dispatched at the altar, with the first and readiest wounds that the provost marshal could give him, 1 Kings ii. 28,— 34.

It will, however, be proper that I state the cases in which the punishment of the sword was resorted to; in order to enable the reader the better to understand wherein it consisted.

1. In the first place, when a whole city or tribe was hostilely attacked for any common crime, they smote all (as the Hebrew phrase is) with the edge of the sword, Deut. xiii. 13,—16. Here, without doubt, the sword was used by every one, just as he found opportunity.

2. In the second place, the Jews insist, that the
punishment of the sword was used against murderers, and here they are, in my opinion, right in the main*; only we must here likewise beware of thinking of any thing like decapitation; for the Goël, who had to avenge the death of a kinsman, was not likely to resolve upon that mode of vengeance, but, however mercifully inclined, to dispatch the murderer by the first means in his power. And here, as no particular procedure was prescribed to the Goël, the punishment he inflicted may sometimes, no doubt, have been marked with a considerable degree of cruelty; as it still actually is in the East at this day, when the avenger goes forth in wrath. The kinsman of the murdered person might be a man of a vindictive disposition, and put the murderer to death with many painful wounds; so as to make him suffer much more than if he had been stoned; and particularly if he had exercised any cruelties on the person whom he murdered; in which case, the law of retaliation, to be illustrated in the sequel, might be supposed to operate. When, however, the murderer was mercifully put to death with one wound, perhaps the most common way was by ripping up the belly, which does not require much dexterity: and very probably this was the

* The reasons for this, will be found in § 13. of my father's Dissertation; to which I have to add, that as the Goël, in avenging the blood of his kinsman on the murderer, might kill him wherever he found him, except in a city of refuge; so the most convenient instrument for the purpose certainly was the sword, or knife, which the Orientals carried; and accordingly we find the blood-avenger represented, not only by the ancient Arabian poets, but by modern travellers, as going forth with his sword, or dagger, ready to plunge it in the body of the murderer.
Art. 234.] Stoning less painful than the Wheel. 421

plan adopted by Solomon's executioner-general, when he fell upon any one, in order to dispatch him. The reasons why I think so, will be found in § 27. of my Dissertation, De pena homicidii.

II. Stoning required no art, and took place without much ceremony; the witnesses threw the first stones, and the rest of the people then followed their example. That the person to be stoned must have been bound, is obvious; but everything else that the Jews relate of a stage on which he was placed, and then tumbled down, &c. &c. is Rabbinical nonsense, sufficiently confuted in § 5. of my father's Dissertation.

Stoning, doubtless, was a punishment, by no means attended with so little pain as our beheading or shooting; but then, on the other hand, it was by no means so severe, as our breaking on the wheel, where the coup de grace is not given at the beginning; indeed, there is no comparison between them. For the first volley that hit the head of the criminal, would, in general, by shattering the brain, deprive him of all feeling, and if this took place at the very beginning, he could not have suffered so much as many of our culprits, in sprawling two minutes on a gibbet. But even where it did not, it is one thing in point of pain, to have the bones all broken in pieces, and quite another to have them only violently bruised with stones; which, indeed, at the moment, is far less painful, than it becomes some days after. Besides, breaking on the wheel is the more painful, by reason of the criminal previously knowing that all his bones will be shattered, that he must be laid upon the
wheel for that purpose, and that his sufferings will be tedious; whereas here, the stones being thrown in volleys, life was probably extinct before the lapse of two minutes. All these circumstances being considered, it will probably be admitted, that the punishment of the sword may be as painful as stoning, if not more so; and consequently, that in the capital punishments ordained by Moses, there is, properly speaking, no gradation: and thus, that Rabbinical whim, which my father has in § 12. of his Dissertation controverted on different grounds, is done away; namely, that because stoning is a more severe punishment than burning alive, and burning alive than the sword, and the sword than strangling, therefore, wherever in the laws of Moses, we find the words, he shall die, we ought to understand them of strangling, as the mildest punishment. In fact, strangling is none of the two Mosaic punishments, nor yet was it ever in use among the people of Israel. The choice between the severer and milder could have no place, where both were pretty much upon a par; and stoning was so notoriously the usual capital punishment, that of it alone can we think, when Moses specifies none other, and where no particular circumstance besides interferes.

Thus then, if in the Mosaic law we find not the very mildest sorts of capital punishment, such as beheading, &c., by which death is suffered in a moment and without pain; and the want of which we must ascribe to the circumstance of no person being appointed for the purpose of acquiring dexterity as an executioner; so neither do we find in it, on the other hand, any of those very barbarous, torturous, and tedi-
Of Burning.

Of Burning.

ous punishments, of which crucifixion*, among the Ro-
mans, was an instance, and of which also we sometimes,
even now a-days, read in newspapers, when the exe-
cution of a French regicide is related; or when Turk-

ish criminals are stated to be impaled, or flayed alive;
so that if, in any case, we find its penal inflictions se-
vere, human nature will never, at any rate, shudder
at their cruelty.

ART. CCXXXV.

Punishments consisting of posthumous insults.

§ 8. There are three punishments of this descrip-
tion specified in the laws of Moses; namely,

I. Burning; which is with him not a capital pun-
ishment; and means neither that species of burning,
which has since been usually inflicted on heretics;

nor yet that, which the Rabbins have groundlessly
imagined, of molten lead poured down the throat of
the criminal; but was a posthumous punishment in-
flicted on his lifeless corpse; in its being, as is still
practised in the case of certain heinous crimes, con-
sumed by fire. This we clearly see from the seventh
chapter of the book of Joshua. In the 15th verse, it
is pre-ordained, that the person who had committed
the crime of sacrilege, and who was yet undiscovered,

* The first instance of crucifixion among the Jews, which I find in
Josephus, (Antiq. xiii. 14. 2.) is where Alexander, the Jewish king,
causes 800 Jews to be crucified. At that period, therefore, they
had adopted this punishment from foreign nations.
should be burnt with fire; and in verse 25. we find that the execution of the sentence upon him, consisted in his being first stoned and then burnt, and last of all having a heap of stones raised as a monument of infamy over his remains. In this way then it is probable, that we ought to understand what Moses says in the two passages of his law, where he mentions burning, namely, Lev. xx. 14. xxi. 9.; and it can scarcely be understood otherwise, where it occurs in his history, Gen. xxxviii. 14. for Thamar was by the Levitical law, (Art. XCVIII.) as belonging to the brother of her deceased husband, considered as an adulteress, when her pregnancy was discovered; and that stoning was the punishment of adultery, will appear in the sequel.

II. Hanging, whether on a tree, or on a gallows, (for the Hebrew word signifies both) is not one of the capital punishments of the Mosaic law; but took place in certain cases after such a punishment; just as with us, many criminals after decapitation are broken upon the wheel. We find, at least, nowhere any thing said of criminals being hung alive; but the following passages may serve to throw light on those more ambiguous ones, where hanging is barely mentioned, without any additional particulars.

Let the first of them be the statute itself, Deut. xxi. 22. If any man be put to death, and hanged on a tree, or gallows, his body shall not remain suspended all night, &c. &c. Here the poor wretch is first deprived of life, and then hung up. If the reader still hesitates, let him consult Josh. x. 16. where he will find the five Canaanitish kings first slain and then hanged;
Of Hanging.

or Gen. xl. 19. where Joseph says, *In three days shall Pharaoh cut off thine head, and hang thee on a gallows.*

Here many expositors have perplexed themselves in vain; not knowing how a man without a head could be hung; and have invented a variety of strange explanations of the passage, from thinking only of the customs and punishments in use in their own countries, and that a man can only die one death. Some, like Piscator* and his predecessors, have, out of absolute despair, converted a head into a spiggot. *Piscator's version is, *he shall draw out thy spiggot*; and by way of illustration he tells us, *that Pharaoh had a board, or wooden table, on which the offices of his servants were marked, and close by the name of each office, a little hole was bored, in which was put a nail, or spiggot, whereon was written the name of the person who held said office, &c.* Whence could he have got this anecdote, which is nowhere on record? Certainly not from Egyptian history.—If hanging, however, was nothing more than a posthumous insult, the whole difficulty disappears*; and of all such insults, it was, in fact, considered as the most disgraceful; because by the explanation of Moses† himself; a person hanged was held as accursed.

* See § 18, 19. of my father's Dissertation; as also, *Theod. Dassorii Dissertatio de suspendio hominis lapidibus obruti.* Vittebergæ, 1694.

† See Deut. xxi. 22, 23. Of some improper explanations of this passage, common among the Jews, the reader will find an account in my Dissertation entitled *Argumenta immortalitatis animarum ex Mose collecta,* § 7. in the first part of the *Syntagma Commentationum.*
Criminals not suspended over Night. [Art. 235.

of God, and for this reason, that his death did not sufficiently atone for his crime; and, therefore, the law considered him as a person, who carried the curse of God with him into the other world, and was punishable even there.

The object which Moses had in view, in declaring this punishment so extremely ignominious, we may probably find in the inference which he draws from the law; his body shall not remain suspended during night, but shall be buried that very day; because otherwise, such an accursed wretch remaining above ground would pollute the land. This was, in effect saying, that he would not, to the prejudice of the living, by the stench corrupting the air, allow criminals to rot on gibbets; as was, in all probability, most commonly the case in Egypt, where we see, from Gen. xl. 19. that a person hanged was devoured by the birds; and therefore he gives to this punishment a figurative explanation, which might have the effect of procuring the speedy interment of malefactors.

We find this Mosaic law strictly observed by Joshua, chap. viii. 29. x. 26, 27.; but whether it was so

Another more recent explanation of it has been proposed by Mr. Kraft, a clergyman, in the first number of his (Abhandlungen über verschiedene Stellen, &c.) Dissertations on various Passages of Holy Writ, Cassel, 1765, which deserves a closer examination. He thinks, that a hanged criminal was suspended between heaven and earth, by way, as it were, of a satisfaction to God, and became a curse, so far as he bore the curse of the whole land. To this opinion, some modes of expression in the Bible are not unsuitable; but still I have my doubts about it; though this is not the place, nor should I have room, to enter upon any such inquiry.
Art. 235. The Punishment of Crucifixion.

afterwards, or how far it was transgressed, I cannot tell. No doubt, it appears from 2 Sam. xxi. 6. 9,— 11. that the bodies of some descendants of Saul's who had been delivered over to the Gibeonites for execution, as an atonement for his cruelty, were by them allowed to remain suspended for a long time: but in the first place, with this affair the Israelites had no concern; but only the Gibeonites, who were of Canaanitish origin, and, perhaps, still lived in their four cities according to their old laws; and in the next, the whole story, both in matter and expression, is so strange, that it may be doubted, whether it really be a genuine part of the book of Samuel, and not one of those large interpolations, whereof critics have conceived, that they have detected several, in this part of scripture.

I shall now, in passing, take some notice of a circumstance, connected with this subject, which will occur to every reader of the Bible. The crucifixion of Christ, which was a Roman punishment, differs in many respects from what Moses calls hanging; nor must we, as some have done, consider the law of Moses, which declares a hanged person accursed, as a prophecy referring to Christ. After Moses, however, had given such an explanation as he did, on the subject of hanging, as a curse, the foreign punishment of crucifixion, which was, at any rate, ignominious, and appropriated to slaves, could not appear, in the eyes of the Jews, otherwise than abominable and disgraceful in the highest degree; nor was it, therefore, strange that they should consider the crucified person as accursed. This is what the apostle Paul says in
Romans yielded to Jewish Prejudices. [Art. 235.

Gal. iii. 13. At the same time we see, from the history of Christ's passion, that in this, and many other points, the Romans regulated their procedure in Palestine, by the law of Moses, or, at least, by the Jewish explanations of it; as they did not suffer the crucified to hang after sun-set, but previously beat them to death with clubs, and then took them down; John xix. 31,—34. It is true, indeed, the Mosaic statute did not require this, if we regard its meaning, and not the mere letter; for a person condemned to crucifixion was suspended alive on the cross, and would sometimes live until the third, nay even the seventh day,—a most horrible punishment, and truly worthy of Roman barbarity, but one, of which Moses never thought. The Jews, however, have followed the strict letter of the statute in their expositions; and the Romans, who in all other matters drew their skins over their ears, out of policy, yielded in so far to their prejudices, as to leave them undisturbed in Palestine, in every thing which they accounted a point of religion: and, of course, allowed no criminal there to hang on the cross over night. It would appear, that the Syrian history, which was pretty well known, had taught them this policy; because the disturbance of their religion had made the Jews a people, such as the world had never seen the like, and had, by those miracles of heroism to which it prompted them, been the means of recovering them their liberties: but what still more contributed to preserve to them the undisturbed enjoyment of their laws, was the great influence which they had in Rome itself, and throughout the Roman empire, and particularly with the
fair sex; for of that sex (qui тης περσομης erat immu-
nis) a great many persons of distinction had attached
themselves to the only rational religion in the world,
that of the Jews, which taught the belief of one God.
Nor ought we to forget, that the very first time the
Romans departed from this policy, and allowed the
Jewish religion to be rudely insulted by the sacrifice
of a couple of birds offered by a turbulent Greek,
in front of the synagogue in Cesarea, the consequence
was a war, which really bore hard upon the Romans;
and which, though it terminated at last in their favour,
when Vespasian took Jerusalem, left them, neverthe-
less, a million fewer subjects than they had before,
and, in fact, may be said to have annihilated their
flourishing province of Palestine.

III. Besides the punishment of stoning to death,
mentioned in the preceding article, there was another
punishment of the same kind after death; which con-
sisted in the people throwing a heap of stones upon
the bodies of criminals, that had been already stoned
to death, or slain by the sword, or upon their remains
when consumed by fire; in order to serve as a perpe-
tual monument of their infamy, in having there suf-
tered any such ignominious punishment. In illustra-
tion of this, the reader is referred to Josh. vii. 25, 26;
to Josh. viii. 29., where, indeed, it is a hostile king
who is spoken of, but whom, in terms of the severe
war-law of those times, Joshua hanged as a malefac-
tor; as also to Prov. xxvi. 8. at least according to the
explanation of that text given by Schultens.

We find that the same custom of heaping stones
over graves, was likewise practised among the ancient
Stones heaped on Criminals’ Graves. [Art. 236.

Arabs, and that, not only over the graves of criminals, but also of other persons, whom the people wished to insult after death, in testimony of their hatred. In the Monumenta antiquissimae Arabum Historiae, of the late Schultens, we find (p. 119.) the following passage from the Arabic historian Taberita; Ibi mortuus est Abu Rial, lapidatumque ab Arabibus ejus septicran. Hoc est illud septicran, quod etiamnum ibidem loci lapidari solet; and in the same work (p. 145.) another account of the same story by Mesud, another historian, who adds a passage from one of their poets, to the following purport.

Fereidak dead, his grave heap high with stones,
Like that which covers Abu Rial’s bones.

We are told also by Breidenbach*, that even in his time, stones still continued to be thrown to the grave of Absalom. His words, under the head of the places that lie in the dale at the foot of mount Olivet, are to this effect, “We came to a tower, in which Absalom is buried, and where there is a great heap of stones. When the heathens (that is, the Turks) pass by it, they throw stones through a window into the tower, as if they had a mind to revenge his undutiful conduct to his father.”

In this point, however, the customs of particular nations, however connected, or contiguous, may be very different; and what, in one, is a mark of posthumous infamy, may, in another, be a testimony of honour. Concerning the Troglodytes in Africa, who

* See his Travels, fol. 39.
Art. 235.] Monumental piles of stones in Abyssinia.

are placed on the sea coast, at no great distance from the country of the modern Abyssinians, (they, however, are of Arabic origin), we are told by Diodorus Siculus (lib. i. c. 33.) that they envelop their dead in thorns, and then laying them down on a hillock, throw stones on it, laughing all the while, till they cover them with a large heap. Nay more, with regard to the inhabitants of Arabia, properly so called, it is certain, that they also collect heaps of stones over their dead, by way of monuments*; and hence it is, that from the same word, which, in Hebrew signifies to stone, ($גָּבָא) ragam, there are derived, in Arabic, several nouns signifying a monument, such even as is right costly, and not composed of stones heaped together, but of masonry†. Hence too, perhaps, it is, that purple in Hebrew has two names derived from ragam, namely, argaman and rigma; for the purple shell (tyrius murex) placed with its point upwards, resembles an ornamented monument‡; so strikingly indeed, that the Dutch call it Epitaphium.

* See my Arabic Chrestomathy, p. 95. The scholiast of an Arabic poem there printed relates, that the poet's mother being anxious to conceal from him, that his father and grandfather had been murdered abroad, lest, when grown up, he should set out on the dangerous duty of revenging their deaths, had, with this view, covered two hillocks with stones, which she used to point out to him as their graves. In this part of Arabia, therefore, at any rate, monuments looked like heaps of stones.—See the story in Art. CXXXIV.

† See Golti Lexicon, p. 955.

‡ That I may not be misunderstood, I must remark, that I, by no means, thence infer, that it had likewise been the practice of the ancestors of the Israelites, to bury honest people under heaps of
To conclude; I observe likewise, that in later times, the carcases of criminals of distinction were by way of disgrace, cast into the graves of the common people, Jer. xxvi. 23. This circumstance, however, belongs not to the Mosaic, but to the Jewish, law.

ART. CCXXXVI.

Moses appointed no ignominious Punishment for the Living.

§ 9. Although, as we have seen, the punishments of the Mosaic law, in some cases, inflicted ignominy on the dead, we find not in it the smallest trace of any punishment which brought infamy on the living. Stripes in court were as little ignominious, as they are to soldiers with us; nor was the sale of a person into slavery accompanied with the least degree of infamy, excepting in the case of its being the punishment of theft. Of branding, the law of Moses knew nothing; although, perhaps, in the book of Job, it may seem to be noticed, en passant, as a practice in other nations; and as to excommunication, and exclusion from the synagogue, these are far later contrivances of the Jews, long after the Babylonish captivity: indeed, in the days of Moses, there were no synagogues whence a man could be excluded.

What the objection is, against infamizing, or ignominious punishments, unattended with the loss of life to stones. The Hebrew language is not the language of Abraham's ancestors, but the Canaanitish, which he and Isaac, and Jacob, and his sons, adopted among the Canaanites.
Art. 237.] Extirpation misinterpreted by the Jews. 439

the culprit, every one knows, who has himself philo-
sophized, or heard others philosophize, on jurisprudence.

They make those, who, by suffering them, have for-
feited all honour and character, perfect rascals, and
dangerous to the public; or, at any rate, the man
who has thus lost his reputation, generally becomes
useless. From the consideration of this very effect,
the punishment of whipping has, in many places, been
abolished. Whoever is tolerated in society must
have honour, else is the great band gone, by which
the public keeps him dependent upon it; for the
man, who has no honour to lose, will give himself no
trouble about the opinions of others; and, therefore,
no consideration of either honour or shame will re-
strain him from the most abominable actions. No-
thing but the dread of punishment will have that
effect; and not always even that, because he can en-
tertain the hopes of escaping it.

ART. CCXXXVII.

Of Extirpation from among the people, Banishment in-
to certain Cities, or whatever else might be termed
Exile.

§ 10. The punishment of extirpation is very fre-
quently mentioned by Moses in these terms, He shall
be extirpated from his people*. In the list of proof-

passages referred to in the margin, I have purposely omitted those in which God himself says, I will extirpate such a man from his people; because there God would seem to take the avengement of guilt upon himself, and to threaten that he would, by the hidden ways of providence, so order events, as that the guilty should be extirpated. Many of the Jews, indeed, understand the other passages also in this manner, and pretend that he shall be extirpated from his people, means, he shall not have his life prolonged, beyond 60 years at most. But this it is impossible to bring out of these words, without torturing them; and, besides, it is highly improbable, that God should have taken upon himself the immediate punishment of such a variety of crimes, and have bound himself to make all those who committed them, (those for instance, who did not purify themselves from a Levitical defilement, in the manner prescribed,) die before the age of 60. Can the Jews themselves possibly imagine, that any such thing actually happened? or, if instead of asking them, we put this question to a votary of natural religion, who does not believe in the divine mission of Moses; can he conceive Moses to have been so destitute of understanding, as to have threatened such frequent and immediate interpositions of a vindictive Providence; as if, in any case, they had remained unfulfilled, and the guilty had passed the age of 60, must have crushed all faith in his mission from heaven, and made the people downright infidels?

In many passages the expression, He shall be extirpated, may be equivalent to, he shall be put to death; and there, we must understand it of one of the two
capital punishments, already explained. In some texts, such for instance, as Exod. xxxi. 14., and Lev. xvii. 4. this is certain: for in the former we find the words, he shall die; and in the other, It shall be reckoned blood-guiltiness to him; he hath shed blood; added in illustration of it. It is probable, that in Lev. xviii. 29. it is also to be understood of capital punishment; because so many crimes, to which Moses elsewhere annexes the punishment of death, are there forbidden under the general prohibition, Whosoever committeeth these abominable deeds, shall be extirpated from his people. So likewise, in Lev. xx. 17.; where it is declared that brothers and sisters who are guilty of incest, shall be extirpated before their people; that is, their punishment shall be inflicted in the sight of their brethren. We now come to the consideration of Numb. xv. 30. a passage still more weighty, and on the import of which depends the sense of a great many other passages. This passage the apostle Paul appears to have understood in reference to the punishment of death, and such too seems to have been its traditionary exposition in the Jewish law, from his presupposing it as well known, that Whoever was guilty of a deliberate breach of the ceremonial law of Moses must die without mercy*; and if this argument is just, we must, in the greater number, if not in all, the passages, explain extirpation of a capital punishment; because it is uniformly denounced against audacious transgressions of the ceremonial law.

* I here refer to my (Erklärung des Briefes an die Hebräer) Explanation of the Epistle to the Hebrews, published in 1762.
It may, nevertheless, be reasonably made a question, whether the expression has in all cases this harsh meaning, or whether it may not sometimes be taken in a milder sense, and understood of the loss of civil rights and exile? We cannot indeed but think it strange, that a punishment so common among ancient nations, as that of exile, should not be found in the laws of Moses. *Le Clerc*, in a note on Gen. xvii. 14., well worth perusal, takes extirpation, as denounced against the neglect of circumcision, in that sense; as I also have done in my German version of the Bible, and upon this ground, that on this occasion it was not to a people, but to the father of a family, and the progenitor of a people not yet in existence, that the law was given. I am, however, while I now write, of a different opinion; and I am only sorry, that I cannot make the necessary alteration in the new edition of my Bible, because the sheet that contains the xvii. chapter of Genesis was printed off a week ago. My reasons for changing my opinion are these; in the first place, Abraham was indeed the father of a family, and so were Isaac and Jacob; but still they exercised the right of inflicting capital punishments on their families and servants, (Art. XXXI.); so that they may with sufficient propriety have been enjoined to put a neglecter of circumcision to death: and, in the second place, if, according to Heb. x. 28., all deliberate transgressions of the ceremonial law were punished capitally, we can scarcely avoid thinking, that death must have been denounced against the wilful neglect of circumcision, which was the most essential point of that law.
It is indeed certain, that after the Babylonish captivity, there was a species of extirpation*, which did not involve the punishment of death, but consisted in the confiscation of all the property of the culprit, and his separation from the people, Ezra vii. 26. x. 8. From the time of Ezra, however, we can draw no conclusions to that of Moses. What the Rabbins tell us of thirty-one sorts of extirpation, is still less to the purpose, and deserves not the smallest attention where the Mosaic law is in question; which, indeed, those who write on Talmudical and Rabbinical law, may, once for all, consider as abrogated.

How it came to pass, that a punishment so familiar to us as exile, and which, among ancient nations, was still more common and formidable, and that very punishment too, which according to his own account, in Gen. iv. 11,—14., was inflicted by God himself on the first murderer, should not have been sanctioned by the law of Moses, is really a very striking circumstance, and merits inquiry on every consideration. With us the usual objection against this punishment is, that we thereby only drive our felons into the dominions of our neighbours, who are, at any rate, just as little bound to shelter them as ourselves, and who do not fail to return the favour, and pay us back in our own coin: so that, in fact, it is nothing more than an exchange of one set of rascals for another, who for want of employment in a strange land become more

* Its name indeed is likewise different: for in the Pentateuch (כארת) carath, is the word employed, and in the book of Ezra it is שארת. That, however, is not of much consequence.
profligate than before, and at last, either return home perfect adepts in villainy, or become vagabonds for ever. This objection has, no doubt, considerable force, especially where there is no Siberia at hand. But I suspect it was not what influenced Moses. We shall find, by recurring to Art. XXXII., a reason more consonant to the grand design of his laws. One of the fundamental principles on which he established his polity, was the prevention of idolatry among the Israelites; and at a time when the people of all the neighbouring nations were idolaters, and when the errors of Polytheism were universally tainting the human race, the banishment of an Israelite would in a manner have been nothing less than directly exposing him to the contagion of heathenism and idolatry. David himself observed (1 Sam. xxvi. 19.) that his enemies, who blackened his reputation with Saul, and thus compelled him to take refuge for security in another country, were, in effect, doing the very same thing as forcing him to serve strange gods; and we are told by Josephus (Antiq. xvi. 1. 1.) that when Herod ordered those who were convicted of theft, to be sold for slaves out of the land, it excited great discontent among the Jews.

It was a sort of exile to the person who had unintentionally deprived another of life, that he could not be safe without the limits of an asylum, and was consequently obliged to abandon house and home, and live in a city of refuge, until the high-priest did him the favour to die. (Art. CXXXVI. and Numb. xxxv. 26, 27.) This, however, was not absolutely a punishment, but rather the necessary consequence of the
rights of the Goel, whose honour was implicated in the avengement of his kinsman's blood. At the same time, this confinement might be considered in some measure as the punishment of heedlessness.—On this point we shall have occasion to say more, under the head of homicide, Art. CCLXXIII.

We find Solomon (in 1 Kings ii. 36.) taking the liberty of banishing a man from his native city into another, which he durst not leave on pain of death; in other words, giving an express Lettre de Cachet, with a capital punishment annexed to it. This, however, was no Mosaic law, but one a good deal more modern, and, besides, enforced, though a little despotically, only in one single instance, quite of an extraordinary nature.

ART. CCXXXVIII.

Imprisonment no punishment of the Mosaic law.

§ 11. Among the Mosaic corporal punishments, I find another wanting, which is very common in European countries, I mean imprisonment. With this punishment Moses was not unacquainted; for he describes it as in use among the Egyptians. In Gen. xxxix. 19, 20., we are told that Joseph was, solely as a punishment, put in prison by Potiphar; and as it would seem too, for life; and from chap. xl. we should suppose, that the two servants of the king had been imprisoned not merely to secure them, until their conduct was inquired into, but as convicts, and by way of direct punishment. For in the very beginning
of that chapter it is said, that they had been guilty of a crime, as indeed the chief butler, when set at liberty, afterwards acknowledged, chap. xli. 9. Nor was it by the issue of a trial that he got out of prison, but merely by an act of grace, on the anniversary of Pharaoh's birth-day; chap. xl. 20, 21. The prison, therefore, in which they were confined, according at least to my judgment of the meaning of its Hebrew name, (ביחת השר) Beth Hassochar, was, properly speaking, a place of punishment. I cannot here state the philological grounds on which this new explanation rests, because it would afford but little gratification to the majority of my readers, if unacquainted with Arabic; but they are known to those who attend my lectures, and they may be found in the ix. part of my Orientalische Bibliothek, at p. 203. In this prison, which was in the castle belonging to the commander of the king's life guards, other state prisoners were also confined; for it is more than once mentioned with this addition, where the royal prisoners were kept in custody.

Once more; This prison does not appear to have been a mean edifice, but a real state-prison; and Joseph had in it much freedom, and the superintendence of the other prisoners; and, on a certain occasion, when two prisoners of very high distinction were put into it, he was charged with the care of them, and waited upon them. Within the prison he had free egress and regress, and they had their separate apartments, Gen. xxxix. 21. 23. xl. 4. 6. But notwithstanding this, we find Moses in one passage, Gen. xli. 14., calling it Bor, (בור) the cistern; for what I
have rendered, they brought him with all speed out of the prison, should properly have been, out of the cistern. We find the same word again applied by Moses, Exod. xii. 29. to the Egyptian prisons, and by Jeremiah, chap. xxxvii. 18. to a Jewish one. It appears from the later books of scripture, that cisterns, when empty of water, were used for prisons; and this must have been the practice in some nations, even in the time of Moses, else would not the word signifying cistern, have had at the same time the sense of imprisonment.

Notwithstanding this, Moses never ordains incarceration as a punishment, and the only time that mention is made of it, or, more properly, of arrest, it is solely for the purpose of keeping the culprit safe until the giving of judgment on his conduct; Levit. xxiv. 12.

In regard to this point, it occurred to me at first, that a wandering people, such as were the Israelites in the desert, could have no jail, and, of course, could not inflict the punishment of incarceration. I was not, however, satisfied with this as a reason, because afterwards, even in the second set of laws, given in the course of the month immediately preceding their entry into Palestine, and recorded in the book of Deuteronomy, we nowhere find any ordinance relative to this punishment. Moses must, therefore, have had some other objection to it; this perhaps; that, according to the mode and situation in which the prisons of those times were constructed, and when prisoners were so frequently thrown into cisterns, it was prejudicial to health. The building of proper
Defects of modern Prisons. [Art. 258.

prisons, where there are none already, requires more expence than a people whose polity is not yet established, can contribute without inconvenience; and, moreover, the Israelites, not only in the time of Moses, but even in that of Solomon*, were so poorly skilled in architecture, that it would, perhaps, have proved a difficult problem to them, to build a prison, which should be at once wholesome and secure. Add to this, that jails require a constant expence for repairs and improvements, for maintenance of the prisoners, and for the necessary guards; but Moses imposed no tax on the Israelites beside the tithe; and so there was no fund for any such expence.

To us, however, the want of this punishment will always appear strange, because it is so contrary to our own customs. Imprisonment in good, healthy jails, is really one of the best punishments; but it is more suited to a restless European, than to the calm and sedentary inhabitant of more southern regions, to whom confinement in a comfortable jail is hardly any punishment at all. But, in fact, we are very little acquainted with many of the great evils connected with our own customs, just because we are accustomed to them. Many of our jails, almost all of them indeed, are to those placed in the north side of them, really injurious to health; and some of them, without the smallest reference to the Bastile, are abominable. The numbers of prisoners that are crowded together, augment the corruption of the air, until at last, what

* See my Dissertation, De Judæis tempore Solomonis Architecture parum peritis.
Art. 238. ] The Prisons mentioned by Jeremiah.

is called in England, the Jail Fever, breaks out, which attacks not only the prisoners themselves, but the judges before whom they are tried, and is, next to the plague, the most infectious and formidable of all diseases. Nothing but judicious plans, carefully regulated by medical principles, together with plenty of money to execute them, will ever make prisons what they ought to be, as places of punishment.

The punishment of the prison, however, did, after all, come into use among the Israelites in later times. Nowhere do we read so much about it, as in the book of Jeremiah, in which we find accounts of some very horrible prisons, to which the prophet was obliged to submit; such as, (1.) a cistern, wherein there was indeed no water, but in its bottom deep mud, in which he slowly sank; chap. xxxviii. 6.—(2.) a stocks, perhaps of that sort which the Greeks call πνευσμός, wherein the prisoner was so confined, that his body was kept in an unnatural position, which must have proved a torture truly insupportable, chap. xx. 2.—and (3.) according, at least, to a reading, indicated by the Septuagint version, both in chap. xx. 2. and xxix. 26., though not to be found in the printed Hebrew text, a subterraneous canal, which served as a common sewer, to carry off the filth of the city.—We shall now take no offence, at least, at Moses, for not sanctioning, by his law, the use of such horrible sorts of imprisonment as these.

* See Julius Pollux, 1. viii. § 72. It had this name from five holes, through two of which the feet, through other two the hands, and through the fifth the head, of the prisoner was put. Theodotion renders it, μαναστήνω, and Symmachus, σφάλαγματι.
If, after the return of the Jews from the Babylonish captivity, we find bonds, that is, imprisonment, among their punishments, as in Ezra vii. 26., with still less reason shall we consider this as flowing from the Mosaic law. It was the consequence of their connection with the Persians. In a Persian edict, Ezra and the judges appointed by him, are authorized to proceed against transgressors of the law, by punishing them with death, or fines, or imprisonment, or exile: but in that edict no mention whatever is made of that species of corporal punishment, which was the common one in the time of Moses, and to the consideration of which we now proceed.

ART. CCXXXIX.

Stripes a Common, but not Ignominious, Punishment.

§ 12. The common corporal punishment of the ancient Mosaic law was stripes; Lev. xix. 20. Deut. xxii. 18. xxv. 2, 3.; so much so, that in the Biblical books written before the captivity, and especially in the Proverbs of Solomon, the term beat is very often used, when corporal punishments are spoken of, and even applied to those which were to be inflicted on persons in supreme authority. After the captivity, likewise, we find that this was the usual punishment for transgressions of the law, as late as the time of Josephus, (Antiq. iv. 8. 11.); and the apostle Paul, according to his own account, in 2 Cor. xi. 24. suffered it five times.
From the derivation of the word (ביקורת) *bikkoreth*, used in Lev. xix. 20, it has been concluded that stripes were usually given with a taurea, or nervus taurinus; and in regard to this particular passage, I readily accede to the common Jewish exposition†; but then we are not thence to draw a general conclusion as to every case in which stripes are ordained by Moses; because it relates merely to the case of adultery having been committed by a bond woman. For although she and the man who had been connected with her, were for a crime, which, committed with a free wife, was capital, punished with this servile instrument, it by no means follows, that Moses intended that it should be used for other far lesser crimes, and upon free citizens; and, in my opinion, the Jews err, in extending what is the strict explanation of bikkoreth, to other judicial punishments of this kind, in the appointment of which by Moses we do not find the word employed, and in using for those punishments a whip described in the Talmud. But with their usages I am not here concerned. Those who wish to know them, must consult that passage of the Talmud,

* From (גֵּר) Bakar, Bos, Taurus.
† I do so, because the other translation of this passage, An inquiry shall be made, does not seem suited to the case. That the matter would be investigated is obvious: indeed, this is so universally done in the case of every crime, that the legislator had no occasion to order it, as any thing particular in the case of the crime in question. Besides, the connection does not appear when we say, An inquiry shall be made; they shall not die, by any means so clearly, as when it is rendered, Stripes shall be inflicted, and not death. Add to this, that among the Arabs stripes are the common punishment of adultery.
which treats of them, (namely, the treatise called *Maccoth*, iii. 12.) and read their expositors. In thus speaking, however, I do not mean to deny that the whip was used in the punishment of free people, but I do not venture to decide positively, but rather think it probable that they were punished with a stick.

On the other hand, we can affirm with certainty, from Deut. xxv. 2, that the criminal received this punishment not standing, but lying down.

In order to prevent its being inflicted with too great severity, or, as he himself expresses it, *that the Israelite might not be cruelly beaten,* Moses in that passage prescribes the following regulations;

1. That the stripes should be given in presence of the judge; and, of course, never left to the discretion of the officers of justice.

2. That they should never be given arbitrarily and by estimate; but numerically, according to previous limitation; and,

3. That their number should never exceed forty.

This last rule the Jews have, since the Babylonish captivity, observed with such ridiculous scrupulosity,

*As I here depart from a pretty common version, *that thy brother may not become contemptible in thine eyes*, I must be allowed to state the reasons, why that version cannot be admitted. If stripes are ignominious, and render the sufferer contemptible, one stripe is as good as a hundred; and, on the other hand, when forty stripes bring no disgrace, neither will a hundred.—In fact, the word ῶ☾, here used, does not mean *to be contemptible*; although I do not deny that from it, ῶ�行 means *infamy,* (branding as it were:) but it signifies to *roast,* *toast,* *burn,* &c.; and thence the Hebrews form a mode of expression analogous to the Latin, *were loris,* *were viris,* *Ibericis peruste funibus latus.*
as always to give forty stripes save one; for, say they, one may misreckon them, and so give the culprit forty-one. But the legislator, in giving the rule, never thought of such nonsense, but only meant that they should not misreckon; and the Jews might as well have ordained the giving of forty stripes save four; for the one mistake in counting is just as possible as the other. It is nevertheless from this Pharisaical scrupulosity, that the expression, forty stripes save one, which occurs even in the New Testament, has had its origin; see 2 Cor. xi. 24. and the learned expositors on this passage, Wetstein, for instance; as likewise the Jewish Antiquities of Josephus, book iv. chap. 8. § 21. 23.

With this punishment, as has already been remarked in Art. CCXXXVI. there was connected no sort of ignominy, which could make the sufferer infamous, or an object of future reproach to his fellow citizens. It consisted merely in the physical sense of the pain; and this idea was carried so far, as that the husband who calumniated his young wife, was ordered to be chastised, that is, whipt, (Deut. xxii. 18, 19.); and, in that case, forfeited his right to give her a bill of divorce; in other words, was obliged to keep his wife as long as she lived. This would really have been a strange sort of satisfaction to the wife, if her husband had by the stripes incurred as much infamy, as he would with us by a whipping; a punishment so disgraceful, that almost any woman, even though not of high birth, would think it quite a sufficient ground for leaving her husband, notwithstanding the rigour of our marriage laws; and would much sooner suffer
herself to be calumniated on the score of a little anomaly in regard to the *signa virginitatis*, without making any complaints.

The Israelitish punishment, indeed, admits of no manner of comparison with our whipping with rods, as it was not performed by the hand of the executioner's servant, (a personage with whom the Hebrews were not acquainted,) but with stripes, which is a military punishment, and does not at all affect the honour of the soldier. Josephus, therefore, allows himself to be too much influenced by the altered customs and ideas of his own time, when he considers the punishment of stripes as ordained by Moses, as in the highest degree infamous; and asserts, as an idea of the Hebrew legislator, (what he has nowhere expressed,) that the free-born Israelite was obliged to submit to that most ignominious punishment, because he had been a slave to unjust gain, and thereby dishonoured his station. (Antiq. iv. 8. 21.)

Did he not remember, that the Roman soldiers, even in the times of liberty and the republic, and while they were yet citizens of that city which was the mistress of the world, underwent the punishment of stripes without any prejudice to their honour?

**ART. CCXL.**

*Retaliation in the case of Corporal Injuries—the Mosaic Ordinances respecting it.*

§ 13. In cases of corporal injuries done to *free persons*, (for the same rule did not extend to *servants*,
they being less protected members of the community, that far severer law of retaliation operated, whose language is, *Eye for eye, and tooth for tooth*; and upon that law I must here expatiate more fully, because it is so far removed from our laws, that it sometimes appears to us really barbarous, or, as others would say, *unchristian*. Barbarous, however, it was not; for those very nations of antiquity whom we look upon as most civilized, viz. the Athenians and Romans, had this law in the days of their freedom. But the singular circumstance respecting it is, that it is, strictly speaking, only suited to a free people, and where the poorest citizen has equal rights with the greatest man that can injure him; although, no doubt, it may subsist under an aristocracy and a monarchy also, as long as no infringement is made on liberty, and on the equality of the lowest with the highest, in point of rights. Where, however, the eye of a nobleman is of more value than that of a peasant, it would be a very preposterous and inconvenient law; and where, for the benefit of the great, attempts might out of friendship be made to pervert justice, it is much more consonant to equity, in the case of such corporal injuries, to leave the determination of the punishment to the decision of the judge.

It would seem that Moses retained the law of retaliation, from a more ancient, and a very natural, law of usage. It will be well worth our while to hear what he himself says on the subject of a law, so strange to us, and yet so common among ancient free nations. His first statute respecting it, clearly presupposes retaliation as consuetudinary, and only applies it to the
very special case of a pregnant woman being pushed, by two men quarrelling with each other, and thereby receiving an injury; the man who pushed her, being adjudged to pay life for life, eye for eye, tooth for tooth, hand for hand, foot for foot; brand for brand, wound for wound, bruise for bruise, Exod. xxi. 23, 24, 25.—The second statute likewise occurs but incidentally; when, on occasion of blasphemy uttered by an Egyptian, it was ordained, that both Israelites and strangers should have one and the same criminal law; and it is added, by way of example, Whoever shall injure his neighbour in his person, shall receive even as he hath given: Eye for eye, wound for wound, tooth for tooth; even as he hath injured another, so shall it be done to himself in return, Lev. xxiv. 19, 20. —There is a third passage on this subject, which does not indeed speak of injuries done to any individual member of the body, but which, in ordaining the false witness to suffer the very same punishment, which is annexed to the crime whereof he unjustly accuses his neighbour; presupposes this law of retaliation as equitable and natural; and exhibits the very same maxims, or, as Montesquieu terms it, the same Esprit de Loix, which it exhibits.

What Moses then says (incidentally, in fact, and presupposing a more ancient law of usage,) concerning the punishment of retaliation, I understand under the two following limitations.

1. When the injury is either deliberate, or at least in consequence of our fault; (an instance of which last is that mentioned above, from Exod. xxi. 23. where a woman is hurt by two men fighting; an act of out-
rage of which they ought not to have been guilty); but not where there is either no fault, or at any rate but an inadvertence; as where one man pushes out another's eye undesignedly. This limitation every one will admit, who remembers that Moses was so far from meaning to punish unpremeditated homicide by the law of retaliation, that he established an asylum for the unfortunate manslayer, to secure him from the fury of the Goël.—And hereby is at once obviated that objection against the lex talionis, which Aulus Gellius, (Noctes Atticae, xx. 1.) puts into the mouth of the philosopher Favorinus; Quin? si membrum alter imprudens ruperit? quod enim imprudentia factum est, retaliari per imprudentiam debet; and which, in fact, looks liker a quibble than a philosophical doubt. Gellius gives himself perhaps too much trouble in answering it; for it is probable that the laws of the twelve tables did not speak of an injury merely occasioned by inadvertence; but whether they did or not, Moses at any rate does not so—and therefore the objection does not hold with respect to him.

2. The person who suffered any personal injury, retained (for he is no where deprived of it,) the natural right of abstaining, if he chose, from all complaint, and even of retracting a complaint already made, and remitting the punishment, if the other compounded with him for what we should call a pecuniary indemnity, or, to use the Hebrew expression, a ransom.—Not to mention that this right is quite natural and obvious, and scarcely requires to be noticed in a penal statute, it may be observed, that among the Israelites such pecuniary expiations had been previously com-
mon, even in the case of deliberate murder, as they still are among the Orientals, and that in this case alone did Moses find it necessary to prohibit the acceptance of any such compensation; Numb. xxxv. 31. If it was customary in cases of deliberate murder, we may conclude with certainty, that it would frequently be accepted for the loss of a tooth or an eye; and as Moses does not prohibit this, we must suppose that the ancient usage still continued to prevail.

In the laws of the twelve tables, the Roman Decemviri expressed this limitation in these words, \textit{Ni cum praecit}. That Moses makes no such addition, is the less surprising, because he nowhere institutes the \textit{lex talionis}, but only notices it incidentally, or transfers it to the case of an injury done to the fruit of the womb; in which case, perhaps, justice really requires, that no compensation should be admitted; because it regards the rights of a third party, who cannot speak for himself; and because it is a matter of great and general importance to provide, by every possible means, for the security of pregnant women, and their unborn progeny.

\textbf{ART. CCXLII.}

\textit{Comparison of the Mosaic Law on this subject, with that of Athens and Rome.}

§ 14. But is not the punishment of retaliation extremely rude? Does it not savour strongly of ancient barbarism? and must not every legislator, who out of philanthropy wishes the nobleman to preserve his own
Art. 241. The Athenians had the Lex Talionis.

eyes, though he may previously have beaten out those of the worthless peasant, naturally keep at as great a distance here as possible from the brutal law of ancient times? And was not Moses then very much to blame, I will not say in giving such a law, for that cannot be laid to his charge, but in retaining it from ancient usage?

Before I enter upon the consideration of these questions, let me be permitted to notice how strikingly this law of Moses, far as it deviates in all points from our laws, accords with the express statutes of nations, whom we account highly civilized, and who lived in the enjoyment of civil liberty.

Among the Athenians, we find the lex talionis; only as the question might perhaps arise, how it was to be applied in the case of one man putting out another's only eye, they decided, or rather (to name a man whose name still commands considerable respect), Solon decided thus in favour of the side of severity: Whoever puts out the only eye of a one-eyed person, shall for so doing lose both his own*. The most civilized people, therefore, under the sun,—a people to whom we ascribe the finest feelings, but who had wished the small foible of not choosing to be slaves, but of wishing to maintain in a civil state the natural equality of men, as much as they possibly could,—not only established the law of retaliation, but gave it also the severest possible explanation.

In the Roman laws of the Twelve Tables,—the foundation of our modern jurisprudence,—which had

* See Petiti Leges Atticeae, vii. 3. 2. p. 632.
The Romans had also the Lex Talionis. [Art. 241,
borrowed much from the Greeks, but had likewise in
many points abided by the ancient usages of Italy, we
find the lex talionis in like manner established; and,
although in the rare case of the one-eyed person, they
omit the severe explanation given in the Attic law,
their language is, Si membrum rupsit, ni cum eo paicit,
Talio esto. Tab. vii.

They allowed, therefore, (as indeed is almost obvi-
ous without any express allowance,) a person, who had
received and complained of any personal injury from
another, to take money for the loss (for instance) of a
limb, and forego his complaint. It is easy to conceive
that this case must have very often occurred; for
who will not give all the money he can muster, rather
than lose a limb? Add to this, that a stroke which
we expect long beforehand, is much more painful than
one given us unexpectedly; and if I in a passion
knock out half-a-dozen of my neighbour's teeth, he
certainly will not feel one-tenth part of the pain which
I should feel in having the prospect of receiving a
similar stroke to bring out as many of mine, or even
of losing them, secundum artem, under the hand of a
dentist. And so it is in the case of all personal inju-
ries, particularly of the eyes and bones. The man
who knows his punishment beforehand, feels it in
imagination and terror a hundred times, before he feels
it once corporally; and at the time when it is actual-
ly inflicted, it is much more painful than any unfore-
seen evil, because every faculty both of the body and
the soul is as it were on the rack, by the expectation
of feeling it to the highest pitch of sensation. The
physician, indeed, would probably think otherwise, in
a wound-fever: Of that, however, I can say nothing, while experiments are wanting; but I suppose that, according to theory, every medical man, whether physician or surgeon, would give his assent to the preceding observations.—The result, therefore, of the whole is, that every man who can by any means command as much money, as, along with his most humble acknowledgments, will satisfy the injured party, will gladly give it to get free of the lex talionis.

This was no doubt the case at Rome times without number; but at last the lex talionis became obsolete, though so imperceptibly, that the lawyers whom I have consulted on the subject, have not been able to determine when; and under the despotism of the emperors, the Romans had, in matters of law, as refined notions as we have. This is easily conceivable. In process of time, by the increasing influence of certain citizens, they were always losing more and more of that natural equality which the poor had long usurped against the rich, and the Plebeian against the Patrician; and that the man of rank, however conveniently he might, considering the indolent life which he led, dispense with it as a superfluous organ, should lose his eye, merely because he had put out that of a poor man, which however much more indispensable it might be to him in earning his bread, was still but the eye of one of the Canaille, came by degrees to appear to the Praetor as a great hardship; and who could forbear concurring with the Praetor in such humane feelings? Nobody, however, had the confidence, after all, to abrogate the law of retaliation by an express statute; for we find in the Institutiones the following
paragraph; De injuriis; in book iv. chap. 4. § 7.; Pena injuriarum ex lege Duodecim Tabularum propter membrum quidem ruptum Tatio erat; propter ex vero fractum numinariae pene sunt constituta, quasi in mag- na veteram patupertate. Sed postea Praetores permitte- bant ipsis, qui injuriam passi erant, eam aestimare, ut judex vel tanti reum condemnet, quanti injuriam passus aestimaverit; vel minoria, prout ei vitum fuerit. Sed paq naquidem injuriarum, que ex lege Duodecim Tab-ularum introducata est, in desuetudinem abiit: quam aetem Praetores introductorunt, que eliam honoraria ap- pellantur, in judiciis frequentatur. Nam secundum gra- duum dignitatis vitæque honestatem, crescit aut minus in-estima injurie. I wished to quote the paragraph almost entire, because it would seem, as if many, who philosophize upon the law of retaliation, had never read it.

ART. CCXLII.

Arguments for and against Lex Taliciae.

§ 15. Let us, however, now leave those ancient nations, who enforced the law of retaliation, as we found them, and neither abuse them as barbarous, (which they certainly were not) nor yet extol them for their love of liberty; but merely listen with cau- dour, to what may be said both for and against this species of punishment.

I. In favour of it then, we may observe,

1. That it is the first punishment that will naturally occur to every legislator when left to himself; nor ca-
Art. 242.] Lex Talionis, a security against injuries. 457

any one justly complain, that that should happen to himself, which he has done to another: for he has certainly cause to be thankful, that he does not suffer more: since not only self-revenge, as authorized by the *jus naturæ*, but also punishments in civil society generally go much greater lengths, and retaliate for evils that have been suffered, perhaps ten-fold.

2. That it has a more powerful effect than any other punishment in deterring from personal injuries; and is, indeed, almost the only adequate means of attaining this end of punishment. Pecuniary punishments will not be very formidable to the man of opulence, particularly if they are regulated by the rank of the person injured; nor will they, of course, do much to promote the security of the poor: nay, even though corporal punishments be legal, if they only rest *with the discretion of the judge*, (and here, that is a very alarming and despotically-sounding expression) not only is not the security of the poor man thereby promoted, because the judge's discretion is generally pretty favourable to the great, but his humiliation becomes, in fact, only the greater. Should the nobleman, for instance, put out the eye of a peasant, and the judge estimate the loss at 1000 rix-dollars, which, though a sum pretty considerable in itself, can give the former but little concern; but the peasant, on the other hand, who puts out a nobleman's eye, be dragged to the gallows in a cart, though quite ready to pay him the same sum, which indeed many a peasant, in some countries, could very easily raise; such an inequality in the law would, to a man of spirit, who feels his hands, and is both able and willing to defend his country with
them, prove rather intolerable. Under such a law, can the man in a humble station possibly have that security for sound limbs, that he must wish, and has a right to demand, from the community? When, on the contrary, the greatest and richest man in the land knows, that if he puts out the eye of a peasant, the latter has a right to insist that his eye be put out in return, that a sentence to that effect will actually be pronounced, and the said punishment inflicted, without the least respect to his rank, or his noble eye being considered as one whit better than the peasant's; and that he has no possible way of saving it, but by humbling himself before the other, as deeply as may be necessary to work upon his compassion, and make him relent, besides paying him as much money as he deems a satisfactory compensation for his loss; every one will be convinced (without my swearing to prove it) that the nobleman will think himself, before he put out any one's eye. The argument is precisely the same in the case of other injuries, down to the loss of a tooth; concerning which the ancient jus talionis came at last to teach so different a doctrine.

If here it be objected, (and no doubt the objection has weight,) that, notwithstanding the exclusion of the jus talionis, from our law, and its superior mildness in all respects, we scarcely ever see an instance of an eye put out in deliberate malice; I beg leave to observe in answer, that this is, in fact, to be ascribed in a great measure to the superior mildness and refinement of our manners: but such manners are not found in all nations; they certainly were not found in the ancient nations that approached nearer to the state of
nature; nor yet do we find them among the people of southern countries; whose rage is more malicious, and loves to leave a lasting memorial behind it, in those on whom it is vented. By the gradually refined manners, therefore, of our more northerly regions, we can hardly expect that the ancient law of retaliation, should in southern nations have been regulated. Add to this, that among us, since the introduction of luxury and more effeminate education, or in consequence of hereditary disease, the nobleman has very seldom such bodily strength as to be a match for the peasant; and if it came to the driving out of teeth or eyes, would run the risk of losing two of either, before the latter lost one. There are, besides, to be taken into consideration several other fortunate circumstances, which though not, properly speaking, connected with our law, serve nevertheless to remedy its defects. For instance, most of the people of distinction among us are at the same time servants to the sovereign, and as such have both honour and revenues, and would sink into a sort of nothingness if they lost their posts; but such are the humane ideas of many sovereigns, that they would no longer retain in their service the person who had put out a poor man’s eye, unless circumstances appeared that were highly alleviative of the outrage, or that he made a satisfactory compensation for it. But the advantage which we thus derive from our manners is not to be met with in every democracy or aristocracy; for there, as posts are conferred either by laws, or by votes, of which no individual is ashamed; so neither are they taken away without legal authority.
3. That in the state of nature every man has a right to take revenge at his own hand for any deliberate personal injury, such as the loss of an eye, &c. is perhaps undeniable. In fact, by the law of nature such revenge might be carried still farther; but if it be confined within the limits of strict retaliation, the law of nature, at any rate (for of morality I do not now speak) can certainly have nothing to object against it. Now, in the state of civil society, every man divests himself of the right in question; but then he justly expects in return, that society will, after proper inquiry, duly exercise revenge in his room. Morality may say what it will to our revenge, (and certainly it does not absolutely condemn it,) but we are all naturally vindictive, and that to such a degree, that when we are grossly injured we feel a most irksome sort of disquietude and feverish heat, until we have gratified our revenge. Now, when creatures, thus constituted, are the citizens of any government, can we imagine, that they will ever give up the prerogative of revenge, without looking for some equivalent in return? If the state means to withhold that equivalent, and yet prohibit the exercise of revenge, it must begin by regenerating human nature: or, if it be said, that God and his grace can alone effect such a change, and that whoever lays open his heart to grace, will never desire revenge, I can only say, that we must then figure to ourselves a state consisting of none but people all truly regenerated; but such a state the world has never yet seen.

4. If the law of Retaliation were abrogated, nothing could be more natural, if the lower classes
Art. 242.] The Spirit of Revenge difficult to crush. 461

had not, by long constraint and oppression, become too much humbled, than for the poor man, who had received any personal injury, still to revenge it at his own hand, and more especially to lie in wait for his rich oppressor, at whom he could not come with open force, and put out his eye, with as little warning and ceremony, as he had done his. And what could in such a case be done; were justice to be observed, and the poor man, who only requited the injury he had received, to experience no severer punishment, than he who set him the example? It might, no doubt, be said, that his conduct, in thus lying in wait, and in deliberately avenging his own quarrel, in contempt of a legal prohibition, aggravated his guilt in every respect; but where the injured person, aware that the laws gave him no reparation, only did, in instanti, what every man of spirit would very naturally do, and what, if he did not go beyond blows, even our laws would excuse him for doing—if he only flew with all possible fury upon the person who had put out his eye, and tried to put out his in return; we should not, perhaps, think him deserving of so severe a punishment for having thus requited like for like, as the person who began the quarrel. Now, this immediate self-revenge would, among a people who retained any feeling of their dignity, and their natural equality with even the most distinguished of their fellow citizens, be the usual plan: and if no one attempts any such thing, we can scarcely impute it to the refined manners of the brawny peasantry, and even of the very lowest of the people, but rather to the melancholy circumstance, of their having become too tame.
and having forgotten that they are not slaves, but, in point of rights, on a footing of equality with the rest of their countrymen.

5. Even our own laws admit the right of retaliation, and that too, in rather an equivocal case, and where an injury is not actually done, but only intended, and perhaps not even that. They allow us, in the case of having been calumniated, to sue the person who has falsely and maliciously charged us with any crime, for the same penalty, which the crime itself incurs according to the laws. No doubt, judgment is rarely pronounced in terms of our complaint, and much here depends on the discretion of the judge; but still it is clear, that the laws, in authorising any such suit, presuppose the equity of the Jus Talionis.

II. The chief arguments against the law in question may, perhaps, be found comprehended under the following objections, which are usually urged against it.

1. There are many injuries, where it would be absurd to give the sufferer a right to retaliation; in the case of adultery, for instance, to permit the injured husband to sleep with the wife of the adulterer in return.

In regard to this objection, however, some misconception seems to lie at bottom. It is not every description of injuries that we here speak of, but only of personal injuries: nor yet of any retaliation that the sufferer himself may choose to exact, such, for instance, as thrusting out another's eyes or teeth; but only of a punishment that depends upon, and is to be inflicted by the magistrate. Were any person to deduce all sorts of punishments from the Jus Talionis,
Art. 242.][Difficulty of exact Requital. 463

this objection would hold: but it does not hold in the case of a legislator appointing the punishment of re-
taliation for personal injuries.

2. In many cases it is difficult to requite just as much, and no more, than has been suffered: for in-
stance, where a man has thrust out one of another man's teeth, he may, in suffering retaliation, very easily lose two teeth by one stroke. In like manner, it would be difficult to inflict a wound of exactly the same size and depth with that given, and neither larger nor deeper. And what shall be done, where a man, having but one eye, happens to thrust out one of his neighbour's? Shall he lose his only eye by way of retaliation? This would be to make him suffer a much more serious injury than he had caused: for now he would be quite blind, whereas he had only made the other one-eyed like himself.

Here I will make much greater concessions than the opponents of the law of retaliation are wont to demand. For had they known human nature, they would have stated in addition, and I, for my own part readily grant them, that punishment by retalia-
tion is, in almost every case, a much more sensible evil, than the original injury: for every pain and every evil to which we look forward, is, by mere anti-
cipation and fear, aggravated more than an hundred fold; the pang of a moment is extended to hours, days, weeks, &c.; and when it actually takes place, every individual part of the evil is felt in the utmost perfection, by both soul and body, in consequence of its being expected. The adversaries of the Lex Tal-
ionis were bad philosophers, when, with all their
benevolence, this observation escaped them.—But after all, it would, even in conjunction with what went before, form no objection to the law in question; for this, in fact, is nothing more than what commonly takes place in all punishments, and in all the variety of revenge that we dread, even in the state of nature. If I had, in that state, beat out the eye of one of my neighbours, I should always be afraid that he, or his son, or his father, or his brother, or some other friend, or, perhaps, some person hired for the purpose, might lie in wait for me, and beat out one of mine in return; and, under this unnecessary fear, I should really and truly be much more unhappy, than the man whose eye I had beat out; in my very dreams, I should, who knows how often, lose an eye with pain and horror; and although, when I awoke again, I found myself possessed of it, I should, at first, be uncertain, perhaps, whether it had been a dream or not; and, stupified with fear, in the darkness of the night, I should be anxious to try whether it could see or not. Nay, not only should I be afraid of this, but well aware that revenge always studies to retaliate beyond what it suffers, I should anticipate a more serious injury than I had caused, the loss of an eye perhaps for a tooth, or even the loss of life itself, in short, every thing that is bad: and, under these continual apprehensions, I should be extremely miserable, even though the injured person might never actually retaliate the injury. Should he ever get me into his hands, and repay me merely according to the Jus Talionis, this would be a fresh addition to my misery; unless, indeed, it might be said, that I ought to look
Art. 242.]  And of anticipated Punishment.

upon it as good luck, because I should no longer have to live in perpetual terror. Now these are nothing more than the terrors of conscience, that natural and awful avenger of all the crimes we commit, and, in the mythologies of the Greeks and Romans, represented under the image of the Furies; and thus, for wise ends, hath nature constituted our minds, to prevent us from injuring one another. Even in the case of murder, it is precisely the same. Whoever, in the state of nature, has perpetrated that crime, will continually be in fear of the son or friend of the deceased, as his Goel; will, while awake, fancy an hundred times that he sees him, and tremble at the thoughts of him, how distant soever he may be; and will be as often disturbed when asleep, by seeing him in his dreams, and thinking that he feels him giving him the fatal stab. In a word, he will, both sleeping and waking, die a thousand deaths. If he think this unjust, and too severe, let him blame God and nature, for having annexed such variety of wretchedness to the commission of guilt; and blame himself for being such a fool as to let such stuff come into his imagination.—If, again, it is committed by a member of civil society, and if (which is the mildest punishment of all those now in use,) it costs him his head, he certainly, in suffering even this retaliation, suffers much more than the person whom he murdered; who had only a few minutes agony, which his rage, in self-defence, would scarcely let him feel; whereas he, in his prison, anticipates his death for weeks, and feels in imagination, which aggravates every evil, the sword of justice every moment on his neck; and at last, when he is
actually brought out to execution, is so much over-
whelmed by the previous feelings of death, that there
have been instances of malefactors, who, having a pa-
don given them on the scaffold, were already so near
death, that they could not be saved even by blood-
letting, but died as thoroughly as if they had actually
been beheaded. But thus to die of agony, is a much
more terrible death than to die of mere wounds by
the hand of a murderer.

This objection, therefore, amounts to nothing at
all; only there is another, which it is understood to
imply, viz. that the injurious party is under no obliga-
tion to suffer more evil than he has done; and this was
actually the reasoning of the philosopher Favorinus,
whom A. Gellius introduces as speaking on this sub-
ject, in his Noctes Atticae.

But what ignorance does such reasoning shew of all
the laws that have been introduced into all nations,
and of all that any man may, from his own feelings,

* Sed et si prædico reperire, necque quam petitione aut nihilus ex ladi,
aut latibus: quod cujusmodi libra, aut mensura caveri possit non reperio.
Sunt etiam, si quid plus erit, aliterque commissum, res sit ridiculæ atro-
cisstatis, ut contraria actio mutua talionis oriatur, et adolescit infinita qua-
dam reciprocatio talionum; lib. xx. cap. 1. § 18, 19. This said phi-
losopher, Favorinus, really speaks like a wrangler, or school-philos-
opher unacquainted with the world, and merely an adept in disputation.
He represents the right of retaliation, as if exercised by the injured
person himself.—It is strange that Gellius does not make his lawyer,
Gellius—take notice of this in his answer: for it is this which forms
the excellence of punishments that depend in a court, beyond those
inflicted by private revenge, that they give no room for a requital of
revenge, and the person punished is very rarely so much as tempted
to think of any such thing.
know of the nature of revenge, if he pay but ever so little attention to what passes within him. The injurious party has no right to demand that the retaliation to which he subjects himself, shall not exceed the injury; for upon the same principle on which he did an injury to another, without any precedent or provocation, may the sufferer, following his example, requite him, in terms of his own law, with ten times, or ten thousand times, as great an injury. The relations between nothing and something, and between something and infinity, are alike: they both surpass all numeration. As to the morality of such a procedure, and whether God approves of evils being thus infinitely increased, I am not here concerned with deciding. The present question relates not to an evil infinitely augmented, but only of one requited with some addition. If, however, the injurious party have it requited him even in an infinite degree, he can have nothing more to say, than that as he had done, so had he suffered, wrong. But putting this infinity entirely out of the question; in all the circumstances wherein human beings can be placed together, proceeding from the rudest state of nature, and, what is a relic of it, the consuetudinary law of duelling, through every stage of society, until we arrive at the best-regulated commonwealth, it holds as a fundamental principle, that the man who has caused evil to another, has no reason to complain if he should suffer a greater evil in return. In the state of nature, self-revenge goes certainly much beyond the offence, and would go infinite lengths, if not restrained at last by pity, or by contempt of its victim, or by the suggestions of
magnanimity. In the old German proverb, which is strongly expressive of a national idea, it is said, (Auf eine Maulschelle gehört ein Dolch,) "Every blow has its dagger." The point of honour, in duelling, insists on revenge with the sword; and the whip, with the pistol; but where people's ideas are not so artificial, they find a satisfaction in, and plume themselves on, having given for one blow, two or more in return.

—In the state of civil society, the design of punishments is to deter from crimes; for which purpose, a bare requital in kind will not be sufficient, because the criminal may hope to escape detection, or to escape from justice, and of course his fear of punishment is by its uncertainty materially lessened; and hence punishments are here much more severe, and by one example, many thousands are deterred from a repetition of the crime: so, that unless a man chooses to take the consequences, and to serve the public as an example in terrorem, he must abstain from injuring his neighbour. In the case of theft, restitution, with considerable additions, would not be accounted too severe, but on the contrary a very mild punishment for the crime; and yet here more is given back than was taken away.—But I here stop short, because I mean to offer some general remarks on the relation of punishments to crimes, in the Essay which I have already mentioned my intention of adding as an Appendix to this work.

This observation only shall I yet offer in the meantime. The objection argues not only against the retaliation of personal injuries, now the subject of dispute, but against all punishments whatever, which consist of
Art. 242.] Absurd Consequences of an Objection. 469

any evil that is at all a matter of feeling, or which, by fear and anticipation, may become aggravations of such evils; and many inferences flow from it, which to the objector himself must appear very strange, and would go at any rate to destroy all the security of human life. Assassination, for instance, and child-murder, would on this principle be mere trifles, and by no means worthy of being punished with death. The assassin might say, "The person, whom I murdered, did not know what befel him. He was no sooner stabbed than he fell; and he died, without knowing it, altogether unexpectedly, and in the midst of joy; and if I must die on his account, let my death be equally easy and unexpected. I only beg that people may not take it into their heads to declare me an outlaw, else shall I at every step be accompanied with the dread of death, and, in imagination, die a hundred thousand times instead of once."—The child-murderer, again, might say all this, and thus much more: "The child whom I dispatched, knew nothing of the worth and enjoyment of life, and had been in a state of such obscure sensibilities, that his pain was next to nothing;" thus insinuating, that whenever he himself should happen to come into the same state, that is, to return to his mother's womb and be born again, by a sort of Pythagorean Metempsychosis, he might then be punished for the crime in question; but that, till then, justice required his punishment to be delayed, because to make him die at present, would be doing him very great injustice.

5. The law of retaliation is barbarous.
I do not see why it should be considered as more barbarous than hanging or beheading; and with the very same justice with which this assertion is made, it may in like manner be asserted, that to demand payment of debt is base and avaricious, or that every punishment which is less severe than that of like for like, is fit only for a state where the people are oppressed and enslaved. The one assertion is just like the other, and neither of them proves anything. The latter indeed would, in these times, manifest a stronger tone of sympathy, and perhaps more truth, than in former ages.

4. The sight of so many mutilated persons who, by the law of retaliation, had had an eye beat out, or a hand chopped off, or a nose bitten away, &c. &c. would be extremely disagreeable; and would not only be a punishment to the culprits themselves, but to every person of the least degree of sensibility, and especially to the fair sex at the time of conception, when they are afraid of having their imaginations affected by disgusting objects.

This I readily grant; but I believe, at the same time, that where other circumstances, and the character of the people are the same, these are sights that will be much more rarely seen where the lex talionis is established, than where it is not. For every one will then be the more careful to avoid wounding or maiming his neighbour, in a quarrel, or in a passion; and certainly nobody will attempt any such thing after deliberate premeditation, when he knows that he must himself lose the same member of his body, of which he deprives his neighbour. Besides, it is certain that the
law of retaliation will be but seldom enforced, and be chiefly confined to threatenings, and measures in terror. The man who has beat out the eye or tooth of another, or cut off his arm, will be at all possible pains to obtain his forgiveness, and a remission of the legal punishment. He will humble himself before him, and beg his pardon; not as we see sometimes done, with an air of proud contempt; but even the man of highest rank will heartily do so before the meanest of his dependents; will ever after honour him as his forgiver, and at the same time gladly make him any pecuniary recompense in his power. In such a case, the sufferer of the injury will be compassionate and generous, or, if not sufficiently either the one or other, at any rate he will have as much love of money as, when the violence of his revenge has been a little mitigated by the humiliation and entreaties of his adversary, to accept the proffered peace-offering, and let self-interest settle the account between them. Men are naturally vindictive; but whenever we meet with humble apologies, and the injurious person throws himself on our mercy, we are in general sufficiently inclined to forget our wrongs; so much so, indeed, that to some people it is nothing less than intolerable punishment to hear such apologies, and they forget the injuries they have suffered, merely when they know that their author regrets them. Even those whose sentiments are not so refined, will still, when their fury is abated, yield to the power of gold. It was thus that at Rome the lex talionis came gradually into perfect desuetude, and gave place to a pecuniary compensation, depending on the discretion of the Praetor;
and that, though there had been nothing else, was one bad consequence of the change; for to a free man, the discretion of a judge is a term that sounds very suspiciously.

5. Sound morality cannot approve of that revenge, which nothing short of a repetition of the same injury will satisfy, and which insists on beating out the eye of another, if he has beaten out ours. This too I readily admit; but then morality and civil law are not one and the same thing; and the latter, as long as it has to do with people who are not all paragons of perfect virtue, must tolerate many things on account of hardness of heart, to avoid greater evils; (Art. V.) Thus, for instance, as long as the greatest, or the greater part of the people are still prone to revenge, the law must give injured persons the means of obtaining satisfaction for their wrongs, else will the consequence be, that they will take revenge at their own hands; and thus instead of authoritative punishments, none other will be known than that of personal revenge, which is always dangerous, by being carried beyond due bounds, and often affects the innocent, and provokes to fresh acts of vengeance.

To this, however, we must add what has been already observed, that although those, who are in the least injured, will inexorably abide by the law of retaliation, they will still be satisfied with professions of repentance, with apologies, and with pecuniary compensations. The law does not peremptorily command an injured person to avail himself of the right of retaliation, without any alternative. It only fixes the punishment to which the author of an injury must
submit, if he cannot compound matters with the injured party. It thus deters from outrages, because every one must be afraid, lest the sufferer insist upon his right, and in the case of personal mutilation, compel the person who has caused it, to agree to such terms of compensation, as he would otherwise have refused to offer.

6. Christ, in his sermon on the mount, condemns that revenge which requires *eye for eye, and tooth for tooth*; (Matth. v. 38, 39.) and consequently the law of retaliation is unchristian.

This is, in fact, the same objection with the preceding, and therefore already answered. Christ does not find fault with the Mosaic statute of *eye for eye, tooth for tooth*;—for he has throughout his whole sermon nothing to do with Moses, and neither expounds nor controverts his doctrines*—he only condemns the bad morality of the Pharisees which they thought fit to propound in his words. In the present instance, these expositors, confounded, as on many other occasions†, civil law and morality together; and when the moral question was, How far may I be allowed to carry my resentment, and gratify my thirst for revenge? they answered, in the words which Moses addressed, not to the injured, but to the injuring party, or to the judge, and said, *eye for eye, tooth for tooth.* That Christ has no intention of controverting, or censuring the laws of Moses, but merely the expositions of

* See my *Dissertation on the Mosaic Laws Prohibitory of Marriages of too Close Affinity, § 107.*

† See Article CXX.
the Pharisees, is manifest, from comparing his own doctrine with that of Moses. Moses addresses the magistrate, or the delinquent who has mutilated his neighbour, and says, Thou, delinquent, art bound to give eye for eye, tooth for tooth; and Thou, judge, to pronounce sentence to that effect. Christ, on the other hand, manifestly addresses the person injured, and forbids him to be vindictive; Ye have heard, that it is said, eye for eye, tooth for tooth; but I command you, not to requite evil; but whoever strikes you on the right cheek, offer to him also the left. How this last clause is to be understood; whether it prohibits suing for revenge, and whether one should actually hold up the left cheek to the person who has slapped the right, it is not my business here to decide, because I am not explaining the sermon on the mount. But as long as a people is not composed of citizens, whose temper and conduct are altogether in conformity to the doctrine of the sermon on the mount, civil laws, which do not, as Christ himself says, permit many things, on account of the hardness of the peoples' hearts, and which presuppose such an exalted pitch of perfect virtue, will be improper and unwise.

I am far from meaning, by what I have now said in defence of the Lex Talionis, to assert that it is the only proper punishment in the case of personal injuries, or that it ought to be introduced into every state, in which it is not yet in use; but only that where it already operates, and especially in the Mosaic polity,

* The word *requiti* means not merely to resist, but also to requite; and, as it were, to weigh out again what one has received.
it does not merit censure. Here also it ought to be considered, that the same style of law is not equally suitable to every state. To southern countries the law of retaliation appears to be better adapted, and, in some respects, more necessary than to northern; because in southern countries, such as Italy, Portugal, Palestine, and Arabia, the desire of revenge is generally more violent, and of longer duration than with us in the 50th degree of latitude, who sooner forgive and forget injuries, and are really magnanimous in our revenge. Where it is once established, as where Moses found it already in force, it is dangerous to attempt its abrogation: because the people accustomed to it might not be willing to give it up, and would, of course, enforce it themselves. But to introduce it among us would appear to be needless; because we see or hear of so few instances of personal injuries; for though we have people among us who want an eye, there are none who owe the loss of it to deliberate malice, nor is it by any means a trait of our national character, that we delight in inflicting permanent injuries on one another. A German is commonly too magnanimous to think of any such thing. Blows he will give, and shew his superiority over his enemy; but even the peasant in the utmost violence of rage, and though he hardly knows of any particular punishment for such an offence, will not, at any rate, willingly beat out his neighbour's eye, or think of giving him any such lasting mark of his revenge, as the inhabitant of a southern country, or that rare character among us, to whom, in Lower Saxony, the epithet glupisch ( ) is applied, would exult in
Most suitable to a Democracy.

[Art. 242.]

having left behind him. Except in cases of necessity, it is always a hazardous and doubtful experiment to alter laws, or to increase the severity of punishments; and with regard to uncommon crimes, a legislator will always decline taking any notice of them, or will, at any rate, make no new laws in relation to them, lest he should thus only make them known; he will think it better to let them quietly rest under the ancient national abhorrence, with which they are regarded. Thus, as we are not accustomed to the law of retaliation, it would appear to us cruel, and no injured person would, for fear of the universal outcry it would raise against him, attempt commencing an action to enforce it: so that, as frequently happens in such cases, the increased severity of the punishment would prove nothing else than a sort of impunity to the person who had committed the crime. The more nearly that a people approaches to a state of nature, the more suitable to their circumstances is the law of retaliation: in like manner, it agrees better with a democracy, than with any of the other forms of government: although, no doubt, to these it can accommodate itself, and did subsist in Rome under a strong mixture of aristocracy.

The following distinction, likewise, which has not, perhaps, been theoretically considered, is a very striking one. Where every citizen is a soldier, and defends his country with the strength of his arm, the law in question may answer well enough; but where there is one particular class of men, who follow the profession of arms, whether as hired soldiers, according to our present system, or, according to the feudal
Plan in the middle ages, as gentlemen with land given them in fee instead of pay, there, at least; if crimes were very frequent, it could not be conveniently enforced without many exceptions. For if the soldier had an eye dug out, or his right arm, hand, or thumb, mutilated, he would not only be punished himself, but his country would also suffer, in his being rendered unfit for its defence. Here, therefore, there would require to be one law for the protectors, and another for the protected; at least, unless soldiers could be had in more than sufficient numbers. Many other dangers of the same kind would attend an alteration of the law; which is, in every case, a very hazardous experiment. At the same time, I readily own, that in cases of personal injury, I have no great partiality for the pleasure of the judge, but would infinitely prefer the decision of laws, that should place the high and the low on an equal footing, and estimate the tooth of a peasant at the same rate with that of a lord, particularly where the former must gnaw crusts, and the latter can have crumb if he chuses.

ART. CCXLIII.

Of Fines, or Penalties.

§ 16. Fines, if I may first use the term in the more extensive sense, were;

I. Fines, strictly so called, in Hebrew, עַשֵּׁה (Onesch,) which were, indeed, ordained by the laws, but

* This word affords a fresh instance, of what I have already had occasion to remark, relative to other forensic terms, that the other
commonly went, not to the magistrate, but to the injured party; and these were of two kinds;

1. **Fixt;** that is, those of which the amount was precisely determined by some statute, as, for instance, that of Deut. xxii. 19., or Deut. xxii. 29.

2. **Undetermined;** or where the amount was left to the decision of an arbiter, as in Exod. xxi. 22.

**II. Reparations for losses;** such as the law had fixed once for all at a certain sum; as, for instance, in the case of a pushing ox, which the owner neglected to confine, goring another man's servant to death; Exod. xxi. 32.

**III. Twofold, fourfold, and even fivefold, restitution of things stolen;** and restitution of property unjustly retained, with 20 per cent. over and above; Exod. xxi. 37. xxii. 2, 3. Lev. v. 16. vi. 1. 5.

**IV. Compensation, not commanded, but only allowed, by law, to be given to a person injured, that he might depart from his suit, and not insist on the infliction of the legal punishment, whether corporal or capital.**—It is termed either *Kofer,* (כּוֹפֶר) **Compensation,** or *Pidjon Nefesch,* (_pidjon nefesch_) **ransom of life.** In one case it is most expressly permitted, Exod. xxi. 30.; but in the case of murder, and also of unintentional homicide, it is prohibited; Numb. xxxv. 31, 32.

In regard to cases where the law of retaliation applied, Moses does not declare himself explicitly respecting it; but I have already expressed my opinion, that languages of the East are not acquainted with them, in their forensic sense. (See Art. XC VIII. CXXXI ) We do not find so much as one etymology for this term for a fine. The Arabs, indeed, have the radical word, but in quite a different sense.
in such cases it was not forbidden; and as Moses nowhere gives any particular law on the subject of retaliation, but merely presupposes the ancient and established usage, we must conclude that the liberty of settling claims of retaliation by compensation was still continued.

Considering that in the most ancient Roman laws, we find *mulcta* (I am at a loss what German word to use here, as money was not in question, but I shall just simply say *Busen*, or) *fines*, imposed, not indeed, in money, but in so many sheep or oxen, because in many nations, cattle served for money in the earliest times; we may really wonder that in the laws of Moses, who was much more ancient, and who, moreover, legislated for a people that had been shepherds, penalties of every description should be found imposed, not in cattle, but in silver. Our astonishment, however, will vanish, on re-perusing Art. LXXXII. Palestine was the most ancient seat of silver money; and Abraham had long before the days of Moses purchased a sepulchre in that country, at the price of 300 shekels of silver.

The highest fine leviable by the laws of Moses was 100 shekels of silver, Deut. xxii. 19. According to the common rate of calculation, this amounted to 100 Gulden of our money: but, in my opinion, scarcely to one-fourth, or one-fifth of that sum. But whichever of the two rates we adopt, it appears but a small sum for the highest penalty known in the law. In regard, however, to this, and other penalties of less weight, we must remember that, in the infancy of the world, but very little silver was dug out of the earth; and,
of course, it was scarce, and, therefore, high in value. I imagine, that I should not go too far, in conjecturing that in the time of Moses, there was not, on the face of the earth, one twentieth or thirtieth part of the silver that we now have. It was the discovery of America, only three hundred years ago, that made such an influx of silver into Europe. Our Germany, which abounds so richly in silver, had no mines in the time of Tacitus: nor were its subterraneous treasures ever so much as dreamt of. Spain* was the ancient country of silver; and thence it is probable that the Phœnicians drew their silver at and before the time of Moses. But when we consider, what immense treasures the Spanish mines had yielded down to the time of Pliny, and, on the other hand, that before the days of Moses only the most inconsiderable of the mines of that country could have been discovered, or wrought to any advantage, we must be led to conjecture, that the silver, which even Spain yielded before the Mosaic era, had borne but a very small proportion, to what was drawn from it, in the course of the 1500 years between Moses and Pliny, while the art of mining was progressively improving, and their knowledge of the mining districts becoming more and more extensive. To which if we add, that, in the time of Moses, gold was used only for ornaments, (Art. LXXXII.) and not for money, we shall be satisfied, that there was not then in the world, one-fiftieth part of the money now in circulation; and so much the higher, of course, must have been its worth.

In proportion as more silver was dug from the earth, its value would gradually decline; particularly when gold came at last to be used as money, of which we find the first traces in the history of David. In his reign we see, that the prices of things were actually very different from those of former times*; and the difference must have been still greater under Solomon, when foreign commerce brought so much gold and silver into the country. Thus, in process of time, it must certainly have come to pass, that the penalties imposed by the Mosaic laws would be too small; and neither be felt by those who paid them, nor yet serve to those who received them, as adequate compensations for their losses. But in this point, Moses acted like all other legislators. He gave himself no trouble about distant ages, but left it to posterity to shew themselves wise enough not to adhere closely to the letter of his statutes, but to enforce them according to their spirit; and, of course, to increase penalties, when it became necessary. In such cases, the punishment still remained the same, and without any increase of severity; for in Solomon's time, two shekels could hardly be of so much value as one in the days of Moses. The Israelites, however, must really have had in their jurisprudence, a provision for increasing the severity of punishments, when lesser ones did not prove sufficiently terrific. Of this, we shall, in the sequel, bring an example from the Proverbs of Solomon, relative to the restitution of things stolen.

ART. CCXLIV.

Of Sin and Trespass-Offerings, considered as a sort of Punishment in themselves; and, as such, serving to annul the ordinary Punishments of Crimes.

§ 17. I now come to the more particular illustration of that peculiar principle in the Mosaic law, on which I touched but briefly under Art. CLXXXIX., and whereby, in consideration of certain offerings, punishments were either entirely remitted, or at any rate, capital punishments commuted for others less severe. Such offerings were in themselves a sort of punishments: first, as fines of some, though but small amount, paid in cattle; and, secondly, as accompanied with a public acknowledgment of guilt, which it behoved the offender to make. This, it is true, was not attended with any degree of infamy; but still in its very nature it was humiliating and shaming. It would have some resemblance to our ecclesiastical penance, if that punishment still remained what it originally was; but by degrees the idea of a civil disgrace has become too much attached to it; and thus, by the laws of some nations, such, for instance, as France, the most atrocious criminals, even regicides themselves, are obliged, against their wills, and merely as a disgrace, to do penance, and make the amende honorable; which, no doubt, distinguishes ecclesiastical penance, as it now is, very strikingly from the offerings of the Mosaic law. These, as it appears to me, left no stain behind them, but rather effected the
cancelment of the previous crime, though it had even been perjury. What designation should, under these circumstances, be given them, whether \textit{abolitio criminis}, or \textit{quasi pæna}, I leave it to lawyers to determine. The former, Moses generally expresses in these words, \textit{The priest shall make atonement for him before Jehovah, for the sin he has committed, that it may be forgiven him.}

Considered as \textit{nukteæ}, or punishments affecting property, they were in general extremely moderate; for the greatest sin-offering that the priest, or the whole people, in the case of any public iniquity, of which they came to the knowledge, had to make, was one ox, with the accompanying oblations of wine and meal. The lesser offerings were sheep and goats; and when these could not be afforded, they came so low as a pair of turtle doves, or young pigeons. Even this last offering had the benefit of a privilege in the case of extreme poverty; for the person who was not in circumstances to find two turtles, might, in virtue of a very peculiar exception, (Numb. v. 11,—13.) get off for a little meal; so that to the poor this punishment was made as easy as possible, and scarcely could any one, whose conscience prompted him to the confession of a secret sin, be prevented from confessing it, by mere poverty. In one single case only, that of defrauding the sanctuary, was it left to the magistrate to demand a better or a worse ram for a sin-offering, and to estimate it by shekels. The statute relative to this point, in Lev. v. 15. is as follows: \textit{If any one withhold aught from the sanctuary, or otherwise from error bring guilt upon himself therein, he shall make a...}
484 New Explan. of Lev. v. 15. defended. [Art. 244.

sin-offering to Jehovah, of a ram without blemish, whose worth, in shekels of silver, and indeed in shekels of the sanctuary, thou art to decide. The person to whom thou is here addressed, and who was to fix the value of the ram, is certainly not the priest, but, as ver. 14. shews, Moses; and after his death, most probably the secular magistrate. This point, however, I shall not dispute with those who think differently; but thus much is clear, that in such a case, according to the nature of the crime, and the circumstances of the defrauder, either a valuable or a common ram might be exacted; and thus it was certainly possible, that the delinquent could be made to feel the punishment, by the value of the ram demanded; for one of ten times the worth of a common ram might be required, by fixing upon certain rare peculiarities of colour, or some such thing, to which amateurs attach ideas of value. Here, therefore, we find something for once left to the pleasure of the judge: nor will any one consider this as a hardship, who knows, that among other nations, defrauding the sanctuary was punished with far more severity.

As I here depart from the explanation which is at present commonly given of this passage, and many readers may be desirous of knowing my reasons, I shall now give some account of them. The Hebrew would, in a Latin translation quite literal, run thus: Offeret......arietem de ovibus secundum aestimationem tuam argenti siclorum, secundum siclum sanctitatis.—Here it has been commonly supposed, that siclorum, (שִׁכֶלְו) was equivalent to two shekels; just as the Roman lawyers, when a person promised to do any
The Explanation given in the Vulgate.

thing in diebus, explained it as implying an obligation to do it in two days. I do not deny, that the Hebrews sometimes used the plural, put absolutely, in this way. I have myself adduced, on a former occasion, the four following examples of that usage, viz. Numb. xxxv. 30. 1 Sam. xxix. 3. Ezek. xlvi. 13. Dan. xii. 7.; although to most of them some objection may be made; particularly if we set aside respect for the Jewish points. The most ancient version in which I find this explanation, is the Vulgate, which has, Arietem immaculatum de gregibus, qui emi potest duobus siclis juxta pondus sanctuarii; and from that version, Luther has retained it. I was once of the same opinion, as the reader may see from p. 234. of my Hebrew Grammar, and p. 167. of my Dissertation, De pretiis rerum apud Hebræos; but afterwards, the following considerations made me doubtful of its propriety.

It is uncertain then, whether the Hebrews had had that idiom of the Roman law, which has now been mentioned; and against the four examples which I have collected, in addition to those given by others, many objections might be stated; but were they ever so unquestionable, still I cannot comprehend why this rare signification of the plural, should here be preferred to the usual one; according to which, the words give the best sense, and say the very same thing, which Moses, beyond a doubt, says a little afterwards, in ver. 18., on occasion of another trespass-offering. It would likewise be strange to give such a command, as, He shall offer a ram, according to thy valuation, which shall be worth two shekels, &c.; for what is there left to the arbitration of the valuator? He cannot
accept one worth less, nor demand one worth more, than two shekels; and the legislator might rather have at once distinctly said, A ram worth two shekels. I am quite aware of many things that may be said in defence of the common explanation. But where we can manifestly have one so easy, and recommended, moreover, by the parallelism in ver. 18. I would not chuse to admit, in limine, a grammatical anomaly, in order to get at one more difficult.

That we may now be able to survey this law of cancelment at one view, I shall here specify the particular cases to which it applies; concerning which, however, more will be said under the head of crimes.

1. For every unintentional transgression of the Levitical law, even if it was a sin of commission, (for in the Mosaic doctrine concerning sin and trespass-offerings, all transgressions are divided into sins of commission, and sins of omission,) a sin-offering was to be made, and thereupon the legal punishment was remitted; which, in the case of wilful transgression, was nothing less than extirpation. — Art. CCXXXVII.

2. Whoever had made a rash oath, and had not kept it, was obliged to make a sin-offering; not, however, for his inconsideration, but for his neglect, Lev. v. 4.

3. Whoever had, as a witness, been guilty of perjury—not, however, to impeach an innocent man, (for in that case the lex talionis operated,) but—in not testifying what he knew against a guilty person, or in any other respect concerning the matter in question;

* See the Notes in my German version, on Lev. iv. 2. v. 1, 4—17
and in consequence thereof, felt disquieted in his conscience, might, without being liable to any farther punishment, or ignominy, obtain remission of the perjury, by a confession of it, accompanied with a trespass-offering, Lev. v. 1.

4. Whoever had incurred debt to the sanctuary, that is, had not conscientiously paid his tithes, had his crime cancelled by making a trespass-offering, and making up his deficiencies with 20 per cent. over and above; Lev. v. 14, 15.

5. The same was the rule, where a person denied any thing given him in trust, or any thing lost, which he had found, or any promise he had made; or again, where he had acquired any property dishonestly, and had his conscience awakened on account of it—even where it was a theft, of which he had once cleared himself by oath, but was now moved by the impulse of his conscience to make voluntary restitution, and wished to get rid of the guilt, Lev. vi. 1,— 7 *.

By the offering made on such an occasion, the preceding crime was wholly cancelled; and because the delinquent would otherwise have had to make restitution, from two to five fold, he now gave 20 per cent. over and above the amount of his theft.

6. In the case of adultery committed with a slave, an offering was appointed, by Lev. xix. 20,— 22.; which did not, however, wholly cancel the punishment, but mitigated it from death, which was the established punishment of adultery, to that of stripes.

That such measures as these, must have had a very

* Or, according to another division of the chapters, chap. v. 20,—26.
great effect in prompting to the restitution of property unjustly acquired, and to the retractation of false oaths, I have already remarked, in my notes upon the different passages now quoted; and it is indeed quite obvious. When I come to treat of the particular crimes now mentioned, I shall have more to say on this point.

In the case of crimes, however, of which the good of the community expressly required that the legal punishment should uniformly be put actually in execution, no offering could be accepted, as I have remarked in the Note on Lev. iv. 2.

The *pæna ordinaria* and an offering never took place together; the latter being always meant either as a remission or mitigation of the former. Indeed the contrary doctrine is so very explicitly stated in a passage of the book of Numbers, (chap. xv. 27,—31.) that I think it will be proper here to give it at length; *If an individual sin through error, he shall offer a yearling goat, and the priest shall atone for him before Jehovah, for the sin thus committed, that it be forgiven him.* For the native, that is, the born Israelite, and the stranger sojourning among you, there is one and the same law, where the matter proceeds from error. But whoever, whether native or stranger, audaciously transgresseth the law, contemneth Jehovah, and shall be extirpated from his people; *for he hath despised the word of Jehovah, and broken his law. Such a man shall be extirpated; and do thou impute this to none other than himself.* The apostle Paul has remarked, (Heb. ix. 13, 14*.) that offerings did not effect any real for-

* See my *Typical Theology*, § 21.
Art. 244.] David's Guilt inexpiable by Offerings. 489
giveness of sins before God, but merely a civil cancel-
ment, and deliverance from secular punishment, or, 
as he terms it, a corporal purification. We see like-
wise, from Psal. li. 18., that David, after committing 
adolescery with Bathsheba, and contriving the death of 
her husband Uriah, was convinced, that no offering 
could be accepted by God for crimes whose atrocity 
far exceeded all the expiation that offerings could 
effect; and therefore he did not attempt to profane 
the altar with any atonement so unsuitable to the 
Mosaic law. And though his words are no doubt 
susceptible of a different explanation (for I do not 
now quote them as a proof,) still, from what has been 
above remarked they receive so much light, that we 
shall not be apt to look about for any such explana-
tion, if we only reflect, that for the crime of adultery 
committed with a free-born wife, and that of deliber-
ate murder, no offering whatever could really be 
made.

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