

CHAPTER 25

INTRODUCTION TO DEUTERONOMY 25

Several laws are contained in this chapter, as concerning beating such whose crimes required it, (^{<f251>}Deuteronomy 25:1-3); of not muzzling the ox in treading out the corn, (^{<f254>}Deuteronomy 25:4); of marrying a deceased brother's wife, when there was no issue, and of the disgrace of such that refused it, (^{<f255>}Deuteronomy 25:5-10); of the punishment of an immodest woman, (^{<f2511,12>}Deuteronomy 25:11,12); and against bad weights and measures, (^{<f2513>}Deuteronomy 25:13-16); and for the utter destruction of Amalek, (^{<f2517>}Deuteronomy 25:17-19).

Ver. 1. *If there be a controversy between men*, etc.] Between two or more: *and they come unto judgment*; into a court of judicature, bring their cause thither:

that [the judges] may judge them; who were never less than three; the great sanhedrim at Jerusalem consisted of seventy one, the lesser court was of twenty three, and the least of all three only:

then they shall justify the righteous, and condemn the wicked: acquit the one, whose cause is good, and condemn the other to punishment, who is guilty of a crime, and as that deserves; which is to do righteous judgment; the contrary to this is an abomination to the Lord, (^{<3175>}Proverbs 17:15).

Ver. 2. *And it shall be, if the wicked man be worthy to be beaten*, etc.] There were four kinds of death criminals were put to by the Jews, stoning, strangling, burning, and slaying with the sword; and such crimes not as severe as these were punished with beating or scourging; and who they were that were worthy to be beaten is at large set forth in the Misnic treatise called Maccoth ^{f439}, or "stripes", which are too many to be transcribed. Maimonides says ^{f440}, that all negative precepts in the law, for the breach of which men are guilty of cutting off, but not of death by the sanhedrim, are to be beaten. They are in all twenty one, and so all deserving of death by the hand of heaven; and they are eighteen, and all negative precepts of the law broken, for which there is neither cutting off

nor death by a court of judicature, for these men are to be beaten, and they are one hundred and sixty eight; and all that are to be beaten are found to be two hundred and seven;

that the judge shall cause him to lie down; which seems to be on the floor of the court, since it was to be done immediately, and in the presence of the judge; and the Jews gather^{f441} from hence, that he was to be beaten neither standing, nor sitting, but bowed; that is, ye shall command or order him to lie down, or to fall upon the ground with his face towards it:

and to be beaten before his face; in the presence of the judge, that the sentence might be properly executed, neither exceeded nor diminished; and indeed all the judges were to be present, especially the bench of three; while he was beating, the chief of the judges read the passage in (~~f358~~ Deuteronomy 28:58); and he that was next to him counted the strokes, and the third at every blow said Smite^{f442}: of the manner of beating or scourging, (see Gill on "~~f407~~ Matthew 10:17");

according to his fault, by a certain number; as his crime and wickedness was more or less heinous, more or fewer stripes were to be laid on him; as ten or twenty, fewer or more, according to the nature of his offence, as Aben Ezra observes, only he might not add above forty; though he says there are some who say that according to his fault the stripes are larger or lesser, but all of them in number forty.

Ver. 3. *Forty stripes he may give him, and not exceed*, etc.] And that this number might not be exceeded, it is ordered by the Jewish canons that only thirty nine should be given; for it is asked^{f443},

“with how many stripes do they beat him? with forty, save one, as it is said, in number “forty” that is, in the number which is next to forty;”

this they make out by joining the last word of (~~f52D~~ Deuteronomy 25:2) with the first of this; and that this was an ancient sense of the law, and custom upon it, appears by the execution of it on the Apostle Paul; who was not indulged, but suffered the extremity of it as it was then understood, (see Gill on "~~f712~~ 2 Corinthians 11:24"); moreover, that they might not exceed this number, they used to make a scourge of three lashes, so that every strike they fetched with it was reckoned for three stripes, and thirteen of them made thirty nine; wherefore if they added another stroke, it would have exceeded the number of stripes by two:

lest [if] he should exceed, and beat him above these with many stripes; they might diminish them, if a man was weak, and not able to bear them; but they might not exceed them, if a man was as strong as Samson, as Maimonides^{f444} says:

then thy brother should seem vile unto thee; as if he was a beast, and not a man, and much less a brother. The Targum of Jonathan is,

“lest he be in danger, and thy brother be vile;”

lest he be in danger of his life, and become vile, as a dead carcass; so the apostle calls dead bodies “vile bodies”, (^{<40B>}Philippians 3:21); or in danger of being maimed, and becoming lame or deformed, and so be contemptible: and this punishment of beating with the Jews was not reckoned, according to their writers, reproachful, and as fixing a brand of infamy upon a person; but they were still reckoned brethren, and restored to their former dignities, whatsoever they possessed; so Maimonides^{f445} says,

“whoever commits a crime, and is beaten, he returns to his dignity, as it is said, “lest thy brother be vile in thine eyes”; when he is beaten, lo, he is thy brother; an high priest, that commits a crime, is beaten by three (i.e. a bench of three judges, by their order), as the rest of all the people, and he returns to his grandeur; but the head of the session (or court of judicature), that commits a crime, they beat him, but he does not return to his principality, nor even return to be as one of the rest of the sanhedrim; for they ascend in holiness, but do not descend.”

And yet Josephus represents it as a most infamous and scandalous punishment, as one would think indeed it should be; his words are^{f446}, speaking of the laws concerning travellers being allowed to gather grapes, and pluck ears of corn as they passed;

“he that does contrary to these laws receives forty stripes, save one, with a public scourge; a free man undergoes this most filthy (or disgraceful) punishment, because for the sake of gain he reproaches his dignity.”

Ver. 4. *Thou shall not muzzle the ox when he treadeth out [the corn].* As oxen are used in ploughing, so likewise in treading or beating out the corn; of the manner of which, (see Gill on “^{<40B>}1 Corinthians 9:9”); now while it was thus employed, it might not be restrained by any means from eating the

corn as it had an opportunity, either by a muzzle put over its mouth, or other ways. The Gentiles had several ways of restraining their cattle from eating, while they thus made use of them, to which this law is opposed. Maimonides^{f447} has collected several of them together, as prohibited by it; as putting a thorn into its mouth, causing a lion to lie down by it, or causing its calf to lie down without, or spreading a skin on the top of the corn, that so it may not eat. Aelianus^{f448} relates a very particular way of hindering oxen from eating at such times, used some countries, which was this; that oxen might not eat of the ears of corn, in a floor where they were trod out, they used to besmear their nostrils with cows' dung, which was so disagreeable to the creature, that it would not taste anything though pressed with famine. This law is not to be limited to the ox only, or to this peculiar work assigned it; but, as Jarchi says, respects any sort of cattle, and whatsoever work that has food in it, none of them being to be restrained from eating while at work: and this law was not made for the creatures only, but for men also; and especially for the sake of ministers of the word; who for their strength, labour, and industry, are compared to oxen, and ought to be comfortably supported and maintained on account of their work; for the illustration and confirmation of which this passage is twice produced, (see Gill on "~~400~~1 Corinthians 9:9-10"); (see Gill on "~~407~~1 Timothy 5:17-18").

Ver. 5. *If brethren dwell together*, etc.] Not only in the same country, province, town, or city, but in the same house; such who had been from their youth brought up together in their father's house, and now one of them being married, as the case put supposes, they that were unmarried might live with him, and especially if the father was dead; and so may except such as were abroad, and in foreign countries, or at such a distance that this law coals not well be observed by them; though the Targum of Jonathan, and so Jarchi, interpret it of their being united in an inheritance, all by virtue of relation having a claim to their father's inheritance; so that it mattered not where they dwelt, it is the relation that is regarded, and their right of inheritance; and the above Targum describes them as brethren on the father's side, and so Jarchi says excepts his brother on the mother's side; for brethren by the mother's side, in case of inheritance, and the marrying of a brother's wife, were not reckoned brethren, as Maimonides^{f449} observes; who adds, that there is no brotherhood but on the father's side. Some think that when there were no brethren in a strict and proper sense, the near kinsmen, sometimes called brethren, were to do the office

here enjoined, and which they conclude from the case of Boaz and Ruth; but Aben Ezra contradicts this, and says that instance is no proof of it, it respecting another affair, not marriage, but redemption; and says that brethren, absolutely and strictly speaking are here meant; which is agreeably to their tradition ^{f450}:

and one of them die, and have no child: son, or daughter, son's son, or daughter's son, or daughter's daughter, as Jarchi notes; if there were either of these, children or grandchildren, of either sex, there was no obligation to marry a brother's wife; so, in the case put to Christ, there was no issue, the person was childless, (⁴⁰²⁴Matthew 22:24,25 ⁴⁰¹⁸Luke 20:28);

the wife of the dead shall not marry without unto a stranger; by whom is meant not a Gentile, or a proselyte of the gate, or of righteousness, but any Israelite whatever, that was not of her husband's family; she might not marry out of the family; that is, she was refused by all, the design of the law being to secure inheritances, and continue them in families to which they belonged:

her husband's brother shall go in unto her, and take her to him to wife; that is, supposing him to be unmarried, and this is indeed supposed in the first clause of the text, by dwelling with his brother; for had he been married, he would have dwelt with his wife and family apart; besides, if this law obliged a married man to marry his brother's wife, polygamy would be required and established by a law of God, which was never otherwise than permitted. This is to be understood of the eldest brother, as Jarchi, who is in an unmarried state; so it is said in the Misnah ^{f451},

“the command is upon the eldest to marry his brother's wife; if he will not, they go to all the brethren; if they will not, they return to the eldest; and say to him, upon thee is the commandment, either allow the shoe to be plucked off, or marry;”

and such a course we find was taken among the Jews in our Lord's time, (⁴⁰²⁵Matthew 22:25,26);

and perform the duty of an husband's brother to her; cohabit together as man and wife, in order to raise up seed to his brother, and perform all the offices and duties of an husband to a wife; but the marriage solemnity was not to take place when it was agreed to, until three months or ninety days had passed from the death of the brother, that it might be known whether

she was with child or no by her husband, and in such a case this law had no force; so runs the Jewish canon ^{f452}

“a brother’s wife may not pluck off the shoe, nor be married, until three months;”

that is, after her husband’s death.

Ver. 6. *And it shall be [that] the firstborn that she beareth*, etc.] To her husband’s brother, now married to her:

shall succeed in the name of his brother [which is] dead; the meaning is, as the Targum of Jonathan,

“he shall rise up in the inheritance in the name of his brother;”

or, as Jarchi expresses it,

“he shall take the inheritance of the deceased in the goods of his father;”

that is, he shall have his part and share in the inheritance that the deceased brother would have had if he had lived, which would come to him by his father:

that his name be not put out of Israel; that the family be not lost in Israel, and the inheritance belonging to it pass to another. This law was designed to keep families distinct, and inheritances in them, until the Messiah came, and that it might appear from what family he came; as he did from one in whom, as it is generally thought, this law took place: and it might have still a more special respect to him, as Ainsworth suggests; for Christ in the mystical sense may be signified by the deceased brother; he stands in the relation of a brother to his people, and has all the love, friendship, compassion, and condescension of one; he and they are of one and the same father, of the same family, and of the same nature, and have the same inheritance they being co-heirs with him; nor is he ashamed to own the relation. This brother of theirs is deceased; his death was according to the will of God, what he himself agreed to, and was foretold by the prophets; for which purpose he came into the world, and did die as to the flesh, and that for the sins of his people. Now the Jewish church was his wife, by whom he had no children through the law; that church was espoused to him, he stood in the relation of an husband to her, and she in the relation of a wife to him. Very few children were brought forth by her to him, see,

(²⁵⁰¹Isaiah 54:1,5 ⁴⁰¹²Jeremiah 2:2 3:1 31:32); and none by the law, by which there is no regeneration, but by the Gospel; it is through that, and not the law, the Spirit and his graces come; or souls are born again to Christ, renewed and sanctified. The apostles that survived Christ, and the ministers of the Gospel, are his brethren, (⁴³¹⁷John 20:17); and who are instruments in begetting souls to Christ; and these are a seed raised up unto him, and are called not after the name of the apostles and ministers of the word, through whose ministry they are begotten, (⁴⁰¹²1 Corinthians 1:12,13 3:4,5 4:15); but after Christ; and have the name of Christians, or anointed ones, from him, and by which means his name is, and will be continued as long as the sun endures, (⁴¹¹⁶Acts 11:26 ⁴⁹²⁷Psalms 72:17).

Ver. 7. *And the man like not to take his brother's wife*, etc.] The provision here made by this law, when this was the case, is such as did not take place before it became a law; for then Onan would have taken the advantage of it, and refused marrying his brother's wife, which it is plain was not agreeable to him, (⁰³³⁹Genesis 38:9); as many do now on one account or another. Leo of Modena ^{f453} says,

“it was anciently accounted the more laudable thing to take her, than to release her; but now the corruption of the times, and the hardness of men's hearts, are such, as that they only look after worldly ends, either of riches, or of the beauty of the woman; so that there are very few that in this case will marry a brother's widow, especially among the Dutch and Italian Jews, but they always release her:”

then let his brother's wife go up to the gate; to the gate of the city, where the judges sit for public affairs; to the gate of the sanhedrim, or court of judicature, as the Targum of Jonathan; and this affair was cognizable by the bench of three judges, and might be dispatched by them; for so it is said ^{f454},

“the plucking off the shoe, and the refusal of marriage, are by three:”

i.e. three judges, which was the lowest court of judicature with the Jews:

unto the elders, and say; which according to the above Targum were to be five wise men, of which three were to be judges, and two witnesses; and she was to say in the Hebrew language, in which, according to the Misnah ^{f455}, she was to pronounce what follows:

my husband's brother refuseth to raise up unto his brother a name in Israel, he will not perform the duty of my husband's brother; that is, in a few words, he will not marry her.

Ver. 8. *Then the elders of his city shall call him*, etc.] Require him to come, before them, and declare his resolution, and the reasons for it; recite this law to him, and explain the nature of it, and exhort him to comply with it, or show reason why he does not, at least to have his final resolution upon it:

and speak unto him; talk with him upon this subject, and give him their best advice; and what that was Maimonides^{f456} more particularly informs us; if it is good and advisable to marry, they advise him to marry; but if it is better advice to pluck off the shoe, they give it; as when she is young and he is old, or she is old and he young, they advise him to allow the shoe to be plucked off:

and [if] he stand [to it]: and say, I like not to take her; if, after all the conversation, debate, and counsel between them, he is resolute, and abides by his first determination, that he will not marry her, then the following method was to be taken.

Ver. 9. *Then shall his brother's wife come unto him in the presence of the elders*, etc.] The time and place being appointed the evening before by three Rabbins, and two witnesses, as Leo of Modena says^{f457}; of which she was apprized, and ordered to come tasting:

and loose his shoe from off his foot; his right foot, which was thus done;

“they bring him a leather shoe, which has a heel, but not sewed with linen (linen thread), and he puts it on the right foot, and binds the latchet on his foot, and stands, he and she, in the court; he fixes his foot on the ground, and she sits and stretches out her hand in the court, and looses the latchet of his shoe from off his foot, and pulls off his shoe, and casts it to the ground^{f458}.”

this he suffered to be done to show that he gave up his right to her; and he was so used by way of reproach, to signify that he deserved not to be reckoned among freemen, but among servants and slaves, that went barefooted, having no shoes on: and in the mystical sense of it, as Ainsworth observes, it spiritually signified, that such as would not beget children unto Christ (or preach his Gospel for that purpose), it should be

declared of them that their feet are not shod with the preparation of the Gospel of Christ, (^{f465}Ephesians 6:15);

and spit in his face; in a way of contempt, as a token of shame and disgrace; but the Jewish writers generally interpret this in a softer manner, as if it was not in his face, but in his presence, upon the floor, and seen by the judges ^{f459}:

and shall answer and say, so shall it be done unto the man that will not build up his brother's house; that is, in this contemptuous and shameful manner shall he be used.

Ver. 10. *And his name shall be called in Israel*, etc.] Not his particular and personal name, but his family; for it seems that not only a mark of infamy was set upon him for refusing to marry his brother's widow, but upon his family also;

the house of him that hath his shoe loosed; which, as Leo of Modena says ^{f460}, was repeated by her three times; and at every time the people with a loud voice answer and call him, one that had his shoe loosed; and then the Rabbin tells the man that he is at liberty now to marry whom he pleases; and if he desires a certificate from them of this setting free his kinswoman, they presently give him one; and she also had a writing given to her by the judges, certifying the same, that she was free also to marry another; of which the following is a short form or copy ^{f461}.

“In such or such a session (or court), such an one, the daughter of such an one, plucked off the shoe of such an one, the son of such an one, before us; she brought him before us, and she loosed the shoe of his right foot, and spit before him spittle, which was seen by us upon the ground; and said, so shall it be done to the man that would not build up his brother's house.”

A larger form may be seen in Maimonides ^{f462}, as well as a type and copy of the matrimonial contract. From this law an high priest was free, (^{f463}Leviticus 21:14); and so a king, according to the Jewish canon ^{f463}.

Ver. 11. *When men strive together, one with another*, etc.] Quarrel with one another, and come to blows, and strive for mastery, which shall beat, and be the best man:

and the wife of the one draweth near for to deliver her husband out of the hand of him that smiteth him; perceiving that his antagonist has more skill or strength, or both, for fighting, and is an more than a match for her husband, who is like to be much bruised and hurt; wherefore, to save him out of the hands of the smiter, she goes up to them to part them, or take her husband's side:

and putteth forth her hand, and taketh him by the secrets; or privy parts; in Hebrew his “shameful” parts ^{f464}, which through shame are hidden, and modesty forbids to express in proper terms; and such is the purity of the Hebrew language, that no obscene words are used in it; for which reason, among others, it is called the holy tongue. This immodest action was done partly out of affection to her husband, to oblige his antagonist to let go his hold of him; and partly out of malice and revenge to him, to spoil him, and make him unfit for generation, and therefore was to be severely punished, as follows.

Ver. 12. *Then thou shall cut off her hand*, etc.] Which was to be done not by the man that strove with her husband, or by any bystander, but by the civil magistrate or his order. This severity was used to deter women from such an immodest as well as injurious action, who on such an occasion are very passionate and inconsiderate. Our Lord is thought to refer to this law, (^{<4180>}Matthew 5:30); though the Jewish writers interpret this not of actual cutting off the hand, but of paying a valuable consideration, a price put upon it; so Jarchi; and Aben Ezra compares it with the law of retaliation, “eye for eye”, (^{<0724>}Exodus 21:24 ^{<0820>}Leviticus 24:20) (^{<0621>}Deuteronomy 19:21); which they commonly understand of paying a price for the both, etc. lost; and who adds, if she does not redeem her hand (i.e. by a price) it must be cut off:

thine eye shall not pity [her]; on account of the tenderness of her sex, or because of the plausible excuse that might be made for her action, being done hastily and in a passion, and out of affection to her husband; but these considerations were to have no place with the magistrate, who was to order the punishment inflicted, either in the strict literal sense, or by paying a sum of money.

Ver. 13. *Thou shalt not have in thy bag divers weights*, etc.] Or, “a stone and a stone” ^{f465}; it being usual, in those times and countries, to have their weights of stone, as it was formerly with us here; we still say, that such a

commodity is worth so much per stone, a stone being of such a weight; now these were not to be different:

a great and a small; great weights, to buy with them, and small weights, to sell with them, as the Targum of Jonathan paraphrases it.

Ver. 14. *Thou shall not have in thine house divers, measures*, etc.] Or, “an ephah and an ephah”; which was one sort of measure in use with the Jews, and held above a bushel; and is put for all others, which should be alike, and not

a great and a small; one to buy with, and another to sell by, as before observed; which would be to cheat both seller and buyer in their turns; (see ^{<A08B>}Amos 8:5).

Ver. 15. *[But] thou shall have a perfect and just weight, a perfect and just measure shall thou have*, etc.] That is, full weights, and full measures; and such as are alike, and everywhere used, according to the standard of the country; (see Gill on “^{<A08B>}Leviticus 19:36”);

that thy days may be lengthened in the land which the Lord thy God giveth thee; long life was always reckoned a blessing, and is frequently promised to, obedience, and particularly long life in the land of Canaan; which was a most delightful and fruitful land, and which a man might wish to live long in; deceitful men, are threatened with not living half their days, and such may they be said to be that use false weights and measures, (^{<A08B>}Psalm 55:23).

Ver. 16. *For all that do such things*, etc.] Keep, different weights and measures, and make use of them to defraud their neighbours in buying and selling:

[and] all that do unrighteously; what is not just and right between man and man, in any other instance whatever:

[are] an abomination unto the Lord thy God; both they and their actions; he is a righteous God, and loves righteousness, and hates injustice of every kind.

Ver. 17. *Remember what Amalek did unto thee*, etc.] The Amalekites, how they came out against them, and fought with them at Rephidim, (^{<A08B>}Exodus 17:8);

by the way, when ye were come forth out of Egypt; which was an aggravation of their cruel and inhuman action, that they not only came out against them unprovoked, were the aggressors, and fell upon them as they were travelling on the road, but when they were just come out of Egypt, where they had been in hard bondage, and their spirits broken, and they not used to war; and so took them at all these disadvantages, a people that had not in the least injured them.

Ver. 18. *How he met thee by the way*, etc.] Not with necessary provisions, food and drink, which would have been but a piece of kindness and humanity to travellers; but met them sword in hand, in order to stop their journey, and make them captives, at least to harass and distress them:

and smote the hindmost of thee; came upon them in a sly cowardly manner, and attacked their rear:

[even] all [that were] feeble behind thee: women and children, and such men as were weak, sickly, labouring under some disorder, and so lagged behind, and could not keep up with the rest; on these Amalek first fell, and began his attack here:

when thou [wast] faint and weary; with travelling, and the more so for want of water, which was their case at Rephidim, when Amalek came out against them; which is another aggravation of their unkind usage of them they were not to forget:

and he feared not God; who was then in the pillar of cloud and fire with Israel, which phenomenon Amalek might see, and yet did not fear; and who had done such wonders for Israel in Egypt, and had brought them from thence, and had drowned Pharaoh and his host in the Red sea, of which doubtless Amalek had heard, and yet feared not the Lord, who had done such great things.

Ver. 19. *Therefore it shall be, when the Lord thy God hath given thee rest from all thine enemies round about*, etc.] Not only when they had subdued the Canaanites, and got possession of their land, but when they were clear and free from all their neighbouring nations, Moabites, Midianites, Edomites, Ammonites, and Philistines; wherefore it may be observed, that this did not take place, as not immediately after the conquest of Canaan, so neither in the times of the judges, when they were harassed frequently by their neighbours, and not until the times of Saul, the first king of Israel:

in the land which the Lord thy God giveth thee [for] an inheritance to possess it; the sense is, when they were in the full possession of the land given them by the Lord, as an inheritance to be enjoyed by them and theirs; and were at an entire rest from all enemies, and so had their hands at liberty to employ against Amalek:

[that] thou shalt blot out the remembrance of Amalek from under heaven: that is, utterly destroy them, so that there should be none left of them any where, to put in mind that there ever were such a people on earth; men, women, children, cattle of all sorts, were to be destroyed, and nothing left that belonged unto them; that it might not be said this beast was Amalek's, as Jarchi, and to the same purpose Aben Ezra; see the order for this renewed, and the accomplishment of it, at least in part, (~~OR~~ 1 Samuel 15:2,3), etc.

thou shall not forget [it]; neither the unkindness of Amalek, nor this order to destroy him. The Targum of Jonathan adds,

“and even in the days of the King Messiah it shall not be forgotten.”