

# CHAPTER 21

## INTRODUCTION TO EXODUS 21

In this, and the two following chapters, are delivered various laws and precepts, partly of a moral, and partly of a religious, but chiefly of a civil nature, respecting the commonwealth of Israel, and its political good. This chapter treats of servants, and laws relating to them; to menservants, how long they shall serve, and what is to be done to those who are desirous of staying with their masters after their time is up, (<sup><0210></sup>Exodus 21:1-6), to maidservants, and especially betrothed ones, either to a father or a son, (<sup><0217></sup>Exodus 21:7-11), likewise it contains laws concerning the slaughter of men, whether with design or unawares, (<sup><0212></sup>Exodus 21:12-14), and concerning the ill usage of parents, (<sup><0215></sup>Exodus 21:15,17), and man stealing, (<sup><0216></sup>Exodus 21:16) and of mischief that comes by men's quarrelling and fighting, (<sup><0218></sup>Exodus 21:18,19) and by smiting a man or maidservant, (<sup><0211></sup>Exodus 21:20 21,26,27), to a woman with child, that is, by means of men's striving and contending with each other, (<sup><0212></sup>Exodus 21:22-25) and of damages that come by oxen, or to them, (<sup><0213></sup>Exodus 21:28-36).

**Ver. 1.** *Now these are the judgments*, etc.] The judicial laws respecting the civil state of the people of Israel, so called because they are founded on justice and equity, and are according to the judgment of God, whose judgment is according to truth; and because they are such by which the commonwealth of Israel was to be judged or governed, and were to be the rule of their conduct to one another, and a rule of judgment to their judges in the execution of judgment and justice among them:

*which thou shall set before them*; besides the ten commands before delivered. They were spoken by God himself in the hearing of the people; these were delivered to Moses after he went up to the mount again, at the request of the people, to be their mediator, to be by him set before them as the rule of their behaviour, and to enjoin them the observance of them; in order to which he was not only to rehearse them, but to write them out, and set them in a plain and easy light before them: and though they did not hear these with their own ears from God himself, as the ten commands; yet,

as they had the utmost reason to believe they came from him, and it was at their own request that he, and not God, might speak unto them what was further to be said, with a promise they would obey it, as if they had immediately heard it from him; it became them to receive these laws as of God, and yield a cheerful obedience to them; nor do we find they ever questioned the authority of them; and as their government was a Theocracy, and God was more immediately their King than he was of any other people, it was but right, and what might be expected, that they should have their civil laws from him, and which was their privilege, and gave them the preference to all other nations, (<sup><1045></sup>Deuteronomy 4:5-8).

**Ver. 2.** *If thou buy an Hebrew servant*, etc.] Who sells himself either through poverty, or rather is sold because of his theft, (see <sup><1021></sup>Exodus 22:3) and so the Targum of Jonathan paraphrases it,

“when ye shall buy for his theft, a servant, a son of an Israelite;”

agreeably to which Aben Ezra observes, this servant is a servant that is sold for his theft; and he says, it is a tradition with them, that a male is sold for his theft, but not a female; and the persons who had the selling of such were the civil magistrates, the Sanhedrim, or court of judicature; so Jarchi, on the text, says, “if thou buy”, etc. that is, of the hand of the sanhedrim who sells him for his theft:

*six years he shall serve*; and no longer; and the Jewish doctors say <sup>f631</sup>, if his master dies within the six years he must serve his son, but not his daughter, nor his brother, nor any other heirs:

*and in the seventh he shall go out free for nothing*; without paying any money for his freedom, as it is explained (<sup><1021></sup>Exodus 21:11), nay, on the other hand, his master was not to send him away empty, but furnish him liberally out of his flock, floor, and wine press, since his six years’ servitude was worth double that of an hired servant, (<sup><1051></sup>Deuteronomy 15:13,14,18), and his freedom was to take place as soon as the six years were ended, and the seventh began, in which the Jewish writers agree: the Targum of Jonathan is, at the entrance of the seventh; and Aben Ezra’s explanation is, at the beginning of the seventh year of his being sold; and Maimonides <sup>f632</sup> observes the same. Now as this servant, in the state of servitude, was an emblem of that state of bondage to sin, Satan, and the law, which man is brought into by his theft, his robbing God of his glory by the transgression of his precepts; so likewise, in his being made free, he

was an emblem of that liberty wherewith Christ, the Son of God, makes his people free from the said bondage, and who are free indeed, and made so freely without money, and without price, of pure free grace, without any merit or desert of theirs; and which freedom is attended with many bountiful and liberal blessings of grace.

**Ver. 3.** *If he came in by himself, he shall go out by himself*, etc.] That is, if he came into his servitude “alone”, as the Septuagint version has it, he should go out of it in like manner; the word for “by himself”, some interpret with “his garment”<sup>f633</sup>, or the skirt of one; and then the sense seems to be, that as he was clothed when he was sold, so he should be when made free: but rather the phrase literally is “with his body”<sup>f634</sup>; not his naked body, or as destitute of raiment, and the necessaries of life; for, as before observed, his master was to furnish him liberally with good things: but the plain meaning is, that if he was a single or unmarried man when he entered his master’s service, he should go out, so; or as a Jewish writer<sup>f635</sup> expresses it, as if he should say, with his body, without another body with him, who is his wife, as appears by what follows; unless his master should give him a wife while in his service, which is supposed in the next verse, and even then he was to go out alone, if he chose to go out at all; though Jarchi says, if he was not married at first, his master might not give him a Canaanitish woman to beget slaves of her:

*if he were married, then his wife shall go with him*; that is, if he had a wife, a daughter of Israel, as the Targum of Jonathan; or an Israelitish woman, as Jarchi, and had her at his coming; for otherwise, if it was one his master after gave him, she might not go out, as appears by the following verse; but being his wife before his servitude, and an Israelitish woman, was not the master’s bondmaid, nor bought with his money, and therefore might go out free with her husband.

**Ver. 4.** *If his master have given him a wife*, etc.] One of his slaves, a Canaanitish woman, on purpose to beget slaves on her, since all born in his house were his own; this is supposed to be after he was come into his house, and into his service:

*and she have born him sons or daughters*; as she might have born him several of the one sort, or the other, if she was given to him quickly after his servitude began:

*the wife and her children shall be her master's*: she being his slave, and bought with his money, he had a right unto her, and to the children belonging to her, the birth following the belly; and being born in his house, they were also his. Jarchi here observes, that the Scripture speaks of a Canaanitish woman, for an Hebrew woman went out at the sixth year, and even before the sixth, if she produced the signs, that is, of puberty:

*and he shall go out by himself*, without his wife and children: if it be objected to this law, that it is contrary to the law of marriage, which is indissoluble, but by this dissolved; it may be replied, that the servant was not obliged by it to leave his wife, unless he chose it; on complying with certain conditions after mentioned, he might continue with her; besides, she was, according to Jarchi, but his secondary wife, and not only so, the marriage was not lawful, being with a Canaanitish woman, and not agreeable to the Lord; and being also her master's slave, to whom he had a right, he could retain her if he pleased, having only given her to his servant to beget slaves on for him.

**Ver. 5.** *And if the servant shall plainly say*, etc.] Or, “in saying shall say”<sup>f636</sup> shall express himself in plain and full terms, and repeat his words, and abide by them, signifying it as his last will and determined resolution:

*I love my master, my wife, and my children, and I will not go out free*; but continue in his servitude, having a great affection for his master, and that he might enjoy his wife and children he dearly loved; and being animated with such a principle, his servitude was a pleasure to him: and when our obedience to God springs from love to him, and to his cause and interest, which should be as dear to us as our families, it is then acceptable to God and delightful to ourselves; in (<sup>f637</sup>Deuteronomy 15:16),

*it is, because he loveth thee, and thine house, because he is well with thee*; hence the Jewish writers say<sup>f637</sup>, understanding by “house” a family, if a servant has a wife and children and his master not, his ear is not to be bored; and if his master has a wife and children and he has not, his ear is not to be bored; if he loves his master and his master do not love him, or his master loves him and he do not love his master, or if he is sick, etc. his ear is not to be bored.

**Ver. 6.** *Then his master shall bring him unto the judges*, etc.] To Elohim, to God, to the judgment seat of God, according to the Septuagint; to some person or persons to inquire of God what is to be done in such a case; but

this seems needless, since it is here declared: no doubt civil magistrates or judges are meant by Elohim, or the gods, as in (<sup>f638</sup>Psalm 82:1,6), and so Jarchi interprets it of the house of judgment, or sanhedrim, the court that had convicted the servant of theft, and had sold him to him, it was proper he should acquaint them with it, have their opinion about it; and especially it was proper to have him to them, that he might before them, even in open court, declare his willingness to abide in his master's service; and from whom, as the Targum of Jonathan, he was to receive power and authority to retain him in his service:

*he shall also bring him to the door, or to the doorpost*; either of the gate of the city, where the judges were sitting, before whom what follows was to be done, as Aben Ezra suggests; or rather the door of his master, or any other man's, as Maimonides <sup>f638</sup>:

*and his master shall bore his ear through with an awl*; or with a needle, as the Targum of Jonathan, which also says it was the right ear; and so Jarchi; and the upper part of it, as says Maimonides, who likewise observes, that that with which it is bored must be of metal; and moreover, that it is the master himself that must do it, and not his son, nor his messenger, nor a messenger of the sanhedrim <sup>f639</sup>: the ear is an hieroglyphic of obedience, and the boring of it through to the doorpost denotes the strict and close obedience of such a servant to his master, and how he is, and ought to be, addicted to his service, and be constantly employed in it, and never stir from it, nor so much as go over the threshold of his master's house. This custom of boring a servant's ear continued in Syria till the times of Juvenal, as appears by some lines of his: <sup>f640</sup>

*and he shall serve him for ever*; as long as he lives <sup>f641</sup>; however, until the year of jubilee, as the Targum of Jonathan, and so Jarchi; if there was one before his death, for nothing else could free him; denoting freedom by Christ in his acceptable year, and day of salvation.

**Ver. 7.** *And if a man sell his daughter to be a maidservant*, etc.] That is, if an Israelite, as the Targum of Jonathan, sells his little daughter, as the same Targum, and so Jarchi and Aben Ezra, one that is under age, that is not arrived to the age of twelve years and a day, and this through poverty; he not being able to support himself and his family, puts his daughter out to service, or rather sells her to be a servant:

*she shall not go out as the menservants do*; that are sold, before described; or rather, according to the Targum,

“as the Canaanitish servants go out, who are made free, because of a tooth, or an eye, (the loss of them, (<sup>f623</sup>Exodus 21:26,27)) but in the years of release, and with the signs (of puberty), and in the jubilee, and at the death of their masters, with redemption of silver,”

so Jarchi.

**Ver. 8.** *If she please not her master*, etc.] “Be evil in the eyes of her master”<sup>f642</sup>; and he has no liking of her, and love to her, not being agreeable in her person, temper, or conduct, so that he does not choose to make her his wife:

*who hath betrothed her to him*; but not completed the marriage, as he promised, when he bought her, or at least gave reason to expect that he would; for, according to the Jewish canons, a Hebrew handmaid might not be sold but to one who laid himself under obligation to espouse her to himself, or his son, when she was fit to be betrothed<sup>f643</sup>; and so Jarchi says, he ought to espouse her, and take her to be his wife, for the money of her purchase is the money of her espousals. There is a double reading of this passage, the Keri, or marginal reading we follow; the Cetib, or written text, is, “who hath not betrothed her”, both may be taken in, “who hath not betrothed her to him”, as he said he would, or as it was expected he should; for, had she been really betrothed, what follows could not have been done:

*then shall he let her be redeemed*; she being at age, and fit for marriage, and her master not caring to marry her, her father shall redeem her, as the Targum of Jonathan; it was incumbent on him to do that, as it was on her master to let her be redeemed, to admit of the redemption of her; or whether, as Aben Ezra says, she redeemed herself, or her father, or one of her relations, if she was near the six years (the end of them), they reckoned how many years she had served, and how many were yet to the seventh, or to the time that she is in her own power, and according to the computation was the redemption: thus, for instance, as it is by others<sup>f644</sup> put, if she was bought for six pounds, then one pound is the service of every year; and if she redeemed herself, her master took off of the money for the years she

had served; or thus <sup>f645</sup>, if she was bought for sixty pence, and had served two years, he must pay her forty pence, and so free her:

*to sell her unto a strange nation, he shall* have no power; that is, to another man, as both the Targums of Onkelos and Jonathan, even to an Israelite that was of another family, to whom the right of redemption did not belong; for to sell an Israelite, man or woman, to a Gentile, or one of another nation, was not allowed of in any case, as Josephus <sup>f646</sup> observes; but the meaning is, he had no power to sell her to another, though of the same nation, to be his handmaid; this power neither her master nor her father had, as Jarchi asserts, she being redeemed, and in her own power:

*seeing he hath dealt deceitfully with her*; in not fulfilling his promise made to her father when he sold her to him, or not answering the expectation he had raised in her; and especially he dealt thus with her, if he had corrupted her, and yet refused to betroth and marry her.

**Ver. 9.** *And if he have betrothed her unto his son*, etc.] Not caring to betroth and marry her himself, as being more suitable in age for his son than for himself;

*he shall deal with her after the manner of daughters*; as if she was his daughter, and give her a dowry: or the son shall treat her after the manner the daughters of Israel are treated when married, by giving her food, raiment, and the duty of marriage, so Jarchi: or after the manner of the daughters of Israel that are virgins, and who are not sold, as Aben Ezra.

**Ver. 10.** *If he take him another wife*, etc.] The father takes another wife for his son, or the son takes another wife to himself after he has betrothed and married his father's maidservant:

*her food, her raiment, and her duty of marriage, shall he not diminish*; neither deny it her in whole, nor lessen it in part, but give her her full due of each. What is meant by the two former words is easy, and admits of no difficulty, the latter is differently interpreted. Some take it to signify no other than an "habitation" <sup>f647</sup>, that as he was to provide food and raiment for her, so an house to dwell, in; but the generality of interpreters, Jewish and Christian, understand it as we do, of the conjugal duty, the use of the marriage bed, or what the apostle calls due benevolence, (<A>1 Corinthians 7:3). The word is thought to have the signification of a fixed time for it; and the Misnic doctors <sup>f648</sup> are very particular in assigning the set times of it for different persons; and in those countries where there were, and where

there still are, plurality of wives, each had, and have their turns, (see <sup><0015</sup>Genesis 30:15,16).

**Ver. 11.** *And if he do not these three unto her*, etc.] Not the three things last mentioned; though this sense, Aben Ezra says, many of their interpreters give, which is rejected by him, so do some Christian expositors; but these three things are, espousing her to himself, or to his son, or redeeming her by the hand of her father; that is, letting her be redeemed by him, as the Targum of Jonathan; and so Jarchi, Aben Ezra, and Ben Melech: the meaning is, if one or other of these things are not done,

*then shall she go out free without money*; be dismissed from her servitude, and not obliged to pay anything for her freedom; the Targum of Jonathan adds, he shall give her a bill of divorce; that is, the son to whom she had been betrothed, and another wife taken by him, and she denied the above things; which favours the first sense.

**Ver. 12.** *He that smiteth a man, so that he die*, etc.] The Targum of Jonathan is, that smites a man or daughter of Israel with the sword; but there is no need to restrain the words either to persons of any certain nation, nor to any instrument with which a person may be smitten as to die: but any human person, man, woman, or child, of whatsoever nation, and they smitten with anything whatever, that issues in their death:

*shall surely be put to death*; by the order of the civil magistrate, and by the hand of such as shall be appointed by him; for this is the original law of God, (<sup><0016</sup>Genesis 9:6).

**Ver. 13.** *And if a man lie not in wait*, etc.] For the life of another to take it away; or does not do it willingly, as the Septuagint version, does not seek after it, nor design it:

*but God delivers him into his hand*; it being suffered and ordered by the providence of God, without whose knowledge and will nothing comes to pass, even what may seem to be a contingent thing, or matter of chance, to us; or it is so brought about in providence, that one man falls into the hands of another, and his life is taken away by him, though not purposely and maliciously; because, as Aben Ezra expresses it, for another sin which he has committed, and for which he must die in this way, though not intended by the person the more immediate cause of his death:

*then I will appoint thee a place whither he shall flee*; and there be safe both from the avenger of blood, and the civil magistrate; which place, while Israel were in the wilderness, was the camp of the Levites, according to Jarchi, or the altar, as follows; but when they were come to Canaan's land, there were cities of refuge appointed for such persons, that killed a man unawares, to flee to, and where they were safe from private vengeance, and falling a sacrifice to public justice.

**Ver. 14.** *But if a man come presumptuously upon his neighbour, to slay him with guile*, etc.] That comes with malice in his heart, with wrath in his countenance, in a bold, daring, hostile manner, using all the art, cunning, and contrivance he can, to take away the life of his neighbour; no asylum, no refuge, not anything to screen him from justice is to be allowed him: hence, a messenger of the sanhedrim, or an executioner, one that inflicts the forty stripes, save one, or a physician, or one that chastises his son or scholar, under whose hands persons may die, do not come under this law; for though what they do they may do wilfully, yet not with guile, as Jarchi and others observe, not with an ill design, but for good:

*thou shalt take him from mine altar*, that he may die: that being the place which in early times criminals had recourse unto, Joab and others, as well as in later times, to secure them from vengeance; but a man guilty of wilful murder was not to be protected in this way; and the Targum of Jonathan is,

“though he is a priest, (the Jerusalem Targum has it, an high priest,) and ministers at mine altar, thou shalt take him from thence, and slay him with the sword,”

so Jarchi; but the law refers not to a person ministering in his office at the altar of the Lord, but to one that should flee there for safety, which yet he should not have.

**Ver. 15.** *And he that smiteth his father or his mother*, etc.] With his fist, or with a stick, or cane, or such thing, though they died not with the blow, yet it occasioned any wound, or caused a bruise, or the part smitten black and blue, or left any print of the blow; for, as Jarchi says, the party was not guilty, less by smiting there was a bruise, or weal, made, or any mark or scar: but if so it was, then he

*shall be surely put to death*; the Targum of Jonathan adds, with the suffocation of a napkin; and so Jarchi says with strangling; the manner of which was this, the person was sunk into a dunghill up to his knees, and

two persons girt his neck with a napkin or towel until he expired. This crime was made capital, to show the heinousness of it, how detestable it was to God, and in order to deter from it.

**Ver. 16.** *And he that stealeth a man, and selleth him*, etc.] One of the children of Israel, as the Targums of Onkelos and Jonathan, and so the Septuagint version: but though this law was given to the Israelites primarily, yet was made for men stealers in general, as the apostle observes, who plainly has reference to it, (<sup><5400></sup>1 Timothy 1:9,10):

*or if he be found in his hand*; before the selling of him, as Jarchi notes, since he stole him in order to sell him, he was guilty of death, as follows:

*he shall surely be put to death*; with strangling, as the same Jewish writer remarks, as on the preceding verse; and Jarchi sets it down as a rule, that all death in the law, simply expressed, is strangling.

**Ver. 17.** *And he that curseth his father, or his mother*, etc.] Though he does not smite them with his hand, or with any instrument in it, yet if he smites them with his tongue, reviles and reproaches them, speaks evil of them, wishes dreadful imprecations upon them, curses them by the name explained, as the Targum of Jonathan calls it, by the name Jehovah, wishing the Lord would curse them, or that his curse might light upon them, (see <sup><3111></sup>Proverbs 20:20 30:17),

*shall surely be put to death*; or be killed with casting stones on him, as the Targum of Jonathan, or with stoning; so Jarchi, who observes, that wherever it is said, "his blood be upon him", it is meant of stoning, as it is of the man that curses his father or his mother, (<sup><8310></sup>Leviticus 20:9) which was after this manner, the place of stoning was two cubits high, to which the malefactor with his hands bound was brought; from whence one of the witnesses against him cast him down headlong, of which, if he did not die, then they took up stones and cast on him, and if he died not through them, then all Israel came and stoned him; that is, the multitude upon the spot: this verse in the Septuagint version follows (<sup><0215></sup>Exodus 21:15), with which it agrees, both respecting the same persons.

**Ver. 18.** *And if men strive together*, etc.] Quarrel and fight, and wrestle with and box one another:

*and one smite another with a stone*; which lying near him he might take up, and in his passion throw it at his antagonist:

*or with his fist*; with his double fist, as we express it, with his hand closed, that it might come with the greater force, and give the greater blow:

*and he die not, but keepeth his bed*; does not die with the blow of the stone or fist, yet receives so much damage by it that he is obliged to take to his bed; or, as the Targum of Jerusalem paraphrases it, is cast on the bed sick; or, as the Targum of Jonathan, falls into a disease, as a fever, or the like, through the force of the blow, so that he is confined to his room and to his bed.

**Ver. 19.** *If he rise again*, etc.] From his bed, or from his disease, as the last mentioned Targum, recovers again, at least so far as to be able to do what follows:

*and walk abroad upon his staff*; if he is able to get out of his bed, and especially out of his house, and can be seen walking about in the street or in the field, though he is obliged to make use of a staff, and lean upon it, being yet weak and sickly;

*then shall he that smote him be quit*; from the judgment of slaying, as the Targum, he shall not be charged with manslaughter, or be found guilty of a capital crime, but discharged from that:

*only shall he pay for the loss of his time*; as much as he could have got in that time by his labour, from which he was obliged to cease: the Jewish writers add other things also he was to pay for, as the Targum of Jonathan, particularly; as for his pain, and for his loss of any member, and for his shame and disgrace, as well as the physician's fee, which is supposed to be included in the next clause:

*and cause [him] to be thoroughly healed*; take care that he has a physician or surgeon, and that the proper medicines be applied, and those continued until he is quite well; all which must be at the expense of the smiter.

**Ver. 20.** *And if a man smite his servant or his maid with a rod*, etc.] A Canaanitish servant or maid, as the Targum of Jonathan, and so Jarchi; and that only with a rod for the correction of them, and not with a sword or any such destroying weapon, which would seem as though he intended to kill, yet nevertheless:

*and he die under his hand*; immediately, while he is smiting or beating him or her, on the same day, as the above Targum interprets it:

*he shall be surely punished*; or condemned to the punishment of being slain with the sword, as the said Targum and Jarchi explain it: this law was made to deter masters from using severity and cruelty towards their servants.

**Ver. 21.** *Notwithstanding, if he continue a day or two*, etc.] And does not die immediately, or the same day, but lives twenty four hours, as the Jewish writers interpret it; so Abendana <sup>f649</sup> explains the phrase, “a day or two”;

“a day which is as two days, and they are twenty four hours from time to time,”

that is, from the time he was smitten to the time of his continuance; and so it is elsewhere explained <sup>f650</sup> by a day we understand a day, which is like two days, that is, from time to time, the meaning of which is, from a certain time in one day to the same in another:

*he shall not be punished*; that is, with death;

*for he [is] his money*; is bought with his money, and is good as money, and therefore it is a loss sufficient to him to lose him; and it may be reasonably thought he did not smite his servant with an intention to kill him, since he himself is the loser by it.

**Ver. 22.** *If men strive*, etc.] Quarrel and fight with one another, which is to be understood of Hebrews, as Aben Ezra observes:

*and hurt a woman with child*; who being the wife of one of them, and also an Israelitish woman, interposes to part them, or help her husband; but the other, instead of striking his antagonist as he intended, gives her a blow:

*so that her fruit depart from her*; or, “her children go forth” <sup>f651</sup>, out of her womb, as she may have more than one; through the fright of the quarrel, and fear of her husband being hurt, and the blow she received by interposing, might miscarry, or, falling into labour, come before her time, and bring forth her offspring sooner than expected:

*and yet no mischief follow*: to her, as the Targum of Jonathan, and so Jarchi and Aben Ezra restrain it to the woman; and which mischief they interpret of death, as does also the Targum of Onkelos; but it may refer both to the woman and her offspring, and not only to the death of them, but to any hurt or damage to either of them: now though there was none of any sort,

*he shall surely be punished*; that is, be fined or mulcted for striking the woman, and hastening the childbirth:

*according as the woman's husband will lay upon him; and he shall pay as the judges determine*; the husband might propose what fine should be paid, and might ask it in court; and if the smiter agreed to it, well and good, but if he judged it an exorbitant demand, he might appeal to the judges; for the husband might not lay what fine he pleased: this, if disputed, was to be decided by the judges, and as they determined it, it was paid; of which Maimonides<sup>f652</sup> gives this account:

“he that strikes a woman, and her fruit depart, though he did not intend it, is obliged to pay the price of the birth to the husband, and for hurt and pain to the woman; how do they estimate the price of the birth? they consider the woman how well she was before she brought forth, and how well she is after she has brought forth, and they give it to the husband; if the husband be dead, they give it to the heirs; if she is stricken after the death of her husband, they give the price of the birth to the woman.”

**Ver. 23.** *And if any mischief follow*, etc.] According as that is, so shall it be done to the smiter: if death follows,

*then thou shalt give life for life*; if death to the woman, so Jarchi and Aben Ezra interpret it; to which agrees the Targum of Jonathan,

“but if there is death in her, then ye shall judge or condemn the life of the murderer for the life of the woman;”

about which, Jarchi says, there is a difference among their doctors; some say life properly, absolutely the person himself; others say money, but not life properly; for he that intends to kill one and kills another is acquitted from death, but must pay to the heirs the price (of the person killed) as that person might be sold for in the market: and indeed it seems hard that a person that kills another at unawares should die for it; it is more reasonable that the punishment should in such a case be commuted for something less than life; and that though no satisfaction was to be taken for a wilful murderer, (<sup>Q851</sup> Numbers 35:31), yet it seems to imply that it might be taken for one that was so without design; as by another law cities of refuge are appointed for the manslayer at unawares: the canons of the Jews, according to Maimonides<sup>f653</sup>, run thus;

“he that strikes a woman, and she miscarries and dies, although it is done ignorantly; lo, such an one is free from payment, and he does not pay anything, as it is said, “if there is no mischief, etc.” the Scripture does not distinguish between what is done ignorantly and presumptuously, in a thing in which there is not death by the sanhedrim, to free him from payment; in what things? when he intends the woman; but if he intends his neighbour and strikes the woman, though she dies, since her death is, without intention, lo, this is a thing in which there is not death by the sanhedrim, and he pays the price of the birth:”

the Septuagint version interprets this, not of the woman that miscarries and dies, but of the child that becomes an abortive; if that was not formed and shaped, then only a fine was to be laid, but if it was come to its proper form and shape, and so was animated or quickened, then life was to go for life: and so, according to the Salic laws, he that killed an infant in its mother’s womb was to pay 8000 pence, which made two hundred shillings; but if he was the cause of a woman’s miscarriage, by blows or otherwise, if the birth was animated, according to the civil law, he was to be punished with death <sup>f654</sup>: but one would think, where this is only accidental and not intended, such a punishment is too rigid and severe: however, neither this nor what follows were left to the will of a private person to inflict at his pleasure, but to the civil magistrate; and therefore no ways encourages private revenge, in favour of which it was applied by the Pharisees in Christ’s time, whose gloss he refutes, (~~4188~~ Matthew 5:38,39) nor are the words directed to the offender in this and the following cases, but to Moses, and so to all judges under him and in succession, who were to see these laws put in execution.

**Ver. 24.** *Eye for eye, tooth for tooth, hand for hand, foot for foot.*] This is “lex talionis”, the law of retaliation, and from whence the Heathens had theirs; but whether this is to be taken strictly and literally, or only for pecuniary mulcts, is a question; Josephus <sup>f655</sup> understands it in the former sense, the Jewish writers generally in the latter; and so the Targum of Jonathan paraphrases it;

“the price of an eye for an eye, etc.”

Jarchi on the place observes, that,

“he that puts out his neighbour’s eye must pay him the price of his eye, according to the price of a servant sold in the market, and so of all the rest; for not taking away of members strictly is meant, as our doctors here interpret it;”

in a place he refers to, and to which Aben Ezra agrees; and of the difference and dispute between the Jews concerning this matter, ((see Gill on “<sup>f458</sup>Matthew 5:38”)) and indeed, though these laws of retaliation should, according to the letter of them, be attended to as far as they can; yet, in some cases, it seems necessary that they should not be strictly attended to, but some recompence made in another way, and nothing seems more agreeable than a pecuniary one: thus, for instance, this law cannot be literally executed, when one that has never an eye puts out the eye of another, as it is possible that a blind man may; or one that has no teeth may strike out the tooth of another; in such cases eye cannot be given for eye, nor tooth for tooth; and, as Saadiah Gaon <sup>f656</sup> observes, if a man should smite the eye of his neighbour, and the third part of the sight of his eye should depart, how will he order it to strike such a stroke as that, without adding or lessening? and if a man that has but one eye, or one hand, or one foot, should damage another man in those parts, and must lose his other eye, or hand, or foot, he would be in a worse case and condition than the man he injured; since he would still have one eye, or hand, or foot; wherefore a like law of Charondas among the Thurians is complained of, since it might be the case, that a man with one eye might have that struck out, and so be utterly deprived of sight; whereas the man that struck it out, though he loses one for it, yet has another, and so not deprived of sight utterly, and therefore thought not to be sufficiently punished; and that it was most correct that he should have both his eyes put out for it: and hence Diodorus Siculus <sup>f657</sup> reports of a one-eyed man who lost his eye, that he complained of this law to the people, and advised to have it altered: this “lex talionis” was among the Roman laws of the “twelve tables” <sup>f658</sup> .

**Ver. 25.** *Burning for burning, wound for wound, stripe for stripe.*] This is to be understood of burning a man’s flesh with fire; of wounds made by any means, so that the blood is let out; and of blows, and the prints and marks of them; of stripes and weals where the blood is settled, and the part is turned black and blue: the Targum of Jonathan is, the price of the pain of burning for burning, etc. and indeed, in everyone of these cases, the law could not be well literally executed; for it would be very difficult to burn

and wound and mangle a man exactly as he had done another: and as Favorinus<sup>f659</sup> objects against the law of the twelve tables of the Romans concerning retaliation, how can a man make a wound in another exactly as long, and as broad, and as deep as that he has given? nor would he suffer a larger to be made, as it was not just it should; and to which may be added, that all constitutions are not alike, and burning and wounding and striping, especially in some parts, might prove mortal, and the person might die thereby; to them the law of retaliation would not be observed, the punishment would be exceeded; and it is much more agreeable to justice and equity that it should be lessened rather than increased; and it may be observed, the law of the twelve tables with the Romans, concerning maiming of members, only took place when the parties could not come to an agreement; and with respect to the Jewish law, Josephus<sup>f660</sup> himself says, that the man that has his eye put out may receive money for it, if he is willing, which the law allows of.

**Ver. 26.** *If a man smite the eye of his servant*, etc.] Give him a blow on the eye in a passion, as a correction for some fault he has committed:

*or the eye of his maid, that it perish*; strike her on that part in like manner, so that the eye is beaten or drops out, or however loses its sight, and “[is] blinded”, as the Septuagint version; or “corrupts” it<sup>f661</sup>, it turns black and blue, and gathers corrupt matter, and becomes a sore eye; yet if the sight is not lost, or corrupts so as to perish, this law does not take place; the Targum of Jonathan, and to Jarchi restrain this to a Canaanitish servant or maid:

*he shall let him go free for his eye’s sake*; or “them”, as the Septuagint; his right to them as a servant was hereby forfeited, and he was obliged to give them their freedom, let the time of servitude, that was to come, be what it would. This law was made to deter masters from using their servants with cruelty, since though humanity and goodness would not restrain them from ill usage of them, their own profit and advantage by them might.

**Ver. 27.** *And if he smite out his manservant’s tooth, or his maidservant’s tooth*, etc.] Give them such a slap on the face, or a blow on the mouth, as to strike out one of their teeth; this also the Targum of Jonathan and Jarchi restrain to a Canaanitish servant or maid;

*he shall let him go free for his tooth’s sake*; both him and her, the servant and the maid; this, though of lesser consequence than the loss of an eye,

was punished in the same manner with the loss of the servant man or maid, to make masters careful how they abused their servants in any degree. And though only these parts are expressed, yet Jarchi and Aben Ezra observe, that all other principal members of the body, which they reckon to be twenty four, are included, as the fingers, toes, etc.

**Ver. 28.** *If an ox gore a man or a woman, that they die*, etc.] That are Israelites, of whom only Aben Ezra interprets it; but though they may be principally designed, yet not solely; for no doubt if one of another nation was gored to death by the ox of an Israelite, the same penalty would be inflicted, as follows:

*then the ox shall be surely stoned*; which is but an exemplification of the original law given to Noah and his sons, (<sup>4005</sup>Genesis 9:5): “at the hand of every beast will I require it”; i.e. the blood of the lives of men; which shows the care God takes of them, that even a beast must die that is the means of shedding man’s blood:

*and his flesh shall not be eaten*; it being as an impure beast according to this sentence, as Maimonides <sup>f662</sup> observes; and even though it might have been killed in a regular manner before it was stoned, it was not to be eaten; no, not even by Heathens, nor by dogs might it be eaten, as a dead carcass might by a proselyte of the gate, or a stranger; this might not be given nor sold to him; for, as Aben Ezra observes, all profit of them is here forbidden:

*but the owner of the ox [shall be] quit*; from punishment, as the last mentioned writer observes, from suffering death; he shall only suffer the loss of his ox: the Targum of Jonathan is,

“he shall be quit from the judgment of slaughter (or condemnation of murder), and also from the price of a servant or maid,”

which was thirty shekels, (<sup>4223</sup>Exodus 21:32).

**Ver. 29.** *But if the ox were wont to push with his horns in time past*, etc.] Or “from or before yesterday, to the third” <sup>f663</sup> that is, three days before, and had made three pushes, as Jarchi explains it:

*and it hath been testified to his owner*; by sufficient witnesses, who saw him push at people for three days past: the Targum of Jonathan is,

“and it hath been testified to the face of his owner three days.”

Concerning this testimony Maimonides <sup>f664</sup> thus writes,

“this is a testification, all that testify of it three days; but if he pushes, or bites, or kicks, or strikes even an hundred times on one day, this is no testification (not a sufficient one): three companies of witnesses testify of it in one day, lo, this is a doubt, whether it is a (proper) testimony or not; there is no testification but before the owner, and before the sanhedrim:”

*and he hath not kept him in*; in some enclosed place, house or field, not frequented by people, and where there was no danger of doing any hurt, if this care was not taken, after a proper testimony had been given of his vicious disposition. By the Roman laws <sup>f665</sup> oxen that pushed with their horns were to have hay bound about them, that those that met them might beware of them; hence that of Horace <sup>f666</sup>: but that he hath killed a man or a woman; by pushing and goring them with his horns, or any other way, as biting or kicking:

*the ox shall be stoned*; as is provided for the preceding law:

*and his owner shall be put to death*; since he was accessory to the death of the person killed, not keeping in his beast, when he had sufficient notice of his vicious temper: the Targum of Jonathan, and so other Jewish writers, interpret this of death sent upon him from heaven, or death by the immediate hand of God, as sudden death, or death by some disease inflicted, or before a man is fifty years of age; but there is no doubt to be made but this intends death by the civil magistrate, according to the original law, (<sup>Gen</sup>Genesis 9:6).

**Ver. 30.** *If there be laid on him a sum of money*, etc.] By the decree of the judges, as Aben Ezra, or which the sanhedrim of Israel have laid upon him; if his sentence of death is commuted for a fine, with the consent of the relations of the deceased, who in such a case are willing to show mercy, and take a fine instead of the person's death; supposing it was through carelessness and negligence, and not with any ill design that he did not keep up his ox from doing damage, after he had notice:

*then he shall give for the ransom of his life whatever, is laid upon him*; whatever mulct or fine he is amerced with by the court, instead of the sentence of death first pronounced. Of this ransom Maimonides <sup>f667</sup> thus writes:

“the ransom is according as the judges consider what is the price (or value) of him that is slain; (i.e. according to his rank, whether a noble or common man, a free man or a servant) all is according to the estimation of him that is slain.--To whom do they give the ransom? to the heirs of the slain; and if a woman is killed, the ransom is given to the heirs of her father’s (family), and not to her husband.”

**Ver. 31.** *Whether he have gored a son, or have gored a daughter*, etc.] A little son or daughter, and both Israelites, as Jarchi and Aben Ezra; this is observed, because only a man or woman are made mention of in (~~Exodus~~ Exodus 21:29,30) persons grown up; and lest it should be thought that only adult persons were intended, this is added, to show that the same regard is had to little ones as to grown persons, should they suffer by an ox in like manner as men and women may. The Targum of Jonathan restrains this to a son or daughter of an Israelite; but the life of everyone, of whatsoever nation, is equally provided for, and guarded against by the original law of God:

*according to this judgment shall it be done unto him*; to the owner of the ox that has gored a child, male or female; that is, he shall be put to death, if he has been warned of the practice of his ox for three days past, and has took no care to keep him in; or he shall pay the ransom of his life, as it has been laid by the court, with the consent of the relations of the children.

**Ver. 32.** *If the ox shall push a manservant, or a maidservant*, etc.] Which the Targum of Jonathan and Jarchi interpret of a Canaanitish servant, man or maid; but no doubt the same provision was made for an Hebrew servant, man or maid, as for a Gentile one:

*he shall give unto their master thirty shekels of silver*; that is, the owner of the ox shall pay so much to the masters of the servants for the loss they have sustained by his ox goring them; and Maimonides<sup>f668</sup> observes, that

“the ransom of servants, whether great or small, whether male or female, is fixed in the law, thirty shekels of good silver, whether the servant is worth a hundred pounds, or whether he is worth but a penny.”

This was the price our Lord and Saviour Jesus Christ was sold at, ((see Gill on “~~Exodus~~ Matthew 26:15”)).

**Ver. 33.** *If a man shall open a pit*, etc.] That has been dug in time past, and filled up again, or take the covering from it, and leave it uncovered: “or if a man shall dig a pit, and not cover it”: a new one, in the street, as the Targum of Jonathan; or in a public place, as Jarchi and Aben Ezra; otherwise a man might dig one for water, in his own fields, in enclosed places, where there was no danger of cattle coming thither, and falling therein:

*and an ox or an ass fall therein*; or any other beast, as Jarchi observes; for these are mentioned only as instances, and are put for all others. Maimonides<sup>f669</sup> says,

“if a man digs a pit in a public place, and an ox or ass fall into it and die, though the pit is full of shorn wool, and the like, the owner of the pit is bound to pay the whole damage; and this pit (he says) must be ten hands deep; if it is less than that, and an ox, or any other beast or fowl fall into it and die, he is free,”

**Ver. 34.** *The owner of the pit shall make it good*, etc.] Repair the loss of the ox or ass:

*and give the money unto the owner of them*: the price of them, what they are worth: the Targum of Jonathan is,

“the owner of the pit shall pay the silver, he shall return to its owner the price of the ox or ass:”

*and the dead beast shall be his*; either the owner of the pit; who pays the full value for the ox or ass killed, which seems but reasonable; or

“the injured person as Jarchi, for he says, they reckon or estimate the carcass, and he takes it for the price;”

that is, for part of the price it is valued at.

**Ver. 35.** *And if one man's ox hurt another's, that he die*, etc.] By pushing with his horns, or his body, or by biting with his teeth, as Jarchi, or by any way whatever:

*then they shall sell the live ox, and divide the money*; the Scripture speaks, as the same writer observes, of one of equal value, otherwise the man that had his ox killed might be greatly a gainer by it; for if his ox was a poor one, and of little value, and the ox that killed his a good one, of value

greatly superior, which according to this law was to be sold, and the money divided between the two owners, the man that lost his ox might have double the worth of it, or more, which was not equitable. On the other hand, according to the Jewish canons <sup>f670</sup>, the case stood thus,

“when an ox of the value of one pound strikes an ox of the value of twenty, and kills him, and lo, the carcass is of the value of four pounds, the owner of the ox is bound to pay him eight pounds, which is the half of the damage, (added to the half part of the price of the carcass,) but he is not bound to pay, but of the body of the ox which hurts, because it is said, “they shall sell the live ox”; wherefore if an ox of the value of twenty pieces of money should kill one of two hundred, and the carcass is valued at a pound, the master of the carcass cannot say to the master of the live ox, give me fifty pieces of money; but it will be said to him, lo, the ox which did the hurt is before thee, take him, and go thy way, although he is worth no more than a penny:”

*and the dead ox also they shall divide*; the money the carcass is worth; or it is sold for.

**Ver. 36.** *Or if it be known that the ox hath used to push in time past*, etc.] If it is a plain case, and a thing well known in the neighbourhood, and there are witnesses enough to testify it, that it has yesterday, and for two or three days running, pushed with his horns men and cattle, as they have come in his way, ((see Gill on “~~Exodus~~ Exodus 21:29”))

*and his owner hath not kept him in*; took no care to prevent his doing mischief by putting him into a barn or out house, or into an enclosure, where he could do no damage to any:

*he shall surely pay ox for ox*; that is, he shall give as good an ox to him, whose ox has been killed by his, as that was, or pay him the full worth and value of it: and the dead shall be his own; shall not be divided as in the preceding case, but shall be the proprietor’s wholly, that is, the sufferer’s; because the owner of the vicious ox took no care of him, though it was well known he was mischievous, for which negligence he was punished this way.