

ARTICLE IV.

ALIENS IN ISRAEL.

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IN recent times, not less, perhaps, than in past ages, attempts have been made to throw light upon obscure questions of public interest, by having recourse to the legislation of Moses. The practice of polygamy, for instance, has relied upon the Pentateuch for its strongest defences. The advocates of capital punishment draw arguments from the same source. Our usury laws are grounded on a Hebrew basis, and, but for that, would probably have ceased to exist in their present form. Slavery, too, seeks the venerable precedents of the Old Testament to justify its wrongs, and to silence opposition at least from the pulpit and the religious world. But there is another question, of great moment to us now, which appears to have been discussed hitherto with little reference to sacred precedents. It is a question which interests the church of God, no less than the state; the faithful minister, no less than the ambitious demagogue. It is, to the christian citizen, the inquiry: *How, according to Scriptural authority, ought we to treat the strangers among us?* To answer this inquiry, one naturally recurs to the law of Moses, and his application of it in the Hebrew government.

To a reflecting mind, the question readily arises, whether the Strangers' Law, as it now exists in christian countries, however imperfect it may be, has, like some other branches of jurisprudence, grown up with the world, developing its principles by degrees to suit the necessities of commerce or the demands of religion; or whether it sprang into existence a perfect system, the embodiment of natural justice, animated by a living soul, which the spirit of God breathed into it in the commandment, *Thou shalt love thy neighbor as thyself*;¹

¹ Lev. 19: 18.

If it originated in the mere mercantile principle of self-love, which some philosophers have regarded as the root of nearly or quite all the regulations of society, its policy cannot be expected to be otherwise than exclusive. But if it came from benevolence, the fountain of justice, all unnecessary restraint upon the privileges of strangers must be contrary to its nature.

So far as the law of aliens among the Hebrews is concerned, the preceding questions are easily answered. But it may not be amiss to examine the subject somewhat minutely, to discover not only the general principles, but also the practical application of them in the Jewish government.

From the first, the Hebrew commonwealth maintained the most liberal policy towards foreigners.¹ It would seem natural that two millions of slaves,² bursting at once and with supernatural demonstrations from the tyranny of a race that held foreigners in abhorrence,³ would have excluded, most carefully, from sharing their conquests, all but their own nation,—especially their late task-masters. But at the outset, before the passage of the sea, Moses lays down the law on this subject in the language of comprehensive benevolence. He puts Hebrews and strangers, as a general rule, on an equal footing. "One law," says he, "shall be to him that is homeborn, and unto the stranger that sojourneth among you."⁴ This general maxim, relating more especially to the

¹ Josephus, *contra Apion.* II. 29, and *Antiq.* IV. ch. 8, sec. 21.

² At the first census, there were found to be 603,550 males over twenty years of age and able to go to war. The tribe of Levi was not numbered. Num. 1: 46, 47.

³ Gen. 48: 32. Herodotus, *Euterpe*, XLI.

⁴ Ex. 12: 49. The same rule is stated in Num. 9: 14, 15: 15, 16. So, "No soul of you shall eat blood, neither shall any stranger that sojourneth among you eat blood," Lev. 17: 12. So, of eating the flesh of animals dying of disease, or torn by beasts, Lev. 17: 12, 13, 15. The same equal application was made of the laws of marriage, Lev. 18: 26; sacrifice to Molech, *Ibid.* and 20: 2; blasphemy, Lev. 24: 16 (Shelomith's son); Sabbath-breaking, Ex. 20: 10 and 23: 12; meddling with the Levites in the service of the tabernacle, Num. 1: 51, 3: 38, 16: 40, 18: 7; homicide's asylum, Num. 35: 15; and atonement for sins of ignorance, Num. 15: 26 and 29. Lev. 16: 29. The rule in the text is also reaffirmed in Lev. 24: 22: "Ye shall have one manner of law as well for the stranger as for one of your own country." So, Josephus, in *Ap.* 2. 29.

civil condition of aliens, was somewhat modified in the ecclesiastical or ceremonial law; and, besides, it admitted of several marked exceptions which will be noticed hereafter. In the same spirit he goes on to enact by authority of inspiration, *Thou shalt neither vex a stranger, nor oppress him,*¹ and reiterates more than once afterwards the same law.² Finally, to put the relations of foreigners quite beyond question; to silence those who, though complying with the letter of the statute, might try to evade its spirit by quibbling, he declares: *But the stranger that dwelleth with you shall be unto you as one born among you; AND THOU SHALT LOVE HIM AS THYSELF.*³

This liberality was not shown to friendly nations alone, for they were forbidden to abhor even an Egyptian.⁴ Seven nations, however, singled out for their utter foulness, not only as past hope of reformation, but as special objects of exemplary retribution, were given up to the Hebrews to be exterminated.⁵ The command was only partially executed;⁶ the consequence was that the Hebrews were visited with several severe judgments,⁷ and some peculiar enactments were made.⁸ The remnants of the doomed nations were finally reduced to perpetual slavery by Solomon.⁹

¹ Ex. 22: 21.

² Ex. 23: 9. Lev. 19: 33. Deut. 1: 16. In Deut. 27: 19, the stranger is classed with widows and orphans. "Cursed be he that perverteth the judgment of the stranger, fatherless, and widow. And all the people shall say, Amen."

³ Lev. 19: 34. So, Deut. 10: 19: "Love ye therefore the stranger; for ye were strangers in the land of Egypt."

⁴ Or an Edomite, Deut. 23: 7.

⁵ This was for their idolatry, Ex. 23: 33. 34: 15, and bestiality, Lev. 18: 27. They were the Hittites, Girgashites, Amorites, Canaanites, Perizzites, Hivites, and Jebusites, Deut. 7: 1, and were to be extirpated without stint or mercy. "Thou shalt smite them, and utterly destroy them; thou shalt make no covenant with them, nor show mercy unto them," Deut. 7: 2.

⁶ The Hivites of Gibeon made peace with Joshua by a stratagem; but they were made slaves, Josh. 9: 3—27. The Jebusites of Jerusalem were too strong for the tribe of Judah, and were also suffered to remain, Josh. 15: 63. So, some of the Canaanites were left, Josh. 16: 10 and 17: 12. Also other tribes, Judg. 3: 3, 5.

⁷ Judg. 3: 7, 8, 13, 14. 4: 2, 3.

⁸ Age of champions, Judg. 3: 3 et seq. Ezra 10: 11. ⁹ 1 Kings 9: 20, 21.

Equality of rights, it has been said, was the general rule; but as the commonwealth was preëminently a religious establishment, its chief executive and its supreme court being ecclesiastics,—though the inferior officers composing the town councils and courts of elders seem to have been chosen by suffrage,—it would appear that aliens, not adopting the established religion, must necessarily have little share in it. Further, the law of real property, requiring lands to continue in the tribe to which they were originally allotted,² affected the rights of strangers with respect to inheritance, purchase, and marriage. Liberal as the law was, the stranger's condition could not but have been somewhat uncomfortable, especially in the domestic relations. Job, indeed, comparing his neglected condition to that of an alien, exclaims in anguish: *They that dwell in mine house, and my maids, count me for a stranger; I am an alien in their sight.*³ And David says: *I am become a stranger unto my brethren, and an alien unto my mother's children.*⁴

It will be convenient to consider the disabilities of a foreigner settled among the Hebrews, as relating to rights which may be classed in three divisions:

- First, Private civil rights;
- Secondly, Political interests;
- Thirdly, Religion.

1. Excepting the nations condemned to extinction, strangers were allowed to dwell in the country or to leave it at pleasure.⁵ When the task of extermination was relinquished as too arduous for Hebrew courage, or rather cowardice,

¹ Ex. 18: 25. Deut. 1: 13: "Take you wise men and understanding, and known among your tribes, and I will make them rulers over you." An election and subsequent ratification may reasonably be inferred. See also Josephus, *Antiq.* B. III. ch. IV. 1, and Whiston's note.

² Num. 33: 54. 36: 9: "Neither shall the inheritance remove from one tribe to another tribe" (Zelophehad's daughters). It was on this account probably that the ceremony, Deut. 25: 5—10, was appointed in case a man refused to marry his next kinsman's childless widow. See the case of Boaz, Ruth 4: 5. But the practice of such marriage was before Moses. See the story of Onan, Gen. 38: 8, and of Tamar, Gen. 38: 11.

³ Job 19: 15.

⁴ Ps. 69: 8; so Lam. 5: 2.

⁵ Ex. 22: 21, etc. *Ante*, p. 4, note q.

terms were imposed on the half-conquered nations,¹ and forthwith commenced a series of intermarriages, and their disastrous consequences.²

In general, aliens might intermarry with Hebrews indifferently.³ But an alien might not marry the widow of a Hebrew who had died childless; for the right of the nearest kinsman to marry her in order to raise up representatives of her former husband would in this case be defeated.⁴ Neither could a woman of alien parentage become the high priest's wife.⁵ An alien might nevertheless marry a priest's daughter.⁶ In this case, as the wife was under the control of her husband,⁷ and was invested by marriage with his civil character,⁸ she was accounted an alien and unable to partake of the offering made to the priests' use;⁹ though her father's bond-slave, actually of foreign birth, was subject to no such disqualifications.¹⁰ Even if a widow, and childless, her disability was removed only by her return to her father's house, and her assuming again his civil condition by becoming subject to him.¹¹ So, if she were divorced, the incapacity arising from her marriage could be removed only by the same process.¹² But the widow of the Hebrew, though an

¹ *Ante*, p. 4, note h.

² Judg. 3: 6, 7; Num. xxv. a plague is said to have carried off 24,000 people, in consequence of intermarriages with the Midianites. It was stayed only by the melancholy death of Cozbi and her husband Zimri. In Ezra x. a list of one hundred and thirteen men is given, and "all these had taken strange wives; and some of them had wives by which they had children," v. 44. To keep a general fast on this account they had assembled in a heavy rain. Soon after, all these families were broken up by divorce.

³ Lev. 22: 12, 24: 10. Moses married a Midianite, Ex. 2: 21, and afterwards an Ethiopian, Num. 12: 1. Naomi's sons married Ruth and Orpah, Moabitesses, Ruth 1: 4, and Ruth was king David's great-grandmother, etc.

⁴ Deut. 25: 5.

⁵ Lev. 21: 14.

⁶ Lev. 22: 12.

⁷ Selden, *De Ux. Heb.*; Num. 30: 13; and this rule is recognized in Eph. 5: 22. 1 Pet. 3: 1, 5, 6. Titus 2: 3.

⁸ This seems a reasonable inference from Lev. 22: 12, 13. In Ruth's case, Ruth 4: 5, the alien-born widow of a Hebrew retained an interest in her husband's property, besides the usual claim on the next of kin.

⁹ Lev. 22: 12.

¹⁰ Lev. 22: 11. Probably only females, v. 10, for males were to be circumcised, Ex. 12: 44.

¹¹ Lev. 22: 13.

¹² *Ibid.*

alien by birth, was not, it seems, subject to any civil incapacity. If childless, she could claim her husband's brother or next kinsman in marriage.¹ A Hebrew might marry a captive woman at his own pleasure,² but, by a humane provision, not until the end of a full month after she had lost her liberty; and he could afterwards send her away if he failed to find her agreeable, but could not sell her as a slave.³

The domestic relation next in importance after marriage, in which the rights of aliens were concerned, is that of master and servant. Service among the Hebrews was of three kinds: absolute and hereditary slavery, servitude for debt or crime by judgment of law, and hired service. The last kind was of course limited in duration and quality. The second, to which Israelites as well as aliens were liable, always expired, either at the seventh or sabbatical year, or at the semi-centennial Jubilee.⁴ But none but foreigners could become bondmen for life, and transmit their condition as an inheritance to the heirs of their bodies forever.⁵ Foreigners could purchase Hebrew slaves, but could not hold them beyond the year of Jubilee.⁶ The relatives in this case had a right to redeem. A Hebrew could hold one of his countrymen in slavery but six years, except where the servant chose at the end of this term to renounce his freedom forever, accepting in a public ceremony his master's ear-mark.⁷ But a Hebrew could acquire foreign slaves forever, either by capture,⁸ or by purchase,⁹ though not by kidnapping, which was a capital crime;¹⁰ and he could buy the children of aliens

¹ Ruth 4: 5.² Deut. 21: 13.³ Deut. 21: 14.⁴ Ex. 21: 2. Deut. 15: 12. Lev. 25: 47, 50.⁵ Lev. 25: 45, 46.⁶ Lev. 25: 47, 54.⁷ Ex. 21: 2, 5, 6. Deut. 15: 12, 16, 17.⁸ Josh. 9: 27.

⁹ Lev. 25: 44. Mishna. *Kedushin*, I. 3. "A Canaanite slave is acquired by money paid for his purchase, by a contract, or any act of the slave indicative of his subjection; and, according to R. Meir, he can recover his liberty by his purchase money being repaid to his master by other people, and by a deed of manumission which he himself receives. But the Sages say, also, when the purchase money was paid by himself, or the deed of his manumission was received by others; but the money for that purpose must be given him by other people." This seems to have been a later doctrine.

¹⁰ Ex. 21: 16. But Deut. 24: 7 respects only Israelites, though it does not pre-

in perpetual bondage without the right of redemption, even though the children were natives, and the parents residing in the land.¹ Foreign servants by hire were protected by a special enactment from delays of payment.²

In respect to the acquisition and enjoyment of property, there was some difference between Hebrews and aliens. This arose principally from the system of tenures, partly sanctioned by custom, partly introduced afresh by Moses; according to which, real estate, with a single exception, could be alienated only for a term of years which must expire at the next Jubilee.³ Houses in cities not belonging to the Levites were made an exception, and could be disposed of like personal property.⁴ Real estate thus alienated, therefore, either in the country or in the Levitical cities, would revert at the Jubilee to the original tenant, who had held it by inheritance,⁵ or to his legal representatives.⁶ In this way the heritage was preserved in the tribe. Consequently a sale of real estate was somewhat like a conveyance of an estate for years in mortgage; for the whole property of the buyer in it would be defeated in fifty years at farthest, and the estate might be redeemed at any time.⁷ Such a conveyance differed from an English mortgage in this,—the possession passed into the hands of the buyer at once. Houses, in walled cities not belonging to the Levites, could be redeemed within one year,⁸ but if not redeemed before that had elapsed, the sale was irrevocable, as in the case of personal property. Devises seem not to have been in use,⁹ perhaps because property passed only by delivery of possession,

clude the extension of the rule to foreigners, which is certainly consonant with other statements.

¹ Lev. 25: 45, 46.

² Deut. 24: 14, 15.

³ Lev. 25: 23, 28, 33.

⁴ Lev. 25: 29, 30, 32; but they might be redeemed within one year.

⁵ Lev. 25: 23, 28, 33. ⁶ Num. 36: 7, 9. Naboth's vineyard. 1 Kings 21: 2, 3.

⁷ Lev. 25: 25.

⁸ Lev. 25: 29, 30.

⁹ Not a single passage in the Old Testament is recollected where a devise, or even a *donatio causâ mortis* is alluded to; though the writer of the Epistle to the Hebrews, in 9: 16, 17, seems to have been well acquainted with the Roman law of devises. And, in the parable of the prodigal son, there is an example of an advancement during the father's lifetime. The word *covenant* is used in the Old Testament for which Paul employs the term *testament*.

either actual, as in chattels, or symbolical, as by delivery of a sandal, — the method employed in the sale of Elimelech's land by Naomi,¹ — and therefore must be disposed of by the owner before his death, if at all; or, more likely, because the law of primogeniture was so rigid in maintaining the patriarchal system, that it would not allow a father to prejudice the heirs by devising away his property.² If this view is correct, a disability which has been imposed on aliens in most other states, is set wholly aside from consideration, because common to aliens and Hebrews alike. But from the foregoing observations it will appear that a foreigner suffered many inconveniences with respect to real estate. He could purchase, receive by gift, and perhaps inherit, as heir to his mother; but his title would be defeated at the next Jubilee. He could leave real estate to his heirs by blood, but the property could not be retained in his family for more than half a century. Personal property appears not to have been subject to the same rule, as its exclusion seems to be implied by the requirement that *land* should not be sold forever.

Aliens were denied the benefit of the septennial release of debts enjoyed by Hebrews.³ It was lawful to exact usury of them, though not of Hebrews;⁴ but poor strangers were not to pay usury.⁵ Alien paupers were entitled to relief.⁶ They, in common with widows and orphans, had a right to the gleanings of the wheat-field, the olive tree, and the vineyard.⁷

2. The political rights of citizens of the Jewish state, were, for the most part, merged in those of religion. In the ordinary assembly of the people, strangers seem to have taken

¹ Ruth 4: 7. Abraham bought the field of Ephron, with the appurtenances, Gen. 23: 17. Possession was given by the payment of the purchase money in the presence of witnesses at the city gate. See 1 Kings 21: 16.

² Deut. 21: 17. The Law of Inheritance, Num. 27: 8—11, seems to exclude the father from disposing of his property, real or personal, so as to defeat the inheritance by descent. Jacob found it necessary to buy Esau's birthright. Abraham, however, disinherited Ishmael; but he was not the son of a proper wife.

³ Deut. 15: 1, 3.

⁴ Deut. 23: 20. Ex. 22: 25.

⁵ Lev. 25: 35, 36.

⁶ Lev. 25: 35, 36.

⁷ Lev. 19: 10, 23: 22. Deut. 24: 19—21.

a part.¹ It may be doubted whether they were in all cases competent witnesses in trials at law.² It is probable that foreigners could hold no important civil offices. The senate originally consisted of seventy elders, of the Hebrew stock.³ By an express statute, no foreigner could be made king.⁴

3. It was in religious affairs that the estate of an alien differed most from that of a Hebrew. That obedience to the laws which was exacted of all the inhabitants alike, whether Israelites or strangers, regarded the precepts of morality rather than the rites of religion; and yet, though alien residents were not obliged to become proselytes, they were compelled to keep some parts of the ceremonial law. A few brief but comprehensive rules support the great partition-wall which separated Jews from Gentiles.

The majesty of the God of Israel was the first object of regard to the law. No stranger might worship, openly at least, any God but Jehovah.⁵ To blaspheme his name was death.⁶ Next, observance of the weekly sabbath,⁷ the sabbatical year,⁸ and the great jubilee⁹ were enjoined on all Gentile inhabitants. No stranger might receive the holy anointing oil.¹⁰ Neither could he burn incense to Jehovah,¹¹ or eat of the paschal lamb,¹² or offer consecrated bread,¹³ or taste the sacrifice of atonement.¹⁴ But a stranger might eat of the triennial tithe;¹⁵ he might take part in the three national feasts, — the Passover, except in eating the paschal lamb,¹⁶ the Feast of Booths,¹⁷ and Pentecost;¹⁸ he might come up to the tabernacle;¹⁹ a part of the temple was open to him;²⁰

¹ Josephus, *Antiq. B.* IV. 28. 45. Deut. 29: 11. 31: 12.

² In the Mishna, *Gittin* (Bills), I. 5, it is said: "All legal documents made in courts of justice are valid, even when the attesting witnesses are not Israelites, bills of divorce and deeds of manumission excepted." But one of the Rabbins held that there was no exception.

³ Num. 11: 16, 17, 24, 25. Maimon. *Sanhed.* c. 2. But it is doubtful whether Moses created this court or council, except temporarily.

⁴ Deut. 17: 15. ⁵ Ex. 22: 20. ⁶ Shelomith's son, Lev. 24: 11, 14, 16.

⁷ Ex. 20: 10. 23: 12. ⁸ Lev. 25: 4, 6. ⁹ Lev. 25: 47, 50.

¹⁰ Ex. 30: 33. ¹¹ Num. 16: 40. ¹² Ex. 12: 43, 45, 48.

¹³ Lev. 22: 25. ¹⁴ Ex. 29: 33. ¹⁵ Deut. 14: 29. 26: 11—13.

¹⁶ Num. 9: 14. Michaelis, *Leg. Moisaee*, c. 184. ¹⁷ Deut. 16: 14.

¹⁸ Deut. 16: 11. ¹⁹ Lev. 17: 8, 9. 22: 18. Num. 15: 14.

²⁰ Josephus, *Antiq. B.* VIII. c. IV. 9. B. XV. c. XI. 6. 1 Kings 8: 41.

circumcised or not, he might worship Jehovah in public, or at least by proxy; might bring an offering to his name.¹

Naturalization, in Israel, was effected by adoption of the Jewish religion, and, with males, by being circumcised. But Moses did not compel strangers to become Jews. He nowhere enjoins circumcision upon other than Israelites,² except as a condition of eating the paschal lamb.³ This rite, though not peculiar to the Hebrew nation,⁴ was necessary to complete citizenship, being a part of the ceremony of investiture.⁵ With females, as has been hinted before,⁶ nationality was conferred by adoption, or by marriage to an Israelite. Nobody ever questioned the citizenship of Moses' sons by Zipporah the Midianitess, or challenged King David's pedigree because the amiable daughter of Moab was his great-grandmother.

The rights of citizenship could not, however, be conferred on all. The seven proscribed nations could never be naturalized;⁷ nor could the male descendants of a Moabite or Ammonite father, at least not until the tenth generation.⁸ Edomites and Egyptians were likewise under incapacity.⁹

No length of previous residence, or of probation, seems to have been requisite to qualify a stranger for admission as a member of the congregation. He might be admitted as soon as domiciled, on receiving circumcision, if he were uncircumcised, and undertaking to acknowledge and worship Jehovah as the only living and true God.¹⁰ The test was a religious one, capable of being applied without expense or delay; so that the poorest stranger, as well as the richest, could purchase the freedom of the divine commonwealth.

¹ 1 Kings 8: 41 et seq. Num. 15: 14. 2 Chron. 6: 32, 33. Michael. Leg. Mois. c. 184. From Josephus, *Antiq. B.* XV. c. XI. 6, and B. XX. c. VIII. 11, it seems that none were allowed to be present at the sacrifices, or even to look on, but Jews themselves.

² Michaelis, c. 184: slaves excepted.

³ Ex. 12: 48. A stranger needed not to be circumcised to be saved; but if he were, he bound himself to keep all the ceremonies of the Law. So the law was explained by Paul, Gal. 5: 3. See the story of Naaman, 2 Kings v.

⁴ Josephus, in *Apionem*, II. 14; Herodotus, *Euterpe*, XXXVI.

⁵ Ex. 12: 48.

⁶ Note 8, p. 568.

⁷ Deut. 7: 2.

⁸ Deut. 23: 3.

⁹ Deut. 23: 8.

¹⁰ Ex. 12: 48.

Merely as a matter of curious learning, it may be gratifying to the scholar to notice the regulations collected in the foregoing pages. But if the true use of history is to draw from it lessons of practical wisdom, for the present and the future ; if all Scripture is given by inspiration of God, and is profitable for doctrine, for reproof, for correction, for instruction in righteousness ; the Christian citizen will see a worthier aim in the preservation of these ancient laws than the mere indulgence of curiosity. He will ask upon what principles their provisions are founded : whether freedom to worship God, or not, was allowed as an elementary right ; whether the security of the government was provided for by excluding persons from civil office under it, because their birth-place chanced to be out of its allegiance ; whether the restrictions upon foreigners as to the acquisition of landed estate, and its transmission to their descendants, did not arise from the circumstance of God's entailing the land of Canaan upon the tribes of Israel, by a special gift, and not from considerations affecting all governments alike ; whether, as has been declared by a sovereign and legislature in England, all liberties granted to aliens were to be regarded as matters of mere grace and favor ; whether it was the policy of the State to estrange, as much as possible, the citizens from the strangers dwelling by them, or the reverse ; or, finally, whether those principles, whatever they may be found to have been, are sustained by the example of Jesus Christ, and his doctrines in the New Testament, taken from his own sacred lips, or expounded by his inspired interpreters. And the answers which he receives to these inquiries he will turn to present use ; not, like one in a fever with stores of proper medicines in his possession untouched, abandoning his information at the missionary meeting and the ballot-box, to adopt the views of other men, merely because they are prominent members of society. The treatment of the strangers now among us, as well as of those who are to come, is not to be left to the political arm alone ; and he who is a citizen of Christ's kingdom as well as of an earthly State, cannot fail to see that Christianity is to be deeply affected by the result.