

Objection 1. It would seem that the Old Law set forth unsuitable precepts about the members of the household. For a slave “is in every respect his master’s property,” as the Philosopher states (Polit. i, 2). But that which is a man’s property should be his always. Therefore it was unfitting for the Law to command (Ex. 21:2) that slaves should “go out free” in the seventh year.

Objection 2. Further, a slave is his master’s property, just as an animal, e.g. an ass or an ox. But it is commanded (Dt. 22:1-3) with regard to animals, that they should be brought back to the owner if they be found going astray. Therefore it was unsuitably commanded (Dt. 23:15): “Thou shalt not deliver to his master the servant that is fled to thee.”

Objection 3. Further, the Divine Law should encourage mercy more even than the human law. But according to human laws those who ill-treat their servants and maid-servants are severely punished: and the worse treatment of all seems to be that which results in death. Therefore it is unfittingly commanded (Ex. 21:20,21) that “he that striketh his bondman or bondwoman with a rod, and they die under his hands. . . if the party remain alive a day. . . he shall not be subject to the punishment, because it is his money.”

Objection 4. Further, the dominion of a master over his slave differs from that of the father over his son (Polit. i, 3). But the dominion of master over slave gives the former the right to sell his servant or maidservant. Therefore it was unfitting for the Law to allow a man to sell his daughter to be a servant or handmaid (Ex. 21:7).

Objection 5. Further, a father has power over his son. But he who has power over the sinner has the right to punish him for his offenses. Therefore it is unfittingly commanded (Dt. 21:18, seqq.) that a father should bring his son to the ancients of the city for punishment.

Objection 6. Further, the Lord forbade them (Dt. 7:3, seqq.) to make marriages with strange nations; and commanded the dissolution of such as had been contracted (1 Esdras 10). Therefore it was unfitting to allow them to marry captive women from strange nations (Dt. 21:10, seqq.).

Objection 7. Further, the Lord forbade them to marry within certain degrees of consanguinity and affinity, according to Lev. 18. Therefore it was unsuitably commanded (Dt. 25:5) that if any man died without issue, his brother should marry his wife.

Objection 8. Further, as there is the greatest familiarity between man and wife, so should there be the staunchest fidelity. But this is impossible if the marriage bond can be sundered. Therefore it was unfitting for the Lord to allow (Dt. 24:1-4) a man to put his wife away, by writing a bill of divorce; and besides, that he could not take her

again to wife.

Objection 9. Further, just as a wife can be faithless to her husband, so can a slave be to his master, and a son to his father. But the Law did not command any sacrifice to be offered in order to investigate the injury done by a servant to his master, or by a son to his father. Therefore it seems to have been superfluous for the Law to prescribe the “sacrifice of jealousy” in order to investigate a wife’s adultery (Num. 5:12, seqq.). Consequently it seems that the Law put forth unsuitable judicial precepts about the members of the household.

On the contrary, It is written (Ps. 18:10): “The judgments of the Lord are true, justified in themselves.”

I answer that, The mutual relations of the members of a household regard everyday actions directed to the necessities of life, as the Philosopher states (Polit. i, 1). Now the preservation of man’s life may be considered from two points of view. First, from the point of view of the individual, i.e. in so far as man preserves his individuality: and for the purpose of the preservation of life, considered from this standpoint, man has at his service external goods, by means of which he provides himself with food and clothing and other such necessities of life: in the handling of which he has need of servants. Secondly man’s life is preserved from the point of view of the species, by means of generation, for which purpose man needs a wife, that she may bear him children. Accordingly the mutual relations of the members of a household admit of a threefold combination: viz. those of master and servant, those of husband and wife, and those of father and son: and in respect of all these relationships the Old Law contained fitting precepts. Thus, with regard to servants, it commanded them to be treated with moderation—both as to their work, lest, to wit, they should be burdened with excessive labor, wherefore the Lord commanded (Dt. 5:14) that on the Sabbath day “thy manservant and thy maidservant” should “rest even as thyself”—and also as to the infliction of punishment, for it ordered those who maimed their servants, to set them free (Ex. 21:26,27). Similar provision was made in favor of a maidservant when married to anyone (Ex. 21:7, seqq.). Moreover, with regard to those servants in particular who were taken from among the people, the Law prescribed that they should go out free in the seventh year taking whatever they brought with them, even their clothes (Ex. 21:2, seqq.): and furthermore it was commanded (Dt. 15:13) that they should be given provision for the journey.

With regard to wives the Law made certain prescriptions as to those who were to be taken in marriage: for instance, that they should marry a wife from their own tribe (Num. 36:6): and this lest confusion should ensue in the property of various tribes. Also that a man should marry

the wife of his deceased brother when the latter died without issue, as prescribed in Dt. 25:5,6: and this in order that he who could not have successors according to carnal origin, might at least have them by a kind of adoption, and that thus the deceased might not be entirely forgotten. It also forbade them to marry certain women; to wit, women of strange nations, through fear of their losing their faith; and those of their near kindred, on account of the natural respect due to them. Furthermore it prescribed in what way wives were to be treated after marriage. To wit, that they should not be slandered without grave reason: wherefore it ordered punishment to be inflicted on the man who falsely accused his wife of a crime (Dt. 22:13, seqq.). Also that a man's hatred of his wife should not be detrimental to his son (Dt. 21:15, seqq.). Again, that a man should not ill-use his wife through hatred of her, but rather that he should write a bill of divorce and send her away (Dt. 24:1). Furthermore, in order to foster conjugal love from the very outset, it was prescribed that no public duties should be laid on a recently married man, so that he might be free to rejoice with his wife.

With regard to children, the Law commanded parents to educate them by instructing them in the faith: hence it is written (Ex. 12:26, seqq.): "When your children shall say to you: What is the meaning of this service? You shall say to them: It is the victim of the passage of the Lord." Moreover, they are commanded to teach them the rules of right conduct: wherefore it is written (Dt. 21:20) that the parents had to say: "He slighteth hearing our admonitions, he giveth himself to revelling and to debauchery."

Reply to Objection 1. As the children of Israel had been delivered by the Lord from slavery, and for this reason were bound to the service of God, He did not wish them to be slaves in perpetuity. Hence it is written (Lev. 25:39, seqq.): "If thy brother, constrained by poverty, sell himself to thee, thou shalt not oppress him with the service of bondservants: but he shall be as a hireling and a sojourner. . . for they are My servants, and I brought them out of the land of Egypt: let them not be sold as bondmen": and consequently, since they were slaves, not absolutely but in a restricted sense, after a lapse of time they were set free.

Reply to Objection 2. This commandment is to be understood as referring to a servant whom his master seeks to kill, or to help him in committing some sin.

Reply to Objection 3. With regard to the ill-treatment of servants, the Law seems to have taken into consideration whether it was certain or not: since if it were certain, the Law fixed a penalty: for maiming, the penalty was forfeiture of the servant, who was ordered to be given his liberty: while for slaying, the punishment was that of a murderer, when the slave died under the blow of his master. If, however, the hurt was not certain, but only probable, the Law did not impose any penalty as regards a man's

own servant: for instance if the servant did not die at once after being struck, but after some days: for it would be uncertain whether he died as a result of the blows he received. For when a man struck a free man, yet so that he did not die at once, but "walked abroad again upon his staff," he that struck him was quit of murder, even though afterwards he died. Nevertheless he was bound to pay the doctor's fees incurred by the victim of his assault. But this was not the case if a man killed his own servant: because whatever the servant had, even his very person, was the property of his master. Hence the reason for his not being subject to a pecuniary penalty is set down as being "because it is his money."

Reply to Objection 4. As stated above (ad 1), no Jew could own a Jew as a slave absolutely: but only in a restricted sense, as a hireling for a fixed time. And in this way the Law permitted that through stress of poverty a man might sell his son or daughter. This is shown by the very words of the Law, where we read: "If any man sell his daughter to be a servant, she shall not go out as bondwomen are wont to go out." Moreover, in this way a man might sell not only his son, but even himself, rather as a hireling than as a slave, according to Lev. 25:39,40: "If thy brother, constrained by poverty, sell himself to thee, thou shalt not oppress him with the service of bondservants: but he shall be as a hireling and a sojourner."

Reply to Objection 5. As the Philosopher says (Ethic. x, 9), the paternal authority has the power only of admonition; but not that of coercion, whereby rebellious and headstrong persons can be compelled. Hence in this case the Lord commanded the stubborn son to be punished by the rulers of the city.

Reply to Objection 6. The Lord forbade them to marry strange women on account of the danger of seduction, lest they should be led astray into idolatry. And specially did this prohibition apply with respect to those nations who dwelt near them, because it was more probable that they would adopt their religious practices. When, however, the woman was willing to renounce idolatry, and become an adherent of the Law, it was lawful to take her in marriage: as was the case with Ruth whom Booz married. Wherefore she said to her mother-in-law (Ruth 1:16): "Thy people shall be my people, and thy God my God." Accordingly it was not permitted to marry a captive woman unless she first shaved her hair, and pared her nails, and put off the raiment wherein she was taken, and mourned for her father and mother, in token that she renounced idolatry for ever.

Reply to Objection 7. As Chrysostom says (Hom. xlviij super Matth.), "because death was an unmitigated evil for the Jews, who did everything with a view to the present life, it was ordained that children should be born to the dead man through his brother: thus affording a certain mitigation to his death. It was not, however, ordained

that any other than his brother or one next of kin should marry the wife of the deceased, because” the offspring of this union “would not be looked upon as that of the deceased: and moreover, a stranger would not be under the obligation to support the household of the deceased, as his brother would be bound to do from motives of justice on account of his relationship.” Hence it is evident that in marrying the wife of his dead brother, he took his dead brother’s place.

Reply to Objection 8. The Law permitted a wife to be divorced, not as though it were just absolutely speaking, but on account of the Jews’ hardness of heart, as Our

Lord declared (Mat. 19:8). Of this, however, we must speak more fully in the treatise on Matrimony (Suppl., q. 67).

Reply to Objection 9. Wives break their conjugal faith by adultery, both easily, for motives of pleasure, and hiddenly, since “the eye of the adulterer observeth darkness” (Job 24:15). But this does not apply to a son in respect of his father, or to a servant in respect of his master: because the latter infidelity is not the result of the lust of pleasure, but rather of malice: nor can it remain hidden like the infidelity of an adulterous woman.