WILMINGTON, N. C.,

## ELECTIONS

SUNDAY MORNING, OCT. 12, 1879.

Two state elections will be held on Tuesday of this week, October 14thone in Ohio and one in Iowa.

The election in Ohio is for Governor, Lt. Governor, Judge of Supreme Court: Attorney General, Auditor, Treasurer, and one Member of the Board of Public Works and the Legislature.

The Republican candidate for Goverwor is Hon, Charles Foster. He had been a merchant and banker, and had never held any office until he was elected to the 42nd, 43d, 44th, and 45th. Congress.

The Democratic candidate is Gen-Thomas Ewing, who was in 1861 Chief Justice of the Supreme Court of Kansas, and was elected to the 45th. Congress from Ohio.

The Greenback candidate is A. Saun-

ders Piattl At the election in 1878 the vote stood as follows; Repub. 274,120; Dem. 270 .-966; Greenback, 38,332; and Prohibitionist, 5674, and the Democratic majority in the legislature on joint ballot for most of its own misfortunes, and was 42. The legislature to be elected must change its temper or the improvenow will elect a successor to Senater | ment it craves will be yet longer de-Thurman.

In lowa there is to be elected a Governor, a Lt. Governor, a Judge of the Supreme Court, a Supt. of Instruction, and a member of Congress to fill a

The Republican candidate is John H Gear, the Democratic candidate is Henry H. Trimble, and the Greenback Daniel Campbell.

At the election, of 1878 the genera vote stood. Repub, 134.544, the Dem 1,302, and Greenback 123,577. The legislature stood 68 majority on joint

In Connecticut an election for town officers, and the vote on amendments to the constitution was held on the 6th and the Republicans had the best of it Norwich, New London, Waterbury and New Brittain go Republican. The amendments to the constitution, providing for biennial ressions and the limit of age for Judge of Supreme Court to 75, were voted down:

In Colorado, where an election was held on the 7th for Judge of Supreme Court and District of Attornies the Republicans made a clean sweep.

## SOUTHERN DEPRESSION.

The New York Times has not unfrequently misapprehended southern af fairs, and at times has done the better and well meaning portions of our population actual injustice. But it has latterly brought to the disscussion of southern affairs a foresight and capacity which commands at the same time respect, and assent to its reasoning. The article which we copy in part below i an admirable example of its later discussions of southern affairs, wherin it utters truths which ought to, and doubtless does, influence and obtain the assent of the better class of southerners Facts which cannot be disputed. and reasonings which cannot be controverted, are of themselves bound to influence the minds of reasoning men and will do so whether they are palatable tul journal, which speaks for so large a portion of the most intelligent of Americans, utters advice like what we print below, it will be well if the south shall heed it and act upon it. The south has already done enough towards entting its own fingers, and preventing its own prosperity and welfare, to induce it to regard good advice from whatever source it may come. Of course, the north is not insensible

to the lesses suffered by its industries and trade in consequence of the disturbed condition of some of the southera states and the want of enterprise. energy, and capital in all of them. Its goods, as clearly as they appreciate the value of a good crop of cotton. But the condition of the south affects the north only in degree. All the indica- should also be needed. tions of returning prosperity are visible around us. We have the enterprise and energy which the south lacks, and in superabundance the capital, from the want of which the south suffers. prosperity; the south alone complains of poverty and depression. While, then, the state of business affairs in the south and its evident inability to rehave the satisfaction of knowing that the injury experienced is obscured by the benefits accruing from the development of the west. The effect of southern depression is to a considerable ex- trouble, and comes out with renewed tent counteracted by western growth strength for the enjoyment of the most and prosperity. The circumstance is tion of the southern states. We refer to the north than to the southern

I with those of west. Republican. Both sections

push and capital to render them productive. But, metaphorically sepaking, while the west bounds toward prosperity the south stands still and starves. The difference that existed between the sections when one had the invigorating influences of freedom and the other withered under the curse of slavery, is as pronounced as ever. Immigrants still shun the south. Enterprise finds no home there. Capital seeks other fields. The west gets what it wants of all. The result is the repetition of an old story with this variation-that western development, agricultural and mineral, proceeds at a rate unknown before, and southern stagnation knows no change save that wrought by inevi-

table decay. There will be no marked improvement at the south until its dominant class cease their upbraiding of the north and look among themselves for the causes of the prevailing poverty and depression. The Republican party does not divert the stream of immigration, discourage or foster the fears of capital. Whatever influences tend to produce these results are traceable to the madness and guilt of southern sectionalism and the part it plays in public affairs. White labor would not go where slave labor was, and it will continue to avoid states where the colored laborer is denied the rights of a man. Foreigners in search of a home will not linger where freedom of opinion does not exist, where law is a mockery and justice a myth, and where their children must grow up uneducated. Men of enterprise and means will keep away from states that move slowly and seldom backward. And for all this the south

A GRAND PROJECT. A Frenchman named Gamon, a first cousin we suppose to M. Lesseps, is going to bridge the Atlantic ocean. This fellow spells his name with only one m, but no doubt it means the same in French as if it were spelled with two. It is to be a grand causeway across the Atlantic ocean from Great Britain to America. The average depth of the filling, above high water, will be about two miles and the length about 1,500 thinks will be only 120,000 cubic miles. To get the dirt he proposes to take all the island of Newfoundland. When of steel rails. The whole work to be under the charge of M. Lesseps.

We feel it our duty to caution Mr. Gamon, for he is almost as wild about this project as his first cousin, M. Les seps, is about the Panama canal. We caution him that he has not provided tables of the decemvirs, the Pandects the capital offenses-we find the numenough dirt and stone. We have made and the Institutes, where sanguine des- ber of crimes, according to the Tala careful estimate and find, by an ac- potism wielded the highest authority. mudic laws, dwindle down to cight, or curate calculation, that it would take the entire Alps, Mont Blanc and all, back, had a deep infusion of popular the Pyrenees, and a large portion of opinion, was down to a comparatively the Carpathian mountains on the European side, so that there would be a comparatively level country between which men are daily liable to commit, Paris and Rome. On this side of the no less than one hundred and sixty were water it would take all the White Mountains, the Green Mountains, and a considerable part of the Appalachian range. This would involve a very great extinguishment of the right of eminent domain, a total upsetting of summer travel, and an entire obliteration of Fabyans, Franconia, the Catskills and the White Sulphur.

To complete this great work in ten years, M. Gamon thinks that it is only necessary for all the nations in the that they carry within themselves the world to turn in their convicts to do the work, or, what he thinks would be or unpulatable. And when this power. better, for all the nations to agree on a peace for ten years and use for this cited by the system of laws of the anwork their whole armies and navies. When this great embankment is completed, and the Great Atlantic Railway among the surrounding nations "the also built on it, with M. Lesseps as life or death of a citizen was determined President, they propose to hold a Congress of Engineers in San Francisco to consult upon the subject of bridging the Pacific. In furtherance this last enterprise M. Lesseps, it is rumored, already has engineers examining the Rocky Mountains with a view of ascertaining the most judicious methods of taking them down. Inasmuch as the Pacific ocean is in places four miles merchants appreciate the value of a deep, we suggest that Mr. Gamon send healthy southern market for their a corps of engineers to examine the Cordilleras and the cost of moving them into the Pacific ocean in case they

Six years ago the entire country was itself. shocked and financial panic ensued from the failure of the banking house North and west share in common the Jay Cooke & Co. The month of October, 1873, marked the beginning of the commercial depression which added so much subsequently to the difficulties gain except very slowly the prosperity it, and embarrassments attendant upon has lost, are not unfelt at the north, we specie resumption. Money then commanded 1) per cent be day and was not plenty at that. But the country has outlived or lived down all this unexampled prosperity. Money is now cited as a reason for indifference to the loaned as low as to per cent, per annum. evils that prevail throughout the greater | and within the past five or six weeks twenty-five or thirty millions of specie have been received from abroad in rethe southern Democracy is less hurt. turn for our manifold over products. judged from a business point of But the greatest benefit to be derived from this return to prosperity resides in the fact that insures the death of Greenhe south were not blinded by sec- backism. The Rag Raby, born of misery sy and hate, and by the and general business stagnation, is now mity of its leaders, it being choked to death by the plethoric al in the contrast afforded by success of the times. Six years has engent argument in favor of been a long period for the brat to-live ats and opportu- one week from next Tuesday - Not

> pling, lets it be known that he has little conthat need but fidence in his own sweetness. f. I Ulthhom,

TALMUDIC CRIMINAL JURIS-PRUDENCE.

pices of the Historical and Scientific Society of Wilmington.

BY REV. S. MENDELSOHN. Whatever differences of belief people may entertain regarding the "Total Depravity" dogma, all admit the high antiquity of crime. Every observant reader of history, sacred or profane, becomes impressed with the idea that crime is almost coeval with man; that no age and no nation, no country and no province, ever was or ever will be wholly exempt from evil-doers: from beings committing acts offensive to both God and man. Were every human being allowed free scope in the exercise of his notions and propensities; were there no restrictive laws enacted against the disturbing of the peace of society, or against aggression on individual ights, "one might swallow the other alive."1. Therefore are laws from time to time adopted, declaring certain "rules of action"2, of right and wrong, of what may or may not be done; at the same time, as matter of course, providing modes of punishment for the violator

Accordingly, the earliest laws were

of the social covenant.

confessedly framed for the emergency; and, since they were enacted with special reference to immediate occasions, they partook rather of blind popular impulse than the result deliberation of legislative assum. We must however not be understood to imply that the early laws were dictated by the will of the people. On the contrary, in the first stages of human development, individuals were the law makers. But the legislators themselves were actuated by the same influence that prejudiced the popular mind. The consemiles. The amount of dirt and stone the result of the bloody enactments of which had not to cope with the sirs of that the work will consume, Mr. Gamon Draco, 4 "who affixed the penalty of idolatry and human immolation and the death to all crimes alike-the petty like. thefts, for instance, as well as to sacrilege and murder-and justified his cxtreme harshness by saying, that small this great work is finished, a railroad offenses deserved death, and that he character, amount to thirty-six. On a is to be put upon it with sixteen tracks knew no severer punishment for great proper classification of the several of-

> public legislation has, for centuries United States! recent date extremely cruel and bloodthirsty. Blackstone 6 states that in his time, "among the variety of actions held, by act of parliament, to be felonies without benefit of clergy; or, in death." And if the criminal laws of the United States are more lenient and humane, visiting with death only nine crimes; if the criminal code of this country be justly held forth as an example of extreme moderation, of the wise accommodation of the spirit of stern justice to the philanthropic views resulting from an advance of civilization, -we must not forget that the laws of this country are comparatively new: practical wisdom of tens of centuries:

they are the very latest growth of civi-Our curiovity therefore becomes excient Hebrews-the system of Talmudic laws, which in an age of savagery and violence, of wars and uncertainty; when with less caution and delay than the most ordinary question of covenant or inheritance," 7-enforced civil order, and secured the safety and peace of society by mildness and consideration. tempering justice with a love of humanity. In our humble or inion, if the system of Telmudic laws does not deserve to be taken, as the particular model of polity, or to become the general fountain of universal legislation and jurisprudence; it certainly does deserve better treatment at the hands of the critic than even the generality of modera writers are willing to accord to it. The Christian world stigmatizes the Talmudic system as cruel, vindictive, sanguinary; but without reasonwithout attempting to find a reason. But we shall let the Talmud speak for

We should pause here to give a sketch of the history and contents of that gigantic work which, were it translated into the vernacular, would by itself constitute a considerable library; but time and circumstances bid us desist. We shall therefore say but this: The term Tulmud is derived from the Hebrew radix ternard, "to learn," i. c. a study (in contradistinction to the Mosaic writings commonly styled Israe, "Lay,") and is the collective name of the Mishook la kind of second law, Deuterosis) and Gesar discussion, complement, doctrine: its radix offers answering to either. ) --The Talmulis, in the full sense of the term, the literature of the ancient Hebrews. It treats of religious, civil and criminal law; of history, mathematics, astronomy, medicine, metaphysics, theosophy. For a comprehensive view of

Aboth III. 2 See Blackstone's Commentation 1 38. Git-Son's Rome, xite.
These laws of Drace, written, says Deades, not with ink, but with blood, had the same fate as usually attends all violent hings. Sentiments of humanity in the sudges, compassion for the accused, whom ry were want to look upon rather as untunate than criminal, and the appreheusions the accuracy and witnesses were under it rendering themselves adjous to the peoie, all concurred to produce a remissions the execution of the laws, which by the meant, in the process of time, became as it were abrogated through discuss, and thus an A Sough's History of Greece, p. 82.

6 Commentation 17, 75,

this work we refer our bearers to our sketch thereof published in the "South Atlantic" for July and August, 1878.

And now to our subject.

Only one hundred years ago and in the face of a constitutional government, we behold the great institutional writer A Lecture Delivered Under the Aus-

and commentator crying out in disgust against the cruelty and inequality of the penal laws of his people. He ob-serves: "A multitude of sanguinary laws (besides the doubt that may be entertained concerning the right of making them) do likewise prove a manifest detect in the wisdom of the legislative, or the strength of the exective power. It is a kind of quackery in government, and argues a want of solid skill, to apply the same universal remedy, the ultimum supplicium, to every case of difficulty. It is, it must be owned, much easier to exterpate than to amend mankind; yet that magistrate mu t be esteemed both a weak and a cruel surgeon, who cuts ofl every limb, which through ignorance or indolence

he will not attempt to cure.8 These were Blackstone's views only one hundred years ago; while the Talmud, already two thousand years ago, stigmatized that Synhedrion (Synod, Court) which condemned to death one human being in the course of seven years, as a murderous tribunal, and R. Elaazar considers it so, if it passes a sentence of death once in seventy years! 9 Moreover, Dr. Blacks'one advocates only the adoption of a scale of crimes and a corresponding scale of penalties 10, but he nevertheless approves of capital punishment; while it. Tryphon and R. Akiba declare that, had the been members of the Synhedrion, a sentence of death should never have been passed! 11 These, however, are only views of individuals;

let us compare facts. We have just seen that in England only one hundred years ago, the differquence was that excessive severity pre- ent offenses for the commission of each vailed, which in the progress of time of which the highest penalty was inwas meliorated, principally by the eva- flicted, numbered not less than one sion of those very laws which have origi- hundred and sixty. Among the annally been enacted for the safety and cient Hebrews-where idolatry, witchpeace of society. The contrary extreme | craft, human | sacrifices, blasphemy, of undue laxity succeeded, and destroy- talse prophecy and other transgressions ed the principles of justice. Thus we of a purely religious character, were are credibly informed that, "as the considered capital crimes-the entire manners of Rome were insensibly pol- number of captital offences amounted ished, the criminal code of the decem- to only thirty-six12; or less than onevirs was abolished by the humanity of fourth the number of offenses for which the accusers, witnesses and judges, and | death was the punishment by the law impunity became the consequence of of a constitutional government, in which immoderate rigor.' 3 The same was the people had voice and influence, and

We say that the number of capital of fenses in the Talmud, inclusive of the several deadly sins of purely religious enses under their respective general The codes of most civilized nations headings, we find only brelve, or less by eral in dispensing capital punishments. date in the code of North Carolina; and But we need not hold up as examples eschewing from that number the crimes deserving universal condemnation, those of idolatry, witchcraft, blasphemy, viowhich have for their chief elements the lation of the Sabbath, false prophecydecrees of the civil laws of Rone-the sins that are no longer counted among The code of Eugland in which the one less than are on the code of the

Another proof of the great humanity mother off, 6 of Talmudic jurisprudence is this Among the nations of antiquity we frequently meet with the rude system of retaliation (lex talionis). The forfeit of an eve for eye, a tooth for a tooth, a limb for a limb, was rigorously exacted by the Romans, 13. This inhuman and unequal principle was abolished by the other words, to be worthy of instant Rabbinical law, substituting a pecuniary equivalent, 14. In the same manner the Talmud abolished the Mosaic law ordaining that the hand of a woman committing a certain indecent act, 15, should be cut off, by substituting a pecuniary fine, 16.

Above all and most vividey is the struction of a single life in Israel, is as great a sinner as if he had destroyedhand, whose saves a single life in Israel, is as meritorious as though he had count of them, 7 saved the whole world," 17, the court laid every possible, but legitimate, difficulty in the way to conviction. Almost every page in that portion of the Talmud treating of criminal law testifies that the Rabbis truly and conscientiously believed in, and practiced according to, their doctrine, "Whosoever compassionates a fellow-being is compassionated by Heaven." 18. They employed every legal means to arrive at an acquittal of the prisoner, to save the life of the accused. It is true, we must admit, occasionally great rigor was exercised under the Talmudic dispensation. For instance, a man for the simple sin of riding a mule on the Sabbath, was once sentenced to be stoned to death; another, for a gross violation of the laws of modesty only, was pureisned with fligellation, 19. But such instances are at least very rare in the Talmud, if their equals be at all found To our knowledge these are the only ones recorded; and they occurred at a time when Grecian invasion had demoralized the populace, when the authority of the Synhedrion seemed to be unable to check the apread of sin when extreme rigor alone could hope to effect a wholesome reformation in the manuers of the masses, 20. In general, however, the spirit of Talmudic criminal jurisprudence is, if not tending towards the total abolition of capital punishment, certainly humane and considerate. While seeking to do justice and punish crime, the Babbis also on deavor to save life and limb.

Our opinion regarding the humane tendency of the Taimudic criminal laws be futly demonstrated in the course of our enquiry concerning the rules and usages which directed the trial and execution of the criminal under that dispensation -a dispensation the dissertations on which "have exhausted so many learned lives, and clothed the scalls of such spacious libraries." In the following pages we purpose to examine the principal Talmudic criminal

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I. Urimes and Their Punishments II. The Synhedrion. III. The Trial.

IV. The Execution. Each of these general divisions will, of course, have to be subdivided under special heads or sections, inasmuch as there are different crimes and different penalties, different courts and different verdicts. But while our aim shall always be to furnish a clear and correct portraiture of our subject, we shall endeavor to be succinct, and not tax your patience too much.

## I. CRIMES AND PUNISHMENTS.

Sec. 1. Crimes in General.-A person acquainted with the hermeacutivesexegetical rules, by the application of which the Rabbis of old plausibly estab. lished on Scriptural dicta new decisions varied situations of life; la person familiar with the Talmudic readiness in multiplying guard-laws (sepes legis) might easily suppose that, in the Talmud, there is no end to the number of penal offenses. And, indeed, this idea receives confirmation and strength when we learn that the Talmud discovers in the Bible six hundred and thirteen ordinances, "of which 365 (corresponding with the number of days in the solar year) are prohibitive, and the remaining 248 (corresponding with the number of members in the human body) are positive commabds" 2-each of which must be strictly observed. Still we may justly declare such an dea as unwarranted by the spirit of

Talmuic jurisprudence. The Rabbinical law inflicts punishment for such transgressions only as are accompanied by physical action, 3 And as a law may be violated in two manners, either | mony 17 and seduction to idolatry.18 by omission or commission, by not doing The first because the nature of the crime that which ought to be done, or doing admits of no forewarning, no person that which ought not to be done, it is present knowing beforehand that the clearly seen that, according to this witness would depose a falsehood, and principle, no punishment can be in the last on account of the noxiousness flicted for the violation of any or all of of the crime itself. No other criminal the 248 positive commands, and of a could be convicted unless this prelimilarge number of the prohibitive ordis nary requirement, the warning in all its nances, where no physical action ac- various particulars, had been duly comcompanies the transgression. Thus plied with. more than one half the number of possible transgressions is at once cut off without a strict compliance with which from the penal-code of the Talmud. In | no conviction could be brought about. the remaining number there is again a These will be mentioned in the course considerable falling off, owing to the of our enquiry regarding the crimes enactment of a law exempting from themselves and their punishments, on corporeal punishment the violation of which we shall now enter. such prohibitions, though accompanied removal from her nest of the mothers and acted upon in Talmudic jurisprubird, the Bible contains a prohibitive, dence. Nct only is there in the Rab-"Thou shalt not take the mother with of the modern epoch are also very libe six than were down to a very recent her young ones," then, "Thou shalt ranging between flagellation, banishpanied by an act, yet he is not punished | ning with the lowest. oreally, but made to comply

Ser. 2. Conditions.-The Talmud adopts all the conditions and provisos, under which the Mosaic law punishes crime. Unless the criminal was fully conscious of his culpable engagement, knowing at the time of its commission that the deed was against the law, and his guilt was subsequently proved by at least two trustworthy witnesses, he was not capitally punished. The Talmud also prescribes no punishment when the criminal acted under constraint (duress per minus). A person committing an unlawful act, while his will is not free. cannot be condemned to die for his misdeed. The tear of threatened death clemency of the ancient Hebrew code is a sufficient excuse, since the main manifested in the rules by which the object of the holy law is the promotion judges were to direct all praceedings of the good of society, not its detriment; against the accused. Imbued with the as Scripture teaches, "Ye shall keep maxim, "Whosoever occasions the de- my statutes and my ordinances, which if a man do, he shall live in them." (Lev. xviii, 5) from which the Rabbis the whole world; and, on the other infer that no one is boun I to die through them, to imperil his existence on ac-

This argument, how ver, the Rabbis did not apply to exempt one from punishment for murder. In cases of bloodshed they did not consider duress as a good excuse. When once a heathen ford threatened one of his Jewish subjects with death, if the latter should not murder a certain person, and the Jew applied to a Rabbi for relief from his embarrassment, the Rabbi decided that in such cases one must suffer himself to be slain rather than commit so heinous a crime, for no mortal, argued he, can assert with any degree of certainty which of the two is possessed of blood more red, more aristocratie, i. e., which of the two is more the worthy person-

Nor was the Unional satisfied with these conditions alone. The humanity of the ancient Rabbis, their auxious desire to save life, invented a proviso which, if it did not altogether abolish capital and corporeal punishment, rendered a conviction thereto extremely difficult and rare. In addition to the conditions just mentioned, the Talmud requires also preliminary warning; and this not alone in cases involving life and death, 8 but even in minor cases, where only fisgellation was the penalty

Moreover, the warning had to be administered immediately before the commission of the crime 10. If any time had clapsed between the warning and the commission of the deed, the culprit was a a centenced to death, if the cross was capital, he was not whipped if the punishment thereof was only corpored. The warting had also to expressly state the particular penalty of the crime, whether it is capital or only corporeal, if capital, the would-be criminal had to be told also the special mode of death 11 With this provise the Tal. and stands alone. This requirement has no equal either in civil or in common law. By the laws of the modern civilized a sold, only ignorance or mislate of fact excuses the crime, but not an error in point of law improveded furth

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transgressions. The court is often embarrassed when called upon to decide a with a father-in-law's mother. The case of uninterrupted and repeated violation of any one law, whether the culprit is guilty of one continued of-fense (delictum continuatom), or of several crimes of the same kind (delictum reiteratum). Of course in capital crimes this problem meets with a very easy solution: the criminal cannot be executed more than once even for different and decrees, to answer each and all the | crimes (only when one is duly convicted of two or more different capital offenses. the Talmud ordains that he should suffer the hardest death 14,) but in cases subject only to corporeal punishment, the question is very important. Let us illustrate this: According to the law, a Nazerite is punished with flagellation for drinking a certain quantity of wine. 15 The question now arises whether, if he drinks several measures one after another, he is to be punished for each drink separately, as for so many separate and distinct violations of his vow, or only once for all? and the warning decides the question. If before each drink he was warned not to indulge, he is subject to punishment for each offense separately, but when between drinks no warning was administered, he is whipped only once. 16

From the benefit of this provise only two crimes are excluded : false testi-

There are several other prerequisites,

Sec. 3. Crimes and Punishments. - The by physical action, as either may be ad- | maxim that it is absurd and impolitic justed by restitution as stealing, rob- to apply the same punishment to crimes bing, 4 or that may be counteracted by of different malignity 19, which the a subsequent compliance with the posi- great commentator of Common Law so tive command concerning the same ably and truthfully advocated only one case 5. For instance, concerning the century ago, has early been recognized followed by a positive ordinance, viz: binical laws a well drawn scale of crimes and punishments-the latter surely let the mother go, and the young | ment, imprisonment and death; but in thou mayest take to threelf."-Deut, the mode of capital punishment itself xxii, 67. Now, if a man happens to there is a gradation commensurate with violate the prohibition by taking the the banefulness of the crime, as will be mother-bird along with her young ones | shown hereafter. At this juncture we he ought to be punished as for a viola- will take a general view of the various tion of a negative ordinance, accom- crimes and their punishments, begin-

1. Flagellation is administered to three the positive command, to send the kinds of criminals: 1. To such as vio- certain conditions had been only comlate any one of the prohibitive ordino capital punishment at the instance of a human tribunal is attached, 20 precept, to whom the Bible predicts death before his time. 21. 3. For the violation of any negative precept, when accompanied by a positive act.22 Time will not permit us to enumerate the different offenses coming under these three heads. Maimonides has carefully counted them; and furnishes a total of two hundred and seven. 23

2. Banishment is the penalty of accidental homicide (homicide per unferfunium.)24 This punishment, however, is not imposed on the unfortunate culprit, unless his victim dies immediately after the occurrence of the accident. 25

3. Imprisonment is the punishment of five different offenders: 1. Of murderers whose crime cannot be duty proved in the manner required for conviction to death.26 2. Of instigators to murderas having the act committed by a hireling's hands, 27 3. Of accessories to loss of life, f. i., when several persons club one to death 28, or when one causes the death of another by delivering him to be devoured by wild beasts, 29 4. Of persons who, after having been twice punished with flagellation for one and the same transgression, commit a third time, 30, 5 Of the incorigible who did not verbally acknowledge the warning administered to him on three different occasions. prior to so many commissions of one and the same offense for which, by the Mosaic law, he is punishable with excision, but in which case flaggellation cannot be inflicted on him. 31

We are now brought to the considerr stion of the most important part of this chapter-capital crimes. It has already been stated that the Talmud from further atrocities by being de punishes thirty-six different offenses with death; now we shall see which crimes these are, and by what mode of death they are punished. The Taimud prescribes four different

capital punishments. They are: aStoning, b burning, c decapitation, d strang- Taimud, all persons of both sexes are ling.32 The first of these, in the opin- indictable for crime, except idiots and ion of the Rabbis, is the severest; the last the mildest 33

Maimonides 34 groups all capital crimes together under the headings of their respective punishments, and his arrangement we shall follow.

a All crimes for the commission of each of which the culprit, after due trial and conviction, was to be stoned to death, are eighteen in number: 1, criminal commerce with his own mother, 2, with his step-mother; 3, with his daughter-in-law, 4, with a betrothed virgin; 5, sodomy; 6, beastiality; 7, a woman practicing beastiality; 5, blasphemy; 9, idolatry; 10, sacrificing his own children to Molech; 11, the soothsaver, 12, the winard; 13, instigating individuals to apostacy; 14, inducing communities to apostatize; 15, the ma-

22 Blacket the's Commentation 14, 22 -- "If a man intending to kill a third or house-breaker in his own boune, by saistake kills one of his own family, this is no criminal arrivet; but if a man thinks belose a right to atil a person extrememonicated or outlawed wherever he meets blue, and done on this willful mourder. For a mistake in point of haw which every person of discretion not only may, but is bound and presumed to know, is in triminal cases no serief defined Appearation partie grand grainger brancher were, no-release consent, in see well the meating of unit

11 Mairmorajdes, H. Santa, 211, L. 14 Jelinausth fiftt Snadordrin bin Maisson. 15 Nasir I'V. Malmina, H. Nasiroth v. 1

non excused; 12) while the Talmud allows of conviction only when the oriminal was not ignorant even of the slightest point of law. Even the scholar, who presumably knew the law, was required to be reminded of it immediately one's own daughter; 2, copulation with one's own daughter; 3, with one's own daughter; 4, with one's own daughter; 5, with his step-daughter; This proviso operated also in another direction: it served the judge as a guide in passing sentence over aggravated 7, with a step-son's daughter; 8, with a mother in-law; 9, with her mother; 10. nine cases of incest thus enumerated are punishable with burning, only when committed during the life of the criminal's wife; otherwise they are punished as for adultery, 36

e With decapitation only two crimes are punished: 1, murder; 2, the members of an entire community that apostatized from Judaism and joined pagan

d Finally, six crimes were punished by strangulation: 1, adultery; 2, bruis-ing a parent; 3, kidnapping; 4, maladministration (the "Rebellious Elder") 5, false prophecy; 6, prophesying in the name of a heathen deity.

All capital crimes thus enumerated if categorized according to their different natures, will appear as follows: a adultery 3, b beastiality 2, c blasphemy 1, d idolatry 7, c incest 12, f kidnapping , g maladministration 1, h murder 1 sodomy 1, j violatious of filial duty 3, violation of the Sabbath 1, I witeraft 3 Of these four categories, c, d, k and numbering twelve offenses, contain such crimes as more immediately offend God. for they are in the main transgressions against revealed religion. The remaining eight classes, with twenty-four crimes, are more immediately repugnant to that universal law of society, wnich regulates the mutual intercourse between man and man, and which is established for the safety and peace of individuals and communities.

As a matter of history it deserves to be remarked that the apostacy of a Jewish community, in the sense of Talmudic Jurisprudence, and the execution of a "prodigal son," the Talmud asserts 37, did never occur, and, as an unusual and wonderful event, R. Jonathan relates his having met with the remains of both. Speaking of the laws concerning the prodigation, R. Simon remarks, "Is it probable that, because a young man consumes a certain quantity of meat and Italian wine, his father and his mother-for it requires the joint accusation of both his parents to subject him to punishment 38 -would cause him to be stoned to death? This never did and never will occur!" And as regards the razing of a city the inhabitants of which apostatize, this, too, says the Rabbi, is an utter impossibility to come to pass. The same is the case with witchcraft, at least so Prof. Gracia informs us.39 Only one occurrence of that kind since the days of King Saul is recorded in the Talmud 40, and the account thereof the learned historian declares to be defective.

Ser. 4. Murder. - The capital crime of most frequent occurrence seems to have been that of homicide. Let us see how it was disposed of under the Talmudic dispensation.

We have already seen that, according to the Talmudic jurisprudence, no sentence of death could be passed unless plied with. In order to be subject to nances punishable, according to the capital or corporeal punishment, the Mosaic law, with eccision, but to which | Talmud required, one man alone must have committed the crime 41. Accordingly, when several men clubed one to 2. To the transgressor of a negative death, neither of then could be capitally punished, 42 But, on the other hand, if a number of men throw stones at one the size and weight of neither of which being sufficient to kitl him, and then one hurls a missil the bulk of which is sufficient to kill, the last one is responsible with his life for that of the victim. 43 Again, if one wilfully and maliciously pushes another into the fire or water, from which the victim could easily escape; the former is not capitally responsible for the fatter's death; but if there be no chance of escape, the culprit is responsible, 41

> regards capital punishment, of accesseries to murder. The person being the immediate cause of the loss of life is alone answerable with his life. Thus if one hires another to kill a man, the hireling is responsible with his life, if he executes his nefareous mission ( Yet it must not be supposed that mur der in any shape could be committed with impunity, far from it. All that the Talmud aimed after was the avoidance of capital punishment, while itendeavored to protect life by other means. The murderers whom capital punishment could not reach - justifiable and accidental hemicide exceptedwere imprisoned 46. In all cases of capital crime, when the Synhedgen tound the accused guilty, he was exc cuted; if not, if the slightest prelimi nary requirement for conviction had not been duly complied with, he was acquitted and set at liberty. In munier, cases, however, they went farther and with more rigor. Whoever illegally occasioned the loss of life was prescuted prived of his freedom, 47

Talmudic law takes no account, as

Sec. 5. Present Indictable .- Helots pro ceeding any further, we must enquire as to the persons indictable for crime, and this we may do at once and with out low of time. According to the minors, 48 The Istaclite, the Levils

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