

CHAPTER XVI.

THE LAW-BOOKS.

Distinction of Books and Codes—Wellhausen's personal experience—The hypotheses of Graf; not the result of criticism—The great objection to it its assumption of the fictitious character of the history, thus leaving no solid materials for a credible history—I. The book of Deuteronomy is neither (1) pseudonymous nor (2) fictitious—II. The books containing the Levitical Code—(1) The position that Ezekiel paved the way for this Code—(2) The pious remnant and the reformation ideas—(3) Fictitious history in an aggravated form—(4) The literary form of this Code—Multiplicity of sources a proof of long-continued literary activity—But the main course of the history rests on its own independent proofs.

IN the preceding chapters we have seen reasons for concluding that the modern theory does not sufficiently account for the persistent ascription of law and religious ordinance to Moses; that it fails to exhibit the transition from natural to religious observance, and from oral to authoritative written law; that its argument from silence tells as much against its own assumption as against the Biblical view; and that its sharp distinction of the Codes in essential matters is not well founded. With the literary fates of the various law-codes we are not much concerned, because this is a subject on which the Biblical theory, which it is our main purpose to test, leaves great

latitude for different views; and the same may be said of the question of the composition of books. We must, however, look somewhat particularly into the relation of the law-books to the Codes and to the general history; for in regard to this matter the Biblical theory and the modern are radically at variance in important points.

Wellhausen in one passage¹ gives us an interesting piece of his own personal experience. He tells us that in his early student days he "was attracted by the stories of Saul and David, Ahab and Elijah;" that the discourses of Amos and Isaiah laid strong hold on him, and that he read himself well into the prophetic and historical books of the Old Testament; but that all the time he "was troubled with a bad conscience, as if he were beginning with the roof instead of the foundation." At last he took courage, and made his way through the books of Exodus, Leviticus, and Numbers; but looked in vain for the light which he expected these would shed on the historical and prophetic books. "At last," he says, "in the course of a casual visit in Göttingen in the summer of 1867, I learned through Ritschl that Karl Heinrich Graf placed the law later than the prophets, and, almost without knowing his reasons for the hypothesis, I was prepared to accept it; I readily acknowledged to myself the possibility of understanding Hebrew antiquity without the book of the Torah."

So far as his experience in the reading of Scripture goes, there is nothing very peculiar in it. I suppose that few of those who have formed for themselves any defined view of Bible history, have acquired this by reading through the law-books before approaching those that are historical. He tells us nothing of his experience in re-

¹ *Hist. of Israel*, pp. 3, 4.

gard to the book of Genesis, whose stories of the patriarchs, one would have thought, would have as powerfully attracted the young student as the history of Saul and David; and it is difficult to fancy what idea he could have obtained of even the historical and prophetic books, without accepting the underlying assumption of these books that the history went back to the patriarchal period. The whole history hangs in the air, if we begin with Saul and David—implying, as it does, a great deal for which we must turn to the writings which Wellhausen must include in his expression, "the book of the Torah." But in using this expression, and in his reference to the theory of Graf which he says he found himself ready to accept, he leads the unwary reader to confuse two things which ought to be kept distinct, and to jump to a conclusion which is not warranted by the experience which he relates.

Our examination of the early prophetic writings, and of the histories which are said to be of about the same date, always threw us back upon an antecedent history, and gave at least a strong presumption of the truth of the narrative contained in the books of the Pentateuch. Yet for the fundamental facts and main course of the history we did not require to refer to the Pentateuchal laws, although we found a coherence and consistency between the accounts contained in the two sets of books. The history, in fact, does not turn upon laws and the observance of ceremonies, and so far it is true, as Wellhausen says he experienced it, that the history is intelligible without the Torah. But in saying "the book of the Torah," if by that he means the whole Pentateuch, and not merely the legal part of it, it is not the case that the history is thus intelligible.

The law-books of the Pentateuch, as is well known, exhibit two component elements,—narrative and legislation ; and it has been found impossible by literary analysis to separate them. Whether the two parts originally came from different hands or not, in part or in whole, they are so inextricably blended or woven together that it has to be confessed they must go together. That is to say, the narratives imply that the laws were given under historical circumstances, and the laws imply the circumstances under which they were given. If, then, we are satisfied with the testimony given by later writers to the history ; if, in other words, we take the references to earlier times contained in the writings of the eighth and ninth centuries as confirming, in the main, the narrative of the Pentateuch, we might conclude that the laws, which are by confession bound so closely in the bundle of narrative as to be inseparable from it, are also the laws and statutes to which the prophets appeal. The laws would go with the narrative, in which they are enclosed. And this is what the Old Testament writers take for granted. The reverse process, however, since the time of Graf, has been followed by those who advocate his theory. They say the narratives must follow the laws. How this conclusion was reached, and what it involves, must now be considered.

Graf at first attempted to make a separation between the legislation and the accompanying history contained in the Pentateuch ; and having proved to his own satisfaction that the narratives attached to the Levitical Code were implied in the book of Deuteronomy, and known to the writer of the latter, he said that the narratives were early, while the legislation was late. Being, however, afterwards convinced that the two elements were inseparable, he was clearly in a dilemma, from which he adopted a remarkable

mode of escape. He simply said that as the laws had been proved to be of late origin, the narratives must also be of late composition—throwing over entirely the proofs which he had before considered sufficient to show that the narratives of the Levitical books were older than Deuteronomy, and introducing a fashion of regarding the contents of these books which is at once novel and startling. For if the laws of the Levitical Code are late in the literal sense that they became laws at a period as late as Ezra, the narratives which accompany them and describe in detail in regard to many of them the manner in which they were promulgated by Moses, cannot be true history at all: the events related as the historical setting of the laws must be nothing else than fictitious. The only thing that can be said in their favour is, that they were invented for the good purpose of confirming and sanctioning the laws, by ascribing them to Moses, to whom the national tradition looked back as the great originator of law in Israel.

The first thing that strikes one here is that the theory is not the result of a sustained and uniform line of criticism. It was a *volte-face*. Graf had satisfied himself that the narrative parts of the Pentateuch were early, and were referred to or implied in pre-exilian writings. If he was equally satisfied that the laws were exilic, or post-exilic, and yet were inseparable from the narrative, the proper conclusion was that his critical processes were incorrect somewhere, and he ought to have searched for the error. One would think that the national testimony to a series of historical facts would be more clear than the recollection of a body of laws, and that laws were more liable to change by usage than the national testimony to vary in regard to fundamental facts of history. At all events, to say bluntly

that the narratives must go with the laws is no more a process of criticism than to say that the laws must go with the history. It is therefore inaccurate to describe the position of Graf as a conclusion of criticism. It was simply a hypothesis to evade a difficulty in which criticism had landed him.

And then, when it is considered what is implied in the position that the narratives must go with the laws, it cannot but be admitted that the hypothesis is so far-reaching and revolutionary that it should be accepted only when every other explanation of the phenomena fails. For it amounts to a thorough discrediting of the historical value of the narratives of these books with which the laws are so closely interwoven; and to an ascription of fiction, if not fraud, to the writers, which will render it extremely difficult for sober criticism to rely upon any testimony which is borne by the Hebrew writers to the facts of their national history. So that here again, when pushed home to its central position, we find that the modern view, claiming to be strictly critical, in reality throws discredit on the documents which it starts to criticise,¹ and which are the only sources available for obtaining information regarding the history which is to be described.

But there is no necessity, except that imposed by an unyielding hypothesis, for this last resource. If laws were not given by Moses, then certainly any narratives that describe them as so given must be false. But if Moses did deliver a body of laws to his people, then even if the laws, as they stand, indicate divergency, even if they underwent modification, even if the codes or the books, or both, are of much later composition, in their existing forms, than the time of Moses, we may still respect

¹ Compare above, chap. vi. p. 149 f.

the *bona fides* of the writers of the books, and maintain them as substantially true history.

I. To begin with the book of Deuteronomy. Some who believe that this book is of late date, written at the time of Josiah in order to bring about a reformation, and yet seek to maintain the *bona fides* of the writer, are in the habit of saying that the book is an example of pseudonymous composition. Briggs, for example,¹ has argued at length and ingeniously to show that there is nothing unreasonable in the supposition of pseudonymous literature in the Bible, and by reference to the book of Ecclesiastes has tried to save this book of Deuteronomy from the category of forgery or fiction. But in point of fact, the book is not pseudonymous in the same way that Ecclesiastes is. The latter book, except the heading at the beginning and the epilogue (chap. xii. 9 ff.) at the end, is all written in one person. "I, the preacher," did so and so throughout; and his personality, "son of David," and magnificence, are so accentuated as to lead to the conclusion that Solomon is meant. But the writer by saying, "was king over Israel in Jerusalem," lets us at the outset into his secret, which is simply this, that he is writing in the name of Solomon, to represent what might have been Solomon's reflections upon life. There is not only no intent to deceive, but there is scarcely the possibility of deception. The circumstances of a historical

¹ Biblical Study (1887), p. 223 ff. He appeals also, among others, to Robertson Smith, "who uses the term legal fiction as a variety of literary fiction" (see *Old Testament in the Jewish Church*, p. 385). What is there described, however, as "found more convenient to present the new law in a form which enables it to be treated as an integral part of the old legislation," though probably applicable to the present form in which the collections of laws appear, does not seem to cover the case of the *book* of Deuteronomy with which we are concerned. Compare Cheyne, *Jeremiah, His Life and Times*, p. 77.

kind that are introduced are so few and so general that we are not misled or misinformed as to matters of fact; all the rest is meditation, moralising, and the scheme of the book is so far transparent. But it is quite different with the book of Deuteronomy. As a book, it does not profess to be written by Moses; it is, in fact, one of the many anonymous books of the Old Testament. The writer, whoever he was, and at whatever time he lived, tells us certain things that Moses did, and especially produces long addresses which Moses is said to have uttered. These long speeches, however, are all set in a historical framework; and if the framework is not historical, the book is more than pseudonymous—it is pseudo-historical. The speeches by themselves might be taken to fall into the category of the book of Ecclesiastes, where the preacher is made to give the thoughts that passed through his mind. But if the writer, who has set these speeches down at definite times and under definite circumstances, is not correct as to the time and circumstances, or if the events he weaves into the speeches never occurred, he is manufacturing these, not studying to reproduce them by historical imagination. The book declares that at a certain time, and under certain circumstances, Moses gathered the people and addressed to them long speeches recalling certain facts. If Moses never did such a thing, and if such facts never occurred, the book must be simply described as unhistorical or fictitious.

And yet I do not think it is to be so regarded. Whoever was the author, and whatever time may be assigned for its composition, this is what the book presents to us. It declares that Moses at the close of the wilderness journey, when the people were ready to cross the Jordan, made formal addresses to them, in which he recounted

the events of their past history, recapitulated the laws which he had laid down for their guidance, and warned them against the temptations to which they would be particularly exposed in Canaan; threatening them, in case of disobedience, with God's judgments, and promising them, in case of obedience, His blessing. Now, if Moses sustained anything at all like the office which is invariably ascribed to him in the books of the Old Testament; if he was the leader of the people to the borders of Canaan, the founder of their national constitution, the lawgiver in any positive and definite sense,—it was the most natural thing in the world that he should, at the close of his life, have given such parting counsels and addresses to the people whose history was so closely bound up with his own life's work. That is to say, the situation which the book of Deuteronomy presents to us is a situation not in itself improbable, but on every ground exceedingly probable; and the statement by the writer of the book that this situation presented itself is such that it would be accepted as matter of fact in any secular historian. Further, if a writer, whether early or late, set himself to tell all this, he could only do so in the form in which the book of Deuteronomy comes before us.

Let us not be misled by the direct form in which these speeches are expressed. Wellhausen, in one place,¹ speaks contemptuously of our being treated to long addresses instead of historical details. It is somewhat remarkable that he, and many like-minded, have not taken note of the peculiarity of the Hebrew language, that it has not developed what we call the indirect speech—a peculiarity which necessitates the regular introduction of speeches or addresses. Take such a passage as the

¹ *History of Israel*, p. 340.

following: When the children of Israel, after their long wanderings in the desert, were on the point of crossing the Jordan to take possession of the land to which they had looked forward as their inheritance, Moses, who had been their constant guide and legislator for forty years, seeing that the close of his life was near, and solicitous for the welfare of the people whom he had hitherto guided, assembled them about him, and in various addresses recapitulated the striking events of their past history, dwelling particularly on details that exhibited most clearly the guiding hand of God and the fallibility and frailty of Israel, restated the fundamental principles on which the nation was constituted, and by warning and promise directed them to the dangers that lay in the future if they proved unfaithful, and to the blessings in store for them if they adhered to allegiance to their national God. Let any professor of Hebrew set himself to state in idiomatic Hebrew what all this implies in detail, and he will be bound to state it just as it is put down in this book. The absence of the indirect speech in Hebrew can be made quite clear to the English reader by a reference to any page of the historical books. If a writer wishes to say that one person made a verbal communication to another, he must say, "So-and-so spake to So-and-so, saying," and must give the *ipsissima verba*. And yet, strictly speaking, the writer is not to be taken as vouching for the actual words spoken. He is simply producing, in the only way that the laws of his language allow him to produce, the substance of the thing said; and from beginning to end of the Old Testament writings, the language remained at that stage, only the faintest attempts to pass beyond it being visible. It is part of that direct, graphic style of Old Testament Scripture.

which is of wide extent, and is based on the intuitive, presentative mode of thought of the sacred writers, who must describe a scene by painting it and its actors, with their words and gestures, and reproduce a communication in the actual words supposed to have been uttered.¹

It is easy to see now how a writer, soon after or long after Moses, recalling the events which we may suppose tradition preserved in the nation's mind, and using we know not what documents, produced a book like Deuteronomy. The situation was not one of active events, but of reflective pause and consideration, preparatory to the arduous work of the contest, and hence the literary form of the book is different from that of the other books of the Pentateuch. Not by any fiction, not by inventing a story for a purpose, but in perfect good faith, he represents the aged lawgiver, surrounded by the people whose welfare lay so much at his heart, giving them such counsel, warning, and encouragement as were suited to their circumstances. It was but natural that a writer, setting himself to such a task, should mingle much of his own in the composition. No writer can divest himself of his own personality, or write entirely without reference to the time in which he lives. And a writer succeeding Moses, at a greater or less interval, could not but see the development of events which were only in germ in Moses' time, and could not help representing them more or less in their developed form. In this sense, and to this extent, it is true that any late writer writes under the influence of later ideas; and the objection taken by critical writers to such a course is an objection that would apply to all writing of history.

¹ I may be allowed in this connection to refer to a paper on the "Graphic Element in the Old Testament" in the *Expositor*, second series, vol. vi. p. 241 ff.

But between this—which is done in absolute good faith—and the wholesale manufacturing of incidents and situations, there is all the difference between history and fiction. We cannot think of such a writer imagining his events so as to represent Moses recapitulating a series of occurrences that did not take place, or which the writer did not firmly believe did take place, or ascribing to him laws which he did not consider to have been in their form or substance propounded to the people whom Moses addressed.

Laws are indeed, as has been already said, subject to change with changing circumstances, and observances are liable to assume new phases to meet new emergencies. A law, given at first with a general reference, may come face to face with actual states of society which force it to take a more definite shape to meet the cases that have arisen. This is development of law, but it is not change of the substance of the law. Now if, as is surely most reasonable to assume, Moses did warn his people against the idolatries of the nations of Canaan, and enjoin them to maintain their own religious faith and observances, the force of such warnings and admonitions would be accentuated when the actual dangers emerged; the law would be seen in its farther reference, and assume a more specific and precise form in the minds of those who looked at it. If, then, a later writer, believing in all good faith that Moses gave such admonitions, had before his eyes the actual dangers which the lawgiver had in a general way foreseen, he could not help, in restating the laws, giving them a sharper and more incisive point; but he was not thereby either changing or inventing a law. This would be to develop law in the spirit of the Mosaic legislation, on the understanding, however, that there was

a positive Mosaic legislation to be developed. And all this again, it seems to me, is compatible with the good faith of the writer and with the substantial historical accuracy of his narrative. It is, however, quite a different thing from the supposition that the writer, after he had seen certain dangers and abuses emerge, set himself to devise a law which was quite new, in order to meet these, and deliberately contrived a whole set of historical occurrences, in which it was feigned that the laws were given forth in Mosaic times.

It will be remembered that those who make the Code of Deuteronomy late, usually say that the writer drew up laws in *the spirit* of the Mosaic legislation; and even Wellhausen says that the book of "Deuteronomy presupposes earlier attempts of this kind, and borrows its materials largely from them."¹ The Biblical account of the matter is, that Moses actually wrote down the laws contained in the book. There was, in other words, a Deuteronomic Code prior to the book of Deuteronomy; this is what the critics themselves say, and what the book itself says. The question is, Did the Code, in a written form and to an appreciable extent, come from Moses himself? On the one side we have these vague admissions as to the "spirit of the Mosaic legislation" (and how was a late writer to know what that spirit was unless by positive enactment?), and the equally vague admission of "former attempts," without positive specification of the time and extent of the attempts that were made. On the other hand, we have the positive statement that Moses, at his death, left a body of laws such as are included in the book of Deuteronomy. That we have the very words of the laws as he penned them, the custom of literary com-

¹ Hist. of Israel, p. 402. See above, p. 399 f.

position, and the ordinary fates of legislative codes, show us we are not forced to suppose. What became of the actual collection of laws, beyond the fact that it was delivered to the Levites, and deposited in the side of the ark,¹ we are not told. And moreover, at what time and by whose hands the whole of the book of Deuteronomy, as we now have it, was composed, is a matter which literary criticism alone cannot decide. It is only by inferences, not very clear in themselves, that the conclusion is reached that the book belongs to the age of Josiah; but even if, as a book, it belongs to that age, or later, I think the considerations advanced will show how it may be still historical and trustworthy, exhibiting at once the working of a later development of old principles, and preserving also—not inventing for the occasion—elements which are ancient and Mosaic.²

II. Of the other law-books, we have to deal particularly with those that embody the Levitical Code. Here the narrative and the legal elements are very closely blended; but I think it is possible, even on the supposition that the Code underwent modification in course of time, to accept the books as trustworthy historical records. Let us, however, first of all, see how the critical writers account for the introduction of the Code and its related narratives.

It is said that Ezekiel

“in the last part of his work made the first attempt to record the ritual which had been customary in the Temple of Jerusalem. Other priests attached themselves to him (Levit. xvii.-xxvi.), and thus there grew up in the exile from among the members of this profession a kind of school of people who reduced to writing and to a system what they had formerly practised in the way of their calling. After

¹ Deut. xxxi. 26

² See Note XXVIII.

the Temple was restored this theoretical zeal still continued to work, and the ritual when renewed was still further developed by the action and reaction on each other of theory and practice."¹ "So long as the sacrificial worship remained in actual use, it was zealously carried on, but people did not concern themselves with it theoretically, and had not the least occasion for reducing it to a Code. But once the Temple was in ruins, the cultus at an end, its *personnel* out of employment, it is easy to understand how the sacred praxis should have become a matter of theory and writing, so that it might not altogether perish, and how an exiled priest should have begun to paint the picture of it as he carried it in his memory, and to publish it as a programme for the future restoration of the theocracy. Nor is there any difficulty if arrangements, which as long as they were actually in force were simply regarded as natural, were seen after their abolition in a transfiguring light, and from the study devoted to them gained artificially a still higher value."²

All this may not be so "easy to understand" to everybody as it seems to be to Wellhausen. Indeed the things that he finds "no difficulty" in accepting are very often the very things for which proof is most desiderated. As to codification being the deposit during the exile of an old, fully developed praxis, we have already had something to say (p. 400 f.); and Bredenkamp exclaims with justifiable astonishment, "Clouds which are formed in the time of grandsires are not in the habit of raining upon grandsons. Could people not write in pre-exilic times? Must they not be allowed to write? Why tear with violence the pen from the hand of the ancient Israelitish priests?"³ We are told indeed by Wellhausen, on his own authority, that the praxis of the priests at the altar never formed part of the written law in pre-exilic times.⁴ But Dillmann, who has subjected these books to a most thorough examination, not only sees nothing against the idea, but

¹ Well., *Hist. of Israel*, p. 404; comp. 496.

² *Ibid.*, p. 59 f.

³ *Gesetz und Propheten*, p. 118.

⁴ *Hist. of Israel*, p. 59

finds positive proof for it, that the priests at the Temple of Jerusalem were in the habit of writing down the laws and regulations for their ceremonial functions.¹ Besides, Wellhausen has to assume for the nonce that the praxis which was "zealously carried on" anterior to the exile was just what underwent codification after it; although his general contention is that in the pre-exilic period "no trace can be found of acquaintance with the Priestly Code, but on the other hand, very clear indications of ignorance of its contents."² If, however, such "ignorance of its contents" prevailed, how was an exiled priest or a number of priests to carry the whole thing in memory and reduce it to writing? Moreover, what he ascribes to the time of the exile, seems ill to agree with the statement of the matter which he gives in another place. The Babylonian exile, he says,

"violently tore the nation away from its native soil and kept it apart for half a century,—a breach of historical continuity than which it is almost impossible to conceive a greater. The new generation had no natural but only an artificial relation to the times of old; the firmly rooted growths of the old soil, regarded as thorns by the pious, were extirpated, and the freshly ploughed fallows ready for a new sowing."³

He then goes on to say that it is

"far from being the case that the whole people at that time underwent a general conversion in the sense of the prophets. . . . Only the pious ones, who with trembling followed Jehovah's word, were left as a remnant; they alone had the strength to maintain the Jewish individuality amid the medley of nationalities into which they had been thrown. From the exile there returned, not the nation, but a religious sect—those, namely, who had given them-

¹ Die Bücher Exodus u. Leviticus, 2^{te} Auflage, p. 386. He calls Wellhausen's position "an arbitrary assertion."

² Hist. of Israel, p. 59. Comp. above, p. 304.

³ Ibid., p. 28.

selves up body and soul to the reformation ideas. It is no wonder that to these people, who besides, on their return, all settled in the immediate neighbourhood of Jerusalem, the thought never once occurred of restoring the local cults. It cost them no struggle to allow the destroyed Bamoth to continue lying in ruins; the principle had become part of their very being, that the one God had also but one place of worship, and thenceforward for all time coming this was regarded as a thing of course."

This aspect of the exile as a violent wrench from old associations is hardly consistent with the view that a priestly party from the very beginning of the captivity took up the minute study and arrangement of the sacrificial system which had just been broken up. Nor, although it is "no wonder" to Wellhausen, is it very clear that a people should so easily forget all that was bad in the past worship (and how much of it was bad!) and so readily begin life anew on an entirely new principle. Indeed this whole account of the influence of the exile on the codification of law does not by any means turn out to be so easy as Wellhausen would make us believe.

(1.) In the first place, we are told that "the transition from the pre-exilic to the post-exilic period is effected, not by Deuteronomy, but by Ezekiel the priest in prophet's mantle, who was one of the first to be carried into exile."¹ Ezekiel's so-called programme is so confidently appealed to as the precursor of the Levitical Code, that to assert anything to the contrary at the present day is to expose one's self to ridicule as incompetent to understand critical processes. Nay, so important are the chapters in the book of Ezekiel which contain this programme, that Wellhausen says they have been called, not incorrectly, "the key of the Old Testament."² The chapters in question are xl. to xlviii. They form a connected piece,

¹ Hist. of Israel, p. 59.

² Ibid., p. 421.

and tell us how the prophet was, "in the visions of God," brought into the land of Israel, and what he saw and was told there. He dwells at great length on the measurements and details of arrangement of the Temple, and communicates directions for its dedication and for its service. He also describes the waters issuing from under the house and going to fertilise the desert; and he lays out minutely the measurements of the sacred territory and the situation of the tribes in the land. Now surely, by all honest criticism, whatever mode of interpretation is applied to one part of this vision should be made to apply to the whole. If one part is a cool, deliberate programme, so should the others. If the other parts are clearly not to be taken in this sense, neither should the ceremonial part. Ezekiel is just as precise and matter-of-fact in the divisions which he makes of the Holy Land as in the ordinances he puts forth for the worship of the sanctuary. Yet the critical school proceeds in the most elaborate fashion to examine this code or programme, and tells us that it is the first attempt to arrange what afterwards became the Levitical Code. Why do they not say also that his geographical sketch is to be understood, say, as the starting-point for the tribal divisions of the book of Joshua, or that his sketch of the Temple is the groundwork of Solomon's? I must confess simply that I cannot understand the principle of a criticism that thus tears one piece out of connection and seeks to make it a serious historical programme, while not a word can be said in favour of treating the other parts in the same way. If two-thirds of the vision are clearly ideal, so must the other third, in whatever way we are to understand the ideal meaning which the prophet meant to convey. If it be urged that Ezekiel did not need to give details for

ritual if a ritual law existed, and that he makes no reference to any law on the subject, it can be rejoined that he speaks in the same way of Temple and land. We cannot gather from his description that the Temple of Solomon was ever built or the land ever divided among the tribes before his day. "This," he says, "shall be the border, whereby ye shall divide the land for inheritance according to the twelve tribes of Israel: . . . concerning the which I lifted up mine hand to give it unto your fathers;"¹ and he gives all the measurements of some house seen in vision without referring to a house which he knew quite well as having stood for centuries. We need not therefore wonder at his bringing in a detailed ritual, as if this were the first time such a thing had been heard or thought of. He is not for the first time in history trying to fix a ritual for a people who had hitherto nothing but custom to guide them. His sketch is too brief altogether for such an attempt. No priesthood could have carried on the service of the sanctuary and regulated the worship of the nation with such a vague and fragmentary manual. As to its being as a literary work the foundation of the later Levitical Code, it is not by any means certain that in language or matter the Levitical Code is dependent upon it. A careful examination has led competent judges to decide that the reverse is the case,² though I do not think it necessary to go into this.

But it may be urged, if there was a detailed authoritative law in existence, why did Ezekiel, even in vision, deviate from it? Well, on the critical hypothesis the

¹ Ezek. xlvii. 13, 14.

² See, *e.g.*, Bredenkamp, *Gesetz und Propheten*, p. 116 ff.; Dillmann, *Die Bücher Exodus u. Leviticus*, p. 524 ff. See also Note XXIX.

Deuteronomic law at least existed as authoritative, and yet Ezekiel deviates from it. If it is still asked, How could he, prophet though he was, quietly set aside the recognised law? the question again arises, After he, a prophet speaking in God's name by direct revelation, sketched this law, how did priests in the exile pass by Ezekiel's draft, and frame a divergent code? In fact, there are insuperable difficulties on every side when this ritual of Ezekiel is taken as a cool, matter-of-fact programme of legislation, put forth as a first attempt at codification; and no argument can be based upon it for the modern theory.

(2.) And then, secondly, it is quite conceivable that the people in the exile should have turned their attention to matters of law. They would be compelled, in order to keep themselves separate from the surrounding heathen, to attend to those matters of personal, ceremonial, and social order which were their national distinctions, and, so far, their very existence as a separate people in the exile is a proof of pre-existing law. But it is not so clear, by any means, that they should for the first time make a study of purely Levitical and sacrificial laws at a time when they had no cultus. Nor, in view of the zeal for the law shown at a later time by the Jews in Babylon, is it so clear that only a few underwent a "conversion in the sense of the prophets." Wellhausen has to suppose a school of people who gave themselves ardently to this study of ritual law. It was a large school, if the number of returning exiles is taken into account. All these must have been in Ezra's secret on this view,—all ardently devoted to the reformation ideas. Now, in point of fact, Ezra's own account is that he had a deficiency of Levites among his volunteers, and had to

urge them to join him and to act as "ministers for the house of *our* God" (Ezra viii. 15 ff.) Moreover, Haggai shows us that the people were very far indeed from being devoted to the reformation ideas; the sacrificial system was slackly observed; and even in Ezra's and Nehemiah's time the picture of the people is anything but that of a community that "had given themselves up body and soul to the reformation ideas" of either morals or worship.¹

(3.) But, further, difficult as it is to believe that the so-called school for the first time put down in writing what they treasured in their memories, this is not the whole of the hypothesis. Again, and in a much more objectionable form, comes in the supposition of fiction, whereby a false historical setting was invented for the laws of the Levitical Code, by carrying them back to Moses and the desert, simply in order to give the law higher sanction. Not only, for example, was there no tabernacle, such as is described in the Pentateuch, prepared in the wilderness, but even at the time when the story of its construction was fabricated, there was no such tabernacle to have given rise to the fable, nor had any such tabernacle ever existed to give a start to the story.² It was simply the legend-spinning invention of men of late time that cut down the dimensions of the Temple to half their size, and feigned that a tabernacle of that size existed in a portable form in the wilderness; and all this simply to make it appear that the Temple worship was of older institution than the time of the building of the Temple. So also a fictitious origin is given for what the Code rep-

¹ Ezra ix. 1 ff.; Neh. v. 1 ff., xiii. 4 ff., 15 ff., 23 ff.; Mal. i. 6 ff., ii. 8 ff.

² Wellhausen, p. 37 ff.

resents as other early institutions. In every case in which a law is said to have been given in Mosaic times, the circumstances, if stated, must be similarly explained as invented or suggested in a late time. In this way, all sorts of divergences of the narrative of the Priestly Code from that of the Jehovist are accentuated, and it is made to appear—at the expense, it must be admitted, of wonderful ingenuity—that the former are of exilic time—*i.e.*, of the date of or subsequent to the introduction of the laws.¹

The question is whether the palm of ingenuity is to be assigned to the writers of these books or to the modern critics; whether a school composed of men like Ezekiel and Ezra were likely to have with boundless inventiveness concocted all this history, or our modern critics are ransacking the treasures of their wits to find an artificial explanation of a thing that is much more simple than they make it? For what could have been the object in inventing history wholesale in this way? To give sanction to the laws, it is said: but on whom was the sanction to bear? If on the men of the priestly school themselves, they were already, on the hypothesis, devoted to the reformation ideas; if on the people at large, the mere manufacture of a history that was new to them was not likely to rouse them from their lethargy and fire them with new zeal; and, so far as we can see, it did not. It is to be remembered—and the remark applies also to the production of Deuteronomy—that this was not a case of a person in secret devising an unheard-of scheme of history, and laying it away to be read by posterity. Nor was it, as I understand the theory, a case of gathering up for a present purpose the old and cherished traditions of a people. The

¹ See Note XXX.

thing was done, so to speak, in open day for a special purpose at the time, a considerable number of persons being engaged in it, and among a people who already had a definite tradition as to their history. Yet, though the people, at least in Jeremiah's days, were critical enough in matters of the national history (Jer. xxvi. 16 ff.), we never hear, either then or at the time of the restoration, of any suspicion being cast upon the account of the history which these law-books contain.

(4.) But the form in which the Levitical Code appears is not favourable to the modern theory of its origin. The laws are in many cases, it will be observed, provided with headings, which vary in a curious manner, as, *eg.*, "The Lord spake unto Moses," "The Lord spake unto Moses and Aaron," and even "the Lord spake unto Aaron"; and the persons to whom the laws are directed are various, as "the children of Israel," "Aaron and his sons," "all the congregation of the children of Israel," and "Aaron and his sons and all the children of Israel." Such features as these, as well as the manner in which the laws are arranged, the same subject coming up more than once, and the same law being repeated in different places, give one the impression that the laws were collected together from different sources. It looks as if there had been smaller collections, regulating individual observances, and perhaps intrusted to different persons for preservation and execution. At all events, the collection does not present the appearance of a systematic Code. This feature, I should think, is more opposed to the idea of composition by Ezra and a school, who would surely, when the whole system was for the first time to be set down in writing, have proceeded in a more systematic manner, than to the idea of Mosaic origin and gradual modification

in course of time. I have already referred to the peculiarity of the Hebrew speech, whereby the direct words must be put into the mouth of the speaker, when we need only assume the substance of the thing delivered. The headings of those laws, on this common-sense mode of viewing the matter, mean no more than that the laws originally came from Mosaic times; the history is satisfied, and the *bona fides* of the writers is maintained. So that even if the final codification took place as late as Ezra, the Code, and still more the institutions, might with propriety and substantial accuracy be described as Mosaic.

The Biblical writers do not fix for us the time or times at which the laws as they lie before us were written down; and their statements, fairly interpreted, allow us to suppose that the books passed through many literary processes before they reached their final form. The multiplicity of the sources out of which the law-books are composed is a proof of long-continued literary history. The peculiar arrangement of the legal portions, nay, their very divergence from one another, prove that law was for long a living thing, and that the Codes are not resuscitated from the memories of priests or exegeted by scribes. If, as seems quite reasonable, the laws for various ceremonies were, in the hands of those who had charge of them, copied and handed on from generation to generation of priests, it is quite probable that in the course of time there might have happened alterations of the rubric with altered circumstances, and that the final transcript or redaction would thus have a more modern cast than the original. All this, however, does not disprove the antiquity of the legislation nor the early writing of the laws, and it is surely, though not so ingenious, yet a much more ingenuous explanation than to say that the laws

were by a fiction ascribed to ancient time in order to give them an authority to which they were not entitled. By taking the statements of the Biblical writers as they stand, and not burdening them with conclusions for which they are not responsible, we get a more consistent and natural view of the whole history of the law—a view that certainly in itself is more credible to one who is not prejudiced against the Biblical writers, and set to watch for their halting. For the rest, the order of the Codes as Codes written, the relation of laws to one another, and their modifications in detail with advancing time—these are things that criticism may exercise its ingenuity upon, and seek to exhibit in their true lights and proportions. But they are more of archæological than of practical interest in reference to the great point which we wish to ascertain, the origin and development of the religion; and it is mainly because they have been too much bound up with that question that they have acquired so much importance. There can be no harm in critical investigation of this kind, so long as the main course of the history, which rests on its own independent proofs, is taken as the guiding principle of the criticism. It is, to say the least, very doubtful whether at this distance of two or three thousand years we are in a position to determine, with any measure of success, the dates of the respective sources of which the books of the Pentateuch are made up. The extraordinary turns that modern criticism has taken on the subject testify to the difficulty of the problem, if they do not shake our confidence in its ability to solve it. The curious blending of elements in the composite structure of these books, while it impresses on us the magnitude of the task of criticism, suggests a gradual and repeated process of editing, transcribing, and modification which is

perfectly conceivable among a people well acquainted with literary processes. The essential point to be remembered—the point to which all our investigations have tended—is, that the law and the writing of it are much older than modern critics allow; and the phenomenon which the books as books present to us is much more reasonably accounted for on the Biblical principle than on the modern theory: they are a product, in a natural way, of history, both religious and literary—not compositions, framed according to a literary method altogether unparalleled in order to manufacture a history which never was.