the West, too, and North and South of this distracted world. Not material prosperity alone or chiefly; not the acquisition of "knowledge proud that she has learnt so much"; not mere enlightenment and advance in the comforts and luxuries of human life; not only expanding and wholesome trade and the extinction of all noxious traffic; but spiritual life—the word cannot be uttered too often—the dynamics, not the ethics alone, of religion, the overwhelming importance of the soul, the powers of the world to come, the consciousness of sin, the love of God and faith in Christ Jesus our Lord, in the power of the Holy Ghost; and everything, whether educational systems and schemes of progress or suggestions of reform and aspirations of patriotism, or athletics and various forms of recreation, must be held subordinate to this supreme object—the salvation, not the mere recreation, of the East, the bringing in of the kingdom of our Lord and of His Christ.

Can we Trust the Higher Criticism of To-day?

By HAROLD M. WIENER, M.A., LL.B.

SOME years ago I had occasion to read Sir Henry Maine's books on early law as a continuous whole. In doing so I was repeatedly struck by the general similarity of the ancient ideas he was expounding to those embodied in portions of the Mosaic legislation. The laws of a nation in a given age necessarily reflect its habits of thought and civilization with considerable accuracy; and as the perusal of chapter after chapter that dealt with the legal ideas and institutions of the ancient Romans, Indians, Celts, and Britons roused recollections of the Pentateuch, the idea presented itself that here at last was an independent test by which the authenticity of the Mosaic legislation might be tried. I turned eagerly to the Bible and found that my expectations were swiftly realized. Of the

archaic complexion of the jural laws[1] there could be no possible doubt. At that time I had only the vaguest notions of what the modern critical views really were; but I knew enough to realize that, if the laws were in fact ancient, there must be some fatal error in any theory that made them a comparatively recent literary forgery. Perhaps the best way of making this clear to general readers is to take a very simple instance. In any society where land is the subject of individual ownership, certain questions must necessarily arise at a very early period of its history. A farmer dies. What is to happen to his farm? There must be some rule which determines who is to inherit it. In other words, there must be a law of intestate succession. Now, it happens that this is one of the topics with which the Pentateuch deals. A certain Zelophehad had died in the wilderness, leaving no male issue. His daughters raised a claim to the share of land which would have been allotted to their father had he lived. It was decided that their contention ought to be upheld (Num. xxvii. 1 *et seq.*), and the rules that were to govern the succession to a land-owner, who died leaving no male issue, were laid down down in general terms. We need go no further into the question for our immediate purpose. Anybody who thinks for a few minutes will be able to recall abundant instances of persons who within his own experience have died without leaving sons; and it is obvious that no large community in which land was the subject of individual ownership could exist for a year without the question being raised and settled. When, therefore, we find in the Pentateuch certain rules purporting to have been laid down in the days of Moses which deal with this question, we are bound to concede that only three classes of hypotheses can by any chance be tenable. The first of these would admit that we have here genuine, very ancient rules in their original language. In the abstract this does not necessarily imply the historical character of Moses or

[1] I use this term of jurisprudence to denote what may roughly be called the "lawyers' laws"—that is, the laws for courts as distinguished from dietary and sacrificial regulations, moral precepts, etc.

of the setting in which we at present find them; but, as we shall see later, it undoubtedly involves this in fact. Secondly, it might theoretically be said that these rules are in substance very ancient, but have been put into a modern dress by a later substitution of newer expressions for others which had become archaisms. But this, again, breaks down. The higher critics do not venture to suggest that there is any philological evidence which could possibly warrant such an assumption; and in view of the known conservatism of lawyers all the world over, such a theory would be extremely improbable. A third possibility can, however, be conceived. A nation may change its law of succession, and if there were any facts to warrant this theory, it might perhaps be suggested that at some date such a change was effected. But, in fact, there is no ground for any such suggestion. That land was the subject of individual ownership is abundantly clear from scattered references in the historical and prophetical books; nor is it less clear that there was a law of succession and of redemption, which was either identical with, or similar to, that which we find in the Pentateuch. If we turn from such considerations to larger aspects of the subject, the case becomes overwhelming. A revolution in the law of succession is not effected by a few strokes of a forger's pen without leaving any mark in history. If the rules laid down in the case of Zelophehad's daughters were not the law of the Israelites in the period from the conquest to the exile, it is clear that they must have had some other law. What was this? How was it altered? Was it, too, attributed to God? If so, how came it to be set aside so lightly, and who ventured to forge new laws when there were rules already in operation which had Divine sanction? How came anybody to believe that God had confided these rules to Moses, and that for centuries other rules had been universally observed, while the Divine institution had remained wholly unknown? And what about the expectant heirs who would have inherited, had the law remained unaltered, but were dispossessed by the newly-discovered forgery? Did *they* believe in the Divine origin of these rules? And what con-

ceivable motive could the forgers have had? It would be as easy as it is unnecessary to multiply such questions. The critics have no answer to them. Any unprejudiced reader will see that the theory of the late origin of such rules is untenable. He will understand, too, why it is that a lawyer reading the higher critics should feel an eager desire to get them into a witness-box and cross-examine them.

I have taken the law of intestate succession as a very simple example of the kind of evidence that comparative and historical jurisprudence can supply; but it must of course be clearly understood that this is merely a single example. The jural laws abound in evidences of date. Take, for instance, the rule by which the thief who stole a sheep had to pay four sheep if he was caught in the act. Everybody knows Nathan's parable; but not everybody realizes that David's answer, "he shall restore the lamb *fourfold*" (2 Sam. xii. 6), is good evidence of the existence in the early days of the monarchy of some rule which gave fourfold compensation in certain cases of theft. Still less do most readers of the Bible understand the reason for the rule, or dream that it points clearly to a certain state of civilization, and that a very early state. Yet there are parallels in many countries, the most noteworthy being provided by Roman law, according to which at one period the *fur manifestus*, or thief caught in the act, had to pay a fourfold penalty; while the *fur nec manifestus*, or thief who was not caught in the act, only made double restitution. Now, the reason and meaning of such rules are well ascertained. They point to a state of society in which law and the power of the courts are still weak and the desire for vengeance is strong. It is to prevent the injured party from revenging himself, to avoid the possibility of a blood-feud, to save the society the loss of one or more fighting men, that the bribe of a fourfold restitution is held out. There is clearly no *moral* distinction between a thief who is caught in the act and one who is not. The guilt is the same in both cases; but the hot and sudden anger, the

danger of bloodshed are not.[1] And so the ancient lawgiver, who is compelled to take into consideration the circumstances and feelings of the society with which he has to deal, adjusts his rules accordingly. Indeed, it is only by comparison that we can discover in what respects the laws of Moses are unique, and the lack of knowledge which would enable them to make such such comparisons, has led some recent writers into astonishing theories.[2]

Having ascertained the possibility of proving the authenticity of the Mosaic legislation by applying the comparative and historical methods, the next step was to see what view the higher critics took. Here I cannot do better than to quote a few sentences in which Dr. Driver summarizes the views of the dominant school. He is dealing with the question of the dates to be assigned to the various sources of which the Book of Genesis is, in his opinion, composed; and, after pointing to passages which he regards as post-Mosaic, he continues as follows:

"But these are isolated passages, the inferences naturally authorized by which might not impossibly be neutralized by the supposition that they were later additions to the original narrative, and did not consequently determine by themselves the date of the book as a whole. The question of the date of the Book of Genesis is really part of a wider question, viz., that of the date of the Pentateuch—or rather Hexateuch—as a whole; and a full consideration of this wider subject obviously does not belong to the present context. It must suffice, therefore, here to say generally, that when the different parts of the Hexateuch, especially the Laws, are compared together, and also compared with the other historical books of the Old Testament, and the prophets, it appears clearly that they cannot all be the work of a single man, or the

[1] With regard to the double restitution provided by Exod. xxii. in the case of the animal stolen being found alive in the hands of the thief, the observations as to the danger of bloodshed apply equally, but there is also an obvious moral difference.

[2] In particular, the discovery of Hammurabi's code has enabled writers who are wholly innocent of legal knowledge to write a good deal of nonsense. A comparison of this code with the Pentateuch yields surprisingly little that is of value. Great allowances must of course be made for the differences in the civilizations and national characters of the societies for which the legislations were respectively intended, greater allowances for the differences in their origin; but when everything has been taken into consideration it is still true that the two codes are, on the whole, extraordinarily unlike.

product of a single age: the different strata of narrative and law into which, when closely examined, the Hexateuch is seen to fall, reveal differences of such a kind that they can only be adequately accounted for by the supposition that they reflect the ideas, and embody the institutions, which were characteristic of widely different periods of Israelitish history. The general conclusions to which a consideration of all the facts thus briefly indicated has led critics . . . are that the two sources, J and E, date from the early centuries of the monarchy, J belonging probably to the ninth and E to the early part of the eighth century B.C. (*before* Amos or Hosea); and that P—at least in the main stock (for it seems, as a whole, to have been the work of a school of writers rather than of an individual, and particular sections, especially in Exodus and Numbers, appear to be of later origin)—belongs to the age of Ezekiel and the Exile."—DRIVER: *Genesis* xv., xvi.

It will be seen that the dominant school of critics do not merely deny the authenticity and homogeneity of the legislation. They actually rely mainly on the results of their examination of the laws and the history to establish conclusions which are entirely destructive of any belief in such authenticity and homogeneity. But how had this come about? The laws had not lied to me; how could they have lied to Dr. Driver and his friends? I set myself to examine the facts and arguments which the critics advanced, and I found that, in so far as the statements made by Dr. Driver in the above passage related to the jural laws, they were entirely false. In saying this, I do not attribute any bad faith or intent to mislead to Dr. Driver or any of his fellow-critics, but I desire to say in plain language that the result of my examination of their legal work was to establish beyond all doubt that these writers were utterly incompetent to undertake that careful investigation which they had purported to make, incompetent by reason of their lack of legal training, incompetent by reason of their lack of legal knowledge, incompetent by reason of their lack of impartiality, incompetent by reason of their lack of accuracy. I make these statements as clearly as I can in order that there may be no doubt in the minds of the higher critics as to the case they have to meet. The evidence that justifies these statements will be found in my "Studies in Biblical Law," a book to which they have not yet ventured to make any reply. But that there may be no doubt as to the justification for my statements, I will proceed to give

one or two examples of the blunders of the higher critics. When a man, in dealing with a point material to his subject, first calls a mound of earth or stones a "sanctuary," and then, forgetting what it in fact was, proceeds to say that the door of that "sanctuary" was the centre of the administration of justice, I have no hesitation in saying that he is incompetent to do that which he is professing to do.[1] Again, if in similar circumstances he tells me that Leviticus orders a particular thing to be done, and I find on turning up his own reference that the passage does in fact contain such an order with the addition of the important monosyllable *not*,[2] I feel that I am again warranted in calling him incompetent. Here is another instance. This time it is the writer's inability to distinguish between a slave and a piece of land that has led to his undoing. It comes from the article "Jubilee" in the "Encyclopædia Biblica," where we read the following passage in a discussion of the date of the Jubile laws:

"Another important passage is Ezek. xlvi. 16, where there is indication of a law according to which 'the prince' is at liberty to alienate in perpetuity any portion of his inheritance to his sons; but if he give a gift of his inheritance to any other of his subjects, then the change of ownership holds good only till 'the year of liberty' (שְׁנַת הַדְּרוֹר), after which the alienated property returns to its original possessor, the prince. Now, since Jeremiah makes use of the same expression (דְּרוֹר) with reference to the liberation of the slaves in the seventh year it is exceedingly probable that Ezekiel also by שְׁנַת הַדְּרוֹר means the seventh year."

That is to say, we are to assume a whole system of land law of which there is absolutely no trace, because Jeremiah speaks of a "release" of slaves in the seventh year, and Ezekiel uses the same word "release" in speaking of the period when by law landed property was to return to its original owner. To take an English parallel, what would be thought of anybody who should confuse a release to trustees with the release of a life interest in land?

But even this does not make clear the complete incompetence of the writer in the "Encyclopædia Biblica." A reference to

[1] "Studies in Biblical Law," pp. 25-27. [2] *Op. cit.*, pp. 12-14.

the relevant chapter of Jeremiah (xxxiv. 8 *et seq.*) shows that the prophet is merely paraphrasing (Deut. xv. 12 *et seq.*), and this passage does not authorize the theory of a septennial "release" or "liberty" even for purchased Hebrew slaves. So far from enacting a "year of liberty" in which all purchased Hebrew slaves are to go free, it provides that every such slave is to have his liberty after the completion of six years *from the date of purchase.* Consequently, the year of manumission would vary in each case. For example, a Hebrew slave purchased in B.C. 1000 would be entitled to freedom three years earlier than another who was purchased on the corresponding day of B.C. 997. True, Jeremiah's language does not make this obvious; but that is only because it is coloured by the circumstance of the particular covenant made by Zedekiah. As the law had been in abeyance, there would be Hebrew slaves who had been given no opportunity of freedom, though they had served their masters for more than six full years, and these were manumitted under Zedekiah's covenant; but the fact that the prophet is dealing with the application of the law to a particular set of circumstances does not warrant the theory that there was a regular statutory seventh year of release when Hebrew slaves were to go free irrespective of the date of their purchase; still less would it justify the inference that this imaginary year of release applied to land.

There are, of course, instances in which the legal texts present genuine difficulties to men who have not the necessary legal training; but strange confusions of the kind we have been considering unfortunately abound in the legal work of the higher critics. So far, then, the position is this. The jural laws form a homogeneous whole. The alleged discrepancies are merely due to the incompetence of the higher critics. Their antiquity is vouched for by abundant internal and external evidence.[1] It is, however, easy to conceive a post-Mosaic history which should incorporate the genuine laws and speeches of Moses, so that the

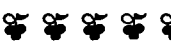
[1] See "Studies in Biblical Law," pp. 20-22, 27, 33-34, 40-42, 58, 71, 82-83, 94-99, 100-105, 113.

proof of the authenticity of the jural laws does not conclude the question. Moreover, the critics alleged that there were a number of converging criteria to justify their conclusions, and that the evidence of the jural laws was merely one of these. The first of these objections is answered by the critics themselves. They scout the idea that in the Pentateuch we may have a post-Mosaic history embodying the genuine legislation of the Mosaic Age in its original dress. Their whole theory is based on the view that certain portions of combined law and narrative belong to the writer or school of writers called P, certain others to J, and so on. The lists of words which play so prominent a part in their arguments are all compiled on this view, and their entire conception of the history of Israel in Biblical times is founded on it. With regard to the other point, if it were the case that careful and repeated examination by competent and impartial investigators established the existence of a body of literary and historical evidence justifying some theory of post-Mosaic date, it would be necessary to formulate a hypothesis which should give due weight to these phenomena and also to the proofs of the authenticity of the laws. But to accept the assurances of the higher critics on such points would be to ignore fundamental laws of human nature. Men who cannot distinguish a mound from a house when they are dealing with jural laws are not in the least likely to exercise any nicer discrimination when writing of historical occurrences or sacrificial rules.[1] Accordingly, when I first tested their work, I contented myself with one or two instances of each sort of argument; and, finding that similar causes had led to similar results, I passed on to other matters. The delay of the higher critics in putting forward any answer to my attack, even in the *Expository Times* and *Expositor*, which (as Dr. Driver boasts[2]) support critical views, has, however, given me an opportunity of investigating some of their other

[1] See as to this an article by the present writer entitled "The Jewish Attitude towards the Higher Criticism," in the CHURCHMAN for December, 1905.

[2] "Introduction to the Literature of the Old Testament," seventh edition, p. xvi.

allegations. It would be impossible to compress detailed results into the limits of a single paper, but, speaking generally, it may be said that careful investigation shows the critics to be fully as incompetent in their treatment of sacrificial institutions, stylistic criteria, and even simple narrative as in their handling of jural laws. It will, doubtless, be possible to give some selected examples on future occasions.



The Endowment of the Daughter.

By Miss C. M. BIRRELL (formerly Principal of St. Mary's Hall, Brighton).

MANY years ago, in a magazine which lately ceased to exist, and from the pen of an author who has passed from our midst, there appeared a striking article entitled "The Endowment of the Daughter." It deservedly attracted a good deal of attention, and served, one would fain hope, to open the eyes of parents to a sense of their duty. This paper was afterwards reprinted by Sir Walter Besant in a volume containing miscellaneous essays. The volume is not very accessible to the general reader, owing to the tendency of circulating libraries to purge their shelves of all the literature which has gone out of vogue. Should anyone desire to read the article in question, it will be found in *Longman's Magazine* for April, 1888.

It made a profound impression on the mind of the present writer, an impression which is deepened as from time to time she re-reads the paper, conscious that during the interval which has elapsed since it was written the situation of affairs has in many respects altered for the worse. Sir Walter Besant advocates that the women of a family shall be protected by the foresight of their parents from the pressure of want in later life. He states as a plea that the average woman "hates and loathes compulsory work," and that "in whatever trade, calling, or profession they attempt, the great majority of women are hopelessly incompetent."