

more than Augustine himself. His mother Monica is 'a simple, ignorant woman,' 'an uneducated woman'; the wisdom that Augustine found in her 'is not impressive'; the Church has 'put many more disputable models of maternity on the roll of the canonized'; when Augustine became a Manichæan, 'Monica was profoundly troubled about the lapse, she seems to have accepted his "companion" without a murmur, but the descent into heresy was an unpardonable depth.' Monica

was the expression of the Church's simplest and sincerest form of piety. That seems to be the only reason for Mr. M'Cabe's dislike of her.

But we must not end with that. In spite of his opposition to Christianity, Mr. M'Cabe has written a life of Augustine for which we thank him. His purpose seems to have been to discredit 'ecclesiastical' Christianity. He has not succeeded in that. For he has shown that Augustine was great, not in spite of, but by reason of, his faith in Christ.

## The Code of Hammurabi.

(B.C. 2285-2242.)

BY C. H. W. JOHNS, M.A., LECTURER IN ASSYRIOLOGY, QUEENS' COLLEGE, CAMBRIDGE.

IT is evident that some of the laws in the Books of Moses are very similar in style to those which were enacted by legislators who could scarcely have known the Hebrew Scriptures. Hence, while men have been accustomed to illustrate particular enactments by reference to the legislation of other nations, we have been careful to note that similar laws naturally arise at similar stages of civilization. But, where direct intercourse can be shown, there we are led to suspect borrowing. Now, if we recall that Abraham came from Ur of the Chaldees, that the Israelites, on entering Canaan, found Babylonian literary influence in full power, and that the Jews who returned from Babylon must have brought with them some knowledge of the laws under which they had lived in exile, we are compelled to regard a Babylonian code of laws as of the highest importance for illustration of the Mosaic Code.

It would lead too far and anticipate too much now to enter into any discussion of parallels. But we now have a dated code of laws, extremely full and clear, with the certainty that it was known in Ur in the days of Abraham, and still in full force in Babylon to the days of Cyrus. To give some account of this Code may be helpful to many.

First, briefly, as to the monument itself. It was found at Susa by the French exploration in December 1901 and January 1902. The fragments were readily pieced together, and give some 3600 lines of text. This was superbly

published by the French Ministry of Instruction in the fourth volume of the *Mémoires de la Délégation en Perse*, with an admirable transcription and translation by Professor V. Scheil. It at once excited great interest in America and Germany, and Dr. H. Winckler promptly produced a version in *Der Alte Orient*. The general impression seems to be that, quite apart from its biblical interest, it is one of the most important monuments of the ancient history of the human race.

Considered as a code of laws, it presupposes a very highly advanced state of civilization. On all hands appear a crowd of officials with highly specialized functions, a settled landed gentry, a populace widely possessed of fair wealth, a vast army of slaves. We see numerous trades, and occupations, a well-established commerce, making distant journeys by land and river, to trade and exchange produce, a regular judiciary, a firmly established central government, with considerable local and district devolution of responsibility. But, above all, we have the duties and liabilities of each class set out, regulated, and co-ordinated. Fees, fines, wages, rents, prices are fixed by statute.

This is not all new. A great deal was known, and more conjectured, from the thousands of legal documents already published, chiefly, of course, on the civil side. Even fragments of the Code were known from Assyrian copies of the seventh century B.C. But the criminal law was little

known, and much was obscure. Now we have a full code. That is to say, the code was full; but the monument itself lacks five columns, polished smooth by some king of Elam, who had carried off the stone as a trophy, and intended to inscribe his name and deeds to the glory of his gods.

The Code well deserves its name. It is most systematically codified, a triumph of legal precision and order. Its start is amazing enough. The two first sections are directed against witchcraft, and that in the home of magic and sorcery. The section which stands second introduces us to ordeal by water. Then we have a long series of enactments against crimes punished by death. Going to the fountain-head of justice, the three sections which follow deal with offences against the purity of justice, tampering with witnesses, jury, or false judges. Theft comes next, and is analyzed into degrees of guilt. Stealing and receiving are ranked alike. Inducing a slave to run away, harbouring him, or a fugitive from the levy, a conscription for public works or the army, appropriation of goods found, house-breaking, highway robbery are all treated as theft. Each crime was to be gone into carefully by judge and jury, witnesses heard on oath, and sentence given according to law and evidence.

The officials responsible for local administration, tax-collecting, furnishing quota to army or forced labour, the postal system, and local order are then dealt with. The duties are defined, privileges set out, penalties fixed. It is clear that the retainers of the king were endowed with estates, and responsible to him for the order of a subject population.

The Code next deals with contract. The relations of landlord and tenant, creditor and debtor, canal and water rights, trespass and waste, undertaking, house tenancy, the relations of the principal and agent in commerce, licensing, carriers, forwarding goods, distraint, warehousing, slander, are all regulated.

Then come the family relationships, marriage, divorce, desertion, separation, adultery, incest, courtship, breach of promise, inheritance, adoption, foster nurses, filial rebellion, are a few of the subjects dealt with, and followed out into minute detail, too long to summarize.

Then we have various kinds of assault. The law of retaliation is very much in evidence. Eye for eye and tooth for tooth actually are the words

of the Code. But the law is not crude retaliation. Composition is allowed in many cases, and injuries are appraised on a regular sliding scale. The doctor's fees are fixed and charged to the right person. He is made responsible for lack of skill or care in treatment of a case.

Apart from the wonderful modernity of its spirit the next most remarkable thing about the Code is its high antiquity. The great interest of its study will be in tracing its influence beyond Babylonia. It would be premature to pronounce directly upon such matters. They are matters for careful study. But not only do the regulations at once remind lawyers of Mediæval, Roman, or Greek law, the whole tone and phraseology are so suggestive of Old Testament that we can hardly avoid using the phrases so familiar in the Law. Each section begins with 'if,' and the penalties are strikingly similar. We do not meet with such a regulation as the care of an enemy's ox, but there are many humanitarian laws. The agent who cheats his principal is made to repay threefold, but the principal who overcharges an agent is mulcted sixfold. An invalid wife has to be maintained as long as she lives. The mesquin, or poor man, continually has exceptions made in his favour; lower fines, lower fees, but also, it is true, lower damages if he is injured. We may regard death as penalty for theft rather severe, but it is not long since men were hung in this country for sheep-stealing; men are still hung in America for horse-stealing. There is no provision at all for murder as such, except as it arose out of highway robbery, quarrels, or intrigue.

We learn that Sarah's treatment of Hagar was legal up to the point of sending her away. We learn what Jacob's proper relations were to Laban, and where he was within his rights in his methods of acquiring his flocks. We learn what were the customs which explain the Parable of the Talents. Nor do we only get light on legal affairs. The position of Ilu as supreme God, at least in the ideas of Hammurabi, is certain, despite recent dicta that there is no trace of a supreme El in Babylonia. We get the earliest mentions of Nineveh and Assyria as places subject to Hammurabi.

But this notice is all too long. The interest of the subject will, doubtless, lead to a considerable literature, which every student of Old Testament and of ancient history will make himself acquainted with.