

ARTICLE IX.

CRITICAL NOTES.

DO WE WANT A UNIFORM DIVORCE LAW; OR WHAT IS
THE REMEDY?¹

AMERICAN decency was so shocked last summer by the brutal defiance of the law by one whose prominence consisted only of inherited name and money, that the outraged community made haste to find a remedy for a crying evil. In an unconsidered hurry, and with utterly thoughtless haste, all that was said and written suggested but one remedy, and that, a uniform divorce law. In such a race to do something were the outraged, that little or no thought was given to the efficacy and appropriateness of the remedy. Something was needed, and that was needed right off. Even legislators in the state legislatures were run away with; and, voicing the indignation of the whole decent community, it was actually suggested that Senators and members of Congress should be importuned, to the end that an amendment of the Constitution of the United States should be proposed by Congress and sent down to the States for adoption, the terms of which should enable Congress to enact a uniform divorce law. No better illustration could be given of the wisdom of the adage "Make haste slowly," and the unwisdom of undue haste in any matter of such importance and consequence.

Marriage is to be viewed in two aspects. The religious side of the matter and its symbolism is one side; and, on the other hand, the law of the land merely recognizes marriage as a civil contract, indissoluble during life, except by decree of the court, or by the unusual and now practically unknown oper-

¹The author of this paper, being a citizen of New York, writes from the standpoint of one who is anxious to maintain the strict standard of that State, which allows divorce for one cause only, and forbids the remarriage of the guilty party.

ation of a legislative act. Of course all Christian people look upon it in the two aspects; but the community as such only in the one aspect, that of a civil contract, and as such only is the subject to be dealt with by the law of the land. Christian people, so far as the law of the land limits divorce to the ground justified by Scripture, stand with and actively sustain the law. So far as the law goes beyond the scriptural authority, Christian people must occupy the negative position, not by any means approving the law, but by no manner of means disobeying or giving their faith and credence to the law. Any resistance to the law, or to the law on any other subject, would be criminal. So far as marriage is a civil contract and regulated by the statute, we must admit that it is within the province of any State, for its own community and people, to regulate it. That such is the law of the land is to be regretted, but it is, nevertheless, within the realm of state rights.

We apprehend that the evil is not so much in the divorce laws of the different States as in the violation of those laws, by reason of the separate jurisdiction of each State. If it were not for that separate jurisdiction, the offense of last summer could not have been perpetrated, and the decent community would not have been so aroused and incensed. Whatever may be the disabilities for remarriage of divorced persons in the State of their residence or sojourn, or the State in which they are divorced, marriage being a civil contract, a remarriage may take place outside of that State; and contracts, the marriage contract among them, are valid, and must be recognized under the Constitution of the United States as valid, in all the States.

It matters very little, to the finding of the remedy, what are the causes for divorce in the different States, howsoever we regret them. It may not be very generally known that in one of the States there are fourteen causes of divorce; in five States there are eleven causes of divorce; in four States there are ten causes of divorce; in three States and one Territory there are nine causes of divorce; in twelve States there are eight causes of divorce; in six States there are seven causes

of divorce; in ten States there are six causes of divorce; in two States there are five causes of divorce; in two States there are four causes of divorce; and in only one State (New York), and also in the District of Columbia, there is only one cause of divorce.

But the resentment of last summer was not against the state of New York or its laws on the subject of divorce, nor against the man in question because he was divorced, and no doubt justly divorced. The flagrancy of that case was in the fact that, in violation of the law of the State of his residence and in which he was divorced, and in violation of the decree of the court, both of which forbade his remarriage, he went over the line into another State and there remarried, and, in so doing, the Constitution of the United States, regardless of the State in which his remarriage would have been a crime, and would also have made him liable to be proceeded against for contempt of court, was compelled to recognize the validity as a civil contract of his remarriage, because contracted in another jurisdiction.

It is said that a large proportion of the divorces granted in one or more of the Western States are immediately followed by remarriage, and that in many, in most of the cases, the parties seeking divorce are accompanied to their newly acquired Western domicile by the persons with whom they are to remarry, in pursuance of agreements made before the first step toward divorce was taken.

Remarriage it seems, therefore, is a great inducement to divorce; and, if it be so, the remedy is in destroying the inducement rather than changing the laws of divorce.

Let us examine, for a moment, the comparative situation between the East and the West as to causes of divorce. One Eastern State (New York) has but one cause of divorce. In the Western States there are many causes of divorce. In the New England States there are many causes of divorce. It is said that the least number of divorces *per capita* are obtained in the territory of our country along the Atlantic coast from New York to North Carolina inclusive; and that, as to

divorces among native-born citizens, the greatest number *per capita* take place in the New England States and in the northern counties of Ohio, which counties were originally settled by immigration from the New England States. It is an interesting and alarming study, these divorce statistics, and the comparison of localities where they occur and as far as statistics show the nationalities of the people.

Is it at all conceivable that, in case of obtaining a uniform divorce law in all the States, the standard of New York (that is to say, one cause of divorce only) would be the result in a uniform divorce law? Would the different States, with their many causes of divorce, consent, under any circumstances that we can conceive, to submit to have imposed upon them our code of New York in that respect; or would they, if they had the power, impose upon us in such event their laws, with their multitude of causes of divorce? Look for a moment at the figures. Of the forty-eight States in the Union, twenty-seven of them are situated wholly or partly west of Indiana. The Senate of the United States has two senators from each State, and hence, of the ninety-six senators, fifty-four of them are from and represent those twenty-seven States west of Indiana, which is a large working majority of the United States Senate. Therefore the Western States have us in the Senate of the United States. The House of Representatives is apportioned according to population, and the recent census shows that the center of population is at a point in the westerly side of Indiana. Hence, the House of Representatives apportioned on population will have, west of that center in Indiana, one-half of all the members of the House of Representatives, and there are some States east of that center of population which have as objectionable divorce laws as any State west of that center. Should this subject ever come within the power and jurisdiction of Congress, what sort of a uniform divorce law would they give us? Would it be like the divorce law of New York, with only one cause of divorce, or would this powerful majority in both Senate and House of Representatives impose upon us in New York a uniform divorce law, with from six

to fourteen different causes of divorce? It seems as though there were but one answer possible; and that is that the standard of New York would be let down, and that, for all the States, we would have many rather than few causes of divorce. It would seem, therefore, that a uniform divorce law is no remedy for the situation. The risk is too great. The situation it would bring about would be dangerous in the extreme.

What remedy then can be suggested? It would seem to go without saying that each State naturally has pride enough among its citizens to insure that *its own laws* should be enforced, and that every State would be quick to adopt for itself practical uniform legislation, which would destroy the inducement to remarriage of divorced persons within its borders. It would be a happy solution if Congress had the power to legislate, not to the end of making a uniform divorce law, but to the end of making it a federal crime wherever committed, for any divorced person to remarry where forbidden so to do by the statutes of the State in which he was divorced, or by the decree of the court by which he was divorced. But as the Constitution now stands Congress has no such power. What then can be done in that direction? There are in all the States statutes declaring invalid and void marriages between ascendants and descendants, and among some collaterals. A statute in as many States as possible — and each State it would seem would be glad to enact it — which would make illegal and void the remarriage of any divorced person forbidden by the laws of the State in which divorced, or by the decree of divorce against him, to remarry, would operate to make the contract of marriage null and void in every State where such a law would exist. Such a statute would have prevented the outrage of last summer and any other like outrages, and would remove from such immoral remarriages the protection of the United States Constitution; since, if the contract of marriage was thus made illegal, other States would not be required to recognize it.

A further remedy for the like situation could be enacted in the several States, and would free each State from the bane

and bad name of permitting even the celebration of the ceremony of marriage between such divorced persons within its limits. This could be attained by the passage in the different States, each State for itself, of an act making it a crime for any divorced person forbidden by the law of the State in which he obtained his divorce, or by the decree of the court in which he was divorced, from remarrying again anywhere within its limits.

One of the elements that condone such immoral offenses is that portion of society (so-called) which frames its bars and limits to include and welcome the man of money, regardless of his moral character. No matter how repulsive in morals, no matter how indignant the community in general, that part of society receives back into its circle the unclean creature. If in addition to his debased moral character he be stamped with the badge of a criminal, and has "done his time" within prison walls and behind bars for having contracted such an illegal marriage, would that portion of society, so called, receive him within its circle? How would he differ as a criminal from the common thief or other criminal who had been so branded and was a graduate of a prison?

The subject is one that is momentous and of every day increasing alarm, and will continue to be such until some arrangement or remedy is discovered, and it would seem that the remedy is not in hasty action, or in a uniform divorce law, but in deliberate and considerate action, and the condemning and preventing of the remarriage of a divorced person, and creating him a criminal which will exclude him from society and make him a wanderer.

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PREACHING TO THE SPIRITS IN PRISON.

"Because Christ also suffered for sins once, the righteous for the unrighteous, that he might bring us to God; being put to death in the flesh, but made alive in the spirit; in which also he went and preached unto the spirits in prison, that aforetime were disobedient, when the long-suffering of God waited in the days of Noah, while the ark was a preparing" (1 Pet. iii. 18-20).

A SOLUTION of the difficulties involved in this confessedly perplexing passage calls for a journey, which may at first seem to be far afield. Not a few have thought to find here reason for a hope that to the impenitent dead may be given another opportunity to hear and accept the invitations of divine grace. This passage was a favorite proof-text on the side of what was called the "larger hope", in the "second probation" controversy of twenty years ago, echoes of which can still occasionally be heard. A satisfactory study of the passage should settle the question of the propriety of such inferences. Moreover, there can be no statement given in the word of God which was not intended for the good of man, to impart some valuable and needed truth. The more difficult the passage, the weightier, probably, the truth contained therein, and the better worth our study. An understanding of the passage under discussion can be had only by determining what the "prison" was in which Jesus proclaimed his glad tidings, and who the inhabitants were to whom he spoke, and what their condition.

THE TRUTH ABOUT HADES.

This lies at the bottom of a correct understanding of the passage in question. In such a study it is vitally necessary to recognize our utter lack of knowledge except as we may gain it from the Bible. No amount of theory or speculation can for a single moment unlock the doors of the under-world and let us see its status.

1. In the Old Testament little is said about heaven or hell. They may be inferred, but explicit statements are wanting. The word for "heaven," שָׁמַיִם (*Shamayim*), does not mean the abode of the holy dead, but the skies above the earth. God's

seat of governmental authority was regarded as located there. "The heaven, even the heaven of heavens, is the Lord's"; "It is as high as heaven, what canst thou know?" It was said of Elijah that he "went up by a whirlwind into heaven." That was all Elisha knew or could tell. Elijah went up into the sky. What became of him Elisha did not know, though beyond a doubt he believed that his master was with God. Probably few careful students of the Old Testament will question the statement that "heaven" throughout that book, and very often indeed in the New Testament, refers only to the regions above us. Jacob knew nothing of a place above us where the godly dead dwell, but saw angels coming down from the upper regions and ascending again. As a matter of fact we ourselves would have difficulty in locating heaven. All we can say is that it is outside this earth.

In like manner hell, as the final place of punishment for the ungodly dead, waits for the New Testament to be clearly set forth. It was *death* which awaited godly and ungodly alike in the thought of the Old Testament people, though there was a confident expectation that the lot of the righteous would be better than that of the wicked. So Balaam said, "Let me die the death of the righteous," etc. (see, also, 1 Kings i. 21; ii. 10). The godly were "gathered to their fathers," or "slept with their fathers." It is worth noting that in the New Testament references to the death of Old Testament saints they are not said to have gone to heaven but to have been gathered to their fathers (see Acts xiii. 36, where Paul speaks thus of David. With all the knowledge of heaven possessed by New Testament writers, knowledge based on the plain teaching of Jesus, they did not write of the Old Testament worthies in New Testament terms, as having been taken, at death, to heaven. They recognized the difference between being "gathered to their fathers" and departing "to be with Christ," between going to Hades and going to Heaven.

The grave was the expectation, and it took strong faith to escape being overwhelmed by it. "The dead praise not Jehovah, neither any that go down into silence." "In Sheol

who shall give thee thanks?" "There is no work, nor device, nor knowledge, nor wisdom, in Sheol, whither thou goest." Thus the godly believed that they were not to be annihilated, that in some way there would be a good future prepared for them by God (see the words of Job in Job xix. 15-27), but that future was not anything sufficiently definite for them to rejoice in.

2. This was fitting and right. As none can enter heaven but by the atoning work of Jesus, and that work had not yet been wrought out on the cross, it was not proper that the godly dead should enter heaven till it had been accomplished. John the Baptist said, "He that believeth on the Son hath eternal life." John the Apostle wrote, "To as many as received him, to them gave he the power to become the sons of God." Jesus said, "He that eateth my flesh and drinketh my blood hath eternal life." There cannot be two roads to heaven, two ways of gaining eternal life. The biblical teaching makes it plain that only through Christ's atoning work, and only by a conscious acceptance of that work for himself, can any soul gain eternal life and a place in heaven. If any should bring up the case of those dying in infancy, we must lay it down as a rule of biblical interpretation that no difficulty suggested by us, in our imperfect view of the subject, can stand against the plain teaching of the Word of God. God knew of those difficulties, if they really are such, when he gave the inspired word; and we can safely leave the solution to him. We may, however, assume that the innocent babes, in whose salvation we have sufficient warrant for believing, will have Christ's redemptive work presented to them, and that, whatever may be its relation to those who have not the guilt of personal sin on their souls, they will gladly accept it.

3. Paradise. There is abundant reason, from the Scriptures, for believing that in Sheol, or Hades, the godly dead were happy, and Jesus taught this clearly in the parable of the rich man and Lazarus. Without making the parable "go on all fours," we cannot help seeing that, before the atoning work was completed, the godly, not yet in heaven, were in

blessedness, and the ungodly, not yet in hell, were already in torment. This is reasonable. If the godly were in such an attitude that on the presentation of Christ's work they would instantly and gladly accept it, to keep them in misery would be unjust, if there was ever to be an atonement made for them. If the ungodly had so hardened their hearts against God that to present Jesus to them would be of no avail, self-judged, as Paul says in Romans ii., their treatment would be unjust if they were given happiness. As a matter of fact, unless, pending the atonement for the one and the final judgment for the other, they were to be held in an unconscious state, the stings of conscience would make torment for the one, and an approving conscience happiness for the other.

Paradise, therefore, before Christ rose from the dead, was that division of Hades, the under-world, the place of the dead, where the godly dead were waiting. Jesus said to the thief on the cross, "Verily, I say unto thee, To-day shalt thou be with me in Paradise." That was not heaven, for after his resurrection he said to Mary, "I am not yet ascended to the Father."

After his ascension, Paradise was no longer in Hades. See 2 Cor. xii. 2-4, where Paul says in verse 2 that he was caught up to the third heaven, and in verse 4 that he was caught up into Paradise. See also Rev. ii. 7, where the tree of life is located in Paradise, and Rev. xxii. 2, where it is located in the New Jerusalem, thus identifying the New Jerusalem and Paradise.

Just where Hades was and is located, just where all the dead once were and the ungodly dead are now, is interesting, but has no special importance in this discussion. We are concerned not with the exact location of Hades, but with the relation to it which the godly and ungodly have sustained.

THE PREACHING TO THE SPIRITS IN PRISON.

Now what has all this to do with the explanation of the passages which we set out to study? Let us review.

First, we have seen that godly and ungodly were in the

under-world, conscious, the one happy and the other tormented; secondly, we have seen that the godly could not ascend to heaven till Christ's atoning work had been completed; thirdly, Paradise was then in Hades, the apartment, we may say, of the godly dead. Thither Jesus and the penitent thief went from their different crosses.

These godly dead were sinners, all of them, unfit for heaven, till cleansed by the blood of the atonement. Many had had distant glimpses of the coming of the Saviour, and had believed, but had not full knowledge (see 1 Pet. i. 10-11). They were in prison; for, the atonement not having been completed, they could not properly be declared justified by being taken to God's immediate presence, though practically they were under God's smile in Paradise. To these Jesus went, declared the completion of his redemptive work, and gave each the opportunity to personally accept it, which each one would eagerly, gladly do, for only those of that attitude of heart would be in that part of Hades. At the resurrection of Jesus he took these with him to heaven. Just when he did that, whether at the end of the forty days, when he ascended in the presence of the disciples, or whether he led them to his Father's presence earlier, we cannot say. For him to go into heaven was not such a transition as it is for us. Note his words to Nicodemus, "the Son of man who is in heaven" (John iii. 13). A glimpse of that coming forth from Hades is given in Matt. xxvii. 52-53: "And the tombs were opened; and many bodies of the saints that had fallen asleep were raised; and coming forth out of the tombs after his resurrection they entered into the holy city and appeared unto many." It is as though such a great event could not take place without its being proper that men should see something of it. Therefore, some of the dead were permitted to receive their bodies for a time, that men might see them. Of course they did not receive their resurrection bodies. Those will be given at the return of Christ (see 1 Thess. iv. 13-17).

But, what about that particular statement, "That aforesaid were disobedient, when the long-suffering of God waited in

the days of Noah," etc.? This should be taken with the statement made in chapter iv. 6, "For unto this end was the gospel preached even to the dead, that they might be judged according to men in the flesh, but live according to God in the Spirit." Let us examine the latter of these first. This statement exactly expresses the situation which we have discovered in our previous study. The godly dead had sinned, and had incurred the penalty, bodily death (Rom. v. 12), though they were to escape the penalty of eternal death. Besides, as we have seen, they were still kept out of heaven till the atoning sacrifice for their sins should have been offered by the Son of God. Therefore, as men, they had been judged, found guilty, and condemned to suffer the penalty of physical death, which had been pronounced on the *race* as such. The judgment of eternal death, however, was not pronounced on them, but by the grace of God they became inheritors of eternal, spiritual life, though it could not be formally conferred on them till Jesus died and rose again. It was necessary, however, that they should consciously accept the atoning work of Christ. "*To as many as received him*" (John i. 12). For that purpose it was necessary that the atonement should be presented to them. This Jesus did. It would be quite correct to read the passage in question as follows, "For unto this end was the gospel preached, even to the dead, that *though* they had been judged indeed according to men in the flesh, they might live according to God in the Spirit." Note a similar change by the Revisers in Rom. vi. 17. Our Lord must have had great joy, after his rejection by the living, to thus present his work to this multitude of past ages, and see their rapture and ecstasy as they grasped that hope which they had believed on and waited for in their days of trial on earth.

There is no occasion for discussing the possibility of his having presented the gospel to the ungodly dead. Since, as we have seen, both godly and ungodly were in Sheol, or Hades, but separated from each other, Jesus certainly did not go to the ungodly. They were not in Paradise. Jesus did not tell

the penitent thief that he should be with him among the ungodly dead. They did not and will not "live according to God in the spirit," though, in common with the godly and ungodly of all ages, they were and had been "judged according to men in the flesh."

Now to continue the examination of chapter iii. 20. The reason for introducing Noah seems to be only to open the way for calling attention to the old-time long-suffering of God, and to the ark as a figure of our salvation. The days before Jesus came were indeed days of the long-suffering of God. He withheld punishment, long due, till the Redeemer should come, and the redemption be prepared. In similar manner he withheld punishment on the ungodly antediluvian world till the ark should be ready. The saving of Noah is used as an illustration of God's patience through the millenniums before Christ; and the people who were disobedient in the days of Noah, but yet did repent, stand for all such before Christ.

The Greek *pote* may be translated "formerly" as well as "sometime" (R. V.) or "then" (A. V.), and we might very properly insert "as," and read, "who were formerly disobedient, when the long-suffering of God waited (as) in the days of Noah, while the ark was a preparing." This instance of the saving of Noah may have been chosen because, at that time, there was such a sharp distinction and contrast between the godly and ungodly. When Elijah thought himself alone God said to him: "Yet will I leave me seven thousand in Israel, all the knees which have not bowed to Baal, and every mouth which hath not kissed him" (1 Kings xix. 18). But to Noah he said, "For thee have I seen righteous before me in this generation" (Gen. vii. 1), the evident implication being "Thee *only* have I seen."

This explanation falls in and harmonizes with what we have previously learned about the condition of the godly dead before Calvary and our Lord's resurrection. The godly were disobedient in Noah's time. Noah himself was disobedient. His drunkenness after the flood was doubtless not his first offense. Yet he and they were godly in that time when the long-suffer-

ing of God waited. They were godly, but there had been no provision made for the pardon of their sins. They were so godly as to be saved while the rest of the world was destroyed. Yet before they could be taken to the immediate presence of God they must be justified by a voluntary acceptance of the atoning work of Christ, the Lamb of God, slain 33 A. D., but "from the foundation of the world" in the plan of God.

The spirits to whom Jesus preached were those of the godly dead, who had died before he had accomplished his atoning work. This number would include the long list of Hebrew worthies who had been obedient to God during the preceding centuries, those in other nations who, following the inner light of conscience, or catching some faint gleams of the light that shone on Israel, sought for true character and the true God. It would include Abel and our first parents, and all godly antediluvian dead. There was doubtless a great host. They were "in prison," yet not in suffering, not permitted to remain on earth nor yet admitted to heaven, but conscious of an approving conscience and the smile of God, and expectant of a happy future, while ignorant, doubtless, as to just what that future might contain. They were in the position of repentant law-breakers for whom an arrangement is going to be made by which they may be pardoned and released, but who are kept in prison till such arrangements can be completed. They would be treated with a consideration not accorded to other prisoners, while not yet permitted to go free.

The basis of the explanation of this passage must be:—

1. The words must have a meaning. The character of the entire letter, evidently inspired, precludes such an idea as that this can be a rambling, meaningless statement.

2. We have no reason to believe that the long-suffering of God was more greatly tried in the time of Noah than later, when he had made a fuller manifestation of himself, and man had less excuse for sin.

3. The case of Noah must therefore have been chosen (1) as peculiarly illustrative of God's patience with man through all the ages, giving a period the classes of which were espec-

fully fitted to illustrate the preaching to the spirits in prison, which is really but a digression from the apostle's main line of argument, and (2) as leading up to baptism and the lesson to be drawn from it in verse 21. It has been said that the classes in this period, the days of Noah, were especially fitted to illustrate the preaching to the spirits in prison. Probably never since that period, and never before, after the human race became at all numerous, has there been a time when the good and the bad among mankind were so evidently and sharply separated before the eyes of men. "And the earth was corrupt before God, and the earth was filled with violence" (Gen. vi. 11). This was the one instance in the entire course of the world's history when divine wisdom found it necessary to depopulate the earth and to start the race practically anew. Those who had so corrupted themselves as to be unfit to live on the earth were certainly not proper candidates for a preaching of the gospel to them in Hades. The souls who faced truth and duty in that time and accepted or rejected could with peculiar safety be used by the apostles to illustrate the mission of Christ to the spirits in prison. The writer guarded as carefully as possible his teaching from being perverted into support of any "second probation" idea.

NOTE.

It is a legitimate inference from this study, that, if the godly dead, before the resurrection of the Lord, were in prison, in Sheol, and were released only by his loving work of grace, the ungodly dead, who were also in Sheol, and had certainly no such deliverance at the hand of Christ, are there still. This puts the stamp of falsity on spiritism, in so far as it claims to give communication with the spirits of the dead. The godly dead would certainly not respond to human attempts at communication, for God, their God, has forbidden such attempts. The ungodly dead cannot respond, for they are still in prison. The truth in spiritism, so far as there is any, and the writer of this believes there is much, is simply that evil spirits are permitted to be abroad, among us, and they, for their own

evil purposes, seek to impersonate the dead. For this belief there is the best of biblical warrant. Spiritism is absolutely false, so far as it claims to give communication with the dead. Spiritism probably has a certain awful reality, but it is the reality of demonology and demon worship, than which there is nothing more debasing and utterly ruinous.

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DR. DRIVER ON EXODUS.¹

DR. DRIVER'S long-expected volume on Exodus has at last appeared. A reviewer cannot welcome it with satisfaction, for to treat the volume conscientiously is an exceptionally odious as well as an exceptionally difficult task. The present writer, at any rate, in the course of a singularly unfortunate experience, has never found a reviewer's labors so distasteful or performed them with so much reluctance as in the present instance.

On Dr. Driver's own showing, the book has taken a long time to write. We are told in the Preface that the greater part of the notes were in type when the commentary of Mr. Mac Neile appeared, i.e. in May, 1908; and, though the Preface itself is dated 5 February, 1911, a perusal of the volume shows that the bulk of it is old, and written without any reference to much of the recent work on the subject. For instance, there is not a single reference to the German books of Eerdmans. There are occasional references to some of his English articles, and to work of other writers that has appeared more recently than the first instalments of the "Alttestamentliche Studien." Not that Dr. Driver minds referring to German books — far from it. That is not the reason for

¹The Book of Exodus in the Revised Version, with Introduction and Notes. By the Rev. S. R. Driver, Regius Professor of Hebrew and Canon of Christ Church, Oxford; Hon. D.Litt. Cambridge and Dublin, Hon. D.D. Glasgow and Aberdeen; Fellow of the British Academy; Corresponding Member of the Royal Prussian Academy of Sciences. Cambridge: At the University Press. 1911.

his reticence. And there is no direct reference to my work. Two passages in the notes may have been influenced by me (though I may be wrong in this inference), and with these I will deal later on. But there is a sentence in the Preface which can be interpreted only as a claim that he was entirely acquainted with the facts and arguments I had advanced. After stating that, in his opinion, his "conclusions . . . rest in their broader outlines upon secure foundations," he continues: "I say this with full knowledge of what has been said by various writers on the other side. Assiduous and painstaking as the labours of some of these writers have been, it does not appear to me that they have been successful either in shaking the great cumulative argument which shows that the traditional position is untenable, or in finding a better explanation of the facts presented by the Old Testament itself than, substantially, — I expressly do not say, in every particular, — that which is commonly associated with the name of Wellhausen." Observe there is a claim to "*full knowledge of what has been said by various writers on the other side.*" It is dated 5 February, 1911. Writing to me exactly three weeks previously, Dr. Driver had made the very much more moderate statement that he was "acquainted with my writings and had read considerable parts of them." "Considerable parts" is not a synonym for full knowledge or even an adequate basis for full knowledge: yet, of course, it might be possible to argue that Dr. Driver had spent the whole or some part of the three weeks in obtaining the full knowledge he here claims. Unfortunately the contents of the book show that neither he nor his general editor had that full knowledge or anything like it. I regret to say that they are of such a character as to throw a most unfavorable light alike on this statement, and on his conduct as a general editor of the International Critical Commentary.

In writing on these subjects, I have repeatedly drawn attention to the fact that the ordinary statement of the Wellhausen school that in early times all slaughter was sacrificial cannot be sustained. On pages 175 ff. of "Essays on Penta-

teuchal Criticism" I was careful to make this point at full length, particularly explaining that Dr. Driver contradicted himself on the subject in his commentary on Deuteronomy, following the ordinary Wellhausen allegations in one place and contradicting them in a note on the same page. Now I drew attention to this point again in the article on Dr. Skinner in the *BIBLIOTHECA SACRA* for October, 1910¹ (which Dr. Driver claims to have read carefully), and again in the *Expositor* for November, 1910, in an article to which I referred in the correspondence.² If, therefore, Dr. Driver really has "full knowledge" of any conservative point, this must be it. Will it be believed that in this commentary on Exodus he again stultifies himself by a similar self-contradiction on this very question? On page 223 the phrase of Exodus xxi. 37 (E. V. xxii. 1), "and kill it," comes up for consideration. Dr. Driver writes: "The word is the one regularly used of slaughtering cattle for food (Gen. xliii. 16; 1 Sam. xxv. 11 *al.*)." These passages and others make it quite clear that non-sacrificial slaughter for food was common. Yet, at the top of page 207, in commenting on another Hebrew word, he writes, *without any reference to the evidence of Exodus xxi. 37 and the other passages*, "Since in early times animals were seldom, if ever, killed without an accompanying sacrifice." Other instances to which I have drawn attention are not cited. Now I have to ask, Is it possible that a man who has enough intelligence to produce a commentary on Exodus should continue repeating the statement and contradicting himself on the point if he in fact had the full knowledge he claims? To me it appears that this question can be answered only in one way.

Another point that is of very great importance is the matter of altars. On page 291, "the horns of it" (Ex. xxvii. 2) suggest to Dr. Driver such remarks as the following: "these were an indispensable part of an altar (cf. xxx. 2, 3), and were regarded as its most sacred part . . . a criminal seeking asylum seized hold of them (1 Kings i. 50; ii. 28)." Now I have explained (*op. cit.*, p. 181) that an altar of earth or

¹Page 667.

²Page 415.

unhewn stones could have no horns since the nature of the materials would not allow them. A "full knowledge" of my writings would, therefore, have shown Dr. Driver that his statement that the horns were an indispensable part of an altar" was incapable of being supported.

A third example may be taken from his conduct in respect of Dr. Kent's book "Israel's Laws and Legal Precedents." One of the most eminent living authorities on ancient law wrote to me that Dr. Kent's book was "in fact very disgraceful." If Dr. Driver likes to submit my review of that book (a copy of which was sent to him in 1908) to any Oxford law don in whom he has confidence, he can obtain independent confirmation of this view. Yet he actually recommends the volume on page 2 of the eighth edition of his "Literature of the Old Testament," and follows up this recommendation by referring his unfortunate readers to it in his "Exodus" (pp. lxiii. *note*, 418 *note*).

There is no object in multiplying instances. Dr. Driver's "knowledge" is obviously not "full." "Studies in Biblical Law," "Essays in Pentateuchal Criticism," and the article on "Priests and Levites" in the July, 1910, number of the *BIBLIOTHECA SACRA together* answer most of his points. In some cases it might be open to Dr. Driver to reply that, to his mind, the answers were not convincing; but that cannot well be the case with the instances I have considered.

Nor again could this be said of the uncertainty of the Masoretic text as to the Divine appellations, a matter of which Dr. Driver says no word in spite of his formal reservation in the correspondence with me of the right to treat the matter in whatever manner he might think proper. That question has now reached a stage in which it can no longer be pretended that complete silence is compatible with honorable candor towards his public.

It appears to me, therefore, that his conduct raises questions of great and fundamental gravity touching the responsibilities of a writer to his readers, especially when those readers may in many cases be school-boys or other junior

students who stand in peculiar need of protection. Dr. Driver has raised questions of conscience that are of greater moment than any questions of scholarship. How far is any writer justified in solemnly holding himself out as possessing knowledge that he does not in fact possess? How far is he justified in asking his readers to believe him or accept his conclusions on the strength of this profession of knowledge? How far is he justified in recommending or referring his readers to very disgraceful books without a word of warning? How far is it right that these things should be done under the shelter of the name of a great University? Are such actions creditable or even excusable features of a "Cambridge Bible for Schools and Colleges," or indeed of any Bible commentary? Is this what the public expects of professors and others who undertake to give instruction on the Bible to more or less defenseless students? These are questions to be answered not merely by Dr. Driver and his general editor, but also by those who are responsible for the reputation of the Cambridge University Press, by all who are engaged in teaching or learning the Bible, and by the general public.

It remains for me to say a few words on the passages that appear to have been influenced by my work. In Exodus vi. 3, Dr. Driver adopts הוֹדַעְתִּי for נִוְדַעְתִּי, and in xviii. 6 הִנֵּה for אֲנִי; but in both instances it seems probable that this is the result of an independent yielding to the overwhelming evidence, and not to anything I have written. There are, however, two other passages where I suspect something more. The first of these is in the note on Exodus xxi. 6. On the words "the door," Dr. Driver writes: "not as has been supposed, of the sanctuary." The "supposition" to which he alludes in these distant terms is enshrined in his own commentary on Deuteronomy. Why does he now contradict it without assigning any reason?¹ Has he really discovered that a

¹ On his present approval of the conjecture that *elohim* in this passage should be rendered 'gods,' and understood of the household gods and of Kautzsch's view that the reference is to an image of God, I need only refer him to my Notes on Hebrew Religion, pp. 24 f.

mound or stone will not develop a door or doorpost even if it be called a sanctuary?

The other passage is Exodus xxxiii. 7, "the tent." On this he writes (p. 359): "the rendering 'a tent' which Hebrew idiom would also permit, does not suit the sequel, which implies that not a casual, but a *definite* tent, is meant." No name is mentioned, but it seems not unlikely that this note is due to my insistence on the rendering 'a tent' as being here the correct equivalent of the Hebrew. It is therefore right that I should deal with the argument. It is unnecessary on the point of definiteness to do more than to quote Dr. Driver's note on page 160 ("in a book," Ex. xvii. 14). After citing Dillmann's words, "the Hebrew always writes 'in the book,'" Dr. Driver continues in his own language thus: "an object being conceived as definite in Hebrew not only because it is already known or has been mentioned before, but also because it is taken for a particular purpose, and so made definite in the speaker's or writer's mind. See numerous examples in Gesenius-Kautzsch, sect. 126 r. s.; e. g. Ex. xvi. 32 *the* omerful, xxi. 20 with *the* rod, Num. xxi. 9 put it on *the* pole, Jos. ii. 15 with *the* cord, etc.; in all such cases we naturally say *a*." Precisely: *a* casual tent taken for a particular purpose and so made definite in the writer's mind would be expressed by *the* in Hebrew, *a* in English, and that is exactly what the sequel requires, for Dr. Driver's own next note on the subject enforces this truth. He writes: "*pitch it*] Heb. *pitch it for himself*: it was intended particularly for his own use, in his converse with God." Exactly; and, that being so, it cannot (as Dr. Driver believes) have been the abode of the Ark. It is incredible that Moses should have been in the habit of taking the shelter of the Ark, and pitching it particularly for his own use while leaving the Ark in the camp in a denuded and unprotected condition. For the rest, Dr. Driver has entirely failed to meet the points which, as I have shown elsewhere,¹ make his view impossible.

¹ *Essays in Pentateuchal Criticism*, pp. 90-102; cp. *The Origin of the Pentateuch*, pp. 53 ff.

There are many other points that are open to criticism; and, in ordinary circumstances, I should have dealt with some of these. But, having regard to the peculiar nature of this publication, I do not think it right to do anything that might have the effect of distracting attention from the larger issues involved. We have to deal with a course of conduct that affects the good name and honor of two Universities, and the interests of youthful students who are not yet able to protect themselves.

HAROLD M. WIENER.

London, England.

FROM DR. DRIVER.

CH. CH., OXFORD,

Dec. 7.

Dear Sir:—

I am much obliged to you for sending me a proof of your note on Exodus. I do not propose to write any reply to it: I will merely, as I am writing to you now, point out an error of fact, into which I think you have fallen, with regard to what I say respecting Ex. 21. 6. In my Commentary on Dt., p. 184, I cannot see that I explain the 'door' in Ex. as that of the sanctuary: I say that I think the clause containing the word is ambiguous; but I am not aware that I express any preference for the view that the door is that of the sanctuary. Nor can I see that in my note on Ex. 21. 6 I "approve" the opinion either that *elohim* mean 'gods', or that it denotes an image of Yahweh: I mention these views, as held by certain scholars; but I say nothing (such as 'This is better', or 'more probable') to suggest that I adopt either of them myself.

Believe me,

Yours sincerely,

S. R. DRIVER.

TO DR. DRIVER.

9 OLD SQUARE,
LINCOLN'S INN, W. C.

Dear Sir:—

Thank you for your letter. I note what you say with regard to the explanation of Ex. xxi. 6 in your Deuteronomy: but I was very careful in my choice of language. The word I selected — 'enshrined' — was intended to cover, and does, I think, in fact cover exactly that interpretation of the Deuteronomy note which you now tell me is the right one. It is the case that when you wrote your Deuteronomy you regarded as possible a view of Ex. xxi. which you now regard as impossible for some reason or reasons which you do not state: and my expressions appear to me to meet precisely this condition of affairs.

As to the other question there is, I think, a *bona fide* difference of opinion between us as to the effect of your note. If I am not mistaken this arises from a difference of attitude. When I read it I reason thus: 'What would any junior student understand by this? One view is mentioned only to be rejected: certain other views are cited without any suggestion that there is any objection to them or any warning as to adopting them: and other interpretations are not even mentioned. A commentator who puts forward certain views without objective question, warning, expression of doubt, or alternative, must be held to recommend those views. Surely he cannot be supposed to put them forward because he does *not* adopt them. Surely, too, no schoolboy would suspect that the commentator regarded them as incorrect. If the commentator does not believe the interpretations he himself adduces without doubt or question, what on earth does he believe or mean his readers to believe?' I cannot see that there is any possible answer to this *from the standpoint of the public for whom the book was written.*

Believe me,

Yours sincerely,

8 December, 1911.

HAROLD M. WIENER.