

## THE CODE FOUND IN THE TEMPLE

GEORGE RICKER BERRY

COLGATE UNIVERSITY

IN the eighteenth year of the reign of Josiah, 621 B. C., a book of the law was found in the temple. The practically unanimous opinion of adherents of the documentary theory of the Hexateuch, so far as known, is that this book was the Deuteronomic Code, *D*, consisting substantially, according to the usual view, of chapters 5—26, 28 of the book of Deuteronomy.

The Holiness Code, *H*, consists of chapters 17—26 of the book of Leviticus, with perhaps small portions elsewhere. It was in considerable measure a compilation, as the writer evidently used older material. It has been subject to one or more revisions in the spirit of *P*, considerable *P* material having been added, especially in chs. 21—22. It is disputed whether the date of the writing of *H* was somewhat before the exile or during the exile.

It seems strange that the relation between *H* and *D* has received little attention; and also that, so far as known, it has never been held that the code found in the temple was *H*, at least in recent years.

The preferable view seems to be that *H* was written before the exile. Nothing requires or definitely suggests the exile, unless it is Lev. 26 40—45, which may have been a later addition.

The resemblances between *D* and *H* in subject-matter are very great, and the resemblances in language by no means slight, while the general scope and plan of the two are very similar. On the other hand, the language used when dealing with similar subjects often varies greatly in the two, so much that it is evident that the later writer if acquainted with the earlier production,

made use of it in a spirit of freedom. It is perhaps most probable, as it is usually held, that the later writer was not acquainted with the earlier; in which case, however, he must have had intimate knowledge of the sources of the earlier writing.

While the view thus indicated concerning the relation between *D* and *H* affords less definite data for their chronological relation than would be the case if one was considered to be directly dependent on the other, nevertheless such chronological evidence is not entirely wanting. In a considerable number of passages the regulation in *D* is very similar to that in *H* and is in a fuller form, where a comparison indicates that expansion rather than condensation is the characteristic of the later passages. These passages, then, are considered to indicate that *D* depends on the sources of *H*, rather than *H* on the sources of *D*. The following are the passages: Dt. 21 18-21—Lev. 20 9; Dt. 22 9-11—Lev. 19 19; Dt. 22 22-27—Lev. 18 20; 20 10; Dt. 23 19-20—Lev. 25 35-37; Dt. 24 14-15—Lev. 19 13; Dt. 24 19-22—Lev. 19 9-10, cf 23 22; Dt. 25 13-16—Lev. 19 35-36; Dt. 10 18-19—Lev. 19 34; Dt. 28 22—Lev. 26 16; Dt. 28 33—Lev. 26 16; Dt. 28 59—Lev. 26 21; Dt. 28 64—Lev. 26 33.

One passage should be considered at greater length. In the early custom among the Hebrews, it is generally recognized, all slaughter of sheep and cattle was sacrifice, the sacrifice being at the local sanctuaries. Both *D* and *H* recognize the centralization of worship, but in *H* all slaughter is still sacrifice, Lev. 17 1-7, while in *D* non-sacrificial slaughter is recognized, Dt. 12 17, which is also recognized in *P*, as in Gen. 9 3. It is often held that *D* recognizes the non-sacrificial nature of slaughter as a necessary practical result of the centralization of worship, later *H* attempted to restore the earlier strictness on this point, but unsuccessfully as evidenced by *P*. A much more natural view is this, however. *H* first definitely recognized the centralization of worship, but continued with it the older regulation that all slaughter was sacrifice, without particular consideration of the practical side of the matter. Later, when the practical working was apparent, *D* introduced the new regulation concerning slaughter, which then continued to be in force, and is later recognized by *P*.

There are very many passages in which *D* depends upon Jeremiah or the reverse. In many of these there is no clear indication of priority. It is recognized, of course, that the book of Jeremiah has undergone a considerable amount of editorial revision and later additions, especially after the seventeenth chapter. If there were cases where the Jeremiah passage seemed to be dependent on the Deuteronomy passage it might be a question whether the dependence was that of Jeremiah or of the later editor. I find scarcely any of these, however. On the other hand, if the dependence is of *D* on Jeremiah, the question of editorial activity in the book of Jeremiah need not be raised.

In general it may be said, so far as the work of Jeremiah himself is in mind, that any large amount of dependence seems much more likely on the side of *D* than on that of Jeremiah. This is because it seems to me, after careful consideration, that Jeremiah was a man of much greater originality of thought and expression than the writer of Deuteronomy, and he would be particularly unlikely to be materially indebted to the thought and expression of *D* which moves largely in a circle of ideas quite different from his own. The writer of *D*, on the other hand, is undeniably much indebted to other writings, to *BC* and *JE* for both thought and expression, and to the prophets who preceded him for the higher elements of thought in his work.

In the following passages it seems to me that *D* is clearly dependent on Jeremiah, for the reasons assigned in the particular cases. The phrase "under every green tree" is found in Jer. 2<sup>20</sup> 3 6, 13, in all of which it is a rhetorical hyperbole, but, from the nature of the thought, appropriate. In Dt. 12 2 it is in a similar connection, but it is a matter of fact statement and the exaggeration is inappropriate. In Dt. 12 11 and in several other passages in Deuteronomy occurs the phrase "to cause his name to dwell there", used in the account of Yahweh's choice of Jerusalem as the place of the central sanctuary. The phrase, in the first person, is found in Jer. 7 12. In itself it is sufficiently appropriate in both cases. It can hardly be thought, however, that Jeremiah would borrow the phrase from *D* and apply it to Shiloh and not use it, immediately after, in reference

to Jerusalem. Jer. 13 11 says of the house of Israel and of Judah: "That they may be unto me for a people, and for a name, and for a praise and for a glory", a smooth Hebrew expression, the language in 33 9 being very similar. Most of the phrase is used in Dt. 26 19, where the Hebrew expression is awkward. Jer. 7 33 says: "And the dead bodies of this people shall be food for the birds of the heavens and for the beasts of the earth; and none shall frighten them away", 16 4; 19 7 being similar. In Dt. 28 26 it is said: "And thy [referring to the nation] dead body shall be food unto all birds of the heavens, and unto the beasts of the earth; and there shall be none to frighten them away". the grotesque effect of the use of "thy dead body" in such a personified way being one that could hardly be found except as the result of some special cause, such as borrowing. Dt. 24 1-4 gives the strict rule that when a man's divorced wife has married again and the second husband has died or divorced her the first husband shall not marry her again. In Jer. 3 1, Jeremiah, in order to illustrate the relation of Yahweh to Israel, asks whether this should be done, with no allusion to a regulation upon the point. It seems probable that the regulation of *D*, therefore, is founded upon the passage in Jeremiah, rather than the reverse. Dt. 28 36 seems to be a combination of the expressions of Jer. 9 15 (English 16) and 16 13, being a combination of the thoughts of scattering among the nations and exile to a foreign, unknown, land, resulting in the expression in Dt.: "Yahweh will bring thee—unto a nation that thou hast not known, thou nor thy fathers", "nation" being an unnatural expression where "land" would be expected. Jer. 19 9 says: "And I will cause them to eat the flesh of their sons and the flesh of their daughters—in the siege and in the distress, &c.". Dt. 28 53 says: "And thou [the nation] shalt eat the fruit of thine own body, the flesh of thy sons and of thy daughters, &c." giving a grotesque effect due to borrowing similar to that noted in an earlier passage. Jer. 32 41 says: "Yea, I will rejoice over them to do them good". This appears in an expanded form in *D*, the expansion giving an incongruous effect and indicating that *D* is the borrower. Dt. 28 63: "And it shall come to pass, that, as Yahweh rejoiced over you to do you good,

and to multiply you, so Yahweh will rejoice over you to cause you to perish and to destroy you." In Dt. 13 17 occurs the phrase: "show thee mercy and have compassion upon thee", the Hebrew phrase being the same as in Jer. 42 12. In Jeremiah the thought of mercy and compassion is appropriate, the reference being to deliverance from times of distress under the hand of the king of Babylon. In Deuteronomy the thought is inappropriate, nothing in the context suggesting the need of mercy and compassion.

In the following cases, further, the passages in *D* are expanded from the similar ones in Jeremiah, and therefore quite clearly later: Dt. 28 12—Jer. 10 13 (= 51 16); Dt. 28 52—Jer. 5 17b; Dt. 28 61—Jer. 6 7.

Evidence has been presented thus far to show that *D* is later than *H*. and therefore *D* is probably too late to be the code found in the temple; also that *D* is later than Jeremiah, in which case *D* must be as late as the exile.

At some points *D* presupposes a time as late as the exile or later. The regulation concerning the choice of a king, Dt. 17 15 b: "Thou mayest not put a foreigner over thee, who is not thy brother" has seemed unnatural to many. As the king on the throne of Judah from David to the exile was always a Davidic king, such a regulation, if written during that time, seems entirely unnecessary. A possible danger of this kind, it would seem, could only be apprehended when the nation was under foreign dominion, therefore during or after the exile. The only reference in the account of the disasters in Dt. 28 to the king is in v. 36: "Yahweh will bring thee, and the king whom thou shalt set over thee, unto a nation that thou hast not known, &c." This reference to the king in such a connection is not natural if written before the event, but would be natural to one who knew that the king was carried off into exile. In the regulations concerning the administration of justice in *D* the "elders of the city" appear as the ordinary judges. This is in accord with what we know of the preexilic practice. They are mentioned in Dt. 19 12 21 19 22 15—19, &c. Of course the king and his officers were also ministers of justice, the king being the court of final appeal. Of course there was also appeal to the

priests at the sanctuaries for God's decision, but this does not seem ordinarily to have been in the sphere of the ordinary administration of justice. The book of Deuteronomy also shows a tendency, however, to give the priests a marked prominence in civil life, especially in the administration of justice, as in 20 2 21 5 17 8-13 19 17. 17 8-13 and probably 19 17 refer to the constitution of a court of appeal for the country as a whole, including priests. No such judicial activity of priests is known before the exile, in particular the court of appeal is out of harmony with the common practice by which the king himself constituted such court. These regulations might have belonged, as an ideal matter, to the exile, or, perhaps more probably, have been written in the time after the exile when the priests were somewhat prominent in civil life. I am not unmindful of the fact that II Chr. 19 5-11 says that Jehoshaphat constituted a central court of appeal like that in Dt. 17 8-13. But that account is evidently ideal rather than historical, reflecting the conditions of the time after the exile when it was written.

It is a question whether the code introduced by Ezra, Neh. 8-10, was the *P* code, as usually thought, or *D*. The actual points of contact in the account there given are much more numerous with *D* than with *P*, although it does not entirely correspond to either one.

From what has been said thus far, the evidence indicates that *D* was written later than the time of finding the code. That makes it probable that the code found was *H*. It remains to be considered whether the description of the code and the results of its finding, as told in II K., are in accord with *H*.

It is generally agreed that the account of the finding of the code and related matters as given in II K. 22-23 is historically accurate, unless perhaps in minor details which are unimportant for the present purpose. Most of the items here given are sufficiently in accord with either *D* or *H*. The document found is called by the term "book of the covenant" in II K. 23 2-3, 21. *D* is described as "the words of the covenant" in Dt. 28 69 (English 29 1), and the term covenant appears elsewhere in *D*. References to a covenant, implying a description of the code *H* as a covenant, are found in Lev. 26 9, 15, 25, as

well as in v. 42 (three times), 44, 45, which are perhaps a later addition. It is also called "the book of the law", II K. 22, 8, 11. This phrase is not found either in *D* or *H*, but it is a natural descriptive term for either. The consternation of king Josiah, II K. 22 11, and the reference to the words of the book as forebodings of disaster, II K. 22 16, show that the book contained threatenings, which are found in both codes, principally in Dt. 28 and Lev. 26. The specific threatening that "this place", presumably the city Jerusalem, should be a desolation, II K. 22 19, is not found in *D* but is in Lev. 26 31-32. The element of definite threatenig is much more prominent in *H* than in *D*, specific commands, particularly those alluded to in II K., being more frequently accompanied by a specific penalty. Abolition of all forms of worship of other gods is narrated in II K. 23 4-6, 10-13, and is in accord with Dt. 17 3 12 2-3 and Lev. 17 7 19 4 26 1, 30. The abolition of the sodomites, II K. 23 7, is in accord with Dt. 23 17 and Lev. 18 22 20 13. The abolition of the high places of Yahweh, hence the centralization of the worship at Jerusalem, II K. 23 8, 19, is in accord with Dt. 12 5-14 and Lev. 17 3-9. II K. 23 9b says that the priests of the high places received support like those in Jerusalem, according to Dt. 18 8; this is not specifically mentioned in *H* but is naturally implied in the general regulations. The abolition of the worship of Moloch, II K. 23 10, is in accord with Dt. 18 10, in which Moloch is not mentioned by name, and also with the more specific statements of Lev. 20 1-5 18 21, in which Moloch is mentioned. The observance of the Passover, II K. 23 21-23, is specially mentioned. Regulations concerning the passover are found in Dt. 16 5-6 and Lev. 23 5, the latter passage with additions from *P*. What the distinctive element was in this celebration of the passover is not stated. It is usually supposed that it consisted in the celebration being confined to Jerusalem, in accord with the centralization of worship. If this is the special feature, it appears as expressly mentioned in the regulations of *D*, but is also implied in the general regulations for the centralization in *H*. The abolition of wizards, &c., II K. 23 24, is in accord with Dt. 18 10-14 and Lev. 19 26, 31 20 6, 27.

The items given thus far correspond sufficiently with either code, perhaps somewhat more closely with *H* than with *D*.

Further, it is generally agreed that part of II K. 23 s should be read: "And he brake down the high places of the satyrs that were at the entrance of the gate of Joshua, &c." The worship of satyrs is forbidden in Lev. 17 7 but not mentioned in *D*.

Further, II K. 23 9a says that priests of the high places did not officiate at Jerusalem; this is directly contrary to the regulation of Dt. 18 6-7, which prescribes that they shall do so.

The account in II K., therefore, favors the view that the code was *H* and not *D*. It may not have been *II* entire but comprised at any rate a large part of the document known by that term.