

The Book of the Law

STUDIES IN THE DATE OF DEUTERONOMY

by

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ABBREVIATIONS

- ANET: J. B. Pritchard (ed.), *Ancient Near Eastern Texts Relating to the Old Testament*
 CB: *Cambridge Bible for Schools and Colleges*
 Code: A. C. Welch, *The Code of Deuteronomy*
 EQ: *Evangelical Quarterly*
 ET: English Translation
 EVV: English Versions
 Framework: A. C. Welch, *Deuteronomy: The Framework to the Code*
 Gottesvolk: G. von Rad, *Das Gottesvolk im Deuteronomium*
 Growth: H. H. Rowley, *The Growth of the Old Testament*
 HDB: J. Hastings, *Dictionary of the Bible*
 Hertz: J. H. Hertz, *The Pentateuch and Haftorahs, Volume V: Deuteronomy*
 ICC: *International Critical Commentary*
 JBL: *Journal of Biblical Literature*
 JTS: *Journal of Theological Studies*
 LOT: S. R. Driver, *Introduction to the Literature of the Old Testament, Ninth Edition*
 MT: Masoretic Text
 OTMS: H. H. Rowley (ed.), *The Old Testament and Modern Study*
 OTP: E. Robertson, *The Old Testament Problem*
 POT: J. Orr, *The Problem of the Old Testament*
 PTR: *Princeton Theological Review*
 RB: *Revue Biblique*
 Studies: G. von Rad, *Studies in Deuteronomy*, English translation by D. G. M. Stalker
 VT: *Vetus Testamentum*
 ZATW: *Zeitschrift für die Alttestamentliche Wissenschaft*

N.B.—When drawing attention to words or phrases which frequently occur the device has been adopted of giving the first occurrence in a footnote reference followed by a figure within brackets which indicates the number of times it occurs.

PREFACE

IN the course of preparing a commentary on Deuteronomy for the general reader, the need arose to study the different dates put forward by scholars for the composition of the book, from the time of Samuel, or before, to that of the exile, or after, together with the arguments for and against each. This led to an independent study of the evidence contained in the book itself, the results of which are presented in this volume.

The question of the origin of Deuteronomy has been described as a 'knotty problem'; and those who have studied the different solutions offered will readily agree. It is also one of fascinating interest, and of importance because of the issues which are involved.

The student will find abundant help for the understanding of the text from the commentaries of S. R. Driver and Rabbi Hertz, the latter volume being of special interest because of the commentator's Jewish background. Another useful book is *The Old Testament and Modern Studies*, edited by H. H. Rowley, which reviews the work of British and Continental scholars upon the Old Testament during the past thirty years.

The author is much indebted to Prof. E. J. Young, of Westminster Theological Seminary, U.S.A., for constant encouragement and for various helpful suggestions. His thanks are due also to his friend A. F. Walls, M.A., B.Litt., apart from whose generous and unfailing help in many ways this volume would never have reached completion.

The treatment aims at being positive and objective; some of the wider issues to which the problems involved give rise are briefly considered in an Epilogue.

These studies are put forth, not without much diffidence, in the hope that they may contribute in some degree to the better understanding of a book upon which attention has been specially concentrated in recent years.

G. T. MANLEY.

WELLHAUSEN AND AFTER

THE GRAF-WELLHAUSEN HYPOTHESIS

AT the beginning of the Christian era the Mosaic authorship of Deuteronomy, as of the whole Pentateuch, was accepted by Jews and Christians alike; and this continued to be the case, with few exceptions, until the nineteenth century.

One of the earliest of that period to offer a challenge to the traditional view was W. de Wette (1805), who adopted the hypothesis¹ that two documents could be distinguished in the Pentateuch, one of which (J) used Jehovah² as the divine name, while the other (E) used Elohim. He assigned the composition of Deuteronomy to the reign of Josiah.

The fifty years which followed witnessed a further development of the documentary theory at the hands of a series of German scholars. By them Deuteronomy was ascribed to a different author, and the E document divided into two parts, the priestly laws and some other sections being distinguished from the remainder as a separate document P. This, which at first was thought to be the earliest of the four basic documents, came in time to be regarded as the latest.

It was, however, after many changes, the revised documentary analysis, together with the associated reconstruction of Israel's religious history, as propounded by Heinrich Graf³ (1866) and Julius Wellhausen⁴ in the second half of the century which seemed

¹ This had previously been propounded by Jean Astruc (1753), but he limited it to Genesis, which he regarded as the work of Moses.

² The divine name in Hebrew is YHWH, now usually rendered in English letters as Yahweh. But the Jews, owing to an aversion from using the divine name, when reading aloud, substituted *Adonai* (LORD); and this different vocalization led to the older form *Jehovah*.

³ Especially *Die Geschichtlicher Bücher des Alten Testaments*, Leipsic, 1866.

⁴ *Die Komposition des Hexateuchs*, Berlin, 1876. For the various hypotheses proposed between de Wette and Wellhausen see E. J. Young, *Introduction to the Old Testament*, Grand Rapids, 1949, London, 1953, pp. 126-138.

to settle the date of Deuteronomy in the mind of most Hebrew scholars. Regarded at first as a heresy, it soon became the standard of orthodoxy, and so remained for more than a generation.

According to Wellhausen there were four primary documents from which the 'Hexateuch' (the five books of Moses with Joshua) was composed. Of these the two earliest were J and E, produced in the early days of the monarchy, after which followed Deuteronomy, written just before Josiah's reform in 621 BC, and finally the priestly code (P), during the exile or later. Wellhausen claimed that in the history, as he construed it, there could be seen three clearly marked stages in the evolution of the Hebrew religion and the centralization of the cult in Jerusalem. It was in the beginning a primitive nature religion, when Yahweh was worshipped at the 'high places' scattered through the land. The second stage came when the prophetic movement taught the doctrine of one God, and therefore one sanctuary, which led to Josiah's reform. But the new outlook was not firmly fixed until the third stage was reached on the return from exile, when the priests instituted a sacrificial system which became the ceremonial of the second temple.

Wellhausen maintained also that these stages were reflected in the documents J, E, D and P, and that the legislation contained in them corresponded precisely with this development, so providing a complete explanation of the contents of the law, the prophets and the history.

He called the close connection of Deuteronomy with Josiah's reform the 'fulcrum' of his theory, a fact which lends special importance to the dating of this book. As H. H. Rowley expresses it, 'the Code of Deuteronomy is . . . of vital importance in Pentateuchal criticism, since it is primarily by relation to it that the other documents are dated.'¹

From the closing years of the nineteenth century it became an accepted hypothesis, in accordance with this scheme, that the book of Deuteronomy was a product of the days of Josiah, written with the express purpose of promoting a religious reform, to include the abolition of the 'high places', or local sanctuaries, supposed to have been perfectly legitimate up to that time, and to concentrate the people's worship in Jerusalem. There were not lacking able contemporaries of Wellhausen who rejected his theory and

¹ *The Growth of the Old Testament*, London, 1950, p. 29.

controverted his arguments, such as Hengstenberg and Franz Delitzsch (in the main) in Germany, W. H. Green and R. D. Wilson in America, and James Robertson, A. H. Sayce, H. M. Wiener and James Orr in Britain. On the other hand they were accepted by many leading scholars: among such, W. Robertson Smith¹ and S. R. Driver², whilst maintaining the inspiration of Scripture, adopted their conclusions, and propagated them with zeal and ability. It was a time of scientific discovery and new ideas in many directions, when traditional views were at a discount. There was an inclusiveness in Wellhausen's scheme which gave it an appearance of solidity, and Driver did much to disarm opposition by insisting that the views which he was propounding did not 'touch either the inspiration or the authority of the Scriptures of the Old Testament'.³ Thus the main outlines of what came to be known as the Graf-Wellhausen hypothesis secured a firm hold in our British universities, which was retained well into the twentieth century.

The position then reached regarding Deuteronomy may be expressed in Wellhausen's own words: 'About the origin of Deuteronomy there is still less dispute; in all circles where appreciation of scientific results can be looked for at all, it is recognized that it was composed in the same age as that in which it was discovered, and that it was made the rule of Josiah's reformation, which took place about a generation before the destruction of Jerusalem by the Chaldaeans.'⁴ In the early part of the twentieth century the position was so far modified that Lv. xvii-xxvi came to be considered as a separate code (H) which had been incorporated in P.

Looking back upon that same period C. R. North, writing in 1951, described the position as follows:

'Thirty years ago it looked as if the problem of the Pentateuch was reaching a definitive solution. Apart from a few fundamentalists, and an occasional solitary critic like Eerdmans, the consensus of opinion was that the documents—and no one had the

¹ *The Old Testament in the Jewish Church*, First Edition, Edinburgh, 1881.

² *Introduction to the Literature of the Old Testament*, First Edition, Edinburgh, 1891.

³ *Op. cit.*, p. xv. See p. 140.

⁴ *Prolegomena to the History of Israel*, ET, Edinburgh, 1885, p. 9.

least doubt that it was a question of "documents"—were to be arranged in the order J, E, D, P, with Ezk. xl–xlviii as the middle term between D and P. Ezk. xl–xlviii and H were thought to be nearly contemporary, the priority between them being still undecided. The seventh-century date of D had been practically unchallenged ever since de Wette (1805) identified it with Josiah's law-book, and the other documents were dated in relation to it. The Graf-Wellhausen theory had triumphed and it seemed that little or nothing remained to be done.¹

SHAKEN CONFIDENCE

Those words fairly describe the state of affairs in 1921 when the 'assured results' of modern criticism were being loudly proclaimed. But even then a change was apparent, and a period of transition and uncertainty had already begun.

In 1950 H. H. Rowley, a life-long supporter of the Graf-Wellhausen theory, said regarding it, 'that it is widely rejected in whole or in part is doubtless true, but there is no view to put in its place that would not be more widely and emphatically rejected . . . The Graf-Wellhausen view is only a working hypothesis, which can be abandoned with alacrity when a more satisfying view is found, but which cannot with profit be abandoned until then.'² So moderate a statement by so eminent a scholar reveals how great a change has come about.

In his *Introduction to the Old Testament*³ A. Bentzen says that 'among the younger generation of scholars there exists a definite scepticism towards the Documentary Hypothesis', and he criticizes the methods used to uphold it. In 1952 Edward Robertson expressed his opinion as follows: 'Since its formulation nearly eighty years ago the (Graf-Wellhausen) hypothesis has been subjected to continual criticism, but although this relentless attack has tended to promote the distrust and to increase the widespread disfavour in which it is held, it is still the regnant hypothesis. . . . The repeated attacks to which it has been subjected by scholars in

¹ *The Old Testament and Modern Study*, edited by H. H. Rowley, Oxford, 1951, p. 48.

² *Growth*, p. 46.

³ ET, London, 1952, Vol. II, pp. 23f., 31, 60f.

the past and to which it is still subject, show that it does not easily cover the facts, nor solve all difficulties. . . . The Graf-Wellhausen hypothesis has served a useful purpose in stimulating criticism in many directions, but the light which it has brought is offset by the sinister shadow cast by it on the pages of the Old Testament. It is a shadow which the great majority of present-day Old Testament scholars would wish to see removed.'¹

In Scandinavia a new school of thought has arisen in which 'all the principles of the school of Wellhausen are repudiated',² and which claims to have given them their *coup de grâce*. Ivan Engnell of Uppsala, a leading scholar among them, says that the protests which have been raised by different scholars against its various aspects have 'wrought chaos within the well ordered but entirely fictitious and anachronistic construction which constitutes the Wellhausen fabric of learning'.³

We must now inquire what has happened to cause this widespread distrust of the hypothesis which once seemed so secure. When a building begins to show weakness in several places, it is well to look to its foundations. The original attractiveness of Wellhausen's views was partly due to the boldness of his attack upon the traditional position and the comparative weakness of the defence. His theory, worked out with great ingenuity and backed by wide scholarship, seemed to explain everything. It was based upon three lines of argument, the convergence of which seemed to carry conviction to those who studied them, namely the religious development, the documentary analysis, and the dating of the documents, for which the connection of Deuteronomy with Josiah's reforms afforded a pivot. Each of these pillars of the hypothesis has since been shown to be insecure, and the challenge to them has shaken the whole structure built upon them.

THE RELIGIOUS DEVELOPMENT

Wellhausen lived in the days when rationalism held the field in most Continental universities. How strong was its influence can be

¹ *OTP*, pp. 69, 78.

² These words are taken from a review by H. H. Rowley in *JTS*, XLVII, 1946, p. 212, of a book by the Swedish scholar, G. A. Danell.

³ Quoted in *OTMS*, p. 65.

seen in the words of Kuenen, 'So soon as we derive a separate part of Israel's religious life directly from God, and allow the supernatural or immediate revelation to intervene in even one single point, so long also our view of the whole continues to be incorrect.'¹

It is evident that there was no room for miracle or inspired prediction in a system which proceeded from this starting-point and carried over the rationalism of the eighteenth century into the evolutionary conceptions of the nineteenth.

Scholars like Robertson Smith and S. R. Driver were far from sharing the rationalism of the German school, but they accepted conclusions which were bound up with it, including the idea of evolutionary progress so popular in the late Victorian period.

The times have changed. Two world wars have shattered the belief that mankind is moving steadily upward to Utopia; and with this change the 'reconstruction of the history of Israel's religion in terms of a simple unilinear development is proving more and more untenable'.²

Scholars are no longer sure that the development was always upward, nor that it was inevitably gradual. Equally great changes have been brought about in the field of archaeological discovery, which was in its infancy at the beginning of the present century. When Wellhausen wrote in 1876 the cultural background of Palestine in the second millennium BC was a blank sheet. The Amarna tablets had not then been discovered, and the earliest known writing in that region was the Moabite stone of the eighth century BC. This made it possible for him to assume that the Israelites entering Palestine under Joshua could not have possessed a written law. It is now known that writing was then fairly common, and that in more scripts and more languages than one.³

As regards the Pentateuch itself, 'new discoveries continue to confirm the historical accuracy, or the literary antiquity of detail after detail in it.'⁴ Ritual practices which Wellhausen considered

¹ *Prophets and Prophecy in Israel*, ET, London, 1877, p. 584.

² A. R. Johnson, *OTMS*, p. 181.

³ See W. F. Albright, *The Archaeology of Palestine* (English Edition, 1949), pp. 181-194. The Amarna tablets were found in 1887 and soon made available, but no use of them was made in the later editions of Wellhausen's work.

⁴ *Ibid.*, p. 224. See also H. H. Rowley, *OTMS*, p. xxi.

as a mark of the post-exilic period are known today to have been practised at the time of the Exodus, and 'it is now becoming a truism that the cultural background of the Book of the Covenant . . . must go back substantially to the Mosaic Age.'¹

It is therefore not surprising that many should now regard Wellhausen's theory of the development of Hebrew religion as untenable.

THE LITERARY ANALYSIS

The documentary analysis still has its defenders, but the wiser of them speak with bated breath, so many are the vicissitudes through which it has passed. From the beginning it has been subject to attack, both as to its principles and their application.

It has always been recognized that the author (or authors) of the Pentateuch had access to written sources; indeed some of these are quoted, e.g. 'the book of the wars of the LORD' (Nu. xxi. 14), and the itinerary of Nu. xxxiii which 'Moses wrote'. Many scholars have thought also that the genealogies in Genesis existed in writing before the book as a whole was composed. But this is quite different from the hypothesis of four independent documents J, E, D and P, each with its own style, vocabulary and outlook, from which the Pentateuch was compounded. For the peculiarity of this hypothesis is, not merely that these documents were used as a basis, but that extracts from them were pieced together, so that each section and paragraph, or even sentence, preserved still the original style and texture, by means of which it could be recognized and distinguished.²

From the very beginning the validity of the analysis, however plausibly arranged, was the subject of constant attack. As early as 1893 A. Klostermann³ criticized the use of the divine names as being an unsatisfactory evidence of different documentary sources, and he was followed by B. D. Eerdmans of Leyden, who rejected *in toto* the analysis by means of stylistic criteria.⁴

¹ W. F. Albright, *OTMS*, p. 39.

² See Volz and Rudolph quoted below, p. 16. A. Bentzen says 'I think we must stop speaking of documents' (*Introduction to the Old Testament*, Copenhagen, 1952, II, p. 31).

³ *Das Pentateuch*, Leipzig, 1893.

⁴ *Alt-testamentliche Studien*, 1908-14. Eerdmans' own idea of division, into monotheistic and polytheistic sources, fared no better.

A series of scholars threw discredit upon the system by applying similar tests to the Koran (R. D. Wilson)¹ and to English authors (Allis)², and showing how fallacious were the results. Grave suspicion, they argued, must attach to a method which failed conspicuously in cases of known authorship. The analysis became the subject of criticisms from many sides. In 1912 two Continental scholars, J. Dahse³ in Germany and A. Troelstra⁴ in Holland, launched a fresh attack on the division between J and E through a re-examination of the use of the divine names, and showed how little reliance can be placed upon this criterion for effecting an analysis. Dahse weakened his case by relying too much upon the LXX version, and J. Skinner replied (*The Divine Names in Genesis*, 1914) justifying the general validity of the Massoretic text.⁵ But apart from this, their other arguments remained good.

In 1924 Max Löhr published *Der Priesterkodex in der Genesis*, in which he set out to prove that belief in an independent document P was an error. He expressed his agreement with the objections raised by Eerdmans, and added others of his own. In 1930 S. Mowinckel⁶ denied that E was in any sense an 'author'. In 1934 F. Dornseiff⁷ claimed that the Pentateuch was the work of a single author in the pre-prophetic period. About the same time Volz and Rudolph⁸ examined the E passages in Genesis, and showed that they could all be explained without the assumption of a separate document; they denied also the existence of a separate P narrative in that book.

They said that the supposed 'doublets' were either created by the analysis, or else were the natural result when the spoken material, which in Hebrew abounds in reiteration, was transmitted in writing. The existence of two, or three, independent narratives, so closely parallel in detail, is improbable. The supply

¹ 'The use of "God" and "Lord" in the Koran', *PTR*, xvii, 1919, pp. 644-650; xix, 1921, pp. 393-433.

² *The Five Books of Moses*, Philadelphia, 1943, pp. 68ff.

³ *Text-Kritische Materialien zur Hexateuchfrage*, Giessen, 1912.

⁴ *The Name of God in the Pentateuch*, ET, London, 1912.

⁵ Nevertheless, I. Engnell gives Dahse his support (see *OTMS*, p. 79). See also Chapter III below.

⁶ *ZATW*, XLVIII, 1930, pp. 233-271.

⁷ *ZATW*, 1934, p. 57.

⁸ *Der Elohist als Erzähler*, Giessen, 1933.

of each 'document' with a 'treasury of characteristics . . . cannot be taken seriously', and the splitting up of verses to make them fit in with the supposed style of each document is a mistake. The analysis destroys the beauty and the religious feeling of the original.¹ In 1938 Rudolph followed with *Der Elohist von Exodus bis Josua*, in which he denied the existence of E altogether.² Von Rad sits lightly to the idea of documents. J was the real collection of the narrative which runs through the Hexateuch; what is due to E and P are additions; Deuteronomy, whilst reaching its final form after 701 BC, contains much very old material, some in its original form.³

The newer Scandinavian school, M. Noth,⁴ J. Pedersen, building on the work of S. Mowinckel and others, is more radical.⁵ I. Engnell not only rejects the documentary theory but declares it to be false in principle, the rules of Hebrew grammar and syntax being violated in its support. The emendations, and hypothetical redactions required to prove it, are but an argument in a circle.⁶

The Uppsala scholars divide the law and the history into two parts, a Tetrateuch, Genesis—Numbers ('P-work'), and the history, Deuteronomy—2 Kings ('D-work'). They recognize that much of this existed in writing before the exile; some may be even pre-Mosaic (e.g. Gn. v. 1ff.), whilst much was transmitted orally; in its present form it must be post-exilic; but a Deuteronomic trend can be observed as early as Jos. xxiv.

THE DATING OF THE DOCUMENTS

The third support of the theory, the sequence and dating of the documents, has also proved insecure. At the very beginning Wellhausen's order J, E, D, P was challenged; A. Dillmann, for example, placed P before D.⁷

¹ *Op. cit.*, pp. 1-14.

² F. V. Winnett, *The Mosaic Tradition*, Toronto, 1949, concurs in this view.

³ *Das Formgeschichtliche Problem des Hexateuchs*, 1938; *Studies*, 1953, p. 23.

⁴ *Ueberlieferungsgeschichtliche Studien*, 1943.

⁵ G. Widengren thinks the traditions may have been committed to writing early. *Literary and Psychological Aspects of the Hebrew Prophets*, Uppsala, 1948, pp. 121f.

⁶ *OTMS*, pp. 65, 66.

⁷ See E. J. Young, *An Introduction to the Old Testament*, pp. 132-140.

What is of importance for our present purpose is Wellhausen's dating of Deuteronomy in 621 BC. There are still some, though a diminishing number, who adhere to this date. R. H. Pfeiffer,¹ for example, adopts it for his 'first edition' of Deuteronomy, but the majority look for a date either earlier or later.²

a. Advocates of a post-exilic date for Deuteronomy

A number of scholars maintain a post-exilic date for Deuteronomy, some asserting that H was the law-book found by Hilkiyah,³ and some holding that the account of Josiah's reform is not historically true.

In 1920 R. H. Kennett⁴ proposed a date in the time of Haggai and Zechariah or somewhat earlier, giving several reasons why it could not have been written under either Hezekiah or Manasseh. To gather 'all Israel' together annually to one sanctuary would, he said, have been quite impracticable in those days; any endeavour to carry out the laws of Dt. xiii would have meant civil war, the laws presupposing considerable bodies of idolaters interspersed among the Israelites; chapter xvii could not have been written when a king was on the throne, but only when 'there is a probability that one would be elected' (p. 6), and when it was necessary to insist that he should be an Israelite. The motives for Josiah's reform had nothing to do with the centralization of worship, but he wished to put down the prostitution and other abuses so vigorously denounced by the prophets Hosea and Jeremiah.

In 1922 G. Hölscher⁵ also set out to prove that the book of Deuteronomy had no relationship with the law-book of Josiah but rather belonged to a time at least a hundred years later. He insisted that its idealistic character was foreign to the spirit of the later monarchy, and therefore ranked it with Is. xl-lxvi as belonging to the period which looked forward to the building up of a new Israel after the return from exile.

¹ *Introduction to the Old Testament*, New York, 1941, pp. 182ff.

² This tendency was remarked upon long since by S. A. Cook, 'Some Tendencies in Old Testament Criticism', *JTS*, xxvi, 1925, pp. 156-173.

³ So G. R. Berry, 'The Code found in the Temple', *JBL*, xxxix, 1920, pp. 44-57.

⁴ *Deuteronomy and the Decalogue*, Cambridge, 1920.

⁵ 'Komposition und Ursprung des Deuteronomiums', *ZATW*, xl, 1922, pp. 161-285.

Noth, Pedersen and the Uppsala scholars teach that the D-work (Dtr) only reached its 'final form' about 400 BC, although much of it existed in written form long before. Pedersen argues that the command to exterminate the Canaanites cannot be placed within the monarchical period. Even 'the prophets did not demand that the Israelites should be the sole inhabitants of the country'.¹ Considerable parts of the legislation are incompatible with any period under the monarchy. For instance, Dt. xvii requires that 'the king is to be an Israelite, a demand which could not possibly be made so long as the Davidic dynasty existed, for then the idea of a foreign ruler would be absurd'.²

b. Earlier dates proposed

Another series of writers has urged the claim of a date earlier than 621 BC. H. Ewald put it back into the reign of Manasseh.³ Westphal was certain 'that Deuteronomy alone could inspire a reformation like that conceived and outlined by Hezekiah'.⁴ The early days of Isaiah's preaching, with the political misfortunes at that time and their prophetic interpretation, would make that 'a peculiarly appropriate epoch for the composition of a book like Deuteronomy'.⁵ In 1914 J. Hempel⁶ placed the author near the end of Hezekiah's reign, and suggested that he used as a basis an old temple law-book going back to the time of Solomon, to which he added many of the social precepts and which he then provided with a preface.

In 1923 Th. Oestreicher⁷ contended for a still earlier date, and rejected the idea that either Josiah's reform or the book of Deuteronomy demanded the centralization of worship in

¹ *Israel*, III-IV, p. 96. A somewhat similar view is set forth by J. N. Schofield, 'The significance of the prophets for the dating of Deuteronomy', in *Studies in History and Religion*, edited by E. A. Payne, London, 1942, and in 'All Israel in the Deuteronomistic writers' in *Essays and Studies, presented to S. A. Cook*, edited by D. Winton Thomas, London, 1950.

² *Israel*, III-IV, Copenhagen, 1940, p. 585. The reader will observe how many of these arguments are equally applicable to support a pre-monarchic date.

³ *History of Israel*, ET, Third Edition, London, 1876, Vol. 1, p. 127.

⁴ *The Law and the Prophets*, ET, London, 1910, p. 304.

⁵ *Ibid.*, p. 297.

⁶ *Die Schichten des Deuteronomiums*, 1914.

⁷ *Das Deuteronomiums Grundgesetz*, Gütersloh, 1923.

Jerusalem. His views received general endorsement from W. Staerk in *Das Problem des Deuteronomiums* (1924).

The work of A. C. Welch¹ is well known in this country. He asserted that, apart from Dt. xii. 1-5 (which he regarded as a later insertion), nothing required the restriction of sacrifice to only one altar. He maintained that the cultic laws of chapters xii, xiv, xvi and xxvi point, not to the reign of Josiah, but to the primitive conditions of the age of settlement, or at least to an earlier time than that of Amos. In Deuteronomy, he said, the functions of prophet and priest, of the judges and other civil officers, were not as yet fully specialized; the rules for the cities of refuge belong to the period of emergence from nomadic to settled life; and everything points to a period before the writing prophets.

These remarks apply to the code itself; Welch thought it probable that the framework,² chapters i-xi, xxix-xxxiv, was of later origin.

Gerhard von Rad has made a special study of Deuteronomy in *Das Gottesvolk in Deuteronomium* (1929) and *Deuteronomium Studien* (1947).³ He distinguishes between old laws and interpretative comments, the former, and in particular the laws of warfare, going back to the original gathering of the tribes round Shechem. He is very doubtful about the 'centralization theory', which rests on a very slender basis; the command in Dt. xxvii to set up an altar on Mount Ebal raises a barrier (*sperrt sich*) against it,⁴ and the various references to 'the place which the Lord shall choose' might easily be later additions. He dismisses the prophetic origin of the book as not worthy of serious consideration,⁵ and thinks it may have originated among the 'country Levites'. It might have been completed soon after 701 BC, the greater part of it being much older.

c. Deuteronomy pre-monarchic

E. Robertson⁶ regards the Pentateuch as a compilation of Mosaic traditions, handed down at various centres, 'by scholarly scribes

¹ *The Code of Deuteronomy*, London, 1924.

² *Deuteronomy: The Framework to the Code*, London, 1932.

³ *ET Studies in Deuteronomy*, London, 1953.

⁴ See p. 134. below. ⁵ *Studies*, p. 66. ⁶ *OTP*, Manchester, 1950.

working at the instigation and under the direction of Samuel's ecclesiastical councils';¹ Deuteronomy may be largely the work of Samuel himself; it contains a corpus of legislation enclosed in a Haggadic framework of homiletic interpretation. He maintains that the address to 'all Israel' would not be appropriate to any period of the monarchy later than Solomon, whereas the appeals for unity and brotherhood and the collection of the legislation would be specially appropriate to the foundation of the monarchy.

Dr. R. Brinker,² a pupil of Robertson, adopts a similar position. He rejects absolutely the older theory of religious development and refutes the arguments for the Josianic date of Deuteronomy.³ For him the guiding principle of Deuteronomy is not the centralization of worship, but the protection of the people from the surrounding Canaanite idolatry. The legislation contains a Mosaic nucleus, supplemented by the decisions of priests and judges made at the different sanctuaries, of which Shechem has a special connection with Deuteronomy. Both these scholars quote the Samaritan Pentateuch and other Samaritan writings in support of their views.

In spite of this flux of opinion Driver's *Introduction* maintains its position as a standard commentary, and it is probably true that the view most generally held in the British universities is that Deuteronomy belongs to the seventh century BC. No doubt many individual lecturers express doubt or disagreement, and perhaps most of them would agree with C. R. North that 'we must be less confident about our dating than was once customary'.⁴

Before closing this review mention should be made of some of the scholars who have defended the Mosaic authorship of Deuteronomy. In 1906 J. Orr published his *Problem of the Old Testament* which is still worth consulting. In 1911 a less known but scholarly work appeared, *The Problem of Deuteronomy*, by J. S. Griffiths, which provided a careful examination of Wellhausen's views. Another scholarly critic of Wellhausen was H. M. Wiener, who wrote *Pentateuchal Studies* (1912) and *The Main Problem of Deuteronomy* (1920). The Mosaic authorship is also defended in two

¹ *OTP*, p. 42.

² *The Influence of Sanctuaries in Early Israel*, Manchester, 1946.

³ *Op. cit.*, pp. 189-212.

⁴ *OTMS*, p. 82.

Jewish commentaries, that of Rabbi J. H. Hertz¹ and J. Reider,² and in that of the Dutch scholar J. Ridderbos.³ In *The Five Books of Moses* (1943) O. T. Allis criticized the development theory and the principles of the literary analysis. E. J. Young's *Introduction to the Old Testament* (1949) includes a valuable review of the Literary Criticism of the Pentateuch (pp. 109-153).

A POSITIVE APPROACH

The works which we have passed under review demonstrate that the assaults upon the Graf-Wellhausen hypothesis have been made by scholars ranging from the most conservative to the most radical. There is no common consent as to what should be put in its place; the dating of Deuteronomy, for example, may be anything between the lifetime of Moses and the return from exile. On one thing they are agreed, namely that the theory which has so long held the field is now giving way, its assumptions can no longer be taken for granted, and its methods can be accepted only with the greatest caution.

All this is largely negative; but it opens the way to a positive approach. This we shall endeavour to pursue, letting the book so far as possible speak for itself.

¹ *The Pentateuch and Haftorahs, with Commentary*, London, 1936.

² *Deuteronomy with Commentary*, Philadelphia, 1937.

³ *Deuteronomium*, Kampen, 1950-51.

CHAPTER II

STRUCTURE AND STYLE

STRUCTURE AND CONTENTS

THE Book of Deuteronomy takes the form of discourses by Moses interspersed with narrative portions and introductory sentences. It may be divided into three parts:¹

1. The first part is an address by Moses (i. 6-iv. 40), composed of reminiscences, with a preface (i. 1-5) stating when and where the words were spoken, and followed by a brief statement of the choice of three cities as cities of refuge (iv. 41-43).

2. The second and main discourse (chapters v-xxvi) contains the Decalogue and exhortations based upon it, with 'judgments and statutes' following (xii. 1). A prefatory statement (iv. 44-49) describes the place and occasion.

3. The remainder of the book (xxvii-xxxiv) contains further narratives and discourses ending with the writing of the law, the commissioning of Joshua, the teaching of the 'Song', Moses' 'Blessing', and an epilogue recording his death. The Song (xxxii. 1-43) and the Blessing (xxxiii. 2-end) are poetry, the remainder prose. The whole is thus bound together by a thread of narrative, with brief introductions to the different speeches or sections. These have been looked upon as implying 'successive amplifications of the book';² but there is nothing to justify the word 'successive', and the similarity of form indicates rather that they come from the same hand.³

THE ORIGINAL DEUTERONOMY

In discussing the date it is important to know what constituted the original Deuteronomy, i.e. the portion which first assumed a written form. Wellhausen would allow this to consist only of chapters xii-xxvi; and whilst most scholars would add to this,

¹ See also pp. 150-153 below.

² R. H. Kennett, *Deuteronomy and the Decalogue*, p. 2.

³ See further in Chapter xi.

all include it as part.¹ For this reason the legislative portion assumes a special importance. Steuernagel attempted an analysis by distinguishing the parts where the second person singular is used, which he counted original, from those which employ the plural. There is reason to believe that certain laws using the singular form do go back to a remote past (see Chapter VI), but the alternations between singular and plural are so rapid, and have so many parallels in writings which certainly have only one author, that few would regard this alone as a satisfactory guide to what the book originally contained.²

It is sufficient for our purpose to take note of these different views and to refer to them as occasion requires.

STYLE

'The Book of Deuteronomy is written in easy flowing Hebrew prose of great charm and beauty' with 'rolling, undulating sentences of long range and majestic sweep'.³ It is essentially oratorical and hortatory, as befits its subject. This tone equally pervades the legislation which takes the form of direct address punctuated by personal appeal. This has led G. von Rad to believe that much at least of the law was delivered orally before it was written down. 'The laws are not codified but interpreted and preached'; and sometimes, as in xv. 12-18, take the 'form of an impressive address quite different from juristic composition'.⁴ There are many examples of pictorial imagery.⁵

At one time it was contended that the undoubtedly archaic words and forms⁶ found in Deuteronomy were a proof of its

¹ Dillmann and Kuenen argued for the unity and originality of chapters v-xxvi, Graf and Kleinert for i-xxvi. S. R. Driver looked upon i-xxvi, xxviii, with parts of xxix-xxx, as original; and R. H. Pfeiffer's 'first edition' consists of iv. 44-viii. 20, x. 12-xi. 25, xii-xxvi. xxviii. 1-24, 43-46. Cf. Bentzen, *Introduction*, II, p. 40.

² The use of the singular and plural forms of address will be found fully discussed by G. A. Smith in *Deuteronomy*, CB, pp. lxxiii-lxxxviii. He concludes that to trace two editions on this basis is 'most precarious, if not utterly impossible'. See also Bentzen, *op. cit.*, II, p. 41.

³ J. Reider, *op. cit.*, p. xxxii. ⁴ *Studien*, pp. 9-11. In ET, p. 16.

⁵ E.g. i. 31, 44, viii. 5, xvii. 20, xxviii. 13, 29, 44, 49, xxix. 18.

⁶ For some of these see Driver, *ICC*, *Deuteronomy*, 1902, pp. lxxxviii ff., Reider, *op. cit.*, p. xxxii.

antiquity, and there are still some who hold that they 'militate against a late date'.¹ From the other side it was argued that the presence of Aramaisms proved a late date; but recent archaeological discoveries of the early influence of Aramaic in Palestine have deprived this argument of its force.² Weight is attached by some to the fact that certain prose passages in Jeremiah approximate to the style of Deuteronomy, but this is largely attributable to the fact that the subject matter in them is similar, and that both are characterized by earnest exhortation and personal appeal.³ In fact, no safe inference regarding age can be based upon such considerations, except it be that the book certainly contains some very old material, a conclusion necessitated also from other points of view, and generally admitted.⁴

That old forms should exist side by side with modern ones is only what might be expected when scribes copied old MSS; and something of this sort may be indicated when the scribes in Ezra's day read the law and 'gave the sense' (Ne. viii. 8).

The fact that chapters xxxii, xxxiii are poetry, as well as the difference of subject, accounts for their difference from the prose portions. In like manner chapter xxxiv is in narrative style (see below, Chapter XI), which naturally differs from the hortatory style of the discourse, or the terse quality of the ancient law-forms. Such differences need not be attributed to change of authorship. There is a marked unity of style which runs through the discourses, which 'are all in the same style and spirit'.⁵ Reider⁶ goes so far as to speak of the whole book as 'a work that evidently comes from a single hand and is the offspring of a single brain'.

¹ Robertson, *OTP*, p. 45. See also Brinker, *op. cit.*, pp. 187 ff.

² Aramaic was understood in Jerusalem in Hezekiah's time (2 Ki. xviii. 26), a fact confirmed by recently discovered papyri; and there is evidence of its influence in the Ras Shamra tablets. See further, A. M. Honeyman, *OTMS*, p. 278.

³ J. N. Schofield says that the style of Deuteronomy shows the influence of Jeremiah; H. H. Rowley attributes such likeness as exists to Jeremiah's knowledge of Deuteronomy. See below p. 140; also John Bright, *JBL*, 1951, pp. 15-29.

⁴ On the early development of Biblical Hebrew see W. F. Albright, *Archaeology*, p. 181.

⁵ Pedersen (*Israel*, III-IV, p. 581). See also Driver, *ICC*, pp. lxxv ff.

⁶ *Op. cit.*, p. xxxii.

THE STYLE OF DEUTERONOMY COMPARED WITH J, E AND P¹

In support of the documentary hypothesis it is stated that the styles of JE, D and P can be easily distinguished, and that the distinctive style of Deuteronomy proves it to be of different authorship from the remainder of the Pentateuch. Before this is taken for granted, it is well to examine the basis upon which it rests.

So far as the style of Deuteronomy is concerned, if it be agreed that, say, chapters v-xxvi are by one author, we have a determinate piece of writing the style of which is in question, and there is little room for controversy. It is different when dealing with only parts of an existing book or books, for then the analysis depends as much upon the style as the style depends upon the analysis. Both are indeterminate until one or other is arbitrarily fixed.²

For example, if it be assumed (and it can only be an assumption) that all genealogies are to be assigned to P because of their formal style, it is no wonder that none are found in JE; although JE might well have known some at least of them. Or, to take a second instance, we are told that 'P alone of the Pentateuchal writers reckons by months and days',³ and therefore Dt. i. 3 is a later insertion. But why should D, or whoever was the author of i. 1-5, not be allowed to know something of months and days? What about the months and days in Dt. xvi. 1-11? Nor does verse 3 look like an insertion, for a gap is left if it be omitted. The whole process is arbitrary and the result artificial. In addition to this, style depends not only upon the author, but upon his subject and upon the occasion of his speech or writing. Two examples will suffice. Lewis Carroll's mathematical works could not have been written in the same style as his *Alice in Wonderland*; and a statesman's statistical records would of necessity be in a style widely different from his persuasive oratory. In similar fashion there is no reason why one and the same person might not write, or cause

¹ Without acknowledging the validity of the documentary analysis, the symbols are used to denote the 'documents' as they appear, for example, in Driver, *LOT*, JE being used for the combination of J and E.

² It is especially this feature, resting upon an argument in a circle, which made Volz and Rudolph describe the analysis as a 'product of the study'. *Der Elohist*, pp. 1-5. ³ Driver, *ICC*, on Dt. i. 3.

to be written, the list of stages in the wilderness journey found in Nu. xxxiii, and yet be able to address the assembled people in the flowing periods which we read in Deuteronomy.

Inferences from variations of style are therefore precarious, even when advanced by great Hebrew scholars.¹ Indeed, Professor Driver himself makes many reservations. For instance, he observes that 'in laws touching common ground (whether with H or D) identical terms appear'.² How close the resemblance can be the reader can see for himself by comparing Lv. xi (P or H) with Dt. xiv, or the framework and style of Lv. xvii and xxvi with those of Dt. xii and xxviii, or by observing the 'Deuteronomic' phrases in Lv. xiv. 34, xix. 23, xx. 24, xxiii. 10, xxv. 18.³ Comparing the style of D with that of JE, Driver also points out that of seventy words and phrases which he selects as characteristic of the style of Deuteronomy, no fewer than sixteen are found also in JE, from which he thinks D may have derived them.⁴ He further states that where JE 'adopts a parenetic tone', of which he gives several instances, the styles of JE and D approximate to each other.⁵ To these must be added a fair number of other passages⁶ in JE which are so similar in style to Deuteronomy as to be reckoned by many scholars as 'Deuteronomic' additions to the original.

To sum up, whilst the style of Deuteronomy is distinguished by its oratorical power and characteristic phrases, the same style can to some extent be perceived in some of the earlier speeches of Moses recorded in the Pentateuch.

Deductions from style are proverbially open to subjective influences, and we proceed now to consider a test of a different character.

CHARACTERISTIC PHRASES

When G. von Rad sought a basis for his investigation into the meaning and purpose of Deuteronomy, he dismissed the connec-

¹ See Orr, *POT*, 1906, pp. 253ff., 511f.

² *ICC*, p. lxxxv.

³ See further E. Robertson, *OTP*, p. 43.

⁴ *ICC*, p. lxxviii.

⁵ *ICC*, p. lxxvii. Pedersen (*Israel*, III-IV, p. 396) calls one of these (Ex. xiii. 3-16) 'a speech of Moses which is highly reminiscent of the style and diction of Deuteronomy'.

⁶ Examples are Ex. iii. 15, ix. 19-21, x. 2, 16, xii. 21-27, xv. 1-9, xxii. 21b-24, 27, xxiii. 9, 11b, 12b, xxxii. 15, xxxiii. 16-30; Nu. xxi. 23-25. See also W. O. E. Oesterley and T. H. Robinson, *An Introduction to the Books of the Old Testament*, 1934, pp. 47f.

tion with Josiah's reform or with the currents of prophetic thought as ill-founded; but he found a satisfactory starting-point in the consideration of those phrases, of which he made a list of forty-three,¹ which by the frequency of their recurrence gave to the book a decidedly individual form and character. 'The most frequent phrases,' he writes, 'shew the most important thoughts.'² S. R. Driver says that by their repetition they 'give a distinctive colouring to every part of the work.'³

We cannot do better than follow this lead and consider these expressions under the following heads: (a) Memories of the past; (b) Yahweh's covenant; (c) Entry into the land; (d) National unity; (e) The 'place' and the 'name'; (f) Sin and cleansing; and (g) Blessing in the land.

a. Memories of the past

1. (5) 'The house of bondage.'⁴
2. (33) 'Remember that thou wast a bondman in the land of Egypt.'⁵
3. (56) 'Redeemed.'⁶
4. (12) 'Through a mighty hand and by an outstretched arm.'⁷

The first phrase goes back to the time of the first commandment (Ex. xx. 2). The first and third are combined in Dt. xiii. 5, and are found with slight variation in Mi. vi. 4.

Of the two parts which make up the fourth, the former occurs in Ex. vi. 1 (JE),⁸ and the latter in Ex. vi. 6 (P). They are found also applied to battle in old Egyptian texts.⁹ Of these twenty-two references exactly half are found in legislation. The people's memory of their servitude and deliverance is made a plea for the punishment of apostasy (xiii. 5), showing liberality (xv. 15),

¹ All but three are included in Driver's list of seventy (ICC, pp. lxxviii ff.), which we shall consider along with them. Driver's numbering of them is prefixed in brackets.

² *Gottesvolk*, pp. 1-3.

³ ICC, p. lxxvii.

⁴ v. 6 (6). [N.B. The reference given in this and similar footnotes is to the place where the phrase first occurs. The figure in brackets gives the number of occurrences.]

⁵ v. 15 (5).

⁶ vii. 8 (6).

⁷ iv. 34 (5).

⁸ See p. 26, n. 1.

⁹ A. S. Yahuda, *The Language of the Pentateuch in its Relation to the Egyptian*, London, 1933, p. 66.

seeking divine pardon (xxi. 8), and showing clemency (xxiv. 18, 22).

Allied with these are two others in Driver's list,¹ (59) 'which thine eyes have seen' (iv. 9), and (60) 'thine eyes are those which have seen' (iii. 21). We may add the striking words in Dt. v. 2, 3 '... a covenant with us in Horeb. The Lord made not this covenant with our fathers, but with us, even us, who are all of us here alive this day.'

These repeated appeals to the experience of those addressed, when taken together, show that the writer conceives of Moses as addressing his contemporaries, and not the degenerate Israel of a later age.

b. Yahweh's covenant

1. (1b) 'Love' (God as subject).²
2. (1a) 'Love' (man as subject).³
3. (28) 'Cleave unto him.'⁴
4. (51) 'With all thy heart and soul.'⁵
5. (45) 'Fear him.'⁶
6. (62) 'Beware lest thou forget.'⁷
7. 'Blot out the name.'⁸
8. (2) 'Other gods.'⁹
9. (39) 'Which ye (thou, they) have not known.'¹⁰

We may add from Driver's list as relevant to the covenant relationship, (15) 'Jehovah thy God' (i. 6), (16) 'Jehovah the God of thy fathers' (i. 11), (14) 'to hearken to his voice' (iv. 30), (29) 'as Jehovah hath spoken (promised)' (vi. 19), (31) 'walk in his ways' (viii. 6), and (48, 49) 'do that which is right (evil) in his eyes' (xii. 25, iv. 25).

The bearing of these phrases upon the date becomes more evident by the addition of two others from Driver's list, namely (8) 'covenant' and (69) 'out of the midst of the fire'.

On the positive side we discern a close connection with the

¹ Only the first occurrence of the words is given in each case.

² iv. 37 (5).

³ v. 10 (12).

⁴ iv. 4 (5).

⁵ iv. 29 (9).

⁶ iv. 10 (13).

⁷ vi. 12 (4). See also iv. 9, 23, ix. 7, xxv. 19.

⁸ ix. 14, xxv. 19, xxix. 20; cf. vii. 24, xii. 3.

⁹ v. 7 (13).

¹⁰ xi. 28 (7).

covenant in Horeb,¹ round which most of these phrases group themselves. This is treated as an experience within living memory, where Yahweh chose Israel as His people, and they took Him as their God.

On the negative side they aim at protecting the Israelite community against Canaanite influence, which Pedersen says is 'the main object of the book'.² This is presented as a future danger, and not as in Hosea where the people are already entangled with many 'lovers' (Ho. ii. 5-8). Deuteronomy speaks of 'other gods . . . which thou hast not known'³ (xiii. 2, 3), even of 'new gods that came up of late' (xxxii. 17, RV).

c. Entry into the land

1. (13) 'The Lord swear unto thy fathers.'⁴
2. (4) 'Giveth thee.'⁵
3. (4) 'Inheritance' (*nah^alâ*).⁶
4. (4, 22, 46) 'To possess' (*yāraš*).⁷
5. (52) 'Deliver up' (*nāthan*).⁸
6. (38) 'A good land.'⁹
7. 'Flowing with milk and honey.'¹⁰

The first thing to notice is the number and the uniform distribution of these expressions. There are thirty-four in chapters i-iv, twenty-nine in chapters v-xi, forty-six in chapters xii-xxvi, eighteen in chapters xxvii-xxxii and one in chapter xxxiv. They permeate the legislation and penetrate into those sections of it which are generally reckoned the oldest, for instance, the liturgical formulae of chapter xxvi.

Their connection with the history is too close and subtle to be the result of accident or of artifice. There is no sufficient reason to doubt that Moses knew of a promise made to Abraham, Isaac and Jacob (Gn. xxii. 16, xxvi. 3, xxviii. 13, JE) and to 'their seed after them' (Dt. i. 8; Gn. xvii. 7, P).

¹ This is the reference in fifteen occurrences of the word 'covenant'; in three others it refers to the covenant with the fathers, and once to the covenant 'in the land of Moab'.

² *Israel*, I-II, p. 27. See pp. 100, 120 below.

³ This expression is absent from the eighth-century prophets, but reappears in Je. vii. 9.

⁴ i. 8 (27). ⁵ i. 20 (39). ⁶ iv. 21 (10). ⁷ i. 8 (33).

⁸ i. 8 (11). ⁹ i. 25 (10). ¹⁰ vi. 3 (6).

In the account of Moses' calling, which may well have come from Moses himself,¹ we read of 'the Lord God of your fathers, the God of Abraham, of Isaac, and of Jacob' (Ex. iii. 16), and of 'a land . . . flowing with milk and honey'² (Ex. iii. 8, 17, JE); and, soon after, the promise takes the form 'I will give it you for an heritage' (Ex. vi. 8, P). If the story in Exodus be true, their recurrence in Deuteronomy is significant.

In connection with the second of these phrases, Driver's comment on i. 20 deserves attention. He translates 'which Jehovah our God is giving to us' and adds, 'i.e. is in the course of giving us (viz. at the present moment)'. Other phrases marking notes of time occur in his list. First, (9) 'which I am commanding thee this day' (iv. 40) comes three times in the legislation (xiii. 18, xv. 5, xix. 9), where it can only be interpreted of the time when the commands were first issued (cf. xxvi. 16, 18). Again, what he calls 'a favourite Deuteronomic thought' is (40) 'as at this day' (ii. 30). A third phrase, (32) 'who shall be in those days', only in the legislation (xvii. 9, xix. 17, xxvi. 3), makes the laws appear to be intended for a time which has not yet arrived.

When we add to the above the frequent references (including xii. 10) to the crossing of the Jordan the emphasis on the connection of the legislation with the days of the settlement is not inconsiderable. G. von Rad thinks that the traditions of the wanderings and entry into the land existed in written form 'at an early date'.³

d. National unity

1. (47) 'All Israel.'⁴
2. (66) 'Hear, O Israel.'⁵
3. (7b) 'A holy people.'⁶
4. (7a) 'A peculiar people.'⁷
5. 'Brother(s)'.⁸
6. (27) 'The stranger, the fatherless and the widow.'⁹

¹ See p. 172.

² 'Flowing with milk and honey' is a nomad's description of plenty; 'corn and wine and oil' (xi. 14) were blessings for the future.

³ See Bentzen, *Introduction*, II, p. 74.

⁴ i. 1 (12). ⁵ v. 1 (5). See also iv. 1, vi. 3. ⁶ vii. 6 (5).

⁷ vii. 6 (3). ⁸ i. 16 (28). ⁹ x. 18 (10).

Driver adds (6) 'thy gates' (xii. 12). It comes twenty-one times in chapters xii-xxvi, and four times afterwards. The consistent address to 'all Israel' assumes the unity of the nation; the people is addressed as a whole.¹ E. Robertson considers this fact alone as decisive against the origin of the book in the period of the divided kingdom, for 'only in respect of a united land could the phrase "all Israel" have any real significance'.² M. Noth says that the 'Israel' of the laws is that of the time of the Judges.³

We are told in 1 Sa. iii. 20, iv. 1 that Samuel was recognized in 'all Israel' as a prophet, and in 2 Sa. viii. 15 that David reigned over 'all Israel'. After the disruption the expression is employed in 1 Ki. xv. 27 to the northern tribes.

The advocates of a post-exilic date for Deuteronomy have also pointed to the use of this phrase as excluding the hypothesis that Deuteronomy could have originated in the seventh century.⁴ The sentence 'All Israel shall hear, and fear' is added to the penalty of stoning in xiii. 11, xxi. 21, both laws being undoubtedly of ancient origin.

A. Lods has observed an incipient sense of unity in Deborah's song,⁵ where Israel (Jdg. v. 2, 7, 8, 9, 11) stands for the sum total of all the tribes. They have a consciousness of unity, though not yet united, and we see 'this intense national feeling was closely linked with the belief in Jahwe'. This is due, this writer says, to the work of Moses in the creation of a people by the founding of a national religion. These words apply with equal force to the phrases we are considering. Where the 'tribes' are mentioned in Deuteronomy,⁶ they are separate entities, but included in one whole; there is nothing to indicate a breach between north and south; Judah and Ephraim are not two kingdoms, and in fact are only once named, that is in the Blessing (xxxiii. 7, 17).

The 'strong clannish spirit'⁷ within the community is shown in

¹ G. von Rad, *Gottesvolk*, p. 3.

² *OTP*, pp. 37-41.

³ *Das System des Zwölf Stämme Israels*, 1930.

⁴ See pp. 18f. above.

⁵ *Israel*, ET, London, 1932, pp. 309-311.

⁶ i. 13, 15, v. 23, xii. 5, 14, xxix. 10, xxxi. 28; also note 'all the tribes of Israel' (xxix. 21). The land given to the two-and-a-half tribes (iii. 12-20) is hardly an exception.

⁷ Pedersen, *Israel*, III-IV, p. 583.

the care for the less fortunate, and the repetition of the word 'brother', which finds its way even into the old law on man-stealing (xxiv. 7).

e. The 'place' and the 'name'

1. (23) 'The place which the Lord thy God shall choose.'¹
2. 'To cause his name to dwell there.'²
3. (63) 'To set his name there.'³
4. (2) 'Eat before the Lord and rejoice.'⁴

The question whether or not these phrases assume the existence of the temple in Jerusalem at the time when Deuteronomy was written will be fully discussed in Chapter IX. Here our comment relates to the meanings of the words, and their distribution.

We observe first that none of the expressions occurs in chapters i-xi. This should suffice to show that whoever wrote those chapters, or reproduced them, as a suitable introduction to the legislation, did not regard the centralization of worship in the temple as of prime importance.

The words 'to eat before the Lord . . . and rejoice' are in chapters xii-xxvi always connected with some offering at the place which the Lord shall choose. Therefore when they are repeated in xxvii. 7 this justifies the assumption that the writer there thought of the altar on Ebal as a chosen place.

All the expressions in this group are both anticipatory and indefinite. There is nothing to connect the 'place' with Jerusalem (see pp. 131 f.). The word *māqôm* is quite general; it might mean a city (Gn. xviii. 26, 2 Ki. xxii. 17), an open space (Ex. iii. 5, Dt. xi. 24), or the site of a theophany (Ex. xx. 24).

G. von Rad has suggested that possibly the first three in the present list of expressions may not be original, but a later insertion.⁵ He also thinks they may betoken a 'name-theology' which is a sublimation of the older 'glory-theology' connected with the ark, whereby 'no longer Yahweh Himself, but only His name is present'.⁶ This is only speculation, and made improbable by the fact, which von Rad himself recognizes, that the placing of the name is present in Ex. xx. 24, and that the name of Yahweh is prominent in the primitive revelation in Ex. iii.

¹ xii. 5 (10).

² xii. 11 (6).

³ xii. 5 (3).

⁴ xii. 7 (8).

⁵ *Studies*, p. 67.

⁶ *Ibid.*, pp. 37ff.

The 'name' in Dt. xii. 11 must be taken in the same plain, literal sense as the 'names' in xii. 3; the 'names' of the other gods are to be blotted out of their 'places'; the 'name of Yahweh' will abide in His 'place'.¹

f. Sin and cleansing

1. (70) 'Abomination.'²
2. (36) 'Sin in thee.'³
3. (34) 'Thine eye shall not pity.'⁴
4. (67) 'Hear and fear.'⁵
5. (24, 58) 'Put away evil from thy midst.'⁶

The last three clauses are applied to severe penalties, mostly belonging to the oldest strata, some certainly pre-Mosaic. The two latter give a moral point to the ancient laws.

The first of these is frequently used of moral evils connected with Canaanite idolatry. The three latter, sometimes in combination, are attached to laws prescribing the death penalty (and to some others), the ancient character of which is shown by their 'judgment' form⁷ and by their parallels in the Code of Hammurabi. Together with the second, they are found only in the legislative section. Let them be compared with the prophetic denunciations of moral evil, and the contrast is immediately obvious; they are another evidence of the archaic character of the law.

g. Blessing in the land

1. (25) 'Bless.'⁸
2. 'Rest from your enemies.'⁹
3. (68) 'Observe and do.'¹⁰
4. (3) 'Long (life).'¹¹
5. (42) 'Well with thee.'¹²
6. (55) 'Work of thy (your) hand.'¹³

¹ See further Chapter ix. ² (With Jehovah) vii. 25 (8); (alone) vii. 26 (8).

³ xv. 9 (7).

⁴ xiii. 8, xix. 13, 21, xxv. 12 (cf. vii. 16).

⁵ xiii. 11 (4).

⁶ xiii. 5 (10).

⁷ See Chapter v, p. 116.

⁸ vii. 13 (14).

⁹ iii. 20 (4).

¹⁰ v. 1 (20).

¹¹ iv. 26 (11).

¹² iv. 40 (8).

¹³ ii. 7 (6).

7. (64) 'Put thy (your) hand to.'¹
8. (61) 'Eat and be full.'²
9. (18) 'All the desire of thy soul.'³

To this group we may add, from Driver's list, (30) 'corn, wine, and oil' (vii. 13).

The blessings promised are all such as would apply to a people about to settle in a new land, and they breathe a spirit of naïve and happy optimism.

The expressions in Driver's list not yet mentioned do not affect the inferences regarding date already drawn. They are (11) *take heed to thyself*, (17) *be willing*, (19) *how* ('ékâ), (21) *angered*, (26) *greatness (of God)*, (35) *courageous and strong*, (37) *statutes and judgments*, (41) *continually*, (43) *thoroughly*, (44) *thou canst not*, (50) *the priests the Levites*, (53) *turn to the right hand or to the left*, (54) *affrighted*, (57) *therefore I command thee*, (65) *destroy*.

There is a remarkable uniformity in the distribution of these expressions; when added together the proportion found in the early part (i-xi), in the legislation (xii-xxvi) and in the sequel (xxvii-xxxii) is almost identical,⁴ a fact which favours unity of authorship.

The phraseology is not derived from that of the eighth-century prophets. There is an entire absence of their forthright 'thus saith the LORD' (Am. i. 3, etc.) or 'the mouth of the LORD hath spoken it' (Is. i. 20, etc.). Profoundly convinced that they received their message direct from God, they never veiled it under the guise of a Mosaic discourse. Deuteronomy bears the impress of independence, and of an earlier age.

Although here and there we can find a trace of one of these Deuteronomic expressions in the prophets,⁵ it is impossible that the Deuteronomist could have based his style and vocabulary upon theirs.

The two most used phrases are, 'go in and possess' (thirty-five times) and 'the land which the LORD giveth thee' (thirty-four times).

¹ xii. 7 (4).

² vi. 11 (7).

³ xii. 15 (4).

⁴ If we reckon by chapters it is thirteen per chapter in each of the two former sections and twelve in the third. The poetical character of chapters xxxii and xxxiii distinguishes them from the rest.

⁵ See Chapter x.

If this is a criterion of their importance in the writer's mind then the occupation of Canaan by the Israelites had the first place in his thoughts.

Let the reader run his eye again down this list of the recurring words and thoughts which give this book its distinctive style. What period of Israel's history do they match best? Zephaniah's prophecy¹ belongs to the early days of Josiah, and there could not be a greater contrast. Nor does the phraseology tally with the days of the exile or return; the contrast with the books of Ezekiel, Haggai or Ezra is just as great.

The only place really suitable for it is at the very foundation of Israel's national history.

¹ See J. P. M. Smith on Zp. i. 1 in *Zephaniah, ICC*, 1912, p. 167.

CHAPTER III

THE DIVINE NAMES

IN the book of Deuteronomy God is designated by nine different titles, and the study of these is valuable both for the light which it throws upon the book itself, as a further indication of style, and also in relation to the wider question of the literary analysis of the Pentateuch. This latter took its rise when the book of Genesis was first divided into two sources, named J and E, because the former used Jehovah, and the latter 'Elohim, for the divine name. This suggests the inquiry whether Yahweh (Jehovah) and 'Elohim should be regarded as equivalents, and if not, what is their connotation, and whether reasons for the choice of one or the other can be discerned.

Divine Names Used in Deuteronomy

	Narra- tive	i-iv	v-xi	xii- xxvi	xxvii- xxxi	xxxii, xxxiii
1. 'El	—	3	4	—	—	5
2. 'Eloah	—	—	—	—	—	2
3. 'Elyon	—	—	—	—	—	1
4. 'Elohim (gods)	—	1	10	12	10	4
5. 'Elohim (God) alone	1	5	4	2	8	4
6. Yahweh (alone)	14	35	65	54	51	16
7. 'Adonay Yahweh	—	1	1	—	—	—
8. Yahweh the God of (your, thy, our) fathers	—	3	1	2	1	—
9. Yahweh thy (your, etc.) God	—	46	77	130	46	—

The various names and their distribution are set forth in a table on p. 37. At one time there was much debate over variations between the LXX and the Massoretic Text, but in Deuteronomy these are unimportant. As elsewhere, Yahweh is translated κύριος (LORD), and 'Elohim θεός (God). In a few instances 'thy' is replaced by 'your' (e.g. in ii. 30) and once by the definite article (xviii. 3); and occasionally Yahweh is replaced by θεός.¹ Such small variations are common in all parts of the Old Testament and, whatever their cause may have been, do not affect any inferences that will be drawn.

'ELOHIM AND YAHWEH

It can be positively stated that in Deuteronomy Yahweh and 'Elohim are not mere equivalents; if they were, the title 'Yahweh thy 'Elohim' (the LORD thy God) would be deprived of meaning. We shall consider first the word 'Elohim; which, as a plural form, can be given either a polytheistic or a monotheistic meaning.

In the former sense the English versions translate 'gods',² the word 'other' being often prefixed (e.g. v. 7). In all it is used thirty-seven times, frequently to exalt Yahweh as the one true God in contrast with the other gods of the nations, who are granted a doubtful existence, but no power.

In the latter case, of which there are twenty-four instances, it may be regarded as a 'plural of majesty'³ and translated 'God', i.e. the only true God, and thus it approximates to a proper noun. Nevertheless it still retains its conceptual form and meaning; just as in English the forms 'the Deity', or 'the Supreme Being', whilst denoting a Person, are, grammatically considered, common nouns.

Hence, as is the case with 'El, an adjective may be affixed to 'Elohim, as 'the eternal God' (xxxiii. 27), or a possessive pronoun, 'thy (our) God' (x. 21, xxxi. 17).

The qualitative force of the word is seen by its employment as predicate in the sentence 'the LORD thy God, he is God', i.e. truly divine (vii. 9), and again in 'Moses, the man of God' (xxxiii. 1) which signifies his divine calling.

¹ So in ii. 15, viii. 3 (cf. Mt. iv. 4), xii. 21, xxvi. 17, xxix. 20.

² In xxxii. 39, 'there is no god with me', the Hebrew has 'elohim.

³ See Gesenius-Kautzsch-Cowley, *Hebrew Grammar*, § 124g.

The word 'Elohim for God, though a plural form, is used with a singular verb, consistently with a monotheistic outlook.¹ When it is used in preference to Yahweh, an implied contrast can usually be discerned between God and man; often with a suggestion of wonderment and awe. Thus we read 'the judgment is God's' (i. 17), 'the voice of God . . . out of the midst of the fire' (iv. 33), 'God in the heaven above and on the earth beneath' (iv. 39), 'the finger of God' (ix. 10), 'accursed of God' (xxi. 23) and 'feared not God' (xxv. 18).

The contrast between God and man which is implicit in these instances becomes clearer in iv. 32,² 'the day that God created man', words allied to, and perhaps quoted from, Gn. i. 27.

In some of these instances Yahweh could not be substituted for 'Elohim, and in others something of the meaning would be lost by the change.

In contrast with this, *Yahweh* is a *name*, not a concept, and therefore, grammatically considered, a proper noun. As such it denotes an individual Person, with all that personality connotes, life and character, the power to act and to communicate with other persons.

So when Yahweh is named we think at once of a divine Person, higher indeed than man, but revealing Himself to man, as to Moses on Mount Sinai, and able to intervene in the affairs of men, as He did when He brought Israel out of Egypt.

Moreover, however long beforehand the word Yahweh may have been known,³ Yahweh is quite clearly the name of God associated with the covenant in Horeb; therefore 'I am Yahweh thy God . . .' is the foundation of the Decalogue.

In the brief narrative portions, we find Yahweh speaking (xxxii. 14, 16, xxxii. 48, xxxiv. 4), commanding (i. 3, xxix. 1), appearing (xxxii. 15), and showing (xxxiv. 1). In addition, we have 'the ark of the covenant of the LORD' (xxxii. 25), 'the servant of the LORD' and 'the word of the LORD', all of which imply personal relationships.

In the discourses the same is the rule. Yahweh is the subject of

¹ There is no analogy to this in Assyrian or Babylonian. However, in the Amarna tablets *ilāni* (gods) is found with a singular verb.

² It is quite explicit in Hos. xi. 9, 'I am God and not man.'

³ See pp. 43f.

the verbs to speak or to say (e.g. i. 42, ii. 1) and the sworn promise of God is uniformly introduced by 'the LORD sware' (Dt. i. 8, 34, ii. 14, vi. 18, viii. 1, ix. 5, xi. 9, 21, xxvi. 3, xxviii. 11, xxx. 20, xxxi. 7); which corresponds to Ex. xiii. 5, 11, xxxii. 13, xxxiii. 1.

Among verbs of personal action of which Yahweh is the subject may be mentioned hearing (i. 34), destroying (ii. 21, viii. 20), giving (iii. 20), scattering (iv. 27, ix. 4), bringing (vi. 21), showing (vi. 22), separating (x. 8), laying (xxix. 22), uprooting (xxix. 28), rejoicing (xxx. 9), going (xxxii. 8), abhorring (xxxii. 19), judging (xxxii. 36) and knowing (xxxiv. 10). Yahweh also exercises anger (i. 37), choice (vii. 6), love (vii. 7, 8), and jealousy (xxix. 20). In chapter xxviii it is Yahweh who administers both the blessings and the curses.

In the legislative section (chapters xii-xxvi) Yahweh is the subject of verbs denoting giving (xii. 21, xxvi. 3), turning (xiii. 17), choosing (xii. 14, 26, xiv. 2, xv. 20, xvi. 15, xvii. 10, xviii. 6), blessing (xv. 4), saying (xvii. 16, xviii. 17, 21, 22), hearing (xxvi. 7), bringing (xxvi. 8), and avouching (xxvi. 18).

In conformity with this we have 'the commandment of the LORD' (i. 43), 'the hand of the LORD' (ii. 15), 'the sight of the LORD' (vi. 18, xxxi. 29), 'the mouth of the LORD' (viii. 3), 'the acts of the LORD' (xi. 7), 'the anger of the LORD' (xxix. 20, 27), 'the voice of the LORD' (xxx. 8), 'the name of the LORD' (xxviii. 10, xxxii. 3), 'the word (LXX words) of the LORD' (v. 5), 'the portion of the LORD' (xxxii. 9), 'the justice of the LORD' (xxxiii. 21), 'the blessing of the LORD' (xxxiii. 23), 'commandments of the LORD' (xxviii. 9), 'offerings of the LORD' (xviii. 1), and 'assembly of the LORD' (xxxiii. 1, 2, 3, 8). Yahweh is 'provoked' (ix. 8), 'rebelled against' (xxxii. 27), 'forgotten' (vi. 12), 'followed' (i. 36), and 'requited' (xxxii. 6). We have 'before the LORD' (ix. 25, xvi. 16, xviii. 7, xix. 17, xxiv. 4); 'against the LORD' (ix. 24, xxxi. 27); 'unto the LORD' (xii. 11, xv. 9, xxiv. 15); 'abomination to the LORD' (xii. 31, xviii. 12). Yahweh is invoked in xxi. 8, xxvi. 10, xxxiii. 5, 11.

Finally, in iv. 35 and xxix. 13, passages which assert the essential and unique deity of Yahweh, we have Yahweh as subject and 'Elohim as predicate.

We may therefore summarize the distinction thus: whereas 'Elohim contrasts God with man as to the difference of nature, Yahweh presents God as entering into a personal relationship with

man and revealing Himself to man. We deduce that normally the choice of one rather than the other is neither a sign of diverse authorship, nor a matter of caprice, but that each has its own point and purpose. Since this is certainly so in Deuteronomy, it renders it probable that the same is the case in the earlier books, Genesis to Numbers; and therefore that the change from Yahweh to 'Elohim need not indicate a change of authorship.

That is the view of I. Engnell, who says: 'The different divine names have different ideological associations, and therewith different import. Thus, Yahweh is readily used when it is a question of Israel's national God, indicated as such over against foreign gods, and where the history of the fathers is concerned, while on the other hand 'Elohim, "God", gives more expression to a "theological" and abstract-cosmic picture of God in larger and more moving contexts. . . . So then, it is the traditionist, the same traditionist, who varies in the use of the divine names, not the "documents".'¹

If this be granted, the case for the analysis between J, E and P is seriously weakened, and so thereby is the time sequence JE, D and P, on which so much depends.

YAHWEH THY GOD

A glance at the table on p. 37 shows that the use of this title (299 times)² is a marked characteristic of the book.

Confining attention to the legislation, Yahweh thy God³ is used 120 times, Yahweh alone fifty-four, and then (in striking contrast) 'Elohim alone only twice. There must be some reason for this. 'Yahweh thy God' expresses a personal and exclusive relationship between Yahweh and Israel, and suggests the consciousness that there is a fundamental difference⁴ between Israel's God and those of the nations. For the people of Israel Yahweh is the living God,

¹ *Gamla Testamentet, En traditions historisk inletring*, 1, Stockholm, 1955; quoted by C. R. North, *OTMS*, p. 66.

² The distribution is nearly uniform, averaging eleven times per chapter in chapters 1-xi, nine in xii-xxvi, and nine in xxvii-xxxii. The same is true of the two following titles, another testimony to the unity of the whole.

³ To avoid repetition, we include in this one expression all others which vary the pronoun.

⁴ This theme is well developed by G. E. Wright in *The Old Testament against its Environment*, London, 1950.

known by His actions, and notably by the fact that He brought them out of Egypt. Throughout the Old Testament, the history, the Psalms and the prophets, Yahweh is the God of Israel, and they are His chosen people. The time of His choice is invariably carried back to the period of the wilderness wanderings and to Sinai in particular;¹ it was there and then that Yahweh chose Israel to be His people, and that Israel confessed Him as its God.

The way the title is used confirms the conclusion that it issues from the revelation at Sinai; for the main discourse begins 'the LORD our God made a covenant with us in Horeb' (v. 2), and the title 'Yahweh thy God' is often followed by 'which brought you out of the land of Egypt' (xiii. 5, etc.). This conception of Yahweh's choice of Israel to be His own 'peculiar people' is indeed deeply set in the Deuteronomic law (xiv. 2, 21). For this is no mere collection of civil judgments and ethical statutes, but the lawgiver is also a preacher, and his aim throughout is to bind the people 'with all their heart and soul' in loyalty to Yahweh their God.

Because 'the LORD thy God loved thee' (xxiii. 5) He turned Balaam's curse into a blessing, and Moses calls on the people in response to 'hear his voice and keep his commandments' (xv. 5, xxvi. 16-18).²

If we were to eliminate the title 'Yahweh thy God' and all that goes with it, we should rob Deuteronomy of much of its essential character.

The strong preference exhibited in Deuteronomy for this name of God cannot be put down to later prophetic reflection upon the traditions of Sinai and the Exodus, for it is much less used by the prophets than other titles. For instance in Is. i-xxxv it is found only three times, 'Yahweh of hosts' and 'the Holy One of Israel' being much more frequent.³ It seems then that the prophets did not invent but inherited it.

The early origin of the ideas which are concentrated in this title can be asserted with some confidence.⁴ In the song of Deborah, the early date of which is undisputed, Yahweh is

¹ Cf. Wright, *op. cit.*, p. 57.

² Cf. xii. 15, xiv. 28, xv. 10, 18, xvi. 17, xxiii. 5, 20, xxiv. 19.

³ In Hosea 'Elohim is used fifteen times, Yahweh thirty-five times, and Yahweh (their) God only four times. ⁴ See Wright, *op. cit.*, pp. 29, 56, 57.

acclaimed as in a special sense 'the God of Israel' (Jdg. v. 5). In Jos. xxiv there is a story of the renewal of the covenant by the tribes gathered at Shechem, who professed their loyalty to 'Yahweh our God' (Jos. xxiv. 25);¹ and the title itself is enshrined in the Decalogue.

It is found in Genesis once only, in xxvii. 24, where Jacob is addressing his father; then next in the vision of the bush (Ex. iii. 18) and afterwards in the colloquies of Moses and Aaron with Pharaoh.

These facts justify the belief that the origin of this name of God and its frequency in Deuteronomy are due to nearness to the Mosaic age and not to later reflection.

YAHWEH, GOD OF YOUR FATHERS

The title we have now to consider is important because it is almost peculiar to Deuteronomy, for its connection with the narrative of Moses' call in Ex. iii, and because it raises the question whether the patriarchs knew the name Yahweh.²

The phrase occurs three times in connection with Moses' call (Ex. iii. 13, 15, 16; cf., iv. 5), eight times in Deuteronomy and only three times elsewhere in the Old Testament (Jdg. ii. 12; 2 Ki. xxi. 22; Ezr. x. 11).

It was not derived from the prophets, for it is not to be found in their writings. On the other hand it may well have been an echo of Moses' experience³ at the burning bush. In that story the voice from the bush first announces: 'I am the God of thy father, the God of Abraham, the God of Isaac, and the God of Jacob' (Ex. iii. 6); the first clause assumes that Moses knows the name of his father's God. Afterwards Moses repeated the words 'my father's God' in his song (Ex. xv. 2)⁴ and in naming his son Eliezer (Ex. xviii. 4).

¹ M. Noth accepts this as an authentic tradition; cf. *Geschichte Israels*, Göttingen, 1954, pp. 89ff., and his commentary 'Josua' in the *Hand Kommentar zum Alten Testament*.

² See note on p. 47. On the etymology of Yahweh see Wright, *op. cit.*, p. 29n., 35, and W. F. Albright's review in *JBL*, LXVII, 1948, pp. 377-381.

³ See Lods, *Israel*, pp. 311-325, for comments on this incident, which that writer regards as probably historical. See also M. Buber, *Moses*, Oxford, 1946, pp. 39-55. ⁴ On the age of Ex. xv, see *OTMS*, p. 33.

Moses then questions: 'Behold, when I come unto the children of Israel and shall say unto them, The God of your fathers hath sent me unto you, and they shall say unto me, What is his name? what shall I say unto them?' (Ex. iii. 13).

The form of the question 'What (*mā*) is his name?' is not that which would commonly be used by one who did not know the name itself; in that case the interrogative would take the form *mī*.¹ The use of *mā* implies that the reference is to an 'older name whose meaning the Israelites had already forgotten'.² Mowinckel's comment is, 'It is *not* E's view that Yahweh is here revealing a hitherto unknown name to Moses. Yahweh is not *telling* His name to one who does not know it. Moses asks for some "control" evidence that his countrymen may know, when he returns to them, that it is really the God of their fathers that has sent him. . . . The whole conversation presupposes that the Israelites knew the name already.'³ This name is chosen in Deuteronomy to introduce the legislation; the statutes and judgments are to be observed 'in the land which the LORD God of thy fathers giveth thee, to possess it' (xii. 1).

It comes again in the formula⁴ for presenting first-fruits (xxvi. 7), in words which bear a strong resemblance to those in Ex. iii. 7, 8, 16.

Elsewhere in Deuteronomy it is linked with the patriarchal promise of an increase of numbers (i. 11, vi. 3) and of the land of inheritance (i. 21, iv. 21, xxvii. 3) now being fulfilled; and finally in reference to the covenant of Horeb (xxix. 25).

The frequency of this title, therefore, like that of the previous one, connects Deuteronomy closely with Moses and the Sinai revelation.

¹ So in Gn. xxiv. 65; Dt. xx. 5; 2 Ki. vi. 11.

² Lods, *Israel*, p. 324. Cf. remarks by W. F. Albright, *The Biblical Period*, Pittsburgh, 1950, p. 11.

³ Quoted by C. R. North, *OTMS*, p. 54. Cf. Hertz, 'The words . . . are not intended to inform Moses what God is *called* . . . but to impress upon him that the guarantee of the fulfilment of the Divine promises lay in the nature of the being who had given the promises.' *The Pentateuch and Haftorahs*, Vol. II, Exodus, London, 1930.

⁴ G. von Rad says that use is here made of 'very old norms' (*Studies*, p. 23). The alliteration betrays an early origin. Cf. Welch, *Code*, p. 25.

'EL, 'ELOAH

The word 'El is the most general term for a god. Like the cognate forms in other Semitic languages (Arabic *ilah*, Babylonian *ilu*) it is a common noun.¹ As such it can be used either of the true God, or of a heathen deity. However greatly the connotation may differ in the two cases, the word always denotes the attributes which distinguish a god from a man, greater power, immortality and heavenly abode. 'Eloah is equivalent in meaning; in Deuteronomy found only in xxxii. 15, 17.

The conceptual character of this word is shown by the addition of a qualifying adjective such as 'jealous' (iv. 24), 'merciful' (iv. 31), 'faithful' (vii. 6), 'mighty' (vii. 21).

'ELYON

'Elyôn is used only in xxxii. 8. Previously it is connected with Melchizedek (Gn. xiv. 18) and Balaam (Nu. xxiv. 16), both Gentile associations, as in this verse, and early in date. It is also found in the 'kingship' Psalms and elsewhere.

'ADONAY YAHWEH

In two instances where God is addressed in prayer 'Adonay Yahweh² is used (iii. 24, ix. 26). So also Abraham prayed (Gn. xv. 2, 8), Joshua (vii. 7), and Gideon (Jdg. vi. 22).

Whilst 'Elyôn and 'Adonay Yahweh both have early associations, they are also found much later (e.g. Ezk. iv. 14; Dn. iv. 34). Therefore, whilst consistent with an early date for Deuteronomy, they are no proof of it.

OTHER NAMES OF GOD

It remains to consider briefly some other names, which are common in the prophets, but in Deuteronomy conspicuous by their absence.

¹ Whilst so used in the Old Testament, in the Ras Shamra tablets 'El is the name of the supreme god of the Canaanite pantheon, and Baal that of his son (Schaeffer, *Cuneiform Texts of Ras Shamra Ugarit*, London, 1939, pp. 59ff.).

² The EVV translation of this, 'Lord God', is unfortunate, for by following the LXX it suggests that the second word is 'Elohim. It would have been better to read 'Lord Jehovah', with S. R. Driver (*ICC in loc.*).

Yahweh ʿbhâôth, the 'LORD of hosts' or 'the LORD God of hosts', occurs no fewer than 288 times in the Old Testament. We hear it on the lips of Samuel (1 Sa. xv. 2) and David (1 Sa. xvii. 45); and then in a long prophetic series, Elijah (1 Ki. xviii. 15), Hosea (xii. 5), Amos (iii. 13), Micah (iv. 4), Nahum (ii. 13), and Zephaniah (ii. 10); it is used more than fifty times in Is. i-xxxix, and frequently by Jeremiah. If therefore Deuteronomy were a prophetic utterance of the seventh century BC the absence of this name would be a strange phenomenon.

Less common, but still frequent in the prophets of that time,¹ is 'Yahweh God of Israel' (Is. xvii. 6, etc.; Zp. ii. 9, 13; Je. xiii. 12, etc.), which is also missing in Deuteronomy.

One more may be noticed, a favourite with Isaiah, 'the Holy One of Israel' (Is. i. 4),² also found in the Psalms³ and Jeremiah.⁴ Were the author of Deuteronomy an immediate follower of Isaiah, this also might have been expected to find a place.

Taken singly, little importance could be attached to the absence of these titles; but the absence of them all finds its most satisfying explanation if Deuteronomy belonged to the pre-prophetic period. It would not be fair to press this point unduly, but neither is it right to ignore it altogether.

In this and the previous chapter we have counted words and phrases, and this has been necessary to establish certain facts; but the value of the evidence lies in these facts and not in the numerical detail, and that value is of both a negative and a positive kind.

On the one hand, we have discovered nothing to indicate that the book originated either in the time of Manasseh or in a prophetic circle; and the use of the divine names in Deuteronomy casts doubt upon the analysis in the previous books where it is based upon them as alternatives.

More important is the positive evidence for an early origin. The phraseology belongs to a period when the exodus from Egypt and the impending entry into Canaan were vivid memories. There are links with the call of Moses and the covenant in Horeb which are too many and too subtle to be due to mere chance.

When the repeated use of the phrases concerning the promised

¹ But going back to the days of Deborah (Jdg. v. 3, 5).

² In all, twenty-nine times.

³ Pss. lxxi. 22, lxxviii. 41, lxxxix. 18.

⁴ Je. l. 29, li. 5.

inheritance and the impending entry into Canaan, which were considered in the previous chapter, is combined with this special preference for the divine titles relating to the patriarchal promise and the covenant in Horeb, the impression left upon the mind is that the writer lived in proximity to these events. Admittedly, this does not possess demonstrative force; the author might have made use of old traditions in order to render more realistic the Mosaic setting which he had composed for the laws which he had collected or invented; nevertheless, the feeling remains that we are not here dealing with fiction.

NOTE ON EXODUS VI. 3

The words in Ex. vi. 1-3 are by some scholars assigned to P, and are taken to prove that the name Yahweh was not known to the patriarchs, who knew their God by the name 'El Shaddai.

Against this interpretation it must be noted in the first instance that 'El Shaddai' is not a name, but a description, and as such is appropriately used, in connection with a promise or a blessing, wherever it occurs.¹

J. Hertz goes so far as to say that this view of Ex. vi. 3 'rests on a total misapprehension of the Hebrew idiom'.² Where a name is made known for the first time the verb commonly used is *nâghadh* (hiph), as in Gn. xxxii. 29. Here it is *yâda'*, the same as is found in 1 Sa. ii. 12, iii. 7, where the persons concerned were familiar with the name Yahweh but not with all that the name implied.³ W. J. Martin takes the words 'was I not known . . .' to be an elliptical interrogation which expects an affirmative answer.⁴

Finally, it would be strange indeed for the priestly writer, if he ever existed, so flatly to contradict the well known JE tradition. As M. Buber puts it: 'Abraham proclaims the name when he comes to Canaan, as might a herald, at one spot after another, and his clan knows the name. Is it likely that the author of Ex. vi. 3 did not know this?'⁵

¹ Gn. xvii. 1, xxviii. 3, xxxv. 11, xliii. 14, xlvi. 3. In the LXX Shaddai is replaced by a possessive pronoun.

² *Exodus*, p. 104.

³ Cf. Pedersen, *Israel*, 1-11, pp. 245ff.

⁴ *Stylistic Criteria and the Analysis of the Pentateuch*, London, 1955, pp. 16-19.

⁵ *Moses*, London, 1946, p. 49.

CHAPTER IV

GEOGRAPHICAL DATA

DEUTERONOMY is rich in geographical material, some of it concentrated in the opening and closing chapters and some scattered through the book. There are many place names, several of which are peculiar to Deuteronomy in the Pentateuch, and there are descriptions which throw light upon the information, the interests and the outlook of the author. The material may be classified as follows:

1. The place where 'Moses spake' (i. 1).
2. From Egypt to Horeb.
3. The wilderness: Horeb to Kadesh.
4. The journey round Edom.
5. Natural features of Transjordan.¹
6. The early inhabitants.
7. Canaan seen from outside.

THE PLACE OF THE DISCOURSES

At the beginning of the book of Deuteronomy the narrator takes great care to define the places where 'Moses spake these words'. It was 'beyond Jordan, in the wilderness in the Arabah over against Suph, between Paran, and Tophel, and Laban, and Hazeroth, and Di-zahab. It is eleven days' journey from Horeb . . . to Kadesh-barnea' (i. 1, 2, RV). This short passage is full of interest, though not devoid of difficulty.

The river Jordan assumes great prominence in Deuteronomy, being mentioned twenty-six times,² which would justify its being classed along with the characteristics considered in Chapter II. Of these occurrences one is in the legislation (xii. 10), one in the closing chapters (xxxii. 2) and the remainder in chapters i-xi. Fifteen of them refer to the crossing of the river, in which Moses was

¹ See G. T. Manley 'The Moabite Background of Deuteronomy', *EQ*, xxi, 1949, pp. 81-92.

² Only six times in the prophets.

forbidden to share,¹ one defining the boundaries of Reuben's territory, and ten of them in the expression 'beyond Jordan'. It has been said that the use of the latter expression marks the writer as a resident in western Palestine,² but a full examination of all the places where the words occur proves the argument to be fallacious.

Its meaning is shown to be somewhat indefinite by the fact that twenty-four times at least it is accompanied by a defining clause such as 'towards the sunrising' or 'towards the sea'. The Hebrew words *bē'ēbher hayyardēn* can be translated literally as 'by (or at)—across—the Jordan', which could mean 'at the crossing of', or 'by the banks of', the Jordan.³ A Sabaeen word '*brt*' means 'the neighbourhood of a stream', and B. Gemser⁴ has adduced much evidence to show that the real meaning is 'the region of Jordan' or 'Jordania'. He denies that the author of Dt. iii. 8 has forgotten that Moses is supposed to be speaking from the eastern side; he is using the words as a general description of the region.

In Deuteronomy the words are used six times by the narrator (i. 1, 4, iv. 41, 46, 47, 49), who probably wrote after Jordan had been crossed, but always with some qualifying clause, and of the eastern side. It is used three times by Moses (iii. 20, 25, xi. 30) of the western side, in the last instance with a defining clause, and once of the eastern, with added words which make its meaning plain, in iii. 8.

It is therefore unfortunate that in all these instances the RV rigidly adheres to 'beyond Jordan', whereas the AV with greater elasticity varies the translation with the application. In I Ki. iv. 24, however, even the RV is compelled by the meaning to adopt 'on this side' and relegate 'beyond' to the margin. This should also have been done in Jos. ix. 1,⁵ for there the writer is certainly referring to the western bank, which was presumably also his home.

¹ ii. 29, iii. 20, 27, iv. 21, 22, 26, ix. 1, xi. 31, xii. 10, xxvii. 2, 4, 12, xxx. 18, xxxi. 2, xxxii. 47. The distribution of these is significant.

² S. R. Driver, *ICC*, p. xlili.

³ See Brown, Driver and Briggs, *Hebrew and English Lexicon of the Old Testament*, Oxford, 1906, p. 716.

⁴ 'Be'ebher Hajjarden: In Jordan's Borderland', *VT*, Vol. II, October 1953, pp. 349-355.

⁵ Note also Is. ix. 1.

It follows that the use of this expression cannot decide the location of the writer.

Returning now to i. 1, we may paraphrase it thus: 'in the open country around Jordan, in the arid land¹ over against Suph, between Paran and Tophel, and Laban, and Hazeroth, and Dizahab.' These places are evidently familiar to the narrator and he writes them down without explanation. We are left wondering how he came to know them and why he thought it desirable to record their names. Had he himself passed through them?

Suph is unknown unless, which seems unlikely, it is used for the Red Sea (Yam Suph). Tophel and Dizahab ('a place productive of gold') are named only here in the Old Testament. Laban and Hazeroth are puzzling, for they seem to be the same as Libnah and Hazeroth, two of the camping-places between Horeb and Kadesh given in Nu. xxxiii. 18, 20, 21. This, with the mention of the journey from Horeb to Kadesh in i. 2, gives the impression that perhaps the 'words' that follow in i. 6-iv. 40 were spoken earlier on the way. If so, the words 'beyond Jordan' represent the last place where the words were spoken.

The geographical description in iv. 44-49 is quite different from that in i. 1, 2, and makes it evident that, however we interpret the latter, the 'words' were not 'spoken' in the *same* place where the 'law' was 'set before' the people (i. 1, iv. 44).

FROM EGYPT TO HOREB

The references to Egypt, fifty in number, are evenly distributed, seven in chapters i-iv, nineteen in chapters v-xi, seventeen in chapters xii-xxvi, and seven in chapters xxvii-xxxiv. They are mainly historical, and can be arranged thus: (i) the descent *into* Egypt; (ii) the abode *in* Egypt; (iii) the deliverance *out of* Egypt; (iv) possible return *to* Egypt; and (v) characteristics *of* Egypt.²

(i) *The descent into Egypt* 'with threescore and ten persons' is mentioned in x. 22, and again in the ancient formula of xxvi. 5, where Jacob is described as 'a Syrian ready to perish'.

(ii) *In Egypt* the people abode (xxix. 16) as strangers (x. 19),

¹ See p. 59.

² In Isaiah Egypt is seen with Assyria as a great power which might be either friend or foe (vii. 18, xx. 4, xxx. 2, 3), or as about to come under divine judgment (xix). The contrast is striking.

then as servants (v. 15) or bondmen (vi. 21a, xv. 15, xvi. 12, xxiv. 18, 22). There God wrought signs and wonders by the hand of Moses (xxxiv. 11), before the eyes of some of the people addressed (i. 30, iv. 34, xxix. 2), 'upon' Pharaoh, his land and his army (vi. 22, vii. 18, xi. 3, 4).

(iii) After this the people came '*out of Egypt*' (iv. 45, 46, ix. 7, xvi. 3, 6, xxiii. 4, xxiv. 9, xxv. 17)—more frequently it is stated that God brought them forth out of Egypt (i. 27, v. 6, ix. 12, xvi. 1, xx. 1, xxix. 25) with great power (iv. 37) and a mighty hand (vi. 21b, vii. 8, ix. 26, xxvi. 8), out of the 'iron furnace' (iv. 20) and the 'house of bondage' (vi. 12, viii. 14, xiii. 5, 10).

(iv) Twice a *possible return to Egypt* is mentioned. The future king must not favour this (xvii. 16), and yet disloyalty to Jehovah might involve it as a punishment (xxviii. 68).

(v) The land of Egypt is *contrasted with Canaan* as one needing laborious irrigation (xi. 10), and the diseases and 'the boil' of Egypt are mentioned as things with which the people were familiar (vii. 15, xxviii. 27, rv, xxviii. 60).

The treatment of Egypt in the legislation is of special interest. Their redemption from Egypt is used as a reason for cleaving to Jehovah (xiii. 5, 10) and keeping the memorial feasts (xvi. 12); and the historical connection of the Passover with their deliverance is emphasized (xvi. 1, 3, 6). It affords a reason for merciful treatment of the poor (xxiv. 18), for courage in battle (xx. 1), and for thanksgiving (xxvi. 5).

The instruction regarding a future king brings forth a warning against a return to Egypt (xvii. 16); that concerning leprosy calls to mind the case of Miriam after their exodus from Egypt (xxiv. 9); and the cruel treachery of the Amalekites 'by the way . . . out of Egypt' is not to be forgotten but avenged. These memories are vivid and detailed.

Of the events immediately following the departure from Egypt, the crossing of the Red Sea is recalled in xi. 4 (cf. Ex. xiv), the 'water from the rock of flint' at Massah (vi. 16, viii. 15, ix. 22; cf. Ex. xvii. 1-7), and the dastardly attack of the Amalekites (Dt. xxv. 17-19; Ex. xvii. 8-16).

Horeb is named nine times¹ and Sinai once.² The two are not

¹ i. 2, 6, 19, iv. 10, 15, v. 2, ix. 8, xviii. 16, xxix. 1.

² xxxiii. 2.

quite identical, and to use them as such for the purpose of documentary analysis is to employ a false criterion. Horeb seems usually to mean the region or range, so that in i. 2, 19 we get 'from Horeb' and elsewhere 'in Horeb', thus in Ex. xvii. 6 Rephidim is 'in Horeb'; Sinai is apparently a single mountain, and normally referred to as 'the mount (*hāhār*)'. Thus in iv. 10, 11 we read 'in Horeb . . . under the mountain', and ix. 8, 9 'in Horeb . . . gone up into the mount'. The name Sinai is not found in the prophets, and Horeb only in Mal. iv. 4, in connection with 'the law of Moses'.

THE WILDERNESS: HOREB TO KADESH

The journey from Horeb to the banks of the Jordan divides into two parts, namely from Horeb to Kadesh-barnea (Nu. x. 33, xx. 1, xxxiii. 16, 36), and that from Kadesh to the banks of Jordan.

Comparing the list of camping grounds in Nu. xxxiii with the narrative in Nu. x-xx, and what we read in Dt. i, it becomes clear that between the first arrival at Kadesh and the final departure we must place most of the thirty-eight years of Dt. ii. 14, and the 'many days' of Dt. i. 46 and ii. 1, 2. Doubtless the host with their flocks sought other pastures during this period, over which there hangs a veil of obscurity.

The Hebrew word *midhbār*, translated 'wilderness', does not mean a dry, sandy desert, but any wild uninhabited country, including places where camels or sheep might be driven to pasture. It needs to be borne in mind, as we trace the wanderings and the references to them in Deuteronomy, that the *midhbār* may vary from the most arid rock and sand to comparatively fertile, but uncultivated, ground. The word is often attached to the name of a town or region, Moab (ii. 8), Kedemoth (ii. 26), the table-land (iv. 43, RV mg.), Zin (xxxii. 51), specifying the locality,¹ but in Deuteronomy more often² as a general term.

The author knows the wilderness which lies to the south of

¹ In xi. 24 'the wilderness' is clearly that lying on the southern boundary of Canaan.

² i. 1, 19, 31, 40, ii. 1, 7, viii. 2, 15, 16, ix. 7, 28, xi. 5, 24, xxix. 5, xxxii. 10 (EV 'desert').

the mount of the Amorites to be 'great and terrible' (i. 19). This is the desert of Et Tih between Sinai and Palestine, described in similar terms by travellers.¹ He has met with fiery serpents and scorpions (viii. 15),² yet though God humbled and proved them (viii. 2, 16) He provided for them and brought them through (i. 31, 33, xxix. 5).³

Twelve places are connected with this part of the journey: in ix. 22, 23 we have Taberah, Massah, Kibroth-hattaavah and Kadesh; in i. 1 Libnah and Hazeroth; in x. 6, 7 Beeroth Bene-jaakan, Mosera, Gudgodah and Jotbath; in xxxii. 51 Meribah-kadesh in the wilderness of Zin; in i. 44 Hormah. Some scholars have taken these to be place-names to which aetiological legends have been attached. It is equally possible, and wiser, to regard them as names of events, and only in a secondary sense names of the places where they occurred. The Hebrew thought embraces in one complex idea the event, the place and the description. Massah (tempting) and Meribah (striving) are examples. Both words are applied to the murmuring at Rephidim (Ex. xvii. 7),⁴ the latter also to the 'strife' at Kadesh (Nu. xx. 1-12) which in Dt. xxxii. 51 is specified by the additional words 'in the wilderness of Zin'. In like manner Kadesh (holy) is distinguished from other holy places by the addition of Barnea. A further example is Hormah ('devoted' or 'destruction', i. 44), which is also given more than one application (see Nu. xxi. 13); so, as W. M. Flinders Petrie has said, Hormah 'should be regarded more as a description than a proper name, and it is therefore misleading to unify all sites named Hormah'.⁵

The word Massah in the singular recalls the event at Rephidim (vi. 16, ix. 22, xxxiii. 8). It is also used in the plural ('temptations', EV) in iv. 34, vii. 19, xxix. 3; the two uses of the word illuminate each other.

¹ Cf. E. H. Palmer, *The Desert of the Exodus*, Vol. II, Cambridge, 1871, pp. 283ff.

² See p. 173 below.

³ Only those who have paced the desert sand can appreciate the words in i. 33.

⁴ The combination is also found in Dt. xxxiii. 8, where the meaning is obscure.

⁵ *Palestine and Israel*, London, 1934, p. 66.

The story of Taberah (burning) is told in Nu. xi. 1-3, and of Kibroth-hattaavah (graves of lust) in 31-35 (cf. xxxiii. 37).

Another interesting group of names is found in Dt. x. 6, 7, which are easily identified with those in Nu. xxxiii. 31-33, where they occur in a different order, and Moseroth (plural, 'chastenings') replaces Moserah. In Deuteronomy the word Beeroth ('wells') is prefixed to Benejaakan, and after Jotbath is added 'a land of rivers of waters'.

These additions mark the sites as oases, and therefore liable to be visited more than once. They are followed in Nu. xxxiii. 35 by Ezion-gaber on the way to Kadesh, which, as Dt. ii. 8 informs us, was revisited by the Israelites on their departure from Kadesh. It is not improbable that during the many years spent in that neighbourhood several oases were visited more than once (see below, p. 157), Kadesh affording a centre (Nu. xx. 1; Dt. i. 46) from which they went forth to seek for pasturage.

THE JOURNEY ROUND EDMOM

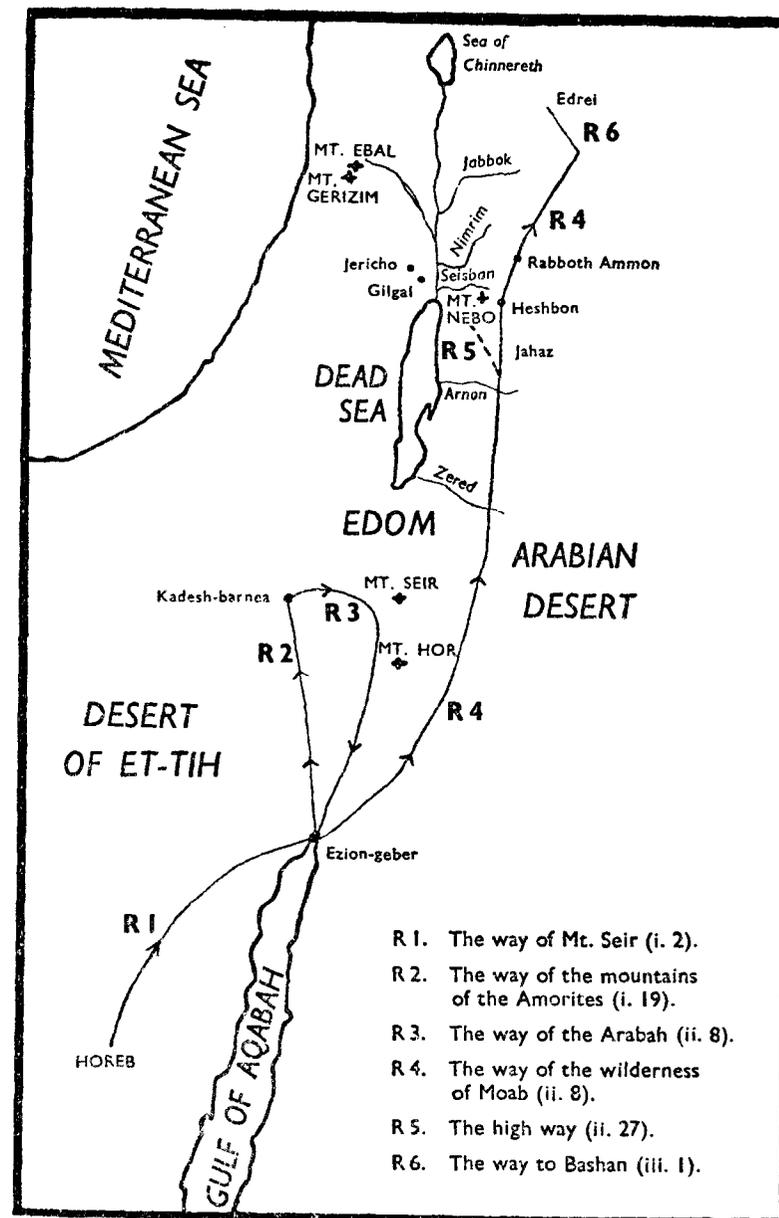
In reading chapters ii and iii we are struck not only by the geographical knowledge displayed, but by the mode of its presentation. It reads like a traveller's diary, and we seem to be with him in his journey round the borders of Edom. The writer knows the country not only by hearsay; he has travelled over it and knows the ways, the turnings, the crossings and the ascents.¹ (See the accompanying map, p. 55.)

Leaving Kadesh after 'many days' (i. 46) they 'turned' and took their 'journey by the way (*derekh*) of (or 'to') the Red Sea' (ii. 1, cf. i. 40). The word *derekh* connotes a road or well-marked track, in this case a customary desert route, probably the pilgrim road from Suez to 'Akaba.²

The first of these roads is mentioned in i. 2, which tells us that it is eleven days' journey by the 'mount Seir road' from Horeb to Kadesh-barnea. A second name for this route, or part of it, is 'the way of the mountain of the Amorites' (i. 19); which passes through the 'great and terrible wilderness' which now goes by the

¹ Thus at Hormah the people 'went up' (i. 43), where the mountain is steep only on the southern side.

² See Driver, *ICC*, p. 28.



THE JOURNEY ROUND EDMOM

- R 1. The way of Mt. Seir (i. 2).
- R 2. The way of the mountains of the Amorites (i. 19).
- R 3. The way of the Arabah (ii. 8).
- R 4. The way of the wilderness of Moab (ii. 8).
- R 5. The high way (ii. 27).
- R 6. The way to Bashan (iii. 1).

name of the desert of Et-Tih and which well deserves this description.

Reverting again to chapter ii we follow our guide round the 'border' of Edom¹ (ii. 4), and pass by 'from the way of the Arabah' (ii. 8; note the *rv*), that is, the route which traverses the Wadi el Arabah, and then 'from Elath² and from Ezion-gaber'. Here the southernmost point of the route is reached, so they 'turned',³ and proceeded 'by the way of the wilderness of Moab'. This ancient track was used later by the Romans, who made a road the traces of which remain, and along it today runs the railway used by pilgrims from Damascus to Mecca. It skirts the western edge of the Arabian desert, and was flanked on the other side by pasture-land (*midhbār*), above which were the inhabited parts of Moab.

Two obstacles are now to be overcome, the mountain torrents of Zered and Arnon. The people are bidden to 'rise up' and cross them (ii. 13, 24), which implies a previous halt, not stated here, but recorded in Nu. xxi. 12, 13.

They now seek permission (ii. 27) to pass through Sihon's land, promising 'to go along by the highway', lit. 'by the way, by the way', that is by the appointed way. This is refused, and a battle ensues at Jahaz (32), where Sihon is overcome, and his country invaded. After the invasion and conquest, the journey is resumed; 'they turned' north-westwards, and 'went up', the ground rising in this direction, 'the way to Bashan', the sixth of these routes to be specified by name or description. A battle ensues at Edrei, Bashan is overrun, and the people abide in 'the valley over against Beth-peor' (iii. 29), and the long journeying comes to an end.

The account here, whilst not conflicting with that in Nu. xxi. 4-35, is clearly independent.⁴ When Nu. xx, xxi is compared

¹ This was after the king's refusal to let them pass through the heart of the country (Nu. xx. 20). On the borders the inhabitants were Bedouin and as such would be friendly. The words of ii. 5 find a strange echo in the contemporary Ras Shamra tablets. In the story of Keret the king of Edom sends a message, 'Do not fight against the great Edom, for Edom is a gift from El'. (Schaeffer, *op. cit.*, p. 75, or *ANET*, p. 144.)

² Only here and in 2 Ki. xiv. 22. ³ For other turnings see i. 7, 24, 40, ii. 1, 3.

⁴ Driver's statement (*ICC*, pp. 9, 10) that the narrative in i. 6-iii. 39 is 'throughout dependent upon that of JE', coming from a scholar usually so cautious, can only be described as surprising. Unfortunately he is not alone. (See Oesterley and Robinson, *op. cit.*, p. 45.)

with Dt. ii, iii it can be seen that more is peculiar to each than is common to both. For example, of Nu. xxi. 1-11 not a word is found in Deuteronomy except 'the way of the Red Sea'. The mention of the Zered and Arnon in Nu. xxi. 12, 13 differs in form and partly in substance from Dt. ii. 13-15, 24, 25. The stages in Nu. xxi. 10, 11, 19, 20 are not reproduced in Deuteronomy. What is said concerning Ar in Nu. xxi. 15, 28 is quite different from that in Dt. ii. 9, 18, 29.

Regarding this place, Dt. ii. 29 informs us that its inhabitants sold the Israelites food and water 'for money', which seems to contradict Dt. xxiii. 3. But the contradiction is more apparent than real. From Jdg. xi. 17 we learn that Moses sent a message to the 'king of Moab', who refused permission to pass through the land. So they compassed it round and came to Ar, which lay upon the 'border' to the north and east. There, far away from the capital, the border people showed a friendliness which differed from the official attitude, and, incidentally, made a profit.

Of the ten names of cities in Dt. i. 6-iv. 40 four only are found in the JE narrative¹ in Numbers: Ar, Heshbon, Jahaz and Edrei. The others are as follows:

(i) Kedemoth (ii. 26) recurs in Jos. xiii. 18 and 1 Ch. vi. 79 (Heb. 64). In the latter passage the surrounding land, or 'suburbs' (*mighr^osôthi*), corresponds to the *midhbār* in Deuteronomy.

(ii) Aroer (ii. 36, iii. 12, iv. 48) is cited, with another called 'the city that is in the valley', as captured from Sihon. In Jos. xiii. 8, 9, 16 both of these are assigned to Reuben and Gad; in Nu. xxxii. 34 (P) Aroer is said to have been rebuilt by Gad (cf. Je. xlvi. 19).

(iii) The region of Argob (iii. 4, 13, 14), taken from Bashan, is named again in 1 Ki. iv. 13.

(iv) The cities called Havoth-jair (iii. 14) are found also in Nu. xxxii. 41 (P), Jdg. x. 4, and 1 Ch. ii. 23.²

(v) Salchah is linked with Edrei in Dt. iii. 10 as a border town (cf. Jos. xii. 5, xiii. 11; 1 Ch. v. 11).

(vi) Rabbath (iii. 11) is named in Deuteronomy for the first time.³

¹ See p. 26, n. 1 above.

² The various references to these cities create difficulty (see Reider, *in loc.*) and have given rise to the conjecture that Dt. iii. 14 may be a later addition.

³ The modern Amman. As this lies on the pilgrim road mentioned above, the Israelites would have passed through it.

Other names are Chinnereth (iii. 17; Nu. xxxiv. 11, P) and Ashdoth-pisgah.

If our inquiry were to include i. 1–iv. 43 we should have also to include Tophel, Laban, Dizahab (i. 1), Ashtaroth (i. 4), Bezer, Ramoth and Golan (none of them found in JE). With these facts before him the reader may be left to judge what value is to be attached to the statement that ‘this section (i.e. i. 1–iv. 43) includes nothing that is not also found in E’.¹

NATURAL FEATURES OF TRANSJORDAN

Apart from the number of places named, no one who has travelled in Transjordan can fail to recognize the appropriateness of some of the descriptive terms. A characteristic feature of the country is the *wadi* or mountain stream which rushes down the hillsides where they slope steeply down to the Jordan valley. Rising among the mountains, when swollen by the rains they become roaring torrents, and make deep clefts in the land, whilst in summer they dry up, sometimes altogether. Like the Arabic *wadi*, the Hebrew word *nahal* stands both for the stream itself and for the valley it has created, and in the AV is variously translated ‘brook’ (ii. 13, 14, viii. 7, ix. 21), ‘river’ (ii. 24, 36, 37, iii. 8, 12, 16, iv. 48), or ‘valley’ (i. 24, iii. 16). The word thus occurs no fewer than sixteen times in all. The AV translation is not fortuitous. The Arnon and the Jabbok, always referred to as ‘rivers’, are perennial streams, cutting deep into the land, so forming natural boundaries, and as such they are treated in the book of Deuteronomy. Their valleys are deep and wide; hence we read of Aroer as situated ‘on the edge of the valley’ (ii. 36, RV) and as a ‘city in the valley’ (ii. 36); and in the following verse ‘the side of the river Jabbok’ is contrasted with ‘the hill country’ which rises above it (ii. 37, RV).

The Zered, though smaller, would yet present a formidable crossing for the Israelite host. In Nu. xxi. 12 (JE) it forms one of a list of camping-places, and in Dt. ii. 13, 14 special attention is called to the command to cross over it, and to its fulfilment.

Quite distinct from the *nahal* is the *gay*, the glen or ravine, which may or may not have water running through it, but is always a hollow in a hilly country. Such was the upland ‘valley

¹ Oesterley and Robinson, *loc. cit.*

over against Beth-peor’ (iii. 29, iv. 46, xxxiv. 6), where Moses delivered the law, and whence he looked across to Ebal and Gerizim (xi. 30).¹

Still a third word is translated ‘valley’, namely *biq‘á*, which denotes a wide vale, flanked by hills on either side (viii. 7, xi. 11, xxxiv. 3); this is used only of the western side, where they are common.

The references to mountains and plains are equally true to the character of the country. Three Hebrew words are in EVV translated ‘plain’; they are very different and are used with discrimination. *Mišōr* (iii. 10, iv. 43) comes from the root *yāšār* meaning to be ‘straight’ or ‘even’, and so denotes land having a flat or level surface, particularly when found in a mountainous district. Such ‘table-lands’ (so RV mg.) are found in Bashan, and to these only is the word applied.

A second word *kikkār* means ‘circle’ and is used once (xxxiv. 3) of the plain of Jericho, which is round in shape.

The third word ‘*arābā*’ is rather an attribute of the soil, and by Driver is translated ‘steppe’, because the districts so called, although arid, afford a certain amount of pasture. The AV translates either as ‘plain’ (so mostly in Deuteronomy), ‘desert’ (e.g. Is. xxxv. 1) or ‘champaign’ (Dt. xi. 30). When applied to the low-lying tract north and south of the Dead Sea it becomes almost a proper noun, ‘the Arabah’ (see ii. 7). But it is used in Deuteronomy of other steppe regions—Moreh (xi. 30) and ‘the plains of Moab’ (xxxiv. 1, 8).² Both of these lie well above the Jordan valley, but are rightly called ‘*arābōth*’ because of the nature of the ground. The latter is generally thought to be situated a short distance up the Wadi Seisban, a stream which flows into the Jordan opposite Jericho.³ This would have afforded an excellent camping-ground, and Bedouin tents and camels can be seen there today.

It is a mistake, due to excessive zeal for analysis, to regard ‘the plains of Moab’ and ‘the land of Moab’ as alternative terms indicating respectively the style of P and that of D. The meanings are distinct and not interchangeable. The former term, as explained above, describes a limited region of a specific kind; the

¹ The same word is used for ‘the valley of Hinnom’ in Je. vii. 31, 32.

² See also Jos. xi. 2.

³ Driver, *ICC*, p. 418.

latter the whole area belonging to the kingdom of Moab, as it was then known to the author, and the two are used by him with discrimination. In i. 5 and xxxii. 49 he used 'in the land of Moab' of places within that area, and in xxxiv. 1 'from the plains of Jordan', leaving them behind; to change these over would destroy the sense.

In similar fashion he distinguishes the 'wilderness (*midhbār*) of Moab' (ii. 8), by the road of which the people went, from the 'border of Moab' (ii. 18) which they reached, the limit of the Moabite territory.¹

The mountains described also show acquaintance with the scenery.² We have Mount Seir (i. 1, ii. 2, 5, xxxiii. 2), the lofty range at the heart of the Edomite country, and Mount Hor (xxxii. 50), a peak belonging to it.

In xxxii. 49 Moses is bidden 'get thee up into this mountain of Abarim, unto mount Nebo', and in xxxiv. 1 'he went up . . . unto the mount Nebo'. Here we have *ha'abhārīm*, which Gemser translates 'the mountains of the borderland',³ which is the range⁴ of which Nebo is the summit.

Of particular interest are the references to Mount Hermon, invisible from Jerusalem, but easily seen on a clear day, with its snowy top, from the heights of Moab. The name comes three times as being the northern limit of the conquered territory (iii. 8, 9, iv. 48). The narrator is particularly interested in the various names given to this outstanding landmark. 'The Sidonians call (it) Seirion'; it was indeed so, for in the Ras Shamra tablets of that age we can read Lebanon and Shariyanu (Sirion).⁵ 'The Amorites call it Shenir', and this name reappears in Arabic, confirming its eastern usage.⁶

He has also heard a third name Sion,⁷ known only from his words in iv. 48. Lebanon, the western part of the same range, is given in Dt. i. 7, xi. 24 as the northern limit of the land of promise.

¹ Different from both of these is 'the field of Moab', the cultivated land (Nu. xxi. 20).

² Cf. G. Adam Smith, *Historical Geography of the Holy Land*, 25, 1931, pp. 68ff.

³ *Art. cit.*, p. 355.

⁴ The plural denotes this, and in Nu. xxxiii. 48, 49, the plural 'mountains' is used.

⁵ Albright, *OTMS*, p. 32.

⁶ Driver, *ICC*, p. 51.

⁷ Sion, not to be confused with Mount Zion.

It is a small point, but worthy of notice, that Lebanon is not elsewhere mentioned in the Pentateuch; the limits are described differently in Gn. xv. 18 and Ex. xxiii. 31 (JE); the 'sea of the Philistines' in the latter verse becomes 'the western sea' in Dt. xi. 24. Ebal and Gerizim also now come into sight (xi. 29), where they stand out against the western horizon.

Perhaps the most interesting of all these geographical points is the use in the Pentateuch of the word *Pisgah*, or, as it is always written, 'the *pisgah*', so making it apparent that it is a common and not a proper noun. Much confusion could have been avoided by observing this distinction. This fact has been obscured by its invariable association with the place from which Moses viewed the promised land, but a closer examination of the places where it occurs¹ shows that other heights are also thus described.

Pisgā is connected with the root *pāsagh*, which in later Hebrew means to 'cleave'. The LXX represents it as τὴν λαξευτήν, 'the cleft' in iv. 49, but in xxxiv. 1 as φάσγα, and the Talmud by *ramatha*, or 'hill'. The mountains to the north and east of the Dead Sea are full of clefts and rugged peaks, and the word probably is a common term for a serrated ridge. The references to Ashdoth-pisgah, 'the slopes' or 'springs' of the *pisgā*, indicate proximity to the Dead Sea.

It is first found in Nu. xxi. 20, where we are told that the people 'went up² from . . . the field of Moab to the top of the *pisgā* which looketh down upon the desert'. The LXX translates, τοῦ λελαξευμένου, τὸ βλέπον κατὰ πρόσωπον τῆς ἐρήμου.

For several reasons this cannot be the same as the peak ascended by Moses. (1) It is described quite differently, the 'field' often denoting arable land (Dt. xiv. 22, xxiv. 19) which is not the same as the 'Araboth or sterile region. (2) It is a camping-ground for the people, for which the top of a high mountain would be quite unsuitable. (3) The ascent of this ridge (xxi. 20) precedes the sending of messengers to Sihon (21) and the subsequent battle of Jahaz (23). It corresponds therefore with the occasion of Dt. ii. 26, when the Israelites had just left the 'way of the wilderness of

¹ Alone in Nu. xxi. 20, xxxiii. 14; Dt. iii. 27, xxxiv. 1; in the compound Ashdoth-ha-pisgah, Dt. iii. 17, iv. 49; Jos. xii. 3, xiii. 20. On the antiquity of the 'oracles of Baalam', Nu. xxii-xxiv, see Albright, *OTMS*, p. 33.

² Wherever a *pisgā* is mentioned, it must be *ascended*.

Moab' (ii. 8) which bordered the Arabian desert. This site therefore must be located on the *eastern* border of Moab, and the 'desert' which this ridge overlooked was that of Arabia.

A second *pisgah* is that to which Balaam and Balak ascended to view a 'part' of the Israelites (Nu. xxiii. 13, 14). This was in 'the field of Zophim', and is distinguished from the top of Peor (xxiii. 19) to which he went next.¹

The interpretation of a *pisgah* as a ridge with a broken outline fits in well with the character of the mountains *as seen from Moab itself*, where many of the mountain tops show a jagged outline against the sky. On the contrary, when seen from Jerusalem, the mountains of Moab appear on the horizon, in the blue distance, to be one straight, unbroken line.

THE EARLY INHABITANTS

The notes on the previous inhabitants of the land are twofold. In Dt. vii. 1 there is a list of seven nations occupying the land when the Israelites, led by Moses, arrived, 'the Hittites, and the Gergashites, and the Amorites, and the Canaanites, and the Perizzites, and the Hivites, and the Jebusites'.

This is the only place in the Pentateuch where this list appears in this complete form.² The scepticism once entertained concerning these nations has been banished by archaeological research.³ The spread of the Amorites into the hill country (i. 7) is now an established fact, as is the infiltration of the Hittites from the north.

The lists in ii. 10-12, 20-23 go back still earlier and are equally interesting.⁴ According to Gn. xiv. 5, 6⁵ the Emim inhabited Edomite territory in the time of Abraham. The last few years have thrown a flood of light upon the Hurrians (Horim, ii. 12). Many Hurrian tablets and texts have been translated, and it is known that in the Hyksos period they spread southwards through Palestine as far as Egypt. Zamzummim and Avvim (cf. Jos. xiii. 3) are named here only in the Pentateuch.⁶

¹ Nebo and *pisgah* are thus certainly not alternative names for the same place, used respectively by P and JE.

² It is repeated in varying order in Jos. ii. 10, xxxiv. 11.

³ See Albright, *OTMS*, pp. 41f. ⁴ Cf. Petrie, *op. cit.*, pp. 19-26.

⁵ 'Evidence continues to strengthen the case for the underlying historicity of this chapter', Albright, *OTMS*, p. 6.

⁶ Unless the former are the Zuzim of Gn. xiv. 5.

The use of Caphtorim (cf. Gn. x. 14) to denote the people who came later to be known as Philistines is an archaism which indicates the early recording of these lists.

There is no reason to doubt that these names have survived from the period of the occupation; and the words 'as Israel did' (ii. 12) and 'unto this day' (ii. 22) need not imply the lapse of more than a generation.

CANAAN SEEN FROM OUTSIDE

However it may be accounted for, the fact must be reckoned with that the land of Canaan to the west of Jordan is always viewed *from the outside*, either from the southern border or from the Moabite highlands, but never as from within. In the south Eshcol (i. 24) and Gaza (ii. 23) are named, but not Hebron; and when the limits of the holy land are given, they are 'the mount of the Amorites' and 'Lebanon' (i. 7), not Dan and Beersheba.

The modern traveller who crosses the Jordan by the bridge near Jericho, and, having ascended some way up the Wadi Seisban, looks back, can see the view exactly as described in Dt. xi. 29, 30. The view from the nearby Wadi Nimrin is similar.

From the plains (^a*rābōth*) of Moab (cf. xxxiv. 1) he looks 'beyond Jordan' to the 'Arabah . . . near . . . Moreh', with Gilgal¹ at his feet. Ebal and Gerizim stand out against the western sky. Then there is the view of the land described in Dt. xxxiv. 3. Three words are used to describe the viewpoint, 'Abarim' the range, Nebo the mountain, and the *pisgah*, the topmost ridge. Hither Moses 'went up from the plains of Moab' where the people were encamped in the ravine (Nu. xxxiii. 48; cf. Dt. iii. 29). Josephus² records a tradition that Eleazar and Joshua went up with him, embraced him and returned.

A spot south of the Wadi Seisban, eight miles or more east of the junction of the Jordan with the Dead Sea, which now goes by the name of Jebel Neba, was in Christian tradition thought to be Mount Nebo. The view from thence fits fairly with the conditions in chapter xxxiv and Nu. xxxiii, but is more restricted and further from the Jordan than that which we proceed to describe.

Local Moslem tradition, which in this matter is to be preferred,

¹ S. R. Driver (*ICC*, p. 133) rightly prefers to identify this as the well-known Gilgal near Jericho (cf. Jos. iv. 19). ² *Antiquities*, iv. 8. 48.

identifies it with Jebel Osha, which is 1,000 feet higher, somewhat to the north of Jericho, towards which and the Dead Sea its sides slope steeply¹ down. A small erection near the summit is supposed to mark the site of Moses' grave!

The view from this peak corresponds so minutely with the description here given as to impress anyone who has been privileged to see it.² Conspicuous to the north the snowy peak of Hermon glitters against the blue sky, with the rolling hills of Gilead in between 'as far as Dan'.³

To the north-west the Galilean hills are visible (Naphtali),⁴ to the west the highlands of Ephraim where Nablus (Shechem) is seen nestling between the heights of Ebal and Gerizim; then slightly to the south the mount of Olives (hiding Jerusalem), beyond which the land slopes down to the Mediterranean Sea. Six thousand feet below lies Jericho with the plain (kikkār) or circular area around it; then the Dead Sea even unto Zoar, at the southern end,⁵ with all the Negeb, or southern part of Palestine. The description is as true as the view is marvellous, and it is hard to believe that it was conceived by one who had not seen it.

CONCLUSION

When we review the geographical data as a whole the details appear to be much too accurate to be due either to chance or to oral tradition. The account of the journeyings in chapters i-iii is altogether realistic and quite unlike an introduction prefixed to a collection of old laws; it bears every sign of originality. The views described and the features of the Moabite country reproduced must have been seen by human eyes; the antiquarian notes also belong to the period and are not the result of archaeological research.

The omissions also are significant: there is no hint of Jerusalem, nor of Ramah, dear to Samuel's heart, not even of Shiloh, where the tabernacle came to rest. Everything points to its historical character and early date.

¹ Are these slopes the Ashdoh-pisgah?

² As the writer of these words did on a cloudless spring morning.

³ Some authorities identify this with Dan-jaan in 2 Sa. xxiv. 6, and place it in northern Gilead; others think it is the better known Dan.

⁴ The use of the tribal names to define the areas need not imply a late date (cf. Jos. xiv). On the modernizing of names see W. Albright, *Biblical Period*, p. 6.

⁵ So Josephus (*Jewish War*, iv. 8. 4) and G. Adam Smith, *op. cit.*, p. 506, n. 4.

CHAPTER V

LEGISLATION IN GENERAL

THE main legislative section of Deuteronomy, chapters xii-xxvi, is generally known as the Deuteronomic Code.¹ Wellhausen looked on these chapters, and only these, as the original book, written shortly before 621 BC and discovered, by accident or design, by Hilkiyah in the temple. All who follow in the same tradition regard this as the kernel of the book in its earliest form, though many believe that considerably more was also original. These facts make the dating of this section of special importance.

It is said that other codes are embedded in the Pentateuch, belonging to widely separated periods. The earliest of these, the so-called 'Book of the Covenant',² namely Ex. xx-xxiii, is assigned to E or to JE, and may therefore be referred to as the JE Code.

It is now usual to refer to Lv. xvii-xxvi as the Holiness Code (H), although formerly it was taken to be an integral part of the Priestly Code. Opinions vary as to the date, whether before or after Deuteronomy, before or after Ezekiel.³

Finally there is the Priestly Code (P), dated during or after the exile. This includes the rules for the priesthood in Ex. xxv-xxxii, xxxv-xl; Lv. i-xi, xxvii; Nu. i-v, xxv-xxxvi, and several smaller sections. The relative dating of the four codes, J, E, D, P, was an essential feature in Wellhausen's theory. Driver in various places expressed considerable uncertainty as to the limits of J and E, and often took refuge in the formula JE to cover both, but vigorously defended the sequence JE, D, P. Although this is now abandoned

¹ So A. C. Welch, *Code*; Driver (*ICC*, p. 131), 'A Code of special Laws'.

² This title is taken from Ex. xxiv. 7; but some scholars think that the words there refer only to the Decalogue. Both the date and the exact limits are variously fixed by different writers. The above limits are adopted by Driver, who gives the date as between 900 BC and 750 BC.

³ H. H. Rowley places it in the sixth century BC. Welch, *Framework*, p. 3, says H 'must be earlier' than Deuteronomy. See also E. Robertson, *OTP*, p. 60.

by many scholars, it still holds its own in popular textbooks,¹ and therefore must be taken seriously.

The next chapter will be occupied with this relative dating. In the present one the Deuteronomic Code as a whole will be compared and contrasted with other early Semitic codes, which will help us to see more clearly its scope and purpose. The comparison between the code of Hammurabi (c. 1700 BC)² and the Mosaic law has often been made with a view to showing the independence of the latter.³ A wider comparison with the Egyptian, Hittite and Assyrian laws, showing parallels and differences, is made in G. Ricciotti's *Histoire d'Israel*.⁴

The Hittite laws go back to the fourteenth or fifteenth century BC.⁵ The recently discovered codes of Eshnunna and Lipit Ishtar,⁶ both earlier than that of Hammurabi, are similar in type and contain some laws almost identical and others with local differences.

The study of these codes has convinced scholars of the ancient character of many laws embedded in Deuteronomy and elsewhere in the Pentateuch. Such are seen to be, without any doubt, part of a common Semitic inheritance. At the same time, the particular form which they assume shows signs of an early adaptation to Hebrew religious ideas. (See pp. 81 f.)

The word 'code' is certainly convenient to describe the content of Dt. xii–xxvi provided that care is taken as to the meaning imported into it.⁷ The description of its contents as 'statutes, judgments and commandments' (xii. 1, xxvi. 16, 17) will be considered below (p. 72). All are included in the word *Tôrāh* (law) used in iv. 44, which has a wider range of meaning than the English word 'law' or the Greek *νόμος*.

¹ e.g. H. Cunliffe-Jones, *Deuteronomy*, S.C.M., 1951.

² Or somewhat later.

³ For example by H. Grimme, *The Law of Hammurabi and Moses*, London, 1907; and more recently by M. David, *Oudtestamentische Studien*, Deol VII, Leiden, 1950.

⁴ *Histoire d'Israel*, Paris, Vol. 1, 1947, pp. 240–249.

⁵ See G. R. Gurney, *The Hittites*, Second Edition, London, 1954, p. 24. Regarding Assyrian laws, see *ANET*, p. 180.

⁶ Assembled and translated, with Hammurabi's Code, in *ANET*, ed. J. B. Pritchard, Princeton, 1950.

⁷ Many scholars do not think the word is strictly applicable to Hammurabi's laws, which they look upon as only a collection of case-laws.

Tôrāh is derived¹ from *yārah*, and can mean (i) teaching of any kind, human (Pr. i. 8) or divine, (ii) a precept or 'law' in the English sense, (iii) a *corpus* of laws and instructions, and in particular the Mosaic law, or (iv) any part or the whole of the divine revelation (Ps. cxix. 1).

In Deuteronomy it is found in the singular only,² and generally in an inclusive sense, though its semantic range varies with the context.

With these cautions we proceed to compare the Deuteronomic code with that of Hammurabi, with which it contains much in common but with important differences.

1. The two codes differ in *scope* and in *general character*. That of Hammurabi is legal and secular; it sets out to protect the rights of Babylonian society, the free men (*awelum*), the semi-free men (*mushkenum*), and to some extent the slaves. It lays down laws of property, marriage and inheritance; defines the legal rights of employers and employed in various trades; and prescribes fines and penalties for damage or misdemeanour.

Deuteronomy contains some laws of this kind, but there is less class distinction, and its whole tone is deeply religious. The name of Yahweh occurs 189 times; the statutes and judgments are those of Yahweh their God, which they are to observe to do with all their heart and soul (xv. 5, xvii. 10, xxvi. 16). The analysis at the end of this chapter shows that of the 342 verses which make up these chapters in the EV more than half are moral or religious statutes, whilst ninety-three are taken up with specific commands related to the approaching settlement in the land.

Even where a law, as in xxii. 24, is almost the same as in Hammurabi's code, instead of coldly prescribing the penalty the offence is seen in its moral aspect, and the law is said to be in order to 'put away evil from among you'. The whole is permeated with exhortations, warnings and promises of blessing such as are never found in the Babylonian code.

¹ For other and less satisfactory derivations see N. W. Porteous, in *Studies in O.T. Prophecy*, Edinburgh, 1950, pp. 147–150. See also Bentzen, *Introduction*, I, pp. 213ff.

² Deuteronomy is sometimes described as a collection of *tôrāth*; but this is not the way it describes itself. For the use of *tôrāh* in the prophets see p. 138.

2. They differ in *arrangement*. Hammurabi's laws are arranged in groups, e.g. there are sections on dowries (171-184), buildings (228-233), the hire of boats (234-240), etc. In Deuteronomy there is little system,¹ or perhaps it should be said, system of a different kind.² The stream of words flows on, as befits a discourse, with various turnings, and not as in a formal document. It is not 'codified divine law, but the preaching of the law'.³

The arrangement is therefore governed⁴ by the lawgiver's dominant religious motive and the various matters which required his attention. Caution should therefore be exercised before passages (e.g. xvi. 21ff., see Hertz *in loc.*) are put down to later insertions, when they may be merely digressions.

3. The *form* is different. In Hammurabi the laws follow a standard pattern. They begin with 'If . . .' followed by a suppositious offence framed in the third person, which is followed by the action to be taken, or the penalty to be enforced; for instance, 'If a man steal a man's son who is a minor, he shall be put to death.'⁵ Certain laws in Deuteronomy, e.g. that of manstealing (xxiv. 7), are cast in this form, and may be classed as 'judgments' (see p. 72).

But the greater part consists of precepts and commands in the second person, mixed in with exhortations, reminders and appeals; so that the whole takes on the character of a discourse. For instance, referring to xv. 12-18, von Rad comments: 'What place is there for language like that in a law? This is the style used in addressing a "thou" who is present and listening.'⁶

4. The difference of purpose affects the whole *mode of address*. The style in Hammurabi's code is strictly impersonal, as befits a legal system of general application. Not so in Deuteronomy, where every second sentence reminds us that we are listening to an old and honoured leader speaking to the people whom he has led,

¹ 'No logical arrangement', says R. H. Pfeiffer, *Introduction*, p. 232. Cf. Welch, *Code*, p. 185.

² Cf. J. Pedersen, *Israel*, I-II, p. 27.

³ Von Rad, *Studien*, p. 10 'Nicht kodifiziertes Gottesrecht, sondern . . . gepredigtetes Gesetz.'

⁴ See H. M. Wiener, 'The arrangement of Dt. xii-xxvi', in *Postluminous Essays*, ed. H. Loewe, London, 1932, pp. 26-36.

⁵ This is a common form of early Semitic jurisprudence.

⁶ *Studies*, ET, p. 21.

and reminding them of the experiences they have shared together. The people are bidden to 'remember' their bondage in Egypt (xvi. 12); they are reminded of their former request 'in Horeb, in the day of the assembly' (xviii. 16); they are told to remember 'what the Lord thy God did unto Miriam' (xxiv. 9), and 'what Amalek did unto thee' (xxv. 17).

The form of address is personal and intimate, thus the things which 'we do' (xii. 8), or which 'I command thee this day' (xiii. 18);¹ in places it approaches a dialogue 'when . . . thou shalt say' (xvii. 14) or 'if thou say . . .' (xviii. 21). We seem to hear Moses speaking, while the people listen and respond.²

5. The two codes differ as to *the community concerned*. The laws of Hammurabi deal with a people among whom trade and industry are well developed and class distinctions strongly marked. Trades and crafts are regulated on a commercial basis, and money fines are fixed to indemnify property owners who suffer injury or loss. We know enough about the Babylonia of that period to recognize that these were in fact the conditions when those laws were promulgated, after centuries of monarchic rule. In the later years of the Hebrew monarchy the conditions approximated to these.

The background of Deuteronomy is different. Here are no laws to compensate for loss caused by careless builders (Hammurabi 228-233), or for injury to health due to incompetent physicians (215-225). The legislation is fitted to a simple agricultural people, deeply interested in their cattle,³ where food and raiment are the chief concern. There are laws concerning cultivation, and they had cultivated the land in Goshen; but there are no traces of a developed civilization like that of Babylonia, nor of the luxuries and fashions which grew up in Israel under the monarchy and were rebuked by Isaiah. The local 'elders' still have a large share in the administration of the law.⁴

The people look forward to a place among the nations but they have not yet attained it.⁵ There is no king to lead them forth to

¹ See also xii. 20, 30, 32, xv. 5, 9, xix. 7.

² 'Moses speaks, the people listen. This stamps the character of the whole book' (von Rad, *Gottesvolk*, p. 3).

³ xii. 6, 15, 17, 21, xiv. 21, 23, xv. 14, 19, xvi. 2, xvii. 1, xviii. 3, 4, xxii. 1-4.

⁴ xix. 12, xxi. 2-4, 6, 19f., xxii. 15-18, xxv. 7-9.

⁵ xvii. 14.

battle; the national and civic life as developed by Solomon, together with the subsequent struggles between north and south, are all apparently unknown.

6. The discourse of Dt. xii–xxvi is interspersed with notes of *time and place*, such as are found in the prologue and epilogue to Hammurabi's law, but not in the code itself.

For instance, '... this day ... ye are not as yet come ... when ye go over Jordan ... then it shall come to pass' (xii. 8–11, RV), 'when the Lord thy God shall enlarge thy border' (xii. 20, cf. xix. 8), 'when the Lord thy God shall cut off the nations from before thee' (xii. 29); or 'that shall be in those days' (xvii. 9, xxvi. 3).

It is the same with regard to places: Jordan is to be crossed (xii. 10), the nations already in the land are named (xx. 17), and a list is given of those who may or may not enter their community (xxiii. 3, 7).

The facts on which these contrasts are based are not in dispute, but the conclusions drawn from them vary greatly.

There is now general agreement that many of the laws are ancient, going back to the beginning of Israel's existence as a nation, and it is also widely recognized that the laws and exhortations of Deuteronomy were once delivered orally, whether the orator was Moses, or Samuel (Robertson), or a group of country Levites (von Rad). Moses' own 'declaration' of the law is expressly stated in Dt. i. 5, whether we believe it or not; after which came the writing (xxxii. 9). Joshua also is said to have delivered a statute orally, and then to have committed it to writing (Jos. xxiv. 25, 26), and Samuel likewise (1 Sa. x. 25). It seems certain that in Israel writing and oral teaching went hand in hand from the beginning (cf. Ex. xvii. 14).¹

The oratorical style of the book, the introduction of brief notes of time and place, the appeals to memory of the past and to present conditions, all presume that Moses is the speaker and the tribes on the banks of Jordan the people addressed. This may be an elaborate fiction or it may be a true tradition, but it needs to be taken duly into account.

The difference between the religious tone of the Mosaic law and the old Semitic codes will be seen more clearly when the

¹ This theme is developed by E. Nielsen, *Oral Tradition*, pp. 39ff.

individual laws, and the form they take, come to be considered in the next chapter.

THE SETTING

A few remarks may be added upon the setting in which chapters xii–xxvi find themselves. Whether or not chapters v–xi were part of the original Deuteronomy, the closing verses of chapter xi form a very suitable introduction to what follows. The reference in xi. 21 to length of days in the land is echoed in xii. 1, the promise to drive out the nations in xi. 23 is echoed in the command to destroy their shrines in xii. 2; again, xi. 31 says 'ye shall pass over Jordan' and is followed by 'when ye go over Jordan' in xii. 10; the command in xi. 32 to observe to do the 'statutes and judgments' immediately introduces xii. 1, 'These are the statutes and judgments, which ye shall observe to do.'

It should be noticed also that Dt. xxvii. 1 takes up the story where chapter xi leaves it. Ebal and Gerizim are still in view (xi. 29, xxvii. 4), Jordan will soon be crossed (xi. 31, xxvii. 3), the law which has been 'set before' the people (iv. 44, xi. 32) must soon be inscribed on stones (xxvii. 2–4). We have here what seems a very natural sequence,¹ but if chapters v–xi and xxvii are later additions, it takes on the character of a clever artifice. Wellhausen himself was not afraid to attribute to the authors of Deuteronomy that element of fraud which his theory requires, but in this he has few followers today.

ANALYSIS OF THE LEGISLATION

As we come to examine the legislation in detail, it will be convenient to classify the laws into groups.

The Decalogue which is repeated in chapter v is clearly distinguished from the laws in chapters xii–xxvi. The former, revealed in Horeb, is designated the 'ten words' (*d^ebhārīm*) (iv. 13, v. 22; cf. Ex. xxxiv. 28); the latter, set before the people at the end of the wilderness wanderings (xi. 31, 32), are introduced as 'statutes and judgments' (xii. 1), to which in xxvi. 17 the word

¹ A somewhat similar sequence can be discerned in Ex. xx–xxiv; the Decalogue (Ex. xx; cf. Dt. v), the 'judgments' (Ex. xxi. 1; Dt. xii. 1) and the writing (Ex. xxiv. 4; Dt. xxxi. 9).

'commandments' is added. These terms provide a handy means of classification.

1. Of the three words used in xxvi. 17, that which it is possible to define most closely is 'judgments' (*mišpāṭim*).¹ Here the idea is 'that of a *judicial decision*, made authoritatively once, and constituting a rule, a precedent applicable to other similar cases in future.'² This is sometimes called 'case-law', and when we turn to Ex. xxi. 1, and find the word 'judgments' there used, it is interesting to find that the verses which follow in xxi-xxii. 17 exactly fit in with this description, and assume the same form as the laws in Hammurabi's code (see p. 68).³ We shall therefore, in what follows, class under the heading of 'judgments' those clauses which possess this form and character.

2. The term 'statutes'⁴ (*huqqim*) is derived from a root meaning to 'engrave' or 'inscribe' and so comes to mean that which is prescribed as a permanent rule of conduct as in Lv. x. 9; Dt. xvi. 12.⁵ Such rules may be either moral or ceremonial, but the meaning differs from that of a 'judgment' in that the keeping of the rule is a matter for the conscience rather than for the judge.

The contents of Ex. xxii. 21-xxiii. 19 could be fitly described as statutes; they are framed in the form 'thou shalt . . .', convey a moral obligation, and their breach involves, not a legal penalty, but the divine displeasure. A distinction is drawn between statutes and judgments in 1 Ki. vi. 12, where Solomon is bidden to 'walk in' the statutes of God and to 'execute' His judgments (cf. Ezk. xi. 12).

The statutes, or 'apodictic' laws, are Yahwistic in tone and peculiar to Israel.

3. The third word, found in xxvi. 17 but not in xii. 1, is 'commandments' (*mišvōth*). This is a more general term, and the English word 'commandments' is a fair equivalent of the Hebrew, which can be used of any command of God or of man. We can

¹ Dt. iv. 1 (20), and in the singular i. 17 (12).

² Driver, *ICC*, p. 62. Laws of this character are generally found to belong to the common Semitic stock of legal precepts. Cf. A. Alt, *Die Ursprünge des Israelitischen Rechts*, Leipzig, 1934.

³ As regards Ex. xxii. 18-20 see p. 78.

⁴ iv. 1 (28).

⁵ The EVV translate the same word elsewhere as 'custom' (Jdg. xi. 39) or 'ordinance'.

therefore apply it to certain specific instructions, such as that to appoint cities of refuge, which can be fulfilled at a certain time, so differing from the rules of conduct which come under the former heads.

Psalms cxix shows what flexible use can be made of these and various other words to denote the divine way of life; nevertheless they can serve our purpose as categories under which the laws may be classified.

Another line of division is between those laws to which something more or less closely parallel, sometimes even identical, is found elsewhere in the Pentateuch, and those, on the other hand, which are peculiar to Deuteronomy. By means of these distinctions and others concerning subject matter, the individual laws have been ranged in groups in the three following chapters, to which we have affixed the letters A to M. In the appendix to this chapter the contents of chapters xii-xxvi are divided into seventy-nine sections, to each of which is appended the letter indicating the table under which it will be found.

In the AV the laws occupy 345 verses, of which 196 deal with matter peculiar to Deuteronomy.

Those classed as judgments occupy forty-seven verses and have a special importance of their own. In the chapter which follows we shall deal with these, and then with such 'statutes' as have parallels in the JE and P 'codes'.

APPENDIX TO CHAPTER V

ANALYSIS OF THE LEGISLATION

The letters refer to the tables¹ where the sections are found.

- | | | |
|------|-------|--|
| xii. | 1-4 | Destruction of Canaanite sanctuaries (F, K). |
| | 5-28 | Sacrifices and offerings (E). |
| | 29-32 | Avoidance of Canaanite practices (F). |

¹ These tables will be found on the following pages: A, p. 77; B, p. 78; C, p. 85; D, p. 88; E, p. 90; F, p. 98; G, p. 101; H, p. 103; J, p. 104; K, p. 110; L, p. 112; M, p. 114.

- xiii. 1-18 Temptation to idolatry (B, F).
 xiv. 1, 2 Disfigurement for dead (D).
 3-20 Clean meats (E).
 21a Animal found dead (C).
 21b Kid in mother's milk (C).
 22-29 Tithes and firstlings (E).
 xv. 1-11 Year of release (H).
 12-18 Release of Hebrew slave (A).
 19, 20 Consecration of firstlings (C).
 21-23 Blemished firstling (G).
 xvi. 1-17 Pilgrim feasts (C).
 18 Judges and officers (M).
 19, 20 Justice (C).
 21, 22 Pillars and Asherim (F).
 xvii. 1 Blemished offering (E).
 2-7 Apostasy (A, F).
 8-13 Supreme tribunal (M).
 14-20 Possible king (M).
 xviii. 1-5 Priestly dues (E, J).
 6-8 Country Levite (J).
 9-14 Passing through fire, wizardry (D, F).
 15-22 Promise of a prophet (M).
 xix. 1-10 Cities of refuge (A, M).
 11-13 Wilful murder (A).
 14 Landmark (G).
 15-20 False witness (B).
 21 Lex talionis (A).
 xx. 1-15 Laws of battle (L).
 16-20 Extermination of previous inhabitants (K).
 xxi. 1-9 Man found slain (J).
 10-14 Beautiful captive (L).
 15-17 Right of firstborn (B).
 18-21 Incorrigible son (B).
 22, 23 Hanging (G).
 xxii. 1-4 Straying cattle (C).
 5 Mixed clothing (G).
 6, 7 Mother bird (H).
 8 Battlements (H).
 9, 11 Prohibited mixtures (D).

- xxii. 10 Ox and ass (G).
 12 Fringes (E).
 13-21 Slandered wife (B).
 22-24 Adultery (B).
 25-27 Rape (B).
 28, 29 Seduction (A).
 30 Incest (D).
 xxiii. 1, 2 Exclusion from congregation (G).
 3-8 Membership in the congregation (K).
 9-14 Cleanliness in camp (L).
 15, 16 Runaway slave (H).
 17 Prostitution (D).
 18 Hire of prostitution (F).
 19, 20 Usury (C).
 21-23 Vows (E).
 24-25 Standing crops (H).
 xxiv. 1-4 Bill of divorce (H).
 5 Release of bridegroom (H).
 6 Pledge of millstone (H).
 7 Manstealing (A).
 8, 9 Leprosy (E).
 10, 11 Debtor's house (H).
 12, 13 Pledge garment (C).
 14, 15 Withholding wages (D).
 16 Fathers and children (H).
 17a, 18 Justice for stranger (H).
 17b Widow's raiment (H).
 19-22 Gleanings (D).
 xxv. 1-3 Forty stripes save one (H).
 4 Ox treading corn (H).
 5-10 Levirate marriage (H).
 11, 12 Immodest action (B).
 13-16 Just weights (D).
 17-19 War with Amalek (K).
 xxvi. 1, 2 Firstfruits (C).
 3-11 Presenting firstfruits (C, J).
 12-15 Presenting tithes (J).

CHAPTER VI

THE CODES COMPARED

THE laws which are peculiar to Deuteronomy will be examined in the two following chapters; in the present one we consider those which have something parallel to them elsewhere in the Pentateuch. They fall easily into two groups, which will be considered separately.

1. The *judgments* are set out in Tables A and B (see pp. 77, 78). Their interest for our present purpose consists in the fact that many of them are found also in other ancient codes,¹ as well as in JE.

2. The *statutes* are set out in Tables C, D and E (see pp. 85, 88, 90). Here we miss the advantage of comparison with Hammurabi's code, but we have material which concerns the mutual relationship of JE, D and P.

Driver's view of this relationship will give us an excellent starting-point for our investigation. According to this the Deuteronomic Code 'is an *expansion* of the laws in JE (Ex. xx. 22–xxiii. 33, xxxiv. 10–26, xiii. 3–16); it is, in several features, *parallel* to the Law of Holiness; it contains *allusions* to laws—not indeed always the same as, but—similar to the ceremonial institutions and observances codified in the rest of P.

'The dependence of Deuteronomy upon JE on the one hand, and its *independence* of P, on the other, which is thus established for the legislative sections of the book, is maintained, in exactly the same manner, through the *historical* sections. . . . The two sets of passages (JE and P) *were not yet combined into a single work*, and the author only made use of JE.'² Today many scholars think in terms of 'strata' than of 'codes'; yet the question of dating by the comparison of the laws is still a matter of importance.

As we proceed to examine the laws one by one and compare

¹ See Pritchard, *ANET*, pp. 159–198.

² Driver, *ICC*, p. xiv. The italics are his. In similar fashion Rowley says, 'Deuteronomy shows knowledge of the J and E parts of the first four books, both in history and legislation, but not of the P part' (*Growth*, p. 45).

them with the corresponding parts in JE, H and P we shall find that the facts do not support these assertions so far as the laws are concerned. The appendix at the end of this chapter proves that the same is true regarding the historical parts. No doubt the above propositions are now out-dated, but they nevertheless require refutation because, as remarked above (pp. 11, 15), they are still being widely taught, and made the ground for the late dating of Deuteronomy and the Priestly Code. At the same time the process of examination will bring to light some weighty reasons for the early character of the Deuteronomic law.

Table A. Judgments with parallel in JE

Subject	Dt.	JE	H	Ham.
1. Release of Hebrew slave	xv. 12–18	xxi. 2–6		Cf. 117
2. Apostasy	xvii. 2–7	xxii. 20	Cf. Lv. xx. 45	
3. Manslaughter ¹	xix. 4–6	xxi. 13		207, 208
4. Wilful murder ¹	xix. 11–13	xxi. 12, 14	Lv. xxiv. 17	
5. Lex talionis	xix. 21	xxii. 24, 25	Lv. xxiv. 19, 20	196, 197, 200
6. Seduction ²	xxii. 28f.	xxii. 16f.	Cf. Lv. xix. 20	
7. Manstealing ³	xxiv. 7	xxi. 16		14

¹ See also Table M. The Hittite law distinguishes between manslaughter and murder in exactly the same terms (Pedersen, *Israel*, I–II, p. 396).

² A similar law exists in Assyrian codes. See G. R. Driver and J. C. Miles, *The Assyrian Laws*, Oxford, 1935, and Pritchard, *ANET*, p. 185.

³ The Hittite code requires, not death, but ample restitution. Other slight differences between the Hittite and Babylonian codes show how in the patriarchal age custom already varied from place to place.

THE JUDGMENTS

The laws of Ex. xxi. 2-xxii. 17 (JE) clearly come under this head. We have included also xxii. 18-20 because they exact a penalty, though dealing with moral offences and framed in the second person. It needs only a glance to see that they contain nothing to connect them with the Israelite monarchy; and there is good reason to think of them as much older. According to Albright,¹ 'it is now becoming a truism that the background of the Book of the Covenant lies in the Bronze Age, not in the Iron, i.e. it must go back substantially to the Mosaic Age.'

The judgments which are found in both Deuteronomy and JE are set out in Table A, those peculiar to Deuteronomy in Table B, and those peculiar to JE in Table X. Hammurabi's laws are numbered as in J. Kohler and F. E. Peiser, *Hammurabi's Gesetz*, Leipzig, 1904.

Table B. The Judgments (no parallel in JE)

Subject	Dt.	H	Ham.
1. Temptation to idolatry	xiii. 1-18.		
2. False witness	xix. 15-20.		Cf. Ham. 1-4
3. Right of firstborn	xxi. 15-17.		Cf. 168-170
4. Incurable son	xxi. 18-21.		Cf. 186
5. Slandered wife	xxii. 13-21.		Cf. 131
6. Adultery ²	xxii. 22-24.	Lv. xx. 10	129
7. Rape ²	xxii. 25-27.		130
8. Immodest action	xxv. 11f.		48

¹ OTMS, p. 39.

² A betrothed damsel is regarded as a wife. Laws 6 and 7 also in Hittite and Law 8 in Assyrian codes.

Table X. The Judgments in JE but not in Deuteronomy

Subject	Exodus	Hammurabi
1. Daughter sold into concubinage	xxi. 7-11	Cf. 117, 183, 184
2. Smiting father or mother	xxi. 15	195 ¹
3. Cursing father or mother	xxi. 17	
4. Injury through a quarrel	xxi. 18f.	206
5. Injury to a servant or woman (see A.5)	xxi. 20-27	196, 197, 199, 200
6. Injury from a goring ox	xxi. 28-32, 35, 36	250, 251, 252 ²
7. Injury from an open pit	xxi. 33, 34	
8. Theft	xxii. 1	6, 8
9. Burglary	xxii. 2-4	21
10. Cattle feeding astray	xxii. 5	57
11. Crops damaged by fire	xxii. 6	Cf. 55, 56 ³
12. Trust property stolen	xxii. 7-9	125
13. Trust property damaged	xxii. 10-13	Cf. 263-267
14. Borrowed property damaged	xxii. 14f.	Cf. 263-267
15. Witchcraft	xxii. 18	
16. Bestiality	xxii. 19 ⁴	

¹ No mention of mother; the penalty is the loss of a hand.

² Also found, in identical terms, in the earlier code of Eshnunna.

³ These laws relate to damage by water, through imperfect canals.

⁴ Cf. Dt. xxvii. 21.

Of the thirty-one laws in these lists twenty-two have something analogous to them in the older codes. These refer to matters concerning property or human rights, such as could come before a civil court, and prescribe a penalty.

Most of the remaining nine deal with moral and religious matters, with which the old law codes had no concern. Confining attention for the present to the former we see both likeness and differences between Hammurabi and the Israelite laws. The proper inference is, not that the Hebrew law is derived from the Babylonian, but that both represent the formulation of old and widespread Semitic customs, pre-Mosaic in their origin, which may well have been already in force in the patriarchal period.

The *distribution* of these laws is revealing, namely twelve verses of Deuteronomy in Table A, twenty-eight in Table B and forty-four verses of JE in Table X. This is not as it should be according to the documentary theory.¹ If the Deuteronomic code were an 'expansion' of that in JE why should more than three-quarters of it have been omitted? Had burglary and theft ceased? Would not the laws protecting a slave (Ex. xxi. 22f., 26f.) have made a special appeal to an author who elsewhere is so concerned to protect the weak?

Again, why should the old laws in Table B (2-7), similar in type to the others, have remained so long unrecorded? Of those in Table A which are repeated, why are the order and wording and connection all changed?

We are forced to the conclusion that the legislation of Deuteronomy is not an 'expansion' of the Covenant code.

Neither can it be attributed, as some scholars have maintained, to the old Canaanite civil law. There are marked differences between the Deuteronomic laws and those found in the Ras Shamra tablets; the absence of specifically Canaanite features in the former suggests that it was fixed before the settlement in Canaan, and there are signs of strong reaction against Canaanite influence.

The real fact is that these thirty-one laws, distributed through

¹ The statement that 'nearly every law in the shorter document (viz. Ex. xxi-xxiii) is reproduced' in Deuteronomy (Oesterley and Robinson, *Introduction*, p. 43) is manifestly incorrect. The actual proportion is less than a third, viz. thirty verses in Tables A and C against sixty-seven in X and Y.

these three tables (A, B and X), are all alike ancient and belong to the same category; they are supplementary, not successive; parts of a larger whole, as is proved by their collection together in Hammurabi's code.

A second matter for study is the different form which a law, when found in Hammurabi's code, assumes in the Hebrew law.

A careful examination made by W. Kornfeld¹ of the laws for the goring ox in Ex. xxi. 28-32 and of the laws for adultery in Dt. xxii. 22-27 with those of Hammurabi and Eshnunna shows that, whilst alike in several points such as the distinction between a 'son' and a 'servant', and between the cognizance or ignorance of the ox's propensities on the part of the owner, the Hebrew law contains certain unique features. For instance, (i) in Ex. xxi. 31f. the sexes are treated equally, (ii) in Ex. xxi. 22, 23, communal procedure is substituted for a fixed fine (cf. Dt. xxii. 24), (iii) in Ex. xxii. 8 (note RV) the divine sanction is sought, (iv) in other places (e.g. xxi. 13) the standard form is departed from and the first and second person is used. Kornfeld regards these as Mosaic modifications of the older Semitic law.²

If such are the modifications introduced into the laws of JE, let us consider what changes are made when an old law is restated in Deuteronomy.

1. The equal treatment of the sexes is found in Dt. xv. 12, although absent in Ex. xxi. 2.
2. Communal procedure is to be seen in Dt. xix. 17, xxi. 19, xxii. 17, 18.
3. The divine name is introduced in Dt. xv. 15 and divine sanction sought in Dt. xix. 17 (cf. Ex. xxii. 8).
4. The mode of direct address is used in Dt. xix. 19, 20, xxii. 21, 22, 24.

It appears, therefore, that the changes made by Deuteronomy in the old laws follow the same pattern as those made in the laws of

¹ 'L'adultère dans l'Orient antique', *RB*, lvii, 1950.

² Albright says that the Book of the Covenant illustrates how Semitic case-law was 'transformed by the religion of Moses', *OTMS*, p. 40. Pedersen (*Israel*, I-II, pp. 400ff.) remarks that in the Hebrew laws the principles of 'guilt', of 'simple restitution' and of 'care for the weak' receive greater prominence than in other Semitic codes.

Ex. xxi, xxii. The natural inference is that the same cause has been at work in each case.¹

Let us now examine how certain laws appearing in both Exodus and Deuteronomy differ in form.

1. *The lex talionis*, both in Exodus and Deuteronomy, is not prescribed but assumed, and applied to different cases. The difference in form is slight and irrelevant.

2. The law against *manstealing* in Hammurabi refers to 'a man's (i.e. freeman's) son', in Exodus it is general and in a primitive form, in Deuteronomy we have 'any of his brethren the children of Israel'.

3. When comparing the laws for the *release* of those sold into bondage care is required to distinguish the separate cases, which differ in the three codes.²

Hammurabi's law (117) provides for their release after three years 'if a man sell his wife, his son or his daughter'.

Ex. xxi. 2-7 falls into three sections: (i) 'A Hebrew man' bought as a slave shall 'go out free' after six years. (ii) A rider is added about his wife and children (3, 4). (iii) A procedure is laid down 'if he say, I love my master' and wishes to serve voluntarily (5, 6). The section which follows (7-11) has no parallel in Deuteronomy (see Table X.1), and deals with the case of a daughter sold into concubinage.

Dt. xv. 12-17 also falls into three sections: (i) 'Thy brother, an Hebrew man or an Hebrew woman' who has been sold, must be released after six years (12). (ii) He is to be furnished with generous supplies (13-15). (iii) Procedure is laid down for voluntary service (16-18).

Here we see that in Ex. xxi. 2-4 the law preserves the ancient form except that 'thou' creeps into verse 2, so connecting it with the preceding verse.

In Deuteronomy the law is applied to both sexes, the word 'brother' is introduced, the memory of Egypt is invoked, and the words added 'therefore I command thee this thing today'. The

¹ New elements appearing in Deuteronomy are, 'the priests and the judges, which shall be in those days' (xix. 17) and the 'elders of the city' (xxi. 19, xxii. 17).

² When this is done it is apparent that there is no discrepancy.

old law is thus absorbed into the exhortation of the preacher.

4. In Hammurabi's law, *manslaughter*, if declared upon oath to be 'without intent', involves a fine, greater for a freeman than for a slave (207, 208).

Ex. xxi. 13 is quite different; it runs, 'And if a man lie not in wait, but God deliver him into his hand; then I will appoint thee a place whither he shall flee.'

In Dt. xix the law is absorbed in the regulations for the cities of refuge, which are intended for the time 'when the Lord thy God hath cut off the nations, whose land the Lord thy God giveth thee, and thou succeedest them' (1).¹ The changes follow the same pattern as before.

The nine laws which remain for consideration have no strict parallel in Hammurabi's code, though laws regarding seduction, immodest action and bestiality are found in other codes.²

Three of these deal with civil offences and prescribe a penalty; death for murder (A.4), mutilation for immodest interference (B.8) and compensation for loss through an unguarded pit (X.7).

Three more deal with moral offences. The rules (A.6) concerning seduction with consent in Ex. xxii. 16f. and Dt. xxii. 28f. partly overlap and partly supplement each other. The law of Ex. xxi. 7 exacts the death penalty for *cursing* father or mother (B.3), the curse being the moral equivalent of a blow. The third is the law against bestiality (Ex. xxii. 19).

The remaining three are religious. Ex. xxii. 18, using the second person, condemns a witch to death.³ In Ex. xxii. 20 the penalty for sacrificing 'to any god, save unto the Lord only' is that he be 'devoted' (rv mg.). Dt. xvii. 2-7 also enacts the death penalty for apostasy, but in a form so different as to show that it is not copied from the JE law. It exhibits the characteristic features noted by Kornfeld (see p. 81); both sexes are included (2), communal action is prescribed, and the religious aspect is emphasized; that which in Ex. xxii. 20 is an outward act is here treated as a transgression of the 'covenant' (2).⁴

¹ See p. 119 below.

² ANET, pp. 168, 196, 197.

³ 1 Sa. xxviii. 9 implies that this law existed in the time of Saul.

⁴ Cf. Dt. xv. 12, 13. The calling of 'witnesses' is ancient custom. Cf. Ham. 106, 123.

The words 'which I have not commanded' should probably be regarded, here and elsewhere in Deuteronomy, as proceeding from Moses as the speaker.¹ The general setting is archaic; the words 'thy gates which the Lord thy God giveth thee' point to the occupation of the land.

Lastly, the rules in Dt. xiii, enacting death as a penalty for temptation to apostasy, are unique in the Pentateuch and will be considered further under Table F (p. 98). They also possess the features noticed by Kornfeld.

We may sum up the evidence arising from these comparisons as follows:

1. The judgments which deal with civil causes in both JE and D are founded upon primitive Semitic customs of a widespread character, and go back to the patriarchal age or earlier.
 2. The evidence is opposed to the hypothesis that the code of Deuteronomy was an 'expansion' of the JE code. They possess features in common, and are of the same general type; in the main they supplement each other.
 3. The features in which the laws in JE differ from the older forms in the other Semitic codes are also found in Deuteronomy, sometimes with the addition of exhortations referring to the land which Yahweh is giving to Israel.
 4. Negatively, there is no sign in the Deuteronomic forms of adaptation to the monarchic period, nor any hint of the author's acquaintance with Israel's later history.
- Positively, there is good reason to believe that all these judgments were fixed in their present form in the earliest period of Israel's history.

THE STATUTES

The comparison of Deuteronomy with the JE code is concluded by considering the laws in Table C which are common to both, and in Table Y which are peculiar to JE. Most of the statutes in Deuteronomy have no parallel in JE and will be found in subsequent tables.

The comparison in general follows the same pattern as with the judgments, and confirms the conclusions already reached. The

¹J. Reider, *in loc.* Cf. Dt. iv. 2, xii. 32 (Heb. xiii. 1), xix. 7. By contrast, where the command is that of Yahweh see Dt. xxvi. 16.

laws in the two codes are either nearly identical or supplement one another, and the background is the same, except for clearer anticipations of the land of promise.

Table C. Statutes common to Deuteronomy and JE

Subject	Dt.	JE (Ex.)	H or P
1. Animal found dead	xiv. 21a	xxii. 31	Cf. Lv. xi. 40 (P), Lv. xvii. 15 (H)
2. Kid in mother's milk	xiv. 21b	xxiii. 19b (cf. xxxiv. 26b)	
3. Consecration of firstlings	xv. 19, 20	xxii. 30 (cf. xxiv. 19, 20)	Ex. xiii. 2b (P). Cf. Lv. xxvii. ¹ 26 (P); Nu. xviii. 15-18 (P)
4. Pilgrim feasts	xvi. 1-17	xxiii. 14-18. (cf. xxxiv. 22-24)	Ex. xii. 1-20 (P); Lv. xxiii (H). Cf. Nu. xxviii. 16-29 (P), xxix. 12-end (P)
5. Justice	xvi. 19f.	xxiii. 6-8	Cf. Lv. xix. 15 (H)
6. Straying cattle	xxii. 1-4	xxiii. 4f.	Cf. Lv. vi. 3 (P)
7. Usury	xxiii. 19, 20	xxii. 25	Lv. xxv. 36f. (H)
8. Pledged garment	xxiv. 12f.	xxii. 26f.	
9. Justice for stranger	xxiv. 17a, 18	xxii. 21, xxiii. 9	Cf. Lv. xix. 33 (H)
10. Firstfruits	xxvi. 1, 2	xxiii. 19a (cf. xxii. 29a)	Nu. xviii. 12, 13 (P)

¹This supplements Dt. xv. 19; what has already been sanctified to Yahweh cannot be 'sanctified' or set apart as a vow.

Table Y. Statutes in JE but not in Deuteronomy

Subject	JE (Ex.)
1. Vengeance for vexing the widow and fatherless	Ex. xxii. 22-24
2. Rulers must be respected	Ex. xxii. 28
3. Firstripe fruits and liquors, firstborn son ¹	Ex. xxii. 29
4. Avoidance of evil	Ex. xxiii. 1-3
5. Fallow year ²	Ex. xxiii. 10, 11
6. Sabbath	Ex. xxiii. 12
7. Need of circumspection	Ex. xxiii. 13

A careful examination of the laws in Table C will reveal nothing to show adaptation to later conditions as we pass successively from JE to Deuteronomy and from Deuteronomy to P.

As one example, the law of firstlings (C.3) finds its simplest expression in Ex. xiii. 2 (P).

As another, the laws of justice in Dt. xvi. 19 (C.5) are quite primitive in form,³ two of which are found with slight additions in Dt. xxiii. 6, 8. The wording is different in Lv. xix. 15, but not the substance. The same is true of the laws in C.6, 7, 8, 9; the changes are small and do not affect date. The rider in Dt. xxiii. 20 permitting usury on a loan to the foreigner would have its primary application to merchants travelling through the country,⁴ of which there were many. Such trading involves no hard dealing with a poor brother.

A special interest attaches to the law in C.2, the only one in which the terms are absolutely identical. The Ras Shamra tablets

¹ There is nothing in Deuteronomy concerning 'liquors' or the 'firstborn son'. On firstfruits see above.

² This must not be confused with Dt. xv. 1-6. The seven-year principle is adopted in both, but in Exodus the soil and in Deuteronomy the debtor is the subject.

³ 'Obviously derived from an old exemplar for judges' (von Rad, *Studies*, p. 18).

⁴ See comments on this verse by Hertz.

have revealed that to seethe a kid in its mother's milk was a Canaanite fertility charm; this explains its appearance in Ex. xxxiv. 26, in a passage (12-26) which commences with a warning against Canaanite practices.

Where a law in P differs from that in JE or Deuteronomy, this is not a matter of its age, but is usually due to its occurrence among instructions designed for the use of priests, whereas the laws of Deuteronomy were addressed to the people at large.

The three pilgrim feasts (*haj*)¹ in C.4 need separate mention. These are mentioned by Hosea (ii. 11, ix. 5) and Amos (v. 21, viii. 10); and earlier still Jeroboam I devised a feast of his own to prevent the northern tribes from going up to Jerusalem (1 Ki. xii. 32).

The institution of the Passover is related in Ex. xii. 1-20 (P), where rules for its observance are given which are partly assumed, partly repeated in Dt. xvi. This is the natural order. A. C. Welch has shown² the absurdities introduced by Wellhausen's theory, that the passover was once a simple agricultural festival taken over from the Canaanites, that its connection with the Exodus was first stated in Deuteronomy, and afterwards elaborated by P. On this theory, the passover was for long celebrated locally; then under Josiah a revolution was wrought, and, in spite of well-established custom, the tribes were made to come up to Jerusalem; and finally, after the exile, when respect for the law was at its highest, and at a time when it was easier than ever to assemble at Jerusalem, Ex. xii was composed, reversing the Deuteronomic law, and transforming it back again into a domestic feast. No wonder that Welch exclaims, 'Is such a hypothesis credible?'³

An indication of the early date of Dt. xvi. 1-5 may be seen by the use of the earlier form *Abib* in verse 1, and in the command in verse 7 to return to their 'tents', which could at first have been literally fulfilled.⁴

The twelve verses in Table Y which are not repeated in Deuteronomy are of the same type as those in Table C, and the documentary theory has no explanation to offer for their omission.

¹ The word survives in Arabic *haj*, the term used for the Mecca pilgrimage.

² *Code*, pp. 62-78.

³ *Code*, p. 72.

⁴ See Ryder Smith, 'The Stories of Shechem: Three Questions', *JTS*, xlvii, 1946, pp. 33-38.

This completes the comparison of the laws of Deuteronomy with those of JE, and puts the reader in a position to evaluate the result.

The changes and omissions, the alterations in the order and setting, and the notable absence of any reference to the conditions of the later monarchy, all militate against Wellhausen's theory of successive codes and their dating.

Table D. Statutes common to D and H only

Subject	Dt.	H. (Lv.)
1. Disfigurement for dead	xiv. 1, 2	xix. 28, cf. xxi. 5
2. Passing through fire, wizardry ¹	xviii. 9-14	xviii. 21, xix. 26, 31, xx. 1-6
3. Prohibited mixtures	xxii. 9, 11	xix. 19
4. Incest	xxii. 30	xx. 11ff.
5. Prostitution	xxiii. 17	xix. 29, cf. xx. 13
6. Withholding wages	xxiv. 14f.	xix. 13
7. Gleanings	xxiv. 19-22	xix. 9f., xxiii. 22
8. Just weights	xxv. 13-16	xix. 35f.

DEUTERONOMY COMPARED WITH H

Table D contains twenty-two verses of Deuteronomy which have parallels with H, but not with the other codes; and Table E sixty-four verses which have parallels with P, some with H also.

The comparison with H is of less importance for our purpose

¹ This section is exhortation rather than law (see von Rad, *Studies*, p. 22). The death sentence of Ex. xxii. 18 is not repeated. (See above, Table Y.) Lv. xx. 4 and 11 decree the death penalty, and in form approximate to 'judgments'.

because of the widely divergent opinions concerning the date of its contents.¹

Generally speaking we may say that those parts of H which are not addressed to the priests resemble the laws and exhortations of Deuteronomy.²

The contents partly coincide and in part are complementary; the conditions reflected are the same.

DEUTERONOMY COMPARED WITH P

We now come to compare the laws in Deuteronomy with those in P. The parallels are set out in Table E; the laws are seen to be all of a priestly character. This is a logical necessity, seeing that it was a principle of the documentary analysis to assign the priestly legislation in the first four books to P.

The content of this group is considerable; in fact the table shows that Deuteronomy has more verses (64) with parallels in P than those which are common to JE (37). What then comes of the oft-repeated statement that Deuteronomy 'shows knowledge of JE but not of P'?³

Wellhausen began with the assumption that the ceremonial law was the latest stage in the religious development. Few scholars today would endorse this view, but many follow him in asserting 'contradictions' between Deuteronomy and P, and that P is the later document, originating in the exile. On this Welch pertinently remarked that if the priests had lived under the Deuteronomic code all their lives and administered its regulations in the temple, it would be strange indeed if, when they came to draft a new set of laws, they ignored the distinctive features of the Deuteronomic code.⁴

¹ At one time no one had the least doubt that H was later than D; in 1934 Oesterley and Robinson were convinced that it was earlier (*Introduction*, p. 53). Today opinions vary.

² 'As a collection of older statutes, which have been interspersed with parenthesis, the Holiness Code is very closely akin to Deuteronomy' (von Rad, *Studies*, p. 36).

³ Driver is not quite consistent, for he admits 'allusions' to the institutions of P (see p. 76 above).

⁴ *Framework*, p. 6.

Table E. Statutes parallel with P¹

Subject	Dt.	H	P
1. Burnt offerings ²	xii. 5-28 (6, 11, 27)	Lv. xvii. 3-9. Cf. xxii. 18ff., xxiii. 12-27	Lv. i
2. Heave offerings	xii. 5-28 (6, 11, 17)		Ex. xxv. 2; Lv. vii. 14, 32; Nu. xviii. 8, xxx. 29, 41
3. Tithes	xii. 5-28 (6, 11, 17), xiv. 22-29		Lv. xxvii; Nu. xviii
4. Firstlings (see Table C)	xii. 5-28 (6, 17), xiv. 23 (xv. 19-23)		Lv. xxvii. 26; Nu. iii. 41
5. 'Sacrifices' or 'Offerings by fire'	xii. 5-28 (6, 11, 27), xviii. 1		Lv. ii. 3, vii. 5-10
6. Vows	xii. 5-28 (6, 11, 17, 26), xxiii. 21-23	xxii. 18-22	Lv. xxvii; Nu. xxx. 2ff.
7. Freewill offerings	xii. 5-28 (6, 17), xvi. 10, xxiii. 21-23	xxii. 18-23, xxiii. 8	Nu. xv. 3, xxix. 39
8. Clean meats	xii. 15, 21, 22, xiv. 3-20	xvii. 13, xx. 25	Lv. xi
9. Blemished offering	xvii. 1	xxii. 17-24	Lv. i. 3; Ex. xii. 5
10. Priestly dues (see also Table J)	xviii. 1-5	Cf. Lv. xxiii. 20	Lv. vii. 28ff; Nu. xviii. 9f.
11. Fringes	xxii. 12		Nu. xv. 37-41
12. Leprosy	xxiv. 8f.		Lv. xiii, xiv

¹ To those may be added 3, 4 and 10 in Table C.

² The fact that Dt. xii. 5-28 deals with seven forms of sacrifice, some of which are mentioned again, accounts for the references in Deuteronomy not appearing in sequence. Regarding Dt. xii. 29-32, see Chapter VII, p. 98.

Let us proceed to examine these laws in detail. The contents fall under three heads, (a) the sacrifices and offerings (1-7), (b) clean meats (8), and (c) divers rules (9-12).

a. Sacrifices and offerings

It is important to observe the setting of xii. 5-28, placed between the injunction to destroy the Canaanite sanctuaries (1-4) and that to avoid sharing in the Canaanite practices (29-32). The people addressed are assumed to be about to cross the Jordan in order to dwell 'in the middle of a Canaanite population which was still celebrating its own national rites'.¹

There is a spirit of optimism and a freshness of style in the passage which corresponds to this setting and the circumstances it presumes.

How different it is from the mournful notes of Hosea concerning sacrifice (ix. 4), the satire of Amos (iv. 4, 5), or the bitter words of Isaiah, 'Bring no more vain oblations' (i. 13). Here is something original; it is no 'prophetic reformulation' of old laws.

In fact it does not lay down the laws of sacrifice; it assumes that they exist, and that they are known to the people or to their priests; its object is to prevent the offerings being brought to pagan altars, and to emphasize their communal and joyful character (12, 18).

We look in vain, however, for laws about burnt offerings and peace offerings in JE; instead, we find them in P (Lv. i-iii); and what is written about the flesh and blood in Dt. xii corresponds quite well with the Levitical law.

The same is true of tithes, which were certainly ancient (Gn. xiv. 20). They are nowhere mentioned in the JE code, but the rules are found in Lv. xxvii. 28-32 and Nu. xviii. 21ff., both of which are P. What is written in Dt. xiv. 22ff. and xxvi. 12ff. appear to be later than, and supplementary to, these.²

The 'heave-offering' also is introduced as something familiar, and the use of the word (*ḥūmāh*) in 2 Sa. i. 21 testifies to its antiquity. Yet apart from Deuteronomy the rules are all found in

¹ Welch, *Code*, p. 31.

² The various directions regarding tithes are difficult to harmonize on any hypothesis. The LXX calls the tithes of Dt. xxvi. 12 a 'second tithe' (cf. Tobit i. 7). See Hertz on Dt. xiv. 22 and Welch, *Code*, pp. 35ff.

P. There is clearly something wrong with a system of dating which squares so badly with these facts.

There is a likeness between Lv. xvii and Dt. xii which can scarcely be accidental. Both require animal sacrifices to be brought to Yahweh's altar, and both allow exceptions. Both inculcate, in similar terms, reverent treatment of the blood, which may not be eaten with the flesh (Lv. xvii. 12-14; Dt. xii. 23-25). The exhortation to keep 'the statutes and judgments' is found in Lv. xviii. 1-5 at the end, and in Dt. xii. 1 at the beginning. Warnings against heathen practices are given in Lv. xvii. 7, xviii. 3, as in Dt. xii. 29-32.

In Lv. xvii. 13 permission is granted to kill anything 'taken in hunting'; in Dt. xii. 22 it is extended to animals from the flock and herd 'even as the roebuck and the hart is eaten'.¹ If the historical setting of each passage be allowed to speak for itself, the meaning is plain. In the wilderness, animal sacrifices must be brought to the door of the tabernacle, excepting what is taken in the chase. In the land of Canaan this liberty is expanded. Domestic animals may be slaughtered at home, even as the 'roebuck and the hart', typical of the chase. They are selected as well-known wild game. But when were they so? Not, it would seem, in the days of Solomon, when they were reckoned as delicacies (1 Ki. xiv. 23), but a natural choice when the people had just passed through the hill country of Moab where both animals were common.

What is simple and straightforward when Lv. xvii and Deuteronomy are read in the context of the narrative becomes difficult and far-fetched when Deuteronomy is regarded as a seventh-century reform, and xii. 15 is interpreted as a concession by the reformer, rendered necessary by the limitation which he had imposed upon the people to bring their offerings no longer to the high places but to a single sanctuary. It is scarcely to be believed that, if this had been the author's meaning, he would have expressed himself so obscurely.

b. Clean meats

The list of clean and unclean meats in Dt. xiv. 3-20 corresponds closely (but with additions in verse 5) to that in Lv. xi. This would

¹ Cf. xv. 22.

be expected if both be early, but raises difficulties if Deuteronomy belongs to the seventh century.¹

Most of the fauna mentioned in this section have been identified with reasonable certainty, and the fact stands out that they inhabit, some of them exclusively, the region stretching from Egypt, through the Sinai peninsula, to the mountainous region to the south and east of the Dead Sea.² The most natural inference is that the lists originated in the period to which the record assigns them.

Special interest attaches to the seven species of game found only in the list in Deuteronomy, 'the hart, and the gazelle, and the roebuck, and the wild goat, and the pygarg, and the antelope, and the chamois' (xiv. 5, RV).³

Dr. Masterman⁴ found that the 'pygarg' and 'chamois' (probably a wild sheep) were known to the Bedouin as animals haunting the mountainous parts of Edom, the 'wild goat' also inhabiting this region. There could have been little point in specifying these at a time when they were mostly out of the reach of the inhabitants of Judaea.

c. Divers rules

Little needs to be added on the four other passages in Table E.

The simple words of Dt. xvii. 1 are suitable as addressed to the people at large, the more precise rules in H and P being written for the priests. Dt. xviii. 1-5 will be considered further in Table J. The Mishnah interprets verse 3 as referring to animals slaughtered at home for domestic use.

The provision regarding fringes in Dt. xxii. 12 is stated more fully in Nu. xv. 37-41, where it occurs between two narrative portions; there is nothing to suggest a disparity of date.

¹ Driver at one time assigned Lv. xi to P, but afterwards wavered in this opinion. In the *ICC*, Deuteronomy, p. 163, he suggests that the list there was borrowed from an earlier source. Phoenician tariffs of sacrifice, with lists of an analogous character, have been found which, though late, refer back to the second millennium BC (Bentzen, *op. cit.*, 1, p. 220).

² See G. C. Aalders, *Pentateuch*, London, 1949, pp. 95-97, and articles by E. W. G. Masterman in *HDB* (Shorter Edition).

³ It should be observed that the 'gazelle' of the RV is the 'roebuck' in AV, and the 'roebuck' of RV is the 'fallow-deer' of AV. The 'wild goats' of 1 Sa. xxiv. 2 are not the same as the wild goat here.

⁴ See *HDB* (Shorter Edition), s.v.

Finally, in Dt. xxiv. 8f. is a brief word about leprosy; the people are bidden to 'take heed . . . and do all that the priests the Levites shall teach you, as I commanded them'. These words assume that the priestly law was already in existence; and yet it is found in Lv. xiii, xiv (P).

Can it still be said that the author of Deuteronomy knew nothing of P?

This ends our inquiry into those laws in the four 'codes' of JE, H, D and P which contain common elements, and puts us in a position to supplement and expand the conclusions stated above concerning the judgments. It has to be admitted that the Wellhausen scheme breaks down upon a close examination of the laws.

1. The absolute dating has no foundation. There is nothing specific to connect the laws of JE with the early monarchy, those of Deuteronomy with 621 BC, nor those of P with the exile.

On the contrary, laws of great antiquity are found in all these, and some are peculiar to each—rather they bear the appearance of contemporary layers of material.

2. The statement that Deuteronomy xii–xxvi is an 'expansion' of the JE code is misleading. A few of the old laws and precepts are repeated, more of the same type are omitted; where a law is modified there is no sign that it has been adapted to the needs of the seventh century. The material peculiar to Deuteronomy includes much that is demonstrably old, and nothing manifestly of a late origin.

The two groups of laws appear to be complementary and roughly contemporary.¹

3. The argument for the chronological sequence JE, D, P, fares no better; it cannot rightly be said that Deuteronomy shows dependence on JE and ignorance of P; it has some elements in common with both, rather more with the latter.

The laws of Lv. xi concerning food reappear in Dt. xiv in a different form, but one which shows no difference of period. Deuteronomy asserts the existence of a priestly law concerning leprosy, and assumes the existence of laws of sacrifice, such as are found in P.

¹ 'It is at least possible that we should allow for contemporary strata representing local usage': G. W. Anderson, *OTMS*, p. 303. The difference in the laws is not 'evidence of different epochs', Bentzen, *Introduction*, II, p. 22.

4. The laws of Dt. xii–xxvi follow naturally upon the preceding discourse in chapters v–xi and appear quite suitable to the place and occasion stated in iv. 44–49. The parenetic additions also, where they occur, belong to the period when the deliverance from the bondage of Egypt was a living memory, and are quite different from the exhortations which Isaiah addressed to a disillusioned and sophisticated people.

Looked at positively, the Deuteronomic legislation agrees well with what is stated in iv. 44–xi. 32. Many of its laws are just as ancient and primitive in form as those of JE. The parenetic additions are eminently suitable if spoken by Moses to the whole congregation, appealing to the experiences of Egypt and the wilderness, and warning them against the lure of the Canaanite mode of worship.

We have still to consider the greater part of the legislation, the statutes which are peculiar to Deuteronomy and its specific commands and institutions.

APPENDIX TO CHAPTER VI

HISTORICAL MATTER IN DEUTERONOMY

The assertion, frequently repeated, that Deuteronomy relies solely upon JE¹ for its historical data will not stand close examination.

1. Several place names occur first in Deuteronomy (see Chapter IV). Three others, four probably, are previously found in P only, namely Hazeroth (i. 1; Nu. xxxiii. 17), Ezion-geber (ii. 8; Nu. xxxiii. 35), Aroer (ii. 36; Nu. xxxii. 34); and Laban if the same as Libnah (i. 1; Nu. xxxiii. 20).

¹ Cf. H. H. Rowley, *Growth*, p. 29. S. R. Driver's statement that there are 'only three facts . . . for which no parallel can be found in JE' (*ICC*, p. xvii) is unusually rash. Beside those three (Dt. i. 23, x. 3, 22) he himself in the commentary calls attention to others (e.g. iii. 27, 28, iv. 36, xviii. 2) found only in P, and to much which is not found at all in the previous narrative (e.g. ii. 16–25, iii. 23–29, xxv. 18).

2. In chapters i-iv are the following, based only on P.
 - (i) Dt. i. 8, 'to their seed after them' (Gn. xvii. 8, xlvi. 4).
 - (ii) Dt. i. 23, the number of the spies (Nu. xiii. 3).
 - (iii) Dt. i. 36-38. Only P records that Moses and Aaron were debarred from the promised land as a punishment (Nu. xx. 12, xxvii. 13ff.) whereas Caleb and Joshua were both allowed to enter (Nu. xiii, xiv *passim*).
 - (iv) Dt. ii. 14, the *wasting* of the older generation (Nu. xiv. 33).
 - (v) Dt. iii. 12, 13 repeats what is in Nu. xxxii. 33ff.
 - (vi) Dt. iii. 27. The promise 'is not mentioned in JE'¹ but is in Nu. xxvii. 18.
 - (vii) Dt. iii. 28. The 'charge' to Joshua (Nu. xxvii. 19).
 - (viii) Dt. iv. 3, 'all the men that followed Baal-peor the LORD thy God hath destroyed them' (Nu. xxv. 8f.).
 - (ix) Dt. iv. 32 reproduces Gn. i. 27.
 - (x) Dt. iv. 41-43 assumes the command in Nu. xxxv. 14.

3. The following come in Dt. v-xi:

- (i) Dt. viii. 2, 'Forty years in the wilderness', Nu. xiv. 33f.
- (ii) Dt. x. 1. The command to make the ark, Ex. xxxv. 10.
- (iii) Dt. x. 3. 'Acacia wood', Ex. xxxvii. 1.
- (iv) Dt. x. 6, 7. The journeyings and Aaron's death (Nu. xx. 28, xxxiii. 38f.).
- (v) Dt. x. 8. The separation of Levi (Nu. iii. 6).
- (vi) Dt. x. 9. The promise to Levi (Nu. xviii. 20).
- (vii) Dt. x. 22. The number seventy (Gn. xlvi. 27).

4. Among the few historical data of the legislation and the final chapters occur the following:

- (i) Dt. xvi. 3, 'in haste' (Ex. xii. 11).
- (ii) Dt. xviii. 1, 2, 'as the LORD hath spoken' (Nu. xviii. 20).
- (iii) Dt. xxiv. 8, 'as I commanded them' (Lv. xiii, xiv).
- (iv) Dt. xxxii. 44, Hoshea (Nu. xiii. 8).
- (v) Dt. xxxiii. 8, Urim and Thummim (Ex. xxviii. 30; Lv. viii. 8).

The list would be longer except for adjustments in the analysis. Thus Driver assigns Dt. xxxii. 48-52 (cf. Nu. xxvii. 12ff.) to P,

¹ S. R. Driver, *in loc.*

whilst Dt. i. 19 (Nu. xx. 1), Dt. ix. 9 (Ex. xxiv. 18b), Dt. ix. 10a (Ex. xxxi. 18), Dt. xi. 6, 'sons of Eliab' (Nu. xvi. 1), are excluded from P only by excision of a phrase or the careful placing of a limit.

When it is remembered how much smaller are the narrative portions of P than those of JE it will be seen that there is little disparity between the proportion of the facts finding a place in each.

The value of this evidence is sometimes minimized by the conjecture that JE may once have contained facts now found only in P. This, of course, is possible, as it is equally so that what is now found in JE may once have been in P, if ever the two were separate. But this is conjecture; the facts are given above.

CHAPTER VII

LEGISLATION PECULIAR TO DEUTERONOMY

THE laws so far examined occupy rather less than half of chapters xii-xxvi, 149 verses out of 345. The remainder, which are peculiar to Deuteronomy, fall naturally into two parts: (a) judgments and statutes of permanent obligation, and (b) specific commands and instructions, often with some note of time attached to them. The former of these will be the subject of this chapter.

Whether these laws were new or old when Deuteronomy was written, they represent the selection of the author, and therefore should form a guide as to his aim and purpose, and indicate the needs of the people for whom the book was compiled.

Table F. Prohibition of idolatry

Subject	Deuteronomy
1. Destruction of Canaanite sanctuaries ¹	xii. 1-4
2. Avoidance of Canaanite practices ¹	xii. 28-32
3. Temptation to idolatry	xiii. 1-18
4. Pillars and 'asherim	xvi. 21, 22
5. Hire of prostitution	xxiii. 18
To these may be added:	
6. Apostasy (see Table A)	xvii. 2-7
7. Wizardry (see Table D)	xviii. 9-14

¹ These might have been included in earlier lists in view of the partial parallels in JE (Ex. xxiii. 34, xxxiv. 12ff.) and P (Nu. xxxiii. 52ff.). They are, however, conveniently considered here. The injunctions assume that the Canaanites are still in possession of the land.

They include the judgments in Table B (p. 78), the prohibition of Canaanite idolatry (Table F), laws of purity (Table G), of clemency (Table H) and concerning priests (Table J). The laws of warfare, which relate specially to the conquest, are left over to the next chapter (Table L).

THE PROHIBITION OF IDOLATRY

Consider first how the gods of the Canaanites are described. They are those of 'the nations which ye shall possess' (xii. 2, 29, 30), or of 'the people which are round about you' (xiii. 7), or 'other gods' (xiii. 2, xvii. 3). In the preceding discourse they are called 'other gods, which ye have not known' (xi. 28), and in the Song 'gods that came up of late' (xxxii. 17, rv). Very significant is the entire absence of any mention of Ba'al or Ba'alim, whether in the legislation or the discourse. Yet from the days of the judges onwards (Jdg. ii. 11, 13, vi. 25) defection from Yahweh was known as Ba'al-worship.

It was so in the days of Ahab (1 Ki. xviii), of Athaliah (2 Ki. xi) and of Hosea (ii. 8, 13, 17, xi. 2, xiii. 1). This difference of language can scarcely be accidental, and that of Deuteronomy appears the more primitive.

On the other hand, the reference to sun worship cannot be advanced as a sign of late date.¹ For the name Beth-shemesh ('temple of the sun') and the Ras Shamra tablets bear witness that it was practised by the Canaanites (as well as by the Egyptians), so that this argument does not hold.

There is archaeological evidence that the Canaanite religion had spread its crude and depraved practices beyond Palestine and into Egypt in the fourteenth century BC.² The warnings are therefore appropriate to that era.

In Dt. xiii. 1-18, xvii. 2-5 the death penalty is decreed for apostasy or for the incitement thereto. It is hard to conceive of such laws being planned or revived during the reign of Manasseh, and there is no mention of them in connection with Josiah's reform.³ Driver remarks that 'the time when they could have been

¹ Driver, ICC, p. xlvi.

² See pp. 110f.

³ 'According to this rule hardly any city of the monarchic time would have survived': Pedersen, *Israel*, III-IV, p. 27.

enforced had long passed away, they had consequently only an *ideal value*.¹ But, as H. M. Wiener said in reply, idealists may state a law, but they do not lay down a procedure. In both these passages a procedure is prescribed, and that in chapter xiii implies primitive conditions.

Besides this they are cast in the 'judgment' form, and allied with other archaic laws by the formula 'so shalt thou put the evil away from the midst of thee' (xiii. 5, cf. xxi. 21, xxii. 21f.).

The lawgiver evidently relies upon the co-operation of the people to carry out the law even if it entails civil warfare (xiii. 15).

Kennett truly says that the background here is not that of the later monarchy when the people themselves were sunk in idolatry. On the contrary, it shows 'considerable communities of idolaters living among them, and that the religion of Jehovah is seriously menaced by that of other gods'.² He uses this to support a post-exilic date for Deuteronomy,³ but these conditions existed more obviously before the conquest of Canaan was complete.

The wording of Dt. xii. 2-4 is either early or is intentionally made to appear so.⁴ The worship of the previous inhabitants was being carried out on every high hill and under every green tree, with the accompaniment of 'pillars'⁵ and 'asherim'. The complete destruction of these is the first item upon the legislative programme, and it is regarded as practically possible; the land must be cleared of them before acceptable worship can be offered to Yahweh.⁶ Gideon's action (Jdg. vi. 25-32) suggests that he knew of some such injunction; and his father's defence of it implies the thought that his son was doing right.

Conditions were different when Josiah was king. His reform began with the cleansing of the *temple*, for there the two religions

¹ ICC, p. xxxii.

² *Deuteronomy and the Decalogue*, p. 6.

³ Pedersen, who also favours a post-exilic date, uses the same argument (*Israel*, III-IV, pp. 583ff.).

⁴ The phrasing is similar to that in Ex. xxiii. 24 and xxxiv. 13. In Dt. xii. 29 also the occupation of the land lies in the *future*.

⁵ The word *massēbā* may mean (a) a memorial stone (e.g. Gn. xxviii. 18), (b) as here, an idolatrous symbol, or (c) an Egyptian obelisk (Je. xliii. 13). See *BDB Lexicon*. These meanings should not be confused.

⁶ Welch emphasized that the Israelites, as conquerors, would be disposed to erect altars to Yahweh on *new* ground. 'Not one of their leading shrines can be proved to have a Canaanite origin' (*Code*, pp. 212, 213).

had been *mingled*: but in Deuteronomy compromise is not in question; the choice lies between 'the absolute Yahweh on the one side, and all the vain gods of the surrounding nations on the other'.¹ The warning in xii. 32 seems very plain, but if it be part of the original book it was sadly disregarded by the various 'editors' who are supposed to have made their own additions.

The injunction in Dt. xvi. 21, 22 is in harmony with xii. 3; 'pillars and asherim' in association were, from the beginning, regarded as alien and evil (e.g. Ex. xxxiv. 13)². This law contemplates the making of more than one Yahweh altar, and therefore, like Dt. xxvii. 1-8, creates a difficulty for those who hold the centralizing theory.³

The warnings against various forms of wizardry in Dt. xviii. 9-14, if ancient, would explain Saul's action as stated in 1 Sa. xxviii. 3, namely that he had 'put away those that had familiar spirits, and the wizards, out of the land'.

Whilst the above heathen practices are condemned, the *kēmārīm*, the *bāmôth* and *bēth-bāmôth*, and the horses given to the sun, which were special objects of Josiah's reform, are not even mentioned.

MORAL AND RELIGIOUS LAWS

Table G lists a small group of laws, with no sign of a late origin.

1. A blemished firstling must not be offered to Yahweh, but

Table G. Laws of purity

Subject	Deuteronomy
1. Blemished firstling	xv. 21-23
2. Landmark	xix. 14
3. Hanging	xxi. 22, 23
4. Mixed clothing	xxii. 5
5. Exclusion from the congregation	xxiii. 1, 2

¹ Pedersen, *Israel*, III-IV, p. 586

² Cf. Lods, *Israel*, p. 204.

³ See p. 134. Von Rad describes the rule as 'pre-Deuteronomic': *Studies*, p. 18.

may be eaten at home, 'as the gazelle and as the hart'.¹

2. The landmark law is found in the Hittite code, and was probably known to the patriarchs. It reappears in Dt. xxvii. 17.

3. The body of a criminal which, after execution, was exposed to shame by hanging, was to be removed before sundown. This rule was observed by Joshua (Jos. viii. 29, x. 27, and cf. Jn. xix. 31; Gal. iii. 13).

4. Among the surrounding nations heathen rites, including exchange of garments, were mixed with immorality.

5. These laws, according to von Rad, are 'certainly very old'.²

The phenomenon we have already noticed meets us here again. We have a group of laws just as old as those in the JE code, supplementary indeed, but without any sign of belonging to a later age or changed conditions.

LAWS OF CLEMENCY

In Table H we have a miscellaneous collection of laws the complete irrelevancy of which to Josiah's reform is a serious objection to Wellhausen's dating.³ 'What has bird-nesting to do with reform?' has been asked.

These laws supplement those in JE, but none requires a different age or conditions. The law of Dt. xv. 1-11, which concerns a debt, needs to be distinguished from that which follows in 12-18, which concerns persons sold into bondage. It is described by von Rad as 'an ordinance belonging to the very oldest divine law.'⁴ There is nothing to differentiate the various laws, based on the sabbatic principle, as regards age. With the optimistic tone contrast Is. iii. 14, 15.

The case of the runaway slave is dealt with in Hammurabi's law (16), which requires him to be restored under pain of death. That law also sanctions divorce under certain circumstances and provides for compensation. As before, new elements of moral consideration and care for the weak are found in the Mosaic law. The law⁵ of

¹ See p. 92.

² *Studies*, p. 21.

³ See Orr, *POT*, p. 268.

⁴ *Studies*, p. 15. He uses these words only of verse 1. In his view the verses which follow are preaching, though verse 2 is 'certainly pre-deuteronomic'.

⁵ See p. 81.

Table H. Laws of clemency

Subject	Deuteronomy
1. Year of release	xv. 1-11
2. Care of mother bird	xxii. 6, 7
3. Battlements	xxii. 8
4. Runaway slave	xxiii. 15, 16
5. Standing crops	xxiii. 24, 25
6. Bill of divorce	xxiv. 1-4
7. Release of bridegroom	xxiv. 5
8. Pledges of millstone	xxiv. 6
9. Debtor's house	xxiv. 10, 11
10. Fathers and children	xxiv. 16
11. Widow's raiment	xxiv. 17b
12. Forty stripes save one	xxv. 1-3
13. Ox treading corn	xxv. 4
14. Levirate marriage	xxv. 5-10

xxiv. 16 was observed by king Amaziah, and that of levirate marriage was known to the patriarchs (Gn. xxxviii. 8).

PRIESTLY LAWS

We have already seen that the laws which Deuteronomy has in common with H and P recognize priests and sacrifices.

In chapter xviii we have before us two paragraphs the import of which has been long and hotly debated, and which, on this

Table J. Priestly laws

Subject	Deuteronomy
1. Priestly dues	xviii. 1-5
2. Country Levite	xviii. 6-8
3. Man found slain	xxi. 1-9
4. Presenting firstfruits	xxvi. 1-11
5. Presenting tithes	xxvi. 12-15

account, claim careful attention. The statement has frequently, but quite inaccurately, been made that 'in D . . . all members of the family of Levi are priests',¹ and therefore that Deuteronomy is earlier than the Priests' code which limits the priesthood to the sons of Aaron. An analysis of the passages in which priests and Levites are mentioned in Deuteronomy is sufficient of itself to dispose of this statement.²

1. The word 'priest' (alone) occurs six times (xvii. 12, xviii. 3, xx. 2, xxvi. 3, 4), and in the plural 'priests' once (xix. 17).

2. 'Priests the Levites' is used three times (xvii. 9, xviii. 1, xxiv. 8), and 'priests the sons of Levi' once (xxi. 5). That these expressions apply to priests, and do not confound them with other Levites, is proved by the use of the former by the Chronicler (2 Ch. xxiii. 18, xxx. 27) and the latter by Malachi (Mal. ii. 7, 8, iii. 3).³ The authors of these books were well aware that all Levites were not priests.

¹ Oesterley and Robinson, *Introduction*, p. 54. W. Robertson Smith is even more definite. 'Deuteronomy knows no Levites who cannot be priests, and no priests who are not Levites; the two ideas are absolutely identical' (*op. cit.*, 360). On the other side may be set the views of Dillmann, Delitzsch, Kittel, and others who recognize the distinction (see Orr, *POT*, p. 186n.).

² See Welch, *Code*, pp. 89-98, where the various passages are sorted out and commented upon; Orr, *POT*, pp. 180-192; and G. E. Wright, 'The Levites in Deuteronomy', *VT*, iv, 1954, pp. 325-330.

³ In Jos. iii. 3 'the priests the Levites' are clearly the same as the 'priests' in iii. 8. In 1 Ki. viii. 4 priests and Levites are distinguished.

3. Levite alone is used by itself six times (xii. 19, xiv. 29, xvi. 14, xxvi. 11, 12, 13); and with the added words 'within' or 'from' 'thy gates' five times (xii. 12, 18, xiv. 27, xvi. 11, xviii. 6); and 'Levites' once (xviii. 7).

Taking these together the words are used separately nineteen times (seven 'priest' and twelve 'Levite') and in combination only four times, and in the latter case the same combination is used of the priests by quite late writers.

This is sufficient to prove that in Deuteronomy priests and Levites are not 'identical', and to cause surprise that such a statement should ever have been made.

This is not all. In Deuteronomy the 'priest' invariably occupies a position of authority, and is held up to honour;¹ while the Levite is seen as a dependant and an object of compassion.

The priests sit side by side with the judge to pronounce sentence (xvii. 9, xix. 17), and rebellion against their verdict is punishable with death (xvii. 12). They are the teachers of the law (xxiv. 8),² and the book of the law is in their keeping (xvii. 18). When the army goes forth to war, the priest gives his blessing (xx. 3), and again as part of the ritual for the expiation of a murder (xxi. 5). The priest receives his 'due' of the offerings and sacrifices (xviii. 3, 4) and stands beside the altar of the Lord to receive the firstfruits (xxvi. 3, 4).³ In all these cases the priests are singled out from other members of the tribe.

In contrast to this the 'Levite' always occupies a subordinate position. He is not to be 'forsaken' by his richer brother (xii. 19, xiv. 27) but permitted to share in the family feasts alongside of 'the fatherless and the widow' (xii. 12, 18, xiv. 27, xvi. 11, 14, xxvi. 12, 13).⁴ Therefore not every Levite is a priest, though the reverse statement remains true that every priest is a Levite;⁵ and this imparts a priestly character to the whole tribe (xxxiii. 8-11). Unlike the other tribes, Levi has 'no inheritance' in the distribution of

¹ Deuteronomy 'exalts the authority of priests above all other authority, even the king and the prophet': Bentzen, *op. cit.*, II, p. 44.

² Cf. xxvii. 9, xxxi. 9-13. In xxxi. 25, 26 the Levites are given the custody of the book.

³ See further E. Robertson, *OTP*, pp. 69ff.

⁴ Had all Levites been altar-priests provided with a living at local sanctuaries, these provisions would have been unnecessary and out of place.

⁵ Similarly, all bishops are 'clergy', but not all clergy are bishops.

the land (xii. 12, xiv. 27, 29); the Levite therefore has a right to share in the tithe (xiv. 27, 29), and to minister to 'the LORD his God' (xviii. 7) and have like portions with his brethren.

This brings us to the consideration of xviii. 1-5, the first verse of which has been pressed into service to show that Deuteronomy equates priests with Levites. Translated literally the opening words are 'the priests the Levites, the whole tribe of Levi'. When two expressions in Hebrew stand thus in apposition the second may be either (a) an expansion of the former,¹ or (b) its equivalent. The AV and RV mg. here adopt the first of these meanings and therefore render 'the priests the Levites, and all the tribe of Levi';² whereas the RV substitutes *even* for *and*, which leaves the question open. Hertz paraphrases, 'The tribe of Levi, including both the priests and the general body of Levites'; and in view of the distinctions which we have noted above, and which are observed in the verses that follow, this is surely the right interpretation. In xvii. 18 just above 'the priests the Levites' could not possibly mean the whole tribe of Levi.

The words which follow in verse 2, namely 'the LORD is their inheritance, as he hath said unto them', suggest an instructive parallel.

The only place where such words are recorded is in Nu. xviii. 20, 24. There they are addressed first to Aaron (20) as here applied first to 'the priests the Levites'; and then they are, as here, extended to the whole tribe (24). The distinction is maintained in the remainder of Dt. xviii. 1-8. Verse 3³ relates to the 'priest's' due, and verse 5 states the hereditary character of his office (cf. Ex. xxviii. 43), after which verses 6-8 deal with the Levites' 'portions'.

In conformity with his theory, Wellhausen equated the 'Levite'

¹ In Dt. xvii. 1, where the same grammatical form occurs, this mode of rendering is clearly necessitated, and the RV rightly concurs with AV in rendering 'or any evil-favouredness'.

² So G. E. Wright: 'A careful study of Dt.'s use of the phrase "the priests the Levites" and of other contexts where the word "Levite" appears alone, has led me to the conclusion that the AV is correct after all in its interpretation of Dt. xviii. 1.' *Art. cit.*, p. 326.

³ This is not the same as in Lv. vii. 31. The Mishnah refers the words in Leviticus to the sacrifices of the altar, and those in Deuteronomy to animals killed at home. Whatever the solution, the words in 1 Sa. ii. 13 (note RV mg.) imply that it was fixed by regulation.

of Dt. xviii. 6 with the 'priests of the high places' of 2 Ki. xxiii. 8, 9, and maintained that this was a compassionate ordinance inserted by the Deuteronomist to provide for them when the high places were abolished. Such exegesis may be ingenious, but it is obviously artificial; it also does violence to the text in both places.

The two cases differ in every point. In the former the Levite is a worshipper of Yahweh, and is admitted to privileges; the 'priests of the high places' are treated as idolaters and degraded. The former comes 'with all the desire of his heart', the latter do not come at all; the Levite is to be given 'like portions to eat' at the sanctuary, the degraded priests ate 'unleavened bread' at home!

Welch observes that the priestly laws in Deuteronomy 're-produce certain conditions which prevailed in the life of the nation during the period immediately preceding and following the rise of the kingdom'.¹ He quotes the strange story of Micalah (Jdg. xvii)² who received a Levite into his house to be his priest, and the yearly sacrifice at Bethlehem (1 Sa. xx. 6).

The Deuteronomic laws concerning priests have been contrasted, and not without reason, with those found in Exodus-Numbers. But when it is remembered that the latter profess to instruct the priests and Levites in their duties for the service of the tabernacle, and for its transportation with its furnishings from one camping-ground to another in the wilderness, whereas Deuteronomy ranges over a wider field, is addressed to lay people, and legislates for changed conditions, the difference is explained. The laws in Deuteronomy imply an unsettled and transitional period such as actually ensued. The Aaronite priests may have adhered to the tabernacle (Jos. xviii. 1, xxii. 12, 13), and some priestly functions may have been delegated to Levites. With David's accession we begin to hear of Levitical singers, and preparations for the temple and its ordered ritual; but of these there is no sign in the Deuteronomic legislation.

Chapter xxi. 1-9 prescribes a ritual for the expiation of an untraced murder, the primitive character of which, both in itself

¹ *Code*, p. 99.

² The author of Judges reminds the reader that then every man was a law unto himself.

and in the underlying ideas, is acknowledged by all.¹ In this ritual the city 'elders', the 'judges' and the 'priests the sons of Levi' all have their part. The prominent part played by the 'elders',² the most primitive form of government, in the Deuteronomic legislation, is another evidence for its early date. It is their affair in this case to provide an animal and to share in the sacrifice, elsewhere to bring a culprit to justice (xix. 12), to deal with a stubborn son (xxi. 18-20), to adjudge and administer chastisement (xxii. 17), and to supervise the procedure of the levirate law (xxv. 7, 8, 9). This group of duties must have been laid down in early times.

The co-operation of the priests with the judges here, as in the central tribunal (xvii. 8-12), and of priests and 'officers' in xx. 3, 5, all belong to the days of the theocracy, before there was a king in Israel. E. Robertson has given a list³ of nineteen separate rules in which this combination of religious and civil law is seen, such as 'would reasonably be expected at the period of the establishment of a monarchy'.

The laws come to an end with two liturgical formulae, one for the presentation of firstfruits (xxvi. 3-11) and one for the offering of tithes (xxvi. 12-15).

The ordinance of firstfruits and the relation of Dt. xxvi. 1, 2 to Ex. xxiii. 19 has already been noted (p. 85); the formula is peculiar to Deuteronomy. As the result of a searching examination, Welch⁴ concluded that it must go back to the beginning of the kingdom or the time of the judges.⁵ Yet it is full of phrases in characteristic Deuteronomic style; and it cannot be thought likely that a devout reformer would change into his own wording an ancient and time-honoured formula. The words in verse 1, 'when thou art come in unto the land', and in verse 3, 'the priest that shall be in those days', show that Moses is still supposed to be the speaker.

The profession in 13-15 is also archaic. Verse 14 may be directed against a Canaanite funeral custom of consecrating part of the

¹ See Welch, *Code*, pp. 144-152. Driver comments on its 'archaic character'.

² See Nu. xxii. 7 for example.

³ *OTP*, pp. 63ff.

⁴ *Code*, pp. 25-34.

⁵ Cf. von Rad, *Studies*, p. 23.

offering to the deity of vegetation.¹ Thus the priestly laws also are well suited to the period of the occupation.

This concludes the examination of the judgments and statutes peculiar to Deuteronomy; and what have we found? Here are stern laws for the destruction of Canaanite shrines and avoidance of Canaanite modes of worship, scattered bits of old Semitic case-law, moral and humanitarian precepts and some directions concerning offerings in which we read of priests and Levites. What actuated the author in collecting these laws, whether new or old, together?

We look in vain for anything to connect them with the conditions in seventh-century Judah. Their appearance, viewed separately or as a whole, is utterly unlike a considered programme of reform.

But they fall naturally into their place if set before the children of Israel as they were about to enter the land of promise.

¹ H. Cazelles makes this suggestion from a study of the Ras Shamra texts in 'Sur un rituel du Deutéronome', (Dt. xxvi. 14), *RB*, v, 1948, pp. 54-71.

CHAPTER VIII

COMMANDS AND INSTITUTIONS

THERE remain for consideration various commands and institutions, mainly of a civil character. Like the laws of the previous chapter, they are peculiar to Deuteronomy, and it is necessary to ask to what period in the nation's life are they most appropriate, and what they reveal as to the purpose of the author.

The instructions relate Israel to other peoples, surrounding or preceding them; lay down rules of warfare; concern institutions for the future.

Table K. Commands concerning other nations

Subject	Deuteronomy
1. Destruction of Canaanite sanctuaries (cf. Table F)	xii. 1-4
2. Extermination of previous inhabitants	xx. 16-20
3. Membership in the congregation	xxiii. 3-7
4. War with Amalek	xxv. 17-19

The nations prominent in the legislation are not those which concerned Israel in the seventh century. Egypt is referred to in retrospect, Syria and Assyria in the north are not in the field of vision, the author's concern is with those races which were in possession of the land which Yahweh had 'given' to Israel.

The order for the destruction of their shrines (xii. 2-4) has been dealt with in its religious aspect in Table F (p. 98). Egypt had been subject to Semitic influence in the seventeenth and sixteenth centuries before Christ, and there is archaeological evidence¹ that in the fourteenth century BC the worship of Canaanite gods was

¹ Albright, *Biblical Period*, pp. 6-10.

on the increase in the Delta region, with their 'ašērîm, q^edhešôth and other abominations. That Moses should warn against these would therefore be perfectly natural. Not only the shrines, however, but the nations themselves, were to be 'utterly destroyed', and a list of seven races is specified in Dt. xx. 17 (cf. vii. 1).

S. R. Driver says that 'the intention of these enumerations is obviously rhetorical, rather than geographical or historical.'¹ But is this really obvious? If von Rad and others are right in thinking that the laws of warfare go back to the earliest days of the 'holy war',² is it not more probable that they are intended to be taken literally? The frequent references³ to the 'nations which ye shall possess' show how large and important a place they take in the lawgiver's mind.

The list in Dt. xx. 17 is interesting in itself; it is not identical with any of the former lists in the Pentateuch, and is the first time that *seven* nations are mentioned. The first of these lists in Gn. xv. 19-21 (J) omits Hivites and adds others; none of those that follow in the Pentateuch⁴ contain the Girgashites. The author therefore is not copying the JE lists; the simplest explanation is that he wrote when the races still existed or were living memories.

The claim made to the possession of the land to the exclusion of all others 'would agree but poorly', Pedersen says, 'with conditions in the monarchical period'.⁵

Under David the Canaanites were merged into the Israelite unity and thus disappear, like the Perizzites and Girgashites, except as a memory (Ne. ix. 8).

The laws in xxiii. 3, 7 are 'certainly very old', says von Rad, judging both from their form and setting.⁶ The Edomites here, as in ii. 8, are to be treated as 'brethren', a condition which only existed before the monarchic period; from the time of Saul onwards enmity against Edom was continuous and bitter.

The case was different with Moab and Ammon. The apparent

¹ ICC, p. 97.

² *Studies*, pp. 45-59.

³ xii. 2, xv. 6, xviii. 9, 14, xxiii. 20, xxv. 19, xxvi. 19.

⁴ The full list, in varying order, is found in Jos. iii. 10 (D), xii. 8 (P), xxiv. 11 (D).

⁵ *Israel*, III-IV, p. 26.

⁶ *Studies*, p. 21. On the other hand Pfeiffer says, 'Why the author decreed that Edomites and Egyptians could be admitted to the nation, but never Moabites and Ammonites, remains an insoluble riddle' (*Introduction*). So it is, upon his dating, but not from the standpoint of the Mosaic period.

contradiction between the words in xxiii. 4, 'because they met you not with bread and with water in the way', and what is said in ii. 29 was noted above (p. 57).

The difficulty is only superficial; the king was unwilling to allow the Israelite host to pass through his territory; whilst the people of Ar on the border of Moab were not averse from making a little money out of them.¹ The king's refusal and his hiring of Balaam to curse the Israelites would at the time provide plenty of cause for bitterness.

Amalek also comes into the picture, the judgment to be executed being based upon an incident which the people are bidden to 'remember' (Dt. xxv. 17-19; Ex. xvii. 8-16). The record in Exodus is detailed, but it fails to mention the smiting of the weakest part of the Israelite host, the feeble, faint and weary, which imparted to the attack its peculiarly dastardly character. On this passage E. Robertson rightly remarks, 'It is obviously a live issue at the time of Deuteronomy.'²

It continued to be so with Samuel, and 1 Sa. xv. 2 is couched in similar terms. David also warred against Amalek (1 Sa. xxvii. 8, xxx, 2 Sa. i. 13ff.). In the time of the later monarchy the command would have seemed a sheer anachronism.

Table L. Rules of warfare

Subject	Deuteronomy
1. Laws of battle	xx. 1-15
2. Beautiful captive woman	xxi. 10-14
3. Cleanliness in camp	xxiii. 9-14

The laws of warfare contained in xx. 1-15 are evidently intended for use. It is therefore important to observe that they refer to *aggressive* warfare, and contemplate a career of conquest. The conquered people may be made tributary (10), spoil is to be gathered (14), the warfare may even be carried to 'cities . . . very

¹ See Reider on Dt. ii. 6, on similar tactics in modern times.

² *OTP*, p. 44.

far off' (15). Dillmann suggested that these laws were issued to check the barbarity with which warfare was carried on by the Assyrians and other ancient nations.¹ No doubt they contain notes of clemency, but who can imagine a prophet, after the fall of Samaria, laying down rules for aggressive warfare by Judah against countries far off?

With a greater show of reason von Rad regards them as a revival of ancient laws originating in the time when Yahweh was known as a 'man of war' (Ex. xv. 3), who went forth at the head of Israel's army (cf. Jdg. v. 5, 13, 20, 23) before there was a king to lead them. The proper period of the Holy War was the period of the old Israelite amphictyony, that is, the period of the Judges.² This can be seen by a comparison with the song of Deborah³ (Jdg. v) which reflects the same background. The exemptions⁴ of Dt. xx. 7, 8 are quite similar to those allowed by Gideon (Jdg. vii. 3). The instructions to spare fruit trees (xx. 19) would be specially applicable to a land which the people were about to inherit as their own. In a later age Elisha gave a contrary order to Jehoshaphat in respect of an enemy's country (2 Ki. iii. 19).

The 'priest' is to go with the army (xx. 2) as did Eleazar (Nu. xxxi. 6), and the priests at Jericho (Jos. vi), and Hophni and Phinehas against the Philistines (1 Sa. iv. 4). When the monarchy was established this custom fell into oblivion. The law of xxi. 10-14 has a parallel among the ancient laws of the Hittites; it commences with the same formula as xx. 1 and is of a piece with the rest; it carries with it the implication of success in aggressive warfare.

The regulation of xxiii. 9-14 also commences with the formula 'When the host goeth forth . . .', and has a very primitive appearance.⁵ The closing words concerning the presence of Yahweh in the camp (14) afford additional evidence that we are here still in the theocratic age.

¹ Quoted by S. R. Driver, *ICC*, p. 236.

² *Studies*, p. 46.

³ Probably dating back to the twelfth century BC.

⁴ Pfeiffer (*Introduction*, p. 238) describes the laws in Dt. xx as so 'Utopian and impracticable' in the days of the later monarchy, that some have regarded them as 'post-exilic dreams'. But the laying down of detailed procedure (e.g. xx. 10-14) has not the appearance of a dream.

⁵ Von Rad (*Studies*, p. 50) groups these laws with Dt. xxiv. 5 and says they 'contain what is very ancient', but, as he thinks, 're-interpreted'.

The only time to which these laws properly belong is that of the invasion. Conjectural reasons have been advanced for their revival, in the time of Manasseh, or after the exile, but with little semblance of probability.

Table M. Institutions

Subject	Deuteronomy
1. Judges and officers	xvi. 18
2. Supreme tribunal	xvii. 8-13
3. Possible king	xvii. 14-20
4. Promise of a prophet	xviii. 15-22
5. Cities of refuge	xix. 1-10

With xvi. 18 a new section commences which deals with the good government of the people and those placed in authority (xvi. 18-xviii). The preceding laws about tithes and offerings assume the existence of priests; here, looking to the future, is a command to *appoint* judges and officers, tribe by tribe. Various duties are assigned to them in the chapters which follow.

The cultic rules in xvi. 21, 22, xvii. 1 seem to interrupt the connection.¹ But the need to warn his people against Canaanite influence was never far from the legislator's mind, and reappears in xvii. 2-7.

We observe first that this ordinance displays no sign of connection with Josiah's reform.² 'Judges'³ are not mentioned in 2 Ki.

¹ A Rabbinic explanation of the connection is, 'He who appoints a judge who is unfit for his office, is as if he were to build an Asherah, a centre of heathen worship' (Hertz, *Deuteronomy*, p. 215). Von Rad calls these verses 'pre-Deuteronomic'; they are evidently ancient.

² See Welch, *Code*, pp. 164-172, on conjectural emendations of the text to render such a connection possible.

³ The Hebrew *šōphēt* is cognate with *mišpāt* (judgment). From all the references we conclude that they were civil officials entrusted with the administration of justice.

xxii, xxiii; and in 2 Ch. xxxiv. 12, 13 the 'officers'¹ are classed with scribes and porters as assisting the overseers in the restoration of the temple. It is sufficiently evident from the history that the institution must go much further back.

Neither was the institution new in the prophetic period. Zephaniah likens the judges of his day to 'evening wolves' (Zp. iii. 3); and Isaiah after denouncing the princes who 'judge not the fatherless, neither doth the cause of the widow come unto them' (Is. i. 23; cf. Dt. xxiv. 17) declares the promise, 'I will restore thy judges as at the first' (Is. i. 26). Such words can only refer to an ancient institution which had become corrupt.

The Chronicler, who refers to the history of the contemporary prophet Jehu the son of Hanani as one of his sources² for the reign of Jehoshaphat, records how that king 'set judges in the land throughout all the fenced cities of Judah' (2 Ch. xix. 5).

The parallels between Jehoshaphat's action and Deuteronomy are too many to be purely accidental. 'Officers' are appointed to assist the judges (2 Ch. xix. 11), there is to be a supreme tribunal presided over by a priest and a judge (2 Ch. xix. 11; cf. Dt. xvii. 9), to which causes are to be brought, described (2 Ch. xix. 10) in a way reminiscent of Dt. xvii. 8.

That the law as laid down in Deuteronomy is older than Jehoshaphat's time is manifest in various ways:

1. The form of Dt. xvi. 18 is quite general and the words 'according to thy tribes' (RV) point to an earlier period than the limitation to the tribe of Judah.

2. Jehoshaphat's institutions are prefaced with the statement that 'he brought them back to the Lord God of their fathers'. This implies an existing but broken law.

¹ The Hebrew *šōtēr* denotes one who keeps a record. The officers always appear as subordinate officials. In Ex. v. 6-19 they assist the 'overseers' in keeping 'the tale of bricks' and driving on the labourers. In Dt. xx. 5, 8, 9 they perform the role of non-commissioned officers. See also Dt. xxix. 10, xxxi. 28; Jos. iii. 2, viii. 33. Under David they performed both civil (1 Ch. xxvii. 29) and military duties (1 Ch. xxvii. 1). See G. T. Manley, '“Officers” in the Old Testament', *EQ*, xxix. 3, July 1957, pp. 149-156.

² Cf. 2 Ch. xix. 2 and xx. 34. Cf. W. F. Albright, 'The Judicial Reform of Jehoshaphat', *Alexander Mare Jubilee Volume*, ed. S. Lieberman, New York, 1950.

3. The list of names in 2 Ch. xix, clearly no invention, marks it as later than the general terms of Dt. xvi. 18.

4. The existence of judges is assumed in the laws of xxi. 1-9 and xxv. 1-3, both admittedly old.

5. Officers and judges appear together in the list of David's officials, probably taken from court records (1 Ch. xxiii. 4, xxvi. 29), and still earlier among the leaders of the people in the days of Joshua (see Jos. viii. 33, xxiii. 2 (D) and xxiv. 1 (E)).

The law which directs that judges and officers should be appointed fits in best at the beginning of the historical series.

Commenting upon the relation which Dt. xvi. 18-20¹ bears to the story of Moses' meeting with Jethro (Ex. xviii. 13-26; cf. Dt. i. 9-18)², Pedersen says that 'the Mosaic narrative no doubt deals with the same conditions as Deuteronomy'³; and indeed this can scarcely be denied.

THE CENTRAL TRIBUNAL

The establishment of a central tribunal (xvii. 8-13) follows on verses 2-7, which prescribe the death penalty (see p. 99) for apostasy, when proved by testimony after due inquiry. It is cast in the same archaic form, 'If...', and is followed by the same formula, 'thou shalt put away the evil...'. The form of the tribunal, 'the priests the Levites and... the judge that shall be in those days', inquiring at Yahweh's altar, emphasizes its primitive character.

With the rise of the kingdom the function of chief judge fell naturally to the king, and in the days of Samuel we see this process taking place, the people demanding a king to 'judge' them (1 Sa. viii. 5, 20). Absalom acts on this assumption (2 Sa. xv. 2-4). But Deuteronomy puts the supreme authority in the hands of 'the judge that shall be in those days'.

As is the case with the procedure of xxi. 1-9 (see p. 107), the

¹ Concerning Dt. xvi. 19, 20 see Chapter IV, Table C. The three rules in verse 19 are found previously in (a) Ex. xxiii. 6, (b) Dt. i. 17 and (c) Ex. xxiii. 8. They form the foundation of Hebrew justice.

² Upon this incident A. C. Welch remarks that the nation would never have credited a foreigner with this first attempt at organized life unless it had predated the time of the settlement (*Framework*, p. 192).

³ *Israel*, III-IV, p. 104.

collaboration of judge and priests betokens a time when their functions were not so sharply defined as they certainly were in the time of Jehoshaphat, when the chief priest was set over 'the matters of the LORD', and Zebadiah the son of Ishmael over 'the king's matters'.

From whatever aspect it is viewed, therefore, the injunction of Dt. xvii. 8-13 stands midway between the simple order in Ex. xviii. 26, that 'hard cases' should be brought before Moses himself, and the fully organized system depicted in 2 Ch. xix.¹

THE CHOICE OF A KING

From the provision of a high court the legislation passes to give counsel (concerning the choice of a king): 'when thou art come unto the land which the LORD thy God giveth thee, and shalt possess it, and shalt dwell therein' (xvii. 14).

R. H. Kennett comments: 'There is no king, but there is a probability that one will be elected, and, strange to say, it is necessary to insist that the king who may be elected by the community generally should be of Israelite birth.'²

It is not unnatural that the advocates of the post-exilic date of Deuteronomy should have fixed upon this passage as one which could not have been composed during the monarchy. So Pedersen³ writes, 'Not even the castigating prophets regarded the kingship as un-Israelitish... The idea of choosing an alien to occupy the throne of David can hardly have come within the horizon in the days of the kings, when the son regularly succeeded his father by virtue of his birth.'

It has been argued that the warning against riches and the multiplication of wives contains a reference to Solomon. Their application to Solomon is plain enough; but these were the temptations of any eastern monarch (cf. 1 Sa. viii. 11), and in later

¹ The possibility is not overlooked that an author of Deuteronomy might have deliberately so worded his law as to make it fit in with the 'Mosaic setting'. But as the cases multiply where this assumption is necessitated, the probability increases that what we find in the text is not the product of calculated fiction, but is due to a real historical connection.

² *Deuteronomy and the Decalogue*, p. 6. See above, p. 18.

³ *Israel*, III-IV, p. 586. Driver's comment is, 'the prohibition is a remarkable one' (*ICC*, p. 210).

days the wealth of Solomon was looked upon as a mark of divine favour.

If the warning was issued for a reigning monarch, for whose benefit was it intended? Surely not for Manasseh! There was little danger that he would return to Egypt.

The general tenor of the passage best suits a pre-monarchic date.

There is a 'noticeable silence' about the important functions attached to the kingship, and a 'complete absence of the Davidic tradition', as von Rad admits.¹ 'The situation exactly fits the time of Samuel,' says Robertson.² In many respects this is so; although in his day the people never sought to return to Egypt, as they did under Moses (Nu. xiv. 4), and a still earlier date is better. The words in 1 Sa. viii. 5 and x. 24 seem to show acquaintance with this passage.³ But the 'book of the law' of which the king was to procure a copy can scarcely be the same as 'the manner of the kingdom' (*mišpaṭ hamm'luká*) written by Samuel (1 Sa. x. 25). For if, as E. Robertson conjectures, Samuel were the compiler of Deuteronomy, why should he use, for the same thing, an entirely new and not very appropriate expression?⁴ It might possibly have been the 'testimony' which Jehoiada the priest handed to the young king Joash (2 Ki. xi. 12), though this must remain uncertain.

In any case, it is hard, if not impossible, to imagine a writer in 680 BC bold enough to command king Manasseh to secure a copy of his book from the priests and make it the object of his study!

A FUTURE PROPHET

The section xviii. 15-22 is better described as a prediction than a law; von Rad includes it in a list of 'sermon-like utterances'.⁵ It has been taken as indicating acquaintance with a long prophetic line.⁶ The use of the singular form, 'a prophet like unto me', militates against this interpretation. Later writers refer to the

¹ *Studies*, p. 62.

² *OTP*, p. 44.

³ This is admitted by S. R. Driver, but attributed not to Samuel but to the historian.

⁴ See C. R. North, *OTMS*, p. 52.

⁵ *Studies*, pp. 22, 23.

⁶ There is no substance in the objection once used that if the saying were pre-prophetic the author would have used the word 'seer' (*rō'eh*) rather than 'prophet' (*nābi'*). This was based on a misunderstanding of 1 Sa. ix. 9—the word *nābi'* was in use long before Samuel (cf. Nu. ix. 26; Jdg. iv. 4).

prophetic order as the 'prophets' (c.g. Ho. vi. 5; Am. ii. 11; 2 Ki. xvii. 13).

The author of Dt. xxxiv. 10 seems to have interpreted it of an individual, who had not yet appeared. According to Ibn Ezra, the reference was to Joshua, Moses' successor.¹ It is given an individual interpretation by Peter (Acts iii. 22) and by Stephen (Acts vii. 37). The introductory words xviii. 15-17 confirm this as the meaning.

In the days of Micaiah (1 Ki. xxii) and Isaiah (Is. xxx. 10) the false prophets were wont to prophesy 'smooth things', but here the reader is exhorted, 'thou shalt not be afraid of him' (22). The threat of death upon the prophet who spoke in the name of Yahweh without His authority also requires a date when it was at least possible of execution.

CITIES OF REFUGE

According to Wellhausen the cities of refuge formed a part of the seventh-century reform. The rules in Ex. xxi. 12-14 belonged, he said, to the period when every 'high place' was a sanctuary; and when these were abolished and worship centralized in Jerusalem, the appointment of special cities² as laid down in Dt. xix was necessitated.

It is not necessary here to enter into all the difficulties raised by this hypothesis; it will suffice to show that the passages in Exodus and Deuteronomy, if genuinely ancient, present no difficulty at all.

The law in Ex. xxi. 12-14 is cast in the old 'judgment' form, and like Hammurabi's law (207, 208) distinguishes accidental homicide from wilful murder. Hammurabi deals only with homicide, for which a fine is prescribed varying according to the status of the victim. The provision of a separate law for homicide is therefore of long standing. The Hebrew law requires that the wilful murderer shall be put to death, even if he clings to Yahweh's altar for sanctuary (Ex. xxi. 12, 14). The altar is presumed to exist, and to be traditionally regarded as affording sanctuary; the 'place' which Yahweh will 'appoint' must be something new.³

After the Amorite victories east of Jordan we read that Moses

¹ Reider, *Deuteronomy*, in *loc.*

² The mention of 'cities' is no argument for a late date; cities existed in Canaan long before the Israelite invasion.

³ See A. C. Welch, *Code*, p. 139.

'separated' (*yabhdil*) three cities, which are named and described, 'that the slayer might flee thither, which should kill his neighbour unawares' (Dt. iv. 41-43). Next in Dt. xix we find him issuing this command that three cities should also be 'separated' on the eastern side, 'when' they shall have successfully settled there (Dt. xix. 1).

The final stage is reached in Jos. xx, where, after reference to the command given to Moses, it is recorded that they 'assigned', or handed over for use, the three cities which Moses had separated on the east, and 'sanctified' three more on the eastern side, now named for the first time. The sequence is consistent and complete.

If anything more were needed to mark the early character of the command in Dt. xix it is found in verses 8 and 9, providing for the addition of a further triad, 'if the LORD thy God enlarge thy coast . . .' The possibility of such extension would have been inconceivable when the power of Assyria was at its zenith.

GENERAL REVIEW

This concludes the examination of Dt. xii-xxvi section by section, which has been carried through in detail, even at the risk of wearying the reader. The reason for this has been to avoid, so far as can be, the subjective element which would obtrude itself if selection had been made among the laws in order to prove a particular thesis.

On reviewing the legislation as a whole certain features emerge:

1. Pedersen describes its *purpose* thus: 'The main object of the book, in its present shape, is to protect the Israelitic community against Canaanite influence.'¹

This description fits in well with the opening verses of chapter xii, but it needs supplementing with the closing words in xxvi. 18, 'the LORD hath avouched thee this day to be his peculiar people, as he hath promised thee, and that thou shouldest keep all his commandments.' As we have seen, it contains the 'casuistic' laws for the direction of judges, moral precepts for the guidance of personal, domestic and social life, and specific commands for the community. 'In the book of Deuteronomy we have a combination of religious and civil law. It is such a law code as would

¹ *Israel*, I-II, p. 27.

reasonably be expected at the period of the establishment of a monarchy.'¹

When we turn back to the characteristic phrases considered in Chapter II we see that they point in the same direction. The book is intelligible and appropriate only when addressed to a people at the commencement of its national existence and about to settle in a new country.

2. That much of the legislation is *old*, going back even to the patriarchal age, is now generally admitted. What is equally true, but not so readily acknowledged, is that none of it is demonstrably new in the sense of belonging to the monarchic period. It is quite true, as von Rad and others have pointed out, that we can often discern an old law, stated in concise and archaic form, followed by interpretative comment, e.g. Dt. xv. 1 followed by verses 2-6. But the primitive law is sometimes demonstrably pre-Mosaic, and the comment is often cast in a Mosaic form, and there is nothing to stamp it as belonging to a much later age.

If the author be a reformer addressing the people of Judah groaning under the evils of Manasseh's rule, he is wonderfully successful in concealing the fact. He encumbers his programme of reform with a number of obsolete, impracticable and irrelevant laws; he betrays no hint of the divided kingdom, or of the promises to David; and whilst the possibility of a king is envisaged, the civil law entirely ignores his existence.

3. The dominant note in the legislation is *positive, confident and optimistic*. It looks forward to 'blessing in the land'. The idea that it is a program of reform, which Wellhausen developed in connection with his views of the religious development, cannot be sustained from an examination of the laws themselves.

The author of Deuteronomy issues laws which he expects to be obeyed; this is not the attitude of the reforming prophets, who call upon Israel to repent over laws that have been broken. This contrast with the prophetic utterances goes down to the very heart of the book, and colours the legislation throughout.

From this aspect also the only time which provides a suitable background for the legislation is the pre-prophetic period.

¹ Robertson, *OTP*, pp. 64f.

CHAPTER IX

THE CENTRALIZATION OF WORSHIP

THE CASE FOR THE CENTRALIZATION THEORY

WELLHAUSEN described the centralization of worship in Jerusalem, which he conceived to be the aim of Deuteronomy, as the starting-point from which he drew his other deductions.¹ A modern scholar² calls the date of Deuteronomy 'the keystone in the Wellhausen system of chronology', and adds, 'If there is serious uncertainty here, the entire structure of the theory is weakened and may collapse.' It is the object of this chapter to inquire into the grounds which exist for such uncertainty.

Wellhausen dated the composition of Deuteronomy as 621 BC shortly before Josiah's reform of which we read in 2 Ki. xxii, xxiii, and thought that it was expressly designed to abolish all the local sanctuaries and to restrict the worship of Yahweh to Jerusalem. With the probable connivance of Hilkiah, the book was placed in the temple in order to be discovered, and so produce the desired impression upon the king.

In the course of time the argument was modified, and with it the date of Deuteronomy. Anxious to clear the author from the imputation of fraud, S. R. Driver³ placed the date some fifteen years earlier. 'The book, even though intended to produce a reform, might well have been written while Josiah was yet a child', and placed in the temple in hopes that one day 'some practical use could be made of it'.

H. H. Rowley⁴ puts the date back still further, to the beginning of Manasseh's reign, about 680 BC. Like Driver, he thinks that fraud on the part of the authors is 'in the highest degree im-

¹ *Prolegomena to the History of Israel*, ET, 1885, p. 368.

² G. W. Anderson, in *OTMS*, p. 283. Also see pp. 17-21.

³ *ICC*, p. lv. 'Towards the end of the seventh century BC', says S. H. Hooke, *In the Beginning*, Oxford, 1947, p. 10.

⁴ *Growth*, p. 31.

probable'; though composed thus early, and hidden in the temple, it was discovered and 'promulgated' only in 621 BC.

Driver states his case as follows.¹

1. Ex. xx. 24 is an 'old law' which authorizes 'the erection of altars, built in the manner prescribed, in every part of the land'.

2. Before and during the monarchy many local sanctuaries sprang up at which sacrifices offered to Yahweh were considered perfectly legitimate before the publication of Deuteronomy.

3. These were 'formally declared illegal' by Deuteronomy, which 'marks an epoch... when the old law (Ex. xx. 24) sanctioning an indefinite number of local sanctuaries' was found incompatible with purity of worship, which was then centralized in Jerusalem.

With this position Rowley is in general agreement. But on the second point he says, 'the multiplicity of altars permitted by the Book of the Covenant continued down to the time of Hezekiah, without any awareness of wrongdoing.'²

These scholars agree that a reform which brought about the centralization of worship in Jerusalem took place some time during the seventh century BC and that the book of Deuteronomy demanded it; and so deduce a connection between the two.

This position depends upon a particular interpretation of the history and also of the book of Deuteronomy and of the key verse Ex. xx. 24.

We shall therefore look first into the history beginning with Josiah's reform and working backwards; and then look again at the relevant parts of the book of Deuteronomy and at Ex. xx. 24.

DEUTERONOMY AND JOSIAH'S REFORM

Wellhausen's dating of Deuteronomy in 621 BC assumed: (1) that Josiah's reform was set in motion by the discovery of the book of the law in the temple; (2) that the principal aim of the reform was the centralization of worship in Jerusalem; and (3) that this

¹ *ICC*, pp. 136-138. These propositions are criticized by R. Brinker, *The Influence of Sanctuaries in Early Israel*, Manchester, 1946, pp. 189-195. Long since they were refuted by A. van Hoonacker, *Le Lieu de Culte dans la Législation Rituelle des Hébreux*, Louvain, 1894, and by W. L. Baxter, *Sanctuary and Sacrifice*, London, 1895.

² *Growth*, p. 29.

was also the aim of Dt. xii-xxvi which was composed expressly with this in view. Each of these propositions is questionable.

1. It appears rather that 'the reform began before the law book was found', and in fact was 'the inevitable religious side of a revolt against Assyria'.¹

The revolution which led to Josiah's accession (2 Ki. xxi. 23-26), and the statement with which the account of his reign begins, that he 'walked in all the ways of David his father', indicate a policy of 'national self-determination and at the same time one of internal renewal'.²

The preaching of Zephaniah³ would aid such a movement, and there is no need to doubt the chronicler's statements that the reform began early in the reign of the young king (2 Ch. xxxiv. 3), and that it had been some time in progress, when the book was discovered in the temple.⁴

2. Next we may ask, what is the place given in the story to a policy of centralization? It is neither stated, nor is it implied, that the sin of the fathers which incurred wrath (2 Ki. xxii. 13) was the worshipping of Yahweh at more places than one. Instead, it was 'because they have forsaken me, and have burned incense unto other gods' (2 Ki. xxii. 17; cf. Je. vii. 30f.). In consequence, the first step was to bind the people by a covenant, to 'walk after the LORD' (2 Ki. xxiii. 3). Could anything be more explicit?

The next step harmonizes with this. There is no *command* to worship only in the temple; it is assumed that this is already the centre for worship; but what *is* necessary is that it should be cleansed from the idols and abominations with which it had been defiled.

The whole record, whether in Kings or Chronicles, completely justifies Oestreicher's dictum that the aim was 'not unification, but purification'.

¹ H. H. Rowley, 'The Prophet Jeremiah and the Date of Deuteronomy', in *Studies in Old Testament Prophecy presented to T. H. Robinson*, Edinburgh, 1950, pp. 161, 165. Cf. 2 Ch. xxxiv. 3 with 2 Ki. xxii. 3. See further Pedersen, *Israel*, III-IV, p. 585 and J. N. Schofield, *Historical Background of the Bible*, London, 1948, p. 193.

² Von Rad, *Studies*, p. 65.

³ Zp. i. 4 (2 Ki. xxiii. 5), i. 5 (2 Ki. xxiii. 12), ii. 2 (2 Ki. xxii. 13).

⁴ Additional reasons for this view are given by D. W. B. Robinson, *Josiah's Reform and the Book of the Law*, London, 1951.

3. The context requires us to believe that it was an *old* book which was found. The wrath of God was impending because 'the fathers' had not hearkened to its words (2 Ki. xxii. 13). It was at once recognized as the 'book of the law',¹ which suggests that such a book was known to have existed, but had been lost or forgotten. These things could not have been if the book were known by some to be the work of men still living.

Many cases of the deposit of books in temples are known;² and the Old Testament records several instances of the deposit of a written document following on the declaration of the law, at Sinai (Ex. xxiv. 4), on the banks of Jordan (Dt. xxxi. 26), at Shechem (Jos. xxiv. 26)³ and Mizpah (1 Sa. x. 25). There would therefore be nothing improbable in the deposit of a law-book in the temple at the time of its building.

Moreover, the correspondence of the laws of Deuteronomy with the acts of Josiah is not so close as to prove an *immediate* connection.

Where they agree, as in the putting down of wizardry and idolatry, they deal with sins which are denounced elsewhere in the Pentateuch. But certain evils of the time, such as the *kēmārīm* ('idoltrous priests'), though known to Hosea (x. 5) and Zephaniah (i. 4, 5), and put down by Josiah (2 Ki. xxiii. 5), are ignored in Deuteronomy. The same is true of the burning of incense to Baal (Ho. ii. 13, xii. 2; 2 Ki. xxiii. 5), and of the 'sun-images' (Is. xvii. 8, xxvii. 9; 2 Ch. xxxiv. 4).

On the other hand there are many commands in Deuteronomy, such as the destruction of the Amalekites and the assigning of the cities of refuge, which are not mentioned as part of Josiah's reform, and would have been anachronisms at that time.⁴

Hilkiah's book of the law probably was, or included, Deuteronomy; but even in this point there is no consensus of opinion.⁵ Vatke thought that it consisted of parts of Exodus, some think it may have been the Holiness Code.

¹ The same title is used in the account of Jehoshaphat's reform (2 Ch. xvii. 8, 9), which appears to rest upon an ancient authority.

² E. Naville, *The Discovery of the Book of the Law under King Josiah*, London, 1911; Ricciotti, *Histoire d'Israel*, pp. 500f.

³ Cf. Nielsen, *Oral Tradition*, p. 45.

⁴ See p. 102.

⁵ Nielsen pronounces it 'impossible'! *Oral Tradition*, p. 56.

DEUTERONOMY AND HEZEKIAH'S REFORM

A better case could be made out for A. Westphal's view that Hezekiah's reform drew its inspiration from the book of Deuteronomy. This was, he says, a 'peculiarly appropriate epoch' for its composition, although he regards its spirit and important elements in it as going back to Moses himself.¹

Certainly the author of the books of Kings, after concluding the summary of several previous reigns with the words 'but the high places were not taken away', omits these words when he comes to that of Hezekiah. Instead of this, we have the positive statement that 'he removed the high places, and brake the pillars, and cut down the 'Asherah' (2 Ki. xviii. 4, RV). We have in the words of the Rabshakeh the only direct reference to 'centralization' in the whole book, when he says, 'Is this not he whose high places Hezekiah hath taken away, and hath said to Judah and Jerusalem, Ye shall worship before this altar in Jerusalem?'²

We must beware of building on the words of this Assyrian officer whose ulterior motive was transparent to all (2 Ki. xviii. 36, xix. 6). The book of Kings, like that of Isaiah, assumes that Jerusalem was already the centre of worship; Hezekiah did not make it so. He was no innovator; he did 'according to all that David his father did' (2 Ki. xviii. 3). The high places which he removed were corrupted with Canaanite abominations, as is attested by the presence of the fertility symbols the *mṣṣēbhôth* and *'ašerîm* (2 Ki. xviii. 4).

With regard to these events, H. H. Rowley says 'there is every reason to believe that Hezekiah did carry through a reform of religion, and none to doubt that he attempted its centralization'. If this meant only that he restored the temple to the place it had previously enjoyed, we might agree. But there is no evidence that Hezekiah was making a radical change in the habits of the people, depriving them of a privilege which they had always enjoyed with the sanction of their leaders. There is no hint of hardship, no sign of protest, no comment in this sense by the historian.

Because no book of the law is mentioned in connection with the

¹ *The Law and the Prophets*, 1910, pp. 297ff.

² 2 Ki. xviii. 22; 2 Ch. xxxii. 12; and (omitting 'in Jerusalem') Is. xxxvi. 7.

reform, Rowley looks upon Deuteronomy not as its cause, but as its sequel, whence his date of c. 680 BC. This avoids many of the difficulties connected with Wellhausen's date, but encounters others no less serious. Some of these will be found stated below (p. 142); we need only add here that this solution, equally with that of S. R. Driver, lies open to Kuenen's caustic criticism, 'The reformation is called into life by persons who have not planned it, and are only blind instruments in the hands of an unknown author. Such an assumption has no analogies. Almost equally impossible is the part which is assigned to the author of Deuteronomy in connection with it; he states his wishes in writing and urges their fulfilment with the greatest earnestness—but leaves them to chance.'¹

TABERNACLE AND TEMPLE

It is true that the unity of the nation and the one-ness of Yahweh called for one sanctuary round which the people could gather. But this was no discovery of later times, it went back to the covenant in Horeb (Ex. xxxiv. 23; Dt. v. 2, 6, vi. 2). The simple fact is that from Joshua onwards there always existed a national centre for worship, first the tabernacle, then the temple.

'The tabernacle-tradition', says C. R. North, 'undoubtedly goes back to pre-Jerusalem times';² from the earliest times we see the tribes organized round a central sanctuary.³

The tabernacle was erected at Shiloh and 'there the whole congregation assembled' (Jos. xviii. 1). Thither also 'Elkanah went up from year to year to worship and to sacrifice' (1 Sa. i. 3), and there Samuel received his call to be a prophet (1 Sa. iii. 17-21). Jeremiah spoke of Shiloh as the place where Yahweh set His name at the first (vii. 12). Was he not right? Is not the tabernacle envisaged in Deuteronomy as more particularly the place where Yahweh put His name?⁴

The tabernacle was superseded by Solomon's temple, and if ever there was a day when worship might be said to have been

¹ *Einleitung in die Bücher des Alten Testaments*, I, 209.

² *OTMS*, p. 69. See also Orr, *POT*, pp. 165, 173.

³ Cf. G. E. Wright, *The Old Testament against its Environment*, p. 61, where reference is made to the work of Albrecht Alt and Martin Noth.

⁴ Or was it more particularly the ark? See C. Ryder Smith, 'The Stories of Shechem: Three Questions', *JTS*, XLVII, 1946, p. 36.

'centralized' in Jerusalem, it was on the day of its dedication. Then all Israel gathered (1 Ki. viii. 4, 5) to celebrate an act of national significance (1 Ki. viii. 1-3). From that time forward the temple was recognized as the seat of Yahweh's worship (Am. i. 2) and the centre to which the tribes went up for the annual feasts (1 Ki. xii. 27, 32), as Jeroboam well knew.¹

The pre-eminence of Jerusalem was therefore not established either by Josiah or by Hezekiah; it went back to the days of David and Solomon.

The facts about the temple are not open to question. The same cannot be said concerning worship at local sanctuaries, which we must now consider.

LOCAL SANCTUARIES

The term 'local sanctuaries' is somewhat vague, and if used loosely is apt to mix together things which differ, and which need separate treatment. The information at our disposal concerning local altars is scanty, and the shortage of facts encourages speculation. It is tempting to group together every place of sacred memories or where a sacrifice is recorded, and to reckon them all as permanent sanctuaries, each with a complement of sacrificing priests who followed a particular ritual and built up its own body of traditions. The wiser course, however, is to adhere as closely as possible to the record and to observe certain obvious distinctions, such as between acts on the one hand which claimed divine sanction and, on the other, cases where the people 'did evil in the sight of the LORD'.

We shall begin with a brief survey of what is recorded of sacrifices, (1) at altars and (2) at high places, in the books of Joshua to 2 Samuel, that is, before the temple was built.

In these books there are seven instances of an 'altar' being erected, two in connection with theophanies (Jdg. vi. 26-28, xiii. 20), and five on other occasions (Jos. viii. 30;² Jdg. xxi. 2-4; 1 Sa. vii. 17, xiv. 35; 2 Sa. xxiv. 25). Moreover there is the state-

¹ There may have been local centres for the feast of weeks, which was dated by the barley harvest, the gathering of which varied from place to place. Hence Pedersen says 'it would seem to follow that the feast was celebrated by families for each farm, or at any rate for each village': *Israel*, III-IV, p. 417. Cf. Brinker, *op. cit.*, p. 203.

² See pp. 134, 163.

ment in Jos. ix. 27 concerning the Gibeonites serving the 'altar of the LORD', presumably at the tabernacle, and the story of the 'altar of witness' in Jos. xxii.

It is a curious fact, and may be only a coincidence, that both in these books and in the legislation of Deuteronomy, the plural 'altars' occurs only once, and then in each case in reference to those of the Canaanites (Jdg. ii. 2; Dt. xii. 2).

We read also of sacrifices at Bethlehem (1 Sa. xvi. 5, xx. 29) and Gilgal (1 Sa. xiii. 8) and by the men of Beth-shemesh in the presence of the ark (1 Sa. vi. 15).

Gideon's altar was still standing when the story was written, and that at Shechem at the time of Joshua's death (Jos. xxiv. 26); the site of David's altar was used for the temple. The others fade into oblivion.

The 'high place' (*bāmāh*) is not the same as the 'altar'. The two words differ in origin and meaning¹ and call for separate treatment.

The word *bāmāh* is absent from Joshua and Judges, but in 1 Samuel two are mentioned.

There was one at Ramah to which Samuel 'went up' (1 Sa. ix. 13), and one nearby the 'hill of God', from which a band of musical prophets came 'down' (1 Sa. x. 5). On the former was a 'guest chamber' where Samuel entertained thirty persons at a sacrificial feast. The language employed shows that these *bāmōth* were, or were situated upon, eminences.

This ends our information about sacrifices offered to Yahweh, which are authorized and approved. When under the judges the people 'forsook the LORD and served Baal and Ashtaroth' (Jdg. ii. 13), this was something quite different, and was condemned.

A new phase is introduced with the building of the temple; the tone changes, and the word *bāmāh* begins to acquire a new and evil connotation. A transition can be seen in 1 Ki. iii. 1-4, where the writer tells us that 'the people still sacrificed in high places because there was no house built to the name of the LORD until those days'; this practice on the part of 'the people' is deprecated rather than condemned.

We next read that Solomon walked 'in the statutes of David his

¹ On the various meanings of *bāmāh* see the appendix at the end of this chapter. On the notion of 'height' involved in it see Lods, *Israel*, p. 84.

father; only he sacrificed and burned incense in high places', which also involves a tone of disapproval. The writer adds: 'The king went to Gibeon to sacrifice there; for that was the great high place' (1 Ki. iii. 4).

Here the LXX translates *ἡψηλοτάτη καὶ μεγάλη* (highest and great), as if its lofty elevation was in mind (Gibeon being the highest point in the region); but possibly the reference is to the presence of the tabernacle there (cf. 2 Ch. i. 1-3). Up to this point the notion of height lingers about the word *bāmāh*; it now disappears, and it comes to represent some kind of structure which can be 'built' (1 Ki. xiv. 23), and destroyed and rebuilt (2 Ki. xxi. 3), in a city or in a gateway (2 Ki. xxiii. 8).

The continued existence of the *bāmōth* is considered a blot on the record of otherwise good kings;¹ the building of them by the people is condemned outright (1 Ki. xiv. 22-24), a condemnation passed equally upon the *bēth-bāmōth*, whatever their exact nature may have been (1 Ki. xii. 31; 2 Ki. xvii. 29, xxiii. 19).

This disapproval cannot be attributed merely to the Deuteronomic bias of the author, for it is expressed with great vigour by the prophets also (Ho. viii. 11, x. 1; Am. iii. 14, iv. 4-6, v. 4-6; Mi. i. 7; Is. ii. 8).

The ground of objection has no relevance to a centralizing law, but is to the idolatry and corruption introduced by syncretism with the Canaanite religion, against which stern warnings had been given not only in Dt. xii. 29-32, but earlier in Ex. xxxiv. 12-16 (J).

In the northern kingdom the pure religion of Yahweh was threatened with extinction by the royal patronage of the Phoenician Ba'al worship under Ahab and Jezebel. This was fiercely contested by Elijah; the altars of Yahweh to which he referred (1 Ki. xix. 10) may have been erected by pious Israelites who were prevented from going up to Jerusalem to worship, or were possibly some of more ancient origin.

Archaeology has little to add to this picture. Canaanite shrines which have been discovered at Gezer and elsewhere belong to the pre-Israelite period, and 'it still requires explanation why no Hebrew high place or other shrine for worship, whether of Yahweh or of some "strange god"', is known from the period of

¹ 1 Ki. xv. 14, xxii. 44; 2 Ki. xii. 3, xiv. 4.

Hebrew domination and the area of Hebrew occupation in Palestine.¹

This is the historical background, cleared of conjecture, against which Wellhausen's interpretations must be judged.

INTERPRETATION OF EXODUS XX. 24
AND DEUTERONOMY XII

In the light of these facts what interpretation should be given to Ex. xx. 24? It runs, 'An altar of earth thou shalt make unto me, and shalt sacrifice thereon thy burnt offerings, and thy peace offerings, thy sheep, and thine oxen: in all places where I record my name I will come unto thee, and I will bless thee.'

The scene is laid in Horeb, the speaker is Yahweh, and the saying is addressed to Moses. A similar construction is found in Gn. xx. 13, where Abraham gets Sarah to promise him a 'kindness' 'at every place where we shall come'. It is only by tearing the words from their context, and changing their reference, that they can be transformed into an 'old law' sanctioning an indefinite number of local sanctuaries in the land of Canaan. There are old laws in Ex. xxi, xxii, but this does not find its place among them.

The real meaning is perfectly plain; the verse contains a command and a promise. The sequel relates (Ex. xxiv. 4, 5) how Moses executed the command, built an altar of unhewn stones (cf. Ex. xx. 25) and 'offered burnt offerings, and sacrificed peace offerings'. The promise also is for Moses, a guarantee of Yahweh's presence and favour, wherever he may go.

The statement that when Deuteronomy was composed the old law 'was revoked, and worship centralized in Jerusalem' is also contrary to the facts and inconsistent with the theory itself. Would any author engaged on an 'expansion' of the JE code revoke an important element in it without a word of explanation?

And as for Jerusalem, we may quote Prof. Skinner's words: 'It must be insisted, in opposition to a common critical opinion, that the book of Deuteronomy itself lays no stress whatever on the

¹ C. C. McCown, 'Hebrew High Places and Cult Remains', *JBL*, lxix, 1950, p. 206.

peculiar claim of Jerusalem to be the one place of worship.¹

Indeed, so far from revoking the former command and promise, Dt. xii could fairly be said to establish them under the new conditions.² We read again of a 'place' (*māqôm*)³ where Yahweh will cause His name to dwell, where 'sacrifices and burnt offerings' shall be offered, and where His blessing shall be acknowledged.

As to centralization, 'the language used . . . is capable of having this interpretation read out of it or read into it'.⁴ The real force of the contrast in Dt. xii is not between many Yahweh altars and one, but between those of the Canaanites to 'other gods' whose name is to be destroyed, and the place where the name of Yahweh shall abide. It is not their number, but their character, which is in question.

Whether the words be read as pointing to one centre, or to more than one, they do not exclude the possibility of other altars duly authorized.⁵ Indeed the rule in Dt. xvi. 21, 22 contemplates the existence of such,⁶ and in xxvii. 1-8, the erection of one is commanded.

We may be pointed to Dt. xii. 14, which speaks of 'the place which the LORD shall choose in one of thy tribes'. The Hebrew idiom here employed, however, has two uses; it may have either a restrictive or a distributive force.

Long since, Oestreicher⁷ pointed also to Dt. xxiii. 17, where we have the same grammatical form;⁸ there the latter sense is necessitated; 'one of thy gates' must here mean one of many. Thus Dt. xii. 14 does not necessarily mean one and *only one* tribal territory where Yahweh may be worshipped.

To support the centralization theory a series of strained interpre-

¹ *Prophecy and Religion*, 1922, p. 167. Cf. H. H. Rowley, 'There is, of course, nothing in the Book of Deuteronomy to indicate that its central and sole legitimate sanctuary was to be Jerusalem': *Studies in Old Testament Prophecy*, p. 166.

² 'Deuteronomy builds on this earlier regulation', Welch, *Code*, p. 30.

³ *Māqôm* may denote a sacred place; but also a city or the bare ground (see p. 33). The word for temple (*hēkāl*) is noticeably absent, here and elsewhere in Deuteronomy.

⁴ Welch, *Code*, p. 195. ⁵ See R. Brinker, *op. cit.*, p. 199. ⁶ See p. 101.

⁷ *Deuteronomiums Grundgesetz*, p. 105. See also Welch, *Code*, p. 48.

⁸ See also Dt. xix. 5.

tations is given to verses which precede and follow. For instance, the words 'the things which we do here this day, every man whatsoever is right in his own eyes', which are so appropriate to the waiting period before the crossing of Jordan, are wrested from their context, and made to apply to the worship at the local sanctuaries in Canaan.¹

Then the permission for profane slaughter in xii. 15, which puts the use of domestic animals for food² on the same level with those taken in the chase, already sanctioned (Lv. xvii. 13), is transmuted into a compassionate provision intended to mitigate the hardship imposed by the centralizing law, thus rendering pointless the reference to the gazelle and the hart.³

Stranger still is the distortion of Dt. xviii. 6-8,⁴ which concerns a wandering Levite, into a compassionate provision for priests attached to local sanctuaries.⁵

The author of Deuteronomy writes elsewhere with force and clarity; it is not rational to think that in regard to the main purpose of his reform he would indulge in such obscurities.

What then becomes of the claim that worship at the 'high places' was 'formally declared illegal' by the publication of Deuteronomy? The astonished reader might well ask, where? They are not even mentioned!

We search for the word *bāmôth* in vain in the legislative section; and when we find it in xxxii. 13 and xxxiii. 29 it has the same primitive meaning of lofty heights as in 2 Sa. xxii. 34. This only makes its absence in the laws more conspicuous.

We know from 2 Ki. xvii that the *bāmôth* which kings and people built in the seventh century were a crying evil against which 'all the prophets' had testified (verse 13). How then can we account for the fact that the zealous reformer studiously avoids mentioning them? We are not aware that any satisfactory answer has been given to this question.

Further, the author himself, or some successors, prefixed Dt. v-xi as a suitable introduction to the law. These chapters deal at length with the covenant made in Horeb, with all the attendant circumstances, but they do not remotely hint at the existence of the *bāmôth*. It must be admitted that 'If . . . the purpose of the code

¹ Cf. Robertson, *OTP*, p. 45.

² Cf. Welch, *Code*, pp. 49-55.

³ See p. 92.

⁴ See p. 107.

⁵ Welch, *Code*, p. 91.

was to insist on centralization, the introduction can only be called a complete failure.¹

DEUTERONOMY XXVII. 1-8

The command in Dt. xxvii. 1-8 to raise an altar on Mount Ebal and to inscribe the law upon stones is a fatal stumbling-block to the centralization theory; as von Rad said, it raises a barricade (*sperrt sich*)² against it. It manifestly commands that which the law is supposed to forbid and, to make matters worse, uses the very words of Ex. xx. 24 which Dt. is supposed to revoke! When read without prejudice, it is 'not only in full agreement with all that precedes, but forms an admirable conclusion to the whole'.³ It is confirmed by the account in Jos. viii. 30-35⁴ of the erection of the altar by Joshua. When the two passages are compared they are seen to be independent; for they agree in substance but differ in detail;⁵ and besides, the style of the passage in Joshua is not 'Deuteronomic'.

It is not without a certain significance that Shechem is one of the places where fragments of primitive Hebrew writing have been found belonging to the invasion period; and there is an increasing tendency to accept a real connection between Shechem and the Deuteronomic law.⁶ There is therefore every reason to regard Dt. xxvii and Jos. viii as well based.

This passage cannot be brushed aside lightly as a later insertion. S. R. Driver frankly admits 'considerable critical difficulties'; the parts are imperfectly joined together, and 'it stands in a most

¹ Welch, *Code*, p. 178.

² Thus in *Deuteronomium Studien*, p. 47. In the ET (p. 68) he says, 'The Shechem traditions contained in chapter 27 are at odds with the demand for centralization.'

³ Welch, *Code*, p. 184. 'Clearly an appendix to the laws', Kennett, *op. cit.*, p. 3.

⁴ In verse 32 (ix. 5, LXX) the LXX inserts τὸ δευτερονόμιον.

⁵ Thus Dt. xxvii commands first the setting up of stones to be covered with plaister, and after that an altar. Jos. viii begins with the altar of unhewn stones, then proceeds to the inscription, but with no mention of the plaister. In Deuteronomy there is no mention of 'judges and officers' or of the reading of the law; in Joshua there is none of the dividing of the tribes.

⁶ E. Nielsen connects Jos. viii. 30-35 with xxiv. 26 and calls Shechem the starting-point of the 'Deuteronomic trend'. See also von Rad, *Studies*, p. 41, and Ryder Smith, *art. cit.*, p. 33.

unsuitable place'.¹ Nor do the difficulties end there; for the insertion, if such it be, shows that the person who made it could not have regarded the Deuteronomic law as forbidding the erection of the altar. This passage, therefore, affords the strongest confirmation of the straightforward interpretation of chapter xii, namely that whereas it forbids any association with Canaanite worship, and looks forward to a centre for national worship, it allows for the worship of Yahweh at any duly authorized altar elsewhere.

CONCLUSION

Little is needed to press home the lessons of this chapter. The centralization theory, the 'keystone' of Wellhausen's hypothesis of the origin of Deuteronomy, has been shown to be anything but firmly fixed; it can be supported only by a misreading of the history, and by artificial interpretations of the text. The investigation has led also to some positive results, which may now be stated.

1. When the history is cleared of conjecture, we see the tribes entering Canaan, and gathering from time to time around the ark or the tabernacle. Altars are raised, and sacrifices offered, with divine approval, at Shechem, Ophrah, Ramah and a few other places. Soon however the people fall away, forsake Yahweh and adopt Canaanite evil practices. With the building of the temple there is a revival of Yahweh worship, but further declension and syncretism follow, and increase to the end of the kingdom.

2. Read in this context and taken at its face value, the Deuteronomic law fits in admirably, if placed at the close of the Mosaic era. The Canaanites are in the land, and their shrines, a cause of temptation, must be completely destroyed. The gifts and sacrifices of the people must be brought only to a legitimate altar of Yahweh, under the aegis of His name. There are certain prohibitions: there must be no disorder (xii. 8); the altar of Yahweh must not be defiled with fertility symbols (xvi. 21, 22); above all, the worship of 'other gods', and the snare of admixture with the Canaanites, must be avoided (xii. 29-32). After Jordan is crossed an altar is to be raised in Mount Ebal and the law inscribed on stones (xxvii. 1-8).

3. Thus understood the legislation and the history agree, and

¹ ICC, p. 294. The difficulties betray the weakness of the hypothesis.

objections vanish which the centralization theory once raised to the early origin of Dt. xii-xxvi. Its primitive character is confirmed by the absence of the words Ba'al and *bāmôth*, and by the indefiniteness about the allusions to the 'place' which Yahweh would choose to put His name there.

APPENDIX TO CHAPTER IX

THE DIFFERENT MEANINGS OF *BAMOTH*

Insufficient attention has been given to the fact that the word *bāmôth* has different meanings in different contexts.

The Briggs-Driver-Brown Lexicon distinguishes four meanings:¹ (1) 'Mountains' (Mi. iii. 12; Ezk. xxxvi. 2); (2) 'Battle-fields' (Dt. xxxii. 13; 2 Sa. i. 19, 25); (3) 'Places of worship', of different kinds; and (4) 'Funereal mounds' (?) (Ezk. xliii. 7).

The translators of the LXX also distinguish some from others by translating differently.² In Dt. xxxii. 13 the LXX translates *ισχύον*, 'stronghold', and in xxxiii. 29 *τράχηλον*, 'neck'; both paraphrases. In 2 Sa. i. 19, 25 the word used is *τὰ ὑψηλά*, 'heights'; in 1 Ki. iii. 2, 3 we have *ὑψηλοῖς*, and in 1 Ki. iii. 4 Gibeon is described as *ὑψηλοτάτη καὶ μεγάλη*, 'the highest and great'.

In Lv. xxvi. 30; Nu. xxi. 28, xxii. 41, xxxiii. 52 the word is *στῆλη*, 'monument', possibly indicating a knowledge of a standing stone on the Amorite *bāmôth*.

In 1 Sa. ix, x the word is uniformly transliterated *βέμου* as if the word had once been a place-name there.

In the book of Kings the standard word is *ὑψηλον* even when the idea of height had quite disappeared. But in 2 Ki. xxiii. 13 the word is *οἶκον*, 'house'. The context, which states that this high place was only 'defiled' while others were 'destroyed', also indicates a substantial building.

In Is. xiv. 14 the RV, in spite of its regard for uniformity, translates 'heights', which is evidently correct.

It appears, therefore, that there is an original connotation of actual height, which in the later usage disappears.

¹ See also G. B. Gray, *ICC: Numbers*, article on Nu. xxxiii. 52.

² This might in part be due to different translators.

CHAPTER X

DEUTERONOMY AND THE PROPHETS

THE silence of the eighth-century prophets is still often urged as a reason for believing that Deuteronomy was not in existence when they wrote. The argument was stated by S. R. Driver with his usual lucidity: 'the early prophets . . . shew no certain traces of (its) influence; Jeremiah exhibits marks of it on nearly every page.'¹

The argument *ex silentio* is always precarious even when the silence is complete; for instance, Samuel is never mentioned by the prophets till we come to Je. xv. 1; but this does not prove that he was unknown. We are on safer ground when we study what the prophets do say, than when we lay stress upon what they do not; and the present chapter will be devoted to this end.

In the first instance we propose to examine what they have to say concerning the law. Following upon this, a comparison between the teaching of Isaiah and Deuteronomy will be instituted with a view to discovering which of them appears to be the earlier. Finally, beginning with Amos, certain trends in the prophetic outlook will be observed to see how that of Deuteronomy stands in regard to them.

THE PROPHETS AND THE LAW

When the history of Joshua and Kings was compiled, the author or authors had certainly heard of a book of the law which was ascribed to Moses (Jos. i. 8, viii. 34; 1 Ki. ii. 3, 4), which they believed to have been in the hands of Joshua, and commended by David to Solomon his son. We know that they had access to earlier sources, and it is reasonable to believe that their statements were based upon them.

If the history of 2 Sa. ix-xx and 1 Ki. i, ii is rightly taken to be derived from the Court History of David, and if, shortly after

¹ *ICC*, p. xlvi.

the events, this already existed in a written form,¹ we should have an early authority for the existence of the law.

The Deuteronomic law describes itself as 'statutes and judgments', and the same collocation of words is found in Ps. xviii. 22, the early origin of which is generally conceded, where David claims to have not departed from them. It is found again in the saying of Ahijah the prophet to Jeroboam when he charges the people with forsaking these,² which David kept (1 Ki. xi. 33, 34).

In 2 Ki. xiv. 6 'the book of the law of Moses' is quoted as Amaziah's authority for sparing the children of the murderers, the reference being to Dt. xxiv. 16.

It appears, therefore, that when the historical books were written, it was believed that a book of the law of Moses existed which had been a guide to Joshua, to David and to Amaziah, and that 'the book of the law', having been lost, was rediscovered by Hilkiyah. How much of this information was contained in the original sources may be open to question; but to assign all of it, as a matter of course, to the historians is really a *petitio principii*.

These scattered indications of the early existence of a written law prepare us to find something similar in the prophetic writings. Now the eighth-century prophets knew of the existence of a 'law' (Torah), for the word is used by Hosea (iv. 6, viii. 1, 12), Amos (ii. 4), Micah (iv. 2), Zephaniah (iii. 4) and Isaiah (i. 10, ii. 3, v. 24, viii. 16, 20). What can we rightly infer from this?

The word *Tôrāh* is of wide meaning (see above, p. 67), and care is needed to see that it is rightly understood in each case.

In some places (e.g. Is. i. 10) it can be translated either 'law' (RV) or 'teaching' (RV mg.), and may refer to the prophet's own words. But elsewhere the context assumes the existence of a definite law of Yahweh, which it was the duty of the priests to teach (Ho. iv. 6; Zp. iii. 4; cf. Dt. xxiv. 8), and of the people to observe (Is. v. 23f.; cf. Dt. xvi. 19). The prophets declare that this law was 'trespassed against' (Ho. viii. 1), 'forgotten' (Ho. iv. 6) or 'rejected' (Is. v. 24), all of which implies something statutory and concrete. It is therefore reasonable to infer that 'when Amos

¹ A. Bentzen, *Introduction*, II, p. 94. Cf. S. H. Hooke, *In the Beginning*, Oxford, 1947, p. 9.

² Robertson ascribes the neglect of the law in the later monarchy to the disruption of the kingdom, and no doubt this was a contributory cause.

chides Judah for rejecting the Torah of Yahweh, he has clearly a well-known body of law in mind'.¹ The prophets, moreover, were conscious that they stood in a line of tradition which went back to Moses and the exodus (Ho. xii. 13; Je. vii. 25).²

If no more than the Decalogue and the laws of Ex. xxi-xxiii were already in writing in their day, it would follow that a law existed which was not entirely oral.

When Hosea declares in the name of Yahweh, 'Though I write (mg. I wrote) my law in ten thousand precepts' (viii. 12, RV), whilst there is some obscurity as to what is meant, there is no ambiguity about the word 'write'. There is also an obscure passage in Isaiah (viii. 16-20) where the words 'bind up' and 'seal' are such as are used in reference to a document.³

Besides these explicit references to a *Tôrāh* there are signs that certain particular injunctions of the Deuteronomic law were known. These include the law of the landmark (Ho. v. 10; Dt. xix. 14), the authority of the priest (Ho. iv. 4; Dt. xvii. 12) and that it was his duty to teach the law (Ho. iv. 6; Zp. iii. 4; Dt. xxiv. 6), the need for a standard measure (Am. viii. 5; Mi. vi. 10, 11; Dt. xxv. 13-18) and the triennial payment of tithe (Am. iv. 4; Dt. xiv. 28).⁴

It can be freely admitted that these facts do not prove the acquaintance of the prophets of the eighth century with the book of Deuteronomy;⁵ on the other hand they are consistent with the existence of a written law at that time, though one that was certainly neglected. It is easily possible that a prophet like Amos may never actually have read the law, and improbable that he would possess his own copy. Those were not the days of the printing press; and even if the modern view that the prophets were attached to local sanctuaries⁶ becomes firmly established, it does not follow that each sanctuary would have its library.

How open to subjective influence is an argument of this sort

¹ Robertson, *OTP*, p. 51.

² See N. W. Porteous, *Studies in Old Testament Prophecy*, p. 150.

³ See E. J. Kissane, *The Book of Isaiah*, Dublin, 1941, *in loc.*

⁴ The reference to Admah and Zeboim might be added (Ho. xi. 8; elsewhere only Dt. xxix. 23 and Gn. xiv. 2).

⁵ It would be no less difficult to prove their acquaintance with J or E, which are generally assumed to be earlier.

⁶ Cf. A. R. Johnson, *The Cultic Prophet in Ancient Israel*, 1944.

is seen when we come to consider the book of Jeremiah. S. R. Driver thought that marks of the influence of Deuteronomy could be seen on 'nearly every page';¹ and gave a list of passages by way of proof.²

On the other side J. N. Schofield³ denies that Jeremiah ever knew the book, which in his view was of later origin, the similarities being due to the influence of Jeremiah upon Deuteronomy; a view to which a reply has been given by H. H. Rowley.⁴

For our purpose it is sufficient to note that the traces of Deuteronomic influence in Jeremiah are similar to those observable in the earlier prophets, although in some cases (e.g. xi. 1-5) more precise, owing, perhaps, to its recent rediscovery in the temple. If indeed he was cognizant of the contents of the newly discovered book of the law, he shows no awareness that its purpose was to limit the offering of sacrifices to Jerusalem. Je. vii. 12 recognizes that once a legitimate altar of Yahweh existed at Shiloh. Jeremiah does not reject the sacred ritual, but insists upon its purity and sets the moral law above it; the sins he denounces are the corruption of the temple worship and the introduction of heathen practices (vii. 22f., 30f.).⁵

DEUTERONOMY AND ISAIAH

The comparison of Deuteronomy with the work of Isaiah affords one means of testing the thesis that the former was compiled soon after the death of Hezekiah and derived its provenance from the circle of earnest servants of Yahweh who had shared in his reforming zeal and had embodied in this book their hopes for the future.⁶ Were that so, the author would be a younger contemporary of Isaiah, and the influence of the great prophet might be expected to show itself in the work of his successor.

¹ See p. 137.

² p. xciii. Many of these are from Dt. xxviii; but these can be matched by others from Hosea, e.g. verse 33, Ho. v. 11; 49, viii. 1; 64, ix. 17; 68, viii. 13.

³ 'The Significance of the Prophets for dating Deuteronomy', *Studies in History and Religion Presented to H. W. Robinson*, ed. E. A. Payne, London, 1937.

⁴ 'The Prophet Jeremiah and the book of Deuteronomy', in *Studies in Old Testament Prophecy Presented to T. M. Robinson*, ed. H. H. Rowley, Edinburgh, 1946.

⁵ See W. Rudolph, *Jeremia*, Tübingen, 1947, p. 99.

⁶ See p. 126.

In *Das Gottesvolk im Deuteronomium*, G. von Rad has made such a comparison.¹ It is possible to see certain ideas which are held in common, but, even so, he observes that such ideas are so deeply set in Deuteronomy, that it is impossible that they should be derived from a prophet 'so alien in thought as Isaiah'.

Deuteronomy sees Israel newly chosen as the 'people of God' (*Gottesvolk*), brought into a land extending to Lebanon and the Euphrates (i. 6), where a happy future, with material blessings, awaits them. Isaiah begins with a lament over the sins of the people, who have forsaken the LORD and revolted from Him. His hope is centred in the few, an inner kernel, a true, spiritual Israel who shall be established in Zion (x. 24, xiv. 32).²

Deuteronomy bids the people rejoice in their sacrifices and offerings; Isaiah rebukes the people for keeping the outward observance of the law, whilst their heart is far from their God (i. 11-14, xxix. 13), and this is a sin which Yahweh, who searches the heart, cannot tolerate.

Isaiah's doctrine of the remnant is in the 'sharpest opposition' to Deuteronomy;³ Isaiah looks for a spiritual blessing upon the 'poor' (xiv. 32), but Deuteronomy for material blessings upon the whole people; Zion in Isaiah is not 'the place' to which sacrifices are to be brought, but a symbol of God's faithful people.

Deuteronomy sees God's blessing connected with entry into the land, here and now, but Isaiah knows nothing like this. Indeed, so far is Deuteronomy from showing any connection with Isaiah that it might almost be regarded as 'a protest against the outlook of Isaiah and Zephaniah'.⁴

Other contrasts may be added. Isaiah never quotes Moses as an authority, nor the oath to the fathers, but he founds his hopes for the future of Israel on the Davidic covenant. Zion is his constant theme;⁵ here the throne of David shall be established, and here a true spiritual worship shall be offered. Surely this would have provided an ideal starting-point for a follower of his, whose aim was to centralize worship in Jerusalem. But Deuteronomy knows nothing of Zion or David.

Again, Isaiah was deeply concerned over the great political events and changes of those stirring times; but the author of

¹ *Gottesvolk*, pp. 83-90. ² *ibid.*, p. 89. ³ *ibid.*, p. 87. ⁴ *ibid.*, p. 89.

⁵ Is. ix. 7, xi. 1, 10, 13, xii. 6, xxiv. 23, xxv. 6, xxvii. 13, xxviii. 16, xxix. 19.

Deuteronomy, if living then, completely ignores them. Would this have been the case had he belonged to the time when Samaria had fallen, and Jerusalem had narrowly escaped?

The endeavour to picture the author living in those days meets on every side with baffling paradoxes. The book is one of great individuality and distinctive style which is said to have founded a 'Deuteronomic' school of writers, but not a trace of the author's name or person remains, although amidst the degenerate priests and prophets described by Isaiah (xxviii. 7) he must have been an outstanding figure. The book contains evidence of preaching of oratorical and spiritual power; but the preacher made no mark on his own generation. He is said to be an ardent reformer, but the only sins he denounces are those of his ancestors.

He constructs a series of rules intended to revoke an old Mosaic law, and then ascribes them to Moses himself. His purpose is to proclaim the *bāmôth* illegal, but he never names them; and to centralize worship in Jerusalem, though there is nothing to show that he even knew of its existence. When the sins of Manasseh call for stern rebuke, he composes a quite inappropriate passage about a future king (xvii. 14-20). He is bold enough to expect success where Hezekiah's zeal and Isaiah's preaching have failed, then hides his book in the temple.

Whether this author was a prophet (Kautzsch) or a priest (Kuenen) has been from the earliest days a point of controversy; in later years S. R. Driver found him among the prophets,¹ whilst R. H. Pfeiffer is equally sure that he was 'a priest in Jerusalem'.² G. von Rad³ sees objection to both, and takes refuge in the belief that the book arose among the country Levites, co-operating with the landowners, the 'people of the land' (2 Ki. xxi. 24, xxiii. 30). He thinks that the Levites might have preserved the Mosaic traditions, and that the landowners would be interested in the laws of warfare, which might account for the 'Janus-like' character of the book, with its combination of civil, military and religious laws.

But he candidly confesses difficulty here also, for if the abolition

¹ *ICC*, pp. liif. See also von Rad, *Gottesvolk*, p. 73.

² *Introduction*, pp. 179f. Engnell says that Deuteronomy is more priestly than the P work, *OTMS*, p. 70.

³ *Studies*, pp. 60-69.

of the local sanctuaries were the aim of the law, 'the country Levites would have been the last persons to compose Deuteronomy, for in so doing they would have been sawing off the branch upon which they sat'.

What he adds is significant. 'But it is being increasingly recognized that the demand for centralization in Deuteronomy rests upon a very narrow basis only, and is, from the point of view of literary criticism, comparatively easy to remove as a late and final adaptation of many layers of material.'¹ So easily could Wellhausen's well-planned fabric fall to pieces!

HOSEA AND DEUTERONOMY

By general consent Deuteronomy has more in common with Hosea than with Isaiah. Like Deuteronomy, Hosea writes of Yahweh's adoption of Israel for His people, and connects it with their deliverance from Egypt (xi. 1, xiii. 4); he calls attention to Yahweh's gift of corn, wine and oil (ii. 8; cf. Dt. viii. 13); he lays emphasis upon God's love (*'ahabhâ*) for Israel, and threatens judgment sometimes in similar terms. From these similarities some have inferred that Hosea was acquainted with Deuteronomy, whilst others have seen in Deuteronomy the spiritual heir of Hosea.

A closer examination shows how difficult it is to establish either inference. Sometimes the parallelism is superficial only, and there are strong contrasts which mark their independence. There are nevertheless some indications that Deuteronomy is the earlier.

Whilst both books treat of the love of God for Israel, the treatment is different. In Hosea the dominant idea is that of marital love, and is strongly coloured by his own experience, 'Go yet, love a woman beloved of her friend and an adulteress . . .' (iii. 1, RV).

It is used indeed of God's love for His people,² but more frequently of their illicit love for false gods,³ and five times for the love of earthly objects.⁴

¹ *Studies*, p. 67.

² iii. 1a, ix. 15, xi. 1, 4, xiv. 4.

³ ii. 5, 7, 10, 12, 13, iii. 1, viii. 9, ix. 10; cf. Je. iii. 1, 2.

⁴ iii. 1b, iv. 18, ix. 1, x. 11, xii. 7.

In Deuteronomy the word is free from lower associations: it is purer and more primitive.

Because Yahweh 'loved thy fathers' (iv. 37) He chose them, and because of His oath to the fathers, He loved Israel and guarantees His love for the future (vii. 8, 13). To the ancient law of Dt. xxiii. 3¹ is attached the comment that Yahweh turned Balaam's curse into a blessing 'because the LORD thy God loved thee' (5).

In many places² Deuteronomy proclaims the duty of man to love God, concerning which Hosea is silent, as he is regarding love of the stranger (Dt. x. 18, 19).

There are other indications that Hosea belongs to a later time than Deuteronomy. Deuteronomy sees Canaan as a 'good land' which Yahweh 'is giving' to His people; Hosea sees it as 'polluted' with idolatry, and the earlier promise revoked (ix. 3). Deuteronomy holds up the priests to honour (xvii. 12, xxiv. 8); in Hosea's day they are degenerate, a 'snare' and threatened with judgment (v. 1).

Hosea rebukes the people for syncretism, and issues his polemic against Bethel and Ba'al, names which are foreign to Deuteronomy. He deals with the schism between Israel and Judah as a sin (iii. 4, 5), and blames the people for placing their reliance on foreign aid (v. 13, vii. 11). These are sins which in Deuteronomy are neither rebuked nor foretold.

Deuteronomy looks forward from a clear sky for God's future blessing on the land, and rest from their enemies (xii. 7); for Hosea the blessing belongs to the past (ix. 10, xi. 1-4). God has a quarrel with His people and has become their judge (v. 2, x. 9).³

The facts brought out in this comparison are harder to explain if the writing of Deuteronomy followed on that of Hosea, than if the reverse were the case. It can, of course, be said that the Deuteronomist turned back the clock of history to give his book a primitive appearance. If this be the case, his skill demands our wondering admiration.

There is another way in which the book of Deuteronomy may be compared with the prophetic writings. When we consider the latter in their historical order, from Hosea to Jeremiah, we are

¹ See p. 111.

² v. 8, vii. 9, x. 12, xi. 1, 13, 22, xiii. 3, xix. 9, xxx. 6. Cf. also xv. 16.

³ See von Rad, *Gottesvolk*, p. 82.

conscious that their teaching on certain matters exhibits a progressive change; and we may inquire how that of Deuteronomy is related to these several trends of thought.

TRENDS TRACEABLE IN THE PROPHETS

In the prophetic writings, from Amos to Jeremiah, there are certain trends which correspond to the national development as it is shown to us in the historical books, and in this the prophets and the books of Kings and Chronicles confirm one another. There is a gradual change (*a*) in the outlook on the surrounding nations, (*b*) in the religious declension, (*c*) in the nearing of God's threatened judgment, and (*d*) in the transference of the hope for the nation as a whole to that of the salvation of the chosen few. In each of these matters there is a slowly changing emphasis with which the outlook of Deuteronomy may be compared.

a. The surrounding nations

After the happy days of David's victories and Solomon's rise to power, we find ourselves with the books of Amos and Hosea in the days of Uzziah king of Judah, and Jeroboam II, king of Israel. It was a time of general prosperity, the most powerful neighbour being Syria to the north-east.

In Amos ii, iii the prophet announces punishment on the nations for their sins, Damascus (Syria), the Philistines, Tyre, Edom, Moab and Ammon; finally Judah and Israel also. The house of Israel is to 'go into captivity beyond Damascus' (v. 27). Egypt is mentioned only incidentally (iii. 9, iv. 10, ix. 5), or looking back to the exodus (ii. 10, iii. 1, ix. 7), not as a potential friend or enemy; Assyria is not mentioned at all.

In Hosea both Egypt and Assyria enter into the foreground of the picture and we see the rulers of Israel looking for help to these powerful neighbours, instead of to their God (v. 13, vii. 11, viii. 9, 10, xii. 1, xiv. 3); renewed captivity in Egypt is threatened (viii. 13), or in Assyria (x. 6).

After Uzziah's death (Is. vi. 1) Isaiah prophesies and the scene is changed again. In the days of Ahaz, Syria joins with Israel to make war on Judah, but Isaiah prophesies their downfall at the hands of Assyria (chapter vii).

In Is. xv-xix dooms are pronounced upon Moab, Damascus, Ethiopia and Egypt; in chapter xx Assyria is seen as the conquering power. Babylon, 'the glory of kingdoms', comes into view, and Media on the widening horizon (xiii. 1, 17).

His contemporary Micah foresees the captivity in Babylon (iv. 10). Zephaniah foretells the utter destruction of Nineveh (ii. 13).

By Jeremiah the downfall of Assyria, the rise of Nebuchadnezzar, the fall of Jerusalem and the Babylonian captivity are all vividly portrayed.

Where in this series can a place be found for Deuteronomy? The great warring powers of Assyria and Babylon seem to be unknown.

Syria is known only as the place where Jacob once dwelt (xxvi. 5). The only wars known are those against the kings of the Amorites and those soon to be waged against the early inhabitants of Canaan.

Egypt and Moab are seen as lands which have been recently passed through and whose nationals may be seeking entry into the community of Israel (xxiii. 3, 7). The Philistines are known by their ancient name of Caphtorim (ii. 23; cf. Gn. x. 14).

The only place for this outlook in the prophetic series is at the very beginning.

b. Religious declension

As we pass from the early prophets to their successors we see tokens of a religious decline.

Hosea and Amos lived in days of material prosperity and moral corruption. These two well deserve the title of 'reform' prophets; they call on the people to amend their ways and 'return' to Yahweh. Hosea reminds them of the covenant which they have transgressed (vi. 7, viii. 1), recalls them to a law which they have 'forgotten' (iv. 6), and to 'return, and seek the LORD their God, and David their king' (iii. 5). He wages his polemic against the calf worship at Bethel,¹ and mourns over them as having fallen away from a better past (xiii. 4-6). Israel is far gone, Judah following (i. 6, 7, iv. 15, xi. 12).

¹ iv. 14-17, viii. 5, 6, x. 5-7.

Amos tells a similar tale. He also looks back on 'the days of old' (ix. 11), but now the people have 'despised the law of the LORD' (ii. 4). The forms of religion are kept up (v. 21-24), but mixed with idolatry (iii. 14, vii. 13); the poor are oppressed, luxury and dishonesty are rife.

Isaiah's picture is darker. Worship is no longer acceptable, their hands are stained with blood (i. 10-15). They have 'rejected the law of Yahweh' (v. 24), and 'broken the everlasting covenant' (xxiv. 5), the evil is nation-wide (i. 5, 6) and judgment is at the door (x. 4-6).

Jeremiah continues the sad lament. The people go 'backward and not forward'. They are 'worse than their fathers' (vii. 26). Early in his ministry, in words reminiscent of Deuteronomy,¹ he bids them remember the covenant in Horeb, and obey, in order that Yahweh 'may perform the oath which I have sworn unto your fathers, to give them a land flowing with milk and honey' (xi. 3-5).

But it is useless; the people 'harden their necks' (xix. 15) and will follow the imagination of their evil hearts (xviii. 12). The king casts the written word into the fire (Je. xxxvi. 23). Jeremiah's appeals are all in vain. The covenant in Horeb is gone beyond recall (xxxii. 32), nevertheless in the future a new covenant (xxxii. 33, xxxii. 40) is seen in vision.

In this sad story of downward progress there is no place for the happy optimism of Deuteronomy except at the beginning; the covenant in Deuteronomy is still unbroken² (v. 2, xxix. 1).

c. Impending judgment

In Hosea and Amos the words of judgment are like approaching thunder, and there is yet hope that the storm may be averted (Ho. xiv. 2-5; Am. v. 15).

Amos proclaims 'the day of the Lord' as being 'darkness and not light' (v. 18-20), but it is undated.

In Hosea threats of judgment (ii. 10-13, v. 14, 15) alternate with

¹ The whole passage (xi. 1-10) implies Jeremiah's knowledge of Josiah's covenant (2 Ki. xxiii. 3). On its relation to Deuteronomy see Rudolph, *Jeremia*, p. 67.

² 'Deuteronomy looks on the covenant as existing, the prophets look on it as destroyed', von Rad, *Gottesvolk*, p. 60.

promises of mercy (ii. 14-16, vi. 1, 2), but there is nothing definite in point of time.

Isaiah sees the hand of God 'stretched out' in judgment (x. 4); 'the day of the Lord is at hand' (xiii. 6); Jerusalem shall fall as Samaria has already fallen (x. 11); the people shall go into exile (v. 9-14, x. 4, xiii. 4-9, xxii. 1-14, xxiv). Zephaniah repeats the words 'the day of the Lord is at hand' and follows them with further threats of judgment (i. 7-18). In Jeremiah the final warnings are uttered, the enemy is at the gates, and Jerusalem falls.

Compared with this, in Dt. xii-xxvi the sun shines out of a cloudless sky.¹

d. The people of God

Von Rad has drawn attention to the outlook of Deuteronomy upon Israel as the people of God, and contrasted it with that of the prophets.² In this Hosea stands nearest to Deuteronomy; he sees the people as a whole and in isolation.

With the ethical prophets the tendency is to universalism on the one hand, and on the other, to distinguish sections, classes, a remnant, and at last individuals. This tendency begins with Hosea. Indeed, he sometimes treats Israel as a whole, whether in rebuke (iv. 1-3) or promise (xiv). Yet there is a sharp distinction between Ephraim and Judah;³ he marks a difference between them (i. 6, 7, iv. 15) and hopes for their reunion (i. 11, iii. 5). He selects the princes for special blame (v. 10, vii. 16, viii. 4, ix. 15); the priests also as little better, or even worse (v. 1, vi. 9, x. 5).

Amos speaks to 'the whole family' which came out of Egypt, and all Israel is involved in the common punishment (iii. 2, viii. 8). Yet he foresees that there is hope for 'the remnant of Joseph' (v. 15), and announces a sifting process between the good grain and the 'sinners of the people' (ix. 9, 10).

¹ Dt. xxviii threatens judgment on disobedience in terms of a siege. In consequence some scholars regard it as in whole or in part post-exilic. Yet it bears no trace of Babylonian influence, there is no hint of time, and the severity of the terms savour more of a deterrent than of a retrospect. Von Rad says that in Deuteronomy judgment falls on *some* people because of *possible* revolt. In the prophets it is inescapable (*ibid.*, p. 76).

² *Gottesvolk*, pp. 74-83.

³ Ephraim is named thirty-seven times and Judah fifteen times.

With Isaiah the ethnic character of the judgment gives way to the ethical; the distinction is drawn between those who are 'willing and obedient' and those who 'refuse and rebel' (i. 19, 20). There will be a refining process by which the pure metal is separated from the dross (i. 22-25, iv. 4); the sinners and the righteous shall not be treated alike (xxxiii. 14, 15). The thought of a faithful 'remnant' assumes greater prominence (i. 19, 20, x. 20-22, xi. 11, 16). The restoration of this remnant begins to take on the form of a Messianic kingdom (chapters vii, ix, xi).

By Jeremiah the particularizing process is carried still further. The fall of Jerusalem is now imminent and captivity certain, yet a remnant may be saved (xxxiii. 3, xxxi. 7). In the end the new covenant will be based upon the faith of the individual (xxxii-xxxiv).

In this matter also the stream flows steadily in one direction, and again Deuteronomy is seen at the fountain head; it is the people as a whole that are viewed as the people of God (Dt. xxvi. 17-19).

Here is a fourfold cord not easily broken. We may add two other considerations of a similar character. The names of God, as shown in Chapter III, which are used in Deuteronomy do not include several which were commonly employed by the prophets; and there is in Deuteronomy a noticeable absence of eschatology. Regarding the latter von Rad says, 'the book stands absolutely apart from all the broad eschatological conceptions which we find taken up by the prophets . . . in the period of the monarchy. When we read the prophets, Deuteronomy's proclamation of salvation as a present reality seems to come as if from another world.'¹ He speaks of this as a problem and a paradox, attributable to the Mosaic setting. The paradox vanishes and the problem is solved if the early date of Deuteronomy be granted. Viewed from all these aspects, the impression made is the same: the true order is the Law and the Prophets, not the Prophets and the Law.

¹ *Studies*, pp. 72, 73.

CHAPTER XI

THE NARRATIVE

THROUGHOUT the book of Deuteronomy there runs a thread of narrative which, in the existing text, follows on that in the book of Numbers. The author of these passages may for convenience be called the 'narrator', whilst leaving open the question whether or not there be more than one. The portions in question may be divided into two groups:

1. There are five passages which may be described as superscriptions, which adopt a standard form: (a) 'These are the words . . .' (i. 1-5); (b) 'And this is the law . . .' (iv. 44-49); (c) 'These are the words of the covenant . . .' (xxix. 1, 2a); (d) 'And Moses spake . . . the words of this song . . .' (xxxii. 30); and (e) 'And this is the blessing . . .' (xxxiii. 1).

2. Besides these there are sentences or clauses introductory to speeches, xxvii. 1a, 9a, 11, xxxi. 1, 2a, 9, 10a, xxxii. 46a, and short portions of narrative proper, the selection of three cities of refuge (iv. 41-43), the commissioning of Joshua (xxxii. 14-25), Moses' last words and Yahweh's words to him (xxxii. 44-52), and the account of Moses' death and an epilogue (xxxiv).

The examination of these passages raises certain questions of importance which have their bearing on the date of the legislation and of the book as a whole. Is the narrative a mere literary device, introduced to provide a suitable Mosaic setting for the laws, or does the narrator regard what he says as true to fact?

If the latter, whence did he derive his material—from old documents, from floating traditions or even from experience? Are we presented with the work of a succession of editors, or is it possible that we have here, in the main, the work of a single narrator? To what period do the narratives belong? We begin with the five superscriptions.

a. i. 1-5

The first superscription purports to introduce 'the words which Moses spake' at a number of specified places (i. 1, 2). In verses 3-5

it is stated, 'And it came to pass . . .', giving a certain day, a new definition of place, and adding that there and then 'began Moses to declare this law, saying . . .'

It is best to interpret verse 1, with Knobel¹ and others, as referring to i. 5-iv. 40 only, and to regard this section as a summary of words spoken by Moses prior to his reaching the place described in iv. 44-49. In that case, the words 'began . . . to declare' (5) would mean that the first discourse (chapters i-iv) could be regarded as an introduction to the exposition of the law contained in chapters v-xxvi. The fact that Paran and Hazeroth² certainly, and Laban and Suph possibly, belong to the wilderness journey, and the insertion of the parenthesis which follows in verse 2, make this the best explanation of a difficult passage.

It would be an unreasonable straining of the sense to regard what follows in i. 6-iv. 40 as a verbatim report of Moses' words. But the review of the journey in i. 6-iii. 29, and the exhortation concerning the 'statutes and judgments', might well be a faithful summary of words spoken by Moses.³

b. iv. 44-49

These words directly introduce 'the law which Moses set before the children of Israel', also described as 'the testimonies, the statutes, and the judgments'. The place and time are not the same as in i. 1, but equivalent to those in i. 4, 5.

The words 'in the valley over against Beth-peor' (iv. 46) are repeated from iii. 29 and form a connecting link.

c. xxix. 1

'These are the words of the covenant which the LORD commanded Moses to make with the children of Israel, beside the covenant which he made with them in Horeb.' Commentators are divided as to whether these words are a subscription or a superscription.⁴

¹ See Driver, *ICC*, pp. 2ff. Those who believe that the original Deuteronomy commenced at iv. 44 (Kautzsch, Pfeiffer) naturally take this view. Driver's surmise that iv. 44-49 was a later insertion is quite untenable.

² Regarding these places see p. 50.

³ The same may be said of the speeches recorded in the New Testament.

⁴ In favour of the latter are Dillmann and Welch, *Framework*, p. 152.

Although the verse in the Massoretic Text is added to chapter xxviii, the latter view is to be preferred for these reasons:

- (i) The words are prefixed to chapter xxix in the LXX.
- (ii) In Dt. v. 2 the words, the 'covenant . . . which the LORD our God made with us in Horeb' (cf. Ex. xix. 5, xxiv. 8) define what immediately follows there. The words in xxix. 1 command Moses to make a covenant with them which is expressly distinguished from this.
- (iii) The word 'covenant' is used only once in the legislation (xvii. 2), where it appears to refer to the Horeb covenant. It is used four times in chapter xxix, in verses 9, 12, 14, 21, of the covenant made 'this day'.
- (iv) Such a renewal of the covenant finds an analogy in Jos. xxiv. 25.
- (v) The form corresponds to that used in the other sentences we are considering, which are undoubtedly superscriptions.

d. xxxi. 30

'And Moses spake in the ears of all the assembly of Israel, the words of this song until they were finished.' The wording is varied because it comes at the end of a narrative which concerns the commissioning of Joshua and his association with Moses in the writing of the song ('Write ye,' verse 9, and xxxii. 44).

e. xxxiii. 1

'And this is the blessing wherewith Moses the man of God blessed the children of Israel before his death.' At the close of the blessing, the account of Moses' death follows immediately.

Although very different in context, these introductions, excepting perhaps the fourth, have a striking similarity of form. They have often been thought to denote successive amplifications of the original, separated by long intervals; but their general uniformity and their orderly arrangement rather indicate the work of one compiler. Considered thus, they divide the book into five sections which form a natural sequence.

i. i. 1-iv. 43 brings the reader in review from Horeb to the valley of Beth-peor, and ends with an introductory speech by

Moses, and his designation of three cities to become cities of refuge.

2. iv. 44-xxvi introduces the 'law', which is followed in chapters xxvii, xxviii by the command to inscribe it, and by sanctions which concern its observance.

3. xxix, xxx recount a second 'covenant' between Moses and the people to keep the law.

4. xxxi, xxxii; Joshua appears on the scene, and the song is written as a witness and taught to the people. Moses' last words are added.

5. xxxiii, xxxiv. The blessing of Moses introduces the account of his death.

This orderly plan can scarcely be the result of chance additions.

THE NARRATIVE IN DETAIL

When the narrative portions are separated from the speeches, and read consecutively, they are seen to form a continuous story, which follows quite appropriately upon that in the book of Numbers. The natural way in which the narrator introduces names of persons and places, and various incidental details, render it certain that he is not presenting us with a mere dramatic setting, but that he regards himself as telling what actually happened. Some of the places, such as Moab and Bashan, are well known; some, such as Tophel and Dizahab, are known only from their occurrence here; but all are undoubtedly real and not fictitious. He evidently had information not contained in the JE document (unless in that unknown region, the 'lost' parts).¹

Moses' 'words' in i. 6-iv. 40 consist of reminiscences and exhortations, and in iv. 41-43 the narrator resumes his account by telling how Moses designated three cities in the conquered territory east of Jordan to be cities of refuge.

The introduction of this incident between verse 40 and verse 44 confirms the view that what he wrote in i. 1 of the words which Moses spake referred to the speech which terminates in iv. 40.

In iv. 44-49 he continues in the same factual manner to describe the place where Moses 'set the law before the children of Israel'.

¹ See Chapter vi, Appendix.

This is the same as that in i. 5, though in different form, and with fresh information concerning the boundaries of the conquered territory.¹

The divine law follows. The first part (chapters v–xi) begins with the Decalogue and ends with the command to place a blessing and a curse upon the mountains of Gerizim and Ebal, visible against the western sky (xi. 29); the second part (xii–xxvi) consists of ‘statutes and judgments’.

These completed, the narrator takes up the thread again, ‘And Moses with the elders commanded the people’, directing them to inscribe the law on stones in Mount Ebal, and to raise an altar there and offer sacrifices. The last mention of the ‘elders’ in the Pentateuchal narrative was in Nu. xvi. 25, and the next is in Dt. xxxi. 9, where Moses delivers the written law to the priests and elders.

The elders were given large responsibility for the execution of the law (xix. 12, xxi. 2–6, 19, 20, xxv. 7–9), particularly exercised in the early stages (Jos. vii. 6, viii. 10; Jdg. ii. 7); and this may account for their mention in the narrative.

Moses next charges the people to obey the law (xxvii. 9, 10), associating with himself the priests whose duty it would be to instruct them in it (xxiv. 8, xxxi. 11).

After these instructions, sanctions are introduced, and the narrative continues (xxvii. 11), ‘and Moses charged the people the same day . . .’, and adds a ritual of cursings to be carried out at the place where the law would be inscribed. To this are added promises of blessings on those who obey, and terrifying maledictions upon disobedience (chapter xxviii).

There is a fresh beginning in xxix. 1, and all the people, their little ones and dependants, are bound afresh to Yahweh in a covenant² and an oath (xxix. 10–14).

The reader is conscious of a break between chapters xxx and xxxi. The proclamation of the law, the method of its inscription, its sanctions and covenant are completed; what follows belongs to the future, when Moses will have handed over the leadership to Joshua, who now comes into the foreground of the picture. He

¹ See pp. 50, 60.

² Cf. Jos. xxiv. 25. Nielsen points out that the renewal of the covenant took place at the crises of Israel’s history: *Oral Tradition*, p. 46.

was last heard of in the narrative in Nu. xxvii. 18–23, his first commissioning (though mentioned by Moses as his successor in Dt. i. 38 and iii. 28).

In chapter xxxi the narrator blends together three closely related events, the writing and delivery of the law, the charge to Joshua, and the writing and teaching of the ‘song’, in which Moses and Joshua act together (xxxi. 19, xxxii. 44). The narrator’s words concerning the *writing* of the law and the song suggest that they already existed in documentary form in his time.¹

In xxxii. 44² he calls Joshua by his original name Hoshea (Nu. xiii. 8, 16), by which he would be known by his contemporaries; his interest in Joshua is very plain.

The narrator introduces us to the tent of meeting (14, 15) where Yahweh appears in the pillar of cloud to speak with Moses and to give him glimpses into the future; they (presumably Moses and Joshua) are to write the song and teach it to the people (19), a task which they then perform (22, 30, xxxii. 44).

The mingling of the themes in chapter xxxi causes it to read awkwardly, as the narrator deals with them in turn. But if the events really happened, and on the same day, this is accounted for, and more satisfactorily than by conjectural schemes of multiple authorship.³

The narrative which follows in xxxii. 45–xxxiii. 1 contains Moses’ last words, and the last words of Yahweh to him, and introduces ‘the blessing of Moses the man of God . . . before his death’.

Moses was called ‘the man of God’ by Caleb (Jos. xiv. 6), and in the title of Ps. xc, but never subsequently. The narrator says nothing of the blessing being *written*, he might therefore have received it orally; its antiquity is generally acknowledged.⁴

¹ The writer ‘was well acquainted with a written torah’, says Welch, *Framework*, p. 163.

² This is the reading of the Massoretic Text and there is no reason to regard it as a textual error; the LXX substitutes Joshua.

³ S. R. Driver divides the chapter into six sections, 1–13 (D), 14, 15 (JE), 16–22 (independent source), 23 (JE), 24–27 (D), 28–30 (D²); and assigns the song and xxxii. 44 to an ‘independent source’ (ICC, p. lxxvi). But it is incredible that an editor who wished to incorporate verses 14, 15, 23, once a continuous portion of JE, should divide and insert it thus. The analysis is ingenious, but it involves an impossible synthesis.

⁴ See Albright, *OTMS*, p. 33; Bentzen, *Introduction*, I, p. 143.

Having mentioned Moses' 'death' (xxxiii. 1), the narrator describes the manner of it, including the ascent of the *pisgah* and the view of the land (see p. 64), the consequent mourning for him, and Joshua's succession to the leadership of Israel (xxxiv. 1-9).

An epilogue (10-12), which might possibly have been added later, comments upon the uniqueness of Moses as a prophet, apparently referring to Dt. xviii. 15.

CHARACTER OF THE NARRATIVE

The narrative portions have a style of their own which is fairly uniform, and which, together with the unity of plan, gives the impression that they proceed from one mind.

This style is different from that generally considered as 'Deuteronomic', which belongs to the laws and discourses. We miss their oratory and rolling periods, their fatherly exhortations and frequent reminiscences. The phraseology also is not the same; the expressions considered in Chapter II, which ring through the speeches and give character to the book, are, with one exception, absent. Even that exception, 'all Israel', is only partial, for the narrator also uses 'children of Israel',¹ which is found only once in the legislation (xxiv. 7) and once in the previous discourse (iii. 18).

The same is true of the names of God; we miss altogether 'Yahweh thy God', the specially Deuteronomic name; instead we have Yahweh alone, and once *Elohim* in 'Moses the man of God' (xxxiii. 1).

The narrator tells his story simply and plainly, with no straining after effect or didactic comments of his own. He is not like the author of Judges who laments the falling away of the people from Yahweh, and draws the moral; nor like the author of Kings who sees prophecy being fulfilled. If he knew of Israel's long history of spiritual declension he is silent concerning it. If he realized that the legislation led to a great reform, he does not betray his knowledge. His last historical note is the people's obedience to Joshua (xxxiv. 9).

There are links with the book of Numbers. The itinerary there

¹ i. 3, iv. 44, 45, 46, xxix. 1, xxxi. 22, xxxiii. 1. It recurs in the words of Yahweh in xxxi. 19 and xxxii. 49-52.

brings the people to 'the plains of Moab by Jordan near Jericho' (xxxiii. 48), and that is where the narrator in Deuteronomy finds them (i. 5) and leaves them (xxxiv. 1). The mountain from which Moses is permitted to view the land is the same as in Numbers (Nu. xxvii. 12, 13; Dt. xxxii. 48-51, xxxiv. 1). The command in Nu. xxxv. 14 to appoint cities of refuge begins to be fulfilled in Dt. iv. 41-43. The relationship between Moses and Joshua, seen in Nu. xxvii. 18ff., reappears in Dt. xxxi.

He adds, quite incidentally, small points of detail, trivial and valueless, unless they happen to be true, as in xxvii. 1 and 9 noted above, 'eleven days' journey' (i. 3), 'the same day' (xxxi. 22), 'thirty days' (xxxiv. 8). Such details would possess some interest at the time; but would be rather pointless later.

The most striking feature of the narrative is the writer's manifest interest in geographical detail as noted above. Some explanation is needed why all these place names should be introduced, and why he should bring in the various names of Mount Hermon (iii. 9, iv. 48).

There are some parentheses which may have originated with the narrator, ii. 11-12, 20-23, iii. 9. No one doubts the genuinely archaic character of these notes. Whence were they derived, and why inserted? More probably at the time than centuries later.

Of particular interest is the parenthesis in x. 6, 7,¹ which cannot be part of Moses' discourse. If this be the work of the narrator it not only proves his interest in the provision of water for the people and their flocks, but also in Aaron's death as a 'chastisement' (*môšērāh*).²

THE MEANING OF DEUTERONOMY XXXI. 9

In the closing part of the narrative there are two matters which call for closer consideration: the words in Dt. xxxi. 9 and the sudden appearance of Joshua on the scene.

As regards the former, the words imply (see above, p. 155) that the narrator possessed, or at least knew about, a law written by Moses. There is no longer any need to argue the possibility of this.

¹ See G. T. Manley, 'A Problem in Deuteronomy', *EQ*, xxvii. 1955, pp. 201-204. Also above, p. 54.

² That this is used as a common noun is indicated from its taking the plural form *mosērôth* in Nu. xxxiii. 30, 31. Like Massah, Meribah, Taberah, it connotes the event as well as the place where the event occurred.

Archaeological research has completely disposed of the objection, once raised,¹ that writing was unknown among the Israelites when they entered Palestine. W. F. Albright says² that in the late Bronze Age the Canaanites were familiar with four, probably five, systems of writing. See also Jdg. i. 11, where the words Kiriath-sepher mean the 'city of books'.

One of these was an alphabetic script of which specimens have been found at Shechem, Beersheba, Gezer and Lachish, places which 'suggest that the scene of its evolution was centred in Southern Palestine',³ some time before the Israelite invasion.

The scriptural references to writing by Moses⁴ are therefore now being treated seriously. It is significant that the pieces of writing attributed to him, the record of a battle, an itinerary, a code of laws, correspond exactly in type to Semitic records recovered from the middle of the second millennium BC. Codes of law and accounts of battles are abundant; and a recently discovered tablet⁵ contains a merchant's record of his journeyings, in which the stages are marked in a manner not dissimilar to that in Nu. xxxiii. We may therefore well believe that Moses left behind him certain laws in writing.

To quote G. Widengren,⁶ 'We should accept the tradition that even before the occupation of Canaan both commandments of the religious law and historical records were written down. . . . That the laws were written down at an early date is probable from the rôle the writing on tablets plays in the traditions about Moses.'

If then we accept it as true that Moses committed some legislation in writing, we can go on to ask what the narrator intended

¹ See Robertson, *OTP*, pp. 66f. The word *kāthab* (write) occurs twenty-four times in Deuteronomy. The law of Dt. xxiv. 1-4 tacitly assumes that writing is not uncommon. See also Jdg. v. 14.

² *Archaeology of Palestine*, London, 1949, p. 101.

³ G. R. Driver, *Semitic Writing*, 2, London, 1954, p. 147; see also Schaeffer, *The Cuneiform Texts of Ras Shamra Ugarit*, p. 57, and Albright, *Archaeology of Palestine*, pp. 187-190.

⁴ Ex. xvii. 14, xxiv. 4, xxxiv. 27; Nu. xxxiii. 2; Dt. xxxi. 9, 26. See G. R. Driver, *op. cit.*, p. 62.

⁵ A. Goetze, 'An Old Babylonian Itinerary', *Journal of Cuneiform Studies*, vii, 1953, pp. 51-72.

⁶ *Literary and Psychological Aspects of the Hebrew Prophets*, Uppsala, 1948, p. 62.

to include in 'the law' which Moses wrote (xxx. 9). The most probable answer is, the statutes and judgments of chapters xii-xxvi.¹ This does not exclude the possibility that these chapters, as we now have them, might contain some later additions, although there is little to suggest this.

If this be the right interpretation in this place, the same meaning should be applied to the word in i. 5, xvii. 18, xxvii. 3 and elsewhere.

This would leave open the question of the writing of chapters v-xi and other parts, whether by Moses or another. That the whole book, once completed, soon became known as the Torah seems very probable.²

JOSHUA'S PLACE IN THE NARRATIVE

A second point of special interest is the way in which Joshua takes his place in the narrative of chapters xxxi-xxxiv. The upholders of the documentary theory here find themselves in difficulties. Whilst agreeing that these chapters are mainly or entirely additional to the original book, they differ somewhat widely as to their origin.³ Relying as they do upon the analysis of Nu. xiii, xiv, which divides the narrative of the spies into duplicate accounts⁴ of which JE knows only Caleb as being faithful, it also becomes necessary for them to amend the text in Dt. xxxii. 44 and Jos. xiv. 6, because of their agreement with P. Moreover, this hypothesis furnishes no adequate reason for bringing Joshua into the story. Once Josiah's reformation was accomplished, the conditions at any later time did not require it; and the prophetic writings do not even contain his name.

These difficulties disappear when the documentary hypothesis is discarded and the historical character of the narrative in Deuteronomy is accepted. Then we see a lifelike portrait of a very real

¹ See S. R. Driver on i. 5, *ICC*, p. 8.

² On the evidence in 1 Ki. ii. 3, see p. 137.

³ S. R. Driver divides them into fifteen sections, distributed among JE, D, D², P and two independent sources. Oesterley and Robinson and R. H. Pfeiffer propose different analyses and dating.

⁴ Oesterley and Robinson divide these two chapters into twenty-five sections, alternately JE and P, of which eleven consist of one verse or less. A passing tribute is due to the skill of the redactor who pieced these together.

person; and, what is relevant to our inquiry, of the *same* person throughout. Consider the following points:

1. When Joshua first comes into view (Ex. xvii. 9-14) it is as a *military commander* of the forces against Amalek. Presumably he was then some thirty or forty years of age. When he reappears in Dt. xxxi. 3, 7, it is in the same capacity.

2. The curse against Amalek at that time was to be both *written* and *rehearsed* (Ex. xvii. 14; cf. Dt. xxv. 17-19). This combination of writing and oral teaching is found again over the Song (Dt. xxxi. 19, xxxii. 44), the teaching and inscription of the law at Shechem (Jos. viii. 32, 34), and in the final scene in Jos. xxiv. 1-26.

3. In his early days we see Joshua as Moses' 'minister' (Ex. xxiv. 13; cf. Nu. xi. 28), and greeting his leader on his return from the mount (xxxii. 17).

In Nu. xxvii. 18-23 Moses lays hands on him and gives him a 'charge'; and this is the same in Deuteronomy (iii. 28, xxxi. 14, 23, xxxiv. 9).

4. At Horeb Joshua is left by Moses in the 'tent of meeting' (xxxiii. 11); again he presents himself there, with Moses, in Dt. xxxi. 14; when the tabernacle is set up in Shiloh, Joshua is present (Jos. xviii. 1), and there he is seen with Eleazar the priest in xix. 51.

5. In Nu. xiii. 8 Hoshea (Joshua) is appointed to represent the tribe of Ephraim as one of the twelve spies, whilst Caleb represents Judah (6), and in verse 16 the new name Joshua is bestowed upon him; he is associated with Caleb in his faithful report, and promised an entry into the land in Nu. xiv. 6, 30, 38.

In Dt. i. 36-38 we read that Caleb and Joshua are both to enter the land, whilst Moses is excluded; in Dt. xxxi Joshua is to bring the people into Canaan, and in Jos. xiv. 1ff. we see the old friendship renewed and the old promise recalled (6). Caleb receives his inheritance in Judah, and when Joshua dies he is buried in his inheritance in mount Ephraim (xxiv. 30).

Such unity in the portraiture of Joshua could scarcely be expected if traditions concerning him had lingered on through centuries, were written down by different hands, and collected by

some late editor.¹ Were the narratives contemporary or nearly so it would be perfectly natural.

This unity is carried on into the book of Joshua. Jos. i is the natural sequel to Dt. xxxiv; and Jos. i. 8 requiring Joshua to meditate in the book of the law is reminiscent of Dt. xvii. 18, 19, although the wording is different.² In this and other places the book of Joshua contains evidence of acquaintance with Deuteronomy. (See the appendix to this chapter.)

WHO WAS THE NARRATOR?

The examination of the content and character of the narrative leads naturally to the question, who was the narrator? The anonymity which he has maintained makes it easier to say what he was not, than to guess who he was.

It is difficult to believe, with the Uppsala school, that Deuteronomy shares a common authorship with the whole historical series, Joshua to 2 Kings. As far back as can be traced Deuteronomy was always known as the last book of the law, and not the first of the 'former prophets'. It is included in the Samaritan Pentateuch, which is probably pre-exilic,³ and possibly originated in the time of Eli.⁴ At the same time the book of Joshua has always taken its place as the first of the historical books.

No less serious are the objections to seeing in the compiler of this narrative a prophetic reformer living in the seventh century BC. Nowhere does he adopt the prophetic style, nor does he display the faintest interest in reform. The contrast between his plain

¹ 'Oral traditions were collected and written down at an early date, often as soon as they were collected from the mouths of the reporters', G. Widengren, *op. cit.*, p. 65.

² It is a curious and interesting fact that the Samaritan Chronicle describes the judges who followed Moses and Joshua as Kings (*melekh*). The LXX translates *melekh* in Dt. xvii. 14, 15 by ἄρχων (ruler).

³ Since the writing of Deuteronomy must be earlier than its inclusion in the Samaritan Pentateuch, the dating of the latter fixes the *terminus ad quem* of the former.

⁴ See Robertson, *OTP*, pp. 159-182. Brinker, *op. cit.*, pp. 212ff., gives reasons for dating it back at least to the disruption of the kingdom. M. Gaster claims for it a high antiquity: *Schwedich Lecture*, 1923, pp. 107-112.

simplicity and the appeals of Hosea and Isaiah could scarcely be greater.¹

Not a word in the narrative suggests that Moses is supposed to be addressing the people of Judah who belonged to the later monarchy,² or that they were being deprived of a liberty they had long enjoyed. On the contrary, every detail makes it apparent that Moses speaks to people actually present, Joshua included.

E. Robertson's suggestion³ that Deuteronomy was compiled from Mosaic writings and traditions by a 'council of priests and scribes', under Samuel's superintendence, has many attractive features, but also serious objections. The books of Samuel do not contain the word *tôrāh* nor any hint of a council of priests and scribes. Samuel's action in proclaiming Saul king was clearly upon his own authority, not that of Moses, and 'the manner (*mišpāt*) of the kingdom', which he told the people, must be understood in the light of 1 Sa. viii. 10-20 to mean the functions and authority of the king as their 'judge'. Besides, Samuel was surely not a man to hide his personality in this fashion.

The narrator is not Moses himself, for he always writes of him in the third person; he rather appears as an onlooker, retailing what he has seen and heard, and including what has come into his possession in written form.

Dare we think of him as such, possibly one of the 'priests the Levites' of Dt. xxxi. 9?

This would account for much that is otherwise difficult to explain; for the curious insertion of x. 6, 7 with the notes about Aaron and the tribe of Levi; for the place names in i. 1, the interest in the traditions of the former inhabitants and the various names of Mount Hermon, so beautiful when seen from a Moabite hill-top; for the prominence of Joshua; and, if going back to the time of the Shechem amphictyony, for the puzzling 'northern' affinities of Deuteronomy.

Jewish tradition ascribed the authorship of chapter xxxiv to Joshua, but he would hardly have written verse 9 about himself; though it would have jumped to the mind of Eleazar or one of his young companions who had been present at the ceremony described in Nu. xxvii. 18-25.

¹ See pp. 140-143 above.

² See Driver, *ICC*, p. lviii.

³ *OTP*, pp. 6off.

APPENDIX TO CHAPTER XI

DEUTERONOMIC TRACES IN THE
BOOK OF JOSHUA

Certain passages in the book of Joshua, which state or imply that Joshua was acquainted with the Mosaic law, are sometimes accounted for as being due to a 'Deuteronomic redaction' of the JE basic document.

This view is by no means universally accepted,¹ and is not in itself probable. A process of this kind has no parallels in Assyrian or Babylonian literature; and all redactional changes which are certainly discoverable in the Old Testament text and versions are small and of a quite different type.²

Why should one, inspired by the book of Deuteronomy, take upon himself to alter, not to say falsify, the JE document upon which his great predecessor, *ex hypothesi*, relied? And how did he obtain access to all existing copies of this old document, and change them, without any protest being raised?

The passages concerned have been examined in detail by E. J. Young,³ and do not bear out this contention; they can be better explained otherwise. Where Deuteronomic phraseology occurs, mainly in chapters i and xxiii, it is both natural and appropriate to the occasion. Of the forty-three expressions considered above in Chapter III, thirty-three are not to be found in Joshua, and four come only once.⁴ One passage in particular rebels against such treatment, namely Joshua viii. 30-35; the style is not 'Deuteronomic' and it contradicts the supposed centralizing law.⁵

The best explanation of the correspondence between the contents of Deuteronomy and Joshua is to be found in their historical character and the nearly contemporary character of the sources.

¹ On the wide differences of opinion about the book of Joshua see N. H. Snaith, *OTMS*, pp. 84-90, and Bentzen, *Introduction*, II, pp. 82-86.

² These are discussed by B. J. Roberts, *The Old Testament Text and Versions*, Cardiff, 1951, pp. 32ff. and *passim*.

³ 'The alleged secondary Deuteronomic passages in the book of Joshua', *EQ*, xxv, 1953, pp. 142-157.

⁴ Jos. ix. 27, xiii. 6, xxiii. 13, 16.

⁵ See p. 128.

CHAPTER XII

MOSES AND DEUTERONOMY

THE preceding chapters have exposed the weakness of the Graf-Wellhausen hypothesis and the difficulty of finding a suitable date or probable author for the book of Deuteronomy within the limits of the seventh century BC. Simultaneously, arguments have been accumulating in favour of the pre-monarchic character of the laws and of the narrative setting in which they are found.

As to Robertson's hypothesis that Deuteronomy is a compilation of Mosaic laws and traditions made by Samuel, there is not sufficient evidence for this either in the book itself or in tradition. We are driven back to the invasion period and to Moses himself.

Recent years have witnessed a growing tendency to recognize in Moses the real founder of the Hebrew religion. H. H. Rowley justly says, 'Whoever compiled the Pentateuch clearly believed that the period of Moses was of supreme importance to Israel as being the period which saw the creation of the nation, and the foundation of its religion and its institutions.'¹ This belief is, moreover, shared by other scholars of eminence and it has become common to speak of the 'Mosaic religion' as something perfectly historical.²

Not only so, but this religion is in essence that which is found in the Pentateuch, for that is the source from which our knowledge of Moses and his teaching is derived.

To quote W. F. Albright, 'To Albrecht Alt we owe recognition of an extremely important fact: that there is an element in both civil and cultic legislation of the Torah which was specifically Israelite and which went back to the beginnings of Israel—in other words, it was specifically Mosaic. This element is the apodictic

¹ *Growth*, p. 16.

² G. W. Anderson, *OTMS*, pp. 289–291. 'The time of Moses was theologically normative', Bentzen, *Introduction*, II, p. 78. So also A. Lods speaks of 'the creation of a people by the founding of a national religion', as being 'the work of Moses' (*Israel*, ET, London, 1932, p. 311).

legislation which we know best from the Ten Commandments, consisting of short injunctions, mostly couched in the imperative form: "Thou shalt (not)!"'¹ We saw in Chapter VI that the same can be said of many of the 'casuistic' laws, or judgments. This adds to the probability that the Israelites possessed a written law before they entered Canaan. These things, viewed in the light of Dt. xxxi. 9, justify the expectation that the legislation will exhibit traces of Moses' own authorship.²

The present chapter, therefore, is devoted in the first instance to a re-examination of chapters xii–xxvi to see whether there are features in the laws themselves, and in their presentation, which correspond so closely with the life and character of Moses, as these are portrayed in the books of Exodus and Numbers, as to indicate their Mosaic origin.

There is nothing to determine whether chapters v–xi were written down at the same time as the statutes and judgments which follow. Nevertheless, the connection between this section and the laws is close; and there is sufficient unity of thought and expression in chapters v–xxvi to warrant the belief that, if the laws show signs of Moses' influence, the preceding discourse also may represent his speech.

For this reason the examination will not be limited, though mainly directed, to the legislation.

THE LAW: ITS BACKGROUND

Various points mark the law as having been delivered to those about to occupy the land, and not to those who have been settled there for ages.

It is explicit in xii. 10, 'when ye go over Jordan', and xviii. 9, 'when ye are come into the land', and implicit throughout. The campaign against the former inhabitants has still to be fought (xx. 17).

The remembrance of the bondage in Egypt recurs frequently, and is treated as a recent experience, in the living memory of

¹ *The Biblical Period*, p. 12. The reference is to A. Alt, *Ursprünge des Israelitischen Rechts*, Leipzig, 1934.

² For other indications of a connection between Deuteronomy and the life of Moses see Chapter IV.

some.¹ There is a vigour also in the command 'Remember what Amalek did unto thee by the way . . .' (xxv. 17), to account for which requires a real connection with the recent past. It comes most naturally from the lips of Moses, the upholding of whose hands (Ex. xvii. 11, 12) must have been an unforgettable experience.

The reason given in xxiii. 4 for the exclusion of the Ammonite and the Moabite from membership in the congregation, 'because they met you not with bread and water by the way', also takes a form which makes their action appear to be not long past.

Again, whereas the election of Israel and the covenant in Horeb are always referred to as past events, the inheritance of the land is always regarded as future. We see the people in a stage similar to that depicted in Deborah's song; there is a national consciousness and a national religion, but as yet there is no central political organization.

The discourses, the law and the parenthesis attached to them, are all precisely suitable to the time and place described in Dt. iv. 44-49.

THE LAW: ITS CHARACTER

1. The laws of Deuteronomy are *primitive*, suitable for the time when Israel first became a nation; they must be considered 'insufficient and defective'² if viewed in relation to the needs of the seventh century BC. They are to be executed by judges (xvi. 18), priests (xvii. 9), elders or 'the men of the city' (xxi. 1-9), not by the king (contrast 2 Ki. xv. 3, 4); Yahweh Himself leads the people to battle as in the days of Joshua.

2. The law is *optimistic*. The life of Moses reveals an invincible optimism based upon Yahweh's promise to the fathers, the wonders in Egypt, the people's deliverance and the covenant in Horeb. This is reflected in the legislation: the laws of warfare expect victory (xx. 13, xxi. 10), an enlargement of territory is anticipated (xii. 20) and provided for (xix. 8) and a glorious future expected for the whole nation, not for a faithful remnant only (xxvi. 19). The laws are based upon the conception that

¹ See pp. 28f.

² Westphal, *The Law and the Prophets*, p. 306.

Israel is the people of God, which rests on the covenant in Horeb; hence obedience is looked for; it was otherwise with the prophets, who looked back on a broken covenant and called for repentance.¹

3. The introduction of the *name of Yahweh* into old Semitic laws may reasonably be attributed to Moses,² whether they be found in Exodus or Deuteronomy. Attention to this has already been called in Chapter VI (p. 81).

4. There is a combination of *severity and tenderness* which is characteristically Mosaic. Moses was capable of swift and drastic action (Ex. ii. 12, xxxii. 27) but displayed tenderness also, whether to Jethro's daughters in distress (Ex. ii. 17) or to his own followers (Ex. xxxii. 32).

The law likewise can be severe, sometimes more so than the older codes (e.g. Dt. xxiv. 7; see p. 77), and the death penalty could be enforced without pity (xix. 13). But it shows tender feeling also for the poor slave (xxiv. 14), for the fatherless and widow (xxiv. 17), and even for a mother bird (xxii. 6).

5. The laws are issued with a tone of *authority* which seems to proceed from a great leader. The prophets plead, but this author commands. This colours the whole legislation, and is explicit in the repeated phrase, 'which I command thee this day' (xiii. 18, xv. 5, xix. 9; cf. Ex. xxxiv. 11).

The priests are to be held in the highest honour (xvii. 12), but the speaker commanded even them (xxiv. 8).

Such a combination of qualities can scarcely be due to accident, nor does it wear the appearance of design. Many will agree with Hertz's statement that in Deuteronomy 'Moses' speech shines as well as his face'.³

THE LAW AND MONOTHEISM

Among the Mosaic features of the law must be included its monotheistic outlook. The time has gone by when men could accept Wellhausen's scheme, according to which the faith of Israel went through the successive stages of animism, polytheism

¹ Von Rad, *Gottesvolk*, pp. 12ff.

² Cf. P. Volz, 'Die allgemeine Jahwereligion hat ihre Anfänge vor Mose. Die Quelle des intensiven Jahwestroms aber ist Mose', *Mose*, Tübingen, 1907, p. 65.

³ *Deuteronomy*, p. 2.

and henotheism, so reaching monotheism in the prophetic period. Its place has been taken by serious discussion whether the religion of Moses can be strictly described as 'monotheism'. W. F. Albright and G. E. Wright maintain that this is a correct description; H. H. Rowley prefers to call it implicit or incipient monotheism which contained the seeds of the pure monotheism proclaimed by the great prophets.¹

What concerns us here is not the terms used, but that these writers all agree that, by whatsoever name it is called, Moses' belief in the one God lay at the very foundation of Israel's faith. As G. E. Wright truly says, the religion of Israel suddenly appears in history making a radical break with the surrounding polytheism, a phenomenon that requires explanation. He adds, 'there can be no doubt that the fundamental elements of this faith were established *early* in Israel's history, which means that we are led to Sinai and to the work of Moses, like unto whom there did not arise a prophet in Israel (Dt. xxxiv. 10)'.²

When going through Dt. xii-xxvi the attentive reader can hardly fail to be struck by the resemblance between the manner in which its monotheism (if that be the right term) is expressed, and the experiences and words of Moses as recorded in the earlier books of the Pentateuch.

The words that Yahweh used in the primary revelation at the Bush (Ex. iii. 6-15) are unmistakably echoed in the brief liturgy of Dt. xxvi. 5-9. The likeness is too detailed to be accidental. Of the expressions there used, 'the LORD God of your fathers' and the gift of the land also find a place at the very beginning of the legislation (xii. 1).³

The exodus from Egypt was another great experience in Moses' life; and corresponding to it we find the phrase 'the LORD thy God which brought you out of the land of Egypt' introduced into the texture of laws so diverse as the procedure for the punishment of apostasy (xiii. 5, 10), the passover law (xvi. 1), the words on going out to battle (xx. 1) and the offering of firstfruits (xxvi. 8).

¹ *The Rediscovery of the Old Testament*, London, 1940. p. 88; also *The Antiquity of Israelite Monotheism*, ET, lxi, 1950, pp. 333-338.

² *The Old Testament against its Environment*, p. 29.

³ See pp. 43f.

Then came the revelation in Horeb and the covenant between Yahweh and Israel, reflected in the specially Deuteronomic title 'Yahweh thy God'.

In Horeb the people heard His voice and received His commandments; so in Deuteronomy they are required to obey His voice and keep His commandments (xiii. 5, xv. 4, xviii. 16, xx. 17, xxvi. 16).

As Yahweh fought for Israel against the Egyptians (Ex. xiv. 14), so will He fight for them whenever they go out to battle (Dt. xx. 1). As it was known that He was 'among them' in the wilderness (Nu. xiv. 14, xvi. 3), so in Dt. xxiii. 14 He walks in their camp; as in Egypt He went forth with their army (Ex. xiv. 14), so He will again (Dt. xx. 4).

The theology of the Deuteronomic legislation is thus simple and unsophisticated; it shows no advance upon that of Moses and **no** difference from it. The same cannot be said of the theological outlook of Isaiah or his successors.

THE LAW: THE PERSONAL ELEMENT

Throughout chapters xii-xxvi Moses' name is absent, yet it is clearly assumed that he is the speaker. This is the more striking since his name is repeated no fewer than thirty-eight times in the narrative portions. His personality shines through, not only in the character of the law as noticed above, but by the intrusion here and there of the first person, especially in the phrase 'I command thee', sometimes with the addition of 'this day'.¹

This is particularly the case in the remarkable passage xviii. 15-18, with its reference to the people's memory of Horeb in verse 16. We can well imagine this intrusion, with its promise, coming from the mouth of Moses; but otherwise it loses much of its point. It is not easy to conceive of it as a device of the reformer, or to see how it could serve his purpose. We may mention also the special care for the Levites, the members of his own tribe (xii. 18, 19, xiv. 29).

The personal element again obtrudes itself, quite unexpectedly, in xxiv. 8. 'Take heed in the plague of leprosy that thou observe diligently and do according to all that the priests the Levites shall

¹ xii. 11, 14, 21, 28, 32, xiii. 18, xv. 5, 11, 18, xix. 7, 9, xxiv. 18, 22.

teach you, as I commanded them . . .' The emergence of the first person in verse 8 is uncalled for if not Mosaic.

Then comes, 'Remember what the LORD thy God did unto Miriam, by the way after that ye were come forth out of Egypt.'¹ How exceedingly natural that Moses should call to mind his own sister's folly and punishment; how strange if inserted by one intent on the reform of the cult. Note the contrast in Micah vi. 4, where Miriam is introduced with Aaron as sharing in Moses' leadership.

THE LAW: ITS PHRASING

The characteristic phrases used in Deuteronomy were considered in Chapter II. Of the forty-three expressions selected by von Rad all but two² are reproduced in the legislation. Some of them were shown to have a vital connection with Moses' calling, with the covenant in Horeb, with God's choice of Israel to be His people, and with the entry into Palestine. Yahuda, in his *Language of the Pentateuch in its relation to Egyptian*, claims to find many Egyptian ideas embedded in Deuteronomy, as in other parts of the Pentateuch. Whilst not all of these can be granted, neither can all be dismissed.

Incidents also, which must have deeply impressed Moses, unexpectedly intrude into the law, such as the dastardly attack of the Amalekites (xxv. 17), and the hiring of Balaam to curse (xxiii. 4). Taken together, these things justify the belief that 'a legislative nucleus dates back to Moses, and was committed to writing at that time';³ and, perhaps, more than a nucleus.

THE DECALOGUE

Scholars have puzzled over the two forms of the Decalogue in Ex. xx and Dt. v, have taken opposite sides as to which is the earlier, and offered diverse reasons for the changes made. It is

¹ It has been objected that the latter clause indicates a late writer since the incident occurred after the departure from Horeb (Nu. xii. 1). We are inclined to draw exactly the opposite inference. A writer relying on JE would not have expressed himself thus; but for Moses, that was surely on the way from Egypt to Moab, where he was speaking.

² Those numbered b (3) and c (6).

³ Robertson, *OTP*, p. 77.

clear that both accounts look upon the 'Ten Words'¹ as divine; if therefore the author of Deuteronomy relied upon the JE document, the changes made are difficult to explain, especially in view of his own warning in Dt. xii. 29-32 against any alteration whatever.

Why should he, at that later period, omit the old reason for the Sabbath and substitute another; and why should he make the other changes, some so insignificant?

On the other hand if we accept the modern view² that the ten words which were written on the tables consisted only of the brief initial sentences,³ and if the additions represent Moses' expansions of these on two separate occasions, no difficulty arises concerning them.

The Decalogue lays down the basis of religion and morality: it is to love God and one's neighbour (Dt. vi. 4; Mk. xii. 30, 31); the discourse which follows is an enforcement of these duties, which looks both backward and forward.

REMINISCENCES: THEIR FORM

When chapters i-xxvi are considered as one whole the number and character of the reminiscences they contain is a striking feature.

The mode of their occurrence is frequently quite incidental, such as the frequent references to Egypt and the reference to Miriam, noted above.

They convey the impression that they proceed from an *old* man. Those who attain to an age of threescore and ten years understand how memories of long ago or of the recent past jostle one another in the mind and come out irrespective of chronological order. Such a one, thinking back, could easily address the people at one time as if they all had shared the experiences of Egypt, whilst at another he would speak as if all would enter Canaan.⁴

How like an old man, too, to set great store by experience (vii. 17-19), to rebuke the people for disobedience as if they were

¹ Ex. xxxiv. 28; Dt. iv. 13, x. 4.

² Cf. Robertson, *OTP*, pp. 90ff.

³ Martin Buber makes the interesting suggestion that Moses regarded *himself* as 'the finger of God' which wrote them: *Moses*, p. 140.

⁴ See also p. 29.

children, and to display his anxiety that his younger hearers should 'remember' and 'not forget' his words, when he should be no longer there to guide (iv. 9, vi. 7).

There are also signs that the speaker has known the responsibility of leadership. He remembers the 'ways' by which they travelled, the turnings, and the treatment they received, the difficult crossings and the places where water was obtainable for the cattle.

There are names of events, all of which stirred Moses' feelings deeply, the tempting (Massah), striving (Meribah), destruction (Hormah), the burning (Taberah), the graves of lust (Kibroth-hattaavah) and the chastisement (Moscrab). Is this combination of words pure accident, or is it not more probable that these are the names which Moses attached to the events?

It is significant that Moses is never praised until we get to xxxiv. 10.

REMINISCENCES: THEIR EXTENT

Many of these have already been noticed; here attention is called to their cumulative effect.

They cover the whole period of Moses' life, and never transgress that limit; some details are not recorded elsewhere, and there are not a few graphic touches. Here is the list.

1. *Life in Egypt*. Here Jacob became a nation (xxvi. 2-7), dwelt 'in the midst of another nation' (iv. 34), suffered hard bondage and was delivered. The speaker remembers a 'garden of herbs' artificially watered (xi. 10), and 'horses' (xvii. 17).

2. The *burning bush*, though not actually mentioned, accounts for many phrases (see pp. 30f.). Moses possessed a 'remarkable conviction that his God was almighty and paramount, that he would deliver the Hebrews and make them his people: its origin lies in an inward illumination, which tradition, and perhaps Moses himself first, depicted in the form of the vision of the burning bush.'¹

3. The *signs and wonders* in Egypt,² the terror they inspired, the

¹ Lods, *Israel*, ET, p. 325.

² iv. 34, vi. 22, vii. 19, xxvi. 2, 3.

plagues which fell on Pharaoh (vii. 18), his household (vi. 22) and his land (xxix. 2).

4. The *passover* instituted in the month Abib (xvi. 1), the departure 'in haste' and 'by night' (xvi. 3, 6), and the destruction of Pharaoh's army in the Red Sea 'unto this day' (xi. 4).

5. The proving at *Massah*,¹ and the attack by *Amalek* (xxv. 17-19), the cowardly nature of which is mentioned only here.

6. The *burden of judgment* (Dt. i. 9-18; cf. Ex. xviii. 13-26); and the *words of Yahweh* (Ex. xix. 4, 5; cf. Dt. xxxii. 11, vii. 16, xiv. 2, xxvi. 18).

7. The *covenant in Horeb*,² the *ten words*, and the *ark of acacia wood* (x. 1-3).

8. The incident of the *golden calf* (iv. 15-17, ix. 11-21). Moses' prayer for Aaron (ix. 20). The words 'stamped it' and 'the brook that descended out of the mount' are peculiar to Deuteronomy.

9. The *forty years in the wilderness* (viii. 2, 19, xi. 5), 'great and terrible' (i. 19), where were 'fiery serpents and scorpions' (viii. 15, the latter only here), the manna (viii. 3, 16), the water from the 'rock of flint' (viii. 15f.), and the divine care (ii. 7, viii. 3f.); the judgment on Dathan and Abiram (xi. 6).

10. The stay in *Kadesh-barnea* (i. 19-46), the pillar of fire, the pitching of the tents (33) and the mission of the twelve spies (23).

11. The *long journey round Edom, Moab and Ammon* (chapters i-iii).

12. *Sihon, Og and Balaam* (chapters iii, iv. 47-49, xxiii. 3-5).

13. '*Unto this place*' (ix. 7, xi. 5). So the long wilderness journey comes to an end.

The terminal point of the journey is described in Dt. iii. 29 as 'the valley over against Beth-peor', here mentioned for the first time. In Nu. xxv. 1 the place reached is called Shittim, and in the itinerary (xxxiii. 49) the last stage is described as Abel-shittim in the plains of Moab. Why then a new name? The answer is found in the sad story of Nu. xxv which tells how the people sacrificed to Baal-peor (3, 18), whose temple (Beth-peor, temple of Peor) stood opposite their camp. Moses could not forget that.

¹ vi. 16, viii. 3, 16, ix. 22.

² iv. 11ff., v. 2ff., vi. 22f., ix. 7-x. 5.

This is a long and formidable list,¹ when compared with the sparse references to be found in the prophetic writings. There is nothing to compare with this amount of detail in any of the speeches recorded in the historical books and much less than this would have sufficed to provide the law with a 'Mosaic setting'. Like those personalia which follow, these reminiscences contribute nothing to a programme of reform.

AARON, ELEAZAR, CALEB, JOSHUA

Of Moses' relations and contemporaries six are mentioned in Deuteronomy by name. In the legislation are two of these, Balaam² (xxiii. 5) and Miriam³ (xxiv. 9). In the Holiness Code various laws are communicated to Aaron (Lv. xviii. 1); in Deuteronomy Aaron is referred to only in connection with his sins, a phenomenon indicative of the antiquity of the record.⁴ The story of the golden calf is told graphically enough in Ex. xxxii, and no less so here, but the two accounts differ in wording and substance. Deuteronomy was not therefore borrowing from JE; rather the memory seems to spring spontaneously out of the words 'thou are a stiffnecked people' in Dt. ix. 6 (cf. Ex. xxxii. 9; Dt. xxxi. 27).

In Dt. ix. 20 we light upon the words, 'the LORD was very angry to have destroyed him, and I prayed for Aaron also the same time'. In Exodus it is related that Moses prayed for the people, but nothing is said about his prayer for Aaron. Why should a late writer introduce this? Yet nothing could be more true to nature if Moses were the speaker. We have here another link with real life.

The next reference to Aaron is in the puzzling parenthesis of x. 6, 7, which has already been noticed.⁵ With this may be joined xxxii. 50, which also records Aaron's death, an event which must have left an indelible impression on his brother's mind, seeing that they were both involved in the same 'trespass' (51).

The various references to Aaron's death in Nu. xx. 22-29, xxxiii. 38, 39, Dt. x. 6 and xxxii. 50, 51 supplement one another;

¹ Not all found in JE; see Appendix to Chapter vi.

² See p. 111 above.

³ See p. 170 above.

⁴ See Buber, *Moses*, p. 148.

⁵ See pp. 54, 157.

they are different, but not inconsistent. Mount Hor was the scene of his death, Moserah (or Moseroth) describes its character as a 'chastisement'. The analysis which ascribes Nu. xxxiii to a post-exilic source, and makes Dt. xxxii. 48-52 conform to this, may safely be neglected; the itinerary in Numbers is undoubtedly ancient.

In spite of the obscurity of Dt. x. 6-8 it clearly records a memory that Eleazar succeeded to the priest's office, to which the succession of Phinehas is recorded in Jos. xxiv. 33. There seems little reason to doubt these facts.

The appearance of Joshua with Moses in the narrative of chapter xxxi was commented upon in the previous chapter. There are further references to Joshua in the discourse which add more than a touch of realism to the relationship between them.

In the rehearsal (i. 23-43) of the story of the sending of the twelve spies¹ to search out the land in chapter i, the people's murmuring, and the names of Caleb and Joshua² are found in close association. Caleb comes first (i. 36) since he seems to have taken the lead in stilling the people; and the mention of Caleb's admission to the land of promise recalls to Moses' mind the bitter trial of his own exclusion. From that his thoughts travel at once to Yahweh's command to him to encourage Joshua 'which standeth before thee' to lead the people in (i. 37, 38).

In the previous narrative Joshua was known as the 'minister' of Moses;³ here the wording varies but the meaning is the same. What could be more true to life than this sequence of ideas?

The thought is similar in Dt. iii, where Joshua's name comes again. Moses has reminded the people of the recent victories over the Amorite kings (iii. 1-17) and the orders to the men of the two-and-a-half tribes to cross the Jordan with their brethren (18-20). Immediately he adds how he then encouraged Joshua not to fear (23, 24), which brings forth another outburst regarding his own exclusion, and his prayer, recorded in this place only, that the

¹ See Appendix to Chapter vi, p. 96. On the analysis of Nu. xiii, xiv see Chapter xi, p. 159, n. 4. There is no valid reason to doubt that Joshua was one of the twelve spies.

² Their names are also coupled together in the narrative of Nu. xxxii. 1-15, which S. R. Driver (*LOT*, pp. 68f.) ascribes in the main to JE. He attributes the inclusion of Joshua to a later insertion from P.

³ Ex. xxiv. 13, xxxiii. 11; Nu. xi. 28, xv.

punishment might be revoked. The same collocation of his own exclusion and Joshua's crossing over is repeated in xxxi. 2, 3; and how natural it is!

This introduces a third mention of Joshua, whom Moses had been told to 'charge' and 'strengthen'. Although Joshua was not lacking in courage, it was the place of his old leader both to command and encourage him; this is a recurring theme (Nu. xxvii. 18-23; Dt. iii. 21, 22, 28, xxxi. 7, 8, 14, 23).

It is here, in the contrast between the fate of Moses with that of Caleb and Joshua, that we can find the meaning of the words 'for your sakes (or, on your account)' which have puzzled the commentators (i. 37, iii. 26, iv. 21).

Whatever the exact nature of the sin which Aaron and Moses committed at Meribah-Kadesh (Dt. xxxii. 51), the meaning here seems to be that, when the sentence of exclusion was passed upon all the older generation because of the murmurings and rebellion, Caleb and Joshua alone were excepted (Nu. xiv. 30-32); Moses and Aaron suffered with their people.

In making this comparison between the Deuteronomic law and what is known of the life and character of Moses, the aim has been to collect the evidence and to let it speak for itself. It is now for the reader to judge whether the Mosaic features of the book could have been introduced by some reformer, were he priest, prophet or country Levite, working from old documents and traditions, in order to invest his collection of laws with a Mosaic dress. Is it probable that such an author would have succeeded in establishing a correspondence so natural, so close in manifold and minute particulars, and so profound? Or is it more reasonable to think that this result proceeds from a true historical connection between the book of the law and the man whose name it has always borne?

That is the simplest explanation of the facts, and perhaps after all it is the best. On every hand Deuteronomy is acknowledged to be a great book, which exerted great influence; should it not also have a great author? And who can fill that place so worthily as the old and tried leader who brought the Israelites out of Egypt, shared their experiences, gave them laws, and laid the foundations of their faith?

EPILOGUE

THE EVIDENCE SUMMARIZED

THIS volume has been occupied with a single problem, the date of the book of Deuteronomy, and more particularly of the legislation contained in chapters xii-xxvi.

If little consideration has been bestowed upon the remaining parts, especially on chapter xxviii and the poetry of chapters xxxii, xxxiii, this is not because they are lacking in interest or importance, but from the desire to focus attention upon the heart of the book, the law itself, and next to that upon the discourse of chapters v-xi, which is so closely linked with it.

The inquiry has been pursued from many standpoints, the results of which can now be summarized. At the outset objective tests were found in the most characteristic phrases of the author, and the use made of the divine titles. The former relate to the great events of Moses' life, the exodus from Egypt, the approaching occupation of the land of Canaan, the covenant relationship with Jehovah; and they show no sign of influence from the monarchic period.

The latter also correspond, somewhat closely, with the call of Moses and the choice of Israel to be the people of Yahweh; whilst certain titles used by the prophets are conspicuous by their absence.

The topography was next brought under review. It displayed a manifest interest in, and an accurate knowledge of, the desert route from Horeb, by way of Kadesh and round Edom to Moab, and a close acquaintance with the geographical features of Transjordan. In contrast to this, the only knowledge shown of the western side prior to chapter xxxiv is such as could be gained from outside.

The peoples inhabiting the land at the time of the invasion are enumerated, with the names of the still earlier occupants and the primitive descriptions by which they were known. The geographical data, therefore, appear to be of early origin.

Next, the laws were examined one by one, beginning with

those which had some parallel either in the old Semitic codes or in other parts of the Pentateuch.

Certain laws are of pre-Mosaic origin, being found also in Hammurabi or other ancient collections; of which some are peculiar to Deuteronomy, some to JE, and some common to both. Among them (including those peculiar to Deuteronomy) can be seen traces of an adaptation of the older forms to Hebrew religious ideas, which some scholars have attributed to Moses. This comparison fails to justify the chronological sequence JE, D, P, or to reveal any obvious connection of the JE code with the early monarchy, the laws of Deuteronomy with the seventh century, or of P with the exile or later.

The remaining laws, commands and institutions contained in, and peculiar to, Deuteronomy xii-xxvi were then considered *seriatim*. Some could belong to any period, some only to the time of the occupation of Canaan by the Israelites; several were incapable of application in the reign of Manasseh or Josiah. This added seriously to the difficulty of regarding the Deuteronomic law as a collection made for use at that time.

The theory that the aim of the legislation was to abolish the 'high places' and to centralize worship in Jerusalem was examined in the light of the history and of the arguments based upon Ex. xx. 24 and Dt. xii. An initial objection was found in the absence of any mention of the 'high places' in the laws or the introductory discourse, a fact difficult to explain if this hypothesis be correct. The details of Josiah's reformation do not correspond so closely with the laws as to require an immediate connection between them. Wellhausen's interpretation of Ex. xx. 24 does violence to the words themselves and to their context; and the meanings which he read into Dt. xii are forced and unnatural, alien to its professed object of guarding the people against Canaanite influences which would threaten them after the crossing of the Jordan.

The command in Dt. xxvii. 1-8 to erect an altar on Mount Ebal is also irreconcilable with this hypothesis.

The history shows that the primacy of Jerusalem as the centre of Yahweh's worship goes back to the building of the temple; and the account of Josiah's reform shows that the sin charged against 'the fathers' (2 Ki. xxii. 16) was not that they had worshipped

Yahweh outside of Jerusalem, but that they had forsaken Him to worship other gods. The object of the reform was to restore the old religion, not to change it.

As to the writings of the early prophets, although they contain no certain references to the book of Deuteronomy, they testify to the existence of a 'law of the Lord' which the people should have obeyed but which they had broken; and they contain passages proving that certain of the rules laid down in Deuteronomy were already in force.

A comparison of Deuteronomy with the writings of Hosea and Isaiah reveals differences of thought-forms, of outlook and of background; the author of Deuteronomy does not seem to have lived soon after, or to have been influenced by, Isaiah's preaching.

When the prophetic writings from Amos and Hosea to Jeremiah are regarded as a series, they indicate a progressive change in the outlook (*a*) upon 'all Israel' as the people of God, (*b*) upon the surrounding nations, (*c*) upon the religious declension of the people, and (*d*) on the nearness and certainty of God's judgment upon the nation. In all these matters Deuteronomy can most suitably be placed at the beginning of the series.

When the brief narrative portions of the book are taken together they form a more or less connected whole. The style of the narrator is simple, sincere and free from artificiality; he evidently believes what he records, and here and there are indications which imply that no great lapse of time separates him from the events.

Finally, the laws and the introductory discourse reveal so many contacts with the life and the character of Moses, as that is recorded elsewhere, as to justify the belief in a real, historical connection between them.

There is therefore solid ground for taking seriously the claims which the book makes for itself. These are definite and precise, namely that the law was declared by Moses at a given time and place, and that it was subsequently written and placed in the hands of the priests. These statements are put forward as matters of fact, and the evidence, which is cumulative, points to their truth. If it does not compel belief, it leaves the way to it open.

Up to now the problem has been treated as one of literary and

historical criticism, like any other; but when this treatment leads to the conclusion that the law really proceeded from, and was written by, Moses, the student is brought face to face with its claim to be part of a divine revelation which was accompanied by supernatural events.

Here many draw back, and seek for some alternative solution. But those who can believe that miracles may have happened under the old dispensation as well as in the new need not be under this constraint. Together with R. de Pury¹ they can say: 'If the stone was not rolled away on Easter morning, then the sacred history of Israel is cut at its roots. But if Christ is risen, all the miracles of the Old Testament as well as of the New, range themselves (*s'ordonnent à*) round this miracle.'

THE NEW TESTAMENT AND DEUTERONOMY

In many quarters today there is an increasing disposition to recognize the bond which exists between the Old and the New Testaments, and to seek to interpret each in the light of the other. In particular, it can be said that 'the Old Covenant at Horeb was fulfilled in the New Covenant mediated by Jesus Christ',² and cannot fully be understood in isolation.

It is therefore right that we should conclude our inquiry by a look into the New Testament to see what light it throws upon the book of Deuteronomy and its origin.

The New Testament contains several references to, and some citations from, the book of Deuteronomy, and in these its Mosaic authorship and divine authority are generally assumed.

In Heb. x. 28 the words of Dt. xvii. 6 are cited as 'Moses' law'. Paul quotes Dt. xxvii. 26 and xxi. 23 with the introduction: 'It is written' (Gal. ii. 10, 13), and similarly parts of the Decalogue in Rom. vii. 7, xiii. 9 and Eph. vi. 2. In a remarkable passage (Rom. x. 6-9) he equates the words of Moses in Dt. xxx. 12-14 with 'the word of faith' which he preaches.

The strongest endorsement of its claims comes, however, from the Master Himself. In the hour of temptation He three times

¹ *Le Libérateur*, Librairie Protestante, Paris (undated), p. 16.

² N. W. Porteous, *OTMS*, p. 327.

quoted its words as authoritative (Mt. iv. 1-11; Lk. iv. 1-13). The account must surely have come first from His own lips.

He called the grand declaration of the unity of God in Dt. vi. 4, 5 'the first and great commandment', and described the Decalogue as 'the commandment of God' (Mk. vii. 9-12) or as 'the word of God' (Mk. x. 17-19). In answer to a question of the Pharisees, He described the permission for divorce under certain conditions given by Moses (Dt. xxiv. 1) as the precept which 'Moses wrote' (Mk. x. 5).

It is a fair inference that He was well acquainted with the book and accepted its claims.¹

There are those who will set aside these sayings with the remark that the disciples and the Lord Himself shared in the ignorance and mistaken notions of their own time.

But not all will be able to do this;² many will rather seek to attune their thoughts about the Old Testament to the recorded sayings of the Master and to the apostolic teaching.

They will stand in imagination upon the mount of Transfiguration and ask themselves why Moses, as well as Elias, appeared there to speak with Jesus 'of his decease which he was about to accomplish at Jerusalem' (Lk. ix. 31, RV), and what light this may throw upon the words of Christ recorded in Jn. v. 45, 46. Are those commentators right who see here a probable reference to Dt. xviii. 15?

Their thoughts will travel on to the day of the resurrection, and to the testimony of the two disciples on the Emmaus walk that Jesus, 'beginning at Moses and all the prophets expounded to us in all the scriptures the things concerning himself' (Lk. xxiv. 27); and again to the occasion when, on the same evening, the eleven and others were gathered together, to whom He said: 'All things must needs be fulfilled, which are written in the law of Moses, and the prophets, and the psalms concerning me' (Lk. xxiv. 44, RV). Was it therefore from the risen Christ Himself that Peter learned thus to interpret those verses of Deuteronomy which he quoted on the day of Pentecost? (Acts iii. 23, 24; Dt. xviii. 15, 18, 19).

¹ Cf. E. J. Young, *The Infallible Word*, Philadelphia, 1946, pp. 54-60.

² See R. V. G. Tasker, *Our Lord's Use of the Old Testament*, London, 1953, pp. 18, 19.

Here we must leave our reader, and where could we leave him better than in such company? Our task has been the humble one of collecting data, chiefly from the book itself, which help to determine its probable date and origin. If these pages contribute, in however small a degree, to a deeper study and a better understanding of this portion of God's word, the labour involved will be amply repaid.

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