

RELATIONSHIP
OF
THE
HOLINESS CODE
TO
THE
DEUTERONOMIC CODE.
BY
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Table of Contents.

Chapter I.	Page
Introduction.....	1
Chapter II.	
Synopsis of the Codes.....	5
Chapter III.	
Unity of the Codes.....	12
Chapter IV.	
Relative Dates of the Codes.....	25
Chapter V.	
Linguistic Relationship of the Codes.....	33
Chapter VI.	
A Study of the Final Chapters of the Codes.....	48
Chapter VII.	
A Study of Laws Pertaining to Persons and Families.....	67
Chapter VIII.	
A Study of Laws on Humanity and Justice.....	90
Chapter IX.	
A Study of Laws on Cleanliness and Abominations.....	128
Chapter X.	
A Study of Laws on Sacred Occasions, Persons,.....	151
Chapter XI.	
Conclusion.....	200

INTRODUCTION.

Chapter I.

In ~~beginning~~ this Thesis, it is not without mingled feelings of trepidation and uncertainty, ~~conscious as I am~~ of the magnitude of the task and fearful of the risk of making unnecessary and far-afield digressions. At many points the temptation has been alluring to treat of particular subjects disproportionately and of wandering from the straight and direct sketch into by-ways of superfluous and over-much explanation. I would rather ~~err~~ ^{to} on the side of brevity in a work of so large and comprehensive a nature than exhaust the patience of my reader with needless and inordinate exposition of specific details. At the first glance the title opens up a vast field for study. Many problems come to view which are little less than astounding. It would be both cumbersome and undeserved to pretend to attempt solutions of all of them. Furthermore, it has been seductive to wander afield into expositions of details while interesting in themselves, ~~but~~ are unimportant for our theme.

With this idea in mind I have endeavored so to frame accurately the title, that it may both define and likewise contain the limits of this thesis. No little thought has ~~been~~ devoted to the ~~formulation~~ ^{of this title}: "The Relationship of the Holiness Code to the Deuteronomic Code." Bear that in mind. The idea contained in the word "Relationship" is much broader than in the term "Comparison." The Codes may be related temporarily by which is meant, that a treatment of the subject may have as its aim the ascertainment of the proper position of each with regard to time. Then, too, the relationship as we take it, may assume the form of dependence, i. e., one code may entirely or partly rely on the other for its material or for its form and aim and manifest evidences of this influence. This dependence may also be negative, that is, the one lawbook may consciously and purposely ignore the other, may purposely avoid the datum contained in the other. However else one may view it, this avoidance of the use of style and contents shows a dependence a dependence which the author desires to conceal. In the course of this inquiry, I purpose to determine whether the two codes disclose any such relationship, as is conveyed in the idea of dependence, give a ny indication of any such reliance ~~or relationship~~, ^{comprising any traces of influence.}

As I proceeded in my investigation, so many problems arose that it became imperative that some sort of limitations should be set to my work. No end of suggested questions cropped out which made it necessary for me to circumscribe my task. In the first place, it seemed wellnigh following after no completely satisfactory results to try to discover and to reconstruct the original introduction to the Holiness Code, ^{even if the theory of the existence of such was adopted.} (1). ^{Wellhausen} Everywhere in the Pentateuch critics have found the opening passage the body of laws contained in Lev. 17-26. It early became manifest that to take up the study of this subject would itself entail no inconsiderable treatment and would be drawing out this work to no direct benefit to the basic thesis. And so I decide happily to waive the discussion of this question. Likewise in regard to the ^{original} introduction to D. so varied were the opinions that obtained that no satisfactory theory seemed plausible and tenable. (2). The opinions of the original ~~introduction~~ ^{Introduction} varied with the number of the critics. Since the question of the original introduction of D. raises extreme difficulties and if treated would lead us far afield into a discussion which would be of no direct value to the purpose of our theme, I thought it none other than ~~wise~~ ^{unwise} to attempt and include an exposition of this difficult subject encompassed as it is with such grave difficulties.

(1) ~~Cite various passages assigned by various critics as introduction to D.~~

(2) Wellhausen denies its originality in toto, Driver accepts it generally, and between the two, the opinions vary.

While I am unable to locate the original introduction of H, it appears accordingly not entirely necessary to treat of introduction to the Deuteronomistic Code. Since the examination would add ~~nothing~~ ^{nothing much} to our proposition, I deemed it unnecessary to include a discussion of this perplexing subject.

This leads us again to a further explanation and definition of our Title. Some German critics distinguish between the so-called Deuteronomistic and Deuteronomistic literature. By their distinction they differentiate between the original writings of the school which they include under the former title and all the accretions which the school later added, which they style by later term. Under the second they include such as the latter parts of the Deuteronomistic introduction; as D. passages of Joshua and secondary portions at the end of the present book of Deuteronomy. We wish to call the attention of our readers to this distinction and to have them bear in mind that we are presently only concerned with literature comprised in the earlier work. It hardly appears necessary to repeat the explanations of why we make these limitations and it is likewise needless to call attention again to the fact that to treat of this latter literature would involve us in ~~no~~ inconceivable discussions and unnecessary problems. Our work on the one hand, therefore directly pertains to a study of the Deuteronomistic Code.

While drawing limits to my work, I am likewise compelled by peril of taxing the patience of my readers, to make certain general assumptions. There are questions which are too commonly accepted for us to retrace the progress of reasoning by which they were so wisely adopted. One such postulate applies to the independence of the H. Code.

One who has perused the book of Leviticus, can not help but notice that in chapters 17-26, he is in a field of thought different and distinct from that contained in the remainder of the book. Since Klostman (1877) even the most conservative critics have recognized in this group of laws (Lev. 17-26) an independent code. We shall assume the existence of this code and not enter into a consideration of the overwhelming and convincing reasons for considering its independence. Suffice it, if we refer our readers to a perusal of these chapters. The subjective estimate they will derive will convincingly satisfy their minds on this score. They will be persuaded of its distinctiveness ~~as~~ ⁱⁿ their own reading. Likewise we shall request our readers to accept the generally adopted hypothesis of the exegetes, that the Biblical and historical version of the discovery of the book of Law (24, 22) refers to the finding of Deuteronomy (1). So universal is the agreement on this theory among the Biblical scholars that nothing that we ~~could~~ say could add aught to the cogency of the arguments which have convinced them. Therefore to detail them again would be indulgence ill spent and to repeat them would not contribute to the basic points and aims of our thesis. Thus, throughout the course of this thesis, I shall be obliged to pass over the proofs of various postulations which Biblical science has, speaking generally, now succeeded in establishing.

In these introductory remarks, there finally remains for me to bring under your notice the general order of arrangement which I shall subsequently pursue. The foreign Biblical critics are wont

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- (3) Baldissoni etc.
 (2) As an instance compare Lev 22:30 and 7:15 see addis II 353 on this discrepancy between P and H
 (1) CHEN 157 n. maintains that while introduction (ch 5-11) is written in same style and from same viewpoint they are regarded as later than main group of laws. Also compare Wellhausen's view that the original of D was merely the last corpus vv 12-26, see Holzinger Einl. 265.

to make a distinction between ~~the~~ formulary and substantial criticisms. By the former, they represent all criticisms of the text outside of the contents of the passages itself; Such discussions as that which revolved about linguistic peculiarities, diction, kinds of legislation and methods of formulation etc. Under the second designation they include all criticism involved in the inquiry into the contents. This distinction constitutes the general division of the subsequent thesis. All discussion of a formulary nature will generally be dealt with in the first half. While the comparative investigation of the contents of the codes will include the latter half. In this general inquiry therefore it is to be observed that a study of the superficial aspects, so to speak, as well as the essential features of the code ^{are} to be pursued with the aim of arriving at a ~~conclusion~~ ^{of their relationship, their dependence, of secondary and} ~~of their relationship~~ ^{of their influence.}

Chapter II.

Synopsis of the Codes.

After we read these two codes and review their contents with the object of comparing them, we cannot help but note their marked disparity. It appears remarkable that in the narrow confines of such small literary products, so pronounced distinctiveness is ostensible. We are struck by the notable individuality peculiar to each. And we cannot fail to recognize ourselves in these two law books to be in two diverse spheres of thought. For not only in the conspicuous and underlying ideas and motives, are we attracted by their dissimilarity but even if we make comparison of such subordinate features as order and arrangements of the laws, we note some significant facts. It goes with out saying in passing that such a comparison here can be none other than superficial. However, we feel that to begin our work with such a broad and crude collating at the outset, we will be serving two purposes. For not only will we be roughly making a comparison and drawing parallels between the outline and sketch of the plan of these two codes, but we will also be mapping out our field of investigation, concretely laying out the material with which we shall work. Of course, it must not be forgotten that the lines can here only be general and the results more or less vague.

It does not take long to perceive that the peculiar spirit which pervades these codes, is here and there marred by interpolations of passages and insertion of ideas which almost offhand cannot help from recognizing as not indigenous in the original body of the two law books. Subsequently we shall enter more fully upon a discussion of these sentences and sections. For the present we must recognize that all which is extant in the law books is not all that existed as it was when compiled. We shall fully demonstrate which was. Much which was originally peculiar to H has been lost. In the course of its history the various editors expunged some laws for reasons which we do not at all times understand and sometimes replaced them by others and not infrequently made accretions to the texts which was handed down to them. For instance, Wellhausen and Baentsch (1) propose that in the priestly passages which presently and largely comprise Leviticus 24, originally H had some similar law on the same subject and they believe that some priestly editor intentionally replaced the older by his own which was more consonant with his own general ideas. Similarly this same redactor or someone belonging to his school, amplified the text in Leviticus 23 and 25. Moreover certain passages which we can to a certain extent trace, were dislocated from the main body of the law and found their place in other unsuitable parts of the Pentateuch. Notable among these passages which have been uprooted and transplanted elsewhere are Num. XIX 39-43 and Leviticus XI which we shall more fully discuss later. From this it may rightly be inferred that H has not survived to us intact. To a less degree the same applies to D. In this law book, too, passages have been disjoined from their context and set down elsewhere only to interrupt the logical sequence. On the other hand certain sections appear strange and unusual and seemed to be inserted, to wit, D. XIV 3-20. It therefore follows that we do not possess the entire law books as they originally existed and what is more to the point here we do not possess the laws in their original order or framework.

While acknowledging these defects in the arrangements of the codes the attempt to reconstruct the original plan has not been entirely without satisfactory results. For while attempting this task of recovering and restoring the original as nearly as possible which can be, at best, it must be confessed, more or less conjectural, reasons and postulates which in the course of this inquiry will be advanced and which may arouse doubt are to be accepted I beg ~~of my~~ readers with the special request that they hold their questioning in check and assent to these assertions until we shall be able to treat of these questionable points more fully later. It stands to reason that many a statement ~~arousing~~ ^{arousing} suspicions here advanced in proof if clarified now, would disproportionately enlarge this chapter. To avoid being involved in the intricacies and complexities by diversions into roundabout and too enlarged discussion we request you to accept what we state and ~~await~~ ^{waiting} further proof.

While we can reconstruct the original of these texts somewhat satisfactorily, as alluded to before, the reorganized or restored parts will again emphasize what we have previously claimed. These more or less close books manifest a distinct and peculiar spirit as well as a distinct and peculiar synopsis. They show that the original editor did not in a haphazard and careless fashion throw the laws he compiled into a heterogeneous conglomeration. But no matter how inadequate the reconstruction may appear or how arbitrary it may seem, we find that originally these books were arranged orderly. And what is more significant according to ~~the~~ ^{our} plan. Now the question arises do the order and arrangement of these two collections of laws as reformed prove that the one was influenced by the other in this matter of arrangement? We can the better discuss this question only after we have given the reconstructed outlines as we think them to have originally existed. To repeat and to be explicit, passages which we assign as original or editorial in the outline to follow may excite skepticism. We bid our readers to be patient. We shall discuss the originality of these sections or sentences in the latter part of our thesis where we shall make a comparison of the contents in detail.

The reconstructed outline of Holiness code is as follows:

Ch. XVII. Law of sacrifice

Vss. 3-7. All slaughtering shall be sacrificial
To prevent idolatry

Vss. 8-9. All sacrifice to J H V H

Vss. 10. Abstinence from blood eating

Vss. 11-14. Blood is life

Blood has atoning power

(Vss. 15-16. Mild prohibition of eating (טרפה + נבלה))

H
RH
H
H
RH
RH
(P)

Ch. XVIII.

Vss. 3-5. Prohibition of heathen practices

Vss. 6-18. Prohibition of Incestuous Marriages

Vss. 12-23. " " Unnatural Vices.

Vss. 24-30. Paranetic conclusion

RH
H
H
RH

Ch. XIX, XXIV 17-22, XXVI 1-2; ⁹⁻¹² Paranetic Introduction

Vss. 3-4. 11-19 Miscellaneous collection of an ethical and cultural nature

Vs. 23-29-31-32. XV 39-43

Vss. 33-35-36-37. Paranetic Conclusion.

RH&H
H
H
RH

Ch. XX.

Vss. 2-21. Parenetic amplifications of the prohibition against Incestuous Marriages and unnatural vices.

Vss. 22-24. Parenetic conclusion.

RH
RH

Chap. XI. 1-45 XI 43-45

(1 & 25-26. Prohibition of unclean foods

Ch. XXI-XXII

Vss. 1-9.

Vss. 10-15

Vss. 16-23

XXII 2a b-16

XIX 5-8, 18b-30

Vss. 31-33

Holiness of Priests

Holiness of Priests in matter of contact.

Holiness of High Priest in matter of contact

Holiness of Priests in matter of Physical Nature

Rights of Priests in matter of foods

Holiness with regard to sacrifices

Parenetic Conclusion

RH
RH
P)

H&RH

H

H&RH

H&RH

RH + H

RH

XXIII. 10ab-14.

15-21

39-43

Feast of the Matzah

Feast of the Omer

" " " Booth

H + RH
H + RH
H + RH

XXV. 2ab-7

8-19

20-22

23-24

35-38

39-55

Sabbatical Year

Jubilee "

Sabbatical "

Landin Sabbatical year

Law against usury

Humanity to Hebrew Slaves

H + RH
H + RH + P
RH
RH
H + RH + P

XXVI 3-39

Parenetic Conclusion

The Reconstructed Outline of D is as follows:

XII 13-28 XVI 21-22 XVII 1-7

Law of Single Sanctuary, Laws against Idolaters.

XII 29 XIII 19

XIV 1-2 & 21

22-29

XV 1-11

12-18

19-23

XVI 1-9

9-12

13-17

Law against apostasy

Law against heathenism customs

Law of Tithe

" " Sabbatical year (some latter interpolation)

" " Manumission

" " First Born

" " Passah (some latter interpolation)

" " Weeks

" " Booths

18-20

XVII 8-13

XVIII 1-8

XIX 1-7, 11-13

14

15-21

XX 1-14

19-20

XXI 1 XXV 16

General Law on Officials

Judges

Priests

Prophets

Homicide and murder

Encroachment of property (" " ")

False witness -

Law of war

Protection of Fruit Trees

Miscellaneous laws- (except some passages which are inserted)

First fruits and Tithes (" " " ")

Parenetic conclusion (" " " ")

In these synopses of the laws of the two codes I have made no attempt to separate all the original, editorial and later elements. For the present I have merely tried to note those passages or paragraphs which are largely original.

In the outline of the Holiness code, particularly certain sections have been greatly amplified by the priestly writer and two chapters have been greatly enlarged by the same editors. Where the section was entirely priestly I have omitted reference to it. Where the priestly editor annotated and elaborated on original law, I have simply referred to the original kernel of the law deferring a detail analysis of the text, for a later connection. Regarding the original and redactional material, I have only tried to differentiate the two in ~~that~~ the above outline where the latter observations and appeals ^{are appended} ~~are appended~~. When, however, the Holiness redactor inextricably bound his own up with the original material, ~~the text is~~ ~~noted that the text is~~ a separation of the textual elements will be made later. It will be noted that in Lev. XIX I have classed or grouped together a number of separate laws like H XIX 17-23, Nu XIX 1-2 and certain ones from chapter XX. I have not tried to lay them out in a definite plan. It is also to be observed that certain passages have been taken from this chapter and placed elsewhere in the book as notably XIX 5-8 and added it to XXII 29-30. Only I must somewhat anticipate my conclusions by asserting that when these passages are carefully arranged in this chapter they will clearly manifest a systematic ordering. The miscellaneous collection of laws will appear at first glance as heterogeneous and disorderly exhibit in reality evidences of an originally methodical arrangement. Paton in his investigations which shows that this chapter in its original form was arranged in groups of five and ten laws following the plan of the decalogue. Bertholet separates the laws of this chapter on the basis of the singular and plural address and observes that those laws which are couched in the former have close affinities with Deuteronomy and Covenant Codes while those of the latter are closely parallel to the Ten Commandments. While recognizing that Bertholet is less strained and this part is peculiarly attractive it must be acknowledged the hypothesis of its history and development on which he bases it or which he derives this interesting fact, seems too arbitrary particularly when applied to these three interval chapters (XVIII-XX). Reverting again to Paton's views, let me recall that though his at times appears strained, as a whole, his hypothesis has much to commend it. These laws in XIX do point to an original grouping. In fact the whole code does. When you omit from this chapter those passages which are priestly as XIX 20-22 or transplant XIX 5-8 to its original setting it will become noticeable that the laws that remain show signs of sets of Pentads and decads so called. And what is yet more interesting is that these groups are bound together by a similar underlying idea. ^① For example, let me refer my readers to H XIX 14-15. It will be noted that these laws on the same subject are definitely limited to five and conclude with the same phrase like the subsequent five. ^② On the basis of this fact or theory, that the laws of same thought were grouped together, we have tried to replace those which appear out of place where they most likely originally were. Throughout this chapter, in fact throughout this book, ever and again this grouping is disclosed and invariably with the same concluding expression. "I am J H V H." Assuming then that this was the original framework of the laws, would it be presupposing too much to claim that the whole code as it was originally obtained was arranged according to this plan. In other words if the individual groups reveal such excellent order and logical arrangement, is it too much to suppose that originally the entire code displays a carefully thought out and carefully wrought out scheme. I believe that we are in a position to reintegrate fairly well the code as it existed when it came from the ^{hand} ~~law~~ of the original author. In the Deuteronomic code, we

① Corresponding to the fourth commandment of the Decalogue.

② In H pentads and decads are very pronounced except in 23-25 which has been greatly interpolated but even here these too were originally grouped. Cf. H. 498

meet with an author who is more exhortative. We cannot help but recognize from the first that he is dilating on older material, that he urging loyalty to the law rather than framing an entirely ~~rather~~ new one. Do not misunderstand me. I do not mean to assert that he did not alter the law. But it strikes me forcibly when I peruse this code that the author is more occupied with the task of preaching the law than of giving the law. With one such as Deuteronomist, it would appear that he was untrue to his vocation, to deny him coherence and logic in his arrangements of the laws. For in fact he too is orderly and careful in his arrangement. For it appears to be a very corollary of his profession for him to be logical in his presentation. Evidence of this early order is not marred or disguised in the chapter treating of apostasy (XIII) or in the laws governing various officials. While we cannot help but feel that D in its original form exhibits the ground work of a well arranged plan, as a whole it seems a well nigh hopeless task to recover the definitely clear and topical frame of the miscellaneous laws in the D XXI-XXV. We recognize that there is some who are skeptical as to the originality of this entire section but we shall accept these laws original and discuss our reasons for doing so in the next chapter. We therefore presume that originally this code was drawn according to a plan, but we are only able to a certain extent to reconstruct it as it stood at first. It might be assumed, because of the extraordinary space we have given to this subject, that some doubt exists in the minds of the critics on this point. All agree at least on this that whatever may be said about the disorder that now reigns, that when these laws as compiled they presented a unified whole. It must not be denied however that some disagreement does obtain as to what constituted the original order. A certain critic starting from the premise that D was laid out according to a definite plan, proposed the interesting but far fetched and unproven theory that the scheme followed was that of the decalogue.¹ I shall pass over this theory with but the mention. For it appears remote from the facts. All I seek to do by alluding to this surmise is to indicate that all Bible students even those with most outlandish postulates make a start with the assumption that the codes as they at first were constituted followed a definite and logical outline.

In the outlines which are included in this chapter of the two codes we have tried to establish as far as is possible the original order of the laws. It is of interest therefore that we make a comparison of these plans and seek to ascertain if the one showed any dependence, dependence in the matter of the arrangements of the codes. It is to be noted that both codes close with a parenthetical conclusion urging obedience to the foregoing laws on promise of blessings or by threats of curses. If these were the only codes that we possess we could help but feel that the latter followed the former in the precedent of concluding the laws with such a strong appeal. But neither established such a precedent. The covenant code which is acknowledged by most critics as antedating both brings its collection of laws to an end with a similar appeal though considerably briefer and more direct. Moreover, we find that the ancient code of Hammurabi⁽³⁾ dating back to distant antiquity, back beyond all these three, likewise ends with a similar exhortation to obedience.

1. Schultz quoted by Stuermer Dt. XXVI. ^{Wiedemann}
2. BaMdisin Einleitung 108 to the contrary of Williamson P90 note
3. Punkko Dt. P. 45 quoting Winckler Law of Hammurabi S-46 ff.

(4) In D are also occasionally found groups of five but as a rule the structure is of a looser kind! CH. 4.

From these facts we may be warranted in inferring that all law codes prior to the Priestly concluded with similar appeals. We may therefore conjecture that originally it was the custom or habit for law givers to append to their law codices a sermon begging for observance for the foregoing statutes. Since it appears as an established usage to conclude the law codes with an urgent appeal to obedience that the redactor of the Holiness code followed this usage rather than imitate Deuteronomic law book. We are further confirmed in this conviction when we more closely study the two chapters as we shall do later on. For we shall there find in the matter of contents they are both far removed from each other. It is not our purpose in this chapter to confuse our readers here by making a comparison of the contents of the codes, but in referring to the next point we may be obliged to call attention to the material of the opening chapters of the two codes. An oft repeated statement made by Biblical scholars is that the opening chapters of both codes treat of the laws on sacrifice. For the moment, and for argument's sake, let us assume then that their assertion is correct. We are confronted with a similar declaration that the covenant code has as the theme of its initial laws the self same, or similar material and so we would be justified in claiming on this assumption that both D & H followed the plan established by the earliest Hebrew legislation than that one imitated the other. But the matter does not rest here. If we scrutinize the contents of these opening chapters, it will become evident that both are not concerned with the same subject matter. In the Holiness code, the Redactor appears to be interested in preventing idolaters practices and enjoins that all animal slaughter should be of sacrificial nature that the sacrifice should be offered the J H V H. On the other hand, compare these laws with that contained in Deuteronomy XII. Here the Deuteronomic editor has as his sole aim not the regulating of sacrifices, but the establishing and instituting of a central shrine where sacrifices are to be offered. And that as *that was* the paramount and single thought of the author, every current rite and custom and law, then *are* to be so altered as to be adjusted to this aim. *It is* not fair to suppose that an editor so absorbed in this central theme should lay it down as a premise in his opening chapter and follow it up with laws which he has modified to conform to this main theme? ^①

In the remainder of the two codes the outline displays even greater dissimilarity. We would not expect that the two codes would parallel each other in detail but even generally the correspondence is not noticeable. In the Holiness code the law over the festivals precedes the one prescribed in the mode and manner of the observance of the Sabbatical year. In the Deuteronomic, this order is the reverse. D 15-16. It must be conceded however that in the laws of the Festivals, they both pursue the same sequence. But since this is a natural and temporal sequence, it is inconceivable of what other order they ~~should~~ have followed. In that section of the Holiness code (21-22) which deals with holiness of the priests and sacrifices, it is obvious that perfect order obtains. Each subject is completely treated. Each law follows in a complete scheme. This all goes to show that the redactor carefully arranged his laws under the general heading of holiness of the holy objects and persons. In D there is not this same plan. Laws which appertain to the priests are detailed under the heading of state of officials XVIII 1-19 while those which concern the holiness

^① On the other hand, H treats of sacrifices again in XIII + XIII showing that it was not his intention to begin *the code with* this subject and to start with it as the *process* major subject.

of sacrifices are clearly misplaced in the present context and most likely followed chapter XII. Regarding the laws of the Lev. XIX which somewhat parallel the laws in miscellaneous section of D (21-25). We are in no position to make any sketches or comparisons of these two collections for the reason that in the latter section, no clear and definite plan is at present discernible. It will become more evident as we proceed that the ^{primary features} outlines of these two codes manifest growing disparity ~~and even we are loath to concede this and salient differences~~, we must grant in the matter of ground plans that both were independent.

In conclusion, let me repeat briefly by way of summary the principal points of our foregoing discussion. The two law books as we now have them present a more or less disarranged whole. Yet here and there evidences come to the surfaces of clearly planned groups. This is no mere accident, for the evidences are convincing that these groups which so often present logical internal order and plan, point in turn to a whole code which at a time with its history presented a carefully worked out plan. Evidences even of this perfect order in the code as a whole, are not lacking. And since this was the case, we are in a fair position to reconstruct them as they existed when they originally came from the hand of the redactor. Of course, at certain points, mere conjecture or unfounded surmise has to suffice in this reconstitution, ~~after we have reconstructed these codes as best we can~~. We have tried to note in this reconstructed plan that nothing was in evidence to point to a dependence in the outlines. Even where these were seemingly common features, the facts disprove any dependence. And so, we feel that we would not be far wrong if we claimed that as far as ground plans were concerned, neither code shows any interdependence. "The lack of agreement in the order either in whole or in part, or in between the two codes, or in smaller portions, argues for the independence of these law books." 1

1. Moore ^{sub} Lev. EB. Col. 2789.

Chapter III.

Unity of Codes.

We do not propose in this chapter to enter into a detailed ^{analysis} discussion of the originality of the various questionable sentences and scattered and doubtful paragraphs of the two codes. It is obvious that such an attempt here would lead to considerable confusion. By the nature of such disjointed criticism, diffuseness would naturally result. It must not therefore be inferred that the title refers to such minute analysis. Such detailed textual investigation will be reserved for that section where we will consider in detail the parallel passages of the lawbooks. Our present task now is to undertake a solution of the general questions embraced under the general definitions of the subject-heading of this section. As we proceed it will become clear that many general problems which require elucidation and explication will gradually unfold themselves, and will have to be met and studied and it will be found that the nature of the questions involved, fall within the broad limits of this title.

The codes as we possess them show ^{many} signs of a development through which they have passed. Neither of these codes survive to us intact as they were at first promulgated. Much is contained in them which is both out of harmony with the ^{general} spirit and contents ~~of the general tendency~~ of the lawbooks. While in the so-called original material itself we ~~can~~ perceive that it did not spring fullborn and full grown, from the mind of any one author. But represents the product of tedious and laborious efforts of ^{many} generations of ~~editors~~ ^{scribes}. The two codes which in their present form are more or less overweighted with ^{later} incongruous material and are the resultants of long process of growth, only concern us at one period in their development. In other words, these codes have passed through various stages. We shall omit from our consideration all that latter added material which was subsequently appended or inserted after the promulgation of the two codes or after they assumed their distinct ~~completion~~ ^{form}. ^{It is true,} As far as we know the so-called Holiness Code was never publicly proclaimed to the people. In its finished form, perhaps, it ~~did~~ existed as a literary treasure of the school which originated it. As a separate copy, it is doubtful if it ever became the common property of the general public, as did Book of Josiah. This latter volume as we have assumed, was publicly read to the people and by them accepted. Now our aim here in this work is to discover and determine any relationship, if any obtains, between these codes as constituted at that stage.

It is now a generally accepted fact among Biblical students, needless to say which we shall accept, that these codes were greatly amplified by subsequent editors who were more or less under the influence of the ~~ideas~~ ^{ideals} and principles of the school which gave birth to the codes. In the case of the Holiness Code the priestly editor or ~~editors~~ which literally appropriated this law book incorporated it as ~~their~~ ^{his} own or the greater part of it, ~~actually tampered with the borrowed material,~~ appending to original, disharmonious passages, in some cases supplanting the original with ~~their~~ ^{his} own incongruous sections or in other, altering the original in the spirit of his own. It is a fairly simple task in most instances to recognize and separate these later hands. In fact, so easily accomplished is it ^{com-}paratively speaking that one cannot help from acknowledging the distinct ~~individuality~~ ^{individuality} of the original as well as that of the later redactor. Therefore after separating these later accretions (all which is recognized as ^{emanating} from the hand of these later editors) we style Priestly ~~because~~ ^{because} these additions are in spirit of the priestly codes that which remains, after this separation we term, the Holiness Code.

Thus far, the Deuteronomic code has a similar development. The only difference ^{in the history} consists in the fact that the

priestly editors who amplified the Holiness code lived in the intellectual and spiritual atmosphere of a different school which is more or less easily distinguishable from the product which they annotated, while the subsequent redactors of the Book of Josiah were only students who worked later in a more advanced spirit of the original. While it is a simple matter to separate secondary portions from the original, in the Holiness Code because of the difference which these editors embody, in the case of the Deuteromic code it is more difficult to distinguish between the secondary and primary material because these subsequent editors only adumbrate the more developed ideas and principles of the original school and only body forth shades of the originals. The priestly editor represented different ideas of the original (H) while the later redactors of the Deuteromic (D2 D3) whom we term deuteronomistic shadowed forth mere aspects of the original. After we have separated from the codes that which was added by these subsequent editors, that which is left of the two codes, so called originals, we shall endeavor to compare ~~in order~~ ^{in order} to ascertain any relationship. After we have deleted from the Holiness code that material which show the earmarks of the priestly editor, there lays bare a code which by its very marked distinctiveness early attracted the attention of the Biblical students. ~~More by the general spirit and ethical motivation than by the external form, did it attract the attention of the students. For not only linguistic particulars too few could be neglected the Priestly editor who amplified the original which are very evident in the leading ideas and motives are very distinct and pronounced.~~ Thus this later editor's intent on proving the antiquity of the central tabernacle, on emphasizing the primitive organization of the priesthood, on fixing definitely all dating and ritual and in general, on uprooting the spontaneity of the original worship. Many more are the detailed characteristics of this writer of the more developed school. When on the other hand it is borne in mind that the Holiness writers are formulating laws which reflected conditions the very opposite or in most cases more primitive than these of priestly, it becomes no greater difficult task to sort out these two strata.

We shall not make so bold to claim that that which remains after separating Priestly elements presents an absolute unity. As some one has rightly said, ~~that~~ it indicates more the unity of a school than of an individual. (HBD Sub Lev.).

While we may theorize as to the original unity of the code, we feel ourselves on firmer ground when we refer merely to the ~~unifying~~ ^{unifying} threads which for us at least predicate an earlier unity.

We cannot help but feel that in the study of the code, we are but closely examining the head of the stream of development that later culminated in the Priestly code.¹ Many inchoate ideas find their first expression here which appear more fully advanced in the subsequent code. This to our mind accounts for the question of why the Priestly editors amplified and preserved this parent original. This must not be construed as contrary to what I said previously. Despite the striking disparity between the codes, spiritually and substantially, there is a kinship between H & P. In a subsequent chapter, we shall have occasion to point out the distinctive linguistic peculiarities of H. Let me here briefly review the spiritual traits of this lawbook. Throughout the (H) laws appear in a formative stage. They are pointed and snappy. The central idea and aim underlies the laws is to further and develop ^{of} Holy community. The motive Holiness is iterated and reiterated with monotonous regularity. "In all, the same stress is laid upon the supreme deity of J." The need of Holiness and the danger of contamination by the Canaanites. (HBDB). While the institution of priesthood begins to assume a fixity, the laws of the festival observances still show that same indefinite and

1. ~~Kugler~~ ^{Kugler} Hex. 87-8.

~~central~~ characters. Great space is given to those injunctions which make for holiness physical while the ethical are compressed in two chapters. This central motive pervades the whole which gives it, its distinctive character.

In this code, we recognize at once that more than one hand has been at work. At times the unity is marred, while again the text appears overbalanced with apparently too much discursive appeals. XVII 10-14, XXII 31-33. At the outset we are struck by the fact that while the laws of the original code are concise, short and brief, the parenetic sections are disproportionately overdrawn. ~~The suggestion that this brevity on the one hand in the law section and this diffuseness on the other in the parenetic portions, can scarcely come from the hand of the same author.~~ This internal difference points rather to the diversity of authorship. When we however look more closely at these sections so-called appeals, (we recognize even within them certain discrepancies) and we notice that, also, at times, different literary viewpoints are in evidence. And now and then, elements of possibly two or three different writers make their appearance. These facts which cannot help but attract our attention when we study the original text minutely, lead us to realize that the code as such is far from being the work of one author or composed at one time. But rather this lawbook is the product of a development with stages of different dates. "In the entire group it is natural to recognize the product of continuous editorial activity working upon elements of various origin and date." (CHCH 271) Without much searching we can help but recognize that the distinctive legal portions of the book are the more primitive while the parenetic sections were added by the redactors who gathered together these various laws and who appended their exhortations ~~because~~ ^{in order to} appeals for the obedience to these laws were necessary ~~as~~ ^{since} they must have been rigorously observed. Possibly too and here we can only surmise, since these laws were not heeded, the editors must have feared that they might pass out entirely from other attention and memory of man and so, assembled them and augmented them with impressive urgent appeals to obedience. The original legal portions of this book were probably first edited with the mere brief appeal, "I am the Lord thy God." That to these earlier compilers the mere sanction of God's name was sufficient warrant for their observance. In the parenetic sections, on other hand the editors exhaust their store of exhortations in urging obedience to these laws. Different motives are advanced as reasons for the observance of these laws. In one passage, these redactors hint that long life is in store for those who carry out these laws. In others, those who obey the laws can avoid be "vomited" from the land. And so on, appeal after appeal is urged and threat after threat is given with but one end in view to make the people live according to these laws and bring about a holy community. Note therefore the distinct viewpoint of these writers. ~~With the earlier, these appeals appear unnecessary. Merely the statement that these laws are divine is sufficient reasons for their obedience.~~ In the later redactors, we ~~cannot help but~~ feel that these editors are pleading with the people, perhaps grown indifferent, mustering all the arguments they can, picturing all the hideous dangers they can imagine, with one aim of making the people obey these laws. Now these characteristics of the earlier and later elements shall subserve as bases and marks for ~~our~~ distinguishing the original from the editorial. The former we shall designate by the abbreviation H' the latter by RH. Before passing on, let me again call ~~your~~ attention that our study is only concerned on the one hand with the writings of these two groups of writers. So often have we made reference to the unity of this code that we perhaps may have left the impression that, thought, the text is entirely harmonious. We desire here to qualify this apprehension.

Notably among the discordant elements stands the duplicate section of forbidden sexual relations. It is strange that the

① Dr. JOT p 47

② Hefinger Einführung 448.

editors permitted (two almost identical ^{and parallel} group of laws) to remain in this work. It is needless to mention that this ~~phenomenon~~ has served as a source of much speculation and has stirred the fancy of the critics to advanced numerous explanations to account for this repetition. These laws are not the only ones which are repeated. Several others appear twice in the narrow limits of this small code. XVII 10-14 XIX 26a XIX 4a XXVI 1a (XIX 5-8, 9-10 etc. XIX 31 & 20 6 & 27). These ~~latter~~ repetitions we shall endeavor to explain later in our thesis. Likewise minor differences in formulation make their appearance and while they ~~do~~ not disturb the unity of the contents, ~~do~~ arouse suspicion as to their origin~~ality~~. XIX 23 XXIII 10 XXV 26 XVII 15, 16. But to omit them would seriously affect the text and so we are disposed to concur in the opinion of many critics that this diverse framing is to be explained by the diversity of the original sources, from which the editors drew, in assembling their legal material. "The indications suffice to establish the probability that 17-26 comprises materials bound together by common ideas and phraseology representing an earlier stage of codification than Pg. A brief inspection suffices to prove that the contents have been brought together from diverse sources." (CHCH 270). ^{It is a} ~~peculiar~~ ^{fact} that the prohibitions of sexual and marital impurities should have been so scrupulously reproduced. To anyone who is in anyway familiar with the text of this law book, little doubt exists as to which of the two is the ~~more~~ original. In fact, to my knowledge no particular exegete denies that Lev. XVIII is the earlier. Even a casual reading can leave no other impression. These prohibitions are framed more in the spirit of the remainder of the code, while the laws of Lev. XX seem to have come more under the hand of the redactors. A comparison of these two chapters bring clearly before ~~our~~ attention peculiar traits of the original and the editorial. The remarkable correspondence of diction between Chapter XX and the preceding has induced many critics to include this chapter as an integral part of the original. ~~and though there seems much to commend this theory, it seems to me that~~ ^{the} chapter is rather the work of a redactor. ^{As} was pointed out previously, this section contains no new legislation but traverses the ground gone over in the 17-19 and 21. Any commentary will give these legislative parallels. But a noteworthy difference prevails, by which traditional exegesis accounts for its reason de'etre. The fact that this section, while it contains no new law, does strangely append to most of the laws a ^{particular} penalty. But this conservative explanation is not convincing. For if the author merely transcribed these laws, in order to add punishment for their violation why did he not insert the penalties to the original. ~~Moreover~~ ^{it is} strange ^{moreover} if this were his purpose in repeating these laws for five of them have no penalties at all. It hardly seems possible that he would be so scrupulous about rewriting these laws so as to threaten the violator with punishment and then in five of them to omit the penalty altogether. (XVIII 19a 19b 25a 25b) particularly as these laws seem the most important. Furthermore, seven of these laws have no more ~~than~~ the indefinite a punishment than the divine "cutting off." These enactments seem to require human penalties. In the majority of the other cases, the penalties are equally as uncertain, no prescription is given as to the manner these laws are to be executed or by whom. This is important omission of the purpose if the author in reproducing these laws was merely to add the punishment. And equally as significant, is the absence of every discrimination of penalties in harmony with the gradations of the offenses. ~~Now~~ ^{the} ~~prescription~~ ^{penalty} the punishment is the instance that in vs. 6 he threatens with divine visitation the same offense which in

1. Paton, Hebraica 1894, 111-21.
2. Baltholet Graf etc.

vs. 27 he threatens with stoning. ^{more examples like these} The instances could be multiplied to demonstrate that the chapter is "not a code of sanctions to the foregoing but rather a parallel to it." "It simply gives in another form the legislation which has just been traversed and enlarges it with a variety of motives for obedience." (Paton) Moreover in Lev. XVIII the striking thing is the perfect order which obtains. The laws are logically ordered and each subdivision exhausts the particular subject before it passes to the next. ~~chapter~~. In chapter XX, on the other hand, confusion reigns supreme. This chapter gives the impression of a chaotic jumble of laws without any attempt at arrangement. The question naturally arises, could the same author have written both?

We have had occasion in the above to mention the ~~linguistic~~ ^{stylistic} peculiarity of chapter XVIII. The author of this section wastes no words. He is as concise as it is possible to be. In Lev. XX, the author is profuse ~~in the use of his words~~. ^{he is unrelentant.} He seems more intent on urging obedience than in giving the laws. (Note particularly vs. 9, 11, 12, 13, 16, 12, 2-6) Those instances of redundancy point to the style of an author who cannot possibly be the same who wrote the legal sections of XVII and XIX. A close comparison will further show that though the correspondences are overwhelming, there are some very notable and striking differences of diction. It will be noted that in the foregoing chapters all laws are to all intents and purposes couched in the almost self-same language, clearly showing the limited vocabulary that the author has at his command. On the other hand the editor of Lev. XX has a much more copious diction, using words and phrases which do not recur even in the Hexateuch again. Not only in his style but even in his choice of words, do we recognize a different hand. Graf, early perceiving this difference, tried to explain it on the grounds that the same author who wrote XVIII and XIX later inserted Lev. XX. If the self-same editor had composed both, why did he abandon the most commendable and logical method of his early days for one most unsystematic. Why too, did he want to repeat a complete legislation with one at best in fragmentary form. For this reason it seems impossible to concur in Graf's hypothesis.

Wellhausen and Baentsch agree that while XX disagrees somewhat with XVIII and XIX, it was derived by the redactor of the whole code from a source independent of the foregoing. By this theory, they strive to explain the correspondences as well as disagreements of these several sections. This hypothesis does explain the doubling of XVIII and XX while it fails to explain the close connection between assumed kernel and its assumed doublet. ~~While this view is explainable, why is it that~~ this section Lev. XX contains not one law which is not found elsewhere in XVIII-XIX. Baentsch weakens his theory with a limp assumption that the redactor of XX inserted deficiencies of XX which ~~is~~ found elsewhere and omitted that which is only found in the doublet. And again the similarity of diction seems to be against the hypothesis of strict literary independence. For the examination of the legal section will show how great and numerous the linguistic similarities in comparison with the so-called "setting". Wellhausen too takes notice of this similarity and is at a loss to explain it satisfactorily. These linguistic and phraseological affinities make us believe that XVIII and XX are not independent of one another in their literary origin. Rather we feel convinced that as XX contains no legislation not found elsewhere in H it is due to the fact that its author had the original XVIII and XIX before him and simply worked over given material.

The purpose of the author was not for "theoretical completeness" but emphasis of certain laws¹ which fact explains his usage of repeating only a part of preceding laws.

1. Paton Hebraica.

And since he aimed not at reproducing the code but at exhorting his readers to obedience, it is quite usual and natural that his style should be redundant. It therefore seems well-founded that the same hand which added the framework to the original legislation of H repeated these laws in this chapter, making sure to add the penalties and all other expletive material. In the distinction we have drawn between the original and redactional within this chapter, we have at the same time outlined the peculiarities of both strata and on the basis of these peculiar literary traits we shall be guided in separating the remainder.

But this ~~single~~ analysis is not entirely free of ~~disturbing~~ ^{disturbing} ~~objections~~ ^{objections} to our general acceptance as we shall indicate in the course of following unfoldment. ~~It is remarkable with what general unanimity of opinion this conclusion was arrived at. But hide away the lines which they followed diverge are the paths which the pursued.~~ They all concur in the theory that the present Holiness code represents the product of a group of redactors who gathered their material which they amplified from older sources. They differ quite pronouncedly in the manner ~~at~~ ^{to} which these compilers derived their datum. Dillman advanced a most fanciful theory which appears he later abandoned. He proposed that the original Holiness code contains the long lost legislation of J in combination with some other legislation and which was combined and elaborated upon by a redactor. He advances the supposition that an original source somewhat related at least in time to C which he designates by Sinai-Gesetz was overworked by two editors Pg and J and their work existed in separate editions until RH came along, united them using the edition of J as the basis and omitting all of the J original which he had inserted from Pg. He makes bold to propose that chapter XVII and XXIV contain original J edition edited by Pg. (By this strange and complex hypothesis, he endeavored to explain the various doublets which mar the unity of the code. As Kuenen has explained, that while its ~~beauty~~ ^{beauty} commends it, its ~~simplicity~~ ^{simplicity} and lack of proof compel us to turn from it. No ~~proof~~ ^{proof} that J used any such source as S.) It is comforting to know that Dillman subsequently gave up this theory for the one which seems to be more in the bounds of ~~reason~~ ^{reason}. By this later hypothesis he proposed that an original H legislation was found by Pg and bound with it.¹ It is to be noted, and this is what concerns us, that there was an original H legislation amplified and framed in spirit of RH.

Two other theories which are more enticing which we wish to discuss. Baentsch's view of the origin of Holiness code is equally as interesting and as ~~difficult~~ ^{difficult} to disprove. While it has much to commend it, it is only of importance to us in so far as it too demonstrates that in the development of this code it was compiled and edited by RH. The RH here, however, is clearly not one author of our time but clearly many editors of different generations. Between 621-591 ~~and~~ RH made a collection of previously existing laws giving them a parenetic framework and the historical background of wandering in wilderness. This earliest collection survives in XVIII-XX, XXIII XXIV XXV XXVI 1-2. Some years later, later than Ezekial—RH2 made a collection of ~~some~~ ^{some} other laws which had previously existed, that dealt with Priests and sacrifices which are contained in XXI and XXII. Quite at the close of the exile, an exile anxious that the restored community should be regulated aright united the work of the previous redactors, prefixed chapter XVII and finding a suitable ~~and sufficient~~ ^{and sufficient} address annotated it and concluded the whole with it. While this theory satisfactorily accounts for certain discrepancies, as the primitiveness of XXIII and XXV and the comparative lateness of XXI and XXII it still raises problems which to me appear insoluble. In the first place, if different generations had been at work in this legislation as he proposes, with as great a break

1. For a further explanation of this theory see Holzinger Einleitung

in their social and religious life as occurred at the destruction and deportation, ~~by such a theory~~ ^{then} ~~leaves~~ ^{unexplained} the ~~unity~~ ^{unity} of the whole and the manifold affinities of these various supposed strata. The one thing that struck the early critics when they discovered this code was the unified spirit which pervaded the whole lawbook. Is it possible that this unity would have ^{been} so pronounced, so marked and noticeable if one generation who lived before the exile had composed one part, while another and later group of editors had suffered to live under decidedly changed conditions had compiled another? If the same individual ~~had~~ ^{had} written both sections had experienced this great national overthrow he ^{could} not have helped but manifest a changed spirit? How much truer is this with different individuals living a generation apart under such decidedly altered conditions. The striking fact that makes itself evident to one who reads this lawbook is the thread of unity which runs through the book especially in those redactional sections. Moreover the notable similarity and manifest correspondence between RH portions of the code and the parenthetic conclusion "the resemblance to Lev. XXVI 3-45 instyle and conception to XVII-XXV renders it possible that the code of which we possess the conclusion in first named Ch (Pl) are partially or wholly perceived in the preceding." (Kuenen Hex. 87-8). can leave no doubt that this chapter is not the work of an independent author who was ignorant of the existence of this code. Throughout the reading of this chapter, one cannot get away from the impression that the author who wrote this exhortation had uppermost in his mind the preceding legislation. "In all a common phraseology is used, identical expressions frequently occur the same stress is laid upon the supreme duty of 'I', the need of holiness and the danger of contamination of the Canaanites" (H Battersly DB Sub. Lev.) To claim that the RH3 found this unrelated chapter and interpolated it and added it to the code is to say the least that he was extremely fortunate to have found a chapter so closely related to the whole. The chances are that if the editor had resorted to this practice to secure a conclusion from an independent source, the difference between the oldest section particularly and the peroration should have been overwhelming. No, the same RH who appended these exhortations compiled this wonderful appeal for obedience for the Holiness laws.

The other hypotheses which need explication before we pass on, is clearly allied to the foregoing. Instead of sorting out entire chapters and determining their dates relative to each other, Bertholet discriminates twelve distinct passages in the code proper and indefinitely dates them with relation to each other. Though here and there his explanation elucidates the passages, in the most cases, his theory seems so arbitrary and without any ~~basis~~ ^{basis} or ~~proof~~ ^{proof} of separation. Similar to the majority of the exegetes, although he recognizes that the passages have been collected and amplified by a redactor. He fails to distinguish and to point out the chief characteristics of the editor. In his theory, his analysis of the redactional insertions is hazy and indistinct. Moreover as was indicated in a foregoing chapter, if his suggestions are appealing, ~~it must be confessed that~~ he falls short of explaining the duplication in the code as instanced in Ch XVIII and XX which explanation seems unconvincing.

Now while the various theories of the development of the Holiness code vary in matter of details it is significant for us to remember that the code as we possess it, is composed of original and ~~editorial~~ ^{editorial} material, on which interesting enough, practically all the critics agree. The only important points of disagreement ^{appears} to be in the process and ^{many} of growth by which the present ^{came} into its own. As to the sum of their efforts, they largely arrive at the same conclusion.

In the discussion of the original code, there remains for us to animadvert briefly upon a problem which is raised in the study of this lawbook which we can hardly pass over. Every student of Pentateuch has long recognized that there are passages here and there which bear the earmarks of the Holiness Code. Some of the critics have wholeheartedly assigned to the original H code every paragraph which has the slightest linguistic resemblance. For this reason, it is not at all surprising that so great diversity of opinion exists on this matter. While one would discover elements of H here, another would find the hand of Holiness code elsewhere. In my study of their views, it appears without doubt that this great difference is solely due to the fact that some exegetes assign to H all passages which have the merest correspondences. Some have sought on the basis of the ^{notion} presupposition of the existence of an introduction¹ to reconstruct ~~one~~ by endeavoring to discover passages in various places which exhibit correspondences, no matter how simple and slight. Of course even the assertion or statement of the existence of such preliminary address is open to dispute, then how uncertain, futile and useless is the attempt to locate the original of such an introduction. For instance the scant and meager phrase "I am JHVH" suffices for some Biblical scholars to ascribe the paragraph in which it occurs to the original code regardless of whether other peculiarities are present or not. (Addis XI 177-8 correctly notes that passages by others as Ex. VI 6-8 XII 12b XXIX 38-46 XXXI 13 Nu. III 12, 13, X 8-10 we meet only with the Divine I. In Ex. VI 6-8 XXIX 38-46 XXXI 13 the turn of the expression "ye shall know" "that I am JHVH" reminds more of Ez. than of H. In Nu. III 12-13 mention of Levites certainly indicates another source. Nu. X 8-10 has affinities with H and also differences. Holzinger points out that these assignments point to different schools with their variations.) This should guide us in the matter of determining of the original outside of the present body of the lawbook. Unless the passage contains all the characteristics of the Holiness code, where the several indications combine and where the context points to borrowing, we feel that it would be assuming too much to include the selection to the original code. With the Holiness code as the norm, those passages which have been allowed to it must completely tally with the standard or be no longer considered. Only two such passages have the closest resemblances to the original. Practically all the critics agree with them. The threads that bind them are manifold both linguistically and spiritually.

The first of such misplaced passages is the one which has long been recognized as belonging to H² is to be found in Numbers XV 37-41. The common phrase, I am JHVH, appears in this section and serves as the motive for obedience. Then again the idea of Holiness predominates throughout this section as it does throughout the code. The linguistic affinities are noteworthy. The phrases "ye shall be holy" "In order that he may remember and do my commandments" "after whom ye go awhoring" "to be to you for a God" reappear in the Holiness code, and clearly indicate that the hand which wrote this section also framed and formulated the law section in XVIII-XXVI. Moreover, this Number's passage is clearly out of place in its present position. It has no substantial connection with the preceding and it is clearly out of harmony with the following. This affinity with the Holiness code and this incongruity with the present context leaves no doubt ~~other impression~~ but that it originally was incorporated in the

1. Driver L.O.T. Ex. VI 6-8 XII 12, XXXI 13-14a Lev. X 9a-10
2. CH. CH. 273.
3. Kuenen. Hex. 278.
4. Moore (Ency. Bib. Col. 2787) rightly points out that the resemblances on the subject or formulation of laws to those incorporated in H may indicate a relation to the source of H but is not evidence that these laws were ever included in that collection.
5. Nu. XV:37-43 Lev. XI: Baentsch, Kuewen, Paton, etc.
6. E.B. Paton JBL 16:66. *Gray Numbers 183 ff*

code which we now term the Holiness. We can merely surmise with more or less uncertainty as to the manner in which this paragraph was misplaced, and dislocated. In all probability a scribe in transcribing the code, unceremoniously let it fall out of the original and inserted it in its present location (as Lev. XXIV 15-22). It is of interest to know that practically all critics of standing concur in this view that this law on the fringes is an original one and they only differ as to the context in which it is to be replaced. While we are on this section, it may not be out of place to call attention to the fact that a clear distinction ^{between original and redactional} can be noted on bases of the previous characteristics ~~as pointed between the original and redactional~~. Though we shall not here analyze this section into its component elements, we ~~may~~ call attention to this differentiation ^{in order} to show that even this section was dislodged from its former context only after the code had been redacted.

In an original passage in Lev. XX ^{we find} one suggestive reference to the dietary laws contained in Lev. XI. Like the previous dislocated passage this section is likewise ^{recognized as} out of place. Its affinities with the original ~~is~~ too manifest. In fact, if there had been no such section extant we would have had to guess the existence of some such passage. Its dominant note is holiness. Its language has striking resemblance with H and the spiritual contacts are numerous. Such a law is in keeping with spirit of the original, which is designed to make for the physical holiness of the Hebrews. These two sections are the only ones which we have deemed characteristic enough to admit in the original code. The other sections adduced, belong to P1, that is, an older stratum than P2 and the literary connexion between them and H are no closer than that of P_g and H.

In the foregoing analysis of the principal problems of the unity of the Holiness, it was our chief purpose to outline the general principles and to endeavor to give a concise solution of the general questions and to explain in general way the perplexing difficulties, such as the seeming elements which make for the disunity of the code, and merely to touch upon some of the problems we shall more fully discuss subsequently. We have attempted to explain the underlying ideas of the various strata; ~~and~~ older source lying at the bottom of the present code and the other which is in the hand of RH who overworked the original and annotated it with parenthetic exhortations- and to include in this code those original selections which without doubt originally were embraced within it. Our aim in devoting so much space to this subject is not only to limit the scope of our work but likewise to define the problem more definitely. As far as the Holiness code is concerned, we shall ~~stick on its merely dual side to trace any relationship with the Deuteronomistic that is,~~ ^{merely deal} with the material code as we understand ~~was~~ originally comprised under the titles of H and RH.

So certain questions in the Deuteronomistic code will have to be disposed of before we can approach the problem which is our ultimate field. Just as in the study of the previous code certain questions have been proposed which affect the originality of the D, and certain passages which seem seriously to disturb its unity, we can do no other than to discuss these problems and to outline our view as to the original solidarity of code.

The paramount problem which seems to absorb the attention of the latter day critics when they analyze the text of D lawbook is one which is raised by the frequent interplay of the singular and plural form of address. It appears that Cornill was the earliest to note this peculiarity and when other contextual facts bore out his contention, he would consider as a latter interpolations those which are addressed in the plural. He was inclined to regard those passages with the singular address as the basic and original element of the code. It is really remarkable what insight he displayed in discerning this pe-

1. Baentsch XI and Nu. XV 37-41 Driver SBOT Addis II 177-8.

culiar linguistic fact of D and the passages which he considered ~~strange~~ as alien to the text are ones mostly which on other grounds and for other reasons have by other critics been omitted. It is to be noted, however, that the noteworthy characteristic about his labors, quite dissimilar to his later disciples, is the conservatism and caution which he manifests. In fact, it strikes me that he does no more in advancing this his theory than put forth suggestions. He feels a reluctance, it appears boldly to propound this view. ~~With circumsppection, he suggests this by~~
~~pathetic.~~

To what extremes these his suggestions lead in the hands of other critics is too well known to those who are conversant with the criticism of Deuteronomy. Starting in fact with his hypothesis, these critics have adopted it as their starting point and guide and each have advanced and always into different conclusions. Such diversity of deductions and decisions, so called is proof positive of the inadequacy of their basic guiding rule. The very fact that the same compass does not point to same pole is evidence that either the instrument is faulty or the reading is unreliable. If the same initial thesis leads to different conclusions indicates that either the critics are not following carefully their guiding principle or the principle itself is faulty. Staerk, Sternagle, and Mitchell as the prominent exponents of this principle although pursuing the same methods and following the same rule ~~do not~~ ^{have not} reach the same conclusions. For a full discussion of these theories we will refer our readers to their various literary works for to go into them here would lead us far beyond the limits we have assigned to our present work. ~~On the idea~~ ^{On the idea} that the code is a composition of practically two elements that may be indicated by the singular and plural address. The former being the primary and original to which the secondary was added and inserted. Mitchell and Starck it appear, followed out this view slavishly and compounded an original code which differ radically with each other. To me it appears that Mitchell very fastidiously conformed to this principle and anyone who would be guided by it as he has, could reach no other conclusions than the one he had.

On the other hand, Sternagle begins with XXI 10-XXV 10 and separates laws of humane tendency and believes that these laws fall into natural sequence and are thoroughly ordered. In that which remains, he seems to distinguish the survivals of still smaller codes and groups together the laws which mention "Elders" in one composition, and those which deal with war into another, and those which characterize certain obnoxious offenses as ~~the~~ ^{the} into a third compilation. He attempts to show that these three groups originally existed separately and were subsequently combined. He styles the triple groups A, and the so called Humanity-group B and then he finds in XII-XX certain laws allied with A and B in style. He then notes that in reality D XII-XXVI comprises A and B and various glosses and additions made by an editor who united D with J and E documents. He then notes that those collections which he termed A are connected with the plural while other with the singular.

Moreover Sternagle inquires minutely into these smaller codes (A) and professes to show that the code called the "Elders" was in turn compiled out of preexisting laws collections. Such as (1) of enactments in which people are addressed in singular 2nd person (2) of laws of family life without the direct address of either thou or you. (3) of prohibitions against immorality (4) and by additions of the editor who composed the so-called "elders" section. With this however ~~he~~ ^{he} does not rest but continues to follow his imagination to the extent that he explains that the mention of Elders in a law with the formulae ~~the~~ ^{the} is due to the editor of the elder group. According to his hypothesis it is to be observed that more than a dozen hands are to be traced in this code. While it is not incredible that a dozen persons may have worked on this lawbook it is nevertheless next to impossible to prove the exactness of such ~~the~~ ^{the} ~~few~~ ^{few} ~~reading~~ ^{reading}
Separation.

While a theory may not be recommended by its simplicity the complexity of this reconstructed development rather militates against its acceptance. "Well may we doubt the possibility of tracing these various elements in a document which like XII-XXV is written in one spirit and in a style which is well-nigh uniform."

Furthermore if this view of the development of present D be assumed as correct it still leaves much to be desired in the explanation of the present complexity of present text. If D existed originally in so many little separate codes, why this jumble and uncoordinated collection in the section of Mt. XXI-XXV. While we may not expect that the editors should arrange these laws in accordance with our modern idea of logical order, there is no reason to suppose that they lacked entirely any sense of natural sequence. Then these explanations fail to account for this miscellaneous arrangement of laws. For would it not have been a natural thing for them to have kept these codes distinct, why mix them up in so unrecognizable a mass as exists in XXI-XXV.

A minute study of Sternagle's theory will disclose a close connection between it and the previously mentioned criticisms. While the aforementioned exegetes followed out in detail the separation of the text on basis of the singular and plural the latter merely got his suggestion for his fantastic speculation from the attempt at such linguistic analysis. It is our opinion that such separations of the source has not proven satisfactory to a reconstruction of the Josiah text. For one thing, such analysis takes little account of the contents of these passages. Merely the most superficial examination suffices to dissect the text, while passages which seem related in matter of contents, are separated merely on the basis of the number employed. It assumes that the text as we possess it remain intact. It presupposes that this text which has suffered transcription times without number by scribes without end has been transmitted to us in the exact form in which it was first framed. This assumption is disproven for the reason that the Hebrew text is not accurate as the Septuagint and Samaritan texts will show. And the differences in number between the present original and the translations which are remarkably numerous show how unreliable that theory is as a sole criterion for the discrimination of the strata.¹ Moreover, Jeremiah² a contemporary of the early Deuteronomist literature and whose writings contain many striking linguistic parallels with the code employs the singular and plural forms of address indiscriminately and sometimes seemingly without any adequate reasons. By this reference we do not mean to intimate that it was usage of that time to indulge in this sort of literary composition, for other authors especially the Psalms intermingle these different numbers. But merely to show that even with us, these numbers we sometimes inadvertently interchanged and that one author is more likely to employ both than that two authors used different ones solely. In the case of D, the plural passages seem to indicate in the majority of cases rather the insertions of one redactor than that of another source and this editor when he did make use of other sources did not alter the form of address to make them comply to his accustomed style. Furthermore it may be of interest merely to touch upon Puukko's³ objections to this way of separating the primary and secondary elements. When a passage which Sternagle deems ought to belong to one group while the form of address point to another, the critic does not hesitate, rather oversteps the bounds of reason to change it. Such efforts are not without interest but are too purely hypothetical to require anymore notice still less to command general assent and clearly prove how uncertain and dubious and precarious is the principle by which they separate these various elements.

In XV 4 and XV 11 seem to contradict each other and yet both are in singular. In XVI 8 which has the appearance of being (an ad-

1. CHCH 165 N.

2. G.A. Smith, CHCH 165 N

3. 239 (consult further)

dition is in the singular. Finally there are cases where singular and plural form are inextricably interwoven, each being indispensable to the sense, or where the plural occurs, the passages are admitted to be authentic.

As we have noticed in the foregoing that while the code seems bound into a unified whole by the uniform spirit and almost monotonous style, as well as the semblance of a ordered sequence, yet as has been noticed, a great part of present elements which to say the least, perplex the students of this law book. Here and there the order of laws leave something to be desired and occasionally the suspicion of later interpolations is provoked. In the passage, chapters XXI-XXV, show character varying from the rest of lawbook, not merely therein that here Jus civilis is treated but especially in formal aspect.

Kuonen (quoted by Holzinger) seems inclined to delete these passages in this section which appear as ~~various~~ ^{various} from the natural order. While we are disposed to agree with this Dutch scholar that the code is more or less a whole, we must take exception to his principle of separating the various elements of this miscellaneous portion for the reason that we must not place a too high estimate on the natural sequence of laws. Puukko¹ on account of these divergencies from the predominant character of this code considers these five chapters as later insertions and as not original in the Josiah lawbook. While we must recognize these discrepancies and feel that the chapters are not entirely necessary to the aim of the code as indicated in previous chapters and as adding nothing to the motive for which supposedly they were written, we are far from acknowledging that the original author was so cautious and critical in the composition of this lawbook. It is one thing to claim that these chapters do not add anything to the fundamental principle of the code. It is quite another thing to claim that they contradict this basic purpose, which they do not. If they should have, we would be justified in agreeing with Puukko. Since however they could have well been included in the code and yet would not have interfered in the purpose of the author. With Puukko these laws may be as old or even older than legislation of the concentration of the sanctuary, he maintains, with some doubt it appears, that they were gradually introduced into the code which according to him originally comprised merely XII-XX-XXVI. These disorganized laws appear distinct in character from the ordered section. They are disordered while other part has better arrangement. We cannot emphasize too strongly that this absence of logical sequence cannot be urged as argument against its originality. As for its distinctive spirit, it is acknowledged that many of these laws are the contemporaries or antecedents of what he terms the Josiah code. We do not see how anything is gained to say that then these laws were interpolated gradually into the so-called code. Since these laws are not discordant with the spirit of other chapters, even though they may be distinct. There is no reason to assume then that they were inserted perhaps disorderly in the original code by original redactor than to say that though antedating in some cases D's they were incorporated by later editors. This view seems consistent and I might say all the more convincing since so many critics² have found that while there are differences, they were not such as to make this section incongruous with the earlier code.

While we assume that the lawbook XII-XXVI and XXVIII is a single whole, we are not unconscious of the fact that alien material has been inserted which mars the unity of the code. To start as so many of the critics have done with the view that that passage which is inconsistent with the all pervading spirit of the whole code is of later origin gives some justification to the extreme conclusion of the abovementioned critic. Bertholet (Deut.) has followed a more conservative course and one which commends itself by the fact that it does take into consideration

1. Puukko PP 255.

2. Kuonen Hex. 137 Driver L.O.T. Berth. Deut.

even though to a small degree the opinions and principles of those who distinguish the text on bases of singular and plural form of address. He assumes and rightly it seems, that the code is a whole and as we possess it, identical with the one which shaped the reformation of the Josiah. While there are interpolations, these are distinguishable not on the principle of form language or style but by definite and most thoroughly sound principles. These passages or laws which are (1) out of the older prophets or (2) or older law collections as C, J & E, or (3) which follow premise advanced by D or (4) which we are according to rule and in keeping with the descriptions and prescriptions of 2 Kg XXIII are considered as belonging to the original D. all that does not conform to these rules ~~remains~~ is unoriginal. *We are following the principle of retaining all which can possibly be retained in original.*

Though we shall not examine each passage separately here in the light of these principles, but reserve that detailed analysis for subsequent chapters, we feel that we were obliged to discuss these various principles which have been advanced to explain the complexity and difficulties of the original text and outline the principles we shall employ in discriminating the original code.

Thus in mapping out the extent of the ground and material of these two codes we propose to study, we are more definitely approaching the ultimate problem. While in H, we attempted to distinguish the principles by which we separate the original ~~from~~ the redactional, in D, all we have proposed to do is to ascertain and arrive at the original Josiah code. ~~Thus we shall follow definite principles~~ And the correctness of any textual discrimination will depend on the accuracy of these principles *individual* than on the separate analysis of any passage.

Chapter IV.

Relative dates of the two codes.

Questions of almost unsolvable difficulties arise when we seek to establish the exact and definite dates of these two codes. So varied have been the proposed solutions that no definite and positive statement can be made as to the precise time of their composition. So far as our task is concerned however, an approximate determination of their ages will be sufficient and a relative temporal perspective, satisfactory. In other words to know which of the codes is the younger and the approximate period which separates these compositions, is all that seems to be necessary. To ascertain their relative date to each other constitutes our aim in this chapter and is sufficient for our ~~theme~~ ^{purpose}.

Without any deliberate design to deceive but merely to procure authority and sanction for their respective codes both editors or compilers ascribe their respective productions to the ancient Hebrew lawgiver Moses. The redactor of the Holiness code dates his work to the early leadership of Son of Amram especially at the time of the ~~Sinaitic~~ ^{Sinaitic} theophany. He desires to establish the impression that his code was composed at the time when Israelite wandered about the Mountain whereon they had received the decalogue. The redactor of the Deuteronomic Code while claiming for its authorship the same author, yet sets it at the time when the Israelites were wandering in the Plains of Moab and is the last ~~act~~ ^{act} of Moses and therefore as a sort of recapitulation of all his previous productions.

It would be bootless to review the points which clearly upset this literary conceit. The internal evidence is so overwhelmingly opposed to this tradition that to rehash it would be uselessly drawing a series of arguments and repeating facts which are all too well known. The opinion is almost universal that these codes could not have been written by the so-called Ancient lawgiver.

Since this is the case, we must turn from the traditional view of the date of their production to the codes themselves. Both reflect a settled life and view the nomadic wanderings of their ^{ancestors} as experiences long since passed. They ~~leave~~ ^{leave} so many evidences of a life much later than Moses that to go over the indications would be attempting a gratuitous task. At what period therefore shall we set the time of these codes? We can the better determine their relative temporal position to each another if we first can set an exact date of one of them, and that as a fixed point to determine the time of the other with relation to it.

The approximate time of the composition of the Deuteronomic code is generally agreed upon. The majority of the critics of England and Germany concur in the view that this code of the so-called Fifth Book of Moses was first publicly promulgated in the eighteenth year of the reign of Josiah. As we have in previous chapter started with the assumption that the account in 2Kg 23 refers to the discovery of Deuteronomy we shall pass over this theory by referring our readers to any critical commentary for a full exposition of the reasons. "Nor in England and Germany has the judgment of scholars been changed seriously." (Addis 11:2) Whether by accident or on ~~purpose~~ ^{purpose}, it was discovered in the Temple little concerns us here.

In the year 621, this book, found in the Temple was read to the people.¹ As to how long it lay in the Temple, before its discovery or the number of years it had been compiled before it was revealed, is a question about which there is much disagreement, that while serious, is not irreconcilable. Some trace it back as far back as Manasseh, when its compilers endeavored to combat the idolatrous practices of his times. Others look for it in the reign of his successor while still others are of the opinion that it was the product of the group who pretended to have found it.³ No matter how many years before Josiah, it existed, the fact remains and suffices for our purpose that it was adopted as an authoritative work by the King. It is quite certain from its contents, despite the individual opinion of Sternberg,⁴ that it could not have been written many years before Josiah. A very distinct indication of the age in which D was written is found in the allusion to the foreign religion which it attempts to combat. (D 17:3). The reference to the Assyrian cult which is frequently condemned by prophets of the 7th century Jer. VIII IX 13 XXXII 29 VII 18 XLIV 7 and not mentioned by any earlier writer clearly reflect a view of the religious conditions obtaining at the time of these three kings. Evidences might be needlessly multiplied which tend to show that the laws apply to a condition of affairs prevalent at the time included in the reigns of Josiah and his two predecessors. For one thing its language is closely allied and related to that of the contemporaries of this zealous king. Its legislation was more applicable to the time and conditions of Josiah than to those of the generations preceding. A relatively late date has been inferred from laws against the erection of stelas and sacred poles (אשרה + עמוד) by the altars of God (S B O T). The prophet of the 8th century assail the idols of "J". The polemics against (אשרה + עמוד) begins with Jer. (S B O T) 1. It remains therefore for our purpose at least that this date may well subserve () as a fixed and established point. This established date, which is so universally accepted as a time of its promulgation can serve as a point by which we can ascertain the temporal relationship of the other literary product.

Like D some of the laws of H indicate and point to a high antiquity. Similar to the editors of D, who derive some of his primitive material from the earliest Hebrew Codes, the editor of H made use of earlier sources, incorporated some laws which reflect very primitive conditions. These laws² naturally appear to antedate in origin and applicableness the laws of D. The general combination of these various laws in XIX 19 shows that to our author the original meaning of these particular laws had disappeared. "The date of P' (H) himself must not be confounded with that of his sources." ² On the other hand, possibly, there are laws in Holiness Corpus which seem contemporaneous with ^{and} posterior to D.

1. Kittel 11 376.

3. Baundissin ~~First~~ ^{First} ~~and~~ ^{and} ~~the~~ ^{the} ~~original~~ ^{original} ~~text~~ ^{text}.

2. Patton 280-11, XIX 19 clearly appear older than laws of D ^{cf. 9a discuss} ^{ad 8b under} ^{Holiness}.

4. ~~Hexateuch~~ Hexateuch 287.

(4) Sternberg, ^{Kuenen} ~~cf.~~ (The Ethics of Dt.) sets the date of the compilation of D in the time of Solomon. So unacceptable is his theory that we need not waste time in controverting it.

Any sort of analysis will bear interest that there are laws in H which evidently designed to regulate conditions of different periods. It is next to impossible therefore to determine the individual dates of these separate legislative enactments.² For the question has to do not with the age of the law but with the date of the redaction of the entire Holiness Code. (EB, Col. 2789). In order to determine the date of the H code especially with relation to D it is necessary to distinguish between the legal and redactional sections.¹ It is evident that the most recent and latest reference in the hortatory sections compiled as they are by the editor may be correctly presumed to be the time of composition of the code. In other words, as the redactional comments in the legal sections represent directly the work of those who compiled the code, it may be presupposed that any allusion as to the time in that hortatory addition represents the date of the completion of the codes unless the reference is so late as to be obviously spurious. Moreover, some of the laws which the editors incorporated in this code are directly practicable to conditions only for his day are either too advanced for earlier times or not at all regulative of conditions remote or removed from his. Therefore while the redactional notes are wholly convincing, some of the laws themselves which are incongruous with earlier times and suitable only for later dates come to our assistance in setting the time of composition of the code. In short, the time of the composition of the code must be sought mostly in the parenthetic of the book, not however exclusively. For the legal section is too not without interest in such an investigation, as the most recent material is of aid to us. It goes without saying the most recent reference unless it is too advanced for the legal material which it amplifies therefore represents the earliest time at which the author could have composed his volume.

Throughout the lawbook, single brief laws here and there are clearly drawn to regulate most primitive conditions. Injunctions as XIX 9-10 directing the agriculturists to leave the gleanings of his harvest for the poor clearly reflect conditions obviously older than conditions lighted up in the greater part of the law sections of Deuteronomy. The various direct commandments or prohibitions to make no incision and similar ones, while repeated in D are manifestly designed to inhibit customs which are as ancient as the Israelites immigration into Canaan. Similar ancient laws might be called upon to prove how inconclusive is the reasoning to attempt to determine the date of the whole code from them. These brief laws can give no definite clew to the definite time of the composition of the code, but merely point to a practice of the compiler who drew on diverse sources for his legal material. And while these short and curt laws indicate nothing as to the time of the code, it is equally in vain to search for the time of the codes in the whole legal sections of chapters XXIII and XXV. No one doubts the high antiquity of these cultural prescriptions. In fact the impression one derives which I might say is correct that these laws point to conditions much less developed than those of the time of the Josiah code. The lack of definiteness and the spontaneity in the observance, conclusively confute any attempt to ascertain the time of composition of the code from them.

1. CHCH Loco The repetitions and duplicates sufficiently prove diversity of source and diversity of source involves diversity of age. A distinction arises between various materials of which it is composed and hortatory framework.

(2) Bertholet makes some such attempt which is not very satisfactory

It is obviously clear beyond dispute, that the compilers were employing legal sources much older than their own time.

When however we turn from these highly primitive portions to other sections of the law book we are confronted with material which are unmistakably of later composition. The detailed and definite prohibitions against unchastity (H 18) set forth a later development than a few general laws on the same subject in D (XXIII:1). The minute particular and classified inhibitions against sexual impurities prove that these laws are more advanced and hence later than the comprehensive laws of the Josiah code. They show that as conditions change new circumstances arose which necessitated new regulations. The assumption is general that the general prescriptions of the D are of older composition for the reason that circumstances had not yet arisen to call forth detailed regulation as was the case in H. This greater particularism in Holiness Code proves its younger composition. And yet this indefinite dating is about as near as we can arrive at the time of the compositions of the code from this chapter.

One of the remarkable phenomenon of this code is reflected in the indefinite character of the festival observance on the one hand and the definite and fixed regulation of the priesthood on the other. This disparity naturally points to a diversity of sources as well as to a difference in time of origin of these two sections. The indecisive laws on the holy occasions as we have seen point to an origin which is pre-Deuteronomic period. How does the other section (H 21-22) stand in regard to D? Indications in D point to the beginnings of a fixed form of the priest caste. While at the same time this priestly society had not obtained a fixed order. On the other hand, the priesthood in Holiness Code is centered about the single sanctuary. Definite regulations are prescribed guarding their holiness. The most striking fact however, discernible is the appearance of a single priest acting as head of the priest class. He has not reached the position as high priest as described in the priestly code but the laws here point to an institution which was a halfway station in the development to the fixed institution in P.C. 1. Stricter laws of holiness circumscribe the "priest who is greater than his brothers" with that of the ordinary priest but yet not as rigorous as prescribed in priestly code. He is "one among his brothers" with somewhat more defined rules guarding his conduct than that which was applicable to the other priests. Now it is evident that this institution is certainly a later development than of D. While Josiah law book makes no mention of the so called high priest, in H one finds that the beginning of an institution which played a great role later in Israel. It is the natural order of things for the laws legislating and describing more stereotyped priestly caste to be deemed as later compilation than the legislation in D which point to indefinite organization of the priesthood which is certainly of older origin.

I. H. points clearly to a higher antiquity than P.C. It is generally accepted without argument that the institution in H has not reached that fixity which is so evident in P.C. The absence of mention of sin or guilt offerings in H likewise tends to prove its priority over P.C. where these sacrifices are notably prominent. Addis 11:173.

While the reformer in D plans to organize the priesthood upon some definite basis about the central sanctuary, the while making provisions for the local priests he shows that the organization of the priesthood is undergoing a transformation, a transformation which the laws of Holiness code no longer seemingly ~~are~~ cognizant of but instead reflects an already well founded priestly order centered about the single sanctuary. The absence of any mention of the Levites in H is significant. These references should lead us to place the Holiness code at least a generation after D. It is clearly evident that any earlier dating would have brought to the fore in this code the dissatisfaction and friction which resulted immediately from the program of the reform of 621. However at best this is but conjectural and not entirely assured. At most we may deduce from laws on the priesthood in the two codes the fact the legislation of D is the older because that of H reflects a more advanced order and hence is later.

The outstanding and significant aim of the Deuteronomist is the reform of Israelitish cult. His method in attaining this religious improvement is largely contained in the centralization of the worship and the establishment of a single sanctuary. This noteworthy contribution to the religious history of Israel to all intents and purposes shaped the subsequent development of Hebrew religion. In the Priestly code a much later legal codex, practically, the single sanctuary is an assured and accomplished fact. Between these two we find the reform of Deuteronomy gradually working its way into a definite and fixed institution. As referred to above, the chapters dealing with the priesthood (Lev. 21-22) presuppose a single temple. The intimation is that the high priesthood resided in this sanctuary. The priestly order centered around the solitary place of worship. In the opening chapter of the Holiness Code we again come upon a reference to this single sanctuary (17-4). Some doubt exists as to whether the original H sub stratum contained any allusion to this central shrine. Some maintain that the word (¹⁷⁰⁰) (in vs. 4) "residence of" on which the supposition is based is an interpolation of the redactor while others are of the opinion that this work is an element of the older source.⁴ The very fact is that the legislation in chapters XXI and XXII implies the existence of a single sanctuary.¹ The legislation and not the parenthetic portions seems not to leave any doubt that the "dwelling place" is an integral part of the ^{parenthetic} original sentence. The very fact that this word (¹⁷⁰⁰) definitely refers to and signifies a single sanctuary conclusively proves that this legislation is the work of an editor who lived at a time posterior to D. For the reform of Josiah initiated and instituted a decidedly new institution² or reform which made it ripe ~~possible~~ for the Holiness law giver to incorporate this reform in his code.

1. SBT 17 WRS OTJC 249.

2. CHDH

4. Addis 11 336. "We may with Kittel Baudissin, W.R. Smith, Driver suppose that the law before its incorporation into H contained no mention of central shrine." Moore (EB 2789) seems inclined to consider insertion as a work of a later priestly editor who attempted to harmonize this passage with the spirit of P.C.

While we are certain that this law is posterior to D we are in position even to set the date more definitely from this passage. The following law in this chapter makes it mandatory that all slaughter be sacrificial a law more stringent than Josiah legislation, which makes an exception in favor of those who live at great distance from central shrine. In H, this exception is abrogated in favor of a law that makes all who would slay an animal bring it to J V H. Now it is quite evident that D made this exception on account of the difficulties one would encounter whose dwelling was remote from Jerusalem. It is quite obvious that the boundaries of the country were far more extended and that worshippers were residing a great distance from the central shrine which made it a matter of impossibility for a person who wished to slaughter an animal for him to bring it a great distance to the capital. It stands to reason that an exception had to be made in his favor. And D modified this general law to exclude him from its operation. In H we find that the older law which D modified, repeated. That aside from establishing anew the central sanctuary, he also commanded that all animals for slaughter be brought to J V H. The question consequently arises whether H purposely sought to abrogate the law of D. The answer naturally suggests itself that the problem of distance which D desired to overcome no longer existed. In other words, as has so frequently been suggested the community was so reduced that the Jews were now grouped around the Temple. It must not be inferred from the foregoing however that H was dependent on D for this formulation of this law. Subsequently we shall discuss more fully the contacts and disparities of these two laws. It is quite possible and most likely that this law was framed at a time when the Jewish community in Palestine was so attenuated and resided in close proximity to the Temple. When could this condition have existed after the Deuteronomic reform? At what period after Josiah could such a law be practically applicable? To my mind, two periods seem most suitable for such legislation. Either after the first deportation; Horst (65 Sq. quoted by Kuenen Hex. 283) places this work shortly before the exile. In this, he fails to do justice to their contents or to distinguish between what was necessarily involved in the form selected by the writer and what we may infer as to his own date from the underlying assumption on which he goes. "(Kuenen 283 places date in the latter part of exile, he acknowledges that Wursters theory of the date of the code as immediately after the return as seductive." Addis finds Wursters view difficult to reconcile with Lev. XXVI (Baeutsch, Holzinger). The former date is out of the question for the reason that the code itself presents certain intimations which point to a later date and hence the code is a later composition. The references to the exile clearly indicate that the people are practically suffering from its hardships or has just experienced the exile in its completeness. The allusions in the parenthetic sections of chapter XVIII clearly bring under our notice the fact that the exile was a reality, that they have begun to examine the causes for their personal sufferings. It is beyond dispute that such reasoning comes rather as a result of the experience than in anticipation of it.

1. SBOT 17.

2. B Baeutsch Ex. Lev. p.p 389 Addis 11 336.

"We are brought far into the Persian period when the above commands were at least not quite unpracticable for the reason that at that time the Jews lived together in a comparatively small group around Jerusalem." (Baerensch quoted CHCH). From these sentences it is evident that they have been victims of the deportations. They have literally been "vomited" out of their land. These statements are mere glimpses of actual affairs. And enable us all the more definitely to set the time of composition of the whole. It goes without saying these allusions could not have been composed before the exile and certainly must have been written either during or immediately afterwards when the vividness of their experience was still dominant in their minds. The manifold contacts of the concluding exhortations of the Holiness code with the writings of the priest-prophet of the exile Ezekial are nought else than commanding. In fact so numerous are the parallels that some critics have proposed that the author of this chapter is none other than this prophet. And the similarities are indeed striking. The similarity of style, vocabulary and phraseology is very remarkable. Ezekial and P' have 22 expressions in common which occur nowhere else in OT and 13 more which occur nowhere else in Pentateuch. (Kuenen 276). But while linguistically and substantially these resemblances are noteworthy, notable differences are present. Some of the idioms frequent in H do not occur in Ez. as שׁוּבָה לַיהוָה אֱלֹהֵינוּ Ez. does not use the expressions שׁוּבָה לַיהוָה אֱלֹהֵינוּ (Kuenen 276). Substantially as well, various divergencies are more contributory to the view that the prophet and law giver are not identical. Ez. (44) makes mention of the subordinate priests (Levites) while H is silent thereon. In the prophetic work, the festivals have fixed date, H still knows of no such unspontaneous institutions. (Kuenen 285). Further minor differences prove the more or less difference of the two authors. The strongest disparity is Ezekial's description of the spiritual head of the community as the prince (נָשִׂיא) while at the same time the Holiness Code definitely points to the first signs of the organization and institution as the High Priest. Neither knows of the existence of the other. It is moreover plain that different names by which the two designate the heads of their community convey different institutions. In other words these different names show different institutions and do not describe the same institutions. Did the one evolve from the other? I do not believe that there is any critic who will openly espouse the view unqualifiedly that they are thus related. Gray to the contrary J Q R 6:181 maintains a similarity of these institutions possible. (Kuenen is of the opinion that H is a copy of 2310 copying word and, which in no way infers view in hold that H is a product of the age in which Ez. came to royalty.) Rather they are inclined to think them separate and distinct. This fact among others shows that Ezekial could not have written this chapter or edited the code. The relationship between the two is somewhat ~~a little~~ closer than exists between Dt. and Jeremiah. They happened to be written and composed at the same time and possibly within same religious circle which accounts for the closeness of the two in language and thought. The similarities are outweighed by the dissimilarities.¹ While the similarities are striking the dissimilarities are more convincing.

1. HDB sub. Lev. "it is probably that H was a product after Ezekial toward the end of Exile". Addis II 182-3.

(Noldeke 71 comes to the result and decides for the priority of H with Klosterman, Driver Smend (27) that H is younger than Ez. especially H 26 written apparently in Babylonian captivity and plain imitation of Ezekial. The priority of H is indeed frustrated by the fact that editor of Lev. 26, 3-45 had a longer captivity back of him than Ez. The conclusion hardly permits a fixed date. It is against close of exile and in beginning of restoration. (Holz. 446). It is evident that these resemblances prove that H is a product of the age of Ezekial. "Holiness Code" arose in the second half of Bay. captivity presumably shortly before its close; and there is not a single valid objection to this date. Keunen 276. (While the differences show conclusively that it is the work of his school.)⁵ While it is impossible to speak positively on a question of such difficulty, it is conceded by the critics who lean to theory that H is prior to ²/₂. and those who favor an opposite theory the time between the two productions cannot be separated by many years. As Budde (Hist. 205) observes that Ezekial's vision passed over into practical law book which was a tendency towards the complete isolation of Israel and avoidance of every pollution.

The hortatory conclusion of Holiness Code presents to my mind proof positive of the time of composition of the code. The exile seems to overshadow the whole chapter. One cannot get away from the fact that the writer is experiencing this national disaster in all its intensity. The description of the stark desolation and bare devastation pictured in all its ghastliness is a vivid and true account of the conditions which then obtained. The pathetic reference in opening chapter XVII 5-7 to the worship of the Sierim hint at conditions of national desolation and perhaps may point to the devastation wrought by Assyrian War.¹ The preponderant threats over the promised blessings instance the reality of the suffering which the nation is enduring, showing that the preacher quickly passed over the blessings to the curses in order to explain the present plight of the nation. The impression derived from the perusal of this chapter leaves one with the idea that the author has had a long exile behind him.⁶

While he may not have prevision to see its end, he is describing a condition long existent. This truth enables us to place this code in the latter years of the exile and after Ezekial.

The years which separate the two codes and the intervening and substantial changes in political and social conditions account for the remarkable linguistic difference in the two codes. ~~In fact, the surprising thing is that these two codes that there are so many resemblances, and they are to be explained by the employment of original sources than by interdependence of the redacted codes.~~ Therefore for our purpose, it is sufficient that we place the time of the redaction of the code after Ez. in the Exile and that places it about two generations approximately after Deuteromic Reform.

1. Baentsch 389 WRS RS 8598 Jinns.

6. Keunen Hexatuch 287.

Chapter V.

The Linguistic Relationship of the Two Codes.

In the foregoing discussions I have endeavored to show that from a general viewpoint, it ~~was~~ impossible to sustain the opinion that the codes were in any way dependent. This far, it has seemed strange that lawbooks composed and compiled at times so near to each other display such paucity of evidence of any such relationship. Scarcely a century separates the compilation of these law codes and, yet ~~this is~~ ^{it is} surprising withal, that greater similarity is not in apparent evidence for it would be expected that the times and spirit which had undergone so little change between their compositions would have found expression in some correspondences in these books. The absence of many expected correspondences becomes all the more evident in this present examination of the language of these codes. The striking linguistic similarities of the lawbooks of Deuteronomy with the prophetic work of Jeremiah or ^{other} contemporary products or the Holiness Code with the Book of Ezekiel, produced apparently by independent authors are about the same time are notably manifest. "But when the styles of two (D & H) are compared minutely, numerous differences, at once reveal themselves, as shall be noted immediately, ~~for Dt. presents affinities with Jer. while H presents affinities with Eze.~~ ^{It is therefore nothing less than natural in these two law codes that some usual correspondences do appear. And yet, as I shall prove, these two codes, as entire strangers to each other, are lacking in linguistic correspondences in which one would expect closer relationship, since they were being produced at times near to each other.} differences unexpected in

In this section in which I propose to make a study of the relationship of the lawbooks by a comparison of their language and to prove the independence of these codes by an absence of ^{of} correspondence in the language I feel it necessary to reserve a discussion of the hortatory conclusions for a subsequent, separate treatment. All that I shall claim here will not apply to these final sermons for I shall take up an examination of them in a separate chapter where I can study them more minutely as independent units. The problems which these chapters call up are so intricate and manifold that to discuss them here would lead me far afield and divert me from goal at which I aim. Comprising, as they do, the parenetic portions of the codes, they represent more or less different and distinct strata of these codes which are more or less independent of legal parts of codes per se. And since the conclusions which we arrive at, here are in no way compromised by omission of a discussion of these hortatory chapters ^{now} ~~here~~, I feel that to ~~postpone~~ ^{defer} this discussion of them will entail no special inconvenience.

One of the best means, and one most ~~usually~~ ^{usually} conceded ~~for~~ determining the relationship of literature is to be found in the peculiar and distinctive use of language. It is so generally accepted that a description of this scientific usage need not here detain us, that the dependence of one author upon another is first and most markedly displayed in the repetition of peculiar diction and idioms. No matter how studied an attempt the one who is influenced, may make to put his readers off his track, he is bound to employ some ~~terms~~ ^{turns} of expressions or distinct phrases which appeared in the text of him ^{from} whom he is ~~influenced~~ ^{influenced}. So evident is this, that the rule has been adopted by literary critics as ^{the} ~~the~~ ^{an important} ~~best means~~ ^{best means} of ascertaining any dependence.

נאש used frequently.

ספרתם " " in D. twice in H.

למען
עבד עבד common in both codes

תבואתך תבואתך frequently used in both codes.

זבח in various forms repeated again and again.
אשת ארץ אלמנה אלהים ארץ frequently used but
אכל common words for which substitutes seem im-
possible.

כהן כהן These words taken at random from the list which I com-
piled, as most frequently used in the two codes clearly
show that these simple words, and not as peculiar turns
of expression or idioms, are, ~~what we would term~~ as ordi-
nary and most common in any language and in all the
literature. In this connection, remains a list a few
which are infrequently used in the two codes and which
are rare.

כבא'ם D XXII₉₋₁₁ H XIX₁₉ "This single passage is
not sufficient to prove a dependence"¹

לא תוננו D XXIII₁₆₋₁₇ Appearing once in both codes but
applied to stranger in H and to escaped in D.

מאכל found also in Ex. also but appearing once in
both codes. אטר אטר H XXII₂₇ D XV₁₉ D XXIII₁₆ D XVI₁₆.

Is it not remarkable that in these two codes that con-
tain so many laws which have so much which is parallel in
language? These foregoing linguistic affinities from the vocabu-
lary either are words frequently used and as such had to
be used, or as rare expressions which are repeated but
not in the same connection. Rather than prove any de-
pendence, these parallels either because of their or-
dinariness or because of their different connection
tend rather to prove just the opposite, tend rather to
disprove any dependence at all. Let us assume for ar-
gument's sake that these codes were entirely dependent,
that editor of Holiness Code relied entirely for his
material on the earlier existing Deuteronomic lawbook.
Should we ask, have repeated so few words or expressions
and those he did employ, ~~when~~ in other connections or most
only those which are most general in all literature?
Could he if he had wanted to, more deliberately con-
cealed their dependence? In fact, these facts seem
to indicate that the editor of the later code could
scarcely have known of the Deuteromic code without ex-
pressing this knowledge in the language he employed.

And if these inferences and deductions which
we offer from the enumeration appear not entirely con-
vincing, it surely seems more satisfactory to adopt
the explanation that these correspondences would be more
likely derived from common original sources on which both
codes were dependent than from one another. It stands
to reason that since so few of the words and expressions
used are common to both codes, especially since the lit-
erary material is so related that some other theory
than that the codes are dependent would be needed to
explain this parallel. In other words, the various
other possible hypotheses are more satisfactory than
the one we seek to disprove namely that these parallels
are due to dependence. For as a matter of fact one can-
not ~~get around the explanation~~, if we assume that an author was
rewriting the legal material of another code, he would not, ~~if he wanted to,~~
have avoided the use of more than one third of his most

1. Cornill Intro. pp 72.

② H (22:10-16) makes distinction between priest and lay while D makes no distinction.

likely
 possible that he could have escaped the use of some of these expressions even unconsciously? While he may have used certain isolated words or casual phrases, it stands to reason that he could not have rewritten D without repeating at least one of these idioms. If he had reproduced one, only once it would have been entirely suggestive of his dependence. But to have ignored them almost leads one to infer that not only did he not use D but he evidently did not even know of the code in question. The fact is especially true in the case of opening laws of H where it seems that the purpose of RH was to centralize the worship in the sanctuary at Jerusalem after the destruction, was hand in glove with the central aim of D. With such a precedent before him and with such an aim, it is inconceivable how he could have deliberately avoided the use of the pet language of D. Someone has seen a connection between the noun *מִשְׁכָּן* used in H XVII₄ and the familiar D phrase *מִשְׁכָּן* and hints at the possible derivation of this word from his pet expression. Now if there were other evidence more convincing of dependence of H on D, this derivative might be called up in substantiation of such surmise. But as the main prop of such a theory only goes to show how untenable is such a view. For this word *מִשְׁכָּן* probably existed as corrected in original text in time of J^h Nu XVI_{24, 27} (1) and which goes to prove that the word was not derived by editor of H from D, expression but was a phrase which was in use in the times even before D. Moreover this expression is quite common both in Psalms and Ez. and the frequency with which it appears only proves that word was in use at all times especially at time of Ezekiel. What is even more of importance, that if H had coined this expression from D, favored clause he could not have avoided the repeated use of it in his own code, but would have on various occasions (for the occasions presented themselves frequently) especially in chapters XXI and XXII made use of it. Such proof called up show how hard pressed the authors of such supposition are for material to support it. To repeat, what is of far more significance and certainly none the less surprising is the fact that Holiness redactors who lived at a time so near to the promulgation of D and at a time could have compiled a code which entirely disregarded words and phrases that were certainly in such general vogue as is proven by their reproduction in the prophetic book of Jeremiah. While it is not within the province of this thesis, it seems that the real problem is contained in this seemingly inexplicable ignorance, of how he could have avoided such expressions.

Not unlike the Deuteronomic code the Holiness law-book is too not wanting in the use of peculiar and oft-recurring expressions and phrases. As mentioned above, not one of these so-called pet idioms of H can be said to exhibit any relationship. That is to say, these phrases show no identity nor any variation from these frequently used in D. It would follow that if there had been any dependence that the author of H might not have reproduced the original expressions of D, he might have on the other hand, so altered them to repeat them in certain variations of the earlier phrases.

1. Gray Number I.C.C. PP 204.

no such practice however is at all present. For instance, a familiar phrase used by H nearly fifty times in the short compass of his book is *וְהָיָה*. Not only this expression is lacking in D but the words for "I" differ in the work of the two authors. In D with one exception, the editor uses *אני* while in H the shorter form is always used. The short personal pronoun is frequent beside the longer one in JE.⁽¹⁾ showing thereby that both were about equally common in usage. Why D should scrupulously use only the one and H punctiliously avoid and substitute another for the one which D employed is proof positive that the latter could not have depended on the earlier. In fact would we not have reason to inquire if H ever saw D.

It will be observed in the following compilation of characteristic phrases of H that nothing like them appears in the lawbook of D.

מקדש כס, מקדש 29, 15, 23, 22, 16, 11.	י' י' 1' 7' 1' 1' 20, 11, 12, 3
בכס	11, 12, 13, 14, 15, 16
מקדש	17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100
מקדש	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

Of particular interest in this enumeration of phrases is that these expressions, characteristic of the book are bunched together in certain sections than appear in every chapter. In other words it will be noted that these ~~same~~ *turns* of expressions appear frequently not in every chapter of the lawbook but makes its repeated appearance only in certain selections of the code. Certain of them only appear frequently in those chapters like XXI and XXII, while others in XVIII and XX. Now what is the conclusion to be drawn from this observation? It is this. It is evident and granted that the sources of these chapters were different. That the section XXI and XXII was derived from a different original than that subsequent group of chapter. It has been noted however that the characteristic phrases of H have no resemblance or relationship with those of D, but are rather distinct from D. It follows of course therefore that these peculiar expressions of H are certainly more nearly related to and probably derived from the sources on which H editors drew which are clearly not the legal data of D. In other words, we have every reason to assume and believe that some other source than D comprised the original material from which H drew his legal material substance, and certainly no proof to think that D was in any way connected with this code nor any part thereof. In short, H did draw upon certain sources as the internal evidence in H is overwhelmingly convincing but there is no reason to infer that these sources are in D but every reason to believe that they were entirely different.

In the language of H, there is another reason why it could not have been drawn from D. The various aramaisms so-called evidently indicate the independence of the code for they point to the early influence of that language on the Hebrew and doubtlessly appeared for the first time only in this code and not in original sources of H. The aramaisms are:

מקדש (for מקדש), 18, 23 (Bertholet).

מקדש Verbal noun after Aramaic Inf. Part (Bertholet).

In Aramaic, verb of the -b class form one class, this is probably the case in the Hebrew Imperfect in XVIII 7, 18, 12-19 in imitation of aramaic forms (Gen 22 7).

1. Brown Briggs, Driver, Dictionary sub. 1528 81 times, 1528 81 times, 1528 81 times.

In the word ²⁶השמה, aramaizing form in Hiphil and Hophal are with O in initial syllable. (Grs. 188). הטר is another aramaic from the aramaic ²⁷חרטא meaning shame.

These instances of Aramaic influence demonstrate the freedom and laxity of the author and lack of that fastidiousness which would have deterred him from the repetition of familiar phrases or words if he had utilized D material in the composition of his own text. In other words, if he had shown more care in use of his language we would be more inclined to hold that he was more guarded against the use of words and phrases of another author. But the absence of the finesse shows rather he would not have hesitated to imitate another editor if he had used his work as a guide.

In the vocabulary of the two authors we find that D uses approximately 225 words and idioms which do not appear again in H, while the latter employs about 125 which are peculiar to his code. Many of these words are repeated frequently in each respective code showing that many of these words are common to the language while yet seemingly unknown to both authors.

These words used by D picked out of the list which I compiled but not found in H are:

יבם	הטר		
ידע	טנא		
יחד	טר		
יטב	לפנות עבר	ז	בא שמוט (Dt. 23, 5)
יכל	לון	נשה	חפשי
ימין	לחטנו	נכרי	חפר
הנחת	זילה	נדר	החרם
ידע	למד	נסה	חשקת
נדר	הר	נפל	דגל
ירח ימים, ירח	להלהם	תקע	ירחק
הישר	דבר	סביב	רחץ
יש	דבק	סור	ריקם
יתום	דונך	סקל	
כליל	במתי	אתניך	
תתאדר	לבר	תפש	
כסותך	די	דיר	
שלמה	דין	זלל	
כתב	דמ	זמע	
מאומה	דרש	קבץ	
מהיר	דרך	קפץ	
מופת	בז	קדא	
מורה	בהר	קול (ט. 23, 5)	
מי	בכתה		
מלילת	בנה		
מלחמה	בערת		
מעט	נבלה		
מצא	נהד		
חקום	נדה		

נחלה	חלקך
עבד עולם	חפץ
עגלת	גדלים
ענה	גהלל
עיר	תגדע
עצום	כדה
ערף	פקדו
ערוות דבר	פתח
נועש	אביון
תלה	אבדן
תפס	תעשר
תרומת יד	אמת
תחוס	קבל
יחדל	מאד עז

In these words it will be noted that it is indeed surprising how the author of H could have avoided the use of so many common words. If H had used D, could he have ignored these words in his own compilation? On the other hand, H uses words which show that he had an entirely different and briefer diction. Whatever his sources were, they certainly embraced a language entirely at variance with D and the frequent repetition of certain words and expressions convince one of the fact that he was animated by ideas not found in D. His vocabulary peculiar to him follows:

מחללת	קעקע	כתות
חלולים	קרבן	הנותר
חסד	תכל	כרמל
חלל	תושב	כשב
חרוץ	תור	מכשול
חרוס	תכלת	כתונת
תרבים	תמרים	יובל
תרביע	עבדת עבד	יכה
רכיל	עזרת	ילפת
תרשט	עוף	יש
גאלה	עול	עמד עב
גבן	חעלמו	
גרשה	עמר	
פגול	עמית	
פעמים	ענכי	
פעלת	ספיה	
פרך	נאף	
פרט	גדה	
כרע	בן נכר	
פרס	נתוק	
פתי	משורה	
ליך	תבלל ע	
ליכי		

טבעת
דקט
בקט
שט
העלמו את איניהם
דע
הטמא

חקה
חק

תשמרו לעשות

אשר
אשרים אחרים

אכלת זשבע
בקט
מרבית
רדבית
התעלם מהם
חק
שחת
הטמא
שט

חקקה

חק

תשמרו לעשות

אשר
אשרים אחרים

If we presuppose that the Holiness Code drew its material from the earlier Deuteronomic Code, would the editor have deliberately chosen a different word with an identical meaning when he wanted to express the same idea? Even if the influence of D on his work had been but slight, would the redactor have not shown even this in the use of the same synonym. To my way of thinking he could not fail to employ the same words even if he had wanted. The more significant fact is that so many of these synonyms are in evidence. He might have chosen one or two. The variations in the use of these synonyms are so numerous that it is preponderant argument against any influence.

The marked independence and individuality of the two codes is further evidenced in the unusual number of rare words which are seldom or never repeated in any other literary production of the Bible. There are present in both codes quite a number of words which are not only not found in both codes but are absent from most of the literature of the O.T. The very rarity of these words in D could not have escaped the attention of H if he had relied on D for his material. And what is more significant is the employment of words and phrases by H which themselves are rare in this ancient Hebrew Literature. This mark of obvious independence on the part of H is accentuated when the larger number of rare words are noted especially in so brief works of D and H. The subject matter of both do not differ radically from each and it would be expected that the phraseology and diction would not show such glaring instances of independence. And yet both codes manifest their independence by the predominant number of rare words in the language.

List of words in D. So called Hapax Legomena: (3)

טבעת זשבע not again in literature

דקט
בקט
שט

1. It is of interest to note that both words are used. But in D חק is more repeatedly used while H uses the other more frequently.
 2. שט used in D in sense of people and also in this sense in H but the latter code also introduces another variant meaning in the sense of family in Ch. XXI-XXII. (SOT)
 3. Holzenger, Eml. Section sub. Heiligkeits gesetz.
- WKS. Huship. 2nd edition p. 58. D D Huship. Latin derivation.

List of some new words in H seldom used in Hsautuch or Bille.

וִּבְשָׁה not used again in Hsautuch

דָּמָה " " " " "

וְיָבֹא לְךָ בְּיָמֶיךָ " " " " "

דָּוָה " " " " "

תָּבֵן

פָּנָה

תָּבֵן

וְיָבֹא

וְיָבֹא only twice in Pentateuch

Many of these considerations tell against the influence of D on H. When it is borne in mind that the resemblances, common to both codes are so infrequent and few and the evidences are so many and present, there is but one conclusion to be drawn and that is that D from a linguistic viewpoint exerted very little influence on H. Not by any stretch of the imagination is it possible to suppose that H drew his material from that of D as to be inferred from the similarity in diction and phraseology.

One cannot help from noticing the peculiar types of laws of H and D. In fact the tone of the authors differ. It appears that D adopts the address of the preacher. "Warm hearty impressive one."¹ exhorting his hearers to an obedience to the laws. It seems that he is more concerned in exhortation than in presentation of the laws.² Or course, the second section of his laws contains but a reproduction of the laws in which the hand of the redactor is less in evidence. On the other hand, the redactor is wrapped up in the view primarily of bringing to the attention of his readers the necessity of carrying them out. In H the laws are reproduced from some earlier sources with some possible variations with appendages of exhortations to obedience which seems entirely secondary.² Naturally this manner of approach is noticeable in the formulation of the laws. D is verbose H is laconic. In those passages which may be termed distinctive of the redactors two types of framing appears characteristic of D in the formulating of his laws is to begin each group of the same subject with a negative or to introduce a new subject with a negative prohibition,³ following it up with positive commands. On the other hand, H's method of framing his laws is to lay down a general principle XIX^{13,17} XXI¹⁻⁷ XXII^{2,10,13,25,23} which he follows up with specific instances. ⁴ with particulars.

1. Bertholet D. XXV.

2. CH. CH. p 499 "The method of Dr. was to rewrite nearly every ordinance they touched."

"It is compiler and later editors who have expanded with the endorsement 'I ~~and~~ J'."

3. Bertholet D. XL.

4. Paton XVIII: ~~XXIV~~. XVI: ~~XXVI~~.

In the study of these two codes, a close observation will convince one that such different formulations militate distinctly against any view of their dependence. For the author could not have failed to manifest this influence without showing it in the arrangement of the material and his freedom from the restraint of imitation. In the analysis of the types of laws, investigated by various critics, certain glaring divergences are in evidence. These types have been denominated hypothetically by the terms employed generally by the various authors. These distinctions are quite apparent in the investigation of these laws. It will be noticed the preponderance of certain kinds of laws in one code while in the other the predominance of other types. The "words", וְכָל which begin וְכָל "thou" or "thou shalt not" or imperative, it is to be observed that those which open with "thou", D has 35 while H has only 9. The negative, D has 22 while H has 36 while the former H only has 2. Of the so-called "commandments" וְכָל, which opens with "Ye shall or Ye -- not shall" or Imperative, D has 9 in affirmative while H has 11, in negative D has 6 H has 24; while in the imperative H alone has 2. The so styled וְכָל "He that" or participial or third person, "He shall or shall not", there is less uniformity. In the first, D begins ten laws with, "he that", while H has only 4. And the participial beginning D has 28 while H has only 13. While the third person opening D has 14 and H has 16. The "Judgements" וְכָל is defined with such opening clauses as "when a man" D has 6, H none, "when thou" D has 12. "When ye" H has 8. Laws opening with main clauses D has none but H begins 6 laws with one with וְכָל, and 3 with וְכָל. The laws having the opening clauses subordinate ones, D begins 2 laws with וְכָל "if then" while with plain וְכָל D has 7 and H 3. In the subsequent detailed analysis and comparison, I shall more fully dwell on these legislative formulations. Of course, a similar formulation of the same material ^{around the same laws} is open to manifold deductions and possibly be a view of dependence. It is less likely that author drew on the earlier code if the type of law is same ^{of different material} since their types of laws were patents for all the codes. But in general way and general summary as this tabulation which follows Briggs, it is noticeable how D uses one type most frequently while H will use another. Now on the comparison to be carried out later, we shall study these types as they are applied to ^{the same} legal material. For is not most telling against any view of dependence if the same laws are framed in a different mold; while it is explainable in any other theory that same types of laws are employed with different legal material. Of importance, here however, is the one outstanding fact that certain patterns are frequently employed by D while others are employed repeatedly by H. For instance, D used 35 positive וְכָל while H uses only 9. D used 22 negative while H uses 36. In the וְכָל D uses 6 negative and H 24. Note the independence displayed in the use of וְכָל, D uses 6 of one kind and 12 of another while H has none of these but 8 of still another kind. And so through this whole tabulation except in the וְכָל and וְכָל there is to be noted that there are two types of laws used almost equally as many times in both codes. But their resemblance is reducible to the fact that these 2 types are predominant in other codes as well, and so must have been the type of the

1. Briggs, Higher criticism pp 242 ff + 10 ^{substantive literature by G. B. Gray}

laws which the original from which both derived their special laws. This close linguistic analysis, however, not nearly impresses one with the individuality and freedom and independence of the works of these redactors as does a casual perusal of both. The style of these editors differ radically but this difference is easily discernible with a superficial reading of the codes. Bertholet (XXV) has said that D is a sermon, H is not so smooth and easily flowing but yet entirely ordered and systematically arranged after certain corrections. Some one has characterized the style of Deuteronomy as an impressive volume and harmony of a vast organ, while that of H was like the chiming of various bells. Implying by this comparison that the whole of D blends in a perfect unity while that of H is made up of elements which are units in themselves but not necessarily disconnected. In short, D as well as H presents a peculiar and easily recognizable style, which manifests distinctive personalities and individualities entirely independent. Therefore more than this foregoing and minute investigation, a general impression gained from reading the literatures in their entirety leaves no other than that H is entirely distinctive of D. But more important than these individual dissimilarities peculiar to the codes and the few affinities, is the cumulative evidence. No matter how many close resemblances in the language between the codes, there is now getting away from the fact that some are bound to appear because of the paucity of the language preserved to us in the sacred writ. The significant fact, however, to be noted is not these affinities but that there are so many evidences of dissimilarities which as a whole bear convincing proof against any theory of dependence. It is not out of place in this study of the linguistic aspect of the question to note in passing certain general stylistic characteristics of the editors of the two codes. Infrequent and rare variations in the style is not important as it does not reflect the character of the personality which alone can influence. In other words, the individuality of the author is best expressed and shadowed forth in his compositions in certain repeated characteristics than in a variation from the general composition here and there. D, for instance, "is far less a law book than codified sermon directed to the religious and ethical conduct."¹ less because of its many theoretical laws but for its preaching tone.² Now this fact borne in mind largely explains certain peculiarities in style. In fact, this fact is such because of these characteristics. It is written in running and narrative manner with hardly breaks between the various legal sections. This flowing and unflinching is largely explained due to the habit of the author of stringing verb after verb, most usually in the same tense and person and number. This in Ch XXVI 1-4 no less than six verbs follow each other in this swiftly flowing narrative. Thus throughout the author is not parsimonious in his use of verbs XIX 15-21 XIX 17, XX 1-2, 5-10 XXI 19-22 etc. In marked contrast to this general trait of D it is of interest to note how entirely different the editor of H is in such parenthetic section as that which brings up the conclusion of the chapter XVIII. There is no stringing of verbs on a thread of the same tense and number and person.

1. Baudissin 110.
2. Holzinger 295.

The importance lies in this that the styles of the authors are at variance with each other. These ~~common~~ features are common in D and ^{are} superficial, are some of the main stylistic traits of the D editor. Now if H had in any way employed the early code in the assembling of his materials he could not have escaped the use of some of these main characteristics in his style. It is all the more noteworthy that not one ~~but all of~~ ^{of importance} ~~them are not~~ again reproduced in the later work. To have been influenced by D would have meant that H would have used these peculiar terms of expressions which ~~best reflect his individuality and which would have even shown itself in this later compilation,~~ as well as imitated these ~~features of D style~~.

It is self evident that the editor was writing his appeal with the image of his law work before his mind. Both linguistically and substantially this hortatory section is bound to the previous legal section. While critics may disagree as to the original constituency of this chapter, most² are of the one mind that the code had some such conclusion as now caps it. So striking is the concluding chapter of the Holiness code that the attention of critics¹ were first attracted thereby to the existence and independence of this code. With the colophon ~~and~~ the previous parenthetic section directed the mind of the exegetes to the presence of this code and many other distinguishing facts soon bore out their first view. This fact in itself is proof ~~positive~~ that this conclusion could not be separated from the remainder as it is itself one of the distinctive features and proofs of its independence. I do not believe that there is any critic who has maintained that this chapter does not form the conclusion of the code. They are all agreed that the code when it was finally edited by the redactor contained the parenthetic sermon. Up until now ~~no~~ ^{no} critic ~~of~~ ^{has} denied that some such chapter as this ~~did~~ ^{forms} the conclusion of the code. While I have been endeavoring to argue for the original scheme of the code, I have purposely omitted mention of the originality of this chapter. Laentsch³ has advanced the fascinating theory that this chapter originally existed as a separate work of an independent author and that the editor of H interpolated it so as to make it conform to the spirit and language of his code. According to his theory, the editor appended this exhortation to his law book making it formable by inserting these verses 16, 17 (?) 24, 25, 26-40. In other words the contention of Laentsch is that this sermon had an independent existence. Was composed without cognizance of the preceding legal sections. Innumerable threads connect 26 with those parts of the foregoing chapters which are ascribed to RH. The only reason to believe that it is by the same author who compiled the law-book of H and attached to the Torah in which he incorporated his characteristic motives. The difference in situation which Laentsch urges as the strongest argument for attributing 26 to a different author is easily exaggerated (in 12-25 the entrance into Canaan is still future-VIII 2, 24, XII 23-25 22-24 whilst in 26 it is an accomplished fact) It is more just to say that the situation is not consistently maintained. (p. 2787). We need but read this chapter to observe that the motive of the author is obedience to God and His statutes. It becomes evident the more familiar one becomes with this book that the original author of this chapter had in mind some particular laws either those of ~~or~~ ^{or} some others. His constant emphasis on following God's ways and commandments, can leave no other impression than that he had before him some legislation not in general but in particular a code like the one we have under consideration. The more one peruses this conclusion, the more convinced he becomes that this chapter could not be a bodily on the obedience to law in the abstract. Although the verses which Laentsch maintains were interpolated by ~~him~~ ^{him} because they harmonize the chapter with the remainder of his code, they are such that even if they are removed, the

F. Bartholet, Muenen, William Briver Holzinger 269

1. Hlosterran, Kayser.

2. Laentsch Sub chapter XVI.

the sermon would still fit as the appeal for obedience to this code. In other words, even if these very verses are omitted one could not escape the view that this chapter originally appealed for obedience to a particular body of legislation. This fact becomes more manifest as one studies this sermon. If this conviction is correct and we feel assured so, then it stands to reason that the editor must have been impelled to write this sermon for this code and not for any other. "The connection on the whole is exceedingly good and it is against common sense to assume that a writer must always have maintained the closest logical sequence of ideas and avoided the least digression or superfluity. The many strong resemblances between the concluding exhortation and code prove their origin¹ Furthermore the relationship of this chapter to H is clear that here the land and agriculture have the same fundamental meaning for religion." Bertholet 93-94.

The comparison of XXVI 2-45 and hortatory portions of 17-25 reveals numerous resemblances of thought and language. Thus: XXVI-3 XVIII 4-30 XXIII 23 XVIII 4,26 XIX 37 XX 8,22 XXII 3 XXV 8.

XXVI 4 - XXV 9,7

XXVI 5---XXV 18,19

XXVI 12---XI 45 XXII 2,3 XXV 38, XX 26

XXVI 9---XIX 4,31, XX 6

XXVI 10---XXV 22

XXVI 11---XXVII 4

XXVI 13---XIX 36

XXVI 17---XXVII 10 XX 3,6

XXVI 30---XXII 10

XXVI 15---XVIII 4,26 XIX 37, XX 22 Combination

It is true that the distinctive expression "to vomit out its inhabitants which occurs in XVIII 25,28 XX 22 does not recur in XXVI.

It must not be inferred however that the editor was obliged to repeat it or that because it is not found in the final chapter that this sermon is the work of another author. While this expression recurs thrice in the hortatory portion of H, it in fact only appears in one section of the code, and does not again appear in the other parts. "That further in the threat of vomiting them out (even if the concept is not used) is also carried out" (Bertholet 93-94). Moreover another fact is that the view point and tone of this chapter is that of the remainder of the hortatory insertions of H. The ~~same~~ *Dionia I* is just as prominent in this sermon as it is in the rest of the code. The correspondence of plural number in RH passages in the code and Lev. XXVI is too suggestive indicating the similarity of authorship.

Moreover, the many resemblances of this chapter with the exilic prophet Ezekiel have led some to infer that the latter was the author of this exhortation. And yet while that contention has long been given up it cannot be denied that the numerous parallels are the resultant of an influence of the prophet on the editor of XXVI. One thing is certain that the two could not have been written at a time too far apart. The spirit and language of both are so strikingly similar that the theory is actually sustained that they must have been at least contemporaneous.² If then the contention of Baentsch were true, this sermon could not have antedated the prophet by many years. If it had existed as an independent composition it must have been composed in the exile and certainly in the

1. Addis II 366-7

2. Addis II 367.

spiritual atmosphere of the circle in which Eze'ial and the Redactor of H moved. In other words, the point I wish to make is this, that the editor of H would not have needed to ~~make~~ ^{make} ~~certain verses~~ in a sermon or work of another who was himself a contemporary and probably a member of the same school. ^{It is quite natural that a code written in the time of the prophets and representing at least in some degree their spirit should end with promises and threats after the prophetic manner.} It is reasonable to assume that RH who had an excellent opportunity for a display of his homiletical faculty, was too the same author of XXVI and that while he may have used the expression in this sermon not found elsewhere in H or RH it is not ~~unreasonable~~ ^{reasonable} to expect that he would bound only to repeat the thought and expressions which he had used previously, particularly since the new ideas advanced in the concluding chapters do not show antagonisms nor contrarieties with the redactional section of H. While it appears natural for a law-giver or a compiler of laws to draw on earlier sources for his material it seems to be against common sense to assume that the redactor was so lacking in originality as to claim that he appropriated an entire hortatory sermon for his purposes. It is evident from a redactional passages that the editor himself did not lack in ability and the closest study leaves one with no other impression than that he himself considered it as a hortatory conclusion to the collection he himself compiled and annotated.

As for the exhortation in ^{it is hard to see how} ~~the~~ one can deny that this code as originally constructed contained a concluding sermon like the one that we have discussed. No one who has read the historical account in II Kings XXIII 13 of the early acceptance of the Josiah code. The people were so overpowered and affected at the first reading that to one familiar with the original text no other passage but this chapter of XXIII in this code could have so influenced them.

For the historical description of the discovery of the Josiah code given in the historical books, portrays how the people were perturbed when they heard the law book which was discovered, perturbed because of the serious consequences of their non-obedience so graphically and impressively drawn in the final chapter. This historical tradition conclusively attests aside from other proofs, that the original of the code must have contained the very impressive appeal. This chapter moreover is thoroughly Deuteronomistic because the connection between it and the rest of the code is so good that none save but very few have denied that this sermon formed the conclusion of the original code and they who do recognize that it is a product of the school, ~~at one added not long after its composition~~ ^{it is added not long after its composition}.

It is apparent and unmistakable that these codes concluded with hortatory chapters which ~~composed~~ ^{were} by the redactors of these final sermons however have been modified and enlarged. Many editors have elaborated upon these homiletical appeals. There now remains for us as we are only concerned with the original composition to determine as far as we can the which comes from the hand of the editors who compiled and annotated the codes. In short what we propose here to undertake is to ascertain as nearly as we can that parts of these chapters constitutes the original of the books as they were first compiled and completed. (It stands to reason that we must delimit our attempt to find out the relationship between these codes of these chapters to a close inquiry and examination of the original part of these chapters). All critics agree that these chapters as they now stand are replete with additions by editors at different times.

It becomes immediately evident that the moment one reads ch. XXVIII ~~in its present form~~ ^{and actually} it cannot be attributed to the original ^{and actually} ~~mainly~~ because it barely considers the 1. Addis II 367.

possibility of securing the blessings at all as it assumes that the law ~~was~~ not observed. (2). Its unity is not intact, being marred by later accretions (3) and the chapter contains clear signs of insertions. The entire latter section Vss 47-68 (4) as generally agreed, belongs to a later hand. It is plain that 45-46 at one stage of its history marked the end of the chapter. (5) Verses 47-57 (6) 58-68 presupposing the destruction of Jerusalem and the dispersion of the remnant of the people, the consequence of neglecting "the words... in this book" (Vs 58 & 61) warrant the conviction that they are later additions. (5) Moreover the variable changes of number, (5) ~~Vs 62~~ and the individual variations bear proof of its lateness. (7) Verse 58ff contains a section which is palpably additional because of the blending of several literary styles. Whatever else may be maintained in regard to the originality of the complete chapter, it cannot be denied that the viewpoint of the author of these final verses is one of ~~an~~ exile and surely could not have comprised a part of the sermon which from the first concluded this code. The language throughout this section is unmistakably over drawn and the thought which runs through this long passage is without doubt confused, giving the impression all the time that some other person than the one who wrote the opening verses must have composed them. As an instance of this confusion of thought and consequently an particularly this diversity of authorship is the description of the exile and then the dispersion over the earth and the deportation to Egypt. After all is said and done, even the most conservative of critics suspect that these verses could not originally have formed a part of this original exhortation. The different historical allusions merely reflect divergent times and experiences of their separate annotators.

In that which remains, it is more very plain that its original unity is still impaired by certain other self-evident and undisguised interruptions. Verses 26-27 are clearly insertions. They obstruct the sequence of the sermon being entirely too verbose, and redundant, too prosaic and repetitive. If these verses are nitted from this chapter the thought of the section flows smoothly. While if these insertions are retained, the train of thought seems to be halted, held up by ideas which have been more concisely and better expressed

1. ~~AD 1082~~ ~~More~~.
2. Cornill 58
3. Holzinger 277
4. Bertholet 87, Steurmagle Kayser quoted by Holzinger, 277 Paulko, Cornill.
5. ~~AD 1082~~ Bertholet 85.
6. Holzinger 277.
7. Vss. 48-49-50 betray a compiler whose viewpoint is that of one familiar with foreign bondage, Bertholet. Vs 58 mentions a name points to a relatively late date. Bertholet Ad loc. Addis II 182. Vs 62 change of number in this verse is suspicious--Vs 64 seems to know of scattering of dispersed Jews over the world, Bertholet. Vs 66 written in the time of exile, Bertholet.
8. Holzinger 277.
9. Paulko 222.

elsewhere.³ Verse 32 presupposes the exile.² Verse 33 is but an elaboration of the previously expressed idea in Vs 25¹. Verse 26 appears to be interpolated from Jer. VII 33 XVI 4 XIX 7 XXIV 20¹ verses ~~XXVII~~ 27f are a variation of V 21 detailing the thought there contained most minutely. Verses 24f even outdo the previously inserted verses 27f giving the appearance as of the interpolator⁴ had forgotten something and accidentally put it in here. Verses 36-37 are glosses plainly dependent on Jeremiah IX 15, XVI 13, XVIII 6 XIX 8 XXIV 4⁵ "which threaten the deportation of the Kings and people" (EB 1082). I have not mentioned certain other verses in this section and have given no specific reasons for their exclusion from this chapter because what I have said of some applies to them. They are verses which are inextricably bound up with these, which I have ruled out already on various other grounds. If I delete them, I am also bound to exclude the other ones which I have purposely failed to specify.

In the remainder, are to be found certain half verses which are patent as insertions, added for certain reasons by an unknown hand. Verse 2b is entirely unnecessary. And since it has no correspondence in the parallel section on curses clearly proves that originally it had no place here.⁶ Verse 9 is superfluous and disturbs the sequence.⁶ Verse 10 is the work of an editorial hand (cf Am XIX 12)⁶. Verse 20b is not original here because of the Jeremiac word מַעֲבִיר ⁶. Verse 25b is an insertion taken from Jeremiah⁶. With these omissions, the sequence of that which remains flows without interruption while its unity and logical coherence are sustained throughout. After reading this conclusion chapter with these verses omitted it becomes manifest why the people were agitated when they first heard these threatening words.

Before I pass on to a consideration of the original constitution of the concluding chapter of the Holiness code, let me dwell for a moment on a theory which has been advanced and applied in the dissection of this chapter by Valeten Cullen and⁷ Puukko. In this chapter they discover three separate elements of development. Their contention is that the original ~~code~~ ^{chapter} contained in its original and primitive form merely those curt and parallel pairs of blessings and curses at the opening of the chapter. At a later time that which we have practically retained as original, after omitting those passages which we have deemed insertions, comes from a secondary hand who merely amplifies the thoughts contained in the initial verses of the chapter. That which we have left out these critics contend was added and inserted by a literary editor. This is their theory briefly but not precisely nor thoroughly accurately. They greatly reduce the original of this sermon to a few verses at the opening of the chapter. And it appears that they follow a more or less arbitrary ~~theory~~ ^{theory} of omitting everything

1. Gurnill 58.
2. Bertholet 85.
3. Verse 32 presupposes the exile.
4. Driver Et. 305.
5. Bertholet 85.
6. Bertholet 85.
7. Cf. Puukko 229 (note) for description of his theory.

which does ^{not} parallel or correspond in the opening verses of the chapter. In the first place, our knowledge of the Deuteronomic writer through his homiletic touches and elaborations throughout the code warrants the view that he was anything but such a schematist. It is not likely that in the final peroration where he would have free scope to express his homiletical faculty that just here, he would employ a most curt, concise and trenchant style ~~and~~ conspicuous brevity. If he did not hesitate to mould and elaborate upon and expand the ancient and original legislation which had for him the sanction of age with such discursive amplifications, is it probable that in this final chapter he would be content to urge obedience merely several sentences fitted in an unimpressive skeleton of promises and threats. It is not in keeping with our knowledge of this author for us to believe that he would have been content with such a hollow and uniform series of blessings and curses.

It is moreover equally true that while he may have been given to diffuseness, he was not at all confused as to his ideas. The code he has edited ~~is that despite the~~ confusion which reigns supreme in the present miscellaneous section. The system, he must have originally followed which is in such evidence through the first part of the code, acquaints us with a man who had a well-ordered mind. There is no denying that he composed these parallel blessings and curses and their arrangement shows a well ordered scheme. But merely to congest this sermon into these parallels as the original would be to make him entirely too schematic, unnaturally formal and would detract from the beauty and unity which certainly are in evidence as we have tried to reconstruct it. For after omitting those editorial interpolations that which remains discloses to us a well worked out, orderly and masterly sermon and one which is most like to one which the author of the code would and must have written. There are sequence and impressiveness. ~~(The principle which I have pursued in determining the original of this chapter is the one which I called attention to before, the so-called Bertholet's principle. It is to retain all which can consistently be kept within the critical principles already outlined.)~~

✓ The final chapter of the Holiness code has not ^{with} escaped additions or insertions. There prevails a general consensus of opinion among the various critics that certain passages did not originally belong to the original composition. And whilst they may agree as to the unoriginality of these sentences, they are far from any agreement as to the authorship of these interpolations. They seem to recognize their incompatibility in the general whole, yet they are unable to concur in an opinion as to the authorship of this extraneous material. For instance, Baentsch has urged that this chapter was originally a product of a strange and unknown author who composed it without any regard to the foregoing collection of laws. Then RE discovered it and appended it to this law book annotating it and interpolating it so as to make it conform in to the general scheme of the whole. On the basis of this theory, This Biblical critic is compelled to assign these insertions to the redactor of the codes ~~to him~~ or the same school to which he personally belonged, who edited the lawbook and whose hand touched up this sermon binding it thereby by these interpolations to the law corpus.

In the sermon proper (XXVI 3-45) we cannot fail to recognize the hand of a later priestly redactor whose language and thoughts do not at all accord with the tone of the sermon as a whole. Verse 8 is plainly a doublet of verse 7.¹ It is manifestly a later insertion which when

omitted greatly improves the context. Verse 10, about which there seems to exist some doubt, appears to be a piece entirely in accord with the tenor and language of the remainder of this chapter. Notwithstanding its conformity to the general spirit of the sermon, in its present position, it is certainly out of place and interrupts the sentence. However if it is transposed so as to be made to follow immediately on Vx 5, it doubtlessly would better fit the context which it would greatly improve. The suspicion concerning this verse is entirely due to fact that it was misplaced. Verses 34-5 are considered by most critics as insertions.³ There is no doubt that that these verses are out of harmony, in fact, interrupt the thought of this chapter. There is however, a disagreement as to whether this passage is the work of RH or RP. It bears close resemblance to a late passage in II chronicles (XXXVI 21) and its tone inclines me to believe that it is the work entirely of the priestly editor. For the definition of the Sabbath which is presupposed in the earlier work is here explicitly and indicates rather the hand of that editor who was familiar with the strict observance of the Sabbath. Vx. 37 is a repetition and hence questionable. It appears positively redundant and superfluous, adding a thought which has not only been mentioned before but conveys the impression of being more or less an after thought. Vss 39-44 are conceded to be suspicious by even so conservative a critic as Driver (SBOT). Practically all are of one mind that this section is a later addition and is entirely inconsistent with its contents. Verse 39 is certainly a late gloss, reminding one of Ez (IV 17 XXIV 23 XXX 10) and takes up again the thought contained in verse 36.¹ Furthermore the idea herein expressed contradicts the fundamental ethical principle conveyed in Ezekial⁴ and the kindred writer as H, of individual responsibility.⁵ Verses 40-43 are clumsily written and written in the narrative address of the 2nd person which is not that of the remainder of the code. "A certain awkwardness in some sentences towards the end of this chapter suggest that the original exhortation has been expanded by a later writer." (SBOT Driver) Verses 40-45 are well worked over. Verse 45 is a doublet to 42 and "41 is at all events a later addition"⁶ Verse 43 creates the impression of being a later parenthetical addition. Verse 41b 42f are strongly colored by anachronisms (which joined onto Sinai and Patriarchal History are confessedly later elements) The main objections to these verses is the presumption that because of the peoples non-obedience to the foregoing law book, the curses so vividly portrayed will be visited upon them and because of the explicit promise nowhere else hinted at, that they will be restored. Such hopeful predictions nullify the effect of the exhortation. This implied contradiction may be explained on the assumption *that the people were already experiencing the worst of the threats and that some other editor appended these verses in order to inspire hope in the hearts of his suffering compatriots. It stands to reason that same author could not have written the preceding sermon denouncing the exiles with punishment for their disobedience and in the same breath*

1. EB 2787
2. Baentsch 432.
3. Baentsch, Bertholet, Moore, Dillman.
4. Ez. XIV 13, XVIII 23.
5. Baentsch 435.
6. Holzinger 443. Dillman 619.
7. Baentsch 435.

retract his punishment and hold out to his unfortunate and miserable conferrers the expectation of a national reestablishment. Moreover their restoration is contingent on their confession of guilt and supposedly change of heart. Now no writer but one reared in and saturated with the spiritual atmosphere of the priestly school could have added these sentiments. The emphasis on the form of repentance rather than on the inward penitence clearly points to him who has so frequently stressed these ceremonials of religion. As we have now cleared these sermons of this foreign material, we have uncovered the originals as nearly as it is possible to determine. We now face the immediate task of examining these two exhortations substantially and linguistically with the view of ascertaining their relationship. Before we enter into this investigation, however it would be well that we note the marked individuality of these sermons. Most of the students of these products of Hebrew Lore and Law have called attention to the pronounced distinctiveness of these homiletical compositions. They are both striking works of originality. Whilst the aim and theme of the authors are identical, their manner of approach, their method of pleading is distinguishable and distinct. The diversity of language, the rarity of some of their expressions, the peculiar diction, and the great variation in their vocabulary as we ~~will~~ shall demonstrate, will be apparent. In these two sermons after they are stripped of all interpolations and additions, with the elimination of all disturbing elements and all incongruous material, their individuality is brought to the fore most prominently by their diction. D employs 141 words or roots and H 156 expressions. The many repetitions are counted only once for the enumerations mean that there are in these chapters that many different words or roots of these, only 47 words are common to both sermons. This would be a comparatively large number were it not for the fact that these correspondences are the most common words used in the language, and are mostly used in different connections.⁵

אָרץ	יָצָא	עָם	שָׁלַח
אָבֵד	לִפְנֵיכֶם	עָץ	שָׁמַיִם
אָוִיב	מִן	עֵת	דָּבָר
אֵלָה	מִצִּיּוֹן	עָבָד	לִגְדָּךְ
אֵלֹהִים	מִצַּעַם	עַד	הַשָּׁמַיִם
גּוֹיִם	גִּתָּן	פָּרִי	
דָּרַץ	נוֹס	קִים	
הִיא	נִכָּה	קֹל	
הֵלֶךְ	בָּא	רָדַף	
זָרַע	בְּהֵמָה	שָׂדֶה	
חָקַק	עָשָׂה	שָׁמַע	
	עָד	שָׁמַר	

In this list there are a few words which we have omitted in order here ^{only} to indicate those words which are common to both sermons ~~but also~~ ^{and also} to note those which are common in both codes. It is evident after a glance over this enumeration that very few of these words have any synonyms in Hebrew and as such constitute the basic vocabulary of the language. It is manifest, too, that no author could do without these expression, so necessary are they in all compositions. These words are used so repeated in the Bible, that according to Brown, Briggs and Driver Lexicon, ~~that~~ very few of the passages in which they are employed are cited. These words which we have listed as common to both sermons, are common and ordinary words in the language. What however is of more significance for the point we wish to make is that

⑤ $\Delta_1 D_2 + H_2 D_2 (RH)$ occurs same expression Δ_1 Δ_2 also occurs in Ps 133.

many of these words are used in different contexts. As an instance in point of what we aim to indicate is in the use of the expressions which we have conveniently listed under the words **שָׁמַר** and **שָׁמַר**. These two words are ~~found~~ ^{found} in two different phrases in both codes. In D, these two words are combined as infinitives into a **chause** **לִשְׁמֹר לְעַמּוּל** which are easily recognized as peculiar to this code. On the other hand H joins them as finite verbs into the expressions **וַיִּשְׁמֹר וַיִּשְׁמֹר** which stands as distinctive of the Holiness Redactor. Or again the words **וַיִּשְׁמֹר וַיִּשְׁמֹר** are mostly combined in D's sermon and repeated more than four times in this chapter, signifying the offspring of cattle. In H, these words, are never combined. Fruit is here taken to mean literally as that which the tree yields (vs.4) and **וַיִּשְׁמֹר** as the domestic cattle which would be destroyed by the wild beasts turned loose by God (vs.22). These examples suffice to illustrate what we have attempted to point out that these words which are listed as common to both codes are really used in each code in a different connection. There is accordingly no reason to assume from the fact that because about one fourth of the words which we have enumerated is common to both codes, there is a ~~some~~ ^{some} proof ~~of their~~ ^{of their} dependence.

Moreover, it may not be ~~unwise~~ ^{being} nor untimely to illustrate with a few more of these common words that the vast majority of them are used differently in each code. The word **אָסַף** is used in the Kal in D in connection with the ingathering of the harvest (38) while in H, in the Hiphil formation, to describe the assembling of the people behind the breast-works of the city. In D, **אָסַף** (1,15) ~~is~~ ^{is} as a voice of a moving leaf. In D **אָסַף** describes the manner in which the enemy will take the offensive (7-25) and the way the Israelites will be routed, while in H it really delineates picturesquely the desolation of the roads with their absence of children and cattle (22). In D **אָסַף** is used as an adjective while H employs it in the form of a verb **הִמְעִיטָה**. These citations contrasting their different usages, are taken at random from the compilation above, in order to establish the point that though listed under the same stem, are however employed in different connections. Therefore, rather than prove any dependence, these different uses tend to indicate the independence of each sermon.

The list which is given above does not contain all the words which are common to both chapters. Those words which we have reserved from the foregoing enumeration, are not the common ones in the language but are to be termed the rare and infrequent ones. They are unusual words in the O.T. and are common only to these two chapters. The fact that, being unusual in the Bible, they are repeated in both of these chapters has led some to conclude that some conscious relationship exists between these two exhortations to account for them. But such an inference is untenable because in the first place, these expressions while common to both of these sermons, are not such as to be classed as conspicuous by virtue of their number nor outstanding by virtue of the fact that they are interlinked with the destructive and peculiar style of the editors. These words, which we have so styled them as rare, number not more than a half a dozen. Then too, these words are used by once in these two chapters, proving that that they were not bound up with the exhortative and parenthetic style of either author. If we ~~even~~ ^{even} assume that one editor had been influenced by the other, he would not have been more impressed by these scarce expressions than by the oft-repeated and distinctive phrases of which he maintained a significant silence.

These words are:

נָקַף לִפְנֵי **נָחַם נַחֲמָה נִחָם נִחָמָה** **נָחַם נִחָם**

The expression **נָחַם נִחָם** which only appears in these two chapters is difficult to explain. If some notable characteristics of D had appeared in H, a theory of their relationship might

be plausible. But as it is, those distinctly D words and phrases are absent in H. It appears accordingly all the more untenable to hold to a theory of dependence on the basis of just this similarity. These diseases (22) are grouped together in D (XXVIII 22) but are also immediately followed by other synonyms, or words of similar meanings. If they had stood alone and stood out in this section, it might have been possible to infer from that fact that H was influenced by D. But appearing as they do in conjunction with other words equally as important and descriptive of these curses, it seems more reasonable to explain this parallel that these two words must have formed a stock phrase which were repeated by each other without any knowledge of the other.

The same applies to the apparent similarity in D XXVIII 23 and H XXVI 19. It will be noted if closely examined that these two sentences differ somewhat. D uses the ordinary word **נחש** while H uses the poetic formation **נחש**. These minor dissimilarity, however is also accentuated by the deviation in the two exhortations. In D, "thy Heavens will be bronze, thy earth, iron. While H speaks of the Heavens as iron and the earth as bronze. Even with these small differences, we cannot get away from the impression that this marked similarity is striking especially since this thought is nowhere similarly expressed in the O.T. In the light, however, of the entire paragraph in D where it is also mentioned that the Heavens shall rain dust, it is strange and unexplainable that if H had drawn on D, ~~he would not have done so~~ why he did not also repeat the succeeding verse. "A literary condition of dependence inferred from these parallels is not at all tenable"¹ For it is evident that if he had borrowed this thought from D there is no reason why he should not have also repeated the following one. Moreover the minor variations rather point to the employment of a popular saying which was on the lips of everybody about the time when these sermons were composed.

In the vocabulary of 140 words, D uses 94 which do not recur in H. Of these words, it will be noted immediately that they comprise many expressions which are characteristic of this writer. H has a larger diction, 156, of which over 105 do not reappear in the earlier sermon. The words which D uses frequently that do not reappear in H, we shall note here. It is these words which best reflect the spirit and personality of the author, which would have shown themselves in any work that that was in any way dependent on them for its thought or language. Even if the author had wanted to, he could not have avoided these words entirely and deliberately, as he did. Therefore in this list it is that we find proof for our contention that H was not familiar with D.

אבותך	דלקת	ימין ושמאל	נסע	זשג
אצדמתכם	זונב	ירקין	נשל	חשערתך
אחריכם	זית	יך	תסור	שבעה
אלפך	רבים	יך	סוך	גשבע
אנכי	רגש	יך	עליון	טדפון
אסמך	זק	יך	זעשתרות	שטך
ארור	חרתר	כרחים	זמנה	שתה
אוצרו טוב	חזר	כלתו	עם קדש	שמך
היה אם	חזל	לזה	עלה	החזק
כאשר	חזל	זמנה	עפר	תלעת
אלהים אחר	זטנעך	זמנה	עולם	
ברך	זטוב	המארה	כתח	
בטלך	היום	מהומה	זא	
דבר	זמנה יך	מגרת	זל	
דבך	זעשה יך	מעט	זקללת	
	הותירך	למופת	זקרבך	

Before we enter into an analysis of the foregoing list, it may be in place here that we enumerate the words and expressions which H employs that do not appear in the earlier sermon. By listing them here, we can the better compare both and make our deductions. They are:-

דקוממיות	נחת' כני	חרב	מריבת נפש
נקמת גנק	בקר' קר	חדש	התהלכתי
מקדשיכם	ברית	חטאתכם	אזרה
עלה	נשים	חית שדה	יבש בע
עץ הארץ	גחחכם	דבחת קר	בתוככם
עץ השדה	מער'ם	חרבה	לשובע
תעבר	דחטת עלכם	אני	לשלוט
עלכם	מאסו	אכלתם	שכבתם
ע'נים	המע'שה	תאבו	השבת
אם-ער	אמשה לחם	אפו	מטכני
עזכם	מך בלבבם	נאספתם	שכלה
עשר	מכלות ע'נים	אם-גאלה	נשמו
נדר	כחכם	אם-ער-אלה	משקל
כניתי	הכריתת	הרביתי	נשעו'ם
הפריתי	לבלתי	יזריק	תם
להפרכם	יבחתם לבטח	הריקותי	זאת
הפקדתי	ישן נאשן	שבר	
יבציר	יספתי	שנאיכם	
לבטח	יסר תוסרו	אגשמיכם	
אבה לה	ביר	גאתגעל נפש	
יבשר	מחריר	גאל	
מנסת חרב	חיה רעה	גד'ש	
נפול חרב			

(peculiar use of pronouns as)
Bene. Baalsh

(11).

(All words after which is placed a plus sign, are not found again in the O.T. and those after which a multiplication sign are not found again in pentateuch.)

A survey of these two lists of words peculiar to each chapter will impress one by the marked individuality of the two sermonizers. The frequency of certain distinctive words and certain peculiar turns of expressions peculiarly worded and phrased in each rather points to each other's ignorance of the other. If we note carefully the compilation, and for the moment leave out of consideration of those expressions in the list which are only used once, it will be noticeable that those words which are used several times (the number after the words indicate the times which they appear) are entirely ignored in the other respective code. It certainly stands to reason that no author could have relied on the work of another and at the same time betrayed this dependence by repeating at least some of those words which are recur several times and which we would term as typical of the author. As it is, the repetitions in both sermons are wholly confined to these expressions that ~~these few~~ few there are, which are but once in the other sermon. That so-called characteristic diction which is typical of the other writer is conspicuously absent in the opposite's composition. However striking the reappearance of an unusual phrase here and there may be, the impression of independence derived from ~~from~~ the marked absence of the typical diction of each author in the work of the other cannot be overcome. And the only conclusion which seems possible from a study of this language is that H XXVI was entirely unaware of the other, D XXVIII.

Moreover additional proof is furnished, despite these occasional linguistic parallels, that H was unfamiliar with D is in the seemingly deliberate use of certain synonyms. It seems certain that no author could have taken the time or trouble purposely to conceal his tracks by using one word while the work on which he was supposed to rely, was employing another expression, which to all intents and purposes contained the same meaning and yet throughout maintain this deliberate ignorance and concealment without sometime betraying it. It appears rather than explain such a phenomenon by such a forced explanation, that it would be more in the keeping with common sense to maintain that this different use of synonyms is to be accounted for on the sounder theory that they were both in ignorance of each other. Moreover, equally as potent and significant is the noticeable fact that while an occasional and divergent use of a few synonyms would be only accidental, the numerous list which is herewith appended demonstrates the preponderance of our conclusion that H was in total ignorance of D. No other inference is possible from such a great enumeration as this:-

D

פרי אדמתך
עץ קדוש
שרה, אדמה, ארץ
שגר אלפין פרי אדמתך
אשתרות ענף
אנכי
חטט
אויב
נכה
חטלה ירך
מעשה ירך
בקרוב
אגר אכר
(אנא) תוציא דלע
יתנד יי נהפ
מהומה

H

יבולה
עץ
אין, שדה
בהמתך
אני
גשמים
אויב חרב שנאיכס
פקד, נכה, יסר
(190) גאון עזך
(120) כחך
בתיכס
בעיר
(160) זרעת דרע
הריקות אחיכס חרב
מיר בלבבס

In this compilation, it is to be further noted that in both H and D, a number of these words are used over and over again but are ignored in the other sermon and instead a substitute word is employed. For instance, such expressions as ~~פרי אדמתך~~, ~~שגר אלפין~~, ~~אשתרות~~ recur again and again in D's final exhortation but are never found in H and if the latter had been even remotely cognizant of this sermon, he could not avoid the use of some of them for their repetition could not help but make some sort of an impression on him. Therefore their very absence from H leaves no other alternative but that he was unaware of this work.

Moreover additional weight is added to our contention of their independence, by a comparison of the peculiar and characteristic turns of expressions and so-called set phrases of each chapter. These expressions are peculiar to particular chapters and entirely ignored in the corresponding one. More than the use or non-use of certain words is the independence of these separate authors which is illustrated. When one author is bound to one set and modes of expression and repeats it over and over again and the other is so wedded to another series and manner of expressions, both distinct and no crossing, it is only evident that there ~~was~~ no attestations of dependence.

1. All words after which is placed a plus sign, are not found again in the D.T. and those after which a multiplication sign are not found again in pentateuch.

In B, for instance, this mode of construction appears:- ארור

ארר השמרך עד אברך, עד כלתו, ברוך
B, on the other hand, uses these types of phrases:

הלך קרי עמי לבטח
אין מחרן
אין ריך
בטבע
באלה
בזאת
אם עד אלה

Moreover B has great fondness for construct clauses as:

מנסת הרב, נקם בריה, משה להם. אלא, גזכום, משה עלכם
The point of view of each author is quite distinct. While both address the people at large, the nation as it was then in existence, they wrote from different standpoints. D is written in the second person singular while God is spoken of in the third person. On the other hand B is written in the second person plural, and God is the speaker. In the former, Moses is presupposed as the speaker while in the latter, God is addressing the Israelites with the "Divine I", peremptorily proclaiming this exhortation.

Just as in the use of language, so in the ideas and their presentation are certain correspondences and notable divergences. In fact, the variations in the framework and thoughts are more patent than even in their expressions. An outline of their contents will more clearly reveal those marked differences between these two sermons, the dissimilarities in the method of formulation and the striking diversity of aims of the two authors. A plan of these hortatory conclusions will disclose the marked and distinctive individuality of each author. B is in outline with the omission of later additions is divided in two parts, grouped under so-called divisions of blessings and curses. The first section unfolds the blessings which will result from obedience to the voice of God, i.e.

The people will be blessed above all nations, in all undertakings

1. in city and field,
2. in production and population and cattle-raising.
3. in agriculture.

Specifically, God will bless his people with prosperity.

God will bring defeat on Israel's enemies.

Specifically, He will give him victory in battle

God will establish Israel as a holy people to Himself and make them numerous and give them plenty in cattle and land production.

By giving them rain in proper seasons.

Specifically- that they might have plenty to lend and no need to borrow.

Thus he shall give them superiority over all peoples and and they shall be above everyone.

The second section largely paralleling the above, discloses the curses which will overtake the people if they do not hearken to the voice of God.

The first paragraph of this second section is exactly antithetical of the opening subdivision of the first employing the identical expressions with the exception of merely substituting the word "cursed" for "blessed."

Then follows a fuller and more complete description of the curses.

God will send all kinds of disturbances on their labor and a pestilence until it destroys them. God will pursue them with plagues, blights and droughts until He annihilates them.

The Heavens will refuse rain bringing such a long spell of dryness that they will be destroyed.

God will bring defeat to them.

The seed they plant the locust will devour.
The olive groves and vineyards will not yield
them aught for worms will eat them and olives will
drop off though plentiful.
All fruit trees and farm products will be inherit-
ed by the insect.

The stranger will be superior to them and they shall
be inferior because they had to borrow and had nothing
to lend until they be destroyed.
They shall be as an example for others.

In a series of curses, their conditions all brought on by their
disobedience will reduce them to destruction.

1. Various visitations and a pestilence will destroy them.
2. Divers disease, drought and blight cause their death.
3. Unending aoidity will encompass their destruction.
4. Military defeat will be administered to them.
5. Harvest failure will deal them destruction.
6. Slavery and poverty will pursue them until death.

This chain of calamities or curses will follow in the wake
of disobedience each potent enough and each conducive to their
annihilation.

Like the concluding sermon of D, the final chapter of H too is
divided in to two general divisions. The first section con-
tains the various blessings which accrue to the people if they
walk in God's laws and hearken to his precepts.

The agricultural and vinicultural yield will be so
plentiful that much will be left from the old production
after the new harvest is in.

The plenty will amply satisfy their needs.

God will give them peace and security.

Peace from (1) the wild animals

(2) the sword thru victory.

God will look upon them favorably and not abhor them and

(1) make them numerous and fruitful.

(2) establish his covenant and his pres-
ence with them.

(3) establish his sanctuary in their midst.

God will be their God and they shall be His people.

God who freed them from Egypt will break their yoke of the
alien tyranny and lead them erectly.

The second section similar to the corresponding sermon in D is
much more ^{drawn} out and more detailed than in the first part and is
taken up with the various adverse conditions which will follow
in event of a revulsion to God's law.

If they reject God's law then,

(1) He will visit upon them various
diseases and weaken them

(2) They shall plant and sow in vain

(3) For the enemy will devour it (pre-
sumably because they will be too
impotent to withstand them.)

(4) Then the enemy will defeat them
and subdue them and pursue them.

If they persist in their disobedience, then sevenfold more
punishment will be meted out to them.

(1) He shall destroy that which through
their labors, they take pride in.

(2) By bringing upon the earth a blasting
drought.

(3) Further efforts will be wasted be-
cause the earth shall not be able to
yield its production.

See 26¹² points to development and derivation from devotional literature and language
of a religious school that to the adoption of a phrase from our document into
another. CHCH. 118 N.

If they ^{still} ~~yet~~ act perversely then still sevenfold more punishment will be meted out to them.

- (1) Then God will release the wild beasts against them
 - (a) shall rob them of their children
 - (b) shall kill their cattle, thus,
 - (I) decimating them
 - (II) making desolate their roads.

If despite these adversities, they persist in their perverseness, then sevenfold more punishment will befall them.

- (1) Then God will send against them the avenging sword
- (2) And they shall gather in the cities and
 - (1) disease will break out and compel their ~~surrender~~
 - (2) and scarcity of food will leave little to satisfy them.

If they still persist in their perversity then God will go with them perversely and seven fold punishment will be meted out to them.

- (1) And because of hunger they shall eat their own children.
- (2) And God will destroy their cities and demolish their sanctuaries.
- (3) And God will scatter them and the sword shall still pursue them, frightening them that slightest noise will make them to shudder.
- (4) They shall disappear among the nations, in the land of their enemies.

Before entering into a comparison of the contents of these two sermons it is of interest to note the relationship of these basic plans or methods of formulations. Except for the two general divisions, made on the basis of blessings and curses, little else of similarity in these frames is apparent. Of course as we have already noticed the second sections of both sermons are more lengthy and detailed than the first parts of the blessing in both chapters. But this observation is traceable to the frame of mind of the author at the time or the conditions which prevailed about him. They seem to realize that fear of the consequences of their disobedience will be a more potent deterrent than the blandishments of the promises for the observance of the divine decrees. Or the sad plight in which the people found themselves were overdrawn in the second section, as an object lesson resulting from their non-observance of the laws of God.

Aside from these resemblances in the matters of formulation, no other likeness between outlines is present. Notable differences however, are in evidence. In the first place, nothing corresponding to the strong and impressive exclamations at the opening in each section of D 28 offers itself in the final chapter of H 26. There is no denying that such ~~powerful~~ ^{impassioned} sentences caught the ear of the auditors and held them spell-bound. The hortatory sermon in D represents as the above worked out outline indicates a series of parallel pictures, either describing the happiness or causes for happiness which will accrue to the people if they heed God's law or misery which will ensue if they turn a deaf ear to God's decrees. These descriptions are presented in a series of pictures which in the case of each curse, will ultimately lead to total destruction. In H, the outline¹ is totally different. Here the blessings are developed. This however is not so pronounced as in the section detailing the threats. In this part of the sermon a progression of curses each severer than the preceding, each exhibiting a growing severity and rigour advancing in consequences of the continued stubbornness of the people to obey God. This sermon comprises a progression of pictures each more harsh and austere in proportion to the peoples perversity. In the matter of outline therefore there is ~~no~~ ^{no} resemblance. Each is worked in a different plan, each plan

a reflection of the originality of its author. The disposition is different. Dt. 28 has an antithetic series of blessings and curses to which there is no counterpart in H. Lev 26 is climactic (14, 17, 18-20, 21f etc.)

In the matter of contents, the differences are no less striking. The blessings which D holds up to the people are prosperity, victory and eminence and superiority. Those which H dangles before the eyes of his audience are plenty, peace and the divine presence. Thus it is noticeable that the only resemblances in the two opening sections of the two sermons, are the prosperity and victory which D promises as a reward for fulfillment of the law and plenty and peace which H guarantees as a recompense for obedience. In the case of prosperity which D predicates, is quite a different thing from that plenty which H holds up. The promise is a blessing, "all their labors whether in city or field, in population, farming and cattle raising, in basket or knead-trough, will be crowned with realization of their hopes. In H, their expectations will be more than amply fulfilled. Such sufficiency will be more than satisfaction of their wants and needs. In D, the blessings will rest upon municipal as well as agricultural and pastoral, while that which H fancied was wholly agricultural. Moreover the abundance which D promised will so enrich the nation, that they will be so independent that it will be a lending and not a borrowing nation. In H on the other hand, the plenty will be for their own satisfaction not to be converted into dollars or cents but to amply satisfy their appetites, and give them a sense of physical security. In the next point when one would expect a slight resemblance, on a closed investigation, it will be revealed that here too, a distinct divergence is in evidence. D promises the nation a victory. The enemies which shall start any aggressive offensive against Israel will come out against them, in an orderly fashion and will be routed and will flee in all directions. Victory pure and simple is promised. H holds before them peace, peace from the wild beasts and from the enemies who shall fall by the sword. D furthermore promises his nation economic independence and a position among and above the nations. H, on the other hand holds before them the happiness which will abound as a result of the reestablishment of the sanctuary and residence of God in their midst. In this too there is an additional difference. D's pride is centered in the national grandeur and preeminence of his people, for they shall be above all the nations and "at the head and not the tail". H's interest seems in the religious wellbeing of his people whose reward for their observance shall consist in having God's sanctuary and his shekinah to abide among them. As a result, he shall break their foreign yoke and as freed-men they shall walk upright and no longer bowed down under the yoke of oppression. In the blessing sections there exist no signs of any dependence. In the sections on curses there are many differences but a few correspondences which we have already discussed. D threatens them with disease, pestilence, drought, defeat, blight and crop failures, slavery and poverty if they do not heed God's voice. H threatens them with defeat resulting from impotence thru disease and all their labors shall fall to the enemy, destruction of their labors through drought, destruction of their cattle and children with wild beasts, reduction through the sword, destruction through deportation. As has been pointed out previously, each curse which D describes will lead to destruction. Each punishment, which H delineates is milder than the following one, and only the last will bring about total destruction. The general viewpoints of the two sermons however are distinct. Disobedience in D will be visited by a curse, reducing immediately to destruction. Disobedience in H will be visited by a chastisement (70), (the word curse is never employed), always carrying with it the idea of forgiveness. In D the curse is vindictive. In H it is disciplinary. This latter is brought out as the more severe punishments are in-

voked as the people become more perverse. In D, this idea of God's recanting is not present. For their failure to heed God's voice, all these curses will overtake them. Specifically however, there are differences. In D, disease and pestilence will lead to death. In H disease will reduce them to impotence so that, that which they raise will fall to their foes in consequence of their defeat. Drought will starve them to death according to the curse of D. In H on the other hand, their labors will be spent in vain for the dryness will prevent the yield of tree and ground. In D, the enemies will rout them causing them to flee in an disorderly manner. In H, the avenging sword of the covenant will herd them in the cities where famine and disease shall so weaken them beleaguered that they shall surrender to the enemy. "The God of the author in this passage is the offended God of the covenant for just as you break my covenant so I shall take vengeance on you. Ps. XVIII 26f" (Baentsch).

In D, through failures, the people will be so impoverished that they will become extinct. In H, their cities will be destroyed, and sanctuary demolished and they shall be scattered among the nations only in course of time to disappear. It is interesting in this connection to note that the description of the crop failures follows the outline of that characteristic group of D expressions, *וְהָיָה כִּי יִשְׁכַּח אֶת ה' וְהָיָה כִּי יִשְׁכַּח אֶת ה'*, with nothing corresponding to it in H. Aside from these notable differences, D speaks of the curses of flight, slavery, national poverty and national inferiority without any parallel punishment in H. While the Holiness code describes the penalty which shall be inflicted thru wild animals which is omitted in the previous sermon. In those correspondences moreover, the entire presentation is at variance as these descriptions above noted, conclusively reveal. In D, Israel shall be defeated by God who will assist in making the defeat a rout. In H, by the disease which God shall send Israel will be so weakened that that they shall be defeated at the hands of their enemy who shall take possession of their crops. Then again, they shall be compelled to surrender to the enemy because of a famine and pestilence which God will send in their midst when they are assembled in their cities. Then again, the drought will, in D, be so oppressive that they will be destroyed. While in H, the drought will blast that in which they ~~had~~ set their hopes and destroy that for which they labored and to which they looked forward to. These instances need not be multiplied to show that the viewpoints of the authors are distinct, and that albeit there are two minor correspondences, the differences are so overwhelming that it seems stretching the importances of these slight linguistic parallels to contend that on bases of them the two sermons are dependent. The many and great differences can be explained only in the light of the theory of independence.

Before concluding this discussion, there yet remains an investigation into the figures of speech which these sermons use and a comparison of them. These different metaphors which are employed will only add additional proof to our contention that the authors of these two sermons were entirely ignorant of each other.

The figurative language of D in this chapter is as follows:
D ~~uses~~ ^{uses} blessings and curses using together with them the expressions "overtake" or "command" vs 2,45,15,8.

- (2) Blessed be thou in thy baskets and kneading-troughs. 5,17
- (3) The enemy shall go out against thee in one way and flee in seven. 7,25.
- (4) God shall open his good treasures, the Heavens. 12
- (5) They shall be as a head and not as a tail. 13.
- (6) Pestilence shall cleave unto thee. 21.
- (7) Heavens shall be bronze and earth iron. 23
- (8) Lord shall give dust as rain of the earth, dust from Heavens. 24.

① In D, God will work directly without any intermediation, in working punishment on the disobedient. In H, God works indirectly, to accomplish the same purpose, through the use of natural forces to accomplish their punishment.

The figurative expressions which H employs are as follows:

- (1) Sword shall not pass through land vs. 6
- (2) Shall turn my face toward thee. 9.
- (3) Shall walk with thee. 12.
- (4) Shall break the yoke and I shall lead thee erectly 13.
- (5) Make your Heavens as iron and earth as bronze 19.
- (6) If ye walk with me contrarily
- (7) Vengeance of covenant, avenging sword 25.
- (8) Ten shall bake their bread in one oven and measure it out 26
- (9) The noise of a moving leaf will pursue you 38.

With the exception of one figure, there is no similarity in these metaphors. This resemblance has been explained above. It has been shown that it is more likely that this near similarity is due to something else than dependence.

This lack of dependence is proven by the great diversity.

The different description of the defeat at the hand of the enemy, the metaphorical description of the enemy as the sword, the different description of the drought all prove the marked individuality and distinct originality of these sermons. If we were to assume that H was dependent on D, it is next to impossible to explain these great differences. For if he borrowed one figure of speech, the question naturally arises why he stopped there. Why did he go to D for one simile and originate these other figures of speech. It is clear that their minds did not lack in that imagination and fancy that in a description of a drought H repeated a simile which D had already employed. To sum up then, neither phraseologically nor substantially, does H's sermon show any signs of dependence. But both display an independence and originality manifested in working up the same theme which expose no evidences of reliance. Though D XXVIII and Lev. XXVI have some resemblances and then not in its general tenor as in particular turns of thought and expression. "But these coincidences are not such a nature as to imply literary dependence. The total impression is distinctly one of originality on both sides." (ED).

1. Puukko 220 foot note.

2. Pt. 304.

Chapter VII.

Laws bearing on Personal and Family Relations.

In this chapter it is our purpose to determine the relationship of these codes ~~from~~ an examination of the laws which bear upon the personal and family life. Up until the present, our task has been concerned more or less with the formulary aspects of the codes and our conclusion has therefore been more or less general except in the previous chapter. Save for the inquiry into the parenthetic concluding chapters of the lawbooks in the foregoing section, the preceding discussions and investigations related to a study of the general features of the two codes. We shall not attempt to ascertain the sort of relationship that obtains by an examination of the laws themselves.

In this comparative study of the legal material of the two lawbooks, therefore, in order to simplify the task, it will be necessary to classify the laws of each code so as the better to compare and examine them in detail. The entire legislative material of the two codes will be grouped under the following 4 general headings. (1) Laws bearing on persons and Families. (2) Laws aiming at Humanity and Justice. (3) Laws designed to promote Cleanliness and prevent Abominations. (4) Sacred Laws dealing with (a) Times. (b) Sacred Persons. (c) Sacred Places. (d) Sacred things.

It is hardly necessary to state that many ^{of these} laws will be forced under some of these headings when according to their contents they could not by any stretch of the imagination be included under these general subjects. Our task is however not to classify the laws but to group them in some system so that they may be discussed with some facility and in some scheme. These topics therefore will furnish the subjects for the subsequent four chapters as well as suggests the contents of the discussions.

In this immediate section, the subject which will ~~occupy our~~ ^{most} attention ~~will~~ be a study and a comparison and analysis of the laws of the two codes which pertain to personal and family affairs. In the laws under this title, we have ranged them together approximately into seventeen subtopics. To demonstrate the completeness and fullness of the D legislation, it is only necessary to notice that this code has fourteen laws regulating the personal and family concerns of the community, that is included under 14 sub-headings while H contains merely two general ones. Moreover there are but 6 laws common to both codes dealing with and concerned with somewhat similar subject matter.

The following synopsis will demonstrate this fact:-

- | | | |
|---------------------------|--------------|--|
| 1. Reverence for parents. | D | H XIX 1-3a, 32d. |
| 2. Undutifulness | D XXI 18-21 | H XX 9. |
| 3. Marriage restrictions | D XXII 30 | (H XVIII 6-18, XXI 7-13
(H XX 11, 14, 17, 19, 21. |
| 4. Levirate Marriage | D XXV 5-10 | |
| 5. Female Captive | D XXI 10-14 | |
| 6. Divorce | D XXIV 1-4. | |
| 7. Adultery | D XXII 22-27 | H XVIII 21 XX 10. |
| 8. Seduction | D XXII 28 | H XIX 20-22 (P) |
| 9. Slander | D XXII 13-21 | |
| 10. Unnatural lusts | D XXIII 18b | (H XVIII 19, 22
(H XX 18, 15. |
| 11. Prostitution | D XXIII 18 | H XIX 29 XX 19. |
| 12. Indecent assault | D XXV 11 | |
| 13. Dress of sexes | D XXV 5 | |
| 14. Battlements of Houses | D XXII 8 | |
| 15. Blind and Deaf | D XIX 14 | |
| 16. Gleanings | (D XXIII 24 | (H XIX 9-10 XXIII 22
(D XXIV 19-22) |
| 17. Unlawful mixtures | D XXII 9-11 | H XIX 19b. |

One hardly needs to be told that the hand of the D editor is in greater evidence in first eight or nine chapters of the D codex (12-20) than in the ^{codes} of the miscellaneous laws (21-25). In fact, this striking disparity between these two sections of this code has not passed unnoticed and has led some

critics¹ to the theory that the second section represents a later insertion in the body of the code. Be that as it may, the fact remains, that the spirit and language of D editor are more in prominence in first part than in the miscellaneous section and it therefore follows that in the first part, one should the better look for the distinctive aim, thoughts and phraseology of the Deuteronomic writer. The spirit, the purpose and motif are best to be had in the frequently repeated D expressions of the D code which mainly occur in the earlier section, than in the laws which were taken over bodily without change and embodied in the law-book. In short, that which is most distinctively D is to be found in opening chapters of the code. On the other hand, the legislation in that motley collection of laws which is without any orderly system, may well have been appropriated from another source or other sources by either D or H. ~~A fact to be noted in passing is that these laws were incorporated in the code by D as we already mentioned since we have no reason to hold otherwise.~~ The significant thing is that these laws are not distinctly and specific D laws. That is, he did not originate them nor did he with some few exceptions alter their composition. Therefore the point which we wish to register here is this, that in the classification which we have given above, it is to be observed that the parallels, that is, the laws which contain somewhat identical subject matter are laws which on the part of D are to be found in this miscellaneous section. In other words, there is not law in H under this head which is paralleled in that so-called distinctly and characteristic D section of 12-20. That is to say, as far as the laws falling under this title are concerned, it is to be observed that that section which is most permeated with D spirit and tone has no substantial correspondences in H. It is my opinion therefore which we shall verify as we proceed, that the corresponding laws of D and H are to be ascribed not to dependence of one on the other but to the use of some common sources. With this view in mind let us now enter into a discussion of the legal parallels.

Under the above synopses, the first topic which is treated by both codes, styled parallels is comprised under the heading of undutifulness. D XXI 18-21 and H XX 9. The D passage we recognize as forming and original part of the Josiah code. Heretofore we have proven that these laws (XXI-XXV) which comprise the miscellaneous section of the code formed to a large extent an original element of this lawbook. We shall therefore here assume as proven that these laws as a whole and not without some exceptions were original. This passage XXI 18-21 with the exception of vs. 20b is entirely original. This half verse adds nothing to the text, and is out of harmony with its contents, and gives the impression of being tacked on to the sentence. Moreover, this half sentence² is in imitation of Prov. XXIII 21 and in all probability was taken over from this latter passage by a scribe and appended originally as a gloss to vs. 20a.

There is no reason why the law of undutifulness in D should not be original.

The law touching upon similar subject-matter in the Holiness code is one from the parenetic writer of chapter XX 9. It is clear as we have pointed out in the previous connection that this chapter to which this sentence belongs is unmistakably an amplification and elaboration by the Holiness redactor. The editor is far more intent on urging obedience to the law is obeyed than interested in repeating it. It is a proven fact that the editor practically repeats an older law and all, for the sake of emphasis. While of this law XX 9 we have not the original copy we can to a certain extent determine what constituted this original. The original law which was borrowed and expanded by the editor is contained in the first half of the verse³ exclusive of

1. ~~Bentholet~~, *Bentholet*.

2. Bentholet D. PP 67.

3. It is obvious that the word 'is' is added by the editor.

the penalty 9a. The law of D as ^{it} originally ~~it~~ stood, therefore deals with a son who is refractory disobedient and recalcitrant, and who persists in his disobedience even after he has been chastised for it. The parents who must bring him to court must publicly say to the elders that this their son, is incorrigible. Then the citizens stone him to death that they "might uproot the evil from their midst and all Israel shall hear and fear." The law of H originally read "any man who shall curse his father and mother" to which RH added, "he shall surely die, his father and mother he cursed, his blood shall be on him." The first thing which strikes one on reading these laws is that they both are in different formulation. The law in D is framed in the style of a judgment, (designated so by Briggs, Higher criticism pp 244-57 also cited in CH. DH. 501-2-3) of the so-called earlier form. The one in H is in the formulation of a ^{later} ~~later~~ form. It is at once noticeable that there is not the slightest similarity in the formulation of these two laws.

There is a slight linguistic resemblance between them. There are four words common to both passages, i.e. ^{וְאֵלֶּיךָ}, ^{וְאֵלֶּיךָ}, ^{וְאֵלֶּיךָ}, ^{וְאֵלֶּיךָ}, which are however used in strikingly different connections. The expressions ^{וְאֵלֶּיךָ} ^{וְאֵלֶּיךָ} is a typical opening clause of Holiness Code and RH here uses the phrase ^{וְאֵלֶּיךָ} ^{וְאֵלֶּיךָ} which appears frequently in H XX. These two expressions are never used in D. So while these words in their simple forms may be found in both, the peculiar modes of expressions are peculiar only to one. The expression ^{וְאֵלֶּיךָ} ^{וְאֵלֶּיךָ} is common to both of these laws. However in other laws passages of H when the occasion for this expression arises the word mother precedes the word father. (H XIX 9, XXI 2). However this is the only correspondence between these laws in matter of language and is noteworthy because H elsewhere reverses this expression. There are striking differences however. The expressions which D employs, as such noticeable and recognizable ^{וְאֵלֶּיךָ} ^{וְאֵלֶּיךָ} ^{וְאֵלֶּיךָ} ^{וְאֵלֶּיךָ} etc. H's or RH's expressions are ^{וְאֵלֶּיךָ} ^{וְאֵלֶּיךָ}. Now this disparity is marked because D uses expressions the synonym of which H employs, D ^{וְאֵלֶּיךָ} ^{וְאֵלֶּיךָ} ^{וְאֵלֶּיךָ}. This is of interest ^{because} ^{fundamental} this word used by D ^{וְאֵלֶּיךָ} ^{וְאֵלֶּיךָ}, is only used here in the code and nowhere else in D. On the other hand, H in this chapter XX uses this word twice (XX 2,27) but does not use it here in this law paralleling and corresponding to this one in D. Since H did use the word, it shows he had no aversion to its use. While on the other hand he did not use it here in this passage proves that he evidently was not influenced by the language of D XXI 18-21 in framing XX 9.

As regards the contents of these two laws, there is no less notable diversity. This law of D is addressed to the people at large. The law in H is addressed to the individual who is liable to violate it. The law in D is directed to compel the obedience of one whose parents could not control. If this son still persists in his disobedience even after he is reprov^{ed}, ^{that} he is stoned to death by the city elders. On the other hand in H one deliberately curses his parents, he is to be killed outright. The common feature is that the penalty is identical ^{only or} except that D prescribes the manner of execution. H merely and briefly lays down the punishment, without stating how it is to be carried out, adding however that his blood guiltiness shall be only on him. There is this fundamental difference. D treats of the offense of disobedience and incorrigibility. H prohibits the child from cursing his parents. D¹ likewise, perhaps feeling the severity of this penalty, justifies it by holding it up as a deterrent to others. In the book of the covenant (Ex XXI 17) we find a law identical with the one in RH XX 9 except that the formulation is not entirely similar. The obvious conclusion from these facts is that the differences are so significant and the resemblances so accidental that H is in closer relationship with C than D. While H does not describe the method of execution or ^{point out} ~~state~~ the one who shall carry it out, it is supposed that H

1. However severe this law appears, it is a mitigation of the earlier ones Cf Dr Dt. XXIV 7 Addis II:115. (2). Dr. Dt. 247 Steurnagle Ad Loc.

like C meant that the parents should carry out the punishment. If this surmise be correct, then the power and authority of the parents were unlimited in H and C, while D, it is supposed was for delimiting this power of parents. In this sense therefore, it cannot be said that H was in any way dependent on D since the former is absolutely ignorant of this limitation of the parents' authority if such be the case.

The next subject treated in parallel laws in both codes is listed under the title of marriage restrictions. D 23:1² XVIII 6-18 XX 11,14,17,19,21 XXI 7 & 13. It is recognized by most critics¹ that the law in D (XXIII)³ formed an original part of the Josiah code. Except for those who rule out the entire miscellaneous section of Deuteronomy (chapter XXI-XXV), all critics hold the originality of this passage XXIII:1. The series of laws in H (XVIII 6-18) dealing with marriage restrictions are all original⁴ to this code. Some have questioned vs. 6 on account of its use of plural⁵ and would assign it to the redactor of the chapter. But while this theory, if accepted, would not seriously affect our conclusions it must be said in answer thereto that the change of number and person are common features of Ch. XIX which are recognized as original. Moreover since this law in 6 is a general one, it is such a one as one would expect as opening this group, because it was the habit of the editor to introduce each decad with such a general superscription and to follow it up ~~in this chapter~~ with detailed laws.⁶ As we have shown above, the laws in ch. XX corresponding to those in XVIII, are the work of the editor who has drawn his material from the latter chapter, and amplified it in order to lay stress on these laws. Lev. XXI 7a & 13 formed no doubt original laws of the code. 7b is clearly an addition by the hand of the redactor, (RH)⁷ because it assigns a reason to, and is done up in the style of this editorial hand. Thus against one law in D on this subject, we have a number of them in H all designed to make for holiness of the people and aimed to restrain them from heathenish practices. (XXIII 1). The law in D XXIII 1 is in the mold of a statute מִן הַיְּהוָה of the earlier form. Those of H XVIII are formulated in style of either (vs. 6) מִן הַיְּהוָה later forms or (vs. 7-18) or words " (מִן הַיְּהוָה) or those of H XX are either as (vs. 11,14,17,20,21) " מִן הַיְּהוָה later forms or as (vs. 19) "words" or those of H XXI (as 7 or 13) are framed as so-called מִן הַיְּהוָה earlier form. It is thus observable that the majority of these laws are in a different formulation in H than in D. It is to be remarked that the only analogous form is that found in D XXIII:1 and H XXI 7 & 13, and they are framed in the legal style of the מִן הַיְּהוָה styled the earlier form. That it is to be noted also, these laws which differ the most in subject matter, only ones which have the same formulation.

It would be expected that H would have ^{had} some words in common with D in the laws on identical subject matter as marriage restrictions. The expression used by D מִן הַיְּהוָה is repeated without end in H. (XVIII & XX). Likewise D's shortened expression מִן הַיְּהוָה for marriage and מִן הַיְּהוָה are found frequently in the corresponding sections of H. It is to be observed however that D employs a clause which does not reappear in H, neither in the section on marriage restrictions nor in any other chapters. Despite Stuer-nagle's contention (P 84), that these words are a euphemistic paraphrase of the H expression מִן הַיְּהוָה it seems to ~~be the case~~ ^{be the case} the reversed, as I shall presently show, that D was entirely unfamiliar with H. It is only necessary in ^{making the comparison} of this law of D (XXIII) with the entire section of H XVIII-XX to compare this sole deuteronomic legislation with the corresponding one of H ^{and also} note the linguistic relationship.

1. Driver, Berth, Addis, Ad Loc. Keunen Hex 268f.
2. Baentsch 393 Moore Eb vol 2784.
3. XXIII 1 is paragraphed in the English version as the last verse of the previous chapter.
4. Paton XVI ; 45: to chapter.
5. Paton XVII 153-4. EB. Moore 2785 Driver SBOT etc.

The identical law of D XXIII:1 is to be found in H XVIII 8 and XX 11. The first thing which strikes one when a comparison of these laws is made is that they are not framed alike. H XVIII 8 has the address of second person singular, while that of XX 11 has address of 3rd singular, albeit it is in the frame of ^{לך} (laterform), while that of D is in 3rd singular although in legal style of ^{לך}. Now this disparity of formulation is significant in that perhaps the material of one could not have furnished the model for the other if in plan of frame work they ^{are so different} ignore each other. Secondly if we assume that the laws of H XVIII are older than D and probably formed the source for D ~~as its source, lay at the bottom of D,~~ it seems strangely that in language there is such difference. The disparate expressions for marriage is quite striking. D uses ^{לך}, H employs ^{לך} a variation and notable one which D uses, is ^{לך}. On account of this difference in wording, D could not have used H as a patent but in all probability used a source common to both which explains the similarities and differences. Now it is an accepted fact, as we have shown previously, that the parenetic framework of H is of later date than D, and have also proven that H XX is a distinct product of RH. Let us therefore make a comparison of the parallel law of H XX 11 with D XXIII:1 and determine if RH in chapter XX used D for we have shown that from the standpoint of phraseology D XXIII 1 was ignorant of H XVIII 8 (that is H (1)). The only correspondences in language between these two laws are the very common words ^{לך} and ^{לך}. A close examination of this chapter H XX, and this sentence (XX 11) particularly, reveals the fact that the author derived his legal material from the duplicate chapter XVIII and its peculiar diction is traceable not to D XXIII 1 but to XVIII 8. Furthermore the difference in phraseology between these H laws illustrates on the part of RH his independence. He uses in H XX 11, 18, 12, 13, XVIII 20 the expression ^{לך} which is absent in D XXIII 1. Moreover this phrase differs from the usual D's expression who employs the substitute expression ^{לך} (D XXII 22, 23). This distinction in this verbal usage that is, H using ^{לך} while D uses another expression and then a variation of that expression too shows that RH was unfamiliar with D XXIII(1). Moreover, RH adds to his law these expressions which are typical of H ^{לך} and ^{לך}. It is scarcely possible then that RH would have used D XXIII 1 as his patent and at same time have deliberately employed a different expression to convey the idea, H using ^{לך} and ^{לך}. These authors were entirely too conservative and too devoted to the text to tamper with it and take such liberties with it ^{as to rely on it and then to alter it without any apparent reason}.

The difference in contents between D and H on the subject of marriage likewise bears further evidence that there was equally that independence on both sides. Correspondence of contents with only one law on this subject between both codes impresses one with the fact that either D did not know of H's full development of the subject or H needed not D XXIII 1 to work out elaborately his restrictions on marriages. The supposition that D XXIII 1 refers to H XVIII as representative of the whole series is unwarranted because if this had been the intention of D, he surely would have expressed it by means of some generally worked reference to the entire H compilation.² From a formulistic and phraseological viewpoint, there is no connection at all between D XXIII 1 and H XVIII. If this latter chapter, or the kernel of it had formed a source for D XXIII, it is entirely inexplicable³ why the Deuteronomic editor ignored all the other laws which H deemed of equal importance. And in selecting this one, he merely took over the contents of one law, wording and

1. Kuenen Hex 267.

2. Driver Dt. 258.

3. Kuenen Hex 267.

4. Driver Dt. Ad Loc., sees also for significance of word ^{לך} which may mean marriage and have nothing to do with ^{לך}.

framing it differently and repeating it in duplicate. As Driver¹ has pointed out, independent of H XVIII D prohibits marriage with a step-mother because the practice was prevalent at his time. Now the only marriage restriction which H provides for is marriage with the wife of a father, reiterating the law in two different statutes, prohibiting marriage with a "father's wife" and "revealing the father's garment" (Hilprophety).

While D devotes merely one law to marriage restriction probably aiming to eradicate a prevalent abuse, H has developed an entire series of restrictions, perhaps supposing to maintain or develop a holy community whose moral sanctions and standards had been broken down by the national calamity which the nation suffered. Some have seen in these many detailed and finely worked out prohibitions a reflection of conditions which the laws intended to correct. If this be the case, it is evident that D XXIII could not have known of H XVIII and this chapter evolved independent of any earlier source out of conditions and circumstances which then obtained. The increasing stringency² and finer feelings in these restrictions rather point to a post Deuteronomic period as the time of origin of these laws. Thus in XVIII, marriage is forbidden with³ (1). Mother (2). Another wife of father (3). Full or half sister, (4). Grand daughter. (5). Paternal aunt. (6). Maternal aunt. (7). Niece. (8). Daughter-in-law. (9). Sister-in-law. (10). Mother-in-law, or step-daughter. (11). Step-grand daughter. (12). Wife's sister during lifetime of wife.

It is to be noted in passing that this list of restrictions fails to provide for marriage of uncle with niece. This omission may have been intentional so that by ignoring it, tacitly to countenance such unions.³ It will be noticed in the outline of this chapter that the author follows a definite principle of arrangement. Up to vs. 11 the lawgiver exhausts the relationship of the immediate family of the first degree. In section 15-18 he treats of relationship through parents and children and this is kinship of 2nd class. Surely for this systematic arrangement, this following of a principle of grouping the author of H is not indebted to D. And it is to be observed in this collection that that only law which is common to both codes, is in H unus inter alter and it does not seem at all probable that H would borrow just this one from D especially since he has so many other laws of equal importance which he originated or derived from another source. Moreover, H XX 11, 14, 17 XIX-XXI which as we have pointed out before, is but an editorial amplification of H XVIII, that is H XX, is assuredly of a later date than D. In the first place, let me outline these RH laws:

- (11). A man who shall lie with his father's wife, both shall die, their blood shall be on them.
- (14). A man who shall marry a woman and her mother, wickedness it is, they shall burn him and them with fire.
- (17). A man who shall not marry his sister, it is a hateful thing they shall be cut off from among their people, for he has revealed his sister's nakedness, he shall bear his guilt.
- (19). Nakedness of thy mother's or father's sister thou shalt not reveal for he uncovereth his near kin, they shall bear their sin.
- (20). A man who lieth with his aunt, they shall bear their sin, they shall die childless.
- (21). A man who shall marry his brother's wife, it is impure, they shall be childless.

The frame of these laws of RH is formulated similarly to that of D XXIII 1. In this respect however RH XX is not dependent on D. In the matter of language, it has been shown that D and H are at

1. BA. Dt. 258 Steurnagle 84.

2. Baentsch Lev. & Nu. 392.

3. Baentsch Lev. & Nu. 392.

4. Paton 16:45 JB.

great variance and present less resemblances here than between D XXIII 1 and H XVIII. It is to be noticed too that each of these laws of RH carry a penalty though these penalties may differ, ~~yet each law is provided with punishment for their violation~~. D XXIII specifies no penalty. So in this respect too there is no evidence of dependence. Furthermore it is to be observed that except for Vs. 11, each crime prohibited is characterized by the redactor by epithets disclosing the lawgivers' reversion thus by ~~70 ח, 17, 18~~. These parenthetical insertions appear as clear interpolations by the editor and add nothing but the displeasure which these subjects arouse in the redactor. As we have already shown the legal material of H XX is derived from H XVIII it is not in this portion of the laws therefore that ~~we must~~ look for any dependence on D. Rather in the parenthetic ~~additions~~ of these laws we must seek for any evidence of dependence. Since the redactional features so-called of these laws are these penalties and these comments, it is in them especially that we must look for any signs of influence of D on H. These expressions of revulsion ~~70 ח, 17, 18~~ are not found anywhere in D and therefore do not find origin there. Moreover, the punishments here mentioned do not occur in D. Nowhere does D speak of ~~70 ח, 17, 18~~. In D XIII 17 notwithstanding the fact the author uses the expression ~~70 ח, 17, 18~~ it is however not applied as punishment to individuals but to the burning of the property of an apostate city. Therefore ~~in~~ these distinctive features of the redactor, D and H are far apart, disclosing no evidences of similarity.

Finally, H provides for other restrictions, forbidding priests to marry certain classes and limiting the high priest to even more narrow circles of selection. Since D makes no such restrictions for marital relationships of the priests, it is obvious that for material and contents, H is entirely independent of D. In H XXI 7 the priests shall not marry a harlot or profaned woman or a woman divorced from her husband. In H XXI 13 the high priest shall marry only a woman in her virginity. Obviously these heightening restrictions on marriages of the various priests show the gradual crystallization of the oral laws into fixed form and evidence of a progressive strengthening of the old custom into detailed legislation.¹ In these laws H employs certain words which are not used at all in D. Thus expressions like ~~70 ח, 17, 18~~ and the peculiar usage of ~~70 ח, 17, 18~~ (H XXI 13). Both codes use the same word ~~70 ח, 17, 18~~ for marriage but it is expected since they have no freedom of choice in the matter. In language and formulation, these laws of H are notably different from D. In contents H has no parallel in D. The hortatory half sentence H XIX 7b is clearly from the hand of the redactor. D in no place uses ~~70 ח, 17, 18~~ speaking of Israel or individual, as a substantive. In D (XIX 2) XVIII 9 he mentions a holy people but never with distinct word. This expression in H XXI 7b is a peculiar RH expression. It is evident however, that this phrase did not originate with D. RH's emphasis on holiness and the constant recurrence of this concept in H and RH manifest the distinction struck by these editors.

Another law analogous in both codes prohibits the offense of adultery D XXII 22-27 H XVIII 20 XX 10. The law in Deuteronomy XXII 22-27 is considered by most critics³ as original, as constituting an integral element in the Josianic code. The afterthought in sentence 26b however is clearly not an original part of this law.⁴ It obviously represents a glossary comment probably written on the edge of the page in explanation of the law, by a scribe and was later inserted in its present context. Despite Ewald's opinion that H XVIII 20 is inappropriate in its connection, it seems rather impossible to think of this prohibition outside of this chapter which is devoted altogether to prohibitions against sexual impurities. It appears in a natural place⁵ between

1. CHCH 429 N.

2. D uses the words in a concrete sense. cf. B.B.D. Lexicon ~~70 ח, 17, 18~~.

3. Driver, Addis, Bentholt.

4. Bentholt. 71.

(5). Paton 16:48.

If the act of immorality occurs in country, only man suffers death, since girl could not gain protection. H XVIII 20 forbids the "giving of thy seed" to the wife of thy neighbor to be defiled thereby. RH forbids adultery with wife of neighbor, adulterer and adulteress shall both die. In the first place, if H was dependent on D for his legal material or even had been influenced by him in framing his lawbook, he could not have avoided the allusion to this distinction between the married and betrothed woman and legislated for both. As it is, he says nothing of the latter. He only directs his law to the wife. In D, the betrothed girl is considered as married. In H, this absence of reference to the betrothed, shows that H, which reveals a greater stringency, could not have ignored a prohibition against such adultery if he had used D as a reference book for the compilation of his own code. Now this leads us to a closer comparison of these various laws. D prohibits intercourse with a married or betrothed woman while H prohibits adultery. D specifies death as the penalty for both in case of married person and the betrothed person when the offense is committed in the city and of the man only when the crime is perpetrated in the country. Of course it is presumed that violence has been employed. H XVIII 20 specifies no penalty, forbidding it on the ground that it defiles. H XX 10 enjoins death presumably¹ by stoning like D. The reason assigned for the carrying out of the severe penalty according to D is "to uproot the evil" (which is a D expression not found in H). H's reference to adultery as a defilement is in keeping with the spirit of H and original in this code. If the expression *והוא ימות* in XXII 24 means the same as in RH XX 10 then the latter includes both the married and the betrothed and the penalty of death is meted out to both the woman and man irrespective of where the crime is committed. In this case, then, RH is framing his law without the exception of D XXII 25-27 and categorically demand the death penalty for all who violate the prohibition. Except for the bare prohibition itself, couched in different forms and worded differently² the contents of these laws are at great variance and clearly display independence. Both codes contain prohibitions against prostitution. D XXIII 9, 18 H XIX 29 XXI 9. There is no reason to suspect the originality of these two verses of D XXIII 18-19. It is to be expected that an author who was so unrelenting and implacably hateful of all heathenisms and impure customs and practises should have included a law such as this one in his code. The only suspicious thing is that he did not stress it more and give it more prominence. Steurnagle's (P86) contention that verse 19 is superfluous because of the change of person and unnecessary after verse 18 and also mostly on account of the word *והוא ימות* is entirely too arbitrary and untenable to delay us with refutation. This variation in the address is probably due to the diversity of sources from which the two sentences were probably derived. Though they differ in their mode of address, there is no reason to question their originality.³ All critics⁴ recognize the originality of H XIX 29a, that is, this first half of the verse, as an obvious part of the code while the second half is primarily an editorial comment of the compiler of this code (RH)⁵ because it is in the style and spirit of the same author who assigns reasons and gives motives to the law. It is also to be noted in these laws of this chapter, especially that they are pointed and brief, not at all profuse but very concise. Some of them however have been amplified by an editorial hand. While H XXI 9 is evidently misplaced⁶ it is however in the language and spirit

1. Driver Dr. 257.

2. Kuenen Hex. 267.

3. Driver Dt. 264 Berth. 73-4.

4. S.B.O.T. EB. Paton 18:70f Baentsch 400.

5. Paton.

6. See paton 17:155 for proper place of this verse & EB Moore.

of the Holiness code and constitutes an integral part of the law-book. In the first place, the subsequent groups of laws relating to the High Priest (XXI 10-15) closes with a precept similar in spirit to this law (H XXI 9) and proves accordingly that some similar law as the one which now stands here must have been originally included regulating the ordinary priest, especially since no less was expected of the ordinary laity (XIX 29). The law up to the penalty is therefore original and the penalty is probably an editorial addition in the spirit of XX 14 "since it is not strictly relevant to the subject under consideration" "the Holiness of the Priests."¹

The formulation of these various enactments against prostitution reveal that same independence, disclosing the same disregard of each other as has been already demonstrated. The two laws in D are differently framed probably because the compiler drew them² from different smaller codices. The first one in D (XXIII 18) is to be classed under the type designated as the *ד'ק'י* (earlier form) because it is written in the third sing. The other Deuteronomic law relating to prostitution, is to be grouped under the legal frame called "words", *דברים*, and is addressed in the 2nd sing. The laws in the Holiness code are, too, differently formulated. The one in H XIX 29 is couched in the type of "words" *דברים* and is addressed in 2nd sing. The other one XXI 9 is written in 3rd singular form and is so framed as to be classed under the type, *פסוקי דבר* Judgments (later forms). Now in these formulations, it is necessary to observe that D XXIII 18 and H XIX 29 are similarly framed and therefore classified alike. This would or might be significant were it not for the fact as we shall later show, that the language and contents are entirely different. It stands to reason therefore that D or H could not merely have taken over just the mould in which he set his law, concerning himself not in the least with the language or the contents, and as far as we are concerned absolutely ignoring them.

D employs but one word in his two laws which recurs in H and then only in a different formation. D uses the noun *דבר* and H the verbs, *דבר* and *דבר*. The different words used to express practically the same thought clearly establishes the fact that these laws were framed entirely irrespective of each other. Thus D uses such words in these brief laws which not only do not appear in these corresponding laws of H but even in the remainder of the lawbook as well. The words are *דבר* and *דבר*. Moreover this same author uses *דבר* phrase a combination of two words which appear separately in H but never similarly combined *דבר* (XXIII 19 XXII 24). H likewise uses certain expressions which do not appear in the parallel laws of D. *דבר* (never in D in the peculiar sense as here brought out) *דבר* (RH) *דבר* (RH). In the use of language, certainly neither law shows any dependence.

As to the contents of these two sets of laws, there appears only some slight similarity. All of them forbid temple prostitution.³ It is generally conceded that this law both in H XIX 29 & XXI 9 have reference to cultural prostitution in the service of the temple.⁴ This self-devotion to the Temple is categorically prohibited. In D, we have the technical names by which such devotees are designated. The female is spoken of as *דבר* and the male which are forbidden in H XVIII 22 is called *דבר* and probably loathsomely as *דבר* thus to show their revulsion at the practise.⁵ It is of interest to note that these names are entirely ignored in H. It is not likely that an author

1. See Paton 17:155 for proper place of this verse & EB Moore.

2. Steurnagle 86.

3. Berth. Lev. 93. Berth. Dt. 73-4.

4. Baentsch 400. Paton JBL 17:155, 16:75.

5. Berth. 73.4.

could have been familiar with D and not have used these designations when prohibiting these practices. D, both prohibits religious prostitution as well as forbids the donating in fulfillment of vows that which these men and women earn in such practices. H on the other hand makes no reference to these vows nor any allusions to this means of subscribing to the Temple, which are clearly canaanitish¹. We know however elsewhere in what disdain he held such rites and it seems strange for him to have excluded such a prohibition from his code even if he had not been familiar with the one in D. H, likewise forbids the daughter of the priest from entering upon such religious heathenish devotion. Why would it have been necessary for him to single out the person of priestly family if he had known of a general prohibition? It is of interest that all the laws seem to be addressed to the parents whose honor and good repute is ~~made~~ jeopardized by such conduct. In H XXI 9 it is specifically stated that such dishonor reflects on the holiness² of the Priest³ while RH adds that she must be burnt to death for her vice. This is distinctly and peculiarly a law of H which is entirely unknown to D. Moreover in H XIX 29 the law is addressed to the parent forbidding him to defile his daughter by making of her a temple prostitute. It probably meant that he will be held responsible for her conduct and the law perhaps implies that the parents⁴ should not permit her to prostitute herself. Then RH adds that "the land may not go whoring and be full of wickedness". The only common element therefore in this "the prohibition against prostitution, assuming that the sort of prostitution meant is identical, which is differently formulated and phrased with various modifications and variations in each separate connection. "There is no trace of dependence on either side.² The second half of XXIII 9b where the author describes such gifts and vows as abominations of God is entirely ignored in H. In a later connection we shall have occasion to speak of the ideas of abominations in the two codes. H uses the word frequently and if he had been familiar with D, he could not have failed to express his disgust similarly at such practice. As it is, his silence here ~~shows~~ his ignorance of this law. In this connection, there yet remains to compare the half verse in D XXIII 18b with the prohibitions (in H XVIII 22, 23 XX 13 & 15) against unnatural vices. We have already shown that the D passage is original. There is no reason to suspect the originality of H XVIII 22-23. The verses belong to this chapter and in ~~some~~ place just where they were. It is evident that vs. 22b is the work of redactor and ~~that~~ Bb are equally comments from his hand.⁶ XX 13 & 15 are done over in the language and spirit of RH. The law in B XXIII 18b is in the type of the ~~דבר~~. The laws in H XVIII 22 & 23 are to be classified as "words" and XX 13 & 15 as ~~דבר~~ later form. The language is equally as different. There is not a word common to both sets of laws. D uses the word: ~~דבר~~ forbidding sodomy in the Temple and speaking of the Sodomite as ~~דבר~~ and the wages of whose unholy labors as ~~דבר~~. H employs the words ~~דבר~~ (not found in D lawbook) and expression ~~דבר~~ (not found in D) and words ~~דבר~~ (not found outside of H). There is nothing in common between these enactments neither in the types of laws nor in the language used.

In contents, the differences are just as pronounced. With D, it suffices that he condemns and prohibits the Sodomite from among the sons of Israel. H forbids the practice of Sodomy supposedly in the service of religion⁸ and other unnatural vices.

1. Driver Dr. 264.
2. Kuenen Hex 268.
3. Bertholet Lev. 83
4. The priests are forbidden to marry a ~~דבר~~ or a ~~דבר~~ thus ^{fulfill} containing the allusion to the religious prostitute who frequented the sanctuary as the ~~דבר~~.
5. cf. Dt. XXII 13-21.
6. (8) Paton 16:40ff. (9) Baentsch 394.
7. Baentsch 394. (8): Bertholet 64. Lev. Driver Dt. 264.

D bans the wages of the Sodomite as an abomination. H forbids unnatural vices between males and females and animals for they (the vices) are ^{אֲבֹמִים} and ^{אֲבֹמִים}. D has no law disallowing vices between animals and males and females. D has no penalty for such offenses. H or rather RH prescribes death penalty in case of Sodomy for they merit death; and in case of animal and male, the man is to be executed and animal killed; and in case animal and female, the woman is to be executed and animal must die. D discountenances the sodomite while H¹ interdicts Pederastic which it describes. These notably and significant differences between D and H in language, formulation and contents, prove their independence of each other.

The prohibitions against unlawful mixtures which are common to both codes, follow logically after the laws which have been discussed above. The enactments in D XXII 5 & 9-12 are recognized by most critics as constituent and original elements of the ancient Josiah code. There is no reason to doubt their originality except on the ground that the entire miscellaneous section of which these verses are a part, is suspected. The corresponding legal passage in H XIX 19 seems older² than the D laws (XXII 9-12). The opening phrase vs 19 as is an hortatory conclusion of the preceding pentad and is by the same hand as XIX 5, 24-30. Wellhausen regards these laws as an ancient gloss in this legislation "but the form is strictly that of H."²

The types of laws employed in the formulation of these enactments are with one exception identical. The law in XXII 5 which is in a different formulation than the others, is to be grouped among the ^{אֲבֹמִים} (earlier form). All the others are similarly framed. They are to be classed as "words" ^{אֲבֹמִים}. They (XXII 9-11 & XIX 9aBb) are in the 2 person sing. address while the law in XXII 5 is in 3rd person sing. It is not without interest therefore that these laws are formulated alike.

The linguistic resemblances are notably conspicuous. The laws prohibiting unlawful mixtures are nowhere else present except these two codes. There is none extant earlier than these two law books. The expressions common to both sets of laws are interesting. There are two words which appear only in these two laws and nowhere else in the OT ^{אֲבֹמִים}. Then the expressions ^{אֲבֹמִים} are present in both laws. There is no denying that the resemblances are not devoid of interest. Certain notable disparities are apparent however. D employs certain expression which are not found in H's laws against unlawful mixtures and some not occurring in the entire code. Thus the expressions ^{אֲבֹמִים} (in the sense as here used). These words used by D do not reappear at all in H. On the other hand, H uses certain expression which are not found in D's law, such as ^{אֲבֹמִים}. Moreover there are synonymous words whose meanings are the same, yet one of codes uses the phrase ^{אֲבֹמִים} while D uses ^{אֲבֹמִים}. H uses ^{אֲבֹמִים}. In these codes there are no expressions except in XXII 5b which appears elsewhere in D code as that may be termed characteristic of his style and permeated with his spirit. Even this half verse has been observed by Steurnagle has been assigned with all laws which contain these words to another source which is distinguished by them. If his theory is correct, it seems that even these words themselves may not be originally D expressions but are characteristic of the source from which they were derived. It can hardly be denied then that these laws have been taken in toto from some earlier source.

Is H, this source? Some critics have considered the law in the Holiness code as older³ than the law in D.

In contents, also, there is some notable agreements. In D XXII 5 & 9-11, it is forbidden (a) to exchange garments of sexes, (for the practice is an abomination) (b) to plant two kinds of fruit in vineyard, (c) to hitch together two kinds of animals

1. Fullness of prohibition in H suggest a time of natural decadence when moral sanction broken down. CHCH 430.
2. Paton 16:63-5. Baentsch 398. Bertholet 63ff.
3. Paton 16:65. Steurnagle Dt. 81. Driver Dt. 251.

(d) to wear weaving of two kinds of stuff wool and flax. Three of these prohibitions are also in XIX 19 with some variations which "are framed in a general way and to do with general things."¹ In XIX 19 it is forbidden, (a) to interbreed cattle (2) to sow 2 kinds of seed in the field (3) to wear a garment of two kinds of stuff. It is to be observed that in these laws that there are two which are wellnigh identical in substance and intent and one partly so.

D forbids the planting of two kinds of fruit in the vineyard. H disallows the planting of two kinds of seeds in the field. Similarly D & H forbids the wearing of לבוש שני . The differences however in these two laws are in the addition of two words in D which are meant to define the meaning of לבוש שני . These deviations are significant. They show in the first place, that D's law was written at the time when the word לבוש שני had lost its meaning among the people and it was necessary to define it. In the second place, D's use of לבוש שני for לבוש שני signifies a restriction of the prohibition while H has generalized his law and so appears the earlier.² Furthermore, the remaining law in H has a slight affinity with the somewhat similar one in D (XXII 10). H forbids the unnatural interbreeding of animals while D forbids the hitching of ox and ass together. Is there any connection between these two laws. Steurnagel³ is of the opinion that D is intensifying the law of H by changing the word לבוש שני for לבוש שני thus reading in the substitution that not only is one not allowed to beget such mixtures but not even to bring them together in their work.³ This view of Steurnagel however is founded upon the supposition that D was familiar with H and that he deliberately had a copy of this law of H XIX 19 before him which he altered to make it more strict and severe. Kuenen (267) shows that these agreements not only do not reveal dependence but the differences which are striking disclose independence. Furthermore in D XXII 9b we have a penalty attached to the law against those who violate the spirit and letter of this prohibition. The Israelite shall not plant two kinds of fruit in vineyard lest the entire seed which he plants as well as produce be tabooed. This penalty is not mentioned in H but it may naturally be implied or inferred. Furthermore the D adds another law against the interchange of garments of the sexes for the practise, probably indulged in for heathen purposes, is abominable. Paton (16:65) proposes that H originally contained some similar law, analogous to XXII 5 because there is correspondence to every other law. However it may be, the theory at best is untenable. The motive of the laws in H is distinct and well carried out. The object⁴ of these laws is "see to it that things should be maintained in that natural distinctiveness which was given by God in their creation, because then, they went out good and perfect from His Hand. The aim is to "prevent the principle of being interfered with by man." In the examination, consequently of the two series of laws, there is no doubt that those in H XIX 19 more nearly reflect this purpose. D XXII 10 & XXII 5 can hardly be said to have as their object the same as those in the Holiness code. These deviations from this principle have another purpose. D XXII 5 is designed to prevent a heathenish practise which is in vogue even in the East today, a practise which conduces to immorality. It is to be certainly for such a

1. Driver. Addis Bertholet.
2. Paton 16:58 Bertholet Lev 63 Addis II 354. SDOT.
3. Moore EB.

unfamiliar with D. The law in H XIX 9-10 is more nearly related to the older source¹ than that of D. Its phraseology reflects a more primitive condition. The difference in language between D and H is more suggestive of independence than the resemblances of dependence. The words which are common to the two laws recur elsewhere in the O.T. The words which are found only in either law, do not reappear in the entire other code. These affinities point to a common source. The differences and disagreements in language point against their dependence.

In contents, we also find some agreements and some dissimilarities. D XXIV 19-22 enjoins, that the gleanings which are forgotten be left for strangers, orphan and widow in order that God may bless all the handwork; and the olives that fall off of themselves, be left to the strangers, widow and orphan; that the grapes be left to the same. "For remember that ye were slaves in Egypt therefore I command thee to do this thing." D XXIII 25-6 enjoins that all the grapes may be eaten but not taken away and all the corn which one can carry in his hand may be taken but no sickle pass over it. H XIX 9-10 commands not to harvest completely the corners of the field and the fallings of the harvest not to gather and the fallings of the vine not to ~~gather~~ ^{gather} but to ^{poor} and ^{stranger} to leave them. It is to be observed that only the first and third correspond to the laws in H. But the correspondences between D XXIV 19 and H XIX 9 are not exact in details. Thus D advises against returning and picking up the sheaf which is accidentally dropped while H commands that the harvest be not thoroughly garnered. Thus H provides with will and design for the poor while D proposes that which is by accident left be given to those in need. The other similar correspondence is the law that the grape which falls off of itself be left to the needy. Both laws essentially agree. Linguistically, of course the differences are notable. The second law is but an extension of the principle of the olive garden. Then again, D and H differ as to the recipients of this harvest. H specifies the stranger and poor while D speaks of the stranger, orphan and widow. D gives as his reason for fulfillment of this commandment, that God will bless those who carry out the law in all their handwork, and makes his appeal on the memory of the historical experience that all were slaves in Egypt. Furthermore other laws which are alike are the ones in XXIII 25-26 which are to guard the owner and at same time provide for the poor. It is only remotely related to H. It however falls under this same principle. It certainly cannot be traced to H and the latter cannot be ascribed to D. The only 2 laws therefore which really correspond are the two XXIV 19 & 21 and H XIX 9-10. In language they differ perceptibly. In contents, the first of both sets disagree more or less significantly while the others are substantially identical ^{to some extent} but not linguistically.²

Thus far, we have made a comparison of these laws, whose contents justified us to reckon under the heading of this chapter, which are uncommonly analogous in substance. The following laws which are to be treated in parallel, have but the most meagre and slightest affinities. As we have tried to determine the dependence of the two codes in those laws which present certain resemblances and have placed one ^{over} against the other as parallels, we shall now search for evidences of this relationship in the laws which either bear the most inappreciable similarities or contain no correspondence at all. Thus in H XXV 5-10 some have discovered a connection and resemblance with H XVIII 16 XX 21. The formulation of these laws are entirely diverse. The law in D XXV 5-10 is framed as a judgment (earlier form) in a long drawn out narrative style as if illustrating an actual experience or concrete instance. It is couched in both 3rd person singular and plural. While the law in H XVIII 16 is in style of "words" ^{בְּרִי} ⁷ second person singular. The other one in H XX 20 is in frame of

1. For origin of the customs see Bertholet Lev. 68-7. Berth. Dt. 76
2. Kuenen Hex. 238. "The two writers have formulated the two precepts independently."

③ D's laws aim both to protect the proprietor and to make some provision for the success of his foot, while

(1) H being content only with providing for the poor who feed them.
(2) Ex. 23:11. Similar but shows distinctness. H XIX 9-10 is older than D.

דיקן (later form) and written with the 3rd person singular address. There is nothing in common in the formulation of these laws to lead one even remotely to conclude or infer that one author was moved to imitate the product of the other in formulating his own enactment.

The language used in these three laws are just as different and far apart. There is no word common to both D and H laws except such insignificant one as אִשׁ. There are, however, very conspicuous differences. For instance D uses אִשְׁתּוֹ בְּעַמּוּתָא (H XVIII 16 XX 21) D uses the full form for marriage נִשְׁתָּהּ אִישׁ, while H merely uses אִשָּׁה לְיָהּ + אִישׁ. Moreover D uses certain expressions which are not found in H at all, זָכָנִים, חָפֶץ, מַחֲה, בְּכִיר, אִשְׁתּוֹ, חֵטְא, חֵטְא, חֵטְא. H or rather RH also uses certain words which are not found in D neither in D XXV 5-10 nor elsewhere. עֵרִירִים, נִדָּה. It is not possible for a writer to compose two laws as far removed from each other to employ as many different expressions and as many terms.

In contents, the laws in D and H seem to be in conflict. H and RH both forbid the marriage of a man with his brother's wife and RH expresses his detestation and adverseness to such violations with special epithets and threatens them with childlessness. D makes it a law that a brother shall marry his brother's wife if he die childless. He may refuse and if he does, he is to suffer a public indignity. This Levirate marriage law is limited to the case (1) where deceased male left no male issue, (2) where there are two brothers dwelling in same family estate, (3) where surviving brother did not establish his line either. This disagreement has called forth various attempts at harmonization. Dillman has supposed that the laws in H represent the general principle or rule while that law in D provides the exception. Driver seems inclined to accept this explanation. Another attempt to harmonize this difference is expressed in the view that the law in H XVIII 16 RH XX 21 has nothing at all to do with the Levirate marriage, and this H precept rests on the supposition that the brother is still alive. This explanation is not possible for the reason that if this law meant this, it would surely have said so. Moreover the redactional law in XX 21 by the addition of עֵרִירִים, seems to imply that it prohibits just that which D proposes to further, to establish the name of the deceased brother. The objection to the first explanation, that D represents an exception to the general rule of H, is that if such were the case, D would allude to the rule and the exception to it is never mentioned in H. "To me it seems obvious that D could not have been acquainted with H" and that the prohibition of marriage with the brother's wife in these latter passages is a corollary of the priestly theory of cleanness, directed against the ancient usage, the torah, which sanctioned it. Moreover in H XXII 13 the law commands that the childless widowed daughter of priest return to her father's house, showing that the author knew nothing of this exception in D XXV 5-10. Furthermore the law in D was not meant as an exception to the general law but as a narrowing codification of an ancient custom. In earlier times, the custom made it obligatory on the brother to fulfill his obligation. D modified this ancient usage and left it merely to the honor of the Levirate. The lack of allusion as well as the use of peculiar and distinct terminology prove that neither author was familiar with and not to mention dependent on the other for his material.

1. Driver Dt. 280-1 SDOT 18:16.

2. Holzinger 414.

3. Steuernagel 91. Bertholet Dt. 77-8.

4. Addis II 346. Kuenen Hex 268.

5. On the other hand see EB. Sub. "Law and Justice" by I Benziger.

6. For the relationship of these law to inheritance see Steuernagel 91.

7. Bertholet Dr. Ad Loc.

8. Bertholet Lev. to 18:16.

Except for a simple prohibition against marriage with a divorcee, there is no resemblance either in contents nor aims of these law sections. In language, formulation and contents therefore the only relationship which can be inferred from these laws is perhaps that they both have a law of divorce in view which however has not survived. Certainly no dependence in these laws is at all in evidence.

If the verses prescribing the penalty for seduction in H XIX 20-22 were original, the two codes would have a similar prohibition against this offense. As it is, some of the critics are disposed to view the first verse of this H section as perhaps the work of the early author. There is however no reason to accept that opinion. Practically all the critics unqualifiedly concede that verses XIX 21-22 can not belong to any other than P¹. This is proven, in the first place, by the mention of the guilt offering which is entirely unknown to H. Then again, the expression ~~למזנה~~ is not that of H but P. Moreover the phrases ~~למזנה~~ and ~~למזנה~~ are peculiarly priestly phrases. Then too the change of person {3rd singular} clearly bears testimony to the alien character of these verses in this chapter. There is however no reason to distinguish between the first and second two verses. All these verses display the diction of P. It is impossible to accept the view that verse 20 is original since verse 20 has the closest relation to 21-22 which follows and none to those which precedes. It is more plausible to agree that verse 20 belongs rather with vs. 21 and 22 than alone. ~~or with vs. 19.~~ Furthermore, this verse shows the style of P. Thus the words ~~הוא~~ inst. ~~הוא~~ and ~~הוא~~ (cf. Lev. XV 18 Num. V 13) prove that Pp is author of all of these ~~entire~~ verses.² The law against seduction in D XXII 29 is recognized as an original element of the code. There is no reason to decide otherwise. It logically follows the preceding passages which have been shown to be original in the code. Therefore as a natural sequence to the foregoing it is likewise to be accepted as a constituent element of the code. Thus far we have treated only of those laws which contain some approximate correspondences in both codes. It is to be expected that a greater treatment be devoted to them since in such resemblances is to be sought most and surest evidence of dependence. For that which remains, we shall only briefly discuss those laws which in contents at least have no correspondences in the other codes. It is unsafe to draw any conclusions from such omissions. It is not within our present knowledge to know whether these codes at any time had complete parallels. Paton has argued not without cogent and convincing reason that that which we have in H largely comprised the code as it was first edited even though it has been greatly disarranged, that it contained *originally only* ten decades. Notwithstanding this theory, it does seem sometimes that this code is not entirely complete. It is equally uncertain whether D has survived to us with all which was first included in it, and so it is uncertain at best whether we can reconstruct it. For this reason, any theory built upon or any assumption derived from the fact that there is absent that perfect correspondence, and that there are so many parallel omissions in the one or the other is at best frail and feeble. The argument from silence is *confessedly* manifestly poor and weak.

Whether H contained some law similar in contents to the one which P inserted (XIX 20-22) or not, is not within our ken. It is possible that H may have. It is more than probable that it did not have. Therefore D alone had a prohibition against seduction of an unbetrothed maiden.

1. Bertholet Lev. 62. EB. Moore; Kuenen 277; Addis XX 341; Dr. LOT, 52; Baentsch 399.
2. Paton JBL 16:63.

This prohibition D XXII 28-29 is formulated in the style of the so-called earlier Judgment and this particular legal type is not found in the entire Holiness code. Briggs styled this kind of legal form the Judgment, the earlier form for the simple reason that it does not occur or occurs rarely in law codes later than D. This particular type here is found again after the Deuteronomic code.

Linguistically there are many striking differences between this special law and the Holiness Code. The words ~~אשר~~ which occur twice in this law of two verses and many times in D does not appear anywhere in H. As has been pointed out before, D here uses the expression ~~אשר~~ twice while H (in chapter XX) ~~אשר~~. Moreover such peculiar words and phrases in this law do not recur at all in H, as ~~אשר~~ (XII 14 XXII 29), ~~אשר~~ (in sense of divorce). Now H always uses different words, practically meaning the same, to express the same idea. Thus in H XXI 3 ~~אשר~~ (XXI 13)

As we have proven before, this law in D XXII 28-29 has no corresponding one in H. The law presumably intimates that the offense was committed against the maiden's wishes and power. A man who coerces an unbetrothed maiden must pay the father 50 pieces of silver, in the way of a dowry¹ and she shall become his wife, never to be divorced. In no passage in H, do we have a reference to this usage of paying the father a dowry. The many opportunities in which H had to mention or allude to the dowry (XXI 13) and the fact that he did not may perhaps indicate that he was opposed to this custom. It is manifest that this law was founded upon and derived from the earlier law Ex. XXII 15f. It is possible that this offense was regarded as an injury to property, affecting the family and because of that, falling strictly within the confines of civil jurisdiction, could not be included in a code whose every intent was to make for the holiness of the individual. It may be some such reason as this which accounts for the omission of such a prohibition in H which we would superficially expect to see included.

Another law which has no counterpart or parallel in the Holiness code is the one which describes the procedure of the husband who accuses his wife not to be a virgin. (XXII 13-21). This law, like the previous one discussed, forms an integral part of the original code. Despite Steuernagel's opinion, there is certainly no reason to suspect the originality of vs. 20a. It appears arbitrary to delete this half sentence while to retain it rounds out the full verse in the language and spirit of the Deuteronomist. Most of the critics therefore concede the originality of these laws.² Moreover this law is framed in the same type as the previous one discussed, a special type which does not appear in the Holiness code, a Judgment, a earlier type.

In terminology, there is a notable difference between this special piece of legislation and the Holiness code as a whole. A few resemblances are to be noted but these words which appear in both codes are employed in different connections. Thus both D and H use ~~אשר~~ (in parenthetic conclusion to H) ~~אשר~~. These common words are usual in the language. D on the other hand uses expressions which do not reappear in H, as, ~~אשר~~ (H uses XVIII 6,14 ~~אשר~~). ~~אשר~~ (H uses in XXVI ~~אשר~~). ~~אשר~~ (H expresses his disgust by other words, as ~~אשר~~ etc). ~~אשר~~. It does seem strange that an author could have been familiar with another's product and yet avoided the use of words and expressions, as common in the language as these. The only natural conclusion, that the Holiness ~~author was not familiar with another's product and yet avoided~~ ~~author was not familiar with special law.~~

1. Bertholet Deut. 71 Driver Dt. 258.

2. Addis II Ad Loc. Berth Ad Loc Driver.

3. For peculiar and significant ~~usage~~ of this word here see Driver 254.

The law compels a husband to pay the father of his wife a hundred pieces of silver if he maligns her by falsely accusing her of unchastity prior to her marriage. The father-in-law proves the falsity of this slander to the elders of the city who are to fine him and forever deny him the right to divorce her. If the accusation proves true however, then they are to stone her before her father's home. The nearest resemblance to this law in the Holiness code is the direct and peremptory command against being a tale bearer. (H XIX 16). As we shall discuss this law later, it will merely suffice to dismiss it with the clear-cut statement and assertion that there is no evidence or signs of dependence between them on either side. Here the law is specific. There, general. Here it refers to a specific accusation, there to tale bearing in general. Here a fine and penalty is attached to one who spreads such false allegations. There, simply a prohibition. Linguistically there is not even the slightest correspondence. A severe punishment however, is meted out to her if the allegation is proven correct and she turns out to be no virgin. She is to be stoned in front of her father's house. According to H (XXI 9) only a priest's daughters was liable to death penalty because of unchastity. There is here a disharmony. In D, any woman who marries after committing fornication is to be put to death. In H, only the daughter of a priest is subject to this penalty for such conduct.¹ Is it not evident that the author of H could not have written this law and been cognizant of D XXII 20-21, without specifically referring to this general application and draw attention to his limiting it. The implication in H is that only the priest's daughter should be liable for death in consequence of such misconduct and that the daughters of laymen are not so responsible. D on the other hand, is unfamiliar with this specific provision taking in the scope of its penalty all who committed an immoral practise before marriage, that is, marrying the man and concealing her previous immorality. It is clear from the law in H that the author makes more rigorous and severe the conduct of those who are set apart for priestly functions and while unbecoming conduct is particularly penalized in the case of laymen, it certainly is as regards to priest's daughter, who is expected to adhere to a moral standard and code more strict than that applicable to non-priest. If there had been such a law with such a severe penalty attached as that in H in the original code in H, there would surely be no need for this specific law in XXI 9. It would have been understood. The implication therefore is that H XXI 9 was entirely unfamiliar with D XXII 20-21.

Still another law in D which has no parallel in H is the one which regulates marriages with a female captive (XXI 10-14). While this passage may have been transposed and perhaps originally followed the previous chapter ~~which~~ which deals with general subject of war, there is no reason to suspect its originality, or question its place in the original code. Most of the critics² recognized its originality. This law is framed in the style of a Judgment, none similar in formulation is found in the Holiness code. This section is marked by peculiarities of terminology which is to be accounted for by the fact that it was drawn from a source without undergoing any radical modifications. There are several words common to this passage and the entire lawbook of H but their uses are different so thus proving against any possible inference of dependence ~~from~~ them.

XXVI 25) יתן ביד רגל סכר גלח

On the other hand, D uses certain words and expressions which do not occur in H as, ופתיא, גל תין חשן, ופתיא, גל תין חשן.

(not in H in this sense) לנפשה ככה ירם ימים צפרן עשנה חפצם אחריכם

Linguistically there is nothing akin in these two codes, judging from this passage which show any relationship to the Holiness code other than their independence.

It is not surprising therefore that we do not find a

1. I B EB Sub Law & Justice. (2) Driver 245. Bertholet 66.
3. Driver 244.

parallel to this law XXI 10-14 in H. D permits a soldier to choose a female captive in war for his wife but she must clip her hair and pare her nails and remove the garments of her captivity and mourn a month for her parents. Then she becomes his wife. He shall not then be able to sell her but divorce her and cannot lord it over her. It is not the humanity of this law here which strikes us. It is the strange fact that D which aims at separating Israel from other peoples and to make him a holy people, should sanction this marriage. It shows that the old custom occasionally is more powerful than the will of the lawgiver.¹ While we have no prohibition against intermarriage in the Holiness code, it is more or less implied and such a law as this one would manifestly be out of place in H. Therefore it is not surprising that we have no law like this in H, but it is surprising that we have a law at all like this in D. The description of the procedure by which she becomes the wife of her captor is clearly at variance with the laws in H XIX 27-28. It is evident that these rites are prescribed to aid the captive to express her grief and to mourn for the parents but symbolically to indicate that her past is a matter to be forgotten and of the by-gones.² These regulations are easily distinguishable as descriptions of mourning rites which are distinctly and explicitly forbidden in H. In H, XIX 27-29, the author prohibits these usages categorically and unqualifiedly. He clearly does not have in mind any exception as is here prescribed. These heathen rites, it is, which come under his ban, and which to D evidently appears as a legitimate means for mourning. If H XIX 26 had in view these prescriptions in D which he is forbidding, it is no more than to be expected that he would have made some allusion to these particular regulations and he would have prohibited these rites in somewhat the same language in which D enjoins them. Between these laws, D XXI 10-14 and H XIX 26 there is not one word in common. This latter inhibition we shall subsequently discuss but a casual reference to the language will disclose that H could not have been aware of this law in D and at same time used different language to prohibit these heathen practices. Thus D (12) employs the word *וְהָיָה אִשָּׁתוֹ* and H uses *וְהָיָה אִשָּׁתוֹ*. Such diversity in language reveals the ignorance of H of the book of Deuteronomy. Such variance in language and such contrariness in thought between these laws points against the possibility of H's dependence on D.

Another law which has not the merest correspondence in H is the prohibition against acts of immodesty in woman. (XXV 11-12). This odd piece of legislation has a slight resemblance to an earlier law in Ex XXI 22. It is manifestly original in the code for there is no reason not to assign it to the earliest stratum of the code.⁴ This law is framed in the style of the earlier Judgment of which particularly none in H. Linguistically there are only a few contacts between this law and the whole lawbook of H, i.e. *קָרָה* (with this special meaning not found in H) *הָחֵדִּיךְ*. Then too, D uses certain words while H employs their synonyms, as D, *חֵדֵךְ*, *חֵדֵךְ*, *חֵדֵךְ* while H merely *חֵדֵךְ*. Furthermore D uses certain expressions which do not reappear at all in the code of H i.e. *וְהָיָה אִשָּׁתוֹ* (not found again in OT). *וְהָיָה אִשָּׁתוֹ*. This law is peculiar in many ways. It is the only case in D which prescribes mutilation of a person. In this respect, the merest and most distant resemblance to this law is found in the H XXIV 19. There is not the slightest connection between them and the relationship here indicated is very farfetched.³

1. Bertholet 66. (2). Driver Dt. 245.

3. Cf further the prohibitions of mourning rites in H XXI 1-15.

4. Berth. Dt. 78.

"This law is moreover peculiar to D probably a judgment upon a special case which is given as the norm for decisions in similar cases and thereby furnishing an interesting example of ~~him~~ ^{how} the principle of law developed."¹ Furthermore the rigor in this law appears out of place in this code which strains every effort at being mild and humane and which exercises its severity only against cases of idolatry.² This law would surely be out of place in the lawbook of H and it is not surprising that no similar one is to be found there. Indeed if H had known D and used it as its source book, the author could ~~not~~ ^{have} escaped repeating in some form this enactment which prescribed an offense that entailed so severe a punishment and therefore ~~it~~ ^{it} evidently covers up and conceals such sentiments of revulsion.

Another similar law, recognized as original³ without a parallel in the Holiness code, is the one prescribing precautions to be taken in the building of parapets on the roof of houses. (XXII 8). This law too, framed in style of a judgment, with no similar type in the Holiness code. These expressions are not found in the entire lawbook of Holiness code, ~~למנוח, למנוח, למנוח~~ (only here in OT) ~~למנוח, למנוח, למנוח~~. To show the independence of the two codes, it is useful only to note the peculiar and different phrasings of the same thought. D here uses the expression

~~למנוח, למנוח, למנוח~~ RH repeats a different phrase ~~למנוח, למנוח, למנוח~~. Any accident occasioned by the lack of proper precaution taken by the proper person, ~~guilt~~ ^{is} to be attributed to him and upon him is ~~the~~ ^{the} blood guiltiness. Such an indirect offense has no counterpart in H. Such a law, however could easily not have been included in this code for it was not necessary to the moral well-being of the community and individual.

There remains before concluding this chapter merely to discuss a few laws which appear in the Holiness code that have no parallel in the Deuteronomio. The first of these commandments are listed first in the outline at the opening of this chapter under the heading of irreverence for parents and elders. The commandment, for that is the formulation of the law, is half verse 3a which is recognized as original in H by all Bible students. All concede its place in the code.⁴ Different to D, it places ~~it~~ ^{it} before of ~~בא~~ Cf also XXII 15. ~~למנוח~~ as applied here to parents is not found again in D in this same connection while the word itself does appear. These peculiarities of style point to a source, since different terms of expressions are used in D, different to the one which the latter code followed. A similar law substantially is the one found in H XIX 32. While some critics are disposed to assign the verses 19 32 as additions of RP, "there is no reason to follow them as this passage exhibit the form of H and ~~as~~ ^{as} ancient in tone so that is more natural to regard them as transposed fragments."⁵ The first half of the verse is clearly the work of H1 while 32b belongs to RH.⁶ To gether with these is to be considered XIX 14, which is conceded by all as original. That is 14a is H1 and 14b is work of RH.⁷ Except for the change of number, these laws are formulated alike. XIX 3a is therefore termed a commandment. The others, 32 & 14 are framed in the style of "words", having the singular address. This mode of formulation is recognized as the earliest types of laws, for after H, its usage is practically discontinued. This shows that those laws thus framed, point directly and clearly to an earlier

1. Bertholet Dt. 78.

2. Stuernagle Dt. 96.

3. Driver, Bertholet Det. Ad Loc.

4. Berth-Dt.-78-. Baentsch 396 Addis II 341 etc.

5. Paton JBL 16:58 ff.

6. Idem. & EB. Moore EB. Baentsch 395.

7. Paton JBL 16:61.

source, in fact, to an ancient source.¹ It is not surprising therefore that so many unused words should be assembled in such brief laws as are here. Thus except for the usual words עֵלֶם, עֵלֶם (XV 21 used sacrificial animals) no other word in these laws recur in D. Accordingly, H uses these words שָׁמַר, שָׁמַר, שָׁמַר (D only uses noun שָׁמַר in Ch. XXVIII) and this verb שָׁמַר. (D uses שָׁמַר only in sense of elders as officials, never as here). שָׁמַר (This expression is a pet phrase of RH and only in H and it is to be noted that the verb is followed by 'ש', not so in D. XXV 18 the 'ש' is not used). In the case of this phrase it is of interest to note that such fine differentiation is another further indication of the independence of this code.

Substantially, as has been pointed out in the foregoing these laws XIX 3aa XIV 32, have no parallel in D. The positive commandment (as in XIX 3aa) is probably to be implied in the negative law XXII 18-21. But between these laws there is nothing in common formulaically, linguistically or substantially. The other laws in vx 14 and 32 are not even remotely related to any law in D. Bertholet (Lev 62) argues that "the laws in H XIX with the singular address were parallel with D laws dealing with the ethical and civil life, displaying a human tone (XIX 9,10,13,18,19, 29,32). This theory may apply to other laws of this classification and grouping but these which we are now discussing not only have no parallels in D but are not indirectly related to that law book. Certainly not in a linguistic sense is there any contactual relationship. The prohibitions against cursing the deaf or placing a stumbling block in the way of the blind (XIX 14) and the commandments to respect the aged and to honor the elderly, have no parallels in D and no law remotely resembling them except the general aim which animates D who is bent on protecting and guarding the weak and afflicted. While not desiring to anticipate, it is certainly assuming a great deal to infer that the humane spirit here in H in evidence is an emanation from the same merciful and charitable disposition displayed in D. This legislation seems ancient and if the fact be known, it would not be far wrong to hold that these laws were permeated by a spirit which had its source, which likewise inspired D.

The fact will become clearer as we proceed, that with but one exception, these laws we have discussed do not match each other any too closely. They are surprisingly marked by a pronounced individuality of language, that while certain words are common, in the aggregate, there is an overwhelming disparity in that diction. Save for two laws D XXIII 25, 26, XXIV 19-22 D XXII 9-10 and H XIX 19 XIX 9-10, no laws under these headings in the two codes fully and substantially agree. The very fact that so many laws treating of the same topics, prohibiting the same offenses, so radically disagree is overwhelming argument against any conclusion of dependence which may be derived from the similarities induced in these laws just mentioned. Some of the laws which have no parallels in the opposite code, display some notes of conflict with the general spirit of the other law-book. Thus the Levirate marriage law XXV 5-10, regulations in the marriage of female captives, XXI 10-14, the penalty in regard to a maiden whose conduct was not correct, these instances which will be multiplied, will only contribute to prove the thesis which we have set out to prove. Moreover while I have not always noted it, it is a fact none the less true that in the laws discussed, D shows little influence neither on the legal nor parenthetic parts of the H laws. Now while there are some parallel laws listed under this heading common to both codes, on the same subject, there are but two which are in anyway bearing any close resemblance. And these laws themselves are such as not to be spoken of as typical of each lawgiver but clearly give the impression as having been derived from some other and older source unmodified by the hand of either redactor.

1. CHCH 502.

Chapter XXVIII Justice and Humanity.

The laws grouped together under these topics, as the following conspectus will illustrate, treat of justice in the abstract; of the organs of administration of practical justice; and of the various ways and means to promote humanity between man. In these twenty five headings it is of interest to note that D contains a law of laws bearing on each subject while H has merely ten or eleven. Therefore under this general heading, the two codes include but ten or eleven parallel laws dealing, more or less, with approximately identical subject matter. The following outline will exemplify the range of subjects listed under this general caption and their treatment in each lawbook.

1. Justice and Judgements	D XVI-18b-20 (XXIV-16) 25	H XIXb (35a)
2. Lex Talionis	D XIX-21	H XXIV-19
3. Witnesses	D XVII-6-XX -15-21	H XIX-11b-16
4. Weights	D XXV-13-16	H XIX-35-37
5. Damage	D XX-19	H XXIV-18-21a-d
6. Murder and Asylum	D XIX-1-13-XXI-1-9	H XXIV-17-21b-XXIV-19
7. Usury	D XXIII-19	H XXV-35-38
8. Loans	D XXIV-6-10-13-17b	
9. Charity	D XV-7-11	H XIX-17
10. Hired servants	D XXIV-14	H XIX-13b-XXV-6-XXII-10-b
11. Slaves	D XIV-12-18-XVI-11 (XXI-16-14)	H (XIX-20)-XXVIII-11-XXV-29-55
12. Strangers	D XIV-21-29-XXIV-14-17 XXVIII-43-XVI-11-14	H XVII-8-16-XXVI-26-XX-33-XX-2-XXIII-18-25-XXIII-42b-XXIV-16-XXV-6-23-49 H XIX-11
13. Theft		
14. Kidnapping	D XXIV-7	
15. Primogeniture	D XXI-15-17-XXV-6	
16. Landmarks	D XIX-24	
17. Animals	D XXV-4-XXII-6	H XIX-38
18. Straying Cattle	D XXII-1-4	
19. Judges Appointed	D XVI-18a-21	
20. Supreme Court	D XVII-8-13a-XX-16-19-XXI-1-9a D (XXVII-14-20) T	
21. Officials, Kings	D XXIII-18-T	
22. Citizenship	D IX-1-20-XXI-10-14-XXIV-5	
23. Military	D XXV-17-19	
24. Enemies	D XVII-18-T	
25. Record of Law		

It is worthy of interest to observe, in the foregoing outline, the wide range of subjects treated in the D code and the paucity of subjects handled in the Holiness code. Of some significance is the silence which H maintains on certain matters in contrast to the plenary exposition and complete description of the various organs of political administration. Subsequently we shall discuss this significant silence and its implication. The absence in H of all reference to political officialdom is therefore not without some meaning.

The first laws, which we shall compare and analyze in this chapter hint at the existence of a state and its judicial organization. Both codes broadly and emphatically enjoin the doing of justice in cases of litigations. In D this law is manifestly addressed to the judges who shall arbitrate in matters of legal dispute. For the only position of this law therefore in D (XVIII-20) heading, as it does, the group which arranges for the appointment of officials of state, clearly proves that it was directed intended for the appointees. The corresponding enactment in H is embedded in a chapter of general ethical precepts but its implication is that those who have the authority to decide in legal matters should keep in mind these general but necessary commandments. There can hardly be any doubt that H had in mind these various judicial servants of the state, intimating thereby that the state was in existence. This hint, and others just as indefinite

is about all that H contains which reflects the political organization. These general commandments, common to both codes, (D XVI-16-20, XNV, H XIX-15) have only this in common from the viewpoint of contents that the doing of impartial justice should be the whole concern of those who are to administer justice. The law in D XVI-18b-20 is clearly recognized as a product (1) of the Deuteronomist. It is couched in the favorite language of this author who certainly derived (2) his material from Ex. 23:6+8. The ancient law of C has been modified in language in conformity with the general tone of the author of D. There is certainly no reason why these laws should be reckoned as any other than those of D's. D XXIV-16 is suspicious and creates a strange impression. A law like this one, if it had formed a part of the ancient code would have aroused a bitter controversy and implied a decided break with the legal tradition some of which survived, and found expression in D. It is not likely that the author could have introduced this law in his code without at least some comment in these early years. To have placed it in his lawbook without any remarks shows either that he did not expect to have it enforced or that he repeated some general abstract legal precept which meant nothing to his contemporaries. It is most probable that this law was inserted by some later Deuteronomic writer who borrowed it from Ezekiel (18). This prophet definitely shows that he considers this principle his own innovation and that he was the first to institute this precept. If this law had found a place in the Josiah reformation, surely Ezekiel would not have attached so much importance to this, his new idea and emphasized it as a new revelation in Israel's religion. It stands to reason therefore that this use is a later innovation (3) of a scribe who was imbued with the prophetic idea. D XXV, initiates a law which defines the maximum inflection of the bastinado, which advises moderation in bodily punishment, may be reckoned as part of D because it harmonizes with the general spirit of this lawbook. While the law is couched in the third person throughout and is in contrast with XVII-8 this difference in address is probably only an indication of diversity of source than of different authorship. Therefore if for no other reason than its human spirit, we would not be far wrong to ascribe this sentence and this section to the earliest author of the Josianic code. (4).

The corresponding laws in the Holiness are abbreviated commandments in the chapter of ethical precepts. In XIX-35, the word *וְדַבַּר* is an interpolation because it, to all intents and purposes, repeats the identical thought of *וְדַבַּר*. It may be that this *וְדַבַּר* suggested to the later author this word which he inserted (5). However that may be, since it needlessly repeated the law which is contained in *וְדַבַּר*, it has no place here, in this sentence. This is moreover shown by the fact that every word is explained in the subsequent parenthetic sentence but this one, indicating that at this time that this word does not comprise a part of the law. In keeping with the author's general usage, it opens with a general precept followed by particulars. Except for *וְדַבַּר*, the remainder of the verse is in accordance with this principle. *וְדַבַּר* practically repeats the idea in *וְדַבַּר* but is in the style of H or *וְדַבַּר*. With the omission of this brief commandment, the pentad is complete. It was probably added by the editor of this code who aimed to present the previous negative commandments in a positive form. (6)

The laws in XVI-18b-20 and XIX-15 are similarly formulated. They are framed in the type of the so-called words, in the address of the second person singular. It is to be remembered that this type of legislative formulation is considered as the most ancient and these laws framed in this way probably indicates that their contents are to be traced to some most ancient source. The law in D XXV, is formulated as a judgement which is a most common type in D, a type classified as the earlier because it does not appear in law literature after D.

(1) CHOH 163

(2) Dr. Dt. 199. Addis II-100.

(3) Bertholet Dt. 76. Steurnagle *Wp* *la* (23) CHOH 164.

(4) CHOH 164.

(5) Paton JBL 16:58f.

(6) Paton JBL 62.

Linguistically the correspondence between these laws in both codes indicates that the subject matter of all of them is more or less identical. Thus these words are common to both sets of laws; שפט, שפט, שפט. Now it is of interest to the observer that these words are so common in the language that not every place where they occur are cited in the ABD lexicon. Moreover neither of these words has a synonym which might serve the same purpose in the laws. Again, D uses certain words in his enactment which appear elsewhere in H in different connections, thus לִבְיָדֶיךָ (Lev. 26:8-36), לִבְיָדֶיךָ (in H XXI-20). Then D uses certain expressions, phraseological variants different either in meaning or in different expression with same meanings, as לִבְיָדֶיךָ (in D-XVI-18b H uses it as fellow countrymen). לִבְיָדֶיךָ (D), לִבְיָדֶיךָ (H uses לִבְיָדֶיךָ). D, moreover, uses the following words which do not reappear at all in H; לִבְיָדֶיךָ (D-XVI-19-XXIV-17), לִבְיָדֶיךָ , לִבְיָדֶיךָ , לִבְיָדֶיךָ , לִבְיָדֶיךָ . Note also the repetition of לִבְיָדֶיךָ to express emphasis. H, too, uses expressions in the which do not reappear in D. לִבְיָדֶיךָ (which occurs frequently in JE but never in D.), לִבְיָדֶיךָ , לִבְיָדֶיךָ (used in XXV-16 not in same connection). This linguistic comparison can have no other impression than that both of these laws probably had a different origin. The phraseological resemblances of D XVI-18-20 and XXV, with Ex. 23:6-8 are striking and susceptible of one explanation, namely, that D is traceable to C. The linguistic connection of H XIX-15, with C except for one phrase in XXXIII-2, is practically one, thus indicating that the H law is not derived from C. Linguistically, at least, there seems as little resemblances and correspondences (of H with D as H with C. The fact that H uses לִבְיָדֶיךָ which is a common word in the early literature, as JE, but a new word in D intimates that H perhaps had as a source a lawbook perhaps also known to D.

Substantially these laws are more or less identical. D-XVI-18b-20 addressed to the judges, enjoining them to render just decisions, not to pervert justice nor to recognize anyone nor to accept a gift because gifts sway the partiality of decisions. "Justice alone thou shalt pursue that thou mayest live and inherit the land." Then in XIV, they are commanded to acquit the innocent and sentence the guilty. In H XIX-15 the pentad opens with a brief but general prohibition, not to do an injustice in judgment, shall not pity the poor nor be swayed by the great, to which JE adds, in justice judge thy neighbor. In the first place these laws have in common these thoughts, though differently phrased, that they shall not pervert (D) or do evil in justice; positively they shall render just decision (D) and in justice shall judge man (RH) or justice alone shall be followed (D). D XVI-18-20 disallows the showing of partiality (perhaps either to rich or poor). H forbids the respective litigant because he is poor or honoring him because he is rich. Note that here D speaks generally while H is specific and particular. Furthermore notice that D's laws contain a prohibition against the taking of gifts with the extra caution quoted from Ex. XXIII-8. JE adds too, the parental exhortation that with the doing of justice will come life and the possession of the land. These last two ideas are not present in H. It is manifest from this comparison that H could not have shown so little consideration for the contents and language of D if he had borrowed from it to formulate and originate his own. It is evident that the resemblances are so minor and slight and the differences so great and significant that it is almost safe in affirming the independence of these laws. Out of practically eight thoughts in these laws, there are but two common to both laws and they are differently phrased and expressed and the thoughts are not distinctly Deuteronomistic.

Closely allied in aim to the previous laws are the general juridical principles common to both codes, denominated Jus Talionis. D XIX-21 - H-XXIV-18b-20. The originality of neither of these laws are questioned. While the D section in which this verse appears (XIX-21) contains marks of an interpolator's hand, this sentence is undoubtedly an integral part of the ancient law of D. There is certainly no reason to accept Steurnagle's opinion (to XIX-21), who claims that this principle is taken over from Ex. XI:24. While certain resemblances are in evidence, certain differences could create just the opposite impression and suggest the view that D drew on another source than that of Ex. XI-24. Because there is similarity

between these laws is no adequate reason to argue for the ^{anoriginality} of this D law for D contains various laws which are just as closely akin to C as this one which are considered as a part of the ancient law of Josiah. The corresponding law in H XXIV-18b-20 is viewed as an integral part of the ancient code though in its present position it is recognized as dislocated and misplaced. (1) By analogy with the other laws of retaliation in the other codes, ~~the~~ 18b probably was originally connected with ~~the~~ ^{not} in its original form. This conjecture is, however, not at all provable from H and consists of nothing more than a mere suggestion. In H therefore if we omit this half verse, the order of these ~~juxtaposed~~ offenses are, fracture for fracture, eye for eye, and tooth for tooth, thus he shall inflict a wound upon man as he was wounded. D follows the exact sequence of Ex. 21: 24, life for a life, eye, tooth hand and foot etc. Not only does D use identically the first five words of C but follows order of succession of the words. Now it is of interest to note that they all agree (C, D & H) in using in the same sequence these two words, ^{וְעַל} ^{וְעַל}. H however contains the word ^{וְעַל} not found in either C nor D. On the other hand, D uses these words which do not reappear in H XXIV-20 ~~and~~ ^{וְעַל} ^{וְעַל}. H and C agree in using ^{וְעַל} for the connective, D using the ^{וְעַל} ^{peti}. Now it is probable that D ~~disregarded~~ ^{despite} the use of ^{וְעַל} instead of ^{וְעַל}, followed the C source because of the similarity ~~of~~ words and their sequence and because elsewhere he manifests his dependence on the earlier C code. If H had used D as his source, it is certainly ~~is~~ not likely that he would deliberately have changed back from the use of his connective and added a word which neither D nor C had, and a sentence in 20b. It seems to me that H derived this law from an earlier source than D and one probably longer than D, probably as full and complete as the one in C. This is perhaps suggested by the use of this half sentence in 20b when he cuts it short by summarizing the remainder of the ancient principle. In this half verse he uses expressions which do not occur in D ^{וְעַל} ^{וְעַל}, (and note the destructive use of ^{וְעַל} H XIX-28), and ^{וְעַל}, which ~~and~~ probably came from this older source. (2)

From the viewpoint of contents, these different variants of the general principle leave the impression that they ~~are~~ ^{derived} ~~their laws~~ from a general principle which though not extant lies back of all of them. One cannot help but feel that the editors of each code were attempting to apply this general principle to different offenses. Thus in C XXI-24, it is specially addressed to a special case of ~~never~~ fighting and injuring a woman with child. In H, it is generally applied to the case of a person who has harmed another. In D it is to be specially applied to a witness who ~~prejudices~~ ^{perjures} himself. "The law in C and D seem somewhat curtailed in scope but generalized in H." (CHCH) Now the most ancient law more nearly resembled H than it did either C or D just because it is a summary and not ^{made} applicable to a special extraordinary experience and it is not likely that an author would generalize from one instance like this of D's to so unusual a one as in H. It appears that in the later ^{he} drew nearer to the original principle in his transcription than those other authors. In the earliest stage, moreover, "this principle had its applicability not as a ^{norm} for penalties to be judicially inflicted but as ^{regulation} ^{ancient rule} of private vengeance." (2) In D, ^{we} seem more remotely removed from the for it (XIX-21) appears as a guide to the judges in their infliction of punishment upon the guilty and false witness. In H, ^{we} seem to have a law designed and aimed to define the limits of the avenger. For this reason also, I think we are safe in concluding that D suggests a later development than H, which means that this law in the Holiness code is not derived from D but a more ancient source.

Both codes contain some laws bearing on witnesses. The main law in D XIX-15-21 is recognized with some minor exceptions as forming an integral part of the ancient Josiah code. The phrase ^{וְעַל} ^{וְעַל}, is generally considered as a later gloss which did not even appear in the Lucian text (3) and is probably a variant of previous. Cornall (4) first called attention to the suspicion of the text prescribing a mixed lay and ecclesiastical court "where a secular and spiritual tribunal jostle each other." The judges

(1) Paten JBL .XVI-55. Bertholet ^P 8486 (2) IB. EB. 2721.

(3) Steurnagle ad ¹⁵. Bertholet ⁶². (4) Cornell Into. 56.

(5) H appears the older than D because H is unlimited by the provision of the cities of refuge

mean those appointed in the local districts courts after the district priests had been dispossessed there by the Josianic reformation. To add the "Levitical priests" to this ^{and} Judges, signifies that the glossator had in mind the supreme court about which the lawbook has already spoken (1789). The following verse (2) (XIX-18) signifies that originally the law contained only the word ^{השופט} with the three previous words omitted (^{היה}) (2) It is more than probable that the last few words of ¹⁷ are insertions in imitation of XVII-9. With these ^{deletions}, the section stands intact as it stood in original D. Another law in D dealing with witnesses, belongs to a passage which is manifestly misplaced XVII-6-7. Both in phraseology and in subject matter, this section is closely akin to D-13 and probably preceded in the original composition. ^{In} its present location, it interrupts the sequence of thought of XVI-18 and XVII-8 (4). These sentences ⁶⁺⁷ are clearly original and have never been questioned. The laws in H which somewhat resemble D's laws on witnesses are to be found in XIX-16-11b and are generally recognized as original in this chapter. As regards XIX-15, these two commandments fill out the pentad. No one has questioned the originality of this verse. The half verse 11b is an amplification of the decalogue, which is also considered as original in this code. Patin (5) attempts to complete the pentad of which these commandments comprise by placing XIX-35 after 12b. These laws are differently framed. The one in D XIX-15-21 is formulated in the type of the statutes earlier form (^{היה}) while the laws in H are framed alike except for difference of number. Thus H XIX-15 is to be classed as "words" as it has the singular address and H XIX-11b is to be placed under the legal type "commandments" since it has the plural form. As for formulation these laws have not the slightest similarities, D is long drawn out, H is concise and direct.

A superficial comparison of these two laws leaves no other impression than the independence of each law in both codes. From a linguistic viewpoint, this view is furthermore confirmed. Exclusive of these particular pet Deuteronomic expressions which recur without end in the D code, there are few words or expressions common to both of these laws. In fact, the only word which appears in both laws is identical only in stem. In D the noun ^{עדות} is used to modify the word witness while in H the stem appears as a verb ^{עדין}. D uses certain other words though they do not occur in the opposite laws, do appear in the remainder of the code, accordingly proving that these expressions are used in different connections and indicating that they are not drawn from D but formed a part of the author's own vocabulary. Thus D uses in this law on witnesses, these words which are to be found again in H, in other sections than the ones which treat of same subject matter; ^{עדות}, ^{עדים}, ^{עדין} (17). The peculiar syntactical form in XVII-6 does not reappear again in H. ^{עדות} is used in the same way which are frequent in P) (in D XVII-6-XIX-15-XXI-5). ^{עדים} (never in H in this meaning). ^{עדין}, ^{עדים}, ^{עדין}. These are to be classed as distinctive expressions of this law in D, without which it is impossible to frame the same enactment. H uses certain expressions which are not found in D at all, as ^{עדים}, ^{עדים}. These words are equally as essential in these laws. Linguistically therefore, the connection is virtually non-existent.

Bertholet has divided the ethical chapter of H (XIX) into two parts in accordance with the use of singular and plural address. These laws with the latter address, resemble the short commandments of the decalogue. The ones with the singular, he argues are in close correspondence with D. Now a comparison of these laws will disclose the most trivial connection as far as subject matter

(1) Bertholet Dt. 62.

(2) OHCH 163f.

(3) ^{Deuteronomy} Dt. 205. Bertholet Dt. 52-3.

(4) Cornell Intro. 54-5.

(5) Patin JBL XVI- 50.

is concerned. The laws in D are addressed to the judges as regulations to them as to proper testimony and proper punishment for a false witness. The laws in H are obviously addressed to the witnesses themselves.

In D XIX-15-21 in order to make a charge valid in a court dispute and to prove an accusation must have at least two witnesses; a false witness must suffer the same ^{as} he designs for others. In D XVII-6-7 a charge involving the death penalty must be proven by at least two witnesses and they must be the first to execute the sentence and the general populace afterwards. In H XIX-11b the commandment prohibits deception and lying against another. In H XIX-16 the verse forbids one going about as a tale bearer and "seeking against one's life." It is evidently meant ^{to refer to} by false testimony aiming at sentencing one's fellowman to death.

(1) One set of laws is an enactment governing the procedure of a local or district court while H contains merely several commandments generally prescribing the proper conduct of witnesses and urging truth telling and reserve. The humane character of D is brought to the fore again when the accused (XVII-6-7) merely by the evidence of at least two witnesses should be judged and nothing is to be omitted (7) to impress upon the witnesses the feeling of entire responsibility. In this respect H elsewhere manifests the same spirit but has no occasion in these laws to bring it to the front. It is generally recognized that H XIX-19-11b is clearly an elaboration (2) of the decalogue and as such is independent of D's code. H XIX-16 has nothing in common with D's law except a very slight bearing on witnesses. The closest connection and that is extremely slight is between ^{vib} XVI-13-14 (3) and XIX-18-20 since they both deal with false witnesses. D defines the duty of the judge in cases of false testimony while H merely commands against "standing upon the blood of thy neighbor." Note that D and H are differently phrased and show difference in contents and indicate altogether ^{different} sources. "H has kept closely to the ancient type. D is much ^{elaborated}." (4) If anything, H is formulative and style appears the older and for that reason indicates that its source is something other than that of D. D seems to be a precautionary judgement in elaboration of H. XIX-7 while H appears as ancient as the source of D.

Laws containing more or less the same subject matter, are to be found in D XIV-13-16 and H XIX-35-36. The Deuteronomic enactment is clearly original and no valid reasons are in evidence for considering it otherwise than belonging to the ancient Josiah code. Except for verse XVII-1b suggests an explanatory gloss (5) which was modelled after H XIX-35, the entire section is above suspicion. The originality of two verses in H XIX-35-36 has been discussed previously. I have ^{shown} why in verse 35 the word ^{וְכָל} is to be omitted and why in their present position these verses are not in their original place in this chapter. More than likely these sentences followed verses 11-12 and were dislocated. Patan (6) certainly seems correct when he assigns 36 to the ^{redactor} because as an explanatory comment on the previous verse it is unlike the other original material of the Holiness code and so to be regarded as secondary. The two laws differ in formulation. D is to be classed under the type of "words" because it has the singular address while H XIX-35 is in the form of "commandments" as it is written in the plural form. It is to be noted that the two laws are unlike in number, and that save for this difference, the secondary comment on verse 36 (H XIX) and D XIV-13-16 are identical in frame. The ancient H law XIX-35 is formulated differently to the one in D.

(1) ^{Det.} in loc.

(2) Berth. Lev. 62f.

(3) CHOH 436n.

(4) Berth. Lev. 66.

(5) Bertholet Dt. 78. Steurnagle Deut. 92-93.

(6) JBL. 55.

While there are certain linguistic similarities, the marked disagreements in language in the two laws are not without interest. It is interesting to note that there is not one phraseological resemblance in the laws of D XXV-12-16, original law in H XIX-35. H uses these words which not only do not appear in the corresponding law of D but not in the rest of the code; *מדה, עול, מטר, מטר, מטר, מטר*. Not one of the words which D (XIV-15-16) uses is used in H XIX-35. There are a few similarities in language common to D (XIV-13-16) and H XIX-36; *בא, מדה, מדה, מדה, מדה* (as applied to weights) *מדה, מדה, מדה, מדה*. Moreover D uses certain expressions outside/destructive *מדה, מדה, מדה, מדה* comments which are characteristic of D, and which recur throughout the code, in the body of the lawbook which do not reappear in H, as *מדה, מדה, מדה, מדה*. In R H on the other hand, are to be found expressions which do not appear at all in ~~the~~ in D, as *מדה, מדה, מדה, מדה*. Now it is obvious as regards the language that these laws, DXXV-12-16 and H XIX-35 have nothing in common and indicate a different source. As for R H, the question naturally arises, did RH use D as a source from which he derived his comment for H? Now there is no denying that there are certain correspondences. But it seems to me more necessary to explain and account for the differences than these similarities. If we assume that RH was dependent on D, why did he not use the identical expressions of D, first by doubling the nouns, *מדה, מדה, מדה, מדה*. Then as a modifying noun did he use merely *מדה* when his supposed source always employed *מדה, מדה, מדה, מדה*. Furthermore, RH uses certain expressions which are not found in D at all, *מדה, מדה, מדה, מדה*. Now these words are as ancient as D for the first is used by Amos (VIII-5) and the other by Ezekiel. It seems therefore that the resemblances and differences are to be accounted for on the ground that both laws, D and RH, are to be traced back to a common source or sources, of which H (XIX-35) probably most nearly related.

In Contents, the law in H is the fuller and more complete. D (XIV-13-16) prohibits the having in ones possession of small and large weights and ephah, and commands that only correct and full measures be kept by one, H forbids the doing of dishonesty in *מדה, מדה, מדה, מדה*, weights or measurements. RH enjoins that one possess only correct balances, correct weights, ephah and hin. It is to be observed that H & D disagree in this; namely, that with XIX-35, the disuse of these various weights is forbidden while D, makes it an offense to possess incorrect measurements. RH commands that every one possess only proper weights, etc. Moreover, D speaks merely of the weights and ephah while H speaks of meteyard, weights and measurements. D speaks against the use of a large and small measurement presumably for purchase and sale. H commands against doing of any dishonesty with these measurements. While the subject matter is more or less akin, the differences in these laws both in phraseology and contents point against dependence and to some similar sources. The contents of D and RH (XIX-36) are more alike. RH commands one to have in his possession only correct scales, weights, ephah and hin. They agree in urging one to avoid the offense of even *מדה, מדה, מדה, מדה* one a dishonest measurement and in the repetition of *מדה, מדה, מדה, מדה*. RH however uses also *מדה, מדה, מדה, מדה* and *מדה, מדה, מדה, מדה*, showing that he had some other source also than D. This is further proven by the absence of a peremptory comment in H similar to D. In Deuteronomy the editor promises every life in the land as a consequence of honesty and any dishonesty is an abomination before God. RH merely adds to the formula, usually closing each pentad with the expression who brought you from the land of Egypt. This phrase is a usual one in RH and indicates no connection with D. RH therefore drew on a different source most likely one which was known to *מדה, מדה, מדה, מדה* and which explains these similarities between the *מדה, מדה, מדה, מדה* and prophet and Deuteronomy as well as the differences.

Two laws in D and H which *bear* the *nearest* resemblances to each other are to be discussed together merely because they can be classified in the most general heading. No one familiar with these enactments can discern but the faintest connection. The prohibition in D XX-19-20 is recognized by all the critics (I) as

(I) Driver Dt. 240. Bartholet Dt. 64. (2) Of greater interest is the omission in H of that typical and characteristic hortatory comment which tends to show that RH imposed or annotated this law, deriving it from an ancient source, independent of D.

Now the two laws which we have classed together have only

this in common, that both aim to prohibit damage or injury. The law in D is rightfully to be classed among the regulations governing warfare. The one in H is to correctly be grouped with laws under the ethical commandments. (1) The purpose of the first ~~is~~ to modify and soften the rudeness of ancient military custom of destroying the fruit orchards and render as deserts the fertile land of the enemies. (2) The law in D forbids, when besieging a city the wanton destruction of the fruit trees for purpose of constructing ^{siege works}. In H the law enjoins that he who kills the animal ~~and~~ another, must pay life for life. Except for the superficial resemblance that both laws bear or concerned with damages, there is nothing else in common. One cannot help noting the malignance and humanity of spirit which permeates this law and imbued the lawgiver in framing this special law against the needless destruction of fruit trees. Without specifying any penalty but proposing as a deterrent argument the fruit tree is not man against whom war is waged. The law merely states that they who besiege a city ~~do not~~ destroy the trees ~~because~~ fruit in order to build of them ~~structures~~. The law in H, on the other hand is entirely free of any such appeal but orders that he who slays an animal must replace it. As pointed out previously the attitude of ^{and subject matter} the two lawgivers is entirely different.

Since H has no law bearing on or regulating warfare, as I shall point out later, the question arises whether the prohibition of damage in this law which lies at the bottom of this law on warfare, would have been the inspiration and model for the prohibition in H. In other words, is the idea and framework in D XX-19-20 dealing with and treating of military operations is ~~divorced~~ and that which remains is devoid of all reference to warfare, has this which is left any relationship with H or has it furnished the suggestion for the law as a patent for its lawgiver. We have pointed out previously the linguistic independence of both laws. The residue after all reference to war is omitted in this law is the prohibition against wanton destruction of fruit trees. H XXIV-18, as I have often shown, contains not only not one word in common with this law, but not even one thought, in resemblance. Not by any stretch of the imagination therefore is it possible to find any evidence, or sign or marks of dependence in these two laws. Even if the popular law in H is more closely related to an ancient type than D and therefore the older in contents and language, no dependence is discernible in these for they both on their sides, display independence, or rather freedom of any dependence, in formulation, phraseology or contents.

The next laws which are common to both codes treat of murder D XIX-1-13 XXI-1-9 H XXIV 17-19. The law as we possess it in XIX-1-13 is not without evidences of editorial interpolations. Marks of such expansions are apparent to anyone familiar with the institution here provided for. It is clear that with the destruction of the local shrines and the protection which the local altars afforded, to one who accidentally committed murder, it was necessary for the reformers to make provision for another and new ^{method} to supplant this ancient one, and to satisfy the need which it afforded. So conscious of this deficiency in the reform, he arranged that three cities be set aside as substitute asylums for the murderer which would offer him safety just as formerly the local religious centres served as places of such protection. It is not likely that this same lawgiver therefore could have anticipated ^{the} national expansion ~~so~~ would ~~transpire~~ that he would recommend that threescore cities of refuge ~~should be appointed~~. In the priestly code the three cities are increased

(1) Patan JBL. XVI-55.

(2) OJJO. Pp 368.

to six when the conditions of the country warranted this doubling of the number of cities of refuge. In the law XIX-10, it will be noted in verse 7, that the law given knows nothing of six cities of refuge but only of three. Moreover verse 8 appears clearly as the work of the editor (I), resembling an after thought. This law in its present form is interpreted clearly to harmonize with the introductory enactment D IV-41. The one in D is therefore later than the law in the introduction. By one ^{misreading} 8-10 7 appear to mark the conclusion of the previous legislation. In vs 3a the ^{reason} of Bertholet (6) Steurnagle (to 3) hardly seems valid. To argue that the opening phrase is an expansion because good roads are as much an advantage for one who flees as one who pursues fails to explain why the sentence should be considered a later interpolation. Such objection could better be overlooked by the original lawgiver than by the redactor. As for the remainder of this law, there is no suspicion as to its originality if it were ^{known} that such a law as we here possess, ~~as we have explained previously~~ naturally fitted in to this reform scheme. In D XII-1-9 Verse 5 is undoubtedly an interpolation (2), probably added by a later editor who confused this rite of breaking a calf's neck with a religious offering and was at a loss to understand how such a ^{sacrifice} could be performed by any other than that of the priestly guild. Moreover as no reference elsewhere to the priest is present in this law, shows that the editor ^{inserted} it here: the expression, ^{וְהָיָה כִּדְבַר ה' אֱלֹהֵינוּ} is not the usual one which the original lawgiver employed. It seems that in verse 2, the word is probably an addition (3) since nowhere else reference is made to these officials in the remainder of the law. The suggestion has been made not without some satisfaction that in vs 9, the usual D expression ^{וְהָיָה כִּדְבַר ה' אֱלֹהֵינוּ} probably ~~stood~~ after the first half. Except for these minor changes and omissions, the law stands as it originally stood in the ancient code. The authenticity of the corresponding law in H XXIV-17-19 has been previously proven and need not here detain us again. The two laws in D are to be classed as judgments (earlier form). The law in H XXIV-7-19 is to be classified under the same general term judgments but subordinated under the later forms. Not any of the later forms are to be found in the Hebrew literature earlier than H. This difference in formulation is apparent the moment one reads them both. This ^{disparity of type} does not ^{impart} to the one essential difference in the framing of these laws as to describe the law in H as pointed, lacking in no unnecessary words. The others are full almost to the point of profuseness.

The same diversity is in evidence when we study the language of these two sets of laws on murder. There is but one expression common to both these laws which betrays minor variation. This is in D-19, the expression which appears in the corresponding law of H, elsewhere in this code, ^{וְהָיָה כִּדְבַר ה' אֱלֹהֵינוּ}. In H this phrase is somewhat slightly modified, into the expression ^{וְהָיָה כִּדְבַר ה' אֱלֹהֵינוּ}. Save for this expression these three laws dealing with identical subject matter, contain no other parallel words or phrases. The laws in D XIX-15 13: XII-1-9 contain a number of words which are again found elsewhere in the Holiness but not in this particular law, the vast majority of them being used in different connections. ^{וְהָיָה כִּדְבַר ה' אֱלֹהֵינוּ} (in a different connection) ^{וְהָיָה כִּדְבַר ה' אֱלֹהֵינוּ} (H XIX-23) ^{וְהָיָה כִּדְבַר ה' אֱלֹהֵינוּ} (XXVI-31, with suffix), ^{וְהָיָה כִּדְבַר ה' אֱלֹהֵינוּ} (XIII-32). ^{וְהָיָה כִּדְבַר ה' אֱלֹהֵינוּ} (in a different connection). ^{וְהָיָה כִּדְבַר ה' אֱלֹהֵינוּ} (XVIII-2-22) ^{וְהָיָה כִּדְבַר ה' אֱלֹהֵינוּ} (in XIX-17 with addition of ^{וְהָיָה כִּדְבַר ה' אֱלֹהֵינוּ}). ^{וְהָיָה כִּדְבַר ה' אֱלֹהֵינוּ} (the word is ^{וְהָיָה כִּדְבַר ה' אֱלֹהֵינוּ} only used and ^{וְהָיָה כִּדְבַר ה' אֱלֹהֵינוּ} this expression). ^{וְהָיָה כִּדְבַר ה' אֱלֹהֵינוּ} (XXVI-31 in different connection) ^{וְהָיָה כִּדְבַר ה' אֱלֹהֵינוּ} (H XXV-25) ^{וְהָיָה כִּדְבַר ה' אֱלֹהֵינוּ} (in H XXVI-9 in a different connection).

(1) Bertholet Dt. 60. Steurnagle Dt. XII-8-10. ^{Quirk}, Dt. ORON Pp. 158a.

(2) Bertholet Dt. 65. Steurnagle ad loc.

(3) Bertholet Dt. 65 Steurnagle ad. 2.

This later law H 19-18, by the way, is the oldest one of the Pentateuch. It could scarcely have forbidden a thing which in D was reckoned as entirely legitimate. The law in D XXI-1-8 recognized that the only way by which murder can be satisfied is thru blood. Ex. XXI-12, H XXIV-17. And so long as it is unsatisfied, blood guiltiness hangs over the place and the people. Certain premature deaths may not carry this blood guilt, as execution for offenses enumerated in H XX-11(I). This agreement, however, is but the resultant of a stock of ideas, a tradition which obtained among the people and which was as much a part of the ideas of H as of D, and does not signify borrowing. Another idea fundamental in the law D XIX-11-13 and H XXIV-17, in fact the only idea basic to these two laws is that murder can only be atoned for by murder. (Dr. Dt. 353.) Did H get this idea from D? It certainly is not original in D. It certainly is not the legal foundation in the legal system. The D lawgiver was not concerned primarily with this view. He was in the first place aiming to see that justice was done the guilty, of rather the cities of refuge should not be the media for the escape of the guilty. Incidentally he makes the point that murder can only be atoned for by murder.

It is strange this ancient law of D XXI-19 finds no parallel in H. It is evident as has been pointed out that H was familiar with the fundamental idea. It is probable that the codifier revolted against this custom of sacrificing an animal at a place apparently not considered holy by any other than the priest (H17). It may be for this reason that he did not include some such law in his code - showing that if he had depended on D for his material, he would probably have modified the law to fit into his scheme of things.

It is evident therefore that the laws in question have no connection in the way of dependence. In the formulation there is no similarity. In language, there is evidence of total independence. In contents H could not have drawn on D for one law and omitted the others for there was no reason to do so. This law in H is probably an H derivation of the ~~original~~ and in all likelihood, had no relationship with D. ~~but since it formed the basis for D's exception.~~

The prohibitions against usury common to both codes are recognized by the majority of the leading critics as integral parts of the original lawbooks. Save for some minor insertions by later hands, these sections as a whole fit in with the general scheme of the original codifiers. The law in D XXIII-20-21 has no marks or evidence indicating it as a later compilation. Steurnagle (2) argues against the originality of this law on the ground that it contains the words *וְכִסְיָו* and because its proper place is in the D XV, where the lawgiver speaks of the poor. This reasoning is not at all convincing for in the first place, the division of the law on the basis of the use of these two words is too small and even if the passage is misplaced, is no valid argument against its originality. The typical D expressions and phrases, which reappear in this passage are to me additional proof for its originality and not as with Steurnagle a source of suspicion. Though the law in H XIV-35-38 recognized by all the critics (3) is original, it is not without its editorial expansions both by Rh. and Rp. Thus in 35-38, the priestly expression *וְכִסְיָו* mars the grammatical construction of the sentence and its sense (4) is made smooth by their removal. (4) They convey ideas which are manifestly to be ascribed to no author earlier than P. Bötsch's proposal to emend these words is therefore clearly arbitrary. (4) In 35b, the word *וְכִסְיָו* is probably in imitation of the identical word in the following sentence and perhaps originally stood *וְכִסְיָו* (5). The last half of the verse 36 from *וְכִסְיָו* and 38 are clearly in the style of the Holiness redactor (8) by their assignment of a motive to the law and by their excursions into parenthetic comments and use of the plural.

(1) Bertholet Dt. 61.

(2) For D. XXIII-20-21. Driver Dt. Berth. Dr. Addis. OHOR. Hol. Cornell.

(3) Steurnagle VIII-27. pp 86-7.

(4) ~~Dr. Dt. 353.~~ (4) S. Bok. 100. (4) Bertholet Lev. 20-92. Patm. JEL I

XVII-355. Moore. KB. 27-28. 2786

(5) Patin JEL XVIII-56.

These laws present the greatest resemblances of any which we have heretofore discussed. This correspondence is slightly seen in the formulation of these laws. The enactment in D XXIII-20-21 is to be classed as word, written as it is in the second person singular. Except for the first sentence in the prohibition of H XXV-35-38 which is composed as a judgment, earlier form, this law too is in the address of the second person singular and therefore to be classified as "word".

The greatest disparity of these two laws is to be discerned in use of language. They, these enactments, have in common these distinct and essential words, $\text{לֹא תִשָּׂא} (D's)$, $\text{לֹא תִשָּׂא} (H's)$, $\text{לֹא תִשָּׂא} (D's)$. While the linguistic parallels are striking, the differences are not without interest. Thus D uses the words $\text{לֹא תִשָּׂא} (D's)$ which do not reappear in *entire* H at all. He also uses a slightly different phrase than that of H both of which practically having the same meaning; thus, D, $\text{לֹא תִשָּׂא} (D's)$; H, $\text{לֹא תִשָּׂא} (H's)$ (I). Also D employs only the word $\text{לֹא תִשָּׂא} (D's)$ in a general sense of usury in all things. H speaks of $\text{לֹא תִשָּׂא} (H's)$ only of money and $\text{לֹא תִשָּׂא} (H's)$ on food. Moreover, H's law contains words which are not again found in D, as $\text{לֹא תִשָּׂא} (H's)$, (only in H and P). $\text{לֹא תִשָּׂא} (H's)$ (only here) $\text{לֹא תִשָּׂא} (H's)$ (not in D). These phraseological disparities, with Ezekiel (XVIII-17-XXII-12) agreeing with H, indicate not so much ~~and~~ independence on the part of each author as dependence on a common source. While the words which are common to both laws are not too frequent in the Dt., they ~~have~~ no synonyms which have survived in the literature. These similar expressions ~~however~~ point only to a source which was accessible to both authors. The differences, such as $\text{לֹא תִשָּׂא} (D's)$, $\text{לֹא תִשָּׂא} (H's)$, all too diverse for ~~us~~ to infer that the later derived its material from the earlier. Moreover, the distinction between (2) $\text{לֹא תִשָּׂא} (D's)$ which is absent in D who only knew of $\text{לֹא תִשָּׂא} (D's)$, could accordingly not be drawn from D. It stands to reason therefore that we must look elsewhere for this diversity and that is indicated by common source.

These two laws agree substantially in this that they both forbid the taking of interest from a brother, i.e. a fellow Israelite. This they both have in common. D especially prohibits the taking of interest from an alien. ($\text{לֹא תִשָּׂא} (D's)$) H does not contain this provision and the law as a whole does not imply it. H especially states that when one of thy fellow countrymen becomes land poor (3) and impoverished, thou should aid him that he may continue to live with thee, the idea being that he may not be dislodged and probably sold for a slave for his debt. (4) To such a one who is a fellow countryman all Israelites are commanded to lend him money or food without interest that he may continue to possess his land. This interpretation therefore points to the difference of contents of the two injunctions. There is therefore no reason for the author to make provision to provide for regulations for lending money to a non Israelite. He is not therefore so much concerned with the forbidding of usury as he is to see the poverty stricken Hebrew restored to independence. D's law is a general enactment, covering money, food or anything while H is concerned only with money and food. They disagree also in the motive D commands a fulfillment with the promise that God will bless those who do carry out this injunction in every thing they undertake. H, on the other hand, or rather RH enjoins the performance of this law because God decreed it, the God who brought the Israelites from Egypt to give them the land of Canaan to be to them as God. The idea of the land being given to them by God must not therefore through uncharity or ungenerosity revert to the foreigner. If H had therefore derived this law from D, he would certainly not have employed it in an entirely different framework of ideas. And the law in essence, divested of all

(1) JE use $\text{לֹא תִשָּׂא} (D's)$ Ex. XXII-24.)

(2) Paton in JEL XVIII-55 thinks the meaning of $\text{לֹא תִשָּׂא} (D's)$ to be as is indicated by RH comment 38b.

(3) See H. DBI 579. *Bungert* regards Ex. XXII-25 as not original, therefore considering D's law as the first prohibition against interest taking. The difference between D & H in language & thought points to an earlier law known to both lawbooks. Note too RH addition after *from D*.

(4) Bertholet Lev. to verse 35.

these particular parentic features, have only one explicit idea in common which itself shows some minor differences of phraseology. Furthermore, D does not distinguish between "thy brother" which is rich or poor. H does make that distinction. The appeal in D is therefore to a nationalistic or racial instinct (I), the one in H to a sympathetic one. (34a) ~~The sum of all which suggests the previous laws evolved the most lofty and sublime statutes, common to both codes, commanding charity, shall now follow.~~ ~~See, e.g., D XXIV-17b. The originality of the law in D has only been suggested by a few critics (3), in the reasoning that these provisions were handed down by a common ancestor to the lawgivers. There is no doubt that the spirit which permeates this piece of legislation comes from the prophetic teaching, and it is to be expected that such a body of laws should find expression in this unbroken chain of laws, manifestly true.~~

A series of laws which reflects the delicacy of feeling of the Deuteronomist is discernible in D XXIV-6, 10-13+17b. H has no laws like these prescribing the manner in which security should be taken in loans, or prescribing certain articles to be taken in pledge. It is surprising that this code of H which displayed such noble generosity "in XXV-35-38 did not contain some such brief prescription designed to protect the feelings of the poor and safeguard his sensibilities. There is no reason to assign (g) XXIV-7 to a later source. Though it appears out of place in its present location and written in a different formulation than the similar section XXIV-10+13, there does not seem to be any sufficient grounds on which to ascribe it to a later redactor. Rather think with CHOH (15 6/3) that this law was probably drawn from a different collection of laws than the succeeding ones which are closely akin to it. The later laws 10-13 are assuredly D as beautifully reflecting the humanity and sympathy of the Deuteronomist. (4) In D XXIV-17b we may have an interpolation. For in the first place it seems to have but the slightest relation to the hortatory sentence in 18. Moreover in the word LXX, the words $\text{לֹא יִשְׁכַּח$ are not included (5). But if we retain the first half of the sentences for we have no reason to do otherwise, then in b, the pawn of a widow's clothes has this connection with the foregoing, that to accept her garments as a pledge seems to suggest a broken down influence of the court (6) there seems to be no overwhelming reason for considering this passage other than belonging to the original.

~~XX~~ *to their*
The laws are all differently framed with a diversity of sources. The one in D XXIV-6 is to be termed דִּבְרֵי . The one in 10-13 are judgements, earlier form, and the one on 17b is in the form of word. These various formulations indicate most probably that these laws all could not have been derived from one source, unless they were deliberately modified as they are by the hand of the Deuteronomist. Most likely these enactments were incorporated from different collections for there is no reason for D to change or alter their formulations.

Since we have no laws in H corresponding to these in D, all we can do in the study of the language of these laws is to compare it to that used in the Holiness code as a whole. There are comparatively few words common to this D law and H code. Those which are, are נֶפֶשׁ (in sense of life) נֶפֶשׁ (D using נֶפֶשׁ) נֶפֶשׁ (mostly in RH in speaking of deliverance from bondage). נֶפֶשׁ (in H, נֶפֶשׁ used as a substantive) נֶפֶשׁ (H uses the same word but in a different sense), in the carnal sense.) H uses in נֶפֶשׁ XII-13 in same sense as this word used here.) נֶפֶשׁ (H uses only נֶפֶשׁ). נֶפֶשׁ (H XIII-1 uses a slightly varied expression נֶפֶשׁ). נֶפֶשׁ (only used here in D. H uses it frequently). The originality of this passage has been suggested. These terms as far as to be noted are so common in the language that the BBD lexicon does not attempt to list all the places in which they are used in the O. T. They represent the simplest words in the language. It is of interest to observe that no two of these

(1) ~~XX~~ *to their*
(2) ~~XX~~ *to their*
(3) ~~XX~~ *to their*
(4) Berth. Dt. 76.

In another connection, we shall discuss more fully this entire enactment. Here we can only devote ^{some time} to the discussion of the identity of sentiment on the background of these statutes. It is evident that the humanity of H did not originate in D or evolve out of it for the simple reason that its expression would naturally disclose some resemblances either in language or thoughts. We look in vain in these two laws for such correspondences. Because of the many resemblances between D and JK and H and ϵ , it is there in the prophets that we must search and seek for the source of such lofty humanity and spirit.

Closely allied to the foregoing, are the laws concerning the day laborer which are embodied in both codes. D XXIV-14-15, H XIX-13b - XXV-6 - XXII-10b. The legislation in D XXIV-14-15 is clearly in harmony with the Deuteronomic spirit and expression like כִּי יִשְׁכַּח , כִּי יִשְׁכַּח (XXV-17-11) כִּי יִשְׁכַּח which are characteristic of this lawbook prove beyond the shadow of a doubt the originality of this section (I). It appears that Bretholet is not entirely correct (Dt. 7-6) in considering the expression כִּי יִשְׁכַּח as entirely unnecessary. The corresponding enactment in H XIX-13 is without doubt recognized as an integral part of this chapter. No critic has to my mind doubted the originality of this verse and an attempt to ~~put~~ it would be entirely unnecessary. This verse with the following perfectly completes a pentad almost showing that ~~now~~ has in any way tampered with these laws (2). The other laws which have reference to the hiring or wage earner are merely incidentally concerned with him and when we consider these laws in full in their proper place in a complete fashion I shall then prove their originality. Let it suffice here if I merely anticipate my conclusions by stating that both of these other enactments form a part of the Holiness code, the one in H XIX-10b as belonging originally to H ~~(15)~~ and XXV-6 to the redactor. (R_H)

The formulation of these laws D XXIV-14-15 & H XIX-13 are identical. They have the address of the second person singular and are therefore to be classified under the type of so called "words". The other two are to be termed statutes (דְּבָרִים) (earlier form) as they have the third singular address. It is of interest to note that these mostly closely akin in contents have a similar formation.

The laws in the two codes have several expressions in common, כִּי יִשְׁכַּח , כִּי יִשְׁכַּח . It is of interest to note that the second word has no synonym in the Hebrew and if both laws are to speak of wage earners, they are compelled to use this one word. D, however uses some other words and phrases which do appear elsewhere in H, כִּי יִשְׁכַּח , כִּי יִשְׁכַּח (H XXII-7, כִּי יִשְׁכַּח). Notice that the last expression is somewhat changed in H from that in D. D however also has some which do not reappear at all in H, as, כִּי יִשְׁכַּח , כִּי יִשְׁכַּח (both in D XIV-7-11). It is interesting to observe that the expression כִּי יִשְׁכַּח in D, H uses, כִּי יִשְׁכַּח . Elsewhere D has כִּי יִשְׁכַּח (15, 8) an identical idea with different wording which word, כִּי יִשְׁכַּח is not used at all in D. H has several words which are not found in D, כִּי יִשְׁכַּח (it seems to be a synonym of כִּי יִשְׁכַּח) H uses כִּי יִשְׁכַּח instead of D's expression כִּי יִשְׁכַּח .

while this phrase which H uses though found in D (XVI-8) is not an exact reproduction, containing a slight variation and in a different context.

Though the diversity of phraseology in these two laws is plain, the contents have ~~not~~ ^{striking} resemblances. Thus D XXIV-14-15 inculcates equity and considerateness to the needy wage earners. It forbids extortion or oppression of the hired man among the Israelites. On the day of his labor his wages should be paid for; he is poor and he needs it. If he calls to God against his employer, it shall be a sin unto him. In H XIX-13, it forbids oppression and extortion and the keeping of a hired man's wages until morning. In XXII-10b the hired man must not eat of the Holy things,

(1) Bertholet Dt. 76, Driver 276.

(2) Patin JBL. 16-61. SBot *Bauckh*, Berth. Moore.

the implication being that he is not considered a member of the family. In XV -6 the hired man is reckoned together with every one else on the farm. Now the only laws which have the closest correspondence and on which we must search for dependences if any obtain are the first here considered. The two laws have in common context a prohibition against oppression. (XV 17). D has in mind only the poor and needy hired man while H broadens his object of concern to Y 7. H also adds a synonym *stranger* applying it generally, forbidding extortion in any case. D commands that the hired man be paid before sundown while H forbids keeping his wages until morning. D augments his law with a homeletic or parentic appeal which is lacking in H, "for he is poor and deserves it and he shall not cry against thee to the Lord for it will be imputed to thee as sin." On closer investigation it is seen that these resemblances between these laws are not as striking as appears at first glance. Save for one phrase which itself is not entirely similar in contents and phraseology, nothing in these laws is parallel in substance. It is extremely difficult to determine which is the earlier of these laws but it does seem that the laws in H are nearer the original word than the *elaborated* and expanded legislation in D. This does not mean that the law in H is the older for it may well have been written after D but its model for a brief and pointed "word" and not a long piece of legislation like that in D. (1) For it is obvious that H could not have used D without in some way drawing on this *parentic* appeal and using more nearly identical ideas and expressions. It appears to me that both laws are *therefore* to be traced to a common source and that neither was familiar with the other. (2) The other laws which we have discussed have no connection at all with the law in D either in contents or in language and therefore a comparison of them is not only impossible but can not prove anything. "The enactments aim simply to protect the rights of the hired servants. This is necessary since poor and foreigners enjoyed no rights. (3) In the later codes, hired servants are always classed with aliens and excluded from distinctly Israelitish religious privileges (H XXII-10). Never adopted in families as slaves, therefore they are not given same rights." (4)

Both of the codes contain several laws bearing upon slavery showing as an institution it was *ancient* in the times of the two law givers. The predominant law in D is that in XV-12-18 generally recognized (5) as original. *Stearns* (Dt. 55) omits as later insertions *vss* 16-17 because he claims they interrupt the sequence and that excluded, *vss* 18 logically follows 15. Since D is founded upon C it is without any reason if the original D had omitted these sentences which formed a part of the original code. Moreover the slight change (6) and *insertion* in D XV-12-18 shows that they *were* made in *entire* conformity with his dominant purpose. The originality of the law D XII-10-14, previously been proven. The law in H XIII-16-17 is also considered as original by the critics, and certainly no evidences are present to arouse or excite any suspicion about the authenticity of these sentences. The casual reference in the sentence D XVI-11 is a part of a law which *is* also esteemed original. And since in a later place we shall discuss the originality of this section we need not be detained here but will anticipate our conclusions by accepting this sentence as original. The law in H XIX-20 has already been proven *unoriginal*. The enactment XII-11a is certainly a part of H, except the priestly phrases *1000* *1000* (Gen. XVII-12-23) (8). We shall more fully discuss this passage when we take up for later

(1) Briggs Higher Criticism of the Hexateuch pp 244f.

(2) *Plummer Dt. 242. Keuen. Heb. 268*

(3) Kent's Israel's Laws P. 60n. (4) CHOH 45ln.

(5) Driver Dt. Bertholet Dt. Addis.

(6) RB4655b

(7) Driver Dt. Berth. Dt. CHOH Addis.

(8) Berth. Lev. 75-76. *Patan* 17; 65. S. Bot. 97-8. Addis II-361-2.

consideration the question of the originality of this entire section. The originality of the section XXV-29-55 dealing with slaves raises the problem as to the relationship of the jubilee and the seventh year in this chapter. On this question depends an accurate determination of the original verses in this passage. It is of interest as a guide to state that the reference to the release of the slaves in the fiftieth year is conceded by most critics as a later expansion. While Paton changes all textual references of the redemption of Hebrew slaves in the jubilee to the seventh year. Driver, Bertholet and Baentsch exclude from this section of the chapter all sentences containing allusions to this jubilee year. The laws contained in the verses 29-34 are clearly interpolations of the priestly author, containing many correspondences with P. (I) (JW 35-8)

~~XXV-29-55 And full proofs and reasons for these assignments may be found in any of the references mentioned above. As we have discussed the originality of the section with the subject under consideration a reconsideration need not here detain us. There remains a detail examination of therefore v 39-55. In this section are verses which are unmistakably and generally recognized as glosses of the same redactor. 44-46 & 49-51-52 & 54 contain positive marks of the priestly editor (2) and are reckoned by all the critics as expansions of the same redactor.~~

Vs 41a-is also Rp. of XXV-54(5)

Vs 41-b is distinctly Rp. since it uses such distinctive expressions. (2) 44

In ~~the~~ ^{the} ~~verse~~ ^{mol} of plural and Rp. expressions in second half of verse show later addition and since the first half is senseless with b both should be omitted. (3)

45 uses altogether priestly expressions and the same applies to 46. (5).

Vs. 42 shows the familiar style of the hortatory (RH) writer. (H-XX-36-XXII-33) (4).

Vs. 46, is Rp. since it repeats the thought of 43 and has P's expressions. Nu. XXIII-18, Gen. XLVIII-4(6).

51-52 is priestly reiteration marked by the diffusiveness which is typically dissimilar to H's brevity. (6)

Verses 39-43 are certainly original containing as they do distinct H expressions, as ⁷⁷⁵ ⁷⁷⁶ ⁷⁷⁷ ⁷⁷⁸ ⁷⁷⁹ ⁷⁸⁰ ⁷⁸¹ ⁷⁸² ⁷⁸³ ⁷⁸⁴ ⁷⁸⁵ ⁷⁸⁶ ⁷⁸⁷ ⁷⁸⁸ ⁷⁸⁹ ⁷⁹⁰ ⁷⁹¹ ⁷⁹² ⁷⁹³ ⁷⁹⁴ ⁷⁹⁵ ⁷⁹⁶ ⁷⁹⁷ ⁷⁹⁸ ⁷⁹⁹ ⁸⁰⁰ ⁸⁰¹ ⁸⁰² ⁸⁰³ ⁸⁰⁴ ⁸⁰⁵ ⁸⁰⁶ ⁸⁰⁷ ⁸⁰⁸ ⁸⁰⁹ ⁸¹⁰ ⁸¹¹ ⁸¹² ⁸¹³ ⁸¹⁴ ⁸¹⁵ ⁸¹⁶ ⁸¹⁷ ⁸¹⁸ ⁸¹⁹ ⁸²⁰ ⁸²¹ ⁸²² ⁸²³ ⁸²⁴ ⁸²⁵ ⁸²⁶ ⁸²⁷ ⁸²⁸ ⁸²⁹ ⁸³⁰ ⁸³¹ ⁸³² ⁸³³ ⁸³⁴ ⁸³⁵ ⁸³⁶ ⁸³⁷ ⁸³⁸ ⁸³⁹ ⁸⁴⁰ ⁸⁴¹ ⁸⁴² ⁸⁴³ ⁸⁴⁴ ⁸⁴⁵ ⁸⁴⁶ ⁸⁴⁷ ⁸⁴⁸ ⁸⁴⁹ ⁸⁵⁰ ⁸⁵¹ ⁸⁵² ⁸⁵³ ⁸⁵⁴ ⁸⁵⁵ ⁸⁵⁶ ⁸⁵⁷ ⁸⁵⁸ ⁸⁵⁹ ⁸⁶⁰ ⁸⁶¹ ⁸⁶² ⁸⁶³ ⁸⁶⁴ ⁸⁶⁵ ⁸⁶⁶ ⁸⁶⁷ ⁸⁶⁸ ⁸⁶⁹ ⁸⁷⁰ ⁸⁷¹ ⁸⁷² ⁸⁷³ ⁸⁷⁴ ⁸⁷⁵ ⁸⁷⁶ ⁸⁷⁷ ⁸⁷⁸ ⁸⁷⁹ ⁸⁸⁰ ⁸⁸¹ ⁸⁸² ⁸⁸³ ⁸⁸⁴ ⁸⁸⁵ ⁸⁸⁶ ⁸⁸⁷ ⁸⁸⁸ ⁸⁸⁹ ⁸⁹⁰ ⁸⁹¹ ⁸⁹² ⁸⁹³ ⁸⁹⁴ ⁸⁹⁵ ⁸⁹⁶ ⁸⁹⁷ ⁸⁹⁸ ⁸⁹⁹ ⁹⁰⁰ ⁹⁰¹ ⁹⁰² ⁹⁰³ ⁹⁰⁴ ⁹⁰⁵ ⁹⁰⁶ ⁹⁰⁷ ⁹⁰⁸ ⁹⁰⁹ ⁹¹⁰ ⁹¹¹ ⁹¹² ⁹¹³ ⁹¹⁴ ⁹¹⁵ ⁹¹⁶ ⁹¹⁷ ⁹¹⁸ ⁹¹⁹ ⁹²⁰ ⁹²¹ ⁹²² ⁹²³ ⁹²⁴ ⁹²⁵ ⁹²⁶ ⁹²⁷ ⁹²⁸ ⁹²⁹ ⁹³⁰ ⁹³¹ ⁹³² ⁹³³ ⁹³⁴ ⁹³⁵ ⁹³⁶ ⁹³⁷ ⁹³⁸ ⁹³⁹ ⁹⁴⁰ ⁹⁴¹ ⁹⁴² ⁹⁴³ ⁹⁴⁴ ⁹⁴⁵ ⁹⁴⁶ ⁹⁴⁷ ⁹⁴⁸ ⁹⁴⁹ ⁹⁵⁰ ⁹⁵¹ ⁹⁵² ⁹⁵³ ⁹⁵⁴ ⁹⁵⁵ ⁹⁵⁶ ⁹⁵⁷ ⁹⁵⁸ ⁹⁵⁹ ⁹⁶⁰ ⁹⁶¹ ⁹⁶² ⁹⁶³ ⁹⁶⁴ ⁹⁶⁵ ⁹⁶⁶ ⁹⁶⁷ ⁹⁶⁸ ⁹⁶⁹ ⁹⁷⁰ ⁹⁷¹ ⁹⁷² ⁹⁷³ ⁹⁷⁴ ⁹⁷⁵ ⁹⁷⁶ ⁹⁷⁷ ⁹⁷⁸ ⁹⁷⁹ ⁹⁸⁰ ⁹⁸¹ ⁹⁸² ⁹⁸³ ⁹⁸⁴ ⁹⁸⁵ ⁹⁸⁶ ⁹⁸⁷ ⁹⁸⁸ ⁹⁸⁹ ⁹⁹⁰ ⁹⁹¹ ⁹⁹² ⁹⁹³ ⁹⁹⁴ ⁹⁹⁵ ⁹⁹⁶ ⁹⁹⁷ ⁹⁹⁸ ⁹⁹⁹ ¹⁰⁰⁰ ¹⁰⁰¹ ¹⁰⁰² 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door and by this symbolic ceremony voluntarily enters into a perpetual servitude. When he is sent away, he is not to be sent away empty handed for he has served so he rather deserves double the wages of a hired man. The laws in H 39ff & 47 ff, command firstly that when the brother (Hebrew) becomes poor and sells himself to another Hebrew he should not be made to do the work of a slave. Like a hired man and resident stranger he should be with him. He shall not sell him as slave chattel. He shall not press him ungenerously. If he sell himself to an alien (not an Hebrew) one of his brethren shall redeem him and like a hired person he shall be with him annually and he shall not rule him rigorously "before thee". Now the two sets of laws agree in the following points:

They deal with a Hebrew slave who sells himself.

They aim to moderate though by different means the lot and treatment of the Hebrew slaves.

They both purpose to better his plight with the eye to the conditions of the wage earner, but even in this detail there is a difference.

Now as to the first correspondence, D is concerned and rightly so with a Hebrew male or female who sells himself to a Hebrew, for this law would not be applicable if the owner were a non-Israelite. H XXV - 39 deals firstly with a Hebrew, (male only) who sells himself to a fellow Hebrew and H XXXV - 47 with a Hebrew who sells himself to a foreigner. For a comparison is only logically possible between the D law and the first regulation in H. Now then does D aim to alleviate his condition and how does H when the owner is a Hebrew? The enactment in D is concerned with the release from servitude after a service of six years. If he does not desire this freedom he must remain during the remainder of his life. H XXV-39ff is concerned not with the release of the Hebrew slave from his owner but the humane treatment during his servitude. He must be accorded at least the same treatment as that afforded the wage earner or foreigner. He must not be disposed of and dealt with as other slaves. He must not be pressed rigorously. Now between these two laws in important features, there is nothing in common (2). For D deals with the time and manner of his release ^{from his ill treatment} as a slave. They both purport to alleviate the flight and ameliorate the harshness (3) of him who has sold himself. D's aim expressed itself by commanding a release from servitude after six years provided he does not of his own accord desire to remain. H's purpose finds its expression in the three commandments, (a) against degrading him below the ordinary wage-earner, (b) against selling him as chattel, (c) and against mistreatment.

The D reference to loading the ^{manumitted} slave with gifts because he deserves it since he merited ^{the} ~~the~~ wage of a hired laborer, alluded to above, and H command ~~that~~ ^{of} according him the same portion as the wage earner probably evolved from conditions as they then obtained and not out of the laws. D's purpose in calling attention to the hired laborer is to present an emphatic and somewhat exaggerated reason why the owner should bestow such gifts on the freed man. H has as his object merely to raise his status at least to that of the wage-earner and foreigner whose social position was evidently higher than that of the slave. Therefore though both laws allude to the hired man, they have different objects in doing so and different ways.

These laws present other notable differences. Thus D speaks of both the male and female (3) while H seemingly is only addressed to the male. D seems to recognize as an established institution of the release of the Hebrew slave in the seventh year and here aims to provide for him on his ^{manumission} ~~manumission~~ by appealing first to their sense of sentiment and sympathy (XXV-16) and then to their sense of justice (XV 18) (4). His object to make provision for his freed slave. ^{Whereas} in H is concerned about the Hebrew who is in slavery and seems to know nothing at all about the release in the seventh year or the rite by which he is to make him a ^{freeman} ~~freeman~~ for life.

(See over for notes) see notes on obverse side of page.

In the other law of H, this ignorance seems to be confirmed. When a Hebrew slave sells himself to a stranger or descendant of a stranger (I), any Hebrew shall redeem him. The threatened curse which will overtake the people described in D XXVIII-43 is treated here as a reality (2). It does not seem likely that H would treat with a law of a condition as a fact and not any too deplorable one which in the book which was supposedly serving as its model, this very condition was described as the most dreaded and dreadful imprecation. This discrepancy as it seems points against the theory of H's dependence on D.

It is probably clear from this that alien owners of the Hebrew slave reside in the land and that the laws of the land are applicable to him as to any other citizen. However that may be if the law of B were in effect and the Hebrew could be voluntarily freed in the seventh year why is it necessary that provision be made for his redemption? It is certainly self-evident why the law-giver should insist on humane treatment but it does appear incongruous for one law to grant release on the seventh year and the other to propose that his compatriots provide for his redemption. The inconsistency may be obviated however, by the suggestion that the law-giver in D addresses a Hebrew proprietor while the law in H is directed to a foreigner who is not bound by it. However it does seem that the latter and later code would have alluded to the earlier institution if it were more than to make an appeal specially for the Hebrew who is the slave of an alien who because of that is suffering added pain. The law in D XXIII-17-18 (3) has a parallel in H and no correspondence except that it was sympathetic for the slave while he is a slave. There does seem a contradiction in these laws. The enactment in XXIII-17-18 commands that a slave shall not be sent back to his master when he escapes but should be permitted to reside with anyone. Now this law is in the form of a command making it imperative on the man to whose home the slave escaped that he must not return him to his owner. It is evidently not left to the discretion of the man. Now if such a law was in force at the time when H composed his laws it hardly seemed necessary for him to have emphasized so strongly the prohibition against maltreatment. With this avenue of escape open to any slave, the master would not have been forbidden to practice mistreatment. His fear of the possible loss of his slave and his protection from his owner would have deterred him, if he was so disposed, that such a command in H would have been entirely needless. It must be said that this law in D XXIII-17-18 somewhat like the ones in H raised the slave out of the chattel, for if the owner loses his rightful property, the finder must return it. In the case of a slave there is an exception. He is not property. He is a person and this legal fact is at the bottom of the laws in H. Moreover, if D XXIII-16-17 deals as Driver and Bertholet suppose with a Hebrew slave who has escaped from his alien master in a foreign land, then the law of redemption in H XXV-47-48 is entirely superfluous if we assume that the latter was familiar with D. It would surely be easier for all concerned if instead of waiting for redemption, the slave was to escape to his native land. He would be just as safe and certainly his escape would be just as legitimate. Now therefore if H had known of D XXIII-16-17 it hardly seems sensible that he would add his law of redemption unless he had considered the D one illegitimate and invalid and wish to substitute his for it. Such an assumption is entirely unwarranted particularly since he makes no allusions to the law he supposedly intended to supplant. Their slight contradiction indicates that the later code could not have known of the existence of the earlier D. (5)

(1) On a relationship of these laws with Dt. XV-12-18 see Berth. Dt. 48.

(2) The threat of D XXVIII-43 is realized. For D it is a threat.

In H XXV-47 it is a reality. Bertholet 25.91-92. 2. 47

(3) Lev. XXIII-47.

(4) Driver Dt. 185. "Legislator of H XXV betrays little consciousness of D."

(5) Its doubtful whether Driver Dt. 264 is right that the law refers to slaves from distant lands. Driver rightly thinks that text does not prove this theory of Marti & Driver.

The two codes contain laws against oppressing the stranger. D XXIV-14-17: H XIX-35f. The law in H XIX-33-34 is not without its priestly expansions. But in the first place there is no reason to agree with the critics that these laws are a later addition by the priestly editor. Since both C and D contained a similar prohibition against the maltreatment of *ger*, is justifiable reason to look for such a law as the one here in the Holiness code. In other words such an enactment as we have under discussion would be expected in the original code of H. (I). But the hand of *g* is visible. The expressions *לֹא תִשָּׁקֵץ*, *לֹא תִשָּׁקֵץ* are typical P's phrases, see Ex. XVII-48, 49, Lev. XXIV-22, Nu. XII-14. It is probable that *לֹא תִשָּׁקֵץ* is transcribed from the previous place in the chapter. The law in D corresponding to this one here D XXIV-14-17 is recognized as an integral part of the original code and it is useless to rehearse the reason of some few who would suspect its authenticity.

These two laws are identical in formation except that the one in D is in the singular and the other H in the plural. The two laws in D are to be termed "words" and the one in H are to be classified as commandments. While the two laws use a few words which are common to both codes, they are uncommon to each corresponding law. Thus § D XXIV-14-17 uses these words which are not found again in the corresponding law in H but in its lawbook, *לֹא תִשָּׁקֵץ* *לֹא תִשָּׁקֵץ*. He also uses some words which are not found in H at all, *לֹא תִשָּׁקֵץ* and *לֹא תִשָּׁקֵץ* and *לֹא תִשָּׁקֵץ*. The words common to both parallel laws are *לֹא תִשָּׁקֵץ*. H uses the expression *לֹא תִשָּׁקֵץ* which is only found once in D. (XXIII-17) (It is used several times in H as prohibition against mistreatment of an escaped slave, it is used several times in H.)

The law in D forbids oppression of the poor hired man, of the strangers in the land and prohibits a perversion of the justice to the stranger. The law in H forbids oppression of the stranger who "in your land." Now note that the two laws differ in the use of words for oppression, D *לֹא תִשָּׁקֵץ* *לֹא תִשָּׁקֵץ*. The law in D prohibits maltreatment of the hired man who is a *ger*. H generalizes his law to the "*ger*" in general following the precept in C XXII-20 where almost identical words are used. D disallows the perversion of the judgment *לֹא תִשָּׁקֵץ* suggesting that the *ger* had *right of property* of taking his case to court (2) while H has no law on this subject. The similarity of H with C and the differences of D and H can lead to no other conclusion than that H is more nearly related to C than D. This inference is further confirmed by a comparison of the *hortatory* sentences of these three laws. The expression *לֹא תִשָּׁקֵץ* in H XIX-34 is literally repeated in C XXII-20b. In D, the *hortatory* writer adds to his law, the expression "Thou shalt remember that thou wast a slave in the land of Egypt and the Lord thy God redeemed thee from there." Now there seems to be in my mind no doubt that since parentic motive of H is more closely akin to C than to D and these laws *themselves* show the same relative kinship that the origin of H is rather to be sought in C than in D. This *hortatory* expression which H and C employ, is not found at all in the codes of D but is found once in the introduction 10+19.

The references to the stranger in the following law are as a rule incidental to the principal subject matter treated. In these enactments when this allusion to *ger* occurs, appears secondary to matters of more principal concern. Unlike the previous laws discussed, where the stranger was the chief subject of interest, in the legislation which is now to be treated, any and all reference to the *ger* appears only contingent on the more essential contents. For this reason the discussion of the originality of the passages in which these allusions occur will be presented in that connection where the main subject matter is considered. Therefore the sentences which we have presumed as original must be accepted, and any opinion held in abeyance until we can get to the proof for our views.

(1). Paton JBL XVI-75.

(2). RBIV. XLVIII-142. col 4814ff.

Both codes are solicitous ^{for} the stranger, anxious to assist and succor him. Judging by the number of times in which he appears as the object of such humanitarian concern in D, ~~he~~ appears, save for the ^{fact} that no other class excites D's compassion as does the *ger*. Thus in D XIV-29 he is to share with other indigent in the third year's tithe. In XXVI-1-11 the first fruits are to be divided ^{with} the *ger* with the priest and his family and participate in the ^{festive} joy which they are to experience. In XIV-21 the ^{לֵב} ^{לֶחֶם} ^{לֶחֶם} may be given to the *ger* but must be sold to the ^{לֵב} ^{לֶחֶם}. The parallel law in H (XVII-13-14) is full of suspicious marks which create doubt as to its originality and so a full discussion of the passage will be reserved for the next chapter when I consider D's and H's dietary laws. This law in D XIV-21 however, is of interest here since it reflects the attitude of the lawgiver to the *ger* and his various provisions to help him ^{but is too suspicious}.

H (I) in XX-6 provides that that which of itself grows in the seventh year may be eaten by the *ger* among others listed. In H XIX-10 & XXIII-22 which we have already discussed, that which falls in vineyard and that which grows in the corners of the field are to be left to poor and *ger*. In XXIV-19 the fallings in olive and vineyard and the *omer* which is forgotten are to be left to the poor and *ger*. These laws have already been compared and analyzed and therefore a reconsideration of them here is unnecessary. All which interests us here is the more or less similar provision made by both codes for the poor. Then the two codes agree in their humanity to the stranger only in this provision for the accidental gleanings left to the *ger*.

The Holiness code contains far more religious regulations than D. In D XVI-11-14 the *ger* is to participate in the celebration of the festivals of Succoth and Shaboth. In H XXIII-43, Bertholet (2) has proposed that the word ^{לֵב} ^{לֶחֶם} be inserted after ^{לֵב} ^{לֶחֶם}, holding that it originally stood there and was probably dropped out. The word ^{לֵב} ^{לֶחֶם} indicates that this word once stood here, for there is no reason for ^{לֵב} ^{לֶחֶם} to follow ^{לֵב} ^{לֶחֶם} alone. This is the only law containing prescriptions of the religious obligations of the *ger* in D. In H XXIII-43, XXIV-6 a *ger* is prohibited under the penalty of death from sacrificing to Molech and blaspheming God. ~~(XXIII-18)~~ The *ger* (XXIII-18) is enjoined to perform the sacrificial laws exactly as is incumbent on the native Hebrew. The ^{parentic} exhortation (XVIII-26b) which forbids the *ger* from practicing heathen customs and abominations is probably a priestly addition. It mars the structure of the sentence and is a characteristic phrase (XXVII-19-49) (3) In H XXV-47 the *ger* is commanded not to oppress the enslaved Hebrew. From him the Hebrew slave may be redeemed. The non-priestly redactional insertions ^{לֵב} ^{לֶחֶם} (XVII-8, 10, 11, 12, 13-XXIV-14) puts the *ger* on the same footing with the Israelite in the performance of their religious obligations, the laws which we shall discuss later. In this connection, a linguistic difference between H and D is so notable that it cannot be ignored. H or rather RH uses frequently the expression ^{לֵב} ^{לֶחֶם} is repeated six or seven times with some few minor variations. This phrase is never used by D who instead uses either the expression ^{לֵב} ^{לֶחֶם} D XVI-11 or ^{לֵב} ^{לֶחֶם}. Therefore in this phraseological matter, this diversity between the ^{let} and typical H and D expressions can in no way be construed as derivations of one another but proving a ^{from a} total independence. The single reference in H XXII-25 to the ^{לֵב} ^{לֶחֶם}

- (1) Compare Patan JBL XVIII-44.
- (2) Bertholet Lev. 81-83 ad. vs. 39-42; EB IV XXIII-179. ed. 487f.
- (3) Patan JBL XVII-50. Bertholet Lev. 60f.
- (4) This passage is of doubtful origin.

In contents only the slightest correspondence is perceptible between the two laws. The law in H 19-11a is a general commandment, similar to the one in the decalogue except that it is in plural, i.e. "Ye shall not steal". The law in D (XXIV-7) prohibits under the penalty of death the stealing of a person that "thou shalt remove the evil from thy midst". This enactment in D is concerned with the particular case of kidnapping. The law in D is clearly derived from (1) Ex. XXII-16. The commandment has no connection with Ex. XII-16. It seems to be modelled after the similar law in the decalogue. (2) These laws are entirely independent of each other and bear not the slightest connection, for H could not have been drawn from D. Moreover it does seem that H which who is so concerned for the Hebrew slave (H XXV-47-48, and so desirous of effecting his release could have taken some cognizance of this law in D XXIV-7. For D has in mind (XXIV-7) the traffic in slaves through kidnapping and this is shown that the punishment is so drastic. Now if H was so set on freeing the Hebrew from bondage of a *ger*, that he would be doubly as insistent to avoid the possibility of a Hebrew from becoming a slave through theft. Therefore it seems to me that H was entirely unfamiliar with D if we may base our conclusions on the silence in these laws. Such a law as this in D XXIV-7 would be most appropriate in H.

In the remainder of this chapter, the subject matter which will occupy our attention is of a sort which is treated freely in one code and only slightly if at all in the other. This lack of correspondences in individual laws is not so significant as in groups of the same or similar contents. I shall subsequently explain what I mean. For the present, it is not without interest that H lacks such laws that definitely deal with inheritance. The reference to inheritance of the land from the aboriginal settlers ~~EXXII~~ in H XX-24 (RH) shows as for the institution of inheritance the author of the code was not in ignorance of it. It stands to reason that he could not have alluded to the rights of "inheritance" or known of it if at this time the institution was not recognized. For this reason and the laws in H XXV-8ff confirm the prevalence of this institution at that time of H. Now it is inexplicable why with this knowledge the author did not contain some regulations regarding the rights of inheritance. As has been shown he did not presuppose or reveal any presupposition of any previous laws and so it cannot be argued that he understood that the other codes comprised some such legislation. His repetition of other laws with modifications more or less insignificant shows that the codes we possess were ostensibly unknown to him and that no laws in them are presupposed by him. The law in XXI-15-17 is without doubt original in the code for the language and contents are entirely consistent with the time of the code. The originality of the law in XXV-6-10 has already been proven and a reconsideration is entirely unnecessary here. Some doubt has been cast on the law in XIX-14 because of its incoherence with the context. Stearnagle (Dt. XIX-14) has suggested that this law was inserted here by the redactor as a gloss which was suggested to him by the allusion to the *5122*. This is certainly nothing more than a mere suggestion. For it must be confessed that the dislocation of a law in a paragraph or chapter is certainly no valid reason for assigning it to any other than the original author. This proposal of Stearnagle's may explain its present location but does not discredit its originality. The Bible scholars as a whole appreciate that originally this law formed a part of the ancient code. The law conforms to the preachment of the eight century prophets and could have easily been suggested by them. (Is. 58. Rs. 5-10). A discussion of the originality of the section of the Jubilee festival in the fiftieth year in H XXV-8ff need not detain us here since I shall reserve a full and complete discussion of this subject when I take up the subject of the sacred seasons. All that I want to do here is to anticipate my conclusions on this subject and present that in the Holiness code, the law of the reversion of the land to its original owners is to take place in the fiftieth year. The

(1) Bertholet Dt. 75. Dt. Dr. 274.

(2) Ex. XX-15.

(3) Bertholet Dt. 62. Driver Dt. 234.

(4) A441s II-108.

Furthermore, a comparison of D XIX-14b and H XX-24 will reveal the distinctive individuality of these authors. In D the expression, "in the inheritance (בְּנַחֲלָתְךָ) which thou inheritest in the land (אֶרֶץ) which the Lord thy God is about to give thee to possess it." In H the sentence reads, ye shall inherit (וְיָרְשׁוּ) their land (אֶרֶץ) and I shall give it to thee to inherit (וְאֶתְּנָהּ לְךָ) it (אֶרֶץ). Now note that these two sentences are the resultants of two different conditions. But that I am not presently interested in. Note moreover that the thought is more or less identical. The differences, however, are such as to point conclusively to their independence. D uses the words נָחַל, נַחֲלָתְךָ which are not repeated at all in H while the later uses יָרְשׁוּ. H uses אֶרֶץ while D uses אֶרֶץ. D has לְךָ, H has אֶתְּנָהּ. Certainly H which is later, which is, by the way, the only time this thought occurs in H, certainly did not derive it from D (XIX-14). In no place in D (XVIII-14, XVI-20, XIX-1, XVII-14) where the almost similar sentence occurs, is there one which is any closer or more nearly similar to H than the one we have just already discussed. *and they are different.*

Both of the codes contain laws probably urging humanity (I) in dealing with animals. D XXII-6-7, XXV-4, H XXII-28. I say probably advisedly for the purpose of these laws, their aims and underlying motives may be imbedded in the superstitious customs of the people, probably survivals and vestiges of earlier days. It is only the assumptions, however, that these laws have the purpose of inculcating compassion to animals that I have coordinated them in this discussion. The laws in XXII-6-7 is undoubtedly D's. The tone and spirit of this legislation is typically Deuteronomio as well as its language. Except for *וְאֶתְּנָהּ לְךָ*, the verse is composed in the phrases and style of the D author. This last phrase tacked on to the law is probably a variation by a redactor (D's) modelled after the sentence in D V-16 where the commandment speaks of respect for the human mother (2). Here such a parentic addition has no typical meaning while in V-16 it follows naturally from the spirit of the law. The law in XXV-4 is manifestly out of place in its present location. Steurnagle's (3) suggestion that this law was probably written as a gloss on the edge of the page, explaining XXV-18-19 and then through error of another redactor *inserted* here when it should have been placed in close proximity to XXII-6-7. The law from its contents could well have formed a part of the lawbook. That it is dislocated is no adequate *reason* to assign it to a later authorship or misplacement is no evidence of lateness particularly in so heterogeneous collection as D XXI-XXV. The law could well have formed a part of the original code and there is nothing in the contents of the law to indicate that it came from any other hand than that of the original author. The somewhat corresponding law in H XXII-28 is recognized as a product of H. (4) Its language and contents both fit in the original section of the lawbook. (3)

All of the laws in both codes are dissimilar in formulation. The one in D XXII-6-7 is in the type of a judgment earlier form. The one in D XXV-4 is a "word". The one H XXII-28 is in the legal style of a commandment. Those in D are in the singular. The one in H is in the plural.

In language, no less, are these laws in *distinctive language*. The only word common to both laws of D and the one in H are, (2) (sing. in H, plural in D) D XXII-62 H XXII-28 - *וְיָרְשׁוּ*, (D XXV-4, H XXII-28). D has some terms which appear elsewhere in H *but* not in the *specific* law of humanity to animals *וְיָרְשׁוּ*, *וְיָרְשׁוּ*, *וְיָרְשׁוּ*. *אֶתְּנָהּ* (H XXII-27) *אֶתְּנָהּ* (H XXVI-4) *אֶתְּנָהּ*. Everyone of the words which H uses are found in D but in different places and not exactly as they are found in H, thus, *וְיָרְשׁוּ* (XVIII-3) *וְיָרְשׁוּ* (XVIII-3) *וְיָרְשׁוּ*. Now it is to be noted that these words are all extremely common and frequent in the literature of O.T. They are so simple and *basic* to the language that it is next to impossible to express oneself in the

(1) Steurnagle Deut. L.C. Bertholet 68. (2) Dt. 91. Berth. Dt. 77.

(3) Bertholet 68, 77. Driver Dt. 280, 251.

(4) Paton JBL XVII-17.

language without these words which with one or two exceptions have no synonyms. Moreover, the laws in D have a number of distinctive and essential words which are typical of D that are not used at all in H, i.e. *לִפְנֵי* (note the use of the *liphnei* again in opening a law), *לִפְנֵי* (H uses *לפניו*), *לִפְנֵי* (H uses *לפניו*). These words clearly prove the independence of D and H; for if the latter had known of D he could not have been able to hold himself back from using these words or some of them.

In contents of course these are ~~nothing~~ of correspondence save in the faint and uncertain resemblance of the spirit of humanity supposedly common to both. D XXV-4 forbids the muzzling of an ox at threshing. D XXII-697 forbids the taking of the dam with her young but commands the freeing of the mother and permits the taking of the young. H XXII-28 forbids the killing of the cow or ewe with its young on the same day. It is obvious that from the contents outlined there is not the slightest trace of resemblance save perhaps the motive or aim in the background. (1). Even in this however there is some doubt. Some contend that the basis of the law in D XXII-147 is to be found in its *utilitarianism*. (2). In the matter of legislative substance therefore, it is evidently impossible to find any evidences of correspondence or signs of influence. The motives of the law may not be the same. If they are, the motive of H XXII-28 (3) did not evolve from D for the language and terms of expression would have disclosed it. But it seems that the laws may have later taken on a humanitarian aspect; in their beginnings they probably evolve from different motives and causes. Therefore in this feature the laws show nothing in agreement but the plainest signs of independence.

A set of laws in D which has not the faintest resemblance with any law in the Holiness code are those in XXII-1-4. It is generally recognized that these enactments are Deuteronomic expansions of Ex. XXII-4-5. (4). There is certainly no reason to assign them to any other author than the original D. For they contain nothing which is at all incompatible with the terms and conditions of the code.

They closely follow the earlier laws after ~~which~~ which they are modelled in their formulations and in keeping with the ancient prototype, they are all framed in the form of "words"; that is, second person singular. Two sentences of these prescriptions are in the form of subordinate clauses, additions to and variations from the ancient patent.

Except for one or two terms, the words common to these laws XXII-1-4 and H, ~~earlier~~ earlier code are mostly confined to the simplest and most usual. The words which are more or less unusual that appear in both codes are, *עִבְדָּה* (RH H XX-14) (In H, it is in the *liphnei* and in D the *liphnei*. In H it is used in one connection while in D in another). *לִפְנֵי* (in H, used in connection with the festival). Now it is assuredly unlikely that the redactor would draw words from one set of laws which are not found in H, a few words that he employed elsewhere in H in different contexts. This seems all the more true since these words are not frequently repeated ones in D and since the other words which are common to both codes are usual in the language, as, *לִפְנֵי* (XX-17) *עִבְדָּה* (XXV-25) *לִפְנֵי* (22, in *Kal*). *לִפְנֵי* (in *H* 269). The oft repeated words of D, those which are to be termed typical and characteristic in the laws are entirely absent in H, as, *לִפְנֵי* (this form) *לִפְנֵי* (H uses *לפניו*), *לִפְנֵי* (H uses *לפניו*), *לִפְנֵי* (H uses *לפניו*). These pet terms of D which are ignored by H indicate that the author of the Holiness code could not have been familiar with the D lawbook at all, and failed to use them. These omissions indicate H's independence of D.

In contents, we have nothing remotely resembling D XXII-1-4 in Holiness code. The first laws prescribe that an animal which has gone astray be returned to the rightful owner and if it be too far or the possessor be unknown then the animal is to be kept until called for when it is to be surrendered. The other enjoins

(1) See Driver Dt. 251+280. (2) Dt. Dt. 251. Berth. Dt. 68.

(3) Bertholet Lev. 77. ad loc.

(4) Berth. pt. 67. Steurnagle Dt. Addis 4. Addis II-115.

that everyone should assist in lifting an animal which has fallen on the way and should not turn his face away. The contents are so foreign to H that not even a particular phrase or sentence is repeated in it. Though it is a precarious procedure to argue that because H contains no similar laws, it is not far from correct to infer that from the negative facts that the absence of such D phrases in the entire code, is due to H's ignorance of D.

Before proceeding to a discussion of the linguistic and substantial features of the remaining group of laws, it may be in place here to determine which of them are original and which ought to be ruled out as not at all suitable in the original code. In the first place, the law XVII-14-20, treating of two subjects did not form at all a part of the original code. (1). "The representation of the law as already compiled and written (as XXXI-9-26) is a conflict with the legitimate prerogative of the monarch." (2). This allusion of the law seems to point to the its completion, it is already being written and compiled and as such indicates that this paragraph could not have formed a part of the very law which it recognized as already finished (4). In the second place, this law of the monarchy is manifestly founded or (5) closely related to the one in I Sam. VIII-3ff. Its hostility to the sovereign, its intimations to its evils and the view that it was a sort of necessary evil coincides with the general attitude of that passage in Samuel. The difference of opinion which obtains about the purity of these passages need not here detain us sufficient is it if we present the view of those who hold that D is dependent on Samuel. (6) The section in the Book of Samuel with its reflected hostility to the monarchy, its establishment as a sort of concession, its description of its evils prior to the fall of Jerusalem. (7). In D, the monarchy is even more unreal. (8) The real kingship was hated only as as later writers showed. (9) It is presented as a kind of theocratic institution which is to follow and keep a record of the law. (The role of the *מִשְׁפָּטֵי*). This view of the law itself reflects a late composition, (4) probably at the time when the law in the ~~XXII~~ abstract assumed a definite position in the religious consciousness of the community. Moreover, the prohibition against the appointment of foreigners as kings could have been proposed only at a time when such an *extraneous* was entirely possible. (10) I shall not therefore be ~~far~~ wrong if I omit this section from consideration as a later addition to the book, which was little likely to exert any influence in the Holiness code.

The laws in XXIII-1-8 prescribing those who are to be admitted into full citizenship ~~are~~ replete with the evidences of later additions and expansions that this section has no place in this original code as is generally recognized (8). The language of the section is not pre exilic but post exilic. (9). *וְהָיָה* occurs six times here but nowhere else in D but in P. *וְהָיָה* is not found elsewhere in pre exilic document (Ezra IX-12) (10). These laws are in contradiction to Isaiah V-63 and Jer. 40-11 which presents another attitude to Moab and Ammon. Would Josiah have undertaken his campaign against Egypt in defiance of D if this verse 8 had stood in the code? The word *וְהָיָה* was probably a name of reproach and perhaps meant one born of mixed marriages (11) at time of ~~Exodus~~ IX-6, Neh. XIII-23. In Jeremiah ~~XXIV~~ XIV-18 the eunuch is especially mentioned as being admitted into the congregation and this passage, *וְהָיָה* is in striking contradiction to it. Steurnagle (12) adds to the overwhelming arguments against the authenticity of this section by pointing out the interchange of numbers. (13) RB 1082. (14) Berth. Dt. 55. CHCH. 159n.

(15) EB *§ Ruzig* sub *govt.* Col 1910 Vol. II.

(16) For a complete exposition of these views cf. Dr. Dr. 212f.

(17) Bertholet Dt. 55. Steurnagle Dt. to XVII-14-20.

(18) H.P. Smith Samuel in International CC. 55.

(19) Cornill's Intro. 55. Steurnagle Dt. to XVII-14-20.

(20) (8) 110 (40) Addis II -118-119.

(21) Bertholet Dt. 71 (see for a complete exposition of these arguments- (22) Dt. 85. (12) Dt. Dt. 260.

(23) ChCh 167.

While in itself this fact is not always convincing, but coming with the other facts, it adds to the doubt about these sentences. This passage therefore for good and valid reasons could not have been written prior to the return and certainly after the Holiness code was compiled.

Another passage which is unoriginal in this D code is the homiletic explanation of the historical episode found in p XXV-17-18. At the time of D the Amalekites had long ceased to exist. In fact at the time of David (I Sam. XXX-17, 11-12) the Amalekites were entirely killed, (Nu. XXII-20). Later they disappear from history. (IOHR. IV-3 Co. 83: f). It is safe to say that D is dependent on J version Ex. XVII-14. Now the question arises, when was this exposition of the older passage made? Certainly not at the time of Josianic Reformation for it would have had no sense. (2) This passage has the appearance of an *aggadah* for in later times Amalek typified Israel's enemies. But in the light of this fact, that the name of Amalek represented the various foes of Israel, this passage becomes clear and understandable. (2) Because of this style of composition, and on account of the lateness of its contents, this passage is to be assigned to a very late editor, who for some very inexplicable reasons inserted it here, and therefore it is to be omitted from our discussion.

It is passing strange that the two series of laws (a) bearing on government, its composition and limitations and (b) dealing with the military which are fully laid out in D ~~and~~ have no parallels at all in H. After we have fully discussed these laws in detail and examined them minutely with an eye to H, I purpose to attempt an explanation of this phenomenon which is unusual if we think that the Holiness Code was derived from D. The group of enactments treating of the military in D has not come down to us in the form in which they were first incorporated in the Deuteronomio code. The principle law dealing with this subject in 20:1-20 is not untouched by the redactor. In 20:4, we have an insertion (3) by the redactor where the use of the plural evidences his hand. This conjecture is more or less confirmed by the only reference to the priest in the chapter. No where else in these laws is he alluded to. This allusion to the priest gives the impression that the glossator is writing at a time when there was ~~no~~ king in Israel and the High Priest, more or less, was ~~the~~ titular head of the nation (4). In 20:18 we again come across the plural. (5) These verses (6) give the impression as being tacked on to vs. 14. These sentences also appear to interrupt the sequence for vs. 19 follows more logically and evenly after vs. 14, and does not conform to the mild spirit of the Deuteronomio lawgiver. (7) Cornill (56) and Moore (EB 1082) quoting ~~Wellhausen~~ argue against the originality of this chapter on the grounds that this law appears entirely impracticable and could not have been written by men who designed to have this law enforced. Such reason for denying the authenticity of a passage is entirely arbitrary. (8) It means that on account of the limitations of man's knowledge, it is incomprehensible to us, living today for men in this period to compose and compile such laws, to us, who have not with us the facts and do not understand all the reasons and motives. Rather argue it seems impracticable but it is possible that the lawgiver had motives to insert them in his code. Thus we find that a similar law quoted by *Maine* in similar humane laws. (9) This coincidence shows that not two legislators could have been so impracticable as to insert identical legislation ~~XXX XXXXXXXXXX XXXXXXXX XXXXXXXX~~ which was not meant to be enforced. I have already proven the originality of the law in XXI-10-14 and a repetition is entirely needless.

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- (1) Bertholet Dt. 78. (2) Steurnagle Dt. 93.
 (3) Steurnagle Dt. 756. Bertholet Dt. 63. OHCH 159 n.
 (4) Steurnagle Dt. 75-76.
 (5) Cornill's Intro. 56. (6) Bertholet Dt. 63. Quoting Harper. 246
 (7) *Bundesen*, *Real* 108.
 (8) For authenticity of individual verses of OHCH 159n. Steurnagle 764 vs 18
 (9) Of. Addis II. 110.

The law in XXIV-5 is conceded(I) to be an original piece of legislation and certainly contains no marks of evidences which militate against its accommodation in D. While it may have been misplaced from its original location probably in Ch. 20, it does suit and fit in to the humane idealism of the D writer.

In the body of the Holiness code, there is no reference to any legislation remotely bearing on the proper procedure and legitimate practices in war. Some Bible critics(2) have discerned through faint traces that these laws which they think dealt with this topic were ~~discovered~~ and the nucleus of them is found in Numbers 10. While this passage may have some marks more or less typical of the Holiness code, they are not however sufficiently convincing. In the first place ~~only~~ the parentic framework of H is written in the plural and seldom or rarely are the laws ~~for~~ ^{per se}. While some of them are, the plural is not the characteristic number. Nowhere in H is 75 used for enemy which Dilman maintains is a peculiar expression of H. It appears that this section is assuredly earlier than P., and though that is a recognized fact, it must not follow accordingly and consequently that it belongs to H. More than likely it is one of the laws which is to be assigned to the earlier Pt. (3)(3)

These laws in D are formulated XX-1-10 XXIV-5 in the form of either Judgments earlier forms, of which this lawbook is particular fond or as commandments. It is to be noted that all of the laws treating of this subject ~~were written before~~ with the identical expression ~~אשר~~ except the law in XXIV-5 which is obviously misplaced. Its proper location is most suitable after vs. XX-7. Is this accidental or has it real significance? It is certainly interesting to observe that no law in H opens with these words and those in H which begin with ~~אשר~~ in the second person plural, not singular, as here. It is also not without some significance that no other law in D except those dealing directly with the military ~~with~~ open with ~~such~~ such words XX-1-10, XXIII-18. Since D begins only its laws in Military with this identical expression and H has no laws at all on this subject, nor a similar opening clause is it not likely that the latter lawbook was entirely unfamiliar with D or would he have helped repeating this expression which is used no less than three times in D?

Except for the peculiar D words or terms, there is no expression in common between these laws XX-1-10 & XXIV-5 and the entire Holiness code. Thus the words common to both are ~~אשר~~ ^{אשר} (in H both with and without ^{אשר} XIX-14-15 etc. XIX-3-30, XXVI-2). ^{אשר} (in XVIII-14, ~~אשר~~ XIX-14-15 etc. XIX-3-30, XXVI-2). ^{אשר} (the words used separately in H but never together here which is infrequent). ^{אשר} (This form never used in H though root is). ^{אשר} (These words used in H but never together). ^{אשר} (XIX-24 ^{אשר} H XXVI-18 used alone not like auxiliary as here). ^{אשר} (XXIII-22, XXVI-10). ^{אשר} (H XXVI-16 uses it as ^{אשר}). ^{אשר} (H uses it always literally as head). ^{אשר} (H XXVI-24). ^{אשר} (H XXVI-25). ^{אשר} (in H XXVI but never as used here). ^{אשר}. Save for one technical expression, every word in common between these laws are most frequent in the language. When however they are used in peculiar turns of expressions, peculiar phrases it is of interest to observe that as such they are absent in H; they are mostly absent from H. Thus ^{אשר} are never combined in H. They both are used but separately. Moreover ^{אשר} is used in ^{אשר} in D in one meaning. In H, it is used only in one place in the ^{אשר} in another sense. ^{אשר} is never used in H in the sense in which it is used in D. (XXIV-5). Moreover, not any of these words which are found together in D, are used in any one chapter or in laws dealing with any one subject. They are scattered throughout the entire book. They are so common in the language that I would not be far wrong if I said that it would have been impossible for H to have written his lawbook without them. Moreover certain typical D expressions and essential terms in these sections are also absent from H indicating

(1) Bertholet Dt. 75.
(2) Gray Numbers I cc. 87-8).
(3) CHOH 273.

an institution to which D only alludes. It would have been impossible for H if he had no other source or knowledge to have drawn up his law in XIX-23-25 from the meagre information here only hinted at. It is evident to any one at all familiar with these two passages that H could not have drawn upon D for his law. Now this law in H is more ancient than D XX-6. In its present formulation it certainly is not. For the opening sentence $\text{כִּי בָרַךְ אֱלֹהֵינוּ}$, and other clauses as we show when we study this passage in full detail subsequently is the work of the now-freely redactor who also wrote the final chapter of the code. He annotated these laws, elaborated and expanded them at a date, as we have shown, after D. Now the references in D XX-6 seem to indicate that they are directed not to the law in H XIX-23-25 but at the institution which this law embraced and describes. D speaks of בְּיָמֵינוּ , H broadens and enlarges it to include $\text{בְּיָמֵינוּ וּבְיָמֵי אֲבוֹתֵינוּ}$. (1) In D the lawgiver uses the popular terms which indicate that he is referring to the popular custom and not to the law which H contains. For in H XIX-23-25 בְּיָמֵינוּ is described and defined by the addition of בְּיָמֵינוּ . In H the emphasis in the law is on the *Taboo* and the release from it. In D it is on the individual alone who *derives merit* from lifting it. In H it has reference to the rite. In D it alludes to the individual's part in the ceremony which after all is the popular view of the custom. If H, however, had worked up his law from this reference in D, which of course as we have proven is impossible, why, did he merely describe this ceremony of the fruit trees and ignore the other rite referred to, the dedication of the house. H seems particularly anxious to preserve the ancient customs as this law in H XIX-23-25 and others indicate. There is certainly no reason for him to have omitted an enactment *describing* custom as legal of the dedication of the House, if of course he had aimed to describe the law which D was referring to in the previous verse. All this goes to prove that H could not have known of D and certainly not derived any of his material from D, particularly since "nowhere else in the O.T. is mention made of the dedication of the private house". (2)

As to the originality of the passages which deal with judicial organs and procedure, D XVI-18, XVII-15-20, it will necessarily be well ~~far~~ to hold in mind before entering upon a detailed discussion of each sentence that these laws have an appropriate place in the reform scheme of the Deuteronomist. It appears that prior to his reform that the priests of each community were vested with the judicial rights and functions. (3) when however they were disestablished and invited to take up their duties in the central Sanctuary, provisions had to be made for their dislodgment. So according to XVI 18, the lawgiver provides for the appointment of lay judges at the local centres. But provision is also made for the priests who shall not lose any authority for in Jerusalem is established a supreme court before which all difficult cases are brought. Now in this way, the priests shall not suffer any diminution of their power but in fact be placed at the very *capstone* of the whole judicial system. Later on some scribe possibly with an eye to the King (4) or most likely with a view of prevailing conditions, inserted in this section ~~as~~ in reference to the lay judge (4) thus creating a sanction for a court composed of lay and priest. (3) In verses 8. the expression לְיָמֵינוּ is a *typographic* error for לְיָמֵינוּ . In 9 the phrase לְיָמֵינוּ and in 12 לְיָמֵינוּ as the interpolations of the later scribe are to be *removed* from the text.

(1) בְּיָמֵינוּ does not merely mean *our trees*. cf. Dt. XX-20. Ez. XL-12, Neh. IX-25.

(2) Dr. Dr. 237 (3) Bertholet Dt. 53.

(3) Compare CHCH 163 n who has another scheme of separation.

(5) Cornill's Intro. 55.

could be omitted from D and yet not affect ^{the} great reform. They are either not essential to the full application and adaptation of the great D reform or where such subjects treated in laws in D which are modified to conform to the D reform are dealt with by legislation in H, the latter never reveals the destructive modifications of the Deuteronomist. This fact is significant of but one interpretation, namely, that the source of the lawbook of H is assuredly not of D.

Chapter ~~D~~4.

Laws Concerning Abominations and Holiness.

Under this caption are listed such laws which aim at eradicating those offenses which may be styled abominations in the sight of God and such injunctions which purport to establish holiness among the people. This classification is not primarily designed to regroup or rearrange the laws of the two codes but merely to facilitate a detailed study of the various enactments of the two lawbooks. This present grouping is for the ~~the~~ purpose of making an ~~easy~~ investigation and not an attempt at a better rearrangement.

Thus in the realignment of these following laws, it is to be noted that those which fall under the first 9 headings are to be termed prohibition against abomination and the remainder are to be styled laws making for Holiness.

1. Canaanites and their rites	D. X11-29-31	XV111-9	H. XV111-5-24-30	XX-23
2. Asherah and Pillars	D. XV1-21		H. XXV1-1b	
3. Moloch Worship	D. XV111-10a		H. XV111-21a	XX-23
4. Divination	D. XV111-10b-14		H. X1X-26b-31	XX-6-27
5. Idols	D. X11-2		H. X1X-4	XXV1-1
6. Seduction to Idolatry	D. X111-1-18	XV11-2-	H. XX-1-5	
7. Disfigurement in Mourning	D. X1V-1n	D. X1-12	H. X1X-27	XX1-5
8. Blasphemy			H. XX1V-15b	XV1a
9. Unclean foods	D. X1V-3-20		H. XX-25	X1-1-23w41-44
10. Unlawful eating	D. X1V-21a-5		H. XV11-5-n	XXV111
11. Against eating blood	D. X11-16	X11-23-25	H. X1X-26a	XV11-10-14
12. Ecstasy	D. XX111-10		H. XX11-4	
13. Military Rules	D. XX111-9-14		H. XX11-1-7	
14. Unclean by touch	D. XX1-22		H. XX1-1-4-11	

Practically both codes contain some laws on every topic in this list because the nature of the subject-matter ^{invited} appeals to the authors of the two lawbooks. As I shall presently demonstrate the lawgivers aim to destroy every vestige of Canaanitish religion. Secondly a comparison of each pair of laws will show that for most part they differ radically. Both codes contain direct prohibitions against practices the origin of which is traceable to the foreign religions and ^{earnestly} forbid the doing of the abominations which are cultural survivals of either the Egyptians or Canaanites.

The Specific legislation referred to are to be found in D. X11-29-31a XV111-9 ~~Hxviii-29~~ XX-23. Though more or less general in character and ~~hortatory~~ in tone, these passages substantially fit into the general scheme of these codes which aim to purge Israelitish religion of its alien elements and rites.

The passages in D. are without doubt, original in the ancient lawbook. (1) The Section X11:29-31 bears the impress of being an introduction to the following chapter and as such is to be linked ~~with~~ that chapter. Save for Steuernagel who contends that this passage is to be traced to a later element of the code because in it the word ^{אין} occurs and because of appearance of ^{אין} (2) no one to my knowledge, has doubted its originality.

The other passage introducing the prohibition against Alien religious practices is truly characteristic of D, and despite Steuernagel's objection is clearly recognized as an original part of the ancient code.

(1) Bertholet Dt. ~~III~~ 41f.

(2) Bertholet ~~III~~ has correctly suggested that ^{אין} be changed to ^{אין} since this is the only time in D that ^{אין} is found.

It is his contention that this verse XVlll-9 is written by the same hand which wrote XVlll-15f and that therefore this latter passage being unoriginal, it naturally follows that it too must be so. As I shall discuss the originality of this passage later, I shall now waive further consideration of this sentence for the present and assume its originality with most of the Bible students. The parallel passage in ~~xx-23~~ is as all agree, a product of the non-priestly editor. Typical of the same style and motive are the concluding verses of R. XVlll.

These sentences "Instead of making the law derive all its validity from the fact that it expresses the will of JHVH as in the primitive H, it introduces other reasons of a theological character and so comes from the same hand as the non-priestly additions in H XVll" (1) While practically all the critics recognize in this passage XVlll 24-30 unmistakable evidences of the RH some (2) are disposed to distinguish between two elements in this section.

Thus they discern in these verses contradictory standpoints and are moved to delete these verses ~~25, 26b, 27, 28b~~ as glosses disturbing the historical situation as indicated in vs-3ff. And that which remains ~~is~~ forming a parenthetic conclusion. It seems to me that these critics are straining the meaning of these verses straining their coherence in an endeavor to reconstruct a logical and too well-ordered section. "These hortatory editors are accustomed to string clauses and phrases together without regard to logical sequence (xx-25-22-26) so that breaks in the sense furnished in his case no evidence of interpolation" (3) Both Moore (BB) and Baentsch assign vs 29 to the priestly editors without sufficiently valid reasons. The change of person is not adequate cause for ascribing this sentence to any other than RH for he frequently indulges in this practice (XVll-5-XVll-11f-14) (3). In ~~xx-26~~ this phrase is peculiar to Rp being in the form of an addition to this passage which interrupts the structure of the sentence and is characteristically priestly (Ex. 12:19-49), (4) Except for this half verse, the remainder of this section is characteristically ~~non~~ RH.

The opening section of ch XVlll-1-5 contains a passage replete with marks of the Holiness code. The initial verses H ~~12a~~ are without objection assigned to Rp (5). There is such a unanimity of opinion ~~which~~ prevails about these verses that the facts which led to such general view need not here be discussed anew. 2b probably formed the conclusion of the pentad of laws contained in XVll and is probably original in this chapter. (6) All the critics recognize that this group of sentences originally formed a part of the Holiness code. There is some doubt, however, as to the ultimate author of 3-5. Paton has discovered in these sentences, after omitting vs 5, a complete pentad and he therefore argues that these sentences originally belonged to the earliest stratum of the code, to H1. Baentsch (8), Addis (7), Moore (9), prove not without persuasive reasoning that these verses are to be ascribed to the redactor of the code.

Now while a solution of this problem will not materially affect our conclusion either way ~~since~~ no matter which proposal is accepted, ~~and~~ the verses are retained in the code. The answer to the question raised will somewhat aid us to determine the date of these verses with relation to D for to assign them to H' will probably bring them in origin nearer to D than if they were ascribed to RH. The only fact which seems to uphold the theory of Paton is that these sentences are arrayed in a series of commandments of five. The impression his study leaves is that this proposal is in response to need of this pentad here to complete the decal partly filled in by ch XVll.

He fails to recognize in the first place that only in a most general sense can these sentences be classed as laws. Their generality

(1) Paton JBL XVI-49

(2) Baentsch ~~395~~

(3) Paton ~~SVI~~ 49-50.

(4) Paton XVI-50

(5) Baentsch Lev. ~~5~~ p. 395

SBOT. 57.

(6) ~~SVI~~ Paton 16: 42.

(7) Baentsch 391.

(8) Addis II 338

(9) Moore, EB.

passages and the different uses and context which obtain in these words or terms that are common to both codes and the manifold striking ~~words~~ of expression and the many uncommon words in these two Sections.

I feel safe in maintaining that from the point of view of phraseology these passages are entirely independent of each other. Now before passing on to a discussion and comparison of the contents of these passages let me call attention to a notable syntactical difference, the Sections in D are all composed in the singular. All of those written in H are written in the Plural. Such a mark of distinction in these two sections is susceptible of but one interpretation and that is, that there ~~is~~ independence on both sides.

Since I have shown all ~~that~~ the passages in H are compositions of the redactor it is in them that we must look for any evidence of dependence on D in the matter of ~~some~~ the laws which he borrowed may be older than D as we have already shown, but his ~~paraphrastic~~ amplifications have evolved after D, and most likely from his own hand. The passages in D XVIII, forbid doing ~~any of these~~ abominations of these nations, ~~as~~ ~~by~~ a detail definition to follow of what constitutes these abominations. In D XII-29-31 when the people take possession of the land they must be careful not to seek the gods of the people whom they dispossessed nor to imitate them in their worship. They shall not do so to God for all ~~and~~ abominations ~~these~~ people do ~~for~~ their gods as Moloch worship. In H XVIII-23 Israelites forbidden to follow the customs of the natives which are abhorrent to God. (probably referring to acts of unchastity) In H XVIII-3-4 it is forbidden to do either ~~like~~ the Egyptian or Canaanite in matters of religion but ~~commanded~~ to walk in God's laws. In H XVIII-21-30 a new and distinct idea is struck. The inhabitants of the land were dispossessed because of their practises which were abominable in the sight of God. By their practises they defiled the land which vomited them out. Now if their successors the Israelites, imitate them their conduct will bring on them the same consequences and the same results will follow. Therefore ~~they~~ are commanded not to practise the abominable customs of those before them and thereby pollute the land. In the latter passage by the abominations, the editor has in mind special acts of immorality prohibited in the foregoing chapter. As to the first verse in the chapter it seems somewhat doubtful to be exact as to what the editor really means when he speaks of the practises of Egypt and Canaan.

Paton (XVI-42) has distinguished between the words ~~העושה~~ and ~~עושה~~ by defining the first as social usages and the other as religious practises. Bertholet (Lev. 62) is of the opinion that the editor is really referring to unnatural vices and sins, as prevalent among the peoples of Egypt and Canaan. It is evident that the common sin in all these passages both D and H is represented by the vices of the foreigner or so called "foreignism". With D, this heathenism expresses itself in practises of divination or Moloch worship. In H they are the unnatural vices, sexual aberrations or violation of the laws of chastity. Another idea common to both groups of laws is that these practises are survivals from the original inhabitants of the land. The only exception is in H XVIII-3 where the practises of the Egyptians are also forbidden. D however, differs notably from H in contents. In D XII-29-31 it is forbidden to worship God with the same rites as the heathen worships his Gods and even after the temptation is removed and the people worshipped them are obliterated, that their successors should beware that they do not call up this evil again. The law is therefore levelled against the syncretistic practises of worshipping God by an admixture of heathen practises like sacrificing children to Him. H XVIII-24-30 has an entirely new idea. Here the Hebrews are forbidden to practise the heathen customs because it was these cultural rites which defiled the land and brought about the expulsion of the people, the land vomiting them out. If their successors continue their practises, they shall suffer the same fate. D advises against the popular conception that the land has its indigenous gods and their cults and condemns these as things detestable in the sight of God. (2)

(2) Adda II-352

(3) Moore 22

(4) Bertholet Lev. 62

(1) Bertholet Dr. 41

(2) Dr. Dr. 150.

The passage in H conveys a different conception. The land when defiled vomits out its inhabitants. These practises are such as to pollute the land (not the people thought at the time of D that they were necessary to the land) and it vomits them out. There is nothing therefore common between these passages. H evidently did not derive this idea from the corresponding Section of D. Moreover if Paton be correct in his surmise over XVIII-3-4 it would seem that H was aiming at promoting national exclusivism ~~and~~ against foreign influences as much as alien religious penetrations. In this sense H is entirely independent of D who purports merely to purge the religion of heathen practises. It seems more likely with Baentsch (392) that the author only has in mind the Canaanitish and Egyptian vices against morality and even as such differs from D who is primarily against Moloch Worship.

The prohibitions against Asherahs and stone pillars common to both codes D XVI-21-22 and H XXVI, are without doubt original in each lawbook. It is generally admitted (1) that both laws are misplaced and likewise ~~are~~ formed a part of the ancient code. D XVI-21-22 with the opening paragraph of the next chapter probably originally stood in close proximity to D XIII (2). There is no reason to doubt the originality of this Section. It well fits into the scheme of D, ^{and} suited to his purpose to rid the religion of D of its foreign and heathen rites and practises.

The opening verse of H XXVI (1-2) contain laws which are basic in Jahwe religion and certainly neither in language nor contents contain ~~anything~~ ^{anything} which ~~should~~ ^{should} lead to considering them as anything other than original. No doubt these verses would fit better in XIX than they do here. Paton (XV-63) would ~~only~~ ^{only} in these verses as this word was probably inserted by redactor ^{who} was influenced by D. This is nothing more than a supposition and certainly no reason to adopt it. ~~There is~~ ^{There is} indeed no reason to consider these laws as the work of RH (3). We noticed that in chapter XIX those laws composed ~~the~~ ^{the} the plural address closely resemble the decalogue. In XXVI-1-2 these are framed in the plural and in all probability originally stood in H XIX, perhaps in further elaboration of the second commandment. It is possible that RH may have inserted certain words in the law but no reason there is to consider these prohibitions other than belonging to the original stratum of the code and adopted by the non-priestly editor of this code (4).

Both laws resemble each other in their formulation except ⁱⁿ ~~in~~ ^{minor} differ ~~at~~ ^{at} ~~the~~ ^{the} number. D XVI-21-22 is written in the singular address and therefore to be styled, "Words". H XXVI-1-2 is written with plural address and is to be classed as commandments. This disparity is not so noteworthy as the similarity of formulation and the fact that their contents partly resemble.

In language, these two groups present some remarkable likenesses. Thus common to both groups of laws are ~~מטב~~ ^{מטב}. D contains some words in addition which while not recurrent in the parallel laws of H, do appear elsewhere in the opposite code, as ~~מטב~~ ^{מטב} H too uses certain terms that are found elsewhere in D, as ~~מטב~~ ^{מטב} (in this sense "to out"). ~~מטב~~ ^{מטב}. But both laws contain words which ~~are common to~~ ^{are common to} both groups of laws are practically confined to one single prohibition. Those which appear in the code at large are always used in different connections or in diverse phrasing. Thus ~~מטב~~ ^{מטב} is used in D XXV-13 but never as it is used here ~~מטב~~ ^{מטב}. ~~מטב~~ ^{מטב} is found in H XIX-23 but never modifying ~~מטב~~ ^{מטב} and so on.

Now in contents these laws agree only in one prohibition D XVI-21-22, ~~forbids~~ ^{forbids} the planting of an Asherah and wooden thing (7) "besides the altar which thou buildest" and the raising of a mazzebah which God hates. H XXVI forbids raising of a mazzebah and the setting up of a pictured stone (8) in the land to worship it. The two laws have in common one prohibition against raising a mazzebah. Both laws ~~contain~~ ^{contain} identical words in these prohibitions with the one exception that D uses singular and H the plural. There is ^{an} other difference. D adds to his inhibition the words "which God hates" and which are not present in H. If the latter author had relied on D or had borrowed his law from D, there is certainly no reason why he should have omitted ~~the words~~ ^{the words}. Moreover, D forbids the planting of Asherah. H is silent on this institution but instead prohibits the rearing of Sculptured Stones for worship. Now while it must be

(1) In previous connections I have spoken of the use of the plural in the laws of H. (2) See Dr. Th. 201 addition. (3) Dallman quoted by Dr. Th. 201. (4) Bartholet, Law XXVI-1-2. (5) Paton JB. XV-63.

This ~~series~~ of phrases used by RH (in XX-1-5) which are typical of H do not appear in D. It is recognized as we have already proven in a previous connection, that the parentic additions in H, composed by RH are later than D. It is therefore ~~clear~~ ^{clear} that as far as these phrases are concerned that RH did not borrow from D. There are a few words in this section which do ~~not~~ appear in D but they are never used in the same connection and save for one term, are so common that D could ~~not~~ do without them. They are ^{עָלָם, הַמִּית, לְבַלְתִּי, לִמְעַן} (in D XXI-1-4 is used in Hithpael without ^{עֲשֵׂה}). In XVIII-21b, RH uses the expression ^{וְלֹא תִשָּׁחַת} which is ~~not~~ ^{not} current in D. Now a comparison of H XX-1-5 with the other laws will show at least linguistically that it is more closely akin to H XVIII-21 than to D XVIII-10a or XII-31b. It is true that the original law which has been so greatly amplified by RH is ~~not~~ ^{inserted} in verse 2 and the nucleus of this law closely resembles H XVIII-21. The same words, ^{לֹא תִשָּׁחַת, לִמְעַן} are used. The only difference is the omission (1) of ^{לִמְעַן} in H XX. However this may be, ~~due~~ ^{due} either to purpose or ~~an~~ ^{an} accident and ~~not~~ ^{not} goes to prove what we have contended in a previous connection that this chapter is the work of RH who derived his legal material from Ch. XVIII as the kinship of the two laws above definitely indicate. Therefore to ascertain if there is ~~any~~ ^{any} dependence of H and D, we must search in the older laws of the two codes, in D XVIII-10a and H XVIII-21. Since H XX-1-5 is dependent on no other than H XVIII-21.

The sentence in D XII-31 is not a law at all but a mere allusion to a rite descriptive of a cult which is strongly discountenanced in D. Consequently as there is no relationship in phraseology between D XII-31 and H XX-1-5 XVIII-21 we can safely assume there is no dependence for it is not likely that a lawgiver will go to a description like this to draw material with which to frame or formulate a law. It is moreover evident that XII-31b while referring to and condemning such heinous practises was familiar with some law. His very condemnation was bound to find expression in some legislation or some prohibition against such a rite ~~and this was in D 18.10a.~~

We have accordingly narrowed our field of inquiry to D XVIII-10a and H XVIII-21b, inquiring into the question of dependence of the codes on one another from these particular pieces of legislation. These two special enactments are not only differently formulated but employ different expressions. These differences in expression it is which lead me to believe that the rite both codes prohibit is not identical. It is evident by the language of D XVIII-10a that the author has in mind the ancient custom of sacrificing a firstborn child to MLK. Does H XVIII-21 say the same thing? Neither this prohibition nor in XX-1-5 is any mention made directly to children. Now it is possible that the word may mean offspring. Then if it does, why is it placed here in this code of laws against incestuous and immoral practises. If it meant to sacrifice the firstborn, why did not the author use the full term, either ^{לִמְעַן, לִמְעַן} ^{לִמְעַן, לִמְעַן}.

Instead he uses two terms one of which was probably inserted ^{לִמְעַן} which are synonymous (2) without the addition of the word ^{לִמְעַן} (cf IIKgs 23+10 IIKgs 16+3) ^{lev. 32+35}. In the law which was elaborated and amplified by RH from the original in H XVIII-21, the word ^{לִמְעַן} is not found but probably the complete and original expression ^{לִמְעַן, לִמְעַן} is present. This omission in XX-1-5 and the needless use of it here in H XVIII-21 shows that it probably originally did not form a part of the original prohibition.

How did the law probably read originally? It read, "from thy seed, thou shalt not give to MLK". (3) The word ^{לִמְעַן} may denote some thing else, ^{than the usual translation} may mean literally, "seed". With the usual translation of the word, as offspring, Baentsch appears correct in his critical note that this verse did not form a part of this chapter and was probably added by the redactor. (4) Certainly as a prohibition against sacrificing children to Moloch, this verse has no place and does not fit in this collection of laws against unchastity. However, if we translate the word in its literal sense, it is not difficult to see that a prohibition of such a obscene rite would be perfectly compatible in this chapter. We do not know how such a practise was carried out "but still our ignorance constitutes no valid objection to this interpretation". With this interpretation, this verse is in its right place in the context between

(1) Moore ER, Moloch worship Col. 3184 proposes that ^{with words} ^{לִמְעַן, לִמְעַן} is unnecessary. (4) Baentsch Lev. 394

prohibition against Sodomy and adultery, since it prohibits ~~any~~ unnatural lust. Therefore if this expression is adopted, not only is Baentse's view untenable but this verse has a rightful place in this chapter, while the usual translation is accepted, there is nothing to do but to agree with him that this law does not suit in this collection of prohibitions. All the evidence seems to point to the fact that this ancient code contained some legislation like this in the original (1).

In the light of these facts, it is obvious that these two laws D XVIII-10a and H XVIII-21 agree only in this that they aim to rid the religion of rites which are foreign in origin and makeup. As to these particular customs they are at marked variance.

Thus D specifically forbids the sacrifice of children in fire presumably to MLK (2) (3) H prohibits the giving of ones seed to Moloch. The two different ritual customs in these two prohibitions, which ~~have~~ ^{are} only this ~~one~~ in common that the MLK was identical with JHVH (4), are so different that neither of them in ~~formulation~~ ^{language}, language or contents show any thing else but independence. Furthermore the relationship of the prohibition in D XVIII-10a to those which follow is not without interest. It is probably true that the rite depicted and prohibited is closely akin in aim and kind to those which immediately follow and as such is closely connected with the Mantic arts. It is not here a form of idolatry but a superstition either with the idea of obtaining an oracle or of avoiding a calamity in time of crises. (4) Therefore if the laws in H were identical in meaning and purpose with this one in D, there is added reason for considering this H XVIII-21 out of place in its present location and for placing it in close connection with similar clauses in H XIX. But the fact that it is not placed there, goes to add proof to the view ~~which~~ ^{that} they have different meanings and forbid different offenses.

Both codes also contain prohibitions against divination D XVIII-10b-14 H XIX-26b+31, XX-8+27. Without doubt the Deuteronomic law is original. Steuernagle holds as secondary all outside of 10b-12a without any valid reason. Since the whole character of the Deuteronomic literature is more or less hortatory, there is certainly no reason to single out this perambulatory section and assign it to the redactor. With Bartholet it must be admitted that Steuernagle's theory is not at all convincing. Both laws in H XIX-26b and 31 are likewise undoubtedly, original in the code. In H XX are to be found two prohibitions dealing with the same subject matter and are unnecessarily present in this chapter. (5)

Of the two verses ~~the~~ ^{the} appears more original than ~~the~~ ^{the}. Because the penalty attached verse ~~the~~ ^{the} agrees with the one in vs 27 and shows that it originally followed it. Both laws are to be ascribed to ~~the~~ ^{the} the redactors but the one in ~~the~~ ^{the} appears the older and more original.

These laws are all differently framed. The ones in D are to be classified as Judgments earlier form- while those in H XIX-26b-31 are to be styled Commandments and the one in H XX-27 a Judgment-later form. These differences are not without interest.

They ~~are~~ ^{are} in the case of H XX-27 that a redactor has had his hand in its formulation and reveal a date later than those anciently formed in XIX-26+31. While there are certain technical words common to both sets of laws, they are not found in the same forms. Thus D uses the ~~same~~ ^{same} participle, ~~טען מנחם~~ ^{טען מנחם}, while H uses XIX-26b-31 ~~טען מנחם~~ ^{טען מנחם}, and vs XX-27 ~~טען מנחם~~ ^{טען מנחם}. D likewise contains certain terms which are found elsewhere in H as, ~~תמים~~ ^{תמים}, ~~איה~~ ^{איה}, ~~תמים~~ ^{תמים} (H XXII-18) ~~איה~~ ^{איה}. Now it is more interesting to note that D employs certain expressions while H uses others with the same meaning indicating either a deliberate concealment or absolute and positive independence. Thus D uses ~~איה~~ ^{איה}, H ~~איה~~ ^{איה}. D uses ~~איה~~ ^{איה}, H ~~איה~~ ^{איה}. D uses ~~איה~~ ^{איה}, H ~~איה~~ ^{איה}. D also uses a number of technical terms not found again either in the parallel laws of H or the remainder of the code, ~~איה~~ ^{איה}, ~~איה~~ ^{איה}, ~~איה~~ ^{איה}.

Now the linguistic resemblances are such as are ~~reminiscent~~ ^{reminiscent} of the practises here condemned. It is of interest to observe

90 Num. 22 Moore Lev. 28 276d. 2) For explanation of this rite see Moore Moloch SE Col. 318d. (3) Deut. Dt 221 ff. (4) Bartholet Dt. 28 222 See ~~Bartholet~~ ^{Bartholet} pp 65. (5) I Col. 841. who agrees with later (1) Paton Jbn XV 148 for full explanation of this vs. see 864 in 77

that in the language of O.T. there are no synonyms of these expressions. Therefore not only H could not have used any other terms but even these are used in different forms from that in D. Moreover it is to be observed that H and D where possible vary their expressions using different synonyms or synonyms terms. Moreover D uses four terms or phrases descriptive of practises which are totally and entirely absent in H. Now it hardly seems possible that H would draw on D for his legislation, ^{addition} change the forms of the terms and omit half of them without any reason whatsoever. For instance at the time of both Jeremiah (XIV-14 XXVII-9 XXIX-9) and Ezekiel (XII-24 XIII-6, 7, 9 XIX-23 XXI-34 ^{Ja.} XLIV-25) the specific practice of ^{דמים} met with the denunciation of the prophets. Now if in the contemporary literature of H, this is condemned, why did the Holiness Code omit this ^{word} and from its lawbook if particularly this codex borrowed its material from D which contained this term. It was evident that at his time this offense was still practised, why did he delete it from ^{these} laws for it is just as grievous an offense as those which he already enumerated. (1) The only logical ^{deduction} ^{from this} that can be drawn from this omission is that H XIX-26b-31 was entirely independent of D. H XX-27 is founded on the law in H XIX-31 with ^{the} additions by the non-priestly redactor. The expressions which ^{he} employed are never found in D, as ^{דמים בהקמות יומם} ^{אין ירמיהו}.

So even in these parenthetic additions and expressions, which were added after the D ^{redaction} ^{formulation} by these editors, closely show both by the ^{formulation} and language its independence of H XIX-31. The laws in H XIX appear more nearly akin to the ancient type in formulation than those in D and probably being so few and so general may be more nearly related ^{in time} to the most ancient types than D.

The elaborate and detailed legislation, on the other hand, presents the impression of being more developed and hence later, and further developed ^{from} the more ancient type. It is probably correct that RH drew on a more ancient law which he expanded briefly by (XIX-31) adding ^{הם} ^{בזה} ^{אשר} ^{אמר} ^{אלהים} which is never found in D.

The prohibitions against idols in D XII-2-3 is clearly from a secondary hand. The chapter ⁽²⁾ as a whole is easily separable into two parts on the basis of the uses of singular and plural. ⁽³⁾ It is interesting in the sections XII-2-12, 13ff, separated on the basis of the number, that the contents seem equally ^{distinctly} ^{separable}. Thus ^{each} part repeats the same ideas. The plural portion is from a later hand. As to the date we are unable to determine. I shall more fully discuss and more carefully prove this ^{view} ^{later} which here is to be accepted ^{temporarily}. These verses, therefore, which we are to investigate, ^{may} fall within the later recension of this chapter and are probably ^{older} than the Holiness Code as such but ^{not} antedate some of its legislations. The prohibitions in H XXVI:1 has already been ^{found} ^{from} original. The similar commandment in H XIX-4 is without doubt original and certainly contains no evidence which should lead to any other conclusion. Before I enter upon an investigation of these laws, ^{let me} repeat that the law in D XII-2-3 did not belong to the original recension of the code but was added later and that only because the passage is ^{probably} older than H as a finished lawbook, does it come under our ^{present} consideration.

Linguistically there is not one correspondence between these laws. This is all the more remarkable ^{in view of the} for the reason that the plural stratum to which these verses belong is more nearly of the time of H than the singular recension of D. Thus D uses one term ^{אשר} ^{אמר} ^{אלהים} H uses another ^{אשר} ^{אמר} ^{אלהים}. D has ^{אשר} ^{אמר} ^{אלהים} H uses ^{אשר} ^{אמר} ^{אלהים} twice. This glaring ^{divergence} ^{is} ^{undoubtedly} deliberate, indicates the independence of these passages. Moreover, D uses expressions which are not found in H, as, ^{אשר} ^{אמר} ^{אלהים} (H uses it in ^{Kal} XVI-38) ^{אשר} ^{אמר} ^{אלהים}. In HXX-2-5 H uses ^{אשר} ^{אמר} ^{אלהים} albeit different in application, yet has the same ^{as} ^{אשר} ^{אמר} ^{אלהים} (XII-3). H employs the expressions that never occur in D, ^{אשר} ^{אמר} ^{אלהים}.

In contents these passages are just as much at odds. Thus D commands that the images of gods be cut down and their names be destroyed from the places with which they had been associated.

(2) Cf. H. 153a (3) 165b (4) H. 153a (5) 165b (6) Bertholet, 38.

(1) For a full explanation of them, see Dr. H. 223H, Bertholet, 4, 58.

on the other hand prohibits the making of molten images, idols or or the worship of the latter. Now fundamentally the difference is striking. In D, these idols are already made and are to be destroyed. In H the prohibition forbids the making or worship of them. It is easily recalled that the passages in H are closely akin to the decalogue. The repetition of ~~לעשות~~ ^{לעשות} indicates the close relationship and the contents of both are just as ~~related~~ ^{related}. Now D XII-2-3 is written as an introduction to ~~the~~ ^{an} innovation, the establishment of the central sanctuary as a commandment, therefore enjoining the destruction of all heathen places of worship and all heathen religious relics as idols and images and the like. It is evident therefore that H did not derive his commandments from D for H's prohibitions are general, while D's are concerned with certain particular instances of religious errors.

The fully developed and worked-out passages legislating against apostasy or seduction to apostasy XIII-2-19 XVII-2-7 are recognized as forming original parts of the ancient code. The entire chapter DXIII is without doubt a part of the Josiah Code. (2) For there is nothing in these passages to point against their ancient date. The language is typical as well as the style. In XVII-2-7 we meet with a "parallel passage which however is not mutually exclusive". "This passage has manifestly at least suffered dislocation". (3) Its content is closely allied with XIII-2-19 and it probably originally preceded this chapter collecting the introductory verse towards the ends of the previous chapter (1). With this re-arrangement, not only is the sequence of this legislative fully and logically maintained but then the contents of XVII-2-7 which is in accord with the following is as original as that which after reassignment follows. This legislation is not however, without some later insertions and expansions. These unimportant additions are in evidence in the last three words of vs 16. A casual reading of this paragraph will demonstrate the needlessness of their expansion. In XVII-26 the phrases ^{לעשות} ~~לעשות~~ ^{לעשות} is not only unusual in D text, because of the first person (4) but is only frequent in Jeremiah.

It is very probable that ~~this~~ ^{the} analogy ~~with~~ ^{with} the Jeremianic text these laws were in all likelihood added by a redactor whose familiarity with the prophet prompted him to ~~insert~~ ^{insert} the original text. (5) In vs 5, the repetition of the expression ^{לעשות} ~~לעשות~~ ^{לעשות} is entirely unnecessary and is manifestly an erroneous addition (5) There is certainly no satisfactory reasons for considering XIII-4-5 on account of the plural as any other than original. The ideas here expressed are so characteristic that it is ~~strange~~ ^{strange} that any one (5) should consider these verses any other than D's (6).

These laws in D are all framed in the usual style of D. In fact the fact that they are all so formulated bears additional proof that originally they formed one continuous whole. They are to be classified as judgments. The only law corresponding to them in H XIX-1-5 greatly expanded by the non-priestly redactor is in a different formulation that of the ^{לעשות} ~~לעשות~~ ^{לעשות} later form. This difference in formulation only indicates that will become clearer as we make further comparison that the two groups of legislation are entirely independent.

Linguistic ^{the} resemblances are confined altogether to the common and usual words in the language. Such stock terms and expressions could not be avoided in both codes as those which are common to both ^{לעשות} ~~לעשות~~ ^{לעשות} (XX-15b) ^{לעשות} ~~לעשות~~ ^{לעשות} (XXI-9). It is easily observable that these expressions are anything but rare in Hebrew every one of them is extremely common. But what is of more interest is the fact that not any one of them ~~are~~ ^{is} to be found in identical contextual connections. Thus ^{לעשות} ~~לעשות~~ ^{לעשות} in H is applied to ^{לעשות} ~~לעשות~~ ^{לעשות} and without the intensive infinitive as it is used in D. ^{לעשות} ~~לעשות~~ ^{לעשות} is penalty prescribed for a priest's daughter who has turned harlot in H and not as here for defection or apostasy from the faith. ^{לעשות} ~~לעשות~~ ^{לעשות} in H is used in H XIX-32) in sense of standing up and differently ^{לעשות} ~~לעשות~~ ^{לעשות} its usage in this connection. Not only is the independence of the two sets of law proven by the different use of common words, but also by the scattered character of them in H. No two of them are to be found in the same context or same chapter. They are scattered throughout the lawbook of H demonstrating the usualness of these terms. The D laws also contain a great and extraordinary number of expressions which are not recurrent

are paramount features of the D would have been bound to have made their

appearance somewhere else in H. The law in D XVII-2-7 bear this correspondence that they both prescribe the death penalty for defilement. H XX-1-5 forbids either a Hebrew or a Gentile from giving of his seed to Moloch under the threat of death penalty. D XVII-2-7 forbids anyone who serves other gods or worshipping the sun, moon or stars. (1). They shall be thoroughly investigated and if proven true, shall be stoned to death. Only on the testimony of at least two witnesses shall they be punished.

Only in this particular instance is there any substantial resemblance. A comparison of these two laws will leave the only impression that they are wholly independent. In the first place, the contents of the laws per se are not exactly alike and precisely similar. H forbids a revolting particular custom. D prohibits the worship of celestial being. They both agree in the death penalty for the apostates but notice that the language of description of this punishment differs, D using ^{בן ער} ^{בן ער} H ^{בן ער} ^{בן ער} D forbids the execution of this penalty unless the offense has been positively proven by at least two witnesses. H knows nothing of this judicial procedure. But instead prescribes various other theological penalties as "being cut off" or being the victim of the Divine displeasure and even intensifying the penalty by even subjecting those to the peculiar theological punishments, those who have winked at these offenses, and not brought the guilty parties to justice. D describes this particular offense as ^{בן ער} ^{בן ער} H as ^{בן ער} ^{בן ער}. The differences are so great and the correspondences are so few to show both laws are clearly independent. For not in formulation, language or contents are the similarities such as even to intimate or hint any such borrowing. These documents prove rather the opposite, that both laws are entirely ignorant of each other. Now D is exceptionally strict in the matter of idolatry and witchcraft, for both are punishable with death. In this respect, he is exceptionally stern. Even the solicitation to worship of strange gods is a capital offense, while H specifies a capital penalty for the Moloch worshipper and a divine threat for those who close their eyes to the escape from punishment. In this, therefore, they are strict. D seems to be more stern since he makes even the attempt at enticement a capital offense.

Moreover, Briggs¹ claims that these laws are an elaboration of the second commandment, and particularly a development of the clause "nor led to serve them" present in this ancient Decalogue. It is probable that D XIII is wholly based on these words and ^{בן ער} ^{בן ער} from this "Word". Now it is clear to anyone that the laws in H 18-19 are elaborations of the ten words. At certain times, the actual and exact words and expressions are repeated. If H had followed the decalogue and was partly guided by D, it is possible that in his elaborating the second commandment that he would have repeated some of the ^{בן ער} ^{בן ער} of the laws of D. Their absence indicates his ignorance of D and his familiarity with the Decalogue alone. Thus in H XIX-4 not only is there no thought or idea present which reappears in D but there is not a word used which is recurrent in this D Chap. In fact D uses ^{בן ער} ^{בן ער} While H uses ^{בן ער} ^{בן ער}, Clearly showing thereby his absolute independence.

The next laws common to both recensions of the two codes forbid the disfigurement of oneself in time of mourning. The prohibition in D XIV-1-2 is very questionable. In the first place our doubts are aroused by the rare use of the plural (^{בן ער}). While not a perfect and inexorable ^{בן ער} ^{בן ער}, it is a good aid to pointing out and indicating later interpolations. Then too the practise here forbidden, self mutilation is assumed to be both a natural and obvious one in Jeremiah XVI-5 XLI-5. Moreover, the expression ^{בן ער} ^{בן ער} never recurs again in the lawbook of D, perhaps reflecting hand, one other than the Deuteronomic writer. For this clause points to a concept of individualism which was only developed in the time of Ezekiel. Therefore these facts point to later post-Ezekielian times for the origin of these two sentences. It is possible that they are inserted by a later editor who interpolated them here by analogy from the Holiness Code. (^{בן ער}) XIX-27. The law in H XXI-5 is without doubt an integral part of ancient laws. (^{בן ער})

(1) For meaning and significance of this Religious Cult, see Funkko, 65, CHCH 146. (2) ^{בן ער} ^{בן ער} 187n. Higher Criticism 187n.

(3) Paton JBL 151. EB 2785 Moore Sub Lev.

(4) Cornill Intro. 53. ^{בן ער} ^{בן ער} 158(5).

(5) Berthelot Dt. 44f. Steuernagel Dt. 52f

The language and contents thoroughly conforms to the original code. The prohibitions XIX-27-28 are original. No one has questioned their originality. The prohibitions in H XIX 27-28 are formulated in either as "words" or "commandments", that is, they are in the address of the second person singular or plural. The law in H XXI-5 is a *דקל* earlier form. The law in D XIV-1-2 which is subsequent to H is in the same formulation as in D in part. That is, it is in the plural formulation only.

Linguistically the correspondences between H XIX 27-28 in *ל* and D as a whole are strictly confined to the common and usual words, such as *תשחית* DXX-19 *כחש* (although in D. In this meaning only in P & H). *ל* DXX-12 (*ל* many times in OT). *ל* (D XX-12) (*ל* in H & D XIV-2). Now it is of interest to note that the words which are present in H XIX 27-28 & XXI-5 and D as a whole, *ל* are scattered throughout the whole D lawbook and used in entirely *ל* connections. Thus, *ל* is used in D in the sense of cutting down trees. The word *ל* is employed in D XXI-12 in connection with mourning rites. H uses a great number of expressions which are not found again in D, as *ל* (in meaning of deceased never used in D but frequently in H & P) Despite Bertholet's and Steurnagel's casual suggestion, the law in D was probably inserted later in D but not by one who derived it from H. The linguistic differences are so notable that it hardly seems possible that an editor could have drawn on one law only to transcribe it in entirely dissimilar language. Such practise is entirely unusual and points rather to the fact that the two laws are wholly independent. Thus D uses *ל* H has *ל* D has *ל* D employs *ל*

H has *ל*. Therefore the only word which is common to H (XXI-5) and D XIV-1 is *ל*. Only in one place *ל* is *ל* used and that in connection with the prohibition against *ל* making a *ל* while D forbids it generally, not limiting it to any class. Now the correspondence in language between D XIV-1 and H XXI-5 Code are practically *ל* for this one word and in no sense of the word can it be said that D XIV-1 was derived from H XXI-5. The other similar prohibitions in H XIX 27-28 which are general would have better served as the source for D but in them there is nothing in common in language. The contrasts between these laws are so striking that they either leave the impression that the differences were deliberate or that they are altogether independent. The latter is the probable one.

The laws in H XXI-5 forbids the priest from cutting a *ל* on his head or clipping his beard or making incisions in his flesh. In H XIX 27-28 the prohibitions forbid the clipping of the corners of the head or beard, or the making of incisions in the flesh for the dead or *ל* tattooing. Now it is evident that all of these rites here forbidden are connected with the heathen religion(1) either in origin or practise.(2) There are a few references to the cult of the dead but a mere casual description of the actual practise is given in D XXI-12. Now these, the captive female is expected to go through these mourning rites, probably as a symbolical expression that she considers her parents no longer among the living. In this law reference is made to the cutting of the hair and the finger nails. Now these laws both have in mind practises closely related to the cult of the dead(3) There is no doubt that all of these allusions have to do with mourning practises. It is no more than natural that if H has been at all familiar with D and that this description in D XXI-12 has suggested to him these prohibitions that he would not only have forbidden the cutting off of the hair but also the nails as well for both *ל* are inextricable connected and conjoined in these practises. The absence of such a prohibition in H and the presence of others such as making of incisions (4) and tattoo clearly shows that as far as D XXI-12 was concerned H not only ignored it was positively ignorant of it. Did D XIV-1 evolve from H XXI-5 XIX 27-28? From a point of language, it most decidedly did not. In fact, the difference of language rather shows that D was entirely independent of H. D forbids self mutilation and making of *ל* between the *ל* to the dead. This is all which D has. If the editor had drawn on *ל* why did he not include his *ל* other prohibitions like the ones here in H XIX. The *ל* which H *ל* were equally as *ל* and as *ל*

- (1) *ל* (1) In EB. 9 Buzinger Mourning Rites, col. 322 off. Steurnagel Dt. 52 *ל*
 (2) Bertholet Dt. 446. Steurnagel Dt. 52, Dt. 157.
 (3) *ל* *ל* *ל* Meaning of rite Cf. Baerisch *ל* 400.

obnoxious. The only way to explain this substantial difference is ^{that} the interpolator did not use H. Moreover the tonsure was forbidden to the priests and the cutting of the locks of the hair and the corners of the beard to all in H. In D the tonsure is forbidden to all. Furthermore he forbids the cutting of the tonsure specifically for the dead while H prohibits the making of incisions in the flesh for the dead. Not only the expression "for the dead" varies in the two codes, but also the cases, thus showing ^{the} strong evidences of independence.

D has no law against blasphemy like the one in HXXIV:15b which has served as a text for the elaborate chapter by the Priestly Editor. The language here employed is typical of H. The words ^{לְשׁוֹן קֹדֶשׁ} (XIX:14) ^{וְלִשְׁנֵי קֹדֶשׁ} all point to the Holiness Code. (2) The next verse because of the use of name ^{שׁוֹמֵר} as a substitute for God (4) is generally recognized as priestly. Then too the verse 16 repeats practically in different words the thought previously legislated. Moreover, ^{וְשִׁבְעָה} is clearly priestly on account of its analogy to the P's expressions to be found in Nu. XV:35, 36 (2) as the employment of the expression, ^{וְשִׁבְעָה}. It is evident that the sentence (H) is not in its correct place in its present context (5) and probably formed a part originally of HXIX being closely connected to the brief and detailed commandments which are elaborations of the third of the Decalogue.

This piece of legislation is formulated in a special mould never to be found in the body of D. It also slightly differs from the usual frame in which H customarily couches his laws. But the disparity is so insignificant that there is no difficulty in recognizing it as typical of H's Legislation. It is in the formulation of a judgement, later form.

Its language also tends also to prove its independence of D. Save for a few casual resemblances to the word ^{לְשׁוֹן} in D, no other one is found in D. And even the word ^{לְשׁוֹן} appears only in D as a noun ^{לְשׁוֹן} in XXVIII or XXI 23 and then never with the Diet as the object of the word. D nowhere uses ^{לְשׁוֹן}. (This phrase is however frequent in H and P).

The contents of this enactment in H which has no parallel in D could not therefore have evolved from the earlier code. The penalty for blasphemy (6) consists simply in this, that they shall bear the consequence of their sin. Now this particular sin does not reappear in D nor this specific penalty. It is therefore unnecessary to demonstrate the independence of this law. It is more than likely that it was modelled after the third commandment of the Decalogue evolving as did the other commandments of H XIX which bear close kinship to the Ten Commandments.

It is open to question whether both lawbooks ^{any} laws concerning clean and unclean foods. It is certainly more than doubtful that the long detailed passage in D XIV 5-20 did form an integral part of the original Deuteronomic Code. This suspicion is first aroused by the consistent employment of the unusual plural address thru out this chapter (8). Quite unusual in this code, the whole passage is in a number rarely used and when used, tends to indicate the unauthentic character of the section or sentence. Heretofore we have had occasion variously to point out the suspiciousness of the plural address. But the presence of the plural number is not always and altogether trustworthy and convincing. This passage is marked by other notable distinctive features unusual in D. It is written in a style "painfully detailed" and casuistical, quite unlike the customary style of the D lawbook (9). This minute detailing is so unusual ^{and} incongruous with the general exhortative style and tone of D that this fact leads to the conclusion that some other author than D composed it. Moreover there are used certain terms not again used in D literature. The specific expression ^{וְשִׁבְעָה} which is never employed outside of P in the Hexateuch is repeated often in this section and then with the suffix which is very common and usual in and typical of Priestly

- (1). DR.DT.157.
- (2). Paton, J.B.L. 16:55.
- (4). S.B.O.T. 97.note 2.
- (5). Bertholet, Lev. 84-86, transfers it to H ch. 20.
- (6). "there seems to be a recognition of other gods" appears to be an exaggeration of the personal pronominal suffix to ^{and} means only Jahweh. E.B. Col. 841.
- (7). Paton, J.B.L. 16:56.
- (8). Cornill, Intro. Pp 53-54.
- (9). Bertholet, Lev. 44.
- (10) DR.DT. 163-164.

(11) See pp 87.

writings. The employment of the expression "creeping things," a typical P' term also shows that the author is some other than D. Therefore these detailed prescriptions of XIV, 3-20 are foreign to the usual literary manner of D (1) and is a later addition after the manner of P and a derivative of the Priestly Literature. Vs 3 is of course in the present text written in the singular and therefore deemed by some as probably the original D prescription on the subject. It is doubtful if D ever contained any such general enactment as is contained in vs 3. The real reason which explains the assigning of the verse to original is the fact that in the Masoretic Text, it is composed in the singular number. Now it is true that in the present Hebrew Text the verse does differ from the remainder of the section in that it is framed in the singular but in the Samaritan and Septuagint Texts (2) it is probably written as it was first composed and in all probability retains the text as it was originally. In that event the sentence belongs with the rest of the Chapter. Such a slight alteration of the text could easily have been made and the fact that both of the early translations contain the plural probably show that in the original the plural was in use.

Though the present D text contains a passage of dietary laws which are clearly not original, the present text of H does not include such a group but contains indications that some similar passage must have probably formed a part of the original. In H XX, 25, the implication is telling that a series of prescriptions similar to D's immediately followed. (3). The general distinction which is here drawn and the outline hinted at in this one sentence XX 25 indicates that the redactor probably had before him some such legislation as is contained in Lev. XI. In Lev XI, 43-45 we discern a passage which bears striking similarity in thought and language to this sentence in H XX 25. The former passage does not contain one word which is not found in XX, 25. And yet what is more to the point it contains expressions which are characteristic of the Holiness Code (4), as *אֲנִי יְהוָה אֱלֹהֵיכֶם*. The linguistic and substantial correspondences are so striking that no one can escape the decision that these sentences were originally embraced in the Holiness Code. There is some doubt whether the original code contained any enactments more detailed than these general sentences, XI, 43-45. (5). In this chapter vs. 1-42, the original torah are discernible in 2b-8, 9-11, 20f, 4ff. In these old laws one looks in vain for distinctive verbal characteristics of H. While these laws are very slightly similar in formulation to some which are incorporated in H, there is no reason for considering them other than belonging the original Priestly Torah. Certainly there is no linguistic connection between this section and the Holiness Code. Those typical legislative formulations, characteristic of H, as *אֲנִי יְהוָה אֱלֹהֵיכֶם* etc., are entirely lacking in this chapter. (6) While of course, there is no absolute proof as to the independence of the laws of the Holiness Code, these facts seem to prove that they did not form a part of the ancient code. It is possible on the other hand but very unlikely that they may have formed a part and the possibility seems to be suggested entirely by the fact that H XX 25 is so general that some particular laws seem to be implied. Of course, it is merely a supposition for the passages H XX 25 @ Lev XI 43-45 are assuredly definite enough without these series of minute enactments. However since there is a possibility of just such a doubt it may not be out of place to try and determine whether H and D manifest any dependence as attested by any investigations of these two chapters. The passage in D XIV 3-21 falls naturally into four divisions; 3-8= Clean beasts named and described and unclean defined with examples. 9-10 clean and unclean aquatic creatures. 11-18= clean and unclean birds named. 19-20= all clean creeping things allowed. The outline of Lev. XI, 241 very closely matches XIV, 3-21. Thus 2b-7, clean and unclean quadrupeds and reasons for certain ones being forbidden explained. 9-10, clean and unclean water dwellers defined. 13-19, Unclean birds named. 20-21, Insects forbidden and exceptions. 41, wingless vermin. D classifies all kinds of prohibited foods under the category of abominations (*תועבה*) an expression common to both codes. In D XIV vs 4b-6 both defines and exemplifies the clean animals. Lev XI merely defines the clean animals. Thus in the Lev., there is nothing to correspond to D xiv, 4b-6. The locusts permitted in Lev XI 21-22, are accordingly alluded to in D but not named expressly. D XIV 11. has no corresponding law in H permitting the eating of clean birds. D, XIV, 3-20 contains these animals which are absent in Lev XI. - *אֵל, וְשֶׁנֶּעֱשִׂים, כְּשֶׁבִים שֶׁה, שֹׁר,*

חֲמֹר וְחֵזֶק יִשְׂרָאֵל
יְהוָה יִשְׁמְרֵם וְיִבְרַךְכֶּם
בְּכָל דְּרֹתְכֶם וּבְכָל מַעֲשֵׂיכֶם
וְיִשְׁלַח לְפָנֵיכֶם וְיִבְרַךְכֶּם
וְיִשְׁמְרֵם וְיִבְרַךְכֶּם

(1) E. B. Moore sub. Dt. Col 1082.
(2) Bertholet, Dt. 45. Steuernagle, Dt. op, loc.
(3) Cornill, Intro. 136. C. ECH. 286b.
(4) Moore Lev. in E. B. Col. 2780.
(5) Baensch, op. loc. Bertholet Lev. Pp x-xi.
(6) S. Bot. 2. 7-11.

Lev. has 73^u which is not present in D. D suits in vs 8 minor details in the description of the 7'7ⁿ. D has in XXII 13 7'7ⁿ for 7'7ⁿ. Lev. in description of the insects adds 7'7ⁿ 7'7ⁿ 7'7ⁿ not in D and in XXI-22 adds a complete description of the creeping things. Lev. uses 7'7ⁿ as a synonym for 7'7ⁿ used by D. With a few other insignificant differences between the two texts, these constitute the essential disparities between the two groups of dietary regulations. Of course the basis of these prescriptions, so amply elaborated upon in the aim to promote the Holiness of the people and their separation seem to be but cursorily referred to in D. Save for this apparently parenthetical destruction these two passages are more than strikingly similar. These differences appear so minor in the light of the great resemblances that one can not escape the impression that the two are related very closely.

Paton, in fact, arranges a decal out of both chapters combined "The materials have undergone too much handling to follow him with confidence though it is extremely probable that the original source in H was a decal" (1) Of course the implication being that both chapters are traceable to a common source from which both derived their materials. It is next to impossible to determine the Priority of either chapter.

There are certain traces in D which seem to indicate that it is the earlier. Thus D which agrees with Lev. in defining the clean and unclean quadruped, adds to the classification a list of quadrupeds, implying by this enumeration that the exact form of the law has not yet matured. (2) On the other hand, vs " 7,9-10,12,19-20 wear rather the appearance of being abridged from the more circumstantial parallels in Lev. (3) These observations (4) which might be extended, which do not point to any very decisive conclusion only serve to explain and corroborate the hypothesis that both chapters are traceable to a common source and that save for that are entirely independent of each other. (5)

Is there any connection between the ideas and language contained in H XX-24-25 and H XI-43-45 and the Deuteronomistic Code? Nowhere in D code is the thought propounded and proposed that Israel is separated from other peoples and commanded to be holy as the author of the decree is holy. Nowhere in D, are the words, ~~7'7ⁿ~~ 7'7ⁿ used in the same sense (D of XIX-2+7) and ~~7'7ⁿ~~ 7'7ⁿ nor the expression ~~7'7ⁿ~~ 7'7ⁿ never found in Deuteronomy. The absence of such phrases from D only indicates that the thoughts they express are too not present. Let this suffice here for a destruction of the two codes as we shall ~~also~~ fully develop the difference between the fundamental ideas of the two lawbooks for these ideas are wrapped up inextricably with the basic aim and purposes of codes

The prohibitions against unlawful foods are present in the current texts of both lawbooks, D XIV -21a H XVII-15-16 XXII-8. There is some question about the originality of each of these passages. The Deuteronomistic passage has been ruled out in conjunction with the detailed series of dietary prohibitions. It is written in the plural number or a part of it and for this reason was probably deemed spurious. In all likelihood, as the remainder of the verse shows the word in question was made plural in imitation of the foregoing (6) The language thoroughly fits in the D lawbook and the thought shows it as a development on C prohibition and containing a proper Deuteronomistic perspective with regard to the 7'7ⁿ. (7) There are no decisive reasons to be advanced against the originality of this passage (8) On the other hand the mild prohibition in H XVII-15-16 has ample reasons for question. All of the previous four laws are similar and identically formulated while this one is in a totally different style thus arousing suspicions. The two verses have been so overworked with P's expressions that it is next to impossible to work out an intelligible and original law. (9) Thus ~~7'7ⁿ~~ 7'7ⁿ closely resembles the Priestly ~~7'7ⁿ~~ 7'7ⁿ in Lev. XVI-29. Num. ~~7'7ⁿ~~ 7'7ⁿ and ~~7'7ⁿ~~ 7'7ⁿ are identical in language and content with Lev. XI-25+28. After these passages are entirely excluded

- (1) Paton JBL 16:56 CHCH. 487 note.
- (2) Cornill Intro. 53-4 Addis II 90-91.
- (3) Bartholet 25:14. CHCH. 131a. EB. Moore, sub Dt. col 1083.
- (4) Dr. Dt. 163-4
- (5) EB Moore Dt. 801: 1080
- (6) Bartholet Dt. 45 Stoum-nagle Dt. apoc Bartholet Dt. 45.
- (7) Cornill Intro. P 136. CHCH 288b. Driver Dt. 164 f. Addis II 90-1. Bartholet 45.
- (8) Moore Deuteronomy 27:80. Cornill Intro. 54.
- (9) EB Moore Lev. 72-75 Keenan Hrs. 277. Bartholet. Lev. 57.

that which remains is entirely unintelligible. Paton who vainly attempts to work out a law for this one, explains this present ~~compromise~~ as due entirely to a drastic revision in the spirit and language of P's. (1) While it is not without some reason to think in the original some law on this subject not essentially different from the present probably stood here and followed in good order the foregoing prohibition against the eating of blood. But to attempt a reconstruction of original law for the present material is at most wholly ~~speculative~~. (2) Another prohibition in H XXII-8 has been suspected by some without any reason whatsoever. This verse is ~~clearly~~ a part of the ancient code (3) though it is in an inappropriate place in its present position. (4) As there is much in common between these chapters and the Prophet Ezekiel, it is to be assumed that the parallel in XLIV-31 is warrant enough for considering it ~~the same~~. (5) Paton (6) proposes to change the word ~~לֹא יֵאָכַל~~ but it must be confessed that it appears altogether arbitrary. His argument is of course based on the assumption that that code contained a law prohibiting laymen from eating of the "nebelah" and "terephah". And he argues if such a law existed, there was no necessity for one disallowing the priest since it is presupposed that the ceremonial purity is more strict in regard to priest than in regard to laymen. Therefore a scribe at some later date changed the text making it to read ~~לֹא יֵאָכַל~~ instead of the correct word ~~לֹא יֵאָכַל~~. Now this reasoning is incorrect in two important particulars. In the first place, if we assume that H XVII-15-16 can be rebuilt and his meaning clarified, there is no reason to argue that the present text XXII-8 should be emended because this law is already implied in XVII-15-16. For in H XIX-27-28 we have a law which is addressed ~~presumably~~ to ~~any~~ one in general, ~~and~~ ~~is~~ substantially repeated in XXI-5 and applied to the priest. Moreover the repetition of legislation concerning the priest and the High Priest (XXI-1-14) seems unnecessary since the rules governing the ordinary priest surely would be applicable to the superior Priest. Yet no one has questioned either of these two pieces of legislation on that ground.

In the second place, it is next to impossible to determine positively what H XVII-15-16 originally and really contained. Therefore, to reason from it as a premise ~~building~~ is building on ~~shades~~. It consequently follows that the only piece that is original of legislation which can be accepted with any degree of ~~certainty~~ is in H XX-8. Now reasoning ~~from~~ this piece of legislation XVII-15-16 it seems that the ~~as~~ now constituted probably came as near as possible to the original and that the ancient law of H did permit with some ceremonial censure the eating of carrions. But there are no grounds to accept this other than insecure theory.

Now there remains after this critical investigation to compare the two passages which have ~~been~~ accepted as original with the ~~view~~ to ascertaining if any dependence of the codes may be inferred from any resemblances in the two pieces of legislation.

The law in D (XIV-21a) is framed entirely different from that in H XXII-8. It is in all probability in imitation of the enactment in C with which it is identically formulated. If the ~~ancient~~ regulation ~~was~~ framed in the singular which is more than likely and in that event, is to be classed entirely as a "word". The law in H XXII-8 is in the third person singular and is to be classified as a statute ~~מִצְוָה~~ (earlier form). This disparity in formulation is not at all accidental, as the resemblance of D with C, is ~~indicative of the fact that H resembles Ez. XLIV-31, had a different one than the earlier two.~~

In language these two laws both contain very common correspondences, as ~~לֹא יֵאָכַל~~ ~~לֹא יֵאָכַל~~. The law in D contains a number of expressions which are present in H elsewhere, but they are very usual and frequent terms as ~~לֹא יֵאָכַל~~. D has a few words which are not present at all in H, as the usual and characteristic D expressions ~~לֹא יֵאָכַל~~ ~~לֹא יֵאָכַל~~.

Now what is ~~really~~ significant is this fact that these later terms and phrases, which are so characteristic in D are totally absent from H.

~~And as we have seen that we are to look for evidence of D's influence on H~~

- (1) Paton J.B. 16:41.
- (2) ~~Baneth et al. loc. Baneth et al. loc. XXI Addit. (6) Baneth et al. loc. 16~~
- (3) ~~Chen 187-188 Baneth et al. loc. 16~~
- (4) ~~Addit. II 50-51 EB num. 15. col. 2785.~~
- (5) ~~Dr. D. XVI-3 Addit. II 351.~~
- (6) ~~Chen 181a Paton J.B. 17:163.~~

Their absence indicates that D as such had no influence at all on H. In the above common expressions, H never uses the formation לֹא יִכְרֹךְ and the phrase לֹא יִכְרֹךְ is found again in Num. XXX-3 showing that the phrase must be termed a stock phrase. H uses both לֹא יִכְרֹךְ while D only uses לֹא יִכְרֹךְ and Exodus XXII-31 has לֹא יִכְרֹךְ . There is no reason to think that H drew from both to form his law for such a procedure is most unusual, in fact, unprecedented. It is more than likely that H had a different source than D.

In contents, D XIV-21a forbids a native Hebrew to eat any "Nebelah" (1) but either to give it to a Ger or to sell it to a "Nokri". "For a holy people shalt thou be to God". The law in H XXII-8 forbids a priest from eating לֹא יִכְרֹךְ (2) to be defiled thereby. Note that D speaks of לֹא יִכְרֹךְ while H of both, לֹא יִכְרֹךְ . D prohibits it because abstinence of such food makes for holiness. H prohibits it in the priest for such food defiles. D's prohibition is general while H's is addressed to the priest alone. (3) These differences with some very minor and slight resemblances point to different sources. (4) It is more than likely that H XXII is derived from a priestly tradition which is altogether independent of D, a tradition, which probably influenced D.

Both codes contains various prohibitions against the eating of blood. XII-15f, 23-25 H XVII-10-14 XIX-26a. The two ~~injunctions~~ in D XII naturally can not both be original for they are both exactly alike and certainly contain not the slightest variations that might justify both of them being here. The law in ~~XII~~ written in the plural shows thereby that it belongs to the plural section of this chapter which has many signs and evidences of being late. For the present, I shall anticipate the conclusions which I later prove and therefore hold these two verses, as later compositions of D. The other sentences which are written in the singular are doubtlessly more original and in all probability formed the original element of this chapter. I shall subsequently present a fuller critical discussion of the originality of this section and shall request that my conclusions be here accepted ~~on~~ ~~of any arguments~~.

The verse ~~XII-23~~ presents the appearance of being a redactional addition. (5) It is an exact verbal repetition of the general law in XII-23-25 and for that reason appears absolutely unnecessary. In its present position it does not add anything which is not already implied and understood and certainly not essential to the paragraph. By analogy with the law in D XII-23-25, it was in all likelihood appended here. The short injunction in H XIX-26a is clearly out of place in this section. It is unnecessary in the light of the previous laws in XVII-10-14. It does not add anything to what has already been legislated. It is probable that originally here in this chapter, there stood the legislation against forbidden food XX-25 & Lev. XI-43-45 and was replaced here and inserted by a later editor. (6)

The passage in H XVII-10-14 is not without its marks of addition. It is generally recognized that vs 10, 13 contain essentially the nucleus of the primitive H laws. (7) These ancient pieces of H are in the present text expanded by the non-priestly redactor. Moore rules them out as coming from the hand of Rp but save for a few minor evidences, these sentences are as a whole, in keeping with RH and no attempt at pointing out and separating the original has succeeded with precision. (8) The ancient legislation merely presented the law and then as briefly and pointed as possible with the only sanction that the usual expression probably ~~concluded~~ ~~very foolish group~~. I am Jahweh. To this, was appended exhortations to obedience. This is exemplified in vs 12 when the expression "Therefore I say" indicates that the editor is commenting on a piece of legislation which probably was transmitted to him. The amplifications and comments are foreign to the spirit of ancient legislation H and in all likelihood, dates from a time when the laws were not practised with the same disposition but "had to be justified by theoretical reasons". (9) This entire section therefore contains nothing else than the law and the non-priestly redaction. (10)

- (1) ~~Wied. 11-353~~ (6) ~~Paton JBL 16: 70-71~~ (10) ~~SABOT. Rev 85f8~~
 (2) ~~Paton JBL 17: 163~~ (7) ~~E. B. Moore. Lev. col. 2783-4~~
 (3) ~~Porterlet Lev. 75~~ (8) ~~HDB. Bitterly Sub. Lev. p. 106a~~
 (4) ~~Moore Lev. 75~~ (9) ~~Paton JBL 16: 40~~
 (5) For meaning of law & contrast with C. Vd. Dr. Dt. 164f
 (6) Significance of this destructive ~~one~~ Cf. Holzinger Eul. 414
 (7) Steuranagle Dt. to vs 21.
 (8) ~~The reason for lightening of this prohibition of Steuranagle, Dt. of Lev~~
 (9) For the meaning of these terms, see RB 1545. Reason for lightening of this prohibition, Cf. Holzinger Eul. 415-6 footnote

Common to both laws, is the conception that leprosy in a person not only makes the one who suffers therefrom, unholy but also the one who comes in contact with him. This idea forms the basis for the command in D XXIV-9 which orders every one to put themselves under the direction of the priest in a community where the plague breaks out. The common ideas are traceable to a common source for they are fundamental in both groups. The differences in the substance of each law stands positive proof against the theory that either is dependent on the other. Both the laws in D are primarily addressed to the people while the group in H is concerned with the priest solely. Moreover, the legislation in D is to be termed or classed as special ~~since~~ since it is concerned with only individual and specific cases. One is concerned about the holiness of the camp in time of war, the other the proper behavior of the people in time of a pestilence. On the other hand H draws up a series of laws regulating holiness of the priests and specifying their limitations at the time of their unholiness. It stands to reason that H therefore would not go to D's laws dealing with special ~~cases~~ to obtain material to frame and draw up his piece of legislation. And the reverse is equally true. But since the underlying ideas are the identical it is to the ~~same~~ common to both that we are to look. This is accentuated by the differences in details. In H those who are unclean, are (a) leprosy, (b) one having an issue, (c) one who has touched a corpse, (d) or an insect, (e) or a man who is unclean. None of these are to eat of the holy things as long as their pollution is upon them which is until sunset. D enjoins that one who has an impurity, natural, is to take himself outside of the camp. For through these impurities, he can defile the camp (1) and thus drive God from their midst. In the other law, the lawgiver practically sums up his regulation in the command; consult the priest and act according to his prescriptions (2) in time of a plague. This latter reference indicates a knowledge on the part of the author of a body of priestly law and law (3) which is probably incorporated in Lev. ~~XXIII-14~~ (4). The absence of characteristic D expressions in H, and the absence of any definite contacts in contents positively proves the independence of both groups of each other. The presence of both sets of laws, evidence of the same underlying ideas, the reference to the priestly direction in event of an epidemic indicates a source which was in all likelihood accessible to both pieces of legislation.

Proof of this is added to by the fact that P has analogous laws which are much more comprehensive than that of D. (Lev. XV-2+9+25 Nu. XIX-11-19) There finally remains to discuss the relationship of the RH passage to D. It can be summed up in the inference judging from the absence of any linguistic contacts between D XXVI-9 XXIII-10-15 and RH that the latter is entirely independent of D. Between H XXII-2AB-9 and D there is not any phraseological resemblances. In contents there is that same absence showing not the slight trace of correspondence. So not only are the laws per se but the parentic ~~provisions~~ are independent of D particular legislation.

Closely allied in contents to these laws, are the two pieces of legislation which aim to avoid uncleanness through contact D XXI-22-23 H XXI-1-4.

The law in D XXI-22+23 is generally conceded as original by all. (6) This passage does not contain any evidence of lateness nor any reasons for considering this passage other than being original. Bertholet's (Dt. 67) suggestion that the word ~~וּבְיָמָיו~~ is a gloss modeled after XIX-6 is probably correct. The corresponding legislation in H XXI-1-3 is with excepting an introductory sentence, clearly an original product. The opening verse 1a-ba is so evidently a work of RP as this sentence addresses the priests while the laws which follow are addressed to the people. The use of such destructive H expressions as ~~וּבְיָמָיו~~ in the peculiar meanings clearly shows the passage as belonging to the original H. The brevity of these laws and the typical manner of H of opening a pentad with a general legislation to be followed by particulars also to prove that this passage is of an ancient piece. (7)

(1) Scientific explanation of law cf. E.B. Sub War col. 5263.

(2) S.D. 98 Paton J12.17:150.

(3) S.D. 98 Paton J12.17:150 C.H.C.H. 158 (4) suggests that both of these sections derived from earlier source.

(4) Paton J12.17:150 Dt. Dn. 274.

(5) S.D. 157 Bertholet Dt. 67 Dn. Dt. 245.9.

(6) Bertholet Dt. 75

(7) Scientific explanation of law E.B. Sub. Col. 5263. Double.

Chapter X.

Sacred Dues, Seasons, Places and Persons.

The laws listed and grouped under these four general titles are those seemingly nearest and dearest to the hearts of the respective codifiers. This is in evidence by the greater number of textual modifications in these particular pieces of legislation and by the more elaborate parenthetic expansions and exhortations. More than in any other of the sections containing minute examinations of the separate enactments, in this particular division, are to be discovered any evidences and facts of influence of one code on the other. As has been indicated so repeatedly, not in the casual correspondences in certain various unimportant pieces of legislation per se, are to be adduced any conclusion of dependency but in those distinctive and specifically peculiar features, as in the particular modifications of D which reflect the aim of the law-book, or in the general pervasive spirit and pet phrases are to be sought any signs of reliance. It is taken for granted that the Deuteronomic code is a recapitulation a compilation with revisions in keeping with his own distinct aim and purpose, of previously compiled legislative drafts and compositions. It is assumed that these same sources were just as accessible to the codifiers of Holiness Code. Now the question which suggests itself, is whether the D code with its distinctive D characteristic additions was depended upon by H or RH? Now the answer we are seeking to determine and the way we are following is to disclose and discover if there are any traces of these typical D features present in H. Thus far, we have noted that the resemblances were not confined to these so-called characteristics but to these things which D most likely derived from an earlier source and in many cases where we possess the D sources, we find H more nearly resembles the more ancient one, and in any case, omits or ignores in his legislation those typical D features, as his phrases or ideas. In this section, where the so-called typical characteristics of both codifiers are in greater evidence, it is here that we can not conclusively determine such an analytic comparison of the legislation of the legislation thus grouped, the question of any relationship or not. Thus in the following comparison it is to be noted, most of these subtitles are contained in laws paralleled in both lawbooks. This parallelism is not traceable to the fact that the later code followed the earlier for a detailed analysis of the individual enactments, will positively prove that one could not have purposely followed the outline of topics of the other and yet so totally ignore the individual laws. This conspectus which follows, is suggestive of other interpolations which we shall reserve for the conclusion of this chapter, a combination of these suggestions.

Sacrifices

1. Sacrifices in general	D XII 20-28	H XVII 1-7
3. Burnt offerings (sh)	D XII 6, 11, 13, 27a	H XXII 18-20
2. Acceptable offerings	D XV 21 XVII 1	H XXII 17-25
4. Consumption, Rules of	D XVI 4	H XIX 5-8 XXII 27-29
6. Offerings, etc.	D XII 27b	H XVII 1-7 XXII 29
8. Tithes } <i>Sacred Dues.</i>	D XIV 22-29 XXVI 12-15	
9. Vows	D XXIII 22-24	

Sacred Seasons

10. Sabbath	D V 12-15	H XIX 3b (30a XXVI 2a)
11. Passover and Matzoth	D XVI 1-7 & XV 19-22	
	XXIV 9 XXVI 1-11	
	XIX 23-25	H XXIII 9-14n
12. Pentecost + <i>etc.</i>	D XVI 9-12	H XXIII 15-20 (R)

Sacred Seasons (Cont'd)

- | | | |
|---------------------------------|-----------------|----------------------------------|
| 13. Booths | D XVI 13-15 | H XXIII 39-43 |
| 14. Sabbatical and Jubilee Year | D XV 1-6, 12-18 | H XXV 1-7, 18-22
8-17, 24-28. |

Sacred Places.

- | | |
|-----------------------|--|
| 15. Site of Sanctuary | D XXII 2-12, 13-18; H XVII 1-7 XIX 30b
XIV 23-28 XV 19
XVI 1-16 XVII 8-10
XVIII 6-8 |
|-----------------------|--|

Sacred Persons.

- | | | |
|-----------------------------------|--------------------------------------|---|
| 18. Priesthood & High Priest | D XVIII 1-8n
XVII 9, 18
XXVI 3 | H XXII-XXIII 16n
XXI 10-15n. |
| 19. Priestly duties | D XVII 9, 12, 18
XIX 17 XXIV 8 | |
| 20. Revenues | D XVIII 1-8 | See the <i>translation</i> col 40-40a. |
| 16. Lay dress and Priestly dress. | D XXII 12 | H Nu. XV37 -41 |
| 17. Prophets | D XVIII 15-22 | |

There are many more topics treated in other elements of the Pentateuch. The parallels in these two lawbooks have the appearance of merely being accidental and the conspectus of topics which seem arbitrarily drawn are not to be construed as standard ~~means~~ by which either code selected its legislation. And since such topical headings as ~~to~~ ^{are} to be noted are ~~very~~ ^{general} that nothing very definite can be inferred ~~from~~ ^{by} grouping of laws under them since legislation as is the case may be classed together which have but the most vague correspondences and on this basis they ~~are~~ ^{may} be classed together. Therefore, such conclusions as may be drawn ~~may~~ ^{be} general suggestion, they are only ~~slightly~~ ^{slightly} ~~relevant~~ ^{relevant} only in so far as the other facts ~~lead to them~~ ^{lead to them} bear them out.

Both codes contain legislation on sacrifices, sacrifices in general D XII 20-28 H XVII 1-7. As I shall presently compare ~~the~~ these two passages more minutely I shall reserve a critical analysis of these two chapters in which these two paragraphs occur. In regard to the ~~former~~ ^{former} chapter in D, I have previously addressed myself somewhat to the critical investigation with the results which I shall here accept and assume. The passage, therefore, which we are here partially to study is recognized as the ~~primary~~ ^{primary} and entirely the original element of this chapter and of the code. As for the corresponding legislation in H, I must confess from the outset that the critical problems here occurring are perhaps the most difficult with which we have to contend. This dissection of this paragraph is not without some satisfactory results. There is no denying that in the first two laws of the code, we can recognize certain typical expressions of the code embedded in a framework of characteristic Priestly phrases. It is my purpose here to postpone a critical examination of these passages and to anticipate ~~our~~ ^{our} conclusions begging the indulgence of our readers until ~~I have~~ ^{I have} to discuss the high point of this chapter in relation to the corresponding one in D. Vs. 5 is almost wholly the work of the non-priestly editor while the following vs (6) is generally acknowledged as being ~~interpreted~~ ^{interpreted} ~~on the whole~~ ^{on the whole} by the priestly redactor. The nucleus of the ancient law is discernable in 3a & 4 which probably read "any man of the house of Israel who slaughters an ox, lamb or goat and does not bring it to the (sanctuary)

fessed that there is a contradiction between them. D permits profane slaughter while H seemingly will know of no other than proper ritual slaughter. This attempt on the part of the critics to explain away this contradiction by the seeming recognition on the part of H of the concession of D is based on nothing to be found in the text. If H knew of D's permission and acknowledged that so long as the people lived in the land as a small band gathered around the capital, they were not to indulge in profane slaughter, but if they were to increase and spread out, the concession of D shall supposedly hold good, there is nothing to indicate any such knowledge on part of H or any such recognition of this permission. Quite to the contrary, H manifests no knowledge at all, reflected in the use of language nor does he seem to recognize any exception but H is most specific and definite, permitting no violation of this general rule by way of any exception on account of any circumstance. This general prohibition of H is therefore in direct opposition to D. All slaughtering in H is to be sacrificial while in D there is a distinction between sacred and profane slaughter.

Moreover, D seems to distinguish between those living near the sanctuary and those living at a great distance. In the case of the latter, slaughter may be profane. As for the others, the implication being that those dwelling in close proximity to Jerusalem have not that same permission. If this be the case, and it seems to on a closer examination, then those who lived around Jerusalem were bound by that law, the exception of which was made for those who lived at a great distance. Now if H was based on D, or referred to D, or knew of D, it was not necessary for him to have inserted again, or repeated over a law which was previously understood. D would already apply to that small community gathered around Jerusalem and all H would have to do in that case to add to the authority of his law would be to show some indication of D's general limited prohibition. If he had had any knowledge of D at all, he would have seen that the prohibition of D made his unnecessary. The only way therefore to explain H's omission of distinctive D expressions, of his general prohibition totally in contradiction of the one in D, of his seeming ignorance of the prohibition which would have been applicable to the community, the critics would make out, he was legislating for, is by accepting and assuming his total independence of D.

Common to both codes are prohibitions against the sacrifice of any other than perfect and unblemished cattle D XV 21, CHH XXII 17-25. The law in D XV 21 is unquestionably of a necessary piece with the entire passage. Despite the doubt raised by Steurnagle¹ this verse gives no other impression but that it forms an integral part of the ancient code. He maintains that since this law is repeated in D XVII, that it here is entirely superfluous. While it is true that both verses practically cover the same ground, the one here apparently is necessary since it answers ~~here~~ a doubt, which is not answered by D XVII, that would likely be excited in the minds of those who are compelled to bring as an offering their first-born. It might be understood from D XVII, and yet it might not and this doubt and uncertainty is satisfied that makes this verse to my mind, a necessary and essential part of this ancient law. Some² have explained this repetition on the grounds that these two pieces of legislation have come from different sources which accounts for the *reiteration*. This explanation not so much explains away the difficulty as the origin. The general prohibition is without doubt a part of the ancient code and there is certainly no reason for ~~con-~~

1. Steurnagle Dt Vd Loc XV 21.

2. CHH 158a (3).

3. Holmgren, manuscripts that in H. sacrifices were communal offerings but in D they were from individuals.

received from a ^{לוי} ^{בן}. RH, whose attitude to the ^{לוי} ^{בן} and ^{גור} was changed for the better and they were gradually admitted to partial participation in religious affairs of the community. This primitive law seemed too harsh to RH which forbade the acceptance ^{לוי} ^{בן} of a sacrifice at all and consequently limited this prohibition to merely these forbidden animals.¹ Now a comparison of these laws will bring out this one fact that the latter law while addressed to the people is really intended as a guidance for the priests. On the other hand, the laws in both D XV21 and 17, is meant for the people in general, to guide them in the manner and kind of animals which they should bring and not bring. Therefore the latter one is general and and comprehensive, while the other one is specific and detailed. D only knows of those with physical defects while H adds also diseased ones and also the prohibition against accepting any animals from a ^{לוי} ^{בן}. The absence of most of these specific instances in D with but one correspondence in contents points to the interpolation and explanation that the laws are traceable to different sources. H does not specify that is to be done with these blemished animals while D permits them to be eaten, in the gates at home. Now this permission is in conformity with the reformation which D effected. Then the establishment of a central sanctuary the lawgiver made legitimate the profane sacrifice. This concession was then probably extended to the killing and eating of all animals which were eatable though not acceptable for sacrifice. Yet in H, no animal is to be slaughtered ^{לוי} ^{בן} among the ^{לוי} ^{בן} except in accordance with the sacrificial prescriptions (XVII3).⁴ The use of these identical words ^{לוי} ^{בן} in H XXII17ff in prohibiting the slaughter of any which have defects or diseases, strongly contrasts with the special permission and notable exception established by D. For this reason therefore, these animals, could neither be eaten or sacrificed. And it may be that the law so read but suppressed by Rp who made other provisions for the blemished animals. (Cf Steuernagel Dt. to XV 21). If therefore H had derived his legislative material from D, he could not by any way have either repeated this concession or forbade the practise here ^{לוי} ^{בן} in D was allowed and sanctioned. If H had depended on D, this innovation is what is probably distinctive and peculiar to him and it is this which is typical to him which would make its appearance in H. As it is, H enlarges on the number of blemishes considerably which are forbidden and yet contains not one identical substantive descriptive of these blemishes which is found in D. The source of H is certainly some other lawbook than that of D. It is doubtful which of these two laws are the older for the D law could be a summary of the more detailed laws of H or the latter could be a latter expansion of the general prescription.² However that may be the D law is phrased in characteristic Deuteronomic language with not one of these expressions recurrent in H. One can not escape the impressions that these two ideas are to be traced to common ^{לוי} ^{בן} source. D probably summarizing it and clothing it in his own language intending it for the people while the law in H, drawn up in his typical language detailed and specific, is meant for the supervision of the priests.

The two codes both agree in the name of the burnt offerings, ^{לוי} ^{בן} D XII 13,27a and H XXII 18-19. H uses the expression ^{לוי} ^{בן} while D uses ^{לוי} ^{בן}. D specifies that in the Olah, the flesh and blood (D XII 26a) both be burnt on the altar, at the central sanctuary. H orders only the perfect male among the cattle, sheep and goat be sacrificed as an Olah. According to both codes, this kind of offering comprise one of the two great divisions of sacrifices. Neither law knows ^{לוי} ^{בן} of sin offering.³

1. For a full explanation Cf Paton JEL 17:170 ff.

2. Dt. Dt. 204-5

3. Holzinger Ent 413-4.

4. See Wellhausen (Ent 50) comment on this divergence of H from D.

D XIII17 speaks of another *קֹדֶשׁ* called *בֵּבֶס* where all which is put under a ban is entirely burnt up. This name of an offering as well as the practise of the "Herem" is entirely ignored in H while this latter instance is not exactly classed among the offerings; its very nature entitles us here to refer to this holocaust and to note that while H speaks of *בֵּבֶס* he has nothing on *בֵּבֶס*. In PS this "devotion" was consecrated to the priesthood instead of being totally burnt as a sacrifice as in D.² Consequently it is evident that this particular practice was ancient being described in D,³ and late is modified in PS and its absence from H therefore is all the more remarkable and entirely unexplainable. For while it is insecure to employ an argument "a silente", it is suggestive in this case that no where in H is reference made to this rite of totally "devoting" a thing to God. Therefore in summing up, it must be stated that the common use of *בֵּבֶס* though differently phrased in these two instances, presents nothing unusual since this particular sacrifice is all central in both JB.⁴ In regard to the description of the *בֵּבֶס* in D the absence of even any allusion⁵ to such an institution is certainly indicative of the fact that if H had used D, he could not have passed over this institution which would have been most apparent in a code ~~assuming~~ *showing* after Holiness.

Laws restricting the time of consumption of the sacrifices are present in both of the codes D XVI 4 and H XXII 27-29 XIX 5-8. The verse in which the Deuteronomic enactment occurs, is not entirely without later retouching. While I shall more completely discuss the originality of this entire section in a later connection, attention must be called here to the conflict between a one day feast of Pesach and a seven day *festival* of matzoth. There is no doubt that the latter legislation of a later date, inserted at a time when the *institution* was more or less developed. The separation therefore of the two elements is comparatively easy particularly in this verse (¶). The entirely first half of the sentence is late because of the reference to the *heaven* and to the fixed period of seven days.⁴ The second half of the verse has entire dealings with the one day festival except for the harmonizing gloss *וּבַיּוֹם הַהוּא* which was added by the same hand which tried to combine the two festivals. Consequently with the omission of these two words, the second half of the verse completely fits into this passage of the Pesach.⁵ The laws in H likewise are not free of later additions. In H XXII 27-29, the hand of Rp is fully apparent. In XXVII 28 the language and contents thoroughly conforms to the spirit of the primitive code. In 27b unmistakable evidences of Rp prove the lateness of this half sentence. Thus the expression *וְהָיָה כִּי יִשְׁלַח ה' אֶת הָעָם מִן הָאָרֶץ*⁶ *וְהָיָה כִּי יִשְׁלַח ה' אֶת הָעָם מִן הָאָרֶץ* are assuredly priestly. The similarity of H XXII 29 & XIX 5-8 is striking. It is evident that the later passage is manifestly out of place.¹⁰ It is entirely ~~mixed~~ out of order in the chapter containing *Moral* and social institutions¹¹. By its contents and formulation, this passage in XIX 5-8 belongs with H XXII 29¹¹

1. Cf with 1 Sam XV 37.

2. CHCH 453.

3. W. B. Bennett sub Ban col 469. EB.

4. Steurnagle Dt XVI 1-8.

5. Bertholet Dt 50-51.

6. CHCH 409:17 Cf Exe XVI VIII 38 Lev I 3.

7-8. Idem 417 118b,e.

9. Nu. XV 23 XVII 2 XXXII 19 Paton JBL 17:171.

10. Paton JBL 16:53.

11. CHCH 417 118-6 *Moral* EB. Col 2784

must be eaten before the second day. All which is left after that is to be burnt with fire. Any one eating it, must bear his sins for he desecrates his holiness. Now D is concerned with a special case while H is applied generally to all sacrifices which are partly eaten. In the case of the Pesah, the offering took place at night and was to be devoured within twelve hours. The law in H extends the time in regard to these offerings until the second day. While fundamentally these laws resemble ~~each other~~ in contents, the language and phrasing radically differ, therefore it is certain that the law of H could not be derived from D. Why has D no such similar law on this subject? ~~Is it because in these domestic sacrifices at the central sanctuary, it was just as difficult for the entire family to journey to the shrine at Jerusalem which was "established" there to partake of the sacrificial meal as it was unnecessary to lay down rules for the consumption of the Nazir, similar to this ~~mitzvah~~ one, since the Hebrews were granted the permission to eat meat at any time "their heart desired". Since this concession opened to them the way by which they could satisfy that craving for meat, why would it be necessary to lay down such stringent rules in regard to the time in which they were to be allowed to consume meat? It seemed that when sacrifices were brought now, they were offered in a different spirit than in order to seek satisfaction for this meat craving. Therefore the absence of such a law from D was more or less in accord with the D reformation and H in laying down this law, was in full agreement with the general prohibition against profane slaughter since then such instructions could consistently be enforced, or even demanded.~~¹ Therefore it stands to reason that H XIX 5-8 could not have evolved out of the legislation of D which retains the ancient principle only in the old festival of Pesah.²

Also common to both codes D & H 1 is the other great sacrificial ~~division~~ ^{partially} in contradiction to the ~~holocaust~~ ^{holocaust}, which is ~~practically~~ ^{partially} eaten.³ These two divisions of sacrifices underlie the system of sacrificial legislation of both law books. D XII 27b orders that the blood of the ~~nazir~~ ^{nazir} merely be spilled upon the altar and the flesh may be eaten. We know that a part of this sacrifice went to the priests as we shall indicate when we consider the subject of the priestly revenue.⁴ H XIX 5-8 orders that the flesh be eaten on the day on which it is sacrificed. Incidentally it is of interest to compare XII 27b ~~הנזיר חסד~~ with H XIX 5-8 ~~הנזיר חסד~~ for the difference of expression signifies an absence of relationship. It is understood that the blood according to XVII 10-14 is not to be eaten. This general distinction in H between the ~~הנזיר חסד~~ ^{הנזיר חסד} is on the same plane with ~~of C and other old codes.~~³ The mention in D of other offerings, ~~הנזיר חסד~~ ^{הנזיר חסד}, etc. shows a later and more complete development. "The original legislation of H XXII 17-19 like the legislation of H XVII recognized only two ~~mitzvot~~ ^{mitzvot} sorts of sacrifices."³ This division is ~~more nearly~~ ^{more nearly} based on C ~~and than~~ ^{and than} D and it is probably that out of the institutions of the covenant codes, was evolved the whole system of sacrifices in D. It is to this ancient and primitive system of C that H ~~mitzvot~~ ^{mitzvot} bears closer resemblance, than to the one of D. So it is out of the question to seek for any influence of D in H in this legislation of the sacrificial system.

The legislation on the tithe is only found in D of the two codes and the absence in H of these laws is not without deep interest. The laws of D are formulated in the usual Deuteronomic formulation. They are framed as Judgments (earlier forms) or as words. But while these terms signify nothing

1. WBS. RS 2200 editions of 1889.

2. EB Moore, vol. 4 col. 4137a.

3. Cohen JBL 17:172, 188, to vs. 22.

4. H also distinguishes between the ~~הנזיר חסד~~ ^{הנזיר חסד} (which is new ~~mitzvah~~ ^{mitzvah}) and ~~הנזיר חסד~~ ^{הנזיר חסד}.

5. "In" all sacrifices are still embraced under one or other heading ~~הנזיר חסד~~ ^{הנזיר חסד} or ~~הנזיר חסד~~ ^{הנזיר חסד} Wellhausen 75.

the language in which this legislation is phrased shows that while this law is absent from H that the absence in H anywhere of this peculiar phraseology used in these passages XIV 14, 22-29, XVI 12-15 proves that originally ~~and probably~~ no such legislation ever formed a part of the code. Save for a few most unusual words or terms which are common to the passages and the Holiness Code as a whole, the great bulk of the diction employed is not at all round in the latter lawbook. Thus the most common of words are those which appear in this particular passage and in the Holiness Code, ~~בית, קדש, אהל, (H194) תכלה, אכל, החר, קושיא~~

בזב, שחח, ארמה, [שחחם (H264)] ששים

Not only striking is the paucity of common terms as this list shows but the commonness of the words go to add to the conviction that ~~was~~ in H no such law as the ones in D ever formed a part of the original fabric. This view is further corroborated by the very many usual expressions which ~~are in the D laws~~

which do not at all reappear in the Holiness Code. In fact in enumerating them, I can best illustrate it by ~~adding~~ the omission of those above mentioned terms and which remains is strange in the other lawbook. So in compiling this list I am merely repeating all the expressions of the these laws with those few words entirely omitted. Thus absent from H are these ~~xxxxxx~~ phrases. (1) ~~עשר געסר~~, (2) ~~כל תבוגות דערק~~, (3) ~~אכל ללכני~~, (4) ~~אכלהך~~, (5) ~~שנה בשנה~~ (H 253), (6) ~~היוצא השדה~~, (7) ~~יירחק חקך מקום~~, (8) ~~לא תוכל שאת~~, (9) ~~כי ירבה חקך הדק~~, (10) ~~לחון תלמד לירא~~, (11) ~~מעט דגנך תירשך~~, (12) ~~מאזה נסך~~, (13) ~~לעורר~~ (H18), (14) ~~עדת הכסף בידך~~ (H 253), (15) ~~נחתה בכסף~~, (16) ~~כי יזכרך~~, (17) ~~הלוי אשר נשעריך~~, (18) ~~אתה ויתר~~, (19) ~~בין ובשכר~~, (20) ~~ובכל אשר תשאלך נסך~~, (21) ~~אכל ושב~~, (22) ~~החמך בשעריך~~, (23) ~~מעט גבואת~~, (24) ~~מקצה שלש שנים~~, (25) ~~כי אין לו חלק ונחלה~~, (26) ~~באני~~, (27) ~~בערתי~~, (28) ~~שנת מעט~~, (29) ~~כל חפצה ידך~~, (30) ~~הלוי הגר היתום אלמנה~~, (31) ~~השקפה~~, (32) ~~טחנה בקיל~~, (33) ~~לחם~~ (H194), (34) ~~לחם~~, (35) ~~לחם~~, (36) ~~לחם~~, (37) ~~לחם~~, (38) ~~לחם~~, (39) ~~לחם~~, (40) ~~לחם~~, (41) ~~לחם~~, (42) ~~לחם~~, (43) ~~לחם~~, (44) ~~לחם~~, (45) ~~לחם~~, (46) ~~לחם~~, (47) ~~לחם~~, (48) ~~לחם~~, (49) ~~לחם~~, (50) ~~לחם~~, (51) ~~לחם~~, (52) ~~לחם~~, (53) ~~לחם~~, (54) ~~לחם~~, (55) ~~לחם~~, (56) ~~לחם~~, (57) ~~לחם~~, (58) ~~לחם~~, (59) ~~לחם~~, (60) ~~לחם~~, (61) ~~לחם~~, (62) ~~לחם~~, (63) ~~לחם~~, (64) ~~לחם~~, (65) ~~לחם~~, (66) ~~לחם~~, (67) ~~לחם~~, (68) ~~לחם~~, (69) ~~לחם~~, (70) ~~לחם~~, (71) ~~לחם~~, (72) ~~לחם~~, (73) ~~לחם~~, (74) ~~לחם~~, (75) ~~לחם~~, (76) ~~לחם~~, (77) ~~לחם~~, (78) ~~לחם~~, (79) ~~לחם~~, (80) ~~לחם~~, (81) ~~לחם~~, (82) ~~לחם~~, (83) ~~לחם~~, (84) ~~לחם~~, (85) ~~לחם~~, (86) ~~לחם~~, (87) ~~לחם~~, (88) ~~לחם~~, (89) ~~לחם~~, (90) ~~לחם~~, (91) ~~לחם~~, (92) ~~לחם~~, (93) ~~לחם~~, (94) ~~לחם~~, (95) ~~לחם~~, (96) ~~לחם~~, (97) ~~לחם~~, (98) ~~לחם~~, (99) ~~לחם~~, (100) ~~לחם~~

Many of these expressions are usual and characteristic D expressions, frequently repeated in Deuteronomy, embodying the spirit and reflecting the aim of the lawgiver. I have omitted from this compilation the descriptive sentence practically summing up the object and purpose of this code a sentence repeated in these paragraphs with slight and insignificant variations no less than three times, a sentence never remotely suggested in the Holiness code as I shall point out when I analyze the passages urging the centralizing of the sanctuary. Many of these phrases as so usual in D that are distinctly associated with this author as Nos 7, 8, 11, 15, 19, 20, 24, 25, 26, 33, 36. never are any of these expressions found in H, not even slight variation of them or never imitations of them. In them are embodied the aim and spirit of the code and in expressions like them does one look for any influence or in imitation of them. If any author was in any way influenced by D, it is in these characteristic and typical phrases that one would naturally look for evidence of it. Moreover the ~~various~~ various other expressions which are present in this passage while not in any particular way, essentially typical Deuteronomistic expressions, may be termed essential to these laws and probably are the words which were retained from the older source on which D drew and as such would have been as accessible to H as to D. These would then ~~would~~ have naturally been unconsciously employed, some of them, if not all sometimes in this code if H had had such a law in this code. As it is, the absence of any of these words essentially peculiar to these special laws the absence of them in the Holiness code, seems to verify the view that no such law as this one in D ever formed a part of the ancient Holiness legislation. For while it is not conclusive, it seems that the compilers of the Holiness legislation could not have avoided the employment of terms and expressions elsewhere in

supposedly when God was a participant. Therefore at an early time, ~~the~~ — Deuteronomic, the amount given was entirely left to the will and wish of the offerer. With D the quantity presented is approximately fixed.³ If therefore this theory that that the ~~law~~ and ~~law~~ are in reality identical and that the former is but merely a later and more highly improved institution amended by D on the basis of the primitive offering of the first fruit, the relationship of the law in H bearing on the offering of the first fruit is quite clear.⁽⁴⁾ In H, there is no law of the tithe. It is self evident the laws of the first fruit in H XXIII 10f and H XIX 23-25 are more closely related to the law of C Ex XXIII 19 than the more advanced legislation of D. H knows nothing of a basket of fruit given to the priest of the first fruits of the ground, and equally unacquainted with the custom of accompanying each offering with a set prayer. These laws in the Holiness code are entirely unaware of tithing the increase and consuming this tithe in a sacrificial meal with God as participant, and of a triennial tithe to be distributed among the needy and dependent. This law of H seems based on the legislation of C, when the ~~best~~ of the first fruits is brought to the House of God. Not only does this relationship of H and C prove that the former could not have contained any legislation on the tithes following he contents of the covenant codes, but that that legislation which bears the closest relationship to C, the laws of the first fruits then itself represents, in fact, a less advanced stage than that of D, founded upon a more primitive plane than that of D.

It therefore stands to reason that in this particular legislation H manifests not the slightest evidences of dependency but rather exhibits a total independence, disclosing not the faintest knowledge of D.

On the other hand, this law of the tithe may not be at all connected nor at all related to the legislation of the first fruits. In this particular D legislation, W.R. Smith¹ discloses in this law, another reformation, a beautiful theory, of the Deuteronomic reformers, for the purpose of remedying the evils and abuses then obtaining. According to this proposition, these legislators effected an innovation, possibly with the slightest bases relationship in the first-fruits, instituting the tithing of the ~~increase~~. According to this hypothesis, the important thing is that the tithe should be eaten by the family which brings it and the Levite whom they may invite. The abuses which these D lawgivers intend to remove are the ones described in ~~Amos~~ when from the offerings which all bring to the local shrine those in wealth and power got the lion share and to the poor and needy was left that which was not devoured. To prevent such evils, D arranged that these offerings, a tenth of the increase be brought to the Temple be eaten by those only who presented it, ~~they~~ family and ~~whom~~ they may invite of the Levites. In the third year, this tithe is to be used to supply the poor and dependents for a public feast, and not for those who are well able to obtain their own for themselves. Now if this is the actual meaning of the ancient institutions ~~to be found in H~~, but instead the ancient and primitive institution as legislated in H probably formed the foundation, out of which these laws of D were developed. But the connection between these two groups of legislations as such is now-existent. In ~~view~~ of the laws ~~on~~ the tithes, H has legislation on the first fruits and could not consistently embrace such legislations, if this theory

3. I Benzinger EB Sub taxation Col. 4911.

1. RS 227-40.

4. HDB. Vol 4. p. 780. ~~Peace~~ Sub Tithes explains the connection between ~~780 + 21000~~
 who see in contradiction in D between ~~Amos~~

of Smith is the correct explanation.

If on the other hand, the proposal of Bertholet¹ be the right one and the two legislations have no connection whatsoever, and they both represent entirely two different institutions, then another question is raised as to relationships of the tithe to the Holiness lawbook. This ~~classical~~ view which I shall merely present, ~~is~~ that the ~~tithe~~ ⁷⁰⁹ was presented at Succoth and the ⁷¹⁰ at Pentecost and as such these two offerings have nothing in common being entirely distinct and separate. Now the question arises which more or less undermines this view is that it is nothing more than a mere supposition without any foundation in fact. But assuming that this theory is correct, a comparison of the tithe with the observance regulated and described in H (XXIII 39ff) reveals nothing ~~in the~~ in common. The tithe was to be eaten as a meal, while the legislation in H does not even use the word 'eat'. If in D this law was drawn to emphasize the fact that the tithe should be consumed by the family thus indicating that the essential and important ~~thing~~ about it was the feast, then H in his law on the Succoth does not even allude to this family meal on which D lays the greatest stress. It is quite evident that the authors of the Holiness code could not have been familiar with supposedly earlier legislation, let alone, being dependent upon it. Moreover the lack of any reference to the tithe in connection with this legislation on Succoth bears additional proof to the independence of H. Now to sum up, I have considered the Holiness Code in relation to this D legislation on the tithe as a later development of the ⁷¹¹ and discovered no connection between them. I have considered the Holiness Code in relationship to the tithe as a distinct and new institution of D and found no connection. I have considered the Holiness Code in relationship to the ⁷¹² legislation as wholly distinct from the ⁷¹³ and as an offering brought on Succoth and discerned not the slightest relationship. Therefore both a study of the contents and language of this D legislation in the tithe reveals that the absence of it in H reveals that the latter code was not only not dependent on D but never contained any legislation.

The law of the vow which is only present in D XXIII 22-24 is not found in H. There is nothing in the law which should lead one to regard this piece of legislation as one other than peculiar to the ancient Code. The last three words of this law has doubtlessly been appended by some scribe which, when omitted, leaves nothing more to be desired. They add nothing to sense of the law. They have the appearance of being additional. The diction employed not only exhibits many distinct phraseological expressions of D but ~~as~~ many entirely distinctive of D and unusual and absent from H. Thus, H never uses the terms of expressions which are found here, as, ⁷¹⁴ ⁷¹⁵ ⁷¹⁶ ⁷¹⁷ ⁷¹⁸ ⁷¹⁹ ⁷²⁰ ⁷²¹ ⁷²² ⁷²³ ⁷²⁴ ⁷²⁵ ⁷²⁶ ⁷²⁷ ⁷²⁸ ⁷²⁹ ⁷³⁰ ⁷³¹ ⁷³² ⁷³³ ⁷³⁴ ⁷³⁵ ⁷³⁶ ⁷³⁷ ⁷³⁸ ⁷³⁹ ⁷⁴⁰ ⁷⁴¹ ⁷⁴² ⁷⁴³ ⁷⁴⁴ ⁷⁴⁵ ⁷⁴⁶ ⁷⁴⁷ ⁷⁴⁸ ⁷⁴⁹ ⁷⁵⁰ ⁷⁵¹ ⁷⁵² ⁷⁵³ ⁷⁵⁴ ⁷⁵⁵ ⁷⁵⁶ ⁷⁵⁷ ⁷⁵⁸ ⁷⁵⁹ ⁷⁶⁰ ⁷⁶¹ ⁷⁶² ⁷⁶³ ⁷⁶⁴ ⁷⁶⁵ ⁷⁶⁶ ⁷⁶⁷ ⁷⁶⁸ ⁷⁶⁹ ⁷⁷⁰ ⁷⁷¹ ⁷⁷² ⁷⁷³ ⁷⁷⁴ ⁷⁷⁵ ⁷⁷⁶ ⁷⁷⁷ ⁷⁷⁸ ⁷⁷⁹ ⁷⁸⁰ ⁷⁸¹ ⁷⁸² ⁷⁸³ ⁷⁸⁴ ⁷⁸⁵ ⁷⁸⁶ ⁷⁸⁷ ⁷⁸⁸ ⁷⁸⁹ ⁷⁹⁰ ⁷⁹¹ ⁷⁹² ⁷⁹³ ⁷⁹⁴ ⁷⁹⁵ ⁷⁹⁶ ⁷⁹⁷ ⁷⁹⁸ ⁷⁹⁹ ⁸⁰⁰ ⁸⁰¹ ⁸⁰² ⁸⁰³ ⁸⁰⁴ ⁸⁰⁵ ⁸⁰⁶ ⁸⁰⁷ ⁸⁰⁸ ⁸⁰⁹ ⁸¹⁰ ⁸¹¹ ⁸¹² ⁸¹³ ⁸¹⁴ ⁸¹⁵ ⁸¹⁶ ⁸¹⁷ ⁸¹⁸ ⁸¹⁹ ⁸²⁰ ⁸²¹ ⁸²² ⁸²³ ⁸²⁴ ⁸²⁵ ⁸²⁶ ⁸²⁷ ⁸²⁸ ⁸²⁹ ⁸³⁰ ⁸³¹ ⁸³² ⁸³³ ⁸³⁴ ⁸³⁵ ⁸³⁶ ⁸³⁷ ⁸³⁸ ⁸³⁹ ⁸⁴⁰ ⁸⁴¹ ⁸⁴² ⁸⁴³ ⁸⁴⁴ ⁸⁴⁵ ⁸⁴⁶ ⁸⁴⁷ ⁸⁴⁸ ⁸⁴⁹ ⁸⁵⁰ ⁸⁵¹ ⁸⁵² ⁸⁵³ ⁸⁵⁴ ⁸⁵⁵ ⁸⁵⁶ ⁸⁵⁷ ⁸⁵⁸ ⁸⁵⁹ ⁸⁶⁰ ⁸⁶¹ ⁸⁶² ⁸⁶³ ⁸⁶⁴ ⁸⁶⁵ ⁸⁶⁶ ⁸⁶⁷ ⁸⁶⁸ ⁸⁶⁹ ⁸⁷⁰ ⁸⁷¹ ⁸⁷² ⁸⁷³ ⁸⁷⁴ ⁸⁷⁵ ⁸⁷⁶ ⁸⁷⁷ ⁸⁷⁸ ⁸⁷⁹ ⁸⁸⁰ ⁸⁸¹ ⁸⁸² ⁸⁸³ ⁸⁸⁴ ⁸⁸⁵ ⁸⁸⁶ ⁸⁸⁷ ⁸⁸⁸ ⁸⁸⁹ ⁸⁹⁰ ⁸⁹¹ ⁸⁹² ⁸⁹³ ⁸⁹⁴ ⁸⁹⁵ ⁸⁹⁶ ⁸⁹⁷ ⁸⁹⁸ ⁸⁹⁹ ⁹⁰⁰ ⁹⁰¹ ⁹⁰² ⁹⁰³ ⁹⁰⁴ ⁹⁰⁵ ⁹⁰⁶ ⁹⁰⁷ ⁹⁰⁸ ⁹⁰⁹ ⁹¹⁰ ⁹¹¹ ⁹¹² ⁹¹³ ⁹¹⁴ ⁹¹⁵ ⁹¹⁶ ⁹¹⁷ ⁹¹⁸ ⁹¹⁹ ⁹²⁰ ⁹²¹ ⁹²² ⁹²³ ⁹²⁴ ⁹²⁵ ⁹²⁶ ⁹²⁷ ⁹²⁸ ⁹²⁹ ⁹³⁰ ⁹³¹ ⁹³² ⁹³³ ⁹³⁴ ⁹³⁵ ⁹³⁶ ⁹³⁷ ⁹³⁸ ⁹³⁹ ⁹⁴⁰ ⁹⁴¹ ⁹⁴² ⁹⁴³ ⁹⁴⁴ ⁹⁴⁵ 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reading of these will suffice to prove just what I have here attempted that the two laws are entirely independent as the difference in language and formulation so striking and distinct so notably prove. The disparativeness in formulation as well as the great diversity in diction certainly proves that neither reveal any evidences at all of dependence. From the viewpoint of contents, these two laws bearing on the mode and manner of the celebration of the Spring festival, have very little, if anything in common. The legislation in D enjoins that in the month of the fresh ears, the paschal offering is to be brought to God at night; the paschal offering to be selected from the sheep and cattle, must be sacrificed at the central sanctuary and no leaven is to be eaten with it and none of the victim is to be left until morning. The offering cannot be offered in any other place than at the central shrine, then it is to be cooked and eaten. In the morning the offering may return home. (1) In H, the enactment prescribes that at harvest, a sheaf of the first fruits of the harvest is to be brought to priest and he is to wave it before God on the morrow after the sabbath and on that day a perfect lamb is to be offered as an "Olah" to God. No bread or parched corn or early ears are to be eaten before the sheaf has been presented. One thing is partly common to both laws, a sacrifice though the one in D (167) seems to be a *paschal* while in H, it expressly states that it is to be an "olah". In D the victim may be taken from the cattle or flocks while in H it is to be a perfect lamb. D unmistakably commands that the victim is to be slaughtered and offered. ~~It is not stated that the offering by the special nomenclature of paschal~~ H does not state offering by the special nomenclature of *paschal* while H appears unaware of such a name. D fixes the time of such a sacrifice indefinitely in the month of the "Ripened ears", while H sets the time of sacrifice when the first sheaf of the harvest is brought. D enjoins that the sacrifice is to be offered and eaten at night while H is satisfied merely with the command that the offering be brought without stating at what time of the day and implying at the usual time. Moreover D forbids the eating of leaven with the sacrifice, H forbids the eating of bread or parched corn or early ears until the *only* has been presented. While these disparities are not all which have been indicated, they are so great and so numerous that it is dubious whether the two sacrifices are really the same and are to be classed as identical. These differences more than likely indicate that we have here to do with two different offerings. But if they are the same, which is not likely, the differences are so important and so significant that it is not likely that two such laws could have treated of the same subject and yet have shown so few evidences of influence that the editors could have known of each other's composition. Either way, whether the view be one where the sacrifices are identical or when they are not, the conclusion amounts to the same, i.e. one looks in vain for any marks revealing any influences. Furthermore, H commands that the sheaf of the first fruits be brought and waved before God on the morrow after the sabbath. D knows nothing of this rite or *custom*. In D XXIV 19, we find a law with some linguistic similarities to this H legislation, as קניין קציר עמר which bears a slight resemblance to this enactment of the first sheaf. It enjoins that in harvesting, if a sheaf be forgotten that the proprietor is not to return to pick it up but is to leave it to the *levy* the orphan and stranger. It is strange that here is one of the few places in D where the list of dependents is given that the *levy* is omitted. It is doubtful

1. Jastrow Hebrew & Baby tradition. P 155ff.

(2). Wellhausen 88f. notes that the distinctive D contribution, original with him, of the celebration of a historical matter is ignored in H.

3. Wellhausen 100f. "These are new rites, feigned remains of old customs." a sheaf for whole community has been prepared from its connection. This is in fact a new, it not totally lacking corresponding laws.

whether this omission is accidental. It may have been intentional so that the author may not have his readers confuse this piece of legislation with the law of the first fruits or sheaf of the harvest, when it is given to priest. However that may be, the two laws are identical only except in certain few phraseological correspondences.¹

The law in D is another one of his attempts to alleviate the conditions of the indigents. But why omit the Levite? The legislation of D is easily recognizable as being based on C² (XXXIV 25b). This legislator merely alters and modifies his basic legislation by making all sacrificing to take place at the central sanctuary in contradistinction to the more ancient law which understood the rites as domestic or local. On the other hand, this legislation in H appears most primitive,³ regulating a sacred event in the spontaneous religious life of the community, where feasts are the natural expressions of gratitude for the harvest. The sheaf is meant to be an offering from every Israelite, as an expression of gratitude for new harvest. The legislation stands on the same plane as C¹ (Ex XXII 28 XXIII 19a).⁴ Not only therefore does H stand independently of D but seems to be pitched on a plane as primitive and ancient as that of the source on which D drew.

Elsewhere in D, we find a legislation descriptive of a rite accompanying the presentation of the first fruits which in contents slightly resembles this legislation of H which prescribes too briefly the usage of the presentation of the omer. The law of the first fruits D XXVI 1-11 is so full of typical D expressions and ideas that everything points to the originality of this passage. Strangely enough this legislative section is entirely framed in the same formulation as that of H XXIII 9-14. It, too, is to be classed as a Judgment, earlier form. Linguistically there are some very interesting correspondences, as the opening sentence, which varies only slightly from H. Thus D begins his law with the phrase *והיה כי תבוא אל הארץ אשר יי אלהיך נתן לך*

והיה כי תבוא אל הארץ אשר יי אלהיך נתן לך
 This latter expression is recognized as an addition to the ancient law by the hand of the non priestly editor.⁴ Now in neither H or RH is the term *היה* ever used. Moreover, RH always writes in the plural second person while D mostly singular. D also always uses the peculiarly D phrase, *אשר יי* which is never used in H while in RH always if ever used, in the plural. Moreover while this subordinate sentence is a characteristically D it is one however, which does not embody or reflect any particular D ideas or thoughts. It is one which could easily be left out of the lawbook and yet would not be missed. Therefore while in D it is peculiar, it is hardly likely that of all the important and essential sentences and ideas of D, this insignificant phrase should be the only one borrowed by RH. It is more than likely that here we have to do with a stock phrase which RH picked up and used frequently. Furthermore, this passage has several other expressions not at all significant which are repeated again in the H passage of XXIII 9-14, as *הכין* *ראשית*. Likewise common to this passage D XXVI 1-11 and H XVII-XXVI are the most usual and frequent words and phrases, *אשר*, *בא*, *כלל*, *לך*, *ישב*, *ורש*, *השנה*, *שנה*.

1. Paton JBL 18:36-7.

2. EB III Sub Passover, I Benzinger col 3589

3. EB III 3598 I 13. "The specification of this law go back to time earlier than fusion of legislation of Pesah and Matzoth which we find in text of D.

4. Paton JBL 18:36.

5. Or it may most like be a piece of ancient legislation older than the D reform taken over in toto, reflecting a time when the rite was otherwise provided for.

But overweighing the importance of these expressions are the many words which are not at all found anywhere in H, as, *גדלתי* [in the sense and connection here used].

וידר ויגר, ארמיאבד, ענית אמרה, לפני מזבח, הנחו עבד הקטה, ויענינו, וירעו, עמוס, גיר גדול, זאתי מעט ביד חזקה לחצונו, עמלנו, ענינו, שמעלול, נשעק, רבת חלב ודבש, מצבים, באבות, חורא גדול, דנוע נטויה

These many typical D phrases and expressions which are entirely absent in H reinforce the view I have all along tried to maintain that the laws are independent.

Now this independence seems to be further proven when we compare the contents. D XXVI 1-11 prescribes the ceremony and repeats prayer which takes place at the presentation of the first fruits. The offerer is commanded to bring of the first fruits of his fruit trees and place in basket and go to the central sanctuary and give to the priest and repeat the prayer. The priest takes the basket and puts it in front of the altar, and all shall rejoice of his household, together with Levite and stranger. Now there are certain features in common to D XXVI 1-11 and H XXIII 9-14. The central figure in the ceremony is the priest. *לכה*. The ceremony is to take place about the first fruits, D, specifying of the fruit trees while H makes provision only for the harvest. It is, in other words, a harvest rite.

Now the differences between these two passages go to prove the contention I wish to make, that both codes are entirely independent. H knows nothing of a prayer which would be just as appropriate, just as fitting for the presentation of the omer of the barley as for the basket of fruit of the fruit harvest. It is more than likely that this prayer is an original composition of D since it is so full of D phrases and thoughts. And if H had relied on D for his material what should hinder him from embodying this prayer as a part of his legislation in the presentation of the omer. Furthermore, D commands that the ceremony be accompanied with rejoicing and that the *ל* and Levite participate in the festal joy. H knows nothing of the Levite while in this presentation of the barley sheaf, no mention is made of this festival joyousness. On the other hand, H describes the rite of waving the sheaf, a rite entirely unknown to D, and a rite which too would have been most appropriate at the presentation of the fruit basket. D uses the expression *לפני יי אלמיה* while H *לפני יי*. In the D prayer itself ideas are also expressed which are not again found in H, as *אגיר אגיר, ארמיאבד*, the historical reference to the sojourn in Egypt and their vast increase in population. Also the description of Palestine as a land flowing with milk and honey. Sometimes the critics attempt to explain the omissions and differences as if the two codes of laws were supplementary, that all diversity is deliberate and all omissions are *purposive*. Now the only and sole way by which these striking differences can be accounted for in the comparison of these two laws is entirely on the ground that the editors were entirely ignorant of each other.

A piece of legislation bearing some relationship with this D XXVI 1-11 is the passage prescribing the peculiar popular usage H XIX 23-25. The institution described is undoubtedly very ancient as reference to it is found in D XX 6. The passage here constitutes also an original part of the original legislation¹. It is more than probable that in this chapter, this law on *ceremonial* and *ritual* matters is manifestly out of place. The suggestion¹ that that this section most likely belonged to the section of

1. Paton JBL 16:69.

account of the course of the history of the two institutions, then the silence in H probably means that its legislation is more ancient than the establishment of sacrifice of the firstling, and probably as old as C. If this is at all correct, which at best is merely conjectural, then this theory only tends to prove what a literal comparison has all along attested. I know that there are some who see in Lev. XXII 27 an allusion to the sacrifice of the firstborn.² But let me ask, why this taboo on the word *בכור*? Moreover the verse as it stands is corrupt.³ It has been tampered with by the priestly editor who probably changed its meaning and therefore in its present form, it is next to impossible to determine what H really meant. But let us assume that this verse is alluding to the sacrifice of the firstborn and that they should not be offered before the 7th day, we cannot help but see in it then a striking conflict with D. For the latter sets one age at which the firstborn is to be brought while H goes back to the original code C. Now only suppose as some do that the attenuated community after exile made possible this reversion. If that is the case, the conflict with D is not explained but emphasized. Is it not better to presuppose that H was in ignorance of D and therefore could make these modifications, modifications for which there are no reasons. It appears to me in this H XIX 23-25 that the law is in complete ignorance of D's law on the firstborn and that the compiler purports not to establish a place where the first may be presented but to stress and emphasize that the growth of the first four years belongs to JHVH and not Baal.⁴ It may be therefore that the employment of such words as *קדש* is to assent positively that until devoted by the distinct JHVH rite, they are entirely unclean to Him and therefore to the Israelite. Thus by the use of these words he proposed to point out that they are to be consecrated by the special JHVH rite to the God of the land JHVH. Therefore the concern of this author or editor is not the same as that of D and the absence of the identical interests shows their independence.

Thus by way of summary H and D shows a total independence. H does not show any knowledge of Passover and the presentation of the firstfruit in D XXII 1-11 is totally dissimilar to H XXIII 10-14 XIX 23-25. Even the laws on the firstborn and firstfruits, the slight thread of similarity is too frail in the light of the manifold differences on which to build any other theory than the independence of the two codes.

Both codes likewise possess legislation bearing on the Harvest festival of Pentecost. D XVI 9-12 H XXIII 15-20. These passages have not escaped expansion at the hands of later authors. Except for the last sentence of the paragraph in D, there is no reason to consider this passage as other than a part of the original D. The last sentence of this legislation gives the impression of being additional, as it adds nothing to the sense of this law which is at all necessary. Driver thinks that this sentence was suggested by the word *קדש* in the previous sentence and added this parenthetic exhortation. The fact that Driver is moved to explain this sentence shows that he was

2. Idem Col. 3593.

3. Addis II 352.

4. EB II Col 1511 Sub. Feasts.

5. Dr. Dr. 195. "The two loaves to be presented to J" prepared with leaven and implying in contrast to the barley-sheaf offered during the feast the completion of grain harvest."

ש"ס. (5) חו"ש ב' תש"ס. חק"נ ע"א

149 KN ... which goes in such minute details is so uncharacteristic of H that it discloses its priestly origin.⁹

Q. Steurnagle Dt Ad Loc.

- FOI b 7 - D

the latter is more nearly related to the primitive legislation than is D. Moreover C denominates the festival by the expression *חג המצות* while D employs a new name *חג המצות*. This innovation is absent from H who does not even speak of these one-day-harvest offerings as a festival at all. It appears as nothing more than a spontaneous observance with only a definite prescription as to the amount and kind of the sacrifice. In the latter code, the harvest is gathered in a hurry and the food prepared in the crudest and least prepared as *חמץ* which is closely similar to the Matzoth. When the harvest season comes to an end, the food is more fully prepared into loaves which require some time. Neither of these two preparations are known to D. Also H prescribes a practise of waving which is not referred to in D, a practise which is a survival of an ancient custom.¹ D prescribes a domestic meal in which all the family and indigent participate and then at the Central Sanctuary. H knows nothing of the such a repast but gives the two offering to the priest. If we assume therefore that the legislation in D antedates that in H, the differences and contradictions ~~and silence~~ show that they were entirely independent. Thus the ~~distinctive~~ distinctive innovations and novel modifications of D are, the name of the festivals, and the adaptation to the Central Sanctuary and the domestic meal at which all the poor and dependent are to partake. None of these novel features of D are to be found in H. H is not aware of the nomenclature ascribed this festival. He may prescribe the presentation of the firstfruits at the central sanctuary. ~~and he may not as his verse is subject to~~ ~~interpretations.~~ It is likely that H if he had relied on D would have allowed such vagueness in his text particularly when the code on which he depended made so much about this matter? Furthermore D and H are in apparent conflict about a family meal. If on the other hand, the use of the expression *חמץ* (not found in D but in C 1 & 2) may point to the antiquity of this law, despite its exactitude and definiteness with regard to the offering which may perhaps indicate a post Deuteronomic origin, then D did not derive anything from H but deliberately changed the text.

The codes likewise contain legislation bearing on the feast of *Succoth*. That both of them agree on the number of festivals only signifies that they are almost contemporaneous or that both are traceable to sources like C which have the three which are common to D and H. The law in D (XVI 13-16) is without doubt an original part of the ancient D code for there is no reason to consider this passage as any other than belonging to the original D. The law in H XXIII 39-44 was not as fortunate for it has undergone amplification at the hand of a latter priestly editor as the other legislation on the festivals. In vs 39 the definite dating of the festival in 39a points directly to the priestly editor which practise is not a trait of the Holiness Editor. In 39b, the expression *חמץ* used twice in this half sentence² as well as the definite determination and mention of eighth day also indicate the same editor.³ Verse 40 is entirely in accord with this primitive legislation prescribing the mode and manner of observance. The second half of the verse has the appearance of coming from the non-priestly editor. Vs 41b is entirely P as the characteristic priestly expressions are in complete evidence as *חמץ* *חמץ* *חמץ*. The first half of the verse is superfluous repeating the same idea as containing as in 39 A B. In vs 42a we have a law thoroughly in agreement with the ancient torath⁴ "42b is a mere reiteration of the

1. EB. 3651. I Benzinger

2. Idem. 3651.

3. CHCH 419 137C.

4. SBOT Lev pp 95-96.

4. EB Sub Lev. G.F. Moore.

while H does use the expression "before God" he is just as vague as D is definite on this subject of the central sanctuary. H also adds an injunction for the gathering of certain branches and the command to dwell in booths for seven days. These two items are unknown to D or rather not mentioned by him. The agreements and coincidences in these legislative passages are so natural and would arise out of the ancient source, the indefinite date, the rejoicing at the feast and the celebration for ~~seven~~ days. Except for the last, the others are alluded to in C. The disagreements are so great as to prove their independence. Thus the peculiar features, ~~the~~ the laws annexed by D are unknown to H and the variations in H are ignored by D. Now the common feature the seven day celebration may have been originated by D and copied by H but why if he took this small innovation, did he stop there? Why did he not also incorporate other features? Furthermore in imitation of C, D requires of every male that he appear before God three times a year and not empty handed either. This injunction is not found in H and may have possibly follow out of the original. But in this commandment D repeats the names of the festivals, ^{name} not appearing in any other code up to H. This ~~injunction~~ ^{name} ignorance on the part of H probably shows that H was entirely unaware of D.

Both codes provide some regulation for a sabbatical year though the provisions, except for the time, do not correspond. The law in D XV-18 has not in its entirety come down to us without expansion at the hand of later scribe. In vs 4-6, the extraneous matter and parenetic digression interrupts the sequence of the legislation. Not only does vs 7 follow naturally and fit in to completely to vs 3 but the spirit and contents are not in conformity with general tendency of D and contradicts the legislation of this section. Particularly vs 4 is in total conflict with vs 7 & 11 and vs 5 & 6 form a unit with and belong together with vs 4, thus compelling their omission with ~~the~~ the verse 3 is to be excluded. When these verses are deleted, it will be found that 7 joins onto 3 most smoothly, creating ~~with the same result as the original text and the~~ ~~reason for computing the passage as the passage as the~~ not the slightest disturbance.¹ The remainder of the legislation is in complete compatibility with the code and contains no adequate and valid reason for computing this passage as any other than that of D. The parallel passage in H XXV 1-28 presents considerably more different problem² as alien hands have greatly and ingeniously expanded the ancient text, and transmitted a version which makes the question of separation ~~at~~ most difficult one. In this chapter there is legislation on two different institutions, one providing for a seventh year release and the other a fiftieth year jubilee. That the ancient code contained the legislation on the former is ~~usually~~ usually conceded and no one has raised any doubt about the originality of this regulation as is contained in 1-7 and 18-22. Of course not this entire passage is original for this section could not be so fortunate as to escape the redactional hand of either the priestly or non-priestly editor. Thus vs 1 and 2 aa are recognized as additional settings by the non priestly editor who has expanded the law elsewhere by such framework.³ The remainder of the verse belongs to RH and H. Verse 3 is typically H, written in the style and diction of this ancient legislation. In 4 & 5 the expression ~~belongs~~ ^{belongs} betrays its priestly origin not only by its terminology but by its characteristic priestly language, as ~~belongs~~ ^{belongs}.⁴

1. Gornall Intro 54 Bertholet Dt 48. CHCH 158 a.

3. SBOT Lev 98. Addis II 360-1.

4. Paton JBL 18:44.

6. HDB Vol IV P 325 a & b

4. CHCH 419:137 c.

The next two verses 6 & 7 are written in the ^{parenthetic} tone of the nonpriestly editor and are to be considered as coming from his hand⁵ except the expression ^{supra} ~~נבב נבב~~ which suspicions by its plural number; by its needless repetition of the last word of ~~נבב~~ and by the fact that this word is never used in H and is a characteristic priestly expression.¹ Verses 18 and 19 correspond to similar sentences² the concluding exhortation while the parenthetic tone and homoleptic explanation that blessings will follow the observance of this law even unto the ~~twentieth~~ ^{year} year is not at all typical of the brief and pointed lawgiver of the ancient and primitive code. Therefore this passage is to be assigned to H.³

Now when we approach the question of the originality of the passage vs 9-17, we touch the problem at its sorest point. That the language of the section ~~in~~ in places characteristically H is unquestionable. Thus in verse 17, there are several typical H expressions, while in 9b the mention of Yom Kippur as an annual fast must be late⁴ belonging to P. Also vs 11 and 12 which superfluously applies to the Jubilee year the injunction imposed for the sabbatical year is clearly an addition and insertion by Rp, as it moreover interrupts the train of thought between 10a and 13 and furthermore "either 10b or 13 is redundant."⁵ Thus after deleting these verses from this passage, excluding all reference to the law of fallow field in the 50th year, that which is left, is in total ignorance of such an injunction. Its incongruity in this section is accentuated by the logical impossibility of its fulfillment. For naturally every seventh sabbatical year, makes the farmer leave his field fallow in the 49th year and if he is expected also to refrain from cultivating it again in the fiftieth, he will find it next to impossible to eke out his living or save sufficient for two year's of land idleness. It stands to reason that this ^{Septennial} law applied to the Jubilee year is the work of a later Rp editor who thought that the injunction might be better performed if ~~in the~~ year of fallowness ~~did~~ not occur so often as the 7th year. For this reason probably, he interpolated this passage with the identical verse taken from the passage dealing with sabbatical year.⁶ After omitting this passage that which remains shows no awareness of the fallow Jubilee year but knows only of a property return in the fiftieth year. The antiquity of this institution is shown despite the absence of any reference to it in D and C both the name employed ~~בן~~ which is an ancient ~~word~~ and by the fact that in vs 9 the year is to begin on the 10th of the seventh month which was the ancient new year's day, a sacred day long before the day of Atonement was established. That the priestly editor added the second half of this verse is proven by the inconsistency of an editor who could think of breaking in on the sacred and solemn day of Atonement by such a secular and profane custom as blowing on the ~~shofar~~ ^{shofar} throughout the land. To this editor who was commenting on this verse, this mention of the tenth of the seventh month, called to his mind only the ^{great} fast and the original signification of this day had lost its ancient meaning. That some should hold this legislation as unoriginal is an arbitrary view without basis in reason. Thus if ~~to~~ to reckon this passage as any other than H, the critics should, to be accurate, assign it to its proper source. If the legislation does not belong to H it ~~must~~ therefore be ascribed to P. But the language of this legislation is in places more nearly akin to H than to P. Moreover it is true

5. Moore EB III 2786 Sub Lev. ^{Paton JBL 18:44}

1. CHCH 416:110

2. Paton JBL 18:48. H DB Vol IV 325 note.

3. HDB Sub Lev Battersby (4). Idem SBOT Lev 99 8. EB Moore

4.7. SBOT Lev 98 line 33-36 Addis II 361-2-³ Lev III col 2786.

6. EB II Col 2615. Sub Jubilee I

that this institution is not mentioned in either JE or D nor in Jeremiah. But their silence on the matter is not a valid reason for claiming its lateness. In Ez 46 18ff, for instance, the use of this words ⁷¹⁷⁷ ~~7177~~ terms used in this law in the same connection and context indicate that the subject in mind is practically identical. In that prophetic passage, the author speaks of a redemption of the property and fails to mention which the period for such return is either the ~~septenniel~~ or Jubilee year. Benziger (EB II sub Jubilee) argues that because Jeremiah uses the word ⁷¹⁷⁷ in connection with the ~~manumission~~ manumission of ~~slave~~ in the sabbatical year that Ezekial had in mind the same period. But the difference between the subject matter treated in these two prophetic passages and the similarity of the subject matter as well as language of Ezekial with the law in the Holiness code appear rather to point to the fact that the latter prophet had in mind a redemption of the land every half century. And common sense would seem to bear out this view for it would be next to impossible to sell or rather lease land only for a brief period of seven years as even Paton thinks was originally provided for in this law. Only during a generation could such a lease have any value. That the concluding chapter makes only mention of the sabbatical year (34f) and not of the Jubilee does not mean anything. For in the first place, the passages in the final exhortations referred to, are later insertions by an editor who was struck by a violation of this law many a time, in fact every seven years while the other ~~perpetual~~ regulation could easily not have occurred in his life and therefore not have called for him any such observation. Moreover, that these sentences were interpolated in 28 means that they fitted in the context. It is hardly conceivable how in such an exhortation, unless the chapter was to become a resume how he could have incorporated a comment on the redemption of the land or a violation of this rule. Therefore the absence of any reference in the final chapter to this particular piece of legislation really means nothing. It neither proves that the ancient code contained such a law or did not. On the other hand, the use of special notation, the designation of the year as ⁵⁰ and the fact that the year begins on the tenth day of the seventh month, do prove that we have here to deal with an ancient piece of legislation. To ascertain and determine the original constitution and composition of this section is however another question and not an easy one. Before passing on to an analysis of the original text, it is of interest to note that in vs 35-39 we find a clue as to what the ancient legislation contained. It is evident from this paragraph and the subsequent legislation as I have shown in a previous connection that the manumission of the ~~Slave~~ in the 50th year was not treated in the ancient legislation. In vs 35-39, no mention is made of a sabbatical and Jubilee year but contained mere general prohibitions against exacting interest from a fellow Hebrew. In the subsequent legislation, the same facts have been ascertained. Now I have previously answered the question which has been raised that this legislation in its ancient form did not ~~comprise~~ ^{include} any commands about release or redemption of ~~persons~~ ^{but property} persons but property. ^{as made by a later priestly writer who was familiar with the D law and saddened by the probably experience that it was not being obeyed changed it, extending the period of release.}

Now reverting to the point we raised before this immediate digression, the original nucleus of this law provided for the redemption of property in the fiftieth year is clear by the separation of this passage on the basis of its diction and phraseology.² In vs 8, the thought is repeated in slightly different language and the question to be answered is which half of the sentence is original. It seems to me by analogy of XXIII 15 that the first part of the verse is to be reckoned as belonging to H or as Bertholet

1. SBOT Lev Driver pp 98 line 12 ff. Notes 2, 3, 4. are on following pages

not without good reason thinks. "H 2." I shall pass over the verse as its originality I have already discussed. In the next verse 10, there are clauses which are typically and characteristically H as ³ $\text{וְהָיָה בְּיָמֵי הַיְּבֻלָּה}$ (Ez XLVI 17)4 $\text{וְהָיָה בְּיָמֵי הַיְּבֻלָּה}$ (XVIII 26). In this verse, the use of $\text{וְהָיָה בְּיָמֵי הַיְּבֻלָּה}$ which is typical of P shows from whom this clause originated and to whom to be assigned. I have previously discussed verses 11 and 12 but there remains to answer Bertholet who would assign them to RH who combined H (1-7) and H2 (8-10). It seems more natural to ascribe these interpolations to P who borrowed them from 1-7 and sought to apply them to Jubilee celebration since the *Septuagint* rest was not being observed at his time. Of course, it must be confessed that the *much* of these verses is characteristic of H, but this is to be explained by our assumption that these verses were borrowed from an H piece. Verse 13 is probably more original than 10b with which it is identical since it is brief and to the point, a characteristic of the ancient H legislation. Paton holds that these verses ⁵ is Rp because of the use of the word מִן־הָאֱדוֹמִים which he claims to be typical of that author. But while this term may be usual or common to P, it is also found in the writings of the contemporary of H, Ezekial XLVI 16ff and thus shows that it was in use at that time. Therefore it appears that his reasoning is entirely artificial. Vs 14 ⁶ is also original as it contains such typical H expressions as $\text{וְהָיָה בְּיָמֵי הַיְּבֻלָּה}$ etc. The next two verses are but elaborations and superfluous amplifications of the previous laws probably by Rp. In vs 23 we have a priestly composition disclosed by the priestly expressions, $\text{וְהָיָה בְּיָמֵי הַיְּבֻלָּה}$ and $\text{וְהָיָה בְּיָמֵי הַיְּבֻלָּה}$ (cf XXV 30)7. The next verse (24) belongs to H by use of $\text{וְהָיָה בְּיָמֵי הַיְּבֻלָּה}$ and the manner of its presentation.8 The next verse too belongs to H. The remainder of the chapter up to verse 34 (25-34) belongs to Rp.

Accordingly now a study and a comparison of these legislative enactments with those of D (15) will disclose the absolute independence of both pieces of legislation. Since it is next to impossible to determine the original formulation of most of the laws in H, it is a gratuitous task to attempt to compare their style of framing. Notwithstanding the corrupt and irremediable character of the text, a brief study of this subject may not be entirely out of order. Thus the laws in D particularly XV 1-3 and 12-18 comprise a combination or mixture of various types and no dominant one running through the whole legislative passage. However that may be, the types employed are either the direct 2nd person singular or the conditional style of the judgments. In H the types are either the same used by D or commandments showing that they were written in the plural. Although the legislation frames are more or less identical, nothing of any significance is ~~attributable to H~~ adducible since such formulation would in this case only signify that ^{probably}

2. E.B. Moore. Col 2786 Sub Leviticus. 8 Bertholet Lev P 86.
3. Bertholet Lev 86.
4. EB Moore 2786.
5. Paton JBL 18:47 "who holds has no connection with Jubilee"
6. ~~Idem.~~ " " "
7. 16 & 17 Rp Moore EB. Sub Lev
8. EB Moore Sub Leviticus
9. SHOT Lev P 100 Note 13.
5. Paton JBL 18:50.
6. HDB Battersby Sub Lev.

as,

בטנה ששית את נאכל, ספיה קצירך תזר, יבנה, שבת לי, מרועה שפר, שבז שבעה, אהזכק, תשיעית, ימן, שמינית, דקור, עמיך, תשיבו איש, שנת יובל, דרור, קדשכם, בעטור, אצב

In this list are certain peculiar H expressions while also certain terms and phrases, essential and important for this law which are absent in D. In H XXV 20-22 we have a parenthetic digression in the style of RH which is in interest and aim closely related to D XV 8-11. If any one ever thought that this nonpriestly writer depended on D, a close comparison of these passages will disabuse his mind. For in the language, and contents differ radically. Thus D uses the epithet *שנת שמיטה* H has *שנת שבת* etc. showing alongside of this great linguistic ignorance that these two laws are entirely and positively independent.

A study of the contents will bear additional proof of this view. In the interpretation of these periodic institutions, many of the critics always assume without any reason that the variations and modifications between them are to be accounted for by certain historical facts and that the subsequent editors were fully informed of the earlier legislative elements existing in Pentateuch. I say, that this assumption is entirely without any reason and without that assumption, the explanation of the great differences between H 25 and D 15 is greatly facilitated. Thus D XV 1-3 order that every 7 years, years of release, that all debts between native born be remitted or the interest be returned. That from a foreigner may be exacted. Then the D lawgiver ~~digresses~~ digresses into an exhortation urging those who are able not to withhold any loans from those in need because of the approach of the 7th year. But to give and open their hands to the poor and indigent. Finally in striking similarity to C (XXIII 1-6) D ordains that in the sixth year all slaves be manumitted and those who desire to remain with their master must undergo a ceremony by which he becomes an *perpetual* slave. H orders that the land enjoy the sabbath of Lord every seven years, no sowing nor pruning nor harvesting shall take place during the sabbatical year. RH adding that all which grows of itself is to be left to the slaves, sojourners and animals to be eaten. Then he adds that fear that nothing will be procurable in the 7th year to sustain themselves will be groundless if all observe the sabbatical year for so much will be made on the 6th year as to last until the ninth. H also enjoins that every fiftieth year on the tenth of 7th month there shall be a reversion of all alienated land to its original owner and in the meantime, a near relative has the right to redeem this land for the benefit of the poor man who was compelled to sell it for "in all the land, there may be redemption." Between these legislative enactments of D and H, there is but one thing in common and that is, that the seventh year shall be set apart for specific and particular purposes. D demands the remission of debts in the seventh year and the manumission of slaves. H commands that the land be fallow during the sabbatical year and in the fifteenth that all land return to its original owners. Now in the ancient C, this old code knows only of the sabbatical year in which the field are to be left untilled and the manumission of the slaves in 7th year. This covenant code does not

1. EE IV Col 4180-1 Sub sabbatical year W.R. Smith that means remittance of interest on debt. For opposite of Bertholet Mt. 47. Wellhausen 117 f

know of the release of debt, a piece of legislation peculiar to D. But it is apparent from the law that the author is referring to an ancient source² when he uses the expression *וְכִי יִשְׁכַּח* showing thereby that there was other legislative sources besides those which have been preserved. The same things applies to the legislation on the Jubilee year, of the reversion of the land to its original owner for various references and allusions elsewhere in the Old Testament shows that the institution here prescribed was in vogue before the composition of *וְכִי יִשְׁכַּח*.³ The only question about the institution was whether ~~the~~ transfer of the land took place every seven or fifty years. As for a reply, I have fully and satisfactorily answered it. However that may be, all of these institutions are ancient. Now of what we possess of C, the close resemblance between D and it and the slight and ~~minor~~ modification is entirely explainable and accountable in the light of the reform of Deuteronomist. There is no doubt that the D law of the manumission of slaves is traceable to Judgments (XXIII 1-6) and the change and alteration was made in keeping with the dominant purpose of D⁴. Now save for this one similar thought, mentioned above, nothing else is common to these laws. The law of H XXV 1-7 is distinctly founded upon C which prescribes the fallowness of the land. H also ignores the law of D of the remission of debts. D calls this year, *שְׁנַת שְׁכַח* while H designates it by the term *שְׁנַת שְׁכַח*. Now H goes back to C and so does D in the matter of the sabbatical year. H like C is more closely confined to agriculture than in D which describes a seemingly more advanced state of society. H is somewhat more advanced than C in that he apparently makes his sabbatical year simultaneous throughout the land and not dependent on the individual. ~~for~~ H, therefore, gives the impression of being based on the same plane as that of the ancient legislation.⁵ However, between D and H there is nothing in common, but radical differences. Now if H should prescribe for the seventh year and yet ignore a law of D the inference is reasonable that the author was in ignorance of that law. The reversion of alienated lands to these ancient owners, perhaps resembling in aim D XIX 14, and the redemption of land before the Jubilee year, are entirely unknown to D. As we have pointed out so frequently H ~~seems to~~ ^{many times} rests on a plane just as primitive as that of the covenant code and here too, the resemblances between H and C are in evidence while to D there is ~~now~~, the sole deduction is only possible that H was unaware of D. Linguistically this same conclusion is arrived at. Now the writings and additions of non-priestly editor is greatly in evidence in this passage, bearing a slight and superficial similarity with D. XV 9-11. RH exhorts the people ~~the people~~ to carry out this law and to have no fear about the food as God will bless them with such prosperity that they will have ample to last them until the ninth year. While promising them a blessing in return for obedience, he fails to use this word *וְכִי* so common in D. On the other hand, D threatens them if they do not give to the poor with the ~~burden~~ of sin and promises the blessings (*וְכִי יִשְׁכַּח*) in all their handiwork if they are obedient. This difference in phraseology, and in contents is so striking that the few insignificant linguistic contacts which amount to nothing, ^{and} are absolutely insignificant in the light of so striking and pronounced a diversity. *

Reverting now to the point we made when I opened this

2. Steurnagle Dt Ad Loc.

3. HDB Vol IV 324ff. B Battersby sub Sabbatical year.

4. Addis II q6

(5) Wellhausen p. 118. "The impression made it impossible to doubt that Ex 23, 1-11 lies at the foundation of this law".

discussion of this subject, if we assume that H was familiar with D and framed these laws on this subject accordingly, making them differ from D as radically as it is possible then we are at a loss to explain in this assumption why H purposely went back to C for his important law and proposed a jubilee year which too is unknown and recognized in D. On the other hand, if we assumed that H was in total ignorance of D, did not know of him and did not follow him, then this divergence between them is explainable and the difference of language and manifold other disparities are entirely understandable. If we presuppose that H was acquainted with D, why did he not disclose this acquaintance by phraseological correspondence? If he was unaware of him, these linguistic and verbal differences prove their independence. If we think that H had some knowledge of D, why did he not make some reference to this legislation of D of which he has nothing and betrays not the slightest inkling? On the other hand, the absence of any such allusion proves alongside of the many other facts that D was an absolute stranger to H.

The next subject to be discussed is contained in the verses and passages listed under the subtitle, site of sanctuary. Before I enter into a separation of the D text, I shall first seek to discover the original of the ancient law of H. XVII 1-7 XIX 30b. In the first passage, it is easily found that the opening verses 1 and 2 are characteristic of P (Ex XVI 16-32, XXV 4 Lev VIII 5 IX 6) and are accordingly to be omitted.¹ This introduction of the Priestly editor recalls that this paragraph has not escaped the additions and insertions by the same hand. If we excise from this text all phrases which are distinctly and peculiarly his own, that which remains will reveal an excellent primitive law. Thus such Priestly terms and phrases as "in the camp"² or "outside of camp"³ "at the door of the tent of meeting"⁴ "to offer the offering of the Lord"⁵ "the priest shall sprinkle the blood"⁶ "shall burn"⁷ "sweet savor"⁸ "eternal statute"⁹ and "their generations"¹⁰ some of which are repeated in these verses, when they all are removed from the text, it will be found that their exclusion is done so at no loss to the sense of the passage but rather at an improvement of the sense. Therefore in removing these phrases, the verses which are left convey the injunction that all slaughtering is to take place at the altar of J.¹¹ In other words this statute contains two different laws i.e. I, all slaughter is to be sacrificial, II, and all sacrifices are to be offered at one sanctuary. The fact that this latter point seems to be entirely too elaborate and long drawn out to be in accord with the other laws which are brief and pointed, creates the impression of their being more or less additional. Moreover, the original H law-giver merely presenting the law without any appeal to obedience, feeling that as the law is the will of JHVH that that a sufficient and satisfactory motive. The exhortation in regard to satyr worship accordingly must be an additional to the legislation of 3f. It cannot however be assigned to P as such expressions as *לֹא יִשְׁחָטוּ עִזִּים וְחִמְרִים* are never used by him. Therefore since these verses 5-7 are analogous to RH passages in XVIII 24-30, XX 22-26, XXV 18-22. therefore I conclude that these verses belong to

1. SBOT Lev PP 85 line 4 ff.

2&3. CHCH P 419 No 120 a b.

4. CHCH. 416 No 111b.

5. CHCH 417-No 118 a & b.

6. CHCH 420:148. (7). CHCH 411 No 37.

8. CHCH 158 No 420.

9. CHCH 413:62c.

10. CHCH 414:76 a & b.

11. HDB Sub Lev H. Battersby. Addis II 336.

this same non-priestly editor. It consequently follows that the original law of this paragraph has undergone two different amplifications. (RP RH). Therefore the original law read that all slaughter was to be sacrificial and this non-priestly editor inserted ^{לִבְנֵי} between ^{לִבְנֵי} thus centralizing the worship. The question naturally arises when could such an interpolation be possible? It could not have occurred before the exile since it would have been impossible for the people to have brought their cattle to the single and Central Sanctuary for slaughter as the distance was too great. It appears more natural to suppose that the only time such an ~~insertion~~ was possible was during the exile when the attenuated community was living around the Temple and there was no extra hardship to carry out this law.² However this interpretation is naturally dependent on the meaning of this expression ^{לִבְנֵי}. If it means ~~central~~ a central Divine Residence, it stands to reason that it could not have stood in the original law which show many evidences of being older than D. On the other hand, if it merely means any and every place which is considered as divine dwelling places as so many local shrines,¹ then naturally this word could have stood in the original legislation. It seems to me that the additions by RH which explains his insertion for us by the sentence that to the end that they shall no more slaughter in the ^{open} field and to satyrs shows that he intended that the sacrifices were to be carried to a central sanctuary. This view is proven by the fact that the priestly legislation in 21 & 22 seems to imply a simple sanctuary (XXI 10ff). However that may be, whether it is to be assigned to the ancient legislation or the non-priestly redactor, this much is certain, that if it is a part of the primitive law, its meaning is not the same as if it was added by the redactor and for our purpose comprises a part of the text which is of interest to us.³ The other passages in H XIX 30 XXVI 2 which has reference to the sanctuary or sacred place both cannot be original. While no one questions the original validity of these verses, the fact that both of them appear in positions which are confessedly unnatural. Thus in XIX 30, this legislation has nothing to do with the previous or the following and seemingly interrupting the sequence. The same applies to the other reference. It is possible that since this chapter (H XIX) largely follows the outline of the decalogue that this law perhaps connected on to the legislation of sabbath obedience in that part of the chapter where it naturally fitted according to this scheme.⁴ The parallel passages in D are in reality the most oft repeated sentences in the book and is rightfully to be termed its basic ^{principle} rule. (XXII 11 5 14 18 26 XIV 23-24-25 XXVI 2 XV 20 XVI 2,6,7,11,15,16 XVII 8,10, XVIII 6-8.) It is to be noted in these citations that majority of them occur in chapter XXII and naturally so since in that passage the main and primary theme of this law is the centralization of the worship while in the other passages referred to, this rule is incidental, that is the main matter of these laws is adapted to this basic and fundamental rule. Outside of D XII and XVIII 6-8, the originality of the other passages has already been proven therefore I need not here repeat it. As for XVIII 6-8 we shall later discuss its validity. There remains to analyze the other passage D XII. In this chapter

~~2. HDB Sub Lev. II. Batteredly Adds II 386.~~

3. Bandissen HDB IV P 82a Sub Priests.

1. Paton JBL. 16:36-37.

2. EB. Moore Sub Lev. Col. 2784.

5. For full exposition and complete analysis of text see Paton 16:34 EB Sub Lev. SB/T Lev.

4. Paton JBL 16:53.

tering upon a discussion of the contents of these passages, let me call attention to the most frequently repeated expression in D. Including the plural passages of D XII, the sentence which practically sums up the Deuteronomical reform is found in the D code nineteen times. (XII 1,14,5,18,23 ~~XXXXXX~~ ~~XXXXXX~~ XIV 23,24,25, XXVI 2 XV 20 XVI 2,6,7,11,15,16 XVII 8,10 XVIII 6-8). The basis of this sentence is the clause **המקום אשר יבחר יי' אלכך**. With only slight variation, this combination practically runs throughout the entire number. This clause is expanded by the addition of the phrase **לשכן שמו שם** and once the word **לשכן**. Twice this basic sentence is expanded by the addition of the clause **לשם יי' אלהינו**. Now of course, the meaning of this sentence is that the efficiency and validity of the local shrines no longer obtain and that the worship is restricted to the central sanctuary (**מקום**) which God chooses to cause his name to dwell there. Now the opposite of this law in the Deuteronomical expressions are **בכל מקום אהבתי לעמי**

לשכני which mean stand for the religious sites before the Deuteronomical reform. Now the comparison of these expressions with H show how absolute was the independence of H. In the first place, nowhere in the Holiness code are to be found the terms, **יבחר יי' מקום** **לשכן שמו שם**, **לשכן** for these words, H has **מקום** (XXVI 2). This latter word never occurs in D. As for **לשכן**, some one has hinted to this D expression **לשכן שמו שם** as its origin. This is absurd for the reason that of the nineteen times that this fundamental rule is repeated in D, this word only occurs five times. Then too, the expression **לשכן שמו שם** is never used in D but only the phrases **לשכן** which is sometimes used as a synonym of **לשכן שמו שם**. Moreover H or rather RH uses as an opposite for **לשכן**, the expression which is **לשכן שמו שם** found in D **לשכן שמו שם** while D employs **לשכן שמו שם**. Now is it likely that this one term used only once in H would be derived from D's pet expression when every other reference to the sanctuary reveals his ignorance of D's language. This phrase without its several modifications which occur so many times in D, and which might be termed his own peculiar composition, is never remotely repeated to, or slightly repeated in H. But what is more to the point, this word used by H. **לשכן** may not even mean the single sanctuary at Jerusalem but may indicate rather every place where God cause his name to be mentioned. Now this may be its interpretation, thereby creating an ambiguity for the meaning is very indefinite. Now is it likely that H would have taken a very vague and obscure word to denote a thing which in the book of its origination this very thing is so stressed, emphasized and clarified. The origin of this is to be looked for elsewhere since H so totally ignores the usual D phrases and expressions.

Now D orders that sacrifices should not be offered in any place which one may hit upon but only in that place which God will choose. There all tithes, firstlings and vows are to be ~~presented~~ presented and there all domestic meals are to be observed. This law may be mentioned as embodying the fundamental reform of D and according to it all the legislation is rewritten and in conformity with it, it is being reframed. It is for this reason that this enactment is repeated nineteen times, that he might keep it in the forefront of his code. As the ancient local shrines had a great hold on the popular imagination, it required constant repetition to impress upon the people precisely what D proposed and that he meant to abolish these various sanctuaries and to establish in their place one single shrine.

The law in H¹ forbade the slaughter of any animal except before God. RH elaborated upon this legislation by first inserting the term ¹סוּכָה probably concretizing the worship and then adding the motive and appeal, that children of Israel shall not sacrifice in the open field to the satyrs after whom they go awhoring. Now between D and H¹ there is nothing at all in common. D has in mind a single sanctuary. H¹ is prescribing for many shrines. The very conditions which D is seeking to abolish H¹ is legislating for and not at all discountenancing. RH would hardly have chosen or developed a word for sanctuary² from a modifying phrase of D without elsewhere showing his familiarity with that law. Yet in these additions, H uses certain pet expressions אֶמְלֵךְ, אֶמְלֵךְ never used in D, and not any of his expressions in these sentences like these in D XXII. For that reason more than any other RH is to be considered as independent. But if we think the expression ¹סוּכָה really means single sanctuary³ it does not necessarily follow that RH adopted it from D⁴. For in the first place, D is agitating for a reform in the local cult. He is contending for an institution and indirectly for the disestablishment of many shrines. "RH rather assumes than demands that there must be but one place of sacrifice."⁵ (XXI 12-20 XXVI 31) yet the abuses of this central sanctuary was still prevalent as he condemns the worship of satyr in the open fields. He would be just as much in right to make the same agitation and he would have made it if he had been familiar with D and cognizant of such conditions. He could not have helped himself. The impression gained by a study of the Holiness code is that the temple, a single sanctuary was in existence with its priesthood and high priest could not leave the sacred precincts. It was an institution already established, and known which RH was here providing for and not in imitation or following a law which brought about the conditions which was a fact for RH. In other words, RH as well as H reveal no knowledge at all of D. RH is familiar with the single sanctuary, and institution created by D. This destruction is significant. It proves the independence of H of D but not of the central sanctuary. This is moreover proved by the fact the ¹סוּכָה mentioned in RH were probably the satyrs who replaced the duty or duties which were worshipped at the local shrines. Despite the dominance and preeminence of the central sanctuary, the people still worshipped at the shrines. RH therefore, recognizing the evil of such worship, acknowledged anew the central sanctuary. Therefore neither for a familiar, linguistic or substantial reason, one we permitted to reckon H and D as anything but independent of each other and not manifesting the slightest signs of such relationship as dependent.

I shall now finally pass over to a consideration of the legislation which deals with the priests and prophets and the particular lay customary rites. Nu. XV 37-41 Dt. XXII 12. This last subject shall examine first. The law in Nu. XV 37-41, (reasons for assigning to H,⁵ have been given in a previous connection) has not escaped expansion at the hand of RP. Thus 37 & 38 aa are settings by the priestly editor who added these sentences to make the law conform to the remainder of the legislation. The word ¹סוּכָה is priestly as already shown. Vs 38b is probably from same

1. EB. Sanctuary by G.F. Moore. Sub Col 2065 Vol. II.
2. Cf. H XXVI 11. This expression here reveals an independence of the expression in D in which the root of the word occurs.
3. Puukko 60. In prophetic literature Temple understood as "Residence of God"; Am 12 Is. 12, XVIII 7 Jer. XIV 21 Ez. XLIII 7 Is. 6. (1). EB. Col 2738b.
4. Bertholet Lev XVII 4. (8). Puukko Dt P 47. Dt Dt 136.
4. Paton thinks this word adopted from idea expressed in Ex 20:24. JBL 16:37.
5. Paton JBL 16:66 Gray Numbers ICC PP 182 ff CHCH 273.

plicable and non-understandable why he should have omitted any reference to him. Certainly the attitude of D was one of more or less of concealed hostility notwithstanding the fact that his work contained a great many of the prophetic teachings. In H, these so-called prophetic ideas are not lacking but dominate certain chapters. Yet his ignorance of this class of religious teachings is surprising. These facts all tend to prove that H or RH were in complete ignorance of ~~the subject~~ D for a knowledge of the latter work would surely if it has done nothing more, called to their attention this special legislation, which would have more or less found fit and appropriate place in his code. As it is, this omission in H adds proof and argument to the view which I have all along maintained, that H was not cognizant of D.

The next and final subject which is partially treated in both codes by special legislation is that concerning the priesthood in all its phases. H 21 & 22 D XVIII 1-8. Each code deals with this subject ~~in its own peculiar and particular manner~~ in its own peculiar and particular manner, D interested in one phrase while H is concerned with another. Before we enter upon a comparative investigation of these chapters, it is necessary first that we get a clear understanding as to its original composition. Therefore an analysis of H 21 & 22 is here in order saving ourselves interruption if we seek to ascertain the originality of the entire legislation rather than attempt an analysis of each sentence or paragraph as we scrutinize it. In the passage XXI 1-9, save for a few insignificant insertions of RP, the legislation has been preserved to us intact. Thus in verse 6, the expression ~~and the opening sentence up to~~ ^{the opening sentence up to} and the opening sentence up to ~~the opening sentence up to~~ ^{the opening sentence up to} setting in the language and spirit of P² are derived from the priestly editor. In this residuum which contains the nucleus of ancient ~~laws~~ and primitive laws we come across some amplifications by the non priestly editor who comments and appeals are so typical. While of course it is not always necessary to distinguish between the primitive and redactional expansion except in so far as these additions may have a resemblance to D which ~~might~~ ^{ought} raise the question of its origin in contradistinction to the legal passage to which it is attached. Thus, off hand, it is evident from the various criteria which we have pointed out to show the basis of separation of H¹ and RH, that verses 6 7b 8b, are from the hand of the non-priestly redactor. The opening laws 2b and 3 are typical of H both because of the use of ~~the~~ ^{the} which are characteristic of this primitive

codifier and because of the legislation style of beginning the group with a general precept and following it up with a series of particular law. Verse 4 is in its present form in a corrupt condition but by changing the word ~~to~~ ^{to} to read ~~the~~ ^{the} the sense of the verse is improved and such a law finds a proper place in this paragraph. Verse 5 is original as we have pointed out in a previous connection. The next verse 6 & 8 as indicated above is written in the usual hortatory style of the non priestly editor, cf XI 44, XIX 2 XX 7,26 XXI 8 and as it is not strictly legislative matter but explanatory and motive giving, can be considered as none other than his. Verse 7a is generally recognized as H, written as it is in the usual style of the original legislation.⁴ The second half of the verse as a parenthetic ~~and hortatory appeal is from non-priestly editor.~~⁵

1. CHCH 417 No 118. Paton JBL 17:15. SEOT Lev P 91 note 1.
2. EB. Moore sub Leviticus.
3. Paton JBL 17:150
4. Idem 151.
5. Idem 152 EB Moore Leviticus.
6. Paton JBL 153-4
7. EB Moore Leviticus.

While in this sentence the phrase ^{הַקֹּדֶשׁ} is like the priestly addition, the change of ^{וְשֵׁנִי} makes it conform to the Holiness legislation. On the other hand ^{וְשֵׁנִי} is never used by PC. and therefore the entire verse points to its non-priestly origin. In vs 4, the recurring priestly expression ^{וְשֵׁנִי} is recognized as distinctive of this editor. The phrase in verse 4 ^{וְשֵׁנִי} is assuredly from RP as is seen in Lev. XV 16, 17, 18, 32 AIX 20 Nu V 13. With the ~~omission~~ of this verse, the remainder is an old rule of H¹. Verse 5 save for the last two words ^{וְשֵׁנִי} (Lev. V 3f XI 26 XVI 16) belongs to H¹. (2) All of verse 7 without doubt belongs to H as there are no expressions which come from RP. We have previously discussed vs 8 and need not here be detained with unnecessary repetition. In verse 9 we come upon the same hortatory editor whose style, so marked and distinctive we have met so frequently in H. In the next paragraph, AXII 10-16. the entire passage has come down to us with the least priestly expansions and has survived well-nigh intact.² In vs 11, ^{וְשֵׁנִי} is P as is ^{וְשֵׁנִי} from priestly passage ^{וְשֵׁנִי}. XVII 12, 23.⁴ In 12, ^{וְשֵׁנִי} is contrary to the H usage and is priestly.⁴ Verse 13b- is a mere repetition of the general prescription in 10a and is here entirely and wholly superfluous.⁴ In 14, ^{וְשֵׁנִי} is a characteristic expression of P and the whole verse except this word belongs to H which is entirely in disagreement with a somewhat similar legislation. (V. 14-26). Verse 15b is priestly.⁴ In 16 the word ^{וְשֵׁנִי} is from the priestly editor, while the rest has the earmarks of the non-priestly editor. In a previous connection, we have analyzed the next section of this chapter and we need not here go over the details of that exegetical analysis again.

In the parallel laws of D, we have previously determined as far as we were capable, the originality of the passages in D ^{וְשֵׁנִי} bearing directly on the priesthood, except the ^{וְשֵׁנִי} priestly legislation in D XVIII 1-8. This paragraph presents considerable difficulties. Verse 8b is entirely unintelligible and attempts at recovery have met with little success.⁵ The most satisfactory solution of this difficulty contained in this paragraph seems presented in the most valid and plausible theory of Bertholet.⁶ This passage originally contained the law into which was worked the later introductory passage D X 8. Now if this inworking is omitted and removed, the text reads ^{וְשֵׁנִי}. It is probable that this ancient law contained the introductory sentences of X 8 on the edge as an explanation and then some later scribe did the inlaid work, of this present text. Now if in the first verse, the words ^{וְשֵׁנִי} and vs 1b are omitted together with verses 2 and 5, the law reads more smoothly. Some have seen in verse 4 a conflict with XIV 22ff but as Bertholet ^{וְשֵׁנִי} has shown, the contradiction does not exist if the ^{וְשֵׁנִי} is and ^{וְשֵׁנִי} are not identified as the same. With these exclusions, this passage comprises the only special ^{וְשֵׁנִי} legislation dealing directly with the ^{וְשֵׁנִי} Priests.

In the comparative study of the language of H 21 and 22 and D XVIII 1-8, let me call attention that in various previous connections, I have treated of the linguistic peculiarities of several paragraphs of these chapters in the holiness code. ~~When there is no philological contact between these sections and this particular passage~~

1. Paton JBL 17:162. EB Moore Sub Leviticus.
2. Paton JBL 17:163.
3. EB Moore Sub Leviticus.
4. Paton Idem 165-6.
5. Puukko P 66 note.
6. Dt. 56f.

7. All of verse 6. except ^{וְשֵׁנִי} belong to Rp. as noticed through and expressing as found in unquestioned comparison of this, as, Lev. 11²⁵ 25, 32, 39, 136 14²⁹. Paton JBL 17:163

מדת אשך, כלם, ירב, תכלו בעט, דק, חבן, שבר דגל יד, שרוע, חרס
 בכה, בלחמו, ילד במו, יקנה, תושב כהן, כלזר, לא יגש להקריב
 כהן המלחמץ, יחללו, שארו, הטיצו עון, חמשימי, חללם אביה, כנעוריה
 חללה, הרועה, מקדש, בגדיו, לא יסרו, נאשו, לא יסרו

These expressions may be termed the essential ones of both legislations and the absence of these many particular terms from the opposite parallel laws corroborate the view of their independence.

As analysis of the contents of these particular pieces of legislations will reveal their independence D XVIII 1-8 with the exclusion of additions and insertions, defines the revenues of the priests and the shares of the sacrifices and the offerings which belong to them. The law also provides for those Levites who sojourn in the rural districts that voluntarily come up to Jerusalem and minister there, they too shall be entitled to an equal share with the others. H XXI 1-9, prohibits a priest to defile himself for a dead person except the nearest relatives and the practise of certain mourning rites. It also restricts his marriage to only a virgin. In H XXI 10-16 the same prohibitions are taken up with the chief priest, making the restrictions more rigorous in his case regarding the practise of mourning customs and marriage. In XXI 16-23, the law forbids the sacrificial service to any one who has a blemish as blind, lame and mutilations or superfluities or with broken arm, and leg, humpbacked or with scab, eye trouble or itchy or scabbed or emasculated. Of the bread of his God and holy things, he may eat. In XXII 1-9 all diseased persons shall separate themselves from the holy things, any one who is leprous or has an issue shall not eat until he is clean of every at evening or person who has touched a dead of anything or person who is unclean, shall not eat of any holy things. In XXI 10-16 none who is of the priestly family may eat holy things nor a Toseb ~~ochet~~ with a priest or a hired labor. But a slave or one born in his house may eat, or a priest's daughter who is a childless, divorcee or widow who is residing with her father. Anyone eating of holy things shall return it with the addition of a fifth part.

Now the first thing which strikes one in a review of the enactments is the different idea that each lawgiver has concerning the priesthood.¹ This disparity is first noticeable in the designations used. D speaks of Levitical Priests, Priests and Levites. In D he is concerned defining the difference, underlying the class. The Priests or Central Priests are those who are officiating

at the Central Sanctuary. The Levite different from the ~~כהן~~ is one of the priestly family living outside of Jerusalem. This distinction is seemingly unknown to H. He never uses the expression ~~הלוי~~.² H only knows of the priest and never speaks of them as ~~יהוה~~ but always in singular and probably collectively. The absence of this distinction in H, a distinction which is first made in D and distinctive and peculiar to H, shows that the Holiness code could scarcely have evolved out of D and yet manifest no knowledge of this difference in the priesthood.

Moreover H uses the phrase nowhere else found in OT for chief priests ~~הכהן הגדול~~. These officials may be referred to in D XXVI 3 when the law speaks of the priest in the singular but this is nothing more than a mere conjecture. However, the chief priest as an institution was bound to develop when the worship was centralized and single place of sacrifice established and this headship of the priests who were considered as one ~~inter Parces~~ represents the next stage after the establishing of one sanctuary. It was a development within the priesthood. Its direct origin however, is not traceable to D code. It grew out of the institution as it evolved. In these two features, therefore H reveals a complete independence of D.

Now as to a comparison of these codes with regard to their prescriptions outlining the various functions of the priests. In D XXIV 8 the priests are to regulate and

1. HDB II P 67. W. Bandissen sub Priests and Levites.
2. H XXV 32 is late CHCH 271 etc.
3. Y. HDB II. 74 f. Bandissen, who gives the functions of the priests according to D, which are unlike those given in H.

prescribe for the community in the event of an leprosy epidemic. In XIX 17 etc. they are to function as the Judges whose decisions are represented as emanating from Above. A function traceable to this early duty of guarding the temple oracle. Of those priestly duties, the Holiness codes says nothing. It is therefore surprising that in these law codes, no mention should be made no attention called to this function which the priests would tend to guard jealously. If this code had relied on D, this law-book would not have ignored them.

Now in the matter of priestly duties of cleanliness, D is in absolute ignorance while H is plenary with details. Neither priests nor chief priest are to be defiled by contact with dead and the marriage restrictions are equally as prescribed for both. In D, as pointed out, the distinction between the priests and Levites as more or less based on material foundation, but not any distinctions carrying any idea of classes as both are on an equality. In H, we get a distinction based on the standard of holiness. The chief priest is to observe more severe rules of personal holiness than is the ordinary priest. This distinction is absent in D. In H we begin to come in contact with a *developing* hierarchy, rudimentally showing classes distinguished on bases of holiness. In D we see not the slightest evidence of this priestly caste forming. These laws of cleanliness regarding the officiating officials are absent entirely in D and show that they are to be traced to another source than D. That the sacrificial victim had to be perfect is explicitly prescribed. That they who offer it is indirectly hinted at in XII 22b. Exactly what distinguished the clean and unclean is probably meant or referred to in the other legislation. In H XXI 22 the blemished the unclean may eat of the sacrifices and holy things, while the diseased can not (H XXII 1a9). D is probably referring to a priestly legislation which is the antecedent of this Holiness law.

According to D, the *לֶחֶם* (XII 26) which probably are the firstlings, tithes etc.¹ may be eaten by all, the poor and Ger and Levite. The halo of holiness does not encircle these offerings which were anciently enjoyed and relished by the entire clan. In H XXII 10-16 the holy things cannot be eaten by *every one*. It seems it falls entirely to the priest and only those who are definitely included in his family can partake of this offering. Nor can those who are on the rim of the family circle can share and participate in a meal in which the *לֶחֶם* are eaten. These distinct views give the impression of conflict. According to H any partaking of these offerings is liable to a fine, another idea wholly absent in D. This pedantic family definitives and limitations are unknown to the broad philanthropic spirit of hospitality of D. It stands to reason that the author of the latter could not have written this production with any knowledge of the former without in some way alluding to the contradiction and conflict. In D, every widow and orphan and poor person may eat of the *לֶחֶם*; In H, a widow with children is excluded so *casualties* *for* the priestly spirit because in H XXII 10-16 and then only a widow whose father was a priest *and who resides with him*.

Now by way of summary of the various points which I have endeavored to make, the comparison of these legislations listed in chapter reveals that H in the matter of legislation on sacred laws, seasons and places is based ~~on~~ on the primitive legislation of C. ~~the~~ D. The RH amplifications which are later than D manifest no contacts with Deuteronomy. In this legislation D has greatly changed the

1. EB. Vol. IV Col 4197 sub. Sacrifice.

laws he has received in conformity with his measure of Reform, and ~~these~~ distinctive features of his legislation find ^{no} reflection whatsoever in H. As for the legislation on the priesthood, D and H have no points or ideas in common and it stands to reason that together with certain conflicts that the conclusion is borne out that the codes can only be considered as absolutely independent products independent of each other.

CONCLUSION

Chapter XI

On various occasions in the course of ^{the} inquiry, we have called attention to the marked distinctiveness (1) of each code and have set out certain characteristic features of the two law books. We have noted how easily recognizable they are that no one can fail to distinguish offhand a Deuteronomic passage from one of the Holiness Code. The characteristics of the two are too well marked and conspicuous not to be sensed instantly. Their literary style, their preference for certain invariable expressions, the selection and modification of their legislative material, more or less with a view to a certain programme, constitute aspects of their individualities. Before passing on to a summary of the results of our investigation, there yet remains an examination of still another aspect of these codes, a comparison of the aims of their separate legislation and a consideration of their motives, ^{and} appeals to obedience. It becomes clear to everyone who scrutinizes these two law books that the compilers in composing and collecting their various laws were moved by other purposes and objects than that merely of gathering together the diverse legislation with the view to preserving them, and of writing them down to keep them from being lost. The unity of the separate codes, which is proven by their own peculiar ^{and} spirit, gives to us an altogether different impression. If their object was merely to preserve ancient legislation that they wrote them down, (2) surely there would be no need to work over certain laws nor to add admonitions nor insist on certain special features as they do. While they did not desire to have these laws disappear, they were actuated by higher and loftier motives. Their hope to conserve these laws were incidental to more important plans. For after all, is it not the purpose of every author when he writes down his composition to keep it from dying?

So aside from that secondary object, the editors of both products had some very definite aims in mind when they composed their separate works. One does not have to read Deuteronomy twice to realize that its author was above all insisting on presenting something and stressing something near and dear to his heart. His insistence on this which lay so close to his ~~heart~~ gives one the impression rightly that he was intent on introducing something new in the religious and cultural life of his people. The reformation he was working on and out is closely connected with his name that we need not dwell over much on it here. The first thing he sought to accomplish was the establishment of a single and central Sanctuary where all the worship consistent with the traditions of his religion could and should be carried out. This innovation entailed a number of modifications of ancient customs and laws, and we can not help but marvel at the practicableness of this reformer who could make such excellent provisions and see so far and wide the effect of his great change. It is because of this that his great institution stands out in Preexilic Israel, as perhaps the greatest single reform of those times. Thus he is radical in his denunciation of all high places and shrines, denying to them all religious validity. And in accordance with his central aim, he is prudent and careful to make provision for the priests, who are thus dispossessed, at the Jerusalem Temple. He also foresees the need of local centers of justice where the priest formerly ministered and provides for same. He is not blind to necessity of altering the ancient and time honored custom of observing the festivals either at

1. Moore, in EB, under "Deuteronomy." 2. Stade quoted in Holzinger

home or at the local places of worship and at one stroke he makes the necessary change. Even the law about all slaughtering being sacrificial ^{which} cannot fit into his new scheme is changed so that it would not conflict with his new institution or the whole reform would collapse. No one, therefore, can be blind to this primary aim and object of the Deuteronomist. From this expressed purpose, we are left to infer an ultimate and implied purpose. It has been pointed out that about the local shrines there clustered a number of heathen rites and each high place was a center of alien practices and customs. So long as these local hallowed places were permitted to exist, they continued to form the foci from which would spread and grow these now-Israelitish rites and customs. This very existence was the nursery of these foreign usages. It was evident to the men who hoped to purge their religion of these strange customs that it was an impossible task, so long as these places at which they were associated were permitted to survive. The worship at these very places guaranteed that they ~~could carry out and~~ continue to perform these heathen rites. They could not obliterate the one without at the same time destroying the other. It was too, easier, far easier to guard the purity of the worship of one altar than to purify the services of many, scattered over the country. It was easier, far easier to change and to bring a change at one temple than to correct many rites of questionable origin and suspicious ^{value} ~~meaning~~ performed at many shrines. It stands to reason that if it is difficult to change one such worship, the difficulty is only multiplied, if there are many, ^{as many times as there are} ~~as many times as there are~~ ^{shrines} which need and require reform. Therefore when the reformer with one such stroke, invalidated all these various shrines, did he not really despair of ridding his religion of these heathen rites so long as they existed, and for that reason ordered such wholesale destruction. It seems that his reform was actuated by the one great distant purpose of purging his religion of all distasteful heathen practices and to him it was better to sacrifice the many shrines than allow the purity of his religion in this wise to be polluted (1). That back in his mind lay some such hope is evidenced by the direct command that beside the altar at Jerusalem, no such stela or trees be set up. These symbols of Canaanitish worship were reared beside every local shrine.

Therefore to sum up the main and immediate aim of D was to centralize the worship at the central shrine and remotely to eradicate all alien elements from his religion. That he was practical was instanced by the many new provisions he made and the alterations of the ancient laws he did not hesitate to adopt. But even back beyond this purpose lay the hope and determination that by eliminating all heathenish customs and beliefs from the ^{Jahweh} religion was to establish a pure and holy community, or rather nation (2).

The idea of holy which the concept conveyed is one entirely at variance with the one we today understand. And the holy nation which the lawgiver wished to guard was one not contaminated by such rites (3), which while practiced in the worship of other Gods, and then legitimately, would make unholy one employing them in service to ^{Jahweh}. Therefore to protect the nation from such rites and usages which were associated with other Deities, the lawgiver prohibited them in ^{Jahweh} cult (D 12: 29 ff) and forbade the

(1) Budde History, ^{Druck} DT XXVII

2. Brit. Encyc. Sub. 'Holiness' by Stenning.

3. Holzinger ^{Einl.} ~~Einl.~~ 324 - f

intermixture in *Jehovah* of elements of heathen cults. Positively D's desire was to aid and assist Israelitish religion to develop without assimilation of foreign ideas, on its own resources, isolated from the rest of the peoples. Positively too, it maintained the inviolability of the Temple at Jerusalem.

Throughout the Book, the lawgiver is never forgetful of the needy or those especially whom the reform deprived of their livelihood. He is ever urging with the tender solicitation that succor be extended these orphans, widows, strangers and Levites. Of course by the last He has in mind those priests who had been dispossessed and who for some reason or other refused the invitation to go down to Jerusalem and share with the other priest ministering there. His solicitude for those in need has not failed to attract the attention of His readers. Every alteration of the ancient institutions, which depended on the many local shrines, that He wrought, so as to make them conform to His great Reform, never omitted some provision for those dependent on the mercy of the community. This spirit of humanity pervades the whole work. This spirit of charity permeated every peice of legislation, with some *few* exceptions. It was not surprising that some have thought, because of the prominence of this *motif* that the author's real aim was to promote and *develop* generally such a practice of philanthropy.

Linked up with his idea of developing a holy people, was one which was also charitable. For holiness to him also meant humanity (28,9 - 24, 19 - 26,12 ff). Of course I do not believe that with him the idea of humanity was inextricably bound up with his conception of exclusivism for he is very solicitous of the stranger, the one who takes up his permanent residence with the people of Israel. But his stress on humanity is really to be explained not so much as an aim of the author, as a resultant of his reform. In the pre-Deuteronomic days, each of these classes of needy folks were in some way provided for at the local sanctuaries. When they were abolished, he was obliged to make some sort of provision for them; since he could find no institution to serve them as did these ancient holy places, he was compelled to fall back upon his appeal to the tender mercies of the people. Therefore we have no right to claim that it was one of his aims in editing this book to provide for those in need. This fact largely accounts for his great insistence on Humanity (1). They had to be provided for in some other way, now that the places at which they derived their succor had been eliminated from the life of the people. In the light of this, it is not at all inexplicable why he was so urgent that the people do not forget them. In the consideration of the aim of the Book of Deuteronomy, this emphasis on humanity need not concern us and his appeals to the mercy of the people do not need to be studied any more than, let us say, the introduction of the local district judges who were appointed to succeed the local priest in their functions, *as only an incident*

Almost at the very time when the code in Leviticus 17 - 26 was discovered, was the name given it which it today bears. So pronounced and conspicuous was the central aim of the lawbook and so *happy* and appropriate was the choice of its designation that no one has proposed any better appellation and all have generally accepted it as the most felicitous. It is because the name *comprises* in itself not only the dominant spirit but suggests the aim of the lawgiver. For not only in the appeal but also by the very nature of legislative material selected, and treated are *we given* an

idea of name but also the meaning of the ^{concept} Holiness. Nowhere in the Pentateuch is the stem Holy (קדש) used as frequently and as repeatedly as in the brief scope of this work. And not only the word recurs so often but it constitutes a principle which pervades the whole. Thus in 17, presupposes the holy place at which offerings are to be brought and to whom. In 18, 19 the lawgiver defines that which ethically and morally which will make the people holy. In 21, 22 prescribes the holy ministers and sacrifices and 23 and 25 the holy seasons. Thus at holy times the holy gifts should be brought by a holy people to a holy place and other holy customs and restraints are to be observed (1).

Thus the religious ideal of H is, generally negative; avoiding everything which will destroy the holiness (XX³¹⁻³²) prohibitions centering around the sanctuary, priests, offerings or festive occasions. This idea of holiness relates not merely to cult correctness which plays a dominant part in the lawbook and to exclusivism which appears not so important as D but includes an ethical content which inferring from the space given in the corpus is not reckoned so vital and significant but yet essential. It appears that H is more condemnatory of the certain rites and practices of the alien peoples than of the peoples themselves or their Gods, as is typical of Deuteronomy. Thus he denounces the heathen immorality (18) and customs and superstitions (17, 18, 19, 26,) Thus the aim of the author is to establish a perfect harmony between a holy God, and a people by making them conform to a series of prohibitives which will make for holiness. His purpose is patent and immediate. He aims at a cultural separation.

Now in a comparison of the purposes of the two lawbooks, it must be stated at the outset that D's work obviously embodies a great reform which ~~he~~ ^{he} hopes to bring about a holy nation. The Holiness Code is entirely reticent on this great religious change. With him the work of D has been accomplished. He accepts and assumes the central sanctuary. The battle which D opened has already been won (2). In H 21, the single Temple has grown so that it now houses the family of the High Priest, who can not leave it for unholy purposes. Then again the two codes show an antipathy for alienism. D it appears is as hostile to the foreign nations (3) or rather Gods, as he is to their practices (12, 29 ff) H on the other hand is not interested in the peoples as he is concerned by those profane rites and practices. (4) It was their practices and customs which destroyed them, conduced to their extermination. To avoid a similar fate, Israel must guard himself so as to not practice them. And imitate their rites (18, 25 ff, 18, 5) He is attempting to get at the basic laws of History and he utilized and developed a not altogether novel idea that Jahwe is the Lord of the land (18, 25, 19, 13-25, 25, 23, 26, 42) The natives in themselves are alright. It is the wrong which is contained in their profane customs which has put them under the ban. The principle which determines most conspicuously the character of the entire section is that of holiness, as a quality distinguishing Israel. Holiness is a duty laid upon Israel in other parts of Pentateuch, especially D. But elsewhere it appears merely as one injunction among many. It is here insisted on with an emphasis and frequency which constitute it the leading motive of the entire section.

1. P. H. H. Dt. p. 45

2. EB Sub. Holiness by G. A. Simcox

3. Holzinger ~~Evangelical~~ 315 f. Driver Df. XXXI

(4) W. P. Smith Hist 336 ff. points out that H was written to give that first such information on holiness that he could give and instruct the people in the distinction between Holy and profane and thus secure the continuance of God's favor on them.

The word holy seldom ever occurs in the body of D. In fact, it is sometimes used of sacrifices (7177) and once used to modify camp, and then once in the concluding chapter (28) as 7177. It is not addressed to the individual, never indicating the idea that it is possible for him separate from the nation to attain a state of holiness. He is never ordered to be holy, commanded to consecrate himself as in H. It appears from a general view of the code that the nation alone can attain to this condition of religious perfection. In H the word is used without end. Every law seems addressed to the individual implying that it is possible for him to attain that state more or less, without regard to the community. Every law is immediately connected up with and included in the concept of holiness. In D it does not seem essential to the holiness of the individual that there be appointed judges, that conviction can only be established by two witnesses. On the other hand the laws framed are so selected that holiness is the immediate end, immediate purpose. Thus while D may ultimately hope to establish a holy nation, this aim is distant and has intermediate stages to its consummation.

Therefore by way of summary, while the aims of the codes sometimes may draw close to each other, on closer scrutiny, it becomes evident that as far as their purposes are concerned neither influenced the other. D was a book proposing and effecting a great national religious reform. H makes no such pretention. They both are antagonistic to foreign influences, D attempting to stamp them out by destroying their breeding places, H directly prohibiting such penetration. D believing in monolatry, seems to be hostile to both aliens as well as alienism. H discriminates as a monotheist between the two and denounces only the latter. D has the hope that finally as a result of his reform he can effect a holy community or people; holiness being a far distant goal. H brings this ideal nearer to the fore, directly pointing to it as the aim of the individual. D seems to be interested in the nation, while H in the individual or community. In D the lawgiver has the vision of a nation made holy, whose civil as well as religious life can be brought at once under this ideal and to this spiritual goal. It is the nation in which he is concerned; and that is the reason he speaks of it as a 7177. Meyer as 7177 and the hope is sustained that the nation because of its loyal devotion shall succeed as conquerors and become a creditor nation never a debtor. H, on the other hand, is drawing near to the establishment of a church, as is evidenced not only in the material treated in the laws where civil administration is never referred to but by the repeated use of the term 7177 instead of the other expression 7177. The former expression is never used earlier than H and is sometimes formed in P where the concept of the Jewish church is fully developed. We see gradually emerging from the nationalistic viewpoint of responsibility, the work of the individual whose holiness conditions the holiness of the community (1) And so there is very little in common between them which is important and distinctive.

The next matter to be compared and considered in the study of these two codes, is to determine the relationship of the lawbooks from a study of their appeals to obedience. Disobedience in D, is ingratitude (2). Jahweh has chosen Israel as his people for no merit of theirs. He redeemed them from Egypt and delivered them from bondage (XV 14,) (XXIV 16) (XXVI 5. ff) He is about to give to them the land which he has promised and he will not go back on his word.

1. Bertholet Lev. XV - XVII

2. Driver. Dt. XIX Holzinger Einl. 315 for a development of the idea in Israel.

3. And by the legislators attitude toward the "ger."

(4). Additt 337 H has lost the national feeling still strong in D and regards incorporation in the country not national ascent.

He is about to give the land to them, the land which he ~~swore~~ gave to their fathers. He has adhered very scrupulously to his covenant and it is the duty of the Israelites not to violate their agreement nor to show so little regard for his love for them. The possessions and property which shall come to them, comes through God, and the prosperity which shall be theirs, is theirs by virtue of God's love. In many passages the author describes the wealth as, *ברכות* blessings of God (1) So in appeals for obedience to God's laws, the lawgiver makes it out as a matter of thankfulness that they be obeyed, gratefulness on account of that which God has done and will do. This obedience will bring prosperity (2) just as prosperity should eventuate in obedience. It is rather novel how many times and how emphatic the lawgiver is pointing out the positive results of living in accordance with God's law than in threatening them with the evil consequences of their wrongdoing. Except for the threat that violation of a certain law may be *accounted* as a sin (XXIV 16) no other passage in D. except in the final chapter warns the people with divine punishment. Indirectly in XXV 14 the negative implication of the positive reward for dealing in just measurements, may be construed as a divine punishment. For to adhere to this law will bring long life,⁽⁴⁾ the assumption being that the disregard of it will result in death. It is rather strange that in every place where his appeal is to doing of justice either in civil or commercial affairs, is coupled with the consequences of long life (XXV 14, XVI 20) In fact only in the laws dealing with these subjects does he hold out such a result. More often does he hold before his people the good consequence of their obedience than the evil results of their disobedience. Thus he is constantly promising them blessings in their handworks if they follow the laws, implying but never stating explicitly, that adversity will be theirs because of their disobedience (XXIV 19 XXII 7 XXIV 12, 13, XII 25, 28, XIV 24, 29, XV 4, 6, 10, XV 18 XVI 16) The punishment he metes out for violation is human. And the most vigorous seems to be exacted in direct violation of idolatry or seduction to it. Thus infidelity to God, like in Apostasy, which is nothing more than ingratitude is to be punished by death (XIII 6, 11, 13) Wherever he exacts such a penalty it appears to me that he would extenuate such severe punishment by the apology that it is purposely made stern so as to act as a deterrent. Thus almost, in every place where he attaches to his laws the death penalty is to be inflicted, he adds the expression, "Thou shalt thus uproot this evil from thy midst".

In keeping with the sublime motive of gratitude, he points out the goodness and love of God attempting to draw from his people obedience to God's law rather than drive them to it by threat of punishment. He would seem to say that God would prefer to reward than to punish. And only in certain cases of faithlessness, is he ~~relentless~~ *merciful* but then not with a vengeance. Thus he endeavored to create an effectual moral stimulus for realizing the ideals which appeal to him. Then, too, by presenting to the Israelites the blessings which will follow from obedience than by warning with evil consequences which will result from disobedience, he is imbued with the spirit of gladness which marked the religion of *Yahweh*. Thus theologically he is inculcating the principle that God's love for Israel must be reciprocated by Israel's love for God and which is to be manifested by faithfulness and obedience, and to him the greatest sin is infidelity and ingratitude as these are the most sternly punished.

1. XII 15 XIII 6, XIV 24, XV 14, XVI 17 (4) *Counted* *lev. n. 11.15. explains what is meant by id.*

2. Dt. XIX Holzinger Einl 315 for development of idea Israel

3. Holzinger Einl. 322 D's development of Endaimonon in Jewish

law and ethics. (4) *Drugs* *the* *crit.* *728* *compares* *the* *expression* *of* *D. 11.15.* *to* *20.12* *+ D. 17.15*

When we study the motives for loyal devotion in the Holiness code, we at once recognize that we have here to do with another line of reasoning and another series of principles. The basic idea which forms the fundamental ethical motive of this whole code is practically congested and compressed in one single paragraph of the Deuteronomic Lawbook (XXIII 10, 15). In this passage which was probably derived from some priestly source,¹ warns the Israelites with God's absence and departure from the camp should it become profaned.⁽¹⁾ Such a consequence will bring defeat upon the army and everything else. Thus God's presence with the host will depend upon the physical cleanliness of the soldiers.

The perfect harmony between God, who is holy and the warrior must be through the medium of holiness. Thus this idea is extended and forms the fundamental basis of the appeal in the holiness code. If God's presence is to reside among his people, they must comply strictly to his every command or prohibition. Anyone who defies God's law, profanes the community and drives God from their circle. His absence from their midst has brought upon them indescribable misery, and deprived them of their self assurance. And no law requires any other sanction than its divine origin and divine approval. To fail to comply with it therefore, is nothing less than really rebelling against God, is actually profaning God's name, desecrating his holy residence, polluting his land which will vomit forth its inhabitants.

As he has taken these people to himself, they must be holy as he is holy.⁽²⁾ The fundamental principle of the ethical and cultural legislation therefore, is contained in such verses as XIX 21, XX 7, XX 29. This is an entirely different conception from that of Deuteronomy. As Israel is his he must be holy for everything which he has taken to himself must be holy. In D, God, has taken his people to him because he loves them and they must obey his laws out of a spirit of love and gratitude for what he has done and will do for them.

To prove disloyal to God brings the severest punishments. It is the normal state for man to live in harmony with the Holy God, but woe be to the man who refuses to comply with God's law. This is the explanation for the punishments which are to be meted out to such a man. Save for very few, all of the penalties are from God. "The man shall be cut off", "Blood guiltiness shall be attributed to him", "I shall set my face against him", "The land shall vomit him up", "He shall bear his sin", "They shall be childless", are repeated without end. Seldom is the reward for obedience proffered. In XVIII 5, compliance with the law of Sabbath year will not cause them to suffer, for God will in the sixth year make the land produce so much that they will be supplied with ample for their care. In XXV 38, those who refuse to take usury will be enabled to live in safety. Save for the opening verses of the final chapter, these three passages constitute the only ones in the entire code where the author offers the obedient any promise of blessings for their loyal devotion. On the other hand, aside from the divine punishment not one expression of which is to be met with in D. The holiness code is likewise very stern and strict in the human infliction of the capital penalty. Never does he explain it as disciplinary. It is to be carried out because God's Holiness can not brook any unholiness in the midst of Israel, and it must be removed. Never does he say that the punishment is meant as a deterrent for others. His expression seems to indicate his vindictiveness.

(1) Briggs Higher Crit. 152 ff. In D 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

(2) Fenton in Holiness to 20 notes that in this chapter alone that for certain offenses God will intervene with punishment seven times while for others the punishment is not mentioned. (3) cf. EG. Sumner 391. But Sumner also finds that in 20-21

The priest's daughter must be burned with fire (XXI 9) and the Moloch worshipper must be stoned (XX I, 5) (I) There is no explanation that the severity of such a penalty is intended to deter others from performing the same offense.

In D, Israel is to be enticed into obedience not only out of sense of what God has done but out of a feeling of dependence on what he will yet do. The reward is constantly dangled before their eyes and they are coaxed into compliance. In H Israel must be compelled to obey God's laws. For disobedience brings the direct punishment, for disobedience is something which can not harmoniously exist in the same place where God abides. In D, the blessings were deserved will come from God to him or them who follow God's laws. The penalties where expressed are visited by human hand on all violators of God's law. In H, the punishments are two fold, they come from God and divine in origin, and they are inflicted by the man without any mercy and are human but not humane. Finally, not any of the expressions which are used either to describe the rewards or the penalties are alike in both codes. In D. and H, the only ones which are in any way similar of the reference to the deliverance from Egypt, it will be noticeable that when used in D, it carries the impression that the Israelite owes his obedience because of his emancipation and because of a sense of gratitude, while in H, it conveys the idea that the law which is commanded has the approval of Him who is so holy and powerful that he is the same who saved them from Egypt. It is the God who then took Israel to himself, who as holy, requires of his possessions that they be holy. There is certainly nothing in their motives that are similar, and that exhibit any evidence of dependence or influence. In H, we have are gotten away from the joyful character of religion and are entering that stern and strict viewpoint of the pietistic and solemn orthodox, and away from spontaneous and joyful reformer.

We have now discussed these two codes from every angle of approach, we have considered them generally and particularly. We have studied them from the viewpoint of their general or formulary features and have made substantially a minute and detailed examination of them, and the problem we have sought to solve has become clearer, and the answer has become evident. There now remains for us to summarize the points and arguments which have led us to the conclusion which we have time and again indicated and frequently expressed. Viewing the two codes generally and as wholes, it is now clear that they are independent of each other, that the influence reduces itself to nought, that it is not hardly understandable why so slight and ^{so} insignificant are the contacts since there were so many reasons for greater and more important parallels (2). It seems that the only explanation that can be offered which accounts for this fact, is that the Holiness Editor was entirely unaware and unacquainted with the literary work of the earliest Deuteronomist. For the most casual knowledge of the one with the other would have certainly manifested itself in some traces and evidences of this acquaintance. To bring the facts more closely to the front, let me now sum up the arguments which has borne this conclusion in on me.

In the opening chapter of this thesis, I set out to present the problem which I proposed to solve and the kind of relationship I endeavored to determine. It is there that I stated that I sought to ascertain if these codes manifested any evidence to warrant us in maintaining that the one was

1. See Benziger E. B. Sub. "Law and Justice" under paragraph of punishment methods.
2. "As the differences are of such a kind as not to imply a considerable interval of time" E B Moore Col. 1083.

dependent on the other. In a subsequent connection, I proved that the codes as they were originally at first constituted were not contemporaneous. It was shown that the Holiness code was a later compilation than the so called Josiah lawbook. The dates though approximately set, were unimportant for our purpose. Of course, I was careful to note that not all the material in each code was of the same date. We doubtlessly have laws in the Holiness codes which antedates the Deuteronomic compilation, but as wholes, as distinct entities, they are in just about that temporal relationship as proposed previously, and as such therefore, the problem resolves itself into this, to find out whether the later H was influenced by or dependent upon the earlier D. We are not so blind or biased as not to see that there are some similarities between the two lawbooks, though few and essentially unimportant, they do none the less exist. It was probably on account of these that Wellhausen (Prol. 377) seemed inclined to infer that some such relationship does exist which I have attempted to disprove. I feel, therefore that this effort of mine would be incomplete were I not to pay some attention and some heed to the various points he advances. Accordingly, he points out that both codes enjoin the care of the poor and undefended and that humanity is a main object of legislation. Far from being a main object of D, we have previously indicated that it was not so at all. His interest in the needy while urgent and insistent, was subordinate and conditional on the great reform which he attempted to effect, and his laws which order such succor for the dependents, took their place alongside of these other ones which he altered ~~proposally~~ to meet the new situation that he realized his innovation would bring about.

With H, this interest is not paramount but remarkably secondary. It is clear at a glance that this humanitarian appeal has not that place or prominence in H, that it has in D. As I have However, previously discussed this subject, I will not take time again to refute it. As we have shown, he ~~too~~ points out that both codes prohibit certain observances of mourning, ^{which are yet to be} they both calculate the beginning of pentecost from the beginning of the Barley harvest (H XXIII 15) and extend the celebration of Succoth for seven days. As we have fully discussed each of these points and to our mind conclusively shown that they are not reasons to assume dependence from them. For in the first place, linguistically and formularistically, they are different as has been indicated. But each of these ~~features~~ ^{features} are so minor and insignificant ~~and so~~ ^{as to} play such a slight role in the whole scheme of the D. reformation, that it is impossible to conceive that an author would be influenced, merely by these ~~unimportant~~ ^{unimportant} features and deliberately ignore ~~the~~ ^{so many} more important ones.

Then to add to the cogency of his arguments, he enumerates a few hortatory phrases and sentences which with slight variations are common to both lawbooks. As we have previously devoted nearly two whole chapters to a consideration of this subject, with the result that we have found no ground for inferring dependence, we need not here again review the arguments against the contention of Wellhausen, by a review of their language. As we have shown the linguistic parallels are not the ones which are so closely interwoven in the language or sentiments of D, that it is impossible to believe that the Editor of H would have deliberately derived only these insignificant ones from the earlier code. It seems rather both because of the fewness of the correspondences for he only cites five, and because of their insignificance in the plans of the two lawbooks that they tend to prove the independence of the two editions than indicate any influence.

A general survey of the points we have made will far outweigh the vague implications derived from those few *accidental* unessential details or correspondences listed by Wellhausen. In the first place the codes display total ignorance of each other in their general ground plans and outlines. As we have already pointed out and proven, it is not an impossible surmise that both codes in their earliest stages were arranged according to a well ordered plan and followed a thoroughly worked out outline. Evidences of this fact abound in both codes. Here and there passages when removed make possible a perfect sequence. And here and there, an excellent order prevails. But more than that, in certain paragraphs containing certain groups of laws, we can not fail to note a perfect arrangement according to a very definite principle. The many signs of a right lead us to the logical assumption that originally both codes followed a definite scheme. Now we can with some safety reconstruct the arrangement of these two codes. With very little transposition, we can discern an order that in all likelihood obtained. In comparing the outlines of the two codes, we can not help but note the lack of agreement in the order either in the whole or in the smaller portions. (1). Is it likely that an Editor who was compiling his composition and had, let us say, Deuteronomy before him, could have avoided some imitation of his patent in the matter of arrangement. He could have but it is not likely that he would have.

As to their language and style, no less striking difference is in evidence. It was impossible for the two codes not to show some linguistic correspondences. As the language had not undergone any great radical changes and as the subject matter was to some great extent of a similar nature, it was to be expected that some terms should be in common. But in the scrutiny of these parallels, it will be found as has been both noted and listed, that they are comparatively few and strikingly casual and accidental. They are not such as to give the impression of being borrowed. Then again, they are for the greater part, of most usual and ordinary kind, very few of which having any synonyms and so frequently do they occur in the O. T. that a complete citation of the passages in which they are found is not available outside of a most exhaustive concordance. Those words which are unusual and rare, though common to both law books, are in most cases in these two codes to be found in different connections. Rather than prove dependence, the different context in which they are used, tend to attest their independence. On the other hand, both lawbooks have a much larger vocabulary that is not present in the other book. This fact is significant, when the commonness of the phrases are noted, though present in one of the codes, are wanting in the other.

For the dependence which we are seeking to discover, the most natural passage in which to look are not the wholly legal passages, though necessary, as in the long drawn out hortatory framework. If there had been any influence or dependence, signs of it would sooner make their appearance in these parts than in the legislative portions, per se. In the many words and phrases which are peculiar to D, as are peculiarly expressing D's motives and purposes, and which are repeated so frequently, not one of outstanding importance is recurrent in H; moreover, those distinctive words and phrases of H, which are so bound up with his motives, so peculiarly expressing his aims, not one can be traced with ~~the~~ the slightest modifications and variations to the earlier lawbook.

1. E. B. Moore, Col. 2789

(2) *Plummer's XVI.* finds a series of parallels between H + D. *Especially in his To'aboh list.* It will be noted that while the material in these two is somewhat confused, as vaguely as D 22g. 11 and 16 the differences are such as to indicate at times diverse sources. And more show any influence of a common source. *But the independence and reliance on common sources.*

It is not possible for one to be conversant with the distinctive spirit and language and yet not show and exhibit some influence. But so distinctive are the two books and so lacking are they in any evidence of such influence, especially in these elements where one would most naturally expect that the impression derived from a study of this aspect of the subject is their absolute independence. Many other linguistic features conduce to this view. Thus where there are synonyms one code will inevitably use one which the other avoids. And other incidental differences which we have already noted all lead to the same conclusion. But most important of all is the fact that "of the peculiar motives and phrases of R.D, there is no trace in H" (1) ^{your chapter}

In the long drawn out and exhaustive study and comparison of the contents, I have looked in vain for parallel laws which agree completely in substance, language and formation,¹ or evidence of ^{any} dependence as is traceable from the parallel in legal material. This is the significance and aim of the laborious and painstaking study. In the one hundred and sixty laws which we have examined, of which H had ninety five and D, seventy five, we have discovered merely about fourteen or sixteen parallel pieces of legislation. That is to say, that in both codes, of these one hundred and sixty enactments there are only about fourteen to sixteen which have any resemblance in contents. But in these parallels there is something of great interest to observe. We have so frequently distinguished between the two parts of D, that the significance of that distinction is now clear. In the first eight chapters of Deuteronomy, we noted that the Editor of Deuteronomy has taken over original material and so ^{elaborated} ~~changed~~ and modified it that at times the original is entirely concealed in the mass of ^{alterations} ~~alterations~~, or so changed and corrected that the differences between them, the source and the D law, can be only explained as the grounds of adjustment to the basic reform. In the remaining chapters, the laws have suffered so little alteration and modification as the hand of the D Editor that we are safe in claiming that they were taken over from the original and embodied in D without little or no change. Now this distinction (2) is important for our purpose in studying these parallel laws. For of the sixteen correspondences the greater number are to be found on D's side in the second section. Now none of these parallels, that is, those which in D, occur in the so-called miscellaneous section, entirely match H.

To be more explicit, the resemblances do not go so far as to include those slight but distinctive and peculiar additions of the D Editor. The resemblances never extend to those special peculiar elaborations of the D reductions, now what is the meaning of this fact? It is this: This avoidance in the parallels of the peculiarly D expressions by H signifies that the latter must have employed a source which did not contain them or he would not have so studiously ignored them.

Of the other parallels which occur on D sides in the earlier section, it will be observed that resemblances never extend beyond mere similarity of ideas. Of the six ^{parallels} ~~parallels~~ which as far as D is concerned ^{are found in} ~~belong to~~ the opening chapters, it is not only interesting that the many D parantic amplifications are absent in the corresponding law of H but the laws themselves do not agree exactly in contents, language or formation. Thus as an instance let me recall D XIX 21, and XXIV 19, and observe that the latter is more closely related and

1. E. B. Moore, Col. 2789

2. Holzinger 279 points out this distinction.

more nearly founded on C than on D. This seems to be the conclusion to be drawn from every parallel which we have examined, that they both were composed without any reference to each other. That, "Whilst the provisions of some of these laws are often similar, the formation and phraseology are throughout entirely dissimilar" (1). No wheres have we been able to discover any two laws which are exact and faithful reproductions of each other. They always give the impression that in their compositions, that the Editors were unfamiliar with the corresponding product of the other law-giver.

But more than the local differences of certain parallels, is the difficulty of explaining not only the fewness of resemblances but equally why there were so many disparities if we assume that the one code was affected by the other. Of the nearly two hundred laws which both codes contain, the parallels seem more accidental than actual (Pittcock 484) (2). It is evident after examination of the two whole codes that there is in reality a paucity of such correspondences, comparatively speaking. The accidental nature of these parallels may be further corroborated by the fact that there are about fifty more laws which may be styled near parallels that is, they have but the vaguest and most indefinite similarities, now these laws with but the slightest resemblances are juxtaposed and placed in apposition that by indicating the elements of correspondence and disagreements to note the independence of both particular pieces of legislations. Now if we assume that fourteen of these laws were affected by D, certainly the others with such slight correspondences and great disparities would be difficult to explain in light of dependence.

Then there are about a hundred laws which are entirely unmatched in either code. These omissions from the opposite lawbook are only significant in so far as we are able to deduce an argument from silence. While not ignoring the fact that the codes may not have come down to us as they were at first promulgated, it does seem that greater resemblance would abound if one had depended on the other, or as Wellhausen, maintains, was affected by the other. D's many laws prescribing the organs and practices of civil administration are wholly ignored in H, while H contains a number of laws on the choate hierarchy and sacrificial system that are unknown in D. The conspicuous omissions are unaccountable if we presume or argue from the few parallels that H, was affected by the latter code. While we are aware too, that some critics have attempted to explain the contradictions between the codes (3), we can the better understand them if we assume that the two lawbooks were independent. We know how futile and unsatisfactory is the attempt to account for the conflicts between the prohibitives against and commandments for marrying sisters-in-law in the two codes, and which are understandable if we accept the view that we have proven that the lawbooks were unacquainted with each other. Then too, H prohibits mourning rites, while D permits it, in fact orders it in the case of a captive wife.

Accordingly the similarities in language and contents are of such a slight and insignificant nature that it is assuming a great deal to attempt to prove from them the influence of D, on H. On the other hand, those who infer this dependence, have the burden of proof on their shoulders and it is for them to explain this absence of any hortatory resemblances, the lack of laws identically formulated, the disagree-

1. E. B. Moore Col. 1083

2. HDB Sub. Leviticus Harford-_____ to the contrary.

3. Cf. Bandissin Einl. 146 who tries to unders and the contradiction between D 12 and H 17

ment of order in whole or in part, so many absences of correspondences. They can not satisfactorily.

On the other hand it is more in keeping with the logic of the facts to understand these slight resemblances and glaring differences as due to the use of the same common ^{or different} sources. And this hypothesis will the better explain and help us to understand the absence of any hortatory correspondences, the similarity of some laws, the striking individuality of both codes, differences of so many laws and the contradictions of the ones we have noted, and the coincidences of some terms and unusual expressions (1).

Thus the relationship of the two codes is one of total independence, for each lawgiver has framed his composition without reference to the other.

Then finally in seeking for the ~~other~~ dependence or influence of D, on H, one must not over exaggerate the few truly insignificant and chance correspondences and totally ignore the overwhelming abundance of ^{no many discrepancies} ~~facts~~ ^{which are not} understandable in the light of such relationship. The preponderance of ~~even facts antagonistic to such an inference~~ negatives such a theory. ^{difficult} Not the scattered parallels which do not fail to give the impression of being accidental and insignificant, must subserve as the proofs on which to build an explanation but the over powering and copious accumulation of important and truly significant ~~parallels~~ ^{parallels} must be taken into account in the formation on which to rear the hypothesis to explain this problem.

In short it is likely that H would have merely affected to take over the certain insignificants elements and ignored the vastly more important and vastly more numerous and strikingly peculiar elements if he had relied on D or was influenced by H.