

THESIS

Leading To The Degree Of

RABBI:

Being_

A Dissertation On The Origin Of The Deuteronomic
Legislation In Its Relation To The Reformation Under Josiah
With The Attempt To Prove That Chapters XXI-XXV Of The Book
Of Deuteronomy Could Not In The Main Have Formed An
Original Part Of The Book Found By Hilkiah: Together With An
Attempt To Account For Their Present Position In The Code.

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BY EDGAR FOGEL MAGNIN.

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Hebrew Union College

Cincinnati, Ohio.

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CHAPTER I
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INTRODUCTORY

THE DEUTERONOMIC CODE AND ITS RELATION TO JOSIAH'S REFORMATION_ PROBLEM OF THE UNITY OF THE CODE PRESENTED.

2. What ever the opinion of the orthodox theologians may be, and of the students and the interpreters of the Bible affiliated with them in sentiment and opinion, it is commonly agreed among the vast majority of modern Biblical exegetes that the book of Deuteronomy, in ^hthe main dates from the seventh century B.C. As to the precise year in which the book was compiled, there is a difference of opinion. Some of the critics, as e.g. ~~Vaihinger~~ and König, would place it during the reign of Hezekiah. Many others, including Ewald, Riehm, W.R. Smith, Wildboer, Kautsch, Kittel, Dernier, Valetton, and Fuko would ascribe its origin to the time of Manasseh. On the other hand, De Wette, ²Bleek, George, Vatke, Graf, Wellhausen, Kuenen, Dillman, Cornill, Reuss, and the historian Stade place it in the early years of Josiah. But ALL agree, that it is ^hthe product of the seventh century and is to be identified at least in part, with "the book of the law" or "the book of the covenant" found in the Temple by Hilkiah, embraced by the young Josiah, and made the basis by him, of the so called Josianic Reformation, the account of which is given in detail in the book of II Kings, chs., XXII and XXIII, and again in II Chronicles ch. XXXIV.

It is almost needless, in view of the broad circulation of this theory and the wide acceptance which it has met with to reiterate the arguments leading to the conclusions of the critics, but for the sake of clearness, and that we may the better substantiate the subsequent claims of this thesis, we shall go over them again briefly.

It will be seen at a glance, not to speak of a careful

analysis of the book of Deuteronomy, that it is to a great extent based on JE and C1 and C2. ^{Yet} The institutions treated of in Deuteronomy are ^{considerably} less primitive, more developed, and subsequently point to a later origin, than those depicted in the books just mentioned. For example, if one compares the law of slavery in Dt. XV 12-18 with that of C1 (Ex., XXI 2f.) it will be seen, that the two sexes are put on a nearer plane of equality and that the dominion of the father over the daughter is made less absolute; for altho in Exodus, a woman who comes into service with her husband is to receive her freedom when he does, a daughter sold by her father as a bondswoman is on a different footing; she is not to go free as bondmen do. cf. v. 3. (a) Again, Deuteronomy lays emphasis upon the centralizing of the cult b' "(mocom asher yiv-char adonai)" etc. (cf. Dt., XXII v. 4. e.g.) in Jerusalem, whereas thruout E, J, C1 and C2 a multiplicity of shrines is assumed. Compare Exodus XX 24b. "B'chol mocom asher azchir ath sh'mi etc." And it is a known fact that centralization was a later institution than that of local shrines. (b) As a final example the law of the fallow year in Ex XXIII 10f. is amplified in Deuteronomy and made the basis for a law releasing debtors. In C1 it is an agricultural law, tho ethical in its application. As it appears in Deuteronomy, it points to a later stage of society. (c) Now Deuteronomy being later than the fusion of J and E, must fall some time after the year 750 B.C. And we may add in this connection tho it is scarcely necessary, that if J or E or both be Mosaic in origin, truly Deuteronomy, being a later product can not be other than post Mosaic. But that C1, C2, J and E are not, themselves Mosaic in

(a)(b)(c) Cf. Driver, Bertholet, Steuernagel, ad loc.

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origin, is agreed to by all modern critics.

Again, in addition to making 750 or to be more precise 725 or possibly even 700 a terminus a quo for the compilation of Deuteronomy certainly did not fall immediately after the fusion of J with E^t it is significant, that Amos, Hosea, the first Isaiah show no signs of having been influenced by Deuteronomy, whereas the spirit of Deuteronomy appears in a sense to have been influenced^N by these early writers. If Amos and Hosea opposed the shrines, it was not because they favored Jerusalem. They knew nothing of centralization. They opposed the shrines all of them merely because of the degenerating influence they wielded in the name of Javeh. It was really the service of Baal that was being carried on at the shrines. But does not this opposition to heathenish rites and the immoral practices bound up with them lie at the very root of the Deuteronomic legislation?

On the other hand Deuteronomy did wield an influence on later writers. Let alone the influence it wielded on the thought of the so called Deuteronomic redactors, editors, compilers^s which ever they were of the book of Josua, Judges, Kings its very style seems to have gripped them. The Colenso is ~~undoubtedly~~^p wrong in attributing Deuteronomy to the authorship of Jeremiah, still the language and style of Jeremiah and Deuteronomy have much in common. And the language of Deuteronomy is even purer than that of Jeremiah. This close kinship of language and style, together with the fact, that Jeremiah is the first of the literary prophets to evince any of the influence of Deuteronomy would tend to make one believe that it is a product of the seventh century. (a)

(a) For a detailed discussion of the literary influence of Dt. on Jer. and other writers cf. Driver Dt. XC-XCV.

Moreover the discovery of the "book of the covenant" or the "book of the law" as narrated in the book of Kings furnishes the only recorded historical background that can be ascribed to the book in the seventh century. An attempted reformation had been made during the reign of Hezekiah without any immediate results of value. But the reform of Josiah, though not able to perform the miraculous for the customs of a people can not be changed in a day--did make itself felt to a marked degree. We are told that in pursuance of the commandments laid down in the "book of the covenant" that Josiah rooted out the high places, destroyed the asheras, opposed the worship of the "host of the heavens" of II Kings XXIII 4, 5b, 11, with Dt. XVII, 3. Dt., VI, 14, XI, 28, XVII, 3 etc. Compare II Kings XXIII 8, 13, 14, 15, 19, with Dt., XII 2f., XXIII, 6; We are told, furthermore that Molech worship was put down (cf. II Kings XXIII 10 and Dt., XVIII, 10a; XXIII, 21, 23.) In (II Kings, XXIII, 9b and Dt., XVIII, 8a) similar provisions are made for the disestablished priests of the shrine and the bamoth. Compare the Passover celebrated in Jerusalem in the accounts given in II Kings, XXIII, 10 and Dt., XVI, 5f. And, again, it is significant that the title, "book of the law" (cf. II Kings XXIII, 8. 11.) is also applied to Deuteronomy in Dt., XXVIII, 61; XXIX, 20(21); XXX, 10; XXXI, 26; Jos I, 8; VIII, 34.

But the question of great concern that next presents itself, is: HOW MUCH OF THE BOOK OF DEUTERONOMY IS TO BE IDENTIFIED WITH THE BOOK FOUND IN THE TEMPLE BY HILKIAH, AND ADOPTED BY THE KING AND AS THE BASIS OF THE DEUTERONOMIC REFORMATION?

Let us add parenthetically that our concern in this thesis is with the LEGISLATION of Deuteronomy, only, the nucleus of

which is found in chapters XII-XXVI of the book. It shall be our purpose to ascertain just how much of the contents of this code can reasonably be identified with the original code of Hilkiah; and we shall hope to demonstrate beyond a doubt that the majority of chapters XXI-XXV is a later addition than the ^{of the contents} body of the code (chs. XII-XXV, XXVI.)

As a final introductory word before taking up that subject we would discuss briefly the relation of chapters XII-VI with chapters V-XI. As aforesaid it is reasonably certain that the bulk of the laws in Deuteronomy XII-XXVI, or at least many of them are to be identified with Hilkiah's code. But how about chapters V-XI? There are some critics, who would ascribe a different origin to these chapters than to that of XII-XXVI. Wellhausen, for example, in his Composition of The Hexateuch, page 193f. maintains that the author of V-XI had the Code of laws in XII-XXVI before him when he wrote those chapters. The majority of the critics, however, among whom may be mentioned, Driver (cf. Dt. p. LXVII), Kuenen (cf. Hex. section 7,) Dillman, (Comm. on Dt., p. 63), and Westphal, (cf. Les Sources du Pentateuch, p. 105 f.) are satisfied to include V-XI in the original book. Driver and Kuenen defend their conservative stand strenuously, their arguments consisting chiefly of refutations of those opposed by their opponents; and their emphasis upon the unity of style and spirit is their strongest positive argument. After weighing the matter carefully and considering the pros and cons advanced by these men, we are prone to take the more conservative stand, that chapters V-XI and XII-XXVI are from the same hand or hands, but our concern is only with the code proper. For when all is said and done, tho the question be open as to whether the paranetic introduction is or-

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any of Deuteronomy is to be identified with Hilkiah's book, truly the legislative portion or some of it at least was to be found there. Thus having narrowed our scope, the question presents itself: how much of the DEUTERONOMIC LEGISLATION was contained in the book of the law found in the Temple? The criteria for ascertaining the answer to that question will constitute the subject of the following chapter.

CHAPTER II

CRITERIA DETERMINING HOW MUCH OF THE LEGISLATIVE PORTION OF DEUTERONOMY WAS CONTAINED IN THE ORIGINAL CODE.

Before entering into the criteria necessary to ascertain just how much of the legislative portion of Deuteronomy was contained in the book found by Hilckiah, it were well to remark, that a clue or a hint to the effect that all of the legislative material may not be original proceeds from the attitude taken by the critics on the contents of the latter portion of the code. Even those critics like Driver and Kuenen, who would make V-XXVI, at least, a unit thru out, suggest that there is something^{peculiar} about the section that begins with Ch., XXI, 10 and ends with ch., XXV. For example, Driver (Dt. p. 244) gives as a caption to the section referred to, "Miscellaneous Laws Relating Chiefly To Civil and Domestic Life." And then introduces his commentary to the section with the following note. "The section beginning here is marked by several peculiarities of terminology, which are to be accounted for, probably, by the fact that the laws contained in it (which are often more concisely worded than in previous chapters) are taken more directly, and with less modification of form than in other cases, from older sources." Driver, tho far from conceding that these chapters ^{are} of a not original in the Deuteronomic Code, can not but notice, that there is something different about them, than the laws in the section that directly precedes them, i.e. the whole first part of the code. He says 1) that their terminology differs in some respects from that employed in the other laws; 2) that they are differently worded,

being more concise and terse; and 3) that they point to a different source or sources than the other laws. Bertholet in his commentary, classifies chapters XIX-XXV, 19 as "Mixed Laws" Carpenter (a) following Steuernagel dissects these chapters in the most minute way with a view to showing that the laws contained therein, for the most part come from different sources than the preceding laws. He speaks of the sources as "shorter collections" also and in some cases suggests that they are priestly toroth. All of which suggests to the investigator that possibly these laws may not only have been added later than the main portion of the code tho included in it before it was put away in the Temple, but more than that, it suggests the possibility of their having been added after the finding of the Code in the year 621.

But in order to decide whether they ~~were~~ original or not we must first decide on the criteria, that will enable us to solve this problem.

First of all, let us look at the matter from the point of view of content or subject matter.

Since the book of the law read to the people by the command of Josiah was the basis of the reformation instituted under him and described in II Kings XXII and XXIII it is natural and logical to expect therein :

- 1) Legislationⁿ dealing with the abolition of heathenish rites, as e.g. the worship of the host of the heaven, religious prostitution, the sacrificing of children to Molech, etc. etc.

(a) cf. Carpenter and Hartford, Comp. of the Hexateuch. pl 58a, f.

2) Legislation dealing with the centralization of the cult. The reason for this is perfectly evident. The demand for the centralized cult arose out of the preaching of the prophets, who opposed strenuously the immoral practices carried on at every shrine and bama. The services and practices at these shrines as aforementioned was really the service of the Canaanite Baal. A centralized cult every aspect and ramification of which pointed to and focussed about the pure service of Jehovah was far more to be desired. But aside from this a close examination into the book of Deuteronomy will convince the student that it was as much the product of the priest's pen as that of the prophet's. I do not say that they worked hand in hand in the way of a compromise. That would be going too far. And moreover granting the ethical aspect of the book, it is full of cult and ritual, notwithstanding. I take it that Puko's view comes about the nearest to the truth. Puko (a) agreeing with Marti holds that the Deuteronomic legislation emerged out of the priestly circle in Jerusalem, not necessarily in its origin, but at least in its present compilation, though he discards much of the present legislation as not being a part of "Urdeuteronomium." It was a priestly circle into which the prophetic idealism had percolated to some extent. But whether the reformation grew out of the achievements of the prophets or the ^{or both} priests, whether it was peculiarly ethical or sacerdotal or political or whatnot, the fact of

(a) cf. Puko p. 238f.

! (if Puko's p. 238f.)
 what does he mean?

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the matter is, that it emphasized the centralization of the cult, designating specifically, that only sacrifices were only to be offered "bamakom asher yivchar adonai (or Javeh)" which we know was Jerusalem.

3) Legislation dealing with institutions that ⁺ must ⁺ need~~y~~ be changed, in order that conditions may adapt themselves to the new order. In other words, whereas, formerly the whole religious life and subsequently the civil and the social aspects of life centered about some local shrines ^{under the centralized system} life would be changed completely, and new institutions would arise in the place of many older institutions that would have to be abrogated. For example, when the man slayer fled from the avenger of blood he used to seek the sanctuary; but now with the only sanctuary many miles away, perhaps, it was physically impossible for such a man to escape. In order to meet such a condition of affairs, it was necessary for cities of refuge to be appointed in different sections of the country, that the man slayer might seek the protection, which was afforded him under the old system. (a) Again, the slaughtering of all animals originally was considered a sacrifice, even when the animal was to be eaten as food. Subsequently the animal was either killed at the sanctuary or killed in the field and brought into the sanctuary as is laid down in H. (b) But with the single sanctuary far away in most cases, it was impossible to bring the animal there to be slaughtered, so that Deuter-

(a) cf. Ex. XXI, 12-14 with Dt., XIX, 1-13.

(b) cf. Lev. XVII, 4. (Passage in Lev. prob. implied many altars and changed later.) cf. Driver L.O.T. p. 51.

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onomy says(XII,15)"Notwithstanding, thou mayest kill and eat flesh within thy gated, after all the desire of thy soul, only ye shall not eat the blood etc." A third example of the necessity of changing custom as a result of centralization is found by comparing Dt., XV, 12-18 with Ex XXI, 2-11. In the latter case, the master of the slave who has chosen to remain in his service brings the slave "to God" by which, of course, is meant the sanctuary, where the master pierces the ear of the slave according to the prevailing rite. In Deuteronomy, the master performs the same rite at home. By reason of the distance covered and time spent in going to the Sanctuary at Jerusalem the rite becomes a domestic one.

Again an investigation into the origin^{and purpose} of the code, which we said above resulted in tracing it back to both priestly^{our} and prophetic influence, who chiefly the former, gives us some conception of the kind of material one looks for therein. Aside from any comparison with Kings an examination into the code itself soon convinces the reader that there are some things, that seem by reason of their very nature to be an integral part of it; whereas on the other hand, one comes to feel instinctively, that there are certain portions that could never have found ~~an~~ ^{and} ~~entree~~ into the original code. Judging from internal evidence as well as from the account in Kings, one can see, that the code was not a code for, the judges or the priests. It was a practical, popular dissertation laying down the fundamental principles of the Reformation in some what of a didactic manner. Its purpose was undoubtedly to present a new program or "platform" to the people, that was to be rigidly carried out. Irrelevant details would have no legitimate place in such a Code. It

would not be over idealistic on the one hand nor would it enter into ceremonial details on the other. The priestly toroth answered the latter purpose. The originators of the code were too practical to permit of the former. On the civil side there were decisions laid down by the priests, "elders" that were in existence undoubtedly, not to speak of custom, which is the mother of all legislation.

Moreover we are told by Kings that the book was read in the presence of the people, which not only points to the practical and popular message of the book, but likewise points to its brevity. Now admitting, that the addition or elimination of five or six chapters would not make a tremendous difference in the effect on the audience, so far as tiring the people is concerned, yet it stands to reason, that if some irrelevant details were added, there must have been a sufficient reason for having added them solely, as over against other details which were eliminated. We must justify the presence of such laws, if not by the criteria laid down above, then, by some other criterion or criteria, just as logical.

On the literary side, we have the right to expect a certain UNITY OF STYLE. That is to say, it is not sufficient that the same expressions be employed to express the same thoughts thru out, for we have seen that this in itself would not be a sufficient test. Joshua, Judges, Jeremiah employ the same mode of expression more or less, as does Deuteronomy; yet they are not a part of Deuteronomy; nor do they necessarily come from the same hands. By unity of style we mean more than the reiteration of certain phrases; for these phrases became the common property of the so called Deuteronomic school, as did the paranetic style employed therein.

But when we speak of "unity of style" as a possible criterion pointing to the origin of the code or substantiating its unity, we mean, that we have the right to expect the compiler of one passage to employ the same method in the wording and phrasing of other passages, unless the subject matter admits of or demands different literary treatment. Explicitly, if it is the custom of the compiler to take laws from older sources, amplify them, add a paranetic element to them, that is so pronounced, that it comes to be associated with him, at all times, we surely are destined to be astonished when of a sudden we meet a section of the code, that simply takes laws here and there from older sources and incorporated them without amplification or the same paranetic treatment that he accorded to the majority of the laws ascribed to him.

Again we have a right to expect a certain UNITY OF PLAN ; which means that related material should be grouped together. Now of course to expect precision in unity in the way we would expect it from a modern writer is to transcend the bounds of reason. But a certain unity of plan and coherence one has a right to expect even in Biblical literature, and when that plan ~~is~~ ^{interm} does exist in the Code to a great degree, and then is suddenly interrupted by a section of considerable length, containing irrelevant material for the most part and that without any sense of plan, either in relation to what precedes or follows, even with relation to its own contents, the suspicions of the most unbiased reader must of necessity be aroused.

These and many other criteria, which we shall mention in place, are altogether necessary to determine how much of

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the legislation contained in Deuteronomy XII-XXVI was originally a part of the book discovered in the reign of Josiah

We may anticipate the results of our investigation by saying that chapters XII-XIX for the most part (a) meet the required criteria just laid down, whereas chapters XXI-XXV fail to meet the tests for the most part. It is for this reason that our plan of procedure will be to take up these and other criteria of a similar nature in turn, endeavouring to ascertain to what extent chapters XXI-XXV meet the tests or fail to meet them. In this way, we can arrive at definite scientific conclusions, as to whether or not they are to be considered an integral part of the Code.

(a) Ch. XX will be considered individually in the next chapter.

CHAPTER III

UNITY OF PLAN EXPECTED IN DEUTERONOMY XII-XXVI
VIOLATED BY CHAPTERS XXI-XXV.

We said in the preceding chapter, that while one ought not to seek the same unified, coherent style in a book like Deuteronomy, that one would expect and find in a modern code of laws, yet it was natural, that there would be some sort of logical arrangement of the laws. And truly there is a certain plan in the main, especially in that portion of the Code, that deals with those subjects, that pertain most to the reforms instituted under Josiah, viz., chapters XII-XIX. This plan as aforesaid, is occasionally interrupted by material that is not quite coherent with what precedes or follows it. Occasionally related subjects are separated, but in the main there is a certain, definite plan, that may be seen at a glance.

THE PLAN IN CHAPTERS XII-XIX.

A_XII, 1-XVI, 17._ CULT, SACRED OBSERVANCES, ETC.

1_Law of the single sanctuary.(XII, 1-28.)

2_Repression of idolatry.(XII, 29-XIII, 18.)

3_Holiness of the laity.(XIV, 1-21.)

4_Sacred dues and sacred seasons.(XIV, 22-XVI, 17.)

B-XVI, 18-XVIII, 22._ OFFICE BEARERS OF THE THEOCRACY.

1_Judges XVI, 18-20 XVII 8-13.(a)

2_King.(XVII, 14-20.)

3_Priests.(XVIII, 1-8.)

(a) Bertholet and Puko (p. 252) following Dillman place XVI, 21-XVII, 7 between ~~XVII~~ XII, 29-31 and XIII, 2-19. Misplacement probably due to redaction and overworking of text.

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4_Prophets.(XVIII,9-22.)

C_CRIMINAL LAW.XIX (a)

1_Homicide and Murder.(XIX,1-13.)

2_Encroachment on property.(XIX,14.)

3_False witness.(XIX,15-21.)

Driver, then places all the following laws in Deuteronomy with the exception of chapter 26 in a class by themselves, calling them "miscellaneous laws, relating (mostly) to civil and domestic life...not systematically arranged but embracing such subjects as the conduct of war XXI, 10-14. (with c. XX); family law (primogeniture, seduction, divorce etc.) XXI, 15-21 XXII, 13-30 XXIV, 1-5 XXV, 5-10; interest and loans XXIII, 20 f. XXIV, 6. 10-13; just weights XXV, 13-16."

In other word, he includes chapter XX among the list of miscellaneous laws. What ever the pros or cons may be as to whether chapter XX was an original part of the Code, discussing the chapter from the point of view of its relation to the plan of the code as a whole, which is our concern in this chapter, we can see no reason for grouping it with the civil, domestic, and other miscellaneous and in many cases isolated laws found in chapters XXI-XXV. Let us analyze chapter XX by itself.

(a) The plan followed thus far is Driver's (cf. Deut. p. 135, 136.) He, however, would remove XXI, 1-10 from its context and unite it with chapter XIX under the caption of ^{re} "criminal law". The subject will be taken up later in the chapter.

To begin with, chapter XX is a unit in itself. It consists of a number of regulations dealing with military life. Now, while the subject of war, it is true, is not directly related to the basic reforms of the Deuteronomic Reformation, still in a popular code, written for all the people, it is very natural that measures pertaining to war would be included, especially when there was no specialized military forces in the sense that there are today, but when the army consisted of all the able bodied men of the community. War was a subject that concerned every body. For this reason if for no other it does not take a stretch of the imagination to find a place for chapter XX in the plan of the Code.

But while Driver would include it with the latter part of the Code he does not deny that it was original in the Code. Wellhausen, Puko, and Cornill, however feel that it is too "idealistic" And Puko is the more convinced of the fact that it is secondary because it employs the plural form of address. We shall take up the subject of singular and plural form of address later, and endeavour to show just how much stock ought to be placed in it, but let us anticipate our results by saying, that the fact that chapter XX employs the plural form of address, is not in itself sufficient testimony to unite it with the group of laws contained in chapters XXI-XXV.

Moreover, the fact that there are two other measures relating to the subject of war in XXI-XXV, besides XXIV, 5, which is a repetition of XX7 is no reason for uniting it with the later group. XXI, 10-14, dealing with the marriage of a captive woman, is not only opposed to the spirit of Deuteronomy, which is to a great extent particularistic and nationalistic, but it a law that is more

humanitarian on the one hand, while it deals with what was probably an ancient usage on the other hand, both signs that suggests its affiliation to the latter group, rather than to chapter XX. The other measure pertaining to war, XXIII, 10-14, is an old custom codified (cf. II Sam., II, 11.) and is not exactly the legislation that one would look for in the original code. It is very primitive, depicting God strolling about in the midst of the camp.

Now, while there is a spark of humanitarianism in chapter XX, it is not the so called "impractical idealism" that Puko speaks of, and which occurs to a greater or less extent in XXI-XXV. It is strongly national in its spirit, laying stress on TRUST IN JAVEH and is RUTHLESS AGAINST THE CANAANITES, TWO almost unfailing signs of its being original in the code.

MOREOVER, Driver would join XXI, 1-9 to chapter XIX, thus including the law pertaining to the expiation for an untraced murder with the criminal law in chapter XIX and at the same time joining chapter XX with XXI, 10-14. We have shown that there is no reason for the latter case, since Chapter XX belongs to the main plan of the book and is a sufficient unit in itself. But let us examine XXI, 1-9.

(a)

The law as Marti has shown originated in cult. The law describes an ancient, archaic rite, such as we find to be the case time and again in XXI-XXV. It is not a positive law prohibiting murder, but rather a description of a religious custom. Moreover it is related in spirit and language to the so called "elder" legislation in XXI-XXV.

(a) cf. Puko. P. 266.

But aside from the question as to whether or not chapter XX is to be associated with the legislation in XXI-XXV, ^{on other grounds,} it can not be doubted that it is possessed of a plan, that it is unified in the sense of having all the material related therein in thought and subject matter. And, moreover, since its style, phraseology, and spirit is to a great extent Deuteronomic, we prefer to take the more conservative stand, giving it the benefit of the doubt as to originality in the Code of Hilkiah. But our concern in this chapter being as to whether or not it fits into any plan that can be detected in the book, we must certainly justify its originality at the present stage of this thesis.

But quite different is the case with the body of laws beginning with chapter XXI (or certainly, to avoid any undue stretching of the critical method, with XXI, 15) and ending with chapter XXV. The whole plan of the Deuteronomic Code is interrupted by these chapters. They can not justifiably be put under any common caption other than MISCELLANEOUS. They deal with a civil, religious, in the more restricted sense of cult, criminal, and humanitarian matters. In some cases the laws seem to be related to those in the preceding portion of the Code, but then the question arises, if original in the Code, why were these related topics isolated from one another? In other cases the laws show absolutely no connection in style, spirit, subject matter with what has preceded them in the main body of the Code, and least of all with those reforms that were at the bottom of Josiah's Reformation.

To examine this group of laws further on the basis of the criteria already laid down in chapter II will be our

concern. Upon an internal examination of the contents of these laws, we shall see that their interruption of the plan of the Deuteronomic Code is not a mere accident, but a fact which rather points to and confirms the conclusion that they ~~w~~^ere not original in the Code, but ~~w~~^ere added after its discovery and adoption in the manner that we shall see.

CHAPTER IV.

THE RELATION OF CHAPTERS XXI-XXIV TO THE GROUND PRINCIPLE
OF D AS DESCRIBED IN II KINGS XXII AND XXIII.

The most important criterion, perhaps, in the way of ascertaining how much of the Deuteronomic Code was original in the book discovered in the Temple, is the question: how much of the legislation reflects on the reforms that were instituted at that time as described in the account in II Kings. It is too much to expect that every law contained therein should deal with the abolition of heathenish rites and the centralization of the cult, however. Tho these were the two most important concerns at the time, a general popular code would deal with other matters. But these matters ought in the main to bear some connection to those two topics, tho not in every last instance perhaps. A review of chapters XII to XX will demonstrate that for the most part there is such a connection.

Almost every law in the chapters just mentioned has to do with the abolition of heathenish rites, the destruction of the bamoth, the shrines, ^{as} ~~as~~ aras etc., or makes provision for the new order of things that would result from the change of conditions, whether religious, social, or what not. False prophets are denounced, an issue which certainly bears relation to the great question of the time. Tithes are commanded to be brought to the Temple or the equivalent thereof; provision is made for the disestablished priests of the high places; wizards, diviners, necromancers are denounced; severe punishment is laid down not only for the idolaters but for those who seduce ^{to} ~~for~~ ido-

latry. Centralization of all cult is provided for, and on the other hand certain institutions of a minor religious significance, that were formerly connected with the shrines become domestic rites. The three festivals are adapted to the centralization of sacrifice, thus becoming three pilgrimages to the central shrine. A plan is laid down for the ideal theocracy; measures being instituted with regard to the duties of king, priest, judge, etc. All of these topics are more or less related to the Reformation of Josiah as narrated in Kings. Here and there the originality of a passage has been disputed. For example, Cornill and Bertho-

(a)
let feel that Dt., XIV, 1-2, dealing with the laceration of the flesh, when mourning for the dead, is not original in the Code; their reason being, that the prophets, Jeremiah (cf. XVI, 6.) and Ezekiel (cf. VII, 18) speak of the custom en passant as tho they did not object to it. But Driver (b) defends the originality of the passage, maintaining that it is in the spirit and style of D. Bertholet also asserts that the bulk of verses 1-20 of the same chapter are secondary material; and Steuernagel is of the (c) opinion that the whole passage is exilic. (d) Cornill and Bertholet also challenge the originality of XIV, 21a, and that of XIV, 21b. is opposed by Bertholet, Wellhausen, Cornill, and Kuenen. (e) Driver, however remains steadfast in his

(a) cf. Puk. p. 232; Corn. p. 33f. Driver, Dt. LXVII and ad loc.

(b) cf. Bert, ad loc., Steur. ad loc., Puk., p. 257, Driv. Dt. LXVII and ad loc.

(b) cf. Driv. LXVII.

(d) cf. Puk. p. 232.

(e) cf. Puk. p. 256.

#23.

151-182
about
opinion that these passages are original. But aside from the question as to whether this passage and two or three others in the chapters mentioned are original or not, there can be no question but that the bulk of XII-XIX is original and chapter XX as we have shown shows at least as many if not more evidences of being original as it does to the contrary, at least on the basis of its relation to the general spirit of D.

When one comes to chapters XXI and XXV, however, he finds little that is related to the ground principle of Deuteronomy. For the sake of convenience we shall enumerate all the laws in chapters XX-XXV, that seem to bear any relationship, however close or distant to the ground principle of the Deuteronomic legislation.

1 Dt. XXIII, 18. Temple prostitutes and Sodomites

"There shall be no prostitute of the daughters of Israel, neither shall there be a Sodomite of the sons of Israel."

2 Dt., XXIII, 19. "Thou shalt not bring the hire of a harlot or the wages of a dog, into the house of Jehovah, thy God, for any vow; for even both these are an abomination unto Jehovah, thy God."

3 Dt. XXII, 5. "A woman shall not wear that which pertaineth unto a man, neither shall a man put on a woman's garment; for who so ever doeth these things is an abomination unto Jehovah, thy God."

4 Dt., XII, 9-11. "Thou shalt not sow thy vineyard with two kinds of seed, lest the whole fruit be forfeited, the seed which thou hast

sown and the increase of the vineyard. Thou shalt not plow with an ox and an ass together. Thou shalt not wear a mingled stuff, wool and linen together."

5_ Then follows a whole passage dealing with those who are to be excluded from the theocracy; viz:—

(a) eunuchs

(b) bastards.

Ammon
(c) ~~Edom~~ and Moab

(d) Edom and Egypt (first two generations.)

6_ Dt. XXIII, 22-24. "When thou shalt vow a vow unto Jehovah thy God thou shalt not be slack to pay it: for Jehovah thy God will surely require it of thee; and it would be sin in thee. But if thou shalt forbear to vow, it shall be no sin in thee."...etc.etc.

7_ Dt., XXII, 12. "Thou shalt make thee fringes upon the four corners of thy garment, where with thou coverest thyself."

The above mentioned are the only laws in XXIV-XXV that can be said to sustain the slightest relation in thought to the ground principle of Deuteronomy. Let us look at them more closely.

The law on the temple prostitutes and Sodomites is analogous to II Kings XXIII, 18 and certainly bears a direct relation to the ground principle of D. It was undoubtedly misplaced as the majority of critics agree; its proper position in the Code being in the neighborhood of chapter XVIII, verses 9-13. (a)

The same applies, in the main to the (a) cf. Puk. p. 255.

the law immediately following it viz, the law dealing with "the hire of a harlot" etc. There can be no question at all about its relation ship to the ground principle of D; tho its terminology_employing as it does the word Toeveh would tend to unite ^{it} with a group of laws, both contained in XII-XXVI and XXI-XXVI the originality of which is questionable at least. The law forbidding the interchange of garments between the sexes also bears some connection to the basic principle of the Reformation in so much as it describes a custom that was a part of the heathenish practices that were carried on in the service in vogue among the Canaanites. This law also belongs to the so called toeveh group. But these three laws only except the passage on the theocracy which we will discuss immediately bears a direct relationship to the basic principle, The laws on tassels and forbidden mixtures in a more distant way may bear some relationship; the tassels probably emphasizing some phase of Israelitish worship, and a taboo having been placed from of old on the Kilayim or unnatural mixtures. Yet we know that the tassels were a common Semitic custom, not exclusively Hebraic and as for the unnatural mixtures, ^{the} there is more in the custom that seems to oppose what may have been a Canaanitish idea; the whole heathenish cult, having been bound up with the conception of fertility, as we know.

The law on vows bears only a very meager relationship to the subject at hand, tho it is not opposed to the ground principle by any means.

Finally, as to the passage dealing with the exclusion of certain members from the theocracy, it may have been a post exilic insertion as Giesebrecht and Bertholet suggest.

Handwritten notes:
 1. 12/1/1912
 2. 12/1/1912

Puko, Marti, Wollhausen and Geiger are all of the opinion that the passage is original in Deuteronomy as is Driver. perspective

Now to take a look at the legislation we have just been discussing let us jot down our results in a summary way. We find that in the whole of the legislation recorded in Chapters XXI-XXV there are only seven distinct pieces of legislation that can be said to bear the slightest relationship to the ground principle of Deuteronomy, one of which, viz, the theocracy has been challenged as being not original; another of which, viz, the law concerning tassels is only related in a general way; and a third law dealing with vows can only be connected with the basic principle of the Reformation by stretching things a bit.

Now the first point that we would emphasize ~~then~~ is (1) the scarcity of the laws dealing with the basic principle.

Our second point is to emphasize the fact that these laws are isolated from one another in a manner that we shall have reason to discuss later. For the present let us just point out that the law dealing with the prostitute is followed by a law dealing with interest and is preceded by a law dealing with the escaped slave. (cf. Dt., XXIII, 15.) The law dealing with who shall become a citizen of the theocracy and who shall not (XXIII, 16.) is followed by the command to observe strict cleanliness in the camp; and the chapter preceding it deals with the question of seduction.

The law concerning the interchange of garments among the sexes is preceded ^{ed} by the law dealing with the sheep that has strayed etc. and is followed by the law of the bird's nest and that by the law of the parapet. I need not quote further examples. It is very clear that whatever there

may be of legislation concerning the ground principle of Deuteronomy is not put down in a systematic way as it is in the first part of the Code; that it is intercepted by laws of a more humanitarian nature involving matters that are civil rather than ritual. All of which in itself suggests there having been added later and perhaps by gradual accretion. But let us not arrive at final results too soon.

A third point worthy of treatment in our estimation is the fact that if these laws were original in Deuteronomy, why were they not placed together in the earlier part of the Code, with those laws dealing with the same or similar matters, say in the neighborhood of chapters XIII and XIII, where the sacrificing of children to Molech, and the command against the false prophet is found. Why should they be isolated not only from one another but from topics dealing with a similar nature elsewhere in the Code?

The answer to these questions will be given in due time. Sufficient to say that our study of the legislation in XXI-XXV in its relation to the ground principle of the Josianic Reformation does not confirm any belief in the statement that they [&]were _A original in the Code found by Hilckiah.

CHAPTER V.

STYLE OF DEUTERONOMY: WITH ESPECIAL REFERENCE TO THE RELATION
OF THE LITERARY STYLE OF XII-XX, XXVI TO XXI-XXV.

The style of Deuteronomy is unique in the Pentateuch. That is to say, despite the fact that the words and phrases employed therein are for the most part the same as those used in other parts of the Old Testament, when treating the same subjects and expressing thoughts of a similar nature, still there is something about the way those words are combined in Deuteronomy, that makes for a unique style. The book has a colouring of its own, which was adopted by many later writers, viz: the so-called Deuteronomic writers editors or whatnot of Joshua, Judges, Kings, Samuel etc. Incidentally it seems that Jeremiah was affected to some extent by the style of Deuteronomy. That is to say, it would be dogmatic, I fear, to assert that he was acquainted with the book per se, but a study of the comparison of the literary style of Deuteronomy and the book of Jeremiah reveals the fact that Jeremiah must have been acquainted with the same literary school of which the book of Deuteronomy ranks as its purest product.

Now one of the marked characteristics of the style of Deuteronomy, is its fondness for certain phrases and, in some cases, whole clauses. These phrases and clauses occur in the book again and again. And what is more, they occur for the most part in every part of the book. There seems to be some slight falling off of the uses of some of these phrases in the latter part of the book, but it may be that the nature of the subjects treated in that section furnishes

*A very indefinite
method of expression.*

#29.

the best explanation of this fact.

Let us examine the matter in an analytical way. In the
some of
first place, the phrases referred to are as follows:

"abominations."

"thine eye shall not pity."

"if there be found."

and it be sin unto thee."

"the stranger, the fatherless, the widow."

"hear and fear."

"thy gates." "Jehovah the God of thy fathers."

"to ransom, (padah)" (used in connection with
the deliverance of Egypt.)

etc; etc;

(a)

Driver in his introduction to the book of Deuteronomy, gives
a list of some seventy such expressions. Of these, some
twenty four or twenty five, (about one third of the number)
are found in chapters XXI-XXV. However, considering that
the subject matter of XXI-XXV is of a somewhat different
nature, than the subject matter of XXI-XX plus XXVI; con-
sidering, moreover, that the chapters are few in number, and
subsequently, that one can scarcely look for the expressions
in the same number as they occurred before; it would be too
dogmatic and not quite according to the spirit and stan-
dard of science to deem this point to be too significant.

At the same time there is something to be said on the
other side. It is not impossible, that these phrases
may have been added on to the laws in XXI-XXV at the time
of their incorporation into Deuteronomy. We know that the
so called Deuteronomic school, was not of a day but con-
tinued for some years after the book was written, and it

(a) cf. Driver; Dt. LXXVIII.

#30.

does not hold, that simply because some of the phrases employed in XXI-XXV are of the Deuteronomic school, that they were incorporated in the original Code previous to the time, that the Code was found in the Temple.

Driver and Kuenen, hold, however that the presence of these phrases, binds all of Deuteronomy XII-XXVI together as a unit. We do not feel, however, that this matter of style is sufficient to afford a verdict in either direction, except as it supplements the conclusions arrived at by the examination into other criteria.

But there are other matters to be treated in connection with the style of Deuteronomy. Aside from the recurrence of certain definite phrases and clauses, Deuteronomy is famous or its employment of the so called paranetic style. It is written in what may be described as a hortatory or didactic manner. And this applies even to the legal portion of the book. Of course, one does not expect to find ^h a paranetic element so predominant in the legal section as in the introduction; and Driver among others has well pointed out that chapters V-XI employ the paranetic element more than chapters XI-XXVI. What he has not remarked to our knowledge, however, is that it is LESS EMPLOYED IN CHAPTERS XXI-XXV than in the rest of the legal portion of the book. The laws in those chapters are brief, terse, simply stating the law, as tho they had been directly taken out of some primitive statute book, with the exception of an occasional word of warning or of admonition which seems to be tacked on.

Compare the following two passages; both of which are to a great extent typical of the sections from which they have been taken, respectively:

? !
Should have
been well to be more
specific in
the way of illustrations
clear-cut & concise.

? !
word used?

#31.

places wherein the nations that ye shall dispossess served their gods, upon the high mountains and upon the hills, under every green tree. Ye shall break down their pillars, altars, dash in pieces their pillars, and burn their Asheras with fire, and ye shall hew down the graven images of their gods; and ye shall destroy their name out of that place. Ye shall not do so unto Jehovah your God, but unto the place which Jehovah your God shall choose out of all your tribes, to put his name there, even unto his habitation shall you seek and thither shall you come. And thither shall you bring your burnt offerings, and your ^rsacrifices, and your ^rtithes....
...and there shall you eat before Jehovah your God, and ye shall rejoice in all that you put your hand unto, ye and your households, wherein Jehovah thy God has blessed thee."

(from Dt. XII, 1f.)

"Thou shalt not muzzle the ox,
when he treadeth the grain."

(from Dt. XXV, 4.)

or

"Thou shalt make thee fringes
upon the four borders of thy garment, where with thou coverest thyself.

(from Dt. XXII, 12.)

Now of course we have not quoted many passages, for space and time will not permit us to, nor do we claim that every single passage in Deut. XII-XX is the same in style as the passage quoted in Chapter XII. Nor on the other hand do we contend that every passage in Chapters XXI-XXV is as brief and terse as those which we quoted from that section. But true it is, that the majority of the section XII-XX is written in the style of the passage quoted from chapter XII and that the laws concerning the muzzling

#32.

of the ox and the wearing of tassels are in every way typical of the laws designated by the section, XXI-XXV. And what an abyss lies between the two styles. The former is full, flowing, detailed, somewhat redundant and paranetic in its tenor. The other is terse, short, abrupt, with out the appearance of "Jehovah, thy God," having commanded it etc. Now it does appear rather peculiar, that in one portion of the book, the laws are for the most part couched in the free flowing paranetic style, whereas in the latter part of the Code, one is struck by the terseness of the laws and is given the impression almost instinctively, that they were taken almost verbatim out of some ancient collection and incorporated in the Code with out the stamp of the compilers individuality having been placed upon them; at least in a manner that makes them stand out as his own work.

Our conclusions, therefore, with regard to the comparison of the style of Deut, XII-XX with XXI-XXV, are as follows. In view of the fact that there are many recurring phrases in the earlier portions of the Code that are found in the latter portion of the Code, it would be going too far to ascribe a different compiler to the latter part of the Code on the basis of that fact, alone; altho such phrases are fewer and far between in the latter part of the Code. But when one considers that in addition, the paranetic element so characteristic of D is lost sight of almost entirely in XXI-XXV, one is led to feel that those laws were incorporated by a later compiler or by later compilers as the case may be.

Incidentally, let us add, that the terminology in the latter portion of the Code differs to some extent from that employed in the main body of the Code, still we feel that too much emphasis should not be laid on this point. The

#33.

expressions, "kehal Jehovah" and "beth Jehovah" are too such expressions. The former is found in a passage that is probably post exilic (Dt. XXIII, 1f.); the other is found in one of the laws pertaining to the so called toeveh group, which appears to have a style of its own more or less; and the ^{originality} authenticity of which can not be decided absolutely decided one way or another.

It is unnecessary to append to this chapter a list of phrases and clauses, that are found time and again in D. Driver's introduction to Deut. in the International series (p. LXXVIII f.) gives them all. Compare also the introductions to the commentaries of Bertholet, and Steuernagel.

cf. appendix to this chapter for discussion of use of singular and plural form of address.

It would have been better to go into greater detail, and also to consider other matters of possible agreement or difference, as for example the theological concepts underlying the two portions of Dt. As it is you have merely stated certain personal impressions and offered practically no proof. Such procedure is altogether unscientific.

JH

APPENDIX TO CHAPTER V--

A DISCUSSION OF THE SINGULAR AND PLURAL FORM OF ADDRESS.

cf. Carpenter, p. 166, (note.)

cf. Jewish Encycl. (article, "Deut.")

Stark and Steuernagel lay much emphasis on the value of the singular and plural form of address in ascertaining the sources employed by D. Briefly stated, they manage to separate two separate strands in the hortatory introduction, (V-XI), one of which uses the singular form of address, the other of which uses the plural. Steuernagel then endeavours to separate the legislative portion of Deuteronomy in the same way and would ascribe the laws which he places under the singular form to the same compiler of the singular passages in the hortatory introductions. Similarly, with the plural passages, he endeavours to connect them with the plural passages of the hortatory introduction. Now there may be something in this very ingenuous method, but there are many of the critics today who feel that he has gone too far in his analysis. In many cases, he has to twist the passages and ascribe the singular form of address where the plural occurs and vice versa, in order to confirm his conclusions. A splendid criticism of his extreme method is found in Carpenter on the page cited above. Similarly, the author of the article on Deuteronomy in the Jewish Encyclopaedia criticizes his method of procedure, on the following grounds:

1. The categories of the critics who pursue this method are not those of the author of

Deuteronomy.

2_They fail to explain how present discrepancies were derived from a previous orderly arrangement, for in view of the continual changes in the form of address and the transition from the one to the other, a separation of the passages baste on it can be effected only by resorting to violence.

3_The critics should first have examined whether the noteworthy changes in the form of address have no internal warrant; instead of accounting for this phenomenon simply on the basis of different sources.

In view of these and other criticisms of a similar nature, the value of which can be better appreciated by a minute examination of the text, it is going too far perhaps to attach an over amount of importance and significance to the ingenious results of Steuernagel and his followers along these lines. Yet it is interesting to note in ^h this connection since we are treating of the literary style of D., that whereas in ~~XXI~~^{XXI} ~~XXVI~~ the singular address is employed for the most part, still the plural is more commonly found in proportion in XXI-XXV. At the same time, as aforesaid, we cannot afford to press the point too far, since the singular is also found in abundance in those same chapters, and the plural is sometimes found in the earlier portion of the Code. ^(a)

(a)

cf. Steuernagel, Dt. p. v, vl.

cf. Fuko, p. 90, 238f.

CHAPTER VI

LACK OF UNITY AND PLAN IN CHAPTERS XXI-XXV.

As aforesaid, chapters XXI-XXV interrupt the plan of XII-XXVI. Previous to chapter XXI, there is a definite plan, a certain system, which suddenly disappears in XXI and the following chapters until we arrive at XXVI, which is connected in thought and spirit with the earlier section of the Code.

But not alone this. Chapters XXI-XXV, no matter how irrelevant to the subject of D, lack a plan within themselves. That is to say, they contain a number of precepts, some of which are connected in thought with the ground principle of Deuteronomy, most of which, however are not, but all of which are for the most part defectively arranged. They lack a definite system of arrangement. Kindred matter is often separated in a manner that one scarcely looks for considering the orderly arrangement of the laws in XII-XX. The author loses himself in a raze of brief precepts, which often deal with matters that one would not expect to find mentioned in a popular manual of laws, such as the Deuteronomic Code seems to have been intended to be. But as Kuenen puts it, the author seems to have recovered himself again in chapter XXVI.^(a)

Let us examine the arrangement of the laws in XXI-XXVI.

The laws on slaves and debtors, ("Thou shalt not deliver unto his master a slave that is escaped....."Dt., XXIII, 15; and "Thou shalt not lend upon interest to thy brother..... unto a foreigner thou mayest lend upon interest..."Dt., XXIII, 19.) are found in the midst of a number of ceremonial laws

#37.

dealing with camp regulations, laws against the religious prostitute vows etc. XXIII, 19 would be better connected with XXIV, 6 and XXIV, 10, both of which deal with the subject of loans and pledges. ("XXIV, 6. _No man shall take the mill or the upper mill stone to pledge; for he taketh a man's life to pledge." and XXIV, 10. _When thou dost lend thy neighbor any manner of loan thou shalt not go into his house to fetch his pledge.....") Is it not reasonable to expect that a compiler or editor as systematic as the editor of chapters XXI-XX, XXVI would place all these laws pertaining to pledges together? In the latter laws mentioned, viz: XXIV 6 and XXIV, 10, a law dealing with the cure of leprosy, probably a priestly torah, intervenes.

Again laws dealing with family difficulties and the relation of the sexes are separated.

Deut. _XXI, 15-18f. "If a man have two wives the one beloved and the other hated then it shall be in the day that he causeth his sons to inherit what he hath, that he may not make the son of the beloved the first born, before the son of the hated which is the first born....." and "If a man have a stubborn and rebellious son..... then shall his father and his mother lay hold of him and bring him out before the elders.... and all the men of the city shall stone him to death..."

These laws are followed by the following regulations.

_body of a malefactor to be buried before night.

_return brothers sheep etc.

_interchange of garments by sexes.

_bird's nest

Then the rest of chapter XXIII continues with legislation on the relation of the sexes, chastity etc. Then the subject is not touched again until XXIV, 1-5, the intervening material in chapter XXIII, being for the most part regulations of a ceremonial nature or attacking heathenish customs.

does not define the case

Following XXIV, 1-5, dealing with the bill of divorce, and the exempting of a newly married man from military service, one finds a variety of laws dealing with such subjects as ^{pledges} manstealing, cure for leprosy, humanitarian precepts, the bastinado, muzzling the ox until XXV, 5 the subject of domestic relations is resumed again in the law of the "yibum".

Again two laws dealing with the matter of justice, viz (XXIV, 17 and XXV, 1f.) are separated, tho in this case only by a single law, viz, the law of gleanings.

Again, we contended that chapter XX (the regulations on war) could as well be placed with XII-XIX as with the latter group of laws and we saw no reason in connecting XXI, 10-14 with the legislation on war. Moreover XXIII, 15 regulations of the camp is ceremonial and XXIV, 5 is virtually a repetition of XX, 7; but even if we were compelled to assent to placing chapter XX with XXI-XXV and treating the other laws as regulations concerning the conduct of war, would we not have the right to ask, why are these laws dealing with the same topic separated from one another?

Finally the law dealing with the burial of a malefactor, XXI, 22, 23, which is a law of cult and probably taken from a priestly corpus is found between two laws, one dealing with family relations, the other being a humani-

#39.

(Dev + Alex.)
tarian law. XXV, 4, muzzling the ox, is found between the legis-
lation on justice and that on the yibum or levirate marriage.
It appears at least from a certain angle, that that law
is somewhat related to that of the bird's nest at least in
spirit.

And so we might go on giving further examples; but I
take it that the matter is clear even to the casual ob-
server that the section XXI-XXV consists of a medley of laws
separated and isolated not only from laws dealing with
similar subjects in the earlier part of the Code but from
laws dealing with the self same subject found in the same
portion of the Code.

Before closing this section on the relationship of vari-
ous laws in XXI-XXV, let us mention the fact that Steuerna-
gel has brought together various groups of laws in those
chapters that are related somewhat in substance and spirit,
as well as in language to some extent. These laws are not
found together. That is to say, the laws pertaining to any sin-
gle group are scattered about thruout the four chapters.

But, incidentally, the division of laws into these groups
is to a great extent an arbitrary and somewhat forced method.

(a)
Carpenter says, "it is not possible to separate these groups
clearly from one another on the ground of contents and form!"
For as he goes on to say, some of the technical terms that
are employed to bind one or another group together are terms
that are not specific of an idea or exclusively found in
these groups. The term, "toevah," for example, is applied to
idolatry, unchastity, magic, and false weights. Moreover the
laws are cast in various types of command and prohibition.

(a) cf. Steurn, Dt. (introd. to laws in section xxi-xxv,
Carp. p. 158. a where tabulated list
is given of the laws in
these groups.)

#40.

But suppose Steuernagel's arrangement of the laws into the groups suggested by him were accepted, have we not the right to expect the groups to be separated from one another instead of a law from one group coming directly after a law taken from another group? Either this, or what we suggested before, viz; that topics treating of a similar nature should be together, But it is reasonable to expect, that chapters XXI-XXV should have some systematic plan; some definite basis of arrangement, whatever that basis may be. Since the basis of arrangement in the preceding laws is according to subject matter, we would expect it to be the same in this case. But even if the laws were arranged only according to the basis of sources and laws coming from the same source were put together, we would be more satisfied. But how account for this medley, this chaos, this lack of order? Does it seem reasonable to suppose that it was the work of those who systematically promulgated the original Deuteronomic Code ?

CHAPTER VII.

THE SOURCES OF DEUTERONOMY.

It is an established fact that the compiler or compilers of Deuteronomic legislation did not create new laws for the most part but rather employed older sources which they amplified, amended, supplemented to suit their purpose. In the narrative portions of the book E and J are used, while in the legislative portion of the book, the legislation included in the historical accounts of E and J, viz: the Big Covenant (C, 1) and the Little Covenant, (C, 2) are used. In addition to these sources certain priestly torath from which H and in some cases P drew are also employed as, for example, the passage pertaining to the dietary forbidden food, viz, the dietary laws in chapter xiv. Again there are many laws in D that are peculiar to D, that is to say, they are not found in any other legislative portion of the Hexateuch. The purpose of this chapter is to investigate the sources of the Deuteronomic legislation in order to ascertain whether or no they throw any light on the relationship of chapters XII-XX to XXI-XXV.

In chapters XII-XX the following sources are most widely used:.....C, 1, (Ex. XX, 22-XXIII, 33, ^{XXVI})

C, 2, (Ex. XXXIII, 1, 3, 12-23 in the rain,
and XXXIV, 6-28 in the rain.)

Certain priestly torath.

Certain laws are found there as afore said peculiar to D or found in D only.

C1, and C2.

The bulk of the laws in XII-XX are from C1 and C2. That is to say, it can not be affirmed with any degree of positiveness that the compiler or compilers of the Deuter-

gnomic legislation saw the "text" of JE including C1 and C2 tho it does seem as if they knew the literature as it existed after the fusion of the two sources. For this much is true, to say the least, viz, that the compilers of Deuteronomy were thoroughly familiar with the history and legislation as included in those sources and made use of them time and again. The only reason that we hesitate to affirm that the sources were used as tho the compilers of Deuteronomy had them in front of them is that here and there the language is different than that used in Exodus and the style is vastly different. Yet the compilers of Deuteronomy may have seen this literature and used it merely as a guide or basis, changing the language and thought to serve their own ends. At times the laws are quoted almost verbatim. But the point that concerns us most at this stage is that C1 and C2 are used most extensively in XII-XX.

(a) more
Let us add that the primitive customs and mode of living, as depicted in the legislation of Exodus are to a great extent weeded out by the time we come to the compilation of D. So that Deuteronomy employs these laws in two ways:

1_ Deuteronomy adapts the institutions recorded in C1 and C2 to the new order of things as resulting in Centralization.

2_ Aside from Centralization, many of the old customs recorded in Exodus have changed, a new development in the social as well as the religious life of the people has been going on from time to time. The laws of Deuteronomy baste on those of C1 and C2 point to fruit of this evolution in the life and thought of the people.

(a) cf. ch. I
p. 2.

To review, the laws in Deuteronomy taken from C1 and C2 are changed not only to adapt the life of the people to the new order of things as brought about by Centralization; but the older institutions depicted in C1 and C2 have for the most part been changed in the law to and in their place we have a more developed a higher civilization.

But aside from C1 and C2 there are laws in Deuteronomy XII-XX, that are

Peculiar to D. or found there for first time.

They are as follows:

1_ Laws dealing with Centralization, (ch XII.)

2_ Tithes (an institution later than those recorded in C1 and C2, hence not known to the earlier legislation.

3_ Sacrifices not to have any blemish (in H also.)

4_ Idolatry, against (H also)

5_ Stoning for idolatry. (no other code.)

6_ False Prophet " " "

7_ Central tribunal

8_ Monarchy

9_ Revenue of priests

10_ Ch XX Regulations on war peculiar to D.

Now,
Our study of all the sources taken together in these chapters including an extract from a priestly torah here and there, has brought us to the following conclusions:

1: The bulk of the legislation in XII-XX demonstrates that the majority of it comes from C1 and C2 and especially from C1.

2_ that these sources are only amended to serve the purpose of D or in such cases where the institutions recorded there

have gone thru a natural evolution.

3. That the new legislation^{is} introduced
by the compilers and which seems to be original with him
 deal with

a) matters that are not contained in
C1 and C2 as e.g. tithes,

revenue of priests

b) with important issues of the time of D,
 as .e.g. false prophets

stoning for idolatry

c with matters pertaining to legislation
~~of centralization~~
a religious issue introduced for the
first time in Deuteronomy, (C1 and C2
acknowledging the permission of many
shrines.

N. | In chapters XXI-XXV we find that C1 and C2 are used again
 the less than in the preceding chapters. Of course it stands
 ? | to reason that if the bulk of C1 and C2 is employed in
 the preceding chapters that we can scarcely expect to find
 it in the later chapters, but the fact that the compiler of
 XII-XX drew so fully from C1 and C2 and that in XXI-XXV the
 very nature of the laws is different than those usually found
 in C1 and C2 is interesting in itself and casts light on our
 problem. For even those laws that do not come from the Codes
 in Exodus are totally unlike those that the compilers or
 compiler of the earlier section originated, as well as unlike
 for the most part the laws that are found in Exodus.
 Before discussing them, however, let us mention those laws in
 XXI-XXV that come from sources with which we are familiar.
 They are as follows:

(from C1)

1_ XXIV, 10-13 Pledges.

2_ XXIII, 20-21, usury.

3_XXII,1-4 Neighborly feeling and regard.

4_XXIV,7,Manstealing.

5_XXII,23-29,Seduction etc.

and from

(E) 6_XXII,22 Adultery.

7_XXV,17-19 Aralek passage cf.Ex.XVII,14.

Aside from these passages all the rest of the legislation in XXI-XXV is gleaned from other sources,apparently unknown

to the Compilers of C1 and C2. There are passages that are

a)peculiar to D and other passages that are

b)not found in the preceding codes,

but which are found in the later codes,

viz,H and P.

Unlike passages of a similar nature in the preceding por-

tion of the Code they do not deal with matters that per-

tain solely to Centralization,the uprooting of heathenish

practices,or with institutions later than those in C1 and C2

in their origin. Some of them deal with the two points first

(a) mentioned. Many of them do not. Primogeniture,bird's nest,

battlement,slander against a newly married maiden,clean-

liness in the camp,humanity to the escaped slave,divorce,bas-

tinado,levirate marriage etc.etc.have nothing to do with

the ground principle of D.And most of them are not institution^s

later than those recorded in C1 and C2.The levirate marriage

was according to all authorities a verxy ancient rite.Clean

liness in the camp probably comes from some priestly Torah

every bit as old as C1 and C2. The laws on the bastinado

are probably based^a on very ancient usage,as is the law on

(a)cf,ch.IV.

the ruzzling of the ox. If anything these laws rather than being younger than C1 and C2 are probably very much older than some of the laws found in those codes. And this is the crux of the whole matter, viz, that those laws in XXI-XXV not found in C1 and C2 come from sources that may have been known to the compilers of XII-XX but, if they were are, not hinted at by him for a moment. For the laws that are found in that section that do not come from C1 and C2 seem to have originated for the most part with the Compiler of the section, whereas in XXI-XXV, such laws that are not found in XXI-XXV, with the exception of the few laws which deal with the ground principle of D seem to be taken directly out of a number of older collections, without having been changed to any very marked degree by the Compilers.

Just how far we may go in distinguishing these groups from one another, we have discussed previously. ^(a)Steuer-nagel would divide them into four main groups viz, those dealing with

a_War (XX)XXII,10-14;XXIII,10-15.

(We have already discussed these passages giving our reasons for uniting chapter XX with the previous legislation, as well as connecting the other two laws with the later legislation.)

b_The "humanitarian" group. and passages related thereto. (XII, 1-4, 6, 8, XXII, 16, 17, 20, 21, 25, 26, XXIV, 6, 10-12, XXV, 1-4.

c_ "Elder "group dealing principally with

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the adjustment of family rights etc. and which Puko believes is not to be regarded as "Urdeuteronomium." (XXI, 1-9, 18-21, XXII, 13-29, XXV, 5-10. and related laws (XXI, 15-17, 22-23, XXIV, 1-5, 7.

d_ "Toeveh" group (XXII, 5, XXIII, 19, XXV, 13-16) and related legislation (XXII, 9-12, XIII, 1-4, 18, 22, 24.)

Now as aforesaid, this arrangement is not to be taken on its face value as being positively infallible. It seems to me that any attempt to build up collections of sources on the basis of an expression here and there, or the use of a singular or plural pronoun is in the case of such a medley of laws ridiculous. But that some of these laws are related and that they have a number of ancient usages that seem to have been taken from older collections of laws some of which we may in part reconstruct here is not going too far or stretching a point by any means.

To summarize, we have arrived at the following results with regard to the sources of Deuteronomic legislation, thus far in our study.

1_XII-XX (though it scarcely applies in chapter XX) employ C1 and C2 using them most abundantly, changing them when necessary, whereas they are used less frequently in XXI-XXV.

2_such laws as are found in XII-XX not influenced by C1 and C2 seem to have originated with the compiler and deal either with the subject of Centralization or with new institutions, whereas in the case of XXI-XXV they

seem to have been taken almost directly out of older collections. They are either from priestly toroth, as in the case of the toevah group or thoroughly humanitarian, a point with which we shall deal more in full later; but they sustain very little connection not only with the ground principle of D, as well as with the sources employed by D in the main body of the Code.

In the light of these observations, our suspicions with regard to the origin of these chapters are all the more aroused, not that it is incumbent upon the compiler or compilers of any book or legislation to employ the same sources thruout, but it does seem peculiar after all, that he should employ sources in one part of the book totally unlike those used in another part of the book, unless the legislation demands it; but then the old question arises, if the legislation in the latter part of the book is different than that in the main body of the book, we must expect a good reason therefore. In the next chapter we shall deal with some of the internal characteristics of this legislation.

CHAPTER VIII

SOME INTERNAL CHARACTERISTICS OF DEUTERONOMY XXI-XXV.

Aside from the other unique features of Deuteronomy XXI-XXV, that distinguish those chapters from the preceding legislation, there are certain internal characteristics, which we have only as yet touched on so to speak, but which taken together are of some significance in determining the origin of that legislation.

For one thing, the laws in XXI-XXV describe to a great extent many ancient usages. Witness, for example, the law on the expiation of an untraced murder (Dt. XXI, 1-9), which (a) according to Driver and other commentators is an archaic rite far older in its origin than the time of the compilation of D. Moreover, as Bertholet points out the spirit and tenor of the law on marriage with a female captive taken in war (XXI, 10-14) is contrary to the spirit and tenor of Deuteronomy, which is particularistic and ^{naturalistic} (b) (rightly so, when viewed in the light of historical conditions of the time). However, the law probably describes an old custom, and illustrates how old customs remain and become codified even after the spirit contained in them has been outgrown and opposed by a portion of the people. The law concerning slander against a newly married virgin (XXII, 13-21) is probably old, at least so Carpenter believes, but this much is fairly certain, viz., that it rests on ancient usage.

(a) Driver, ad loc.

(b) Bertholet, p. 66.

Similarly, the law on the Levirate marriage (XXV, 5-10) undoubtedly points to an old usage.

Moreover, these laws as aforesaid seem to be taken more or less directly out of the older collections, displaying but very little of change and emendation from the redactor's hand. They are brief and lack the paranetic touch so characteristic of the compiler or compilers of the main body of the legislation.

Moreover there are many passages in XXI-XXV that
(a)
are of a humanitarian strain, and Puko believes that they contain too much of the humanitarian spirit for laws that apparently have emerged out of the priestly circle at Jerusalem. Of course, the prophets had made their influence felt and their ideals had in part percolated into the priestly circle, but that the priests should go out of their way to legislate along lines that were too prophetic in character strikes Puko as being somewhat anomalous. He designated the extreme ethical spirit of these laws by the term, "impractical idealism". He includes chapter XX with these laws, and declares XV, 1-18 to be of the same category maintaining that that passage interrupts the text, which thus far has been dealing with Cult. The laws which he refers to in XXI-XXV are principally as follows:

XXII, 1-4, (returning of brother's sheep etc.)

XXII, 6-8 (bird's nest and parapet.)

(b) XXIII, 15, 19 (escaped slave and interest.)

(a) Puko, p. 287.

(b) He also includes regulations concerning the cleanliness of the camp (XXIII, 9-14.) in same category with ch. XX, tho in this passage there is nothing of a humanitarian nature, as in the case of the former chapter.

Not necessarily
is not a law on
marriage but
means by making
old custom

But most of
these have
precedents in

XXIII, 25, 26, (gleanings,)

XXIV, 6-10, 22, (pledges, loans etc.)

XXV, 4-4. (ox not to be muzzled while threshing.)

These are the principal laws pointed out by Puko as being too much of the humanitarian spirit for Deuteronomy.

Now while it is going too far to say that these laws are altogether out of the spirit of Deuteronomy, still it can not be denied that the legislation in XII-XIX especially, barring the passage XVI-18 the originality of which has been doubted, has less of an idealistic nature and consists chiefly in regulations pertaining to Temple affairs, the rooting out of idolatry, etc. etc. In other words the passages just referred to, which Puko does not include in the Urdeuteronomium bear no direct relation to the ground work of D, nor any indirect relation for that matter.

Another feature of these chapters, which distinguishes them from the preceding legislation is their individualistic nature. That is to say, they deal with details such as one would scarcely look for in a popular code. Witness the legislation on the bird's nest and the parapet. Such laws could only have been a few selected out of a legion of similar legislation. Why mention these particular laws? It is possible to conceive of the king calling the priests, the nobles and the people together to lay down the fundamental bases of the Deuter~~on~~omic Reformation. But is it reasonable to expect that he would include detailed, individualistic laws, isolated as they are from the true purpose and spirit of the convocation, viz, to break up the whole heathenish system by destroying the multiplicity of shrines and strengthening the Central Sanctuary at Jerusalem?

These three features, viz, (1) the ancient origin of many of the laws in XXI-XXV, (2) the fact that they display a humanitarian spirit far too pronounced ~~for~~ D and (3) the individualistic quality of the laws all taken together tends to place them in a different category than the laws which preceded them in XII-XIX principally as well as to some extent in chapter XX.

CHAPTER IX.

A RESUME OF THE OBSERVATIONS MADE THUS FAR: TOGETHER WITH SUCH SYNTHETIC CONCLUSIONS THAT ARE DERIVED THEREFROM CONCERNING THE QUESTION OF WHETHER XXI-XXV ARE ORIGINAL OR NO IN THE CODE-

THUS far our comparison of chapters XII-XIX (XX)XXVI and XXI-XXV has shown the following points of difference:

1_ To begin with, we said that the unity of the Deuteronomic Code is broken completely by the legislation in XXI-XXV, thus differentiating these chapters from the rest of the Code from the very start; and presenting the question: are they original in the Code found by Hilkiah?

(Then after having made a study of the laws contained in this group as compared with those of the former group, we decided upon certain criteria, by which we may determine whether or not not only these chapters but any part of the Code is original.)

3_ We then proceeded to take up these criteria one by one in relation to the text of XII-XX, XXVI and XXI-XXVI respectively and discovered these further differences:

2_ That the ground principle of the Deuteronomic reformation which is the uprooting of heathenish practices, chiefly by the method of Centralization, was not treated in the latter portion of the Code to any noticeable extent. That a very small proportion of the legislation contained therein bore any relation to this subject and that these laws were separated from one another and sporadic in their rather than having been legislated in a systematic fashion, and that some of them were either later than 621 on the very surface or misplaced from

their former position in XII-XX.

3_ That the paranetic style so characteristic of XII-XX (as well as V-XI to even a greater extent) is employed less frequently in XXI-XXV, the laws being for the most part terse and abrupt, and appear to be taken more directly from their original sources without undergoing much change at the hand of the compilers or redactors

4_ That the phrases characteristic of D are found in XXI-XXV to less frequently in point which we would not push too far, however for the reasons already stated.

2. 7. !
5_ That the plural form of address is employed far more often in these chapters than in any other section of the legislation, the singular predominating for the most part in XII-XX, XXVI.

6_ That not only is the plan of the legislation violated by XXI-XXV, but that these chapters lack a plan within themselves. That is to say not only are subjects contained in those chapters separated from subjects of a kindred nature in the preceding chapters, but from very subjects of a like nature within those chapters.

6. 7.
7_ That the sources employed in XXI-XXV are for the most part short collections of laws, not referred to in XII-XX, XXVI.

2. !
8_ That these laws bear no connection to the ground principle of D but are hyper prophetic in their viewpoint when compared with all the laws that precede them in the Code.

9_ That they are individualistic, that is to say deal with details such as one does not look for in a popular Code addressed to the people with a view to achieving a national reformation.

10_ That these groups are for the most part quite old, or at least deal with a number of very ancient rites.

(11_ And again there are some laws as e.g. that of Amalek XXV, 17-19 which the majority of commentators believe were "tacked on" later. Another such example is the law on individual responsibility, XXIV, 16, which dates at the very earliest from the time of Ezekiel, and which (a) some commentators would date even later.

Now other objections of a less serious nature have been offered against these chapters. For example, it is pointed out that the formula frequently employed describing the approach to the land is not found in chapters XXI-XXV in the exact same words as it is found in chapter XIX and the chapters preceding it and again in XXVI. (viz. "no orts asher adonai nothane lecho ... verishto....") Of course the point is clear. The critics would bind XXVI to XIX as the direct continuation thereof, thus casting out XX-XXV. We believe that it is perfectly clear that XXVI is the direct continuation of the earlier portion of the Code, (tho we have chosen to include XX with that earlier portion) aside from being bound to it by any single formula. We prefer to take a conservative stand on these things and not attach too much significance to a single word or phrase, as the critic is apt to defeat his own ends when he would exaggerate the value of such evidence. The critic last of all can not afford to be dogmatic.

But the evidence which we have gleaned in a more con-

(a) Bertholet, Nehemiah's time: probably the work of Ezra. cf. ad loc.

Giesebrecht, time of John Hyrcanus, ibid.

Do the critics
do that?

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conservative and we believe a more impartial manner has
really convinced us that the chapters XXI-XXV have for the
most part, at least, been added later to the Code found
by Hilkiah in the Temple, that they ⁶were not original in the
Code, in other words. It may be that there were passages here
and there that were contained in the original Code, per-
haps those dealing with the ground principle of D, tho even
these ⁶were not in their present position. But we have grave
doubts as to whether the bulk of the legislation con-
tained in those chapters were read to Josiah or to the
people by his command. In conclusion let us add, that our
study has convinced us that Puko's viewpoint is after all
the correct one, when he affirms that the original law
book probably contained only that legislation that deals
in one manner or another with the ground principle of the
Deuteronomic Reformation. Tho, let us add, we cannot afford
to bar out all other legislation were we attempt to re-
construct the original Code, since our conclusions at
best with regard to this matter can not but be hypothetical.
We must give every passage the benefit of ^{the} ~~its~~ doubt that
is not alienated to a too great extent from the content
and spirit of the Reformation.

Below, we have given Puko's attempt to reconstruct the
original Code from the legislative material found in
Deuteronomy, As he himself admits, they may not have been
in this order originally, but ^{his plan} it gives a splendid sense
(a)
and coherence.

cf. Puko, p. 255, 256.

PLAN OF CODE AS RECONSTRUCTED BY PUKO.

XII, 13f. 17-19, 20, 21, 22-24, 26f.

XIV, 22, 23, 24-27, 28f.

XV, 19-23,

XXVI, 1f., 5-15.

XVIII, 1, 3f., 6f., 8.

XVI, 1f., 5-7, 9-15, 18.,

XVII, 8, 9, 10, 12, 13, .

XIX 1f., 3b., 4-8a., 9b-12, 15, 16, 17, 18-20.

XII, 29-31.

XVI, 21-XVII, 2, 3, 4, 5, 6, f.,

? XII, 2-4b, 6f., 8, 9-15, 16, 17, f.,

XVIII, 9-13.


? XIII, 18f.

CHAPTER X

HOW AND WHEN THE LEGISLATION IN XXI-XXV WAS ADDED TO THE ORIGINAL CODE.

The next question that presents itself is if chapters XXI-XXV were not original in the Code, how did they come to be included in the legislation of Deuteronomy and at what time were they added? Let us remark before attempting a solution of this problem, that the best of answers to ~~our~~ difficulty can be considered no better than hypothetical.

In the first place we lack all external evidence on the subject. That is to say, we have no records in our possession outside of the book of Deuteronomy itself, that treat of or refer to this group of legislation as a separate and distinct legislation. Moreover, it is needless to say, that the Book of Deuteronomy itself assumes by its very inclusion of this legislation in the text, that it was original there. The only internal evidence, ^t that we possess, therefore, is the text of the entire legislation itself, an examination of which has not only convinced us that the chapters referred to are not original, but which further seems to lend a hint as to how they might have gotten into the text. But let the reader remember that it is only a hint that we get, and that this hint is in a sense substantiated by the legislation contained in it, still it is a hint, nothing more, and to term our conclusion in this matter as being other than a theory ^{mere} is to transcend the bounds of scientific sense. It is to the interest of the critic and Biblical Science, we might add not to ascribe too much significance to mere guesses, even when the verity underlying them is apparently clear and almost undisputed. How much the more does this apply to such a problem as we

have just presented, a problem ^t that men who have devoted all their years to  subject have hesitated to cope with.

Now how and when did these disputed chapters enter into the text of D? Let us see what evidence we can glean on this subject.

1_ In the first place we are fairly certain of one thing viz, that this legislation was not added to the text at one time. That is to say we cannot picture a certain individual or a number of them coming together on a definite occasion to pass this legislation and include it in the book of Deuteronomy; nor can we picture them taking these laws together, many of which as we have pointed out seem to be quite old and adding them to the original Code. Our reason for asserting this is that the legislation in XXI-XXV lacks a definite plan as we have shown. Does it seem likely that a person grouping these laws together for the purpose of adding them to the Code would ignore all system and plan especially when the group to which they are added does present a well defined plan? It looks rather as if these laws were the result of a gradual accretion; that they were appended to the original document from time to time.

2_ But at the same time it does not appear that the period during which this gradual accretion took place extended over a very great number of years. The language and style tho not so akin to that of the compiler of the original Code, is nevertheless, that of the so called Deuteronomic School of writers. And, aside from this fact, it will be remembered that the legislation in Deuteronomy was succeeded by the Holiness Code the compilation of which preceded 560 B.C. In some cases the laws in Deuteronomy are repeated in H and again in P, especially in the former where they are given much more in

detail. It is safe to conclude that the text of Deuteronomy, aside from occasional addition or change made by some later redactor was not amended to any great extent after the promulgation of the other Codes. Issues which would have been treated in Deuteronomy were taken up in the other Codes.

It seems, therefore that the legislation contained in XXI-XXV with the exception of one or two laws which we have spoken of before as possibly having been added much later was added to the main body of the text within the next fifty years following the promulgation of the Code; when such matters as would have been taken up and treated in D in the course of time were incorporated in the later Codes, especially in H.

3. Issues treated in Deuteronomy are in many cases more emphasized and treated in far more detail in H. For example, the law of adultery contained in Deuteronomy is only one of very many incestuous relations mentioned in H. Similarly with the law of incest in the case of one's stepmother. Can it be that Deuteronomy being a national and popular Code in back of a Reformation was not interested in such details and specific cases, but that in the years following the promulgation of the Code a need was felt for a more specific legislation defining certain relations, civil as well as religious and that the laws contained in XXI-XXV were added on as a supplement to fulfill this need? This is not an impossible solution by any means. In fact the promulgation of H was intended to meet such a need, no doubt, and that is the reason that H contains many many more laws of an individual and specific nature than does Deuteronomy. In other words the appending of other laws to Deuteronomy as in the case of XXI-XXV was made unnecessary when H was promulgated.

such a hypothesis should be substantiated by detailed consideration of the relation between the two codes.

4_ As to ~~the~~ laws as are peculiar to D^{XXI-XXV}, not being found in any other codes of the Hexateuch and at the same time not bearing on the central issue in back of the Deuteronomic Reformation, ~~we can only say that~~, they are priestly in their origin in some cases while in others they smack of a prophetic spirit. We refer to laws like the expiation of an untraced murder, parricide, body of a malefactor, interchange of garments between sexes, bird's nest, battlement, neighbor's crops, divorce, Levirate marriage modesty in women, At all events they describe customs prevailing at the time of their compilation and some of them point to customs which are quite old but which were carried over from generation to generation and it may be that while the Compiler or Compilers of the original Code found no place for them in their plan of legislation still the later redactors felt ^t that like the laws which we have mentioned above, as being specific and necessary to define certain religious and civil relations, so with these laws, they too, should have been placed in the original Code as regulating the private life of the individual.

Our solution then as to the date and reason in back of this legislation which was probably not original in the Code is as follows:

I_ The laws in XXI-XXV were added within fifty years following the promulgation of the original Deuteronomic legislation.

II_ They were probably added by redactors who felt that issues of a more specific nature dealing with the individual life of the people ought to have been included in the original book.

III_ The promulgation of (PII) made it unnecessary to continue to append laws of this character to D, and while

the following Codes were promulgated under different auspices and to fulfill a different purpose than D, still the birth of these legislations ended the gradual accretion of laws that began to develop in XXI-XXV of Deuteronomy. This tacking on of laws to the original Code might have kept up indefinitely, were it not for the fact that the promulgation of the later Codes made this process unnecessary.

Let us add in conclusion, that when all is said and done, the original Code found in the Temple and which was created to serve as the basis of the Reformation was at best only a theoretical attempt to solve the problem of legislation that was to guide the new era. The compilers could scarcely be absolutely correct in their judgement at every turn. Many changes were to take place in the future life of the people that the Deuteronomic Code could scarcely have provided for. Nor were all the provisions made by them to be carried out without any changes or objections. Time and experience alone could test the value of the Deuteronomic reforms, even as time and experience are the only ultimate criteria of the value of all things.