

## CHAPTER THIRTEEN UNITY OF DEUTERONOMY AND THE LAWS OF THE INTERMEDIATE BOOKS

On the essential unity of Deut. 5-26, all critics agree. They differ somewhat in opinion as to the subsequent parts of the book. Also, the introductory chapters have been severed from the bulk of the book, which is legal. Still, they are often attributed to the same author, who forged the Code, and composed them afterwards to unite his book with the Jehovistic document. For example, Graf holds that Jeremiah was the author of Deut. 1-30. Kayser ascribes to one and the same author, 4:44-26, 27 in part, and 28. He does not decide whether the introductory and closing chapters belong to him or not (p. 141). Kuenen thinks that chap. 1:1-32:47 were composed as one piece.

When we speak here of unity, it is obviously in a wider sense than before. The Sinaitic legislation was given within a few months, whilst between it and Deuteronomy fall more than forty years. It is not unity of time, much less of circumstances and environment, but unity of authorship of spirit and aim, and of underlying ideas, which we seek. Even the old view of Delitzsch, who held that a man like Joshua, or one of the elders, זקני, on whom the spirit of Moses rested, supplemented the Elohist narrative by writing Deuteronomy, maintains the essential unity in this wide sense. Kleinert's view, on the other hand, that Deuteronomy was written in the time of Samuel, would already give it up; and to speak of laws, originating in as late a period as that of the Kings, as Mosaic, is not only inaccurate, but misleading.

We are chiefly concerned with two questions here: —

1. Does a relative unity between Deuteronomy and the middle books exist?
2. To which of the two must we assign the priority?

1. Does a relative unity exist?

The peculiar character of Deuteronomy has been defined in various ways, owing to the fact that individual traits have been exclusively emphasized, and made to account for all the others. Kurtz and Riehm describe it as the people's Code, and find in this destination the main distinction from the Levitical legislation. Keil speaks of "a hortatory description, explanation, and enforcement of the most essential contents of the Covenant relation and Covenant-laws, with emphatic prominence given to the spiritual principle of the law and its fulfillment." Ewald as "a fresh and independent law, standing side by side with the earlier one, — a transformation of the old law, to suit altered circumstances." Schultz gives as the aim of the book, "to secure by supplementary regulations that the laws and institutions of the previous books, whose full validity is presupposed, shall be observed, not only in an external way, but as to their inner significance, their higher aim, their spiritual principle, etc.

A comparison of all these definitions will be the best test of their accuracy. Once admitted that each of them has some support in the book, their deficiency will immediately appear by observing that they do not cover each other. That Deuteronomy is the people's Code, does not explain why it should not only interpret, but also enlarge and add. The same objection may be raised against

Schultz's definition and that of Keil. The supplementary character of the Code is by no means so accidental and secondary that it can be overlooked in a definition.

Another inference is, how little right we have to determine the date of a book from the indications of a single feature. All these traits must have an underlying common cause. Their bearing upon the critical question of authenticity can be truly estimated only when this deeper principle has been recognized. Individual features derive their true significance from their common source, and severed from this are very likely to be misinterpreted.

This one principal tendency seems to have been best appreciated by Hävernicks. He recognizes two prominent contrasts with the Levitical law, — *subjectivity* and *parenesis* or hortatory character. Proceeding on this observation, Hävernicks finds in Deuteronomy the fundamental type of all Old-Testament prophecy. "Moses appears here as a prophet, נביא; and subsequent prophetism is considered as nothing but the development of his work, standing with it in the most intimate and vital connection."

It is remarkable how much light is shed by a just appreciation of this principle on all other features of the Code. That it addresses the people, no longer awakens surprise. Prophecy roots itself in the law, not abolishing, counteracting, or modifying it, but explaining, exhorting, enforcing, above all things evolving the spiritual kernel from the objective external form. Subjectivity and a reflective character are adequately explained. Once more, prophecy does not indulge in scholastic repetition of separate statutes, but seizes upon the prominent points, which, under the circumstances of the time, need special elucidation and enforcement. Thus also for what the Code passes by in silence, Hävernicks's view assigns a satisfactory ground of omission. How it embraces the features which Schultz has so well brought out, is self-evident. Not less does it include the view of Ewald and Riehm, for Moses is prophet and legislator at the same time. Hävernicks says, "As mediator of the Old Covenant, he stands at the summit of all prophecy: . . . the distinctive character of his work is, that it not merely approaches the law from the stand-point of subjective application, but also develops and completes it."

The correctness of this view may further be tested by its applicability to all the phenomena. We cannot enter upon the matter in detail, but only indicate the rough outlines along which the argument ought to proceed.

(1) Instead of God speaking to Moses, and Moses to Aaron and his sons, Moses speaks here directly as God's mouthpiece in long discourses to the people. That such is the conception of prophecy, the book states itself (18:15, *seqq.*).

(2) The hortatory, parenetical style exhibits a mind not bound by the letter of the law, but aroused and swayed by the powerful impulse of direct inspiration.

(3) The generalizing method, which seizes upon points of present practical importance, adapts and applies the law to the wants of contemporary history, and emphasizes principles instead of giving legal *minutiae*, exhibits a striking conformity to the work of the later prophets.

(4) The generic treatment of the future. Where there is foresight, and provision is made for remote conditions, they are still such as will be the natural outgrowth of the present, and germinally contained in it. This is the case with the law of the kingdom (chap. 17) and of prophecy (18). The prophetic eye saw the future in the present, since the former was conditioned by the latter. This accounts for the emphasis laid on centralization of worship, and for the possibility of making regulations now which could be used centuries after as reformatory rules.

(5) The same principle may have caused the general treatment of certain classes – e.g., the priests as Levites – and a few other peculiarities.

We are now enabled to put the question more definitely. Does the diversity of character preclude the unity of authorship? In other words, is it unthinkable that one and the same person should combine in himself the qualifications of a legislator and a prophet? That the modern criticism has answered this question in the negative, is enough to show how incapable it is of a deeper philosophical conception and appreciation of the Old Testament. It deals with phenomena as if they were the ultimate data; mathematical figures, which can be made to represent whatever value the critic ascribes to them. At the bottom of all this lies the naturalistic denial of those great principles whose recognition is absolutely necessary to a right understanding of the Old Testament. “In all induction, theory leads.” Dr. Kuenen himself declares it impossible to argue from facts alone. He admits, that from certain indubitable points the chief lines must be drawn, and that these must guide in our interpretation of the rest. But whilst he accuses Schrader of having disregarded this principle, we might retort the charge upon himself and the newer criticism in general. In using the facts to establish its theory of development, this criticism has already violated the rule, that they are not to be interpreted outside of their legitimate sphere, or in the light of a naturalistic philosophy, but by the relation they sustain to the system of God’s revelation of which Scripture is the record.

We believe, that, on the basis of a sound psychology, nothing can be said against the union of these qualifications in Moses. The example of Ezekiel, of whose Thora the critics have made such an extensive use, is enough to decide the question. Looked at from an historical standpoint, the combination was favored by all the circumstances. Israel was at the eve of a new period in its history, which would bring the final realization of long delayed promises, but at the same time expose to new and unknown allurements from the heathen world. It entered with the possession of Canaan upon a crisis of the same kind as those which in later ages called forth the warning and consoling voice of prophecy. It would have been anomalous, had it made this transition so far-reaching in its consequences without the attending light of a prophetic interpretation of the law to guide it. Not less obvious were these circumstances with regard to Moses himself, which favored this result. He had now nearly attained the end of his labors; and as, before his death, he saw the promised land from the top of Nebo, so in the sphere of time the range of his vision is widened. As the dying patriarchs saw and foretold the future fate of their descendants, and blessed their house in their last moments, so Moses, the greatest of all Old-Testament saints, left to the whole house of Israel, as a dying father, the best of all blessings, a law adapted to all future conditions. His work was not for one generation: “mediator of the Old Covenant,” he stands high above all other prophets and saints; already half glorified, no longer subject to the limitations of time, he surveys the Israel of all ages until the coming of Christ, and accordingly his work assumes a prospective and ideal character, so striking that unbelieving critics could not but mistake it as the evidence of a much later origin.

Even a man like Dr. Kuenen admits that these formal characteristics of Deuteronomy do not necessarily prove that it was written by another hand than the intermediate books. It is only in connection with other material points that they obtain significance and convincing power. We need not examine all the arguments that have been adduced to prove the diversity of authorship, such as the peculiar style and language, the silence of Deuteronomy with regard to certain laws, the modification of previous laws, addition of some entirely new laws, etc. Some of these points have been partially discussed before; and all of them have been so exhaustively treated by Hengstenberg, Hävernick, Keil, Schultz, and others, that our remarks could be nothing more than a repetition of their statements.

We pass on to the second question involved: —

2. To which of the two legislations (that of the intermediate books, or of Deuteronomy) shall we assign the priority?

It might appear almost unnecessary after having thus defined the relation of Deuteronomy to the other Codes, to put the question just stated. If our conception of the book as prophetic is in the main correct, and verified by its applicability to the phenomena, this will decide the matter at once. Prophecy presupposes the law, — roots itself in it, and grows out of it. The legal and formal is before the spiritual and ideal, not in the mind of God, but in its historical realization. Nevertheless, since the history of modern criticism is very instructive on this special point, and a fair exponent of its unreliable character, we offer a few remarks.

1. In 1861 Dr. Kuenen gave the following comment on the views of Von Bohlen, George, and Vatke, who asserted that the Deuteronomic legislation was earlier than that of the middle books of the Pentateuch: “He [George] assumes that the historical elements of the Pentateuch are the oldest, that Deuteronomy was written during the reign of Josiah, whilst the greater part of the laws in Exodus-Numbers did not exist until after the exile. His arguments are partly external, partly internal; i.e., derived from a comparison of the two legislations. (1) Jeremiah, who knows Deuteronomy and makes frequent use of it, shows no acquaintance with the laws in Exodus-Numbers, as appears from chap. 7:21-23, where he appeals to Deut. 7:6, 14:2, 26:18, but ignores the whole sacrificial Thora. But Jeremiah could, as Hosea, Isaiah, and other prophets before him, exalt the moral commands of the law far above its ceremonial prescriptions, and consider the former as the real basis of the Covenant with Jahveh, without the implication that a ceremonial Code did not yet exist in his time: he could even pronounce his conviction, that the laws concerning burnt-offering and sacrifice are later than the moral commands, and still it would not follow from this that Exodus-Numbers were committed to writing later than Deuteronomy. (2) Internal evidence. The priority of Deuteronomy is argued on the ground of several strange assertions, *which are not worthy of refutation*; to wit, that before the Babylonish captivity, there was no distinction between priests and Levites, high-priest and priests; that the Mosaic tabernacle never existed; that the spirit and tendency of Deuteronomy indicate an earlier period than those of Leviticus. Deut. 31:14 is considered wholly arbitrarily as a later addition: 18:2, 24:8, are left out of view. The view of George in this form as presented by him has been almost universally rejected.”

So far Dr. Kuenen. The quotation is instructive in many respects. It proves (a) That a critic may proclaim as incontestable truth at one time what, a decade before, he deemed unworthy of refutation. (b) That he may use the same statements at different times to establish views which are diametrically opposed to each other (this with regard to Deut. 18:2, 24:8). (c) That he may propose, as a reasonable explanation of certain phenomena, what he condemns afterwards as uncritical dogmatism in others (this with regard to Jeremiah). (d) That so long as his mind is unbiased by preconceived philosophical theories, he may find the postulates of his own later philosophy absurd. (e) That consequently his theory is not determined by the facts, but that the facts are colored by a theory framed independently of them, and afterwards imposed upon them.

2. This is not the only instance, however, in which criticism has itself closed the way to its own later development, which it was not far-sighted enough to discern sufficiently long in advance. It is well known that Graf in 1866, five years after the appearance of Kuenen's introduction, declared the legislation of the middle books posterior to that of Deuteronomy. Connected with this was the statement that Deuteronomy presupposed not only the Jehovistic, but (*a potiori*) also the Elohist, narrative. Pp. 9-19 of Graf's book contain an elaborate argument to prove that the narrative of the Elohist in Exodus-Numbers was known and used by the Deuteronomist. It was shown no less in detail that the Deuteronomist did not know the Levitical Code. It was evident, however, that in the Elohist document, narrative and legislation were so indissolubly blended, that even the most daring critic could not sever them. This state of affairs was soon realized. Kuenen immediately discovered the weak point in Graf's hypothesis, and called his attention to it in a letter. Now, when two mutually inconsistent propositions have been independently established by an elaborate survey of facts, the natural suggestion would be, to reject the whole process of criticism, that had led to such results, as unreliable. Instead of doing this, however, Kuenen advises Graf to extend his hypothesis to the narrative of the Elohist also. This advice was followed; and out came the present theory of Wellhausen, Kuenen, etc. We ask what has become in the mean while of Graf's arguments apparently so conclusive, that the Elohist narrative was known to Deuteronomy? Have they been carefully reviewed? Not in the least. Dr. Kuenen simply declares it necessary, that either the laws should follow history, or history follow the laws. Here, however, criticism has denied its own principles. Whosoever claims to argue from facts, is not allowed to discard one of his conclusions to save another. If two conclusions are mutually exclusive, then nothing remains but to declare the whole argument invalid. We have exactly the same right to ignore Graf's proofs that the Deuteronomist shows no acquaintance with the Levitical law, in order to recognize merely his arguments that he knew the Elohist narrative, and then, after the innocent remark that the laws must follow history, to consider the pre-Deuteronomic existence of the whole Priest Code established. But the idea of one thing "following" the other has no legitimate place in the sphere of criticism.

When placed in the light of the two facts just mentioned, the following considerations obtain a double force: —

1. The fact that Deuteronomy, on the whole, attaches itself to the Jehovistic Code, is no proof that the Levitical law did not then exist. The Covenant-law furnished the real basis for the Covenant between God and the people. It is no more than natural that Deuteronomy, wishing to bring out the fundamental ideas of this Covenant-relation in their spiritual bearing upon the popular life, should go back to the Code in which they were already germinally contained.

2. Whilst, in most cases, it is difficult to decide how two laws stand related to each other, it is quite different with history. One clearly stated proof that the Deuteronomist knew the narrative of the Elohist, is enough to settle the matter. But numerous proofs have been given by Graf and others. It is therefore safer to abandon the ambiguous method of ascertaining the relative age of two laws by a comparison of their contents, and to adhere to the results obtained from history, than the reverse.

3. (a) There are some indications, however, that Deuteronomy knows the Elohistic legislation. Attention has been called by the critics from a stylistic point of view to the frequent combinations of *חֻקֹּת* (*statutes*), *מִצְוֹת* (*commandments*), *מִשְׁפָּטִים* (*judgments*), *תּוֹרָה* (*law*), *עֵדוּת* (*testimony*). When we remember that the statutes of the Covenant-law are pre-eminently called *מִשְׁפָּטִים* (*judgments*), Exod. 21:1, and that the other terms are predominantly used of the Levitical legislation, then their combination in Deuteronomy becomes highly significant. Besides, it gives us the impression that the author of the latter had a voluminous body of law in mind, to which he referred the people. It is unnatural to refer the terms he uses to the scanty contents of the Jehovistic Code (Exod. 13, 20-23, 34).

(b) The two laws (Lev. 11 and Deut. 14:3-21) are so similar in language and contents, that their interdependence cannot be doubted. Graf assigns the priority to Deuteronomy. This view is at once overthrown by the consideration that the language is Elohistic, and is accordingly in its place in the Priest Code, and out of place in Deuteronomy. Graf seeks to relieve this difficulty by assuming that both the Elohist and the Deuteronomist drew from an older source, but there is not the least ground for this assumption. And how this older source came to possess such a remarkable resemblance in language and contents to the Priest Code of much later date, remains a profound mystery. Moreover, the originality in the Priest Code is clear, because the reference to the touching of a dead carcass does not coincide with the plan of Deuteronomy, which is only to give law about clean and unclean food, but agrees perfectly with the plan of the Priest Code, which is to treat of every kind of defilement.

(c) Other cases of interdependence in which the priority of Leviticus is clear are Lev. 19:19 = Deut. 22:9-11, Lev. 19:13 = Deut. 24:14, Lev. 19:35 = Deut. 25:13-16.

(d) That Deuteronomy alludes to the priesthood of Aaron and Eleazar (10:6), to the Urim and Thummim (33:8), and to the priestly inheritance (10:9, 12:12, 14:27, 29, 18:1), has been pointed out before.

(e) The passages, Deut. 24:8, and 31:14, are even by Dr. Kuenen admitted as proof for the priority of Leviticus. When Kayser sees no reference in the former passage to the law of leprosy in Lev. 13, 14, but assumes that some other law may have been alluded to just as well, this other law exists only in his imagination, and there is not the slightest trace of its actual existence.

(f) A comparison of Deut. 28 with Lev. 26 will show that the Deuteronomist knew the latter discourse, or rather that both proceeded from the same author; in which case the priority of the chapter in Leviticus as the shorter one is, of course, beyond dispute.

(g) Lev. 17 and Deut. 12 leave no doubt, both as to their mutual relation and their Mosaic origin.

Without the Levitical law being presupposed, that in Deuteronomy could have no meaning. Deuteronomy here abolishes in the fortieth year what the Priest Code had enacted in the second. The same relation exists between Deut. 4:41, 19:1-13, and Num. 35, treating of the cities of refuge.

(h) A reference to the ark in chap. 10:1 points back to Exod. 25:10.

4. All these cases, in which Deuteronomy makes short, incomplete, and evidently supplementary statements in regard to matters not treated by the Jehovist, are so many proofs of the priority of the Priest Code.

5. It was generally acknowledged that Deuteronomy throughout presupposes the Levitical legislation, until theoretical bias obliged the critics to deny it. Even a man like De Wette once declared, "Deuteronomium prioribus libris tamquam fundamento niti quaevis pagina docet."