

CHAPTER SEVEN DEVELOPMENT OF LAW

By far the most formidable objection raised by modern critics against the unity of the Pentateuchal Codes, rests on the assertion that they betray by their contents and form a natural growth from the simple to the complex, and that their various parts represent each a different stage of religious development, and fit exactly into the historical periods to which their origin is respectively ascribed. This evolutionary theory, of course, has led to the reconstruction of the whole Jewish history. If the essence of the Christian conception of revelation consist in a direct interference of God, the creation of a new order of things, the implanting by an act of grace of what nature had become unable to produce; if the perfect and absolute stand here at the beginning, and are the source, not the fruit, of all development,—then it will surely follow that a naturalistic philosophy must end with the beginning, and begin with the end. The difference must needs be radical. Whosoever, like Dr. Kuenen, rules out the supernatural element from Israel's history cannot occupy a halfway position: he will place the contents of revelation at the end, because, at every other point, their interpolation would disturb the order of development.

The law according to Wellhausen is an accommodation to the natural tendencies of the people. Originally the ceremonial cultus was rooted in the soil of heathen nature-worship, and in its primitive form it was the spontaneous expression of a natural religious impulse. To the first part of his Prolegomena, treating the history of the cultus, he has prefixed the motto, *Legem non habentes natura faciunt legis opera*. What distinguished Israel from the Gentiles was not its ceremonial institutions,—rather the opposite; for “the cultus is the heathen element in the Jewish religion.” Only after the codification and systematizing of these primitive elements during and after the exile, did the law become the exponent of the people's peculiar character. First, prophecy had raised its powerful voice in opposition to all outward rites, as being rooted in, closely allied to, and in necessary connection with, the worship of other gods. Pure Jahveism in a spiritual sense was the ideal which the prophets continually held up before the people, without being able to realize it amongst them. How we shall account for the sudden appearance of a class of men with such spiritual ideas and lofty aspirations, among a people scarcely awakened out of the mystic sleep of Oriental nature-worship, to the first faint consciousness of something more definite and personal, we ask in vain. The fact is surely not less miraculous and astounding than the promulgation of a divine law on Sinai. But the prophetic voice so powerfully raised at first, became weaker and weaker, and at last was silenced entirely. Spiritualism had taken up arms against ritualism, and lost the battle. Seeing that it could not successfully resist this natural tendency of Israel, it began to accommodate its demands to the desires of the people, and tried to assimilate the essentially heathen elements to its own Jahvistic ideas; and by this strange but dexterous renouncement of former principles, the strongest obstacle in the way of Jahvistic monotheism was all at once transformed into its most powerful incentive and reliable safeguard. What happened, according to Wellhausen, finds an illustration in the methods followed by the Christian Church, in adopting heathen practices and customs, and making them the symbols of Christian facts and ideas.

It is true this scheme presents a difficulty which has not entirely escaped the critics themselves. Wellhausen confesses that the Levitical Theocracy indicates a retrogressive movement in the religious growth of Israel. He characterizes the introduction of the Pentateuchal Codes as a systematic relapse

into that heathenism which the prophets had condemned and opposed with all their might. There is a break in the process here. Prophetism had proclaimed spiritual Jahveism, and condemned ritualism instead of adhering to this vital principle (its only *raison d'être*), and exalting the idea above the form, which was the true import of its mission, it now forsakes the essential and spiritual aim of all its striving, satisfied if merely the form be saved, if only a sort of Jahveism, be it ever so gross and superstitious and ceremonial, be preserved.

Not all critics agree as to the precise order in which the several portions of the various Codes originated. As to the Codes themselves, the most favorite succession is that proposed by the reconstructionists of Wellhausen's type, being Covenant-law, Deuteronomy, Ezekiel's Program, Priest Code. Graf distributes the legal contents of the Pentateuch in the following way—

1. The Jehovistic recension of the Elohist narrative (which he assigns to the time of King Ahaz) contained Exod. 13, 20-23, 34.

2. The law-book discovered in the eighteenth year of King Josiah, and written during his reign, contained Deut. 4:45-28:69. Of this, however, chap. 21-25 belong to an earlier time, and formed originally a supplement to the laws of Exodus. Graf is inclined to identify the Deuteronomist with Jeremiah.

3. Ezekiel is the author of Lev. 18-26, and of the Sabbath-law in Exod. 31.

4. In the time of Ezra, and probably by Ezra himself, were written Exod. 12:1-28, 43-51; 25-31 and 35-40; Lev. 1-16 (only chap. 11 contains an older law), 24:10-23; Num. 1:48-10:28, 15-19, 28-31, 35:16-36:13.

5. Soon after the time of Ezra the whole was completed by the addition of Lev. 27 and some minor parts.

Since the latest schemes place Deuteronomy between the Covenant-book and the Levitical laws, we must anticipate some parts of our discussion. The historical side of the problem will also come here, already more or less under consideration.