

W. Robertson Smith

Answer to the
Amended Libel

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SECOND EDITION.

ANSWER

TO THE

AMENDED LIBEL

BY

W. ROBERTSON SMITH

WITH APPENDIX, CONTAINING PLEA IN LAW

EDINBURGH

DAVID DOUGLAS, 9 CASTLE STREET

1879

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THIS paper was laid before the Free Church Presbytery of Aberdeen on the 1st of July, 1879. The Legal Plea on which I claimed for it to be considered by the Court, before service of the Libel, is added as an Appendix.

W. R. S.

ANSWER TO THE AMENDED LIBEL.

The charge brought against me in the amended Libel is, that—

The statements about Deuteronomy, published in the article "Bible," and the explanations of these statements, submitted by me to the College Committee, contradict the Confession's doctrine of the immediate inspiration, infallible truth, and Divine authority of that part of Scripture.

I. In dealing with this accusation, I ask it to be observed at the outset that I uphold the canonicity and inspiration of the book of Deuteronomy as strenuously as my most determined opponent can do. Those who press the Libel against me have never attempted to prove that I disbelieve in the inspiration of Deuteronomy, or of any part of that book. What they attempt to show is that in consistency with my opinions as to the origin of the book I *ought to reject* its inspiration.

II. It has often been insinuated, that while I profess to receive the book as inspired I mean by inspiration something different from what the Confession means. I ask my judges to reject this insinuation as injurious. I am willing to have my views of Deuteronomy tested even by the strictest

doctrine of plenary inspiration, and I am confident that they are able to stand the test.

And here let me point out that the Libel is quite needlessly elaborate in its enumeration of a list of characteristics of inspired Scripture—immediate inspiration, infallible truth, Divine authority—which my views are said to contradict. This elaboration was proper enough in the old obsolete libel, in which the question of Deuteronomy made only one of six cumulative charges, designed to show that my whole way of regarding the Old Testament was radically opposed to sound views. This large accusation raised complicated questions of theology, and made it necessary for my accusers and myself to discuss the details of our Confessional doctrine of inspiration. But the question of Deuteronomy taken by itself, after the larger charge has been abandoned, involves no doctrinal niceties. The issue depends on a single plain principle which every one can understand, and no one will dispute. Let me state that principle now, so that the question may at once be reduced to its simplest form.

In committing His Revelation to writing, God in His wisdom has made use of the most various forms of literary composition and literary art. He teaches by history and parable, by poetry and proverb, by allegory and symbol. The Spirit of God is not straitened; and has not disdained to employ any way of writing, any form of literary art, that could be legitimately used in ordinary human compositions.* But it is impossible to believe that the spirit of inspiration could sanction a way of writing which would be blameworthy in an uninspired author. For example, it is impossible that a book can be inspired if it appears that the design of the author was to deceive his readers. And if any one were to affirm of Deuteronomy that it was written with

* This principle is recognised by the soundest writers on inspiration, such as the late Principal Candlish and Dr. Bannerman, and was stated by Dr. Wilson in the Assembly of 1878. (See the *Proceedings*, p. 131).

such a purpose of deceit, it would be quite fair to say that his opinion is inconsistent with belief that the book is inspired.

Now it appears from the libel that this is the very reason why some persons in our Church accuse me of destroying the inspiration of Deuteronomy. They suppose, and they have put it so in the libel, that I represent Deuteronomy as a book written to deceive its readers into believing an untruth. This is the only reason given in the libel for saying that my opinions are opposed to inspiration. And therefore the accusation will fall to the ground when I show that my opinion about the book is the very opposite of what they make it, and altogether excludes the idea of fraud or deceit on the part of the sacred writer.

The libel accuses me of teaching "that the book of Deuteronomy, which is professedly an historical document, does not possess that character, but was made to assume it by a writer of a much later age, who therein, in the name of God, presented in dramatic form instructions and laws as proceeding from the mouth of Moses, though these never were and never could have been uttered by him." This sentence is not a very lucid one, but the gist of the thing is, that the book of Deuteronomy professes to be something which it is not, and that the writer leads his readers to accept as historical truth what he knew to be untrue and impossible. In a single word, I am accused of holding the well-known Rationalistic opinion—that the book is a literary fraud. Well, there are two extracts brought from my writings to support the accusation, and as matter of fact in each of these extracts the idea that the book is a fraud is brought forward and explicitly repudiated.

This then is how the matter stands. There is no question that if the book is a fraud, designed to deceive the reader, it cannot be a part of inspired Scripture. According to the libel the book, on my account of its origin, is such a fraud. But this is a reading of my statements which I not only

repudiate now, but repudiated in the very writings on which the charge is based.

III. Now that we have got the question into a simple shape, I shall ask the Court to look in detail at the real nature of the difference between my opinions and those currently received.

1. In the first place I do not think that the book of Deuteronomy, as a whole, professes to be written by Moses, or can reasonably be ascribed to his pen. It is generally admitted that the last chapter, which tells of the death of the lawgiver, must be of later date. In fact it was written sometime after Moses' death, for the city which is called Dan in Deut. xxxiv. 1, bore the name of Laish up to the time of the events related in Judg. xviii. 27-29. I think, however, that we are not naturally led to believe that Moses wrote any part of the book in which he is spoken of in the third person. The very first verse of Deuteronomy says, "These be the words which Moses spake unto all Israel *across the Jordan* in the wilderness,"* and this is not a solitary proof that the book as we possess it was written down after the people had entered into possession of Canaan—(see for example Deut. ii. 12; iv. 38). We are told indeed in Deut. xxxi. 9, 24, that Moses wrote down in a book the law which he had delivered to the people. He wrote "the words of this law." But how much does that imply? The answer may be found in Deut. xxvii. 8, where the command is given to write the same thing, "all the words of this law," upon the plastered stones on Mount Ebal. It is not reasonable to think that all the historical matter of the Pentateuch, or even of the book of Deuteronomy, was written upon these stones. What stood upon them was doubtless, as Calvin

* The English version says "on this side Jordan," but it is generally admitted that this is wrong. Thus Dr. Douglas, in his recent pamphlet, p. 30, says that the phrase means simply "across the Jordan," as I have translated it above. I know that he does not agree with my conclusions from this translation.

expresses it, only "the sum and sanctions of the law." So much it was necessary to have in writing from the first, and so much God ordained first to be written by Moses and deposited with the priests, and thereafter to be publicly copied out on Mount Ebal. But that is a very different thing from saying that Moses himself wrote down at length all the histories and exhortations which accompany the law in our present book of Deuteronomy. And we should be all the more careful in making sweeping assertions about the Mosaic authorship of the whole Pentateuch, because the Sacred Record is careful to note particularly that from time to time Moses was commanded by God to record some particular precepts or facts (Exod. xxiv. 4-7; xxxiv. 27; Exod. xvii. 14; Num. xxxiii. 2; Deut. xxxi. 22). I think that many persons looking at these considerations together will find it more probable that Deuteronomy was written after the Israelites entered Canaan, and with the use of materials left by Moses, than that the whole is from the lawgiver's own pen. At all events this supposition involves nothing fraudulent, inasmuch as the book nowhere claims to be written by Moses. And the value of the book depends not on the person of its author, but on the materials that were laid to his hand, and the guidance of inspiration which directed him in the use of them.

Accordingly the libel does not blame me for denying that Moses wrote Deuteronomy, and in proceeding to explain the things for which I am blamed, I ask my judges to bear in mind that thus far I am admittedly within the liberty that belongs to every office-bearer of our Church.

2. When I look carefully at the book of Deuteronomy, I find that it naturally falls into several sections which are even marked off by headings and subscriptions. After a superscription, i. 1-5, we have a long speech of Moses, mainly historical and hortatory, which runs on from i. 6 to iv. 40. Then comes a short historical passage iv. 41-43, followed by a second and longer speech (v. 1 to xxvi. 19) with a new

title of its own, iv. 44-49. This speech again may be divided into two parts—an exhortation, chaps. v. to xi., and a statement of the law, chaps. xii. to xxvi. From chap. xxvii. to the end the book contains various matters which I need not now analyse, and which, taken as a whole, form the conclusion of the history of the work of Moses. Now if it is not certain that the whole of Deuteronomy was written by Moses it is not necessary to suppose that all these sections were penned by one writer, or published at one time. We may find reason to think that some parts were actually written down by Moses or by Joshua, and yet hold that other sections which contain allusions to later circumstances—like the reference to Dan in chap. xxxiv.—were added by a subsequent author. In fact, I do not think that any one who does not ascribe the whole to Moses believes the entire book to be from one hand. It is generally held by critics, and it is my own opinion, that the statement of the law in the heart of the book (that is chaps. v. to xxvi., or rather perhaps only chaps. xii. to xxvi.) was once published in a separate form as a practical manual of the law for popular use, and existed in this form for some time before it was incorporated in that great body of mingled history and law which we call the Pentateuch.

Now I wish it to be clearly understood that the passage from the article “Bible,” on which the libel founds, is extracted from a discussion of the legal parts of the Pentateuch as distinct from the Pentateuchal history. If the libellers had begun their quotation a little further back it would have appeared that I was speaking “of the great repetition of the law in a prophetic spirit which occupies the major part of Deuteronomy.” And even in the extract as it stands in the libel it will be observed that I am careful to speak of “the legislative part of Deuteronomy,” and “the Deuteronomic law.”* The article enters into no discussion of the historical

* The only remark which I make about the book of Deuteronomy as a whole, refers to the style, which I affirm to be no sure criterion of unity of authorship. The libel cites this remark, but it has no bearing on the charge against me.

part of Deuteronomy. My remarks apply to the legal part of the book as it once existed apart from the history; and this separate publication is the book which I speak of as "a prophetic legislative programme," and identify (in a passage which the libel neglects to cite) with the written law-book that guided Josiah in his reformatations.

I am afraid, however, that the statement in my article was too condensed to make this quite clear to ordinary readers. The idea of a separate publication of the Deuteronomic code, without the history which now accompanies it, is so familiar to scholars that I rather took it for granted than gave it express statement. And thus, I suppose, it has come about that the authors of the libel mistook my meaning, and extending to the whole book what applies only to the code which now stands in the heart of it, represent me as making an attack on the historical character of a professedly historical document. Now I do not in the least deny that the historical part of Deuteronomy is good history; but the part with which my article deals is not history but a law-book.

3. I shall have something to say by and by about the union of the Deuteronomic law with the historical context in which it now stands. Meantime, however, I ask my judges to concentrate their attention on the legal part of the book; to join me in looking at this as originally a separate publication, and to consider in this light whether the views which I have expressed about it can fairly be characterized in the language of the libel.

Here I must offer a preliminary observation. The arguments which lead critics to assume a separate publication of the code of Deuteronomy leave the exact number of chapters, which the code originally included, a matter of doubt. The original book may have begun with the superscription iv. 44, or only with xii. 1. It may have ended with the peroration xxvi. 16-19, or with the subscription xxix. 1. I do not undertake to decide between these views. The matter is still under discussion,

and must be settled by determining which view accords best with the indications of the sacred text itself. Strictly speaking, the Deuteronomic code consists of chaps. xii.-xxvi.; and all that is essential to my view is that these chapters cannot have been published in their present form by Moses, because they contain precepts, which can be proved, from other parts of the Bible, to have been revealed at a later date. It must be remembered that my whole appeal is to the Bible and to the Bible alone, and if my opinion can be refuted from the Bible I am ready to withdraw it at once. But it seems to me, so far as I have been able to take a conjoint view of the whole Bible evidence, that the usual arguments for the Mosaic authorship of the chapters in question are drawn from the partial examination of a few texts, and are inconsistent with a fair interpretation of other passages; so that some modification of current views is necessary in order to vindicate the truth and consistency of all parts of Scripture.

4. The Bible evidence, which has led me to this view of the Deuteronomic code, is of a kind which does not strike the ordinary reader of Scripture. To realise its full force one must gather together all the laws upon a single topic which are scattered through various parts of the Pentateuch, and compare them with one another, and with what is recorded of the practice of God's servants—of men like Samuel, David, and Elijah—in later times than the days of Moses. We find two or three laws on the same subject, one in Exodus, one in Deuteronomy, another perhaps in Leviticus or Numbers; but the provisions of the several laws do not appear to agree. Then we turn to the history, and we find, let us say, that Samuel and David conformed their practice to what seems to be the natural sense of the law in Exodus, but habitually broke the law of Deuteronomy. We cannot suppose that these inspired men habitually violated a law of God that was in their hands, and, therefore, it seems probable that they only knew the law as it stands in Exodus. But

we follow the history still further. We find that in the time of Isaiah and Micah corruptions had crept in which the law of Exodus was not strict enough to meet. We find these prophets contending against the corruption, not on the ground of the other stricter law of Deuteronomy, but by direct prophetic revelation. Then we come down to the time of Josiah, and find that he had the law of Deuteronomy in his hand, and put down the evil by appealing to it. Are we to suppose that all this time Deuteronomy had existed, had been copied and re-copied, but never put into practice? If Moses gave two laws, why was one strict and the other more lax, and why was the laxer one alone known for so many centuries? Is it not more reasonable to think that the law of Deuteronomy was not revealed till the corruptions arose with which the old law was unfit to cope? There is nothing in such a supposition improbable or unworthy of the Divine wisdom. The whole growth of the Old Testament Church was directed by the continual Prophetic Revelation. And it is only reasonable to believe that this inspired guidance watched over the law as well as over the other concerns of the people.

The example which I have just given is not an imaginary one. It is taken from the law of the Sanctuary, which I have carefully discussed in my "Additional Answer," pp. 57-77. In this place I shall merely recall the main points of the argument. The law of Exodus xx. 22-26, allows the Israelite to approach God by sacrifice, and encourages him to expect His blessing in all places where—by some act of revelation—Jehovah has recorded his name. Such places were the ancient sanctuaries—Bethel, Shechem, Beersheba, Hebron, where God had accepted the worship of the patriarchs, or newer shrines like Gilgal, consecrated by some mighty deed of the Lord for his people. This law was strictly followed by Samuel, Saul, and David. They sacrificed at many shrines, but only at places known of old by some historical record of God's name. Or if they raised a

new altar, it was raised in memorial of some great mercy whereby God associated the record of His name with a new place of worship (1 Sam. xiv. 35; 2 Sam. xxiv. 25). Not so the law of Deuteronomy (see especially Deuteronomy xii.) That law knows only one legal sanctuary chosen by the Lord "out of all the tribes" of Israel, and where all sacrifice must be offered. Every other sanctuary is heathenish (xii. 1-4), and all other sacrifice is willworship, without foundation in Divine law (xii. 8), and not to be tolerated after the people are settled in Canaan (xii. 9, seq.) This law, if it was actually uttered by Moses, would come into force as soon as the ark was settled at Shiloh (compare Deuteronomy xii., 5, 10, 11, with Josh. xviii. 1; Jerem. vii. 12), from which time onward no other sanctuary could be other than superstitious. I know that it is argued that Samuel fell back on the sanctuaries of Gilgal, Mizpeh, and the like, because Shiloh had been destroyed. But good men do not fall back on superstition when stated ordinances are interrupted; and during this period there was still a regular sanctuary at Nob, with priests of the line of Aaron, who kept up the shew-bread and other regular services. There is not a hint in the history of anything exceptional in the worship of Israel, between the fall of Shiloh and the building of the temple. Nay, there was nothing exceptional, for Samuel acted on God's own law, as revealed to Moses and recorded in Exodus xx., and the fact that he did so, proves that in his time that law had not yet been abrogated, and given place to the law in Deuteronomy. Nay, long after his time, and after Mount Zion had taken the place of Shiloh, Elijah, the greatest of prophets after Moses, still guided his life by the law in Exodus, and knew not that of Deuteronomy. What is his complaint against sinful Israel—"The children of Israel have forsaken thy covenant, thrown down thine altars." Not the altar of Jerusalem, but the many altars of God's ancient sanctuaries, are to him the pledge of the

covenant, and he who throws down these altars—all of them sinful seats of will worship by the law of Deuteronomy—is guilty in Elijah's eyes of a breach of Jehovah's covenant. Now, the book of Deuteronomy itself tells us that God made two covenants with Israel (Deut. xxix. 1); the covenant at Horeb (Exodus xxiv. 7), and another covenant based on the law of Deuteronomy. Elijah, it is clear, was still living under the earlier covenant, the law of Exodus. Does not this show that the other covenant was not yet revealed? But let us go further. In the time of Amos and Hosea, of Isaiah and Micah, the holy places throughout the land had become just what Deut. xii. describes—mere seats of heathenism and idolatry, which the prophets refuse to recognize as sanctuaries of the Lord. Yet these prophets never quote the law of Deuteronomy. But Josiah, as every one admits, had that law in his hand, and thereafter we find it well known to Jeremiah. Does not this seem to show that the new law was revealed sometime between Isaiah and Jeremiah, in order to give practical effect to the teaching of the former prophet and his helpers?

This is but an example, and an example sketched in the merest outline, of the kind of evidence which has forced me to conclude that the Deuteronomic code was not published by Moses. I do not say that every one is bound to find this one piece of evidence conclusive, or even to find conclusive the whole evidence that I can bring together. But I ask the court to look at the method of my argument, to see that it rests on a fair attempt to put Bible facts together; that there is nothing sceptical or rationalistic about it, and that if there is a flaw in the argument it ought to be easy to refute it from the Bible without a libel and menaces of Church censure.

5. The difference between my view of the Pentateuch and that currently received among those who have not had their attention directed to the kind of argument of which we have just had an example, may be put in this way. It is

admitted that the Pentateuch contains several bodies of law published and written down at different times, and which to a certain extent overlap each other, so that one sometimes finds in different parts of the books of Moses two, three, or even more laws referring to the same subject. Thus the laws of Exodus xxi.—xxiii. form the first sketch of the theocratic constitution promulgated at Horeb, and written down by Moses in a book called the Book of the Covenant (Exod. xxiv. 4, 7). The laws of Leviticus and Numbers were published after the Book of the Covenant, and most scholars now admit that they were originally comprised in a distinct book. But be that as it may, it will not be denied that the Deuteronomic law is more than a supplement to the older legislation. It goes over the same ground with the original Book of the Covenant, sometimes merely repeating but often expanding or modifying its provisions. We may call it a new and revised edition of Israel's fundamental law, containing some abridgements and a good deal of new matter, but substantially taking the place of the older book for ordinary purposes.*

* It is of some importance to realise how completely Deuteronomy covers the same ground with the Book of the Covenant in Exodus. The following table exhibits the facts of the case :—

Exod. xxi. 1-11 (Hebrew Slaves)—Deut. xv. 12-18.
„ 12-14 (Murder and Asylum)—Deut. xix. 1-13.
„ 15, 17 (Offences against parents)—Deut. xxi. 18-21 ; compare Deut. xxvii. 16.
„ 16 (Manstealing)—Deut. xxiv. 7.
„ 18—xxii. 15. Compensations to be paid for various injuries. This section is not repeated in Deutero- nomy, except as regards the law of retaliation, Exod. xxi. 23-25, which in Deut. xix. 16-21 is applied to false witnesses.
Exod. xxii. 16, 17 (Seduction)—Deut. xxii. 28, 29.
„ 18 (Witch)—Deut. xviii. 10-12.
„ 19—Deut. xxvii. 21.
„ 20 (Idolatry)—Deut. xiii. ; xvii. 2-7.

According to the common view all these laws were given in the wilderness, and such of them as are not mere temporary ordinances for the time of the Wandering were all designed by God to continue in full force as long as the people dwelt in Canaan, or till the abolition of the Old Testament dispensation in Christ. Thus, for example, the Book of the Covenant in Exodus, and the parallel code of laws in Deuteronomy, would be current side by side from the time of Joshua downwards, and either might be appealed to for guidance by the law-abiding Israelite. Now this view would hold water well enough if there never was any variance between the two codes; if Deuteronomy added

- Exod. xxii. 21-24 (Humanity to stranger, widow, and orphan)—
Deut. xxiv. 17-22.
- ” 25 (Usury)—Deut. xxiii. 19.
- ” 26, 27, (Pledge of raiment)—Deut. xxiv. 10-13.
- ” 28 (Treason)—Not in Deuteronomy.
- ” 29, 30 (First fruits and firstlings)—Deut. xxvi. 1-11 ;
xv. 19-23.
- ” 31 (Unclean food)—Deut. xiv. 2-21. The particular precept of Exodus occupies only v. 21 ; but the principle of avoiding food inconsistent with holiness is expanded.
- Exod. xxiii. 1 (False witness)—Deut. xix. 16-21.
- ” 2, 3 } (Just judgment)—Deut. xvi. 18-20.
- ” 6, 7, 8 }
- ” 4, 5 (Animals strayed or fallen)—Deut. xxii. 1-4.
- ” 9-11 (Sabbatical year)—Deut. xv. 1-11.
- ” 12 (Sabbath as a provision of humanity)—Deut.
v. 14, 15.
- ” 13 (Names of other gods)—Deut. vi. 13.
- ” 14-19a (Annual feasts)—Deut. xvi. 1-17.
- ” 19b (Kid in mother's milk)—Deut. xiv. 21.

A careful comparison of these sections will help the reader to understand the relation of the two legislations, and to see that as a popular manual Deuteronomy could take the place of the older law-book. Nothing is omitted—although some things are changed—except the law of treason and that relating to questions of money compensation, which it was not so necessary for all the people as for the regular judges to know.

details and furnished explanations to Exodus without ever promulgating a change of law. But if we find changes and contradictions in one law as compared with the other, and that in ordinances not meant only for the wilderness but expressly applicable to Canaan, no one who believes that both are God's laws can believe that both were given by Moses in the wilderness. God, who changes not, might in His wisdom, adapting His legislation as we know He did to the hardness of the people's hearts, give different laws for different ages of His Church, to meet changed conditions of social life. But it cannot be thought that He would give a law for Canaan at Mount Sinai only to revoke it in the plains of Moab before it had ever come into force.

Now it appears to me that we do sometimes find two laws on one subject which are at variance in their provisions, and could not be in force as law at one and the same time. And therefore I think it most likely that the various collections of laws which appear in the different parts of the Pentateuch are, to some extent, so many distinct editions of the original laws of Moses, published at different times in the history of the Church, and embracing, as new editions naturally do, such additions and changes to meet new needs, as God in His wisdom had provided to be made by the Prophets who were the successors of Moses. In this sense I think that Deut. xii.-xxvi. is a new edition of Exodus xxi.-xxiii., with some additions and illustrations which Moses himself might give to the people before his death; but with others which are much later, and make it probable that the new edition was not published before the time of Isaiah. And in this view I am strengthened by the proofs which I find in the Prophets and historical books, that some of the Deuteronomic laws—for example, that of the one sanctuary—were unknown to God's most faithful servants till a date long subsequent to the death of Moses.

6. I hope that these explanations will go far to meet the idea that what I have written about Deuteronomy is the

result of a straining after novelty, and a love for out of the way theories. I have sought to adopt the simplest explanation which is consistent, on the one hand, with belief that all the laws are God's ordinance to Israel, and, on the other hand, with the persuasion drawn from the study of the Sacred Text that there really are ordinances in the Pentateuch which were not known till long after Moses, and which can only be viewed as abrogating and superseding earlier Divine laws which were given by Moses, and formed the rule of Israel's life for ages thereafter. If the Church came to share this persuasion, my views would certainly be pronounced innocent, but I hope that even those who cannot go so far will see that the difficulty in reconciling some of the laws is so great, and that the attempts at reconciliation (offered on the view that all are Mosaic) have hitherto been so unsatisfactory that it is not safe for any Church to make it a matter of faith that all the ordinances are of Mosaic date, and were meant to be in force at one time. If I am condemned, this will be the meaning of the judgment. It is not any detail in my own explanation of the difficulties in the Pentateuch that makes the gist of the charge against me. My real crime will be that I cannot prop my faith in the Divine Authority of the Old Testament upon any of the strained conjectures that have been adopted to get over real difficulties in harmonizing the Pentateuchal laws. This being so, I think it will not be out of place to ask the court, before deciding that this is a crime, to look at some further examples of the difficulties in question. These may best be drawn from the parallel codes of Exod. xxi.-xxiii., (the Book of the Sinaitic Covenant) and Deut. xii.-xxvi. (the Deuteronomic code).

I begin with the very first law in Exod. xxi., the law of manumission. A Hebrew bondsman is to serve six years, and go out free in the seventh (ver. 2). So, too, a woman, who comes into service along with her husband, goes out with him (ver. 3). But if it was a father who sold his

daughter as a bondwoman, she shall not go out as bondmen do (ver. 7). But in Deut. xv. 12, 17, the law of manumission is made general for bondwomen as for bondmen. Both these laws are designed for Canaan, as appears from the mention of the doorpost in Ex. xxi. 6, which presupposes settled habitation. But Moses cannot have left to the people two opposite laws for the treatment of bondwomen.*

Another plain instance of variance between Exodus and Deuteronomy is that the former (xxii. 31) commands the flesh of an animal found torn in the field to be thrown to the dogs. And so in Lev. xvii. 15, it is enacted that anyone who eats such food—be he an Israelite or a protected stranger—must perform a statutory purification, and be unclean till evening. But in Deut. xiv. 21, the Israelite is allowed to present carrion to the stranger who lives under his protection, and he in turn is permitted to eat it.† But the

* Dr. Douglas (at pp. 18, 19 of his recent pamphlet) says that this is a mistake on my part, and that the law of the male bondservant in Exodus applies *mutatis mutandis* to a female bond slave, except in the peculiar case when a father might sell his daughter "with the chance or expectation of becoming a secondary wife, or even a wife properly speaking to her master or his son." But the word "bondwoman" or "maidservant," in ver. 7, is the general word for all female slaves, and not merely for slave wives. It is the word in regular use as the feminine of the term "bondman" in verse 2. So the two words occur together in this same chapter, verses 20, 26, 27, 32, and a dozen other passages. Verses 8-11 give an exception to the general law of verse 7, and not to Dr. Douglas's imaginary extension of the law of bondmen to female slaves. If bondwomen as a rule went free after seven years, why does the law of Exodus specially provide that the wife who came in with her husband shall go out with him? Moreover, it is clear from verses 4, 5, that a master had power to marry his female slave to a bondman, and that even this relation left both her and her children to be servants for ever, so that the husband could keep his wife only by accepting a perpetual service. These two details about the wives of bondmen do not appear in Deuteronomy. They are plainly inapplicable under the new law.

† Dr. Douglas (p. 19) explains away the law of Leviticus. He admits a variation between Exodus and Deuteronomy, which he thinks

most interesting discrepancies between Exodus and Deuteronomy are those connected with the abolition in Deuteronomy of all altars save that of the one sanctuary. I take these as specimens of the evidence which can be brought together from every side to confirm the general view of this central change in the law which I have already given. In Exod. xxi. 13, 14, God promises to appoint a place of refuge for the innocent manslayer, but ordains that the wilful murderer shall be "taken from my altar, that he may die." In this law the asylum is a sanctuary, and it is the altar that is the place of protection, though God refuses to extend the protection to murderers. This agrees with the history, for we know, as a fact, that several of the cities of refuge (Hebron, Shechem, and Ramoth Gilead or Mizpeh) were ancient holy places, and Josh. xx. 7 (margin) tells us that they were sanctified. It is impossible to suppose that the altar which the law of Exodus speaks of as an asylum is the brazen altar of the central sanctuary—for that, according to Numb. xviii. 3, was so holy that it was death for any but a son of Aaron to approach it. Accordingly in Deuteronomy, where local sanctuaries are no longer recognised, the altar does not appear as a place of asylum.

A still clearer case is Exodus xxii. 30, where it is provided that the firstlings of oxen and sheep shall remain

was made by God to commend the law to the consciences of the people after they had had forty years experience of these strangers and sojourners. (?) I ventured to suggest in my former publication that the difference of law simply points to a difference in the social condition of the times. In the early times of the nation the "protected stranger" was often no alien but merely a man of another tribe. And so the earliest law of Exodus nowhere treats him as one of another religion (compare Judges xvii. 7; xix. 1, 16). Before Deuteronomy was written the nation had become unified, and no Hebrew residing in the land could well hold this lower position. In Leviticus xvii. again the word stranger has possibly the technical sense of a proselyte. Another example of a change in law, conditioned by a change of social custom, will be found in Deut. xxii. 28 compared with Exod. xxii. 16, 17.—*Additional Answer*, p. 56.

seven days with the dam, and be given to God—*i.e.*, offered in sacrifice—on the eighth. This ordinance of course became impracticable when the local altars were abolished, so Deut. xv. 19-23 changes the law, and provides that the firstlings be eaten year by year at the sanctuary.*

These are sufficient examples to bring out the relation between the codes of Exodus and Deuteronomy. The variations between the two law-books are not so extensive, but that the laws in Deuteronomy, as well as those in Exodus, may with perfect truth be called laws of Moses. But they are the laws of Moses in a new edition, embodying modifications which cannot have proceeded from him, though they are easily understood if we regard them as introduced at a later time, when the state of society had changed, and the spread of heathenism in the local sanctuaries made it necessary to confine sacrifice to one altar.

Another body of evidence, quite independent and at least as strong, for the publication of new editions of the law in times subsequent to Moses, may be drawn from the laws about the priesthood and sacred offerings as they stand in Deuteronomy on the one hand, and Leviticus and Numbers on the other. The cumulative force of this branch of the evidence is very great; but to do it justice, I should have to treat the topic in considerable detail, and repeat *in extenso* the discussion in my Additional Answer to the old Libel (pp. 29-51), where this question came into special prominence in connection with a charge now dropped. I, therefore, refer my judges to my former publication, and will in this

* Dr. Douglas takes the law of Exodus to mean only that the animal (according to the law of Lev. xxii. 27) must not be sacrificed before the eighth day. But this is not the meaning of the words, and the precept to sacrifice on the eighth day is parallel to what is said in the previous verse, where delay in offering the first fruits is forbidden. The law is similar to that of circumcision in Lev. xii. 2, 3, where the mother is unclean for seven days, and on the eighth the child is to be circumcised. Will Dr. Douglas interpret this to mean that circumcision may take place any time after eight days?

place do no more than recall to their recollection two very clear cases of incompatible laws. The priest's portion of a common sacrifice, what is technically called a peace-offering, was, according to Leviticus vii. 30-34, the breast and the right leg. In Deut. xviii. 3 his portion is the foreshoulder, the cheeks, and the maw. Dr. Douglas admits his inability to reconcile this discrepancy. Again, Deuteronomy (xiv. 23; xv. 20) bids the people eat the firstlings in a feast at the sanctuary. Numbers xviii. 18 assigns the firstlings absolutely to the priest. They must be sacrificed, but no part of the flesh goes to the offerer—"their flesh shall be thine [the priest's], like the wave breast and heave shoulder it shall be thine." Dr. Douglas still thinks that this may mean that only the breast and leg are to go to the priest. But the words are plain to the contrary. The practice of the second temple, as we know it from Jewish tradition, is also against him. Moreover his explanation will hardly square with the fact that the firstling of an unclean beast had to be bought back from the priest, or else might be sold by the latter (Lev. xxvii. 27, Num. xviii. 15). And, finally, there is another absolute contradiction in the laws, when Num. xviii. 17 forbids the redemption of any firstling fit for sacrifice; but Deut. xiv. 24, seq., allows the animal to be turned into money, and the price spent at the sanctuary on any kind of meat or drink. How can such discrepancies as these be got over without the hypothesis of two editions of the law, not both published by Moses?

Another line of evidence against the belief that Moses published the Deuteronomic code is found, as I have already observed, in indications that later prophets and righteous men did not know the book. I have spoken of such indications as regards the law of the one sanctuary, which was not known to Samuel and Elijah, apparently not even to Isaiah and Micah. But the same thing holds good of other Deuteronomic laws. The libel quotes a passage in which I point out that the permission to make a king (Deut. xvii. 14-15),

can hardly have been before Gideon (Judges viii. 23). And at a later date God tells the people through Samuel, that to ask for a king is really to refuse Jehovah's sovereignty (1 Sam. viii. 7; xii. 12-19). This is certainly not the view of Deuteronomy, which represents a constitutional kingship as a quite fitting thing, though a reign like Solomon's is condemned. Again, Hosea (ix. 3, 4) cannot have known the Deuteronomic permission to kill and eat animals without offering them in sacrifice (Deut. xii. 15), when he says, that in exile the people must eat unclean food, because they cannot present their sacrifices at Jehovah's house. He was still living in a time when all animal food was regularly presented at the altar, according to the law of Leviticus xvii. 4-10, 11. Once more, the prohibition in Deuteronomy xvi. 22, of the erection of what is called a *maççeba*, that is a sacred pillar or stone, set up like Jacob's pillar, in connection with a sanctuary, cannot have been known to Joshua (xxiv. 26), Samuel (1 Sam. vii. 12), Solomon (1 Kings vii. 21), or even to Isaiah, who (ch. xix. 19), prophesies the erection of such a sacred pillar as a sign of the conversion of Egypt. The reason for the introduction of these two new laws in the Deuteronomic code is easily found in connection with the suppression of corrupt local sanctuaries, as I have explained at length in my Additional Answer, p. 71, seq.*

7. What I have now written is very far short of a complete account of difficulties, which, as far as I can see, can be met only by supposing, that later prophets re-edited the laws of Moses as was found necessary. But I think I have said enough to show that the interests of the faith and the interests of truth should lead our Church to pause and devote deliberate study to the whole question before expressing a

* My opponents give various excuses for the ignoring in subsequent history of several parts of the law of Deuteronomy. These excuses would have more weight if they could show that prophets and righteous men also ignored the earlier law of Exodus xxi.—xxiii.

judicial decision. I think too that it will be seen that I am making no attack on the Book of Deuteronomy. I have only sought to find an account of the book which will agree with all the facts of the case, with the unquestionable claim of this part of the law to be received as inspired, as well as with a candid admission of the differences between it and other parts of the Pentateuch. These differences have never yet been satisfactorily explained in consistency with the view that the whole Pentateuchal law was published by Moses as we now have it, and I confess that the discussions of the last two years, which I have followed with a sincere desire to be at one with the Church, have not helped me to return to the old view. Nay, the oftener I go over the argument, and the longer I examine what has been said on the other side, whether by older writers or by scholars like Prof. Curtiss and Dr. Douglas, who write with special reference to the present controversy, the more impossible do I find it to assign all the laws to the time of Israel's wandering. But at the same time I am more and more persuaded that there is nothing in this to touch faith, and nothing that entitles any one to insinuate a charge of fraud against the editor of the Deuteronomic Law. Those who put this unfavourable construction on the matter are surely misled by the way they have got into of speaking of the Deuteronomic code as if it were a history book. To us, perhaps, the importance of the laws is mainly historical. But it was not so to the Israelite. He went to Deuteronomy to read the law by which his daily life was guided. This and nothing but this is what the first verse of Deut. xii. promises to set before the reader. "These are the statutes and judgments which ye shall observe to do in the land which the Lord God of thy fathers hath given thee to possess it, all the days that ye are alive upon the earth." It is true that the law thus set forth is the law of Moses, but if God had made any changes on a law after Moses and before Deut. xii.—xxvi. was written, the author was bound to give

the new ordinance and not the old, on pain of directing his readers in a false path. And surely he was not bound to pause wherever such a new law came in, and explain at length that the original ordinance of Moses, recorded in the older editions of the law, was somewhat different. To expect him to have done this is to transform a prophet into an antiquary. Again, one of the peculiar characters and one of the special charms of Deuteronomy is that the laws are set forth, not in the dry style of an Act of Parliament, but in a warm tone of personal exhortation. But whose voice is it that really speaks those words of exhortation to the people? Not the later editor, whose work is merely subordinate, but Moses himself, the first author of the law, whose wisdom and zeal and earnest endeavour to shape this stubborn nation into a worthy people for Jehovah, are stamped on every ordinance. Who then can insinuate that it is any fraud, or that it is other than a beautiful and appropriate expression of the deepest truth, when the editor retires into the background altogether and lets his readers feel that in spite of minor changes it is still Moses himself who is exhorting them to follow the Lord? Of course, the first readers were quite aware that they had before them a new edition of the law. They could tell this by comparing it with the older law-books which had served their fathers; and the editor himself, who was plainly no mean man among the prophets of his day, was doubtless quite well known. And so it was his duty, which he performed so singly and with such self-denial that his very name has been lost, not to lay stress on his own work and the novelties it contained, but to make the people feel that Moses though dead still spake, that his law was not an obsolete curiosity, but wielded by a prophet's hand could still be Israel's guide to the knowledge and fear of Jehovah.*

* Dr. Douglas and others seem to think that they make a point against me when they are able to show that some of the laws in the code of Deuteronomy necessarily lead us back to a much earlier date

8. There is one expression of mine quoted in the libel which calls for a word of explanation at this point. I call the Deuteronomic law-book a prophetic legislative programme, a term which I find has been greatly misunder-

than that to which I assign the editing of that book. Thus the favourable conditions offered to Edomite proselytes in Deut. xxiii. 7, 8, and the provision in xix. 8 for having six cities of refuge when the land is enlarged, are enumerated by Dr. Douglas among his proofs that my theory "will land us in much greater difficulties than have ever been imagined against the traditional view." This is an extraordinary misconception of my position. It is an essential part of my theory that the mass of the law is ancient, that the code is merely a readjustment of the old legislation. And thus I can welcome every feature in the book that points us directly back to the days of Moses and vindicates the right of the editor to speak in Moses' name.

When I am on this subject I may devote a few lines to the other difficulties which Dr. Douglas brings against my view. (1) There is no allusion in Deuteronomy to the schism of Northern Israel. But in a law-book edited after the captivity of the ten tribes, and therefore addressed only to Judah, there was no occasion for such allusion. (2) The command to exterminate the Canaanites, destroy all traces of their worship, and avoid intermarriage with them, is "inapplicable to the case of the feeble remnant left in the age of the Kings, who had, moreover, apparently been received into the Church of Israel as converts." I know no evidence for the conversion of the Canaanites in the period of the Kings. It is notorious that the Israelites practised the idolatries of Canaan until the captivity, and never more grossly than in the period to which I assign Deuteronomy (2 Kings xxi. 2). Intermarriages with the heathen races of Palestine were still a serious danger to the true faith in the time of Ezra and Nehemiah (Ezra ix. 1, Neh. xiii. 23, Mal. ii. 11), and it is very noteworthy that Ezra (ix. 11), quoting the law against such intermarriages in a form which agrees with Deuteronomy in speaking of the conquest of Canaan as still a future thing, assigns the authorship of the precept not to Moses but to the prophets. With regard to the command to exterminate the Canaanites, we must distinguish between the code proper (Deut. xii—xxvi.) and the introductory oration. The latter may or may not have been written by the author of the code, and in any case is not direct law, but tells what was the duty of the Israelites contemporary with Moses on the first conquest of the land. In the code itself the precept to give no quarter to the Canaanites appears only as a part of the law of war

stood. All that I mean by calling the code a "programme" is this:—The prophets after Samuel were not the rulers of Israel. They revealed God's will, but had no power to enforce it in actual practice, except so far as they could persuade rulers to give it their sanction. Hence a prophetic

(chap. xx.) As a rule, when a city was taken by storm the women and children were spared as slaves (xx. 14), and the former might become their masters' wives (xxi. 10-14). But in war with their Canaanite neighbours the people were to leave no survivors who might tempt their captors to idolatry. This precept does not in the least preach a new crusade against the remnant of the Canaanites at a time when all war between them and Israel had ceased. But it was proper to leave it in the statute book as a strong protest against Canaanitish idolatry, and lest the general permission to spare and marry the women of the vanquished might seem inconsistent with the law against intermarriage with the Canaanites. (3) The law of the kingdom (xvii. 14-20) seems to Dr. Douglas to be "unlike anything that would be given for the first time in an age subsequent to Solomon." I cannot see the force of this. The law forbids any king to follow the practices of Solomon in marrying many wives, and the like, which was a highly practical precept at any time in the history of the kingdom. And I am not tied up to believe that this precept was given "for the first time" in Deuteronomy. Deuteronomy only codifies a warning that had often been given by the prophets. The only point that may at first sight seem not practical in the time of Hezekiah is the ordinance that the king must not be a foreigner. But we learn from Isaiah (vii. 6; viii. 6) of intrigues to overthrow the house of David and set up a foreign king, which met with support within Judea. For other arguments from Assyrian sources to show that this warning was not out of season at the time I suppose, see my *Additional Answer*, p. 82, note. Again, Dr. Douglas thinks Deut. xii. 20; xiv. 24, inapplicable to the small kingdom of Judah. But surely Judea was large enough to make both these laws highly necessary after all sanctuaries were abolished except that of Jerusalem. (4) I am asked why Deuteronomy makes no mention of temples. Why, I reply, should it mention temples when it does not so much as mention the tabernacle? (5) Why is there no mention of Damascus and Assyria? Why should there be in a law-book? These, I think, are all the difficulties enumerated by Dr. Douglas. Can any one candidly say that they are comparable in gravity with those that oppress the traditional view? Surely if my view were false much stronger arguments would be found against it.

new edition of the law was only a plan or programme submitted to the nation—a Bill, as it were, not an Act of Parliament. Josiah, perhaps, was the first king who adopted this programme of a code, though it may have been partially in force during the latter years of Hezekiah.

9. May I not now fairly say that if the legal parts of Deuteronomy—say chapters xii. to xxvi.—stood in our Bibles as a separate book, we should have heard nothing of the present libel? In that case every one would have admitted that the existence of discrepancies, between that law-book and the laws of Exodus, Leviticus, and Numbers, suggested the probability that the former was a new and revised edition of the original legislation of Moses. And no one would then have supposed that this involved fraud, or that the editor was bound to drop the name of Moses altogether, simply because the new edition was largely re-written and brought down to date. Practical handbooks of law and science are re-written in this way every day, and the name of the first author is still retained. The thing is one of the most obvious of literary necessities, with which no suspicion of bad faith is ever associated. The case indeed would be changed if it appeared that the Deuteronomic writer tried to conceal the fact that there was new matter in his work, if his object was to gain the sanction of Moses' name for the new as well as the old. But the law of Deuteronomy is not published on human authority. It is the law of God to Israel, coming with the same supreme sanction, whether the human author of any individual precept was Moses or a later prophet. The author, therefore, could have no motive to conceal the true character of his work. Nor could he have hoped to succeed though he had tried; for in the time of Hezekiah it was well enough known that old law and custom supported the local sanctuaries though newer prophetic revelation condemned them. The theory that the law-book of Deuteronomy is the product of fraud has its basis, not in the acknowledge-

ment of the fact that some of the laws are later than Moses, but in the denial of the inspiration of the book. Those who believe that the prophets were not in truth inspired of God, who refuse to admit that through their instrumentality the Divine King of Israel guided the nation with His own supreme authority, must of course refuse to regard the Deuteronomic code as anything more than a human project, which might be glad to acquire sanction even from a fraudulent use of Moses' name. But we who believe that there was in Israel a living utterance of God's will through the mouth of his prophets must at once see that such a book could not be accepted, except it were stamped with prophetic approval, and if it had that approval it was at once sufficiently accredited as an authoritative renewal of the old law. Under such circumstances the writer might well feel himself dispensed from the merely antiquarian task of marking as changes all the new things in his work—nor can he be called an impostor because he wrote before the invention of title pages, and so could not announce his book as a "New edition revised up to date, and partly re-written," adding the year of publication at the bottom of the leaf.

10. And now the question comes to be whether the case is changed by the fact that we possess the Deuteronomic code, not in the form of a separate book, but as an integral part of the larger and more complete whole, which we now call the Book of Deuteronomy. I will not deny that this circumstance makes it less easy to recognize the later character of the code. Standing, as it now does, in the midst of a historical context referring to Moses' time, the law-book does not at first sight suggest to us the idea of a later edition. We are naturally disposed to think that the laws which stand amidst the history of Moses' last labours in the land of Moab are set before us in the very shape in which he spoke them. But, though this opinion is natural, I cannot see that it is necessary. For it must be remembered that the Pentateuch is not written exclusively or even

principally with a historical purpose. To the Jews it was, above all things, not history but law. They called it *the Law (Torah)*, and it is as the law that it is cited in the New Testament. No doubt one object of the Pentateuch is to record the history of God's people to the death of Moses, but it lies in the plan that the history should be so told as to include all the laws which God had delivered to be obeyed. And, therefore, if any new laws were revealed, or if in the course of centuries prophets were charged to revise some of the old laws, it was fitting that the new matter should be incorporated in some part of the great work to which the people were wont to refer. According to modern ideas the right way to do this would be by foot notes or an appendix. But these devices were unknown, and so if the law of Deuteronomy was to be taken into the great law-book at all, it was necessary to place it somehow in the actual context of the book. I do not think that it was the writer of the new code who accomplished this task. I believe that the laws of Deut. xii.-xxvi. were originally published either alone or with the introductory address in chaps v.-xi. as a preface, and perhaps some part of xxvii.-xxviii. as a conclusion. The question is whether the person who took up this originally separate book into the account of Moses' last labours and final exhortations to Israel was thereby guilty of a fraud upon his readers, such as to destroy the character of his book and forbid us to accept it as part of Scripture. The present book of Deuteronomy contains in addition to the code of chaps. xii.-xxvi., several long speeches connected by a slender thread of narrative, the substance of which may be given as follows. In the land of Moab, after the slaughter of Sihon and Og, Moses addressed the people and expounded to them the law (i. 1-5; iv. 44-49). He also separated three cities of refuge to the east of Jordan (iv. 41-43). He further commanded the people to write the law on stones upon Mount Ebal, and perform there a solemn service of blessing and cursing (xxvii). Further, he wrote the law

and entrusted it to the priests, with a charge to read it publicly once in seven years. He also wrote and recited a prophetic song in connection with his last charge to Joshua. He then blessed the people, and ascending Mount Pisgah, died there lamented by the people. Now it is clear that the historical value of these details is really independent of the question whether the code which comes in in the heart of the book has or has not been re-edited by a prophet later than Moses. The adoption of my view of that code does not in any way forbid one to believe that Moses solemnly set the law before the people previously to his death. It implies only that an editor of the Pentateuchal history, having the Deuteronomic code in his hand, and knowing it to be the form of the laws of Moses binding on the people in his own day, felt that it would be useful for his readers to have it inserted in immediate connection with the warm exhortations to follow God's law that occupy the chapters immediately preceding its present place. It is clear that this course, instead of deceiving the people, was a simple and natural guard against misconception. Had this writer followed up the words of xi. 32, "Ye shall observe to do all the statutes and judgments which I set before you this day," by giving the old law exactly as it came from Moses, with all the obsolete provisions which the new law had changed, he would have run a risk of betraying some of his readers into a wrong course of conduct. For after all, as I must again and again point out, the Israelites went to this book not for antiquarian information about old laws but for practical direction in daily life.

I think that this view of the matter will commend itself to ordinary common sense as reasonable, and by no means inconsistent with veracity. But if any one chooses to insist on an extreme literalism, and to maintain that Dent. xii.-xxvi. must contain word for word, the very statutes spoken by Moses in the plains of Moab, I ask him to consider whether he can be satisfied even with the common view of

Deuteronomy. According to chap. v. 31-vi. 1 the laws in Deuteronomy are those which were spoken to Moses when he stood before the Lord during the theophany at Horeb, when the people were unable to endure the terrors of a direct revelation to themselves. The laws then revealed were those of Exodus xxi.-xxiii., so that if a strict literalism is to be adopted Moses ought simply to have repeated these chapters without any modification. But every one admits some modifications in the laws of Deuteronomy as compared with Exodus. If Moses could introduce these while professing to rehearse the law of Horeb, why might not a later prophet introduce subsequent modifications when he in turn came to rehearse the last speech of Moses?

It will be objected, however, that the introduction of a revised form of the law into the context of a speech by the first lawgiver implies such a free way of handling the report of his words as to prevent us from looking on the other parts of the speeches in Deuteronomy as anything like a literal reproduction of what Moses actually said. In a certain measure this is no doubt true. I do not think that what we know of the principles on which the Revealer caused the Old Testament Scriptures to be committed to writing entitles us to suppose that any of the speeches in Deuteronomy are necessarily word for word reports. I believe that in many speeches of the Old Testament, as in other speeches which we read in ancient historians, the ideas and situation of the speaker rather than his exact words are reproduced. But this is a principle which is freely admitted for ordinary history without any impeachment of the veracity of the historian. Nothing else was generally possible in ancient histories, where writers had no shorthand reports to fall back on, and readers knew very well that this was what they had to expect. God, no doubt, in giving His people a sacred and inspired history, might have taken a different plan. He might have revealed to the holy penmen the very letter of what ancient orators had spoken. But we have no right to

believe that He must have done so, and there are many reasons to believe that as a matter of fact He did not do it. Rather He allowed them to retain the received forms and usages of the literature of their day, forms that were not only legitimate in themselves and thoroughly intelligible to ancient readers, but afforded the best opportunity for enforcing and expanding the practical lessons of the history. For by the universal custom of antiquity the historian, while incorporating such memoranda of the speeches of historical characters as had been transmitted to him, was entitled to avail himself of such occasions in order to set before his readers the sentiments and reflections which the historical situation might properly suggest. Every reader of ancient literature knows what a charm this way of writing lends to the master-pieces of profane history. And it would be a blasphemous presumption to affirm that we cannot recognize the work of the inspiring spirit of God in a book in which the same graceful and instructive literary form has been adopted. But in truth it is needless for me to press this argument further, for the Assembly of 1878 had the question before them under the third particular of the old libel, and rejected by a crushing majority the motion which proposed to condemn me for stating that an inspired writer "allowed himself the same freedoms as were taken by other ancient historians."*

* It is worthy of notice that the prophets did not aim at a verbal reproduction of their inspired sermons even when they wrote them down themselves. Jeremiah received the command to write his prophecies in the twenty-third year of his prophetic work (*Jer.* xxxvi. 1; xxv. 3). The roll then written contained the record of all God's words to him from the beginning of his career (xxxvi. 2). When this roll was burned he dictated another with many additions (xxxvi. 32). Here is a clear case of two editions of the same speeches with variations. And neither roll can have given the prophetic sermons of twenty-three years with literal exactness. Why should we claim to have Moses' words more exactly than Jeremiah's? And here it is useless to object that the Pentateuch is in form a history. The book of Jeremiah contains more of historical narrative than the book of Deuteronomy.

IV. The court has now before it the true dimensions of my departure from current views, as embodied in the statements about Deuteronomy, quoted against me in the libel. I am sensible that the extreme condensation of the article "Bible" left some room for misconception of the scope of my theory, especially on the part of those who are unfamiliar with recent aspects of Pentateuch criticism. I humbly accept my own share of responsibility for such misconception, which once entertained by the public mind could not easily be removed. Throughout the progress of the case I have done my best to clear it away by fuller and simpler statements, and I hope that after the explanations in this paper no one will again misunderstand me so completely as to find a charge of fraud against the Sacred Writer, in sentences from my writings, which contain an explicit repudiation of the very idea of such a fraud. I hope it will now be clearly understood how entirely foreign to my position is this whole notion that Deuteronomy pretends to be something which it is not, or that I deny the book to be historical, in the sense and to the extent to which it claimed that character in the eyes of its first audience. The historical part of the book is history, the legal part is law, the speeches are historical speeches in the natural sense in which these terms were understood by ancient readers. This is the fair way of testing whether a book is honest and truthful in purpose. A book professes to be what it is not if it is constructed to produce a false impression on the mind of the public directly addressed by it. The Deuteronomic code, upon my theory of its origin, would fall under this condemnation if it were intended to persuade the Israelites of that time to accept all its provisions as the literal law of Moses. But no writer could have hoped to do this at a time when it was well known that the principle of a single sanctuary was a recent innovation. Nor could any author expect that a fraud like this would pass unexposed either by the judges of the nation, or by the

prophets, a special part of whose work was to detect lying revelations.

In fact the theory that the law of Deuteronomy is a pious fraud, is invariably associated with the idea that the book was forged in the circle of Hilkiah the priest, and that he made up a story about having found the book, in order to deceive Josiah. The theory assumes that priests and prophets were in the trick which imposed on the whole piety of the nation, including its inspired leaders. Such a theory is utterly incredible to any one who believes in the reality of God's supernatural dealings with His people in the old dispensation; and I entirely repudiate all sympathy with it, not only because it involves a rationalistic view of the Old Testament history, and because it is impossible that a book of the profound spirituality of Deuteronomy could have originated in a fraud, but because I believe that there are—apart from theological considerations—conclusive historical reasons for assuming that the Deuteronomic code was in existence, at least a generation earlier, and had actually been lost in the days of Manasseh (See my *Add. Answ.* p. 78, *seq.*) Between my view and the rationalistic theory, there is only one point in common, viz., the admission that there are things in Deuteronomy, which were not part of the religious constitution of Israel before the time of Isaiah. But be it observed, that the necessity of making this admission—a necessity forced upon students, by careful study of the Sacred Text—is what gives to the rationalistic view its whole plausibility, as against the traditional conception of Mosaic authorship. It is not, therefore, in the interests of rationalism, but in the interests of faith, that I have sought a view of the book, which does justice to the facts on which rationalists build, but reconciles them with a full recognition of the supernatural in the Old Testament dispensation, and the inspiration of the Old Testament records.

V. I have still to notice one line of argument in support of the contention of the libel, to which great weight has

been attached, and may probably be attached again. I have given my account of the plan and purpose of Deuteronomy as I have been able to gather it from a careful study of the book itself. I conclude that the code which it embodies was given and taken as a new and revised edition of the laws of Moses, and that the book in which the code was subsequently incorporated, was both given and taken as something more than a bare verbatim report of speeches by Moses, as containing law for the present, as well as the story of the past. It is not denied that if this was the understood purpose of the sacred writers, I have a right to say that they stand acquitted of fraud. But it is maintained that the correct account of the book is different, and that its real object is simply to narrate with exactness the very words and the very laws published by Moses in the plains of Moab. This, say my opponents, appears to us "upon a fair way of reasoning," to be the unquestionable purport and profession of the book and therefore to say that it has a different purport, and a different profession, is to charge deceit upon the author. Now the question as to the real purport of the book is not settled by the Confession, which is silent on the whole subject. It is a matter on which the book must speak for itself; and it so happens that I read what it has to say of itself in a different way from my opponents. If I think that the laws are not so absolutely and literally Mosaic as others think them, that is not because I value the book less than they do—not because I doubt its inspiration and veracity, but because I do not find the common opinion to correspond with what I read in the book itself. In forming this conclusion, I am within my rights and liberties as an office-bearer of the Free Church. It is every man's duty to interpret Scripture to the best of his private judgment, and it is his privilege to do this *within the Church*, unless his judgment leads him to deny some doctrine of the Standards. The fact that my opponents form an opposite opinion of the testimony which

the book bears to its own design and structure, gives them no right to censure me, and no excuse for charging me with imputing deceit to the authors. Let me illustrate this by an hypothesis. Let us suppose that there was a title prefixed to the Deuteronomic code, written in very obscure Hebrew, which I interpreted to mean that the book was written seven hundred years after the Israelites entered Canaan, while my opponents thought it to affirm that the date was during the last month of Moses' life. Suppose that the majority of our Church were satisfied that my interpretation was wrong—would that justify a libel accusing me of holding that "the Book of Deuteronomy, which is professedly written in the plains of Moab, was really composed seven hundred years afterwards, and was made to assume an early date by a writer of a much later age;" and proposing on this ground to censure me for an attack on the doctrine of our Standards? Every one sees that that would be absurd. But is it less absurd to frame an exactly similar charge, where the point of disputed interpretation lies not in one difficult verse, but in the conjoint sense of a vast number of indications gathered from several parts of the book, and from a comparison of other Scriptures?

I repeat it with all emphasis, the point of dispute in this case is not a doctrine of the Confession but a question of interpretation. The argument of the libel turns on the statement that the Book of Deuteronomy is professedly a historical record—a statement which, as it stands in the libel, means that the book professes to give nothing but the very words and laws of Moses exactly as he spoke them in the land of Moab. Why does this statement stand in the libel? It is not derived from the Confession, and it is not drawn from my writings; while it is notorious that a libel has no right to contain any statement that is not either the one or the other. When I raised this objection under the old libel, I was told that the clause in question was put in to express "the view which the libellers took of what was manifest on the face of

the book," and it was admitted to be a necessary part of the case that my prosecutors should satisfy the court by exegetical reasoning, that this view was correct and the arguments invalid which had led me to an opposite conclusion as to the plan and purport of Deuteronomy. In a word, it was admitted that my opinions are to be condemned, not as inconsistent with the Confession, not as inconsistent with inspiration, but as inconsistent with the libellers' view of the testimony which the book bears to its own purport. This private opinion of certain members of the Church the libel proposes to invest with Confessional authority, by the ingenious argument that I virtually charge the book of Deuteronomy with untruth in making it give a different account of itself from that which the libellers choose to accept as correct. Well, I am not now to argue that I am right and the libellers wrong as to the purport of Deuteronomy. I admit that the view which they uphold is that which naturally occurs to the ordinary reader and that I accepted it as my own view until I had studied the subject for years. But whether the libellers are right or wrong, the Standards of our Church do not pronounce, and therefore I am as free within the Confession to hold my view of the evidence as they are to hold theirs.*

Nor is the question one which can be settled by first sight appearances, and superficial examination. The professed purport of a book means what it naturally was taken for by its first readers, not what it may appear to readers separated from the author by nearly three thousand years in time, and a whole world's breadth in habits of thought, circumstances,

* An attempt was made in the old libel to bring my opinions into conflict with the Confession by representing me as rejecting the supreme authority of our Lord. But the argument that the words of Jesus settle the age of Deuteronomy has now been given up. The count which embodied this argument was found irrelevant, and the amended libel does not claim to cite against me the authority of our Lord; resting wholly on the professed character of Deuteronomy itself.

and literary usage. To carry ourselves back to the time of the old Hebrews, to realise all the considerations present to their minds, which made things easy and obvious then, which are obscure and perplexing now—in a word to judge of the book as they would judge is not an easy task. It demands all the patience, the wisdom, and the scholarship that all the Churches can bring to bear on the question, and even with these the ultimate and complete solution of every difficulty is probably still remote. But it is impossible to deny that a real problem exists, and must be faced; nor can our Church contribute her share in this work if she makes all discussion unreal by directing her censures against those that approach the question with no other desire than to let the Bible speak for itself. There is no cause to fear that full and free discussion will imperil the authority of Scripture, or shake men's reverence for the Divine Word. The Word has always been most victorious, when, like David before Goliath, it has gone forth to subdue the hearts of men in its own simplicity and power, unencumbered by the clumsy armour of human tradition and ecclesiastical interpretation, which men are too apt to think needful to the victory of truth, because they have been accustomed to wear it with comfort themselves.

APPENDIX.

THE Glasgow Assembly approved on 4th June, 1878, of an amended libel, which was materially different from the Original Draft Libel of 1877, to which the Answer I laid before the Presbytery, on 12th February, 1878, and the Additional Answer intended to have been laid before the Presbytery on 16th April, 1878, and published with their consent, were directed. The Form of Libel recommended by that Assembly will be found at page 341 of its Proceedings, and the final deliverance of the Assembly with regard to it was—"That the Assembly approve of p. 318.
" the Amendments as now adjusted, and looking to the
" amended libel, the Assembly, in consistency with former
" judgments, remit to the Presbytery of Aberdeen to proceed
" with the case, according to the laws of the Church, and in
" conformity with the Assembly's judgment."

As regards the Deuteronomy charge (the second particular of the first alternative charge of the original libel), which is the only charge now remaining against me, the motion of Sir Henry Moncreiff, carried on 28th May, 1878, was that this part of the charge was relevant, "to the effect p. 118.
" that the statements quoted in the minor proposition, as
" those of Professor Smith, regarding the Book of Deuteronomy, amount to what is expressed in the said particular,
" and are opposed in their legitimate results to the supposition of the book being a thoroughly inspired historical
" record, according to the teaching of the Westminster Confession, while his declarations on the subject of inspiration
" are the reverse of satisfactory, and do not indicate
" his reception of the book in that character."

The Edinburgh Assembly of 1879 has re-amended the amended libel of 1878, and the form in which it is now proposed to serve it, will be found in its proceedings.

To the libel in its present form, as confined to the Deuteronomy charge, the Answer which I formerly addressed to the Presbytery is inappropriate, as it deals largely with matters which have been found irrelevant or dismissed, and I claim, and cannot doubt that I shall receive, the opportunity of stating my defence to the accusation, as it is now to be laid before the Presbytery, as my judges. It is simple justice, obvious to every candid mind, that as my prosecutors have restated their charge, I should be allowed to restate my answer to it.

The charge in the libel of 1877, "of publishing or promulgating opinions which contradict, or are opposed to the doctrine of immediate inspiration, infallible truth, and divine authority of the Holy Scriptures, or of any part or parts thereof," was both in that libel, and in the amended libel of 1878, supported by a series of six subordinate charges, and derived its colour from them. The present libel, by omitting all these associated charges, except the 2nd, as well as the charges with reference to the doctrine of prophecy and of angels, materially alters the complexion and character of the charge that remains, so that the Answer formerly given in by me does not correspond with or apply to the libel as it now stands. It would tend only to confusion and unfair prejudice against me if my judges were to form their opinion of the justice of my defence, not upon consideration of the simple and single issue now before them, but with reference also to the numerous other issues which have been abandoned.

In what form the opportunity is given me of answering the present libel, is a matter which does not so much concern me personally, as it does the constitutional rights of members of our Church.

I venture, however, to point out how it is provided for by the laws of the Church in conformity with which the Glasgow Assembly directed the Presbytery to act.

Before doing so, it is right that I should quote the final deliverance of the Edinburgh Assembly, which was to direct "the Presbytery of Aberdeen to meet and take immediate steps for having the libel, as regards the second particular of the first alternative charge, served in due form upon Professor Smith."

The Edinburgh Assembly pronounced no finding of the relevancy of the libel in its present form, and the finding

of the Glasgow Assembly was, not that the libel in its present form, as regards the Deuteronomy charge, was relevant, but that it was relevant to a certain effect only, to wit, that "the legitimate results" of the parts selected from my writings were opposed to the supposition of the book being "a thoroughly inspired historical record." The relevancy of the libel in its present form has therefore not yet been sustained by any Court.

On this ground alone I submit that, under the common or customary constitutional law of the Church, there must be a consideration of the relevancy by the Presbytery, as the Court having in the first instance to judge in the case. No principle of justice is more fundamental than this, that there must be a distinct finding of relevancy before trial of the libel which is sent to trial. In ecclesiastical procedure, in which some of the same persons are virtually both prosecutors and judges, the observance of this principle is essential. But the point is in fact regulated by the Rules of Assembly as to Process. The Committee on Forms of Process, in their Report in 1855, which is always deemed an authoritative exposition of the law of the Free Church, observes "that if the Presbytery, before serving the libel, shall make *any change upon the form* in which it appeared in the copy with which the Minister had been previously furnished, they must before serving it, again furnish him with a copy, and again summon him in terms of this enactment." The enactment referred to is Act V., 1853, and the Summons referred to is the Summons to the meeting provided for by that Act, to "carefully consider the question of relevancy."

Moncreiff,
p. 190.

p. 183.

The amendment of the libel in the present case has been made, not by the Presbytery, but by the Assembly; and I do not for a moment question the competency of the Assembly to make such amendment, in order to aid the Presbytery in its discharge of its function as prosecutor, nor do I doubt that every member of the Presbytery will treat with the greatest respect the amendment the Edinburgh Assembly has made.

But it humbly appears to me that such an amendment cannot absolve the members of Presbytery from their duty as judges, or deprive the person accused of his constitutional rights.

With regard to the powers of the Assembly, as the

Supreme Court of the Church, Sir Henry Moncreiff observes, and I desire no more distinct enunciation of the law upon this point:—"It (the Assembly) may also send precise orders to particular Synods, Presbyteries, and Kirk Sessions, prescribing the exact course of their procedure in special cases, and giving instructions or prohibitions at its pleasure, provided it keep within the ecclesiastical laws and constitution." The Deliverance of the Edinburgh Assembly is accordingly strictly in accordance with the ecclesiastical laws and constitution, in directing the Presbytery of Aberdeen "to take immediate steps for having the libel, as regards the second particular of the first alternative charge served in due form upon Professor Smith."

Moncreiff,
p. 93.

The due form, according to the laws of the Church, in which service is made, is by the form of Summons provided by Act V., of 1853, for no other description of service exists in the case of a libel where the Presbytery are prosecutors.

Should the Presbytery take this course, which I submit is the constitutional one, and in strict compliance with the directions of the Assembly, I shall do all that is in my power to facilitate an immediate discussion on the whole case. I shall at once state my whole defences to the charge, so that the Presbytery may be in a position to hold that, as far as I am concerned, they have the whole case before them.

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