James Smith

Professor Smith's new plea
and the
Presbytery's Procedure;

PROFESSOR SMITH'S NEW PLEA

AND THE

PRESBYTERY'S PROCEDURE;

BEING THE SUBSTANCE OF A SPEECH DELIVERED IN THE FREE SYNOD OF ABERDEEN, 14TH OCTOBER, 1879.

BY THE

REV. JAMES SMITH, M.A.,

TARLAND.

PUBLISHED BY REQUEST.

WITH AN APPENDIX ON THE AMENDED ANSWER TO THE LIBEL.

SECOND EDITION.

EDINBURGH: JAMES GEMMELL.
ABERDEEN: A. MURRAY, 216B UNION STREET.

MDCCCLXXIX.

PRICE SIXPENCE.

To the Rev. JAMES SMITH, Tarland.

We, the Subscribers, being of opinion that your Speech at the recent Meeting of the Free Synod of Aberdeen, when moving the Motion proposed by you in the case of Professor Robertson Smith, was an important contribution towards the elucidation of the present state of that case, and regretting that no report of it was given in the newspapers, request that you will publish the same.

(Signed) D. F. Arthur, Minister.
George Bain, Minister.
Alex. M. Bannatyne, Minister.
William Ewan, Minister.
James Gordon, Elder.
John Hendry, Minister.
D. M. Macalister, Minister.
George Manson, Minister.
Jas. Masson, Minister.
David Mitchell, Elder.
James Murdoch, Minister.
Thomas Murray, Minister.
William Selbie, Minister.
Al. Urquhart, Minister.
Alexander West, Minister.

Aberdeen, *October, 1879.*

PREFATORY STATEMENT.

At the Meeting of the Free Presbytery of Aberdeen, on 2nd September, 1879, the following Motion, made by Professor Salmond, was carried by a majority :—

> "That the Presbytery, considering the new matter which has "emerged in the case since the Assembly, and the new questions "in law raised by Professor Smith, and finding that these are "questions which must be adjudicated on prior to judgment, "while it is not clearly within the province of the Presbytery, "under their present instructions, to deal with these, resolve "now to sist procedure and report the case to the Superior "Court."

Against this finding Mr. David Mitchell and others dissented, and complained to the Synod. The Complaint was taken up by the Synod at their Meeting on October 14. Mr. Mitchell was heard for the complainants, and Professor Salmond for the Presbytery. Professor Smith was also heard as a separate party for his own interests by a decision of the Synod, myself and others dissenting. Mr. Mitchell was heard in reply. Thereafter I moved :—

> "That the Synod sustain the Dissent and Complaint, and reverse "the judgment of the Presbytery; find that all questions of "relevancy have been settled by judgments of the Supreme "Court, and instruct the Presbytery to proceed to probation, "and otherwise to carry out the instructions of the General "Assembly in regard to the case."

The following Speech was delivered in support of that motion, a few Statements being also here inserted that were made in the reply on the discussion. It is now published in response to the foregoing request. The Appendix I have added on my own responsibility alone.

J. SMITH.

Tarland, *Nov. 1879.*

THE motion carried in the Presbytery against which the present complaint is taken, was to the effect that procedure should be sisted and the case reported to the Superior Court. The grounds on which this resolution was based are apparently three — viz., that new matter has emerged in the case since the Assembly, that new questions in law have been raised, and that it is not clearly within the competency of the Presbytery to deal with these new questions. It is not very clear what the new matter referred to might be, but we have been told from the bar that it means the new answer that Professor Smith has made to the Libel. It is plainly, however, incompetent to take it into account at the present stage, the more especially if it does contain new matter, inasmuch as it would be simply a disturbing element in the orderly formation of opinion in a judicial case. We may therefore confine our attention to the two points, viz., a new claim in law brought forward by Professor Smith, and the uncertainty on the part of the Presbytery as to whether they can competently give judgment regarding it.

I. It may be well to consider first the question of competency: can the Presbytery adjudicate on this plea?

Now, in order to a correct apprehension of this matter, we must give some attention to the procedure that has taken place in the Presbytery since last Assembly under the instruction that the Assembly gave.

1. Before any step was taken to carry out that instruction, Professor Smith claimed to lay before the Presbytery this new plea, and he was heard accordingly, although some members were not unnaturally of opinion that *anything* interjected between them and their carrying out of the Assembly's order should not be allowed.

Then the question arose, what was to be done with the

plea? The Presbytery resolved to receive and record it, and at the same time to receive the new answer.

Now, Moderator, the first thought that suggests itself to me here is this: that it seems, to say the least of it, a very remarkable proceeding for a Court to receive and record a plea concerning which they have the serious doubts that have been exercising the Presbytery—doubts, *i.e.*, regarding their own competency as a Court to deal with it and adjudicate upon it. For, observe how the matter stands. The Court is met to conduct a case under the instructions of the Supreme Court, and they receive a plea in bar of proceeding, they record that plea, and *subsequently* —after doing what the plea asked them not to do—sist procedure on the score of uncertainty as to whether it be within their province to deal with the question raised. Surely, Sir, if it was within their province to *receive* the plea at all, it must be within their province also to deal with it in some way or another; and, conversely, if they had so grave doubts about the competency of dealing with it, the same doubts ought surely to have manifested themselves at the earlier stage.

Professor Smith himself held that the Presbytery could adjudicate upon his plea. The fact of his bringing it forward at all implied that. But he expressed his opinion explicitly upon the point. He was asked why he had not submitted his plea at the Assembly, and he replied that, as he understood the law, the proper court for such a plea was the court in which the libel was being prosecuted. That view appears to me the common sense view of the matter; and it follows therefore that if the Presbytery were not debarred from receiving and recording this plea, neither were they debarred from giving some judgment regarding it. Indeed, the Presbytery themselves seem to have seen the connection between these two, for they say afterwards, in answering certain reasons of dissent against a resolution to serve the libel with reservations, that it was open to the accused to shew if he could, *at the proper time and before the proper Court*, that his plea ought to be given effect to. But, according to the accused's own contention, the proper Court was the Presbytery, and the proper time had already been allowed to pass, when the motion to serve the Libel was adopted. He was of opinion that there was nothing in his plea that the Presbytery was not entitled to take up, otherwise of course he would not have asked the Presbytery to receive it, and he earnestly contended for the reception

of his plea and judgment upon it before the serving of the Libel.

No doubt the Presbytery took a different view from Professor Smith, but that arose simply from the fact that he acted, thus far at least, consistently, and they did not. And the argument is not in the slightest degree affected by the fact that the Presbytery were acting under express instructions from the Assembly, and that by these instructions they were shut up to a certain course. That may be true, but if so, they are surely shut up also to take that course in a reasonable and consistent manner.

I hold, therefore, that the Presbytery were not entitled to sist procedure at the point at which they did so on the ground of doubts as to their province. If they were to sist procedure at all on that ground, they should have done so when the plea-in-law was given in. And if they could not do so at that point without disobedience to the Assembly, it is unreasonable to do so on the ground alleged at any subsequent stage.

2. The next point to which I come is the manner in which the plea-in-law was actually dealt with. It was received, as we have seen, and recorded. But the Presbytery proceeded, in spite of it, to serve the Libel—with a reservation, however. Now, Moderator, serving a Libel with a reservation, or without prejudice to some plea that has been received and recorded in bar of this being done, is, I should imagine, a novelty in judicial procedure. If the Court was acting *ministerially*, as has been again and again repeated, and truly enough, then it had simply certain acts to perform without reasoning or discussion about them. The step taken, the resolution formed, to serve the Libel with a reservation was not exactly what the Supreme Court instructed the Presbytery to do; and I can imagine, Moderator, what floods of rhetoric and sarcasm would have been poured forth by certain parties if any such monstrous hybrid legal prodigy had come of other parentage. We are all well aware, Sir, how very monstrous a thing a finding of relevancy with a qualification or explanation is; but, strange to say, those whose eyes were so keen to detect the monstrosity, and whose voices were so loud for hooting it out of existence, have themselves brought into being a far more gigantic specimen of that very family of which they, but a little while ago, stood so much in dread.

The Presbytery manifestly felt that the Assembly's order to serve the Libel precluded them from passing any

judgment on the new plea which might have the effect of preventing them from serving the Libel: this necessarily led to the further conclusion which was expressly stated in the Presbytery—I think it must have been by Mr. Johnstone—that it would not do to hear Professor Smith on his new plea, lest they might be convinced that he was right, and so be compelled in conscience to disobey the Assembly. But they do not appear to have adverted to the obvious fact that one step farther in precisely the same line of reasoning should have kept them back from receiving or recording the plea.

It is to be observed, that the accused did not by any means acquiesce in the Presbytery's resolution to serve the Libel, in obedience to the Supreme Court. He still adhered to his former opinion, that his plea should have first been disposed of—for it was a plea in bar of serving the Libel at all. And if that might seem to set the lower court in opposition to the higher, he contended that it must be assumed that the Supreme Court contemplated the probability of such a plea when they gave the order that they gave, and that the disposal of it was therefore presumably among the steps contemplated. I can understand Professor Smith's position, which is consistent throughout: I can understand the position of the minority in the Presbytery, who were of opinion that this plea should not be received or looked at in any way; but I cannot understand the position of the Presbytery. It seems to me that there is no room to stand between these two positions.

3. And now I come to another stage in the course of the procedure. There had been dissents and complaints on the hearing of Professor Smith on the new plea, on the receiving and recording of it, and on the resolution to serve the Libel without prejudice. A question not unnaturally arose as to the duty of the Presbytery in view of these complaints. Believing as they did that there must still be room for a debate and judgment on the new plea somewhere, the Presbytery were naturally non-plussed as to what next to do. *They* could not adjudicate; the Libel had been served, the plea was reserved, and there were several complaints. But how could questions of a preliminary character affecting relevancy be re-opened after service? Here was a dilemma. A way was found out of it, however—at least, so far as the Presbytery's present position was concerned. It was suggested that all complaints up to this point should be withdrawn. The suggestion originated

with Professor Smith, and was understood to facilitate the progress of the case. There appears to have been some little mystery about this business; but I think it is not now so very difficult of explanation.

It was stated in the Presbytery that some members of that Court were regarded by the outside world as more anxious to be *prosecutors* than judges. I am not sure but the opinion is also abroad, to some little extent, that certain members of the same Court have been quite as zealous in acting the part of *advocates* as impartial in their judicial functions. We have heard of such a thing in times gone by as private conferences and secret correspondence between accused parties and their judges, of understandings being come to and arrangements made as to the course of judicial procedure. I do not insinuate that there has been anything of that sort here. Such practices could only be carried on perhaps amid the corruption and the ignorance of the dark ages. But one of the judges did, in an over candid moment, inform the Inferior Court that he knew the contents of the plea-in-law before it was laid before the Court or received by them; and there have been some other indications that some of the judges have not kept themselves so clear as might be desired of all private intercourse with the accused, so as to prevent their minds from being biassed, and their decisions in any way affected by the "glamour" of his personal influence and friendship. There might be room for some such suspicion, were we not well assured that they —the majority of the Presbytery, I mean—are all honourable men. As regards Professor Smith himself, he has from the bar this evening expressed his horror of the unblushing conduct of some of his judges in writing to the newspapers letters bearing more or less upon the case. I am willing, Moderator, to accept the rebuke as designed to be specially applicable and particularly severe in regard to myself. But, Sir, I consider it is nothing short of insolence on his part to speak about the unblushing conduct of any one in regard to this case. To say nothing of irregular intercourse with his judges in the Presbytery, of attempts to influence judicial procedure by private and extra-judicial methods, has he not here before our eyes this evening been going about among his judges conferring with them, prompting them as to the course to be taken, and apparently telling some of them the terms and meaning of their own motions, which they could not venture to explain without previous consultation with him? Sir, I repel with contempt and scorn the charge of

unblushing conduct coming from Professor Smith, and I say openly before this Court, and before the world, that his own hands and his own tongue would need to be much cleaner than they are in regard to this matter, before he can be entitled to speak at all of the unblushing conduct of others.

Were we to judge simply from what we have this evening seen of Professor Smith's views of honourable conduct in contrast with that which is unblushing, we might be tempted to suspect that there was some understanding between him and the Presbytery as to the next step to be taken after the complaints were withdrawn.

Of course, if it had been resolved to sist procedure independently of the complaints, their withdrawal could not in any way damage the plea of the accused, the more especially as the Libel had been served without prejudice. The minority, of course, were not in the secret, and so they were not prepared for the sisting of procedure in the way and on the grounds subsequently stated.

But I can see another very urgent reason that Professor Smith may have had for suggesting the mutual withdrawal of all complaints. Two motions had been made about serving the Libel, one by Mr. Mitchell and the other by Mr. Lowe. Professor Smith, as I have shewn, objected to the Libel being served at all till his plea had been disposed of; but obviously a resolution to serve it without prejudice was less obnoxious than one that ignored it altogether. But he could not consistently support either of the two. He spoke strongly against Mr. Mitchell's motion, and rather patronisingly of Mr. Lowe's. But the latter, being carried, he dissented and complained. Now we have reason to believe that Professor Smith has not been acting without legal advice; but surely his legal advisers must have failed him on the present occasion, and I rather think the legal acumen of the Presbytery was also somehow at fault. For, be it observed, Professor Smith was present during the discussion, and took part in it: he was as yet a constituent member of Presbytery, with all his functions as such intact; but he made no counter motion; he did not move that his plea should first be adjudicated upon (which would have been the proper and consistent course for him), neither did he vote against the motion of which he complained. He thus put himself in a false position: he had no legal right to dissent, much less complain. His dissent and complaint ought not to have been received. It is not probable that this glaring inconsistency and illegality would have passed

unnoticed in the higher courts, and I was not surprised when I observed that the suggestion that previous complaints should be withdrawn, had come from Professor Smith himself. And the whole matter became more luminous still when I saw the resolution come to to sist procedure on the grounds stated. I think I have said enough, Moderator, to shew that these grounds are untenable so far as the doubt as to the Presbytery's competency is concerned. Perhaps they were not wrong in hearing Professor Smith so as to discover what his plea was; perhaps they were not wrong in receiving and recording it. That is a matter I have not yet looked at. But they were unquestionably wrong in receiving it and recording it and reserving it, and then after serving the Libel, sisting procedure, and coming up to us because they did not know what to do with it, and were doubtful whether they could do anything at all.

The next step would naturally have been *probation*, and the Presbytery found that the new plea must be adjudicated on prior to *judgment* merely. There was therefore no valid ground for sisting procedure until they were ready for judgment, and at that point they were debarred from proceeding farther by the very instructions of the Supreme Court, under which they were acting. Professor Smith has told us to-night again that probation will be an extremely simple matter, that it will occupy almost no time, and be attended with no difficulty. Sir, we might at one time have thought so too, but after all that has come and gone, we will need to be very cautious in accepting any such assurance. Many steps which we thought would have been, and should have been, extremely simple, have turned out to be very far otherwise, and we are not quite sure about the future. But if it be so extremely simple a matter, there was all the less excuse for the Presbytery not proceeding with it, as the Assembly obviously intended that they should, especially as they themselves inform us that their end would be gained by sisting procedure prior to judgment.

II. The plea on the merits.

I must now, however, claim the attention of the Synod in regard to this plea-in-law itself, on its own merits. The Presbytery received it; they call our attention to it, and although not perhaps bound to look at it, we are certainly entitled to do so. We might, I say, look simply to the

instruction of the Supreme Court, and say "these are your orders, you have only to obey them, and you have no right to look at anything which would or might tend to render your obedience less hearty than you would wish." Looking to the order of the Supreme Court, I think we would do wrong if we took any formal or judicial notice of that plea. I think the Presbytery did wrong in receiving and recording it. The contention, as I understand it, is twofold, (1) the Libel has never been found revelant, or if it has, then (2) it has been amended since it was found relevant, and therefore the relevancy of the amended Libel ought to be discussed before service.

1. As regards the first of these contentions, it throws us back upon the Assembly's decision in 1878, at Glasgow, a finding which has been subjected to an amount of misrepresentation and abuse quite appalling. One statement made by Professor Smith in the Presbytery, and repeated substantially here, contains the substance of most that has been said. "It was shewn," he said on September 2nd, "in the most conclusive manner, that Sir H. Moncrieff had misrepresented me, and in the evening, when the question of inspiration came up, and when I had an opportunity of stating my whole views with fulness and clearness, the same house which had, under the influence of the misleading statements of Sir H. Moncrieff, decided against me in the forenoon, virtually reversed its judgment, and by an enormous majority determined, when the whole question was before them, that my views on inspiration were sound.' Now, Moderator, I am not going to spend much time over this, but it is necessary to advert to the misrepresentations contained in such statements. The question of inspiration did not come up in the evening any more than in the morning. In the morning *primo* and *secundo* were settled, in the evening *tertio;* but it is no more reasonable to say that the decision on *tertio* overturned that on *secundo,* than it would be to affirm that the finding on *secundo* overturned the finding on *primo.*

I think, Sir, we are indebted to Professor Smith himself for a very lucid illustration, which shows the unreasonableness of his present contention. At a time when he was very urgent to have the particulars taken up *seriatim,* he compared them to a series of acts of theft. The general charge being one of theft, a number of specific acts were libelled, 1*mo.* a hat, 2*do.* a coat, 3*tio.* an umbrella, &c. And his contention then was that each of these specified acts

must be dealt with separately. Why he has so completely wheeled round, and turned his back upon his former contention perhaps he can himself explain: but the illustration is a good one, with this explanation that opinions and doctrines may run into each other, and are not *at all points* so easily kept separate as hats and coats and umbrellas are.

Neither is it correct to say that the Assembly determined, when the whole case was before them, that Professor Smith's views on inspiration were sound. The Assembly has never so determined, and I trust never will. The question of inspiration comes out directly only in the *answer* to the Libel, and therefore cannot be directly adjudicated upon. But it is certain that neither Presbytery, Synod, nor Assembly declared the views of Dr. Dods to be sound when these were formally before them, and yet Professor Smith assures us that the Church has put its imprimatur upon his!

Concerning the relevancy of *secundo*, I have to make the following observations:—

(1.) The whole discussion in the Glasgow Assembly was on the question of relevancy, and no one either in the debate or in the subsequent Reasons of Dissent, took up the position that has since been taken up.

(2.) The Assembly's answers to the Reasons of Dissent assumed that the finding was one of relevancy.

(3.) Dr. Rainy, at a subsequent sederunt of the same Assembly, said that *secundo* had, by the authority of the Assembly, attached to it the character of the highest offence, and the discussion on that was ended (Blue Book, 222); and again he said, "*Secundo*, under the first charge, must be worked out as a Libel" (Blue Book, 225).

4.) *Secundo* was passed over by the Presbytery in discussing the relevancy of the particulars under the second charge, on the express ground of the Assembly's finding.

5.) By the withdrawal of the Presbytery's Reference on this subject to last Assembly, the finding was left absolutely untouched, notwithstanding the great outcry that had been made about it. Concerning this Reference I may be allowed to say that I was not a little surprised at a state-

ment made in the Presbytery by Professor Smith, which has been repeated both by him and Professor Salmond at the bar of the Synod. He gave what was to me an extraordinary explanation of the reason why the Reference was withdrawn. My own impression was and still is, that it was withdrawn simply because there was no hope of having it sustained. But Professor Smith says a determined effort was made to connect the Reference with invidious charges against the Presbytery; they thought it unfair that they should be told by Sir H. Moncrieff and others, with much acerbity (the Professor carefully inserted), that the case was taken up because they wished to go back on the previous finding, and under these circumstances they withdrew the Reference. Such was the Professor's theory, but surely the withdrawal of the Reference was a novel way of repelling these invidious charges, if there were any such. I must confess, however, that until I read the speech of Professor Smith, from which I have just quoted, I was utterly ignorant of any such determined effort as he seems to have been cognisant of. I think I know about as much of the matter as any one else can do, and I repudiate any knowledge of, or connection with, any such thing. We thought that the Reference ought logically to come first, because it *did* go back on the finding of the previous Assembly, and could not possibly be discussed without doing so. We did moreover believe, as I believe now, that any attempt to explain that finding, or to apply it to the case otherwise than as a finding of relevancy, was virtually and practically a "determined effort" to have it reversed or set aside. No doubt it is a very innocent-looking way of putting it, to say that all that was wanted was, not to have it set aside, but explained! That is, explained in some other sense than a finding of relevancy! We would be simple indeed if we were to misread or misunderstand such innocence.

(6.) The Assembly's order to serve the Libel assumes that the relevancy is settled.

(7.) Dr. Rainy's Reasons of Dissent from Dr. Bonar's motion admit that *secundo* had been found relevant.

(8.) The final minute of the Assembly on the matter speaks of *secundo* as "the only charge that has been found relevant."

Notwithstanding all this, there are people who, to this day, cannot see that the Assembly of 1878 found *secundo* relevant. It is some comfort, however, to know that these form an extremely small proportion of the Church, that they are confined almost exclusively to Aberdeen, and belong entirely to that section that would *wish* very strongly that the relevancy had not been found.

2. But then even if all this be granted, it is contended that the Libel in its present form, as an amended Libel, has not been found relevant, that the relevancy ought to be re-discussed. The Libel had been simplified down to the very narrow compass of a single charge, and this had been a very effective amendment, which required a new line of defence. This was held by Professor Smith throughout the recent discussions in the Presbytery; it was not very consistently argued by Professor Salmond and others that the relevancy of the Libel in its new form must be adjudicated upon prior to judgment; for if the matter were to be adjudicated upon at all, it must be before serving the Libel, and it was confessed that the Assembly's instruction made that impossible.

Now, Moderator, no amendment whatever has been made upon the Libel in any proper sense of an amendment. There were originally eight charges; they have all been withdrawn meanwhile except one, but that one remains as it has been from the beginning, *verbatim et literatim* the same as at first. I personally was anxious all along that Deuteronomy should be selected as a test case, the decision on which would practically rule most of the others in so far as any ruling was needed.

And here let me say that the ultimate judgment in the case, as it affects Professor Smith personally, ought not to be introduced into the discussion as yet on either side. When the possibility of a milder form of judgment is spoken of from one side, Professor Smith tells us we introduce that merely to influence weak-kneed supporters to vote firmly. But he himself has not hesitated to press his own view of the personal issue; it is fair to conclude that he has intended to influence votes by so doing. I say for myself, and I am sure for all who hold with me that our sole aim and object mean-

while is to secure, if possible, that these novel doctrines be not tolerated in the Free Church, because we believe them to be subversive of the inspiration, infallibility, and authority of God's word as a record, *in all respects* true and trustworthy, of God's revelation. For that I hope we will contend to the uttermost, and at all hazards.

If anything at all has been settled regarding the mode of procedure with this Libel, it surely has been settled that it was to be discussed and decided and dealt with *seriatim*. At one time no one was more indignant than Professor Smith himself at the idea of dealing with it in any other manner. I am strongly tempted to make several quotations from his early speeches in the case regarding this point, but I shall content myself with one. At the Glasgow Assembly, 1878, a preliminary discussion took place as to the pleadings. Some proposed hearing the pleadings on all the particulars before giving any judgment; others suggested that at least the first and second should be pleaded before judgment—a course which was ultimately adopted. But what was Professor Smith's own view? He said he felt altogether unable to plead his cause except by taking each part singly; indeed, he felt that if any other course were adopted, his whole defence would be taken from his feet (Blue Book 54). How then could the clear and unchallangeable separation of one charge from all the rest be so radical an amendment that Professor Smith can turn round and say "I must be allowed to give in a new answer: the relevancy must be heard again"?

But, further, although this plea and this defence ought never to have been before us, they have been forced under our notice, they have been largely dwelt upon in the pleadings from the bar, and therefore I may be allowed to give a single glance at the new defence, which we are told has been rendered necessary. I look into it at present solely for one purpose. I do not look at it to find out if Professor Smith has changed his ground in any respect. I do not look at it, I have no right to look at it, for the purpose of ascertaining if he has given up any of his objectionable views: If he has done so it will doubtless appear in due time, and will be allowed to have its due weight. But at present, if we look at the defence at all, it is simply to ascertain how far *the change in the Libel has rendered this new answer necessary*. I find, upon examination, that any new matter in the answer has nothing whatever to do with any change in the Libel—the only point that it ought to

have regarded—but solely to other extraneous matters altogether. The only effect therefore of receiving this new answer in accordance with the plea-in-law would be to allow an illegitimate and undue influence to be exerted upon our minds. Any answer that could have put in a reasonable claim for a hearing ought to have shewn on the face of it that the supposed amendments called it forth, and were met by it. It is miscalled an "Answer to the Amended Libel"; it would be more correctly designated "An Amended Answer to the Libel."*

* The merits of the Deuteronomic question were to some extent discussed both from the bar and in the course of debate. I made one or two passing references to what had been said in reply. It was argued by Professor Salmond that the question was now much narrower that it had at first been supposed. Professor Smith having explained more fully that he had always meant his theory to apply only to the legislative part of Deuteronomy. In referring to this, I said that if Professor Smith had been misunderstood or misrepresented, he had himself very much to blame, for if he spoke at one time of "the book of Deuteronomy," and at another of "the legislative part of Deuteronomy," (both of which expressions occur in the article "Bible") it was not obvious to all readers that the two are applied, as it seems they are, to the same thing. It might also be said that if he speaks of the "major part of Deuteronomy," and "the legislative part of Deuteronomy," it is not at once obvious that he means only Deuteronomy XII.—XXVI., which is not all the legislative part, and which does not constitute the major portion of the book by any ordinary manner of computation, being nearly *two-fifths* of the whole, both in Hebrew and English.

But supposing Professor Smith to have been clear upon this point all along, the case would not be in the least altered, for the character of the book as a professedly historical record is surely affected if even *two-fifths* of it be held to be unhistorical. See Appendix.

It was also argued in the course of debate that the Libel resolves itself into a syllogism, thus :—"the historicity of Deuteronomy is a standard doctrine of the Free Church. But Professor Smith denies the historicity of Deuteronomy : Therefore," &c. But the *major* here, it was contended, is really the addition of a new doctrine to the Confession. Surely those who adopt this line of argument do not consider where it may lead them. The Confession expressly mentions the Creation and the Fall—the Incarnation—Death—Resurrection—Ascension—(Second Advent) of Christ as facts, and nothing whatever in Scripture history besides these.

Is it to be contended that these facts are all that we are bound to maintain as *true history*? Probably some among us are already doubtful about the two first mentioned as *literal* history. Dr. Candlish ("Authority of Scripture independent of Criticism," page 16) says—it must be maintained that there are portions of Scripture manifestly "meant to be historical, and whose whole value would be lost if they were found to be not true records of actual facts." He instances the Gospels : but where does the Confession of Faith bind any man to the historical character of the Gospels? Would the Church require to add a new doctrine to the Confession before a Professor could be libelled for denying the historicity of our Lord's discourses recorded by the four Evangelists? Professor Smith once said "it is not safe in a controversy like the present to use arguments that are liable to recoil on those who employ them." Let him that readeth understand.

III. The Assembly's Instruction.

And now, Moderator, I come to the Instruction of the Assembly and its bearing upon this question. The only reasonable interpretation of that finding is that all questions of relevancy were settled, that nothing could now intervene before service of the Libel, and that thereafter the Presbytery should proceed with the case until it was ripe for judgment, and *then* sist procedure.

It had been contended in the Presbytery that what was done by the Assembly must be understood "in a sense consistent with the constitutional regulations of the Church," whatever these may be: I suppose one of them is that a Libel is not to be served till it be found relevant; that is, at least, an existing law of the Church, and the order to serve must not be understood to ignore that law.

1. A good deal was made by Professor Smith in the Presbytery of the words of the Act requiring the Libel to be served as one found relevant by the *Presbytery itself*, as if a finding of relevancy by either Synod or Assembly must go for nothing, if only the Presbytery had a different opinion. But such a reading of the law is clearly subversive of our Presbyterian Church Government, and so contrary to common sense, that it is not worth while attempting to answer it. If one Assembly comes to a finding on the relevancy, and the next Assembly gives orders to serve the Libel on the basis of that finding, it will be novel doctrine to affirm that the Assembly cannot mean what it seems to mean, because a majority of the Aberdeen Presbytery happen to differ from the Assembly. The Glasgow finding has in almost every possible way been confirmed as a finding of relevancy, and never more emphatically than when the last Assembly ordered the Presbytery to serve the Libel which they re-adjusted by omitting all the parts that had not been found relevant. All questions of relevancy were clearly held as closed when that instruction was given. Therefore the Presbytery ought not to have received the plea offered by Professor Smith at all. That no injustice is done to him by such a course is manifest from two considerations, viz. (1) That the new answer contains nothing such as the plea would lead us to expect—the restriction of the Libel to one charge has not led to any change whatever in the Answer to that charge; any change must be attributed to some other source, and it would be unjust to introduce it into the case now: and (2) If Professor Smith considers that he is put to any disadvantage by the rejection of his plea—which

the Presbytery will give no judgment about—he has his remedy by direct petition to the Assembly. From one of the statements made by him at the bar, he appears to see this himself, but does not consider it necessary to act upon it. Well, he has deplored the complications introduced into the case by technicalities pressed by his opponents, and has claimed credit for having been desirous all along to present a fair and simple issue to the Church—a desire which this lamentable pressing of technicalities has thwarted to his great grief and sorrow. In view of all that is past, this is a very remarkable declaration, to be estimated at its full value. But why not then relieve the case of its present complication, which has been brought about by a purely technical matter, and allow the Presbytery to proceed, reserving the undoubted right of bringing the new plea before the Assembly by petition? Now that the Libel has been served, I can see no hardship or disadvantage to any interest that would result from this course. What the Assembly might do with such a petition, I cannot say; but I think it would conserve all the rights and interests of the accused, and at the same time allow the Presbytery to go on unfettered in their obedience to the Supreme Court.

2. For, Moderator, I must say that I think the attitude assumed and the language held by some members of the Court below, and at the bar, in regard to the General Assembly and its judgments are much to be regretted, and can produce nothing but harm, if they are not checked. There is no doubt a strong temptation to minimise the weight of any judgment to which we are strongly opposed, but that judgment cannot be reversed by jocular remarks about the majority of one. There was only a majority of one at last Assembly, and a large amount of ridicule has been cast upon that majority. Shall it go down to posterity, we have been asked this evening, that this question was settled by one man, perhaps an obscure Highland elder? Now, Moderator, we have no right here to speak of the majority or minority in that manner. The judgment spoken of was a judgment of the General Assembly of the Free Church of Scotland, and in that sense alone have we anything to do with it. Moreover, Sir, a majority is greater than a minority all the world over; and I wonder where the speakers to whom I refer would find terms sufficiently emphatic and expressive to indicate the contempt in which they hold the opinions of our minorities, when they regard those of our majorities as so contemptible. I am not prepared

to say, Sir, what is or is not to go down to posterity, but this I know that it has come down to posterity from former generations that matters have been settled, and settled irreversibly for all the generations to come, by majorities of even one—matters equal in importance to the question whether Professor Smith should have the Libel served upon him at once, or whether another Committee should be appointed to confer with him first. That was determined by a majority of one; but the use that has frequently been made of that fact has been entirely inexcusable.

But to pass from this, it is surely unusual for members of an Inferior Court, sitting under the orders of a Supreme Court, to emphasise the fact that that Supreme Court was liable to make mistakes, that it will not do to assume its infallibility; it is unusual to insist upon the fact, real or imaginary, that the Supreme Court had acted irregularly, and that these irregularities and mistakes ought to be confessed, and so on.

Sir, it is true that the Supreme Court of our Church, like all other individuals and corporations, is liable to the fallibility that attaches to humanity; it is true that it may possibly make mistakes—may possibly have made mistakes in this case (though I for one am not prepared to admit that any error has been committed, either in substance or form, in the direction pointed out). But, Sir, the General Assembly is the Supreme Court of this Church; and I think it is ill done in any minister or professor of the Church to speak of its decisions in a manner calculated to lower the general respect with which, I am sure, we would all wish to see them treated and regarded. If the Assembly goes wrong, there is no power under heaven competent to set it right. We have been wont, Sir, to be very jealous for the power that Christ has entrusted to the Church; but it will be futile on our part to contend strenuously for the rights and liberties of the Church and its courts on the one side as against the civil power, if we ourselves bring these rights and liberties into ridicule among the people, by an undignified and unworthy mode of speech. No one, Sir, has any right to sneer at the fallibility and mistakes of others, who is not himself infallible; much less is any judge sitting in an inferior court entitled to speak disrespectfully of the decisions of his superiors, however widely he may differ from them in opinion. Surely, Sir, if the Assembly may err, so may any of its Presbyteries; and surely it is a miserable begging of the question to joke about the fallibility of the

Assembly, unless it can be proved that the same fallibility does not attach to the Presbytery. I, for my part, trust the day is yet far distant when there will be any right of appeal among us from a fallible Assembly to an infallible Presbytery, either at Aberdeen or anywhere else.

3. Taking, as I do, the same view of the matter as was taken by the minority of the Court below, I must repel the charge made against that view, that it would be an attempt on the part of the Assembly to override the conscience of the Presbytery, and the conscience of the Church, if the Assembly should enjoin a Presbytery to serve as relevant a Libel which the Presbytery itself judged to be irrelevant. It might be perfectly true, as was alleged, that members of a Presbytery who held a Libel irrelevant ought not to sit in judgment upon it, and it might be true, moreover, as Professor Smith in the Presbytery, and Professor Salmond to-night, has quoted and argued from Pardovan, that it was a great sin for any man to act as judge on a Libel that he believed to be irrelevant. It is odd that they should need to go there for a directory to solve a matter of conscience. But, Sir, it would be the highway to anarchy to admit the doctrine that no Assembly of this Church could demand obedience from an Inferior Court of this Church in a matter that some members, even the majority of members, believed to be contrary to their consciences. We must not confound the conscience, and the duty of a Court as such, with the personal conscience and sense of duty of individual members; the consciences of members are ordinarily guarded by the right of dissent, and surely it would not be contended that any member of a Presbytery was entitled to stop the Presbytery from going on with their work because *his* conscience could not go with them. Every minister, professor, and office-bearer of this Church vows obedience to its Courts, and if his conscience comes into collision with the conscience of the Church, acting and speaking through its Courts, there may be no outgate for him save by a separation from the Church and its jurisdiction. This may be the necessary result of the collision. It may be perfectly true that no man ought to judge on a Libel that he does not believe relevant; but it is certainly true that no Presbytery of this Church is entitled to disobey the General Assembly, and no office-bearer is entitled to do so as an office-bearer or member of an Inferior Court. Mr. Mitchell was asked, in the Presbytery, if he would like to be regarded as a representative of those who had deposed Gillespie of Carnock. But the illus-

tration is extremely wide of the mark. For, I suppose we are all agreed that the work that Gillespie was ordered to do was wrong in itself; we know also that the Assembly went out of its way to compel *him personally*, or others like-minded, to take part in the work, by raising for the occasion the minimum number that constituted a quorum. He was deposed for absenting himself from a Presbytery meeting. Now, Moderator, the conscience of a Presbytery is one thing, the conscience of any individual member of it is another. The conscience of an inferior court cannot lead it to act in opposition to the Court that is supreme, whatever be the personal convictions of individual members. If any members are debarred by conscientious scruples from taking part in the act of obedience, they may remain peaceably at home. The Presbytery will exist and have its conscience notwithstanding; and if it should come even to pass that the absence of members on this ground might reduce the acting membership below the minimum necessary to form a quorum, the remedy is still in the power of the Church, which, through its Supreme Court, may appoint assessors to maintain the needed quorum. Yea more, if at any time a *majority* should show symptoms of rebellion, and insist upon regarding itself practically as the Supreme Court, and its own decisions as alone exempt from the human attribute of fallibility, even in that case the Supreme Court may appoint such a number of assessors as to throw the majority over to the other side. These arrangements are well fitted to guard on the one hand the rights of conscience in respect of *individuals* who are not called upon to render *active obedience* in such cases, and to guard, on the other hand, the *conscience* and the *authority* of the *Church*, as represented by the Supreme Court, which cannot lawfully permit its own views of duty, and its orders issued in harmony therewith, to be set aside by its Inferior Courts. If the Church be very slow, as it is, and I hope always will be, to enforce active obedience where there may be a collision of consciences, surely individual members of inferior Courts may reasonably be expected to refrain from anything that may have the semblance of *active disobedience*, the more especially as the outgate is for them so easy. They are sometimes, we may presume, absent even from Presbytery meetings, and it is not often that the Church, or any of its Courts, asks the reason why. This outcry about the rights of conscience cannot for a moment be listened to. It is quite clear that such a claim could not be restricted to libels and questions

of relevancy, but that, if it be valid at all, it is equally valid for all matters whatsoever, and that the Presbyterian Government and discipline of this Church would soon be at an end if every Presbytery, and every minister, professor, and elder were to assume, within the Church, the right of being a law unto himself, and raising an outcry about tyranny and the rights of conscience whenever his own personal opinion was overruled by the voice of the Church. When the Strathbogie rebellion broke out 40 years ago, the rebels raised this cry, and it was earnestly and repeatedly urged on their behalf that it would be ecclesiastical tyranny to override their consciences, while they were actively disobeying the Supreme Court, and persisting in their disobedience. Dr. Chalmers dealt with this plea in the Assembly of 1841. "I am not able," he said, "to go into the depth and the mysteries of men's consciences; but this I am able to perceive, that if in *heresy* this plea were sustained, the Church would be left without a creed; and that, if in *contumacy* this plea were sustained, the Church would be left without a government: both doctrine and discipline would be given to the winds, and our National Church . . . helpless and degraded, would be alike unable to correct the errors, however deadly, or to control the waywardness, however pernicious and perverse, of her own children."

A counter motion—'That the Synod dismiss the dissent and complaint, affirm the judgment of the Presbytery, receive the report and transmit it to the General Assembly," was carried by *thirty-one* votes against *thirteen*. The minority dissented and complained, and gave in the following Reasons:—

We, the undersigned, dissent from the Synod's finding, and protest for leave to complain to the General Assembly for the following and other reasons to be pleaded at the bar of the Supreme Court:—

1. The Presbytery ought not to have received and recorded a plea on which they were not satisfied that it was within their province to adjudicate in some form.

2. The plea-in-law laid on their table by Professor Smith, being in point of fact a plea in bar of the service of the libel, was substantially repelled by the Presbytery when the libel was served.

3. There was no valid ground for sisting procedure at a subsequent stage with which the plea had nothing to do, the Presbytery having already done what the plea asked them not to do.

4. Even if it were true that the plea raises questions "which must be adjudicated on prior to judgment," this gives no valid ground for sisting procedure prior to probation, or at any stage until the case is ripe for judgment; and the Presbytery was, under the finding of the Supreme Court, expressly debarred from proceeding to judgment.

5 The Assembly having found the libel relevant, and ordered it to be served, no question affecting the relevancy can now be raised. and, therefore, the plea-in-law ought not to have been received by the Presbytery.

6. No amendment has been made on the libel. The only particular found relevant, as applied to the first general charge, remains precisely as it was before. All the Courts of the Church, and Professor Smith himself, were agreed that the several charges and particular should be dealt with *seriatim*, and this course has been adoped throughout the case.

7. There is no foundation for the statement that new matter has emerged—this being understood to refer to the exposition of his views on Deuteronomy given by Professor Smith in his so-called "Answer to the Amended Libel;" the new matter in that document, as compared with former answers, is not due to any amendment in the libel, or any procedure that has been taken in the Church Courts, but solely to extraneous causes. It is not an answer to an amended libel, but an amended answer to the only charge of the libel found relevant.

(Signed) J. SMITH.
JAMES MURDOCH.
THOMAS MURRAY.
A. J. CHRYSTALL.
GEORGE MANSON.
GEORGE BAIN.
WILLIAM EWAN.
AL. URQUHART.
ALEXANDER WEST

APPENDIX.

THE AMENDED ANSWER.

It might not be perfectly obvious what the "new matter" is on which the Presbytery's finding is based, but it was made plain by Professor Salmond, who, in his pleading at the bar of the Synod, dwelt largely upon what he regarded as a new element introduced by the fuller explanation of his views on Deuteronomy given by Professor Smith in his *third* answer to the Libel. An injustice, he said, has been done to his colleague by the fact "that the prosecutors had failed to distinguish, what Professor Smith himself distinguished, between the *book of Deuteronomy as a book and the law book that was in it.* This distinction had now been made more clear, and ought not to be overlooked."

It is certainly much to be regretted that so many people seem to misunderstand the Professor. *Primo* was found irrelevant mainly because his views on the Aaronic priesthood had not been very clearly understood, and it was not quite certain that the *nexus* in the Libel was complete. It was very much the same with *Tertio;* and now *Secundo* must be reheard, because there has been a misunderstanding here too!

In my opinion this Answer ought not to be looked at judicially by any of the Church Courts, nor ought the bar to be allowed to plead anything that it may contain; but as so much is made of it, it may be well to see whether there is good ground for the complaint of misunderstanding; and so far as I can see there is none. Professor Smith's own want of accuracy may have induced a certain haze as to how much precisely he included under D, but the assertion that there has been any substantial injustice or misunderstanding regarding the matter may at once be set aside.

The Professor has been told more than once that he is far from consistent with himself. It would not be difficult to adduce extracts from his writings and speeches on almost all the questions that have recently been under discussion, in which at one time statements are made almost directly opposite to statements made by him somewhere else. The subject of Inspiration affords perhaps the most memorable illustration of these contradictory statements; but the confusion may be seen also in statements about the priesthood of Aaron, the hierarchy, Canticles, the contents and date of D, the liberties taken by writers, and the meaning of Hebrew words, such as *Torah*, *Kallah*, &c. Not unfrequently, when called upon

to defend his opinions, he has ignored the opinions he was expected to defend, and quietly substituted others in their stead. Thus, if a person attempts to quote from his own writings to find out what his opinions are, he will be told to read on, and by and by, sure enough, if he only read far enough, he will come upon something totally opposed to the previous quotation; or, at least, somebody else will be able to quote in opposition from some other document. The charge of misunderstanding, misrepresentation, and garbling, is in this way easy, and could be evaded only by quoting all his writings at one reading.

This *Third* Answer is an ingenious and plausible attempt to reply to the charge of treating as unhistorical a book which is professedly historical. It does so under the plea of explaining the matter more fully. Now, ever since the famous letter in the *Daily Review*, June, 1876, the Professor's position has been well enough understood; it was understood by the College Committee, and he himself accepted their view as substantially correct (Coll. Com. Report, App. II.) But he has now changed his tactics, and takes up a new position. Formerly he objected to the 2nd particular in the Libel on the following grounds:—"I am made to say that 'the book of inspired Scripture called Deuteronomy, *which is professedly an historical record*,' does not possess that character." But this, he says, exactly reverses his view, for "my contention is not that a book professedly historical does not possess that character, but that a book, or rather part of a book (for my remarks are, strictly speaking, confined to the legislative part of Deuteronomy), which at first sight may seem to be strictly historical, appears on closer examination not to be so, and not to have been so meant by the author." (Add. Ans. 52). Now, this was before the Church when this second particular was found relevant in Glasgow in 1878. But in this Third Answer we read:—"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" (p. 9); and throughout the Answer this attempted distinction is kept prominently before the reader. But if the historical part be good history, let us see what it has to say for itself. Professor Smith affirms that the book of Deuteronomy itself speaks of two Covenants that God made with Israel, the Covenant at Horeb, and another Covenant based on the law of Deuteronomy. This second law, he assures us, was originally entirely distinct, in fact was not codified till the eighth century. But the Professor proves that there were two Covenants, by citing chap. xxix. 1 (p. 13.):—"*These are the words of the* COVENANT WHICH THE LORD COMMANDED MOSES TO MAKE WITH THE CHILDREN OF ISRAEL IN THE LAND OF MOAB, *besides the Covenant which he made with them in Horeb.*" And this the Professor regards as good history, while he at the same time believes that the second Covenant resulted from the prophetic teaching of the eighth century, and came into existence B.C. 700-625 (Add. Ans. 78).

The *Torah* and the history are alike intelligible and simple when we are contented with the plain words of Scripture without the confusion

and nebulosity which the critics introduce. *Book of Covenant* occurs Exodus xxiv. 7; 2 Kings xxiii. 2; and xxiii. 21; and 2 Chronicles xxxiv. 30: *Book of Law*, Deuteronony xxviii. 58, 61; and xxix. 21, and xxx. 10, and xxxi. 26; Joshua i. 8; and viii. 34; 2 Kings xxii. 8; 2 Chronicles xxxiv. 15: *Book of the Law of Moses*, Joshua viii. 31; and xxiii. 6; 2 Kings xiv. 6; Nehemiah viii. 1: *Book of the Law of God* or *the Lord*, Joshua xxiv. 26; 2 Chronicles xvii. 9; Nehemiah viii. 8, 19; and ix. 3: *Book of Moses*, 2 Chronicles xxv. 4; and xxxv. 12; Nehemiah xiii. 1. The comparison of 2 Kings xxiii. with 2 Kings xxii. 8; 2 Chronicles xxxiv. 15, 30; Deuteronomy xxix. 21, show that the terms *Covenant* and *Law* were applied to the same Book. It was one book written by express divine command, and carefully kept apart from all other writings; and the history itself tells us who received such commands, and in what circumstances. According to the historical statements of the Pentateuch, the legislation consists of three periods, viz.:—I. at Sinai, Exodus xx.-xl. (with an interval between chapters xxxiv. and xxxv.), Leviticus i.-xxvii., and Numbers i. x. 10: II. At intervals during the wandering, Numbers xv.-xx.: III. During the last year of the wandering, Numbers xxi.-xxxvi., and Deuteronomy i.-xxxiv. The new attempt to dissect the book of Deuteronomy and the Pentateuch generally into separate books of history and law has no basis of reason either in the Word itself or anywhere else.

Another preliminary point about the historical character of the record is worthy of notice. Professor Smith admits that if the words, "The Lord said unto Moses," are always to be interpreted literally whenever they occur in the Pentateuch, then his views are inadmissible (Assembly Blue Book, 1878, p. 59). Well, on a rough calculation, this phrase or an equivalent occurs in Exodus i.-xix. *sixty* times; in Exodus xx.-xl. *forty-five* times; in Leviticus *fifty* times; in Numbers *eighty-three* times; in Deuteronomy *twenty* times; in all, *two hundred and fifty-eight* times. And our critic modestly claims liberty to decide for us when the words are to be regarded as *literal history*, and when they are *figurative* or *dramatic!* The only honest course, the only one absolutely free from deception and fraudulent results, is to understand them at least in some uniform sense throughout. We can imagine with what utter contempt the critics would regard any one who suggested their own method of treatment here in regard to any phrase on which *they* chose to fix a definite meaning.

I may add that it is very remarkable (and it may be regarded as one proof of the inspiring presence of the omniscient Spirit of God in view of these latter day discussions) that the phrase "*the Book of the Law of the Lord by the hand of Moses*," the fullest and most definite phrase anywhere used about the law book, occurs only once in the whole Old Testament, and is the title given to the law book found in the temple by Hilkiah (2 Chronicles xxxiv. 14).

We were told in the article "Bible" that it was under the *influence of the prophets* that Hezekiah abolished the high places, but that in Josiah's time the principle of a single sanctuary can claim the support *not*

only of prophetic teaching, but of a written law book found in the temple (635. a) that this law book contained provisions which were *not up till that time* an acknowledged part of the law of the land, and that this legislation occupies the *major part* of Deuteronomy (637. b), that beyond doubt this book is a prophetic legislative programme, and that the legislation which it contains is not earlier than the prophetic period of the eighth and seventh centuries (638. a), and in the *Second* Answer (74. 75) that it marked a *religious revolution.* We are told in the *Third* Answer that it is [now] an essential part of his theory that the mass of the law is ancient, that the code is merely a readjustment of *old legislation* (p. 25). Whose voice is it, we are asked, that really speaks? Not the *later editor* whose work is merely subordinate, but Moses himself, the first author of the law: the editor introduces only "minor changes" (p. 24). And again we are told—"If I think the laws are not *so absolutely and literally Mosaic* as others think them, it is not because I doubt its [the book's] inspiration and veracity." (p. 35).

In the letter to the *Daily Review* above mentioned we were told that the nature and object of the form of D must have been apparent to the first readers; the Presbytery were told that the dramatic form was legitimate on the assumption that the circumstances made it plain that it *was* a dramatic form. In the *first* Answer it was said that the *last editor,* who can hardly be placed much before the time of Ezra, may have already lost the knowledge of the true authorship of D, and regarded all the laws as literally Mosaic (p. 56). Now, in the *Third* Answer, the *editor* (p. 24) is identical with the author, or compiler, or redactor of the code, and we are told that he was plainly no mean man among the prophets of his day, and "was doubtless quite well known." Doubtless! Doubtless everybody knew that it was not Mosaic, but it was put into Moses' mouth to give it authority, although no stress was laid upon questions of authorship, as we were assured in the article "Bible!" Doubtless that one generation knew all about it, though all others have been deceived; it *must* have been plain to them. Doubtless the author was a great well known prophet, whose fossil remains the critics have discovered alongside of the Deutero-Isaiah and the Elder Zechariah! All this was after B.C. 700; the programme was only put in force by Josiah; and when little more than a century had elapsed, it is quite conceivable that this last editor had become as ignorant as all the generations that have succeeded him, though Jeremiah, Daniel, Ezekiel, Haggai, and Zechariah carried on the prophetic work over all that period! And this new law book, which produced so great a revolution, and marks so important a development, was doubtless given by divine inspiration, with its one altar, and its law of the kingdom, and its Levitical priesthood, &c., &c., within little more, at the very most, than half a century prior to the captivity; it was put in force for a dozen years or so by Josiah, and never again any more at all! When Ezra came back from Babylon, he had somehow got hold of the *whole Pentateuch,* and possibly everybody believed that it was literally the work of Moses, with all the

contradictions and developments that the critics have discovered! And no one of the Jewish Scribes or Rabbis, for more than 2000 years, had the least idea how it had all come about. And yet it was plain B.C. 650, and is plain again A.D. 1879.

It lies in the plan, we are told, (*Third* Answer, p. 29) that the history (contained in the Pentateuch) be so told as to embrace *all the laws* that God had given to be obeyed. But this is contradicted on the face of the later history, for David introduced very much that was new, and it is *not* incorporated in the Pentateuch. Ezekiel also has a law book at the end of his prophecy (of which the critics make much at times), and we are expressly told that when Zerubbabel and his associates were engaged in restoring the service of the second temple, they were guided not by the Pentateuch alone, but also by the "ordinance of David, King of Israel" (Ezra iii. 10). This notion about the incorporation of a law book into a history book—the former carried down to a date about eight centuries beyond the latter—is one of the most outrageous conceptions that the critics are yet responsible for. It would find its exact parallel in a history of the Norman Conquest, with which are incorporated important extracts from the legislation of the British Parliament down to this time, the whole being mixed together in the most delightfully miscellaneous manner, and so dramatised as to look exactly like the legislation of William himself, some of it in the form of orations delivered to his conquering army!

The following Chronological Table shews pretty nearly how the great development proceeded according to the new critical rendering of the Pentateuchal legislation and history:—

The Covenant at Sinai, ...	B.C. 1491.
Elements, or perhaps nearly the whole of Q, ...	B.C. 1491—1451.
[= Greater part of Leviticus, Numbers, and latter chapters of Exodus: the *Levitical* portion apparently was never in force till Ezekiel's time; perhaps it was a programme which circumstances prevented from being carried out; perhaps it fell into desuetude; the history does not correspond with either Q or D on some points].	
Solomon's Temple dedicated, ...	B.C. 1005.
[His prayer on the occasion quotes D, but "interpolations and corrections can be traced" D did not yet exist. It now begins to grow up under prophetic teaching:—]	
Hosea (approximately), ...	B.C. 809—725.
Joel (doubtful, but probably), ...	B.C. 790—780.
Amos (probably), ...	B.C. 795—780.
Isaiah (probably), ...	B.C. 758—700.

Hezekiah's Reformation, ...	B.C. 725.
Destruction of the Northern Kingdom, ...	B.C. 721.
Deuteronomy xii.—xxvi. (= D) codified as a separate law-book founded on the teaching of the above-mentioned prophets, ...	B.C. 700—625.
The new law-book lost in Manasseh's reign, .	B.C. 698—643.
Found again by Hilkiah, and put in force by Josiah, ...	B.C. 624.
Josiah's death, ...	B.C. 610.
Jeremiah, ...	B.C. 628—588.
Captivity of Judah, ...	B.C. 606—536.
Daniel, ...	B.C. 606—534.
Ezekiel (probably), ...	B.C. 595—574.
Ezekiel's legislative programme (chap. 40—48), ...	B.C. 574.
Zerubbabel, Joshua, &c., return to Jerusalem, ...	B.C. 538.
The Pentateuch finally edited [S and D and Q being incorporated in the history of the work of Moses, the editor possibly thinking the whole legislation was his] not much before the time of Ezra, say	B.C. 500—460.
Ezra comes to Jerusalem bringing the Pentateuch in its complete form with him, ...	B.C. 458.

The Pentateuch, as now edited, became the Jewish law book henceforth.

Professor Smith does not seem to be at all aware that his new position and the relative arguments furnish conclusive replies to much that he had formerly written. But this can be made perfectly evident by simply looking at some of the old and the new statements side by side :—

1. *The whole theological standpoint of the book* [*i.e.* the legislative part of the book] *agrees exactly with the period of prophetic literature, and gives the highest and most spiritual view of the law to which our Lord himself directly attaches his teaching, and which cannot be placed at the beginning of the theocratic development without making the whole history unintelligible.*—"Bible," 637 b.

2. *It will be observed how closely I conjoin the development of ordinances with the development of doctrine, repeatedly emphasizing the fact that both took place through the ministry of the prophets.*—(First Answer, 51).

3. *The Deuteronomic code is represented in chaps.* v. 1 *seq.*, vi. 1 *seq.*, *and in the subscription* xxix. 1, *as a renewal of the covenant made with the people at Horeb, and a repetition of the commandments then laid upon them. Now the part of the Pentateuch which contains the original Sinaitic covenant is, as we have already seen, the document S, embracing Exodus* xx.-xxiii.—(Second Answer, 54).

4. *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.—(Third Answer, 9 ; comp. Second Answer, 86).

There has been considerable vacillation and indecision as to how much of Deuteronomy should be included under D ; now, however, the point seems settled, for we are told :—

5. *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.—(Third Answer, 25.)

Still more clear and decided is the following statement :—

6. *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.* [Then we have details of the events referred to, including the command to write the law on the stones at Ebal, &c., chap. xxvii., the writing of the law by Moses in a book, and the command to read it publicly once in seven years :—] *Now, it is clear that* THE HISTORICAL VALUE OF THESE DETAILS *is really independent of the question whether the code which comes in the heart of the book has or has not been re-edited by a prophet later than Moses.*—(Third Answer, 29, 30.)

7. *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.*—(Third Answer, 10.)

8. *Without such action* [*i.e.* the purifying of the temple, and the effort to put down the high places] *by Hezekiah, the book of Deuteronomy would be unintelligible. The task of* REMODELLING THE WHOLE RELIGIOUS LIFE OF THE NATION TO FIT IN WITH THE ABOLITION OF LOCAL ALTARS, *could hardly be undertaken in such detail until the problem to which Deuteronomy is addressed had emerged in a practical form.*—(*Academy*, May 17, 1879, p. 430.)

9. " . . . *The development of the law from the Jehovistic ordinances of the Book of the Covenant through Deuteronomy to the priestly code. That this is the historical order of progress appears to be indisputable.*"—(*Academy*, May 17, 1879, p. 430.)

Thus, apparently for the first time, and in a magazine not very largely read probably within the Free Church, we have an explicit statement as to the relative order of D and Q—the great question which, in the article " Bible," we were told divided critics, which made our whole reading of the historical books uncertain, and the settlement of which was so important for the theology as well as the literature of the Old Testament, and on which our author had hitherto refused to commit himself. Q probably originated in Babylon—at least in its final form ; for we are told (*Academy, ut supra*) that Babylonian influences were probably at work in a supposed change in the Sabbath law.

Ten times at least, in the amended answer, D is restricted to chaps. xii.-xxvi. ; and all the rest, being a professedly historical narrative, is to be taken as true history. I have already shown how futile this attempt is to separate the book into two portions after this fashion. But my present purpose is to show how large a portion of his former reasoning our critic himself now answers for us :—

1. If the law book, Deuteronomy xii.-xxvi., is one document of the 7th century, and the rest of Deuteronomy is Mosaic history, S in Exodus xx.-xxiii. being also Mosaic, we find the following results:— Images are *twice* forbidden in S, and *nine* times in the Mosaic part of Deuteronomy, with slight variations; and D itself likewise contains a similar prohibition *twice* at least; the Sabbath law and other parts of the Decalogue are given more than once; the first fruits are *twice* commanded in S; the designation of the priests, as teachers of the people, are *five* times mentioned in D*; the tithes are *three* times enjoined, the necessity of having at least two witnesses is *twice* enforced. The command to bring the tithes, firstlings, &c., to the sanctuary is repeated *seven* times, and only once is the alternative allowed of selling the firstlings and bringing the price instead, if the sanctuary be too far away; the permission to eat flesh not offered in sacrifice is *twice* repeated; eating with the blood is *three times* forbidden: a law is given to be enforced, except when there shall be no poor in the land; and again, it is declared that the poor will always be in the land. Professor Smith tells us that from his point of view there was no need of mentioning the Northern Kingdom, because it had been destroyed, but the Temple Service took account of the *twelve* tribes after the Exile (Ezra vi. 17); nor of mentioning Korah, because his example could no longer be a warning; but the ante-deluvians are held up to us as a warning still, though God has promised never again to send another deluge; nor of speaking of heathen temples (which abounded), because even the Tabernacle is not mentioned (which had for centuries ceased to exist). Why, then, is the sojourn in Egypt, and redemption from it, mentioned eight or nine times as a plea for obedience? Why is the hiring of Balaam assigned as a reason for excluding the Moabites from fellowship? Why is the possibility of a Levite selling his patrimony spoken of, if he had no patrimony to sell? Why did the final editor incorporate the *first* edition of the law, which of course was out of date, with the *latest* edition with all the newest prophetic programmes? And why were the two contradictory codes, D and Q, so mixed up that no one could tell which was the earlier and which the latter?

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* In the *Academy* of 17th May, 1879, Professor Smith makes the following extraordinary statement about the priests during the time of the Judges. In case of mistake, I may mention that the statement is made in *opposition* to certain views of Wellhausen:— "The chief function of the priests was to give oracles; and oracles in such a state of society must have been in great demand. The technical knowledge required for this function could only be propagated in a guild which, though it might adopt outsiders, like Samuel, would, for obvious motives, be mainly hereditary. And of course the best priests would be those who had their skill in direct succession from Moses. When Micah had a Levite to work his oracles, he was confident that Jahvé would give a favourable response." In reading such stuff, one feels as if the priests and oracles of Phœbus Apollo, or the Phœnician Baal were the subject of discussion rather than the holy oracles and divinely ordained priesthood of the living God.

Now, was not the recurrence of such repetitions as these one of the main arguments for the diversity of age and authorship in the law books of the Pentateuch? And if such repetitions and variations occur in considerable numbers within the narrow compass of the admittedly Mosaic parts of it, does not the whole argument, which was said to be of "enormous compass," fall to the ground? If all these repetitions and variations were incredible before, upon the *traditional* theory of date, how do they become credible now, when the traditional theory has become, here at least, the *critical* theory also? Or, if they were incredible, and became a stumbling block to faith, when a Mosaic date was claimed for them, how do they all become so luminous, and intelligible, and simple, on the theory that a selection of the fittest of various ages and authorships has been made by a *final editor*, who is thus substantially the *author of the existing law book*, just as if he had been Moses? And if it would have been impossible for Israel, at any time between Moses and Ezra, to have obeyed laws which were so contradictory, how was the difficulty got over after Ezra? He came to Jerusalem, we are told, armed not with a fresh message from the Lord, but with "the book of the law of Moses' ("Bible," 635, b), and mark what follows—"*This law book was the Pentateuch, and the* PUBLIC RECOGNITION OF IT AS THE RULE OF THE THEOCRACY *was the declaration that the religious ordinances of Israel had ceased to admit of development.*" So, after all, the great development of ritual and doctrine culminates in this Pentateuch, whose legislation, we are told, no one could possibly harmonise with itself, and of course, therefore, no one could obey! "It was not enough for the people to *believe* the laws to be consistent, unless they could actually make them consistent, and find them unambiguous in practice."—(First Answer, 35). This was impossible from Moses to Ezra, but subsequently to Ezra's time there was no difficulty! The article "Bible" and this Third Answer taken together, furnish an impregnable reply to all that the author of them has been saying upon the subject of which they treat during the last three or four years, and in the act of shattering all his other arguments, they are themselves also dashed to pieces.

One other insuperable difficulty suggests itself here. We are told that the legislation of D is a complete and harmonious whole, two of its main features being the *one altar* and the *Levite priests;* but after the Exile Q was put in force. Was, then, Deuteronomy, which is said to give the highest and most spiritual form of the law, set aside as inadequate when the spiritual religion triumphed? Or, was the principle of the *one altar* selected from D, and the *hierarchy* from Q? If so, how could that be rendered possible by Ezra which had always, up to his time, been both a moral and a physical impossibility, according to Professor Smith's former reasoning?* and how could the Pentateuch

* In "Professor Smith's Criticisms on the Pentateuch Examined" (which, I believe, is now out of print), I contended for what seemed to be the obvious interpretation of the "place which the Lord thy God shall choose," as fulfilled in the erection of Solomon's temple. I find Dr. A. B. Davidson ("Review of Works on O. T. Exegesis," p. 15) has, on

henceforth be the rule of the theocracy, if its provisions were contradictory?

It is becoming more and more apparent that there can be no honest and logical and permanent settlement of the question, except by giving up the inspiration of the Pentateuch, or otherwise accepting it as truly and really the law of Moses, and making that the basis of the ulterior criticism. It is surely clear that if the so-called contradictions, and developments, and variations, make it incredible, and would compel us to disbelieve, some other part of the Bible, as Professor Smith declares (Assembly Blue Book, 1878, p. 59), if it be regarded as literally Mosaic, then the same logic would compel us to deny that it could have been edited under the guidance of divine inspiration, as the rule of the theocracy in Ezra's time, or indeed at any period whatever.

2. In the article "Bible" we were assured that the whole theological standpoint of D corresponds exactly with the prophetic period—say B.C. 800-600—that it gives the most spiritual view of the law to which Christ himself directly attached his teaching. Very well, let us examine this statement in the light of facts, remembering always that D = chaps. xii.-xxvi., and that all the rest is Mosaic history. We find that Christ referred directly to the following texts in D, viz., Deut. xvii. 6, and xix. 15, where the testimony of two witnesses is spoken of (John viii. 17);* Deut. xix. 21—an eye for an eye, &c. (Matt. v. 38); Deut. xxii. 21—the adulteress to be stoned (John viii. 5); Deut. xxiii. 23—vows to be performed (Matt. v. 33); Deut. xxiv. 1—divorce (Matt. v. 31; and xix. 8; Mark x. 5); Deut. xxv. 5—about marrying a brother's widow† (Matt. xxii. 23-30; Mark xii. 19-24; Luke xx. 28-35). These are, I think, all the passages, and according to the new critical light they give the highest and most spiritual form of the law! But Christ referred also occasionally to portions of Deuteronomy which are outside of D, and which are by all means to be treated as historical and Mosaic. These will, of course, exhibit a much lower and less spiritual tone. Let us see. Omit-

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entirely independent grounds, adopted the same view. I think, however, that even after that date, it would still be lawful to sacrifice elsewhere (as Elijah did), provided such sacrifice were connected with a special manifestation of Jehovah's presence, *i.e.* if he *recorded his name* elsewhere. The *ordinary* means of grace limit us, but not God, and if he, in his mercy, chose to manifest himself in an extraordinary manner, such an exceptional act of grace would not unreasonably call for special acknowledgment. The "high places" arose apparently from a mere traditional and superstitious reverence for places where Jehovah had *formerly* recorded his name.

* We may note, by the way, that the testimony of *two* witnesses is *nowhere else* enjoined as necessary. Is it probable that, when there was admittedly one or more recognised law-manuals, such a matter as this would be omitted till so late a date? Professor Smith often tells us that we, traditionalists, *evade* difficulties instead of meeting them. I may here give a specimen of how *he* meets difficulties. Hosea, Amos, &c., speak of heathen temples as numerous in their time, and D, according to the new critical school, is founded on their teaching. Why, then, he is asked, does Deuteronomy make no mention of temples? And his reply is, "Why should it mention temples when it does not even mention the tabernacle?" (Third Answer, 26).

† This law also appears *only* in D, although it existed in the time of the Patriarchs, and was in force during the time of the Judges. *Can* the critics be right about the date?

ting quotations from the Decalogue, we find references to Deut. vi. 4, 5, [The first of all the commandments is] Hear, O Israel; the Lord our God is one Lord: and thou shalt love the Lord thy God with all thine heart, &c. (Matt. xxii. 37; Mark xii. 29, 30; Luke x. 27, 28); Deut. vi. 13; and x. 20, Thou shalt worship the Lord thy God, and Him only shalt thou serve (Matt. iv. 10; Luke iv. 8); Deut. vi. 16, Thou shalt not tempt the Lord thy God (Matt. iv. 7; Luke iv. 12); Deut. viii. 3, Man shall not live by bread alone, &c. (Matt. iv. 4; Luke iv. 4). None of these passages, or words precisely equivalent to them, occur anywhere else in the Pentateuch; and as it is now admitted that the sections of Deuteronomy in which they occur are Mosaic, I may fairly put it to the intelligence and candour of any ordinary reader whether the whole theory of a great parallel development of doctrine and ordinances (First Answer, 51), which Professor Smith says are closely conjoined, does not collapse? On his own showing, the *most spiritual* part of the Pentateuch is clearly and unmistakably Mosaic (unless he will contend that the former series of references given above are more spiritual than the latter), and if the Mosaic dispensation started from these lofty spiritual conceptions, the former argument is worthless, and the subsequent history, instead of being unintelligible, can only be read in this light. Even Professor Smith himself must learn so to read it, for so only can it be truly interpreted.

3. Many passages which were formerly urged against the traditional view, must now be held as supporting it. So long as there was no well defined or scientific boundary around the territory of D, the critic could make raids upon the surrounding passages at pleasure, carry off whatever plunder he could get, and then, when pursued, he could entrench himself behind the inner lines of defence. Now, however, he must make restitution of the spoil with which these excursions had enriched him, since he confesses that he was not entitled to go beyond chaps. xii.-xxvi.

(1.) D cannot have been the law book which so alarmed Josiah, for the threats of evil contained in Deuteronomy are not in D, but in the Mosaic portions of it (2 Kings, xxii. 13-20; 2 Chron. xxiv. 19-28; comp. Deut. xi. 17-26; xxviii. 45; xxx. 15; xxxi. 17).

(2.) Deut. xxvii. is now admitted to be historical, and there must be a corresponding change in the explanation about the stones at Ebal. Josh. viii. 34, 35, informs us that Joshua, in addition to writing the law upon the stones, read all the words of the law, the blessings and the cursings according to all that is written in the book of the law: "There was not a word of all that Moses commanded that Joshua read not." The reply to this formerly was:—"It does not follow that Joshua read from D what a later historian knows and describes as part of that book." But that did not seem quite satisfactory, and so he went on to tell us that the book of Joshua had been considerably interpolated by the later Jewish Scribes, and *the passage about the altar on Mount Ebal appears to be a similar late interpolation after Deuteronomy* (add. Ans. p. 87). But now that Deut. xxvii. turns out to be good history, there is no reason why Josh. viii. should not be good history too, and accordingly we

are told (Third Ans., p. 6, 7) that what was written at Ebal was "the sum and sanctions" of the law. It is added, no doubt, that it would be unreasonable to suppose that all the historical portions of the Penteteuch, or even of Deuteronomy, were engraven on the stones; but granting that, we must remember that there was a great deal read that was not written, and the way in which this is mentioned implies that there was much to read. I mention this, however, simply as an instance of how the one position overthrows the other.

(3.) "That the Deuteronomic law originally formed a separate book is plain from what is told to us *in the book itself*" (add. Answer 25); and in support of the statement, the following texts are cited:—Deut. i. 5; iv. 8; iv. 44; x. 8; xi. 6; xxvii. 26; xxviii. 1, 59; xxix. 1, 2; xxx. 10; xxxi. 9, 25, all of which are now *outside* the book itself, although in the passages where they are cited they are mixed up with extracts from D proper (Add. Ans., pp. 21, 25, 27, 28, 31, 32, 33, 35). Two of the passages above named (Deut. x. 8, and xxxi. 9, 25) are made the basis of an argument to show that the bearing of the ark was a priestly function, and that there was no distinction between priests (except the special priesthood of the ark) and Levites. But now that these passages are understood to narrate Mosaic history, it will have to be shown how the interpretation agrees with the other side of the argument, viz., that almost all the Levitical legislation may have been Mosaic, and that owing to *circumstances* (a convenient expression, when it is inconvenient to be accurate or definite) it afterwards fell into desuetude.

(4.) The place which the Lord should choose, which is taken to prove the theory of the central altar as the basis of the great religious revolutions of Isaiah's time, is referred to in Deut. xxxi. 11, which is now regarded as Mosaic history. Consequently, *this being true history*, the whole construction of the teaching about the one altar hitherto given us must be false.

(5.) Formerly "a piece of direct historical evidence" was adduced from Ezra, which was considered valuable: "In Ezra ix. 11 a law is quoted from Deut. vii. expressed in words that *throw it back into the wilderness* period, and yet the origin of the law is ascribed not to Moses but to the prophets" (First Answer, pp. 36, 37). It seems now, however, that by throwing it back into the wilderness period, Deut. vii. places it precisely where it should be as Mosaic history. There is no difficulty in seeing how Ezra could call Moses a prophet; the difficulty is to see how elsewhere the prophets can be called Moses, and the new legislative teaching of Hosea, Amos, &c., be called Mosaic legislation.

(6.) The order to read the law every seven years was formerly a necessary part of the prophetic programme of Josiah's time; now it is Mosaic. It occurs in Deut. xxxi. *Formerly* Professor Smith wrote:—"It will be said again that the author goes out of his way to say that Moses wrote the law, and gave it to the priests (Deut. xxxi. 9). Is that part of the parabolic form? *Yes, a necessary part, for one of the most important of the* NEW ORDINANCES OF THE DEUTERONOMIST *is that the*

law be read publicly every seven years. And this law could not be combined with the rest except by this extension of the parabolic form. (First Answer, 55). But again:—"In the land of Moab, after the slaughter of Sihon and Og, *Moses* [*inter alia*] *wrote the law, and* ENTRUSTED IT TO THE PRIESTS, WITH A CHARGE TO READ IT PUBLICLY ONCE IN SEVEN YEARS. . . 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, &c. (Third Answer, 29, 30). Formerly this was a *necessary part* of the parabolic form; now it is good Mosaic history; formerly the order about reading the law was one of the *most important* parts of the new legislation (B.C. 700—625); now it is good Mosaic law! And so the whole fabric of the so-called critical theory crumbles to pieces in the hands of the critics themselves. What was formerly a *necessary* part of the parabolic form (B.C. 700) it is now discovered to have been "*necessary* to have in writing from the first." (Third Answer, 6, 7).

(7.) Formerly the omission of the name of Korah in Deut. xi. 6, was explained on the ground that "it stands to reason that his example could not serve as a warning in Deuteronomy which concedes altar privileges to Levites" (Add. Ans. 35) a style of argument, I may say, in passing, which would lead to a new edition of the Bible, and a readjustment of the facts of history for every new generation; does it stand to reason that the examples of O. T. Scripture cannot serve as warnings to us now that the whole dispensation has been abolished? But what becomes of the argument now that Deut. xi. 6 is discovered to be Mosaic history?

(8.) "Another interesting proof how completely Deuteronomy places the whole tribe of Levi in the position which Q gives to Aaron and his sons is found in x. 9. Levi is to have no part or inheritance with his brethren, the Lord is his inheritance. These are the very expressions used in Num. xviii. 20, but there they apply to Aaron" (Add. Ans. 35). This "interesting proof" now of course comes over to the other side, and proves that the parties referred to in the two passages must be identical.*

4. There are numerous other contradictions and inconsistencies between the original theory and the several revised editions of it that we have got; but I must content myself with a brief reference to the relations of Q and D, as embodying contradictory levitical arrangements. We find from time to time such statements as the following:—

(1.)—(a) *The solution of the problem* [whether Q or D is earlier] *has*

* I may here observe that in his Third Answer, Professor Smith repeats a very gross blunder, which one would think he might have discovered for himself ere now, even if it had not been pointed out to him. In his argument from the laws about carrion, he professes to discover a very appropriate reason why the *Ger* should be forbidden to eat it in the earlier legislation, and yet allowed to do so in the later. At the earlier period the *Ger* might be an Israelite of another tribe, but by the time D was written the land was more settled, and the *Ger* would only be a foreigner. Very good; but it so happens that in D it is expressly stated (Deut. xviii. 6) that a Levite might be a *Ger*, and Professor Smith himself elsewhere argues from that that the Levites had no inheritance in Israel apart from the priesthood. (Add. Ans. 19, 20, 35. Third Ans. 19).

issues of the GREATEST IMPORTANCE *for the theology as well as for the history of the Old Testament.*—("Bible," 638 b).

(b) *It has been demonstrated that the Levitical hierarchy is of quite* SECONDARY VALUE *for the religion of the Old Testament.*—(B. and F. Evan. Rev., July, 1876, p. 492).

(2.)—(a) *It has been clearly demonstrated that the exclusive priesthood of the house of Aaron is a* SECONDARY GROWTH, and *that the centralisation of all national worship in the Aaronic sanctuary of the ark is also a thing of* GRADUAL GROWTH.—(B. and F. Evan. Rev., July 1876, pp. 461, 2).

(b) *They were to understand in the literal and natural sense the statement that Aaron was constituted priest of the sanctuary of the ark; and he thought it was also clear that the* LEVITES WERE SEPARATED FOR SUBORDINATE FUNCTIONS, *and that both these things took place under the rule of Moses during the wilderness time.*—(Assembly, 1878; Blue Book, 59, 60).

(c) *The distinction between Levites and Aaronites did not exist in the time of Deuteronomy.* I HAVE NOT MADE UP MY MIND AS TO WHETHER IT HAD EXISTED BEFORE AND BEEN OBLITERATED.—(Presb. Speech, 21st Feb., 1878).

(3.)—(a) *The author of Deuteronomy contemplated this, that an ordinary Levite might, under certain conditions, become a priest. The Levitical legislation did not contemplate that. It is an open question whether the Deuteronomic state of things was the earlier.*—(Presb. Speech, 21st Feb., 1878).

I do not profess to decide the question whether some ordinances of the middle books of the Pentateuch are later than those of Deuteronomy.—(First Answer, 51).

(b) UP TO THE TIME OF EZEKIEL *the priesthood belonged to Levi as a tribe, and not to a single family.*—(Add. Ans., 51).

We know mainly, from Ezekiel xliv., *that before the exile the strict hierarchical law was not in force, apparently* NEVER HAD BEEN.—("Bible," 638 a).

(c) *What he had said was that they would find Ezekiel bearing testimony that in his day the distinction between Priests and Levites was* NOT SO STRICTLY OBSERVED *as in the days of Moses.*—(Assembly, 1878; Blue Book, p. 60).

He had never said that almost all the details were not projected by Moses, and perhaps put into execution, as far as was possible, in the wilderness.—(Assembly, 1878; Blue Book, p. 60).

It is conceivable that the elaborate rules of Leviticus and Numbers, or at least the main features thereof, were planned by Moses, that owing to circumstances the system was never thoroughly put in force, and after a time dropped out of use, that D was then given as a simpler code to take its place, and that, after the captivity, it was found practicable to resort to the original and more complicated system.—(Add. Answer, 42).

(4.)—(a) *From the time of Samuel the priests hold only the second place in the history of Old Testament religion.*—("Bible," 634 b).

The priestly interest found little scope in the subsequent history.—("Bible," 637 a).

(b) *The account of the institutions of the Levitical service is introduced in connection with the transference of the ark to Jerusalem by David. The author is not concerned to distinguish the gradual steps by which the*

LEVITICAL ORGANISATION ATTAINED ITS FULL DEVELOPMENT.—("Chronicles," 709 a).

Long before the Chronicles wrote . . . THE CENTRE OF RELIGIOUS LIFE WAS *no longer the living prophetic word, but* THE ORDINANCES OF THE PENTATEUCH *and the liturgical service of the sanctuary.*—(Chronicles, 707 a).

(5.)—(a) *In my Encyclopædia article I do not undertake to say whether Q or D gives the earlier form of the law.*—(Add. Ans., 42).

(b) *I have been led to accept the opinion that the Book of Deuteronomy is one of the later parts of the Torah.*—(Add. Ans., 54)

(c) *It appears to be indisputable that the* HISTORICAL ORDER *of development is from the Book of the* COVENANT [S] *through* DEUTERONOMY [D] *to the* PRIESTLY CODE [Q].

(6.)--(a) *The original book* [D] *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.—(Third Answer, 9).

(b) *We must distinguish between* THE CODE PROPER (DEUT. xii.-xxvi.) and the INTRODUCTORY ORATION. *The latter tells what was the duty of the Israelites contemporary with Moses.*—(Third Answer, p. 23).

(7)—(a) *Oral decisions of the priests are what is usually meant by* TORAH *in writings earlier than the captivity.*—("Bible," 635 a).

(b) *Either then we must suppose an* ORAL TRADITION *descending from Moses as the real authority by which the apparent contradictions in the laws were resolved in practice, or . . . &c. . . . The former supposition places* TRADITION ABOVE THE WRITTEN WORD, *and so the Biblical scholar is perforce thrown back on the latter.*—(First Answer, 35).

(c) [In Deut. xxxi. 9] *This* TORAH *can only mean the law of Deuteronomy, and not the whole Pentateuch.*—(Add. Ans., 20).

(d) *In the foregoing books* TORAH *does not mean a law book, or a body of laws, but an individual revelation (literally* instruction), *or a legislative prescription on one definite subject.*—(Add. Ans., 20).

(e) *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? . . . Only "the sum and sanctions of the law."*—(Third Ans., 6, 7).

(f) We were told in the article "Bible" (635 a) that the public recognition of the Pentateuch in Ezra's time, as the rule of the theocracy, was the *first step* toward the substitution of a Canon or authoritative collection of Scriptures for the living guidance of the prophetic voice.

It is no wonder that the details of the history do not agree strictly either with Q or D (Add. Ans. 44), when Q and D are in the chaotic state indicated by such extracts, which are mere samples of the whole style of discussion. And, after all this, we are told:—"*Throughout the progress of the case I have done my best to clear away misconception, by fuller and simpler statements, and I hope that, after the explanations in this paper, no one will again misunderstand me so completely,*" *&c.* (Third Answer, p. 33).

Professor Smith disowns, and has of course all along disowned, the theory that D was imposed on Josiah by fraud, on the part of Hilkiah, and others; he says that the theory of fraud originated in a denial of the

inspiration of the book, that it is impossible a book can be inspired if it appears that the design of the author was to deceive his readers, that if any one were to say that it was written with a purpose to deceive, it would be quite fair to say that his opinion was inconsistent with belief that the book is inspired. He goes on to say that it is for this very reason that some accuse him 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" (Third Answer, 4, 5). Now, there is a misapprehension here. The Libel does not say this, and the persons referred to do not believe this to be his view. What they say and believe is that the book, if it were what he represents it to be, *would be, as matter of fact, deceptive* in its character, apart altogether from the intentions of the author. He is at pains to protest against the notion of any deceptive design in the author— somewhat suspiciously so sometimes. But the question is not merely whether the author acted honestly in writing as he did, but whether the result, as embodied in his work, be wholly free from the appearance of deception. Unless it be so, we maintain, that it cannot be the work of the Holy Ghost, apart from all questions whatever about the human authorship. If the work tends to deceive or mislead, it cannot be inspired. I am not quite sure if Professor Smith is right in his reiterated assertion that, if the *human author* intended to deceive, the result could not be an *inspired work*. It is not the *writer*, but the *writing* that is inspired, as Professor Smith himself has pointed out. And I, for my part, would rather maintain the position that a human author, even with an intention to deceive, could be so controlled by the Holy Ghost as to produce a writing truly inspired, (— Balaam and Caiaphas may supply nearly analogous examples of inspired *speech*—), than that an honest author could, under the inspiration of the Holy Ghost, have produced such a deceptive and misleading work as Deuteronomy would be, if the new theory of its contents were true.

The attempt to drag down the literary tone and moral standpoint of Scripture to the level of ancient heathen productions is itself fraught with evil omen as regards the ultimate treatment that divine revelation is likely to meet with when men's minds have become familiarised with the new style of writing and speaking. Even here our critic is characteristically inconsistent with himself. To say that all ancient historians, in the east and west alike, were accustomed to insert in their narrations speeches of their own composition, to say that Old Testament historians may have incorporated appropriate reflections in their narrations, to say that ancient, and especially eastern, authors have a different standard of literary merit and propriety from ours (First Answer, 34), to say 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 (Third Answer, 31)—to say all this may appear harmless enough; but it is by no means a correct or accurate account of the matter, and, moreover, the writer himself sets it

aside whenever it suits his purpose. It is not a correct account of the matter, for according to the new theory, inspired historians falsify history to make it teach what it could not teach if left to itself; they put speeches into men's mouths which are thoroughly misleading; they make Moses, and Soloman, and Abijah and others utter, not their own ideas from their own point of view, but the ideas of the historian from his point of view. Professor Smith speaks of "blasphemous presumption," in connection with certain limitations that we would fain put on the legitimate literary forms which an inspired writer might use (Third Answer, 32). I rather think the presumption and the blasphemous tendency lie in another direction.

But it is not *always* convenient to take shelter under this analogy of literary form. The book of Canticles, it seems, manifests a striking similarity in form to some eastern allegories. Professor Smith, in his article "Canticles" refers, in a foot-note, to several works by various authors, in which this resemblance is noticed; but he sets them all aside by a single stroke. "There is no true analogy between the Old Testament and the pantheistic mysticism of Islam." "The analogy of other eastern literatures is distant and insecure" ("Canticles 32). And again, when the matter was before the Presbytery, he said:—"I put it to the Presbytery if it is a very safe thing to say that the Song of Solomon is probably an allegory, because the pantheism of the east is accustomed to use similar allegories?" I also put it to the Church whether it is a very safe thing to say that Scripture writers make fictitious speeches, and falsify historical facts, even if the polytheistic paganism of Greece and Rome used such literary forms. It is characteristic that, in a little while, when our critic wishes to emphasize the erotic character of the Song, he discovers that the analogy of Arabic literature is instructive ("Canticles" 36b). He considers it is needless to argue further this question of literary forms, because, as he says, the Assembly of 1878 "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*"—(Third Answer, 32). The Professor, it seems, still requires to be told that the Assembly never did any such thing; it simply gave him the benefit of a doubt which existed in many minds as to whether the Libel stated his opinions (as given in his Articles) with perfect fairness.

Thucydides, Livy, and others are cited in support of this literary form; but no one has yet definitely pointed out the passage in either of these, or any other author, in which *a statute book which produced a great national revolution is incorporated in a history of the same nation, at a point eight centuries prior to the great revolution itself,* said law book, moreover, never having, so far as anybody knows, existed elsewhere.

I may add that in the last edition of the theory and its defence, it is not ancient literary forms that the writer leans upon, but quite modern ones; for it seems that the law book called D had been edited after the most approved modern fashion. At any rate we are told, in regard to

the way in which it was put together, that "*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 literary necessities with which no suspicion of bad faith is ever associated.*—(Third Answer, 27).

There is, as everybody knows, a very close resemblance between the views of our Scotch critic and those of the Infidel writers Kuenen and Wellhausen. To most people the resemblance is much greater than our critic himself would allow. He has, as we have seen above, strongly and repeatedly repudiated the representation of fraud in reference to the new law book found in the temple by Hilkiah. If we ask why, he replies, "Oh, it would be deception, and deception is inconsistent with inspiration." But might we not adopt, regarding the *intention* of the writer, Professor Smith's own argument regarding the literary form of his work? —"Every student of antiquity knows that ancient, and especially Eastern writers, have a different standard of *moral propriety* from us."—(Comp. First Answer, p. 34). This is precisely the defence that Kuenen sets up. Speaking of the finding of the law book by Hilkiah, he says:— "We find it, however, difficult to believe that the discovery was accidental; it was the execution of a plan formed beforehand, to which Hilkiah himself will not have been entirely a stranger. We, of course, most strongly disapprove of such a deception, though it is called a pious deception; but those who practised it certainly did not feel themselves disturbed in conscience by it; *the conception of good faith, which was at that period entertained, was much less pure than that which is now cherished.*" Surely the true and only effective method of meeting such criticism, from whatever quarter and in whatever guise it comes, is to remember always, and keep always to the front of these discussions, the one element of Scripture which lifts it, both as regards its literary form and its moral conceptions, far above all merely human compositions, ancient or modern, eastern or western, the fact, viz., that all Scripture is divine as well as human in its authorship, and is consequently free from all appearance of deception or fraud; and consequently, that any view of their human authorship, which would render the Scriptures in any respect less worthy of God, who is their Author, is not, on any account whatever, to be tolerated.

"I could not conduct this argument as to the disputed credibility of an historical work without seeming to beg the question if I took express account of the divine authorship."—(First Answer, p. 57). So much the worse, surely, for the argument: it is only by constantly keeping in view the divine authorship that the credibility can be established upon an impregnable foundation; for it is quite conceivable that at this distance of time, and with our extremely meagre information as regards many questions pertaining to the human authorship, the balance of probabilities may be *against* the credibility in any particular case. Atheists tell us that we should argue the question of the divine existence without any bias. Such neutrality of attitude toward God and his Word is profane:

the subject *cannot* be treated as a purely intellectual one. The greatest achievements in science have been attained by those whose investigations have been most entirely permeated with a living faith in the divine presence in Nature ; it must be so *a fortiori* in dealing with the Word.

LESLIE AND RUSSELL, PRINTERS, ABERDEEN.