THE PRIESTLY CODE: THE LEGISLATION OF THE
OLD TESTAMENT AND GRAF-WELLHAUSEN.¹

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THE Priestly Code is the name given to one of the four main
documents which, according to the literary critics, underlie
the Pentateuch. It is predominantly legalistic in character, and
critics now generally agree that it is the most recent of the four
in point of date. It was indeed the last to be distinguished, and
its recognition came only at the end of a long process.

As every Bible student knows, the process of text dissection
of the Pentateuch began in the middle of the eighteenth century
with the investigations of the French physician Astruc, who
recognised two main documents in Genesis distinguished respec-
tively by their use of the names Yahweh and Elohim for God.
These documents, later denoted J and E respectively, were, he
argued, sources used by Moses. At the beginning of the nine-
teenth century De Wette drew attention to the marked individu-
ality of the book of Deuteronomy and emphasised that it should
be treated as a document distinct from the rest of the Pentateuch.
Meantime, the search for traces of J and E extended to the other
books of the Pentateuch and spread to Joshua, thus making the
Hexateuch the new field of operations. In more recent years the
pursuit of J and E has continued through Judges to the books of
Kings, and threatens to go farther afield.

Theories of the origin of the Pentateuch were framed to keep
pace with the developments of criticism. The first was the
‘fragment’ theory, according to which the Hexateuch was a
composite of many literary segments, mostly of independent

¹ A lecture delivered in the John Rylands Library on the 11th of March, 1942.
authorship and not inter-connected. The documents J and E were similarly composite. This was of course destructive of all unity. Unity was restored when about 1830 a new theory was advanced, according to which the document E—which indeed comprised the greater part of the Hexateuch—was the Grund-schrift or ‘basic document,’ and J was merely supplementary. This theory was known as the ‘supplementary’ or ‘expansionist’ theory. When about 1850 E was subjected to a more searching analysis it was found to consist of two main documents which were known as the First and Second Elohist respectively. The First Elohist, the document containing particularly the legislative elements and matters pertaining to them, was given the name Priests’ Code, or the Priestly Code, by the Dutch scholar Kuenen.

Thus four documents had now been distinguished which conjointly formed the warp and woof of the Pentateuch, and it was commonly accepted that they had been combined by a redactor (R), identified by some scholars at this time with the writer of the book of Deuteronomy. The question of dating the documents was a prime consideration. As early as the year 1806 De Wette had argued that the legislative code of Deuteronomy could not be much older than the time of its discovery in the eighteenth year of the reign of Josiah (621 B.C.), although other scholars preferred to date it in the reign of Manasseh.

The position of criticism about the year 1866 can be given in the words of Kuenen:

"The Deuteronomist, a contemporary of Manasseh or Josiah, was the redactor of the Pentateuch and the book of Joshua, and it was he who brought them into the form in which they now lie before us. He interwove or inserted his own laws or narratives into the work of the Jehovist that dated from the eighth century B.C., and was therefore about one hundred years old in his time. To this Jehovist we owe the first four books of the Pentateuch and the earlier (pre-Deuteronomic) recension of Joshua. His work was in its turn based upon a still earlier composition—the Grundschrift or ‘Book of Origins’—which came from the pen of a priest or Levite and might be referred to the century of Solomon." ¹

At this time then there was no suggestion of a late date for the Priestly Code, and it was generally held to be the earliest of the four documents since it formed part of E. The great legislative content of the Pentateuch was, as tradition and expectation alike made it out to be, the earliest portion of the literature. But currents were already astir which were destined to remove it from pride of place. As far back as the year 1834 Reuss had drawn attention to the contradiction between the ritualistic legislation in the middle books of the Pentateuch and the cult as presented in the books of Judges and Samuel, and reached the conclusion that this legislation must derive from the period after Ezekiel. This viewpoint was taken up and established by Graf (1866 and 1869). In this he was quickly followed by Kuenen (1869), who confessed that before this he had already felt dissatisfaction with the 'supplement' theory and had mentally thrown it over. Wellhausen, after proclaiming that he had been haunted by the feeling that the prophets rightfully preceded the law, supported this view, basing on a theory of general religious development. Nor was this theory of religious evolution entirely new. Concurrent with the advance of literary criticism there had spread the recognition of an evolutionary process in religion and particularly in religious ideas. It was on the score of such a conception that Vatke, in the year 1835, had argued that the prophets should come chronologically before the law. The advent of the Graf-Wellhausen hypothesis brought a sense of finality to the literary criticism of the Pentateuch, and the order JEDP became the accepted chronological order of the documents. According to the hypothesis Deuteronomy, or rather its legislative core, chapters 12 to 26, originated in the time of Josiah (621 B.C.) under the influence of the teaching of the eighth-century prophets with the aim of centralising worship at Jerusalem. The documents J and E were already in existence. Shortly before the Exile J and E were united by a redactor who worked over JE from the Deuteronomic standpoint. The Priestly Code was composed partly during the Exile and partly after, under the influence of the book of Ezekiel. The Code of Holiness (Leviticus 17-26) was composed in the Exile. This developed code was incorporated in P. Ezra brought this law
in 458 B.C. to Jerusalem and in 444 bound the people to it. 
P was later united to JED either in 444 or later. After Ezra the 
legislation in P received several accretions.

Since its formulation nearly eighty years ago the hypothesis 
has been subjected to continual criticism, but although this 
relentless attack has tended to promote the distrust and to 
increase the widespread disfavour in which it is held, it is still 
the regnant hypothesis. Like the other documents P has been 
subjected to more meticulous examination. This has led to the 
recognition of a considerable amount of extraneous matter, and 
there is a disposition to look for a fifth document. But there is 
no agreement on the scope, character and place of origin of this 
document. Alternative theories to the Graf-Wellhausen have 
been offered but they have met with little support.

The Priestly Code, as envisaged by the Graf-Wellhausen 
school, is a document the contemplation of which evokes distrust. 
Let me quote James Orr’s description: “The law as elaborated 
in the Exile was practically a new thing. What belonged to the 
practice of a previous age was taken up, transformed, had a new 
meaning put into it, was brought under new leading ideas, was 
developed and enlarged by new rites and institutions. Above all, 
in order to clothe it with a Mosaic character and secure for it the 
necessary authority, old and new alike were thrown back into the 
age of Moses and the wilderness and were represented as origin- 
ating and being put into force there. This Mosaic dress was a 
fiction. The elaborate descriptions of the tabernacle and its 
arrangements, the dispositions of the camp in the wilderness, the 
accounts of the consecration of Aaron and his sons, of the choice 
and setting apart of the Levites, of the origin of the Passover, 
etc.—all was a product of the imagination.”

We must here recapitulate briefly the theory advanced in our 
last lecture as to the origin of the Pentateuch, for it is against it 
as background that we must consider the position of the Priestly 
Code and of the legislation in the Pentateuch in general. The 
Pentateuch, or Torah, was composed, or rather compiled, at the 
time of Samuel and under his direction. It was composed to 
provide for centralisation of worship, and to be the law of the

Jerusalem Temple when erected. As it was compiled by a council of priests and scribes the question of the relative dates of the documents traceable in the Pentateuch does not arise. The characteristics of the documents would thus possibly represent distinctive contributions by individual compilers. This does not rule out the possibility, and indeed, if our data be admitted, the certainty, that the compilers relied on written documents of earlier periods. Of these there would be a legislative core or corpus going back to Moses. The Torah was designed to be the code for a unified Israel under a monarch, and Deuteronomy embodied the changes necessary to give effect to that situation. The Torah, when introduced, had only a brief spell in which to operate. Unified Israel ceased to exist and the writ of the Torah no longer ran. Centralisation of worship was no longer feasible since the inhabitants of Northern Israel were forcibly barred from going up to Jerusalem for the festivals. The Torah passed into desuetude and, for the time being, oblivion. A return to the pre-Torah legislation of the Shiloh temple and the worship of Yahweh Sebaoth—part of this legislation was probably the Code of Holiness—seems indicated. With the fall of the Northern Kingdom Hezekiah tried to reunite all Israel under the Torah, and in this he was followed by Josiah, whose movement was stimulated by the discovery of an ancient copy of the book of the covenant, almost certainly Deuteronomy.

To return now to our theme. Assuming, as we have every right to do, that in the Old Testament writings we have at least an outline of the early history of the Hebrew people, there are three periods when it might be expected that legislation would be given to the people, since the historical situation rendered that not only possible but probable. The first occasion would be the traditional beginning of all law for them, the acceptance of a code under which to live. This was to them that time in the distant past when they received from Yahweh the law at the hands of Moses, and bound themselves to their God. The second occasion would be when they decided to make a drastic change in the structure of government and replaced the hierarchy by a monarchy. Their legal system would call for revision to include the civil as well as the religious. As a central sanctuary was erected
at this period modifications in religious institutions, some of them far-reaching, were clearly indicated if worship was to be centralised. The third occasion would be at the time of the restoration of the Temple. For long the people had been dissociated from the sanctuary and its associated ritual. The time was opportune for reorganising and making a fresh start.

These, then, are the three occasions, and as far as we can see, the only three occasions, if we except the entry into and occupation of the Holy Land, in the whole of the Old Testament period, when we would be justified in expecting the formulation of law codes and their promulgation. We know that in respect of the first and third, expectations appear to have been realised. The promulgation of the law by Moses at Sinai is represented as a ceremonial occasion. The people are gathered together to hear the words of the law code under which they are henceforth to live. Moses recounts to the people all the words of the Lord and the judgements which he had received on the Mount. The people make a joint response, binding themselves to do all the words which Yahweh had spoken. Moses then writes the words in a book and dedicates it to Yahweh in a religious ceremony. He proceeds without delay to erect an altar at the foot of the Mount with twelve symbolic pillars to represent the twelve tribes of Israel. He reads from the Book of the Covenant and the people again respond.¹

For the third occasion the scene is Jerusalem. It is the first day of the seventh month and the people have assembled as one man in the wide space before the watergate. They call upon Ezra to bring the book of the law of Moses which Yahweh had commanded to Israel. Ezra read from it from early morning till midday, whilst the people listened attentively and interpreters were stationed in various parts to explain the reading. The people, we are told, wept when they heard the words of the law, but Nehemiah and Ezra proclaimed it a time of rejoicing, not of weeping, so the people made high holiday.² There is here no dedication of the law since it was clearly the re-introduction of an old law code which had evidently been neglected and in abeyance.

¹ Ex. 24: 3-8 (E).
² Neh. 8: 1-12.
Before passing on to deal with the second of the three occasions we have mentioned, there are two other instances of the public reading of law which we may briefly pass under review. In the book of Joshua we are told that on the entry of the children of Israel into the Holy Land the law was inscribed on stones ‘as it is written in the book of the law of Moses’ (Deut. 27: 2-8). The people and their elders, officers and judges gathered beside the ark. Joshua read all the words of the law. On this occasion, too, an altar was built and sacrifices offered. It is a ceremonial linking of the people with the law in the land where it is to be operative. Yet another public reading of a law code was that recorded in the eighteenth year of king Josiah (621 B.C.). There is no suggestion here of the introduction of a new code. We are told of the discovery of a book called the ‘book of the covenant’ in the account in 2 Kings, and the ‘book of the law given by Moses,’ as well as ‘the book of the covenant,’ in 2 Chronicles. The discovery was made, apparently accidentally, by Hilkiah, the high priest. An assembly of all the inhabitants of Judah and Jerusalem was called. The king read in the ears of the people all the words of the law. Thereafter the king stood by the pillar and made a covenant with the Lord to keep the law. ‘And all the people stood to the covenant.’ As in the case of the Ezra gathering there is here no suggestion of the promulgation of a new law code. There is no formal writing of it, nor dedication of the written word to the Lord. The law book which the king read was clearly a book known, by repute at least, to the people, and of an authority sufficient to supersede the law code under which they were living.

To return now to the second period in which, as we have indicated, there would be reasonable expectation of the giving of fresh legislation—the period of the institution of the monarchy and its essential complement the centralisation of worship. We are mainly dependent for our knowledge of the period in which these great events happened on the book of Samuel. Modern critical division of the book, into a Samuel biography and a Saul biography for instance, neither helps nor hinders our purpose. In 1 Sam. (10: 17 ff.) we find that the people are
assembled unto Yahweh at Mizpah for the highly important
task of choosing a king. They are addressed by Samuel, and
Saul is selected by lot. Then, we are further informed, Samuel
recited (יִדְבַּר)¹ the constitution of the kingdom (משתת). He then wrote it in a book and laid it up before the
Lord—or in other words dedicated it to the Lord for preservation
in the sanctuary. In Deut. (31: 9, 24) the account of Moses’
last address to the people is followed by the statement that he
“wrote the words of this law in a book which he deposited with
the Levites to be preserved beside the ark.” The deduction is
clear. The correct procedure, based on tradition, was that new
legislation should be written down and the copy laid up in the
sanctuary.

As we have already observed, the institution of a monarchy
in place of an existing hierarchy would seem to call for changes
in legislation and for the introduction of a civil code beside the
religious code. Is there, then, in the legislation of the Old
Testament any code which is either purely civil or combines the
civil with the religious, and if so, can it be related to this period?
It has long been recognised that the book of Deuteronomy is a
summary of the legislation found in the middle books of the
Pentateuch, the bulk of it being the Priestly Code. It has a law of
the king but none of the high priest as such. If now, we separate
from it the legislation which has associations with that of the
previous books in the Pentateuch, we find there remains over
a considerable amount of legislation which has no correspon-
dences elsewhere. As this point is one of considerable importance
we must deal with it in some detail.

In Deuteronomy there is the first mention of a supreme
tribunal to deal with appeals in matters of grave importance.
In it, associated with the “priests, the Levites,” is a judge,
presumably a layman, to represent the civil side (17: 8-13).
There is the law of the king where it is laid down that the king
to be chosen must not be a foreigner, must not multiply horses,

¹The word ידְבַּר is that generally used when the giving of a new law is
mentioned, as when Moses and Aaron are instructed to ‘speak’ to the children
of Israel. It is the word used of Moses declaring unto the people the ‘feasts of
the Lord’ (Lev. 21: 24. 23: 44).
nor multiply wives. He must write a copy of "this Torah" in a book from the copy which is before "the priests, the Levites," i.e. the official copy used for reference in the law court (17: 14-20). There is the law of the prophet where the raising up of a prophet like unto Moses is foretold. The prophet must speak only what has been commanded by Yahweh, and must not speak in the name of other gods. The means of verification of the true prophet are indicated (18: 15-22). The removal of a neighbour's landmark is forbidden (19: 14). There are laws dealing with military matters, including exemptions from military service, based on possession of a new but undedicated house, a new unsampled vineyard, a betrothed wife, a confession of faint-heartedness. The siege of a city and the treatment of its inhabitants when conquered, and in the case of a protracted siege the sparing of the fruit trees, come into the same category (20: 1-20). There is the law dealing with expiation of an untraced murder (21: 1-9). Fair treatment for female captives of war is laid down (21: 10-14). There are laws dealing with the removal from the gibbet of the body of a malefactor (21: 22-3), the prohibition of interchange of garments by the sexes (22: 5), the preservation of the parent bird when the nest is robbed of the young birds (22: 5-7), and the conditions of admission to the congregation of the Lord (23: 2-9). The escaped slave is to be treated with humanity (23: 15). Regard is to be had to a neighbour's crops. Casual satisfaction of hunger is permitted but not systematic plundering (23: 2-5). For the first time there is permission of divorce, and the divorced wife is allowed to remarry (24: 1-4). It is enacted that the family of a criminal must not be called on to suffer punishment with him. Every man is to be put to death for his own sin (24: 16). Moderation in infliction of the bastinado is laid down (25: 1-3). The ox on the threshing floor is not to be muzzled (25: 4). There are, too, the institutions of levirate marriage (25: 15-10) and a thanksgiving service at the payment of the triennial tithes (26: 12-15).

Most of these matters which we have just dealt with are such as would properly come before a civil court. In the book of Deuteronomy we have a combination of religious and civil law.
It is such a law code as would reasonably be expected at the period of the establishment of a monarchy. It could well merit the designation 'constitution of the realm' (משפוט המלך). It seems a fair inference, then, that we have in the book of Deuteronomy, or at least in its legislative core, that law code which Samuel communicated to the people, wrote in a book and laid up before the Lord. It was the law book for the new monarchy. It can safely be said that no other law code in the Old Testament will fill the bill. It was this civil aspect of Deuteronomy that earned for it the title by which it used to be known, "the people's book."

That the promulgation of a new law code by Samuel at Mizpah is meant to be understood in the account given of the assembly (1 Sam. 10: 17-27), receives support from the context. The record of events in the chapters immediately preceding the tenth, appear to be leading up to that climax. In this connexion we may be allowed to quote the words of H. P. Smith from his commentary on Samuel.¹ He does not make his observations in support of any particular theory, and, so far as I know, makes no special use of them. He says: "Throughout the chapter (i.e. chap. 7) Samuel reminds us of Moses. Like the great lawgiver, Samuel rebukes the people, judges them, intercedes for them. Their victory over the enemy is due to his prayers, as the victory over Amalek in the wilderness is due to the upraised hands of Moses. The parallel continues in the next chapter (chap. 8). Here the people rebel against their prophet and in so doing rebel against Yahweh himself. ... The continuation of the story is 10: 17-25. The choice of a king by lot follows immediately on the people's demand. In handling the lot Samuel appears not exactly as another Moses, but at least as another Joshua." What, then, was in the mind of the writer? Why all this parallelism with Moses if it was not intended to lead up to the great parallel—the lawgiving? And what other law book is there so appropriate to the time and the conditions as that contained in the book of Deuteronomy?²

¹ Samuel (Int. Crit. Com.), 1912, p. xvii.
² For other comparisons of Samuel with Moses, see "Temple and Torah" (Bull. J.R.L., 26 (1941), pp. 188, 192).
Thus of the three periods in Hebrew history when the introduction of new legislation might reasonably be anticipated, from two only is evidence of such forthcoming. In the third case, as we have seen and as many others have recognised, Ezra was merely re-introducing an old law; yet, if we accept the Graf-Wellhausen contentions, at no other time in Hebrew history was so much law manufactured, or if not manufactured at least manipulated with a definite purpose.

Is it not strange that the authors of the Graf-Wellhausen hypothesis, when fixing the scheme of dating of the documents, did not consider the possibility of the period of the institution of the monarchy and the building of the Temple as the most likely date for Deuteronomy? What better occasion and opportunity for the centralisation of worship could be looked for than was provided in the building of a central sanctuary? It is, however, a reasonable conjecture that if that period had suggested itself to them they would have rejected it. At the time of the formulation of the hypothesis there were two beliefs which controlled all Old Testament exegesis, both of which have since been proved erroneous. The first was the belief that writing was not only unknown at the time of Moses but was not even known at the time of Solomon. The second was that Hebrew religion evolved like the religions of primitive peoples through animism, fetishism, ancestor-worship and primitive forms of idolatry. The second belief still finds echoes in modern criticism, in spite of the fact that archaeological and other evidences reveal that the Hebrews from their traditional place of origin and throughout their migrations must have been in constant contact with civilisations whose religious development was in an advanced state, such as the Sumerian, Babylonian, Hurrian, Hittite, Egyptian. The Hebrews were never an Arab tribe, and their wanderings for a short period in the desert could not turn them into one.

The first belief, however, is the one with which we are more directly concerned. At the time the Graf-Wellhausen hypothesis took shape the oldest monument of writing was the Moabite Stone (c. 850 B.C.), and this may be computed as roughly two centuries after the time of Samuel. It was believed that prophets,
priests and people lived prior to this time in a non-literary world. Traditions were preserved in the memory and handed on orally. Legislation and ritual were transmitted from priest to priest in the same way. That this is not a fanciful picture we are drawing can be gauged from the observations of those who shaped the hypothesis. Thus Kuenen remarks: "It is an established fact that from primeval times the priests of Jehovah uttered Torah orally." ¹... "A written regulation of the cultus did not exist in pre-Deuteronomic days." ² Moses was, of course, ruled out altogether and any references to his writing merely raised a smile. According to Wellhausen: "Ancient Israel was certainly not without God-given bases for the ordering of human life; only they were not fixed in writing." ³ In the English translation of E. Renan's History of the People of Israel, published in the year 1888, the author contends that there is no proof that Samuel knew how to write and that 1 Sam. 10:25 has little value. It belongs to the most feeble part of the history of Samuel. The expression מֶלֶךְ דְּמַלֶּכָּה does not mean a constitution or rule of royalty. It is rather a transcript of the verses 8:9 ff. against the king. What may be true, he goes on, is that in his time Israel made a certain progress in the art of writing. Up to that time writing had not been in common use either among the Israelites or among the Canaanites.

In view of the knowledge we now possess of the existence in Syria and Palestine not of one script only but of many, we can only regret that our knowledge was not shared by the framers of the hypothesis. Since the days when the Moabite Stone was the earliest known inscription in the Phoenician alphabet, the inscriptions of the Baal Lebanon bowls, the Ahiram sarcophagus at Byblos, and, most important of all, the proto-Semitic alphabetic signs from the Sinai peninsula have raised by degrees the certainty of the knowledge of writing, and alphabetic writing at that, to at least the nineteenth century B.C.—far beyond the age of Moses. Ostraca at Gezer, Lachish, Beth Shemesh, and the text of unknown characters found at Balu‘a in Moab show that alphabetic writing was both early and widespread. The existence of

the Tell Amarna letters proves the knowledge and use of Akkadian cuneiform script in Palestine prior to the entry. The cuneiform alphabet of Ras Shamra bears witness to the fact that the early Canaanite peoples were likewise cultured. Writing of the effects of the discovery of the Sinaitic alphabetic script, Montgomery observes: "The Muse of History has thus ironically turned the tables upon us critics who with no earlier dateable text than the Moabite Stone were at least sceptical towards the tradition that Moses wrote the Ten Commandments and so forth, and with gentle satire has disclosed for us those early remains of the alphabet in the very desert where the wanderings of Israel were experienced." ¹

It is evident, then, that the authors of the hypothesis could never have considered the possibility of the code of Deuteronomy having originated in the days of Samuel. Instead they pegged it to the time of Josiah and regarded it as "the first and in its time the only book of its kind." ² The book, we gather, was shaped in secret under the influence of the prophetic ideas, but the legislative corpus of the middle books of the Pentateuch had yet to come into being. In Ezekiel the authors of the hypothesis found a useful intermediary to hand. Ezekiel was both priest and prophet, and in the last nine chapters of his book he has elaborated a law code which has marked similarities with the legislation of the middle books, particularly the Code of Holiness (Lev. 17-26). The question of priority as between Ezekiel and the Code of Holiness naturally arose, but the general view, at least in the early stages of the theory, was that Ezekiel came first and might indeed himself have been the author of the Code of Holiness. Ezekiel was the recognised link between the code of Deuteronomy and the priestly legislation of Ezra. He supplied the inspiration for the priesthood of the Captivity. According to Wellhausen he starts from prophetic ideas, but they are not his own ideas. They are those of his predecessors which he turns into dogmas. He is by nature a priest, and his peculiar merit is that he enclosed the soul of prophecy in the body of a community, which was not political but founded on the Temple

¹ New Sources of Knowledge (Record and Revelation, Oxford, 1935, p. 8).
and the cultus. 1 The importance of the last nine chapters of Ezekiel for the criticism of the Pentateuch was already recognised by George and Vatke, and they were entitled "the key to the Old Testament." Ezekiel, according to Robertson Smith, is the first prophet to propose a reconstruction of ritual in conformity with the spiritual truths of prophecy, doing so by sketching an independent scheme of ritual which unquestionably had a great influence on subsequent development. Jeremiah, he points out, like Ezekiel, was a priest, but there is nothing in the book of Jeremiah which recognises the necessity for such a scheme of ritual as Ezekiel maps out. 2 Under the Graf-Wellhausen order of things the importance of Ezekiel can hardly be over-estimated. He, more than Moses, is responsible for the Torah. Beside him Moses pales into insignificance, a mere legendary and jejune figure.

It is not our purpose here to make a detailed attack on the Graf-Wellhausen hypothesis. The repeated attacks to which it has been subjected by scholars in the past, and to which it is still subject, show that it does not easily cover the facts nor solve all difficulties. Take, for instance, the position of the priests and Levites which Wellhausen calls "the Achilles heel of the Priestly Code." 3 The hypothesis assumes the expression "the priests, the Levites" of Deuteronomy to imply an equating of priests and Levites. "Deuteronomy knows no Levites who cannot be priests and no priests who are not Levites. The two ideas are absolutely identical." 4 This testimony evidently conflicted with the practice of Ezekiel's age, which really impinged on Josiah's, where there was a distinction between priests and Levites. How came it about that there could be two incompatible conceptions of priesthood existing side by side, both presumably claiming divine sanction? Ezekiel made it clear that the Levites were the dispossessed priests of the high places who were degraded because they apostatised when Israel went astray, whilst the sons of Zadok were confirmed in the priestly office because they held the fort. The priestly writers of the Captivity, so we are led to believe, engaged in their great task

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1 Prolegomena, E.T., p. 421; R. Smend, Ezechiel, p. 312.
2 O.T.J.C., p. 307.
4 O.T.J.C., p. 360.
of constructing, or re-constructing, the wilderness legislation contrived so to shape the legislation as to make it appear that the division into two classes had been there from early times. Thus the division into two classes appears, as dating from the wilderness, in the Priestly Code (Num. 3:5-10; 18:1-7). Such is the explanation offered by the framers of the hypothesis. It is obviously not a convincing explanation, and they do not feel happy about it.

What other explanation can we offer? In Deuteronomy the position of the high Priest is not defined—indeed, there is no mention of a high priest as such. Where we would expect to find him mentioned we have mention instead of a new class of priests called “the priests, the Levites,” for whom special provision is made (Deut. 18:1-8). They are an important class of priests since they, along with a civil judge who is mentioned after them, form the supreme court of appeal (17:8-13). You will recall that it was Moses himself to whom the difficult cases were referred when the law courts were being established (Ex. 18:25-6). In the law of the king where it is enjoined that the king should write a copy of the law in a book, the copy is to be made from the one “before the priests, the Levites” (17:18). In other words, it is to be made from the official copy of the law in accordance with which the supreme court made its decisions. In the difficult law of leprosy the people are enjoined to do according to all which “the priests, the Levites” shall teach them (24:8). In a later chapter (27:9), “the priests, the Levites” are associated with Moses in speaking to all Israel and enjoining obedience to the commandments and statutes of the Lord God. “The priests, the Levites” are obviously not only a special class of priests but one of the highest rank. Who were they? The Samaritan community for long claimed a priesthood in direct descent from Aaron through Eleazar. Their high priest had the title רכש; but when in comparatively recent times (A.D. 1625) the direct succession finally ceased, the new high priest was known as “the priest, the Levite” (אלווה), and that is the title borne by their high priests to the present day. It would appear possible, then, that the heads of the great shrines who were perhaps of Aaronic descent but not in the direct line,
or it may be all the heads of dispossessed shrines called to Jerusalem because of the centralisation of worship, may have been referred to as "the priests, the Levites."

That an attempt was made to operate the Torah, particularly the Deuteronomic Code, seems indicated by the number of priests and seers in Jerusalem during the reigns of David and Solomon, who appear to be intriguing for a position of primacy in the priesthood: Zadok and Abiathar, Nathan, Gad, Abimelech. We learn incidentally that David's sons were priests and that 'Ira the Jairite was priest unto David (2 Sam. 20:26). When Solomon advanced Zadok to the first place and cut off Abiathar because of his association with Adonijah, he in reality re-established the high priesthood in the family of Zadok, who appears to have been of Aaronic descent through Ithamar. The bringing into effective operation of the Torah may well have proved a formidable task. The centralisation of worship and of the legal administration in Jerusalem could well cause bewilderment and confusion in many quarters. Many difficulties would have to be surmounted in giving effect to the law's requirements. It would involve a new orientation of the religious, and that meant the daily, life of the people. There would be active opposition in many directions. We learn from 1 Sam. 10:26 that a certain number, who are there designated "sons of Belial," were openly opposed to Saul. The co-operation of the rulers may not have been enthusiastic. As Samuel indicated to the people, and as was evidenced in the reigns of Saul, David and Solomon, the kingship could prove to be a tyrannical autocracy. The intriguing of the heads of the dispossessed shrines who had been brought to Jerusalem may well have contributed to the chaotic political conditions in the reigns of David and Solomon, and hastened the downfall of the united monarchy. The Torah itself may not have settled down effectively on the nation, and when the break came there would be little hesitation in throwing it over.

We may visualise the course of events somewhat as follows. After Rehoboam's rejection at Shechem, Deuteronomy, with its supplement, the other four books of the Pentateuch, ceased to be the law of the land. The supreme court would be dissolved
and the official copy of the law removed from before “the priests, the Levites,” and the judge who sat with them. The tithes would no longer be gathered. The great national festivals would lose all meaning since Jeroboam effectively blocked all participation by the inhabitants of the new Northern Kingdom. There would be nothing else to do but to return to the legislation and ritual which had previously existed. This appears to have been that ritual associated with Yahweh Sebaoth of Shiloh. With that legislation the great mass of the people might be expected to be familiar. The high priesthood in Jerusalem, too, was in the hands of the Zadokites who had connexion with Shiloh.

With the passing of the Torah it became increasingly plain that only a political reunion of North and South could pave the way for its re-introduction. Efforts were made to restore the unity which would bring back Yahweh to his dwelling-place on earth. Prophets by all means at their disposal, such as political intrigue, fomenting sedition, denunciations, threats and exhortations, strove to bring back the North to Jerusalem. Sometimes success seemed to be at hand, but it never materialised.

The first real opportunity for reunion came in the reign of Hezekiah with the fall of Samaria. But before him Asa and his son Jehoshaphat had made attempts to re-introduce the Torah. Asa had control of a number of cities of Ephraim and he made use of this to try to secure, at least, a religious reunion of North and South. He gathered all Judah and Benjamin and the strangers with them out of Ephraim and Manasseh and out of Simeon (2 Chr. 15:9). Israel at this time, we are told, had been without the true God and without a teaching priest and without torah (2 Chr. 15:3). Similarly, Jehoshaphat went out again through the people from Beersheba to Mount Ephraim and brought them back to the Lord God of their fathers (2 Chr. 19:4). When the opportunity presented itself Hezekiah framed a special appeal to the Northern Kingdom, or rather the remnant that was left. He appealed to the children of Israel to turn again to Yahweh in order that He might return to the remnant that are escaped out of the hand of the king of Assyria. An appeal is made to them not to be stiff-necked but to yield themselves unto Yahweh and enter into his sanctuary. Hezekiah,
after this nation-wide appeal has been answered, celebrates on
a grand scale the feast of the Passover which in Deuteronomy
first appears as raised from a domestic festival to a Temple
festival. There was great rejoicing, the Chronicler tells us, for
since the time of Solomon, the son of David, king of Israel,
there was not the like in Jerusalem (2 Chr. 30). What the
Chronicler wishes to stress is that this was the greatest Passover
festival since its interruption at Solomon’s death.

Josiah’s effort to bring back the Torah we have already
observed. He, too, made a great celebration of the Passover
feast at which all Judah and Israel were present. It was greater
evidently than Hezekiah’s, for the Chronicler tells us “There
was no passover like to that kept in Israel from the days of
Samuel the prophet.” What the Chronicler seemingly wishes to
emphasise here is that it was the greatest since the institution
of the Passover as a national and Temple festival. As the
Passover in this form was first introduced into a law code in
Deuteronomy, the inference seems to be that the Chronicler
associates the origin of Deuteronomy, or at least the origin of
the Temple festival of the Passover, one of the distinctive features
of Deuteronomy, with Samuel.¹

The Josianic reform was carried out no doubt vigorously
enough, in the thirteen years that remained of the king’s reign.
But evidently the Torah did not take firm root. The three
months’ reign of Jehoahaz was followed by the eleven years of
Jehoiakim, who evidently did not persevere with the Torah,
since it is said of him “he did that which was evil in the sight of
the Lord, his God.” His son, who succeeded him, reigned only
three months, and he, too, similarly “did evil in the sight of the
Lord,” as did his successor, Zedekiah, before he was carried off to
Babylon. There was apparently no unanimous support for the
Torah, and the opposition was evidently sufficiently strong to
set it aside as soon as Josiah had died of his wounds. Judah
thus went into captivity a divided people. There would be
some for the Torah of the Yahweh of all Israel and others for
the legislation of the Yahweh Sebaoth of the Jerusalem Temple.

¹ In 2 Ki. 23: 22 it is said of Josiah’s Passover, “Surely there was not kept
such a Passover from the days of the judges that judged Israel.”
That these differences would persist in the Captivity seems likely. Was the return under Zerubbabel, Haggai and Zechariah aimed at restoring the worship of Yahweh Sebaoth rather than that of Yahweh, God of all Israel? Certainly in the book of Haggai and in Zechariah 1-8, the Yahweh is Yahweh Sebaoth. On the other hand, in the case of Ezra’s return we are expressly told that Ezra was an “expert scribe” in the “Torah of Moses, which Yahweh, God of Israel, had given him” (Ezra 7: 6). In the books of Ezra and Nehemiah the term Yahweh Sebaoth is not used. This may be drawing a rather fine distinction and the subject requires closer investigation before any deduction can safely be drawn. It may be noted, however, that it was at Zerubbabel’s return that the North Israelites applied to join in the work of reconstruction, claiming that they worshipped the same God. If Zerubbabel had had in mind the re-introduction of the Torah it is difficult to see how he could have refused the request. Rather should he have welcomed it. But if he was only interested in re-building the sanctuary of Yahweh Sebaoth, we can well understand why he rejected the proposition.

The book of Ezekiel, as we have seen, plays an important part in the Graf-Wellhausen theory. In chapters 40-48 Ezekiel draws a picture of the Temple of the future to which the Israelites of the dispersion will return. He furnishes with it a law code which the Graf-Wellhausen school believe supplied both the model and the inspiration for the author or authors of the Priestly Code. It is not without interest that in recent years Hölscher (1924) and Herntrich (1932) maintain that chapters 40-48 cannot be attributed to Ezekiel. A strong attack on Ezekiel has been made by C. C. Torrey. According to him, the book of Ezekiel is a pseudepigraphon. It is a product of the apocalyptic period of Hebrew literature. It has the reign of Manasseh as its background. It was composed in Palestine about the year 230 B.C. In favour of Torrey’s theory it may be said that the book of Ezekiel bears on its face those marks of lateness which critics in general recognise as valid, namely

1 See G. A. Cooke, Ezekiel, p. xxv.
2 Pseudo-Ezekiel, New Haven, 1930.
Aramaisms and apocalyptic notions. There are present other marks of lateness into which we need not enter. What concerns us here is the position of Ezekiel in the theory we are advocating. As we have seen, the re-introduction of the Torah was always accompanied by a call to union. The Torah was for all Israel both North and South. This pre-requisite of union is recognised by Ezekiel. Chapters 34, 36, 37 contain prophecies of restoration. The people are to be gathered from among the nations, sticks representing Ephraim and Judah are to be joined. They are to be made one nation with one king. "They shall be no more two nations, neither shall they be divided into two kingdoms any more at all" (37: 22). And the sanctuary is to be in the midst of them for evermore (37: 28). Ezekiel is another Samuel with the prospect before him of a central sanctuary, and like Samuel he draws up his legislation for the Temple of his vision. He bases his code on the Torah. There is no need to enter here into a discussion on the interdependence of Ezekiel and the Code of Holiness. We may note, however, that Torrey, who has closely examined the book of Ezekiel with another purpose in view, came to the following conclusion: "The plain fact, as one day will be generally recognised, is that the author of the book had before him the complete Pentateuch in the very form in which it lies before us at the present day." And with that statement we are in full agreement. Modifications of the Torah were made by Ezekiel to suit the altered conditions of his age and of the future as he saw it in his vision. He has two Days of Atonement instead of the one prescribed in Leviticus 16: 29. He introduced an innovation that the private sacrifices of the people were to be slain for them by the Levites (44: 11), whereas in Leviticus (1: 5, etc.) the worshipper had the right to kill the victim himself. In Ezekiel’s time the kingship had disappeared. There is no suggestion in his book of a revival of it on the old lines although David as Messianic king is forecast. The place of the king has been taken by a religious functionary, the סְגָּל (Prince). As Solomon had re-established the high priesthood

1 Ps.-Ez., p. 91.
in the family of Zadok, Ezekiel could not do otherwise than confirm it. The Zadokites had continued to serve in the Temple after the disruption of the United Kingdom. The Levites, no doubt finding themselves deprived of their living in the capital, went back to reopen, and offer sacrifices at, the high places. Ezekiel explains that the Levites are degraded because of this conduct. It seems a reasonable and perfectly natural explanation to give. In the Mishnah (Menahoth, xii, 10) it is said: "The priests who have served in a heathen temple may not serve in the Temple at Jerusalem, and much less those who have served an idol, for it is written, 'But the priests of the high places may not approach God's altar in Jerusalem, but they may eat unleavened bread among their brethren' (2 Ki. 23:9). They are like those who have some bodily defect; they may partake and eat with their brethren but may not offer." Ezekiel, then, did not of his own accord degrade the Levites. As we have just seen the degradation was already in force in the reformation of Josiah. Ezekiel's consuming desire, one which pervades his prophecy, is to secure the return of Yahweh to his abode on Zion to dwell in the midst of his people. It is the key-note of the book. There is a dramatic touch in the words with which he closes his book. The name of the city shall be יְהוֹ ה שְׁמַה, "The Lord is [come] thither."

Wellhausen made the remark: "I differ from Graf chiefly in this that I always go back to the centralisation of the cultus and deduce from it the particular divergences." 1 His instinct was right, but centralisation by itself was not enough. With it had to be combined a united nation and the operation of the Torah. To shape its high destiny Israel required one Yahweh, one people, one Torah, one Temple. Only for a brief space in the long history of the Hebrew people was the ideal of all four in operation at the same time realised. It was all too quickly shattered when the monarchy was split in two. Without the other three the Torah could not function. Its whole basis was swept away.

Law has been recognised as a divine gift by more than one people. This may be accepted as reasonable evidence that its

1 Prolegomena, E.T., p. 368.
origin goes back to the days of prehistory. It would consequently be one of the first of human institutions to be recorded in writing. A standard copy of the law code would be essential for official reference in any organised administration. Round the law code as nucleus would grow up a 'hedge.' Elaboration, exegesis, homiletic, tradition would contribute to its structure. In other words midrash, both halakhah and haggadah, would take shape. These primitive Talmuds, products of different shrines, would form the sources utilised by any hierarchical council in compiling the Torah. It is difficult to see how the legislation literature of the Pentateuch could have originated otherwise. The same forces operative in the slow formation of the great Talmuds would be operative from the first on the basic legislative codes with analogous results. It is many years ago since scholars such as Wellhausen, Kuenen, Kautzsch and others recognised in Genesis 14 'a post-exilian midrash.' The possibility that the Priestly Code, for instance, is a legislative kernel with a covering of midrashic matter should not be ruled out. That a legislative nucleus dates back to Moses and was committed to writing at that time, we have every reason to believe. We do not require either the intervention or the inventiveness of a Levite or a Levitical school of the period of the Captivity to explain or explain it away.

The Graf-Wellhausen hypothesis, admittedly unsatisfying in many of its features, has yet oriented to itself the greater part of Old Testament criticism, and small loophole is furnished for escape from the distorted vision of Hebrew religion and literature which it presents. The zeal and enthusiasm of the scholars who subscribe to it have led them to new extremes of analysis and dating. As Gressmann has remarked: "The exuberance of the critics has made about nine-tenths of the Old Testament post-exilic. Is it conceivable that the wretched circumstances of Judaism after the Return could have produced a literary output of such wealth, and that the blossom period of the religion and culture of Israel must be separated by centuries from its literature?" ¹ The Graf-Wellhausen hypothesis has served a useful

¹ Aufgaben der alttest. Forschung, p. 7.
purpose in stimulating criticism in many directions, but the light
which it has brought is offset by the sinister shadow cast by it on
the pages of the Old Testament. It is a shadow which the
great majority of present-day Old Testament scholars would
wish to see removed.

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