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# JOURNAL OF BIBLICAL LITERATURE.

TWELFTH YEAR—1893—PART II.

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## The Original Form of the Book of the Covenant.

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IN Ex. xxi.-xxiii. we find a collection of laws which is prefaced in xxi. 1 by the title, "These are the judgments which thou shalt set before them," and followed in xxiii. 20-33 by an exhortation to obedience. Immediately after this exhortation we read, xxiv. 4-7, "And Moses wrote all the words of Yahwé. . . . And he took the Book of the Covenant and read in the audience of the people: and they said, All that Yahwé hath spoken will we do and be obedient." From these words it is evident that the preceding law-code once existed as an independent document, "The Book of the Covenant," as it is called in xxiv. 7; and that it owes its present position in the book of Exodus to the hand of an editor. This conclusion is confirmed by internal indications. The document has a marked individuality of its own, sharply discriminating it from the other Pentateuchal legislation, and its diction is different from that of the historical narrative in which it is embedded.<sup>1</sup>

The code which follows the title, xxi. 1, begins with legislation in regard to slaves (xxi. 2-11). Slaves were an important part of the property of the ancient Hebrews, but it is scarcely probable that the laws in respect to them stood originally at the head of the book. The analogy of the Decalogue and of the other codes of the Pentateuch would lead us to expect rather that the document should open with duties towards God and rules for worship. Ewald therefore conjectured that the laws about worship at the end of chapter xx. (vs. 23-26), which have no connection with the preceding Decalogue, are to be joined to the laws in xxi.-xxiii., and that they constitute the original opening of the code. This hypothesis has commended itself to most modern critics, and there is so much to be said in its favor that it may be regarded as practically demonstrated. Accord-

<sup>1</sup> See Dillmann, *Exodus und Leviticus*, p. 220.

ingly, xx. 18-22 is the preface to the Book of the Covenant, xx. 23-xxiii. 19 is the code proper, and xxiii. 20-33 the hortatory conclusion.

In an examination of the code proper, Bertheau<sup>2</sup> detected the fact that many of its laws fall into groups of ten. He recognized correctly two decads at the beginning of chapter xxi., and also a decad in regard to the feasts in chapter xxiii.; but in the analysis of the intermediate laws he missed the mark by not observing the fact that a decad contains only laws on closely related topics. For instance, the heterogeneous precepts in xxii. 15-30 he massed together in one decad, although a glance at their contents is sufficient to show the incorrectness of such a procedure. He also failed to recognize that each decad is logically divided into pentads, and thus lost a valuable aid for the detecting of the limits of the several groups. Since his time considerable progress has been made in the discrimination of the decads, notably in Professor Dillmann's Commentary on Exodus and in Professor Briggs's "Higher Criticism of the Hexateuch," p. 211 ff.

The following decads are clearly recognizable in the code: Chapter xxi. 2-11 is a decad upon the rights of slaves. The first pentad (2, 3<sup>a</sup>, 3<sup>b</sup>, 4, 5-6) treats of males, and the second pentad (7, 8, 9, 10, 11) of females.

Chapter xxi. 12-27 treats of assaults. Verse 17, "He that curseth his father or his mother shall surely be put to death," is foreign to the context, and since Ewald's day has been recognized as a gloss, which has probably come in through the circumstance that the offence was punishable with death. Budde,<sup>3</sup> with his usual critical acumen, has observed the fact that 22-25 is also out of relation to the context in which it stands. It reads as follows, "If men contend and smite a pregnant woman so that her fruit depart and no harm follow: he shall surely be fined, according as the woman's husband shall lay upon him, and he shall pay for the miscarriage.<sup>4</sup> But if harm follow, thou shalt give life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burning for burning, wound for wound, stripe for stripe." This is unquestionably an ancient law, but in spite of this fact it is plain that it does not belong in its present position, for the following reasons: 1. It prescribes the *death penalty*

<sup>2</sup> *Die sieben Gruppen mosaischer Gesetze in den mittleren Büchern des Pentateuchs*, Göttingen, 1840.

<sup>3</sup> "Bemerkungen zum Bundesbuch," *ZATW.*, 1891, p. 108 ff.

<sup>4</sup> Read with Budde בְּנִפְלֵי, instead of the unintelligible בְּנִפְלֵי.

in case the smiting results fatally ; but the cases in which the death penalty is to be exacted have already been treated in the group of laws 12-16, and with 18 a new set of laws begins which punish the offence with lighter penalties than death. If this law had stood in the original code, we should expect to find it after 16. 2. This law relates to an injury done to a *free* person, but injuries to free men have already been discussed in 12-19 ; 20-27 treats entirely of injuries to *slaves*, with the single exception of this law which is interpolated in the midst of it. 3. Accidents which result from contentions have come up for discussion already in 18, and since this law refers to a similar case, we should expect, if it were original, to find it in close connection with verse 18. 4. It interrupts the logical progress of thought between 20f. and 26f. Verse 20 treats of an assault upon a slave which results in immediate death, 21 of an assault which results in death at a later time : the law which we should expect to follow next would be such a one as we find in 26f. in regard to an assault upon a slave which results in physical injury but not in death. 5. These verses give the legislation in a reverse order from that which prevails in the rest of the code. The regular method elsewhere is to proceed from the more flagrant to the less flagrant cases, but here the case in which no harm follows precedes the case in which harm does follow and in which the death penalty is to be imposed. 6. These verses labor under an internal inconsistency. The phrase, "If harm follow," in 23 cannot be referred to the child born prematurely, for the previous verse indicates clearly that as far as it is concerned harm has followed already ; nor can it be referred to other non-combatants who may chance to be hurt (Knobel, Dillmann, Rothstein), for it is too closely connected with the phrase "If no harm follow" in the preceding verse. It can only be referred to the mother. Now in this case we can see how, if she should *die*, the man who killed her should pay for it with his life ; but it is hard to see how the *lex tali-onis* could be enforced in the case of lesser injuries. From the nature of the case most of the possible resulting injuries to the woman would be of such a sort that they could not be inflicted upon the man in retaliation. Verse 23 f., therefore, is singularly inappropriate after 22. The LXX. has felt the difficulty and has attempted to escape it by altering both of these verses in its translation.

For all these reasons it is evident that 22-25 cannot have stood originally where it now stands. Budde proposes to solve the difficulty by a transposition, so that the verses shall read in the following order, 18, 19, 23-25, 22, 20, 21, 26, 27. This gives a good sense, but it

labors under the difficulty of still bringing in a case punishable with death (23) in the wrong connection, and it compels us to assume a far too elaborate theory of transpositions in order to get our present text. If the laws read originally in the order which Budde suggests, it is hard to see how they should ever have been shuffled into their present order. The only solution of the difficulty is to reject 22-25 as a very early gloss upon the original legislation. When this is done, the ancient symmetrical structure of the code becomes apparent at once. This group contains a decalogue of laws in regard to assaults. The first pentad (xxi. 12, 13, 14, 15, 16) includes those assaults which are to be punished with death; the second pentad (18-19, 20, 21, 26, 27) those which are to be visited with lighter penalties.

In this group, it seems to me, Professor Briggs first goes astray in his analysis of the Book of the Covenant. By not recognizing that 22-25 is interpolated, he makes the decalogue end with 25. This leaves the two laws in regard to smiting a slave's eye and smiting out a slave's tooth without a place in the group of laws in regard to assaults. Professor Briggs joins them to the following set of laws, 28-37; but this is absolutely impossible, since the following laws all relate to injuries done either by or to animals, and have nothing to do with assaults by men upon men. Whatever we think of 22-25, we must join 26-27 to the group which precedes it rather than to the group which follows it. The natural consequence of missing the real decalogue at this point is that one misses the limits of those which follow.

The laws in xxi. 28-xxii. 3 (Heb.) relate entirely to domestic animals. The loose setting of xxii. 1-2 in this group first attracted the attention of Rothstein.<sup>6</sup> In xxi. 37 the thief is alive and has killed the stolen animal. In xxii. 1-2 he is supposed to have been killed, but in 3 he is again alive and able to pay a fine. Logically, and in accordance with the analogy of the rest of the code, xxi. 37 and xxii. 3 belong together. The first reads, "If a man shall steal an ox or a sheep and *kill it or sell it*, he shall pay five oxen for an ox and four sheep for a sheep." Analogy requires that this should be followed immediately by the other alternative, "If the theft be found *in his hand alive*, whether it be ox, or ass, or sheep, he shall pay double." Rothstein has proposed to remove the difficulty by setting xxi. 37 after xxii. 2. This brings together the alternatives which may occur when an animal is stolen and so far is good; but it has the insuperable difficulty of making the code first suppose the thief to be

<sup>6</sup> *Das Bundesbuch und die religionsgeschichtliche Entwicklung Israels*, Halle, 1888.

killed and then require him to pay damages. Budde has rightly seen that this transposition makes matters worse, and that the only way out of the difficulty is to regard the legislation concerning the thief as a gloss. Unquestionably it is an ancient law, but it has nothing to do with the legislation in regard to animals in the midst of which it stands. It is doubtful whether originally it was meant to refer to the theft of animals at all. Nothing is said about animals in either verse, and the words, "If a man be found breaking in," seem to contemplate house-breaking rather than the stealing of oxen or sheep. This is apparently an extract from a code concerning robbery in general; and owes its insertion at this point to the fact that, among the injuries to animals, stealing, either to kill to sell or to keep, was included. Budde limits the interpolation to 1-2<sup>a</sup>. It is true that 2<sup>b</sup>, "If he have nothing he shall be sold for his theft," would follow well after xxi. 37; but the difficulty is that if this sentence were original, it must logically follow xxii. 3, since it might be just as impossible for the thief to restore double as to restore fivefold; and in either case he would have to be sold for his debt. Accordingly, 2<sup>b</sup> must be regarded as the original continuation of 2<sup>a</sup>, and not of xxi. 37; and it refers, not to the recompense which shall be made when animals are stolen, but to that which shall be exacted from the house-breaker.

By the removal of this ancient interpolation in xxii. 1-2, the original structure of the group of laws immediately becomes plain. There are ten laws, all about domestic animals, of which five (xxi. 28, 29, 30, 31, 32) refer to injuries done *by* animals to men, and five (33-34, 35, 36, 37, xxii. 3) refer to injuries done *to* animals.

Chapter xxii. 4-14 treats of responsibility for a neighbor's property. Verse 11 covers ground already traversed in 8, but enacts a different penalty and is therefore to be rejected as a gloss. We have then five laws in regard to responsibility for property *in general* (xxii. 4, 5, 6, 7, 8), and five in regard to property *in cattle* (9-10, 12, 13, 14<sup>a</sup>, 14<sup>b</sup>).

Passing over now to xxiii. 1-8, we find a group of laws in regard to *injustice*. Verses 4-5, which treat of kindness to animals, are evidently out of place in the midst of this section; and, if they belonged to the original code, must have stood in connection with the other laws in regard to kindness in xxii. 20-26. Omitting them from this context, we find in 1<sup>a</sup>, 1<sup>b</sup>, 2<sup>a</sup>, 2<sup>b</sup>, 3 a pentad against injustice among *equals*, and in 6, 7<sup>a</sup>, 7<sup>b</sup>, 7<sup>c</sup> (LXX.), 8 a pentad against injustice on the part of *those in authority*. In 7<sup>c</sup> the LXX. gives a separate command, "καὶ οὐ δικαιώσεις τὸν ἀσεβῆ"; and this reading is preferable to that of the Massoretic text, "For I will not justify the wicked," which

transforms a separate precept into a reason for the eighth law of the decal.

Chapter xxiii. 9 is a repetition of the law in xxii. 20, and is obviously in its true place there rather than here. Chapter xxiii. 13 is also clearly a gloss, for it is merely a repetition in other words of xx. 23, and is irrelevant to the laws in regard to the sacred seasons among which it stands. Chapter xxiii. 14 is the same as xxiii. 17, and as we shall see presently is in a more logical connection in the latter place. Verse 15<sup>c</sup>, "None shall appear before me empty," belongs in another connection, as we shall prove a little later (cf. Ex. xxxiv. 20). Omitting these amplifications from the text, we find in xxiii. 10-19 a perfect decal of laws in regard to the sacred seasons. The first pentad enumerates the seasons, Sabbatical Year, Sabbath, Feast of Unleavened Bread, Feast of First Fruits, and Feast of Ingathering (10-11, 12, 15, 16<sup>a</sup>, 16<sup>b</sup>). The second pentad gives special prescriptions for the proper observance of these feasts (17, 18<sup>a</sup>, 18<sup>b</sup>, 19<sup>a</sup>, 19<sup>b</sup>).

We have thus found six complete decalogues within the limits of this code, and these are alike in the fact that their point of logical division is between the pentads which compose them. Along with these decads, however, there are other laws which do not admit of being arranged in groups of ten. At the beginning of the code there are only six laws in regard to *worship* (23<sup>a</sup>, 23<sup>b</sup>, 24<sup>a</sup>, 24<sup>b</sup>, 25, 26). After the four perfect decads in xxi. 2-xxii. 14 there follow five commandments in respect to *purity* (xxii. 15, 16, 17, 18, 19). Three of these refer to seduction and unnatural vice, the other two to sorcery and sacrifice to false gods. It has often been claimed that the latter two must originally have stood in a different connection. I cannot regard this as probable. The conception of heathen worship as adultery is an ancient one (Ex. xxxiv. 15 f., Lev. xvii. 7, Deut. xxxi. 16). In the Holiness Code (Lev. xviii. 21), the prohibition of sacrifice to Molech is inserted between the laws against adultery and sodomy. In the hortatory address also (Lev. xx. 5 f.), we find sacrifice to Molech spoken of as "committing whoredom with Molech"; and the prohibition of it, together with the prohibition of "going whoring" after familiar spirits and wizards (5), is brought again into the closest connection with the exhortation against sexual impurity (10-21). Accordingly, it is probable that in all these cases it was the deliberate intention of the legislator to express his abhorrence of sorcery and sacrifice to false gods by branding them as adultery and inserting them among the grossest sensual vices. These

five laws, therefore, are to be regarded as belonging together in a group on purity. The antiquity of the legislation against sorcery is attested by Lev. xix. 26, 31, Deut. xviii. 9-12.

In xxii. 20-26 there is a pentad of laws concerning kindness to mankind ; namely, strangers, widows, and debtors. The two laws in respect to kindness to animals, which are out of place in xxiii. 4-5, are most naturally regarded as belonging originally to the same group.

Finally, in xxii. 27-30, we find a set of six laws about reverence towards God and the homage which he requires.

Thus it appears that the laws which are not arranged in decads fall into four distinct groups ; which treat respectively of worship, of purity, of kindness, and of reverence. These four groups, together with the six perfect decads which we have already recognized, make ten groups of laws. This is a significant fact, since it shows that our present form of the Book of the Covenant cannot be original. An author who arranged his laws under ten heads, and who has given us ten laws each under six of these heads, must originally have given ten laws also under the remaining four heads, instead of the six, five, seven, and six which we now find. The Book of the Covenant has been cut down in four of its groups of laws, either by the editor who put it in its present historical setting, or by later scribes.

The question now arises, whether it is possible in any way to restore the missing laws in these defective decads and thus obtain the Book of the Covenant in its original symmetrical form. I believe that it can be done with a considerable degree of probability by a study of the parallel legislation in Ex. xxxiv. and in various sections of Deuteronomy. In what I shall have to say on this subject I wish to acknowledge my obligation to one of my pupils, Mr. Dwight Goddard, who by a careful collation of all the parallel legislation and of the variations in the LXX. has rendered important assistance in the solution of the problem.

It is our great good fortune to possess in Ex. xxxiv. 12-26 another recension of the Book of the Covenant. It is introduced in xxxiv. 10 f. with the words, "Behold I make a covenant : before all thy people I will do marvels. . . . Observe that which I command thee this day" (cf. xx. 22). It is closed in xxxiv. 27 with the command, "Write thou these words, for after the tenor of these words I have made a covenant with thee and with Israel" (cf. xxiv. 4-7). In the following verse (xxxiv. 28) we read, "And he was there with Yahwé forty days and forty nights ; he did neither eat bread nor drink water, and he wrote upon the tables the words of the covenant, the ten

words." From this verse the inference has been drawn that the covenant which has just been given consists of exactly ten commandments; and on the strength of this inference, Wellhausen (*Prolegomena*,<sup>3</sup> p. 410 f.) and Stade (*Geschichte des Volkes Israel*, I. 510) have constructed a Decalogue of J which they set over against the Decalogue of E in xx. 2-17 as representing a different tradition in regard to the contents of the fundamental law of Israel. The arbitrariness of this proceeding is evident from the following considerations:—

1. There is nothing to show that the words "and he wrote" refer to Moses and not to Yahwé, who has also been mentioned in the previous verse. The fact that Moses is the subject of the last sentence does not necessitate that the pronoun in this sentence should refer to him rather than to the other person who has been mentioned (cf. Gen. xiv. 20). In fact the context demands that we should refer the words "and he wrote" to Yahwé, and not to Moses. In xxxiv. 1 Yahwé says, "I will write upon the tables the words that were on the first tables which thou brakest." The uniform testimony of tradition elsewhere is that the tables were written by the finger of God (Ex. xxiv. 12, xxxi. 18, xxxii. 16, Deut. iv. 13, v. 19, ix. 10, x. 2-4); consequently we have no right to put an interpretation on this verse which will create an unnecessary contradiction with the statements of the other documents. When now we once recognize that it is Yahwé who writes the ten words, it is impossible to identify the preceding covenant with the ten words here mentioned, for that, according to xxxiv. 27, was to be written by Moses.

2. The form of expression in regard to the covenant in this verse shows that the author does not intend to identify the preceding covenant with the ten words, for he does not say, "He wrote upon the tables the words of *this* covenant," as we should naturally expect if the preceding covenant were the one recorded on the tables. Instead of that he says, in contrast to the preceding covenant, "The words of the covenant, *the ten words*."

3. *לחות הכרית* is the regular Deuteronomic phrase for the decalogue recorded in Ex. xx. and Deut. v.

4. The attempt to count exactly ten laws in the verses which precede the conclusion of the covenant in xxxiv. 27 leads to arbitrary eliminations from the text or arbitrary selections of the point from which one begins to count. Both Stade and Wellhausen commence the hypothetical decalogue at the 14th verse; but this is impossible, since several laws which are ancient in their tone precede this verse. Moreover, the elimination of the commands which underlie 15 because of their hortatory amplification is unjustifiable.

Accordingly, since the hypothesis of a *decalogue* is untenable, we must regard the covenant as embracing all the commands which are found between the preface in xxxiv. 10-11 and the conclusion in xxxiv. 27. Between these limits we find a code of twenty-one laws of which fourteen are parallel to laws in the Book of the Covenant, and seven are not found in that code. The facts that the smaller code is also called a *covenant*, that it is said to have been written by Moses, and that it is so largely identical in contents with xx. 23-xxiii. 19 show that there must be some relation of mutual dependence between the two codes. The exact nature of this relation and the question in regard to the documents which it suggests it is not my purpose to discuss here. I wish only to point out the fact that Ex. xxxiv. must stand in some relation of literary connection with the Larger Book of the Covenant. Chapters xx. 23-xxiii. 19 cannot be an expansion of xxxiv. 12-26, for they are more regular in structure and more primitive in form. Chapter xxxiv. 12-26 might be an abbreviation of our present Book of the Covenant, with the idea of selecting from it those commandments which refer to duties towards God; but against this theory is the fact that it contains the seven laws which are not found in our Book of the Covenant. Of course the editor might have added some laws at the same time that he omitted others; but that he has not worked in this way is clear from the fact that whenever the Smaller Book of the Covenant is parallel to a *perfect* decalogue in the Larger Book of the Covenant, it contains no additional laws. This is the case in the festal legislation. The decalogue is complete in xxiii. 10-19; Ex. xxxiv. omits the sabbatical year, but in the remaining nine laws it runs along parallel to xxiii. 10-19, adding certain exhortations, to be sure, but no new laws. It is only when it is parallel to *defective* groups in the Larger Book of the Covenant that the Smaller Book of the Covenant exhibits additional laws. This is a very striking fact; and it shows that the only tenable hypothesis of the relation of the two codes is that both are abbreviations of a common original.

If this be the case, then we are justified in using the Smaller Book of the Covenant to supplement those defective decalogues in the Larger Book of the Covenant to which it is parallel. The results of the comparison of the two codes and the way in which they supplement one another I have exhibited in the following table. On the right hand are the laws as they stand in Ex. xxxiv., stripped only of the parænetic comments. The order is that of the original, except that verse 18, the Feast of Unleavened Bread, is transposed to correspond with its position among the other feasts in Ex. xxiii. 15, instead of

standing before the offering of firstlings (19). The left-hand column contains the parallels in the Larger Book of the Covenant and their context ; that is, the defective group in regard to worship, the defective group in regard to reverence and offerings, and the perfect decalogue in regard to the sacred seasons.

Ex. xx. 23-26.

3. Ye shall not make (gods) with me (23<sup>a</sup>).
6. Gods of silver or gold ye shall not make (23<sup>b</sup>).
7. An altar of earth shalt thou make unto me (24<sup>a</sup>).
8. On it thou shalt sacrifice burnt and peace offerings.
9. If thou make me an altar of stone, thou shalt not build it of hewn stones (25).
10. Thou shalt not go up by steps unto my altar (26).

Ex. xxii. 27-30.

1. Thou shalt not revile God (27<sup>a</sup>).
2. Thou shalt not curse a ruler of thy people (27<sup>b</sup>).
3. Thou shalt not delay to offer thy fullness (28).
4. The firstborn of thy sons shalt thou give to me (28).
5. Likewise shalt thou do with thine oxen and sheep (29).
9. (Cf. Ex. xxiii. 15.)
10. Ye shall not eat any flesh that is torn of beasts in the field (30).

Ex. xxxiv. 12-26.

1. Thou shalt not make a covenant with the inhabitants of the land.
2. Ye shall break down their altars, pillars, Asherim.
3. Thou shalt worship no other god (14).
4. Thou shalt not eat of their sacrifices (15).
5. Thou shalt not take their daughters unto thy sons (16).
6. Thou shalt make thee no molten gods (17).
4. All that openeth the womb is mine (19).
5. And every firstling among thy cattle (19).
6. The firstling of an ass thou shalt redeem (20).
7. If thou redeem it not, thou shalt break its neck.
8. All the firstborn of thy sons thou shalt redeem.
9. None shall appear before me empty.

## Ex. xxiii. 10-19.

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| <p>1. Six years thou shalt sow thy land, but in the seventh year thou shalt let it rest (10-11).</p> <p>2. Six days thou shalt do thy work, but on the seventh day thou shalt rest (12). (13-14 gloss, cf. 17.)</p> <p>3. The feast of unleavened bread shalt thou keep (15).</p> <p>4. And the feast of harvest, the first fruits of thy labours, which thou sowest in the field (16<sup>a</sup>).</p> <p>5. And the feast of ingathering at the end of the year (16<sup>b</sup>).</p> <p>6. Three times in the year all thy males shall appear before Yahwé Elohm (17).</p> <p>7. Thou shalt not offer the blood of my sacrifice with leavened bread.</p> <p>8. The fat of my sacrifice shall not remain until the morning (18).</p> <p>9. The first of thy first-fruits thou shalt bring (19<sup>a</sup>).</p> <p>10. Thou shalt not see the kid in its mother's milk (19<sup>b</sup>).</p> | <p>2. Six days thou shalt work, but on the seventh day thou shalt rest (21).</p> <p>3. The feast of unleavened bread shalt thou keep (18).</p> <p>4. And thou shalt observe the feast of weeks, the first-fruits of wheat harvest (22<sup>a</sup>).</p> <p>5. And the feast of ingathering at the year's end (22<sup>b</sup>).</p> <p>6. Three times in the year shall all thy males appear before Yahwé Elohm (23).</p> <p>7. Thou shalt not offer the blood of my sacrifice with leavened bread (25).</p> <p>8. The sacrifice of the feast of the passover shall not be left until the morning (25<sup>b</sup>).</p> <p>9. The first of thy first-fruits thou shalt bring (26<sup>a</sup>).</p> <p>10. Thou shalt not see the kid in its mother's milk (26<sup>b</sup>).</p> |
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If both codes are abbreviations of a fuller original, we should expect that certain laws in every group would be common to both and certain peculiar to each, but that all taken together would make up a perfect decalogue. This is precisely what we find. In the first group numbers 3 and 6 are identical in both codes and show that the two sets of laws belong together. The laws that are peculiar to each supplement one another, and all combine to form a decalogue whose first pentad is directed against heathen worship, and the second pentad against perversions in the worship of the true God. The same distinction exists between 3 and 6 as between the first and the second commandments of the Decalogue. In precisely the same way the laws in regard to reverence in the next group supplement one another. Numbers 4 and 5 are common to both, and the remainder unite in a decalogue the first pentad of which treats of the homage which Yahwé requires, and the second pentad of the irreverent actions which he forbids. The relation of the laws in the third group requires no comment.

Thus, it seems to me, by a comparison with Ex. xxxiv. we win back

the original decal structure of two more groups of laws in the Book of the Covenant.

Two other incomplete groups still remain, the laws in regard to purity and those in regard to kindness. For their hypothetical reconstruction we must have recourse to the book of Deuteronomy. It is too generally admitted to require any proof here that Deuteronomy presupposes the Book of the Covenant and makes extensive use of its legislation. Many passages in Deuteronomy are nothing more than a running commentary on the older code. Its commandments are incorporated bodily, often in their original order; and all that the author of Deuteronomy does is to annex reasons for obeying them or to define the conditions under which they are operative. This fact arouses the hope that Deuteronomy may furnish some help in restoring the defective groups in regard to purity and kindness, in case that its legislation on these subjects is fuller than that contained in the Book of the Covenant, and in case also that internal evidence shows this legislation to be ancient. This proves to be true of the laws on both of these subjects in Deuteronomy. Their relation to the Book of the Covenant is exhibited in the following table:—

Ex. xxii. 15-19.

6. If a man entice a virgin that is not betrothed, he shall pay dowry for her to be his wife (15).
7. If her father refuse to give her to him, he shall pay money according to the dowry of virgins (16).
8. Thou shalt not suffer a sorceress to live (17).

DEUT. xxii. 13-29.

1. If a man take a wife and bring up an evil name upon her, her father and mother shall bring the tokens of virginity and the elders shall chastise the man.
2. If it be true, she shall be stoned (20-21).
3. If a man lie with a married woman, both of them shall die (22).
4. If a man lie with a betrothed virgin in a city, ye shall stone them both (23-24).
5. But if the man find the betrothed damsel in the field, then the man only shall die (25-27).
6. If a man lie with a virgin which is not betrothed, he shall pay her father fifty of silver, and she shall be his wife (28-29).

9. Whosoever lieth with a beast shall be put to death (18).
10. He that sacrificeth unto any god save unto Yahwé only shall be devoted (19).

Ex. xxii. 20-26, xxiii. 4-5.

DEUT. xxii. 1-7.

1. Thou shalt not vex a stranger nor oppress him.
2. Ye shall not afflict a widow or fatherless child.
3. If thou lend money to the poor, thou shalt not be to him as a creditor (24<sup>a</sup>).
4. Thou shalt not lay upon him usury (24<sup>b</sup>).
5. If thou take his garment, thou shalt restore it to him by that the sun goeth down (25-26).
6. If thou meet thine enemy's ox or ass going astray, thou shalt bring it back to him again (xxiii. 4).
6. Thou shalt not see thy brother's ox or his sheep go astray and hide thyself from them. Thou shalt surely bring them back (1).
7. If thy brother be not nigh to thee, thou shalt bring it to thy house until thy brother seek after it (2).
8. So shalt thou do with every lost thing (*i.e.* animal) (3).
9. If thou see the ass of him that hateth thee lying under his burden, and wouldest forbear to help him, thou shalt surely help with him (5).
9. Thou shalt not see thy brother's ass or his ox fallen down by the way, and hide thyself from them; thou shalt surely help him to lift them up again (4). (Vs. 5 is against the sexes interchanging garments.)
10. If a bird's nest chance to be before thee in the way, and the dam sitting upon the young or upon the eggs, thou shalt not take the dam with the young (6-7).

The five laws in regard to purity in Ex. xxii. 15-19 begin with the command, "If a man entice a virgin that is *not betrothed* and lie with her, he shall surely pay a dowry for her to be his wife." The analogy of the other decads, which proceed from positive to negative and from more extreme to less extreme cases, as well as a logical necessity, requires us to assume that this law was originally preceded by one which provided for the case of a betrothed virgin; and since

betrothal in the Hebrew conception was almost equivalent in its binding character to marriage, we should expect that there would be associated with this some legislation in regard to adultery. Now when we turn to the laws in regard to purity in Deut. xxii. we find in 28-29 a law which is identical with this one in Ex. xxii. 15; namely, "If a man find a damsel that is a virgin, which is not betrothed, and lay hold on her and lie with her and they be found; then the man that lay with her shall give unto the damsel's father fifty shekels of silver, and she shall be his wife because he hath humbled her; he may not put her away all his days." This is preceded immediately by five laws which relate to purity in those married and betrothed (xxii. 10-19, 20-21, 22, 23-24, 25-27). They are very diffusely expressed, and in the table I have simply indicated their substance. They join on so admirably to the pentad in the Book of the Covenant, and they are evidently so antique in their contents, that one can scarcely help feeling that here we have the missing pentad of this group of the Book of the Covenant, and that the original decad contained five laws in regard to purity in those married or betrothed, and five in regard to purity in other relations.

The laws in regard to kindness in Ex. xxii. 20-26 and xxiii. 4-5 have their parallels in Deut. xxiv. 10-18 and xxii. 1-7. The pentad concerning kindness towards *men* is complete in the Book of the Covenant. It is only in the pentad in respect to kindness towards animals that we need to call in the aid of Deuteronomy. In xxii. 1-7 there is a group of exactly five laws on this subject, and two of them are substantially identical with the two preserved in the Book of the Covenant. One cannot affirm positively that the other three are the missing three laws of this group of the Book of the Covenant, but it certainly looks very much as if this might be the case. Our restoration of these two decads from Deuteronomy does not possess the same degree of certainty as the restoration of the other two from Ex. xxxiv.; still I think that we may claim a reasonable degree of probability for it.

If our conclusions thus far have been correct, the Book of the Covenant consisted originally of ten groups of ten laws each. Each of these groups contained laws closely related in their subject-matter, and each was symmetrically divided, like the Decalogue in Ex. xx. 2-17, into two tables of five laws each. In the foregoing discussion I have endeavored merely to indicate in a general way what topics were included in the original legislation. I have not entered upon the question how far each of the laws individually has been preserved

in its original form. Several laws are provided with hortatory comments (cf. xxii. 20, 22-23, 26, xxiii. 12, 15), and it may be questioned whether this form is original. An investigation of these passages, and of others where an amplification of the original legislation seems probable, would carry us more into detail than is necessary for the purpose of this paper. Our object has been merely to indicate in outline the primitive regular structure of the Book of the Covenant.

The inferences which might be drawn from this regular structure in regard to the integrity of the legislation in Ex. xx. 23-xxiii. 19, its antiquity, and its authorship, I leave untouched.