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THE LAW OF CHANGE IN THE BIBLE

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THERE is no more trite observation than that all things change, yet it is generally supposed that the Bible contains an immutable, unchanging system. The purpose of this essay is to make some attempt to examine this view. Is it, indeed, the case that Law and Prophets present us with a conception of life that makes no allowance for growth and variation? If so, how could solutions have been found for the new problems of life that time invariably brings? That there was change in *thought* (as contrasted with law) may be seen from many passages. A single instance must here suffice. In 1 Ch xxi 1 that is attributed to the Satan which in the parallel passage is held to be due to the Lord (2 S xxiv 1). The difference in the theological outlook is immediately apparent, but this is not a matter for regulation by law. Accordingly it does not fall within the scope of the present essay. Nor, again, is it proposed to investigate additions to existing law, except in so far as these may appear to have a bearing on the subject of institutional change. It is common knowledge that, e.g., certain minor feasts and fasts were adopted by Judaism long after the time of Moses, but these and most other additions have no important relation to our present subject. What we desire to examine is not how additional laws were made to deal with new subject-matter, but whether existing law could be repealed or altered, and, if so, by whom and within what limits. For this purpose we may exclude changes in the law made by changes in interpretation. It is almost certain that in different ages different views were taken of the interpretation to be placed on existing laws; but while change may be and often is effected through the work of the authorized interpreters of laws, they are theoretically lim-

ited to the task of explaining laws already in being, and ostensibly have no power to alter or repeal them.

Historically the problem that we have to study begins with the work of the Mosaic age. Moses introduced many innovations; but what was his attitude to change when once he had laid down a binding rule? Did he regard this as unchangeable either for his own age or for the future? And what attitude did he take up with respect to the problems that would inevitably arise after his death? Did he conceive or claim that — at any rate, so far as the topics with which he dealt were concerned — what he had given was immutable law, all-sufficient for all time, save in so far as it might require interpretation and elucidation? Could any practical lawgiver and judge conceivably hold any such view? These seem to be the questions that suggest the lines along which the first section of our inquiry must proceed.

It is a commonplace of commentators that in the Pentateuch the order is not chronological. For our present purpose this imports grave difficulty, for we cannot always be sure of the exact original order; but the language employed, and the facts and provisions, are sometimes such as to make it clear that the lawgiver is developing or modifying rules that he had previously enacted. The decided cases furnish one division of the evidence. Sometimes they enact new law to meet a fresh point, but sometimes they develop or modify some existing rule. In Lev xxiv 10 we read how one of the mixed multitude, the son of Shelomith, of the tribe of Dan, and an Egyptian father, blasphemed. That raised at least two questions. Blasphemy was of course known to be wrong, but no penalty had yet been provided for it. The point therefore arose what the punishment was to be. And the nationality of the offender involved the determination of a matter of wider interest and importance. Ancient societies generally treated law as personal, not local. A foreigner coming to early Rome, for example, would in many matters be subject not to the law applicable to Roman citizens,

but to special law. So too in many of the former provinces of the Roman Empire after their conquest by barbarians. And we are all familiar with the fact that in many Eastern countries to-day Americans and Europeans are subject, in many respects, to their own personal law, and not to the Oriental rules. This, then, was the great difficulty that called for determination in the case of Shelomith's son, who, following his father, was not an Israelite; and it was decided that in this matter there should be one rule, applicable alike to the stranger and to the native. Nor did the judgment stop there. It went further, and provided that this principle of a common law should apply to the chief heads of civil and criminal liability. From the point of view of legal history this was a leading case in the most emphatic sense of the term, because it not merely settled the law of blasphemy (which we find applied, or rather misapplied, in the later case of Naboth), but also decided, once for all, that Israel was not to have a dual system of law like Rome and so many other communities. In this connection, however, we are less concerned with this aspect of the matter. Our present interest lies in the fact that it shows Moses enacting new law to meet new problems. Here, however, it cannot be suggested that he was altering. He was merely adding to the rules that had already been adopted.

The next instance is on a slightly different footing. A Passover law had been enacted. There were certain men who were ritually unclean. According to a well-known basic principle of sacrifice, this disqualified them from offering an oblation. The difficulty led to the enactment of a supplemental law, providing that in a proper case the Passover was to be observed one month later (Nu ix 6-14). For our present purpose, it is rather a stronger case than that of Shelomith's son, because it introduced a modification into an existing law.

The third example is that of the man who gathered sticks on the Sabbath day, and is of the least interest from our present point of view, as the only question was what

the penalty should be (Nu xv 32-36). As in the case of Shelomith's son, we have to deal with nothing more than an addition to law that was well settled, and the problem that arose was far less important and far-reaching.

The last instance is in some ways the most interesting of all. The daughters of Zelophehad made a claim to have allotted to them a possession in the conquered land, in view of the fact that their father had died without male issue. This led to the enactment of a wholly new law of inheritance (Nu xxvii 1-11). The decision, however, gave rise to great dissatisfaction, and a deputation appeared to urge objections. Thereupon the law was modified by the addition of an entirely new provision, preventing heiresses from marrying into other tribes (Nu xxxvi).

Taking these cases together, we find, then, that in the Mosaic age there existed a supreme court or courts which, in all matters that could come up for decision by judicial or ritual authority, exercised the prerogative of making new law. If there is no instance in which existing law is actually repealed, the cases do, at any rate, go so far as to modify rules previously laid down to a very considerable extent.

We must next investigate the constitution of this court or courts and the provision for their continuation after the lawgiver's death. In the first of these matters we are met by the difficulty to which allusion has already been made, the uncertainty as to the original order of the narrative. This is important with regard to two of the passages that fall for consideration — Ex xviii and Ex xxxiii 7-11. It is generally allowed that the first-named refers not to a period *before* the arrival at Horeb, but rather to the close of the stay there, and this is confirmed by Dt i 9 ff. Exodus xxxiii 7-11, on the other hand, seems to relate to an earlier time, and the present writer has repeatedly argued that it should immediately follow Ex xiii.¹ In that case the relative order of the judicial passages would be Ex

¹ For a full discussion, see BS, Oct. 1914, pp. 596 ff.

xxxiii 7-11, xxiv 14, xviii. Originally Moses tried all cases by himself. For the period of his absence at Sinai, a provisional arrangement was made by which Aaron and Hur were to transact the business. On his return the old practice was revived until Jethro intervened. It was then provided that judges should be instituted for all ordinary matters, and that cases of exceptional difficulty should be referred to Moses. This is operative in Lev xxiv 10 ff. In Nu ix 6, which is a purely ritual matter, we find Aaron associated with Moses. Then there came a time when Moses found the burden too heavy (Nu xi 14). It is not expressly said that the arrangement then made dealt with judicial work, but the probable reason is that it was intended to apply to the whole sphere of government (Nu xi 16 f.). "The burden of the people" there mentioned includes the judicial portion of that burden. The subsequent narrative shows that the institution was duly called into existence, and that God's spirit rested on the elders even as it did on Moses himself (ver. 24-29). Consequently, in the later cases, "Aaron and all the congregation" (Nu xv 33) and Eleazar the priest, and the princes and all the congregation (xxvii 2) are associated with Moses, and the deputation comes to "Moses and the princes the heads of the fathers' houses." Thus we see that in the ritual matter the high priest is present; in other matters, the leaders of the people. In the later portion of his administration, Moses trained others besides himself to act as members of the supreme court.

Deuteronomy xvii 8-13 makes provision for the perpetuation of this institution.¹ On the establishment of the

¹"If there arise a matter too hard for thee in judgement, between blood and blood, between plea and plea, and between stroke and stroke, being matters of controversy within thy gates: then shalt thou arise, and get thee up unto the place which the Lord thy God shall choose; and thou shalt come unto the priests the Levites, and unto the judge that shall be in those days: and thou shalt inquire; and they shall shew thee the sentence of judgement: and thou shalt do according to the tenor of the sentence, which they shall shew thee from that place which the Lord shall choose;

kingdom the monarch automatically became the supreme judicial authority (cp. 2 S xv 1-5, etc.).

Moses, however, had to deal with changing circumstances otherwise than by purely judicial action. In his legislative capacity he often found it necessary to introduce modifications into his own laws and institutions. It is natural to begin by considering the greatest cause of alteration — the difference between the conditions of wandering and settled life. A large part of the legislation was from the first intended for conditions after the conquest, and accordingly it was naturally adapted to them; but there were other institutions and rules which, as originally conceived, were applicable simply and solely to the desert period. An outstanding instance is provided by all the regulations for the transport of the ark and the tent of meeting. It is seldom realized how greatly the legislation of the nomadic period is influenced by this. Here we find a tribe set apart largely for the performance of functions which could not fail to cease entirely, once a settlement had been effected in the land. However necessary and sufficient this portion of their duties may have been during the wilderness period, it would of necessity come to an end with the conquest. And what were the Levites to do then? How were they to occupy their leisure?

In this case and others there can be no doubt that alterations were made by Moses himself. Some of the laws required a priestly *personnel* scattered all over the country, such as the descendants of Aaron could not have pro-

and thou shalt observe to do according to all that they shall teach thee: according to the tenor of the law which they shall teach thee, and according to the judgement which they shall tell thee, thou shalt do: thou shalt not turn aside from the sentence which they shall shew thee, to the right hand, nor to the left. And the man that doeth presumptuously, in not hearkening unto the priest that standeth to minister there before the Lord thy God, or unto the judge, even that man shall die: and thou shalt put away the evil from Israel. And all the people shall hear, and fear, and do no more presumptuously."

vided for generations after the conquest. As an example of these, the leprosy laws may be mentioned. It is quite clear that the legislator met this difficulty by giving the Levites all the duties of the sons of Aaron, except only those within the veil and concerning the altar (Nu xviii 7). This was not the only instance of change due to the settlement; but in some cases the reasons are to-day too uncertain, on account of the washing out of the historical background, to make their discussion profitable in an essay of this character.

If the settlement in Canaan was necessarily a reason for changes in the law, it is no less true that the wanderings in the desert operated in the same direction. At an early period it had been enacted that laymen could kill burnt offerings and peace offerings, sheep and cattle, at an altar of earth or unhewn stone (Ex xx 24-26). It was found by experience that, in practice, offerings were made to the satyrs; and accordingly it was provided that the law of Exodus should be suspended for the desert period (Lev xvii 1-7). This is a very strong instance, for it shows that Moses did not hesitate to suspend his own laws when he found them working badly.

We have also clear indications that after the rebellion of Korah a change of some sort was made in the law, apparently as the result of the discontent of the people (Nu xviii 22). It is not now very easy to trace, but the words would seem to admit of no doubt, for what else could the expression "no more" indicate? It may well be that there have been other changes which are now obscured by the order of the text, but these are sufficient for our purpose.

Another passage should perhaps be mentioned in connection with our subject. In Lev x 16-20 we read how a ritual law of Moses was deliberately and, as the sequel shows, rightly disobeyed by the priests when the circumstances warranted it. The death of his two sons justified Aaron and their surviving brothers in burning a sin offering, which, according to the letter of the law, it was their

duty to eat. Clearly this is a precedent introducing a change into the ritual law. It was not effected by a decision on a question submitted to a tribunal nor by direct legislation; but the action of the priest, sanctioned as it was by the subsequent approval of the lawgiver, had the effect of enacting a necessary alteration. Here, then, we have another example of change.

There are a number of laws that are expressly stated to be statutes possessing whatever measure of permanence is indicated by the word עולם. Now this expression, standing by itself as an indication of time, and not employed as part of a more elaborate phrase, has several meanings. It denotes an indefinite future. Sometimes it expresses perpetuity, as where it is applied to God, but in other passages it merely implies permanence; as, for example, where it is used of a slave (Ex xxi 6, etc.). It is therefore necessary to weigh it carefully when applied to laws, to ascertain the exact force that should be given to it. Does it denote that the rule to which it applies is unchangeable, or merely that it is permanent, as contrasted with transitory provisions intended for a single occasion or a special period? A careful examination of its occurrences in the legal passages shows that it has the latter meaning. This may be seen clearly in the case of the very first of the laws to which it is applied — the command for the passover in Egypt (Ex xii). The passage is devoted to two purposes, the arrangements for the one historic occasion and the institution of the permanent commemorative festival. Verses 14–20 are clearly earmarked as permanent provisions by the use of the expressions עולם and “throughout your generations”; and if the matter stood there, we should not be able to decide between the two interpretations that appear possible. But in ver. 24 we get the phrase again, and this time it is used in connection with something that was altered before the first commemorative celebration took place.¹ Now a few weeks

¹“Then Moses called for all the elders of Israel, and said unto them, Draw out, and take you lambs according to your families,

later at Sinai we find it enacted that on this and two other occasions "all thy males shall appear before the Lord." This, of course, is incompatible with the observance of the Passover at home in the manner prescribed by the "ordinance for ever," which has just been quoted. If we turn to the account of the very first commemoration of the Passover, we find that the repeal of the statute for ever has already become operative (Nu ix 6-14). The technical language used (offer an oblation) applies only to sacrifice at the religious capital, not to a service in the home. Deuteronomy xvi 1-7 reinforces this. So far from contemplating a service at home, and a prohibition to go out of the door of the house until morning, it expressly forbids such celebration and does not permit a return home until the morning. This is a brilliant illustration alike of the meaning of עולם in legislation of this character and of the operation of the law of change and the weight assigned in the Mosaic system to alterations in the circumstances. With the erection of a House of God it became desirable to transfer to it certain religious observances, and accordingly a change is immediately made in an ordinance "for ever." And, as we shall see, this example does not stand alone.

and kill the passover. And ye shall take a bunch of hyssop, and dip it in the blood that is in the bason, and strike the lintel and the two side posts with the blood that is in the bason; and none of you shall go out of the door of his house until the morning. For the Lord will pass through to smite the Egyptians; and when he seeth the blood upon the lintel, and on the two side posts, the Lord will pass over the door, and will not suffer the destroyer to come unto your houses to smite you. And ye shall observe this thing for an ordinance to thee and to thy sons for ever. And it shall come to pass, when ye be come to the land which the Lord will give you, according as he hath promised, that ye shall keep this service. And it shall come to pass, when your children shall say unto you, What mean ye by this service? that ye shall say, It is the sacrifice of the Lord's passover, who passed over the houses of the children of Israel in Egypt, when he smote the Egyptians, and delivered our houses. And the people bowed the head and worshipped" (Ex xii 21-27).

On inspection of the passages in which this phrase is applied, it appears that the meaning "permanent" statute, due, etc., fits them perfectly. It is generally clear at the first glance that the context contains matter which makes it desirable to indicate that the particular law in question is not limited to the immediate application that might otherwise have been given to it. Thus, interspersed with the instructions for the erection of the tabernacle and the consecration of Aaron, we find the phrase applied to the perpetual lamp, the wearing of breeches by the priests, their washing, and the permanence of the institution of the priesthood (see Ex xxvii 21, xxviii 43, xxix 9, xxx 21, xl 15). Again, it is constantly used of the priestly dues (Lev vii 34, 36; x 15; Nu xviii 8, 11, 19). In Lev iii 17 it is employed to show that the consumption of blood and certain kinds of fat is prohibited not merely for the desert period or in the case of sacrifices brought to the religious center, but generally of all eating of flesh. Indeed, it is very frequently employed where there is reference to the desert or the tabernacle to denote that the particular laws in which it is used are to remain in operation after the entry into Canaan (see Lev xvi 29, 31, 34; Nu x 8, etc.). In Lev xxiii 14 there is a slightly different case, which, however, merely illustrates the same principle. There the phrase is used in a law which, otherwise, would be capable of bearing the interpretation that the provisions it contains were to be put into operation only in the first year after the entry into the land.

A similar remark appears to apply to the use of the expression עולם in connection with the destruction of cities. There are prophetic passages that threaten permanent overthrow, and there are others that promise the rebuilding of such places (contrast Isa xxv 2 and Ezk xxxv 9 with Isa lviii 12, lxi 4). The explanation is that in all such cases the word conveys the meaning of permanent rather than of everlasting.

But perhaps the strongest instance of the power to change is afforded by the case of the priesthood, where, as

we shall see, kings and prophets undoubtedly held that they had the right and the duty, in proper circumstances, to repeal laws to which this phrase is applied. As we shall have to deal with them at length hereafter, it is unnecessary to do more than just refer to them at this stage.

It was no part of the Mosaic scheme that the power to make such changes should come to an end with the law-giver's death. On the contrary, he expressly provides for change by a prophet in terms of the most emphatic character possible:—

“The Lord thy God will raise up unto thee a prophet from the midst of thee, of thy brethren, like unto me; unto him ye shall hearken; according to all that thou desiredst of the Lord thy God in Horeb in the day of the assembly, saying, Let me not hear again the voice of the Lord my God, neither let me see this great fire any more, that I die not. And the Lord said unto me, They have well said that which they have spoken. I will raise them up a prophet from among their brethren, like unto thee; and I will put my words in his mouth, and he shall speak unto them all that I shall command him. And it shall come to pass, that whosoever will not hearken unto my words which he shall speak in my name, I will require it of him. But the prophet, which shall speak a word presumptuously in my name, which I have not commanded him to speak, or that shall speak in the name of other gods, that same prophet shall die” (Dt xviii 15–20).

It will be observed that the power here given is the widest imaginable. The prophet is a substitute for a direct speech of God Himself. His position and power are in no way second to those of the lawgiver. And only two limitations are placed on him. He must not speak in the name of other gods, and he must be true to his office in saying only that which God has commanded. But subject to these qualifications, which merely mean that he is a true messenger of God, he has power to sweep away every law of the Pentateuch as completely as Moses himself could have done (with the exception of the Decalogue and a few other verses to be noted hereafter).

Absolute as this power is, it must be observed that in reality it merely amounts to this. God can do whatsoever He will, and may elect to do so through the instrumentality of a prophet. In one sense it is a self-evident proposition. Yet, when it is contrasted with the idea of rigidity so frequently associated with the Mosaic legislation, it is quite startling. Probably we shall best understand what was in the lawgiver's mind if we first consider some other passages, and then seek to interpret his meaning with the assistance of all the light that his acts and words can throw upon it.

Passages like Dt iv 2 and xiii 1 next claim attention. They, too, are emphatic enough, but if wrenched from their context they are liable to misunderstanding:—

“And now, O Israel, hearken unto the statutes and unto the judgements, which I teach you, for to do them; that ye may live, and go in and possess the land which the Lord, the God of your fathers, giveth you. Ye shall not add unto the word which I command you, neither shall ye diminish from it, that ye may keep the commandments of the Lord your God which I command you. Your eyes have seen what the Lord did because of Baal-peor: for all the men that followed Baal-peor, the Lord thy God hath destroyed them from the midst of thee. But ye that did cleave unto the Lord your God are alive every one of you this day” (Dt iv 1-4).

Here Moses is obviously thinking primarily of the immediate future. The passage is directed against acts of apostasy that might prove fatal to the success of the conquest. A similar remark applies to xiii 1 (xii 32), the position of which is significant. It is placed between a prohibition of adopting the abominable worship of the heathen (xii 29-31 and the law forbidding apostasy as the result of the signs given by false prophets or dreamers of dreams (xiii 2 ff. (1 ff.)). In reality, then, these admonitions do not bar the way to all change. But they do most emphatically bar the way to any change in the direction of the worship of other gods or the importation of the barbarous or immoral rites connected with the worship of such gods.

Here, we may clearly take it, is law that not even a prophet could alter; but when we scrutinize the terms of Dt xviii 15-22 we find the same thought again. Nay, more. This passage is the direct continuation of some verses that develop this idea in detail (ver. 9-14). No importation of the worship of any other God or of abominable practices from such worship can be sanctioned. "Thou shalt be perfect with the Lord thy God," and no deviation of any sort from the Mosaic law in that respect can be authorized by any prophet, whatsoever his credentials.

It is partly by contrasting this attitude with the examples of change that we have already noted that we may arrive at some clearer notion of the line of demarcation. The deputation that waits on Moses to point out that the working of his law of inheritance would be inequitable according to the ideas of that age, meets with a sympathetic reception, and secures a suitable modification of the law; but had a similar deputation appeared to urge that the practice of child burning or the worship of half a dozen other gods should be adopted into the religion, their reception would assuredly have been very different. In the one case the fundamentals of religion were not touched: in the other, they would have been severely menaced. Here the distinction appears with the utmost clearness. Now let us carry the argument a step further. Deuteronomy xx 9 contains a curiously archaic provision as to the appointment of captains of hosts at the head of the people when battle is imminent (cp. Ex xvii 9, Nu xxxi 6). It does not appear that this provision was ever carried into execution in post-Mosaic times. Joshua, for example, is never depicted in the book that bears his name as owing his leadership in battle to any such action, nor is it at all likely that the kings would ever have acted on such a law. On the contrary, such information as we have, suggests a regular military organization. We need only recall the positions held by Joab and Abner, and such passages as 2 K i 9, and especially 1 S viii 11, 12. Now it cannot be seriously suggested that the law had not by this

time fallen into desuetude, if, indeed, it had ever been anything but a dead letter. Yet it does not seem possible to hold that the virtual abolition of this law could be regarded as not falling within the powers of change bequeathed by Moses to the responsible leaders of the people. A law that contemplates such changes in the national organization as the erection of a strong executive (Dt xvii 14 ff.), which, as we know, was realized in the establishment of the monarchy, necessarily permits all such further changes as are inseparable from the effective creation and maintenance of the central power. It cannot be held that if Moses could have returned to his people and advised as to the true construction of his provisions at the date of the institution of the monarchy, he would have differed from the view taken by Samuel. Here, then, we have an instance of the actual repeal of a Mosaic law and the substitution of another, which, while doubtless in harmony with the lawgiver's ultimate desire, is in distinct contradiction of the letter of his enactment. The instance is the more weighty and significant because the innovation was reluctantly made by one who was himself not merely a great prophet, but also a pillar of conservatism and a strong opponent of the institution of the kingdom. He, if anybody, would have resisted the conferring of the power of appointing captains on the king and have maintained the obsolete provision of Dt, had that been the true intent of the Law; and the fact that we find him deliberately and very reluctantly enacting the conferment of this power on the king, and writing a law of the kingdom that contemplated such an innovation, is the strongest proof of the power to repeal and alter certain portions of the law. It is an admirable example of the working of the power given to the prophet by Dt xviii. From another point of view the episode is instructive. When the power is exercised, it is due to an overwhelming expression of the popular will. This is not an example of prophetic initiative. On the contrary, we see the people displaying a keen insight into the needs of the age and putting pressure on

the prophet, who finally uses his powers to give effect to their declared will.

When we compare this historical example with the wording of the laws we have already considered, it seems impossible to deny that the power of change contemplated by Moses extended over the whole of the secular field, and was to the full as wide as he could himself have exercised. We have seen that it most emphatically did not extend to anything in the nature of apostasy or to the Decalogue; but how of the rest of the religious sphere?

I confess that the result of my investigations in this matter has come as a surprise even to myself. It appears that enormous changes were introduced, generally by royal authority. Yet this is the very part of the field where the activity of prophet or priest might have been expected to overshadow that of the king. The whole initiative in the matter of building the temple comes from the king. Indeed, except for the consultation with Nathan in 2 S vii, we find no prophet or priest taking any part in it. That, however, may be explicable on the ground that the erection was really a matter of state, depending on suitable political, economic, and fiscal conditions. But it is more remarkable that the organization of the service of music is attributed by the Chronicler to the royal authority. That might surely have been expected to fall within the jurisdiction of some purely religious functionary. The king, too, arranges comparatively small matters of worship. Thus Ahaz had a new altar constructed on the model of one he had seen in Damascus, and gave detailed directions as to the use to be made of this and the old altar (2 K xvi 10 ff.). Still it may perhaps be said that as the existence of the temple was due to the royal exertions, it was reasonable that the kings should exercise a measure of control over its services. There are, however, far more cogent instances of the exercise of legislative authority in religious matters. Solomon made a change in the family exercising the high priesthood (1 K ii 26 f.); and while the narrator refers, in this connection, to the activity of

an earlier prophet, it is clear that the king's action was due to Abiathar's treason. In any case we find here a distinct repeal of a Mosaic statute, and the language used makes it quite clear that this was recognized and regarded as legal and proper. "I said indeed that thy house and the house of thy father should walk before me for ever; but now the Lord saith, Be it far from me" (1 S ii 30). Whatever divergence of opinion be possible as to the respective parts played in the change by king and prophet, this much is beyond contradiction. The sacred historians make it plain that a lawful and proper change in the devolution of the high priesthood was effected in the teeth of an earlier Mosaic law, and that one which was expressed to have been made "for ever" or—as I should prefer to render the phrase—"permanently." A further change—one of several—was effected in the Northern Kingdom by Jeroboam when he made priests from among the people which were not of the sons of Levi (1 K xii 31). It is true that this and other innovations of Jeroboam are mentioned with condemnation by the author of Kings. But the point is that the legislative authority was in fact exercised, and that nobody questioned the royal jurisdiction in the matter, though the gravest exception was taken to the use to which it was put. Similar remarks apply to the other innovations of this king. Now when this and other religious changes of monarchs in Judah and Israel that are condemned are compared with the institutions attributed by the Chronicler to David with approval, it seems impossible to avoid the conclusion that the king was regarded as having, by virtue of his office, great legislative authority, even in matters of religion.

The strongest possible instance of the royal power over religious legislation is, however, provided by the attitude of the prophet Ezekiel towards one of the worst abuses. We have seen how emphatically Deuteronomy prohibits the practice of passing children through the fire. The custom, nevertheless, found its way into the popular re-

ligion of the two kingdoms, and we have a good deal of information about it:—

“But he walked in the way of the kings of Israel, yea, and made his son to pass through the fire, according to the abominations of the heathen, whom the Lord cast out from before the children of Israel” (2 K xvi 3).

“And they caused their sons and their daughters to pass through the fire, and used divination and enchantments, and sold themselves to do that which was evil in the sight of the Lord, to provoke him to anger” (2 K xvii 17).

“And he made his son to pass through the fire, and practised augury, and used enchantments, and dealt with them that had familiar spirits, and with wizards: he wrought much evil in the sight of the Lord, to provoke him to anger. . . . But they hearkened not: and Manasseh seduced them to do that which is evil more than did the nations, whom the Lord destroyed before the children of Israel. And the Lord spake by his servants the prophets, saying, Because Manasseh king of Judah hath done these abominations, and hath done wickedly above all that the Amorites did, which were before him, and hath made Judah also to sin with his idols: therefore thus saith the Lord, the God of Israel, Behold, I bring such evil upon Jerusalem and Judah, that whosoever heareth of it, both his ears shall tingle. And I will stretch over Jerusalem the line of Samaria, and the plummet of the house of Ahab: and I will wipe Jerusalem as a man wipeth a dish, wiping it and turning it upside down. And I will cast off the remnant of mine inheritance, and deliver them into the hand of their enemies; and they shall become a prey and a spoil to all their enemies; because they have done that which is evil in my sight, and have provoked me to anger, since the day their fathers came forth out of Egypt, even unto this day” (2 K xxi 6, 9-15).

“And he defiled Topheth, which is in the valley of the children of Hinnom, that no man might make his son or his daughter to pass through the fire to Molech” (2 K xxiii 10).

“They did not destroy the peoples,
As the Lord commanded them;
But mingled themselves with the nations,
And learned their works:
And they served their idols;
Which became a snare unto them:

Yea, they sacrificed their sons and
 their daughters unto demons,
 And shed innocent blood, even the blood
 of their sons and of their daughters,
 Whom they sacrificed unto the idols
 of Canaan;
 And the land was polluted with blood.
 Thus were they defiled with their works,
 And went a whoring in their doings.
 Therefore was the wrath of the Lord
 kindled against his people,
 And he abhorred his inheritance" (Ps cvi 34-40).

"For this city hath been to me a provocation of mine anger and of my fury from the day that they built it even unto this day; that I should remove it from before my face: because of all the evil of the children of Israel and of the children of Judah, which they have done to provoke me to anger, they, their kings, their princes, their priests, and their prophets, and the men of Judah, and the inhabitants of Jerusalem. And they have turned unto me the back, and not the face: and though I taught them, rising up early and teaching them, yet they have not hearkened to receive instruction. But they set their abominations in the house which is called by my name, to defile it. And they built the high places of Baal, which are in the valley of the son of Hinnom, to cause their sons and their daughters to pass through the fire unto Molech; which I commanded them not, neither came it into my mind, that they should do this abomination; to cause Judah to sin" (Jer xxxii 31-35).

These passages give us a fairly clear idea of what happened. The evils that Moses had foreseen came to pass. First, the Northern Kingdom adopted this abuse. Later it found its way into the Southern. It had royal authority, but was contrary to well-known religious law. "I commanded them not, neither came it into my mind that they should do this abomination."

And yet the prophet Ezekiel, in referring to this matter, attributes the law to God Himself,—

"Moreover also I gave them statutes that were not good, and judgements wherein they should not live; and I polluted them in their own gifts, in that they caused to pass

through the fire all that openeth the womb, that I might make them desolate, to the end that they might know that I am the Lord" (xx 25 f.), —

though later in the same chapter he condemns the action of the Israelites in this matter with the greatest emphasis (ver. 30 f.; cp. xvi 20 f.). He uses this extraordinary phrase "I gave them statutes that were not good." "I"—although these were the actions of Ahaz, and to a greater extent of Manasseh, introducing these abuses in the teeth of all former law and practice. Could there be a more extreme assertion of the prophet's view of the Divine authority of the king in matters of religious legislation? This attitude may perhaps be illustrated by a contrast with the state of affairs at a much earlier date. In 1 S ii 12-17 we read of an abuse which was incomparably more venial than Manasseh's. Eli's worthless sons claimed a priestly due before the fat had been burnt, and insisted that it should consist of meat which had not been boiled. Apparently this practice was not allowed to pass without remonstrance (ver. 16), and incurred grave censure in contemporary public opinion. The contrast between these two passages inevitably suggests various reflections. There is no suggestion that God was in any way responsible for the wickedness of the priests — no, "I gave them statutes that were not good." The priests were obviously regarded as devoid of legislative authority. They were there to apply the existing law, and had no power to modify it in any way. And the impression left by the passage is that there was considerably more individual liberty of thought in religious matters than under the developed monarchy.

The attitude of the prophet towards Manasseh's sins is really most instructive from several points of view. Ezekiel clearly knew as well as anybody both that there existed a wide power to change the religious law, and that there were some recognizable limitations on the way in which that power should be exercised. We shall see more of his conception of the power when we come to consider his own changes. What is particularly striking here is that he

does not yet realize the distinction between constitutional and other laws with which much of modern political thought and practice has made us familiar. In some countries, such as England to-day, there exists no difference in the power of the legislature over these two branches. The Crown in Parliament could at any moment sweep away the whole fabric of English law on any and every topic, and substitute an entirely different edifice. But in many countries, e. g. the United States, a distinction exists between ordinary laws and constitutional laws, that are regarded as being of such fundamental importance as to be removed from the process of ordinary legislation, and to be subject to change only after some special procedure has been observed, and sometimes not at all. Any attempt by the ordinary legislature to alter constitutional laws in any but the specially appointed fashion would bring into play the checks appointed by the Constitution for preventing such action. Now in ancient Israel no such difference of machinery existed. There was nothing that could be regarded as legally *ultra vires* of the king; or, rather, there was no method of testing or disallowing acts that might be, in modern parlance, unconstitutional. In the Mosaic legislation the distinction itself in fact exists, as I have endeavored to show, but no machinery is provided for enforcing it. In America, for example, if the legislature passes an unconstitutional law, the Supreme Court will hold it to be bad in any proceedings that may arise under it. But in Israel and Judah the king seems to have been himself the supreme and ultimate court, and there was no tribunal in either kingdom that could inquire into the legality of his actions. Hence the way in which Ezekiel in one breath ascribes these statutes to God and in the next fulminates in the severest terms against the conduct of those who acted on them. And the passage has yet another lesson for us. It shows that the individual was not regarded as being in the reign of Manasseh under a duty to disobey the king at the bidding of conscience. That might perhaps be expected of a prophet, but

not of an ordinary non-prophetic subject of the king. That is a point of view to the disappearance of which in the future the prophets look forward. Before leaving this passage it is well to remark once more how completely it assumes the existence of the power of change. The description "statutes that were not good, and judgements wherein they should not live" necessarily carries with it the idea that an unquestionable power exists to abolish them and substitute statutes that are good, and judgements wherein men can and should live. And *that* description with *that* power is applied to what "I"—God—on the ordinary and normal theory of legislation held in the prophet's day, was regarded as having given. Could a more cogent proof of the power of change be conceived?

It is in this connection that we may most conveniently consider Ezk xl-xlviii. This passage was necessarily regarded as an insoluble crux so long as the place accorded by Moses to the principle of change was not understood; but in reality it presents little difficulty when once the basic principles of his legislation are firmly grasped. Since the wilderness period, considerable alterations had taken place in the circumstances of the sacrificial worship, and had given rise to innovations of various kinds. Some of these, such as the musical services, were of recognized excellence and called for no reform. Accordingly the prophet lays down no new rules regarding them. But in a number of matters circumstances had changed very materially since the Mosaic age. Here new regulations were essential if the objects contemplated by the spirit of the legislation were to be attained. One of the most interesting examples is provided by the effect of increased wealth and refinement on the rules for individual sacrifices. Leviticus i ff. contemplates slaughter of the sacrificial victim by the worshiper who offers it. That is a practice that could be carried into effect only when the animals offered were few in number, and the state of society was such that its leaders did not object to performing duties of this kind. It was inevitable that, as luxury

increased, this should become both distasteful and impracticable. Early in the history of the monarchy we find Solomon presenting sacrifices of such magnitude as to exclude the possibility of his killing the animals himself, even if he had found the task congenial. Accordingly we are not surprised to learn, from references in the prophets, that a custom grew up of delegating this work to "aliens uncircumcised in heart and uncircumcised in flesh" (Ezk xlv 6-16). Ezekiel naturally entertained the strongest objections to this practice. For him every person and object connected with the house of God was in a position that demanded absolute holiness, and it was a sort of a profanation to entrust ritual duties, even of a subordinate type, to heathen slaves. Accordingly he takes measures to remedy this, and the instance is very instructive as showing yet another deliberate and lawful modification of a Mosaic statute. In the wilderness the Levites had been entrusted with special duties in connection with the transport of the Tabernacle, but these had ceased with the settlement, and thenceforth they had been simply the priestly tribe, standing on an equality, for most if not all purposes, with the sons of Aaron. Unless the Chronicler's genealogies be accepted as strictly historical — and it must be remembered that he himself twice professes to be quoting midrash — the transfer of the high priesthood from Eli's house was a transfer from the line of Aaron to another Levitical family. Jeroboam, as we have noticed, made priests of non-Levitical Israelites; and this is urged against him in Kings (1 K xii). Now Ezekiel proposes a further change in the opposite direction. Far from raising non-Levites to priestly rank, he provides that those Levitical families which had proved faithless in the past should be deprived of the privileges they had hitherto enjoyed, and be utilized for the performance of the duties that had been allowed to fall into heathen hands. At the same time he practically reenacts for the Zadokites the Mosaic provisions for the sons of Aaron with a few modifications, which appear to be due to the teachings of ex-

perience and to Ezekiel's general intensification of the principle of holiness. A more interesting provision than the minor changes is perhaps to be found in xlv 24, where the prophet appears to assign to the priests judicial functions. His meaning is not quite clear. It may be that he only intends to convey that priests are to be members of the supreme court of Dt xvii. If that is the case, it involves no change from the Mosaic enactment. But if he means to assign to the priests the exercise of judicial functions generally, then he is undoubtedly changing both the provisions of the Mosaic law and the practice under the monarchy (1 K xxi).

Several of the other provisions of the vision are due to the erection of the kingdom and the resulting changes in circumstances. Thus the prophet enacts rules relating to the royal sacrifices with which we meet in 2 K xvi 15. From the nature of the case, Moses had not dealt with these matters nor with any ritual obligations of the king. A similar remark applies to the royal land law of xlvi 16 ff. These and many of the prophet's ritual additions are to be regarded as simply additions due to the new circumstances of the age. They do not imply actual change. But his proposals for a new division of the land on the restoration stand on a different footing. While we may question whether his ideas were in all cases such as to accord with the necessities of the physical conditions of the country, there can be no doubt at all that Ezekiel conceived that the old law was not binding, on a return from the exile, in such a way as to preclude a complete rearrangement in accordance with his conception of holiness. For him all these Mosaic laws were just so much machinery which could be altered in a suitable case, and by competent authority, in order to carry out the real design more effectually. He, if anybody, was in sympathy with the Mosaic command, "Ye shall be perfect with the Lord"; but he did not in any way interpret this as blocking the path to any change that was consistent with this supreme

principle. In this he was entirely at one both with the practice and the precept of the lawgiver.

Fresh legislation was introduced by Ezra and Nehemiah, and it is interesting to observe the reasons and the methods. In their case it is probable that nothing was further from their thoughts than to introduce any substantial modification into the Law as they understood it. It is not to this age that we must look for any repeal of a Mosaic statute. But, nevertheless, the force of circumstances is stronger than the desires or views of men; and, as a result of the changed conditions, the leaders found that even to give effect to the Mosaic provisions fresh legislation was necessary. Leviticus vi 5 (12) contemplates the burning of wood on the altar. There is, however, no provision as to how the wood was to be obtained. In the pre-exilic period this gave rise to no difficulty, for Joshua had made the Gibeonites hewers of wood for the purpose (Josh ix 27). Now, however, this resource was not available. The national offerings are enjoined by the law, but nothing is said as to the way in which the animals and vegetable products of which they consisted were to be obtained. We do not know how they were provided in the earlier periods. Possibly the cattle of the priests and the share of the booty given to the sanctuary after victorious campaigns were drawn upon to support the services of Shiloh. Or voluntary contributions may have been sufficient for the purpose. We have already considered the views of Ezekiel on the subject. To provide for this difficulty a tax of a third of a shekel was introduced. In the Mosaic period the ransom received from the census was allotted to this (Ex xxx 16), and it is probable that the redemption money of the first-born was intended to provide the necessary revenue. In any case that had doubtless long since been diverted to the personal use of the priests. To these were added the general obligation to keep the whole law, and specific obligations to observe the most burdensome portion of it, including the new interpretation which forbade all intermarriage with the people of the land.

Moses, it will be remembered, had only prohibited unions with certain specified races while countenancing other intermarriages (Nu xxxi 18, Dt xxi 10 ff.). These various provisions were now embodied in a covenant which was duly executed by the responsible leaders of the people (Neh x). While it is true that its provisions were in the main ancillary, and designed only to carry out indubitable Mosaic provisions, there can be no doubt that in effect new law was introduced. Stress must, however, once more be laid on the fact that here we are already in a period when the Law was regarded as virtually unchangeable by the process of direct legislation. That of course does not mean that it was altogether unchangeable, for it is a truism of legal history that an unchangeable code compels its administrators to resort to legal fictions and subtleties of interpretation to meet the changing needs of society. But no such direct power of overt alteration as had been contemplated and exercised by Moses and the kings and the prophets is now regarded as being within the scope of the community. Why did this change take place? The reason is so clear that he who runs may read. The power of change had been so thoroughly abused by the monarchs who had been guilty of apostasy and abominable practices, that the prophets had thundered against disobedience to the Divine statutes as the cause of the national misfortunes. Their language was perfectly accurate for those who interpreted it correctly; but, with the withering of prophecy and the construction placed on certain dicta of Moses and the prophets, it came about that an essential part of the Mosaic legislation—the power to change—fell into desuetude. Unconstitutional changes had been the cause of disaster. Hence the pendulum swung the other way, and all direct change was excluded in an age that could not distinguish between fundamental and non-fundamental laws, and could only guard against improper change by abandoning the power to make any change at all. And so ultimately the lack of the necessary constitutional machinery to enforce a distinction between funda-

mental and other laws operated once more to defeat the lawgiver's intention. Under the kingdom it had the effect of opening the door to the most abominable and unconstitutional practices. Now, on the other hand, it produced an inability to repeal or alter any law whatever by direct methods, however desirable or beneficial or requisite such change might be. Both phases alike appear to be contrary to what we have seen to be the true meaning of the law.

A time came when formal prophecy ceased. The office of prophet in the old sense was to exist no longer:—

“And it shall come to pass in that day, saith the Lord of hosts, that I will cut off the names of the idols out of the land, and they shall no more be remembered: and also I will cause the prophets and the unclean spirit to pass out of the land. And it shall come to pass that, when any shall yet prophesy, then his father and his mother that begat him shall say unto him, Thou shalt not live; for thou speakest lies in the name of the Lord: and his father and his mother that begat him shall thrust him through when he prophesieth. And it shall come to pass in that day, that the prophets shall be ashamed every one of his vision, when he prophesieth; neither shall they wear a hairy mantle to deceive: but he shall say, I am no prophet, I am a tiller of the ground; for I have been made a bondman from my youth. And one shall say unto him, What are these wounds between thine arms? Then he shall answer, Those with which I was wounded in the house of my friends” (*Zech* xiii 2-6).

That is the doom of the formal institution. Nobody would be a professional prophet, wearing the garb of the office and belonging to a well-recognized calling. Is that, then, the end of development and of lawful change? Does the passage mean that, in the view of the prophet, no further alteration can take place, or that the Divine spirit had ceased to perform the functions in Israel that ruled the people's development? There are other passages in the prophetic writings which enable us to answer these questions in the negative. In the thought of the prophets, as fully as in that of Moses, change and the outpouring

of God's spirit are as necessary as ever. But the form is to alter. "Would God that all the Lord's people were prophets, that the Lord would put his spirit upon them" (Nu xi 29). That is the prayer of the lawgiver, and the thought that it contains was never lost. In one of the sublimest of all the Biblical prophecies we meet the promise of the continuance of the spirit. The passage is so clear that it is extraordinary that there should be commentators who cannot understand it:—

"And a redeemer shall come unto Zion, and unto them that turn from transgression in Jacob, saith the Lord. And as for me, this is my covenant with them, saith the Lord: my spirit that is upon thee, and my words which I have put in thy mouth, shall not depart out of thy mouth, nor out of the mouth of thy seed, nor out of the mouth of thy seed's seed, saith the Lord, from henceforth and forever" (Isa lix 20 f.).

The expression "my spirit that is upon thee" only means what it says. The prophetic spirit under the influence of which these words were composed, is to rest on them that turn from transgression in Jacob. That of course may not mean either continuously or on every individual. But at the very least it means a continuance from time to time of the communion of the spirit of God (at any rate with individuals representing the class indicated), which shall be comparable with its communion with the prophet. It is in no wise in conflict with the passage from Zechariah that we have just considered. That refers to the professional institution, the husk; this to the spiritual experience, the kernel. To Isaiah, as to Moses, the spirit of the Lord in this passage meant the full spiritual endowment of the prophet, whether or not the external trappings like the hairy mantle were present. And the thought of this passage recurs in a somewhat different form in other prophets:—

"But this is the covenant that I will make with the house of Israel after those days, saith the Lord; I will put my law in their inward parts, and in their heart will I write it; and I will be their God, and they shall be my

people: and they shall teach no more every man his neighbour, and every man his brother, saying, Know the Lord: for they shall all know me, from the least of them unto the greatest of them, saith the Lord: for I will forgive their iniquity, and their sin will I remember no more" (Jer xxxi 33-34).

That passage, with its promise of a new covenant, is strongly suggestive of change. But in its contemplation all the people will know the Lord, and it must be doubted whether Jeremiah does not conceive the people under the new dispensation as receiving the prophetic spirit. This passage, however, standing by itself, would be susceptible of a different explanation, and cannot therefore be regarded as decisive if separated from the other prophecies.

A very important oracle for our present purpose is Joel iii 1-5 (ii 28-32):—

"And it shall come to pass afterward, that I will pour out my spirit upon all flesh; and your sons and your daughters shall prophesy, your old men shall dream dreams, your young men shall see visions: and also upon the servants and upon the handmaids in those days will I pour out my spirit. And I will shew wonders in the heavens and in the earth, blood, and fire, and pillars of smoke. The sun shall be turned into darkness, and the moon into blood, before the great and terrible day of the Lord come. And it shall come to pass, that whosoever shall call on the name of the Lord shall be delivered: for in mount Zion and in Jerusalem there shall be those that escape, as the Lord hath said, and among the remnant those whom the Lord doth call."

Here there can be no doubt whatever as to the prophet's meaning. The prophetic spirit will rest on the whole people. It is noticeable that here, as elsewhere, the promise is limited to the restored people, and does not embrace the Diaspora. Just as the Mosaic law contemplated alteration only through the duly constituted organs of the people established in its own territory, so the prophets contemplate the bestowal of the prophetic spirit only on the reestablished nation.

Now it would undoubtedly be a misreading of these

passages to interpret them in a narrow legal sense. It cannot be argued that the prophetic spirit here contemplated applies only to legislation, to the exclusion of everything else. What is intended is the full prophetic spirit—the communion with God in its most complete and all-embracing aspect. No faculty possessed by a prophet will be withheld from the restored Israel. But for that very reason the passages embrace the power of change that inhered in the prophetic office,—in regard alike to institutions and to thought. Development is not prevented or checked. On the contrary, it is facilitated by the prophetic conceptions.

The results of our inquiry may apparently be summarized somewhat as follows. So far from enacting an immutable law, which was intended to be valid in all its details for all time, Moses carefully distinguished between that which was unalterable and that which could be, and in fact was, changed freely by himself and others as opportunity demanded. While the Decalogue is not subject to change, the only other parts of the legislation to which this applies are the laws which prohibit any form of apostasy, or the worship of other gods, and the introduction of the heathen or immoral rites or accessories, or any form of immorality into the worship of God. The expression *לעלם* applied by itself to a law does not mean that it is not subject to alteration or repeal. It simply means that it is a permanent enactment, subject at any time to the same power of change or abrogation as ordinary legislation. In one case we have seen that one of these laws was modified by Moses himself within a few weeks of its introduction. This view of the power to change legislation lasted unimpaired for many centuries. It was exercised by prophets and kings usually without question. Unfortunately the royal power in this matter was too often abused: and the very provisions of the law that were undoubtedly intended to be immutable were attacked by the ordinances of kings who were faithless to the religion. In

the autocratic constitution of those days there was no possible check on the abuse of the royal power, and the monarch's right extended so far that Ezekiel can even speak of God as having given statutes that were not good and punishing the people that observed them, when the reference is to royal enactments that were admittedly *ultra vires* of any human authority under the terms of the Law. The misfortunes of the people ultimately burnt in upon them the wickedness of their past conduct, and an entirely new tendency began to assert itself. According to this, the letter of the Law of Moses came to be regarded as unalterable for all time. This was in complete conflict alike with the provisions of the Pentateuch and the practice and intent of the lawgiver and of all the kings and prophets. In the thought of the greatest of Israel's religious guides the power of change within the limits prescribed by Moses was never abrogated or curtailed. Yet one great development there undoubtedly was. The formal office of prophet was abolished, and the promise was made that the Divine spirit which had rested on the greatest of the religious leaders should descend on the people restored to their land,—

“As for me, this is my covenant with them, saith the Lord: my spirit that is upon thee, and my words which I have put in thy mouth, shall not depart out of thy mouth, nor out of the mouth of thy seed, nor out of the mouth of thy seed's seed, saith the Lord, from henceforth and for ever” (Isa lix 21).