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A table of contents for *Journal of Biblical Literature* can be found here:

https://biblicalstudies.org.uk/articles_jbl-01.php

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THE CASE FOR THE POST-EXILIC ORIGIN
OF DEUTERONOMY

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THE first advocate of a post-exilic date for Deuteronomy, so far as I know, was C. P. W. Gramberg in 1829.¹ He was followed in 1835 by W. Vatke,² and in 1876 by L. Seinecke.³ Certain French critics of the school of Edouard Reuss, namely, G. D'Eichtal (1886),⁴ M. Vernes (1887),⁵ L. Horst (1887)⁶ came to similar conclusions. A German ally also appeared in S. A. Fries (1903).⁷ In England the theory of the late date of Deuteronomy was first proposed by J. Cullen (1903)⁸ and R. H. Kennett (1906).⁹ None of these works attracted much attention at the time of their

¹ *Kritische Geschichte der Religionsideen des Alten Testaments*, pp. xxvi, 153ff., 305ff.

² *Die Religion des Alten Testaments*, i, pp. 504ff.

³ *Geschichte des Volkes Israel*, i, pp. 386ff.

⁴ *Mélanges de critique biblique*.

⁵ *Une nouvelle hypothèse sur la composition du deutéronome; Précis d'histoire juive*.

⁶ "Études sur le deutéronome," *Revue de l'histoire des religions*: xvi, 28ff.; xvii, 1f.; xviii, 320ff.; xxiii, 184ff.; xxvii, 119ff.

⁷ *Die Gesetzesschrift des Königs Josias*.

⁸ *The Book of the Covenant in Moab*.

⁹ "The Origin of the Aaronite Priesthood," *Journal of Theological Studies*, vi, 1905, pp. 161-186; vii, 1906, pp. 620-624; "The Date of Deuteronomy," *Journal of Theological Studies*, vii, 1906, pp. 481-500.

publication, and they exerted no influence upon general critical opinion.

The modern phase of the post-exilic theory of Deuteronomy begins in 1920 with G. R. Berry's article on "The Code found in the Temple,"¹⁰ and R. H. Kennett's work on *Deuteronomy and the Decalogue*. In 1922 G. Hölscher published an elaborate article entitled "Komposition und Ursprung des Deuteronomiums."¹¹ He begins by determining the limits of *Urdeuteronomium*, in substantial agreement with Steuernagel and Hempel. As to the date of *Urdeuteronomium*, he remarks: "It grows more and more difficult to regard Deuteronomy as a law-book from the time of Josiah, or from any period of the pre-exilic age, much less as an authoritative and officially recognized law-code introduced into the pre-exilic kingdom of Judah."¹² "Deuteronomy originated in the same priestly circles which later showed themselves hostile to Nehemiah . . . It was not officially introduced as a law-book, but a program of reform prepared under priestly auspices."¹³ In 1923 Friedrich Horst published an article entitled "Die Anfänge des Propheten Jeremia,"¹⁴ and another entitled "Die Kultusreform des Königs Josia,"¹⁵ in both of which he enthusiastically supported Hölscher's theory of the post-exilic origin of Deuteronomy. "Hölscher," he says, "on the basis of the study of Deuteronomy itself, has recently propounded the thesis that Deuteronomy was not produced before 500, and practically was never put into operation. The great advantages of this theory for the understanding of the last stages of the Israelite religion and of the beginnings of Judaism are obvious."¹⁶

These newer discussions have attracted considerable attention, and have received favorable notice from a number of critics,

¹⁰ "The Code Found in the Temple," *JBL*, xxxix, 1920, pp. 44-51.

¹¹ *ZATW*, xl, 1922, pp. 161-255.

¹² *Ibid.*, p. 162.

¹³ *Ibid.*, pp. 252f.

¹⁴ *ZATW*, xli, 1923, pp. 94-153.

¹⁵ *ZDMG*, lxxvii, 1923, pp. 220-238.

¹⁶ *ZDMG*, lxxvii, 1923, p. 226.

such as Burkitt¹⁷ and Spiegelberg.¹⁸ On the other hand, they have called forth vigorous opposition from Freed,¹⁹ Hans Schmidt,²⁰ Caspari,²¹ Eissfeldt,²² Gressmann,²³ König,²⁴ Elhorst,²⁵ Sellin,²⁶ Nowack,²⁷ Budde,²⁸ J. M. P. Smith,²⁹ and W. L. Graham.³⁰ The debate is being carried on with great zeal in both camps, so that it is fair to say that at the present moment the problem of the date of Deuteronomy is a very live question.

From the nature of the case this theory assumes the form of a polemic against the current view that Deuteronomy was written in the seventh century B. C. This view, which has prevailed ever since De Wette's *Dissertatio Critica* in 1805, rests upon four main arguments: (a) Deuteronomy was unknown to the literature, or to the religious practice of Israel, before the time of Josiah; (b) Deuteronomy was the code found in the Temple that was the basis of Josiah's reformation; (c) Deuteronomy was known to Jeremiah, and to other writers after the time of Josiah; (d) the internal evidence shows that the code was written in the seventh century.

¹⁷ "The Code found in the Temple," *JBL*, xl, 1921, pp. 166f.

¹⁸ "Zur Datierung des Deuteronomiums," *OLZ*, xxvi, 1923, col. 481f.

¹⁹ "The Code Spoken of in II Kings 22-23," *JBL*, xl, 1921, pp. 76-80.

²⁰ Review of Hölcher, *Th. Blätter*, ii, 1923, col. 223ff.; *TLZ*, xlviii, 1923, cols. 289-292.

²¹ "Weltreichbegebenheiten bei dem Deuteronomisten?" *OLZ*, xxvii, 1924, cols. 8-10.

²² Review of Horst, "Kultusreform," und "Anfänge des Propheten Jeremia," *TLZ*, xlix, 1924, cols. 224f.

²³ "Josias und das Deuteronomium," *ZATW*, xlii, 1924, pp. 313-337.

²⁴ "Stimmen Ex. 20, 24 und Dtn. 12, 13f. zusammen?" *ZATW*, xlii, 1924, pp. 337-346.

²⁵ "Die Deuteronomischen Jahresfeste," *ZATW*, xlii, 1924, pp. 136-145.

²⁶ *Geschichte des jüdisch-israelitischen Volkes*, i, 1924, pp. 282ff.

²⁷ "Deuteronomium und Regum," *Festschrift für Marti, Beiheft zur ZATW*, xli, 1925, pp. 221-231.

²⁸ "Das Deuteronomium und die Reform König Josias," *ZATW*, xlii, 1926, pp. 177-224.

²⁹ "The Recent History of Old Testament Interpretation," *Jour. Rel.*, vi, 1920, pp. 403-424.

³⁰ "The Modern Controversy about Deuteronomy," *Jour. Rel.*, vii, 1927, pp. 396-418.

Let us now consider in some detail the ways in which these four main arguments for the current theory of the age of Deuteronomy are treated by the school of Gramberg.

a) **Ignorance of Deuteronomy before the Time of Josiah.**—This argument is, of course, accepted by advocates of the late date, only they claim that ignorance of Deuteronomy continued down to the time of Nehemiah.

b) **Deuteronomy was the Basis of Josiah's Reformation.**—2 Ki. 22–23 records that a book was found in the Temple in the eighteenth year of Josiah. This was endorsed by the prophetess Huldah, and was made the basis of a thoroughgoing reformation undertaken by Josiah. Some twenty-six clues are given as to the contents of this law-book. These show close correspondence with Deuteronomy, and with Deuteronomy only:

	2 Kings	Deuteronomy
Book of the Torah	22 8, 11	17 18; etc.
Covenant	23 2, 3, 21	17 2; 28 69; etc.
Torah of Moses	23 25	1 5; 31 9; etc.
Words of the book	22 13, 16	31 24
Worship Yahweh only	22 17a; 23 3	5 6; 6 4; etc.
Keep commandments	23 3	11 1; 13 6
With heart and soul	23 3	13 4; etc.
Hearken to words	22 13	18 19; etc.
No foreign gods	22 17b; 23 4, 13	6 14; 8 19; 11 28; etc.
No star-worship	23 4, 5, 11, 12	4 19; 17 3
No Canaanite gods	23 5b, 8b, 10	7 16
No high places	23 5a, 8a, 13	7 5; 12 2
No idols	23 24	7 5, 25; 12 3
No standing stones	23 14	7 5; 12 3
No Asherim	23 6, 14	7 5; 12 3
No necromancy	23 24	18 11b
No child-sacrifice	23 10	12 31; 18 10
No temple-prostitutes	23 7	23 17f.
Central sanctuary	23 5a, 8, 13, 15, 19, 23	12 5–14; etc.
Priests of high places	23 8a, 9	18 6–8
Passover	23 21–23	16 5–7
Wrath kindled	22 13, 17	11 17
Curses written	22 13	29 20

Bring evil	22 16	31 17, 21, 29a
Provoke anger	22 17	31 29b
Astonishment, curse	22 19	28 37

This comparison makes it certain, if we accept the narrative of Kings as it now stands, that Josiah's book was Deuteronomy. This identification is the cornerstone of De Wette's theory of the date of this book.

It is generally conceded by the school of Gramberg that the editor of Kings intended to represent Josiah's reformation as based on Deuteronomy. As Seinecke remarks: "It is almost universally assumed that Josiah's book was Deuteronomy; and, according to the conception and statements of the Second Book of Kings, no other book is meant."³¹ Hölcher patronizingly remarks: "From the point of view of the Old Testament science of the nineteenth century the proof of this theory seemed quite obvious. The reforms of Josiah can be explained for the most part by the laws of Deuteronomy; and part of them can be explained only by Deuteronomy, particularly the law commanding the destruction of the high places (Dt. 12; 2 Ki. 23 8, 16)."³² F. Horst also admits: "As a matter of fact it is difficult to deny that the narrative of this reform, as we find it in the respective two chapters of the Book of Kings, unconditionally demands the equation of the law-book there mentioned with Deuteronomy."³³ Advocates of the post-exilic date of Deuteronomy are forced therefore to assert that the account of Josiah's reforms in Second Kings is historically untrustworthy.

(1) *Rejection of the Entire Narrative of 2 Kings 22-23.*—The French school of D'Eichtal, Vernes, and L. Horst rejects the whole account of 2 Ki. 22-23 as an invention of the Deuteronomic editor of Kings. They argue that we do not trust the Deuteronomic farewell address of David,³⁴ nor Solomon's Deuteronomic prayer,³⁵

³¹ *Geschichte*, i, p. 386.

³² *ZATW*, xl, 1923, p. 231.

³³ *ZDMG*, lxxvii, 1923, p. 221.

³⁴ 1 Ki. 2 2-4.

³⁵ 1 Ki. 8 14-53.

nor Hezekiah's removal of the high places:³⁶ why then should we trust this Deuteronomic account of Josiah's reformation? The whole story is a fiction of the editor of Kings, designed to represent Deuteronomy as a pre-exilic code, sanctioned by the prophets, and introduced by King Josiah. No book was discovered, and no reformation was undertaken.

This drastic treatment of 2 Ki. 22-23 has the merit of self-consistency in the rejection of all the passages in Kings that show knowledge of Deuteronomy, but it is open to the objection that these particular chapters as a whole show the marks of historical credibility. Hölcher himself concedes: "It must be admitted at the outset that this narrative in its essential elements has extraordinary historical value. This is shown by details which cannot have been invented: the exact dating of the events, all the exact names of the royal officials, the prophetess and her husband, the governor of the city and the eunuchs, and all the extraordinary forms of worship that Josiah removed, such as the high places of the satyrs, the horses of the sun, and the chariot of the sun. If a genuine historical tradition is not found here, then such a tradition is not to be found anywhere."³⁷

(2) *Documentary Analysis of these Chapters.*—German and English critics who maintain the post-exilic origin of Deuteronomy differ from the French school in regarding the main features of the narrative of Kings as historical. They accept the finding of a book, its endorsement by Huldah, and the reformation on the basis of its teaching; but they deny that this book was Deuteronomy. They accept the reforms that were aimed at foreign heathenism as derived from an old record; but claim that these were not based on Deuteronomy, but on the Prophets, who, like Deuteronomy, condemned alien gods and their cults. Only the three reforms that are characteristically Deuteronomic, namely, the breaking down of the high places, the bringing up of the priests of the high places to Jerusalem, and the centralized Passover at

³⁶ 2 Ki. 18 4.

³⁷ *Festschrift für Gunkel*, p. 208f.

Jerusalem, they reject as additions made by the editor of *Kings* who wished to identify the book found by Josiah with Deuteronomy. Thus Seinecke remarks: "The Book of Kings in the interest of Deuteronomy makes the prophecy (of Huldah) speak also of 'all the words of the law' . . . The narrative of *Kings* is here remodeled to adapt it to the views of a later age."³⁸ Similarly Kennett says: "The account of Josiah's reforms was in all probability not written for a considerable time after the events recorded. If in the meanwhile Deuteronomy had become the law of the community, the historian's account of what Josiah did would naturally be coloured by his conception of what a pious king ought to do."³⁹ "Arguing from the account contained in 2 *Kings* xxii. xxiii, many people have concluded that it was the Book of Deuteronomy itself which was read before Josiah. It may indeed be conceded that the writer (or writers) of these chapters was acquainted with Deuteronomy, and that he supposed Josiah to have been familiar with it also; but even the most trustworthy chapters of the Book of *Kings* are not to be treated as though they were taken from the file of some Jerusalem newspaper . . . The historian himself looked back (xxii. 25 ff.) not only to Josiah's successors on the throne, but also to the captivity. If therefore his statements are not those of an eye-witness, but of one who lived at least thirty-five years after the events of 621 B. C., and quite possibly considerably later, there is no difficulty in supposing that his account of Josiah's reign, although based upon a sound tradition, has been coloured by the belief that Josiah as a pious king must have acted in accordance with the Deuteronomic law."⁴⁰

The earlier foes of the credibility of 2 *Ki.* 22–23 were satisfied with the theory that the specifically Deuteronomic features of these chapters were due to retouching by the editor of *Kings*, but the recent discussions of Hölscher and Horst are more thoroughgoing.

³⁸ *Op. cit.*, p. 387.

³⁹ *JTS*, vii, 1906, p. 491.

⁴⁰ *Deuteronomy and the Decalogue*, 1920, pp. 3f.

Hölscher begins by eliminating a number of verses in these chapters as interpolations by Rd 2, the very latest editor of the Book of Kings, who lived long after Nehemiah. The remainder he analyzes into two distinct documents: the first a non-Deuteronomic source, which knows nothing of the destruction of the high places, or of the centralization of sacrifice at Jerusalem; but only the removal of Canaanite and Assyrian heathenism from the Temple. This source, strange to say, he identifies with E in the Hexateuch and in the other historical books, and claims that it was written after the fall of Jerusalem. The remainder of the narrative in 23 2a, 9-10, 15, 21-27 he ascribes to Rd who lived after 500 B. C. "These verses," he says, "contain a wholly unhistorical account of the destruction of the high places, the bringing of their priests to Jerusalem, and the celebration of a centralized Passover in Jerusalem."⁴¹

Hölscher's main argument for rejecting 23 2a, 9 is that they interrupt the context.⁴² The neighboring verses 6, 7, 2b, 11-12 narrate only the removal of Canaanite and Assyrian heathenism from Jerusalem. These verses narrate the defiling of the high places outside of Jerusalem, and the bringing up of the priests of the high places to Jerusalem. It must be admitted that the order in these verses is bad. Verse 7 belongs logically with 2b and the two read: "And he brake down the houses of the temple-prostitutes⁴³ that were in the house of Yahweh, where the women wove אֲשֵׁרָה (?) for the Asherah . . . And he brake down the high places of the satyrs,⁴⁴ which were at the entrance of the gate of Joshua, the governor of the city, which were on the left of one entering the gate of the city." Verses 2a and 9 belong logically together and read: "And he brought all the priests out of the cities of Judah, and he defiled the high places where the priests had burned sacrifices from Geba to Beersheba . . . Nevertheless

⁴¹ "Das Buch der Könige, seine Quellen und seine Redaction," *Eucharistion, Festschrift für Gunkel*, 1923, pp. 198-213.

⁴² *Op. cit.*, p. 209.

⁴³ Read הַקִּישִׁים instead of הַקִּישִׁים.

⁴⁴ Read הַשַּׁעִרִים instead of הַשַּׁעִרִים.

the priests of the high places came not up to the altar of Yahweh in Jerusalem; but they did eat their dues⁴⁵ in the midst of their brethren." This lack of order, however, by no means indicates that the defiling of the high places and the removal of their priests are interpolated. The removal of the high places of the satyrs in *sb* might equally well be interpolated between *sa* and *s*. Hans Schmidt makes the interesting suggestion that *sb* was accidentally omitted by a copyist after 7 on account of the similar beginning, "and he brake down," and then was inserted after the writing of *sa*.⁴⁶ Similar dislocations are common in the text of the Old Testament (cf. Isa. 22 *s*; 31 *4f.*; Ps. 87). Even after the elimination of *sa*, *s* perfect logical order is not secured. Verses 4—*s* treat of the removal of Assyrian astral religion, and verses 11—12 return to this subject, but between these stands the removal of Canaanite heathenism in verses 7—10. The fact is, that we have no reason to expect perfect arrangement in excerpts from temple-chronicles which jotted down events in the order of occurrence rather than in the order of logic.

That *sa* and *s* differ from the context in going outside of Jerusalem is also not apparent. The sole purpose of these verses is to narrate how the priests of the high places were brought into Jerusalem, and how this affected the Temple-worship. Moreover, the destruction of the high places of the satyrs in *sb*, which Hölscher accepts, carries us outside of the walls of Jerusalem.

A further objection to these verses urged by Hölscher⁴⁷ is that the treatment of the country priests by Josiah (2 Ki. 23 *s*) does not correspond with the command in Dt. 18 *s—s*. In Deuteronomy the Levites from the abolished high places are to be allowed to minister at the altar in Jerusalem, and to receive their portions of the sacrifices; but in Kings they are not allowed to minister at the altar, although they receive the portions. The inference is that Josiah's law-book was not Deuteronomy. It is hard to

⁴⁵ Read perhaps *תִּשְׁבֹּעַ* instead of *תִּשְׁבֹּעַ*.

⁴⁶ *TLZ*, xlviii, 1923, col. 200.

⁴⁷ *ZATW*, xl, 1922, p. 202.

see how this argument fits into Hölscher's general conception. He holds that 2 Ki. 23 24, 2 were interpolated by Rd to represent Deuteronomy as in operation in the time of Josiah, and that they are historically worthless. But, if Rd wished to identify Josiah's book with Deuteronomy, why did he not report exact obedience to the law on Josiah's part?

On the other hand, if the statements of Rd are untrustworthy, how can they be used to prove that Josiah's book was not Deuteronomy? The fact is, that Deuteronomy contemplated only occasional visits of the country Levites to Jerusalem, on which occasions they were to be allowed to minister at the altar of the Temple; but Josiah, in order to break up the high places more effectually, adopted the drastic policy of bringing up all their priests to Jerusalem. This raised practical difficulties, and perhaps the opposition of the Zadokite priests in Jerusalem, which prevented admission of the country Levites to ministering at the Temple-altar. The language of 2 Ki. 23 2 implies, however, that this was in violation of their rights: "Nevertheless, the priests of the high places came not up to the altar of Yahweh in Jerusalem, although they ate their dues (?) among their brethren." This indicates clearly that the country Levites had a legal right to minister as well as to eat of the sacrifices. In other words, the passage implies a law like that in Dt. 18 6-8. As Hans Schmidt aptly observes, "if Dt. 18 6 were not in existence, one would simply have to invent it as the presupposition of 2 Ki. 23 2."⁴²

The account of Josiah's centralized Passover in 2 Ki. 23 21-23 is assigned by Hölscher to Rd because of the mention of "this book of the covenant" in 21 and of the "Judges" in 22.⁴³ In other words, the passage must be late because it shows unmistakable knowledge of Deuteronomy. This is simply begging the question.

Hölscher's linguistic argument for assigning the Deuteronomic verses to a later hand than the body of the narrative is found

⁴² *TLZ*, xlviii, 1923, col. 291; cf. H. Gressmann, *ZATW*, xlii, 1924, pp. 328f.; K. Budde, *ZATW*, xliv, 1928, pp. 197f., 200-204.

⁴³ *Festschrift für Gunkel*, p. 209n.

in their use of Waw connective with the perfect instead of Waw consecutive with the imperfect.⁵⁰ It is true that this construction occurs in several verses that Hölischer assigns to the later hands, but it is not found in 23^{sa}, the account of the defiling of the high places, which Hölischer gives to Rd; and it is found in 23^{sb}, the narrative of the destruction of the high places of the satyrs, which Hölischer assigns to E. The one word וַיִּבְנֶה Hölischer takes out of ^{sb} and gives to Rd. Evidently this is not a safe criterion for literary analysis.⁵¹

Horst, who is equally anxious with Hölischer to remove the witness to Deuteronomy from 2 Ki. 22–23, recognizes the objections to Hölischer's method. "One difficulty," he says, "stands in the way of Hölischer's thesis, the account of 2 Ki. 22–23 with its alleged discovery of Deuteronomy in the year 621. Hölischer's own solution of this difficulty, as he has already outlined it, and will soon present more fully, seems, judging from his brief statements, quite inconclusive."⁵²

Horst's own astonishing solution of the problem is, that 2 Ki. 22–23 is composed out of the same two documents that are used in the composition of the Book of Jeremiah. He gives no complete table of the fractions of verses that are to be assigned to each of these sources, but contents himself with a summary of the contents of each. Source A narrates that a book was found in the Temple and brought to Josiah. He appealed to the Prophetess Huldah for advice, and she endorsed the book. "From this recension," says Horst, "no one can hit upon the idea that the book found was a law-code . . . In accordance with the entire character of the prophetic writer A, one can think of nothing else than a prophetic book that came into the hands of the king, and made a tremendous impression upon him. . . . The king then went with the inhabitants of Jerusalem into the Temple. There he made a covenant before Yahweh, to walk after Yahweh and

⁵⁰ 2 Ki. 23, see Hölischer, *op. cit.*, pp. 209f.

⁵¹ See H. Schmidt, *TLZ*, xlviii, 1923, col. 291; Gressmann, *ZATW*, xlii, 1924, p. 317 n. 2.

⁵² *ZDMG*, lxxvii, 1923, p. 226.

to keep His commandments . . . The covenant is certainly never regarded by this source as a code of legally fixed enactments. The content of the covenant made by Josiah is described as 'to walk after Yahweh and to keep his commandments.' If that was the content of Josiah's covenant, then we are not at all surprised to find that in the account of the king's reformation of the cult that follows immediately in the text nothing more can be claimed with certainty linguistically for A. Only a primitive construction of verse 4 may be assigned to it: 'The King commanded the 'priest' (*sic*) Hilqia and the (!) second priest to bring forth out of the Temple the objects that were made for the Ba'al and the Astarte, and to burn them in the Valley of Kidron.' If any one wishes to call that a cult-reformation of Josiah, he is welcome to do so. In my opinion, this older source tells us nothing more about it."⁵³

All the rest of the narrative which tells how Josiah carried out a reformation on the basis of Deuteronomy comes, according to Horst, from the late and historically untrustworthy source B. In other words, Josiah's book contained only threats, his covenant was only a general promise to be good, and he undertook no reformation. "This analysis of the sources," as Horst naively remarks, "has many advantages. First, it solves simply all the hitherto existing difficulties of a linguistic textual character. Further, all the unpleasant conclusions from the older treatment fall away at once. Chiefly, one comes in this way to agreement with the thesis, established by other considerations, especially those derived from Jeremiah, of the post-exilic origin of Deuteronomy."⁵⁴

In opposition to this argument it may be said: (1) it depends on an analysis of Jeremiah which is in the highest degree problematic; (2) it makes the very improbable assumption that the same documents are used in a poetic prophetic book and in a prose history; (3) the alleged linguistic evidence consists of common words, such as "because," "in order that," "only," "city," "sacri-

⁵³ *Op. cit.*, pp. 233 ff.

⁵⁴ *Op. cit.*, p. 238.

fic," that prove nothing; (4) the older source produced by this analysis narrated the finding of a book without contents, the establishing of a covenant without meaning, and the carrying through of a reformation without results. Horst has been disposed of so thoroughly by Gressmann⁵⁵ that there is no reason to discuss his argument further.

The fact is, that all attempts to eliminate Deuteronomy from 2 Ki. 22-23 by documentary analysis are artificial. Apart from certain minor glosses, the chapters are a literary unity, and must stand or fall as a whole. One cannot accept the finding of the book and the bulk of Josiah's reforms as historical, and reject the centralization of the cult, merely because this particular element cannot be explained except on the basis of Deuteronomy. Even those reforms of Josiah which do not involve centralization are just as Deuteronomic as are the reforms designed to accomplish centralization. The Prophets from Amos to Micah, of course, condemned foreign religion, but they did not specify the kinds of heathenism, particularly the forms of Assyrian star-worship, that were removed by Josiah. These reforms find an explicit basis only in the legislation of Deuteronomy. It is illogical to deny that these reforms were caused by the publication of Deuteronomy, because they do not mention centralization; and to base on Deuteronomy the removal of the high places, the bringing up of the priests, and the keeping of the Passover, because they do mention centralization. As Budde remarks: "I must in a word declare my opinion that the cutting out of an E narrative from the story of Josiah, as well as the assignment of E to the post-exilic period seems to me dubious in the highest degree; and that the proofs of this theory are entirely lacking. From the time of Manasseh onward the school of Deuteronomy writes not only the frame but also the contents of the narrative."⁵⁶

(3) *Non-Observance of Deuteronomy after Josiah's Reformation.*—In addition to the literary argument just discussed against the

⁵⁵ ZATW, xlii, 1924, pp. 316-321.

⁵⁶ ZATW, xliv, 1926, pp. 191f.

credibility of the narrative of centralization in 2 Ki. 22–23, advocates of the late date of Deuteronomy adduce also the historical argument, that Josiah cannot have centralized worship at Jerusalem because the high places continued to exist after his time. The prophecies of Jeremiah, the legislation of the Holiness Code in Lev. 17, and the denunciations of Ezekiel, show that the high places continued to flourish in spite of their reported abolition. The Jews in Elephantine, it is said, knew nothing of Deuteronomy, or of its adoption in the time of Josiah, since they built a temple of Yahu in their city in violation of the Deuteronomic law of the central sanctuary. They stood in close relations with the Jews of Palestine; and must have known Deuteronomy, if it had been in existence.⁸⁷

In reply it may be said, Hölscher admits that Canaanite and Assyrian heathenism were removed by Josiah, yet Ezek. 8–11 shows that it was all back again within a few years. If foreign idolatry and star-worship could be introduced again so easily after their removal, how much more readily could the ancient legitimate sanctuaries of Yahweh be restored. Drastic reforms do not at once win universal recognition. Ancient religious ways persist with extraordinary tenacity. If the author of Kings were to visit modern Palestine, he would still have occasion to lament: "Nevertheless, the high places are not taken away, the people still sacrifice and burn offerings in the high places." In spite of the teachings of Judaism, Christianity, Muhammadanism, the high places still exist in rural Palestine, and we may well believe that they survived Josiah's first attempt to extirpate them. History also shows us a good reason for their speedy return. The young king who had carried through the reformation met a premature death in battle with Pharaoh Necho at Megiddo (2 Ki. 23 29), and this was popularly interpreted as a sign that Yahweh disapproved of the abolition of the high places, and that the best policy was to restore them as rapidly as possible.

⁸⁷ Hölscher, *ZATW*, xl, 1922, pp. 228, 253f.

The Jews at Elephantine violated not only the law of the central sanctuary, but also the law of the sole worship of Yahweh. Alongside of Yahweh they worshiped two goddesses, Ashima-bethel and 'Anath-bethel, besides the oath-god Masgeda and the fetiah stone Haram-bethel. Even the Egyptian god Sati is once invoked. If this indicates that Deuteronomy was not in existence, it indicates also that the Decalogue of J in Ex. 34 and E's Book of the Covenant in Ex. 20²⁵-23³³ were not in existence, to say nothing of the teaching of all the prophets from Moses onward. One might just as well argue that the Jews of Leontopolis did not know Deuteronomy because Onias IV built there a temple of Yahweh about 164 B. C., or that there is no Eighteenth Amendment or Volstead Act because prohibition is not perfectly enforced in the United States. The argument from non-observance is valid only when the non-observance is complete. It is legitimate to argue from the complete non-observance of Deuteronomy before the time of Josiah by prophets, priests, kings, and all the best men of the nation, that Deuteronomy was not in existence; but it is not legitimate to argue from the partial non-observance of the law of centralization after the time of Josiah that Deuteronomy was not in existence.

(4) *Evidence of the Historical Character of the Narrative of the Centralization of the Cult in 2 Ki. 22-23.*—Granted that 2 Ki. 22-23 comes from the hand of the editor of Kings, this is no reason for doubting its credibility. The latest event mentioned by Kings is the release of Jehoiachin from prison by Amel-Marduk, King of Babylon, in 560 B. C.⁵⁶ There is not a hint in this book of any release of the Jews from exile, of a return to Jerusalem, of a rebuilding of the Temple, or of a restoration of the Jewish community. Kings is a history of the decline and fall of the Israelite commonwealth, and not a ray of hope lights up the gloom. This shows that the composition of the book cannot be assigned to a date after 500 B. C., as Hölscher proposes, but that it belongs to the period of the exile before the rise of Cyrus awakened the

⁵⁶ 2 Ki. 25 27-30.

anticipations of restoration cherished by Deutero-Isaiah and his contemporaries. This was not more than sixty years after the events recorded in 2 Ki. 22-23. This is too short a time for a saga to arise in regard to the finding of a book in the days of Josiah and a reformation on the basis of this book. What the editor of Kings wrote out of his own head about the times of David and Solomon, perhaps even about the times of Hezekiah, may well be literary invention; but the days of Josiah were too near and too clear in the memory of his contemporaries for him to make up the story out of whole cloth.

Besides, from the point of view of the editor of Kings, what motive was there for the invention of the story of the finding of Deuteronomy? According to his theory, Deuteronomy was written by Moses, and was known to Israel from the time of Moses onward. David quoted it in his farewell words to Solomon; Solomon quoted it in his prayer at the dedication of the Temple; the early prophets quoted it in their denunciations; all the kings knew that they were violating its teaching in allowing the high places to remain, while Hezekiah removed them in obedience to its commands. Consistency with this conception would have required that the editor of Kings should record merely that Josiah carried out the provisions of Deuteronomy; instead of which he records the finding of this code as something new, about which high priest and king were in such uncertainty that they had to consult the Prophetess Huldah in order to learn what to think about it. The discovery of Deuteronomy as a hitherto unknown book is really a contradiction to the representation of the editor of Kings that Deuteronomy was in force throughout the entire earlier period. Hölscher says that Rd represented Josiah as obeying Deuteronomy merely because he was a good king, and all good kings observed this book.⁵⁹ If this was so, why then was Rd not satisfied with recording Josiah's obedience? Why did he represent him as finding Deuteronomy? The only reason for inserting this story was that the finding of Deuteronomy in the eighteenth year

⁵⁹ *Festschrift für Gunkel*, pp. 210ff.

of King Josiah was a well known historical fact which Rd could not conceal, even though it was hard to reconcile with his theory of the antiquity of Deuteronomy; and even though he could not tell how this book, which was well known down to the time of Hezekiah, came to be lost so completely that Hilkiah and Josiah did not recognize it.

Certain details, even of the verses which narrate the centralization of the cult by Josiah, support the credibility of the record. The defiling of the high places in 2 Ki. 23 ^{sa} is mentioned quite incidentally in connection with the account of the bringing up of the country priests to Jerusalem. This is not the way in which a deliberate fiction would be promulgated. Josiah is said to have defiled the high places only from Geba to Beersheba, the limits of the kingdom of Judah in his day. An inventor would have made the desecration much more extensive, as is the case in the obviously later verses 4c, 15-20 and in the narrative of Chronicles. The high places of the satyrs in ^{sb} are never mentioned elsewhere in the Old Testament, and the satyrs only in Lev. 17 7. This curious detail must rest upon genuine historical knowledge.

The lack of correspondence of Josiah's treatment of the country Levites in 2 Ki. 23 ^s with the law in Dt. 18 ^{a-s} is also in favor of the historicity of the narrative. Deuteronomy granted the priests of the high places equal rights with the priests in Jerusalem; but Kings records that they were not allowed to minister at the altar, although they ate their portions of the sacred food. An inventor, who was trying to represent Deuteronomy as the code introduced by Josiah, would have been careful to record exact obedience to the law. It should be observed also that this conduct occupies a middle position between Deuteronomy and Ezekiel: Deuteronomy gave the country Levites full rights, Josiah deprived them only of the right to minister at the altar. Ezekiel, followed by P,⁶⁰ deprived them of all rights, and degraded them to the rank of servants who waited upon the legitimate Zadokite priests of

⁶⁰ Ezek. 44 10-14; Nu. 4 17-20, etc.

the Jerusalem Temple. This regular evolution is a strong witness for the truthfulness of the narrative of Kings.⁶¹

The *topheth* in the Valley of the Sons of Hinnom, where children were sacrificed to Yahweh under the title of *Melek* which, according to 2 Ki. 23 10, Josiah defiled, is not mentioned in Deuteronomy, nor is the Melek-cult, but it is confirmed by Jeremiah 7 31f. and 19 6, 11, 12f. Accordingly, this item also rests upon a sound historical tradition.

The account of Josiah's Passover in 2 Ki. 23 21-23 also bears the marks of genuine history. The peculiarity of this Passover was the fact that it was celebrated at the Temple in Jerusalem, instead of, as hitherto, at the local sanctuaries. Such a Passover had not been kept in the days of the Judges, or of the Kings, since the time when all the tribes were encamped together at Gilgal after the invasion of Canaan. But centralization of the Passover was the one feature of Deuteronomy's program that did not triumph in post-exilic Judaism. The old way, of keeping it as a family feast in the home, is the one prescribed by P,⁶² and the one followed by the Jews ever since. Is it probable that a post-exilic writer would invent a celebration of the Passover that contradicted the orthodox and established practice of his day? Is it not more likely that this unique Passover was recorded simply because it was an historical fact? Moreover, it is obvious that something has fallen out of the text between 2 Ki. 23 21 and 22. In 21 we read: "The King commanded, Keep the Passover;" in 22: "Surely there was not kept such a Passover from the days of the Judges." Between these two statements there must once have stood an account of the way in which Josiah kept the Passover. This must have emphasized the novelty of centralization in accordance with Deuteronomy. This has been omitted by some later editor because of its contradiction to the law of P, while verse 23 was allowed to stand because it was not so obvious in

⁶¹ See Budde, *ZATW*, xlv, 1926, p. 203; Gressmann, *ZATW*, xlii, 1924, p. 329.

⁶² Ex. 12 1-20.

this case that the peculiarity of Josiah's Passover was its centralization. This shows how unlikely is the fabrication of a centralized Passover by a post-exilic editor. Hölscher's dismissal of this argument with the remark: "23 22 is obviously intended from the outset to be the immediate continuation of 23 21,"⁶⁵ is an utterly inadequate treatment of the problem.

In regard to this record of Josiah's Passover, Budde aptly remarks:⁶⁴ "In it, after the detailed account of all Josiah's individual reforms, the narrative as a whole culminates. It forms the reconciling, harmonious conclusion after all the destruction that the rest of the chapter had to narrate, the necessary basis for the encomium of Josiah in which the original account must have ended."⁶⁵

(5) *What Book was the Basis of Josiah's Reformation, if it was not Deuteronomy?*—Critics who believe in the general historical credibility of 2 Ki. 22–23, but who deny that Deuteronomy was written before the exile, are under obligation to show, what the book was that was found in the eighteenth year of Josiah and that was the basis of his reformation. On this point hardly any two members of the school of Gramberg agree. Gramberg himself maintains⁶⁶ that it was E's Book of the Covenant in Ex. 20 23 to 23 33, but this code contains no law of centralization. Vatke⁶⁷ identifies Josiah's book with the J legislation in Ex. 12 19–24, 22–24, but this also does not demand centralization. Seinecke thinks⁶⁸ that it was a brief collection of Jeremiah's prophecies, but this fails to explain the specific reforms of Josiah. Fries⁶⁹ identifies it with J's Book of the Covenant in Ex. 34. Cullen holds⁷⁰ that Josiah found the prophetic exhortations of Dt. 5–11,

⁶⁵ *Festschrift für Gunkel*, p. 209n.

⁶⁴ *ZATW*, xliv, 1926, p. 192.

⁶⁵ See also H. Schmidt, *TLZ*, xlviii, 1923, col. 290; Gressmann, *ZATW*, xlii, 1924, 330ff.; Nowack, *Festschrift für Marti*, 1925, p. 225.

⁶⁶ *Kritische Geschichte*, i, p. 306f.

⁶⁷ *Die Religion des A. T.*, i, p. 505.

⁶⁸ *Geschichte*, i, p. 387.

⁶⁹ *Die Gesetzeschrift des Königs Josias*.

⁷⁰ *The Book of the Covenant in Moab*, pp. 13, 15f.

but not the code of Dt. 12–26. Kennett suggests⁷¹ that it may have been the code of J, or a collection of prophetic sayings. Berry maintains⁷² that Josiah's book was the Holiness Code in Lev. 17–26; but Freed has shown⁷³ that the Holiness Code depends on Deuteronomy, and that it by no means covers all the reforms of Josiah. Hölscher dismisses the problem lightly with the remark: "If the law-book of Hilkiyah the priest is not identical with Deuteronomy, one naturally may ask, whether it is preserved in any other collection of laws in the Old Testament. This question, however, makes demands on our literary tradition which from its very nature it cannot fulfil, and which for this reason ought not to be presented."⁷⁴ Similarly Horst observes: "One can think of nothing else than a prophetic book that came into the hands of the King and made such a huge impression upon him . . . What prophetic book that may have been we are no longer able to say."⁷⁵

The problem cannot be dismissed in this careless fashion. Josiah's reformation was the most important event in the religious history of the period of the monarchy. It marked the partial victory of Prophetism and the birth of Judaism. The book on which this reformation was founded was the first book of the Old Testament to be recognized as canonical. A book of such importance and of such influence upon history cannot have been lost. It must have been cherished and preserved, whatever else was allowed to perish. As Reuss remarks: "The narrative of the Book of Kings would present us with an unsolvable riddle, if the book that was found was once more lost for posterity."⁷⁶ From the time of Josiah onward the Old Testament writers unanimously assert that Josiah's book was Deuteronomy, and not a trace of any other book that will explain Josiah's reformation is found either in tradition or in the extant literature of the Old Testament.

⁷¹ *JTS*, vi, 1905, p. 184; vii, 1906, p. 492.

⁷² *JBL*, xxxix, 1920, pp. 44–51.

⁷³ *JBL*, xl, 1921, pp. 76–80; see Budde, *ZATW*, xlv, 1926, p. 214.

⁷⁴ *Festschrift für Gunkel*, p. 213.

⁷⁵ *ZDMG*, lxvii, 1923, p. 234.

⁷⁶ *Geschichte des Alten Testaments*, p. 374.

c) Deuteronomy is known to Literature after Josiah's Reformation.—The Books of Jeremiah, Ezekiel, Deutero-Isaiah, Haggai and Zechariah in their present form present numerous and unmistakable parallels to Deuteronomy. Advocates of the current theory explain this fact as due to quotation of Deuteronomy by these writings.

The school of Gramberg denies the validity of this argument. Seinecke,⁷⁷ Kennett,⁷⁸ Cullen,⁷⁹ and Berry,⁸⁰ claim that Deuteronomy quotes Jeremiah, not Jeremiah Deuteronomy. This position is so difficult to maintain that Hölischer and Horst resort to the different expedient of rejecting all the parallels to Deuteronomy in these prophets as late interpolations. Basing his analysis on the work of Duhm, but going much further, Hölischer cuts out of the Book of Jeremiah every sentence that contains a suggestion of dependence on Deuteronomy, leaving only a few poetical oracles and a few biographical narratives; and then triumphantly remarks: "Jeremiah, accordingly, shows nowhere acquaintance with Deuteronomy." Horst analyzes the Book of Jeremiah into the same two sources that he finds in 2 Ki. 22–23. Source A dates from the time of Haggai and Zechariah. It represents Jeremiah's ministry as beginning after the death of Josiah, and it knows nothing of Deuteronomy. Source B, written after 500 B. C., has the purpose of remodeling source A to conform to Deuteronomy, and of representing it as introduced with the authority of the prophet. This source has no historical value.⁸¹

In reply to these theories it must be admitted that some of the prophecies of Jeremiah bear clear evidence of editorial amplification; but that the amplifications are as extensive as Hölischer and Horst assume, or that the original prophecies of Jeremiah are ignorant of Deuteronomy, is far from being established at present. To assume that everything that shows knowledge of

⁷⁷ *Geschichte des Volkes Israel*, i, p. 386.

⁷⁸ *JTS*, vi, 1905, p. 183; vii, 1906, pp. 481 f.

⁷⁹ *The Book of the Covenant in Moab*, pp. 19 ff.

⁸⁰ *JBL*, xxxix, 1920, p. 46.

⁸¹ Hölischer, *ZATW*, xl, 1922, p. 238; Horst, *ZDMG*, lxxvii, 1923, pp. 224 ff.

Deuteronomy is necessarily late, simply begs the question. The only way to solve this problem is to continue the study of the linguistic, literary, historical, and theological evidences of the Book of Jeremiah; and to base conclusions in regard to its composition upon this evidence. Then, if the older parts are found to be ignorant of Deuteronomy, Hölscher and Horst may use this as an argument against the current theory of the age of Deuteronomy; but until some degree of finality has been reached in the criticism of Jeremiah, this book cannot safely be used as proof of the non-existence of Deuteronomy.

The Holiness Code in Lev. 17–26 is certainly known to Ezekiel and, therefore, must have been written shortly before the exile. It contains a number of parallels with Deuteronomy. This fact is commonly interpreted as due to quotation of Deuteronomy. This also is denied by the school of Gramberg. Kennett and Berry try to show that Deuteronomy depends upon the Holiness Code, rather than the reverse; but this effort is generally regarded as unsuccessful. Hölscher admits the dependence of the Holiness Code on Deuteronomy, but dates the Holiness Code in the time of Ezra.⁸³

The present form of the Book of Ezekiel shows unmistakable acquaintance with Deuteronomy.⁸³ This fact is claimed by adherents of the current theory to indicate that Deuteronomy must be pre-exilic. The Book of Ezekiel was regarded as pseudepigraphic by Zunz, Geiger, Wetzstein, Seinecke, and Vernes; but the vast majority of critics have accepted it as authentic. Hölscher admits that the genuineness of most of the book cannot be questioned, but here again he applies the critical knife.⁸⁴ All the passages that show contacts either with Deuteronomy or the Holiness Code he excises as later editorial insertions. The real Ezekiel, he says, knew nothing about centralization of the cult, and did not disapprove of the high places as such, but only of heathen

⁸³ *Op. cit.*, p. 255.

⁸⁴ *F. g.*, Ezek. 6 3, 6.

⁸⁴ *ZATW*, xl, 1922, pp. 239ff.; *Hezekiel, der Dichter und das Buch*, 1924.

rites that were practised at them. The law-code in Ezekiel 40—48 is later than both Deuteronomy and the Holiness Code. It was not written until after the time of Ezra, and is also an interpolation in the Book of Ezekiel. All that can be said about this hypothesis is, that it is even more destitute of foundation than Hölscher's treatment of Jeremiah, and is obviously inspired solely by the desire to get rid of the testimony of Ezekiel to the pre-exilic origin of Deuteronomy.

In regard to the later prophets Hölscher claims that Deuteronomy is not known to the genuine Deutero-Isaiah, although it appears in a few glosses. All references to Deuteronomy in Haggai and Zechariah are later additions. Deuteronomy is first known to Malachi and Trito-Isaiah and to the genuine parts of Nehemiah.⁸⁵

As to the relation of Deuteronomy to the other Old Testament law-codes, Hölscher holds that the documents of the Hexateuch and of the historical books are in the main rightly analyzed by the present school of criticism, and that the *relative* order in which the codes are arranged is also correct; that is, the legislation in all particulars regularly develops in the order J, E, Deuteronomy, the Holiness Code in Lev. 17—26, Ezekiel 40—48, and the Priestly Code. The *absolute* dating of these documents, however, in the current theory is wholly wrong. Since Deuteronomy belongs to the time of Nehemiah, the Holiness Code, Ezekiel, and the Priestly Code, are all later than Nehemiah. The code introduced by Ezra, according to Neh. 8, was not the Priestly Code. On the other hand, the acceptance of the entire Pentateuch by the Samaritans forbids the dating of the Priestly Code long after Ezra.⁸⁶ Accordingly, the entire legal development from Deuteronomy to the Priestly Code is crowded into a period of about fifty years; but it is most unlikely that a development involving so many radical changes (e. g., the degradation of the Levites from the priesthood, the elevation of the high priest above the other priests, the addition

⁸⁵ *Ibid.*, pp. 245—248.

⁸⁶ *Ibid.*, pp. 233, 255.

of the Feast of Trumpets and the Day of Atonement to the three annual feasts of Deuteronomy, the addition of the sin-offering and the guilt-offering to the original burnt offering and sacrifice, and the vastly increased endowment of the clergy in the Priestly Code beyond Deuteronomy) could have come about in so brief an interval of time.⁸⁷

d) **The Internal Evidence.**—The school of De Wette claims that numerous details of the legislation of Deuteronomy show that it was composed in the seventh century B. C., shortly before its discovery by Josiah. This claim also is denied by the school of Gramberg.

Into the very elaborate details of this controversy there is no space to go here. The evidence for the current view is presented by Professor Dahl in another article in this number of the *JOURNAL*. The answers to this evidence, and the counter-evidence of the school of Gramberg, will have to be left undiscussed for the present, except as to the one fundamental issue of Deuteronomy's demand for centralization of sacrifice at Jerusalem.

(1) *Non-Existence of Centralization before the Exile.*—The claim is made by all the advocates of the late date of Deuteronomy that centralization of sacrifice at Jerusalem did not exist before the exile, consequently Deuteronomy's demand for centralization cannot be pre-exilic. Gramberg formulated this argument as follows: "While we agree with Herr Doktor De Wette that historical occurrences of the time of Josiah were the cause of much that is formulated in Deuteronomy, we cannot agree with him that the book produced under Hezekiah and discovered under Josiah was Deuteronomy, or any part of it; because the unity of cult on which our book insists so strongly . . . could only be enunciated as law after Josiah's reform by a lawgiver who feared that the freedom of cult which previously had existed uncondemned might through slackness again be introduced . . . In deciding this question we must hold fast to the critical principle, from which we dare not depart, that a law can never be promulgated until usage has made

⁸⁷ See H. Schmidt, *TLZ*, xlviii, 1923, col. 291.

it general custom, or it is demanded by some specific advantage. Prohibitory legislation is directed only against existing abuses, or against abuses that are apprehended from existing circumstances, or from analogous cases. Accordingly, the presuppositions, or even individual written sources of Deuteronomy, may date from the times of Hezekiah or of Josiah; but the book itself, not only because of individual traits, but because of its entire spirit and contents, cannot have been written before the end of the exile."⁸⁸

In a similar strain Cullen remarks: "A new law-code is usually not the instrument but the outcome of a successful revolution."⁸⁹ Kennett also says: "The main purpose of this code is the centralization of worship for all Israel, and the unification of Israel on the lines of exclusive worship of Jehovah. Since it is admitted that this centralization of worship must be brought into connexion with Josiah's destruction of the high places, the first question to be asked is this: Is the law of the one sanctuary as given in Deut. xii the cause, or the ultimate outcome of Josiah's reformation?" . . . "It may indeed be claimed as an axiomatic principle in an enquiry into the origin of any code of laws, that the enactments of such a code must have been directed towards an existing state of things. Sane men legislate for a situation in which legislation is not only desirable but has a reasonable chance of producing results, not for one which may never arise. It is unnecessary to elaborate this point, a mere enumeration of the outstanding features of the Deuteronomic law being sufficient to disprove the idea that it could have arisen in the days of Manasseh or Hezekiah or at an earlier date . . . In the first place there is a limiting of sacrifice (*for all Israel*) to the one altar, and the equally revolutionary enactment that the fat and blood of domestic animals need not be offered at the altar."⁹⁰

⁸⁸ *Kritische Geschichte*, pp. 66ff.; see also Maurice Vernes, *Précis d'histoire juive*, 1889, pp. 468ff.

⁸⁹ *The Book of the Covenant in Moab*, p. 13.

⁹⁰ *Deuteronomy and the Decalogue*, pp. 3-8.

Kegel,⁶¹ Oestreicher,⁶² Welch,⁶³ Staerk,⁶⁴ Šanda,⁶⁵ are so impressed with this argument based upon Deuteronomy's centralization of the cult, that, in order to escape the conclusion that Deuteronomy is post-exilic, they adopt the drastic measure of denying that Deuteronomy demands centralization. "Nicht Kulteinheit sondern Kultreinheit" is the aim of this code. The Deuteronomic phrase, "the place that Yahweh will choose in one of thy tribes to cause his name to dwell there," they interpret as meaning, not Jerusalem exclusively, but any sanctuary that has been consecrated by a revelation of Yahweh, as in the Book of the Covenant, Ex. 20 24, "in every place where I cause my name to be remembered I will come to thee and bless thee." The impossibility of this translation of the Deuteronomic phrase from a purely linguistic point of view has been so thoroughly demonstrated by König,⁶⁶ Gressmann,⁶⁷ and Budde,⁶⁸ that there is no need to linger on this point. If the pre-exilic origin of Deuteronomy is to be defended at all, it cannot be by the denial that Deuteronomy demands centralization of the cult at Jerusalem.

A sounder method of attacking the problem is to scrutinize more closely the presuppositions on which the argument of the school of Gramberg rests. Is it true that a law cannot be given until an institution is established? Was it impossible to command centralization before the high places had disappeared? Of course, one must admit that laws are not given in advance of needs. Legislation in regard to agriculture, commerce, industry, city-life, and the king, such as we find in the Book of the Covenant,

⁶¹ *Die Kultus-Reformation des Josia: Die Aussagen der modernen Kritik über II Reg. 22-23 kritisch beleuchtet*, 1919.

⁶² *Das deuteronomische Grundgesetz (Beiträge zur Förderung christlicher Theologie, xxiv, 4, 1923)*. See also *ZATW*, xliii, 1925, pp. 246-249.

⁶³ *The Code of Deuteronomy, a New Theory of its Origin*, 1924.

⁶⁴ *Das Problem des Deuteronomium*, 1924.

⁶⁵ *Moses und der Pentateuch*, 1924.

⁶⁶ *ZATW*, xlii, 1924, pp. 337-346.

⁶⁷ *ZATW*, xlii, 1924, pp. 331 f.

⁶⁸ *ZATW*, xliv, 1926, pp. 184-189. See also Bewer, *supra*, pp. 309 ff.

Deuteronomy, and the Holiness Code, obviously cannot have been given by Moses; but is this parallel to the law of the central sanctuary in Deuteronomy? Laws are not given in advance of *needs*, but they certainly are given in advance of general *observance* of their provisions. The worship of foreign gods was forbidden before it ceased in Israel. The Emancipation Proclamation was promulgated before the disappearance of slavery from the United States. The Eighteenth Amendment to the Constitution and the Volstead Act were adopted, not because alcoholic beverages had ceased to exist in America, but because a majority of the voters thought that they ought to be abolished. In like manner laws forbidding the high places might well be given before disappearance of the high places.

The real question is, whether as early as pre-exilic times there was a party in Judah that disapproved of the high places, and could have proposed a plan for abolishing them. Of the existence of such a party there can be no doubt. The rejection of sacrifice in general by the prophets of the eighth century had for its natural corollary the rejection of the high places at which sacrifices were offered. The prophets' condemnation of confusion of Yahweh with the local ba'als of Canaan involved the condemnation of the sanctuaries at which this syncretism existed. When Amos said: "Come to Bethel and transgress, to Gilgal, and multiply transgression;"⁹⁹ "Seek ye me, and ye shall live, but seek not Bethel, nor enter into Gilgal;"¹⁰⁰ "They that swear by the sin of Samaria, and say: As thy god, O Dan, liveth; and as the way of Beersheba liveth; they shall fall and never rise up again,"¹⁰¹ he condemned these high places, not as rivals to Jerusalem, but as seats of the ba'alized cult of Yahweh. In this condemnation his successors unquestionably shared. When in 701 Sennacherib desecrated all the local sanctuaries of Israel, and Jerusalem alone escaped, as Isaiah had predicted, the obvious inference was that

⁹⁹ Am. 4 4.

¹⁰⁰ Am. 5 4-5.

¹⁰¹ Am. 8 14.

Yahweh had rejected the high places, and had "chosen Jerusalem out of all the tribes to cause his name to dwell there." In the light of this event there is no sufficient reason to doubt the statement of 2 Ki. 18 4 that, already in the eighth century, "Hezekiah removed the *bāmōth*, and broke down the *maṣṣēbhōth*, and cut down the *'ashērāh*, and broke in pieces the bronze (serpent) that Moses had made." Accordingly, it is not improbable that as early as the days of Manasseh there was a prophetic reform party that desired the abolition of the high places and the limitation of the cult to Jerusalem, and that this party formulated its demands in Deuteronomy.¹⁰²

(2) *Impracticality of Deuteronomy.*—The further claim is made by the school of Gramberg that the carrying out of the law of the central sanctuary involved a number of impractical corollaries that could not have been demanded in pre-exilic times. Hölischer expresses himself thus: "The chief peculiarity of the Deuteronomic legislation is its idea of the centralization of the cult. In accordance with this point of view, the author has tried to remodel the old traditional legislation; one cannot conclude, however, that he has really succeeded in doing this. Almost everywhere he has stuck fast in ideal demands whose execution is hardly thinkable. His wishes are often far removed from every consideration of the facts of an existing national and governmental life. Consequently, even those provisions in which the ideas of the ur-Deuteronomic lawgiver himself come to expression show themselves in a high degree impracticable; and besides, so far as we can check them up, they were never really put into operation. The later legislation of the Priestly Code simply ignored the impractical idealism of Deuteronomy... The idealistic character of the Deuteronomic legislation shows that it did not originate in the pre-exilic kingdom of Judah, but in a time after the fall of Jerusalem. The Deuteronomic law did not grow up organically out of the old political and social life, but is an ideal program that with its bold demands seeks to master and transform reality.

¹⁰² See Kuenen, *Hexateuch*, p. 220.

In this respect the Deuteronomic law-book, as is well known, does not stand alone. The law of Lev. 17, and especially the legal program in Ezek. 40ff., are similarly idealistic. The Deuteronomic law-book belongs in the period of these legislative proposals . . . When the 'messianic' restoration of Israel comes, then perhaps the idealistic demands of this code can be realized."¹⁰³

The festal legislation of Dt. 16 1—17 in particular is challenged. Hölscher, for instance, asks: "Are the pilgrimages to Jerusalem at all possible, which are required even of those who live far away, when they bring their holy things and their vows, and on which they must be accompanied by their entire families and servants? At all the three great feasts the entire population of the land is required to repair to Jerusalem. They are obliged to take along, not only all the members of the family, but also the male and the female slaves, and even the Levites, aliens, widows, and orphans. There remains literally nobody at home, and one cannot help asking, Who takes care of the minor children, or who attends to the cattle? Especially when, as in the case of the Feast of Tabernacles, a seven-day stay in Jerusalem is demanded . . . It is supposed that the population of Judah before the exile was about 120,000; all these people must appear at once 'before Yahweh,' that is, in the court of the Temple in Jerusalem, to celebrate their sacrificial meals. Imagine the multitude of victims that would then have been slaughtered simultaneously in the Temple. In all this I cannot see any picture of reality."¹⁰⁴

This argument reads into Deuteronomy more than is justified by a natural interpretation of its language. The old Book of the Covenant had prescribed, "Three times in the year all thy *males* shall appear before Yahweh." This law the author of Deuteronomy wished to preserve, as far as was possible under the new conditions of the central sanctuary. Accordingly, he repeated it in 16 16 with the addition, "in the place which Yahweh shall choose."

¹⁰³ ZATW, xl, 1922, pp. 227-230.

¹⁰⁴ *Op. cit.*, p. 182.

It is hardly likely that, under the more difficult new conditions, he wished to make the law more stringent than it had been in the Book of the Covenant. Hölscher assigns this verse to the later editor, but why should this editor have demanded that only the males should come, if the original Deuteronomy had insisted that every Israelite should be present? The Passover law in 16 1-2, 5-7 says only, "Thou shalt sacrifice the Passover . . . in the place that Yahweh shall choose . . . Thou shalt roast and eat it in the place which Yahweh thy God shall choose, and thou shalt turn in the morning and go unto thy tents." Here also only the male Israelite is contemplated. Hölscher assumes that the attendance of the entire family in Jerusalem at Passover is desired in Dt. 16 1-2, as is specified in the case of the Feast of Weeks and also of Tabernacles (Dt. 16 11, 14), but this is by no means certain. In view of these facts it is apparent that the statements in verses 11, 14 about the whole family being present are counsels of perfection. The lawgiver wishes the head of the house, as far as possible, to bring his family with him to the feast; but he does not give a categorical command, and he does not provide any penalty for those who stay away. The requirement is the same as in later Judaism and in Muhammadanism, where the pilgrimage is regarded as highly desirable for all who can make it; but is not considered obligatory upon everybody.¹⁰⁶

Elhorst regards it as probable that only the primitive nomadic Feast of Passover stood in *Urdeuteronomium*, and that the agricultural festivals, Unleavened Bread, Feast of Weeks, and Tabernacles, were discarded by it on account of their association with the Canaanite high places; but that they were subsequently inserted by a later editor.¹⁰⁶ This view is approved by Nowack,¹⁰⁷ and is favorably mentioned by Budde.¹⁰⁸ If this be true, then the mention of the entire family, which is absent from the Passover

¹⁰⁶ See Löhr, *Das Deuteronomium*, 1925, p. 181; Budde, *op. cit.*, pp. 181 ff.

¹⁰⁷ *ZATW*, xlii, 1924, pp. 136-145.

¹⁰⁸ *Festschrift für Marti*, p. 225.

¹⁰⁹ *Op. cit.*, p. 182.

law, did not stand in the original Deuteronomy, and no conclusion in regard to the age of the code can be based upon this phenomenon.

Another impractical consequence of the centralization of sacrifice is the demand that the annual tithe and the triennial tithe for the poor shall be brought up to Jerusalem (Dt. 14 22-25)¹⁰⁹. Equally impractical is the requirement that the firstlings of all clean animals shall be brought to Jerusalem for sacrifice (Dt. 15 19-23).¹¹⁰ These laws, it is claimed, are so difficult of execution that it is inconceivable that they should have been propounded by a pre-exilic reformer.

Still another impractical consequence of centralization is the requirement that the Levites of the abolished high places shall have the right to come to Jerusalem and minister there at the altar, and to eat of the holy things (Dt. 18 6-8). Gramberg already found this demand impossible before the exile.¹¹¹ Kennett remarks: "It is surely improbable that in the days of Josiah, or earlier, provision would have been made by Judæan legislators for the case of a Levite coming from North Israel."¹¹² "The outstanding features of the Deuteronomic law . . . disprove the idea that it could have arisen in the days of Manassch or Hezekiah, or at an earlier date . . . It is insisted that, inasmuch as the Levites have no share in the land of the village communities, they are to be provided for, not only out of the sacrificial offerings, but by charity (xviii. 2ff., cf. xii. 12, xiv. 27, 29). It is specially enacted that a Levite from any part of Israel may come to the central sanctuary, and that his brother Levites there are to receive him as an equal (Deut. xviii. 6-8)."¹¹³ Hölischer likewise asks: "Can the interest in the country Levites which is so much in evidence throughout this law-book really be ascribed to the Zadokites of Jerusalem?" "The Levitical priesthood of Jerusalem

¹⁰⁹ Edouard Reuss, *L'histoire sainte et la loi*, ii, 1897, p. 307, n. 1; Hölischer, *ZATW*, xl, 1922, pp. 183ff.

¹¹⁰ Hölischer, *op. cit.*, p. 186.

¹¹¹ *Op. cit.*, p. 67.

¹¹² *JTS*, vii, 1906, p. 486.

¹¹³ *Deuteronomy and the Decalogue*, pp. 5-7.

(after the exile) feels its solidarity with the Levites in the villages; these Levites also still belong to the general guild of the clergy, although they sacrifice no longer at the high places; and accordingly, the lawgiver urges incessantly that these country Levites shall not be deprived of their incomes or privileges, and that they shall be granted the right of sacrificing in Jerusalem.¹¹⁴

In reply to all these considerations it may be said, that equally, or even more impractical ideals, were cherished by the early codes and by the pre-exilic prophets. The extermination of the Canaanites, for instance, was enjoined by the oldest Hebrew legislation;¹¹⁵ but this was always impossible, and no serious attempt was made to carry it out. The complete abolition of sacrifice and holy days was demanded by the pre-exilic prophets.¹¹⁶ This was far less practicable than the Deuteronomic ideal of limitation of sacrifice and holy days to Jerusalem. The carrying out of the prophets' demand would have meant the overturning of all existing forms of religion, since for early Israel, as for all antiquity, religion expressed itself mainly in ritual. The nation as a whole was incapable of accepting and carrying out the prophetic program, as is shown by the Deuteronomic compromise, the Priestly Code, and the history of Judaism. The ideal that religion is righteousness, not ritual, is not yet accepted even in modern Judaism and in Christianity; yet the Prophets dared to proclaim it, in spite of its evident impracticability. Is it then impossible that the prophetically minded author of Deuteronomy, while abandoning the thoroughgoing prophetic demand for the abolition of sacrifice, should have proposed the less strenuous ideal of the abolition of sacrifice at the high places, and its limitation to Jerusalem only? This at least might have seemed practicable in pre-exilic times.¹¹⁷

¹¹⁴ *ZATW*, xl, 1922, pp. 182, 229.

¹¹⁵ *Ex.* 23 29, 30, 33.

¹¹⁶ *Am.* 4 4-5; 5 21-25; *Hos.* 6 6; 8 13; *Isa.* 1 11-17; 22 1-14; *Mic.* 6 6-8; *Jer.* 6 20; 7 21-22.

¹¹⁷ See Gressmann, *ZATW*, xlii, 1924, p. 335; H. Schmidt, *TLZ*, xlviii, 1923, col. 291; J. M. P. Smith, *Jour. Rel.*, vi, 1928, p. 409.

As Budde observes, "It is a fundamental and serious fault of the thoroughgoing discussion of Hölischer, that again and again he follows the lead of De Wette in calling and in treating Deuteronomy as an official law for the state, 'an authoritative and officially recognized law-code introduced into the kingdom of Judah,' and that, in accordance with this view, he speaks continually of the 'law-giver,' and of 'his demands.' Deuteronomy is not a law-book, though it is called ספר ה'תורה, but it is a *program*. Hölischer himself recognizes this in other places (*e. g.*, *ZATW*, xl, 1922, pp. 229, 253) . . . Deuteronomy was preserved for us, not because it presented the codified law as it existed in the time of Josiah, but as the testament of Moses, as the farewell address in which for all time to come he sought to warn his people to regulate all its affairs in accord with the will of Yahweh, to make laws for itself through which it should continue to live and to prosper."¹¹⁸ "The original form (of Deuteronomy) which embodies its characteristic idea does not belong to the priesthood . . . This conception is today a great heresy; so far as I know, all the recent discussers of the question without exception contend for the priestly origin of the book. How little people today think that they have to take account of the view of Wellhausen, Marti, and myself, for instance, that Deuteronomy is essentially a prophetic work, is shown best by Hölischer's treatment, who dismisses this view (p. 165) with the two words between dashes, 'not prophetic'."¹¹⁹ Even granting the impractical idealism of Deuteronomy, one cannot help asking, whether this idealism was any more practical in post-exilic times than in pre-exilic times. Hölischer, as Budde remarks, "whenever he thinks that he can prove an 'idealistic attitude' in the supposedly 'authoritative and officially recognized law-book for the state,' is ready at once to assign it to the period after the exile. This period has for him the value of a mystical fourth dimension in which all things are possible."¹²⁰

¹¹⁸ *ZATW*, xliv, 1926, p. 180, cf. p. 206.

¹¹⁹ *Ibid.*, p. 219.

¹²⁰ *Ibid.*, p. 207.

In post-exilic times, the children of the captivity in Babylonia and the Diaspora in other lands had to be considered. It was impractical for these people to come to Jerusalem. Other sanctuaries had been established by the scattered Jews, such as that at Elephantine; and synagogue-worship had begun to grow up as a substitute for Temple-worship. If legislation always reflects existing practice, would it not have been natural for a post-exilic lawgiver to make room in his system for worship away from Jerusalem? It is inconceivable that so difficult a program as centralization could have been attempted in post-exilic times, unless it had been inherited from pre-exilic times. Post-exilic Judaism was not characterized by originality, but by the desire to discover and to reproduce the customs of the forefathers. It is contrary to all analogy to suppose that so colossal an innovation as the limitation of the cult to Jerusalem was the creation of the post-exilic community in Palestine, or of the exiles in Babylonia; and it is safe to say that the idea would never have entered into anybody's head but for the existence of this requirement in an authoritative pre-exilic book such as Deuteronomy.¹²¹

Difficult as centralization of the cult was, nevertheless it was observed by the Jews during the entire post-exilic period down to the destruction of the Temple in A. D. 70. If the legislation of Deuteronomy was not found impracticable after the exile, why should this legislation be pronounced impossible under the less difficult pre-exilic conditions?¹²²

(3) *No Polemic against High Places.* Hölscher argues further that Deuteronomy does not polemicize against the high places, as it must have done, if centralization of the cult had been an innovation. I quote his language: "Down to Josiah's time the sanctuaries outside of Jerusalem were regarded as legitimate. Would not a lawgiver, who for the first time contested their legitimacy and asserted the sole legitimacy of the sanctuary at Jerusalem, have polemicized more clearly against the local sanctuaries?"

¹²¹ See Nowack, *Festschrift für Marti*, p. 224; Budde, *op. cit.*, p. 223.

¹²² König, *ZATW*, xlii, 1924, p. 342.

Instead of this our lawgiver speaks only incidentally and indirectly about them as 'every place that thou seest' (12 13). He shows no animosity against them, demands nowhere their desecration or destruction. His words do not sound at all as if he needed any longer to fight for recognition of his fundamental principle by his readers. He assumes as established that Yahweh has chosen only a single place. The thing that he attacks is the practice that still exists in larger or smaller circles of offering burnt offerings elsewhere, or of consuming the tithes, firstlings, *etc.*, in the villages."¹²³ "The cause of the fall of the old state was transgression of the law, especially worship at the old Canaanite sanctuaries of the land, which the author regards as idolatry and heathen abomination. For the Jerusalem priests from whose midst this law issued there was only one sanctuary of Yahweh, the Temple on Zion. It is no new doctrine that the lawgiver wishes to introduce to his readers for the first time; he demands nowhere the 'removal' of the high places, but propounds only that which in his circle was regarded as self-evident, that there was only one central sanctuary chosen by Yahweh, that all sacrifices should be offered there, all tithes and firstlings be consumed there, and all feasts celebrated there."¹²⁴

It is very doubtful whether these statements are in accord with the facts in the case. In Dt. 12 2-7 we read: "Ye shall surely destroy all the places wherein the nations that ye shall dispossess served their gods . . . Ye shall not do so unto Yahweh your God; but unto the place which Yahweh your God shall choose out of all your tribes to put his name there, even unto his habitation shall ye seek;" and in Dt. 12 8-12: "Ye shall not do after all the things that we do here this day, every man whatsoever is right in his own eyes . . . but to the place which Yahweh your God shall choose to cause his name to dwell there, thither shall ye bring all that I command you." Here is unquestionable polemic against existing high places, but Hölscher escapes this difficulty

¹²³ *ZATW*, xl, 1922, p. 182.

¹²⁴ *Ibid.*, p. 229.

by assigning these passages to the later editor of Deuteronomy. It is hard to see, however, why the later editor should have introduced this polemic against non-existent high places when, *ex hypothesi*, *Urdeuteronomium* found it unnecessary to attack them.

Dt. 12 13f., according to Hölcher, belongs to *Urdeuteronomium*. This reads: "Take heed to thyself that thou offer not thy burnt offerings in every place that thou seest, but in the place which Yahweh thy God shall choose in all thy tribes, there thou shalt offer thy burnt offerings." Dt. 12 17f. also belongs to *Urdeuteronomium*: "Thou mayest not eat within thy gates the tithes . . . but thou shalt eat them before Yahweh thy God in the place which Yahweh thy God shall choose." Dt. 16 5f. also is assigned to *Urdeuteronomium*: "Thou mayest not sacrifice the Passover within any of thy gates . . . but at the place which Yahweh thy God shall choose." Here is a clear attack upon existing sacrifice in the high places. Hölcher does not do justice to these passages when he dismisses them with the casual remark quoted above: "He (the author of *Urdeuteronomium*) assumes as established that Yahweh has chosen only a single place. The thing that he attacks is the practice that still exists in smaller or larger circles of offering burnt offerings elsewhere, or of consuming the tithes, firstlings, *etc.*, in the villages."¹²⁵ The frequent and labored repetition of the formula, "the place which Yahweh thy God shall choose out of all thy tribes to cause his name to dwell there, even his habitation," shows that the high places were anything but negligible quantities. P shows the genuine post-exilic standpoint in quietly ignoring the high places. The totally different attitude of Deuteronomy is the best evidence that it is not post-exilic.¹²⁶

The conclusion to which one comes, accordingly, is that the advocates of the post-exilic date of Deuteronomy fail to refute the arguments of the school of De Wette for its origin in the seventh century B. C., and fail to produce any convincing evidence of its origin in the fifth century.

¹²⁵ *Ibid.*, p. 182.

¹²⁶ Budde. *op. cit.*, p. 207; Grossmann, *op. cit.*, p. 331.