



Constructive Elements in the Critical Study of the Old Testament

Author(s): Morris Jastrow, Jr.

Reviewed work(s):

Source: *Journal of Biblical Literature*, Vol. 36, No. 1/2 (1917), pp. 1-30

Published by: [The Society of Biblical Literature](#)

Stable URL: <http://www.jstor.org/stable/3259272>

Accessed: 09/04/2012 16:24

Your use of the JSTOR archive indicates your acceptance of the Terms & Conditions of Use, available at

<http://www.jstor.org/page/info/about/policies/terms.jsp>

JSTOR is a not-for-profit service that helps scholars, researchers, and students discover, use, and build upon a wide range of content in a trusted digital archive. We use information technology and tools to increase productivity and facilitate new forms of scholarship. For more information about JSTOR, please contact support@jstor.org.



The Society of Biblical Literature is collaborating with JSTOR to digitize, preserve and extend access to *Journal of Biblical Literature*.

<http://www.jstor.org>

CONSTRUCTIVE ELEMENTS IN THE CRITICAL STUDY OF THE OLD TESTAMENT*

MORRIS JASTROW, JR.

University of Pennsylvania

I

The critic has never been a popular figure. At his worst he is an iconoclast, at his best he makes us feel uncomfortable. Whether in the region of politics or science, in religion or art, or even in a realm so innocent on the surface as archæology, the man of independent judgment, who questions conventional standards and accepted views, generally pays the penalty for striking out along new lines by being at first crushed through silence or smothered under contempt, and not infrequently he becomes a martyr to a cause which nevertheless is destined to triumph.

The biblical critic has shared the fate of his fellows of the craft. He fortunately appeared at a time when it was no longer fashionable to burn people at the stake, but he has been alternately denounced as an enemy to the church and as a foe to religion. He has been excommunicated; he has been sent into exile in the hope that he might recover his orthodoxy or at least be out of harm's way, and he has stood trial for heresy. Nevertheless, the progress of critical study of both the Old and the New Testament has proceeded steadily ever since the days of Richard Simon; it cannot be obstructed any more than it is possible to dam up the ocean.

The advance even in the popular recognition of biblical criticism finds an illustration in the division that people are fond of making nowadays between conservative and radical critics; and many persons seem to take comfort in the belief that the "conservative" critic is a less obnoxious individual than his radical colleague. In reality such terms as conservative and radical have no bearings on any critical study, unless they are employed to differentiate between the careful and the rash critic,

* Presidential address at the annual meeting of the Society of Biblical Literature at Haverford College, December 26, 1916.

but the careful critic—obviously to be preferred—is not one whit less critical, because he proceeds at a slower pace, and he does not deserve on that account to be a bit more popular. In fact the rash or bold critic is apt to be the more lovable, as he is generally the more genial personality. Let us not lay the flattering unction to our soul that we are more acceptable when we appear to be less subversive. We are all, in popular parlance, “in the same boat,” the moment we adopt a critical method in our study whether of the Bible or of any other subject. The only justifiable distinction between critics is that into good and bad critics, that is, into those who follow a sound method and those who indulge in vagaries; and it is proper to add at once that one may be a very good scholar and yet be a bad critic, or what is worse, no critic at all. The critical method is an outcome of the critical sense; and the critical sense is a mental discipline, independent of scholarship, though it should of course be bound up with it. A scholar tied or pledged to traditional views can never become a critic, even though his learning reaches to the pinnacles of human industry.

Now the popular attitude towards the critic which I have attempted to sketch is both natural and human. The instinct of the average man who is just the reverse of critical, in looking askance upon the critic's activities, is entirely justified, for the critic *is* the foe of popular views which are generally popular prejudices. To examine these views and to replace them when wrong by the results of methodical investigation is the critic's function. If what *is* were correct, Othello's occupation would be gone. Moreover, it is wholesome, though not a pleasant position, for the critic to be unpopular, for opposition acts not only as a spur to him, it prompts him to test his conclusions so as to defend them against attacks which are inevitable. Had Darwin not realized the attacks to which his unpopular theory of Evolution—which was also a theory of revolution against current views—would be subjected, he would probably have brought it forward in its rough draft instead of the finished product, which, due to repeated recastings and constant tests with unsparing self-criticism, anticipated most of the objections that were urged against it on its final appearance in 1859. The unpopularity of criticism thus reacts on the critic's disposition. If he is a man of broad vision and

of sympathetic outlook, opposition will not embitter him but stimulate him to his best efforts and, moreover, prompt him so to present his results as to reveal at the same time a proper consideration for accepted views.

In the domain of biblical criticism, more particularly, where the critic deals with matters that are closely entwined with religious doctrines disseminated for many ages through church and synagogue, the reaction of the unpopularity of his task in disturbing these beliefs will be to lead him to a proper regard for the tremendous force of tradition—the chief bulwark of both conventional beliefs and of popular prejudices. It is interesting to note that many of the most eminent biblical scholars, associated with the new and in so many respects revolutionary phase of biblical studies in the nineteenth century, have responded to this reaction. Though denounced as radicals, they have for the most part been men whose instincts and predilections tended towards conservatism in the accepted sense; and, though uncompromising in the application of a strictly scientific method in their investigations, have realized the seriousness of their position in standing forth as advocates of a break with tradition. I have in mind such men as Reuss, Dillmann, Kuenen, Weiss, Renan, the elder Delitzsch, Colenso, Robertson Smith, Cheyne and Driver and in this country Briggs and Brown, to name only such as have passed beyond our vision.

The thought that I wish to suggest is that, in the field of biblical studies, the critic's task is not finished when he has set forth his conclusions in cold scientific fashion, important as this part of his task is. Because of the bearings of both Old and New Testament criticism on some of the fundamental problems of religious thought (for religion has developed throughout the western world on the basis of the teachings embodied in the two sacred collections), the critic should feel the obligation to correlate the bearings of his results on traditional points of view, which in turn are so closely bound up with current doctrines and beliefs. Indeed the critic cannot escape this obligation, even if he would, for all of us are prompted by an irresistible force to clarify our own beliefs, to test them with changes in our attitude towards life, to modify them with the processes of our own mental growth. No man who thinks can live without a creed of his own, and when we are dealing, as in the case of

the Bible, with texts which form an ingredient part of the creed of the western world in all its ramifications, we are inevitably brought face to face at every turn in our studies with widely accepted views which we may be forced to controvert and in many cases do controvert but which, nevertheless, command our respect and sympathetic treatment because of their age and because of the profound influence these views have exerted for so many centuries, aye, for almost two millenniums.

From time to time it is, therefore, desirable for the critic to take stock, as it were, to count up the columns of the profit and loss account and endeavor to strike a fair balance. The task is not an easy one because of the many cross-currents in the modern study of the Old and New Testament, and I bespeak your indulgence while I make the attempt to set forth what I regard as the constructive elements in the present phase of the critical study of the Old Testament. Much of what I shall have to say will be applicable also to the New Testament, but I shall confine my illustrations, because of the limitations of my own studies, to the collection that unfolds the religious thought among the Hebrews from primitive beliefs and practices to the advanced form of a spiritual faith that forms at once the glory and the lasting value of the literary remains of the ancient Hebrews.

II

Thirty-six years ago Abraham Kuenen, taken all in all perhaps the greatest of all critical students of the Old Testament—unless we except Julius Wellhausen—, wrote a notable essay on Critical Method,¹ in which he laid down in masterly fashion the canons of Old Testament criticism. The essay was written a few years after the appearance of Wellhausen's studies on the Pentateuch in the *Jahrbücher für Deutsche Theologie*, which through the definite establishment of the thesis, first suggested by K. H. Graf, that the development of the bulk of the Pentateuchal codes—and with this the legalistic spirit—comes after the prophets, marks the new epoch of Old Testament criticism

¹ The Modern Review (1880), pp. 461-488 and 685-703. A German translation by Karl Budde will be found in Kuenen's *Gesammelte Abhandlungen* (Freiburg 1894), pp. 3-48.

in which we are still living. Literary criticism—commonly designated by the rather meaningless term “higher criticism” as against textual or “lower criticism”—was at the time the chief problem that critics had to face. This problem included both the analysis of the documents distinguished in the narratives and codes, the component parts in the prophets and in Psalms, Proverbs and Song of Songs, the manner in which the documents and component parts were welded together, the historical credibility or worthlessness of the data in the documents, the manner of composition and date of literary productions presenting more of a unity like Job, Ecclesiastes, Ruth and Esther, and to trace through the entire collection the growth of religious ideas among the Hebrews. Kuenen’s lucid exposition of the method to be followed in accomplishing this task forms the justification of the method itself; and it is not too much to say that his canons of criticism as illustrated in all his writings still hold good to-day. Towards the close of the essay Kuenen touches upon the two chief criticisms urged against the critics at the time, one that their method was destructive and the results negative, the other that the disagreements among scholars rendered the results necessarily uncertain. Kuenen is obliged to admit the latter charge, and shows how inevitable such a division of opinion is because of the entrance of the subjective factor into the critical analysis of ancient documents. In every field of investigation, when a departure along new lines is signalled, various hypotheses are necessarily set up until one is evolved which, because of its ability to account for *most* of the facts in a satisfactory manner, meets with general acceptance. Since Kuenen’s essay, the process of setting up tentative hypotheses may be said to have been practically completed. More particularly in regard to the composition of the Pentateuch—to so large an extent the real test of the critical method—unanimity has been reached as to the order and distribution of the “cabalistic” series J, E, D and P with their various subdivisions. Similarly, in the literary analysis of the documents in the large group of historical compilations, substantial agreement now prevails. The even more complicated problem involved in the collected utterances of the prophets and in such compilations as Psalms and Proverbs has at present reached a stage which justifies the prediction that ere long critical stu-

dents will reach the same measure of agreement here as is the case in the other sections of the Old Testament, thus furnishing the guarantee for the correctness of the results reached. Much, to be sure, remains to be done after the analysis of the documents has been completed and the manner and age of composition determined. On this supplementary task I shall touch presently, but at all events of the two criticisms that were most prominent when Kuenen's essay appeared, the second may now be dismissed.

The other charge that biblical criticism both of the Old and the New Testament was destructive, was not answered by Kuenen in a manner that can be regarded as altogether satisfactory. He scouts the idea that criticism has the power to destroy anything contained in the Bible, and he maintains that it aims its shafts merely at the theories constructed around the data. But is not such a distinction somewhat of a quibble? To be sure, the Bible as a sacred collection remains intact after criticism has done its work, but the traditional views regarding the origin, nature and method of composition of the books are so entwined with beliefs that derive their authority from these views that one cannot question the tradition without loosening the foundations of the beliefs. This does not necessarily mean that the beliefs are doomed to be abandoned, but it does obviously involve that they must submit to decided and serious modifications. Instead of attempting to minimize the destructive phases of criticism and apologetically to struggle to show that the results are altogether positive and not negative, it would seem to be the better part of discretion to recognize what we have lost through the abandonment of traditional views, and to place against this loss what we have gained through the critical method—not indeed as its justification, for critical study requires none, but as its claim to our appreciation. A generation ago, it may be admitted, biblical criticism *did* appear, on the surface at least, to be largely destructive. At least the distinctively negative results appeared to outbalance the positive ones. Kuenen recognized this condition as a necessary phase through which criticism must pass, but what he realized for himself by virtue of his penetration into the study which was dearer to him than life, to wit, that sound criticism always leads to worthier views of the past, he was not yet in a position to

prove to the satisfaction of others. The progress made since Kuenen's days has confirmed that conviction, and I venture to think that we are now in a position to set forth the constructive elements in the critical history of both the Old and New Testament in a manner that is calculated to diminish the still existing popular prejudice against that study, even if that prejudice cannot be wholly overcome. As the most important of these constructive elements I make bold to set up the clearer light in which we may now view the relation of tradition to criticism. Let me endeavor to justify this thesis.

III

It will probably be agreed that if we wish to express the contrast between the older and modern study of the Bible in a single phrase, we may do so by the dictum that criticism has usurped the place once taken by tradition. Not indeed that the critical study takes its rise with the setting aside of tradition—for critical study is older—but that it has been reserved for our days to carry on the critical study of the Bible untrammelled by tradition, that is to say, independently of accepted views and conventional assumptions. Adopting the scientific canons that hold good in other historical fields, an entirely new departure is marked in biblical studies with the endeavor to set forth the course of Hebrew history by means of a sharp separation between folk-lore material and genuine historical data. But in thus throwing off the shackles of a time-honored tradition, biblical criticism for a long time neglected an important feature of its task, to wit, to account for the tradition itself. It was considered sufficient to prove the deficiency or worthlessness of a tradition in order to secure acceptance for the critical point of view. Unless, however, in connection with the critical analysis it is possible to account also for the *origin* of the rejected tradition, criticism remains confronted with the very serious opposition involved in the persistence of that tradition. That opposition cannot be brushed aside by an *ipse dixit*. To offset a perfectly natural presumption in favor of a view that has stood its ground for two millenniums, not only the rise of the tradition must be accounted for historically but also the apparent

reasonableness of the tradition, without which it would not have commended itself to general acceptance, must be recognized and the endeavor made to show *why* it appeared reasonable. We must remember that wisdom was not born with the modern critics nor will it die with the critics. Past ages, too, exercised reason, and even if a traditional view can be shown to be a delusion—as I believe it generally is—yet it must have been a *reasonable* delusion, not an irrational one. I believe that I am not mistaken in the impression that the trend of the most recent biblical criticism is precisely in the direction of taking due account of tradition at every turn in its investigations, not to be sure in the form of a weak compromise between tradition and criticism, but in utilizing the *substantial* basis of a tradition as a means of placing the critical results in a stronger and clearer light.

Let me take as an illustration the relationship between the traditional view which assigns to Moses the authorship of the Pentateuch and the critical view which, separating the narratives in the Pentateuch from the legal codes, has shown the composite character of both divisions and assumes a long-continued process of the combination of several documents with editorial links and expansions. The process, leading finally to the combination of the narratives and codes, covers a stretch of at least four centuries until finally c. 400 B. C. the Pentateuch in its present form was evolved. There is of course no possibility of reconciling the two views, but there is an aspect of the tradition which is of considerable value as a guide in the elucidation of the critical standpoint.

The starting-point of the Mosaic tradition is evidently the close association of Moses with the popular tradition regarding the beginnings of national life among the Hebrews (and possibly other clans), forming the confederacy of the Bene Israel. These traditions agree in picturing Moses primarily as a law-giver. For the specifically priestly functions which in the early period of the life of a group could hardly have been separated from the announcement of decisions in the name of the deity which tradition assigns to Moses, that same tradition places by the side of the law-giver a second figure, Aaron, who in contrast to the sharply outlined personality of the great leader is a shadowy figure, so vague indeed and so manifestly a pale reflection of

Moses himself that one may assign the creation of Aaron to the P document. This distinction between the impression conveyed in the Pentateuch itself of Moses on the one hand and of Aaron on the other is in itself a valuable index of the different way in which the traditions about Moses should be judged, as against those dealing with Aaron. The penetrating and remarkably suggestive investigation of Gressmann² has made it clear that we cannot dispense with the figure of Moses in accounting from the critical point of view for the rise of Israel. To put it paradoxically, if Moses did not exist, the critical study of the Old Testament would be obliged to invent him in order to explain Israel. We need to posit at the threshold of Hebrew history the figure of a leader through whose forceful personality a number of clans were brought together into some kind of a political unit. Moses, as such a leader, naturally comes down in tradition also as a law-giver, that is, as the medium through which oracular decisions needed for the government of the group are announced. Such decisions, in accord with the prevalent views throughout antiquity, are given in the name of the patron deity of the group. All Law in antiquity is looked upon as of divine origin. The Hebrew term for 'law,' *Torah*, has its equivalent in the Babylonian *tirtu* which connotes an "oracle." No matter how simple the organization of the clans led by Moses may have been, *some* laws would be required for the regulation of religious and secular affairs. These laws would necessarily be *Torah*, i. e., communicated as oracles with divine authority. The tradition, accordingly, which portrays Moses primarily as the law-giver, obtaining his decisions direct from the patron deity of the group, can thus be shown to rest on a basis which is reasonable, and I venture to add historical, in its main implications. Such a conclusion does not, of course, carry with it the further assumption that any of the laws in the various codes of the Pentateuch represent the actual decisions in the form in which they were orally announced by Moses, but it justifies us in the case of such enactments as are consistent with the simple conditions prevailing at the beginnings of the national life of the Hebrews and which in other respects bear the earmarks of a high antiquity, in assuming that they date from that period. The provisions of the Decalogue, e. g., in their simplest

² *Mose und seine Zeit* (Göttingen 1913).

form without the subsequent amplifications fall, as Gressmann also admits,³ in this category. They represent just the kind of provisions for the protection of property and of life, for the regulation of family relationships, against an unauthorized invocation of the divine name, against disloyalty towards the patron deity of the group, which go with a simple form of society. This applies also to the warning against making an image of the deity as an innovation in the cult, marking a departure from the primitive Semitic point of view which localized a deity in a stone, tree or wall, that is to say, in a natural object and not in one made with human hands. Among a semi-nomadic confederation even the single ritualistic ordinance in the Decalogue to regard the sabbath as a sanctified day fits into these conditions if we accept the term in its original construction,⁴ as marking the full-moon period when certain *taboos* were to be observed as precautions to ensure the favor of the deity during the remaining half month, when the gradual waning of the moon suggests by a natural association the apparent withdrawal of divine protection. A caution, to be sure, must be added that even in its simplest *written* form the Decalogue may no longer represent the *exact* language in which it was originally couched and for some indefinite period orally handed down. This, however, is a matter of secondary importance.

Now, with this view of the Decalogue as a starting-point, the tradition which makes Moses the author of *all* the laws in the Pentateuchal codes can be accounted for in a reasonable manner, for it is the nature of tradition not to differentiate between what is older and what is more recent, to ignore the gradual extension of enactments, increased and modified with changing conditions, into a Code, entirely to leave out of account the rise of various Codes and thus to throw the burden of the entire legislation in the Pentateuch on the one individual who comes down in tradition as a law-giver. Unless, however, we assume *some* historical justification, however dimmed by later and entirely

³ *Mose und seine Zeit*, p. 471 seq. See, also, Peters, *Religion of the Hebrews*, p. 98 seq., whose exposition of "The Religion of Moses," in chap. IV of his book, is to be highly recommended as an admirable analysis of the subject from the critical point of view.

⁴ See Chapter III in the author's *Hebrew and Babylonian Traditions* for a full exposition of the original character of the Hebrew sabbath.

unhistorical layers, for the rise of the view which makes Moses primarily a law-giver, we forfeit the possibility of answering a serious objection to the entire critical analysis of the Pentateuchal codes and, I venture to add, we also miss the key to an understanding of Hebrew history.

Now, I am far from dogmatically asserting that my presentation of the particular tradition, which I have chosen as an illustration, is necessarily correct. If it can be replaced by a more satisfactory one all the better, but some *reasonable* basis for the tradition must be brought forward by the critical view, or criticism fails in an important part of its task. It remains incomplete unless it can also construct a reasonable basis for the tradition itself. To reject a tradition without satisfactorily accounting for its rise and growth is to commit an error as fatal from the scientific point of view as to accept it in the face of insuperable difficulties.

Once we have accounted for the tradition which makes Moses the author of *all* the laws, it is a simple matter to explain the further aspects of the tradition which assigns to Moses the authorship of the *entire* Pentateuch—laws and narratives. The Pentateuch in its final form presents the appearance of unity, so skilfully have the codes been combined with the composite documents, which themselves present a mixture of myths, tribal folk-lore, dimmed recollections of tribal movements and quarrels, all elaborated on a semi-historical background. Naturally, therefore, Moses becomes the author of the entire Pentateuch, with the growth of tradition in an age which, on the one hand, was uncritical and, on the other hand, was prompted through the rise of individual authorship to assign to one author the composition of books which in reality are compilations of various sources that passed through many hands before receiving their final shape. Elsewhere,⁵ I have enlarged upon this exceedingly interesting evolution from anonymous and composite to individual authorship. I feel that we cannot too strongly emphasize the fundamental distinction between the early stages of literary production everywhere in which the notion of the individual's claim to composition is conspicuous by its absence, and the later stages in which the individual genius presides over literary productions.

⁵ *Hebrew and Babylonian Traditions*, p. 284 seq.

In Egypt, Babylonia and India, as among the ancient Hebrews, literary composition is anonymous because it is the expression of beliefs, views, traditions and knowledge possessed in common. The form is incidental. Even among the Greeks this anonymity was the case up to a certain period, witness the Homeric poems which are composite and essentially anonymous,⁶ though it is also among the Greeks that we first find individual authorship coming to the fore, and becoming the dominant note in their intellectual life. The Greeks may be said to have invented authorship, with all the good and the ills involved in the innovation, and I believe that the disposition among the pious Jews in the three centuries before our era to ascribe the books of the sacred writings to individuals and to issue productions in the name of an individual is a reflection of the influence exerted by the literary methods of the Greeks upon the Semitic Orient. Previous to that, a book in the Orient was always in the literal sense of the word a com-position, that is, a compilation of various elements, the work of several and often of many hands and one that grew gradually into the form that it finally assumed. In this process, there prevailed absolute indifference as to the authorship of the component parts. Every one able to do so felt free to add to a literary production that he had before him or that fell into his hands, to superimpose upon an original stock whatever seemed appropriate or to have any bearings on the theme, whether of his own creation or something that had come to his notice. In this way by a process into the details of which it is not necessary to enter, a miscellaneous series of documents with all manner of editorial glosses, comments and amplifications took shape as the books of Judges, Samuel and Kings, and such compilations as Job, Ecclesiastes, and Proverbs arose. Even as late as the days of the Maccabees this form of literary production prevailed, as is shown by the composite character of the Book of Daniel, while the most notable instances of this anonymous method of composition are the several collections of hymns culminating in our present Psalms, and the compilations of the orations of the prophets, with little or no regard to the

⁶ See Sir Gilbert Murray, *The Rise of the Greek Epic* (2d ed.), p. 126 seq., who introduces the composite character and gradual growth of most of biblical books in illustration of the manner in which the Homeric poems as a "Traditional Book" took shape.

question whether what was included in the utterances of a particular prophet really emanated from him or not. If it was in his spirit or if it seemed appropriate to be attached to his utterances, it was done. Thus we have as a result of this totally unhistorical method a collection on a large scale like the Book of Isaiah, in which groups of orations belonging to various pre-exilic, exilic and post-exilic periods have been combined with so little regard to a unity of authorship that the most plausible theory to account for an apparently unsystematic compilation is to assume that the name Isaiah became a symbol for a certain quality of prophetic utterances, as Moses became the type of the law-giver and Abraham the type of the pious Hebrew, the quintessence of obedience to Yahweh's will, and Solomon became the type of the ideal king. This tendency of individuals to lose, as it were, their personal traits and to become symbols of certain activities or of a certain attitude towards life is a by-product of tradition, which ignores the element of personality in converting orally transmitted data, utterances, thoughts, beliefs and aspirations into written records or literary productions. Anonymity in Hebrew literature survived even the rise of the literary spirit. Job and Ecclesiastes, the distinct outcome of this spirit in post-exilic days, furnish no indications of their authorship, although we can picture the type of mind that produced the original stock in both productions to which subsequent writers made substantial additions, particularly in the case of Job. Even the Book of Esther, more of a unity than almost any book in the Old Testament collection unless it be Ruth, comes down to us as an anonymous romance, and we must descend to the middle of the second century B. C. before we encounter an author recognized as such, in the full Greek sense of the term, in the person of Ben Sira.

IV

To come back to our theme, what may be called the utilization of tradition in the critical study of the Old Testament seems to me to be a striking feature of the present phase of that study. It is a feature which makes emphatically for constructive work. It disposes us to study a tradition about data and documents with the same care with which we dissect the data and analyze

the documents, and in our results to take the origin and growth of the tradition into due account. The upshot of this emphasis upon distinctively constructive elements in biblical study is to intensify the historical spirit itself in the critic's reconstruction of the various periods of Hebrew history. This manifests itself whether he deals with historical personages like David and Solomon, or with legendary figures like the patriarchs, or with the attempt to unfold the course of religious thought and the growth of ritual and law. The constructive critic will give us a truer picture of a personage like David, if in addition to utilizing such data of the documents in Samuel and Kings as he has satisfied himself are historical, he also includes in his estimate the substratum of the tradition that has gathered around the popular hero. Instead of rejecting a tradition as utterly worthless because unhistorical, he will extract from it by a sympathetic penetration into his theme some elements that will help to bring the historical picture into stronger relief. From this point of view even so unhistorical a tradition as the one which ascribes the Psalms to David, and gnomic productions like Proverbs and Ecclesiastes to Solomon, yields a constructive element in supplementing the genuine data for the period of these rulers that can endure the critical test. David may not have written a single one of the Psalms in their present form; indeed it is quite certain that he could not have done so. Even so martial a composition as the lament over Saul and Jonathan,⁷ though bearing the earmarks of having been produced at the time of the death of these heroes, has probably not come down to us in its original form. Yet, unless we assume that heroic lyrics of this character were produced in the days of David and that ritualistic psalms revert to the same period, we fail to account for the tradition which makes David a sweet singer in Israel. What I wish to suggest is that there are, indeed there must be, two sides to David, the hero and the organizer of a state on the one hand, based on a firmer union between the clans than had hitherto existed and imparting royal prerogatives to the head of the state, and the faithful follower of Yahweh on the other hand, imbued with both a poetic and a religious spirit, as successful warriors often are. This spirit, we must furthermore assume, must have shown itself in the organization of a ritual,

⁷ II Samuel 1: 19-27.

more elaborate than the simple one that sufficed for earlier conditions. In this ritual, formal hymns to the protecting deity, sung to a certain measure and accompanied by a rhythmic dance, must have played a part. Leaving the further development of the thesis for another occasion, the suggestion is sufficient to illustrate the thesis that the distinctively religious tradition concerning David, marked also by his desire to build a large sanctuary on which tradition lays stress, points to an important advance in the cult, running parallel with the momentous political epoch that is ushered in through the appearance of a personality like David.

In the reign of Solomon this movement is continued and here, indeed, the religious side of Solomon is so clearly emphasized in the data which are genuinely historical, despite the admixture of fictitious elements like Solomon's dedicatory prayer on the completion of the Temple (I Kings 8:22-53), as to remove all doubt of the elaboration of the cult as a marked and characteristic feature of his age. Such cult activity, as already suggested, is inseparable from modifications in religious beliefs, more or less pronounced. The close affiliation everywhere throughout antiquity between political changes and modifications in religious conceptions comes to reinforce this conclusion, just as a striking political advance forms a stimulus also to intellectual activity. The age of Solomon must have been marked by such an activity, or we would not find him coming down in tradition as a literary figure. To put it briefly, David would not have developed into the type of the religious poet, nor Solomon into the type of the 'wisdom' writer, had not the age in which they lived furnished the stimulus which led eventually to productions of the kind represented by Psalms and by Proverbs and even Ecclesiastes^s so far as it aims to give expression to a certain philosophy of life—a *Weltanschauung*. Thus criticism, while rejecting as worthless the tradition which assigns the authorship of any religious poetry to David and of gnomic productions that have come down to us to Solomon, yet utilizes the tradition in tracing back to the

^s The case is different with the 'Song of Songs,' a collection of love poems of popular origin, in which the misinterpretation of the term "King", applied to the bridegroom because of the homage paid to the groom and his queen-bride during the week of wedding festivities, is the source of the tradition which identifies the "King" with Solomon as the Jewish king *par excellence*.

period of these rulers the source and stimulus for such compositions.

It is no small gain, therefore, in the reconstruction of Hebrew history on a critical basis, to secure through the proper appreciation of tradition as a constructive element, through the determination of a *reasonable* relationship between tradition and criticism, links that establish connections between earlier and late phases of that history. The unfolding of religious thoughts and beliefs and the expression of both in the cult and in literary productions thus become a continuous process, through the combination of critical analysis with the study of the rise of the tradition associated with the various periods of Hebrew history.

Such a method helps us also to establish links between the religious ideas proper to the Mosaic period and those of the crucial prophetic movement that takes its rise in the post-Solomonic age. If I read aright the drift of recent criticism of the most sober kind, the need has made itself felt of finding a more gradual transition from a crude Yahwism to the profoundly ethical and highly spiritualized conception of the method of divine government, as revealed in the prophets of the eighth and following centuries, albeit this conception is still bound up with national aspirations and limited to a restricted political horizon. While one may not be disposed to go as far as Sellin⁹ in finding *pronounced* traces of the religious spirit of the prophets of the eighth and succeeding centuries as far back as the age of Moses, nevertheless the trend is in the right direction, and the instinct which prompts it is justified by the *a priori* considerations that such a movement as is represented by the great Hebrew prophets is the culmination of a process that must have taken several generations at least to mature. Indeed Sellin is probably right in the thesis that the conception of Yahweh, impressed upon his followers by Moses, must have contained the germ of the movement. We may perhaps detect this germ in the peculiar circumstances under which Yahweh became the specific protector of the Hebrew groups, through an act of liberation from intolerable conditions. Yahwism among the Hebrews thus starts out with the emphasis on the right of any group to its own freedom. The relation between Yahweh and Israel thus posited at the birth of the nation is of an idealistic

⁹ *Der Alttestamentliche Prophetismus* (Leipzig 1912).

nature—more than a mere ‘give and take’ agreement—though this factor is also involved. The prophets follow a correct instinct in harking back in their utterances to the age of Moses as the one in which the relationship between the people and the national protector was of the purest, comparing it to the love-tide and honeymoon period in human life. The prophets stand forth as the advocates of the simple life, opposed to merely national aspirations for power, to entangling alliances and to innovations of the cult due to advancing political and social conditions with the concomitant growth of class distinctions, of ambition for wealth and for social influence. They could defend themselves against the charge of being revolutionaries by pointing to the simple conditions of life and to the simplicity of the imageless cult without priestly organization and without an elaborate temple service that marked the ‘ideal’ age at the beginnings of Hebrew nationality. Their emphasis on a *direct* relationship between Yahweh and his worshippers, leading logically to obedience and conduct as the test of devotion to Yahweh, would thus find a support and a justification in the past, touched with the glamour that the past always acquires. To be sure, the prophets consciously or unconsciously transcend in their utterances the standards of the past both in religious conception and in ethical ideals, but—and this is the crucial point—they erect their structure on foundations that may be traced back to the beginnings of national life. In this way and in other ways on which it is not possible to enlarge in this discussion, the utilization of tradition enables us to penetrate deeper into the problems involved in the evolution of the religious experiences of the Hebrews than would be possible by the mere analysis of documents. Tradition, provided care is exercised in separating the valuable from the worthless elements, becomes an important adjunct and one of a distinctly constructive order to the critical study of the Old Testament.

V

Another such constructive element of a different order, though not unrelated to the one just set forth, is the utilization of what I would call the sociological factor in supplementing the literary

criticism and analysis of documents. A beginning in this direction was made some decades ago by a little volume on "Early Hebrew Life" (London 1880) by John Fenton, which appears to have been little noticed at the time, though references to it are now encountered more frequently as more attention is being paid to the social evolution of ancient nations.¹⁰ The little work may be described as an attempt to apply the method of Sir Henry Sumner Maine, the subtle investigator of early social institutions, to Hebrew history. The exposition is most suggestive, and shows how the documents in the Pentateuchal codes and how incidents recorded in the narrative portions of the Pentateuch and in the historical books proper may be utilized to illumine the rise of social customs and legal methods, perfected to cope with conditions as they developed when the Hebrews advanced to the agricultural stage through their gradual absorption of the Canaanitish settlements in Palestine. Taking up as the two central themes, the tribal organization in the pastoral period and the organization of the village community in the agricultural stage, Fenton extracts from the careful investigation of a large number of terms, used both in the codes and in the narratives, the material for reconstructing a picture of early Hebrew life, which passes far beyond what one would obtain by a mere analysis of documents. He shows the large part to be assigned in the customs and traditions of the Hebrews to survivals. Much to be sure of what Fenton set forth almost forty years ago has become, through the subsequent investigations of scholars like the late Robertson Smith, commonplace knowledge, but the last chapter in Fenton's book, dealing in a penetrating manner with such problems as the origin of law among the Hebrews, and the relationship of unwritten to written records, and the influence on social institutions exercised by religious customs, may still be regarded as the point of departure for investigations along the lines that I have in mind, and which may be briefly defined as the endeavor to interpret the data, gained from the critical analysis of the documents, in the light of the social evolution of the Hebrews, together with the utiliza-

¹⁰ The work is dedicated to the great German scholar Heinrich Ewald, as whose pupil the author describes himself. Outside of this booklet of 100 pages, I do not know of anything that Fenton wrote. Presumably he died not long after the appearance of his book.

tion of tradition as supplementary to the historical data. The value of this constructive element in the critical study of the Old Testament depends naturally upon the use of the proper method. The critical student must be interested also in the study of customs and of popular institutions; and these customs and institutions need to be studied along the line laid down by such masters as Maine, M'Lennan, Morgan, von Ihering, von Maurer, Bachofen, Fustel de Coulanges, and others.

Leaving aside as well-known the important investigations of Robertson Smith¹¹ and Barton,¹² dealing with the more general aspects of social conditions and institutions among the Semites, I should like to call attention here, in further illustration of the theme, to the more recent studies of a learned judge and Hebraist, Mayer Sulzberger, who, as the fruit of many years of study of the purely legal problems involved in the Pentateuchal codes and in the illustrative material for legal institutions among the Hebrews, scattered throughout the Old Testament, is issuing a number of monographs¹³ in which the sociological factor is strongly emphasized. While I dissent from some of Sulzberger's conclusions as too subtle, and believe that he not infrequently presses the meaning of the legal phraseology in the Old Testament too hard, for all that his investigations are of great value and merit far more attention than has as yet been paid to them. They contain many novel and brilliant suggestions which bring out in a much clearer and more definite fashion than heretofore social conditions presupposed by the laws themselves. The general trend of Sulzberger's investigations is in the direction of assuming more complicated modes of legal procedure in the early days of the national life of the Hebrews than we had a right to expect, though just here perhaps a word of criticism may not be out of place. A defect in Judge Sulzberger's method, if I may venture to point it out, consists in an insufficient differentiation between earlier and

¹¹ More particularly his *Marriage and Kinship in Early Arabia* (Cambridge 1885) and his *Religion of the Semites—Fundamental Institutions* (New York 1889).

¹² *A Sketch of Semitic Origins, Social and Religious* (New York 1902).

¹³ Three have appeared in book form: (1) *The Am Ha-Aretz, the ancient Hebrew Parliament* (Philadelphia 1910), (2) *The Polity of the Ancient Hebrews* (Philadelphia 1912) and (3) "The Biblical Law of Homicide" (Philadelphia 1915).

later enactments now fused together in the various codes, and in a neglect to distinguish the original stock of a particular law from additions, superimposed to adapt the law to later conditions than the ones presupposed in the part representing the original stock.¹⁴ This defect often leads the learned author astray, particularly in carrying back some of the legal phraseology and many of the legal procedures, so illuminatingly discussed by him, to a much earlier age than is warranted. A further result of this method leads Sulzberger to use illustrative material from the narrative portions in the Pentateuch and in the historical compilations proper without sufficient regard to the age in which the narratives assumed their present shape,¹⁵ though, on the other hand, his use of narratives in discussing legal terms and institutions contains some of the most valuable features of his striking investigations.¹⁶ There can be little doubt that on the whole the picture unfolded by Sulzberger of early Hebrew society and of the manner in which a simple tribal organization yielded to one of a military stamp, and passed from this stage of a federal form of government,¹⁷ is a true one, which brings out in clearer relief than mere political histories of the Hebrews—such as have hitherto been furnished by critical students—can possibly do. Sulzberger has pointed the way toward

¹⁴ In illustration of the differentiation that I have in mind, I may perhaps be permitted to refer to my own analysis of the so-called Leprosy Laws (Lev. chap. 13-14) published in the *Jewish Quarterly Review* (N. S., IV, pp. 357-418) in which I have made the attempt to separate the original law from later accretions, and in which I discuss the conditions that brought about these additions. Similarly in regard to the law of the Nazir (Numbers chap. 6), analyzed by me in an article in this Journal, 33, pp. 266-285. The same method may be applied to most of the laws in the three chief Pentateuchal codes.

¹⁵ So, e. g., he takes (*Am Ha-Aretz*, p. 20 *seq.*, and *Polity of the Ancient Hebrews*, p. 33 *seq.*) the scene in which Abraham purchases the cave of Machpelah from the sons of Heth (Genesis 25) as a narrative illustrative of conditions in the far-off days of the legendary Abraham, whereas the tale, the purport of which is to furnish a legal sanction for the claim of the Hebrews to the sacred cave at Hebron, can at best reflect the time when the tale was introduced.

¹⁶ So, e. g., his analysis of the functions and scope of the *zikhē ha-'ir* ('elders of the city'), one of the chief themes in his *Polity of the Ancient Hebrews*.

¹⁷ See the summary at the close of his *Polity of the Ancient Hebrews*, pp. 77-81.

the *larger* utilization of Old Testament data for the sociological evolution of the ancient Hebrews, and it will be for others to follow up the avenues which his investigations on the meaning of ancient terms and phrases have opened up, with a sharper insistence than he has done upon the critical analysis of the documents in which the data are embodied.¹⁸

Legislation and the study of laws form, however, only one phase of the task in supplementing the historical and distinctively religious data by penetration into the social conditions, prevailing at the various periods of Hebrew history. I myself made an endeavor in a paper on "Wine in the Pentateuchal Codes"¹⁹ to show how the attitude towards the intoxicating drink made of the wine changes, as we pass from simple social conditions to more advanced and complicated ones; and I followed this up by a study of the social evolution of the *Nazir* institution, based on a critical analysis of Numbers chap. 6, published in this *Journal*.²⁰ It is my intention as the occasion permits to take up in the same way and by following the same method of separating older strata in the material from later accretions, other aspects of social life and conditions among the ancient Hebrews, and the modifications through which these aspects passed, concomitant with changes in the social, political and religious status.

If I refer with some diffidence to these contributions of my own, it is only because they illustrate the constructive element in the critical study of the Old Testament that I have in mind.²¹ There is some foundation for the charge that the critical study of the Old Testament has overemphasized the analysis of the

¹⁸ It is only proper to add that while Sulzberger accepts the results of critical scholarship, he often *appears* to take the documents at their face value. An analysis of the value of a document must, however, precede any utilization of it.

¹⁹ *Journal of the American Oriental Society*, 33, pp. 180-192.

²⁰ Vol. 33, pp. 266-285.

²¹ Attention should also be called to the admirable study of *The Social Legislation of the Primitive Semites*, by Henry Schaeffer (Yale University Press 1915), with special reference to the Hebrews, and to the *Social Teachings of the Jewish Prophets*, by William Bennett Bizzell (Boston 1916), as illustrating the trend of modern critical studies to emphasize the sociological factor in the reconstruction of Hebrew history, and in tracing the evolution of social and legal institutions.

documents as though such analysis were an end in itself. It is also true that in the analysis itself we have overstressed the linguistic factor, as though the use of certain terms and phrases, even if characteristic of a writer or a school of writers, constituted a sufficient criterion for determining the sources underlying a document, to the neglect of the endeavor to distinguish rather in a composite document *different points of view*. The result has been, on the one hand, a somewhat wooden exegesis, manifesting itself more particularly in the endeavor to fix accurate dates for sections in a collection bearing a prophet's name, and similarly to determine the exact conditions under which a particular psalm was produced. Such an exegetical method defeats its own purpose by carrying the analysis to an extreme. Dr. Peters has shown in an illuminating article in a recent number of this Journal²² on "Ritual in the Psalms" the error involved in such an unbending method, which in seeking for specific conditions that gave rise to a psalm, down to the year and even to the month of its production, loses sight of the main fact that the psalms are after all and indeed, primarily, the outcome of religious emotions experienced by *worshippers*. They are the expression of religious needs of individuals, rather than prompted by political events—though these too may have played their part in this form of religious composition, in so far as such events affected the point of view of a pious soul, seeking to give voice to his emotions and aspirations. The Psalms, if studied in a constructive spirit, will enable us to penetrate into the inner life of the individual and the people alike. The Psalms touch life at many angles and not merely at one point. Similarly, it is not only to the historical background to the utterances of a prophet that we must look for an interpretation of his burning words, but to the play of his own personality. We must seek the man behind the utterances, understand the soul of the earnest preacher who is led by the stirrings of his own nature to speak out, and not necessarily by the impression made by a specific political occurrence upon him. The analysis of documents, be they legal enactments or folk-lore or narratives or orations or religious outpourings, may be carried too far,—so far that in the endeavor to distinguish layers and superlayers through philological criteria, we are in

²² Vol. 35, pp. 143-154.

danger of losing sight of the human element in the documents. This element, closely bound up with the sociological factor involved in the study of ancient documents, should prepare us for all kinds of inconsistencies and contradictions in the points of view revealed by an analysis of the material which forms the object of our study. As Sulzberger well puts it,²³ "Life with its rich and varied aspects has a way of dissipating the most rigid and exact logical processes." To dwell on this point a moment longer, I am inclined to believe that instead of assuming a combination of many documents, one or two mains with a varying number of subdivisions, it is a sounder method to assume in many cases a single document extended by glosses, explanatory comments and other kinds of additions by later editors, who felt free in a period prior to the restrictions imposed by the authority attaching to individual authorship to deal freely with a text which had fallen into their hands.²⁴

Be this as it may, our endeavor in the critical study of the Old Testament needs to be directed, I venture to urge, to a larger extent than heretofore towards determining the conditions underlying a document—if a legal document to the social status and the institutional ideas revealed by it, if a pure narrative to the relationship between the lives of the individuals and the events narrated, if folk-lore to the point of view—tribal or individual—from which the tradition sets out, and if in the domain of religious thought or emotion to the individual thoughts and emotions that called forth the production. The result will be in every case a stronger emphasis on the constructive elements to be extracted from a document or a purely literary production, supplemental to the critical analysis which must, as a matter of course, precede. The outcome of a larger utilization of tradition as an integral part of the study of the Old Testament and of a bolder and more thorough penetration into the

²³ *Polity of the Ancient Hebrews*, p. 3.

²⁴ So, e. g., the narratives in the Book of Joshua are for the greater part evolved in this way from a *single* document with glosses, amplifications of all kinds and large additions in the spirit of the Deuteronomist. See an article by the writer on Joshua 3, 16, in the current number of the JOURNAL. The Book of Job is another illustration of such gradual expansion from a single document, though here to be sure also by the steady addition of entire chapters, apart from glosses, and amplifications within a chapter.

social evolution of Hebrew life will be to give us a deeper insight into the manner in which higher religious thoughts arose among the Hebrews, and how these thoughts found an expression in ritual and in religious customs. This after all is the goal of both Old and New Testament study. The Bible is primarily a record of the religious life of the ancient Hebrews and of their successors, the early Christians. All other aspects of the vicissitudes through which the Hebrews and early Christian communities passed are subsidiary to this all-important and overshadowing phase of their history.

VI

Lest I be misunderstood in thus insisting upon the insufficiency of the mere analysis of documents, let me hasten to add in the concluding portion of my address that I have no sympathy whatsoever with the tendency manifested in certain circles to proclaim the documentary thesis in the study of the Old and New Testament to be a failure, and with this to set up the still more extravagant claim that the entire critical theory has suffered shipwreck. Such pronouncements generally come either from *dilettanti* students, who have neither the equipment nor the patience to penetrate to the core of the critical study, or from those who, whether bound by a rigid adherence to tradition or consciously or unconsciously inimical to criticism of collections regarded as sacred, look askance at the critic because he appears in the light of an iconoclast, or because he makes them feel uncomfortable. Criticism has nothing to fear from writers who chant "the swansong of the Wellhausen school" or talk of "The Higher Critical Quandary." At most such writers merely reveal certain defects in the analysis of the documents—defects due in many cases to the fragmentary form in which the documents have come down to us, and not to any error in the method followed by critical students. The basis upon which the results reached by the critical study of the Old Testament rests is too firm to be upset by outcries against it. Modifications in these results are bound to ensue, but such modifications will merely affect details and will not touch the main contentions of the critical school. Even the scholarly investigations of an Eerd-

mans who opens his series of investigations on the Pentateuch²⁵ by the statement that he has cut loose from the Kuenen-Wellhausen hypothesis have not succeeded in setting aside that hypothesis. For all that, we owe a debt of gratitude to such a scholar as Eerdmans, whose learning and thorough equipment are of course beyond question, in drawing a sharper distinction than has heretofore been made between the age of a document and the age of the ideas that it embodies. The ideas may be much older than the document, and indeed generally are. The wooden exegesis to which I have referred, resulting from an over-emphasis on the analysis of documents and an exaggerated consideration of the use of characteristic terms and phrases, led to the tendency, manifest particularly during the two decades following upon the general acceptance of the Wellhausen hypothesis of the composition of the Hexateuch,²⁶ to bring down the date of legal institutions and religious practices to *too* late an epoch, to the period in which the document arose or at which an institution or practice is set forth. Such a conclusion failed precisely to take account of the social factor upon which I have insisted in the study of Hebrew history. Because the Priestly Code is the latest of the codes and of post-exilic origin, it does not follow that its enactments are of post-exilic date. It is a feature of law everywhere, as also of ritual, to preserve the old by the side of the new. Law is a continuous process. The underlying principles of law are capable of expression in many ways; and it is of the essence of law in antiquity, because regarded of divine origin, that it is not abrogated but only modified in its application to changed conditions, even though the modification may amount to a virtual abrogation. Eerdmans and others have shown that the Priestly Code contains much that must be pre-exilic, resting on conditions and beliefs that belong in many cases to a very early age. Indeed there are provisions in it that point back to the Mosaic period and that may well have been in force among some of the Hebrew clans at that time, but for that reason to reject the thesis that the Priestly Code was compiled in the time of Ezra is to commit as fatal an error as to maintain that everything in it or even most of it belongs to the end of the fifth century B. C. Recognizing the

²⁵ *Alttestamentliche Studien*, I, p. iii.

²⁶ See above, p. 22.

manner in which old enactments are carried over into an age to which they are no longer applicable, through modifications introduced to adapt them to changed conditions and more advanced beliefs, the task of separating what is old in an enactment from later accretions is not a difficult one, though it must be carried out with care. To use the example above referred to,²⁷ the study of Leviticus, chapters 13 and 14, comprising a little code for the investigation and treatment of *Zara'ath* and a variety of other skin diseases, has resulted in the recovery of an original stock of legal enactments, resting on very primitive conceptions of the cause of disease and its treatment by means of magic, accompanied by exorcising formulae. This stock is clearly of very ancient origin, and was evolved independently of the elaborate ritualistic observations which are now embodied in the two chapters in question. Incidentally, the social conditions under which the original section was evolved are revealed. In this original section the priest is merely the exorciser. There is no sanctuary. The exorciser goes to the patient and performs rites intended to drive the demon, as the cause of the disease, out of the body of the sufferer. That is the meaning of the rite of sending off a bird into which the demon has been transferred. The exorcising ritual with its adaptation to later conditions is transformed into a purification rite at the termination of the disease. For all that, the old magical treatment is preserved, though combined with elaborate regulations of animal sacrifice performed at a shrine with the priest as mediator. The magical treatment is clearly very old. It is inconceivable that it could have been evolved in the post-exilic age but the old is retained by the side of the new—in this case the sacrificial regulations—and given a new interpretation that is consistent with the totally changed point of view involved in the post-exilic portions of the two chapters.²⁸

Again, in the chapter providing for the purification of the people,²⁹ which becomes the model for the atonement rites on the most sacred day of the later Jewish calendar, it is evident that a rite which prescribes the sending off of a goat into the

²⁷ See above, p. 20.

²⁸ These portions include the extensions of the observation of *Zara'ath* to signs on garments and on walls of houses.

²⁹ Lev. 16.

wilderness, laden with the sins of the people, must belong to the same early period when impurity of any kind was regarded as due to a demon that had to be exorcised. And yet this primitive rite was retained as part of a solemn festival that acquired the greatest possible significance in post-exilic Judaism. The day on which this festival was observed is itself of very ancient origin, although its character was entirely changed from what it originally must have been. So throughout the Priestly Code, as in the Deuteronomic Code originating at the close of the seventh century, we find very old practices combined with sacrificial and other regulations that belong to a much later period. The task of the critical student thus consists in separating the older from the later elements in the case of the enactments in the codes—in the earlier and the later ones; and it is clear that the application of this method will yield criteria to distinguish the social and religious conditions of one age from those prevailing at a later period. It will also lead, I venture to think, to a greater confidence in the reliability of many data furnished by the documents, which an extreme skepticism, founded too exclusively on the mere analysis of documents—and to a too minute analysis at that—led critics to reject as worthless.

There are, to be sure, legal fictions embodied in the codes, purely hypothetical cases and “academic” extensions of certain legal principles, as, e. g., in the two lists of prohibited animals (Deut., chap. 14 and Lev., chap. 11) where many animals are enumerated according to the indications derived from those which represent old established taboos like the swine and the camel, and added merely to swell the list. To include various kinds of vultures in such lists is a purely “academic” exercise, since it is obvious that such animals cannot be caught, and certainly never constituted a staple article of diet among the Hebrews or the other peoples of Palestine. Portions of the purification ritual (Lev., chap. 15) strike one similarly as theoretical extensions of certain principles. One may question whether all of the ‘incest’ enactments (Lev., chap. 20) rest on actual occurrences. The “Jubilee” regulation (Lev. 25: 8-17), occurring in a chapter which is clearly a supplement to a little code that ended with Chap. 24, has always been regarded, even by the rabbinical tradition, as an “ideal” and not as an institution that was ever carried out. The great bulk, however, of

the legislation in the codes, when cleared of glosses, comments, editorial expansions, and decisions in regard to specific cases and answers to queries connected with the law,³⁰ is unmistakably the outcome of actual conditions and arose in connection with prevailing practice, and not as an attempt to substantiate a theoretical reconstruction of Hebrew history. On the contrary, this reconstruction which becomes the traditional view of Hebrew history was evolved from the codes, built up around them, but the codes themselves reflect practices many of which are old and all of which are adapted to later conditions. My point is that the codes properly studied can be used as a means of following the course of the social growth of the Hebrews from early days to a very late period, and not merely for the period in which the codes assumed the form in which they lie before us. Just because the codes contain by the side of more recent legislation, old elements, at times so old as, e. g., the "Red Heifer" ritual (Numbers, chap. 19) that its exact significance has become obscured because of its antiquity, we can utilize the codes for the sociological reconstruction of Hebrew life and customs with all the greater assurance. Once we recognize the necessary continuance of the old by the side of the new, our confidence in the value of the data furnished by critical study is greatly increased, and we are less prone to become the victims of an unwarranted because exaggerated skepticism. And the historical material in the Pentateuch and in the historical books may be treated in the same judicious manner. To be sure, textual criticism and the analysis of the sources must precede any use of the data, not, however, so much with a view of finding as large a number as possible of chief documents and subsidiary documents, pieced together, but rather as suggested, while distinguishing main documents where such can be proved to exist, to clear the text of additions by glossators, commentators and amplifiers, which I am led to believe by my own studies occupy a far larger place than has as yet been assigned to them. The Biblical texts—even the latest of them—bear evidence of having been freely used by editors, because of the indifference to the claims of individual authorship on which I have dwelt. When we have thus suc-

³⁰ See further on this my article in the *Jewish Quarterly Review* (above referred to), N. S., IV, p. 391 seq.

ceeded in obtaining at least a close approach to the original form of any particular narrative, an enactment, an utterance of a prophet or a religious production, we may extract from it data of value, even though already compounded in this original form with purely traditional lore. The tradition itself in the hands of the student who enters with sympathetic understanding into the endeavor to account for it becomes of value in the constructive part of the critic's task.

Time will not permit me to develop my thesis further, but enough, I believe, has been brought forth to warrant the prediction that the next stage in the critical study of the Old Testament will be marked by a stronger insistence upon the constructive elements, to some of which I have thought it proper on this occasion to direct attention. Will it be said that under the guise of criticism, I am sounding a retreat towards what is conventionally known as the "conservative" position? I trust not, for, as I have strongly emphasized, the main results of the critical study of the Old Testament as recognized by scholars in all lands are so definitely assured as to be beyond all reasonable doubt. Modifications in detail will not affect the main features of the views now held as to the origin and manner of composition of the books of both the Old and New Testament. The dividing line between tradition and criticism has been definitely drawn for all times. What I am looking forward to is merely the larger utilization of tradition by criticism, not in the form of any weak compromise between the two, but with a view of making the critical study more constructive by penetrating deeper into the significance of the tradition entwined around the documents, and by extracting from the tradition, data and points of view supplementary to the critical analysis of the documents; and in the second place, the larger use of the sociological factor—the study of the evolution of popular customs, and the tracing of the course of social development—in the endeavor to follow the course taken by the unfolding of religious thought and beliefs among the Hebrews from primitive aspects to advanced forms. The result of such a method will be a realization that our material for such a study is richer than an exaggerated skepticism, due to a too wooden or a too subtle exegesis, confined to a mere analysis of the documents or a too eager insistence on word studies, might lead us to believe.

The critical study of the Old Testament, I firmly believe, is destined to pass on from externals to a deeper and more sympathetic penetration into the core of the problems presented by the two great collections that have so largely contributed to the thoughts and aspirations of the eastern and the western world for the past two millenniums.