

CHAPTER SIX CONTRADICTIONS AND REPETITIONS

It is claimed that the Pentateuchal Codes, even when Deuteronomy is left out of view, confront us with cases of flat and irreconcilable contradiction. Of course, if this be true, it precludes most positively all unity of authorship. Two contradictory laws cannot have been in operation at the same time: the one must have been antiquated when the other went into effect. And least of all is it thinkable, the critics say, that the same legislator should have prescribed two contradictory laws, and thus destroyed his own work and authority.

1. It must be admitted, if a number of contradictory laws, exclusive of each other, can be pointed out, without any reason to account for their difference in the altered circumstances, or any explicit statement that the one has been substituted for the other, that in this case we shall be shut up to the denial of the unity, and consequently the Mosaic authorship, of the Code. On the other hand, nothing less than this can accomplish the result, which the critics wish to produce, of putting Moses at variance with himself. A second condition to which this argument is tied, should be that a considerable number of discrepancies be adduced. To argue from a few isolated cases, and to leave the perfect agreement on the whole out of sight, is to substitute the letter for the spirit, and awakens a strong suspicion against the critics, that they are intent upon making out a case; that it is not the contradictions which compel them to deny the unity, but that *they* strain and press the former unduly to summon them as witnesses against it. It requires a very strong combination of individual facts to overthrow the presumptive evidence in favor of unity, which we have discovered in the remarkable similarity and agreement of all the Codes.

2. Abstractly, all admit the possibility that two laws might apparently contradict each other, whilst the difference might simply arise from the peculiar aim of each. In modern law, instances of such a character are numerous; but, whilst they are abstractly obliged to make this concession, the critics never endeavor to harmonize in concrete cases. This clearly proves that the question at issue is begged from the outset: it is a settled affair with the critics that the Codes are distinct. Thus prejudice and bias deal with the law in an unlawful way, and deprive it of its inherent right to speak for itself. The lawgiver is stopped in the midst of his instructions; and the dislocated and detached sentences of laws thus rendered incomplete, are triumphantly held up as contradicting each other. All such methods must be met with a bold protest; and no reasoning which in its premises anticipates an element of the conclusion to be reached, can be considered as valid.

3. Dr. Kuenen distinguishes two sorts of contradictions: 1. The discrepancy, though it actually exists, is of such a character that exegetical ingenuity, combined with the arts of jurisprudence, can solve the harmonistic problem. 2. The one law positively excludes the other. We must protest against this *a priori* decision of how much jurisprudence may be admitted in the exposition of law. If historical interpretation may be guided by historical canons, why not facilitate the explanation of law by all legal means? That the solution of a complicated legal problem can be reached only with the help of fine distinctions, gives Dr. Kuenen no right to affirm that the discrepancies actually existed in the mind of the lawgiver.

4. If it be admitted that law may and must be interpreted and harmonized on legal principles, we find

that there are in general two ways in which apparent contradictions can be removed; and it is but fair to try either of them before an absolute disagreement is alleged.

(a) *Systematically* we harmonize two statements by assigning to each its proper domain, considering them from the peculiar point of view which the lawgiver had in mind when he prescribed them, by making the one supplement the other.

(b) *Historically* the chronologically later passage must be given the preference over the one enacted earlier. There is nothing unreasonable in the assumption that provisional directions were subsequently modified, especially when at first only stated in outline rather for theoretical than practical purposes. This right of historical harmonization must be insisted on the more firmly, since the Pentateuch presents codified law in the framework of history, from a historical point of view. In many cases, the earlier enactment was not given for a legal, but simply for a historical, purpose, or only intended to suit a transient state of affairs. When the latter ceased, it became self-evident that the provisional law had lost its binding force. This principle is of wide application in comparing Deuteronomy with the Levitical Code.

To both methods as presented by Delitzsch (Genes. Einl., 43, 44), Dr. Kuenen again takes exception. Delitzsch had referred to the *corpus juris Justinianum* as a parallel, and shown by a quotation from Savigny, how jurists resort to the same principle, when the Digesta, Institutiones, and the Codex occasionally contradict each other or themselves. Kuenen remarks, "I do not believe that the Mosaic origin of the Pentateuchal Codes is made more probable by this analogy. Does not the discrepancy between the various parts of the *corpus juris* arise from the origin of its laws in various periods? If, therefore, the case be the same with the Pentateuch, the successive origin of the Mosaic Codes becomes highly probable." This retort of his own argument upon Delitzsch would be justified if we had the same historical testimony for the gradual origination of the Mosaic institutions as there is for the development of Roman law. The opposite of this is true. And Dr. Kuenen overlooks, that the point of analogy consists simply in the fact that a Code may be in operation of which the individual laws seem to contradict each other. What may be the cause of this discrepancy is not the question here: it is enough that the fact be verified. If the *corpus juris* was valid law at a certain time, why not the Mosaic law also? And if it be proven that the variations in the former are due to diversity of origin, we will wait till the same evidence is presented for the Mosaic laws. The contradictions in themselves do not prove anything as long as—

(a) They can be harmonized.

(b) The difference explained on other grounds.

(c) The positive proof that they owe their origin to diversity of authorship is not given.

We cannot enter here upon the discussion of individual cases, most of which will, moreover, come up at later points of our inquiry. And it can be confidently claimed that all of them have met with a satisfactory solution long ago.

With regard to repetitions, a few remarks may suffice: —

1. The objection based on the frequent restatement of essentially the same law, disregards the peculiar relation in which the living God stood to his Covenant-people Israel. He was the great Law-giver and Theocratic King, but at the same time the father of his subjects; and where he had to command in the former capacity, he could urge and beseech repeatedly in the latter.

2. The Pentateuch, as a whole, is not a legal Code, but a history of the foundation of the Theocracy. What may be less appropriate in an official Code, becomes quite natural in its historical environment.

3. The character of the repeated laws affords an easy explanation of this fact. Most of them are of the highest importance for Israel's religious life. As an example, we may refer to the Sabbatical laws. Not less than eleven substantially the same are found in Exodus-Numbers.

4. Very few actual repetitions exist where the subject is not approached in every new treatment from a different side, or with the purpose to introduce some modification.