

THE BIBLE AS A LAW BOOK.¹

BY CHARLES S. LOBINGIER.

I THINK I may safely trust my friends of the clerical profession to do full justice, upon such an occasion as this, to the Bible as a source of religious instruction. For a layman like myself it would seem far more appropriate to dwell upon such uses of the great book as are not strictly religious. And these are many.

It has been well said that the Bible contains the truest history, the profoundest philosophy, and the sublimest poetry. Viewed as mere literature it would be hard to find its equal among the world's output of written song. As a whole it has scarcely a rival save in Greek literature which is in all things exceptional. Our own majestic stream of English verse finds one of its chief sources in that other priceless possession of the race—the English Bible. From Chaucer to Tennyson its influence has been dominant and two of the foremost English essayists of the nineteenth century—Carlyle and Ruskin—were profuse in acknowledgment of their literary indebtedness to the Bible. Of the last named an admirer has said:

“Chapter by chapter, verse by verse, the little boy (Ruskin), like Carlyle before him, read the Bible over and over before his strict and devoted mother. Always reverent and docile in temperament, he seems to have followed with entire obedience, if sometimes with weariness, her minutely rigid method. Many long passages were learned by rote if not by heart, till his whole nature became steeped in the language and spirit of that mighty book which has for centuries nurtured the noblest English souls. ‘And truly,’ he says, ‘though I have picked up the elements of a little further knowledge in mathematics, meteorology, and the like, in

¹ Address of the Hon. C. S. Lobingier, Judge of the Court of First Instance of the Philippines, on the occasion of the formal opening of the new “Bible House” of the British and Foreign Bible Society at Manila, P. I., Jan. 9, 1913.

after life, and owe not a little to the teaching of other people, this maternal installation of my mind in that property of chapters I count very confidently the most precious, and, on the whole, the one essential part of all my education."²

But it is not alone to the Bible as literature that I would here draw attention. That also can be better treated by others. The jurist who studies well this work in time comes to see in it a great law book. Such it was primarily and fundamentally to the ancient Hebrews. They, including the Great Teacher himself, referred to their scriptures as "The *Law* and the Prophets." The legal idea came first and predominated over the literary. The Old Testament, indeed, and especially the Pentateuch, was a rich repository of national jurisprudence. It was "the law of the Lord" which was "perfect, converting the soul."³ "Blessed was the man whose delight was in the law of the Lord and in that law did he meditate day and night."⁴

It is true that the Hebrews in the course of their evolution produced other law books than the Torah—the Talmud, the Mishna and Gemara, and the Zohar. But the Old Testament, "the Law and the Prophets," was the law book of their golden age. It reflects and preserves for us Jewish legal institutions in their chrysalis and is consequently one of the rare sources for the study of comparative law. These tales of the patriarchs that so charmed our childish minds, like Jacob's seven years of service for Rachel, are typical of a universal customary law and find their counterparts in customs that prevail right before our eyes among the native inhabitants of these fair islands.⁵ And this is one of the values of the Old Testament which deepens with age. No higher criticism has ever lessened its importance as a source of juridical history. Translation of other "Sacred Books of the East" has but made it appear the worthier and more valuable by way of comparison.

In the New Testament we behold law not only in a later stage but of another system. Israel had meanwhile come under the mighty ægis of Rome and its noble jurisprudence had taken root in Palestine. The Beatitudes refer to the Praetor⁶ and the procedure before him which influenced so profoundly the progress of the Roman

² Scudder, *Introduction to the Writings of Ruskin*, 3.

³ Psalm xix. 7.

⁴ Psalm i.

⁵ See the author's "Primitive Malay Marriage Law" in *American Anthropologist*, XII, 252.

⁶ Matt. v. 25.

law; and both the Gospels⁷ and the Epistles⁸ of St. Paul apply the Roman rule of evidence that "in the mouth of two or three witnesses every word may be established."

Indeed the great apostle to the Gentiles appears to have been fairly well versed in Roman law as was not unnatural for one of his nativity and education. He knew his rights as a citizen of the great empire and when one of its officials was about to inflict summary punishment upon him St. Paul stayed it by the simple but effective inquiry, "Is it lawful for you to scourge a man that is a Roman and uncondemned?"⁹ Even more sublime was his (perhaps) unconscious tribute to the majesty of the Roman law, when in answer to the unauthorized query of the Roman governor Festus as to whether he would submit himself to an irregular tribunal at Jerusalem, St. Paul said: "I stand at Cæsar's judgment seat where I ought to be judged: to the Jews have I done no wrong, as thou very well knowest. For if I be an offender or have committed anything worthy of death, I refuse not to die, but if there be none of these things whereof these accuse me, no man may deliver me unto them. I appeal to Cæsar."¹⁰

We all know the momentous consequences of that appeal. The record of this prosecution of St. Paul as contained in these few chapters of the book of Acts¹¹ is one of the most extensive descriptions that has come down to us of the actual administration of the Roman law in the provinces. In teaching Roman law I find them most helpful and instructive to my classes, for unconsciously the writer of Acts has here preserved for us the almost complete record of a Roman criminal cause.

Then where is there a statement of the doctrine of "due process of law" which equals this answer of Festus to the native ruler Agrippa as recorded in the same book?¹² "It is not the manner of the Romans to deliver any man to die, before that he which is accused have the accusers face to face, and have license to answer for himself concerning the crime laid against him." The doctrine itself is much older, appearing, indeed, in the Twelve Tables,¹³ but I do not know of an expression of it, so clear at once and forceful, in all the rich legal literature of Rome or indeed of any other nation.

But the uses of the Bible as a law book have not been wholly academic. Aside from its legal authority in ancient Israel it has repeatedly been given the force of law by Christian peoples. When

⁷ Matt. xviii. 19.

⁸ 2 Cor. xiii. 1; 1 Tim. v. 19.

⁹ Acts xxii. 25.

¹⁰ Acts xxv. 10, 11.

¹¹ xxii-xxvi.

¹² Acts xxv. 16.

¹³ Table IX, 6.

in the seventh century of our era, the Visigoths laid the foundation of the modern Spanish law by promulgating their great law book, the *Forum Judicum*,¹⁴ they drew very considerably from the Mosaic legislation. The same source was largely utilized by John Calvin, nine centuries later when he came to devise laws for that interesting theocracy which he established at Geneva.¹⁵ In New England the followers of Calvin almost reenacted the Mosaic code. John Eliot, the Indian apostle, appealed to it as the model for his "Christian Commonwealth,"¹⁶ and Nathaniel Ward of Ipswich borrowed from it, if indeed he did not make it the basis of his code of 1641 which he called the "Body of Liberties." Even in the middle of the nineteenth century Strang, the Mormon leader, caused the Hebrew legislation to be reenacted for his island community in Lake Michigan.

We are met to-night to dedicate a building to the work of distributing this Book of Books among the Filipino people. Wholly aside from its religious aspects, do we not find ample justification for such an enterprise in the historic fact that so many peoples, in the same or similar ethnic stages, have found in this work a satisfying basis for their legislation, a charter of liberties and a source of legal institutions? Indeed, it places the Bible itself in a new light to learn of these added uses to which it has been devoted since the traditional close of the canon, for it shows that the epochs of scriptural growth and development did not end then. From the lawgiver of Sinai to the seer of Patmos is truly a far cry and represents a long period of religious evolution, but even this interval does not include the entire history of this great literary production. We have seen how that history has been prolonged since the time of Paul, and there is reason to believe that it began long before Moses. Speaking of the code which the Babylonian stele of 2200 B. C. (discovered somewhat more than a decade ago) represents the Sun-God as handing to King Hammurabi, a recent authority¹⁷ says:

"Between this code and the different codes mentioned in the Old Testament, such as the Covenant (9th century), Deuteronomy (7th century) and the Priestly Code (5th century), there are, be-

¹⁴ See Scott's edition ("The Visigothic Code") VI (IV), 5; Bk. III (IV), 9; Bk. XII (II), 12.

¹⁵ Dyer, *Life of Calvin*, 150. Cf. Osgood, "The Political Ideas of the Puritans," *Political Science Quarterly*, III, 9; Laveleye, in his Introduction to Strauss, *Origin of Republican Form of Government in the United States*, xix.

¹⁶ London, 1659.

¹⁷ Montet (Vice Rector of the University of Geneva) "Israel and Babylonian Civilization," *The Open Court*, XXIII, 628.

sides noticeable differences, resemblances so striking and characteristic that it must at least be admitted that the legislators of the two countries, Babylon and Israel, were inspired beforehand by the same common law. Here and there, however, the resemblances are so close that it is very difficult to escape from the conclusion that the Hebrew legislator had under his eye the code of the King of Babylon."

"Slowly the Bible of the race is writ,
And not on fading leaves or slabs of stone;
Each age, each people adds a verse to it—
Texts of despair or hope, of joy or moan.
While swirls the sea, while shifts the mountain shroud,
While thunderous surges beat on cliffs of cloud,
Still at the prophets' feet the nations sit."