

**The Origin of
Canonicity
in the
Old Testament**

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**Boston University
Ph.D. Dissertation
1972**

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Abbreviations

AB	The Anchor Bible
AnBibl	Analecta Biblica
ATD	Das Alte Testament Deutsch
BA	<i>The Biblical Archaeologist</i>
BASOR	<i>Bulletin of the American Schools of Oriental Research</i>
BHTh	Beiträge zur Historisch Theologie
<i>Bibl</i>	<i>Biblica</i>
BiblOr	Biblica et Orientalia
<i>BJRL</i>	<i>Bulletin of the John Rylands Library</i>
BWANT	Beiträge zur Wissenschaft zum Alten und Neuen Testament
<i>BZAW</i>	<i>Beihefte zur Zeitschrift für die Alttestamentliche Wissenschaft</i>
<i>CBQ</i>	<i>Catholic Biblical Quarterly</i>
<i>ET</i>	<i>The Expository Times</i>
<i>EThR</i>	Études Théologiques et Religieuses
EVV	English Versions of the Bible
FRLAMT	Forschungen zur Religion und Literatur des Alten und Neuen Testaments
HAT	Handbuch zum Alten Testament
<i>HThR</i>	<i>Harvard Theological Review</i>
HThS	Harvard Theological Studies
<i>HUCA</i>	<i>Hebrew Union College Annual</i>
<i>IDB</i>	G. A. Buttrick, ed., <i>The Interpreter's Dictionary of the Bible</i>
<i>JBL</i>	<i>Journal of Biblical Literature</i>
<i>JBR</i>	<i>Journal of Bible and Religion</i>
<i>JSS</i>	<i>Journal of Semitic Studies</i>
<i>JThS</i>	<i>Journal of Theological Studies</i>
LCL	The Loeb Classical Library
<i>NZSystTh</i>	<i>Neu Zeitschrift für Systematische Theologie</i>
<i>OTS</i>	<i>Oudtestamentische Studiën</i>
<i>RB</i>	<i>Revue Biblique</i>
<i>RevRel</i>	<i>Review of Religion</i>
RSV	Revised Standard Version
SBTh	Studies in Biblical Theology
<i>SJTh</i>	<i>Scottish Journal of Theology</i>
<i>StTh</i>	<i>Studia Theologica</i>
SVT	Supplements to <i>Vetus Testamentum</i>
<i>ThB</i>	<i>Theologische Blätter</i>
<i>ThLz</i>	<i>Theologische Literaturzeitung</i>
<i>ThS</i>	<i>Theological Studies</i>
ThSt	Theologische Studien
UUÅ	Uppsala Universitets Årsskrift
VT	<i>Vetus Testamentum</i>
WMANT	Wissenschaftliche Monographien zum Alten und Neuen Testament
<i>WThJ</i>	<i>Westminster Theological Journal</i>
<i>ZAW</i>	<i>Zeitschrift für die Alttestamentliche Wissenschaft</i>
<i>ZNW</i>	<i>Zeitschrift für die Neutestamentliche Wissenschaft</i>
<i>ZStTh</i>	<i>Zeitschrift für Systematische Theologie</i>
<i>ZThK</i>	<i>Zeitschrift für Theologie und Kirche</i>

CHAPTER 1

Introduction to the Dissertation

The basis for the ascription of canonical authority to a corpus of religious literature such as we encounter in the Old Testament is not immediately evident. As E. Nielsen has written, “When one comes to think of it, it is a strange phenomenon that a writing or a collection of writings at some period in the history of a movement, a community, a confession, or a church, is canonized and that in future it maintains the character of a binding authority.”¹ The motive underlying such a commitment requires illumination; so that when we inquire into the process by which the Old Testament literature came to be regarded as canonical, we must first ask, in the words of W. R. Arnold, “what the Jewish Church thought it was doing when it assembled into this sacred volume the various and varied contents of the Old Testament.”² The issue has been stated in yet another way by A. Jepsen, who asks, “What do the Holy Scriptures represent? What was it really, that made them Holy Scripture?” We concur with Jepsen’s judgment that this is “the first historical question that must be asked of Scripture.”³

Although the definition of the word “canon” is itself problematical with respect to the Old Testament, for the moment we may define “canon” as a body of literature having authority for the faith and life of a particular religious community.⁴ When we have defined canon in this way, we see that we cannot separate the question of the origin of the canonicity of the Hebrew Scriptures from the question of the origin of the literature itself; for the very factor which causes the literature to arise in the first instance is also the factor which makes it canonical, as an attempt to express in a normative way the theological situation in which the Israelite community finds itself. Canonicity is therefore not something superimposed upon an already existing corpus of literature, but is instead a quality inherent in the literature itself, and in the tradition on which the literature is founded. This way of stating the matter indicates that our problem is not only the origin of canonicity in the Old Testament, but also the origin of the Old Testament *as canon*.

The question before us, then, is this: What was it that caused the Old Testament literature to come into being as a “canon,” as a literary heritage accorded authoritative status by the Yahwistic religious community? We are not concerned to develop in detail the literary and historical process which has brought the Old Testament books to their present form. Rather, we are concerned with the exposition of the theological factors which provoked the appearance of the canonical literature in its initial stages, and which supplied both the impetus and the underlying pattern for its growth into the present Old Testament. Thus we seek to understand not only how this literature took shape, but also what this literature was *understood to be* during the process of its formation.

We have called the investigation of this problem the “theory of the canon,” to differentiate it from the discipline properly termed the “history of the canon.” For it will be evident that the major historians of the canon, whose work appeared chiefly in the late nineteenth and early twentieth centuries, as well as the authors of leading introductions to the Old Testament who have discussed the history of the canon, have applied themselves in the main to another task: the clarification of the process by which the individual books or portions of the Old Testament, having first been produced as literature, were brought together and

¹E. Nielsen, *Oral Tradition: A Modern Problem in Old Testament Introduction*, *SBTh*, No. 11 (London: SCM Press, 1954), 61.

²W. R. Arnold, “Observations on the Origins of Holy Scripture,” *JBL*, xlii (1923), 7.

³A. Jepsen, “The Scientific Study of the Old Testament,” trans. by J. L. Mays, in C. Westermann, ed., *Essays on Old Testament Hermeneutics* (Richmond: John Knox Press, 1963). 272.

⁴In Part I of this dissertation we shall take up the argument for this way of defining the term “canon” as applied to the Old Testament, in contrast to the usual use of this word to designate a clearly defined list of officially sanctioned books.

officially recognized to be Holy Scripture.⁵ Working in the light of the established findings of the critical scholarship of their times, the historians of the canon tended to regard the Old Testament books, including the Torah, as having assumed their present literary shape only in Jewish times. From the point of view of redactional and textual criticism such a conclusion is no doubt well-founded; but it had the effect of limiting the treatment of canonicity to the latest period in the literary growth of the Old Testament. This is because these historians associated canonicity with the establishment of a closed and defined collection of books,

⁵Bibliographies on the history of the Old Testament canon are furnished by O. Eissfeldt, *The Old Testament: An Introduction*, trans. by R. Ackroyd (New York: Harper & Row, 1965), 559; and R. H. Pfeiffer, "Canon of the OT," in *The Interpreters Dictionary of the Bible*, vol.i (New York: Abingdon Press, 1962), 519-520. See especially the following: G. W. Anderson, "Canonical and Non-Canonical," in R. Ackroyd and C. F. Evans, eds., *The Cambridge History of the Bible, i: From the Beginning to Jerome* (Cambridge: Cambridge University Press, 1970), 113-159; W. J. Beecher, "The Alleged Triple Canon of the Old Testament," *JBL*, xv (1896), 118-128; A. Bentzen, *Introduction to the Old Testament*, i (Copenhagen: G. E. C. Gads Forlag, 1948), 20-41; K. F. R. Budde, "Canon, Old Testament," in T. L. Cheyne and J. S. Black, eds., *Encyclopaedia Biblica*, i (New York: Macmillan, 1899), cols. 647-674; F. W. Buhl, *Canon and Text of the Old Testament*, trans. by J. MacPherson (Edinburgh: T. & T. Clark, 1892); M. A. Cohen, "The First Century as Jewish History," in J. Hyatt, ed., *The Bible in Modern Scholarship*, Papers read at the 100th meeting of the Society of Biblical Literature, December 28-30, 1964 (Nashville: Abingdon Press, 1965), 227-251; Eissfeldt, 559-571; I. H. Eybers, "Some Light on the Canon of the Qumran Sect," in *New Light on Some Old Testament Problems*, Papers read at the fifth meeting of Die Ou Testamentiese Werkgenootskap in Suid-Afrika, 1962 (Potchefstroom: Pro Rege-Pers Beperk, 1963), 1-14; F. V. Filson, *Which Books Belong in the Bible? A Study of the Canon* (Philadelphia: Westminster Press, 1957); D. N. Freedman, "The Law and the Prophets," *SVT*, ix (Leiden: E. J. Brill, 1963), 250-265; H. Graetz, *Kohelet oder der Solomonische Prediger* (Leipzig: C. F. Winter, 1871), Anh. I, 147-173; G. Hölscher, *Kanonisch und Apokryph: Ein Kapitel aus der Geschichte des alttestamentlichen Kanons* (Leipzig: A. Deichert'sche Verlagsbuchhandlung/Georg Böhme, 1905); A. Jeffrey, "The Canon of the Old Testament," in G. A. Buttrick, ed., *The Interpreter's Bible*, i (New York: Abingdon Press, 1952), 34-25; A. Jepsen, "Bible I B. Sammlung und Kanonisierung des AT," in *Die Religion in Geschichte und Gegenwart*, Bd. i (3. Aufl.; Tübingen: J. C. B. Mohr/Paul Siebeck, 1957); cols. 1123-1126; A. Jepsen, "Kanon und Text des Alten Testaments," *ThLZ*, lxxiv (1949), cols. 65-74; A. Jepsen, "Zur Kanongeschichte des Alten Testaments," *ZAW*, lxxi (1959), 114-146; Katz, "The Old Testament Canon in Palestine and Alexandria," *ZNW*, xlviii (1956), 191-217, and xlix (1958), 223; E. König, *Kanon und Apokryphen* (Gütersloh: C. Bertelsmann, 1917); J. Lewis, "What Do We Mean by Jabneh?" *JBR*, xxxii (1964), 125-132; M. L. Margolis, *The Hebrew Scriptures in the Making* (Philadelphia: Jewish Publication Society of America, 1922); F. Michaeli, "À propos du Canon de l'Ancien Testament," *EthR*, xxxvi (1961), 61-68; G. F. Moore, "The Definition of the Jewish Canon and the Repudiation of the Christian Scriptures," in *Essays in Modern Theology and Related Subjects* (New York: Charles Scribner's Sons, 1911), 99-125; G. F. Moore, *Judaism in the First Centuries of the Christian Era*, i (Cambridge: Harvard University Press, 1927), 235-280; Pfeiffer, 498-520; R. H. Pfeiffer, *Introduction to the Old Testament* (New York: Harper & Brothers, 1948), 50-70; B. J. Roberts, "Canon and Text of the Old Testament," in M. Black and H. H. Rowley, eds., *Peake's Commentary on the Bible* (London: Thomas Nelson and Sons, 1963), 73-80; B. J. Roberts, "The Old Testament Canon: A Suggestion," *BJRL*, xlvi (1963-64), 164-178; H. E. Ryle, *The Canon of the Old Testament* (2nd ed.; London: Macmillan, 1895); W. R. Smith, *The Old Testament in the Jewish Church* (3rd ed., rev.; London: A. & C. Black, 1907), 149-187; H. F. D. Sparks, "Canon of the Old Testament," in J. Hastings, ed., *Dictionary of the Bible*, rev. by F. C. Grant and H. H. Rowley (2nd ed.; Edinburgh: T. & T. Clark, 1963/64), pp.121-123; W. Staerk, "Der Schrift- und Kanonbegriff der jüdischen Bibel," *ZStH*, vi (1929), 101-119; C. Steuernagel, *Lehrbuch in der Einleitung in das Alte Testament* (Tübingen: J. C. B. Mohr/Paul Siebeck, 1912), 88-100; A. C. Sundberg, "The 'Old Testament,' a Christian Canon," *CBQ*, xxx (1968), 143-155; A. C. Sundberg, *The Old Testament of the Early Church*, *HThS*, xx (Cambridge: Harvard University Press, 1964); A. Weiser, *The Old Testament: Its Formation and Development*, trans. by D. M. Barton (New York: Association Press, 1961), 331-347; G. Wildeboer, *The Origin of the Canon of the Old Testament*, trans. by B. W. Bacon (London: Luzac & Co., 1895); F. H. Woods, "Old Testament Canon," in J. Hastings, ed., *A Dictionary of the Bible*, iii (New York: Charles Scribner's Sons 1900), 604-616; T. Zahn, *Geschichte des Neutestamentlichen Kanons*, Bd. ii, 1 (Erlangen, Leipzig: A. Deichert'sche Verlagsbuchhandlung/Georg Böhme, 1890), 318-343; S. Zeitlin, *An Historical Study of the Canonization of the Hebrew Scriptures*, Proceedings of the American Academy for Jewish Research, iii, 1931/32 (Philadelphia: American Academy for Jewish Research, 1933), 121-158.

having a fixed text. Canonicity was regarded as a state achieved only in the last stages in the evolution of a biblical book, not as a function operative in its earlier traditional or literary stages during which it exercised a decisive religious influence.

Thus, the historians of the canon explored the growth of the tripartite canon with the Torah as its nucleus; they attempted to determine when, especially, the Hagiographa were recognized to be Holy Scripture within Judaism; they took note of Jewish debate regarding certain peripheral or disputed books of the canon; they sought to clarify the criteria for canonicity which developed within Pharisaic and rabbinic Judaism; they attempted to discern a principle on which the apocryphal and pseudepigraphical books could be separated from the canonical; they inquired into the meaning of the divergence between the Hebrew Scriptures and the Greek Old Testament. In addressing themselves to these and other related questions, the historians of the canon wrote an important chapter in the growth of our knowledge of the Old Testament in its literary development. They also dealt with the earlier stages of canonicity, and thus made their contribution to the "theory of the canon," a contribution we shall take into account. But they undertook this latter task, for the most part, only as an introduction to their major work, which was concentrated on the period of the exile and its sequel, and was concerned with the way in which the canonical status of the books of the Hebrew Bible was perceived and expressed in Judaism. Having surveyed their research, therefore, we come away with the impression that not a great deal of light has been shed upon the essential problem of canonicity, the basis for the development of the Old Testament literature as canonical in the first instance.

The discipline we have called the "theory of the canon" is the effort to fill the void left by the presentations of the historians of the canon. Although the "theory of the canon" is in one sense simply the extension of the "history of the canon" into earlier stages in the literary development of the Old Testament, in another way the "theory of the canon" is something quite apart. For the "history of the canon" is a specialized field within the literary-historical criticism of the Old Testament; but the "theory of the canon" is at heart a subdiscipline of the enterprise known as "Old Testament theology." The question of canonicity is basically a theological question; for although we may, and must, utilize the methods and findings of the scientific study of the Old Testament in the investigation of the origin of canonicity, when we attempt to state what this literature was understood to be in ancient Israel we are in some measure attempting also to enter into the theological frame of reference of those who shaped and transmitted these writings.

The earlier historians of the canon, we must recognize, were not indifferent to the theological implications of the question of canonicity. H. E. Ryle, for one, declared that whereas the various literary problems of the Old Testament books "need not necessarily invite the interest of the Christian student," the question of the canon cannot be thus laid aside; for due to the relation of the Scriptures to the church, the biblical scholar "is compelled, against his will, to reflect more seriously upon, the process, by which the books of Holy Scripture have obtained recognition as a sacred and authoritative Canon."⁶ Thus Ryle professed to be forced to the investigation of the canon by an awareness of its theological significance.

As the remarks of Ryle indicate, however, when the historians of the canon approached the theological implications of the issue of canonicity, they did not do so from the standpoint of the exposition of the leading themes of the Old Testament literature itself. During the period when the major studies of the history of the canon were being produced, Old Testament theology had not yet fully emerged as an independent descriptive discipline within Old Testament studies. The theological motifs of the Old Testament were either placed in the service of dogmatic formulations which relied for their basic authority upon a source outside the Old Testament; or else these themes were relativized by their incorporation into the general exposition of the history of Israelite religion, and hence could not be brought to bear in a significant way upon the question of canonicity. In general, the historians of the canon, it must be said, were heirs to an evolutionary point of view which saw Germanic and Anglo-Saxon Protestantism of the late nineteenth and early twentieth centuries as a high point in human religious understanding; and this situation often determined both what they said, and what they refused to say, on the theological bearing of the question of the Old Testament

⁶Ryle, 1-2.

canon. These Protestant historians of the canon thus occasionally included in their studies statements indicating, for example, a certain embarrassment with the way in which the ancient Jewish community had dealt with the question of canon. G. Wildeboer insisted that "a clear insight into the way in which the books of the Old Testament acquired their canonical authority in the synagogue enables us justly to estimate the standard employed by the scribes, and thus to liberate ourselves from the Jewish tradition, which at bottom is clearly opposite to the Christian view of the Old Testament."⁷ W. R. Smith could not accept the Jewish elevation of the Law as a clue to the meaning of canonicity, because "the prophetic books are far richer than the law in evangelical elements."⁸ He also expressed his Protestant bias for both evolutionary and experiential religion in asserting that "the characteristic mark of canonical literature is that it is the record of the progress of fresh truths of revelation, and of the immediate reflection of these truths in the believing heart."⁹ When probing the basis of the canonical authority of the Hebrew Scriptures, then, these historians tended to look for biblical evidence which accorded with their own presuppositions with respect to theological authority. An excellent and more recent example of this tendency is supplied by the work of R. H. Pfeiffer, whose insistence that all canonical literature originated in the concept of prophecy¹⁰ must surely be understood against the background of American liberal Protestantism of the first half of the twentieth century, with its emphasis upon the prophets of Israel as the exemplars of the "social gospel." As often as not, however, the historian of the canon suffered no overt confessional or theological concern to intrude into what he considered to be a purely scientific and historical task, the tracing of the process by which the Old Testament books came to be regarded as canon in Judaism. Yet this silence itself speaks for a point of view which regarded the Jewish debate on the canon as theologically naive and not to be seriously considered.

It was the relativization of Old Testament theological motifs in the "history of religions" method which forced these historians of the canon to undertake their almost exclusively historical treatment of the canon, an approach which, by confining the discussion of canonicity to the phenomena supplied by ancient Judaism, severely restricted the way in which the themes of Israelite religion could be applied to the problem. Probing the origin of canonicity from a literary-historical or "history of religions" standpoint, the historians of the canon could, to a degree, bring to bear on this question such concepts as the ideas of "law" or the "inspired word," or perhaps the phenomenon of the cult. The appearance of a descriptive Old Testament theology, however, made it possible to expand the region in which the "theory of the canon" could operate. As a branch of Old Testament theology, the "theory of the canon" may apply to the question of the origin of canonicity not only the phenomena associated with "law," "prophecy," or the cult, but also such motifs as the historical recital of Yahweh's activity and the celebration of his relationship with Israel in the covenant. When undertaken as the investigation of a problem in Old Testament theology, then, the "theory of the canon" constitutes a more broadly based effort to understand what it was that led Israel to produce the Old Testament literature in the shape in which it has come down to us, and to understand why this literature was regarded, even in its beginnings, as a normative religious statement.

In Part II of this dissertation we shall undertake a survey of the different theories of the canon which have been advanced in modern biblical research. This is necessary because these theories have not hitherto been systematically described and compared (so far as we are aware), this being due largely to the fact that only a relatively small number of studies have appeared having the "theory of the canon" as their primary, rather than preliminary, concern.¹¹ To anticipate what we shall later develop in greater detail, we trace the way in

⁷Wildeboer, 1-2.

⁸Smith, 161-162.

⁹*Ibid.*, 157n.

¹⁰*Infra*, 54-55.

¹¹Arnold, 1-21; Freedman; H. H. Guthrie, "Wisdom and Canon: Meanings of the Law and the Prophets" (Chicago: Seabury-Western Theological Seminary, 1966); E. Jacob, "Considérations sur l'autorité canonique de l'Ancien Testament," in J. Boisset, ed., *Le Problème biblique dans le Protestantisme* (Paris: Presses Universitaires de France,

which the origin of the canonical authority of the Hebrew Scriptures has been found in the idea of "law" (chiefly by older historians of the canon) or in the inspired word of the prophet (by some leading literary critics), and also the manner in which the canon has been understood essentially as a history or an aetiology, or as the representation of a cultic motif (by some more recent theories of the canon). As to methodology, in discussing each of these theories we do not confine ourselves to a description of what has been put forward by others, but we also attempt to develop each of these theories insofar as the evidence of the original sources themselves would seem to allow. We do this because each of these ways of regarding the canonical authority of the Old Testament writings has considerable merit as applied, at least, to a portion of the canon, and has therefore a contribution to make to what we regard as a more comprehensive solution to the problem.

Before taking up these theories of the canon, however, we will find it advantageous to clarify, in Part I, certain issues involved in the phenomenon of the canon itself. We have stressed that the historians of the canon tended to treat canonicity as expressed by the formal acknowledgment of a closed and defined collection of scriptural books having a fixed text. Not only would such a restricted definition of the canon be unworkable in terms of the "theory of the canon," which must inquire into those stages in the development of the Old Testament literature before it attained such a state; but also we consider it unlikely that such a definition can actually be applied to the Hebrew Scriptures as a whole in ancient times. For the "theory of the canon," the only workable definition of the canon is one which brings out its function as a normative statement by a religious community of its relation to the deity; only when defined in this way can the concept of "canon" be applied to the Israelite religious literature in its formative stages. Given such considerations, it might have seemed desirable to discard the word "canon" in favor of some other expression (perhaps simply "Scripture") which does not have the connotation of the term "canon" in the restricted sense as used by historians of the canon. We have chosen instead to retain and to some extent redefine this term. Both historians and theorists of the canon have used the word "canon" not only in the sense of a restricted collection of writings, but also to designate the Old Testament literature in its capacity as an authoritative community standard. Moreover, by retaining the word "canon" we are able to use the derivative expressions "canonicity" and "canonical," which alone convey this sense of the quality of authority and normative status with which we are here concerned.¹² It does not seem productive to discard a term which, though misleading to a degree, nevertheless carries with it the essence of the quality we seek to bring out.

In Part III we shall proceed beyond the theories of the canon discussed in Part I, toward a more comprehensive solution to the problem. In this effort we carry the investigation of the origin of canonicity back to the origin of Israel itself as a people in covenant with Yahweh. We believe that this covenant relationship is the motivating factor in the appearance of a canonical literature, that the form in which this relationship was expressed in ancient Israel therefore governed the shaping of the canon, and that in consequence the whole of the Old Testament literature can be portrayed as the outgrowth, whether immediate or remote, of the celebration of the covenant.

If this conclusion is justified, then the issue of the canonicity of the Old Testament must be regarded as a question relevant not only to Old Testament theology in particular or to biblical scholarship in general, but also as a question of theological import to those contemporary religious movements which trace their lineage back to the ancient Israelite commonwealth, and are thus the heirs of the literary tradition embodied in the Hebrew Scriptures. If the Old Testament, as canon, is the literary expression of the covenant between Israel

1955), 71-85; M. G. Kline, "The Correlation of the Concepts of Canon and Covenant," in J. B. Payne, ed., *New Perspectives on the Old Testament* (Waco: Word Books, 1971) 265-279; G. Östborn, *Cult and Canon: A Study in the Canonization of the Old Testament*, UUA, 1950:10 (Uppsala: A.-B. Lundequistska Bokhandeln, 1950).

¹²In this discussion we use the ideas of "authority" and "normativity" interchangeably, although they differ in nuance. "Normativity" would refer, strictly speaking, to the religious integrity of the canon itself, whereas "authority" would express the effect of the canon within the community. But as a practical matter it is difficult to see where the one concept ends and the other begins.

and Yahweh, this is but the outstanding historical instance of the fact that the source of true religious authority is always the living relationship between a people and its God. To take the Old Testament seriously as canon is to take one's stand as part of an ongoing historical process by which man confronts, and is confronted by, that relationship which is of ultimate concern to him. In making such a statement, we are raising an issue which we are not equipped, nor do we intend, to pursue here; for to do so would be to overstep the limits circumscribed by the scientific study of the Bible. To have left such considerations entirely unexpressed would, however, have been a disservice to the reader, who is entitled to understand not only the methodology of a study of this sort, but also in some measure the motivation for it.

PART I

The Phenomenon of the Canon

This dissertation is concerned with the origin of the canonicity of the Old Testament literature. What factor or factors in the religion of Israel are responsible for the formation of a body of literature recognized to be “canonical,” of normative authority for the faith and life of the community? This is the problem to be investigated. But before it can be properly approached, it is necessary to explore some other issues involved in the concept of the “canon.” In what sense do we apply the term “canon” to the Old Testament? Are the characteristics usually associated with the canon in biblical scholarship—such as holiness, exclusiveness, fixed text, official promulgation—really its essential characteristics? What, then, is essential to the idea of a “canon?” What is the meaning of the division of the Hebrew canon into Law, Prophets, and Writings? These issues are taken up in the following pages, by way of laying the foundation for our basic inquiry into the origin of the canonical authority of the Hebrew Scriptures.

CHAPTER 2

The Term “Canon” as Applied to the Old Testament

The Greek term κανών appears to have been first applied to the books of Scripture by the Christian fathers of the fourth century CE. According to A. Bentzen, “as a name for a collection of writings normative for faith and teaching it first seems to appear in writings of Athanasius (4th century) with reference to the New Testament.”¹ The reference is to *Epistolae Festales*, 39, Easter 367, in which Athanasius speaks of the “books included in the canon, and handed down, and accredited as divine.”² Athanasius goes on to enumerate the books of both the Old and New Testaments, and “other books besides these not indeed included in the canon,”³ among which he lists the Book of Esther. Canon 59 of the Council of Laodicea (*circa* 360 CE) declares, “No psalms composed by private individuals nor any uncanonical books (βιβλία ἀκανόνιστα) may be read in the church, but only the Canonical Books (βιβλία κανονικά) of the Old and New Testaments.”⁴ The precise term κανών, as a technical term in reference to Scripture, seems to have been used for the first time by Amphlochius, Archbishop of Iconium, *circa* 380 CE.⁵

The term “canon,” then, was not applied to the Old Testament in pre-Christian times. The exact origin and meaning of the term have been the subject of considerable discussion. According to K. Budde, the Greek word is derived from a Semitic equivalent:

The Greek (ὁ) κανών (allied to κάννα, κανή, “a reed”; borrowed from the Semitic; Heb. קֶנֶף) means a straight rod or pole, a rod used for measuring, a carpenter’s rule; and, by metonymy, a rule, norm, or law; a still later meaning is that of a catalogue or list.⁶

According to Bentzen, “the Greek word *Canon* originally denotes a ‘staff’, in Greek pre-Christian literature: a standard, a rule, or a pattern.”⁷ The exact nuance of this term as applied to the Scriptures, however, is not clear. Did it refer to 1) the books which constituted a standard, 2) the books corresponding to a standard, or 3) the books included in the authoritative listing, or constituting the normal enumeration?⁸ It appears that the word passed through various phases of meaning in the course of time.

It is an issue whether, and in what sense, the term “canon” can properly be applied to the Old Testament, considered apart from its place in the Scriptures of the Christian church. H. E. Ryle cautioned against the usage of the term “canon” for the Old Testament by analogy with the New:

¹Bentzen, i, 20.

²Τὰ κανοζόμενα καὶ παραδοθέντα, πιστευθέντα τε θεῖα εἶναι βιβλία. J.-P. Migne, ed., *Patrologiae Graecae*, xxvi: *S. N. Athanasii, Opera Omnia quae Exstant*, ii (Paris: 1887), col. 1436. English translation in Schaff and H. Wace, eds., *A Select Library of the Nicene and Post-Nicene Fathers of the Christian Church*, 2nd series, iv: *Select Writings and Letters of Athanasius, Bishop of Alexandria*, ed. A. Robertson (Grand Rapids: Wm. B. Eerdmans Publishing Company, 1957), 552.

³ἄτερα βιβλία τούτων ἔξωμεν, οὐ κανονιζόμενα μὲν. Migne, col. 1437; English translation in Schaff, *loc. cit.*

⁴Schaff, xiv: *The Seven Ecumenical Councils of the Undivided Church, Their Canons and Dogmatic Decrees*, ed. H. R. Percival; Budde, col. 647.

⁵W. O. E. Oesterley and T. H. Robinson, *An Introduction to the Books of the Old Testament* (New York: The Macmillan Co., 1934), 8.

⁶Budde, *loc. cit.*

⁷Bentzen, *loc. cit.*

⁸Filson, 15.

The formation of the Hebrew Canon belongs to an earlier time than that of the New Testament Canon. It belongs to a very different community. The circumstances attending its growth were as widely different as possible from those which accompanied the formation of the New Testament Canon.⁹

Ryle goes on to say, with respect to the Old Testament:

Even the use of such terms as Canon and Canonicity are, so far, apt to be misleading. . . . We must remember that they, and, in some measure, the ideas connected with them, have been derived from an exclusively Christian usage.¹⁰

It is true, of course, as A. Jepsen has pointed out, that to speak of a “canon of the Old Testament” is to speak already from the standpoint of the Christian church. The synagogue does not designate its canon by the term “Old Testament,” but by some other term such as “Law, Prophets, and Writings.” “An Old Testament is possible only in the church because only it knows of a ‘New Testament.’”¹¹ Jepsen takes the term “canon” to mean “a firmly outlined group of writings which in some way has normative significance.”¹² In this sense the church has no unified canon of the Old Testament, because of the disparities between the practice of the Lutheran and Reformed churches, which do not consider the Apocrypha as canonical; the Roman church, which includes them but differentiates between proto- and deutero-canonical books; and the Greek church, in which not even this distinction is maintained. This disparity results from the fact that the church did not simply take over a canon from the Jewish community; rather, the canonization of the Jewish Scriptures and of the Christian Old Testament were separate processes, “undertaken independently of one another.”¹³

The fact that the church had the Jewish Scriptures in Greek was a major factor in the formation of disparate Jewish and Christian canons. The early church availed itself of a wider range of Jewish religious literature than was eventually recognized as canonical by the Jewish scholars of the Tannaitic period. This does not mean, however, that there were two Jewish canons of Scripture: a restricted Palestinian (Hebrew) canon, and an Alexandrian (Greek) canon which also included the Apocrypha, and which was adopted by the Christian church. The existence of the so-called Alexandrian Jewish canon was called into question by W. R. Smith, for these reasons: 1) The number and form of the books vary from one copy to another. 2) All manuscripts of the Septuagint are of Christian origin. “The presence of an Apocryphon in a Christian MS. shows that it had a certain measure of recognition in the church, but does not prove that full canonical authority was ascribed to it in the Synagogue.” 3) At least some of the Apocrypha, as we learn from the prologues to Ecclesiasticus and to the Apocryphal Book of Esther, were translated privately and “not translated as part of an official canon.” 4) Philo shows evidence of acquaintance with the Apocrypha, “but he never quotes from them, much less uses them for the proof of doctrine as he habitually uses most of the books in our Old Testament.” Evidently the Apocryphal books were not received by the Alexandrian Jews as authoritative in the same sense as the books of the Law and the Prophets. But this poses a problem, for “if the line of demarcation between canonical and uncanonical books had been sharply fixed, it is hard to see how they could have got into the Septuagint at all,” where they stand in such close association with the

⁹Ryle, 8. H. R. Smith, however, drew a parallel between the gradual formation of the Old Testament and the history of the formation of the New Testament canon, in which we find at first a division between the *Homologumena*, books universally acknowledged, and the *Antilegomena*, books acknowledged in some parts of the church but spoken against in others. “The history of the Canon unfolds the gradual process by which the number Of *Antilegomena* was narrowed. . . . We must suppose that a similar process took place with regard to the books of the Old Testament,” Smith, 166-167.

¹⁰Ryle, 9.

¹¹Jepsen, “Kanon und Text,” col. 65.

¹²*Ibid.*

¹³*Ibid.*, col. 66.

canonical books. Smith was able to conclude his discussion only by repeating the truism that “these phenomena point to a time when the idea of canonicity was not yet fixed.”¹⁴

A better solution to the problem of the supposed “Alexandrian Canon” was suggested by Oesterley and Robinson, who stated that “inasmuch as these books [i.e. the books in Greek but not in the Hebrew canon] were not even considered from the point of view of canonicity, it is not, at any rate from the Jewish point of view, accurate to speak of a Greek canon.”¹⁵ A. C. Sundberg, however, has provided the major argument against the existence of an official Jewish “Alexandrian canon” which would have become the canon of the Christian church.¹⁶ Sundberg’s reasoning is as follows:

If the church adopted a more-or-less fixed canon from diaspora Judaism, we should expect to find a rather exact correlation between the supposed contents of that canon and Christian usage. If the church adopted a canon, that fact should be demonstrated in the close agreement of Christian usage and of Christian Old Testament lists with respect to content.¹⁷

The usage of the New Testament and the Apostolic Fathers, however, does not demonstrate any such agreement. Indeed, it appears “that the number of books used in the early church not only exceeded the number in the Hebrew canon but also that of the conjectured Alexandrian canon.”¹⁸ Sundberg then proceeds to survey various early Christian lists of the Old Testament books, and finds them to differ both from the supposed “Alexandrian Canon” and from one another,¹⁹ in contrast to the various ancient Jewish canonical lists²⁰ which “demonstrate conclusively a closed canon in their identical contents.”²¹ Sundberg therefore agrees with Jepsen in concluding that the church determined the extent of its Old Testament canon independently of any Jewish movement toward the establishment of a canon:

Since the church did not receive a closed canon either from Palestinian or from Alexandrian Judaism (but, rather, an undefined and unclosed collection of religious literature circulating throughout Judaism and varying according to local preference and language) and since the ultimate Christian Old Testament canon did not encompass the whole of this literature, it becomes evident that the church determined the extent of its Old Testament canon for itself.²²

But, apart from the question of the Christian Old Testament canon, it is also a question whether one may properly speak of a Hebrew “canon” of Scripture, in the sense of a sharply defined group of writings or a fixed list of books, in the period under consideration, the early centuries of the Christian era. The Jewish debate over the inclusion of certain books in the Scriptures has been extensively discussed in modern scholarship.²³ The discussion centers around the debates of the rabbis at Jabneh (Jamnia), *circa* 90 CE. The significance of this assembly for the formation of a canon of Hebrew Scriptures has been variously assessed.

¹⁴Smith, 154-156.

¹⁵Oesterley and Robinson, 8. This is the view of H. F. D. Sparks, who states that “the Judaism of the Dispersion differed from Palestinian Judaism in never having an official canon,” Sparks, 123.

¹⁶For Sundberg’s full critique of the Alexandrian canon hypotheses, see *The Old Testament of the Early Church*, 51-79.

¹⁷*Ibid.*, p. 53.

¹⁸*Ibid.*

¹⁹*Ibid.*, 55-60.

²⁰These are presented in Ryle, 292-294.

²¹Sundberg, 60.

²²*Ibid.*, 130.

²³See the bibliography in ch. 1, 2n.

R. H. Pfeiffer makes the unqualified assertion that “the Council of Jamnia (ca. A.D. 90), under the leadership of Johanan ben Zakkai, fixed for all times the canon of scriptures.”²⁴ Since the law and the Prophets were already canonical, the Jabneh decision was really the canonization of the Writings, which thus completed the closing of the canon as a whole.²⁵ Older scholars were more cautious in their assessment of the Jabneh assembly’s role. H. E. Ryle, for example, considered it possible, but not certain, “that we have in the Synod of Jamnia the official decision, on which the limits of the Hebrew Canon were finally determined by Jewish authorities.” Ryle admitted that “the Rabbinic evidence is fragmentary and the reverse of precise,” and stated simply that, inasmuch as the circumstances of the Jabneh assembly and the subjects which apparently occupied its deliberations are favorable to the conjecture that the assembly was the fixation of the canon, he had no reason to object to the theory.²⁶

F. Buhl, discussing the rabbinic debate on the canonicity of some of the books in the third part of the canon (notably Ecclesiastes and the Song of Songs), said that “the whole question was brought up for discussion before a Synod at Jabne” and that “at that Synod the canonicity of the whole of the sacred writings was acknowledged.”²⁷ But Buhl himself admitted that the evidence “leads us rather to assume that the third part of the canon had been even then already closed,” by some process of which we actually know very little.²⁸ The view of Buhl is echoed by A. Bentzen, who states that the discussions of Jabneh “have not so much dealt with the acceptance of certain writings into the Canon, but rather with their right to *remain* there.”²⁹ Thus, whatever the significance of the Jabneh assembly, it did not “canonize” the Hebrew Scriptures or any part of them:

The synod of Jamnia did not define the Canon, but it undertook a *revision*.³⁰ The Canon in reality was finished before the time of the synod, but perhaps more in the character of a collection grown out of practical use. The synod of the rabbis tries to account for the right of the *books* to be parts of the *Book*.³¹

A similar conclusion was reached by F. H. Woods, who believed that the sanction of the biblical books at Jabneh had no actual effect on the process of the formation of the canon:

Such sanction appears to have been, in fact, accidental, that is to say, not by any means essential to the idea of canonicity. All the OT books, with a few possible exceptions, would have won their way into the Canon had no such council decided the matter, just as the NT became canonical without the sanction of a general council.³²

Withal, it must be admitted that the importance of the Jabneh assembly in the study of the history of the canon of the Old Testament is due in large measure to the lack of concrete information as to the process by which the Scriptures may have been officially constituted a “canon.” Since no previous period has produced data in this connection, according to the usual view, scholars have posited the Jabneh period as that of the official closing of the canon. This argument was opposed already in the last century by W. J. Beecher:

²⁴Pfeiffer, *Introduction*, 64. This view seems to have been first presented by Graetz, 147-173.

²⁵Pfeiffer, *IDB*, i, 510, 514.

²⁶Ryle, 183.

²⁷Buhl, 24.

²⁸*Ibid.*, 25.

²⁹Bentzen, i, 31; italics in original.

³⁰Perhaps “reexamination” would be a more accurate term for what Bentzen intends to express.

³¹*Ibid.*; italics in original.

³²Woods, 604.

The argument that the official closing of the canon must have been in some late century, because we have no clear account of such a transaction in earlier centuries, simply ignores the fact that we no more have any such account for the later centuries.³³

H. H. Rowley, indeed, has questioned whether it is correct to speak of a “Council of Jamnia” which assumed authority to make decisions regarding the canonicity of the Jewish religious writings. The discussions of Jabneh, he says, were informal; and although they may have helped to crystallize the Jewish tradition, these discussions resulted in “no formal or binding decisions.”³⁴

Recently the whole question of Jabneh has been reexamined by J. Lewis, who pursues Rowley’s view that Jabneh was not an authoritative “council” or “synod.” “It is a fallacy,” he asserts, “to superimpose such Christian concepts upon Judaism.”³⁵ The words “assembly” or “academy” are more accurate translations of the various Hebrew terms used to designate the Jabneh meetings.³⁶ Lewis notes that only Ecclesiastes and the Song of Songs were specifically discussed at Jabneh from the point of view of canonicity, that both of these books were in use much earlier than the Jabneh period, and, moreover, that their canonicity continued to be debated amongst the rabbis for a century or more following the Jabneh deliberations.³⁷ But whereas a few books continued to be discussed at Jabneh and afterward, the evidence of Jewish tradition points to a view current even in the Jabneh period that the canon was already of long standing.

Josephus, for example, in *Contra Apionem* i.8, expresses his belief that the “twenty-two books”³⁸ of the Jewish Scriptures had all existed from the period prior to Artaxerxes. The Babylonian Talmud, *baraita Baba Bathra* 14b-15a (second century CE), records rabbinic discussions concerning the order of the books in the prophetic corpus and in the Writings, and also on the question of who wrote the Scriptures.³⁹ Throughout this discussion, in which all the canonical (but none of the Apocryphal) books are mentioned, there is the assumption that all the books antedate Nehemiah, who is said to have completed Chronicles, the last book. Although the order of the books, of the Writings especially, did not correspond to what became the “canonical” of Massoretic order, all the books of the Hebrew Bible appear and are acknowledged to have been Scripture from early post-exilic times.

Virtually the same situation obtains in the practice of the sectarian community at Qumran, insofar as it can be reconstructed from extant manuscripts. According to F. M. Cross, the Qumran copyists followed a fairly standardized practice in copying biblical books.⁴⁰ Ecclesiastes and the Song of Songs receive treatment

³³Beecher, 125-126.

³⁴H. H. Rowley, *The Growth of the Old Testament* (London: Hutchinson’s University Library, 1950), 170.

³⁵Lewis, 128.

³⁶בית דין; בתיהמדרש, ישיבה, מתיבתה, בית דין; *ibid.*, 127.

³⁷*Ibid.*, 130-131, citing Mishnah *Yadaim* 3:5.

³⁸In this number Josephus presumably includes all the books of the Hebrew canon; R. J. H. Shutt, *Studies in Josephus* (London: S.P.C.K., 1951), 56; *infra*, 44. On the number “twenty-two” compared to the alternate, less widely attested ancient enumeration of “twenty-four” books, see Eissfeldt, 568-569; Katz, 191-203; Zahn, Bd. ii, 1, 318-343.

³⁹*The Babylonian Talmud, Seder Nezikin*, ed. I. Epstein, *Baba Bathra*, vol.i, trans. by M. Simon and I. W. Slotki (London: Soncino Press, 1935), 70-72. Here we find that the order of the Prophets is the same as that of the printed editions, except that Isaiah follows Ezekiel. The order of the Writings is as follows: Ruth, Psalms, Job, Proverbs, Ecclesiastes, Song of Songs, Lamentations, Daniel, Esther, Ezra-Nehemiah, Chronicles. The translators believe that with the exception of Job this order is meant to be chronological.

⁴⁰F. M. Cross, “Qumran Cave I,” *JBL*, lxxv (1956), 122-123. Cross describes the practice of the Qumran scribes as follows: “The columns tend to be in length double their width (in accordance with later practice). The Jewish bookhand or in some instances the Paleo-Hebrew script—but not the cursive—is used regularly. Leather is employed. The same techniques *may* apply to non-canonical works, but there is great variety in scribal practice in the latter case, very little in the case of biblical works.”

not typical of recognized scriptural texts, but this only reflects their doubtful status in this period (first centuries BCE and CE), a status which persisted also in Pharisaic circles till the time of the Jabneh assembly and beyond. The major deviation of the Qumran scribes is found in “the extraordinarily free treatment of Daniel,” which Cross takes to be a strong indication of non-canonical status. In this connection, however, W. F. Brownlee has observed that “one cannot carefully study the Qumran literature without noting the pervasive influence of Daniel upon the thought and language of the sect. Whatever the theory of canonicity, for all practical purposes Daniel was authoritative.”⁴¹ As for the other books of the Hebrew Bible, only Esther has not been found in the Dead Sea fragments.⁴² After a thorough survey of the use of the books of the corpus of the Writings at Qumran, both as to manuscripts of these books and quotations from them in the sectarian writings, I. H. Eybers concludes that

not later than about 120 B.C. the “Law” and the “Prophets” (in the Hebrew sense of the word) and most of the “Writings” (Hagiographa) were accepted and regarded as canonical books, with possibly some doubt about Ecclesiastes, Canticles, Esther and Ecclesiasticus.⁴³

The evidence thus supports the conclusion that in the early years of the Christian era there was no Hebrew “canon,” in the sense of a list of books in fixed order and officially declared to be canonical; still, there is no doubt that amongst the rabbis one could speak of a Hebrew “canon” in the sense of a definite group of writings recognized by all (except in the case of a few debated books) to be Holy Scripture.⁴⁴ This accords with the opinion of E. König:

The later attacks against individual books (in the Mishnah) do not exclude an earlier established canon, since the criticism of individual books still also certainly continued after the Jamnia synod and even after the decision given in the Mishnah.⁴⁵

⁴¹W. F. Brownlee, *The Meaning of the Qumran Scrolls for the Bible* (New York: Oxford University Press, 1964), 48. Cross, indeed, cautions against excessive reliance upon scribal practices at Qumran in determining questions of canonicity; while it is true that “the criterion of style (writing material, format, and script) normally supplies a clue to the category of a given document,” such evidence is not infallible, “since exceptions among assuredly canonical books in the matter of style do exist,” Cross, 123. Moreover, Dan. 12:10 is quoted in the document known as 4Q *Florilegium*, col. ii, with the formula reserved for scriptural citations: “It is written in the book of Daniel the prophet,” J. M. Allegro, *Qumran Cave IV, i, Discoveries in the Judean Desert of Jordan*, v (Oxford: Clarendon Press, 1968), 54-55.

⁴²F. M. Cross, *The Ancient Library of Qumran and Modern Biblical Studies* (rev. ed.; Garden City, N.Y.: Doubleday & Company, 1961), 40.

⁴³Eybers, 14. As to Ecclesiasticus, Eybers indicates that there is only a possibility that it was considered as Scripture at Qumran; it is never distinctly quoted, *ibid.*, 8-9.

⁴⁴Whether this statement applies to the situation in the days of Jesus and the Apostles is another question. R. H. Pfeiffer states that “the Bible of Jesus and of his disciples was the Hebrew Bible,” *IDB*, i, 511, and by this he probably means a *de facto* canon identical with that ratified at Jabneh. Pfeiffer even asserts that “orthodox Judaism in Palestine after 400 B.C. always knew what was Scripture and what was not,” *ibid.*, 510, implying that there was an official canon in some form from that time. Pfeiffer’s assertion is opposed by A. C. Sundberg, who believes that “in the days of Jesus and the apostles, the status of Jewish canon (and this prevailed throughout Judaism) was that of a closed collection of Law, a closed collection of Prophets, and a large undifferentiated number of Jewish religious writings consisting of a *later defined* collection of ‘Writings,’ the books later called Apocrypha and Pseudepigrapha, other books known to us only by name, and perhaps other books unknown and lost,” “The Protestant Old Testament Canon: Should It Be Re-Examined?” *CBQ*, xxviii (1966), 199. Sundberg thus differs from Pfeiffer in his contention that the books of the Writings were not *de facto* canon at the beginning of the Christian era, that in fact they were not clearly differentiated from those other books which subsequently did not find a place in the Jewish canon. See also Staerk, 106-110. Staerk claimed that Judaism of the time of Jesus had a “concept of Scripture” but not a fixed “concept of canon.”

⁴⁵König, 29, translated by the present writer. The Mishnah reference is to *Yadaim* 3:5.

König goes so far as to say that “the objections raised in the Mishnah, etc., against individual books definitely pre-suppose a canon of Scripture.” In König’s opinion, the debate over certain books was called forth, not by doubt concerning the antiquity of these books, but by the dogmatic principle which governs the selection of certain books into “a strictly limited Scripture separated from all other literature,” and this dogmatic principle authorizes one to make certain demands of the harmonious unity and religious-moral purity of this Scripture.⁴⁶ Yet König concludes that one may still have an ideal of the inner unity and harmony of the religion of Israel without the need for a firmly delineated and formally acknowledged canon.

These considerations lead to the necessity for a redefinition of the term “canon” as applied to the Old Testament, not only in the early Christian era, but through the whole period of the formation of the Old Testament. The Old Testament is not an established list of books nor a sharply outlined group of writings, nor is it a body of literature set forth as “canon” by a council, synod, or other authoritative body. To speak of the canon of the Old Testament is to use the term in another sense.

Thus, O. Eissfeldt virtually equates the term “canon” with “Scripture(s)” or “Holy Scripture(s),” a term which he calls “not identical in meaning with Canon but probably identical in its practical application.”⁴⁷ The terms “Scriptures” or “Holy Scriptures” occur in the New Testament as designations for the Old Testament: αἱ γραφαὶ, Mt. 21:42; τὰ γράμματα, Jn. 5:47; τὰ ἱερὰ γράμματα, 2 Tim. 3:15; ἅγιοι γραφαὶ, Rom. 1:2.⁴⁸ Philo Judaeus and Josephus both employ the term τὰ ἱερὰ γράμματα, among others.⁴⁹ These are all equivalent to the expression שְׂכָרֵי תּוֹרָה in the rabbinic writings.⁵⁰ These terms, of course, do not mean “canon” in the sense of a closed collection of books, but they do refer to the Old Testament books taken as an authoritative whole, and it is in this sense that the term “canon” must be used with reference to the Old Testament. As C. Steuernagel contended, if one operates on the assumption that the delimitation of a fixed number of books is essential for the concept of canon, then one comes to the conclusion that the concepts of canon and of canonization must follow upon the completion of the collection of the scriptural books. But, said Steuernagel,

it is not probable that this concept of the canon suddenly appeared ready-made; it is more natural to assume that the concept of canon must have first arisen gradually. But if so, then it is quite possible that even the first stages of the collection possessed a certain canonical quality.⁵¹

It follows that the question of the origin of the canonicity of the Old Testament literature is the same as that of the origin of the Old Testament literature itself, in its capacity as authoritative Scripture. The process of the formation of the canon has to do not only with the collection and fixation of the biblical books, but also and in the first instance with the evaluation of this literature as Scripture, whether in the form of complete books or in the form of the various literary units or elements of differing provenance, which gradually by a process of collection and redaction assumed the shape of the biblical books and canon as we know them. The term “canon,” then, as applied to the Old Testament in the pre-Christian stage, refers to the literature (written or oral) of the Israelite-Jewish community in its quality as authoritative Scripture within that community. It is therefore possible to speak of “canon” in Israel even before any part of the present

⁴⁶In this view König followed Buhl, 25-26; *infra*, 22.

⁴⁷Eissfeldt, 560.

⁴⁸New Testament and early Christian usage of these and other terms applied to the Scriptures is discussed in W. Bauer, *A Greek-English Lexicon of the New Testament and other Early Christian Literature*, trans. by W. F. Arndt and F. W. Gingrich (Chicago: University of Chicago Press, 1957); see entries for ἱερός, γράμμα, γραφή, βιβλος, κανών, νόμος.

⁴⁹Pfeiffer, *IDB*, i, 499

⁵⁰A listing of ancient terms applied to the Hebrew Scriptures appears in Ryle, 302-305; Pfeiffer, *loc. cit.*

⁵¹Steuernagel, 88; translated by the present writer.

tripartite Hebrew canon had assumed its final form. By the origin of the canon we mean the origin of Scripture itself.

This equation of the terms “canon” and “Scripture” with reference to the Old Testament was protested by G. Hölscher, who insisted that one

must strictly differentiate between the manifold collections of Old Testament Scriptures and the delimitation of the canon; in the one case it is a matter of a purely literary process, in the other of a dogmatic theory. Only if this strict conception of the idea of canon is carried through can the significance which this idea had for the dogmatic development of Judaism be truly perceived.⁵²

It is doubtful, however, that it is possible to speak of the collection of Old Testament Scriptures, in Hölscher’s phrase, as a “purely literary process.” The Old Testament literature would not have been collected in the first place without theological motivation on the part of the collectors; in other words, some sort of “dogmatic theory” was present in the whole history of the formation of the Old Testament literature, and not just in the period when the limits of the canon were being debated. The exposition of the theological concerns underlying the formation of the Old Testament literature would amount to the exposition of the origin of the canonicity of that literature. This was recognized by König, who asserted that collection and canonization of the Old Testament literature “are not entirely to be separated.”⁵³ König objected to the idea that all parts of the Old Testament were first in existence as non-authoritative religious literature, and then at a certain point were declared authoritative on the basis of some dogmatic principle which governed canonization. For König, the processes of collection and canonization are at least in part identical, so that there is no secondary origin for the canonicity of the entire Old Testament. “For many parts of the ancient Hebrew Scriptures had already possessed a religious-moral authority since their origin,”⁵⁴ such as the legislative sections of the Pentateuch, especially the various decalogues.

W. Staerk also wished to differentiate between the concept of Scripture and that of canon:

Scripture in the sense of sacred literature esteemed by the church, i.e. of authority for the religious community, is not the same as canon. Scripture is the foundation of the canon; canon is Holy Scripture under dogmatic fixation, then in the more restricted ecclesiastical sense of a firmly delineated source and standard for the divine word which binds the community to the inner unity of faith and ethical life. Scripture and canon stand, then, in a historical relationship as starting-point and end-point of a religious-theological movement in Judaism as in Christianity. Israel must have a clear concept of Scripture before it can have a concept of a canon.⁵⁵

Staerk found the concept of a canon to be firmly established as a dogmatic concept in Judaism only at the end of the first century of the Christian era. His study, however, traces the concept of Scripture back to the time of Jesus Sirach (second century BCE). Sirach apparently considers himself to be following in the prophetic succession, setting forth teachings that will endure “to all future generations” (Ecclus. 24:33). Thus, while for Sirach there is no concept of a closed canon, he does have a definite concept of Scripture. Staerk concluded that “the rise of a concept of Scripture in ancient Judaism lies before the time of Jesus Sirach, i.e., it is to be put before the second century B. C.”⁵⁶

Staerk’s judgment that Scripture is the foundation of canon may be well taken, but his basis for differentiation between the concepts of canon and Scripture—that “canon is Holy Scripture under dogmatic fixation”—is subject to the same criticism which was applied to the argument of Hölscher. Moreover, it is

⁵²Hölscher, 1-2; translated by the present writer.

⁵³König, 14.

⁵⁴*Ibid.*, 15; translated by the present writer.

⁵⁵Staerk, 105; translated by the present writer.

⁵⁶*Ibid.*, 111.

an issue whether Sirach indeed has no concept of a canon. Certainly for him the prophetic writings were not a closed canon.⁵⁷ Nevertheless we find a reference to “the book of the covenant of the Most High God, the law which Moses commanded us as an inheritance for the congregations of Jacob” (Ecclus 24:23). This phraseology implies the existence of a canonical Torah in the time of Sirach (which he here, of course, equates with “wisdom”). In the Prologue to the book, Sirach’s grandson (*circa* 132 BCE) mentions “the law and the prophets and the other books of our fathers”; this passage is usually cited as the earliest reference to the tripartite division of the Jewish Scriptures, the third part (“other books of our fathers,” τὰ ἄλλα πατρια βιβλία) being undefined. The significance of this tripartition is a matter which has occasioned considerable debate,⁵⁸ but in any case this tripartition is involved in the process by which the Scriptures, already regarded as authoritative, came to constitute a “canon” in the restricted sense of a defined group of books. Hence, in the second century BCE there was already a concept of canon with regard to at least part of the Scriptures (for Sirach, the Law of Moses, and for his grandson, the Law and the Prophets); yet the differentiation between the concepts of “Scripture” and “canon” was not rigid and, as we have seen, not even the Jabneh discussions were to be conclusive on this issue.

A. C. Sundberg also contends for a distinction in meaning between the terms “Scripture” and “canon.” In the past, both terms have designated “religious writings that are in some sense authoritative,” but this is the result of inaccurate analysis. Sundberg states, “We need now to differentiate between the terms ‘scripture’ and ‘canon,’ understanding by ‘scripture’ religious writing that is in some sense authoritative, and by ‘canon’ a closed collection of scripture.” Sundberg draws this conclusion on the basis of the fact that “more writings than the Law and the Prophets were used in Judaism in the first century A.D. and used in an authoritative way. And it is also clear that no closed canon had been defined.”⁵⁹

According to Sundberg, in the usage of the New Testament and of the Qumran sectarians, it is not possible to distinguish between the treatment accorded books in the Jewish canon (including the Writings) and that accorded the books later called “deuterocanonical” or “apocryphal.” The collections of Law and Prophets were recognized, but alongside this, “a large, undifferentiated group of non-sectarian religious writings that included the books later called ‘writings,’ ‘deuterocanonical,’ and ‘apocryphal’ was also used as in some sense authoritative.” This situation obtained not only in diaspora and sectarian Judaism, but also in Palestine generally; “this is confirmed by the translation of this larger literature into Greek for circulation among Greek speaking Jews in Palestine as well as in the Diaspora.”⁶⁰ From this, Sundberg concludes that the term “canon” in the sense of a closed collection of Scripture cannot be applied to the Old Testament Scriptures before 70 CE, when the movement set in for the definition of the canon in normative Judaism.

Sundberg, then, interprets the term “Scripture” as a broader classification than the term “canon.” All those writings which are used as “in some sense authoritative” would be “Scripture”; “canonical” books are all “Scriptural,” but not all “Scriptural” books are “canonical.” However, the evidence of the New Testament and the Qumran sectarians, as well as that supplied by Philo, will not sustain the distinction made by Sundberg. In these sources, only those books which were eventually included in the Hebrew canon are expressly quoted as Scripture, though use is made of other books. There is a difference of opinion as to whether such usage is to be regarded as a recognition of canonicity.⁶¹ What is more significant, however, is that both in the New Testament and in non-Pharisaic Judaism, as represented here by Philo and the Dead Sea community, many of the eventually canonical books of the Writings are not quoted as authoritative Scripture,

⁵⁷However, in the section 44:16–49:13, Sirach provides an outline of the history of Israel and its heroes which corresponds to the contents of the Law and the Prophets as we have them. Buhl remarks, “That Ben Sirach knew the full prophetic canon as known to us, may be regarded as thoroughly established,” Buhl, 11.

⁵⁸*Infra*, ch. 5.

⁵⁹Sundberg, “The ‘Old Testament’: A Christian Canon,” 147.

⁶⁰*Ibid.*, 146.

⁶¹*Infra*, 24.

though the evidence of the Dead Sea Scrolls and the Septuagint shows that they were regarded as canonical in the sense that they belonged to the recognized corpus of traditional writings. In the New Testament there do not seem to be any allusions to Ezra or to any of the Megilloth.⁶² At Qumran, of the Writings only Psalms, Proverbs and Daniel seem to be expressly quoted as Scripture.⁶³ And according to Eichhorn, Philo never refers to Nehemiah, Chronicles, Daniel or the Megilloth.⁶⁴ These books, while “canonical,” would not be “Scripture” in Sundberg’s sense, at least for these authorities, because they are not used as “in some sense authoritative.” It is true that this is an argument from silence, and therefore inconclusive; but it would at least suggest that Sundberg’s differentiation between the concepts of “Scripture” and “canon” is not well founded.

The terms “Scripture” and “canon,” then, cannot be strictly differentiated in connection with the Old Testament literature. If the term “canon” be taken in Sundberg’s sense as “a closed collection of Scripture,” then we cannot speak of a canon in Judaism before the second century CE, as the inconclusive Jabneh debate shows. There was indeed a canon, but it was not sharply defined in any way that separates the concept of “canon” from that of “Scripture.” The process of defining the canon is the same as the process of determining what is to be regarded as “holy Scripture” within the religious community.

This is shown by the discussion of the rabbis in the post-Jabneh period, as preserved in *Yadaim* 3:5. The full text is as follows:

All the Sacred Scriptures render the hands unclean. The Song of Songs and Ecclesiastes render the hands unclean. R. Judah says, The Song of Songs renders the hands unclean, but there is a disagreement regarding Ecclesiastes. R. Jose says, Ecclesiastes does not render the hands unclean, but there is disagreement respecting the Song of Songs. R. Simon says, Ecclesiastes comes under the lenient rulings of the School of Shammai but under the stringent rulings of the School of Hilal. R. Simon ben Azzai said, I have heard a tradition from the seventy-two elders on the day when they appointed R. Elazar ben Azariah [head] of the academy that the Song of Songs and Ecclesiastes render the hands unclean. R. Akiba said, God forbid! No man in Israel ever contended regarding the Song of Songs [to say] that it does not render the hands unclean [for all the ages of] the whole world are not worth that day whereon the Song of Songs was given to Israel, for all the Hagiographa is sacred, but the Song of Songs is the most sacred of them all.⁶⁵

The expression, “all the Holy Scriptures defile the hands” (הידיים כל כתבי הקדש מטמאים את) seems to mean that contact with the sacred books requires a ceremonial washing of the hands.⁶⁶ From this discussion, it is evident that the debate as to which books were to be included in the canon is the same as that concerning which books “defile the hands,” i.e., are considered to be Holy Scripture. The terms “canon” and “Scripture” are therefore interchangeable, with respect to the Hebrew Scriptures. This passage is evidence for the fact that Jabneh debates had not settled the question of which books belong in the canon, for here we find a discussion as to whether Ecclesiastes and the Song of Songs “defile the hands.” In *Yadaim* 3:5, the question is settled in accordance with the tradition received from the Jabneh academy by R. Simon ben Azzai. As Budde observed, “It is obvious that no such thing would have been necessary if a binding decision had already been long in existence.”⁶⁷

Finally, as Staerk recognized, the concept of canon as a closed collection of Scripture is really but a corollary of the concept of authoritative Scripture itself. It would be just as accurate to apply the term

⁶²Pfeiffer, *IDB*, i, 512.

⁶³Eybers, 2-8.

⁶⁴J. G. Eichhorn, *Einleitung in das Alte Testament*, Bd. i (4. Ausg.; Göttingen: Carl Eduard Rosenbusch, 1823), 133.

⁶⁵*Tractate Yadaim*, ch. 3, Mishnah 5. *Mishnayoth*, vi: *Order Taharoth*, ed. Blackman (2nd ed.; New York: Judaica Press, 1964), 763-764.

⁶⁶*Infra*, 19.

⁶⁷Budde, col. 670.

“Scripture” to a closed collection of authoritative religious writings, as to apply the term “canon” in this connection.

CHAPTER 3

Characteristics and Functions of the Canon

I. The Holiness of the Scriptures

The canon has been defined provisionally as an established body of literature having authority for the ordering of faith and life within a given religious community. It is now necessary to amplify this description and to examine the way in which the Old Testament Scriptures function as a canon within the framework of Israelite-Jewish religion.

The Mishnaic statement that “all the Holy Scriptures defile the hands” indicates that a major distinguishing characteristic of the Scriptures was perceived, at least in the early Christian era, to be *holiness*. The exact meaning of the expression “defiling the hands” (מִטְמַאֵת יָדַי אֶת הַקְּדוּשִׁים) has been a matter of some discussion. G. Hölscher related it to the ancient idea of *tabu*; whoever touched a holy object could be freed from the contamination only by washing.¹ E. König objected that the concept of *tabu* generally cannot be proved to have existed in Israel, and in any case could not have been operative in the later period in which there arose the idea that the holy books render one levitically unclean.² K. Budde, discussing the expression “defiling the hands,” emphasizes the fact that defilement only of the hands is attributed to the sacred writings; the phrase therefore is to be explained simply as an expression of the requirement for a ceremonial washing of the hands after contact with the Holy Scriptures.

The Pharisees . . . attributed to the sacred writings a sanctity of such a sort that whosoever touched them was not allowed to touch aught else, until he had undergone the same ritual ablution as if he had touched something unclean.³

König explained the expression “defiling the hands” another way:

This is analogous to the idea that the sight of the all-holy God was conceived of as destroying the man who sees him (e.g., Isa. 6:5-7), and the idea developed that things of derivative holiness at least fasten the property of uncleanness upon the men who touch them.⁴

In any case, as Budde observed,⁵ the qualities of holiness and of rendering the hands unclean, applied in the Mishnah to the books of the Old Testament, are inseparable one from another. Nevertheless, the characteristic of “defiling the hands” is secondary to that of holiness; the Scriptures “defile the hands” in virtue of their holiness. “The question is how, from the holiness of the books, the expression ‘defiling the hands’ could have developed.”⁶ The answer can only be that this concept arose as a practical matter in the Judaism of the early Christian era, to ensure that the Scriptures would be accorded special treatment and respect as holy books. It was the holiness of the Scriptures, then, which in ancient Judaism was considered

¹Hölscher, 4-5.

²König, 21.

³Budde, col. 649.

⁴E. König, *Einleitung in das Alte Testament* (Bonn: Eduard Weber’s Verlag, 1893), 450; translated by the present writer.

⁵K. Budde, *Der Kanon des Alten Testaments: ein Abriss* (Giessen: J. Richer, 1900), 60.

⁶König, *Kanon und Apokryphen*, 21n.

to be their paramount quality; and the holiness of the Scriptures is an expression of their being “set apart” from other writings and limited in their number.⁷

The expression “holy” as applied to the writings of the canon occurs as early as 1 Macc. 12:9, which refers to “holy books” (τὰ βιβλία τὰ ἅγια); and in 2 Macc. 8:23 the canon is spoken of as “the holy book” (ἡ ἱερα βίβλος). The Mishnah uses the term “Holy Scriptures” (כתבֿי הקודש). The designation “the holy books” (αἱ ἱεραὶ βίβλοι) is found also in the writings of Flavius Josephus (*Antiquitates Judaicae*, Proem 4; *Contra Apionem* i:1, etc.). By the use of the term “holy,” which implies being set apart for a particular purpose, Josephus expresses his view that the Holy Scriptures belong in a distinct category.⁸ In *Contra Apionem* i:8, he elaborates his view as to the extent and quality of the Scriptures:

We do not possess myriads of inconsistent books conflicting with each other. Our books, those which are justly accredited,⁹ are but two and twenty, and contain the record of all time.

Of these, five are the books of Moses, comprising the laws and the traditional history from the birth of man down to the death of the lawgiver. This period falls only a little short of three thousand years. From the death of Moses until Artaxerxes, who succeeded Xerxes as King of Persia, the prophets subsequent to Moses wrote the history of the events of their own times in thirteen books. The remaining four books contain hymns to God and precepts for the conduct of human life.

From Artaxerxes to our own time the complete history has been written, but has not been deemed worthy of equal credit with the earlier records, because of the failure of the exact succession of the prophets.

We have given practical proof of our reverence for our own Scriptures. For, although such long ages have now passed, no one has ventured either to add, or to remove, or to alter a syllable.¹⁰

According to G. Hölscher, this passage from Josephus expresses the concept of the canon held by Palestinian Pharisaic Judaism. Hölscher isolates the following characteristics as essential to this concept of canonical Scripture: 1) Since the Scriptures contain divine doctrines, they are of unquestioned authority and are to be considered absolutely worthy of belief. 2) They stem entirely from the prophetic period, and therefore they are divinely inspired. 3) In distinction from all profane literature, they bear the specific character of holiness. 4) Their number is exactly defined. 5) Their wording is unalterable.¹¹

The character of holiness, evident in the Mishnaic expression “defiling the hands” and implicit in the statement of Josephus, is frequently upheld as the essential mark of canonicity. Oesterley and Robinson stated:

It is clear that the idea of the canon necessarily presupposes the existence of a number of books, some of which, for one reason or another are regarded with special veneration, and which must therefore be authoritative in a pre-eminent sense.¹²

This statement expresses uncertainty as to the source of the attribute of holiness as ascribed to the Scriptures. It is not clear, in fact, whether the Scriptures are authoritative because they are holy, or holy

⁷Note the derivation and usage of the Hebrew root $\Psi\Gamma\eta$ in F. Brown, S. R. Driver and C. A. Briggs, eds., *A Hebrew and English Lexicon of the Old Testament* (Boston: Houghton Mifflin, 1907).

⁸Shutt, 57.

⁹Some translations render “believed to be divine,” following Eusebius (*Hist. Eccl.* 3:10), who referring to this passage, apparently added the word $\theta\epsilon\acute{\iota}\alpha$. The word does not occur in the Greek or Latin texts of Josephus. Shutt states, “Eusebius probably had in mind the statement of Josephus later in this passage, ‘It has become natural to all Jews . . . to esteem these books to contain divine doctrines,’” *ibid.*

¹⁰*Josephus*, i, trans. by H. St. J. Thackeray, *LCL* (London: William Heinemann, 1926), 179-181.

¹¹Hölscher, 4.

¹²Oesterley and Robinson, 1-2.

because they are authoritative. F. H. Woods found holiness to be a secondary characteristic of the Scriptures, dependent on the concept of their divine origin:

The term Holy Scripture suggests—(1) in some extent a divine origin, (2) in connexion with this a special sanctity distinguishing scripture from all other books, (3) reading for devotion or edification in public worship, (4) quotations for the purpose of establishing doctrine or argument. But only the first, or perhaps say the first two, and even these with some necessary modification, can be considered as belonging to, the necessary connotation of the idea; the second, third, and fourth are obviously the result of the first, and all are to some extent a question of degree.¹³

The statement of Woods would seem to draw support from the passage cited from Josephus, in which the first characteristic of the Scriptures is that they are “rightly believed in” (or, following Eusebius, “rightly believed to be divine”). C. Steuernagel in similar fashion linked the concept of the holiness of the Scriptures to their quality of unalterability, in both content and form, as the God-given divine law.¹⁴

G. Östborn, however, finds the canonical characteristic of holiness to be a result of the function of the Scriptures as the standard of the fundamental motif of the cult.

As their quality of “polluting the hands” is a consequence of the holiness of the books, their holiness, on the other hand, is a result of their cultic function, depending on their canonical standard—not, as is occasionally assumed, on their divine origin.¹⁵

Whether as a result of the concept of their divine origin, or whether in virtue of their function as a cultic standard, the quality of holiness remains characteristic of the Scriptures. S. Sandmel suggests that “by its very nature, the term canon implies that we are completely assured of the sanctity of a given aggregate of materials, even before we have looked at them.” Sandmel goes on to say that the idea of a canon “seems to imply that all the books that achieve a place on the approved list are of similar, or comparable or interchangeable sanctity.”¹⁶ However, he regards the development of the canon, as a group of holy books, as a fortuitous circumstance: “Canon only reflects the sanctity which a given era chanced to assign to a given number of books.”¹⁷ Sandmel suggests that, had the crystallization of the Old Testament canon been delayed by historical circumstances, a quite different collection of books would have been made. On the basis of these observations, it is not certain that the canonical trait of holiness is really part of the concept of canon itself. It may be more likely that the character of holiness, applied to the Scriptures in such expressions as “defiling the hands,” is simply a phenomenon of that particular era in the development of Judaism during which the canon assumed its present form.

2. The Canon as Exclusive

As a concrete historical phenomenon during the formation of the Old Testament, principally in its latter stages, the canonical trait of holiness may be said to function in a definite way: that is, the character of holiness, ascribed to the canon as an entity, operates to the *exclusion* of other literature. The demarcation between what is Scripture (or canon) and what is not is expressed in terms of the holiness of those writings which are indeed evaluated as Scripture and included in the canon. This is evident, for example, in the debate concerning which books “defile the hands.”

¹³Woods, 604

¹⁴Steuernagel, 96.

¹⁵Östborn, 105.

¹⁶S. Sandmel, “On Canon,” *CBQ*, xxviii (1966), 206.

¹⁷*Ibid.*, 205.

In the opinion of A. Jepsen, “this delineation over against other writings”—the exclusive function of the canon—“is essential for the concept of canon.”¹⁸ Jepsen’s observation only echoes the opinion of Hölscher, who had previously developed the exclusive function as the hallmark of the canon in the Judaism of the early Christian period:

The real problem of the canon first sets in at this point. Over against the . . . freer view [of the canon] in which, during the second pre-Christian century, Palestinians and Alexandrians were still in agreement, the idea of the canon comes to signify a completely new principle by which the extant literature is deliberately reduced. The canon signifies the erection of an exact delimitation by which Holy Scripture becomes separated from all other literature. A canon exists from that moment, for example, when the Book of Esther comes to be distinguished as canonical from the Book of Sirach as a non-canonical literary work. This concept of the canon, in a technical sense, is fundamentally different from the regard which the Torah and the Prophets earlier enjoyed, and alone truly deserves the name canon.¹⁹

For Hölscher, then, the correct use of the term “canon” is bound up in the exclusive function of the canon itself. “The canon is the conscious separation of a definite number of ‘holy’ Scriptures from the larger mass of extant literature.”²⁰ In Hölscher’s view, the canon presupposes the existence and usage of all biblical books, and this necessitates the restriction of the idea of canonicity to the latest stages in the formation of Old Testament literature.

F. Buhl, on the other hand; was willing to view the attacks against certain biblical books as themselves the evidence for an earlier established canon. These attacks, he stated,

do not exclude the idea of an earlier established canon, for indeed criticisms of the several writings of the Old Testament were never altogether silenced after the Synod of Jamnia, not even after the decision given in the Mishna. Further, the very attacks referred to, when more exactly considered, presuppose a Scripture canon. There is no dispute about the genuineness or age of the controverted writings, but only about doubts and objections which had been called forth by a definitely developed, dogmatic principle of Scripture, for it was felt that the idea of a “Scripture” precisely defined and marked off from all other literature, involved the postulating of certain requirements of harmonious unity and religious-moral purity in that Scripture.²¹

The observations of both Buhl and Hölscher, however, make it clear that the question of canonicity in Judaism during the early Christian era was related to the attempt to exclude certain literature from the canon. If this be the case, then it is important to see that this exclusive function of the canon operates with respect to the eventually *excluded* literature. This amounts to the assertion that there can be no concept of canon without a corresponding literature which is excluded from the canon.

In this connection one thinks first of the Apocryphal literature, those books found in the Greek Old Testament of the church, but not in the Hebrew canon of Pharisaic Judaism. It has been maintained that the closing of the Palestinian (Hebrew) canon, by which we are to understand the demarcation of the “third canon” of the Writings, was a response to the threat posed by widespread use of the fuller Greek Old Testament amongst Diaspora Jews. H. E. Ryle, for example, believed that with the destruction of Jerusalem, which deprived the Palestinian Scriptural tradition of its historic center and thus created the prospect of a diminishing number of Hebrew-reading Jews, the presence of the larger mass of Jewish-Greek literature was viewed as a threat to the preservation of the Hebrew tradition:

¹⁸Jepsen, “Kanon und Text,” col. 65.

¹⁹Hölscher, 24; translated by the present writer.

²⁰*Ibid.*, 25.

²¹Buhl, 26.

If the Hebrew Canon was permanently to be preserved, it was necessary that it should forthwith be carefully defined. If a Hebrew, not a Greek, tradition of the Jewish Scriptures was to prevail, there must be no mistake what the Hebrew Canon was. The inevitable alternative would be, that the Greek Alexandrine version of the Holy Scriptures, with its different arrangement and possibly its more elastic limits, would pass into general acceptance and overwhelm the tradition of Jerusalem and of the scribes of Palestine.²²

It is not clear, however, that the literature now known as the Apocrypha was considered, as a body, to be that in contrast to which the Hebrew canon was eventually formulated. The term “Apocrypha,” which means “concealed” or “secret,”²³ was originally not related to the additional books included in the so-called Alexandrian canon, but to the pseudepigraphical and apocalyptic literature. This use of the term is found in Origen, whom Hölscher considered to have been following rabbinic usage.²⁴ And, as Hölscher points out, the term was not one applied to the literature by its critics, so much as by its own authors. C. T. Fritsch has stated:

As a literary term it was first applied to books which were to be kept from the public because of the esoteric wisdom they contained. In this sense it was a title of honor, since it referred to books whose secret doctrines imparted to them special authority.²⁵

The classic case of this concept is to be found in the apocalyptic book 2 Esdras. In 14:16, Ezra hears the voice of the Most High saying, “Make public the twenty-four books that you wrote first, and let the worthy and the unworthy read them; but keep the seventy that were written last, in order to give them to the wise among your people.” In the “seventy books,” which Ezra is elsewhere commanded to “keep secret,” we find the probable origin of the term “apocrypha” in the sense of “non-canonical,” since they are contrasted with the “twenty-four books” which are obviously the canonical Hebrew Scriptures. But the reference is to pseudepigraphical and apocalyptic literature which is held in special esteem. Use of the word “apocrypha” to designate only the books of the Greek and Latin Bible but not in the Hebrew goes back only as far as Jerome; in his *Prologus Galeatus*, he evidently considers them non-canonical because they could be used only for edification, but not for confirming the dogmas of the church.²⁶

In the rabbinic writings, certain books are referred to as “hidden” (סֵפֶר־סֵתֵר); among these are Ecclesiastes and the Song of Songs, whose character as “defiling the hands” was also called into question. But the term is also used in connection with Proverbs and Ezekiel, whose “defiling” nature was not disputed, but which were believed to contain certain internal contradictions or to contradict the Torah, and were therefore to be excluded from public worship. The root סֵתֵר, then, has no relation to the question of canonicity nor to the Apocrypha as such; König states that “in the Talmud, the Apocrypha are never called *genûzîm*.”²⁷

We are left with the conclusion that the present Apocrypha are not the body of literature which was specifically excluded in the process of defining the Hebrew canon. Moreover, the Apocrypha did not exist as a recognized entity which could have been the object of exclusion from the Jewish canon. This is true

²²Ryle, 181; Pfeiffer likewise states that “the inclusion of the Apoc. in the LXX Bible of the Alexandrian Jews, which had been adopted by the Christians together with the gospel, made it imperative to close the sacred canon,” *IDB*, i, 514.

²³Bentzen, i, 20-21.

²⁴Hölscher, 47-50.

²⁵C. T. Fritsch, “Apocrypha,” *IDB*, i, 162.

²⁶*Ibid.*

²⁷König, *Kanon und Apokryphen*, 39. R. H. Charles stated, “The Hebrew word *ganaz* (סֵתֵר) does not mean ‘to hide’, but ‘to store away’ things in themselves precious. Indeed, so far is it from being a technical term in reference to non-Canonical writings, that it is most frequently used in reference to the Canonical Scriptures themselves,” R. H. Charles, ed., *The Apocrypha and Pseudepigrapha of the Old Testament* (Oxford, Clarendon Press, 1913), i, vii.

because the Alexandrian collection had no status in Judaism, the third part of the hypothetical “Alexandrian canon” being in reality a mass of undifferentiated religious literature which only later came to be differentiated into “Writings,” “Apocrypha,” and “Pseudepigrapha”—terms which have meaning only in relation to the differing canons of Judaism and the early church.

The significance of the “apocryphal” or deuterocanonical literature with respect to the concept of the canonicity of the Old Testament is therefore largely a matter of subjective judgment. Opinions differ, indeed, as to whether there is any evidence that the Apocrypha were recognized as Scripture in first century Judaism and in the early church. Hölscher was of the opinion that “Christianity in the first two centuries was distinguished from rabbinism by the fact that it used the Apocrypha and regarded it as authoritative Scripture.”²⁸ Pfeiffer states that “the New Testament quotes non-canonical writings as Scripture,” and lists seven places where the New Testament writers cite non-canonical Jewish writings, and five instances in which they made use of apocryphal and pseudepigraphical writings “without quoting them as Scripture.”²⁹ A. C. Sundberg asserts that in the usage of the early Christian writers, both East and West, “the books now called ‘deuterocanonical’ and ‘apocryphal’ were used in ways undistinguishable from the usage of the books included in the Jewish canon.”³⁰ Sundberg further says that this usage was received from Judaism itself; however, others have denied that the Apocrypha were used in Judaism in the same way as the eventually canonical books. As to the sectarians of Qumran, I. H. Eybers believes that none of the Apocrypha (with the possible exception of Ecclesiasticus) were used as canonical by the scribes of this community.³¹ F. V. Filson finds it “highly significant that Philo never quotes from any of the Apocrypha as Scripture.”³² Filson further asserts that “no New Testament writer ever quotes one of the Apocrypha as Scripture,” and that although the New Testament writers show some acquaintance with non-canonical Jewish writings, they “give no clue whatever that they thought these added books canonical.”³³ König had earlier contested Hölscher’s conclusion, and denied that the Apocrypha are ever cited in the New Testament.³⁴

The exclusive function of the canon, however, has been viewed as operating with respect to bodies of literature other than the Apocrypha. G. F. Moore, indeed, suggested that the Jewish canon was defined in the first Christian century as a rejection of the Christian Scriptures, especially the gospels, which he believed to be specifically proscribed in the rabbinic tradition, along with the “books of the heretics.”³⁵ More convincing is the argument, advanced by Hölscher, that the apparent delimitation of the canon in the Jabneh deliberations was intended to exclude the apocalyptic literature after the disastrous events of the Jewish revolt of 66-70 CE. Hölscher cited the criteria of canonicity evident in the passage from Josephus’ *Contra Apionem* 1:8.³⁶ The major inference from these criteria is that canonical Scripture could only have been produced during the period of prophecy, from Moses to Artaxerxes. As Hölscher observed, this criterion

²⁸Hölscher, 68.

²⁹Pfeiffer, *Introduction*, 66.

³⁰Sundberg, “The ‘Old Testament’: A Christian Canon,” 148.

³¹Eybers states, “There is no distinct quotation from any of the Apocrypha in the Qumran texts. . . . of all the Apocrypha, as they appear in the Vulgate, it seems that only Ecclesiasticus could, with any degree of probability, have been considered as belonging to the canon at Qumran; and of the rest only Tobit seems to have been known,” 8-9.

³²Filson, 82.

³³*Ibid.*, 86.

³⁴König, *Kanon und Apokryphen*, 43.

³⁵G. F. Moore, “The Definition of the Jewish Canon and the Repudiation of the Christian Scriptures,” in *Essays in Modern Theology and Related Subjects* . . . to Charles Augustus Briggs (New York: Charles Scribner’s Sons, 1911), 99-125. Moore identified the term גליונים in *Tosefta Yadaim* 2:13 and *Tosefta Shabbat* 13(14):5 with the Greek εὐαγγέλιον. For the argument against this identification, see Sundberg, *The Old Testament of the Early Church*, 123-124.

³⁶*Supra*, 20.

effectively excludes the Jewish sectarian apocalyptic literature, associated with the false hopes of the rebellion: “No literature was more severely affected by the laying down of this principle than, indeed, the apocalyptic.”³⁷ Of course, this principle would also have excluded certain of the Apocrypha, since they include books of which the author was known to have lived after Artaxerxes (Ecclesiasticus), or the contents of which betrayed their origin in the post-prophetic period (Maccabees). Apocalyptic and other literature pseudonymously ascribed to authors of the pre-Mosaic period (Books of Adam and Eve, Book of Enoch, Fragment of the Book of Noah, Apocalypse of Abraham, Testaments of the Twelve Patriarchs, etc.) would also have been clearly excluded by this criterion,³⁸ as well as known late works such as Jubilees,³⁹ which was close to Scriptural status in the Dead Sea community.⁴⁰ The retention of a few canonical books containing material ascribed to “wise men” of the pre-Mosaic period (Job, and more significantly in this connection, Daniel) shows that this criterion could be waived where tradition demanded.⁴¹

The view that the action of the Jabneh academy which led to the closing of the Hebrew canon was an anti-apocalyptic action has recently been upheld by Sundberg as a suitable “working hypothesis,” despite a lack of concrete evidence. There is perhaps more evidence for this view than Sundberg thinks. It is significant that the Jabneh assembly was instituted under Roman patronage: Johanan ben Zakkai, leader of the moderate Hillelite faction which advocated peace with Rome, is said to have been permitted to leave Jerusalem while it was yet under siege, and to have been authorized by Vespasian (or Titus) himself to establish the academy.⁴² To the degree that the ratification of a Jewish canon is to be associated with Jabneh, the extent of this canon is to be seen as influenced, at least indirectly, by the necessity to suppress Jewish nationalism in order to reach an accommodation with the Roman power. In this sense, Roman political pressure stood behind the movement to define the Hebrew Scriptures to the exclusion of apocalyptic.

This association of ratification of the canon with the exclusion of apocalyptic literature needs to be qualified, however, by the recognition that Messianic speculation, sometimes approaching the apocalyptic, certainly did not disappear in the Judaism of the Tannaitic period.⁴³ The Bar Kochba revolt is evidence enough that Jewish nationalism, feeding upon Messianic speculation, persisted well into the second century CE. The Talmud itself bears witness to this continuing Messianic interest, although there is a clear reluctance to indulge in apocalyptic speculation.⁴⁴

³⁷Hölscher, 40.

³⁸Sundberg, however, objects to Hölscher’s view: “It is true that many of the apocalypses have pre-Mosaic pseudonyms but proscription of pre-Mosaic writings as such is not found in the rabbinic literature,” *The Old Testament of the Early Church*, 126.

³⁹König, *Kanon und Apokryphen*, 24-26. König, however, believes the period of prophecy was thought to extend back to Abraham, on the basis of Gen. 20:7, which refers to Abraham as a prophet.

⁴⁰Amongst the apocalyptically oriented sectarians of Qumran, the Book of Jubilees was taken as the basis for the solar calendar, and thus enjoyed a status which W. F. Brownlee has called “practically canonical, perhaps fully so.” Other pseudepigraphical books which Brownlee calls “close to canonical status in the Qumran community” included Enoch and the Testament of Levi, both ascribed to figures of the pre-prophetic period, Brownlee, 46; but see *infra*, 46.

⁴¹Katz, 193. Although the Daniel who speaks in the book is portrayed as a contemporary of Nebuchadnezzar, Ezek. 14:14 links Job and Daniel with Noah, as figures of the predeluvian past; Daniel (Dan’el) appears as an ancient king in the “Legend of Aqhat” from Ugarit, A. S. Kapelrud, “Ugarit,” *IDB*, iv, 730-731. But in the Babylonian Talmud, *baraitha Baba Bathra* 14b-15a, the authorship of the Book of Job is ascribed to Moses, and that of the Book of Daniel to “the men of the Great Assembly” in the early postexilic period.

⁴²Babylonian Talmud, *Gittin* 56a; Cohen, 241.

⁴³Messianic speculation in pseudepigraphical literature and rabbinic writings of this period is summarized by G. R. Driver, *The Judean Scrolls* (Oxford: Basil Blackwell, 1965), 462-467.

⁴⁴This may be seen in *Sanhedrin* 97-98. The coming of the Messianic era is depicted in apocalyptic terms in *Sanh.* 97a. Moreover, the coming of the Messiah is linked to the Roman Empire; the statement is made that the Messiah or Son of David will not come “till the Kingdom will be converted to heresy,” *The Babylonian Talmud, Seder Nezikin*, ed. I. Epstein, vi: *Sanhedrin*, trans. by H. Freedman, ii (London: Soncino Press, 1935), 656; or until the Roman power

A. Bentzen believes that the threat of the apocalyptic literature to orthodox Judaism had not to do with the encouragement of revolutionary activity, but with religious syncretism. It was against the syncretistic tendencies of apocalyptic literature, he states that “the congregation of Jewish scholars had to raise a standard of faith and life, able to show what was genuine Judaism and what was not.”⁴⁵ In this regard, Sundberg also points out that the theory of the exclusion of apocalyptic also accounts for the exclusion of Christian writings:

By defining the limits of the canon the undesirable apocalyptic literature was removed from inclusion in the heretofore undefined body of writings. This corresponds with the pre-Jamnia canonical practice. . . . Moreover, since the Christian movement represented in its early years a highly messianic movement within Judaism, it is to be expected that Christian writings should fall into this group and be named among them by the rabbis.⁴⁶

The exclusive function of the canon, as a consequence of its character of holiness, has been viewed as operative in earlier periods in the history of the formation of the Old Testament. E. Jacob, who finds Deuteronomy to be the first self-consciously canonical book, claims that the trait of exclusiveness is present there as a consequence of Deuteronomy’s assumption of sacred authority; other books already in existence must be “suppressed or assimilated.” In support of his contention, Jacob points to passages such as 4:2: “You shall not add to the word which I command you, nor take from it” (see also 12:32). Jacob goes on to assert that “the language of strict canonical authority which places anathema on those who dare to alter a particle of the letter (cf. Rev. 22:19) has its origin in Deuteronomy.”⁴⁷

In his analyses of the contents of the Old Testament canon as the representation of a cultic motif, that of Yahweh’s struggle and victory, G. Östborn carries the process of exclusion even further back in the history of the formation of the canon:

The original Yahwistic traditions were enlarged by those of Canaan. On the other hand, there was also a rejection, or an exclusion of Canaanitic material. Not all of it was suitable for Yahwistic worship, or possible to be transformed in this direction.⁴⁸

However, despite the efforts of scholars such as Jacob and Östborn to expose a process of exclusion even in the earlier stages of the development of Old Testament literature, the fact remains that the growth of this literature has been basically a cumulative, rather than exclusive, process. Newer materials, with conflicting points of view, have often been added to older traditions without the necessity for the older traditions to be suppressed. This we see, for example, in the various strands of the Pentateuch. The Priestly variant of the creation story does not exclude the Yahwist account of human origins; nor does the Priestly cultic legislation displace the cultic provisions of the other Pentateuchal sources, at least not to the extent that they have completely disappeared. Most striking is the existence of two decalogues—the “classical” and the “ritual”—

“enfolds Israel for nine months” (Sanh. 98b), a reference to the birth pangs of the Messianic era depicted in Micah 5:3, *ibid.*, 665. But speculation as to the exact date of the coming of the Messiah is discouraged; in Sanh. 97b, Hab. 2:3 is interpreted by R. Nathan to mean all calculations of the time of his coming are false, despite passages such as Dan. 7:25 which others had formerly taken to refer to the reigns of the Hasmoneans, the Herodians and Bar Kochba and thus indicating a schedule for the dawn of the Messianic era, *ibid.*, 658-659. Thus, while the Messianic hope is retained, there is a tendency to avoid the type of calculation of which the apocalyptic writers were fond.

⁴⁵Bentzen, i, 28.

⁴⁶Sundberg, *The Old Testament of the Early Church*, 75.

⁴⁷Jacob, 75; translated by the present writer.

⁴⁸Östborn, 75.

within the Sinai pericope itself, which are in some sense in competition one with another,⁴⁹ and each of which, moreover, exists in two alternate versions in the Pentateuch.⁵⁰ Eissfeldt remarks:

The evolution of the Pentateuch is marked by the continual neutralization of the older material by the new which comes to be added, in that the older precepts which are allowed to remain, are now quite naturally understood in the light of the newer, or where that is not possible or necessary, they simply remain unheeded.⁵¹

The same principle of cumulative, rather than selective, development is operative within the prophetic books. Newer oracles, uttered in response to a changed situation or at a later stage in the development of the prophet's thought, often stand alongside older, outdated pronouncements which, rather than being stricken from the record, are reinterpreted in the light of the new formulations. A case in point would be the four servant songs of Deutero-Isaiah; here there appears to be a development of thought in which the servant at first could be a symbol for Israel as a whole as Yahweh's witness, but in the last song he is an individual within Israel, a prophetic mediator "like Moses" who suffers vicariously.⁵² Yet the earlier portraits of the servant are allowed to stand. Of course, the enigma of the "servant of Yahweh" has been widely discussed in modern scholarship, with eminent critics supporting both the individual and collective interpretations.⁵³ It may be that this ambiguity is intentional on the part of Deutero-Isaiah;⁵⁴ but if so, the fact that subsequent traditions preserved the ambiguity is also evidence for the cumulative principle at work in the transmission of biblical traditions. Another illustration of the cumulative development of prophetic literature is the fact that doublets frequently occur, such as the first- and third-person accounts of Hosea's marriage (Hos. 3 and 1, respectively), or the two accounts of Jeremiah's temple sermon (Jer. 7, the fuller account of Jeremiah's words, and Jer. 26, the narrative version with only a summary of the prophet's original speech).

To mention a book from the corpus of the Writings, the Psalter is particularly illustrative of the cumulative, rather than exclusive, tendency in the development of the canonical literature. The Psalter is rich in material which shows how Israelite religion could enlarge its own traditions by incorporating those of Canaan. In connection with Ps. 68, H.-J. Kraus comments on

⁴⁹M. Newman relates the two decalogues to conflicting Elohist (northern) and Jahwist (southern) understandings of the Sinai covenant; see *The People of the Covenant* (New York: Abingdon Press, 1962), 39-51. E. Nielsen likewise sees a tension between the two decalogues. He believes the "classical decalogue" in Deuteronomy belongs only to the latest stratum of the book; for theological reasons the Deuteronomists have put it in place of the "cultic" or "ritual decalogue" which, with its emphasis on centralized worship, had occupied the central place in the Deuteronomic material while the Jerusalem temple was still standing. See E. Nielsen, *The Ten Commandments in New Perspective*, trans. by D. J. Bourke, *SBTh*, 2nd Series, No. 7 (London: SCM Press, 1968), 26-55.

⁵⁰The two forms of the "classical decalogue" are Ex. 20:2-17 and Dt. 5:6-21; the two forms of the "ritual decalogue" are Ex. 20:22-26 + 23:10-19 (judged the primary source) and Ex. 34:10-26. See Nielsen, *The Ten Commandments*, 53-54; K. Koch, *The Growth of the Biblical Tradition*, trans. by S. M. Cupitt (New York: Charles Scribner's Sons, 1969), 45-51. In Koch's Judgment, all these decalogues go back to a common source, a series of several prohibitions governing Israel's relation to God and ending with a commandment to observe the sabbath; *infra*, 82.

⁵¹Eissfeldt, 232-233.

⁵²This is the interpretation of G. von Rad, *Old Testament Theology*, ii, trans. by D. M. G. Stalker (New York: Harper & Row, 1962-1965), 259-262. C. R. North, in his exhaustive study comes to the same conclusion, that in these songs the prophet moves "from collective Israel to an individual who was neither himself nor anyone else who had lived hitherto," *The Suffering Servant in Deutero-Isaiah: An Historical and Critical Study* (London: Oxford University Press, 1956), 216. Of the fourth servant song, Isa. 52:13-53:12, North remarks, "It seems to me that the last song is *sui generis*, in a real sense distinct from the main body of Deutero-Isaiah, and that in it the Servant is an individual still to come," 239.

⁵³North, *passim*.

⁵⁴North states that "if we consider Deutero-Isaiah's thought as a whole, or even, it may be, within the confines of the four 'Songs', there is a certain fluidity in his conception of the Servant," *ibid.*, 215.

the special way in which Israel adopted and transformed existing cultic traditions. We know from numerous examples that Israel did not simply reject pagan traditions and make a fresh start in sacrificial matters. By a keen and often very protracted struggle the faith of the people of God penetrated the alien cults, deprived them of their springs of religious life and gave them new forms of expression, which could bear witness to the revelation of Yahweh, the “God of Israel.”⁵⁵

In Ps. 68, Yahweh is portrayed as one “who rides upon the clouds” (68:4), “who rides in the heavens, the ancient heavens” (68:33),⁵⁶ and as one who sends the rain (68:9)—predicates which “describe basically the Syrian-Canaanite deity Ba’al.”⁵⁷ The “Psalms of Zion” also illustrate the Israelite takeover of Canaanite material in the cult. Psalm 48 speaks of “Mount Zion in the far north”—the mythical home of the gods⁵⁸—and Ps. 46 declares, “There is a river whose streams make glad the city of God,” an allusion to the mythological river of paradise which appears elsewhere in the Old Testament.⁵⁹ Psalm 29 has been called “an ancient Canaanite Ba’al hymn only slightly modified for use in the cult of Yahweh.”⁶⁰ Examples of this process could be multiplied.⁶¹ As a statement of the Israelite attitude toward the cultus, the Psalter is theologically compendious rather than coherent. Thus holds true even within individual psalms, such as Ps. 51 with its internal difference of opinion regarding the efficacy of the sacrificial cult (cf. vss. 17 and 19). To mention another book from the Writings, the Book of Job likewise displays a tendency toward theological or traditional comprehensiveness rather than selectivity, and this despite the fact that the book represents the attempt of a single author to deal conclusively with one issue, that of theodicy. The “orthodox” arguments of Job’s three friends are explored in detail, even though the author’s sympathies lie clearly with Job.⁶² More significantly, the Epilogue, with its restoration of the faithful Job according to the traditional doctrine of retribution and reward, seems to negate the view expressed in the main body of the book, in which this doctrine is called into question.⁶³

The canonical property of exclusiveness, then, seems to have been operative in the main only in the latter period of the formation of the Old Testament as a body of canonical literature. This underscores the conclusion that the canon was a fact before it became an issue. We therefore reach much the same conclusion regarding the exclusive function of the canon as was arrived at in connection with the canonical trait of holiness, namely, that it is more a phenomenon in Judaism during the early Christian era, during which the canon became the subject of debate, than a characteristic which is inherent in the canonical literature itself. In any case, both the holiness and the exclusiveness of the Scriptures are dependent on their normative function in the religious community, the investigation of which we will now take up.

⁵⁵H.-J. Kraus, *Worship in Israel*, trans. by G. Buswell (Richmond: John Knox Press, 1965), 169-170.

⁵⁶Note also the “Blessing of Moses,” Dt. 33:26.

⁵⁷Kraus, 169. Kraus’ full discussion of Ps. 68 occupies 167-172.

⁵⁸A. Weiser, *The Psalms: A Commentary*, trans. by H. Hartwell (Philadelphia: Westminster Press, 1962), 381.

⁵⁹*Ibid.*, 370; see especially also Gen 2:10-14 and Ezek. 47:1.

⁶⁰F. M. Cross, “Notes on a Canaanite Psalm in the Old Testament,” *BASOR*, No. 117 (Feb., 1960), 19.

⁶¹See the chapter on “Israelite and Oriental Psalmography” in S. Mowinckel, *The Psalms in Israel’s Worship*, trans. by D. R. Ap-Thomas (New York: Abingdon Press, 1967), ii, 176-192.

⁶²Von Rad believes the three friends are no mere foils for Job’s argument against the justice of God, their views are to be taken seriously, for they represent a traditional answer to the problem and are part of the process by which the author “encircles the problem” and thus “succeeds in comprehending the subject under discussion in its totality.” See von Rad, i, 410-411.

⁶³M. Pope believes that the author retained the ancient folk tale of Job in the Epilogue because it was firmly fixed in tradition and the author was not free to modify it radically; see M. Pope, *Job, AB*, xv (Garden City, N.Y.: Doubleday & Company, 1965), xxii-xxiii. However, it seems more likely that in the mind of the author the Epilogue of the ancient legend takes on a new meaning in the light of what has taken place in the dialogue, with Yahweh’s answer and Job’s response. Here is a clear case of the reinterpretation of an old tradition by its being placed in a new theological context.

3. The Canon as Normative

As the “holiness” of the Scriptures is an expression of the exclusive function of the canon, so exclusiveness is itself simply the outgrowth of the canon’s function as a norm for the faith and life of the religious community. According to E. Jacob, “one can indeed speak of a canon when a written word, a book, assumes a normative authority.”⁶⁴ This was also the judgment of H. W. Robinson, who stated, “The books of scripture are canonical as being the authoritative standards of faith and practice.”⁶⁵ The normative function of the canon is, of course, implied in the term “canon” itself, which in Greek pre-Christian literature denotes a standard, a rule or a pattern. There is no evidence that the term “canon,” in the sense of a normative or standard body of writings, was applied to the Holy Scriptures before the fourth century CE.⁶⁶ This fact, and the circumstance that the complete Jewish canon was not defined until the second century of the Christian era, have led scholars to deny the normativity of the Scriptures in pre-Christian Judaism. W. R. Smith, indeed, was of the opinion that ancient Judaism did not even acknowledge a “Bible” as such:

We are accustomed to regard the Bible as one book, and it seems to us an awkward thing that there should not have been a fixed volume comprising all sacred writings. The Jews, I apprehend, could not share these feelings. The use of a fixed Canon is either for the convenience of private reading or for the limitation of public ecclesiastical lessons, or for the determination of appeals in matter of doctrine. And in none of these points did the Jews stand on the same ground with us. In these days the Bible was not a book, but a whole library.⁶⁷

However, the authority or normativity of the books or of the individual sections of Holy Scripture does not depend on their final collection into a Bible. E. König maintained that the very process by which the Old Testament Scriptures were collected is itself a process of canonization; there is no secondary origin for the canonicity of the entire Old Testament, apart from the canonicity of its individual parts. “For many parts of the ancient Hebrew Scriptures had already possessed a religious-moral authority since their origin.”⁶⁸ As examples, König cited the legislative sections of the Pentateuch, and especially the “commandments” (referred to in Ex. 34:28; Dt. 4:13; 10:4), and the various decalogues (Ex. 20:2-17E; 34:10-26J, etc.). The opinion of König is shared by Jacob. The latter acknowledges that the term “canon” was not applied to the Bible in the period under consideration; nevertheless, “it is certain that the idea of canon in the sense of normative authority is much older than the word.”⁶⁹ The decision in which the Old Testament was canonized “was the normal outcome of a process of which we can discern, if not the entire development, at least certain landmarks in the formation of the O. T.”⁷⁰

It is true, as König pointed out, that collection and canonization are not entirely identical; the normative character ascribed to portions of the Law and the Prophets by adherents of the religion of Israel was in any case not conceived in any external way. We see this in the process of the development of the cult in ancient Israel, both during and after the period of the monarchy; and also in the fact that the Chronicler, in a relatively late period, still does not regard the Deuteronomic history as a rigid norm for his judgment on Israel’s past, even though it is the primary source for his own narrative. Only in the later period of rabbinic Judaism do we find the normativity of the Old Testament to be indicated in an external way, as in the use of the term “holy books” or in the designation of books which “render the hands unclean.” Rather, in König’s judgment, “in the earlier period the authority of certain portions of Scripture was indicated only by the

⁶⁴Jacob, 72.

⁶⁵H. W. Robinson, *The Old Testament: Its Making and Meaning* (Nashville: Cokesbury Press, 1937), 188.

⁶⁶Bentzen, i, 20.

⁶⁷Smith, 172.

⁶⁸König, *Kanon und Apokryphen*, 15; translated by the present writer.

⁶⁹Jacob, 73n.; translated by the present writer.

⁷⁰*Ibid.*, 72.

manner of their preservation.”⁷¹ The authority of the Law was expressed by its association with the Ark of the Covenant (Ex. 40:3; Dt. 31:26), or by its being found in the temple (2 Kgs. 22:8); the regulations concerning the kingship were said to be “laid up before Yahweh” (1 Sam. 10:25). The validity of the conditions of the covenant was acknowledged in subjecting oneself to them by an oath (2 Kgs. 23:3; Neh. 9:38; 10:29). The Scriptures in the period of their development were never formally acknowledged as normative, in König’s opinion, and therefore “it is only an analytical judgment when the normativity of the literature constituting the canon is cited as the mark of the concept of the canon.”⁷²

Nevertheless, the association of canonicity with normativity is seen in the fact that the canon is not conceived in a literary or secular way, but in a religious way. The theory was advanced at one time that the canon of the Old Testament represents the residue of ancient Hebrew literature which was regarded by the Jews as sacred and authoritative on account of its survival. The sacred authority ascribed to the Hebrew Scriptures was only the recognition of their literary antiquity and rarity. H. E. Ryle contended against this view:

To suppose that books were constituted a sacred canon of Scripture, because of the accident of their having survived in the Hebrew language, is completely to invert the actual order of events. Nothing can be more clear than this, that the Books of the Old Testament have come down to us in the Hebrew, because, having been, at the outset, written in that language, they were also, in that language, received and revered as the Canon of Scripture in the Jewish Church. . . . All the evidence, external and internal, combines to show, that the collection was intended to serve a religious purpose; and, in the perception of that purpose alone, can we hope to recognize the principles that governed its formation.⁷³

The judgment of Ryle is echoed by others, such as Jacob, who speaks of “the double office of a canonical book: to set forth [*exposer*] and to convince.”⁷⁴ This does not mean, as G. Östborn points out,⁷⁵ that all persons or groups who produced religious traditions did so with the express intention of producing a canon. Nevertheless, from the present form of the Old Testament, it is evident that one mark of a canonical book was perceived as the intent to disseminate a normative religious teaching or theological viewpoint. R. E. Clements likewise upholds the normative function of the Old Testament Scripture, as over against the descriptive:

If we would understand the theological meaning of the Old Testament, we must continually relate it to the historical religion of Israel in which it arose, and seek to discover the purpose which occasioned its preservation. It soon becomes clear that this purpose was not simply to provide a descriptive account of what that religion was, but to establish a witness to what that religion should have been. The Old Testament continually transcends the contemporary religion of Israel, for, whilst it arose out of it, it points to a purity of faith, and a standard of morality, which that religion as a whole never attained. We cannot understand the Old Testament therefore without paying attention to this normative function which it seeks to fulfill.⁷⁶

G. Östborn, who analyzes the Old Testament canon as the representation of a cultic motif, is convinced that “canonicity depends on the contents of the writings.” The contents of the Old Testament writings “reveal a religious faith or conception,” and the canon fulfills a normative function in virtue of its religiously correct contents:

⁷¹König, *Kanon und Apokryphen*, 19; translated by the present writer.

⁷²*Ibid.*, 22.

⁷³Ryle, 7

⁷⁴Jacob, 73.

⁷⁵Östborn, 10.

⁷⁶R. E. Clements, *Prophecy and Covenant*, *SBTh*, No. 43; (London: SCM Press, 1965), 12-13.

From the very fact that the OT canon constitutes a collection of holy writings belonging to the cultic assembly of Israel, it must be held to be a religious canon. We should therefore expect to find, in its contents, expressions for what was considered religiously correct from an Israelite point of view.⁷⁷

The canon, therefore, is marked by a fundamental religious unity which may be elucidated as the normative representation of the religion of Israel. The canonicity of the Old Testament writings implies a common quality to all the books of the Old Testament. “On account of this character it is possible to make the writings of the OT the object of a definite comprehensive view.”⁷⁸ Östborn’s judgment would be shared by any scholar who believes it possible to discern the religious motive for the formation of the Old Testament canon, even though not all would agree as to what that motive may have been.

Östborn’s conclusion, in fact, amounts to the assertion that the canon is a creed: “A Creed may be said to be a canon in concentrated form; and a canon—if so desired—an enlarged creed.”⁷⁹ Östborn identifies the creed of the Israelite-Jewish religious assembly as the narrative of Yahweh’s activity in delivering Israel from Egypt. In this he follows G. von Rad, who finds this “historical creed” preserved in brief summary passages such as Dt. 26:5b-9; 6:20-24; and Josh. 24:2b-13.⁸⁰ Discussing this recurrent “historical creed,” von Rad himself declares that “the sequence of the main events conforms already to a canonical schema of a cultic nature.”⁸¹ Thus von Rad supports Östborn’s judgment that this “historical creed” marks “the actual beginning of the Yahwistic or OT Canon.”⁸²

In characterizing the canon of the Old Testament in terms of its normative function within the Israelite-Jewish religious community, Östborn believes he has explained why we find no direct statements of the motive for the canonization of the entire Old Testament in the Israelite-Jewish traditions themselves. He states:

As far as I can see, it was religious sentiments—the feeling of what was religiously correct, true, and edifying, such as expressed mainly in the cult in its ideal form and in earlier canonical traditions—that were primarily effective in the canonization of the OT. Very likely the canonizers were not wholly conscious of this fact. Here is probably the reason why . . . there are no statements in the sources as to the actual motive for canonization.⁸³

But Östborn’s judgment here is only half correct. The desire to produce a normative expression of what is religiously correct in the faith of Israel and of Judaism is operative not only at the unconscious level, but also at the conscious. But here, given the historical crises confronting the community, the need to produce or to recognize such a normative authority is so obvious that it nowhere requires to be directly stated. It is simply a matter of the survival of the religious community itself, the value of which is self-evident to the members of that community.

4. The Canon as the Product of a Community

This point brings us to the consideration of the canon as the product of the religious community. The canon serves a normative function only within the religious community which, explicitly or implicitly, assigns it this function. The Holy Scriptures exist as canon only insofar as they are regarded as authoritative

⁷⁷Östborn, 20.

⁷⁸*Ibid.*, 12.

⁷⁹*Ibid.*, 78.

⁸⁰G. von Rad, “The Form-Critical Problem of the Hexateuch,” in *The Problem of the Hexateuch and Other Essays*, trans. by E. W. Trueman Dicken (Edinburgh: Oliver & Boyd, 1966), 3-8; hereafter cited as “Problem of the Hexateuch.”

⁸¹Rad, *Old Testament Theology*, i, 5.

⁸²Östborn, *loc. cit.*

⁸³*Ibid.*, 108.

for the faith and life of the Israelite-Jewish religious community. This has been recognized in discussions of the history of the Old Testament canon. Ryle stated the matter as follows:

The very idea of a Canon of Scripture implies some preliminary stage. We can hardly think of it, save as a collection of writings regarded as sacred and authoritative by a community professing, outwardly at least, to conform to its teaching. We therefore presuppose, in the idea of a Canon of Scripture, the existence of a community prepared to accept its authority. Further, if no Divine Revelation is recorded as specifying the writings of which it should consist, we must also assume that the writings, to which such honor was paid, were selected by that community from out of its general literature. We have, accordingly, one conception of the formation of the Canon in the selection, or adoption, by a religious community, of a certain body of writings from its existing literature. . . . In other words, the formation of a Canon of Scripture presupposes the existence of a community of believers.⁸⁴

This principle has also been stressed by Sundberg in his differentiation of the Old Testament canons of rabbinic Judaism and the early Christian church. As separate religious communities, Judaism and the early church defined their Old Testament canons independently. The church did not simply take over the Old Testament canon of Judaism as a self-attested authority:

No viable history of canon, whether of Apocrypha or OT or NT, can be written on the doctrine that Scripture is its own attester. The process of canonization is a community process. This is equally true in Judaism and in Christianity. The canonical decisions at Jamnia were community decisions. Likewise, in Christianity it is the church that has selected the canon from among available writings. So far as I know, there is no argument for a Christian canon of the OT that is not made ultimately of Christian usage.⁸⁵

These statements of Ryle and Sundberg make clear the role of the religious community in defining a canon, or body of authoritative Scripture, from a larger body of literary material. What must be emphasized, however, is the involvement of the community in the process of the *production* of the literature at all points in the history of its development. The canonical literature arises within the religious community as a result of its need for an authoritative expression of its self-understanding. The literature of the Old Testament is “canonical” at all stages in its development, since it owes its very origin to the need for a normative expression of the faith of the community. It follows that the production of the canon is the response to the historical situation in which the community finds itself.

The formation of the canon as a means for the preservation of an already existing body of religious literature has long been recognized by historians of the canon to be the result of historical factors. The collection, redaction, and indeed perhaps the “promulgation” of the Pentateuch in its near-final form, for example, has been seen as a response to the threat to the Jewish community posed by the conditions of the Babylonian exile and early post-exilic period. The overall process is described by Ryle in these words:

Circumstances . . . might arise which would . . . make it advisable, either to embody in writing the sacred teachings of the past, or to recognize the authority and sanctity of certain writings already existing, which contained this teaching in any specially suitable form. For instance, The peril of national disintegration and the breakup of national worship might reveal, of a sudden, that in such writings the people had a divinely ordained means of preserving the sacred heritage of the past and a standard providentially afforded them for the maintenance of the true religion in the future.⁸⁶

⁸⁴Ryle, 14-15.

⁸⁵Sundberg, “The Protestant Old Testament Canon,” 201.

⁸⁶Ryle, 15-16; on 71-72, this principle is specifically applied to the preservation of priestly traditions during the exile.

Oesterley and Robinson view the historical factors precipitating the formation of the canon as operative in a later period than that of the exile, when they state: “The underlying and real cause which in the course of time forced the idea of forming a Canon to arise was Greek culture and the growth of Greek literature.”⁸⁷

But the rise of the Holy Scriptures as an authority for the faith and life of the religious community is not only a matter of the preservation of an already existing community tradition as canonical. As G. Östborn suggests, the canon functions as a norm within the religious community specifically in respect to its *contents*; it is canon not only in virtue of its preservation as a literary heritage, but also and primarily in virtue of the fact that it presents a “definite comprehensive view” (to use Östborn’s terminology) of the religion of Israel,⁸⁸ and is thus characterized by “religiously correct contents.”⁸⁹ This means that the historical situation in which the community finds itself is determinative not only for the preservation of the religious traditions, but also for the specific content of those traditions, indeed one may say the *kerygma* or message of those traditions. Only at certain points in the history of Israel was the situation such that the very preservation of the tradition was threatened; but at all points in its history it was necessary for the community to express its understanding of itself in relation to the will of God. F. Horst has stated, “Holy Scripture, then, may be described as that which is advanced to the community as the demanding will of God, and which remains as authoritative norm for its affairs.” For Horst this applies both to the corpus of the Law and to the historical narrative which “stands as a second element in the Torah,” since “in both alike is to bound the will of God which regulates the life of the people of God.”⁹⁰

To summarize the above, the religious community not only defines the canon, but also—and above all—it “advances” (to use Horst’s word) the literature in question as canonical in the first instance, as part of its attempt to produce an authoritative expression of its self-understanding as the people of God within the historical setting. This principle not only allows, but requires, that the inquiry into the origin of canonicity in the Old Testament literature be carried back throughout the history of Israel as a religious community. Indeed, one may say that it is “Israel” itself which is the content of the canon, and therefore the problem of the origin of the canonicity of Israelite traditions is the same as that of the origin of Israel as a community dealing consciously with the question of its self-understanding, and therefore engaged in the process of the formation of a canon of Scripture.⁹¹

In virtue of its relation to community, then, the issue of the origin of canonicity with regard to the Old Testament cannot be restricted to the period of the Jabneh debates, nor to the Judaism of the early Christian era, nor indeed to post-exilic Judaism. The issue of the origin of canonicity must be raised in connection with the earlier stages in the development of the literature which came to be regarded as Holy Scripture within the religious community of Israel.

In accordance with this principle, D. N. Freedman has placed the origin of the canon of “the Law and the Prophets” in the period of the exile. Freedman speaks in the first instance of a “Primary History” consisting of the Law and the Former Prophets, which was formed as a complete literary unit by the middle of the sixth century BCE. To this were added the Latter Prophets (Isaiah, Jeremiah, Ezekiel and the Twelve) very early in the post-exilic period.⁹² Freedman makes it clear that he views this literary corpus as the “canon” of the Jewish community, in every sense this term implies. He calls it a body of “public documents, for which the highest religious authority was claimed, promulgated by an official ecclesiastical group in the Jewish

⁸⁷Oesterley and Robinson, 7.

⁸⁸Östborn, 12.

⁸⁹*Ibid.*, 20.

⁹⁰F. Horst, “Das Alte Testament als Heilige Schrift und als Kanon,” *ThB*, xi (1932), col. 163; translated by the present writer.

⁹¹The material presented in Part III of this dissertation, which develops the theory of canonicity as originating in the Israelite covenant-festival ceremony, is dependent upon this principle.

⁹²Freedman, 251.

community.”⁹³ For Freedman, the initial motivation for the promulgation of this “Primary History” is to be seen in the historical situation confronting the exilic community. This work takes the form of a theodicy explaining the national catastrophe as due to God’s power, not his weakness; it was “the inevitable consequence of covenant violation and rebellion against his holy will.”⁹⁴

The purpose of the editor of this “Primary History” was therefore to explain the present state in which the exilic community now found itself; the community chosen by God, delivered from bondage in Egypt, and given the land of Canaan has now been surrendered to the tyranny of Babylon. The prophetic supplement to the canon, the Latter Prophets, in like manner owes its formation to the historical situation of the early post-exilic community. It became necessary to provide an authorized expression of the new-found hope of the Jews, and this expression is embodied in the Latter Prophets. Here the return of the exiles and the rebuilding of the community is seen as the fulfillment of prophetic promises.⁹⁵ Thus in Freedman’s approach to the development of Old Testament literature as canon, we see the close connection between canon and community. The canon arises as an “authorized history” through which the community expresses the theological understanding of its own situation.

H. H. Guthrie has adopted a similar point of view which, however, carries the origin of canonicity back to the origins of Israel as a tribal confederacy. The canon developed as the “myth” or aetiology through which Israel explained its origins as a tribal confederation:

The Hebrew canon of the Law and the Prophets . . . began to come into being in the first place as the aetiology of the present age, of the actual situation in which a people found itself living. This was true of the, probably originally oral, tradition of the pre-monarchical tribal league, referred to by modern scholars as “G” (*Grundlage* or *Grundschrift*). That tradition, underlying the literary documents incorporated into the Old Testament in its finished form, was, in the broad sense in which the word is used by anthropologists, a people’s “myth.” It accounted for the fact that a confederation of tribes and clans, disparate in origin and character, had found a viable existence outside and over against the going culture of the ancient Near East with its city-kingdom polity and its cosmic mythology.⁹⁶

Guthrie proceeds to show how, at successive stages in the history of Israel, the Jahwist, the Elohist and the Deuteronomists updated the “canon” as “the aetiology of a given present,”⁹⁷ or as “the theological interpretation of a present to which a past has led,”⁹⁸ in which the community now finds itself. The combination of the Priestly Code and JED may represent “the programme of restoration of a group that had to come to terms with the extant canon,” a canon which had become the aetiology of the exilic community. The completed Pentateuch, then, “is the aetiology of a now-defunct Israel, an ‘exiled’ community of those who can only remember and hope.”⁹⁹ The collection of Former and Latter Prophets both “explained the national disaster and expressed hope of restoration.”¹⁰⁰ Thus the canon arose through the effort of the community to express its understanding of its present situation.¹⁰¹

⁹³*Ibid.*, 251-252.

⁹⁴*Ibid.*, 258.

⁹⁵*Ibid.*, 262.

⁹⁶Guthrie, 3.

⁹⁷*Ibid.*, 5.

⁹⁸*Ibid.*, 6.

⁹⁹*Ibid.*, 8.

¹⁰⁰*Ibid.*, 9.

¹⁰¹In the post-exilic period, however, Guthrie asserts, the canon of Law and Prophets could no longer serve as a meaningful explanation of the present situation in which the community found itself. The socio-political context known as “Israel,” which had been the subject matter of the canon, was no longer in existence. In the Persian empire, “the Israelite found himself an individual—even in the midst of other such Israelite individuals—existing in relation to non-Israelite socio-political contexts,” *ibid.*, 13. At this point the “wisdom” traditions, originally produced outside the “main

The view of the Old Testament canon as to the product of a religious community receives further support from the work of M. Noth. Discussing the laws of the Pentateuch, Noth points out that “the law applies to one community—and to one only—whose regulations and institutions are protected by the law: the community, in short, which quite obviously and unmistakably went by the name ‘Israel’.”¹⁰² This “Israel” Noth identifies as the “sacral confederacy of the twelve tribes of Israel” which continued to function even during the period of the political kingdoms of Israel and Judah. It is this religious community which is the basis for the pre-exilic laws of the Pentateuch, and not a political entity. If this be the case, however, this principle can be extended to cover far more than what might be termed “law” in the old Testament, since the religious community in expressing its understanding of itself before God has a concern which transcends the mere formulation of patently “legal” material. Indeed, the Old Testament, taken as a whole, cannot be characterized as “law,” and therefore cannot be described as normative in a statutory or regulatory sense. It is normative in the sense that through it the Israelite religious community expresses its identity as the people of Yahweh and draws from it its basic outlook upon life and history. With respect to the religious community which produced it and regards it as authoritative, then, the Old Testament may be characterized as a “constitution” or “charter.”¹⁰³

We may summarize the argument of this chapter as follows: Canon arises and exists in relation to a religious *community*, in which it serves an authoritative or *normative* function; this normativity results in *exclusiveness*, which is expressed by ascribing to the canon the character of *holiness*.

stream” of the canonical “sacred history” of the community, came to the forefront; for they provided a context of *individual* life within which the old canon took on new meaning. The Law and the Prophets came to be read as wisdom literature, not as an explanation of the present historical situation of the community, but as a clue to the “truth” about the nature of things, *ibid.*, 27; *infra*, 68.

¹⁰²M. Noth, “The Laws in the Pentateuch: Their Assumptions and Meaning,” in *The Laws in the Pentateuch and Other Studies*, trans. by D. R. Ap-Thomas (Edinburgh: Oliver & Boyd, 1966), 26.

¹⁰³The term “charter” (ἀρχεῖα) appears in the writings of Ignatius (second century CE) as an apparent designation for the Old Testament. The word occurs in Philadelphians 8:2: “For I heard some men saying, ‘If I do not find it in the charters in the gospel I do not believe’” (ὅτι ἐὰν μὴ ἐν τοῖς ἀρχειοῖς εὕρω ἐν τῷ εὐαγγελίᾳ οὐ πιστεύω). K. Lake says of this passage that “the Greek, without punctuation, is as ambiguous as the English,” but “the charters’ probably means the Old Testament,” *The Apostolic Fathers*, i (Cambridge: Harvard University Press, 1952), 247.

CHAPTER 4

Promulgation and Fixation of the Canon

It is an issue whether and in what sense one may speak of an official promulgation of the Old Testament as canon. The relation of such promulgation, or canonization, to the fixation of the text of the Old Testament traditions is also a question.

Scholars have used the term “promulgation” to refer to actions taken at various stages in the history of the development of Old Testament literature. For H. E. Ryle, the term “promulgation” refers to the first appearance of codified legislation which became the basis for the eventual canonical Pentateuch. Therefore such a promulgation of a law is not the same as investing it with canonical authority, for

numerous collections of Israelite laws were made at different times, before any part of our present Pentateuch had received from the people generally the recognition which was afterward given to the Canonical writings of Holy Scripture. Such a statement . . . suggests that the form in which the laws have come down to us does not reproduce them in the shape of their first promulgation.¹

These words accord with Ryle’s insistence that canonicity, as such, is only a late stage in the growth of the Old Testament literature. The composite structure of much of the Old Testament was for Ryle the evidence that the Scriptures existed in a “previous stage of literature” which could not be termed canonical.² Ryle distinguished three stages in the rise of the canon:

These are firstly, the “elemental” stage, or, that of the formation of the literary antecedents of the Books of the Old Testament: secondly, the “medial,” or that of their compilation and redaction to their present literary form: thirdly, the “final,” or that of their selection for the position of honor and sanctity in the national Canon of Holy Scripture.³

Recently H. F. D. Sparks has emphasized a similar distinction between 1) circulation of the Old Testament literature, its introduction to the “reading public”; 2) collection, or the grouping of individual books into a corpus; and 3) canonization—“the official designation of an individual book, or a group of books, as ‘canonical’—i.e. as religiously authoritative through inclusion in a ‘canon’ or list of sacred books.”⁴ Sparks thus aligns himself with those who place the process termed “canonization” at only the latest stages in the formation of the Old Testament. In so doing, he is forced to separate the question of canonicity from that of the authority of Scripture, strictly speaking:

It cannot be too strongly emphasized that, so far as the OT is concerned, “canonization” in the strict sense is a very late development. Varying degrees of authority were certainly accorded to various books at quite an early stage in Israel’s history, and constantly thereafter. But that is not “canonization” as properly understood.⁵

G. Hölscher also agreed with Ryle in distinguishing between the literary and the canonical stages of the Old Testament, and in placing the canonization of the Scriptures at a late stage. Hölscher believed that “as long as the literary production out of which the Torah arose was still in a living flow, no scriptural ‘canon’ could have existed.” For this to have been the case, Hölscher believed, one would have to assume “that an

¹Ryle, 22-23.

²*Ibid.*, 16.

³*Ibid.*, 17.

⁴Sparks, 121.

⁵*Ibid.*

already promulgated canon could after a while be abrogated and another canon established in its place,”⁶ an assumption Hölscher could not accept. In the case of the Torah, said Hölscher, “a great deal of difference exists between the evaluation of the Torah in the more ancient times and that which the later times considered as canon.” The use of the word “canon” for both stages “obscures a significant distinction which sets off two very different phases of the Jewish religion.” Therefore, literary fixation is necessary before the term “canon” may properly be applied to the Old Testament:

The concept of canon in the strict sense presupposes the complete literary closing of the Scriptures under consideration; a Torah canon could then only exist when the Pentateuch lay essentially complete.⁷

One sees that for Hölscher, promulgation of the canon implied the literary fixation of the material in question. But since Hölscher believed that the four requisite marks of canonicity, according to Josephus (inspiration, holiness, fixed number of books, unalterable text)⁸ were not present in Judaism during the pre-Christian period, there can be no question of an official promulgation of the canon as early as the times of Josiah, the Babylonian exile, or even Ezra:

We possess . . . no report of a “canonization” of the Torah, and the question of “canonicity” must be posed independently of any precedents under Josiah and Ezra. The question in this case is, “Does the scriptural Torah, as it becomes, from the Deuteronomistic period, more and more the basis of the Jewish religion, possess those characteristics which were established as essential for the concept of the canon?” This question is to be answered in the negative.⁹

We see, then, that scholars who make a clear differentiation between the literary and canonical stages in the formation of the Old Testament—such as Ryle, Hölscher, and Sparks—tend to posit an official promulgation of a canon only in the very latest period of the development of Old Testament literature. But not all scholars who thus distinguish between literary and canonical stages of the Old Testament are compelled to accept such a late date for canonization. D. N. Freedman draws a distinction between the relatively free handling of biblical material in the pre-canonical or literary stage, and the fixity of text characteristic of a canonized book. For Freedman, official promulgation of a work marks the transition from literary to textual history:

With the formal promulgation of the work, in which contents, scope, and order of the parts are fixed, without further significant change, literary history comes to an end, and textual history, properly speaking, begins. The transmission of the text, with the development of recensional patterns, manuscript families, and the emergence of distinctive text-types, represents a phase in the history of biblical literature quite different from the preceding literary phase. . . . Creative literary work and extensive editorial revision belong to an earlier period before formal authoritative promulgation.¹⁰

Freedman, however, as we have seen,¹¹ posits an official promulgation of the Old Testament canon, consisting of the Law and Former Prophets (which he styles the “Primary History”) in the exilic period. Freedman therefore believes that the literary process of the formation of the Law and the Prophets came to

⁶Hölscher, 12; translated by the present writer.

⁷*Ibid.*, 13.

⁸*Supra*, 20.

⁹Hölscher, 11; translated by the present writer.

¹⁰Freedman, 252.

¹¹*Supra*, 34.

a conclusion at a much earlier date than is generally acknowledged. He is brought to this conclusion by his insistence “that the question of authority is inseparable from that of formal publication.”¹²

In contrast to the view of those researchers who associate fixity of text with canonicity, others have recognized that it is not the form of the Old Testament writings, but their *usage*, which determines canonicity. Therefore the existence of a canon, or body of authoritative Holy Scripture, does not necessarily imply fixed traditions or texts. C. Steuernagel, for example, pointed out that before any concept of a canon involving a fixed number of books and unalterable text could have arisen, a concept of a canon must already have been developing within Judaism. If this be so, even the first stages of the formation and collection of the Old Testament literature must have “possessed a certain canonical quality.”¹³

The discussions of Josephus’ statement in *Contra Apionem*¹⁴ and of the Jabneh debates¹⁵ point to a similar conclusion, that ancient Judaism itself regarded the canonicity of the Holy Scriptures, as a whole, to have been long an established fact. It may be said that the Old Testament canon was a reality before it became a problem. As R. E. Clements asserts:

When ultimately this literature was accorded canonical status by Jews and Christians, it was not to invest it with a new authority, but to accord to it a status commensurate with the authority which they sensed it already held for themselves. It was no arbitrary decision, but simply a formal recognition of what had long been a commonly accepted fact.¹⁶

G. Östborn believes that the Writings—and hence the entire Old Testament—had achieved their canonicity before the opening of the Christian era. He says:

What is then to be concluded from the statements of subsequent Jewish arguments concerning the canonicity of some books of the Canon, is only the circumstance that, among the learned, even canonical writings could be a matter of discussion.¹⁷

The significance of formal promulgation or fixation of the canonical writings, then, must simply be the recognition of a status which these writings have already acquired. Promulgation, therefore, is the end of the process of canonization, as recognized by Östborn when he says, “as to the matter of special occasions when parts of the Canon were fixed, . . . it may be correct and suitable to regard them, not as starting-points, but as terminations of a process of canonization.”¹⁸ Östborn believes that these occasions of fixation were the outcome of a successive formation of religious traditions for use in the cult.

The fact remains, however, that critical scholarship is hard put to discover instances in the history of the formation of the Old Testament which could be interpreted as a formal promulgation of a canon. There is some reason, it is true to regard the assembly of Ezra, recorded in Neh. 8–10, as a formal setting forth of the Pentateuch accompanied by a covenant or pledge of the leaders of the people. Critical opinion has been summarized by A. G. Hebert:

¹²Freedman, 251.

¹³Steuernagel, 88

¹⁴*Supra*, 20.

¹⁵*Supra*, 11-12.

¹⁶Clements, 12. W. R. Smith expressed the same opinion, Smith, 163.

¹⁷Östborn, 95-96. Östborn is inclined to fix the conclusion of the canon in the first century BCE, perhaps in connection with the stabilization of Jewish institutions during the reign of Herod the Great.

¹⁸*Ibid.*, 81.

The work of Ezra marked an epoch in the history both of the Israelite nation and of the Canon of Scripture. It was not without reason that later tradition assigned to him a central place in the formation of the canon, and that legends gathered around his name. From his day onwards Israel was in the full sense the people of the Law, and possessed a fully authoritative sacred book.¹⁹

Objections, however, have been raised to the identification of Ezra's action with the promulgation of a canon of Scripture. Ryle observed that

while Ezra's work was rightly connected, in the memory of his countrymen, with the preservation of the Scriptures, only legend has transformed that connexion into the work of officially promulgating the Books of the Old Testament.²⁰

An antecedent of this action in the time of Ezra may be found in the covenant of Josiah (2 Kgs. 23:3), in which the Book of Deuteronomy, or the nucleus of it, is acknowledged to be of binding authority in the community and determinative for the religious reform which follows.²¹ The statement of G. Wildeboer in this regard may be taken as typical of this viewpoint:

From the year 621 on Deuteronomy is in a sense the sacred scripture of Israel; in the language of authors subsequent to the reformation of Josiah the evidences of acquaintance with this book are remarkably numerous. It is manifestly the religious standard of the faithful servants of Yahwe in and after the exile down to the coming of Ezra. . . . The promulgation of Deuteronomy is thus the beginning of the canonization of Israel's sacred scriptures.²²

No such event resembling formal promulgation can be discovered, however, for the other parts of what came to be the Hebrew canon; and it is true that within Judaism the Torah has always retained a higher degree of authority and prestige than the rest of the Old Testament. Even if the Jabneh deliberations could

¹⁹A. G. Hebert, *The Authority of the Old Testament* (London: Faber and Faber, 1947), 165. See also Bentzen, i, 22-23; Wildeboer, 101-114. K. Budde stated, "From the twenty-fourth day of the seventh month of the year 444 B.C. onwards, Israel possessed a canon of Sacred Scripture," "Canon," col. 658. In Budde's opinion, however, what was canonized on this occasion was not the entire Pentateuch, but the Priestly Code.

²⁰Ryle, 4. Ryle also acknowledged that Ezra could have been connected with the promulgation in *Jerusalem* of the completed Torah, which had previously become canonical in Babylon, 79-80. Thus Ryle lends support to Freedman's argument for the official promulgation of the Law during the exile, *supra*, 34, though Freedman believes that the Law was canonized as part of a "Primary History" which also included the Former Prophets. R. H. Pfeiffer supports the linkage of the Law and the Prophets in this period, but this linkage forces him to place the actual canonization of the Law at a time later than that of Ezra: "The most probable canonization date of the Pentateuch is about 400 B.C. At that time, the five books of the Law . . . were separated from the four historical books (Josh., Judg., Sam., Kings) with which they had formed a great historical corpus," Pfeiffer, *Introduction*, 57. The opinion that the Law acknowledged as binding in Ezra's assembly was substantially the same as our Pentateuch has recently been questioned by M. Noth, who in discussing the laws of Ezra declares: "Neither the view that this 'Law' consisted of the complete Pentateuch in its present form . . . , nor the theory, that it concerned the so-called 'Priestly Code' . . . is well founded. These laws form no proper unity, nor is it likely that they were ever united into a literary whole before their association in the present Pentateuch. We simply do not know what this 'law in the hand of Ezra' was, and can only guess that it was a collection of laws preserved in pre-exilic times, with perhaps a few newly formulated bits added," Noth, 76n. Noth is of the opinion that Ezra's action was motivated by the policy of the Persian Empire, and that in his setting forth of Jewish religious law he was acting "as an expert on an official government mission," *ibid.*, 77. Noth's view would imply that this action of Ezra did not spring primarily from religious motives within the Israelite community, and therefore has nothing really to do with the conception of the Old Testament canon.

²¹See Bentzen, i, 23-24; Eissfeldt, 561, 565; Jacob, 73; Pfeiffer, *Introduction*, 51-55; Wildeboer, 22.

²²Wildeboer, 25.

have constituted the formal acknowledgment of the third part of the canon, as Pfeiffer claimed²³—and we have seen this is not the case—we are still at a loss with regard to the prophets; for as Hebert points out, “there is no tradition of any public act by which the Prophets were accepted as canonical.”²⁴

If canonicity, then, depends on the formal promulgation of a list of books as authoritative, as some scholars have suggested,²⁵ then we have no evidence for any canonization of the Old Testament literature with the possible exception of the Pentateuch. Yet a much wider body of religious literature was regarded as authoritative, indeed as Holy Scripture, in ancient Judaism and the early church, and came to be included in both the Hebrew and Greek Bibles. If, with respect to the Old Testament, the term “canon” must be taken as synonymous with “Scripture,” as has been argued above,²⁶ then it is not the form of the Old Testament literature, but rather its function within the religious community, which is the mark of its canonicity. An official promulgation of certain books as canonical is not necessary to the existence of a canon of Scripture, since 1) promulgation would have to do only with the form of the canon, i.e. with a selected list of authorized books, not with the authoritative function of the canon; and 2) most of the books of Holy Scripture were evidently regarded as such before anything resembling promulgation or elevation to canonical status took place, whereas a few canonical books (Song of Songs, Ecclesiastes, Esther) remained of doubtful status into the second century of the Christian era. Such considerations have led to the recognition that the canon, or body of Holy Scripture, is not a firmly delineated list of writings but rather a group of concentric regions, solid at its core but fluid around the outer edge. Hebert describes the situation thus:

The fact that there could be a dispute as late as A.D. 100 whether two books were rightly accounted canonical and that this dispute was not one that shook the Jewish polity to its foundations, shows that it is not inconsistent with the idea of Scripture that it should have a fringe.²⁷

The formal promulgation of an Old Testament canon, as understood by those who accept the concept, naturally carries with it the necessity for a fixed text, as well as a definitely bounded body of literature. Hölscher, as we have seen, regarded not only the exact definition of the number of books, but also an unchangeable text, as essential for the concept of canon, and drew support for this view from Josephus’ statement in *Contra Apionem* i:8 concerning the Scriptures, that “no one has been so bold as either to add anything to them, nor take anything from them, or to make any change in them.”²⁸ Freedman, who distinguishes between literary (or redactional) history and textual (or recensional) history of the Old Testament Scriptures, regards formal promulgation as the dividing line between the two stages, and therefore the beginning of a fixed, or relatively fixed, text. But once the significance, or even the existence, of an

²³Pfeiffer, *IDB*, i, 509.

²⁴Hebert, 180; see also Buhl, 12-13.

²⁵Note the remark of F. H. Woods: “The word “Canon” may be roughly defined as the list of books *authoritatively* declared to be Holy Scripture. Speaking *a priori*, the authority by which they are so declared may differ in degree and even in kind,” Woods, 604; italics original.

²⁶*Supra*, ch. 2, especially 14-17.

²⁷Hebert, 191. The same situation obtains today in the Protestant church, as has been pointed out by J. L. Cheek. Even apart from the question of the Apocrypha, it is still true that “the Christian canon of Scripture is largely permissive rather than obligatory. . . . In conscious theory, perhaps in formal creedal statement, the full inspiration and authoritative nature of the complete canon is generally affirmed. The functional canon, consisting of those portions whose authority is actually accepted and used, is nearly always much smaller. The other portions of the theoretical or formal canon thus assume a secondary or ‘deutero-canonical’ status.” As examples, Cheek cites the books of Obadiah, Nahum and Esther, and the genealogical tables of 1 Chr. 1–9. See J. L. Cheek, “The Apocrypha in Christian Scripture,” *JBR*, xxvi (1958), 207-208. Recently, G. E. Wright agrees that “there is a canon within the canon” and states that “it appears always to have existed,” *The Old Testament and Theology* (New York: Harper & Row, 1969), 180.

²⁸*Supra*, 20.

official promulgation of the Old Testament, or any part thereof, as canon has been called into question, the necessity for a fixed text also becomes problematical with respect to canonicity.²⁹

This point raises the issue of the relation of oral transmission to canonicity. If exact fixation of the text is not inherent in the concept of canonicity, then the Old Testament traditions may be said to have been canonical even in the pre-literary stage. This, indeed, is the position of Östborn, who asserts that “we should take the fact into consideration that oral traditions, too, may have possessed canonical dignity.”³⁰

Proponents of oral transmission, or the “traditio-historical” method in biblical research, follow the lead of H. S. Nyberg. Nyberg contended that the role of writing in the development of the Old Testament was minimal. He stated that

the actual tradition of history, the epic tales, the cult-legends, doubtless generally the laws too, must the main have been handed down orally. Writers should certainly not be reckoned among the prophets and poets except with the greatest caution. The art of writing was the business of the specialist, not of the common man, as it always has been in the Orient. . . . The written Old Testament is a creation of the postexilic Jewish community; of what existed earlier undoubtedly only a small part existed in written form.³¹

Nyberg’s thesis was developed more fully by I. Engnell. Engnell admits that certain types of Old Testament traditions, such as laws, chronicles, and some poetic materials, may have been fixed in written form in the pre-exilic period. But Engnell’s main contention is that the great mass of Old Testament literature was not written down before the exile, including most of the Tetrateuch and the Deuteronomistic History. In this pre-literary stage, we have to reckon with fixed oral complexes and collections of tradition. When these traditions were later fixed in writing, this was not a new form of the tradition but simply the setting down of what had already received a fixed form in units, complexes, and collections of oral tradition.³² Engnell claims:

It appears incontrovertible that, to a large extent, Old Testament literature—although greatly varying within different literary types—has the character of an oral literature which was written down only at a relatively late period. Not only the smaller units, but also larger complexes—partly, whole collections or tradition works—had already reached a fixed form in the oral tradition stage, so that the writing down implies nothing new or revolutionary.³³

This conclusion leads Engnell to the further statement that “oral and written transmission are not to be set over against each other as mutually exclusive alternatives, but are to be interpreted as parallel methods which complement each other.”³⁴

Thus we observe that the relation of oral transmission to the fixity of materials is a matter of debate. Nyberg, who believed that oral transmission was, in pre-exilic times, more reliable than written transmission, also assumed that the tradition would be subject to change over a period of years. Engnell, however, is more

²⁹R. E. Murphy is of the opinion that, in the usage of the primitive Christian church, “canonicity refers to a book, whatever be the form of the text”; the text itself is not canonical. See R. E. Murphy, “The Old Testament Canon in the Catholic Church,” *CBQ*, xxviii (1966), 191.

³⁰Östborn, 15.

³¹H. S. Nyberg, *Studien zum Hoseabuch*, *UUÅ*, 1935:6 (Uppsala: A.-B. Lundequistska Bokhandeln, 1935), 7-8; quoted and trans. in Nielsen, *Oral Tradition*, 24-25, 39. Nielsen concurs with the view of Nyberg.

³²I. Engnell, *Gamla Testamentet: En Traditionshistorisk Inledning*, i (Stockholm: Svensk Kyrkans Diakonistyrelses Bokforlag, 1945), 42ff.

³³I. Engnell, “The Traditio-Historical Method in Old Testament Research,” in *Critical Essays on the Old Testament*, trans. by J. T. Willis (London: S.P.C.K., 1970), 6.

³⁴*Ibid.*, 7.

positive in his attitude toward the fixity of tradition, and insists that the oral tradition-materials were faithfully preserved with but little working over.³⁵

S. Mowinckel differentiated between two stages of oral transmission; in the early stage the tradition was not fixed but was still in process of development, but in the later stage a fixed oral tradition was handed down in a more exact transmission.³⁶ In the opinion of G. W. Ahlström, both kinds of oral transmission could have gone on at the same time, depending on the circles in which the material was transmitted:

If we, for instance, have to do with priestly classes—trained as they were in their temple traditions—learning hymns, liturgies and law codes, we can probably think of them as much more reliable than some popular minstrels who, when performing the songs they had learned, could add some words or verses to them.³⁷

Of course, Ahlström's statement suggests that certain types of Old Testament literature were also associated with particular circles within the Israelite-Jewish community, and therefore the degree to which the oral traditions were fixed depends largely upon the type of material in question. Ahlström tends to the belief that, in the case of prophetic as well as priestly traditions, oral transmission was often accompanied by a written text, from the very composition of the material. He cites 1 Sam. 10:25 and Josh. 24:25-26 as evidence that "the written law is understood as holy script,"³⁸ and in the case of prophecy, he cites Jer. 30:2; Ezek. 43:11; Hab. 2:2; Isa. 8:1, 30:8 as evidence for "the importance of Yahweh's commands as written words."³⁹

R. C. Culley also illustrates the tendency of more recent students of oral transmission to stress the importance of a written text in connection with the traditions handed down by memory. Like Mowinckel and Ahlström, he distinguishes between two forms of oral transmission: a fixed form, handed down by strict memorization, and a freer or improvisatory form. "The fixed form," he states, "is found quite often in connection with a written text."⁴⁰ However, in the case of certain types of Old Testament literature which are improvisatory by nature—one may suppose poetic and epic material in particular—the act of composition occurs before an audience. Culley says:

In this sort of oral tradition, composition and transmission are so closely related that transmission is accomplished by continual re-composition. A fixed text is not recited but the work is created anew each time it is performed. Traditional oral literature of various kinds is transmitted by this process in which the essential outline of the work and many or all of the details are reported but never in exactly the same way.⁴¹

³⁵See the discussion in C. R. North, "The Place of Oral Tradition in the Growth of the Old Testament," *ET*, lxi (1949-50), 294.

³⁶S. Mowinckel, *Prophecy and Tradition* (Oslo: Jacob Dybwad, 1946), 26-29.

³⁷G. W. Ahlström, "Oral and Written Transmission: Some Considerations," *HThR*, lix (1966), 69-70. Engnell also is of the opinion that codes of law and sacral texts, such as the Psalms, were written down early "primarily in order to facilitate a normative control and to give the sacred texts canonical sanction," Engnell, "The Traditio-Historical Method," 6.

³⁸Ahlström, 75.

³⁹*Ibid.*, 80.

⁴⁰R. C. Culley, "An Approach to the Problem of Oral Tradition," *VT*, xiii (1963), 116.

⁴¹*Ibid.*, 119-120.

In a study of certain passages which appear in parallel form within the Old Testament,⁴² H. Ringgren analyzes variant readings as falling into several categories. Some are graphic, the result of miscopying a written text. Another group of variants seem to be errors in hearing, which could point either to written transmission (copying from the dictation of a person reading from a text), or to oral transmission (copying from the dictation of a person reciting the tradition from memory). A third group of variants are clearly the result of a lapse of memory, and thus point to oral transmission. A large group of variants are grammatical or dialectical, and also indicate a stage of oral transmission. Only a few of the variants in the passages studied can be ascribed to conscious alteration of the text for theological or other non-linguistic reasons (such as variants in the name of the deity).

For present purposes, Ringgren's study brings out one important fact: in the composition of many parts of the Old Testament, a conscious attempt was often made to reuse older traditions, without, however, any consistent attempt to transmit this borrowed material according to an absolutely fixed text. Indeed, in the case of some of the parallel passages cited, the material is handled in a rather free manner, yet is clearly regarded as authoritative tradition.

The researches of the "oral tradition" school thus lend support to the view that a fixed text is not essential to the canonicity of traditions. If certain types of Old Testament literature, such as legal materials, were accompanied by a written text even while transmitted orally, and were thus transmitted in a more or less fixed form, other types of Old Testament literature were transmitted only orally for considerable periods, and did not receive a fixed form or a written text until relatively late. Yet both types of material fulfill the canonical function within the religious community; the traditions are regarded as authoritative, as a link with the previous history of the community, and therefore as a means through which the community can express its identity as Israel, the people of God.

The ideas of official promulgation and literary fixation, while significant at certain stages in the development of the canonical literature of the Old Testament, are therefore seen not to be inherent in the concept of canonicity itself. A body of authoritative religious literature can exist and fulfill a normative function within the community, without being absolutely fixed in form nor established by official sanction.

⁴²H. Ringgren, "Oral and Written Transmission in the Old Testament," *StTh*, iii (1949), 34-59. Passages compared are: Ps. 18 = 2 Sam. 22; Ps. 14 = Ps. 53; Ps. 40:14-18 = Ps. 70; Pss. 57:8-11, 60:10-12 = Ps. 108; Pss. 105, 96, 106:1, 47 = 1 Chr. 16:8-36; Isa. 2:2-4 = Mic. 4:1-3; Isa. 16:6-12 = Jer. 48:29-36; Isa. 37:22-25 = 2 Kgs. 19:21-34; Obad. 1:1-6 = Jer. 49:14-16, 9-10; Jer. 6:12-15 = Jer. 8:10-12; Jer. 6:22-24, 49:19-21 = Jer. 50:41-46; Jer. 10:12-16 = Jer. 51:15-19; Jer. 48:45 = Num. 24:17.

CHAPTER 5

The Tripartition of the Hebrew Scriptures

The significance of the tripartite division of the Hebrew canon with respect to the conception of canonicity has been variously assessed. The existence of an Old Testament consisting of Law, Prophets, and Writings raises issues which must be dealt with in the study of the theory of the canon.

The Prologue to Ecclesiasticus is generally acknowledged to contain the earliest reference to the tripartite division of the Old Testament Scriptures.¹ Sirach's grandson, writing in the second century BCE, here refers to "the law and the prophets and the other books of our fathers," the third part not being very precisely defined except that its antiquity is suggested by the expression "the other books of our fathers," or more accurately, "the other traditional books" (τὰ ἄλλα πατρια βιβλία). Discussing this passage, F. Buhl remarked that "the question remains as to whether the writings referred to in the prologue were precisely coextensive with those subsequently known as the Hagiographa." The Book of Sirach itself expressly refers to material in the books of Chronicles, Ezra and Nehemiah (49:11-13) and in the Psalms (47:8-10); but "the absence of quotations from the rest of the Hagiographa in and by itself indeed affords no proof against their existence and their recognition in the beginning of the second century before Christ."²

Josephus, in *Contra Apionem* i:8, describes the corpus of Hebrew Scriptures as falling clearly into three divisions: the five books of Moses, thirteen prophetic books, and four books containing hymns to God and moral precepts for men. It is clear, however, that Josephus assigns a different set of books to each of the latter two divisions than is traditionally assigned to the Prophets and the Writings. In numbering four books of "hymns to God and precepts for the conduct of human life" in the third group, he presumably includes the Psalms, Song of Songs, Proverbs and Ecclesiastes. The remainder of the books usually included in the Writings must therefore be included by Josephus among the thirteen prophetic books. Counting Samuel, Kings, and the Twelve Prophets as one book each, the Hebrew Bible numbers eight books in the Prophet Josephus' total of thirteen could account for all the books in the Hebrew Bible if Ruth is subsumed under Judges and Lamentations under Jeremiah, if Chronicles and Ezra-Nehemiah are counted as one book each, and if Esther, Daniel and Job are included.³

This situation in Josephus' writings stands in marked contrast to that in the Book of Ecclesiasticus, for in the passage 44:16-49:10 the author presents his "praise of famous men" which in its sequence corresponds to the Law and the Former and Latter Prophets, just as in the Hebrew Bible.⁴ Reference to events in the works of the Chronicler follows mention of the Twelve (49:11-13), indicating that the books of Ezra-Nehemiah were not reckoned with the prophetic corpus. Ruth and Job are not mentioned. This difference in the makeup of the prophetic collection between Sirach and Josephus may be due to the influence upon the latter at the Greek arrangement, in which the books included in the Hebrew collection of Writings are interspersed throughout the prophetic sequence. Josephus made use of the Greek version as authoritative.⁵ Nevertheless, in his description of the Jewish Scriptures in *Contra Apionem* 1:8, he follows the Palestinian practice as to the *contents* of the Scriptures, there being no room in his enumeration for the inclusion of any

¹But see *infra*, 49.

²Buhl, 13-14.

³Shutt, 56; Buhl, 18-19.

⁴The only exception is that Isaiah is mentioned in connection with Hezekiah, according to the narrative of 2 Kings, rather than with the Latter Prophets.

⁵Pfeiffer, *Introduction*, 67-68.

of the additional books of the Greek Old Testament.⁶ Josephus' works elsewhere contain only brief references to the threefold division of the Scriptures.

Philo Judaeus, describing the Jewish sect of the Therapeutae in his *De Vita Contemplativa* 25 (circa 40 CE), also refers to the tripartite Scriptures as "laws and oracles delivered through the mouths of prophets, and psalms and the other (books)."⁷ Almost the same terminology occurs in Lk. 24:44, which mentions "the law of Moses and the prophets and the psalms." Elsewhere in the New Testament we find mention only of the Law and the Prophets (Mt. 5:17, 7:12, etc.). Second Maccabees 15:9 relates that Judas Maccabeus, preparing his men for battle, "encouraged them from the Law and the Prophets" (ἐκ τοῦ νομοῦ καὶ τῶν προφητῶν), indicating that a scriptural corpus of Law and Prophets only was recognized in Alexandrian circles about 100 BCE.⁸ Similarly, in Dan. 9:2 we find Scripture designated as "the books" (ספרי), a body of literature which in any case included the prophetic collection since the specific reference is to Jeremiah.⁹

Laying aside the question of the inclusion of additional books in the Greek Old Testament, it is evident that the differing arrangements of the books in the present Hebrew and Greek Bibles reflect differing "theories of the canon" held by their respective circles within the Judaism of antiquity. The Hebrew order of Law, Prophets, and Writings indicates that the canon was perceived in a "religious" and "practical" way. First comes the Law of Moses, laying down the basic religious tradition; then the Prophets, who summon the people to return to the Law; finally the Writings, in which the Law is put into practical effect in individual life and corporate worship.¹⁰ Inclusion of certain late "historical" or "prophetic" books in the canon of the Writings (Ruth, Daniel, the Chronicler) shows also a certain awareness of the chronological development of the Old Testament literature.

The order of the Greek version, however, follows what may be termed a "philosophical" or "qualitative" scheme. This has been brought out by O. Eissfeldt:

The arrangement of the books here is clearly determined by the principle that there stand first the historical books which deal with the past, then the poetic and didactic writings, understood as being in a special sense books of edification and instruction for contemporary life, and the prophetic writings directed towards the future provide the ending.¹¹

Thus, in the most widely attested order of the Greek version, the Torah comes first, as with the Hebrew. But the prophetic corpus is broken up; the "historical books" of the Hebrew Writings are intermixed with the

⁶Budde, "Canon," col. 652, stated: "Here clearly a compromise has been struck between the threefold division of the synagogue, which places the prophets in the intermediate position, and the division of the Alexandrians, which arranges the books according to subjects. The Alexandrian canon is obviously in view also in the pointed addition [βιβλία] τὰ δίκαιος πεπιστευμένα, by which the books not contained in the canon of the synagogue are excluded." However, the Greek version is not to be taken as a rival "canon" to the Hebrew Bible in ancient Judaism, *supra*, 10.

⁷νόμους καὶ λόγια θεσπισθέντα διὰ προφητῶν καὶ ὕμνους καὶ τὰ ἄλλα; *Philo*, ix, trans. by F. H. Colson, *LCL* (Cambridge: Harvard University Press, 1941), 126-127. It is likely that τὰ ἄλλα, which apparently refers to writings of some sort, is intended to designate the other books of the Writings in addition to the Psalms (ὕμνους), *ibid.*, 520. See also Sundberg, *The Old Testament of the Early Church*, 68-69.

⁸Sundberg, *The Old Testament of the Early Church*, 67-68. However, we do not know what may have been included in the "Prophets," as this designation might have covered some of the "Writings" as well.

⁹Thus Daniel itself could not be included in the prophetic collection of the Hebrew Bible, for it already cites that collection as authoritative Scripture.

¹⁰This scheme corresponds in part to the view of H. H. Guthrie, *supra*, 35n.; *infra*, 68, in which the wisdom literature is viewed as providing a context for individual religious life in the post-exilic period through which the "canon" of the Law and Prophets becomes relevant.

¹¹Eissfeldt, 570. Eissfeldt here follows Budde, "Canon," col. 651, who states that "the progress of the collection is normal—from the past (historical books) to the present (didactic books) and the future (books of prophecy)."

Former Prophets, the whole forming a sort of extension of the Pentateuch. Then come the poetic and sapiential books of the Writings; finally the Latter Prophets of the Hebrew canon, with the Minor Prophets preceding the Major Prophets, and with Daniel—the apocalyptic book—coming at the end.¹²

It is now widely realized that the Greek order is not to be viewed as a defection from that of the Hebrew (Palestinian) canon; rather it reflects the fluid situation which obtained in Palestinian Judaism itself in the pre-Talmudic period.¹³ Eissfeldt states:

In the tradition represented in [the Septuagint] and also by the Qumran documents, there is preserved a form of canon which is to be regarded as an expression of the stage of development lying before the pronouncements of Jamnia and so less rigid than was then produced.¹⁴

G. Hölscher, moreover, had already stressed “the essential agreement of the Palestinian and Alexandrian views,” both of which place the Torah in the preeminent position, followed by the prophets and by “other religious writings whose number is not defined by any definite principle.” In this last group were found, not only in Alexandria but also in Palestine, writings which were later excluded from the Hebrew canon (in Palestine, Sirach at least).¹⁵ Amongst the Qumran sectarians the apocryphal books of Tobit and Ecclesiasticus were “close to canonical status,” along with the pseudepigraphical books of Enoch, the Testament of Levi, and especially Jubilees,¹⁶ which was regarded as authoritative and used as the basis of the calendar at Qumran.¹⁷

By scholars of the history of the canon, the tripartition of the Hebrew Scriptures is most frequently taken as an indication of the history of the development of the canon. The whole plan of H. E. Ryle’s work, indeed, is based upon the principle that the “first canon” consisted of the Law, the “second canon” of the Law and the Prophets, and the “third canon” of the Law, the Prophets, and the Writings. Ryle asserted that

the triple division of the Hebrew Scriptures embodies a far more ancient tradition [than the later legends about Ezra and the “Great Synagogue”], that of a gradual development in the formation of the Canon through three successive stages.¹⁸

¹²This is the order in the Codex Vaticanus (B), which, according to H. B. Swete, “is supported by the great majority of authorities both Eastern and Western,” *An Introduction to the Old Testament in Greek* (Cambridge: Cambridge University Press, 1900), 219. The order of the Codex Sinaiticus corresponds more closely to the Hebrew arrangement. It is to be emphasized that our evidence for the order of the books in the Greek Old Testament comes from Christian sources; moreover, there was no established order in antiquity, and writers of the Patristic period divide the books of the Septuagint according to various principles, *ibid.*, 218-219.

¹³Katz, 201-202. In support of his view, Katz further cites, 216-217, A. Keunen, *Historisch-Kritisch Onderzoek naar het Onstaan en de Verzamaling van de Boeken des Ouden Verbonds*, ii (Leiden: 1865), 394-450.

¹⁴Eissfeldt, *loc. cit.*; see the discussion *supra*, 9-13.

¹⁵Hölscher, 23.

¹⁶Brownlee, 46.

¹⁷Jubilees is referred to in the Damascus Rule (xvi:4) but not cited as Scripture: “As for the exact determination of their times to which Israel turns a blind eye, behold, it is strictly defined in the Book of the Divisions of the Times into their Jubilees and Weeks,” G. Vermes, *The Dead Sea Scrolls in English* (Baltimore: Penguin Books, 1962), 109. None of these Apocryphal and pseudepigraphical books are cited by any of the formulae used when citing Scripture, such as “it is written,” “God said,” “he said”; the first of these formulae is used to introduce quotations from all three divisions of the Hebrew canon. The various formulae used in citing Scripture in the Damascus Rule may be studied in C. Rabin, ed. and trans., *The Zadokite Documents: i, The Admonitions; i, The Laws* (2nd rev. ed.; Oxford: Clarendon Press, 1958), *passim*.

¹⁸Ryle, 10-11.

G. Wildeboer reached a similar conclusion with respect particularly to the division between the Prophets and the Writings:

It has become manifest to us that no general principle distinguishing the last two sections of the canon from each other can be discovered. We have seen, furthermore, that in ancient times no sharp distinction of the two sections was known. This leads us to think that we have here to do with an historical process, and that the sequence of the three sections, so far as their canonical authority is concerned, is chronological.¹⁹

This theory, that the division of the Hebrew canon into Law, Prophets, and Writings is the clue to the history of the formation of the canon, has received wide support and may be said to be the “normative” view of modern critical scholarship.²⁰ It has recently been reiterated, for example, by F. Horst and by W. Zimmerli. Horst writes, “The formation of the canon is the end of a long historical process of the collection of religious literature, the principal stages of which may still be recognized in the tripartition of the Old Testament canon.”²¹ The statement of Zimmerli is along the same lines: “The Old Testament canon has developed through supplementation during a process of historical growth. The three parts of the Hebrew Bible have grown like annual rings on a tree.”²²

The tripartite division of the Hebrew canon has also been taken to represent three stages in the development of Hebrew religion. G. F. Oehler was of the opinion that it represents successive stages which he designated Mosaism, Prophetism, and Hebraism; by the latter he meant the further development of the Law in a subjective direction in the Writings.²³ G. Östborn has recently expressed a similar conception; according to Östborn,

the three chief sections of the Canon represent three characteristic periods and lines within Israelite-Jewish religiousness:—the time of the pre-exilic kingdom, having the Temple as its religious centre; the period round about the Exile, marked by the prophets and their activity; and, the post-exilic era of the second Temple with a Pharisaism gaining an ever greater influence. In the periods mentioned the respective religious groups obtained a dominating position. Of course, this view only represents the state of things from a broad aspect.²⁴

This thesis, that the tripartite division of the Hebrew Scriptures reflects the process of the historical development of the canon and of Israelite religion, has not gone unopposed. W. J. Beecher, who contested the theory of three successive canons (represented by a scheme such as that of Ryle), preferred to speak of “a growing aggregate of recognized sacred writings” as an alternative. This aggregate of writings of a peculiar authoritative character, Beecher believed, manifested itself as early as 800 BCE, and already embraced the three qualities which later became identified with the divisions of the Hebrew Scriptures:

As writings of this kind were regarded as possessing divine authority, they were called *Torah*. As the revelation came through the prophets, they were called prophetic. They were spoken of as Writings to distinguish them from all oral *toroth*. Thus we already have an aggregate of sacred Scripture was spoken of as the Prophets, and the Writings.²⁵

¹⁹Wildeboer, 20-21.

²⁰Steuernagel, 88; Arnold, 3; Pfeiffer, *IDB*, i, 499.

²¹Horst, col. 162; translated by the present writer.

²²W. Zimmerli, *The Law and the Prophets*, trans. by R. E. Clements (Oxford: Basil Blackwell, 1965), 9.

²³G. F. Oehler, *Prolegomena zur Theologie des Alten Testaments* (Stuttgart: 1845), 91ff. Oehler’s opinion was called partly into question by Wildeboer, on the grounds that the work of the Chronicler is no more subjective than that of the Deuteronomistic historians, Wildeboer, 18-19.

²⁴Östborn, 81.

²⁵Beecher, 127. Beecher’s opinion was criticized by Hölscher on the grounds that he failed to distinguish between

From the beginning, then, all Scripture was spoken of as “Torah,” “prophecy,” and “writings,” depending on the aspect under which it was viewed. This is not a tripartition of Scripture, but only a threefold designation for the *same* growing body or “aggregate” of sacred writings. Only later, Beecher asserted, were these three terms—“Torah,” “prophecy,” and “writings”—applied to distinctive classes of literature included in the aggregate. All of Holy Scripture could originally be designated by any of these terms, and this continued to be true even after the terms came also to be applied to three distinct sections of the Hebrew canon. Thus in both rabbinic and Scriptural writings the term “Torah” sometimes stands for all of the Hebrew Scriptures.²⁶ In *Tanhuma, Yithro* 10, it is said that the Torah is divided into three parts, Torah, Nevi'im and Kethuvim; here the term “Torah” is used first in the sense of “Bible,” and secondly in the sense of “Pentateuch.”²⁷ Several tractates of the Talmud use the term “Torah” in citing verses from the corpus of the Prophets and the Writings.²⁸ In the Old Testament, the term תורה is used in Isa. 8:16 with obvious reference to the prophet’s own “teaching.” In the New Testament, any of the Jewish Scriptures could perhaps be called “Law.”²⁹

Yet the Old Testament Scriptures, as a whole, were clearly regarded as inspired, and therefore prophetic in origin. Thus the early Christian church saw in them the prophecy of the Messiah.³⁰ Ancient Judaism likewise ascribed all the Scriptures to the prophetic period. This is the situation in the writings of Josephus, wherein all the Jewish Scriptures are said to have originated in the period of “the succession of the prophets” (*Contra Apionem* i:8). In *Midrash Exodus Rabbah* 42:8 (on 32:7), R. Joshua ben Levi (*circa* 250 CE) states that Moses “delivered all the prophecies of others with his own, with the result that all who prophesied later were inspired by the prophecy of Moses.”³¹ This and other statements in the rabbinic literature³² indicate not only that prophecy was considered to be grounded in Torah, but also that the Torah itself was considered as

collection and canonization, Hölscher, 7n. But this criticism is the result of Hölscher’s own emphasis on the exclusive nature of the canon, which forces him to restrict the process of “canonization” to Judaism in the early Christian era, *supra*, 15, 22.

²⁶Budde, “Canon,” col. 659; Buhl, 9; König, *Kanon und Apokryphen*, 37.

²⁷Cited by N. M. Bronznick, “Qabbalah as a Metonym for the Prophets and Hagiographa,” *HUCA*, xxxviii (1967) 293.

²⁸In *Hullin* 17b, 2 Sam. 14:34 is cited as Torah; in *Shabbath* 119a, Isa. 58:13, and in ‘*Erubin* 58a, Zech. 2:5. In ‘*Abodah Zerah* 17a, Prov. 5:8, and in *Sanhedrin* 104b, Lam. 1:12 are cited as “from the Torah” (בין הַתּוֹרָה). In *Sanh.* 91b, Ps. 84:4 and Isa. 52:8 are given as verses “from the Torah” which teach the resurrection. Other passages are referred to in Bronznick, *loc. cit.*, n.; König, *loc. cit.* The English translation in *The Babylonian Talmud* (Soncino edition) often obscures the presence of the term “Torah” in these passages by using a word such as “Biblical” or “Scriptural.”

²⁹Jn. 10:34, 15:25, both quoting the Psalter; 1 Cor. 14:21, quoting Isaiah; Rom. 3:10-19, quoting both Isaiah and the Psalter. Thus portions of both the Prophets and the Writings are cited as from the “Law.”

³⁰See the references to “prophet” and “prophets” in the concordances to the New Testament. Of the Writings of the Hebrew Bible, the author of Ps. 78 (Mt. 13:35), Jonah (Mt. 16:4; Lk. 11:29), and Daniel (Mt. 24:15) are expressly called “prophet.” Frequently the expression “Moses and all the prophets” (Lk. 24:27) or its equivalent is used to designate the Hebrew Scriptures as a body of writings which in its entirety is clearly regarded as prophetic in function. For usage of this formula “the Law and the Prophets” in the New Testament, see Zimmerli, 5-7.

³¹*Midrash Rabbah*, ed. H. Freedman and M. Simon, iii, *Exodus*, trans. by S. M. Lehrman (London: Soncino Press, 1951), 490.

³²Zimmerli, 13; G. Kittel and J. Friedrich, eds., *Theologische Wörterbuch zum Neuen Testament*, Bd. vi (Stuttgart: W. Kohlhammer, 1959), 818.

prophetic.³³ This is also the case with Philo, who regards Moses as the model for his theory of prophetic inspiration.³⁴

Finally, we may observe that the general terms “Scriptures” (αἱ γραφαί) or “Holy Scriptures” (ἁγία γραφή, γραφαί ἅγιοι, ἱεραὶ γραφαί, ἱερὰ γράμματα) are essentially the same as the terms “Writings” (כתובים) or “Hagiographa” as applied to the third part of the Hebrew canon. The three expressions “Law,” “Prophets,” and “Writings,” then, could all stand occasionally for the whole corpus of Scripture, as Beecher insisted.³⁵

Opposition to the understanding of the tripartite canon as a reflection of its historical development took a slightly different form in the objections of M. Margolis. Whereas Beecher regarded the three terms “Law,” “Prophets,” and “Writings” as originally standing for the same material seen under different aspects, Margolis viewed the three divisions of the Holy Scriptures as developing separately but simultaneously:

It is an altogether erroneous supposition that all the writings comprised within the third division must have been composed after the second or prophetic collection had been closed. The books of the third division rather form a group distinct in subject-matter from the two which precede it in the editions.³⁶

For Margolis, the significance of the third division is that all the Writings can be classified as “wisdom” in its many ramifications. The poetry of Lamentations and of the Psalter—with its “appendages” Ruth and the Chronicler—is “an emanation of the spirit of wisdom”; Daniel was a “wise man,” and in general the literature of the Writings has the character of *mashal*, which includes proverb, parable, ballad or speculative discourse.³⁷ At the same time, priestly “torah” and prophetic “word” are each also producing their own literary complexes, so that “the three divisions of Scriptures from the very first beginnings . . . maintained themselves as coexisting groups, distinct in subject matter.”³⁸ Therefore, at all points in the literary and religious history of Israel, we find a tripartite body of Scripture. In support of Margolis’ view, we may cite two passages in the prophetic literature. Considering the characteristic content of each of the three parts of the canon, it is possible to see an oblique reference to the tripartite division of Scripture in Jer. 18:18: “For the law shall not perish from the priest, nor counsel from the wise, nor the word from the prophet.”³⁹ The same terminology is found again in Ezek. 7:26: “They seek a vision from the prophet, and law perishes from the priest, and counsel from the wise.” Of course, in neither of these cases does the sequence follow the order: Law, Prophets, Writings.

The opinion of Ryle, Wildeboer and others that the tripartition of the Hebrew canon can be explained only as the result of a three-stage process of development, must then be modified by the recognition that the

³³Zimmerli, 13, acknowledges the truism that “the prophets stand in the shadow of the *torah* and are regarded as inferior to it,” and cites the evidence from the New Testament and from Jewish practice. But he fails to develop the evidence which shows that the Torah was itself viewed as prophetic in function.

³⁴In *De Vita Mosis*; *infra*, 57.

³⁵In the Old Testament itself, Prov. 29:18 seems, indeed, to equate prophetic vision (חזון) with “law” by parallelism: “Where there is no [prophetic] vision the people cast off restraint, but blessed is he who keeps the Torah” That this passage may refer to the two divisions of Law and Prophets is also the opinion of J. Muilenburg, *The Way of Israel* (New York: Harper & Row, 1961), 105. In the New Testament we find the expression “Scriptures (writings) of the Prophets” (Mt. 25:26; Rom. 16:26) or “prophets in the Holy Scriptures” (Rom. 1:2), which may suggest a blurring of the distinction between the second and third parts of the canon (as in the Septuagint), and certainly amounts to the recognition that all the Old Testament is “prophetic.”

³⁶Margolis, 78.

³⁷*Ibid.*, 62.

³⁸*Ibid.*, 81-82.

³⁹R. B. Y. Scott, *Proverbs, Ecclesiastes, AB*, xviii (Garden City, N. Y.: Doubleday & Company, 1965), xv.

tripartite division also reflects a consciousness of different “classes” of literature in each section (Margolis), or the regarding of all the sacred writings from different points of view (Beecher).⁴⁰

Within the Jewish Scriptures, of course, there is no question regarding the primacy of the Torah, as the embodiment of the basic “Mosaic” tradition. At issue, however, is the differentiation between the Prophets and the Writings. Despite the practice of the Greek-speaking Jewish community, which does not seem to have clearly differentiated between Prophets, Writings, and what later came to be called Apocrypha, there is in fact a principle by which the distinction between the second and third divisions of the Hebrew canon may be explained. The prophetic literature is the product of an ongoing institution in Israelite religion, an institution which embodies a particular theological point of view with respect to the covenant traditions. Thus the Former Prophets, in their redacted form, are theologically a sequel to Deuteronomy and express the

⁴⁰A more recent attack on the three-stage theory of canonization is that of R. L. Harris, *Inspiration and Canonicity of the Bible* (Grand Rapids: Zondervan Publishing House, 1957). Harris finds evidence against the “developmental view” in the apparent disagreement of ancient sources as to the location of certain books within the tripartite division. For Harris’ argument, the chief sources in question are Josephus and the Talmud, *Baba Bathra* 14b-15a. Under Josephus’ total of twenty-two books in *Contra Apionem* 1:8, Ruth and Lamentations must be included in the prophets, in Judges and Jeremiah respectively. In the Talmud passage, however, these books are specifically enumerated with the Writings. “Therefore, to unite or separate these small books and their larger partners is actually to shift them from section to section. Such shifting was clearly done without compunction in the first three centuries of our era. In short, this evidence, together with the evidence from Josephus, proves that we have to do not with a rigid tripartite division of the canon but with a threefold classification—and a fluid one at that—of the sacred books. Such a loose threefold classification cannot be made the basis of a three-stage development of the canon. For that there is no evidence,” *ibid.*, 143. Harris apparently discounts the idea that Josephus, in his arrangement of the books, reflects the situation in the Greek version, in which there was no sharp division between Prophets and Writings. He accepts Josephus’ assertion, *Vita*, 75, that Titus, when he conquered Jerusalem, gave Josephus the “holy books,” to be a reference to the Temple scrolls. “Josephus would thus be likely to be in an excellent position to know the official views of the Temple concerning the order of the books,” *ibid.*, 142. Thus Harris seems to assume that these Temple scrolls—if such they were—would have included all parts of the Hebrew Bible. It is doubtful, however, that such Temple scrolls would have included also the Prophets and the Writings. This holds true even though “it is probably a mistake to suppose that the Sadducees rejected the Prophets and the Writings, as some Christian fathers suggest,” A. C. Sundberg, “Sadducees,” *IDB*, iv, 162; see also Eichhorn, 136-139. Josephus, *Antiquitates Judaicae*, xii, x, 6, refers to the difference between Pharisees and Sadducees; the former, he says, pass on “certain regulations handed down by former generations and not recorded in the Laws of Moses,” whereas the latter “hold that only those regulations should be considered valid which were written down, *Josephus*, vii, trans. by R. Marcus, *LCL* (Cambridge: Harvard University Press, 1961), 377. The difference of opinion seems to be over the authority of the oral law, not over the authority of the Prophets and Writings. Nevertheless, in view of the historic practice of Judaism to exalt the Torah in worship, it seems likely that the “sacred books” (βιβλίαι ἱεροί) to which Josephus refers in *Vita*, 75—if indeed they were the Temple scrolls—would have included only the Torah. Unfortunately an apparent lacuna occurs in the Greek text immediately following this expression βιβλίαι ἱεροί, and any explanation Josephus may originally have given as to their extent has been lost; see *Josephus*, i, trans. by H. St. J. Thackeray, *LCL* (London: William Heinemann, 1926), 152. It is probably true that there was no “official view” of the tripartition of the canon in Jewish priestly circles, even though the presence of a tripartite Scripture itself in the first century CE must be acknowledged.

Harris further opposes the three-stage theory on the grounds that its proponents are inconsistent in their application. According to the proponents of this theory, says Harris, “the view one may hold of the acceptance of a book need not be closely associated with its date,” 148. Thus the Priestly code was produced only a short time before its canonization in the Torah, according to the three-stage theory, whereas some of the Psalms, which had been composed much earlier, were included only in the third section of the canon. But, says Harris, by these same critics the inclusion of Daniel in the Writings, rather than the Prophets, is taken as evidence for its late date (with which Harris disagrees). Harris’ argument ignores the fact that the date of a book is established principally on the basis of internal evidence, even by those who accept the three-stage theory of the canon. Moreover, canonicity was a more immediate issue in the period following the publication of Daniel than it had been in the earlier periods of post-exilic Judaism, and this led to a fairly rapid decision as to its authority.

theological tendency of a continuing Deuteronomistic school. And although the latter Prophets contain the utterances of individual prophetic figures, these men have come forward as spokesmen for an institution representing a distinctive theological point of view, and their work has been continued or at least preserved and transmitted by “schools” of disciples or tradents. In form the literary output of the prophets, as spokesmen for the covenant traditions, often displays a fairly close correspondence to the forms used to express the covenant in ancient Israel.⁴¹ The prophetic corpus, then, is not to be regarded as “literature” in the proper sense, nor as the work of individual “authors” conscious of a paramount literary purpose. Rather it is the literary deposit of the preaching of a succession of theological circles representing the embodiment of a definite religious point of view having its foundation in the covenant tradition of Israel and utilizing its forms.

The Writings, on the other hand, are manifestly “literature” and the work of persons carrying on their work with a literary intent, persons who do not necessarily represent an organized theological movement. Josephus hinted at the purpose of the entire collection of the Hagiographa when he spoke of “hymns to God and precepts for the conduct of human life”—the *mashal* principle as expressed by Margolis. Except for the Psalter, a body of cultic and poetic material which is comprehensive in scope and embraces diverse tendencies in Israelite religion,⁴² the Writings are literary, edificatory, and didactic in tendency. When some of the Writings other than the Psalms do assume a cultic role (the Megilloth),⁴³ this is secondary and the result of the transference of the edificatory function from the circles of “wise men” and family heads to the community worship of the synagogue. When the Writings do manifest a pressing theological concern, it is not often from a traditional or institutional point of view within the framework of Israelite religion. The eschatological vision of Daniel, the questioning individualism of Job and Ecclesiastes, the novelistic efforts of the authors of Ruth and Esther, the Chronicler’s fascination with cultic detail—these all represent the attempt of the Jew of the Persian period to come to terms with the theological situation in a “literary” way, and certainly in a manner characteristic neither of the Law nor of the Prophets. The Writings do not typically evince the kerygmatic proclamation of sacred history and covenant obligation, nor the divine word addressed to the assembled community.⁴⁴ To a degree the Hagiographa do exhibit a formal relationship to Israelite covenant traditions; but the basis of this relationship is different from that which underlies the prophetic use of covenant forms.⁴⁵ Thus, while the authors of the Writings in some measure employ literary forms connected with the covenant, they do not put themselves forward as spokesmen for the covenant to the extent characteristic of the Prophets. The books in the third division of the canon are therefore rightly termed “Writings” (literature) to set them off from the first two divisions of the Hebrew Scriptures.

⁴¹This matter is discussed in detail in ch. 11, *infra*.

⁴²The position of the Psalter at the head of the Writings in the printed editions may show a conscious appreciation for the comprehensive and transitional nature of this collection within the tripartite canon. The Psalms share with prophecy a close relation to the covenant forms of ancient Israel, *infra*, 140-141.

⁴³On the basis of variant orders of the Megilloth in medieval manuscripts and of the passage in the Talmud, *Baba Bathra* 14b-15a, K. Budde concluded that “the arrangement of the Megilloth in the order of their feasts in the ecclesiastical year is late and artificial,” and that as late as 200 CE they had not constituted a definite group, “Canon,” col. 651. A. G. Hebert, 190, remarks, “It would be tempting to conclude that the modern liturgical use gives a key to the original acknowledgment of these books as canonical, but this cannot seemingly be supported from the order of the books in the oldest sources.”

⁴⁴The Song of Songs, indeed, manifests only a literary intent, and may be said to have no overt theological content except in virtue of the perspective from which it is viewed within the total scope of biblical theology. This statement excludes any relation the Song may have to certain themes of non-Israelite religion which have been suppressed in the present form of the book. We may remark, further, that to say that the Hagiographa illustrate a tendency in post-exilic Judaism does not deny that parts of the Writings were known and used as Scripture during and before the exile.

⁴⁵For more extended treatment of the relation of the Writings to Israelite covenant tradition, see ch. 5, *infra*.

From the preceding discussion, it is evident that the whole question of the meaning of the tripartite division of the Hebrew Scriptures comes to its sharpest focus in connection with the Writings. A major point at issue in the discussion of the “theory of the canon” is the relation of the Hagiographa to the question of canonicity. In the history of this discipline it has proved most difficult to clarify the origin of the canonical authority of these books on the same principles as may be applied to the canonicity of the Law and the Prophets.⁴⁶ It is to be expected, however, that any truly effective theory of the canon should be applicable with equal validity to all three divisions of the canon, so that the question of the origin of the Scriptural status of the Writings need not be approached from a standpoint different from that with which one comes to the Law and the Prophets.

It has been suggested that the demarcation of the Writings, as a group of Holy Scriptures distinct from the Law and the Prophets, is what really set off debate in the Jewish community concerning the criteria for the inclusion of books in the canon of Scripture.⁴⁷ Those books whose character as “defiling the hands” was called into question in the post-Jabneh period are from the Hagiographa (Ecclesiastes, Song of Songs), as is the Book of Esther, which indeed occupied but a marginal position in the Jewish Scriptures until quite late. Despite the exaggerated pronouncement of R. Akiba (*Mishnah, Yadaim* 3:5) that “all the Hagiographa is sacred, but the Song of Songs is the most sacred of them all,” it is a truism that the Writings (the Psalter possibly excepted) never enjoyed the status of the Prophets, to say nothing of the Law, in the Judaism of antiquity (including its sectarian branches, the chief representative being the Christian movement). At the same time there is a sense in which the “canonicity” of both the Law and the Prophets depends on the existence of the Writings broadly conceived, and more particularly the sapiential literature. Given the end of the “sacred history” and the loss of Judean independence in the post-exilic period, the Law and the Prophets could function as “canon”—authoritative tradition—only within the framework of individual Jewish life as represented by the wisdom literature, an individualism now set within the universalistic perspective of the Hellenistic period. This has been expressed by H. H. Guthrie:

As the Israelite became increasingly aware of his dislocation from a history providing the primary clue to Yahweh’s sovereignty, he saw that sovereignty in terms of the wisdom through which his individual existence in the cosmos found meaning beyond and in spite of the brokenness of Israel’s communal historicity. It was against such a background that the Israelite came to a new statement of the meaning of that book, the canon, that his broken history had left in his hand. The Law and the Prophets came to be read as wisdom literature was read, as wise men read the double genre of tale and instruction, as the literature of wisdom *par excellence*, as *the* truth about the nature of things.⁴⁸

At that point, then, in the development of the Jewish Scriptures where “canonicity” becomes an issue—the early Christian centuries—the Writings assume a critical role. Indeed, considered from this point of view, the Writings may be called the fulcrum, supplying the leverage by means of which the canonicity of the Law and the Prophets is upheld.

⁴⁶*Infra*, 142-143.

⁴⁷Horst, cols. 164-165.

⁴⁸Guthrie, 27.

PART II

Theories of the Old Testament Canon

The discipline known as the “theory of the canon” of the Old Testament is to be differentiated from the history of the development of the canon. The theory of the canon is concerned with the concept of “canonicity” or “scripturality”; it attempts to expose those factors in the religion of Israel which led to the appearance of a “canon,” a body of literature having authority for the faith and life of the religious community and functioning therefore as Holy Scripture. The history of the canon, on the other hand, is concerned with the historical process by which the Old Testament canon assumed its present shape. It is evident that the two disciplines are complementary; but the question asked by the theory of the canon is not, How did the canon take shape? but rather, What was the canon *understood to be* in the process of its formation?

Several theories of the canon, mostly in undeveloped form, have been put forward from time to time in the history of critical investigation of the Old Testament. For the most part, the theory of the canon has been treated as a subsidiary concern of the history of the canon, and has not received much independent study, even though it has been recognized that “the question of the conception of canonicity comprises the problem as to the origin of the Canon.”¹ The aim of Part II of this dissertation is to set forth the various theories of the canon which have been proposed. This task has not been undertaken in any comprehensive way hitherto, although a start was made by G. Östborn in Chapter II of his monograph.² In what follows, we shall examine theories of the canon which find the origin of canonicity in the inspired word, in historical recital, in the idea of law, and in the cult.

¹Östborn, 11.

²*Ibid.*, 15-20.

CHAPTER 6

The Canon as Inspired Word

One theory of the canon which has received attention in modern critical scholarship is the view that the Old Testament canon originated in the utterances of inspired men, utterances which were believed to be those of the deity himself. O. Eissfeldt calls this idea the starting-point of the canon, “the belief that particular utterances of men are in reality the word of God and as such can claim for themselves especial authority.”³ Eissfeldt lists six different kinds of words which were considered “divine words”: the “Judgment” (משפט) of the lawgiver and judge, the “word” (דבר) of divine command or prohibition from the proclaimer of the divine will, the “directive” (תורה) of the priest, the “saying” (דבר) of the prophet, the “song” (שיר) of the singer, and the “proverb” (משל) of the wise.⁴

The theory of the canon as inspired word, then, is bound up with the general conception of the Scriptures as divine in origin. E. König stated the matter thus:

Where literature authoritative essentially for the realm of religion is concerned, only a divine source-point can be the underlying foundation for the significance of the literature in question as a norm for religiousness and religiously oriented morality. As far as the Old Testament canon is concerned, this inherent connection with the divine sphere is . . . the first presupposition for the authoritative position of the literature considered as canonical.⁵

König pointed out that this fact places most of the Old Testament canon in an original relation to prophetism, and that for those portions of Scripture not ascribed to the “spirit of prophecy” one ultimately appealed to the operation of the Holy Spirit.

Thus, R. H. Pfeiffer objected vigorously to the original attribution of inspiration—as the source of canonical literature—to persons other than prophets. In ancient Israel there were three means of obtaining a divine oracle: “either by dreams, or by Urim (the priestly lot), or by prophets” (1 Sam. 28:6). Pfeiffer says, “We can therefore assert that canonical scripture had its origin either in the priestly or in the prophetic oracle, since dreams and visions belong mainly to prophecy.” However, since the priestly oracle obtained from the lot was limited to a simple “yes” or “no” answer in a given situation, “the priestly oracle could not possibly have produced a canonical volume of sacred scripture, and of course, never did.”⁶ We are therefore left with the conclusion, according to Pfeiffer, that “the notion of inspired Scripture has its roots in prophecy.”⁷

In principle, then, Amos was the first book to constitute sacred Scripture, since it was the first collection of oracles purporting to embody divine revelations. The first consciously canonical book is Deuteronomy, which in form is not law at all but a sermon placed on the lips of Moses; in Deuteronomy, Moses appears not as a lawgiver or priest but as a prophet (18:18). After Moses, Yahweh will raise up a prophet like him to communicate the divine message (18:18-22); Deuteronomy “knows of no other method by which God communicates with man.”⁸ It is significant, further, that according to 2 Kgs. 22:14-20 it was the oracle of Huldah the prophetess which gave final impetus to the adoption of the original edition of Deuteronomy as the program of the reform under Josiah in 621 BCE. Pfeiffer put the matter as follows:

³Eissfeldt, 560.

⁴*Ibid.*; Eissfeldt is followed by Bentzen, i, 23.

⁵König, *Kanon und Apokryphen*, 22; translated by the present writer.

⁶Pfeiffer, *IDB*, i, 499.

⁷Pfeiffer, *Introduction*, 51.

⁸Pfeiffer, *IDB*, i, 502-503.

If the original edition of Deuteronomy . . . was the first book to be canonized as sacred scripture, then the notion of sacred scriptures was unquestionably inspired by the records of prophetic utterances rather than by a collection of priestly laws.⁹

The Pentateuch, Pfeiffer concluded, draws its canonicity from Deuteronomy, which in turn was canonical because of its relation to prophecy. The historical books of the Former Prophets owe their canonization to “their connection, actual or fictitious, with prophecy.” And the Writings derive their canonicity from a process of assimilation to prophecy, a process in which each book “circulated privately until it was attracted, like a satellite, into the orbit of prophetic literature.”¹⁰

In this conclusion, Pfeiffer was following the work of W. R. Arnold, who had stated in a most extreme form the theory that Holy Scripture originates in prophecy alone:

Holy Scripture—our Old Testament—consists of a series of divinely inspired writings extending from the age of Moses, the founder of the nation, to the age of Ezra and Nehemiah, who completed the restoration after the Babylonian exile. Writings are divinely inspired which were produced through the instrumentality of a prophet. . . . Thus Scripture consists of one original prophetic writing, supplemented from time to time by additional prophetic writings, until finally the gift of prophecy disappeared from the face of the earth. Judaism knows nothing of any Holy Scripture produced by priests, *qua* priests, or by any other class of persons, however learned or eloquent or righteous or wise, except as they happened to be endowed with the requisite gift of prophecy. In a word, Holy Scripture consists of the writings of the prophets, and of nothing else.¹¹

Thus, for Arnold, all Holy Scripture is “either actual prophecy, or material artificially cast into the mold of prophecy, or matter which was mistakenly identified with prophecy.”¹² In the main, Arnold did not support his thesis by reference either to ancient primary sources or to modern critical scholarship; rather, he based his argument that all Scripture is prophetic in origin simply on the negative finding that it could not be the work of priests. The priestly oracle, in his view, was “a crassly mechanical affair” which could not have produced literature; the sacred lot fell out of use after the reign of Solomon, and no book purporting to contain the words of Yahweh was ever published in Israel prior to the Deuteronomic reform.¹³ Arnold admitted that the priests, being the custodians of the religious traditions of the sanctuaries, were therefore the court of appeal in religious—but rarely civil—matters. To the extent that the priests compiled traditional *toroth*, such compilations were only “private priestly manuals,” and were not “published to the nation as the embodiments of the commands of God.”¹⁴ Arnold concluded that the prophetic oracle is the source of the authority of Old Testament law: “Actually, the rigid statutory cast which characterized the law of the Old Testament is directly due to the institution of prophecy.”¹⁵

Arnold, and Pfeiffer after him, may be said to have failed to appreciate the antiquity of Israelite law as a cultic institution. In this respect, of course, they shared the presuppositions of the literary criticism of their age, which stood in the tradition of J. Wellhausen. Wellhausen and his school had constructed an edifice of Pentateuchal criticism around the proposition that Israelite law, as a publicly promulgated body of legislation, is later than the time of the prophets, so that “it is a vain imagination to suppose that the prophets expounded

⁹Pfeiffer, *Introduction*, 52-53.

¹⁰*Ibid.*, 56-63.

¹¹Arnold, 3.

¹²*Ibid.*, 7.

¹³*Ibid.*, 10-13.

¹⁴*Ibid.*, 14.

¹⁵*Ibid.*, 13.

and applied the law.”¹⁶ However, the more recent work of the form critics has resulted in a general modification of Wellhausen’s view in the direction of ascribing far greater antiquity to the basic foundation of Pentateuchal legislation.¹⁷ R. E. Clements summarizes the current view as follows:

From the beginnings of the covenant of Israel a foundation of law, most probably in decalogue form, was used to establish a standard of conduct among the people. We must therefore recognize that a basis of law, with a strongly moral tone, was anterior to the prophets, rather than owing its origin to a dependence on them. The institution of a tradition of law, with both ethical and cultic regulations, was indigenous to Israel’s cult, and forms a permanent feature of the covenant relationship between Yahweh and Israel.¹⁸

The role of the prophets is now seen to be that of “taking the old regulations and making them the basis of an entirely new interpretation of Jahweh’s current demands upon Israel.”¹⁹ Thus, in the words of W. Zimmerli, “it has become clear that the prophets appeared in an Israel which had long been familiar with the preaching of its distinctive divine law.”²⁰

As applied to the religious situation in pre-exilic Israel, then, the theory that prophecy alone is responsible for the development of canonical traditions does not account for all the phenomena at hand. Nevertheless, when the question of canonicity is related to the thought of ancient Judaism and the early church, a good deal of evidence may be adduced for the belief that the origin of Holy Scripture is to be found in the inspired word of the prophet.

One obvious indication that canonicity was linked to prophetic inspiration is found in the traditional ascription of all books of the Hebrew Bible to prophets or to men of prophetic endowment. Moses, as the “author” of the Torah, is indeed viewed as the prophet par excellence. As for the Writings, men like David, Solomon and Daniel and were clearly regarded as inspired. Even Ezra, Nehemiah and the author of Esther were thought of as standing in the “succession of the prophets” since they are obviously included in Josephus’ assertion (*Contra Apionem* i:8) that “from the death of Moses until Artaxerxes . . . the prophets subsequent to Moses wrote the history of the events of their own times.”

In connection with Ezra, we may note the legend, now contained in 2 Esdras 14, to the effect that Ezra reproduced by divine dictation the twenty-four books of the Hebrew canon which had been burned, plus the seventy esoteric books. This, however, is not an isolated instance in which a priest is regarded as producing canonical material by inspiration. Whereas Pfeiffer and Arnold regarded the priestly lot as a mechanical affair and the only alternative to prophetic inspiration as a means of receiving communications from the deity, one interesting passage in the Talmud declares that even the priestly lot could be subject to inspiration. In *Baba Bathra* 122a, commenting on the apportioning of the land amongst the twelve tribes by lot (Num. 26:56), it is said that Eleazar, wearing the *urim* and *thummim*, was “animated by the holy spirit,” and pronounced the results before he actually drew the lot.

It is clear that in ancient Judaism the concept of canonicity was linked to the doctrine of inspiration. *Megillah* 7a records the debate of the rabbis concerning the status of the Book of Esther. The opinion of R. Judah that the Scroll of Esther “does not make the hands unclean” (i.e. is not Holy Scripture)²¹ is questioned

¹⁶J. Wellhausen, *Prolegomena to the History of Ancient Israel* (Edinburgh: Adam and Charles Black, 1885), 399; Zimmerli, 23-25.

¹⁷*Infra*, ch. 8, sect. 2.

¹⁸Clements, 23.

¹⁹Rad, *Old Testament Theology*, ii, 400. Of Amos, von Rad says that the charges he leveled against his contemporaries are based on divine laws which “are to be found point by point in the older traditions of sacral law, especially in the Book of the Covenant,” *ibid.*, 136.

²⁰Zimmerli, 61.

²¹*Supra*, 17.

on the grounds that “Esther was composed under the inspiration of the holy spirit,” and several prominent rabbis (Eleazar, Akiba, Meir, Jose b. Durmaskith, and chiefly R. Samuel) are quoted in support of the inspiration of Esther.²² Esther was a marginal book of the canon until the second or third century CE, but this debate must reflect the presuppositions of the rabbis regarding the whole of the Jewish Scriptures.

The doctrine of the inspiration of Scripture is also clearly present in the New Testament. In 2 Tim. 3:16, the author appears to assert that “all Scripture is inspired by God.”²³ In 2 Peter 1:20-21 it is said that “no prophecy of Scripture is a matter of one’s own interpretation, because no prophecy ever came by the impulse of man, but men moved by the Holy Spirit spoke from God.”²⁴ Here we find a clear statement of the idea that God is “the real author of the books which he dictated to inspired writers.”²⁵ The ultimately divine origin of Old Testament Scriptures quoted in the New Testament is expressed in several instances. In Mt. 1:22 and 2:15, for example, we find the formula “that which the Lord had spoken by the prophet” (το ῥηθὲν ὑπὸ κυρίου διὰ τοῦ προφήτου) used to introduce quotations from Hosea and Isaiah, respectively. In Acts 4:25, a quotation from Ps. 2 is introduced with the formula indicating that God spoke “through the mouth of David by the Holy Spirit” (διὰ πνεύματος ἁγίου στόματος Δαυίδ); similarly, Acts 28:25, introducing a quotation, declares that “the Holy Spirit spoke through Isaiah the prophet.”²⁶

In the ancient synagogue and the early church, then, the Old Testament Scriptures are seen to be of divine origin, spoken by God. However, nowhere in the rabbinic literature or in the New Testament is this view elaborated to the extent found earlier in the writings of Philo Judaeus. In *De Vita Mosis* II, xxv (188), Philo describes differing modes of inspiration within the Pentateuch, but in each case it is clear that God is the ultimate source of the words of Scripture:

Now I am fully aware that all things written in the sacred books are oracles delivered through Moses; but I will confine myself to those which are more especially his, with the following preliminary remarks. Of the divine utterances, some are spoken by God in His own Person with His prophet for interpreter, in some the revelation comes through question and answer, and others are spoken by Moses in his own person, when possessed by God and carried away out of himself.²⁷

Thus, for Philo, Moses functions as a prophet, in the sense that he is a spokesman for the direct word of the deity. An even more striking statement of this theory of inspiration occurs in *De Specialibus Legibus* IV, vii; in this case, Philo’s doctrine of inspiration applies not only to Moses, but also to prophets in general:

For no pronouncement of a prophet is ever his own; he is an interpreter prompted by Another in all his utterances, when knowing not what he does he is filled with inspiration, as the reason withdraws and surrenders the citadel of the soul to a new visitor and tenant, the Divine Spirit which plays upon the vocal organs and dictates words which clearly express its prophetic message.²⁸

²²*The Babylonian Talmud, Seder Mo’ed*, ed. I. Epstein, *Megillah*, trans. by M. Simon (London: Soncino Press, 1938), 35-36. The two opinions are here reconciled by the assertion that Esther “was composed to be recited [by heart], but not to be written.”

²³πᾶσα γραφὴ θεόπνευστος; this last word may be taken in an adjectival, rather than predicative, sense, since no copulative verb is present.

²⁴ἀλλὰ ὑπὸ πνεύματος ἁγίου φερόμενοι ἐλάλησαν ἀπὸ θεοῦ ἄνθρωποι.

²⁵Pfeiffer, *IDB*, i, 499.

²⁶New Testament passages which refer to the Old Testament as having been uttered by the deity (or the Holy Spirit) are listed in W. Sanday, *Inspiration* (London: Longmans, Green and Co., 1894), 76-77.

²⁷ἐκ προρόπου Μωυσέως ἐπιθειάσαντος καὶ ἐξ αὐτοῦ κατασχεθέντος; *Philo*, vi, trans. by F. H. Colson, *LCL* (Cambridge: Harvard University Press, 1935), 543.

²⁸*Philo*, viii, trans. by F. H. Colson, *LCL* (Cambridge: Harvard University Press, 1939), 37-39.

For Philo, then, the prophet, as the recipient of inspiration, is entirely passive; the Holy Scriptures were composed by a sort of “divine ventriloquism.”²⁹ Interestingly, Philo applied this concept of inspiration not only to the Hebrew Scriptures, but to the Septuagint. In *De Vita Mosis* II, vii (37), he repeats the legendary theory of the origin of the Greek Pentateuch, to the effect that the translators “became, as it were, possessed, and, under inspiration, wrote, not each several scribe something different, but the same word for word, as though dictated to each by an invisible prompter.”³⁰

It is quite possible that Philo held the same theory of inspiration with regard to the Greek translation of Jewish Scriptures other than the Pentateuch. Pfeiffer believed that, after the publication of the Septuagint (Pentateuch), the Alexandrian Jews “tended to regard all books translated into Greek from the Hebrew (as distinguished from those written in Greek) as divinely inspired.” But certainly Philo’s statement of the doctrine of inspiration in *De Specialibus Legibus* would seem to extend the concept of inspiration not only beyond the Pentateuch but also well beyond the confines of the Jewish Scriptures. For Philo, inspiration was not limited to the biblical authors, but applied to every wise and virtuous man.

In his concept of divine inspiration, Philo was at least in part following Greek models; ideas similar to his may be found in the works of Plato. In *Timaeus* 71e, Plato says that “no man in his normal senses deals in true and inspired divination, but only when the power of understanding is fettered in sleep or he is distraught by some disorder or, it may be, by divine possession.”³¹ In *Ion*, he declares that God “takes away the mind” of poets, diviners and prophets, “in order that we who hear them may know that it is not they who utter these words of great price, when they are out of their wits, but that it is God himself who speaks and addresses us through them.”³²

Philo, because of his doctrine of inspiration, tends to lay stress on the inspired writer himself, rather than on the inspired book. Although he employs terminology which refers to the books as inspired,³³ more often he “refers directly to the writer, and that frequently with some qualifying phrase which brings out the fact that his words are inspired, that he is speaking in a rapt or ecstatic condition as the mouthpiece of God.”³⁴ That is, Philo’s interest in the doctrine of inspiration lies chiefly in the mechanism of inspiration, the process by which “the Divine Spirit plays upon the vocal mechanism,” rather than upon the content of the revelation that is imparted thereby. Thus, to use F. W. Farrar’s words, we may speak of the Alexandrian doctrine of inspiration as “pathological” rather than “ethical.” Inspiration is viewed primarily in terms of the suppression of the individual consciousness, not the enlargement of it.

Although the concept of inspiration in the rabbinic literature bears certain affinities with that found in Philo, there are important differences. In Jewish tradition, Moses is viewed as receiving the Torah by a process of divine dictation, as in Philo. Moreover, the principle applies not only to the Torah, but to the other parts of the Scriptures and even to the oral law. Thus in *Midrash Exodus Rabbah* 47:7 (on 24:27) it is said that Moses, in the excitement of receiving the Decalogue, had refused to eat, drink or sleep, and had thereby suffered:

Whereupon God said: “So art thou distressed! Well, I assure thee that thou wilt not lose anything; for on the first tables were only the Decalogue, but since thou hast now suffered so much, I will give thee also Halachoth, Midrash,

²⁹F. W. Farrar, *History of Interpretation* (Grand Rapids: Baker Book House, 1961), 147. R. Abba calls this an “essentially pagan conception of inspiration,” *The Nature and Authority of the Bible* (London: James Clarke & Co., 1958), 104.

³⁰*Philo*, vi, 467.

³¹*Plato’s Timaeus*, trans. by F. M. Cornford (Indianapolis: Bobbs Merrill Company, 1959), 87.

³²*Plato*, iii: *Ion*, trans. by W. R. M. Lamb, *LCL* (London: William Heinemann 1925), 423.

³³“Sacred Scriptures” (ἱεραὶ γραφαί), “sacred books” (ἱεραὶ βίβλοι), “the sacred word” (ὁ ἱερὸς λόγος), “oracle” (λόγιον, χρησμοί), etc., Sanday, 72-73.

³⁴*Ibid.*

and Haggadoth,” for it says, “Write thou these words.” Why did God say: “Write *thou*”? Is it not written, “And the tables were the work of *God*, and the writing was the *writing* of God, graven upon the tables” (Ex. xxxii, 16)? And also, “And He wrote on the tables, according to the first writing (Deut. x, 4)? But this is what God said to Moses: Write down the Law and the Prophets and the Hagiographa so that they may be in writing, but let the Halachoth, Midrash, and Haggadoth be oral.”³⁵

Although the concept of inspiration is not specifically referred to here, Moses is viewed as receiving the Scriptures, and the oral law, directly from God, with a certain amount of “pathological” detail in the portrayal of Moses’ suffering. Nevertheless in the rabbinic writings there is not the emphasis on the ecstatic state of the prophet which is present in Philo. Instead the emphasis is placed upon the content of the message received by the prophet, so that “the prophet’s own personality is never submerged, his faculties are never held in abeyance, the element of reflection is also present.”³⁶ This is well illustrated by the debate in *Baba Bathra* 15a concerning the authorship of the last eight verses of the Torah, which tell of the death of Moses. Here the opinion of R. Simeon is given, to the effect that “up to this point the Holy One, blessed be He, dictated and Moses repeated and wrote, and from this point God dictated and Moses wrote with tears.”³⁷ The prophet is always aware of the message which he is communicating. Thus to a degree the rabbinic literature agrees with Philo that the Scriptures were dictated by God, but differs from Philo in the portrayal of the state of inspiration.

The New Testament likewise differs from Philo in its concept of divine inspiration. For the New Testament writers, the inspiration of Scripture is not to be seen in the mechanism or mode of inspiration, but rather in the edificatory effect of the Scriptural message upon its hearers. According to 2 Tim. 3:16, Scripture is inspired in that it is “profitable for teaching, for reproof, for correction, and for training in righteousness.” Thus in the New Testament, as in the rabbinic writings, it is the content of the Scriptures which appears to be the mark of their inspiration. Passages occur which ascribe to the Hebrew Scriptures, especially the Torah, a kind of inviolability or inerrancy as to their contents; in Mt. 5:18, Jesus declares that nothing “will pass away from the Law until all is accomplished,” and in Jn. 10:13 it is said that “Scripture cannot be broken.”

For Josephus also, the inspiration of the Scriptures is seen in the inerrancy of their contents. Concerning Daniel, Josephus says in *Antiquitates Judaicae* X, xi, 7 that his writings stand as proof of the “undeviating accuracy of his prophecy,” because the four successive world empires appeared just as he had predicated in his vision of the ram, the goat, and the horn (Dan. 8:1-14). In *Contra Apionem* i.7. Josephus speaks of the accuracy of the Scriptures, declaring that

there is no discrepancy in what is written; seeing that, on the contrary, the prophets alone had this privilege, obtaining their knowledge of the most remote and ancient history through the inspiration which they owed to God, and committing to writing a clear account of the events of their own time just as they occurred.³⁸

Josephus, like Philo, occasionally refers to the “pathology” or mechanism of inspiration;³⁹ but with Josephus, as with the New Testament, the chief characteristic of the Scriptures as inspired is not the mode of communication, but the inerrancy and integrity of their contents. Thus in *Contra Apionem* i:8, he asserts that “we do not possess myriads of inconsistent books, conflicting with each other”; moreover, he states, “no one

³⁵*Midrash Rabbah*, iii, *Exodus*, 543; punctuation and italicization revised by the present writer.

³⁶Abba, 105.

³⁷*The Babylonian Talmud, Seder Nezikin; Baba Bathra*.

³⁸*Josephus*, I, 179.

³⁹He speaks of the sacred author as being “possessed” or “inspired by God,” as being “filled with the deity,” or as being “in a state of Divine inspiration”; or he speaks of the Spirit of God taking hold of the prophet, or of “the Deity (τὸ θεῖον) being present with” the writer, Sanday, 77.

has ventured either to add, or to remove, or to alter a syllable” of the Hebrew Scriptures since the time of their writing.

We may observe also that allegorical and midrashic interpretation of the sort practiced in ancient Judaism and its sectarian branches, as evidenced in particular in the Dead Sea writings, presupposes a concept of an inspired and inviolable *written* text of the Scriptures.

The views of Arnold, Pfeiffer and others regarding the origin of the canonicity of the Old Testament writings in the concept of the inspired word of the prophet, are therefore seen to be not entirely without foundation. The concept of Scripture as the utterance of inspired men may, indeed, be said to have been normative in Judaism during the period during which the Old Testament canon was assuming its present dimensions. As we have seen, this concept carries with it the idea that the Scriptures are an utterance of the deity himself, and are therefore inerrant and inviolable. This theory of inspiration owes its origin in fact to the Old Testament itself, especially in the terminology used in connection with the prophetic oracle. Expressions such as “thus says Yahweh” (כֹּה אָמַר יְהוָה, Am. 1:3, etc.), “utterance of Yahweh” (נֹאמַיְהוָה, Am. 3:11, etc.), “hear the word of Yahweh” (שִׁמְעוּ דְבַר־יְהוָה, Hos. 4:1, etc.), “and Yahweh said” (וַיֹּאמֶר יְהוָה, Isa. 3:16, etc.), “for Yahweh has spoken” (כִּי יְהוָה דִּבֶּר, Isa. 22:25), “the word of Yahweh came to me” (וַיְהִי דְבַר־יְהוָה אֵלַי, Jer. 1:4, Ezek. 6:1, etc.), or “the mouth of Yahweh has spoken” (פִּי יְהוָה דִּבֶּר, Isa. 40:5) all suggest a direct communication from the deity through inspired men. To these may be added such expressions as “the spirit of the Lord Yahweh is upon me” (רוּחַ אֲדֹנָי יְהוָה עָלַי, Isa. 61:1) and, from the “last words of David” in the Former Prophets, “the spirit of Yahweh speaks by me” (רוּחַ יְהוָה דִּבֶּר בִּי, 2 Sam. 23:2).⁴⁰

C. Westermann has shown how the basic form of the prophetic oracle is to be seen as the speech of a messenger.⁴¹ Basic to the work of the prophet is his conviction that he has been admitted to the council (סוּד) of Yahweh,⁴² and “thus the words of the prophets are words which they have heard directly from Yahweh.”⁴³ The Israelite “classical prophets,” like their forebears the “former prophets,” appear to be “possessed,” in the sense that “the genuine prophet seems, in fact, very reluctant to become a prophet at all, and discharges the function only under protest and through a divine inward compulsion.”⁴⁴ J. Lindblom can speak of the “classical” prophets of Israel in much the same way that Philo, following Plato, describes the general phenomenon of prophecy:

The true prophets are conscious of being mouthpieces of Yahweh and nothing else. They are nothing but channels for the stream of revelation. What they have to bring forth is not their own words (they would be worthless) but only the precious divine word which has been put in their mouth.⁴⁵

In the Hebrew Scriptures, the *locus classicus* for the concept of prophetic inspiration is found in Dt. 18:15-22. Within the structure of Deuteronomy, of course, this material is placed on the lips of Moses, but the views expressed represent the conception of inspiration associated with the general prophetic movement

⁴⁰For extended discussion of the various ways in which the prophets expressed their vocation as spokesmen for Yahweh, see J. Lindblom, *Prophecy in Ancient Israel* (Oxford: Basil Blackwell, 1962), especially 108-112.

⁴¹C. Westermann, *Basic Forms of Prophetic Speech*, trans. by H. C. White (Philadelphia: Westminster Press, 1967), especially 98-115.

⁴²H. W. Robinson, *Inspiration and Revelation in the Old Testament* (London: Oxford University Press, 1946), 167-169, Lindblom, 112-113.

⁴³*Ibid.*, 113.

⁴⁴Robinson, 165.

⁴⁵Lindblom, 114. However, Lindblom’s appreciation for Israelite prophecy is influenced by his studies of ecstatic phenomena in Scandinavia and elsewhere, and his assertion that the biblical prophets speak “not their own words” is extreme.

which issued in the Deuteronomic reform. Here Yahweh promises to “raise up” a prophet like Moses: “and I will put my words in his mouth, and he shall speak to them all that I command him” (18:18). The word of the prophet is given under direct inspiration of the deity. Also, this idea is here linked with the concept of inerrancy: “And if you say in your heart, ‘How may we know the word which Yahweh has not spoken?’—when a prophet speaks in the name of Yahweh, if the word does not come to pass or come true, that is the word which Yahweh has not spoken” (18:21-22). Thus, by implication, the prophetic word which is genuinely inspired by God is held to be accurate and infallible.

Moreover, this concept of prophetic inspiration is associated not with the prophets alone as a group within the Israelite religious community, but is ascribed in several passages to the entire faithful nation of Israel. In the Pentateuch, in connection with the ecstatic activity of Eldad and Medad, Moses declares, “Would that all Yahweh’s people were prophets, that Yahweh would put his spirit upon them” (Num. 11:29). In the Trito-Isaianic literature, Yahweh’s prophetic gift is seen to rest upon all the community of Israel, as in Isa. 59:21: “My spirit which is upon you, and my words which I have put in your mouth, shall not depart out of your mouth.” In the eschatological vision of Joel, Yahweh declares that “it shall come to pass afterward, that I will pour out my spirit on all flesh; your sons and your daughters shall prophesy” (Joel 2:28).

In the Writings, expressions of this sort occur with extreme rarity. The remark of G. T. Ladd is still appropriate, that as to their contents the Writings “are devoid of an express claim to a derivation from Jehovah, in the same sense in which the Mosaic Torah and the prophetic oracles are said to come from him.”⁴⁶ This in part is why the scriptural status of certain books of the Hagiographa remained a matter of debate until the Christian era. Of course, the link between the prophetic movement and much of the Psalter is clear. The traditional ascription of many of the Psalms to David or to Moses indicates that the Psalter was in general regarded as “inspired” in the later stages of its collection. Utterances of the deity do appear in the Psalms, though seldom with any of the formulae by which oracles are so often introduced in the prophetic books; such passages include Pss. 12:5, 46:10, 50:5-23, 75:2-5, 81:6-16, and 95:7c-11 (EVV).⁴⁷ In other Psalms, the psalmist speaks of the process by which he receives the divine word; in Ps. 85:8 (EVV) he says, “Let me hear what God Yahweh will speak.”⁴⁸ Thus, in the Hebrew canon the Psalter occupies an intermediate position between the prophetic corpus, with its direct claims of inspiration, and the main body of the Writings, in which the claim of divine inspiration is seldom overt.⁴⁹

At this juncture, however, we arrive at the most serious objection to the theory that the canonicity of the Hebrew Scriptures originated in the conception of the inspired word. For in actuality the limits of the canon are not co-extensive with the body of “inspired” literature produced in ancient Israel. G. Östborn has stated the matter thus:

It must be taken for granted that in Israel there was a good deal of inspired tradition which was not adopted in the Canon. This speaks in favor of the idea that inspiration was not the fundamental motive of canonization. This is also supported by the fact that a considerable part of the Canon is not characterized by what we generally mean by inspired tradition.⁵⁰

⁴⁶G. T. Ladd, *The Doctrine of Sacred Scripture*, i (New York: Charles Scribner’s Sons, 1883), 147.

⁴⁷Divine decrees to the kings of Israel or Judah are cited in Pss. 89:19-37 (EVV), 110:1, and 132:11b-12.

⁴⁸Other such passages are Pss. 49:4 and 62:11 (EVV). Significantly, these Psalms and those in which the deity himself speaks are almost all ascribed to David (12, 62), the sons of Korah (46, 49, 85) or Asaph (50, 75, 81, 82). Thus they are linked with the institution of the levitical singers; in Chronicles, representatives of this institution are called “seers” (חֲזִיקָה, 1 Chr. 25:5; 2 Chr. 29:30, 35:15), and their musical activity is called “prophesying” (the root נָבֵא is employed) in 1 Chr. 25:1-3.

⁴⁹For more extended discussion of the prophetic word in the Psalms, see Mowinckel, *The Psalms in Israel’s Worship*, ii, 53-73.

⁵⁰Östborn, 19.

In this last assertion, Östborn has in mind principally the Law, which as to its contents is authoritative, but as to its form (except for the outer framework of a Mosaic address) is not prophetic speech. But Östborn's objection applies also to the Writings in general, and here it is indeed ironic that those portions of the Writings which make the greatest overt claim to divine inspiration are not those held in greatest esteem. The major example of this would be the speech of Elihu in Job; perhaps it was necessary for the author of this material to take the greatest pains to lay claim to divine inspiration (Job 32-33) because he knew his work was in conflict with the main teaching of a recognized "canonical" book.⁵¹ Another sapiential work which did not even find its way into the Hebrew canon also appears to claim prophetic inspiration; in Eccles. 24:33, the author declares, "I will again pour out teaching like prophecy, and leave it to all future generations."

The theory of the canon which regards the Hebrew Scriptures as deriving their canonicity from the inspired word of the prophet, and from there alone, is therefore seen to be deficient. It is true that in ancient Judaism and the early church the Holy Scriptures, as a body, were regarded as inspired. The idea of the inspiration of Scripture has been seen to have several facets. First, Scripture is conceived to be the utterance of the deity, through inspired men. Second, the concept of inspiration may apply either to the mode by which the divine message comes (frequently some form of ecstasy) or to the content of that message (its edificatory effect). Third, the outstanding characteristic of inspired Scripture is generally perceived to be its reliability or inerrancy. There is much to support the view of the origin of canonicity in the inspired word, especially for the period around the beginning of the Christian era, when the Jewish Scriptures were assuming their present shape. However, by that time the authority or "canonicity" of most of the Scriptures was well established, so that the theory of inspiration is really an explanation after the fact. Östborn's judgment is probably correct when he says that "the view that the Canonical writings . . . are inspired is a result of their canonicity, not the cause of it."⁵² On the other hand, the theory of inspiration is in some respects a "cover" by which certain books which did not clearly display the hallmarks of canonicity, from the Israelite point of view, could nevertheless be received as authoritative in Judaism. From the standpoint of this investigation, the concept of the inspired word is not alone sufficient to explain the rise in ancient Israel of a body of religious literature considered as canonical.

⁵¹But see N. H. Snaith, *The Book of Job: Its Origin and Purpose*, SBTh, 2d Series, No. 11 (London: SCM Press, 1968), 72-85, for the argument that the Elihu speeches are a later insertion by the original author of Job.

⁵²*Ibid.*

CHAPTER 7

The Canon as History

Several scholars have taken up the representation of the Old Testament canon primarily as a history of the people of God. In this sense the canon is not merely the record of events in the past life of Israel, but above all the explanation for the present situation of the worshiping community and the clue to its future existence. The theory of the canon as history is, therefore, tied in with the function of the canon as the expression of the community's identity or self-understanding. For Israel, history is viewed as the record of Yahweh's dealings with Israel, since it is in this relationship with Yahweh that Israel is constituted a people. The canonicity of the Old Testament literature would then be seen as originating in the ability of the literature to express the history of Yahweh's activity in relation to his people.

A. Jepsen, in asking, "What do the Holy Scriptures represent?" points out that much of the Old Testament constitutes sagas and legends as well as historical accounts, but that amongst the biblical narratives one does not find "myths or fairy tales." Thus the "historical character of this collection of writings" is clearly evident. For Jepsen, the "special quality of the Old Testament writings" is that "they intend to relate what happened, and that not only between men, but between God and man, in the course of human history, especially the history of Israel."¹

Jepsen goes on to point out that all forms of Israelite literature—law, proverb, song, prophetic oracle, etc.—have been "given an entirely new stamp by a quite definite experience of God," and that they "have also to a large degree been set within the divine history and in part receive their meaning from it."² This amounts to the assertion that the concept of history, or "sacred history," is determinative for the concept of Holy Scripture. Jepsen states that

the Old Testament itself first of all narrates a history, and that under a double aspect. On the one hand, this history is intended to be viewed as something that really happened; whether and to what degree this judgment is correct, is subject to critical examination of the "History of Israel." On the other hand, however, these same concrete happenings are represented as God's dealings. . . . God has acted and spoken in this real history: That is the decisive statement. And the community ever and again made new attempts to testify to this true reality of history.³

In other words, the aim of the Old Testament writings is to provide what might be termed a normative history. Jepsen declares that "the Old Testament does not purpose just to report this history, but along with this something else, namely, to show how this history is to be understood."⁴

R. E. Clements links the concept of normative history specifically to the work of the prophets. He considers that the prophets were "first and foremost interpreters of history," especially of those events connected with the loss of national independence for Israel and Judah, and that it was through the work of the prophets that the post-exilic community was "able to find meaning in its experience and hope for the future."⁵ In one sense, therefore, prophecy itself may be said to have become authoritative within the Israelite-Judean community under the rubric of history. This is further suggested by the superscriptions to many of the prophetic books, which attempt to place them into a historical framework by relating them to the reigns of the various kings of Israel and Judah. Some prophetic books which lack this dated superscription (Ezekiel, Haggai) contain internal datings of the separate oracles.

¹Jepsen, "The Scientific Study of the Old Testament," 272-273

²*Ibid.*, 273.

³*Ibid.*, 279.

⁴*Ibid.*, 277.

⁵Clements, 26.

The same might be said for the legal, as well as the prophetic, material of the Old Testament. Noth has pointed out that laws actually take up only about half of the Pentateuch, and that they appear there as insertions in a long historical narrative. “The arrangement of the Pentateuch thus makes law appear as a subsidiary element, while it is the narrative strand that determines the structure of the work.”⁶ The historical narrative may therefore be called the dominant form of biblical literature, forming a framework for the other forms.

Discussing Israel’s “historical traditions”—the Hexateuchal sources, the Deuteronomist work, and the Chronicler—G. von Rad refers to the primacy of history as a principle in the formation of the Old Testament. He states:

Hebrew thinking is thinking in historical traditions; that is, its main concern is with the proper combination of traditions and their theological interpretation, and in the process historical grouping always takes precedence over intellectual and theological grouping.⁷

Much of von Rad’s form-critical work has been devoted to the exposition of what he calls the “canonical pattern of the saving history,”⁸ the narrative of the deliverance from Egypt and the entry into the promised land. Several passages in the Hexateuch evince this pattern, notably Dt. 26:5-9, Dt. 6:20-24, Josh. 24:2-13, and the “Song of Moses,” Ex. 15:1-18. In addition, this pattern occurs somewhat more freely and elaborately in the Psalter (Pss. 78, 105, 135, 136 and others). This pattern, of course, is actually the basic framework of the Hexateuch itself, except for the omission of the Sinai covenant and its legislation. Von Rad calls this basic and recurring narrative a “history of redemption” or “historical creed,” which in the fixity of its elements has something of the nature of a rudimentary “canon.” He states that

the Hexateuch itself may, and indeed must, be understood as representative of a type of literature of which we may expect to be able to recognise the early stages, the circumstances of composition, and the subsequent development until it reached the greatly extended form in which it now lies before us. . . . The constant element is that of the historical creed as such. It occurs from the earliest times onwards, and in its basic constituents is not subject to change.⁹

Thus even the freer forms of the “historical creed,” as found in the Psalms, “take their stand on that old canonical picture of the saving history, the pattern of which was fixed long ago for all time.”¹⁰ The beginning of the Old Testament canon, then, is to be traced to the narrative of the exodus from Egypt, which “actually became Israel’s earliest confession, around which the whole Hexateuchal history was in the end arranged.”¹¹ A. Bentzen follows von Rad in this view,¹² as does G. Östborn; the latter states that the “Mosaic story proper,” the narrative of Yahweh’s activity in delivering Israel from Egypt, is “the actual beginning of the Yahwistic or OT Canon.”¹³

These scholars have not offered any developed treatment of the Old Testament canon understood primarily as a history, and have only touched upon this theory of the canon in passing. A more systematic representation of the Old Testament canon as history has been undertaken by D. N. Freedman. Freedman puts

⁶Noth, 5.

⁷Rad, *Old Testament Theology*, i, 116.

⁸*Ibid.*, 113.

⁹Rad, “Problem of the Hexateuch,” 2-3.

¹⁰Rad, *Old Testament Theology*, i, *loc. cit.*

¹¹*Ibid.*, 13.

¹²Bentzen, i, 24.

¹³Östborn, 79.

forth the view that the Law and the Former Prophets comprise a literary unit which was promulgated in the sixth century BCE. as the official canon of the Jewish community.¹⁴ Freedman calls this unit the “Primary History.” Subsequent to the publication of this Primary History, the Latter Prophets appeared as a historical supplement:

In short, these works constituted the authorized history of the people of God, along with relevant prophetic commentary, interpretation and proclamation. The special status of the Torah was doubtless recognized from the beginning, but it was only later that the five books of Moses were set apart from the larger literary entity, resulting in the tripartite division we now have: Torah, Former and Latter Prophets.¹⁵

Freedman implies that this Primary History ending with 2 Kings had achieved a fixed or canonical status in the period of the exile. His evidence for this is the fact that the Primary History closes “inconclusively and anticlimactically” with “the pathetic notice of the king-in-exile,” Jehoiachin (2 Kgs. 25:27-30).¹⁶ In view of the importance of subsequent events, the end of the exile and the restoration of the Jewish community in Palestine, one would have expected them to be added to the Primary History. The fact that this did not happen is for Freedman the evidence that the Primary History achieved “canonical” status during the exile, and could not be drastically changed:

Most important is the fact that the Primary History escaped revision, even the slightest addition which would have brought the history to a more satisfying conclusion. It would appear that the Primary History was no longer subject to this sort of literary modification because it was already the official record of Israel’s experience.¹⁷

What occurred instead, Freedman points out, was that the historical narrative was continued in the work of the Chronicler who, after overhauling the pre-exilic history of Judah, goes on to narrate the return from exile and the reestablishment of the Judean community in Palestine. Whatever his intentions in this matter, the Chronicler’s account did not displace the Primary History, nor were the two amalgamated into a single literary work; rather, the account of the Chronicler was ultimately accepted as a supplementary history and incorporated into the Writings.¹⁸

However, for Freedman it is really the Latter Prophets which fill this supplementary role; he maintains “that the prophetic collection was organized as a supplement to the Primary History, and that the chronological and editorial links are deliberate.”¹⁹ Evidence for this view is found in the fact that the “literary prophets” are largely ignored in the Primary History (only Isaiah and Jonah being mentioned), although much space is given to earlier prophets (such as Samuel, Nathan, Elijah and Elisha) for whom extensive literary remains did not exist. In the main, this prophetic collection “reflects the situation after the destruction of

¹⁴Freedman, 251; *supra*, 34. Freedman does not accept the “scholarly commonplace” that the P source is to be dated in the late post-exilic period: “What is required is to demonstrate that post-exilic institutions and practices are antecedent to and reflected in P, and not influenced by or adapted from the material in It is not enough to show similarities, or even connections; it is necessary to demonstrate priority and the flow of influence; in short, that P was produced by the post-exilic community,” 256.

¹⁵*Ibid.*, 251-252.

¹⁶*Ibid.*, 257. Freedman considers that the notice concerning Jehoiachin’s release may have been “the postscript to an already completed work,” since it is omitted in the Chronicler’s parallel account. Moreover, “the stereotyped references to the exile in the Primary History do not reflect actual conditions and experiences,” leading to the conclusion that “the compiler of this history finished his work in the early stages of the exile,” 258.

¹⁷*Ibid.*, 259.

¹⁸*Ibid.*, 263-164.

¹⁹*Ibid.*, 259.

Jerusalem, but before the return.”²⁰ Unlike the Primary History, however, the Latter Prophets have been supplemented by material referring directly to the events of the return from exile and rebuilding of the temple; this material is to be found at the end of Isaiah, and at the end of the collection of Minor Prophets (Haggai, Zechariah).²¹

To summarize, Freedman regards the Law and the Prophets as having been put forward as the “authorized history” of the exilic Jewish community, intended to explain the national disaster by means of a narrative of Israel’s experience and a record of the prophetic witness. This history received some supplementation to adapt it to the new situation of the post-exilic period, but the minimal amount of such supplementation (especially in the Primary History) indicates that this history was regarded as an established and authoritative body of literature virtually from the time of its promulgation in the Israelite-Jewish community. Therefore it may be termed a “canon” of Law and Prophets.

It may be said that Freedman’s theory, useful as far as it goes, does not really strike at the root of the question of the origin of canonicity. The promulgation and literary stabilization of the Primary History and its prophetic supplement may indeed have occurred as early as the time of the exile, but these concepts have been seen to be somewhat less than essential for the idea of canonicity.²² Most of the literature dealt with in Freedman’s argument was already in existence at the beginning of the exile, in one form or another, and much of it had been developing for many centuries as an authoritative Israelite tradition. Von Rad’s exposition of the “historical creed” had already thrown the issue of the canon as history back into a much earlier stage in the development of Israelite literature, relating it not only to the compilation and official promulgation of a body of Holy Scripture but to its initial formation within the Israelite community. If the origin of canonicity is to be seen in the ability of the Old Testament materials to provide the authorized history of Israel, then it is necessary to develop the theory of the canon as a history not just from the time of the exile, but from the very beginnings of Old Testament literature.

This task has been undertaken in a monograph by H. H. Guthrie, to which we have already referred.²³ Guthrie speaks of the origin of the Hebrew canon of Law and Prophets as the “aetiology” of the Israelite tribal confederation. Underlying the documentary sources of the Hexateuch was a tradition which may be termed a people’s “myth” which accounted for the present situation of the Israelite tribes. However, unlike the myths of other ancient peoples, Israel’s “myth” was located on the plane of earthly history:

The unique thing about this Israelite “myth” was its location of the drama by which present human existence was accounted for on the stage of human history. For most ancient Israel present human existence was not accounted for by reference to a drama that had occurred, or was occurring, in some heavenly realm of the gods. Present existence was accounted for by reference to a drama that had taken place on this earthy on the border of Egypt and in the wilderness south and east of Palestine proper. . . . The unique thing about Israel from the beginning was not that she invented history or was the very first to record it, but that history was for her the “myth” accounting for things as they were.²⁴

²⁰*Ibid.*, 261.

²¹*Ibid.* Freedman does not mention that this supplementary material indeed occurs at the end of the collection of the Minor Prophets, as further evidence of its supplementary nature. As for the supplementary material in Isaiah, not only does it appear at the end of the Isaianic collection, but more importantly in this connection, it may have been originally at the end of the Major Prophets, since according to the list in the Talmud, *Baba Bathra* 14b, Isaiah is the third and last book of the Major Prophets, *infra*, 90.

²²*Supra*, ch. 4.

²³*Supra*, 34-35.

²⁴Guthrie, 3.

The original “canon” of Israel, the tradition of the ancient tribal league, thus took the form of a history, or aetiology, of the present situation, the narrative of the exodus from Egypt and the entrance into Canaan. In this respect, Guthrie builds upon von Rad’s conception of the “historical creed” of Israel.

Guthrie develops this view by showing how successive “canons” or aetiologies were produced in ancient Israel to meet the requirements of the new situations in which the community found itself. The first of these updated “canons” was that of the Jahwist; Guthrie asserts,

the point is that the first stratum of Israel’s sacred written canon, the Yahwist epic, is in fact the aetiology of a given present. As did the tradition of the old tribal league, it accounted for things as they were in an actual historical era in making the history leading to that era itself the “myth” that ultimately explained things. The story on God, to use an idiomatic phrase, was the story on how things had reached the point they had. The “canon” was an open-ended narrative in which present generations were continuing participants as order held chaos in check through the Davidic hegemony emanating from Jerusalem. Ancient divine promise was continually being fulfilled. This was “canon” in the same sense that Virgil’s *Aeneid* was the aetiology of Augustan Rome, not in the sense in which the Bible was an authoritative source of proof texts for ancient fathers or is for modern Protestants.²⁵

According to Guthrie, an alternate aetiology for the northern kingdom after the prophetic revolution was provided by the Elohist. Whereas the Jahwist had seen Israel’s history reaching fulfillment in the Davidic monarchy, the Elohist

saw Israel’s history as a movement begun in Yahweh’s word to Abraham, normatively defined in the covenant words of Yahweh to Moses, and climaxed in the word of Yahweh to Elijah that had brought Israel back to Yahweh under the dynasty of Jehu after long centuries of monarchical apostasy and compromise. Reactionary though it was in a very real sense, the Elohist “canon” was still the aetiology of what the northern reformer’s took their actual historical situation to be as a result of the prophetic revolution.²⁶

In the same manner, the men of the Deuteronomistic movement—a “strange amalgam of Elohist and Yahwist theology”—produced a new “canon” consisting of the redacted Jahwistic and Elohist materials in Genesis through Numbers, their own compilation of covenant law in Deuteronomy, and the narrative of the Former Prophets up to the time of Josiah. This “JED” document provided the aetiology for the period of the Deuteronomistic reform, and like its predecessors was “the theological interpretation of a present to which a past has led.” Thus the Jahwist, Elohist and Deuteronomistic “canons” were alike in that “they claimed the present as part of the sacred, canonical history of God’s people.”²⁷

Again, in the exile, the “canon” was updated under the influence of the prophetic movement, which had made it possible for Israel to interpret the national disaster as “part of Yahweh’s continuing purpose for Israel and the world.”²⁸ According to Guthrie, this was accomplished in several stages. First, the prophecy-fulfillment theme was heightened; for example, Isaiah was said to have predicted the Babylonian destruction of Jerusalem (2 Kgs. 20:12-19; Isa. 39). Also, the narrative was extended through the events of destruction and exile to the notice of Jehoiachin’s release (2 Kgs. 25:27-30). In this way, “the aetiology of an Israel living in exile, in a void between ages as it were, ends with a successor to David in the wings.”²⁹ Second, the Priestly Code was combined with JED to form “the aetiology of a now defunct Israel” hoping for restoration of its cultic institutions. Third, the Major and Minor Prophets

²⁵*Ibid.*, 5.

²⁶*Ibid.*

²⁷*Ibid.*, 6.

²⁸*Ibid.*

²⁹*Ibid.*, 8.

were appended to the canon as a means of expressing the conviction “that Israel’s fall did not involve the end of Yahweh’s sovereign activity in human history.”³⁰

Hence, according to Guthrie, the Old Testament canon originated in pre-exilic Israel and during the exile, through a process of the formation of successive aetiologies. The canon thus is to be understood primarily as a history or an aetiology, the narrative of those events leading up to the present situation and explaining it.

In the post-exilic period, however, this process came to an end. The canon of Law and Prophets could not alone remain a satisfactory Scripture, since it was the aetiology of an Israel which no longer existed as a socio-political entity. “It provided the explanation of, and implied hope for, a *meaningless* present. It was not the aetiology of a *meaningful* present.”³¹ Nor could the work of the Chronicler provide a satisfactory updating of the canon; for even though he sought to claim for Nehemiah’s and Ezra’s achievements a status corresponding to God’s present activity, his attempt was perceived as “unrealistically ecclesiastical”; it was obvious that the historical power structure of the Persian era was elsewhere than in the restoration of Israelite-Jewish cultic institutions. To the Jew of the post-exilic period, the old “sacred history” was losing relevance as it receded further into the past; more and more, he found himself “essentially an individual adrift in the cosmos.”³² In this new situation, Guthrie believes, the wisdom traditions of Israel came forward as a framework for individual life:

As the Israelite became increasingly aware of his dislocation from a history providing the primary clue to Yahweh’s sovereignty, he saw that sovereignty in terms of the wisdom through which his individual existence in the cosmos found meaning beyond and in spite of the brokenness of Israel’s communal historicity. It was against such a background that the Israelite came to a new statement of the meaning of that book, the canon, that his broken history had left in his hand. The Law and the Prophets came to be read as wisdom literature was read, as wise men read the double genre of tale and instruction, as the literature of wisdom par excellence, as the truth about the nature of things. Wisdom had come to be a synonym of torah. . . . So it was that the Law and the Prophets as a whole became the tale preceding the predominantly didactic materials included in the final section of the Hebrew canon, the Writings.³³

Guthrie, then, is able to account for the canonicity of Law and Prophets in the period up to the exile under the theory of the canon as history or aetiology. However, the third division of the canon cannot be accounted for under the rubric of history, in Guthrie’s view, but itself becomes the clue to a shift in the meaning of canonicity which occurred in the early post-exilic period. Guthrie’s exposition of the canon as originating in successive aetiology ends with something of a theory of the canon as “wisdom.”

This, however, does not query the theory that the Old Testament canon originated as a history. In the form of a history or aetiology, the Holy Scriptures are indeed a body of literature authoritative for the faith and life of a religious community, for they express in a normative manner the community’s historic identity. Viewed from this aspect, the Old Testament writings may be said to draw their canonicity from their ability to set forth the history of the people of God as the explanation of how things came to be as they are. Insofar as the tripartite division of the Hebrew canon reflects a process of historical development (which it does to a certain degree at any rate), the position of the wisdom literature in the third division shows that it, too, was viewed as part of Israel’s history or aetiology.

In conclusion, the theory that the Old Testament canon arose as a history has the merit of being comprehensive. It is easier to show that much of the Old Testament literature can be accommodated under the rubric of history or aetiology than, for example, under the designations “prophecy” or “law.” However,

³⁰*Ibid.*, 9.

³¹*Ibid.*

³²*Ibid.*

³³*Ibid.*, 27.

when the canon is viewed primarily as a history it is not entirely clear wherein the distinctiveness of the Old Testament traditions is to be found. Other ancient peoples also had “histories,” or at least literary heritages, which served to a certain degree as national aetiologies; but we would not call these literatures “canonical.” It has been said that Israel did not invent history, but instead it looked to earthly history, rather than mythology, as the explanation for the present situation. This observation, however, places the emphasis not on the concept of history itself, but upon the distinctive contents of that history, those saving events through which Israel has passed and which have given it its particular stamp and identity. But above all, this observation calls attention to the setting in which such a history comes to be regarded as a normative expression of Israel’s relation to its God. To this matter we shall return.³⁴

³⁴*Infra*, ch. 10.

CHAPTER 8

The Canon as Law

1. The Canon as Law in the History of the Canon

In the history of the study of the Old Testament canon, the view that canonicity originated in the concept of law or Torah may be called the “traditional” theory of the canon. The original meaning of the term תורה is not clear. G. Östborn associates it principally with the idea of “pointing the way,” and demonstrates that the further meanings of the term resolve themselves into three: “directive,” “instruction,” and “law.” Of course, the meaning “law” came to predominate, because of the association of תורה with the will or “way” of Yahweh.¹ Eissfeldt considers the original meaning of תורה to be “the imparting to the laity of oral information concerning cultic and ethical matters.”² In the literature of the pre-Deuteronomiac period, the term generally applies to the individual ethical or cultic pronouncement or judicial decision,³ and only rarely to the “law” as a more developed entity (but see, for example, Hos. 4:6, 8:12; Dt. 27:26, which is probably pre-Deuteronomiac). Some of the most important “laws” of the Pentateuch, such as the “ethical Decalogue” (Ex. 20:2-17), the Book of the Covenant (Ex. 20:22-23:33), and the “ritual decalogue” of Ex. 34, are not called תורה but rather דברים, “words,” because of their prominent place in the cult where they were proclaimed as divine words.⁴ Other juridical terms are also employed, of varying nuance (חוק, משפט, מצוה).⁵ With Deuteronomy, however, the term תורה comes to designate a developed body of authoritative instruction, as in Dt. 4:44: “This is the law which Moses set before the children of Israel.”⁶ In the postexilic literature, references to the “law” in such passages as Ezra 10:3; Neh. 8:3, 8; 2 Chr. 30:16 are generally understood to be “allusions to the legal parts only” of the Pentateuch, not to the entire complex.⁷ Only later (Dan. 9:11, 13; prologue to Ecclesiasticus; the New Testament) does the term “law” apparently come to designate the Pentateuch as a whole, the “law of Moses,” the first division of the canon.⁸

The evident priority of the Pentateuch within the Jewish Scriptures has always been noted in discussions of the history of the formation of the canon, and is the major factor in the widespread acceptance of the theory of canonicity as originating in the concept of law. In the first place, the Pentateuch was regarded as the first division of the Scriptures to be established as canonical, according to the three-stage theory of the formation of the canon. Thus, for example, H. E. Ryle stated that the evidence leads to the conclusion that the “first Canon of Scripture consisted of the Pentateuch, and of the Pentateuch only.”⁹ For H. W. Robinson, the beginning of the Old Testament canon is found in “the process of formation of the Canon of the Law,

¹Östborn, *Torā in the Old Testament* (Lund: Håkan Ohlssons Boktryckeri, 1945), especially 33-36.

²Eissfeldt, 73.

³Instances of the use of the term תורה in literature from the period of the monarchy are listed by Hölscher, 8n.

⁴Eissfeldt, 71.

⁵Bentzen, i, 214-215; Östborn, *Torā in the Old Testament*, 35.

⁶Hölscher, *loc. cit.*, lists all the references; see also 2 Kgs. 14:16.

⁷Bentzen, ii, 9-10; Hölscher, 9n. lists numerous passages which, in his opinion, refer to a written law, following the usage of Deuteronomy.

⁸See the discussion in Zimmerli, 11-12.

⁹Ryle, 89.

until the full Torah or Pentateuch is reached.”¹⁰ Recently H. Ringgren has asserted that “the codification of the law gave rise to the idea of canonical Holy Scriptures.”¹¹ These are representative statements.

One item of evidence frequently cited in this connection by historians of the canon is the fact that the Samaritan canon, adopted from the main body of Judaism in the fourth century BCE,¹² includes only the Pentateuch. K. Budde observed that “if alongside the Law there had been other *sacred* writings, it would be inexplicable why these last also did not pass into currency with the Samaritans.”¹³ E. König remarked that even if the prophetic writings were known to the Samaritans, they were not acknowledged as normative because “the formulations of the divine covenant, proceeding from the lawgiver, were regarded as the essential thing.”¹⁴ Eissfeldt also cites the translation of the Pentateuch into Greek, the “Septuagint” of the Alexandrian Jews, as evidence for a canon of the Torah alone in the third century BCE.¹⁵

The Law, or a part thereof, is frequently viewed as “the first canon”¹⁶ in virtue of the fact that it was publicly accepted as such by the religious community. C. Steuernagel expressed the matter thus:

The canon did not arise on the basis of a ready-made idea of the canon, but this idea first developed in the process of the formation of the canon. At that time, since at first only the Torah was considered canonical, the idea of the canon was apparently an essentially religious-juridical one. It was not only the fact that the Torah proceeded from God which procured for it its unique esteem and normative authority; for surely no one had the least doubt that the words of the prophets were also based on divine inspiration, yet nevertheless they were not considered canonical. What gave the Torah an advantage over the prophets was the fact that an express obligation [*ausdrückliche Verpflichtung*] had taken place, whether it be one of which we have knowledge (2 Kgs. 23ff., Neh. 8–10), or one which we can only presuppose.¹⁷

As to the occasion when such an “express obligation” or commitment to a canonical Law took place, historians of the canon, with Steuernagel, point to the Deuteronomic Reform under Josiah in 621 BCE. and to the assembly of Ezra (Neh. 8–10), both of which involved a public proclamation and acceptance of a portion of the Pentateuch.¹⁸ Thus König stated that “the Lawbook was elevated above the prophetic writings, in that it was recognized as the sole book of the conditions of the covenant in the covenant renewals under Josiah and under Ezra-Nehemiah.”¹⁹ Critics, however, have generally been unable to decide which of these two events marks the real beginning of the canon; often we find a statement of the priority of Ezra’s assembly qualified by a reference to Josiah’s reform.

K. Budde, for example, described the beginning of the Old Testament canon as follows:

From the twenty-fourth day of the seventh month of the year 444 B.C. onwards, Israel possessed a canon of Sacred Scripture. It was on this day that the great popular assembly described in Neh. 9f. solemnly pledged itself to “the

¹⁰Robinson, *The Old Testament*, 188.

¹¹H. Ringgren, *Israelite Religion*, trans. by D. E. Green (Philadelphia: Fortress Press, 1966), 303.

¹²Eissfeldt gives the date as “probably about 300 B.C.,” 565.

¹³Budde, “Canon,” col. 659.

¹⁴König, *Kanon und Apokryphen*, 16; translated by the present writer. Others citing the Samaritan Pentateuch as evidence for a canon consisting of the Torah alone include Buhl, 9; Ryle, 91-93; Wildeboer, 106.

¹⁵Eissfeldt, *loc. cit.*

¹⁶Budde, “Canon,” col. 657; Ryle, 89.

¹⁷Steuernagel, 95; translated by the present writer.

¹⁸*Supra*, 38-39.

¹⁹König, *Kanon und Apokryphen*, 36.

Book of the Law of Yahwè their God” . . . In virtue of its resolution the said lawbook at that time became canonical, but only the lawbook.²⁰

But Budde also recognized that a “solemn act of a similar character” had already taken place when the lawbook was discovered in the Temple in connection with the Deuteronomic Reform. Thus the original Deuteronomy may be considered as the “first canonical book”²¹

Likewise, G. Wildeboer stated that the accounts of Neh. 8–10 “admit of no other construction than that at that time canonical authority was secured to the Law, i.e. the Pentateuch.”²² Yet he had already indicated that “from the year 621 on Deuteronomy is in a sense the sacred scripture of Israel” and that “the promulgation of Deuteronomy is . . . the beginning of the canonization of Israel’s sacred scripture.”²³ In the same manner Ryle, discussing Ezra’s work, stated that the first Hebrew canon consisted of the Pentateuch alone;²⁴ whereas in connection with the Deuteronomic Reform he had already asserted that the Book of the Law found in the temple “stands in the position of Canonical Scripture” with an authority “undisputed and indisputable.”²⁵

More recently, A. Bentzen has referred to the events under Ezra and Nehemiah in connection with the rise of the canon of “the Law of Moses.” Bentzen believes that “even if ‘the Law’ at that time was not the complete Pentateuch, not much can have been lacking.” The significance of the idea of “the Law of Moses,” Bentzen says, “was at all events that it represented an obligation for the congregation.” But Bentzen finds a similar idea operative already in the Deuteronomic Reform: “Here we no doubt find the idea of a normative Lawbook.”²⁶

Historians of the Old Testament canon who accept the theory of canonicity as originating in law thus attach special significance to the public assembly under Ezra or to the reform under Josiah as occasions when the religious community undertook an express obligation to a portion, at least, of the Pentateuch. Eissfeldt states that “the formation of the canon began . . . from the law, and here the most important moments are the introduction of D in the year 621 and of the Pentateuch enlarged by the incorporation of P in the year 398.”²⁷

The general acceptance of Deuteronomy as the starting point in the history of the development of the canon was the result of the widespread adherence to the Wellhausen theory amongst historians of the canon. J. Wellhausen had insisted that the Torah, as an authoritative entity, could not have been known in Israel during the period of the prophets.²⁸ Of Jeremiah, for example, Wellhausen stated that “the voice of the prophets, always sounding when there is a need for it, occupies the place which, according to the prevailing view, should have been filled by the law: this living command of Jehovah is all he knows of, not any

²⁰Budde, “Canon,” col. 658. Budde was aware of alternative datings for this event as late as 397 BCE., but these do not affect the main point of his statement, col. 653n.

²¹*Ibid.*, col. 658.

²²Wildeboer, 28.

²³*Ibid.*, 25.

²⁴*Supra*, 70.

²⁵Ryle, 48.

²⁶Bentzen, i, 23.

²⁷Eissfeldt, *loc. cit.* Regarding the introduction of a canonical written law under Ezra, see also Buhl, 8; Smith, 171; A. Weiser, *The Old Testament: Its Formation and Development* (New York: Association Press, 1961), 335-336. On Deuteronomy as the first written canon, see also Hebert, 133-141; Jacob, 73-75. Pfeiffer also called Deuteronomy “the first book to be canonized as sacred scripture,” but regarded it as originating in the inspired word of the prophet rather than in the concept of priestly law, *Introduction*, 52-53; *supra*, 54-55.

²⁸*Supra*, 55-56.

testament given once for all.”²⁹ Since the prophets did not preach the law, the law as a developed entity is later than the prophets. Wellhausen therefore regarded Deuteronomy as the first Torah. In the account of its discovery, 2 Kgs. 22:23, “it is always called simply *the book of the Torah*; it was accordingly the first, and in its time the only book of the kind,” the first book to be set forth with “the idea of making a definite formulated written Torah the law of the land.”³⁰ Historians of the canon followed Wellhausen in this view.

By those who accept the theory of the canon as having originated in law, it is held that the other divisions of the Hebrew Old Testament owe their canonical status to association with the Pentateuch. It has been noted previously that the term “Torah” is applied occasionally in the New Testament and rabbinic writings to portions of Scripture outside the Pentateuch.³¹ According to Budde, “this would have been impossible if the words ‘canon’ and ‘law’ had not originally had the same connotation, other books afterwards attaining to some share in the sanctity of the Law.”³² Budde thus viewed the canonicity of the rest of the Scriptures as a late development resulting from extension of the canonicity of the Torah:

The gulf between the Law and all the remaining books could be bridged only artificially, and we know with certainty that the bridging idea—the idea of a property common to all holy books, that of “defiling the hand”—was an invention of Pharisaic scholasticism. . . . Until this bridge had been securely constructed there was no idea of canonicity that included all three portions equally.³³

This priority of the Torah in ancient Judaism was also described by Wildeboer, as follows:

The real touchstone of canonicity for Old Testament books was the Tora. The Jewish scholars are profuse in proclaiming its praises and its altogether unique significance. It is properly canonical in the highest sense of the word. The rest of the books derive their value solely from it, and are of importance only as an explanation and further elucidation of the Tora.³⁴

Since the Torah is all-sufficient as the source of revelation, “it follows that the authors of the rest of the Holy Scriptures can have added nothing new to the Tora.”³⁵ Wildeboer cited several rabbinic sources to this effect, such as *Midrash Numbers Rabbah* 10:6, where it is said that “there is not a thing recorded in the prophets or in the Hagiographa to which Moses has not alluded in the Torah.”³⁶ Wildeboer concluded that the entire Old Testament can be called “the Law.”

²⁹Wellhausen, 399.

³⁰*Ibid.*, 402; italics original.

³¹*Supra*, 48; Budde, “Canon,” col. 659; Buhl, 9; König, *Kanon und Apokryphen*, 37.

³²Budde, *loc. cit.*

³³*Ibid.*, col. 665.

³⁴Wildeboer, 93.

³⁵*Ibid.*, 97.

³⁶*Midrash Rabbah*, ed. H. Freedman and M. Simon, v, *Numbers*, i, trans. by J. J. Slotki (London: Soncino Press, 1939), 369. A similar statement appears in the Talmud, *Ta’anith* 9a. Note also the discussion in *Midrash Ruth Rabbah* 4:5 (on 2:4): “R. Helbo said in the name of R. Samuel b. Nahman: Eighty-five elders, and among them some thirty prophets were troubled by the verse These are the commandments which the Lord commanded Moses (Lev. xxcii, 34), ‘these,’ indicating that nothing can be added to them and nothing taken from them, nor is any prophet permitted to make a new law. Until the Holy One, blessed be He, enlightened them and they found it imitated in the Pentateuch, the Prophets, and the Hagiographa.” The reference is to Ex. 17:14, Mal. 3:16, and Esth. 10:2, all of which have to do with writing in a “book of remembrance” or chronicle; see *Midrash Rabbah*, viii, *Ruth*, trans. by L. Rabinowitz (London: Soncino Press, 1939), 53-54. The effect of this passage is to uphold the principle that the other parts of the Jewish Scriptures are dependent for their authority on the Torah.

Summarizing the theory that the canonicity of the Old Testament originated in the concept of law, Östborn writes:

Evidently the reason why the Canon is regarded as law is first of all to be found in the fact that the first and most authoritative section of the Canon was designated תורה by the Jews, a term often meaning and also frequently translated by a word for “law,” and furthermore in the fact that this section of the Canon largely contains precepts of the Law. Also the circumstance that the term *κάνων* can mean “law” has perhaps contributed to this notion, and, moreover, the existence of the authoritative and normative trait irrefutably attached to the Canon.³⁷

It is therefore not without foundation that the main stream of biblical scholarship has adhered to this theory of the canon, and that other theories have chiefly been advanced as alternatives to this theory.

2. The Canon as Law in Recent Research

It will be useful to discuss the work of those more recent investigators who, while not offering a theory of the canon as such, have produced studies which tend to illuminate the theory of the canon as law. In contrast to earlier historians of the canon, these investigators have focused on periods of Israelite history prior to the Deuteronomic era. We have mentioned the dependence of the earlier historians upon Wellhausen.³⁸ However, Wellhausen himself did not deny the existence of an *unwritten* body of law prior to Deuteronomy. Indeed, he admitted that “Deuteronomy presupposes earlier attempts of this kind, and borrows its materials largely from them,”³⁹ and that “ancient Israel was certainly not without God-given bases for the ordering of human life; only they were not fixed in writing.”⁴⁰ Once it is established that precise literary fixation is not a prerequisite of canonicity, however,⁴¹ it becomes possible to carry the discussion of the canon as law well back into the period of the Israelite monarchies and even to the tribal confederation. What is necessary is to show that a definite body of Israelite law, whether written or oral, was recognized as authoritative within the religious community. It is not the form of such legislation, but its normative function in the community, which stamps it as canonical. And it is indeed apparent that collections of laws were presented in the Israelite community from the very first, forming the stipulations of the covenant which bound the tribal confederation together; the oldest such collection is generally acknowledged to be the Decalogue and Book of the Covenant, Ex. 20–23.

The classic study of the origins of Israelite law was carried out by A. Alt, and it will be useful to summarize his thesis.⁴² According to Alt, the Pentateuchal legislation appears in two clearly defined forms, which he called “apodictic” and “casuistic.” Apodictic laws appear in a series of terse, unconditional demands, usually prohibitions, in the form “You shall not kill” (Ex. 20:13), “Whoever curses his father or his mother shall be put to death” (Ex. 21:17), or “Cursed be he who removes his neighbor’s landmark” (Dt. 27:17).⁴³ The Decalogue is the outstanding example of an apodictic series.⁴⁴

³⁷Östborn, *Cult and Canon*, 16.

³⁸*Supra*, 72-73.

³⁹Wellhausen, *loc. cit.*

⁴⁰*Ibid.*, 393.

⁴¹*Supra*, ch. 4, especially 41-43.

⁴²A. Alt, “The Origins of Israelite Law,” in *Essays on Old Testament History and Religion*, trans. by R. A. Wilson (Oxford: Basil Blackwell, 1966), 79-132. For a summary and critique of Alt’s essay, see J. J. Stamm and M. E. Andrew, *The Ten Commandments in Recent Research, SBTh*, 2nd Series, No. 2 (London: SCM Press, 1967), 30-39.

⁴³K. Koch notes that “despite the similarity of content to the apodictic commandment, it is a matter here of three different literary types, and which Alt perhaps too quickly assumes to be one,” Koch, 9n. M. E. Andrew, following E. Gerstenberger (*infra*, 78), is of the view that “the participial constructions with their stipulations of the consequences

Casuistic law, however, which takes up half of the Book of the Covenant, proceeds by laying down a conditional clause describing the main case under consideration, followed by the required punishment or remedy; then subordinate clauses appear setting forth various possible ramifications of the case and the alternative judicial procedures to be followed in such instances. Ex. 21:28-32 is illustrative of the form of casuistic law:

When an ox gores a man or a woman to death, the ox shall be stoned, and its flesh shall not be eaten; but the owner of the ox shall be clear. But if the ox has been accustomed to gore in the past, and its owner has been warned but has not kept it in, and it kills a man or a woman, the ox shall be stoned, and its owner also shall be put to death. If a ransom is laid on him, then he shall give for the redemption of his life whatever is laid upon him. If it gores a man's son or daughter, he shall be dealt with according to this same rule. If the ox gores a slave, male or female, the owner shall give to their master thirty shekels of silver, and the ox shall be stoned.

Laws in casuistic form, Alt believed, had their locus "only in the exercise of normal jurisdiction"⁴⁵ in secular society. As such, they are not specifically Israelite:

It is quite obvious that wherever the casuistic law in the Hexateuch is preserved in its original form, it betrays a completely neutral attitude both in outlook and intention to everything that we know to be specifically Israelite.⁴⁶

This secular attitude of the casuistic law, Alt believed, shows that it did not originate in the Israelite community but was borrowed from neighboring cultures. In Israel, Alt declared,

the whole organization of their national life, in its legal as well as its sacral aspect, depended on Yahweh. In so far as it has not been added to, the casuistic law shows not the slightest trace of this relationship neither explicitly, nor if we try to read between the lines; in this point also its attitude is completely neutral. . . . The feeble religious element in the Israelite casuistic law implies therefore that its origins must be sought outside Israel, and its fundamentally secular outlook suggests that where it arose, religion and law were already much more distinct from each other than in Israel.⁴⁷

Alt therefore contended that casuistic law was part of the legal culture of the ancient Near East, and was adopted by the Israelites from Canaanite legal procedures.⁴⁸ The incorporation of casuistic law into the Book of the Covenant shows that this borrowing occurred at an early stage in the formation of Israelite traditions, probably even prior to the appearance of the monarchy.⁴⁹

The distinctively Israelite law, according to Alt, was the apodictic law, which in the Book of the Covenant appears in some places to have been forcibly imposed upon the casuistic law. Apodictic law differs from the "secular" casuistic law not only in form but also in the fact that it is closely related to Israel's sacral institutions, to Israel's relation with the deity, or to sacred areas within the community, especially the family. Thus "the laws in apodictic form deal to an overwhelming degree with matters which the casuistic law never

of the deed do, in fact, seem to be more like casuistic law than like the negative constructions in the second person singular which express no consequence at all," Stamm and Andrew, 67.

⁴⁴Alt, however, considered the Decalogue to be a late development of the apodictic series, *infra*, 76n.

⁴⁵Alt, 91.

⁴⁶*Ibid.*, 93.

⁴⁷*Ibid.*, 96-97.

⁴⁸*Ibid.*, 98.

⁴⁹*Ibid.*, 97-101.

mentions, and with which from its secular nature it could have no concern.”⁵⁰ Here we see what Alt called “the characteristic features of true Israelite law, as opposed to that of Canaan,” in the contrast between a law based on the will of the national deity and a law almost completely divorced from religion.⁵¹

The fact that apodictic law lacks the detailed conditions and exceptions of casuistic law, and hence “is not adapted to the details of every issue,” shows that it “could never have risen in ordinary legal practice.”⁵² This, alongside the fact that such laws occur in series, often of regular metrical pattern, suitable for recitation,⁵³ shows that apodictic law belongs in a recurring liturgical context, which Alt considered to be a festival of the renewal of the covenant between Yahweh and Israel.⁵⁴ The apodictic law is thus the main basis for the entire legal tradition of Israel as a covenant community. This study of Alt laid the groundwork for all recent investigations of the origin of Israelite law. For our purposes, its effects have been to bring out the antiquity of the basic Pentateuchal legislation, and hence to throw the discussion of the origin of canonicity back into the sphere of the Israelite tribal confederation with its developing covenant traditions.

Building upon Alt’s essay, subsequent researchers have modified his conclusions at several points. G. E. Mendenhall believes that the differentiation between a “secular” casuistic law and a “religious” apodictic law cannot be maintained. Although “the Decalogue is a statement of religious obligation,” the function of the “secular” casuistic law in the Book of the Covenant is actually to protect the stipulations of the Decalogue.⁵⁵ Moreover, Israel did not borrow the casuistic law from the normal judicial procedure of the land of Canaan, as Alt believed, since

we have not the slightest hint of the normal use of this sort of legal traditions among the Canaanites. . . . It is hard to conceive of a lawcode which could be more at variance from what we know of Canaanite culture, than the Covenant Code. . . . The laws of the Covenant Code reflect the customs, morality, and religious obligations of the Israelite community (or perhaps some specific Israelite community of the North) before the monarchy.⁵⁶

This is also the opinion of M. Noth, who finds that the community addressed in the Pentateuchal laws is not a political entity like the Israelite-Judean monarchies, which included the Canaanite population, but rather

⁵⁰*Ibid.*, 113.

⁵¹*Ibid.*, 110.

⁵²*Ibid.*, 125.

⁵³Alt lists several such groupings in the Pentateuch: a list of crimes punishable by death (Ex. 21:12, 15-17); a list of crimes laid under a curse (Dt. 27:15-26); “degrees of affinity within which sexual intercourse is forbidden” (Lev. 18:7-17); two fragmentary groupings in the Book of the Covenant; and the Decalogue (Ex. 20:2-17; Dt. 5:6-18), *ibid.*, 111-122. See also Stamm and Andrew, 32-33. It should be noted that Alt considered it likely that the Decalogue represents a late development of the apodictic series, since “it does not show the same regularity of form as the other lists of apodictic clauses,” Alt, 119. According to Alt, this is because the Decalogue attempts to be a comprehensive statement of the concerns of apodictic law. No single formula (such as *יְיָ אֱלֹהֵינוּ יְיָ אֶחָד*, or even the categorical negative *אֵין*) could produce a clear expression of all these concerns. Alt further noted that the Decalogue does not exhibit the metrical regularity of the older examples of apodictic law: “The number of words being different in each clause, it seems hardly likely that the Decalogue was intended to be proclaimed in metrical form. It is closer to prose than to verse,” *ibid.*, 119-120. Alt is in agreement with Noth, who believes that the earliest forms of genuine Israelite law appear in the Book of the Covenant, in which “the religious and moral prohibitions in Exod. xxii, 17ff. have most right to be considered elements of the original divine law in Israel,” M. Noth, *The History of Israel*, trans. by S. Godman (London: Adam & Charles Black, 1958), 103.

⁵⁴Alt, 127. In this conclusion Alt shared essentially the view of S. Mowinckel, *Le Décalogue* (Paris: Librairie Felix Alcan, 1927); *infra*, 93-94. On the covenant festival, see ch. 10, sect. 1, *infra*.

⁵⁵G. E. Mendenhall, “Law and Covenant in Israel and the Ancient Near East” (Pittsburgh: Presbyterian Board of Colportage, 1955), 15.

⁵⁶*Ibid.*, 13-14.

the more basic Israelite institution, the sacral confederacy of the Israelite tribes. “It is this institution,” says Noth, “which fits the situation presupposed by the pre-exilic laws of the Old Testament,” not some later political or religious structure.⁵⁷

If the distinguishing characteristic of the Pentateuchal laws, casuistic as well as apodictic, is that they envisage a community bound in covenant with Yahweh, then it is more correct than Alt believed to affirm the connection of Israelite law in both its forms with Israel’s own religious framework. This is the opinion of G. von Rad; discussing Israel’s Book of the Covenant and other ancient Near Eastern law codes such as the Code of Hammurabi, he says that “in spite of great affinity in form and content, the laws are fundamentally not really comparable.”⁵⁸ This is true because “compared with the more secular and civil law of the Codex Hammurabi, ancient Israelite law was, on the whole, much more closely tied to religion.”⁵⁹ This is clear from the simple observation that Shamash, the deity, does not speak in the text of the Code of Hammurabi, whereas large segments of the Pentateuchal legislation are set forth as the direct address of Yahweh.⁶⁰

If the casuistic law of the Pentateuch is not foreign to Israel, it is conversely true, according to Mendenhall, that the law in apodictic form is not the exclusive property of the Israelites. Mendenhall, followed by K. Baltzer, W. Beyerlin, and others, has compared the form of the Hexateuchal covenants with that of Hittite suzerainty treaties of 1450-1200 BCE., which constitute the best-preserved examples of “what was basically an international covenant-form in the Near East of the second millennium B.C.”⁶¹ In these treaties, a historical prologue setting forth the past benefits bestowed by the king on his vassal is followed by a series of stipulations laying down the obligations of the vassal to the sovereign, and an act validating the agreement.⁶² Although this treaty pattern may be applied in an overall way to the form of Israelite covenants,⁶³ we may note specifically with respect to the question of the canon as law, that the pattern has been applied also to the Decalogue alone. This has been done, for example, by Mendenhall, who states:

The structure of the covenant is again the same: the delivery from Egypt was the first event in the previous relationships between the two parties, and this is the historical prologue which establishes the obligation of Israel to their benefactor. In return, they obligate themselves to obey the stipulations of the Decalogue.⁶⁴

⁵⁷Noth, “The Laws in the Pentateuch,” 33.

⁵⁸Rad, *Old Testament Theology*, i, 31.

⁵⁹*Ibid.*, 32.

⁶⁰A. Bentzen would then be incorrect in relating the Israelite concept of a holy law-book to other ancient Near Eastern codes such as that of Hammurabi. Bentzen proposes to see “the idea that God himself writes his laws or personally has dictated them to Moses” paralleled in the imprecations at the conclusion of the Code of Hammurabi: “Here we are led back to the ancient idea of law, given by a God (here Shamash) to a great leader of the state. This of course is formally the foundation of the idea of Moses as Israel’s lawgiver,” Bentzen, i, 24. However, the religious element in the Code of Hammurabi is too peripheral, compared with that in the Israelite laws, to give rise to the concept of a “holy law-book.”

⁶¹W. Beyerlin, *Origins and History of the Oldest Sinaitic Tradition*, trans. by S. Rudman (Oxford: Basil Blackwell, 1965), 51.

⁶²On the Hittite treaties in relation to Israelite texts, see K. Baltzer, *Das Bundesformular*, WMANT, Bd. 4 (Neukirchen: Neukirchener Verlag, 1964); Beyerlin, 50-63; D. J. McCarthy, *Treaty and Covenant: A Study in Form in the Ancient Oriental Documents and in the Old Testament*, *AnBibl*, 21 (Rome: Pontifical Biblical Institute, 1963); G. E. Mendenhall, “Covenant,” *IDB*, i, 714-721; Mendenhall, “Law and Covenant,” 27-35.

⁶³*Infra*, ch. 11, sect. 2.

⁶⁴Mendenhall, “Law and Covenant,” 37.

Beyerlin goes so far as to claim that the parallels between the Hittite treaties and the Decalogue are so numerous and so striking that one can hardly avoid the view that the Ten Commandments are—formally—modeled on the covenant-form that is revealed in the vassal-treaties of the Hittites and was probably in general use in the Near East of the second millennium BCE.⁶⁵

If this view is the correct one, then the origin of Israelite law may be seen in the adaptation of an existing legal form by the Israelite tribes during the process of the formation of their sacral confederation.⁶⁶

The link between Near Eastern treaty forms and the majority of the Old Testament apodictic laws has recently been questioned, however, by E. Gerstenberger.⁶⁷ Gerstenberger wishes to regroup the Old Testament legal materials into “genuine legal clauses,” which both define the crime and state the consequences, and “prohibitions,” which constitute “a preliminary warning which does not even have the intention of forcing obedience.”⁶⁸ Much of what Alt considered “apodictic” law would now seem to fit into the former category. As to the laws which remain in the “prohibitive” category, Gerstenberger suggests that the styling of almost all the prohibitions as the speech of Yahweh is secondary. In the Decalogue, for example, only the first two commandments are expressed as Yahweh’s own word. The cultic origin of such commandments is thus called into question.⁶⁹ According to Gerstenberger, the formal characteristics of the prohibitions point to a “more private, individual, and intimate sphere” as their place of origin, so that the attempt of the biblical tradition to place them in an original connection with the national or amphictyonic cult (in the Decalogue and other texts) is a “fiction.”⁷⁰ Gerstenberger considers the Sinai pericope to contain “the oldest and best attestations to the concluding of the covenant between Yahweh and Israel,” but asserts that in these passages only the commands forbidding strange gods and images are original, as they alone regulate the relations between the covenant partners. The inclusion of prohibitions regulating moral and social behavior in the accounts of the making of the covenant is therefore a secondary development, so that these social prohibitions must have originated elsewhere.⁷¹ Not all the moral and social commandments were elevated to a position of cultic centrality; many are found scattered throughout the Sinai pericope and Deuteronomy, as well as in the wisdom books.⁷² Moreover, despite a few correspondences between treaty

⁶⁵Beyerlin, 54-55

⁶⁶Investigators do not agree as to when Israel encountered and adopted the Near Eastern treaty form (see the survey in Stamm and Andrew, 40-44). In large measure the answer to this question depends on one’s opinion as to when Israel formulated the covenant relationship with Yahweh. If one accepts Noth’s hypothesis that “Israel,” as a covenant community, did not exist prior to the formulation of the tribal confederation in Canaan, *The History of Israel*, 5-6, then it is not necessary to assume that Israel knew the covenant form prior to the occupation of the land. In any case, most critics now accept the relationship between the Israelite covenant and the ancient Near Eastern treaty forms. On the basis of an exhaustive discussion of the subject (in his *Treaty and Covenant*), D. J. McCarthy states: “The evidence that Israel uses the treaty form in some, at least, of its religious literature, and uses it to describe its special relationship with Yahweh, is irrefragable. There is not another literary form from among those of the ancient Near East which is more certainly evident in the O.T.,” D. J. McCarthy, “Covenant in the Old Testament: The Present State of Inquiry,” *CBQ*, xxvii (1965), 221.

⁶⁷E. Gerstenberger, *Wesen und Herkunft des ‘apodiktischen Rechts’*, *WMANT* (Neukirchen: Neukirchener Verlag, 1965), hereafter cited as *Wesen und Herkunft*; English summary by M. E. Andrew in Stamm and Andrew, 45-54. See *JBL*, lxxiv (1965), 38-51.

⁶⁸Andrew, in Stamm and Andrew, 45-46.

⁶⁹This suggestion has been partially taken up by von Rad, who admits that “not every command formulated in the apodictic manner originated in the cult as a sacral law of Yahweh,” G. von Rad, *Deuteronomy*, trans. by D. M. Barton (Philadelphia: Westminster Press, 1966), 18.

⁷⁰Gerstenberger, *Wesen und Herkunft*, 109.

⁷¹Gerstenberger, “Covenant and Commandment,” 51; *Wesen und Herkunft*, 108-109.

⁷²Gerstenberger, “Covenant and Commandment,” *loc. cit.*

stipulations and prohibitions, they really have little in common. Most treaty stipulations are given in conditional form and are a direct consequence of the purpose of the treaty in question, whereas comparatively few treaty stipulations are stylized in an “absolute” manner.⁷³ Gerstenberger concludes that “the covenant ideology cannot be made responsible for having created the commandments which we find in the OT.”⁷⁴

If this be the case, another origin must be sought for the prohibitive form of commandment. According to Gerstenberger, this origin is to be found in the “clan-ethos” of traditional Semitic society. He states:

The independent prohibitions . . . are of a sort that accords with an early origin from the Semitic clan-unit. The prohibitions would then be the authoritative commands of the elders of clan or family; but they received their dignity not so much from the individual authority of the heads of the clans, as from the sanctified order of things which they represent.⁷⁵

Thus Gerstenberger finds the origin of much so-called “apodictic” law or “commandment” to be found in “wisdom sayings” which embody the “inherited rules” of society, were transmitted through the family and secular social institutions, and hence had no original link with covenants or treaties.⁷⁶

However, Gerstenberger’s observations, even if correct, would not alter the basic association of Old Testament law with the covenant, in regard to the canonicity of the Israelite laws. As to contents, and to a degree as to literary form, the moral and social commandments could have originated in the family, tribal and social milieu. As to authority in the Old Testament, however, they are clearly dependent upon their covenant associations or in any case upon the will of the God of the covenant, as expressed primarily in the cultic commands.⁷⁷ The question of the origin of the apodictic laws as literature is not the same as the question of the origin of their canonical authority, which depends upon their use within the religious community. It is neither the form nor the origin of such legislation which bestows upon it its canonical status, but its normative function within the covenant community, which is primarily a religious community. It is meaningless to speak of “canonical traditions” of a tribe, clan or other unit constituted by family, rather than religious, relationships.⁷⁸

However, it is necessary to define more precisely what is meant by “law” in the Old Testament context. Whether or not Gerstenberger is correct about the origins of the moral and social apodictic law in the circles of family heads and “wise men,” such laws cannot be called “legislation” in the modern sense of enacted statutes. The same holds true for the casuistic or conditional law. According to Mendenhall, neither the Israelite codified casuistic law nor its ancient parallels outside Israel are to be regarded as “law” in the modern sense of binding “legislation,” established by official government decree. The Code of Hammurabi, in this view, would not have been a binding obligation for the entire Babylonian Empire, but rather a program of judicial reform or a codification of existing legal tradition. “Whatever the purpose of the code, it cannot

⁷³*Ibid.*, 42-43; see also *Wesen und Herkunft*, 96-108.

⁷⁴Gerstenberger, “Covenant and Commandment,” 51.

⁷⁵Gerstenberger, *Wesen und Herkunft*, 110; translated by the present writer.

⁷⁶For Gerstenberger’s full statement of this thesis, see “Covenant and Commandment,” 46-51; *Wesen und Herkunft*, 110-117.

⁷⁷Thus M. J. Buss believes Gerstenberger has unnecessarily separated the wisdom-related legal forms from the covenant form; “it is not necessary to pose in terms of rigid alternative the question whether apodictic law derives from a covenant structure or from wisdom,” M. J. Buss, “The Covenant Theme in Historical Perspective,” *VT*, xvi (1966), 503.

⁷⁸When Gerstenberger says that the prohibitions received their authority from the “sanctified order” of the clan-association, this is not very far from asserting that the “clan ethos” is really a cultic institution having the character of a covenanted community, symbolized by the use of apodictic laws. But to admit this would be a denial of Gerstenberger’s basic argument separating the apodictic laws from covenant theology.

have been positive law binding all judges in their decisions, but was simply description of a legal tradition resting, it is believed, largely upon earlier collections of laws.” If this is the case, then “the lawcodes were of no great importance in the actual court procedures.”⁷⁹

Mendenhall, indeed, believes the codification of the traditional Israelite law to have been a *defense* against the rise of monarchical power in Israel.⁸⁰ G. E. Wright remarks that “in Israel the law was prior to kingship, and was given in connection with the covenant to the whole people. The king could claim no credit for it; he could only administer it.”⁸¹ This agrees with the opinion of Noth, who says that “in spite of the relatively good and abundant tradition about the history of the Israelite monarchic period which we have in the Old Testament, we never hear of the lawgiving activity of the kings.”⁸² This is not to deny that the king fulfilled, or was expected to fulfill, the role of covenant mediator during the later monarchy. The outstanding case, of course, is that of Josiah, who reads the Torah and effects the ratification of the covenant on the occasion of the Deuteronomistic reform. Other kings, notably Hezekiah, had attempted purification of the cult on the basis of old Yahwistic traditions (2 Kgs. 18:3-6). In some sense the role of the king as protector of the Israelite amphictyonic traditions and covenant laws goes back to David’s transfer of the ark to Jerusalem.⁸³ Nevertheless the covenant laws do not originate with the king; in reaffirming them he functions not as the civil ruler but as a cultic official of the tribal confederation, a member of the “congregation of Yahweh.”⁸⁴ The laws derive their authority from the covenant, not from the throne; they are fundamentally older than the monarchy, though not necessarily in their present form.

Once the antiquity of the basic Pentateuchal laws and their relation to the covenant-forms of the Israelite tribal confederation have been established, the theory of canonicity as originating in law may be further substantiated by observing the way in which the covenant legislation functions “canonically” within the Pentateuch and the other parts of the Old Testament. Wherever we encounter parenetic or liturgical material which is based upon older commandments, we have evidence that these older laws were regarded as normative or canonical within the Israelite community. The canonical nature of such legislation is especially apparent when it is found within a context which reinterprets it to suit the conditions of a later time, yet retains to some degree the older forms of the law.

This is exactly the situation in Deuteronomy and in the Holiness Code (Lev. 17–26), as shown by G. von Rad. Von Rad notes that Deuteronomy consists largely of parenthesis based on the Book of the Covenant.⁸⁵ Summarizing his findings, he states:

The most elementary difference between the Book of the Covenant and Deuteronomy—a difference that is particularly striking just because the two books do contain so much common material—lies in the fact that

⁷⁹Mendenhall, 11.

⁸⁰*Ibid.*, 14-15.

⁸¹G. E. Wright, *The Old Testament Against Its Environment*, *SBTh*, No. 2 (London: SCM Press, 1950), 67.

⁸²Noth, “The Laws in the Pentateuch,” 14.

⁸³For a discussion of the role of the monarch in relation to the Israelite covenant traditions, see Kraus, 191-200; *infra*, 136-137.

⁸⁴Noth, “The Laws in the Pentateuch,” 46. In connection with Josiah, Noth considers it “particularly inappropriate that the King should treat Deuteronomy as state law and make it the foundation for political measures on cultic matters, although it had come into being not as state law, but as a covenant between God and the people,” 47. But Bentzen believes Noth has drawn too sharp a contrast between Israel and Judah as secular states, and Israel as a congregation; “the ‘state’ in Israel, as in all the Ancient East, was always a congregation,” Bentzen, i, 231-232.

⁸⁵For a listing of equivalent passages in Deuteronomy and the Book of the Covenant, see von Rad, *Deuteronomy*, 13.

Deuteronomy is not divine law in codified form, but preaching about the commandments—at least, the commandments appear in a form where they are very much interspersed with parenthesis.⁸⁶

One example cited in this connection is the “law concerning the Hebrew,” which in Ex. 21:2-11 exhibits a “precise and strictly objective” formulation:

When you buy a Hebrew slave, he shall serve six years, and in the seventh he shall go out free, for nothing. If he comes in single, he shall go out single; if he comes in married, then his wife shall go out with him, *etc.*

In Dt. 15:12-18, however, this law is the obvious basis for an exhortation, which updates the law to suit changed conditions:

If your brother, a Hebrew man, or a Hebrew woman, is sold to you, he shall serve you six years, and in the seventh year you shall let him go free from you. And when you let him go free from you, you shall not let him go empty-handed; you shall furnish him liberally. . . . You shall remember that you were a slave in the land of Egypt, and Yahweh your God redeemed you. . . . It shall not seem hard to you when you let him go free from you, *etc.*

Here we see casuistic law from the Book of the Covenant serving as a “text” for homiletic discourse in Deuteronomy. Von Rad cites other examples of conditional law—with or without parallels in the Book of the Covenant—which have been adapted to the homiletical form of address in Deuteronomy,⁸⁷ as well as conditional laws “left without interpretation” and not broken up by parenthesis.⁸⁸

As for apodictic laws, at several points, groups of them may be detected embedded in the parenthetic material of Deuteronomy in a manner which shows that they were regarded as canonical.⁸⁹ The Holiness Code exhibits a similar usage of older apodictic series as the basis for parenthesis.⁹⁰ The use of these older laws

⁸⁶G. von Rad, *Studies in Deuteronomy*, trans. by D. Stalker, *SBTh*, No. 9 (London: SCM Press, 1953), 15.

⁸⁷*Ibid.*, 21-22

⁸⁸*Ibid.*, 22.

⁸⁹These series are outlined by von Rad, *ibid.*, 17-21. A fragment from what he calls “an old exemplar for judges” found in the Book of the Covenant (Ex. 23:1-2, 6-9) is used in Deuteronomy (16:19) as the core of an exhortation to do justice. Often commandments are retained in Deuteronomy which seem to reflect conditions of an earlier period. For example, a group of commandments in Dt. 16:21-17:1 contains a commandment not to plant an asherah beside the altar of Yahweh; despite the cultic centralization demanded in the book of Deuteronomy as a whole, this commandment regulating the practices of the old rural sanctuaries has been retained because it is part of a canonical series. Again, Dt. 22:5, 9-11 constitutes a series of apodictic commands forbidding transvestism and the mixing of textiles, seeds or draft animals, a series found also in a probably older form in Lev. 19:19. Von Rad, *Deuteronomy*, 14, finds it difficult to suppose that what he calls old magical customs were still considered a real danger to Yahwistic faith in the time of Deuteronomy, and they seem to have been “handed on without the old significance of the prohibited customs being known,” an indication of their canonical nature in the later sense of fixed literary canonicity. Finally, Dt. 22:30, 23:1-3, 7 (Heb. 23:1-4, 8) consists of a series of commands setting limits to the assembly of worshiping Israelites, interspersed with some interpretative expansions. Von Rad calls this “a splendid piece of ancient Yahwistic legal matter,” *ibid.*, 145, which has been preserved here as the basis of Deuteronomic preaching.

⁹⁰These series are outlined by von Rad, *Studies in Deuteronomy*, 26-35. A list of forbidden sexual relations appears in Lev. 18:6-23, still in the terse form used for liturgical celebrations and unbroken by interpretative insertions. In Lev. 19, von Rad discovers at least four groups of commandments: a series of four harvest regulations (embedded in 19:9-10); a series of four general ethical commands (19:11-12); a series of twelve commandments regulating personal relationships within the community (19:13-18); and a group of ten anti-magical stipulations (19:19, 26-28); with fragments of other series in 19:29-36. A series of ten commandments laying down the death penalty for forbidden sexual relations appears in Lev. 20:10-21, while Lev. 24:15-22 contains some old apodictic statutes concerning blasphemy, murder, disfigurement and killing of animals, which has been turned into parenthetic form.

in the Holiness Code and in Deuteronomy, which was considered by many of the older critics to be the first self-consciously canonical book, is evidence for the theory that canonicity originated in the concept of law in the pre-Deuteronomic period.⁹¹

The study of the Decalogue sheds further light on the canonicity of the basic Pentateuchal legislation. The “classical Decalogue” exists in two versions (Ex. 20:2-17; Dt. 5:6-21), which K. Koch, on the basis of form-critical analysis, considers to be “two quite independent elaborations . . . of a primary source,” now lost.⁹² The close resemblance of the two versions indicates that the “primary source” of the “classical Decalogue” was quite firmly fixed as an authoritative community standard. But a similar situation obtains in connection with the “ritual Decalogue,” which also exists in two versions (Ex. 20:22-26+ 23:10-19; Ex. 34:10-26) going back to a primary source.⁹³ Moreover, carrying the form-critical analysis even further, Koch concludes that the “classical” and “ritual” Decalogues both stem from one series of commandments: “The basis of both was a source consisting of only three or four prohibitions governing the special relationship of Israel to her God, rounded off with a positive commandment about the sabbath.” This basic source was later elaborated in two directions, “on one hand as the result of ritual needs, and on the other the result of ethical considerations.”⁹⁴ The existence of alternate and elaborated forms of this basic legislation serves to underscore the esteem in which these laws were held in ancient Israel, as the authoritative standard for the faith and life of the community. Within the Hexateuch, then, the use of old laws as an authoritative basis for newer legal formulations is evidence for the theory that canonicity originated in law.

The prophetic writings may also be brought forward as evidence for a “canonical” covenant law in pre-exilic Israel. It is evident that the tribal confederation in Israel, the community of those bound in covenant with Yahweh, is the same “Israel” to whom the classical prophets addressed themselves. R. E. Clements has shown that the prophets, despite their reluctance to employ the term “covenant” or to quote directly from any of the covenant legislation, nevertheless are “very much concerned with Israel as the covenant people of Yahweh, and consequently with the covenant by which Israel’s life was governed.”⁹⁵ The prophets, says Clements, were working in the full knowledge of the substance of the covenant legislation, since in accusing the people of rejecting the ways of Yahweh “the prophets clearly expected their hearers to know what they were talking about.”⁹⁶ Indeed, von Rad asserts that “there can be no doubt that the prophets based their accusations on specific legal statutes, which we can for the most part identify.”⁹⁷ Clements considers that a

⁹¹It is clear, however, that von Rad does not himself adhere to this theory of the canon. He believes that “Jahwism never contained a clearly defined entity which Israel could have identified as ‘Law’,” *Old Testament Theology*, ii, 394. Von Rad appears to believe that the prophets were the first to treat the “law” as an absolute entity, by making the maintenance of the covenant contingent upon Israel’s fulfillment of it, *ibid.*, i, 194-195. In von Rad’s view the law in itself was never static or absolute, but was subjected to a constant process of revision and reinterpretation. This leads him to conclude that “for Israel this law was far from being a known quantity which only needed to be called mind—it was something learned by experience.” Thus, on the question of canonicity, von Rad aligns himself with the older critics who regarded the written law of Deuteronomy as “something new in Israel,” so that it was with this book that “the process of forming a canon began,” *ibid.*, ii, 394-395.

⁹²Koch, 46.

⁹³E. Nielsen believes the original Decalogue of the Sinai pericope (Ex. 19–34) to have been Ex. 20:22-26+23: 10-19, the older of the two versions of the “ritual Decalogue.” According to Nielsen, the “classical Decalogue” usurped its position of primacy in the post-Deuteronomic period, Nielsen, *The Ten Commandments*, 53-55.

⁹⁴Koch, 50; for his complete argument, see 44-51. The positing of one basic series of several cultic commands underlying both forms of the Decalogue is in accord with Gerstenberger’s view that the Israelite apodictic laws originally related to the covenant were of an exclusively religious nature, *supra*, 78-79.

⁹⁵Clements, 17.

⁹⁶*Ibid.*, 16.

⁹⁷Rad, *Old Testament Theology*, ii, 396.

brief code of laws, similar to the present Decalogue of Ex. 20:2-17, was in use in Israel from an early time, setting forth the covenant demands of Yahweh. Such a law-code forms the background for the accusations which Amos and the other prophets raised against the people for their unjust practices and neglect of elementary standards of justice.

To cite specific examples, Hosea twice refers to the law (תורה) as though it were a well-defined entity. In 8:12 he represents Yahweh as offering to “write for him (Ephraim) my laws by ten thousands,” as if to imply a multiple of the Decalogue. In 4:6 he speaks of forgetting “the law of your God,” and this follows upon a clear reference to the contents of the Decalogue in 4:1b-2: “There is no faithfulness or kindness, and no knowledge of God in the land; there is swearing, lying, killing, stealing, and committing adultery; they break all bounds and murder follows murder.”⁹⁸ The Decalogue also appears to underlie Jeremiah’s “temple sermon,” Jer. 7:9: “Will you steal, murder, commit adultery, swear falsely, burn incense to Baal, and go after other gods you have not known?”⁹⁹ Amos is especially rich in material based on the covenant statutes. Von Rad states that although Amos never appeals to any tradition, written or oral, to support his preaching of Yahweh’s claims, “these fixed orders are to be found point by point in the older tradition of sacral law, especially in the Book of the Covenant.”¹⁰⁰ W. Zimmerli lists several correspondences which show that Amos “derives his accusations from quite explicit statements in the ancient law of God.”¹⁰¹ In the case of the Former Prophets, C. Westermann cites two occasions on which Elijah’s condemnations of Ahab are based on violations of laws found in the Book of the Covenant.¹⁰²

Finally, the Psalter furnishes evidence for the antiquity of an authoritative covenant law in Israel. Psalm 15 appears to be a “temple admission liturgy” which is “obviously an echo of the apodictic commandment.”¹⁰³ The same is true of Ps. 24:3-6. More to the point, Ps. 50 reflects the theophany which occurred in the covenant cult. The deity declares, “Gather to me my faithful ones, who made a covenant with me by sacrifice” (50:5). Then follows a direct allusion to the first commandment of the Decalogue: “Hear O my people, and I will speak, O Israel, I will testify against you. I am Yahweh, your God” (50:7).¹⁰⁴ What von Rad calls “a paraphrase of the Decalogue” appears in vss. 18-21. Psalm 81 reflects a similar cultic setting, and here the dependence on the Decalogue is even more striking (81:8-10 EVV):

Hear, O my people, while I admonish you!
O Israel, if you would but listen to me!

⁹⁸Zimmerli, 69. Zimmerli also notes that in 5:10, Hosea indicts the princes of Judah who “have become like those who remove the landmark,” an accusation which reflects the curse of Dt. 27:17 in the Shechemite dodecalogue.

⁹⁹Rad, *Old Testament Theology*, ii, *loc. cit.*

¹⁰⁰*Ibid.*, 135-136. Von Rad’s statement is dependent on the research of E. Würthwein, “Amos-Studien,” *ZAW*, lxii (1949/50), 10-52.

¹⁰¹Zimmerli, 68. Ex. 22:21-24 forbids oppression of the poor and weak; 22:25 forbids exaction of interest; 22:26-27 requires restoration of garments taken in pledge. Laws prohibiting the use of false measures and weights are found in Dt. 25:13-14 and in the Holiness Code, Lev. 19:35-36. All of these abuses are mentioned by Amos in his charges against the people; in von Rad’s judgment, “comparison of the charges brought by Amos with the older legal tradition of sacral law makes it plain that Amos ties his contemporaries down to the simple, obvious, literal sense of the commandments,” Rad, *Old Testament Theology*, ii, 136.

¹⁰²Westermann, *Basic Forms of Prophetic Speech*, 130-136. Westermann relates Elijah’s speech in 1 Kgs. 21; 18-19 to the law forbidding killing, Ex. 21:12, and the speech of 2 Kgs. 1:3-4 to the law against turning to other gods, Ex. 23:13.

¹⁰³Koch, 30. In Koch’s view, “it appears that the Decalogue itself was not always known in Jerusalem,” so that these admission liturgies “only quote prohibitions from other series,” *ibid.*, 32.

¹⁰⁴The present Hebrew text has “I am God your God” (אֱלֹהִים אֱלֹהֶיךָ אֲנִי), this being part of the “Elohistic Psalter.”

There shall be no strange god among you;
you shall not bow down to a foreign god.
I am Yahweh your God,
who brought you up out of the land of Egypt.

3. Critique of the Theory

The principal objection to the theory that the canonicity of the Old Testament writings originated in the concept of law is the obvious fact that the preponderance of the canonical literature is not law. The cornerstone of the theory of the canon as law is the primacy of the Pentateuch within the Jewish Scriptures. Yet, as Noth has said,¹⁰⁵ even within the Pentateuch the laws appear as a “subsidiary element” in the larger structure of the historical narrative:

Leaving aside the last two divisions of the Old Testament canon, from which law is virtually absent, even within the Pentateuch itself laws take up only about half of the whole; and taken all together, the Pentateuch is no law but, rather, a long narrative composition made up of varied elements in which laws—albeit in fairly large amounts—have been inserted only at particular points.¹⁰⁶

Noth also believes that the “law” is not really a unity, and appears to be one only because the individual elements of the law as a whole have at a later period been traced back to the activity of Moses as a historical person, and inserted for the most part into the narrative tradition about the sojourn of the Israelite tribes at Sinai, so that the legal sections lie close to one another in the Pentateuch.¹⁰⁷

The very form of the Torah thus speaks against an understanding of the canon as law, at least in the pre-exilic period. It cannot be denied that in the post-exilic period the Torah achieves primacy within Judaism and the “law” is made an “absolute entity”;¹⁰⁸ nevertheless, according to Östborn, “the explanation that canonicity developed from the legal to the narrative parts of the Canon appears to be an attempt to escape the difficulty.”¹⁰⁹ Of the Pentateuch, Östborn says that “this section of the Canon, though indeed it bears the designation of Law (תורה), is nevertheless, technically expressed, not law but a story.”¹¹⁰

The designation “law” is even less appropriate as applied to the two latter sections of the canon. Even if the prophetic writings offer evidence for the antiquity of a recognized law in ancient Israel, or even if the prophets can be shown to have used legal forms as a literary device, the prophetic literature itself is not “law.” It is true that prophecy was regarded somewhat as “law” in ancient Judaism. N. H. Bronznick claims that the term *Qabbalah*, as applied to the Prophets and Writings, means “obedience or submission,” indicating that the prophetic office is “an authority which commands complete compliance”;¹¹¹ if this is

¹⁰⁵Noth, “The Laws in the Pentateuch,” 5-10; *supra*, 64.

¹⁰⁶*Ibid.*, 5

¹⁰⁷*Ibid.*, 9.

¹⁰⁸*Ibid.*, 106

¹⁰⁹Östborn, *Cult and Canon*, 17.

¹¹⁰*Ibid.*, 29.

¹¹¹Bronznick, 290. Bronznick cites rabbinical statements to the effect that “the power of the Law is intrinsic, it derives from the objective reality of the Law,” so that each commandment “has its own intrinsic worth.” There are therefore gradations of penalties for infractions of the Law; moreover, a law is not invalidated if it is disobeyed. “The power of a prophetism, on the other hand, is extrinsic. It obtains from the authority vested in the prophetic office, from the obligation to obey the prophet. . . . The mandatory power of the prophet is *ad hoc* in its application, it addresses itself to a specific situation.” Therefore the prophetic injunction demands absolute obedience, even though it may be in conflict with a biblical law, since to disobey a prophetic injunction is to render it invalid, *ibid.*, 291-293.

correct, then prophecy has something of the quality of “law” in ancient Judaism, though not in the same sense as the Torah. Generally in ancient Judaism the writings of the prophets were conceived to be reaffirmations of the Mosaic law. Thus R. H. Pfeiffer declared that “the prophetic theology was received and accepted through Deuteronomy and other parts of the Pentateuch, rather than through the prophetic writings, which were considered confirmations of the teachings of Moses in times of ignorance.”¹¹²

As to the relation of the Writings to the Law, if Gerstenberger is correct in linking the form of Israelite law to wisdom traditions,¹¹³ it is possible to see an early connection between the wisdom literature and the concept of law. In the postexilic period, especially in some of the non-canonical literature such as Ecclesiasticus and the Wisdom of Solomon, the Torah came to be viewed as the supreme expression of wisdom.¹¹⁴ Pfeiffer remarked that “after Ecclesiasticus . . . there is no wisdom literature which does not place the law in a central position.”¹¹⁵ But in these instances the influence is really from “wisdom” to “law,” not vice versa, since

the stipulations of the covenant were being read in the way in which the instructions of the wise were read, not in the way those stipulations were formerly recited cultically as the provisions of the covenant between the sovereign Yahweh and his people.¹¹⁶

These remarks on the relation of prophecy and wisdom to the concept of “law” apply generally to rabbinic Judaism, and not to the pre-exilic period when most of the canonical literature (or tradition) was being produced. Östborn’s judgment is seen to be correct, when he says,

To a certain extent, it is true, the Canon contains laws, and is, as a whole, authoritative and normative for faith and life. But generally its contents cannot be considered as law in the ordinary sense of the term.¹¹⁷

It is also noteworthy that some of the most authoritative “laws” of the Pentateuch (the Decalogues, the Book of the Covenant) are not called “laws” but divine “words” (דברִים) in their narrative context.¹¹⁸

To designate the Old Testament canon as “law,” or to view canonicity as originating in the idea of תורה, is therefore not sufficient to account for all the phenomena encountered in the process of the formation of a canonical body of Holy Scripture. Nevertheless, the discussion of this theory of canonicity helps to illuminate the development of authoritative traditions with the Israelite community.

¹¹²Pfeiffer, *IDB*, i, 505. Passages in the rabbinic literature wherein the prophetic writings are called “Torah” are mentioned *supra*, 48n.

¹¹³*Supra*, 78-79.

¹¹⁴Guthrie, 21-28.

¹¹⁵Pfeiffer, *loc. cit.*; Pfeiffer cites references from Ecclesiasticus, Tobit, Baruch, Wisdom of Solomon, 4 Maccabees and the Letter of Aristaeas.

¹¹⁶Guthrie, 24.

¹¹⁷Östborn, *loc. cit.*

¹¹⁸*Supra*, 70.

CHAPTER 9

The Canon as a Cultic Phenomenon

The relation of the Old Testament canon to the Israelite-Jewish cult has been dealt with by several writers. Canonicity has been associated with the practice of reading or reciting traditional material in the cultic assemblies. A. Weiser, for example, finds the origin of the idea of Holy Scripture in cultic recitals:

The reading aloud of the written word in the cult gave a natural impetus to the collection of the OT as sacred writings. Here is the real setting (*Sitz im Leben*) for the OT as holy scripture. . . . The sacredness of the book consists in the dynamic effect of its contents mediating a meeting between God and the people, which is *its proper function*.¹

Thus the canon, to fulfill its “proper function” as an authoritative tradition within the community, demands a cultic setting.

A leading exponent of the theory of canonicity as originating in cultic usage is G. Östborn. Östborn points to the Jewish term *אָרָמָה*, “reading” (*Baba Bathra* 134a), as evidence “that its being read in the cult was something characteristic of the Canon.” He goes on to assert that “there is also a general agreement among the investigators of the Canon that a canonical writing is one that is allowed to be read in the divine service.”² Historians of the canon have taken special note of the reading of the Prophets and the Hagiographa in attempting to answer questions of canonicity; thus H. E. Ryle, speaking of the Prophets, considered it probable

that the adoption of a lesson from “the Prophets” corresponded with the period of their admission into the Canon; and that their occasional liturgical usage, having from time to time found general approval, facilitated their reception as Scripture. Whether they were suited for reading in the Synagogue services, may very possibly have been the test which decided the admission of a book into the group of the *Nebiim*. It is possible that the practice of reading portions in the Synagogue first led to the idea of setting apart, as sacred, other books besides the five books of the Law.³

F. Buhl found evidence for the “subordinate rank” of the Hagiographa, compared with the Law and the Prophets, “in the fact that they were not used, like the others, for the readings of the Sabbath day,” although “naturally we find an exception in the case of the Psalms, which were held in high esteem, and were used in the temple service.”⁴

W. R. Arnold, however, objected to the supposition that the canonicity of the Old Testament writings was the result of their being read in the cult. The reverse, in fact, was true:

Reading in the synagogue did not make either Law or Prophets canonical; they were read and studied in the synagogue because they were already considered canonical. All that reading in the synagogue accomplished in the case of both these so-called canons was to arrest for good and all the process of redaction and revision.⁵

¹Weiser, *The Old Testament*, 334; italics original.

²Östborn, *Cult and Canon*, 96-97.

³Ryle, 126-127. Ryle believed that the Haftarah reading was instituted as early as the third century BCE. Budde, “Canon,” col. 663n., objected that this was too early, and that “the first mention of the public reading of the Prophets is in the NT” (Luke 4:16-19; Acts 13:15, 27). However, Ryle admitted that “the reading of ‘the Prophets’ was not at first arranged upon the same systematic plan as the reading from ‘the Law,’ nor until some time after the Christian era,” Ryle, 127.

⁴Buhl, 14-15.

⁵Arnold, 17.

Östborn likewise admits that the Old Testament writings were recited in the cult because their canonical status had already been recognized. Therefore, “the function of their being used as cultic recitals . . . does not immediately inform us about the fundamental motive of the canonization of the OT writings.” Nevertheless, “this function offers us an indication as to the origins of their canonicity. It appears more and more likely that this origin should be sought for in the cult itself.”⁶ Östborn’s monograph is devoted to this investigation.

Östborn starts from the assumption that the “canon” represents what was considered to be “correct” from a religious point of view and suitable for recitation in the cult. Since the process of canonization was one of selection, the process presupposes that the “canonizers” held certain ideas as to what constituted a canonical book. For Östborn, this means that the question of canonicity is bound up with the *religious contents* of the books:

From the very fact that the OT Canon constitutes a collection of holy writings belonging to the cultic assembly of Israel, it must be held to be a religious canon. We should therefore expect to find, in its contents, expressions for what was considered to be religiously correct from an Israelite point of view.⁷

For Östborn, “Canonicity implies that the Canonical writings can be made the object of a definite comprehensive view” as regards their religious contents.⁸ Therefore, in investigating the origin of canonicity in the Old Testament writings, “the problem is solely how to characterize and epitomize their contents.”⁹

Östborn’s thesis is that all the canonical writings express an Israelite-Jewish cultic motif, the motif of Yahweh’s struggle and victory:

Should we indicate the character of this fundamental cultic motif . . . , we may claim that it consists in the very thought of a divine activity, or rather a divine act. Behind the divine activity described in the OT we find the God of Israel, Yahweh. As a background of His work, there is always a state of distress or chaos. It is this unsatisfactory state which causes Yahweh to intervene—an intervention which more or less distinctly receives the character of a struggle, a subduing of resistance, or of his foes. In this struggle, Yahweh is victorious, and, as a result of His victory, a good and stabilized order is brought about. Thus, Yahweh’s activity in the OT may be said to be presented as a divine drama, having struggle and victory as its principal elements.¹⁰

The primary example of this cultic motif operative in the Israelite tradition is, of course, the Hexateuchal narrative of Yahweh’s activity in delivering Israel from Egypt. Thus Östborn follows von Rad in finding the beginning of the Old Testament canon in the “historical creed” of Israel.¹¹

However, Östborn considers this motif to be related to the predominant cultic motif of Canaanite and other ancient Near Eastern religion; as he states,

⁶Östborn, *Cult and Canon*, 97.

⁷*Ibid.*, 20.

⁸*Ibid.*, 15.

⁹*Ibid.*, 20.

¹⁰*Ibid.*, 98. Östborn here appears to be dependent on Mowinckel’s conception of the Israelite festival of the new year, which was also “the epiphany and throne ascension festival of the God.” According to Mowinckel, this festival was characterized by such a disaster-salvation pattern, *Prophecy and Tradition*, 81-82.

¹¹Östborn, *Cult and Canon*, 79; *supra*, 64.

An extensive narrative about Yahweh and his activity was gradually compiled . . . for cultic use. The formation of it was presumably made in accordance with the same notion as that underlying the ancient Canaanite cult, viz. the idea of a divine struggle and victory.¹²

This cultic motif is a mythological pattern widespread throughout the ancient Near East, as an explanation for the present created order.¹³ Thus, in Östborn's view, the motif of Yahweh's activity is paralleled in the Babylonian epic of creation and in the Ras Shamra literature, in which "the corresponding roles are played by Marduk and Baal, respectively."¹⁴

It is interesting to see how Östborn accommodates the Israelite idea of the covenant into this scheme. While admitting that "the notion of the Covenant in the Biblical writings constitutes the fundamental condition of their canonization"¹⁵ (hence the expressions "Old" and "New Covenant"), Östborn contends that "as a prerequisite of correctly understanding this designation, however, it is necessary to take the concept Covenant as meaning not only a social condition regulated by laws, but a new and good order brought about by Yahweh."¹⁶ The covenant, therefore, is an expression of the beneficial outcome of Yahweh's activity in struggle and victory.

Applying this theory to the various divisions of the canon, Östborn is most persuasive in his treatment of the Pentateuch. He accepts the validity of the division between the Tetrateuch and Deuteronomy, but points out that as to *contents* there is an obvious difference between Genesis, on one hand, and Exodus-Deuteronomy on the other, the latter being unified by the figure of Moses in the historical narrative.¹⁷ Within Exodus-Numbers (Deuteronomy), the basic narrative is Ex. 1–15, the account of the distress of Israel and its deliverance in the exodus; here both elements of Yahweh's struggle and victory are present, the fundamental cultic motif. The remainder of the Exodus-Numbers (Deuteronomy) complex Östborn finds to be an expansion of the second element of this scheme, the "victory" motif which includes the covenant and giving of the law. However, this whole complex Exodus-Numbers (Deuteronomy), as a representation of Yahweh's activity, is actually a parallel to what has already been encountered in the creation narratives of Genesis, in which Elohim-Yahweh brings order out of chaos: "Thus, the fundamental idea of the narrative is the same as that of the story of Moses, an unsatisfactory, chaotic state being brought to an end, and replaced by happiness and order."¹⁸ These elements of chaos/order, or distress/happiness, are also present throughout the patriarchal narratives. Therefore, according to Östborn, not only is Genesis an introduction to the rest of the Pentateuch, but it is equally appropriate "to speak of Exodus-Numbers (Deuteronomy) as an expansion of Genesis."¹⁹ Although the Pentateuch is called תורה, as to its contents it is not fundamentally law but "a composition of several main narratives, each of them possessing the elements of struggle and

¹²*Ibid.*, 89.

¹³B. S. Childs summarizes the general mythological pattern as follows: "The human mind creating the myth perceives as supreme reality the great processes within nature, such as procreation, birth, and death. The overwhelming impressions of these realities find a shape in the formation of myth. To establish the present world order the myth is projected into a timeless age of the past. . . . The present world order established by a victory in the past does not continue automatically. It must be constantly reactivated in the drama of the cult," B. S. Childs, *Myth and Reality in the Old Testament*, SBTh, No. 27 (London: SCM Press, 1960), 20.

¹⁴Östborn, *Cult and Canon*, 87-88.

¹⁵*Ibid.*, 77.

¹⁶*Ibid.*, 76; see also 24-25.

¹⁷*Ibid.*, 21.

¹⁸*Ibid.*

¹⁹*Ibid.*, 23.

victory as its principal characteristics.”²⁰ The Pentateuch, then, is characterized by the fundamental motif of Yahweh’s activity, which for Östborn is the mark of canonicity.²¹

Östborn thinks he can apply the basic cultic motif also to the prophetic writings. He considers that “as to their contents, the *prophetae priores* constitute a sequel to the Pentateuch.”²² In Joshua the cultic motif is expressed in the struggle against the Canaanites, followed by victory and the good order signified by the establishment of a cult and the giving of laws (Josh. 8) and distribution of the land (Josh. 14-21); the end of the book “can be characterized as incipient chaos and, at the same time, as the inauguration of a new covenant.”²³ The stories of the heroes of Judges have been fashioned according to the same pattern; “chaos, saviour, the establishment of a good order, and chaos again.”²⁴ The books of Samuel-Kings “are introduced by recording a state of calamity in Israel” which is answered by the appearance of Samuel “as a saviour from this misfortune.”²⁵ Saul is also a “saviour” to begin with, but his life ends in chaos out of which arises the story of David, whose victories culminate in the capture of Jerusalem and the establishment of a cult and the monarchy. The story of Solomon develops out of the “dark clouds” of David’s last days; “in the case of Solomon, too, we see how a prominent position is attained only after struggle.”²⁶ Again, at the end of Solomon’s life we see that “a state of calamity is setting in” in his apostasy from Yahweh (1 Kings 11). Information on the succeeding Israelite and Judean monarchs is too scanty to bring out the struggle-victory pattern in detail.²⁷ However, of the entire collection of “Former Prophets,” Östborn says:

Its outstanding figures are to a certain number outlined according to a definite scheme. As representatives and servants of Yahweh they have, under various conditions, to struggle and gain the upper hand. Their lives are alternatively stamped by misfortune and fortune. Hence we have a reason to speak of a fundamental motif behind this representation.²⁸

Of course, it is possible that these stories indeed correspond to the actual events of the time;²⁹ nevertheless Östborn contends that they have been “shaped by the transformation and exclusion of certain original material” in order to bring out the preconceived cultic pattern,³⁰ and especially to represent Israel’s history as the activity of Yahweh himself.³¹ Östborn thinks that the background of this pattern is not to be seen in a “Deuteronomic school” in Israel, but rather in the ancient Near Eastern idea of sacral kingship, a relationship which justifies his speaking of this ideology as a cultic motif.³²

Östborn attempts to work the Latter Prophets into his scheme by placing the emphasis on their contents, rather than on the origin of the prophetic literature in the inspired word coming through visionary or ecstatic

²⁰*Ibid.*, 29.

²¹See *ibid.*, 21-29, for Östborn’s full treatment of the Pentateuch.

²²*Ibid.*, 30.

²³*Ibid.*

²⁴*Ibid.*, 32. This pattern Östborn recognizes to be the “so-called Deuteronomic scheme, or view, of history,” which is therefore seen to have its pre-Deuteronomic antecedents in the cult, *ibid.*, 38-39.

²⁵*Ibid.*, 34.

²⁶*Ibid.*, 35.

²⁷Östborn does not mention here the note concerning Jehoiachin’s release at the end of 2 Kings, which in some measure fits into his scheme.

²⁸*Ibid.*, 37.

²⁹*Infra*, 92.

³⁰Östborn, 32-33.

³¹*Ibid.*, 37.

³²*Ibid.*, 39-40.

experience. As to contents, he asserts, “the prophetic books may by certain rights be regarded as accounts concerning the prophets,” a view which makes it possible to see the prophets as a parallel to the figures encountered in the previous parts of the canon.³³ By emphasizing the lives and personalities of the prophets, we can see that there is an “internal agreement” between the prophetic books and those of the Pentateuch and the Former Prophets. On the other hand, the prophetic books are principally to be viewed as “presentations by the prophets,” in which case their lives recede into the background and their messages come into prominence.³⁴ As to contents, the prophetic books contain utterances of Yahweh, but the distinctive quality of these utterances is seen not in their divine origin but in their subject matter which, Östborn contends, reflects the basic cultic motif of struggle and victory:

It is always a question of Yahweh’s will and what He has done, what He does, or will do. The background of the message of the prophets is constantly a prevalent state of distress. And it is on account of this that the prophet is called by Yahweh to proclaim His will. The principal theme of his message is what Yahweh intends to carry out Himself, or what he wants others to do, so as to abolish distress and establish good order. In general, the message pertains to Yahweh’s own activity.³⁵

Östborn discovers the pattern of distress-happiness in each of the Major Prophets. The motif is clearest in Ezekiel, which begins against the background of the people’s apostasy and ends in the “description of fortune” associated with the restoration of covenant, cult, and the land itself. For Östborn, the obvious existence of this fundamental cultic motif in Ezekiel is what guaranteed its place in the canon despite its cultic divergences from the Torah.³⁶ In Jeremiah the personality of the prophet himself is conspicuous, and the predominant mood of both his life and his message is one of distress; however, as Östborn shows, the book is not allowed to end on a note of distress, for it concludes with oracles against foreign nations (Jer. 46–51), which represent fortune for Israel, and with an excerpt from 2 King 24:18–25:30 (Jer. 51), which ends in the release of Jehoiachin. Thus the complete book of Jeremiah is made to conform to the basic cultic motif.³⁷ In the Book of Isaiah the predominant motif is deliverance, especially in the later chapters (40–66) which deal with the return from exile, reestablishment of the cult (66:23) and covenant (55:3), the coming of the Spirit (59:21), and indeed a new creation (66:22); this whole section Östborn takes to be “a parallel to Exodus-Numbers (Deuteronomy),” and hence it is seen to conform to the basic pattern of Yahweh’s activity.³⁸ As further evidence for the normative status of the distress-comfort scheme, Östborn cites the Talmud, *Baba Bathra* 14b. Here the order of the Major Prophets is given as: Jeremiah, Ezekiel, Isaiah. The relevant passage is as follows:

Let us see again. Isaiah was prior to Jeremiah and Ezekiel. Then why should not Isaiah be placed first?—Because the Book of Kings ends with a record of destruction and Jeremiah speaks throughout of destruction and Ezekiel commences with destruction and ends with consolation and Isaiah is full of consolation; therefore we put destruction next to destruction and consolation next to consolation.³⁹

³³*Ibid.*, 41.

³⁴*Ibid.*, 45.

³⁵*Ibid.*, 47.

³⁶*Ibid.*, 55-57.

³⁷*Ibid.*, 54-55.

³⁸*Ibid.*, 52-54.

³⁹*The Babylonian Talmud, Seder Nezikin; Baba Bathra*, I, 70.

Östborn notes that the two principal elements appearing here—“distress” (תורבנא) and “comfort” (נתמחא)—“are reflexes of those which are characteristic of Yahweh’s activity.”⁴⁰ Östborn proceeds to find the fundamental motif of the cult present in the books of the Minor Prophets as well,⁴¹ and concludes that “in consequence of this, the prophetic books have been well adapted to reading in the cult.”

Östborn’s analysis becomes somewhat strained in dealing with the books of the Hagiographa.⁴² He believes it possible to assign each of the Psalms to one of the two elements in the “struggle/victory” or “distress/fortune” pattern, and considers that it might be possible on this basis to assign each of the Psalms to a certain cultic setting.⁴³ He also states that “the obvious dominance of the element of fortune in the latter part of the Psalms seems to be a reflection of the fundamental motif of Israelitic cult, having thus influenced the composition of this book as a whole.”⁴⁴ As to Proverbs, here “between foolishness and wisdom there is a continuous struggle and rivalry to obtain dominance over man. In this situation, personified Wisdom appears on the scene as a divine succour and saviour.”⁴⁵

In Job, the struggle/victory scheme is fairly recognizable, as it is in Ruth, Esther and Daniel, all of which treat of personalities whose stories represent Yahweh’s activity. Of the Song of Songs, Östborn conceives of it as “illustrating the climax of the felicitous state resulting from struggle and victory,”⁴⁶ while Lamentations clearly belongs to the “distress” element. Östborn does not seem able to decide whether Ecclesiastes belongs to the element of “distress”—because of its pessimistic tone, or “comfort”—because it tries to show “how God saves through wisdom.”⁴⁷ Of course, the cultic associations of each of the Megilloth help to place them within the basic pattern. The Books of Ezra-Nehemiah have the Babylonian captivity as their background, and culminate in “the good order established under Nehemiah”⁴⁸. Finally, the Books of Chronicles have been “considered superfluous” because they parallel the earlier history of Samuel-Kings, and hence they have been placed at the end of the canon. Nevertheless, 2 Chronicles ends with a repetition of the beginning of Ezra, containing Cyrus’ decree allowing the return of the Jews (2 Chr. 36:22-23; Ezra 1:1-3), because “the Canon required a positive representation as its conclusion—and this for the purpose of revealing the entire fundamental motif of the cult.”⁴⁹

Östborn’s thesis has been presented at some length because his monograph is the most extensive recent investigation into the origin of canonicity in the Old Testament. It cannot be said, however, that Östborn has solved the problem of the origin of canonical traditions in Israel. The attempt to place the books of the third division of the canon into the struggle/victory scheme, though ingeniously worked out, is a tenuous one; to do this, Östborn has to posit a category of “element-literature” which allows an entire book or Psalm to reflect only one phase of the struggle/victory pattern. It is also questionable whether the *activity of Yahweh* is always apparent in the personal internal struggle of a prophet (such as Jeremiah), or of Job, or in the struggle of wisdom within the human soul (Proverbs, Ecclesiastes); such a subjective view of Yahweh’s activity requires a change from the external way in which it is conceived, say, in the narrative of the exodus which Östborn found to be the beginning of the canon. Moreover, Östborn’s scheme is generally applied to the Old Testament books in their final or redacted form (especially in the case of the Latter Prophets and

⁴⁰Östborn, *Cult and Canon*, 49.

⁴¹*Ibid.*, 57-63.

⁴²*Ibid.*, 63-64.

⁴³*Ibid.*, 64.

⁴⁴*Ibid.*, 65.

⁴⁵*Ibid.*, 66.

⁴⁶*Ibid.*, 67.

⁴⁷*Ibid.*, 69.

⁴⁸*Ibid.*, 70-71.

⁴⁹*Ibid.*, 74.

Writings); this may show that the distress/comfort pattern was important to the Jewish redactors, but it does not necessarily demonstrate that the pattern is inherent in the literature itself as it came into their hands.

Moreover, in relating the struggle/victory motif of Yahweh's activity to sacral kingship and to Canaanite and ancient Near Eastern religion in general, Östborn fails to bring out what was distinctively Israelite about the Old Testament literature. It is true that exclusiveness is not universally characteristic of canonicity in the Old Testament.⁵⁰ Nevertheless, "foreign" material was seldom taken over by Israel without being refashioned according to Israel's own conception of reality. In view of the large amount of Israelitic cultic legislation which was directed against "Canaanite" cultic practices,⁵¹ it may be questioned whether Yahwism would have consistently accepted as normative for its own canon a dramatic motif which was clearly the property of a competing religion. For example, as to the "Deuteronomic" distress-savior-deliverance-chaos pattern, in the Book of Judges, von Rad wonders whether ". . . Israel was not paying a dangerous tribute to the ancient East's cyclical way of thinking."⁵² Von Rad thus does not believe the struggle/victory motif to be recurrent in Israelite thinking in the way Östborn tries to bring out. If did appropriate the cultic motif of divine struggle and victory, it altered it drastically by applying it to a specific segment of Israel's own history, the narrative of the exodus (or, by extension, the narrative of events from the exodus through the conquest of Canaan). This "historicizing" process is typical of Israel's appropriation of foreign themes.⁵³ It may be true, as B. S. Childs contends, that an *Urzeit-Endzeit* pattern involving a return of chaos and a new victory of Yahweh can be discerned in the eschatological perspective of the prophets; yet this pattern is not cyclical but is tied in with the course of Israel's own history.⁵⁴ Thus, Israel's "myth" may be said to be located not in some heavenly realm, but "on the stage of human history."⁵⁵

On the other hand, as Östborn himself recognizes, the motif of struggle and victory often corresponds to the actual course of historical events.⁵⁶ Therefore it is a question whether Israel had to appropriate any established motif at all to depict its basic cultic recital, the deliverance from Egypt and the formation of the covenant community; the events themselves may be seen as the primary factor in the rise of such a pattern of cultic recital in Israel.⁵⁷ It would thus be the case that myth has been assimilated to history, and not *vice versa*.⁵⁸ It would seem that most of the patently mythologically influenced material in the Old Testament is

⁵⁰*Supra*, ch. 3, sect. 2.

⁵¹Noth, "The Laws in the Pentateuch," 52-60.

⁵²Rad, *Old Testament Theology*, i, 350. Of Östborn's attempt to bring Israel's conception of history into line with the cyclical thinking of the ancient Near East, von Rad remarks: "What is undoubtedly correct here is that in Israelite accounts as well ideas constantly crop up which derive from this mythical way of looking at things. But there is no reference to the unresolvable tension which does exist between Jahweh's unfettered guidance of history and ideas of any kind of a fixed pattern," *ibid.*, 330n.

⁵³A. Weiser, "Glaube und Geschichte im Alten Testament," in *Glaube und Geschichte im Alten Testament und andere ausgewählte Schriften* (Göttingen: Vandenhoeck & Ruprecht, 1961), 117.

⁵⁴Childs, 76-77. Childs remarks that "the Old Testament pattern does not conceive of strictly primeval time which returns in end time. . . . The primeval acts are considered important only because they form part of Israel's history. This change from the typical mythical pattern signifies a radical alteration on the part of the Old Testament writers regarding their concept of reality. Their witness is that the structure of reality is not determined in a series of primeval acts, but rather a new reality came into being through the redemptive activity of God working in her history," *ibid.*, 77.

⁵⁵Guthrie, 3.

⁵⁶Östborn, *Cult and Canon*, 32. Mowinkel, discussing the possible use of a "ritual pattern" of unhappiness-salvation in the prophetic writings, observes that such a pattern bears a "close relation to real history and its experiences," so that the actual course of history, as well as the spiritual situation in the circles of prophetic disciples, has probably been a greater influence than any ritual pattern in the shaping of the prophetic books, *Prophecy and Tradition*, 83.

⁵⁷G. E. Wright, *God Who Acts*, SBTh, No. 8 (London: SCM Press, 1952), 42-44.

⁵⁸It is significant that Weiser, discussing Israel's "historicization" of various Hexateuchal themes (creation, the flood,

found in the later literature or literary strata, either through Babylonian influence encountered during the exile, or because by the time this literature was produced the basic Yahwistic historically oriented stance had become so firmly established that foreign mythological motifs were no longer viewed as a threat to genuine Israelite faith.⁵⁹ Mythological parallels are clearest in such passages as Gen. 1:1-2 (the primeval chaos), Gen. 3:1-5 (the serpent in the garden), Gen. 6:1-4 (the “sons of God” and the daughters of men), Ex. 4:24-36 (the “bridegroom of blood”), Isa. 11:6-9 (the “paradise peace”), Isa. 14:12-21 (the king of Babylon as the fallen morning star),⁶⁰ Ezek. 28:12-19 (the king of Tyre as primal man in Eden), Ezek. 47:1-12 (the life-giving river and miraculous trees), or Ps. 48:1-2 (the mountain of the north).⁶¹ However, these mythological traces have been assimilated into the Israelite view of reality, and in most cases have been related to specific historical events or persons, or to specific geographical locations. As for the exodus, Östborn’s primary illustration of the struggle/victory motif, only in a few relatively late passages do we find it related to the principal manifestation of this motif in Near Eastern mythology, “the battle of the deity with the dragon” (Ps. 74:13-14; Isa. 51:9-10).⁶² That such a prominent and appropriate motif should be so rarely applied to Israel’s major cultic narrative would be surprising if Östborn is correct in his thesis that the motif of struggle and victory is what gives the Old Testament literature its quality of being canonical. Östborn is right in viewing the cult as the setting for the growth of canonical traditions, but he is not correct as to the basic cultic motif in Israel. In contrast to the almost incidental position which Östborn assigns to the covenant in his scheme, it is more likely that the liturgical pattern associated with the covenant formed the raw material out of which canonical traditions were fashioned in the cult of Israel.⁶³

The research of other more recent critics, however, tends to support the contention of Östborn that canonical traditions originated in a cultic setting. S. Mowinckel, in his study of the Decalogue, concluded that the Sinai narrative is actually the description of a cultic festival of the Jerusalem temple, in which the recitation of certain divine commandments played an important part; Mowinckel considers that the Decalogue “represents precisely such recitals of divine commandments.”⁶⁴ A. Alt, as we have seen, also believed that the various series of apodictic laws were intended for recitation in a recurring festival of the renewal of the covenant; if these laws are to be seen as part of the earliest canonical material in Israel, then

the patriarchs, the cult, the law, etc.), apparently does not find it necessary to speak of a “historicization” of the exodus, “Glaube und Geschichte,” 117-135.

⁵⁹Noth, discussing the late appearance in Judaism of traces of the mythology of divine kingship, asks, “Did the Old Testament faith so entrench itself with the passage of time, did it feel so secure on account of its canonical scripture, that it was able to display a readier toleration toward many popular concepts? Should we perhaps infer that the ancient secluded Israel of the twelve tribes knew how to guard its uniqueness and distinctiveness, and that it was only the disintegration of this ancient Israel and the rise of a widely distributed Diaspora which favored the acceptance of current popular concepts of the ancient Near Eastern world?” He suggests these are open questions, M. Noth, “God, King, and Nation in the Old Testament,” in *The Laws in the Pentateuch and Other Studies*, 177.

⁶⁰These passages are discussed by Childs, 30-71.

⁶¹This list is far from exhaustive. A catalogue of “direct parallels to ancient Near Eastern myths” in the Old Testament is supplied by T. H. Gaster, “Myth, Mythology,” *IBD*, iii, 481-485.

⁶²The “battle with Rahab” motif also occurs, of course, without being specifically related to the exodus, as in Job 26:12-13 and Ps. 89:5-11. In the latter this theme occurs as part of the praise of Yahweh in the “assembly of the holy ones” or divine council. The struggle/victory motif is also prominent in Ps. 68, a psalm whose Canaanite origin is betrayed at several points, notably in speaking of Yahweh as “him who rides in the heavens,” an expression used of Ba’al. This psalm is also related to the exodus, but has been extensively reworked (as evidenced by its “often disjointed style”—Weiser) so that a possible original reference to the mythological dragon has been reduced to “the beasts that dwell among the reeds,” v. 30.

⁶³*Infra*, Part III.

⁶⁴Mowinckel, *Le Décalogue*, 114-121.

the connection between cult and canon is inescapable.⁶⁵ G. von Rad, who finds the origin of the framework of the Hexateuch in the brief “historical creed,” believes that this creed was a “cultic confession”:

There must therefore have been a cultic occasion for the recital by the individual of the short confessional statement of God’s redemptive activity. . . . Such a summary of the facts of redemption within the cultus cannot be a freely devised meditation based on historical events, but must be a reflection of the traditional form in which faith is presented.⁶⁶

The Sinai covenant tradition (Ex. 19–34), which von Rad considers to have been originally separate from the “historical creed” narrating the exodus and the settlement in Canaan,⁶⁷ also has cultic connections. Von Rad states that “the Sinai narrative in its canonical form . . . is itself prior to the cultus and normative for it.”⁶⁸ With Alt, von Rad considers that “the declaration of divine commandments and the binding of the assembly under obedience to them must have formed a major element of a cultic occasion in ancient Israel.”⁶⁹ In other words, the Sinai narrative is the “cult-legend” of a particular festival, which von Rad believes to have been the Feast of Booths because of its association with the “ceremonial proclamation of the Law.”⁷⁰ Von Rad believes he can discern the structure of a festival of the renewal of the covenant, with slight variations, underlying both the Sinai narrative (Ex. 19–24)⁷¹ and the Book of Deuteronomy;⁷² this liturgical structure points to a cultic origin for the authoritative use of this material.

A. Weiser brings the Pentateuchal traditions—indeed the complete Pentateuch—into an even closer connection with the festival cult. Denying the original separation of the Sinai and exodus-conquest traditions in Israel,⁷³ Weiser declares that it is precisely the combination of these two elements of “history and law” in the festal cult which gives them their “canonical weight” as the impetus for the formation of the Pentateuch.⁷⁴ Weiser points to Josh. 24 as evidence that

the theophany (Sinai) tradition with the manifestation of God’s will and the making of the covenant on the one hand and the account of God’s historical acts of salvation as the manifestation of his nature on the other hand were the original basic components of one and the same festival celebrated at the central sanctuary of the tribes (the holy Ark). . . . Here is to be sought the original cultic environment into which all the Pentateuchal sources were compelled by the weight of a living tradition to fit their presentation of the history of salvation. Hence also the Pentateuch as such is not to be judged merely as a literary precipitate of tradition long since detached from the cult (von Rad) but

⁶⁵*Supra*, 76.

⁶⁶Rad, “Problem of the Hexateuch,” 5. The basic assumption of the cultic origin of this material is generally accepted in modern scholarship, even though many of the details in von Rad’s argument may be called into question; see, for example, Weiser, *The Old Testament*, 83-85.

⁶⁷Rad, “Problem of the Hexateuch,” 12-13; see also Noth, *The History of Israel*, 126-127. Opponents of this theory believe the form of the covenant itself works against the assumption of an original separation between the Sinai and exodus traditions. If the covenant is similar in form to ancient Near Eastern vassal treaties, then the exodus narrative must form the necessary historical prologue to the stipulations laid down by Yahweh in the Sinai covenant pericope. On this view, “the connection between Sinai and the Exodus would be primal, Sinai the event, Exodus the history there recited,” McCarthy, “Covenant in the Old Testament,” 222. See also Beyerlin, 169-170; Newman, 20-22.

⁶⁸Rad, “Problem of the Hexateuch,” 21.

⁶⁹*Ibid.*, 25

⁷⁰*Ibid.*, 35.

⁷¹*Infra*, 103.

⁷²*Infra*, 105-106.

⁷³Weiser, *The Old Testament*, 86.

⁷⁴*Ibid.*, 86.

as a fixation of traditions intended for liturgical recitation which sprang directly out of the cult and still stood in active relationship with it.⁷⁵

Weiser would, in effect, replace Östborn's fundamental cultic motif of "struggle and victory" with a motif of "history and law" within the covenant-festival cult. This amounts to the assertion that the covenant itself is the locus for the formation of canonical traditions. It is to the further investigation of this possibility that we now turn.

⁷⁵*Ibid.*, 89-90.

PART III

Canon and Covenant

If any particular theological motif is fundamental to Israelite religion—which after all views itself as obedience to the will of a living personality rather than as adherence to theological doctrines—this motif is to be found in the covenant relationship between Yahweh and his people.¹ The concept of the covenant can be understood as the all-embracing theme which encompasses all institutions of Israelite religion.² More particularly, the covenant is the theological expression of the union of the tribes in the Israelite confederation.³ Thus the idea of the covenant, in its liturgical-literary development, is basic to the existence of the people known as “Israel.”

For this reason the idea of the covenant, and the liturgical celebration of the covenant relationship, are also fundamental to the question of the origin of the canonicity of the Old Testament. For a canon to exist, there must first be a religious community, which then finds in certain traditions the authoritative expression of the meaning of its experience in faith and life. If the covenant creates the community, the covenant also thereby creates the canon as the body of tradition, primarily cultic, through which the community expresses the covenant relationship.

The connection between canon and covenant has not been entirely ignored in critical scholarship. G. Östborn, who relates the question of canonicity to the characteristic contents of the Scriptures, stated that “an adequate description of the entire contents of the OT canon is ‘Covenant’ or ‘the writings of the Old Covenant.’”⁴ He also remarked that “the notion of the Covenant in the Biblical writings constitutes the fundamental condition of their canonization.”⁵ Östborn, however, failed to develop this insight into a theory of the canon. G. E. Wright, in a recent publication, relates the development of the Old Testament canon to the covenant cult of Israel:

It seems probable that the idea of canon began in Israel’s covenant renewal ceremonies, ultimately stemming

¹The derivation of the Hebrew term ברית “covenant” is not certain. According to E. Nielsen, this word derives from the Akkadian noun *birtu* “the midst,” which entered Hebrew as a loan-word through the Akkadian construct form *birit*, a preposition meaning “between,” which became Hebrew ברית. See E. Nielsen, *Shechem, A Traditio-Historical Investigation* (Copenhagen: G. E. C. Gad, 1955), 114-117. This term seems to refer originally to a ceremony in which two partners pass between halves of an animal, symbolizing either absorption of impurity by the corpse or the acknowledgment of the fate to befall the partner who breaks the covenant. “Thus the covenant is connected with the idea of ‘between’: the ritual is enacted *between* the two parties, the partners pass *between* the halves or the animal, and the entire ritual initiates good relations and integrity *between* the covenant-makers,” *ibid.*, 116. But the derivation and original meaning of the term ברית are not crucial to the idea of the “covenant” as the bond between Yahweh and Israel, since many of the chief biblical spokesmen for the covenant relationship (e.g., the prophets) seem to avoid the use of the word ברית.

²See especially W. Eichrodt, *Theology of the Old Testament*, trans. by J. A. Baker (Philadelphia: Westminster Press, 1961-1967).

³G. E. Mendenhall declares that “we now know that covenant relationships were the very foundation of relations between originally separate groups, and the formation of a new legal community, as well as the undertakings of new legal responsibilities, took place most naturally by covenant. . . Since a covenant is essentially a promissory oath, it is only in this way that a social group could be made responsible to new obligations. Furthermore, it is only in this way (excluding overwhelming coercive force) that a legal or political community could and did expand,” “Law and Covenant,” 5. This statement may be accepted as valid, even though Mendenhall here appears to assume a fairly simple relationship between the Israelite covenant and the Sinai material, the Decalogue being the “test of the covenant.”

⁴Östborn, *Cult and Canon*, 23.

⁵*Ibid.*, 77.

from the Mosaic covenant. In them, after the recital of the divine benevolences, there was always the reading of the divine requirements, the authoritative word from the Lord to the people.⁶

But Wright, like Östborn, neglects to pursue the implications of this statement into a full theory of the origin of canonicity in the Old Testament.

A clear recognition of the relation of the covenant to the canonicity of the Old Testament literature is to be found in the work of M. G. Kline, who states that

the nature and schema of the divine covenants account for both the authority quality of the Old Testament and to a large extent at least for the literary genres in which it took shape. It is in the covenantal framework that the emergence of the divine word in the form of canonical writings finds its specific historical matrix and it is the particular legal and ceremonial configuration of covenant administration that provides again a genuinely historical rationale for the literary forms (history, law and prophecy, wisdom and-liturgical response) assumed by the canonical Word.⁷

Kline correctly perceives that the origin of the Old Testament as canonical Scripture is to be seen in Israel's expression of the covenant in terms of the ancient treaty.⁸ Kline's underlying motive appears to be to uphold the doctrine of the divine inspiration of the Scriptures, the Mosaic authorship of the Torah, and the historical existence of the Sinai tablets. Thus he declares that "Yahweh adopted the legal literary form of the suzerainty covenants for the administration of his kingdom in Israel,"⁹ so that at Sinai the "sovereign words of God, his covenant law, were inscripturated in treaty form on tables of stone."¹⁰ Kline's views on the correlation of canon and covenant need to be taken seriously, even in circles of critical scholarship which do not share his particular theological orientation.¹¹

The purpose of Part III of this dissertation is to suggest the ways in which the Old Testament literature developed as canon in relation to the Israelite covenant festival ceremony, its basic pattern and constituent elements. By this means we may advance in the direction of a more comprehensive theory of the canon, as an alternative to those discussed in Part II above.

⁶Wright, *The Old Testament and Theology*, 179.

⁷M. G. Kline, review of G. L. Archer, *A Survey of Old Testament Introduction*, *WThJ*, xxix (1966-67), 62.

⁸M. G. Kline, "The Correlation of the Concepts of Canon and Covenant," in J. B. Payne, ed., *New Perspectives on the Old Testament* (Waco: Word Books, 1971), especially 266-273.

⁹*Ibid.*, 270.

¹⁰*Ibid.*, 267.

¹¹The present writer had arrived at the view that canonicity originated in Israel's covenant liturgy, prior to learning of the work of Kline.

CHAPTER 10

The Covenant-Festival Pattern and Canonicity

1. The Covenant Festival in Ancient Israel

The concept of a recurring festival of the renewal of the covenant in ancient Israel has been widely accepted in Old Testament critical scholarship since first developed by S. Mowinckel.¹ Analyzing the JE Sinai narrative, Mowinckel concluded that

what J and E report as the events at Sinai is nothing else than the description of a cultic festival celebrated in a more recent period, more precisely in the Temple of Jerusalem, a description presented in a historical and mythological form and adapted to the historical and mythological framework of the recitals of the Exodus.²

Mowinckel noted that the two prominent elements in the Sinai covenant narrative are “the theophany and the communication of the words,”³ elements found also in certain of the Psalms (50, 81, 95 and 99) which he considered to be associated with the festival of Yahweh’s enthronement and the new year. These psalms are based on the presupposition that “Yahweh appears and commands . . . a covenant, he announces to the people the conditions and the commandments which must be observed, and he requires their immediate acceptance.”⁴ Hence Mowinckel contended that the Sinai narrative reflects the autumnal festival, celebrated in Jerusalem, a festival in which “the idea of the renewal of the covenant is very clearly combined with the idea of the epiphany of the deity.”⁵

To bring out the nature of this festival also as a new year feast of Yahweh’s victory in creation and his enthronement, Mowinckel drew upon Babylonian and Egyptian parallels;⁶ the idea of Yahweh’s creative activity is closely linked with his “act which creates, renews and maintains the covenant.”⁷ Hence the festival of the renewal of the covenant is also “the festival of the Exodus,” the covenant being the outcome of the escape from Egypt.⁸ Thus Mowinckel attempted to draw together a wide spectrum of theological motifs under the rubric of the festival of the renewal of the covenant. His major aim, however, was to demonstrate the origin of the decalogues as an inherent part of such a festival; the recitation of a series of divine commandments constitutes the “theophany” or “manifestation of the essence and the will of God”⁹ which lies at the heart of such a cultic occasion. However, Mowinckel considered the “epiphany” itself to be related directly to the promise of divine blessing in the covenant, and hence not originally dependent upon the proclamation of the law; the recitation of the commandments, therefore, is a “secondary trait” of the covenant festival, and only later was the liturgy of the epiphany refashioned under its influence.¹⁰

¹Mowinckel, *Le Décalogue*, 114-162. Mowinckel’s hypotheses concerning the covenant festival are summarized in Stamm and Andrew, 28-30.

²Mowinckel, *Le Décalogue*, 120; translated by the present writer.

³*Ibid.*, 117.

⁴*Ibid.*, 124.

⁵*Ibid.*

⁶*Ibid.*, 121-123.

⁷*Ibid.*, 123.

⁸*Ibid.*, 124.

⁹*Ibid.*, 121.

¹⁰*Ibid.*, 140.

In any case, it is apparent that in Mowinckel's view the festival of the renewal of the covenant served as a center for the gathering of both narrative and legal traditions in ancient Israel of the type which became the basis for the completed Pentateuch. Mowinckel's work has been basic to that of many subsequent investigators. Alt, for example, found the origin of the proclamation of the apodictic law in such a renewal of the covenant; Alt, however, on the basis of Dt. 31:9-13, considered "that the sacral act of the proclamation of the law and the renewal of the covenant was limited to the Feast of Tabernacles in the seventh year."¹¹

Von Rad followed Mowinckel in recognizing that Pss. 50 and 81, taken together with the Hexateuchal Sinai narrative with its predominant elements of theophany and the making of the covenant, "compel us to recognize the existence of a great cultic drama, the distinctive features of which are undoubtedly the divine self-revelation and the subsequent communication of God's purpose in the form of apodictic commandments."¹² Von Rad, like Alt, links the covenant festival to the Feast of Booths (Tabernacles), but is not certain whether the ceremony of sealing the covenant occurred only every seven years, or annually.¹³ Von Rad further differs from Mowinckel in denying the connection between the covenant festival (as reflected in the Sinai tradition) and the temple of Jerusalem; in his view, the tradition was localized rather at Shechem:

The climax and essential element of this cultic tradition was the proclamation of God's righteous purposes in a succession of commandments. There is only one ancient Israelite sanctuary at which, according to tradition, this usage was practiced, and that was Shechem.¹⁴

As evidence for this claim, von Rad cites the account of Joshua's assembly at Shechem (Josh. 24), in which the people pledge themselves to Yahweh; in connection with the covenant, Joshua provides "statutes and ordinances" (חוק ומשפט) at Shechem.¹⁵ This, together with the account of Joshua's reading of the "words of the law, the blessing and the curse" between Gerizim and Ebal (Josh. 8:30-35), and the "curse-liturgy" associated with the same site in Deuteronomy (the "Shechemite dodecalogue," Dt. 27:15-26), combine to establish Shechem as a sanctuary characterized by periodic liturgical proclamations of the covenant obligation.¹⁶

The importance of Shechem is also upheld by H.-J. Kraus. Kraus likewise takes Josh. 24, in its pre-Deuteronomic form, as the basic source for our knowledge of a recurrent covenant festival in the Israelite tribal confederation.¹⁷ He states that the account of Joshua's assembly at Shechem shows the extension of the Sinai covenant relationship to the twelve tribes as a whole, including those not originally present at Sinai; in this view Kraus follows M. Noth, who first brought out the role of Josh. 24 in the attempt to reconstruct the development of the Israelite amphictyony.¹⁸ Of this passage, Kraus states:

We could go so far as to call it the "foundation charter" of the ancient Israelite Yahweh amphictyony. To speak of a single event, however, when the confederacy was established does not give an adequate explanation of the special nature of the tradition. . . . We have to envisage . . . an act of worship which was held in the early period at the

¹¹Alt, 129n.

¹²Rad, "Problem of the Hexateuch," 24.

¹³*Ibid.*, 36.

¹⁴*Ibid.*

¹⁵Von Rad does not here speculate as to what this חוק ומשפט may have been. Since the Decalogue is never designated by this expression in the Old Testament, but rather by the term דבריים, a simple identification of the Shechem "statutes and ordinances" with any known series of apodictic commandments would be risky.

¹⁶*Ibid.*, 36-37.

¹⁷Kraus, 136-137.

¹⁸M. Noth, *Das System der Zwölf Stämme Israels*, BWANT 52 (Stuttgart: W. Kohlhammer Verlag, 1930), 65-71.

Yahweh sanctuary at Shechem. For an understanding of the history of the tradition contained in Joshua xxiv this cultic connection is of the greatest importance, as we must allow for the fact that characteristic features of the ceremonial rehearsal of the founding of the confederacy might have influenced the tradition to a large extent.¹⁹

Kraus takes note of Baltzer's comparison of the structure of Josh. 24 with that of the Hittite official treaties,²⁰ though he states that "some of the essential features of this covenant with God are obscured or completely displaced by the introduction of the treaty pattern."²¹ Nevertheless, for Kraus, Josh. 24 is evidence for the existence and nature of a regularly repeated ceremony of the renewal of the covenant at Shechem.²²

As will be shown below,²³ in its outlines this covenant-festival ceremony exhibits much the same form in its various manifestations within the Hexateuch and elsewhere. For example, the structure of the Book of Deuteronomy, according to von Rad, displays "the basic features of what was formerly a cultic ceremony, manifestly associated with the same festival which is reflected in the Sinai traditions known as J and E,"²⁴ that is, the festival of the renewal of the covenant. This structure is characterized by historical recital, proclamation of the law, sealing of the covenant, and blessing and curse.²⁵ It is evident that such a pattern for the festival of the renewal of the covenant is well suited to the buildup of a complex of both narrative and legal traditions of the sort which now make up the contents of the Hexateuch as a whole, as canonical Scripture.

It is in the writings of A. Weiser, however, that the role of the festival of the renewal of the covenant in the buildup of canonical traditions is most fully explored. It has been noted that Weiser considers the canonicity or normativity of the Hexateuchal materials to be derived from the uniting of narrative and legal traditions in the covenant festival.²⁶ Weiser points to the cultic "self-predication" of Yahweh (Ex. 3:6, 14; 6:2-8; 33:19; 34:5-7; see also Ex. 20:2; Hos. 12:9, 13:4, etc.), which is closely linked to the theophany of Yahweh and also to the proclamation of Israel's election as his people. This cultic self-predication, as a revelation of Yahweh's nature, therefore takes the form of a "recapitulation of the Heilsgeschichte in the cult"²⁷ (for example, Josh. 24), as a recital of those "mighty deeds" which proved Israel's election (the exodus, the migration in the wilderness, the conquest of Canaan; later, the traditions of Israel's pre-history and the patriarchs, and, in the royal cult in Jerusalem, the tradition of David). On the other hand, this cultic "self-predication," involving as it does the concept of Israel's election, also is linked to the proclamation of Yahweh's will in a series of divine commands "designed to regulate the relationship of the covenant people

¹⁹Kraus, 136-137. Kraus again follows Noth, in *Das Buch Josua*, HAT (Tubingen: J. C. B. Mohr/Paul Siebeck, 1936), 108-109.

²⁰Baltzer, 29-37.

²¹Kraus, 139.

²²On the importance of Shechem as a covenant site, see also Nielsen, *Shechem, A Traditio-Historical Investigation*. After an exhaustive text-critical and traditio-historical investigation of texts relating to Shechem in Deuteronomy, Nielsen concludes that there is enough evidence to substantiate the following pattern: "altar of unhewn stones; sacrificial meals, covenant-concluding; recital of blessing and cursing; recital of law; the ceremony directed by some leader of the community, assisted by the Israelite priests, the Levites, and carried out in the pass between the sacred mountains of Shechem," *ibid.*, 85.

²³*Infra*, 103-107.

²⁴Rad, "Problem of the Hexateuch," 27.

²⁵Von Rad reiterates these views on the festival of the renewal of the covenant in *Old Testament Theology*, i, 192-193. See also the summary of von Rad's views in Kraus, 13-14.

²⁶*Supra*, 94-95.

²⁷Weiser, *The Psalms*, 31.

with Yahweh and to determine the rules of conduct governing the lives of the members of the covenant in their relationship to one another.”²⁸

Hence there is an inherent connection between theophany, historical recital, and law. This connection, according to Weiser, is evident in the Decalogue; in Josh. 24; in Pss. 44, 78, 81, 105, 106, 135, 136; and in the Sinai tradition. All of these suggest that

the cultic celebration of salvation-history issued in the renewal of the covenant with Yahweh, as the guarantee of the divine salvation which linked God’s salvation and blessing to the community’s pledge of obedience.²⁹

This “connection between Yahweh’s revelation of his nature and of his will in law and history” in these passages suggests that “in the case of the legal elements of the Pentateuch, they, too, were transmitted in the festival cult and that the sacral union of the tribes carried on this tradition.”³⁰ In the festival of the renewal of the covenant, then, there could be no separation of “history” and “law”:

“History and Law” as the two foundation-pillars of the self-revelation of Yahweh determined the nature of the cult of the Covenant Festival just as it did that of the tradition of the Hexateuch, for which that cult had provided the setting in which it developed.³¹

Weiser, therefore, does not accept the view of von Rad that the Hexateuch is an expansion of the “historical creed,” into which the Sinai tradition has been inserted.³² The “historical creed” is but one component of the same festival, the other major component of which is the proclamation of the law. It is the festival framework which brings these traditions of history and law together and encourages their development as canonical traditions in Israel. Already in Josh. 24, which Weiser considers to be the oldest account of the cultic celebration of the covenant, the historical recital is closely connected with the pledge of the people in their cultic covenant-making before Yahweh,³³ a pledge which involves the acceptance of “statutes and ordinances” (Josh. 24:25).

Weiser admits that the manner in which these legal and historical traditions were developed within the framework of the covenant festival cannot be demonstrated in detail. However, the importance of the concept of the covenant in each of the literary strands of the Pentateuch (JEDP) shows them to be the literary deposits of a continuing cultic tradition which regarded the covenant as the governing element in the sociological structure of Israel, both during the period of the tribal confederation and during that of the monarchy.

In other words, the individual strands of the Pentateuch which we call JEDP are stages and types in the shaping of salvation-history, which had its home in the cult of the union of the twelve tribes and maintained itself by its sacral recital at the feast of the covenant all through the period of the political division of the tribes as the living possession of the religious congregations of the people right up to the reading of the Torah in the synagogues.³⁴

By “salvation-history,” Weiser has in mind not the “historical creed” of the (lay) worshiper, which von Rad found to be the germ of the Hexateuch; rather, since Weiser upholds the early union of historical recital with the proclamation of law, the prototype of the Pentateuchal sources is

²⁸*Ibid.*, 32.

²⁹Weiser, *The Old Testament*, 93.

³⁰*Ibid.*, 93-94.

³¹Weiser, *The Psalms*, 32.

³²*Supra*, 94.

³³Weiser, *The Old Testament*, 92.

³⁴*Ibid.*, 96.

the recitation and representation of salvation-history proclaiming the nature of God and leading up to the proclamation of his will and the act of renewal of the covenant, which is mediated at the regular covenant-festival of the sacral union of the twelve tribes by a cultic person (priest or prophet . . .) divinely commissioned to speak.³⁵

The fact that J and E agree as to the elements transmitted and their arrangement is explained by Weiser by the fact that “a certain hard core of the salvation-history tradition”—i.e., a “canon”—had developed by repeated proclamation in the cult, and had thus become so well established that “a sort of normative authority was accorded to it clearly in the pre-literary stage.”³⁶ Only this fact explains the preservation of different Pentateuchal sources side by side as literary entities; without accepting the cultic-sacral background of these competing traditions, which rendered them “canonical” in the oral stage of development, it is hard to see why the earlier traditions were not simply replaced by the later when the Pentateuchal material began to be written down. According to Weiser, the older Pentateuchal traditions, though preserved as canonical literature, were “neutralized” in the cultic sphere as newer and more suitable traditions were selected for recitation in the festival.³⁷ The importance of the covenant festival for the origin of canonicity is finally suggested by Weiser in the assertion that the “final ground for the canonical authority of the tradition of salvation-history” is not its preservation of the memory of past events, but rather its actualization of those saving events “within the framework of a sacramental happening”; in other words, to exercise their canonical authority the covenant traditions require a cultic setting, not simply a literary one.³⁸

2. Canonical Components of the Covenant Festival

On the basis of the work of Mowinckel, von Rad and Weiser in exposing the festival of the renewal of the covenant in ancient Israel, it is possible to elucidate the role of this festival in the formation of canonical traditions in the Old Testament. It is appropriate at this point to discuss the canonical components of the covenant-festival tradition. Weiser has already supplied a hint in this direction in his assertion that both “history” and “law” appear as the original basic components of the covenant festival, and that the joining of these components is normative for the further shaping of the traditions of the sacral union.³⁹ A similar view has been expressed by G. Mendenhall:

Since the covenant itself combined history and law, there can be little doubt that it is this which explains the fact that narrative and law codes are curiously interwoven in the present form of the Pentateuch, at least better than any alternative explanation.⁴⁰

Thus the Sinai tradition unites the theophany, with its declaration of the divine will, and the account of Yahweh’s historic act of salvation, as exemplified by the exodus. It may be observed that both of these elements are implied in the divine self-asseveration which introduces the Decalogue, Ex. 20:2-3: “I am Yahweh your God, who brought you out of the land of Egypt, out of the house of bondage. You shall have no other gods before me.”

³⁵*Ibid.*, 97.

³⁶*Ibid.*

³⁷*Ibid.*, 97-98.

³⁸*Ibid.*, 98-99.

³⁹*Supra*, 94-95.

⁴⁰Mendenhall, *IDB*, i, 719.

Several researchers have exposed the relationship between the Israelite covenant formulations and the treaty forms of other ancient Near Eastern peoples, notably the Hittite vassal treaties.⁴¹ The classic analysis of these treaties was undertaken by V. Korošec.⁴² D. J. McCarthy summarizes Korošec's analysis as follows:

- 1) *The Titulature*. The Hittite king with his titles introduces himself as proclaiming the treaty.
- 2) *The History*. Here is recounted at considerable length the relations between the contracting parties preceding the treaty.
- 3) *The Stipulations*. These are the terms to which the vassal must submit . . .
- 4) *The Tablet Clause*. It is required that the tablet recording the treaty be preserved in the temple and read occasionally.
- 5) *The God List*. These are the divine witnesses who sanction the treaty.
- 6) *Curses and Blessings*. These are invoked upon the vassal in case of violating or keeping the terms of the treaty.⁴³

Other writers wish to modify portions of this scheme. McCarthy considers the "tablet clause" as "hardly important enough to have represented a separate moment in the form,"⁴⁴ and drops it from his own analysis. Mendenhall, on the other hand, who retains the document clause, wishes to add to Korošec's outline a formal oath of ratification and an accompanying solemn ceremony, which would not have appeared in the written texts of the treaties.⁴⁵ K. Baltzer, who omits the "tablet clause," inserts between the historical prologue and the stipulations a section closely related to both, which he calls a "declaration of principle governing the future relationships of the treaty partners" (*die Grundsatzklärung über das zukünftige Verhältnis der Vertragspartner*)⁴⁶, a general statement of the amity which is to exist between the vassal and his lord. McCarthy, however, believes this is not really "a distinct part of the form on a par with the other parts."⁴⁷ McCarthy's analysis thus yields a five-point schema for the Hittite vassal treaties, as follows: 1) titulature, 2) history, 3) stipulations, 4) list of divine witnesses, 5) curses and blessings. Not all the Hittite vassal treaties were drafted in this style, but in those which used it the form was followed fairly rigidly.⁴⁸

It is clear that the several biblical accounts of the covenant ceremony have been fashioned according to a similar pattern. Analysis of these covenant formulations, which must be considered the literary deposits of a cultic tradition developed in the period of the Israelite amphictyony, yields a pattern containing certain fixed or well-established elements which may be considered the canonical components of the covenant-festival. Taking the Sinai pericope (Ex. 19–24) as an example, we find the following elements: 1) exhortation and *historical recital* of the events at Sinai (Ex, 19); 2) the *reading of the Law* (Decalogue and Book of the Covenant, Ex. 20:1–23:19); 3) the *promise of blessing* (Ex. 23:20–33); and 4) the *sealing of the covenant* (Ex. 24).⁴⁹

Some individual portions of the Sinai pericope have been viewed as evincing the treaty form, as it were, in miniature. J. Muilenburg finds Ex. 19:3-6 to be "a special covenantal *Gattung*," the structure of which may be represented as follows: 1) *oracular opening* (19:3b), which resembles the messenger phraseology of the Mari royal texts and Hittite treaties; 2) *proclamation of the mighty acts* (19:4), Israel being called to witness;

⁴¹*Supra*, 77-78.

⁴²V. Korošec, *Hethitische Staatsverträge: Ein Beitrag zu ihre Juristischen Wertung*, Leipziger Rechtswissenschaftliche Studien, 60 (Leipzig: Verlag von Theodor Weicher, 1931)

⁴³McCarthy, *Treaty and Covenant*, 28-29.

⁴⁴*Ibid.*, 29.

⁴⁵Mendenhall, "Law and Covenant," 34-35.

⁴⁶Baltzer, 22.

⁴⁷McCarthy, *Treaty and Covenant*, 32.

⁴⁸*Ibid.*, 41.

⁴⁹Rad, "Problem of the Hexateuch," 27.

and 3) *the covenant condition* (19:5-6); Muilenburg remarks that “despite the external similarity to the casuistically formulated laws, the affinities of style and terminology are rather with the apodictic constructions.”⁵⁰

W. Beyerlin has subjected the Decalogue (Ex. 20:2-17) separately to a comparison with the Hittite vassal treaties.⁵¹ Under this comparison, the Decalogue reveals the following structure: 1) *preamble*, “I am Yahweh your God” (20:2a); 2) *historical prologue*, “who brought you out of the land of Egypt, out of the house of bondage; you shall . . .” (20:2b); 3) *stipulations* (20:3-17). In the Hittite treaties, it is common to begin the separate clauses of the covenant with a comprehensive demand for exclusive loyalty, as in the first commandment, “you shall have no other gods before me” (20:3). In the Hittite treaties, the king’s stipulations are termed his “words,” as in the introduction to the Decalogue: “And God spoke all these words . . .” (Ex. 20:1). 4) Further, the Hittite treaties contain certain *sanctions* in the event of the breaking of the treaty; Beyerlin considers that “the apodictic legal clauses which belong to the oldest constituent parts of the Decalogue are essentially categorical prohibitions, which as such are absolute and represent the most powerful sanctions.”⁵² Beyerlin seeks to justify this statement by comparing the apodictic prohibitions with the other apodictic formulae, “let him be put to death” (יָמוּת, as in Ex. 21:12, 15-17) and “cursed . . .” (אָרַר, as in Dt. 27:15-26), and also by reference to the concept of the “jealous God” in the elaboration of the second commandment (אַל קַנֵּא, Ex. 20:5b). Further, the Hittite treaties were drawn up in writing; the Sinai pericope shows that the Decalogue was traditionally conceived as part of the written record of Yahweh’s words (Ex. 24:4).⁵³ Beyerlin also refers to the “tablet clause” of the Hittite vassal treaties, which demand a regular recital of the treaty, and finds here also a parallel to the Decalogue:

It is true there is no regulation about this in the text of the Ten Commandments. Yet there can be no doubt that the Decalogue was proclaimed at more or less regular intervals in Israel’s cult in some form or other.⁵⁴

Finally, Beyerlin considers it probable, on the basis of biblical evidence, that there existed “a recurrent cultic affirmation of obligation” in relation to the Decalogue, which correspond to the oath or act of commitment which must have accompanied the sealing of Hittite treaties.⁵⁵

Beyerlin’s attempt to extract the treaty form from the Decalogue alone is somewhat strained, as McCarthy recognizes.⁵⁶ Furthermore, McCarthy, in a detailed examination of the Sinai pericope,⁵⁷ concludes that it does not really evince the covenant formulary of the Hittite texts. According to McCarthy, neither the historical prologue nor the curse-blessing formulae are adequately represented, so that “if our present text in Ex 19ff. does reflect the covenant form, it reflects it only remotely.”⁵⁸ Though the Sinai texts pose a complicated literary problem McCarthy believes that the original form of the text did not reflect the covenant form. He states:

We can only conclude that the form of the Sinai story in Ex 19–24 which is reflected in the text without later additions does not bear out the contention that the story reflects an organization according to the covenant form. It

⁵⁰J. Muilenburg, “The Form and Structure of the Covenantal Formulations,” *VT*, ix (1959) 354.

⁵¹Beyerlin, 49-67.

⁵²*Ibid.*, 54.

⁵³*Ibid.*, 55-56. Beyerlin also notes that the Jahwist Decalogue is said to have been written down, Ex. 24:27-28.

⁵⁴*Ibid.*, 58-59.

⁵⁵*Ibid.*, 62-63.

⁵⁶McCarthy, *Treaty and Covenant*, 159n.

⁵⁷*Ibid.*, 152-167.

⁵⁸*Ibid.*, 154.

reveals an idea of covenant which is somewhat different from that exemplified in the treaty. The manifest power and glory of Yahwe, ceremonies effecting a union, these are the things which ground and confirm alliance more than history, oath, threat and promise. It is an idea of covenant in which ritual looms larger than the verbal and contractual.⁵⁹

McCarthy's conclusion, if correct, actually vindicates the importance of the covenant form in the formation of canonical traditions in Israel; for it may well be that the Sinai tradition of the theophany and declaration of the divine will—which does not actually reflect the treaty form—was given canonical status by its being refashioned into the semblance of the treaty form. R. E. Clements appears to endorse such a view when he remarks,

Mount Sinai was itself . . . very probably already the subject of a sacred tradition concerning a theophany when it became central for the Israelite covenant faith. Old ideas of the divine self-revelation took on a new meaning because of the distinctive context of faith with which they were now associated. The theophany itself became a central act of the covenant.⁶⁰

If one follows von Rad in assuming that the origin of the covenant festival was at Shechem as the original center of the amphictyony,⁶¹ then the Sinai pericope may represent the assimilation of another Israelite sanctuary tradition to that of Shechem. Von Rad is of the opinion that Deuteronomy actually preserves a more primitive form of the covenant-festival pattern than does the Sinai narrative.⁶²

The schema reflected in the present literary form of the Sinai pericope as a whole, and in the Decalogue according to Beyerlin's analysis, corresponds to that of the Hittite vassal treaties except for the exclusion in Israel of the "list of divine witnesses." Obviously the nature of the Yahwistic covenant, which excludes reference to deities other than Yahweh, rules out any exact parallel to the god lists of the Hittite documents.⁶³ But there is a further consideration; in the Israelite covenant, not only is Yahweh the sole deity involved, but he also occupies the position of the overlord or sovereign, the initiator of the treaty. Thus his function is different in the Israelite covenant from that of the gods of the Hittite treaties; the latter are witnesses to the treaty but not partners, and their appearance in the documents is more formal than substantive. The Israelite adaptation of the Near Eastern treaty form is unique especially as far as the role of the deity is concerned, and therefore it would be unreasonable to expect a correspondence with other ancient treaties at every point.

The Hittite treaties, however, list not only the gods of both sovereign and vassal as witnesses, but also natural phenomena such as the mountains and the sea, but especially heaven and earth.⁶⁴ This practice is paralleled in Ps. 50, which stands in a close relation to the Decalogue;⁶⁵ here Yahweh "calls to the heavens above and to the earth, that he may judge his people" (Ps. 50:4). This practice is paralleled also in Deuteronomy, which in its entirety may be analyzed according to the structure of the covenant festival: 1) *historical presentation* of the events at Sinai, and parenetic material connected with these events (Dt. 1–11); 2) *reading of the law*, or "stipulations" (12:1–26:15); 3) *sealing of the covenant* (26:16–19); 4) *blessings and curses* (ch. 26ff.); 5) *calling of witnesses*, "heaven and earth" (occurs several times within the preceding section—30:19, 31–28, 32:1).⁶⁶

⁵⁹*Ibid.*, 163.

⁶⁰R. E. Clements, *God and Temple* (Oxford: Basil Blackwell, 1965), 20.

⁶¹*Supra*, 99.

⁶²Rad, "Problem of the Hexateuch," 31.

⁶³Beyerlin, 60.

⁶⁴*Ibid.*, 61; Mendenhall, "Law and Covenant," 34.

⁶⁵*Supra*, 83–84.

⁶⁶This outline is based essentially on von Rad, "Problem of the Hexateuch," 27, but with addition of the calling of

A somewhat different breakdown of Deuteronomy according to treaty form is provided by M. G. Kline,⁶⁷ who stresses the idea of “witness.” Kline’s basic outline is as follows: 1) *preamble*, introducing the covenant mediator (Dt. 1:1-5); 2) *historical prologue*, giving the covenant history brought up to date and emphasizing the most recent events (1:6–4:49); 3) *stipulations* governing covenant life (chs. 5–26); 4) *curses and blessings*, the sanctions pronounced in covenant ratification (chs. 27–30); 5) *succession arrangements*, a “dynastic disposition” providing for continuity of the covenant (chs. 31–34).⁶⁸ The last section includes the invocation of witnesses, and directions for public reading of the book. Kline remarks:

Part of the standard procedure followed in the ancient Near East when “the great king” gave his covenant to a vassal people was the preparation of a text of the ceremony as the treaty document and witness. The Book of Deuteronomy is the document prepared by Moses as a witness to the dynastic covenant which the Lord gave to Israel in the plains of Moab (cf. 31:26).⁶⁹

There seems to be general agreement on the treaty-covenant structure of Deuteronomy; D. J. McCarthy finds it to be the clearest biblical instance of the treaty-covenant formulary. He states:

It is the core of Dt which provides the best example of the full covenant form. There is the historical and parenetic prologue. There is a full set of terms in the laws, the only presentation of an extensive set of demands within a biblical covenant form parallel to the detailed regulations contained in the treaties to govern the relationship which they established. The parties give their word and there is a full development of the blessing and curse formula. This is a text conceived as a treaty between Israel and Yahwe, and as such it must have connoted the idea of a covenant through a contract based on the word and agreement of the parties.⁷⁰

Von Rad has also assembled material connected with Shechem in Josh. 8 and 24 and Dt. 27, which in his opinion “goes back to one and the same covenant ceremony at Shechem.”⁷¹ This material may be organized to reveal the following outline: 1) *historical recital*, followed by Joshua’s appeal to the people and their assent (Josh. 24:1-24); 2) the *proclamation of the law* (Josh. 24:5; Dt. 27:15-26); 3) *sealing of the covenant*

witnesses.

⁶⁷M. G. Kline, *Treaty of the Great King: The Covenant Structure of Deuteronomy, Studies and Commentary* (Grand Rapids: William B. Eerdmans Publishing Company, 1963); “Dynastic Covenant,” *WThJ*, xxiii (1960-61), 1-15.

⁶⁸Kline, *Treaty of the Great King*, 48-49; “Dynastic Covenant,” 2.

⁶⁹Kline, *Treaty of the Great King*, 48. Thus Kline uses Deuteronomy’s adherence to “the classic treaty structure” to justify Mosaic authorship of the material, citing parallels in Deuteronomy to other ancient treaties such as the treaty of Mursilis and Duppi-Teshub and the Nimrud treaty of Esarhaddon. Kline decries “von Rad’s failure to recognize the historicity of the covenant renewal presented in Deuteronomy as a particular ceremony conducted by Moses in Moab,” “Dynastic Covenant,” 4.

⁷⁰McCarthy, *Treaty and Covenant*, 170. Baltzer, 41-43, has analyzed the first part of Deuteronomy, 1:1–4:40, as exhibiting the covenant formulary: 1) introduction, setting forth the situation (1:1-5); 2) historical prologue (1:6–3:17), a section which is not a unity but is composed of materials brought together from various sources, recounting the events leading to the entry into Canaan; 3) the law section (4:1-20), culminating in the reference to the prohibition of images and the astral cult; 4) the commanding of the covenant, and the covenant sanctions (4:23-31), material which overlaps into the “curse” section and also contains the calling of witnesses, “heaven and earth” (4:26a); 5) the formula of curse (4:26b) and the corresponding formula of blessing (4:40), which is enlarged by the section 4:32-39. McCarthy, *Treaty and Covenant*, 132-135, rejects Baltzer’s argument and instead considers Dt. 4:1-40 alone to be “a complete unit which reflects in miniature the covenant form which is that of Dt as a whole.” Kline holds a similar view of Dt. 4, and states that “this reflection of the total treaty pattern within the undisputed unity of this brief passage is a significant clue to the nature of the larger document in which it is embedded,” *Treaty of the Great King*, 31.

⁷¹Rad, “Problem of the Hexateuch,” 38.

(Josh. 24:27); 4) *blessings and curses* (Dt. 27:12ff.; Josh. 8:34). H.-J. Kraus, who does not attempt to arrange all this material as von Rad has done, nevertheless discusses it in connection with Israelite worship at Shechem,⁷² and concludes that these passages “all support the view that the cultic traditions of Shechem point to a ceremony of proclamation of the divine law which belonged unquestionably to the cultic act of the renewal of the covenant.”⁷³

Baltzer discusses separately the covenant formulary as used in what he considers to be the renewals of the covenant. He discerns the principal examples of this usage in Ex. 34, Neh. 9–10, and Ezra 9–10.⁷⁴ Baltzer calls Ex. 34:10–27 “the first half of a covenant formulary.” It consists of these sections: 1) *historical prologue*, Ex. 34:10 + 11b, dealing with Yahweh’s displacement of the inhabitants of Canaan and placed here in the future leather than the perfect because of the position of this text in the Sinai narrative; 2) material dealing with the *future relationship* between Israel and Yahweh (34:11a, 12–16); 3) individual *stipulations* (34:17–26); 4) *conclusion of the covenant* by Yahweh’s declaration (34:27). Neh. 8–10 contains the account of the assembly of Ezra, in which the Jews again ratified the covenant and pledged to keep “the law.” Here we may outline the following scheme: 1) *introduction*, the account of the *reading of the law* in an eight-day festival (Neh. 8); 2) *historical prologue*, in the form of Ezra’s prayer of confession, which recites the Hexateuchal history with vague references to the period of the monarchy (9:6–37); 3) the *sealing of the covenant* (9:38–10:26); 4) the assembly placed under a *curse*, with a description of *ritual obligations* (9:28–39). Although the outline is not as clear-cut as in the examples taken from the Hexateuch, it is evident that the assembly of Ezra was intended to be a celebration of the covenant according to the canonical pattern.⁷⁵

Although Baltzer refers to these acts of Ex. 34 and Neh. 9–10 as “renewals of the covenant,” they do not appear to be different in this respect from the examples previously discussed, all of which are probably the “rubric,” in variant form, of a covenant festival which was celebrated periodically in ancient Israel and which was conceived to be the reenactment of an original covenant, the historical account of which is not extant in any biblical passage.

Thus the entire outline consisting of a historical recital or prologue, the proclamation of the law, the sealing of the covenant, and blessing and curse, appears to be the normative pattern of the covenant festival in ancient Israel. The pattern itself, apart from its specific contents in each of its various manifestations, may be termed a canonical component of the covenant-festival tradition. As a consequence, it is evident that the individual elements of this pattern constitute the *contents* of what was first considered canonical tradition in the development of the Old Testament; large portions of the Pentateuch and other parts of the Hebrew Scriptures are expansions or developments of these canonical components, the covenant-festival framework (the pattern-component) and its individual elements (the content-components). If this is correct, then the canonicity of the Old Testament literature is seen in its ability to reflect in some fashion the covenant-festival pattern in its various elements.

3. Expansion of Canonical Traditions in the Hexateuch

In the preceding sections, we have discussed the Israelite covenant renewal ceremony and its canonical components, both the covenant-festival pattern itself and its separate elements. We have seen that the covenant-festival pattern appears at several critical points in the Hexateuch, and in other parts of the Old Testament.

⁷²Kraus, 136–145.

⁷³*Ibid.*, 145.

⁷⁴Baltzer, 48–57. Other passages which Baltzer discusses here are Dan. 9:4b–19; 2 Chr. 29:5–11; 2 Kgs. 22–23; Jer. 34:8–22; and the Qumran Manual of Discipline i:18–ii:18.

⁷⁵Baltzer does not include Neh. 8 in his analysis, but states that “in relation to Neh. 10, Neh. 9 constitutes the historical prologue,” *ibid.*, 52.

It is possible to view the buildup of Individual sections of the canonical literature as a process of the expansion of the separate elements in the covenant-festival pattern (the content-components). This process is especially apparent in the Hexateuch. Both larger and smaller segments of the Hexateuchal material may have assumed canonical status as elaborations or variants of one of these elements.⁷⁶ This would be true especially of the two major elements pointed out by Weiser, “history” and “law,” the “prologue” and “stipulations” of the treaty-form. In many cases this would require the assumption of a secondary stage of canonicity, in which literature exemplifying only one of the content-components in the covenant-festival pattern could be developed and set forth as authoritative in relative separation from the pattern-component, the basic framework of the festival.

The “history” element, for example might be developed and expanded separately from the “law” or other elements.⁷⁷ That this is indeed the case has been shown by von Rad’s discussion of the “historical creed” in the Hexateuch.⁷⁸ Von Rad judges Dt. 26:5b-9 to be “the earliest recognisable example” of the Israelite cultic confession, a brief recital of the principal events in Yahweh’s redemptive activity: the patriarchal age, the oppression in Egypt, the deliverance by Yahweh, and his gift of the promised land. He believes this cultic confession to be based upon a long-established fixed form:

Such a summary of the fact of redemption within the cultus cannot be a freely devised meditation based on historical events, but must be a reflection of the traditional form in which the faith is presented.⁷⁹

For von Rad, a striking feature of this “canonical pattern”⁸⁰ of the historical creed is the absence of any reference to Sinai or the covenant legislation.⁸¹ It is not correct, however, to suppose that the “historical creed” was developed in complete independence of the covenant tradition; indeed, it is possible to understand this “historical creed” as an elaboration of the “historical prologue” section of the covenant-festival pattern. This is suggested by other occurrences of the “historical creed.” In Dt. 6:20-24, the creed is recited as though it were an introduction to the commandments; there is no reference to the events of Sinai, but after recapitulating the course of events through the entry into Canaan the text immediately continues: “and Yahweh commanded us to do all the statutes.” Further confirmation of this relationship is seen in the account of the covenant at Shechem (Josh. 24). Here Joshua’s address to the people, which is in the form of an

⁷⁶This idea resembles somewhat Östborn’s concept of “element-literature” in which an Old Testament book or Psalm may be taken as a reflection of only one side of the “struggle/victory” pattern. The need for such a concept of “element-literature” has been judged a weakness in Östborn’s thesis, for it is the only way by which some of the Old Testament books can be made to fit into Östborn’s scheme, *supra*, 91). As applied to the elements of the covenant formulary, however, the concept of “element-literature” seems capable of greater substantiation. First, it is not the only means whereby certain books can be placed in relation to the covenant-festival pattern, *infra*, ch. 13. Second, the covenant formulary is essentially, or originally, not a mythological but a legal or contractual pattern, and as such its several elements are more capable of independent elaboration leading to the buildup of literary complexes. The constituent parts of a treaty-form may receive greater weight, in isolation from the whole, than may the individual elements of a mythological pattern.

⁷⁷It is this fact which makes it possible to set forth “theories of the canon” based upon the representation of the canon as essentially history, law, or the inspired word (prophecy); for the connection between prophecy and the “blessing-curse” element of the covenant-festival pattern, see *infra*, ch. 11.

⁷⁸Rad, “Problem of the Hexateuch,” 1-13; *Old Testament Theology*, i, 121-125.

⁷⁹Rad, “Problem of the Hexateuch,” 5.

⁸⁰Rad, *Old Testament Theology*, i, 123.

⁸¹Rad, “Problem of the Hexateuch,” *loc. cit.*

elaboration of the “historical creed,” actually occupies the position of the historical prologue in the covenant formulary.

The view that “the Credo is in origin the historical prologue of the covenant” has been upheld by H. B. Huffmon. Huffmon finds in this original relation of the creed to the “history” section of the treaty form the explanation for the absence in the creed of any reference to Sinai. He points out that in the Hittite treaties, former grantings of treaties were not cited in prologues nor viewed as gracious acts on which the presently concluded relationship between suzerain and vassal is based. The treaty regulates the relationship, it does not constitute the relationship.⁸² Therefore, by analogy with the treaty form, the Sinai covenant is not part of the historical creed.

The covenant concluded at Mt. Sinai was based upon Yahweh’s prior saving act—the Exodus—and itself did not represent such an act that could be included in a Credo. Accordingly, the analysis of the prologue or Credo in terms of the extant treaties precludes any attempt to separate the Sinai and Exodus traditions because of the failure of the Credo to cite the Sinai events. Actually, what requires explanation is the later confusion that led to the view that Sinai was such a saving act.⁸³

The persistence of the “canonical pattern” of the saving history in the various prose examples of the historical creed, then, shows them to be elaborations or variants of the “historical prologue” element in the treaty-covenant form. The same may be said of a number of what von Rad calls “cult lyrics” based on the historical creed, such as the “Red Sea Song” or “Song of Moses” (Ex. 15:1-18), and Pss. 136, 105, 78, and 135.⁸⁴ The “canonical pattern” recurs in these compositions, so that reference to the Sinai events are not interpolated into the account except in a few very late examples (Ps. 106, and the prayer of Ezra, Neh. 9) Thus the “historical prologue” section of the covenant-festival pattern was elaborated separately from, especially, the “stipulations” section during a considerable period in the formation and expansion of the Israelite canonical traditions. Nevertheless it is probably accurate to say that these historical recitals were viewed as “canonical” because their original relation to the covenant-festival scheme was never lost from view.

Other Hexateuchal materials may well have been assimilated into the realm of Israelite canonical literature by association with the “historical prologue” element. In this connection, one thinks particularly of the pre-Abrahamic traditions of Genesis 1–11, which although related to the ancient Near Eastern mythological background, have been “historicized” as an expansion of the Israelite history proper. In this way they became part of the canonical history. This is not to deny that other profound theological motives were at work in the use of these traditions by the Jahwist, or by the priestly writers.⁸⁵ The patriarchal traditions, which of course retain a closer connection with the Israelite historical recital properly speaking, likewise constitute an expansion of the “historical prologue.” This expansion occurred partly as a literary by-product of the growth of the tribal confederation itself, for as each group entered the covenant community it brought with it its own version of the legends of the eponymous ancestors, which required to be incorporated into the common history of Israel as a symbol of the union of the tribes. This did not occur in any standardized fashion throughout all of Israel; rather, the “historical prologue” section of the covenant formulary took variant forms as it expanded in the various sanctuaries where the covenant festival was observed. For this reason the patriarchal traditions, even in their present form, are capable of a degree of localization within the total Israelite tradition. In addition, the historical creed was expanded by incorporation of narrative material

⁸²H. B. Huffmon, “Exodus, Sinai and the Credo,” *CBQ*, xxvii (1965), 108.

⁸³*Ibid.*, 112.

⁸⁴Rad, “Problem of the Hexateuch,” 8-12.

⁸⁵See, for example, G. von Rad, *Genesis*, trans. by J. H. Marks (Philadelphia: Westminster Press, 1961), ch. 2; E. A. Speiser, *Genesis*, AB, i (Garden City, N.Y.: Doubleday & Company, 1964), ch. 1.

dealing with the wanderings in the wilderness (Ex. 1–19) and the events preceding the entrance into the land of Canaan (Num. 10–Dt. 11). The mythological, legendary and narrative portions of the Hexateuch, then, constitute a complete filling out of the “historical prologue” section of the covenant formulary, and receive their authority as canonical traditions from this relationship. The result is that the Hexateuch as a whole displays the form of the “historical creed,” except for the insertion of the “law” element in the Sinai section (Ex. 19–Num. 10) and in Deuteronomy.

As with the “history” element, the “law” element in the covenant formulary was expanded separately from the other elements of the pattern. This gave rise to the large blocs of legal material in the Pentateuch, in Exodus, Leviticus, and Deuteronomy. Essentially this legal material constitutes a development of the original Israelite apodictic law series, which have been shown to have functioned canonically from a relatively early period in Israel.⁸⁶ These Israelite apodictic laws correspond fairly closely in form to the stipulations of the Hittite vassal treaties.⁸⁷ By extension, however, *all* the Israelite legislation occupies the position of the “stipulations” of the treaty form, since it is viewed as having originated in Moses’ encounter with God in the Sinai covenant. It is true that what critical scholarship calls the “Sinai pericope” proper (Ex. 19–24) includes only the Decalogue and Book of the Covenant (Ex. 20:1–23:19) in the “stipulations” section. However, as far as the redactors of the Pentateuch were concerned, the other blocs of laws were considered as appendices to this basic legislation, and no less authoritative. Thus the detailed cultic provisions of Ex. 25–31 are also said to have been spoken by God to Moses “upon Mount Sinai,” prior to his giving him the “two tables of the testimony” (31:18). Since in the view of the redactor there would not be two sets of “tables of testimony” at this point (the “golden calf” incident and breaking of the first set of tables comes later, Ex. 32), the reference to the tables here must be to the laws given in the Sinai pericope proper; the redactor appears to be attempting in 31:18 to suggest that the cultic provisions of Ex. 25–31 really belong within the first set of laws. The “golden calf” story serves as a device whereby the “ritual decalogue” of Ex. 34 can be retained as part of the Sinai legislation.⁸⁸

As for the priestly legislation in Leviticus, the frequent formula “Yahweh said to Moses” (4:1, 5:14, 5:20, 6:1, etc.), and the references to Mount Sinai as the location for the reception of these provisions (26:46, 27:34), indicate that this material was also viewed as belonging to the original encounter narrated in Exodus. Deuteronomy is put forth as a re-presentation of the Sinai (Horeb) legislation, applying it to the situation of a later time;⁸⁹ or perhaps more accurately, Deuteronomy “places Israel once again in the wilderness, with Moses speaking to her.”⁹⁰ This is accomplished by the persistent reference to “this day” in the exhortatory language of the book,⁹¹ which reflects the actualization of the covenant through its continual celebration in the cult.⁹² This, when placed alongside the fact that Deuteronomy evinces a literary form clearly dependent on the covenant-festival pattern, indicates that the Deuteronomic “legislation” is intended to occupy the position of the “stipulations” section of the covenant formulary.

It will be seen that the authority of the Israelite laws is conveyed in the fact that they are represented as being spoken by the deity to his authorized spokesman (or, in Deuteronomy, repeated by the spokesman on divine authority). Originally such an authoritative framework for the setting forth of the laws would have been provided by the cultic setting of the covenant festival, in which Yahweh occupies the position of the

⁸⁶*Supra*, ch. 9, sect. 2.

⁸⁷*Supra*, 77–78.

⁸⁸For the view that the “ritual decalogue” formed the original “ten words” (Ex. 24:28) of the Sinai pericope, and that the “ethical decalogue” has displaced it in the present form of the tradition, see *supra*, 82n.

⁸⁹Rad, *Studies in Deuteronomy*, 15–16.

⁹⁰Rad, *Old Testament Theology*, i, 231.

⁹¹Dt. 5:1, 15:1, 26:17, 27:9, etc., and especially 29:10–15 and ch. 30.

⁹²Rad, “Problem of the Hexateuch,” 28–29.

sovereign laying down the stipulations of the treaty with his vassal. However, in accordance with the principle that the various content-components of canonicity could be expanded apart from the pattern-component, various series of apodictic laws developed for specialized purposes outside the framework of the covenant celebration as such.⁹³ These laws functioned authoritatively within the Israelite religious community, inasmuch as their correspondence in form to the covenant stipulations proper was apparent. A specialized form of such legislation is the “cultic calendar,” which lays down the ritual requirements of the covenant. These cultic calendars follow a common pattern of three major yearly feasts, but with different emphases; they appear in Ex. 23:10-19, Ex. 34:14-26, Dt. 16:1-17, and Lev. 23:4-44. Num. 28–29 is a filled-out form of the cultic calendar, belonging to the Priestly code.⁹⁴ It is possible that these cultic calendars originally stood in the closest relationship to the covenant formulary, but were for the most part displaced from this position of centrality by apodictic series of a more comprehensive nature (e.g., the classical Decalogue). The cultic calendars most clearly state the obligations of the Yahwistic community as a whole to the deity as its treaty partner; whereas the other apodictic series regulate primarily the relationships between members of the Israelite community. On the other hand, the general body of priestly regulations, as found in Leviticus and Numbers, was probably not incorporated into the covenant-festival framework until quite late. Since it deals with a special group, not with the cultic community as a whole, it was not originally part of the liturgy of the tribal confederation. This explains why some very ancient material in the Pentateuch exists in the latest literary strand, and may be said to have been recognized as “canonical” only in exilic or post-exilic times.

To turn to the laws in casuistic form, the question as to whether this type of law originated in Israel or was taken over from Canaanite jurisprudence may be considered an open one; but in any case, such legislation would not have stood in any original relationship to the “stipulations” section of the covenant formulary. That it now occupies this position in the Sinai pericope (the Book of the Covenant) and in Deuteronomy is due quite clearly to the desire to invest this type of law with the canonical authority accorded the apodictic stipulations of the covenant formulary.

The incorporation of the casuistic legislation into the realm of Israelite canonical traditions could have taken place in two stages. First, the casuistic laws became intermixed with various apodictic series apart from direct association with the covenant formulary. An illustration of this process is supplied by the Book of the Covenant. Alt remarked that “the Book of the Covenant provides in a small number of passages clear evidence of the forcible imposition upon the casuistic law of a law different both in form and content, presumably Israelite in origin,”⁹⁵ i.e. the apodictic laws. He cites as examples the *lex talionis* (Ex. 21:23-25) and laws regulating murder and manslaughter (Ex. 21:14, 13); in both of these the form is conditional, but the consequence is stated apodictically, in the words of Yahweh: “You shall give . . .” (21:23) “you shall take him . . .” (21:14), “I will appoint . . .” (21:13). Alt concluded that in these examples “the casuistic law, preserved in a very mutilated condition, provides the basis of the text, while the Israelite law, quite different

⁹³This is in agreement with Gerstenberger’s criticism of the supposed origin of all apodictic laws in the covenant festival. Gerstenberger notes that “it would be difficult to accommodate all the clauses recognized as apodictic into one major festival of the tribal covenant,” *Wesen und Herkunft*, 55; translated by the present writer. The need for this accommodation is obviated, however, once it is acknowledged that the corpus of apodictic laws has been expanded partly in relative separation from the covenant-festival framework. A list of the principal apodictic series in the Pentateuch, as detected by Alt, is found *supra*, 76n.

⁹⁴For a discussion and comparison of these calendars, see Kraus, 26-36. The calendar of Ex. 34:14-26 is the “ritual decalogue,” and the calendar of Ex. 23:10-19 is a variant of it. Kraus believes “it is not really possible . . . to reconstruct from the series of statutes that have been grouped together a ‘Yahwistic decalogue,’” *ibid.*, 19, i.e. a decalogue belonging to the Yahwistic strand of the Pentateuch. K. Koch, however, believes that the “ritual” and “ethical” decalogues can be shown by form-criticism to stem from one basic series of commandments, Koch, 44-45; *supra*, 82.

⁹⁵Alt, 104.

in form, is interpolated as a secondary element.”⁹⁶ If Alt is correct, we have here a glimpse of the process by which the canonical traditions stemming from the covenant formulary were expanded. An alternative to this process, also apparent in the Book of the Covenant, was the process by which various apodictic series were set into the corpus of casuistic law;⁹⁷ by this means the main body of the Book of the Covenant came to share in the authoritative status accorded the apodictic legislation.

The second stage in the incorporation of casuistic laws into the sphere of Israelite canonical traditions would have been the placing of the mixed apodictic-casuistic material into the framework of the covenant formulary itself. It is fairly certain that the Book of the Covenant did not originally occupy the position of centrality in the Sinai pericope, following almost directly upon the Decalogue.⁹⁸ It is likely that it was placed in this position to strengthen its claim to canonical authority.⁹⁹ The casuistic laws of Deuteronomy stand not only in relation to the Book of the Covenant, on which many of them are based,¹⁰⁰ but also in an even more pronounced relation to the covenant formulary, which is quite clear in Deuteronomy.

The expansion of the “history” and “law” elements of the covenant formulary in the Pentateuch has been briefly outlined.¹⁰¹ An important point which must now be stressed is that the expansion of canonical traditions within the covenant formulary can be shown to have occurred within each of the major literary strands of the Hexateuch, J, E, D and The covenant-festival pattern itself appears in the Old Testament in connection with each of these sources. The pattern is clearest in Deuteronomy, as G. von Rad¹⁰² and D. J. McCarthy¹⁰³ have observed. The Sinai pericope in its present form represents a combination of JE; it is possible, however, to isolate the sources to reveal the covenant form for both J and E, using material also from Ex. 33–34.¹⁰⁴ The Elohist material may be organized as follows: 1) *introduction*, the appointment of the covenant mediator and theophany¹⁰⁵ (Ex. 19:2b-6, 10-11a, 14-21); sometimes this material is allocated

⁹⁶*Ibid.*, 108. Alt considered that this shows the adoption of Canaanite law by the Israelites, who felt that it “needed to be corrected in its basic principle,” i.e. related to the will of Yahweh.

⁹⁷These series include Ex. 21:12, 15-17; 22:18, 19, dealing with crimes punishable by death (though this series is not in the form of commands expressed in the second person singular), and Ex. 22:17, 20, 21, 27; 23:1-3, 6-9, governing relations with certain “tabu” persons. Note also the “cultic calendar” of Ex. 23:10-19, which stands near the end of the Book of the Covenant; Sellin and Fohrer, however, believe this is only a “late supplement” to the Book of the Covenant, and is dependent on the “ritual decalogue” of J (Ex. 34:14-26). E. Sellin, *Introduction to the Old Testament*, rev. and rewritten by G. Fohrer, trans. by D. E. Green (Nashville: Abingdon Press, 1968), 133-134.

⁹⁸See Eissfeldt, 216-219 for the critical argument for the interpolation of the Book of the Covenant into its present context. Eissfeldt believes it “quite possible” that the Book of the Covenant originally had no connection with Sinai.

⁹⁹A. Weiser, who also considers the present position of the Book of the Covenant to be secondary, believes it most likely that in the Elohist strand its original position was after Josh. 24, *The Old Testament*, 121. If so, this position would also have strengthened the authority of the Book of the Covenant, by placing it in association with the covenant at Shechem, under Joshua.

¹⁰⁰*Supra*, 81.

¹⁰¹For the theory of the expansion of the “blessing and curse” elements in the Prophets, see ch. 11 *infra*; for the expansion of these elements in the Writings, see ch. 13 *infra*.

¹⁰²*Supra*, 105.

¹⁰³*Supra*, 106.

¹⁰⁴The following reconstruction is based upon Newman, 39-46. Newman’s sequence has been retained, but the material has been reorganized.

¹⁰⁵The theophany and the role of the covenant mediator are distinctive features of the Israelite covenant, as exemplified by the Sinai passage, and are not paralleled in other ancient Near Eastern treaties. McCarthy stresses this point in claiming that the treaty-form has been superimposed upon the Sinai materials. He notes that the importance of the mediator is determined by that fact “that Israel’s covenant was not with an earthly king but with the sovereign God, the invisible Yahweh,” McCarthy, *Treaty and Covenant*, 168. He goes on to claim that the Sinai covenant is actually

to the “historical recital” section,¹⁰⁶ but as it deals mainly with events at Sinai rather than the previous relationship between Yahweh and Israel, it does not really correspond to the “historical prologue” of the treaty form;¹⁰⁷ possibly, however, Ex. 19:4 could be considered part of the “history” element;¹⁰⁸ 2) *historical prologue*; in the present form of the Sinai pericope this is limited to the introduction to the Decalogue (Ex. 20:2), anticipated by 19:4; 3) *stipulations* (Ex. 20:3-17); 4) oath of the people and *sealing of the covenant* (Ex. 24:3-8). This form is defective inasmuch as the historical prologue is curtailed and the “blessing and curse” section is lacking.¹⁰⁹

The Jahwist version is similar: 1) *introduction*, appointment of the mediator and theophany (Ex. 19:9a, 11b-13, 18, 20; 34:1-4; 33:18-23; 34:5);¹¹⁰ here the importance of the mediator is augmented, for Moses is appointed by Yahweh, not by the people, and receives a special theophany (33:18-23; 34:5); 2) Yahweh’s proclamation of his name and nature, and *offer of a covenant* (Ex. 34:6-8, 10-13), material which also contains elements of the “historical prologue” (34:11-13) which here constitutes an anticipation of the conquest of Canaan;¹¹¹ 3) *stipulations*, the “ritual decalogue” (Ex. 34:14-26); 4) *sealing of the covenant* (34:27-28; 19:7-8; 24:1-2, 9-11).

In addition to the Sinai materials, the account of the assembly at Shechem (Josh. 24) may be related to the Elohist document; M. Newman says it “seems likely that the E covenant legend in an early stage can be connected with the ceremony at Shechem.”¹¹² Finally, the covenant-festival pattern may be demonstrated in connection with the priestly source, in the assembly of Ezra (Neh. 8–10).¹¹³ Eissfeldt states:

Many scholars believe it is possible to link P with the person of Ezra, whether by making Ezra the compiler of P or by ascribing to him at any rate the imposition of P upon the Jewish religious community and relating Neh. viii-ix (x) to this event.¹¹⁴

concluded by rite, rather than by contract, and that the rite involves the theophany. This, according to McCarthy, accounts for the absence of the historical prologue or blessings and curses: “There is no need to appeal to history or to threats and promises. It is the coming of Yahweh which counts, and this may be called ritual in the sense that that representation of that coming is drawn in terms which surely reflect the cult in which the original appearance was recalled,” *ibid.*, 172.

¹⁰⁶Rad, “Problem of the Hexateuch,” 27.

¹⁰⁷McCarthy states, “Certainly the text itself is a history of what happened at Sinai, but there is no sign of a historical prologue in the sense of the Hittite treaties. That is to say, there is no recounting of a series of past events as background and foundation for the covenant,” *Treaty and Covenant*, 166.

¹⁰⁸McCarthy disagrees, as he considers the unit 19:3b-8 to be secondary on the basis of style, literary character and sequence. “If this be true, the only historical material in the sense of appeal to past events falls out,” *ibid.*, 157.

¹⁰⁹*Ibid.*, 157. McCarthy, however, cites instances of Hittite vassal treaties which lack the historical section, 30-31.

¹¹⁰Newman, 46-48.

¹¹¹Baltzer, 48; *supra*, 107. McCarthy, on the other hand, calls this “a fundamental change from the nature of the historical prologue,” *Treaty and Covenant*, 165n. He explains this anticipation of the conquest as due to the attempt to render meaningful in the wilderness of Sinai the stipulations of the “ritual decalogue,” which relate to agricultural festivals and the dangers of Ba’alistic syncretism, i.e. matters pertaining to life in Canaan. However, if one accepts the view that the Israelite covenant formulary had its origin in the tribal amphictyony in Canaan, centered around Shechem, then the recital of the conquest would be the proper content for a “historical prologue,” and the throwback to “Sinai” would be secondary.

¹¹²Newman, 112. Weiser, *The Old Testament*, 145, connects Josh. 24 with the work of E, as does Eissfeldt, 255, who relates it also to the work of a Deuteronomic editor.

¹¹³*Supra*, 107.

¹¹⁴Eissfeldt, 208.

Eissfeldt considers the second of these assumptions to be a probability. The covenant festival pattern, then, can be found in each of the literary strands of the Hexateuch, or in the case of P, in close connection with that source. Moreover, the specialized series known as “cultic calendars,” which perhaps have more in common with the “stipulations” of the treaty form than other types of apodictic legislation,¹¹⁵ are found in each of the major Hexateuchal strands: Ex. 34:14-26 (J), Ex. 23:10-19 (E), Dt. 16:1-17 (D), and Lev. 23:4-44 (P).

Inasmuch as the covenant formulary appears in the Old Testament in relation to each of the literary strands of the Hexateuch, it is possible to understand these traditions as parallel “canons” which arose within the various theological circles of ancient Israel. Although the J, E, D and P traditions do represent stages in the buildup of the Hexateuch as a literary complex, in a more profound sense they represent alternative understandings of the covenant and its theological ramifications. This is brought out by Newman in his discussion of the divergent theologies underlying the Jahwist and Elohist versions of the Sinai covenant.¹¹⁶ Newman considers the E tradition to be “more congregational, democratic, prophetic, and ethical in its tendency. It reflects a kind of ‘kingdom of priests’ covenant theology.” J, on the other hand, “is more priestly, cultic, authoritarian, and dynastic in tendency. It reflects a ‘dynastic’ covenant theology.”¹¹⁷ Newman links the southern or Judah tribes to the Jahwist theology, and the northern or Joseph tribes to the opposite tendency.¹¹⁸ Discussing the covenant ceremony of Shechem as a reflection of the early Israelite amphictyony, he remarks that

the theology of the E covenant legend is quite in accordance with what is generally known about the amphictyony. Indeed it is much more compatible with the picture of the Hebrew tribes given in the book of Judges than would be the theology of the Jahwist tradition.¹¹⁹

Newman therefore accepts Noth’s contention that the six southern tribes (Judah, Caleb, Othniel, Cain, Jerahmeel, Simeon) formed a separate confederation, centered at Hebron, within the twelve-tribe amphictyony.¹²⁰ Newman attempts to relate the J covenant theology to this group,¹²¹ and finds here the explanation for the rise of the Davidic monarchy with its concept of dynastic succession;¹²² the fact that the northern tribes held a more congregational and charismatic (rather than authoritarian and dynastic) concept of the mediation of the covenant provides the theological background for the breakaway of the northern tribes upon the accession of Rehoboam.¹²³ The Deuteronomic theology on the one hand, and the priestly strand on the other, show much the same theological and geographical divergence in their understandings of the covenant.

These parallel strands of theological tradition, each of which can be shown to have acquaintance with the covenant-pattern,¹²⁴ may be termed divergent and in many ways competing canons in pre-exilic Israel.¹²⁵ Thus

¹¹⁵*Supra*, 110.

¹¹⁶Newman, 46-55.

¹¹⁷*Ibid.*, 51.

¹¹⁸*Ibid.*, 98

¹¹⁹*Ibid.*, 120.

¹²⁰Noth, *The History of Israel*, 181-182.

¹²¹Newman, 140-149.

¹²²*Ibid.*, 152.

¹²³*Ibid.*, 177-185.

¹²⁴Of course, in respect to P the evidence for the covenant-festival pattern (Neh. 8–10) is post-exilic. However, it is doubtful that P, properly speaking, ever existed in literary form as a separate document; it is actually the name for a redaction of other traditions (JE) and therefore may be said to have incorporated the literary record of the covenant

theological controversy could have been an important factor in the buildup of canonical traditions. Another contributing cause would have been increasing cultic centralization, which involved the bringing together of local sacral traditions into larger formations. This process, of course, was going on in Israel long before the centralization associated with the Deuteronomic reform; David's transfer of the ark to Jerusalem is a prominent earlier instance. Occasionally the gathering of material around a central covenant tradition could have taken place in response to some external threat—in the case of the Deuteronomic traditions, the rise of hostile foreign powers; in the case of the Priestly traditions, the threatened loss of cultural and religious distinctiveness. In a related vein, the assumption of canonicity by materials originally secondary to the canon could be the result of the partial loss of the original content-elements of the festival tradition, due either to the transference of the site of the festival or to the disappearance of the particular community or theological "party" which had preserved those elements. In this way a vacuum was created which allowed the entrance of new material into the sphere of authorized traditions.

In large measure the growth of the canonical literature outside the Pentateuch is also due to the expansion of the covenant-festival pattern, or of one of its elements; often this has taken place in relation to one or another of the canonical covenant traditions embodied in the Pentateuch. These possibilities will be explored in the following chapters.

festival in the process of assimilating these other traditions to its own viewpoint. In this sense the Sinai pericope also serves P as a major instance of the covenant formulary.

¹²⁵This accords with Weiser's view that the several Pentateuchal strands were preserved side by side because of their association with the recital of salvation-history and proclamation of the divine will in the covenant-festival ceremony, *supra*, 101-102.

CHAPTER 11

Canon and Covenant in the Prophetic Literature

From one standpoint, the canonicity of the prophetic books poses a special problem within the Old Testament literature, and is more difficult to account for than that even of some of the books of the Writings. Books such as Psalms and Proverbs, for example, have this in common with the Pentateuch, that they incorporate a widely recognized and continuing community tradition. The content of such books is perceived to be the common property of the religious community, and thus the books assume a normative role within the life of that community. On the other hand, the prophetic books, when surveyed as to their contents, are seen to consist largely of utterances of individuals who, far from representing an accepted consensus of community opinion, often declare the divine judgment upon Israel and its ways.

It is not easy to see how such literature could be accepted as canonical by the community as a whole. Of course, the “Israel” which ultimately included the prophetic books in its canon of Scripture evidently regarded them as representing its point of view; but this “Israel” must then be understood not as a term for the mass of worshipping Israelites at any given time, but rather as a community extending through time and constituting actually a theological minority within the greater Yahwistic community. Or the canonical status of the prophetic literature may be explained with reference to the theory that canonicity originated in the idea of the inspired word—a theory which raises the Prophets to preeminent status within the canon, but does not deal adequately with the other divisions of the Hebrew Scriptures.¹

If, however, the work of the prophets can be related to the covenant-festival tradition of Israel, the canonicity of the prophetic literature is placed on the same basis as that of the Pentateuch, and the problem of the origin of the canonical authority of the Prophets is largely cleared up. In the preceding chapter we have investigated the probability that the Hexateuchal traditions developed as canonical literature due to their association with the covenant formulary in ancient Israel. Traditions of canonical authority arose as part of the covenant-festival pattern, and these traditions were expanded by incorporation of other suitable literature into the elements of the covenant formulary, principally (in the Hexateuch) the “history” and “law” elements. It is also likely that the origin of the canonical authority of the prophetic literature is to be found in the association of prophecy with the covenant festival and its liturgical pattern.

R. E. Clements, in his study of the relationship of the prophets to the covenant, states, “why certain prophets differed from others, and preached a message which has ultimately been accorded canonical status, can only be explained by the attitude of such prophets to the covenant.”² Yet the origin of the canonicity of the prophetic writings is not only a matter of the theological stance of the prophets with respect to the covenant traditions of Israel; it is also a matter of a direct liturgical and literary relationship between the work of the prophets and the covenant-festival traditions.

We have already referred to the fact that the prophets show acquaintance with the covenant statutes,³ probably in some form of apodictic series which would have occupied the position of the “stipulations” of the treaty form. It has also been noted that a distinctive feature of the Israelite covenant formulary, as represented by the Sinai pericope, is the appointment of the covenant mediator.⁴ Several writers, notably H.-J. Kraus, have demonstrated that the role of covenant mediator in ancient Israel was a prophetic office. Discussing the sanctuary prophets of ancient Israel, Kraus asks “whether there was alongside the cultic

¹*Supra*, ch. 6.

²Clements, *Prophecy and Covenant*, 8.

³*Supra*, 82-83.

⁴*Supra*, 112-113n.

prophets or amongst them an individual who was authorized in a special way.”⁵ In investigating this question, Kraus examines Dt. 18:15-22, which he finds to be related not merely to the “phenomenon of prophecy” in general but specifically to the inauguration of the covenant mediator, as depicted in the Elohist version of the Sinai tradition, Ex. 20:18-20. In Dt. 18:15-22, says Kraus,

what we have is not the outline of an “ideological pattern” but an event reported as part of the tradition of the revelation of the divine law, giving concrete expression in the form of a decree and a promise⁶

Further, the description of the appointment of Moses as covenant mediator in Ex. 20:18-20, and the promise of a prophet “like Moses” in Dt. 18:15-22, must be viewed in the light of the understanding of the entire Sinai passage as the cult-legend of the festival of the renewal of the covenant.⁷ This means that the “Moses” of the Sinai passage and of Deuteronomy is to be seen as the representative of the prophetic institution of covenant mediator:

Exod. xx. 19ff. ascribes the high office of mediator to Moses alone, and Deut. xviii. 15ff. takes up this point and declares that this “Mosaic prophetic office” of the mediator, into whose mouth Yahweh himself will put his words, is to last “forever.” Yahweh will constantly “raise up” from Israel men who will take the place of Moses and officiate as authorized prophets and mediators in the cult of the renewal of the covenant and the fresh proclamation of the divine law . . . We must also note that both in the Sinai tradition of the book of Exodus and also in Deuteronomy the picture given of Moses as the mediator between Yahweh and his people has such a cultic stamp and is so consistently set out that we can state without any hesitation that in this respect the traditions were confronted by a sacral institution—a “Moses” figure who was not merely historically unique.⁸

J. Muilenburg, discussing Dt. 18, agrees with Kraus that Moses here speaks as “the archetypal prophet, the first of the prophetic order,” and that “he is identifying the office of the mediator with that of the prophet.”⁹

Further support for the existence of the institution of covenant mediator is supplied by H. G. Reventlow. Reventlow believes that “the historic investing of the transmission of the law in the figure of Moses points to a permanent office which performed the same functions in the ever-recurring actualization of the law in the Israelite covenant festival.”¹⁰ Reventlow finds evidence for this institution in the formula used to introduce sections of the law in Leviticus, “and Yahweh spoke to Moses, saying” (יהוה אל משה לאמר) (וידבר, Lev. 5:14, etc.). Such a stereotyped formula does not mark a single decisive act of promulgation, but rather points to the liturgical repetition of the moment of the giving of the law, which was characteristic of the cult of the covenant festival. Reventlow writes:

That this form is grounded in an institution is clear from its repeated usage, throughout all parts of the law, with unbroken monotony before each new section. We should expect that Yahweh would communicate his commands directly to the people; instead a mediatorial figure is interposed, who must first be deputized with the commission from God and then, as a second act, must repeat them to the people. Without doubt, an institution is concealed behind this process.¹¹

⁵Kraus, 106.

⁶*Ibid.*, 107.

⁷*Supra*, 93-94.

⁸Kraus, 108-109.

⁹J. Muilenburg, “The ‘Office’ of the Prophet in Ancient Israel,” in Hyatt, 87.

¹⁰H. G. Reventlow, “Prophetamt und Mittleramt,” *ZThK*, lviii (1961), 279-280; translated by the present writer.

¹¹*Ibid.*, 279; translated by the present writer.

The picture of Moses given by the Pentateuch, then, suggests the presence in ancient Israel of the office of prophetic mediator of the covenant. Kraus thinks it possible that there was a succession in this office; he refers to a statement of von Rad, in connection with Dt. 18:15-22, that “the very promise concerning ‘a prophet from the midst of thee, of thy brethren,’ indicates something institutional, a kind of succession of the prophets.”¹² As further support for this hypothesis, Kraus cites instances of the transfer of a prophet’s charismatic authority (Elijah to Elisha, 2 Kgs. 2:9-12; Moses to Joshua, Dt. 34:9).¹³

Muilenburg, on the other hand, questions that there was an unbroken or institutional succession of prophets; he thinks the language of Dt. 18 implies only that Yahweh will raise up prophets from time to time, as necessary.¹⁴

Kraus finds the reality of the prophet’s office as covenant mediator to be confirmed in the Psalter. A “prophetic voice” is heard in Ps. 50:7-23 in a cultic proclamation of the covenant obligation. In Ps. 81:5b, 10b, according to Kraus, “the prophetic speaker points to the time of his inspiration” in reciting exhortations which reflect the first commandment of the Decalogue.¹⁵ Kraus concludes:

In these passages from the Psalms we see the mediator and speaker who is referred to in Exod. xx. 19ff. He proclaims the word of the Lord to the worshipping community and is the “Moses” in the realization of the Sinai event in worship.¹⁶

M. Newman and E. W. Nicholson follow Kraus in his description of the covenant-mediatorial role of the prophet. Newman links this mediatorial function, as depicted in Ex. 20:18-21, with the Elohist covenant legend as used at Shechem and later at Shiloh; he speaks of the covenant mediator as a “cult official,” appointed by the people, who “would have performed the role of Moses in the reenactment of the Sinaitic covenant.”¹⁷ Nicholson, discussing the promise of the “prophet like Moses” in Dt. 18 in connection with his examination of the traditions embraced by Deuteronomy, summarizes the findings of Kraus and Newman as follows:

In other words, the function exercised by Moses in Deuteronomy is that of prophetic covenant mediator. What is more, this office is conceived of in Deuteronomy as being permanently established; Yahweh will “raise up” prophets to succeed Moses as covenant mediator. That is to say, Deuteronomy here prefigures Moses as the first of a succession of prophets who exercised this office in Israel.¹⁸

Nicholson and Newman outline the cultic role of the covenant mediator as follows: 1) to speak for and in the name of Yahweh to the people (Ex. 20:1-2a); 2) to recite the sacred history of Yahweh’s deeds (Ex. 20:2, 19:3-6) 3) to proclaim the divine apodictic laws binding upon the covenant community (the Decalogue, Ex. 20:3-17).¹⁹ They point out that Joshua, Moses’ successor, performs these functions in the assembly at Shechem (Josh. 24), which has been shown to reflect the form of a covenant festival.²⁰ This role of Joshua

¹²G. von Rad, “Die Falschen Propheten,” ZAW, li (1933), 113.

¹³Kraus, 110-111.

¹⁴Muilenburg, “The ‘Office’ of the Prophet,” 87-88.

¹⁵Kraus, 111. For the connection of Pss. 50 and 81 with the cultic presentation of the covenant obligations, see *supra*, 83, 98-99.

¹⁶Kraus, 111-112.

¹⁷M. Newman, “The Prophetic Call of Samuel,” in B. W. Anderson and W. Harrelson, eds., *Israel’s Prophetic Heritage* (New York: Harper & Brothers, 1962), 67.

¹⁸E. W. Nicholson, *Deuteronomy and Tradition* (Philadelphia: Fortress Press, 1967), 77.

¹⁹*Ibid.*; Newman, “The Prophetic Call of Samuel,” 87-88.

²⁰*Supra*, 99, 107.

as prophetic spokesman for the covenant tradition is further substantiated by the findings of D. J. McCarthy regarding Josh. 24; he sees this passage as an example of the treaty-covenant pattern, not in its original liturgical form, but reworked as a prophetic exhortation.²¹

The tradition of Samuel also sheds light on the prophetic role as mediator of the covenant. J. Muilenburg sees Samuel fulfilling the role of mediator in the covenant, presumably at Gilgal, recorded in 1 Sam. 11:14–12:25.²² Muilenburg states:

Samuel pronounces his great valedictory to the people, but he does so in language which belongs to a long history of covenant tradition. He appears to us in a threefold guise, as covenant representative, covenant mediator, and covenant intercessor.²³

Muilenburg considers it certain that Samuel's role here is depicted in the same stream of tradition as that relating to Moses in Ex. 19–24 (especially 19:3-6) and Josh 24. Newman, discussing the story of Samuel's prophetic call (1 Sam. 1:1–4:1a), believes it to "be the aetiology of the prophetic takeover of the functions formerly exercised by the Elide priesthood."²⁴ This conclusion is shared by Nicholson, who thinks that certain texts such as Dt. 27:9-10, 14 (the preface to the Shechemite dodecalogue) and Dt. 31:9-13 "may be an indication that levites at one time were the covenant mediators."²⁵ The story of Samuel's call could be the explanation of how the prophets assumed this role in Israel. In this connection, it is noteworthy that Moses' parents are said to have been of the tribe of Levi (Ex. 2:1).

Newman also refers to the story of Elijah's contest with the prophets of Ba'al on Mount Carmel (1 Kgs. 18:17-40) as evidence for the covenant-mediatorial role of the prophet. Here Elijah appears in a role reminiscent of that of Moses, Joshua and Samuel. The covenant assembly, "all the people of Israel" (1 Kgs. 18:19-20) are gathered at Carmel; Elijah calls them to a decision for Yahweh, God of the covenant (18:21). The people acclaim Yahweh as God (18:39); Elijah also erects an altar for the sacrifice (18:30-32). These actions parallel those of Joshua at Shechem. Newman concludes, "It would thus seem that there is a clear attempt by the author of the Carmel tradition to present Elijah as a covenant mediator in terms of Joshua and Moses."²⁶

Turning briefly to the "literary prophets," H. G. Reventlow finds in Amos considerable evidence for an institutional connection of the prophets with the amphictyonic tradition. He holds that the oracle against foreign nations (Am. 1:3–2:6), the "curse-ritual" of 4:6-11, and the "blessing-ritual" of 9:13-15 all stem from Amos. use of covenant terminology in the covenant-renewal ceremony.²⁷ W. Brueggemann calls Am. 4:4-13 "a liturgy of covenant renewal," marked by a denunciation of false covenant-making (4:4-5), a curse upon Israel for infidelity to the covenant oath (4:6-12a), and a summons to covenant renewal (4:12b-13).²⁸ In the

²¹McCarthy notes that there are numerous details in Josh. 24 which reflect the treaty tradition: 1) titlature (24:2); 2) historical prologue (24:2-13); 3) "stipulations" (24:14, 23); 4) acceptance by the people (24:16-18, 21-22, 24); 5) witnesses (the people themselves, 24:22); 6) threats or curse (24:19-20); and 7) document and stele (24:25-27). However, says McCarthy, "the text as a whole is a little embarrassing" because it gives a scheme which is "far more complicated than that of the normal treaty." Thus we have here elements of the treaty-covenant form used homiletically, *Treaty and Covenant*, 147-148.

²²Muilenburg, "The Form and Structure of the Covenantal Formulations," 360-364.

²³Ibid., 360-361.

²⁴Newman, "The Prophetic Call of Samuel," 86-87.

²⁵Nicholson, 77-78.

²⁶Newman, "The Prophetic Call of Samuel," 86-87.

²⁷H. G. Reventlow, *Das Amt der Propheten bei Amos*, FRLANT, 80 (Göttingen: Vandenhoeck & Ruprecht, 1962).

²⁸W. Brueggemann, "Amos IV 4-13 and Israel's Covenant Worship," *VT*, xv (1965), 14-15.

case of Hosea, A. O. Vannorsdall believes Hos. 12 to have “close relationships with a covenant renewal ceremony in which the office of the prophet was emphasized.”²⁹

If the prophets may be shown to have fulfilled the role of covenant mediator in ancient Israel, then it is likely that the origin of the canonicity of the prophetic writings is to be found in the authority of the prophetic office with respect to the covenant festival with its liturgical pattern. The utterances of the prophets were regarded as authoritative because the prophets were the spokesmen for the Israelite covenant traditions, and further because their utterances were seen to correspond in form to the covenant-festival formulary or portions thereof. This possibility is enhanced by the study of some of the literary forms employed by the prophets.

E. Würthwein, in a study of Amos, demonstrated that his judgment-speeches contain two elements, the accusation and the sentence.³⁰ C. Westermann considers this two-part form to be the basic form of prophetic speech; in both judgment-speeches to individuals and the announcement of judgment against Israel, the accusation or indictment is linked to the announcement of judgment or of divine intervention by the messenger formula.³¹ This two-part form is thus related to the speech of, particularly the diplomatic, messenger,³² and also has connections with the realm of jurisprudence. As used and developed by the Israelite prophets, however, this two-part judgment speech is rooted in the tradition of the covenant formulary. This is pointed out by Brueggemann, in a study of covenant forms in Hosea. Brueggemann insists that as these judgment-speeches now appear in the prophetic writings “they have reference to the covenant commitments and curses which we now have in the old traditions,” so that the two parts of the judgment-speech, the accusation and sentence, “have a relationship precisely like the relation of law and curse in the liturgy.”³³ In the covenant liturgy, the community is commanded to obey the stipulations, and those who disregard the laws are placed under curse. In the prophetic speeches of judgment, the people are accused of violations of the stipulations, and the consequent judgments are announced.

Reventlow also notes the connection of the prophetic judgment-oracle with the covenant-festival formulary. Both parts of the judgment-speech, the accusation and the sentence,

originate as to their contents in the principal content of the preaching of the covenant festival: the accusation rests upon the proclamation of the covenant at the midpoint of the festival and takes up the contents of the Israelite amphictyonic law; the sentence actualizes the statements of the blessing and curse formularies, in which Yahweh’s action for salvation or disaster appears prefigured in definite stereotyped formulae. Yahweh’s action of judgment, which the prophets announce, is then nothing other than the putting into force of the curse which, since the occurrence of the covenant festival, hovers over any transgression of Yahweh’s holy covenant will.³⁴

Reventlow makes this statement despite his opinion that the judgment-oracle, as a mixed form, is an unfavorable place to begin in attempting to prove the prophetic role in the cultic proclamation of the law.³⁵

The accusation-sentence form of the prophetic speech of judgment, then, has significant connections with the covenant formulary. This relationship is particularly clear in the specialized form of judgment-speech

²⁹A. O. Vannorsdall, “The Use of the Covenant Liturgy in Hosea” (unpublished Ph.D. Dissertation, Boston University, 1968), 241.

³⁰E. Würthwein, “Amos-Studien,” ZAW, LXII (1949/50), 10-52.

³¹Westermann, *Basic Forms of Prophetic Speech*, 129-189. Examples of the former given by Westermann include Am. 7:16-17, 1 Kgs. 21:18-19, and 2 Kgs. 1:3-4 (p. 130); and of the latter, Am. 4:1-2; Hos. 2:5-7; Isa. 8:6-8; 30:12-14; Mic. 2:1-4; 3:1-2, 4; 3:9-12; Jer. 5:10-14; 7:16-18, 20, 174-175.

³²*Ibid.*, 98-115.

³³W. Brueggemann, *Tradition for Crisis: A Study in Hosea* (Richmond: John Knox Press, 1968), 70.

³⁴H. G. Reventlow, “Kultisches Recht im Alten Testament,” *ZThK*, lxi (1963) 299; translated by the present writer.

³⁵*Ibid.*, 298.

known as the רִיב, the “lawsuit” or legal “controversy.” This form has been investigated by B. Gemser;³⁶ according to Gemser, an example of the רִיב occurs in Hos. 4:1–5:5. Hosea declares, “Yahweh has a controversy (רִיב) with the inhabitants of the land” (4:1), follows with a bill of particulars setting forth the charges (4:1-5:4), and cites a witness (5:5).³⁷ Gemser sees a similar form in Am. 1:3–2:16, Isa. 3:13-17, Mic. 1:2-9, Jer. 2:4–3:5 4 + 3:19–4:4, and elsewhere. Westermann considers the רִיב or legal procedure form to be “the variant formulation that corresponds the closest to the prophetic judgment-speech.”³⁸

Neither Gemser nor Westermann relate the רִיב particularly to the covenant formula, but several other investigators have done so consistently. H. B. Huffmon, indeed, terms the רִיב the “covenant lawsuit.” In the Hosea passage cited, Huffmon notes that “the indictment is more or less a catalogue of violations of the stipulations of the covenant at Mt. Sinai.”³⁹ The רִיב-form is apparent in Hos. 4:1-3 as an individual unit, which Brueggemann has analyzed according to this pattern:

Summons to hear:	Hear the word of the LORD,
Name of accused:	O people of Israel . . . inhabitants of the land.
Name of accuser:	Surely the LORD
Announcement of trial:	has a controversy . . .
General accusation:	There is no faithfulness or kindness, and no knowledge of God in the land;
Specific listing:	there is swearing, lying, killing, stealing, and committing adultery;
Formula of announcement:	Therefore . . .
Declaration of penalty:	the land mourns . . . and also the beasts of the field, and the birds of the air; and even the fish of the sea are taken away. ⁴⁰

The book of Hosea, indeed, seems to be particularly rich in material reflecting the covenant lawsuit. According to E. M. Good, the רִיב-form underlies Hos. 5:8–6:6.⁴¹ Vannorsdall believes Hos. 12 can best be understood as “a service of covenant renewal” in which the רִיב plays an important part.⁴² He thinks it likely that the Book of Hosea, as a whole, is arranged according to the pattern: covenant lawsuit, lament, reproach, short hope section.⁴³ Vannorsdall states that “the entire Book of Hosea, following the pattern of covenant renewal, contains oracles announced by Hosea in the role of mediator at covenant renewal ceremonies.”⁴⁴

Huffmon brings forward other passages from the prophetic literature as illustrations of the covenant lawsuit. Isa. 1:2-3 exhibits the following structure: 1) The prophet, as Yahweh’s spokesman, appeals to the witnesses: “Hear, O heavens, and give ear, O earth” (1:2a). 2) Yahweh states the basis of his claim: “Sons have I reared and brought up,” (1:2b), and follows with 3) the charge: “but they have rebelled against me” (1:2b). 4) The defendant is shown to have no plea, even compared to the animals: “The ox knows its owner, and the ass its master’s crib” (1:3a). 5) Finally, the charge is repeated: “but Israel does not know, my people

³⁶B. Gemser, “The רִיב- or Controversy-Pattern in Hebrew Mentality,” in M. Noth and D. W. ap-Thomas, eds., *Wisdom in Israel and in the Ancient Near East*, SVT, iii (Leiden: E. J. Brill, 1964), 120-131.

³⁷*Ibid.*, 129.

³⁸Westermann, *Basic Forms of Prophetic Speech*, 199.

³⁹H. B. Huffmon, “The Covenant Lawsuit in the Prophets,” *JBL*, lxxviii (1959), 294.

⁴⁰Brueggemann, *Tradition for Crisis*, 71.

⁴¹E. M. Good, “Hosea 5:8:6:6: An Alternative to Alt,” *JBL*, lxxxv (1966), 273-286.

⁴²Vannorsdall, 225-234.

⁴³*Ibid.*, 258.

⁴⁴*Ibid.*, 352.

does not understand” (1:3b).⁴⁵ Huffmon finds a similar form also in Mic. 6:1-8 and Jer. 2:4-13.⁴⁶ J. T. Willis finds the entire Book of Micah to exhibit the covenant lawsuit form.⁴⁷ W. Beyerlin, in a study of the cultic traditions embodied in the Book of Micah, agrees that Micah, as covenant mediator, was acquainted with covenant-lawsuit terminology and the traditions connected with the Sinai covenant, especially Pss. 50 and 81.⁴⁸

A crucial part of the covenant-lawsuit structure is the appeal to natural features such as the heavens, earth, mountains, hills, and the foundations of the earth to hear the controversy; this appeal to witnesses is also an important part of the treaty-covenant formulary,⁴⁹ and further shows the relationship of the prophetic lawsuit to the covenant pattern. G. E. Wright, examining the covenant lawsuit as exemplified by the “Song of Moses” (Dt. 32), states that “an attempt to recover the form of the covenant lawsuit from Dt. 32 and related passages discloses a logical outline of major elements which obviously are based on the covenant-renewal form.” In the passage in question, Wright discovers this form: 1) *call to witness* (Dt. 32:1-3); 2) *introductory statement* of the case by the judge’s representative (32:4-6); 3) *recital of the benevolent acts* of the Suzerain (32:7-14); 4) the *indictment* (32:15-18), which, is the element most commonly found in prophecy; and 5) the *sentence* (32:19-29), also widely represented in the prophetic literature. “In other words,” states Wright, “the lawsuit begins at the third point in the covenant-renewal form,” i.e. at the point of the calling of the witnesses.⁵⁰ Wright, however, doubts that the covenant lawsuit was ever used liturgically.⁵¹

It is clear that both the covenant-renewal pattern and the covenant lawsuit ultimately derive from the suzerainty-treaty form. But whereas the covenant-festival formulary relates to the concept of the reaffirmation of the covenant in ancient Israel, the covenant lawsuit has its *Sitz im Leben* in the prophetic concept of the dissolution of the covenant, or at least the violation of the covenant relationship by Israel. Thus J. Harvey has demonstrated that the כִּי is paralleled in the international diplomacy of the ancient Near East; in the case of the violation of the suzerainty treaty, the diplomatic messenger announces the

⁴⁵Huffmon, “The Covenant Lawsuit in the Prophets,” 286. The exact form of the כִּי varies in its different occurrences. For outlines of the basic form of the prophetic “lawsuit,” see *ibid.*, 285-286; J. Harvey, “Le ‘Rib-Pattern’, réquisitoire prophétique sur la rupture de l’Alliance,” *Bibl.* xliii (1962), 177. Harvey considers the most widely recognized examples of the כִּי to be Dt. 32:1-25; Isa. 1:2-3. 10-20; Mic. 6:1-8; Jer. 2:2-37; and Ps. 50. Both of these writers indicate their dependence on H. Gunkel and J. Begrich, *Einleitung in die Psalmen: die Gattungen der religiösen Lyrik Israels*, Bd. ii (Göttingen: Vandenhoeck & Ruprecht, 1933), 364-366.

⁴⁶Huffmon, “The Covenant Lawsuit in the Prophets,” 286-288.

⁴⁷J. T. Willis, “The Structure, Setting, and Interrelationships of the Pericopes in the Book of Micah” (unpublished Ph.D. Dissertation, Vanderbilt University, 1966); cited in Vannorsdall, 258.

⁴⁸W. Beyerlin, *Die Kulturtraditionen Israels in der Verkündigung des Propheten Micha*, FRLANT, 54 (Göttingen: Vandenhoeck & Ruprecht, 1959).

⁴⁹*Supra*, 105-106. Gunkel assumed that “heaven and earth,” etc., are summoned in the biblical “lawsuit” to act as judges. However, as G. E. Wright has insisted, in Israel these natural features cannot so usurp the prerogative of Yahweh: “The heavenly lawsuit implies a Suzerain, one who claims authority over all powers on earth, and who is presiding over the highest tribunal in the universe. Furthermore, it implies a covenant which the Suzerain has granted a vassal, a covenant which the vassal has broken. It is inconceivable in such a situation that the Suzerain would call in a third party as judge and jury in a case where his own prerogatives and stipulations have been violated, especially when that third party can only be a subsidiary being or beings in the Suzerain’s domain. Instead, the Suzerain has only to call in the witnesses to the original treaty and let them hear the charges, not to act as judges but simply to testify that they had been witnesses of the original oath which the vassal has now broken.” G. E. Wright, “The Lawsuit of God: A Form-Critical Study of Deuteronomy 32,” in Anderson and Harrelson, 47.

⁵⁰*Ibid.*, 52.

⁵¹*Ibid.*, 52-53.

“accusation” against the disloyal vassal.⁵² Moreover, according to D. Hillers, the prophetic maledictions or doom-oracles are related to ancient Near Eastern treaty curses.⁵³ It is true that “ancient curses and prophetic oracles of doom describe evils and calamities which were part of common human experience.”⁵⁴ However, there are sufficient parallels between the contents of the prophetic maledictions and the treaty curses to enable Hillers to conclude that they are not accidental; the resemblance is due to the fact that pre-exilic Israel “shared with her neighbors a common legal form, the treaty, and that this form was adopted as a basic element in Israel’s religion.”⁵⁵ Hillers also believes that the prophets, in using these traditional threats, were conscious of their association with the covenant.⁵⁶ H. B. Huffmon further strengthens the connection of the work of the prophets with ancient Near Eastern treaty forms in a study of prophetic use of the term “know” (יָדָע). In the treaties, the expression “know” is used as a technical term with reference to mutual legal recognition on the part of the suzerain and the vassal, and also as a term for the recognition of the treaty stipulations as binding.⁵⁷ This usage appears also in the prophets. In Am. 3:2, Yahweh declares, “You only have I known (יָדָעְתִּי) of all the families of the earth.” According to Huffmon, this means, “You only have I recognized by covenant,” i.e., entered into a treaty relationship. In Hos. 4:6, knowledge of the covenant obligation is lacking, leading to the dissolution of the relationship.⁵⁸

The fact that “the prophets indicted Israel along lines suitable to the treaty tradition” is taken by D. J. McCarthy as “perhaps the strongest indication that the prophets were indeed concerned with the covenant, even though they avoid the use of the word.”⁵⁹ Muilenburg summarizes the role of the prophets by declaring that “they are sent from the divine King, the suzerain of the treaties, to reprove and to pronounce judgment upon Israel for breach of covenant.”⁶⁰ The prophets appear as spokesmen for the God of the covenant and employ literary forms associated with the festival of the renewal of the covenant, the covenant formulary itself being ultimately related to the ancient treaty form. Thus the prophetic literature originated in the adaptation and expansion of certain elements of the covenant-festival pattern, particularly the “stipulations” (in the negative sense of the declaration of their violation), the “calling of witnesses,” and the “curse” section. The characteristic and often predominant tone of the prophetic literature, that of judgment and pronouncement of sentence upon the community, is therefore no obstacle to the acceptance of the utterances of the prophets as canonical. Indeed, this characteristic tone of the prophetic writings appears also within the covenant formulary itself, and stamps the prophetic literature as belonging to the same treaty-covenant tradition. The words of the prophets assumed an authority in ancient Israel not only because of the role of the prophets as mediators of the covenant, but also because the prophetic speech forms were recognized as corresponding, both in form and content, to the covenant-festival formulary or portions thereof.

The prophets, however, speak not only about the broken covenant, but also about the restored covenant; it is likely that the prophetic “salvation oracle” bears a relationship to the “blessing” element of the covenant-festival pattern, much as the prophetic judgment speech represents a development from the liturgical statement of covenant obligations followed by the covenant curse. G. Westermann has outlined three basic

⁵²Harvey, especially 180-188.

⁵³D. Hillers, *Treaty Curses and the Old Testament Prophets*, BiblOr, No. 16 (Rome: Pontifical Biblical Institute, 1964), especially 43-79.

⁵⁴*Ibid.*, 43.

⁵⁵*Ibid.*, 88.

⁵⁶*Ibid.*

⁵⁷H. B. Huffmon, “The Treaty Background of Hebrew *Yādaʿ*,” *BASOR*, No. 181 (February 1966), 31-33.

⁵⁸Other passages cited by Huffmon include Hos. 2:22, 4:1, 5:4, 8:2, 13:4-5; Jer. 22:15-16, 24:7. 31:34. In most of these instances the term יָדָע indicates recognition of Yahweh by Israel.

⁵⁹McCarthy, “Covenant in the Old Testament,” 232.

⁶⁰Muilenburg, “The ‘Office’ of the Prophet,” 97.

types of salvation pronouncements, the “assurance of salvation,” the “announcement of salvation,” and the “portrayal of salvation.” Often these appear in combination, as in Isa. 43:1-2, where the “assurance of salvation” (v. 1) is followed by the “announcement” (v. 2).⁶¹ W. Brueggemann discusses the salvation oracle in his study of Hosea,⁶² and finds the clearest example in that book to be 14:4-7, in which the “assurance” of Yahweh’s intention to restore Israel to its broken covenant relationship with him (14:4-5s) is followed by the “portrayal” of the new situation of salvation (14:5b-7).⁶³

The presence of salvation oracles in the writings of the prophets, especially when they are secondarily attached to oracles of judgment, points to a cultic setting for the transmission of the prophetic utterances, according to Westermann.⁶⁴ The festival of the renewal of the covenant suggests itself as the appropriate cultic setting for such pronouncements, and this possibility is enhanced by examination of the salvation oracle of Hos. 2:14-23, in which Brueggemann finds the two elements of “assurance” and “portrayal” of salvation; here he also discovers what he calls a “covenant formula” in 2:20, “you shall know Yahweh,” and also in 2:23d, “and he shall say, ‘Thou art my God.’”⁶⁵ In the portrayals of salvation in Hosea, Brueggemann sees “remarkable parallels,” in both form and content, with the old covenant traditions of blessing recital in Lev. 26 and Dt. 28.⁶⁶ Like the judgment speeches, then, the salvation oracles of the prophets very likely drew their canonical status in Israel from their association with the covenant formulary.

⁶¹C. Westermann, “The Way of the Promise through the Old Testament,” trans. by L. Gaston and B. W. Andersen, in B. W. Anderson, ed., *The Old Testament and Christian Faith* (New York: Harper & Row, 1963), 204; for Westermann’s discussion of these three types, see especially 202-209. As examples of the “assurance of salvation” (*Heilzusage*), Westermann further cites Ex. 3:7-8, Josh. 8:1, and Jer. 1:8-10. To the “announcement of salvation” (*Heilankündigung*) category belong most of the oracles of the “prophets of salvation” such as Zedekiah in 1 Kgs. 22:11 or Hananiah in Jer. 28:2-4, as well as oracles ascribed to the canonical prophets in such passages as Isa. 8:1-4, Jer. 32:14-15, the salvation oracles for north Israel in Jer. 30-31, and the books of Haggai and Zechariah. Sometimes the “announcement of salvation” takes the form of the announcement of woe upon Israel’s enemies, as in Isa. 7:4-9 or Am. 1-2 and most of the oracles against foreign nations, including Ezek. 26-27 and the books of Nahum and Habakkuk. Westermann notes that the “announcement of salvation” remains of doubtful status in the Old Testament because of the uncertainty as to its fulfillment, with the result that “only a very few actual prophets of salvation have been received into the prophetic canon” (p. 207). In the “portrayal of salvation” (*Heilsschilderung*), “the time of salvation portrayed almost always transcends in some respects historical reality” (p. 208). As examples of this type, Westermann cites Isa. 11:1-10, Gen. 49:11-12, and Num. 24:5-7a. Westermann also considers apocalyptic to belong to the “portrayal of salvation” category (p. 220).

⁶²Brueggemann, *Tradition for Crisis*, 71-79.

⁶³*Ibid.*, 72.

⁶⁴Westermann, “The Way of the Promise,” 214.

⁶⁵Brueggemann, *Tradition for Crisis*, 71-79.

⁶⁶*Ibid.*, 76-79.

CHAPTER 12

The Canonicity of Israel's Royal Covenant Traditions

The covenant between Yahweh and Israel finds expression in the various Hexateuchal accounts of the covenant (Ex. 19–34, Dt., Josh. 24) and in the forms of address employed by the prophets. We have seen that statements of this covenant relationship display, to a greater or lesser degree, the form of the treaty-covenant, marked by historical recital and stipulations (“history” and “law”), and that such statements apparently derive their authority from the use of this formulary in the covenant renewal ceremony of the ancient Israelite tribal confederation.

Within the biblical tradition, however, we find also a number of statements of a specialized covenant between Yahweh and the king, or between Yahweh and Israel as represented by the monarch. In adopting the monarchy, Israel took over from its Canaanite environment an institution both political and religious; the Israelite and Judean kings played an important role in the religious life of the nation during the monarchic period, and performed cultic functions. In Israel, as elsewhere in the ancient Near East, the king held the position of representative of the people before the deity, and therefore served as a mediator of the relationship between God and the people. The king is the channel of Yahweh's blessing to the people; the welfare of the nation therefore depends upon the maintenance of the proper relationship between the deity and the king. Although the Israelite and Judean monarchs were not regarded as the incarnation of the divine, as were the Pharaohs of Egypt, they nevertheless stood in a special relationship to Yahweh which, in Judah at least, was expressed in the ideas of Yahweh's choice of David and the king's “sonship” of Yahweh by adoption. However, the relationship between Yahweh and the Davidic royal house was also expressed in more characteristically Israelite terms through the concept of the covenant granted to David by Yahweh, a covenant which may be understood as a variant expression of the covenant between Yahweh and all Israel.¹ In the words of G. W. Andersen,

Yahweh's gracious choice, His word of promise and enduring faithfulness, and on man's side the obligation of loyalty and obedience: in all of these there is a parallel between the relationship of Yahweh to His people and that of Yahweh to the house of David. Or, to use a somewhat different geometrical figure, Yahweh's covenant with the house of David is a smaller concentric circle within the larger circle of His covenant with Israel. The presence of a scion of David was an outward token of the continuing goodness of Yahweh to His people.²

As a consequence of this covenant relationship between God, king, and people, the Old Testament literature embraces a covenant tradition of the monarchy, as well as that of the Israelite tribal confederation. It is necessary, in any investigation of the origin of the canonicity of the Old Testament literature, to take into account also the process by which the various expressions of Yahweh's covenant with the royal house came to be regarded as authoritative within the larger framework of the traditions of the Israelite religious community.

¹The material in this paragraph is based principally upon G. W. Anderson, *The History and Religion of Israel* (Oxford: Oxford University Press, 1966), 73-76. For comprehensive treatment of the religious role of the king in ancient Israel, see especially A. R. Johnson, *Sacral Kingship in Ancient Israel* (Cardiff: University of Wales Press, 1955); S. Mowinckel, *He That Cometh*, trans. by G. W. Andersen (New York: Abingdon Press, 1954), 21-95; J. Pedersen, *Israel: Its Life and Culture*, iii-iv (London: Geoffrey Cumberlege; Copenhagen: Brannar og Korch, 1940), 76-101, 429-436, 524-534; R. de Vaux, *Ancient Israel: Its Life and Institutions*, trans. by J. McHugh (New York: McGraw-Hill Book Co., 1961), 100-114. Biblical passages depicting the king's role in the leadership and ordering of cultic activities are listed by Johnson, 12-13nn.

²G. W. Anderson, 75-76.

The covenant between Yahweh and the Davidic dynasty finds expression, in a more or less formal way, in several passages. Chief among these are Nathan's oracle to David and David's response in 2 Sam. 7 (1 Chr. 17); the "last words of David," 2 Sam. 23:1-7; several of the "royal Psalms" such as Pss. 2, 45, 72, 89, 110 and 132; material in the Book of Isaiah, including the oracles of 9:6-7 and 55:3-4; and Jer. 33:14-26. In these passages, Yahweh decrees the benefits of his covenant with the king in terms of a set of "fixed contents" (Mowinckel)—which suggests the presence of a standardized "literary tradition of the Covenant of David" (Carlson). These oracles comprise the following contents: 1) Yahweh's choice of David: 2 Sam. 7:8 = 1 Chr. 17:7; 2 Sam. 23:1; Pss. 78:70-71; 89:19-20 EVV; Isa. 55:4; 2) Yahweh's covenant and oath to David; Pss. 89:3, 28 EVV; 132:10-12, 17; 3) sonship by adoption: 2 Sam. 7:14 = 1 Chr. 17:3; Pss. 2:7; 89:26-27 EVV; Isa. 9:6 (the speaker is Yahweh); 4) empire: Pss. 2:8-11; 72:8-11; 89:25 EVV; 110:1-2; 5) "everlasting" covenant and kingdom: 2 Sam. 7:12-16 = 1 Chr. 17:11-14; 2 Sam. 23:5; Pss. 89:4, 28-37 EVV; 110:4; 132:12; Isa. 9:7; 55:3; Jer. 33:14-26; 6) "name": 2 Sam. 7:9 = 1 Chr. 17:8; 1 Kgs. 1:47; Pss. 45:17 EVV; 72:17; Isa. 9:6b; 7) the king's just rule as Yahweh's representative: 2 Sam. 23:3-4; Pss. 72, 101.³

It is widely recognized that such formulations of the covenant between Yahweh and the king had their setting in ancient Israel in the liturgy of the Jerusalem temple, and especially in the periodic celebrations of the enthronement of the king.⁴ This royal ritual, which served as the locus for the development of traditional statements of the Davidic covenant, has been the subject of examination by several writers.⁵ As G. von Rad points out, in investigating the covenant traditions of the Israelite monarchy we are primarily concerned with a tradition which developed in Judah and Jerusalem. He reminds us that

conditions in Judah were much more favorable to the development and persistence of a fixed royal ceremonial than in the kingdom of Israel. Kingship in the northern kingdom had never quite lost the character of the ancient Israelite institution of the charismatic leader. The appointment of the king, as well as the act of coronation, followed the dictates of a political situation which at times was extremely fluid. . . . The much more stable situation in Judah offered far greater opportunities for a fixed ceremonial.⁶

Von Rad's study, which is concerned with the liturgy of anointing and enthronement proper, takes its departure from the two biblical accounts of the coronation of the king, those of Solomon in 2 Kgs. 1:33-40 and of Joash in 2 Kgs. 11. The coronation of Joash is described in this way: Jehoiada the high priest "brought out the king's son (i.e. into the forecourt of the temple) and placed upon him the crown and the testimony (עֵדוּת וְיָתֵן) (עָלָיו אֶת־הַנֶּזֶר וְאֶת־הָעֵדוּת וְיָתֵן)" (2 Kgs. 11:12). The ceremony continues with the anointing of the king and acclamation by the people, both of which are also mentioned in the account of Solomon's coronation. Von Rad takes the term עֵדוּת, "testimony" (2 Kgs. 11:12) to mean the "royal protocol," a document containing the king's title to the throne, in the form of "a divine decree . . . that Yahweh had adopted him as his son and has committed to him the lordship over the whole world."⁷ Part of such a "royal protocol" or

³This list has been expanded from that given by Mowinckel, *The Psalms in Israel's Worship*, i, 63n.

⁴The general question of the relationship between the celebration of the king's enthronement and the annual festivals of covenant renewal and the enthronement of Yahweh is discussed *infra*, 135-136.

⁵On the royal ritual of Jerusalem, especially as reflected in the Psalms, see Johnson, 1-27; H.-J. Kraus, *Die Königsherrschaft Gottes im Alten Testament*, BHTh, 13 (Tübingen: J. C. B. Mohr/Paul Siebeck, 1951), 50-81; *Worship in Israel*, 222-224; S. Mowinckel, *Psalmstudien* (Amsterdam: Verlag Schippers, 1961), Bk. ii, 6-8, Bk. iii, 78-105; *The Psalms in Israel's Worship*, i, 61-76; G. von Rad, "The Royal Ritual in Judah," in *The Problem of the Hexateuch and Other Essays*, 222-231; G. Widengren, *Psalm 110 och det sakrala kungadömet i Israel*, UUÅ, 1947:7, 1 (Uppsala: A.-B. Lundquistska Bokhandeln, 1947). In the works of Kraus the royal ritual is dealt with as part of the celebration of Yahweh's choice of Zion.

⁶Rad, "The Royal Ritual in Judah," 223.

⁷*Ibid.*, 225. Von Rad reinforces this argument with reference to Egyptian parallels, 225-226.

“decree” (קח) is preserved, according to von Rad, in Ps. 2:7: “I will tell of the decree of Yahweh: He said to me, ‘You are my son, today I have begotten you.’” However, the content of the “royal protocol” was probably more extensive and constituted a statement of all the benefits of Yahweh’s covenant, the king’s sovereign rights, and the conferring of his coronation name.⁸ Von Rad introduces biblical evidence that the three terms עדות “testimony,” חק “decree,” and ברית “covenant” are synonymous as used in connection with the Judean royal ritual, and refer to the liturgical declaration of Yahweh’s promises to the king.⁹

It is noteworthy that von Rad, in his study of the Judean royal ritual, does not find a conditional element in the covenant between Yahweh and the king. The term עדות, according to von Rad, refers to a divine decree stating the promised benefits of the king’s covenant relationship to the deity, but without mention of covenant stipulations. This opens the possibility that the covenant between Yahweh and the Davidic royal house was expressed, initially at least, in a form different from that of the treaty-covenant associated with the amphictyonic traditions of Israel, a form characterized by the emphasis on the element of “law” or stipulations.

A number of investigators have therefore attempted to contrast the form of the Davidic covenant statements with that of the treaty-covenant which we have encountered in the covenant-festival traditions of the Israelite amphictyony. It is clear that the Old Testament indeed knows of covenants of a non-contractual type, i.e. covenants which are “given” by the deity; in such covenants, the deity issues covenant promises by a unilateral act, and without laying down the formal stipulations of the treaty which require ratification by the parties to the covenant. The biblical paradigm for this type of “promissory” covenant may be seen in the account of Yahweh’s covenant with Abraham, Gen. 15:1-21, which R. E. Clements has examined in detail.¹⁰ This covenant is marked by the appearance of the deity in the manner of the cultic theophany, ‘with use of the formula “I am Yahweh (אני יהוה) who brought you from Ur of the Chaldees” (Gen. 15:7). This is followed by the divine promise, here that Abraham’s descendants will escape Egyptian slavery to possess the land of Canaan (15:13-21). The promise is accompanied by the act of “cutting a covenant” (כרת ברית, 15:8) in which theophanic symbols of the deity, “a smoking fire pot and a flaming torch,” pass between the two halves of representative sacrificial animals.

The Sinai covenant tradition, which in its present form approximates the treaty-covenant formulary, probably had the original form of a theophany or promissory covenant. The Jahwist strand of the Sinai pericope, as analyzed by M. Newman,¹¹ is particularly liable to this interpretation. According to Newman, the element of theophany is especially stressed in the J materials; he asserts that “unlike the E tradition, where the audible phenomena are as fully stressed as the visual, J’s emphasis is exclusively upon the latter.”¹² The promissory nature of the covenant is brought out both in the introduction to the “ritual decalogue” (Ex. 34:11) and in the expansion of the command to observe the three annual feasts (34:22). Of particular import is the presence of both an unconditional and a dynastic element in the covenant relationship, best seen perhaps in Yahweh’s appointment of Moses as covenant mediator “for ever” (Ex. 19:9a).¹³

For Newman, the dynastic and unconditional character of the Jahwist Sinai covenant constitutes an important theological link with the Davidic covenant tradition. This link was forged through David’s association with Hebron, where the Jahwist covenant traditions were preserved in the liturgy of a six-tribe

⁸*Ibid.*, 229.

⁹*Ibid.*, 227-228. Further treatment of the meaning of עדות appears *infra*, 133-135.

¹⁰R. E. Clements, *Abraham and David: Genesis XV and Its Meaning for Israelite Tradition*, SBTh, 2d Series, No. 5 (London: SCM Press, 1967, especially 15-22. Clements believes the material of Gen. 15:7-21 to be a unity derived from the Jahwist, except for a few later additions.

¹¹*Supra*, 113.

¹²Newman, *The People of the Covenant*, 48.

¹³*Ibid.*, 46.

Judah amphictyony.¹⁴ According to Newman, the monarchy under David usurped the position of the Aaronide priesthood of Hebron as the recipients of the unconditional, dynastic covenant tradition. He states:

If there was an annual covenant ceremony at Hebron in which the J covenant legend was used, David would undoubtedly have been aware both of the festival and the covenant theology reflected in its liturgy. He would have known about the priestly dynasty at Hebron with which Yahweh was believed to have made his covenant, thus ensuring the perpetual continuation of the dynasty. He would also have understood that there is a basic similarity between a priestly dynasty and a royal dynasty.¹⁵

Of course, as Clements points out, the Abraham tradition was also strong in Hebron and amongst the Judah tribes, and David's association with these people and his initial anointing at Hebron (2 Sam. 2:4) suggest that the Davidic monarchy was exposed, in its formative stages, to the influence of the promissory covenant formulation.¹⁶

Clements therefore contends that the Davidic covenant formulations are in the tradition of the "promissory" or unconditional type, i.e. in the same formal tradition as the covenant of Gen. 15. Clements acknowledges that the idea of a sacred covenant between Yahweh and David did not arise in Israel without being related to existing ideas of Israel's relation to Yahweh, but he draws a clear contrast between the form and theology of the Davidic covenant, as represented chiefly by 2 Sam. 7, and those of the amphictyonic covenant, as represented by the Sinai passage.¹⁷ The Davidic covenant is not an adaptation of the Sinai covenant, Clements claims, since it is "a promissory covenant made between Yahweh and an individual" rather than "a law covenant made with the entire nation in which Moses acted as mediator."¹⁸ Clements concludes that since the Davidic covenant is formally to be distinguished from the type of law covenant found in the Sinai-Horeb tradition, it follows that "the type of promissory covenant which we find recorded in II Sam. 7 must have been introduced into Israel from another source,"¹⁹ i.e. the Abrahamic tradition of the southern tribes.

The formal similarities between the "promissory" covenant of Gen. 15, the Jahwist version of the Sinai covenant, and the Davidic covenant tradition may be seen by examination of 2 Sam. 7, which is the most complete statement of Yahweh's covenant with David.²⁰ In this passage the prophet Nathan, as Yahweh's spokesman, announces to the king a covenant of the promissory type; the promise or oath of Yahweh recorded here is mentioned also in Pss. 89 and 132.²¹ It is generally acknowledged that in its present form the text of 2 Sam. 7:1-17 has been reworked by Deuteronomistic redactors, who have introduced other theological motifs. Thus this passage serves not only to set forth Yahweh's promise of an everlasting Davidic

¹⁴See *ibid.*, 136-139 for Newman's reconstruction of the cult of the Judah group.

¹⁵*Ibid.*, 152.

¹⁶Clements, *Abraham and David*, 47-52.

¹⁷Clements thus shares the view of L. Rost, "Sinaibund und Davidsbund," *ThLZ*, lxxii (1947), cols. 129-134, who saw a conflict between the Sinai covenant and the covenant of David.

¹⁸Clements, *Abraham and David*, 53. In taking the Sinai narrative as the principal example of the Israelite covenant tradition, Clements does not here take into account the possibility that the prominence given to the "law" element in the Sinai pericope proper may be due to the assimilation of an original theophany-covenant to the treaty-covenant form (*supra*, 104-1050), although he elsewhere (*God and Temple*, 20) seems to allow for this possibility.

¹⁹Clements, *Abraham and David*, 54.

²⁰Von Rad states, "It is remarkable that the term 'covenant' (בְּרִית) does not actually occur in Nathan's prophecy in 2 Sam. vii, but the notion itself is certainly not to be dismissed as a late theological interpretation," von Rad, "The Royal Ritual in Judah," 227.

²¹*Supra*, 126.

dynasty, but also to explain why David left the construction of the Jerusalem temple to his son Solomon.²² In the text as it stands, this is accomplished by setting the promise of a Davidic royal “house” in the original oracle (7:11b) over against the prediction that David’s offspring will build a house for Yahweh’s “name” (7:13a).²³ In any case, however, resemblances to the Abrahamic covenant form of Gen. 15 may be discerned. In the basic oracle of Nathan, as follows: 1) *oracular formula*, “Thus says Yahweh Tseva’ot” (7:8b), which here takes the place of theophany; 2) *historical recital* of the past relationship between Yahweh and David/Israel (7:8c-11a), in which Yahweh mentions his choice of David as prince of Israel, his help in overcoming his enemies, David’s “great name,” and the achievement of the present state of “rest” for Israel;²⁴ 3) the *dynastic promise* (7:11b-16), in which Yahweh assures David that his “house” will be secured on the throne “for ever” (עולם, v. 13b and twice in v. 16); included here is a reference to the king’s sonship under Yahweh (v. 14). R. A. Carlson calls attention to several “word bridges” which link this passage with Gen. 15.²⁵ Nathan’s speech of 2 Sam. 7:1-17 thus exhibits not only a theological, but also a literary, relationship to Gen. 15, indicating that a traditional formulation of the promissory covenant has developed in Israel, and has been utilized to express the covenant granted by Yahweh to the Davidic royal house, a covenant marked by the declaration of traditional promises which include the decree of sonship, the assurance of empire and “name,” and the guarantee that the dynasty will endure “for ever.”

When it comes to the question of the *canonicity* of this monarchic covenant tradition, however, it is important to observe that within the Old Testament the “promissory” type of covenant does not give rise to extended literary complexes of the type represented by the Sinai pericope and especially the Book of Deuteronomy, as expansions of the covenant-festival formula and its constituent elements. The various statements of the Abrahamic/Davidic covenant tradition, in fact, appear at intervals throughout the Torah (Genesis), the Prophets (2 Samuel, Isaiah, Jeremiah), and the Writings (Psalms, Chronicles), often embedded in other literary contexts. It is therefore doubtful that these expressions of the Davidic type of covenant

²²This does not mean that Nathan’s oracle forbidding David’s erection of the temple is the invention of the Deuteronomists. J. L. McKenzie notes that David had both the intention and the potential resources to construct the temple, and that “nothing but a divine oracle would have stopped him,” “The Dynastic Oracle: II Samuel 7,” *ThS*, viii (1947) 210. G. W. Ahlström sees in Nathan a “representative of the old Jebusite-Zadokite form of religion,” i.e. a spokesman for the pre-Israelite traditions of Jerusalem, and explains his opposition to the erection of the temple on this basis; see G. M. Ahlström, *Psalm 89: Eine Liturgie aus dem Ritual des leidenden Königs* (Lund: Håkan Ohlssons Boktryckeri, 1959), 185. But Clements is probably closer to the truth when he notes that the establishment of a temple under royal patronage represented an intrusion of the Canaanite concept of sacral kingship into the religious tradition of Israel. “Such a divinely authorized state and monarchy represented a far-reaching change in Israel’s religious and political thinking, for it was virtually a claim to a feudal structure for society, in which the king held an especially exalted place under Yahweh. It would have been most surprising if such a great change had not called forth opposition and revolt. Nathan’s oracle, therefore, may be interpreted as a check upon David’s plan to build a temple, with its political and religious implications, in the name of the old Yahweh amphictyony, with its central focus in the sacred tent and the ark,” *God and Temple*, 59-60.

²³For a thorough treatment of the literary and textual problems of this passage, as well as the operative theological motives of its Deuteronomistic redactors, see R. A. Carlson, *David the Chosen King: A Tradition-Historical Approach to the Second Book of Samuel* (Stockholm: Almqvist & Wiksell, 1964), 106-128.

²⁴The RSV gives the clauses from v. 9b in the future; the text as it stands is grammatically ambivalent. H. W. Hertzberg remarks that “the things mentioned here—the making of a great name, a sure dwelling for the people and the sought-after ‘rest’— have already been achieved in fact, as we have been told at the beginning of the chapter. The statements will therefore refer to the past,” H. W. Hertzberg, *I and II Samuel*, trans. by J. S. Bowden (Philadelphia: Westminster Press, 1964), 285.

²⁵The mention of “your descendants” or “seed” (רעך, Gen. 15:5) and of the son “who shall come forth from your body” (אשר יצא ממעיך, Gen. 15:4) are echoed in the phrase אשר יצא ממעיך of 2 Sam. 7:12, Carlson, 122; Carlson also finds an element of blessing in the final promise of 2 Sam. 7:16, *ibid.*, 123.

constituted, in and of themselves, a canonical tradition for “Israel.” It appears, rather, that these statements of the royal covenant tradition gained canonical status within the framework of Old Testament traditions through a process of assimilation to the fuller treaty-covenant form, with its elements of historical recital, stipulations, witness, and blessing-curse.

Actually, the form of the “promissory” covenant, as seen even in Gen. 15, is not without resemblance to the treaty formulary. The theophanic formula, followed by reference to Yahweh’s bringing Abraham from Mesopotamia (Gen. 15:7), is similar in form to the introduction to the Decalogue (Ex. 20:2), which has been compared to the “historical prologue” of the treaty formulary.²⁶ The act of ratification of the covenant is clear, though because of the promissory nature of the agreement it is the deity who unilaterally seals the covenant. The meaning of the act of “cutting a covenant” in this context is obscure. D. J. McCarthy, who refers in this connection to “the widespread evidence from the Syro-Palestinian area for the close and necessary connection between covenant making and symbolic rites involving an animal,”²⁷ concludes that “cutting a covenant” is “a symbolic, acted-out threat or curse.”²⁸ If this interpretation is correct, a certain formal parallel to the “curse” section of the treaty formulary may be adduced. However, it is then the deity who, symbolically passing between the severed halves of the animals, in effect ratifies his promise by subjecting himself to the curse, as M. G. Kline asserts.²⁹ Whether this is the perceived meaning of the act in the view of the Old Testament tradents is uncertain. Of course, a major variance of the covenant of Gen. 15, as also the covenant of 2 Sam. 7, is the substitution of divine promises for the stipulations characteristic of the treaty.

In the biblical picture of the relationship between Yahweh and the king, however, something much closer to the treaty-form is apparent in the frequent application to David of the term “servant” (עַבְדֵּי) of Yahweh. As R. de Vaux has shown, the use of this term in some of the Davidic covenant expressions (2 Sam. 7:5, 8, ten times in vv. 19-29; Pss. 78:70; 89:3, 20 EVV; 132:10; and elsewhere) corresponds to the way in which other ancient monarchs outside of Israel spoke of their role with respect to the deity;³⁰ but more significantly perhaps, relations between a suzerain and his vassal are expressed in ancient treaties in the same manner, the vassal being described as the “servant” of the overlord, occasionally with the statement that the suzerain has placed the vassal upon his throne (as in 2 Sam. 7:8).³¹ DeVaux even finds in a treaty given by a Hittite king (Hattusilis III or Tudhaliyas IV) to Ulmi-Teshub of Dattassa, a statement comparable to the promise that David’s descendants will remain “for ever” upon their throne (2 Sam. 7:16).³² Of the Davidic covenant, de Vaux states: “The covenant is the expression of divine election and it places the king in the position of a servant; it is the equivalent of a vassal treaty.”³³

But even if the Davidic covenant formulations, though basically promissory in form, show some initial resemblance also to the vassal treaty, they appear to have further undergone a process of assimilation to the treaty-covenant pattern through the introduction of a conditional element, comparable to the “stipulations” or “law” section of the Israelite covenant-festival formulary. This process may already be observed in the present form of 2 Sam. 7. Carlson notes the “chastisement” motif present in this passage, even in relation to Yahweh’s declaration of the king’s sonship; “I will be his father, and he will be my son. When he commits

²⁶*Supra*, 104.

²⁷McCarthy, *Treaty and Covenant*, 53.

²⁸*Ibid.*, 54-57; Clements, *Abraham and David*, 20n.

²⁹M. G. Kline, “Law Covenant,” *WThJ*, xxvii (1964/65), 4.

³⁰R. de Vaux, “Le Roi d’Israël, vassal de Yahvé”, *Mélanges Eugène Tisserant*, i (Studia e Testi 231;Vatican: Biblioteca Apostolica Vaticana, 1964), 121-123.

³¹*Ibid.*, 125.

³²*Ibid.*, 123-124.

³³*Ibid.*, 124; translated by the present writer.

iniquity, I will chasten him” (7:14). This “chastisement” motif is to be understood in the light of the Deuteronomic condemnation of the king’s self-aggrandizement in the “law for the king,” Dt. 17:16-17, where the king is forbidden to multiply horses, wives or wealth; since Solomon’s court was the “model” for the practices forbidden in Dt. 17, a “chastisement” is announced in 2 Sam. 7 which is to fall upon Solomon and his pretentious successors. Here we clearly observe a conditional element intruding into the promissory covenant of Nathan’s original oracle, as it was transmitted in the Israelite tradition. This conditional element is further strengthened by David’s response to Nathan in 2 Sam. 7:19b, in which the king declares, “thou hast spoken also of thy servant’s house for a great while to come, and this is the law of man.”³⁴ The phrase “law of man” (תורת האדם) refers back to Yahweh’s declaration in 7:14 which both states the “royal protocol” of the king’s sonship and also introduces the conditional element in the God-king relationship. Therefore this phrase can also be related to the Deuteronomic ideal of the king in Dt. 17:18-20; here the king is commanded to “write for himself in a book a copy of this law” and to “read in it all the days of his life, that he may learn to fear Yahweh his God, by keeping all the words of this law and these statutes,” so that the king may not exalt himself above all other Israelites and in this way jeopardize the continuance of his reign and his dynastic succession.³⁵ Thus Nathan’s oracle of 2 Sam. 7, as transmitted in the Deuteronomic history, serves both as the fullest biblical example of the promissory form of the royal covenant, and as an example of the process by which the Davidic covenant was made to take on some of the characteristics of the conditional type of covenant. One may suppose that this assimilation to the conditional form was the only way in which the expressions of the Davidic covenant could be accepted as normative theological statements by those circles in ancient Israel which associated canonicity with the treaty-form of the covenant renewal ceremony.

In connection with 2 Sam. 7, we hardly need mention the way in which Nathan’s oracle has been made to relate to the ark (v. 2), symbol of the Israelite tribal confederation and its covenant traditions. Furthermore, the presence of a prophetic “covenant mediator” in the person of Nathan serves as a link with the tribal covenant tradition.³⁶ Although the king remains the central human figure of the monarchic covenant, as the recipient of Yahweh’s promise, the role played by Nathan is a considerable one, down to the accession of Solomon as David’s successor (1 Kgs. 1).

Most important for the further investigation of the canonicity of the Davidic covenant formulations is the reference to the two basic elements of the Israelite covenant formulary—historical prologue and stipulations—in at least two other examples of the royal covenant formulation, Pss. 89 and 132. This has been observed by J. Muilenburg:

In Ps. lxxxix the covenant terminology, structure, ideology, and major motifs have been appropriated by the royal theology of the House of David and is therefore focused upon the King. . . . The central section (20-37 [19-36 EVV]) preserves the two major divisions of the proclamation of saving deeds (20-30) and the exhortation with the conditional protasis and apodosis (31-38).³⁷

It may be debated whether the “history-law” pattern has here been “appropriated” by the royal theologians, or has, rather, been superimposed upon the Davidic covenant tradition as a part of the process whereby this tradition was appropriated as normative for the larger Israelite tradition.³⁸ In any case, the account of the

³⁴Hebrew text; the RSV emends to “and hast shown me future generations.” The word אדם here may have the connotation of the expression “son of man” which is used in the Psalter (בן־אדם, 80:17 EVV; 146:3; בן־אנוש; in parallel with אדם, 144:3) as a technical term for the king.

³⁵Carlson, 124-125.

³⁶This is suggested by the quotation from Clements, *supra*, 129n.

³⁷J. Muilenburg, “The Form and Structure of the Covenantal Formulations,” 356n.

³⁸In some degree the solution to this problem is tied in with the question of the literary relationship between Ps. 89 and 2 Sam. 7. Critical scholarship is divided as to which of these constitutes the primary source for Nathan’s oracle.

“oath” sworn to David in Ps. 132:11-12 evinces the same covenantal form of the proclamation of Yahweh’s benefits followed by the covenantal contingency:

Yahweh swore to David a sure oath
from which he will not turn back:
One of the sons of your body
I will set on your throne.
“If your sons keep my covenant (בריתִי)
and my testimonies (עֲדוֹתַי) which I shall teach them,
their sons also for ever
shall sit upon your throne.”

The fact that Ps. 132 is also a psalm for the “procession of the ark” in the Jerusalem liturgy³⁹ (note v. 8)⁴⁰ underscores the possibility that we have here an example of the way in which the royal covenant tradition has been assimilated to the traditions of the Israelite amphictyony. G. Widengren also sees in Ps. 132 a conditional element; he states,

In Ps. exxxii the covenant between Yahweh and David is without any doubt conceived of in juridical terms. The covenant is conditional, being dependent on the stipulations that the descendants of David keep God’s covenant and his witness, i.e. the law that he will teach them (v. 12).⁴¹

Thus in these psalms the king, as “son” of Yahweh and recipient of his covenant promises, is placed under obligation to uphold the covenant stipulations:

If his children forsake my law (תִּוְרָתִי)
and do not walk according to my ordinances (מִשְׁפָּטַי),
if they violate my statutes (חֻקֹּתַי),
and do not keep my commandments (מִצְוֹתַי),
then I will punish their transgressions with the rod,
and their iniquity with scourges (Ps. 89:30-32 EVV).

For the view that 2 Sam. 7 is the primary source and that Ps. 89 is an exegesis thereof, see N. M. Sarna, “Psalm 89: A Study in Inner Biblical Exegesis,” in A. Altmann, ed., *Biblical and Other Studies*, Studies and Texts, i (Cambridge: Harvard University Press, 1963), especially 36-42. A. R. Johnson, following a number of leading critics, states that “it is much more likely, however, that the author of 2 Sam. vii. 1-17 was himself dependent upon the cultic tradition of the Jerusalem temple, of which this poem is a typical product,” Johnson, 23n. McKenzie, 217, believes that Ps. 89 represents the original source more exactly than either 2 Sam. 7 or 1 Chr. 17, except that it omits the references to the temple, which McKenzie considers to have been part of the original oracle. For our purposes it is not necessary to settle the question of a possible literary relationship, or lack thereof, between Ps. 89 and 2 Sam. 7. We may observe, however, that Ps. 89 would seem to be a more fully developed instance of the assimilation of the promissory covenant of David to the conditional covenant of the Israelite amphictyony; on formal grounds alone, then, it would represent a later stage of the Davidic covenant tradition than 2 Sam. 7. This, however, does not preclude the solution adopted by Johnson.

³⁹Mowinckel, *The Psalms in Israel’s worship*, i, 174-176; Kraus, *Worship in Israel*, 183-186. These writers consider the motifs of Yahweh’s choice of David and election of Zion to be the predominant elements in the liturgy reflected in this psalm. Weiser, *The Psalms*, 778-782, agrees in this interpretation; however, he thinks there was no actual procession of the ark, but that the words of Ps. 132:8 signify that a theophany took place at this point in the liturgy, in which the ark was nevertheless involved.

⁴⁰The phrase “arise O Yahweh” (קוּמָה יְהוָה) in v.8 is identical with the language used in Num. 10:35, which recounts the manner in which the ark went forth at the head of the Israelites in the wilderness.

⁴¹Widengren, “King and Covenant,” *JSS*, ii (1957), 24.

As Johnson remarks, “In the light of the covenant background the promise of ‘Sonship’ is simply one of adoption, which carries with it certain attendant conditions so far as David and his descendants are concerned.”⁴² We should not fail to observe, however, that the covenant form in these examples is not really precise; there are references to covenant stipulations as applicable to the king, but no stipulations themselves appear in the text. In a formal sense, the attempt to impose the “treaty” or “law” form of covenant upon the “promissory” type of covenant associated with the Davidic monarchy is not altogether successful in any extant biblical examples. That such an attempt was made, however, is itself significant from the standpoint of the canonicity of the royal traditions in Israel.

Further study of the term עֲדוּת, as used in connection with the Davidic monarchy, increases the likelihood that the Davidic covenant came to be understood as a conditional covenant, and not simply a promissory one. That עֲדוּת is frequently synonymous with בְּרִית, in the sense of “law covenant,” is shown by the expression “ark of the testimony” (אָרוֹן הָעֵדוּת, Ex. 25:22, etc.), which is generally the Priestly equivalent for the term “ark of the covenant” (אָרוֹן הַבְּרִית, Josh. 3:6, etc.) or “ark of the covenant of Yahweh” (אָרוֹן הַבְּרִית־יְהוָה, Num. 10:33, etc.) in other sources; also by the expressions “tables of the testimony” (לַחַת הָעֵדוּת, Ex. 31:18, etc.) or simply “testimony” (עֲדוּת, Ex. 25:16, etc.) as referring to the written form of the covenant commandments in the Priestly redaction of the Sinai pericope. G. Östborn, examining the various biblical expressions for the covenant statutes, concludes that עֲדוּת is one of the terms for the *written* law.⁴³ This possibility is borne out by the use of the related form תְּעוּדָה in Isa. 8:16, where it appears in parallel with תּוֹרָה “teaching” to designate a document which can be bound up or sealed. According to A. R. Johnson, עֲדוּת in 2 Kgs. 11:12 means a written statement of the covenant conditions. Here it is said that Jehoiada “placed upon” the prince the crown and the “testimony.” Johnson states, “the fact surely is that the king was made to wear, not merely the royal crown, but a document embodying the basic terms of Yahweh’s covenant with the House of David,” similar to the phylacteries worn by later Jews.⁴⁴ Johnson further believes that the term עֲדוּת signifies not simply a “royal protocol” or decree of Yahweh’s choice of the king, his sonship, and his royal rights and benefits. We have seen that Ps. 132 shows the introduction of a conditional element into the monarchic covenant tradition; on the basis of the use of the word עֲדוּת (in the form עֲדוּתִי, “my testimony” or “my testimonies”)⁴⁵ in Ps. 132:12, Johnson believes this term refers to the provisions of a conditional covenant:

As the parallelism shows, this must be a comprehensive term for the duties, involved in the acceptance of the covenant, which each must learn to carry out on ascending the throne. It is an allusion to the conditions whereby each successive king will be entitled to wear, in the language of the psalm, the “sparkling crown” which will be the symbol of his office.⁴⁶

Further evidence that a statement of covenant obligations is meant here is seen in the fact that terms similar to the Hebrew עֲדוּת are found in Akkadian and Aramaic texts as designations for the stipulations of vassal treaties.⁴⁷ עֲדוּת, then, is a term associated with the written stipulations of the conditional covenant or treaty; it therefore is a term having associations with the Israelite covenant formulary with its prominent “stipulations” section. An additional link between עֲדוּת and the Israelite covenant formulary consists of the

⁴²Johnson, 25.

⁴³Östborn, *Tōrā in the Old Testament*, 37-39.

⁴⁴Johnson, 21.

⁴⁵The vocalization is uncertain; either singular or plural is possible.

⁴⁶*Ibid.*, 20.

⁴⁷Vaux, “Le Roi d’Israël, vassal de Yahvé,” 128.

use of forms derived from the same root in the biblical examples of the covenant pattern, with reference to the “calling of witnesses.”⁴⁸

In view of these considerations, it is probably not correct to regard the expressions כְּתוּבָה in 2 Kgs. 11:12 or לְכַתְּבָהּ in Ps. 132:12 as indicating simply a “royal protocol” or decree of an unconditional covenant between Yahweh and the king. Even if the royal covenant traditions originally conformed to the “promissory” type of covenant exemplified by Gen. 15, in their present state in the biblical tradition the Davidic covenant expressions are intended to be understood in terms of a conditional covenant. Since the king was, ideally at least, the cultic leader of all Israel, the כְּתוּבָה could have been a statement of the covenant stipulations derived from the amphictyonic covenant-festival tradition. This indeed, is close to the traditional understanding of the term כְּתוּבָה in the account of Joash’s coronation, which sees here a reference to the Mosaic “tablets of the law.” Such a view has recently been reaffirmed by Östborn, who states:

The King can thus be said to embody the covenant in his person that covenant in which the people, too, participate through their king. And so the king personifies the divine will, “the law”, which has binding power both for him and his people.⁴⁹

The king therefore, according to Östborn, must receive “the law” at his coronation, in accordance with the provision of Dt. 17:18-20. The כְּתוּבָה of 2 Kgs. 11:12 must refer, then, to a written “book of the law.”⁵⁰

In view of the foregoing, it seems most likely that כְּתוּבָה signifies a standardized written form of the covenant stipulations originating in the Israelite covenant-festival liturgy. If (as we believe) the Old Testament traditions developed as canonical literature in virtue of their origin in or relation to the covenant-

⁴⁸E.g., כָּתוּבָה, Dt. 31:36; כְּתוּבָה, Josh. 24:22; or in the related Hiph’il verbal form כָּתוּבָה “I call . . . to witness,” Dt. 4:26, 30:9; and 31:28 where the form is כָּתוּבָה. Note also that in Isa. 55:4 David is called “a witness to the peoples” (לְעַמִּים כָּתוּבָה).

⁴⁹Östborn, *Tōrā in the Old Testament*, 77. Östborn bases this statement in part upon Isa. 42:1-6, where the “servant” of Yahweh (v. 1) is given as “a covenant to the people” (v. 6), and it is also said that “the islands wait for his law” (v. 4). Östborn asserts that this passage expresses the “ideology of kingship.” Whether or not the Deutero-Isaianic “servant of Yahweh” is conceived as a royal (i.e., “Messianic”) figure has, of course, occasioned vigorous debate in critical circles. I. Engnell, for example, believed that the idea of suffering was present in the Israelite royal ideology in what he called “Royal Passion Psalms,” which reflect a “ritual combat or sham fight” in which the king figuratively “suffered” as part of a cultic drama, I. Engnell, “The Book of Psalms,” in *Critical Essays on the Old Testament*, 118-119. Engnell contended that this characteristic of “suffering” in the royal ideology was greatly developed in Deutero-Isaiah under the influence of the Babylonian religious environment, so that the “servant of Yahweh” is indeed to be viewed as “the coming savior-king of the dynasty of David,” *ibid.*, 230. For the argument against the opinion represented by Engnell, see Mowinckel, *He That Cometh*, 218-230. Although Mowinckel admits that “certain royal traits have been transferred to the Servant”, 227, he contends that the servant is primarily understood and described as a prophet, 218. Mowinckel is followed by von Rad, *Old Testament Theology*, ii, 259, who notes that Moses, archetype of the prophet, is frequently called a “servant of God,” and therefore sees in the Deutero-Isaianic servant a “prophet ‘like Moses’”, 261. According to von Rad, Deutero-Isaiah, independently of Deuteronomy, likewise “used an existing Mosaic tradition about his office as mediator, and about the prophet who was to come,” *ibid.* Whether the servant is a prophet or a king does not affect the fact that he is indeed a covenant mediator in virtue of his role as representative of the community before Yahweh. This is a role that could be played by the king during the monarchy; but as Mowinckel points out, “It was not *necessary* that the king should act as cultic leader. In place of him, any really representative person might act as the embodiment of the community, and as the connecting link with the deity,” 239. One can therefore declare that the circumstance that the king indeed fulfilled this mediatorial role (*infra*, 138-139) contributed to the terminology used by Deutero-Isaiah in his portrait of the “servant of Yahweh,” without necessitating that the servant himself be viewed as a “messianic” figure in the strict sense. Östborn would then be at least partially justified in treating Isa. 42:1-6 as an expression of the “ideology of kingship.”

⁵⁰Östborn, *Tōrā in the Old Testament*, 76-83. See also G. Widengren, “King and Covenant,” 23.

renewal ceremony or its constituent parts, then it is quite possible that the term עֲדוּת in 2 Kgs. 11:12 and elsewhere has something of the meaning of “canon.” What are presented to Joash, then, are “the crown and the canon,” i.e. a document containing the established and authoritative expression of the covenant conditions.

In interpreting the process of the formation of a tradition of the Davidic covenant, and the manner in which this tradition was received into the canonical traditions of the Israelite religious community, it is important to recognize at the outset that the traditional expressions of Yahweh’s covenant with the royal house could not have been confined to those periodic occasions when a new king ascended the throne. If that were the case, the relative infrequency of such occasions would have made it difficult for a normative literary tradition of the Davidic covenant, of the sort which we now possess in the Old Testament, to have developed in ancient Israel. There must therefore have been annual, or at any rate frequent, observances in the festal cult of the Jerusalem temple, as the sanctuary of the Israelite tribes, in which the king played a significant role, and in which the theology of the Davidic covenant found expression as a part of the covenant of Yahweh with all Israel.

It is widely held, largely on the basis of the work of Mowinckel,⁵¹ that such a festival was observed in the Jerusalem temple, in the form of the autumn new year feast, which was also the celebration of the enthronement of Yahweh.⁵² It is possible that the king’s enthronement was celebrated annually in Israel, as elsewhere in the ancient Near East,⁵³ and that this celebration coincided with the festival of the enthronement of Yahweh.⁵⁴

The enthronement festival probably had its roots in the pre-Israelite worship of Jerusalem, and thus was heir to a rich mythological background involving the celebration of the kingship of the deity, as manifested in his cosmic struggle with the forces of chaos, and his triumph in the renewal of life and the created order.⁵⁵ In such a cultic setting, the role of the king, as representative of the community, would have been to participate in the reenactment of the myth, possibly through some form of ritual identification with the fertility god, and thus to secure for his people the benefits of the renewal of the natural cycle in the triumph of the god.

In the Israelite form of the enthronement festival however, the creative and therefore kingly activity of Yahweh was viewed primarily in terms of his historic activity in the election of Israel, as manifested in the exodus, the granting of the covenant, and the conquest of Israel’s enemies in the land of Canaan.⁵⁶ Thus the “history and law” pattern which, as we have seen, was associated with the covenant-festival traditions of the Israelite confederation, largely supplanted the patterns already present in the Canaanite cult of Jerusalem. The ark, as the embodiment of Israel’s amphictyonic traditions, appears to have played an important role in the Jerusalem liturgy from the time of David, and it is possible that the Israelite enthronement festival included, a “procession of the ark” as a symbolic enactment of Yahweh’s “going up” to rule.⁵⁷ The

⁵¹Mowinckel, *Le Décalogue*, 114-162; *supra*, 98.

⁵²See, for example, Johnson, 47-93; Mowinckel, *The Psalms in Israel’s Worship*, i, 106-192; Pedersen, iii-iv, 436-447. On the coincidence of this festival with the autumn new year, see especially Mowinckel, *The Psalms in Israel’s Worship*, i, 118-130.

⁵³Pedersen, iii-iv, 432, 746-750.

⁵⁴Mowinckel, *He That Cometh*, 80; *The Psalms in Israel’s Worship*, i, 60-61.

⁵⁵For this mythological background see, for example, Mowinckel, *The Psalms in Israel’s Worship*, i, 130-136.

⁵⁶*Ibid.*, 139-140.

⁵⁷Mowinckel finds evidence for such a procession of the ark at the enthronement festival, principally in Pss. 24, 68 and 132, *ibid.*, i, 169-178. Kraus accepts the idea of a procession of the ark, *Worship in Israel*, 210-214, but does not connect it with a celebration of Yahweh’s “enthronement”; he asserts, “Yahweh does not become King, but he comes as King,” 214. This appears to be too fine a distinction, for the enthronement festival need not be viewed as an actual enthronement, but as the cultic re-presentation of a kingship which is inherent in Yahweh’s relation to creation and

superimposition of amphictyonic traditions upon the Jerusalem liturgy means that the festival of the enthronement of Yahweh actually served as the Jerusalemite version of the Israelite festival of the renewal of the covenant,⁵⁸ in which the community participated in the cultic re-presentation of the Sinai events and experienced afresh the theophany of Yahweh in the declaration of the covenant commandments.⁵⁹ Mowinckel states:

At the festival of enthronement, with its “commemoration” of the election, the idea of a renewal of the covenant would be a leading thought, with explicit reference to what Yahweh had done in history; at the festival he came to renew the covenant he had once made with the people at Kadesh-Sinai.⁶⁰

The cultic role of the king therefore differed, in the Israelite version of the enthronement festival, from the role of the king in the pre-Israelite forms of this observance. Mowinckel writes:

Though the king is described as the channel of felicity and paradise, yet we find in Yahwism no trace of any mythological or cultic identification of the king with the fertility god. . . . The Canaanite thought that the god himself is renewed has disappeared; and what the king obtains in the cultic festival is not primarily new life and strength, but the renewal and confirmation of the covenant, which is based on Yahweh’s election and faithfulness, and depends upon the king’s religious and moral virtues and constancy.⁶¹

If this view of the role of the king in the covenant cult of Jerusalem is the correct one, then it is evident that the development of the literary tradition of the Davidic covenant took place within the larger framework of the covenant between Yahweh and Israel, and that the various expressions of Yahweh’s covenant with the royal house were recognized as normative in Israel in virtue of this connection.

Significantly in this regard, several biblical passages indicate that the king, like the prophet, could function as covenant mediator with respect to the amphictyonic covenant traditions of Israel. The outstanding instance is, of course, that of Josiah in the Deuteronomic reform. Josiah plays the leading role in the covenant recounted in 2 Kgs. 23:1-3 (2 Chr. 34:29-33). “Not only is it he who convokes the assembly, but it is he also who reads out to it the words of the book of the law, which is the basis of the covenant.”⁶² That the “book of the covenant” (23:2; alternatively, “book of the law,” 22:8) is to be identified with some form of Deuteronomy is a tenet of critical scholarship;⁶³ and if Deuteronomy is in fact the clearest biblical example of the covenant formulary,⁶⁴ we have in Josiah’s action indisputable evidence for the king’s role as mediator in relation to the covenant traditions of the Israelite amphictyony. This is admitted even by Noth, who insisted that the Israelite tribal confederation with its covenant traditions survived into the monarchic period as a sacral order independent of the authority of the kings of Judah and Israel.⁶⁵ Although Josiah, as a

history from the beginning. Kraus regards Ps. 132 as evidence for the procession of the ark, 183-186, but believes that Ps. 68 refers to a processional rite localized at Mount Tabor rather than Jerusalem, 167-172.

⁵⁸A. Weiser, describing the annual festival of the Jerusalem sanctuary, stresses its character as a festival of the renewal of the covenant, *The Psalms*, 23-35.

⁵⁹Mowinckel, *Le Décalogue*, especially 121-129.

⁶⁰Mowinckel, *The Psalms in Israel’s Worship*, i, 155.

⁶¹Mowinckel, *He That Cometh*, 80-82.

⁶²Widengren, “King and Covenant,” 3.

⁶³For a comprehensive discussion of the evidence for the identification of Josiah’s law-book with Deuteronomy, see H. H. Rowley, “Jeremiah and Deuteronomy,” in *From Moses to Qumran: Studies in the Old Testament* (New York: Association Press, 1963), 187-208, and the extensive literature cited therein.

⁶⁴*Supra*, 106.

⁶⁵Noth, “The Laws in the Pentateuch”; *supra*, 63.

descendant of David, was heir to the special traditions of the royal covenant, the covenant of 2 Kgs. 23 is actually that of the Israelite amphictyony. Noth states; "It is obvious that Josiah's covenant . . . must be a covenant between God and people. The role of the king was to bring about the actual conclusion of the covenant."⁶⁶

G. Widengren points out the parallel between Josiah's act of covenant renewal and the events associated with the coronation of Joash. When the prince has received the "testimony" or "canon" (עדות) and has been acclaimed as king (2 Kgs. 11:12), the liturgy is disrupted by the protests and execution of Athaliah; but when the service continues, Jehoiada the priest "made a covenant (אֶת־הַבְּרִית) . . . (ויכרת) between Yahweh and the king and people, that they should be Yahweh's people; and also between the king and the people" (11:17). Widengren remarks:

The infancy of the new king means that his active role is partly played by the priest Jehoiada, who acts as the performer of the covenant, not only between Yahweh and the people, but also between Yahweh and the king. But the fact that the tablets, or book of law, are handed over to the king indicates, of course, that he is the real possessor of the law on the basis of which the covenant is presumably made in this case, as well as in that of Josiah.⁶⁷

According to Widengren, the role of Solomon at the dedication of the temple (1 Kgs. 8) is that of covenant mediator.⁶⁸ Widengren believes this dedication took place in conjunction with the near year festival, which thus relates it also to the renewal of the covenant. It is not expressly stated that Solomon made a covenant on this occasion, but in its present form the speech of Solomon contains numerous references to the covenant traditions. Thus Solomon's prayer alludes to Yahweh's covenant with David, with its promise of an enduring dynasty (1 Kgs. 8:25), as in 2 Sam. 7; notice, however, that in Solomon's prayer the conditional element is more pronounced in comparison with 2 Sam. 7:14-15, indicating the influence of the conditional rather than promissory covenant formulation. The primacy of amphictyonic, rather than specifically royal, covenant traditions is further symbolized by the fact that the dedication of the temple centers around the ark, "in which is the covenant of Yahweh which he made with our fathers, when he brought them out of the land of Egypt" (1 Kgs. 8:21). As Widengren observes, at the end of his prayer Solomon reminds the people of their covenant obligation toward Yahweh (8:57-60), and his concluding exhortation (v.61) further emphasizes the covenant stipulations; Widengren calls attention to the fact that these words of Solomon are reminiscent of Josiah's exhortation in 2 Kgs. 23:3, with its pronounced "Deuteronomic colour."⁶⁹ Whatever the historical reliability of this chapter with regard to Solomon's actual role in the cult, it is at least evident that the Deuteronomistic historians regarded Solomon as a mediator of the conditional covenant between Yahweh and Israel.

On the basis of the foregoing evidence, Widengren remarks:

Everything would thus seem to indicate that as long as the kingship existed in Israel it was the king who at the New Year's festival renewed the covenant between Yahweh and the people, reading on this solemn occasion from the book of the law the commandments which served as the foundation of the covenant.⁷⁰

Widengren's statement implies greater certainty than the evidence warrants; the events connected with Solomon's dedication of the temple, Joash's coronation, and Josiah's reform were preserved in the tradition

⁶⁶*Ibid.*, 44. Noth, however, explains Josiah's role as legitimate by pointing out that, as a descendent of David, he belonged to the tribe of Judah, and functioned not only as king but as a leading member of the "congregation of Yahweh," *ibid.*, 46.

⁶⁷Widengren, "King and Covenant," 7.

⁶⁸*Ibid.*, 7-9.

⁶⁹*Ibid.*, 9n.

⁷⁰*Ibid.*, 19.

because they were extraordinary, and may not represent typical cultic situations. Nevertheless, this investigation shows that the Judean monarchy, at any rate, could function as a cultic institution with respect to the covenant traditions of the Israelite tribal confederation.⁷¹ As a result of this connection, the tradition of the promissory covenant between Yahweh and David has been comprehended by, and indeed assimilated to, the form of the conditional covenant characterized by the “history and law” pattern emphasizing the declaration of stipulations. M. G. Kline remarks that “law covenant with its duality of sanctions, curse threat as well as offer of blessing, will be formally comprehensive enough to accommodate promise covenant

⁷¹The relation of the kings of the northern kingdom of Israel to the covenant-festival traditions must remain an open question due to the scarcity of evidence. In the eyes of the biblical historians it is surely the prophets, rather than the kings, who are viewed as the representatives of the covenant. Widengren, however, believes that Joshua is portrayed by the Deuteronomists as the prototype of the king as covenant mediator, *ibid.*, 14-16. He declares that “Joshua is depicted in the Deuteronomic layers of tradition as possessing entirely the same rights and duties as the Israelite king later, as far as the law is concerned,” *ibid.*, 16. Joshua’s membership in the tribe of Ephraim and his association with Shechem make it possible that he is seen as the “type” more particularly of the northern monarch, according to Widengren. If Widengren is correct in supposing that the northern monarchs functioned cultically as covenant mediators, there has evidently been an attempt to suppress this fact in the surviving traditions of the northern kingdom, which are favorable to prophecy and opposed to the monarchy. The speech of Jeroboam I inaugurating his northern sanctuaries as rivals to Jerusalem surely suggests that he understood his role to be that of mediator of the amphictyonic covenant tradition: “Behold your God (אלהיך), O Israel, who brought you up out of the land of Egypt” (1 Kgs. 12:28). These words are indeed reminiscent of the introduction to the Decalogue (Ex. 20:2). The present text, of course, understands Jeroboam’s action as idolatrous and uses the plural form of the verb “bring up” (העלותך); but this could have come about originally by a simple change in vocalization of the singular form, followed by later insertion of the fully written vowel. If the kings of the northern monarchy did assume the public role of covenant mediator, it is understandable why the prophets, though spokesmen for the covenant, avoid the use of the word ברית.

At least one example of the covenant involving the king does display a fairly close correspondence to the treaty-covenant formulary. This is the covenant recorded in 1 Sam. 12, which has been examined by J. Muilenburg, “The Form and Structure of the Covenantal Formulations,” 360-364. In 1 Sam. 11:14-15, Samuel has appealed to the people to “renew the kingdom” at Gilgal, and “there they made Saul king before Yahweh in Gilgal.” In this context Samuel delivers an address which exhibits the covenant form of historical recital and covenant obligation. According to Muilenburg, the opening section, having to do with the transfer of authority in Israel from prophecy to kingship, is marked by an emphasis on the element of “witness.” Here the people testify to Samuel’s obedience to the laws of Yahweh (12:1-5). Samuel then recites the “saving deeds” of Yahweh in a form very close to that of the “historical creed,” with its mention of Jacob, the exodus, the entrance into Canaan and Yahweh’s deliverance of his people from their enemies (12:6-11), culminating in Israel’s request for a king (12:12). Samuel’s exhortation or parenthesis begins with the presentation of the king (12:13), but proceeds to an admonition to heed the covenant stipulations: “If you will fear Yahweh and serve him and hearken to his voice and not rebel against the commandments of Yahweh, and if both you and the king who reigns over you will follow Yahweh your God, it will be well; but if you will not hearken to the voice of Yahweh, but rebel against the commandment of Yahweh, then the hand of Yahweh will be against you and your king” (12:14-15). This portion of the speech actually has the effect of the “blessing and curse” section of the covenant formulary.

Muilenburg remarks, “What makes the event here described so impressive is that the ancient covenant speech and literary forms are now placed in the service of the new order of the kingdom,” *ibid.*, 363. The impression conveyed by this chapter, however, is actually that of the subordination of the monarchy to the covenantal concepts and formulations of the tribal confederation. The references to the king in Samuel’s speech have almost the character of insertions which do little to disturb the basic outline of the speech as an example of the treaty-covenant form. Muilenburg notes that 1 Sam. 12 is of Elohist provenance and has much in common with Josh. 24, *ibid.*, 361. We may speculate that 1 Sam. 12, although connected in the present form of the tradition with Israel’s original acceptance of the monarchy in the person of Saul, actually constitutes the “cult-legend” of a northern Israelite ceremony for the enthronement of the king, a ceremony which made clear the subordination of the monarchy to Israel’s amphictyonic traditions.

within its generic framework.”⁷² The distinctive covenant expressions of the Davidic monarchy, with their theological significance for biblical eschatology in general and messianism in particular, are then seen to have developed as canonical within the formal and theological framework of the Israelite covenant-festival formulary. Moreover, the fact that the king is viewed as a mediator of Israelite covenant traditions has important implications for the question of the canonicity of certain books of the Writings. This matter is taken up in the pages which follow.

⁷²Kline, “Law Covenant,” 15.

CHAPTER 13

The Canonicity of the Writings

In the history of research into the growth of the canon of the Old Testament, the question of canonicity comes to its sharpest focus with the third division of the Hebrew Scriptures.¹ The problem of the origin of the canonical authority of the writings has proved a difficult one to approach from any standpoint in the discipline we have termed the “theory of the canon.” Thus it is not clear that the Writings, being essentially books of poetry and narrative, can be sufficiently dealt with on the principle that canonicity arose in the idea of “law.”² Nor can the books of the third division of the canon be accommodated under the view that canonicity originated in the inspired word of the prophet; the Writings as a group are in fact remarkable in the infrequency with which they lay claim to divine inspiration.³ The theory that the canonicity of the Old Testament literature originated in its connection with the cult is not readily applicable to the Writings (the Psalter excepted), either on the basis of usage in the worship of ancient Israel, or on the basis of the ability of the literature to reflect a “cultic motif.”⁴ Finally, although the theory of the canon as history or aetiology is helpful in understanding the authority of the Law and the Prophets, it is manifest that the Writings, in general, are characterized as to contents by a less intensive concern with history than the other divisions of the canon. Even the narrative books (Ruth, Esther, the work of the Chronicler) approach “history” on a level less theologically charged than the Law and the Prophets, with their preoccupation with the saving historical activity of Yahweh past, present, and future. The wisdom literature displays an indifference to history as the sphere of revelation, while the Book of Daniel exhibits something of the despair with the present order of history characteristic of apocalyptic. These considerations, when coupled with the findings of the earlier “historians of the canon” which attest to the late or doubtful “canonicity” (in the official sense) of many of the Writings, suggest that the issue of the origin of the canonical authority of this literature is far from settled.

In the preceding chapters we have explored the possibility that the origin of the Old Testament literature as canon is due to the ultimate association of these traditions with the Israelite festival of the renewal of the covenant. The canonicity of the material found in the Hexateuchal, prophetic or monarchic traditions is seen in the manner in which this literature corresponds in form to the covenant formulary or the constituent elements thereof. At first glance, it would appear difficult to relate the Writings, as a whole, to the covenant and especially to the liturgical pattern of the covenant festival. It is all the more instructive, therefore, that ancient biblical and Jewish tradition appears to have made the attempt to associate the Writings in some fashion with covenant traditions. The effort to forge such connections, however tenuous, is itself evidence for the way in which the canonicity of the Hagiographa was perceived within the Israelite-Jewish community. The following is an outline of the ways in which the Writings may be approached from the standpoint of the correlation between canon and covenant.

The Psalter, of course, presents the outstanding exception to the rule that the Writings do not readily reflect the covenant-festival cult of Israel. We have had occasion in the preceding discussion to refer to several of the Psalms in connection with various aspects of the Israelite covenant festival. The “historical prologue” element, for example, appears in such Psalms as Pss. 78, 105, 135 and 136.⁵ Recital of the covenant stipulations appears to form the background of Pss. 15, 24, 50, 81, 95 and 99.⁶ Evidence for the

¹See the remarks in ch. 4 *supra*, especially 52.

²*Supra*, 85.

³*Supra*, 61.

⁴*Supra*, 91.

⁵*Supra*, 64.

⁶*Supra*, 83-84, 98.

assimilation of the Davidic covenant tradition to the “history-law” pattern of the covenant festival is supplied by such Psalms as Pss. 89 and 132.⁷ The way in which many of the Psalms embody portions of the Israelite covenant festival has been brought out in detail by A. Weiser.⁸ The canonical status of the Psalter is more firmly established than that of any other book of the Hagiographa,⁹ and this is surely the result of the close relation of the Psalms to the Israelite covenant-festival tradition.

The Psalter, however, is not the only book of the Writings in which elements of the covenant-festival pattern are present. The narrative work of the Chronicler, indeed, includes an example of the full form of the covenant formulary in the account of Ezra’s assembly (Neh. 8–10).¹⁰ K. Baltzer¹¹ sees the covenant formulary as the basis of Hezekiah’s speech to the Levites, 2 Chr. 29:5-11.¹² Other books of the Writings exhibit the influence of one or more elements of the covenant formulary. C. Westermann expresses the view that the apocalyptic genre most closely resembles the “portrayal of salvation” category of the prophetic salvation-oracle;¹³ and since the salvation-oracle itself may have originated in the “blessing” section of the treaty-covenant formulary, it is therefore possible to view the visionary portions of the Book of Daniel as the outgrowth of one of the elements of the covenant pattern. Baltzer believes the covenant formulary underlies Daniel’s prayer in Dan. 9:4b-19;¹⁴ examination of this passage reveals in any case a stress on the “curse” aspect of the covenant relationship, as in 9:11: “All Israel has transgressed thy law and turned aside, refusing to obey thy voice. And the curse and oath which are written in the law of Moses the servant of God have been poured out upon us, because we have sinned against him.”

Turning to the wisdom literature: if we accept E. Gerstenberger’s thesis that apodictic law, in the prohibitive form at least, originated in the “clan ethos” and the pronouncements of the wise,¹⁵ then the Book of Proverbs can be shown to share a common formal heritage with much of what the biblical tradition now includes in the “stipulations” section of the treaty-covenant formulary. The correspondence between covenant stipulation and wisdom saying is not altogether precise, however, since the Proverbs do not have the earmarks of liturgical usage which characterize the various apodictic series of the Pentateuch. Since the covenant-festival pattern is a cultic one, a reflection of liturgical usage must be regarded as an essential feature of canonical traditions connected in any integral way with the covenant formulary. It is perhaps more accurate to view the wisdom literature with respect to the “blessing and curse” section of the covenant pattern. G. von Rad draws attention to the way in which Israel’s wisdom literature posits “a definite and even clearly recognisable connexion between what a man does and what happens to him, such that the evil deed recoils banefully upon the agent, the good one beneficially.”¹⁶ Von Rad thinks the wisdom literature approaches this connection between act and retribution or reward “almost in the sense of an immanent material law.”¹⁷ Thus the wisdom writers do not often ascribe this connection directly or explicitly to Yahweh’s action in maintaining the covenant relationship in the manner of, say, the prophetic judgment

⁷*Supra*, 131-133.

⁸Weiser, *The Psalms*, especially 26-27, 35-52.

⁹In Lk. 24:44 Jesus refers to the Scriptures as “the law of Moses and the prophets and the psalms,” indicating that the Psalter stands as the nucleus of the third division of a tripartite canon. See also 51n., 61, *supra*.

¹⁰*Supra*, 107.

¹¹Baltzer, 59-60.

¹²Chr. 17 reproduces Nathan’s oracle of 2 Sam. 7, but restores the Davidic covenant to its original promissory form by deleting the conditional element present in 2 Sam. 7:1.

¹³*Supra*, 124n.

¹⁴Baltzer, 57-58.

¹⁵Gerstenberger, *Wesen und Herkunft*, especially 110-130; “Covenant and Commandment,” 46-51; *supra*, 78-79.

¹⁶Rad, *Old Testament Theology*, i, 384.

¹⁷*Ibid.*, 386.

speech. But it is also possible that the wisdom literature approaches this connection between act and consequence in a “formal” way, i.e. on the basis of the fact that such a connection is embodied formally in the covenant pattern; and this would explain why the wisdom writers find no need to ascribe the process of retribution or reward to the specific intervention of the deity in every case. Von Rad claims that “ancient Israel saw the idea of the indissoluble connection between act and outcome as confirmed in daily experience.”¹⁸ But one may ask whether the prosperity of the “righteous” and the “wise” or the punishment of the “wicked” and the “fool,” as reiterated by Proverbs and the other wisdom books, were necessarily facts of experience for either the faithful Israelite under the monarchy or the devout Jew of exilic and post-exilic times. It is probably more accurate to suggest that, among the diverse roots of Israelite wisdom, we must give prominent place to a *formal tradition* of the connection between Israel’s adherence to the will of Yahweh declared in covenant stipulations and the effect of blessing and curse—a formal tradition ready to hand in the Israelite covenant-festival pattern.

“Blessing and curse,” then, constitute the underlying foundation of much of the material included in the Writings, Certain books in the third division of the canon could be said to reflect in entirety the element of “curse” (Lamentations) or of “blessing” (Song of Songs).¹⁹ The Psalter also, inasmuch as it originates in a liturgical setting, may be regarded as a portrayal of “blessing.” To appear in the presence of Yahweh in worship is to experience a condition of blessedness.²⁰ Those who dwell in the temple are “blessed” (אַשְׁרֵי, Ps, 84, especially vss. 4-5 EVV). Yahweh blesses those who appear before him in the sanctuary (Ps. 67, and the “songs of ascents,” especially Pss. 128, 133, 134). In the “songs of ascents” Yahweh will bless (יְבָרֵךְ with suffixes) “from Zion” (Pss. 128:5, 134:3); there he “commands the blessing” (בְּרַכָּה, Ps. 133:3b). In the sanctuary the congregation experiences the blessed states of security, peace, victory (Pss. 121, 122, 126). In the cultic theophany Yahweh makes his face to “shine” (יָאֵר, Num. 6:35; Ps, 67:1 EVV), creating blessing for the participants in the liturgy; thus the psalmists appeal to Yahweh to cause his face to “shine” (הִאֵר, Ps. 80:3, 19 EVV; הִאֵרָה, Ps. 31:16 EVV) to create victory. Conversely, to have no access to the “light” of Yahweh’s presence in the sanctuary is to be in a state approaching that of the cursed (e.g., Pss. 42–43 and many of the Psalms of lament). The Psalter also celebrates the blessedness of those who adhere to the traditions of Yahwism as represented by the covenant “law” (e.g., Pss. 1:1-2; 119:1). Individual books of the Hagiographa, then, can be shown to reflect the elements of the covenant-festival pattern, especially the elements of “curse” and “blessing.”

In the main, however, the canonicity of the Writings was established in Jewish tradition on grounds other than the correspondence of this literature to the covenant formulary or its elements. Indeed, the canonical authority of these books was secured in a more external fashion, through the traditional association of these books with a recognized *mediator of the covenant*, be it a monarch (David, Solomon), a prophet (Moses, Samuel, Jeremiah) or a priest (Ezra).

The traditional association of the Psalms with David thus connects them with a prominent covenant figure. Although the “historical David” is not a mediator of a covenant but is rather viewed as the recipient of a covenant, the “David” of the Psalms is a designation of the reigning Judean monarchy who could

¹⁸*Ibid.* It must be said that von Rad’s highly suggestive Old Testament Theology, which is really a history of the successive reinterpretations of Israelite tradition, runs aground just where it encounters the Writings. Since the Writings in general do not engage in the proclamation or re-presentation of Yahweh’s saving historical activity, they can be accommodated into von Rad’s scheme only as Israel’s “answer” or response to the saving acts, *ibid.*, 355, or as a portrayal of “the way in which she saw herself before God,” 356.

¹⁹This is suggested by Östborn, who relates these books to the two aspects of his cultic motif of “struggle/victory,” *supra*, 91.

²⁰Thus von Rad’s view that the Writings, especially the Psalms, embody the response of “Israel before Yahweh” can be accommodated under the description of the Writings as expressing the covenant elements of “blessing” and “curse.”

function as mediator of the Israelite covenant traditions.²¹ A few of the Psalms are ascribed to other mediators, such as Solomon (Pss. 72, 127) and Moses (Ps. 90).²²

The wisdom literature (Proverbs, Ecclesiastes, Song of Songs) is connected with Solomon. Such an association is of course realistic insofar as the international flavor of the wisdom literature corresponds to the cosmopolitan atmosphere which no doubt obtained in Solomon's courts. But it was probably Solomon's status as royal covenant-mediator, along with the "blessing-curse" aspect of wisdom formulations, which secured for these books a place in the Holy Scriptures.²³ In the case of Ecclesiastes and the Song of Songs, the tenuous relation of these books to any major feature of the covenant pattern was probably the cause for their disputed status as late as the second century CE,²⁴ and this weakness could be overcome only by association with a figure such as Solomon. The Book of Job presents a special problem, for it appears to approach the distinctive covenant traditions of Israel with studied neglect.²⁵ In *Baba Bathra* 14b-15a, however, the authorship of Job is ascribed to Moses. The basis of this ascription is not made clear,²⁶ but it could involve the "suffering" inherent in Moses' office as covenant mediator.²⁷ Job is the only book outside the Torah to be directly attributed to Moses in the Jewish tradition, and this attribution may be viewed as a drastic measure to establish for this book some link with Israelite covenant traditions, Moses being the covenant mediator *par excellence*.

In *Baba Bathra* 14b-15a, the Book of Ruth heads the list of the Writings, preceding even the Psalms (the Megilloth not yet being grouped together as in the printed editions). The reason for this appears to be that Ruth presents the ancestry of David, the author of the Psalms.²⁸ In addition, however, it is said that Ruth was written by Samuel, who of course serves as a covenant mediator in the prophetic tradition.²⁹ In the same vein, we note that Lamentations is traditionally ascribed to the prophet Jeremiah. The Chronicler's history, in the Talmud passage, is said to have been written by Ezra, who is associated with the covenant formulary in the events recounted in Neh. 8-10. Ezra's role as the last great biblical mediator of the covenant is no doubt the underlying cause of his great importance in the traditional view of the promulgation of the canon.³⁰

The only book of the Hagiographa which cannot be seen in relation to the covenant-festival pattern or one of its elements, or to a prominent covenant mediator, is the Book of Esther; this could partly account for the

²¹*Supra*, 135-137.

²²Ps. 89 is ascribed to "Ethan the Ezrahite," whom Talmudic tradition identifies with Abraham (*Baba Bathra* 14b-15a). Such an ascription thus connects Ps. 89 with the recipient of the "promissory" covenant of Gen. 15 which indeed underlies the Davidic covenant celebrated in the Psalm, although in Ps. 89 it has been partly assimilated to the conditional covenant form; *supra*, 132-133.

²³In *Baba Bathra* 14b-15a, it is said that these books were committed to writing by "Hezekiah and his colleagues." If the reforms undertaken by Hezekiah in 2 Kgs. 18:3-6 are taken as antecedents of the Deuteronomic reform, Hezekiah prefigures the mediatorial role played by Josiah. If Baltzer is correct about the covenant form as the basis of Hezekiah's speech of 2 Chr. 29:5-11 (*supra*, 141), he is there seen functioning in the mediatorial office. In any case, as king, Hezekiah is also a mediator of the covenant.

²⁴*Supra*, 12.

²⁵Von Rad remarks, "The real fascination of this poem lies in its marginal theological situation—how will Jahweh be able to express himself in any way in a situation where the people of God, the cult, and the saving history no longer have theological relevance?" Rad, *Old Testament Theology*, i, 417.

²⁶The debate centers on the attempt to prove that Job was a contemporary of Moses.

²⁷Moses' "suffering" is discussed in this passage in connection with the authorship of the last eight verses of the Torah, *supra*, 59.

²⁸Ryle, 241.

²⁹*Supra*, 119.

³⁰*Supra*, 38-39, 71-72.

fact that the canonicity of this book remained in doubt in both Jewish and Christian circles until the second or third century CE.³¹ The covenant connections are unclear, to be sure, in the case of the other two disputed books, the Song of Songs and Ecclesiastes. In the former, the state of “blessing” is not depicted as a consequence of adherence to the covenant, but is portrayed in a secular way. In the latter, the connection between act and consequence is viewed with skepticism, except at the end of the book in what may be an editorial addition to bring it into line with the “orthodox” point of view (Eccles. 12:13-14). Nevertheless the Solomonic association of these books places them in a stronger position than that of Esther.

The result of this investigation has been to underscore the importance of the treaty-covenant formulary for the question of the canonical authority of the Old Testament literature. The same covenant-festival pattern so highly visible in Deuteronomy and apparent elsewhere in the Hexateuch, which gave rise to the forms of prophetic speech, and which influenced the shaping of the royal traditions, also serves in part as the foundation for psalmography, sapiential tradition, and the other types of literature encountered in the third division of the Hebrew Scriptures. Thus the canonicity of the Writings is due to their ultimate origin as expansions, in particular, of the “blessing” and “curse” sections of the covenant liturgy, and this canonicity has also been expressed through the traditional association of these books with a covenant mediator.

³¹The status of Esther is discussed by the rabbis in *Megillah 7a* (*supra*, 142-143); Athanasius excludes Esther from his canonical list (*supra*, 8). Esther is the only Old Testament book which has not turned up among the Qumran fragments.

CHAPTER 14

Summary and Conclusions

The concern of the discipline we have called the “theory of the canon” is the inquiry into the origin of the idea of a body of literature having normative authority for the religious community. Whereas the study of the “history of the canon” aims to elucidate the process whereby the Old Testament assumed its present shape and dimensions, the “theory of the canon” goes deeper into the question of precisely what this literature was *understood to be* during the process of its formation.

The term “canon” (κανών) was applied to the Old Testament, as part of the Christian Bible, only from the fourth century CE; therefore, when we use the term “canon” with reference to the Hebrew Scriptures, we take it to mean something other than a closed, defined collection of religious writings. Neither the ancient synagogue nor the early church had a “canon” in this sense, for the outer limit of the literature that was used as authoritative was not clearly demarcated, whether in Palestinian or Diaspora Judaism or in the Christian church. The Jabneh assembly, which discussed the status of certain books within the Hebrew Scriptures, did not stifle debate on these books and therefore, for this and other reasons, cannot be regarded as a “synod” which fixed the Jewish canon. On the other hand, almost all the books of the present Hebrew Bible were considered to be of long-standing authority in all circles of Judaism in the first century CE. We can, therefore, speak of a “canon,” but in a sense other than that of a clearly defined and officially recognized body of writings. We contend that the terms “canon” and “Scripture” are identical in meaning with respect to the Old Testament, and that the question of the origin of the canonicity of the Old Testament is therefore the same as that of the origin of the Old Testament literature itself, in its capacity as authoritative Scripture.

Canon in this sense arises and exists in relation to Israel as a religious community. The role of the community is not only that of recognizing certain traditions to possess canonical authority; for Israel as a community advances these traditions in the first instance as expressions of its identity as the people of God. This principle requires that the investigation into the origin of canonicity in the Old Testament be carried back to the origin of Israel itself, as a community dealing with its theological situation. The literature arising from this encounter serves a normative function within the community, in virtue of its religious contents as a statement of the community’s relation to God.

If the Israelite traditions are thus understood to be “canonical” practically from their origin, some of the characteristics frequently associated with the canon are revealed to be not essential to canonicity. The exclusiveness often regarded as inherent in the concept of canon was not operative in the earlier stages of the formation of the biblical tradition. The Old Testament shows itself to have developed on a cumulative, rather than selective, principle. Israelite traditions were constantly being enlarged by the incorporation of material taken over from Israel’s religious environment and modified to express its particular point of view; older Israelite traditions are not displaced from the newer, so much as they are retained and reinterpreted by them. The trait of exclusiveness is therefore understood to be a function of canonicity only in Judaism of the early Christian era. Yet even in the rabbinic writings it is difficult to determine what body of literature was specifically excluded by the Pharisaic criteria of canonicity; it may have been the apocalyptic, but it surely was not the Apocrypha. The canonicity of the Hebrew Scriptures was expressed in Judaism by ascribing to them a certain “holiness,” in virtue of which they were said to “defile the hands”; but since this “holiness” is dependent on the exclusiveness of the Scriptures and their separation from other literature, it too must be regarded as not essential to the idea of canon.

Neither is it essential that a canon must be officially promulgated. Promulgation is generally taken to imply the publication of a canon with a fixed text and definite limits; therefore, official promulgation is only the end of the process of the formation of the canon, not its starting-point. Besides this, the efforts of historians of the canon to establish certain occasions when the Hebrew Scriptures, or portions thereof, were officially promulgated have proved inconclusive. Moreover, it is the authoritative function of the literature, not its fixed text or limited extent, which marks it as canonical. Even developing oral traditions could thus

have exercised a canonical function; and within the Old Testament itself we have evidence that older traditions were re-used as authoritative, yet handled in a fairly free manner from a literary standpoint. Hence the existence of a canon antedates the period when holiness, exclusiveness, fixed text or official promulgation were regarded as essential to the concept of canonicity. The canon was a reality before it became an issue.

The division of the Old Testament canon into Law, Prophets and Writings is attested for the second century

BCE., but possibly as early as the exile. The usual understanding of the tripartite division is that it preserves the evidence for the process of the historical growth of the dimensions of the canon; thus in its earliest stage the canon consisted only of the Law, but later it came to include the Prophets also, and finally the Writings. The tripartite division is also taken to reflect stages in the development of Israelite religion during which different literary groups were dominant. But the tripartition of the canon may also be understood as an indication of the differing types of literature embodied therein. And, since evidently all parts of the Scriptures could be spoken of as “law,” as “prophecy” (being “inspired”), or as “writings” (i.e., “literature, scripture”), the threefold designation of the canon could have originated in the regarding of *all* the sacred writings from different points of view. In the history of the canon, the primacy of the Torah within the tripartite Scriptures is unquestioned; but it has not proved a simple matter to differentiate on principle between the Prophets and the Writings. Such a principle, however, is found in the fact that the prophets are spokesmen for an ongoing institution representing a particular theological tendency, and their primary intent is not necessarily to produce “literature”; whereas the Writings are manifestly “literature” and the work largely of individuals who express their religious concerns with a paramount “literary” intent.

The Greek Old Testament does not follow the tripartite order of the Hebrew canon, but rather the order: Pentateuch and historical books; poetic and didactic books; prophecy. This differing order suggests that the Hellenistic Jews regarded the Scriptural books rationally, according to their quality as being directed toward the past, the present, or the future. The Palestinian Jews, in contrast, accepted the canon as the historical deposit of their religious traditions, the Law being the foundation, the Prophets calling for obedience to the Law, and the Writings dealing with the practical application of the Law and problems arising therefrom. The Greek and Hebrew orders thus testify to differing ideas in ancient Judaism as to what the Scriptures were understood to be.

With these preliminary considerations, we may turn our attention specifically to the several “theories of the canon” which have been advanced in the history of biblical criticism. The origin of the canonical authority of the Old Testament has been seen in the inspired word of the prophet, in historical recital or aetiology, in the idea of law, and in cultic usage and themes.

The theory that the canon has its roots in the “inspired word” is bound up with the general conception of the Scriptures as being of divine origin. If the basic requirement of Scripture is that it comes from God, then the canon must have originated in the utterances of those men who are considered to be spokesmen for the deity, i.e. the prophets. “Holy Scripture consists of the writings of the prophets, and of nothing else” (Arnold), so that all Scripture must be actual prophecy, material cast into a prophetic mold, or literature mistaken for prophecy. Priests could produce Scripture only insofar as they are inspired and therefore function as prophets. The Pentateuch draws its authority from Deuteronomy, the first self-consciously canonical book, which is not law but prophetic address; in principle, Amos would be the oldest canonical book (Pfeiffer). Although exponents of this theory, following Wellhausen, failed to appreciate the antiquity of Israelite law, there is a good deal of evidence that ancient Judaism perceived canonicity as tied up with the question of prophetic inspiration. Moses is of course the prophet *par excellence*, and the other biblical authors—whether prophets, priests, kings, wise men—are all viewed as “inspired.” Josephus indicates that in the Pharisaic criteria of canonicity, all Scriptural books must have been produced during the period of “the succession of the prophets,” from Moses to Artaxerxes. The doctrine of Scripture as inspired and prophetic in origin is also evident in the New Testament. It is Philo, however, who lays the greatest stress on “inspiration” as such; his theory of inspiration is almost mechanical, the Scriptures being regarded as

composed by a sort of “divine ventriloquism” in which the human spokesman delivers his oracles as the passive mouthpiece of God. In Josephus, the rabbinic literature and the New Testament, in contrast, the interest is not on the “pathology” of inspiration but on the inspired content of the message received; the inspiration of Scripture manifests itself in the reliability or inerrancy of the canonical books or in their edificatory effect. The concept of prophetic inspiration has its roots, of course, in the Old Testament itself, especially in the formulae used to introduce prophetic oracles and in the portrayal of the prophets as men in some measure “possessed” by the deity. But since expressions of this sort are not found in equal proportions in all parts of the canon, it is clear that the limits of the canon are not coextensive with the body of “inspired” literature produced in ancient Israel. It is probable that in ancient Judaism the view that the Scriptures are inspired was the result of their canonicity, not the cause of it.

Several writers have viewed the canonicity of the Old Testament literature as residing in the ability of this literature to set forth the history of Yahweh’s dealings with Israel. This theory of the canon regards the historical narrative as the dominant form of biblical literature, forming a framework for the other forms. In its outlines the Hexateuch is an expansion of the “historical creed,” the narrative of the exodus and its sequel; several examples of the original brief form of this historical recital occur in the Hexateuch and in the Psalter (von Rad). The beginnings of the canon are found, then, in the basic narrative of Yahweh’s saving act in delivering Israel from Egypt. The Law and the Former Prophets may constitute the “authorized history,” published as canon during the exile to explain the national disaster, and later supplemented with the Latter Prophets (Freedman). Tracing the canon as history back to earlier periods, we may understand both the Jahwist and Elohist documents as “aetiologies” interpreting the present state of affairs for the Davidic monarchy and the northern kingdom, respectively; these combined “canons” were updated to meet new situations in the Deuteronomic and Priestly editions (Guthrie). Thus the Old Testament writings may be said to function as authoritative by providing the explanation for the community’s present situation in the form of a narrative of historical events. But since other ancient peoples also had histories, the importance of Israel’s history as “canon” must be seen in the distinctiveness of the events therein recounted, and chiefly in the setting in which the history is recalled.

The theory that canonicity originated in the concept of “law” or Torah has been widely accepted amongst historians of the canon. This is due to the evident priority of the Pentateuch within the Jewish Scriptures and to the common opinion that the Torah was the first section of the canon to be officially promulgated, in whole or in part. As to occasions when such an express commitment to the Law may have taken place, historians of the canon settle upon the assembly of Ezra or the reform of Josiah. The canonicity of the Prophets and the Writings is considered an extension of the authority ascribed to the Torah. Although “law,” in the sense of binding statutes, is not the only meaning of the Hebrew word *תורה*, this meaning came to predominate as an expression for the authoritative or normative quality associated with the canon.

Proponents of the theory that canonicity originated in the prophetic word were brought to this opinion by their denial of the antiquity of the laws in the Old Testament. But more recent investigators have shown that many of the laws embedded in the Pentateuch are indeed of ancient standing in Israel and were regarded as authoritative. The basic form of Israelite law is the apodictic series of commands or prohibitions (Alt), typified by the Decalogue. The great age of such apodictic formulations is shown by their correspondence to the stipulations of international treaties from the second millennium; and the authority this law possessed in ancient Israel is attested by the use of apodictic series as the basis for parenthesis in Deuteronomy and elsewhere, in the fact that the prophets appear to assume knowledge of the basic decalogue statements on the part of their hearers, and in certain Psalms which testify to the use of such laws in the cult. The existence of alternate forms of the Decalogue, the “classical” (“ethical”) and the “ritual,” originating in a common source, also shows that Israel made use of authoritative law formulations from a very early period. There is abundant evidence, therefore, to bolster the theory that the canonicity of the Old Testament originated in the idea of law. Yet it is obvious that the preponderance of the canonical literature is not law, and even in the Pentateuch the laws actually appear within a narrative framework. Prophecy, whatever its relation to Israelite law, is not itself “law” in any proper sense; and though the sapiential literature of the Hagiographa glorifies the Law

and equates it with wisdom, such literature of a poetic nature surely is not “law.” The theory that canonicity originated in law is therefore not sufficiently comprehensive.

The origin of the canonicity of the Hebrew Scriptures has also been seen in their association with the Israelite-Jewish cult. It is not merely the case that canon arises in the reading or recitation of certain traditions in worship, for this could be the consequence of, rather than the basis for, their canonicity. Rather, it is held that the canonical literature is found suitable for cultic use in virtue of its contents, which reflect the basic cultic motif of Yahweh’s struggle and victory (Östborn). Such a cultic motif, which corresponds to a pattern widespread in ancient Near Eastern mythology, is most clearly present in Israel’s basic narrative of Yahweh’s deliverance of Israel in the exodus; but the struggle/victory or distress/happiness scheme is thought to be pervasive in the Old Testament. The distress/salvation pattern is complete in Ex. 1–15, so that the remainder of the Pentateuch presents the covenant and law as an expansion of the “victory” motif; Genesis with its chaos/order scheme is a parallel to the Mosaic story proper. The lives of the leading figures of the Former Prophets are depicted according to the same motif of struggle and victory. Distress forms the background for the messages of the Latter Prophets, while the messages themselves represent Yahweh’s activity to bring about salvation. We observe, however, that the effort to discern the struggle/victory pattern becomes rather strained at this point, and it breaks down in the Writings when, for example, the wisdom literature is said to depict the struggle between foolishness and wisdom for dominance in man. Such an internalization of the divine struggle is a critical alteration of the way in which Yahweh’s activity is depicted in the exodus. We may also question whether Israel would have consistently accepted as normative for its canon a dramatic motif which was so intimately related to the mythological cults of its Near Eastern environment. Moreover, the struggle/victory pattern often corresponds to the actual course of events, and thus it requires no assumption of an underlying cultic motif when the narrative is seen to have this shape.

Nevertheless the origin of canonical traditions in a cultic setting may be taken as an assured conclusion resting on the work of several leading critics who have demonstrated the existence in Israel of a recurrent festival of the renewal of the covenant (Mowinckel, von Rad, Kraus, Weiser). Although the biblical evidence for the covenant festival is such that these investigators have been able to describe it along different lines and to view it as embracing a variety of leading themes of Israelite religion, in any case the celebration of the covenant served as the center for the gathering of narrative and legal traditions of the sort which form the basis of the Hexateuch. Indeed, the canonicity of the basic Israelite tradition may be understood as the result of the combination of “history” and “law” in the covenant festival of the tribal confederation (Weiser). Israel’s basic cultic motif is really that of the covenant, for it is by the covenant that Israel comes into being as the people of God and hence producing a “canon” as an expression of its community identity and a normative statement of its relation to Yahweh. Therefore it is in the liturgical celebration of the covenant, and in the expansion of the various elements of the covenant liturgy, that the origin of the Old Testament as canon or Holy Scripture is to be found. This is the theory of the canon advanced in this dissertation.

In formulating its covenant with Yahweh in terms of “history and law,” Israel was not devising a new form, but was adopting the form of the ancient treaty by which a king established a relation with his vassal (Mendenhall, Baltzer, McCarthy). In such treaties, although the historical recital of past benefits of the sovereign and the stipulation of the vassal’s treaty obligations are typically preponderant elements, there are additional sections which must be reckoned as belonging to the full treaty formulary, notably the actual sealing of the agreement, the calling of witnesses, and the pronouncement of treaty sanctions in blessing and curse. Analysis of the principal biblical deposits of covenant-festival tradition (Ex. 19–24, Deut., Josh. 24, Neh. 8–30) and numerous shorter passages reveals that Israel made use of the full treaty form as the standard pattern for the celebration or renewal of the covenant. Because of this, the treaty-covenant formulary must be regarded as the hallmark of emergent canonical traditions in Israel. We may call the covenant formulary itself the pattern-component of canonicity, while the several elements of this pattern we may designate the content-components. The canonicity of the Old Testament literature is apparent in its ability to reflect in some fashion the covenant-festival pattern in its various elements.

The full covenant formulary of historical recital, reading of the laws, sealing of the covenant 9 blessing and curse, and calling of witnesses is most clearly evident in the Book of Deuteronomy (McCarthy). These elements are present also in the collection of Shechemite traditions present in Josh. 8 and 24 and Dt. 27, indicating that Shechem was a leading center for the covenant celebration of the Israelite tribal confederation (von Rad). The Sinai pericope, upon closer examination, discloses a covenant concluded originally by theophany more than by treaty, and only in its present form does the Sinai covenant approximate the treaty formulary (McCarthy); the Sinai pericope could therefore be another sanctuary tradition (probably that of Jerusalem) which has been incorporated into the realm of Israelite canonical traditions by assimilation to the covenant pattern associated with Shechem. If this be the case, then the importance of the treaty-covenant formulary for canonicity is reinforced.

We may consider the buildup of individual portions of the canonical literature as a process of the expansion of the several elements of the covenant-festival pattern. This process is apparent especially in the Hexateuch, where we meet with a good deal of relatively independent enlargement of both the “history” and “law” elements. The various occurrences of the “historical creed” are in fact variations or elaborations of the “historical prologue” section of the covenant formulary, in relative separation from the “law” element. The pre-Abrahamic and patriarchal traditions of Genesis and the other narrative material in the Hexateuch constitute the complete filling out of the “historical prologue” element, so that the Hexateuch as a whole comes to display the form of the “historical creed” except for the insertion of the “law” element in the Sinai section and in Deuteronomy. The “law” or “stipulations” element also received independent expansion. Essentially this was a process of development from the original apodictic series, so that groups of such laws began to take shape for specialized purposes outside the framework of the covenant festival proper. These laws were regarded as authoritative inasmuch as their correspondence in form to covenant stipulations was apparent. The laws in casuistic form, not originally associated with the Israelite covenant at all, were appropriated for the canonical tradition of Israel by a two-stage process; first they became overlaid by or intermixed with the independently elaborated apodictic series; later on the whole complex of such mixed laws was again brought into association with the covenant formulary in the position of the “stipulations” section (e.g., the Book of the Covenant in the Sinai pericope). Indeed, all the Pentateuchal legislation is viewed as having originated in Moses’ encounter with God on Sinai, and thus serves in the role of treaty stipulations. The covenant formulary, with its expansions of both the “history” and “law” elements, can be demonstrated for each of the major literary strands of the Hexateuch (in the case of the Priestly source, Ezra’s assembly serves as a related example of the covenant pattern), so that although J, E, D and P represent stages in the buildup of the Hexateuch as a literary complex, they also comprise parallel “canons” within ancient Israel.

Turning to the prophetic literature, we see that the canonical authority of the utterances of the prophets is due to the association of prophecy with the covenant and its liturgical pattern. The renewal of the covenant requires the activity of a covenant mediator as officiant; and biblical evidence, particularly the portrayal of “Moses” in the Pentateuch, indicates not only that the role of covenant mediator was a prophetic office, but also possibly that this office was embodied in an institutional succession of prophets (Kraus). In addition to Moses, Joshua, Samuel and Elijah function in this covenant-mediatorial role. The “literary prophets,” moreover, employed forms of speech which corresponded to the covenant formulary or portions thereof. The two parts of the prophetic judgment-speech, the accusation and the sentence linked by a messenger formula (Westermann), have a relationship to one another corresponding exactly to the relationship between law and curse in the covenant formulary, the prophets thus proclaim the consequence of the violation of covenant stipulations. The prophets also employ the “covenant lawsuit” form (רָבַרְבָּ) which indicts the people for the violation of covenant obligations and also frequently invokes “witnesses” in a manner reminiscent of the treaty-covenant formulary (Wright, Huffmon). Prophetic maledictions are related to ancient Near Eastern treaty curses (Hillers), and prophetic use of the term “know” (יָדַעַ) to express Israel’s relation to Yahweh is paralleled in the language of the treaties (Huffmon). Thus the characteristically judgmental tone of the prophetic utterances appears within the covenant formulary itself and stamps the prophetic literature as

originating in the expansion, especially, of the “curse” element of the liturgy; while the prophetic “salvation oracle” originates in the “blessing” section. It is therefore most likely that the prophetic literature was regarded as authoritative in ancient Israel because the prophets appear as spokesmen for the God of the covenant and used literary forms recognized as deriving from the festival of the renewal of the covenant.

The Davidic covenant traditions were also brought into the sphere of canonical tradition by their connection with the treaty-covenant. The Judean monarch, as the representative of the people before the deity, laid claim to a special relationship with Yahweh within the larger covenant between Yahweh and Israel. The various biblical expressions of the royal covenant embody a certain standardized content including Yahweh’s choice of David, the king’s “sonship” of Yahweh by adoption, and the promise that the dynasty will endure “for ever.” It appears that this covenant was originally conceived as “promissory,” i.e., as a covenant “granted” to the king by Yahweh, in the tradition of the Abrahamic covenant of Gen. 15, and therefore lacking in covenant stipulations (Clements). However, the liturgical celebration of the Davidic covenant was not confined to those occasions when a new king ascended the throne, but was apparently part of the annual new year festival in Jerusalem, a festival which though originating in a Canaanite mythological rite became also the festival of Yahweh’s enthronement and thus served as the Jerusalemite version of the Israelite covenant festival. As such, this annual festival was marked by the prominent place given to the “history and law” pattern of the Israelite covenant traditions (symbolized by the role of the “ark of the covenant” in the liturgy); and this pattern superimposed itself also upon those parts of the festival which celebrated Yahweh’s covenant with the king, so that a “stipulations” or conditional element begins to intrude into the Davidic covenant expressions even in 2 Sam. 7 but especially in the examples from the Psalms. In this way the royal covenant traditions were assimilated to the form of the conditional covenant of the Israelite tribes, and could be brought into the realm of canonical traditions in a shape acceptable to those circles which associated canonicity with the treaty-covenant form, characterized by emphasis on stipulations. Also, there is evidence that the Judean monarch could serve as mediator of the Israelite covenant traditions. It is possible to understand the word *תורה*, associated with the king’s coronation, as referring to a written covenant law to which he was subject together with all Israel, and therefore as having the meaning of “canon.” These considerations further testify to the pervasive influence of the covenant-festival pattern and its decisive significance for the formation in Israel of traditions recognized to be canonical.

The books of the Hagiographa evince, to a greater or lesser degree, a correspondence to some aspect of the covenant and its liturgical pattern. The Psalter stands in an intimate relation to the various parts of the covenant festival particularly in its Jerusalemite form, this being reflected in the fact that its status as the nucleus of the third division of the canon was firmly established in antiquity. Many books of the Writings develop the “blessing” and “curse” elements of the covenant formulary. Thus Daniel evinces the “blessing” element in its portrayal of the vindication of the righteous. The connection between act and consequence, the basis of much of the wisdom literature, corresponds to the connection between law and blessing or curse in the covenant liturgy. The Psalter, since it places Israel “before Yahweh” in worship, belongs essentially to the “blessing” element. The canonical status of the Writings, however, was established in both biblical and Talmudic tradition on the basis of the association of these books with recognized mediators of the covenant, be they kings (David, Solomon), prophets (Moses, Samuel, Jeremiah), or priests (Ezra); so that Job, for example, which seems deliberately to ignore the covenant traditions, was related to the covenant by its attribution to Moses. Only Esther cannot be related effectively to covenant forms or to a covenant mediator, and therefore its canonicity remained long in doubt.

In fact, the canonicity of the *entire collection* of Law, Prophets and Writings reflects, in a general way, the pattern of the covenant festival, when viewed from the standpoint of the literary-theological tradition associated with the Deuteronomic reform. When it is recalled that Deuteronomy, according to many historians of the canon, is the oldest consciously canonical book in the Old Testament, the Deuteronomistic viewpoint becomes a logical one from which to view the canonicity of the Scriptures as a whole. Assuming this perspective, the Tetrateuch and Former Prophets (which as to their contents form a continuous narrative) constitute the *historical prologue*. Deuteronomy would then be the “law” or *stipulations* of the covenant.

According to this scheme, Deuteronomy would be expected to appear at the end of the Former Prophets. Of course, Deuteronomy (or its nucleus) is the “book of the covenant” read at the *sealing of the covenant* which occurs at the end of the historical narrative, in the account of the Deuteronomic reform (2 Kgs. 22–23). However, the representation of “Moses” as the mediator in Deuteronomy, as well as the fact that the edited historical narrative presupposes the theological programme of Deuteronomy, require that this book be placed earlier in the “historical prologue” section of the collected canonical literature. Continuing this pattern, we see that the Latter Prophets, according to their characteristic contents, correspond in the main to the *curse* element of the covenant liturgy, while the Writings bring the formulary to completion by their portrayal of both *curse and blessing* in hymn, apocalyptic vision, poetic utterance and wise saying. We admit that this scheme applies to the collected tripartite canon in an overall manner, and cannot be pressed in all its details. Nevertheless, the fact that it is possible to view the entire canon in this perspective shows that even in the process of assembling and ordering the canonical literature in a relatively late period, the relation of canonicity to the covenant-festival pattern could have been sensed.

We therefore contend that the canonicity of the Old Testament is the result of the ultimate origin of this literature in the ancient Israelite festival of the renewal of the covenant, and that the canonical authority of the Hebrew Scriptures is apparent in the manner in which they correspond in form to the treaty-covenant formulary, or to its several elements of historical recital, covenant stipulations, invocation of witnesses, blessing and curse. This theory of the canon is able to account for the esteem accorded all parts of the Hebrew Bible on essentially the same principles, and to a degree not attained by any other theory of the canon. Further, the comprehensiveness of this theory is evident, in that it is able to incorporate the insights of each of the other theories we have discussed. Insofar as the office of covenant mediator is a prophetic office, the canon is connected with the phenomenon of prophecy. Since the covenant pattern comprises historical recital, the canon originates partially as history or aetiology. The prominent place of the proclamation of stipulations in the Israelite covenant ceremony underscores the importance of the idea of “law” for the question of canonicity. And the celebration of the covenant is manifestly a liturgy, so that the canon indeed originates as a cultic phenomenon. All of these theories of the canon are thus brought under one aegis through the correlation of canon and covenant.

If the literature of the Old Testament originated as canon in relation to the liturgical pattern of the covenant festival, this is but a consequence of the fact that this formulary expresses the central factor in Israel’s religious experience, its relation to God in the covenant itself. “Israel” is a name for a people chosen by Yahweh and thus bound in covenant with him. Without Yahweh and his covenant there would be no Israel; without the suzerain and his treaty there would be no vassal. It is to be expected that the canon, as Israel’s normative religious statement and the expression of its identity as a community, would take the form of an expansion of the basic framework of its relationship with the deity. Thus the canon arises as the literary outgrowth of the celebration of the covenant, with its history of God’s deeds in Israel’s behalf, its recital of Israel’s obligations in response, its appeal to witness to the terms of the bond thus established, its assumption of responsibility for the consequences of its violation, and its promise of benefits flowing from the properly maintained relationship.

We must close this discussion on a cautionary note. The view that the canonicity of the Old Testament originated in Israel’s covenant festival is advanced as a theory, as a way of approaching the question of the normative function of the Hebrew Scriptures in their historic setting. But the genius of those who shaped and transmitted the biblical traditions is often apparent in their ability to order their material according to a variety of simultaneous patterns, or to graft theological motifs one upon the other while preserving them all. Thus the biblical literature may be viewed now from this, now from that, point of view; yet in each case it maintains its integrity as Scripture often to the point of defying precise analysis and neat categorization. The history of critical scholarship is testimony enough to this integrity of the Canon, an integrity which faith regards as but a faint shadow of the integrity of the One of whom the Canon speaks.

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SUMMARY

The Origin of Canonicity in the Old Testament

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1972

This dissertation is concerned with the "theory of the canon" of the Old Testament. It deals with the problem of the origin of the canonical authority of the Hebrew Scriptures, and seeks to isolate that factor in the religion of Israel which resulted in the formation of a "canon" having the shape of the Old Testament. The procedure has been (1) to understand how the concepts of canon and canonicity may apply to the Old Testament, (2) to survey and evaluate theories of the canon hitherto advanced, and (3) to present the writer's views.

Major historians of the canon (Budde, Buhl, Hölscher, König, Ryle, Wildeboer *et al.*) did not fully explore the question of the origin of canonicity, partly because their tendency to define canon in terms of a closed collection of officially sanctioned books having a fixed text had the effect of confining the discussion of canonicity to phenomena associated with Judaism in the post-exilic and early Christian eras. But if we define a canon as a body of literature having authority for the faith and life of a particular religious community, then the question of the origin of the canonical authority of the Old Testament literature cannot be separated from that of the origin of the literature itself. The factor which initiates the appearance of the literature is also the factor which makes it canonical, as the normative expression of Israel's understanding of its relation to Yahweh. Hence the discussion of canonicity must be carried back into earlier periods in the history of Israelite religion, and related to Old Testament theological motifs.

Actually, neither ancient synagogue nor church had an Old Testament canon in the sense of a closed, defined collection of writings, for the outer limit of the literature accepted as authoritative was fluid, and even the Jabneh assembly did not stifle debate on the status of certain books. Yet almost all the books of the Hebrew Bible were regarded as of long-established authority. The term *canon* as applied to the Old Testament is equivalent to the term *scripture*, and refers not to the delimitation or official sanction of the writings but to their quality of authority. The canon arises and exists in relation to Israel as a religious community, dealing with its theological situation; it fulfils a normative function within the community in virtue of its religious contents, as a statement of Israel's relation to God.

Thus the Old Testament traditions may have a canonical quality practically from their origin; and if so, some of the characteristics frequently associated with canonicity are revealed as non-essential. Exclusiveness was not operative in the earlier stages of the formation of the Old Testament, which developed on a cumulative rather than selective principle. Since the holiness ascribed to the Scriptures in ancient Judaism is an expression of their exclusiveness and separation from other literature, this too is seen to be secondary to the idea of a canon. Official promulgation, implying a fixed text and defined limits, is also non-essential to canonicity. Such promulgation would be the end, not the beginning, of the formation of a canon; moreover, efforts to establish occasions when portions of the Old Testament were officially promulgated have proved inconclusive. Oral traditions could have exercised a canonical function, and the Old Testament presents evidence of a fairly free handling of traditions clearly regarded as authoritative. The canon of Scripture existed before holiness, exclusiveness, fixed text or official sanction came to be regarded as the marks of canonicity.

The tripartite division of the Old Testament is usually taken as evidence for a process of historical growth of the canon in three stages. But it may also be understood as an indication of the differing types of literature embodied in the canon. Also, since all of the Scriptures could occasionally be designated as law or *torah*, as prophecy (being "inspired"), or as writings (i.e., scripture), the threefold designation could have originated in the regarding of all the sacred writings from different points of view. Historians of the canon found it difficult to differentiate in principle between the Prophets and the Writings; such a principle,

however, is found in the fact that the prophets are not so much literary men as spokesmen for an ongoing theological institution, whereas the Writings are characteristically the work of individuals who express their religious concerns with a paramount literary intent. The Hebrew and Greek Bibles show differing conceptions of what the Scriptures were understood to be in ancient Judaism. Whereas the Hebrew order (Law, Prophets, Writings) suggests that the Palestinians regarded the canon as the historical deposit of their traditions based on the Torah, the Greek order (Pentateuch and historical books, poetic books, prophecy) suggests a rational organization of the literature according to its quality as being directed towards past, present, or future.

With these preliminary considerations, we turn our attention to several theories of the canon which have found the origin of the canonicity of the Old Testament in the inspired word of the prophet, in historical recital or aetiology, in the idea of law, and in cultic usage and themes.

The theory that the canon has its roots in the inspired word is bound up with the general conception of the Scriptures as being of divine origin, arising in the utterances of those men who are considered to be spokesmen for the deity, i.e., the prophets. All Scripture, on this view, must be actual prophecy, material cast into a prophetic mold, or literature mistaken for prophecy (Arnold). Priests could produce Scripture only insofar as they are inspired and function as prophets. The Pentateuch draws its authority from Deuteronomy, the first self-consciously canonical book, which is not law but prophetic address; in principle, Amos would be the oldest canonical book (Pfeiffer). Although exponents of this theory, following Wellhausen, failed to appreciate the antiquity of Israelite law, there is evidence that ancient Judaism perceived canonicity as tied up with the question of prophetic inspiration. Moses is the prophet par excellence, and other biblical authors are all viewed as inspired. Josephus indicates that in the Pharisaic criteria of canonicity, all Scriptural books must have been produced during the period of "the succession of the prophets," from Moses to Artaxerxes. The doctrine of Scripture as inspired and prophetic in origin is also evident in the New Testament. It is Philo, however, who lays the greatest stress on inspiration as such; he views it almost mechanically, the Scriptures having been composed by a "divine ventriloquism" in which the human spokesman delivers his oracles as the passive mouthpiece of God. In Josephus, the rabbinic literature and the New Testament, in contrast, the interest is not on the pathology of inspiration but on the inspired content of the message received, as seen in the reliability or inerrancy of the books, or in their edificatory effect. The concept of prophetic inspiration has its roots in the Old Testament itself, especially in the formulae used to introduce prophetic oracles and in the portrayal of its prophets as men in some degree "possessed" by the deity. But since expressions of this sort are not found in equal proportions in all parts of the canon, it is clear that the limits of the canon are not coextensive with the body of "inspired" literature produced in ancient Israel. Probably the Jewish view that the Scriptures are inspired was the result of their canonicity, not the cause of it.

Several writers have viewed the canonicity of the Old Testament literature as residing in its ability to set forth the history of Yahweh's dealings with Israel. Historical narrative is the dominant form of biblical literature, and the framework for the other forms. The beginnings of the canon are found in the "historical creed" of the Hexateuch (von Rad), the basic narrative of Yahweh's saving act in delivering Israel from Egypt. The Law and the Former Prophets may constitute the authorized history, published as canon during the exile to explain the national disaster, and then supplemented with the Latter Prophets (Freedman). We may understand both the Jahwist and Elohist documents as aetiologies interpreting the present state of affairs for the Davidic monarchy and the northern kingdom, respectively; these combined "canons" were updated to meet new situations in the Deuteronomic and Priestly editions (Guthrie). Thus the Old Testament writings function as authoritative by providing the explanation for the community's present situation in the form of a narrative of historical events. But since other ancient peoples had histories, the importance of Israel's history as canon must be seen in the distinctiveness of the events therein recounted, and chiefly in the setting in which the history is recalled.

The theory that canonicity originated in the concept of law or *torah* has been widely accepted amongst historians of the canon, due to the evident priority of the Pentateuch and to the common opinion that the Torah was the first section of the canon to be officially promulgated. As to occasions when such an express commitment to the Law may have taken place, historians settle upon the assembly of Ezra or the reform of Josiah. The canonicity of the Prophets and the Writings is considered an extension of the authority ascribed to the Torah. Although law, in the sense of binding statutes, is not the only meaning of *torah* ("instruction"

may be more accurate), this meaning came to predominate as an expression for the normative quality associated with the canon. Recent investigators have shown that many of the laws in the Pentateuch are indeed of ancient standing in Israel and were regarded as authoritative. The basic form of Israelite law is the apodictic series of commands or prohibitions (Alt); the great age of such formulations is shown by their correspondence to the stipulations of international treaties from the second millennium, and the authority of this law in ancient Israel is attested by the use of apodictic series as the basis for parenthesis in Deuteronomy and elsewhere, in the fact that the prophets presuppose knowledge of the basic decalogue statements on the part of their hearers, and in Psalms which testify to the use of such laws in the cult. This evidence bolsters the theory that the canonicity of the Old Testament originated in the idea of law. Yet it is obvious that the preponderance of the canonical literature is not law (even in the Pentateuch the laws appear within a narrative framework), so that this theory is not sufficiently comprehensive.

The origin of the canonicity of the Hebrew Scriptures has also been seen in their association with the Israelite-Jewish cult. It is not merely the case that the canon arises in the recitation of certain traditions in worship. Rather, it is held that the canonical literature is found suitable for use in worship in virtue of its contents, which reflect the basic cultic motif of Yahweh's struggle and victory (Östborn). Such a motif, which corresponds to a pattern widespread in ancient Near Eastern mythology, is most clearly present in Israel's basic narrative of Yahweh's deliverance in the exodus; but this struggle-victory or distress-salvation scheme is thought to be pervasive in the Old Testament. This pattern is complete in Ex. 1-15, so that the remainder of the Pentateuch presents the covenant and law as an expansion of the victory motif. The lives of the Former Prophets are depicted according to this motif. Distress forms the background for the messages of the Latter Prophets, while the messages themselves represent Yahweh's activity to bring about salvation. However, at this point the effort to discern a struggle-victory pattern becomes somewhat strained, and it breaks down in the Writings when, for example, the wisdom literature is said to depict the struggle between foolishness and wisdom for dominance in man. Such an internalization of the divine struggle is quite different from the way Yahweh's activity is portrayed in the exodus. We may also question whether Israel would have consistently accepted as normative for its canon a dramatic motif so intimately related to the mythological cults of its near eastern environment. Moreover, the struggle/victory pattern often corresponds to the actual course of events, so that it requires no assumption of an underlying motif when the narrative is seen to have this shape.

Nevertheless the origin of canonical traditions in a cultic setting may be taken as an assured conclusion resting on the work of those critics who have demonstrated the existence in Israel of a recurrent festival of the renewal of the covenant (Mowinckel, von Rad, Kraus, Weiser). This celebration served as the center for the gathering of narrative and legal traditions of the sort which form the basis of the Hexateuch. Indeed, the canonicity of the basic Israelite tradition may be understood as the result of the combination of history and law in the covenant festival of the tribal confederation (Weiser). Israel's basic cultic motif is really that of the covenant, for it is by the covenant that Israel comes into being as a people in relation to Yahweh and thus producing a canon as an expression of this identity. Therefore it is in the liturgical celebration of the covenant, and in the expansion of the various elements of the covenant liturgy, that the origin of the Old Testament as canon or Holy Scripture is to be found. This is the theory of the canon advanced in this dissertation.

In formulating its covenant with Yahweh in terms of history and law, Israel was adopting the form of the ancient treaty by which a king established a relation with his vassal (Mendenhall, Baltzer, McCarthy). In such treaties, although the historical recital of past benefits of the sovereign and the stipulation of the vassal's obligations are the preponderant elements, additional sections must be reckoned as belonging to the full treaty formulary: sealing of the agreement; calling of witnesses, and pronouncement of treaty sanctions in blessing and curse. Analysis of the principal biblical deposits of covenant-festival tradition (Ex. 19—24, Deut., Josh. 24, Neh. 8—10) and numerous shorter passages reveals that Israel made use of the full treaty form as the pattern for the celebration or renewal of the covenant. Thus we may regard the treaty-covenant structure as the hallmark of emergent scriptural traditions in Israel. The covenant formulary itself may be called the pattern-component of canonicity, while the several elements of this pattern we may designate the

content-components. The Scriptural weight of the Old Testament literature is apparent in its ability to reflect the covenant pattern in its various components.

The full covenant formulary is most evident in the Book of Deuteronomy (McCarthy). The elements of the covenant structure are present also in the collection of Shechemite traditions in Josh. 8 and 24 and Dt. 27 (von Rad). Upon closer examination the Sinai pericope discloses a covenant concluded more by theophany than by treaty, and only in its present form does this passage approximate the treaty formulary (McCarthy). The Sinai section could therefore be another sanctuary tradition which has been incorporated into the realm of canonical traditions by assimilation to the covenant pattern associated with Shechem and Deuteronomy. If so, the importance of treaty-covenant structure for canonicity is reinforced.

We may regard the buildup of individual portions of the canonical literature as a process of the expansion of the several elements of the covenant-festival pattern, a process apparent especially in the Hexateuch. The occurrences of the historical creed are variations or elaborations of the historical prologue section of the covenant structure, in relative separation from the law or stipulations element. The pre-Abrahamic and patriarchal traditions of Genesis and the other narrative material in the Hexateuch constitute the filling out of the history element, so that the Hexateuch comes to display the form of the historical creed except for the insertion of the law element. The law element also expanded independently. Essentially this occurred by development from the original apodictic series, so that groups of such laws began to take shape for specialized purposes outside the framework of the covenant festival proper, and these laws were held to be authoritative because of their correspondence in form to the covenant stipulations. Laws in casuistic form, not originally associated with the Israelite covenant, were appropriated for Israel's canonical tradition by a two-stage process: first they became overlaid by or intermixed with the independently elaborated apodictic series; then the whole complex of such mixed laws was again brought into association with overall covenant structure in the position of the stipulations section (e.g., the Book of the Covenant in the Sinai pericope). The covenant formulary, with its expansions of both the history and law elements, can be demonstrated for each of the major literary strands of the Hexateuch (Ezra's assembly serving as a related example for the Priestly source), so that J, E, D and P comprise not only stages in the literary buildup of the Hexateuch but also parallel canons within ancient Israel.

The canonical authority of the prophetic literature is due to the association of the prophets with the covenant festival and its liturgical pattern. Renewal of the covenant requires the activity of a covenant mediator, and biblical evidence indicates that the role of mediator was a prophetic office, possibly embodied in an institutional succession (Kraus). The literary prophets employed speech forms corresponding to the covenant formula or portions thereof. The two parts of the prophetic judgment-speech, the accusation and sentence linked by a messenger formula (Westermann), have a relationship corresponding to that between law and curse in the covenant structure; thus the prophets proclaim the consequence of the violation of covenant stipulations. The prophets also use the "covenant lawsuit" form, which indicts the people for violation of covenant obligations and also frequently involves witnesses in a manner reminiscent of the treaty-covenant formulary (Wright, Huffmon). Prophetic maledictions are related to ancient Near Eastern treaty curses (Hillers). Thus the characteristically judgmental tone of the prophetic utterances appears within the covenant formulary itself and stamps the prophetic literature as originating in the expansion, especially, of the curse element in the liturgy. The prophetic salvation oracle originates in the blessing section. It is therefore likely that the prophetic literature was regarded as authoritative in ancient Israel because the prophets appeared as spokesmen for the God of the covenant, and used literary forms recognized as deriving from the liturgical celebration of the covenant.

The Davidic covenant traditions were also brought into the sphere of canonical tradition by their connection with the treaty covenant. The biblical expressions of the royal covenant embody a standardized content including Yahweh's choice of David, the king's sonship of Yahweh by adoption, and the promise that the dynasty will endure for ever. It appears that this covenant was originally conceived as promissory, i.e., as a covenant granted to the king by Yahweh and thus lacking in stipulations (Clements). However, the liturgical celebration of the Davidic covenant was apparently part of the annual new year festival in Jerusalem, which was also the festival of Yahweh's enthronement and thus served as the Jerusalemite version of the Israelite covenant festival. As such, this festival was marked by the prominent place given to the

"history and law" structure of the Israelite covenant traditions. This pattern superimposed itself also upon those parts of the festival which celebrated Yahweh's covenant with the king, so that a conditional or stipulations element begins to intrude into the Davidic covenant expressions even in 2 Sam. 7 but especially in the occurrences in the Psalter. In this way the royal covenant traditions were assimilated to the form of the conditional covenant of the Israelite tribes, and could enter the realm of canonical traditions in a shape acceptable to those circles which associated canonicity with the treaty-covenant structure characterized by stipulations. Also, there is evidence that the Judean monarch could serve as mediator of the Israelite covenant traditions. The word *'edut*, associated with the king's coronation, may refer to a written law to which he was subject together with all Israel, and may therefore mean "canon." These considerations testify to the pervasive influence of the covenant-festival pattern, and to its decisive influence for the formation in Israel of traditions recognized to be canonical.

The books of the Hagiographa evince to a greater or lesser degree a correspondence to some aspect of the covenant and its liturgical pattern. The Psalter stands in intimate relation to the various parts of the covenant festival especially in its Jerusalemite form, this being reflected in the fact that its status as the nucleus of the third division of the canon was firmly established in antiquity. Many books of the Writings develop the blessing and curse elements of the covenant formulary. Thus Daniel displays the blessing element in its portrayal of the vindication of the righteous. The connection between act and consequence, the basis of much of the wisdom literature, corresponds to the connection between law and blessing or curse in the covenant liturgy. The Psalms, which place Israel "before Yahweh" in worship, belong essentially to the blessing element. But the canonical status of the Writings was established in both biblical and Talmudic tradition on the basis of their association with recognized mediators of the covenant, be they kings (David, Solomon), prophets (Moses, Samuel, Jeremiah), or priests (Ezra); so that Job, which seems to ignore the covenant traditions, was related to the covenant by its attribution to Moses. Only Esther, the canonicity of which remained in doubt until the third century CE, cannot be effectively related to covenant forms or to a covenant mediator.

In fact, the canonicity of the entire collection of Law, Prophets and Writings reflects, in a general way, the structure of the covenant liturgy. The Tetrateuch and Former Prophets, which form a continuous narrative, constitute the *historical prologue*. Deuteronomy would then be the law or *stipulations* of the covenant, since Deuteronomy (or its nucleus) is the "book of the covenant" read at the *sealing of the covenant* which occurs at the end of the historical narrative in the reform of Josiah (2 Kgs. 22—23). The Latter Prophets, according to their characteristic contents, would then correspond in the main to the *curse* element of the covenant pattern, while the Writings bring the formulary to completion by their portrayal of both *curse and blessing* in hymn, apocalyptic vision, poetic utterance and wise saying. Thus even in the process of assembling and ordering the canonical literature in a relatively late period, the relation of canonicity to the covenant-festival pattern could have been sensed.

We therefore contend that the canonicity of the Old Testament is the consequence of the ultimate origin of this literature in the ancient Israelite festival of the renewal of the covenant, and that the authority of the Hebrew Scriptures is apparent in the manner in which they correspond in form to treaty-covenant structure, or to its several elements of historical recital, covenant stipulations, invocation of witnesses, blessing and curse. This theory of the canon is able to account for the esteem accorded all parts of the Hebrew Bible on essentially the same principles, and to a degree not attained by any other theory of the canon. Further, this theory of the origin of canonicity comprehends the others and incorporates their insights. Insofar as the office of covenant mediator is a prophetic office, the canon is connected with the phenomenon of prophecy. Since the covenant pattern comprises historical recital, the canon originates partially as history or aetiology. The prominent place given to the proclamation of stipulations in the Israelite covenant ceremony underscores the importance of the idea of law for the question of canonicity. And the celebration of the covenant is a liturgy, so that the canon originates as a cultic phenomenon. All these theories of the canon are thus brought under one aegis through the correlation of canon and covenant.

If the literature of the Old Testament originated as canon in relation to the liturgical formulary of the covenant, this is but the result of the fact that this structure expresses the central factor in Israel's religious experience, its relation to God in the covenant itself. Israel is a name for a people chosen by Yahweh and thus

bound in covenant with him. It is to be expected that the canon of Scripture, as Israel's normative religious statement and the expression of its identity as a community, would take the form of an expansion of the basic framework of its relationship with the deity.