

CANON AND COVENANT*

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THE history of the formation of the Old Testament canon particularly its beginnings, has been relatively neglected. A biblico-theological elaboration of the subject along genuinely Scriptural lines has been forestalled by the preoccupation of orthodox scholarship with the critique of aberrant current reconstructions. These modern approaches have concentrated narrowly on the aspect of a final definitive "limitation" of the canon and consequently the attention of all concerned, the heterodox reconstructionists and their orthodox critics alike, has been directed for the most part to developments, whether actual or alleged, in the last pre-Christian and the earliest Christian centuries.

Discovery of the relevant evidence from this period in the library of the Qumran community has been hailed as the most significant new light on the Old Testament canon and has engendered reassessments. However, no really radical revisions of the characteristically modern viewpoint have emerged. Accounts of the subject in the latest editions of the standard Old Testament introductions produced by that school adhere to the same theological posture and the same general historical positions found in the old handbooks on the canon from the end of the last century.

Fohrer, for example, in his revision of Sellin's work, asserts that the "formation of the Hebrew canon in the strict sense did not take place until the time of Sirach and his grandson"

* A version of the substance of this article will be found under the title "The Correlation of the Concepts of Canon and Covenant" in *New Perspectives on Old Testament Study* (Waco, 1969), a volume of papers presented at the twentieth annual meeting of the Evangelical Theological Society in December, 1968. The primary concern of the present study is with the Old Testament canon, but suggestions are made for the extension into the New Testament of perspectives gained in the investigation of the Old Testament.

in the second century B. C., being "completed between 100 B. C. and A. D. 100."¹ This delimiting of a sacred collection of scriptures is said to have been a dogmatic decision reached by way of reaction to threats to legalistic Judaism from apocalypticism, the Qumran faction, and above all from Christianity. More precisely, the process of canon formation supposedly involved three separate stages, each with its own collection of books — the law, the prophets, and the writings. Fohrer traces the pre-history of the process to Josiah's reformation, to which he attributes "the introduction of the Deuteronomic law as an obligatory norm" for all of life, affirming further that "in the period immediately following, Deuteronomy practically became the first holy scripture."² All this will be recognized as the long-current critical tradition concerning this subject.

The familiar hypothesis that the Old Testament canon recognized in Alexandria was broader than that accepted by Palestinian Judaism has indeed been challenged from within the modern school. Not, however, on the grounds that the evidence for a broader Alexandrian-Septuagint canon is inadequate, but, on the contrary, that there is evidence for a similarly broad attitude in Palestine itself during the first century A. D. and particularly in pre-70 A. D. Judaism.³ The new theory contends that during the days of Jesus and his apostles no closed canon of Jewish scriptures had been defined, whether Palestinian or Alexandrian, and that the Western church accepted a broader collection while Judaism of the late first century A. D. settled for a narrower canon; and the conclusion is then drawn that Roman Catholics and Protestants should be able to concur on the Christian (or ecclesiastical as versus Judaistic) Old Testament canon. This

¹ E. Sellin, G. Fohrer, *Introduction to the Old Testament* (translation by D. E. Green, Nashville, 1968), p. 486.

² *Ibid.*, p. 484.

³ Thus, A. C. Sundberg, Jr., in *The Old Testament of the Early Church*, (Cambridge, 1964); "The Protestant Old Testament Canon: Should It Be Re-examined?," *Catholic Biblical Quarterly*, 28 (1966), 194-203 (part of "A Symposium on the Canon of Scripture," pp. 189-207, by Roman Catholic, Protestant, and Jewish scholars); and "The 'Old Testament': A Christian Canon," *Catholic Biblical Quarterly*, 30 (1968), 143-155.

is certainly congenial to the ecumenical tide, but it may well sound startling to many Protestant ears. Nevertheless, this thesis too is only a variation on the usual theme, working as it does with a conception of canon in which human decision is decisive, and confining itself in general to the historical era centering around the activities at the school of Jabneh in the late first century A. D.⁴

A necessary service has been performed by those who have exposed the false theological premises of the modern approach to the canon and its misreading of the historical developments, as expressed particularly in the theory of a threefold "canonization" of the Old Testament.⁵ The orthodox critique has rightly observed that this approach, by attributing to the voice of the community the determination of canonicity, fails to do justice to the character and claims of the Old Testament as word of God. The formation of the canon, rather than being a matter of conciliar decision or a series of such decisions with respect to a preexisting literature, was a divine work by which the authoritative words of God were through the mystery of inspiration inscripturated in document after document, the canon being formed by the very appearance of these God-breathed scriptures. Fully justified also has been the criticism that the whole historical reconstruction of a threefold formation of the canon is, on the one hand, bound up with a thoroughly distorted overall picture of the chronological emergence of the Old Testament books, while, on the other hand, this threefold development hypothesis does not mesh with the dates its own advocates assign to the origin of several specific books. Furthermore, in the approach under criticism the

⁴ On the extreme exaggeration of the significance of these discussions see Jack Lewis, "What Do We Mean by Jabneh?," *Journal of Bible and Religion*, 32 (1964), 125-132.

⁵ Cf. L. Harris' review of some of the issues in the *Bulletin of the Evangelical Theological Society*, 9, 4 (1966), 163-171, especially page 170, and 10, 1 (1967), 21-27, especially pages 22 f. For a critique from quite a different viewpoint of the traditional modern notion of a successive canonization in three stages of law, prophets, and writings, conceived according to the Massoretic arrangement and with the law as the foundation and controlling perspective in the development, see J. C. H. Lebram, "Aspekte der alttestamentlichen Kanonbildung," *Vetus Testamentum*, 18 (1968), 173-189.

nature and significance of evidence like that from the Septuagint, the Qumran community, the New Testament, the Jabneh school, and the early church has been seriously misconstrued and the testimony of Josephus has been so minimized as to be practically ignored.⁶ In effect, the orthodox critique reveals that these current historical reconstructions deal scarcely at all with the history of the formation of the Old Testament canon, as they purport to do, but almost entirely with its epilogue, that is, with a late phase of the recognition of the boundaries of that canon in the postformative period. The real history of the Old Testament canon's formation — a millennium-long history — largely antedates even the era relegated in these treatments to the "pre-history" of the canon.

Along with the performance of this apologetic-critical function, orthodox scholarship has addressed itself to the more positive study of the canon. Efforts in this direction, however, have been largely concerned with the proper formulation of Scriptural canonicity in the dogmatic categories of the Bible's own objective self-authentication as word of God and the Holy Spirit's internal testimony to the Word, and the relation of both of these to individual faith and the church's sealing attestation to the Word. The more precise delineation of biblical canonicity requires that it be perceived as fully as possible in its specific historical character, and much remains to be done along these lines.

It is then with the subject of the actual history of the formation of the Old Testament canon that this essay will be concerned, with special emphasis on the beginnings of the canon and its formal Near Eastern background. The attempt will be made to arrive at a specifically and authentically historical conception of the matter, and thereby to make some contribution in the area of prolegomena to Old Testament

⁶ Cf. Lecerf's trenchant analysis of the modern critical methodology with its pedantic exaggeration of unimportant details, its polemical neglect of the decisive facts, and its illogical contention that the Old Testament canon in the Reformed confessional sense did not exist in the time of Jesus and his apostles because the Old Testament canon in the modern critical sense was, allegedly, a creation of Talmudist Judaism: *An Introduction to Reformed Dogmatics* (London, 1949), pp. 337 ff.

canonics.⁷ It will emerge, we believe, that for purposes of reappraising the Old Testament canon the most significant development in the last two decades has not been the Dead Sea scroll finds but discoveries made concerning the covenants of the Old Testament in the light of ancient Near Eastern treaty diplomacy.⁸

Tracing the historical origins of biblical canon, though it is done for primarily positive purposes, will be found to have as a by-product a certain apologetic value as well. For twentieth-century critical versions of the formation of the Old Testament canon, in adhering faithfully to the nineteenth-century evolutionistic reconstructions, have accepted the latter's central assumption that the canon concept was late in dawning on the Israelite mind. And when that assumption is scrutinized in the light of the phenomena of pre-Israelite canonical documents, especially when account is taken of the ancient historical-literary data that reveal canon to have been the correlate of covenant, it becomes increasingly evident that what is being passed off in current canon studies as ancient history is essentially modern fiction.

I. ORIGINS OF BIBLICAL CANON IN COVENANT DOCUMENTS

The formal roots of biblical canon are discernible in the literature of the Bible's background. Of the several varieties of ancient texts that might be characterized as canonical the most important is the treaty document. For steadily increas-

⁷ Dealing with the New Testament canon, H. Ridderbos (*The Authority of the New Testament Scriptures*, Philadelphia, 1963, pp. xi f.) writes in a similar vein: "It is therefore a mechanical isolation of the revelatory character of the Scripture, if the latter is regarded in abstraction or if it is derived solely from formal statements of its authority. The significance of Scripture and the nature of its authority is properly delineated only if it is closely related to the history of redemption. . . . Our investigation simply seeks to delineate more sharply the essence of Scripture, and the nature of its authority within the cadre of the history of redemption."

⁸ N. B. Stonehouse (*Revelation and the Bible*, editor C. Henry, Philadelphia, 1958, p. 76) expressed the judgment that no aspect of Scriptural revelation was more basic or illuminating than its covenantal character. He drew attention to the covenantal-revelational features of divine sovereign enactment and of manifestation at decisive moments in history.

ing knowledge about the nature of the covenants by which international relationships were governed in those days has demonstrated a formal analogy between them and the Sinaitic and other divine covenants of Scripture.⁹

In these treaties an overlord addressed his vassals, sovereignly regulating their relations with him, with his other vassals, and with other nations. The central role played by the treaty tablet in which the covenant was customarily inscripturated is attested by the fact that the disposition of these tablets was at times made the subject of a special document clause. Moreover, copies of the text, duplicates of which were prepared for all the parties concerned, were to be preserved in the presence of a god, carefully guarded, and periodically read publicly in the vassal kingdom.¹⁰ In its formal features the canonical aspect of the biblical covenants (and of the Old Testament in general) was thus already clearly present in these international treaties.

Of particular importance for identifying the roots of canon in covenant is of course the practice that called for drawing up the suzerain's authoritative words in writing.¹¹ Besides the separate document clause cited above as indicative that the written text of the treaty was integral to covenant administration there are occasionally found in the treaties special references to the tablets, descriptive of the tablets themselves or of significant details in their history. Thus, reference is made to the extraordinary material of a tablet: the tablet of silver that Hattusilis III made for Ramses II and the iron tablet inscribed by Tudhaliyas IV for Ulmi-Teshub. It is recorded that a treaty was written at such and such a place and in the presence of named witnesses. It is stated by a suzerain that he wrote the tablet and gave it to a vassal, just as, in the case of God's covenant at Sinai, Israel's heavenly

⁹ The present writer has discussed the matter in *Treaty of the Great King* (Grand Rapids, 1963; hereafter, *TGK*) and in *By Oath Consigned* (Grand Rapids, 1968; hereafter, *BOC*).

¹⁰ Cf. V. Korošec, *Hethitische Staatsverträge* (Leipzig, 1931), pp. 100 f.

¹¹ Cf. W. Beyerlin, *Origins and History of the Oldest Sinaitic Traditions* (translation by S. Rudman, Oxford, 1965), especially pp. 55 ff. Note too the combination of כְּתָבִים with בְּרִיתִים in the covenant ratification of Neh. 10:1 (9:38).

Sovereign inscribed for them the tables of stone. Mursilis II mentions the tablet made by his father for the vassal but later stolen, and relates his own writing, sealing, and delivering of a second tablet. According to the Hittite treaty with Sunasura, the transferal of his allegiance from the Hurrians to the Hittites, that is, the abrogation of one covenant and making of another, was effected by destroying the old treaty tablet and preparing a new one.

A feature of the covenant tablets of peculiar significance for their covenantal character is the inscriptional curse, or what we may call the canonical sanction. The tablet was protected against alteration or destruction by making such violations of it the object of specific curses. This protective documentary curse was not exclusively a feature of treaties but was employed in various other kinds of texts such as commemorative and funerary inscriptions, votive inscriptions, like those on temple gate-sockets,¹² and law codes, like those of Lipit-Ishtar and Hammurapi; it was most elaborately formulated on the *kudurru*'s.¹³ Wherever it is found the inscriptional curse is somewhat stereotyped in content. This is so both in respect to the techniques envisaged by which the text might be defaced or removed and with respect to the divine retribution threatened as a deterrent to any contemplating such transgression.

From the treaty of Tudhaliyas IV with Ulmi-Teshub comes the inscriptional imprecation: "Whoever . . . changes but one word of this tablet . . . may the thousand gods of this tablet root that man's descendants out of the land of Hatti."¹⁴ Similarly in Suppiluliuma's treaty with Niqmad of Ugarit anyone who changes any of the treaty words is consigned to the thousand gods. The treaty of Suppiluliuma with Matiwaza states that the vassal's duplicate of the tablet has been

¹² Cf. S. Gevartz, "West-Semitic Curses and the Problem of the Origins of Hebrew Law," *Vetus Testamentum*, 11 (1961), 137-158.

¹³ On these see further below. Cf. D. R. Hillers, *Treaty-Curses and the Old Testament Prophets* (Rome, 1964), pp. 11, 86; and F. C. Fensham, "Common Trends in Curses of the Near Eastern Treaties and *Kudurru*-Inscriptions Compared with Maledictions of Amos and Isaiah," *Zeitschrift für die alttestamentliche Wissenschaft*, 75 (1963), 155-175.

¹⁴ See D. J. McCarthy, *Treaty and Covenant* (Rome, 1963), p. 185.

deposited before the deity and is to be read at regular intervals in the presence of the vassal king and his sons, and then proceeds: "Whoever will remove this tablet from before Teshub . . . and put it in a hidden place, if he breaks it or causes anyone else to change the wording of the tablet — at the conclusion of this treaty we have called the gods to be assembled . . . to listen, and to serve as witnesses." The invocation of a lengthy list of gods follows, with a reiteration of the purpose of their presence, and finally the curses on violators of the treaty and blessings on those who observe its injunctions. The sanctions begin: "If you, Mattiwaza, . . . do not fulfill the words of this treaty, may the gods, the lords of the oath, blot you out. . . ."¹⁵ Continuing this tradition in the first millennium B. C., Esarhaddon stipulated concerning the tablet of the treaty-oath with its dynastic and divine seals: "You swear that you will not alter it, you will not consign it to the fire nor throw it into the water . . . and if you do, may Ashur . . . decree for you evil."¹⁶ And Barga'ayah cursed with death under torment anyone who boasted: "I have effaced these inscriptions from the *bethels*."¹⁷

The way in which the content of the treaties and the treaty tablet itself merge in the charge to guard it and in the conjoined curses against offenders reveals how closely identified with the idea of suzerainty covenant was its inscripturated form. And the inviolable authority of these written tablets, vividly attested to by the document clause and, especially, the documentary curse, sufficiently justifies our speaking of the canonicity of these treaties.

Along with the treaties there were other ancient documents that contained authority-laden directives and thus possessed in a broad sense a canonical quality. Even though the treaty form was the particular canonical genre adopted as nucleus for the biblical revelation, it is well that we should be aware of this wider formal background of the Bible as canonical document. One such type of document was the professional

¹⁵ See A. Goetze's translation in *Ancient Near Eastern Texts* (editor J. B. Pritchard, Princeton, 1950), pp. 205 f. (Hereafter, *ANET*)

¹⁶ See D. J. Wiseman, *The Vassal-Treaties of Esarhaddon* (London, 1958), p. 60.

¹⁷ Sefireh II, C; cf. *TGK*, pp. 43 f.

prescription; examples would be the Egyptian medical papyri,¹⁸ or magical incantations and cultic formulae. Another category was the "letters of gods" addressed to Assyrian kings.¹⁹ Another type would be the documents issuing from royal chancelleries, like edicts and law codes. There were also the royal land grants witnessed to by the *kudurru* stones, which in general concept and literary tradition have much in common with the state treaties.²⁰

The *kudurru* inscriptions were written on roughly oval-shaped stones and on stone tablets, the former serving as public monuments and the latter as permanent private records. They were copied from original deeds on clay tablets, the records of royal grants of land and, occasionally, of related privileges. Along with the boundary description and, usually, the list of witnesses to the transaction copied from the original deed, the *kudurru*'s had engraved on them divine symbols and curses against anyone who would contest the title or molest the stone inscription. Other reliefs found on the stones depict in various combinations the figures of the king, the recipient, and a deity. These additional features were clearly intended to place the private property and other rights of the owner under divine protection. The *kudurru* pillar set up in the midst of the property thus confirmed the recipient's title to it and protected his land from encroachment.

Treaties and *kudurru*'s alike have, as already noted, inscrip-

¹⁸ The authority of a prescription was commonly traced to its derivation from a canonical exemplar, an ancient document, particularly one found in a temple. The prescription might then be described as "what was found in writing under the feet of [the deity]," *i. e.*, under the immediate guardianship of the god's image. The concept and terminology here parallel the practice of enshrining copies of treaties as stipulated in their document clause. The remedy might even claim to be a divine revelation. Thus, one papyrus reads: "This remedy was found in the night, fallen into the court of the temple in *Koptos*, as a mystery of the goddess, by the lector-priest of this temple." For this translation and sample texts of these prescriptions see J. A. Wilson's treatment of them in *ANET*, p. 495.

¹⁹ Cf. A. Leo Oppenheim, *Ancient Mesopotamia* (Chicago, 1964), p. 280.

²⁰ See L. W. King, *Babylonian Boundary-Stones and Memorial-Tablets in the British Museum* (London, 1912), pp. vii ff.; and F. X. Steinmetzer, *Die babylonischen Kudurru (Grenzsteine) als Urkundenform* (Paderborn, 1922), pp. 95 ff.

tional curses,²¹ violations of both being threatened with the vengeance of the gods who are pictorially represented as well as being invoked in the imprecatory clauses. In the case of both the *kudurru*'s and the treaties the identity of the physical tablets or pillars merges with the stipulated arrangement to which they witness. Further, it has been suggested that there is a legal analogy between these two types of texts.²² For in the covenant relationship the tributary country was the property of the great king, and thus the treaty which he had enshrined in the land of the vassal was virtually his *kudurru* pillar (or better, his *kudurru* tablet), setting his legal claim to that territory within the sacral sphere for its enforcement.

A somewhat different legal analogy results if the *kudurru* is considered from another perspective, not as a property claim on the part of the grantee but as the grantor's royal charter. This aspect is especially pronounced in the *kudurru*'s that provide title to privileges beyond land. An interesting example is the *kudurru* which records the charter given by Nebuchadnezzar I granting to the cities of a faithful captain of his chariotry new political freedom and exemptions from various revenues and impositions of the military.²³ These benefits bestowed on cities are of the type symbolized by the *kidinnu*, the divine emblems set up in a public gate of the city and, like the *kudurru*'s, placing the privileged territory under divine oversight.²⁴ The analogy to this in the treaties is most evident in those treaties that included territorial guarantees and other special privileges for favored vassals; these too had the force of royal grants. Particularly in their geographical section with its list of cities and boundary descriptions these treaties remind us of the *kudurru*'s.²⁵ This *kudurru*-like fea-

²¹ On this parallel in detail compare, for example, Esarhaddon's treaty (lines 410 ff.) with the characteristic *kudurru* curses.

²² F. C. Fensham, *op. cit.*, p. 158.

²³ See L. W. King, *op. cit.*, pp. 29 ff.; and, for other examples, pp. 96 ff. and 120 ff.

²⁴ Oaths were sworn by the *kidinnu*. See further W. F. Leemans, "*Kidinnu*, un symbole de droit divin babylonien," in *Symbolae van Oven* (Leiden, 1946), pp. 36-61; cf. A. L. Oppenheim, *op. cit.*, pp. 120 ff.

²⁵ A good example of a treaty where *kudurru*-like territorial guarantees are prominent is that of Tudhaliyas IV with Ulmi-Teshub. It contains

ture is not missing in the case of the biblical treaties. Indeed, they are very much concerned with a royal (here, divine) land grant and guarantee. This element, already prominent in the Abrahamic Covenant, is resumed in the earliest renewals of covenant revelation in the days of Moses (*e. g.*, Exod. 3:8, 17; 6:8); it finds mention in the Decalogue's sanctions (Exod. 20:12; *cf.* Deut. 5:16, 33 ff.) and pervasively in the Deuteronomic treaty; and it is a governing motif in the Book of Joshua, to trace it no further. Of interest in this connection are the stones triumphantly erected on Mount Ebal in the midst of the land possessed according to Yahweh's covenantal charter. These stones were designed, it would appear, to serve as something of a treaty and *kudurru* combined in a memorial pillar.²⁶

A further resemblance of a literary sort that the *kudurru*'s bear to the treaties is seen in the presence in some of them of an historical prologue. One such was the *kudurru* granted by Nebuchadnezzar I, cited above. Its historical section describes vividly the exploits of the captain-grantee and his legal negotiations leading to the awarding of the royal charter. In this extolling of the subordinate party and his services as the basis of the grant this historical prologue differed from those in the treaties of the second millennium B. C.; for the latter were devoted to magnifying the suzerain for his benefactions. Nevertheless, this literary feature is so significant an element in the pattern of the treaties (and, indeed, is of such interest for the broader question of the origins of historiography) that the mere presence of an historical prologue of any kind in the *kudurru*'s is noteworthy. And it apparently does point to a close interrelationship in the development of the treaties and the *kudurru*'s as kindred legal genres.

We may round out this comparison of these two kinds of royal, canonical documents with the observation that the extant *kudurru*'s date from the fourteenth to the seventh centuries B. C. and the major extant treaties belong to very

a detailed geographical section and then towards the close, near the inscriptional curse, the treaty is identified in terms of the borders which the suzerain declares he has set, given, and inscribed on an iron tablet.

²⁶ See Deut. 27:2 ff. and Josh. 8:30 ff.

much the same period. So too do the beginnings and the great formative era of the Old Testament canon.

Our survey has indicated that canonical genres of various kinds can be identified among the documents that constitute the literary background of the Bible. One of these, the international treaty, proves to have special relevance for our understanding of the canonicity of the Bible inasmuch as it influenced to a remarkable extent the formal shaping of the Scriptures. Indeed, the very oldest Scripture, the Decalogue given at Sinai, was covenantal in form, as was the Deuteronomic document, which summed up and sealed the earliest, Mosaic stratum of Scripture.

At Sinai, and again in the plains of Moab, the administration of Yahweh's lordship over Israel was solemnized in ceremonies of covenant ratification. Through Moses, his covenant mediator, the Lord God addressed to his earthly vassals the law of his kingdom. His authoritative treaty-words, regulative of Israel's faith and conduct, were inscripturated on tables of stone and in "the book." Both these deposits of covenantal revelation accorded closely in their formal structure and ceremonial treatment with the ancient treaties, not least with respect to those documentary features of the treaties that provided the justification for our describing them as canonical.

Thus, the particular series of distinct sections constituting the classic treaty pattern supplied the documentary structure of both the Decalogue and Deuteronomy.²⁷ The duplicate tables of the covenant written at Sinai reflect the custom of preparing copies of the treaty for each covenant party.²⁸ In due course provision was made at Yahweh's direction for the Sinaitic covenant tables to be preserved inviolate in the ark of the covenant and for the Deuteronomic document to be kept by the ark in the sanctuary, permanent witnesses there to the covenant, and this deposition of them was in accord with the regular custom of enshrining treaty documents.²⁹ The directions for the deposition of the Mosaic treaties are

²⁷ Cf. *TGK*, pp. 14 ff., 28 ff.

²⁸ *Ibid.*, pp. 17 ff.

²⁹ *Ibid.*, pp. 19 f. Cf. Beyerlin, *op. cit.*, pp. 57 f.

given in the documentary type of clause which is closely associated in the extra-biblical treaties with the inscriptional curse, the brand-mark of canonicity. See Deuteronomy 31:9–13 (noting also 10:2 and Exodus 25:16, 21; 40:20). And the inscriptional curse itself also appears in the treaty beginnings of the Bible. In the midst of a passage in Deuteronomy that summarizes the entire treaty and is permeated with the covenant sanctions of the God who revealed himself in fire at Horeb, Moses warns: “Ye shall not add unto the word which I command you, neither shall ye diminish from it, that ye may keep the commandments of Jehovah your God which I command you” (Deut. 4:2, *ARV*; cf. 27:2 ff. and Josh. 8:30 ff.).

The literary tradition of the inscriptional curse, or canonical sanction, continues through the Scriptures. One reflection of it is the account of Jehoiakim's destroying of the scroll that contained the words of covenant sanctions spoken by God through Jeremiah.³⁰ This account, like the inscriptional curses, concerns itself with the topics of the method employed to destroy the document and the curse visited on this offense. Moreover, the similarity extends to the use of fire in the act of destruction and to the pronouncing of curses on both the person and property of the king, and particularly to the specific curses of the cutting off of his descendants and the casting out and exposure of his corpse.³¹ Continuing down into the New Testament the canonical imprecation appears climactically in the Revelation of John. “I testify unto every man that heareth the words of the prophecy of this book, If any man shall add unto them, God shall add unto him the plagues which are written in this book: and if any man shall take away from the words of the book of this prophecy, God shall take away his part from the tree of life, and out of the holy city, which are written in this book” (Rev. 22:18 f., *ARV*; cf. 1:3). While recognizing the reference to the Apocalypse, we cannot fail to appreciate the appropriateness of these sanctions to canonical Scripture as a whole.

To sum up thus far, canonical document was the customary

³⁰ See Jeremiah 36.

³¹ For parallels in treaties and *kudurru*'s, see Fensham, *op. cit.*, pp. 161 ff. and Hillers, *op. cit.*, pp. 68 f.

instrument of covenant administration in the world in which the Bible was produced. In this treaty form as it had developed in the history of international relationships in the ancient Near East a formal canonical structure was, therefore, available, needing only to be taken up and inspired by the breath of God to become altogether what the church has confessed as canon. And that is what happened when Yahweh adopted the legal-literary form of the suzerainty covenants for the administration of his kingdom in Israel.

It is necessary to insist constantly that the Scriptures, whether the Mosaic covenant documents, which constituted the nuclear Old Testament canon, or any other Scripture, are authoritative — uniquely, divinely authoritative — simply in virtue of their origin through divine revelation and inspiration. Certainly then their authority as such is not to be accounted for by looking beyond them elsewhere. As divinely authoritative revelation, documentary in form and with unalterable content, they possess the essential components for a definition of canon properly conceived. Nevertheless, it is legitimate to inquire into the precise literary brand of canonicity in which God was pleased to cast his authoritative words, for this is an altogether different and purely formal matter. In this respect biblical canonicity does have an earthly pedigree. And what has become clear is that it was the treaty brand of canonicity inherent in the international treaty structure of the Mosaic age that was adopted by the earliest Scriptures along with the treaty form itself. Biblical canonicity shows itself from its inception to be of the lineage of covenantal canonicity.

The beginnings of canonical Scripture thus coincided with the formal founding of Israel as the kingdom of God. In the treaty documents given by Yahweh at the very origins of the nation Israel, the people of God already possessed the ground stratum of the Old Testament canon. Only by resisting the accumulating evidence can the modern critical dogma that the concept of canonical document did not emerge until late in the development of Israelite religious thought be perpetuated and “histories” of the formation of the Old Testament canon continue to be erected upon it.

Old Testament scholarship is, to be sure, for the most part

unwilling to accept the biblical witness to the origins of the Decalogue and Deuteronomy in the days of Moses. Some also would oppose the acknowledgment generally made that the Decalogue exhibits the Hittite treaty pattern. The picture is further complicated by critical hypotheses like that of von Rad rejecting the original integral relation of the Sinai-covenant tradition to the exodus tradition.³² But even the holding of such viewpoints has proved compatible with consent to the judgment of the great majority who have now been obliged to repudiate Wellhausen's arbitrary recasting of historical sequence by which the covenant idea was made out to be a late outgrowth of prophetic thinking. Very few now fail to recognize the presence of the covenant in the pre-prophetic history of Israel's life and thought, and the tendency is to respect the evidence that traces covenant as far back as Israel can be traced.

It is evident then that an unrecognized tension has developed within the dominant school between its altered thinking about covenant and its unaltered, nineteenth-century thinking about canon. It will hardly do to continue to claim that the concept of canonical Scripture was an innovation of the late prophetic era and at the same time to admit that the covenant concept was a formative factor in Israel's literature in pre-prophetic times. For where there is divine covenant of the classic Old Testament kind there is divine canonical document.

Quite apart from consideration of the covenantal dimension of the Old Testament, the critical timetable for the formation of the canon has become increasingly problematic because of the higher dates now being assigned to various parts of the Old Testament. The difficulty becomes most pointed in the case of law materials,³³ where the aspect of authority is prominent. While it has been acknowledged that the Israelites at a relatively early time recognized certain

³² For a helpful recent critique of this hypothesis, see H. H. Huffman, "The Exodus, Sinai, and the Credo," *Catholic Biblical Quarterly*, 27 (1965), 101-113. The counterobservations of P. B. Harner in "Exodus, Sinai, and Hittite Prologues," *Journal of Biblical Literature*, 85 (1966), 233-236, do not meet the issue.

³³ See the remarks of W. F. Albright on the antiquity of Mosaic law in *Yahweh and the Gods of Canaan* (London, 1968), pp. 149-159.

written laws as divine revelation, the meaning of this for the history of the canon concept in Israel has been obfuscated.

Referring explicitly to the sanctioned status of the enshrined Deuteronomic law, Fohrer protests: "This does not yet imply a collection of sacred scriptures, and certainly not a process of canonization, because new law codes came into force down to the time of the Holiness Code and P. Not until Ezra's reformation, which stabilized the law, did the period end when a new law with divine authority could come into being."³⁴ This is, incidentally, another example of how hypotheses concerning the time of composition or redaction of the various books or parts thereof have dictated the shape of theories of canon formation. But Fohrer's protestations also betray an obscurant reluctance to reconsider the traditional critical posture on Old Testament canonization in the face of recalcitrant data. The force of admitted facts is escaped by making subtle adjustments in the definition of canon which arbitrarily elevate the secondary and accidental to essentials, while minimizing what is actually essential.

According to Fohrer's tailoring of the canon concept, canonical law-scripture did not exist until law-scripture ceased to be produced. On this redefinition, canonization becomes the closing of the sacred list on a particular literary species. There is then no beginning, no process to canon formation, only a point of completion — or a series of such points if the whole Old Testament is under consideration. In this approach, the

³⁴ *Op. cit.*, p. 483. Sometimes the Josianic law-book episode is said to be the earliest instance of canonization. In endorsing this view, C. H. Gordon stresses the element of permanence in the nation's adoption of a written, legal guide on that occasion. *Cf.*, *The Ancient Near East* (New York, 1965), pp. 247 f. R. H. Pfeiffer, working with similar premises, finds it impossible to date the canonization of the law so early; he points to the cultic activities of the Elephantine Jews as evidence of the non-canonical status of Pentateuchal law long after 621 B. C. *Cf. Introduction to the Old Testament* (New York, 1941), p. 57. And if one is thinking of the role of Pentateuchal law within Judaism, any claim of permanent adoption of the Josianic law-book is invalidated by the last two millennia of Judaism without priest, altar, or sacrifice. Gordon's own recognition of this is implicit in his further assertion that the stage of canonical scriptures, which succeeded an earlier stage of guidance by oracle, has itself given way to a third stage: the interpretation of scripture (*op. cit.*, p. 248, note 12).

community's act of endorsement is, of course, substituted for God's act of inspiration as the definitive element in the creation of the canon. But more than that, the human act of endorsement which is equated with canonization is so qualified that writings could be regarded as divinely authoritative community rules without being necessarily canonical. Canonization of the law awaited the termination of the period when new divine codes might come into being. Why? Was it that the envisaged new codes might not simply supplement but conflict with and abrogate divine laws already in hand, so that the authority of these present laws and Israel's endorsement of them might prove to have been only temporary? Might the Deuteronomic laws, for example, have to be changed or set aside, in spite of the fearful inscriptional curses protecting them? But why then would these old laws have later been canonized along with the new code precisely when they ceased to be normative? Such in any case is the curious way it actually happened, if one is to follow Fohrer in his total understanding of the matter. For the modern documentary partitioning of Pentateuchal law on which Fohrer's whole discussion rests does of course view the several law "codes" as in serious conflict with one another. Hence, strangely, the earlier laws did not become canonical until they were contradicted and eclipsed by the latest laws!³⁵ Furthermore, for anyone who accepts the New Testament as canonical, would not the logic of Fohrer's redefinition of canon compel the conclusion that Old Testament law did not really become canonical until it was superseded by the final divine revelation in the new covenant? For the New Testament too has its revelation of law, its new commandment, its new mandate for a new organization and a new world mission for the community of the new covenant. Therefore, for Fohrer on his own definition of canon to allow (as he does) that the divine law became stabi-

³⁵ Another undigested qualification introduced into Fohrer's definition is that the closing of the canon involves a standardizing of the process of textual transmission. Hence, though he allows that the law was stabilized in Ezra's reformation, he judges that a comparison of the Massoretic and Septuagint texts shows that the text of the law (or Pentateuch) was not yet fully determined in Ezra's day and he concludes that the Pentateuch did not even then have canonical character (*op. cit.*, pp. 484 ff.).

lized as Old Testament law before Christ and became canonical independently of the divine revelation of the new law of Christ's kingdom is to assume an un-Christian stance; however unintentionally, it implicitly denies that the New Testament is a new revelation with divine authority.

A somewhat different approach emerges in Noth's influential study of Pentateuchal laws.³⁶ In his ingenious but contrived reconstruction Noth distinguishes between validity and canonicity. The shift to canonicity he locates in the post-exilic period in connection with an alleged absolutizing and universalizing of laws whose legal validity was hitherto regarded as confined within the particular political constitution of Israel's amphictyonic confederation. This misinterpretation of the situation results to no small extent from Noth's misconstruing the nature and role of the covenant in the life of Israel and in the broader history of redemption.

But instead now of criticizing in detail this or that proposed redefinition of canonicity, let it suffice to make an observation about the general tactical state of affairs. The whole attempt to salvage the modern hypothesis of a late origin of the Old Testament canon by resort to new specialized definitions of "canonization" suggests that the scholars concerned have lost sight of the course of canon studies in the last century. One receives the impression that the determinative role of the Wellhausenian mold in the development of that theory has been forgotten and that its current promoters are consequently unaware that they have removed the original rationale of the theory from under themselves by their own significant reversals of Wellhausen.³⁷

More especially, as has been indicated above, what is now known and commonly acknowledged about covenant in ancient Israel has rendered obsolete the inveterate critical think-

³⁶ *The Laws in the Pentateuch and Other Essays* (translation by D. R. Ap-Thomas, Edinburgh and London, 1966), pp. 1-107; the original form of the treatise in view appeared in 1940.

³⁷ That much can and should be said, even if one finds apropos M. Smith's exposure of the pseudo-orthodox (as he calls them) who imagine, or at least declare, themselves far more liberated from Wellhausen than they actually are. Cf. his "The Present State of Old Testament Studies," *Journal of Biblical Literature*, 88, 1 (1969), 19-35, especially pages 25 f.

ing about Old Testament canon formation. The theory of a process of canonization beginning in the post-exilic era, if not considerably later — whether a threefold process or otherwise, whether assuming a more extensive Alexandrian canon or following an approach like Sundberg's — is a grotesque distortion of the historical facts, a Wellhausenian anachronism on a millennial order of magnitude.

The origin of the Old Testament canon coincided with the founding of the kingdom of Israel by covenant at Sinai. The very treaty that formally established the Israelite theocracy was itself the beginning and the nucleus of the total covenantal cluster of writings which constitutes the Old Testament canon. While exposing the prevalent critical histories of the formation of the canon as the anachronistic fictions they are, orthodox Old Testament scholarship should also set to work on the biblico-theological task of delineating the real history of that process. When that is done and the relevant historical realities of ancient covenant procedure are brought to bear, the formation of the Old Testament canon will be traced to its origins in the covenantal mission of Moses in the third quarter of the second millennium B. C., providentially the classic age of treaty diplomacy in the ancient Near East.

Our conclusion in a word then is that canon is inherent in covenant, covenant of the kind attested in ancient international relations and the Mosaic covenants of the Bible. Hence it is to this covenant structure that theology should turn for its perspective and model in order to articulate its doctrine of canon in terms historically concrete and authentic. It is the covenant form that will explain the particular historical-legal traits of the divine authority that confronts us in the Scriptures.

(to be continued)