

THE COVENANT WITH MOSES AND ITS HISTORICAL SETTING

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In the light of ever increasing material from the Ancient Near East the demand to view Scripture in its historical setting¹ must not go unheeded. This study is an attempt to consider God's covenant with Israel, given through Moses as mediator, against the background of the ancient Near East around the second millenium before Christ. The covenant concept of that time plays an important role and will be examined in relation to God's dealing with His people.

I. COVENANT AND LAW

Before turning to the Scriptures involved, a basic question must first be handled.² Is it really proper to consider the Law of Israel as a covenant or even as a part of a covenant? Generally the critical approach is to view the Law of Israel as being developed over a period of years through various processes, ultimately reaching its present form at a rather late date. Albrecht Alt's influential essay of 1934, serves as a good example of a critical explanation of the origin of Israel's Law.³ He divides the laws into two classifications, the casuistic and the apodictic law. By casuistic law he understands those laws which are more formally legalistic in form ("When... then...") or relate more to case laws. These he feels were adopted from the Cananites and had no original connection with the covenant. The apodictic laws, on the other hand, are short and all inclusive in form and primarily religious and cultic in nature. These are said to have developed in Israel under cultic influences, especially under the influence of a covenant renewal festival. The con-

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1. A renewed call for this basic principle of interpretation has been voiced by R. K. Harrison, *Introduction to the Old Testament* (London, 1969), p. 82. See also a similar opinion expressed regarding New Testament studies, but this time from one of a liberal viewpoint. Robert M. Grant, "American New Testament Study," *Journal of Biblical Literature* LXXXVI (March, 1968), 50.
2. For a good survey of various studies of the Law, see Walter Zimmerli, "Das Gesetz im Alten Testament," *Theologische Literatur Zeitschrift*, LXXXV (July, 1960), p. 348-87. See also C. R. North, "Pentateuchal Criticism," *The Old Testament and Modern Study* (Oxford 1951), pp. 48-83; Moshe Weinfeld, "Deuteronomy—The Present State of Inquiry," *Journal of Biblical Literature*, LXXXV (Sept., 1967), 249-62.
3. Albrecht Alt, "The Origin of Israelite Law," *Old Testament History and Religion* (New York, 1968), pp. 101-171. (Originally published in 1934, as *Die Ursprünge des Israelitischen Rechts*).

tact between Law and Covenant had been established but after parallels between the Hittite Treaties and Mosasic Law were recognized, Eichrodt could write, "The situation of the Law in the Covenant has now been placed in a new light. It is immediately clear that it must constitute an inalienable part of it."⁴ This "clarity" however has not gone unchallenged⁵ and recently Gerstenberger has forcefully argued that the apodictic laws had no original connection with the covenant concept.⁶ His basic objection is that the stipulations of the treaties are intended to protect an existing relationship by imposing specific prohibition, whereas the apodictic laws of Scripture do not protect an existing relationship and are intended to govern the every day life of society by general prohibitions.⁷ He feels that these biblical laws have not arisen out of a covenant context, but rather out of the wisdom sayings which ultimately, he argues, go back to the clan or family life.⁸ In spite of the fact that Huffman feels that "what Gerstenberger does propose borders on the incredible and is very hard to take seriously,"⁹ there are those who have taken him very seriously.¹⁰ Because of the growing popularity of this view it would be fitting to consider some objections to this position as well as some positive reasons to show that the covenant setting is the correct *Sitz im Leben* for the law of Israel.

4. Walter Eichrodt, "Covenant and Law: Thoughts on Recent Discussion," *Interpretation* XX (July, 1966), 309. He continues, "This insight into treaty-making in the ancient Near East should prove helpful in understanding Israel's Covenant with God and the commandments connected with it. First we see the covenant and the commandment belong essentially together."
5. See the discussion in Dennis J. McCarthy, *Der Gottesbund im Alten Testament* (Stuttgart, 1966), pp. 34-40.
6. Erhard Gerstenberger, *Wesen und Herkunft des "Apodiktischen Rechts"* (Neukirchen Vlu, 1965), and also his article "Covenant and Commandment," *Journal of Biblical Literature* LXXXIV (March, 1965), 38-51. Eg. "Treaty stipulation and commandment have little in common. The covenant ideology cannot be made responsible for having created the commandments which we find in the Old Testament" (p. 51).
7. *Ibid.*, 48-49, "The essential differences is this: treaties and covenants first create the order they protect as an agreement between two partners. The prohibitions of our decalogue neither presuppose an order, man-made or explicitly established by Yahweh, nor do they guard it by oaths and curses." This is also developed in his work *Wesen und Herkunft*, pp. 84-94.
8. See *Ibid.*, 94-95 and "Covenant and Commandment," JBL LXXXIV, 50-51.
9. Herbert Huffman, "Law and Wisdom" *Interpretation* XXII (April, 1968), 203. This is a review of *Wesen und Herkunft* in which Huffman points out a number of weaknesses of Gerstenberger's thesis.
10. For example, Johann Jakob Stamm and Maurice Edward Andrew, *The Ten Commandments in Recent Research* (London, 1967), pp. 44-75; McCarthy, *op. cit.*, p. 36; Edward Nielsen, *Die Zehn Gebote*, pp. 59-62; C. M. Carmichael, "Deuteronomic Laws, Wisdom and Historical Traditions," *Journal of Semitic Studies* XII (1967), 198-206; R-B-Y. Scott, "The Study of the Wisdom Literature," *Interpretation* XXIV (January, 1970), 33; J. L. Crenshaw, "Method in Determining Wisdom Influence upon 'Historical' Literature," JBL LXXXIVVV (June, 1969), 132. He writes "...There is growing acceptance of the close association of law and wisdom championed by Gerstenberger." Ronald E. Murphy, "The Interpretation of Old Testament Wisdom Literature," *Interpretation* XXIII (July, 1969), 291 f. Even Gerstenberger himself feels that the period of covenant emphasis in Old Testament studies "is slowly fading into oblivion..." (This he states in his review of *Der Altisraelitische Fluchspruch* by Willy Schottroff in JBL XC (March, 1971), 108.)

It should first be observed that the whole theory is based on a critical approach to the text.¹¹ It is readily seen that the present form of the Law is set in the covenant context, but the general critical approach is to dissect the text in order to discover the sources, then to classify the individual sections and to explain the processes of development up to the present text.¹² Gerstenberger's contention is that the prohibitive sections are not from an *original* covenant setting but from the wisdom context. The position of the present study is that the whole law is to be understood as having its original setting in the covenant and that the text should be interpreted as it now stands.¹³

The reasons for viewing the law as covenant are as follows. First, the power and authority of the one making the treaty determines the area where he can impose his will. Both Gerstenberger and McCarthy have well pointed out that the vassal treaties deal with specific areas, such as, loyalty to the king, protection of boundaries, assistance against enemies, return of fugitives, report of any unfavorable rumors, etc.¹⁴ It is the apodictic stipulations which deal with these specific demands. In addition to the purely political stipulations, there is one example where the powerful Hittite King Suppiluliuma includes matters of sexual morality in his treaty.¹⁵ If the king was powerful enough, he could give commands regarding any area which touched his concern.¹⁶ Yahweh's

11. The point is that once the unity of the text is denied it becomes an endless effort to try to untangle the threads and calls for more theories which results in utter confusion. See Umberto Cassuto, *A Commentary on the Book of Exodus* (Jerusalem, 1967), p. 1. "The great importance attached by exegetes to the question of the sources diverts their attention from the study of the work that has grown out of these documents. In their opinion (the literary critics), the study of the sources takes precedence over that of the book as we have it. To my mind, the reverse view is the more reasonable." For a similar criticism regarding McCarthy's work, see Kenneth A. Kitchen, *Ancient Orient and Old Testament* (London, 1966), p. 101.
12. See Walter Eichrodt, *Theologie des Alten Testaments* (Göttingen, 1962), I, 15-32. Dennes J. McCarthy, *Treaty and Covenant, A Study in the Ancient Oriental Documents and the Old Testament* (Rome, 1963), 152-67; Nielsen, *op. cit.*, pp. 107-110.
13. This does not rule out the possibility that God could have included in the treaty text certain "wisdom elements," but it does stress the fact that all of these elements were a part of the original covenant stipulations. For an example of a proverb being included in a treaty text, see Einar von Schuler, *Die Kaskaer*, (Berlin, 1965), pp. 148-49. In a treaty between the Hittite King Hattusiles III and the city Tiliura are the words "Der junge Hund ist unsauber, er frisst aber einen Wagen von einer Mine (Wert) auf." (The young dog is unclean but eats up a wagon of a mine value"). This quotation is explained by von Schuler as a proverb meaning "little things—big results" or "even insignificant things can cause a lot of damage" (kleine Ursachen—grosse Wirkung" oder "auch ein unbedeutendes Wesen kann grossen Schaden tun.") (p. 149).
14. Gerstenberger, *Wesen u. Herkunft*, pp. 87-91; McCarthy, *Treaty and Covenant*, pp. 36-37, 49. See also George E. Mendenhall, *Law and Covenant* (Pittsburg, 1955), p. 33.
15. McCarthy, *Treaty and Covenant*, p. 36, "Eat, drink and be merry, but thou shalt not lust after her. That is not right. . . . For this one must die! Attempt it not of thy own volition, and if another tempt thee to it, thou shalt not listen to him, thou shalt not do it! Let it be laid for thee under oath!"
16. And Suppiluliuma was powerful enough! See H. R. Hall, *The Ancient History of the Near East* (London, 1952), pp. 341-54. Near the close of his reign, Hall describes him as "undisputed lord over the whole of Northwestern Asia—" (p. 352).

position as King over the whole earth (Ex. 19:5) gave Him the right to command and govern every area of Israel's life, thus there are commands regarding every day affairs, that is, apodictic laws.¹⁷ The stipulations then are the expression of God's will for His people Israel.¹⁸

A second reason is the fact that this covenant *does* seek to protect an established relationship, just as Gerstenberger insists the covenant stipulations do.¹⁹ The law was not intended to establish a relationship between God and Israel (see Gal. 3:32), but rather to govern the relationship which existed by faith.²⁰ The observance of the law was viewed as a *Bekennnisakt* (a confession of faith act),²¹ that is, an expression of loyalty and love.²² The description of the law as *torah*, "instruction" or "pointing the way," indicates that the law was a way of life rather than a way to gain life.²³

A third reason for rejecting wisdom as the setting of the law is the fact that it is better to view much of the wisdom thought as arising from law. Wisdom could be defined as considerations and conclusions regarding life which are reached by reflecting on universal moral principles which are either unwritten or expressed in a code.²⁴ There is a parallel between the law expressed in the covenant and the instructions of Wisdom because both are expressions of the moral law of God. The strong emphasis on the law in the Psalms seems to indicate that much of the advice expressed arose from contemplating on the written law

17. Gerstenberger sees this clearly, but understands it as the theological reason why various commands were *later* added to the covenant. He says once it is accepted that Yahweh is all powerful then every area of Israel's life could be sanctified and formed by Yahweh. *Wesen und Herkunft*, pp. 84-85.
18. See particularly Eichrodt, *Theologie*, I, 10-11. The Covenant makes clear God's will which one shall keep.
19. Gerstenberger, "Covenant and Commandment," JBL LXXXIV (March, 1965), 42; *Wesen und Herkunft*, p. 87.
20. See Gehard von Rad, *Theologie des Alten Testaments* (Munich, 1966), I, 415-16. "...die Vielzahl der Gesetze hat nur die Aufgabe, diese Ordnung zu schützen gegen alle mögliche Bedrohungen...." Cf. Walter J. Kaiser, Jr., *Journal of the Evangelical Theological Society* XIV (1971), 22.
21. Zimmerli, *op. cit.*, p. 487.
22. See William L. Moran, "The Ancient Near Eastern Background of the Love of God in Deuteronomy," *Catholic Biblical Quarterly* XXV (1963), 17-87. "Love" in Deuteronomy is "a love defined by and pledged in the covenant—a covenant love." (p. 78). Keeping the commandments is an expression of love. Cf. G. Johannes Botterweck and Helmer Ringgren (ed) *Theologisches Wörterbuch zum Alten Testament* (Stuttgart, 1970) I, 106-28. The relations of love to covenant are also brought out here.
23. See Edmond Jacob, *Theology of the Old Testament* (London, 1958), pp. 271-2; Walter Gutbrod, "Nomos," *Theologisches Wörterbuch zum Neuen Testament* (R. Kittel ed) (Stuttgart, 1942) IV, 1037-39.
24. See von Rad., *op. cit.*, I, 430. He explains Wisdom as "ein ganz praktisches, auf Erfahrung gegründetes Wissen von den Gesetzen des Lebens und der Welt." Cf. also John L. McKenzie, "Reflections on Wisdom," JBL LXXXVI (March, 1967), pp. 1-9.

given through Moses. (e.g. Ps. 1; 19; 119 etc.).²⁵

Moving now to a broader basis than consideration of Gerstenberger's view, a fourth reason indicates that the covenant is the *Sitz im Leben* of the Law of Moses. This is the very use of the term *covenant* (berith). The very fact that this word is used over and over again in both the Pentateuch and the rest of the Old Testament, when referring to the law, shows that the Hebrews themselves considered the law as part of a covenant.²⁶

A fifth reason is the obvious parallel between the ancient treaties and the Law of Moses.²⁷ Hiller's recent work presents in a popular way the evidence showing the parallels between extra-biblical treaties and the covenants of scripture.²⁸ Kitchen has effectively argued that the Sinai Covenant is like the treaties of the second millennium before Christ not those of the first millennium.²⁹

A sixth reason is the message of the prophets. When they accused Israel of breaking God's law and predicted coming judgment, they used concepts with strong covenant terms. In other words, their message was set against a covenant background. This can be seen in the much discussed Rib pattern or lawsuit motif.³⁰ God summons His people to court

25. For the influence of the law as covenant in the Psalms, see Jeffrey H. Tigay, "Psalm 7:5 and Ancient Near Eastern Treaties," JBL LXXXIX (June, 1970), 178-86; R. N. Whybray, "Their wrongdoings in Psalm 99:8" ZAW LXXXI (1969), 237. For a brief discussion of the origin of wisdom and particularly wisdom in Israel, see Walter Brueggemann, "A Study in Wisdom Theology," Interpretation XXIV (January, 1970), 29, 33-36.
26. See Solomon Mandelkern, *Veteris Testamenti Concordantiae* (Graz 1955), I, 234-36. Raitt sees this clearly and makes a very cogent remark about Gerstenberger's work. "He has very little to say about how law comes to be such an integral part of the covenant, and even less to say about the development of the covenant as such." Thomas M. Raitt, "The Prophetic Summons to Repentance," ZAW LXXXIII (1971), 43. Cf. also pp. 44-45.
27. See Mendenhall, *op. cit.*; Meredith G. Kline, *Treaty of the Great King* (Grand Rapids, 1963).
28. Delbert R. Hillers, *Covenant, the History of a Biblical Idea* (Baltimore, 1969).
29. Kitchen, *op. cit.*, pp. 98-102.
30. See esp., *ibid.*, pp. 124-31; Helga Weippert, "Jahwekrieg und Bundesfluch in Jer. 21:1-7"—ZWA LXXXII (1970), 396-409. Herbert B. Huffmon, "The Covenant Lawsuit in the Prophets," JBL LXXVIII (December, 1959), 285-95; William L. Holladay, "Jeremiah's Lawsuit with God," Interpretation XVII (July, 1963), 280-87; Lawrence A. Sinclair, "The Courtroom Motif in the Book of Amos," JBL LXXXV (September, 1966), 351-53; Walter Brueggemann, "Amos IV: 4-13 and Israel's Covenant Worship," *Vetus Testamentus*, XV, (1965), 1-15; James Limburg, "The Root Rib and the Prophetic Lawsuit Speeches," JBL LXXXVIII (September, 1969), 304-305, esp. 304 ("Thus our examination of Rib and of other key words in the lawsuit speeches reveals that their vocables are very much at home in the sphere of international relationships particularly in connection with international treaties,"); Robert North, "Angel-Prophet or Satan-Prophet," ZAW LXXXII (1970), 39-41, 47-50; George W. Ramsey, "Amos 4:12—A New Perspective," JBL LXXXIX (June, 1970), 187-91.

and accuses them of having broken His covenant—the Law!³¹ The judgments pronounced by the prophets are viewed as curses for breaking the covenant.³² In addition to these things, other terms used by the prophets have been shown to have their setting in the covenant; for example, *to know, love, loving-kindness, brother*.³³ From the preceding evidence it can certainly be said that the prophets of Israel viewed the Law as being vitally connected with the covenant.

In the light of the material at hand it is assumed that the correct *Sitz im Leben* for the Law of Israel is to be found in the covenant.³⁴ It now remains to examine the biblical text in the light of the covenant and the covenant form.

II. COVENANT-FORM AND THE SINAI COVENANT

Even though it was in 1954 that Mendenhall called attention to the similarities between the covenant form of ancient world and the covenant with Moses, there has yet to be an adequate treatment of the Sinai covenant in this light. Kline's treatment of Deuteronomy on the basis of the covenant structure is admirable,³⁵ and Kitchen's brief analysis of the Sinai covenant is very suggestive,³⁶ however most of the other studies are inadequate because the text is so critically mutilated that there hardly remains enough text with which to work.³⁷ The procedure of this study is to accept the text but recognize that Moses wrote his narrative

31. Limburg points out that the word Pasha (Isa. 1:2) is "always used in connection with rebellion of one treaty partner against another. . . ." Limburg, *op. cit.*, 304. For a detailed study of this verb, see Rolf Knierim, *Die Hauptbegriffe für Sünde im Alten Testament*, (Gutersloh, 1965), pp. 115-184. He points out that the word has to be with specific acts which destroy the unity or fellowship. See also J. T. Willis, "Micah 2:6-8 and the 'People of God'," *Biblische Zeitschrift NF* 14 (1970), 72-87. See also Michael Fishbane, "The Treaty Background of Amos 1:11 and Related Matters," *JBL* LXXXIX (September, 1970), 313-18.
32. Cf. Hillers, *op. cit.*, 131-142. Also his work, *Treaty-Curses and the Old Testament* (Rome, 1964). See also, Raitt, *op. cit.*, pp. 41-2.
33. For references to studies dealing with these subjects, see Cleon Rogers, "The Covenant with Abraham and Its Historical Setting," *Bibliotheca Sacra*, CXXVII (July, 1970), 249. See also Ziony Zevit, "The Use of 'eved as a Diplomatic Term in Jeremiah," *JBL*, LXXXVIII (March, 1969), 74-77.
34. Kitchen, *op. cit.*, pp. 99. "... It is strikingly evident that the Sinai Covenant and its renewals must be classed with the late-second-millennium covenants."
35. Kline, *op. cit.*, pp. 47-149.
36. Kitchen, *op. cit.*, pp. 96-98. See also Gleason T. Archer, "Old Testament History and Recent Archaeology—from Moses to David," *Bibliotheca Sacra*, CXXVII (April, 1970), p. 104.
37. Mendenhall leaves the Decalogue intact but speaks of "rediscovering Moses" (*op. cit.*, p. 47). McCarthy follows a very critical approach even to the point of rejecting the "original form" of the Decalogue as part of the treaty structure. (*Treaty and Covenant*, p. 160.) Gerstenberger would leave only the sections dealing with idolatry (*Wesen und Herkunft*, pp. 94-5). Baltzer says the reason he did not apply the covenant form to the Sinai passage was because the critical problem was just too great (*op. cit.*, p. 37).

after the events and could have arranged the material not only chronologically but also thematically.³⁸

The historical preparation (Ex. 19). Although it is self-evident that there were historical events and preparations leading up to the treaty, this has never received sufficient notice. There is one treaty with a historical preparation section which forms a significant parallel to Exodus 19. This is the Egyptian version of the treaty between Hattusilis and Ramses II.³⁹ This section contains the following features. First there is the date with year, month and day. "Year 21, 1st month of the second season, day 21 under the majesty of the King of Upper and Lower Egypt."⁴⁰ Included in this is also the relation of the king of Egypt to various gods of Egypt.⁴¹ Second, the geographical setting and activity of the king. "On this day while his majesty was in the town of Per-Ramses Meri-Amon, doing the pleasure of his father Amon-Re. . . ."⁴² Third, the mediator of the covenant along with his title, activity, and the message of the king are presented. ". . . There came the Royal Envoy and Deputy . . . Royal Envoy . . . (User-maat-Re) Setep-en-(Re) . . . (Tar)-Teshub, and the messenger of Hatti. . . -silis, carrying (the tablet of silver wih) the Great Prince of Hatti, Hattusilis (caused) to be brought to Pharaoh-life, prosperity, health!—in order to beg (peace from the majesty of User-maat-Re) . . . Ramses Meri-Amon. . . ."⁴³

When Exodus 19 is viewed in this light it is seen to be a vital part of God's treaty with His people, and not a fragmented section with a shortened covenant form;⁴⁴ or remnants of a covenant obligation service from the cult;⁴⁵ or even a covenant between God and the elders before

38. Although McCarthy claims that in Exodus 19 Moses acts as mediator before his appointment, it is obvious the account is written in retrospect. (McCarthy, *Treaty and Covenant*, p. 156). See also Volker Wagner, "Zur Systematik in dem Codex Exodus 21:2—22:16," ZAW LXXXI (1969), 176-82. Although somewhat critical he seeks to show that the laws were not just arbitrarily thrown together but systematically arranged in an order familiar to other ancient law codes.
39. James B. Pritchard (ed), *Ancient Near Eastern Texts* (Princeton, 1955), pp. 199-201. Since the historical preparation does not occur in the Hittite version of the treaty (*ibid.*, pp. 201, 203), it may be that this was only done in Egypt. See also Herbert B. Huffmon, "The Exodus, Sinai and the Credo," *Catholic Biblical Quarterly*, XXVII (1965), 107. He indicates that the treaties found at Boghazkoy, Alalakh and Ras Shamrah have no reference to the place where the treaty was concluded. For the historical events leading to this treaty see "The Asiatic Campaigning of Ramses II, ANET, *op. cit.*, pp. 255-58, esp. the section "Peace between Egypt and Hatti," pp. 256-58.
40. *Ibid.*, p. 199. The translator, John A. Wilson, identifies this as "around 1280 BC, toward the end of November."
41. *Ibid.*, "Ramses Meri-Amon, given life forever, beloved of Amon-Re; . . . Harakhti. . . ."
42. *Ibid.*
43. *Ibid.* In a historical text describing the coming of these messengers the king of Hatti is reported to have said to the Pharaoh, "May we act according to all that thou hast commanded!" (*ibid.*, p. 257).
44. Baltzer, *op. cit.*, p. 37.
45. Walter Beyerlin, *Herkunft und Geschichte der "Altesten Sinai-traditionen*, (Tubingen, 1961), p. 13; pp. 89-90.

the covenant with the people.⁴⁶ In reality it forms the historical setting for the giving of the covenant which follows. This section opens with the date—"In the third month, when the children of Israel were gone forth out of the land of Egypt, the same day..." (Ex. 19:1). This is then followed by the geographical location. "the wilderness of Sinai" (Ex. 19:2).⁴⁷ The remainder of the chapter is then taken up with the mediator, Moses, and the instructions of God given through him (Ex. 19:3-25).⁴⁸

The most significant part of these instructions is found in verses 4-8. It is in this section that God relates His general intent in making the covenant as well as the response of the people to the idea. God begins by reiterating their personal involvement (*attem* is emphatic) in His delivering them out of Egypt (Ex. 19:4). This resembles the historical prologue in that it provides the basis of God's appeal to Israel for obligated obedience.⁴⁹ Based on this gracious deliverance from Egypt,⁵⁰ God explains His intent in the form of a conditional sentence, "If you will truly hear⁵¹ my voice and observe my covenant, then you shall be..." (Ex. 19:5). The general condition of obedience is demanded by Jehovah with the specifics to follow later.⁵² In response to the obedience of Israel, God promises that the people will be His personal possession.⁵³

46. Huffmon, CBQ, *op. cit.*, p. 108.

47. For a lengthy discussion regarding the location of Mount Sinai, see C. F. Keil and Franz Delitzsch, *Biblical Commentary on the Old Testament: The Pentateuch* (Grand Rapids, 1956), II, 89-95; also C. DeWitt, *The Date and Route of the Exodus* (London, 1960), pp. 17-18; Yohanan Aharoni, *The Land of the Bible* (Philadelphia, 1967), pp. 178-84.

48. In the Egyptian treaty it only says that the mediator came "in order to beg peace," but the intent of God is explained in more detail.

49. The *we'atta* could be temporal ("at the present time"), but it is better to be viewed as introducing a conclusion based on previous action. See Cassuto, *op. cit.*, p. 227. For the historical prologue forming the basis of obligation, see Mendenhall, *op. cit.*, p. 32, and esp. Huffmon, CBQ XXV (1965), 109. "Another important feature of the historical prologue is that it brings the favors of the great king down to the time of the treaty being made, as is only to be expected since they serve to motivate the vassal."

50. It might seem strange that no appeal is made to the Covenant with Abraham. However, Huffman points out a previously made covenant is rarely mentioned in the historical prologue and is never used as the basis of appeal. (*ibid.* 107). However, see Philip B. Harner, "Exodus, Sinai and Hittite Prologues," JBL, LXXXV (June, 1966), 233-36.

51. The infinitive absolute (*Shamo'a*) is used to emphasize the conditional "if" as well as the legal character of the condition. Cf. G. Bergstrasser, *Hebraische Grammatik* (Hildesheim, 1962), II, 63.

52. This, however, is not to be understood as Baltzer's "Grundsatzterklärung."

53. Horst points out that in addition to royal possession a king also had personal possessions. This is the idea of the word *sigullah*. See Friedrich Horst, "Das Eigentum nach dem Alten Testament," *Gottas Recht* (Munich, 1961), p. 212. As the almighty king of the universe Jehovah has the whole world as His royal possession ("for the whole world is mine," Exodus 19:5), but Israel was to be His personal, private possession.

and⁵⁴ a kingdom of priest⁵⁵ and a holy nation.⁵⁶ By obedience to God's will as expressed in His covenantal demands Israel displays God's character to the nations as well as being the agent through whom God expresses His rule on earth.

The conditional aspect of this covenant (in contrast to the one with Abraham) is well expressed by Cassuto's comment, "the proposal envisages a bilateral covenant, giving Israel an exalted position among the peoples in lieu of the acceptance of a special discipline."⁵⁷

Moses returns to the people, reports God's proposal and the people respond by saying, "All that the Lord hath spoken we will do." (Exodus 19:8).⁵⁸ As a faithful mediator Moses returns to God, reports the response and receives instructions regarding the preparation of the people and the actual receiving of the covenant (Exodus 19:8b-15).

The instructions are carried out and after three days God's glory appears on the mountain accompanied by thunder and lightning.

The purpose of this theophany is to confirm Moses' ministry before the people (Exodus 19:9)⁵⁹ and also to introduce the people to the great and glorious God in a way which would constrain fear and obedience.⁶⁰

The Preamble. Although Hillers views the opening words of Exodus

54. The waw ("and") could be taken as exegetical with the two terms "royal priesthood" and "holy nation" being descriptions of Israel as God's special possession. See Keil and Delitzsch, *op. cit.*, II, 96, and Beyerlin, *op. cit.*, p. 85.
55. This expression contains essentially two ideas. It involves the kingly office of exercising God's rule on earth as well as the priestly office of mediating between God and mankind. See Keil and Delitzsch, *op. cit.*, II, 9—and especially Beyerlin, *op. cit.*, p. 84. He points out that the phoenician inscriptions use the term *mmlkt* to refer to the office of king. However, when the name of the king is associated with the title, the word *mlk* is used. The word in Exodus then refers to the office of a king.
56. That is, a nation which is separated to God and which demonstrates God's character in its life. For the meaning of "holy," see Norman H. Snaith, *The Distinctive Ideas of the Old Testament* (London, 1962), pp. 21-59, and Otto Procksch, TWNT, I, 90-96.
57. Cassuto, *op. cit.*, p. 227.
58. See *ibid.* He paraphrases, "we are prepared to accept the proposal and do whatever we are called upon to do."
59. See Hans Wildberger, "'Glauben' im Alten Testament," *Zeitschrift für Theologie und Kirche*, LXV (Mai, 1968), 153.
60. See Moshe Greenberg, "Nsh in Exodus 20:20 and the Purpose of the Sinaitic Theophany," FBL, LXXIX (September, 1960), 273-76. "...the great purpose of this unparalleled public theophany was to impress the awe of God indelibly upon Israel by letting them all experience—see, hear and know him directly" (p. 276). See also Siegfried Plath, *Frucht Gottes, Der Begriff yr' im Alten Testament*, (Stuttgart, 1963), pp. 107-8; Hillers, *Covenant*, p. 71. He says this was "with a view to invoking something of the aura of holiness and mystery surrounding it in the mind of the ancient Hebrews." See also McCarthy, *Treaty and Covenant*, p. 157.

20:2 as the brief but impressive prologue,⁶¹ it seems much more natural to take Exodus 20:1 as the introduction.⁶² The simple statement, "And God spake all these words saying...", introduces the covenant-making God as Elohim, the God of the whole world.⁶³ This type of introduction is also found in a number of other treaty introductions.⁶⁴

The historical prologue. From the general statement of the universal god, the text moves to the identification of the covenant-maker in terms of historical association—"I am Yahweh, your God who brought you (sing) out of the land of Egypt." (Exodus 20:2).⁶⁵ The deliverance from Egypt is the historical event which serves not only to show the past relation of Yahweh to Israel, but also provides the basis for obedience to the stipulations which are to follow.⁶⁶

The stipulations. Although the relation of the Decalogue to the other aspects of the Law has been understood in different ways,⁶⁷ it seems best to view the Decalogue as the basic stipulation (Grundsatzerk-larungen) and the other commandments as the detailed stipulations.⁶⁸ Baltzer points out that the basic stipulations have a close connection with the historical prologue in that they contain general imperatives and have loyalty between the partners as their basic demand.⁶⁹ This is

61. Hillers, *Covenant*, p. 49.

62. Cf. Kitchen, *op. cit.*, p. 96. Beyerlin says quite subjectively that the lack of color in verse 1 gives the impression that it was added later (*op. cit.*, p. 16).

63. See Caussote, *op. cit.*, p. 240-41. Note also his detailed treatment of the term Elohim in his work, *The Documentary Hypothesis* (Jerusalem, 1961), pp. 15-41.

64. For example, the treaty between Mursilis and Duppi-Tessul of Amurru. "These are the words of the Sun Mursilis..." (ANET, p. 203). Also the treaty of Suppiluliumas and Aziras of Amurru. "These are the words of the Sun Suppiluliumas..." (James B. Prichard, ed.), *The Ancient Near East, Supplementary Texts and Pictures Relating to the Old Testament* (Princeton, 1969), p. 529. Furthermore, see the treaty between Mursilis II and Kupanta-Kal of Mira and Kuwalijs. "(So spricht) die Sonne (Mursilis)..." (Johannes Friedrich, *Hethitische Texte* (Leipzig, 1926), II, 107.

65. See Francis I. Andersen, *The Hebrew Verbless Clause in the Pentateuch* (Journal of Biblical Literature Monograph Series, Volume XIV, (Nashville, 1970), p. 40. He explains this type of verbless clause as one of "self-identification," especially the "self-identification of a speaker at the beginning... of a pronouncement." For a possible translation, see Johannes J. Stamm and M. E. Andrew, *The Ten Commandments in Recent Research* (London, 1967), pp. 76-77 and Henning Graf Reventlow, *Gebot und Predigt im Dekalog* (Gutersloh, 1962), pp. 19-20. Both follow Zimmerli in taking this as a "Selbstvorstellungsformel" which emphasizes the personal presence of Yahweh in His Word as well as His absolute sovereignty in contrast to the false gods.

66. This is Huffmon's conclusion in his treatment of the much discussed relation of the "Exodus Tradition and the Sinai Tradition." Huffmon, "The Exodus Sinai and the Creeds," CBQ, XXIV (1965), 101-13. See also Hillers, *Covenant*, pp. 49-50; Moran, *op. cit.*, p. 87. This view is rejected by McCarthy (*Treaty and Covenant*, p. 161). For critical discussion of the matter, see Johann Michael Schmidt, "Erwagungen zum Verhältnis von Auszug und Sinaitradition," ZAW, LXXXII (1970), 1-31.

67. For example Alt, *op. cit.*, pp. 79-132; Mendenhall, *op. cit.*, p. 13-17 (he says the 10 Commandments are general policies which bound the tribes together); Hillers, *Covenant*, pp. 88-97.

68. Kitchen has also taken the Decalogue in this way. Kitchen, *op. cit.*, p. 97. Cf. Wagner, *op. cit.*, 176-82.

69. Baltzer, *op. cit.*, pp. 22-23. C. F. Eichrodt, "Covenant and Law," *Interpretation*, XX (July, 1966), 309-10.

exactly the character of the Ten Commandments. They are a concise, compact statement of God's will for His people Israel whom He had just delivered out of Egypt.⁷⁰

Without going into a detailed discussion of each commandment,⁷¹ it must suffice to point out that the first part of the Decalogue (Exodus 20:3-11) has to do with the individual Israelite's responsibility to Jehovah and the second part (Exodus 20:12-17) has to do with the individual treatment of his fellow man.⁷²

The responsibility to God could be summed up in the words "love" and "loyalty." The parallel to the demands of the great kings of the ancient treaties is at once obvious.⁷³ If the earthly kings could demand absolute loyalty, certainly the God of Israel could demand the same from His people. The duty to love and respect the other members of the covenant society arises out of God's concern for the whole group.⁷⁴

After receiving the basic demands, Moses relates them to the people and then returns to the mountain where he received the detailed demands (Exodus 20:18-23; 33). The detailed stipulations are expansions of the basic demands and present punishments, examples and applications to every area of life.⁷⁵ This included the religious, social, economic, and even dietary laws for the people of Israel.⁷⁶ The demands of God are a reflection of His holiness which touches every area of life. To be obedient was to demonstrate God's holiness in daily life, thus representing Him as priest and king upon the earth.

Covenant ratification. Now that Moses has delivered the stipulations he and the leaders are called by the Lord and the covenant acceptance ceremony is performed (Exodus 24).⁷⁷ Yahweh is approached as

70. See Gerhard von Rad, *Theologie den Alten Testaments* (Munich, 1966), I, 204. For the Law being only for Israel, see Lawrence E. Toombs, "Love and Justice in Deuteronomy," *Interpretation*, IX (October, 1965), p. 400.

71. In addition to the various commentaries on Exodus, see especially Reventlow, *op. cit.*, and Stamm and Andrew, *op. cit.* For the seventh commandment (Exodus 20:7), see Herbert C. Brichto, *The Problem of "Curse" in the Hebrew Bible* (Philadelphia, 1968), pp. 59-67.

72. See von Rad, *Theologie*, I, 205.

73. See Hillers, *Covenant*, p. 507.

74. *Ibid.*, p. 51. He points out that the Hittite King, Mursilis II, also gave instructions regarding how his servants were to treat each other.

75. *Ibid.*, pp. 89-94. Hillers gives a very suggestive comparison between the short statements in the Ten Commandments and their expansion in other sections of the Law.

76. For a study of the dietary laws, see the treatment by William F. Albright, *Yahweh and the Gods of Canaan* (London, 1968), pp. 152-57. See also Jacob Milgrom, "The Biblical Diet Laws as an Ethical System," *Interpretation*, XVII (July, 1963), 288-301.

77. Cf. Friedrich Notscher, "Bundesformular und 'Amtsschimmel,'" *Biblische Zeitschrift*, IX (1965), 195. He sees that if Exodus 24 is the ratification of the Sinai Covenant, then it must form a unit, but he feels that from a critical standpoint this is impossible. Cf. Hillers, *Covenant*, p. 56. He admits that the results of the critical analysis are "apt to arouse the suspicion that some black art is being practiced or that the critics are just guessing." The latter is undoubtedly the correct view!

the almighty God with reverence and the leaders bow before Him according to the rules of approaching a royal person.⁷⁸ The actual ceremony itself involved essentially three things. First was the acceptance by the people (Exodus 24:3, 7). They responded both to the reading of the covenant by Moses (v. 3) and to the covenant written by Moses (v. 7).⁷⁹ This response was the same formal acceptance which they gave when God first approached them with His intention (Exodus 19:8) —“All that Yahweh said we will do.”⁸⁰ Here is the oath taken by the people that they will adhere to the stipulations invoked by God.⁸¹

The second aspect of the ceremony is the sacrifice and the sprinkling of blood (Exodus 24:4-8). The meaning of the blood sprinkling has been variously interpreted; either to cement the covenant relationship,⁸² to point to the common life shared by Yahweh and the people,⁸³ to provide cleansing,⁸⁴ However it is best to view this as the common covenant sacrifice which symbolizes death to the one who breaks the covenant.⁸⁵ The blood is the symbol of life given up in death,⁸⁶ and stresses the fact that the breaking of the covenant was to result in the curse of death.⁸⁷

The third feature of the covenant ceremony was the eating and drinking; that is, the covenant meal (Exodus 24:11). The meal depicted

78. See Samuel E. Loewenstamm, “Prostration from Ajar in Ugaritic,” *BASOR*, CLXXXVIII (December, 1967), 41-43. He explains the phrase “worship from afar” (Exodus 24:1) as “the sender figuratively represents himself as entering into the presence of his Lord and doing homage to him from a distance, which lays additional stress on his reverence” (p. 42). In applying this to Exodus 24:1 he writes, “Moses and his companions are expected to appear before the Lord and to prostrate themselves before Him in accordance with accepted rules of ceremony” (p. 43).

79. Baltzer, *op. cit.*, p. 27. He points out that the writing down of the treaty was synonymous with the granting of the treaty relationship. The erasure of the tablet indicated the end of the treaty-relationship.

80. Beyerlin suggests that this could be a set formula and cites some supporting evidence from the Amarna tablets (*op. cit.*, p. 48, n. 3).

81. By the covenant with Abraham it was God who swore (Genesis 22:1 and 4) here the people swear. Cf. Hillers, *Covenant*, p. 65. He writes concerning God's part in the oath, “Since he does not swear to anything, there will not in the future arise any lawsuits against God.”

82. Georg Beer and Kurt Galling, *Handbook zum Alten Testament: Exodus* (Tubingen, 1939), p. 127.

83. McCarthy, *Treaty and Covenant*, p. 163. Cf. also Rudolf Schmidt, *Das Bundesopfer in Israel* (Munich, 1964), p. 32.

84. McCarthy, “The Symbolism of Blood and Sacrifice,” *JBL*, LXXXVIII (June, 1969), p. 175.

85. See Rogers, *op. cit.*, pp. 247-48.

86. See A. M. Stibbs, *The Meaning of the Word ‘Blood’ in Scripture* (London, 1962), pp. 3-32; Leon Morris, *The Apostolic Preaching of the Cross* (Grand Rapids, 1956), pp. 108-22.

87. This is also a picture of Christ's death for us. We have broken God's Law and deserve to die, but Jesus Christ gave His life in death for us. He became our “covenant curse” (Gal. 3:13).

the fellowship enjoyed by the partners who had just been joined by the covenant.⁸⁸

With these things done the covenant between God and His people Israel was officially in force.

Witnesses. It is very obvious that the list of gods who are called on as witnesses in the ancient treaties is missing in God's covenant with Israel. The natural and logical explanation is that Yahweh is the *only* God.⁸⁹

Because Joshua set up a stone as witness of the covenant-renewal after Israel was in the land (Jos. 24:26-27), it has been suggested that the altars in Exodus could also be considered as the covenant witnesses.⁹⁰ Since, however, the pillars of Exodus 24:4 are not mentioned as being witnesses and would remain in the desert when Israel left, it is better to view the stones as merely symbols of the presence of the twelve tribes.⁹¹ Hillers suggests that the people themselves could be considered witnesses to the covenant.⁹² However, a more plausible view is that heaven and earth, as well as the mountains and rivers should be considered as witnesses to the covenant.⁹³ This is not only mentioned in Deuteronomy several times (Deut. 4:26; 30:19; 31:28; 32:1), but some feel "heaven and earth" in the prophets are called on as witnesses in God's lawsuit against Israel.⁹⁴ The chief witness is the "Book of the Covenant" itself as contained in the Ark of the Covenant or Ark of Testimony.⁹⁵ This is the reason the instructions for the construction of the Ark follow the making of the Covenant (Exodus 25). This is even stated explicitly in Deuteronomy 31:26. This witness was a constant reminder of the covenantal duties which God required of His people and the loyalty they were to show Him.⁹⁶

88. See McCarthy, *Treaty and Covenant*, p. 162. In writing about the covenant meal, he states that it is "a sign that the weaker is taken into the family of the stronger, a reassuring gesture on the part of the superior toward the inferior and not a pledge by the latter."

89. See Kline, *op. cit.*, p. 15; Kitchen, *op. cit.*, p. 97.

90. For example, *ibid.* Hillers, *Covenant*, p. 52; Johannes Pedersen, *Israel, Its Life and Culture* (London, 1959), I-II, 308; McCarthy, *Treaty and Covenant*, p. 162.

91. Beyerlin, *op. cit.*, p. 55.

92. Hillers, *Covenant*, p. 52.

93. Kline, *op. cit.*, p. 15.

94. See especially Huffmon, "The Covenant Lawsuit in the Prophets," JBL, LXXVIII (December, 1959), 288-93. See also ANET, p. 205. For a different view, see Georg Fohrer, *Das Buch Jesaja. Zürcher Bibelkommentare* (Zurich, 1966), I, 24-25. For a recent discussion of the matter, see North, "Angel-Prophet or Satan-Prophet," ZAW, LXXXII (1970), 47-49.

95. For the equation of 'edut (witnesses) with *berit* (Covenant), see Kitchen, *op. cit.*, p. 108; Albright, *From Stone Age to Christianity* (New York, 1957), pp. 16-17; Hillers, *Covenant*, pp. 160-61.

96. Cf. Kline, *op. cit.*, p. 21. "The purpose of Israel's copy of the covenant was that of a documentary witness (Deut. 31:26). It was a witness to and against Israel, reminding of obligations sworn to and rebuking for obligations sworn to and rebuking for obligations violated, declaring the hope of covenant beauty and pronouncing the doom of covenant curses."

Provision for deposit and public proclamation. The Tabernacle was not only the center of worship where God met His people, but it was also the place where the covenant was officially kept. In some cases extra-biblical treaties were placed, in duplicate, at the feet of the chief gods.⁹⁷ The stipulations of Israel's covenant were placed in the Ark which was in the holy of holies. All of this indicated that fellowship with God was on the basis of obedience to the covenant requirements.

Often it was required that the document be read aloud at regular intervals.⁹⁸ Without adopting all of the critical aspects of the much discussed "treaty renewal ceremony,"⁹⁹ Kline is probably right in viewing the book of Deuteronomy as a "covenant renewal document" for the second generation.¹⁰⁰ The actions of Joshua (Jos. 24) are also best explained as a covenant renewal ceremony now that Israel was in the land.¹⁰¹

Provision was made that the responsibilities of the covenant be passed on from generation to generation.

Blessings and Curses. Although there is not a formal list of blessings and curses in the book of Exodus itself, the punishments given for disobedience to the Law (e.g. Ex. 22:19; 11:15, 17; 35:2; 21:12-14; 11:15-16 etc.) as well as the sprinkled blood (Exodus 24:6-8), are in reality parts of the covenant curses.¹⁰² The more extensive list of blessings and curses is to be found in Leviticus 26 and Deuteronomy 28. Even though this is after the ratification it is still correct to view these lists as a part of the covenant. On the one hand the list functions in the same way as the blessings and curses of the treaties, that is, to encourage obedience.¹⁰³ On the other hand Kline emphasizes the point that the treaties were brought up to date from time to time and this is reflected in Deuteronomy.¹⁰⁴

In examining the blessings and curses of Leviticus 26 and Deuteronomy 28 it is quite obvious that they are closely associated with the land. God will grant prosperity in the land, if the people obey, but He will withhold fruitfulness and will eventually expell them from the land if they are disobedient.¹⁰⁵ However, He will eventually bring them back in the land where they will enjoy His blessings (Deut. 30:1-6).

97. Baltzer, *op. cit.*, p. 28. See also ANET, p. 205. Cf. McCarthy, *Treaty and Covenant*, p. 38 f. He questions if this can truly be called a formal part of the treaty. See further Kline, *op. cit.*, pp. 17-20.

98. ANET, p. 205. Baltzer, *op. cit.*, p. 28. See also Friedrick, "Der Vertrag Mursilis II mit Kupanta Kal von Mira and Kuwalya," *Hethitische Texte*, I, 150. The instructions are that the contract should be read aloud 3 or 4 times a year.

99. Cf. von Rad, *Theologie*, I, 206.

100. Kline, *op. cit.*, p. 20.

101. Baltzer, *op. cit.*, pp. 48-184. He traces the renewal acts through Israel's history, even through the early church fathers. Perhaps an interesting extension of such a study would be the relation of the Lord's Supper to the Covenant renewal.

102. See Hillers, *Covenant*, p. 53 f.

103. *Ibid.*, p. 54.

104. Kline, *op. cit.*, p. 20.

105. For more on blessing and curse, see Rogers, *op. cit.*, pp. 246-47.

CONCLUSION

It has been shown that the proper *Sitz im Leben* for Israel's law is the covenant or treaty and the various aspects of the law should be interpreted in this light. By examining the material as a unit, rather than following the critical dissecting of the text, the component parts of the ancient treaty making can be clearly seen.

Adopting the covenant as the setting of the Law leads to the conclusion that the Law was a document between Jehovah and His people Israel. This was to govern the life of the people while they were in the land given to them by God. Their obedience was a sign of their faith and trust (James 2) which resulted in prosperity in the land. Disobedience on the other hand meant a withdrawal of God's blessing and expulsion from the land.

This means the Law or Covenant stipulations were a reflection of God's will or the standard required by His holiness or perfection. Even though the standards were high and the penalty for disobedience severe, there was a joy and delight in the Law (e.g. Ps. 1) because it was God's revealed will. The proper understanding of the Law as covenant with its rich background forms a basis for a better understanding of the Old Testament prophets as well as the New Testament teaching about the Law.