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THE OLDEST DECALOGUE

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EVER since Wellhausen approved and appropriated Goethe's discovery that Ex. 34 contains a decalogue, Old Testament critics have assumed the validity of three assertions:

1. This decalogue is an integral part of the J document.
2. It is therefore older than the Covenant Code incorporated in the E document.
3. It is a product of the religion of Yahweh.

The purpose of this paper is to test the soundness of these assumptions.

I

The laws of Ex. 34 are now part of a J narrative relating the origin of "the Decalogue." A parallel story is told by E; in it also we find a body of laws (Ex. 25—31: P), clumsily interpolated within the older record. The redactor who combined these two stories (Rje), on the basis of the account of the breaking of the tables of the law (E), made two successive incidents of parallel accounts of one and the same event: Moses, having broken the tables of the law (E) was again summoned to the top of the mountain where Yahweh wrote again the Decalogue on two tables of stone (J). This JE story in its present combination was used by a Deuteronomistic author (Ds); his narrative (Deut. 9 9-10 11), placed into the mouth of Moses himself, permits us to reconstruct the J and E stories in their original form, before the addition of legal material.¹

¹ Even the latest studies of Ex. 34 are inadequate, for their authors fail to perceive the importance of the parallels in Deut. for the analysis of Ex. 24 and 34. See in particular: Eissfeldt, *Hexateuch-Synopse*, 1922;

The J and E stories of the giving of the tables of the law are here given in their original form with their parallels in Deut. Redactional material (Rje) of harmonistic nature is printed in *italics*; later additions are omitted. The E story of the breaking of the tables is irrelevant in this connection and only references to the text are given for it.

E

(Ex. 24 12) And Yahweh said unto Moses: "Come up to me on the mountain and remain there, that I may give thee the tables of stone which I have written."

(12) And Moses arose and went up to the sacred mountain.

(12) And Moses remained in the mountain forty days and forty nights. (31 12) And (Yahweh) gave unto Moses (the) two tables of stone written with the finger of God.

(Ex. 32 7-8, 15 a, 20)

J

(Ex. 34 1) And Yahweh said unto Moses: "*Hew thee two tables of stone like the former ones, and I will write upon these tables the words which stood on the former tables, which thou brakest*, (2) and be ready by to-morrow to come up to mount Sinai early in the morning; thou shalt present thyself to me there, on the top of the mountain."

Ds

(Deut. 9 9) When I had gone up to the mountain to receive the tables of stone,

I dwelt in the mountain forty days and forty nights.

(10) And Yahweh delivered unto me the two tables of stone written with the finger of God.

(Deut. 9 12, 15, 21)

Ds

(Deut. 10 1) At that time Yahweh said unto me: "*Hew thee two tables of stone like the former ones* and come up to me into the mountain, (2) *and I will write on the tables the words which stood on the former tables which thou brakest*."

Holzinger, in Kautzsch, *Die Heilige Schrift des A. T.* 4. Aufl. 1922; H. Schmidt, in the *Gunkel-Festschrift* (*Εὐχαριστία*), 1923, p. 100f.

(4) So (Moses) hewed two tables of stone *like the former ones* and arose early in the morning and went up to mount Sinai taking with him two tables of stone. (28) And he tarried there with Yahweh forty days and forty nights without eating food or drinking water; and he wrote the ten words upon the tables.

(8) And I hewed two tables of stone *like the former ones* and I went up to the mountain with the two tables. (4) And he wrote upon the tables *according to the first writing* the ten words. (10) And I stood in the mountain, *according to the former time*, forty days and forty nights.

Textual notes.

Ex. 24 12 *והתורה והמצוה* is a gloss (Holzinger, *Exodus*, p. 106, and others). *להורותם*, which cannot possibly be construed, is patently a marginal annotation.

Ex. 24 13 Joshua was not mentioned by E in this story; Procksch, *Elohimquelle*, p. 237, ascribes this mention to E². *משה* after *ויעל* is a scribal addition.

Ex. 31 18b followed originally 24 18b. The intervening section is a solid block of P. Before it was worked over by the redactor who inserted the P material, the verse must have read: *ויתן יהוה אל משה² את-לחת האבן כתבים באצבע אלהים*.

Ex. 34 1a, 4a *כראשנים* is redactional (Wellhausen, *Composition des Hexateuchs*, 1885, p. 85).

Ex. 34 1b breaks the connection between 1a and 2 and is lacking in Deut. 10 1. There is no reason to suppose that in the J narrative Moses knew *ab initio* the purpose of the two tables of stone (cf. Holzinger, *Exodus*, p. 115).

Ex. 34 3, which is lacking in Ds, does not belong here, but rather to the theophany of Ex. 19 (cf. 19 12).

Ex. 34 4: *משה* should be restored, with the Samaritan Pentateuch, after *ויסכל אתו*. *כאשר צוה יהוה אתו* is a Deuteronomistic formula; Ds did not read it here.

Ex. 34 27 is a gloss. Verses 27 and 28 are mutually exclusive. Neither J nor his readers would have been silly

² Or *את-שני*.

enough to suppose that Moses waited forty days and forty nights before carrying out the command of verse 27. This verse presupposes the interpolation of the legal material in ch. 34 ("These words"). It seems that in the opinion of J the giving of the Decalogue was not a formal covenant. In the oldest account (E), the Sinai-Horeb covenant is clearly distinguished from the giving of the Decalogue, for the words of the covenant are not written on tables of stone, but in a book (Ex. 24 7). The Decalogue was made the basis of the Horeb covenant for the first time in Deut. 4 13 (cf. 5 2 π); hence the postexilic expressions: "words of the covenant" (Ex. 34 28), "tables of the covenant" (Deut. 9 9, 11, 15), "ark of the covenant" (see Arnold, *Ephod and Ark*, chart).

Ex. 34 28. In spite of the arguments of Steuernagel (*Stud. u. Krit.* 1899, p. 331), Moore (*Enc. Bibl.* col. 1146), Meisner (*Dekalog*, p. 27), Eerdmans (*Exodus*, p. 87), and others, the words *לְבַרְיֵי הַבְּרִית* must be considered a harmonistic gloss based on verses 10 and 27 (see above on 34 27) (so Wellhausen, *Composition*, p. 331, note 1; Cornill, *Beiheft ZAW* 27, p. 11 and others).

Deut. 9 9. The words: "the tables of the covenant which the Lord made with you" seem to be a gloss. The expression "tables of the covenant" is found only in this chapter verses 9 11 15 (in v. 11 these words are interpolated, in v. 15 *לְבַרְיֵי הַבְּרִית* crept in from the margin; the original text probably read: *וְשְׁנֵי הַלֻּחֹת*).

Deut. 9 10 is a doublet of v. 11 and must be considered spurious (Bertholet, *Deuteronomium*, p. 31; Hempel, *Die Schichten des Deuteronomiums*, p. 114f.). The verse was added by a scribe who missed the details given in Ex. 31 18.

Deut. 10 1-5: the four mentions of the ark are interpolated (Arnold, *Ephod and Ark*, p. 5, note 1). According to Ds the tables were written by God (just as in the spurious material of Ex. 34, cf. 1b), whereas the grammatical subject of *וַיִּכְתֹּב* in Ex. 34 28 can only be Moses; the sudden and misleading change of subject postulated by those who would make Yahweh the subject, is found in

such scribal drivel as 34 5, but not in the transparent prose of J.

Deut. 10 10 originally followed v. 4: v. 5 is spurious (see above), vs. 6-7 are a misplaced fragment of an old itinerary, vs. 8-9 are a marginal annotation to v. 5.

So we see that Ds (Deut. 10 1ff) read the J narrative of Ex. 34 as edited by Rje, but before a later redactor (Rp?) inserted the legal material (34 6-20); thus the P legislation of Ex. 25 1-31 17 had not been inserted in the E narrative when Ds wrote Deut. 9 9-21. The date of this Ds material is doubtful (somewhere between Rje and Rp) but irrelevant in this connection; what concerns us here is simply the external evidence furnished by Ds as to the secondary character of the legal material of Ex. 34;³ the internal evidence, as I will now endeavor to show, confirms this result.

II

When the J document was written, the contents of "the Decalogue" was so familiar to its readers that no ambiguity attached to a passing reference to "the ten words" (Ex. 34 28). There was at that time a decalogue *par excellence* well known to all Israel. In the opinion of the redactor who inserted the "J Decalogue" in the J narrative, the matter was perfectly clear, although before his day another decalogue (Ex. 20; Deut. 5) had been attributed to Moses. If the Ten Commandments go back to Moses, at least in a shortened form, as many critics maintain,⁴ then the redactor of Ex. 34 was mistaken. But if, as I believe (following Wellhausen and others), the classic decalogue is a compendium of prophetic teaching, then it was composed long after J and need not detain us here. We must therefore investigate the assumption of the redactor who inserted a decalogue in Ex. 34 and

³ So far as we know, J and E contained originally no legislation whatsoever (for J cf. Smend, *Erzählung des Hexateuchs*, p. 177f.).

⁴ Cf. Nowack, *Beiheft ZA W 33*, p. 381ff. Schmidt (*Gunkel-Festschrift*, p. 78ff.) is the author of the latest monograph in which the Mosaic origin of the classic decalogue (in a briefer redaction) is maintained.

determine the date of these laws by comparing them with the parallel sections of the Book of the Covenant (Ex. 23).

"J DECALOGUE"

(Ex. 34 10-17)

(Ex. 34 18) The feast of the unleavened bread shalt thou keep. Seven days shalt thou eat unleavened bread, as I commanded thee, at the appointed time in the month of Abib; for in the month of Abib thou camest out from Egypt.

(19) All that openeth the womb is mine, and thy cattle "that is male," that which first openeth (the womb) of ox and sheep.

(20) And that which first openeth (the womb) of an ass thou shalt redeem with a lamb; and if thou doest not redeem it thou shalt break its neck: all the first-born of thy sons shalt thou redeem. And none shall appear before me empty.

(21) Six days shalt thou labor, but on the seventh day thou shalt desist: in the ploughing time and in harvest thou shalt desist.

(No parallels)

COVENANT CODE

(No parallels)

(Ex. 23 15a) The feast of the unleavened bread shalt thou keep. Seven days shalt thou eat unleavened bread, according as I commanded thee, at the appointed time in the month of Abib; for in it thou camest out from Egypt.

(22 28b-29) The first-born of thy sons shalt thou give unto me. Likewise shalt thou do with thy ox and thy sheep: seven days shall it be with its dam and on the eighth thou shalt give it to me.

(23 15b) And none shall appear before me empty.

(23 12) Six days shalt thou do thy work, but on the seventh day thou shalt desist; that thine ox and thine ass may rest, and the son of thy bondmaid and the sojourner may be refreshed.

(23 13-14)

(22) And the feast of weeks thou shalt hold thee, the firstfruits of the wheat harvest; and the feast of ingathering at the revolution of the year.

(23) Three times in the year shall all thy males appear before (*eth-pnē*) the Lord Yahweh, the God of Israel.

(24)

(25) Thou shalt not slaughter with leavened bread the blood of my sacrifice, neither shall there remain all night unto the morning the sacrifice of the feast of the Passover.

(26) The first of the firstfruits of thy ground thou shalt bring unto the house of Yahweh thy god. Thou shalt not boil a kid in its mother's milk.

(16) And the feast of harvest, the firstfruits of thy labors which thou sowest in the field; and the feast of ingathering at the exit of the year, when thou gatherest in thy labors out of the field.

(17) Three times in the year shall all thy males appear before (*el-pnē*) the Lord Yahweh.

(No parallels)

(18) Thou shalt not sacrifice with leavened bread the blood of my sacrifice, neither shall there remain all night the fat of my feast until morning.

(19) The first of the firstfruits of thy ground thou shalt bring unto the house of Yahweh thy god. Thou shalt not boil a kid in its mother's milk.

The differences between these closely related texts can be tabulated as follows:

a) Material peculiar to Ex. 23: vs. 12b-14.

b) Material peculiar to Ex. 34: vs. 10-17, 20abα, 21b, 24; single words in vs. 22, 23.

c) Differences of terminology (34 19 and 22 28b-29 are entirely different):

Ex. 34
 (18) אִשֶּׁר
 „ בַּחֹדֶשׁ הָאֲבִיב
 (21) תַּעֲבֹד

Ex. 23
 (15) כֹּאֲשֶׁר
 „ בּו
 (12) תַּעֲשֶׂה מַעֲשֵׂיךָ

(22) שבעת	(16) הקציר
„ קציר חטים	„ מעשך [אשר תורע
	[בשדה]
„ תקומת השנה	„ בצאת השנה
(23) אל	(17) את
(25) תשחת	(18) תזבח
„ לבקר זבח חג הפסח	„ הלב תני עד בקר

d) Differences in the order of the laws:

1. The law of the first born: Ex. 34 19-20; 22 29b-30, 23 15b.
2. The Sabbath law: Ex. 34 21; 23 12.

In spite of these discrepancies, the agreement between the laws of Ex. 34 and those of Ex. 23 is so close that one text must be a revised copy of the other, unless, as Paton suggested (*JBL* 12, 87), they both be derived from a common source. This last hypothesis is quite unnecessary if I succeed in showing that the differences between the two codes furnish sufficient evidence to prove not only that Ex. 34 is the later redaction, but also that it can be fully accounted for as a revision of Ex. 22-23.

a) Material peculiar to Ex. 23.

Ex. 23 13 is clearly post-deuteronomic, or rather post-exilic. The objection to the very mention of the names of foreign gods is inconceivable before 621 B. C. As a matter of fact we find it only in such late texts as Josh. 23 7, Zech. 13 2, Ps. 16 4. It is only in the Greek Period that *bošeth* and *šiqquš* were read in the Synagogues as surrogates for Baal and other heathen gods.

The humanitarian purpose of the Sabbath (23 12b) is characteristic of the thought of Deuteronomy (5 14-15a contrasted with Ex. 20 9-11).

Ex. 23 14 and 17 are mutually exclusive: v. 17 is old, for we find it also in Ex. 34 23 and Deut. 16 16; v. 14 is an editorial transition to the laws on the festivals; תנלים in the sense of "times" is found only in the Balaam episode (Num. 22 28, 32, 33: always *three* times!).

In Ex. 23 16 the words: "which thou sowest" (Klostermann, *Pentateuch*, ii, p. 524 note 3; cf. p. 529) or more probably "which thou sowest in the field" are editorial expansion.

b) Material peculiar to Ex. 34.

Critics agree that the bulk of Ex. 34 10-17 is redactional, but they save for the "J Decalogue" two brief laws: "Thou shalt worship no other god" (14); "Thou shalt make thee no molten gods" (17). Can these laws be as old as J?

The prohibition of the worship of other gods is unknown before 621 B. C.; the very expression "other god" is typically Deuteronomistic. Although it occurs only here in the singular, the plural "other gods" occurs 19 times in the Pentateuch: only in Deut., with the exception of two late texts in Ex. (20 3, 23 13). It never appears in the older literature (in Hos. 3 1 it is questionable), but it is current in Jeremiah and in the redactional sections of the historical books. Under these circumstances, only the strongest possible evidence could assign this law to the period prior to 621 B. C. But the only argument advanced for an early date is its position within the J Decalogue; its immediate Deuteronomistic context is of course overlooked (note the י in 34 14).

The situation is even clearer when we come to the prohibition of images in 34 17. As I have elsewhere attempted to show,⁵ the real polemic against idolatry began in 621 B. C.; in no case can it be shown to be earlier than Hosea.⁶ To say that the prohibition of *molten gods* tacitly sanctioned the more primitive *graven images*,⁷ is an argument *e silentio* of questionable force. On the other hand the expression אֱלֹהֵי מַסַּכָּה is found *only* here and in Lev. 19 4 b where the

⁵ The Polemic against Idolatry in the O. T. (*JBL* 43, pp. 229 ff.)

⁶ See, e. g., Nowack, *Beiheft ZAW* 33, 389f.; J. M. P. Smith, *AJSL* 32, 95; Baudissin, *Einleitung in die Bücher des A. T.*, p. 65; Paterson, *HDB* ii, 447.

⁷ Smend, *A. T. Theologie*, p. 195; Kautzsch, *Biblische Theologie des A. T.* p. 95.

same law is repeated verbatim, with the verb in the plural. The word *הַבָּרָזִים* (if it be redactional in Ex. 32) is never used before Deuteronomy and "is applied particularly to the little golden bulls . . . which were worshipped in the Northern Kingdom . . . and to the similar image which Aaron made at Horeb."⁸ Aaron's mythical calf does not concern us here: the words "*molten gods*" in Ex. 34 are either an allusion to Jeroboam's bulls⁹ or mean "idols of some sort."¹⁰ In the first case our verse would be later than Hosea; in the other case post-exilic.

It is no accident that these two laws at the beginning of the "J Decalogue" are the exact counterpart of the first two commandments. Monolatry and imageless worship were the two cornerstones of incipient Judaism. The redactor who concocted the "J Decalogue" on the basis of Ex. 23, regarded the absence of these fundamental precepts as a distressing and culpable omission. Of course, by their addition he had twelve laws instead of ten;¹¹ but this worried him less than it has modern Biblical critics.¹²

The law of the first-born is found in its oldest form in Ex. 22 28b-29; the redemption of the first-born of donkeys

⁸ Moore, *Judges*, (ICC), p. 375.

⁹ Kautzsch, *Bibl. Theol. A. T.* p. 95. Cf. 2 Ki. 17 1a.

¹⁰ When not applied to the images of Jeroboam or Aaron, "molten image" is used in the loose sense of "idol in general" and is not distinguished from "graven image" (cf. Wellhausen, *Isr. u. Jud. Geschichte*, 7^e Aufl., p. 98, note 2). In this hazy sense the word is a favorite of post-exilic glossators and redactors. The polemic against Jeroboam's bulls is probably due to anti-Samaritan animus: the D Code condemns all possible images *except the graven images*, for after 722 they were no longer an issue.

¹¹ As was noticed long ago: Holmes and Parsons, *codex 59* reads "333333" in Ex. 34 22.

¹² Knudson (*JBL* 28, 87) has tabulated in convenient form the various attempts to extract a decalogue from the *twelve* laws of Ex. 34 (*not thirteen!* as sometimes claimed, cf. Bertholet, *Deuteronomium*, p. xiv). Only Waterman (*AJSL* 38, 38 f.), so far as I know, regards the first two laws as spurious; Procksch (*Elohimquelle*, p. 87, cf. 226) sees in them a fragment of a J parallel to the ten commandments.

and men (Ex. 34 20; cf. 13 12f. which is certainly not J!) is one of the *Novellae* of a later, less barbarous, age.¹³

Ex. 34 24, which has no parallel in the Covenant Code, is an unmistakable redactional expansion; it clearly presupposes the centralization of worship at Jerusalem first advocated by D (cf. Baentsch, *Exodus*, p. 284).

The specification that the Sabbath shall be observed in the periods when agricultural activity is at its climax (Ex. 34 21b) looks like a subsequent enactment.

Minor additions to Ex. 23 in Ex. 34 are תעשה לך (22, cf. Deut. 16 23) and אלהי ישראל (23).¹⁴

c) Verbal differences.

The changes of terminology introduced by the redactor who used Ex. 23 in concocting the "J Decalogue" are significant. Archaisms are brought up to date: the "feast of harvest" (22 16) becomes, according to the name current in later times, the "feast of weeks" (34 22).¹⁵

The feast of ingathering came in the fall, "at the exit of the year" (22 16) according to the old Canaanite calendar. During the Exile the Babylonian calendar became current and, since the year began in the spring, according to the new reckoning, the fall equinox, which was the date of this feast, could no longer be called the end of the year; it is called in 34 22 "revolution of the year" (תקופת השנה), a term that was applied to the two solstices and the two equinoxes. There could be no clearer evidence of the post-exilic date of the "J Decalogue."

¹³ Wellhausen, *Geschichte* p. 86: Ex. 34 20 corrects 23 28.

¹⁴ Steuernagel (*Beiheft ZAW* 27, 340) affirms that these words are an addition to the text of Ex. 34 after it had been copied in Ex. 23. Such a complicated process is often postulated by those who find the prototype in Ex. 34, for most of the additions are not in Ex. 23 (as we would expect if it were the later text) but in Ex. 34.

¹⁵ The name is based on the date of this festival as first fixed in Deut. 16 9.

The verb קָטַף (23 18) is changed to קָטַף (34 25), the *terminus technicus* for *sacrifice* in the Levitical legislation.¹⁶

The mention of the Passover in Ex. 34 25b (contrast 23 18) is an evidence of late composition.¹⁷

The date of the second feast is fixed more exactly in 34 22 than in 23 18: this love of precision is typical of post-exilic Judaism.

In view of these facts, it is not surprising to note that when Ex. 34 and 23 disagree, the later codes are in harmony with Ex. 34.¹⁸

d) The order of the laws.

The section Ex. 34 19-21 is certainly displaced and breaks the connection between the feast of unleavened bread (18) and the feast of weeks (22). Now if we restore the sabbath law (21)¹⁹ at the head of the decalogue (before v. 18), according to the order of Ex. 23, we see that the law of the first-born (34 19-20aba) has been thrust in between 23 15a and 15b. If we remove this section in Ex. 34 and restore the Sabbath law at the beginning we have exactly the same order in the two codes.

The law of the first born is displaced in both chapters. The Covenant Code has it in 22 28b-29 + 23 15b;²⁰ the "J Decalogue" after the feast of unleavened bread. The redactor of Ex. 34, who had before him Ex. 23 15 in its present anomalous form, correctly recognized that the words "and

¹⁶ קָטַף is found 84 times in the P laws of Ex. and Lev., but never in Deut. and only 3 times in H (rarely in JE); קָטַף is used only once by P (Lev. 9 s) but it is current in the older literature (J, E, 1 Ki. 3, Hos. etc.), in Deut. (12 times), and in H (7 times).

¹⁷ See Arnold, *JBL* 31, 9.

¹⁸ Compare 34 19-20 with 13 12-13; 34 21 with 20 s; Deut. 5 13 (קָטַף); 34 22 (קָטַף) with Deut. 16 10, 15; 34 25 (Passover) with Deut. 16 1 ff. Ex. 19 11 ff.; Lev. 23 s. The "seven days" of 22 23 are lacking in 34 19 (cf. Deut. 15 10).

¹⁹ Baentsch, *Exodus*, p. 284, regards it as out of place.

²⁰ 22 28b-29 Bacon, *JBL* 12, 32, recognizes to be out of place.

none shall appear before me empty" (23 15b) belong not to the feast of the unleavened bread, but to the law of the first-born (from which it had been severed accidentally) and therefore attached these words to that law, inserting mechanically the law of the first born between two annual feasts that belonged together, taking his clue from the present position of 23 15b. The confusion in Ex. 34 can only be explained from Ex. 23 *in its present form*. But how did it happen that in the Covenant Code the law of the first-born was severed in two parts separated by fifteen verses? If I may venture a conjecture, it is not impossible that this law should have been written on the margin between two columns of a papyrus scroll: an amanuensis copying from this manuscript, not knowing exactly where this material belonged and not recognizing it as a unit, inserted the first part in the page at its right (22 28b-29) and the second on the page at its left (23 15b), thus separating them by the space of about a column.

However the case may be, it is clear that there can be some doubt as to the original place of the law of the first-born: the order of the other laws is unmistakable. It seems certain however that it belonged to the second table and was probably the first one on it, or the sixth from the beginning.

In conclusion, we see that Ex. 34 cannot be dated early by removing the Deuteronomistic material.²¹ The first two laws of Ex. 34, monolatry and the imageless worship, would never have been omitted from Ex. 23 if the latter had been a copy of the former (Ex. 23 13 is a late colorless substitute for them). Add to this that 34 14 cannot be severed from its Deuteronomistic context (12-16): note the "J" at the beginning of vs. 13, 14. The differences between the two codes show conclusively that Ex. 34 is but a post-exilic copy of Ex. 23.²²

The text of Ex. 23 used by the redactor who concocted the "J Decalogue" must have read as follows:

²¹ Karge, *Bundesvorstellung*, p. 889.

²² Cf. Erdmans, *Exodus*, p. 85 ff.

Six days thou shalt do thy work, but on the seventh thou shalt desist.

The feast of the unleavened bread shalt thou keep, according as I commanded thee, at the appointed time in the month Abib; for in it thou camest out of Egypt.

And none shall appear before me empty.

And the feast of harvest, the firstfruits of thy labors.

And the feast of ingathering at the exit of the year.

Three times in the year shall all thy males appear before the Lord Yahweh.

Thou shalt not sacrifice with leaven the blood of my sacrifice.

Neither shall there remain all night the fat of my feast until morning.

The first of the firstfruits of thy ground thou shalt bring unto the house of Yahweh thy god.

Thou shalt not boil a kid in its mother's milk.

In this text the law of the first born was severed in two parts and displaced (22 28b-29, 23 15a). Ex. 34 combined the two parts retaining the accidental position of the second half; Deut. instead left the law in the position occupied by the first half (Deut. 15 19-23 precedes the three annual festivals, 16 1ff.). We may affirm that in the form given above this decalogue is earlier than 621 B. C.

III

In their primitive form these laws are certainly earlier than the monarchy and, although the Exodus and Yahweh are mentioned in this redaction, they contain nothing else that is specifically Israelitish.

It is possible, in spite of the meagerness of the sources at our command, to affirm that every one of these laws represents ancient Canaanitish custom, ritual, and lore. The three annual feasts, purely agricultural in character, are unmistakably Canaanitish;²³ we have excellent documentary proof for the

²³ Cf. Wood, *JBL* 35, 229.

third festival in Jud. 9:27. The only specifically Israelitish festival, the Passover, is not even mentioned. All the evidence confirms Wellhausen's statement (*Isr. Jud. Geschichte*, 7^e Aufl., p. 47) that the Israelites adopted the ritual as well as the agricultural legislation of Canaan. The Covenant Code was taken over bodily, with scarcely a change, from the Canaanites: Israel had no written laws when it crossed the Jordan. Ex. 23 contains a Canaanitish decalogue which, when liberated from slight additions due to its adoption by the Israelites, must have read:

ששת ימים תעשה מעשך וביום השביעי תשבת
 אתהג הפצות תשמר למועד חדש האביב
 חג הקציר בפורי מעשך
 חג האסף בצאת השנה
 שלש פעמים יראה כלזכורך אתפני הארון
 בכור בניך תתן לי כן תעשה לשרך לצאנך (ולחמך, LXX)
 לא תזבח עלחמך דמכותי
 ולא ילין חלב חגי ערבקר
 ראשית בפורי אדמתך תביא בית אלהך
 לא תבשל גדי בחלב אמו

1. Six days thou shalt do thy work, but on the seventh day thou shalt desist.
2. The feast of the unleavened bread shalt thou keep at the appointed time in the month of Abib.
3. And the feast of harvest, the firstfruits of thy labors.
4. And the feast of ingathering at the exit of the year.
5. Three times in the year shall all thy males see the face of the Lord.
6. The first-born of thy sons shalt thou give unto me; thus shalt thou do to thy ox, thy sheep and thy ass.
7. Thou shalt not sacrifice with leavened bread the blood of my sacrifice.
8. Neither shall there remain all night the fat of my feast until morning.

9. The first of the firstfruits of thy ground shalt thou bring into the house of thy god.

10. Thou shalt not boil a kid in its mother's milk.

The name of Yahweh was interpolated into the 5th and 9th law. We read in the 5th (23 17): "יהוה יהוה," a combination found only in 5 passages of Isaiah (with *יהוה צבאות*), where "יהוה" is merely a surrogate for "*יהוה צבאות*."²⁴ In Ex. 23 17, on the contrary, Yahweh was added when the Israelites appropriated this decalogue or was substituted for the name of the local god, possibly Baal Berith. Yahweh is also interpolated in 23 19 (just as in Deut. 16 16b: cf. Ex. 23 15b, 34 20b).

Where did this decalogue originate? Our sources, by attributing it to Moses, endeavor to obliterate its real origin. We can only conjecture. These laws, according to the old tradition preserved by J, were written on two tables of stone [one with the laws on the festivals (1—5), the other with the prescriptions for sacrifice (6—10)]. These stones probably stood at the entrance of a shrine of Canaan, like the tariffs of Carthage and Marseille. Possibly it was the sanctuary of Baal Berith at Shechem, for some old traditions place in that city the origin of Israel's written legislation.²⁵ The laws that Joshua is said to have written down at Shechem (Josh. 24 25 ff. cf. 8 32) can only be the Covenant Code.²⁶ Israel had no written laws until it came to Shechem. There Joshua codified the law; there a solemn covenant was made. Later this was transferred back to Sinai. The connection of the Decalogue with the covenant would be clear if these laws were placed in front of the shrine of Baal Berith. Just as the Israelites adopted the ancient Shechemite ritual of the ten curses (Deut. 27 16—25: verses 15 and 26 are spurious) so the ten laws on the two tables were claimed by Israel as its own. But for a time this code enjoyed only a local jurisdiction: at Shiloh the Israelites made the

²⁴ Arnold, *Ephod and Ark*, p. 146, note 1.

²⁵ Cf. Meyer, *Israeliten*, p. 547 ff.; Luckenbill, *AJTA* 22, 41 f.

²⁶ Holzinger, *Hexateuch*, p. 179; Procksch, *Elohimquelle*, p. 229; cf. Karge, *Bundesvorstellung*, p. 278.

pilgrimage not three times but only once a year (I Sam. 1 37). Still these laws were famous. If the tables were destroyed when Abimelech razed Shechem (Jud. 9 45), it would be easy in later generations to attribute the decalogue to Moses himself and to relate that he broke the sacred tablets in a moment of holy rage. But though the stones had vanished, the memory of their contents was cherished in the minds of the Israelites, until these ten words were transcribed at the end of the Covenant Code and thus preserved for all future generations.