

CHAPTER FIVE

THE OLD TESTAMENT AS LAW

We remarked in considering the problems of method associated with the writing of an Old Testament theology that it is of great importance to the subject that it should take fully into account the nature of the Old Testament as literature. This must necessarily include some attention to the literary form and structure of its constituent books, but also it should look at those broad categories by which the Old Testament as a whole has been understood. The importance of doing this is all the greater on account of the far-reaching consequences that develop from the way in which the unity of the canon is understood.

Two factors can assist us in finding this basis of unity. One is the structure of the canon itself with its division into three literary collections of Law, Prophets, and Writings, in a three-tier level of authority. The second factor is provided by the way in which the early Jewish and Christian interpreters of the Old Testament have set about their task, with the indications which they give of the particular assumptions and presuppositions which they bring to the literature. Here immediately we encounter the most widespread and basic category which has been employed to describe the nature of the material which the Old Testament contains. This is that of 'law', or more precisely *tôrâh* since the question of how far 'law' is a very satisfactory translation of the Hebrew *tôrâh* remains to be considered. Certainly it raises the question of what kind of law, and what legal authority and sanctions it may be thought to possess.¹

In the New Testament a quotation from Psalm 82.6 is said to be written 'in your law' (John 10.34). Thus even the third part of the Old Testament canon, the Writings, could, by a kind of extension, be regarded as falling within 'the Law'. Evidently the priority and importance of the first part of the canon was felt to be such that it carried over to affect other parts also.

Certainly we readily discover other indications that this was so for the Prophets. In Mark 2.25-6 we find the citation of an incident regarding David and the eating of the Bread of the Presence which is recorded in 1 Samuel 21.1-6. This incident from the Former Prophets is interpreted as an example of the fundamental principle, applied to Old Testament laws and regulations, that the humanitarian demand for preserving life is of greater importance than the more specifically cultic demand of respect for holiness. The background and assumptions of this interpretation need not detain us. It is simply a clear illustration of the way in which the record of narrative incidents, which were originally preserved for specific purposes of quite another kind, could later be interpreted out of the basic pre-supposition that they are *tôrâh* - law. Nor is this approach a uniquely Christian one, for we find very strikingly that it pervades almost completely the mainstream of Jewish interpretation of the Old Testament. The Mishnah, and later the Talmud, are full of citation and interpretative comment upon the Old Testament which regard it as *tôrâh*.

Certainly we cannot put aside this fundamental category by which post-Old Testament Jewish and Christian interpreters of this literature have set about understanding it as though it were imposed upon it entirely from outside. We have already noted that the literary structure of the Old Testament supports such a pattern of interpretation by its three-tier ordering of the canon. From a literary point of view the Old Testament is *tôrâh*, and the fact that it contains a great deal else in addition to this, has to be understood in some kind of relationship to this *tôrâh* structure.² What has evidently happened is that the concept of a *tôrâh* literature has been used to provide some element of co-ordination and unity to a very varied collection of writings. It offers a unifying guideline, or motif, which has served to impose some degree of order upon what would otherwise be a rather strange miscellany of writings.

As we move further away in time from the editorial and redactional activity which has shaped the Old Testament into its present form, so we tend to find that the assumption that it is all *tôrâh* has tended to become more and more dominating in its effect upon the way in which the material is understood.

More diverse elements tend to become submerged under the weight of conviction that all the literature is *tôrâh*. At least this is so in respect of Jewish interpretation, since we find that in the mainstream of Christian exegesis a rather different category came to predominate. This is that of 'promise', which we must discuss later. In considering the structure of the Old Testament, therefore, we find ourselves facing a number of questions about its role as *tôrâh*. How far is this category endemic to the literature itself, and how far is it simply a structural framework, lightly built around writings of a more diverse character? Secondly, if we find that the category of *tôrâh* does have a real and fundamental place in the formation of the Old Testament, what exactly is this *tôrâh*? What kind of 'law', or 'instruction' is it?

I. THE MEANING OF TÔRÂH

The word *tôrâh* occurs very frequently in the Old Testament to denote 'instruction' of various kinds. Its etymology is contested, and two possibilities present themselves. Either it has been formed from the verb *hôrâh* ($\sqrt{yārâh}$) with the meaning 'to direct, aim, point out', or it is a Hebrew counterpart of the Babylonian word *tertu*, 'oracular decision, divine instruction'. Most probably the former is correct, in which case the word means 'guidance, instruction'.³ As such it could be the kind of instruction which any person might give in a whole variety of situations. However, we find that the word is predominantly used for religious instruction, and especially for the kind of instruction which could be given by a priest. The clearest confirmation of this is to be found in Jeremiah 18.18:

Then they said, 'Come let us make plots against Jeremiah, for *tôrâh* shall not perish from the priest, nor counsel from the wise, nor the word from the prophet. Come, let us smite him with the tongue, and let us not heed any of his words.'

The assumption here is evidently that *tôrâh* would especially be given by a priest. Yet we find in the Old Testament that others besides priests give *tôrâh*. Hence the prophet does so (cf. Isa. 8.16); so also does the wise man (cf. Prov. 3.1; 4.2), and also apparently the king (cf. Isa. 2.3). To what extent any clear

development or extension of meaning can be traced over a period is hard to determine with confidence. Evidently a word of *tôrâh* was particularly the kind of instruction that the ancient Israelite expected to learn from a priest, so that it was a religious direction, the ultimate source of which was to be found with God.

What kinds of rulings might be the subject of such priestly *tôrôth* can only be inferred from the particular duties and concerns which fell to the priest to take care of in ancient Israel. Obviously matters concerning the protection of the holiness of a sanctuary, the obligations of worshippers at the major festivals, and what perquisites belonged to the priests and their families would form a part of this. The fact, however, that a much wider range of concerns dealing with the health of the community, the avoidance of unclean foods, and even sexual and social manners, counsels us against drawing any very narrow conclusions about the nature and scope of *tôrâh*. Cultic, ethical and hygienic interests could all be made the subject of priestly *tôrôth*. That the word could readily be extended to cover matters where the traditions of the past, most naturally thought to be in the custody of the priest as the guardian of the community's lore, could all be included is not difficult to see. What is noticeable is that it does not specifically apply to juridical traditions in the narrower sense of 'law', nor is it a broad word for general ethical admonition, although it could include this.

So far as the formation of the Old Testament is concerned a quite fundamental development is to be found in the book of Deuteronomy, where *tôrâh* becomes applied to the law-book itself:

This is the *tôrâh* which Moses set before the children of Israel; these are the testimonies, statutes, and the ordinances, which Moses spoke to the Israelites when they came out of Egypt . . . (Deut. 4.44-5).

This summarising introduction to the central part of the book of Deuteronomy is particularly helpful to us in showing the way in which the idea of *tôrâh* was developed and extended. It must once have formed an opening introduction to an edition

of the book, and so clearly was intended to apply to a written text. Hence it has carried over the idea of an orally given *tôrâh*, delivered as occasion demanded, to a more permanently recorded account of what constituted the *tôrâh* of Israel.

There is clearly also a very marked effort present to achieve comprehensiveness, as is shown by the definition which follows and the wide range of rulings and injunctions which the book contains. The definition in terms of testimonies (Hebrew *‘edôt*), statutes (*mišpātîm*) and ordinances (*huqqîm*) is interesting for the way in which it brings together words denoting laws, decrees, and admonitions under one all-embracing category. From this time onwards *tôrâh* came to signify the most comprehensive type of instruction in which legal, cultic, and more loosely social obligations were brought together. To obey *tôrâh* was to satisfy the demands of religious, social and family life in the broadest possible compass. Even quite directly political obligations would appear to be included.

The definition that is given in Deuteronomy 4.44 f., therefore, provides a valuable summarising note about the kind of duties that are brought under the heading of *tôrâh* in the book of Deuteronomy. When we look at the contents of this book this anticipation is fully borne out. Very decidedly the book is addressed to each and every Israelite, who bears the responsibility for bringing its contents to the attention of his children (cf. Deut. 6.7; 11.19), and of reflecting upon them carefully himself (cf. Deut. 11.18). No exceptions are envisaged or allowed for. Included in the book are rulings of a markedly legal character concerning the processes of law and the way in which serious crimes are to be dealt with (cf. Deut. 19.14-21). Murder, theft, adultery, and the problems arising therefrom about the trial and punishment of offenders, are all included. But so also are matters of an exclusively religious kind such as the observance of cultic festivals (Deut. 16.1-17), which even incorporates notes on how the festivals are to be interpreted. Perhaps more surprising in a document of this kind, which is concerned to spell out precisely the nature of the individual's responsibilities and obligations, is that moral attitudes are commanded, particularly those of love and respect (cf. Deut. 15.7-11). Even more prominently is this carried over into the

religious realm, so that it becomes a prime duty to love God, and to feel and express gratitude to him (cf. Deut. 6.5; 9.4-5). Beyond these broad ethical admonitions, we find that a wide area of life comes under the heading of *tôrâh*. Obligations for military service, the care of buildings, the conservation of the environment and the protection of slaves are all included (cf. Deut. 20.1-20; 21.10-17; 22.6-7; 23.12-14).

So far as the threat of punishment for disobedience to particular *tôrâth* is concerned, two points call for comment. The first is that the entire machinery of the state, with all its sanctions, is involved in dealing with all offences against the injunctions laid down. Hence religious offences, especially apostasy, are to be dealt with by the most severe sanctions (Deut. 13.5, 8-11). In some cases, as for instance in that of failing to show a right attitude, it would clearly have been impossible to adjudicate the fault. Yet this highlights the second feature concerning punishment, which is that, over and above the particular punishments and sanctions that society could impose, there stood a larger sanction. This is that Israel would have shown itself to be disobedient to the covenant with Yahweh, and would forfeit all its privileged status as his chosen people. We have already considered this earlier in relation to the Deuteronomic teaching concerning Israel and the covenant.

This brings us to note the wider theological context in which the book of Deuteronomy places the notion of *tôrâh*. This is not treated simply as 'good advice', which might, through social pressure and the good sense of the hearers, be accepted by men of good intention everywhere. It is directed specifically to Israel and is the *tôrâh* of the covenant by which Israel's relationship to God is governed. It is as a consequence of belonging to the elect people of Yahweh that the Israelite finds himself committed in advance to obedience to *tôrâh*. Hence he found that it was imperative for him to know *tôrâh*, to understand it correctly, and to be reminded of it regularly, if he were to remain as a member of his people. Furthermore, it was upon the sincerity and willingness of each individual Israelite that the well-being of the whole nation was made to depend.

When we come to ask the question 'What is *tôrâh*?', therefore, the clearest and fullest answer that we have is that which is

provided by the book of Deuteronomy. *Tôrâh* is the comprehensive list of instructions and stipulations by which Israel's covenant with God is controlled. What we have now to do is to enquire further how far this understanding of *tôrâh* has affected the Old Testament as a whole.

2. THE PENTATEUCH AS TÔRÂH

In the book of Deuteronomy the structure of the work, and its role as *tôrâh*, is reasonably clear. This is much less so in the case of the Pentateuch as a whole, however, on account of the wide range of source material that has been incorporated into it, and the less unified structure that has ensued as a result. On two points scholarship has become confidently clear in regard to the Pentateuch. The first is that the origins of the Old Testament as canon are to be traced back to the book of Deuteronomy and to the particular authority that was accorded to it in the great reform of king Josiah (2 Kgs. 22-3). The second is that the Pentateuch was the first major section of the present Old Testament to be accorded canonical status in anything like its present form, and that its consequent pre-eminence is a continuing reflection of this.

The process of forming the Old Testament as canon, therefore, can be traced through three major stages. Its beginning is to be seen in the book of Deuteronomy, or at least that part of it which acquired special significance on account of its role in Josiah's reform. The second is that this canonical work grew until it took on the proportions of our present Pentateuch; and the third stage is that in which two further collections had been added to this, the Prophets and the Writings, until our present Old Testament had been formed. The seed-bed of the belief that the Old Testament as a whole can be called *tôrâh* is then certainly to be found in the way in which the *tôrâh* of Deuteronomy has cast its influence upon the whole literary collection.⁴ The concept of a canon and the concept of a written *tôrâh* go hand in hand and become part of one and the same development. There is every reason therefore why we should see the concept of *tôrâh* as exercising a profound unifying influence upon the formation of the Old Testament.

That the Old Testament concept of a canon begins with the role of the Deuteronomic law-book in Josiah's reform stands out in a number of ways.⁵ To say that the book was officially 'canonised' at that time would be to anticipate too many later developments, but one major step was taken. The book that moulded the reform was regarded above all other contemporary agencies of divine revelation and media of religious authority. In the written *tôrâh* of its covenant with Yahweh Israel possessed a vehicle of revelation and divine truth which exceeded that which could be given by prophet, priest or king. This in itself marks a great shift in the understanding of *tôrâh*, for this now became relatively fixed, and could be appealed to in matters of doubt and conflict involving other religious officers or institutions. The old *tôrâh* had been delivered orally, and could be adapted to take account of particular circumstances and changing needs. The new *tôrâh* was written and required to be interpreted and applied, but could not itself be changed (cf. Deut. 31.24-9). No more profound change than this had taken place in Israel's religion, for it marks the first and most momentous step in the development of a religion centred on a book. Eventually the scribe, rather than the priest, was to be the deciding arbiter of disputes and uncertainties concerning man's duty to God.

This awareness of a canonical authority is fully borne out when we look at the content of Deuteronomy, for we find here that the king is very pointedly made subject to the demands of obedience to the written *tôrâh* (Deut. 17.18-20). He is no longer the supreme law-giver of Israel, but is himself a man subject to the *tôrâh* of God. Yet this is made true also of the prophet, where previously we should have expected to find the greatest freedom of expression in allowing the prophet to be the mouthpiece of God. Now there is a strong awareness that the prophet could be a false interpreter of God's will (Deut. 13.1-5; 18.15-22). Against this the true prophet is to be one who will speak God's word 'like Moses' (Deut. 18.18). Although this still allows considerable freedom to the prophet, it firmly ensures that his prophesying is set alongside, and not above, the teaching of Moses. Furthermore, it strongly suggests that the role of the prophet is to preach *tôrâh*, in a way that could be likened to the

work of Moses. The office of the prophet is thereby seen in a new light.

Admittedly the book of Deuteronomy did not suggest the abolition of the cult in favour of a religion directed towards *tôrâh*. Far from it, for with Deuteronomy and its use in Josiah's reform, the role of the cult acquired a new dimension of authority. All sacrificial worship was restricted to one sanctuary, at 'the place where Yahweh had chosen to set his name' (Deut. 12.1-14). This too, however, was to enhance the concept of a canon, for its introduction of the belief that only one sanctuary was properly authorised by God swept aside much of the great variety that had previously marked the cultic life of Israel. The forms of worship too, therefore, were made subject to a new canonical authority in this way. Such a restriction was to have a profound effect upon the development of Israel's priesthood (cf. 2 Kgs. 23.9). The canonical *tôrâh* was beginning to act like a leaven which was destined to transform eventually all of the religious institutions of Israel.

We might have expected that such a far-reaching change in Israel's life would have provoked strong opposition, and left a legacy of division which would have healed only gradually. Such was no doubt a possibility, but we should note that several factors contributed to the success of Josiah's reform. Not least we can see the strong range of support which it acquired, from the priests and political leaders of Jerusalem (2 Kgs. 22.3 ff.), the king himself (2 Kgs. 22.9), and the voice of the prophetess Huldah (2 Kgs. 22.14-20).

Yet behind it all we can only feel that the time was ripe for such a reform, with the first signs of weakness in the Assyrian sovereignty, which had dominated Judah and its affairs for a century. The kingdom was ready for political and religious change, and the appeal back to the name of Moses conferred its own element of transparent authority. Josiah's reform made a canonical *tôrâh* a central and necessary feature of Israel's life. Behind it we can discern that a new era of hope aroused expectations that it might mark a new beginning in the history of Israel's political greatness. Such did not materialise, but rather the tragic death of Josiah in 609 B.C. marked the beginning of the end so far as Judah's political hopes were concerned.

Yet this tragedy, followed by the fall of Jerusalem in 587, served to highlight the timeliness of the changes that had occurred. That section of the Judean community which went into exile in Babylon found in the conception of a Mosaic *tôrâh* a relevant and flexible guide to its own religious duties. The hope of the eventual restoration of Israel could draw from it a source of support and a blueprint for planning. Hence the introduction of a *tôrâh* by Josiah's reform, which possessed all the outline essentials of a written canon, became no temporary shift of interest, but rather a more lasting change of direction, which provides us with a formative step in the transition from the religion of Israel to the birth of Judaism.

In the years that followed Josiah's reform we find that the conception of a written *tôrâh* became an increasingly central presupposition of the religious life and organisation of Judaism. The process of change which had begun with the reform became an increasingly influential feature of religious life until eventually Judaism became, when the Jerusalem temple was yet again destroyed in AD 70, the religion of a book. Accompanying these external changes in the forms of the religious life, a great literary undertaking was set in movement. This was to see the book of *tôrâh* added to, revised and progressively extended, until the present Pentateuch resulted. The book of *tôrâh* was destined to become a great literary work, and, as we have already argued, the conception of *tôrâh* that originally applied to the law-book of Josiah, became applicable to the Pentateuch as a whole.

The process by which this great literary achievement was brought about was sufficiently complex for many of its stages to have become entirely lost from historical knowledge. Such information as we possess is largely what can be inferred from a careful critical analysis of the structure of the Pentateuch. However, all that concerns us in the present theological context is to note the main lines of growth, and to perceive the way in which this has contributed to the understanding of the Pentateuch as *tôrâh*. It was this step which has led on ultimately to the understanding that the entire Old Testament may be read as such a book of *tôrâh*.

The next steps in the literary development of Josiah's lawbook

were not directly connected with the Pentateuch, but, surprisingly, with the formation of the great historical narrative work of the Former Prophets. The book of Deuteronomy became the first chapter in the history which described the fortunes of Israel from the days of Moses to the fall of Judah. The books of Joshua to 2 Kings at one time formed a continuous work, to which Deuteronomy provided a beginning. Only at a relatively late stage in the formation of the Pentateuch was the step taken which severed Deuteronomy from this position, and joined it instead to the book of Numbers to form the present Pentateuch. When this was done some significant readjustments were necessary in order to accommodate the change.

To speak of Deuteronomy being joined to the book of Numbers, however, is somewhat misleading for what at that time existed was not divided up into the four books from Genesis to Numbers which we now have. To detail the history and structure of these books, and to note their major sources, would be only partially relevant to our present concern. Especially is it difficult to undertake this at a time when quite radically new conclusions are being put forward regarding such sources and structure.⁶ The most widely accepted critical view is that these books have been formed out of a major narrative work which is older than Deuteronomy (JE) and one which is later (P). This latter is essentially a post-exilic work, which its contents firmly bear out. For our present purpose it is sufficient to note that material from a wide span of time has been brought together and assembled into a coherent work. How and when this unified work took shape is a matter of contention. For the past century scholars have worked on the basic assumption that four basic source documents have been woven together in a series of editorial redactions, the last of these taking place probably in the fifth century B.C. Now, however, it has become increasingly accepted that this is too tidy a view and that a rather more extended process must be assumed. This certainly means that a considerable number of additions and revisions have been made, in which a basic nucleus of material has been built up into the large work which the Pentateuch now is. However, the source-document hypothesis should not altogether be discarded, since it appears that quite extended written

narrative works have formed a substantial basis for the overall composition. It is likely, therefore, that the main narrative outline of the Pentateuch was already established at an early stage, and that this has remained basic to the structure of the whole.

So far as the understanding that the Pentateuch as a whole is to be regarded as *tôrâh* is concerned, two points are of significance. The first of these is that the main source documents which may be posited as underlying the work (JE and P) were essentially works of narrative history. Although both of them contained series, or codes, of laws, these formed only a relatively minor part of the material. Furthermore, it is rather questionable whether the later of these sources, the so-called P, or Priestly, document was all that much more full of cultic and priestly regulations than the earlier. A greater interest in the origin of Israel's cultic institutions was however present.

The second point is that it is in the later stages of the formation of the Pentateuch that the great bulk of priestly rules and regulations have come in, many of these being added once the major narrative structure was already complete. In this regard the book of Leviticus must be viewed as largely the product of such an expansion to include substantial blocks of cultic rules and instructions. The shift of balance, therefore, in the general make-up of the Pentateuch would appear to have been a gradual and progressive development. From being a work of historical narrative the emergent Pentateuch has progressively become a framework into which a great wealth of traditions and regulations of an ethical and cultic nature have been woven. In the end the main features of narrative history have become less prominent as the growing mass of instructional material has taken over. Surprisingly too, we find that the inclusion of an extended code of civil laws (Exod. 20.22-23.19) almost certainly belongs to the oldest major narrative source (JE). To call the Pentateuch 'law', therefore, in anything like the sense that this word most usually bears as 'civil law', hardly does justice to the actual contents of the work. It is evidently a *tôrâh*-law of a rather different kind. However, one thing is clear: the title *tôrâh* is a reasonably appropriate one for the material that is to be found in the Pentateuch, especially once we bear in

mind the heavy preponderance of rules, regulations and ethical injunctions that have been incorporated into it in its later stages.

We may now raise two important questions concerning the interrelationship between the literary formation of the Pentateuch and its theological classification as *tôrâh*. The first is the question of why and when this literary collection came to be called *tôrâh*, and the second is dependent upon the answer to this. Which has come first, the classification as *tôrâh* or the inclusion of such a wide range of instructional rules and regulations?

The answer to the first question has, in fact, already been strongly suggested above. It is that it was the carrying over to the whole Pentateuch of the title that was first applied to the book of Deuteronomy that has made the whole work a book of *tôrâh*. This most probably took place when the book of Deuteronomy was combined with the basic material of Genesis to Numbers.

The answer to the second question is certainly more difficult, but it is hard to escape one very probable conclusion. Once the main substance of the Pentateuch as a book of *tôrâh* had been established, the necessity was felt to include many of the traditions and collections of *tôrâh* that Judaism had built up. Probably a great deal was already incorporated into the work, but certainly the need for comprehensiveness was now felt more acutely than ever. The exact chronology of this literary growth of the Pentateuch cannot, however, be established with any certainty.

Nevertheless, from the theological point of view, our main concern is to establish the recognition that the labelling of it as a book of *tôrâh* is not an extraneous imposition from outside, but does have a recognisable appropriateness in describing the material that is to be found within it. Furthermore, this awareness of the need for a book of *tôrâh* has undoubtedly contributed to the way in which the Pentateuch has taken shape. It may be held, therefore, to be an important clue to the way in which those who shaped and formed the Pentateuch into its present wholeness intended it to be understood. When we speak and think of the Pentateuch as *tôrâh*, we are therefore interpreting it in accordance with the aims for which it was formed.

This digression into some of the complex literary issues that concern the origin and structure of the Pentateuch may appear a little abstruse, and to have little to do with the more central theological issues which relate to the Old Testament. All the more is this so on account of the inevitable tentativeness that surrounds these literary conclusions. Yet this apparent abstruseness is misleading, since in reality a number of points of very direct theological concern are bound up with these conclusions. The Old Testament was assumed by early Jewish and Christian interpreters to be a book of law, and we have seen that this must first be clarified to the extent that 'law' is to be understood as a rather loose translation of the Hebrew *tôrâh*. We can now see that this categorisation is substantially borne out in regard to the structure of the Pentateuch, and that it is from this foundation that the treatment of the whole Old Testament as *tôrâh* has been built up. How then is *tôrâh* to be understood in this context?

In the first place it must be frankly conceded that to make *tôrâh* loosely equivalent to 'historical narrative' would be quite misleading. Although there is undoubtedly a good deal of historical narrative in the Pentateuch, and on this account Christian tradition has labelled its five parts as 'historical books', this was not the main characteristic of *tôrâh*. This discovery in itself is very significant on account of the widespread popularity of the assumption that an Old Testament theology can be a 'kerygmatic' one, in which the central emphasis is placed upon the use of historical narrative as a form of theological expression.⁷ Such at least would not appear to be the main emphasis of the way in which the Old Testament has actually been put together. It is also relevant to note that the more weight that is placed upon the main literary 'sources' of the Pentateuch (especially JE and P), the more 'history' appears to predominate. Yet the more we take seriously the final form of the Pentateuch the more evident it is that this historical dimension is only one aspect of *tôrâh*. The books of Leviticus and Deuteronomy are as basic to the Pentateuch as are the books of Genesis and Exodus. We must take full account, therefore, of the elements of instruction and regulation that appear as a fundamental part of the *tôrâh* of the Pentateuch.

A second point is also relevant to this recognition, and con-

cerns the fact that the areas of life and religion that are covered by *tôrâh* are very extensive and are not all of one kind. What we have seen to be true in the relatively circumscribed compass of the book of Deuteronomy is even more true of the Pentateuch as a whole. Matters concerning the cultus, as well as wider religious duties, are all included. So also are broad ethical admonitions and very explicit laws concerning behaviour in society and the identification and punishment of particular crimes. To be obedient to *tôrâh* is a broad, life-encompassing demand. This is important both for the way in which it shows *tôrâh* to be a very comprehensive form of instruction, and in no way limited to those aspects of life which might be thought of as distinctively 'Israelite', or 'Jewish', such as circumcision. Many of its demands are evidently of a universal moral character, and this was to have an important bearing upon the way in which it came to be understood and interpreted by later ages of Jews and Christians.

However, when we come to ask what exactly this *tôrâh* is, and how it is to be applied, the answer given by the Pentateuch as a whole is as clear as that which is presented more narrowly by the book of Deuteronomy. The *tôrâh* of the Pentateuch presents those demands which God has set before Israel as a consequence of his election of them, and as the conditions of the covenant by which this election has been constituted. The Pentateuch therefore is a covenant literature. We are brought face to face here with an issue that has aroused no small amount of discussion in recent years, and which concerns the degree of centrality which may be ascribed to the concept of covenant. Ever since W. Eichrodt made this concept a basis for a theological unity in the Old Testament,⁸ the question has been raised whether it can be considered as pervasively unifying as such an approach requires. Already we have seen that the disproportionate frequency with which the word 'covenant' is used in the Old Testament shows that it was not always regarded as a concept of paramount significance by all ages of Israelite-Jewish life.

Yet now we find an important clue to putting the issue in a fuller perspective. It is the structure of the Pentateuch as *tôrâh*, and supremely as containing the *tôrâh* which God gave to

Moses when he instituted the covenant on Mount Sinai, that has made the concept of covenant a central one to the Old Testament.⁹ It is in fact the natural correlate of the literary recognition that the Old Testament is built up around the Mosaic *tôrâh*. This is provided with a meaningful context when it is seen as the range of instructions which God gave as the conditions of his covenant. To recognise this is in no way to seek to minimise the importance of the narrative record by which the election-will of God was made known to his people. Nor should it be held to place all the weight upon the aspect of Israel's response to God's saving activity, rather than upon the grace that is evident in that activity itself. Salvation and *tôrâh* are naturally related to each other by the very nature of God's saving work which calls his people to live in responsive obedience to himself. To insist on a separation where none is intended would be to falsify the perspective of the Old Testament.

It is from within this literary perspective that we can see that the concept of a covenant between God and Israel is central to the Old Testament, even though the idea of covenant may not always have been used with comparable frequency throughout all ages of Israelite-Jewish religion. When therefore we speak of an Old Testament, with the word 'testament' arising, by way of the Latin *testamentum*, as a translation of the word 'covenant' (Hebrew *b'rît*), this is in all essentials entirely appropriate. The Old Testament is a covenant literature because it recounts as its focal point the making of the covenant between God and Israel, and central to its structure is the presentation of the demands that fall upon Israel as a consequence of this covenant. First and foremost, therefore, the Old Testament is addressed to those who are members, or partners, in this covenant.

We may note here that it appears to have been a direct consequence of this sense of the centrality of the Sinai covenant that has given rise to one rather strange feature about the literary form of the Pentateuch. This is the unexpected repetition of the Ten Commandments, the primary summary of the covenant's demands, at two separate places in the sequence of the Pentateuch (Exod. 20.2-17 and Deut. 5.6-21). Only minor differences of wording distinguish the two presentations. The

result is particularly awkward from a literary point of view since it results in the recounting of the contents of the two tablets of *tôrâh* which were lost, and which needed a subsequent replacement by Moses (Exod. 34.1-28). This repetition would appear most readily explicable as a result of the felt need to place these commandments in a position of prominence, which they would have lost once the book of Deuteronomy was united with Genesis to Numbers. From being in a position of great prominence in the original book of Deuteronomy, they would have been unintentionally relegated to come very late and out of order had they been kept only in their original position. They were therefore brought forward and repeated in Exodus 20, quite in keeping with their important role in outlining the main summary of demand which the covenant of Sinai entailed. This particular position of eminence, and the fact of their consequent repetition, has certainly contributed to the singling out of the Ten Commandments as the *tôrâh*, or law, *par excellence*, which the Old Testament contains. We shall have occasion to note this further in considering the consequences of the development of the Old Testament *tôrâh* as law.

3. THE TÔRÂH AND THE PROPHETS

So far we have concentrated upon the categorisation of the Old Testament as *tôrâh*, and the way in which this is reflected in the literary structure of the Pentateuch. Yet the Old Testament is more than just the 'Law', or Pentateuch, and also contains the very substantial collection of writings known as 'the Prophets'. In fact the title 'the Law and the Prophets' is by far the most common way in which the New Testament refers back to the scriptures of the Old. A very significant point of theological interest therefore hinges upon the relationship between these two collections.¹⁰ Indeed the theological concern amounts to an issue of paramount proportions, because the category of 'prophetic promise' becomes another major theme by which the entire Old Testament can be understood. It appears in the New Testament so prominently as to become the leading Christian theme in interpreting the Old Testament. If on the one hand the Old Testament is a book of *tôrâh*, or law, on the

other hand it is certainly also to be understood as a book of prophetic promise, the fulfilment of which the early Christians claimed to have taken place in the life and passion of Jesus of Nazareth.

The idea of 'prophetic promise' belongs particularly to the second part of the canon, but it became so extensive in its influence as to enable other parts of the canon, the Pentateuch and especially the book of Psalms in the Writings, to be interpreted also as prophetic promise. We must therefore deal with this theme separately in a later chapter. For the moment our concern is in a different direction, and is to discover how far the theme of *tôrâh* may be held to appear in 'the Prophets'. The issue is not by any means a hypothetical one, since it matters greatly to any attempt to establish a measure of unity in the Old Testament that what we find in the collections of the Prophets can be brought into some kind of conceptual relationship with the contents of 'the Law'. Even more broadly, however, as soon as we obtain some awareness of the main lines of interpretation which have dominated Jewish and Christian understanding of the Old Testament, we see that the relationship of the Prophets to the Law becomes an issue of far-reaching importance.

We may begin this brief study by noting a point which has already been touched upon in another chapter. The Prophets, as a part of the canon, are divided between the Former and the Latter Prophets, the Former Prophets being in reality a very extensive work of narrative history (Joshua to 2 Kings). At one time this was joined to the book of Deuteronomy, which formed its opening 'chapter'. At this very early stage in the growth of the canon, therefore, it is abundantly clear that 'the Law and the Prophets' were believed to belong together and to form a very appropriate and harmonious single work.¹¹ It was a later age which split them asunder and joined Deuteronomy to Genesis-Numbers, and the Former Prophets to a very extensive collection of the sayings of the great prophets of Judah and Israel. The division has, in effect, come after the unity. From this basic perception about the literary growth of the Old Testament we can see that there exists a very substantial basis for contending that the Law and the Prophets belong together,

and that the Law (the *tôrâh* of Deuteronomy) is an essential presupposition for understanding the prophets.

This is certainly borne out when we look at the content of the narrative of Joshua to 2 Kings. At a great many significant points in the telling of the story of the rise and fall of Israel reference is made back to the *tôrâh* of Moses which God had given to his people Israel (cf. Josh. 1.7-8; 1 Kgs. 2.3; 11.11). The transition to the age of Joshua makes positive reference to this *tôrâh* as the charter by which the emergent nation is to be governed, and the institution of the monarchy provides further occasions for recalling the existence of this law. The greatest moment of triumph in the nation's history after the death of Solomon is seen as the rediscovery of the book of *tôrâh* in the temple in Josiah's time (2 Kgs. 22-3). The history is through and through interpreted against the basic conviction that Israel is to be regarded as the people to whom God had committed his *tôrâh* as a part of his covenant with them. Nor is this simply a matter of a few explicit references to the existence of the 'book of *tôrâh*'. Rather it affects the whole presentation of the history at a fundamental level, for it enables the whole course of events to be seen from the perspective of this law. Kings are judged by it, and the fortunes of the nation in general are interpreted as determined by the measure of obedience or disobedience that the people display towards the *tôrâh*.

It is when we turn to consider the collections of prophecies which make up the Latter Prophets that the position becomes more complicated, and no such simple answer to the problems is forthcoming, as in the case of the Former Prophets. Even more confusing is the fact that a major facet of the modern critical approach to the study of the literature of the Old Testament and its underlying religious history has proceeded on the assumption that the 'Prophets' must really be seen as the historical presupposition of the 'Law'. To examine all the arguments, or to attempt to survey the way in which scholarship has dealt with the various questions, is quite impossible in a brief summary. However, a number of points can be noted and the relevance to the overall perspective assessed.

Certainly we find that prophecy as a phenomenon is built up around two main types of saying, or written pronouncement.

The first is that of a foretelling, or pronouncement proper, in which some future event is foretold in terms of its good, or evil, nature. The second type of saying is that in which some motive, or reason, is given in explanation of this coming event. In its own way this 'reason' serves to corroborate the certainty of the foretelling by its ability to show the rightness of the events that are to come. They are made into an intelligible revelation of the divine will. In explaining the coming of woeful events as judgments from God, it was natural that prophets should appeal to all kinds of moral and religious offences as necessitating some punitive action on the part of God. There is therefore a wide area in which the preaching of the prophets may be held to presuppose *tôrâh*, when this is taken in the very broad sense that we have seen to apply in the book of Deuteronomy for example.

However, from a literary point of view it appears that much of this denunciatory material, or invective, in the preaching of the prophets can be seen to be older than the comprehensive collections of written *tôrôth* which we find in the Pentateuch. Even more it is clear that the main period of activity of the greatest of Israel's prophets, in the eighth to sixth centuries B.C., antedated the period in which the greatest emphasis came to be placed upon *tôrâh* in Judaism. This latter was certainly the post-exilic age. From a literary-historical perspective, therefore, there is substantial justification for claiming that the preaching of the prophets antedates that of the scribes and editors who have made the Pentateuch a great work of *tôrâh*.

Scholarship, however, has come increasingly to recognise in recent years that behind both the 'Law' and the 'Prophets' there lie long traditions of laws, admonitions and regulations, which make it a rather distorted conclusion to claim that an absolute priority can be given to one or the other. Instead, particular attention has been devoted to the Ten Commandments as representative of a kind of fundamental tradition of law that existed in Israel. Attempts have been made, therefore, to claim that it was this central stream of *tôrâh* tradition, explicitly regarded as belonging to Yahweh's covenant with Israel, that stands behind the prophetic preaching.¹²

Yet increasingly the attempt to establish a certain date for the Ten Commandments, which would ensure that it could be assumed to be older than the earliest of the canonical prophets has foundered. The secure evidence needed for such a conclusion is simply not available. In any case, it must be argued against an approach from this direction that to single out the Ten Commandments as the particular collection of *tôrôth* which can be seen to underlie the prophets is not entirely convincing. The particular offences for which the prophets rebuke their contemporaries cannot be limited in any precise way to those covered by the Ten Commandments. It is true that there is a substantial measure of overlap, but this can more readily be explained by the fact that just as the prophets naturally single out very serious and clear-cut offences to justify their pronouncements of woe, so also can the Ten Commandments be seen to be a conscious singling out of such major matters of religious and moral behaviour. There is a common denominator behind both which is to be found in the nature of the Israelite tradition as it had been since the days of Moses, and the particular problems and features of Israelite society as it developed in its encounter with the Canaanite culture of the land. The literary questions, and the issues concerning the history of ethical ideas in Israel, do not of themselves allow us to resolve the issues in dispute about the priority of the Law or the Prophets.¹³ Yet this is not altogether surprising in view of the dimension of historical depth which is present in the great literary collections of the Old Testament. Seldom can the rise of specific theological or ethical ideas be dated with any great confidence.

We may suggest, however, that it has not been altogether appropriate to try to resolve the tensions between the 'Law' and the 'Prophets' in the Old Testament solely from the perspective of the history of ideas. It is essentially a question about the structure of the canon itself. We may be content to establish two main conclusions. The first of these is that there is evidently a very real basis of moral and religious concern in the preaching of the prophets which overlaps with similar concerns which we find in the rulings of *tôrâh*. Once there was a full and decisive acceptance that the tradition of this *tôrâh* could be traced back

to the days of Moses, then it was entirely in order to regard the great prophets of Israel and Judah as having presupposed this *tôrâh* in their preaching. No other perspective could possibly have satisfied the basic structural patterns of the tradition as it came to be enshrined in writing. From the viewpoint of the canon as it now exists, therefore, it is entirely correct that we should read the prophets in the light of the *tôrâh*, rather than the other way round. Without this *tôrâh* the full significance of the denunciations of the prophets would be lost upon us. It is this perspective that shows that by these offences the very covenant relationship between God and Israel had been jeopardised.

The perspective which sees the tradition of *tôrâh* in Israel as antedating the preaching of the prophets and as providing some basis of explanation for their threats of woe is, therefore, an important part of the Old Testament understanding of the work of the prophets. It provides a background and frame of reference, based on a theology of Yahweh's covenant with Israel, which gives added significance to what the prophets said. Essentially we must admit that this perspective is provided by the structure of the canon, rather than by any very clear recognition of the actual course of Israel's religious development, with a specific chronology of the emergence of religious and ethical ideas. Even so, much as we shall have to admit that this canonical perspective is imposed upon the great literary collections of the Old Testament, it does not appear to be in any way false. It simply makes explicit many of the ideas and concepts which the preaching of the prophets left as implicit. Overall it brings out, by the way in which the canon of prophecy is structured, the convictions about the nature and role of prophecy which we find in the history of the Former Prophets.

This brings us to note the great importance for an understanding of the theological perspectives of the Old Testament of the interpretation of prophecy given in 2 Kings 17.13-18:

Yet the LORD warned Israel and Judah by every prophet and every seer, saying, 'Turn from your evil ways and keep my commandments and my statutes, in accordance with all

the law (*tôrâh*) which I commanded your fathers, and which I sent to you by my servants the prophets.'

This very compressed summary of the significance of prophecy is remarkable for two prominent features which it contains. First, it sets this preaching very firmly against a background of the Mosaic *tôrâh*, to which it can be referred for elucidation. Secondly, it views the work of the prophets as primarily that of those who worked for the salvation of Israel by calling the people back from their transgressions, to live in accordance with the Mosaic law. In this way it sees the prophetic pronouncements of doom and woe as admonitions designed to spur the people to repentance. Perhaps too we can see here, in the manner in which the prophets can be regarded as an easily identifiable group, the foundations of a clear differentiation between true and false prophecy, and the beginning of a conception of a series of canonical prophets.

The understanding of prophecy which saw it as a means of preaching repentance and of calling Israel back to the Mosaic *tôrâh*, can certainly be seen, therefore, to have an authentic place in the Old Testament theological tradition. It has undoubtedly contributed to the way in which the canon has taken shape, and it serves to confirm the appropriateness of using it as a basic framework of theological reference by which to understand prophecy.

There is, however, a rather different, and more radical side to prophecy, which must also be noted. This is that which saw the prophets as the heralds of the new Israel, the preachers who foretold the coming of a great new age of salvation in which a remarkable fulfilment would be achieved of all that God had promised to his people at their election. How the law, or *tôrâh*, was to be related to this was never clearly defined, and enabled later circles in Judaism to look for some quite radical solutions to the relationship between law and eschatology, which were the two dominating themes affecting Jewish life at the close of the Old Testament period. The Qumran Community, the rise of Christianity, and the emergence of Rabbinic Judaism in the post-Old Testament era each reflects different answers arrived at in seeking to resolve the tensions between these two themes.

4. FROM TÔRÂH TO LAW

We have already had occasion to note at more than one point that *tôrâh* cannot be identified as 'law' in the strictly juridical sense, but must certainly be construed more widely. However, to translate it as 'instruction', as is sometimes advocated, is itself very inadequate, and fails to satisfy some of the important aspects of the nature of *tôrâh*. Since the standard English translation of the term has consistently been 'law', and since the English word 'law' has a wide variety of senses, we may settle for continuing this practice, even though it has obvious limitations. It is, in any case, already anticipated in considerable measure by the way in which the Greek (Septuagint) translation has used *nomos* as a counterpart for *tôrâh*, which is carried over into the Latin (Vulgate) version by the use of *lex*. In a very real measure, therefore, the modern English reader of the Old Testament is committed to seeking some understanding of the kind of 'law' with which this literature presents him.

We have already noted that the *tôrâh* does include a significant collection of civil case laws (the Book of the Covenant in Exod. 20.22-23.19), and a version of this undoubtedly provided a framework for the central part of the book of Deuteronomy, where the idea of an Israelite *tôrâh* underwent such an important change. It is primarily by reference to the theology of covenant that the role of *tôrâh* is clarified, and here we find that the analogy with the stipulations of political (vassal) treaties has been most helpful. The sanction which hovers over these stipulations is that the covenant relationship would be broken and all its privileges and guarantees forfeited. This is the conceptual world that applies to Israel's covenant with Yahweh, the major difference being that the analogy is applied completely to the religious sphere. There is, therefore, a legal juridical background to this understanding of *tôrâh*, although its closest analogy would appear to be that of international, rather than civil, law. To disobey the *tôrâh*-law which God had given would be to forfeit the privileges which belong to living in covenant with him. This had both a positive side in that life within this covenant entailed the blessing of living under the

providential care of Yahweh, and of enjoying all those benefits of the land and nationhood which the book of Deuteronomy sets out. Conversely, there was also a negative side which threatened the loss of these privileges and the suffering of all manner of ills and disadvantages which betokened Yahweh's curse (cf. Deut. 11.16-17; 28.15-68).

In the main post-exilic period which witnessed the extensive literary expansion of *tôrâh* the most prominent of Yahweh's gifts – the land and a national identity – had already been lost to Israel. We can see, therefore, quite readily that an element of historical tension and hope came to surround the understanding of the law and its blessings. Obedience to the law had to be viewed within the particular dimension of hope and eschatological expectation which coloured Jewish existence during these years. Once again we find that the twin themes of law and eschatology did not develop in separate compartments in Judaism, but in a very tightly woven interrelationship.

It is also clear that during this period a number of factors contributed to the shaping of the understanding of the role of *tôrâh* in Judaism. Worthy of special note is the marked sense of joy and delight in the law, as the supreme expression of God's love for his people which we find in the *tôrâh*-psalms (Pss. 1 and 119). There is no hint here that the law promises anything but help and blessing for his people. The same is also true in essence in Psalm 19B (Ps. 19.7-14), which is a late addition to an older psalm of a very different character. Yet here, in what are possibly scribal additions, we detect a note of puzzlement and even frustration with the *tôrâh* (vv. 12-13). Some of the sense of human inadequacy when faced with the law begins to appear.

More striking still, however, in regard to the problems engendered by the new emphasis upon *tôrâh* was the inevitable fixity of its written form. In order to be effective it is necessary that laws should from time to time be revised and adapted to the changing needs and conditions of society. We see this when we compare the original Book of the Covenant with that part of it which appears in a revised form in Deuteronomy 12 ff. This latter is in a real sense a *mišnâh* – a second version – of the law.¹⁴ It was inevitable, therefore, that there should have

grown up a tradition of *mišnáh* by which the law was to be understood and applied in specific situations. Even though the literary deposit of this does not appear until post-Old Testament times, the need for it had clearly developed earlier.

Whether too the identification of *tórâh* with wisdom (Deut. 4.6; cf. Ecclus. 24.8-12) had the effect of injecting into the understanding of *tórâh* a sense of its universal and timeless validity, is certainly worthy of consideration.

In any case the acceptance and application of the written *tórâh* by Jews living among Gentiles in the Diaspora posed its own range of questions about the universal validity of the law. How it related to Gentile laws and customs was an issue that could not be evaded. All the more was this so once significant numbers of Gentile proselytes and adherents began to be associated with Judaism. The need for an effective apologetic towards the Gentile world also created a need for considering the universal applicability of *tórâh*. No longer could it be regarded simply as a covenant law applicable to Jews only, but some awareness needed to be displayed of its relevance to all mankind, and of its claim to be a universal expression of moral and religious truth. A very clear example of the way in which this need affected Jewish interpretation can be seen in the exposition by Philo of Alexandria of the Ten Commandments.¹⁵

In so many respects questions concerning the 'theology' of *tórâh* raise issues of this nature relating to the distinction between universal and particularist elements in the law. They reveal a vital area in which the study of 'intertestamental' Judaism and of its early rabbinic developments becomes an indispensable realm of investigation for an effective theological approach to the Old Testament material. The questions which are so frequently raised about the unity of the New Testament with the Old can only be seen in a truly historical and critical perspective when they are seen in the light of this background. In a great many ways the New Testament reveals a markedly fresh and radical approach to the problems of the theology of law.

Yet Judaism itself could only develop and maintain its sense of continuity with the past by reaching a distinctive perspective regarding the nature and validity of the *tórâh* as law. We can see that in its Pentateuchal form many issues of great

importance to the interpretation and application of the written *tôrâh* were left unresolved. Two issues alone need be mentioned for the great bearing which they have upon the way in which Jewish and Christian interpretation has been forced to deal with them. The first concerns the fact that as the written *tôrâh* grew in scope and comprehensiveness, so did its wider coverage threaten to undermine its authority and applicability. The fact that no clear lines of demarcation between the greater and lesser demands of the law were set out, meant that it was inevitable that someone should ask 'Which is the greatest commandment?' (cf. Matt. 19.18). The literary form and structure of the Pentateuch does little to answer this, save in the special prominence which it accords to the Ten Commandments. In later ages both Jews and Christians came to accept, almost without question, that these commandments were laws of a greater degree of importance than others. Yet to make this judgment, a theological, as distinct from a purely literary or historical, approach has to be undertaken.

Of comparable and related complexity is the question of a distinction between those demands of *tôrâh* which referred to the cult and those which referred to personal and social matters of morality. In its own structure the *tôrâh* does not distinguish between the two. It is evident that at an early period the nascent Christian Church discarded almost entirely the laws which referred to the cult, since these no longer carried any great meaning for Christians who had separated themselves from the temple and synagogues of Judaism. In Judaism also, however, the destruction of the temple in AD 70 compelled a quite new approach to these demands, which we find increasingly subject to new interpretations of a distinctly moralising kind.¹⁶ In time the entire ancient edifice of cultic assumptions and sensitivities withered away, and needed to be replaced by a more easily intelligible frame of reference. A theological approach to Old Testament *tôrâh*, therefore, cannot go about its task of seeking meaning and relevance in this material if it fails to pay heed to certain basic post-canonical developments. To a very considerable extent a theology of the Old Testament must be a theology of *tôrâh*, since this concept provides the literature with its most imposing principle of unity.