

## THE COUNCIL OF JAMNIA AND THE OLD TESTAMENT CANON\*

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Among those who believe the Old Testament to be a revelation from the Creator, it has traditionally been maintained that the books composing this collection were in themselves sacred writings from the moment of their completion, that they were quickly recognized as such, and that the latest of these were written several centuries before the beginning of our era. The Jewish historian Flavius Josephus appears to be the earliest extant witness to this view. Answering the charges of an anti-Semite Apion at the end of the first century of our era, he says:

We do not possess myriads of inconsistent books, conflicting with each other. Our books, those which are justly accredited, are but two and twenty, and contain the record of all time. Of these, five are the books of Moses, comprising the laws and the traditional history from the birth of man down to the death of the lawgiver. This period falls only a little short of three thousand years. From the death of Moses until Artaxerxes, who succeeded Xerxes as king of Persia, the prophets

subsequent to Moses wrote the history of the events of their own times in thirteen books. The remaining four books contain hymns to God and precepts for the conduct of human life. From Artaxerxes to our own time the complete history has been written, but has not been deemed worthy of equal credit

\*The abbreviations of the names of tractates in the Mishnah, Tosefta and Talmud follow Hermann L. Strack, *Introduction to the Talmud and Midrash*. Other special or unusual abbreviations are as follows:

BT - Babylonian Talmud

M - Mishnah

MR - Midrash Rabbah

SITM-Strack, *Introduction to the Talmud and Midrash* (New York: Atheneum, 1969, reprint of 1931 edn.)

Tos. - Tosefta

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with the earlier records, because of the failure of the exact succession of the prophets.<sup>1</sup>

On the basis of later Christian testimony, the twenty-two books mentioned here are usually thought to be the same as our thirty-nine,<sup>2</sup> each double book (e.g., 1 and 2 Kings) being counted as one, the twelve Minor Prophets being considered a unit, and Judges-Ruth, Ezra-Nehemiah, and Jeremiah-Lamentations each being taken as one book. This agrees with the impression conveyed by the Gospel accounts, where Jesus, the Pharisees, and the Palestinian Jewish community in general seem to understand by the term "Scripture" some definite body of sacred writings.

Rabbinical literature, though much later, is also in agreement with this testimony. In the Babylonian Talmud, completed by about A.D. 550,<sup>3</sup> we read: "Our Rabbis taught: Since the death of the last prophets, Haggai, Zechariah, and Malachai, the Holy-Spirit departed from Israel,"<sup>4</sup> so that inspiration was thought to have ceased long before the beginning of the Christian era. Among earlier Talmudic material, there is a Baraitha<sup>5</sup> (from about A.D. 200<sup>6</sup>) which likewise assigns the Scripture to ancient authors, but also explicitly names the books of the Old Testament and gives a total of twenty-four books<sup>7</sup> by using, the scheme mentioned above except for treating Judges and Ruth, Jeremiah and Lamentations as separate entities. As in Josephus, the books are also grouped in three classes. The first is the Pentateuch, as in Josephus, but the other two are different: the second section, called "prophets," contains Joshua, Judges, Samuel, Kings, Jeremiah, Ezekiel, Isaiah, and the twelve Minor Prophets in that order, whereas the third section, called "writings," contains the remainder of our familiar Old Testament.

<sup>1</sup> Josephus, *Against Apion*, 1,8 (38-41).

<sup>2</sup> *Ibid.*, Loeb Classical Library edition, notes *ad loc.*; Otto Eissfeldt, *The Old Testament: An Introduction*, trans. by Peter R. Ackroyd (New York: Harper and Row, 1965, from 3rd German edn., 1964), p. 563n.

<sup>3</sup> SITM, p. 71.

<sup>4</sup> BT, Sanh., 11 a.

<sup>5</sup> Eissfeldt, *op. cit.*, p. 563.

<sup>6</sup> SITM, pp. 4, 20-25.

<sup>7</sup> BT, B. B. 1.4b.

Although it is true that the pseudepigraphical work 4 Ezra (probably written about A.D. 120<sup>8</sup>) pictures a much larger number of sacred books,<sup>9</sup> it is very significant that it admits that only twenty-four Scriptures have circulated publicly since Ezra's time.

In recent centuries, another outlook has arisen which is often called critical-historical. Denying that claims of God's miraculous intervention in the inspiration of such books are subject to historical investigation, this view sees the canonicity of the Old Testament merely as the result of a belief in inspiration which grew up around each book in the centuries after its publication. This critical or liberal view also commonly pictures the particular threefold division of the Old Testament books found in the Talmud and in our oldest extant Hebrew Bibles (dating from the 10th and 11th centuries<sup>10</sup>) as a sort of fossil of the canonization process. Thus H. E. Ryle, in his classic liberal work on the Old Testament canon, distinguishes three canons corresponding to the three sections in the Talmud: the first is the Law, finally fixed shortly before 432 B.C.;<sup>11</sup> the next is the Law and the Prophets, established by 200 B.C. (before the critical date for the origin of Daniel, though after the dates of the excluded Chronicles, Ezra-Nehemiah, Psalms, Proverbs, Lamentations and Ruth);<sup>12</sup> and the last is the Law, the Prophets and the Writings as we have them today,<sup>13</sup> which canon was practically completed before 100 B.C.,<sup>14</sup> but not officially recognized until about A.D. 100.<sup>15</sup>

More recent liberal scholarship has modified Ryle's position, especially in regard to the last two divisions. Thus Eissfeldt now recognizes that there is historical evidence for Daniel

<sup>8</sup> R. H. Charles, ed., *The Apocrypha and Pseudepigrapha of the Old Testament* (2 vols.; Oxford: Clarendon Press, 1913), II, p. 620.

<sup>9</sup> 4 Ezra 14:44-45.

<sup>10</sup> R. K. Harrison, *Introduction to the Old Testament* (Grand Rapids, Mich.: Eerdmans, 1969), p. 214.

<sup>11</sup> Herbert Edward Ryle, *The Canon of the Old Testament* (London: Macmillan and Co., 1892), ch. 4, esp. p. 93.

<sup>12</sup> *Ibid.*, ch. 5, esp. p. 113.

<sup>13</sup> *Ibid.*, chs. 6-8.

<sup>14</sup> *Ibid.*, pp. 177-78.

<sup>15</sup> *Ibid.*, p. 172.

having been in the second section, but suggests that this means the Prophets section must have been open until later:

Here too we cannot actually say that at that time, i.e., about 200 B.C., the extent and the text of the books reckoned in the prophetic canon was already fixed. But apart from Daniel no new book has since then succeeded in getting into this part of the canon, and this book could not maintain its place there but found its final position among the Writings.<sup>16</sup>

Fohrer departs even further from Ryle, though a "natural process" view of canonicity is retained. For him there is no canon in any strict sense until the time of Ben Sira (c. 190 B.C.). Even at the time of Ben Sira's translator-grandson (117 B.C.), Fohrer sees the first two sections of the canon as still open to change and the third as just beginning to form:<sup>17</sup>

The canon was therefore completed between 100 B.C. and A. D. 100, and the so-called synod held at Jamnia . . . apparently made some contribution to the process. Later disputes about individual books made no change in the canon.<sup>18</sup>

Popular liberal discussions of the canon today speak rather confidently of the Council of Jamnia. For instance, the United Church of Christ filmstrip, *How the Old Testament Came to Be*, says:

Although the whole of the Old Testament had been written by 150 B.C., the writings were not declared authoritative until 90 A.D. by a council of rabbis at Jamnia. It was this group which decided which of the later writings should be included in the Old Testament.<sup>19</sup>

Alice Parmelee, in her popular-level *Guidebook to the Bible*, speaks of the Writings as not being "clearly defined" until "the Council of Jamnia drew up a definite list of the sacred Scriptures."<sup>20</sup> Going into more detail, she says:

It was at Jamnia in the famous school of Johanan ben Zakkai

<sup>16</sup> Eissfeldt, *op. cit.*, p. 565.

<sup>17</sup> Georg Fohrer, *Introduction to the Old Testament*, trans. by David E. Green (Nashville: Abingdon Press, 1968, from German, 1965), p. 486.

<sup>18</sup> *Ibid.*

<sup>19</sup> Carl E. Berges, *How the Old Testament Came to Be: Script for Adults* (Philadelphia: Christian Education Press 1958), p. 10.

<sup>20</sup> Alice Parmelee, *A Guidebook to the Bible* (New York: Harper and Brothers, 1948), p. 138.

that the council met about A.D. 90 to decide which books belonged to the canon. Pointing, no doubt, to the actual rolls brought from the Temple, the scribes and learned men of the council argued the merits of the various books. At length, they established the Hebrew canon in which the Writings were included, but the Apocrypha was left out.<sup>21</sup>

Even the *Encyclopaedia Britannica* sounds a rather certain note on this subject:

After the destruction of Jerusalem by the Romans (A.D. 70) Jamnia became the home of the Great Sanhedrin. A meeting of Rabbis held there c. A.D. 100 discussed and settled the final canon of the Old Testament.<sup>22</sup>

Somewhat more cautiously:

The name canon may properly be applied to the books that seem to have been adopted by the assembly of rabbis at Jamnia about A.D. 90 or 100 under the leadership of Rabbi Akiba. Until then, apparently, the status of Song of Solomon and of Ecclesiastes remained doubtful, but at Jamnia they were definitely included in the canon . . . Some of the Hagiographa (including apparently Daniel) were still in dispute until the assembly at Jamnia.<sup>23</sup>

Among experts on canon, not even Ryle is so definite about Jamnia, however. He says that Jamnia only put "an official seal to that which had already long enjoyed currency among the people."<sup>24</sup> Unfortunately Ryle does not seem to be entirely consistent here:

It was then that the Writings we have called "Disputed Books" (Esther, Song, Ecclesiastes, Chronicles, possibly Daniel), which, from the peculiarity of their contents and teaching, had previously exerted little influence upon religious thought, had been little used in public and, possibly, little studied in private, seemed all at once to receive an adventitious importance. Doubts were expressed, when their canonical position was finally asserted. But no sooner were such difficulties raised and scruples proclaimed and protests delivered against their retention in the Canon, than eager voices were lifted up to defend the character of writings

<sup>21</sup> Ibid., p. 149.

<sup>22</sup> Edward Robertson, "Jamnia," *Encyclopaedia Britannica.*, 1970, XII, p. 871.

<sup>23</sup> Jaroslav Pelikan, "Bible," *Encyclopaedia Britannica*, 1970, III, p. 576.

<sup>24</sup> Ryle, *op. cit.*, p. 173.

which, after all, had long been recognized, although, in comparison with the acknowledged books of the Kethubim, little valued and rarely made use of.<sup>25</sup>

After this detailed psychological analysis of the situation, one is rather astonished to find Ryle admitting that "the Synod of Jamnia can be little else to us but a name." In any case he claims that this name is "connected with the ratified canonicity of certain books" and that it symbolizes the rabbinical determination "to put an end to the doubts about the 'disputed' books of the Hagiographa."<sup>26</sup>

Eissfeldt, by contrast, sees Jamnia in a broader context:

Though unfortunately we know otherwise very little about this synod, it is at least clear that it regarded its task as the securing of the Jewish heritage, and in this it succeeded.<sup>27</sup>

After speaking of the threats to Judaism posed by the apocalyptic literature and by Christianity, he continues:

These threats . . . necessitated at that time in particular the formation of a normative canon of sacred scriptures . . . So now what had come into being as a result of gradual growth was formally declared binding and for this purpose was also undergirded with a dogmatic theory.<sup>28</sup>

The Danish scholar Aage Bentzen speaks of the "synod of Jamnia" as "important for the definite fixing of the Canon among the Semitic speaking Jews."<sup>29</sup> According to him:

The debate of the synod mainly centred on Ezekiel, Proverbs, the Song of Songs, Ecclesiastes, and Esther. There also seems to have been some insecurity concerning Chronicles. This seems to indicate that only the Law was really acknowledged . . . in Palestinian circles, or at least that Prophets and Kethubim were considered of secondary importance.<sup>30</sup>

Bentzen has previously argued that the presence of Ezekiel in

<sup>25</sup> *Ibid.*, p. 178.

<sup>26</sup> *Ibid.*, p. 172.

<sup>27</sup> Eissfeldt, *op. cit.*, p. 568.

<sup>28</sup> *Ibid.*

<sup>29</sup> Aage Bentzen, *Introduction to the Old Testament* (2 vols., 2nd edn.; Copenhagen: G.E.C. Gad Publisher, 1952), I, p. 28.

<sup>30</sup> *Ibid.*, p. 29.

these discussions indicates that the second division of the canon was not yet fixed.<sup>31</sup>

From this necessarily brief and selective survey of opinion concerning Jamnia and the Canon, a number of questions arise. For instance, was there a "council" of Jamnia? What information do we have about it? When was it held? Who presided? What books were discussed? What arguments were presented? What conclusions were reached? How binding were these conclusions? Were they at variance with popular opinion or prevailing practice? It is to an attempted solution of some of these matters that we now turn.

### *The Jamnia Material in Rabbinical Literature*

The rabbinical activities at the city of Jamnia are known to us only through rabbinical literature, where the more Hebraic spellings "Jabneh" or "Yabrieh" are used. Little of this material seems to come to us in its present form from rabbis who were alive at A.D. 100.

The Mishnah, which forms the basis for both the Babylonian and Palestinian Talmuds, was traditionally compiled by Rabbi (Judah the Prince), who was born in A.D. 135 and died about A.D. 210.<sup>32</sup> His work, however, was apparently based on earlier compilations by R. Meir and R. Akiba,<sup>33</sup> the latter of whom was active at Jamnia. The *Mishnah* is available in English in a separate form edited by H. Danby,<sup>34</sup> as well as in the Soncino edition of the Babylonian Talmud, which will be cited here.<sup>35</sup>

Some of the rabbinical discussions left out of the *Mishnah* were compiled in a work called the *Tosefta*. Although the text of the *Tosefta* has probably been somewhat confused by influence from the *Mishnah*, it presupposes the *Mishnah* and is therefore somewhat later. Strack suggests its author is Hiyya bar

<sup>31</sup> *Ibid.*, p. 25.

<sup>32</sup> SITM, p. 118.

<sup>33</sup> *Ibid.*, pp. 20-25.

<sup>34</sup> Herbert Danby, ed., *The Mishnah* (Oxford: Oxford University Press, 1933).

<sup>35</sup> Isidore Epstein, ed., *The Babylonian Talmud* (35 vols.; London: The Soncino Press, 1935-52).

Aba, a friend and disciple of Rabbi,<sup>36</sup> so that the *Tosefta* is probably from the early third century. Only three tractates of the *Tosefta* are presently available in English.<sup>37</sup>

Some other early remarks left out of the *Mishnah* have found their way into the *Gemara* of the Babylonian and Palestinian Talmuds where they are designated as *Baraita*. The Palestinian Talmud was completed early in the fifth century and therefore contains material up to that time.<sup>38</sup> The Babylonian Talmud was not closed until the middle of the sixth century.<sup>39</sup> As little of the Palestinian Talmud is available in English, it has not been cited here.

The rabbinical discussions which are organized according to the biblical texts (rather than topically as in the previous materials) are known as *Midrashim*. Among the extant *Midrashim*, only those compiled by the schools of Akiba and Ishmael may be as old as the *Mishnah*.<sup>40</sup> But of these, only one, Sifre on Numbers, is available in English, and that only in selection.<sup>41</sup> The works contained in the later *Midrash Rabbah* date from the fifth to the twelfth centuries.<sup>42</sup> But, since these are readily available, in English, they are occasionally cited in this study.<sup>43</sup>

We shall examine these sources for references to Jamnia to see what can be learned about rabbinical activity there. Then we shall examine early rabbinical discussions relating to canon, whenever and wherever these have occurred. Little attempt will be made to criticize these materials as Neusner is now doing,<sup>44</sup>

<sup>36</sup> SITM, p. 75.

<sup>37</sup> Herbert Danby, ed., *Tractate Sanhedrin: Mishnah and Tosefta* (London: S.P.C.K., 1919); A. W. Greenup, ed., *Sukkah: Mishnah and Tosefta* (London: S.P.C.K., 1925); A. Lukyn Williams, ed., *Tractate Berakoth: Mishnah and Tosefta* (London: S.P.C.K., 1921).

<sup>38</sup> SITM, p. 65.

<sup>39</sup> *Ibid.*, p. 71.

<sup>40</sup> *Ibid.*, pp. 206--09.

<sup>41</sup> P. P. Levertoff, *Midrash Sifre on Numbers: Selections* (London: S.P.C.K., 1926).

<sup>42</sup> *Encyclopaedia Judaica* (16 vols.; New York: Macmillan, 1971-71.), see relevant articles.

<sup>43</sup> H. Freedman and Maurice Simon, eds., *Midrash Rabbah* (10 vols.; London: The Soncino Press, 1939).

<sup>44</sup> Jacob Neusner, *Development of a Legend: Studies on the Traditions Concerning Yohanan ben Zakkai* (Leiden: E. J. Brill, 1970); *Eliezer ben Hyrcanus: The Tradition and the Man* (2 vols.; Leiden: E. J. Brill,



for the author has neither the background nor inclination to undertake such a mammoth and problematical task. Naturally, some attempt will be made to estimate the date of various traditions, from which perhaps one could get an idea of the relative reliability of each tradition,<sup>45</sup> but anything further I leave to others.

The ancient city of Jamnia, located near the coast of Palestine south of Jaffa, is still inhabited and called Yabneh. Although mentioned both in the Old Testament and in various records of the intertestamental period, Jamnia was basically a gentile city before the Hasmonean period and did not become thoroughly Jewish until about the time of Tiberius.<sup>46</sup> According to the Talmud, Jamnia was twice the home of the (Great) Sanhedrin, which moved there from Jerusalem, later moved to Usha, then returned, and then passed back to Usha.<sup>47</sup> The ten locations of the Sanhedrin mentioned here are consistent with the list given in the sixth-century *Midrash Genesis Rabbah*,<sup>48</sup> although the later source does not mention the double sojourns at Jamnia and Usha.

R. Johanan ben Zakkai seems to have been instrumental in the establishment of the Great Sanhedrin at Jamnia. During the siege of Jerusalem by the Romans, he is said to have escaped the doomed city by having his disciples announce his death and carry him to safety in a casket. Once outside, he met the Roman general (soon to be emperor) Vespasian, who allowed him to have "Jabneh and its Wise Men."<sup>49</sup> Notice, however, that this passage suggests there were already scholars at Jamnia when ben Zakkai arrived. This is further implied by the earlier Mishnah:

He (the rebellious elder) was executed neither by his local Beth Din (i.e., court or Sanhedrin) nor by the Beth Din at Jabneh, but was taken to the Great Beth Din in Jerusalem

1973); *A Life of Yohanan ben Zakkai* (2nd edn.; Leiden: E. J. Brill, 1970); *The Rabbinic Traditions about the Pharisees before 70* (3 vols.; Leiden: E. J. Brill, 1971).

<sup>45</sup> Neusner, *Development of a Legend*, p. 10.

<sup>46</sup> "Jabneh," *Encyclopaedia Judaica*, IX, p. 1176.

<sup>47</sup> BT, R.H. 31.

<sup>48</sup> MR, Gen. 97.

<sup>49</sup> BT, Git. 56.

and kept there until the (next) festival, and executed thereon.<sup>50</sup>

This remark, attributed to R. Akiba, indicates an important Sanhedrin at Jamnia even before the siege of Jerusalem, as free passage throughout the land is assumed.

However, a discordant note is struck by the much later Midrash Ecclesiastes Rabbah (7th to 10th centuries),<sup>51</sup> which says:

R. Johanan ben Zakkai had five disciples, and as long as he lived they sat before him. When he died, they went to Jabneh.<sup>52</sup>

If this tradition is correct, then ben Zakkai either was not a permanent resident of Jamnia or he left the city before his death.

After ben Zakkai, R. Gamaliel II became head of the rabbinical activity at Jamnia. He was later forced to share his authority with R. Eleazar ben Azariah because he continually insulted R. Joshua.<sup>53</sup> R. Akiba was already important by this time, but he seems to have figured even more prominently in later activities there. In any case Jamnia was still the center of rabbinical activity at the close of the second revolt in A.D. 135,<sup>54</sup> in which Akiba and many others died.

A number of scholars are mentioned in connection with Jamnia. Without attempting to reassess the work of Talmudic experts, these rabbis can be classified roughly by age according to the scheme of Strack, which we shall follow here.<sup>55</sup> Among the oldest rabbis at Jamnia (before A.D. 90), Johanan ben Zakkai is frequently mentioned,<sup>56</sup> not only as founder but also as a participant and leader. R. Zadok is also mentioned as a contemporary of ben Zakkai<sup>57</sup> and (if the same person is in view) also of Gamaliel II.<sup>58</sup> Ben Bokri is mentioned once.<sup>59</sup>

<sup>50</sup> M, Sanh. 89a.

<sup>51</sup> *Encyclopaedia Judaica*, XI, p. 1512.

<sup>52</sup> MR, Eccl. 7. 7.. 2.

<sup>53</sup> BT, Ber. 27b.

<sup>54</sup> *Ibid.*, 48b.

<sup>55</sup> SITM, pp. 109f-I.

<sup>56</sup> E.g., M, R.H. 29b; BT, Git. 56, Men. 21b.

<sup>57</sup> BT, Git. 56b.

<sup>58</sup> Tos., Sanh. 8. 1.

<sup>59</sup> BT, Men. 21b.

The next generation (c. A.D. 90-130), overlapping to some extent with those that precede and follow, can be subdivided into an older and younger group. In the older group, R. Gamaliel II is most frequently mentioned, both as head of the Beth ha-Midrash at Jamnia.<sup>60</sup> as well as prince of the Sanhedrin.<sup>61</sup> His wealthy contemporary R. Eleazar ben Azariah was elected to replace him (at least in his former office) for a time, after which they shared the position.<sup>62</sup> Other contemporaries associated with Gamaliel at Jamnia were: R. Joshua, mentioned above, who was reputed to have spoken all the seventy languages guages of mankind<sup>63</sup> and who, after much argument, submitted to Gamaliel's decision on the date of Yom Kippur;<sup>64</sup> R. Eliezer ben Hyrcanus;<sup>65</sup> R. Levitas;<sup>66</sup> Samuel the Little, a disciple of Hillel "deserving that the Shechinah should alight upon him" and author of the benediction against heretics;<sup>67</sup> and Simeon the Pakulite, who is said to have formulated the Eighteen Benedictions.<sup>68</sup>

The younger group of this generation is dominated by R. Akiba, who is important in the pre-history of the Mishnah. He is mentioned as early as the time of Gamaliel's replacement by Eleazar ben Azariah,<sup>69</sup> and he was executed by the Romans in connection with the Bar Kochba revolt.<sup>70</sup> Frequently in argument with Akiba are R. Tarfon<sup>71</sup> and R. Ishmael.<sup>72</sup> The latter founded a school in competition with Akiba's, and these schools produced the Tannaitic Midrashim.<sup>73</sup> Two other rabbis contemporary with Akiba seem to be slightly younger (or at least less advanced in studies): R. Jose the Galilean<sup>74</sup> and R. Simon

<sup>60</sup> BT, Ber. 27b.

<sup>61</sup> Tos., Sanh. 8. 1.

<sup>62</sup> BT, Ber. 27b.

<sup>63</sup> BT, Sanh. 17b.

<sup>64</sup> M, R.H. 25a.

<sup>65</sup> BT, Sanh. 17b.

<sup>66</sup> M, Ab. 4. 4.

<sup>67</sup> BT, Sot. 48b, Ber. 28b.

<sup>68</sup> BT, Ber. 28b, Meg. 17b.

<sup>69</sup> BT, Ber. 27b.

<sup>70</sup> BT, Ber. 61b.

<sup>71</sup> M, Ber. 28b; BT, Zeb. 57a, Kid. 66.

<sup>72</sup> BT, Zeb. 57a.

<sup>73</sup> SITM, pp. 206ff.

<sup>74</sup> BT, Zeb. 57a.

the Temanite.<sup>75</sup> Besides these rabbis, a butcher Ila<sup>76</sup> and a physician Theodos<sup>77</sup> figured in rabbinical discussions at Jamnia, apparently in this period.

The third generation (after A.D. 130) apparently consisted only of students or very young rabbis when the Sanhedrin left Jamnia for good. Such men only appear in Jamnia in the following:

When our teachers entered the vineyard at Jabneh, there were among them R. Judah and R. Jose and R. Nehemiah and R. Eliezer the son of R. Jose the Galilean. They all spoke in honour of hospitality and expounded texts (for that purpose).<sup>78</sup>

Apparently, then, the Sanhedrin left Jamnia the second time shortly after A.D. 135.

What sort of rabbinical activity went on at Jamnia during the height of its fame? Jamnia is said to have had a Beth Din even while the Great Beth Din continued to function in Jerusalem.<sup>79</sup> It also seems to have been the principal Beth Din in the time of ben Zakkai,<sup>80</sup> Gamaliel II,<sup>81</sup> and Akiba.<sup>82</sup> Similarly, the term "Sanhedrin," synonymous with all but the smallest Beth Din,<sup>83</sup> is also applied to Jamnia in the same period.<sup>84</sup>

According to the *Tosefta*:

The Sanhedrin was arranged in the form of a semicircle, so that they might all see each other. The Prince sat in the middle with the elders on his right and left. R. Eleazar, the son of Zadok, said: 'When Rabban Gamaliel sat at Jabneh, my father and another sat on his right, and the other elders on his left.'<sup>85</sup>

Jamnia was also said to have had a Beth ha-Midrash during this period, in connection with which Rabbis Gamaliel, Eleazar

<sup>75</sup> BT, Sanh. 17b.

<sup>76</sup> M, Ber. 28b-29a, 40b.

<sup>77</sup> M, Ber. 28b; IBT, Sanh. 33a.

<sup>78</sup> BT, Ber. 63b.

<sup>79</sup> M, Sanh. 89a.

<sup>80</sup> M, R.H. 29b.

<sup>81</sup> M, R.H. 25a.

<sup>82</sup> M, Ber. 28b, 40b.

<sup>83</sup> *Encyclopaedia Judaica*, IV, p. 720.

<sup>84</sup> BT, R.H. 31, Sanh. 17b; Tos., Sanh. 8. 1.

<sup>85</sup> Tos., Sanh. 8. 1.

ben Azariah, Joshua, Akiba, Ishmael, Tarfon, and Jose the Galilean are all named.<sup>86</sup> During the somewhat later mishnaic period (c. A.D. 200), such an institution was a biblical study center independent of the synagogue and considered even more holy.<sup>87</sup> The Beth ha-Midrash at Jamnia is explicitly connected with the so-called "vineyard" there.<sup>88</sup> Although this place may have been an actual vineyard, the 4th century rabbi Hiyya ben Nehemiah speaks of a tradition that it was so named "because of the disciples who sat in tiers as in a vineyard."<sup>89</sup> It is not clear whether the Sanhedrin met in the same place, although the semicircular form of the latter and the (presumably) rectilinear form of the former would seem to be against this. Among references to the vineyard, all are consistent with a Beth ha-Midrash: several involve exposition of Scripture,<sup>90</sup> one speaks of teaching,<sup>91</sup> and another, though mentioning a halakic dispute,<sup>92</sup> which might equally well occur in a Sanhedrin, uses the term Beth ha-Midrash.

There were therefore at least two different rabbinical institutions functioning at Jamnia during this period, a Beth Din or Sanhedrin and a Beth ha-Midrash. Let us seek to catalogue the activities mentioned in reference to Jamnia to see if there is anything left over which would not fit one of these two institutions.

In later years, Jamnia was especially remembered for the wisdom and piety of its rabbis. Although some of the incidents reported in this regard appear to be exaggerated, it seems clear that some facts lay behind this reputation. Thus Samuel the Little was probably an unusually pious man, whether or not a *Bath Kol* ever indicated he was the only man of his generation deserving to receive the Shekinah.<sup>93</sup> Likewise the almost legendary wisdom of the "Sages of Jabneh"<sup>94</sup> presumably has some

<sup>86</sup> BT, Ber. 27b, Zeb. 57a.

<sup>87</sup> Encyclopaedia Judaica, IV, p. 751.

<sup>88</sup> BT, Zeb. 57a.

<sup>89</sup> MR, Eccl. 2. 8. 1.

<sup>90</sup> BT, Ber. 63b, B.B. 131b; MR, Ecc1. 2. 8. 1.

<sup>91</sup> BT, Yeb. 42b.

<sup>92</sup> BT, Zeb. 57a.

<sup>93</sup> BT, Sot. 48b, Sanh. 11a.

<sup>94</sup> BT, Kid. 49b.

basis in fact, whether or not they included four men who could speak the seventy languages of mankind.<sup>95</sup>

On a more prosaic level, we find that the habits and sayings of the rabbis at Jamnia were long remembered. Thus the practice at Jamnia of removing the leaven on the 14th of Nisan even when it fell on a Sabbath contributes to a later discussion.<sup>96</sup> Liturgical customs are recalled,<sup>97</sup> and the frugal example set by Gamaliel II at his own funeral reversed a prevailing trend which was impoverishing the heirs.<sup>98</sup>

Among many sayings attributed to various rabbis active at Jamnia, one collective remark occurs:

A favourite saying of the rabbis of Jabneh was: I am God's creature and my fellow is God's creature. My work is in the town and his work is in the country. I rise early for my work and he rises early for his work. Just as he does not presume to do my work, so I do not presume to do his work. Will you say, I do much and he does little? We have learnt: One may do much or one may do little, it is all one, provided he directs his heart to heaven.<sup>99</sup>

This exemplary material provides little of real help for our discussion. Probably a school (Beth ha-Midrash) in prolonged contact with its students is more likely to produce such memories than a combination court and legislature such as the Beth Din. But we have already shown that both existed at Jamnia. No third institution, such as a council or synod, is suggested by this material.

Other passages associate teaching and exposition of Scripture with Jamnia. Recall the reference to students sitting in rows like a vineyard.<sup>100</sup> One particularly industrious student was remembered for finding a hundred and fifty reasons why a dead "creeping thing" should be considered clean.<sup>101</sup> Likewise R. Johanan and R. Ishmael were spoken of as having been taught at Jamnia regarding the time a woman must wait before remarriage.<sup>102</sup>

<sup>95</sup> BT, Sanh. 17b.

<sup>96</sup> BT, Pes. 49a.

<sup>97</sup> E.g., BT, R.H. 32a.

<sup>98</sup> BT, Ket. 8b.

<sup>99</sup> BT, Ber. 17a.

<sup>100</sup> MR, Eccl. 2. 8. 1.

<sup>101</sup> BT, Erub. 13b.

<sup>102</sup> BT, Yeb. 42b.

As regards exposition, R. Eleazar ben Azariah is explicitly seen interpreting Scripture,<sup>103</sup> apparently as a teacher, whereas Rabbis Judah, Jose, Nehemiah, and Eliezer all speak on the subject of hospitality, perhaps as students fulfilling an assignment in exegesis or homiletics.<sup>104</sup>

Such materials also suggest the Beth ha-Midrash rather than the Beth Din, although one may learn from a legal decision. It is certainly possible that the expository material could be synagogue sermons, but there does not seem to be any evidence here for a council or synod.

We also find considerable material expressing differences of opinion among the rabbis at Jamnia. For instance, ben Bokri and ben Zakkai argue over the necessity of priests to pay the shekel tax.<sup>105</sup> Ila and the rabbis argue about blemishes in animals.<sup>106</sup> Rabbis Tarfon, Jose, Akiba, and Ishmael disagree on how long a firstling may be eaten.<sup>107</sup> Tarfon and Akiba debate the cleanliness of objects immersed in a reservoir in which an insufficiency of water is discovered only later.<sup>108</sup> Such arguments could occur either in the teaching situation of a Beth ha-Midrash (which seems to have employed a seminar method) or in the controversies of a Beth Din. In fact, two such examples explicitly mention the latter<sup>109</sup> and one the former.<sup>110</sup> Though a council cannot be ruled out, it does not appear necessary to postulate any such rabbinic institution to explain this material.

Another class of rabbinical activities at Jamnia is binding decisions, whether of a judicial (fact-finding) or legislative (rule-making) nature. These activities seem to belong primarily to the Beth Din. Some are rather specialized decisions, such as: the exemptions of R. Tarfon and Ila the butcher from certain regulations because they were experts for the Beth Din;<sup>111</sup> setting the dates for New Moon and Yom Kippur in a partic-

<sup>103</sup> BT, B. B. 131b.

<sup>104</sup> BT, Ber. 63b.

<sup>105</sup> BT, Men. 21b.

<sup>106</sup> M, Ber. 40b.

<sup>107</sup> BT, Zeb. 57a.

<sup>108</sup> BT, Kid. 66.

<sup>109</sup> M, Ber. 28b, 40b.

<sup>110</sup> BT, Zeb. 57a.

<sup>111</sup> M, Ber. 28b-29a.

ular year;<sup>112</sup> and determining the effect of an oven fire at Kefar Signah on the cleanliness of the bread baked in it.<sup>113</sup> More general decisions are seen in the question of the fitness of a cow whose womb has been removed,<sup>114</sup> or of an animal with a wormy liver,<sup>115</sup> or of a mixture which had come into contact with a rope.<sup>116</sup>

Especially interesting in these last two examples is the statement that each question was submitted to the rabbis at Jamnia on three (successive) festivals before their ruling was given. Although it is possible that this is mentioned merely because festivals were the most convenient time to bring questions from afar, it seems likely that the Beth Din met only at festivals. This seems to be supported by the report that "when Rabban Gamaliel and his court of justice were at Jabneh" they did not even take time off to recite the Shema or the Benedictions for fear of being distracted in caring for "the needs of the congregation."<sup>117</sup> A general, full-time exemption of the rabbis from these duties seems very improbable, considering the centrality of such observances to Jewish piety, but a suspension for judges on such occasions as the Great Beth Din was in session would not be unreasonable.

In contrast, then, the Beth ha-Midrash would be in view in the saying quoted above (note 99), apparently meeting daily for a full workday. The two examples above also suggest that Jamnia succeeded Jerusalem as the place where the pilgrim festivals were held.

Still more general decisions at Jamnia include rules: e.g., for recognizing maturity<sup>118</sup> or uncleanness<sup>119</sup> in women, or for blowing the shofar.<sup>120</sup> Another class of general decisions would be liturgical innovations. It is reported that the rabbis at Jamnia instituted a benediction (now the fourth one said in the grace

<sup>112</sup> M, R.H. 24b-25a.

<sup>113</sup> M, Kel. 5. 4.

<sup>114</sup> BT, Sanh. 33a.

<sup>115</sup> BT, Hul. 48a.

<sup>116</sup> M, Par. 7. 6.

<sup>117</sup> Tos., Ber. 2. 6.

<sup>118</sup> BT, Nid. 48b.

<sup>119</sup> BT, Nid. 15a.

<sup>120</sup> M R. H. 29b.



after meals) on the 15th of Ab, the day on which permission was given to bury those who died at the Battle of Bethur in the Bar Kochba War.<sup>121</sup> Earlier, in the presence of R. Gamaliel at Jamnia, Simeon the Pakulite is said to have formulated (composed, or organized?) the Eighteen Benedictions in their present order, and Samuel the Little is supposed to have composed a nineteenth against heretics.<sup>122</sup> However, the latest of these sources<sup>123</sup> dates one of the benedictions later.

Although these references would seem to refer to the Great Beth Din at Jamnia, one of them says "a hundred and twenty elders, among whom were many prophets, drew up eighteen blessings in a fixed order."<sup>124</sup> Since this is larger than the traditional size of the Great Beth Din, it might refer to some special council called to institute certain liturgical reforms. However, according to another source:

Said Rabban Gamaliel to the Sages: Can anyone among you frame a benediction relating to the *Minim* (heretics) ? Samuel the Lesser arose and composed it. The next year he forgot it ...<sup>125</sup>

This suggests an annual event, which would seem more likely to be the Beth Din than some sort of council.

Even before the fall of Jerusalem, then, there was apparently a Beth Din at Jamnia. Afterwards this became the Great Beth Din and remained so, with perhaps one interruption, until about A.D. 135. Likewise the Beth ha-Midrash probably pre-dates dates A.D. 70 and continues after 135, but it would not be surprising that its golden years coincide with the presence of the Great Beth Din.

From the evidence we have surveyed, it would seem reasonable to suggest that the Beth ha-Midrash met daily and involved teaching, exposition, and argumentation, for the purpose of training the next generation of rabbis. The Beth Din, on the other hand, probably met less frequently, either at every festival or annually at some particular festival, argued out questions submitted by various congregations or rabbis, kept an eye on

<sup>121</sup> BT, Ber. 48b, Taan. 31a, B.B. 121b.

<sup>122</sup> BT, Ber. 28b, Meg. 17b; MR, Num. 18.21.

<sup>123</sup> MR, Num. 18. 21.

<sup>124</sup> BT, Meg. 17b.

<sup>125</sup> BT, Ber. 28b.

the calendar, and instituted various practices as the need arose, so that a certain uniformity might exist at least in Palestinian Judaism.

The distinction between these two institutions may explain the peculiar remark in Ecclesiastes Rabbah noted above (note 52). Perhaps R. Johanan ben Zakkai was head only of the Great Beth Din at Jamnia and not of its Beth ha-Midrash. Then he would only visit Jamnia sporadically, and his five disciples could have moved there permanently after his death.

Although a larger Jamnia assembly, called for the purpose of instituting far-reaching rulings in worship and practice, cannot be ruled out altogether, there does not seem to be any real evidence for such a group in the data so far examined. Certainly some decisions made at Jamnia prevail to this day (e.g., the benedictions), but these appear to have arisen at different times and would necessitate several "councils" of Jamnia. Probably all are the work of the Great Beth Din.

#### The Old Testament Canon in the Rabbinical Literature

Turning now to rabbinical reports regarding the extent of Scripture, let us consider first of all which books were explicitly discussed. Next we shall consider what sort of discussions the rabbis conducted regarding these books. Finally we shall attempt to date the discussions and consider to what extent their conclusions were binding.

Among the books for which we have rabbinical discussion of canonicity none is more prominent than Ecclesiastes.<sup>126</sup> Next in frequency of discussion is Song of Songs.<sup>127</sup> Several others are discussed in a single passage (though not necessarily only once in rabbinic history): Ruth,<sup>128</sup> Esther,<sup>129</sup> Proverbs,<sup>130</sup> and Ezekiel.<sup>131</sup> It is possible that Ezra and Daniel were also discussed, although the only reference to them in this sort of ma-

<sup>126</sup> M, Eduy. 5. 3, Yad. 3. 5; BT, Shabb. 30, Meg. 7a; MR, Lev. 28. 1, Eccli. 1. 3. 1, Song 1. 1. 11.

<sup>127</sup> M, Yad. 3. 5; BT, Meg. 7a; MR, Song 1. 1. 11.

<sup>128</sup> BT, Meg. 7a. j

<sup>129</sup> Ibid.

<sup>130</sup> BT, Shabb. 30b.

<sup>131</sup> Ibid., 13b.

terial does not seem to deal with the question of whether or not they belong in Scripture.<sup>132</sup> The only extra-canonical books mentioned in these contexts are the "books of Hamiram" (Homer?) mentioned below, but the context seems to imply that they are not under consideration for canonization.

In the rabbinical discussions of the canonicity of the Old Testament, the term "canon" and its derivatives are only used in periphrastic English translations, as this is a later technical term developed in Christian circles. Although the word "Scripture" already seems to be a technical term with the required significance, our extant reports usually give the discussions in terms of two other concepts: "uncleanness" and "hiding."

Those books which we would call canonical or scriptural were held by the rabbis to confer uncleanness on the hands of those touching them.<sup>133</sup> According to a late tradition, the rabbis declared uncleanness upon the Scriptures:

Because originally food of *terumah* was stored near the Scroll of the Law, with the argument, This is holy and that is holy. But when it was seen that they (the Sacred Books) came to harm (apparently because of mice), the Rabbis imposed uncleanness upon them.<sup>134</sup>

From its context, this particular distinction seems to go back to the period when the temple was still standing. This seems to be supported by the presence of Sadducees in a similar type of passage in the *Mishnah*:

The Sadducees say: We complain against you, O ye Pharisees, because you say that the Holy Scriptures render unclean the hands, but the books of Hamiram do not convey uncleanness to the hands. R. Johanan ben Zakkai said: Have we nothing against the Pharisees excepting this? Behold they say that the bones of an ass are clean, yet the bones of Johanan the High Priest are unclean. They said to him: Proportionate to the love for him, so is their uncleanness, so that nobody should make spoons out of the bones of his father or mother. He said to them: So also the Holy Scriptures proportionate to the love for them, so is their uncleanness.

<sup>132</sup> M, Yad. 4. 5.

<sup>133</sup> M, Eduy. 5. 3, Yad. 4. 5-6; BT, Shabb. 14a, Meg. 7a; MR, Song 1. 1. 11.

<sup>134</sup> BT, Shabb. 14a.

The books of Hamiram which are not precious do not convey uncleanness to the hands.<sup>135</sup>

Such a passage also seems to indicate virtual identity between the concepts "Holy Scripture" and "books which render the hands unclean." Certainly it is true that a book which is not Scripture does not defile the hands, but another passage shows us that the converse is not necessarily true:

If an Aramaic section was written (translated) in Hebrew, or a Hebrew section was written (translated) in Aramaic, or Hebrew (Phoenician) script, it does not render unclean the hands. It never renders unclean the hands until it is written in the Assyrian (square) script, on hide and in ink.<sup>136</sup>

Thus "defiling the hands" is a ceremonial concept which does not apply to translations. It would seem that the stipulations regarding type of script and writing materials indicate that only scrolls which would be fit for reading in a worship service can defile the hands. So "books which defile the hands" is a somewhat narrower concept than "Scripture."

Another concept common to rabbinical discussions on the canon is that of "hiding" certain works.<sup>137</sup> Unfortunately this concept is not explained as thoroughly as that of "books which defile the hands," although it is clear that "hiding a book" indicates disapproval. It is possible that a book is considered hidden when its reading in public worship is forbidden, but it may be that even private reading of the book is thereby discouraged. R. Akiba is reported to have denied a place in the "world to come" to those who read non-canonical books.<sup>138</sup> The connection of "hiding a book" with the synagogue geniza (hiding place, at least for worn-out copies of Scripture) or with the term "apocrypha" (hidden books) is not clear.

Having looked at the terminology used in discussing the question of the canonicity of various books, let us consider the arguments presented for questioning various books. Only one work is ever explicitly charged with heresy, the book of Ecclesiastes.<sup>139</sup>

<sup>135</sup> M, Yad. 4. 6.

<sup>136</sup> M, Yad. 4. 5.

<sup>137</sup> BT, Shabb. 13b, 30b; MR, Lev. 28. 1, Eccl. 1. 3. 1.

<sup>138</sup> M, Sanh. 90a.

<sup>139</sup> MR, Lev. 28. 1, Eccl. 1. 3. 1.

The third verse, "What profit has a man in all his labor which he does under the sun?" was thought to deny the value of studying the Torah. This was reconciled by suggesting that man's profit from Torah will be given him "above the sun."<sup>140</sup> Similarly, the writer's exhortation to a young man to "walk in the ways of your heart" (11:9b) seemed to violate God's command to follow His law rather than one's own desire (e.g., Num. 15:39). These were brought into agreement by noting the context (Eccl. 11:9c): "for all these things God will bring you into judgment."<sup>141</sup>

Several books, however, are charged with lesser or internal contradictions, namely Ezekiel, Proverbs, and Ecclesiastes. In the case of Ezekiel, the contradiction is said to be with the Torah.<sup>142</sup> No details are given, but the problematic material seems to involve the predicted temple and liturgy foreseen in chapter 40 and following. Hananiah the son of Hezekiah is blessed for having expended three hundred barrels of "mid-night oil" successfully to reconcile them, but his arguments are not recounted.<sup>143</sup>

Proverbs was claimed to be self-contradictory because of Proverbs 26:4,5:

Answer not a fool according to his folly  
lest you also be like him;  
Answer a fool according to his folly,  
lest he be wise in his own conceit.

Here, too, the rabbis managed to find a way to bring these words into agreement.<sup>144</sup>

Ecclesiastes was seen as both self-contradictory and in disagreement with other Scripture.<sup>145</sup> In addition to the passages mentioned above, Ecclesiastes 4:2 and 9:4 seemed divergent, as did the former when set beside Psalm 115:17. R. Tanhum of Neway solved these with a long explanation.<sup>146</sup> Another rabbi

<sup>140</sup> *Ibid.*

<sup>141</sup> MR, Eccl. 1. 3. 1.

<sup>142</sup> BT, Shabb. 13b.

<sup>143</sup> *Ibid.*

<sup>144</sup> BT, Shabb. 30b.

<sup>145</sup> BT, Shabb. 30.

<sup>146</sup> BT, Shabb. 30a.

explains that Ecclesiastes was not hidden because "it began and ended with words of Torah."<sup>147</sup>

A third reason for rejecting a book is charged against Ecclesiastes: it has only Solomon's wisdom rather than God's.<sup>148</sup> It is significant that some Bible-believing Christians today say the same thing. But the "words of Torah" with which Ecclesiastes closes do not allow them this solution:

The preacher sought to find out acceptable words, and that which is written is upright, even words of truth (12:10).

The subject matter of Song of Songs was apparently responsible for the questions raised regarding it. R. Akiba's reactions suggest the nature of the problem. "All the Writings are holy," he says, "and this is the holy of holies,"<sup>149</sup> implying that some felt the Song of Songs was not so holy. Similarly, "he who, at a banquet, renders the Song of Songs in a sing-song way, turning it into a common ditty, has no share in the world to come."<sup>150</sup> Again it is significant that, even today, some Bible-believers are embarrassed by this book, feeling that allegorical exegesis is necessary to justify its canonicity.

The only problem mentioned in connection with Esther is its post-Mosaic establishment of a religious festival,<sup>151</sup> although both Esther's Purim and 1 Maccabees' Hanukah were then being observed. Perhaps the lack of any specific reference to God was also a problem.

No discussion arises over Ezra and Daniel, but the citation given above regarding translations and unclean hands (p. 26) is immediately preceded by the remark, "The Aramaic sections in Ezra and Daniel render unclean the hands."<sup>152</sup> Apparently the presence of long Aramaic passages concerned some. But the Mishnah here seems to affirm the belief that Aramaic was the original language of these passages, that therefore that language was to be used in their public reading, and that not even a Hebrew translation of such was an adequate substitute.

<sup>147</sup> BT, Shabb. 30b.

<sup>148</sup> BT, Meg. 7a.

<sup>149</sup> MR, Song 1. 1. 11.

<sup>150</sup> Tos., Sanh. 12. 10.

<sup>151</sup> BT, Meg. 7a.

<sup>152</sup> M, Yad. 4. 5.

For the book of Ruth, the remaining work which may have come under discussion,<sup>153</sup> nothing is said of the problem involved. Perhaps the difficulty was reconciling Deut. 23:3 with the fact that Ruth was a Moabite.

Let us now attempt to date these rabbinical discussions on the canon. Although a number of the references are too vague, saying only that the "Sages" gave some opinion,<sup>154</sup> others are more specific.

Even while the temple was standing (before A.D. 70) it seems that the rabbis discussed the extent of the canon. According to the *Mishnah*:

R. Ishmael cites three instances of lenient rulings by Beth Shammai and rigorous rulings by Beth Hillel. The Book of Ecclesiastes does not defile the hands according to the opinion of Beth Shammai; but Beth Hillel says: It defiles the hands.<sup>155</sup>

R. Simeon, a student of Akiba,<sup>156</sup> reports the same opinion, adding that Ruth, Song of Songs, and Esther are to be considered Scripture.<sup>157</sup> As Hillel and Shammai were active at the beginning of our era, their schools were in existence before the fall of Jerusalem, and no known rabbis of Jamnia are mentioned here, it is probable that these discussions pre-date Jamnia.

A stronger evidence of early canon discussion is given in the *Gemara*:

In truth, that man, Hananiah son of Hezekiah by name, is to be remembered for blessing: but for him, the Book of Ezekiel would have been hidden, for its words contradicted the Torah. What did he do? Three hundred barrels of oil were taken up to him and he sat in an upper chamber and reconciled them.<sup>158</sup>

According to the *Mishnah* at this point, eighteen *halakoth* were enacted on one day in the upper chamber of Hananiah ben Hezekiah ben Garon when Beth Shammai outvoted Beth Hillel.<sup>159</sup> The *Gemara* further informs us that one of the rulings was

<sup>153</sup> BT, Meg. 7a.

<sup>154</sup> BT, Shabb. 30b; MR, Lev. 28. 1; Eccl. 1. 3. 1.

<sup>155</sup> M, Eduy. 5. 3.

<sup>156</sup> SITM, p. 115.

<sup>157</sup> BT, Meg. 7a.

<sup>158</sup> BT, Shabb. 13b.

<sup>159</sup> M, Shabb. 13b.

that *terumah* is made unfit by contact with Scripture.<sup>160</sup> Since this ruling is presupposed in the argument between Johanan ben Zakkai and the Sadducees quoted above (note 135), it was probably enacted before Jamnia. Since also Hananiah ben Hezekiah is connected with the authorship of *Megillat Ta'anit*,<sup>161</sup> and the appendix of that work mentions his son Eliezer, who is thought to have been one of the leading rebels in the first revolt against the Romans,<sup>162</sup> it appears that this discussion occurred in the last generation before the destruction of the temple.<sup>163</sup>

Thus it appears that there was at least one discussion regarding canon, involving two groups, Beth Shammai and Beth Hillel, and one named individual, Hananiah ben Hezekiah, which gives every indication of having occurred before the fall of Jerusalem in A.D. 70.

In the period of Jamnia's prominence we also find such discussions. The most specific statement comes from R. Simeon ben Azzai, a contemporary of Akiba,<sup>164</sup> who says that he has a tradition "from the seventy-two elders on the day when they appointed R. Eleazar ben Azariah head of the Academy" that both Song of Songs and Ecclesiastes defile the hands.<sup>165</sup> This specific (though undated) day<sup>166</sup> seems to have occurred some time after the death of R. Johanan ben Zakkai. The number seventy-two suggests that the action was taken by the Great Beth Din rather than the Beth ha-Midrash (presumably the "Academy" mentioned here) or the special (?) group of 120 elders who drew up the Eighteen Benedictions.<sup>167</sup>

R. Judah, a student of Akiba,<sup>168</sup> reports that Samuel rejected the Book of Esther.<sup>169</sup> Presumably this is Samuel the Little, a contemporary of Gamaliel and Eleazar ben Azariah,<sup>170</sup> so this could easily be the same incident mentioned above. Strangely

<sup>160</sup> BT, Shabb. 13b.

<sup>161</sup> *Ibid.*

<sup>162</sup> Josephus, *Jewish War* 2, 17, 2 (409).

<sup>163</sup> See Encyclopaedia Judaica, IV, p. 738; XI, p. 1230.

<sup>164</sup> SITM, p. 114.

<sup>165</sup> M, Yad. 3. 5.

<sup>166</sup> Also mentioned in BT, Ber. 27b.

<sup>167</sup> BT, Meg. 17b.

<sup>168</sup> SITM, p. 115.

<sup>169</sup> BT, Meg. 7a.

<sup>170</sup> SITM, pp. 110-12.



enough, Samuel did not deny that Esther was inspired by the Holy Spirit, but rather he felt that it was not supposed to have been written down, presumably remaining as oral tradition.

In addition to these, we have the remarks of R. Akiba on the Song of Songs<sup>171</sup> and his condemnation of those who read non-canonical books.<sup>172</sup> As Akiba was already a prominent rabbi when Gamaliel II was temporarily deposed,<sup>173</sup> these statements in themselves need not imply any later discussion. Elsewhere, however, we have R. Akiba's statements on both Ecclesiastes and Song of Songs<sup>174</sup> in a context which seems to be a discussion between himself, R. Simeon ben. Azzai mentioned above, and three of Akiba's later students, Judah, Jose, and Simeon.<sup>175</sup> In a sense this is a discussion about the two previously-mentioned discussions of the canon, as the controversy between Beth Shammai and Beth Hillel, and the making of R. Eleazar ben Azariah head of the Academy are both mentioned. Yet the disagreement among these men on just what was disputed and what was decided in these previous discussions seems to belie any widely-publicized decision. Presumably this last discussion, involving Akiba and his students, is set in the Beth ha-Midrash rather than the Beth Din.

Thus Jamnia saw at least one discussion of canon in the Beth Din and, later, another in the Beth ha-Midrash. Probably there were even more discussions among the rabbis on these matters during the Jamnia period, but there is no indication of a special council for this.

But discussions and even arguments on canon did not cease with Jamnia. About A.D. 200,<sup>176</sup> R. Simeon ben Menasia claims that Ecclesiastes is not Scripture, as it contains only Solomon's wisdom.<sup>177</sup> R. Tanhum of Neway is still discussing apparent contradictions in Ecclesiastes<sup>178</sup> a century and a half beyond this.<sup>179</sup>

<sup>171</sup> Tos., Sanh. 12. 10; MR, Song 1. 1. 11.

<sup>172</sup> M. Sanh. 90a.

<sup>173</sup> BT, Ber. 27b.

<sup>174</sup> M, Yad. 3. 5.

<sup>175</sup> SITM, p. 115.

<sup>176</sup> SITM, p. 117.

<sup>177</sup> BT, Meg. 7a.

<sup>178</sup> BT, Shabb. 30a.

<sup>179</sup> SITM, p. 131; *Encyclopaedia Judaica*, XV, 793.

Likewise the inspiration of Esther, though favored earlier by such as Eleazar, Samuel, Akiba, and Meir, is still being argued by Raba, Rabina, Joseph, and Nahman ben Isaac<sup>180</sup> late in the fourth century of our era.<sup>181</sup> It does not appear, therefore, that any earlier rabbinical decisions were viewed as ending all discussion.

So far, we have seen that the canonicity of from six to eight books was discussed by the rabbis, all but one of which are in the third of the present divisions of the Hebrew Bible. Unless one considers the books of Hamiram to have been real candidates for canonicity, only books in the present canon were even mentioned.

The defensive nature of the discussion suggests that the rabbis were trying to justify the status quo rather than campaigning for or against candidates for admission. There is no hint that any of the books discussed was of recent vintage or of any other than traditional authorship. The questions which are raised, in fact, are just the sort that are still being raised today among people with similar theology and interests. These involve internal considerations only, and it appears that no other lines of questioning were pursued.

Although the rabbis occasionally refer to "decisions" in regard to the canon, reported discussions of these matters go backward to early rabbinical times (before A.D. 70) and forward nearly to A.D. 400. The question therefore arises whether the rabbinical discussions really contributed decisively to the acceptance of the works discussed as Scripture or whether the rabbis were merely seeking to understand and defend their prior acceptance. To attempt to answer this, let us consider other early Jewish and Christian evidence regarding the Old Testament canon.

#### *Other Evidence on the Canon*

We shall not here attempt to catalogue the earliest Jewish references to each of the Old Testament books for which canonicity was later discussed by the rabbis. Most scholars concede

<sup>180</sup> BT, Meg. 7a.

<sup>181</sup> SITM, pp. 130, 132.

that all were in existence nearly two centuries before Jamnia.<sup>182</sup> Instead let us examine early statements regarding the extent of the canon and groupings of the books included in it.

Among the oldest sources which give numbers for the books in the Old Testament, at least two different enumerations are found. A twenty-two book count is given by Josephus<sup>183</sup> (see above, note 1) as well as by several church fathers (Melito, Origen, Eusebius, Cyril of Jerusalem, Epiphanius, Jerome, and Augustine) who seem to be reporting Jewish enumerations.<sup>184</sup>

On the other hand, 4 Ezra seems to picture twenty-four books<sup>185</sup> as known to the Jewish public. Such a count is also seen in the Talmud<sup>186</sup> and in the *Midrash Rabbah* on Numbers.<sup>187</sup> It is probable that, as suggested by Bentzen:

The difference is accounted for by assuming that Josephus combines Ruth with Judges, Lamentations with Jeremiah, and takes Ezra and Nehemiah as one book, while 4 Esdras probably regards Ruth and Lamentations as separate books.<sup>188</sup>

Whether it is also probable that Josephus's count was artificially reduced to twenty-two to match the number of letters in the Hebrew alphabet, as Bentzen further suggests,<sup>189</sup> is not so clear. The *Midrash Rabbah* on Numbers associates the twenty-four books with the twenty-four priestly divisions.<sup>190</sup> Eissfeldt, for instance, believes that the twenty-two book count is the older.<sup>191</sup> A third, rather peculiar numbering of twenty-seven is found in an eleventh-century Greek manuscript containing the *Didache* and 2 Clement.<sup>192</sup> Here the books of the Old Testament are given in Greek together with a transliterated name for each, some from Hebrew and some from Aramaic. A list with the

<sup>182</sup> E.g., Ryle, *op. cit.*, pp. 177-78; Bentzen, *op. cit.*, I, p. 26.

<sup>183</sup> Josephus, *Against Apion* 1. 8 (38-41).

<sup>184</sup> Eissfeldt, *op. cit.*, p. 569.

<sup>185</sup> 4 Ezra 14:44-45.

<sup>186</sup> BT, B. B. 14b.

<sup>187</sup> MR, Num. 14. 4, 15. 22.

<sup>188</sup> Bentzen, *op. cit.*, I, p. 26.

<sup>189</sup> *Ibid.*

<sup>190</sup> MR, Num. 15. 22.

<sup>191</sup> Eissfeldt, *op. cit.*, p. 569.

<sup>192</sup> Jean-Paul Audet, "A Hebrew-Aramaic List of Books of the Old Testament in Greek Transcription," *Journal of Theological Studies*, new series, I (1950), 135-54.

same count and names, but a more usual order, is given by Epiphanius.<sup>193</sup> Audet argues rather convincingly that the list is at least as old as the first half of the second century and probably as old as the last half of the first century of our era. If so, it must receive consideration along with Josephus and 4 Ezra.

In this list the double-books are divided, as is Ruth from Judges, though the twelve Minor Prophets are one book. Lamentations is not mentioned, either being combined with Jeremiah or left out altogether. As Lamentations was not questioned by any rabbis and was included in the list in Baba Bathra,<sup>194</sup> the first alternative is not unreasonable. The order of books in this list is peculiar. Joshua is mixed in with the Pentateuch; Ruth, Job, Judges, and Psalms precede the historical works 1 Samuel through 2 Chronicles, which are followed by Proverbs, Ecclesiastes, Song of Songs, Jeremiah, the 12, Isaiah, Daniel, 1 Ezra, 2 Ezra (Nehemiah ?), and Esther.

From these sources, as well as from the statements in Josephus, 4 Ezra and the Talmud regarding the cessation of prophecy about the time of Ezra (cited above, notes 1, 4, 7, 9), and in view of the New Testament use of "Scripture" as though it were a recognized body of material, it seems that there was a popular consensus on the books belonging to Scripture even before the end of the first century A.D. This consensus did not extend to the question of how these books were to be ordered or counted, but it did seem to be combined with the belief that these books had been known publicly since the time of Ezra.

As indicated at the beginning, it is common among liberals to see in the threefold grouping found in Baba Bathra and in the medieval Hebrew manuscripts of the Bible a "fossil" of the canonization process. This has a certain plausibility, as one may trace three sections back from Baba Bathra (c. A.D. 200) to the prologue of Ecclesiasticus (before 100 B.C.). But a careful examination of the materials involved raises questions about the identity of the threefold divisions in Ecclesiasticus and in Baba Bathra.

For one thing, Josephus (cited above, note 1) also has a three-

<sup>193</sup> Epiphanius, *Weights and Measures*, 23.

<sup>194</sup> BT, B. B. 14b.

fold division of the Old Testament, but it differs from that of Baba Bathra. Although his first division is the Torah and his second could as well be called "Prophets" as the second division in Baba Bathra, his third division contains only four books, designated "hymns to God and precepts for the conduct of human life." Presumably these four are the Psalms, Proverbs, Ecclesiastes, and Song of Songs, though some might prefer to replace one of these by Job. Since this arrangement differs from that in the Talmud, we must ask which (if either) of these divisions is found in even earlier statements.

In the prologue to Ecclesiasticus or Ben Sira,<sup>195</sup> a threefold division is mentioned in slightly different words on three occasions. In Charles's edition we have "the Law and the Prophets and the others who followed after them" (lines 1-2), "the Law and the Prophets and the other books of our fathers" (lines 5-6), and "the Law itself, and the Prophecies and the rest of the books" (lines 13-14). These terms could equally well fit the divisions of Josephus or the "Talmud.

In Philo's discussion of the Therapeutae, he mentions a room for contemplation into which members never take food or such things, but only "laws and oracles delivered through the mouth of prophets, and psalms and anything else which fosters and perfects knowledge and piety."<sup>196</sup> Here, if Scripture is in view, Colson's translation suggests a threefold division in which the third section is called "Psalms" (actually "hymns"). If one were to choose between the two, this would fit Josephus's classification better than that of the Talmud. It is equally possible to translate the last part "psalms and other (books) which foster and perfect knowledge and piety," which would then yield either a fourth division or a twofold name for the third division. This phrase is in fact remarkably like Josephus's "hymns to God and precepts for the conduct of human life."

We have also Jesus' remark in Luke 24:44, where he refers to prophecies fulfilled in himself: "all the things written in the law of Moses and the prophets and psalms." If this is a statement about the grouping of books in the Old Testament rather

<sup>195</sup> Charles, *op. cit.*, I, 316-17.

<sup>196</sup> Philo, *Contemplative Life*, 25 (475).

than a list of those particular books which prophesied His ministry, then it fits Josephus's grouping far better than that of Baba Bathra.

In addition to these citations, the Greek-Hebrew-Aramaic list mentioned above and the ordering of books in the lists of the church fathers and early uncial Greek manuscripts<sup>197</sup> should warn us against too facile assumptions regarding some definite grouping being preserved through more than three centuries from Ben Sira's grandson to Baba Bathra, particularly when codices do not begin to replace scrolls until about the end of the first century A.D. It is quite possible, as suggested by Bloch, Bleek,<sup>198</sup> Wilson,<sup>199</sup> and MacRae,<sup>200</sup> that the Talmudic division is a later development related to synagogue usage: only those books read at Sabbath services in conjunction with the Torah were retained in the second division; the others were moved to the third section.

### *Conclusions*

In this paper we have attempted to study the rabbinical activity at Jamnia in view of liberal theories regarding its importance in the formation of the Old Testament canon. I believe the following conclusions are defensible in the light of this study.

The city of Jamnia had both a rabbinical school (Beth ha-Midrash) and court (Beth Din, Sanhedrin) during the period A.D. 70-135, if not earlier. There is no conclusive evidence for any other rabbinical convocations there.

The extent of the sacred Scriptures was one of many topics discussed at Jamnia, probably both in the school and in the court, and probably more than once. However, this subject was

<sup>197</sup> Henry B. Swete and Richard R. Ottley, *An Introduction to the Old Testament in Greek* (New York: KTAV, 1968, reprint of 2nd edn., 1914), pp. 201-14.

<sup>198</sup> William Henry Green, *Introduction to the Old Testament: The Canon* (New York: Charles Scribner's Sons, 1898), p. 90.

<sup>199</sup> Robert Dick Wilson, *Studies in the Book of Daniel* (2 vols.; Grand Rapids, Mich.: Baker Book House, 1972; reprint of vol. I : 1917, vol. II 1938), II, 61, 64.

<sup>200</sup> Allan A. MacRae, unpublished class notes in Old Testament Introduction, Faith Theological Seminary, Fall, 1967.

also discussed by the rabbis at least once a generation earlier and also several times long after the Jamnia period.

No books are mentioned in these discussions except those now considered canonical. None of these are treated as candidates for admission to the canon, but rather the rabbis seem to be testing a status quo which has existed beyond memory. None of the discussions hint at recent vintage of the works under consideration or deny them traditional authorship. Instead it appears that the rabbis are troubled by purely internal problems, such as theology, apparent contradictions, or seemingly unsuitable content.

The books discussed are not all in the present third division of the Hebrew Bible known as the Writings, Kethubim, or Hagiographa, and therefore it does not appear that the distinction between the second and third division has anything to do with the history of the Old Testament canon. In fact, it is not clear that the present threefold division goes back into the first century A.D. At the least, such an arrangement faced strong competition from other groupings in this period. The suggestion of Wilson and others for a later origin of this grouping seems to fit the available evidence better than that of a three-stage canonization.

The decisions of the rabbis in the canonical discussions at Jamnia and elsewhere doubtless had some influence in what became orthodox Judaism, for these discussions, together with thousands on a vast array of other subjects, eventually became a part of the Babylonian Talmud and other early rabbinical literature. But no text of any specific decision has come down to us (nor, apparently, even to Akiba and his students). Rather, it appears that a general consensus already existed regarding the extent of the category called Scripture, so that even the author of 4 Ezra, though desiring to add one of his own, was obliged to recognize this consensus in his distinction between public and hidden Scripture.

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