AUTHORITY AND CANON IN THE THOUGHT OF THREE REFORM THEOLOGIANS

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Digest

The intellectual premises of this thesis are found in the area of canonical hermeneutics. The word "canon" has to with the idea of the sacred text or texts which serve to identify the faith community and its task in the world. "Hermeneutics" has to do with the interpretability and meaningfulness of the text(s).

In this thesis, I am especially interested in the question of the authority of the canon: how that authority is conceived of and justified, and how the canon operates authoritatively in the life of the faith community. How to interpret the text and to what ends, and how to establish its meaning(s), depend on prior notions of canon and authority. This thesis will present a study of those prior notions.

The faith community under study is American Reform Judaism. By studying those aspects of the three great Platforms of American Reform Judaism which have to with authority and canon, and, more importantly, the thought of the writers of those Platforms on those areas, I hope to clarify and advance Reform Judaism's understanding of the authority of the canon.

The three thinkers studied, Kaufmann Kohler, Samuel Cohon and Eugene Borowitz, share a great deal in their notions of canon and authority, but also differ significantly in many areas. Each adds appreciably to a Reform theory of canonical authority.

I use here the heuristic tool of Natural Law theory, which includes notions of Natural Right, Natural Rights, and philosophy of law, to elucidate the various thinkers' stands on the issues at hand, as well as recent studies in theology and legal studies. I show here that Reform Judaism can be seen as resting on a Natural Law critique of authority, and its notion of canon, and the canon's meaning and authority, have depended on, for example, normative theories of the nature of history, the nature of religion, and human nature in general.

I conclude by elucidating significant ideas which operate in the Reform notion of canon and authority, and by arguing that the theology of Reform Judaism, especially in areas of authority and canon, would be well served by studies in general hermeneutics and philosophic anthropology.

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Chapter One

Canonical Hermeneutics and The Natural Law Critique of Authority

1. Introduction

The focus of this study is the intellectual and philosophic history (geistesgeschichte) of Reform Judaism. Our interests may be loosely understood as theological, however, our focus here is not directly concerned with thought about God, but rather authority and justification. Reform Judaism begins as a rethinking of what is authoritative in the religious life, specifically Jewish religious life, and has been concerned, from its inception, with the problem of the justification for the reforms of the Jewish religion which it advocates.

We use the term authority at this point in our argument in a general way.[1] Authority means the capacity to influence people in such a way that they do, or should, conform to some standard or will. Authority, as understood here, also implies license, rightful authority, and is therefore different from raw, coercive power. This does not mean that a

person or institution with authority may not also have power and may not also coerce; they may, but only within the terms of their license. We are asking here what this term means in Reform Judaism, how Reform Jewish thinkers have understood what is authoritative in Reform, why, and in what senses. A corollary of authority as understood here is the notion of justification. How do we justify an authority, i.e., show it to be rightful authority? When we go against one authority to establish another, how is that move justified?

Rather than leave these questions at the purely theoretical level, we will examine them in terms of Reform Judaism's relationship to the sacred text, the canon. The traditional Judaism against which Reform defines itself has a definite notion of Torah as authority. Traditional Judaism holds that Torah generates the halakha through the jurisprudential work of the rabbis. This halakha is authoritative in traditional Jewish life, in that it demands conformity with a more or less clear code of behaviors and practices. Torah is justified as authority in that it is divine revelation, given by God. Reform Judaism retains the notion of sacred scripture, and for the most part, divine (though perhaps not supernatural) revelation. However, the Reform notion of Torah, its authority, and what justifies that authority, are different from the traditional ones, indeed. Our goal here, then, is to examine the Reform notion of the authority of canon. Our goal here is not to establish an historical record of Reform Judaism, which has been done excellently

elsewhere[2]. Rather, our goal here is understanding and interpreting the moral dimension of how thinkers of Reform Judaism have construed the meaning and authority of the sacred text.

This first chapter is divided into two parts. First, we will discuss the wider philosophic understandings which inform the present study. That wider philosphic understanding is based, first of all, on the idea that human beings inhabit a nomos, a normative universe, and law is major category for understanding that nomos. The work of the late legal philosopher, Robert Cover, will be primarly used in that discussion. The second part of our wider philosophic understanding is that Cover's work may be understood as a basis for a Natural Law theory. Ronald Garet's "Meaning and Ending," and "Natural Law and Creation Stories" will be of use there.

Our interest in Natural Law as it will be presented here is important in two distinct, though related ways. First of all, we contend that Natural Law theory in general provides a helpful paradigm for understanding notions of authority and justification in Reform Judaism, and sheds light on Reform's relationship with the sacred canon. Secondly, we will suggest what specific Natural Law theories were at the heart of the origins of Reform Judaism, and what role they played in the subsequent intellectual history of Reform, especially in the area of

Reform's relationship with the sacred text.[1] Specifically, we will argue that Natural Law theories of justice and history greatly informed the worldview of early Reform concerning the authority meaning of the canon, and set the tone for future discussions as well.

The second section of this introductory chapter will be devoted to a general understanding the role of the sacred canon in the life of the religious community. Our goal there will be to present the methodology we will use in examining the notion of canon in relation to notions of authority and justification as it appears in Reform thought. Ronald Garet's "Comparative Normative Hermeneutic," David Kelsey's Uses and Scripture in Recent Theology, as well as works by James Sanders on canonical criticism will studied.

The goal of this thesis is to describe and analyze how thinkers in Reform Judaism have construed the authority of the canon, its boundaries and uses, and its place in the life of the religious community. The three thinkers studied here are those who were largely responsible for the wording of the three great platforms of Reform Judaism, Kaufmann Kohler (Pittsburgh, 1885), Samuel Cohon (Columbus, 1937) and Eugene Borowitz (San Francisco "Centenary Perspective," 1975). We will precede our separate studies of these three thinkers with an overview of early Reform's struggle with authority and canon, which set the stage for

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[1] The difference between general Natural Law theory and specific Natural Law theories will be clarified below.

subsequent thought.

2. Nomos and Natural Law

In this section, I will present the salient and pertinent aspects of the later legal thought of Professor Robert Cover, interpreted with the help of Ronald Garet's analysis of Cover.

In several of Cover's later articles, he describes a notion of law which is tantamount to an understanding of human existence.[3] For Cover, the term "law" connotes much more than legal rules or the structure of the social order. Rather, law points to the normative world which we inhabit, a normative world especially characterized by a system of tensions which exist between our present world and a world we envision, an alternate world. Cover uses the word "nomos" as a synonym for that special use of the word law.

The exact meaning of Cover's term "nomos" is difficult to describe. One visual image which Cover uses is that of a bridge. Nomos connotes a world of two different states of affairs, linked by a bridge. One state of affairs is our present reality, the other is the reality toward which we will. The two realities are connected by commitments, passions, visions, and the laws-as-legal-rules themselves. What Cover hopes to show in this notion of nomos is that laws do not exist outside of a nomos, and that they are only a part, perhaps a secondary or tertiary part, of that bridge which connects the worlds. More primary than laws-as-rules, for Cover,

are the larger symbolic systems that generate meaning in human life - sacred narratives, myths, values, which make possible ultimate transformation.[4]

Cover tells us that the bridges, the linguistic means toward transformation, are defined by the future, alternate worlds. In Cover's notion of nomos, then, the future world is not experienced as one among many, but rather as a state of affairs which exerts upon us a certain moral gravitational pull to a world redeemed. The bridge is constructed in relation to that alternate world. In other words, our narratives, myths, commitments and laws are connected to that other state of affairs. They are rooted in the nature of our nomos - where we are and where we ought to, must go. We might say that the nature of our nomos guides our work in this world of tension.

Two things should be made clear at this point. Cover does not supply a substantive prescription concerning that alternate world, or what the bridge should be. He takes it for granted that there are different worlds, some breaking off from each other,[5] living in truces or unions of greater or lesser ease. They are sometimes at war with each other. Rather than offer a prescription for a nomos, a theory of justice, as it were, Cover proffers an interpretation of human existence which wants to break the notion of law free from its institutional, forensic, perhaps positivistic moorings. At his most theoretical, he is more than a

pluralist - he is an anarchist, as he develops a notion of law before a ruler steps in and creates res judicata.[6]

Cover's notion of nomos brings to light a very important aspect of the interpretation of human existence in the moral world - the nature of cultural/social conflict. At the rarefied level of Cover's interpretive category, we do not describe a struggle in terms of those who uphold the law and those who break it, for each acts according to a world which can generate commitments "written in blood," commitments which can generate stances which allow no other. Such conflict is not one force colliding with the law, but rather nomic worlds colliding against each other. It should be noted that Cover is not advocating moral relativism, but rather describes tensions between worlds of meaning through the category of law.

Cover's thought clearly fits into the tradition of those whom he cites, Geertz, Berger, and so forth, i.e., sociology of knowledge, philosophic anthropology and philosophic hermeneutics. But since he deals most directly with a notion of law, we should attempt to understand his thought in terms of the tradition of the philosophy of law. Ronald Garet argues, and in my estimation, convincingly, that Cover's thought forms a basis for a Natural Law theory. I will examine Garet's interpretation of Cover on three levels. First, I will offer a description of Natural Law theory by which we may better understand Garet's interpretation of Cover. Second, I will present Garet's own understanding of Natural Law,

and show how Garet understands Cover. Third, I will assess the aptness and significance of seeing Cover's thought as being part of the Natural Law tradition, and briefly show how Cover's thought advances Natural Law as legal philosphy.

The history of Natural Law is a long one, and the controversy over Natural Law in the last three centuries is complex. We will recount neither here. A complete philosophic description of it is also beyond the scope of this study.[7] The aspect of Natural Law which Garet refers to, and which is important to our study, is that which has to do with ethics, and politics and human nature, not with physics or material nature. Natural Law, as understood here, suggests that what is right or just has to do ultimately with something other than and higher than socially created law or convention. Human law and behavior can and ought to be judged according to that higher standard. Natural Law may have to do with, variously, right reason, natural right, or natural rights. Natural Law theory, then, has been understood as having to do with the notion of universal moral validity, or the nature of the moral world.

In his essay on Cover, "Meaning and Ending"[8] Garet argues that Cover's thought may be understood in terms of Natural Law theory. There Garet defines Natural Law in this way:

> By "natural law," I understand a human-nature naturalist theory of law. Such a theory contends that there is human nature, that this nature is knowable, and that it is the mission of law to realize this nature or to forestall the evil that inheres in it . . . Natural law is a special form of ethical naturalism for two reasons. Its naturalism consists of claims about human nature; and those claims culminate in a thesis about the purpose or function of law.[9]

Garet connects Natural Law theory to Cover's thought in this way:

> Because nomos is a conception both of law and of human nature, it is plausible to think of it as providing the basis for a theory of natural law. Such a theory would seek the justification of laws in their fidelity to the human situation, and the lawful situation, that nomos names.[10]

We recall that the bridges which Cover speaks of tell of the nature of the moral world and human being, and moral transformation within that world. The nomos which entails a human nature is at once normative and descriptive: "[T]o say that nature has the authority to guide our action is to root what we fundamentally ought to be and do in the ground of what we fundamentally are."[11] What we fundamentally are, of course, is found in that world of tension, in a linguistic web spun of myths and narratives and commitments and law which bridge the is and the ought.

If we understand Natural Law theory only in terms of the dictates of the conscience or the just society, then it seems strange to see Cover's thought in terms of Natural Law.[12] But if we want to understand, theoretically, in what conception of the world Natural Law makes sense, then Cover's thought provides that basis. Natural Law theory is the legal philosophy of the nomos. What is most distinctive in Cover's notion of nomos, understood as a Natural Law theory, is the concept of world creation being connected to law creation. Cover states,

> I have have set forth a view of law which sees the essential law-creating act as requiring creation of strong worlds by strong communinities with attendant commitments to realize those worlds over time.[13]

Law-as-nomos, for Cover, is telic, not in that it works toward some certain, substantive notion of justice, but rather in that law generates and gives birth to worlds just beyond the horizon. This philosophic basis for Natural Law offers an interpretation of human being in which we may understand the world in which our work toward the right takes place. Nomos as Natural Law moves Natural Law from the purely ethical and political arena to that of the to the hermeneutical, moral and philosophic anthropological. It is hermeneutical in that in serves to interpret and understand the meaning of human behavior, including, especially, linguistic/symbolic behavior. It is moral in that the world in describes is a normative one, and it is philosophic anthropological in that it offers a philosophic understanding of human being in terms of human nature. Garet is justified in understanding Cover's nomos as providing a basis for Natural Law theory. Garet's understanding also helps us apply Cover's thought to the question at hand, authority and canon in Reform Judaism, in that Natural Law theories are typically seen as empowerments to critique and even overthrow existing positive law or power structures. Nomos as Natural Law sets forth a framework which helps us understand that some conflicts about the right are actually conflicts about what the world is like.

Cover's notion of nomos serves well as a framework for understanding the intellectual history of Reform. We shall see that Reform Judaism begins, intellectually, with a notion of an alternate

worlds in which Judaism should be understood. This alternate world is replete with its own understanding of human nature, history, and the proper ends of human and Jewish moral life. It will be our work here to describe the changing nomos of Reform Judaism, and the creative work which Reform thinkers performed in that world. Specifically, we want to describe the the Natural Law theories which were at the heart of Reform nomos, i.e., the Reform understanding of the nature of the world and moral life within that world. In Cover's terms, we are interested in the bridge of Reform Judaism, as it was formed and as it changed, pointing to changes in worlds which it mediated.

3. Authority and Canon

The specific part of the Cover's bridge in which we are interested here is thought concerning authority and canon. We are interested in how the authority of the canon is conceived, how that authority is justified. We are also interested in the boundaries of the canon - just what is authoritative, and how those boundaries are justified. Furthermore, we are interested in non-canonical or pseudo-canonical sources that may also be understood as authority in the religious life of Reform Judaism.

Ronald Garet, in his article "Comparative Normative Hermeneutics"[14] offers a series of terms embedded in an approach which together provide a good starting place for defining our general task of

understanding the authority of the canon in Reform Judaism. Garet sets for himself the task of providing a theoretical account of how an individual embedded in an interpretive community derives moral insight from texts that the community takes to be authoritative. Our interests here are not precisely in how texts are interpreted for normative guidance, but rather rest in a prior question - how to understand the authority of the text which may be called upon, or in other words, in what way the text is normative.

We will therefore use only those parts of Garet's complex and tightly argued essay which are essential for our study. Garet's overall interests is in "normative hermeneutic projects," which would mean the interpretive task and strategies for accomplishing that task found in any given community which has a canon as a central feature of its common life. We could speak, then, of the normative hermeneutic project of Reform Judaism (as distinct from other aspects of Reform Judaism). The key terms of normative hermeneutic projects are: a) the normative hermeneutic object, b) the normative hermeneutic project, and c) the worldview. The object is that thing, typically a written text, which a community refers to for normative guidance. Garet uses the ambiguous term "object," because exactly what the object is (Bible, tradition, etc.) is a question central to the study of normative hermeneutics. The boundaries of the object are difficult to ascertain, and the approach to the resolution of boundaries questions are provided by the worldview. A worldview

consists of "basic options in the history of ideas concerning human nature and its possibilities."[15] We note at this point that the shape of the project, or a community's unique, definitional "hermeneutic," or interpretive task and mode, is determined by the community's motivating world view. Garet would be saying, then, that the interpretive mode of a faith community is a function of the relationship between its definition of the nature and content of the hermeneutical object and the worldview that motivates that definitional activity. Though Garet does not emphasize it at this point, we should note that this function is not linear one: the motivating world view, the interpretative mode, and the definition of the canon are distinguished for elucidatory purposes only; in practice, they are deeply intertwined. The world view, in Cover's terms, would be articulated by the myths, narratives and sacred symbols of a faith community. These normative commitments which create an understanding of the world make sense of our engagement with the normative hermeneutic object.

The normative hermeneutic project refers to a "coherent interpretive attitude which executes certain basic normative commitments in hermeneutic practice."[16] There are three problems which must be addressed if we are to understand a normative hermeneutic project and its two entailed terms, the object and the worldview: 1) the problem of the complexity of the normative hermeneutic object, 2) the problem of textual authority, and 3) the problem of interpretive methodology.

We should note one thing before Garet's understanding of these problems is addressed. Fundamental to Garet's theory is the notion that the text does, indeed, teach. He excludes from the practice of normative hermeneutics an activity which he calls "Scientific Policymaking," a term perhaps initially opaque, which is borrowed from legal analysis. The term denotes the employment "of a technical vocabulary in pursuit of policy objectives that implement "comprehensive views" such as Kantianism or Utilitarianism."[17] In our case, the "technical vocabulary" would be scripture, or more precisely, pseudo-scripture; quotations lifted from a canon which would justify some preset comprehensive view of the world. The point of normative hermeneutics, Garet tells us, is that the text can teach us, but we approach the text through a worldview.[18] Garet's point here is important for us: we shall examine whether and/or when our theologians are not taught by the text, but rather use it to further some preset comprehensive policy.

As we turn to the three basic problems of normative hermeneutics, we note first that only the first two problems, the complexity of the normative hermeneutic object and the problem of textual authority, are of direct interest to us. The first problem, the complexity of the object, is itself divided into four issues:

1) The first issue is whether the focal text is simple or complex. Garet's choice of the "complex/simple" dichotomy betrays a picture of the Catholic/Protestant conflict held in mind. In any case, the perhaps too

simple dichotomy is instructive for our needs. In construing the normative hermeneutic object, we find Reform Judaism struggling with precisely this issue: Is authoritative, sacred text just the core canon, just the Pentateuch or the Bible, or some part of the Bible (e.g. universalizable prophetic statements)? If not, what else is included and why?

2) The second issue concerns the extension and intension of the text, the notions of "canon" and "scripture." Just what the term canon denotes or refers to, and what the term scripture connotes, are central issues for this study. We shall expand on the latter issue presently, for the properties and function of the canonical texts are central to our understanding of Reform hermeneutics.

3) The third issue is that of the tradition. Tradition is important in a hermeneutical study in light of the notion that canonicity and authority are not coterminous. For Garet, canon means the extension of the focal text, the core document, one might say. Quasi-canonical texts may be less venerated, but may have more operational authority in the life of a faith community. For example, in the traditional world, we understand the Torah and Talmud as canonical. But in the common life of the community, operant authority is based more in texts like the Siddur, the Kitzur Shulhan Arukh, the Mishna Berurah, and the works of significant major poskim (Feinstein's Iggeret Moshe, for example.) In our study we will be careful to note how our thinkers understood the

relationship between the canonical and quasi-canonical texts, and operant authority as opposed to venerated authority.[19]

4) The fourth problem in understanding the normative hermeneutic object is that of institutions. Garet uses the word institution in the way that it is generally used in the social sciences: some major or significant and persistent element in the life of a culture, fundemental to human need, value or activity, occupying an enduring position and regulated in some way.[20] Garet notes two institutions which play a role in the complexity of the normative hermeneutic object, the reflexive and the authoritative interpreter. Garet tells us that the community that understands itself by virtue of that object is the reflexive community, and the authoritative interpreter enforces that self understanding through institutional authority legitimated by the object itself.[21] The importance of this problem is brought forth in the idea that definitional work in the above issues would have an impact on the identity of the community. The "mirroring" works both ways: a reflexive community would see only itself in the canon, and the authoritative interpreter would license only certain readings of the text, only certain establishments of operant authority, and would likely find the community's image in some "canon within the canon." The practice of some Reform Jewish congregations of not reading significant parts of the book of Leviticus during the cycle of Torah readings would be a case in point.

We will delay our discussion of the second problem of normative hermeneutic projects, textual authority, for a moment in order to recapitulate. In addressing the four problems in defining the normative hermeneutic object, we create the groundwork of our normative hermeneutical study. Garet's bids us not to lose sight of the normative aspect of our work:

> The moral ideal for which normative hermeneutic projects reach is a reflective ideal; the community ought to be able to make use of its hermeneutic object to improve its understanding of itself, and to realize the moral aims embodied in the motivating worldview. The hermeneutical object, ideally, is a moment in reflective communal self understanding. Everything conspires, however, to frustrate this ideal. The hermeneutic object may become a dead letter, a placeholder or symbol for the community, rather than a means in a collective self-formative project. The reflexive community may become reified into images of actual community, images which deny the realities of intergroup conflict . . . The authoritative interpreter who looks into the crystal ball of the normative hermeneutic object may deny all visions save those which serve to legitimate the power of the interpretive institution.[22]

Part of the task of normative hermeneutics, then, is critique: we critically examine our hermeneutics as a way to keep ourselves faithful to our task.

We may summarize Garet's thought as it guides our study as follows: our interest here, generally, is the hermeneutics or interpretive mode of Reform Judaism, or as Garet would put it, the Reform normative hermeneutic project. We find that there are three elements to be considered in a normative hermeneutic project: the normative hermeneutic object, the normative hermeneutic project, and the worldview. There are three basic problems in understanding these elements: 1) the complexity of the normative hermeneutic object, where

we find the four issues discussed above, 2) the authority of the text, and 3) interpretive methodologies. As I mentioned above, the third problem, interpretive methodologies, are beyond the scope of this study.

As we turn to the problem of textual authority, we turn from Garet's study to the work of David Kelsey, upon whom Garet leans heavily. Though we won't be examining texts at the level that Kelsey does, his discussion of the authority of the text is very instructive and worthy of examination.

David Kelsey, in his Uses of Scripture in Recent Theology[23], begins his study of scripture with the question of what it means, as some say, that one may prove doctrine from scripture, and what it means, as others say, that scripture does not serve as authority for theology[24]. Kelsey wants to show that there is no standard or normative meaning of the word authority, and that most doctrines about the authority of scripture are misleading about the sense in which scripture is authority for theology. Kelsey studies the different ways that scripture is authoritative, the different aspects of scripture which are taken to be authoritative. Kelsey's book could be understood as an essay in the rhetoric of scriptural authority, and his questions are central to our study. Kelsey's premise is that when one argues from scripture, there is no appeal to an objective text in itself; the text is construed in some way, certain aspects (concepts, doctrines, historical reports, etc.) are taken to be authoritative. Kelsey asks, as do we: when scripture is appealed to, what logical force is being

ascribed to scripture? How is scripture brought to bear on theological questions?

In elucidating the term scripture, Kelsey makes the following four points:

> 1) Part of what it means to call a text or set of texts "scripture" is that its use in certain ways in the common life of the Christian community is essential to establishing and preserving the community's identity. That throws some light on the grammar of the concept "tradition" and its relation to "scripture." 2) Part of what is said in calling a text or set of texts "scripture" is that it is "authority" for the common life of the Christian community. "These texts are authority for the church's common life" is analytic in "These texts are the church's scripture." 3) To call a text or set of texts "scripture" is to ascribe some kind of "wholeness" to it. That throws some light on the grammar of the theological concept "canon." 4) The expression, "Scripture is authoritative for theology" has self-involving force. When a theologian says it, he does not so much offer a descriptive claim about a set of texts and one of its peculiar properties; rather, he commits himself to a certain kind of activity in the course of which these texts are going to be used in certain ways.[25]

In his development of these points, Kelsey emphasizes that scripture functions, or does something as scripture, namely: scripture functions to shape person identities so decisively as to transform them, when used in the common life of the faith community. We would say, then, that sacred text and faith community are interreferential not only analytically (a sacred text needs a community of believers to hold it sacred) but also dynamically; scripture is essential for shaping and preserving corporate and personal identities. If, for example, we understand the task of Israel as being to form itself according to scripture, then Israel remains Israel only so long as scripture generates Israel's identity. One of our questions

in our study is whether our theologians' notions of scripture come anywhere near the power that Kelsey prescribes, and if not, what scripture is for Reform Jews, and if so, what specifically scripture does or what its function is in the Reform Jewish faith community.

Kelsey goes further and studies precisely how the text is used in arguing theology, and the theoretical relationship between theology and scripture. That treatment is beyond the scope of this introductory chapter, but it will be referred as we examine the writings of our three theologians later on. We will turn now to the notion of canon, which is presupposed in the term "scripture."

David Kelsey tells us that to call a text or set of texts "scripture" is not only to say that they are essential for the identity of the faith community, but also that some sort of wholeness is ascribed to the text(s). Kelsey notes that different theologians perceive different patterns to be authoritative in scripture, and in virtue of that pattern, some kind of wholeness or unity when used as authority. The kinds of wholeness are diverse, as are the patterns found to be authoritative. Canon implies the idea that those patterns are found only or used authoritatively in a specific body of texts: the canon is the necessary and sufficient body of writings for the faith community to engage in its constant process of self identification. Part of the theologians task, says Kelsey, is to tell what the wholeness of the canon is like - the wholeness of the canon may be construed in different ways in hermeneutical practice. For example, a

Christian may find the dominating pattern of Scripture to be restoration, the return to Adamic wholeness, liberation from chaos. Scripture begins with a narrative about the universe liberated from chaos, about Adam falling from wholeness to chaos, and concludes with the message of Christ restoring wholeness. Israel's redemption from Egypt may be seen as a prefiguration all human's redemption. The canon, then, would be about something which gives form to the whole of the canon. Studying "scripture" might function as vicarious participation in redemption through the faithful reading of these texts, and scripture might authorize certain political commitments which would rescue society from moral chaos.

David Kelsey closely analyzes how the canon is used in theological argumentation. However, we shall remain here with the larger questions of authority in canonical criticism, as presented by by James Sanders in his Torah and Canon and Canon and Community (we shall mostly refer to the latter.)[26] In Torah and Canon, Sanders begins with the premise, which we find in Kelsey's thought as well, that "the believing community . . . can find out both what it is and what it ought to be by employing valid hermeneutic rules when reading the Bible" and that "[c]anonical criticism asks how and why this is the case."[27] We see that Sander's notion of canonical criticism falls under Garet's rubric of normative hermeneutics. Certain aspects of Sander's approach are important for our work, and we note them here. First of all, how the text functions and the authority of the text are problems that are to be understood in terms

of each other. Secondly, a major characteristic of the canon is its adaptability as well as its stability. The canon as authoritative is pluralistic and multivalent; as the canon in the life of the faith community constitutes the tradition, we find that the repeated text is resignified in the rereadings. The interest of canonical criticism, then, is not the origins of the text, the precanonical text, as it were, but rather what it means that canonicity is achieved - in short, that as much as the faith community interprets the canon, the canon interprets the world for the faith community.

Canon refuses to be locked by any methodology, it constantly engages the faith community in new ways, correcting the faith community and correcting itself in the life of the faith community. This notion, which is perhaps well captured in the epigram that the canon is both corrigent and corrigendum, is crucial for our study, for a central feature of Reform Judaism is the many diverse ways that Reform academics and theologians have tried to define and refine the canon and its proper usage. We should note that to understand how the canon ought to be used is to understand a community's notion of authority. We should recall at this point that we are interested in two different aspects of canonical criticism. The first is the aspect emphasized by Kelsey and Sanders, i.e., the actual usage of the canon. Kelsey's questions well define that concern: what aspects of scripture are taken to be authoritative? What is it about this aspect that makes it authoritative? What sort of logical force is ascribed

to the scripture to which the appeal is made? How is scripture that is cited brought to bear on theological proposals so as to authorize them?[28]

The second aspect concerning our study is related to Garet's notion of worldview. An essential part of that worldview which functions to define the normative hermeneutic object and the project (the community's interpretive mode - the subject of this study) is the moral commitment to a sacred text which involves notions of commitment, identity, tradition, and loyalty. As we approach these terms, we find ourselves back in the realm of Cover's notion of nomos. Garet's notion of worldview as that which motivates the hermeneutical project is apt: it is the view of the universe constituted by the two worlds which are tensively present for us. The worldview gives form to and gains expression in the bridge, itself composed of, among other things, notions of canon and authority.[29]

In the next chapter, we will investigate how early Reform thinkers understood the nature of the new world in which they found themselves, and what actions and commitments on their part were necessitated by the nature of that reality.

Endnotes for Chapter One:

1. For the notion of authority, Leonard Krieger's "The Idea of Authority in the West," The American Historical Review, vo. 82/2, April 1977, was useful. Also consulted was Stanley Benn's article in The Encyclopedia of Philosophy (New York: MacMillan Pub. Co.), 1968, vol. 1, s.v. "Authority," pp. 215-218. Benn discusses the notion of justification as well (pp. 216-217).

2. Michael Meyer's Response to Modernity (Oxford: Oxford University Press, 1988) is now the standard history of Reform Judaism.

3. The articles by Robert Cover referred to are: "Bringing the Messiah Through Law: A Case Study," Nomos XXX: Religion, Morality and the Law (R. Pennock and J. Chapman, eds., 1988), pp. 201-217; "Violence and the Word," 95 Yale Law Journal (1986), 1601-1629; "The Folktales of Justice: Tales of Jurisdiction," 14 Capital University Law Review (1985); pp. 179-203, and "The Supreme Court, 1982 Term - Foreward: Nomos and Narrative, 97 Harvard Law Review (1983), pp. 4-68.

4. Cover cites and depends on standard works in cultural and philosophic anthropology and the sociology of knowledge, e.g. Clifford Geertz The Interpretation of Cultures (1973), Berger and Luckmann The Social Construction of Reality (1966), Berger, The Sacred Canopy (1967), K. Mannheim, Ideology and Utopia, (1967). The literature is vast.

The term "ultimate transformation" is standard in the scientific study of religion. It refers to the final goal of religious behaviors, that life is transformed in the presence of God. See, for example, Frederick Streng's Introduction in Understanding Religious Life , (Bellmont, Ca: Wadsworth Pub. Co., second edition, 1974), the first volume in Streng, ed., "Religious Life of Man" series.

5. Cover discusses how worlds break off from each other in "Nomos and Narrative," supra, note 3. We will refer to that section later in this study.

6. "My position is very close to a classical anarchist one - with anarchy understood to mean the absence of rulers, not the absence of law." "Folktales of Justice," supra, note 3, p. 181.

7. A good general introduction to Natural Law theory in its various dimensions of ethics, politics and jurisprudence, is A. P. d'Entreves, Natural Law: An Introduction to Legal Theory (second rev. ed., 1970). Paul E. Sigmund's Natural Law in Political Thought (1971) contains succinct summaries of a the positions of a variety of figures, with excerpts

from their writings. Natural Law and Natural Rights, ed. Arthur Harding (1955) contains several good essays. Harding's essay provides a thoughtful caveat emptor for the Natural Law lawyer. Lloyd Weinreb's Natural Law and Justice (1987) provides a good account of the specific problem of nature and Natural Law, and discusses recent figures such as Nozick, H.L.A. Hart, Walzer, Rawls, MacIntyre, Sandel, etc. Leo Strauss's Natural Right and History (1953) is foundational, thought he writes specifically about Natural Right.

8. Ronald Garet, "Meaning and Ending," 96 Yale Law Journal (1987), pp. 1801-1824.

9. ibid., p. 1802, note 7.

10. ibid., p. 1802.

11. ibid., p. 1803.

12. Garet discusses these two different "moments" of Natural Law theory in his "Natural Law and Creation Stories," Nomos XXX: Religion, Morality and the Law. supra, note 3, pp. 218-262. See especially pp. 218-221.

13. Cover, "Bringing the Messiah Through Law: A Case Study." supra note 3, p. 203. (Quoted by Garet in ibid., p. 1805, note 23).

14. Ronald Garet, "Comparative Normative Hermeneutics: 58 Southern California Law Review (1985), pp. 34-135.

15. ibid., p. 45.

16. ibid., p. 46.

17. ibid., p. 38.

18. Garet does not discuss the significance of the fact that those engaged in Scientitic Policymaking deem it necessary to cite from canon.

19. The terms "operant authority" and "venerated authority" are not used by Garet, but I feel they capture the essence of his argument.

20. Websters Dictionary, 3d International Edition, was consulted for this definition.

21. Garet, "Comparative Normative Hermeneutics," supra, note 14, p. 62.

22. ibid., p. 63.

23. David Kelsey, The Uses of Scripture in Recent Theology (Philadelphia: The Fortress Press, 1975.)

24. ibid., p. 1.

25. ibid., p. 89.

26. James A. Sanders, Torah and Canon (Philadelphia: Fortress Press, 1972), and Canon and Community (Philadelphia: Fortress Press, 1984).

27. Torah and Canon, supra, note 26, p. xvi.

28. Kelsey, supra, note 23, p. 15.

29. The idea that a worldview gives form to and gain expression in the bridge is symptomatic of the so-called "hermeneutical circle." A full discussion of this problem would addres the relationship between mind and consciousness, knowledge and intention, hermeneutics and epistemology. This discussion is important, but beyond the scope of this paper. Introductions to that discussion may be found in, e.g., Richard Bernstein, The Restructuring of Social and Political Theory (Philadelphia: University of Pennsylvania Press, 1976), especially the sections on Phenomenology and Critical Theory. I have also found David Couzens Hoy's The Critical Circle: Literature, History and Philosophical Hermeneutics (Berkeley, et. al., University of California Press, 1982) to be immensely helpful. See also Paul Ricoeur, Interpretation Theory: Discourse and the Surplus and Meaning (Fort Worth: Texas Christian University Press, 1976).

Chapter Two

Law and History:

Authority and Canon in Early Reform Thought

1. Introduction

In this chapter, we will examine the early intellectual history of Reform Judaism through Cover's interpretative category of law. Our premise is that deep cultural conflict means that the nature of the moral world has changed for some group, and that the new moral world entails new commitments and new myths, which will find their way into notions of law and necessitate changes in the law. In this thesis, we are mostly interested in the nature of this new moral world as it is expressed in terms of the conception of canonical authority.

In using the category of Natural Law to understand early Reform thought, we are emphasizing the idea that for the Reformers, the halakha as they experienced it was unnatural, and that they were trying to bring something into the world which was in accord with the nature of the world as it should be. We sometimes think of Reform as being

antinomian or extra-legal; this is true only if we use a rather narrow understanding of law. I would maintain that from the point of view of many early Reformers, that they saw themselves as loyal to higher laws which mandated their action. The general nature of these higher laws may be understood as Natural Law theories of the right and history. We will first consider Natural Law theory of the right, and then Natural Law theory of history. Then we will examine the thought, albeit briefly, of several early, German Reform thinkers. This examination will set the stage for our investigation of how the Reform nomos, in the areas of authority and canon, has been seen by the American Reform thinkers who are the subject of our study.

2. Natural Right as a Natural Law Theory

Our first task in this chapter is a discussion of Natural Right theory. Leo Strauss's Natural Right and History is invaluable, and perhaps definitive, in approaching this discussion[1]. Strauss bases the origin of the notion of natural right in philosophy, which itself is marked by the discovery of nature. Once nature, physis, is conceived of, its antithesis nomos (not Cover's nomos, which is opposed to chaos, not nature) comes into being as well. Nomos refers to social forms which are conventional and human made, and especially refers to socially created laws and customs. Nomos, then, means not necessarily in accord with nature, and therefore is of lesser value than that which is in accord with

nature, if the criterion for the good is the natural. This distinction has an impact on value - there are things which are good by nature, and those which are good by convention. Philosophy will naturally, as it were, take an interest in principles or laws of nature, i.e. laws rooted in nature. Knowing what is right by nature as opposed to what is right by convention is not a simple task, for what is natural is hidden by conventional authority. This task of finding what is right by nature implies both a critique of what is considered good ancestrally or communally, and a transfer of authority to reason, which discovers that which is naturally right.

The nature vs. convention distinction is crucial for the entire natural right tradition. Nature is seen as having a deeper, more abiding character than does convention, and is considered the ultimate criterion for the good. A thing is good inasmuch as it accords with its nature. Everything has a true nature, and we must determine that nature to know what its good is. We can understand classic Natural Right as the political philosophy which is derived from the discovery of this nature and the moral criterology based on the idea of nature. Law should follow the order established by nature, as it guides man to the perfection of his nature. Classical Natural Right's understanding of law would therefore be teleological - man has proper ends, based on his being a rational and moral creature. His natural ends are moral and intellectual perfection. Now, there are points of conflict between classical Natural Right theory

and classical Natural Law theory (which would be a subset of Garet's Natural Law theory). For example, classical Natural Right, typically more an ancient Greek notion, would hold that one knows what is right through reason's discovering the nature of things, while Natural Law as understood by Aquinas, for example, is the participation of the Eternal Law in a rational creature. Aquinas holds that the light of natural reason is an imprint of the divine light. Natural Law, then, would be something in our reason whereby we discern what is good and evil, not something which our reason discovers about the world. Aquinas' notion of Natural Law approaches the notion of the conscience.[2] For our purposes, the two will be lumped together in that they both agree that there is human nature and we should live in accord with this nature; whether understood as promulgated in the conscience or discernible in the nature of things; through reason, we come to know the truth about what is and what our proper ends are.

The polis, or state, is seen as the locale in which one's true humanity is achieved. The major moral category of the relationship between the individual and the state is that of duty. Since society is essential for humanity, the notion of the common good can outweigh individual rights.

The move from classical Natural Right to modern Natural Right is a complex one; the story is much too complex to be broached here.[3] Whatever its historical and intellectual origins are, modern Natural Right,

or Natural Rights theory, begins with a notion of presocial man who is fully human. His main end is self preservation, not necessarily intellectual or moral perfection. He enters into society to secure his own ends, his own self preservation. Man is motivated by desire, not virtues. Reason does not discover truth, but rather is put to the service of desire - how to effect self preservation and maximize pleasure. Preservation, not perfection, brings man into civil society. He has no perfect duty vis-a-vis society, only perfect rights, originating in the right of self preservation. Each individual is the best judge of the best way to effect his self preservation, therefore one person's wisdom is not necessarily better than another's. The state's coercive authority, then, is derived from individuals granting to it their right to violence. The state should keep the peace between competing individuals, and arbitrate disputes. Each individual decides his own good depending on his desire, but only within the law of the state as formed through the social contract. Law of nature for the liberal would mean laws derived from the perfect rights of the individual in the state of nature, which are conditioned only by the social contract. One way to understand law would be to see it as created through individuals reasoning together to create the polity which would most serve to guarantee their rights. Since each individual has an equal claim to reason, and since no one's desire is better than anyone elses, all members of civil society are fundamentally equal.

Modern Natural Rights theory is the birth of modern liberalism; in fact, Strauss considers Hobbes to be the first liberal.[4] We would understand liberalism here, at least in its political dimension, to mean a way of thinking or moral philosophy which prefers freedom over duty, reason over nature, peaceful coexistence over coercion in matters of conscience, social equality over social stratification. Modern Natural Rights theory is expressed by two different types of thinkers, typified by David Hume (1711-1776), for example, on one side, and Kant (1724-1804) on the other, who, I will argue, can be seen as standing in the Natural Law tradition.

It might appear strange to understand Kant as a Natural Law moral philosopher, when a clear strain of Kantian thought is the disjunction between the moral world and the natural. The latter is a world of pure causality, not of moral choice. However, Kant's moral theory is concerned with explaining the freedom and moral consciousness which characterize the moral life, which is derived from his understanding of human nature.[5] Since Kant's theory contains a distinction between law and nature, and since his ethical moment is entirely internal, one might consider Kant a moral subjectivist. In order to show that Kant is not a moral subjectivist, and does stand in the Natural law tradition, I will compare him briefly to our other Natural Rights theorist, David Hume, whom I consider standing outside the Natural Law tradition, though Bentham (1748-1832) could serve for comparison just as well. This

discussion will be important later in our study, for the kind of liberalism which informs Reform thought, Scottish or Continental, is of great importance.

I understand Hume to be a moral subjectivist and a utilitarian. The basic tenet of moral subjectivism would be that morality is not an object or quality which stands outside the perceiver, whether this perceiver be an individual or people in general. In other words, there is no moral right or wrong aside from the judgments of approval or disapproval that people make. Good and bad, then, are ascriptions which refer to something happening in the ascriber, not something which inheres intrinsically as a virtue in a person or as a quality in an act. Moral subjectivism, in general, would tell us where morality occurs. What exactly a moral judgment is and why we have them would depend on the moral subjectivist. For Hume, a moral judgment is rooted in a feeling or impression in the perceiving subject. One feels, to put it simply, pain or pleasure in contemplating an act, and expresses approbation or disapprobation as a moral judgment (this parallels Bentham's notion of "ipsedixitism"). What one contemplates, though, is not simply an occurrence, but a willed action. Ideally, it is the motive that one contemplates.

What distinguishes a good motive from a bad motive is its relation to the public interest, or common good. This sentiment is well captured in the aphorism which sums up Bentham's hedonic calculus, which expresses

the essence of utilitarianism: "The greatest good for the greatest number." Something that is good advances the common good. Now, Hume goes to complicated and great lengths to show the consistency of this general principle, but does not vary far from it. However, even this public good (i.e. justice) is still an artificial virtue, i.e. man created. The reason justice is good is because it serves civil society. To finally understand Hume's moral subjectivism, we must say a few words about his political philosophy.

As noted above, Hume is a Natural Rights philospher. Despite the differences between the various thinkers so termed, all are characterized by the notion of a state of nature, and the movement into civil society to correct deficiencies which obtain in the state of nature. The general deficiency is lack of security, either through nature's scarcity or human avarice. Civil life, then, has the purpose of securing man's preservation and advancing his interests. The motive for establishing society and its legal conventions, then, is the interests of individual. Justice is in this sense an artificial virtue, created to maintain civil society. Moral approval has its basis in sympathy with the public interests. We must note that there is really is a public interest, and there really is an individual interest. So when one has a moral sentiment, to say that it is subjective, is not to say that it is about nothing. It is excited by something in the phenomenal world. However, that something has no intrinsic <u>moral</u> quality, unless one reduces morality to utility. But even then, to say

that something was moral, as opposed to advancing utility, would mean that it excited a certain constellation of human passions. Utility is not morality; one can assess utility, but morality is a feeling in the subject.

Hume well typfies one stream of modern Natural Right thinkers. He differs from the classical Natural Law tradition in all the significant ways that other natural rights theoreticians such as Hobbes and Bentham do, ways which may be reducible to questions about nature and reason (I would not force John Locke into the company of Hobbes, Hume and Bentham). In the Natural Law tradition, reason comes to know how the world really is, both the natural and moral world. The world is intelligible. Hobbes, as the watershed figure in the age-old enterprise of political philosophy, introduces a deep skepticism as the foundation of his theory. We can't know the universe, we can't know the ends of things, all we can know is our knowing. As Strauss puts it, epistemology replaces teleology. Therefore, reason does not come to know what really is, but only serves desire, as Hume says, "Reason, is, and ought only to be the slave of the passions, and can never pretend to any other office than to serve and obey them."[6]. Our deepest desire is self preservation. It would follow that reason does not motivate one to act, but rather informs the will as to which course of action will be most likely to achieve a desire. Reason, then, has nothing intrinsically to do with morality, meaning that one does not apprehend morality through reason, as much as morality is a reflection of our deepest desire, self preservation translated into civil

society, articulated as justice. As was mentioned above, in Natural Law, reason has everything to do with morality. By reason, one comes to know truth, what is really right and wrong, how the world really is. Reason justifies the will; i.e. makes it act justly.

Kant is also a liberal and is seen as a Natural Rights thinker, but would hold that he can also be seen as proponent of Natural Law moral theory. Kant, whose liberalism had the most impact on early Reform, is neither a moral subjectivist nor, morally speaking, a utilitarian. In discussing Kant, we are for certain legitimate reasons drawn to describing him as a moral subjectivist, because the ethical moment occurs only subjectively. Additionally, there are significant ways in which Kant is similar to Hume. For example, both focus on intentions as being the true concern of morality. Morality refers to an act which meets some subjectively experienced criterion. However, these similarities are only superficial, and we shall see that Kant is anything but a moral subjectivist, and in a different league entirely from that of David Hume.

First of all, to say that the ethical moment occurs subjectively is to say that there is no instrinsically moral act. The same act may be performed by one person for entirely prudential reasons, and by another strictly as a moral act. The distinction would be the intention of the author of the act; if one acted according to a categorical imperative as opposed to a hypothetical imperative, one acts morally. This leads us to an interesting, though perhaps not crucial, distinction between Kant and

Hume. Hume's emphasis is on morally judging external acts, i.e, a reductionist analysis of what is really happening when we judge morally, while Kant's emphasis is on the phenomenology of ethics; what criteria in the inner life are met for an act to be considered ethical. His approach is the the opposite of reductionist; he tries to reconstruct what actually happens that makes morality possible. According to Hume's lights, "real" morality is a chimera. According to Kant's lights, Hume's so-called morality is really only prudence. Now, prudence is not bad, and human happiness is certainly a good to be sought. But it is not the moral good by which humans are required to live.

The above distinction does not get us out of the woods of moral subjectivism for Kant. One could say that there really is no objective moral standard, that morality is reducible to an inner, subjective experiencing oneself as meeting certain methodological criteria in acting, and then call oneself ethical. It would not be abusive of the English language to label this type of ethics "moral subjectivism." A few more words are in order then about Kant's ethical moment.

The only good for Kant is the good will. The will acts rightfully when it acts according to pure practical reason: the act is universally valid and transcends one's historical and subjective needs. One does not act for one's benefit or anyone else's benefit necessarily, but only according to standards which raise the action to full objectivity. Kant teaches in Lectures on Ethics that this is not a subjective morality of

man's will, but rather this objectification of our own will brings it into harmony with the divine will.[7] We see, then, that while the phenomenological criterion for morality might be subjective experience, the nature of that experience is that one transcends one's subjectivity and meets the objective standard of the divine will. In this sense, Kant is clearly not a moral subjectivist. To call an act moral is not simply to report approbation, but rather to report about some true, objective quality which inheres in the intention behind the act. There is no moral act without intention, and it is the quality of the intention which determines whether the act is moral or not.

Our dilemma, as far Kant and natural law goes, should be clear. On one hand, Kant rejects nature as having anything to tell us about morality; being moral does not mean meeting a criterion in the external world. The side of natural law which holds that that reason somehow gets a peak at what is really right would be alien to Kant's thought. To act in obedience to some standard would be to act heteronomously; Kant would have us act purely autonomously, purely out of duty arrived at through reason.

I would hold that his idea that reason is not simply the tool of passion separates him from other natural rights theorists. To act out of self-preservation is not to act immorally, but neither is it to act morally. When one acts from pure practical reason, one acts morally. Reason, then, is the criterion, the rule and measure for morality, just as in

Aquinas. Additionally, once one has reasoned to one's duty, one suffers an inner compulsion to do that duty. Reason, then, motivates, it does not simply set forth options. Reason would have us act only from inner moral compulsion, not from external, historical, prudential exigencies. One becomes truly free through reason; complete freedom to act morally is God-like. One notes a very soteriological theme in Kant, which is rather explicit in his markedly religious language in Lectures. In short, Kant, though a believer in Natural Rights, is neither a moral subjectivist nor a moral utilitarian. He differs in many essential ways from natural rights thinkers, especially their moral philosophies (though he would agree with the model of the liberal state).[8] Kant's thought shows much affinity with the Natural Law model, and it would be improper to cleanly distinguish between the two. We will see below that it was the Kantian type of liberal thinking which empowered the Reformers and gave form to their nomos. This Kantian liberal thinking stands within the Natural Right tradition, which holds that there is a human nature, that morality is real and discernible through reason, that human law should accord with right reason.

3. A Natural Law Theory of History

At first glance, the notion of a Natural Law theory of history is an oxymoron. Natural Law refers to that which does not change, to that which is linked to the eternal. History, on the other hand, is constant

flux, constant change. However, an examination of late 18th and early 19th century notions of history shows us that the two terms, Natural Law and history, were not seen as contradictory. History, even as change and flux, was seen as able to command, according to the nature of the world.

The conception of history which I will describe below has its foundations in a variety of thinkers, such as Vico, Herder, Leibniz, Hegel, and, later, Marx. The conception I will present is not reducible to any of them, but rather reflects a way of thinking that was widespread in the early 19th century. The Reformers I will discuss below should not be seen as slavishly following one philospher of history or another, but rather as participating in the discussion concerning a general and widely held conception of history.[9] This general conception of history is best captured in the terms "progress" and "evolution."

The epigram of the French philospher of history, Turgot (1727-1781) sums up the sentiment of progress well, "[T]he whole human race, through alternate periods of rest and unrest, of weal and woe, goes on advancing, although at a slow pace, towards greater perfection."[10] Ernst Breisach, in his Historiography, notes that

> [N]o one work proclaimed and explained the concept of progress. Rather progress was proposed, debated, and praised in many works, and belief in it became sustained less by an agreed-upon theory than by a broadly shared expectation.[11]

This idea of progess had several components. One central one was

the idea of the emancipation of mankind. Human history was the story of human progress, the "gradual liberation of rationality from bondage."[12] Breisach notes a teleology in this notion of history:

> The unity of mankind's destiny was no longer vouschaffed by the common descent from Adam and Eve but by the presence of reason in its every member and its development bore no longer the marks of Divine Providence but those of the emancipation of rationality from error and superstition.[13]

This notion of history devalued earlier states in history. Instead of the past being the teacher, the "expectations for the future governed the life of the present and the evaluation of the past."[14]

The idea of progress contains the notion of struggle: reason and progress are hypostatized into entities which fight against darkness, oppression and obscurantism. Reason had its own "liberating dynamics," and although its march tooks place in a terrain of cultural environments with which it had to interact, the march was inexorably forward.

In the thought of Herder, for example, we see another variable factored into the notion of progress, the notion of the volk, the people. Herder held, at times (according to Breisch, he was not always consistant), that each Volk went through different ages on its path toward maturity. Herder entertained teleological notions as well, such as Divine Providence educating humanity toward greater moral development.[15]

In his discussion of grand theories of history, Breisch holds that Hegel

> reversed centuries of thinking about history as inferior to philosophy, because history could not deal with essences-with that which was permanently and most profoundly true about the world.

> Now, all truth was historical truth because the strict distinction between the world of the contingent and of the permanent had been obliterated (aufgehoben).[16]

According to Hegel, Idea as pure thought stands at the beginning of history, and begins a process of self realization to make actual what had been potential. This actualization would occur in history, and this self realization is dialectical. Every time the Idea is at a particular stage of its development, there would result an established order, and well as its antithesis. The constant struggle pushes the spirit of the idea constantly forward through time. History was the development of the Idea in time, as nature was the development of the Idea in Space. While the details of Hegel's thinking are not of immediate concern, we see that history is no longer the antithesis of nature, but rather its parallel. In fact, Collingwood, in his The Idea of Nature, says, "[t]he way in which Hegel thinks of the concepts of forms which direct the processes of nature is parallel to the way in which Plato thought of all forms." Collingwood says that for Hegel, the idea of reality is "doubly broken up," spread out over space and time.[17] History and nature, then have the same "root," the Idea. I am using the term "nature" here in the way that Collingwood uses the term "reality," i.e., the "nature" of things. We could understand Hegel's idea of "history" as being nature in time (and his idea of "nature" as history in space - both reflect the "Idea.") We see that from one point of view, history is no longer the stepchild of truth, but rather its parent.

The notion of evolution reached its peak only in the mid 19th century, but its impact as an idea can clearly be seen on German Reform Judaism. The core idea of evolutiuon is that a life form undergoes change through time. Nature came to be seen as not reproducing eternally fixed forms of life, but rather producing new and improved forms. Darwin's language had a teleological character[18], and it can be seen resonating in the thought of someone like Schopenhauer, who saw "the evolutionary process as the self-expression of the blind will, a creative and directive force . . ."[19]. The nature of the world was such, then, that historical forms gave way to new historical forms. The newer ones would be more highly valued than the older ones, as they were more natural, i.e., more in accord with the nature of evolving reality.

4. The Nomos of Early Reform Judaism

With the above remarks, I conclude a brief sketch of notions of Natural Right and a Natural Law theory of History which predominated in the early and mid-19th century. We now turn to the early history of Reform Judaism, where we will see affinities between early Reform thinkers and the types of thinking presented above.

We should first of all note that Michael Meyer, in his widely accepted standard history of Reform Judaism, Response to Modernity, notes the importance of history and natural right, though not with the terminology used here. For example, Meyer notes that Lessing (1729-

1781) had a notion of history which held that revelation and reason "led upward as the human spirit progressed from stage to stage." Judaism was an anachronism, having spent its energies for internal religious development during the Second Commonwealth, at which time Christianity took the mantle, as it were. Meyer states that the "thrust of Lessing's approach soon became essential for the theological enterprise of the Reformers . . . adopt[ing] Lessing's notion of religious advance during the course of history," disagreeing, of course, with Lessing's rather negative understanding of Judaism in the universal process of religious development.[20]

The pillars of Natural Rights theory, as inherited and taught by Kant, such as the primacy of reason and morals, and the notion of the just, liberal state, became central in the Reform understanding of the religious life (as it did for Liberal Christians as well). In a sense, Kantianism provides an incipient criteriology for radical Reform. Michael Meyer states:

> Kant's influential idea that beyond all historical religions there was a "single, unchanging, pure religious faith" dwelling in the human conscience - in essence the religion of the future - made indifference to all specific elements of Judaism respectable. For if God required nothing more than steadfast diligence in leading a morally good life, in fulfilling one's duties to fellow human beings, then all ceremonial and symbolic expressions were ultimately superfluous.[21]

Meyer goes on to say that "[t]he idea that pure religious faith is essentially moral became the theoretical basis and the practical operative principle of the Reform movement."[22] Kant's notions of moral autonomy

served to undermine the justification of rabbinic authority, and presents a critique against the authority of the canon. Kant saw the Bible as subject to the judgment of the reader, according to rational and moral criteria. In other words, there was a morality which transcended Scripture.

Meyer does not mention it at this point, but not only did the notion that morality or conscience was at the center of the religious life play an important role in Reform, but also the idea of the liberal state, and universal brotherhood based on justice. In other words, as will be shown below, both elements of Natural Rights theory played great roles in the nomos of Reform, and influenced the Reform notion of the authority of the canon.

As we look to several early Reform thinkers, we turn first to Moses Mendelssohn (1729-1786), as he can be seen as an inceptive Reform thinker. While Mendelssohn was certainly not a Reformer, he is important for understanding early Reform thought. He took liberal philosophy very seriously. His magnum opus, Jerusalem, or, On Religious Power and Judaism, may be seen as a proposal for understanding how liberalism and Judaism might meet. Mendelssohn conceives of two moral entities, the state and religion, both one which have a claim on persons as moral agents. Each entity has its own proper domain, its own trust; the state is to take care of the world of actions, religion is to take care of the world of convictions. Only civil society, i.e., the liberal state, has the right of coercion, through the social contract. Religious society has no right to

coercion, and the state has no right to forbid inquiry. Mendelssohn is trying to set up a moral and political philosophy which will allow for both freedom for the Jewish religion, and the removal of disabilities against the Jews. He expresses this philosophy is the language of modern natural rights, but in the coin of his contempoary, Kant. Mendelssohn claims that Judaism makes no claim to universal truths (including the moral truths concerning the liberal state), which are discernable only through reason and available to all, but rather to divine legislation, a legislation which was presented to the Jewish people at a specific historical moment. This legislation came to be known through the tradition, which is both credible and authoritative, though it does not have the status of reason. Mendelssohn states that there is the universal religion of mankind, which is based on reason, but that Judaism is based on divine legislation revealed in history.

Mendelssohn's neat typology exemplies the weak position in which traditional Judaism found itself vis-a-vis European philosophy in the early 19th century. For Mendelssohn to write during the Age of Reason that there was a universal religion which one could appropriate through reason was to cast doubt on the very authority and legitimacy of Judaism, whose truths were only historical (read conventional). This doubt was a serious one given the circumstances in the early 19th century, when Kant's influence was at its apex. We should note here that Mendelssohn's thought is decidedly non-historicist and non-teleological. Judaism is

eternal and unchanging. However, when we take Mendelssohn's Natural Right theory, i.e., that reason is the path to universal religion and morality is the center of universal religious life, and introduce it to a Natural Law theory of history with its teleological focus, we have the material for the beginnings of the intellectual history of Reform Judaism.

We see notions of morality and justice on one hand, and history and progress on the other in the thought of several early Reform thinkers. We should first note that the the movement of reformulation and reconstitution of notions of canon and authority originally grew out of a weakly conceived movement to reform the worship service aesthetically, and rather cosmetically. In weak reform, or reform with a lowercase "r," the halakha was understood as being organic and malleable, but also authoritative. The great and bitter controversy which surrounded the reforms in the early part of the 19th century was conducted according to halakhic rules. The question was not (yet) the validity of the halakha, but rather what was valid within the halakha. For example, the reformers were excoriated by traditionalists in Eleh Divrei Habrit, but the defense of those advocating reform in Nogah Tzedek was conducted according to the same rules. Both were collections of learned and searching rabbinic treatises on Jewish law, assessing the legality of the adjustments in the prayer service. The reforms were understood as an halakhic question.[23] Put simply, while the motivation for the earliest practical reforms may have been to fashion a public religious observance

which would be appealing and inspiring for the contemporaneous Jew, the justification for reform was conducted along the lines of traditional Jewish law.

The mode of justification begins to change with what is called the second generation of Reformers who began their activity in 1830's and forties. Michael Meyer instructively distinguishes among those early Reformers interested mostly theological issues (Solomon Ludwig Steinheim [1789-1866], Solomon Formstecher [1808-1889] and Samuel Hirsch [1815-1889]), the academicians (Zunz [1794-1886] and Steinschneider [1816-1907]), and the "practical ideologists" (Samuel Holdheim [1806-1860], Abraham Geiger [1810-1874], and Zacharias Frankel [1801-1875]). We shall briefly examine the early theologians, and devote a bit more attention to the most influential of the practical ideologists, at least for Reform Judaism, Abraham Geiger.

According to Meyer, for Steinheim Jewish revelation stands in sharpest opposition to paganism, the recent instantiation of which had been the Natural Religion of the Enlightenment. Though Steinheim was close to Kant in his recognizing the limitation of reason, he, unlike Kant, was a believer in supernatural revelation. Meyer tells us that Steinheim's notion of revelation was limited to certain doctrines: God's transcedence and uniqueness, divine and human freedom, and creation ex nihilo. He did not believe that the institutions of ancient Israel (and we would assume, how much the more so Rabbinic Judaism?) had any authority for

the religious life. Steinheim's Judaism is essentially nonhistoricist in its focus on divinely revealed doctrine, and should be seen as more of a response to modern philosophic/religious critiques of Judaism than as an all-embracing reconstitution of Jewish life and practice. It is of interest to us, though, that at least in Meyer's treatment, Steinheim's theology is scripture based; the aspect he holds authoritative is doctrine, with which theology should accord.

Meyer casts Formstecher as an apologist: "Formstecher remained eclectic in his approach, more determined to be a vindicator of Judaism against idealistic philosophy than a Jewish philosophical idealist."[24] Judaism, for Formstecher, was both an idea and an historical phenomenon. Religious truth was cast in terms of reason and ethics, but this pure revelatory moment evolved in the history of the people "until the Jews, and indirectly through them the rest of humanity, reached full awareness of the prehistorical, absolute revelation implanted by God in every human spirit."[25] For Formstecher, it seems that canon is authoritative as narrative: it tells the early story of Israel, especially the prophets, as they try to bring the revelation into history. Later Jewish history is characterized by the continuation of that striving. The Jewish religion, in its historical forms, insulated Judaism from "detrimental influences." As the detrimental influences waned, so would the need for the armor of ceremonial law. Formstecher looked forward to a messianism of universal faith, a "supranational spiritual theocracy."

Samuel Hirsch, according to Meyer, was more a positivist than a universalist. He is quoted as writing,

> Today the concern is precisely to understand the peculiarity, the positive worldview of the Jewish religion, and to understand in their absolute necessity the forms which it has given itself in order to keep the worldview always before it, namely its ceremonies and customs, and to raise them again in the heart to the status of living deeds - to build rather than to tear down, preserve rather than to abandon.[26]

Meyer describes Hirsch as expending considerable energy in oppostion to Hegel. Hirsch focuses on the phenomenon of the constantly available moral choice, made available by a God active in human life. Revelation is God educating humanity to that effect. Meyer mentions that Hirsch holds that Judaism requires neither the mediation of the church (Catholicism) nor Scripture (Protestantism). It seems that the importance of canon would, again, be its narratival quality, that it contains the narrative of God educating Israel. That paradigmatic narrative is repeated in Jewish history. Though Meyer does not spell this out, one might infer that the importance of Jewish practice is its edifying nature, building (Jewish) human spirit toward a messianic age when "Israel and the other nations would be united in a single religion of human freedom."[27]

At this point we shall examine briefly the thought of the most influential of the early German Reform theologians, Abraham Geiger, because, as Michael Meyer states, "[f]or a long time, and to some extent still, these [i.e., Geiger's] views remained the common coin of the Reform movement."[28]

We shall examine Geiger's thought, especially as it relates to the development of Reform Jewish notions of the authority of the canon. First of all, we must note that to call Geiger a theologian is rather an imprecise appelation. We need to qualify this term "theologian" somewhat, for Geiger did not write a comprehensive Jewish theology, nor nor did he seem especially concerned with speculation into the nature of God. Geiger's theology underwent constant development from its beginning during the nebulous period of the intellectual interregnum of the 1830's, when Reform thought went from halakhic reform to philosophic self-consciousness displayed at the German conferences of the 1840's, to his last years in the 1870's. Geiger's thought, at least the part in which we are most interested, may be characterized as being concerned with the philosophy and meaning of history and the meaning and authority of texts, hermeneutics, in other words. He felt that by a study of both, Jewish history and the authoritative, holy texts embedded in that history, Reformers would know how to proceed. As an historian and philosopher of history, he wanted to grasp the religious spirit of each age, in order to understand his own and bring his own into the future. In other words, he studied history in order to know how history worked as holy-history, and in order to know what was required of him in the present day, or, as Geiger himself puts it, to be an "organ" of history.[29] The rabbi/scholar would not cut himself off from history or let history overcome him; he would rather use history as a means for knowing how

to work with the tradition handed down to him.

For example, Geiger says:

> We have devoted ourselves to and have acquired the culture which mankind has developed during the course of thousands of years; but Judaism has preserved its eternal divine content in forms, the most of which were the outcome of temporal conditions; they have therefore lived their day. This exterior must be refashioned, this form must be changed if Judaism is to continue to influence the lives of its followers in accordance with its purpose and its power, and if it is to persist among the world forces in a manner worthy of its high destiny.[30]

Judaism was to be refashioned according to its own principles, which would be discovered scientifically. The practical work of Reform would be joined with the theoretical work of the scholar:

> Judaism must receive its scientific foundation, its truths must be clearly expressed, its principles must be probed, purified, established, even though they be not finally defined; the investigation into the justification and the authority of its sources and the knowledge of these are the constant object of study. Dependent upon this theoretical work is the practical purpose which keeps in view the needs of the community . . . from this union of the theoretical and the practical will flow the insight into what rules of life are necessary, and which institutions and religious practices will serve indeed to improve the religious life, which are moribund . . . This knowledge of the true significance of Jewish doctrine and of the present must arouse to united effort all such as are sincerely interested, so that a transformation of Jewish religious practices in harmony with the changed point of view of our time may result, and awaken true inner conviction and noble religious activity.[31]

Geiger felt that those in his age had become "organs of history," with the job to develop in history that which had grown in history, sometimes "following the wheel of time," at other times "putting our hands to its transformation."[32]

Geiger felt that Judaism's historical changes, variety and vicissitudes

needed to be shown and understood. Geiger's study of history revealed to him four great epochs in the evolution of Judaism. The first period was revelation, the biblical period, ending approximately 5th century B.C.E., when the Jewish people enjoyed a heightened perceptual awareness which allowed for direct apprehension of religious and ethical truth. The second period was the period of tradition, a period ending with the closing of the Babylonian Talmud, in the 6th century. In this period, the rabbis adapted and erected methods for the adaption of Biblical law to the vicissitudes of Jewish life. Geiger called the third state "rigid legalism," certainly betraying a bias. While Geiger, as a master of rabbinics himself, appreciated the rabbinic period with its rich complexity and flexibility of Jewish law and custom, he saw the period which lasted from the sixth until the 18th century one of rigid codification, where the flexiblity of the law and the creativity of rabbis was severely circumscribed. All that was handed down was to be obeyed, and there was no room for further updating the law. Geiger and other Reformers saw this period of legalism as a perhaps necessary cultural armour during the great distress of the dark ages.[33]

Geiger felt himself to be living in a new age, one of liberation and criticism. This did not mean a break with the past, but rather evaluation of the past, and reintroduction of the historical process in Jewish law and tradition. Geiger's historical theology and his reformist tendency were both evolutionary and organic; there would be no revolutionary break with

tradition, nor any cutting off from soil of the Jewish past. Geiger certainly had his adversaries to his left who came to be know as the radical reformers, who did favor a radical break with the past and most Jewish life forms.

Jewish texts, for Geiger, were embedded in their historical moment. Their authority and validity could not be taken for granted in later historical ages (meaning of course, his own). The texts revealed, however, an inner continuity, not of halakhic authority, but rather of its own creative spirit, which produces principles and moral ideals, in addition to law. Geiger's understanding of the ceremonial law is understandably connected to his notion of the authority of the texts. Just as the sacred texts, which were a revelation of the religious consciousness of a specific age, only had authority in the present if the community considered them viable in its religious life, so ceremonial law was seen as instrumental. Ritual was not eternally binding, but rather had to be meaningful, and should be a "tangible representation of the spirit."[34] His later notions concerning revelation are of importance to us. The different sacred texts of Jewish history were evidence of Israel's genius for revelation, for it's being a receptacle for acts of divine enlightenment. Meyer states the following concerning Geiger's notion of revelation:

> Israel's task in the world was to preserve and propogate that message who basic content remained unchanging, though its elaboration evolved from age to age. The message was sustained by the ongoing working of God's spirit in and through Israel. It was that spirit, divine in origin but human in expression, Geiger argued, which assured the continuity of Judaism even as it destined it ultimately to become the religion of humanity.[35]

What it meant for Judaism to be a religion of humanity is partly revealed in the statement of principles adopted at the Leipzig Synod in 1869. While Geiger did not write these words (they were submitted by Ludwig Philippson), he was one of the vice-presidents of the Synod, and concurred in them:

> The synod declares Judaism to be in agreement with the principles of modern society and of the state as these principles were announced in Mosaism and developed in the teaching of the prophets, viz., in agreement with the principles of the unity of mankind, the equality of all before the law, the equality of all as far as duties toward and rights from the fatherland and the state are concerned, as well as the complete freedom of the individual in his religious conviction and profession.
>
> The Synod recognizes in the development and realization of these principles the surest pledges for Judaism and its followers in the present and the future, and the most vital conditions for the unhampered existence and the highest development of Judaism.
>
> The Synod recognizes in the peace of all religions and confessions among one another, in their mutual respect and rights, as well as in the struggle for the truth-waged, however, only with spiritual weapons and along strictly moral lines-one of the greatest aims of humanity.
>
> The Synod recognizes, therefore, that it is one of the essential tasks of Judaism to acknowledge, to further, and represent these principles and to strive and work for their realization.[36]

We can see from this brief look at one major Reform theologian the affinity between his understanding of history and his understanding of the sacred text. For while the link with the Jewish tradition was certainly not to be broken, the link with the halakha, that complete and self justifying authority of traditional Jewish law, had been severed, for him,

necessarily and ineluctably. A new period of history had been entered. The period of legalism had ended, and the period of tradition would not return. Some new criterion or authority had to be worked out if the scholar who was also a practical theologian, an active Reformer, would know what to do. His knowledge of the intellectual and spiritual past would empower him with knowledge of what to do in the present. While Geiger opposed a careless cutting away at Jewish ritual, he did hold that Jewish forms and the authority that rested behind them had come into history at a certain time. Reason could and should critique the canon, because of the nature of the new age with its new conditions.

5. Inherent Conflicts in the Nomos of Early Reform

Cover's notion of nomos serves well as an interpreter of the intellectual history of early Reform. The early Reformers saw Judaism standing at a moment in history when change was required, mandated, by Judaism's telos and the nature of the epoch. The Reformers' commitment to their understanding of Judaism and the future resulted in their changing Jewish law, for the halakha was not in accord with the new reality.

We see from our survey that the Reformers had a strong notion of the conventional vs. the eternal. The temporal and conventional were only right for a certain circumscribed period of time, when the world changed, the forms had to change as well. But the Reformers did not see

themselves as standing in just any age, but rather at the threshold of kind of denouement in history. The religion of reason was at hand, and Reformers felt that history required rational reforms, so that Judaism could take its rightful place as the religion of future. To put it in Cover's terms, the world on the other side of the bridge was calling urgently; the bridge was the Reform(ed) Judaism which had to be created.

The myth of early Reform consisted most clearly of morality being at the center of the religious life, that Judaism's historical forms were unnatural for the age at hand, at that history required a change. The special genius of Judaism, revelation, or morality, was to be carried forth for all mankind, as if Judaism had its special task in the universal religion. The telos, or eschatology (depending on whom one reads) was a world of where the universal religion of reason reigned, of civic justice in the liberal state, and the brotherhood of man. We notice in this very powerful myth and eschatology, a lack of a specific Jewish content. Jewish forms could be judged by universal criteria, Jewish genius was seen to be ultimately in the service of all mankind. Judaism was seen to be in fundamental agreement with the tenets of modern liberalism. The essence of Judaism does not appear to have been essentially Jewish.

We ask briefly, here, what notions of canon and authority seem to develop from the nomos of early Reform? Before addressing that problem, we will turn back to Cover's "Noms and Narrative" for more interpretive help. One of Cover's premises is that the creation of legal meaning takes

place in a cultural medium. The state does not necessarily create legal meaning, in fact, it may have a stake in quashing some nomic communities. For understanding these opposing tendencies, Cover introduces the dichotomy of the "paideic" and the "imperial" patterns of legal meaning, reflected in two mishnayot from Pirke Avot (1:2 and 1:18) and elaborated by Joseph Karo in his commentary, Beit Yosef, to the Tur, Hoshen Mishpat 1. The first pattern is exemplified by the world's standing on pillars of Torah, Avodah and Gemillut Hasadim. Torah refers to a body of precept and narrative. Cover describes Avodah (divine service) in terms of "personal education" but which might better be understood as willful participation in the linguistic/ritual world with a consequent shaping of consciousness. Gemillut Hasadim, (acts of loving kindness) Cover describes as the working out of the law, meaning here, apparently, at the moral, interpersonal level.

The second pattern is exemplified by the world's standing on three other pillars, truth, justice and peace. Cover tells us that this pattern is essentially universalistic and system maintaining, "weak" virtues necessary for the coexistence of worlds of "strong" normative meaning. The "strong" forces, Torah, Avodah, and Gemillut Hasadim "create the normative worlds in which law is predominately a system of meaning rather than an imposition of force."[37]

Cover suggests that two ideal-type cultural patterns may be seen, corresponding to the two aphorisms from the Mishna. The first,

world-creating one is called "paideic," as its center is a moral, spiritual and communal teaching, and the second world maintaining one is called "imperial," as it suggests an empire consisting of subunits of juridicial and cultural autonomy.[38] This second pattern is universalistic, identifiable with modern liberalism. Now, Cover stresses that these two patterns are ideal types: "[N]o normative world has ever been created or maintained wholly in either the paideic or imperial mode."[39] Cover says that "any nomos must be paideic to the extent that its contains within it the commonalities of meaning that make continued normative activity possible."[40] But he stresses that the nomos characterized by a normative corpus, common ritual and strong interpersonal obligation forms a potent paideic legal order, which itself may suffer schism. As soon as a community exists at the paideic level, there is the possibility or inevitability of "jurismitosis" because paideic communities are "jurisgenetive." In the myth of each juric community, there is a transparent, revelatory moment when what the precepts require and what the narratives mean, when the kind of consciousness which is supposed to be created through divine service, and when how the acting out of the law is supposed to look, may all be clear. However, that perfect transparency is lost in history. We might understand the paideic world of which Cover speaks as the work to recover that transparency. The meaning of the paideia requires interpretation, and as interpretations differ more and more radically, communities actually split off according to

their interpretations. The question is, how is any kind of security or harmony assured in the polynomic society - here we have the imperial, system maintaining pattern of law. "Truth, justice and peace" ensure that competing paideic communities can exist alongside one another, as long as certain commitments are made to the imperial virtues.

Cover's ideal-type patterns help us understand some of the inherent tensions found in the nomos of early Reform Judaism. We see that the center of paideic nomos, the normative corpus, common ritual, and strong interpersonal commitments are weakened as Reform takes to its center a Natural Right theory of morals and justice and a Natural Law theory of history with its notions of progress and evolution. To put it in Cover's terms, we would say that Reform took the imperial virtues as its core, displacing the supremacy of the paideic virtues. Theoretically speaking, the canon and the common ritual was to be critiqued by history and reason. Israel's telos was universal religion and the brotherhood of mankind; at the threshold of the religion of the future, strong interpersonal bonds among Jews could be seen as a mere temporizing measure until universal brotherhood had been achieved.

At this point, we can see the critical nature of our question of the authority of canon. The forces at the center of the intellectual Reform world seem to be inimical to "strong" notions of canonical authority. What, then, is the authority of the canon in Reform? We turn to our three theologians for their appoaches.

Endnotes for Chapter Two:

1. Leo Strauss, Natural Right and History (Chicago: University of Chicago Press, 1953).

2. See Aquinas' discussion in the Summa Theologica, Part 1 of the Second Part, Question 91, second article, and Question 94. The "Summa Theologica" of St. Thomas Aquinas, translated by the English Dominicans, Vol. III (London: R. and T. Washbourne, 1915).

3. Strauss discusses the move in chapters V and VI of Natural Right and History, supra note 1.

4. ibid., p. 181-182.

5. For a discussion of Kant as a Natural Law thinker, see Paul E. Sigmund, Natural Law in Political Thought (Lanham, MD: University Press of America, 1971), chapter 9. Sigmund's book contains short essays on and excerpts from several Natural Law thinkers.

6. David Hume, A Treatise on Human Nature in D. D. Raphael, British Moralisys/II (Oxford: The Clarendon Press, 1969), p. 5.

7. Immanuel Kant, Lectures on Ethics, trans. Louis Infield (Indianapolis: Hackett Publishing Co., 1963), pp. 11-17.

8. See, for example, Kant's Metaphysical Elements of Justice, trans., intro. by John Ladd (New York: Macmillan Pub. Co., 1985, first published, 1797), especially the section on Public Law, pp. 75-129.

9. Michael Meyer, private conversation, December 15, 1989, 11:00 a.m., Cincinnati, Ohio.

10. Turgot, trans., ed., and intro. R. L. Meek, cited in Ernst Breisach, Historiography: Ancient, Medieval and Modern (Chicago: The University of Chicago Press, 1983), p. 205.

11. ibid.

12. ibid., p. 206.

13. ibid.

14. ibid., p. 207.

15. For Breisch's comments on Herder, see ibid., p. 223.

16. ibid., p. 231.

17. R. G. Collingwood, The Idea of Nature (London: Oxford University Press, 1960, first published, 1945), p. 126-127.

18. see ibid., p. 135.

19. ibid., p. 135.

20. Michael A. Meyer, The Response to Modernity (Oxford: Oxford University Press, 1988), p. 64.

21. ibid., p. 65.

22. ibid., p. 65

23. See Alexander Guttman, The Struggle over Reform in Rabbinic Literature (Jerusalem: The World Union for Progressive Judaism, 1977).

24. Meyer, supra note 20, at p. 70.

25. ibid.

26. ibid., p. 72.

27. ibid., p. 74.

28. ibid., p. 99.

29. ibid., p. 91.

30. Abraham Geiger, Allegemeine Zeitung des Judentums, VIII (1844), 87, cited in David Philipson, The Reform Movement in Judaism (New York: The MacMillan Company, 1907), p. 62.

31. Geiger, in ibid., IX, p. 340, cited in ibid., p. 67.

32. see Philipson, ibid., p. 67.

33. For Geiger's periodization, see a compilation of his writings Abraham Geiger and Liberal Judaism: The Challenge of the Nineteenth Century, compiled by and with biographical intro. by Max Wiener, trans. by Ernst Schlochauer (Philadelphia: Jewish Publication Society of America, 1962), part 3.

34. Meyer, supra note 20, at p. 96.

35. ibid., p. 99.

36. Verhhandlugen der ersten israelitischen Synode zu Leipzig, (Berlin, 1869) p. 62, cited in Philipson, supra note 30, at 412- 413.

37. Cover, "Nomos and Narrative," supra chapter 1, note 3, at p. 12.

38. ibid., pp. 12-13.

39. ibid., p. 14.

40. ibid.

Chapter Three

Religion of Reason and the Sources of Religious Power: Authority and Canon in the Thought of Kaufmann Kohler

1. Introduction

In this chapter, we will examine the thought of Kaufmann Kohler, the architect of the Pittsburgh Platform, as it relates to the problems of canon and authority in Reform Judaism. First, we will examine Kohler and his role in the writing of the Pittsburgh Platform. Then we will examine the Platform, and compare it with Kohler's draft, offering comments relevant to our study. We will then turn to a few of Kohler's important writings in which he discusses questions of authority and canon. Finally, I will offer a number of concluding observations.

The life of Kaufman Kohler may be seen as a microcosm of the movement of the center of activity of Reform Judaism from Germany to the United States.[1] He was born in Germany in 1843, received both a traditional and then a university education. During his university years, while still under the influence of Samson Raphael Hirsch, he became

convinced of the tenets of Reform. By the time he was ordained in 1869, he had already published a work which showed him a proponent of biblical criticism. Following a growing number of German Reform rabbis, he left Germany that same year at age 26, at took a pulpit in the United States, in Detroit. Kohler's early life graphically illustrates the transfer of the active center of Reform Judaism from Germany to the U.S. In June, 1869, soon after he was ordained, he attended the second to the last German conference in Leipzig. That November, after immigrating to the United States, he attended the first overtly Reform conference in Philadelphia.

Kohler speaks with great reverence of his teachers, particularly Geiger (whom he considered to be Maimonides equal)[2] and Einhorn, whose daughter he married. Even a cursory examination of Kohler's thought shows that he did not go far beyond either of them, or a variety of German Reform thinkers, in his own theology. Joseph Blau tells us in his introduction to the republication of Kohler's Jewish Theology that Kohler's thought can be seen as "sum[ming] up the intellectual and religious experience of the Jews of Western Europe (and American Jews of Western European background) in the nineteenth century."[3] Jakob Petuchowski states in his foreword to Sefton Temkin's discussion and translation of the 1869 Philadelphia conference that "to a very significant extent, the so-called Pittsburgh Platform [for which Kohler was largely responsible - m.f.] was merely a restatement of the 1869 resolutions

adopted in Philadelphia.[4]

These observations are sufficient to indicate that Kaufman Kohler's significance is not found in his being a particularly original theologian, but rather in his being expressive of an age, a style of thinking. We study Kohler in terms of our project to understand the nomos of Reform Judaism through an understanding of Reform hermeneutics. In the following pages, we will focus especially on Kohler's notions of authority and canon, as they relate to wider questions of Jewish theology. The corpus of Kohler's writings is extensive, and this study does not purport to be an exhaustive treatment of Kohler's thought.[5] Rather, we use Kohler as a paradigmatic figure for what is often called Radical or Classical Reform. There is a great amount of repetition in Kohler's literary corpus, which is not surprising in that much of it contains sermons and popular writings, themselves oftentimes restatements of previously articulated positions. What we intend to present here are the salient features of Kohler's thought concerning those issues central to our interests, with some indication of the change Kohler's thought underwent from about the turn of the century.

2. Kohler and the Pittsburgh Platform

The proximate reason for our studying Kohler here is his role as the main force behind the Pittsburgh Platform. Michael Meyer rightly states that the gathering in Pittsburgh in November, 1885 should be

understood as an attempt at what we would term as boundary making, a defining of principles which would "distinguish Reform Judaism from a wholly nonsectarian universalism on the one and from more traditional expressions of Judaism on the other."[6] The universalistic side against which a Reform boundary had to be made is characterized by the Society for Ethical Culture advocated by Felix Adler, the son of a well-known Reform rabbi, Samuel Adler. The younger Adler was quite active during the same years that Kohler was rabbi in Chicago and New York, from the late 1870's through the 1890's. Kohler vehemently rejected Adler's universalistic and in the final analysis, assimilationist message. Kohler professed belief in both divine revelation and Israel's unique mission among the nations. On the traditional side, Kohler's Pittsburgh Platform can be seen as a rampart against forces typified by Alexander Kohut's presentation of an ameliorative traditionalism, a traditionalism which countenanced adjustments within the halakhic system (what we would call Conservative Judaism today). Kohut, a rabbi in New York while Kohler was there, attacked Reform in a series of lectures in 1885 for having gone beyond what could be recognized as normatively Jewish. Kohler responded to Kohut with his own series of lectures during the summer of that same year, to which we shall refer below. In any case, soon after his lectures, Kohler agitated for a conference which would set the agenda for Reform Judaism in America. It seems that he had taken to heart the attacks from Adler and Kohut. Reform was seen as a weak-kneed

assimilationism on one hand or deformed Judaism on the other, castigated by Adler for not going far enough, and by Kohut has having gone too far. Reform had to regroup and state its positive program, what it affirmed, not just what it rejected. The importance of boundarying making and systematic differentiation in the development of theology is apparent here.

As it turns out, the impact of the eight paragraphs finally agreed upon in Pittsburgh is rather interesting. First of all, the two then-existing national institutions of American Reform Judaism, the Hebrew Union College (founded 1875) and the Union of American Hebrew Congregations (founded 1873), both rejected the statement of the Pittsburgh conference as authoritative dogma. Both organizations still had members of traditionalist bent, and both institutions, at least at that time, still conceived of themselves as being true unions of all North American Jews, and the Pittsburgh Platform was perceived as tilting toward the wing of Radical Reform. However, the Platform served as a boundary marker for American Reform, and it was enthusiastically accepted by the rabbinical head of the Hebrew Union College, Isaac Mayer Wise, who saw the document as healing the breach that had formed between him and the radical Reformers. The conservative group finally broke away, as is evinced in the establishing of the Jewish Theological Seminary in New York in 1887. Once that break was clear, the Platform became de facto American Reform's confession of faith. The Platform has generally been seen as the foundation for the more than half century hegemony of

Classical Reform, and certainly the point of departure for the intellectual history of American Reform Judaism.

It should be noted, that the Pittsburgh conference and platform had important antecedents. The first major rabbinical conference in North America was not especially reformist in nature; rather it reached toward a unity of American Judaism, both demographic and theological. The Cleveland Conference of 1855, which Wise promoted and which was comprised of a broad spectrum of rabbis, including Orthodox, concluded with a set of statements rather traditional in nature, and in fact failed in its attempt at catholicity, as the liberals objected to its religiously conservative bias. In 1869 the first conference of American Reform rabbis took place in Philadelphia. The conference was called and organized by several German emigres: David Einhorn, Samuel Hirsch and Samuel Adler played the most prominent roles. It has been noted that most of what was approved in Pittsburgh sixteen years later had previously been adopted at the Philadelphia conference[7]. The Philadelphia conference can be seen as an extension of work of one of the forces behind the German conferences of the 1840's. Those conferences were marked by a certain innate tension, because different forces which attended the conferences saw them as being constituted toward rather contradictory ends. There were those at the early German conferences who saw them as authoritative bodies which would make ameliorative decisions about Jewish practice, and others who saw them as a place to construct the

intellectual edifice of modern Judaism. The Philadephia conference was organized not to reform Jewish law, but rather to establish in clear terms the intellectual foundations of Reform Judaism. It is interesting to note that at roughly the same time the Philadelphia conference occurred, other conferences were going on in Germany, at Leipzig and Augsburg in 1869 and 1870. Those conferences were very much of a practical nature, dealing with adjustments in law, but not providing for a clear statement guiding Reform Judaism. The Philadelphia conference attempted to provide that statement. We note, of course, that it was the Pittsburgh Platform and not the Philadelphia conference which became the watershed of American Reform. It seems that the Philadelphia conference was a few years ahead of its time. The language of the Philadelphia conference was German, and most of its most powerful actors had played major roles at the German conferences. Keenly disappointed by the failure of the 1848 revolutions in Europe, and frustrated by the ensuing political reaction, these visionary reformers had brought their blueprints to American soil. However, in 1869, many in the Reformist camp in the United States, led by Isaac M. Wise, still leaned toward moderate reform and still envisioned a unified, progressive, traditional American Judaism. We note in the names of the two major institutions founded by Wise mentioned above, the Union of American Hebrew Congregations, and the Hebrew Union College, nominal attempts, at least, of creating broad-based institutions. By 1885, though Wise was still perceived as the leader of

progressive Judaism in the United States, the vision of a non-sectarian American Judaism had given way to the need to create boundaries and seek definitions.

Even though Wise was elected the president of the Pittsburgh conference, its guiding spirit was David Einhorn, who had recently died. Einhorn, who had been a the pre-eminent radical Reform rabbi in North America since his arrival in 1855, was very active as a young man in the German conferences of the 1840's (he was in his thirties), and together with Samuel Adler, who was also a veteran of the German conferences, formulated the principles emanating from the Philadelphia conference. The convenor of the Pittsburgh conference was Kohler; the articles which Kohler presented on the first day of the conference which were to become, with little emendation, the final platform, were directly adapted from the Philadelphia statement. After the Pittsburgh conference in 1885, the Reform movement did not articulate its major guiding principles again until 1937. And while the platform was never officially endorsed, it was well received in the world of American Reform. Within a decade or so after its formulation and non-adoption by what were to become the major institutions of Reform Judaism, it had been accepted de facto.[8] Kohler became president of the Hebrew Union College in 1903 and served until 1921.

As noted above, Kohler sought a unified set of principles for Reform Judaism, principles which both set Reform off from the traditionalists, and

would provide for the Reformers intellectual guidance for how to proceed. While the Pittsburgh conference was certainly not the first conference of Reformers, and while its ideas and almost its wording had been conceived in Germany forty years earlier, and in Philadelphia some sixteen years earlier, it was this conference which produced the statement which coincided with and, as it were, heralded the birth of American classical Reform.

3. The Pittsburgh Platform on Authority and Canon

We are most interested here those statements of the Pittsburgh platform which touch upon the movement's relationship to the canon. It should be recalled that Reform Judaism began as an halakhic heresy, and to escape that aspersion, the Reform movement, since the days of the German conferences, had tried to make sense of its relationship with the canon, especially, the law. As Kohler said on the first day of the Pittsburgh conference:

> It must . . . be a matter of deep concern to us to explicitly and clearly state our relation to the Mosaic Law or to Law-Judaism of old and define our standpoint to the world. We cannot afford to stand condemned as law breakers, to be branded as frivolous and as rebels and traitors because we transgress these laws on principle. . . We must find the focus for all [of Judaism's] emanations and manifestations, the common feature in all its diverse expressions and forms. We must accentuate and define what is essential and vital amidst its ever changing forms and every fluctuating conditions. We must declare before the world what Judaism is and what Reform Judaism means and aims at. (emphasis in the original).[9]

What Kohler was looking for, we might say, was the essence of the paideia of Judaism; its meanings apart from its forms, Judaism's abstraction, its true nature, aside from the conventions which had accrued over time. Kohler's desideratum is quintessential for what has been termed "liberal".[10] The instantiations of Jewish meaning in Jewish law or custom are less authoritative than that meaningful essence itself, for that essence is definitive and timeless, while all particular laws or beliefs are ephemeral and linked to one historic epoch.

Later that day, Kohler presented a platform to the assembled dozen or so in attendance, in which he outlined his notion of what Judaism was, what Reform meant, and the relation to the Law-Judaism of old would be. The sections pertaining to the authority and understanding of Holy Scripture and Rabbinic legislation as put forth by Kohler were not materially changed; the newer version only lacked some of the fervor of Kohler's prose. The discussion which followed was brief; reception of the what was to be called the Pittsburgh platform, the first great statement of Reform Jewish dogma in North America, was overwhelmingly enthusiastic. We will now examine each of the articles of Platform, and compare them to Kohler's original proposals, offering comments where relevant.

Kohler's Proposal	Pittsburgh Platform
In view of the wide	In view of the wide

divergence of opinions and the conflicting ideas prevailing in Judaism to-day to such an extent as to cause alarm and feeling of uncertainty among our well-meaning co-religionists and an appalling religious indifference and lethargy among the masses, we, as representatives of Reform Judaism, here unite upon the following principles:

1. While discerning in every religion a human attempt to grasp the Infinite and Omnipotent One and in every sacred form, source and book of revelation offered by any religious system the consciousness of the indwelling of God in man, we recognize in Judaism the highest conception of God and of his relation to man - expressed as the innate belief of man in the One and holy God, the Maker and Ruler of the World, the King, the Father and Educator of the Human Race, represented in the Holy Scriptures as the faith implanted in the heart of the original man and arrived at in all the cheering brightness by the forefathers, the inspired prophets, singers and writers of Israel, developed and ever more deepened and spiritualized into the highest moral progress of the respective ages and under continual struggles

divergence of opinion, of conflicting ideas in Judaism to-day, we, as representatives of Reform Judaism in America, in continuation of the work begun at Philadelphia, in 1869, unite upon the following principles.

First. We recognize in every religion an attempt to grasp the Infinite, and in every mode, source or book of revelation, held sacred in any religious system, the consciousness of the indwelling of God in man. We hold that Judaism presents the highest conception of the God-idea as taught in our Holy Scriptures and developed and spiritualized by the Jewish teachers, in accordance with the moral and philosophical progress of their respective ages. We maintain that Judaism preserved and defended, midst continual struggles and trials and under enforced isolation, this God-idea as the central religious truth for the human race.

and trials, defended and
preserved by the Jewish
people as the highest
treasure of the human race.

We have here something of a preamble. The essential unity, what we might call a structural similarity, of all religions is first proposed, understood to be "the consciousness of the indwelling of God in man." This notion can be understood in a number of ways, but it strikes me as being similar to Aquinas' notion of Natural Law.[11] Judaism is seen as having "the highest" conception of this God. We note in the final draft a depersonalized notion of the divinity, a "God-Idea," not present in Kohler's more traditional conception of God. The Jewish God-idea develops according to the ages. This theory of progress seems to function as an apology for older Jewish forms which were not rational by the standards of Kohler's day. In other words, when he says that the conception of God and his relation to man "developed and ever more deepened into the highest moral progress of the respective ages," Kohler seems to be saying that in each age Jewish theology was the "highest conception" of God, but not by any absolute scale. It would seem that this aspect of Judaism, i.e., expressing the highest conception of the God idea in every age, would function as a license for bringing Judaism into the modern age. This God-idea would now be expressed according to the canons of reason. We hear in Kohler's words an implicit critique of the non-Jewish world for keeping Jews in enforced isolation, struggling to preserve the treasures

which were to be the inheritance of the entire (albeit so far ungrateful) human race. The possibility that the Jews wanted nothing to do with their non-Jewish neighbors is not raised (at least in this public document). We note even at this early point that Kohler's prose had greater fervor and color than that of the final Platform, and that his theology suggests a belief in a personal God directly involved in the human moral life. The Holy Scriptures serves to represent belief, and other Jewish literature testifies to the deepening and spiritualizing of this universal faith into its highest stage of development.

Kohler's Proposal	Pittsburgh Platform
2. We prize and treasure the books comprising the national library of israel preserved under the name of Holy Scriptures, as the records of Divine Revelation and of the consecration of the Jewish people of this mission as priests of the one God; but we consider their composition, their arrangement and their entire contents as the work of men, betraying in their conceptions of the world of [sic] shortcomings of their age.	Second. We recognize in the Bible the record of the consecration of the Jewish people to its mission as priest of the one God, and value it as the most potent instrument of religious and moral instruction. We hold that the modern discoveries of scientific researches in the domains of nature and history are not antagonistic to the doctrines of Judaism, the Bible reflecting the primitive ideas of its own age, and at times clothing its conception of Divine Providence and justice dealing with man in miraculous narratives.

We see problems of canon and authority directly addressed. The Platform tells us that the Bible is a record of Israel's mission and an instrument of instruction, betraying its "primitive" provenance. We have here a notion that the Divine Providence is clothed in clothing inappropriate, it seems, for the new age. Kohler, again, is more colorful in his language: he sees a record of Israel's "consecration" to God, uses the pointed word "shortcomings." At this point, it seems that Scripture serves to identify Israel and its mission, and to present a conception of God which must be interpreted for it to be meaningful in the present age.

Kohler argued for the retention of his original wording, "record of Divine Revelation." The wording was roundly objected to, for various reasons. In response to those critiques, Kohler said

> I confess I am an evolutionist, but I believe in revelation, and I am bold enough to say that Torah min hashamayim, which is revelation, must always remain one of the foundation stones of Judaism. Of course, I do not believe that God stepped down in person from heaven and spoke on Mount Sinai, but when a new truth, instead of being sought for, seeks its instrument, taking hold of a single person or a people and impelling them to become its herald, this is revelation, and in this sense I want to have it understood and accepted.[12]

Other particpants objected to the word "revelation," announcing that their objection was more against the word itself than against the idea articulated by Kohler, in that it conveyed the wrong message.[13] Be that as it may, Kohler seems to be theologically much more traditional than his colleagues, in a deeper sense than whether one word or another is more

rhetorically acceptable. Kohler was satisfied to leave the word out of the Platform, stating that there was agreement in principle that Divine revelation is an historical fact. No one objected to Kohler's statement.

Kohler's Proposal	Pittsburgh Platform
3. While finding in the miraculous narratives of the Bible child-like conceptions of the dealing of Divine love and justice with man, we to-day, in common with many Jewish thinkers of the Spanish era, welcome the results of natural science and progressive research in all fields of life as the best help to understand the working of Divine Love, the bible serving us as a guide to find Divine power working from within.	(there is no equivalent article in the Pittsburgh Platform for Kohler's third article. The Platform Article 3 is equivalent to Kohler's article 4).

Kohler's language in his third article bespeaks his progressivist/evolutionary notion of history. The Bible is understood as "childlike," subject to scientific and progressive research, which will aid in understanding the Bible. Once properly understood, the Bible serves as a guide for finding Divine power working within. The authority of the Bible as a guide, then, is established by subjecting it to certain types of examination. There is an element here of apologetical reasoning. Investigation will not just discover what is authoritative about the Bible, but will aid in establishing that authority, its meaning and its limits. We

have here an example of Garet's "pseudo-canonical institutions," operating with more authority than the canon itself.

Kohler's Proposal	Pittsburgh Platform
4. Beholding in the Mosaic Laws a system of training of the Jewish people for its mission as a nation among the nations of antiquity, planted upon the soil of Palestine, we accept only the moral laws and statutes as divine, but reject all those social, political and priestly statutes which are in no way, shape or form adapted to our mode of life and to our views and habits as people scattered among the nations of the globe, and standing upon the level of a far higher culture of mind and heart than stood the people for whom they were intended	Third. We recognize in the Mosaic legislation a system of training the Jewish people for its mission during its national life in Palestine, and to-day we accept as binding only the moral laws, and maintain only such ceremonies as elevate and sanctify our lives, but reject all such as are not adapted to the view and habits of modern civilization..

The two proposals are similar. Kohler's is more wordy, again, and more specific. The Platform is characteristically leaner and gives less background reasoning. Both help fill out our picture of canonical authority. The laws found in the "Mosaic legislation" were for the training of the Jews at a specific time in history, a time which, apparently, had passed. However, the moral laws are eternal. Ceremonies are only valid insofar as they are efficacious in elevating and

sanctifying life. One of the minor objections made to the wording both of Kohler's proposal was raised by Emil Hirsch, Kohler's brother in law by marriage; their wives were sisters, both daughters of David Einhorn. As the minutes of that discussion tell us:

> Dr. Hirsch objected to the distinction made between moral laws and ceremonial laws. "Though sanctioned by so great a man as the sainted Dr. Einhorn, it presents difficulties. Are not the holidays ceremonial laws, and would we abolish them? Let us embrace the opportunities to declare openly against legal Judaism . . . Judaism is a Lehre; what is called ceremonial laws are symbols representing the idea. Symbols die; those that are dead and, therefore, no longer intelligible, we abolish; those that are still imbued with life, we, of course, retain. Among the former I class all purity and dietary regulations, as laws they are certainly not of Jewish origin. Among the latter I class the holidays. As such, I opposed their transfer to Sunday in my own congregation!"
>
> Whereupon Dr. Kohler moved to substitute the word legislation.[14]

As a result of Dr. Hirsch's objections, the words "Mosaic legislation" were substituted for "Mosaic laws." But the premise behind Dr. Hirsch's taxonomy is lost in this substitution of words. In other words, his idea did not simply distinguish between ceremonial laws and moral laws, but rather between "law" and "legislation." In Judaism as "Lehre," laws are symbols and represent this "Teaching." They have force only as long as they have life, which seems to be roughly synonymous with "intelligible." Kohler gives his support to this idea, by agreeing to call Mosaism "legislation," leaving the term "law" to mean those symbols which are still in force.

We can frame this idea with the terms introduced above. The

postive law found on the books of any nomos may descriptively be called legislation. If it meaningfully functions as a bridge toward transformation, then it is raised to the level of "law."

Kohler's Proposal	Pittsburgh Platform
5. All the Mosaic Rabbinical Laws on diet, priestly purity and dress, originating in ages and under associations of ideas altogether foreign to our mental and spiritual state, do no longer impress us with the spirit of priestly holiness, their observance in our day being apt to obstruct rather than enhance and encourage our moral and spiritual elevation as children of God..	Fourth. We hold that all such Mosaic and rabbinical laws as regulate diet, priestly purity and dress originated in ages and under the influence of ideas altogether foriegn to our present mental and spiritual state. They fail to impress the modern jew with a spirit of priestly holiness; their observance in our days is apt rather to obstruct than to further modern spiritual elevation

The criterion for observance is efficacy in the religious life. The reason those laws are inefficacious is that they originated in ages and under influence of idea alien to the one present. Historicist notions of criteriology of Reform are clear here.

Kohler's Proposal	Pittsburgh Platform
6. While glorying in our great past with its matchless history of one continued wondrous struggle and martyrdom in the defence of the Unity of	Fifth. We recognize in the modern era of universal culture of heart and intellect the approaching of the realization of Israel's great Messianic hope for

God, which necessitated the exclusion of the Jewish people from a world stamped with polytheism and idolatry, with all their cruelty and vice, we hail in the modern era of universal culture of heart and mind the approaching realization of Israel's great Messianic hope for the kingdom of peace, truth, justice and love among all men, expecting neither a return to Palestine, nor the restitution of anhy of the laws concerning a jewish State, nor a sacrificial worship under the administration of the sons of Aaron.

the establishment of the kingdom of truth, justice and peace among all men. We consider ourselves no longer a nation, but a religious community, and, therefore, expect neither a return to Palestine, nor a sacrificial worship under the sons of Aaron, nor the restoration of any of the laws concerning the Jewish state.

We see again a stylistic difference more than one of substance. In both versions, the same Mishna used by Cover to suggest the imperial virtues is referred to. In both versions, the telos of Israel's faith is understood to be universal religion. If this universal religion truly is the natural ends of Judaism, which then defines it, according to Natural Right thinking, then it seems consistent that Israel looses its cleaving to a national center, and would desist from any other practices which would separate it from other nations, or from the religion of reason. We see the effect of notions of naturalism and Natural Right at play here, in that the ultimate criterion for theology and practice is religion's natural ends, itself founded in reason. The religion of reason is the standard against

traditional Jewish forms are judged, and conversely, Judaism is understood to be, at its deepest, its "essence," the religion of reason. We see these ideas presented in the next Article/Proposal as well.

Kohler's Proposal	Pittsburgh Platform
7. We behold in Judaism an ever-growing, progressive and rational religion, one which gave rise to the religions which today rule the greater part of the civilized globe. We are convinced of the utmost necessity of preserving our identity with our great past; we gladly recognize in the spirit of broad humanity and cosmopolitan philandthropy permeating our age, in the noble and grand endeavor to widen and deepen the idea and to enlarge the dominion of man, our gest allly and help in the fulfillment of our mission and the only means of achieving the end aim of our religion	Sixth. We recognize in Judaism a progressive religion, ever striving to be in accord with the postulates of reason. We are convinced of the utmost necessity of preserving the historical identity with our great past. Christianity and Islam being daughter religions of Judaism, we appreciate their providential mission to aid in the spreading of monothesitic and moral truth. We acknowledge that the spirit of broad humanity of our age is our ally in the fulfillment of our mission, and, therefore, we extend the hand of fellowship to all who cooperate with us in the establishment of the reign of truth and righteousness among men..

Though the entire conference is convinced of the "utmost necessity" in preserving the historical identity with Israel's past, it is not clear why. Even the need to proclaim this publicly should give us pause, as if the

Reformers themselves suspected that there was something in their message which did point inexorably to Felix Adler's Ethical Culture. The justification for remaining within Israel seems to be the fact that Judaism itself is justified by its being progressive and ever striving to be in accord with rational religion. Judaism is the foundation for the other Western faiths, which in Natural Rights kind of thinking, would make it superior (though in historicist thinking, would make Judaism suspect). In other words, Judaism may have been seen by these Reformers as the rational essence of the other Western religions, something like the "Ur-text" of Western monotheism. As the essential and original monotheistic faith, Judaism has a certain privileged status, from which the individual Jew should not abscond. Finally, the spirit of the age is Israel's ally - history and Israel are working toward the same telos.

Pittsburgh Platform

(This paragraph of the Pittsburgh Platform is Kohler's. It was submitted during the discussion subsequent to the reading of the original proposals.[15]

Seventh. We reassert the doctrine of Judaism that the soul of man is immortal, grounding this belief on the divine nature of the human spirit, which forever finds bliss in righteousness and misery in wickedness. We reject, as ideas not rooted in Judaism, the beliefs both in bodily resurrection and in Gehenna and Eden (Hell and Paradise) as abodes for everlasting punishment and reward

Here we see Kohler trying to root out what he considers non-rational ideas. Since they are non-rational, they must not be innately Jewish, because Judaism strives to be in accord with the postulates of reason. Kohler states that these ideas are "not rooted in Judaism;" he surely knows that these are ideas are common in aggadic literature. What he most likely means by "rooted" in Judaism is that they are not biblical, which, for Kohler, would be a "root" or Judaism. In this sense, we see implied the centrality of the Biblical canon as authority for doctrine, as the beliefs which Kohler rejects here are not Biblical in origin. The doctrines of Judaism that he does assert in this section echo themes found in Proverbs and Psalms.

Kohler's Proposal

8. We therefore hail with the utmost delight and in the spirit of sincere fellowship and friendship the efforts on the part of the representatives of the various religious denominations the world over, and particularly in our free country, towards removing the barriers separating men from men, class from class, and sect from sect, in order to cause each to grasp the hands of his fellowmen and thus form one great brotherhood of men on earth. In this

(There is no article in the Pittsburgh Platform equivalent to Kohler's eighth article).

growing religion of
humanity, based upon the
belief in one God as Father
of men, and the conception
of man as the image of God
we find the working of the
Divine plan of truth and
salvation as revealed
through Jewish history

The last sentence in this article of Kohler's is very revealing. We see his notion of the religion of humanity, of one God and one human community, to be the work of the Divine plan, which is also Israel's history. We wonder what place Jewish scripture has in this religion of humanity, except as a record of early Israel's working out the Divine plan. Kohler here publically celebrates the liberal state and separation of church and state. I think it is noteworthy that he "hails" the removal of barriers between "men," "class," and "sect." By the last term, he is probably denotes "religions," but he uses a term here which perhaps connotes groups belonging under one general umbrella, unfortunately separated by "sectarianism."

Kohler's Proposal

9. In view of the Messianic end and object of Jewish history, we feel bound to do our utmost to make our religious truth and our sacred mission

(There is no article in the Pittsburgh Platform equivalent to Kohler's ninth article)

understood to all and appreciated by all, whether Jew or Gentile; to improve and reform our religious forms and habits of life so as to render them expressive of the great cosmopolitan ideas pervading Judaism and to bring about the fulfillment of the great prophetic hope and promise "that the house of God should be the house of prayer for all nations."

Kohler's ninth article is typically expressive of his background reasoning, which the Conference apparently felt was inappropriate for a platform. This ninth article is paradigmatic for our study of the justification of Reform Judaism. The reforming activity in modern Judaism is justified in light of the "Messianic end and object of Jewish history;" Reform Judaism is necessary if the true ends of Jewish history are to be realized. Reform must mold the religion to be in accord with its natural ends. In other words, if we may define something by its natural ends, then what is not in accords with its natural ends is not natural. Reform leaders, then, have a mandate, according to Judaism's ends and its essential nature, to reconstruct its spiritual edifice so that it is a "house of prayer for all nations."

Kohler's Proposal

10. Seeing in the (There is no article in the

present crisis simply the natural consequences of a transition from a state of blind authority-belief and exclusion to a rational grasp and humanitarian conception and practice of religion, we consider it a matter of the utmost necessity to organize a Jewish mission for the purpose of enlightening the masses about the history and the mission of the Jewish people and elevating their social and spiritual condition through press, pulpit and school.

Pittsburgh Platform equivalent to Kohler's tenth article)

It is not surprising that Kohler would conceive of a Jewish mission, i.e. Jewish missionary activity. The target population would seem to be limited to Jews, those leaning toward Ethical Culture, those leaning toward traditionalism, and, we would suspect because of Kohler's notion of crisis, those indifferent or who had become Christian. Judaism was in a new age, and the Jewish people now had to be brought along, as well.

(This article in the Pittsburgh Platform is based on a proposal made by Dr. Emil Hirsch).

Pittsburgh Platform

Eighth. In full accordance with the spirit of Mosaic legislation, which strives to regulate the relation between the rich and the poor, we deem it our duty to participate in the great task of modern times, to solve, on the basis of justice and righteousness,

the problems presented by the contrasts and evils of the present organization of society

We find here, perhaps, the beginnings of the public articulation of the social action program which Reform Judaism took on in the twentieth century. We note that the article models well what we can consider typical Reformist thinking concerning canonical authority: that Biblical legislation can be reduced to its spirit, and that this spirit has some kind of authority, that we should attempt to be in accord with it.

4. Kohler on Authority and Canon

As I said above, Kohler's literary corpus is large, but contains a great deal of repetition. Certain of his works, however, are representative of his thought on authority and canon, and when studied chronologically, not only give us some background to the ideas formulated in the Pittsburgh Platform, but also display the ways these ideas chnaged over time. In this section, then, we still examine certain of Kohler's most representative writings on authority and canon, and indicate those shifts in thinking that are significant.

In this section, we will examine Kohler's thought in light of my claim that we may understand the Reform authorization and justification for its task in light of Natural Law theories of Right and History. Then

we will look closely at Kohler's notion of canon and authority through the terms suggested by Garet and Kelsey. In the final section of this chapter, I will present summary thoughts on Kohler and the nomos in which his thought on canon and authority finds its form.

We begin our examination of Kohler with a series addresses which he delivered in New York in the summer and fall of 1885, just before the Pittsburgh conference. Alexander Kohut, mentioned above, had been delivering a series of talks on Pirke Avot, in which he excoriated Kohler's brand of Reform. In the five lectures which Kohler gave, we see the ideas which were the basis of the Platform well developed. It may be safely said that for fifteen years, he did not go far beyond the ideas presented in those essays in subsequent writings.

It is interesting to note, first of all, that Kohler used the notion of Law rather emphatically as a way to justify his Reform outlook. We recall that Kohler chafed under the impression that Reformers were law breakers. He claimed that Reform acted in accord with God's law, suggesting some definition of the nature of religion in general and Judaism in particular which is God's definition, as it were, and to which human convention should attempt to be in accord. I should reiterate that our purposes, this is amounts to an ethical naturalism, i.e, that things have a nature (perhaps due to the will of God), and they they should be in accord with that nature. Natural law implies that laws should lead us toward those natural ends. Kohler says, for example, in "Backwards or

Forwards" (1885), the first of his lectures contra his interlocutor Kohut, mentioned above, that

> that which comes from God can neither be reformed nor improved. Beyond the law of God progress is an impossibility.[16]

But to uphold the law, Kohler argues, Jews must be free from "fences and hedges" and "the mould and rust of the past" precisely as upholders of the law.[17] Kohler maintains in the same address that there is no contradiction between God's revelation in nature and God's revelation in the law of man's conduct; divine revelation is not said and done, but rather a "constant unfolding of truth and knowledge."[18]

In typical Natural Right/Natural Law fashion, Kohler says that "reason is the light of God in the soul of man."[19] His notion of reason is tied to his notion of morality, and these two together license the reform of Judaism. Mosaism and Rabbinism are, for Kohler, "rude barbarisms" of the past. Judaism needed to be purified of its "rude and obnoxious" elements; the duty of the Reformers was to bring out all that is true, good and everlasting. The true good and everlasting has to do with the spirit of the laws. Kohler at times appeals to the "kavana/keva" dichotomy, as he argues for the overcoming of legality with true devotion. The truth or spirit of the laws has to do, then, with character, virtues, and the practice of human love. Kohler also considered the prophets to be announcers of truth. The other laws were only applicable to by-gone days. The object of Reform was to cultivate and promote all that was human, noble and good in man. Kohler termed the aim and object of

enlightened Judaism as "cosmopolitan prophetism."[20] It was prophetic in its urgent message of justice and pure worship of God, and cosmopolitan in that it preached a universal religion and universal love and justice. Kohler felt history to be moving inexorably in those directions, and that Judaism must be purified of its dross and lead the way.

Kohler's notion of Reform, as he expressed in those essays, is clearly influenced by notions of progressivism and evolution. He compares the work of Reform to the work of nature:

> [T]his is what Radical Reform aims at, not by destructive measures, but by constructive ones, by ever new attempts at building up, just as nature works - recuperating, refashioning and putting up new tissues, while, or even before, the decaying old have begun to shrivel and fall off.[21]

Reform, then, is in accord with nature. History only moves one way, so old forms can't be invested with new meaning, but rather need to be discarded, as Judaism develops new "tissue."

Kohler indicates briefly his idea notion universal religion when he echoes the sentiment of the aleynu prayer, saying that that the mission of the Jew is fulfilled when Israel's God is worshipped by all.[22] But in that same address, he talks about the United States in Messianic terms, recognizing the Fourth of July as the offpsring of Sinai. The American Republic, for Kohler, represents the fulfillment of the teachings of the Judaism, inasmuch as the American promise of Freedom, Equality and Brotherly Love equals biblical notions such as Israel's being a Kingdom of Priests.[23] Kohler states that for the Jews to exert their influence, they

must "cultivate and develop the fine qualities which distinguish American life." He sees Judaism as having the potential to be the pioneer humanitarian religion. One gets the sense that Kohler feels that the era which the Jews taught about and had long prayed for had arrived, but that the Jews themselves were unprepared. Reform was to make Judaism true to itself.

As Kohler shares his definition of Judaism, he cites scripture and aggadah, but in a rather incidental way, only to buttress his points. Clearly, Kohler's notions of reason and history, and his definition of the essence of Judaism, are the true teachers for him, not scripture. In fact, he says that although he reveres the "venerable" Torah as "our sacred palladium of the ages," he wants it and the whole Bible read and perused with caution by way of wise eclectism. Anything that detracts from the grandeur of Judaism, i.e., his notion of universalizable, moral Judaism, must be done away with. In a particularly flat moment, he advocates "religion humanized and humanity religionized." Kohler does not give us the sense, in these lectures, that the new forms of Judaism which he believes will come into existence, will have the same authority as the old forms. The age of blind belief and authority worship are gone. With the new age at hand, the authority of reason is both a rule which motivates and measure which tells one what to do. We sense that the "external" authority of the text is no longer needed, because the underlying authority of the text, God's will, is now achievable in more direct way,

through reason. Scripture had done its work, it had laid the basis for modern Judaism. Reason was now the authority.

Kohler expands on these ideas in later essays. For example, in his "The Bible in the Light of Modern Research"[24] (1887) Kohler shows that modern reseach does away with the idea of revelation and puts evolution in its stead. The Bible reflects the life work of a nation, undergoing a process of constant augmentation and improvement. It is rife with childish miracles and primitive threats, but these wear off and its divine principles and eternal truths shine forth. The holiness of the Bible is not due, therefore, to the fact that its words are inspired, but rather that they do inspire.[25] One thing about the Bible that inspires is its great, universal teaching that there is a God living within man, and there is exists a law in history, "which makes the tidal waves of God's justice and love."[26] We see in this essay the tensions in Kohler's notion of the Bible, that it is both childish and sublime, both archaic and eternal. In this essay, he seems to move away somewhat from his notion of revelation as Truth choosing its instrument, taking hold of a person or people, impelling them to be its herald, a stand he took in Pittsburgh two years earlier. This ambivalence of his is further seen, for example, in his essay, "Miracles in the Bible" (1890)[27], where he sees miracles as the poetry of religion, in which religious truth is presented to and received by the childhood of humanity. The Bible is a growing and evolving document. We receive a contrasting picture: Is the bible sublime poetry (which is

often "the sublimest truth"), or is it a child's picture book of religious truths?

In later essays, it becomes clear that for Kohler, the authority of the Bible is understood to be a function of the Bible's being a source of theology for teaching dogma. In his "Three Discourses on Jewish Ethics" (1901)[28], he claims that Jewish ethics will be the main factor in moulding human society in the future. These ethics are based on the idea of the supreme authority of God, a truth "conveyed by the first verse of the decalogue."[29] Kohler quotes from rabbinic literature as he teaches the fundamental principles of Jewish ethics (Truth, Righteousness, and Holiness), but here again, his texts seem to exemplify more than teach. We again receive the idea of universal brotherhood based on justice, which receives its greatest articulation in the prophets.

It this essay on Jewish ethics, though, we note a change in Kohler's tone when he discusses revelation. He states that there are three elements of revelation, personal inspiration, moral/spiritual truth, and the racial element. Revelation is the coming in touch of man's soul with the world's soul. Scripture does not just teach dogma in accord with reason, then, but also records people coming in touch with the soul of the world. In a sermon he gave that same year, 1901, he states:

> to the Torah, to the study of the law enjoined as a daily obligation, the Jew owes his wisdom and understanding among the nations that superiority of intellect which made him the torchbearer of science in the new age . . .[30]

The Torah was not just a light to the mind, but also influenced the soul.

The message of the Torah is that whatever changes men and ages may undergo in the progress of the spirit, the word of God, the truth of the Law alone abides forever.

When one reads Kohler's essays, scattered about as they are, in chronological order, one is struck by Kohler's rather sudden, and then often and emphatic use of the word "Torah" starting about the turn of the century. In his inaugural address at the Hebrew Union College in 1903, for example, he calls the Torah the rallying point of the race, sees it establishing Israel as God's chosen servant to humanity. Torah is a source of power, and the the Jewish preacher must drink deeply from the fount of Jewish knowledge. Kohler laments the lack of power in Jewish institutions of higher learning. In this address, he scans all major genres of Jewish literature, including rabbinic law and midrash, calling them, too, a source of power. He states, "There is a wealth of spiritual and ethical thought buried in the Midrash and Talmud which must be turned into power, whereas in the present it is treated as dead matter."[31] Even though the old laws are not to practiced, they must be revered. Kohler even seems to mourn that his new charges were not brought up in the "rust and mould" of orthodoxy, when he says,

> What was dear and sacred to the fathers must still be treated with tender regard and reverance by us, however obsolete and superstitious the practice or the belief. The broken pieces of the old tablets of the Law were deposited in the holy ark alongside the new, the Rabbis tell us. Our young Reformers too often labor under the great shortcoming that they were not brought up in an atmosphere of religious life which derived sanctity from its many rites and ceremonies, and so they are callous, inclined to a rationalism which chills the heart and blunts the finer tendrils of

the soul.[32]

The shift in his tone about ceremonies is further reflected in his "The Origin and Function of Ceremonies in Judaism" (1907)[33]. Here Kohler stays with the idea announced in the Pittsburgh platform some 22 years earlier that obedience to meaningless forms is improper "ceremonialism," but now adds that ceremonies themselves (i.e., devoid of the pejorative suffix) are the gesture language of theology. The ceremonies of Mosaism and Rabbinism must now be translated for Modern Judaism (for Kohler, the third great stage of Jewish forms). The historical law of evolution necessitates new ceremonies, not just religion in accord with universal religion, in that "abstract truth and ethical practice fail to satisfy the religious craving of man."[34]

In his later work, even the idea of religious law, understood in term's of Cover's nomos and not as positive law, is important for Kohler. In earlier stages the work of the Jewish spirit was done through unconcious forces of Jewish genius, revelation and inspiration, through God's chosen organs and authorities. Kohler saw that in his own age this work was done consciously. Reform necessarily militates against the forms of the venerated past, but soon the new ceremonies and forms which Reform will bring into the world are legitimized through the tacit assent that practice brings, finally becoming "integral parts of the whole religious system."[35] These ceremonies must have instrinsic values because they are no longer seen as divine commands, but rather issue from a

conscious response to the needs of the times. In other words, the authority of the religious system won't be based on the idea of accepting authority from the outside, but rather will be the result of consciously creating forms that continue the work of the spirit of Judaism. Kohler's thought about ceremonies parallels his thought about the canon; just as ceremonial law is no longer seen to be a dead letter which should be etheralized into eternal verities, but rather is a source of power and theological practice, so the canon is no longer seen only for the moral truths it contains, but rather the canon in itself is seen as a source of power. Reform Judaism would advocate consciousness of the historical development of the canon, but would also advocate that the religious power inherent in the canon be recovered and taught. It seems that the hold of history and reason on Kohler are weakening, as he turns to the criterion of religious efficacy.

Kohler's later religious thought is most clearly presented in two works, a brief article from the Menorah Journal, "The Faith of Reform Judaism," (1916) and his magnum opus, Jewish Theology (1916). The style of expression which characterizes Kohler's writing since around the turn of the century is exemplified well in the article on Reform Jewish faith. He begins by stating that Reform Judaism insists on maintaining and preserving Judaism in all its essentials. He then asks what Judaism is, and the reader is caught off-guard with his answer:

> . . . Judaism never was and never will be anything but the working out of the religious task mapped out in Scriptures . . . There can be no other standpoint for Judaism and Jew, whether Orthodox or

Reform.[36]

Reform is "a" specific form or concept of Judaism, deviating from old, "venerable" Orthodox or traditional Judaism. Reform is not arbitrary, but came about as a historical necessity, just as did Rabbinical and Mosaic Judaism. Reform retranslates the ever-living truth of Judaism into the language, spirit and world-view of the new age - a Judaism revitalized. We perceive a softening in Kohler's stand vis a vis Orthodoxy. It is no longer rust and mould, but the work of divine revelation which continued to work after the Torah and Bible were completed, a divine revelation which was still at work. Kohler has not abandoned his "cosmopolitan prophetism," though. He states unabashedly that Reform Judaism reads the sacred scripture and all Jewish literature and philosophy, which he sees as gropings for the complete unfolding of the religious genius, in the light of prophetic universalism. By Kohler's later years, the tensions inherent in the Reform nomos, i.e., the conflict between the focus on universalizability and the focus on Torah as a source of power for the Jewish people, become clear.

The tensions in Kohlers thought are captured in his most famous work as well. In his Jewish Theology: Systematically and Historically Consisidered Kohler provides a broad and fair view of his subject. Considering that the only other work of its kind at that time was Schechter's Some Aspects of Rabbinic Theology, the reader is impressed with the breadth of erudition of the book. In general, the book itself is

not theology or philosophy, but rather a primer on Jewish theology. His remarks on modern Jewish theology, however, can be seen not only as a summmary of nearly a hundred years of Reform thought, but also their furthest development in Kohler's time. Some aspects of the theology which Kohler describes are worthy of note.

First of all, when Kohler defines Judaism, he says that it is a message concerning the one and holy God, undivided humanity, with a world uniting messianic goal, and a message entrusted by divine revelation to the Jewish people. Now, this revelation is not the Torah, but the Torah is the result of this revelation. Judaism is conceived to be something of a spirit which generates the unfolding of this great religious truth. Kohler even speaks of the halakha with some approbation as he sees it as a force which holds fast to the form of the tradition, while the aggadah is "free and fanciful." He sees Judaism composed of tensions, separatism and ritualism vs. rationalism, for example, and does not speak about the former in a pejorative tone. Judaism is multifarious and manifold, with the characteristics of both a world and national religion. He does not advocate transcending the latter for the former, but seems to celebrate the tension.

In his Jewish Theology, Kohler never lets go of the classic Reform paideia. The central idea of Judaism, for Kohler, is the doctrine of the One and Holy God, whose kingdom of justice, truth and peace (note the Mishna which Karo cited and Cover referred to!) is to be universally

established at the end of time. Kohler also holds fast to the notion of divine revelation, but continues to reject the idea that either the written or oral law has supernatural origins. At one point, Kohler understands revelation as the appearance of God on the background of the soul, which reflects God like a mirror. The different people who experience God in such a way, wrote down what grew out of that experience. The canon, then, is the gradual work of a number of authors, taught to and by the people, accepted by the people. Kohler still sees the telos of Judaism to be world salvation, and that world salvation is the mission of the Jews.

In one of his later works, "The Mission of Israel and its Application to Modern Times," (1919)[37] Kohler expresses himself in such a way that seems truly portentious. In that study, Kohler repeats of the themes presented above, but focuses on the universalistic nature of Torah (given in the wilderness, in 70 tongues, etc.). The task of Reform was keep Torah and Judaism true to its mission as a light unto the nations. But in this essay, Kohler laments the lack of fervor and love of Torah characterizing the Jewish people. He calls on all Jews, traditional and progressive, to endeavor to make the modern Jew again a zealous lover of Torah. In this essay, he twice at least calls out for a "reconstruction" of Jewish life, claiming that before the Jew could go outside to share his truth, that he must start with the respiritualization of his own people.[38] Kohler adds an important caveat to his universalistic message: he does not advocate a church universal, but rather a divine truth reflected in

many systems of belief and thought.

5. Summary Thoughts on Kohler

I will now offer my reflections regarding the nomos which Kohler presents. First of all, it is clear that Kohler lives in a world of law; the laws of history, the laws of progress and evolution, God's laws of morality and reason. Judaism passed through different historical ages, and these ages seem to determine what is appropriate and what is not in the forms which the spiritual essence called Judaism took. I would claim that significant aspects of Kohler's thought may be called naturalistic, and that his notion of the authority and justification of Reform is a Natural Law theory. Kohler believes there is something called the universal religion, or the religion of reason, according to which religions should agree. This recalls for us the Natural Right notion of the nature/convention dichotomy; conventional authority can hide the true nature of a thing. Judaism, too, has a nature, and Reformers must reform Jewish law and practice according to that nature. Additionally, his thoughts about morality and reason stands in the Natural Law tradition, along with such disparate thinkers as Aquinas and Kant. What links these thinkers is the notion that reason, for Aquinas and Kant, practical reason, participates in the moral truth. For Aquinas, we are by nature drawn to that truth and to living by it (synderesis). We do receive from Kohler a sense that God's truth is promulgated into the human conscience; Kohler almost equates

faith with a moral epistemology. Like Kant, Kohler is a liberal. His vision of world that must be brought into existence is very much the liberal one (Kantian more than Humean) of truth, justice and peace. Universal reason and universal brotherhood are the criteria for religious forms.

In most of Kohler's thought, we receive a clear picture of the destiny of the Jewish people, if not an eschatology. Judaism must reform itself if it is to play its destined role in the future of humanity. In the American Republic, the stage has been set for Judaism to lead the to universal religion. My sense is that he really felt that some kind of denouement in the history of religions was at hand. By the end of his life, he seems prepared to live with a more permanently pluralistic model of religious society.

His notion of the authority of the canon goes through important shifts, and some of his most important thought about the canon comes out in his later work. First of all, Kohler does have a notion of canon in the terms that James Sander's suggests. For Kohler, the canon identifies Israel and gives Israel its task. The canon is stable and adaptible; the consciousness of the new age characterized by reason does not in the final analysis replace the canon, but rather gives new tools for reconceiving and understanding the canon and its authority. The meaning of the canon is resignified: it is not about lists of laws to be obeyed (if it ever was only about that), but rather taught doctrine, recorded a spiritual history, and

set the course of the Spirit of Judaism in history. No part of the canon is written by God, though the Jewish revelation is expressed in the canon. The authority of the canon is found in the principles found there (ethical monotheism, a personal and living God, etc.), the teachings found there (prophetic universalism), the instructive narratives, and any aspect that imparted ethical or spiritual power. For Kohler, then, scripture, which finally came to mean rabbinic and other genres of the tradition as well, both taught and transformed; it was authority for dogma and a source of religious transformation. Garet's methodology will help us in clarifying our assessment of Kohler's notion of canon in terms of the normative hermeneutic project which Kohler seems to advocate. We will now address the questions of the complexity of the normative hermeneutic object, and the problem of textual authority.

Early on Kohler made distinctions between the Bible and the rest of the canon. But later it becomes clear that the normative hermeneutic object for Kohler is the entire Jewish literary tradition. Canon denotes anything that the Jewish genius has created. This idea presents grave problems, for at one point, Kohler expansively includes Marx and Lasalle. For the most part, though, Kohler seems to understand by canon anything which is the subject of study of <u>das Wissenschaft des Judenthums</u>. In other words, he includes not only traditional biblical and rabbinic texts, by also apocrypha, Philo, Josephus, etc. Part of his normative hermeneutic project, then, may be understood as widening the scope of the traditional

canon.

Scripture for Kohler means that the canon teaches eternal principles and is a source of spiritual inspiration. It is a record of Israel's religious genius before God, characterized by its time, but always a vessel of the holy. It seems that Kohler experienced himself to be in an interregnum; there was no coherent tradition which translated the canon into practice. Kohler felt sure that an indigenous Reform tradition would evolve in a natural way.

The authorized interpreter of the canon for Kohler was the scholar/rabbi, especially the Reform version. In other words, in most of his writings Kohler sees the Reform self understanding of the meaning of scripture as the preferred, most legitimate one, though later in life we note an occasional more pluralistic sentiment. The Reform, scientific model combines reverence for the text and the rational consciousness of the new age. Scripture is the basis for the common life of the Jewish people, and the Jews are constituted by their task as given in Scripture. However, the most proper task of the Jewish people, in Kohler's mind, is its mission to world as taught in Torah (especially the Prophets).

The authority of text may be understood in several ways. First of all, the canon is authority for identity. A Jew is a Jew by birth, and Israel is in covenant with God. These notions are axiomatic for Kohler, and I find them difficult to reconcile with his idea that the laws of Torah are not authoritative for any time but the time of composition. In other

words, if the notion of covenant articulated in Torah is truly God's word and will, then other statements of Kohler's, e.g., those concerning the parts of the canon which cannot be universalized into reason or morality, are inadequate. Is the notion of covenant God's idea or the idea of a "religious genius?" Perhaps it's a primitive, childish notion, akin to a biblical miracle. We could ask the same question about he accepting the basics of the Rabbinic law of personal status as authoritative. Notions of ishut (Kohler was vehemently against intermarriage) are anything but universalizable, moral, reasonable doctrine, but he accepts them as Torah mi-Sinai, as it were. In any case, the canon is authority for identifying Israel.

Canon is also authority for identifying Israel's task. Laws, themes, and texts promoting "truth, justice and peace" are a "canon with the canon," meaning that he has selected from within the canon those traditions that are especially important for his notion of Scripture. It is possible to accuse Kohler of "scientific policymaking," i.e. having some comprehensive policy in mind, and citing from the canon to buttress his ideas. However, the themes that Kohler emphases are not esoteric or marginal. "Truth, justice and peace" do appear at the center of canonical paideia. What is different in Israel's task for Kohler is Israel's responsiblity in fulfilling the halakha as taught in Orthodoxy. Kohler's notion of reason and history do not allow him to see the halakha as definitional of Israel's task. In other words, the canon is not about the

halakha, and the halakhic parts of the canon themselves refer to something else ("ethics").

Related to the notion of canon as authority for Israel's task is the idea that canon is authoritative for dogma. The hermeutical pruning knife of Reform acts more like a sword at times in cutting away dogma which was thought unworthy of being of taught.[39] The dogma which remains includes: a personal and living God who is present in history and in each person, a God who wills justice, and a God who wills an eschaton of brotherhood and peace.

Canon is also used as a source for spiritual power. In other words, when Jews seeks spiritual power from God, they should seek it in Scripture. Kohler laments the fact that Jews have lost their fervor for Torah. My sense is that he would not be consoled to know that Jews were moral people deriving great spiritual sustenance from a variety of other sources. He wanted them in engaged in the Jewish canon. The Jewish people are, especially in Kohler's time, a self-conscious and self creating vessel for the eternal spirit, and creators of constantly new forms. These new forms are created with veneration for the past, and knowledge of the needs of the hour. Kohler holds that the way that the Jews become connected to the eternal spirit is through their relationship with Scripture.[40]

It seems that by the early 1900's Kohler saw the weaknesses of Radical Reform. Judaism could not be limited to "truth, justice and

peace," and stay vital. He probably witnessed the dissipation of Jewish piety and fervor, and saw first hand "coldly rational" rabbinical students. We see Kohler himself transcending Cover's liberal, system maintaining imperial virtues, which would guarantee free Jewish religious life in the Republic, and moving toward the paideic: Torah, pious and ritual devotion, and bonds of particularistic brotherhood. Kohler truly represents the career of Radical Reform, from its apex to the first appearance of morbidity. Kohler's worldview, then, undergoes a change. In his early adult life, Kohler saw a new world on the horizon, the new world which the Jew had formulated and prayed for, but now seemed cut off from. Kohler felt himself to be an "authorized interpreter" of Judaism, especially its eternal spirit, and worked to free Jews from past forms and prepare them for a new world. He was justified by the deep, true, inner and essential nature of Judaism and the historical age in which he lived. Later on in life, he began to witness a certain dissipation in Jewish life, which was not due to Orthodoxy. He perhaps saw another world on the horizon which did not portend well: a world unredeemed into which the Jew would assimilate. He apparently developed a deeper attachment to Jewish life forms, yearning for the day when Reform would grow beyond an abstract idea, but would also provide powerful paideic center. Kohler's nomos is one of change, and his notion of canon, its function and authority, changed as well.

A last question remains - what caused Kohler to shift his views, to become so much more positive toward rabbinics, mysticism, tradition in general? It should be clear that it is false to see the Pittsburgh Platform as the epitome of Kohler's thought. He wrote his draft of the Platform and his set of highly polemical lectures referred to above in 1885 as a powerful man in his early forties, just reaching his stride. He continued to write and think for another forty years, up until his death in 1926. We see a shift in his tone about the year 1900. Though I would think that most of his shift can to be attributed to the fact that he was a thinking, observing, sensitive man, and saw the needs of the people, I would offer one other factor that may have been something of a catalyst for Kohler's subtle shift which led to changed notions of the denotation and connotation of the canon.

Based on a memorial address he gave,[41] I think that one cause of this shift was his relationship with Solomon Schechter. He speaks of the head of the Jewish Theological Seminary (HUC's "sister institution") with the greatest approbation. He admired Schechter's immersion in Hasidism and Rabbinics. Kohler states that he spent a glorious day with Schechter in Cambridge in 1902, in which they discovered a great deal in common. When Schechter came to New York in 1902, their friendship was intimate and profound. Schechter chided Kohler's Prophetic Judaism as an attempt to live on oxygen alone, and impressed Kohler with his ability to teach greater spirituality through the various traditional texts, which

Kohler began calling a "treasure house."[42] Kohler saw Schechter's Conservatism providing an important balancing force for the Reform's Progressivism. Be that as it may, by the time Kohler took over the presidency of the Hebrew Union College, he was already prepared to sow the seeds which would lead to the revision of Pittsburgh Platform. In the next chapter, we will study that new vision.

Endnotes for Chapter Three:

1. Michael Meyer states in Response to Modernity, supra chapter one, note 2, at p. 225, "Only in the United States had a thoroughgoing Reform Judaism won large-scale adherence . . . [by the late 19th, early 20th century,] American Reform soon became the most successful in implementing the Reform program. Born in Europe, the Reform movement thrived fully, and almost easily, in America.

2. Remarks made in a Centenary address honoring Geiger in May, 1910. From Hebrew Union College and Other Addresses (Cincinnati: Ark Publishing Co., 1916), p. 96.

3. Blau, introduction of Kohler's Jewish Theology: Sytematically and Historically Considered (New York: Ktav Publishing House, 1968), p. xi (first published in 1918).

4. Sefton D. Temkin, The New World of Reform (London: Leo Baeck College, 1971). Forword by Jakob J. Petuchowski, p. vii.

5. A bibliography of Kohler's writings published in 1913 contains 801 items. A supplement, containing works published from that date until Kohler's death in 1926, and items omitted from the 1913 list, contains an additional 166 items. Aside from his magnum opus, Jewish Theology, there are three volumes of his studies, sermons and papers, Hebrew Union College and Other Addresses (published 1916), Studies, Addresses and Personal Papers (published 1931) and A Living Faith (published 1948), and a didactic work, Guide for Instruction in Judaism (1898). This study depends on materials taken from those three collections, the Guide for Instruction, and his Jewish Theology.

6. Meyer, Response to Modernity, supra chapter one, note 2, at p. 265.

7. W. Gunther Plaut, "The Pittsburgh Platform in the Light of European Antecedents," in Walter Jacob, ed., The Pittsburgh Platform In Retrospect (Pittsburgh: Rodeph Shalom Congregation, 1985), pp. 18-19.

8. Meyer, Response to Modernity, supra chapter one, note 2, at pp. 271-272.

9. "Proceedings of the Pittsburgh Rabbinical Conference," in Walter Jacob, The Pittsburgh Platform in Retrospect, supra, note 7, at p.94.

10. Roberto M. Unger in his Knowledge and Politics (New York: The Free Press, 1975) uses the word "liberal" to encompass an array of modern political, psychological and philosophical ideas. In his chapter on Liberal psychology, he discusses the principle of analysis, and says that "the spirit that unifies the liberal theory is confidence in the primacy of the simple" (p. 47). He states that this confidence depends on the doctrine of intelligible essences. Were our present study more philosophic, Unger's book would have played a must larger role. In general, I feel that Unger's works could play a vital role in the philosophic analysis of Reform Judaism.

11. I am not making the historical claim that Kohler consciously borrowed from Aquinas, but rather a heuristic claim that we can understand Kohler's idea of the "consciousness of the indwelling of God" as a basis for religion if we look at a parallel idea in the thought of Aquinas. According to Thomistic Natural Law theory, God has implanted in the human mind a knowledge of the general principles of moral law, as well as the first principles of speculative reason as well. I would not connect Kohler's notion of the "consciousness of the indwelling of God in man" with Aquinas' notion of grace, for Aquinas says, "[Man] does not need a new light added to his natural light in order to know the truth in all things, but only in such things as transcend his natural knowledge" (Nature and Grace: Selections from the Summa Theologica of Thomas Aquinas, trans. and ed. by A. M. Fairweather (Philadelphia: The Westminster Press, 1954), p. 139. I don't think that Kohler would hold that knowledge of God transcends natural knowledge: for Kohler, such knowledge is part of the human nature and is the basis for the religion of reason.

12. "Proceedings," supra, note 9, at p. 110.

13. Dr. Sonneschein compared "revelation" to "socialism,", "a tabooed word, truly beautiful in significance, but poorly understood, and for this reason should be avoided in the platform." ibid., p. 110.

14. ibid.

15. ibid., p. 107.

16. Studies, supra, note 5, at p. 206.

17. ibid., p. 207.

18. ibid., p. 204

19. ibid., p. 204.

20. ibid., p. 221.

21. ibid., p. 234.

22. See, in general, the fifth discourse, "Palestinian or American Judaism," in ibid., p. 229.

23. ibid., p. 229-232.

24. "The Bible in the Light of Modern Research," HUC and Other Addresses, supra, note 5, at p. 173.

25. ibid., p. 179.

26. ibid., p. 182.

27. "Miracles in the Bible," in ibid., p. 253.

28. "Three Discourses on Jewish Ethics," in Studies, supra, note 5, at p. 236.

29. ibid., p. 239.

30. "Israel's Rejoicing in the Law," in A Living faith, supra, note 5, at p. 78.

31. HUC, supra, note 5, at p. 17.

32. "Inaugural Address," in ibid., p. 27.

33. ibid., p. 297.

34. ibid., p. 313.

35. ibid., p. 314.

36. "The Faith of Reform Judaism," in Studies, supra, note 5, at p. 325.

37. "Mission of Israel," in ibid., p. 177.

38. Dewey published his Reconstruction in Philosophy in 1920, thought it was based on a series of lectures delivered earlier. It would be interesting to note if Dewey thought had any influence on Kohler, and if Kohler or Dewey had any on Mordecai Kaplan.

39. Incidentally, the hermeneutical sword of Reform hermeneutics has scriptural license, "Beat your plowshares into swords, and your pruning hooks into spears." (Joel 4:10). Unfortunately, this part of scripture is not usually included in the operant Reform canon.

40. Kohler does not write much about prayer. A notable exception is his discussion of prayer in Jewish Theology, supra, note 5, at pp. 261-285. He says there, for example, "The man who prays receives from the Godhead, toward whom he fervently lifts himself, the power to defy fate, to conquer sin, misery and death." p. 274.

41. "Solomon Schechter," HUC, supra, note 5, at pp. 325-336.

42. One gets the sense that Kohler had discovered a genizah of his own.

Chapter Four

The Shaping Power of Religion:

Authority and Canon in the Thought of Samuel Cohon

1. Introduction

Samuel S. Cohon (1888-1959) has been aptly called a "Reformer of Reform Judaism."[1] Although Cohon was a Cincinnati trained Reform rabbi, his early life shows already the seeds of a man who would redefine what Reform Judaism meant. As in the previous chapter, we will begin with a brief account of our theologian's life and his role in the writing of the platform. We will then examine the Columbus platform, in light of Cohon's writings, though we will not offer a side by side comparison the Cohon's draft with the actual Platform, due to the length involved. We will then turn to certain of Cohon's writings where he discusses notions of authority and canon. Finally, we will examine Cohon's thought in terms of the methodology offered in the first and second chapters.

2. Cohon and the Columbus Platform

Cohon grew up in the Minsk area of Russia and studied at the Berezin Yeshiva.[2] While at the Yeshivah, he was introduced not only to the classic Jewish sources, but, outside of the Yeshivah context, also to Hebrew as a living language, to Zionism and to Socialism. The Kishinev pogroms in 1903 started him in his move away from Russia, and he arrived in the United States in 1904, at age 16. While in high school in Newark, New Jersey, he kept abreast of periodicals in Hebrew, Yiddish, Russian, German and English. It was during that time that he learned to revere two scholars, Neumark and Kohler, at the Hebrew Union College, and upon graduating from High School, he gained admittance to that institution. He was ordained in 1912 at age 24. Cohon served as a pulpit rabbi from 1912 to 1923, for one year in Ohio, and then in Chicago at two different pulpits. He was called to Cincinnati in 1923 for a professorship in Jewish theology, and taught there until 1956. Upon retirement he taught in the Los Angeles school until 1959, when he died.

Even in his student days, Cohon did not accept the Reform Judaism typified by the Pittsburgh Platform. He was greatly drawn to traditional and mystical sources, and saw Judaism as the religion of the Jews, more than as set of abstract principles to be defended or argued.[3]

Cohon wrote during a time when religion was under considerable attack, not by Darwinism, the physical sciences, and biblical criticism, with which Reform had made its peace, but rather by the social sciences. Behaviorism and aspects of Freudian psychology both presented

reductionist views of religion.[4] The entire enterprise of religion itself, even the progressive branches, was called into question.

Cohon's own religious philosophy can be seen as starting from an absolutely non-reducible point: the human experience of the holy.[5] He says, "Religion was born in the human consciousness as soon as man grew aware of the sacred, and ordered his life in conformity with that feeling."[6] This primal religious experience is articulated by different religious communities through each ones different forms. Cohon felt, then, that Reform had made a mistake in emphasizing primarily the ethical. Religiosity involved formation around the holy, not only the ethical. Mysticism and ceremonial laws had crucial roles to play in this religious formation. Cohon differed from Orthodoxy in upholding what was by his own time the foundation of the Reform dissent from Orthodoxy: the notion of the gradual, historical development of the religion of the Jews. Cohon stated:

> The original event at Sinai set the direction of all that followed, but the actual emergence of its observances, institutions, and ideas involved inner growth and maturing, appropriation of new elements from the shifting environments, climates, and outlooks, and elimination of those that proved incapable of further development.

He summarized this sentiment in a powerful way, "The revelation of God to the minds of Israel's priests, prophets, and sages, was refracted in the manifold teachings which constitute our Torah."[7]

By the mid 1930's, Cohon spoke for a majority of Reform rabbis. Cohon was a member on the commission chaired by Samuel Schulman in

1935 to draft a new platform for Reform Judaism which would reflect the intellectual changes which the movement had undergone. Cohon's draft differed sharply from Schulman's, and the latter's illness allowed the President of the CCAR to determine that Cohon's statement would be the working draft. Cohon was politically very adept in garnishing support for his draft. At the 1936 convention, decision was postponed until the following year. The record of the discussion concerning the platform at the 1937 Columbus convention evinces a certain amount of acrimony between the major protagonists and doubt by the members as to whether the platform should be adopted at all, as Cohon and Schulman clashed head-on. Finally, the Platform was approved by a solid majority of the Conference.

I shall now present and comment on those elements of the Columbus Platform, "Guiding Principles of Reform Judaism" that are relevant to our study. The Platform begins with the following introduction:

> In view of the changes that have taken place in the modern world and the consequent need of stating anew the teachings of Reform Judaism, the Central Conference of American Rabbis makes the following declaration of principles. It presents them not as a fixed creed but as a guide for the progressive elements of Jewry.

The preamble lacks the schismatic flavor of the Pittsburgh preamble, presenting the Platform as a guide for Progressive elements. It does not set clear boundaries who those elements are beyond Reform

Jews, and also does not delegitimize other "elements" in kelal yisrael.

A. Judaism and its Foundations

1. Nature of Judaism. Judaism is the historical religous experience of the Jewish people. Though growing out of Jewish life, its message is universal, aiming at the union and perfection of mankind under the sovereignty of God. Reform Judaism recognizes the principle of progressive development in religion and consciously applies this principle to spiritual as well as to cultural and social life.

Judaism welcomes all truth, whether written in the pages of scripture or deciphered from the records of nature. The new discoveries of science, while replacing the older scientific views underlying our sacred literature, do not conflict with the essential spirit of religion as manifested in the consecration of man's will, heart and mind to the service of God and of humanity.

A major shift in thinking is already apparent in the definition of Judaism as an "historical religious experience." Judaism is not reducible to a set principles according to which its forms must accord. Instead, it is the summation of a people's response to the experience of God. The universal message theme is retained, as well as the principle of progressive development. An initial question concerning canon is already raised for our study: does the canon present some pattern or identifiable idea that shapes the Jewish religion, or is the Jewish people the only thing that gives shape and continuity to Judaism?

We do have some sense here of an essential spirit or message which is not in conflict with science. This essential spirit has something to do with the "consecration" of the entire person to God. Cohon's "essential

spirit" of religion clearly echoes biblical themes.

> 2. God. The heart of Judaism and its chief contribution to religion is the doctrine of the One, living God, who rules the world through law and love. In Him all existence has its creative source and mankind its ideal of conduct. Though transcending time and space, He is the indwelling Presence of the world. We worship Him as the Lord of the universe and as our merciful father.

This paragraph has its foundation in Classical Reform thought. First, we see a notion of a doctrine, a "God-Idea" as Kohler would put it, being the "heart" of Judaism. This doctrine is seen as a contribution to "religion," the Columbus term for what Kohler would call "universal religion," i.e. some general human endeavor, of which Judaism is not only a part, but plays a major and essential role. We would assume that this doctrine is taught in scripture. We note that Cohon's Judaism is very theocentric, and the language suggests a personal God.

> 3. Man. Judaism affirms that man is created in the Divine image. His spirit is immortal. He is an active co-worker with God. As a child of God, he is endowed with moral freedom and is charged with the responsibility of overcoming evil and striving after ideal ends.

The notion of man affirmed here clearly echoes biblical and rabbinic themes. "Judaism" seems to be the religious idea of the Jews as taught in Jewish sacred texts.

4. Torah. God reveals Himself not only in the majesty, beauty and orderliness of nature, but also in the vision and moral striving of the human spirit. Revelation is a continuous process, confined to no one group and to no one age. Yet the people of Israel, through its prophets and sages, achieved unique insight in the realm of religious truth. The Torah, both written and oral, enshrines Israel's ever-growing consciousness of God and of the moral law. It preserves the historical precedents, sanctions and norms of Jewish life, and seeks to mould it in the patterns of goodness and of holiness. Being products of historical processes, certain of its laws have lost their binding force with the passing of the conditions what called them forth. But as depository of permenent spiritual ideals, the Torah remains the dynamic source of the life of Israel. Each age has the obligation to adapt the teachings of the Torah to its basic needs in consonance with the genius of Judaism.

We first of all notice that revelation is translated through human experience, "vision and moral striving," "consciousness of God and the moral law." Reform's trademark universalism is in exhibited in the idea that revelation is "confined to no one group and to no one age." Israel's revelation is Torah, "written and oral," a phrase which does away with notions of Biblical primacy. The canon, at this point, seems to be the traditional canon, Bible and Rabbinics, and its enshrines a God-consciousness. The canon also functions to preserve and mould (the God conciousness?) in patterns of goodness and holiness. Certains laws lose their binding force when the conditions that gave them rise pass away. Authority in terms of actual observance is a function of a law being apt for its time. The relevance of Torah for later generations presented here is quite similar to the one expressed by Kohler later in life: Torah is a depository of spiritual ideals, a dynamic source of life. The religious

geniuses of Israel, "prophets and sages," are the medium through the which Israel achieved unique insight in the world of truth. This genius is itself captured and mediated through the canon. The teachings of Torah are adaptable, and there is something called the genius of Judaism which is a standard. We have here a notion that teachings can be abstracted from the concrete laws, norms, values, etc., from which a "genius" of Judaism can be constructed, and according to which each age may adapt these teachings.

The fifth article, Israel, starts with the phrase, "Judaism is the soul of which Israel is the body." The article affirms that all Jews are united by common history, and above all, a heritage of faith. It maintains that ". . . it is by its religion and for its religion that the Jewish people has lived." Other parts of the article are rather apologetic in tone, reconciling citizenship and general civic responsibilities with particular Jewish concerns, i.e., religious and academic institutions, Zionism., etc. This article does not add appreciably to our understanding of canon, and its opening statement clarifies little unless we know what the relationship is between the soul and the body in the mind of Cohon.

In section B of the Platform, there are three articles: Article 6 - Ethics and Religion, Article 7 - Social Justice, and Article 8 - Peace. These sections advocate humanan brotherhood, the respect of human rights, and the responsibility of the state in furthering these ends. Clear stands on social justice are taken, as well the means toward world peace.

In article 7, we read, "Judaism seeks the attainment of a just society by the application of its teachings to the economic order . . ." One doesn't sense here that the Platform suggests borrowing aspects of the Rabbinic law of workers rights, but rather some abstract advocacy based on "teachings" for social justice and rights.

In section C of the platform, we find one article, Article 9 - The Religious Life. Religious practice in the home and synagogue, as well as knowledge of the religion are advocated. Public and personal prayer, observance of holidays, ceremonies, and general participation in Jewish cultural life are understood to be requirements of Judaism as a way of life.

3. Cohon on Authority and Canon

The impression we receive so far in examining Cohon's thought is that his notion of canon is similar to Kohler's. Canon contains the record of Israel's experience of God, and contains teachings, norms, laws, etc., out of which one may abstract a spirit which is authority for dogma and practice. What is different so far is any strong notion of naturalism. We recall, that Kohler felt the nature of the historical world, and the criterion of natural reason, to be standards for Reform. Cohon speaks vaguely about historical conditions. As we examine some of Cohon's writing on authority and canon, we will watch for any notions of naturalism as they impact on questions of authority and canon.

The most obvious place to begin with Cohon is his long essay published in 1936, "Authority In Judaism."[8] We will examine this article rather closely, as it pertains directly to our subject. Cohon begins his essay with a statement which calls out for interpretation:

> Religious authority represents the right which a religion exercises upon its followers as individuals and as a community. Conformity to its standards renders them religious in their own eyes and in the eyes of others. Authority inheres in the very nature of religion.[9]

Cohon goes on to say that religion seeks to create a Kingdom of God, and make man a willing citizen of that kingdom, and that citizenship "ever imposes obligations." He goes on:

> The very freedom which religion holds out to man as his greatest boon is through obedience to its authority. Only he is free upon whose heart the laws of God are inscribed.
>
> Thus conceived, religious authority assumes a twofold aspect. Seeking to set up a social order in accordance with its highest visions of righteousness, religion provides man with an objective and external standard of right. He is expected to conform to the laws of the ideal community. At the same time religion strives to find its way into the heart of man, to become part of his inward life, and to function from within as a spiritual light, as his moral inspiration and conscience . . . While the inner law and external command become disjointed in the lives of vast numbers of people, they blend into a perfect harmony in the lives of truly religious spirits.[10]

Cohon goes on to say that no religious authority is authoritative forever. He sees in religious reform the breaking of mores and taboos in the higher interests of the group or humanity, replacing them with more ideal standards of conduct. Religious reform means new understandings of what is authoritative. Cohon states:

> Progress lies not in the abolition of authority, which spells the disruption of society, but in replacing the lower forms of authority with higher ones. From this standpoint the history of each religion

assumed.[11]

Cohon sees two basic kinds of authority at work in Judaism, reflected in the two notions of Torah: authority in Scripture, or revelation, and authority in the Oral law, or tradition. Cohon's essay is divided into three parts. In the first part, he discusses revelation, or authority in scripture. He then discusses the authority of tradition, and finally the issue of Reform Judaism and authority. We will examine each of these sections in turn.

Authority in Scripture rests on the threefold nature of revelation: a) manifestation of Divine Presence, b) disclosure of divine will, and 3) embodiment of the objective content of revelation in writing. The canonized scripture came to enjoy the authority once reserved for personal revelation. The factors of revelation are God and man, its object is spiritual and ethical guidance, for both the person and the community.

Cohon believes that the nature of revelation progresses over time. Revelation grew increasingly inward, i.e., God speaking through the conscience of the individual. This divine presence penetrates and transforms the human, manifests within him its demand, the reality of its ideal, and inspires him to follow its light. For Cohon, revelation resulted in mandates for human behavior, mandates which must be observed:

> Amid the moral chaos of their day and amid the selfishness and greed of society and its leaders, the prophets envisaged the clear white light of the spiritual and ethical ideal, transcending popular mores and expediency. This ideal recommended itself as grounded in the mind and will of God, the foundation of all life and of customs and conduct of the people. It consequently imposed duties, to ignore which constituted disloyalty to the Holy One; and to

> follow which, reverently and humbly, secured divine approval and inner contentment. The motive of authority, in the prophets' view, is not merely fear of the consequence of disobedience. A higher motive asserted itself in their teaching. It is the motive of the love of God, of unconditioned loyalty and devotion to Him as the All-Holy and All-Perfect.[12]

Cohon understood the priest to be the embodiment of the social side of religion - what Weber would call the "bureaucratic."[13] Cohon, in fact, cites Bergson in seeing the prophet as typifying "dynamic religion," while the priest represents "static religion."[14] Priests derive their authority from their being masters of the "Torah," originally referring to sacred oracles, but finally referring to the written body of law. Cohon holds that Torah, too, is progressive, but that prophetic religion was finally subordinated to Torah. The supreme authority of written Torah resulted in certain tensions. First of all, since Torah is a compilation of older codes, there are discrepancies between them. Additionally, the document which finally became Torah could not face all the new conditions facing post-exilic Jewry. The activity which developed, i.e., the contination of customary law which responded to new conditions, and the activity of reconciling inner difficulties, gave birth to the notion of the Oral Law, which owes its existence to the reduction of these tensions.

Cohon opens his discussion of the section on Tradition with the following words:

> The transformation of Judaism into a religion based on a canonized scripture contributed to the silencing of prophecy and to curbing the power of the priest as the revealer of the will of God. In consequence it led to the replacement of the authority of revelation with that of tradition.[15]

The tradition of the Rabbis ensured that Torah would not become a dead letter, but would constantly be interpreted and applied to existing conditions. In theory, tradition was subordinate to Torah, but in reality, tradition set itself up to be the "final arbiter of Torah." The authority of the rabbis was based in their claim to be the exponents of the divinely revealed tradition which served as a hedge around the Torah. The rabbis could rule by interpretation, application of laws, and by the issuing of edicts. Within the traditional system, rules were developed for discovery of what the authoritative halakha would be in cases of internal inconsistencies or disputes. Though Cohon does not make this point overtly, it seems that rabbinic authority was a mix of the prophetic and priestly, though it leaned heavily toward the priestly. Torah had become something of a sacred oracle, whose speech had to be carefully controlled, and which spoke intelligibly only to certain highly trained expositers of the law.

Cohon begins his discussion of Reform Judaism and authority with an historical sketch of the conditions, social and intellectual, which led to the rise of Reform. He claims that in Reform, deed came first, theories afterwards, which generally speaking, is probably true. But, as we discussed here in chapter two above, reform quickly left the realm of halakhic adjustments and found itself in an entirely new intellectual edifice, whereby the a priori authority of rabbinic law was held open to question. Cohon sees Geiger finding authority in scientifically derived

truth, leading the way to a conception of Judaism as an unbroken chain of spiritual development beginning with the fathers of Israel, and continuing to the present.

Cohon admits that the underlying principles of authority in Reform Judaism lack full crystalization. However, he notes nine trends in Reform Judaism's developing a notion of authority, which are instructive for our study of his notion of canonical authority. First of all, he notes that Reform is moving toward making standards of its own, even though it began as a rejection of the standards of the Shulhan Arukh. Reform has not abandoned all law, ritual and ceremony, and its adherents must learn to follow standards not of their own making.

The Reform notion of authority, says Cohon as he identifies the second trend, cannot rest on Scripture or tradition, apparently because of its progressivist notions of spiritual development. "The road of faith in modern Judaism, even more than in its past forms, runs along and merges with the paths of reason and human need."[16] The modern temperament holds that religion must come only as the expression of the free personality.

> However excellent the beliefs, ethical ideals, and ceremonial observances of Judaism, they can command the heart only if it voluntarily yields itself to them and makes them the rules of its being. The rabbinic ideal of kabalat ol malchut shamayim beahabah forms the only basis on authority for us moderns.[17]

This individualistic sentiment is tempered by sense that right and truth are discovered communally by adepts:

We must learn to yield ourselves joyously to the divine, and gladly

> to obey the obligations growing out of this relationship, and to surrender ourselves unreservedly to the dictates of right and of truth as they are interpreted to us by the wisest and best of our people. By freely assuming the burden of the law, which reveals itself within our own spirits and within the spirit of our people and of humanity, we gain real inward freedom and secure the well-being and the peace which we crave.[18]

The third trend is that standards of conduct are prompted and regulated by the need for Jewish self-preservation and vital Jewish life. The fourth trend shows that the welfare of the Jewish people is subordinated to visions of God and duty, as presented in revelation and tradition. The Reform construction of the canon of Written and Oral law differs from that of Orthodoxy. In Reform Judaism, revelation is the progressive disclosure within the souls of godly men of the truths and values most vital for the religious life.

The fifth trends shows that tradition is understood to be the socializing of the inspiration of religious genius - it preserves prophecy as a living force. Beneath the "placid surface" of tradition, churn dynamic powers of prophecy, philosophy and mysticism. This fifth trend corrects the tendency of some liberals who confine liberal Judaism to prophetic Judaism. The teaching of the prophets were embodied in the laws of the Torah. The Holy Spirit has never departed from Judaism; it is manifested in halakha and aggadah, in prayer, poetry and musar literature.

The sixth trend Cohon articulates tells us that the authority in revelation and tradition must be corrected by reason. The sacred

literature is, after all, of human origin. In noting this trend, Cohon betrays some of his classical Reform foundations. Cohon states that:

> . . . Reform asserts the right of scholarship in each age to interpret the records of both revelation and tradition, to distinguish between their essential and abiding elements and those of secondary and transitory character, and to institute, through concerted action, such modifications in belief and practice as accord with the highest demands of truth and of conscience and with the best interests of the Jewish people and of Judaism.[19]

In short, tradition must be used carefully, and must not become a spiritual straitjacket.

The seventh trend functions as a corrective of reason. Not all religious experience is amenable to reason. The soul and the heart have as much claim to authority as does the intellect. Symbols, forms and ceremonies speak to the heart more forcefully than discursive reason. Cohon advocates public and personal participation in these forms.

Cohon identifies the eighth trend as one which shows that Reform Judaism is in need of agents of authority. "Reform, like Orthodoxy, while democratic in nature, is dependent upon men specially qualified by virtue of training and character for the presentation of its standards and ideals."[20] Reform rabbis derive their authority from the consent of the communities whom they serve, and from their functioning as exponents of the historical Torah, of the "authentic ideals, traditions, and needs of the Knesset Yisrael." He suggests that Rabbis take counsel together in their conferences, which, while are only deliberative bodies (echoing the phraseology of the German conferences), their actions and resolutions tend

to serve as standards of Jewish practice. He calls upon Reform rabbis to work for the preservation of Judaism as a unifying and creative force, not allowing the chain of tradition to be broken through "neglect or irresponsible iconoclasm," or allowing its pure character to be sullied by the baneful influence of a "spurious liberalism ."[21] We recall that this article was published in 1936, i.e., at exactly the same time that he was working on the Columbus platform.

Cohon's ninth trend is a rousing peroration for the future task of Reform. He calls upon Reform Judaism to go beyond reason and morality, in helping the individual Jew recapture the joy of faith. Reform needs to define not only its principles, but also its practices and ceremonies, and embody them in a code of guidance. He feels that Reform must make demands on its adherents if it is to evoke the best in them. He ends the article with the following words:

> Only a Judaism rooting itself in the divine, building itself philosophically consistent and ethically exacting, calling for sanctification through self-discipline, probity, and integrity, stressing personal and communal prayer, ceremony, observance, weaving education and service into the fabric of life, and holding the Jewish people in a strong bond of spiritual brotherhood - only such a religion will bestow blessing on man. Amid the perplexities of our age, such a Reform Judaism must prove a consecrating and regenerative force.[22]

Cohon touched on the themes presented above in many articles, but he did not stray far from has been presented above. Cohon reiterates in his address "Progressive Revelation"[23] (1945) that though Judaism represents progressive growth, each generation must regard its truths as

final and binding. He says,

> We must . . . recognize the need of holding to the truths that are revealed to us, as firmly as our fathers did to the truths which they cherished . . . We must make them the foundations of our lives, personally and as a people. JThey serve as the means of our consecration to our religous heritage. Through them, we become His people and He our God.[24]

In the section "The Way of Torah" in his Judaism: A Way of Life (1948) Cohon develops a powerful notion of Torah as the expression of the Jewish experience of God, recoverable through Torah study, and resulting in the formation of character. Torah effects the "spiritualizaton and socialization" of the Jew.[25] In his "Fundamental Concepts of Progressive Judaism" (1954),[26] he speaks of the inadequacy of what had been "mistakenly" called Classical Reform, stating that the elimination of the halakha resulted in the bankrupcty of Jewish life.[27] He states there:

> Judaism is a covenant religion of Torah, of duties and commandments, claiming the minds and hearts of men. The recognition of its authority, voluntarily assumed, is essential, if men are not to be left to their own whims and devices. Shorn of all authority, Judaism loses all power and usefulness.[28]

In that same article, Cohon laments the spiritual anemia of modern Judaism, and calls for restoration of the ideal of Talmud Torah, deepening Jewish knowledge to accentuate anew Israel's role as the servant of God.

4. Summarys Thought on Cohon

While the contours of Cohon's thought are similar to those of Kohler, the general theoretical framework in which Cohon works seems very different. In this summary section, I shall outline the larger

framework in which Cohon's understanding of canon is found. Then I will return to our methodological questions to more clearly define Cohon's notion of canon and authority.

We note first of all that it is impossible to say that Cohon has any sharp natural law theory of history or natural right theory which informs his thought in a significant way. He does speak of the genius of Judaism and mentions essentialism, but these terms don't operate with the intensity that they do with Kohler. Even his notion of progressivism is not marked with the theory of history that marks Kohler's. Rather, Cohon's notion of progressivism seems to be more of an internal notion. He doesn't seem to believe that epochs change, requiring a change in the formation of the Eternal Spirit, but rather that human institutions undergo progressive change, due to a variety of factors. The canon is a record of the spiritual progress of the people.

If this is so, then we must ask how his notion of authority differs from that of the both the Orthodox and the classical Reformers. In other words, what nomos, what normative world licenses him in his moves which label him a Reformer of Reform, but a Reform Jew nonetheless. We recall that Cohon's intellectual world is characterized by strong notions of obligation and authority. How might we understand that world?

Let me phrase the question more tightly, within the terms of the methodological paradigm we are using. Understood in Natural Law

theory, we would say that while Orthodox Judaism may betray notions of both Divine Law and Natural Law, its notion of halakka being a result of Torah (Oral and Written) min hashamayim is very much a Divine Law theory.[29] Cohon rejects the idea that Scripture or Tradition has the direct, divine imprimatur, as does Kohler. Kohler licenses his own critique of the authority of the canon with strong Natural Law theories of right and history, and at the same time develops a new notion of canonical authority, described above. We recall that Natural Law theory is often called upon to critique positive law, and if Divine Law revealed in Scripture and Tradition is a special version of positive law, then we might expect Cohon's critique of the Orthodox canon to have some affinity with a Natural Law theory. How might we describe that theory? As mentioned above, he does not use the Natural Law theories that Kohler used, so our further questions center around the problem of what licenses him as he differs from previous Reform versions of Natural Law.

We will start with Cohon's critique of halakha as Divine Law. As mentioned above, Cohon is a progressivist, but a special kind. For him, the canon is the record of Israel's recording its encounter with the numinous, and embodying the mandates which proceed from that encounter in laws, customs, ceremonies, stories, philosophy, and so forth. There is evidence, for Cohon, of both internal progress (the growing "inwardness" of biblical revelation, for example) and progress due to intercourse with the wider world (Aristotelian rationalism, for example).

The canon, then, is the encounter with the holy refracted through the experience of the people Israel, not the direct, divine intervention into human culture and memory. The word "Torah" refers to the entire canon, Scripture and Tradition, and forms which grow up around it, i.e., the entire Jewish religion, Judaism. Judaism has authority for Jews not because it is coterminous with God's will, but because it is the formation around the encounter with God created by Israel's finest spirits. Judaism is not the only valid religion, because other communties and peoples have encountered God. Each religion has its own canon, its own forms, its own authority. Judaism's authority comes not from its being directly willed by God, but rather because and in that it is a religion - religions "naturally" have authority. To understand Cohon's understanding of authority, we must understand his notion of religion.

We recall Cohon's general discussion of religious authority in his "Authority in Judaism" (above, page 9ff). Religious authority is a "right" that a religion exercises upon its followers. In fact, his entire discussion of authority in religion borders on the Natural Right notion of the authority of the just state. A natural right theory of justice begins with the idea that a man is good if he does his work well, "the work corresponding to the nature of man and required by it," as Leo Strauss says.[30] To determine what is by nature good for man, we must determine what human nature is. The good life is the perfection of man's nature. Man is by nature social; the perfection of the social virtue is justice. Man

cannot reach is full perfection except in civil society. Therefore, just civil society has a right to regulate human conduct, as it guides man toward the perfection of his nature.

The rightful authority that "religion" has over man is that it leads man to the perfection of his nature, i.e., leads him to and structures his encounter with the numinous. Cohon's "inner law" is a composite of morals and spirit, very close to the Aquinian Natural Law idea that God plants within us a movement toward what is good for our nature (usually referred to as "synderesis"). The exceptional human spirit (i.e., the prophet, the sage) gains knowledge of the eternal light inside, and proceeds from that meeting with mandates in world of the spirit and the world of morality, mandates that have a claim on the rest of, similar to the way that just laws have a claim on us in civil society, as they perfect our nature. That experience and those mandates are recorded; this creates scripture. The community must form its social and personal lives around the dictates of scripture. Even though the laws are only human, they are the best approximation of the law of the spirit of God the community has. As the religious community progesses, authority is not abolished, but rather those specific laws or forms which it held to at one time. New forms replace the old forms. Authority for Cohon seems to mean that whatever the community and its persons should conform to is authoritative, in that that which has authority (religion) forms the community in a spiritual and moral way according to the will of God as

perceived by the moral and spiritual adepts of that community.

We don't have a strong nature/convention theme in Cohon, i.e., the idea that conventional authority hides the true nature of something, but rather a true progressivist spirit: generations build on each other as they come close to the divine will. The scientific spirit which knocked the foundation out from under halakhic authority was part of Judaism's progressive movement. It was not something in the nature of the age, or some notion of Judaic essentialism which empowered the earliest Reformers. First the Jewish people began to move the Jewish religion into the modern world, and then found the intellectual tools to further and justify that move. What empowered them was the perception that the old forms were not right for them, that they were not morally or spiritually edifying.

I would claim that Cohon's theory of religion is similar to a human nature based ethical naturalism. In other words, there is human nature, and we should act according to it. Part of our nature is our capacity for experiencing the divine, for molding ourselves religiously and morally around the divine encounter, and we should do soCohon believes that human beings have authentic encounters with the divine, and create forms around those encounters. The forms themselves gain authority, and a social group and its forms of authority goes through changes that are understandable from the point of view of the social sciences; Cohon's discussion of the prophet/priest dichotomy closely resembles Weberian and

Bergsonian social theories. What distinguishes Cohon from a social theorist is his claim that the form that a society creates around the numinous are linked to the divine through the human creative process, thus the "authority" of religion. Authority, then, can be tracked back through three stages: First, God, who generates the Divine encouter. Secondly, the sage or prophet who has an encounter of such strength that he creates spiritual and moral "laws" out of that encounter. Third, religion is the codification, preservation and transmission of those spiritual/moral laws. The forms of religion, then, are based in the natural, spontaneous reponse of a human being (albeit, a genius) to the divine, a response molded by the cultural givens. Since the reponse is based in human nature, it has authority for other human beings as well. In former times, religion could coerce people to conform. However, in modern times the ideal religious person is the one who takes these external laws and internalizes them, in a Kantian sense, to be his own. The distinction between Humean and Kantian Natural Right becomes important in this context. For Hume, there is no "moral reality" out there for us to form ourselves around. His liberalism is based on a notion of self-preservation. His theory of morality is ultimately reductionist. For Kant, morality is real in an ultimate sense; we freely form our behavior according to the moral right. The authority of religion is not a utilitarian model, that it provides the most pleasure or happiness. Rather, the authority of religion would have come as close to the will of God as

possible. Cohon proclaims himself to be voluntaristic in his notion of religious authority. He lives in a liberal age, and cannot countenance religious coercion. But his voluntarism does not mean that he is a relativist or a moral subjectivist. In other words, he definitely believes that "ideal" religion has a rightful claim to authority, because it is formed around the divine encounter, which includes spiritual and moral laws. The laws of right religion (not a term which Cohon uses, but which I feel is interpretively helpful) have a claim on the heart of man. They are right because they lead man to his religious perfection, i.e., closeness to God. Now, these laws would have no authority for internalization if they were not right in a deeper sense than that of human convention. The only weak-point in this theory which approximates Natural Right thinking is his notion of progress - if the forms that come out of the divine encounter are good for men, then why not for all time? In reponse to this question, Cohon adjures religious Jews not to think of their religious forms as not authoritative simply because some future community will grow beyond them. Since they are the religious laws of the extant community, they are authoritative.

In summary, the wider intellectual construct that elucidates Cohon's thinking is one that contains elements of Natural Right, Natural Law, and the Kantian version of liberalism/Natural Rights. The canon is the record of Israel's spiritual encounter with the divine. The study of the canon and the following of its laws lead us to the divine encounter; it

works to bring us to the presence of God. The canon forms us spiritually and morally, it brings us closer to the divine will as articulated by religious geniuses. The major function of the canon seems to be that of religious efficacy: the canon is authoritative insofar as it forms us religiously, or, as Cohon says, "Religion urges man to fashion his being after the pattern shown him in the height of vision."[31] For Cohon, Torah is the Jewish religion.

For Cohon, the normative hermeneutic object is unambiguously complex. It includes all the traditional canon, but, like Kohler, freely includes Josephus, for example. The reason for the complexity of the canon is his notion that all Israel's religious strivings and encounters with the divine warrant the seal of holy text. Unlike Kohler, he does not believe that biblical prophecy contains an essential message which is carried in the vehicle of Judaism through history. As indicated above, Scripture, for Cohon, means that the canonical text teaches of spiritual and moral laws revealed in the vision of religious geniuses. Not all these laws are applicable; reason must mediate. The operant tradition for Cohon would be the extant tradition - how the canon is being interpreted at the hands of the current faith community. That faith community is truly taught and molded by the text through the offices of its "finest and most able teachers," generally rabbis, we would assume. Cohon unabashedly sees rabbis setting required standards of religious behavior and practice for the Jewish people. His books and articles may be seen as

clear examples of the enforcement of his vision - he calls adamantly for study, practice and prayer.

The nomos which is suggested by the above begins to become clear to us. For Cohon, religious communities, or peoples, are founded when their religious geniuses have visions so compelling that the community is obligated in a moral way, or coerced in a political way, to conform. The authority for the demand to conform is that the demands proceed from the encounter of a human being with the divine. While the mandates of religious genius are not coterminous with divine will, they have a certain human nature authority, i.e., are licensed by their being conducive to the perfection of human nature.

As a community proceeds through time, it is subject to the laws investigated and understood by the social scientists of Cohon's time. Not Hegelian-like notions of history, but rather the laws of the behavior of human institutions governed Judaism's progress. In the modern world, the understanding of the moral life as advocated by Kantian liberalism, for example, did not allow for coercion in the religious life. However, members of a religious community still have a prima facie duty, qua human beings, to conform to the dictates of religion. In each generation, the dictates of religion must be reformed and the larger symbolic system will necessarily undergo change as the human encounter with the right and the divine calls the older form into question. Human nature constantly comes into contact with the divine, and religious geniuses have

the task to change the laws of a religion according to that contact. The law of the nature of the human/divine encounter licenses change in the positive law of a religion. It is clear that the thinking of Cohon further develops the naturalistic thinking which informs Reform thought. Cohon's mature writings were written before the Holocaust, before the State of Israel, and before religious existentialism had made a severe dent in religious thinking. As we turn to Eugene Borowitz, we see naturalistic thinking in Reform thought, as expressed in notions of authority and canon, articulated in rather acute form.

Endnotes for Chapter Four:

1. See Michael A. Meyer, "Samuel S. Cohon: Reformer of Reform Judaism," Judaism, 15 (1966), pp. 319-328, and Meyer's treatment of Cohon in Chapter 8 of Reponse to Modernity (supra chapter one, note 2).

2. Day Book of Service at the Altar (Los Angeles: Times Mirror Press, 1978) provides a fascinating day to day account of Cohon's professional life, and includes an account of his early life and student days.

3. See Jakob J. Petuchowski's introduction to a posthumous collection of Cohon's writings, Essays In Jewish Theology (Cincinnati: HUC Press, 1987), p. xiii.

4. See Meyer, "Samuel S. Cohon," supra, note 1, p. 315-316.

5. Both Petuchowski in the introduction to Essays (supra, note 3) and Meyer in his treatment of Cohon (supra, note 1) discuss the influence of Rudoph Otto's The Idea of the Holy on Cohon.

6. Cohon, "Progressive Revelation," in Religious Affirmations (Los Angeles, 1983), p. 127, from an address delivered in 1945.

7. from Cohon, "Fundamental Concepts of Progressive Judaism," Religious Affirmations, pp. 150-151, originally published in 1954.

8. Cohon, "Authority in Judaism," HUCA, 1936, republished in Essays in Jewish Theology, (supra, note 3), pp. 37-91.

9. ibid., p. 37.

10. "ibid., pp. 37-38.

11. ibid., p. 39.

12. ibid., p. 48.

13. See From Max Weber: Essays in Sociology, translated, edited and with an introduction by H. H. Gerth and C. Wright Mills (New York: Oxford University Press, 1946), introduction pp. 51-54, and sections VIII and IX, pp. 196-252.

14. Cohon seems to be referring to Bergson's Les Deux Sources de la morale et de la religion, (Paris, 1932), translated by R. A. Audra and Cloudelsy Brereton as The Two Sources of Morality and Religion (London: 1935). In that volume, Bergson (1859-1941) wrote about the closed and open society, and closed and open religion. The closed religion is typified by ritual and dogma, and is static and aims for conformity, while the open religion is typified by intuition, illumination, mysticism, progress and spontaneity.

15. supra, note 3, p. 56.

16. ibid,. p. 85.

17. ibid., p. 86.

18. ibid., p. 86.

19. ibid., p. 89.

20. ibid., p. 89.

21. The full quote is: [A further aim of Reform] is to preserve the pure character of Judaism by guarding against the "strange fires" that a spurious liberalism would offer upon its altar, by introducing ideas and observances derived from alien sources which are subversive of its essential nature." ibid., p. 90. I am not sure to whom this invective is directed.

22. ibid., p. 91. As an indication of the consistency of Cohon's thought over the years, I would point out that Cohon wrote almost the same words for an address to the Chicago Rabbinical Association in 1925. See Day Book of Service at the Altar, supra note 2, pp. at 139-140.

23. supra, note 6.

24. ibid., p. 134.

25. Cohon, Judaism: A Way of Life (Cincinnati: UAHC, 1948), pp. 237-267.

26. supra, note 7.

27. ibid., p. 154.

28. ibid., p. 154.

29. This is not to say that Orthodox Judaism would say that it has a Natural Law theory, for such a theory would likely be considered a threat to the authoritative character of halakha. Certain aspects of rabbinic thought, e.g, the Noahide Commandments, supererogatory ethics, and even the notion of judicial discretion is civil law (minimally) depend on the idea that at points the halakha runs out, and moral insight must be used. For the Natural law theorists, e.g., Aquinas and Kant, moral insight gets a peek at what is really the nature of the moral reality. I don't find the many Orthodox arguments to the contrary, e.g., Lichtenstein's, "Does Jewish Tradition Recognize an Ethic Independent of the Halakha" in Fox, ed., Modern Jewish Ethics (Ohio State University Press, 1975) to be convincing. But this is not the place for that discussion. In short, traditional thought, I think, has a need not to recognize an "ethic independent of halakha." This does not mean that one does not operate unrecognized.

30. Leo Strauss, Natural Right and History, supra, chapter two, note 1, at p. 127.

31. Judaism: A Way of Life (Cincinnati: UAHC, 1948), p. 5.

Chapter Five

Religious Communitarianism:

Authority and Canon in the Thought of Eugene Borowitz

1. Introduction

Eugene Borowitz was born in 1924 in Columbus, Ohio, two years before Kaufmann Kohler's death. He studied at Ohio State and then at HUC in Cincinnati, and was ordained in 1948 (he recalls with great regard Cohon's erudition and humanity); his rabbinic thesis was concerned with a rather technical area of rabbinics, comparing tannaic and amoraic traditions. Like Cohon, he originally worked as a pulpit rabbi, founding his own congregation, The Community Synagogue, in Port Washington, Long Island, New York, and also worked as Director of the Religious Education Department of the UAHC. He earned a D.H.L. from HUC, and a doctorate in education from Columbia. Borowitz joined the faculty at HUC New York in 1962, at age 38. His being selected to chair the committee responsible for the "Centenary Perspective" reflects the high esteem in which he was held by students, academic colleagues, and fellow rabbis. His writings, including his editorship of Sh'ma, evince a great

concern for Jewish pluralism and intellectual seriousness. He also has effectively bridged the gap from the academy to the lay audience in several of his writings. As a writer, theologian, and teacher, Borowitz serves well as a model for study of recent Reform notions of authority and canon.

2. Borowitz and the Centenary Perspective

As we turn to the thought of the last Reform theologian to be examined in this study, our attention is immediately captured by the fact that we will not examine a self proclaimed "Platform" whose writing he guided, but rather a "Perspective." Borowitz implies that one reason it is called a perspective is that it is not simply a platform of principles but rather a look back on a hundred years of Reform institutional life in the United States. It is also clear from Borowitz's explanation of the document that the decision to label it a "Perspective" (a decision made at the last working meeting of the Perspective committee in April, 1976) was due to its being seen as a unifying, pluralistic document. The Centenary Committee's work was preceded by an abortive attempt begun in 1971 by the Union, Conference and College to have a commission prepare a thorough platform which would take into account the great changes in Jewish life since 1937. That platform was to have been ready by the Union's centenary in 1973, or the College's in 1975. The members of that commission found, however, that "the number of problems of great

seriousness Reform now faced was overwhelming."[1] The notion of a short platform, like the ones from Pittsburgh and Columbus, was thought to be inappropriate for the challenges of the time. A much larger document was envisioned, but it was felt that there was insufficient time to have the document ready for the College's centennial in 1975. The commission lost its momemtum, but the need for a restatement was still there.

Borowitz says that since the late 1960's, there was a sense that Reform had lost its direction, and that there was a general spiritual discontent in Reform. At the 1975 meeting of the Conference, the president of the conference, Robert Kahn, offered a set of principles of Reform Judaism which might "bring the prismatic divisions into which the light of Reform has been broken into unity again."[2] The conference members agreed that there was a need to find a definition of the movement which would pull together its disparate factions, and that a committee be formed and report at the June, 1976 CCAR convention. In November 1975, a committee was formed, with Borowitz as its chairman.

Borowitz desribes in detail the work of the committee on the preparation of the document in an appendix to Reform Judaism Today: What We Believe (the second volume of the three volume series). It is clear from that account, that the Perspective was very much the work of a committee, which took suggestions from members of the conference, and also enjoyed the services of a professional writer. In a sense it is both very much Borowitz's document, and also reflective of a communal effort. Borowitz says:

> . . . I have lived with this document more closely than anyone else. I nursed it through every stage of its long and difficult development; I have been over every one of its words many times with many people under many circumstances. I never had any illusion about its being "my" document, for I know that it does not express my personal understanding of Judaism. It is the Conference's statement, and to that extent Reform Judaism's.[3]

It would seem that, one one hand, to examine the document too closely as being Borowitz's would be a mistake. But, luckily for the researcher, Borowitz's explanations of the Perspective constitute a source for his own thoughts concerning the document. Borowitz himself says in the book devoting to explaining the Perspective:

> Regardless of my official positions . . . I know I speak in these pages only for myself, and yet in doing so I hope I articulate the contemporary spirit of Reform Judaism as a whole.[4]

As we examine the Perspective in the next few pages, we will depend on the explanation which Borowitz published.

The Perspective is divided into roughly three sections; it contains a lengthy preamble, a middle section on principles and a final section on obligations.[5] The introduction to the Perspective is different from the introductions to the two previous Platforms in an interesting way. In the introduction to the two previous platforms we find directly stated the need to assert the principles which united Reform Judaism, in the face of a world of conflict or change. The Centenary Perspective's appeal to Reform tradition is almost apologetic in tone - the change and conflict are within Reform itself:

> The Central Conference of American Rabbis has on special occasions described the spiritual state of Reform Judaism. The centenaries of

> the founding of the Union of American Hebrew Congregations and the Hebrew Union College-Jewish Institute of Religion seem an appropriate time for another such effort. We therefore record our sense of the unity of our movement today.[6]

The first preamble-like section is overtly perspectival, reviewing what Reform has taught and learned in the last century. The second section begins with something of a preamble of its own, and contains the three paragraphs on God, Israel and Torah. The third section has three paragraphs, each one with a rubric containing the word "obligation." The conclusion focuses on hope and meaningfulness. We will examine closely the paragraph on Torah in the middle section along with Borowitz's commentary.

We will begin our examination with the preamble to the middle section, entitled, "Diversity Within Unity, the Hallmark of Reform." In this preamble, certain principles of Reform are taken for granted. For example, we find that "Reform Jews respond to change in various ways according to the Reform principle of the autonomy of the individual." Reform Judaism (as represented by the Conference) is "open to any position thoughtfully and conscientiously advocated in the spirit of Reform Jewish beliefs." This preamble celebrates diversity as being "precious;" the reader wonders whether the celebration might not be the forced smile of wise reconciliation. We will find below, that the themes of individual autonomy and pluralism articulated as dialectic are central themes in Borowitz's thought. It is of interest to us here how these themes have been raised to being centerpieces in the Reform nomos, as Borowitz

conceives it.

We turn our attention to the Centenary's paragraph on Torah. It is brief enough to be cited in full:

> III. Torah
>
> Torah results from the relationship between God and the Jewish people. The records of our earliest confrontations are uniquely important to us. Lawgivers and prophets, historians and poets gave us a heritage whose study is a religious imperative and whose practice is our chief means to holiness. Rabbis and teachers, philosophers and mystics, gifted Jews in every age amplified the Torah tradition. For millenia, the creation of Torah has not ceased and Jewish creativity in our time is adding to the chain of tradition.

In his elucidation, Borowitz begins with an overview of the Reform notion of Torah. He feels that the translation "law" is egregiously misleading; Borowitz seems to understand the word in its narrow Pauline sense (which is, by the way, inadequate for even an Aquinian notion of law as well). Borowitz suggests the term Teaching as a better translation, though suggests that the Hebrew original be used. Borowitz outlines traditional notions of divine revelation, making a distinction between the Bible's self understanding, the the rabbinic "more fully elaborated" idea of revelation. He describes the rabbinic notion of Oral Torah as an "extraordinarily creative way to keep Judaism from becoming chained to a text set down a millenium or so previously."[7] Borowitz introduces at length the Reform notion of "dynamic Torah," basing it on the by-now standard Reform notion of historical change.

Borowitz notes that Reform Judaism begins with the attempt by Jews to accept Western Society without accepting Christianity. Without saying so directly, Borowitz implies that Reform begins with an idea that Judaism is more than, or different from, halakhic observance. Jews knew that "it was right for Judaism not to stagnate, that one could change the modes of being a Jew and still remain true to one's Jewishness."[8] Early Reform thinkers knew that God's will can be known by people in every age, and that Jews "have a right" to act on what they believe God wants of them in their new situation. Torah, by definition, involves change.

We should note immediately Borowitz's use of the term "right," and the different implications in each usage. The first use, first of all, might be better expressed obversely: "It was wrong for Judaism to stagnate." At first glance, the only sense of "right and wrong" that would make sense here is non-moral value theory. Non-moral value theory depends on the idea that not every usage of words of moral judgments, i.e., "right" and "good" means that a moral case is being made. For example, ethics courses often teach the distinction between "having a good life" and "leading a good life." From the point of view of moral analysis, "Judaism" can do neither right nor wrong; moral judgments may be attached, in the final analysis, only to persons or their dispositions.[9] When Borowitz says that it was right for Judaism not to stagnate, what he really should say is that it was right for Jews not to allow Judaism to stagnate, or, better put, wrong for Jews to allow Judaism to stagnate. Now his premise is

clear: Jews are duty-bound to preserve Judaism. In moral theory, one has a right to perform ones moral duties (this is only one source of rights); hence Borowitz's second use of the word right: Jews have a right to act in the new situation, i.e., reform Judaism so that it will not stagnate. Borowitz's usage of "right" here is somewhat typical of the rather intellectually loose style of his popular writings. Once we properly understand how to make these assertions coherent, we already see an affinity with Natural Right theory. Jews have an a priori obligation to their civitas, as it were, and therefore have a right to perform acts which preserve it (i.e., Reform). From the sound of it, this right is claimed against the Orthodox who would deny Jews their right to perform their moral obligations vis a vis Judaism. Borowitz has not explained the nature of the moral obligation upon which the right is based; this will become more or less clear below.

Borowitz goes on to describe several modern Jewish approaches to Torah, in summary telling us that Torah is as much a human creation as God-given. He notes in passing that "Reform Jews have come to be resolutely individualistic, arguing that for all the virtues of the tradition and the benefits of scholarly guidance, the individual Jew must be the final arbiter of what is living Torah."[10] We see clearly a Reform notion of Torah reflective of a Reform notion of authority: humanly created Torah and individual, human autonomy. Borowitz devotes an entire chapter in his commentary to the question how Torah arises, or, in the

terms of the Perspective, what the nature of the relationship is between God and the Jewish people which engenders Torah. Borowitz sees the positions of Hermann Cohen, Leo Baeck, Mordecai Kaplan and Franz Rosenzweig/ Martin Buber as paradigmatic for Reform notions of Torah. The problem to be faced with each thinker is how God is involved in the creation of Torah. Borowitz feels himself to be rather close to Buber/Rosenzweig, stating that "any serious relationship engenders commandment and responsibility."[11] Borowitz gives his own answer to the problem of God's role in Torah-creation, an answer itself so fraught with problems, ambiguity and tension that it is both difficult to summarize but also worthy of full citation:

> My own solution to this problem, theoretical and practical, comes in ending the split between one's self and one's Jewishness. When one is no longer a person who also is a member of the people of Israel but is, at the core of one's being, an integrated Jew-human, then the gap between "what I personally must do" and "what the Jew needs to do" falls away.[12]

This sentence of Borowitz's has all the dramatic flair and practical incomprehensibility of logically thin but verbally turgid existentialist writing; it is apparently a recidivism betraying Borowitz's earlier intrigues with continental philosophy. Just what this "split" is and how one ends it, which to me seem crucial, are not given much attention. Borowitz's fully integrated Jew-human seems to me to be more chimerical than a solution. He goes on and gives us a fairly clear picture of what he means by Torah:

> That is not the same thing as saying that God gives us a law that all of us can know objectively. I do not believe God gives or has given such a Torah; I am not Orthodox. I believe Torah arises from the relationship between God and the Jewish people, the

> Covenant, and that I and other Jews are the living bearers of that relationship. As we accept the reality of God and identify our inner, personal reality with the Jewish people (by no means, thereby, sacrificing our individuality), we share in the relationship which creates contemporary Torah. If enough Jews lived by their Covenant - that is, with God as part of the people Israel -common patterns might arise which any Jew would have to take seriously. That would become our humanly created, divinely related, communally oriented Reform version of Jewish discipline, Torah.[13]

Many questions could be raised here, such as the implication that authentic Judaism might be a numbers game (would Torah be whatever most Jews did?) However, the only question we shall raise at this point concerning the description of Torah given here is the one which Borowitz raises: "If Torah is human, how special can it be?," in other words, if Torah arises from the human realm, what makes it sacred, or more so that any other thing arising out of person's relationship with God? Simply put, why canon?

Borowitz avers that "there is good reason to consider the works of the Torah tradition, though human, different from all other human books we know,"[14] and then gives us four different reasons, expanding on the last one. From his explanation, it is clear that Borowitz has in mind canon-as-Bible, which is clearly different from the Torah tradition. It is also clear that Borowitz is using the Cohen-Kaplan-Baeck-Buber paradigm he has often used in explicating Liberal Judaism. In any case, the first reason the Bible is special is the ethnic one (Kaplan); it is the saga of our group, our culture, a record of our values and aspirations. Secondly, the Bible's philosophic dimension makes it special (Cohen), especially the

prophets, which are "humanity's earliest substantial understanding of the concept of ethical monotheism."[15] Borowitz finds neither position convincing. Modern philosophy does a better job of elucidating ethical monotheism, and ethnicism presupposes ethnicity's commanding power. A third reason is that the Bible is the supreme document of the dawning consciousness of God around us - through reading it, we are led to a deeper awareness of the mystery which links us to the divine (Baeck). The rest of the Torah tradition tells us standards by which our faith and lives must be measured. Borowitz describes Baeck's position with approbation. He finds the Rosenzweig-Buber case the most compelling though, and describes their approach under the rubric "The Bible as Covenant" (for the sake of brevity, we shall call it Buber's approach). Borowitz appreciates the notion that Jewish sacred literature arises not purely out of human consciousness, but as a result of "true human relationship with the divine;" Torah is both a narration of that relationship, and testifies to a continuity of that relationship. Borowitz feels that the experience of standing before God is recoverable by reading "the classic Jewish books," something like what reading a collection of love letters does for us. Borowitz describes a Bibliocentric notion of sacred canon, the Bible being the subject of a special attachment.

Borowitz lists two major duties which devolve upon those who are part of this religious tradition: to live the faith and to study Torah. When Borowitz says, in this context, that "one ignorant of Torah can

hardly be expected to fulfill its precepts," the reader would have to refer to Book Three of the trilogy to find Borowitz's discussion of a Liberal approach to not just Jewish ethics, but also Jewish study, prayer, observance of Shabbat and holidays, and so forth. He addresses the problem of what is denoted by the word Torah, this object of study and source of precepts which we must fulfill, in the last chapter of Reform Judaism Today: What We Believe, entitled "How Broad Is Our Modern Sense of Torah." Borowitz approves of the phrase "gifted Jews of every age;" he does not comment on the nicely ambiguous phrase "amplified the Torah tradition." Does it mean amplify in the sense of make louder, i.e., make it heard, or amplify in the sense of make more abundant or copious? Borowitz would seem to think the latter, as he says as one who believes that God as well as people is involved in the creation of Torah, that "[g]ifted Jews have continually arisen over the centuries who expressed the Covenant relationship in Torah forms appropriate to their social context," finally commenting that ". . . Jewish religious teaching is to be found in a far broader range of Jewish experience than rabbinic literature."[16] An apt metaphor for Borowitz's thought would be that of a "core and penumbra," the former being clear, the latter less so.[17]

Along with discussing his rather broad and hazy notion of what we would call canon, Borowitz also tackles our question of scripture, i.e. what the term Torah connotes. While Torah may be concerned with ethics, Borowitz would not want to identify the former in terms of the latter,

saying that "Our understanding of Torah has changed because our sense of what it is to be a person and a Jew has changed."[18] Borowitz's definition of a person, or in our terms, his conception of human nature, includes terms such as "choosing, loving and willing;" in other words a fuller theory of human nature pointing at greater integration of mind and emotion. I should note, that these are terms of distinction, which point to an advance over a theory of human nature which is mostly ethical and cognitive, though he would certainly include the latter in his theory. He says, "God must be seen as giving us Torah for the whole person, Torah which is thus more than ethics."[19] From the human side, Borowitz says that "our Torah must be more than a universal ethic with an ethnic coloration. It must be an instruction directed to the sanctification of the Jewish people as a whole, beginning with each individual Jew." This corporate dimension of Jewishness is a significant aspect of Borowitz's thought; he sees it as distinguished from older Reform Judaism's rationalism, founded on individual autonomy and universal ethics. Borowitz has not solved, but rather raised a perhaps irreducible tension: the claim of the corporate body, vs. the right of individual.

The problems raised in defining Torah in terms of gifted Jews, corporate Israel and God are clear: how do we know what is Torah and what is not? Borowitz raises the question in a rather acute way, but provides no clear answer. He holds, basically, that there needs to be limits to what liberals would call Torah ("not everything that passes for

Yiddishkeit should be part of our sense of Torah"), but he also holds that Reform Jews, too, are a link in the chain the tradition, as have been all generations succeeding Sinai. Therefore, when Reform Jews say that the creation of Torah has not ceased, they "believe they are restating that old Jewish truth."[20] Reform Judaism itself is an extension of the Torah tradition. Unfortunately, Borowitz does not give a concrete example of what he means.

Borowitz ends his elucidation of the Perspective rather flatly, and turns immediately to an engrossing discussion of how the document came to be written. We will turn our attention to the major themes concerning canon and authority that are apparent in the Perspective and Borowitz's explanation of it, through an examination of certain of Borowitz's writings.

3. Borowitz on Canon and Authority

In assessing Borowitz's positions on canon and authority, we are faced with the problem of selection of materials. As with Kohler and Cohon, Borowitz is a prolific writer. But like Kohler and Cohon, there is a great amount of repitition is Borowitz's writings; some of his books are rewrites of others for different audiences. For example, he indicates in the afterward to Liberal Judaism (1984) that that volume is the lay adult version of the college level Choices in Modern Jewish Thought (1983). In the preface to Choices in Modern Jewish Thought he says, "My position on a number of the issues treated here has not substantially changed over

the years. Hence I have felt free to utilize for this book various of my previous writings, which are now out of print, always with careful revision."[21] There he thanks Westminster press for permission to use those writings, clearly referring to A New Jewish Theology in the Making (1968). One of the core chapters of that book in which nearly all of Borowitz's recurring themes are presented or at least adumbrated (chapter 8, "Between Liberalism and the New Orthodoxy") was first published as "Faith and Method in Modern Jewish Theology" in 1963. Were this a thesis on the thought of Eugene Borowitz, it might be interesting to trace how his thought has developed over the years. But since our interest is in canon and authority in Reform Judaism, and our interest in Borowitz is in him as a model Reform thinker, we are less interested in an historical analysis of this thought, and more interested in the most mature articulation of it. Borowitz's writings referred to in the subsequent pages are judged to be those maturest and most representative of his thought as presented in a variety of volumes.[22]

We shall first turn to Borowitz's thought as expressed in the final two chapters in Choices in Modern Jewish Thought, chapter 11, "The Crux of Liberal Jewish Thought: Personal Autonomy" and chapter 12, "Facing Up to the Options in Modern Jewish Thought." In chapter 11, Borowitz articulates clearly the problem of authority in liberal religion. In his discussion of this issue, Borowitz starts out by stating that the German liberal Jews did not speak of autonomy in the individualistic

sense, but rather in an historical and communal sense, that each generation had the legitimate right to change the the dictates of the tradition. This legitimation derived from their understanding that the Bible (and subsequent sacred literature, I would add) was humanly created, replacing a style of thinking which "created two radically disparate realms of human knowledge by insisting that Torah is a qualitatively unique instance of Divine revelation."[23] Their notion of autonomy was further legitimated by their understanding of human nature: Borowitz states that they felt it self evident that

> being fully human depends largely on being free to choose one's values and a life style which embodies them. To live only by inherited rule, or according to the authority of church or class or tribe, betrayed one's reason and conscience, the distinguishing faculties of human beings.[24]

Borowitz feels that this liberal stance is in need of restatement because the faith in the philosophy of the enlightenment, of which, including religious liberalism is a part, has been shattered. The three arguments of the liberals, the need to change the law, the need to have a rational theory of revelation (or as Borowitz says, to "integrate the human mind," which to me seems vague, mildly presumptuous and certainly anachronistic when speaking about the early Reformers), and to affirm personal autonomy. Borowitz's example of the need to change the law focuses on the question of mamzerut, which he shows to be patently unethical.[25] Borowitz also gives further examples showing that Orthodox law is a human creation, but saves his most powerful salvo for the notion

of autonomy under the rubric, "Autonomy Remains the Hallmark of Human Dignity."

Borowitz begins by raising the spectre of the Holocaust as morally compelling Jews to be "particularly devoted to the primacy of moral responsibility."[26] In this spirit, "postmodern liberal Jews will dissent from their tradition where its precepts or teachings conflict with the mature exercise of their ethical spiritual autonomy."[27] Borowitz tells us that "personal autonomy" has emerged as his own most fundamental intellectual theme. Modern history has affected his understanding of human nature enough to affect, though not displace, his sense that personal autonomy is the "central affirmation" of liberal Judaism. Borowitz articulates his notion of human autonomy in terms of the Liberal understanding of Torah - it is fundamentally a human creation and therefore subject to criticism and renovation, as are all other human creations. But, Borowitz claims, if "the Torah text and its amplifications [are] part of the one human-Jewish process of seeking God's will,"[28], then Liberal Jews display the dynamic response to God's will which characterizes Covenant loyality, which is what the Jewish sages were doing all along anyway.

The problem with liberalism and personal autonomy is that it has resulted in an ethical individualism which has "infected our society with callousness and moral rot."[29] Borowitz analyzes two credible though finally unsatisfactory responses which would contain this deleterious

anarchy, Conservative Judaism's de facto practice of rabbinic advice and lay consent (extended by Kaplan's Reconstructionism), and a Reform radicalization of autonomy, suggested by Alvin Reines and Sherwin Wine. The first response disguises what operates finally, as personal autonomy on the level of the practicing Jew, but does not go by that name. The second response, according to Borowitz, while reducing the dissonance created by the dialectic, remains confidently modern, subordinating Judaism to modern truth ("modern truth" here probably means something like, "modern notions of the good," i.e., what is to be desired). The Judaism that Borowitz advocates, a postmodern Liberal Judaism, needs to be fully dialectical:

> It should not make Judaism subservient to a truth derived from the culture, as the old liberals did, yet it should not require the sacrifice of personal autonomy to the Torah, as Orthodoxy still demands. Instead, it must live in a dynamic balance of tradition and autonomy.[30]

We notice an important element Borowitz's discussion of autonomy. He assumes that autonomous persons should go about conforming to truth, living in intellectual dialectics between individual rights and traditional claims. Borowitz's autonomy seems thoroughly based in moral deontology. In other words, this is not the liberal autonomy of someone like Hume, for whom moral duties may be reduced to a personal or civic utilitarianism, but rather the moral autonomy of a Kantian. In this sense, autonomy is fraught with duty. Individual freedom is only a framework for the morally right. It seems that for Borowitz "autonomy" means

commanded to make authentic spiritual and moral decisions, and not to defer to the tradition as a matter of course.

The intellectual challenge of the balancing act Borowitz describes is to create an interpretation of the Jewish tradition which carefully qualifies when and why it allows for dissent from the tradition. Borowitz's approach is to claim that autonomy itself is not self-grounded but rather is derived the Jews's being God's Covenant partner. The historical reality of the Covenant grounds one's personal existence. Autonomy itself gains its moral dimension from the Jews' being in the covenant.

In the final pages of chapter 11 and in chapter 12 of Choices in Modern Jewish Thought, Borowitz fills in his notion of Covenant theology, where the personal autonomy and the authority of the tradition are found to be in dialectic. However, his ideas find their fullest expression in two later, companion studies, "The Autonomous Jewish Self," (1984) and "Autonomous Self and Community" (1984). Borowitz begins his interpretation of a dialectical, Covenant theology, with the question of authority. If Judaism is the authority, then why do liberal Jews asks what society demands of them? If society is the authority, then how can a liberal Jew ever say "no" to it based on a tradition which is human made?

Borowitz takes up the gauntlet by reintroducing his notion of the autonomous self, which is the "very most significant idea which the

Emancipation taught us."[31] Borowitz states that Enlightenment thinkers taught that human beings ought to make their own minds and consciences the ultimate [emphasis in the original] basis of their decisions and actions. In addition, liberal Jews learned from the Enlightenment that ethical responsibility has a primary place in the autonomous self. Ethics does not constitute all of Jewish duty, but its "supremely commanding power" confronts us as a "transcendent demand" as no other duty can. For Borowitz, this means that the self is not fully understandable independent from God, and the autonomy of self seen as ethical responsiveness makes sense only in terms of the actualization of God's will. In our words, autonomy is a word of relationship, telling us from what stance we must relate to God in the Covenant.

As in several other places, Borowitz refers to Buber with great approval as a thinker who moved liberal theology from being concerned mostly about ideas to setting forth a theology based on relatedness. The problem of Covenental autonomy is obedience without submitting to an outside authority; Borowitz states that in the I - Thou relationship, commands are created which do not involve heteronomy. The Jew's relationship with God, says Borowitz, is not only personal but also communal - "Jewish personhood is structured by an utterly elemental participation in the Jewish historical experience of God."[32] A cornerstone of this structure of personhood for the liberal Jew remains personal autonomy. Borowitz explains:

I and many Jews like me can accept Jewish tradition as guiding us,

> indeed as an incomparably valuable resource, but not as overriding "conscience." Identifying our dignity as human beings with our autonomy, we are determined to think for ourselves. However, we are not general selves, but Jewish selves. Thinking personalistically about our Jewishness, we identify our Jewish variety of self structure in relational terms, a rather new way of envisioning authentic Jewish existence. Specifically, the Jewish self gives patterned continuity to its existence by a continual orientation to God as part of the people of Israel's historic Covenant.[33]

Borowitz notes four aspects of the situation suggested here: 1., that the Jewish self is personally and primarily involved with God, 2., that the Jewish self's participation in the Jewish people is part of its ongoing relationship with God, 3., that through the Covenant the Jewish self is historically rooted as well as Divinely and communally oriented, and 4., that form, habit, institution and structure have a necessary role to play in the fulfillment of the self only as long as the individual still has full and immediate exercise of autonomy.[34]

Traditionally, Jewish law was the primary means of being authentically Jewish. Borowitz's sense of how and why the liberal Jew relates to Jewish law is crucial here, and worthy of full citation:

> . . . I am arguing that if [Liberal Jews] could relate to Jewish tradition as liberal Jewish selves and not merely as autonomous persons-in-general, they would find in Jewish law the single best source of guidance as to how they ought to live. That is, wanting to be true to themselves as persons - understood now immediately and not secondarily as <u>Jewish</u> persons and thus intimately involved in faithfulness to God, people and historical devotion - they would want their lives substantially to be structured by a continuing involvement with the prescription of Jewish law. But as <u>autonomous</u> Jewish persons, the provisions of the law would ultimately be tested by appeal to their conscientious individual Jewish understanding.[35]

The resulting pluralism in thought and action is Jewish because it stems from Jewish commitment, Borowitz says. There is conflict within this system, as one weighs responsibilities to self, God, Jewish past, present, future, etc., and there is always the possibilty of new forms which may arise to genuinely express the imperatives which flow from existence in the Covenant.

In the next section of the article, Borowitz shows that only Liberal Covenant Theology can seriously commend what he considers to be a highly esteemed western value, democracy. He then summarizes the argument of one contemporary Orthodox thinker, Michael Wyschograd, who, he feels, considers democracy to be Jewishly authentic. Borowitz then shows the differences between the method of an Orthodox posek and his own Liberal Covenant theology in problem of Jewish law (collection of pituitary glands for dwarfs from corpses - certainly a burning issue in the liberal world). Borowitz then levels his diatribe against Orthodox law of agunah, mamzer and women's issues. Borowitz concludes the paper by offering a few generalizations concerning "Covenantal decision making," the one most germane to our topic is that in any case of real conflict within his system, our duty to God has first claim on us.

In "The Autonomous Self and the Commanding Community," Borowitz makes a very similar argument, but fills it out in ways important for our understanding of Borowitz's notion of authority. He begins that paper, too, with the problem of authority, but this time asks

how the "originally secular" notion of personal autonomy can gain legitimacy as a religious notion. Borowitz proceeds with a brief sketch of the notion, discussing Kant, Descartes and Rousseau. In his discussion of Kant, he gives us a philosophic etymology of the notion of "autonomy:"

> Immanuel Kant, then is the champion of literal (sic) autonomy. He teaches an ethics of nomos, of law, for reason operates in terms of universal, binding certainties. What constitutes such law, whether in general or in any given situation, one ought to clarify for oneself, since one has the reason to do so. When we abjectly accept moral direction from another, we betray our most essential human capacity. The truly ethical person relies on the self, the autos, but does so in terms of ethical law, nomos. The good will is, in this sense, self-legislating, autonomous.[36]

Borowitz expends a considerable amount of energy explicating Kantian thought, and critiques of it (Marx and Ahad Ha-am). The critique which Borowitz offers stands on the idea that person are inherently social and linked to nations.[37] He uses this critique to show the inadequacy of the thought Sartre, whose radical, existentialist autonomy is in the final analysis an unfulfilled Kantianism.

In his search for a figure who bridges the gap between human's inherently social nature and ethical autonomy, Borowitz mentions the modern German philosopher, Jurgen Habermas, who sees the ideal of reason operating in communicative discourse as suggestive of a model of ethicality operating at an intrinsically social level. Borowitz accuses Habermas of evading the metaethical issue of the dignity of the self, saying "it is not clear why one should take the self so seriously and grant it such authority."[38] As he has done on numerous other occasions,

Borowitz finds in Martin Buber a fully ethical and social self, for the self is only complete in the I - Thou encounter. Borowitz says:

> No Kantian nomos can necessarily indicate the obligation that now devolves upon me. Law seeks to specify the common case. It may, perhaps, speak to my-our present situation. But as I participated in and emerged from our meeting in fresh individuality, a universal law may also not know my-our need. It therefore cannot be granted its old coercive priority. For Buber, nomos is our acknowledgment of the commanding power of our relationships. They do not leave us content merely to bask in their significance but sends us forth to live in terms of what we have just come to know. In this old-new sense, Buber's dialogical self has autonomy.[39]

Borowitz then shows the social consequences of Buber's thought, which he had overlooked in previous writings, though he feels this I - Thou autonomy is "more social than Buber was willing to concede."[40]

At this point, Borowitz shares his own theory of authentic life in commanding communities. He starts out by describing two aspects of the self: He first asserts that the self gains worth in relationship with God. He goes on to say what we often call autonomy is conformity with a social norm. The more important conception of selfhood, that based on God, has important consequences. The proper use of autonomy, says Borowitz, begins with a repudiation of the self as a monad. We are inseparably part of all mankind, and necessarily and intimately linked to some group, and "therefore" morally obligated to live life in community with that group and exercise one's autonomy in terms of that group. We are creations of our community, but our relationship with God demands we guard our human dignity and stay morally autonomous within the boundaries of our group. He says:

> I believe that we modern Jews properly exercise our autonomy only when we do so in terms of our relationship with God as part of the people Israel and as the latest expression of its long Covenant tradition.[41]

Borowitz then mentions two "intensifications of our general human sociality:" devotional life with God and living the Covenant in common life with other Jews. In the remainder of the paper, Borowitz does not add appreciably to what has been outlined above, a deeply theocentric religious sociality.

Summary Thoughts on Borowitz

Borowitz's thought suffers from certain flaws. I believe that he often misunderstands or misrepresents in minor but sometimes crucial ways the thinkers he discusses, including his two most important teachers, Kant and Buber, though his understanding improved significantly over the years. Nevertheless, very powerful and very clear notions of authority and canon come out in his writings, especially the later ones.

We shall take as our point of departure the nomos of early Reform Judaism, itself characterized by strong notions of natural right/natural law, and a natural law understanding of history. With Borowitz, we find barely a vestige of early Reform's progressive/historical Judaism. He often mentions the disillusionment with the modern age, and uses the label "post-modern" to describe his own sentiments and the nature of the Liberal Judaism of which he is an advocate. By this label, he suggests a certain lack of faith in human institutions or even in the general human

capacity to effect final good in the world, a faith characteristic of certain versions of Enlightenment, liberal thinking, and which, we have seen, was typical of the thought of early Kohler, for example. The new historical age, in itself, then, does not demand or license Reform.

Nor does Borowitz discuss the "essence of Judaism" as an empowerment of Reform. He certainly does discuss ethics as being central to Judaism, his brand of liberalism, and the religious life in general. However, his thought lacks the early Reform theme of an essence which much preserved by cutting away at the deadened husk. That aspect of the nature/convention dichotomy, so characteristic of Natural Right and early Reform thinking, is absent in Borowitz's thought. On the other hand, the nature/convention idea that authority (convention) interferes with the naturally right is clearly present in his thought. Natural right, for Borowitz, has something to do with the duty of the Jew to live authentically in the dialectice between tradition and what God demands on him or her now. A constant theme in Borowtiz's thought, though more pronounced later, is the idea that autonomy is based in the covenant, i.e., God's relationship with us and demands upon us. We could say, then, that his notion of Natural Rights is based on his idea of Natural Right. In other words, one can only do what is right according our nature if one is free to do it, i.e., act autonomously. Borowitz's devotion to modern Natural Right, or Natural Rights, thinking is strong and constant. Though he bases his own pillar of modern religious

thought, individual autonomy, which he then ascribes to Liberal Jewish thought, on one's covenental relationship with God, it is clear that he inherited the idea from liberal thinkers. My sense is that in his earlier writings he used the term somewhat unreflectively; the analysis he ventured in "The Autonomous Self and Commanding Community's" (cited above, page 22) is quite welcome. I think his analysis is weak at points. He says in the same breath that the ethical person is self-legislating and operates in terms of a binding ethical law - this seems contradictory to me. In a sense, his definition of autonomy is an abstract reflection of his theory of Judaism (autonomous Jew -commanding Torah tradition), and therefore worthy of closer examination.

My sense is that Borowitz has confused some key elements of liberal thought. First of all, I think he has confused two different streams of Natural Rights thought, streams which I outline above in chapter 2. The stream typified by Hume is utilitarian and morally reductionist. Its notion of natural rights is radical - there are no perfect duties, only perfect rights. From this kind of thinking, we could probably derive a true notion of autonomy, moral self legislation, not that we would find it, in the final analysis, philosophically coherent. Kantian autonomy is not one of self legislation of morality but rather self appropriation of morality. Through the practical reasoning of the categorical imperative we achieve the "moral point of view" (or God's point of view). In other words, the moral moment occurs when the rational being engages in

moral reflection according to his rationality (and not desires or prudence). Kant offers models of what that rational reflection should be like (his categorical imperatives). Now, in order to be able to exercise one's morality according to the dictates of reason, one must be free from coercion. One might say that the historical conditions for morality must be the rights-protecting liberal state which desists from coercion, but morality itself, for Kant and others, means choosing right; there is a right, a natural moral order to which even God is subject. I feel that Borowitz does not make clear the distinction between the necessary conditions for morality and morality itself. In short, when Borowitz talks about the autonomy of the individual, he means morality can only occur when the individual is free to choose the morally right thing to do -this is hardly a new idea in religious and moral thought! It seems to me that Borowitz's interest in the autonomy of the individual actually covers a deeper, more relevant concern of his, which only receives adequate attention from him in his latter work - his philosophic anthropology of human sociality.

With this clarification in mind, let us proceed. In his latter work, Borowitz levels a powerful critique against a thorough-going notion of individual autonomy. He shows that we are inherently social, that even our radicalisms, our elitisms, our very notions of individualisms, are taken from an inherited stock of language and ideas. Borowitz is writing for the first time that I can see in a sophisticated way about social theory, about the inadequacy of an individually based theory of human nature. He also

writes for the first time that I can see about the powerfully communitarian (and not just interpersonal) thrust of Buber's thought. It seems that as Borowitz broke away from his purely and ethical theological moorings, and discovered the horizon of critical social theory, he found a way to express coherently (more or less) his somewhat opaque notion of the integrated Jew-human.

In other words, it seems Borowitz discovered a theory of human nature which supplied the underpinnings for a theology he had been suggesting for 30 years, his "Covenant Theology." He suggests his theory of human nature in moralistic terms:

> I am individual and unique but likewise inseparably a part of all mankind. More, by my finitude I am necessarily more intimately linked to some of its vast numbers than to others. I am therefore morally obligated to live my life in community with them and exercise my personal autonomy in terms of them.[42]

The "therefore" Borowitz uses is the Buberian "therefore;" relationship (intimate links) creates obligations. Borowitz is not out of the woods by any means. I am not sure whether birth into a community as diffuse and weakly constituted as much of American Judaism can be called an "intimate link." Buber himself would have been loathe to presribe the nature of the commands which devolve from the I-Thou (Borowitz criticizes Buber for this). Nevertheless, Borowitz effectively tells us that we in some natural way, by our nature, are linked to all humankind, but more intimately linked to some group. Borowitz suggests that we are naturally commanded, i.e., morally obligated by something inherent in our

nature, the nature of human sociability, etc., to live our lives in community with our group and to be moral agents in terms of our group.

From this point we may move to an assessment of Borowitz's notion of sacred text. On one hand, Borowitz is committed to an ongoing, dynamic sense of Torah. As we noted, though, he also supplies a large-type caveat emptor for any modern sentiment, thought, or ritual which might be packaged as "Torah." Loosely, then, Borowitz sees canon in terms of Jewish peoplehood - sacred text is what the Jewish people decides is sacred text through history. In other words, he would accept the broad classical definition that the latter Kohler and Cohon did, but theoretically broadened it to include historians, poets, etc., though he did not say exactly which ones (one does get the sense that Buber would certainly be Torah for Borowitz, and his writing effectively recommends that "choice" to the rest of us as well). In short, Borowitz's theory of canon is pluralistic, plastic and open, and based in the historical experiences and choices of the Jewish people, though he warns against acting brashly on this theory.

Borowitz's notion of scripture is largely derived from Baeck, and especially Buber/Rosenzeig. He feels that we may recover the experience of standing before God through engagement with "the classic Jewish books" (compare this to the Platform's openness, here he is more picky). Scripture also means that the text functions as narrative, recording for us our love-relationship with God, and effects its continuity as we engage in

it. Torah, which is Borowitz's word for all Jewish teaching, also instructs toward sanctification. For Borowitz, the Torah tradition is a source of Jewish law and Jewish practice; the practices sanctify us, and the law is a good and noble (though not always true and certain) source of ethics. Borowitz's expanded notion of Torah reduces the tension of the spectre of the religious Jew defying Torah; the Reform critique of Torah <u>is</u> Torah, because our critique is based on our morality and autonomy which itself is rooted in our covenantal relationship with God. Now, the fact that Borowitz asserts a solution by tying together contradictory notions in a syntactially logical way, does not mean that he has coherently, philosophically or even existentially come up with one. But he has raised the question and told the story with great acuity, and even this is of great value. By the way, his notion that Torah is both authoritative and contains the means for overcoming itself is one readily apparent from traditional theories of halakha.[43]

Borowitz's notion of scripture readily comports with the Kelsey's notions of scripture, described in chapter 1. First of all, for Borowitz, scripture does assert Israel's identity. The fundamental term of all of Borowitz's theory of Judaism, Covenant, is a thoroughly Biblical and Rabbinic term. The Covenant is asserted, described and developed in scripture. Torah for Borowitz is authoritative; we are obligated to live by its laws and practices, except when God and Torah empowered autonomy and morality, of which we have become especially conscious because of

Western thought, prescribes that we do otherwise. Borowitz notion of the wholeness of scripture is predicated on his notion of the Jewish people and his fuzzy rule of recognition; the wholeness of scripture is in its being the sacred text of the Jewish people; as Israel is a whole, so is its scripture. Involvement in our scripture brings us close to God, and forms us as Jews, activity which addresses both the Divine and the communal, which are the two poles of human existence for Borowitz. In other words, Scripture makes us fully human (or, Jewish scripture makes the Jew fully a Jew-human). Borowitz announces no one dominant pattern to be outstanding in Scripture, though one might suspect (or anticipate) a focus on Covenant events or traditions. Ethics also plays a important role for Borowitz, though he gives much attention to "living Jewishly by Torah," but, in tune with his pluralistic sensibilities, does not prescribe a set of Jewish practices.

We now turn to Garet's questions about text, canon and scripture. First of all, Borowitz does not go into detail about levels of canonicity. We sense that Liberal rabbis have authority to teach and prescribe, and to lead in epistemic, bureaucratic and even charasmiatic senses. However, qua rabbis, they have no authority to demand, much less coerce conformity. All Israel (including non-rabbinic, non practicing Jews like Buber) is involved in the creation of canon and the common patters which form our communal life. He is avowedly pluralistic and open-ended in questions of authority, but pleas for religious seriousness and devotion to

God, Torah, and Israel. Moral autonomy is crucial for Borowitz, but he seeks to root it <u>in</u> the tradition, and does not see it as an inherently outside critique. Reason and history and other "faiths" are not legitimate critiques of Torah. Borowitz articulated this idea concerning the critique or advancement of the tradition in an early (1957) essay on God, but the idea that Jewishness itself, Jewish history, Jewish religiosity, are the final standards of critiques or renovations in Judaism is a constant theme of Borowit'z thought. Where Borowitz uses God in the following quote, we supply the notion of any advancement/critique of what Torah has been until this time:

> An idea of God set before Israel must then meet the criterion of history past, present and future. It must demonstrate it is an authentic development of the Jewish past. It must be logical enough in contemporary terms and standards to make the present generation want to live by it, and its content must be such that this life is recognizably Israel's life of Torah before God. And it must be willing to stand before the judgment of the lives of the generations yet to be. Past, present and future; the aggadic freedom is given - but the responsibilty is great.[44]

Regarding Garet's deepest concern, whether the text teaches or not, we find a Borowitz answering in the dialectical affirmative. Torah teaches, but so do we teach Torah, which itself is part of Torah. The text is both <u>corrigent</u> and <u>corrigendum</u>, both occuring authentically only before God. In short, the normative hermeneutic object for Borowitz is the entire teaching tradition of the Jewish people, though he displays a sometimes Bibliocentric and sometimes traditionalist bias. The normative hermeneutic project is establishing Covenantal Jewishness; linking to God

and to the Jewish natural community through Jewish text and Jewish practice. Borowitz's worldview is one of human beings existing in commanding communities, paradigmatically the Jews. Our Covenantal community establishes our identitiy, presents us to ourselves, others, and to God. We have an a priori obligation to live in our community before God, which means to exercise our full human dignity as moral agents within our community. Perhaps the best appellation for Borowitz's thought is theocentric ethical communitarianism.

A few penultimate words, these concerning Borowitz's nomos. I see Borowitz operating in the Reform Natural law tradition, in that he bases what we ought to do fundamentally in who or what we are qua human beings, moral agents living existentially in community and before God. It is true that Borowitz has attacked Naturalism, which he identified with Kaplan's thought. Borowitz, and other Reform theologians, have assumed that all Naturalism would preclude the notion of supernatural, or personal God. I don't think this is necessarily the case. Our notion of Naturalism is based in Natural Law theory, especially the Aquinian version, and Aquinas clearly had a notion of supernatural God. When we use the word natural here, we are referring to a moral reality based on human nature. Natural law includes the idea that we should form ourselves and our communities on what is right according to our nature. In this sense, the Jew is naturally commanded to live by his groups laws, as they link him to his group, as they bring him to the I-Thou encounter with others and

God. The Jew is naturally commanded to resist laws that are not moral. Morality, for Borowitz, is based on his theory of human nature, which politically is at one time fundamentally a liberal one based on equality and natural rights, but which is also more of a natural right view, based on humanness as being fundamentally social, and needing the community to become whole.

Borowitz's bridge reaches toward different shores. At one time he wants to overcome the anarchy and malaise of unreflective liberalism with a Liberal spirituality that will not defer to Orthodoxy, but at the same time he seeks greater attachment to God, Torah and Israel. In terms of the problems we set forth in chapters 1 and 2, Borowitz seeks to reconsititute the Jewish paideia, without sacrificing the teachings of (e.g., Kantian) liberalism, which to him are true in a fundamental way. It seems to me that his nomic concern is specifically the Liberal Jewish community (he would include the Conservative middle and left wing) - his bridge leads to his ideal of theocentric ethical community.

A few closing words. I find that I have been the most critical of Borowitz, precisely because I feel uncannily close to him. I read him in chronological order, often impatient with his dramatically asserting theological conclusions, when I sensed that he had simply not done the necessary work. In his latter work, I see budding an intellectual apparatus which would be very useful to him finally working through, at least to a higher level, the acute questions he has been working with for

more than thirty years. Because my own concerns are so close to his, I have read those whom he had read; at times I feel my readings are closer and better than his. I noticed that as he cites Kant and Habermas, he depends on secondary sources. I wish he argued more tightly, would reread the originals, would read more social theory.

On the other hand, I gained a vast new appreciation for Eugene Borowitz. I do not know him personally, but his writing is modest; he often closes his articles with an author's apology, a reminder of the necessarily incomplete nature of what he has written. He has gone farther (especially in his last two articles) than any other Jewish theologian in attacking what really are, in my estimation, the most important spiritual and theological questions facing Liberal Jews: authority, a reliable philosophic anthropology, religious authenticity, Jewish practice, communitarianism. There is much, much work to be done, and he has advanced it. I also feel that Borowitz, in his appreciation of Buber, has correctly selected whom I consider to be the modern Jewish thinker most worthy of study, and who is the most promising as a point of departure for new Jewish theologies. Borowitz's work, I believe, is a crucial step toward one of those new Jewish theologies that he has devoted his life to teaching.

Endnotes for Chapter Five:

1. Eugene Borowitz, Reform Judaism Today: Vol. II - What We Believe (New York: Berhman House, 1977), p. 161.

2. quoted in ibid., p. 164.

3. ibid., p. 201.

4. ibid.

5. The idea of a tri-partite division of the Platform is based on an observation made by Rabbi Jack Stern, Jr., to Borowitz, that paragraphs I-III (which follow the lengthy preamble) have a common focus as being reflective of the three great principles of Jewish belief, God, Torah and Israel (in a different order in the Perspective), while paragraphs IV through VI are clearly labeled as discussing obligations. In Michael Meyer's appendix where he records the "Platforms of Reform Judaism," he numbers the closing paragraph "Hope: Our Jewish Obligation" as "VII," though in the CCAR Yearbook 1976 (vol. LXXXVI, p. 178) the last paragraph is not numbered.

6. The text of the Platform used here is from the CCAR Yearbook, 1976, pp. 174-178.

7. supra, note 1, at p. 109.

8. ibid., p. 111.

9. For a general discussion of these issues, see William Frankena's very useful survey of moral theory: Ethics (Englewood Cliffs: Prentice Hall, 1963), especially pp. 61-68.

10. supra, note 1, at p. 113.

11. ibid., p. 129.

12. ibid. p. 131.

13. ibid., pp. 131-132.

14. ibid., p. 135.

15. ibid., p. 136.

16. ibid., p. 146.

17. My teacher Rabbi Barry Kogan suggested this metaphor. In general, his suggestions and insights have been invaluable in preparing this and other chapters.

18. ibid., p. 148.

19. ibid., p. 149.

20. ibid., p. 155.

21. Choices in Modern Jewish Thought: A Partisan Guide, infra, note 22, at p. xi.

22. The major sources studied for assessing Borowitz's thought, aside from the above cited supra in note 1, are "The Idea of God" in Joseph Blau, ed., Reform Judaism: A Historical Perspective (New York: Ktav, 1973, originally published in the CCAR Yearbook, 1957); A New Jewish Theology in the Making (Philadelphia: Westminster Press, 1968), especially chapters 1, 2, 8, 9 and 10; How Can a Jew Speak of Faith Today (Philadelphia: The Westminster Press, 1969), especially chapter 4; "The Problem of the Form of Jewish Theology," Hebrew Union College Annual XL-XLI, Cincinnati, 1969-70, "Covenant Theology: Another Look," Worldview (March, 1973); "Liberal Jewish Theology in a Time of Uncertainty, A Holistic Approach," CCAR Yearbook, 1977; Choices in Modern Jewish Thought (New York: Behrman House, 1983), especially chapters 1, 11 and 12; Liberal Judaism (New York: UAHC, 1984), especially part 3; "The Autonomous Jewish Self" Modern Judaism, 4/1 (February, 1984); and "Autonomous Self and Community," Theological Studies 45/1 (March, 1984).

23. Choices in Modern Jewish Thought, supra note 22, at p. 245. I don't feel that Borowitz is entirely accurate in holding that Reformer's held, in toto, that the Bible was entirely a human creation. I find that Borowitz's historical analyses are sometimes faulty. In Liberal Judaism (supra note 22, at p. 6), for example, he tells the story where the traditionalist forces of Berlin in 1823 tried to shut down the new liberal services. In Meyer's Response to Modernity (supra, chapter one, note 2, at p. 46), we receive a different version of the events. No doubt, Borowitz's telling is a better story; perhaps it is one of Reform's cosmogonic myths.

24. Choices in Modern Jewish Thought, supra, note 22, at p. 248. The sentiment expressed here on the Liberal Jewish notion of personal autonomy and individualism is quite representative of Borowitz's frequent presentation of the issue, against which he consistently positions himself

in an ameliorative stance. Unfortunately, he never, as far as I can tell, shows where, when, or by whom such radical individualism was taken to be the pillar of Reform Jewish thought, as he so frequently states when he attacks the position.

25. Borowitz often uses the example of mamzerut, agunah, etc., to display the Reform critique of Jewish law. I feel that since he is functioning here as an ecclesiatical historian, that he is being is disingenuous. The Reform critique was not of the "patently unethical" parts of halakha (which would be more of a Conservative critique), but rather a critique of halakhic authority whatsoever. In other words, Borowitz never states clearly that Reform Jews don't simply hold that mamzerut is unfair, but rather hold that it doesn't exist at all. The unfairness critique disingenuously implies that all "fair" (or at least "not unfair") halakha is authoritative, which is, of course, not the case.

26. Choices in Modern Jewish Thought, supra, note 22, at p. 256. Here, again, I feel Borowitz obfuscates. Generally speaking, I do not feel that Orthodoxy obviates moral responsibility, but rather requires religious conformity. When Borowitz discusses Jewish law, he never clearly makes the distinction between, for example, mamona and issura. Jewish civil law has strong notions of equity and judicial discretion; ritual observance is more strict. Borowitz would be better to clarify what he means when he talks about Jewish law.

27. ibid., p. 256.

28. ibid., p. 259.

29. ibid., p. 261.

30. ibid., p. 267.

31. "The Autonomous Jewish Self," supra note 22, at p. 40.

32. ibid., p. 44.

33. ibid., p. 45,

34. The above is close paraphrasing of Borowitz in ibid., pp. 45-46.

35. ibid., p. 47.

36. "Autonomous Self and Community," supra, note 22, at p. 36.

37. His critique of Kant seems to me to be misplaced. Kant was working on the phenomenology of the moral life - how to understand the workings of practical reason. Kant was not overtly concerned with a thorough

going philosophic anthropology which would include a discussion of how human sociability influences moral choice. Kant took it for granted that desire and prudence, i.e, our personal-social-historical situation could influence our moral choices. For example, he defines heteronomy as "belonging to the world of sense under the laws of nature," meaning the "determining causes of the world of sense." [Foundations of the Metaphysics of Morals trans., intro. by Lewis White Beck (Indianapolis: Library of Liberal Arts, 1959, originally published in 1785 as Grundlegung fur Metaphysik der Sitten), p. 71. His categorical imperatives are to be used to overcome those non-moral forces which may determine our moral choices, usurping our autonomy. For Kant, autonomy means freedom, and he comments that ". . . we are free in the order of efficient causes so that we can conceive of ourselves as subject to morals laws in the order of ends. And we think of ourselves as subject to these laws because we have ascribed freedom of will to ourselves" ibid., p. 69. Kant, therefore, would not see a dialectical tension between "autos" and "nomos," because what he meant by "autos" was the rational self, who by definition conceived of the "nomos."

38. "Autonomous Self and Community," supra, note 22, at p. 44. It does not seem to me that Borowitz has read much of Habermas. I find that Habermas's writing is suffused with the proposition that Borowitz says he evades. See, for example, the clearly emancipatory interests which informs his Knowledge and Human Interests trans. by Jeremy Shapiro, (Boston: Beacon Press, 1971), originally published as Erkenntnis und Interesse (Suhrkamp Verlag, 1968), especially part three, where he discusses Kant, Fichte, Nietzsche and Freud. The appendix of that volume is a good overview of Habermas's thought during the 1960's. Thomas McCarthy's The Critical Theory of Jurgen Habermas (Cambridge, MA: The MIT Press, 1978) is a good, comprehensive introduction to Habermas's thought. The sources for Habermas's thought that Borowitz seems to be is referring to are two articles: "On Systematically Distorted Communication," Inquiry 13 (No. 3, 1970), pp. 205-218, and "Towards a Theory of Communicative Competence," Inquiry 13 (No. 4, 1970), pp. 360-376.

39. ibid., p. 46.

40. ibid., p. 48. Borowitz says that from the 1920's on, that Buber felt that nothing was more important than the struggle against the collective, citing Buber's Man and Man. Other of Buber's works (Paths in Utopia, Israel and the World and Pointing the Way come to mind) suggest a very different picture of Buber, that of a thinker extremely concerned with the transformation of society into community with the salvific wisdom gained in the I-Thou moment. See, for example, "Three Theses of a Religious Socialism" and "The Validity and Limitions of the Political Principle" in the latter volume.

41. ibid., p. 52.

42. ibid., p. 50.

43. see, for example, Eliezer Berkowitz, Not in Heaven: The Nature and Function of Halakha (New York: Ktav, 1983). Many other sources could be listed.

44. "The Idea of God," supra note 22, at p. 179.

Chapter Six

Authority and Canon in Reform Jewish Thought: Thoughts Ad Interim

1. Introduction

In the following pages, I will offer some concluding thoughts concerning the issues raised above. I say "concluding" only in terms of this text; I think that for me, the work in this area has really only begun with this study.

In this concluding chapter, I will not offer a detailed analysis comparing and contrasting the three thinkers studied, as my interest here has not been in their thought per se, but rather in them as paradigmatic figures in American Reform Judaism. Instead, I will first offer an elucidation of three main issues which I consider to be crucial for understanding a Reform notion of canonical authority. These issues have arisen at various points in the course of this study, and I want to treat them more systematically here.

Secondly, I would like to offer my own impression of how to understand the Reform notion of the authority of the canon, especially in terms of Cover's notion of Nomos and narrative. In that closing section, I will offer my own quasi narratival account of the paideia of Judaism and Reform Judaism. That final section is not properly part of my research, but rather my own personal and religious response to the issues I have encountered here. It should be seen as standing separately, from an academic perspective, from all that precedes it.

2. Three Foundational Issues in a Reform Notion of Authority

I see questions of canon and authority Reform Judaism being centered around three problems, which I believe are foundational in the Reform theory of authority in general. The first problem is that liberalism, the second is that of religious efficacy, and third is that of naturalism.

A. Religion and Liberalism:

It is clear that in all three of our thinkers, the impact of liberalism is powerful. On one hand, it seems that "liberal religion" is an oxymoron. For some, religion is nothing if its claim is not total, and for others, rights mean nothing if they are not, conceptually at least, absolute. I feel that it is absolutely crucial that we be very clear about what we mean when we say "liberal religion," or "liberal Judaism," or when we use the

moral lexicon of either one in conjunction with that of the other.

First of all, it seems that for none of these thinkers does liberalism mean "freedom" in any ontological sense. To be sure, all favor the model of the liberal state, and I am reasonably sure that all three are true to their words and would not countenance religious coercion. But I think we must carefully differentiate the liberalism of Hume from Kant, as I did in chapter two. Borowitz claims that individual autonomy, at least the kind that gives coherency to his acute dialectic, has been a pillar of Reform Jewish thinking; I think he is mistaken, but I sense that his mistake is endemic. Borowitz breaks his lance not against a pillar of Reform thought, as he thinks, but rather against a pillar of one brand of liberal thinking, a brand of liberal thinking which has almost no real interest in the serious moral or religious life. If we ignore, for the moment, the side of Borowitz's dialectic, the radical individualism against which he fights, we find him in harmony (at the level of the simple tune spun at this point) with the other two thinkers. In the other words, if this study is any indication, the liberalism of Liberal Judaism has never really meant radical individualism, an emphasis on individual autonomy, or a thoroughgoing critique of authority as such. The liberalism of Liberal Judaism has never implied moral subjectivism, moral relativism, or a thoroughly utilitarian ethic. None of our thinkers sees the Jew in radically individualistic terms; Kohler and Borowitz see the Jew as ontologically defined by the covenant, Cohon's notion of the authority of

religion would include that notion as well.

If liberalism does, indeed, serve as a term of distinction, separating Reform Judaism from Orthodoxy, it would seem important that we know as much as is possible what the term connotes. From this study, it seems to connote the idea, first of all, that religious coercion is wrong in a deeply fundamental sense. From the liberal point of view, coercion is only justified when a person presents a clear and present danger to civil society, or when a person is being punished for inflicting some clear damage on others or the collective other, the state. In other words, we are at liberty to do as we please so long as we do not in some real sense harm others. We have a right to think and say what we want, with notable, classic exceptions (endangering others, treason, etc.) We have the right to be left alone, we have the right to associate as we please. And, crucial for this study, we have the right be wrong.

Put differently, the constellation of ideas which forms Reform's liberalism includes an idea which may be summed up in a "lo ta'aseh:" don't coerce. I would hold that the Jewish discovery of this side of liberalism, which is contained in the notion of rights endowed person preceding the notion of the duty bound citizen, implied in the social contract, plays an important role in the Reform critique against Orthodoxy. In other words, from a traditionalist point of view, the Jew is a citizen of the Torah-state, and as such has duties incumbent upon him or her. Judaism is composed of absolute duties, not absolute rights. I

think that intellectual Reform coincides with the discovery of the Jew as person vis a vis Torah; just as the Jew is seen to be a rights endowed person vis a vis the state. In other words, Torah has no right to coerce; whether Reform is right or wrong, coercion is out of the question. A corollary of this would seem to be that the institution which chooses to coerce looses its right to rule.

The second element of the liberalism which seems to constitute the liberalism of Reform Judaism is connected to the first, either as a corollary, or a basis; I am not sure exactly how to express it. In any case, it seems to me that the philosophic anthropology which provides the moral justification for "don't coerce" may be articulated, colloquially at first, as an "'aseh: "give people the benefit of the doubt." This philosophic anthropology is not based on a morally relativistic world where reason serves the passions, but rather in a world of moral realism: we must use our reason to find out what the right thing to do is. All three of the thinkers presented, as well as the German thinkers surveyed in chapter two, conceive of a firmly deontological world, which goes beyond ethics. The duties toward Judaism are considered to be a priori (more about this below). However, how the individual Jew lives out that duty is not something that one can legislate. The philosophic anthropology of liberalism holds conscience in such high regard, that any Jew who appeared to be religiously serious about his or her Judaism would be given the benefit of the doubt as to its rightness.

What I am suggesting here is that from the thinkers presented here we do not receive a picture of a deep commitment to liberalism vis a vis their Judaism. To make this point more clearly, I'll use Michael Sandel's definition of "deontological liberalism." His definition is worth quoting in full:

> 'Deontological liberalism' is above all a theory about justice, and in particular about the primacy of justice among moral and political ideals. Its core thesis can be stated as follows: society, being composed of a plurality of person, each with his own aims, interests, and conceptions of the good, is best arranged when it is governed by principles that do not themselves presuppose any particular conception of the good; what justifies these regulative principles above all is not that they maximize the social welfare or otherwise promote the good, but rather they conform to the concept of the right, a moral category given prior to the good and independent from it.[1]

Now, there are certainly other types of liberalism, but Sandel captures well a typical sentiment: the liberal state should not a priori choose one notion of the good over another, but rather manage peacefully competing notions of the good. For all our thinkers, however, Judaism is taken to be an a priori good. Even Kohler in his early, very universalistic years can hardly be said to espouse a "deontological liberalism," for he had very strong notions of the good to which civil society and universal religion should aspire. He spoke often and forcefully about love, the bonds of friendship, and so forth.

None of this is to say that politically speaking, Reform Judaism may not have aligned itself with what have been understood as liberal causes. But even that attachment is based on very clear notions of the good to be

pursued. In other words, it seems unlikely that Reform Judaism has ever advocated a purely formal liberalism; some a priori notion of the good informs Reform political and religious attachments. To put it briefly, in discussing "Liberal Judaism," we shouldn't read too much philosophically or religiously into the word "liberal."

B. Religious Efficacy:

I think that a much more significant notion in the inner life of Reform Judaism than liberalism is the notion of efficacy, or more specifically, religious efficacy. Reform Judaism began with lay people tinkering with the service. Jewish practice was not doing what it was supposed to do: to bring people close to God spiritually and morally. Jews were leaving in droves. My metaphor of the tinkerer is very intentional: the earliest reforms were designed to "fix" Jewish practice, to make it work again. We see already operating the idea that one doesn't coerce and one gives people the benefit of the doubt. The earliest reformers did not advocate (so far as I know) coercing Jews to stay within Judaism or attend synagogue, nor did they, by definition as reformers, say it was entirely the fault of the individual Jew if Judaism wasn't working. Rather, Judaism, as it was practiced then, had to be the problem.

If I may extend the metaphor, it seems to me that "reforms" becomes "Reform" when engineers and physicists take over from the tinkerers. I would hold that one of the motivations of practical ideologues

like Geiger and Holdheim was to find out why Judaism wasn't working. By now, we know well the various answers, and the commonality among them. Judaism wasn't working because there was an insistence upon obedience to forms and theology that were not efficacious in bringing Jews closer to God. The forms and theology were not efficacious because they belonged intrinsically to other ages, less advanced than the current one (Kohler), because religion had progressed beyond the point of their usefulness, and the old practices could not be enforced, so new religious adepts must be turned to (Cohon), and because the old forms and theology were now held to be morally and spiritually lacking by significant numbers of the house of Israel (Borowitz). If we are to give the people the benefit of the doubt, then the halakhic conception of Torah cannot be eternally true and binding, as traditional Judaism purports it to be, because the people do not observe it. Upon investigation, it does, indeed turn out that the Torah tradition is at least partly a human creation, and persons do not intrinsically have authority over one another. The Torah-tradition in all its manifestations is not eternally true and enduring, divine and precious, awesome, good and wonderful because no human, conventional authority can be described that way.

One of the tasks of Reform comes to be, then, the search for what is religiously efficacious. Let us return for a moment to the words of the of the intellectual grandfather of all the thinkers we've studied, Abraham Geiger. He said:

Judaism must receive its scientific foundation, its truths must be

> clearly expressed, its principles must be probed, purified, established, even though they be not finally defined; the investigation into the justification and the authority of its sources and the knowledge of these are the constant object of study. Dependent upon this theoretical work is the practical purpose which keeps in view the needs of the community . . . from this union of the theoretical and the practical will flow the insight into what rules of life are necessary, and which institutions and religious practices will serve indeed to improve the religious life, which are moribund . . . This knowledge of the true significance of Jewish doctrine and of the present must arouse to united effort all such as are sincerely interested, so that a transformation of Jewish religious practices in harmony with the changed point of view of our time may result, and awaken true inner conviction and noble religious activity.[2]

Geiger says that the practical purpose of finding Judaism's scientific foundation is dependent upon the theoretical work. I would claim the obverse as well. The search for Judaism's clear truths, purified principles, is motivated by the search for what is alive and efficacious in Judaism. What is efficacious is authoritative and efficacy itself justifies that authority, or as Emil Hirsch would have it, (<u>infra</u>, page 80), Judaism's laws have force only as long as they have life. Dead law/symbols are legislation, mere conventional authority, and may be done away with. But those that are "imbued with life" are retained, and are called "<u>Lehre</u>."

We recall here Kohler's notion of power to be recovered in the canon, Cohon's idea that when religion finds its way into the heart of man, it function as an inner spiritual light, and Borowitz's notion that one may recover the experience of standing before God through engagement with the classic Jewish texts. As Geiger said, Reform seeks to find out which practices and institutions serve to improve the religious life.

To be sure, it may be somewhat fortuitous that the three thinkers studied are all rather traditional in their understandings of God. All of them may be termed "theists," as they believe in a personal God whom human beings may experience and encounter. My sense is, though, that even if I were to study Reform deists, that their rule of recognition of what is authoritative would also be the criterion of efficacy. For example, Mordecai Kaplan is said to have interpreted Psalm 119 in a way that would conform to his "theology" of a non-personal God. He would take "torat adonai t'mimah, m'shivat nafesh" to mean, "Whatever is whole and restores the soul is the Torah of God."[3] In other words, you don't have to be a theist to hold the criterion of religious efficacy.

Theoretically speaking, all of the canon and all of Jewish practice may be religiously efficacious. But even if a Reform Jew were to practice Judaism halakhically, he or she would not be an Orthodox Jew, because the criterion would not be divine sanction but rather the pragmatic criterion of efficacy. Practically speaking, certain aspects of halakhic practice would be anathema to liberal Jews, especially those practices which would deny a Jewish privilege to a Jew unjustly, from the liberal perspective outlined above. Other practices may have the sanctity of holy tradition. For example, when I study Torah portion Terumah, I sense that I am reading an architectual poem. I don't need to build and worship in the sanctuary to appreciate three dimensional religious poetry. In the same way, when I study the laws of eruvin, I appreciate the notion

of sacred space, although I don't observe eruv. My criterion for which practices are studied religious poetry and which are practices religious poetry is one of efficicy: does it bring me closer to God, does it have power (Kohler), does it allow God's spirit to enter my heart (Cohon), does it bring me into encounter with the Divine and Israel (Borowitz).

C. Religious Naturalism

Religious naturalism is the last term to be presented as a groundwork for the Reform notion of canonical authority. I must make it clear from the start that the notion of religious naturalism that I am presenting here has nothing to do with physical nature, or the "laws of nature." Rather, similar to Aquinas' view of Natural Law, it has to do with human nature.

Simply put, religious naturalism as I am using the term means that human beings have a religious nature, and that they should live in accord with it. Part of living in accord with it means pursuing some activities and ends, and avoiding others. It is structurally very similar and certainly has great philosophic affinity to Garet's notion of a human nature based ethical naturalism. Put simply, religiously speaking, some things are good for us and some things are bad for us, and we have an a priori obligation to pursue the good and avoid the bad.

Religious naturalism does not preclude an idea of a personal God, separate from the natural world. One could hold that God created us

with a nature, and knows that nature. God also creates us with free will, and makes known to us what is good for us, either through implanting this knowledge within us, or providing means for gaining it from without, or both. If Garet is right that Natural Law has something do to with forming or critiquing law in accord with what is morally right, then we might conceive of a religious Natural Law. Religious Natural Law would mean that one should form or critique religious law in accord with what is religiously right. If our prior notion of efficacy holds true, then the religiously right would be that which serves the ends of religion, i.e., bring us closer to God, forming us morally according to the image of God which inheres in each of us.

The notions of religious naturalism and religious Natural Law suggested here are very rough concepts. Both would depend on deep investigations into human nature. I think that both Cohon and Borowitz were headed in this direction, Cohon with his investigation into the authoritative nature of religion, and Borowitz with his notion of intrinsic human sociability. I think that the theory of human nature which is the basis for Cover's study, "Nomos and Narrative," could be very important for advancing this aspect of Reform Jewish theology. In general, though, I feel that one important stream of Reform Jewish theology should (or will, God willing) have to do with a rethought religious naturalism. This religious naturalism will depend on thoughtful studies in philosophic anthroplogy and textual hermeneneutics based in the recovery of the

divine in the text. In that light, I will close with reference back to Cover, in terms of a Reform Jewish notion of canonical authority, for his work points the way for me for the kind of work modern Jewish theologians should be doing.

3. Concluding Statement: The Nomos and the Narrative of Reform Canonical Authority

In this section, I want to describe briefly my own sense of the nomos of Judaism, and especially Reform Judaism, in light of my study of authority and canon. A description of the nomos of Judaism will not be difficult, because Cover more or less uses Judaism as a paradigm for the nomos of the paideic community.

The notion of the word of God suggests a qualitatively different structure of existence than the experience of God. The experience God, the encounter with the Holy, the numinous, may leave one shattered, or with a glow, and a memory. But the notion of the word of God suggests that the experience, the encounter, is contained in and recoverable through God's word. God's word is not simply a placeholder - God's word speaks. To say that God has spoken means that God speaks now.

Torah means that God speaks now. Whatever that pure, transparent revelatory moment was, it is signified in Torah, and the signs call to us. We are bid to read them, to interpret them, to live them, for

they are alive. Part of the speech of God to us forms us as a people - we are identified, addressed, given a history, a task, a future. We are bid to form our lives around its speech to us, our spiritual lives and our moral lives. And we are bid to see one another, and perhaps all others, in a different light, in a light of love.

Torah is the speech of God, Avodah is the life-work of forming ourselves according to this speech, and Gemillut Hasadim is the ethic which flows from hearkening to the speech and the forming ourselves in response to it.

The bridge we build is toward redeemed Israel, the redeemed self, a redeemed world. The bridge transcends the blackness of all exile.

Reform begins when the voice of God through Torah, understood here as the totality of Judaism's sacred center, begins to fall silent. In a certain sense, Reform is born at the end of one type of exile, but also signifies the beginning of another. The silence of Torah is the exile against which Reform forms itself.

Reform attempts to understand what has made Torah fall silent. It is the conviction of Reform that for God to speak to us through Torah, we must focus our energies on what in Torah allows us to hear God's address, what interferes with God's address, and to understand what the differences between these two aspects of Torah is, and why, in the many senses of why, they exist. Part of the bridge of Reform is the bridge to a meaningful Jewish religiosity itself.

In the terms of our paradigm, the normative hermeneutic project of Reform Judaism is the experience of God through the word of God. The normative hermeneutic object is definitionally hazy, for we know that many parts of Torah are opaque and closed to us, but that heretofore unheard preserved Words of God may exist or be transmitted to us within the House of Israel. Our worldview rests on the idea of the Holy which makes its presence known to us, and on the idea of a covenant which gives both boundaries and meaning to our identity.

For the religiously mature person, the voice of God as expressed in the Word of God has authority. Those texts and practices, or readings of them or interpretations of them have authority for us, as they lead us to the perfection of our religious nature, closeness to God.

It seems then that our teachers of Torah have one central calling: to seek out the word of God in the canon, to bring that word to Israel, and to bring Israel back to God, guiding Israel in the forming of their spiritual and moral lives in accordance with the address.

Endnotes for Chapter Six:

1. Michael Sandel, Liberalism and the Limits of Justice (Cambridge, England: Cambridge University Press, 1982), p. 1.

2. Abraham Geiger, supra, chapter two, note 31, cited in chapter two on page 52.

3. Unfortunately, the interpretation is apocryphal. I don't recall who told me it was Kaplan who interpreted the Psalm this way, nor where the interpretation would be. But it exemplifies well what might be a deist approach.

Bibliography

A. General Works:

Breisch, E. Historiography: Ancient, Medieval and Modern. Chicago, The University of Chicago Press, 1983.

Collingwood, R. The Idea of Nature. London, Oxford University Press, 1960, first published 1945.

Cover, R. "Bringing the Messiah Through Law: A Case Study" Nomos XXX: Religion, Morality and the Law, R. J. Pennock and J. Chapman, editors, 1988.

_____. "The Folktales of Justice: Tales of Jurisdiction" 14 Capital University Law Review (1985).

_____. "The Supreme Court, 1982 Term - Forward: Nomos and Narrative" 97 Harvard Law Review (1983).

_____. "Violence and the Word" 95 Yale Law Journal (1986).

D. Entreves, A. P. Natural Law: An Introduction to Legal Theory, 2nd edn. London, Hutchinson, 1970.

Frankena, W. Ethics. Englewood Cliffs, Prentice Hall, 1963.

Garet, R. "Comparative Normative Hermeneutics: Scripture, Literature, Constitution" 58 Southern California Law Review (1985).

_____. "Meaning and Ending," 96 Yale Law Journal (1987).

_____. "Natural Law and Creation Stories" Nomos XXX: Religion, Morality and the Law, R. J. Pennock and J. Chapman, editors, 1988.

Hoy, D. The Critical Circle. Berkeley, University of California Press, 1978.

Hume, D. A Treatise on Human Nature in D. D. Raphael, British Moralists/II. Oxford, The Clarendon Press, 1969.

Kant. I. Foundations of the Metaphysics of Morals. Translated and introduced by Lewis White Beck. Indianapolis, Library of the Liberal Arts, 1959, first published in German in 1785.

_____. Lectures on Ethics. Translated by Louis Infield. Indianapolis, Hackett Publishing Co., 1963.

_____. Metaphysical Elements of Justice. Introduced and translated by John Ladd. New York, Macmillan Publishing Co., 1985.

Kelsey, D. The Uses of Scripture in Recent Theology. Philadelphia, The Fortress Press, 1975.

Krieger, L. "The Idea of Authority in the West" The American Historical Review 82/2 (April, 1977)

Sandel, M. Liberalism and the Limits of Justice. Cambridge, Cambridge University Press, 1982.

Sanders, J. Canon and Community. Philadelphia, The Fortress Press, 1984

_____. Torah and Canon. Philadelphia, The Fortress Press, 1972.

Sigmund, P. Natural Law in Political Thought. Lanham, MD, University Press of America, 1971

Strauss, L. Natural Right and History. Chicago, The University of Chicago Press, 1953.

Thomas Aquinas. The "Summa Theological" of St. Thomas Aquinas. Translated by the English Dominicans, volume III. London, R. and T. Washbourne, 1915.

_____. Nature and Grace: Selections from the Summa Theologica of Thomas Aquinas. Translated and edited by A. M. Fairweather. Philadelphia, the Westminster Press, 1954

Unger, R. Knowledge and Politics. New York, The Free Press, 1975.

Weber, M. From Max Weber: Essays in Sociology. Translated, edited and introduction by H. H. Gerth and C. Wright Mills. New York, Oxford University Press, 1946.

B. Works by Kaufmann Kohler:

Kohler, K. Guide for Instruction in Judaism. New York, Philip Cowen, 1898.

_____. Hebrew Union College and Other Addresses. Cincinnati, Ark Publishing Co., 1916

_____. Jewish Theology, Systematically and Historically Considered. Introduction by Joseph Blau. New York, Ktav Publishing House, 1968, first published in 1918.

_____. A Living Faith: Selected Sermons and Addresses from the Literary Remains of Dr. Kaufmann Kohler, edited by Samuel S. Cohon. Cincinnati, Hebrew Union College Press, 1948.

_____. Studies, Addresses and Personal Papers. New York, Alumni Association of Hebrew Union College, 1931.

C. Works by Samuel Cohon:

Cohon, S. Day Book of Service at the Altar. Editor's name not given. Los Angeles, Times Mirror Press, 1978.

_____. Essays in Jewish Theology. Introduction by Jakob J. Petuchowski. Cincinnati, Hebrew Union College Press, 1987.

_____. "Guiding Principles of Reform Judaism" [Report of CCAR Commision on Guiding Principles of Reform Judaism] CCAR Yearbook XLVII (1937), pp. 94-114.

_____. "The Idea of God in Judaism" CCAR Yearbook XLV (1935), pp. 207-228.

_____. Judaism: A Way of Life. Cincinnati, UAHC, 1948.

_____. Religious Affirmations. Editor and publisher not given. Los Angeles, 1983.

_____. Theology Lectures. Mimeographed for use in the Theology Classes of the Hebrew Union College. Revised and Reissued several times.

_____. What We Jews Believe. [Revised and enlarged edition] Cincinnati, Dept. of Synagogue and School Extension, UAHC, 1931.

D. Works by Eugene Borowitz.

Borowitz, E. B. "The Autonomous Jewish Self" Modern Judaism 4/1 (February, 1984).

_____. "Autonomous Self and Community" Theological Studies 45/1 (March, 1984).

_____. Choices in Modern Jewish Thought. New York, Behrman House, 1983.

_____. "Covenant Theology - Another Look" Worldview (March, 1973).

_____. How Can a Jew Speak of Faith Today. Philadelphia, The Westminster Press, 1969.

_____. "The Idea of God" in Joseph Blau, editor, Reform Judaism: A Historical Perspective. New York, Ktav, 1973.

_____. Liberal Judaism. New York, UAHC, 1984.

_____. "Liberal Theology in a Time of Uncertainty, A Holistic Approach" CCAR Yearbook (1977).

_____. The Mask Jews Wear. Port Washington, New York, Sh'ma, 1980.

_____. A New Jewish Theology in the Making. Philadelphia, Westminster, 1968.

_____. "The Problem of Form in Jewish Theology" (Hebrew Union College Annual XL-XLI). Cincinnati, 1969-1970.

_____. Reform Judaism Today: Vol. II - What We Believe. New York, Behrman House, 1977.

E. Secondary Sources on Reform Judaism.

Blau, J., editor. Reform Judaism: A Historical Perspective. New York, Ktav, 1973.

Cohon, S. "Kaufmann Kohler" in Simon Noveck, ed., Great Jewish Thinkers of the Twentieth Century. New York, B'nai Brith, 1973.

Guttman, A. The Struggle over Reform in Rabbinic Literature. Jerusalem, The World Union for Progressive Judaism, 1977

Jacob, W., ed. The Changing World of Reform Judaism: The Pittsburgh Platform in Retrospect. Philadelphia, Rodef Shalom Press, 1985.

_____, ed. Liberal Judaism and Halakha. Philadelphia, Rodef Shalom Press, 1987.

Martin, B., ed. Contempory Reform Jewish Thought. Chicago, Quadrangle Books, 1968.

Meyer, M. Response to Modernity. Oxford, Oxford University Press, 1987.

_____. "Samuel S. Cohon: Reformer of Reform Judaism" Judaism 15, (1966), pp. 319-328.

Philipson, D. The Reform Movement in Judaism. New York, The MacMillan Co., 1907.

Stevens, E., ed. Rabbinic Authority. New York, CCAR Press, 1982.

Temkin, S. The New World of Reform. Foreword by Jakob J. Petuchowski. London, Leo Baeck College, 1971.