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THE POSITION AND AUTHORITY OF THE Z'KENIM IN ANCIENT ISRAEL.

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O U T L I N E.

Introduction.

A) Nomadic Period.

B) Marriage.

1) Beena marriage.

I. Canaanitic Period.

A) Invasion and immediately after.

1) Political background.

2) Inter-tribal relations.

3) Government.

4) War.

B) Internal Life.

1) The Town Councils.

2) The Town Gate.

3) Religious Authority of the Elders.

II. Under the Monarchy.

A) The United Kingdom.

B) The Southern Kingdom.

C) The Northern Kingdom.

D) The Deuteronomic Reformation and the Elders.

1) Judicial Authority.

2) Criminal Offences.

E) Summary of Pre-Exilic Times.

III. The Period of the Exile.

IV. The Post-Exilic Period.

Conclusion.

THE POSITION AND AUTHORITY OF THE Z'KENIM IN ANCIENT ISRAEL.

Introduction.

Nomadic Period.

In order to establish the position of the elders (z'kenim) in ancient Israel, it is expedient to reconstruct that life and thus learn the place the elders occupied and the functions they fulfilled. Of the nomadic stage of Israel's history, very little is known. Only faint echoes of that life are preserved in the accounts of the patriarchs. Those were families of herdsmen, wandering singly or in groups of two or more. Abraham and Lot occasionally shared pastures; Jacob and his sons formed a wandering clan of several families. They were no different than the other nomads and very little distinguished from the rest of the wandering Semites. The father was the head of the family, each member obeying him implicitly, looking to his favor, and fearing his wrath. He was also the priest who offered sacrifices to the god who was known as the god of the father; otherwise, the god would very often have been nameless. ¹ This fact undoubtedly gave rise to the phrase "אלה אבי" of later times. ² The family revered and feared "the god of the father". Jacob speaks of the "God of Abraham and the Fear of Isaac"; Laban calls upon the God of Nahor, his father. ³ Originally, the same god was perhaps the god of Terah. After his death and with the division of the family under the succeeding two heads, Abraham and Nahor, there took place a division of the deity into the god of Abraham and the god of Nahor.

The father occupies an especially favorable position near the deity. He is an intercessor, able through his prayer to reconcile the

1) Gen. XII, 7-8; XIII, 4; XXII, 9ff; XXVIII, 18; XXXIII, 20; XXXV, 7, 14.

2) Ju XVII, 10; XVIII, 19.

3) Gen. XXXI, 42, 53.

angered god with the man who sinned. ⁴ He is a prophet who can dispense God's abundance and bounty among those whom he favors, ⁵ hence the great value that was attached to the patriarchal blessing. ⁶

The father exercised full authority over the members of the family. He meted out punishment to the transgressor, as did Judah who condemned Tamar to death for harlotry. ⁷ His authority was unlimited, extending even to the very lives of his sons and daughters. Such prerogative was seldom used ⁸ and, although the victims submitted to the paternal will, a tradition claiming for itself great antiquity, protested against such human sacrifices. ⁹ In the event of war, the father led the members of his household into battle, himself commanding them. ¹⁰

Marriage.

The father took wives for his sons and negotiated with the relatives of his prospective sons-in-law. ¹¹ But, although the father could dispose of his children as he saw fit, the wishes of the young people were not altogether disregarded; they were frequently consulted and their desires were often considered. ¹² Among the nomadic Hebrews endogamous marriages prevailed; one could even marry his half-sister, if she were not from the same mother - (relationship was traced through the mother and not through the father); such was the case of Abraham and Sarah. ¹³ Such marriages were still permissible

4) Gen. XX, 7, 17.

5) Ibid. XXV, 21.

6) Ibid. XXVII.

7) Ibid. XXXVIII, 24.

8) Ju XI, 11, 34-40.

9) Gen. XXII.

10) Ibid. XIV, 14-17.

11) Ibid. XXII, 16; XXIV, 3-9, 37-40, 50; Ju XII, 9; I S XVIII, 17ff; I Chr II, 35

12) Gen. XXIV, 57, 58; Ju XIV, 1-3.

13) Gen. XX, 12.

in David's days. ¹⁴ Exogamy was in ill favor. ¹⁵ Marriage of cousins was considered desirable and was even recommended. Isaac, having married his cousin, Rebecca, instructed Jacob to choose a wife from among Laban's daughters, his cousins. ¹⁶

The woman, being the property of her father or elder brother, whoever headed the family, was purchased by the man and paid for in kind (as in the case of Isaac), or in labor (as in the case of Jacob). Against such sale of daughters, Rachel and Leah protested. ¹⁷ This tradition bespeaks the degree of freedom which woman enjoyed in the nomadic Hebrew family. X

Sometimes the woman joined her husband's family, as in the case of Rebecca who took up her abode in Sarah's tent ¹⁸; it also happened that the man was admitted into the woman's family, as was Jacob who remained with Laban.

Thus, around the original family as a nucleus, newer and younger families grew, forming a clan. All the members of such a clan and each one's possessions were the personal property of the head of the clan. If one wanted to leave the clan and establish himself as head of a family apart, he could lay claim to none of the clan's property. Jacob should have left Laban empty-handed, without even his wives and children ¹⁹. This explains his surreptitious flight during Laban's absence. ²⁰ According to the prevailing conceptions of property rights, Laban was right when he said to Jacob whom he overtook: "The daughters are my daughters and the children are my children and the flocks and all that thou seest is mine." ²¹ All the riches that Jacob accumulated during his years of service were his in name only; X

14) II S XIII, 13.

15) Gen XXVI, 34,35; XXVII, 46; XXVIII, 8, 9.

16) Ibid. XXIV, XXVIII, 1,2; XXIX, especially v.19; also see Gen. XI, 29; Ex. II, 1; Josh XV, 17; Jud I, 12-15.

17) Gen. XXXI, 14-16. 18) Ibid. XXIV, 67. 19) Ibid. XXXI, 43.

20) Ibid. XXXI, 17ff. 21) Ibid. XXXI, 43.

actually, they belonged to Laban, the real head of the clan.

This also explains Jacob's anxiety to buy his brother's primogeniture. The eldest son, not only succeeded to his father's title as head of the family, but also fell heir to all his father's possessions. It was to prevent brotherly feuds that Abraham sent away all his other children while he was still alive, leaving Isaac as his sole heir. ²²

Beena Marriage.

But families and clans were not always headed by the father; sometimes that place was occupied by the oldest brother. In order to gain a clear idea as to how such a condition came about, we must turn our attention to another form of marriage that obtained in ancient Israel. Reference is here made to beena marriage, an arrangement by which the woman remained with her family or clan, retaining her children, the husband returning to his own. A number of passages in the Bible, though not very numerous, prove that, in the period of the Judges and even under the monarchy, beena marriages existed side by side with the newer baal marriage, the latter however coming more and more into practice. The older beena form, which was a survival of the age of matriarchy, continued among certain clans or groups that did not wish to see their property transferred or their numbers depleted. Families and clans that had a scarcity of men undoubtedly encouraged the beena form to increase their own fighting strength.

Gideon was the son of a woman of Tabor, northern Issachar and later joined his father who was of Menasseh ²³, his mother remaining with her tribe. Gideon's concubine remained in Shechem ²⁴ and her

22) Gen. XXV, 5, 6.

23) Ju VIII, 18, 19.

24) Ibid. VIII, 31.

son, Abimelech, considered himself a member of his mother's tribe, although he knew who his father was. Also, David's sister, Abigail, had a son, Amasa, by one whose name was Ithra the Ishmaelite.²⁵ Abigail, herself, was only David's half-sister, her father being, not Jesse, but one Nahash, apparently a non-Israelite. Both Abigail and Amasa remained with the mother's clan in Bethlehem. A similar case of beena marriage is that of David's sister, Zeruiah, whose three famous sons were known as B'nei Zeruiah.²⁶ Hezron, of Judah, had a son, Segub, of a daughter of Machir, a Gileadite. Mother and son remained in Gilead while the father returned to his tribe.²⁷

All these instances, few in number though they are, point to the existence of the beena type of marriage in Issachar, in Menasseh, in Judah, in Ephraim, and in Gilead and it was most likely known and practiced in other tribes. In all the cases quoted above the marriages were inter-tribal in character and, although conclusive evidence is lacking, it is fairly reasonable to assume that all endogamous marriages approximated the baal type, while the inter-tribal marriages were of the beena kind, the tribe claiming the woman and her children. The reasons for that may be seen in the fact that from days immemorial it was the man who left his folks and sought his mate who, of course, was never in a position to do so, as she needed a home and help to raise her children.²⁸

Another reason: marriage, being only a loose affair, the woman, possessing no means of defense and always in danger of being disliked and cast off by her husband, could not permit herself to live too far from her father's or brother's house where she could always find safety and protection. Laban's parting words to

25) I Chr. II, 17. The readings "Israeli" in II S.XVII,25 and "Jezreeli" in the Septuagint are probably incorrect.

26) II S. II, 32. "And they bore Asahel and buried him in the grave of his father in Bethlehem" is an addition by a later redactor who took it for granted that Zeruiah's husband lived and died in Bethlehem (he is not mentioned in I Chr. II, 16).

27) I Chr. II, 21,24.

28) Gen. II, 24.

Jacob were: "The Lord watch between me and thee when we are absent from one another. If thou shalt afflict my daughters, and if thou shalt take wives besides my daughters, no-man being with us; see God is witness betwixt me and thee." ²⁹ From this covenant it seems that even a married woman was still to an extent under the protection of her father or older brother. Some such idea underlay the question put to Rebecca, whether she was willing to go with the man; it was perhaps to find out whether she was willing to leave the certain protection of her brother. The fate of Dinah ³⁰ and of the woman in Gibeah ³¹ show how unsafe a woman was outside of her tribe limits and how little a wife, especially a concubine, could look to her husband for protection. This perhaps explains why that unfortunate woman's father ³² was loath to let his daughter go. It was contrary to practice to let a woman leave her tribe. Husbandless women who raised children eventually passed under the protection of their brother who succeeded his father as head of the family, after the latter's death.

The family was the social unit in ancient Israel. A group of families formed a clan, several clans combining into a tribe. From the preceding, we have not only gained an insight into the structure of an ancient Hebrew family, but we have also learned how it was governed. Whatever government there was necessary to manage a nomadic family, it was all concentrated in the head of the family, whether he was the father or eldest brother. He was judge; he was priest; he was the military leader; he was lord and master over the family's lives and property. His command was law and there was no one to gainsay him. His authority, however, was circumscribed from without. A

29) Gen. XXXI, 49, 50.

30) Ibid. XXXIV

31) Ju XIX

32) Ibid XIX

matter that concerned the welfare of a clan or a tribe was debated and decided upon by a council of elders, comprising the heads of all the families. Rare and insignificant as such gatherings were during the nomadic life of the Hebrews, they became more frequent and grew in importance with the invasion of Canaan.

CANAANITIC PERIOD.

The Invasion and Immediately After.

The invasion itself, whether it was accomplished by a mass movement headed by Joshua, or was executed in several stages, or was even a slow infiltration of clans and tribes, was undoubtedly planned and organized at the councils of elders. After the invasion began the nomad's slow transition into a peasant attached to the soil. There were other peoples and tribes some of whom the Hebrews dislodged at first, but with whom they eventually entered into amicable relations. Numerous new problems had to be faced and solved. All these were brought before the councils of elders for a general discussion and solution. At these meetings of elders, the authority of the individual head of a family was submerged and yielded to the consensus of opinion. Although we know nothing of the procedure of those primitive meetings, we may well imagine that the head of a large and powerful clan was very influential at the meeting and that his opinion often carried the whole assembly. Personal valor or acknowledged wisdom also established one's leadership at these councils. We see thus that in the course of time the rights and prerogatives of the individual elders of the nomadic times passed over to the council of elders of the post-invasion period.

Political Background.

A clearer picture of Israel's political background in the period immediately following the invasion will afford us a better understanding of the authority that these councils began to accumulate. Although

our literature dealing with that period is scanty, still what is extant is very illuminating. When we strip the Book of Judges of its Deuteronomistic framework and of its underlying religious pragmatic philosophy, the residue thus left us is invaluable source material shedding light upon the political, social, and religious conditions of the time. Such documents as contained in I, 1 - II, 5; V; XIII - XVI; XVII; XVIII vividly describe life as it obtained among the Israelites a short time after the invasion and the place which the elders occupied then.

The problems of adjustment in the different parts of Canaan were not similar. In the arid South, Judah and Simeon could continue as herdsmen and their need of great stretches of pasture land soon brought them into conflict with the surrounding Canaanites. "And Judah said unto Simeon, his brother: 'Come up with me into my lot, that we may fight against the Canaanites; and I will likewise go with thee into thy lot! '" ³³ "Judah" and "Simeon" are ellipses for "the tribe of Judah" and "the tribe of Simeon". Since these two clans or tribes lived under the same conditions, pursued the same modes of life, experienced similar needs, and contended with a common foe, it was only natural for them to co-operate with one another. And the assemblies of elders of these two clans decided upon such a course of action. In the south, conditions were yet unsettled; these two southern tribes were still struggling to maintain the positions they had recently occupied.

Just north of Judah was the tribe of Dan. We are afforded an insight into the conditions of this tribe. ³⁴ Here, too, we see a

33) Jud I, 3.

34) Ibid. I, 34; XVIII.

life that was still unstable, still in a state of migratoriness. The Danites were unable to offer their enemies organized and armed resistance and without seeking help preferred to look for more peaceful and safer quarters. A council of the elders of that Danite clan decided upon moving to a new territory and in open assembly appointed five spies to find a suitable place. When, on their return, they reported to the assembly, "their brethren said unto them: 'What say ye?' " ³⁵ "And they answered: 'Arise and let us go up against them...' " Surely these words were addressed to a council of elders or even to a whole clan assembled to hear the results of the mission. Here is a fairly clear report of a council at work.

Non-resistance and placid submission is the background of the Samson cycle. ³⁶ Samson is the semi-mythological figure and his feats are unreal. His heroic exploits do not improve the condition of his brethren, neither is there any attempt at organized combat against the Philistines. In the account about the 3,000 men of Judah who went down to rebuke Samson for provoking the Philistines who were dominating the region ³⁷, whether the number is correct or exaggerated, we have a report of an assembly of several of Judah's clans (or of their elders) who decided to surrender Samson to the Philistines. All assembled marched down to execute their decision.

Israel's strongest foe in the south were the Philistines and, in the north, Jabin, King of Hazor. Conditions in northern Canaan are vividly portrayed in that famous poem, the Song of Deborah. ³⁸ The poetess (or rather prophetess) clearly brings out that the northern highways were overrun by the Canaanites; the inhabitants of

35) Ju XVIII, 9.
36) Ibid. XIII-XVI.
37) Ibid. XV, 11.
38) Ibid. V.

the open villages were compelled to flee, as Israel's fighting men were without means of defense. The tiller of the soil must have disappeared as life in the open was unsafe. Deborah, a spirited woman from Ephraim, and Barak, a distinguished elder from Naphtali, had proclaimed a "Lord's War" against the King of Hazor and dispatched messengers to all Israelitish tribes, urging them to rise against the oppressors. No messengers were sent to Judah, Simeon, and southern Dan, who were not even mentioned by Deborah. These were either insignificant clans and not reckoned with, or were separated by mountain ranges infested by hostile Canaanites or Philistines and thus quite inaccessible. Neither is Gad mentioned.

Inter-Tribal Relations.

The Deuteronomistic editor of the Book of Judges, used as he was to monarchical and religious centralization and orderliness of his day, saw the period of the Judges as one of political and social anarchy, of religious chaos, when "there was no king and every man did what was right in his own eyes".

Such a characterization of the age is somewhat of an exaggeration, but it is true that each clan, village, and hamlet formed a self-sufficient unit, ordering its own life to suit its own immediate needs; there was no thought of the future, no consideration of the nearest neighbor, and no real conception of a common cause.

From the Song of Deborah, we can see that Israelitish Canaan was roughly divided into three parts. Eastern Canaan was separated from the western part by the Jordan, which evidently tended to weaken the relations. The Philistines completely severed the south from the north.

In that anarchical life, where each tribe grappled with its own

local problems, paying little heed to common needs, we occasionally see several tribes unite against a common foe. Such was the case of Judah and Simeon already mentioned. A better example, of course, is the combined effort under the inspiration of Deborah and the leadership of Barak. Though the consciousness of racial affinity was not altogether extinguished, as evinced by Deborah's appeal to all tribes, those that were not menaced held aloof from joining a war from which they could not benefit. In Deborah's time distant tribes which did not come under the sway of Sisera's tyranny, turned a deaf ear to her and Barak's pleas and the call to the "Lord's War" elicited no response from them. From Transjordania only Menasseh responded, while Gad and Reuben did not. Naphtali and Zebulon sent forth their most valiant warriors, but the neighboring Asher and Dan, who were previously beyond Sisera's reach, also proved impervious to the call of duty and patriotism.

Government.

We have seen from the above that tribes pursued strictly individualistic policies, irrespective of the needs of the neighboring community. Deborah directed her sarcasm against the men of Reuben who debated, while sitting among their sheepfolds, whether or not to go forth to the assistance of their brethren.³⁹ The impression is that she had in mind the whole tribe of Reuben which acted as one. But, was there always such a thing as tribal policy? Did all the clans and villages comprising a tribe always act in unison? Deborah vehemently curses the inhabitants of Meroz.⁴⁰ We do not know where this town was located, but, since its non-participation was denounced

39) Ju. V, 15b, 16.

40) Ibid. V, 23.

as such an act of treachery, we may infer that it was located near the battlefield and was a part of a fighting tribe. Within the tribe it **formed** a dissenting community and perhaps concluded a separate treaty with the enemy. From this we may conclude that a tribal policy, whenever such a one was arrived at, was not always adhered to by all the clans, villages, and hamlets belonging to that tribe.

The governmental unit then was not the tribe, but the individual compact settlement, whether it was a clan living together, or a village comprising several families. Who then constituted the local government? It is not difficult to find an answer to this question. The towns of Succoth and Penuel acted not unlike Meroz. ⁴¹ Although they lay in the path of the foraging Midianites who ravaged the land of western Menasseh, they did not suffer from the incursion of the Bedouin hordes. Safe behind their fortifications, or enjoying peace because of separate friendly treaties, they evinced little sympathy for their brethren's afflictions and their efforts to drive out the Midianites. Skeptical of the successful issue of Gideon's campaign, the inhabitants of Succoth and Penuel refused his request to feed his hungry and weary men, adding sarcastically: "Are Zebah and Zalmunah in thy power, that we should give bread unto thine army?" ⁴² We are left in no doubt as to whom Gideon blamed for such unbrotherly and even treacherous conduct. In order to punish those responsible for the refusal, he inquired as to who were the officers (sarim) and elders of Succoth and their exact number. (The sarim must have been those elders who were charged with special duties in the management of the town and the other elders, although they held no particular offices, were always consulted on important matters.) ⁴³

41) Ju. VIII, 4-9.

42) Ibid. VIII, 6.

43) Ex. XVIII, 14-27; Deut. I, 12-17.

The elders then were the ones who guided the destinies of the community and shaped its policies. They supervised its life within and determined its relations with the outside world. Hence, all authority was concentrated in the hands of the elders who formed the government which was purely local.

War.

Whenever a community was threatened by an enemy, the elders met to discuss the gravity of the situation and the extent of the danger. If they decided that no outside help was necessary, they proceed^{ed} then to appoint either one from their midst, or a fellow townsman, as military chief to lead their fighting men into battle. In their choice they were guided by the candidate's valor and prowess. So Jephtha, the head of a band of freebooters and renowned for his bravery, was invited by the elders of Gilead to be their commander and to drive out the Ammonites who invaded their territory.

Such a military leader was given the title of "shophet", meaning vindicator: he who vindicates the cause of his people. In the whole literature bearing on the Period of the Judges, there is not a single instance of a "shophet's" acting as a justiciary. 44

How long was a shophet in office? Jephtha, who had a grudge against his countrymen, was faithfully promised that he could remain the Gilead chief even after the war. Under constraint and anxious to repair an earlier wrong, the elders were willing to share their privileges in times of peace. 45 A similar offer, to be ruler in peace time, was also made to Gideon by the elders of his tribe. 46 These two exceptions prove that the opposite was the custom. As soon as the exigency was over, the military leader laid down his of-

44) I. C. C., G. F. Moore, Judges, Introduction, p. XI.

45) Jud XI, 5-11.

46) Ibid. VIII, 22, 23.

fice and returned to his daily pursuits. He was, no doubt, honored by his fellow citizens for many years afterwards and an honorary seat was assigned him on the council of elders. As long as he lived, however, his tribe enjoyed a period of peace, as enemies dared not molest it; and it is for that reason that later chroniclers assigned to shophtim lengthy "reigns". The truth undoubtedly is that in peace time, the elders "ruled" in their respective communities.

But, if the enemy was too formidable, the elders, after consulting together, sent messengers to all the tribes to apprise them of the danger,⁴⁷ and to beg them for assistance; for Israel never viewed the extinction of even a single family with equanimity.⁴⁸ Thus acted the elders of Jabesh-Gilead when they were menaced by N-hash the Ammonite. To make the appeal stronger, the messengers sometimes carried with them some token to illustrate the plight of their people. The dismembered oxen which, according to the narrative, were sent out by Saul to the Israelitish tribes, were probably brought by the messengers to indicate the danger in which the Gileadite cattle were placed. The message, threatening a similar fate to the cattle of those who failed to respond to the call, was attributed to Saul by the later editor.⁴⁹ As the incident happened before he became king, he had no means of carrying out such a threat. (Altogether we have in this chapter late embellishments of an early event, recorded at a time when some of its features were no longer understood. There is another instance in which messengers carried parts of the victim's body, which conveyed the horror of the occurrence more vividly than words.⁵⁰) When the emissaries arrived, they delivered their message to the elders of the tribe whom they found at the gate, and

47) I S XI.

48) Jud XXI, 4; Deut XXV, 6.

49) I S XI, 7.

50) Jud XIX, 29, 30; XX, 5.

waited for their reply.

INTERNAL LIFE.

The Town Councils.

How did the ancient Israelites conduct their business in peace times? Undoubtedly, like the other Semites. As nomads, they were no different from the Bedouins even of today whose social organization and mode of life and government remained unaltered for thousands of years and are still the same today. But when Israel became an agricultural people and settled in towns and villages, a change had to take place. The individual head of a family could no longer govern the whole community which consisted of a number of families. Who then was qualified to join the government of the settlement? G. F. Moore writes: "All functions of government, so far as they existed in such a state of society, were in the hands of the council of elders..... In early times, the number of elders in a city was naturally determined by the number of families that were able to establish their right to be represented in the council." ⁵¹ The idea that the families had "to establish their right to be represented in the council" is altogether too modern a conception. It is futile for us to attempt to prove that an elder's fitness was ever questioned or formally established. We should rather decide that the council which performed all the functions of government was, at least in its composition and in its early stages, highly democratic. We have to bear in mind that, in early times, the life of the small community was simple, with almost all the inhabitants pursuing the same occupation, busy through the same seasons and all enjoying the same hours of leisure. And, when in those hours, all the men gathered near the town

51) I. C. C., Judges, p. 224.

gate or by the sanctuary to gossip and to exchange news, there and then communal affairs were discussed with all the members of the settlement participating. Whoever was present - and there was hardly any one absent - if he was a mature man, he joined in the discussion. Before such a gathering, consisting of all the men of Shechem, Abimelech's uncles laid the plans of their ambitious nephew. At this assembly of all the Shechemites, the plans were deliberated upon, approved, and accepted, and Abimelech was chosen king. ⁵² On another occasion, Jotham addressed such an assembly to whom he recited his famous parable, endeavoring to sow the seeds of dissension between Abimelech's followers.

Even at these popular councils there must have been elders who had gained recognition for wisdom, for valor, or whose aristocratic lineage was well known, so that they were listened to with greater respect. It is out of these chiefs that the more restricted council of elders of the larger tribal organization of somewhat later times was developed. They served on official receptions and negotiated with foreign kings. ⁵³

The Town Gate.

Early Canaanitish and also Israelitish towns were surrounded by walls of great width within which there ^{were} dwellings. ⁵⁴ The gate of the town was then of considerable depth. The gate and the space adjoining it were the town's most important spot. Here the older folk spent their declining days in chatting and in recalling events of by-gone days. Here also the younger men gathered to listen to the accounts of the deeds of their ancestors and to the wonders that God had wrought among them, and to other words of wisdom. Here were present

52) Jud IX, 1-3.

53) I S XVI, 4; XI, 3.

54) Josh. II, 15b.

the recognized elders who watched over the interests and welfare of the community; here reforms were contemplated and instituted. And, perhaps, because this was the most frequented place, internal and inter-city trade was carried on here. Here news was delivered and dispensed. Here litigants appeared in the hope of finding hearers and arbiters. Here, in the presence of the townspeople and the elders, important property deals and all other business of public interest were transacted.

A vivid picture of a session at the town gate is contained in the Book of Ruth. Preparing to settle the problem of Ruth's property and marriage, Boaz went forth and sat down at the city gate. There, he knew he would find her closest kinsman who was the legal "redeemer" (goel) . That kinsman actually came along and was detained by Boaz who then called upon ten elders to preside over the transaction which immediately began. Since that kinsman refused to perform his duty, the elders and all the people around bore witness to the transfer of Ruth's fields to Boaz and to their marriage. The whole procedure was in accordance with ancient Israelitish custom. ⁵⁵ The ten elders, whose presence Boaz was at great pains to secure, evidently validated and legalized the whole transaction.

It seems that those "gate sessions" were open to everybody, but it was the presence of the elders, at least of ten of them, that gave these assemblies an official character. They were the leading men of the community and decisions rested with them.

The town gate retained its importance as a governmental institution even when the monarchy was established and long afterwards. ⁵⁶

It should be mentioned in this connection that important decisions of the elders were ^{sometimes} solemnized by general assemblies at famous

55) Ruth IV, 1-11.

56) II S. XV, 2; Am. V, 15.

sanctuary towns like Gilgal, Mizpah, and others. Such important occasions, to mention just a few of them, were: when Jephtha was named chief of Gilead; ⁵⁷ when Israel went to war against Benjamin; ⁵⁸ or when Saul was elected king. ⁵⁹

Religious Authority of the Elders.

It was inevitable that the tremendous changes that took place in the life of the Hebrews should also affect the religious authority of the elder. We have seen that the patriarch, the head of the individual family or of the isolated clan, was also its priest. Even after the invasion and settlement in Canaan, the heads of the families retained their priestly prerogative. Although there were in the post-invasion period sanctuaries like those at Shiloh and Dan with Levitical priests in attendance, we hear of heads of families discharging priestly duties. Gideon offered sacrifices ⁶⁰ and so did Jephtha ⁶¹ and Manoah. ⁶² The inhabitants of Beth Shemesh, who were not priests, offered sacrifices. ⁶³

A new phenomenon, however, helped to concentrate religious authority in the hands of the most prominent elders. It was the ambition of rich and influential heads of clans, perhaps in imitation of Canaanitish custom, to establish private shrines. Such acts they considered particularly pleasing to the deity. These private shrines became places of public worship. The owner of the shrine appointed his own priests - usually a son was prepared to fill the office. Joash, Gideon's father, had a shrine like that. ⁶⁴ Gideon himself

57) Jud. XI, 11.

58) Ibid. XX, 1, 2, 26; XXI.

59) I S. X, 17 f.; XI, 14, 15.

60) Jud VI, 18-24, 26.

61) Ibid. XI, 31, 39.

62) Ibid. XIII, 16.

63) I S. VI, 14.

64) Ju. VI, 25, 28-33.

when he became famous, established a shrine in his home town which attracted a great number of pilgrims. ⁶⁵ The rich Micah converted his house into a sanctuary with a Levite as priest. ⁶⁶ Another celebrated shrine, which was widely patronized, was in the house of Aminadab of Kiryath Yearim with his son as priest. ⁶⁷ These and many other shrines which probably existed but of which no record has come down to us, were owned by great chiefs who were highly esteemed in their communities, whose success in life clearly showed that Yahweh was with them. It was then quite in keeping with their religious authority, when the elders decided to bring the Ark of the Covenant to the battlefield, in order to encourage their defeated warriors. ⁶⁸

UNDER THE MONARCHY.

The United Kingdom.

It is not essential for our purposes to try to determine the role Samuel played in the establishment of the monarchy, or his attitude towards it. The elders' contribution towards it must have been of great and perhaps even of primary importance. It really could not have happened otherwise. Without their support, Saul could not have maintained himself. During the centuries of life in Canaan, surrounded by enemies, the heads of the people could not help but realize that their disorganization was the source of their weakness. In many quarters, in various tribes of Israel, the value of leadership was clearly recognized and appreciated. Issachar, Ephraim, Menasseh, Gilead, and Benjamin, at one time or another, raised from their midst great warriors who freed them from their enemies.

65) Jud. VIII, 27.
66) Ibid. XVIII.
67) I S. VII, 1, 2.
68) Ibid. IV, 3.

Israelitish folk-lore was now rich with the heroic deeds of Ehud, Deborah and Barak, Samson, Gideon, and Jephtha which were recounted again and again at the town gate. The need for another great warrior was felt even more keenly when the Philistines established themselves in central Canaan whence they strove to reach Mount Carmel and to spread their rule over the Valley of Jezreel. The only hope lay in a strong king who should drive back the Philistines and strengthen Israel's position among the nations.

Under Saul, the monarchy was in its incipient stage, he being only the military leader, and the authority of the elders remained unchanged. The towns and clans retained their autonomy and preserved their local forms of government. To what extent the elders remained the virtual leaders of the people can be inferred from the fact that, after Saul's death, Abner, desiring to bring the whole of Israel under David's rule, first negotiated with the elders of northern Israel.⁶⁹ They had to be swayed before his scheme could have been carried out. Later, after Abner's death, these elders entered into an agreement with David, by which he was recognized ^{as} king over all the Israelitish tribes.⁷⁰

Whether that agreement contained articles limiting the prerogatives of the king and formulating the rights of the elders, we have no way of ascertaining. But it is quite evident that the elders did not relinquish all their powers. This fact can be fully appreciated when we realize that an ancient Israelite did not recognize in his king an absolute monarch. The ancient Israelite's attitude towards his king was well defined by Hushai. He said to Absalom: "Nay, but whomever God chose and these people and all Israel, his will I be and with him will I abide."⁷¹ The phrase "these

69) II S. III, 17.

70) Ibid. V, 13.

71) Ibid. XVI, 16.¹⁸

people" evidently refers to the elders who were with Absalom and in whose presence Hushai spoke. This is further corroborated by the report he sent to David, saying: "Thus and thus did Ahitophel counsel Absalom and the elders of Israel and thus and thus have I counseled."⁷² The divine right of kings was not yet established. A king reigned, not only by the grace of God, but also by the will of his people. A king - even David - could be rejected by God and the popular mandate could be withdrawn, because it rested upon a covenant between the people and the ruler. Absalom's apparent success could have been, and surely was, interpreted as a sign of God's rejection of David. In his own perplexity, David himself began to wonder whether God had not withdrawn His favor. "And the king said unto Zadok: 'Carry back the ark of God into the city; if I shall find favor in the eyes of the Lord, He will bring me back, and show me both it, and His habitation; but if He say thus: I have no delight in thee; behold, here am I, let Him do to me as seemeth good unto Him.' "⁷³ (It is interesting in this connection to note that the Philistine ruler was a limited monarch, much authority being retained by the Philistine elders for themselves).⁷⁴ It is due to this attitude that Absalom's revolt at first met with such success. David and the elders were immediate parties to a covenant and, if David had in the course of time arrogated more and more power to himself, thus limiting the authority of the elders, all Absalom had to do was to promise those elders greater liberties. Absalom must have discovered a great deal of dissatisfaction in certain quarters and upon this fertile soil he sowed his seeds of revolt. For, it is evident that he carried on secret propaganda for quite a time, his last message being:

72) II S. XVII, 15.

73) Ibid. XV, 25, 26.

74) I S. XXIX, 3 ff.

"As soon as ye hear the sound of the horn, ye shall say: Absalom is king in Hebron." ⁷⁵ The recipients of this message were probably the elders who were previously prepared and were now waiting for the signal to rise. The hearts of the common Israelites were won over by ⁷⁶ flattery.

The above discussion explains David's hasty flight from Jerusalem. ⁷⁷ After ascertaining that the elders had joined hands with Absalom, his position became untenable. Even his victory over the insurgents did not embolden him to return to his capital. He was unwilling to go ⁷⁸ back, unless he was asked to do so at least by the elders of Judah. Their renewed expression of confidence also reaffirmed God's choice.

The following facts deserve special mention: the scheming Absa- ⁷⁹ lom immediately surrounded himself with the elders of the people. ⁸⁰ Similar were the tactics of Adonijah who hoped to succeed his father. ⁸¹ When Solomon completed the Temple and wished to bring up the Ark, all the elders and chiefs were invited to participate in the celebration. ⁸² An event of such importance would have lost much of its national significance without the representative heads of the people, who wielded both religious and political authority. Grand monarch that he was, who, more than any other Judean king, approximated an oriental, unlimited potentate, Solomon frequently consulted the elders. He evidently was advised by a resident council. We have no data that would help us to determine how this council was constituted and what its exact functions were. Neither is it possible to decide whether the advice it gave Rehoboam was dictated by political sagacity and foresight, or by secret sympathy with the demands of the people. Rehoboam who

75) II S. XV, 10.

76) Ibid. XV, 2-6.

77) Ibid. XV, 13.

78) Ibid. XIX, 12.

79) Ibid. XVII, 4, 15.

80) I Ki. I, 7, 9.

81) I Ki. VIII, 1-3.

82) I Ki. XII, 6.

hoped to excel his father in despotism, during the crisis that precipitated the division of the kingdom sought the counsel of the young chiefs with whom he grew up. ⁸³

From the foregoing discussion, we may conclude that during the period of the united kingdom, comprising the reigns of Saul, David, and Solomon, the elders gave up little of their pre-monarchical authority. In their respective localities they maintained the actual leadership of the people. To the question, couched in modern political terminology, "where was then the seat of sovereignty?", we may with justice answer: in the councils of the elders. It was by their grace that David and Solomon were kings over Israel and, when they canceled the covenant, most of Israel was lost to the Davidic family. Their slogan was characteristic: "What portion have we in David? neither have we inheritance in the son of Jesse. To your tents, O Israel!" ⁸⁴

The Southern Kingdom.

The partition of the kingdom was accompanied by a certain shifting of ideas. Rehoboam's accession to the throne of Judah established in the south a law of succession. Accordingly, the royal family, if not so much the king, came to be regarded as the seat of sovereignty. This was undoubtedly brought about by the fact that David's life, bravery, and simplicity were already woven into legends. The whole history of the southern kingdom demonstrated the people's loyalty to the Davidic dynasty, although there were cases of regicide. Here in the south there were no influential heads of powerful clans who aspired to the throne and who plotted to subvert the government.

83) I K. XII, 6-16.

84) Ibid. XII, 16; II S. XX, 1 b.

But much more important than the ideologic changes, were the economic consequences of the partition. Judea almost became an isolated little state. It was cut off from Phoenicia, the great trading nation of the ancient world, and from the fertile regions of the north and north-east. Dependent upon the meagre products of their arid, mountainous, and naturally poor country, the sons of the three southern tribes remained poor peasants and herdsmen, clinging to their simple modes of life. Here great riches were rare. After all, what Isaiah denounced ⁸⁵ were only trifling trinkets of feminine apparel as compared with the luxurious life that prevailed in the north. Even the royal palace of King Jehoikim was an ordinary house as against the mansions of the Samaritan aristocracy. ⁸⁶ In this rather simple environment, there seems to have been greater accord and closer co-operation between the ruler and the elders. The Judean kings continued towards the elders the conciliatory policy of their great progenitor, David. The elders were not jealous of their king, neither was he suspicious of his chiefs. Their relations were simple, friendly, and mutually helpful. Here, the king sought the counsel of the elders, not only during great political crises, when he was distracted with despair, but whenever he contemplated reforms. (The Deuteronomic Reformation is a good instance). He recognized in them his aides, even in times of peace and tranquillity. As chief justice of the land, he co-ordinated their work at the town gates.

Such recognition of the position and authority of the elders of Judah could not but be reflected in its literature. In the Jahwistic Code (J), Moses is not the great lawgiver to whom God spoke as man to man; he is only an elder among elders. When he calls on

85) Is. III, 16 ff.

86) Comp. Jer. XXII, 14 with Am. VI, 3-6; III, 15.

Pharaoh to demand the release of his people, the elders go along with him, in accordance with God's command.⁸⁷ When going up to the holy mountain, Aaron and seventy elders go along with Moses and together they behold Yahweh.⁸⁸ Occasionally, Moses is raised above the elders, but even then, he is only their senior in age, more experienced in customs and traditions. That is the case when he assembles the elders and acquaints them with the laws and customs of Passover.⁸⁹

Neither is Joshua represented here as a celebrated warrior and exalted religious leader; he is not raised high above his contemporaries, but is merely one of the elders. The treaty with the Gibeonites became effective when the elders (n'siim) took the oath.⁹⁰ The attack on Ai is led jointly by Joshua and the elders.⁹¹

The Jahwistic Code is a product of a democratic society where the sovereign head of the state was raised but little above the ordinary elders.

The Northern Kingdom.

The elders of the northern tribes retained their premonarchical privileges to a greater degree than their brethren in the south. They constantly chafed under the authority exercised by the king. This explains why they yielded so readily to the smooth talk of Absalom and the secessionist call of Sheva ben Bikhri.⁹² This also explains why they finally broke away under Jeroboam. Surely it was not the whole of Israel that gathered in Schechem to negotiate with Rehoboam, but the elders alone. Life in the north was different from that in the south. Here the land was fertile and its produce was abundant. The proximity of Phoenicia encouraged trade. That the rich classes -

87) Ex. III, 18.
88) Ibid. XXIV, 1, 9.
89) Ibid. XII, 21.
90) Josh. IX, 15.
91) Ibid. VIII, 10.
92) II S. XIX, 1 ff.

the elders, heads of clans, and chiefs of influential families - indulged in luxurious living, we have the testimony of Amos.⁹³ The jealousy of these powerful chiefs prevented the establishment of a dynasty. Many of these aspired to the kingship and some of them, through intrigue and bloodshed, really ascended the throne. Here, the king, in order to maintain himself, always had to solicit the support of his elders and in crises he never failed to seek their counsel. When Ben Hadad put degrading demands before Ahab, the latter immediately convoked a council of elders and consulted them as to the reply to be made and the course of action to be adopted.

That the elders of the north always remained king makers is clearly seen from Jehu's letter to the elders of Israel. In the absence of an established law of succession, they chose either one of the deceased king's sons, or any one else.⁹⁴ The elders of Judah surrendered this privilege when they recognized the Davidic family as a dynasty.

Once, during a siege which caused a great famine in Samaria, the elders forsook their ruler and joined the prophet Elisha who was in ill favor for a reason unknown to us. The king even threatened to behead the prophet. In that critical hour, the elders defied the king's orders and closeted themselves with the man of God, who alone could interpret the divine Will. The haughty elders did not pay their king the royal homage due him.⁹⁵

How little a king was regarded in the north can best be seen from the Naboth story.⁹⁶ This powerful chief who sat first at the council of the elders treated the king as if he were his equal, caring little for the royal pleasure and disdaining all offers in return for the vineyard that had come to him as an inheritance.

93) Am. III, 15; IV, 1; VI, 1-7; verse 6 proves that the prophet had the northern kingdom in mind.

94) II K. X, 1-6.

95) II K. VI, 32, 33.

96) I K. XXI.

And the procedure of the crafty Jezebel shows further how limited were the powers of the throne. In order to punish Naboth, one of the leading elders, for his arrogance, she had to resort to treachery and falsehood. She had to invent a case against him, otherwise the court of elders would not have condemned him.

In this land of proud princes and mighty elders - men of the world, living in luxury and great riches, the priesthood was more powerful and religious imagination soared higher and reached out for wider horizons. This is clearly discernible in those portions of the Bible which have come to be known as the Elohist Code (E). In these Moses is not an ordinary elder, but a great religious teacher who alone converses with God.⁹⁷ He alone can behold God's very image.⁹⁸ It is through him that Yahweh concludes His covenant with Israel.⁹⁹ He is head and shoulders above the other elders.¹⁰⁰ He is a spiritual giant whose prophetic spirit can fill the other elders and cause them to prophesy.¹⁰¹ He is a supreme and untiring judge who can alone administer justice to the whole of Israel.¹⁰² He is not a warrior¹⁰³ but his presence can inspire fighting men and bring them victory.

Joshua, too, is more than a great warrior. He is a disciple of Moses and his worthy successor. While still in the desert, he took care of the Tent of Meeting¹⁰⁴ and he was divinely instructed to succeed to his master's position.¹⁰⁵ By bringing the people into Canaan, he completed the task undertaken by Moses. He is also a spiritual leader, receiving his commands directly from God. Like Moses, he is given the title of "The servant of Yahweh".¹⁰⁶ Be-

97) Ex. XXIV, 14; XXXIII, 9, 11; Nu. XI, 17.

98) Nu. XII, 8.

99) Ex. XXIV, 8.

100) Nu. XI, 16, 24-29.

101) Ibid. XI, 25.

102) Ex. XVIII, 13-16.

103) Ibid. XVII, 9-13.

104) Ibid. XXXIII, 11.

105) Deut. XXXI, 14, 23.

106) Jud. II, 8.

all these passages are J

fore his death, he exhorts his people to walk in the way of the Lord.

The Elohist Code is a product of a more complex civilization. The conflicts in the north were sharper and deeper. The need of leadership was more urgent and the leader's qualifications were put to greater tests.

In the north, ambitions ran higher and that accounts for the fact that Moses' and Joshua's characters were heightened, more exalted. X

The Deuteronomic Reformation and the Elders.

In the Jahwistic and Elohist literature we have discussed heretofore, the authority of the elders is only reflected. In the Deuteronomic Code, however, we actually see them at work. That their position still was one of pre-eminence even in the last years of the monarchy can be judged from the important role they played in the Deuteronomic Reformation itself. This reformation was to change the life of the people considerably, therefore the king could not have approached it with an easy heart. Josiah's misgivings were increased by the fact that for almost seventy years, comprising the reigns of Menasseh, Amon, and his own, prior to the reformation, Judah was steeped in idolatrous practices of the worst kind. (It is only natural to suppose that, during the first eighteen years of Josiah's reign, conditions continued as they were under Menasseh and under Amon. Josiah's rending of his clothes and also Huldah's answer to his deputation clearly indicate that reforms had not begun prior to the promulgation of the newly-found book). The king realized that his contemplated reforms could not be carried out by royal decree. Some of them, like the abolition of the country sanctuaries and the rescission of the rights of their priests, dealt

with institutions that had existed for centuries and had been rooted in the religious life of the people. The king had to sound the opinion of his subjects and also to ascertain their reaction to the enforcement of the new laws. Furthermore, if possible, he surely wanted to secure their co-operation. For that purpose, he convoked an assembly of the elders of the land and read to them the contents of the new law book. And, from the following act, the power of these people is clearly seen. They concluded a covenant with the king that they and the people for whom they spoke "will walk in the way of the Lord" as laid down in that book. They represented the people by virtue of their position and traditional authority. Each elder or group of elders returned home to the village or clan and prepared their brethren for the forthcoming religious reforms, or actually instituted those reforms. It is quite likely that the country sanctuaries were destroyed by the returning elders who were thus carrying out the details of the covenant which they had concluded with the king at Jerusalem. Such action on the part of an elder was not without precedent. It should be recalled in this connection that Gideon began his career with the destruction of his father's altar. While the young man's iconoclasm aroused the ire of the townspeople, they were restrained from violence by Gideon's father who was one of the leading men among the people. And, should it be argued that Gideon's act is a reflection of the events that followed the Deuteronomic Covenant, then Joash's commanding personality truly mirrors the religious authority an elder wielded. ¹⁰⁷ "And all the people stood to the covenant:" ¹⁰⁸ they lived up to the pledges given by their elders. Here we see that the religious prestige of the elders did not wane even when Hebrew religious life manifested a strong tendency

107) Ju. VI, 25-32.

108) II K. XXIII, 3b.

towards clericalism and ecclesiasticism. The elders were still the religious leaders of their respective communities.

But religion was all-embracing and, as there was no real separation between the divine and the profane, the authority of the elders was not limited to any particular department of life. The Deuteronomic Code proper, embracing Chapters V-XI; XII-XXVI; XXVII, 9,10; XXVIII, which is perhaps the one discovered during Josiah's reign, contains not only religious legislation in the restricted sense of the term, but laws bearing upon all human relations, civil, political, and judicial, all of which were to be regulated by the divine ordinances. Deuteronomy, which undoubtedly codified many old laws and customs, names the elders as their guardians and executors. ²

Deuteronomy is of greatest importance for our purposes. From it, more than from any other source, we learn of the manifold tasks and duties of the elders. The town may have been small and its inhabitants not numerous, still its problems were diversified. The rudiments of all branches of modern government were to be found in that ancient government of the elders. The judicial and executive functions were more highly developed than the legislative. There is one thing the elders did not do: they did not consciously legislate. They were always guided by custom and precedent. ¹⁰⁹ But, inasmuch as they could not always find a precedent that exactly fit the case which came up for decision, they were compelled to create a somewhat new precedent and thus they legislated unconsciously. The following few cases will illustrate how the elders discharged their judicial and executive duties.

109) Jer. XXVI, 18-20. ²

JUDICIAL AUTHORITY.

The ancient Israelite was very much concerned over the perpetuation of his name through his sons. Nothing distressed him more than the prospect of dying without male issue. All God's blessings seemed valueless to Abraham until he had a son to inherit him after his death.¹¹⁰

The family or clan was greatly interested in keeping its holdings intact. (Such concern perhaps underlay the case of Zelophehad's daughters).¹¹¹ If one of two brothers living on one estate died, leaving no son, ancient custom enjoined the surviving brother to marry the widow and that the first son be heir to the name and property of the deceased. By the aid of a legal fiction, the father's name is perpetuated and, incidentally, the clan's holdings remain in no danger of passing into the hands of another clan, which would be the case were the widow to marry outside. But, if the brother refused to fulfill his duties, he appeared before a court of elders. After stating publicly his reasons for refusing and after having his shoe pulled off by the widow, he was officially released from his obligations.¹¹² Another kin then married the widow. Although there are marked differences between the procedure as described in Ruth¹¹³ and the one prescribed in Deuteronomy, the position of the elders remained unaltered. In both sources, Ruth and Deuteronomy, the elders are that body of men who give official sanction in the name of the community, ancient usage, and law, to public transactions involving property and family relationships. Whenever a man wanted to sell his property, he had to offer it for sale to a member of the family. Jeremiah¹¹⁴, being the

110) Gen. XV, 13.

111) Nu. XXVII, 2; XXXVI, 1 ff; Josh. XVII, 3; see also Jer. XXXII, 7 ff.

112) Deut. XXV, 5-10.

113) IV, 1 ff.

114) XXXII, 8-12, 25, 44.

"goel", bought a field from his cousin. There was a written conveyance countersigned by witnesses. It is noteworthy that no elders are mentioned in this case. It is likely that their services were not obtainable in the "court of the guard" where Jeremiah was confined, or that in the case of property transfers, their place was taken by documentary evidence.

The relations between a man and his wife required regulation and, sometimes, even intervention. The elders decided whether a man's accusations against his wife were justified. Thus they passed judgment upon the validity of the grounds for "divorce". They punished the man, if the allegations proved false, and condemned the woman, if she was found guilty. Thus, the elders constituted a court on marital relationships and were also the guardians of the public morals.¹¹⁵

When we compare this legislation with Tamar's condemnation for harlotry by Judah¹¹⁶, we note how the administration of justice passed from the hands of the individual head of the family, the immediate relative of the transgressor, to the council of elders, the official heads of the whole community, who could render judgment with greater fairness. This was, of course, an important stride forward.

If a man sinned with a betrothed woman, both were punished at the "gate", which means by the decision of the elders.¹¹⁷

The case of the insubordinate son, one who is also a squanderer, a glutton, and a drunkard, was tried by the public tribunal of the elders, for one of such loose habits and morals was surely a menace to public peace.¹¹⁸

Here, too, we see the changing conception of offense. Even

115) Deut. XXII, 13-21.

116) Gen. XXXVIII.

117) Deut. XXII, 23, 24; Ibn Ezra.

118) Ibid. XXI, 18-21; Rashi.

the insubordinate son is regarded as a social offender. Of course, the transference of such a case from the hands of the wrathful father to those of the impartial court of the elders was a protection of the accused.¹¹⁹

Criminal Offenses.

How blood revenge was rooted in many ancient societies, Semitic included, is only too well known. Semites believed that unavenged blood found no rest in the grave.¹²⁰ It surely happened among the nomads that vengeance was often wreaked upon a person who had killed another man unwittingly. For the "blood redeemer", when his "heart waxed hot", did not discriminate and did not judge coolly. Organized Hebrew society, though it tolerated these primitive notions, wished to curb indiscriminate murder and acts of vengeance, and thus to prevent endless feuds and bloodshed. Though it conceded the blood redeemer's right to avenge himself upon the wilful murderer, it claimed for itself the privilege of examining the case in order to establish whether the slaying was done intentionally or accidentally. And a court of elders of the city of refuge into which the slayer fled, investigated the charges. They freed the man, if they found him innocent, or, if guilty, they turned him over to the blood redeemer for execution.¹²¹ Here we have a half-way development. While the immoral daughter and the insubordinate son were dealt with by the elders alone, the wilful murderer was executed by the blood redeemer, the elders merely acting in a judicial capacity.

It should be mentioned in this connection that, from the early days of the monarchy, since the reign of David, there was a feeling

119) I. C. C., S. R. Driver, Deuteronomy.

120) Gen. IV, 11; IX, 5.

121) Deut. XIX, 3-13.

against blood revenge. David unmistakably did not countenance the practice. Thus, David did not consider Abner's death as a legitimate blood revenge, but condemned it as wanton murder. In the little dirge which the king composed, he states in plain language that Abner was not deserving of death and that Joab's act was iniquitous. Not only did the people know that David had nothing to do with the murder, but they could not help deciding that the king did not approve of blood revenge.¹²²

That the lesson did not go unheeded, we learn from the fictitious story which the Tekoaite woman, acting on Joab's instructions, told the king. These two persons, Joab and the woman - and undoubtedly many others - knew the king's attitude towards blood revenge: that he did not approve it.¹²³

There is no need of harmonizing the two attitudes, David's and that of the people. The two could have existed side by side for many centuries.

The ancient Hebrew believed that murder cannot go unpunished. Bloodshed rendered the earth impure.¹²⁴ If a corpse was found in the field between two settlements, the guilt rested on the nearest one and it had to expiate for the unapprehended murderer. The elders of that community had to state solemnly, over a slain heifer, (and in the presence of the priests,) that they and their fellow-townsmen were innocent of that crime. Thus they cleared themselves and those whom they represent^{ed} of all guilt and aspersions of guilt. The role here assumed by the elders is very interesting: they performed

122) II S. III, 26 ff.

123) Ibid. XIV: Although this chapter faithfully portrays David's view of the painful problem, it does him a grave injustice. Offering the murderer protection from the blood avengers, should not have prevented his being brought to justice for his crime. The author, however, was so intent on bringing out his point, that he overlooked the other one, involving justice.

124) Ps. CVI, 38.

a sort of vicarious atonement.

In the Deuteronomic Code, the elders are spoken of as possessing wide judicial powers, who sat at the gate and judged "between blood and blood, between plea and plea, and between stroke and stroke".¹²⁵ Did these gate courts continue in their judicial capacity by virtue of the traditional authority vested in them, or were they administering justice in the name of the king? This cannot be ascertained with definiteness. The account of a judicial system established by Jehoshaphat,¹²⁶ narrated in II Chronicles, is a reflection of Deut. XVII, 9 and perhaps also a midrashic interpretation of his name (God will judge).¹²⁷ We know that the king was the chief justice in the land. But it is hardly conceivable that he headed a judicial system of lower and higher courts. The few court proceedings described in the Bible shed but little light on the relations between the king and the courts and on the judicial status of the elders. The court that condemned Naboth, in which officials participated together with the elders,¹²⁸ was convoked by a special writ from the king. This case does not warrant our decision that all court sessions were opened by written orders from kings, for kings always resorted to writing whenever they wished the nature of their message to remain secret.¹²⁹ It was evidently Jezebel's intention to do away with Naboth¹³⁰ both secretly. The trial of Jeremiah was opened by royal officials, with the priests and popular prophets as prosecutors. The elders defended Jeremiah by citing a favorable precedent.¹³¹ Whether or

125) Deut. XVI, 18; XVII, 8.

126) XIX, 5-11.

127) II S. XIV, 4-16; XV, 3-6; I K. III, 9 ff; Is. XVI, 5; Jer. XXII, 15, 16; XXIII, 5.

128) I K. XXI.

129) II S. XI, 14 ff; II K. X, 1 ff.

130) Jer. XXVI.

131) I do not accept Dr. Battenwieser's view, based on an emendation which corrupts a perfect text, that the officers and elders were against Jeremiah.

not the elders were present here in an advisory capacity or could also participate in the decision of the court, is not known. May it not be possible that the elders had greater authority at the country courts than in the capital? Such an arrangement is not unlikely in an ancient monarchy which was not strictly centralized and lacked all the organizing agencies and means of communication of the modern state. It is also possible that the country courts were independent of all royal power and continued as of old with elders acting as judges. The relations between the elders' country court and the royal-priestly court at the capital is impossible to establish. All that we can conclude from a comparison of the court proceedings recorded is that the elders were always represented. 2

Summary of Pre-Exilic Times.

The elders fulfilled an important function in the long stretch of Israel's history prior to the exile. They were the virtual heads of the people, its religious leaders for good or evil, and its judges.¹³² Holding them responsible for the moral degradation of the people, Isaiah proclaimed: "The Lord will enter into judgment with the elders of His people and the princes."¹³³ And, as they shared power with the princes and guided together with them the destinies of the nation, therefore, in time of misfortune, the first to suffer were "the man of war, the judge, and the prophet, and the diviner, and the elder."¹³⁴ Whatever changes there occurred in the life of the people, whether during the period of the Judges, or under the monarchy, whether in times of peace, or during the vicissitudes of war and adversity, the elders always continued as their spokesmen and representatives. On

132) Ezek. VIII, 11, 12.

133) III, 14.

134) Is. III, 2.

one occasion, when Jeremiah had a message for the people, he delivered it to the elders. He also quotes the people as saying: ¹³⁵ לֹא חָזַק הָיָה
אֲנִי חָזַק הָיָה . A similar phrase is used by Ezekiel when he

described the distractedness of the people on the day of the national calamity. ¹³⁶ אֲנִי חָזַק הָיָה -

all these functionaries will be confused and silenced. The elders were the wise men to whom everybody, rich and poor, king, mighty official, and ordinary Israelite, looked for advice, guidance, and decisions on all important matters and occasions.

The Period of the Exile.

The destruction of the Temple, which by that ^{time} was already considered as the sanctuary of the land, and the loss of the last semblance of independence, shook the nation to its very foundations. The cold-blooded murder of Gedaliah and the forcible removal of Jeremiah to Egypt augmented the state of confusion. Paraphrasing the words of Ezekiel, we can see that life as one of chaos and mental agony, shattered by calamities which came in rapid succession, and rendered uncertain by the many vague and contradictory rumors that crowded on all sides: the heavens were as if tightly sealed and no vision was revealed to the prophet, ~~nor~~ instruction to the priest, ¹³⁷ and counsel departed from the elders.

But a nation, like an individual, cannot forever yield to despair and, although, during the few decades after the destruction, deadly silence descends over Judea, we may well surmise that its population returned to peaceful pursuits. Since they recognized the suzerainty of Babylon and paid their taxes, they were left to observe their own re-

135) XVIII, 18.

136) VII, 26.

137) VII, 26.

ligion and were permitted to attend to their own local affairs as before. Eventually life resumed its normal flow and the elders, who during the war ceded their authority to the military, returned to their posts to guide the destinies of their people. The councils of the elders at the gates began again to discharge their duties as judicial, civil, and religious leaders of their respective communities. When Ezra came to Judea, he found these officials at their posts at each town and village.¹³⁸ The authority of these elders had undoubtedly increased since there was no Judean government. Conditions of life were probably not unlike those that existed in the premonarchical period of the Judges, with each community leading its separate existence, guided by its own councils of elders.

Similar was the position of the elders in Babylon, although their tasks were somewhat different, due to the strange environment in which the exiles found themselves. Here the Judeans continued the same social organization as at home. As of old, the elders placed themselves at the head of the exile, sharing their authority however with the priests and the prophets. To them,¹³⁹ elders, priests, and prophets, Jeremiah sent his famous epistle. Here the elders occupied a position between the people and the prophet who, in turn, was situated between the exile and God. And, judging from the fact that those who returned from the exile were permeated with the prophetic priestly ideas which are found in Ezekiel's utterances, we may infer that this prophet's influence over his contemporaries was greater than that of any of his predecessors, for he combined in himself the prophetic fervor and love of truth with the priestly traditions, and the time and conditions were more

138) Ez. X, 14.

139) XXIX.

propitious for his activities. The elders must have been the channel through which these prophetic-priestly teachings reached the people. On more occasions than one, we find the elders sitting before Ezekiel,¹⁴⁰ as disciples sit before their master. And the prophet never spoke to them alone, but, through them, addressed the whole house of Israel. And, if the second commonwealth - so unlike the first - was theocratic by nature, with distinct legalistic tendencies, the elders and priests, as Ezekiel's aids and disciples, paved the way to it.

Both the Palestinian and Babylonian communities were guided by ancient traditions, some of which were oral, while others were transmitted in writing.

Post-Exilic Period.

The Deuteronomic legislation, with its stressing of a single sanctuary and elimination of country priests from the service, created an exclusive priestly caste. In Babylon and under the leadership of Ezekiel, these Levitical priests gained in authority and influence. Although after the return from Babylon the elders were still looked up^{to} as men of authority and knowledge,¹⁴¹ as keepers of the sacred lore, they had to share honors with the priests who now gained in importance since they came to be recognized as the one and only family eligible for service at the Temple. Two traditions vied with one another, one claiming ancient authority for the elders, and the other for the Levitical priests.¹⁴² "And Moses wrote this law and delivered it unto the priests, the sons of Levi, that bore the Ark of the Covenant of the Lord, and unto all

140) VIII, 1; XIV, 1; XX, 1, 3.

141) D^s XXXII, 7: Ask thy father and he will declare unto thee, and thine elders and they will tell thee.

142) Compare D^s XXVII, 1 and 9.

the elders of Israel." ¹⁴³

The supplementary passages of the Deuteronomic Code mark a period of transition from JE, as well as D⁸ to a large extent, which are in the main the creation of the whole people, to the Priestly Code which was compiled and edited by the priests and therefore bears the impress of a single class. In one of these passages, describing the ceremony of the reading of the Law, the priests occupy the central and most imposing position. ¹⁴⁴ This post-exilic passage, which reflects the reading of the Law under Ezra, and some other supplementary Deuteronomic additions, take cognizance of the shotrim and shophtim, although no mention is made of their duties and functions. These shotrim and shophtim, who in all likelihood were elders, were assigned by the Deuteronomist special duties to keep order and to judge. Moses said: "How can I myself alone bear your cumbrance, and your burden, and your strife? Get you from each one of your tribes, wise men, men of understanding and full of knowledge, and I will make them heads over you." And ye answered me, and said: 'The thing which thou hast spoken is good for us to do.' So I took the heads of your tribes, wise men, and full of knowledge, and made them heads over you, captains of thousands, and captains of hundreds, and captains of fifties, and captains of tens, and officers, tribe by tribe." Here the "heads of tribes, men of wisdom who are well-known" surely refer to the elders. Some of these sarim or elders acted as judges, for Moses proceeds to instruct them how to administer justice: "And I charged your judges at that time saying: 'Hear the causes between your brethren, and judge righteously between a man and his brother, and the stranger that is with him. Ye shall not respect persons in judgment; ye shall hear the small and the great alike; ye shall not

143) D⁸ XXXI, 9.

144) Jos. VIII, 33.

be afraid of the face of any man; for the judgment is God's. and the cause that is too hard for you ye shall bring unto me, and I will hear it.' " ¹⁴⁵ (The account in Exodus ¹⁴⁶ of the origin of these public officials is somewhat different).

For some time after the return from Babylon the lay leaders, the elders, maintained their ascendancy over the priestly elements. The latter, mostly new arrivals, were too preoccupied with the promulgation and introduction of definite reforms and improvements for the benefit of the people as a whole and did not yet think of their own class interests. Religion was after all not the concern of one distinct class. It was not Ezra the priest, but his lay predecessors, Sheshbazzar and Zerubabel, who realized the importance of the Temple as a rallying point whence cementing influences would emanate to the new and scattered community. It was Sheshbazzar who built the altar and Zerubabel who built the Temple. Ezra concerned himself chiefly with combatting intermarriage which was neither a religious problem nor the affair of the priests alone, among whom intermarriage was as common as among the other classes. In order to execute their reforms Ezra and his priestly aids resorted to the recognized authorities, the elders. The call for a general assembly was issued in the name of the sarim and of the elders who had the power to command and to punish for disobedience. ¹⁴⁷ The separation from the foreign wives and children was carried out under the supervision of the sarim and the local elders and judges. ¹⁴⁸

But the completion of the Temple and the resumption of daily sacrifices with the concomitant problems of maintaining the temple servants, the priests, emphasized the importance of the priesthood.

- 145) D^s I, 12-17.
146) XVIII, 13-26.
147) Ez. X, 8.
148) Ibid. X, 14.

Already in the days of Zerubabel, the priests, headed by Joshua, had struggled with the royalists (who were most likely recruited from the ranks of the elders) for more than sacerdotal authority. It was natural for the elders to support the aspirations of Sheshbazzar and Zerubabel. Did they not possess traditions to the effect that their forefathers clamored for a king in the days of Samuel and did they not crown David? And did not Ezekiel prophesy the restoration of the Davidic dynasty? ¹⁴⁹ But, as Persia was too strong and had emerged victorious from the many revolutions that threatened its existence as a world empire (522 - 519 B. C. E.), the prophetic predictions ¹⁵⁰ came to naught and the royalist dreams were transplanted from the realm of immediate realisability into that of future hope and eschatology. Neither was it advisable for the Jews to encourage a prince and an aspirant to the throne. The Samaritans and the other enemies of the Jews were always looking for a pretext to accuse them of conspiring against Persia. Zerubabel is the last one of the Davidic family whose rights of succession were recorded in Biblical literature, but no cognizance was taken of his descendants. Israel could not delude itself with vain dreams of regal pomp and foreign alliances; the young community's desire to survive even in the immediate future dictated a policy of internal growth, one of consolidation from within and segregation from without, a policy that was so well defined by Malachi. Such a condition could be created only by following minutely the teachings of Ezekiel and of his disciples, the priests. The priests came to the front and extended their authority beyond the Temple area, or rather stretched its boundaries to include the whole country. With the disappearance of claimants to the

149) XXXVII, 26.

150) Hag. II, 21-23.

kingship, it was inevitable that the High Priest, the highest dignitary in the land, should in the course of time come to be regarded as the sole head of the community, both politically and religiously. This change took place long before the Greek invasion under Alexander the Great. What greatly contributed towards the priestly ascendancy was the fact that for a long time the priests furnished the teachers, scribes, and educators of the young community. These people, by spreading a priestly point of view, contributed towards the firm establishment of the theocracy. The foundation, however, for this form of government was laid in Babylon under the tutelage of Ezekiel.

Still the elders did not pass out of existence; together with the High Priest they formed a sort of aristocratic theocracy. This form of government which managed the internal affairs of the state and directed its foreign policy, lasted until the very last century before the present era,¹⁵¹ until the establishment of the Hasmonean family as a regal dynasty with a law of succession, when important changes took place. The smaller towns, even during the Roman period, retained their self-government by elders who exercised their traditional authority as in the days of the Judges and in the period of the monarchy.¹⁵²

During the Second Commonwealth, the priesthood considered itself Aaronite by descent and traced their authority, both clerical and lay, to Aaron and his son, Elazar. The Priestly Code relates that Aaron was initiated into the priesthood by Moses in the presence of the elders of Israel. There and then the priestly order

151) Ezr. V, 9; XI, 7. I Macc. VII, 33; XI, 23; XII, 6, 35; XIII, 36; XIV, 20, 28.

152) Susanna. Judith VI, 8; VI, 16, 21; VII, 23; VIII, 10, 13; X, 6; XV, 8.

Emil Schürer, The Jewish People in the Times of Jesus Christ, Vol. I, Div. II, p. 150 ff.

was founded.¹⁵³ According to the same Priestly documents, the priesthood was always represented, like the elders, whenever important matters were discussed.¹⁵⁴ All this, of course, is only a reflection of the priesthood's favorable position during the existence of the Second Temple, and was recorded by priestly authors only.

C O N C L U S I O N .

In conclusion it may be stated with a degree of certainty that government by the elders always existed in ancient Israel. A similar opinion found in the Talmud, therefore, seems to rest upon a reliable tradition.¹⁵⁵ In this connection, it may be mentioned

that the neighboring nations, the Egyptians, the Midianites, the Moabites, and others, were also wholly or in part ruled by elders.¹⁵⁶

In the course of centuries, during which Israel was guided by elders, the name zaken came to be invested with dignity. The title was conferred only upon a person of understanding, of knowledge of traditional law and lore, and who spoke with authority and commanded respect. The elders' wisdom and their judicial perspicacity was fitly celebrated in popular adages and immortalized in poetry; their popularity in post-Exilic times can be justly appreciated from the impress which they left upon the literature of the period.¹⁵⁷

In the last century before the common era, the leaders of the two parties, the Pharisees and the Sadducees, were styled z'kenim.

Eventually, zaken, the only honorary title extant in Judea, took on a spiritual and intellectual signification. The graduates

153) Lev.VIII; IX.

154) Nu.XXXII,2;XXVII,2;Josh.XVII,3;XIV,1;XIX,51;XX,1 ff.

155) Yoma 28 b:

156) Gen. I,7. Nu. XXIV,7.

157) Job. XXXII,9. Ps.CV,22;CXIX,100. Prov.XXI,23. Ben Sira.VI,34; VII,14.

אמר רבי חמא ברבי חנינא: מי שזכה לזקנותו של אבותיו לא יפסקה ישיבה מזה

of the school of Shammai were ordained as *one hip d'ps*.¹⁵⁸ In
the Talmud we also find the statement, *אנא ד'פ' א' ד'פ' / נ'c*¹⁵⁹
In the Mishna, the term z'kenim is frequently applied to scholars.¹⁶⁰
Thus we find an old term applied to fill a later need. Zaken was
also used, during the last century before the common era, to designate a teacher of pre-eminence like Hillel Ha-Zaken. This was the case before the title Rabban or Rabbi came into use. The transition from zaken to ray, rabban, and rabbi is an interesting study in itself. In the Bible we find the word ray used in the sense of elder, chief, its meaning being akin to that of zaken denoting an elder of the people.¹⁶¹ Long before the honorary titles, rabban and rabbi became current, the term ray was spiritualized and assumed the meaning of teacher.¹⁶² The fact that Hillel was called Hillel Ha-Zaken and Gamaliel I, later, was known as Rabban Gamaliel Ha-Zaken would seem to indicate that during the latter's lifetime there took place a transition: the derivatives of ray supplanted the older title, zaken. We can only speculate as to the causes of this change. Perhaps the title, zaken, had become too popular, being conferred on persons in all walks of life - whether scholar or "am ha'arez" and therefore it seemed advisable and proper to bestow another title upon the great national teachers. Thus the newer title, rabban - our teacher - which was more spiritual in contents, was adopted.

The relation of the elders to the formation of the Pharisaic and Sadducean parties and the establishment of the Sanhedrin can only be conjectured for lack of sufficient and reliable data. However, we are justified in saying that the Pharisees and the Saddu-

158) Ber. 11 a.

159) Ked. 32 a.

160) Erub. III, 4; X, 10. Yoma I, 3. Ta'anith III, 6. Zebahim I, 3. Meila III, 7. Sab. XVI, 8. Suk. II, 1; VI, 4. Bab. Tamid 31 b.

161) Gen. XXV, 23; Jer. XXXIX, 9; Esth. I, 8; Jonah I, 6.

162) Aboth I, 6.

cees, as well as the Sanhedrin, took over much of the authority and functions that were previously vested in the councils of the elders.