

**Item #51 (Dennis J. McCarthy, *Treaty and Covenant*.
2nd ed.)**

My good friend, Fr. Dennis J. McCarthy, S.J. (who died prematurely on August 30, 1983, while attending a Scripture convention in Salamanca, Spain) published a detailed Old Testament study of source criticism in 1978: Dennis J. McCarthy, S.J., *Treaty and Covenant. A Study in Form in the Ancient Oriental Documents and in the Old Testament. New Edition completely rewritten* (Analecta Biblica, 25A; Rome: Biblical Institute Press, 1978). The first edition of this book was published by the Biblical Institute Press in 1963. The 1963 book was the published *version* of his doctoral dissertation presented at the *Institut Catholique de Paris* under the direction of M. Henri Cazelles, P.S.S., professor of Old Testament at the *Institut*.

The present Item has two parts. Part I is a reproduction of the preface to the Second Edition in order to make available the substance of this carefully researched book. Part II will be a brief explanation of how an article I wrote in 1965 enters into the book.

Part I: *Preface to the Second Edition*

The first edition of this book came at exactly the right time. Debate about covenant and especially treaty covenant in the OT was at its height. It sold out rather quickly, and in view of the mass of new work being done on the subject there was need for a revised edition, corrected and updated. I have tried to take account of the vast bibliography. However, other commitments, serious health problems, and the modern printer's art have delayed publication so that material from the past two years is not included except in cases of special importance or in case of fitting something in. This does not mean an essential loss since the lines of debate have not changed in these two years.

At this point a note on notes may perhaps be in order. References are given as briefly as possible, generally by the author's name and an abbreviated title or review number, sometimes by the author's name alone when it is clear that a work cited is continuing to be discussed. Some very frequently cited works are sometimes identified by the author's name alone (e.g., BALTZER). These are included in the list of abbreviations.

It is obvious that there is less interest in treaty and covenant now than at the time of the first edition. The reasons are various. One was the too-sweeping claims made for the treaty analogy and an overreaction of criticism. Another is the growing separation of exegesis from theology (cf. GERSTENBERGER, "Psalms" and the whole volume in which the article is contained for emphatic acclaim of this state of affairs). However, covenant will always be central to theology and spirituality, and exegesis is divorced from those at its peril. When the tendency appears is just the time to press for exegetical work on topics of major theological interest.

As for the thesis of this book, the denial that the Sinai narrative shows a resemblance to the treaty genre has been widely accepted. The

claim that Sinai included a covenant and that one based on ritual has not been followed up. Indeed, many would now deny that there was any covenant at Sinai in the older forms of the story, but further study has simply convinced me the more of the fact of the ritual covenant.

A new feature of this edition is the effort to show the development of covenant ideas, a development which took place through reflection on the ritual covenant (and was probably influenced by Davidic royal covenant). This involves a close analysis of key passages (Ex 19,3b-8; Jos 24,1-28; 1 Sam 12). It shows these not to be distinct but *almost* distinct, in sum, proto-distinct in their language and ideas as they grope for fuller expression of the meaning of covenant. They approach the treaty genre, but the development did not arrive at that point until Urdt concluded it by giving it expression in the full treaty genre. Dtr works out the consequences of this insight and its expression.

There remains only the pleasant duty of giving thanks. The Wisconsin Province of the Society of Jesus has been most generous to me. Frs. James Swetnam, S.J. (again!) and John Welch, S.J. cannot know how their encouragement has helped. Fr. Peter Heitmann, S.J. has been ever ready with advice and help, while Frs. Stephen Pisano, S.J., and Yves Simoens, S.J. stepped in nobly with emergency aid which was deeply appreciated. Finally, Sister Alice Laffey, R.S.M., has shown a gay generosity in assisting with tedious chores which is beyond praise or thanks.

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Part II: Swetnam's Thoughts on Legitimacy

In 1966 I published a short note in *Biblica* in which I discoursed on the advisability of using the word "legitimacy" to translate the word צדִיק in Jeremiah 23,5a (James Swetnam, "Diathêkê in the Septuagint Account of Sinai: A Suggestion", *Biblica* 47 (1966) 438-444); see Item #22 above. On p. 127, footnote 12, of his 1978 book. McCarthy notes that the famous Old Testament scholar F. Rosenthal opts for the translation "righteousness". I wish to take the occasion of my commenting on my friend Dennis' book to repeat my option for "legitimacy". As I remark in Item #22 above: "Of course the idea of "legitimacy" has different meanings in different cultures, but the underlying human desire to be assured that some person or some action is in accord with some publicly agreed-on norm to serve as a "bottom line" seems to be a permanent part

of the state of being human. It certainly seems to me to have figured in a major way in the thought world of the Bible. The true (i.e., legitimate) descendants of Abraham is not without a certain importance in Pauline thought. And it seems to me that the basic idea of the legitimacy or non-legitimacy of Jesus is one of the major disputes between Jesus and his Jewish adversaries in Matthew, and underlies his entire gospel. It also figures in Mark, Luke and John. Much has been written on what it means to be “just”, of course, and “justification” in Scripture was a central problem of the Reformers (and counter-Reformers). Not only the root צדק but also the whole notion of “being just” needs much more thought and study.” As our contemporary culture becomes more and more secularized the importance of legitimacy becomes more important.

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