

PREFACE

The problem of this book is to describe the history of the laws of the Mishnah-tractates surveyed in the first five parts of this project. The problematic is to locate those points at which the laws articulate conceptions expressive of Mishnah's main purpose, distinctive to Mishnah, and relevant to the period in which Mishnah takes shape, the late first and second century. For our proximate inquiry remains the search for the history of the formation of Mishnah's inner structure. Our ultimate one is the quest for the right framework for the interpretation of the Judaism, founded upon the two Torahs, Scripture and Mishnah, which has flourished for nearly twenty centuries. Mishnah obviously draws into itself and makes use of an immense corpus of available facts and conceptions. What Mishnah proposes to do with these facts and conceptions is what tells us the particular and characteristic traits of Mishnah. The blood-rite, for example, is very old. No account of the cult will omit reference to it. What Mishnah, in particular, finds important to say *about* the blood-rite, however, is another matter. Mishnah finds exceedingly important the attitude of the priest at the time of the execution of the rite. Mishnah will not dwell, on the other hand, on the motions which the priest effect in collecting and tossing the blood, the finger he uses in doing so, the garments he wears, the animals meant to produce the blood, and a scarcely limited number of other, equally important questions. The list of rejected exegetical possibilities is very long. True, Mishnah draws upon diverse facts about the rite and can answer all the questions of detail just now noted. But Mishnah chooses to say what it wants to say about the blood-rite when it inquires into the attitude of the priest who performs it. The exegesis of what Mishnah *as Mishnah* chooses to tell us, as distinct from the now-completed exegesis of Mishnah's modes and expressions of its messages, is our present task.

What Mishnah wants to tell us is discerned, to begin with, in Mishnah's treatment of the topic as a whole: the fifth Order, or division, is to be seen as such, before its principal parts are isolated and subjected to historical inquiry. The Mishnaic system is prior to its components and defines their topics and meaning. We take up the notion that Mishnah's fifth division constitutes a system and therefore awaits systemic analysis. Only then will it become possible to treat the elements

of the system—the tractates—and show how they fit together. We unpack their components. The work of the analysis of the history of the components fills the bulk of this book—Chapters Two through Thirteen. But it is Chapter One which places the whole into perspective and must justify the enterprise. Chapter Fourteen contains the important consequences the history of Judaism in the description and interpretation of the Mishnaic system of Holy Things.

At three points in my exposition I quote at some length from the work of colleagues. I do so because I cannot improve on their formulation of their own ideas, which I appropriate for my purposes and upon which I build. At the outset, in Chapter One, I rely upon Baruch A. Levine's account of the meaning of the Temple in ancient Israelite times. This saves a great deal of time in surveying the immense literature on that question, much of which I did consult. I cannot imagine reaching conclusions other than Levine's. In my brief reference to the historical setting of first and second century Judaism, I cite at some length relevant paragraphs of Schürer-Vermes-Millar, in the excellent English of Pamela Vermes. Here too it seems to me unlikely that, in a few paragraphs, one can say more succinctly, or more accurately, just how things were, than has already been accomplished. Finally, in Chapter Fourteen, I have built my entire interpretative framework and defined the large issues of context and history of religions through Jonathan Z. Smith, *Map Is Not Territory*. At a few points I reprint entire paragraphs of his. My effort then is to see the data we shall have examined through the perceptions of Smith's essays. Only one other historian of religions¹ in late antiquity do I find helpful, and that is the inestimable Peter Brown, surely one of the truly richest and most interesting minds at work in this area. But Smith has absorbed everything splendid in Brown and moved far beyond. His conceptions seem to me the appropriate ones for the inquiry, which I undertake, into

¹ The theoretical literature in anthropology on the nature of sacrifice and sanctuary has proved fruitless for me. I found the general remarks too general, and the specific data too particular to their larger settings, to be able to take over and make use of the questions of that estimable discipline. The absence of work similar to that of Mary Douglas on pollution is most noteworthy for Chapter Fourteen. Perhaps equivalent insights to hers are to be found in the writings of Jensen or Turner, for two much-cited examples, but I could not perceive them. Turner's meanings are too allusive. He moves from the particular to the cosmic without specifying those intervening steps on the ladder of reflection which permit one to follow him onward and upward; and I find in his writings a measure of self-indulgence in private meanings, never clarified and made explicit. Jensen, for his part, is merely obscure and programmatic (at one and the same time!).

the meaning of the Mishnaic system of sanctuary and sacrifice in its larger context. If Mishnah appears to me, in the present division, as a kind of mediating document, taking up a cosmological world-view and expressing it in a scribal-anthropological framework and document, it is only because Smith has taught me to raise such questions and experiment with such categories as produce that result. If I am criticized for too extensively citing these three excellent works, I take pride in the criticism. If I am further criticized for citing people who also are dear and close friends, I am complimented and plead guilty. I am proudest of all that those whom I call my friends also are my teachers and intellectual colleagues. I exult in their achievements and gladly cite them, in their own words, upon which, as I said, in any case I cannot improve.

Brown University pays the cost of typing my manuscripts. In addition, work on this part of the project (as well as the beginning of the next, *A History of the Mishnaic Law of Women*) was greatly facilitated by a Sabbatical leave, Semester II, 1977-1978, and a special research leave, Semester I, 1978-1979. I express my thanks to the Dean of the Faculty, Maurice Glicksman, and the Chairman of the Department of Religious Studies, Wendell S. Dietrich, for this further, and much appreciated, opportunity to advance my scholarly work.

I enjoy the counsel of colleagues at home and away. What is especially needed, at this point in a lengthy project, is fresh questions and new perspectives. I am always stimulated in conversations with, among others, the following: Professors Sumner B. Twiss, Jr., John P. Reeder, Jr., Wendell S. Dietrich, Ernest S. Frerichs, Brown University; Professor S. Dean McBride, formerly of Brown University and now at Northwestern University; Professors William Scott Green, University of Rochester, John Strugnell, Harvard University, Geza Vermes, Oxford University, Wayne A. Meeks, Yale University, Baruch A. Levine, New York University, Hans H. Penner, Dartmouth College, Ben Ray, Princeton University, and my teacher, Morton Smith, Columbia University. My gratitude to Professor Levine is especially deep, because, before publication, he has made available all of his commentary on Leviticus, which I believe to be definitive.

The commitment of E. J. Brill to the publication of my research and that of my students, as well as to the two series placed under my editorship, is surely without many parallels in the scholarly world! I am grateful for opportunities enjoyed by very few and strive to be as little unworthy of them as possible.

My dear colleague, John Giles Milhaven, kindly directed me to reliable works on the earlier history of the Eucharist, conceived as a sacrifice. It is a pleasure to exploit his learning, in small measure to be sure, for my work here.

My student, Mr. Alan Peck, kindly served as assistant (*gofer*) in this project, doing many things to facilitate the work and make my life easier. I am thankful both to him and to his first teacher, Professor Gary G. Porton, University of Illinois, for sending him to me. Mrs. Lee Haas carried out bibliographical research on sacrifice in anthropological and biblical studies. Only part of the result of her excellent work is in the bibliography. I appreciate her efforts.

This book was typed by Mrs. Marion Craven, Rumford, Rhode Island. It is now ten years since Mrs. Craven began to type for me, and, as principal typist for much of my work, she has earned my deep gratitude.

The dedication of this book is a small token of thanks for the unflagging assistance, given generously even at the expense of his own work, of my colleague and friend, Professor Richard S. Sarason. His criticism of the *History of the Mishnaic Law of Purities*, of the first five parts of this project, as well as of this book, has made these books far more intelligent than they otherwise would have been. I hereby give back what already in meaningful measure is his.

Finally, I point to the immediately following section, Professor Levine's preliminary observations on The Temple Scroll. The work on this project was complete before Professor Yadin's edition of the document reached me. While a great deal of comparative work presumably awaits us, it seems to me that the carefully defined project in which I have been engaged may proceed on its course, separate from a document to which, in due time, this project will have to be brought into juxtaposition. Professor Levine's contribution of his own insights and discoveries suffices, at this time, to alert the reader of my book that much more work on the history of the Mishnaic law of Holy Things is yet to be done. But I do not mind saying that much work now has been completed, and I believe that solid foundations have here been laid for further inquiry.

With this project, one third of Mishnah-Tosefta has been laid out in the way in which, to begin with, I planned. I am happy to inform my readers that most of the tractates of the first division, the Order of Seeds, are in hand, and many of them are nearing completion as to their commentaries. For my part I turn now to the third division, the

Order of Women, since Professor Lieberman's great commentary on Tosefta for that division is available, so the work is immeasurably easier. No one who has worked on Tosefta, as have my students and I, can fail to feel gratitude every single day for what Lieberman has given us. Since, as I understand it, he now moves forward on Tosefta Neziqin, it seemed to me wise to await the completion of that project before undertaking my own sorts of inquiries on the fourth division. It now seems to me probable that the entire work on Mishnah will come to completion within the foreseeable future, so that the sorts of questions of reconstruction and systematic analysis, so long postponed or improperly addressed to the evidence (indeed: addressed to the wrong evidence) may be raised.

J.N.

Providence, Rhode Island

March 4, 1978

*A birthday present for Suzanne,
at thirty-seven.*