

PREFACE

Mishnah-Tosefta Niddah constitutes an extended commentary upon the basic law of Scripture, in particular, Leviticus 12:1-8, the uncleanness of the woman after childbirth, Lev. 15:19-24, the uncleanness of the menstruant, and Lev. 15:25-30, the uncleanness of the *Zabah*, the woman who has a flow of blood after the menstrual period. There is no important idea which does not derive, directly or derivatively, from the Scriptural provision of the matter. At no point does the tractate raise questions which are not provoked by Scripture itself. Furthermore, I discern no organizing problematic, no single concern, which both unifies the tractate and clearly stands at its very foundations, other than the specified statements of the facts in Scripture. And these hardly constitute a problematic. They are merely statements of data, augmented by Mishnah with more data. The tractate is conceptually diffuse, without a logical center or organizing problematic. Only one authority turns out to see things whole, and that is Meir. He comes at the end of the process, not at the outset, drawing together secondary and tertiary issues. The inner structure of the tractate therefore is factual, not conceptual and logical, and provokes a quite different set of questions from that applicable earlier.

Let us begin by summarizing the substance of the law and, in particular, showing in general terms the remarkably close relationship between Mishnah and the Priestly Code on the menstruant and *Zabah*. For this purpose we turn to the fine account by Israel Moses Ta-Shma (*Encyclopaedia Judaica* 12:1141-1148). As to the Scriptural and Talmudic strata, he says:

According to the literal meaning of the biblical passages... the law is thus: A woman who discerns blood within and up to a period of seven days is "impure" for those seven days from the time the blood first appears. On the eighth day—if she sees no further blood—she is "pure" If, however, a woman sees blood for more than seven days, she becomes a *Zavah* ("one who has a discharge") and is unclean until her discharge of blood ceases. All the laws of uncleanness . . . apply to her The Bible does not lay down the normal length of time between one menses and another

On the basis of the tradition of the Oral Law, the sages gave the biblical passages a different interpretation. Their basic assumption

is that there is a fixed cycle of eighteen days, comprising seven days of *niddut* (the stage of being a *niddah*) and eleven days between one menses and another A woman who sees blood on one or all of the seven days is unclean for these seven days and becomes clean again on the eighth day on condition that she immerse herself . . . and that no further blood has appeared before her immersion If after the conclusion of the seventh day blood is discerned on three . . . days during the eleven days between one menses and another, the woman becomes a *Zavah* and has to count seven clean days If however she passes the eleven or at least nine of the days between one menses and another in cleanness, she reverts to the beginning of a new cycle, and any blood that she may see during the subsequent seven days is menstruous and does not necessitate seven "clean" days. These eleven days are a traditional law ascribed to Moses . . .

I do not perceive the deep meaning of those eighteen days, nor is any adduced in the documents of our tractate, *Mishnah-Tosefta*, the *Talmuds*, and the pertinent pericopae of *Sifra*. Clearly, the number or interval of eighteen days in particular should express something very profound in the mind of people between the formation of the Priestly Code, in the sixth century B.C., and the earliest named authorities of our tractate, at the turn of the first century A.D. On the other hand, the biblical view, spelled out later on as well, that menstrual uncleanness is loathsome is entirely alien to our tractate. *Ta-Shma* observes, "Considered theoretically the most loathsome impurity, the uncleanness of the menstruous woman was metaphorically equated with the defilement imparted by carrying an idol. . . This idea was prevalent already in the Bible where the uncleanness of the menstruous woman occurs as a noun and as a metaphor for the height of defilement. . . ." *Mishnah-Tosefta Niddah* by contrast takes no interest whatsoever in the moral or aesthetic aspect, if any, of its subject.

Uncleanness because of bodily discharge is simply one more form of uncleanness. Its problematic bears no relationship whatsoever to the issue of the metaphorical, let alone philosophical or metaphysical, meaning of uncleanness. Our tractate interests itself solely in the definition of unclean excretions and in problems of doubt in regard to these same excretions. Even the later Amoraic exegetical compilation, *Vayyiqra Rabbah*, glides by Lev. 15:19-24 without comment. Chapter Eighteen expounds Lev. 15:1, *the Zab*, and Chapter Nineteen, Lev. 15:25, the *Zabah*. While the exegetical compilations, including *Vayyiqra Rabbah*, contain the expected number of allusions to the

matter, the central occasion for exegetical-redactional development, Lev. 15:19-24, in the earliest major collection of non-legal materials is ignored. The picture of Sifra is not different, as we observed (Part XV, pp. 152-162). In the spirit of Mishnah-Tosefta, Sifra says nothing about the deeper meaning of the law, treating instead its own distinctive agendum. The reticence of Mishnah-Tosefta and its dependent literature to take up larger questions of meaning defined outside of its intellectual framework of law should not obscure its own self-evident definitions of what it is important to say about, and through, the law under consideration. Mishnah's own formulation of the issue solely in terms of facts cannot be ignored. For Mishnah expresses its deep conceptions through law. It proposes, I think, to address profound matters beneath, or beyond, its detailed rules, even when, as in the present case, we find ourselves unable to hear the message or even to perceive that Mishnah wishes to say more than what is on the surface.

It remains to repeat my thanks to my teachers and friends, Professors Baruch A. Levine and Morton Smith, my dear colleagues at Brown University, and my students and former students. This aspect of the project is especially pleasant because I am able to discuss literary and historical problems, from day to day, with all of them. In the present work, conversations with Professors Horst Moehring, Ernest Frerichs, and Wendell Dietrich were substantive and helpful. Professor Richard S. Sarason kindly read and criticized the work from beginning to end. I rejoice in his progress in his own work, even as I am thankful for his contribution to mine.

During my years as a student at Jewish Theological Seminary of America, from 1954 to 1960, Rabbi Louis Finkelstein showed me many courtesies beyond the measure of the law. In particular I was beneficiary of his development of the special program in Talmudic studies, in consequence of which, from 1958 to 1960, I enjoyed exceptional advantages, both material and intellectual. As sometimes characterizes young men during the extended adolescence of a formal education prolonged into the late twenties, I recall, I did not fully grasp how much was owed to the man who made possible that prolonged education and who himself contributed to it. My appreciation was formal, but could have been deeper and more perceptive. Now that I bear responsibility for the prolonged graduate education of young men and women in the third decade of life, I enjoy from them a

measure of gratitude which would have proved seemly had I felt and expressed it in my turn earlier. On the other hand, in the sixteen years since graduation, I have found many occasions to appreciate the work of Rabbi Finkelstein, in particular on Sifra and Sifré. He takes the trouble to respond to my specific questions of detail as well. While our respective views of the Pharisees bear nothing in common as to method, and little enough in common as to result, I have found much illumination on each occasion at which I have consulted his *Pharisees*. For his part, as editor of the forthcoming *Cambridge History of Judaism*, he invited, then accepted, my chapter on the Pharisees, though he would not have written it in quite the same terms.

The results of the present study, moreover, for the first time bring me close to established (and generally false) conceptions of the interrelationships of the Written and Oral Torahs. It is appropriate, therefore, to offer this book to the honor of Rabbi Finkelstein, with the wish that he enjoy many more years of good health and productive work. All of us engaged in this project eagerly wait his edition and commentary for Sifra, which will take its place alongside Professor Lieberman's *Tosefet Rishonim* and *Tosefta Kifshutah* and so strengthen the foundations of the task before us.

For the convenience of New Testament scholars interested in what they call the "Jewish background" of their holy book, I list those pages on which are references to the issues of their (remarkably narrow and brief) agendum on Judaism: pp. 92-96, 110-113 (including the footnote on p. 113), 114-117, 127-128, 185-188, 191-193, and, possibly, 201-211.

J.N.