

STUDIES IN COMPARATIVE LEGAL HISTORY

# New Testament Judaism

Collected Works of David Daube

Volume 2

Edited by  
Calum Carmichael

*The Robbins Collection*

*Berkeley*

Copyright © 2000 by the Regents of the University of California, The Robbins Religious and Civil Law Collection, School of Law (Boalt Hall), University of California at Berkeley.

All rights reserved.

Robbins Collection Publications  
School of Law (Boalt Hall)  
University of California at Berkeley  
Berkeley, California 94720  
(510) 642-5094 fax: (510) 642-8325  
[www.law.berkeley.edu/robbins](http://www.law.berkeley.edu/robbins)

ISBN: 1-882239-04-0     *New Testament Judaism*  
ISBN: 1-882239-01-6     Collected Works of David Daube

Library of Congress Catalog Card number: 92-61641

Printed in the USA.

# Contents

Preface	xv
Acknowledgements	xix
Abbreviations	xxiii
Glossary	xxvii

## SECTION 1: THE NEW TESTAMENT AND RABBINIC JUDAISM

### The New Testament and Rabbinic Judaism 3

Both the New Testament and Rabbinic literature judaize Hellenistic doctrines: the soul as an unhappy guest in the body and the notion of tradition as a fence around the Written Law. Baptism in the New Testament reflects Paul's use of Rabbinic doctrine. The use of Rabbinic material for illuminating the New Testament requires criteria for dating it.

### The Gospels and the Rabbis 13

Rabbinic views underlie aspects of the New Testament: Mary as a model of Ruth, the sleeping disciples at Gethsemane, the disgrace of Jesus's burial, the four questions in the Passover Haggadah and Mark 12, apostolic succession, and Jesus's views on divorce.

### The "Nails" and the Jews 21

Religion can function as a principle governing all actions, private or public. For an orthodox Jew all the outward forms of Judaism flow from self-evident ideals. For a Christian an emphasis on faith in Jesus as the Messiah replaces the law. Each religion seeks justice for all and each recognizes that the law has beneficent power. A Jewish prayer about bodily functions balances the sacred and the profane.

### Some Reflections on the Historicity of the New Testament 35

The Evangelists intend their testimony to be understood in many different ways. Precise accounts are not the aim, but when a writer deviates from another he intends to provide a more accurate picture. There are criteria for judging historicity: common sense (dating of the temple incident), opting for the troublesome (Jesus's cry on the cross in Mark), and attention to background (Jesus's baptism in Mark 1, the four questions in Mark 12, and the prayer at Gethsemane).

The Old Testament in the New 43

To understand the use of the Old Testament in the New is to read the Old as it was read by the Jews of that era. This is crucial for understanding: Jesus's argument about resurrection, his rejection of divorce, his teaching about turning the other cheek, the meaning of "glutton and winebibber," of "the children of this age are wiser than the children of the light for their generation," of "they ate and were satisfied and took up what was left over," and of "the handmaid of the Lord."

Concerning the Reconstruction of the "Aramaic Gospels" 65

One cannot argue, as C. C. Torrey does, that the four gospels are straightforward translations of Aramaic originals. The Greek texts of passages in the gospels (oaths, divorce, a woman divorcing a man, the messiahship of Jesus, and perfection) all make sense in light of Rabbinic texts, and there is no need to emend the Greek as Torrey does when he assumes a translator misunderstood the Aramaic behind it.

SECTION 2: MESSIANIC TYPES

Joseph 91

The figure of Joseph does not seem to have been drawn on by New Testament writers, but see next item.

Appeasing or Resisting the Oppressor 93

A stratum in the New Testament brings out the dilemma of a collective that, to ensure survival, has to hand over a person to a reigning power. Jesus becomes a second Joseph whose handing over to the authorities saves his people. The Lukan Jesus in the Temple as a boy has features of Joseph.

Moses 119

Two legends about Moses may have influenced the notion of Jesus as a prophet without honor in his own country, and as sinless but taking on sin or being made a curse for others.

Samuel 123

Old Testament and Rabbinic legends about Samuel may have contributed to the Lukan story about the boy Jesus at the Temple.

Saul 127

In one Rabbinic tradition Saul is an ideal king and the writer of the Fourth Gospel may have set out the relationship between the Baptist and Jesus to resemble Samuel's relationship to Saul. Saul's hiding himself when he was about to be acclaimed king may underlie Jesus's flight from kingship in the Fourth Gospel.

Elijah 131

Jewish tradition about Elijah supports the Evangelists' use of "Blessed is He that Cometh in the Name of the Lord" (Ps 118:26) as a Messianic greeting. Elisha's action when Elijah dies and ascends into heaven underlies the incident at the death of Jesus when the veil of the Temple tears.

Ruth and Boaz 137

The Rabbinic understanding of Ruth influenced Luke's narrative about the annunciation and the Johannine version of the narrative about the feeding of the multitude. The meal that the redeemer Boaz gives to Ruth is the archetype for the feeding of the Messianic community by its redeemer.

Hezekiah 157

Hezekiah as a Messianic figure—he cleanses the Temple, is identified with Immanuel, and God forsakes him once—may illumine comparable incidents in the life of Jesus.

SECTION 3: LEGISLATIVE AND NARRATIVE FORMS

“Ye have heard—but I say unto you” 167

Jesus's pronouncements in Matthew about murder, adultery, etc., make use of a Rabbinic form of argumentation.

Principles and Cases 173

The proclamation of a general principle followed by a series of illustrations reflects a Rabbinic milieu. The terminology for such structures reveals how conscious the Rabbis were of the distinction, even employing it to interpret biblical narratives.

Eye for Eye 177

Jesus's teaching is not about retaliating literally when assaulted but about responding to an insult. His teaching preserves a pre-Talmudic stage of Jewish private law.

The Form is the Message 187

Directives from New Testament times (“One does” and “One does not” in the Mishnah, the Dead Sea Scrolls, and the New Testament) differ markedly from those in the Old Testament. Jesus's pronouncements about murder, adultery, oath, insulting blows, love of fellow-humans, and divorce use a mild form (“But I say unto you”). Bible and Talmud resort to different forms: the imperative in “Honour thy father and thy mother,” a medical form in Old Testament legislation, the “Stoic Ever” in the Talmud, and the Deuteronomic curses. Modern Wisdom has its own distinctive forms. Excursuses follow on oral communication, conscience in the Old Testament, and the self-understood.

Biblical Landmarks in the Struggle for Women's Rights 231

Formulations in the Bible of the law of adultery reveal progressive developments. Isaiah likens God to a woman. Some Rabbis champion women's causes. The apostle Paul sets out novel instruction about marriage to a heathen and about a woman's capacity to sanctify a man as a spouse. Jesus's dismissal of the woman taken in adultery is dependent on a Rabbinic method of dividing a biblical text.

Precept and Example 249

Jesus uses halakhic and haggadic arguments when responding to criticism about his disciples' plucking grain on the Sabbath, and when he pronounces on divorce.

Violence to the Kingdom	267
Rabbinic background illumines the difficult saying in Matthew and Luke about how the kingdom suffers violence.	
Terms for Divorce	281
Paul's terms for divorce are consistent with the Rabbinic terms. Mark has a problematic formulation about a wife's dismissing her husband. "What therefore God hath joined together, let not Man put asunder" has a specific sense in Matthew and Mark. The terms for divorce in the Synoptics and Paul do not follow the Septuagint's. Philo and Josephus have special features.	
Basic Commandments	289
In Jesus's pronouncement about what is the greatest commandment, Matthew omits "Hear, O Israel, the Lord is one" because it is not a halakhic statement. A few first principles can contain an entire religion, but each particular commandment can also have absolute and independent validity.	
Haustafeln	295
Tannaitic sources, the Sectarian Manual of Discipline, the New Testament, and the Didache use the participle to suggest the proper conduct that members of an exclusive group should follow.	
Public Retort and Private Explanation	307
New Testament and Rabbinic writers use the form (1) hostile question by outsiders, (2) retort, (3) question by disciples, (4) explanation.	
Socratic Interrogation	315
New Testament and Rabbinic writers use a form that accords with a Greek rhetorical rule: (1) question by an antagonist, (2) a counter-question, (3) the answer the antagonist is forced to make, (4) the refutation that becomes possible.	
The Last Beatitude	321
The last in Matthew's series of beatitudes has a form that, although longer and switching from the third person address to the second, accords with a well-recognized artistic, often liturgical form.	

#### SECTION 4: THE PASSOVER HAGGADAH AND THE NEW TESTAMENT

The Earliest Structure of the Gospels	329
The exposition of the Exodus story in the first century C.E. Passover Eve service influenced the earliest accounts of Jesus's life: the four questions in Mark 12 and the Massacre of the Innocents in Matthew 2.	
Four Types of Question	343
This item expands the previous one about the four questions in Mark 12. The Markan scheme has links with the questions put to Joshua ben Hananiah around 100 C.E. by the Alexandrians, and with the four questions in the Passover Haggadah. The three sources each has four different kinds of questions: wisdom or points of law, vulgarity (mocking the belief in resurrection), principles of the moral life, and questions of haggadah (those involving contradictions in Scripture).	

*Zukunftsmusik*: Some Desirable Lines of Exploration in  
the New Testament Field 353

The evidence that Mark is the first Gospel comes from: his vocabulary (*euthys*: at once, duly) and *parachrema* (forthwith), his use of precept and example (in his counsel about divorce and working on the Sabbath), his criteria in relaying how Peter copes with duress when he denies Jesus, and his purpose in setting out the four questions in Mark 12. Luke is distant from the traditional Judaism of the time but there is influence nonetheless. Enumerates problems that New Testament scholars should confront.

The “I Am” of the Messianic Presence 371

“I Am” means that the Divine Presence or Divine Redeemer is here. The Evangelists follow a Rabbinic model found in one source only, the Passover Haggadah, because the Rabbis reacted to the Christian use of it for Jesus.

Redemption 375

Social laws about the redemption of slaves influenced the story of the Exodus, which, in turn, influenced later formulations of these laws and the notion that God delivers from all distress. In the Old Testament, Rabbinic sources, and the New Testament the person redeemed becomes a slave to God. The Passover Haggadah is a major source of ideas about redemption.

Two Tripartite Forms 389

The form in some Gospel narratives—a revolutionary action, the protest that follows, and the silencing of the protestors—is popular and revealing. A related form—a mystifying gesture, a question put about it, and the interpretation given to it—plays a role in ceremonies, for example, a Passover Eve ceremony.

Chronology 411

Two Rabbinic exegetical rules, “There is no before and after in Scripture” and *seres* (the transposition of words in a sentence) may illumine the way the Evangelists arrange their material. A writer might present his material to convey theological or moral instruction at the expense of chronological accuracy. The Passover Eve liturgy illustrates what was possible.

A Supernatural Birth 421

By linking Deut 26:7 (“And he [God] saw our affliction”) to Exod 2:25 (“And God saw the children of Israel, and God knew”), the Passover Haggadah interprets the verse as pointing to a divine conception. Jewish interpreters may have viewed Moses’s birth as a supernatural one.

The Significance of the *Afikoman* 425

A broken off piece of unleavened bread, the *Afikoman*, at the Passover service represents the Messiah, the vital part of the people of Israel. The larger piece represents them. The ritual of the *Afikoman* illumines Jesus’s action with the bread when he says to his disciples at the Last Supper “This is my body.”

He That Cometh 429

This item expands the thesis in the previous item about the *Afikoman* and the origin of the Eucharist.

**Two Incidents after the Last Supper** 441

The Passover liturgy illumines Jesus's vow not to drink the fourth cup until the arrival of the Kingdom, the notion that death is the last enemy, and the strange incident at Gethsemane when the disciples keep falling asleep.

**A Prayer Pattern in Judaism** 447

Jesus's prayer at Gethsemane follows an established Jewish pattern: a declaration accepting death in love.

**Wine in the Bible** 453

The New Testament contains different pronouncements about the wine at the Last Supper, the original of which attributed to the wine a significance different from the one attributed to the bread. The Passover liturgy links the cups of wine to the idea of redemption. The drinking from a common cup at the Last Supper may have Messianic significance. The Passover liturgy illumines Jesus's vow in Mark about the wine.

SECTION 5: CONVERSION

**Conversion to Judaism and Early Christianity** 465

Jewish religion and Jewish peoplehood are co-extensive. The distinction between the sexes is fundamental in the history of the procedure for becoming Jewish and in bringing about Christianity's separation from Judaism. The procedure is traced from before and after the Babylonian exile. Conversion as a re-birth has profound effects. The nature of baptismal instruction has a history extending from the pre-Christian era to Talmudic times. There are problems in dating material. The post-biblical rule about the Jewishness of a child of a Jewess and a Gentile has a complex history. An excursus on the Book of Ruth follows.

**A Baptismal Catechism** 501

Early Christian catechisms owe much to Jewish baptismal instruction. The pattern of instruction, test, commandments, charity, penalties, and reward, is similar in Tannaitic sources and in the New Testament. The introduction of ritual can reflect advanced spiritual attitudes. Conversion means undergoing resurrection. Josephus's exposition of Judaism to the world at large reflects catechetical instruction preserved in the Talmud.

**The Burdened Convert** 529

Addresses the puzzle that while Paul's conversion made him newborn and hence no longer the person he was, he nonetheless suffers in conscience for persecuting the church in his pre-conversion state. Identifying with Miriam who failed to recognize Moses as God's chosen one, Paul hopes that like Miriam he will be forgiven by Jesus for his antagonism to him.

**Pauline Contributions to a Pluralistic Culture:  
Re-Creation and Beyond** 537

Rejects view that Paul was granted a dispensation to permit divorce between a believer and an unbeliever. The view fails to reckon with the notion of conversion as supernaturally ending the believer's previous life and bringing about a new being.

Expresses Paul's ethics as: all actions are licit but Christians must always ask if an activity (ecstatic speech, eating food offered to idols, unions prohibited by pagan law) contributes to their spiritual welfare and to the welfare of the community.

**Onesimos** 553

A slave who becomes Christian is no longer a slave, but is free because newborn. Paul anticipates that the outside world will not appreciate the doctrine of new birth, and in regard to the slave Onesimos he lays out the position in which the Christian slave finds himself.

**The History of Proselytising** 557

Opposes the view that the Rabbis are enthusiastic missionaries. Rabbinic attitude to proselytising is far from uniform. Few passages directly advocate it, there is no mass proselytising, and the place of the Noachian commandments in the Jewish system suggests a resigned attitude to the idea that large numbers of converts might be gained. Paul's abandonment of the Law for the purpose of gaining converts serves as a contrast.

**Missionary Maxims in Paul** 561

Paul takes over from Jewish teaching the two ideas that if believers wish to win over outsiders they must adopt the customs and moods of the persons they wish to win over, and they must humble themselves and become their servants.

**A Missionary Term** 575

A Rabbinic term that signifies both a person making a profit and God's gaining people whom he had previously cast away accounts for the use by Paul of a verb that signifies the winning over of an unbeliever to the Christian faith.

SECTION 6: CONCEPTS AND CONVENTIONS

**Rabbinic Authority** 585

The institution of Rabbinic authority exists in the time of Jesus. The designation "scribes" applies to inferior teachers, as opposed to scholars. Tannaitic utterances illumine the concept of "a new teaching with authority" as applied to Jesus.

**The Laying on of Hands** 599

In certain religious contexts there is a fundamental distinction between leaning hands as against placing them on a person. Leaning them has to do with the creation of a substitute and the transfer of spiritual and moral qualities. Placing them involves the use of a vital force inherent in the person's hands to convey a blessing or to effect a cure. In Rabbinic circles in New Testament times the leaning becomes restricted to the sacrificial cult and to the ordination of a Rabbi. In early Christian circles the leaning on of hands enjoys a wider application. Old Testament models are taken up and applied to the installation of Church officials.

**Disgrace** 617

The concept of disgrace permeates aspects of Pharisaic criminal procedure and affects thinking about bodily resurrection. Incidents to do with the death, burial, and resurrection of Jesus are to be understood in light of the first Christians' response to questions about the disgraceful nature of Jesus's end.

- Samaritan Women** 635  
 A Rabbinic decree to the effect that Samaritan women are menstruants from the cradle is important for understanding the correct meaning of the statement about the relationship between Jews and Samaritans in John 4:9.
- Two Aramaisms** 643  
 A Hebrew or Aramaic background may solve the puzzle about how in Mark and Luke a paralytic's bed could not enter a house "because of the crowd." The Greek may have mistranslated an Aramaic version of the story. A puzzling Pauline expression about believers in need of stability also makes more sense if the corresponding Hebrew or Aramaic is taken into account.
- Amen** 647  
 The use of "Amen" to open a statement and emphasize its truth and importance may not be as unique to Jesus as critics have argued. There is much in Jewish sources to illumine its use both in the New Testament and Jewish tradition.
- "I Speak After the Manner of Men"** 651  
 Contrary to Strack and Billerbeck's view, the phrase is technical with one definite meaning—an apology for a statement that, without the apology, is almost blasphemous. The phrase is not found in Rabbinic literature even though comparable apologies exist in it. The Rabbinic phrase "The Torah speaks after the language of men," which indicates that the Bible should be read as a human document, may have driven out from official literature the Hebrew or Aramaic equivalent of Paul's expression.
- Two Symbols** 657  
 The mark on the forehead of those to be saved at the end of time in Revelation is essentially the one that Ezekiel sees on the foreheads of those of his people in his time who are to escape divine punishment. The puzzle of the name Arepo in the magic square at Pompeii may yield to a solution if it stands for a combination of the first and last letters of the Greek alphabet. If so, the square is of Jewish-Christian origin.
- The Abomination of Desolation** 661  
 The grammatical irregularity in Mark's oracle points to a Rabbinic background where a deliberate ambiguity in syntax is used to convey a deeper meaning. Mark follows as closely as possible a Rabbinic analysis of the Hebrew term for "abomination" behind the Greek one. The Rabbinic terminology that leads to cryptic phrases of the kind that Mark uses influenced other New Testament passages.
- The Interpretation of a Generic Singular** 677  
 When Paul seeks to demonstrate that the land promised to Abraham's offspring specifically means Jesus, two haggadic views about Isaac and about the creation of man influence his thinking. The Rabbis find significance in whether a word appears in the singular, dual or plural form.
- The Sudden in the Scriptures** 683  
 The Old Testament applies the notion of the "sudden" to disaster and traces of it show up in the Dead Sea Scrolls and the Talmud. In the New Testament the idea of the sudden reflects inner experience about magical, supernatural occurrences and this notion becomes a universal one.

## SECTION 7: DISCIPLES

### The Offices of a Disciple 747

In the Talmud there is a general rule that a son or a disciple owes the duties of a slave, and some of these duties illumine the Gospel depictions of the Baptist as a disciple of Jesus.

### The Responsibilities of Master and Disciples in the Gospels 749

Addresses incidents in the Gospels where the outside world holds Jesus accountable for the actions of his disciples or, alternatively, holds the disciples accountable for his actions. Explores why the members of some but not other groups are treated as responsible for one another's conduct.

### The Authority of the Church and Private Judgment 763

Discusses the problem in Judaism of the individual's responsibility in relation to institutional authority: issues of fallibility on the part of the authority, responsibility for mistaken decisions by the authority, and a scholar's responsibility over against the lay person's. Examines the Talmudic tractate Horayoth with its many rulings on the consequence of a mistaken decision by recognized authority.

### Temple Tax 771

The teaching of Jesus about the payment of the Temple tax embodies the claim that he and his disciples constitute a special priesthood; points to the need for worldly wisdom in dealing with the authorities; and provides a model illustration of how to preserve one's freedom in an environment of deficient insight. The payment of Caesar's tax involves similar issues.

### Judas 783

Addresses the difference between Matthew's account of the end of Judas and Luke's, and why Matthew's came to be misinterpreted in later Church tradition. Uncovers parallel to Judas and Jesus in the relationship between Yakim and the crucified Rabbi Jose ben Joezer. Excursus follows on Strack and Billerbeck's misunderstanding of the ambiguity when Jesus responds with the words, "you say [it]" to Judas, the High Priest, and Pilate.

### Paul a Hellenistic Schoolmaster? 801

Counters the notion that the rod was not used in Jewish schoolrooms and that consequently Paul's metaphor about its use cannot reflect a Jewish background.

## SECTION 8: STUDIES IN LUKE-ACTS

### Inheritance in Two Lukan Pericopes 807

Discusses the legal implications in Rabbinic law when a co-heir, usually a brother living together with another in the family household, seeks a share of the father's inheritance before the latter's death; also the implications when the father himself chooses to pay off a son. The negative pronouncement of Jesus in one situation in Luke is consonant with Rabbinic morality even if the legal situation is unimpeachable. The parable of the two sons raises legal issues that parallel those in Talmudic law.

Shame Culture in Luke 817

In contrast to the Gospels of Matthew and Mark, Luke's reveals a concern with appearances and points to a milieu in which shame-cultural factors play a significant role.

A Reform in Acts and its Models 831

When accounting for the administration of the early Church, Luke draws directly on Old Testament and not on Rabbinic precedents. All the guidance that Israel had in the desert the Church leaders enjoy through its inspired leaders.

On Acts 23: Sadducees and Angels 841

The Sadducees believe in angels, but not in those angelic beings that the Pharisees and Paul claim to exist in some interim stage between death and the resurrection of the body.

“For they know not what they do”: Luke 23:34 847

Addresses the questions whether or not this prayer was in the original Luke, was on behalf of the Roman soldiers or the Jews, and has a basis in Jewish thinking of the time. Explores the excuses of ignorance in the sense of lack of information and ignorance in the sense of deficient insight, their overlap, and the social circumstances in which one or the other excuse might be justified.

Neglected Nuances of Exposition in Luke 857

Explores in parables found only in Luke conduct that is externally meritorious but inwardly flawed, and sees a tension, common at all times, between pragmatic assessments of actions and perfectionist ones. Wisdom elements combine with shame-cultural factors in Luke to give his gospel a distinctive bias.

Τρία μυστήρια κραυγῆς, Ignatius, Ephesians 19:1 875

The Greek phrase Τρία μυστήρια κραυγῆς does indeed refer to three cries (and not to the proclaiming of three mysteries). They are, specifically, the cries associated with Mary's virginity, her giving birth, and Jesus on the cross.

INDICES

Index of references 877

Subject index 917