

The Collected Works
of David Daube

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I. TALMUDIC LAW

Concessions to Sinfulness in Jewish Law

Those institutions in Jewish law—the monarchy, private ownership, slavery, marriage, polygamy, divorce, the law itself—that are authoritatively sanctioned on the one hand and radically condemned on the other.

Recht aus Unrecht

The, at first sight, bewildering realization that corrupt judges are sometimes responsible for brilliant decisions and jurisprudential breakthroughs. The phenomenon in Tannaitic sources.

Covenanting under Duress

The notion that the law is a second best and, in particular, that the Torah can be a load too heavy to bear. The circumstances that might have prompted R. Abudimi, a fourth-century Palestinian authority, to propound the extraordinary thesis that God threatened to drop Mount Sinai upon the Israelites if they did not accept the Torah.

Dissent in Bible and Talmud

Terminology for dissent in English, French, German, Greek, and Hebrew. An example from the Old Testament: the people's objection to living under divine rule in the time of Samuel; from the New Testament: Peter and his fellow-apostles' refusal to obey the Sanhedrin; from Rabbinic sources: why the Jews refuse to uphold their own rule about the majority principle in regard to pagan worship.

Limitations on Self-Sacrifice in Jewish Law and Tradition

The socio-political significance of certain distinctions (made explicit by medieval authorities but recognized in the Tannaitic period) about the denial of one's Jewishness in order to escape with one's life: denial in public as against denial in private, and denial by outright statement as against denial in an evasive way. The halakhic issues involved in the ultra-modern problem of organ transplants.

Collaboration with Tyranny in Rabbinic Law

Talmudic judgments concerning responses to demands from a heathen power when it asks for the surrender of a member of the Jewish community to be put to death, non-compliance entailing the extermination of the entire community. The importance of the distinction between a named person to be surrendered and an unnamed one.

Enfant Terrible

Public profanation of the name as the offence for which Honi the Circle-maker was put under a ban by Rabbi Simeon ben Shetah. The attitude of institutional authority to charismatics and the tendency in Jewish tradition to show that charismatics recognized such authority.

Johanen ben Beroqa and Women's Rights

The revolutionary nature of ben Beroqa's proposal that "Be fruitful and multiply" applied to both male and female (as is plain from the Genesis text). For women to be under the same duty to procreate as men would have meant an enormous liberalization of women in regard to marriage and divorce, something his contemporaries could not accept.

Historical Aspects of Informal Marriage

Talmudic attitudes to the traditional ways in which men acquired women as wives. Acquisition by intercourse alone, and the steps by which the Rabbis sought to discourage what was a time-hallowed, scriptural institution. The importance of the debate whether entry into the woman was sufficient to make her a wife, or whether ejaculation was also required. Raba's opting for entry only reveals his impressive concern with motive and disposition rather than with externals.

Extension of a Simile

Rab's dicta: "He who marries his daughter to an old man or he who takes a wife for his infant son or he who returns a lost article to a Gentile, about him Scripture says, "To join satiety to thirst—the Lord will not pardon him (for this act).

Origin and the Punishment of Adultery in Jewish Law

When and why strangulation rather than stoning became the mode of execution for adultery in Talmudic law.

Texts and Interpretation in Roman and Jewish Law

The interpretation of Roman law from around 450 B.C. to 200 B.C. and of Jewish law from around 1000 B.C. to 30 B.C. Why the extraordinary role of misinterpretation in Jewish law is of a different order from its role in Roman law. The conflicting modes of interpreting scripture by the Pharisees and the Sadducees and why Jewish law became statute-bound at an advanced, Hellenized, stage about 30 B.C.

Example and Precept: From Sirach to R. Ishmael

The bindingness of a precept over against that of an example in Pharisaic and Sadducean circles. A parallel in Rome (Sabinian and Proculian schools). Sirach's (early second century B.C.) use of a scriptural example to establish approval of physicians with R. Ishmael's School (second century A.D.) supplying a basis in a scriptural precept. Why a deeply religious culture can deny regulative force to examples held out by God.

Jewish Law in the Hellenistic World

Philo's knowledge of Hebrew. Jewish jurisdiction

under Roman control. When the Romans allowed some latitude and when they combated Jewish rules.

Principes Legibus Solutus

A Rabbinic source—the sermon at Rome by a delegation of Palestinian Jews in the reign of Domitian—throws light on the early stage of the development of the maxim that the emperor is above the law.

Derelictio, Occupatio and *Traditio*: Romans and Rabbis

The very similar response in Roman and Jewish law to certain legal constructions placed upon acquisition of an object abandoned by its owner.

Damnum and *Nezeq*

The similar developments in Roman and Jewish law in regard to the concept of damage to property: at an early stage economic damage only, at a later stage physical damage to the property itself.

The Civil Law of the Mishnah: The Arrangement of the Three Gates

The juristic skills underlying the codification of Jewish private law in the Tannaitic period and its separation from other parts of the Torah. The influence upon the codifiers of the pertinent biblical provisions, historical accidents (foreign pressure, limits imposed by Rome), and the impulse to be scientific and methodical.

Negligence in the Early Talmudic Law of Contract

The evolution of standards of contractual liability from Tannaitic to Amoraic law with particular attention to the liability of a depositor. The notion of negligence is of post-Tannaitic origin. Talmudic law is a system in movement, undergoing tremendous changes between 100 B.C. and 500 A.D.

Rabbinic Methods of Interpretation and Hellenistic Rhetoric

The indebtedness of Talmudic jurisprudence to Hellenistic rhetoric. The enormous contribution of Hillel: how his theory of the relation between statute law, tradition and interpretation, as well as his seven norms of hermeneutics, are in line with, and betray the influence of, the rhetorical teaching of his age.

Alexandrian Methods of Interpretation and the Rabbis

The Rabbinic mode of interpretation (*seres*) whereby a text that at first sight appeared illogical was made logical by re-arranging its parts. The origin of the method and its technical designation come from Alexandria. The method in question gave rise to the cento literature which enjoyed popularity up to three hundred years ago. The Rabbinic use of a word without *hekhrea'*: a word that must be read both with what comes before it and with what comes after it. The method comes from the Hellenistic treatment of Greek syntax, in particular, how to divide clauses in a sentence.

Two Cases of Hypostatizing

The device whereby a document from which parts are unfairly omitted takes up its own defence, speaks out and attacks the culprit. The device's use (e.g. by Simeon ben Johai) in the second century A.D. can be traced to rhetorical instruction.

Zur frühaltalmudischen Rechtspraxis

The various techniques used by the Samaritans and the Rabbis to modernize biblical law. Whereas the Samaritan bias was toward revising a text, the Rabbinic bias was toward interpreting.

The Law of Witnesses in Transferred Operation

The application of the law of witnesses in scholarly disputes; the use of the verb "to testify" in reference to a Rabbi enunciating rules; the law's influence on Rabbi Ishmael's hermeneutic rule in resolving antinomy; and its impact on the trustworthiness of the Septuagint as a translation.

Witnesses in Bible and Talmud

The false witness in the bible who is guilty of an attempted crime and the significance of the focus on false testimony in regard to utterances. The validity of the Pharisaic interpretation of the biblical rule that false testimony is punishable only if it failed as against the Sadducean one that it is punishable only if it succeeded; the Pharisaic position as a de facto abrogation of the old law. Women's testimony as unacceptable in the Rabbinic system. The Book of Susannah (about 100 B.C.) as advocating a legal reform to separate witnesses during interrogation. The extension of precepts about witnesses to areas outside their original domain: the enunciation of rules and practices; the hermeneutical rule in resolving contradictions between biblical verses; the genesis of the Septuagint. The legal reform of separation of witnesses as owing something to philological doctrine in the Hellenistic schools.

Three Notes Having To Do with Johanan Ben Zaccai

The linguistic peculiarity, the *pluralis sociativus ironicus*, used by ben Zaccai, in discussion with the Sadducees in order to mock them; elucidation of two aspects of ben Zaccai's action against a Sadducean High Priest.

One Against Ninety-Nine

The meaning of a Mishnah concerning the portion of the harvest for the poor has nothing to do with (as Schürer thinks) the functioning of the majority principle among the Rabbis.

The Rabbinic Treatment of "and he said, saying"

The infinitive, "To say," (*le'mor*), that is often attached to a sentence introducing direct speech. Its use infers a duty to comment on the speech in question.

Duty and Beauty

Rabbi Ishmael's solution to the problem posed by Exod 15:2, "This is my God and I will beautify him,"—how can man in his imperfection "beautify God" who is perfect? Ishmael treats an accusative as a dative and translates, "I will beautify to him." The grammatical device used probably belongs somewhere in Ishmael's hermeneutics.

Ecstasy in a Statement by R. Joshua B. Hananiyah

The strange expression "to be outside," *bahus*, is a Graecism, but it is a Rabbinic notion intended to

denote not ordinary madness, but the giving up of normality for mystic absorption. Joshua ben Hananiah, an eminent Greek scholar, was probably the first Rabbi to introduce the Hebrew word in the sense of ecstasy.

The Night of Death

Biblical and Rabbinic literature all avoid the Greek and Latin metaphor of "night" as "death." But there is one exception: Rabbi Simeon ben Johai, who was open to Gentile influence, used it to explain why Rachel was not buried in the same grave as Jacob.

II. NEW TESTAMENT JUDAISM

The New Testament and Rabbinic Judaism

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

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

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

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

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"

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.

Joseph

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

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

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

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

Saul

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

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

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

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.

"Ye have heard—but I say unto you"

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

Principles and Cases

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

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

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

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

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

Rabbinic background illumines the difficult saying in Matthew and Luke about how the kingdom suffers violence.

Terms for Divorce

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

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

Tannaitic sources, the Sectarial 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

New Testament and Rabbinic writers use the form (1) hostile question by outsiders, (2) retort, (3) question by disciples, (4) explanation.

Socratic Interrogation

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

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-rec-

ognized artistic, often liturgical form.

The Earliest Structure of the Gospels

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

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

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

"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

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

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

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

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 *Afkomian*

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

He That Cometh

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

Two Incidents after the Last Supper

The Passover liturgy illumines Jesus's vow not to drink the fourth cup until the arrival of the Kingdome, 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

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

Wine in the Bible

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.

Conversion to Judaism and Early Christianity

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

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

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

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

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

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

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

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.

Rabbinic Authority

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

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

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

A Rabbinic decree to the effect that Samaritan women are menstruant 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

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

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"

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

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

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

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

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.

The Offices of a Disciple

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

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

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

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

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?

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.

Inheritance in Two Lukan Pericopes

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

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

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

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

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

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

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.

III. BIBLICAL LAW AND LITERATURE

Biblical and Postbiblical Law

From its beginnings to the contemporary world, Jewish Law is an amalgamation of statutory and para-statutory provisions, commentaries on biblical and later codes, translations, monographs, *responsa*, legal documents, and inscriptions on various artifacts. Insights about Jewish law come from different forms of writings, language, theology, other disciplines, non-Jewish observations and comparative law.

Law in the Narratives

Explores issues about the relationship of law to religion. Assesses the history of some legal institutions and ideas by evaluating the role of law in biblical narratives (the brothers' deception in ridding themselves of Joseph, Jacob's service with Laban, Reuben's mandrakes, the failure of Moses to enter the promised land, and the story of the exodus). Distinguishes between law and legal thought in handling legal elements in sagas and legends.

Concerning Methods of Bible-Criticism: Late Law in Early Narratives

Rules about the release of slaves, adultery, individual responsibility, and hire of an object appear in the law codes but are adumbrated in earlier narratives. Important to distinguish between a source as a whole (the Yahwist's or the Elohist's) and the diverse elements that comprise it.

Rechtsgedanken in den Erzählungen des Pentateuchs

Not only do the law codes reveal the law of the times of the biblical authors, so too do the narratives. The latter sometimes tell us about an institution not in the codes (Leah's hire of a person [Jacob] as an object) and clarify issues in the laws (Reuben's responsibility for Joseph, and the brothers' sale of him). Often the narratives make use of legal ideas (the separation of the

Levites from family ties, Moses' seeing all of the land before he dies, and the redemption of the Israelites from Egypt). They may also reveal the limitations of the legal system or indicate how injustices are overcome (Jacob's acquisition of his father's blessing, his acquisition of a wife, Joseph's planting his cup in Benjamin's sack, Sarah's relationship with Abimelech, and Abraham's appealing the sentence on Sodom).

The Exodus Pattern in the Bible

The story of the exodus became a prototype for other biblical and post-biblical stories of liberation. The author wove into the tale the social laws and customs of his time, which the pharaoh flouted and God enforced. The story in turn influenced biblical laws relating to slaves and oppressed members of Israelite society.

Sons and Strangers

As a result of the struggle between the old republican order and the new monarchical one, a transition from non-hereditary (Mosaic) to hereditary rule (Davidic) occurs. Three major figures, Eli, Samuel, and Saul, each shares a desire to pass on his role to his offspring, but fails because an outsider proves worthier and, in fact, becomes recognized as such by the replaced holder of office.

“One From Among Your Brethren Shall You Set King Over You”

The puzzling requirement in Deut 17:15 that the Israelites are not to appoint a king over them who is a foreigner is a reaction to the story of the half-foreigner Abimelech in the Book of Judges. He, not the native Saul, was the first “Hebrew” king.

Absalom and the Ideal King

There is much more to the write-up of Absalom's life than has been hitherto recognized. One aim of the narrator is to depict Absalom as determined to usurp a ruler, his own father, David, because David leaves

a terrible wrong (his daughter's rape) unrepaired. Absalom, dedicated to justice, is to replace David, who is not. The origin of the term "widowhood" may be owing to circumstances where a wife can be without a husband even though he is still alive.

Lex Talionis

The various aspects of ancient legal systems are interconnected and criminal law and civil law are not so readily separated. The principle of compensation, as the extreme instance, the formula of retaliation, demonstrates, is found in the earliest period of biblical legal history. Punishment constitutes compensation in two directions: the criminal, by suffering punishment, makes restitution to the offended party, and, suffering punishment, receives his due.

Summum Ius—Summa Iniuria

Looks at the way in which the discrepancy between the letter and the spirit of the law comes to expression in some biblical narratives, when certain acts and words prove strictly binding irrespective of circumstances (Jacob receiving Esau's blessing, Laban marrying off Leah instead of Rachel, Jacob securing Laban's goats, his oath in the matter of Laban's idols, and his acquisition of Esau's birthright). In narratives that describe a resort to legalized self-help, in particular, the pursuit of a thief and the search of his house (Laban's pursuit of Jacob, Joseph's of Benjamin, and Micah's of the Danites), one of the parties in the dispute sometimes takes advantage of a formalistic principle of law.

Jacob's Reception by Laban

When Laban declares to his nephew Jacob, "Surely thou art my bone and my flesh," he is formally recognizing a tie of kinship. Later, however, when Laban says to Jacob who has come to stay with him, "Thou art not my brother, and therefore shouldest not serve me for nought," Laban is disavowing the tie and voiding Jacob's status in the family. As a result, Laban's offering a wage for Jacob to serve him is a mark of degradation. Jacob is now a hireling.

Fraud on Law for Fraud on Law

That aspect of retaliatory punishment where an offender's method of causing suffering is played back on him. Folk-literature, biblical and Greek sources provide examples of such analogies between crime and punishment.

Shimei and Örn: The Construction of a Restraint

The sophisticated way in which King Solomon interprets his father's, David's, deathbed wish to get rid of a subject, Shimei, who had proved subversive at the time of Absalom's rebellion against King David. A parallel to such overly formalistic interpretation occurs in an Icelandic saga.

Conflicting Laws

Later Jewish interpreters mostly deal with two con-

flicting rules in Scripture by distinguishing their fields of application. There is, however, another mode of harmonization, the claim that the two rules really say the same thing.

"If So"

Examines the terse way (by use of the words "If so") whereby in Jewish sources one authority makes another's position the premise of an inference or a question. The argument always concerns the relation of a position to a recognized teaching or practice—often Scriptural—thought, initially, to be in conflict with it. The one other application of the argument "If so" is the use of the *reductio ad absurdum*.

Codes and Cudas

The illogical arrangement of a code of laws can be due to a peculiar method of amendment. Those who add to an existing law place the addition not immediately after the law but as an appendix to an existing list. Five factors account for the process: inertia, undeveloped legal technique, writing on stone, oral transmission of the material, and respect for tradition. Those responsible for the additions treated various sections of the Book of the Covenant as complete units. Detectable in the additions is a tendency to move away from formalistic and rigid principles of evidence to more flexible ones.

Some Forms of Old Testament Legislation

Discusses the formal distinction between laws, the setting in life of which is meticulous secular jurisdiction, and laws, the setting in life of which is the necessity of controlling those regions that earthly justice cannot reach—morality, for example. Why the catalogue of offenses in Deuteronomy 27 carries a curse attached to each. A medical form shows up in legal rules because the priests controlled both medicine and law. In pointing to the proper way to behave, post-biblical rule-makers use the participle—in contrast to the forceful imperatives and imperfects of the Old Testament that express the direct word of God.

"I" and "I and Thou"

Explicates the use in various legal systems of personal statements to express a legal rule or an argument.

A Note on a Jewish Dietary Law

If we assume that historically milk-offerings preceded meat-offerings, the puzzling prohibition against boiling a young animal in its mother's milk can be understood as a demand to do away with the remnants of milk-offerings in the interests of solely presenting living sacrifices. Addresses why the prohibition is a sacrificial rule in one code but a food rule in another.

Error and Accident in the Bible

Contrasts how acts performed in error receive enormous attention in ancient literary sources whereas accidental acts receive little. Notes the frequency of acts performed in error in real life, the checkered

process by which lawgivers handle them, and why they receive more attention in rules involving sacred offenses.

Sin, Ignorance and Forgiveness in the Bible

Distinguishes between knowledge as information and knowledge as insight, and notes when ignorance or error excuses a wrong. Unwitting transgression of the sacred sphere presents peculiar problems. Tendency in the Bible is to pay more attention to lack of information as a mitigating factor in assessing wrongdoing. Where sin is thought of as due to a lack of understanding, the conclusion is rarely drawn that it be excused.

Error and Ignorance as Excuses in Crime

The ancients showed profound insight into mental states despite the fact that their laws often take account of externals alone. Traces the gradual opening up of the laws to mental states. Draws attention to the kind of ignorance indicated by a phrase like “they know not what they do,” and to the distinctive ways Socrates and Judeo-Christian tradition treat such ignorance.

Direct and Indirect Causation in Biblical Law

The ancients are not deficient in comprehending the complications surrounding indirect causation. Statutes do not go beyond the narrowest causality because when causation is indirect legislators are deliberately cautious on account of problems of evidence. There is a correlation between direct causation and presence of intent and between indirect causation and absence of intent. The earliest biblical private laws about damage to property exclusively contemplate damage indirectly caused. The role of the causative in language shows that the ancients were fully alert to the nature of causation. Excursus follows on the disquieting clause in Exod 21:13 that God caused a homicide.

Word-Formation in Indo-European and Semitic

The formation of words in Indo-European and Semitic languages reveal major differences. Indo-European languages allow, but Semitic languages do not, prefixing, suffixing, and compounding that prove useful in furthering analytical thought. Semitic languages go in for modifying the verb and this process lends itself to profundity of thought. The role of the causative in Hebrew reveals the latter development and it may be no accident that early biblical narratives are so taken up with indirect causation.

A Scholium on E.B.I.'s *Towards an Indigenous Church*

Examines the influence of contemporary American culture on modern translations of the Bible. The process of translation appears in a number of biblical narratives (accounts of Joseph, Hezekiah, and Esther). The problem with Moses' speech is not that he had a special defect but was deficient in rhetorical accomplishment. Comments on the role of Aramaic in the Gospels; on problems of language at the trial of Jesus;

on predicament of keeping alive an ancient work in a foreign language, and potentialities of African languages for the task.

Suddenness and Awe in Scripture

How a basically neutral word (*qara'*) for what comes someone's way tends to take on an unfavorable sense. In the early parts of the Old Testament the adverb “suddenly” attaches to a misfortune or the threat of it. When later, in the New Testament, for example, there is a loosening of the tie between suddenness and catastrophe, the sense of mystery and awe attaches to the term “sudden” and it can denote the miraculous. Examines the Greek concept of *peripeteia* (reversal of fortune).

Perchance to Dream

In Hebrew, “to have intercourse” is not among the meanings of “to sleep with.” That sense is found in Egyptian, from pre-Old Testament times. It is not in the *Iliad* but is in the *Odyssey*—and very much so in the Septuagint. And it is in Latin from the middle of the last century B.C.E.—ready for the Vulgate.

Communal and Individual Responsibility

When a community is tainted by and answerable for an offence committed by one of its members; when a community is punished, not as responsible for an individual's offence, but by way of punishing its ruler; when an individual is held solely responsible for an offence. Communal merit, not individual responsibility, sometimes replaces communal responsibility. Touches on the family curse in Greek literature and the concept of original sin in Christianity.

A Modern Synagogue Sermon

Examines the *Sidrah*, the portion of law to be read in the synagogue on the Sabbath, about Joseph's conviction of Benjamin alone for the theft of his cup. Why the Rabbis liked to end an interpretation or a tractate on a happy note. Affirms the importance of the notion of individual as against communal responsibility.

Wine in the Bible (Part I, Drunkenness)

Assesses cases of drunkenness from Genesis to Judith and notes that the drunk harms himself and not someone else. Wisdom texts are especially pertinent to understanding the attitudes revealed in some dozen instances of drunkenness.

Death as a Release in the Bible

An individual's death can be a release from an immediate, fearful threat of a dishonorable death; or come as a consolation when it is united with another's death; or be a deliverance from a burdensome life on account of disease, misfortune or indifference to life's pleasures.

Ahab and Benhadad: A Municipal Directive in International Relations

A Deuteronomic rule about the need to preserve appearances in a relationship between a creditor and

a debtor illumines the nature of the dishonor that an Israelite vassal, Ahab, experiences at the hands of King Benhadad. Benhadad switches from requiring Ahab to hand over objects as pledges plus members of his household as hostages to demanding that his officers themselves enter Ahab's palace to choose the pledges and the hostages.

What Price Equality? Some Historical Reflections

When women, slaves, plebeians, and children attain equality there are losses, added duties and restraints. Reflects on the phenomenon of unwanted salvation, the interaction between one who rescues against another's wishes and the latter's putting up with a painful benefit.

Unjust Enrichment: A Might-have-been

Biblical examples of objectionable withdrawal of an asset or unfair withholding of it occur in: Exodus 5 (forced labor); Exodus 21 (a rule about a concubine); Leviticus 27 (the gift of land to priests); Numbers 9 (a share in the Passover); and Numbers 27 and 36 (the passing on of a deceased's name and property through a daughter). Unlike the biblical picture, commerce dominates the view of unjust enrichment in Roman private law. Aristotle's thinking illumines the language of the Septuagint on the topic.

Civil Disobedience in Antiquity

Surveys non-violent civil disobedience in Greek, Roman, and biblical sources with the aim of demonstrating that there is hardly a variety of civil disobedience today that is not anticipated by the ancients. Singles out disobedience by women, children, slaves, prophets, philosophers, religious minorities, and aspirants to statehood.

Enkidu

The story of Enkidu in the epic of Gilgamesh supports the interpretation of the story of Adam and Eve as a rise, via an act of disobedience in a higher cause, from a primitive animal state to a condition that characterizes humankind as gifted with understanding. Only the clash with the god(s) in Genesis is lacking in the Gilgamesh epic.

Three Footnotes on Civil Disobedience in Antiquity

Fables and Athenian comedy provide insight into civil disobedience by juniors, and the topic of unwanted salvation. Compares twentieth-century Jonestown massacre in Guyana with the nineteenth-century British action at Balaklava in the light of Philo's defense of the Jews preparing for communal suicide in first-century Judaea.

Ancient Hebrew Fables

Fables in antiquity function as secret communication among the oppressed, or serve to communicate in an agreeable way a request to a superior. Assesses three

fables in the Old Testament, the question why there are none in the New Testament, and looks at six of some three dozen in Rabbinic sources, which lack precursors in other literatures.

Nathan's Parable

Parable is not originally composed for David's adultery with Bathsheba, but for Saul's treatment of his daughter Michal.

More about Michal; or the Goose and the Peacock

The stories about Hippocleides (Herodotus), the Buddhist Jatakathavannana, and Michal's contempt for her husband (2 Samuel) share a common motif: a monarch, his daughter, and a gifted seducer who wins her hand but disgraces himself dancing.

A Quartet of Beasties in the Book of Proverbs

Links to matters relating to the court and the military in Genesis–2 Kings four proverbs about the ant and a regular supply of food, the safe domicile of the cony, the locust's capacity for war, and the lizard's triumph despite bodily shortcoming (Prov 30:24–27).

Ancestors in the Mist

Fundamental ideas about conflicting freedoms and diverse forms of government in Greek and Western sources (Aristotle, Plato, and the American Constitution) derive ultimately from Near Eastern and Mediterranean cultures. Similar ideas in the Bible (in the fables involving Gideon and Balaam) also owe much to these cultures, for example, the classic relationship between king and prophet. Terms for "covenant," "pact," and "bond" are pertinent to how theories of social contract developed.

Gideon's Few

Addresses the puzzle in Judg 7:2–8 about the drinking test to identify the fiercest warriors. The 300 men who lap like dogs remain to fight because the test functions like an oracle anticipating victory over a foe. To lap like a dog symbolizes a lapping of the enemy's blood.

Metaphor

How later Rabbinic authorities dealt with metaphorical phraseology in semi-legal biblical pronouncements.

Allegorizing

In interpreting biblical rules Aristeeas, Philo, and the Rabbis use allegory to derive a deeper layer of meaning from them. The derived meaning does not form part of the legal edifice although it might convey a principle of conduct. Crucial to the enterprise is the belief that the biblical sources have a supernatural origin. Unlike re-interpretation allegorization does not, on the whole, reject the outer meaning of a precept.

Über die Umbildung biblischen Rechtsgutes

(1) The mark on the foreheads of those who will not be punished in Ezekiel's vision mirrors the use of mark-

ing fugitives who are to be granted asylum. Ezekiel's mark (*taw*), which is not original to him, has uses in other parts of the Old Testament, and may have influenced the writer of the Book of Revelation. The mark survives down through the centuries, and the Christian use of it has influenced the Cabbalists. (2) At a pre-Mosaic stage, the penalty of *kareth* may have consisted in castration. In the Bible it means rejection by the community or by God. In later Jewish tradition it can mean childlessness, or shortening of the life span originally laid down by destiny, or exclusion from future life. (3) Discusses the relatively sophisticated arrangement of the rules in the tractate of the Mishnah, *Baba Kamma*.

Two Jewish Prayers (Part I, Cain)

The first person to pray in the Bible is Cain. Addresses the puzzle why Cain who is condemned to a life of vagrancy becomes the founder of the first city. Compares the Gideon cycle of stories with the story of Cain.

The Last Chapter of Esther

The levying of a tax in the last chapter of Esther, far from being an obscure, anti-climactic ending to the story, enshrines a profound and fitting conclusion. A government has more to gain from orderly taxation than by giving over the Jews to massacre and indiscriminate plunder.

Ahasver

Addresses the puzzle why, the biblical Ahasverus being a pagan, the Wandering Jew is called Ahasver.

Esther

The primary aim of the Book of Esther is to persuade the non-Jewish authority to grant a niche to the Jews in its constitution. The ubiquity of the Jews and their separateness serve to make them intelligence gatherers, trustful counselors, and good traders. The absence of religion from Esther is but skin-deep. The clue to the book's structure is found in 1 Esdras with its debate about what is the strongest force in the world. The element of mockery in Esther is consistent with a style of free speech cultivated in Oriental and Hellenistic life and letters. Touches on problems of the gulf between the canonical Esther and the later Additions, and how a work in Hebrew is intended to influence outsiders. Identifies negative aspects of the three women Vashti, Haman's wife, and Esther.

Judith

The Book of Judith stands opposed to the Book of Esther in condemning a Jewess like Esther who, engaged in a higher cause, sleeps with an enemy leader. A Hebrew woman's dignity is to be upheld at all costs even if other high values can be disregarded in times of national emergency. Judith radically opposes Israel's foes and encourages unrestrained warfare. Conversion to Judaism, in the person of Achior, is a major element in the story of Judith whose portrait

is sketched in response to previous biblical figures (Simeon, Rahab, Jael, Deborah, Barak, Ruth, and Esther).

Jonah: A Reminiscence

Praises the book's universalistic character, its derivation of human rights from God's treatment of the Gentiles, its sympathy for human beings' fundamental lack of understanding, its handling of Jonah's reversal of sacred values, its subtle feminine dimension, and its unique treatment of divine generosity.

“Zeig mir den Weg, den ich gehen soll”

Opposes expurgating the violence from the Psalter. The use of a psalm in the Book of Jonah does not change secular meaning into religious, as often occurs when a sacred work is re-interpreted, but metaphorical meaning into literal.

Reflections on Job and Greek Tragedy

Sophocles' tragedy, *Philoctetes*, and the Book of Job share a community of ideas on ultimate questions. Addresses the view that Job was not Jewish.

Jehovah the Good

The Chronicler omits much of the story of Hezekiah's illness in 2 Kings and Isaiah because of his aversion to medicine. He substitutes for Hezekiah's illness and recovery the more elevated, spiritualized institution of a second Passover.

A Second Chance

The idea of a second chance shows up in a number of biblical rules (observance of the Passover, inheritance of daughters in the absence of a son, and an alternative to a standard cultic offering). The idea also appears in a number of biblical narratives (the new world after the flood, the tablets of the law, and Hezekiah's reprieve).

La Femme dans le Droit Biblique

Discusses a double standard in the treatment of Sarah's and Bathsheba's illicit unions; the position of women in a bilingual marriage; the role of Naomi as a foil for the author to introduce novel legal ideas in regard to marriage. Counters certain arguments about an incest rule involving Moses' parents, about Samson's marriage, about David's to Michal, about the suspected adulteress, and about the levirate custom in Ruth.

Consortium in Roman and Hebrew Law

The levirate marriage described in Deut 25:5–10 presupposes a situation where the father is not alive but brothers remain together to enjoy the inheritance in common. The Roman institution of *consortium* is comparable, and so too are the dwelling together for a while of Abraham and Lot and Jacob and Esau. Contrasts the punishment of disgrace imposed on the unfaithful *consors* with the use of infamy in Roman sources to control general moral conduct. The ingenious method of dividing joint property, *maior dividat minor elegat*, may have a history going back to the ancient Orient.

The Talmud preserves a remnant of the ancient institution of the biblical *consortium* when each member of a certain kind of partnership is regarded as having full ownership of the joint property.

Repudium in Deuteronomy

The role of shame in the biblical prohibition against renovating a marriage is reminiscent of the notion of *repudium* in Roman sources.

The Return of the Divorcee

Examines the unique prohibition against a woman's returning to her first husband after being with a second husband who divorces her or dies. Looks at examples in history and literature of women who return to their first husband after a lapse of time.

Old Testament Prohibitions of Homosexuality

Unconcerned about other types of homosexual conduct, the biblical prohibition in Leviticus focuses on anal intercourse.

The Duty of Procreation

The Bible nowhere enunciates a duty to produce children. Sketches the history of the topic from the lack of a duty in biblical sources, to the development of the duty in classical antiquity, to its reception by the Rabbis and the Church Fathers. Raises the issue of when, and why, in the history of western civilization, benefits perceived to be blessings eventually turn into duties.

Bar Kappara

Insight into the refusal to grant Bar Kappara rabbinic ordination comes from his argument about Sarah's view of Abraham's impotence.

Embrace in the Old Testament

Takes stock of the nature of embrace in the Old Testament, and addresses the puzzling statement in Jer 31:22 about how in a new age a "female will enfold a man."

Orpah

The negative assessment of Orpah in the Book of Ruth in both Jewish tradition and contemporary commentaries may be wide of the mark because her kiss may succinctly express depth of feeling. Compares the pair Ruth-Orpah with the Sophoclean pair of sisters Antigone-Ismene.

Addendum to God or Goddess

Points to female substitutes for a male God in the Jewish, Christian, and Islamic religions.

To Be Found Doing Wrong

That form of legislation in which the word "found" occurs in English statutes and notices points to offenses whose essence is their momentary character (trespassing, vagrancy). The quite different use of "found" in four statutes in Deuteronomy is due to that code's concern with disgraceful appearance resulting from a crime.

The Culture of Deuteronomy

Brings out the shame-cultural dimension of Deuteronomy and sets it alongside the role of God as the internal voice of authority representing guilt. Links the emphasis on shame to a setting in which young men, receiving counsel in wisdom, seek to please upstanding members of society. Sets out two forms of legislation peculiar to Deuteronomy.

IV. ETHICS AND OTHER WRITINGS

The Contrariness of Speech and Polytheism

Fundamental rules in ancient codes of law are frequently absent because they are so taken for granted as not to need spelling out. Everyday language illustrates the same phenomenon. Like law in ancient codes, language is a mirror that distorts reality, the large becoming small and the small large. The coinage of words depends on the remarkable catching our attention—with the consequence that the unremarkable remains unspoken.

Jewish and Roman Philosophies of Law

Discusses criteria for distinguishing between a religious system of law and a secular one. Contrasts the social thrust, argumentation, presentation, and religious dimension of private Jewish law of the Hellenistic and Talmudic periods with Roman Law of the pre-classical, classical and Justinian periods (between 250 BCE and 550 CE).

Standing in for Jack Coons

Illustrates from Roman Law (in the time of the Principate) how and why abstract terms (consensus, unlawfulness, loss) first came into use: the abstract or general remains unremarked upon because attention has been taken up with concrete matters. Expands his inquiry to consider how concepts of "time" and "space" first arose. Explains why when money was introduced gift-trade became regulated and subject to official adjudication. Outlines the process by which he discovered the origin and meaning of the Humpty Dumpty nursery rhyme.

Black Hole

Probes why suicide is alien to those who, in Greek and Hebrew antiquity, express much more radically than simply a wish to die, which often leads to suicide, the wish never to have been born. The wish never to have lived presupposes a looking back on one's overall past

and involves more sophisticated reflection than does the wish to die.

The Term Suicide

Argues that the key figure in the creation of the word "suicide" is John Donne who in the seventeenth century claimed that in certain instances it might not be wrongful to kill oneself. The traditional words for the act were inadequate and Donne coined "self-homicide." Walter Charleton, in his translation of Petronius's *The Ephesian Matron*, introduced the word suicide by way of mocking Donne's position.

The Linguistics of Suicide

Attitudes to suicide as reflected in the language used to speak of it; from neutral expressions in the ancient world, to harsh ones in the middle ages, to softer ones with the advent of humanism. Ancient Greek pervades modern ways of talking about suicide. Uncovers the bizarre origin of the word.

On the so-called Dispute over Suicide

Addresses problems in an Egyptian text of the third millennium BC. about two parables, one of which laments lost children and the other reflects (possibly) on a man considering suicide.

On an Incomplete Review

Corrects the mistaken account in the *Proceedings of the British Academy* 74 (1988) concerning the flight from Vienna of the medieval historian Walter Ullmann in 1938. Dissuading the latter from suicide, Daube recounts his role in bringing Ullmann to Cambridge and also some forty to fifty persons to England during the Second War World.

The Moment and the Flow of Time

Looks at the differences in the attitude to time or the effect of it. Explores the contrast between acting on the spur of the moment versus acting or reacting while conscious of previous occurrences. Reflects on how Greeks and Hebrews rate transient events (a suicide) over against how they assess the previous flow of time (a wish never to have been born). Examines words such as "time," "a patient," different art forms, and trends in science.

God's Moral Demands in the Old Testament

Argues that it took people a considerable time to realize that moral demands come from God, considers the rational character of the moral demands laid down in the Old Testament, and stresses that the latter sees the ultimate source and basis of all moral demands in the Divine Will.

Law in the Old Testament

Cites the reasons why it has had such lasting impact: its high moral content, its range combined with a bewildering disorder in how its rules are presented, and its special appeal to the individual conscience.

Law in the New Testament

Argues that the move away from literalism beginning with Jesus (and Rabbinic contemporaries) in interpreting Old Testament rules led to an increasing appeal on the part of his followers to his ways and conduct rather than to normative texts. The development reflects a perennial debate as to which is more preferable and effective, precept or example.

Bible and Talmud in Modern Judaism

Spells out the differences between the observant and the liberal branches of Judaism as flowing from their different understanding of the notion of revelation.

Forgiveness in Judaism

Details the understanding of forgiveness in Judaism: from passages in the New Testament that Rabbinic sources cast light on; passages from Talmudic literature which have had a great influence on the development of the concept of forgiveness; and from medieval notions, especially those found in liturgical texts. Looks at some modern trends in Judaism.

Some Remarks on the Prophet of Doom

Why this kind of prophet has, in some measure, an easy task, why he is so disliked, why he often wishes his predictions to come true, and why his actions border on civil disobedience. Appends a note on the origin of the term "filibuster" and its connection with civil disobedience.

The History of Rhetoric

Traces the history of the treatment of speech as a branch of scholarship and instruction from its rise in ancient Sicily down through the centuries (Korax and Teisias, Protagoras, Rhetoric of Alexander, Aristotle, Antonius, Cicero, the Church, the decline of disputations in the sixteenth century, and the interest in debate in the English Parliament in the 19th century).

Greek Forerunners of Simenon

Explores ethical and legal issues in Greek mythology. In taking up similar issues in his plays, Sophocles reveals familiarity with the rise of forensic science, the new craft of rhetoric for dealing with crimes that, on account of mitigating factors, are far from straightforward. The new way of exploring wrongdoing, in which extenuating factors begins to play a major role, is a product of the problems thrown up by the political turmoil in Sicily around 500 BCE and the trials that followed. The changes in substantive and procedural laws in the wake of these trials made possible the composition of, in effect, the earliest detective story.

Freud on Greek Theogony

Freud derived the idea for his castration complex from a misreading of the Greek sources. Contrary to what he claimed, there is not a single instance in antiquity where a father castrates a son. There are many instances, however, where a son castrates a father. Rather than castrate their sons, fathers in ancient

literature tend to kill them. Although it has been taken up with enthusiasm, the idea of the castration complex is consequently problematical.

Castration

Why ancient sources give no support to the Freudian notion that fathers seek to castrate their sons; outlines a brief history of circumcision and how its use may contribute to fear of castration.

Counting

Discusses texts, especially the story of how Aesop came to be released from slavery, where counting apples stands for erotic enumeration. Suggests that Balzac's retelling of the story about Aesop's release, which had disappeared in the Middle Ages from the common version of the life of Aesop, comes from oral tradition.

Ovid's Sexual Frankness

Argues that in his *Ovid; a Poet between Two Worlds*, Hermann Fränkel's own cultural milieu makes him fail to realize the true quality of Ovid's sexually frank language.

The Finale of Horace's 'Satire' 1.4

A line in Horace alludes to a doctrine among Jewish proselytizers of the time: the Jews constitute the majority as far as religion is concerned. Forming a single body throughout the world, they are superior to any other collective because each of the latter is riddled with dissenting views and factions.

The Mediocrity of Celsus

Quintilian describes Celsus, who lived in the reign of Tiberias and composed an outstanding medical treatise, as *vir mediocri ingenio*. Contrary to a common view, the phrase does not mean that Celsus was a person of ordinary abilities but refers to his versatile capacity to contribute to different areas of knowledge.

On Burning of Books in Antiquity

Explores some of the reasons for the burning of books recorded in biblical, Chinese, Greek, Roman and Talmudic sources.

Josephus on Suicide and Liability of Deposittee

The concept of the soul or life as a deposit supports the view that in Jewish Law at the time of Josephus there was, for the guardian of a deposit, no liability for negligence. The deposittee could nonetheless be liable for a breach of trust. It is important to distinguish between the notion of the soul as a deposit of God with a duty to guard it as against a loan from God with a duty to use it. There is some evidence in biblical and Talmudic sources for the idea that a person deposits his spirit with God.

'I believe' in *Jewish Antiquities* xi. 237

Josephus's retelling of the story of Esther is colored

by his view of himself as a latter-day Esther. In dealing with "time-spanning sacred events," he also sees himself as a latter day Joseph.

Three Legal Notes on Josephus After His Surrender

Vespasian authorizes rather than commands Josephus's marriage. Josephus releases without ransom some 190 women and children from the ruins of the Temple in order to make them free persons, not just freed from bondage. In the aftermath of the destruction of the Temple Josephus goes out of his way to emphasize that his bride is a virgin because of the general rule that all the women in a city stormed by an enemy become unfit for priestly marriage.

Typology in Josephus

The transfer of features from the past to the present is commonplace in Scriptural and Rabbinic writings. Josephus, however, also manifests the reverse phenomenon when he incorporates into his retelling of biblical events and personages aspects of incidents and people in his own time. He so colors Old Testament figures (Jeremiah, Joseph, Daniel, Esther and Mordecai) by lending them his own traits that he creates a place for himself in salvation history. The negative assessment of Josephus by his co-religionists down through the centuries is not justified.

Human Rights: the Rabbis, Philo, and Josephus

Looks at vocabulary about human rights and sketches what Josephus has to say about what a Jew owes to any fellow human. The Rabbis and Philo seek to defend God against charges of discriminating against persons or groups and against the arbitrary treatment of accused persons. Fundamental claims about fairness transcend barriers of race and culture. Discusses the case of a slave who escapes from prison and some aspects of prison breaks in general; laws that are specifically designed to safeguard a person's dignity; and the right to die.

Heine's Belshazzar

Heinrich Heine's deviation from Scripture in having the king of Babylon and his guests blaspheme God is traceable to Josephus's interpretation of the incident. The latter is concerned not to give the Gentiles cause for anger should, as in the Bible, carousing (without blasphemy) before a god bring condign punishment.

King Arthur's Round Table

Notes how frequently the transfer of an idea or symbol to a different setting creates a measure of awkwardness. The idea of parity among the knights at King Arthur's Round Table derives from the legend about the Delphic Oracle's counsel concerning the ranking of the Seven Sages of Delphi. While the idea works perfectly for the ancient sages at Delphi, there is a problem at the King's table precisely because he is present in a superior capacity.

The Finale of the Summoner's Tale

The gross humor of Chaucer's story is a burlesque of the first Christian Pentecost in Acts 2. The story employs the idea of a circle having neither beginning nor end and also celebrates genuine justice.

Rabelais as Hebraist

While much attention has been devoted to the language of Rabelais, Rabelais as a Greek scholar, a Latin scholar, an antiquarian, a geographer, a philosopher, a theologian, a lawyer, an architect, and a doctor, almost none has been given to his standing as a Hebraist. "What view did Rabelais take of the value of Hebrew?"; "What use did he make of the Old Testament?"; "What was his attitude in regard to Jews?" and "How much, if any, Hebrew did he know?"

Shakespeare on Aliens Learning English

Reflects, through the prism of Shakespeare's works, on the problems of the English language faced by refugees, foreigners, persons from regional parts of England, pedants, users of slang or vulgar language, and lovers. Discusses those plays in which there is no acknowledgement that different nationalities speak different languages.

Schlegel and Shakespeare

A spoof to suggest that Schlegel, not Shakespeare, is the author of the plays.

The Date of The Birth of Merlin

Finds support for dating the play *The Birth of Merlin* in the reign of James I by noting how a pun on the name Britain may allude to events in 1604 when James I was proclaimed "King of Great Britain, France and Ireland."

Three Notes on Paradise Regained

Milton grasps the essential features of the Temptation narrative in the Gospels, as they are understood in the critical scholarship of the twentieth century. At the same time, he incorporates into his retelling of the biblical texts his own personal experiences. Milton, like Matthew, changes the order of the three temptations as found in Luke. In doing so, he radically alters Luke's third temptation. Milton's ideal of the magnanimous man as applied to Jesus inspired the climax of a speech by Fiesko in Schiller's tragedy.

Nursery Rhymes and History

Interprets a number of nursery rhymes (Ba, Ba, Black Sheep, Jemmy Jedd, Georgie Podgie, Humpty Dumpty, Dr. Foster, Ride a Cock-horse, and Maikaefr, Flieg) in light of social customs, historical events and movements.

Transplantation: Acceptability of Procedures and the Required Legal Sanctions

Discusses ethical and legal problems surrounding the transplantation of organs: definition of death, inviolability of the body, disfigurement, surgery as a lawful infliction of harm, and consent.

Sanctity of Life

Examines the topics of euthanasia, abortion, actions on account of wrongful life, and the cost of expensive medical procedures.

Organ Transplants: Cannibalism, Consent, and Control

Looks at issues concerning the transplantation of organs from a corpse (how it differs from cannibalism), transplantation from a living donor (exclusion of minors and prisoners as donors, problems of donees), exclusion of a donor giving an organ when it means the donor's choosing to die for the donee, the definition of death, and the use of a corpse to save a Roman soldier's life.

Legal Problems in Medical Advance

Reflects on experiments with live fetuses and with living persons (especially exceptions to informed consent); and highlights the maxim "out of sight, out of mind" as it applies to problems concerning the transplantation of organs and mutilating penalties in criminal law systems.

Genetic Problems

Discusses the possibility that in the future, because of test tube babies, there will be no parents and no children in our sense, and counters some of the scruples that are expressed against such an eventuality.

Medical and Genetic Ethics: Three Historical Vignettes

Discusses Rabbinic views on telling a patient the truth about his medical condition (with excursus on the conversation between Elisha and Hazeal about Benhadad's end); an ancient view of the risk of congenital defects; and attitudes to overpopulation in the Irish legend of The Life of Saint Gerald.

Medical Law and Morals

Technical manuals reveal Greek physicians' awareness of their powers and responsibilities. Horace's manual on poetry and Quintilian's on rhetoric set out the mechanics of their respective arts and the requisite qualities of their practitioners. The structure of these two manuals derives from the medical literature of their time when profound reflection goes into the treatment of a patient. Discusses why it might be acceptable for anyone at any time to kill oneself to help another. Argues for and against professional secrecy, why a concern with privacy is not found in Jewish writings, and comments on the role of secrecy in contemporary American society.

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