CHAPTER ONE
JUDGES AND THEIR QUALIFICATIONS

1. The Law of Judges

The Qumran legal system was both detailed and complex. If our texts do not fully reveal this complexity, it is probably because in the period which they represent, the application of the law was primarily entrusted to judicial discretion. For this reason the courts occupied a central place in the sect, dedicated as it was to exacting conformity to its perception of Jewish law.

In order to ensure the correct application of the law, the sect insisted that its courts conform to specific regulations regarding the number of judges constituting a court, the composition of the courts, the selection of judges, their terms of service, and their minimum and maximum ages. These laws are brought together in CDC 10:4-10:

And this is the rule of the judges of the congregation, up to ten men, chosen/1 from the congregation/2 according to the time, four of the tribe of Levi and Aaron,/3 and from Israel six, learned/4 in the Sefer He-Hagu/5 and in the teachings/6 of the covenant, from twenty-five years old to sixty years old. But let no one over sixty years old take his stand/7 to judge the congregation. For because of man’s transgression,/8 his days/9 diminished, and because of God’s wrath/10 with the inhabitants of the earth, He decided to remove/11 their understanding before/12 they complete their days.

The text before us outlines the basic structure of the sectarian court. It is to consist of ten chosen men, four of the tribe of Levi and Aaron, and the remainder Israelites. All judges must be conversant with the Sefer He-Hagu and with the teachings of the sect. Judges must be between twenty-five and sixty years old when appointed and must retire at sixty. Further, the passage provides an explanation of the upper age limit set. We are told that as a result of man’s transgression, his life span was reduced, and senility was to set in before the end of his life.
2. The Number of Judges on a Court

This passage requires the appointment of ten judges of the community. Since the text indicates the specific composition of the group, it is certain that these judges constituted a court.

While it is well known that later tannaitic tradition legislated a series of courts of three and twenty-three and a high court of seventy-one,/13/ the court of ten is not unprecedented in Jewish law./14/ Ecclesiastes 7:19 speaks of the ten magistrates (shalitim) of the city. In Ruth 4:2 Boaz, intending to perform the "redemption" (ge'ulah) of Ruth's ancestral holdings and thereby to make possible his (levirate?) marriage to her, assembles ten "elders" (zeqenim). In verse 9 it is stated that these "elders" are to serve as witnesses (edim) to the legal procedure Boaz is performing. Now it might be assumed that this is simply a case of the requirement of a large number of witnesses, as found in the Elephantine papyri and often in Mesopotamian and Demotic legal practice./15/ Yet one cannot escape the impression that this is a court, albeit convened on an ad hoc basis, which qua court, is to certify the procedure. It is not unusual in Jewish law for the court to bear witness to the correct discharge of a legal procedure or obligation./16/

Josephus testifies to courts of seven./17/ Even though he attempts to attribute such a procedure to Mosaic revelation, there can be little question that he is reflecting the usage of his own day./18/

Ginzberg/19/ suggests that the passage under discussion may be compared with the Hellenistic δέκα πρώτοι, the ten men who ruled the city. He sees this as an example of Hellenistic influence on the sect's legal system. These ten men ruled in the Hellenistic cities of Phoenicia and may be presumed to have had a role in the affairs of the Hellenistic cities of Palestine. Josephus's reference to a delegation of ten such men, the high priest, and treasurer/20/ may indicate that such a system was in use in the governance of Jerusalem and the Temple in the period of the procurator Festus (60–62 A.D.)./21/ But it must not be forgotten that these are not judges, but representatives.

Since as a rule the sect and its writings represent the least Hellenized group in all of Palestinian Judaism in the Second Commonwealth period,/22/ it is difficult to accept Ginzberg's assertion of Hellenistic influence, especially in light of the parallel from Ruth. While the Essenes are known to have had courts consisting of at least one hundred,/23/ it is possible that Josephus refers to an Essene court of ten./24/

In cases of 'arakhin ("valuations"), the donation of the value of a specific field to the Temple, the Mishnah requires that the appraisal of real property must be carried out by ten men, one of whom must be a priest./25/ Ginzberg rightly notes that this body serves only to appraise the property and, therefore, cannot really be called a court./26/ Nonetheless, amoraic sources/27/ contain some indications that courts of ten may have had a
place in Palestinian and Babylonian Jewish practice. Joshua ben Levi (Palestinian) refers to "ten who sit in judgment." Rav Huna's (Babylonian) statement, however, that when a case came before him, he would assemble ten rabbis from the academy to share the responsibility with him seems irrelevant. Such a practice would result in a total of eleven judges./28/

Two late midrashic sources, Exodus Rabbah 15:20 and Pirqe Rabbi 'Eli'ezzer 8/29/ prescribe the presence of ten judges for the intercalation of the year. Earlier sources, however, contain a debate as to whether three or seven judges are sufficient for the conclusion of the procedure./30/

Ruth 4:2 served for Anan ben David, the eighth century Karaite, to indicate that the minimum number of judges on a court was ten./31/ It is difficult to be certain if Benjamin of Nahawend accepted or rejected this view./32/ Certainly, it is known that no such requirement was normative in medieval Karaite practice./33/ Ginzberg,/34/ perhaps caught up in the effort to disprove the claims of Karaite authorship of the Zadokite Fragments,/35/ disputes even the attribution of such a requirement to Anan, but his argument is based primarily on later sources. Since later Karaites often rejected Anan's views and even saw him as fanatical,/36/ such sources cannot be used to establish his views, except when they are directly quoting him.

DSD 8:1f. mentions a group of fifteen sectarians, twelve "people" ('ish) and three priests. This group is termed there 'asat ha-yahad, the "council of the community." While some scholars have seen the text as referring to a court of twelve of which three are priests, a fragment from cave 4, as reported by J. T. Milik, indicates that a total of fifteen are intended./37/

Some commentators have seen this group of fifteen as a body within the sect, perhaps made up of its core leadership./38/ On the other hand, the continuation of the passage (DSD 8:2-10) reads like a general description of the sect. The text does not mention any executive, judicial, or legislative function for this group./39/ It is probable, then, that the text indicates here the minimum number of members and required composition for the sect. Indeed, E. F. Sutcliffe has suggested that this text reflects the earliest stage when the sectarian settlement at Qumran was about to be founded. The fifteen, in his view, were to be the initial pioneers in the new community. They would found the sectarian settlement under the direction of the teacher of righteousness./40/ His view is in agreement with the theory offered by J. Murphy-O'Connor for the development of the Manual of Discipline./41/

Whether Sutcliffe's theory is accepted or not, there can be no question that this text deals only with a minimum number of members for the sect or for a particular settlement of its members. This group can in no way be seen as a court or representative body.

There are, however, indications of other judicial bodies in the sectarian literature. The moshav ha-rabbim, the sectarian legislative and judicial assembly, most probably functioned as the highest court,/42/ much as the Great Sanhedrin is said to have functioned according to tannaitic
sources. But another small court may be described in 4Q Ordinances, Fragment 2-4 (lines 4-6):

and two priests, and there shall be judged before these twelve and every case concerning anyone in Israel, according to them shall they ask and anyone who rebels will be put to death on one who transgresses intentionally.

While the missing sections (the ends of the lines) probably account for some fifty per cent of the fragment, some tentative conclusions can be drawn. This passage refers to a court of twelve of which two are to be priests and ten Israelites. This court is to have jurisdiction in capital matters and those who rebel, presumably against its decisions, will be punished. Since no other information is available, there is no way of knowing if this court of twelve is part of the same judicial system as the court of ten. Perhaps 4Q Ordinances represents another view or a different historical period within the legal corpus of Qumran literature.

The number ten manifests itself once more in DSD 6:3f. which is of some interest here:

In every place in which there are ten men from the council of the community, there should not be absent from them a priest, and each man according to his proper place shall sit before him, and thus shall they be asked for their counsel on any matter.

This text does not actually deal with a court. Apparently, the sect had some small groups of members scattered throughout Palestine. This text requires that every group of ten must include at least one priest to undertake the leadership of the local group. This is in accord with what is otherwise known of the role of the priests in the sect. No doubt, the priests in these small groups did exercise some quasi-judicial functions, but they did not serve as judges per se.

3. The Composition of the Court

In view of what is known about the structure and makeup of this sect, there is no reason to be surprised at the requirement that both members of “the tribe of Levi and Aaron” and Israelites are to be represented on the bench. Indeed, it appears from many passages that the sect was mustered and conducted its affairs in four groups: priests, Levites, Israelites, and proselytes. Since many passages make clear that the conduct of the
affairs of the sect was primarily in the hands of the Zadokite priests,/55/ it would be logical to assume that these judges were Zadokites. Nonetheless, there is no proof of this. Indeed, the phrase le-mateh levi vs-aharon, "from the tribe of Levi and Aaron," is so unusual as to offer no clue as to the identity of these judges./56/

Even more enigmatic is the requirement that the positions be apportioned in the ratio of six Israelites to four members of "the tribe of Levi and Aaron." A solution to this problem has been suggested by J. T. Milik who points out that the organization of the tribe of Levi in the War Scroll may be of help in understanding the composition of the court./57/ In the War Scroll the Levites were divided into the priests (referred to there as sons of Aaron) and the Levitical families of Kohath, Gershon, and Merari. Indeed, Yadin had noted that this division was based on the organization of the tribe in the desert period as described in Numbers./58/ Milik suggests that the four members of the "tribe of Levi and Aaron" in our passage would be, therefore, one each corresponding to the three Levitical families and the Aaronide priests. It is not necessary in order to accept Milik's view to assume that all Levites knew the families from which they were descended. The correspondence need not have been literal but may have been only figurative.

There can be no question that priests occupied a central role in the judicial process in biblical times since the Temple serves as the location of the highest court. This practice was apparently still in effect when Alexander the Great came to Palestine (332–331 B.C.) as is evident from a fragment of the Aegyptiaca of Hecataeus of Abdera./59/ He describes the priests as "judges in all major disputes."

Tannaitic sources also indicate that priests were often part of the judicial system. Indeed, the Sifre requires that priests and Levites be part of the high court of seventy-one (Great Sanhedrin). Nonetheless, the Sifre concludes that if they are unavailable, their absence does not render the court invalid./60/ The bet din shel kohanim mentioned in tannaitic sources/61/ apparently had jurisdiction only over matters of the Temple and priesthood. Nonetheless, it probably had its origins at a time when the priests served as the primary members of the judiciary. When this was no longer the case, the priestly courts continued to function in cultic matters.

Josephus, when discussing the seven judges who served in his day, indicated that each judge was assigned two Levitical shoterim./62/ Josephus's statement, however, does not provide us with a parallel to a court composed of both Levites and Israelites since the function of the shoterim was only to summon the litigants and enforce the decisions of the court. These Levites were by no means judges.

Those serving on the sectarian court, regardless of whether Levites or Israelites, were required to be schooled in both the Sefer He-Hagu and the yissure ha-berit ("teachings of the covenant"). (It will not be necessary to
discuss these terms in detail since they have been analyzed fully elsewhere.\textsuperscript{63} The Sefer He-Hagu here is probably the biblical text, and the yissure ha-berit are the regulations which emerged from the sectarian exegesis of the Bible. These two corpora are analogous to the nigleh and nistar, which likewise refer to Scripture and its sectarian exegesis.\textsuperscript{64} Indeed, these were the two foundations of the sect's legal system. It is therefore to be expected that all judges of the sect would be required to be learned in this material.

4. Selection and Terms of Judges

The meaning of berurim . . . le-fi ha-\=et, "chosen . . . according to the time," in our passage is difficult to establish. Clearly, Ginzberg is correct that berurim must be understood as referring to the legal selection of judges.\textsuperscript{65} Indeed, tannaitic usage employs the qal of brr to refer to the act of selecting judges.\textsuperscript{66}

Tannaitic halakhah seems to have envisioned two kinds of courts of three. One would be appointed, presumably by the nasi', with the approval of the court of seventy-one, just as the courts of twenty-three were appointed.\textsuperscript{67} The other would be an ad hoc court set up to adjudicate financial matters whenever any dispute might arise. Judges for these ad hoc lower courts were selected (brr) by a process wherein each litigant would choose a judge, and the two judges, in turn, would choose a third. These ad hoc courts of three had jurisdiction only in dine mamonot, "money matters." While it seems that the court of ten in this Qumran passage is a centrally appointed court and that it must have been set up by the moshav ha-\textsuperscript{54}rab-bim, the sectarian assembly,\textsuperscript{68} it is not impossible that such courts were convened on an ad hoc basis, like the tannaitic court of three.

Philo may also provide a parallel to the term berurim. In discussing the general qualifications of a judge, Philo refers to them as "chosen by lot or by election."\textsuperscript{69} This passage has engendered some discussion. I. Heinemann remarks on this passage that elsewhere Philo tells us that the Jews did not choose judges by lot, as did the Greeks.\textsuperscript{70} But actually, the passage referred to\textsuperscript{71} relates to the rulers (\textit{\upsilon\rho\chi\nu\varsigma}) who functioned in "executive" rather than "judicial" capacities. This latter Philonic passage is based on the law of the king in Deut. 17:15 and certainly could not have been understood by Philo to refer to judges. Nonetheless, the strong attack by Philo on the use of lots to select the magistrates\textsuperscript{72} would mitigate against his having looked positively on the selection of judges in this manner. Indeed, he praises Moses for not having used such a technique for the appointment of authorities.\textsuperscript{73} If so, the original passage may simply have been reflecting the reality of the Alexandrian Jewish community of his day,\textsuperscript{74} even if he himself did not approve of that reality.

The matter is further complicated by the phrase le-fi ha-\=et, "according to the time." Ginzberg,\textsuperscript{75} after citing Ben Sira 6:8 which he translates "as
long as is convenient,” and which literally means “temporarily,”/76/ translated our passage as “as long as they are fit.” In both our passage and Ben Sira, le-fi ha-‘et has the neutral meaning of “temporarily,” and no motivation or reason is inherent in the expression. Only context can supply the correct interpretation. It should be noted that Ginzberg’s interpretation regarding fitness would apparently mean that the judges would serve until they were unfit by virtue of age, according to the requirements described below in this text. A more likely possibility is that le-fi ha-‘et be taken with berurim to indicate that judges served for some specific term or occasion. In other words, they were selected to serve temporarily. If so, the possibility again is raised that what is being described here may be an ad hoc court of ten convened whenever its services were needed.

CDC 14:12–16 describes the social welfare function of the examiner and the judges./77/ Hence, according to this second passage, the status of judge did not begin and end with a particular case. Rather, the judges were regular appointees who were available whenever cases demanded their attention and who handled other matters as well. It is possible that berurim le-fi ha-‘et refers to their having been selected to serve a specified term which would end at a predetermined time, but no parallel to such a practice may be cited from any other Jewish legal source.

The Manual of Discipline, unfortunately not available to Ginzberg when he proposed his interpretation, shows that the term ‘et had a specific connotation in the literature of the Dead Sea Sect. DSD 9:13–14 exemplifies this usage:

לשתות אש רצון אל כלכל הונהל לשת בעת וולמר אשה כל השכל

To do the will of God according to everything that is revealed from time to time/78/ and to learn/79/ all the knowledge which is derived/80/ according to the times, and the law of the time.

To the sectarian the continual process of revelation took place through the medium of inspired biblical exegesis. As the law was revealed in this way to the sectarians in their sessions of the moshav ha-rabbim, it was codified in their texts. It was believed by them that the law of the times reflected the present state of that which had been revealed to them through exegesis, but that future study would inevitably cause changes in the law.

This same concept is found in DSD 9:18–20 which refers to kol ha-nimsa’ la-‘asot ba-‘et ha-zot, “all which is derived (for them) to do at this time.” This motif is encountered over and over again in the sectarian literature./81/ Also to be noted is CDC 12:19–22 in which it appears in conjunction with the mishpat, the sectarian regulations which would have played so important a role in the deliberations of the judges (shofetim) of the community.

Analysis of the term ‘et in its sectarian usage suggests perhaps that le-fi ha-‘et in the rule for choosing judges of the congregation might refer to the
existing law about the procedure as it was derived by sectarian exegesis. If so, judges would be chosen in accord with the current requirements of the sectarian legal system.

5. **Minimum Age of Judges**

It is now time to turn to the age limits set by this passage. In order to understand fully these age requirements, it is necessary to compare other Qumran legislation dealing with age limits. A detailed account of the ages of the men in various military units is given in the *War Scroll* (DSW 6:13–7:8). The required minimum age for military service is twenty-five, and the maximum is sixty.

1QSa 1:6–19 contains a similar listing of the ages and classifications of the members of the sect in the “end of days.” While earlier stages in life are indeed mentioned, twenty-five appears as the required minimum for service (lines 12–13):

\[\text{And at twenty-five years of age he will come to take his stand among the units of the holy congregation to perform the service of the congregation.}\]

This text does not specify a maximum age of service. Nevertheless, Licht has concluded from the parallels under discussion here and from context that service would have ended at sixty.

It is furthermore questionable as to what kind of service is implied. Because of the parallel in the *War Scroll*, Licht rightly assumes that military service is being discussed. Despite the frequent use of military terms for cultic service, it is unlikely that the passage refers to the age of participation in cultic service, since the text seems to fix twenty as the age of majority for such purposes (1QSa 1:9f.).

Two other age limitations must be noted here. CDC 14:6–9 specifies the ages for the *kohen 'asher yifqod 'et ha-rabbim* (elsewhere called the *paqid*) as between thirty and sixty. The *mevaqger* (examiner) over all the camps must be between thirty and fifty years old.

In evaluating these parallels, it must be remembered that the sect saw itself as living on the verge of the end of days. They therefore organized themselves in “this world” (to borrow the Rabbinic phrase) on the model of how they were to be organized in the future age. Furthermore, they saw themselves as an army about to do battle with the forces of evil (Sons of Darkness) for which they were ever preparing. Hence, it is in no way surprising that the minimum age for judging was the same as that for military service. Nor is it strange to find agreement between the *War Scroll* and *Rule of the Congregation* (*Serekh Ha-`Edah*) since they describe aspects of the same end of days.
Yet these parallels are not sufficient explanation for the ages given for both military and judicial function. It must be asked how the sect arrived at these numbers.

Yadin has discussed the ages of conscription in detail in his introduction to the *War Scroll.* He notes that the "general age of conscription" in the Pentateuch is twenty. He explains that the sect, in fixing the minimum age at twenty-five, understood the Bible to mean "that no one is mustered below the age of twenty, but that men are not necessarily conscripted at this age." In other words, there was no positive commandment, in their view, that a qualified young man serve in the army from the age of twenty. Yadin advances two explanations for the minimum age set by the sect. First, he suggests that since it was composed of priests, Levites, and Israelites, and the sect desired to "equalize the tasks and rights of its members," it had to set the minimum age for all members at twenty-five since this was the age set by the Torah for Levitical service. A second reason Yadin gives is the desire to keep young people out of the camps, to prevent, according to him, impurity and homosexuality.

Yadin's second reason is unlikely. 1QSa 1:9f. specifies the age of sexual maturity and marriage as twenty. There is no reason to apply the fears which Yadin has mentioned, therefore, to those between the ages of twenty and twenty-five. As to the first reason, the idea of equal rights, it seems from all other texts of the sect that these three groups did not enjoy equal rights. The members were mustered in the order of priests, Levites, Israelites, and this mustering indicated their order of status in regard to following orders and speaking in the sectarian assembly, the *moshav ha-rabbim.* The Zadokite priests were accorded special preference above all. The entire sect was structured on a system of gradual promotion in status, regarding both entrance to the sect, and status within it. Little credence, then, ought to be given to the motive of equalization of rights and duties.

A better explanation would take its cue from the sect's self-conception and would offer an explanation as well for the fixing of the same minimum age for both judicial and military service. The sect no doubt accepted the legitimacy of only the Zadokite priesthood. Nevertheless, in its way of life, it attempted to extend the requirements of the priesthood to all men. At times, one is not sure if the title "Sons of Zadok" in Qumran writings refers to the priests of such lineage or the sect as a whole. Certainly, the long exegesis of Ezek. 44:5 found in CDC 3:21-4:4 understands the Sons of Zadok as equivalent to the sect. This would be natural considering the pre-eminent part the Zadokites had in the conduct and life of the Qumran group. In this context we also can understand the requirement of pure food in the Qumran sect as well as in the Pharisaic *havurah*.

It may therefore be proposed that the sect took the minimum age for Levitical service as prescribed in Num. 8:24 as the rule for both military and judicial service. (The sect does not accept the maximum age given in this
same verse, as will be discussed below.) The fixing of the ages of military service at twenty-five, then, was not undertaken out of a desire to grant equal rights and duties to all, but because the sect sought to elevate all its members to the highest status of Levitical sanctity and, in so doing, to ensure the holiness of their courts and military camps.

Num. 4:3, 23, 30, 35, 39, 47 would seem, as noted by Yadin, to prescribe an age of thirty for Levitical service. The tannaim resolved this contradiction by explaining that from twenty-five the Levite was in training, and that he would enter full service only at thirty. Such an explanation would fit the sect’s military organization as well. Even though one began to serve from the age of twenty-five, this service was, in the words of Yadin, as “service troops” who “despoil the slain, collect the booty, cleanse the land, guard the arms, prepare the provisions.” Only above the age of thirty did one enter actual combat.

Indeed, Licht has correctly interpreted 1QS a:14f. as indicating that a minimum age of thirty was required for serving in battle as an officer. We will see that this passage clearly refers to active offensive units which were to be made up only of those above thirty. M. Ṭavot 5:21 should be understood similarly. Ben esrim li-redof, ben sheloshim la-koah means that military service begins at twenty (according to the Rabbinic view) but initial service involves only pursuit (li-redof) and despoiling of the enemy after the initial offensive confrontation. Only from thirty does one participate in the offensive (koah).

In the case of judges, no such distinction was made by the sect. Once twenty-five one might serve as a judge. It can only be surmised here that the sect felt that those called upon to serve, albeit in secondary military functions, had the right to be considered responsible members of the sect, and, hence to serve as judges. It must be remembered that the large courts of the sect comprised of a minimum of ten members representative of the three major classes of the sect—priests, Levites, and Israelites—functioned like juries, and so the danger of allowing those with limited experience resulting from youth to serve on the court was much less than might otherwise be the case.

6. Maximum Age of Judges

If the minimum age of judicial and military service was based on the Pentateuchal requirements for Levitical service, how can the maximum age of sixty be explained? After all, Num. 4:3, 23, 30, 35, 39, 47 fix the end of Levitical service at age fifty. Yadin correctly notes that according to Num. 8:25f., while active service for Levites ceased at fifty, certain subsidiary duties were continued after fifty. Such is the case in the War Scroll as well. Those reaching the age of fifty no longer went forth to active battle. They might continue to serve militarily in the subsidiary position of sorekhe
ha-mahanot, camp prefects. Such service had to end at sixty. Others, it should be noted, from age fifty, served as part of the mishmarot (or ma'amadot) (DSW 2:4f.). The text of the War Scroll specifies no mandatory retirement from this function, although we might assume sixty in light of the parallels./93/

Whereas the Qumran texts give no explicit rationale for the minimum age of twenty-five, either for judicial or military service, the maximum age is in marked contrast. CDC 10:7–10 specifically states that judges must be retired at sixty because senility develops beginning at this age. Senility, along with the shortened life span of man, is seen as a punishment for man's transgressions.

One might be tempted to explain our text as referring to Adam's fall as a result of his sin in the Garden of Eden. Indeed, numerous Rabbinic sources attest to the notion that Adam's powers and size were considerably reduced after the fall./94/ Yet the parallel in Jub. 23:11 links the conditions of old age and senility with Abraham. Rabbinic parallels can be adduced for the idea that with Abraham, man's life span was reduced and senility began to occur./95/ At any rate, it is not necessary to look for a particular sin committed by Abraham which would be the cause of these developments. After all, our text makes clear that God's anger was directed against mankind in general (ha-adam yosheve ha-'ares). This last point supports the notion that our text does not refer to the fall of Adam, as yosheve ha-'ares, "the inhabitants of the earth," would hardly be an appropriate expression with which to describe Adam and Eve.

1QSa 2:7f. lists the feeble old man ('ish za[qen] koshel) among those afflicted with impurities or physical defects who may not take their place among the congregation. It is clear from ll. 9f. that congregation ('edah) here refers to the assembly of the community. The text specifically states that the reason for exclusion of such people is that the holy angels are among the community. Those with disabilities would not be permitted to be in the presence of the angels.

Indeed, the very same explanation appears in DSW 7:6 for the exclusion from going to war of women, young men, and those with various types of physical blemishes or impurities./96/ Nevertheless, this passage does not mention the feeble old man. Of course, it is known from other passages in the War Scroll that no one over sixty was allowed to have any role in the military service of the sect. Perhaps to some extent this desire to ensure maximum purity and perfection was operating in the exclusion of old men from the military, although the practical military considerations would be paramount./97/

In an effort to explain the basis on which military service ceased at sixty, Yadin cites Lev. 27:3, which he translates, "Then thy valuation shall be for the male from twenty years old even unto sixty years old." Such a derivation would certainly violate the context of the Scriptural passage in
question, but context was never a deterrent to the sect nor to the Rabbinic interpreters of the Bible. Indeed, as Rabin/98/ notes, this passage prescribes sixty as the “limit of full value.”

Lev. 27:3 would have served to indicate for the sect the upper limits of military service. They would have used it in a legal *midrash* to interpret Num. 8:25 where it is indicated that subsidiary Levitical service might continue beyond fifty, but where no age limit was set. This verse would have allowed the sect to assume a limit of sixty years of age for this subsidiary service. Accordingly, the sect would allow no one, neither judge, soldier, nor official, to serve beyond sixty. The ultimate reasons for forbidding such over-aged service would be, as explained in the Dead Sea texts, the need to ensure the ritual purity of the military camp and to avoid the effects of senility which so often came with old age and which would have severely diminished the abilities of a judge or sectarian official.

7. Ages of Other Sectarian Officials

It is appropriate here to compare the ages of two officials of the sect as specified in the *Zadokite Fragments*. CDC 14:6f. reads:

> [המכור אشرع דבק א ShoppingCart מבר שלשים שנה וו בן ששים](https://example.com)
>
> And the priest who shall muster/99/ the assembly/100/ (shall be) from thirty to sixty years old.

CDC 14:8f. requires that:

> [томבר אشرع לכל המנות מת-basket שלשים שנה וו בן חמשים שנה](https://example.com)
>
> And the examiner/101/ of all the camps/102/ (shall be) from thirty years old to fifty years old./103/

These officials may be appointed to their responsibilities only after reaching age thirty. This is consistent with the conclusion reached above that only from the age of thirty was it permitted for young men to enter the offensive troops of the sect. Before that age they were limited to training status and to pursuit and despoiling the enemy.

As mentioned above, a difficult passage in 1QSa 1:14f. also indicates the same minimum age of thirty for service as an official or officer of the sect:

> [בונ שלשים שנה יוש לבר רוב (משסי) הלוחיצב בוראש אלי](https://example.com)
>
> And at the age of thirty years old he shall draw near to struggle for the cause of [justice]/104/ and to take his stand/105/ at the head of/106/ the thousands/107/ of Israel, as officers of hundreds, officers of fifties, [and officers] of tens . . . /108/

While some might choose to see the beginning of this passage as referring to participation in the legal process, this is certainly not its meaning./109/ First, the context shows that this passage concerns the combined
organizational and military duties of a sectarian. Second, the continuation of the passage indicates without doubt its military rather than judicial connotation. Third (and this must remain a secondary argument to avoid falling into the trap of harmonization), it is known from elsewhere that the sect already allowed full participation in the judicial process to those who reached twenty-five. The right to testify in capital matters was granted to those at least twenty, and the right to serve as a judge to those over twenty-five. Certainly, then, this requirement of age thirty cannot refer to judicial matters, but, once again, reflects sectarian military organization. Finally, the parallel phraseology of lines 20f. also shows without doubt that the subject is that of the eschatological military organization of the sect.

What emerges from the analysis of this passage is once again a parallel between the minimum age for officials of the sect, officers in its army, and full service in the offensive troops of the eschatological war. The sect had structured its own organization to fulfill its prophecies of the soon-to-dawn end of days, and its system of age limits fit into this scheme of things.

What can be the justification behind the maximum ages prescribed for the officials by the Zadokite Fragments? The age of sixty, the maximum age for “the priest who shall muster the assembly,” is easily understood. This restriction is in line with the fear of senility mentioned above. No doubt, the work of this official required careful attention to detailed records and the ability to recall those details. Regarding the age of fifty which is specified as the maximum retirement age of the examiner, the probable basis is the maximum age of Levitical service specified in the Torah. The sect believed that its communal structure constituted a kind of holy temple. Its highest official, then—the examiner with central executive authority over all the camps—had to conform to the requirements of Levitical service, even when other officials were allowed to serve until sixty.

A question might arise as to how these ages were calculated. Were they based on a New Year, either Tishri or Nisan, like the regnal years of the First Temple period, or did they depend on the actual intervals after birth of the particular individual? There is no certain answer, but a suggestion can be advanced based on the probable use of Lev. 27:3 as a basis for the maximum age of sixty. A baraita in B. ‘Arakhin 18b, as interpreted in an amoraic passage there, indicates that the calculation was made by the number of one-year intervals beginning with the actual birth date of the individual. While one might say that this amoraic interpretation is not necessarily correct, the Tosafot make a convincing argument based on logic that this is the only possible explanation of the baraita. If we remember that the area of cultic practice was extremely conservative, it may be assumed that this tannaitic method of calculation would probably reflect the custom in Second Temple times. Hence, the ages would be based on one-year intervals counting from the actual date of birth.
8. *Rabbinic Parallels*

P. Sanhedrin 4:7 (9, 22b) reports in the name of the third century Palestinian amora Rabbi Johanan that for capital cases a judge had to be at least twenty years of age and had to have the physical signs of the onset of puberty. Nevertheless, in money matters, one below twenty or lacking these signs might serve as a judge. It is to be assumed that a minimum age of *bar mitwah*, thirteen years and one day, would be required for judging money matters. No doubt this passage reflected the practice in Palestine in the third century A.D.

In regard to the twenty year age requirement for judging capital cases in the Palestinian Talmud, it should be noted that CDC 10:1 imposes the same minimum age on witnesses in capital matters. L. Ginzberg and Ch. Albeck have argued that these passages and many others indicate that originally the age of legal majority was twenty, not thirteen. Anan ben David, the early Karaite, seems to have accepted twenty as the age of religious majority.

Some medieval authorities have understood an *'aggadah* attributed to R. Jonathan, an early third century Palestinian amora, to indicate that it was forbidden to judge before reaching the age of eighteen. This *'aggadah* in B. Shabbat 56b states that Josiah made restitution for all payments made as a result of his judgments *mi-ben shemoneh 'ad shemoneh 'esreh*. This phrase is interpreted to refer to the period between his eighth birthday, when he ascended the throne, and his eighteenth year when the book of Deuteronomy was found. Josiah made the payments for fear that he had erred in judgment because the book of Deuteronomy had not been available to him. Therefore, the passage has nothing to do with any requirement that a judge be eighteen years old. The medieval views which found an age requirement of eighteen represent a reinterpretation of the passage.

Do Rabbinic sources offer any information about the maximum age of a judge? Rabin refers to M. Horayot 1:4 and a *baraita* in B. Sanhedrin 36b which, he says, indicate that a *zaqen*, “elder,” must not serve in the highest court. He understands the passage to mean, “one who is an elder or who is a eunuch or childless.” In reality, the reading of these sources is highly questionable. The *baraita* as found in T. Sanhedrin 7:5/123 omits mention of the elder, and MS Florence of the Babylonian Talmud reads *qatan*, although medieval citations of the *rishonim* support the reading *zaqen*.

Further, even if the reading *zaqen* is accepted, we can translate the *baraita* in B. Sanhedrin 36b as follows: “We do not seat (appoint) in the Sanhedrin an elder who is a eunuch or childless. R. Judah adds even (an elder) who is cruel.” Thus, there would be no tannaitic parallel here to the sect’s refusal to appoint an elder as judge. Most elders were allowed to serve with the exception of those enumerated. At all events, the passage refers only to capital cases.
M. Horayot 1:4 deals with ways in which the high court (Sanhedrin) can be disqualified so that there would be no need to offer the par he’elem davar shel sibbur, the bull sacrificed to atone for an erroneous ruling by the high court followed by the majority of the people (Lev. 4:13–21). One of the cases involves the presence of a zaqen she-lo’ ra’ah banim, an elder who had had no children./126/ Rashi notes that such a person would not have the necessary compassion for service in the Sanhedrin.

This mishnah, then, disqualifies elders from sitting on the court only when they have had no children. There is no blanket prohibition based on age here./127/ From our point of view, there is no tannaitic tradition which indicates explicitly and unquestionably that elders could not serve as judges. On the contrary, the members of the Sanhedrin are called zeqenim./128/

We should add that Talmudic sources give no maximum age for military service. It can be assumed that service would have ceased, according to the Rabbis, at fifty as is indicated in the Pentateuch.

9. Some Functions of Judges

An account of the specific duties of the judges of the Qumran community would have been extremely valuable. Unfortunately, such a passage is lacking. There are, however, two passages which cast light on the functions of the judge. These reports must be taken as incidental and in no way should be seen as characteristic or representative.

CDC 14:12–16 describes the social welfare system of the sect.

חוכו סורר הריבים לחברך לכל החפ寄せ של שכר שלוש ימים ליום ודר לאומ住房和trad
ויחס שהוא יוסיף למתחי כיון שעשתו ממקום יתנה עוזת יתוך כך
נכתב דיני MADE של לוחות של אסם這是 הנון של לוחות אסם יי
.OrdinalIgnoreCase לוחות אסם שהחר את הוואית הלבה חלב אסם
הכר לוחות הכסף אסם התואם הלוחות והכסף אסם
למרות

And [this] is the rule for the community to provide for all their requirements:/129/ [tw]o days salary per month mini mum./130/ And they shall give (it) to the examiner and the judges. From it they shall give for [orphans] and from it they shall sustain/131/ the poor and needy, the old man who is about to die./132/ the man who wanders,/133/ the one who is taken captive by a foreign people,/134/ the young woman/135/ who has no close relative/136/ and the unmarried girl/137/ for whom no one cares . . . /138/

Here the judges (and the examiner) are empowered to collect at least eight percent of the income of each member of the sect (not a tithe) to be used for social welfare or charitable purposes./139/ Philo points out that the Essenes fulfilled these needs out of common property./140/ however, our sect must collect a special fund./141/ since communal use, but not ownership, was the pattern at Qumran./142/ But like the Essenes, the sect dispensed charity communally. In fact, similar practices were the norm in the tannaitic period, and such customs persisted even up to the modern period in Jewish communities./143/
What is especially interesting for this study is that the funds were administered by the examiner (mevaqqer) and the judges. It was a function of the combined executive and judicial bodies of the sect to take care of the needy. The needs are seemingly “their” needs, those of the members of the sect. The needy, we may suppose, were members of the sect.

Why should it be that the judges particularly should be so involved in the dispensing of charity to the less fortunate? Perhaps light can be shed on this subject with the aid of a passage in Philo. The last element in Philo’s description of the ideal judge is his emphasis on the requirement that the needy or unfortunate not be given special treatment before the bar of justice./144/ This is, of course, a Jewish motif entirely, and it is derived from Ex. 23:3. At this point Philo launches into a long discourse on the importance of charity, again emphasizing particularly Jewish values. The only possible explanation for this juxtaposition is that Philo sought to make the point that although charity has no place in the courtroom, it is certainly a primary obligation. This passage suggests that the Qumran materials before us may reflect the same dilemma. How can it be that those charged with enforcing and representing the highest standards of justice in the community should be commanded to ignore the particular needs of the poor? In order to obviate this problem and to be certain that the judges would set the proper example here, the sect legislated participation of the judges in the administration of its social welfare system.

CDC 9:8-10 emphasizes that all oaths must be taken before the judges:

על השביעה אשר אמר אל חבירו יברך gains ישים על פני השודה adress לא לפיסים או לא ממורים והם יברך.

Concerning the oath:/145/ As to that which he said./146/ “You shall not find redress for yourself with your own hand,”/147/ a man who adjures (another)/148/ in the open field,/149/ not before/150/ the judges or (according to) their command,/151/ has found redress for himself with his own hand./152/

Apparently, the seriousness with which the sect looked upon oaths caused them to forbid the taking of an oath outside of court. In this way, vain or false oaths could be avoided.

Licht notes the amoraic argument as to whether a man may do justice for himself./153/ From context it is clear that the Rabbis are questioning whether a man may go on to the property of another to remove (without his permission or the permission of the court) property which he claims rightfully belongs to him. The argument, according to the attributions, must be dated to late third century Babylonia. In the discussion a tannaitic view (attributed to Ben Bag Bag) is cited/154/ saying that a person should not do this lest he appear like a thief. The relevance of all this, however, is doubtful. First, it does not apply at all to oaths./155/ Second, limitations on the powers of the Jewish courts in Babylonia may have led to a situation where such action became necessary and so engendered this amoraic discussion.
What is most interesting about our passage from the *Zadokite Fragments*, however, is the quotation at the beginning. Ginzberg, dealing with the *Zadokite Fragments* before the discovery of the Dead Sea Scrolls, concluded that this passage must be a quotation from the *Sefer He-Hagu*, which he took to be a book of sectarian laws. While later research has shown that the *Sefer He-Hagu* is most probably Scripture, Ginzberg's original conclusion, namely that this was not a quotation of 1 Sam. 25:26, somehow corrupted textually, still stands. This quotation is ultimately derived from some unknown sectarian source. DSD 6:25-27 is likewise based on this quotation:

Whoever answers his neighbor stubbornly and speaks impatiently to reject the teaching of his colleague by disobeying the command of the neighbor listed before him, his own hand [has found] redress for him, and he shall be fined for one year.

It has been established that the sect followed a complex ranking system in which each member had his own position. This system was used for the purpose of voting in the sectarian assembly (*moshav ha-rabbim*) so as to guarantee each member the right to speak in turn. DSD 5:23 and CDC 14:3-6 give considerable data on this list. It seems that in general the order was priests, Levites, “children of Israel,” and proselytes. Within each group, members were placed in order according to their knowledge and deeds.

This ranking system was also used for the day to day conduct of affairs. Each member of the sect was obligated to follow instructions from anyone of higher rank. While such a system might seem cumbersome, it was able to function smoothly since the group was so dedicated to their ideals and to the authority structure.

The present law concerns one who, because of stubbornness or impatience, refuses to accept the instructions of a superior and disobeys him. Such a person is described as having taken the law into his own hands and is punished since all actions were to be subject to the divine Law. Only those interpretations of the Law derived and accepted by the sect were correct. Each link in the sectarian chain of authority represented the dissemination of God’s word as revealed through the “inspired” biblical exegesis. Further, the sect’s leadership was regarded as elected by God. So any member who rejected the instructions or commands of his superior was rejecting a sectarian decision, tantamount to rejecting God’s command.

Now what is important for the purpose of this study is that this passage from the *Manual of Discipline* likewise makes reference to this “apocryphal” quotation and indicates that one who violated this law is also violating...
this quotation. The usage of this quotation is similar to the Rabbinic statements including the clause 'alaw ha-katuv 'omer, or ma'aleh 'alaw ha-katuv, “Scripture says of him,” or “Scripture attributes it to him.” Licht is certainly correct that the occurrence of this quotation in the Zadokite Fragments and its use in the Manual of Discipline show that in this case both texts drew from a common source. Not only is this a confirmation of the general thesis that the two works can be used to explain each other, but it is of great significance for the history of the sect as it shows that the documents before us do not represent the earliest phase of sectarian thought and law. Rather, the materials as they are now preserved are the result of an evolutionary process which took place before and during their composition and redaction.

10. Summary

The ten judges of Qumran procedure have parallels in the biblical, Hellenistic, and Talmudic periods. These judges served for a specified term. One priest and three Levites (representing the major Levitical families) and six Israelites, all of whom understood both Scripture and its sectarian interpretation, served on the bench.

Study of the age limits set by the Zadokite Fragments for judges has shown them to be similar to those for military service. Indeed, the sect attempted to elevate all its members to the status of Levites serving in the Temple. These limits were in consonance with the sect’s own interpretations of the relevant biblical material in Num. 8:24f. and Lev. 27:3. Rabbinic parallels were investigated and were shown to provide no real correspondence to the limits set by our text. Nor was it possible to locate any other real parallels. These limits, then, constitute an independent derivation by the sect and were unique to it as far as is known.

It has been seen that the judges played a part in dispensing help to the needy. Also, all oaths had to be taken before them. The taking of oaths outside the court constituted a violation of the precepts of a source quoted in two places but otherwise unknown to us.

NOTES

/1/ See BDB, s.v. brr. P. Qiddushin 4:5 (66a) (cited by Schecter) seems to be a parallel usage, although the commentaries translate “pure” in the sense of having proper lineage. (Cf. Sifre Num. 92, p. 93 and Midrash Tanna'im to Deut. 17:15 (ed. Hoffman, p. 104.) L. Ginzeberg, An Unknown Jewish Sect (1976), 47f., sees as a closer usage the occurrence of this root in M. Sanhedrin 3:1. Indeed, this usage refers to the process whereby, according to tannaitic law, the judges were selected by the litigants to serve on the bench on ad hoc courts of three. The same usage as appears in our text is also found in TS 57:8 (on which see the comments of Yadin) and probably in the broken 3Q 5 frag. 2 (DJD III, 97). On this term, see below, 28.
Judges and Their Qualifications


/ 3/ For mateh lewi, see Num. 1:49; 3:6; 17:18; 18:2 (cf. Num. 1:47) in which mateh is used by the Torah in the sense of "tribe." Mateh 'aharon occurs in Ex. 7:12; Num. 17:21, 23, 25, all of which use mateh in the sense of "staff." These usages have been conflated to produce an anomalous phrase, on which see below, 27.

/ 4/ Mevonanim is a polal, pl. participle, passive in meaning, of the root byn. See Ges. sec. 72m and paradigm M. Cf. Deut. 32:10. Note the same usage in the singular in CDC 14:6–8. (Cf. HAQ, 44 and notes.)

/ 5/ Scripture (cf. HAQ, 44 n. 144).

/ 6/ Reading yswry (yissure) for MS yswdy (yesode), against Rabin and Schechter, with Brownlee. Cf. CDC 7:8 (MS A) and 19:4 (MS B) for the confusion of these words (HAQ, 46 n. 160). The confusion would have occurred in the Vorlage of our copyist as his dalet is clear. Cf. CDC 14:6–8 in which parallel mishpête ha-torah replaces yissure ha-berit.

/ 7/ For the forensic use of the hitpael of ysb, see Num. 11:16 (Rabin). Note also Job 33:5 where it is used for answering a charge (DBB).

/ 8/ Rabin (to CDC 19:23) comments that this is an "abstract noun used for inf. constr. (a procedure not uncommon in medieval Hebrew of all periods)." He translates our passage, "when man sinned . . . when God waxed wroth . . ." He is taking the preposition be- in a temporal sense while our translation reflects a causal relation, the bet pretii (Ges. sec. 119p).

/ 9/ Phonetic spelling of the plural possessive (without yod) is common at Qumran. Its presence in our text is not surprising in light of the probable origin of CDC at Qumran. Rabin notes the same form in CDC 2:12 (meshithaw). It is probable, however, that Y. Yadin's suggestion ("Three Notes on the Dead Sea Scrolls," IEJ 6 [1956], 158f.) that we read meshihe (emending waw to yod) is correct. Cf. J. Licht, Megillat Ha-Serakhim (1965), 47f.; H. Yalon, Megillot Midbar Yehudah (1967), 61f. (first published as "Megillat Yisha'yahu 'A," KS 27 (1950/1), 163–172), E. Y. Kutscher, Ha-Lashon We-Ha-Reqa' Ha-Leshoni shel Megillat Yisha'yahu Ha-Shelemah Mi-Megillot Yam Ha-Melah (1959), 38.

/10/ Schechter's emendation to be-harat (cf. Ps. 124:3) is ill-advised in light of the parallelism with ma'al, a noun, not an infinitive. In the Bible, the phrase haron 'af occurs either with the Tetragrammaton or with a pronoun, only once with 'elohim (Ezra 10:14) and never with 'el. No doubt, our text is following the Qumran custom of avoiding the Tetragrammaton. See below, 134. On haron 'af, cf. M. Gruber, Aspects of Nonverbal Communication in the Ancient Near East (1980) II, 491–502.

/11/ Segal's suggestion that we read la-sir, hif'il with elided he', is supported by what we now know about this phenomenon at Qumran (Licht, Serakhim, 46, cf. Ges. sec. 53q) as well as by the similarity of the letters waw and yod in the Dead Sea Scrolls (see HAQ, 30f. n. 61). This is certainly the simplest interpretation. Nevertheless, if Rabin is correct in seeing this clause as a quotation from Jub. 23:11, his analysis as a qal and translation "He commanded that their understanding should depart . . . " would be better. Rabin notes that the Latin: et erunt transeuntes ab
ipsis spiritus intellectus eorum (see R. H. Charles, The Ethiopic Version of the Hebrew Book of Jubilees [1895], ad loc.) supports his view. He suggests that the peculiar Hebrew form of accusative with infinitive may lie behind this Latin text. Rabin rejects reading la-stir since then 'amar “could only mean ‘He intended.’” I fail to see why this understanding of 'amar would be objectionable.

See Prov. 8:26 (Segal). Rabin compares Targumic 'ad la' and Christian Palestinian Aramaic 'a'dla' de- as opposed to Syriac, Galilean, Babylonian 'ad dela'. His suggestion that the Hebrew has here conditioned the Aramaic usage is unlikely in light of the already established influence of Aramaic on Qumran Hebrew (Licht, Serakhim, 44f.).

M. Sanhedrin 1.

Cf. Ginzberg, Sect, 47, 85, 118, 392.


Ant. 4, 8, 14 (214); War 2, 20, 5 (570–571). Note that according to Ant. 4, 8, 14 (214) each judge was to have two Levitical officers allotted to him. Presumably these are the equivalent of the shoterim of Deut. 16:18. Indeed, Sifre Deut. 144 (ed. Finkelstein, p. 197) prescribes that the shoterim be Levites. Cf. 2 Chron. 19:11, we-shoterim ha-lewiyyim, and M. Weinfeld, “Judge and Officer in Ancient Israel and in the Ancient Near East,” Israel Oriental Studies 7 (1977), 83–86.

Cf. the Talmudic expression shiv’ah tove ha-ir in amoriac sources (B. Megillah 26a–b). The assertion in E. Schürer, The History of the Jewish People in the Age of Jesus Christ II, ed. G. Vermes, F. Millar (1979), 186f., that courts of seven are intended in M. Sanhedrin 3:1 is impossible and contradicts the text completely. Note that seven judges complete the intercalation of the year in M. Sanhedrin 1.

Sect, 85.

Ant. 20, 8, 11 (194).


See my “Jewish Sectarianism,” 1–46.

War 2, 8, 9 (145).

War 2, 8, 9 (146); cf. Ginzberg, Sect, 118 n. 42.

M. Sanhedrin 1:3.

Sect, 47 n. 131. I do not follow the reference to M. Megillah 4:4 as a parallel.

B. Sanhedrin 7b; B. Horayot 3b.
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/29/ Cf. David Luria's commentary in ed. Warsaw (1851/2), n. 42, ad loc.

/30/ M. Sanhedrin 1:2; T. Sanhedrin 2:1; B. Sanhedrin 10b; P. Sanhedrin 1:2 (18c). Cf. the mention of five in Wa-Yiqra' Rabbah 29:4 (to 23:24) and Margaliot, ad loc. Apparently there is to the second stage of the process, according to the view of Simeon ben Gamliel in M. Sanhedrin 1:2. Geonic and medieval halakhic sources speak of the imposition of oaths and adjurations in the presence of ten men. See B. Cohen, Jewish and Roman Law (1966) II, 728f., 731. Here the ten function as a ritual quorum in order to render the ceremony public.

/31/ S. Poznanski, "Anan et ses écrits," REJ 45 (1902), 67. Anan ben David, Sefer Ha-Miṣwot in A. Harkavy, Mi-Sifre Ha-Miṣwot Ha-Rishonim Li-Vene Miqra' (Zikkaron La-Rishonim VIII, 1903), 171f. The Rabbis took the story of Ruth to indicate that a quorum of ten was necessary (at least before the fact, le-khathilah) at the ceremony of halisah (the removal of the shoe to indicate the declining of the brother of the deceased to fulfill the commandment of levirate marriage). See Pirqe Rabbi 'Elī'ezr 19 (and the comments of David Luria, ad loc.) and Midrash Tehillim 92 (ed. Buber, pp. 203b–204a). This quorum functioned only to ensure the public character of the ceremony, not as judges or witnesses.

/32/ See Ginzberg, Sect, 150 n. 175 and Benjamin of Nahawend, Maš'at Binyamin, 1b.

/33/ Cf. Y. Hadassi, 'Eshkol Ha-Kofer, 146d, and Aaron ben Elijah of Nicomedia, Gan 'Eden, 193b, 194b.

/34/ Sect, 150f.

/35/ The new English edition contains an entire chapter devoted to this purpose (338–408). Most of the arguments are directed against A. Büchler, "Schechter's 'Jewish Sectaries,'" JQR N.S. 3 (1912/13), 429–485.


/37/ For a survey of views see Wernberg-Møller, ad loc. and E. F. Sutcliffe, "The First Fifteen Members of the Qumran Community," JSS 4 (1959), 134f. On the fragments see J. T. Milik, "Megillat milhemet bene 'or biwine hošek by Y. Yadin," (review) RB 64 (1957), 589. The text is described in Milik's Dix ans de découvertes dans le désert de Juda (1957), 111.


/40/ Sutcliffe, 137f.

/41/ Above, 4-6.


/43/ M. Sanhedrin 1:5–6.

/44/ J. M. Allegro, DJD V, 8. Cf. Schürer II, 187 n. 10. Allegro suggests a possible parallel in 4Q IsD, a pesher on Is. 54:11, 12, but this passage seems to refer

/45/ According to Allegro the position of this fragment is tentative. Since Yadin (“A Note on 4Q 159,” 250) has omitted this fragment from consideration, apparently he considers it improperly placed.

/46/ Other restorations are with Allegro, DJD V, 8. This restoration, however, is tentatively proposed by me.

/47/ The meaning “case” is accepted by Yadin, 252 n. 5.

/48/ So Yadin, 252 n. 6. This is much more likely than “in a capital case,” as the sect used derav mawet to indicate capital cases.

/49/ This expression occurs in regard to the moshav ha-rabbim in DSD 6:8–10 (see HAQ, 68). Cf. also DSD 9:7 referring to the priests (see HAQ, 70). Yadin (252 n. 7) translates “their ruling they shall seek,” and compares Deut. 17:9ff.

/50/ Allegro compares Josh. 1:18. Note the use of mar in a technical sense by the tannaim to refer to a member of the court who rejects its decision and gives legal rulings in accord with his own view.

/51/ It is impossible to know if the verb yumat, coming as it does immediately after a lacuna, should be interpreted as belonging to a preceding sentence or to the words that follow it.

/52/ Rabin to CDC 10:3 cites occurrences of be-yad ramah in DSD 5:12 and 8:22. In addition, this term occurs in DSD 8:17, 9:1; CDC 8:8, cf. 20:30 (yirimu yad). This term appears opposite bi-shegagah (“in error”) and its synonyms. Schechter (to CDC 10:3) and Lich (to DSD 8:17) trace this usage to Num. 15:30 (where Targum Pseudo-Jonathan translates bi-zedana’, followed by Rashi). There the opposite (v. 27) is bi-shegagah. Rabin notes that Mishnaic Hebrew would use be-mezid. Qumran legal texts have an entire set of terms, often biblical in nature, whereas Mishnaic Hebrew had developed new usages (cf. Rabin, QS, 108). It is probable that this phenomenon is the result of the early date of the Qumran material and the importance which the Bible had for the sect. It must be considered, however, as part of the more general issue of the place of Qumran Hebrew in the dialectology of the period.

/53/ The reading of 1QS hhyd is clearly to be emended to hyhd (ha-yahad).

/54/ See HAQ, 66f.

/55/ HAQ, 70–75.

/56/ See above, n. 3.
“Megillat milhemet bene ‘or,” 588f.

Yadin, War Scroll, 53–57.


Ant. 4, 8, 14 (214), Gk. ἵγγερα paraphrasing Deut. 16:18. Cf. Sifre Deut. 15 (ed. Finkelstein, p. 25); Ginzberg, Sect, 48f.; and B. Yevamot 86b. (Note the citation there of a non-existent verse.)

HAQ, 44 and n. 144, 49–54.

HAQ, 22–32.

Sect, 47f.

Above, n. 1.


On the moshav ha-rabbim, see HAQ, 68–72.


Special Laws IV, 157ff.


Belkin (184), however, cites Sifre Num. 95 and B. Sanhedrin 17a (baraita) which states that “according to Tannaitic tradition, the members of the first Sanhedrin were appointed by lot” from a pre-selected pool.

Goodenough (189f.) notes that Philo’s “discussion of the ideal judge is throughout Greek in inspiration.” He sees it as derived from some “current Greek treatise on the judge.” Indeed, the passage mentions the use of pebbles (cast into an urn) in connection with the judges’ procedure. This indicates that there was more than one judge and that the method of voting was the common Greek one. Goodenough (192) correctly wonders if the pebble was used in Jewish courts or if this was simply copied by Philo from his source. The most logical answer is both. Indeed, the Jewish courts of Alexandria in his day must have been very much like those of the “Greeks” in external form. On the other hand, such practices may have also been described in his source, and for this reason he felt it appropriate to make use of them in describing the Torah’s ideal judge.

Sect, 48.
/76/ In Charles, APOT, the phrase is translated "according to occasion" and compared to M. 'Avot 5:22.

/77/ See below, 37f.

/78/ On the progressive revelation of the law, see N. Wieder, *The Judean Scrolls and Karaism* (1962), 67–70, HAQ, 22–36, and Rabin to CDC 6:14. For the preposition b, cf. the phrases *shanah be-shanah* and *pa'am be-fa'am* (Wernberg-Møller to DSD 8:15). The sequence k ... b ... occurs in 1 Sam. 18:10; Num. 24:1; Jud. 16:20, 20:30f.; 1 Sam. 3:10, 20:25. I cannot locate an example of l ... b . . .

/79/ Taking *lamod* as an inf. of *imd*. Cf. *havdel* in l. 20. Habermann saw it as an inf. of *mdd* (Licht). Wernberg-Møller, *ad loc.*, comments that "the phrase presupposes that the bulk of revelations was put down in writing and contained in a particular book." According to him (123) these revelations were contained in the *Sefer He-Hagu.*

/80/ HAQ, 33–36.


/82/ Restored with Licht.

/83/ So Licht, basing himself on context. H. N. Richardson, "Some Notes on 1QSa," *JBL* 76 (1957), 111 translated "pillars" missing the technical sense of this term.

/84/ Pp. 65–79.

/85/ Num. 1:3 and *passim*, 14:29, 26:2, 4; 2 Chron. 25:5; cf. 1 Chron. 27:23.

/86/ *War Scroll*, 77.

/87/ Num. 8:24.

/88/ HAQ, 68.


/91/ *War Scroll*, 78.

/92/ See below, 34f.

/93/ Yadin, *War Scroll*, 78.


/95/ Cf. Ginzberg, *Legends* V, 276 n. 36. On the notion that Abraham was the first to show signs of old age, see V, 258 n. 272.


/97/ That man's military prowess decreases with age is stated in *Mekhilta' De-Rabbi Ishmael* Shirah 4 (ed. Horovitz-Rabin, p. 130), and *Mekhilta' De-Rabbi

/98/ To CDC 10:7.

/99/ Read 'et (Schechter). Rabin's restoration to br's, based on DSD 6:14, is no more convincing, and, as he indicates, "excludes the otherwise attractive rendering 'who musters.'" 'Et is used regularly in CDC. Cf. Kutscher, Ha-Lashon, 316 and G. W. Nebe, "Der Gebrauch der sogenannten nota accusativi 'et in Damaskusschrift XV, 5.9 und 12," RQ 8 (1973), 257-264.

/100/ The process of mustering is described several lines above on this same page. Apparently, the members were arranged in order and their names listed. On these lists, see HAQ, 66f. For the connection of this sectarian organization with military tactics, see Yadin, War Scroll, 66f.

/101/ On this official, see below, 95 and HAQ, 29 n. 51.

/102/ These are the sectarian communities scattered throughout the country. Cf. A. Rubinstein, "Urban Halakhah and Camp Rules in the 'Cairo Fragments of a Damascus Covenant,'" Sefarad 12 (1952), 283-296.

/103/ Note the differing ways of formulating the ages in these passages. The syntactic structure of these formulations requires a thorough study.

/104/ Part of the pe' of u-mishpat is visible (Licht). The phrase rtw u-mishpat occurs also in CDC 14:12 where Rabin translates "litigation and judgment (or: ruling)." That passage is certainly a legal context. The expression occurs, however, in 1QSa 1:20 (as restored by Licht, but the restoration is definite) where it is clearly in a military context. Cf. Is. 3:13f., 34:8; Jer. 25:31; Ps. 35:1, 74:22; DSW 4:12; and DST 10:33f. From Yadin's reference (War Scroll, ad loc.) to our passage, it is apparent that he agrees with the interpretation presented here.

/105/ Cf. Num. 11:16; Josh. 22:21. The transition to the sarim, below in our passage, is based on Deut. 20:9 sare seva'ot be-rosh ha'am (so Licht). Note also the use of le-hitya'asev ba-milhamah in l. 21 which confirms the military connotation of this verb.

/106/ Note the spelling with waw. This is probably a popular plural derived directly from the singular rosh. Cf. E. Qimron, Diqduq Ha-Lashon Ha-Ivrit shel Megillot Midbar Yehudah (1976), p. 257 n. 45.

/107/ Or "clans," although the division according to numbers would favor the interpretation given above.

/108/ A similar list of officers appears below in 1:29-2:1. Cf. Ex. 18:21; Deut. 1:15 (Licht); and 1 Chron. 28:1. Licht is correct that the omission in our list of the Torah's sare 'alafim is a result of their designation here as the roshe (sic) 'alfe yisra'el. On the system of organization, Licht compares DSD 2:21-3; CDC 13:1-2; 1 Mace. 3:55 (although some of the translations have obscured the literal meaning, "captains of thousands, and captains of hundreds, captains of fifties, and captains of tens," so S. Tedesche, The First Book of Maccabees [1950], commentary, ad loc.) and Yadin, War Scroll, 59-61.

/109/ Licht, ad loc.

/110/ It is true that the text of 1QSa mentions shofetim we-shoterim immediately after the mention of the officers of thousands, hundreds, fifties and tens. The author
of the text naturally associated the shofetim as well, since they occur together with the shoterim in Deut. 16:18. Licht correctly notes that these shofetim are military officers, not judges, as can be shown from comparison with I. 24 in which we learn that they were Levites. These Levitical provosts (so Yadin) were responsible, according to the War Scroll, for supervising the mustering of the army. (On these provosts, see Yadin, War Scroll, 15f.) Yadin defines their duties as "dealing with conscription problems, matters of law and order, transmission of orders, and supervising their execution." They were between forty and fifty years old. The association of biblical shofetim with these provosts should not be surprising in light of the biblical usage of shofet as a military leader. Cf. HAQ, 64 and the material cited there in n. 276.

/111/ Num. 4:3, 23, 30, 35, 39, and 47.
/112/ Cf. Rashi, ad loc.
/113/ B. Arakhin 19a.
/114/ Cf. Joshua Isaac ben Jehiel Shapira, No'am Yerushalmi, ad loc. See also Shemot Rabbah 1:30 and Ginzberg, Sect., 330.
/115/ See below, 55f.
/116/ Sect., 45f.
/117/ Das Buch der Jubiläen und die Halacha (1930), 14f.
/118/ Sefer Ha-Miṣwot, 22, 59, 131, 159.
/119/ Tur Hoshen Mishpah 7.
/120/ 2 K. 22:1; 2 Chron. 34:1.
/121/ 2 K. 22:3. The literal meaning of the text is probably that the reform began in his eighteenth regnal year, rather than when he was eighteen. Indeed, 2 Chron. 34:3 specifically refers to the eighteenth year of his reign. The 'aggadah assumed, however, that it referred to his being eighteen years old (cf. Rashi to B. Shabbat 56b).
/122/ Cf. Ginzberg, Sect., 331f.
/123/ So P. Sanhedrin 4:7 (ed. Krot. 9, 22b).
/126/ According to MS Munich it is an elder who was unable to have children (she-lo' hayah ra'ui le-vanim).
/127/ It is only by combining the two traditions we have discussed here that Maimonides is able to rule that one cannot be a judge if he is either a zaqen or childless. See H. Sanhedrin 2:3; Shegagot 13:1. As noted in the marginal note marked with an asterisk to H. Shegagot 13:1, it is possible to read Maimonides here in line with his comment to M. Horayot 1:4 to the effect that only a zaqen she-lo' ra'ah banim is not considered a legitimate judge, yet H. Sanhedrin 2:3 confirms unquestionably the reading of the printed edition. Cf. Abraham ben Moses di-Boton's Lehem Mishneh to H. Shegagot 13:1.
/128/ M. Sanhedrin 1:6, M. Yoma' 1:3, 5. It is suggested by David Pardo in his commentary, Hasde Dawid, to T. Sanhedrin 7:5 that the tannaitic traditions refer
only to appointing an elder to the court. Nevertheless, if one reaches old age and is already serving, he is not retired. Contrast Ginzberg, Sect, 331f. who seems here to be caught up in a polemic.

/129/ Such headings are frequent in CDC. For a similar phrase, see Ben Sira 35:2 and 15:12.

/130/ Lit. “for him who gives least” (Rabin). This use of the pi'el is common in tannaitic texts. While le-mu'at appears in 13:1 and 1QSa 1:18, Rabin is correct that “the traces are not consistent with” this reading.

/131/ From Ezek. 16:49 where the prep. b does not appear. Cf. also Zech. 14:13. In light of our pl., yahaziqu, it is interesting that the versions to Ezek. 16:49 also have the plural (G. A. Cooke, A Critical and Exegetical Commentary on the Book of Ezekiel [1936], 179). This verse is quoted in the same form in CDC 6:21 to which Rabin notes that the Peshitta has be-yad. He suggests the possible influence of our author’s favorite heheziq b-, “hold fast to.”

/132/ Rabin takes yigwa’ to mean “who dies.” He explains that the funds are to be used for burial expenses. While Rabin is certainly right that this root can mean to die as in the series gw' . . . mut . . . , burial expenses cannot have been appreciable in those days. (Lewayat ha-met in the prayerbook version of M. Pe’ah 1:1 [S. Baer, Siddur ‘Atodat Yisra’el, 39] is a medieval addition.) Instead, we should take gw’ in the sense of being about to die, as it appears in Num. 17:27; Ps. 88:16; and Ben Sira 48:5. (Cf. also Ben Sira 8:7, and M. H. Segal, Sefer Ben Sira ’ Ha-Shalem [1971/2], 33.)

/133/ So Schechter and Rabin. Cf. Gen. 4:12. Ginzberg translates “begs” basing himself on Ps. 59:16, where new JPS, however, has “They wander in search of food.” Ben Sira 36:30 may confirm the suggestion of Schechter and Rabin that our text refers to a homeless (Ben Sira: wiseless) man. Cf. Abiqar 2:28 (Segal, Ben Sira’, 234).

/134/ To redeem him (Segal, Rabin). I have noted in HAQ, 105 n. 139 that CDC used both the biblical root nkr as well as the newer term goy to signify “non-Jew.” Here we see both terms. This is probably an example of the phenomenon of two synonyms in construct with one another, so common at Qumran.


/136/ Heb. go’el appears here in the sense of close kinsman. Presumably close relatives ordinarily undertook to provide the dowry (Rabin). Cf. Ruth 2:21 (parallel to qaroe). It should be noted that the use of go’el in Ruth is different from that in our text. In Ruth the “redeemer” is the closest relative charged with marrying the widow. Thus, it is a technical term in the “levirate” system presupposed by Ruth. The differences between this system and the legislation of Deut. 25:5–10 are readily apparent.

/137/ Cf. Gen. 24:43 and Ex. 2:8 where the girl is clearly unmarried.

/138/ Schechter’s reference (followed by Segal) to Jer. 30:17 shows that doresh is one who has concern for or cares for. Cf. BDB, 205b for examples. We translate with RSV to Jer. 30:17. It is possible that the meaning of this word in our text is a suitor, as Rabin has taken it. The restoration of this line in M. H. Segal, “Notes on ‘Fragments of a Zadokite Work,’” JQR N.S. 2 (1911/12), 139 cannot be accepted. Segal
was prevented from seeing the manuscript by Schechter's agreement with the Cambridge University Library. The ms does not support his reading.

/139/ So Rabin, *ad loc.*

/140/ *Every Good Man,* 87.

/141/ Rabin, *ad loc.*

/142/ Cf. below, 174–176 nn. 16–18.


/144/ *Special Laws IV,* 72–78.

/145/ On headings like this cf. *HAQ,* 82f.; and CDC 10:14; 14:10; and 16:10 (Ginzberg, *Sect,* 41).

/146/ From the exegesis of what follows as well as its approximate quotation (and exegesis?) in DSD 6:27f., it appears that this passage is a quotation from a non-biblical source. This quotation cannot be identified from any texts known to us. Perhaps a future discovery will provide a clue as to its identity. Rabin compares CDC 16:10.

/147/ The expression occurs in 1 Sam. 25:26, 31, 33 (where it is tantamount to bloodshed [Schechter]); Jud. 7:2; Job 40:14 (with *zeroa*) in reference to men. That *yad* is not to be taken as the subject of the verb is shown from 1. 10 where the subject is clearly masculine. Alternately, it is possible to emend to *hwšy* and to see *yad* as the subject. Cf. DSD 6:27 (*hwšy*).

/148/ So Schechter, followed by Segal and Rabin. Rabin explains that this means who says, *mashbirakha 'ani,* comparing M. Shevu'ot 8:2–3. Such an adjuration required a response by the adjured in order to be valid.

/149/ Cf. Lev. 14:7. For oaths in the street, see M. Shevu'ot 8:4; and B. Bava Meš'ā 30b (Rabin). The latter is amoraic.

/150/ Schechter emended to *lifne,* and is followed by Wernberg-Møller, p.112. While I cannot find evidence for such a usage of *lifr*nim, perhaps this form was synonymous with *lifne* at Qumran. *Lifnim m*(in) in Rabbinic sources means "inside of," not "before." Cf. CDC 15:3f. (Rabin).

/151/ We prefer Schechter's *ma'amaram* (cf. Est. 1:15; 2:20; 9:32 and the Aramaic Dan. 4:14; Ezra 6:9) to Rabin's admittedly "quite un-Hebrew" *me-'omram.* Our text uses *ma'amar* in the sense in which it is found in Esther. In Mishnaic Hebrew it is a technical term for the declaration with which a levirate marriage is accomplished as well as a term for the divine words with which the world was created. Rabin's interpretation was motivated by the lack of a preposition ("according to") in Schechter's reading. It is unlikely that the previous *lifnim* should apply to this noun as well as to *ha-shofetim.* We must assume either that a preposition is to be understood, or that one has been lost in transmission. Segal supplies the preposition *b-* , yet *k-* seems more appropriate (cf. Est. 3:4). Wernberg-Møller, p. 112, suggests comparison with DSD 6:25–27 (on which see below, 39f.) and therefore wishes to see *m’mrm* as parallel to DSD's *be-'amrot,* a strange *hif il* of *mhr,* "to rebel" (see below n. 164). He then translates: "The man, who swears in the open field, and not before the judges, or (in any other way) rebels against them (i.e. the judges)—his hand has saved him." While this interpretation is clever, it neglects the radically different
contexts of the two passages. CDC 9:8–10 clearly deals with oaths. These are nowhere mentioned in DSD 6:25–27 where respect and obedience to one’s superiors are the subject of the text. The only common element is the quotation of the same pre-existent source. There is no reason, therefore, to regard a perfectly clear word, ma’amaram, as a strange hif’il. Even more damaging to his view is that mrh in the hif’il requires the preposition ‘im to indicate the victim of the rebellion (usually God in the Bible). An object clause never designates the one rebelled against.

Attention should be drawn to the fragment of this text found in cave 5 at Qumran (5Q 12, DJD III, 181).

While confirming the text found in the medieval Cairo genizah ms, the fragment indicates that material not present in the Cairo texts preceded that in our passage. This is confirmed, according to the editors of DJD III, by a manuscript of our text from cave 4 which has still not been published.


Cf. T. Bava’ Qamma’ 10:16; P. Sanhedrin 8:3 (26b); and Sifra’ Qedoshim, parashah 2 (ed. Weiss, 88c).

See Ṭur Ḥoshen Mishpāṭ 4 (Schechter).

The waw of wa-’asher is pleonastic (see R. J. Williams, Hebrew Syntax: An Outline [1976], p. 71, sec. 435). The use of wa-’asher to introduce a law occurs in Neh. 8:15 and 10:31. In both cases wa-’asher precedes a law which is part of a series. Similar usage occurs in DSD 5:10–16 and 9:16. Licht (Serakhim, 37 n. 16) correctly notes that this is not the usage encountered in our passage where wa-’asher, in introducing the clauses of the Penal Code, means “the one who” (Heb. ‘ish ‘asher).

Wernberg-Møller states that in the parallel passage in CDC 14:21, the text reads wa-’asher yedabber. Actually the resh of yedabber is restored (so Rabin). CDC as it is preserved in the gentzah ms could not have contained the entire Penal Code as the broken bottom of p. 14 makes clear. Further, p. 15 appears to continue with regulations found at the beginning of the code and then to turn to other matters. Yet assuming the parallel with our law, which appears certain, several possibilities suggest themselves. First, as Wernberg-Møller suggests, yedabber can be a variant for yashiv. In that case we would expect that the preposition ‘el would follow the verb as ‘et in DSD fits with yashiv, but not with yedabber. Yet a more likely suggestion is that CDC has the clauses reversed, so it read (approximately): wa-’asher yedabber be-qoser ’apayyim we-heshiv ‘et re’ehu bi-qeshi ’oref. Alternately, perhaps the predicates remained the same and only the verbs were interchanged with the clauses as they now remain. Finally, it is possible that CDC simply omitted the first clause. Such possibilities are merely speculation. If the Qumran CDC material were completely published, it would be possible to make more valid assessments of the relationship of DSD and CDC.

The hif’il of šub followed by ‘et re’ekha occurs in Job 35:4. This passage is lacking in the Qumran Job Targum. Cf. DSD 6:8–10 and HAQ, 68.
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/159/ For the translation, see below, 106f. n. 61. The form qeshi occurs only in Deut. 9:27 (a construct). E. Ben-Yehudah, *Millon Ha-Lashon Ha-Ivrit* (1959), lists qeshi as an independent noun whereas A. Even-Shoshan, *Ha-Millon He-Hadash* (1971) sees it as a construct of qoshi. Qoshi 'oref occurs in DSD 4:11. 'Oref qasheh is found in DSD 5:5 and is restored by Licht in DSD 5:26. Qeshi 'oref is found as the interpretation of qeshi (Deut. 9:27) in Midrash Tanhuma', ed. Buber, Shelah, p. 41a. This parallel is of little value for several reasons. First, the citation of Deut. 9:27 may have conditioned the form qeshi. Second, the *Tanhuma* midrashim are generally dated to the ninth or tenth century (M. D. Herr, “Tanhuma ‘Yelammedenu,” EJ 15 [1971], 795). Finally, the parallel in Be-Midbar Rabbah, ed. Vilna, 16:28 reads qesheh (qsh). This latter *midrash* is no earlier (M. D. Herr, “Numbers Rabbah,” EJ 12 [1971], 1263f.).

/160/ Qesor 'appayim occurs also in DSD 4:10 where Licht remarks that it is the opposite of 'erekh 'appayim (in line 3). He also refers to qeser 'appayim in Prov. 14:17. In v. 29 qeser ruah appears as the opposite of 'erekh 'appayim. Note also the further uses of the root qsr with ruah and nefesh in BDB, 894a. The alternation of the forms qeser (accent on first syllable) and qesor is discussed by Licht, *Serakhim*, 45f. See also E. Y. Kutscher, “Le-Diyyuqah shel Leshon Megillat Yam Ha-Melah,” *Leshonenu* 22 (1957/8), 102f.; Z. Ben Hayyim, “Traditions in the Hebrew Language, with Special Reference to the Dead Sea Scrolls,” *Aspects of the Dead Sea Scrolls*, ed. C. Rabin, Y. Yadin (1958), 203; M. H. Goshen-Gottstein, “Linguistic Structure and Tradition in the Qumran Documents,” *Aspects*, 110f.; and Qimron, pp. 118-121. Examples were already listed in Yalon, *MMY*, 73, first published as “Megillat Sirkhe Ha-Yahad,” KS 28 (1951/2), 66. The suggestion of Kutscher and Ben Hayyim (contrast Goshen-Gottstein) that such words were pronounced with two o (=holem) vowels must be accepted. Such pronunciations have been amply documented from Greek transcriptions of Hebrew.

/161/ Only the tops of the letters pr are visible as the parchment is torn. Yet the reading is absolutely certain (Brownlee, Wernberg-Møller, and Licht).

/162/ While the MS clearly reads yswd, we follow Brownlee, Wernberg-Møller, and Licht in emending to yswr. For the yissurim and the root qsr at Qumran, see *HAQ*, 49-54, where it is noted (p. 49) that the sect regularly used qissur(im) as a substitute for the biblical noun musar (so also Brownlee to DSD 3:1). Note the qal of pr' with musar in Prov. 13:18 and 15:32 (Licht's reference to 15:13 is an error). Cf. Prov. 8:33. The porea' musar is contrasted with one who observes the reproof (instruction) he is given (shomer tokhahat) in Prov. 13:18. In addition, pr' appears with 'esah, a synonym for musar (Prov. 1:25). This phraseology was especially popular in medieval Hebrew literature (see Ben-Yehudah VI, 5209a). Note CDC 8:8, wa-yifre'u be-yad ramah, translated by Rabin, “[They] rebelled high-handedly.” Rabin calls attention to the Vulgate which (like the Jewish commentators) translates “qui deserit disciplinam.” It should be noted that yesod ha-yahad is a possible reading in DSD 7:17, 18 and 8:10. It is possible that those passages caused the error here, if we do not emend elsewhere as well. Cf. *HAQ*, 46 n. 160 where the same confusion is discussed and an emendation is proposed.

/163/ Other than Zech. 13:7, this noun occurs only in Leviticus. The word is used only in connection with sexual, legal and commercial (not cultic) matters. Despite
the widespread use of the noun in medieval Hebrew literature (Ben-Yehudah V, 4561af.), its occurrence (other than in quotations) in Rabbinic literature is extremely doubtful. The usage in T. Shevu’ot 3:6 (ed. Zuckermandel, p. 449) is simply a quotation, although it appears to us as direct speech. (Note that ed. Vilna and Hasde David read kofer for kilesh. Cf. also S. Lieberman, Tosefet Rishonim II [1938], 177.) The amoraic usage in B. Shevu’ot 30a is called into serious question by the readings of MSS Munich, Florence, Alfasi, She’iltot, sec. Yitro (DS, ad loc.). At the very least, it is clear that ‘amit was not in use during the Rabbinic period.

/164/ The form is equivalent to be-hamrot, with confusion of ’alef and he’. For the confusion of gutters at Qumran, see Licht, Serakhim, 47, and Qimron, p. 83. We cannot agree with H. L. Ginsberg (in Brownlee, ad loc.) that this is merely a scribal error. In fact, it reflects a general breakdown of gutters already found in the Qumran texts.

/165/ Hifil of mrh followed by ’et pi X occurs in Deut. 1:26, 43, 9:23; 1 Sam. 12:14 where X represents “the Lord.” The only place in which X is a person is in Josh. 1:18. Apparently, this is why only this passage is cited by Licht. For peh in the meaning of a command, see BDB, 805a. 1 K. 13:21 defines mrh (qal) followed by pi adonai as “[You] had not kept the commandment which the Lord your God commanded you.” It is difficult to see any difference between the qal and hifil of this verb. While the hifil of mrh is attested in Rabbinic literature, the usage with ’et pi cannot be located. Note Ben Sira 59:31 in which the phrase occurs regarding God’s command.

/166/ Sc. his fellow member of the sect.


/168/ Licht, Serakhim, 44f. discusses the difficulty of determining if we have a Hebrew archaizing form lifanehu or an Aramaicized lifanohi. (Waw and yod are indistinguishable in the ms, and comparative evidence from other MSS is equivocal.) Licht has followed the editio princeps “because it is easier for the contemporary reader” (45). Yalon, MMY, 72 favors the Aramaic lifanohi, cf. Kutscher, Ha-Lashon, 47, 161; Goshen-Gottstein, “Linguistic Structure,” 116; and Yalon, 55f. See also Ges. 911.

/169/ The restoration of [hw]y’h follows Brownlee and Licht. Lu’ is the normal spelling for the negative at Qumran. Yet here it signifies the preposition l + pronominal suffix, usually spelled lw (so Brownlee and Licht). Note that there are fifteen cases in the MT in which lo’ has been written for lo (S. Frensdorff, Sefer ‘Okhlah We-’Okhlah [1864], p. 98 no. 105). The opposite phenomenon is twice attested (Frensdorff, p. 99 list 106). Note also that Qumran and MT share the phenomenon of extra ’alef at the ends of words (Frensdorff, p. 98, no. 104, and for the entire problem, Licht, Serakhim, 47). The plene spelling of the negative lo’ is normal at Qumran (Qimron, p. 76f.). Further examples and explanation of our phenomenon at Qumran are found in Kutscher, Ha-Lashon, 129-131.

/170/ The scribe wrote wn’n’s and then erased the first ’ayin rather than the second (Licht, Wernberg-Møller), apparently just a sloppy error. For this use of the nifal of ’nā, see below, 159-161.

/171/ Restored with Brownlee and Licht.

/172/ While Licht and Wernberg-Møller assume that there was a space (of nine letters, according to Wernberg-Møller) in the scroll before the next law (this is at the
bottom of the column, and as usual damaged), Brownlee adds \textit{wmw\textit{d}l (\textit{u-mvedal)}, which would mean that in addition to being fined, the offender would be removed from the purity (on which see below, 165–168). One might object that in the law before this, the exclusion is mentioned before the fine. This objection is obviated by many laws to follow in which the fine precedes the instruction to remove the offender. See below, 177 n. 38 for this restoration. The question is further complicated by the need to understand the reason for the placing of the spaces in this and other Qumran scrolls. Cf. S. Talmon, "\textit{Piqqah Be'}emsa' Pasuq} and 11QPs\textsuperscript{a}," \textit{Textus} 5 (1966), 11–21.

\textit{/173/} Cf. \textit{HAQ}, 66f.