Sectarian Law in the Dead Sea Scrolls

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Sectarian Law in the Dead Sea Scrolls: Courts, Testimony and the Penal Code.


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CHAPTER SEVEN
THE SECTARIAN PENAL CODE

1. Purpose of the Sectarian Penal Code

It is widely recognized that the Manual of Discipline in its present form is a complete document made up of various regulations enacted by the sect. In the Introduction we have discussed a possible reconstruction of the literary history of this document. In any case, the various building blocks making up the text as we have it were the creation of the sect, and these building blocks mirror different aspects of sectarian belief and practice as well as different periods in the history of the sect. The final redaction of the document must have been effected by the Qumran sect. It is therefore possible to assume that the redactor had a specific intention in mind when compiling this work, and that this intention was consistent with the needs of the sect to which he belonged.

The Penal Code under discussion here must, therefore, be understood from two points of view. First, it must be asked: How did this section originate, and what was its original form? And, second, the function of this material in the complete document as it now survives must be determined.

The code begins with a heading which sets it off from what precedes it (DSD 6:24):

אלהי החברים אשר יسفמו בם המפרס י ör על פי החברים
And these are the regulations by which they shall judge in the interpretation of the community according to the(se cases.

Following this heading comes the list of offenses. These begin with we-'im, “and if,” or wa-'asher, “the one who,” and each is followed by its penalty. This format is in striking contrast to the usual formulation of Qumran laws. Generally, such laws are in the form of apodictic statements. Often the reader is left to assume the consequences for violation of the particular regulations or to conclude that punishment was to be left “in the hands of Heaven,” to borrow a Rabbinic phrase. On the other hand, the Penal Code of the Manual of Discipline is a series of casuistic laws, sharing the apodosis stating the duration of the penalty to be imposed. The uniqueness of this text is further highlighted by the apodictic formulation typical of the Manual of Discipline in its preceding sections.
At one time the Zadokite Fragments contained a list of offenses and punishments similar to that preserved in the Manual of Discipline. Indeed, remnants of this list are found in the manuscripts of the Zadokite Fragments discovered in the Cairo genizah.\textsuperscript{7} J. T. Milik has announced the presence of a list of similar form to that of the Manual of Discipline in Qumran manuscripts of the Zadokite Fragments. According to his report, Milik's list is much more extensive and complete than that found in the Cairo manuscripts.\textsuperscript{8} It may be, therefore, that the list incorporated in the Manual of Discipline represents some form of abridgment or summary of a much longer list which was in use among the members of the sect.

A major theme, if not the major theme, of the Manual of Discipline is entry into membership in the sect. Membership can be characterized as an obligation, taken on freely, to comply with the complex set of rules and regulations by which the sect lived. Now the list of selected offenses and punishments (DSD 6:24-7:25) occurs in the Manual of Discipline immediately after the description of the final stage of entry of the new member into the sect (DSD 6:21-23). Indeed, J. Pouilly,\textsuperscript{9} following J. Murphy-O'Connor,\textsuperscript{10} has placed the Penal Code of the Manual of Discipline in the third stage of the history of the Dead Sea sect.\textsuperscript{11} This stage, in his view, was brought about by a substantial increase in the number of members in the sect. The sect had meanwhile become both institutionalized and democratized. It is difficult to escape the conclusion, therefore, that the rules numbered in our list are, in fact, connected with the ceremony of initiation into the sect. Our next task, though, will be to understand exactly how.

DSD 6:14 requires that before the final year of probation leading to full status, the applicant be taught all the laws of the sect (mishpete ha-yahad).\textsuperscript{12} Such teaching occurred only after he had taken an oath "to return to truth and to turn aside from all iniquity" (DSD 6:15). Presumably, this was the formal oath required of those entering the sect. It is known from Josephus that similar oaths were required by the Essenes.\textsuperscript{13} It is unlikely that all the intricacies of sectarian law could be taught even in a year, and it is further unlikely that in taking an oath, all matters of the sect's law could be mentioned. This list in the Manual of Discipline, then, served as an abridgment which presented a reasonable sample of the sectarian regulations in connection with the oath taken by the initiate.

A parallel practice may be cited from a somewhat later description of the conversion procedure of the tannaim.\textsuperscript{14} The proselyte had to accept the entire Torah in order to become a Jew. Nonetheless, he could not be instructed in all of it immediately, and it was certainly impossible to catalogue all the commandments in the context of the conversion procedure. It was therefore required that as part of the ceremony some of the commandments of the Torah be made known, including some of the simpler and
some of the more difficult to fulfill. (The terms for simpler and more
difficult might also refer to the nature of the penalties imposed for the
transgression.) In any case, laws of charity had to be included in the
selection./15/

This parallel can help also to elucidate the nature of the selection. The
passage from the Manual of Discipline includes both the most minor and
the most major transgressions. The hierarchy of seriousness can be easily
determined by the stringency of punishment which lasted from ten days to
two years.

The order in which the transgressions are presented is also significant.
The most serious offenses come at the beginning and at the end. This was,
no doubt, to heighten the impression on the new member, so that he would
understand the seriousness of that to which he was swearing.

The code of punishments, then, had a definite place in the initiation of
new members. It served as a selection of sectarian laws of which the new
member might be informed and to which he would assent by oath. Such a
theory for the Sitz-im-Leben of this passage is consistent with the form of
the passage, its relationship to other Qumran texts, and the selection of
offenses.

But there is much more to be learned from this list of offenses. After
all, if the list represents a selection to be used as part of the initiatory rites,
then the process of selection must say something profound about the self-
definition of the Qumran sect. Indeed, the manner in which one enters any
social group is an important key to understanding the nature of that group.
It will be seen that the list is as remarkable for what is omitted as for what is
included.

The first law is certainly consistent with the use of this list in connec-
tion with initiation. It imposes a stiff penalty on anyone who lies regarding
his personal property./16/ After all, all property had to be registered as
part of the initiation process./17/ Although private ownership was main-
tained, all property had to be made available for communal use./18/
Following this is a regulation regarding the sectarian hierarchy, forbidding
disrespectful answers to those of more senior rank./19/ again a regulation
essential for the new member. The list then continues by singling out an
offense considered especially significant by the sect, the misuse of the divine
name./20/

At this point come a number of laws regarding what the Rabbis later
called “commandments between man and man.” It is forbidden to speak
angrily of the priests or to insult unjustly a fellow sectarian. Dishonesty and
defrauding another member or the sect as a whole are likewise forbid-
den. Holding a grudge and speaking offensively (or obscenely) are also
prohibited.

This collection of offenses is clearly intended to facilitate life in a small,
closed-in settlement such as that at Qumran./21/ Morally insensitive
behavior exhibited in so densely populated and intensely intimate a society might lead to dangerous divisiveness. The new member must understand thoroughly that violations of the code in this area could not be countenanced.

Next the list turns to the conduct of the *moshav ha-rabbim*, the sectarian legislative and judicial assembly./22/ It is forbidden to interrupt, to fall asleep during, or to be absent from the meetings./23/ Expectorating is prohibited in this council, presumably since it was an act of utter disrespect and might communicate ritual impurity. At any rate, the new member is here reminded about the manner in which the sect will decide its law. While many other regulations appear in Qumran literature on this subject, the compiler of this code chose only a few to emphasize to the new member that he now owed allegiance, participation, and respect to the administrative and legal system of the group of which he was now a part.

Then follow laws of modesty and "good taste." It is forbidden to gesticulate in such a way as to allow the garment to shift immodestly. It is also forbidden to laugh aloud. The next set of rules regards the prohibition of gossip against an individual or against the sect as a whole.

The final regulations concern the prohibition of rebelliousness against the sect or against a member, presumably one ahead of the offender in rank. The text discusses the one who throws off the yoke of the sect altogether. If he is a recent member, he may repent and begin the initiation period anew, but if he has completed ten years, he may never again be admitted. The list of regulations, then, concludes by telling the new member about to be admitted that temporary or even permanent expulsion will result from his violation of the sect's laws./24/

It is not too difficult to understand the special significance of the material selected for inclusion in the list, but what has been excluded? It is significant that the major areas of sectarian law known from elsewhere in the Qumran corpus, including passages in the *Manual of Discipline*, the *Zadokite Fragments*, and other sectarian compositions, are omitted. Where is the Sabbath, and the laws of ritual purity and impurity? Where are the laws of sacrifice, marriage, and the calendar about which the sectarian texts polemicized so vehemently?

The answer can lie only in the nature of the process of entry into the sect. At the earliest stages of the novitiate, a would-be sectarian had to accept the Qumran interpretation of what the Rabbis later called *halakhah*. Thus, the new member had long ago conformed to the sect's views on ritual purity, Sabbath, marriage and the many other aspects of the law. Now, as he was embarking on his final probationary period and was soon to be welcomed into total membership in the sect, these sectarian interpretations of the law were already axiomatic. But the new status of the sectarian and his complete entry to the communal meals/25/ and to the *moshav ha-rabbim*
necessitated that the sectarian regulations in this list be given particular prominence. The selection of these regulations, then, results not only from the general relationship of the list to the process of joining the sect, but, more specifically, to the use of this list as part of the last stages in the initiation rites.

It can now be understood that this code of punishments served a central role in the initiation process at Qumran. While it stresses certain regulations and omits others practiced by the sect, it is so composed specifically for use in the final stages of the initiation of new members. As such, the code probably constitutes a selection drawn by its compiler from a larger text. While this list remains valuable for our understanding of the law and organization of the Qumran sect, the purposes for which it was compiled and its place in the life of the sectarians must be borne in mind.

2. Formulation of the Penalty Clauses

The most serious problem posed by the sectarian Penal Code results from the inconsistency in the formulation of the penalty clause in each provision of the code. The first law contains a full statement of its penalty, and must, therefore, serve as the starting point for discussion of this problem. DSD 6:24 states:

אם ימצע בם איאש אספר ישקר בהמח והזauważו ריביילום מוחק
שהירת רביעים שלמה את הנהום ואת רביעים להם.

If there is found among them a man/26/ who lies/27/ regarding/28/ property/29/ knowingly./30/ they/31/ shall separate him from the midst of/32/ the pure food of the assembly/33/ for one year, and he shall be fined/34/ one-fourth of his food (ration)./35/

Here a man who does not honestly reveal the extent of his property upon entry to the sect is punished in two ways—removal from the pure food of the sect, and the docking of one-fourth of his food rations for a specific length of time.

When the next provision (DSD 6:26f.) states its penalty as we-ne'enash shanah 'aha[1], there is substantial difficulty in regard to whether this penalty refers only to the docking of rations, or if it also involves separation from the pure food. On the other hand, the parallel usage of the root 'nš and its meaning in the sense of monetary fine, already attested in biblical usage, would favor the conclusion that the text intends here only the reduction of rations. It cannot be said that all fines included the separation from the pure food as the laws that follow are careful in distinguishing this detail./36/

The following table sums up the penalty clauses of the prescriptions of the Penal Code, omitting those dealing with expulsion and demotion which will be analyzed separately./37/
They shall separate him from the pure food of the community for one year, and he shall be fined one-fourth of his food ration.

<table>
<thead>
<tr>
<th>Verse</th>
<th>Hebrew</th>
<th>English</th>
</tr>
</thead>
<tbody>
<tr>
<td>6:25</td>
<td>וְכַלְיַהְתָם שֶׁהָעָרָתָם מִהֲבָךְ הָרָאָבָן שֶׁהָעָרָתָם אֵלֵּךְ וּלְעֹדֲךָ לְחָם</td>
<td>They shall separate him from the pure food of the community for one year, and he shall be fined one-fourth of his food ration.</td>
</tr>
<tr>
<td>6:27</td>
<td>[and he shall be separated]</td>
<td>He shall be fined one year</td>
</tr>
<tr>
<td>7:2f.</td>
<td>וְכַלְיַהְתָם שֶׁהָעָרָתָם מִהֲבָךְ הָרָאָבָן</td>
<td>He shall be fined one year</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Verse</th>
<th>Hebrew</th>
<th>English</th>
</tr>
</thead>
<tbody>
<tr>
<td>7:3, 7:4</td>
<td>שֶׁהָעָרָתָם הָרֵס</td>
<td>He shall be fined six months</td>
</tr>
<tr>
<td>7:5, 7:12</td>
<td>שֶׁהָעָרָתָם הָרֵס</td>
<td>He shall be fined</td>
</tr>
<tr>
<td>7:18</td>
<td>שֶׁהָעָרָתָם הָרֵס</td>
<td>He shall be fined</td>
</tr>
<tr>
<td>7:4f.</td>
<td>וְכַלְיַהְתָם שֶׁהָעָרָתָם מִהֲבָךְ הָרָאָבָן</td>
<td>He shall be fined one year</td>
</tr>
<tr>
<td>7:6</td>
<td>שֶׁהָעָרָתָם הָרֵס</td>
<td>He shall be fined three months</td>
</tr>
<tr>
<td>7:8 (twice)</td>
<td>שֶׁהָעָרָתָם הָרֵס</td>
<td>He shall be fined sixty days</td>
</tr>
<tr>
<td>7:9</td>
<td>שֶׁהָעָרָתָם הָרֵס</td>
<td>He shall be fined three months</td>
</tr>
<tr>
<td>7:9f.</td>
<td>שֶׁהָעָרָתָם הָרֵס</td>
<td>He shall be fined ten days</td>
</tr>
<tr>
<td>7:10</td>
<td>שֶׁהָעָרָתָם הָרֵס</td>
<td>He shall be fined thirty days</td>
</tr>
<tr>
<td>7:11, 7:15</td>
<td>שֶׁהָעָרָתָם הָרֵס</td>
<td>He shall be fined ten days</td>
</tr>
<tr>
<td>7:12, 7:13</td>
<td>שֶׁהָעָרָתָם הָרֵס</td>
<td>He shall be fined</td>
</tr>
<tr>
<td>7:14, 7:15</td>
<td>שֶׁהָעָרָתָם הָרֵס</td>
<td>He shall be fined thirty days</td>
</tr>
<tr>
<td>7:16</td>
<td>שֶׁהָעָרָתָם הָרֵס</td>
<td>He shall be separated for one year from the pure food of the community, and he shall be fined.</td>
</tr>
</tbody>
</table>

While the table points out some inconsistencies in the penalty clauses, it also reveals some regularities which shed light on the formulation of penalties. Separation from the pure food is normally associated with the one year punishment, and, as will be shown below, with that of two years. Therefore, it is probably intended as well by 6:27 which seems to require emendation to add u-mudal./38/ Clearly, separation from the pure food is stated where it applies and is not to be understood elsewhere. We-ne’enash must be taken as referring only to the diminution of the food ration by one-fourth, and not to separation from the pure food./39/

Those offenses for which we-ne’enash does not occur and in which the text states only a duration for the penalty can refer only to the reduction of the food ration. First, none of these penalty clauses refers to periods of one or two years, and, elsewhere in the code, the removal from purity applies
only to punishments of such duration. Second, the prescriptions which omit *we-ne'enash* occur between others in which *we-ne'enash* appears repeatedly. It is probable that the scribe (or redactor) of the code simply abbreviated occasionally, or accidentally omitted this word. Finally, the occurrence in DSD 7:16 of a totally different formulation shows how necessary it was to state explicitly separation from the pure food.

Once these regularities are noted, an important literary observation can be made. There is a general trend in this code to abbreviate progressively. The first prescription (DSD 6:25) states fully the separation from the pure food and then the docking of one-fourth of the food ration. The purity clause then appears in 7:2f. in its full form. In 7:4f. it begins to occur in an abbreviated form, until upon reaching 7:16 the scribe (or redactor) felt constrained to reformulate the entire matter, repeating the entire purity clause to avoid confusion.

The food ration clause also went through a similar transformation. At first it was explicitly stated that one-fourth of the food would be withheld. Then the scribe (or redactor) felt free to omit this detail, stating the exact duration and assuming the reader would understand what was intended. He then went even further and omitted *we-ne'enash*, assuming that the reader needed no further details other than the duration. Toward the end, he returned to the inclusion of *we-ne'enash*.

There is another possibility to be considered concerning the formulation of the Penal Code. It has been argued above that the sectarian Penal Code constitutes a literary unit which circulated independently and was then placed in the *Manual of Discipline* by its compiler. But perhaps the original unit was itself a composite of statements. Such a process is easily visible in the Mishnah, in which certain groups of independent statements which earlier compilers had grouped into literary units were included as is. In these cases, the redactor(s) retained the units as they were, and the disparate origin of the original statements can still be detected. Such a possibility might apply here. While the exegesis presented above would remain valid for the finished product, it would lead to a conclusion that the varying types of formulations evident in the penalty clauses show that the code itself was compiled into its present recension from earlier short statements of a "mishnah-like" character.

3. Ritual Purity and Impurity and the Admission Process

In order to understand the meaning of the separation from the pure food, it is necessary to consider the process of admission to the sect as described in the *Manual of Discipline*. Like the Penal Code, these regulations are seen by Pouilly as part of the third stage in the history of the sect during which large numbers of new members were joining. Our treatment of the initiation of sectarians will concentrate only on the way in which ritual purity and impurity are reflected in the admission process.
The first step towards entry into the sect was examination by the *paqid be-rosh ha-rabbim*, the “official at the head of the community.” If this official approved the candidate, the novice took his admission oath and was then taught the sectarian regulations. Only then did the *moshav ha-rabbim*, the sectarian assembly, render a decision on him, presumably based upon his performance to date. If he passed this examination, he attained a partial status. Accordingly, DSD 6:16f. states:

בקרוב לְצָעַת הָדָרֵד לֹא יָתַן בְּמַעֲרָתָהּ הָרֶבֶּם דֶּרֶשׁ יָרֵדֵשׁ לָדוּרוּת
מַעֲשֶׂשׂ טֶרֶם מֶלֶטָהּ לָלֶט טִימֵה

And when he draws near to the council of the community he shall not come in contact with the pure food of the community until they investigate him regarding his spirit and his deeds until he completes one full year.

The novice, after a year in which he may not touch the pure food, is again examined by the *moshav ha-rabbim*. He is then elevated to a higher status in which his property is temporarily admitted into communal use. His property is registered officially, although full title remains his. Nonetheless, he is still not a full member, as DSD 6:20f. provides:

לא יָתַן בְּמַעֲרָתָהּ הָרֶבֶּם דֶּרֶשׁ יָרֵדֵשׁ לָדוּרוּת

Let him not come into contact with the liquid food of the community until he completes a second year among the members of the community.

After this second year he is again examined, a third time, by the *moshav ha-rabbim*. If he again passes (DSD 6:22):

יחַהֲבֵּהוּ בְּמַשְׁקַה בְּךָּר קָה לָדוּרוּת לְמַעֲשֶׂשׂ טֶרֶם לְמַעֲשֶׂשׂ לְמַעֲשֶׂשׂ לְמַעֲשֶׂשׂ לְמַעֲשֶׂשׂ לְמַעֲשֶׂשׂ לְמַעֲשֶׂשׂ לְמַעֲשֶׂשׂ לְמַעֲשֶׂשׂ לְמַעֲשֶׂשׂ לְמַעֲשֶׂשׂ לְמַעֲשֶׂשׂ לְמַעֲשֶׂשׂ לְמַעֲשֶׂשׂ לְמַעֲשֶׂשׂ לְמַעֲשֶׂשׂ לְמַעֲשֶׂשׂ לְמַעֲשֶׂשׂ לְמַעֲשֶׂשׂ

They shall register him in the appropriate place in the list among his brothers, for Torah, judgment, and purity.

At this point he is finally a full member of the sect; his property is subject to communal use; and he takes his place in the sectarian assembly.

The stages of initiation regarding ritual purity may be summarized as follows: The recruit, even after his examination by the *paqid*, instruction in some sectarian teachings, and reexamination by the community, was considered ritually impure and was not permitted to come into contact with any of the sect’s victuals. After his second public examination, he was allowed to touch only solid food for a year. Apparently, even after being permitted to come into contact with solid foods, he was still not considered entirely free of the danger of ritual impurity until he passed a final examination before the sectarian assembly. After this final examination a year later, he was allowed to touch even the liquid foods of the community. Only then was he a full member regarding tohorah, ritual purity.

The attempt by some scholars to understand tohorah as the purification ritual of the sect must be rejected. Indeed, the waters of purification, what the Rabbis called the *miqveh*, are explicitly mentioned in DSD
where they are termed mey niddah/55/ or mey rahash./56/ That these are technical terms in the sect's biblicizing ritual and legal vocabulary can be shown beyond a doubt. CDC 10:12f. contains two occurrences of the expression mey keli which is likewise a technical term referring to water unfit for ritual purification. Separation from the tohorah, therefore, is not separation from purification in the ritual bath, but is, in fact, separation from the pure food of the sect.

The claim that tohorah refers to purification has been conditioned by the description of the Essenes given by Josephus, according to which upon completing the initial period of probation, the Essene novice is allowed “to share the purer kind of holy water.”/57/ While it is indeed possible to take this phrase as referring to the admission of the novice to the ritual bath and attendant purification, it is also possible to take this “water” as similar to the mashqeh of the Manual of Discipline. Josephus would have mistaken the order and therefore placed the liquid before the solid food in describing the Essene initiation process./58/ If, on the other hand, the passage is taken as referring to purificatory rituals, it cannot be used to interpret mashqeh at Qumran. For the “water” of Josephus is opened to the novice at the beginning of his initiation, whereas mashqeh at Qumran is the last stage. Even if Josephus’s “water” is the purificatory bath, the mashqeh of the sect remains the liquid food. As to when new members of the Qumran sect were admitted to the ritual bath we cannot say. It can be surmised that after the initial oaths, purificatory facilities were made available to the novices, even if these baths were perhaps separate from those of the full-fledged members.

The same school of thought which saw tohorah as the purificatory baths of the sect has claimed that the mashqeh is the banquet or communal meal of the sect./59/ This claim has been based on an understanding of this meal as sacral, a view argued against in this volume./60/ It must be said that the essential difference between the two roots for drinking in Hebrew, sqh and sth, is that the former is used in the context of providing or pouring water, even in terms of animals or irrigation;/61/ the latter is used for drinking at meals or at parties./62/ Hence, mashqeh is properly understood as a liquid, whereas mishteh is used for a party. This distinction is operative in both biblical and tannaitic Hebrew and should caution against the assertion that mashqeh refers to the banquet of the sect. In fact, DSD 6:4-5 and 1QSa 2:18 use the verb sth in reference to the sectarian communal meals.

G. Forkman has in this connection made the important observation that the Zadokite Fragments describe a process of admission which involves only the first two steps of the procedure described in the Manual of Discipline: examination by an official followed by the oath to join./63/ Based on this observation, he concludes that the Zadokite Fragments describe a community of novices./64/

Licht has examined these regulations of the Manual of Discipline in light of tannaitic traditions in a detailed appendix, and he has succeeded in
providing a clear explanation of them. He notes that in tannaitic halakhic terminology, a *mashqeh* is a liquid fit for human consumption which may contract ritual impurity. Indeed, the sect used the term in the same manner. The *mashqeh ha-rabbim* is, therefore, any liquid used in the preparation of or served at the meals of the sect, mainly, in the view of Licht, the drinks consumed at the meals of the community.

Licht explains that according to tannaitic halakhah, purity regulations regarding the *mashqim*, liquids, are in some senses stricter than those regarding solid foods (*okhelim*). The tannaim understood that even the smallest amount of liquid which is impure can render clothing, food and drink, or vessels impure. In the case of solid foods, there must be at least an amount the size of an egg in order to render anything impure. There is yet another stringency of liquids. Whereas solid foods are subject to a descending scale of impurity as the impurity is passed from item to item, liquids remain in the first state, which conveys the highest level of impurity, no matter how many times the impurity is transferred from liquid to liquid.\(^65\)

These two stringencies regarding liquids may indicate why the sectarian entry process was stricter regarding contact with the liquid than with the solid food. In order to understand fully the process of initiation, it must be remembered that one who eats or drinks impure food will himself become impure as a result, and that the impurity he contracts will be in the same degree as the food or drink consumed.\(^66\)

Based on all of these tannaitic regulations, Licht proposes a most attractive explanation for the process of initiation: One who is not a member is impure in the stage of *'av ha-tum'ah* (the highest stage except for a dead body which is *'avi 'avoat ha-tum'ah*). During the first year the candidate is impure in the first degree. In his second year he is impure in the second degree, and only once he is fully accepted, can he be presumed to be pure.

Since the *'av ha-tumi'ah* renders impure both solid foods and liquids, the candidate in his first year is (just like the non-member) forbidden to touch both liquid and solid food. Since in the second year he is considered impure only in the second degree, and can render impure only liquids, he is permitted to touch the *tohorat ha-rabbim*, the solid food of the community, but is still prohibited from touching the *mashqeh*, the liquid food. Only after becoming a full member is he assumed to be pure and is he permitted to touch both liquid and solid food.\(^67\)

While Licht's theory cannot be directly proven, it has the advantage of providing a reasonable explanation for the data presented in the texts and, as will be seen presently, also explains the process of removal from the pure food as a punishment. What emerges from Licht's proposal is a unique relationship between the processes of what the sect regarded as repentance through the joining of its ranks and ritual purification. This ritual purification was to the sectarians no more than a symptom of a spiritual purification. Indeed, the sect
believed that no amount of lustrations and ablutions would render pure anyone who was a still unrepentant transgressor.\textsuperscript{68} To the sect, then, ritual purity and impurity were symbolic manifestations of the moral and religious state of the individual.\textsuperscript{69}

4. Ritual Purity and Impurity and the Penalties

It is now time to assess properly the punishment of removal from the \textit{tohorah}, the solid food of the sect. What this penalty meant for the sectarian was a return to the status of one who had passed the first examination by the \textit{moshav ha-rabbim}. In order to regain his status in the sect, he had to complete again the full progression of initiatory stages. Only then would he again become a full member of the sect. In other words, removal from the purity constitutes demotion to the status of a first year novice.

That this interpretation is correct can be seen from two passages from the \textit{Manual of Discipline}. The second to last provision of the Penal Code (the last is expulsion, and it will be dealt with below) is as follows (DSD 7:18–21):

\begin{quote}
ולב אופ תור אוות תור מיסר תור בתור באת בלכת בלכת ברירות הזניי אופ תור אוות תור בלכת בלכת ברירות הזניי אופ תור אוות תור באת בלכת בלכת ברירות הזניי אופ תור אוות תור בתור באת בלכת בלכת ברירות הזניי אופ תור אוות תור באת בלכת בלכת ברירות הזניי אופ תור אוות תור
\end{quote}

And as to the man whose spirit shall turn aside\textsuperscript{70} from the teaching\textsuperscript{71} of the community, so that he rebels\textsuperscript{72} against the truth,\textsuperscript{73} and goes after the foolishness of his heart,\textsuperscript{74} if he repents, then he shall be punished for two years.\textsuperscript{75} In the first,\textsuperscript{76} he may not come into contact with (even) the pure (solid) food of the community, and in the second,\textsuperscript{77} he may not come into contact (with) the liquid\textsuperscript{78} of the community. And he shall sit behind all the members of the sect.\textsuperscript{79} And when he completes two years,\textsuperscript{80} the community shall be asked\textsuperscript{81} regarding his affairs.\textsuperscript{82} If they bring him near,\textsuperscript{83} he shall be registered in his proper place\textsuperscript{84} and afterwards he may be asked\textsuperscript{85} regarding\textsuperscript{86} judgment.\textsuperscript{87}

In this passage the sectarian has transgressed to the extent that he is forced to repeat the initiatory process. He must repent, for otherwise no hope of purification exists. If he does, he begins the process described above. He is readmitted to the various levels of purity at exactly the same stages as a new member. In short, he is sent back to the lowest grade and allowed to reenter the sect with the possibility of progressing through the ranks once again.

DSD 8:16–19 which was apparently drawn from another source by the compiler of the \textit{Manual of Discipline} is a parallel to the last passage. Once again the process of readmission for a member who has strayed from the sectarian law is described here:

\begin{quote}
וכל אם אופו תור אחר תור אחר תור אופו תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אופו תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אופו תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תור אחר תורchu

\end{quote}
And any man from among the men of the covenant of the community,/88/ who turns aside at all,/89/ from any commandment,/90/ intentionally,/91/ shall not come in contact with (even) the pure (solid) food of the men of holiness. And let him not be aware of any of their counsel,/92/ until his deeds be purified from all iniquity,/93/ so that he walks,/94/ on the perfect path./95/ Then they shall bring him near,/96/ for counsel according to (the decision of) the community. And afterwards, he shall be registered in his proper place. And (it shall be) according to this regulation (for) everyone who joins the community./97/

Not only does this passage repeat the basic ideas of the previous quotation, but also it makes explicit the relationship between temporary expulsion and the process of entry into the ranks of the sect. The penitent sectarian is left with no choice but to tread his way once again through the long process of initiation.

That this passage is in fact drawn from another source is supported not only by literary considerations, but also by the existence of a fragment, 4QSe⁶, which is reported to contain a text of the Manual of Discipline omitting DSD 8:16–9:11. This fragment has been dated paleographically to an earlier date than the 1QS manuscript of the Manual of Discipline. At the very least, it may indicate the existence of a recension omitting this passage./98/ That the manuscript is earlier does not prove that it represents an earlier recension as 1QS could have been copied from an even earlier recension containing these regulations. The existence of this alternate recension, therefore, while of great importance, cannot lead in and of itself to conclusions regarding the history of the text of the Manual of Discipline./99/

This passage has also been treated by J. Pouilly in his discussion of the evolution of the penal legislation of the Qumran community./100/ He follows the approach of J. Murphy-O'Conner in regard to the historical evolution of the sect/101/ and within this framework sees the text under discussion as part of the second stage of development. Only in this stage does one find penal legislation for the first time./102/ Indeed, it was in his view the result of some limited experience with community life which led to the reedition of the rudimentary legislation found in DSD 8:10–12 and 8:16–9:2. He sees the text before us and the continuation in DSD 8:20–9:2 as having developed independently. Otherwise, he says, it would be necessary to conclude with G. Forkman/103/ that there is some contradiction here. Forkman suggests that we distinguish between the section concerning “a member of the covenant” ('anshe ha-yahad) and the other about “a member of the holy perfection” (‘anshe temim ha-qodesh). He sees these as two distinct groups within the community./104/

Pouilly rightly objects to Forkman’s distinction, but his own suggestion that ‘anshe ha-yahad was replaced at some point by the two new titles ‘anshe ha-qodesh (8:17, 23) and ‘anshe ha-temim qodesh (8:20) is speculative, to say the least./105/ Pouilly, therefore, suggests that these two texts are no more than successive stages of formulation of the very same law, the
second (DSD 8:20-9:2) being in his view no more than a new redaction of the rule of "excommunication." Whereas the first deals with a period of temporary excommunication of duration to be determined in each case, the second is more severe and precise.

The truth is that this entire theory cannot stand. Even though there are literary reasons to believe that DSD 8:16–19 and DSD 8:20–9:2 may have originally been formulated separately, the proposal that the first is earlier and more lenient than the second cannot be supported by the text. The linchpin of Pouilly's theory is that both passages discuss the same sort of offenses. Actually, the first passage deals with offenses against the *miswah*, the sectarian legal principles derived through biblical exegesis, called the *nistar* in many passages. The second passage deals with laws explicitly stated in the Torah, elsewhere called the *nigleh*. This second class was regarded with much greater severity by the sect, just as the Rabbis somewhat later were stricter in regard to biblical injunctions than in regard to the Rabbinic ordinances.

It has already been shown that all one year punishments include both the reduction of food rations and the separation from the pure food. In light of the connection of the Penal Code with the process of sectarian initiation, and the conclusion that separation from the pure food constitutes a form of demotion to lower status, consideration must be given to the exact nature of separation from the purity for one year. Above, it was seen that a two year separation meant that the offender retraced his steps through the sectarian initiation process. It seems apparent, then, that in the second year of his separation it was only the *mashqeh*, the liquid food, with which he could not come into contact, whereas for the first year he was also prohibited from coming into contact with solid food. Now the same logic must be applied to the one year separation. If, indeed, the offender is simply being demoted to the status of one who has still not been completely accepted to sectarian life and who still has one year to go to complete his initiation process, then it would be expected that the one year separation from the "pure food" was actually separation only from the *mashqeh*. After all, new initiants were allowed to touch solid food during their last year of initiation. It was only the liquid food from which they were to be separated.

While this theory is extremely attractive in light of the connections of the purity and initiation aspects of sectarian life, it has one difficulty. It requires the assumption that *tohorah*, which above was shown to refer to solid food, as opposed to the *mashqeh*, or liquid foods of the sect, can also refer to all victuals. Indeed, such semantic range is possible and perhaps even usual. English "food" is sometimes to be distinguished from drink, but often includes it. The use of *tohorah* as a general term for pure food, both solid and liquid, appears in DSD 7:25 (the last provision of the Penal Code) where no one could possibly deny that both solid and liquid foods are included. It would therefore seem probable that the interpretation proposed
here for the “pure food” of the one year punishment is correct, but it must be fully understood that absolute confirmation of this view is not available.

5. Expulsion from the Sect

Certain offenses were considered so heinous as to require permanent expulsion from the sect. The final provision of the Penal Code (DSD 7:22–25) specifies the conditions for unconditional and permanent expulsion from the sect:

וֹכֶל אֵין אָשֶר יָהֵת בְּצַעַת הָדוֹר עַל מְלֹאָת עֵשֶׁר שָׁנָה והָיָה רָזוּת לְבָנָיו בְּצַעַת יִצְרוֹן מְלֹאָת הָרוֹכֵן לְלֶחֶת בְּשַׁר יִרְדָּא לְמוֹ שִׁיָּב. אֶל צְעַת הָדוֹר עַד אַלֵי מַעַּשֵׁה יִתְכֹּד אֶלֶּה יָשְׁרָא לְשָׁמַיִם בְּשַׁר יִרְדָּא אֶל בְּצַעַת יִצְרוֹן מְלֹאָת שִׁיָּב. מְלֹאָת שִׁיָּב.

And any man who shall be (a member) of the council of the community long enough/106/ to have completed ten years,/107/ whose spirit backslides/108/ so as to rebel against the community, and who goes forth from before the community/109/ to follow the foolishness of his heart./110/ shall not return to the council of the community ever again. And as to any member of the community who has dealings/111/ with him regarding his pure food/112/ or his property without the consent of the community, his verdict shall be like his (the one expelled) so that [he is]/113/ expelled/114/ from them.]

This prescription concerns a veteran member who after ten full years backslides from the way of the sect. He is to be unconditionally and permanently expelled, and his former fellows are forbidden to deal with him in regard to pure food or financial matters./115/ Members who continue to be involved with him will be expelled from the sect as well.

This passage recalls Josephus’s famous description of those expelled from the Essene sect. They were placed in a kind of ritual no man’s land. They had taken oaths to observe purity laws and were now denied entry to the Essene fellowship, the only realistic vehicle for observing those laws. Hence, they are pictured by Josephus as virtually starving for lack of food. Often, he says, the Essenes would relent and readmit these unfortunate when they saw that they were at death’s door, on the grounds that their suffering had atoned for their transgression./116/

What is important about this description is what it shows about the sincerity of those expelled. Even after expulsion, they still sought to observe the laws of ritual purity of food. The same is the case in the passage from the Penal Code of the Manual of Discipline. The former member is still trying to enlist his fellows in helping him to maintain the laws of purity as defined by the sect and as accepted by him in his oaths of initiation.

This description of final expulsion from the sect also brings to mind the tannaitic sources regarding excommunication. It must be remembered that excommunication in Talmudic sources does not constitute any kind of expulsion from the Jewish people. Indeed, the principle that no Jew could
ever lose his status or his identity as a Jew was always part of the Jewish legal system./117/

The earliest tannaitic accounts of excommunication concern the *niddui*, a temporary ban of short duration. These bans are pronounced in order to maintain the authority of tannaitic halakhah as decided by the academies./118/ Only in amoraic times did the ban become a method for forcing recalcitrant members of the Jewish community to abide by the decisions of the Rabbinic courts. What is most interesting is that the tannaitic sources are narratives regarding the banning of some specific person, whereas legal statements regarding this procedure are absent in tannaitic literature. Only later in the amoraic period was this institution developed fully. This development took place in Babylonia where the struggle of the amoraim to establish and maintain their authority in the face of competing authority structures made the use of such procedures essential. The medieval *herem* (excommunication) constituting severance from the Jewish community (such as that imposed on Baruch Spinoza) was probably evolved under the influence of Christian excommunication./119/

Apparently, the strict ruling of DSD 7:22–25 was reserved only for those who had been part of the sect for ten years. Others were always eligible to accept the sectarian penalties and repent of their transgressions. DSD 8:21–9:2 seems to bring together the entire procedure in a formulation which originated in a source different from that of the Penal Code./120/

As to any one of them/121/ who shall violate/122/ anything/123/ of the Torah of Moses/124/ intentionally/125/ or dishonestly./126/ they shall expel him from the council of the community and he may never return. No one of the men of holiness/127/ shall have dealings/128/ with him financially/129/ or in regard to his counsel/130/ on any matter./131/ And if he does (it)/132/ in error, he shall be separated (even) from the pure (solid food) and from counsel,/133/ and they shall exact punishment./134/ that he not judge a(n) man and that he not be asked for any counsel for the two years unless/135/ his way shall become perfect in/136/ the session, the exegesis,/137/ and the counsel/138/ according to the community/139/ so that/140/ he has not erred again for two years./141/ For/142/ on account of one unintentional transgression he shall be punished/143/ for two years, whereas one who transgresses intentionally shall never return. However, the unintentional transgressor shall be examined for two years regarding the perfection of his path and his counsel, according to the community. Afterwards, he shall be inscribed/144/ in his proper place in the holy community.
While this text basically echoes the same principles already discussed, it is somewhat stricter in that it commands the immediate expulsion of anyone who violates a commandment intentionally. Only unintentional transgressors may repent. These two versions may represent different stages in the history of the sect./145/

A general statement on the subject of expulsion is also found in CDC 20:1–8:/146/

This passage has been taken by J. Murphy-O’Connor as reflecting the second stage in the evolution of the *Manual of Discipline*. He sees this passage as an interpolation into the text surrounding it./170/ The text concerns a discouraged member of the sect whose attitude is eventually evidenced by infringement of the law. Other members of the community are enjoined from contact with him, in Murphy-O’Connor’s opinion, “for fear that his discouragement might prove contagious.” The text suggests “a continuous effort to revive the conscience and enthusiasm of the unfortunate delinquent.” He sees the same tendency in DSD 8:17–19 and takes both texts as referring to the same procedure. (He theorizes that CDC 20:1–8 would have been composed after the death of the teacher of righteousness when the community was thrown into disarray leading to rebellion and defections./171/)

In this context the passage has been studied by J. Pouilly./172/ He sees the text as self-contradictory. He understands the first section (ll. 3b–4a) as indicating the expulsion of guilty sectarian. He sees the second section (4b–5) as referring to [temporary] “excommunication,” while the final section (6–8a) again returns to the expelled member who has been cursed by the holy ones on high.

In order to deal with this apparent difficulty, he suggests restoring the text as follows:/173/
The text would then contain, in his restoration, two regulations: (1) the temporary separation of those who are guilty; they are to be reprimanded by the “men of knowledge” and reintegrated after changing their ways, and (2) the complete expulsion of one whose transgression is extremely grave or who refuses to mend his ways and the requirement that others break relations with him.

Pouilly sees here the same development which he found in DSD 8:16–24. He claims that the earlier, lenient first part (according to his restoration), involving only temporary exclusion, was replaced by a later and stricter regulation involving total expulsion./174/ Here again it must be objected that the distinctions he has drawn for DSD 8:16–19 and 8:21–9:2 are fallacious as these laws deal with different kinds of violations. The sections dealing with partial expulsion refer, like DSD 8:16–19, to the case of one who violates a sectarian ordinance derived through biblical exegesis. The more stringent expulsion is required for one who violates a law explicit in the Torah. There is no historical development visible in this passage from the Zadokite Fragments.

But is his restoration required? It is possible to interpret the entire text of CDC 20:1–8 as parallel to DSD 8:16–19. Its legal details would accord in every way to our passage. The strong language of our passage may be the result of the author’s desire to stress the gravity of disobedience to the sect’s regulations. The passage before us in CDC 20:1–8 would then refer only to one who had transgressed a sectarian ordinance derived through Scriptural exegesis. Such a person was demoted to the state of a novice (outside of the ‘edah) until such time as he was readmitted. Up to that point, his status was the same as that of those who were not members of the sect, and he was regarded by the sectarians as accursed.

Besides the general treatment of expulsion from the sect which has been analyzed above, the sectarian Penal Code singles out three specific offenses for expulsion from the sect. One of these, found in DSD 6:27–7:2 on the misuse of the divine name, is treated fully in Chapter VI. The other two should be noted here. They appear together in DSD 7:16f.:

If anyone/175/ shall go about slandering/176/ the community/177/ he should be/178/ expelled/179/ from among them, and he may never return. And as to the man who complains regarding the foundation(s)/180/ of the community, they shall expel him, and he may not return.
These two provisions indicate a rather authoritarian aspect of the life of the sect. Indeed, any complaints or criticisms of the sect result in unconditional expulsion. While it is tempting to say that this refers to talebearing or expressing criticism to those outside the sect, this is highly doubtful. Other passages make very clear that the passing of information regarding the sect to those outside of it was forbidden. These provisions must, therefore, be explained otherwise.

From other passages it is known that criticism of the sect’s leaders was forbidden and resulted in punishment. The relevant provision of the Penal Code, DSD 6:25–27, has already been discussed. It requires that a punishment of one year be meted out to anyone who spoke against those above him in sectarian rank. DSD 7:2f. is a similar law regarding the priestly leader of the sect:

If he spoke angrily against one of the priests registered in the book, he shall be punished for one year and separated unto himself from (even) the pure (solid) food of the community. But if he spoke unintentionally, he shall (only) be punished for six months.

The penalty for speaking out against the sect’s leaders is here specified. Note that this penalty as well as that of DSD 6:25–27 is of no greater magnitude than those prescribed by the other provisions of the Penal Code.

If so, why so severe a penalty, total and final expulsion, for those who gossip against the community or against the “foundation(s)” of the sect? The answer lies in the nature of the sect. The sect is in essence a voluntary group of people bound together by common goals, aspirations, and beliefs. One who makes clear his total disdain for or rejection of the essential principles and teachings of the sect is now ipso facto, by his own actions, rendered impure in the first degree and simply cannot be considered a member. He himself does not identify with the sect, and, therefore, his expulsion is no more than a consequence of his own beliefs.

What must be noted here is the distinct contrast between this concept and that of membership in the Jewish people. Later tannaitic tradition takes the view that Jewish status can never be reversed even if the person in question strays totally from adherence to Judaism and worships other gods. The man is a transgressor, but he is still a Jew. Most probably this concept originated much earlier in Jewish history. Even in the days of the polemics between the various groups of Jews in the Second Commonwealth (including the Dead Sea sect), the opponents are never read out of the Jewish people on doctrinal grounds.

The sect, no doubt, would have agreed with this concept, as they never accuse their opponents of having left the Jewish people. Transgressors they
are, but Jews all the same./187/ But when it came to the sect itself, doctrine was a crucial issue. Those who did not accept its principles were therefore "impure" and could not be tolerated in the sectarian community.

Because of the sect's concept of determinism, it believed that it was predestined as to whether a person was to be among the Sons of Light (the sect) or Sons of Darkness (everyone else)./188/ For this reason, they had no hesitation about expelling a member who, as a result of his behavior, made it clear that he was predestined to be part of the camp of Belial. But there were also others whose infractions did not merit so extreme a punishment. They were members of the Sons of Light who had only temporarily strayed. Such people were to be punished with partial separation from the sect.

6. Summary

The Penal Code was one of the sources before the redactor of the Manual of Discipline. Originally, this code was composed to serve as a summary of sectarian offenses to be taught to the new member as part of the admission process. For this reason it contained mostly provisions relating to the sect's organization rather than its rituals. Penalties involved the reduction of food rations for a specified period, lasting from one month to two years. Penalties of one year also carried with them the prohibition of coming in contact with the pure liquid food of the sect, while those of two years included prohibitions regarding both liquid and solid food in the first year, and liquid alone in the second year. Some offenses were of such magnitude that they led to expulsion from the sect. These included intentional violation of a law of the Torah, and the total rejection of the teachings of the sect.

To a great extent, the sect defined itself as a group maintaining the ritual purity of its food. It was therefore appropriate that partial expulsion from the sect, as a result of violation of the ordinances, be expressed in the form of separation from the pure food. Indeed, the right to approach the pure food was a step in the process of being accepted as a full member of the sect.

But the exclusion from the pure food is even more. It is a consequence of the belief that the offender will defile it, for to the sect, ritual impurity goes hand in hand with moral impurity. A transgressor, by his very presence, brings ritual impurity. Purification can occur only when repentance has preceded it. The punishment of separation from the pure food, then, and his suspension from the moshav ha-rabbim, the sectarian legislative and judicial assembly, reduce the sectarian to the status of a novice. Once more he must complete the final stages of the novitiate before again taking his place at the table of the sect.
NOTES

/ 1/ See above, 4-6.
/ 2/ Cf. Ex. 21:1.
/ 3/ The words bm bnrdš yhd are omitted in MS g. For alternate interpretations of this passage, see Wernberg-Möller, ad loc.
/ 4/ On yahad as a substantive name for the sect, see S. Talmon, "The Sectarian yhd—a Biblical Noun," VT 3 (1953), 133-140.
/ 5/ On the use of davar, see above, 44 n. 47.
/ 7/ CDC 14:18-22.
/ 8/ Ten Years, 96.
/ 9/ “L’évolution de la legislation penale dans la communauté de Qumran,” RB 82 (1975), 538.
/10/ See above, 20 n. 4.
/11/ For a complete discussion, see above, 5.
/12/ On the significance of the term mishpat, see HAQ, 42-47.
/13/ War 2, 8, 7 (139-142).
/14/ A baraita in B. Yevamot 47a-b.
/15/ For a discussion of this passage, see my “At the Crossroads,” 122f.
/16/ According to Licht, this law deals with an individual who conceals his property from the sect in order to avoid renouncing it (so also Pouilly, 541). This problem, he says, is liable to occur in a society which requires its members to surrender their property. This explanation is in line with Licht’s approach to the property issue at Qumran. He claims that all private ownership was outlawed. Upon full admission to the sect, members surrendered all property and funds completely to the sect. The sect operated as a collective. Those texts which seem to indicate private ownership at Qumran are explained otherwise by Licht, although he admits fully the difficulties they pose (Serakhim, 10-13). Licht refers to the parallel from Acts 5:1-11. According to Acts 4:32 the members of the primitive church “had everything in common” (RSV). Vss. 35f. state that “... possessors of lands or houses sold them, and brought the proceeds of what was sold and laid it at the apostles’ feet....”, for communal distribution. Acts 5:1-11 tells of how Ananias and his wife, Sapphira, attempted to retain a portion of the proceeds of the sale of their property, giving only a part to the Church. Peter accused them of lying. Each in turn fell dead after hearing Peter’s accusation. Licht sees their death as a miraculous punishment. He compares our text, noting that the difference in the consequence of this offense stems from the nature of the texts. Acts surrounds the apostles with miracles, whereas “the Manual of Discipline is an actual code, intended, at least partly, for [actual] conditions” (my translation). See also M. Hengel, Property and Riches in the Early Church (1974), especially, 23–41. Hengel’s treatment involves detailed discussion of the Hellenistic aspects of the early Christian attitude to property. It should be noted that no such influences are discernible at Qumran. Cf. S. E. Johnson, “The Dead Sea Manual of Discipline and the Jerusalem Church of Acts,” ZAW N.F. 66 (1954), 108-109. This
parallel shows only that in a situation in which a person must admit his holdings, he may choose to conceal some. Reasons can be varied. In the New Testament, the husband and wife wished to retain private possession of a part of their property. In the Qumran law, the violator wished to avoid recording his full possessions because he wished to pay less income tax (see above, 37f.) and to limit the community’s ability to make use of his property. Wernberg-Möller offers a completely different interpretation of the passage. He understands our text to be dependent on Lev. 5:1 and to “deal with the case of a man who, testifying in money-matters, suppresses his knowledge and commits perjury.” He specifically rejects the relevance of the passage in Acts 5:1-11. A. R. C. Leaney, The Rule of Qumran and its Meaning (1966), 200 accepts the view of Wernberg-Møller.

/17/ DSD 6:19f. This procedure took place only after the applicant had passed the initial test of the paqid and the first and second public examinations before the rabbin. As these examinations had to be separated by at least a year, the registration of property would not take place until the new member had been with the sect for at least a year. Even so, until the completion of a second year and the passing of a third and final examination, again before the rabbin, the property was not available for communal use. Only after this final examination could his property enter into communal use.

/18/ Rabin (QS, 22–31) reviews all the passages in CDC and DSD which give evidence for private ownership. He then concludes that what was communal was the disposal or use of property. The owners, however, retained the actual ownership. This view seems to accord best with the texts before us. Upon being accepted, the member’s property was listed so that he could use it to pay fines, etc. or so that he could take it with him if he left the sect for any reason. Apparently, the sect was able to make use of and control the individual’s property in accord with its policies.

The passage under discussion here, then, must be taken to refer to an individual who lies about his property to the sect in order to prevent the sect’s taking advantage of this property. In other words, he denies its existence to avoid sharing it and paying income tax on it. Some have argued that all references to private property are in CDC, whereas DSD legislate for a society based on communal ownership. This argument is fallacious as references in the Manual of Discipline clearly refer to private ownership (Rabin, QS, 23–25). In CDC 14:20 there is a fragmentary text reading [ד]י[מ]ל[ם] ([cited by Licht in our passage). This is the reading of Rabin, but the last mem seems highly questionable on my photographs. Further, the reading of Rabin, [ֶָּּד] ת[ג] י[ג] , immediately before is highly doubtful. Rabin states that “the traces are not consistent with reading either meshaqer (as in D,[DSD]) or la-mevaqcher.” This may be part of a law identical to that of DSD which stood in CDC. This is supported by the variant of MS g to our passage: [ב]ג[ש]ו[מ][א] [restored with Licht]. If this is the case, it shows that the sect in both its main center and in its apparently far-flung settlements observed this same regulation and, therefore, that the economic character of the communities was at least similar in respect to communal use and private ownership. Wernberg-Møller to our passage assumes that the six days of CDC 14:21 belong to the penalty clause of CDC 14:20 which he restores as [ש]ר [ש]ר [ר] ב[ט]ו[ט] ל[ו]ו [י]י[ד]. He comments on the fact that DSD demands a one year punishment while CDC requires only six days. It is unlikely, then, that these two lines are to be connected. Rabin points out that no punishment in DSD is less

/19/ On this law, see above, 39f.

/20/ See above, 133–144 for a detailed discussion of this law.

/21/ On the population of Qumran, see below, 209 n. 104.

/22/ See *HAQ*, 68–71.

/23/ This text is discussed in detail in *HAQ*, 69f.

/24/ On expulsion, see below 168–173. Cf. also the survey of offenses in Pouilly, 541–545. M. Weinfeld, "Teguvot La-Ma'amarim," *Shnaton* 1 (1975), 255–257 and "Defusim," 60–81, calls attention to many parallels between these regulations and those of the Hellenistic societies. It is difficult, however, to discern any direct influence from the material he has collected.


/26/ Based on the wording of Deut. 17:2 (Licht). Note that MT reads *ki*. This is a case of either synonymous variance in the biblical text or adaptation by the sect. After all, *ki* can have several meanings (cf. the Rabbinic formulation in B. Rosh Ha-Shanah 3a; B. Ta'anit 9a; B. Gittin 90a; and B. Shevu'ot 49b, all in the name of Resh [R. Simeon ben] Lakish, a third century Palestinian amora).

/27/ This is probably *pî'el* as the *qal* occurs only in Gen. 21:23, a passage with archaic flavor.

/28/ The use of the preposition *bet* with the verb *sqr* to indicate that about which one lies or is false is found in Ps. 44:18 and 89:34. This usage is found as well in Rabbinic texts (Ben-Yehudah, s.v., p. 7449a) and in CDC 14:20 as restored in n. 18.

/29/ *MS g* reads *[b]mmwn*. *Hon* is primarily a wisdom term for wealth or property. Note the biblicizing tendency of Qumran terminology.

/30/ Cf. Lev. 5:3 and 4, *we-hu* 'yada'. *We-hu* functions here to introduce an adverbial clause. (For the form *hw'h* see Kutscher, "Ha-Lashon," 38, 46, especially 343–347 and 452; Goshen-Gottstein, "Linguistic Structure," 119; and for a detailed comparison with the Arabic dialects, S. Morag, "Ha-Kinuyim Ha-'Asma'iyyim La-Nistar We-La-Nisteret Bi-Megillot Yam Ha-Melah," *Eretz Israel* 3 [1954], 166–169.) Brownlee translates, "and it became known." The pronoun would then refer to the lie (Heb. *sheqer*), and the verb would be passive. The parallel he cites is admittedly based on emendation. He also quotes H. L. Ginsberg's translation (in Brownlee), "and he (the Supervisor) knows it." The problem with this view is that the text mentions no official here, nor would it be necessary to mention the fact that the dishonesty became known, as otherwise, how could any action be taken by the sect?

/31/ Translating with Brownlee who notes that we are dealing with a plural verb written defectively. Ginsberg (see above, n. 30) refers this verb to the "Supervisor."

/32/ The *hif'il* of *bdl* normally governs the preposition *mi(n).* Num. 8:14 uses the preposition *mi-tokh.* Ehrlich, to Num. 18:14 explains that *mi-tokh* is used to indicate a partial separation, whereas *min* would indicate a complete one. Nevertheless, the
use of the preposition \textit{min} in a parallel passage in DSD 7:16 would indicate that this is an example of synonymous variance.

\footnote{On this term see below, 162f.}

\footnote{For the extra \textit{waw} on the end, cf. DSD 8:11 (and \textit{HAQ}, 28 n. 48). The equivalence to \textit{we-ne'enash} is certain in light of the occurrence of this form in successive lines of the Penal Code. While the form is that of the participle, we translate, "he shall" because the tense of the entire apodosis is determined by the imperfect (with future meaning) verb \textit{wa-yaqdilahu}. For the use of \textit{et} here, cf. Deut. 22:19 (not exactly the same usage), and see Ges. sec. 121a and b, for the construction of passive verbs with \textit{et}. Ginsberg emends to \textit{w'ns\textbar}. Brownlee notes, however, that DSD never uses this verb in the active voice. He says that the final \textit{waw} is to be deleted.}

\footnote{For \textit{lehem} in the general sense of food for humans, see BDB, 537a, sec. 2a, and Ben-Yehudah III, 2657b.}

\footnote{Cf. Forkman, \textit{Limits}, 57f.}

\footnote{Note that the duration of "one month" alternately appears as "thirty days" (see the table, p. 160). This is in accord with the thirty day months which form the backbone of the sectarian calendar. See S. Talmon, "The Calendar Reckoning of the Sect from the Judean Desert," \textit{Aspects of the Dead Sea Scrolls}, ed. C. Rabin, Y. Yadin (1958), 178f.}

\footnote{While Wernberg-M"{o}ller and Licht see this law as involving only reduction of the food ration for one year, Brownlee correctly suggests that \textit{u-muvdal} be restored in the space at the end of the provision (on which see Licht's textual notes s.v. \textit{wa-'a\textbar{s}her}). If so, the punishment would also include being excluded from the pure food (\textit{tohorah}). Indeed, DSD 7:4-5 concerns an offense of similar character for which punishment includes removal from the pure food.}

\footnote{So Forkman, \textit{Limits}, 57f.}

\footnote{Cf. Ch. Albeck, \textit{Mavo' La-Mishnah} (1966/7), 88-98. While the methodological reservations expressed by G. Porton, "Hanokh Albeck on the Mishnah," \textit{The Modern Study of the Mishnah}, ed. J. Neusner (1973). 218f. are valid to a great extent, and while the role of Rabbi Judah the Prince may have been less than that envisaged by Albeck, nevertheless, the evidence Albeck had collected supports the claim that as material was being redacted, some preexistent and previously redacted materials found their way into the larger document.}

\footnote{Pouilly, 538-540.}

\footnote{On \textit{qrb} in the technical sense of joining the sect, cf. Lieberman, "Discipline," 199f. n. 8.}

\footnote{I.e. the sect.}

\footnote{The root \textit{ng}' is used here as a technical term referring to contact by an agent of impurity with an item susceptible to impurity.}

\footnote{\textit{Yidroshuhu}, a pl. form. Licht takes this as sing., referring either to the \textit{mevaqqer} (whom he apparently identifies with the \textit{paq\textbar{d}}) or as an impersonal usage. Wernberg-M"{o}ller takes this as sing, in his translation and then suggests the possibility of a pl. in his commentary.}

\footnote{A defective pl. form. See Licht, \textit{Serakhim}, 47f.}
The scribe of our MS alternates between the spellings *mul’t* (DSD 6:17, 18, 21: 8:26), *mlw’t* (7:20, 22), and *mulw’t* (1QSa 1:10). Licht is no doubt correct that the word was pronounced *mulot*. Cf. *Serakhim*, 45.

Based on Lev. 25:30, ‘ad *melot* lo shanah temimah. (Licht, Wernberg-Møller). Wernberg-Møller suggests that the redemption of property in the walled city described in this passage served as the basis of the sect’s law here. He claims that the walled city was taken as the sectarian community, and the dwelling house is equivalent to the novice. Only after a year is he regarded as belonging to the buyer (the sect) permanently; but for the first year he is still not really part of the community. While his analogy may have been the basis of the use of this verse in regard to sectarian initiation, the actual derivation of the initiation system will be shown here to depend on the laws of ritual purity as envisaged by the sect.

Yikhtovuhu, pl. or perhaps sing. to refer to the *mevaqqer* (Wernberg-Møller).


On this use of *serekh*, see *HAQ*, 64–67. These *serakhim* were the rosters of sectarians in order of their status in the sect.

The members of the sect.

The *plene* spelling is to indicate the equivalent of Masoretic *qames qatan*.


Cf. Num. 19:9, 13, 20, 21 (twice); 31:23.

The noun *rahas* occurs in the Bible only in the phrase *sir rahși*, “my wash basin” (Ps. 60:10; 108:10). The use of the verb *rhs* with *ba-mayyim* in the sense of ritual purification through water is regular in biblical usage, particularly in Leviticus. Note also ṣmn *rhs* in the Samaria Ostraca (H. Donner, W. Röllig, *Kanaanäische und Aramäische Inschriften* [1964], No. 18:6 and the comments in Vol. II, 184).

War 2, 8, 7 (138). Note that Ant. 3, 11, 1–5 (258–269) contains a survey of the purity laws of the Torah. The terminology used there for ritual immersion is totally different from that which appears in connection with the “holy water” of the Essenes. In *War* 2, 8, 5 (129) the terminology is again different.


Forkman, *Limits*, 57.

Below, 191–197.

BDB, s.v. ṣqh.

BDB, s.v. șth.

*Limits*, 64.


Serakhim, 299–303.

Cf. Oppenheimer, 55-62 for a survey of purity regulations and Alon, Meḥ-qartim 1, 158-169. Oppenheimer, 130f. makes the same proposal for the stages of entry to the Pharisaic havurah. Cf. his discussion of the Dead Sea sect, 148-151. His protestations against facile comparison of these groups are to be taken most seriously. See also Forkman, Limits, 52-57 for a survey of the sect's entry procedures and ritual purity.

This connection is made explicit in DSD 3:4-12 (cf. Licht, Serakhim, 74-76). Cf. also Maimonides, H. Miqwa'ot 11:12 for a similar concept.


Licht compares the somewhat different use of this verb in Est. 5:9 and Eccl. 12:3 as well as M. 'Avot 5:22 (Aramaic). But in none of these cases is there any element of turning from the correct path to the incorrect. Wernberg-Møller translated "whose spirit swerves." He notes the use of Arabic "to deviate" and points, e.g., to Quran 3:5 "concerning those in whose hearts there is deviation ( ) ."

The use of yesod here is difficult. Licht suggests four possibilities. (1) First is the view that it refers to the principles of the sect and its constitution. While this view is attractive, he notes that it is not possible to relate it to other usages in the language of the sect, since yesode ha-berit of CDC 10:6 is to be read yissure ha-berit (cf. HAQ, 52f.). (2) It is also possible that it is connected with the difficult phrases le-yassad mosad 'emet (DSD 5:5), and li-yesod ruah qodesh (DSD 9:3), both of which present the activities of the sect as analogous to the construction of a building. [This building is most probably the Temple, as the sect saw itself as a substitute for the Jerusalem Temple which it believed had been profaned by improper practices.] (3) The third possibility (preferred by Licht) is to take yesod as equivalent to sod, in the sense of the community (cf. DSD 6:19). [The emendation to sod proposed by Wernberg-Møller for this and the preceding line 17 is unnecessary, even if his interpretation may be correct.] (4) The final proposal of Licht's is to emend ysōd to yesur (yissur) which he takes in the sense of reproof or rebuke. In fact, yissurim are sectarian teachings derived from biblical exegesis (HAQ, 49-54). Pouilly (544) takes yesod to refer to dignitaries, or those responsible for the teachings of the sect. Our translation is meant to obviate the need for a decision in this matter, as it is expected that the publication of further texts will clarify this use of the root ysd and determine whether or not the text should be emended here.

Cf. CDC 1:12; 8:5; 19:17, 34; DSH 8:10 in which wybgwd is certainly to be read. Indeed, most of the yod is visible in the plates.

Licht notes that 'emet here is probably a synonym for the Torah. He is probably correct that the reference here is to the legal principles of the sect, not to prohibitions explicitly stated in the Torah.

Cf. Deut. 29:18. Targum Onkelos translates be-harhor libbi, probably to be translated "according to the impure (sinful) thoughts of my heart." Targum Pseudo-Jonathan has bi-teqof yiṣra' bisha' de-libbi, "according to the strength of the evil inclination of my heart." These interpretations depend on the root of sheririt. Targum Onkelos takes it as šwr, "to see" (cf. Rashi, and Licht to DSD 1:6) while Targum
Pseudo-Jonathan takes it as šrr, “to be strong.” (Neofiti MS 1 translates neutrally mahshevet libbeh.) The Vulgate translated “in pravitate cordis mei,” somehow understanding sheririt to refer to transgression committed in private. LXX translates: τῇ ἀποτλανήσει τῆς καρδίας μου, “in the digression of my heart from the truth,” or “in the deception of my heart.” (Cf. Liddell and Scott, s.v. ἀποτλανάω.) See also M. Weinfeld, Deuteronomy and the Deuteronomic School (1972), 105f. and n. 5.

/75/ We-ne’enash here refers to the reduction of his food rations by one-fourth, as shown above.

/76/ Phonetic spelling omitting the ’alef. Cf. Licht, Serakhim, 47 and Qimron, 56.

/77/ Before u-ca-shenit there is a space large enough for two words, followed by four letters which were dotted to indicate erasure and then erased (Licht). Wernberg-Møller suggests that the “erasions [sic] and empty spaces suggest that the text before the scribe was illegible in parts.” While this would seem to be the usual cause of such features in ancient manuscripts, Licht is certainly correct in asserting that there are no particular problems in understanding this passage as it stands.

/78/ Licht emends to be-mashqeh, as the preposition is required with the root ng’. He notes that the word mashqeh is suspended above an erasure. Wernberg-Møller states that the word bb’yr (bi-ve’er) “with the well” stood in the text before the erasure. Probably, when the scribe made the correction, he accidentally forgot to rewrite the preposition. Wernberg-Møller takes this reading as referring to the well from which the members drew their drinking water. The correction was to make clear, in his view, that it was the drinking water, and not the well itself, which was meant by the text. (On the figurative well of CDC 3:16 which symbolizes the Torah, see Wernberg-Møller’s note to our passage.) Note that according to CDC 10:12f., a collection of (stagnant?) water less than the minimum permissible for ritual immersion (dey mar’il, on which see Lieberman, Greek, 135 n. 151) is itself subject to ritual impurity. Since a well would normally contain more than the minimum for immersion, it can be assumed that it would not be subject to ritual impurity. Hence, the reading bi-ve’er may have been corrected for “halakhic” reasons. On the other hand, Wernberg-Møller’s view that the mashqeh is only the drinking water of the sect constitutes too narrow a definition in light of what is known from the parallel laws of purity of food in tannaitic sources.

/79/ This sentence indicates that the offender, although forbidden to participate in the deliberations of the moshav ha-rabbim, was still allowed to attend them. This was probably the case as well with the new member in the process of passing through the stages of initiation. Although forbidden to participate in the decision-making process, these people sat in the back, much as did the tannaitic disciples at the meetings of the Sanhedrin (M. Sanhedrin 4:4). Cf. Baumgarten, Studies, 164, and D. Goodblatt, Rabbinic Instruction in Sasanian Babylonia (1975), 252-259. That parallels exist between the study sessions of the Rabbis and the practices of the Qumran sect has been noted by Rabin, QS, 103-108. Licht asserts that from other texts it seems that all the other punishments mentioned in the Penal Code included deprivation of the right to be present at the moshav ha-rabbim because the offenders were seen as impure. This view, however, cannot be substantiated. On the contrary, his suggestion that we interpret the other passages in light of this one is correct.
Those deprived of the right to be part of the sect's 'esah, "council/counsel," could be present but were not permitted to speak. This is logical since demotion renders the offender a first year initiate who has passed the examinations of the paqid and the moshav ha-rabbim. From this point, he attended the sessions, although only two years later, after successfully passing the series of examinations, was he permitted to give his own views and cast his vote.

/80/ For this use of yamim, see BDB 799b. For shenatayim yamim, see Gen. 41:1; 2 Sam. 13:23, 14:28; Jer. 28:3, 11.

/81/ Nif'al (so Brownlee, Wernberg-Möller, and Licht).

/82/ He is again examined, in the same way that a novice would be given his final examination.

/83/ As the root qrb in the qal means to join the sect, the hif'il means to "accept (someone) for membership."

/84/ On the sectarian rosters, see HAQ, 65–67.

/85/ Nif'al, cf. n. 81.

/86/ See BDB, 40 and 41 (n. 2) regarding the use of 'el and 'al. The claim of BDB that this is the result of scribal error in MT must be rejected as our passage and many others show that this was a matter of usage.

/87/ Or "regulation(s)."

/88/ Translating with MS d which omits the first occurrence of ha-yahad. Otherwise, it is possible that 'anshe ha-yahad and berit ha-yahad in our text represent two different readings which have been conflated to produce the reading of MS 1QS. In such a case, we would say that MS d represented a later recension which had corrected the text appearing in 1QS to avoid the conflation, thus giving rise to what might be termed a “corrected conflated reading." Cf. li-verit yahad in DSD 3:11f.

/89/ For the qal of sur followed by davar, literally "in regard to anything," see Deut. 17:11. Cf. DSD 1:15 in which davar is not used. Note also Josh. 11:15 in which the hif'il of sur is followed by davar mi-kol 'asher siwwah.

/90/ On miswah in the sense of a law derived through sectarian biblical exegesis, see HAQ, 47–49.

/91/ See above, 44 n. 52.

/92/ The passage would seem to indicate that he was not permitted to attend the sessions of the moshav ha-rabbim, even as an observer. On the other hand, see n. 79 for evidence that such offenders were permitted to attend. Two possible explanations can be offered. We can interpret this text to mean that he was not allowed to take an active part in the discussions. However, the use of yd' would seem to indicate that he could not even be present. If so, a better approach is to see this entire text as an alternate and somewhat stricter recension of the previous text, taken by the compiler from a different source. Whether an historical progression from stricter to more lenient or vice versa can be detected in sectarian law is a matter that requires careful study, not simply the assumption that the stricter is always older. This assumption has been transferred by some from the nineteenth century Wissenschaft des Judentums view of the history of Rabbinic halakhah to the scrolls, but its validity as a general principle has yet to be proven for either corpus.
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/ 93/ Cf. CDC 10:3 and DSD 5:13f. (Wernberg-Møller); DSD 9:9 (Licht); and Ps. 119:9.

/ 94/ Note the form of le-halekh and cf. tannaitic Hebrew le-lekh.

/ 95/ Temim derekh is to be understood as if the order of the two elements of the construct were reversed.

/ 96/ See above, n. 83.

/ 97/ Licht correctly notes that this last clause means that the repentent member is to be treated as though a new applicant. (Contrast Wernberg-Møller.) Perhaps we should translate, “This regulation shall be just like that for anyone who is added to the community.” The nif’al of ysf should be taken in the tolerative sense.


/ 99/ For this reason the conclusions of Forkman, Limits, 562 cannot be accepted.

/100/ Pp. 526–532.

/101/ See above, 4–6.

/102/ This stage is also characterized in his view by the replacement of the priests by the rabbim in matters of government of the sect.

/103/ Limits, 59.

/104/ Limits, 60, 66.

/105/ This explanation is dependent on his views on the history of the sect which themselves depend on such terminological distinctions. Hence, he falls victim to circular reasoning here.

/106/ Licht prefers to adopt the reading of MS e ‘d (‘ad), apparently because of the parallel usage in 6:17, 20f., 8:26. The problem here is that ‘ad mulot (cf. above, nn. 47, 48) means “up to,” which would indicate that our law deals with one who is a member in his first ten years. On the other hand, the context clearly requires the sense of “more than.” For this reason, the reading ‘al is to be preferred. Wernberg-Møller points to Ps. 19:7, 48:11 and Job 37:3 in which ‘al means “as far as,” but this is not really the same as “more than.” The use of ‘al for “more than” does occur in CDC 10:21, on which see HAQ, 90–98.

/107/ Wernberg-Møller notes 1QSa 1:6–8 in which it is stated that for the first ten years of his life a child should be trained in the Bible and its sectarian interpretation. During this period he is part of the taf (so Licht, Barthélemy read bitb). Apparently, ten years had some significance for the sect, although the fact that no duties are specified for the ten year old makes it doubtful that any great importance should be attached to this period. Parenthetically, it should be noted that Barthélemy’s translation, “et qu’il progresse . . .” (DJD I, 112), itself indicates the unlikely nature of his reading. His dismissal of the reading taf in light of the poor state of the correction in the MS seems unnecessary. The attempt of Richardson, 111 to substantiate Barthélemy’s reading by reference to bitb in Nabatean and Palmyrene inscriptions is unconvincing.

/109/ Wernberg-Møller points to wa-ȝeše mi-lifne in Gen. 4:16 (cf. Lev. 9:24, 10:2). He is no doubt correct in stating that our author substituted ha-rabbim, the sect, for the Tetragrammaton in the biblical examples. Indeed, the sect saw itself as representative of the revealed will of God on earth. Rebellion against it was tantamount to rebellion against the Deity. What is most interesting is that the sect apparently saw Cain’s leaving the presence of God in Gen. 4:16 as referring to his spiritual downfall. Cf. Nahmanides, ad loc.

/110/ See above, n. 74.

/111/ Cf. DSD 6:17, 22, 9:8 and CDC 11:4, on which see HAQ, 109 n. 167.

/112/ No doubt including the mashqeh as well.

/113/ On the long forms of the pronoun found at Qumran, see Qimron, 225–227.

/114/ A nifal with elided he’, li-shalah equivalent to le-hishalah.

/115/ After all, a nonmember of the sect (which this man now is) was assumed to be ritually impure and to transmit this impurity. Accordingly, DSD 5:16 prohibits eating the food of nonmembers. (Ywlkl is derived from the root ’kl, with the ’alef elided.) DSD 5:16f. forbids doing business with nonmembers except in a cash transaction which did not come under the prohibition of ’al yit’arev. Probably the prohibition was against entering into dealings in which property would be held in common. Cash transactions, therefore, may have been permitted, even with the former sectarian who had been expelled.

/116/ War 2, 8, 8 (143–144).

/117/ See my “At the Crossroads,” 139–149.


/119/ For a parallel from the Greek world, see G. Blidstein, “‘Atima: A Greek Parallel to Ezra X 8 and to the Post-biblical Exclusion from the Community,” VT 24 (1974), 357–360.

/120/ Licht, Serakhim, 184 takes the view that this passage originated in the same source as DSD 8:16–19 (quoted above, 166) which immediately precedes it. He explains the long introduction to our passage (not quoted here, ll. 20f.) which clearly should appear at the beginning of a literary unit and not in the middle, as the result of a decision by the redactor to switch the order of the material to place the lesser case before the more serious. Hence, he reversed the order, and neglected to move the introduction as required by the new order. While it is possible that such a change of order occurred, it is equally possible that the redactor drew these two passages from different sources.

/121/ Wernberg-Møller notes that this is the only occurrence of this form in 1QS, although it is common in 1QIṣa9. Cf. Qimron, 228.

/122/ It is difficult to see how the suggestion of Yalon, to understand this as a pêel, can be seriously entertained (cf. Wernberg-Møller, ad loc.). The verb ’br without ’et in the sense of “violate a command, covenant” occurs in Deut. 17:2; Is. 24:5; Hos. 6:7, 8:1. (Cf. Ps. 148:6 and Job 14:5 where the object is hoq.) The root ’br followed by the preposition m(in) occurs in Deut. 26:13.
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/123/ For this use of davar, see above, n. 89.

/124/ The plene spelling mwš occurs in DSD 1:3, 5:8, 8:15; DSW 10:6; DST 17:12. On torat mosheh, see DSD 5:8; CDC 15:2 (on which see above, 136); CDC 15:9, 12, 16:2. This phrase clearly refers to laws explicit in the Torah as opposed to those derived by the sect through their own “inspired” exegetical processes (so Licht, Serakhim, 183).

/125/ See above, 44 n. 52.

/126/ Licht takes bi-remiyah here to refer to private transgression and explains the passage “intentionally, whether in public or in private.” Be-yad ramah, then, as he explains, functions here in the dual meaning of “intentionally” and “in public.”


/128/ See above, n. 115.

/129/ The first waw of be-hono is suspended above the line.

/130/ For hon and ’esah together, cf. DSD 6:22 (Wernberg-Møller).

/131/ Note that the connotation of davar here extends beyond the previous usage in this passage to include matters not of a legal nature.

/132/ Heb. ya’aseh, active, parallel to “who shall violate a word of the Law of Moses” (l. 22).

/133/ He is deprived of his right to participate in the community’s legislative assembly, the moshav ha-rabbim (Licht to 8:18).

/134/ Licht’s interpretation is undoubtedly influenced by the reading of MS d u-min ha-mishpat. Wernberg-Møller suggests that ‘asher lo’ introduces “a quotation from the community’s code of law,” and translates, “they shall study the rule (which runs) . . . .” The reading of MS d, however, quoted in n. 141 below, obviates this clever interpretation.

/135/ Understanding ’im as equivalent to the more usual kt ’im. This solves the problem raised in Wernberg-Møller’s n. 69.

/136/ Licht’s interpretation seems to require “according to.” Cf. Wernberg-Møller, ad loc.

/137/ A reference to the sectarian legal exegesis. See HAQ, 54–60.

/138/ For this clause MS d reads we-shav ba-midrash u-va-’esah.

/139/ Restored with Licht and Wernberg-Møller. Cf. DSD 9:2. Licht notes that the tops of the letters rby are visible.

/140/ Medial mem in final position.

/141/ The entire preceding clause is preserved in MS d:

שׁמֹתִים יִמְנוּ וָשָׁב בְּמִדְרֵשׁ וּבְהֶכֶּשׁ אֶל אֲלֵהֶנָּּו תָּוִד בְּשֵׁנָּה תָּרִים נַל נֵשׁוֹתִים

/142/ For this spelling of kt, see Kutscher, 16f., 134–136, and Qimron, 69.

/143/ His food ration shall be reduced by one-fourth. See above, 159.

/144/ Cf. DSD 8:16–19, above, 166.

/145/ Wernberg-Møller’s attempt to explain this passage as based midrashically on Num. 15 is unconvincing in light of the absence of real reference to a two year period in that biblical passage.
On the literary structure of the passage, see Pouilly, 534ff.

A common formula in the Zadokite Fragments (CDC 8:16, 24ff.; 15:7; 16:12). It could not be located in any other Qumran text. Schechter and Rabin take we-khen as referring to the provisions of CDC 19:32–20:1.

See above, 68 n. 24.

Cf. CDC 7:5 (Rabin). Our translation is in accord with Segal to CDC 5:7 (8:22 in his numbering).

Schechter translated “cease” taking the form as derived from qss. He does, however, acknowledge the possibility of derivation from qws. Schechter’s view is tempting in light of the derivation of the noun qes (“end”) from qss (so BDB). Nevertheless, qss does not take prepositions as does qws. Further, the use of qss as a verb meaning “cease” is otherwise unattested. Segal already rejected Schechter’s derivation, preferring qws. Rabin notes that while the verb takes the preposition b- in biblical Hebrew, min “appears occasionally” in Mishnaic Hebrew. Rabin’s reference to B. Makkot 33b must be a typographical error for 23b (there is no 33b). If so, he is referring to M. Makkot 3:15. This reference, however, is of little value as the reading qasah seems very late. The reading hatah is found in MSS Kaufmann, Parma de Rossi 984 ("C"), 138, Munich, ed. princ. (Naples), and in the quotation in the Palestinian Talmud. In fact, the use of min with the verb qws is highly questionable. The only example that could be located is Sifra’ Qedoshim (‘Arayot), ed. Weiss, 93b. This reading is supported by the commentary of R. Abraham b. David (Rabad). Nevertheless, MS Vatican Assemani 66, p. 412 reads: qowel (qwen) mi-mezono. A marginal reading has bi-mezon(no). The use of bet, confirmed by the MSS, is found in B. Niddah 31b; B. Bekhorot 37a; B. Megillah 28a. The interchangeability of the prepositions bet and mem which can be shown for Qumran Hebrew may have resulted in this phenomenon. See my “The Interchange of the Prepositions bet and mem in the Texts from Qumran,” Textus 10 (1982), 37–43.

Rabin notes that yesharim is a designation for the sect in DSD 3:1 and 4:22. While Licht to the former passage suggests that this usage is conditioned by Ps. 107:42 and similar passages, our text would favor some kind of exegesis of Ps. 19:9. Alternately, it may be assumed that the author, as often, desired to omit the Tetragrammaton and neglected to alter the construct piqqude to the absolute piqqudim. Thus, we would translate, “the just commands,” i.e. the Torah (Ps. 19:8).

This parenthetical statement seeks to indicate that a man who joins the sect and then refuses to follow its prescriptions is the subject of Ezek. 22:19–22. The application of prophetic material to the sect’s own time and situation is typical of the pesher form of biblical exegesis. Here the message is that such a person will come to know the Lord, as God’s wrath will be poured out upon him (v. 22). Perhaps the reference to Jerusalem in v. 19 meant to the sect that such a recalcitrant was really allied with the Jerusalem priesthood—the sect’s mortal enemy.

The scribe first omitted the preposition b and began to write the h of hwf. Realizing his error, he drew a line through the h and wrote bhuf.

Schechter’s suggested emendation to be-hora’ (“deteriorate”) makes no sense in light of l. 6 below, which he, however, misunderstood. Rabin goes to great lengths in explaining our form. He notes the medieval use of the hifil of yp for “to
discover, examine” (Judah Ha-Levi, according to Ben-Yehudah, s.v., IV, 2102), and suggests that we here have the passive (hofal) of this “transitive use.” The hofal of this verb is nowhere attested. Yet it is not impossible to find otherwise unknown verbal usages of this sort at Qumran. Nevertheless, comparison with other occurrences of this verb at Qumran raises another possibility. In DST 5:32 there occurs hwpy’ whereas in an almost identical parallel passage in DST 7:3 we find hwp’ (cf. Licht; and M. Mansoor, The Thanksgiving Hymns [1961], to DST 5:32). Where we would expect twpy’ in DST 4:23, we find twp’. Cf. also CDC 20:25f. and DST 11:26f. If there existed only the medieval copies of the Zadokite Fragments, the problem could be accounted for by supposing defective spellings of the hifil which resulted from the mistake of some scribe. The Qumran material makes this explanation impossible. Two suggestions can be made. It may be that at Qumran there was a hofal of this verb in use with the same meaning as the biblical hifil. Or it can be that under the influence of the final ‘ayin, infinitive and imperfect forms existed in the hifil which omitted the i vowel, perhaps by analogy with the imperative singular masculine hafa’. It is not possible in light of the parallels to claim that the hifil was restricted to the transitive use “reveal” at Qumran and that the intransitive was then expressed in the hofal. (See Yadin’s lexical note in War Scroll, 222f. n. 3.)

/155/ The Babylonian vocalization provided in the MS indicates a pu’al, yeshullah (gemination of the middle consonant is not indicated here). We do not translate “sent away” or “banished” as it appears from the continuation that the dismissed member continued to live in proximity to the sect and might be reinstated when he had mended his ways.

/156/ Literally, “had not.” The root npl in the qal followed by goral occurs in Ezek. 24:6; Jon. 1:7; 1 Chron. 26:14. In Prov. 1:14 there appears the hifil of npl with goral followed by the preposition be-tokh, “among.” Cf. the hifil used in DST 7:34. See Licht, “Ha-Munah,” 90–99, especially 95–99 (on the use of goral to refer to the sect). Segal notes that she-lo’ is the only use of the particle she- for ‘asher in these fragments.

/157/ From context this is clearly a term for the sect. The phrase is taken from Is. 54:13 which, however, has the Tetragrammaton (so 1IQSa9). The sect substituted ‘el as part of its general tendency to avoid the Tetragrammaton in sectarian writings. New JPS translates, “disciples of the Lord.” Cf. also John 6:45. The Targum to Is. 54:13 translates, “’alefin be’orayta’ da’donai,” “learned in the Torah of the Lord.”

/158/ In biblical usage, ke-fi has the connotation of describing quantity, as “in proportion to,” “according to the number of” (BDB, 805b). This compound preposition seems to have fallen into disuse in the Talmudic period as the only uses listed in the concordances are citations of Lev. 25:52, ke-fi shanaw, dealing with halakhot derived from that passage. Ke-fi does occur in Ben Sira 6:8 (medieval MS A); cf. Segal, Ben Sira, 36.

/159/ De’ot is a poetic, amplificative plural. It occurs in CDC 15:15 and DSD 3:15 (‘el ha-de’ot, “the God of knowledge”). (Cf. Ges. sec. 124e and Driver, Samuel, 25.) It is uncertain if this is a reference to the entire sect or to some group within it, perhaps the maskilim. (On the maskil at Qumran, see HAQ, 25 n. 24 and the sources cited there.) Pouilly, 535, suggests that the ‘anshe de’ot are “a particular group, perfect in its knowledge of the law and most able to impart to the offenders the zeal to practice the
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observances.” (p. 535, my translation). Schechter’s reading m’wt (me’uwwat? Segal compares Eccl. 1:15) is clearly incorrect as can be seen from the photographs.

/160/ Schechter’s yszkywehuw (yazkirwehu?) is also a misreading according to the photographs. Reproof at Qumran was more than a private affair. It was a formal warning and written recording of a man’s offense, to some extent similar to the Rabbinic hatra’ah. See the detailed discussion of this reproof, above, 89–98. Note that the scribe first wrote the letters yh. Realizing his error, he crossed out the letters and continued writing the word correctly.

/161/ The imperfect of šwb followed by an infinitive construct (with lamed) with the meaning “to do something again” occurs in Deut. 30:9; Job 7:7; Ezra 9:14; and Neh. 9:28.

/162/ Hebrew ma’amad had various connotations for the sect. While in Rabbinic literature it can have the meaning of a group of Israelites who assemble to recite biblical passages while the priestly representatives of their town officiated in the Jerusalem Temple, this usage is not found at Qumran (against Rabin to our passage, with Wernberg-Müller, 56f. n. 55). This is despite the fact that the very same or similar institution is envisaged in DSW 2:4f. (Cf. HAQ, 78, where my use of the Rabbinic term ‘anshe ma’amad for the Qumran institution was somewhat imprecise.) Yadin has discussed the use of ma’amad at Qumran (War Scroll, 146, 206f.). He notes that the author of the War Scroll used ma’amad “to describe the position of the soldiers when they stand arrayed for combat” (146). He also observes that this term is used in regard to the annual mustering and covenant renewal (206f.) for the “body containing the priests, levites, and Israelites (each group according to its own subdivision)” (207). The bet ma’amad of DSD 2:19–24 is the correct position of each member in the formation (Licht, ad loc.). It is clear that the sect’s religious and (even if imaginary) military life were very much intertwined (War Scroll, 59–61), a pattern very much a part of Israelite wilderness life, taken by the sect as a model for its own organization. See S. Talmon, “The ‘Desert Motif’ in the Bible and in Qumran Literature,” Biblical Motifs, ed. A. Altmann (1966), 55–63.

/163/ Note the erasure of K ‘p M I^T H *pK 1WK. This is presumed to be a dit- tography from 1. 4. Pouilly (533) raises the possibility that wbhwp m’syw of 1. 6 should also be deleted. Presumably, the scribe either neglected to draw a line through it or simply did not recognize it as an error. In the end, however, Pouilly sees this suggestion as improbable.

/164/ The syntax necessitates the assumption that the preposition bet can have this meaning. Rabin’s suggestion that the author forgot how he started the sentence seems less likely.

/165/ This phrase refers to the Torah as the sect had interpreted it and, therefore, to the laws derived through that interpretation. The punishment extends until the offender conforms to the sectarian law.

/166/ So Rabin. In his note, Schechter suggests “associate.” Cf. 2 K. 12:9. This is the nif’al of the root ‘ut. Note that in Gen. 34:15, 22f. the party with whom the subject makes the agreement is preceded by the preposition l- whereas our passage uses ‘im.

/167/ Members of the sect may not hold property in common with the offender, nor may they enter into a partnership with him whereby they work together. That
our text does not deal with a prohibition on buying from or hiring the offender is clear from a passage in DSD 5:14 which states regarding non-members of the sect:

\[ \text{בנ} \text{יילא ל} \text{יהי ע} \text{מ} \text{בכ} \text{ברות יבנה} \]

"That he not enter into partnership with him regarding his work or his property. . . ." The use of the root \text{yhd} in the \text{hitpael} makes clear that the text refers to a partnership (Licht, \textit{ad loc}). According to our law from the \textit{Zadokite Fragments}, the offender is to be treated like a nonmember until he mends his ways and lives in accord with the sectarian interpretation of the Law.

/168/ This phrase is parallel to the Aramaic phrase in Dan. 7:18 \textit{qaddishe `elyonin}. (This passage does not appear in any published Daniel fragments from Qumran.) Despite the pl. `elyonin where we would expect the sing. `elyon, this is a reference to God, the Most High. The difficulty is in the meaning of \textit{qedoshim}. Scholars are divided as to whether the Daniel passage refers to angels or men (J. Collins, "The Son of Man and the Saints of the Most High in the Book of Daniel," \textit{JBL} 93 [1974], 50–53). While at Qumran \textit{qedoshim} is usually an angelic designation (Yadin, \textit{War Scroll}, 231 and my "Merkavah Speculation," commentary to Text A, I. 24. Note the parallels cited there from early Jewish mystical literature.), it may also refer to the members of the sect (Collins, 52 and n. 17. Segal took our paragraph to refer to the \textit{sadiqim} of the sect.). In fact, in the military descriptions of the \textit{War Scroll}, angels and men fight side by side (Yadin, \textit{War Scroll}, 237). The sectarian saw himself as living in the company of angels. Perhaps, then, it is not necessary in our passage to try to decide between the two meanings. Indeed, this is the conclusion of Collins (66) in regard to the Daniel material.

/169/ The supralinear vocalization indicates `\textit{areruhu}, a \textit{pi'el} pl. perfect with a third person sing. objective pronominal suffix. The \textit{pi'el} occurs only in Gen. 5:29 and in the phrase \textit{ha-mayim ha-me`arerim} in Num. 5:18–27. New JPS translates the former "placed under a curse" and the latter "the water that induces the spell." Clearly the \textit{pi'el} has the special nuance of inducing a spell or placing under a curse. This same usage appears in late midrashic and medieval Hebrew literature (Jastrow, Ben Yehudah, s.v.). It is probable that there are more examples of this phenomenon than have been recorded in the lexica, since in most forms, lack of vocalization makes it impossible to tell the \textit{pi'el} from the more frequent \textit{qal}. Only dictionaries based on good manuscripts will be able to isolate such examples. This clause probably alludes to the sect's annual convenant renewal ceremony in which, according to DSD 2:5-18, after the priests recited an adaptation and expansion of the priestly blessing (Num. 6:24–27), the Levites recite a series of corresponding curses (beginning with `\textit{arur} and on the model of Deut. 27:15–26) regarding those in the lot of Belial—the enemies of the sect. This recitation is followed by the priests' and Levites' joining together for a final curse against anyone present who secretly intends to ignore the rules of the sect, following his own desires. He is to be cut off from the members of the sect and his lot cast with those cursed forever (`\textit{arure `olamim}). Our text in the \textit{Zadokite Fragments} makes specific reference to this ceremony in which the sectarian who would go astray was put under this curse. Since the curse is conditional on his going astray, the \textit{pi'el} usage is appropriate, for, as noted above, it refers to placing someone under a curse or spell.


/171/ "A Literary Analysis," 554f.
/172/ Pp. 532–538.

/173/ P. 536. For the series of errors which in his view would have produced the text before us, see 536. Bhwp in Pouilly’s reconstructed text is certainly a typographical error for bhwp’.

/174/ Li. 4b–5 correspond to DSD 8:16b–19. Li. 3c–4a and 6–8a correspond to DSD 8:21–24a.

/175/ Wernberg-Möl ler emends w’yš to w’m. Rabin to CDC 10:13 suggests emending our passage to w’yš ‘sr brbym. In fact, emendation is unnecessary here.

/176/ So Pouilly. Licht takes yelekıh rakhıl here to refer to one who divulges the secrets of the sect to a nonmember, in accord with Prov. 11:13 (cf. 20:19). But it is hard to believe that such vague terminology would be used to describe an offense outlined so explicitly elsewhere (DSD 4:6, 9:17; DST 5:25). Apparently, the root rkl fell into disuse by the tannaitic period. It is possible that Lev. 19:16, lŏ telekh rakhıl be-ammeıkha, served as the basis of this provision. Whereas the Targuminıke be-ammeıkha as the object of the slander, Nahmanıdes argues strongly that it refers to its occurrence in public. (His use of ba-rabbım is no more than coincidence, as ba-rabbım means “in public” in Rabbinıc Hebrew.) The sect may have understood the commandment in both ways. Slander against one’s fellow (in public) or against one’s community is forbidden, hence, the two regulations of DSD 7:15–17. Although a barıatı in P. Pe’ah 1:1 (16a) explains Lev. 19:16 to refer to gossip, the dominant tannaitic view takes it to refer to some way to the misuse of judicial authority (Sıfra’ Qedıshım, chap. 4:5–7, ed. Weiss, p. 89a; B. Sanhedrıın 31a. Cf. also B. Sanhedrıın 30a [amoralı]). Note that a similar barıatı to that of P. Pe’ah 1:1 (16a) appears in B. Ketııbot 46a in which the same barıatıı are formulated so as to apply to the moși’ shem ra’, the man who claims his bride was not a virgin.

/177/ That ba-rabbım designates the object of the slander is clear from comparison with the previous provision of the Penal Code, DSD 7:15f., where be-re’ęhu designates the object of slander.

/178/ This use of the infinitive is also found in DSD 5:24 (quoted above, 93) and in DSD 9:1, le-hamıt hu’. Cf. Licht, Serııhım, 34f.

/179/ Nıf’al with the he’ elided. For such forms, see Licht, Serııhım, 46.

/180/ See above, 52 n. 162.

/181/ Above, 39f.

/182/ Licht notes Num. 12:1 (cf. Ibn Ezra) in which the pı’el of dbr is followed by the preposition b indicating the object of criticism.

/183/ On this list, elsewhere called sereııh, see H AQ, 65–67.

/184/ His food ration is to be reduced by one-fourth for the duration of his punishment.

/185/ Wernberg-Möl ler’s translation (following Brownlee), “and shall be put in solitary confinement,” is impossible in light of the analysis of the penalty clauses presented above. He has cited two parallels, but these are open to question. CDC 12:3–6 refers to some kind of supervision by the sect. After all, seven years of imprisonment would hardly have been a measure of repentance. CDC 13:4–6 refers to the quarantining of those afflicted with nega’ıım, diseases, as prescribed by Lev.

/186/ See my “At the Crossroads,” 139–146.

/187/ Idem., 115f.