CONCLUSION
LAW AND COMMUNITY IN THE DEAD SEA SCROLLS

1. The Sectarian Legal System

The legal enactments of any society represent a response to both the self-definition of the group and the wider societal context in which it and its institutions developed. The Qumran sect defined itself by its unique beliefs, its singular approach to Jewish law, and its opposition to certain practices of all other Jews. From the close study of the laws and regulations of the sect, we have been able to learn much about the way the sect viewed itself and the nature of the society which it sought to construct, a society which constituted a sanctuary from the evils which surrounded its members and which would ready them for the soon-to-dawn eschaton.

Let us first recapitulate the basic elements of the Qumran legal system. We have seen that the functions of the moshav ha-rabbim of Qumran were fulfilled in the other sectarian settlements by courts of ten. In all sectarian courts, judges had to be trained in Scripture and its sectarian interpretation and had to conform to specific age requirements. Witnesses had to be members of the sect, and over twenty years old for capital matters. Whereas two witnesses were sufficient for financial matters, capital matters required three witnesses. The testimony of fewer witnesses sufficed for the imposition of sectarian sanctions even when the testimony was insufficient for conviction.

It was possible to make use of the cumulative testimony of single witnesses to successive commissions of the same crime, provided that the offense was duly recorded. All trials had to be preceded by the required formal reproof in the presence of witnesses before conviction was possible. In cases in which property was lost or stolen, laws provided for the use of oaths of adjuration to aid in the return of the missing items. When illegally gained property was to be returned but the owner was absent, it could be returned to the priests. If no one claimed lost property, it was to be entrusted to the priests for safekeeping.

A complex set of penalties was developed by the sect for various offenses against the sectarian regulations. These penalties were based on fines, separation from the pure food of the sect, and, for the more serious offenses, expulsion from the sect.
2. *Scriptural Authority and Sectarian Law*

The study of the various systems of Jewish law cannot be limited solely to the content of the laws contained in the various sources but must also consider the question of how the laws are derived, or, more specifically, how the legislators related to the Hebrew Bible which served as the ultimate basis for the development of the Jewish tradition in all its manifestations. An investigation of the legal and exegetical terminology of the scrolls was undertaken in *The Halakhah at Qumran* with specific reference to the contents of Jewish law later defined as *halakhah*. This term includes the unique combination of Jewish religious, civil, and criminal law which may best be seen as an attempt to actualize the laws of the Torah in changing circumstances. It was established in this previous volume that sectarian law was derived through what the sect regarded as inspired biblical exegesis. Oral traditions played no part in the development and transmission of sectarian law.

Taking this study one step further, the Qumran Sabbath Code was investigated in the attempt to test these conclusions. Study of the Sabbath Code clearly showed that Scriptural exegesis served as the basis of the sectarian law. In the present study, the chapters dealing with the Code of Court Procedure from the *Zadokite Fragments* have likewise confirmed this hypothesis. These laws were unquestionably shown to be derived through sectarian *midrash* exegesis.

Continuing the investigation of Qumran legal materials in this volume, the scope was widened considerably to include some of the sectarian organizational regulations, specifically the Penal Code of the *Manual of Discipline*. By the term organizational regulations we mean to describe the manifold rules of entry into the sect and the conduct of sectarian affairs. Put another way, this material consists of rules and regulations which do not belong to the category termed *halakhah* by Rabbinic Judaism. Rather, they were peculiar to this and similar sectarian groups. Such regulations were no doubt enacted to facilitate the actualization of the life of Torah, although the content of these regulations appears in many cases to have no basis in Scripture. Whereas the sect depended totally on Scriptural interpretation for the derivation of its “halakhic” laws, sectarian organizational regulations appear to have been conceived simply to facilitate the conduct of sectarian life. Of course, these nonscriptural laws were ultimately intended to fulfill the ideals which the sect perceived inherent in the Bible, and it was in order to actualize these precepts that the sect was founded.

3. *The Agenda of the Sectarian Codes*

In order to understand the legislation before us, which is indeed the sum total of available Qumran material on the subjects discussed, it is necessary to ask why the sectarian legislators included certain topics in their writings
and excluded others. Indeed, these questions ought to be asked of all the legal materials in the Dead Sea corpus.

J. Neusner, in a study of the Mishnaic system of law in the order Neziqin, roughly parallel in subject matter to the material under study in this volume, has observed that the material can be separated into two major categories: One contains provisions for the "normal conduct of civil society—commerce, trade, real estate, . . . damages by chattels and persons. . . ." The second part concerns "the institutions governing the normal conduct of civil society, that is, courts of administration, and the penalties at the disposal of the government for the enforcement of the law."/1/ The former material is found primarily in the Mishnaic tractates Bava' Qamma', Bava' Meşi'a', and Bava' Batra' and the latter in Sanhedrin and Makkot.

It is clear from even a cursory look at the detailed outline of the Mishnaic material which Neusner has presented/2/ that our texts from Qumran do not treat very much of the first category, but treat primarily the second. Many areas mentioned by the Torah and taken up as well in the Mishnah, among the most obvious the matter of bailees, are omitted altogether by the sectarian corpus. How is this to be explained? We would submit that the laws assembled in the sectarian documents are those for which, in the view of the Dead Sea sect, Scripture itself is insufficient. Therefore, a sectarian interpretation or midrash is necessary in order to understand the text. In cases in which the sect regarded the Bible as self-sufficient, laws were not formulated in the sectarian codes. Sectarian organizational regulations, independent of any biblical basis, had to be specifically formulated.

This conclusion may be rephrased using the terminology of the sect. Those laws found in the nigleh ("revealed") and hence known to all Israel are not usually stated in the texts of the sect. Those of the nistar ("hidden"), the correct interpretations of which are the possession of the sect alone and which were derived through inspired exegesis at the sectarian study sessions,/3/ are formulated in the sectarian codes (serakhim)/4/ and find their way into the texts before us. Alongside these, lacking Scriptural authority, organizational regulations had to be listed in the codes of the sect.

The study presented here has been based on two complementary sectarian texts: The Zadokite Fragments, containing a Code of Court Procedure, and the Manual of Discipline with its Penal Code. We have interpreted these two documents as complementary, although the differing perspectives of the two texts have been duly noted in the Introduction. Indeed, the Zadokite Fragments, concerned with the life of the sectarian outside the main center at Qumran and with the details of Jewish law, emphasized primarily the nature of the court system and the laws of testimony and procedure. It is the Manual of Discipline, concerned as it is with the definition of the members of the sect and their qualifications, entry, expulsion, and status within the sect, which describes the sectarian penalties. Such a distinction is natural, given the varying emphases of the texts before us.
What is most significant, though, is the intersection of the materials, showing the interdependence and unity of the corpus. This is especially observable in regard to the role of purity and impurity and separation from the pure food in the penalties of the sect. Whereas this foundation of sectarian law is spelled out in detail only in the Penal Code of the Manual of Discipline, it is taken for granted in the law of testimony of the Zadokite Fragments. Similarly, the general statements regarding the prohibited uses of the Tetragrammaton in the Penal Code of the Manual of Discipline go hand in hand with the similar proscriptions regarding the divine names and their usage in the oaths of the Zadokite Fragments. At one point, both texts have been observed to quote from an otherwise unknown but common source containing legal maxims of some kind.

There can be no question, then, that the relationship between the Manual of Discipline and the Zadokite Fragments presumed in this study, and proven by many other similarities and parallels, is again confirmed. Students of Qumran literature ought certainly to continue to investigate these texts in tandem, paying due respect, however, to their differing perspectives.

4. Private Property

The laws we have investigated will also help in the clarification of several issues surrounding the nature of the Qumran sect and its social character. In this respect, the question of private property has been extremely important. On the basis of descriptions of the Essenes and the early Christian church, dominant scholarly opinion has seen the sectarian as practicing community of goods. However, the legal system investigated here testifies otherwise. From the material before us it is certain that among members distant from the Qumran center, property was surrendered by the members of the sect for communal use, but private ownership remained in force. Otherwise, how can we explain subjects treated in the Zadokite Fragments such as the detailed system for dealing with the recovery of lost or stolen property and restitution of lost objects, laws which specifically mention "owners," the existence of an income tax, or the fact that there were some more needy than others among the members of the sect? From the laws regarding entry into the sect and from the Penal Code of the Manual of Discipline it seems that communal use of property is envisaged. Nonetheless, the concept of private ownership remained in force even at the center at Qumran.

5. Marriage

The common theory that the sectarians represented in the Qumran scrolls were celibate is supported primarily by sources describing the Essenes. These statements are then used as the basis upon which the Qumran scrolls are interpreted. We have already noted our reservations about
this methodology in the Introduction. The texts we have investigated here have made clear, even though not directly referring to this issue, that the Qumran materials assume a society in which marriage, childbearing, and family life are expected and normal. Explicitly stated in the Zadokite Fragments, this assumption certainly applies to the sectarians outside the main center at Qumran. But was the sect at Qumran celibate? Here we are justified in making use of the picture of the ideal society of the future eschatological age described in the Rule of the Congregation. This text certainly assumes normal family life as part of its vision of the end of days. Based on this text, we may conclude that those in the Qumran community likewise were not celibate. That there may have been celibate sectarians at this period is possible, but they are not reflected in the Qumran materials before us.

6. The Priesthood

In our study of the court system, we saw that the priests and Levites occupied a central place in the hierarchy. Indeed, the sectarian texts uniformly accord the Zadokite priests a position of superiority in the conduct of the sect's affairs. At the same time, J. Murphy-O'Connor has convincingly shown in his analysis of the history of the Manual of Discipline,5/ that by the completion of the sectarian corpus as we have it, this role had become more and more ceremonial, or formalistic, with the increasing democratization of the sect. This tendency is observable in the court system where priests and Levites constitute a minority of the court of ten, and in which the lay mevaqper, examiner, takes a leading administrative role.

The superior role of priests and Levites is logical since the sect was founded and originally led by Zadokite priests. They had formed the sect in protest over the usurpation of their rightful place in the Jerusalem Temple, either immediately before or, most likely, in the aftermath of the Hasmonean revolt. With time, the sect attracted more and more laymen who gradually took a greater role, so that the courts and administrative system came to embody a "coalition," and the actual leadership gradually passed to laymen. Since the sect saw itself as a replacement Temple, seeking to achieve the purity and sanctification of the cult through the medium of sectarian life and observance, it was natural that the formal conduct of the sect's affairs continued to be controlled by the Zadokite priests. They were the legitimate leaders to be entrusted with the conduct of the sacred cult in Jerusalem, now being defiled, in the view of the sect, by others unworthy of their position.

7. Ritual Purity and Impurity

While the subject of ritual purity and impurity in the Qumran texts requires a fully detailed study of its own, something of an outline already
emerges from the material studied here. The very fact that so much of this topic found its way into a study of the courts, court procedure, testimony and penal law is itself indicative of the overarching importance of this aspect of Qumran teaching. Indeed, we found that the basis of the complex system of the sectarian novitiate and entry of new members into the sect was the concept that those outside of the sect were ritually impure while the new member gradually became less and less impure through the initiation process until he was permitted contact with the victuals of the sect. At the same time, one who transgressed was to be removed from the pure food under certain circumstances, since his transgression rendered him impure. At the root of the matter is the idea that ritual impurity and subsequent purification are the function not of physical phenomena, but of sin and atonement.

Since the sect was a fellowship to ensure the actualization of the way of the Torah in the immediately pre-Messianic age, and since, as such, it was necessary to create by means of the sect a substitute for the sacrificial cult, entrance to the sect was limited to those who were ritually pure. Members who transgressed were accordingly defined and dealt with as temporarily impure. Certain transgressions resulted in expulsion from the sect, since the transgressor was regarded as no longer capable of repentance and purification. Thus was ensured the purity of the sect as a sanctuary of separateness which prepared its members for the eschaton. The eschaton itself was to be celebrated in absolute purity. Here the world of the present merges with that of the future. The insistence on purification in this world is also a preparation for the age to come. Hence, communal meals, eschatological in nature, were to be eaten only in absolute purity. Sinners were to be excluded, as they would be excluded from the banquet and community of the future age. Purity and impurity, then, defined the inner and outer limits of the sect in the present as they would in the Messianic age.

8. The Organic Character of Sectarian Law

The very fact that court procedure, testimony, purity and impurity, admission to the sect, oaths, divine names, penal code, communal meals and a host of other matters all had to be analyzed together because of the interlocking nature of their subject matter speaks eloquently of the organic character of sectarian law. Like Jewish law in all its manifestations, the areas of law can be distinguished for convenience or codification, but in reality the total system as a unity functions together, constituting a whole which is greater than the sum of its parts. Further, the system functions such that no ingredient can be removed without upsetting a delicate and perhaps previously imperceptible balance. This is the systemic nature of Judaism, and the Qumran sectarian legal traditions and way of life certainly fit this model.
Indeed, this organic character does not apply only to the legal system. We have seen the strong links between the legal system and the theological and doctrinal underpinnings of which it is only an outward expression. We have observed time and again how the laws of the sect were particularly appropriate to the kind of society the sectarians sought to create and to the self-image they sought to express in their way of life. The Jews of Qumran, as did all observing Jews through the ages, believed that observance of the law was only the outward expression of something much deeper, of a view of God, the world, and the Jewish people and of the inexorable march which would ultimately lead to the perfection of the world in the end of days.

NOTES

/3/ See HAQ, 22–32.
/4/ See HAQ, 60–68.
/5/ See above, 5.