The following article by Dr. Baumgarten, professor of rabbinic literature at the Baltimore Hebrew College, was written in response to "Halakhic Implications of the Dead Sea Scrolls," by Dr. Sidney B. Hoeing, which appeared in the first issue of Tradition. A specialist in the field of the Scrolls and related sources, and a frequent contributor to scholarly journals, Dr. Baumgarten was ordained as rabbi by Mesivta Torah Vodaath and received the Ph. D. degree from John Hopkins University. A response by Dr. Hoeing appears in the pages immediately following this essay.

THE DEAD SEA SCROLLS: A THREAT TO HALAKHAH?

For almost a decade now the religious world has been mulling over the meaning of a number of ancient Hebrew scrolls found in the vicinity of the Dead Sea. A mammoth literature has mushroomed in both scholarly and popular publications describing this dramatic discovery and attempting to establish its theological significance. In Christian circles the reactions have ranged from enthusiastic acceptance by Unitarian liberals to the alarmed hostility of fundamentalists who would give almost anything to have the scrolls returned to their hiding places in the caves.

To the credit of Jewish scholars it may be said that they have generally viewed the issues with greater calm and objectivity. In the present stage of research this attitude seems especially commendable. First, only a fraction of the mass of material found in the caves of Qumran has been published. Secondly, the task of interpretation, even on the basic philological level, is only in its initial phases. Thirdly, whatever problems may ultimately emerge from findings in the so-called inter-testamental period—obviously of more delicate concern to Christians than to Jews—it has been shown repeatedly that the cause of Jewish tradition is best served by an objective appraisal of scientific and historical evidence. This calm equanimity has now been shattered by the alarmed reaction of a prominent rabbinic scholar.

In his essay on the Dead Sea Scrolls in the first issue of Tradition, Dr. Sidney B. Hoenig aligns himself with the views of Prof. Zeitlin who vigorously denies the antiquity of these documents. Since Zeitlin is still waging what amounts to an almost single-handed battle against the Scrolls, one must commend Dr. Hoenig for his courage in taking up the cudgels in defense of this beleaguered position. However, since Dr. Hoenig's arguments are based primarily on religious considerations and he is apparently trying to formulate the Orthodox position vis-a-vis the Scrolls, it is necessary to scrutinize carefully the soundness of his approach.

Dr. Hoenig begins by reporting the alarmed reaction of many Christian theologians. Jewish scholars do not seem to be similarly alarmed. This Hoenig attributes to their failure to study the scrolls dilligently; actually they should also be concerned. He then portrays in dire terms the threat to Jewish tradition allegedly presented by the scrolls. The scrolls involve us in halakhic problems pertaining to Tefillin, the calendar, the holidays, etc. They undermine our sacred beliefs and observances. Observant Jews, were they to accept the Scrolls, would be faced with skepticism and doubts. In short, the Scrolls are very dangerous. What are we to do? Fortunately, Dr. Hoenig reports with apparent relief, there is a way out. Prof. Zeitlin has declared the scientific proofs offered for the antiquity of the scrolls to be unreliable. The Scrolls are nothing but a blunder, a vast hoax which has ensnared the unsuspecting world of biblical scholarship.

Now my concern over this approach is not caused by the fact that it runs counter to the opinion of the overwhelming majority of scholars. A minority opinion based on independent research can often be of great heuristic value. The disturbing element is Hoenig's apparent willingness to stake the validity and authority of Jewish traditions on the dogmatic espousal of a dubious theory. To question the validity of certain scholarly methods is any writer's prerogative. However, to posit a religious credo which asserts in fact that the validity of the faith is dependent upon the successful denial of the antiquity of the scrolls is to render a grave disservice to the cause of traditional apologetics. For what, we may ask, will be the alternative if the prevalent scholarly opinion does emerge ultimately as the correct one? Shall Jews then be compelled to discard their traditions and change their festival calendar? Or will they take refuge in a pious solipsism which

refuses to recognise the existence of the Scrolls lest they undermine their faith? Dr. Hoenig recognizes the untenability of the latter position and declares that he "has no fears about the issue." Yet his reliance on a scholarly position which flaunts all criteria of historical evidence coupled with his frightening description of the Scrolls cannot but lead to this very dilemma.

For the sake of inquiry, let us assume the truth of one of Dr. Hoenig's contentions, i.e. that some of the doctrines and laws in the Scrolls are opposed to the norms of traditional Judaism. Let us also assume that the scrolls do derive from the latter days of the Second Temple. Do these premises present a threat to our halakhic principles? Here, the writer believes, lies the major fallacy in Hoenig's position. He confounds antiquity with authority. The mere fact that the Scrolls are ancient does not invest them with sanctity as sources for Jewish teaching. Deviations from normative Judaism are not confined to our own times; they abounded in all periods of Jewish history. There is nothing in rabbinic teaching which impels us to look upon earlier generations as being monolithic in their adherence to Pharisaic halakhah. In fact, it is probable that the Pharisees, as their name indicates, were at one time looked upon as minor separatists. Yet it is from them, and only from them, that we derive our legal traditions.

Rabbinic literature is replete with references to legal controversies with the Sadducees who denied the authority of the Oral Law. No attempt was made to conceal this fact. According to an interesting talmudic statement there were at the time of the destruction of the temple no less than twenty-four dissident sects among Jews. Among these were the Essenes (originally הסידים) a group of religious extremists about whom we have information in classical sources.

The Essenes, according to Josephus and Philo, were distinguished by their very severe observance of the laws of ritual purity. This led many of them to renounce the commandment "be fruitful and multiply" and to live in celibacy near the shores of the Dead Sea. The Roman naturalist, Pliny the Elder, gives a very vivid description of this monastic settlement which he visited in the wake of Titus' army in 70 C.E. For more than a century now scholars have been searching rabbinic sources for possible allusions to these

Essenes, without any fruitful results. The repeated attempts to identify this group, which shows clear proto-Christian tendencies, with the אומים, the תשאים, and other pietists who are mentioned with favor in the Talmud have all been unsuccessful. The entire problem is now reopened through the discovery of the Dead Sea Scrolls.

When the Qumran Manual of Discipline was published scholars noticed immediately the marked resemblance in organization, customs, and doctrines between the Qumran sect and the Essenes. This resemblance clearly pointed to the close affinity, if not identity, of the two groups. Furthermore, it soon emerged that an enigmatic text, called the Damascus Document, which had been the subject of inconclusive scholarly debates ever since its discovery more than sixty years ago in the Cairo Genizah, must also belong to the same sectarian literary genre. In this text are many points of contact with rabbinic halakhah, thus opening up completely new avenues of research into the problem of the Essenes and their attitude to Pharisaic law.

It is surprising that Dr. Hoenig who strives laboriously to demonstrate the anti-halakhic character of the Scrolls does not make use of the ample material found in the Damascus Document. For example, it is evident from there that the sect was sharply opposed to rabbinic law in the area of marriage. Polygamy was considered by them to be a biblical prohibition. Through the use of היקש (analogy), the Damascus Document seeks to prove that marriage with one's niece is likewise biblically forbidden. As is well known, in the Talmud such a union is not only permitted, but is considered a mitzvah. The same prohibition is found later among the Karaite expounders known as בעלי הרכוב, who derived this and similar extensions of the laws of incest by the use of analogy. This is one of many indications pointing to a possible link between the Qumran sect and the later Karaites. Needless to say it does not substantiate Prof. Zeitlin's claim that the Qumran literature, itself, derives from the Karaites.

One of the most promising clues for identifying sectarianism of the Qumran type in rabbinic sources is found in the Tosefta Berakhot VII 6:

הפותח באלף למד וחותם באלף למד הרי זה דרך אחרת To begin a blessing with Alef-Lamed and to conclude with Alef-Lamed, this is a divergent way.

There are two other instances where the Tosefta uses the term דרך אחרת in describing religious deviations. One concerns blessings pronounced over the sun and the other the practice of filtering wine and vinegar.¹ In both cases it has been shown by Dr. S. Lieberman that similar practices are mentioned by Josephus and the Damascus Document respectively.

Thus, we now have some indication of how our Sages looked upon the sectarians of the Qumran-Essene type.² They considered them as heterodox extremists who because of their excessive zeal had deviated from the normative halakhah. It was this same exaggerated ultra-piety which led many of these sectarians to separate themselves from the Temple because the service was not conducted in accordance with their standards of purity³; it also led a portion of the sect to renounce marriage and family life; finally, it laid the foundation for that other-worldly fixation which became a dominant feature of later Christian monasticism. Obviously, the laws, the practices, and the doctrines of such a group are in no way authoritative for contemporary Judaism. Thus the anxiety expressed by Dr. Hoenig as to the devastating effect of the Scrolls upon Jewish traditions is basically unfounded. Certainly there is no peril in studying the Scrolls if one keeps in mind their provenience and does not blindly elevate them to the level of authoritative literature. How these fundamental considerations apply to the specific

^{1.} Tosefta Berakhot VII:6 and Terumot VII:11.

^{2.} For an appraisal of the contacts of the sect with Pharisaic law, cf. the writer's review in JBL, Vol. LXXVII (September, 1958), 249-257.

^{3.} Cf. the writer's appraisal of the sectarian attitude to sacrifices in *Harvard Theological Review*, XLVI (1953), 141-159.

halakhic problems mentioned by Dr. Hoenig will be readily seen from a few examples.

Dr. Hoenig refers to the Book of Jubilees and its solar calendar which was followed by the Qumran writers:

We are here confronted with the problem of our traditional observance of the calendar. Was the calendrical system now rediscovered in the Jubilee Scroll the authentic one. . .? Acceptance of the Scrolls as undisputed truth challenges the correctness of our observance of the Holy Days.

The writer finds these fears extremely perplexing. The Book of Jubilees is not a new discovery; its existence as part of the apocryphal literature has been known for ages. The original Hebrew text was still current in early medieval times and is known to have been present in the library of the Gaon Saadia. To my knowledge no one has ever questioned that this work stems from the period of the Second Temple. In fact, Prof. Zeitlin has long advocated the view that it dates from the early post-exilic period. If the existence of such an ancient sectarian work constitutes a threat to tradition, why, we may ask, have we not been alarmed heretofore? Is a deviation from our calendar more dangerous when it is found in a cave? It is true that Zeitlin and others had long ago speculated that the solar calendar of Jubilees was the original biblical calendar while the lunar-solar calendar of the Pharisees was a later modification; but these speculations have not been corroborated by the Dead Sea Scrolls. On the contrary, the new findings have cast serious doubt upon several of Dr. Zeitlin's ideas concerning the Jubilees calendar. Thus, it now appears from a Qumran fragment dealing with the priestly watches (mishmarot) that the sectarian calendar did not lack "the notion of Sefirah" as believed by Zeitlin and Hoenig, although the dates for the Omer offering and Shabuot (15th of Sivan) are radically different from Pharisaic practice.

Another Qumran text which seems to concern Dr. Hoenig is the Commentary on Habakkuk. He poses a series of anxious questions. Are we to consider this commentary on a par with the Mekhilta and other *midrashim?* Was the Teacher of Righteousness a Messiah? Should we as observant Jews accept the beliefs found in this

^{1.} See the writer's paper on the beginning of the day in the calendar of Jubilees, $\mathcal{J}BL$, Vol. LXVII (December, 1958).

scroll? There is only one possible answer to all these questions: No! This scroll is a sectarian document; it has no authority for us as religious teaching. Moreover, its character is entirely different from that of the *midrashim*. While the latter are homiletic expositions of the text, the Habakkuk Commentary seems interested only in finding allusions to contemporary events in the words of the prophet. In fact, so tenuous is the connection between the commentary and the biblical text, that it is fantastic to suggest that our sages were dissuaded from using these portions of Habakkuk on Shabuot because they knew of such sectarian commentaries.

Dr. Hoenig cites a Qumran regulation which sets twenty as the age for marriage, and compares it with the rabbinic dictum that the Lord waits impatiently until twenty for a bachelor to marry. As the writer has noted elsewhere¹ the two are entirely unrelated. For the rabbis twenty was a terminus ad quem, for the sectarians it was a terminus a quo.

In the same passage occurs a law which, according to some translators, qualifies a woman as a witness. Dr. Hoenig is alarmed by this law and by the conclusion of one translator that "one is not justified in using rabbinic materials as descriptive of Judaism as a whole of the two centuries preceding the fall of Jerusalem." Now even if the translation of the law were correct, we fail to see anything alarming in the conclusion drawn from it. In fact, I think we must agree with it whole-heartedly. Certainly our rabbinic sources are not representative of the viewpoints of all Jewish sects which existed before the fall of Jerusalem. It so happens, however, that the translation is not correct. In a paper to which Dr. Hoenig refers, the writer has shown that the passage in question could not possibly refer to the testimony of women.2 While Dr. Hoenig disputes my proposed reconstruction of the text, he does concur with my refutation of the view that this sectarian law qualifies women as witnesses. Thus, from any point of view, what cause is there for alarm?

The foregoing examples illustrate the desirability of a thorough background in rabbinic learning for a proper understanding of the scrolls. It is regrettable that the people most qualified in this respect are entirely oblivious to the existence of these documents, or have superciliously dismissed them as not worthy of a lamdan's attention.

- 1. Cf. my note in JQR, XLIX, (October, 1958), 159-60.
- 2. JBL, Vol. LXXVI (1957), 266 ff.

This neglect has left the field open for a variety of misinterpretations and historical fantasies such as the attempt to make Hillel an Essene and to present the latter as paragons of Jewish virtue. Dr. Zeitlin has of course fully exploited these scholarly aberrations in his sharp criticism of the research connected with the Scrolls. He has also found a marked receptivity for his extremely skeptical position among certain Orthodox Jews (whose attitude to new discoveries is best summed up by the dictum מחרה (חדש אסור מן החורה). It is surprising, however, that these same people, among them very learned rabbis, have not bothered to examine the broader historical theses upon which Prof. Zeitlin's position vis-a-vis the Scrolls is based.

An examination of Prof. Zeitlin's ante-Qumran writings is in this respect most illuminating. In 1933 he published a provocative volume on the history of the Second Jewish Comonwealth which deals among other things with the nature of the three major Jewish groups of this period. In consonance with other liberal historians, Prof. Zeitlin portrays the Pharisees as the party of liberal progress and innovation:

The so-called Pharisees, on the other hand, strove to bring religion into consonance with life, and to amend the Pentateuchal law where life's demands required it. The spirit of these liberal tendencies is immanent in all the Halakot of the Perushim.

The prime example which Dr. Zeitlin cites to illustrate this thesis is the law of *Erub*. With great ingenuity he outlines the stages in the liberalizing evolution of this law.

According to the Bible, Dr. Zeitlin maintains, no Jew was allowed to leave his house at all on the Sabbath:

"Abide ye every man in his place, let no man go out of his place on the seventh day" (Ex. 15:21).

To make the laws of the Sabbath less burdensome the rabbis introduced a reform. They declared that a person can walk a distance of two-thousand cubits from his home. He was not permitted to walk throughout the settlement in which he lived, only within an orbit of two-thousand cubits from the place where he had established his abode before the Sabbath. Moreover, travellers arriving from another place on the Sabbath, such as witnesses coming to Jerusalem to testify concerning the new moon (Mishnah

Rosh ha-Shanah 11:5) could move about only in the courtyard. Rabban Gamaliel the Elder was the first to institute a takkanah giving the witnesses permission to walk a distance of two-thousand cubits around the place of testimony, similar to the privileges of inhabitants of Jerusalem. This stage of the law dates, according to Zeitlin, from as late as the middle of the first century C.E. To make the law still easier, the rabbis decided to extend the meaning of makom ("place") to include the whole city, thus giving a Jew the right to walk throughout his city and two-thousand cubits beyond its limits. Finally, in order to make the Sabbath still more pleasant, the rabbis ordained that a person could establish his abode outside the city by placing food there before the Sabbath.

It is not possible here to analyze fully all the elements of this schematic reconstruction. Suffice it to point out that according to this theory the Sabbath techum or limit of two-thousand cubits loses its entire legal justification. Instead of an extension of the limits of a city derived from the open spaces surrounding the levitical cities in Numbers 35.5—whether this derivation be considered biblical or rabbinic—the techum becomes an arbitrary ad hoc reform supposedly instituted to allow greater freedom of movement. Actually, it is evident from R. Gamaliel's takkanah that the inhabitants of Jerusalem enjoyed from long ago the right to move throughout the city and beyond it for two-thousand cubits. What R. Gamaliel did was merely to extend these same privileges to the witnesses. This implies, of course, that the meaning of makom was already understood to include the entire city.

However, beyond these internal strictures, it is interesting to note how Prof. Zeitlin's theory fares in the light of the Dead Sea Scrolls. In the Damascus Document the two-thousand cubit limit is explicitly applied to the city, rather than the individual home: אל ילך איש אחר הבהמה לרעותה חוץ מעירו כי אם אלפים באמה

Let no man go after a beast (on the Sabbath) to pasture it outside his town for more than two-thousand cubits.

However, according to another passage in the same text a man can walk only one thousand cubits outside the city: אל יתהלך חוץ לעירו על אלף באמה. This ambiguity in the extent of the techum is easily

1. That the expression אלפים אמה לכל רוח can only mean two thousand cubits beyond the limits of the city is proven by Tosefta *Erubin* IV, 9. This is also the interpretation of all commentaries on the Mishnah.

Any lingering doubts concerning the antiquity of the techum are dispelled by the Qumran War Scroll, a text which deals with an apocalyptic battle of the so-called Sons of Light against the Sons of Darkness. This battle is to be conducted in accordance with the biblical rules concerning the purity of the military camp. One regulation in the text reads as follows: למקום היד כאלפים באמה

And there shall a space of two-thousand cubits between each of their camps and the place of the latrine.

This law is clearly based on Deut. 23:13, where it is ordained that the latrines must be outside the camp. However, neither in the Torah nor in rabbinic sources is it specified how far they must be. The Qumran sectarians, consistently basing themselves on Numbers 35:5, took two-thousand cubits as the standard measure of the outer limits of a settlement and applied this measure to the biblical law. Again, the direct connection between the *techum* and the city limits is clearly substantiated.

It is unfortunate that Prof. Zeitlin, instead of re-examining his theories in the light of the new evidence, uses his theories to "disprove" the antiquity of the Scrolls. Thus, he has repeatedly asserted that the Scrolls cannot be pre-medieval because they refer to the Sabbath limit. Similarly, the Scrolls cannot be ancient because they employ final letters: According to the talmudic tradition מנצפ"ך צופים אמרום (Megillah, 2b), the final letters were apparently known in the time of the Second Temple. Prof. Zeitlin, however, dismisses this talmudic tradition as legend and

declares that final letters were not used till after the time of R. Akiba; hence the Scrolls must be later.

It is quite evident that at least some of Prof. Zeitlin's opposition to the scrolls stems from the fact that he finds them incongruous with his conception concerning the evolutionary development of Jewish law. Traditional scholars, who recognize only a limited validity for the evolutionary hypothesis in the area of Halakhah, will therefore find little solace in Prof. Zeitlin's crusade against the Scrolls. On the contrary, since these sectarian documents do contain elements which throw important light on the background of halakhic institutions, they deserve the serious attention of traditionalists, though they do not regard them as authoritative. This approach may be further illustrated by reference to the biblical scrolls found at Qumran.

Dr. Hoenig is much concerned over certain readings in the Scrolls which differ from the Masorah. He cites several examples from different portions of the Bible. However, what Dr. Hoenig fails to mention is the over-all impact of the Scrolls upon textual studies, which has been to enhance tremendously the respect of scholars for the Masoretic tradition. Of the two major Isaiah scrolls found, one is almost identical with the Masorah, while the other seldom departs from it in essentials, though the spelling reflects a later Hebrew dialect. Many other biblical manuscripts from Oumran scarcely differ at all from the consonantal text of the Masorah. The variations which do exist are mostly due to careless copying on the part of the Qumran scribes. This carelessness is especially apparent in the Isaiah text where whole phrases are occasionally omitted because of obvious textual reminiscences and confusions. Despite these unmistakeable errors, however, the text is so close to the Masorah, that, ironically, it was this very agreement which was first used by Prof. Zeitlin as an argument against the antiquity of the scroll. He simply could not believe that a text so old could be so close to the traditional Masorah.

With regard to some readings in the Scrolls which agree with the Septuagint, we must remember that this is nothing new. For a long time scholars have pointed to various Greek readings as superior to the Hebrew. Even more, it was already noted by the *Rishonim* that there are readings in rabbinic sources which do not agree with the Masorah. Nevertheless, the Masorah has been and will remain for Jews the only authoritative recension of the Bible.

So far all emendations of the received text based on isolated Qumran readings have been shown to be unreliable. Again, antiquity must not be confused with authority.

So far we have not addressed ourselves to what is after all the essential question. Is the early dating of the Scrolls scientifically established? Dr. Hoenig disposes of this issue with two brief sentences:

Paleography has not proven the early date. The Carbon 14 tests were made, not on the parchment found, but on linen coverings which may not have covered the scrolls.

One might be led to believe from this that the claim for antiquity was based on nothing more than two vague criteria. Actually it is supported by almost every method of scientific dating at the disposal of the archaeologist. These include the analysis of pottery, the dated coins found at Qumran, the internal philological study of the Scrolls, the historical allusions, as well as paleography and radio carbon testing. Of course mathematical certainty cannot ever be achieved in the field of historical research, but one can safely say that the terminal date for the Scrolls in the first century C.E. is now as well established as that of most discoveries made from antiquity. For the detailed substantiation of this statement the reader may refer to the judicious studies by Millar Burrows and Frank Cross. Here we shall only comment on the two points raised by Dr. Hoenig.

First, with regard to paleography, the study of the changing forms of ancient writing, it is true that this is only an approximate science. It cannot usually be used to date manuscripts with an allowable error of less than fifty years. However, when it comes to a difference of six hundred years the evidence of paleography is decisive. One need not be a trained specialist to see the patent difference between the writing of the Scrolls and that of 7th century manuscripts. Such a late date for any of the Qumran scrolls is absurd.¹

The suggestion that the linen on which the carbon 14 test was made did not cover the scrolls, is hardly adequate to dispose of this objective method of dating. In fact, one of the linen

^{1.} We may add that the recent discovery of several lines of Hebrew writing from 70 C.E. by an Israeli excavation at Masada adds further confirmation to the first century date of the script in some of the Scrolls.

wrappings found by excavators in the first Qumran cave still has part of a scroll attached to it. Moreover, how does Dr. Hoenig propose to explain the circumstance that a whole literature of allegedly medieval Karaite texts is wrapped in genuine Roman linen and placed in genuine Roman pottery? Was this deliberately arranged by the Karaites in order to confound the archaeologists of later generations, or is this the work of an ingenious forger? Never has Dr. Zeitlin offered any coherent explanation for these very strange coincidences. So much for the question of dating.

In conclusion, I should like to point out that while Dr. Hoenig has apparently come to bury the scrolls, I have not come to praise them. Indirectly it may be that he has done a valuable service to the rabbinate and religiously educated laity by cautioning against excessive zeal in propogating the Qumran literature. The Dead Sea Scrolls are not sacred scripture. They belong to the corpus of rejected by the Sages, despite their unquestioned antiquity. For this very reason they can have no bearing on present day Halakhah. It may be, when all the Qumran material has been published and a better evaluation of the scrolls becomes possible, that we will then be able to apply the dictum of R. Yossef concerning the book of Ben Sira: מילי מעלייתא דאית ביה דרשינן להו

"The good things therein one may expound" (Sanhedrin, 100b). In the meantime it is wise to refrain from making rash judgments.

בשובה ונחת תושעון בהשקט ובבטחה תהיה גבורתכם

"In repose and tranquility shall you be helped; in quietness and in confidence shall be your strength."