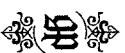


**Recent Developments in
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FROM PHILOLOGY TO HISTORY. THE SECTARIAN DISPUTE, AS PORTRAYED IN THE SCHOLIUM TO *MEGILLAT TA'ANIT*

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A. PHILOLOGICAL PROBLEMS IN DRAWING UPON THE RABBINIC LITERATURE

The scholarly research that draws upon the rabbinic literature for the purpose of reconstructing a historical reality or a conceptual approach invariably comes up against a serious impediment. This obstacle is the result of the great historical gap between the date of the compiling of this body of literature and the first written testimonies of it, as well as from the fact that this literature was passed down in writing over many generations and over wide geographical areas. The current editions of rabbinic literature often contain a corrupted text, the product of arbitrary historical circumstance: slovenly copyists, opinionated, daring medieval redactors, or erroneous decisions made by printers and editors. Scholars, by nature, tend to focus on the contents of the material: the ideas, the theology, the historical placement and the literary structure of the text. They are generally not drawn to the more tedious details of manuscripts and variant readings. However, the attempt to evaluate the authenticity of these rabbinic texts, to say nothing of extracting ideological stances and historical background from them, devoid of a thorough acquaintance with their textual history, is akin to building on marshland.¹

¹ See the comments of E. S. Rosenthal, "The Teacher," *American Academy for Jewish Research Proceedings* 31 (1963): Hebrew section, 15. For an example of erroneous historical conclusions drawn from a misleading textual work-

The passage which we are about to consider is a typical, though somewhat extreme case of a thoroughly ludicrous textual jumble. This textual confusion caused untold damage in the exploration and understanding of fundamental issues relating to the sects and the sectarian dispute during the Second Temple period, as reflected in the rabbinic literature. By reconstructing this passage so that it bears a more faithful resemblance to the original, and presenting it in the format of a new critical edition, I shall try to illustrate how textual criticism may contribute to literary and historical understanding.

B. THE ESSENCE OF THE SECTARIAN DISPUTE AS REFLECTED IN THE RABBINIC LITERATURE

The turbulent last centuries of the Second Temple era are characterized by major disputes and deep social and theological schisms. The absence of contemporaneous Pharisaic literature prevents us from acquainting ourselves with the sectarian disputes as seen through the eyes of this central group. However, the rabbinic literature, although redacted hundreds of years after the occurrences, does contain descriptions of conflicts with dissenting sects over various issues. While the sect living in the Judean desert receives no mention whatsoever in either tannaitic or amoraic literature, this literature does mention the Sadducees, as well as the Boethusians—a sect that does not appear in any other source and whose identity is controversial. The comparative study of rabbinic and sectarian literature finds a distinct similarity between the attitudes of the Sadduceean and Boethusian antagonists, mentioned in the rabbinic literature, and those of the Qumran sect. Echoes of polemics against opinions similar to those of the sect may also be identified in the rabbinic writings.²

up, see V. Noam, "The Story of the Cruse of Oil, a Metamorphosis of a Legend", *HUCA* 73 (2002) 191-226.

² In connection with this phenomenon and the interpretations given to it, see the discussions in Y. Sussmann, "The History of Halakha and the Dead Sea Scrolls: Preliminary Observations on Miqsat Ma'ase Ha-Torah (4QMMT)", *Tarbiz* 59 (1990): 11-76, (Hebrew), and especially 40-60, and that of M. Kister, "Studies in 4QMMQat Ma'ase Ha-Torah and related texts: Law, Theology, Language and Calendar," *Tarbiz* 68 (1999): 325-330 (Hebrew); and in the references therein.

The testimony of the rabbis, although dating from a later period, as well as being one-sided, should thus serve as an important tool for understanding the Judean Desert sect as well. Yet the debates described in the rabbinic literature constitute only a random assortment of arguments over different halakhic details. These sources make no attempt to define the essence of the disparity with the opponents, and even when taken together, they are unable to provide us with an overall picture.

In this paper, I will deal with a single, unique rabbinic passage, which appears to be an atypical attempt to encapsulate and define the focal point of the dispute between the 'rabbis' (*chabanim*) and the Sadducees on the one hand, and between them and the sect referred to as the Boethusians, on the other hand. This description of the controversy appears in a lone, rather marginal source, which has no parallel versions. Its testimony could therefore definitively affect our understanding of the social and halakhic milieu of Second Temple times, at least as it was recalled and recorded by the sages several generations later. However, from their earliest scholarly efforts and up to the present, researchers have fiercely disputed both the dating and the reliability of this source, as well as the credibility of the work in which it is preserved. This source is the scholium—the commentary—to *Megillat Ta'anit*, the Scroll of Fasts.

C. THE 4TH (14TH) OF TAMMUZ IN THE SCHOLIUM OF MEGILLAT TA'ANIT

Megillat Ta'anit is an ancient Pharisaic document, and the earliest rabbinic text that we know of from Second Temple times. This *megillah* (scroll) is merely a list of dates in Aramaic of some thirty-five events, arranged in the order of their appearance in the calendar. The objective of this *megillah*, as declared in its opening sentence, is to forbid public fasting on 'days on which miracles were wrought for Israel.'³ Most of the dates listed in the *megillah* involve a variety of joyful events that occurred in Jewish history during the Second Temple period. The *megillah* wishes to commemorate these dates and turn them into semi-festivals. Early on, a commentary written in Hebrew was added on to the *megillah*. This commentary dates from a later period, and is referred to in the scholarly world as a 'scholium.' The purpose of the scholium is to identify and

³ See PT *Ta'anit* 2, 13.

explain the events alluded to in the *megillah*. To this end, the scholium appends an assortment of stories, legends and exegetical material to the festivals appearing in the *megillah*, which may be of direct or indirect relevance.⁴ Nineteenth and early twentieth century scholars were familiar with the printed version of the scholium to *Megillat Ta'anit*⁵ and a critical edition was published by Hans Lichtenstein in the early 1930s.⁶ The quality of this edition, still in current use by scholars, will be dealt with later. We shall begin our discussion by familiarizing ourselves with the passage from the scholium as it appears in the traditional printed editions prior to Lichtenstein's edition.

Our text describes the essence of the dispute between the Pharisees and their opponents as follows:

⁴ See V. Noam, *Megillat Ta'anit: Versions, Interpretation, History, with a Critical Edition* (in Hebrew; Jerusalem: 2003) [hereafter: Noam, *Megillat Ta'anit*]; for an English summary see idem, "Megillat Ta'anit", in J. Schwartz and P. Tomson (eds.), *The Literature of the Jewish People in the Period of the Second Temple and the Talmud* (Compendia Rerum Iudaicarum ad Novum Testamentum, Section Two, Vol. 3b), (forthcoming). For an English translation of the scroll alone see J. A. Fitzmyer and D. J. Harrington, *A Manual of Palestinian Aramaic Texts* (Biblica et orientalia 034; Rome: Biblical Institute Press, 1978), 184-187. Landmarks in the history of research concerning the Megillah are: H. Graetz, *Geschichte der Juden*, III / 2, Leipzig 1906⁵, 559-577; M. Schwab (A. Marx), "Quelques notes sur la Megillah Taanit", *REJ*, XII (1900): 266-268; J. Wellhausen, *Die Pharisäer und die Sadduker* (Hannover 1924); S. Zeitlin, *Megillat Taanit as a Source for Jewish Chronology and History in the Hellenistic and Roman Periods* (Philadelphia 1922) [= Idem, *JQR* 9 (1918-1919): 71-102; *JQR* 10 (1919-1920): 49-80]. The former critical edition of the Megillah and its Scholium is: H. Lichtenstein, "Die Fastenrolle—Eine Untersuchung zur jüdisch-hellenistischen Geschichte," *HUCA*, 8-9 (1931-1932): 257-351. On the merits and shortcomings of this edition, see the discussion below, and see V. Noam, "The Scholion to Megillat Ta'anit: Towards an understanding of its Semnata," [hereafter: Noam, "The Scholion", *Tarbiz* 62 (1993): 59-99 (Hebrew), esp. 59-60, and 92, n. 155. For further bibliography see *ibid.*, 55-58.

⁵ The Megillah and its scholium were first published in Mantua in 1513, and on the basis of this edition they were reprinted many times up until the 20th century. For details of the various editions see Lichtenstein (previous note), 260-261.

⁶ See n. 4 above.

1 בארבעה עשר בתמוז נערא ספר גזירתא דלא למספר

2 מפני שהיה כתוב ומנוח לצדוקין ספר גזירות:

3 'אלו שנסקלן ואלו שנשרפין אלו שנהרגין ואלו שנתוקין';

4 וכשהיו כותבין, אדם שראל והולך ורואה בספר, אומר להם:

5 'מניין אתם יודיען שזה חייב סקילה וזה חייב שריפה וזה חייב הריגה וזה חייב תיקוף?'

6 לא היו יודיעין להביא ראיה מן התורה.

7 'אשר יירוך' וגו'. שאין כותבין הלכו בספר';

8 ועוד, שהיו כותבין אותו: "עין תחת עין, שן תחת שן,"

9 הפיל אדם שנו של חברי - יפיל את שני.

10 סמא את עינו של חברי - יסמא את עינו, ויהו שרים באחד.

11 'ופרשו המשלה לפני זקני העיר' - הרבירים ככתבין,

12 'יירדקו בפניו' - שחתה ורקקת בפניו';

13 אמר להם חכמים: 'הלא כתוב' "התורה והמצוה אשר כתבתי להורות"

14 "וכתי": "התורה" - אשר כתבתי, "והמצוה" - "להורות"

15 "וכתי": "עמיה כבוד לכם את השירה הוא"

16 "פיל מרה" - זה מקרא, "שירמה בפיהם" - אלו הלכות';

17 ואתו רם שבטלורו עשאו רום טוב.

On the fourteenth of *Tammuz* the Book of Decrees was removed (annulled). [One should] not eulogize

Because there was written and kept [i.e. publicized] by the Sadducees a Book of Decrees:

"These are stoned and these are burned; these are slain and these are strangled."

And when they would write it, a person would ask and would go and see it in the book, and would say to them:

"How do you know that this one is liable to stoning, and this one is liable to burning, and this one is liable to slaying and this one is liable to strangulation?"

They were unable to bring proof from the Torah.

"which they shall teach thee, etc.' (Deut. 17:10). We may not write laws (*halakhot*) down in a book!"

Furthermore, the Boethusians said: "[An] eye for [an] eye, [a] tooth for [a] tooth' (Exod. 21:24; Lev. 24:20).

If one had knocked his fellow's tooth—his own tooth should be knocked;

if one had blinded his fellow's eye, his own eye should be blinded. They [the aggressor and the victim] will be equal as one.

'And they shall spread the garment before the elders of the city' (Deut. 22:17)—this is meant literally.

'And [she shall] spit in his face' (Deut. 25:9), that she should [factually] spit into his face."

The Rabbis said to them: "Has it not been said [in Scripture]: 'the law and the commandment, which I have written, that thou mayest teach them' (Exod. 24:12):"

And it is written: "the law"—"which I have written" (the Written Law), "and the commandment"—"that thou mayest teach them" (the Oral Law).

And it is written: "Now therefore write ye this song for you" (Deut. 31:19).

"And teach thou it" (ibid)—this is the Torah [the Written Law]; "put it in their mouths" (ibid)—these are the *halakhot* [the Oral Law].

And the very day they annulled it they made into a festival.

Line 1 is a citation from the *megillah* itself. In keeping with its general style, this line in Aramaic very briefly alludes to the reason that fasting and even eulogizing are forbidden on the date mentioned, the 14th of *Tammuz*; the removal of a mysterious book, referred to as the "Book of Decrees." This immediately gives rise to a number of questions: What is this book? Who wrote it, and when? Why is its annulment cause for celebration? The reader would naturally expect a story about the rescinding of Gentile "decrees"

against the Jews. However, the later Hebrew commentary, the *scholium*, offers a surprising explanation. It relates the incident mentioned in the *megillah* to an internal Jewish dispute rather than to any external persecution, and explains the word "חוקים"—"decrees", not according to its more common, later meaning—edicts enacted by a foreign ruler to restrict Torah observance, but rather according to a rare, more ancient usage of this term—early *halakhot*.⁷

The *scholium* explains (lines 2-7) that the Book of Decrees was a Sadducean halakic text dealing with judicial execution. The Sadducees invented the *halakhot* in the book, which deviated from the Written Law, and when asked for their source (lines 4-5), were unable to find any proof. Line 7 attacks the Sadducees and their book with the Pharisaic claim regarding the prohibition against writing down the Oral Law: "we may not write laws down in a book." Two biblical words precede the Pharisaic claim: "חוקי תורא"—"that they shall teach thee." These words are taken from the verses:

"And thou shalt do according to the tenor of the sentence, which they shall declare unto thee from that place which the LORD chose; and thou shalt observe to do according to all that they shall teach thee. According to the law which they shall teach thee, and according to the judgment which they shall tell thee, thou shalt do; thou shalt not turn aside from the sentence which they shall declare unto thee, to the right hand, nor to the left" (Deut. 17:10-11).

The purpose of this citation is apparently to serve as a proof-text for the prohibition against writing down *halakhot* in a book, most likely from the words "ב י" = "according to" [lit. by the mouth of], which the Sages interpreted in a number of places as alluding to the authority of the Oral Law and the prohibition against committing it to writing.⁸ In line 8, the *scholium* suddenly

⁷ On the antiquity of the word "חוקי" —"decree," its meaning and relevant literature, see E. E. Urbach, *Halakhot—Its Sources and Development*, (Givatayim, 1984): 11, 15-16, 55-57, 239 n. 1; 254, n. 59 (Hebrew).

⁸ Compare with the interpretation of this expression (from a different verse) in a similar manner: R. Judah b. Nahman, the Metzurgeman (interpreter) of Resh Lakish, gave the following as exposition: "The verse says: 'Write thou these words' (Exod. 34:27) and then says: 'For after the tenor of these words,' (Exod. 34:27) thus teaching you that matters received as

brings an alternative explanation, which is preceded by the introductory formula "וַיִּי"—"Furthermore." According to this explanation (lines 8-16) the dissenting sect is known by another name: "Boethusians." The main point of contention between them and the Sages is portrayed in an entirely different manner. The Boethusians wish to give a literal meaning to three biblical injunctions, whose harsh literal implications had undergone refinement by Pharisaic *halakhab*.

1. Pharisaic *halakhab* interpreted the injunction "[an] eye for [an] eye, [a] tooth for [a] tooth" (Exod. 21:24; Lev. 24:20) as implying monetary compensation rather than physical retaliation.

"eye for eye"—[this means] pecuniary compensation. You say pecuniary compensation, but perhaps it is not so, but actual retaliation [by putting out an eye] is meant? R. Ishmael said: Scripture says: "And he that killeth a beast shall make it good; and he that killeth a man shall be put to death" (Lev. 24:21)—Scripture draws an analogy between injuries inflicted upon man and injuries inflicted upon a beast, and between injuries inflicted upon a beast and injuries inflicted upon man. Just as in the case of inflicting injuries upon a beast the offender is liable for pecuniary compensation, so also in the case of injuring a man he is liable for pecuniary compensation.⁹

2. In the matter of the "slandereous husband," the latter's accusation that his wife was not a virgin is clarified by spreading the wedding cloth: "And they shall spread the garment before the elders of the city." Tannaic *halakhab* did not understand this instruction literally, but interpreted the spreading of the garment as a metaphor for clarification of the matter.

"This is one of the matters from the Torah that Rabbi Ishmael would expound as a comparison...." "And they

oral traditions you are not permitted to recite from writing and that written things [Biblical passages] you are not permitted to recite from memory" (BT *Tamnah* 14b). See also BT *Gittin* 60b; PT *Peah* 2.5(7a); BT *Al-gilah* 7.4d; PT *Hagigah* 1.8(76d); *Exod. Rabba* 4.7.3; *Tanhuma*, *Buber* edition, Gen. 18:17.

⁹ *Mekhilth of Rabbi Ishmael*, Horowitz and Rabin edition (Jerusalem 1970), *Alshpantin* ch. 8, 276-278, see the additional proofs brought down there, and see BT *Baba Kamma*, 83b-84a.

shall spread the garment"—matters will become clear like the garment. Rabbi Akiva says... "And they shall spread the garment"—the witness of this one will come and the witnesses of this one will come, and each will have their say before the elders of the city...¹⁰

3. In the *halitzah* ceremony (removal of the shoe under Levirate law), which takes place when a man refuses to wed his childless brother's widow (Deut. 25:5-10), the widow is commanded to spit in the unwilling brother's face: "and [she shall] spit in his face" (*ibid.* 9). Here, too, the injunction was refined by tannaic *halakhab*, and the spitting is done on the ground.

"And she shall spit in his face"—on the ground. You say, "on the ground," but perhaps it means literally "in his face"? Logic decrees: Scripture refers to speech and to spitting. Just as [her] speech lands outside his body, so [her] spitting must land outside his body. So says Rabbi Eliezer...¹¹ Rabbi Jonathan says: "in his face"—on the ground. You say: "in his face" [means] on the ground", but perhaps "in his face" is meant literally? Do I understand "No man shall stand before you [literally—in your face]" (Deut. 11:25) literally?¹² [Surely not!] Thus, what does Scripture mean by "and she shall spit in his face"?—on the ground! (*Midrash Tamnun* on Deut. 25:9).¹²

According to the scholium, the Boethusians disputed the Sages over these three issues, insisting that the verses are "meant literally." The Sages answered the Boethusians that the *'yalakhor'* of the Oral Law were given along with the Torah (line 16), and the latter must be interpreted accordingly. Two verses are invoked in support of this argument: (a) "the law and the commandment, which I have written, that thou mayest teach them" (Exod. 24:12).¹³ The word "law" is understood as a reference to the Written Law, while "that thou mayest teach them" is interpreted as referring to

¹⁰ Sifre Deut., A. Finkelstein edition (Berlin 1940), 237, p. 270, see Rabbi Eliezer b. Yankov's dissenting opinion there. See also *Mekhilth of Rabbi Ishmael* (previous note), *Alshpantin*, ch. 6, 270; PT *Kerithot* 4.4; 28c; BT *Kerithot* 46a.

¹¹ See however the different opinion of Rabbi Eliezer's students there. ¹² See also *Sifre Deut.* (see n. 10) 291, p. 310; PT *Alced Katan* 3.3; 82a; *Yebamoth* 12.6; 13a; PT *Sanhedrin* 1.2; 19a; BT *Yebamoth* 39b; and see at length in my book *Meqillat Ta'anit* (above, n. 4), 215-216.

the Oral Law (line 14). In other words: there is no Written Law without the Oral Law.¹³ (b) The second verse cited by the Sages is: "Now therefore write ye this song for you" (Deut. 31:19). The verse continues, "and teach thou it to the children of Israel; put it in their mouths." Here, too, the phrase "and teach thou it" is interpreted as referring to the Written Law, and "put it in their mouths," to the Oral Law (oral=mouth), that is, the "*balakhoḥ*" (line 16).¹⁴ The ultimate victory over the dissenting sect, the date of which was established as a festival in the *megillah*, appears in the final line: "And the very day they annulled it they made into a festival."¹⁵

D. THE RELIABILITY OF THE SCHOLIUM'S TESTIMONY

According to this tradition, the essence of the dispute between the Pharisees and the dissenting sects was the authority of the Oral Law, the extent to which *balakhoḥ* should approximate the plain meaning of the biblical verses, and an independent penal code, which these sects followed.

How should we treat this story? The question of the reliability of this short text may be explored on several levels: (1) Is this an authentic text that was formulated in tannaitic or amoraic circles, or is it perhaps a later forgery dating from the Middle Ages? (2) If this is indeed an ancient legend that has its roots in the rabbinic world, does this guarantee its historical accuracy? (3) Even if we regard this story as credible historical testimony of a dispute that did actu-

¹³ Compare with the interpretation given in *BT Ber. 5a*: "The law: this is the Pentateuch; the commandment: this is the Mishnah; which I have written: these are the Prophets and the Hagiographai; that thou mayest teach them: this is the Talmud. It teaches [us] that all these things were given to Moses on Sinai."

¹⁴ This interpretation has no exact parallel, but in a remote midrash we find that a similar idea survived: "For the covenant was enacted mainly over the interpretations of the Torah, as it says: 'and teach thou it to the children of Israel: put it in their mouths' (Deut. 31:19). For whoever expounds a verse as it stands without the aid of midrash, and without the thirteen rules that guide interpretation of Scripture, about him the verse states: 'but the fool walketh in darkness' (Ecc. 2:14) (*Mishnah Aggadah* (Buber) Exod. ch. 34, s.v. [27] 'And the Lord spoke')." In this midrash too, the combination of "and teach thou it" and "put it in their mouths" is used as proof against those who wish to separate the verse from the "midrash" and explain it "as it stands."

ally take place, is this story the correct interpretation of the event alluded to in *Megillat Ta'anit*: "On the fourteenth of *Tammuz* the Book of Decrees was removed (annulled)?"

The question of the significance of this tradition cannot be separated from the general problem of the dating of the larger work in which it appears—the scholium. The extant version of the scholium is written in Mishnaic Hebrew interspersed with ancient terms, alongside of which there are corrupted and grating formulations and Babylonian Aramaic influences. Large sections of it have parallels in the Talmud and in other rabbinic writings, but almost half of it has no other known source. Scholars have disagreed over the historical and literary reliability of the unique testimonies appearing in this work on the Second Temple period, just as they have disagreed over the nature of the work as a whole. Some viewed it as a collection of ancient *baraitot* that were compiled at the end of the Mishnaic period or during the Talmudic period. Others conjectured that it is merely an amalgam of citations and formulations invented by the redactor some time during the late Middle Ages.¹⁵

Most scholars tended to be interested in the historical aspect of the scholium. Often, the reliability of the work was assessed strictly on the basis of its contribution to their own previously-established individual historical-philosophical theories.¹⁶ In order to prove or refute the reliability of the scholium's testimony, they would sometimes base their opinions on preconceived notions of the "historical likelihood" of the testimony itself. Thus, the separation that should exist between the research tools and the research conclusions was blurred. Scholars researching the Second Temple period, especially those dealing with the conflict between the sects, had recourse to the scholium only in as much as it touched on the historical disputation, rather than examining the work in general. For example, one group of scholars¹⁷ rejected the scholium's anti-

¹⁵ For a bibliographical review of the differing researchers, see Noam, "The Scholium," (see n. 4), n. 11, 56-57, and Noam, "Megillat Ta'anit" (see n. 4), 33-36.

¹⁶ See Noam, "The Scholium," (see n. 4), 57-58 and the notes there, and see below.

¹⁷ From S. J. Rapoport, *Emekh Milim* (Prague 1852), 189, 278, who disagreed with a number of "opinions" he attributed to "the compiler of *Megillat Ta'anit*" whom he assumed was a Boethusian, to Wellhausen (l.

Sadducean interpretation for the festivals in the *megillah*, either entirely or partially. Others¹⁸ defended the testimony in it that dealt with sectarian disputes, and attempted to prove that the descriptions of the disputes in the scholium conform to what we know about the Sadducees and Boethusians from other sources. One scholar totally rejected all interpretations that did not relate the festivals to the Hasmonean era,¹⁹ while another invalidated the entire scholium because of the anti-Hasmonean leanings, which it ascribes to the Pharisees.²⁰ The common factor in all of these approaches is the absence of a proper, objective scrutiny of the text itself, using the tools of textual criticism.

I will first concentrate on the specific passage in question. It will later serve as an illustration of what my research has revealed with regard to the scholium in general. As we make our way through the version of the printed edition of this text, we become aware of a certain dissonance and find that it contains many puzzling elements.

The beginning of the passage (line 2) states that the Sudducean Book of Decrees was long known, "written and kept." Why then does it state (line 4) that the Sadducees were writing it again—"And when they would write it"?

Wellhausen, *Die Phariseer und die Sadduceer* (Hannover, 1924), 56-63), Zeitlin (S. Zeitlin, 'Nemot Megillat Taanit antizaduzisch Gedenktrage,' *MGGW* 81 (1937): 351-355) and Moore (G.F. Moore, *Judaism in the First Centuries of the Christian Era* (Cambridge, 1946), I, 160, III, 27, 46) who unequivocally rejected all interpretations that made reference to the sectarian dispute and attributed them to an anti-Sadducean editor. Efron gave a similar view more recently (Y. Efron, *Studies of the Hasmonean Period* (in Hebrew; Tel Aviv 1980), 167-171. According to him, it should not be assumed that it was the intention of *Megillat Taanit* to perpetuate for all generations the disputes and quarrels between the sects.

¹⁸ Lichtenstein (above, n. 6), 258-260; H.D. Mantel, "The Megillat Ta'anit and the Sects," in *The Members of the Great Assembly* (in Hebrew; Tel Aviv 1983), 213-223 [= *Studies in the History of the Jewish People and the Land of Israel in Memory of Zvi Aharoni*, Haifa 1970, 51-70]; M.D. Herr, "Who Were the Boethusians?" (Hebrew) in *Proceedings of The Seventh World Congress for Jewish Studies*, 3, (Jerusalem 1981), 1-20, see especially 7-8, n. 52.

¹⁹ B.Z. Luria, *Megillat Ta'anit* (Jerusalem 1964), 17.
²⁰ Efron (see n. 17), in keeping with his general approach of playing down as much as possible the value of those testimonies that depict Janina and the Hasmoneans in a negative light, or those that describe a rift between the rabbis and the Hasmonean Dynasty.

The claim against the Sadducees (line 7): "We may not write laws (*halakhot*) down in a book" is a direct continuation of the story about the Sadducees' inability to bring proof for their *halakhot* (line 6). The author, however, did not find it necessary to indicate that, beginning with line 7, the story shifts from the Sadducees to the counter-argument of the *Chabanim*, and that from this point onwards it is the rabbis who are speaking. In addition, line 7 gives an exegetical interpretation of the words "according to—" "וְכִי לֹא" (Deut. 17:10-11) to teach about the existence of an Oral Law. Yet these particular opening words of the verse are not cited. The quotation is fragmented—only the following words "which they shall teach thee" are cited, followed by the exegesis of the absent words.

Line 15 cites the verse: "Now therefore write ye this song for you" (Deut. 31:19). The continuation of the verse, "and teach thou it to the children of Israel, put it in their mouths," is not quoted. However immediately after quoting the beginning of the verse, the text offers an exegetical interpretation of the second, missing part of the verse.

The concluding line in the story states: "And the very day they annulled it they made into a festival." This line is not connected to the preceding lines, which describe the dispute with the Boethusians over their method of interpretation. The identity of the object that was "annulled" remains obscure.

The greatest problem is the very structure of the story as a whole. Its blatant duality effectively amounts to an internal contradiction. What exactly occurred on the 14th of *Tammuz* according to this interpretation? Is the reason for the festival established in the *megillah* the removal of the Sadducean "Book of Decrees" that dealt with judicial execution, or does it lie in the victory over the Boethusians on the matter of the relationship between *halakhot* and the plain meaning of Scriptural texts? We should note that the two stories are not merely separate, but are actually opposites. Whereas the first story accuses the Sadducees of **disregarding the Written Torah in their laws**, the second accuses the Boethusians of **actually adhering too closely to the plain meaning of Scripture** and for ignoring the traditional interpretations of the Oral Law. The scholium connects the two conflicting stories with the word "Furthermore" (line 8), yet it is hardly feasible that separate victories over two different sects, over different matters that point in opposite directions, all occurred on the same day!

This short, baffling text touches upon the major issues that have occupied scholars of Jewish history, rabbinics and Qumran literature—from the 19th century up until recent decades. The scholium offers its own definitions of the nature of the sectarian disputes and deals with such fundamental issues as the relationship between Scripture and *halakhab* and the writing down of the Oral Law. There is hardly a scholar dealing with the history of the Second Temple and the nature of the Qumran sect that has not related to the text under discussion, whether by rejecting its contents or by using it to support his research, whether in the main part of his treatise or in the footnotes. However, this particular unit of the scholium was treated no differently than the rest of this work; it did not merit a textual approach by scholars, who instead explained it and expounded it, accepted it or rejected it, each according to his own pre-established understanding of the evolutionary path of the Oral Law. We will now try to summarize the different attitudes of the scholarly research towards the historical picture depicted in our passage.

The Sadducean "Book of Decrees" (lines 2-6)

Scholars have argued over the account of the annulment of the book of "four judicial executions" that "was written and kept" by the Sadducees. Rabbi Nahman Krochmal,²¹ Abraham Geiger,²² Heinrich Graetz,²³ and Eisik Hirsch Weiss²⁴ ascribed this story significant historical value. Graetz held that it was the Pharisaic prohibition of writing down *halakhab*, mentioned further on in the text (line 7), that brought about the annulment of the Sadducean book dealing with the four modes of judicial execution, and it was the Pharisaic victory in this matter that led to the establishment of the festival. Some of the notable scholars of the last few generations who accepted the tradition of the Sadducean book include Yaakov

²¹ N. Krochmal, "A Guide to the Perplexed of Our Times," in S. Rabinowitch, *The Writings of Nachman Krochmal* (London, 1961), 205 (Hebrew).

²² A. Geiger, *Scripture and its Translations* (Urschrift und Übersetzungen der Bibel in ihrer Abhängigkeit von der Innern Entacklung des Judentums) (Jerusalem 1949, trans. into Hebrew by Y. L. Baruch, based on the second edition, 1928), 80, 87, 96-97.

²³ Graetz (see n. 4), 568.

²⁴ J. H. Weiss, *Each Generation and its Interpretation*, I (Vienna 1904), 128.

Nachum Epstein²⁵ and Shaul Lieberman.²⁶ Nonetheless, there are others who rejected the tradition of the Book of Decrees. They claimed that the modes of judicial execution attributed by this tradition to the Sadducees is identical to the four modes of execution practiced by the Pharisees,²⁷ as stated in the Mishnah,²⁸ and noted the lack of "proof from the Torah" for some of them in the rabbinic approach as well.²⁹

We may not write laws (*halakhot*) down in a book" (line 7)

Most of the scholarly controversy focused on this scholium interpretation, which places the focal point of the sectarian dispute on the writing down of the Oral Law. There were those who believed that the main difference between the sects lay in the different approaches to writing down *halakhab*, as in the scholium's testimony. They then proceeded to make deductions about the development of Pharisaic *halakhab* in general,³⁰ and the history of the prohibition

²⁵ J. N. Epstein, *Introduction to Tannaitic Literature* (in Hebrew; Jerusalem 1956), 17. He even proposed that the Pharisees possessed a "Book of Decrees" of their own, identifying it with a vague reference to a "teaching of the Hasmonean House" mentioned by Epiphanius.

²⁶ S. Lieberman, *Greek and Hellenism in Jewish Palestine* (in Hebrew; Jerusalem 1984), 213. From one short comment by E. S. Rosenthal (E. S. Rosenthal, "The History of the Text and the Problems of Redaction in the Study of the Babylonian Talmud," *Tarbiz* 57 (1988): 579-580 (Hebrew)) it appears that he holds the same opinion. See also D. W. Halvni, *Midrash, Mishnah and Gemara*, (Harvard 1986), 38-40.

²⁷ R. Leszyński, *Die Sadduzäer* (Berlin 1912), 78-79; Y. Efron, "Simeon BT Shetach and King Yannai," *A Memorial Book for G. Alon* (Tel Aviv, 1970), 106-107.

²⁸ Mishnah *Sabbatin* 7:1.

²⁹ E. E. Urbach, "The Derasha as a Basis of the Halakha and the Problem of the Soterin," *Tarbiz* 26 (1958): 180-181. On the discrepancy between the plain meaning of Scripture and the judicial executions established by the Sages, see A. Shermesh, *Punishments and Sins, From Scripture to the Rabbinic* (in Hebrew; Jerusalem 2003), 11-34. According to Kister (see n. 2, 332-333; n. 69) the tradition of a "Sadducean Book" accounting for this festival, as opposed to the tradition involving the dispute with the Boethusians, is merely "a theoretical explanation for the Aramaic text of Megillat Ta'anit," influenced by the general tendency of the scholium to interpret the festivals in the megillah in light of sectarian disputes.

³⁰ See M. Ish-Shalom, *The Mechlilab and Sijra with the Meir Avin Commentary* (Vienna, 1870), xxxviii (see, however, Sussmann [above, n. 2], 37; n. 185); Urbach, "The Derashah" (see n. 29), Halvni, n. 26.

of writing down the Oral Law in particular.³¹ A different school of scholars disputed this view, either because it was presumed that the writing down of *halakhot* was in fact widely practiced by the Pharisees as well,³² or because they regarded the dispute between the sects to be based on different issues,³³ or because they were skeptical about the value of the scholium in general.³⁴

³¹ The opinion that ties the sectarian dispute to the sect's attitudes towards the Oral Law and its transcription is common in "rabbinic tradition," and subsequently, also in the research; see Sussmann (above, n. 2, 57, n. 185) and his reservations in this regard there. Among those who hold this opinion there are those who view the prohibition against writing as a fundamental Pharisaic approach and saw it as the basis of the sectarian dispute. See Urbach, *ibid.* (previous note), and see J. M. Baumgarten, "Unwritten Law in Pre-Rabbinic Period," *JJS* 3 (1972): 7-29 (*ibid.*, 7, n. 2, a review of additional literature regarding the weighty question of writing down the Oral Law). More recent literature is reviewed in Y. Yadin, *The Temple Scroll*, vol. 1, *Introduction*, (1983): 87, n. 79. See also Schäffer's opinion mentioned by Sussmann, *ibid.*; Others hold that the Pharisaic prohibition against writing "halakhot" came about only as a result of the sect's practice of doing so. See M. Jol, *Blicke in die Religionsgeschichte*, 1-2, (Breslau, 1883), 58-59, n. 1; and also Brüll (N. Brüll, "Das apokryphische Susanna-Buch, Jahrbücher Für Jüdische Geschichte und Literatur," 3 (1877): 54-55, n. 135). A. Goldberg went back to this view (A. Goldberg, "The Early and the Late Midrash," *Tarbiz* 50 (1981): 95, n. 5 (Hebrew). For a different opinion regarding the source of the prohibition against writing, see J. Baer, "The Historical Foundations of the Halakhat," *Zion* 27 (1962): 121.

³² See in particular the famous comments of J.N. Epstein, *An Introduction to the Formulation of the Mishnah*, (in Hebrew; Jerusalem 2000), from 692 onwards, and the references therein. Regarding the general theory that the Oral Law was already written in the Rabbis' times, see also Yadin (see n. 31), 400; and see also the articles by Dinur and Neusner mentioned by him in the footnotes therein, *ibid.*, 87, n. 79, and the more moderate outlook of G. Alon, *Sinthes in the History of Israel*, 2 (in Hebrew; Tel Aviv, 1983), 230, and Lieberman, (n. 26) from p.213 onwards, and see also the references in the previous note.

³³ See Sussmann (n. 2), and mainly 57-58, n. 185.

³⁴ Alon, n. 32; Baer, "Halakhat" (n. 31), 121-122, n. 8. This was worded in a particularly sharp manner by Efron (n. 27), 106-107; and see his comments on 119, n. 177; 131, n. 403.

"This is meant literally" (lines 8-12)

The tradition that acquaints us with the Boethusian's literal rather than "halakhic" interpretation of the three matters (an eye for an eye, and they shall spread the garment, and she shall spit in his face — lines 8-12), constitutes the main support for the commonly-held approach among scholars³⁵ that the basis of the dispute between the Sadducees and the Pharisees was over the relationship between Scripture and *halakhat*. This is consistent with Josephus' famous differentiation (*Antiquities* XIII, 297) between the "written statutes" (νόμιμα τὰ γεγραμμένα) which are obligatory in and of themselves according to the Sadducees, and between those that come from the "tradition of the fathers" (ἐκ παροδοσέως τῶν πατέρων) as the Pharisees claimed.³⁶

There are many who have connected this testimony to the tradition brought down in the *baraita* in Kiddušhin (66a). This story describes a sectarian dispute in the times of King Janai in which an enemy of the Pharisees informs the King that there is no need for the Pharisees to interpret the Torah, as the Torah itself which is "rolled up and lying in a corner", is sufficient³⁷ and "whoever wishes to study let him go and study." But many scholars, beginning with the times of Geiger³⁸ and Shlomo Yehudah Rappaport,³⁹ have expressed reservations over this definition of the sectarian dispute, and in this regard rejected the scholium's testimony as well.⁴⁰ They argued that there are indications both in the rabbinic

³⁵ Lieberman's interpretation of the wording of the Halitzah document (*Tosefta Yebamoth*, 12:15) implies that he too accepted the tradition of "this is meant literally"; see S. Lieberman, *Tosefta Krišutha*, 6-7 (New York and Jerusalem, 1996), 150.

³⁶ A similar argument is implied by Philo, *On the Special Laws* 4, 149. For a discussion and some of the literature concerning these writings of Josephus and Philo, see Baer (n. 31) 123-129.

³⁷ For different versions of this expression and for its meaning, see Urbach (n. 29); Baer (n. 31), 124; Baumgarten (n. 31) 16-17. On the hidden motif of the three crowns in this story and in the description of the Torah which is lying and "whoever wishes to study, let him go and study," see M. Kister, "Metamorphosis of Aggadic Traditions," *Tarbiz* 60 (1992): 203, n. 65.

³⁸ Geiger (n. 22), 80, 87, 96-97.

³⁹ S.J. Rappaport, *Writings of Peace and Truth* (Prague, 1841), 14.

⁴⁰ See for example Wellhausen (n. 17) 61-62; B. Retmer, "Of the An-

literature as well as in the Qumranic literature that the dissenting sects did indeed interpret Scripture, giving it their own interpretations, and did not follow a literal understanding of the text. Moreover, they argued that the scholium's testimony in this case is not compatible with the reason given for the festival in the *megillah*—the annulment of a book. And it was further argued that the matters cited in the scholium as the subjects of dispute were never mentioned in the rabbinic literature as a source of contention between the Pharisees and Sadducees/Boethusians.⁴¹

A smaller group of scholars rejected all of the traditions of the scholium, while others offered an alternative explanation for the festival that was mentioned in *Megillat Ta'anit* to commemorate that "the Book of Decrees was removed"⁴²—an explanation having no connection whatsoever to sectarian disputes. Paul Cassel⁴³ and Solomon Zeitlin⁴⁴ suggested that the original festival in the *megillah* referred to the annulment of the Greek decrees by Alexander Balas and Demetrius in the days of Jonathan (1 Maccabees 10, 25-35).⁴⁵ Yitzhak Baer⁴⁶ refrained from specifying a particular event as the reason for the festival, offering a general explanation for the annulment of a "book of decrees and orders" that was "instituted by Israel's enemies during the times of the Greeks."⁴⁶ Gedalyah Alon,⁴⁷ too, had his doubts about relying on the scholium's testimony in general, as did Yaakov Sussman.⁴⁸ It appears that Ephraim E. Urbach as well, in his later years, tended towards this viewpoint.⁴⁹

inquiry of the Jews," in *Altsatz* (Petersburg, 1902), 92; L. Finkelstein, *The Pharisees* (Philadelphia, 1966), 217-218, n. 81; Urbach (n. 29); Efron (see n. 27); and Sussmann (n. 2), 57, n. 185. Graetz (n. 4) 965-966 rejected the scholium's testimony with regard to only two of the disputes.

⁴¹ See for example Sussmann, *ibid.*, and the references therein.

⁴² P. Cassel, *Meisainische Stellen des Alten Testaments*, 2 (Berlin 1885), 107.

⁴³ Zeitlin (n. 4), 83.

⁴⁴ See however Lichtenstein (n. 6), 295-296.

⁴⁵ Baer (n. 31).

⁴⁶ Similarly, see M. Kister, "Marginalia Qumranica," *Tarbiz* 57 (1988): 315. Luria (n. 19), 130-134, suggested that the date commemorates the gathering of Scrolls of the Law after the Hasmonean wars; see also Urbach's (n. 7) assessment of this suggestion, 248, n. 41.

⁴⁷ Alon (n. 32).

⁴⁸ See Sussmann (n. 2) 43, n. 139; 58, n. 185; 61, end of n. 191.

⁴⁹ Urbach (*Hatalekh*, n. 7), 43, and completely contradictory to his

The research has suggested various solutions for the problem of the double story in the Scholium. Some scholars attempted to harmonize the two accounts, others rejected the authenticity of one of the stories, while yet others rejected both. Krochmal⁵⁰ and Weiss⁵¹ theorized that the laws mentioned in the dispute with the Boethusians in the second story (an eye for an eye, virginity, the *halitzah* ceremony) were also included in the Sadducean book of laws in the first story, which dealt with both monetary and capital offenses. This theory patches the two traditions together into a single tradition, and combines the annulment of the Sadducean book with the victory over the Boethusians on other halakhic matters.

Julius Wellhausen,⁵² who rejected the Scholium's testimony, conjectured that the double tradition derives from the fact that the author invented them based on two pieces of information provided by Josephus: the Sadducees' literal approach to Scripture (Antiquities, 13, 297, see above), and their stingent attitude with regard to punishment, relative to that of the Pharisees (*ibid.*, 294). Lichtenstein⁵³ attempted to prove the accuracy of the testimony at the beginning of the unit — the opposition to the Sadducean book of laws, from the tradition at the end of the unit — the testimony regarding the literal understanding of Scripture. He was of the opinion that Pharisaic adherence to a tradition of oral interpretation, as portrayed in the second description in the scholium, explains their opposition to the existence of a written Sadducean book of *halakhot*, as described in the first part of the text.

Epstein⁵⁴ held that the testimony regarding the Pharisaic claim, "we may not write *halakhot* down in a book (line 7)," is in fact an abridged alternative of the story of the Book of Decrees mentioned earlier (lines 2-6), and constitutes a later addition to the previous thoughts ("The Derashah," n. 29). Despite this, in this book he did not retract the conclusions he had reached earlier regarding the scholium. His comment there, "It is quite possible that the Sadducees wrote this Book of Decrees," is a rather forced compromise between contradictory viewpoints.

⁵⁰ Krochmal (n. 21), in his footnote.

⁵¹ Weiss (n. 24).

⁵² Wellhausen (n. 17), 61-62.

⁵³ Lichtenstein (n. 6), 296-297.

⁵⁴ Epstein, *An Introduction to the Formulation of the Mishna* (see n. 32), 296-297; *idem*, *Introduction to Tannaitic Literature* (see n. 25), 17.

text. Urbach⁵⁵ rejected the testimony concerning the sect's literal understanding of Scripture because it contradicts the idea of a book of the four types of judicial executions, which in fact, are not derived from the Torah. Likewise, he argued that the words "they were unable to bring proof from the Torah," cannot be brought as a claim against the "Book of Decrees," as the four types of judicial executions appearing in the Mishnah also do not derive clearly from Scripture. Thus, the Pharisees can have no claim against another group that their punishments do not derive from the Torah. According to Urbach, the argument that was leveled against the Book of Decrees was specifically with regard to the prohibition of writing laws down in a book. David Halvni as well held that the Pharisaic argument against writing laws down in a book was directed against the book of judicial executions, whereas the Boethusian episode is a later addition.⁵⁶ Moshesh David Herr⁵⁷ noted that two different factions, the Sadducees and Boethusians, had been mixed together in this story, and tried to formulate the differences between the two groups from the respective responses given by the Sages to the Sadducees on the one hand and to the Boethusians on the other. The Sages' response to the Sadducees, who possessed an inflexible, frozen oral tradition, was that *halakhot* may not be written down in a book, while their response to the Boethusians, who explained the Torah in a literal fashion, was that the Written Law cannot be separated from its Oral counterpart. Sussmann⁵⁸ rejected the testimony of the second part of the scholium, casting doubt on the reliability and antiquity of the expression "this is meant literally" in our context (line 11), suggesting that the author had taken it from a tannaitic or amoraic source and had changed its original meaning and context.

⁵⁵ Urbach ("The Demashah," see n. 29); also idem (Halakhah, see n. 7), 76-77 (however, Urbach's own explanation for the dates in the megillah is actually two-fold; see Halakhah, *ibid.*, 43, 248, n. 42; and see n. 49 above).

⁵⁶ Halvni (n. 26).

⁵⁷ Herr (n. 18).

⁵⁸ Sussmann (n. 30).

E. TEXTUAL CRITICISM—AN ANALYSIS OF THE DIFFERENT VERSIONS OF THE SCHOLIUM

Now that we are acquainted with the complicated details, we will consider this midrashic tradition from the angle of textual criticism. Upon re-inspection of the entire scholium in the different manuscripts, I discovered that the historical conclusions drawn from this work in general were built on shaky philological foundations. The scholium in the printed edition, which scholars had worked with, is, in fact, a work dating from the late Middle Ages that incorporated and mixed together two ancient, separate, and at times contradictory commentaries to *Megillat Ta'anit*.⁵⁹ The contradictions resulting from this hybridization and the secondary reworking of its editors have misled the research, concealing the nature and content of the original works.

It appears that in actual fact we are not dealing with one scholium, but rather with two separate editions of the commentary to *Megillat Ta'anit*. Each version has been preserved in its pristine state in only a single later manuscript, with the addition of some tiny *genitich* fragments. One scholium to *Megillat Ta'anit* is found in the Parma manuscript, Palatine Library, De Rossi Collection, no. 117. The second scholium is found in the Oxford manuscript, Bodleian Library, Michael 388, Neubauer Catalogue no. 867.2. Roughly half of the texts of these two editions have nothing in common, and they offer totally different reasons for the very same *megillah* events. The rest of the contents of the two works are parallel, but never identical. They may be regarded as rather distant variations of one core tradition. These variations differ both in style and terminology, and sometimes even in the course of events recounted in their stories. I have termed these two different editions "Scholium O" and "Scholium P," named after the respective Oxford and Parma manuscripts in which they are preserved. By what circumstances were these two compositions merged into one? It appears that somewhere in the Mediterranean basin during the 9th or 10th centuries, where there was a tradition of assembling and

⁵⁹ For a detailed discussion of all the various manuscripts and the relationship between them, see Noam, "The Scholion," (n. 4), and Noam, *Megillat Ta'anit*, (n. 4), 319-332. This edition presents the complete versions of each manuscript, along with parallels and sources, *ibid.* 132-143.

compiling texts,⁶⁰ someone came into possession of the two versions of the scholium to *Megillat Ta'anit*. This anonymous medieval author sought to combine the two separate works into one, thus creating an artificial hybrid version to which he added some reworking that was clearly influenced by the Babylonian Talmud. This kind of modification was applied all through the two scholium editions, unit after unit. In the scholia commentaries joined to several festivals in the scroll, this was achieved by simply joining together versions O and P, one after the other.⁶¹ Elsewhere, the hybrid version's editor gave preference to one of the versions, merely adding expressions or small bits of text from the other version.⁶² In other instances, the tradition from one version was inserted in between two parts of the other version, with the beginning and end from tradition O, and the middle from version P.⁶³ This hybrid version as a whole spread quickly across Ashkenaz and other Jewish communities. In fact, with the exception of the Parma and Oxford manuscripts, all manuscripts of *Megillat Ta'anit* and its scholium represent the hybrid version. Unfortunately, this corrupted hybrid version was the version at hand when *Megillat Ta'anit* was first printed in Mantua in 1514. Consequently, the first printed edition, and hence all subsequent ones, is a copy of this particular misleading mixture.

The different versions of the scholium manuscripts were first published in their entirety in Hans Lichtenstein's 1932 critical edition of *Megillat Ta'anit* and its scholium. Lichtenstein used the format of a base text of the scholium, along with a critical apparatus.⁶⁴ He added a list of variant readings and a list of medieval citations from the Scroll and the Scholium. Lichtenstein listed the different printed editions, added a historical introduction for each festival, and presented a review of the scholarly research up to his time.

⁶⁰ See Noam, "Two Testimonies" (n. 4) and Noam, *Megillat Ta'anit*, (ibid.) 326-332.

⁶¹ For details and examples, see Noam, "The Scholion" (n. 4) 68-74 and n. 95.

⁶² For details and examples, see ibid., 75-77, and n. 99.

⁶³ For details and examples, see ibid., 77-79, and n. 100.

⁶⁴ See for example Version O with regard to the 25th of Sivan, as it appears in the Lichtenstein edition, p. 328 onwards, compared with its original order; and the order of the units in the Scholium with regard to Chanukah, p. 341 onwards.

Unfortunately, this edition, which was intended as a correction to the printed variant, presented the scholars with an eclectic "reconstructed" text which was no less misleading than the printed version that preceded it. In his version, Lichtenstein mixed the two entirely different basic works—O and P—and also combined them with the hybrid version, which he considered to be an equally valid representation of the scholium. The critical apparatus to this edition is faulty too, and the separate manuscript versions cannot be reconstructed from it.⁶⁵ The damage caused by the new, mottled work produced in the Lichtenstein edition was far greater than that of the earlier printed version, as it bore the seal of a critical edition, and was thus quoted without re-inspection. The Lichtenstein edition⁶⁶ misled research also with regard to the particular section of the scholium under discussion. He did change the date of the festival in his edition according to P (see discussion later on), but chose the hybrid version as his base text for the scholium. He changed some of the words in it, following the Parma or Oxford manuscripts, but the basic blurring of the different traditions was left intact.

We will now proceed to examine the Parma and Oxford manuscript versions separately:

Parma Manuscript (P)

Oxford Manuscript (O)

On the 4th of Tammuz the Book of Decrees was removed [i.e. annulled].

On the 10th of Tammuz was annulled and removed the Book of Decrees

Because thus there was written and kept [i.e. publicized] by the Sadducees a Book of Decrees. These are burned, these are slain, these are strangled.

For the Boethusians wrote laws [*halakhoth*] in a book. And a person would ask, and they would show him in the book.

And should someone say to them: how [is it learned] that this one is liable to stoning [lit. at the mouth of] these words I

⁶⁵ For details, see Noam, "The Scholion," (n. 4) 92, and n. 155.

⁶⁶ Lichtenstein edition (n. 4), 331.

and this one is liable to burn- ing? They were unable to bring proof from the Torah, only that it was written and kept [i.e. publicized] by them a Book of Decrees.

The day they annulled it they made into a festival.

A different matter, [a Book of] Decrees, which Boethusians said: "[an] eye for [an] eye, [a] tooth for [a] tooth." If [one] knocked his fellow's tooth his tooth shall be knocked, if one blinded his fellow's eye, his own eye should be blinded, and they are equal. "And they shall spread the garment before the elders of the city" – the actual garment; "and [she shall] spit in his face", that she should [actually] spit in his face.

The Rabbis said to them: Has it not been said already "the law and the commandment, which I have written that thou mayest teach them." And it is written "Now, therefore write ye this song for you and teach thou it to the children of Israel: put it in their mouths"; "and teach thou it" – this is the Torah [the Written Law], "put it in their mouths" – these are the *halakhot* [the Oral Law].

The two independent commentaries, O and P, both contain the same basic idea. Both surprisingly explain the annulment of the "Book of Decrees" as referring to a victory over a rival sect of the Pharisees. However, from this point onwards, the two editions of the scholium differ totally. Scholium P, characteristically, deals specifically with the Sadducees. Whenever this scholium describes a

dispute between the rabbis and their opponents, these opponents are always termed "Sadducees." Scholium P attributes a 'book' to the Sadducees that deals with the four modes of judicial execution, for which "they were unable to bring proof" from the Torah. This scholium makes no mention whatsoever of any rabbinic arguments against the dissenting sect. This scholium contains nothing at all about the prohibition against writing *halakhot* down in a book. Nor does it contain any discussion with regard to the literal understanding of Scripture. The term "Boethusians" is also completely absent in this passage, as it is throughout all of Scholium P.

Scholium O, by contrast, describes two controversies. These controversies are specifically with the Boethusians, as is every instance where Scholium O presents a dispute between the Sages and their opponents. Scholium O itself already contains two clearly-distinguishable traditions, the second of which is introduced by the phrase "A different matter" (i.e. another interpretation). One tradition describes the argument between the Sages and Boethusians over the issue of writing *halakhot* in a book. Here "book" is meant generically, i.e. any book in which *halakhot* are written down. The second tradition presents a list of three disagreements over the interpretation of three verses. The Boethusians are of the opinion that these verses should be understood according to their plain meaning; while the rabbinic reply is that there is no "Torah" (Written Law) without "*halakhot*" (Oral Law). Judicial execution receives no mention at all in this tradition, nor is there any discussion of bringing proofs from the Torah. It is worth noting here that the terms "Sadducees" and "Boethusians" have been used interchangeably in the rabbinic literature. Often the very same dispute is described in two different sources, one of which refers to the Sages' adversaries as Sadducees, while the other refers to them as Boethusians. Sussmann has shown that these variations are not merely a coincidence. The Tosefta consistently uses the term "Boethusians," while the Mishnah uses the term "Sadducees." In his opinion, the Sadducee/Boethusian variations stem from different branches of tannaitic tradition.⁶⁷ It would appear that the two versions of the scholium also belong to different traditions, and as a result they too use different terminology.

⁶⁷ Sussmann (n. 2) nn. 166-167, 48-49. See his discussion there concerning the exceptions to this rule.

We shall now examine the Parma and Oxford manuscript versions again, this time alongside the hybrid version, in order to gain a better understanding of the mstading effort that produced this composite text. The hybrid version presented here is not taken from the printed edition, but rather from the Cambridge manuscript, Cambridge University Library, no. 648/9. This manuscript precedes the printed version, and is more accurate in certain details.

נוסח כלאיים (כ)	א	פ
תמוז		1
בארבעה עשר בתמוז	בעשרה בתמוז	2 בארבעה בתמוז
עדא ספר גזירתא	בטילת ואעזיאת	3 עדא ספר גזירתא
רלא למספר	את ספר גזירתא	4
מפני שהיה כתוב ומונה	שהיזי ביהוסין כותבין	1 מפני שכך כתי' ומונה
לצדוקי'	הלכות בספר	2 להם לצדוקים
ספר גזרות		3 ספר גזירות
אלו שנסקלן ואלו שגשפי'		4 אלו שהזן נשרפין
ואלו שגהרין		5 אלו שהזן נהרגין
ואלו שגחנין		6 אלו שהזן נחנקין
וכשהיזי כותבין		7
אדם שואל והולך ורואה	ואדם שואל ומראין לל	8
בספר אומר להם מנין	בספר	9 ומי שהזא אומר להם מנין
אתם יודעים		10
שזה חייב סקילה		11 שזה חייב סקילה
וזה חייב שרפה		12 וזה חייב שריפה
וזה חייב הריגה		13
וזה חייב תניקה		14
לא היזי יודעים		15 אין יודעין
להביא ראיה מן התורה		16 להביא ראיה מן התורה
אמר להם חכמים	אמר להם חכמים	17 אלא שכתו ומונה להם

הלא כתוב	והלא כבר נאמר	ספר גזירות
	על פי הדברים האלה כתי'	18
	אתך ברית ואת ישראל	19
על פי התורה אשר יורדך	על פי התורה אשר יורדך	20
וגו' שאין	וגו' למלך שאין	21
כותבין הלכות בספר ועוד שהיזי	כותבין בספר וכר' אהוז [...] גזירתא שהיזי	22
בייתוסי' אומרים	בייתוסי' אל	23
עין תחת עין שן	עין תחת עין שן	24
תחת שן	תחת שן	25
הפיל אדם שנו של תבירך	הפיל שן תבירך	26
יפיל את שנו	יפיל שינו	27
סמא את עינו של תבירך	סימא עין תבירך	28
יסמא את עינו	יסמא את עינו	29
יהו שוים כאחר	ישניזן שוין	30
ופרשו השמלה לפני זקני העיר	ופרשו השמלה לפני זקני העיר	31
דברים ככתבן	שמלה גמורה	32
וירקה בפניו שתהא רוקקת	וירקה בפניו שתהא רוקקת	33
בפניו אמר להם חכמים	בפניו אמר להם חכמים	34
והלא כתוב	והלא כבר נאמר	35
התורה והמצוה אשר	התורה והמצוה אשר	36
כתבתי להורותם	כתבתי להורותם	37
התורה אשר כתבתי		38
והמצוה להורותם		39
וכתיב ועתה כתבו לכם	וכתיב ועתה כתבו לכם	40
את השיירה הזאת	את השיירה הזאת	41
		42
		43

44	ולמדה את בני ישראל	ולמדה את בני ישראל	
45	שימה בפיהם ולמדה את בני ישראל	שימה בפיהם ולמדה את בני ישראל	
46	זו מקרא	זו מקרא	
47	שימה בפיהם אלן הלכות	שימה בפיהם אלן הלכות	
48	ואתו יום שכתלורו עשארור יום טוב	ואתו יום שכתלורו עשארור יום טוב	
49			יום שכתלורו
50			עשארור יום טוב

	P	O	Hybrid Version (C)
1			Tammuz
2	On the 4 th of <i>Tammuz</i>	On the 10 th of <i>Tammuz</i>	On the 14 th of <i>Tammuz</i>
3	the Book of Decrees was removed [i.e. annulled].	was annulled and removed [i.e. annulled]	the Book of Decrees was removed [i.e. annulled].
4		the Book of Decrees.	[One should] not eulogize

1	Because thus there was written and kept [i.e. publicized]	For the Boethusians wrote	Because there was written and kept [i.e. publicized]
2	by the Sadducees,	laws (<i>halakhot</i>) in a book.	by the Sadducees
3	a Book of Decrees.		a Book of Decrees:
4	These are burned,		These are stoned and these are burned
5	these are slain,		and these are slain
6	these are strangled,		and these are strangled
7			And when they would write it,
8		And a person	a person would ask

9	And should someone say to them: how [is it learned]	would ask, and they would show him	and would go and see it
10		in the book	in the book, and would say to them: how
11	that this one is liable to stoning		do you know that this one is liable to stoning
12	and this one is liable to burning?		and this one is liable to burning
13			and this one is liable to stoning
14			and this one is liable to strangulation?
15	They were unable to bring proof from the Torah,		They were unable to bring proof from the Torah.
16	only that it was written and kept [i.e. publicized] by them	The Sages said to them:	The Sages said to them:
17		But does it not state,	Is it not written
18	a Book of Decrees	“for after the tenor of [lit. at the mouth of] these words I have made a covenant with thee and with Israel” (Exod. 34:27);	
19			
20			
21		“According to [lit. at the mouth of] the law (Torah) which they shall teach thee etc.” (Deut. 17:11).	“According to [lit. at the mouth of] the law (Torah) which they shall teach thee etc.” We may not
22			

23	This teaches that we may not write [laws] down in a book.	write laws down in a book.
24	A different matter [i.e. another interpretation]... Deerees, which Boethusians said	Furthermore, the Boethusians said,
25		
26	"[an] eye for [an] eye, [a] tooth for [a] tooth" (Exod. 21:24; Lev. 24:20)	"[an] eye for [an] eye, [a] tooth for [a] tooth"
27	If [one] had knocked his fellow's tooth	If one had knocked his fellow's tooth
28	his own tooth should be knocked,	his own tooth should be knocked,
29	if one had blinded his fellow's eye	if one had blinded his fellow's eye
30	his own eye should be blinded.	his own eye should be blinded,
31	and they [the aggressor and the victim] are equal.	they [the aggressor and the victim] will be equal as one.
32	"And they shall spread the garment before	"And they shall spread the garment before
33	the elders of the city" (Deut. 22:17)	the elders of the city" (Deut. 22:17)
34	the actual garment	this is meant literally;
35	"and [she shall] spit in his face" (Deut. 25:9), that she should [actually] spit	"and [she shall] spit in his face" (Deut. 25:9), that she should [actually] spit

36	into his face. The Rabbis said to them:	into his face. The Rabbis said to them:
37	Has it not been said already [in Scripture]	Has it not been said [in Scripture]
38	"the law and the commandment, which	"the law and the commandment, which
39	I have written, that thou mayest teach them" (Exod. 24:12).	I have written, that thou mayest teach them" (Exod. 24:12).
40		"the law" – "which I have written" (the Written Law)
41		"and the commandment" – "that thou mayest teach them" (the Oral Law)
42	And it is written, "Now therefore write ye	And it is written, "Now therefore write ye
43	this song for you and teach thou it to the children of Israel:	this song for you and teach thou it to the children of Israel:
44	put it in their mouths" (Deut. 31:19); "and teach thou it"	put it in their mouths" (Deut. 31:19); "and teach thou it"
45		to the children of Israel?"
46		
47	this is the Torah (the Written Law),	this is the Torah (the Written Law),
48	"put it in their mouths" – these are the <i>halakhot</i> (the Oral Law).	"put it in their mouths" – these are the <i>halakhot</i> (the Oral Law).

49	The day they annulled it	And the very day they annulled it
50	they made into a festival.	they made into a festival.

How was the hybrid version produced?

First, let us take a look at the actual date mentioned in the text of the *megillah*. In addition to several corruptions which appear in the Oxford manuscript, we also find a distinct difference between the dates contained in the different manuscripts: Scholium P's *megillah* reads, "on the 4th"; Scholium O's *megillah*, "on the 10th." The hybrid version combines the two: "on the 14th" (!) and it was this date, a date that was never mentioned in the original *megillah*, that was routinely referred to by scholars, until Lichtenstein's time. The Lichtenstein edition corrected this specific ridiculous error.

Scholium P deals with a formal, constitutional book involving judicial execution, and the argument against it for which the Sadducees have no reply is: "How [is it learned] that this one is liable to stoning and this is one liable to burning?" Scholium O, on the other hand, deals with a book of everyday *halakhot* concerning the individual, and with a person who is seeking halakhic guidance—who "would ask, and they would show him in the book." The Pharisees object to this book, arguing that "we may not write [laws] down in a book." The medieval editor who merged these two traditions combined the two different books and the two different people. He attributed the provocative question from Scholium P— "How [is it learned] that this one is liable to stoning..."—to the innocent "person" to whom they "would show ... in the book" in Scholium O. The editor also redirected the Rabbi's argument regarding the book of *halakhot* in Scholium O—"we may not write [laws] down in a book"—to the book dealing with judicial executions that appears in Scholium P.

Mention should be made of a further mistake on the part of the editor who combined the two versions, this time unintentionally rather than deliberately: The original Scholium O cites two verses starting with the same words—"al pi"—in order to teach us the importance of the Oral Law: "אל פיהם תורה" — "For after the tenor of [lit. at the mouth of] these words..." (Ex. 34:27;

Scholium O, lines 19-20)⁶⁸ and "וְהָיָה כִּי יִשְׁמַע ה' אֶת קוֹל אֶתְנָחֵם בְּנֵי יִשְׂרָאֵל" — "According to [lit. at the mouth of] the law which they shall teach thee" (Deut. 17:11; O, line 21). As a result of the similarity, the hybrid version drops the first verse, from the first "al pi" to the second "al pi," and is thus left with only the second verse (Hybrid, line 21).

The author of the hybrid version then presents the second tradition found in Scholium O, concerning the three arguments over the literal understanding of Scripture. In the original, in Scholium O, this tradition was brought as an alternative to the preceding argument, introduced by the words "A different matter" (i.e. another interpretation) (O, line 24). However, the author of the hybrid version introduced it with the word "Furthermore" (Hybrid, line 24).

After he finishes using Scholium O, which describes the dispute with the Boethusians over the interpretation of the verses (Hybrid, lines 24-48), the author chose to end with the concluding formula from the story in Scholium P: "The day they annulled it they made into a festival", referring originally to the Book of Decees.

F. CONCLUSIONS — THE TEXT

We now have an answer to all of the textual problems raised in the opening of this paper (see above Section D). We shall examine them anew, keeping our chart in mind:

1. In order to make the forced connection between the section in O: "And a person would ask and they would show him in the book" (O, lines 8-9), and the section from P, "And should someone say to them: how [is it learned] that this one is liable to stoning etc." (P, lines 9-12), the person grafting the two texts came up with a meaningless addition: "and when they would write it, a person would ask and would go and see it in the book, and would say to them: how do you know..." (Hybrid, lines 7-10). This explains the source of those grating words "and when they would write it," which we questioned earlier.
2. The original O version states:

"The Sages said to them: But does it not state... 'for after the tenor of [lit. at the mouth of] these words etc.'"

⁶⁸ For parallel versions of this interpretation, see n. 8 above.

This teaches that we may not write [laws] down in a book" (O, lines 17-23).

However, in the hybrid version, this claim from Scholium O, which was leveled against the **Boethusians**, is tacked on to the accusation leveled against the **Sadducees**, which comes from Scholium P:

"They were unable to bring proof from the Torah" (P, lines 15-16).

Thus an entirely new sequence was created in the hybrid version:

"They were unable to bring proof from the Torah [this is from P]. The Sages said to them: Is it not written... 'According to [lit. at the mouth of] the law (= Heb. **Torah**) which they shall teach thee' ... We may not write laws down in a book" [this from O] (Hybrid, lines 15-23).

However, because of the similarity, the text appearing between the two identical Hebrew words "Torah" (hybrid version, line 16 to hybrid version, line 21 ("law" = Heb. Torah) was omitted in the copying:

"They were unable to bring proof from the Torah { } which they shall teach thee" (See above, section C, lines 6-7).

This omission was preserved in the printed editions of *Megillat Ta'ani* and as a result the words "the Sages said to them" and the beginning of the verse, including the key phrase "in accordance with," were completely erased from the text! This version gives us no indication that from this point onwards it is the Sages who are speaking, and the beginning of the verse — needed later on — is not cited.

3. Scholium O (lines 42-45) cites the following verse: "Now therefore write ye this song for you and teach thou it to the children of Israel; put it in their mouths" (Deut. 31:19). It continues with an exegesis of the words "and teach thou it" and "put it in their mouths" (lines 45-48), as does the hybrid version (lines 42-48):

Now therefore write ye this song for you
and teach thou it to the children of Israel; put it in their
mouths;

"and teach thou it to the children of Israel" — this is the Torah (the Written Law)

"put it in their mouths" — these are the *halakhot* (the Oral Law).

However one of the copyists of the hybrid version omitted the words between the two phrases "and teach thou it," producing the following:

"Now therefore write ye this song for you and teach thou it to the children of Israel" — this is the Torah (the Written Law)...."

This omission was preserved in the printed editions of *Megillat Ta'ani* (See above, section C, lines 15-16). Thus the printed editions left out the second half of the verse, "and teach thou it to the children of Israel; put it in their mouths" — the very part on which the subsequent interpretation is based. In the Cambridge manuscript of the Hybrid version, however, these lines are still extant (See the chart in section E, lines 45-46).

4. As stated before, the sentence "The day they annulled it they made into a festival" comes from Scholium P (lines 49-50), and it refers to the Book of Decrees, which is mentioned earlier. Imbedding it into the hybrid version, immediately after the description of the various arguments with the Boethusians, (Hybrid, lines 49-50), makes it incomprehensible.

5. The most serious argument against our story—its internal contradiction—may now be totally rejected. Clearly, the internal contradiction in the hodgepodge that was created in the hybrid version, and subsequently in the Lichtenstein edition, was the product of some medieval editorial effort, and not one of the characteristics of the original text.

G. A NEW POINT OF DEPARTURE

Early scholars seeking an explanation for the 4th of *Tammuz* had access only to the printed editions, which contained the hybrid version of the scholium. Once the Lichtenstein edition was published, scholars became convinced that this self-same hybrid version, with minor alterations, was indeed a faithful version of the original scholium to *Megillat Ta'ani*. With regard to the 4th of *Tammuz*, the hybrid version combined the different disputes and individual sects mentioned separately in the two scholia into a single story, leading

to great confusion from the very earliest attempts at a historical reconstruction until the present time.⁶⁹

As a result of the hybrid version's mixing of the traditions, researchers gave the dissenting sect a combination of the elements listed in both O and P. For example, there is no basis for the assumption made by Krochmal and Weiss (above) of the existence of a "Book of Decrees" listing both the means of execution and the *halakic* matters of an eye for an eye, a virginity claim and a levirate marriage, since these derive from a different story, from a different sect (Boethusians) and a different work—Scholium O! Our analysis also invalidates Graetz's suggestion that the book dealing with the four methods of judicial execution (P) was annulled because of the prohibition against writing down *halakhot* (O).

Wellhausen, who postulated that the scholium's author made it up, based on two pieces of information mentioned by Josephus (above), was unaware of the fact that we do not have a single "author" here, but two independent authors. Scholars who postulated that the sect was extremely stringent with regard to punishment, were led to believe so by the artificial combination of the book dealing with the four modes of judicial execution of one sect, taken from Scholium P, and the interpretation given to "[an] eye for [an] eye" by a different sect, taken from Scholium O. The testimony of Scholium O deals with the matter of punishment ("[an] eye for [an] eye") only incidentally, not to indicate the sect's stringency, but as an example of the plain meaning of a Scriptural text. Lichtenstein's attempt (above) to prove the accuracy of the testimony at the "beginning of the text" (the testimony of Scholium P regarding the book of the four modes of execution), based on the tradition at the "end of the text" (the separate testimony of Scholium O regarding the literal understanding of Scripture), is automatically invalidated as well. Epstein's view (above), that Scholium O's account of the rabbinic argument, "we may not write [laws] down in a book" is a "shortened version" of Scholium P's story of the book of punishments, also becomes unfeasible.⁷⁰

⁶⁹ See Noam, "The Scholium," (n. 4) 71-74.

⁷⁰ Epstein's comment regarding the absence of Scholium O's testimony from the "accurate versions" (Epstein, n. 25) is itself far from an accurate observation. The "accurate versions" he is referring to are none other than the Parma manuscript. Scholium P, which appears in this manuscript, has no initial preference over Scholium O, which is found in

Urbach too was mistaken twice: (1) He rejected the tradition concerning the literal interpretation of the biblical verses, claiming that it is illogical that a sect that has a Book of Decrees that is not based on Scripture would follow the plain meaning of Scripture in other cases. Yet these two traditions derive from two different sources! (2) He claimed that the rabbis' argument against writing laws down in a book (taken from Scholium O) was directed against the Book of Decrees (Scholium P).

Herr, who tried to formulate the differences between the two different sects based on the respective answers the Sages gave to the Sadducees on one hand and to the Boethusians on the other, did not know that in actual fact both answers appear only in O and both are addressed to the Boethusians alone.⁷¹ It was only the author of the hybrid version who addressed the Sages' comments to the Boethusians in Scholium O to the Sadducees mentioned in Scholium P. Sussmann, who cast doubt on the authenticity and antiquity of the expression "this is meant literally," in Scholium O, did not know that this expression is not found in the Oxford manuscript, which reads "the actual garment," but only in the hybrid version. Its existence thus teaches us nothing about the tradition of Scholium O itself.

From now on, all theories based on the combination of the different versions should be eliminated from the discussion, including any arguments which reject one tradition simply because it is not consistent with the other tradition. The coherency of each of the traditions can serve as a criterion only within the confines of each unit individually. Many of the legends appearing in different places in the rabbinic literature contradict one another, yet this does not negate their literary authenticity. In our case, this holds true even with regard to the historical accuracy of the passage, as the different traditions may be dealing with separate sects as well!⁷²

the Oxford manuscript.

⁷¹ In light of his discovery of the difference between the two traditions, Herr changed his conclusions. For more on the implications regarding the nature of the Boethusians found in Scholium O, and on the Sadducees found in Scholium P, see M. D. Herr, "Actualisation des Ecritures et Intolerance dans la Judée du Ier siècle", E. Patlagean & A. Le Boulluec (eds.), *Les Retours Aux Ecritures - Fondamentalismes Présents et Passés*, Louvain-Paris 1993, 383-399.

⁷² Thus, for example, it is noteworthy that it is the Sadducees who are

Therefore, the discussion regarding the explanation for the 4th/10th of *Tannur* should be reopened, with the point of departure being a separation between Scholium O and Scholium P. Scholia O and P present us with three separate traditions: The tradition concerning the **Boethusians**, who "wrote laws in a book," and the "Rabbis'" subsequent reprimand (O-1); The tradition concerning the **Boethusians**, who learned the *halakhot* regarding three matters from a literal understanding of Scripture, in contrast to the tradition of the "Rabbis" (O-2); The tradition concerning the **Sadducees** and their "Book of Decrees" on the four modes of execution for which they were "unable to bring proof" (P).

H. THE HISTORICAL RELIABILITY OF THE TEXT

What is the historical reliability of these texts?

The obvious, simple explanation for the annulment of the "Book of Decrees" would be similar in nature to the one suggested by Cassel and Baer: the annulment of gentile decrees against the Jews. The surprising explanation given in both scholia for this date—that it refers to an internal sectarian dispute—is, in my opinion, further evidence of the authenticity of this tradition. Whether or not it is correct that the explanation for the date in the *megillah* is a sectarian dispute rather than gentile decrees (in my opinion, it probably isn't) the fact that an identical tradition concerning this date is found in two distant, independent commentaries such as O and P is noteworthy. Even if the scholium tradition is not an accurate historical portrayal, it is nevertheless an ancient, firmly established legend that has been passed down in its different transmissions along two separate channels. Let us now examine the three distinct traditions in detail.

accused of written laws that lack "proof from the Torah," whereas it is the Boethusians who went astray in adhering too closely to the plain meaning of the text. It is specifically because of the discrepancy between these two descriptions, which also use different terminology, which does not allow for the arbitrary preference of one of them and the casual rejection of the other, as some of the researchers have suggested.

1. Tradition O-1 – Writing laws down in a book

Regarding the authenticity of Scholium O's tradition, Menachem Kister⁷³ finds traces of the dispute described in Scholium O on the opposite side of the fence—in sectarian literature. The exegetical interpretation offered by Scholium O for the verse, "According to [lit. at the mouth of] the law (Torah) which they shall teach thee"—this teaches that we may not write [laws] down in a book" is based on the phrase "al pi" (literally—at the mouth of) and is cited in order to teach that *halakhot* is decided according to the **Oral Law**. The very same verse is interpreted in the opposite way in the Temple Scroll 46.3-4: *אשר יגידו לך על פי הדרכי אשר יאמרו לך בחוקי התורה ותגידו לך באמת* "ועשיהו על פי התורה אשר יגידו לך ואמרו לך בחוקי התורה ותגידו לך באמת" verdict that is announced to you and in accordance with the matter that they tell you from the **Book of the Torah** which they tell you truthfully". The Judean desert sect adds the words "from the Book of the Torah" to the verse to emphasize that the word "Torah" always refers to the "Book of the Torah", and not the oral tradition of the Pharisaic sages. This is proof that this verse was indeed used in the disputations between the Sages and their opponents over the authority of the Oral Law. To a certain extent, it also serves as

⁷³ Kister, n. 46. Regarding the textual confusion that he was concerned with (*ibid.*, n. 2), it should be noted that the absence of the verses "according to [על פי] the Law which they shall teach thee" and "for after [על פי] the tenor of these words" from the Parma manuscript is only an evidence to the general division of the traditions of the two scholia. On the other hand, the manuscripts of the hybrid version are not relevant when it comes to weighing up the authenticity of the sections of the scholium, except in those places where they fill in the gaps in one of the two manuscripts that provide the basic versions of the scholium. In this case, the opposite occurred: Scholium O contains the two verses that begin with "al pi" (lines 19-21 in the last table). The verse "for after the tenor of these words I have made..." was omitted, as we have seen, from the hybrid version. Regarding another omission in the hybrid version, from the words "the Law" until "the Law," see above. In summary: what the two verses are teaching comes from the source scholium, Scholium O. It was copied in part into the hybrid version; however, in one of the hybrid version's manuscripts one of the verses was unintentionally omitted, while the others suffered from a double omission that erased most of the interpretation.

proof of the historical authenticity of this tradition in Scholium O.⁷⁴

2. Tradition O-2: Learning *halakhot* from a literal understanding of Scripture

Similar proofs may be found for the other tradition ("A different matter") in Scholium O. Abraham Rosenthal found parallel versions in the Apocrypha to two of the Boethusians' halakhic arguments that appear in Scholium O. The *Testament of Zephaniah* III.7 contains a literal understanding of the Scriptural term "and [she shall] spit in his face"; and *Jubilees* (IV.32), a book bearing a certain similarity to sectarian *halakhot*, contains the law "as he injured, so it shall be done to him."⁷⁵

In the matter of "eye for eye" as well, Kister found that the explanations given by the Boethusians, as presented in scholium O here, coincide with the language employed by the Sages in their formulation of the opposing principle. According to the scholium, the Boethusians claim: "...his own eye should be blinded and they are equal"; in other words, the injurer should be punished in a manner that makes him "equal" to the injured party. The Sages, on the other hand, endeavor to prove that such equality can never be achieved. For this reason Kister holds that "significant value should be ascribed to the formulation of the Boethusians' claim as it appears in the testimony of the scholium to *Megillat Ta'anit*."⁷⁶ The authenticity of the third argument attributed to the Boethusians, involving the literal understanding of the phrase "and they shall spread the garment," is validated via Qumranic *halakhot*,

⁷⁴ See Kister's comments (*ibid.*) regarding the addition of the word "in truth." However, elsewhere ("Some Aspects of Qumranic Halakhah," The Madrid Qumran Congress, 2, 1992 (Studies on the Texts of the Desert of Judah, 11, 574, n. 10), Kister claims that the entire sectarian interpretation of the "Book of Decrees" is baseless, and casts doubts on the scholium's testimony in its entirety. For a slightly different interpretation of the addition "from the Book of the Torah" in the Temple Scroll, see M. D. Herr, "The Continuity in the Handing Down of the Torah," *Zion*, 44 (1979): 54, n. 76 (Hebrew).

⁷⁵ See E. Rosenthal, "The Oral Law and Torah from Sinai – Halakhah and Practice," in M. Bar Asher, D. Rosenthal eds., *Mabeyrei Tahumid 2* (Jerusalem 1993), 454, n. 19.

⁷⁶ Kister (*n. 2*) 333, n. 69.

which, in contrast to the Pharisaic system, uses physiological rather than legal tools to clarify matters of virginity.⁷⁷

3. Tradition P: The Book of Judicial Executions

The question posed by scholars regarding the story of the Sadducean book of judicial executions constitutes a real problem. For indeed, the four modes of judicial execution practiced by the Pharisees are also not derived from Scripture (see above, section D). This problem might be resolved by Aharon Shemesh's insightful suggestion.⁷⁸ According to Shemesh, the question, "how is it learned that this one is liable to stoning, and this one is liable to burning?" should not be understood as referring to the actual classification of the various types of executions, but rather to the inclusion of a certain class of sinner in the lists of those liable to the death penalty. The question asked of the Sadducees is not, "How do you know that this or that person is liable specifically to stoning?" but rather, "How do you know that this person is at all liable to the death penalty?" Given this interpretation, adds Shemesh, Scholium P reflects an authentic argument between the Sages' position, as formulated in the Mishnah, and that of sectarian *halakhot*.

Based on the list contained in the Mishnah in Sanhedrin, it appears that the Pharisees refrained from adding any further offenders to those explicitly listed for the death-penalty in the Torah. However, an examination of Qumranic literature reveals that sectarian writings have indeed added many offenders to the list of those liable to the death penalty in the Torah. Further proof as to the authenticity of Scholium P lies in its wording. The ancient and unique expression, "written and kept" is an early phrasing dating back to the Second Temple period. It means "written down" or "publicized and thus known to all."⁷⁹ The fact that Scholium P contains this expression is further proof as to its authenticity.

⁷⁷ For a discussion of the Qumran sect's approach with regard to virginity, see J. H. Tigay, "Examination of the Accused Bride in 4Q159. Forensic Medicine at Qumran," *JANES* 22 (1993): 129-134; A. Shemesh, "4Q271.3: A Key to Sectarian Maritimonial Law," *JJS* 49 (1998): 244-259. For parallels with the scholium's testimony, see Kister, *ibid.*

⁷⁸ A. Shemesh, "The Dispute between the Pharisees and the Sadducees on the Death Penalty," *Tarbiz* 70 (2001): 17-33 (Hebrew).

⁷⁹ See Lieberman, Greek, (*n. 26*) 215; E. E. Urbach (*n. 29*); E. S. Rosenthal (*n. 1*) 8; M. Kister, "On the Margins of Ben Sira," *Lehonnim* 47

SUMMARY

Following the new discoveries at Qumran and the development of the philological research of rabbinic literature, Sussmann⁸⁰ called for the setting aside of previously-accepted research conclusions, and for a reexamination of the rabbinic sources themselves that deal with the sects. However, this reexamination, which has been taking place over the last decades, has overlooked a significant key to the sectarian dispute as comprehended in rabbinic tradition—the narratives appearing in the scholium of *Megillat Ta'ani*, and *inter alia*, the very important text that we have dealt with here. This wealth of traditions has been ignored because of the misgivings regarding the nature of the work in general and because of the textual confusion that obscured its contents and misled the conclusions drawn from it. Once this impediment is removed, and the independent character of the two separate works elucidated, the scholium merits re-inspection.

My recent research indicates that besides some obscure and meaningless⁸¹ formulations, each of the scholia has also preserved ancient and authentic lost rabbinic texts. While some of these texts clearly take the form of legends, others possess unquestioned historical value. An examination of the unit under discussion reveals a solitary, unique testimony with regard to the basic nature of the sectarian dispute, as defined and preserved in rabbinic tradition. This testimony contains three different traditions concerning the diverse fundamental outlooks of the Sadducees and Boethusians: The Sadducees followed an ancient, written penal code of law that was not based on Scripture. The Sages disputed the very content of

these laws, and apparently also the basic approach of this sect to penal law.

By contrast, the general approach of the Boethusians may be defined by two fundamental characteristics: the writing down of laws in a book and their adherence to the literal meaning of Scripture. These characteristics represent a basic view, and not a dispute over halakhic minutiae, as described in other rabbinic sources; thus the unique importance of this particular source. Writings of the sect living in the Judean desert reflect, surprisingly, the characteristics mentioned in both versions of the scholium: their laws are closer to the literal meaning of Scripture than is Pharisaic law; they do not avoid writing them down, nor even abstain from incorporating them into the verses of the Torah itself. At the same time, they possess a strict judicial system, which, in large parts, is not based on Scripture, or, in other words, does not have any "proof from the Torah". Qumranic literature supports the scholium's testimony even as far as details are concerned.

On top of all, the rather complicated quest outlined in this article has led us again to understand the importance of textual scrutiny. Before the literary and historical aspects of rabbinic literature are explored, scholars must ascertain that they are dealing with a text that is grounded on solid philological foundations.

(1983): 134-135 (Hebrew); idem, "Additions to the Article, 'On the Margins of Ben Sira,'" *ibid.*, 53 (1989): 44-48 (Hebrew); M.A. Friedman, "Publication of a Book by Depositing it in a Sanctuary: On the Phrase 'Written and Deposited,'" *Leishonem* 48 (1984): 49-52 (Hebrew). For further discussion of this issue and for references in the rabbinic literature, see also Herr, "Actualisation" (n. 71), 391, n. 57. Some scholars have tried to explain the appearance of this expression in the scholium by saying that it was copied from the Babylonian Talmud (Baer, n. 31; Efron, n. 27), however my research has shown that the two original editions of the scholium have no connection with the Babylonian Talmud (see Noam, *Megillat Ta'ani*, (n. 4), 375-353).

⁸⁰ Sussmann (n. 2) 41, n. 135.

⁸¹ Compare with Alon's comments, n. 32 above.