

Mr. Sanders's Pharisees and Mine

JACOB NEUSNER
UNIVERSITY OF SOUTH FLORIDA
TAMPA, FLORIDA

Despite the risable misnomer of his book of miscellaneous essays (*Jewish Law from Jesus to the Mishnah. Five Studies*,¹ claiming to speak of "Jewish law to the Mishnah" while discussing mere anecdotes and episodes in Jewish law in the first century with special reference to the Gospels), Professor Sanders's current account of his views should not be dismissed as the merely random thoughts of one who wanders aimlessly beyond the fence of his field of firsthand knowledge. Holding Sanders to his claim that he knows something about what he calls "Jewish law," let us take seriously his conception of the Pharisees of the first century. Since, intending to persuade colleagues that his picture of, and apologia for, the Pharisees, rather than mine, accurately portrays how things really were in the first century, Sanders devotes two of his five chapters to that subject,² we turn forthwith to the contrasting results contained in his current book.

1. London: SCM Press, and Philadelphia: Trinity Press International, 1990.

2. I ignore Sanders's uninformed discussion of my *Judaism: The Evidence of the Mishnah*. His "critique" hardly commands attention, either among New Testament scholars, who have no pressing reason to want to know about that document and its place in Judaism, or among Mishnah-scholars, to whose field Sanders has yet to make a serious and original contribution. Along these same lines, I find little of interest in the rather naive arguments of H. Maccoby, "Neusner and the Red Cow," *Journal for the Study of Judaism* 1990: 20:59ff. Maccoby states his basic objection to my treatment of that subject—and, by extension, of the whole of my position—in the following statement:

His general thesis ... is that the Mishnah expresses, through the details of ritual, a philosophy of holiness that is, in significant respects, different from that of the Bible, being a response to the historical circumstances of Jewish political helplessness after the destruction of the Temple. It may be objected, however, that this schema is flawed by considerable special pleading and innacuracy [sic!] on Neusner's part. Details of rabbinic law which Neusner wishes to attribute to innovative rabbinic philosophy turn out, time after time, to be mere responses to the biblical text. The "myth" which Neusner wishes to extract from alleged rabbinic ritual innovations is constructed out of non-existent materials; while the myth to which the rabbis really subscribed is that of the Bible itself, with its major themes of Exodus, Revelation, Desert, and Promised Land—a myth powerful

I. WHAT I MAINTAIN WE KNOW ABOUT THE PHARISEES AND HOW IN MY VIEW WE KNOW IT

Since the announced purpose of the pertinent chapters is to criticize my position and set forth a different one, to begin with let me rapidly

enough to induce submission to the text of scripture and faith in its ability to provide answers to all possible difficulties. Neusner's offered paradigm case of the Mishnah's treatment of the Red Cow rite may serve to illustrate the above criticisms.

There is no reason to quibble at great length with the vague, inaccurate and misleading précis of my ideas that Maccoby seems to have fabricated for himself. The Mishnah took shape after the Bar Kokhba War, not "after the destruction of the Temple." It is represented by me as a response not to "Jewish political helplessness," which vastly understates Judah the Patriarch's power, but to the religious crisis represented by the failure of the scriptural paradigm, destruction, three generations, return and renewal. It is not the destruction of the Temple in 70 that precipitated a crisis, but the debacle of Bar Kokhba's effort to replicate the rebuilding in the time of the second Isaiah, that I think accounts for the distinctive emphases of the Mishnah upon the enduring sanctification of the Land and of the people, Israel. Maccoby's inaccurate reading of both sources and scholarship is legendary, and he has yet to persuade a single scholar in the area of his own concentration, which is the study of Jesus and Paul, that he has mastered either the sources or the secondary literature. His ignorance of the former and distortion of the latter as a matter of fact have denied him all hearing in reputable scholarship. That is why a protracted response to his "criticism" has not been found productive by any of the many scholars with whom he has tried to pick his fights. In the present context, a brief reply therefore is more than sufficient. On the face of it, here is a claim that the rabbinic system merely restated what the written Torah (Maccoby's "Bible," but of course he cannot mean that the rabbis drew also upon the New Testament, which is one half of the Bible). That hoary apologetic hardly serves the authentic Judaism of the dual Torah, which alleges that the oral part of the Torah complements and completes the written part, but also is free-standing. Since numerous Mishnah-tractates take up subjects of which the written Torah knows nothing, Maccoby's basic allegation is simply ignorant and inaccurate. But—his obvious program of theological apologetics for his particular Judaism aside—if I understand Maccoby, what he wishes to claim is that "details . . . turn out . . . to be mere responses to the biblical text." I gather that his argument is that since the framers of tractate Parah found support for some of their propositions in verses of Scripture, therefore any claim that they did more than state the plain meaning of Scripture must be rejected. If that is what he wishes to say, then his criticism is simply charming for its naiveté. Every writer from Ezra's closure of the Pentateuch in 450 found in Scripture whatever he wanted, whether Bar Kokhba, Philo, Jesus, the Teacher of Righteousness, the School of Matthew, or the authorship of a tractate of the Mishnah. Mentioning those six who can well have claimed merely to say what the written Torah had said ("not to destroy but to fulfil") underlines that people could find not only what they wanted, but also the opposite of what they wanted. So at stake in explaining a piece of writing is not whether verses of Scripture can have been adduced in support of what an authorship wished to say, for they always can and were found, ready at hand, when wanted. At issue, rather, is why someone went looking for proof, chose a given subject to begin with. Maccoby begs the question, of course, unless he can explain why a particular verse of Scripture to begin with attracted attention. Maccoby does not

summarize my views.³ Viewed as a historical problem, identifying the Pharisees begins with attention to the sources that refer to them. No historical knowledge reaches us out of an a priori corpus of principles,

seem to take seriously that the school of Matthew as much as the authorship of Mishnah-tractate Parah found ample support in Scripture for whatever they wished to say. Precisely what he says about the authorship of Mishnah-tractate Parah can and should be said about Mark, Luke, Matthew, and John (among many!). Then are we to dismiss the School of Matthew or the authorship of Mishnah-tractate Parah as mere epigones of Scripture? Not very likely. To the contrary, when we wish to understand a document, the first question (in this context) must be, why this particular topic, as against a vast range of other scriptural topics that are neglected? If the Red Cow, then why not the flight to Egypt? I should be interested in Maccoby's evidence for his allegation that "the rabbis" (I assume in this context he means the authors of the tractate under discussion) have found in "Exodus, Revelation, Desert, and Promised Land" anything pertinent to their Red Cow. I should be curious to know just where, in the tractate under discussion, Maccoby finds his grand themes of "Exodus . . .," etc. While Sanders is a scholar (though in writing about the law of Judaism, he pretends to an expert knowledge that as we shall see he simply does not have), Maccoby persistently exhibits the deplorable tendency to make things up as he goes along. Whenever I have had occasion to test an allegation on which Maccoby displays his marvelous certainty, I have found no evidence in support of that allegation, but rather, evidence of Maccoby's incomprehension of the sources and also of the considerations that have led scholars to the conclusions that they have reached. So if I ignore his treatment of the Mishnah, as much as Sanders's, it is because I find it ignorant, and riddled with inaccuracy. Accordingly, there seems to me no reason to pay much attention to Maccoby any further, and, as I said, I have the impression that colleagues in New Testament scholarship have reached that conclusion as well. In any event the most decisive refutation of Maccoby is given in *Jewish Law* by Sanders himself: "The idea of human intention, greatly and correctly emphasized by Neusner, is original to the Pharisees so far as we know. Thus even when they are only defining or clarifying biblical law, they are operating with some post-biblical categories" (p. 187). What is said in this small context applies throughout, and with that we may dismiss Maccoby as not merely uninformed but, alas, simply uncomprehending. Sanders is a far more formidable figure and demands a sustained and serious hearing for all of his ideas.

3. My principal results are in two major works, first, *The Rabbinic Traditions about the Pharisees before 70* (Leiden: Brill, 1971), I–III. I. *The Rabbinic Traditions about the Pharisees before 70. The Masters*. II. *The Rabbinic Traditions about the Pharisees before 70. The Houses*. III. *The Rabbinic Traditions about the Pharisees before 70. Conclusions. And second, Eliezer ben Hyrcanus. The Tradition and the Man* (Leiden: Brill, 1973), I. *Eliezer ben Hyrcanus. The Tradition and the Man. The Tradition*. II. *Eliezer ben Hyrcanus. The Tradition and the Man. The Man*. I am not sure that Sanders has fully grasped the methodological issues that I have worked out in doing my analysis in this way, rather than in some other. I have given reprises of some of these results in the following: *Oral Tradition in Judaism: The Case of the Mishnah* (New York: Garland Publishing Co., 1987). *Albert Bates Lord Monograph Series* of the journal, *Oral Tradition; Das pharisäische und talmudische Judentum* (Tuebingen: J. C. B. Mohr, 1984 [Paul Siebeck]), ed. by Hermann Lichtenberger; forward by Martin Hengel; and *The Pharisees. Rabbinic Perspectives* (New York: Ktav, 1985). On problems of method—how we claim to know what we know, on the basis of sources that exhibit the traits of those on which we work—my summary of matters is in *Reading and Believing: Ancient Judaism and Contemporary Gullibility*. Brown Judaic Studies (Atlanta: Scholars Press, 1986).

and what we cannot show, we simply do not know. A principal problem in arguing with Sanders is his rich capacity to make up distinctions and definitions as he goes along, then to impose these distinctions and definitions upon sources that, on the face of it, scarcely sustain them.⁴ Sanders proceeds to form out of a priori distinctions and definitions a deductive argument, which makes it exceedingly difficult to compose an argument with him. For how are those of us who appeal to evidence and the results of the analysis of evidence to compose an argument against fabricated definitions and distinctions, which to begin with derive not from evidence and analysis thereof? The fundamental difficulty in dealing with Sanders, therefore, begins with the basic problem of reading scholarship that is accessible only within its own framework of premises and even language. Looking at the evidence in its own terms, by contrast, requires us to classify our documents and analyze them, only afterward turning to the issues of special concern to us.

The Pharisees formed a social entity, of indeterminate classification (sect? church? political party? philosophical order? cult?), in the Jewish nation in the Land of Israel in the century or so before A.D. 70. They are of special interest for two reasons. First, they are mentioned in the Synoptic Gospels as contemporaries of Jesus, represented sometimes as hostile, sometimes as neutral, and sometimes as friendly to the early Christians represented by Jesus. Second, they are commonly supposed to stand behind the authorities who, in the second century, made up the materials that come to us in the Mishnah, the first important document, after Scripture, of Judaism in its classical or normative form. Hence the Mishnah and some related writings are alleged to rest upon traditions going back to the Pharisees before A.D. 70. These views impute to the Pharisees greater importance than, in their own day, they are likely to have enjoyed. My description of the Pharisees derives from, in order of closure: (1) the Gospels, ca. A.D. 70-90, (2) the writings of Josephus, ca. 90-100, and

4. One example: "Shall we call these 'oral law'? That is just the question. To get at it, I wish to make further distinctions: [1] between conscious and unconscious interpretation of the written law; [2] between interpretation and consciously formulated supplements, alterations or additions, which are known not to be in the law at all. These distinctions are easier to state than to demonstrate, since exegesis can be fanciful and produce results which are now thought to be remote from the text, and since we have no direct access to what was 'conscious' and 'unconscious.' Nevertheless, if we bear these distinctions in mind and consider some examples, we shall improve our understanding of the problem" (*Jewish Law*, pp. 102-3). The most powerful arguments against Sanders's distinctions are stated in his presentation of them: there is no evidence; we also do not know what was "conscious" and what was "unconscious." But these powerful considerations do not impede Sanders's progress. He simply dismisses them and moves ahead. That seems to me a fine instance of how he just makes things up as he goes along.

(3) the later rabbinic compositions, beginning with the Mishnah, ca. 200-600. No writings survive that were produced by them; all we do know is what later writers said about them.

The three separate bodies of information, first, the historical narratives of Josephus, a Jewish historian who, between 75 and ca. 100 A.D., wrote the history of the Jews from the beginnings to the destruction of Jerusalem, second, semi-biographical traditions about, and sayings attributed to, Jesus, and third, the laws and sayings attributed to pre-70 Pharisees by their successors and heirs, the rabbis of late first and second century Palestine, are quite different in character. The first is a systematic, coherent historical narrative. The second is a well-edited collection of stories and sayings. The third consists chiefly of laws, arranged by legal categories in codes and commentaries on those codes. Moreover, the purposes of the authors or compilers of the respective collections differ from one another. Josephus was engaged in explaining to the Jewish world of his day that Rome was not at fault for the destruction of the Temple, and in telling the Roman world that the Jewish people had been misled, and therefore are not to be held responsible for the terrible war. The interest of the Gospels is not in the history of the Jewish people, but in the life and teachings of Jesus, to which that history supplies background information. The rabbinical legislators show no keen interest in narrative, biographical, or historical problems, but take as their task the promulgation of laws for the government and administration of the Jewish community.

The several sources concerning pre-70 Pharisaic Judaism were generally shaped in the aftermath of the crisis of 70 A.D. With the Temple in ruins, it was important to preserve and, especially, to interpret, the record of what had gone before. Josephus tells the story of the people and the great war. The Gospels record the climactic moment in Israel's supernatural life. The rabbis describe the party to which they traced their origin, and through which they claimed to reach back to the authority of Moses at Sinai. The issue in all three cases was: What is the meaning of the decisive history just passed? To Josephus the answer is that Israel's welfare depends upon obedience to the laws of the Torah as expounded by the Pharisees and upon peaceful relationships with Rome. The Gospels claim that, with the coming of the Messiah, the Temple had ceased to enjoy its former importance, and that those who had had charge of Israel's life—chief among them the priests, scribes, and Pharisees—were shown through their disbelief to have ignored the hour of their salvation. Their unbelief is explained in part by the Pharisees' hypocrisy and self-seeking. The rabbis contend that the continuity of the Mosaic Torah is unbroken. Destruction of the Temple, while lamentable, does not mean Israel has lost all means of service to the

Creator. The way of the Pharisees leads, without break, back to Sinai and forward to the rabbinical circle reforming at Yavneh. The Oral Torah—a conception that reached complete expression in unambiguous terms only in the writings of fifth century sages, beginning with the Talmud of the Land of Israel—revealed by Moses and handed on from prophet to scribe, sage, and rabbi remains in the hands of Israel.⁵ The legal record of pre-70 Pharisaism requires careful preservation because it remains wholly in effect.

The theological side to Pharisaic Judaism before A.D. 70, however, is not easily accessible, for the pre-70 beliefs, ideas, and values have been taken over and revised by the rabbinical masters after that time. We therefore cannot reliably claim that an idea first known to us in a later rabbinical document, from the third century and afterward, was originally both known and understood in the same way. For pre-70 Pharisaic Judaism, our sources of information tell little of theological interest. A number of books in the Apocrypha and Pseudepigrapha of the Old Testament are attributed to Pharisaic writers, but none of these documents positively identifies its author as a Pharisee. Secure attribution of a work can only be made when an absolutely peculiar characteristic of the possible author can be shown to be an essential element in the structure of the whole work. No reliance can be placed on elements which appear in only one or another episode, or which appear in several episodes but are secondary and detachable details. These may be accretions. Above all, motifs which are not certainly peculiar to one sect cannot prove that sect was the source. No available assignment of an apocryphal or pseudepigraphical book to a Pharisaic author can pass these tests. Most such attributions were made by scholars who thought that all pre-70 Palestinian Jews were either Sadducees, Pharisees, Essenes, members of the "Fourth Philosophy," or Zealots, and therefore felt obliged to attribute all supposedly pre-70 Palestinian Jewish works to one of these four groups. That supposition is untenable. That is why, in my account of the Pharisees, I omit all reference to apocryphal and pseudepigraphical writings. Attributing to the Pharisees various psalms and other unattributed writings merely because a given myth or conception is located therein is hardly justified, unless it can be shown that such a myth or emblematic idea uniquely characterized that group. More than one group, however, believed in the resurrection of the dead, in the importance of Torah-study, and the like, so it is difficult to take at face value the claims of the rich literature on the Pharisees that draws on apocryphal and pseudepigraphic writings.

5. That the myth of the dual Torah is fully exposed only in that Talmud is the thesis of my *The Foundations of Judaism. Method, Teleology, Doctrine* (Philadelphia: Fortress, 1983-85), I-III. III. *Torah: From Scroll to Symbol in Formative Judaism* (second printing, Atlanta: Scholars Press for Brown Judaic Studies, 1988).

The rabbinic traditions about the Pharisees before 70 are those pericopae in the Mishnah (ca. A.D. 200) and Tosefta (ca. A.D. 300), often subject to exegesis in later rabbinic writings, in which we find names of either pre-70 masters or the Houses of Shammai and Hillel. Pre-70 masters are the men named in the chains of authorities down to and including Simeon b. Gamaliel and masters referred to in pericopae of those same authorities. The reason these pericopae are held to refer to Pharisees and their authorities is that Gamaliel and Simeon b. Gamaliel are identified by Acts and Josephus, respectively, as Pharisees. They occur, in Mishnah-tractate Avot and other lists of authorities, and it is therefore generally assumed that all others on these same lists or chains of authorities also were Pharisees. Traditions of others who were evidently presumed by the Tannaitic tradents both to have lived before 70 and to have been Pharisees do not add up to much; the traditions are mostly concerned with the masters named in the Pharisaic chains. Few others are known. Authorities who began teaching before 70 but whose traditions derive chiefly from Yavneh, rather than pre-70 Jerusalem, are excluded. These figures in any event do not occur on the lists or chains of authorities, beginning at Sinai and ending with Gamaliel I and his son Simeon.

The rabbinic traditions about the Pharisees before A.D. 70 consist of approximately 371 separate items in the Mishnah—stories or sayings or allusions or other fully-self-contained pericopae—which are spread over in approximately 655 different pericopae. Of these traditions, 75%—280, in 456 pericopae—pertain to Menahem, Shammai, Hillel, and the Houses of Hillel and Shammai.⁶ A roughly even division of the materials would give twenty-three traditions in forty pericopae to each name or category, so the disparity is enormous. Exact figures cannot be given, for much depends upon how one counts the components of composite pericopae or reckons with other imponderables. As to subject-matter covered by the rabbinic traditions that allude to persons or groups we assume to have been Pharisees, approximately 67% of all legal pericopae deal with dietary laws. These laws concern [1] ritual purity for meals and [2] agricultural rules governing the fitness of food for Pharisaic consumption. Observance of Sabbaths and festivals is a distant third. The named masters normally have legal traditions of the same sort; only Gamaliel greatly diverges from the pattern, Simeon b. Shetah somewhat less so. Of the latter we can say nothing. The wider range of legal topics covered by

6. In the third volume of my *The Rabbinic Traditions about the Pharisees before 70* (Leiden: Brill, 1971), I catalogue each entry and classify them all. The statements in this paragraph summarize those results. Sanders has some valuable comments on the arithmetic in that work, and, of course, there is ample room for improving on the work of classification and enumeration.

Gamaliel's legal lemmas and stories goes to confirm the tradition that he had an important position in the civil government.

The rabbinic traditions about the Pharisees as a whole may be characterized as self-centered, the internal records of a party concerning its own life, its own laws, and its own partisan conflicts. The omission of records of what happened outside of the party is not only puzzling, but nearly inexplicable. Almost nothing in Josephus's picture of the Pharisees seems closely related to much, if anything, in the rabbis' portrait of the Pharisees, except the rather general allegation that the Pharisees had "traditions from the fathers," a point made also by the Synoptic storytellers. The rabbis' Pharisaic conflict-stories moreover do not tell of Pharisees' opposing Essenes, Christians, or Sadducees, but of Hillelites' opposing Shammaites. Pharisaic laws deal not with the governance of the country but with the party's rules for table-fellowship. The political issues are not whether one should pay taxes to Rome or how one should know the Messiah, but whether in the Temple the rule of Shammai or that of Hillel should be followed in a minor festal sacrifice. From the rabbinic traditions about the Pharisees we cannot reconstruct a single significant public event of the period before 70—not the rise, success, and fall of the Hasmoneans, nor the Roman conquest of Palestine, nor the rule of Herod, nor the reign of the procurators, nor the growth of opposition to Rome, nor the proliferation of social violence and unrest in the last decades before A.D. 66, nor the outbreak of the war with Rome. We do not gain a picture of the Pharisees' philosophy of history or theology or politics. We should not even know how Palestine was governed, for the Pharisees' traditions according to the rabbis do not refer to how the Pharisees wished to govern the country. The rabbis never claim the Pharisees did run pre-70 Palestine, at least not in stories told either about named masters or about the Houses, nor do they tell us how the Romans ran it. Furthermore, sectarian issues are barely mentioned, and other sects are not mentioned at all. The rabbis' Pharisees are mostly figures of the late Herodian and Roman periods. In the rabbinic traditions, they were a non-political group, whose chief religious concerns were for the proper preservation of ritual purity in connection with eating secular (not Temple) food, and for the observance of the dietary laws of the day, especially those pertaining to the proper nurture and harvest of agricultural crops. Their secondary religious concern was with the proper governance of the party itself.

When we compare the rabbinic traditions about the Pharisees, upon which I have concentrated, with Josephus' and the Gospels' traditions, we find the sources not entirely symmetrical. Josephus' account of the Pharisees pertains mostly to the years from the rise of the Hasmoneans to their fall. They were a political party which tried

to get control of the government of Jewish Palestine, not a little sect drawn apart from the common society by observance of laws of table-fellowship. Josephus' Pharisees are important in the reigns of John Hyrcanus and Alexander Jannaeus, but they drop from the picture after Alexandra Salome. But the Synoptics' Pharisees appropriately are much like those of the rabbis; they belong to the Roman period, and their legal agenda are virtually identical: tithing, purity laws, Sabbath-observance, vows, and the like.

The rabbinic tradition thus begins where Josephus's narrative leaves off, and the difference between them leads us to suspect that the change in the character of Pharisaism from a political party to a sect comes with Hillel. If Hillel was responsible for directing the party out of its political concerns and into more passive, quietistic paths, then we should understand why his figure dominates the subsequent rabbinic tradition. If Hillel was a contemporary of Herod, then we may commend his wisdom, for had the Pharisees persisted as a political force, they would have come into conflict with Herod. The extreme rarity of materials of masters before Simeon b. Shetah, except those of Yohanan the High Priest = John Hyrcanus, suggests that few survived Jannaeus' massacres, and that those few did not perpetuate the policies, nor, therefore, the decisions of their predecessors. Hillel and his followers chose to remember Simeon b. Shetah, who was on good terms with Salome, but not his followers, who were almost certainly on bad terms with Aristobulus and his descendants, the leaders of the national resistance to Rome and to Antipater's family. As Herod's characteristics became clear, therefore, the Pharisees must have found themselves out of sympathy alike with the government and the opposition. And at this moment Hillel arose to change what had been a political party into a table-fellowship-sect, not unlike other, publicly harmless and politically neutral groups, whatever their private eschatological aspirations. All this is more than mere conjecture, but less than established fact. What is fact is that the vast majority of rabbinic traditions about the Pharisees relate to the circle of Hillel and certainly the best attested and most reliable corpus, the opinions of the Houses, reaches us from that circle's later adherents. The pre-Hillel Pharisees are not known to us primarily from the rabbinic traditions, and, when we begin to have a substantial rabbinic record, it is the record of a group very different from Josephus's pre-Hillelite, pre-Herodian party.⁷

7. I reformulated these matters in my textbook, *From Politics to Piety. The Emergence of Pharisaic Judaism* (Englewood Cliffs: Prentice-Hall, 1973; second printing New York: Ktav, 1978). Japanese translation: *Parisai Ha towa Nanika—Seifi Kara Keiken e.* (Tokyo: Kyo Bun Kwan, 1988). Note also the broader context for the entire matter that is set forth in my *From Testament to Torah: An Introduction to Judaism in its Formative Age* (Englewood Cliffs: Prentice Hall, 1987).

Clear-cut and well-defined forms were used for the transmission of some of the rabbinic traditions about the Pharisees. This does not prove that these materials originally were orally formulated and orally transmitted. Part of the corpus seems to me to have been ritually shaped according to the myth of how Moses orally dictated, and Aaron memorized, lemmas, namely, those in the Aqiban Mishnah. But the allegation that the present rabbinic material about the pre-70 Pharisees consists of the written texts of traditions originally orally formulated and orally transmitted is groundless. The only allegation we find about pre-70 Pharisees is that they had traditions. Nothing is said about whether these traditions come from Moses, nor about whether they were in oral form. They generally are ascribed to the "fathers," and their form is not specified. No mention of an Oral Torah or a dual Torah occurs in pre-70 pericopae, except for the Hillel-and-the-convert story, certainly not weighty evidence. Moreover the Pharisaic laws contain no instructions on how materials are to be handed on, nor references to how this actually was done. The myth of the Oral Torah is first attested much later in the formation of the rabbinic literature and is never in a document prior to ca. A.D. 200 assigned to a Pharisaic authority (the attribution to Hillel of such a belief appears for the first time in the Talmud of Babylonia, ca. A.D. 600). Much to my pleasure, I note that Sanders's own investigation confirms this discovery of mine.⁸

If, therefore, we ask, precisely what is known from the Mishnah about pre-70 Pharisaism, the answer is clear. The traditions pertain chiefly to the last half-century or so before the destruction of the Temple—at most, seventy or eighty years. Then the Pharisees (whatever else they were) were primarily a society for table-fellowship, the high point of their life as a group. The laws of table-fellowship predominate in the Houses-disputes, as they ought to—three-fourths of all pericopae—and correspond to the legal agenda of the Pharisees according to the Synoptic stories. As we saw, some rather thin and inadequate traditions about masters before Shammai-Hillel persisted, but these do not amount to much and in several cases consist merely of the name of a master, plus whatever opinion is given to him in the chain in which he appears. The interest of the non-legal materials concentrates on the relationships of Shammai and Hillel, on the career of Hillel, and related matters. Materials on their successors at best are perfunctory, until we come to men who themselves survived to work at Yavneh, such as Hananiah Prefect of the Priests and, of course, Yohanan b. Zakkai. The chief interest of Hillel-tradents, apart from the preservation of favorable stories of Hillel and the attribution of wise sayings to him, was Hillel's predominance in Pharisaism.

8. "Did the Pharisees Have Oral Law?" in *Jewish Law*, pp. 97-130.

Even after the Houses-disputes ceased to matter much, by the Bar Kokhba War, the growth of Hillel-materials remained undiminished. The rise to power-stories then begins, very likely at Usha, and are rapidly glossed by patriarchal and anti-patriarchal hands, so that by Judah the Patriarch's time everyone knows Hillel is the ancestor of the patriarchate in general, and of Judah in particular. The attribution of a Davidic ancestor to Hillel naturally means that the patriarch Judah also derives from the Messianic seed. The work of Yavneh consisted, therefore, in establishing viable forms for the organization and transmission primarily of the Houses-materials. The Ushans continued to make use of these forms, and further produced a coherent account of the history of the Oral Torah from Moses onward. The Yavneans probably showed greater interest in the development of stories about the relationships between the Houses than did later masters, for whom the disputes were less interesting. The Ushans may have augmented the traditions of other early masters, besides Shammai-Hillel, and otherwise broadened the range of interests.

So, in all, we have from the rabbis a very sketchy account of the life of Pharisaism during less than the last century of its existence before 70, with at most random and episodic materials pertaining to the period before Hillel. We have this account, so far as it is early, primarily through the medium of forms and mnemonic patterns used at Yavneh and later on at Usha. What we know is what the rabbis of Yavneh and Usha regarded as the important and desirable account of the Pharisaic traditions: almost entirely the internal record of the life of the party and its laws, the party being no more than the two factions that predominated after 70, the laws being mainly rules of how and what people might eat with one another. The focus of interest of the rabbinic traditions about the Pharisees is the internal affairs of the Pharisaic party itself. The primary partisan issues center upon the relationship between the House of Shammai and the House of Hillel. The competing sects, by contrast, are ignored. Essenes and Christians make no appearance at all. The Sadducees are first mentioned by Yohanan b. Zakkai. The Romans never occur. The Hasmonean monarchy is reduced to a single name; Yannai the King, for Yohanan the High Priest, so far as the rabbinic traditions about the Pharisees are concerned, was a good Pharisee. In all, the traditions give the impression of intense concentration on the inner life of the party, or sect, whose intimate affairs take precedence, in the larger scheme of history, over the affairs of state, cult, and country. The state is a shadowy presence at best. The cult is of secondary importance. The country's life and the struggle with Rome as a whole are bypassed in silence. What we have, therefore, are the records of the party chiefly in regard to the life of the party itself.

There is a striking discontinuity among the three principal sources which speak of the Pharisees before 70, the Gospels, and the rabbinic writings of a later period, on the one side, and Josephus, on the other. What Josephus thinks characteristic of the Pharisees are matters which play little or no role in what Mark and Matthew regard as significant, and what the later rabbis think the Pharisees said scarcely intersects with the topics and themes important to Josephus. In this regard, the picture drawn by Matthew and Mark and that drawn by the later rabbis are essentially congruent, and together differ from the portrait left to us by Josephus. The traits of Pharisaism emphasized by Josephus, their principal beliefs and practices, nowhere occur in the rabbinic traditions of the Pharisees. When we compare what Josephus says about the Pharisees to what the later rabbinic traditions have to say, there is scarcely a point of contact, let alone intersection. Josephus says next to nothing about the predominant issues in the rabbinic traditions about the Pharisees. Shammai and Hillel are not explicitly mentioned, let alone their Houses. Above all, we find not the slightest allusion to laws of ritual purity, agricultural taboos, Sabbath and festivals, and the like, which predominate in the traditions of the Houses. In the detailed account of the reign of Alexander Jannaeus, Simeon b. Shetah does not occur. Apart from the banquet of John Hyrcanus, we could not, relying upon Josephus, recover a single significant detail of the rabbinic traditions about the Pharisees, let alone the main outlines of the whole.

As to the topical program of the Pharisees, Josephus's agenda of Pharisaic doctrine hardly coincides with that of the rabbis. For example, while Josephus seems to paraphrase Aqiba's saying, that all is in the hands of heaven yet man has free choice, that saying is nowhere attributed to pre-70 Pharisees, certainly not to the Pharisees who would have flourished in the period in which Josephus places such beliefs. We find no references to the soul's imperishability, all the more so to the transmigration of souls, which figure in Josephus' account of the Houses. The Houses' debate on the intermediate group comes closest to Josephus' report. As to Josephus' allegation that the Pharisees are affectionate to one another, we may observe that is not how the Hillelites report matters. Josephus knows nothing of the Shammaites' slaughter of Hillelites, their mob-action against Hillel in the Temple, and other stories that suggest a less than affectionate relationship within the Pharisaic group. So, for Josephus, the three chief issues of sectarian consequence are belief in fate, belief in traditions outside of the Laws of Moses, and influence over political life. The Pharisees believe in fate, have traditions from the fathers, and exercise significant influence in public affairs. The Sadducees do not believe in fate, do not accept other than Mosaic laws, and have no consequence in public life. For the rabbinic

traditions about the Pharisees, the three chief issues of sectarian consequence are ritual purity, agricultural taboos, and Sabbath and festival behavior.

The relationship between the rabbinic traditions about the Pharisees and the Gospels' accounts of the Pharisees by contrast strikes me as entirely symmetrical. One topic on which these sources seem to be essentially sound is the theme of the laws they impute to the figures before 70 who we believe were Pharisees. The congruity in the themes of the laws attributed to the Pharisees by both the Gospels and the later rabbinic sources is striking. The historical Pharisees in the decades before the destruction of Jerusalem are portrayed by legal traditions that seem to me fundamentally sound in topic, perhaps also in detailed substance, and attested by references of masters who were supposed to have known what they were talking about. Which laws pertained primarily to Pharisaism, and which were part of the law common to all of Palestinian Jewry? Most the laws before us, verified early or late, affect primarily the sectarian life of the party. The laws that made a sect sectarian were those which either were interpreted and obeyed by the group in a way different from other groups or from common society at large, on the one hand, or were to begin with observed only by the group, on the other. In the latter category are the purity laws, which take so large a place in the Pharisaic corpus. One primary mark of Pharisaic commitment was the observance of the laws of ritual purity outside of the Temple, where everyone kept them. Eating one's secular—that is, unconsecrated—food in a state of ritual purity as if one were a Temple priest in the cult was one of the two significations of party membership. The manifold circumstances of everyday life required the multiplication of concrete rules. Representative of the other category may be the laws of tithing and other agricultural taboos. Here we are less certain. Pharisees clearly regarded keeping the agricultural rules as a primary religious duty. But whether, to what degree, and how other Jews did so is not clear. And the agricultural laws, just like the purity rules, in the end affected table-fellowship, namely, what one might eat.

The early Christian traditions on both points represent the Pharisees as reproaching Jesus because his followers did not keep these two kinds of laws at all. That is, Why were they not Pharisees? The answer was that the primary concern was for ethics. Both the question and the answer are disingenuous. The questioners are represented as rebuking the Christians for not being Pharisees, which begs the question, for everyone presumably knew Christians were not Pharisees. The answer takes advantage of the polemical opening: Pharisees are not concerned with ethics, a point repeatedly made in the anti-Pharisaic pericopae, depending upon a supposed conflict between

rules of table-fellowship, on the one side, and ethical behavior on the other. The obvious underlying claim is that Christian table-fellowship does not depend upon the sorts of rules important in the table-fellowship of other groups. As to the Sabbath laws, the issue was narrower. All Jews kept the Sabbath. It was part of the culture of their country. The same applies to the festivals. Here the Pharisaic materials are not so wide-ranging as they are with regard to agricultural rules and ritual purity. They pertain primarily to gentiles' working on the Sabbath for Jews, on the one hand, and to the preparation of the *'erub*, on the other. This refers to a symbolic meal, e.g., a piece of bread, that serves to unite two otherwise distinct domains, e.g., the property of several householders, and to form of them, for purposes of carrying objects on the Sabbath, a single domain. The matter is a legal fiction, of course, and those who believed it believed it; so, like the Levirate rule, the *'erub*-laws must be regarded as solely of sectarian interest. The references to the unobservant Sadducee make this virtually certain. Since the tithes and offerings either went to the Levites and priests or had to be consumed in Jerusalem, and since the purity rules were to begin with Temple matters, we note that the Pharisees claimed laymen are better informed as to purity and Temple laws than the Temple priesthood.

The fact is, therefore, that the laws we have are the laws we should have: the rules of a sect concerning its own sectarian affairs, matters of importance primarily to its own members. That seems to me further evidence of the essential accuracy of the representation of the Houses in the rabbinic traditions. To be sure, not all laws before us portray with equal authenticity the life of pre-70 Pharisaism. But the themes of the laws, perhaps also their substance in detail, are precisely what they ought to have been according to our theory of sectarianism. When we review the substance of the laws, we find they pertain (either immediately or ultimately) to table-fellowship, involve preparation of food, ritual purity (either purity-rules directly relating to food, or purity-rules indirectly important on account of the need to keep food ritually clean), and agricultural rules pertaining to the proper growing, tithing, and preparation of agricultural produce for table-use. All agricultural laws concern producing or preparing food for consumption, assuring either that tithes and offerings have been set aside as the Law requires or that the conditions for the nurture of the crops have conformed to the biblical taboos. Ritual slaughter, appropriately, occurs in only one minor matter, likewise the taboo against consuming milk with meat is applied to chicken and cheese. The laws of ritual cleanness apply in the main to the preservation of the ritual cleanness of food, of people involved in preparing it, and of objects used in its preparation. Secondary considerations include the ritual pool. These matters became

practically important in the lives of Pharisees in regard to the daily preparation of food, in the lives of all Jews only in connection with visiting the Temple, and of the priests in the cult itself. Laws regarding Sabbath and festivals furthermore pertain in large measure to the preparation and preservation of food on festivals and the Sabbath. The ritual of table-fellowship also included blessings and rules of conduct at meals.

If the Pharisees were, as has often been taken for granted, primarily a group for Torah-study (as the Qumranian writers describe themselves) then we should have expected to find more rules about the school, perhaps also scribal matters, than we actually find. Indeed, we have only one, and that, while attested at early Yavneh, merely involves sneezing in the school-house. The matter is so trivial as to make us wonder whether it is a joke: is it permitted to interrupt one's study of Torah to say, "Gesundheit" when someone sneezes! Surely other, more fundamental problems presented themselves. Nor do we find much interest in defining the master-disciple relationship, the duties of the master and the responsibilities and rights of the disciple, the way in which the disciple should learn his lessons, and similar matters of importance in later times. That is not to suggest that the historical Pharisees were only or principally a table-fellowship commune. It is only to say that, whatever else they were, they surely identified themselves as Pharisees by the dietary rules, involving cultic cleanness, and certain other sectarian practices such as sectarian definitions of consanguinity and other aspects of marital relationships, that they observed. More than this we do not know on the basis of the rabbinic evidence, as correlated with the Gospels' accounts. Josephus' picture of the group is asymmetrical to this picture, and a simple hypothesis is to assign his account to the period of which he speaks when he mentions the Pharisees as a political party, which is the second and first centuries B.C., and the rabbis' and Gospels' account to the period of which they speak, which is the first century A.D. But the matter remains open for continued inquiry, and no picture of the Pharisees has gained complete acceptance in twentieth-century scholarship. That is my picture of the matter.⁹

II. SANDERS'S CRITIQUE OF MY PHARISEES

We now turn to Sanders's critique and his concomitant reconstruction of the matter. He deals with two consequential matters: first,

9. Most recently I have summarized my views as set forth in my *Theologische Real-encyclopädie* (forthcoming). In that restatement, I have taken account of important criticism of some of my earlier ideas and removed from the picture elements that no longer seem to me to be viable.

"did the Pharisees have oral law?" and second, "did the Pharisees eat ordinary food in purity?" To these questions I state my answer up front. So far as Sanders claims to argue with me in particular, I have not called into question the proposition that, in addition to Scriptures, Pharisees, like pretty much every other group, had some further law or tradition, and that that additional material can have been formulated and transmitted orally, in memory. But, as a matter of fact, no evidence pertaining in particular to the Pharisees permits us to impute to them the fully exposed myth of the dual Torah, part in writing, part oral, that comes to complete expression only in the later documents of the Judaism of the dual Torah, in particular, in the Talmud of Babylonia. As to whether Pharisees ate ordinary food in a state of cultic cleanness, I of course do not know what they actually did. I claim to know only how the earlier strata of the Mishnah's law represents matters in sayings attributed to authorities before 70. And the answer is, the earlier strata of the law take for granted that the laws of cultic cleanness, applicable of priests' eating their Temple food, are assumed to apply outside of the Temple, and also to persons who were not members of the priestly caste.

III. DID THE PHARISEES HAVE ORAL LAW?

While announcing that he agrees with me, Sanders claims to find my treatments of this matter confusing. But the source of his confusion is that he imputes to me that same confusion between history and theology that characterizes his work. I am consistently explicit on that distinction, e.g., when I say, "*viewed from the perspective of Judaic faith*, the teachings of the named sages of late antiquity . . . preserve principles . . . handed on by tradition from Sinai."¹⁰ I am equally clear that, *described historically*, the conception that "Moses received the Torah at Sinai in two media" emerges at a given point, fairly late in the formative history of the Judaism of the dual Torah. Obviously, a critical historical account presents information of one kind, a theological statement, information of another.¹¹ Sanders states:

He continues to publish things whose [sic!] fundamentalism would embarrass the most conservative talmudists.¹²

10. Sanders, p. 111.

11. Sanders's representation of the matter becomes contemptible when he says, "It is possible that one of these completely contradictory stances is Neusner's real position, and that the other is adopted simply for tactical purposes, perhaps to sell books to a different audience." I would not have thought that a scholarly debate would sink to such a level, but perhaps the ambience at Oxford has made its impact.

12. *Jewish Law*, p. 244.

"Fundamentalism" these days is a term of mere abuse, the other fellow's excess of belief contrasted with my reasoned and moderate convictions. So what Sanders means by "fundamentalism" is not clear to me, since, in Judaism, we have no "fundamentalism" in the Protestant sense. I have never misrepresented myself. I am a believing and practicing Jew, without apology. I affirm with all my heart that God revealed the one whole Torah, oral and written, to Moses, our rabbi, on Mount Sinai. I have produced historical results that impart to that statement of faith and theology a set of meanings that are not historical at all. This I have shown in many passages (which as a Christian Sanders evidently finds offensive) of my writing, but especially in *Uniting the Dual Torah: Sifra and the Problem of the Mishnah*.¹³ The closing lines of that book form a statement of what we can mean by "Moses received Torah at Sinai," when that is taken to refer not to historical matters but other matters altogether, matters of eternity, sanctification, and salvation, for example. I have not confused history with theology, nor have I followed the model of those biblical theologians whose historical work leads them to modify theological truth in light of facts of a different order altogether. In my view history contains no truth for theological consideration. A deeper understanding of Judaism as a living religion would have helped Sanders avoid the dreadful confusion that characterizes these remarks, which impede his appreciation of Judaism then as much as now.

In point of fact, however, Sanders concurs with everything that I have maintained on this topic. Explicitly concurring with my results, Sanders proceeds to give a survey of matters on oral Torah that he finds in various rabbinic documents. Some of these passages attribute views to pre-70 authorities we assume were Pharisees; most do not, and therefore his account draws upon evidence not pertinent to the Pharisees in particular. Since Sanders himself admits that "we have come to a view proposed by Neusner on the basis of a partially different body of evidence," it hardly seems interesting to spell out all of the mistakes Sanders makes in selecting and interpreting the evidence he deems pertinent, nor is time devoted to pointing out the confusion of distinct bodies of evidence well spent.¹⁴ In this chapter Sanders affirms precisely the results that I have set forth, and I congratulate him.

13. Cambridge and New York: Cambridge University Press, 1990.

14. Sanders discusses so many groups that quite how evidence drawn from any one of them pertains to the principal group under discussion is not at all clear.

IV. DID THE PHARISEES EAT ORDINARY FOOD IN PURITY?

Here again, Sanders's conclusion is "Neusner's standards for collective evidence mark a distinct advance." He concurs with much that I say, tinkering with nuance and emphasis, rather than with fact and substance.¹⁵ But there can be an argument, since he also maintains, "He misinterpreted his own material. Use of his analytical work leads

15. Perhaps this fundamental agreement with my methods and results accounts for the captious and often deliberately insulting character of his treatment of not only my work but also my person. I cannot, for example, find in his writings a single point, beginning to end, at which he refers to me as a professor or by any other honorific title, only "Neusner." This is not merely a matter of form. Sanders takes up two conflicting positions—[1] respect for my methods and replication, with his own emphases, of most of my results, and [2] deep disrespect for me as a person and a scholar. These lead him to characterize in a thoroughly dishonest manner the reception of my books, e.g., in published book reviews. He says, "He has also produced a vast number of translations, to which there are only a few critical responses." Here he footnotes one book review alone, Saul Lieberman's in *Journal of the American Oriental Society* 1984, 104:315-19. There were other negative reviews, and also a great many more positive reviews, to which a footnote meant to be fair also would have alluded. Not that I have found much to learn, other than corrections of minor details, in even the most offensive reviews; my impression is that Sanders approves the intention of Lieberman and Zeitlin, among others, which always was merely to discredit, rather than to argue; but for his part, to his credit, he does argue. I take pride in the literature of discrediting that has been devoted to me; it has shown me the worst criticism a critic can fabricate, and that has proven lightweight and unpersuasive. Sanders, to his credit, has not gone along with the campaign of sustained *Todscheigen*—murder to silence, meaning not reviewing, not citing, not arguing with my work—that Israeli and Yeshiva-scholarship (including university-based yeshivas) has practiced against me for thirty years. Indeed, lest anyone imagine that I would suppress the writings of these critics, I have included an entire volume of negative reviews of books of mine by not only Lieberman, but also Zeitlin, S. J. D. Cohen, H. Maccoby, and others, in my edition of reprinted articles, *The Origins of Judaism. Religion, History, and Literature in Late Antiquity* (with William Scott Green; New York: Garland Press, 1991; twenty volumes of reprinted scholarly essays, with introductions). He further states, "There are comments to be made at each point of his publishing enterprise." Here his footnote is as follows: "On Neusner's undergraduate textbooks, see my review of *Judaism in the Beginning of Christianity, Theology* 88, 1985, pp. 392ff." (He said the same thing about the same book in the same review in *Journal of Religion*.) A fair representation of positive reviews of my textbooks would have required pages of citations. The point is that he seems to find himself forced over and over again to affirm my methods and my results, revising only details, mainly of emphasis or evaluation, but that fact does not persuade him to treat with even minimal courtesy and respect someone from whom, by his own word, he has learned so much. I regret that it is necessary to call attention to this disagreeable fact about Sanders, but any reader of the book to which I am called upon to respond will have made the same observation, and it should be made explicit—and regretted. He could have disagreed with courtesy and even amiability—and above all, with honesty and objectivity. I do not believe that he has. And I do not think he has gained anything or made his position more plausible by expressing his disagreement, which turns out to be trivial and niggling, in such offensive language.

to other conclusions about the Pharisees than the ones which he drew."¹⁶ On method Sanders and I differ in one fundamental way. He takes as generally reliable attributions of sayings to named authorities. Since in historical study what we cannot show we do not know, I am inclined to a more reserved position, asking for evidence that permits us to assign to a period in which a named authority is assumed to have lived a saying attributed to that authority. Beyond that point, the evidence in hand does not permit us to go, since we do not have books written by specific, named authorities, or even collections of sayings formed prior to, and demonstrably utilized by, the compilers and editors of the late, anonymous documents that we do have. Sanders concedes that materials attributed to the Houses in fact were formulated after 70. But that does not prevent him from using those materials he chooses for evidence on the *topics* under discussion.¹⁷ If however the attributions are not reliable, then how can we know for sure that people at that time talked about the topics?

Sanders accuses me of not noting "the importance of the distinctions which the Houses made between the priests' food and their own with regard to harvesting, handling, and processing it." The locus classicus for those distinctions between food prepared in conditions of cultic cleanness for use in the Temple by the priests, and food prepared in conditions of cultic cleanness for use other than in the Temple by the priests, must be Mishnah-tractate Hagigah 2:5-3:3. Because it is fundamental, let me place it into the hands of the reader, and only then specify why I think it is important.¹⁸

- 2:5 A. They wash the hands for eating unconsecrated food, tithe, and heave offering;
 B. and for eating food in the status of Holy Things they immerse;
 C. and as to [the preparation of] purification water through the burning of the red cow, if one's hands are made unclean, his entire body is deemed to be unclean as well.
- 2:6 A. He who immerses for the eating of unconsecrated food and is thereby confirmed as suitable for eating unconsecrated food is prohibited from eating tithe.

16. *Jewish Law*, p. 131.

17. *Jewish Law*, p. 171.

18. But there are equally probative examples to be adduced, e.g., from Mishnah-tractate Tohorot Chapter Two, which, like the passage at hand, place within a single continuum, so far as cultic cleanness of food in the Temple and not in the Temple is concerned, priests and non-priests. That passage does not make explicit reference to the Pharisees, which is why I have given the present one as my single example, among countless candidates.

- B. [If] he immersed for eating tithe and is thereby confirmed as suitable for eating tithe, he is prohibited from eating heave offering.
 - C. [If] he immersed for eating heave offering and is thereby confirmed as suitable for eating heave offering, he is prohibited from eating food in the status of Holy Things.
 - D. [If] he immersed for eating food in the status of Holy Things and is thereby confirmed as suitable for eating food in the status of Holy Things, he is prohibited from engaging in the preparation of purification water.
 - E. [If, however], one immersed for the matter requiring the more stringent rule, he is permitted to engage in the matter requiring the less stringent rule.
 - F. [If] he immersed but was not confirmed, it is as though he did not immerse.
- 2:7
- A. The clothing of ordinary folk is in the status of midras uncleanness for abstainers [=Perushim, Pharisees].
 - B. The clothing of abstainers is in the status of midras uncleanness for those who eat heave offering [priests].
 - C. The clothing of those who eat heave offering is in the status of midras uncleanness for those who eat Holy Things [officiating priests].
 - D. The clothing of those who eat Holy Things is in the status of midras uncleanness for those engaged in the preparation of purification water.
 - E. Yosef b. Yoezer was the most pious man in the priesthood, but his handkerchief was in the status of midras uncleanness so far as eating Holy Things was concerned.
 - F. For his whole life Yohanan b. Gudegedah ate his food in accord with the requirements of cleanness applying to Holy Things, but his handkerchief was in the status of midras uncleanness so far as those engaged in the preparation of purification water were concerned.
- 3:1
- A. A more stringent rule applies to Holy Things than applies to heave offering,
 - B. for: They immerse utensils inside of other utensils for purification for use with [food in the status of] heave offering,
 - C. but not for purification for use with [food in the status of Holy Things].
 - II D. [They make a distinction among] outer parts, inside, and holding place in the case of use for heave offering,
 - E. but not in the case of use for Holy Things.
 - III F. He who carries something affected by midras uncleanness [may also] carry heave offering,
 - G. but [he may] not [also carry food in the status of] Holy Things.
 - IV H. The clothing of those who are so clean as to be able to eat heave offering

- I. is deemed unclean in the status of midras uncleanness for the purposes of Holy Things.
- J. The rule for Holy Things is not like the rule for heave offering.
- V K. For in the case of [immersion for use of] Holy things one unties a knot and dries it off, immerses and afterwards ties it up again.
- L. And in the case of heave offering one ties it and then one immerses.
- 3:2 VI A. Utensils which are completely processed in a state of insusceptibility to uncleanness [and so when completed are clean] require immersion for use in connection with Holy Things,
 - B. but not for use in connection with heave offering.
- VII C. A utensil unites every thing contained therein for the purposes of Holy Things,
 - D. but not for the purposes of heave offering.
- VIII E. [That which is made unclean in] the fourth remove from the original source of uncleanness in the case of Holy Things is invalid,
 - F. but only [that which is made unclean in] the third in the case of heave offering.
- IX G. And in the case of heave offering, if one of one's hands is made unclean, the other is clean.
 - H. But in the case of Holy Things one has to immerse both of them.
- X I. For one hand imparts uncleanness to the other for the purposes of Holy Things,
 - J. but not for the purposes of heave offering.
- 3:3 XI A. With unclean hands they eat food which has not been wet down in the case of heave offering,
 - B. but not in the case of Holy Things.
- XII C. He who [prior to interment of the deceased] mourns his next of kin [without having contracted corpse uncleanness] and one whose atonement rite is not complete [because an offering is yet required] require immersion for the purposes of Holy Things,
 - D. but not for the purposes of heave offering.

The passage distinguishes between the cleanness required for eating unconsecrated food, food that has been designated as tithes or priestly rations ("heave-offering"), and food that is in the status of Holy Things. "Holy Things" are the share of the officiating (or other) priests in what has been offered on the altar, e.g., the priests' share of the sin-offering. Priestly rations comprise the share of a crop that the farmer designates for transfer to the priesthood. Scripture certainly takes for granted that Holy Things will be eaten in the

Temple, therefore in a state of cultic cleanness, and priestly rations are supposed likewise to be eaten in a condition of cultic cleanness; since the family of the priest likewise eats priestly rations, it is assumed that women and children not located in the Temple at the time of their meal likewise will be concerned about cultic cleanness when it comes to eating this food as well. The nub of the matter is the classification of food called "unconsecrated." Unconsecrated food is food that has no relationship to the cult or the Temple. If one eats it with considerations of cultic cleanness in mind at all, then there can be only one reason, and that is, that someone proposes to eat unconsecrated food in a state of cultic cleanness. That seems to me the simple fact of the matter, and Sanders's ingenious distinctions and definitions notwithstanding, that remains the plain sense of the numerous passages that distinguish among unconsecrated food, priestly rations, and Holy Things.

We see that there are diverse standards of cultic cleanness that pertain to food that is unconsecrated, priestly ration, and Holy Things, and these standards are evidently hierarchical,¹⁹ with the most stringent rules (the details of which we may bypass) required for Holy Things, less stringent ones for priestly rations, and least stringent for unconsecrated food. Now to my way of thinking, when at M. Hagigah 2:7A–C we are told that the clothing of ordinary folk is in the status of midras-uncleanness for Pharisees, and that of Pharisees in the same state for those who eat heave offering, in the present context it seems to me that a single conclusion must be drawn. Pharisees, 2:7A, are concerned with cultic cleanness; they are not the same as priests, who are dealt with at 2:7B, but are of a lesser standing in the hierarchy of cultic cleanness. Then priests eating priestly rations or heave offering are hierarchically situated as well, now at a lesser status than priests who are going to eat Holy Things deriving from the altar. The context throughout is preparation for eating food, as the language that is used demonstrates. The explicit reference to Pharisees certainly yields the thesis that Pharisees are not classified as priests, that is, as persons who eat priestly rations or heave offering. But they are persons who are placed within the hierarchy of cultic cleanness in eating food. The food that they eat is not food that is reserved for priests, so it can only be food that is not reserved for priests, which is to say, secular or unconsecrated food. That passage on the face of it therefore sustains the view that Pharisees are persons who eat unconsecrated food in a state of cultic cleanness, or, more

19. The hierarchical classification of all things defines the Mishnah's authorships' principal concern, as I have shown in my *Judaism as Philosophy. The Method and Message of the Mishnah* (Columbia: University of South Carolina Press, 1991).

accurately, within the hierarchy of states of cultic cleanness that the Mishnah's paragraph's framer proposes to spell out.

Now let us turn directly to Sanders's own thesis.²⁰ It is best to turn directly to the passage I have cited, since where and how Sanders's Pharisees differ from mine is best discerned on the common ground of shared evidence. He states the following:

Hagigah 2.7 fits Pharisees into a hierarchy ... it indicates that Pharisees were more scrupulous with regard to one (minor) form of impurity than were other laypeople.²¹

How important were these rules to the Pharisees? Purity was certainly important to them, and protecting the priesthood and the temple from impurity was a very substantial concern. The purity of their own food seems to have been of less importance . . .²²

. . . since Pharisees did not observe the purity laws of the priesthood with regard to their own food, why did they have so many rules about corpse-impurity and midras-impurity? I propose, To make minor gestures towards extra purity. I call them minor gestures in comparison with what they are thought to have done: expelled their wives, done all the domestic work one week in four, and so on. The word "minor," however, probably misleads us with regard to their own intention. It sounds as if they made the comparison which I have made, and found their own efforts trivial. This is most unlikely. We cannot assign precise motives, but I think we can safely assign a general one: to be pure, because purity is good.²³

Apart from the rather subjective judgment at the end, which begs the question, I could not have said it better myself. That is precisely what my reading of this, and various other, passages tells me. When Sanders proceeds to announce that the Pharisees also did other things, e.g., "they worked from dawn to dusk . . . and they had to study," he cannot imagine anyone is going to be surprised. But he proceeds, "The legal discussions attributed to Pharisees never take study as their topic, and thus mechanical counting failed to reveal to Neusner that it is a main theme. It is the basis of the entirety of the material, and every discussion rests on it." Here, alas, Sanders

20. I cannot imagine that anyone is interested in my point by point refutation of either Sanders's critique of my work or Sanders's interpretation—or rather, systematic misinterpretation—of a vast number of passages. He constantly alludes to passages that he does not present and analyze, and he imputes to said passages positions and opinions that are not obvious to others who have read the same passages; we are left only with his claims. His catalogue of "rather a lot of things wrong with Neusner's work" (p. 183) serves to state merely that he disagrees with me about this and that, which I may stipulate as fact.

21. *Jewish Law*, pp. 206-7.

22. *Ibid.*, p. 234.

23. *Ibid.*, p. 235.

confuses an activity with the mythology attached to the activity. No one doubts people acquired information, that is, studied. What I have called into question is whether Torah-study as the principal mode for the imitation of God, which the later rabbinic Torah-myth set forth as a critical and central proposition, is attested in the rabbinic traditions about the Pharisees. I did not find it there, and Sanders's reminder that people learned things is monumentally irrelevant to this issue.

In the successor-system, first attested by writings that reached closure long after the first century, knowledge more than merely informs, it saves. What happens to me in Torah-study in the theory of the religious successor-system that does not happen to me in Torah-study in the theory of the Mishnah—itsself no Pharisaic writing—is that I am changed in my very being. This transformation of the one who knows is not alone as to knowledge and understanding (let alone mere information), nor even as to virtue and taxic status, but as to what the knower is. The one who knows Torah is changed and saved by Torah-knowledge, becomes something different from, better and more holy than, what he was before he knew, and whether the what one knows then is "the mysteries" or "the Torah [as taught by sages]" makes no material difference.²⁴ When Sanders tells me that people learned things and so alleges that Torah-study was a "main theme" of Pharisaism, he shows that he does not grasp the point of the myth of Torah-study within the Judaism of the dual Torah. Scarcely a single passage that is supposed to pertain to the pre-70 Pharisees imagines such a gnostic Torah. But of this Sanders grasps absolutely nothing.

IV. SECTARIANISM, EXCLUSIVISM, AND SANDERS'S PROTESTANT THEOLOGICAL APOLOGETIC FOR A JUDAISM IN THE PROTESTANT MODEL

What is at stake? My reading of the evidence leads me to treat the Pharisees as ordinary people eating meals at home in conditions that are analogous to the conditions required of priests in the Temple or in their homes. Sanders treats Pharisees as people who were "more scrupulous with regard to one (minor) form of impurity than were other laypeople." I see here a distinction that yields no difference at all. Anyone who can tell me how this difference—scarcely in degree, but not at all in kind—has persuaded Sanders to spend so much time on details of the law of the Mishnah and Tosefta, which he time and again either reads out of context or simply does not understand at all, will win my thanks. Sanders minimizes purity laws, it would

24. I spell out this matter in my *The Transformation of Judaism. From Philosophy to Religion* (Champaign: University of Illinois Press, 1991).

seem, because he wants to argue against the notion of Pharisaic "exclusivism."²⁵ Sanders wishes to deny that the category, "sect," applies to the Pharisees:

. . . we should reserve the word "sect" for a group which was to an appreciable degree cut off from mainline society. It should reject some important part of the rest of society, or it should create an alternative structure. Neusner frequently compared the Pharisees to the Dead Sea Sect, finding basic agreements and minor differences. But the differences are large and clear, and they show that one was a sect and the other not.²⁶

Of course a group that did not set up a commune off all by itself is different from a group that by all evidence remained within the common society, and if the former is a sect, then the latter is something else. We need not quibble; I think my definition functions well: a group of people who interpreted and obeyed law "in a way different from other groups or from society at large."²⁷ But if he means that while the Essene Community was exclusivist but the Pharisees were not, then we really do differ in a fundamental way. In my judgment every Judaism, including the Pharisees' Judaic system, by definition is exclusivist, in that it identifies who is saved and who is not. That the authors of the Gospels saw the Pharisees as a distinct "group," whether the group be classified as a sect, a party, a club, or something else, seems to me to underline that the group was exclusivist, by nature, by definition, as indeed were the various Christianities and the other Judaisms of the same time and place.

Sanders responds to a long tradition of anti-Judaism and even anti-Semitism in New Testament scholarship. He denies that Judaism was what its academic and theological enemies maintain. His book in the context of contemporary Protestant theological debate makes an important point in its context:

The Pharisees had a positive concern for purity; it was better to be pure than not. They were not alone. The same was true of a lot of Jews and of a lot of pagans. . . . "Ritual purity" . . . now has to many people an unfavorable connotation, and it is thought that what is wrong with the Pharisees is that they favored it. But this would only mean that what is wrong with them is that they lived in the ancient world—where most people favored it. Most Christian scholars . . . think that it was precisely "ritual" which Jesus and Paul attacked. Since the major point of the Jewish law which is treated negatively in both the synoptic

25. *Jewish Law*, pp. 236-42.

26. *Jewish Law*, pp. 240-41.

27. *Jewish Law*, p. 240; Sanders tends to attribute more language to me than I ordinarily use; he routinely uses ten words when one suffices. In the passage at hand, he adds words I do not require to say what I mean.

gospels and Paul is the sabbath, the assumption that they attacked "ritual" implies that rest on the sabbath should be considered "ritual." It was instead commemorative (of God's rest) and ethical (not only men, but also women, servants, animals, and the land itself were allowed to rest). The Pharisees concern to be pure went beyond the requirements of the law—as did that of others . . . People thought that purity was a good thing, and they tried to avoid impurity, even though it had no practical consequence. There were many who wanted to be able to "distinguish between the holy and the common. . . ." The Pharisees fully participated in this spirit. They differed from others in many particulars, they defined certain impurities very carefully, they probably extended corpse-impurity more than did most, and they may have tried harder than did most to avoid the new sources of this impurity. The desire to be pure, however, they shared with the populace in general.²⁸

I cited the passage at length, because it seems to me to point toward the benevolent intent of Sanders's scholarship. But the result is historically puzzling and theologically condescending.

It is puzzling because, first, there is no evidence that, in general, people wanted to be pure; the Mishnah and related sources take for granted ordinary folk wanted to be, and were, cultically clean when they observed the pilgrim festivals in Temple and in Jerusalem. I find in Sanders's book no evidence that *in other contexts* Jews of the first century other than Pharisees and Essenes may be described as desiring to be cultically pure (which is what is at stake in the debate). That absence of evidence probably accounts for the number of times he repeats his never-substantiated assertion. But Sanders is remarkably reticent about defining ritual or telling us why a religion that supposedly has no ritual—a Eucharist for example, a Passover rite, or in the first century, a meal eaten in a condition of cultic cleanness, like the Temple priests at their meal of their share of the Lord's offerings from the altar—is holier than one that does. Difficulties in finding out what Sanders means by "sect" and "ritual" underline the broader conceptual bungling characteristic of so much that he has written.

It is condescending because Sanders affirms that, if the Pharisees practiced "ritual," then they, and the Judaism that claims descent from them, would be subject to condemnation by Jesus and Paul. Throughout its history, Orthodox and Anglican and Roman Catholic Christianities have not concurred, of course, and few Protestant communions for their part omit all ritual, if by ritual we mean prayer, song, celebration in concrete deed, of the verities of the faith, so that the conception of a religion without ritual of some kind-

28. *Jewish Law*, pp. 245-46.

perhaps not this kind, but some other kind—scarcely matches the reality of Protestant Christianity as well. So at stake is not having or not having ritual as part of the faith, but what kind of ritual, and it is clear Sanders is embarrassed by the particular rituals of Judaism. But I am not, and I do not thank him for apologizing for the rituals of my religion.

As a believing Jew, I practice Judaism, and I do not require a gentile's defense of my religion that dismisses as unimportant or inauthentic what in my faith is very important indeed: the observance of rituals of various kinds. They are mine because they are the Torah's. I do not propose to apologize for them; I do not wish to explain them away. I do not reduce them to their ethical significance. "Commemorative" and "ethical" indeed! The Sabbath is holy, and that is why I keep it, not because it may also be "commemorative" or "ethical." Judaism is not a culture that merely commemorates, nor is it a sociology that advances social policy. It is a religion that believes we serve God by what we say and do, and doing involves not only life with neighbor but also life with God: nourishing life in accord with God's revealed rules of sanctification.

Nor do I value a defense of my religion that implicitly throughout and explicitly at many points accepts at face value what another religion values and rejects what my religion deems authentic service to the living God. That is a kind of anti-Semitism. For in the end Sanders wants to defend Judaism by his re-presentation of Pharisaism in a form that, in his view, Christianity can have affirmed then and should appreciate today—and now cease to denigrate. That approved Judaism turns out to be a Judaism in the model of Christianity (in Sanders's pattern). So if Sanders's Pharisees result from a mere tinkering with some details of mine, his "Judaism" is only a caricature and an offense. With friends like Sanders, Judaism hardly needs any enemies.