

Jacob Neusner, Mishnah, and Counter-Rabbinics A Review Essay*

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With Judaism: The Evidence of the Mishnah Professor Jacob Neusner brings to a conclusion his forty-three volume study of the Mishnah and Tosefta. This book summarizes the major results of Neusner's previous research while also breaking new ground. Although the book is often idiosyncratic, unconvincing, and inconsistent, there is no doubt about its power and brilliance. The reader senses immediately that he is in the presence of an original and inquiring mind which has had the ability and courage to depart from the traditional methods of rabbinic study. Neusner articulates a new vision, a new approach, and a new set of methods for understanding the Mishnah and the related tannaitic works. The publication of this work, the capstone of Neusner's monumental enterprise, is an event in the modern study of rabbinics.

If Gershom Scholem's view of Judaism can be summarized in the formula *Kaballah and Counter-History*, Neusner's view of mishnaic Judaism can be summarized by the formula *Mishnah and Counter-Rabbinics*. Neusner consciously rejects the methods and assumptions of George Foot Moore and of Saul Lieberman, that is, the methods and assumptions which have canonical status in the study of rabbinic Judaism. The rejection of Moore is explicit and bold. In his *Judaism in the First Centuries of the Christian Era*, Moore collected and analyzed the rabbinic statements about God and sin, reward and punishment, eschatology and messianism, and other "theological" topics. Neusner objects that this method accords too much weight to *aggadah*, when the rabbis themselves clearly regarded the *halakhah* as much more important; that this method ignores the rabbis' own philosophical

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categories (the six orders of the Mishnah) and imposes upon the rabbis a system of categories foreign to their way of thinking; and that this method ignores the chronological and geographical variations within rabbinic Judaism.

The rejection of Lieberman is implicit, not explicit (as far as I recall, Lieberman's name does not once appear in this book), but it is no less bold than the rejection of Moore. In his numerous works Lieberman represents some of the traditional methods of rabbinic study at their best: through amazing erudition every text in the rabbinic corpus is interpreted in the light of every other; meticulous attention is paid to details, in both the analysis of the texts and in the scholarly presentation of the results; the texts are assumed to be reliable and authentic unless they are inherently implausible or are contradicted by other texts. Neusner objects that this method also entails the homogenization of rabbinic Judaism since it never allows any text to speak on its own terms; that this method is fine for an understanding of the leaves and branches, but very inadequate for an understanding of the trees and forests, of rabbinic Judaism; that this method, by assuming the truth and reliability of the material it studies, assumes what it needs to prove.

In contrast with Moore, Neusner bases his portrait of second-century Judaism upon the legal portions of the Mishnah and upon the Mishnah's own categories of thought. In contrast with both Moore and Lieberman, Neusner interprets the Mishnah in splendid isolation from all other rabbinic texts. The Mishnah is not treated as part of some enormous rabbinic corpus or as the earliest text of "normative Pharisaic-rabbinic Judaism." It is treated as a literary text on its own terms. In contrast with Lieberman, Neusner does not trouble himself with details either in the analysis of the Mishnah or in the presentation of his results, and does not engage in the close reading of texts. Neusner interprets the Mishnah and its constituent elements (the tractates) as organic wholes.

The major objective of this book and of Neusner's "counter-rabbinics" generally is to take the study of rabbinics out of the hands of the theologians and out of the domain of the sacred, in order to place it in a new environment with a new constituency. Anyone who follows Neusner's popular and semipopular writings knows that this professor at Brown University is an articulate spokesman on behalf of the integration of Jewish studies into American universities. They have a place in the humanities, he argues, because they embody important values and teachings which even outsiders can appreciate. They speak not only to Jews. No less than Homer or Plato, Dante or Chaucer, they speak to everyone. Hence throughout his scholarly career Neusner has attempted to break the grip on rabbinic studies held by theologians and "traditional" scholars. He translates everything into English, publicly admits that he is not a "traditional" scholar of rabbinics, attempts to make ancient Judaism accessible to everyone, and is raising a generation of graduate students many of whom have minimal expertise in the "traditional" aspects of the study of rabbinics. The climax (for the moment) of this enterprise is *Judaism: The Evidence of the Mishnah* which

presents the Mishnah not as a book of arcane laws which interest only law-observant Jews, but as a book of philosophy which should interest all who would attempt to understand the human condition.

In addition to the university community Neusner addresses another audience too. With this book he tells the Jews of America, many (or most) of whom have long assimilated the Christian critique of Pharisaic "legalism," that the Mishnah is not a book of law at all. In fact, it addresses the existential needs of American Jewry. Living in a post-Holocaust age and obsessed with a Holocaust consciousness, beset by self-doubts, and gradually diluting itself through profane mixtures with the gentiles, contemporary American Jewry is clearly the model for Neusner's mythic Jewry of Palestine in the second century C.E. The Pentateuchal document P was written as a response to the catastrophe of 587 B.C.E. (Neusner pays no attention to Yehezkel Kaufmann and his followers.) Neusner argues that the Mishnah is basically a continuation of P and was written as a response to the catastrophes of 70 and 135 C.E. But (as we shall see) Neusner has no evidence at all that the Mishnah was written as a response to the destruction of the Temple and the fall of Betar, and it is apparent that the catastrophe to which he refers really is that of modern European Jewry.

In sum, the book is a brilliant failure. Brilliant, because it asks provocative new questions, because it treats the Mishnah from a thoroughly novel perspective, and because it shows how ancient texts can be made to come to life. But a failure, because its advocacy of "counter-rabbinics" is so extreme that it rejects even those aspects of Moore's and Lieberman's scholarship which cannot be rejected. For all his faults, Moore at least attends to the explicit theological, philosophical, and historical data of the rabbinic texts, something which Neusner does not do *at all*. Perhaps Lieberman and other traditional exegetes should not be so ready to interpret the Mishnah in the light of later rabbinic texts, but Neusner is no less guilty of violating the scientific method when he interprets the Mishnah in the light of his own pre-conceived ideas about its humanistic value and its existential concerns. His inattention to matters of detail is notorious and disgraceful. A failure, then, but a provocative and immensely valuable one.

Since a thorough discussion of all these points would swell this review beyond reasonable length, I have selected for detailed analysis four issues which distinguish Neusner from Moore and Lieberman: Normative Judaism, Development of Law, The Mishnah as a Whole, and The Mishnah on its Own Terms. The analysis of these points is followed by a brief discussion of various other matters (Ways Not Taken, Details) and a conclusion.

Normative Judaism

It was George Foot Moore who popularized the notion of "normative Pharisaic-rabbinic Judaism." Moore meant by the term "normative" both a theological and a sociological judgment. Pharisaic-rabbinic Judaism was normative because it was *the* authentic representation of Judaism. Other varieties were sectarian, heretical, or deviant, but Pharisaic-rabbinic Judaism

was Judaism. This theological judgment was supported by the sociological argument that the Jews themselves (or, at least, the majority of them) have always regarded Pharisaic-rabbinic Judaism as authentic Judaism. According to Moore, then, Pharisaic-rabbinic Judaism was "normative" in two senses: it was authentic (a value judgment ultimately not susceptible to rational inquiry) and it was accepted by the majority of the Jews of antiquity (a judgment very susceptible to rational inquiry). Most Jewish and Christian scholars, each group for its own reasons, still regard Pharisaic and/or rabbinic Judaism as theologically authentic ("normative") and therefore as sociologically normative. This view is well represented by Ellis Rivkin's *A Hidden Revolution*.¹ One of Moore's chief legacies to scholarship has been this blurring of categories, the confusion of theology with history, and the theologian with the historian.

By rejecting Moore, Neusner frees himself from this confusion. Whether the rabbis were sociologically normative is a question which, like other relevant sociological questions (see below), is not addressed at all in this book. Neusner assumes as self-evident that the society which produced the Mishnah was a distinctive elite, not to be identified with Jewish society at large. This point is not novel, of course, since Moore's position was attacked at length by E. R. Goodenough. Neusner, however, is the first student of the Mishnah who clearly and systematically does not regard the text as theologically normative. He does not claim that Judaism is identical with the contents of the Mishnah. He does not even claim that rabbinic Judaism is identical with the contents of the Mishnah. *Judaism: The Evidence of the Mishnah* claims that the Mishnah represents only one type of second-century Judaism, whose religious authenticity and theological validity are immaterial to the discussion.

Some "traditional" Jews may find this approach disturbing since it removes the Mishnah from the realm of the holy and the true. But historians (like myself) will endorse the approach completely—explicit value judgments have little place in works of dispassionate scholarship. This approach is important for Neusner because it facilitates the separation of the Mishnah from the rest of rabbinic literature. If the Mishnah is part of a divinely revealed Oral Law, then it must be interpreted in tandem with the other parts of the Oral Law. But if the Mishnah is the work of a small group of men, the earliest example of a certain type of piety which will ultimately prevail within Judaism, then perhaps it can be interpreted as an independent literary work. The premise of this argument is convincing but the conclusion is not. The Mishnah's connection with other rabbinic texts is too intimate to be neglected, and, as we shall see below, Neusner's neglect of this connection is one of the major weaknesses of the book.

The Development of Law

In oxymoronic fashion Moore attempted to describe the *Judaism in the First Centuries of the Christian Era: The Age of the Tannaim*, thereby homogenizing the different Judaisms represented by the Mishnah itself and

by the other rabbinic documents of Palestine and Babylonia. Neusner, by contrast, concentrates upon a single text, and attempts to derive from it a history (i.e., its history) of rabbinic law.

The Mishnah itself commonly ascribes legal opinions to named authorities. Are these ascriptions reliable? Can they be verified? The first method is simple. If a later scholar in the Mishnah refers to an opinion which is placed in the mouth of an earlier scholar, the ascription to the earliest scholar is thereby verified. This seems obvious enough. Neusner's innovation here has been to extend the method even to cases where later scholars do not mention the earlier scholars by name or refer explicitly to their opinions. Neusner attempts to see whether the law progresses in logical fashion, whether later generations introduce principles which logically are posterior to principles posited by scholars of a previous generation. If it can be shown that the law develops logically, with no gaps or unexpected leaps, Neusner concludes that the ascriptions have thereby been verified, not for the individuals who allegedly made the legal statements involved, but for the generations to which they belonged. Neusner despairs of ever verifying that Rabbi X said this or that Rabbi Y said that. He seeks only to ascribe the legal opinions of the Mishnah to their proper generation: "before the wars" (pre-70 C.E.), "between the wars" (between 70 and 135 C.E.), and "after the wars" (post-135 C.E.). Neusner concludes that, for the most part, with the notable exception of ascriptions to pre-70 figures, the attributions of the Mishnah seem reliable.²

And what of the substantial portions of the Mishnah which are anonymous? Many scholars have assumed that these texts are "old," i.e., of pre-70 origin, but Neusner argues that they are "late," i.e., of the second half of the second century C.E. Since a single formal style and a single set of rhetorical patterns pervade the entire Mishnah, it is not possible, argues Neusner, to separate the Mishnah into sources and documents. Since the redaction of the Mishnaic materials and the composition of the Mishnah itself took place simultaneously, we cannot regard certain portions of the Mishnah as "old" (since all the portions are of equal date), and we cannot reconstruct the *ipsissima verba* of the Tannaim (since the Mishnah does not preserve them). Neusner therefore attempts to trace the history of ideas, not the history of texts.

Neusner concludes that the oldest portion of the Mishnah is the order of Purities, whose ideas were substantially developed even before 70 C.E. The order of Damages, by contrast, did not even begin to take shape until after the Bar Kokhba war, when the rabbis began to tell stories about the pre-70 period and to imagine for themselves the workings of a state which had jurisdiction over civil law. Neusner summarizes the basic ideas which were contributed to each tractate by each of the three tannaitic periods.

This section is very problematic. Neusner is well aware that, when viewed as a whole, the Mishnah is fairly uniform stylistically, but when viewed seriatim, the Mishnah contains numerous traces of rhetorical patterns and organizational forms which ultimately did not prevail in the

Mishnah itself. Instead of the topical organization which generally prevails in the Mishnah, some sections are arranged by literary formulae, or by the name of the cited authority, or other criteria. Baba Qamma 1:1-2 is stylistically anomalous (whether it is stylistically archaic I leave to the philologists to determine) and cannot be regarded as a product of the second half of the second century, even if it is anonymous. The Mishnah's monochromatic style hinders, but does not preclude, the philological and stylistic analyses which can reveal some of the Mishnah's sources. But these analytic modes are all but ignored by Neusner.

Furthermore, just as later tannaim who build upon the opinions of their predecessors thereby verify the ascriptions of those opinions to their predecessors, so too later tannaim who build upon, or refer to, the opinions of anonymous texts, thereby verify that the opinions expressed in those texts precede their own generation. The anonymous narratives about the rituals of the temple and the procedures of the Sanhedrin are frequently glossed by Rabbis Yosi and Judah. Are we to conclude, as Neusner does, that the narratives are contemporary with Yosi and Judah, i.e., that they originate in the second half of the second century, or, as is much more likely, that the narratives precede the two rabbis? The first Mishnah of Qiddushin features a debate between the Houses of Hillel and Shammai on the value intended by the word "money" in the opening clause, thereby demonstrating that the legal principle involved predates the Houses. The first Mishnah of Berakhot assumes that it is obligatory to recite the Shema in the evening. The Yavneans debate the details of this obligation, but the essential point must predate the Yavneans.³ This method may be too "traditional" for Neusner, but it cannot be dismissed and should not have been ignored.

Last, Neusner well knows (see p. 202) that many of the legal ideas, terms, and institutions which figure in the orders Women and Damages were part of the common law of the ancient East. But if we admit that these texts, at least in part, merely reflect the common law which prevailed for centuries, if not millennia, in Palestine and its environs, what then does it mean to assign the content of these orders to the last period of the Mishnah's composition? If Neusner means that the content may be old but that the literary formulation does not predate the second century C.E., his exertions have yielded precious little.

This problem also complicates Neusner's extended discussion of the relationship of the Mishnah to Scripture. Neusner posits the following dichotomy: the Mishnah, i.e., the "Oral Law," is *either* the direct and unmediated product of the exegesis of the Pentateuch, i.e., the "Written Law," *or* it is an independent work and a product of its age. In Neusner's own words (p. xiii; cf. p. 165):

If the Mishnah does turn out to be essentially a secondary and contingent construct of the written Scripture, then the Mishnah cannot be placed squarely in the social context of its own time and asked to speak in particular to the

political and theological crisis of the day. The Mishnah maybe [sic] expected to tell us only about how the Scriptures were mediated to that day, what the meaning of the Scriptures, autonomous of the age, dictated as a message (also) to that day.

Neusner proceeds to a series of valuable observations (Chapter Five) about the relationship of the Mishnah to the Pentateuch, showing that some tractates are totally subservient to Scripture, some totally independent, and others in between. Neusner deduces from this that even when the Mishnah is totally subservient to Scripture it is only because the Mishnah chooses to be subservient. Since the Mishnah chooses the relationship it wishes to bear towards Scripture, it is a document of its age and not a simple repository of "Oral Law." But these observations do not support this conclusion, because the initial dichotomy is false, or, at least, poorly articulated. The Mishnah might be independent of Scripture and yet thoroughly dependent upon other ancient traditions and ideas which it could not neglect. Some scholars have attempted to discover in the Mishnah relics from the Hasmonean, or even the pre-Hasmonean, period. The absurdity of most of these attempts should not discredit the view that the Mishnah contains ideas and traditions which were first formulated centuries before its redaction and which it could not neglect any more than it could neglect Scripture itself.

The Mishnah as a Whole

Neusner treats the Mishnah and the tractates of the Mishnah as literary works, organic wholes, each with its own themes and structure. His primary questions are: what is the Mishnah's message as a whole? How do each of the tractates contribute to the whole? This distinctively literary approach to the Mishnah brings Neusner to several conclusions which are so obviously correct that it is a wonder that they were not stated by earlier scholars. The Mishnah devotes a great deal of attention to the laws of purity, tithing, and food, to the rituals performed in the Temple, and to the rituals performed outside of the Temple (in the "village," in Neusner's terminology) but coordinated with those of the Temple. In other words, many of the Mishnah's major interests coincide with those of the Pentateuchal document P.

Neusner further observes that the authors of the Mishnah were obsessed with the gray areas of law, the "undefined middles" which fall between contrasting legal principles. A common Mishnaic endeavor is to posit two principles, juxtapose them, and attempt to determine the limits of each. Hence the interest in all sorts of mixtures, especially food mixtures (priestly offerings in unholy food, kosher food in unkosher food, mixed plantings in a vineyard, the food of a gentile with the food of a Jew, etc.), and all sorts of entities which can be subsumed by, or which seem to fall between,

conflicting principles (e.g., Syria, women, minors, hermaphrodites, those who are half-free and half-slave). All of this is indisputably correct. Neusner has made sense of many of the characteristic thought patterns of the Mishnah just as Mary Douglas has made sense of many of the characteristic thought patterns of Leviticus. The resulting patterns are not dissimilar.

This method, however, has a price. Treating the Mishnah as a whole may illuminate the whole but it does not illuminate the parts. It forces the interpreter to seek unity where there is diversity, to see a single theme where there are many, to gloss over that which does not fit the identified pattern. In the orders Women and (especially) Damages, priestly concerns (the Temple and purity laws) and the status of mixtures are much less evident than they are in the other four orders, and even in the other four orders, they are not always as prominent as Neusner would like. Neusner sees the Mishnah as a philosophical essay on the relationship of human intention to divine creation (see below), but, again, the orders of Women and (especially) Damages hardly contribute to this theme, and even the other four orders do not contribute regularly.⁴ In sum, Neusner interprets the Mishnah as a whole, but he does not interpret the whole Mishnah.

Furthermore, only some aspects of "the Mishnah as a whole" are interpreted. In spite of his literary method, Neusner never attempts to identify the genre of the Mishnah. In the nineteenth century I. M. Jost pointed out that the Mishnah bears a formal similarity to the Roman Digest which opens with a historical introduction (parallel to Abot) and proceeds to a topically arranged compendium of various opinions, sometimes contradictory, on various subjects. Jost's observations were subsequently elaborated by Boaz Cohen. What is disturbing is not that Neusner overlooked Jost's important insight, but that he failed to ask Jost's question. Nor does Neusner interpret the phenomenon of *mahloqot* (disputes), which uniquely characterizes the Mishnah and all later rabbinic literature, or the order of the tractates within the Mishnah,⁵ or the order of the material within each tractate (especially in variegated tractates like Sotah). The anecdotal traditions (*ma'asim*) are completely neglected. Neusner is aware of some of the Mishnah's amazing omissions (no treatises on Torah study and Torah writing, synagogues and synagogue prayer, mezuzah, Hanukkah, proselytes, etc.) but he does not explain these omissions, and the omissions have to be explained if the Mishnah is to make sense as a whole.

The Mishnah on its Own Terms

Neusner's attempt to interpret the Mishnah as a whole is part of his broader attempt to interpret the Mishnah as an independent text. Spinoza argued that a text could be understood properly only if interpreted on its own terms, and not on the terms of something which was not part of the text itself. Hence, Spinoza concluded, neither Rabbinic nor Catholic tradition could contribute to the true interpretations of the Bible, since those traditions stand outside of Scripture. The liberation of sacred texts from

sacred tradition is the essence of the scholarly (or "critical") method. Just as some medieval commentators occasionally explained the Pentateuch on its own terms, ignoring the interpretations advanced by the Talmud, so too some medieval and modern commentators occasionally explained the Mishnah on its own terms, ignoring the interpretations advanced by the Talmud. Neusner, however, is the first scholar to ignore systematically the rabbinic interpretations of the Mishnah. The tannaitic midrashim, the Tosefta, the talmudic *beraitot*, the talmudim themselves, and, *a fortiori*, the later rabbinic commentators—all are dismissed as secondary reactions to the Mishnah, hence as irrelevant to the interpretation of the Mishnah "on its own terms." The Mishnah must be read in its own light and not in the light of others. *Judaism: The Evidence of the Mishnah* has been followed already by *Judaism: The Evidence of the Talmud of the Land of Israel*, and will be followed, I presume, by *Judaism: The Evidence of the Tosefta*, *Judaism: The Evidence of the Babylonian Talmud*, and so on, *ad infinitum*.⁶

This procedure has the advantage of boldness and simplicity, but it makes as much sense as a study of the Gospel of Mark which ignores the Gospels of Matthew and Luke on the grounds that they comment upon, react to, "correct," and supplement the Gospel of Mark. Synoptic texts must always be studied synoptically, even if one text is "later" than another. There is no doubt that the Tosefta is basically a commentary on the Mishnah, but there also can be no doubt that the Tosefta, and indeed the tannaitic midrashim, often allow us to see what the redactor of the Mishnah has done to his sources. By studying the changes introduced by the redactors of both the Mishnah and the Tosefta, we can determine those matters which were important to the redactors. Neusner has already done most of this work in his multivolume commentary on the Mishnah and the Tosefta, but this work has not contributed to *Judaism: The Evidence of the Mishnah*.⁷ A portrait based on such synoptic study will not be as neat and compelling as Neusner's portrait based on a single text (witness the numerous contradictory portraits of the synoptic gospels!) but at least it will be grounded on empirical observations and not subjective impressions.

Impressionism is the central problem with Neusner's method. What is in the Mishnah and what is not? How do we read the Mishnah "on its own terms"? Freed from parallel texts and sources, oblivious to the interpretations of the ancients themselves, and interested only in certain themes and issues, the impressionist exegete is king, able to select whatever he feels is found in the Mishnah on its own (i.e., on his own, the interpreter's) terms. As I indicated above, reading the Mishnah in the Neusnerian manner involves the imposition of unity where there is diversity and the neglect of certain themes which do not interest the exegete.⁸ Neusner sees the Mishnah as an extended philosophic essay on the interaction between human intention and the divine creation, this theme being especially meaningful after the catastrophes of 70 and 135 C.E., but this interpretation fails for two reasons: it converts the theme of a small part of the Mishnah into the central theme of the entire Mishnah, and it gives the theme a context

which hardly appears in the Mishnah itself. In contrast, Neusner ignores almost all of the passages in which the Mishnah speaks about itself (notably tractate Abot), adopts a historical perspective, or addresses theological issues. It is a strange interpretation of the Mishnah which emphasizes that which is absent and neglects that which is present. I shall now briefly examine each of these points.

Neusner justifies his highlighting of the two catastrophes with the following statement (p. 25):

The concrete historical facts which shaped the history of every particular kind of Judaism [of Palestine] of the first [?? does Neusner mean "second"?] century are few but beyond dispute. They are, first, that the Temple was destroyed in 70 in the midst of a major war against Rome; second, that three generations later, a second war against Rome produced the definitive exclusion of Israelites from Jerusalem and priests from the ruins of the Temple; leading, third, to the final recognition that, for some time to come, . . . there . . . would be no Temple and no cult. To the best of my ability, beyond the internal evidence of the Mishnah itself, I adduce, in evidence of any concern I impute to the framers of the Mishnah . . . only these three facts.

These three facts are central to Neusner's interpretation.⁹ Living in a world without a temple, the Jews were in spiritual disarray. Their planet had been thrown off its axis. They were no longer sure that God punishes the wicked and rewards the righteous, that God takes an interest in their actions, or that they could obtain forgiveness for their sins without the intermediation of the sacrificial cult. The Gnostics who flourished in the second century argued that the world is evil and controlled by an evil god. They counseled escape through heavenly ascents and ascetic (or libertine) behavior. The Christians argued that the destruction of the temple signaled the rejection of the Jews by God, and that without the sacrifice of Christ atonement was unobtainable.

Into this spiritual maelstrom stepped the rabbis, or, as Neusner likes to call them, the philosophers of the Mishnah. In a world that seemed so unholy the rabbis affirmed the continued validity of the laws of holiness which separated between Life and Death, between Jew and Gentile. In a world without a temple the rabbis centered much of their worldview on the Temple and its rituals, affirming that the ideal temple still determines the boundaries of sacred space and time. In a world which seemed to care little for the piety and behavior of the Jews the rabbis declared that the intentions of individuals *matter*. By their actions and thoughts men can consecrate and sanctify (or pollute and profane) God's creation. In a world which threatened a Jew with the loss of his identity, the rabbis determined with exquisite precision the limits of mixtures and the nature of the "excluded middles" of the law. The rabbis were philosophers addressing the existential questions of their age.

This reconstruction is brilliantly imaginative, but how much of it is really in the Mishnah "itself"? Let us return to Neusner's three facts. The

theological crisis portrayed by Neusner is based upon the Apocalypses of Barukh and Esdras (Ezra) which reveal the anguish felt by some Jews after the destruction of the Temple in 70. But to what extent do these two works, neither preserved by the Jews, reflect common attitudes and beliefs? Neusner does not raise the question. But if we read the Mishnah on its own terms and do not confound one Jewish piety with another, we do not discover any theological crisis. Neusner quotes liberally from the two Apocalypses to document the crisis, but he does not adduce a single Mishnaic passage in his discussion. The tannaim occasionally refer to the destruction of the Temple (Neusner should have collected and analyzed this material, but, as usual, he ignores "historical" passages), but there is no sign of any deep theological crisis. Why this is so, is a question worth pursuing. Perhaps even when the Second Temple was standing, many Jews were uncertain of its holiness and effectiveness. Ezekiel 40-48 and the Qumran *Temple Scroll* show that the existence of the Second Temple could not prevent some Jews, at least, from dreaming about an ideal temple and its rituals. If the rabbinic movement originated in a group which regarded the Second Temple as profane, a possibility which Neusner entertains reluctantly (p. 101), the rabbinic tears after 70 will not have been those of despair and disorder. The rabbis, like Jeremiah, knew that the destruction was forthcoming. Whether or not this explanation is correct, an atmosphere of crisis cannot be found in the Mishnah.

Similarly, the idea that the cessation of the sacrificial cult caused theological difficulties is nowhere to be found in the Mishnah. In fact, it is hardly to be found even in the Apocalypses of Esdras and Barukh. The theme is central to the story in *Fathers According to Rabbi Nathan* (Chapter 4) about the encounter between Rabbis Joshua and Yohanan ben Zakkai after the destruction of the Temple, but neither the story nor the theme are found in the Mishnah. The Mishnah's interest in the Temple and the sacrificial cult is partly historical, partly utopian (Middot, for example, depends heavily upon Ezekiel), and does not indicate a theological crisis.¹⁰

There is even less evidence for a crisis after the downfall of Bar Kokhba at Betar. Neusner himself and scholars in his circle emphasize that the rabbinic movement was *not* deeply involved in the Bar Kokhba uprising.¹¹ Therefore the nature of the trauma felt by the rabbis after 135 is not clear. The Mishnah never mentions Bar Kokhba, mentions Betar only once, and refers only fleetingly to the Bar Kokhba war. Whether other Jews sensed a deep loss after 135, we can only speculate, since nothing comparable to the Apocalypses of Barukh and Esdras is extant from this period, but there is no sense of deep loss in the Mishnah. Similarly, the Mishnah contains no support for the third of Neusner's "facts," that after 135 the Jews finally recognized that for the foreseeable future there would be no temple and no cult. On the contrary, the Mishnah's utopian legislation about the future temple and its cult *might* indicate that the hopes for the future were still very much alive.

In sum, Neusner has failed to meet Spinoza's criterion. Neusner refuses

to read the Mishnah in the light of the Tosefta and the Talmudim because, he says, they distort the original meaning of the work by converting a philosophical essay into a legal code. But Neusner himself reads the Mishnah in the light of his own interests, which, being seventeen hundred years and several thousand miles further removed from the Mishnah than were the interests of the Tosefta and the Talmudim, cannot be defended by chronological and geographical proximity. Neusner's interests, in fact, are not those of the second century but those of the twentieth. His Palestinian Jews are archetypes for contemporary American Jews, his "catastrophes" of 70 and 135 are archetypes for the Holocaust, and his Mishnaic theology is an archetype for theology after Auschwitz. Neusner has not read the Mishnah "on its own terms."

Even more troubling is Neusner's persistent refusal to attend to the Mishnah's own explicit data. Although the Mishnah is certainly not a work of history, and although the rabbis were certainly not historians, nevertheless the Mishnah contains a substantial body of historical information about itself. The opening chapter of Abot gives a history of Mishnaic tradition but the chapter is all but ignored by Neusner.¹² In his discussion of the relationship of the Mishnah to Scripture, Neusner does not mention Hagigah 1:8 although this text explicitly addresses the question. The Mishnah refers to various "enactments" and "decrees," to "the words of the scribes," and to various historical events. It contains numerous historical narratives about the Temple, the Sanhedrin, the rituals for a fast day, and other matters. It has brief historical disquisitions on the importance of the fast days and on the gradual decline of the rabbinic estate since the deaths of some ancient worthies. It contains numerous anecdotes (*ma'asim*). Even if the historical value of this material is negligible, it is first rate evidence for an understanding of the Mishnah on its own terms, of the Mishnah's conception of self. And yet, Neusner ignores virtually all of this material. He similarly ignores the explicit theological data of the Mishnah: its names for God; its references to the afterlife, reward and punishment, mysticism and messianism; and its creedal formulae. The excessive importance assigned to this material by theologians and "traditional" scholars cannot excuse Neusner's thorough neglect of it.

Ways Not Taken

Throughout this essay I have indicated methods which Neusner does not employ and evidence which Neusner does not consider. These omissions are perhaps attributable to his role as a "counter-rabbinist." Neusner avoids whatever is traditional and generally accepted. Here are some additional "ways not taken."

Neusner does not address sociological questions. He makes no attempt to locate the rabbis (a term he seldom uses) in a social context. Were they rich or poor? Were they rural or urban? Did they form a caste, a guild, a sect, an order, an elite, a school, or a profession? These questions are not

his concern. Instead he speaks about "priests," "scribes," and "householders" as the groups whose interests have shaped the Mishnah (the "priests" account for the Mishnah's interest in the temple and the cult, the "scribes" account for the Mishnah's penchant for list-making, and the "householders" account for the Mishnah's concern with landed property) but he never explains the social reality behind these sociological abstractions.

Neusner is not even interested in the origins of the rabbinic group, suggesting, with obvious indifference, that it may have begun as a circle of radical priests or of laymen wishing to act like priests. The name "Pharisee" hardly enters the discussion, Neusner thereby tacitly ignoring, if not rejecting, his own voluminous scholarship on this sect.¹³ Nor does Neusner use the Mishnah to get at the internal tensions within rabbinic society. Analytic prosopography would reveal that some rabbis are frequently mentioned in some tractates but not in others. What does this imply? The tensions between the patriarchal house and the disciples of R. Yohanan ben Zakkai are evident in the different versions of the chain of tradition found in the Mishnah and the *Fathers According to Rabbi Nathan*. Does the Mishnah itself document this tension? The tension between the schools of R. Aqiba and R. Ishmael is clearly shown by the Mishnah's failure to quote a single disciple of R. Ishmael (contrast the Mekhilta). None of these issues is treated by Neusner.

Details

Another indication that Neusner is a "counter-rabbinist" is his infamous inattention to details. In his great eagerness to create a new audience for the study of rabbinics and in his journalistic haste to publish his results, Neusner separates himself from traditional rabbinic scholarship. This book is no exception. Signs of hasty composition are evident. The style, although usually clear and direct, is often repetitive and laborious, occasionally even dense and impenetrable. My favorite example is the paragraph at the bottom of page 246:

Our discussion of the cathetically neutral and indifferent style of the Mishnah, its failure to speak to some distinct audience in behalf of some defined speaker, does not obscure the simple fact that the Mishnah is not gibberish. . . . Accordingly, the gnomic sayings of the Mishnah, corresponding in their deep, universal grammar to the subterranean character of an imagined reality, permit the inference that the reality so described is to be grasped and understood by people of mind. Given the unarticulated points at which stress occurs, the level of grammar autonomous of discrete statements and concrete rulings, moreover, we must conclude that the framers of the Mishnah expected to be understood by remarkably keen ears and active minds.

(Such prose, too, cannot obscure the fact that this book is not gibberish but was meant to be understood by keen ears and active minds.) The

proofreading should have been better.¹⁴ The bibliography is a curious amalgam of the relevant and the irrelevant. Prominent among the irrelevancies are numerous detailed studies of the apocalypses of Esdras and Barukh, none of which contributed anything to the formation of this book.¹⁵ It omits, however, various works which clearly had an important impact on the author. Mary Douglas, Gershom Scholem, and Saul Lieberman are not mentioned, although the influence of these scholars (especially Douglas) is apparent at every turn. Less serious but just as annoying is the bibliography's failure to note that extensive portions of this book were published elsewhere. (As is well known, whatever Neusner considers worthy of publication is published at least twice.) Many of Neusner's numerous essays of the last few years reappear here, either verbatim or in slightly revised form, but few of the originals are listed in the bibliography. The bibliography also fails to list *The Physics of the Stoics* by S. Sambursky although p. 238 refers to it. In sum, the bibliography disgraces the volume.

In a somewhat different vein, we may at least be grateful to the University of Chicago Press for sparing us the personification of the Mishnah, in which the word "Mishnah," without the definite article, can govern a verb and do other things people normally do. This affected usage is one of the philological characteristics of Neusner and his school (see e.g., the quotation on pp. 130-132 and 172-174 from the work of a beloved disciple). We are left with "taxon," "taxonomy," "problematic" (a noun), and other bits of Neusnerian jargon, but at least "Mishnah" is always preceded by "the."

Conclusion: A Noble Failure

"Counter-rabbinics" has many attractive features. It is bold, imaginative, innovative, and brilliant. Jacob Neusner is attempting to reveal Judaism's treasures to the outside world and to revolutionize Jewish scholarship in the process. This endeavor is analogous to the work of Gershom Scholem who laid bare Judaism's mystical core and revolutionized Jewish scholarship in the process. Scholem's "counter-history" is generally acknowledged to be one of the supreme achievements of contemporary humanistic scholarship. Neusner's "counter-rabbinics," however, is far more problematic and far less cogent. Like Philo's allegorical exegesis of the Torah, Neusner's philosophical exegesis of the Mishnah fails to convince. Only fervent believers will find the Logos in the Torah and the existential dilemma in the Mishnah. Perhaps the Mishnah does contain a theological or philosophical message for contemporary students of western civilization and for nonreligious American Jews, but Neusner has failed to uncover it. In spite of all his exertions, most Gentiles will continue to study the Mishnah (if they study it at all) in order to better understand various aspects of the New Testament and early Christianity. Most Jews will continue to study the Mishnah (if they study it at all) in order to fulfill their sacred obligation. But students of philosophy and the humanities, bewildered by the Mishnah's terminology, rhetoric, concepts, and subject matter, will continue to treat

this text with benign neglect. Outsiders who have tried to master the Soncino translation of the Babylonian Talmud will testify that rabbinic texts are inaccessible to the uninitiated. Neusner's Mishnah certainly is accessible to the uninitiated, but is Neusner's Mishnah the same as that of R. Judah the Patriarch? The answer is no.

In spite of all these flaws, however, both massive and minute, let the last word be one-sided: this is a brilliant and imaginative book of the first rank, an important and stimulating contribution to the modern study of rabbinics.¹⁶

NOTES

1. (Nashville: Abingdon, 1978). See my review in the *Journal of Biblical Literature* 99 (1980), pp. 627-629.

2. All of this seems very sensible, but if Neusner's methodological points are pressed rigorously, it is apparent that he has proven only that the Mishnah's system of attributions is, for the most part, internally consistent, not that it is correct. Forgers succeed in passing off their wares by making them consistent and unproblematic. A determined sceptic could argue that Neusner has proven that Rabbi Judah the Patriarch and his cohorts were a group of skilled and facile pseudepigraphers. Neusner's proofs therefore demand a modicum of faith in the ultimate reliability of the Mishnah. This faith is less in degree than the faith of those who assume without question the reliability of the Mishnah's ascriptions, but it is not different in kind.

3. Compare Deuteronomy 24:1-4 which assumes the existence of a divorce law although such a law does not appear in the Pentateuch.

4. The number of passages cited by Neusner in his discussion of this theme (pp. 270-281) is relatively small.

5. Neusner is aware (p. 48) of Geiger's observation that the tractates are arranged by the number of chapters (large tractates precede small ones) but if this order is "original" it cannot be ignored and must be interpreted.

6. (Editor's note: *Judaism and Society: The Evidence of the Talmud of the Land of Israel* has been published by University of Chicago Press, 1984.)

7. The general index does not even have an entry for Tosefta.

8. Compare, for example, the debate between E. P. Sanders and Neusner. Sanders sees in the Mishnah an extended essay on the implicit meaning of the covenant between God and Israel and on the obligations incumbent upon the individual Jew if he is to remain within the chosen group; Neusner sees none of this. See E. P. Sanders, "Puzzling Out Rabbinic Judaism," in *Approaches to Ancient Judaism Volume II*, ed. William Scott Green (Chico: Scholars Press, 1980), pp. 65-79.

9. The popular version of *Judaism: the Evidence of the Mishnah*, which I have not yet seen, is entitled *Ancient Israel after Catastrophe: The Religious World View of the Mishnah* (The University Press of Virginia).

10. The cessation of the sacrificial cult figures somewhat prominently in the *Apocalypse of Abraham*, a work which Neusner does not mention. For my views on the place of the Temple and its destruction in the development of rabbinic Judaism, see "The Destruction: From Scripture to Midrash," *Prooftexts* 2 (1982), pp. 18-39; "Yavneh Revisited: Pharisees, Rabbis, and the End of Jewish Sectarianism," *Society of Biblical Literature Seminar Papers* 1982, ed.; K. H. Richards (Chico: Scholars Press, 1982), pp. 45-61; and "The Temple and the Synagogue" (forthcoming).

11. *Judaism: The Evidence of the Mishnah*, pp. 26-28; Bowersock and Schaefer in *Approaches to Ancient Judaism Volume II*.

12. In his discussion of the relationship of the Mishnah to Scripture, Neusner at first forgets that Abot is part of the Mishnah (pp. 167-168). When he finally remembers to get to Abot (pp. 218-219), he interprets the text idiosyncratically (does the opening chapter of Abot really mean to say that the Mishnah is autonomous and equal in stature to the Written Law?)

13. See pp. 70-71. The index does not have an entry for Pharisees.

14. On p. 69 read Hallah for Chalot; on p. 71 read code for cope; on p. 74 read self-differentiation for self differentiation; on p. 133 read common for conmon; on p. 144 read with for wtih; on p. 153 read simple for simply; on p. 176 delete in (13 lines from the top); on p. 181 read independently for independent; on p. 218 read suggests for suggest (7 lines from the top); on p. 223 read exegetical for exetetical; on p. 238 read to for the (8 lines from the top); on p. 249 read 3:1-3 for 3.1-1; on p. 249 read are for is (5 lines from the bottom); on p. 251 insert a comma after slaves (8 lines from the top); on p. 365 read The Division of Damages for the Division of Women; on p. 381 insert II 19, 1-2 after the description of ANRW; on p. 382 the bibliographical entry for J. Bloch is repeated; on p. 384 read Colafemmina for Colofemmina.

15. Neusner briefly studies the overall themes of Esdras and Baruch but not to the extent that would justify the number or type of items in the bibliography. See the listings for Bartels, Bloch, Bogaert, Boyarin, Fabrega, Ferch, Hadot, Harnisch, Hayman, Jacobson, Kaminka, Klijn, Kolenkow, Luck (another typo), C. A. Moore, Nickelsburg, Pesch, Schwartz, Stanton, Stoderl, Stone, Turdeanu, Wambacq, and Zimmerman.

16. I am grateful to Professor Ismar Schorsch and, especially, Mr. Leonard Gordon for their valuable suggestions. I alone, however, am responsible for the tone and content of this review. My thinking was clarified on various matters by the detailed review of Yaakov Elman in *Judaica Book News* 12.2 (Spring/Summer 1982/5742), pp. 17-25. The reviews by W. A. Clebsch and J. J. Petuchowski in *Religious Studies Review* 9, 2 (1983), pp. 105-113, reached me after the completion of this manuscript.