



BRILL

# Revisiting the Sabbath Laws in 4Q264a and Their Contribution to Early Halakha

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## Abstract

This article evaluates the reconstruction of 4Q264a offered by Vered Noam and Elisha Qimron. While those scholars find precedent in this scroll fragment for later rabbinic and Karaite Sabbath prohibitions regarding playing musical instruments, using fire, and reading Scripture, the current article argues that this reconstruction is anachronistic and has insufficient support in the text. Instead, this article supports previous scholars whose reconstructions of this fragment of Sabbath laws include a rule encouraging singing, a prohibition against using fire for cooking but not for other uses, and a requirement to study Scriptures on the Sabbath.

## Keywords

4Q264a – Sabbath – shofar – halacha – Karaite – music

Rabbinic literature is an invaluable resource for reconstructing the texts, the law codes, and the world of the Dead Sea Scrolls.<sup>1</sup> However, as with all comparative

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1 See, for example, Lawrence Schiffman, *The Halakhah at Qumran* (Leiden: Brill, 1975); Yaakov Sussman, “The History of Halakha and the Dead Sea Scrolls: Preliminary Observations on *Miqsat Mavase Ha-Torah* (4QMMT),” *Tarbiz* 59 (1990) [Hebrew]: 11–76; Steven Fraade, “Shifting from Priestly to Non-Priestly Legal Authority: A Comparison of the Damascus Document and the Midrash Sifra,” *DSD* 6, no. 2 (1999): 109–25; Vered Noam, “Traces of Sectarian Halakha in the Rabbinic World,” in *Rabbinic Perspectives: Rabbinic Literature and the Dead Sea Scrolls, Proceedings of the Eighth International Symposium of the Orion Center*, ed. S. D. Fraade et al. (Leiden: Brill, 2006), 67–85; eadem, *From Qumran to the Rabbinic Revolution: Conceptions of*

projects, we must take methodological care not to read rabbinic literature back into the scrolls nor the scrolls into rabbinic texts. In their recent article, Vered Noam and Elisha Qimron present a new reconstruction of 4Q264a that includes a prohibition against playing musical instruments on the Sabbath, thus revealing ancient origins for a similar rabbinic enactment.<sup>2</sup> In their reconstruction, this fragment further prohibits reading Scripture and using fire on the Sabbath, prohibitions that bear affinity to later rabbinic and Karaite laws. I would like to revisit the arguments of these authors and show that their reconstructions are highly conjectural and that they have made the methodological error of reading rabbinic and medieval sources back into the Qumran scrolls. I would also like to emphasize the need to first perform a thorough source-critical analysis of the rabbinic texts before any attempt is made to draw parallels to Second Temple literature. On the other hand, the analysis below will also show how the Dead Sea Scrolls can be an invaluable tool in helping to accurately reconstruct the history of halakha.

4Q264a, a highly fragmentary manuscript of Sabbath laws, also called 4QHalakha B, consists of just a few broken lines. 4Q421 parallels this text and contains overlapping words but is even shorter and more fragmentary; it is, however, very useful in filling in some of the lacunae of 4Q264a.

4Q264a 1 i <sup>3</sup>		
כיִא אִמֵּ אֵל]	בְּאִמָּה אֵל יִקַּח אִישׁ	] 1
	גַּם הַכֹּהֲנִים בְּנֵי	] 2
	הָעוֹלוֹת וּזְבַחִים אֲשֶׁר	] 3
	גַּל] תִּסְפֹּר לְ[בְּיָמֵי] בִּכְתָבוֹ בְּיוֹם [ ]	] 4
	יִקְרְאוּ [ ] לְמַדּוֹ בַּמִּשְׁבֵּחַ אִישׁ [בְּפִיָּהוּ ]	] 5
	[ בְּכֹל דְּבָרֵי עֲבוּדָה אוֹ בְּהוֹן אוֹ בְּמִקְלָה ]	] 6
	[ בְּיוֹם הַשָּׁבֹת ] תִּזְכֹּר יְיָ [ ] בְּרַחֲמֵי אֱלֹהֵינוּ [דְּבָרֵינוּ]	] 7
	[ קוֹדֵשׁ כְּחֹק וְיָדָבֵר לְבָרֵךְ ] אֵל אֶדְבֵּר [ ] לְאִכּוֹל וּלְשֵׁן תֹּת ]	] 8

*Impurity* (Jerusalem: Yad Ben Zvi Press, 2010) [Hebrew]; and Aharon Shemesh, *Halakhah in the Making: The Development of Jewish Law from Qumran to the Rabbis* (Berkeley: University of California Press, 2009), among many others.

- Vered Noam and Elisha Qimron, "A Qumran Composition of Sabbath Laws and Its Contribution to the Study of Early Halakha," *DSD* 16 (2009): 55–96, translated and updated from the original Hebrew article, eadem, "A Qumran Composition on the Laws of the Sabbath and Its Contribution to the Early Halachic History," *Tarbiz* 74 (2005): 511–46 [Hebrew].
- Parallels from 4Q421 are underlined. The text is based on Joseph Baumgarten, "264a. 4QHalakha B," *DJD* 35:53–56, 54, but leaving out some of his more controversial reconstructions that will be analyzed below.

4Q421	[ ]	° שׁוֹרֵר בּ	[ ]	f8:1	[ ]	אֲמָהָ	[ ]	כִּי אִם אֵלֶּפֶת	[ ]	13:2
	[ ]	מִגַּלְתָּ סֵפֶר לְקִרְוֵאָה	[ ]	f8:2	[ ]	אֶ	[ ]	כִּי אִם אֵלֶּפֶת	[ ]	13:2
					[ ]	°	[ ]	לֹ	[ ]	13:3
								דְּבַרֵי קוֹדֵשׁ כְּחוֹק	[ ]	13:4

The first law in 4Q264a can be partially reconstructed based on 4Q421 13 2 as well as CD 10:21 and 11:5–6 and refers to the Sabbath limit (*tehum*). Noam and Qimron plausibly reconstruct: “אל יתהלך איש חוץ לעירו כי אַמ אֵלֶּפֶת בַּאמָה”—[No one shall go outside his city but up to a thousand cubits.”<sup>4</sup>

### Playing Instruments on the Sabbath

The next law of 4Q264a begins “Let no man take,” but the continuation is missing. Joseph Baumgarten makes no attempt to reconstruct line 2 and notes only that CD 11:3 includes a law that begins with the same first three words: אל יקח איש עליו בגדים צואים “Let no man put on himself soiled clothes.”<sup>5</sup> As for line 3, Baumgarten notes the parallel between 4Q421 8 2, “מגלת ספר לקרא,” and 4Q264a line 4, “[ ] ת ספר [ ]”. Therefore, the word לשורר ב on the previous line of 4Q421 must be inserted in a previous line of 4Q264. Baumgarten places ב לשורר in 4Q264 line 3 and reconstructs lines 2–3 as follows:

גַּם הַכֹּהֲנִים בְּנֵי אַהֲרֹן אֵל יִבְיָאוּ כְּלֵי שִׁיר לְשׁוֹרֵר בְּהֵם עַל כּוֹל הָעוֹלוֹת וְהַזְבָּחִים אֲשֶׁר

Also the priests, the sons of Aaron shall not bring musical instruments to make song with them over the burnt offerings and the sacrifices which . . .

This cannot be a ban on playing instruments on the Sabbath since, according to Baumgarten, blowing trumpets was permissible on the Sabbath in the Temple. He finds evidence for blowing trumpets on the Sabbath in 4Q493, a fragment of the War Scroll, which mentions השבתות חצוצרות—the Sabbath trumpets.<sup>6</sup> Baumgarten does not distinguish between the trumpets and other instruments, and reasons that if the former is permitted then so must be the latter. Rather, he proposes that our text contains a ban on carrying musical

4 Noam and Qimron, “Qumran Composition,” 57 and 59.

5 Baumgarten, DJD 35:54.

6 Idem, “The Sabbath Trumpets in 4Q493,” *RevQ* 12 (1987): 556–59.

instruments in public areas.<sup>7</sup> However, Baumgarten's reconstruction problematically attributes the handling of instruments to the priests even though the priests are never responsible for playing instruments. In the Bible, priests only blow the trumpets while it is the Levites who play the instruments.<sup>8</sup> If the subject of the law were carrying or playing instruments then it should have been addressed to the Levites.<sup>9</sup>

Instead, Tigchelaar places the word לשורר ב in line 2 of 4Q264a. His reconstruction reads: "One should not take (=use) one's tongue (לשונו) except<sup>10</sup> to sing on the day of Sabbath."<sup>11</sup> The phrase to take one's tongue is found at Jer 23:31 referring to false prophets, "הלקחים לשונם—who wag their tongues" (NJPS). This rule would tie in with the law at lines 7–8: "One should not speak a word except to speak words of holiness. In accordance with the decree one shall speak to praise God. Indeed, one may speak a word regarding eating and drinking."<sup>12</sup> Because he places the words "לשורר ב" in line 2, Tigchelaar provides no suggestion as to what was in line 3, but it would presumably be related to the previous law, since it begins with "גם—also." Tigchelaar's reconstruction is preferable to that of Baumgarten not only because, as noted above, the priests did not play instruments, but also because the word לשורר generally means to sing, not to play an instrument.<sup>13</sup>

Noam and Qimron offer a new reconstruction for these lines:

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- 7 Baumgarten, DJD 35:55, then notes, "For the talmudic theory that the restriction on sounding the shofar on the Sabbath stemmed from the concern that it might be carried in public precincts see *b. Roš Haš. 29b*." See further on this point below.
- 8 Ezra 3:10, 2 Chr 5:12 and 29:25–26.
- 9 It is possible that the law addresses only priests because only priestly activities in the Temple regularly trump Sabbath prohibitions. We may have thought that priests but not Levites could play instruments and so this scroll emphasizes that even priests may not play instruments. However, there is no evidence that priests would play any instrument besides the trumpets on any day.
- 10 Hebrew for "except" would be "כִּיֹּא אִם," a phrase that also appears in line 1 as reconstructed from 4Q421.
- 11 E. J. C. Tigchelaar, "Sabbath Halakha and Worship in 4QWays of Righteousness: 4Q421 11 and 13+2+8 par 4Q264a 1–2," *RevQ* 18 (1998): 365; and idem, "More on 4Q264a (4QHalakha A or 4QWays of Righteousness(c)?)," *RevQ* 19 (2000): 454.
- 12 My translation based on the reconstruction of Noam and Qimron.
- 13 See 1 Sam 18:6–7; 2 Chr 29:28. Even as a noun, כְּלֵי שִׁיר in 2 Chr 7:6 et al. is best translated, "instruments to accompany song." See Francis Brown et al., *The Brown-Driver-Briggs Hebrew and English Lexicon* (Peabody: Hendrickson Publishers, 2001), 1010.

] אל יתהלך איש חוץ לעירו כיא אמ אל[ף באמה אל יקח איש	1
[כול כלי שיר לשורר בהם ביום השבת [ גם הכוהנים בני	2
[אהרון אל יקחו כלי שיר לשורר בהם על [העולות והזבחים אשר	3
[יקריבו בשבת	4

- 1 [No one shall go outside his city but up to a thousand cubits. No one shall take
- 2 [any musical instruments to play them on the Sabbath]. Also the priests, the sons of
- 3 [Aaron, shall not take any musical instruments to play them over] the burnt-offerings and the sacrifices which
- 4 [they sacrifice on the Sabbath.

Noam and Qimron suggest that lines 1–2 record a prohibition against not only carrying instruments outside, as Baumgarten suggests, but against playing them on the Sabbath, i.e. taking them to be played.<sup>14</sup> The next sentence in line 2 beginning with “also” then applies this law specifically to the priest who also may not play instruments on the Sabbath even as part of the sacrificial rites. This reconstruction contains several problems, the first of which Noam and Qimron themselves note. As we pointed out above for Baumgarten’s reconstruction of line 3, it is the Levites who are entrusted with playing instruments, while the priests only blow trumpets. Noam and Qimron consider the reconstruction: “Also the priests the children of Aaron may not take trumpets (חצוצרות) in order to blow them upon the burnt-offerings and the sacrifices.” However, they reject this because of the cave 4 fragment of the War Scroll mentioning חצוצרות השבתות—the Sabbath trumpets, revealing that trumpets were permitted on the Sabbath, as noted above. Moreover, the parallelism with the first law in 4Q264a suggests that this law should also be about musical instruments. They conclude that “in the absence of a complete text, the precise nature of this prohibition remains obscure.”<sup>15</sup>

Since Noam and Qimron emphasize the close connection between the laws in lines 1–2 and 2–3, doubt about the latter also undermines their

14 Baumgarten does not distinguish between trumpets and other instruments, and since trumpets are permitted in the Temple, he deduces that this law could not prohibit playing instruments. He therefore limits the law to carrying instruments. However, Noam and Qimron do distinguish trumpets from other instruments and therefore can maintain that this scroll prohibits playing other instruments.

15 Noam and Qimron, “Qumran Composition,” 80.

reconstruction of the former. Despite this problem, they remain confident in their reconstruction of line 2 and even use it as a foundation for several far-reaching conclusions. First, they argue that the rabbis permit the playing of all instruments in the Temple on the Sabbath and propose that the rabbis are polemicizing against the sectarians who permit playing only trumpets but not other instruments. Baumgarten counters, however, that since the distinction they propose “between trumpets and other musical instruments can only be maintained with difficulty,”<sup>16</sup> it is more likely that the sectarians are in agreement with Josephus and the rabbis in permitting all instruments in the Temple.

Second, Noam and Qimron conclude that this fragment “demonstrates that the prohibition against playing musical instruments on the Sabbath was an early one, dating to the Second Temple period.”<sup>17</sup> Indeed, other than this fragment, the earliest source for a prohibition against playing musical instruments on the Sabbath is in the Bavli. However, source critical analysis reveals that this prohibition is a Bavli innovation and not based on an ancient tradition.

Let us review some of the rabbinic sources on this issue. *M. Beṣah* 5:2 lists activities that are prohibited on the Sabbath because of *shevut* (rest) based on Isa 58:13 and includes a law that “one may not clap, one may not slap, and one may not dance.” A number of early sources indicate that the problem in this case is not beating to a musical rhythm but rather making noise in general. Many Tannaitic texts prohibit making disturbing noises on the Sabbath and make no mention of playing music. *T. Šabb.* 17:25 rules: “One who is guarding seeds from birds and gourds from animals may guard them on the Sabbath as he normally does as long as he does not clap, dance, or slap as he does on a weekday.”<sup>18</sup> Presumably, the issue here is not making musical or rhythmic sounds but rather making disturbing noises in order to scare away animals. *T. Šabb.* 2:7 teaches: “One may raise water with a siphon, and allow it to drip from a perforated vessel for a sick person on the Sabbath.”<sup>19</sup> Here too, this vessel makes noise, not music.<sup>20</sup> R. Eleazar in the Yerushalmi explicitly states,

16 Joseph Baumgarten, “A Proposed Re-interpretation of Qumran Shabbat Regulations,” in *Zaphenath-Paneah: Linguistic Studies Presented to Elisha Qimron on the Occasion of His Sixty-Fifth Birthday*, ed. D. Sivan, et al. (Beer-Sheva: Beer-Sheva University Press, 2009), \*10.

17 Noam and Qimron, “Qumran Composition,” 71.

18 Ms. Vienna.

19 Ms. Vienna. See analysis at Saul Lieberman, *Ha-Yerushalmi ki-fshuto* (Jerusalem: Hotsa’at Darom, 1934), Shabbat, 3:32.

20 This is also the reason for the law at *t. Šabb.* 12:13 as well as the last law of *t. Šabb.* 1:23 as explained at *y. Šabb.* 1:5, 4a, and *b. Šabb.* 18a. See analysis at Lieberman, *ibid.*, Shabbat 3:22–23.

“Anything that produces sound is prohibited on the Sabbath.”<sup>21</sup> The Yerushalmi continues to cite precedents of various sages who would not knock on a door or on a cup to get someone’s attention. Commenting on Isa 58:13, “nor speak a word,” Leviticus Rabbah comments: “When the mother of R. Shimon bar Yohai used to talk too much on the Sabbath, he would tell her, ‘It is the Sabbath!’ and she would be quiet.”<sup>22</sup> Collectively, these Palestinian sources indicate a prohibition against making excessive noise on the Sabbath in order to maintain a restful and peaceful environment.<sup>23</sup> They do not contain any prohibition against playing musical instruments.

In the Bavli, however, Rava makes a radical departure from the Palestinian law and states categorically that only musical sound is prohibited. *B. Erub.* 104a proceeds to question Rava’s stance based on the above mentioned sources from the Tosefta.<sup>24</sup>

Rava<sup>25</sup> said to him [Ula]:<sup>26</sup> They only prohibited a musical sound.

Abaye challenged him: “One may raise water with a siphon, and allow water to drip from a perforated vessel for a sick person on the Sabbath.”<sup>27</sup> For a sick person it is permitted but not for a healthy person. What is the case? Is it not that he is sleeping and he wants to wake him up and<sup>28</sup> making any<sup>29</sup> sound is prohibited?

No, he is awake and he wants him to sleep and so it sounds like a humming sound.

He<sup>30</sup> challenged him: “One who is guarding his fruit<sup>31</sup> from birds and his gourds from animals may guard them on the Sabbath as he normally does

21 *Y. Beṣah* 5:2, 63a.

22 *Lev. Rab.* 34. In this case, however, the problem might be specifically talking—based on Isa 58:13—and not a general prohibition against making noise.

23 See further at David Henshke, “Teqī‘at shofar be-Shabbat,” *Sidra* 8 (1992): 31–34.

24 Follows Geniza fragment T-S F2(2).23, unless otherwise noted. Only major variants are recorded.

25 The Geniza fragment reads “Rava” but is changed to “Rabbah” above the word. Pisaro and Venice editions read “Rabbah,” but mss. Oxford and Munich, the Fez edition, as well as the vast majority of Rishonim, read “Rava.” See *Diqduqe soferim*.

26 Ms. Munich omits “to him.”

27 *T. Šabb.* 2:7.

28 Ms. Oxford and printed editions add, “we can conclude from this.”

29 Ms. Oxford and printed editions omit, “any,” but it is present in ms. Munich.

30 Ms. Oxford reads, “They.”

31 Ms. Oxford reads, “seeds.”

as long as he does not<sup>32</sup> clap, dance, or slap as he does on a weekday.”<sup>33</sup> What is the reason? Is it not because he is making a sound and making any<sup>34</sup> sound is prohibited?

Rav Aha bar Jacob said: It is a safeguard lest he come to pick up a pebble . . .

Come and learn:<sup>35</sup> “One may draw water<sup>36</sup> from the great cistern<sup>37</sup> using a wheel on the Sabbath.”<sup>38</sup> In the Temple it is permitted<sup>39</sup> but in the country it is not. What is the reason? Is it not because<sup>40</sup> he is making a sound?<sup>41</sup>

No, it is a safeguard lest he draw water for his garden or for his ruin.

Rava introduces a significant change in the law of making noise in comparison with his Palestinian predecessors by shifting the prohibition to only musical sounds. The Talmud deflects the first challenge to Rava’s ruling from *t. Šabb. 2:7* by deeming the soothing white noise created by the perforated vessel to be musical. The Talmud next presents a second objection from *t. Šabb. 17:25* but deflects this source too by explaining that the reason one may not make noise to scare away birds is only because one may then come to pick up a pebble to throw at the birds, which would violate the biblical prohibition of carrying in a public domain. By explaining the Tosefta not as a prohibition of making noise per se but rather as a safeguard to the biblical prohibition of carrying, the

32 Ms. Oxford omits, “may guard them on the Sabbath as he normally does as long as he does not,” and reads instead, “behold he may not.”

33 *T. Šabb. 17:25*.

34 Ms. Oxford omits, “any.”

35 Ms. Oxford and printed editions read, “We learned,” indicating that this source is a Mishnah. Ms. Munich reads with the Geniza, as translated.

36 All other witnesses add, “from the cistern of the exiles and.”

37 Ms. Munich and the Pisaro edition omit “and from the great cistern.”

38 *M. Erub. 10:14*. Ms. Oxford adds, “from the Hakar cistern on a festival,” following the text of the Mishnah. For variant readings and analysis of the Mishnah, see, Shmuel Safrai and Ze’ev Safrai, *Mishnat Eretz Israel* (Jerusalem: E. M. Liphshitz College Publishing House, 2008), Eruvin, 352–58; and Abraham Goldberg, *The Mishna Treatise Erubin* (Hebrew; Jerusalem: Magnes Press, 1986), 310–12.

39 The Geniza fragment adds “on the Sabb[ath ]” with a lacuna. I have omitted these words following all other witnesses.

40 Geniza omits “because,” but I provide it based on all other witnesses.

41 Ms. Oxford adds, “and making a sound is prohibited.” Ms. Munich and printed editions add only, “and is prohibited.”



Talmud limits the application of the Tosefta to only the case of scaring away animals.

The Talmud here does not discuss the related law at *m. Beṣah* 5:2, which categorically prohibits clapping, slapping, and dancing. However, *b. Beṣah* 36a explains these prohibitions as rabbinic safeguards “lest one come to repair musical instruments.” The *stam* there likely had Rava’s limitation in mind by limiting the Mishnah’s prohibition to clapping and dancing to a rhythm, while permitting other types of noise.<sup>42</sup> The original Mishnah, however, exemplifies the earlier Palestinian prohibition against making noise, not playing instruments.

*B. Erub.* 104a then cites a Mishnah that names two cisterns as exceptional in that it is permitted to draw water from them using a wheel on Shabbat. This implies that drawing water using a wheel<sup>43</sup> from all other cisterns is prohibited. The Mishnah does not provide any reason for this prohibition. However, Second Temple sources can help fill in the background. Both Jubilees and the Damascus Document specifically prohibit drawing water on the Sabbath.<sup>44</sup> The original law is thus an independent prohibition and not a safeguard to something else. The Bavli’s initial assumption that drawing water causes a problem of excess noise and commotion that is inappropriate on the Sabbath is likely very close to the Second Temple and Mishnaic conception of the law.<sup>45</sup> The Bavli solves the problem by explaining the law as a safeguard lest one might come to use the drawn water to water one’s garden or ruin and not because of making noise.

42 See further analysis at Richard Hidary, “‘You May Come to Fix a Musical Instrument’: The Reasons for the Shevut Laws in the Bavli,” forthcoming.

43 Some textual witnesses omit “with a wheel” from the Mishnah; see Safrai, *Mishnat*, 353. This could possibly indicate that drawing water in any fashion is prohibited in all places besides the two mentioned in the Mishnah. This would accord with the categorical language found in *Jubilees* 2:29 and 50:8, and is also close to the formulation in the Damascus Document 11:1–2, which prohibits drawing water with a vessel. According to versions that do include “wheel,” only drawing with a wheel would be prohibited in other places but drawing without such a mechanism would be permitted. Even manuscripts that omit “wheel” most likely assume it and should be interpreted as if it were there. According to this reading, the Mishnaic prohibition is much more limited than that of the Second Temple sources. Nevertheless, the various prohibitions on water drawing most likely share some common ancestry.

44 See the previous note and further at Schiffman, *The Halakhah at Qumran*, 102–4. A prohibition against drawing water is also mentioned in 4Q421 11 3.

45 See commentaries cited above, n. 38. See also *t. Erub.* 8:21–22 and Lieberman, *Ha-Yerushalmi ki-fshuto*, 467–68.

The Bavli's explanations of these various laws related to making noise as rabbinic safeguards serves to limit their application. In this way, the Bavli is able to abrogate the original prohibition against making disturbing noises in favor of Rava's innovation proscribing only the playing of music. Since the prohibition against playing music is strictly a Bavli innovation not found in any Palestinian rabbinic sources, there is no reason to look for a precedent for it in Second Temple sources either.<sup>46</sup>

Noam and Qimron acknowledge that Palestinian sources only record a prohibition against making excessive noise and make no mention of musical instruments. Nonetheless, they assume that the prohibition of making noise "primarily entailed the use of musical instruments."<sup>47</sup> However, since the original sense of the Tannaitic law is to forbid acts that disturb the restfulness of the Sabbath, it is precisely disturbing noises that would be the target of the law, not melodious tunes. Noam and Qimron have read the distinctive Bavli approach back into their understanding of the Tannaitic sources as well as back into their reconstruction of 4Q264a even though it would be anachronistic to expect any mention of a prohibition against musical instruments in pre-Tannaitic sources. Therefore, this reconstruction faces both conceptual and textual difficulties: conceptual, because there is no basis for outlawing music, and textual, because line 2 cannot apply to the priests mentioned in line 3, as discussed above. Instead, I prefer the reconstruction of Tigchelaar that reads here a prohibition against speaking about secular matters, considering that most of the fragment is an expansion of Isa 58:13.

Noam and Qimron further suggest the possibility that this fragment is an early attestation of the Bavli's reasoning that one may not blow the shofar on Rosh Hashanah that falls on the Sabbath because one may come to carry it in a public domain. They propose that this fragment similarly links playing instruments to carrying by using the language "Do not take/carry" to mean "Do not play."<sup>48</sup> First, let us review the sources.

*M. Roš Haš.* 4:1 rules that if Rosh Hashanah falls on the Sabbath, one blows the shofar only in the Temple and nowhere else. *Y. Roš Haš.* 4:1, 59b, provides

46 Even within the Bavli, we find the original law against making noise as late as Rabbah (following mss. St. Petersburg, and Oxford; mss. Munich 95, Vatican 127, London, and ed. Sconcino read "Rava") who explains that one may not use a water mill on the Sabbath "because it makes noise" (*b. Šabb.* 18a). The prohibition against music is absent not only from Palestinian sources but also from the earlier strata of the Bavli prior to Rava.

47 Noam and Qimron, "Qumran Composition," 70.

48 *Ibid.*, 66 n. 25. See also a hint to this idea in Baumgarten, *DJD* 35:55, cited above, n. 7.

a biblical source for this. Namely, the Torah includes two verses commanding the blowing of the shofar on Rosh Hashanah: Num 29:1 calls it “a day of blasting” the shofar, while Lev 23:24 calls it “a remembrance of blasting” the shofar; the former applies to blowing the shofar when Rosh Hashanah falls on a weekday, while the latter teaches that one only mentions but does not actually blow the shofar when Rosh Hashanah falls on the Sabbath. However, the juxtaposition of the latter verse with what follows it in Lev 23:25, which permits one to offer sacrifices on this day in the Temple, teaches that the shofar may be blown in the Temple even on the Sabbath.

*B. Roš Haš.* 29b rejects the reasoning presented in the Yerushalmi since it considers the prohibition to blow the shofar to be only rabbinic in the first place and so no biblical verse would be needed to permit it. Rather, the Bavli explains:

Rava, said: From the Torah it is totally permitted and it is the rabbis who made a safeguard, like Rabbah.

For Rabbah says, “Everyone is obligated to blow the shofar but not everyone is an expert in blowing shofar. [The rabbis thus prohibit blowing on the Sabbath as] a safeguard lest one carries it in his hand and goes to an expert to learn and he will carry it four *amot* in the public domain.”

This safeguard, however, would not apply in the Temple where rabbinic safeguards are always permitted.<sup>49</sup> So far, these sources follow the trend we have already witnessed. Palestinian sources impose a biblical prohibition on making sounds on the Sabbath and therefore require a biblical source for an exception on the Sabbath in the Temple, while the Bavli does not consider these *shevut* laws to be biblical but rather explains them as rabbinic safeguards.

Noam and Qimron write: “The scholarly consensus holds that ‘Rabbah’s decree,’ which interprets this custom as coming to prevent the transporting of the shofar four cubits in the public domain, reflects a late, secondary Babylonian rationale. Perhaps, in light of our fragment, the possibility that Rabbah transmitted echoes of an early Palestinian rationale should be examined. This matter merits further study.”<sup>50</sup> This further study was already conducted by Hanokh Albeck, who argues that Rabbah actually applied this safeguard originally to the cases in *b. Beṣah* 18a (and *b. Pesah.* 69a) and it was

49 See *b. Pes.* 65a and Yitzhak D. Gilat, *Studies in the Development of the Halakha* (Jerusalem: Bar-Ilan University Press, 1992), 105–6 [Hebrew].

50 Noam and Qimron, “Qumran Composition,” 66 n. 25.

Rava who transferred his words to *b. Roš Haš.* 29b.<sup>51</sup> (Presumably, then, the *stam* transfers it also to *b. Meg.* 4b and *b. Sukkah* 42b.) *M. Beṣah* 2:2 prohibits one to immerse oneself in a *mikveh* together with other objects on the Sabbath that precedes Yom Tov. *b. Beṣah* 18a discusses the reason for this law:

What is the reason? Rabbah said, “This is a safeguard lest one come to take the vessel in hand and carry it in a public domain.” Abaye said to him, “What would you say if he has a well in his own courtyard?” He said to him, “There is a safeguard from a well in his courtyard to a well in public domain.”

Several factors recommend *b. Beṣah* 18a as the original context of Rabbah’s statement. First, the dialogue between Rabbah and Abaye at *b. Beṣah* 18a adds a degree of authenticity to this source over the other citations of Rabbah’s statement. That Abaye could have asked a similar question in other contexts as well but does not suggests that *b. Beṣah* 18a is the original site for Rabbah’s law. Second, in the context of *b. Beṣah* 18a, Albeck argues, it is very likely that a person would want to dunk himself and his clothing at the same time and would undress near the *mikveh* and carry his clothing four *amot*. In that case, Rabbah’s safeguard addresses a regularly occurring problem. The more tenuous reasoning for the safeguard in the case of *shofar* (couldn’t the expert come to the synagogue?) suggests that *b. Roš Haš.* 29b comprises a secondary application of a previously accepted line of reasoning. Third, *b. Roš Haš.* 29b explicitly distinguishes between Rava’s statement and the citation of Rabbah’s law. Rava declares in his own words that only a rabbinic injunction prevents the blowing of the *shofar* on Shabbat and then cites Rabbah as precedent. The next sentence, not necessarily part of Rava’s utterance, then quotes Rabbah’s full statement. In Albeck’s reading, Rava had Rabbah’s *mikveh* safeguard in mind when making his own application to *shofar* and then the *stam* reformulated Rabbah’s words to fit the Rava’s *shofar* application and appended it onto Rava’s statement. If this is true, it would definitively refute the already improbable conjecture of Noam and Qimron, since the connection between not blowing *shofar* and carrying is only a late Bavli innovation by Rava unknown even to Rabbah and certainly without Second Temple precedent.

Even if Albeck lacks definitive proof for his theory, it nevertheless stands on firmer ground than that of Noam and Qimron who first problematically insert the word “instruments” and then proceed to wonder why the writer would need to ban carrying instruments specifically if CD 11 already prohibits carry-

51 Hanoch Albeck, *Mavo la-Talmudim* (Tel-Aviv: Dvir, 1987), 639–40 [Hebrew].

ing all objects.<sup>52</sup> Rather than abandon their theory on account of this difficulty, they proceed to interpret “take” as “take in order to play.” Wondering further why the writer of the scroll would use the word for “carry” to mean “play,” leads Noam and Qimron to the suggestion that this reflects “The blurring of the boundaries in our fragment between the prohibition against playing musical instruments on the Sabbath and the one against carrying them.”<sup>53</sup> Noam and Qimron propose a reconstructed text and then proceed to draw further interpretations from the very exegetical difficulties they have created.

To return to the larger issue of playing instruments on Shabbat, it seems to me that in an effort to find an early echo of the Bavli’s laws, Noam and Qimron have glossed over textual problems within the fragment as well as ignored the evolutionary steps in the history of this law. They read into the Qumran fragment a late Bavli safeguard that could not possibly have been there.

### Reading Scripture on the Sabbath

The same methodological problem of reading a rabbinic law back into a Qumran regulation appears also in Noam and Qimron’s reconstruction regarding reading Scripture on the Sabbath. 4Q264a i i 4–5 (with 4Q421) reads:

[ גל ] תִּסְפֹּר לְבִיאוֹ בכתבו ביום [ ]	4
[ יִקְרָא־וּ ] לִמְדוּ בַּסֵּפֶר אִישׁ בְּפִיָּהוּ [ ]	5

These lines contain a law relating to reading and learning from scrolls in the context of Sabbath laws; however, it is too fragmentary to derive any further information. A parallel text at 4Q251 i ii 4–5 reads:

[ -- אל ] יוצא איש ממקומו כל השבת	4
[ מן החוץ אל הבית ] וְאִם הָיָה הַחֵץ [ -- ] לֹו לְדִרוּשׁ וְלִקְרָא בַּסֵּפֶר בְּ[ שַׁבָּת ]	5

Immediately preceding the law about reading scrolls in 4Q251 is a law prohibiting the transfer of objects from a house to the outdoors.<sup>54</sup> We cannot know

52 Noam and Qimron, “Qumran Composition,” 65.

53 Ibid., 66 n. 25.

54 See analysis at Lutz Doering, “New Aspects of Qumran Sabbath Law from Cave 4 Fragments,” in *Legal Texts and Legal Issues. Proceedings of the Second Meeting of the International Organization for Qumran Studies, Published in Honour of Joseph M. Baumgarten*, ed. M. Bernstein, et al. (Leiden: Brill, 1997), 256–64.

precisely how much space there is before the word לו in line 5, but it likely allows for not more than one short word.<sup>55</sup> The DJD editors propose that this passage contains “a positive command to study the Bible on Shabbat.”<sup>56</sup> Another law that shares vocabulary with this one is at 1QS 6:6–7 requiring daily study: “ואל ימש במקום אשר יהיו שם העשרה איש דורש בתורה יומם ולילה תמיד על יפות” איש לרעהו והרבים ישקודו ביחד את שלישית כול לילות השנה לקרוא בספר ולדרוש משפט אחד—ולברך ביחד—There shall not be lacking in any place where there are ten people someone expounding the Torah day and night always, one replacing another. The multitude will set watch together one third of every night throughout the year to read Scripture and expound law and bless together.” Considering the emphasis placed by the Yahad on constant Scriptural study and the special place of the Sabbath as a time set aside for study even by non-sectarians,<sup>57</sup> these two Qumran fragments seems to require an intensive period of study on the Sabbath. Tigchelaar also reads these lines as an injunction and suggests that line 4 relates to the public reading of Scripture in the synagogue while line 5 describes teaching those books in an assembly.<sup>58</sup>

The DJD editors of 4Q251 offer another possible interpretation by reading לו line 5 as לוא, a variant which does occur frequently in the Scrolls.<sup>59</sup> In this reading, the fragment prohibits reading and studying some books on the Sabbath. Baumgarten assumes that 4Q264a is also a restriction. He raises the possibility that the fragment prohibits reading Scriptural books but rejects this, considering that Philo<sup>60</sup> writes that Jews would typically spend the Sabbath listening to a priest or elder read and explain to them “sacred laws,” presumably from Scripture.<sup>61</sup> Instead, he proposes that the word בכתבו in line 4 prohibits checking a scroll letter by letter in order to correct it. Only reading Scripture to study

55 E. Larson et al., “251. 4QHalakha A,” in *Discoveries in the Judaean Desert* (Oxford: Clarendon, 1999), 35:28. Possible candidates for this word are ש or צריך. On the usage of ש followed by a proper noun or pronoun and an infinitive, see 2 Chr 25:9; *m. Roš Haš.* 2:9; *m. Sanh.* 5:4, 6:1; and *m. Soṭah* 9:15. In those contexts, the phrase means “can” but perhaps it can also mean “should” or “must,” as in this context. צריך followed by a pronoun and an infinitive is used in Amoraic literature in the sense of “one must”; see *y. Ned.* 5:5, 39a; *y. Šeb.* 6:2, 36c; and *Avot R. Nat.* B 21.

56 Ibid. 35:30.

57 See Philo, *Hypothetica* 7:12–13 and further at Yitzhak D. Gilat, *Studies in the Development of the Halakha* (Jerusalem: Bar-Ilan University Press, 1992) [Hebrew], 350–54.

58 Tigchelaar, “Sabbath Halakha,” 369.

59 See Elisha Qimron, *The Hebrew of the Dead Sea Scrolls* (Atlanta: Scholars Press, 1986), 21. The word לו followed by an infinitive is also found at 4Q266 f6i:11: ואם לו ליוסף.

60 See n. 57 above.

61 Baumgarten, DJD 35:55.

it is permitted, presumably the subject of line 5. The distinction between reading in order to correct and reading for study is found in *m. Meg.* 2:2 but has little basis in the scroll.<sup>62</sup> If we read the law as an injunction, the word בכתבו may simply reflect a practice of reading the text from a written copy rather than reciting it by heart.<sup>63</sup>

Noam and Qimron provide the following reconstruction and translation:

	[אל יקח איש מגל]ת ספר [לקרו] א בכתבו ביום [השבת]	4
	[רק הרבים יקחו כתבים ו] יקראו [ו] ילמדו במ	5
4	[No one shall take a scr]oll [to rea]d his own book on the [Sabbath]	
5	[Only the public may take books to] read [and] study them.	

They similarly reconstruct 4Q251 fi 2:5 as a prohibition:

[ואין] לו לדרוש ולקרא בספר ב[יו]ם [השבת]

They deduce that the latter text must be a prohibition, since 4Q251fi contains two other prohibitions, both of which are based on scholarly reconstructions. However, this fragment also contains other laws that are mostly undecipherable but may very well have been positive injunction. Even reading the immediately previous law as reconstructed, a positive injunction here makes perfect sense: Do not transport your wares<sup>64</sup> into or out of your house on the Sabbath; rather, spend the time studying and reading Scripture.

Noam and Qimron point out that 4Q264a also “is devoted entirely to Sabbath related prohibitions.”<sup>65</sup> As an example of a prohibition, they include playing

62 *M. Meg.* 2:2 discusses the commandment to read the book of Esther and has no relation to laws of the Sabbath. In any case, did the Dead Sea Sect prohibit writing on the Sabbath? Even if they did, can we really presume based on this one word that the sect would further impose a safeguard that one should not check the letters lest one come to correct it on the Sabbath? Furthermore, even if כתב in *m. Menah.* 3:7 means “letter,” it is not clear how בכתבו (“in its writing”) translates to checking letter by letter.

63 Compare *y. Meg.* 4:1, 74a; and *b. Git.* 60b, “Words that are written you may not recite by heart.” Whereas the Rabbis codify this practice as a regulation to ensure the separation between the written and oral law, the reference to reading the Torah as written in the Qumran fragments may be not a prescription but rather simply a description of the common practice.

64 I have inserted wares into my paraphrase of 4Q251 because I think that is how the law likely would have been understood based on Jer 17:21–22 and Neh 13:15.

65 Noam and Qimron, “Qumran Composition,” 81.

instruments, which derives from their own problematic reconstruction. Furthermore, this fragment also includes positive prescriptions: “except to [talk of holy things as is lawful, and to ut]ter blessings of God. Yet, one may talk (in order) to eat and to dr[ink].”<sup>66</sup> If we read lines 1–3 according to Tigchelaar’s reconstruction as discussed above, then a positive injunction here flows perfectly: one should not use one’s tongue except to sing on the Sabbath and the same is true for the priests; rather, everyone should read and study Scripture. Tigchelaar thus takes this entire text as a set of laws—both injunctions and prohibitions—regulating the proper use of one’s time and speech on the Sabbath.<sup>67</sup> Lines 1–5 and 7–8 detail appropriate forms of speech such as singing, reading and teaching Scripture, and blessing God, while lines 5–7 prohibit discussing monetary and work-related matters.

Having established that the contexts of neither 4Q251 nor 4Q264a require that we reconstruct in these fragments a prohibition against reading Scriptures, let us turn to the arguments of Noam and Qimron from rabbinic sources.<sup>68</sup> *M. Šabb.* 16:1 states:

כל כתבי הקודש מצילים אותם מפני הדליקה בין שקורים בהם ובין שאינן קורים  
בהם אף על פי כתובים בכל לשון וטעונים גניזה  
מפני מה אין קורים בהם מפני ביטול בית המדרש

All Holy Scriptures may be saved from fire—whether we read them or whether we do not read them, even if they are written in any other language—and they require storage.

Why do we not read them? Because of neglect of the study house.<sup>69</sup>

This Mishnah contains many interpretive difficulties and has generated much discussion in the Talmuds, commentaries, and scholarly literature.<sup>70</sup> The most

66 Translation from Baumgarten, DJD 35:54.

67 Tigchelaar, “Sabbath Halakha,” 369. See also Alex Jassen, *Scripture and Law in the Dead Sea Scrolls and Ancient Judaism* (Cambridge: Cambridge University Press, 2014), ch. 5.

68 Baumgarten, “A Proposed Re-interpretation,” \*10, calls for an evaluation of Noam and Qimron’s proposal “in the light of the rabbinic allusions to restrictions on Shabbat reading.” I hope the following analysis will fulfill his expectation at least to some degree. While Baumgarten is open to preferring Noam and Qimron’s theory over his own, I prefer reading the law as an injunction, as does Tigchelaar.

69 Text follows Geniza fragment T-S E. 1.43. See discussion at Shamma Friedman, “The Primacy of Tosefta in Mishnah-Tosefta Parallels—Shabbat 16, 1: Kol Kitve ha-Kodesh,” *Tarbiz* 62 (1993): 313–18, 323 [Hebrew].

70 See *ibid.* and references at Noam and Qimron, “Qumran Composition,” 85 n. 85.



straightforward explanation of the first line of the Mishnah seems to be that all scrolls of Scripture may be saved from a fire on the Sabbath, even in violation of the rabbinic prohibition against carrying into a courtyard. This applies not only to scrolls that are read, but also to those that are not read because they are damaged or contain errors,<sup>71</sup> and even scrolls of Scripture written in languages other than their original Hebrew. All these are saved on account of their sacred status, which also requires that one may not throw them in the trash but must store them away. So far, we do not find here any prohibition against reading Scriptures.

The last line of the Mishnah, however, does teach us that some books are prohibited, because reading them will cause people to neglect going to the study house. This line seems to be a later gloss that provides a different interpretation of the phrase “whether we do not read them” in the first line.<sup>72</sup> According to this gloss, certain Scriptural books may not be read on the Sabbath “because of neglect of the study house,” although they still maintain holy status and so must be saved and require storage. The Talmuds explain that only works of Ketubim (Hagiographa) fall under this category. Since people enjoy studying these books, some people will prefer reading Ketubim at home over attending the rabbi’s lecture in the study house.<sup>73</sup> Tannaitic sources, however, do not express this distinction between Ketubim and other biblical books but rather seem to ban all of Scripture. Presumably nobody would have outlawed the widespread public reading of the Torah and Prophets in synagogues. Rather, this likely refers to private reading of Scripture.<sup>74</sup> Reading Scripture will divert people’s attention away from studying rabbinic law and interpretation. The clearest expression of this prohibition<sup>75</sup> is in *t. Šabb. 13:1*.<sup>76</sup>

71 This is the initial understanding of the Yerushalmi Shabbat 16:1, 15b. See also E. E. Urbach, “Targum ve-Tosefta,” in *Saul Lieberman Memorial Volume* (ed. Shamma Friedman; New York: Jewish Theological Seminary of America, 1993), 51–63, 55–56 [Hebrew].

72 Nehemiah Brüll, “He’arot shonot,” *Beth Talmud* 4 (1885): 75 [Hebrew], shows that this explanation borrows terminology from other rabbinic laws and must therefore be a later application. See also Friedman, “Primacy of Tosefta,” 321.

73 *Y. Šabb. 16:1, 15b*; and *b. Šabb. 115a*.

74 See Friedman, “Primacy of Tosefta,” 328–29; and Noam and Qimron, “Qumran Composition,” 83–84.

75 Noam and Qimron, *ibid.*, 83, also point to *t. Šabb. 1:11* as another source for this prohibition, relying on Saul Lieberman, *Tosefta ki-fshutah* (New York: The Jewish Theological Seminary of America, 1955–1988), Shabbat, 3:9–10. However, this interpretation has been rejected by Moshe Asis cited at Friedman, “Primacy of Tosefta,” 329 n. 44, although Friedman makes a valiant attempt to defend Lieberman.

76 Ms. Vienna.

אף על פי שאמרו אין קורין בכתבי הקדש אבל שונים בהן ודורשין בהן ואם צריך לו  
 דבר לבדוק נוטל ובודק  
 אמר ר' נחמיה מפני מה אמרו אין קורין בכתבי הקדש מפני שטרי הדיוטות שיאמרו  
 בכתבי הקדש אין קורין קול וחומר בשטרי הדיוטות

Even though they have said, “One may not read Scriptures,” one may recite them, expound upon them, and if he needs to check something he can take it and check. R. Nehemiah said, why did they say, “One may not read Scriptures”? Because of secular document, so that they will say, “One may not even read Scriptures, all the more so secular documents.”

The Tosefta cites a previous source that is not extant in any other rabbinic source<sup>77</sup> that prohibits one from reading any Scriptures on the Sabbath. The Tosefta then qualifies the ancient law by adding that one may recite Scriptures by heart and expound upon them and even check a particular phrase as long as it is not a sustained reading. This qualification actually conforms to the Mishnah’s explanation that reading Scriptures will distract people from rabbinic midrash: if one is studying the midrashic interpretations and only looks to the written scrolls as a reference text then it is permissible. The Tosefta, however, provides a reason for this prohibition different from that in the Mishnah. R. Nehemiah explains that the rabbis wanted to prevent people from reading secular documents, which would violate the sanctity of the Sabbath. Once one is already reading one type of document, he or she will too easily continue reading another without realizing the shift from Scripture to secular documents. It is not clear which, if any, of the reasons provided in the Mishnah and Tosefta are original. The prohibition against reading Scripture seems surprising considering the many sources that indicate a widespread custom to read Scripture on the Sabbath.<sup>78</sup> Is it likely, then, that the rabbis would prohibit the praiseworthy act of reading Scripture just to prevent people from reading business documents?

Rather, Shamma Friedman suggests that “secular documents—*shetarei hedyotot*” actually refers to works of Apocrypha and Pseudepigrapha or to Hellenistic writings. Reading non-canonical works is generally prohibited because their content could drive people away from the Pharisees/rabbis

77 See Friedman, “Primacy of Tosefta,” 321.

78 *M. Erub.* 10:3; *b. Šabb.* 116b; *Midrash Tehillim* 119:38; and Menahem Haran, *The Biblical Collection: Its Consolidation to the End of the Second Temple Times and Changes of Form to the End of the Middle Ages* (Jerusalem: Magnes Press, 1996), 126–29 [Hebrew].

towards sectarian beliefs.<sup>79</sup> Indeed, even reading Scripture alone without rabbinic interpretation could lead to Sadducean or other sectarian readings that rely on a more literal reading of the Bible. In this reading, the entire prohibition against reading Scripture on the Sabbath—precisely when people had the most leisure and when it was most customary to do so—served as a polemic against sectarianism. If even reading plain Scripture was dangerous and prohibited, certainly non-canonical books would be even more problematic.<sup>80</sup>

Friedman further explains that the Mishnah's explanation stems from and clarifies that of R. Nehemiah in the Tosefta. Just as reading extra-canonical works and even Scripture can turn one towards sectarianism, it could also negate the midrashic interpretations of the Bible as taught in the study house. The tension is not simply between the enjoyment of reading Ketubim and the more rigorous study in the rabbi's lecture, as the Talmuds understand. Rather, the Mishnah wants to encourage people to learn the rabbinic interpretations of Scripture and prevent them from reading and interpreting Scripture on their own. The Yerushalmi makes this point explicitly:<sup>81</sup>

This teaches that Mishnah takes priority over Scripture. And this supports that which R. Shimon bar Yohai taught, for R. Shimon bar Yohai taught: One who studies Scripture—this is a portion that is not a portion. One who studies Mishnah—this is a portion for which one receives reward. One who studies Talmud—there is no portion greater than this.

The demotion of the Bible in favor of rabbinic texts serves to inculcate rabbinic laws and values over those of other groups who offer rival interpretations of the Bible. This motivation also lies behind the Mishnah and Tosefta's prohibition against Scripture on the Sabbath. Noam and Qimron correctly point out, "In the Tannaitic world the rationale for this prohibition was linked to the rabbinic preference for oral study—'midrash' and 'mishnah'—over scriptural reading. This was not the case for the Qumran sect, which made no distinction between the written and the oral law, and which wrote and sanctified its exegesis and homilies."<sup>82</sup> Because the rabbis taught a category of oral law

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79 See *m. Sanh.* 10:1, which denies afterlife to those who deny the resurrection of the dead—presumably the Sadducees—as well as those who read non-canonical books. See further at Richard Hidary, *Dispute for the Sake of Heaven: Legal Pluralism in the Talmud* (Providence: Brown University, 2010), 34.

80 Friedman, "Primacy of Tosefta," 313–38.

81 *Y. Šabb.* 1:2, 3b. See parallel at *y. Hor.* 3:5, 48c.

82 Noam and Qimron, "Qumran Composition," 87.

separate from the Bible, they could emphasize the former over the latter. For the Sadducees and Qumran sectarians, however, there would be no possibility or reason to demote the reading of Scripture. The entire motive of the rabbis to prohibit Scriptural reading is to distance their followers from sectarian beliefs and interpretations. It therefore makes little sense to expect to find a law similar to the rabbinic prohibition against reading Scripture in the Dead Sea Scrolls. Despite this acknowledgement, Noam and Qimron nevertheless continue to read the Tannaitic law back into the Qumran fragment.

Noam and Qimron recognize this difficulty and suggest that the Qumran law seeks “to ensure that the individual participate in the public reading, or in fear of competing literature, or even of secular documents.”<sup>83</sup> However, there is no indication of any such motives in the Qumran fragments. Considering that the Qumran sect ate collective meals and had such strong communal ties and joint activities, would the threat that people would not join the public reading really be so great that it would require prohibiting private study altogether?<sup>84</sup> The Dead Sea Scrolls make no mention of reading competing literature, and so there is no reason to assume it here. As noted above, even for Talmudic law, it is difficult to accept that the rabbis would prohibit reading Scripture just because someone might then confuse the Bible with business documents. There is certainly no justification to impute this to the Dead Sea sect when the fragment as preserved does not even indicate a prohibition at all. The reconstruction of Noam and Qimron clearly reads *m. Šabb.* 16:1 and *R. Nehemiah in t. Šabb.* 14:1 back into the Qumran scrolls, even though these reasons are themselves likely to be later explanations for the early anti-sectarian polemical law.

I find it much more plausible, therefore, that 4Q264a includes an injunction requiring reading Scripture on the Sabbath.<sup>85</sup> First, rabbinic sources

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83 Ibid., 88.

84 In fact, 1QS 6:7, cited above, describes Torah study in the Yahad as a group activity: “The multitude will sit watch together one third of every night throughout the year to read Scripture and expound law and bless together.” It is true that the previous line mentions some form of individual study: “There shall not be lacking in any place where there are ten people someone expounding the Torah day and night always, one replacing another.” However, even if the person described here is studying alone, he does so as a representative of the group and directly links to those taking turns studying before and after him like a member of a team running a relay race. Other texts like 1QS 5:8–9 emphasize even more the centrality of the “sons of Zadok” as the exclusive teachers of Torah interpretation for the rest of the Yahad members, thus again assuming a forum of group study. On the tension between these two sections of 1QS, see the following note.

85 One may question the need for an injunction requiring the reading of Scripture on the Sabbath if 1QS 6:6–7 already requires Torah study twenty-four/seven. Scholars have

indicate an early custom to read Scripture on the Sabbath at home in addition to the widespread reading of the Torah and Prophets in synagogues.<sup>86</sup> Second, the text of both fragments contain injunctions as well as prohibitions and so reconstructing the text to require reading Scripture is as or more likely than reading in a prohibition. Third, the very rationale of the prohibition found in rabbinic sources cannot apply to the sectarians and so it would be counterintuitive to read the rabbinic law back into the Scrolls.

### Igniting Coals on the Sabbath

4Q264a 2 ii 2 (with parallels at 4Q421 13 5 and 2 3) reads:

[ אל יער איש ] גחלי אש [לפני ]

Baumgarten translates, “[let no man pour] burning coals.”<sup>87</sup> Tigchelaar’s adds לפני to his reconstruction based on 4Q421 2 and translates, “[One should not stir up] coals of fire [in front of ].”<sup>88</sup> He offers no suggestion as to what לפני adds to the meaning of the law nor what the next word might be. He translates יער as “stir” and explains that one may not cause coals to burn more on the Sabbath by stirring them as an application of Exod 35:3, “You shall kindle no fire throughout your settlements on the Sabbath day.”

Noam and Qimron suggest reconstructing the word השבת at the end of the sentence to read. “[ No one shall prepare] burning coals [before the

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debated the relationship between 1QS 6:6–7, which describes a very small group of ten, and the history of the Qumran sect which was rather larger. Charlotte Hempel argues 1QS 6:6–7 may reflect a law dating from “the embryonic beginnings of communal life” that directs the activities of a “loosely organized groups of like-minded individuals” (*The Qumran Rule Texts in Context* (Tübingen: Mohr Siebeck, 2013, 296). Others have suggested the quorum of ten refers to a traveling group of members who meet while away or to a small sub-community that is similar to but not identical with the Qumran center (see *ibid.*, 295–96). In any case, 1QS does assume the predominance of group study all week long, as explained in the previous note. This need not present a problem for reading 4Q264a, which may simply be directing individuals within the larger organized sect not to rely on the appointed representatives to learn Torah for the group but rather to take advantage of the leisure from work afforded by the Sabbath to personally engage in Torah study and join the group study.

86 See n. 78 above.

87 Baumgarten, DJD 35:56.

88 Tigchelaar, “Sabbath Halakha,” 364.

Sabbath ]”<sup>89</sup> That is, one may not ignite a fire even before the Sabbath with intention to use it on the Sabbath. This issue was a point of contention between the Karaites,<sup>90</sup> who prohibited making use of a fire for cooking, heat or light on the Sabbath, and the rabbis, who permitted—with certain restrictions—using a fire that was made before the Sabbath.<sup>91</sup> In fact, the rabbis go so far as to require that one light a lamp before the Sabbath to provide light—a law that may have been a polemic against prohibitive sectarian views.<sup>92</sup> Despite the absence of explicit evidence that any Second Temple sect prohibited using a fire on the Sabbath, Abraham Geiger hypothesized that Sadducean law did include such a proscription.<sup>93</sup> By adding the word השבת to the sentence, Noam and Qimron claim that this fragment records precisely this prohibition.

This proposal faces several challenges. First, Tigchelaar notes: “The use of לִפְנֵי in a temporal sense (always followed by an infinitive) is very rare in the Dead Sea Scrolls.”<sup>94</sup> However, even if this usage is rare in the scrolls, it does exist.<sup>95</sup> Since no better reconstruction has been offered, taking לִפְנֵי as a temporal preposition is at least plausible.

Baumgarten poses another reservation to Noam and Qimron’s reconstruction from its placement in the text. CD begins with a law prohibiting work before sunset on Friday afternoon, followed by proscriptions that apply on the Sabbath itself. Baumgarten argues that 4Q264a should follow the same structure and that a law concerning preparing fires on Friday afternoon should come at the beginning of the text. However, there is no reason to assume that these two different codes should follow the same structure, and, with so little of 4Q264a 2 extant, it is difficult to derive any information from its context.

89 Noam and Qimron, “Qumran Composition,” 60.

90 Medieval Samaritan texts also prohibit use of fire on the Sabbath but there is no evidence that ancient Samaritans also had this prohibition. See A. D. Crown et al., eds., *A Companion to Samaritan Studies* (Tübingen: Mohr Siebeck, 1993), 205. The Samaritan Pentateuch for Exod 35:2 reads Hiph’il תבעירו rather than the Pi’el תבערו in MT, although this would not necessarily change its meaning. See William Propp, *Exodus 19–40: A New Translation with Introduction and Commentary*, The Anchor Bible (New York: Doubleday, 2006), 637.

91 *M. Šabb.* ch. 3 permits use of fire to keep food hot in some circumstances.

92 *M. Šabb.* 2:7.

93 Abraham Geiger, “Die gesetzlichen Differenzen zwischen Samaritanern und Juden,” *Zeitschriften der Deutschen Morgenländischen Gesellschaft* 20 (1866): 527–73, 532–33.

94 Tigchelaar, “Sabbath Halakha,” 368 n. 34.

95 See 1QS 3:15 and 4Q462 1 18 (followed by an infinitive) and 4Q259 3:9 and 11Q19 17:7 (followed by a noun).

There is an additional difficulty with Noam and Qimron's explanation. If the sectarian prohibition resembles its Karaitic outgrowth, as Noam and Qimron argue, then the law should require one to extinguish all fires before the Sabbath.<sup>96</sup> A law that merely prohibits one to create a new fire would still leave open the possibility of using a pre-existing fire on the Sabbath. This difficulty can be mitigated, however, by re-examining their translation. Noam and Qimron agree with Baumgarten that יער means to pour, but they nevertheless translate it here as "shall prepare" because, "the pouring of coals is the final step in their preparation for use, namely, their removal to a cooking or heating utensil, samovar, oven, or pan."<sup>97</sup> It seems preferable, even following Noam and Qimron's reconstruction of the word שבת, to translate יער as stir, which would refer to a restriction against stoking coals before the Sabbath. That is, if a fire is lit and will soon burn out, do not stoke the coals but rather allow them to be extinguished. This translation is both simpler than Noam and Qimron's and also comes closer to the Karaitic law.

Even with this improved translation, however, we must also consider an equally plausible and less far-reaching explanation. Since this law focuses on coals, which are useful for cooking but not for light, it is entirely possible, as Baumgarten already suggests, that the Qumran sect permitted fire for light but not for cooking. After all, 1QS 6:7 requires the sectarians to read one third of every night and so they would have a need for some light on Friday night. Moreover, such a law would parallel that of the Tannaim who also permit using fire for light but not for cooking.<sup>98</sup> Rather than a source prefiguring the later Karaite restriction on all use of fire, this fragment just as likely accords with the rabbinic prohibition against cooking. For all we know, the continuation of the law could have been, "One may not stir coals before the Sabbath in order to cook on them." Noam and Qimron cite the opinion of Beth Shammai,

96 See Anan ben David, *Karaite Anthology: Excerpts from the Early Literature* (trans. L. Nemoj; New Haven: Yale University Press, 1952), 18, who writes: "If the fire has been kindled on a weekday, prior to the arrival of the Sabbath, it must be extinguished." See further at Noam and Qimron, "Qumran Composition," 91.

97 *Ibid.*, 89.

98 See *m. Šabb.* ch. 3. Although the Bavli (*Šabb.* 18b) permits leaving food on the fire before the Sabbath to be cooked on the Sabbath in certain cases, Tannaitic sources do not. The reasoning, "one may come to stoke the coals" is only found in the Bavli and the original reason for *m. Šabb.* 3:1 must be because it looks like cooking or because even heating food is considered cooking. See Abraham Goldberg, *Commentary to the Mishna Shabbat* (Jerusalem: Jewish Theological Seminary of America, 1976) [Hebrew], 31–32 and 56. Baumgarten, "A Proposed Re-interpretation," \*12, reads the Bavli's reason back into the Qumran fragment, again a methodologically problematic strategy.

who prohibits beginning an activity before the Sabbath that will continue on the Sabbath, even on its own. But, as Noam and Qimron also point out, Beth Shammai agrees with Beth Hillel in permitting one to leave a lamp lit for light, presumably because merely using light is permitted.<sup>99</sup> When it comes to cooking, both Beth Shammai and even Beth Hillel prohibit using a pre-existing fire. The Dead Sea fragment therefore more likely records a cognate law to the Tannaitic view than the much later Karaite prohibition.<sup>100</sup>

In fact, Baumgarten cites a passage in Josephus that intimates that the Essenes had no prohibition against using fire on the Sabbath. In *Jewish War* 2, 147–148, Josephus describes the stringency of Essene practice:

They guard against spitting into [their] middles or to the right side and against applying themselves to labors on the seventh days, even more than all other Judeans: for not only do they prepare their own food one day before, so that they might not kindle a fire on that day, but they do not even dare to transport a container or go to relieve themselves.<sup>101</sup>

Baumgarten argues that had the Essenes sat in the dark and cold for the entire Sabbath, then Josephus would surely have mentioned it. This argument from silence may not be decisive but it is certainly suggestive.<sup>102</sup>

99 Noam and Qimron, “Qumran Composition,” 93 n. 112, citing Lieberman, *Tosefta ki-fshutah*, Shabbat, 20.

100 In medieval times, the rabbis used the requirement to light Sabbath lamps on Friday afternoon as part of a polemic against the Karaites. Noam and Qimron, “Qumran Composition,” 95 propose that the original Pharisaic mandate to light a Sabbath lamp was also directed against their opponents and they struggle to explain why the rabbis of the Talmud make no mention of this dispute. However, according to Baumgarten’s reconstruction, the sectarians would also have permitted leaving a lamp lit for light, which would better explain the Talmudic silence. For the history of the Sabbath lamp, see Gilat, *Studies*, 334–49.

101 Translation from Steve Mason, ed., *Flavius Josephus: Translation and Commentary* (Leiden: Brill, 2000), vol. 1B, 117–18.

102 Baumgarten also cites another passage in *Against Apion* 2, 282 about Romans adopting Jewish practices:

“What is more, even among the masses for a long time there has been much emulation of our piety, and there is not one city of the Greeks, nor a single barbarian nation, where the custom of the seventh day, on which we rest, has not permeated, and where our fasts and lighting of lamps and many of our prohibitions with regard to food have not been observed. (Translation from Mason, *ibid.*, vol. 10 (trans. John Barclay), 327–28.”



In sum, these recently reconstructed fragments of Sabbath law make a significant contribution to the corpus of Second Temple Sabbath laws. Scholars have impressively managed to piece many of these fragments together and have offered ingenious and often convincing suggestions to fill in their lacunae. Most recently, Noam and Qimron have offered a brilliant and thought-provoking set of possible new readings. However, in their enthusiasm to emphasize the significance of these fragments and find in them early parallels to rabbinic laws, Noam and Qimron have, in some cases, read into these fragments more than they can support. The fragments makes no mention of instruments and there is no reason to read a late Bavli innovation back into a Second Temple law code. More likely, 4Q264a enjoins singing prayers. The rabbinic prohibition against reading Scripture on the Sabbath is a rabbinic law likely directed against sectarians, and therefore an unlikely candidate to reconstruct into a Dead Sea Scroll. Quite the opposite, 4Q264a seems to require recitation and study of Scripture on the Sabbath. The law regarding burning coals probably relates to using them for cooking similar to rabbinic law, not Karaite law. It is a quite a leap to derive a prohibition against using any fire from a law about handling coals. However, even if 4Q264a does not preserve early stages of rabbinic or Karaite interpretation as proposed by Noam and Qimron, this fragment is nevertheless extremely useful recording an important stage in the development of Jewish law. If we accept the alternate reconstructions of Tigchelaar and Baumgarten discussed above, then we derive several new insights into Qumranite Sabbath laws: speech should be restricted to singing, praying, and speaking about food; Scripture should be read; and one may use fire for light but not for cooking. We may never reach a complete understanding of the details of sectarian Sabbath laws, but I hope that this study helps us gain a more stable footing in interpreting the material that has survived.

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This quote does indicate that lighting lamps had become a widespread practice, but certainly does not preclude the possibility that a minor sect did not light lamps. Josephus' exaggeration of extent of the penetration of this custom in every city depreciates the reliability of this statement.