HISTORIA JUDAICA

A JOURNAL OF STUDIES IN JEWISH HISTORY ESPECIALLY IN LEGAL AND ECONOMIC HISTORY OF THE JEWS

VOLUME III

(with twelve plates)

EDITOR

GUIDO KISCH

Digitized by Project Zikaron
Touro University-NY Libraries
www.zikaron.tourolib.org
2024

NEW YORK
HISTORIA JUDAICA
40 West 68th Street
1941

CONTENTS

ARTICLES

Cahnman, Werner J.: Munich and the First Zionist Congress 7-23
Grayzel, Solomon: Graetz's *History* in America (with one plate) 53-66
Güdemann, Moritz: What Do the Jews Owe to Graetz? 1-7
Kisch, Bruno: Shekel Medals and False Shekels (with eleven plates) ... 67-101
Kisch, Guido: Eike von Repgows Verhältnis zur Bibel, Literaturgeschichte eines Problems 23-40
Kisch, Guido: The Laudshut Jewry Oath: Rejoinder 43-45
Straus, Raphael: The Landshut Jewry Oath 41-43
Straus, Raphael: The Significance of the Jews in the Mediaeval German Cities 107-109
Wallach, Luitpold: *Ashkenaz*=Germany 102-106

BOOK REVIEWS

American Jewish Yearbook 5701 (G. Kisch) 50
Baron, Salo W., *Bibliography of Jewish Social Studies, 1938-1939* (G. Kisch) 110-111
Baron, Salo W., *Essays on Maimonides, An Octocentennial Volume* (G. Kisch) 116
Bein, Alex, *Theodore Herzl, A Biography* (G. Kisch) 111-112
Daiches, David, *The King James Version of the English Bible* (G. Kisch) .. 117
Emery, Richard W., *Heresy and Inquisition in Narbonne* (G. Kisch) 116
Fraenkel, Ernst, *The Dual State, A Contribution to the Theory of Dictatorship* (G. Kisch) 112-114
Goldschmidt, Lazarus, *The Earliest Illustrated Haggadah Printed by Gershom Cohen at Prague* (G. Kisch) 49
Inventory of the Church and Synagogue Archives of Michigan (G. Kisch) 49-50
Oppenheimer, Francis J., *Ezekiel to Einstein* (G. Kisch) 50
Osborne, Sidney, *Germany and Her Jews* (G. Kisch) 45-48
Posener, S., *Adolphe Crémieux, A Biography* (G. Kisch) 111-112
Reines, Chaim W., *Personality and Community in Judaism* (Abraham Heschel) 115-116
Roth, Cecil, *The Jewish Contribution to Civilization* (G. Kisch) 45-48
Ruppin, Arthur, *Jewish Fate and Future* (G. Kisch) 118
Schmulowitz, Nat, *The Cartwright Petition of 1649* (G. Kisch) 117
Shpall, Leo, *The Jews in Louisiana* (Harold J. Jonas) 114-115
Stonehill, C. A., Jr., *The Jewish Contribution to Civilization* (G. Kisch) 45-48
Strong, Donald S., *Organized Anti-Semitism in America, 1930-1940* (G. Kisch) 117-118

List of Abbreviations, see Volume I 1-2
Bibliography of Periodical Literature 51-52

HISTORIA JUDAICA

Volume III APRIL, 1941 Number 1

WHAT DO THE JEWS OWE TO GRAETZ?

By

Moritz Güdemann

EDITOR'S NOTE. In spite of the fact that Heinrich Graetz' *History of the Jews* in some respects no longer qualifies as a modern scientific approach to Jewish history, it still remains a great classical work whose influence upon Jewish learning and education, particularly in America, can hardly be overrated. 1941 will mark the fiftieth anniversary of the death of its author. In commemmoration of this memorable day, September 7th, 1891, the Editor thinks it fit to translate from the German original the following essay by Moritz Güdemann, the famous scholar in Jewish history, of blessed memory, and author of the unexcelled three volume work *Geschichte des Erziehungswesens und der Kultur der abendländischen Juden während des Mittelalters und der neueren Zeit.* This essay was first published in 1917 in the *Freie jüdische Lehrerstimme* VI (Vienna), pp. 92-93, upon the hundredth anniversary of Graetz' birthday, and re-published by the Jewish Community of Vienna in a pamphlet forgotten today and almost unknown. It is not even listed in the bibliographies of Jewish history. Nevertheless Güdemann's appreciation seems today as noteworthy as it was almost a quarter of a century ago. *Historia Judaica,* therefore, honors the memory of these two outstanding historians by reviving the tribute of one of these men to the other. (Cf. also Güdemann's other essays on Graetz listed in Bernhard Wachstein's "Bibliographie der Schriften Moritz Güdemanns," in *48. Bericht der Israelitischen Allianz zu Wien,* Vienna 1931, pp. 31-50). Another essay, "Graetz in America" is to follow in the next issue.

The hundredth anniversary of the birth of Professor Heinrich Graetz of blessed memory, the author of the *History of the Jews,* is approaching. This day will certainly be marked and honored throughout the world in every Jewish paper as a memorial day of paramount significance. It was my good fortune when still a young man of nineteen to become a pupil of the famous man and for eight years, from 1854 to 1862, I enjoyed his instruction and acquaintance as a student at the Jewish Theological Seminary in Breslau. That is why I have undertaken to dedicate a few words in honor of

2111

this day, to show, even now in my old age, my love and respect for the teacher of my youth, and at the same time to impress upon the hearts of my contemporary co-religionists the character of this man's work. It is difficult not to speak to too great length on Graetz' significance; but all my life I have always favored brevity and so do I now too. The insignificant must be set apart and magnified so that it may be incorporated within the greater framework and thereby also appear great; the truly great, however, may be fitted into the narrowest frame, not only will it not suffer thereby but will come forth clear and distinct. Therefore I can acquit myself of my task merely by asking one simple question: "What do the Jews owe to Graetz?" The answer is simply: "Graetz restored to the Jews their lost consciousness. That is what the Jews have to thank Graetz for."

The exposition and the establishment of this assertion demand a review of the period in which Graetz lived. It is usually referred to as the post-Mendelssohnian period and deserves this designation indeed, because it was during those years that the effect of Mendelssohn's activities was felt, achieving, unfortunately, an effect contrary to his well meant intentions. Not only Mendelssohn's own children underwent baptism but Christianity threatened to carry away and submerge German Judaism (German Judaism is to be considered here in particular, while, for that period, Jewish life in other countries hardly needs to be taken into account). Just as if there had been a break in the dam, the waves of Christianity streamed into Judaism which till then had remained secluded in itself, and for all time one of its saddest memories will be how its finest sons and daughters—*halb zog es sie, halb sanken sie hin*—were won over to Christianity by the most ludicrous and pitiable babblers, who even themselves were not serious about it. There is no color deep enough to cover up this blemish in the history of the Jews. The one and only Zunz threw the force of his scholarship and his even greater faith in his convictions against this overpowering rush to Christianity; but his own close friends already infected were the first to leave—like rats—the sinking ship of Judaism, as Heinrich Heine wrote with reference to Edward Gans, one apostate criticizing his fellow-apostate.

Zacharias Frankel was more fortunate. He had been summoned to head the newly founded Jewish Theological Seminary in Breslau

and thereby was given the opportunity to educate pioneers for the task of the reconstruction of Judaism in Germany which almost had collapsed. But for the time being, merely a school of training had been founded. Only the future could reveal whether it was to become a success.

In the year of the establishment of the Breslau Jewish Theological Seminary, 1854, Graetz stepped into the scene with the first volume of his *History of the Jews*. But this first volume was designated as volume four on its title page. Since the three preceding volumes had not yet been published, this seemed strange; it brought mockery and disparagement upon the author and foreboded an unpromising reception for the work. It often occurs, however, that an insignificant beginning has not only great results but even an effect directly contrary to the one expected. The strange step of beginning a work with volume four instead of volume one proved to be a stroke of genius, something prophetic which directly on account of its very curiousness, stirred the moribund interest in Jewish literature and directed attention to the author and his work.

Today, after sixty years, we have a clear picture of the event and its significance. This was not possible in those days and even Graetz could not realize the effect of his historical work. Had he started with the chronologically correct beginning, namely, with the biblical history, which he published only later in the first three volumes, his undertaking would have turned out absolutely futile. He might just as well have started with Adam; the effect would have been the same. The reason is obvious. We must not forget that a period of more than two thousand years separates us from biblical times. That means a period of such duration that none of the nations of today can claim it for its own and not one can boast of so long a historical survival. For the Jews, the fact must not be overlooked that the golden age of their antiquity, namely, the biblical history, extends another two thousand years back, into the remote past of which, aside from our Bible, only inscriptions have been preserved. What then would have been the good of stirring up Jewish consciousness, which had almost died off in post-Mendelssohnian times, by a call which came from so far distant, by a scientific presentation of biblical antiquity? Whoever wishes to interest readers for his historical work must first convince them that it is their own history which he

places before them. The Jews of post-Mendelssohnian times had long forgotten, however, that biblical history was *their* history, and only their history. The relationship was dissolved through the downfall of the Jewish state, through the destruction of their holy temple, through the dispersion, above which rose only the common faith and the common destiny to bind them together. Not that the Jews of that time were unacquainted with biblical antiquity. On the contrary, those who remained loyal lived more within it than in their own time; but a sense of realism and actuality was lacking, so necessary in finding the present indicated in the past and in feeling in the present how active and alive the past was. To attain this consciousness of the actual, the Jewish consciousness, Jews first had to feel solid earth under their feet so that, firmly supported, they could rediscover themselves and withstand the insinuations of their external and internal seducers.

Something else must also be considered. Work on biblical history till then had been the domain of Christian theologians. Among them, Ewald was the most prominent; his seven-volume *History of the People of Israel* had attracted and held general interest through its warm tone, its brilliant style and through a certain sense of objectivity. But this history ended with the conclusion of the biblical books and the destruction of Jerusalem. The people of Israel had ceased to exist. What followed, appeared as the heir and legal successor to the biblical spirit and was no longer called Judaism but Christianity. *Le roi est mort, vive le roi!* The old Covenant is dead, long live the new. That was the motto of the new standard under which Christian theology struck out all the more severely against Judaism, as the former failed to understand the latter and, hence, even to know its own origin. Its protection was sought by many a Jew who tried to justify and excuse his desertion with the assertion that Judaism had outlived itself, and avoided thereby the blunt declaration that Judaism was dead.

What then could Graetz do under these circumstances than what he actually did do with the insight of a genius and the approach of an artist, namely, to show that the supposed end was rather a new beginning. Furthermore, he sought to show that the direct successor and continuer of the religion of the people of Israel was rabbinical Judaism, that the downfall of the Jewish state signified the rise

of the Jewish spirit, that, out of the ruins of the former, the latter awakened to new life. In order to trace this true and wonderful picture, Graetz had to begin his history with the fourth volume. And this he did. It was a forceful blow, a thunderbolt which struck at every Christian theologian doing away with their customary old concept, while the Jews rubbed their eyes in wonderment and even long baptized Jews, as I know, paid their tribute of reverence to the bold reviver of the Jewish spirit.

The title page of this remarkable fourth volume read: "From the Downfall of the Jewish State to the Completion of the Talmud." Many a Jew who was frightened merely upon hearing the word Talmud was tempted, when he saw this title, to shut the book quickly, but he gained courage, thumbed through the volume, read a portion here and there, at first lightly, then with increasing interest. And what was the effect? We can still picture it today. Take a Jew from the post-Mendelssohnian era who, scorned and despised, carried on his pitiable existence, needy and careworn, who was everywhere a stranger and nowhere at home. Picture such a Jew, who, like a head of cattle had to pay a body tax at every tolling place and, so that he would not forget what a shame it is to be a Jew, was always and on every occasion addressed and called "Jew" in official documents as well as in his personal relationships even with the lowest officials. It does not take much imagination to realize such a Jew at that time, for even Moses Mendelssohn fits the description. Think, then, of this troubled and distressed Jew suddenly finding an invisible guide, as Athene led Odysseus into a spacious room and referred to the numerous proud portraits adorning the walls: "These are thy ancestors!" The same impression which this unexpected line of ancestors would have made upon the confounded descendant was made by Graetz's fourth volume upon the Jews in the middle of the last century. In fact, Graetz' work made an even stronger impression, for here the pictures of the past did not hang on the wall, silent and motionless, but as if by magic the ancient times had become the present: Rabban Johanan ben Zakkai who had his followers carry him out of Jerusalem supposedly as a corpse in a coffin, so that like one risen from the dead he could bring about the resurrection of the Jews through diplomatic negotiations with the Romans; Gamaliel whose patriarchal dignity did not stop him from

modestly calling the pupil who excelled him his teacher; and above all Rabbi Akiba who accepted the death sentence of the Romans with an expression of joy, because thereby he was given the opportunity of showing that he loved God not only with all his heart and with all his possessions but with all his soul; these men and their equally significant contemporaries were by no means ancient figures of a far removed period but, although two thousand years had passed since even their time, they remained alive in their relation to Roman history whose influence even today is not dead. They were then people of the present whose lives could directly fire the Jews of post-Mendelssohnian times to their own new life and whose presentation by Graetz once more strengthened their backbone and solidified the ground under their feet.

Now for the first time the thinking Jewish reader of the fourth volume could propose and answer the question: who then is the heir, the one who can claim possession of the true ring? Was not Rabban Johanan ben Zakkai, a pupil of Hillel, his teacher's most trustworthy interpreter? Were Rabbi Akiba and his colleagues who had drunk of Judaism at its source, were they to be taught Judaism by the Greeks? Was not the true spirit of religion and prophetic Judaism to flower on the living bridge which these men formed and which goes back through their predecessors to the times of the prophets and further? What were the scientific grounds for including the apostles here, who were lacking every traceable connection with the bearers of the old tradition?

It would be going too far to enumerate all the questions, researches and scholarly investigations to which the *History of the Jews* by Graetz had given impulse. My task here was chiefly to depict the effect on the Jews, how it expressed itself and how I myself experienced it. The effect of the fourth volume as the first to appear was undeniably the most powerful, but every volume gave rise to new stimulation, opened up new aspects of history and enlarged the circle of the numerous friends already gained by the fourth volume. Even the various opponents of Graetz's *History* could not escape its influence. Through their criticisms and polemics, which often proved of great erudition, and which deepened and broadened the field of Jewish science, they too augmented and spread the fame of the man whom they opposed. I believe, therefore, that it is not an

exaggeration when, as I have already stated at the beginning of this essay, I sum up all the various effects of Graetz's *History* in the statement: Through his *History* Graetz imbued the Jews anew with a Jewish consciousness. He awakened in them the realization that they have a history, whose grandeur is equalled by no other, and, moreover, that the mere possession of such a history obligates them to accept the mission which, despite all scepticism and opposition, is infinite and eternal. Nature does not create a magnificent past in order to cut off its future and allow it to come to naught in the sands of time.

MUNICH AND THE FIRST ZIONIST CONGRESS

By

Werner J. Cahnman

Chicago

I

As is generally known, it was planned to hold the first Zionist Congress in Munich. Early in 1897 the individuals, organizations, newspapers and periodicals interested in the subject were discussing the "Munich Congress." But, on protest of the Munich Jewish Community, finally, it was held in Basle.

All historical works on the Zionist movement and the Herzl biographies deal with that particular phase of the Congress history only in one or two insignificant phrases, merely stating the fact without any details.[1] They do not even mention what Herzl published under the immediate impact of the events about this historical incident.[2] Actually, Herzl wrote a front page article in *Die Welt* of July 2nd 1897, dealing with the transfer of the planned Congress, reproducing his own letter to the executive committee of the Munich Jewish

1 Adolf Böhm, *Die zionistische Bewegung* I (2nd ed., Tel Aviv, 1935), p. 174; Alex. Bein, *Theodor Herzl* (Vienna, 1934), p. 329; Jacob de Haas, *Theodor Herzl, A Biographical Study* I (Chicago and New York, 1927), pp. 156, 164. N. Sokolow, *History of Zionism* (London, 1919) does not even mention the fact.

2 "Die Verlegung des Congresses (Ein Briefwechsel)", *Die Welt* I, (1897) July 2, p. 1; cf. the inaccurate Hebrew translation of Herzl's letter in *Siphria Medinit Theodor Herzl, Miktavim 1894-1904* (Tel Aviv, 1937), p. 73; de Haas I, p. 187, quoting from *New York Sun*, May 5, 1897.

Community, dated June 11, 1897, and the Community's reply, dated June 14. Herzl omitted publication of an earlier letter of the Community, "because the writers did not know that the correspondence was to be published."

Since the original documents were missing for many years, no inquiry was made into the matter. They were found only when, in August 1938, after the demolition of the main Synagogue in Munich the archives of the Jewish Community had to be transferred to another place. The file which enables us to tell the whole story now, is at present in Chicago.

II

Where did the idea of holding the sessions at Munich originate, and what was the reason for giving up Munich as the meeting place for the first Zionist Congress? An entry in Herzl's diary of March 3, 1897 provides the first information.[3] Herzl explains there that he preferred to have the Congress called to Zurich; the majority of his collaborators, however, decided to go to Munich "for this city was much more conveniently situated; moreover, the Russians would not dare to go to Switzerland suspected of nihilism; and finally there were kosher restaurants in Munich." Several weeks passed before this decision of an unknown Viennese society came to the attention of the German public and particularly of the Munich Jewish Community. But Munich was not too receptive to the historic role about to be offered it. Strangely enough, it was a far distant echo from across the Atlantic which set in motion the events that led to the refusal of Munich as meeting place for the Congress.

At the end of May, 1897, a New York news report was making its way through the German press. Originating, it seems, from the *Kölnische Zeitung* in Cologne, it dealt with a Zionist mass meeting held on May 4, in Liberty Hall, 225 East Houston Street, New York. A report on the Zionist movement presented to a meeting of the board of the Munich Jewish Community early in June, opens with an explicit reference to that newspaper notice as a starting-point for measures to be taken by the community. Clippings of this report, contained also in the *Vossische Zeitung* of May 22, 1897, referring to the *Kölnische Zeitung,* were found in the Community's file "Zion-

[3] Theodor Herzl, *Gesammelte Politische Werke,* Tagebücher I (3rd ed.; Berlin, 1934), p. 595.

ist Congress 1897." It also contained two more clippings, one from the *Münchener Generalanzeiger* of May 23, 1897, which was the immediate cause of the Munich decision against the Congress, and another from the very first edition of *Die Welt,* dated June 4, 1897. Under the heading "From America" the latter carried an article on this meeting being a detailed extract from the New York weekly *Tolerance. Die Welt* attributed to the *Tolerance* account "particular interest."[4]

In the meeting on East Houston Street political Zionism was founded in America. It was organized by the Rev. Michael Singer, Registrar Ferdinand Levy, and Rabbis Mayer Kopfstein (Anshe Chesed),[5] Philip Klein (Ohab Zedek), and Bernhard Drachman (Zichron Ephraim). The meeting hall was so filled that many persons could not gain admittance. Kopfstein and Klein delivered the main addresses. Kopfstein was an unconditional supporter of a Jewish State, whereas Klein was somewhat sceptical on this issue. Kopfstein believed that the time had come for the Jews to show that they had finally become sick of all persecutions and that they would no longer put up with merely being tolerated. Palestine, of right, belonged to them, and they to Palestine. They should demand an independent Jewish State there, although "not for our brethren in this country, but as an asylum for those who are driven from Austria and Russia." Klein, on the other hand, spoke "eloquently against the measure and favored the colonization of Palestine by the Jews." To advocate a new state, in his opinion, would put a weapon into the hands of the enemies of the Jews and give them the right to say that the Jew is a stranger in the land where he lives. To provide for colonization, however, step by step, a commonwealth under Turkish sovereignty would be sufficient for the moment. Klein was willing to leave it to time whether a Jewish state emerged or not. The Jews, he held, were probably the only people on earth who did not need a state to insure their existence, a fact amply proved by history. But the flow of immigration, he concluded, should be directed to Palestine.

[4] Cf. *New York Daily Tribune,* May 5, 1897.

[5] Apparently Rabbi Kopfstein was the leading personality. Born in Pressburg, Hungary, he was a pupil of the Pressburg, Mattersdorf, and Seret Yeshibot and of the famous Viennese preacher Adolf Jellinek. Kopfstein became influential in the Federation of American Zionists, and later on one of the founders of the American Mizrahi; cf. *American Jewish Yearbook* 5664 (Philadelphia, 1903), p. 70.

Apparently the public could not follow this complicated train of thought so easily as Kopfstein's stirring appeal that human willpower should assist the growth of a messianic age, for a people not in possession of its own country lives only a shadow of life and cannot fulfil its destiny. The meeting decided to found an "American branch of the Zionist movement," to join and support the movement in Europe, and to send delegates to the Jewish World Congress supposedly to be held in Munich.

III

The account in the *Kölnische Zeitung* and in the *Vossische Zeitung* began with these words:

> "There has existed, for several years, a project amongst Jews to re-establish the kingdom of Israel in Palestine, and to make it an asylum for Jews who are persecuted and oppressed by other peoples because of their religion or other reasons. This project was first discussed in America two years ago at a meeting in Chicago, and has developed considerably since then."

In those days, naturally, American Zionism was still very weak. Nevertheless, newspaper reports of the type mentioned apparently sounded alarming in the atmosphere of German liberal Judaism of the late nineteenth century. The news seemed to point to a divided Jewish loyalty and to justify the antisemitic slogan: "Jews, get out!" ("Juden raus!"), repeated, at that time, over and over again. The report in the *Münchener Generalanzeiger* of May 23, 1897, spoke bluntly about a "re-establishment of a Jewish Empire" without limitation as to an asylum for Jews from countries of persecution. Herzl, Nordau, Montefiore, de Haas, and Hildesheimer were named as the leading personalities.

Actually these accounts were not entirely accurate. Hirsch Hildesheimer, the leader of orthodox Jewry in Germany, was no longer taking an active part in the Zionist Congress preparations, for he thought that the political claim of a Jewish state might become a serious threat to the colonizing efforts in Palestine.[6] Another supporter in Berlin, Willi Bambus, caused difficulties even earlier on the ground that the Jews of Munich were opposed to the Congress.

It is quite reasonable to assume that during this period the Mun-

[6] Cf. Herzl, Tagebücher I, 4, 622.

ich and Berlin opponents to the Congress were in touch with each other.[7] While Bambus' quitting was not serious, Hildesheimer's withdrawal was, for he was representative of German Jewry amongst the leaders in the Congress movement, and, therefore, it would have been difficult for the Jews in Germany to oppose the Congress openly as long as he took part in it. In a circular, issued by the Zionist Congress Office and signed by Herzl and Kokesch, Hildesheimer's withdrawal was explicitly styled as an "attempt to counteract the Zionist Congress in Munich."[8] This may or may not have been the intention, but it certainly was the effect.

It is in the light of Hildesheimer's withdrawal that we must interpret a letter sent on May 24, 1897, to the Munich Jewish Community by Mr. Sigmund Raff, one of its leading members. He pointed out the uneasiness prevalent in the Jewish circles of Munich on account of the Zionist Congress to be held in their city, and called for action. The newspaper clipping from the *Münchener Generalanzeiger* was attached to the letter. It was Hildesheimer's withdrawal which gave Mr. Raff his cue and he reasoned as follows: men who must be taken seriously are withdrawing from the Congress; it is simply a *Mache* (machination) adding grist to the mills of the antisemites; all the more trouble came from the cooked-up newspaper reports. Raff, therefore, proposed to have suitable notes put into "decent papers," and urged that the administration and the Munich rabbi join forces in an effort to prevent the Congress from meeting in Munich.

IV

Upon the suggestion of Mr. Raff, the executive committee of the Munich Jewish Community considered the matter early in June, 1897. A paper read at this meeting and reproduced in the Appendix contains, at the end, a note in pencil on the board's decision. The man who prepared and delivered this report had read Herzl's *A Jewish State* very thoroughly. Its main ideas were produced clearly and objectively, though his conclusion was in the negative. The paper is interesting because it is one of the earliest critical commentaries on the Zionist movement, all the more as it was not intended to be

[7] Cf. Herzl, Tagebücher I, 4, 616: "We will trace the facts"; but it is not intelligible why Herzl postponed his investigation until June 11.

[8] Tulo Nussenblatt, *Theodor Herzl Jahrbuch* (Vienna, 1937), p. 211.

published. In spite of painstaking efforts, the present writer did not succeed in tracing its author. Its style as well as the *genius loci* of the Bavarian capital point to a lawyer.[9]

The paper opened with a reference to the report in the *Kölnische Zeitung,* thus indicating again the initial cause of the whole discussion. With regard to his summary of Herzl's *A Jewish State,* the author admitted that Herzl's booklet contained "something which everybody, even the most sober-minded judge, must approve." Therefore, it was no wonder that it aroused enthusiasm in various quarters, the most fertile soil so far being Vienna, where a number of Jewish nationalist societies and student associations came into existence. This Viennese-born nationalist movement, in the author's opinion, was associated with an ecstatic religious tendency which, originating from Poland, has given rise to national eccentricities time and again. He referred to the Jews in Tarnow, Galicia, having joined the union of Austrian "Zion societies"[10] as well as to the Liberty Hall meeting in New York and the resolution passed there. "New York is a meeting-place for Polish Jews in the New World."[11] All these events might have been watched with indifference but for the unfortunate idea of calling the Congress to Munich. "This is now a fact, announced in *Die Welt,* and no canard any more." The unknown author of this report considered this an error. Herzl like all *Schwärmer* had omitted the most obvious precaution, he wrote, namely, to take counsel with men who were familiar with the local conditions in order to find out whether it would be advisable for the Congress to meet in Munich or not. In the speaker's opinion the Congress as planned now and understood by antisemite as well as impartial quarters would harm the Jewish cause in Bavaria. Other arguments were presented against the idea. Outstanding men who had been connected with the Congress movement (Hildesheimer and Bambus) had withdrawn. The Congress tried, furthermore, to combine elements which are not at all homogeneous—Nordau the atheist and "some old Polish rabbi who worships the Kabbalah"—and was, for such reasons, untimely, badly prepared, and without possibility of effecting conciliation as Herzl assumed. It would, on the contrary, add to the fuel already heaped up, and help to make the antisemitic movement more powerful. It was not because of personal fear, the report concluded, but out of precaution for the Jewish population that

[9] The following persons can be excluded from the authorship of the paper by comparison of their handwriting and by other indications: the two presidents of the community, Justizrat Abraham Ofner and Michael Nussbaum; the Rabbi Dr. Cosman Werner; the community's secretary, Justizrat Rein; the former secretary Dr. Kohnstamm; and also Dr. Frankenburger.

[10] Cf. *Die Welt* of June 4, 1897, p. 9.

[11] Cf. *Die Welt* of June 4, 1897, p. 5. Cf. *Die Welt* No. 1, June 4, 1897, p. 2.

the Community must oppose the idea of the Zionist Congress to be held in Munich.

There are no minutes on the discussion which followed, but the conciliatory attitude of the unknown speaker, as compared with the attitude of Raff and his friends, is plain from two sentences appearing in his paper. "The antisemites are the ones who make the noise, and not the Zionists. This is an idealistic movement which will not be suppressed but only furthered by measures of force," and later, "no threat is intended, only a warning." The resolutions passed are indicated by three notations: "Press-Committee—Police Intervention—Letter to Herzl."

A statement, later found in the Munich Community files, was sent apparently by communal quarters to the *Münchener Neueste Nachrichten* and was published in the issue of June 5th, 1897 under the heading: "The re-establishment of the kingdom of Israel." It runs as follows:

"According to several newspapers, a general Zionist Congress is to take place on August 25 in Munich. From an authoritative and official source we have the following information on this subject: National Zionism so-called is an utopian movement which came into existence very recently. It dreams of a Jewish state in Palestine, and succeeds in finding followers nowhere but where Jews are exposed to persecutions and terrible antisemitic instigations as in Russia, Rumania, and Vienna. German Jews as well as the greatest part of Jewry in general *reject those aims and consider them as fancies which originate from pathological conditions and will disappear as quickly as they came.* From those fancies we are to separate completely those generous efforts that aim at building up agricultural centers in Palestine and America to educate the persecuted Russian Jews as farmers and craftsmen. A remarkable success has already been achieved in this field. It is evident that the greatest part of Jewry is opposed to national Zionism. The Jew identifies himself with his fatherland and becomes absorbed in the nation in whose midst he lives.

Authoritative quarters do not know yet whether a national Zionist Congress, as reported in the newspapers, is to take place here. Neither the rabbi of Munich nor the Jewish Community's Executive Committee received any authentic information. Both are in agreement with the entire Jewish population of Munich that national Zionist aims are contradictory to the spirit of Judaism and must be rejected with all determination possible. They would regret it very much, indeed, if such a Congress with such tendencies should take place here."

All considerations in those days centered upon antisemitism. But Herzl regarded antisemitism as an unchangeable fact for as long as Jews remained in their present countries of residence, while his antagonists believed it to be a temporary phenomenon only. The style as well as the content of the letter to the editor of the *Münchener Neueste Nachrichten* is typical of the attitude of Herzl's opponents, and displays the secret fears and wishes inherent in their opposition.

This statement found a manifold echo in the local Munich press: a Zionist, a national-liberal, and an antisemitic reply may all be noted.

A letter to the *Münchener Neueste Nachrichten* of June 14, 1897 maintained that a number of Jews in Munich were in sympathy with a Zionist Congress. The idea of nationalism, apart from antisemitism, had always been part of Jewish consciousness, said the writer. Even in modern times it had spread particularly over free countries like England and the United States; as to Germany, there were Zionist societies in Berlin, Breslau, Frankfort, Mayence and Cologne; there would soon be one in Munich. The editor quoted fully an article by Max Nordau in *Die Welt,* probably considered as interesting on account of its marked contrast to the Munich Zionist writer's letter. In this article, Nordau, in those days second only to Herzl as a leader of the Zionist movement, called antisemitism a *vis a tergo* which even without "the beautiful ideal," may be sufficient to create a Jewish nationalist feeling all over the world.[12]

The editor of the *Münchener Neueste Nachrichten,* the leading newspaper of the national-liberal circles in Bavaria, expressed his opinion at more length in an article quoted in *Die Welt* of June 25, 1897. He stressed the "historical and moral right" of Jewry to the Holy Land and the ardent desire to migrate there which never became extinct among the Jews.

A rather violent antisemitic reply to the Jewish Community's statement in the *Nachrichten* was published in *Das Bayerische Vaterland,*[13] one of the most typical Bavarian newspapers of that time. Its slangy language was, compared with the customary style of the period, very vicious. The *Bayerisches Vaterland* posed as the mouth-piece of the Bavarian middle class and was opposed to the aristocracy, state officialdom, the Church, industrialists, Socialists, Prussians, and Jews. The *Münchener Nachrichten* was designated as "the official voice of Munich Jewry," and the "generous

[12] Cf. *Die Welt* of June 11, 1897, No. 2, p. 1 ff. In that article, Nordau pointed out, that, in his opinion, the essential demand of a Jewish nationalism was not Palestine, but a Jewish State as such.

[13] Quoted from *Die Welt,* June 18, 1897, No. 3, p. 12.

aims" of Jewish philanthropists who wanted their fellow Jews to become farmers were derided. The Jew, the editor of the *Bayerisches Vaterland* maintained, took to patriotism only if and when he could make money out of it. He denied as untrue the assertion that a Jew "becomes absorbed in the nation in whose midst he lives." One need only look at him for proof, concluded this diatribe.

From all this it is understandable what Raff meant when speaking of "decent" and indecent papers, and why he thought that Jewish nationalist propaganda was "adding grist to antisemite mills." On the other hand, one may understand why Herzl, on his part, concluded that it would have been much wiser if the assimilationists had remained silent. "A genuine German, Englishman, Frenchman, Russian, Pole will certainly appreciate an upright Jew as such."[14] Whether there was an attempt to call for police intervention, remains uncertain. But, in this connection, it is interesting to know that the Bavarian minister of the Interior, von Feilitzsch, informed Herzl's intermediary, Prince Wrede, that the Bavarian government had no objections whatsoever against the Congress.[15]

In behalf of the Munich Jewish Community its president, Justizrat Abraham Ofner, wrote to Herzl on June 11, 1897. Ofner and Justizrat Rein, at that time secretary,[16] both signed this letter, which has remained hitherto unpublished. The letter was dispatched on June 13.

In this letter, with reference to newspaper reports, surprise was expressed why no information regarding the Congress had been given either to the rabbi or to the Community. Ofner pointed out that there was no sympathy for a Zionist movement in Munich; that to hold the Congress there, was considered a grave danger. Zionism, he wrote, only caused the press, quite malevolently, to take it as proof that the Jews were not attached to their fatherland. Finally, the community president drew attention to the fact that there was even a possibility that no foreigner would be permitted to speak at the Congress meetings, on account of the Bavarian Corporation Law. The Community, therefore, requested that the Congress should not meet in Munich.

On June 11, 1897, a letter signed by Dr. O. Kokesch as secretary

[14] See *Die Welt* of June 11, 1897, No. 2, p. 7.

[15] See Tagebücher, June 17, 1897, III, 5, p. 5 and July 22, 1897, II, 5, p. 15.

[16] As for the history of the Munich Jewish Community and the persons involved here, see *Festgabe 50 Jahre Hauptsynagoge München* (Munich, 1937), pp. 30, 43.

and Dr. Theodor Herzl as president was sent by the Committee for the preparation of the Zionist Congress to the Jewish Community of Munich.[17] This letter and the Community's letter must have crossed each other.

Herzl's letter, too, referred to newspaper reports. He explained the omission of an invitation to the Jewish Community by reasons of tact; namely it was left to the Community's Executive Committee to take their stand on the Congress. Thus, in Herzl's opinion, they were saved "the embarrassment of taking sides against their fellow Jews;" for he thought that Zionism was an attempt to solve the Jewish problem peacefully and humanely; it could be only out of prejudice, if one would regard this movement as illegal or unpatriotic. A protest by Jews was not expected by Herzl who also would not believe that Gentiles would understand such a protest. "It seems to us," wrote Herzl, "that Jews who do not consider themselves as belonging to a Jewish nation but as members of another nation, should leave us to our nationalism. We do not speak in their name, but only for ourselves; we respect their nationality, may they respect ours too, as it is customary among nations." Admission to the Congress would be only upon a ticket. The assembly would be dignified and, by no means, "arouse mockery and contempt, at least not more than already exists against us." Finally, Herzl asked, whether the Community would protest against the Congress to meet in Munich; or whether they would regard the whole matter as something foreign to them and not concerning them at all. In the case of a refusal Herzl was resolved to have this letter published.[18]

This letter was marked by the Munich Jewish Community as received on June 14, 1897; it was answered by Ofner the same day.[19] The original draft, in Ofner's handwriting, is on record and runs as follows:

"The information given to us concerning the aims and tasks of the Zionist movement does not alter our attitude as regards a Zionist Congress to meet in Munich and Bavaria. We are, therefore, compelled to repeat our request, and, in order to exclude any misunderstanding, formally to protest against the meeting of the Congress in Munich."

17 See Tagebücher II, 5, p. 4, June 16, 1897.

18 See *Die Welt*, No. 1, p. 1, June 5, 1897.—It is interesting to note from this letter that Herzl's nationalism was liberal and not totalitarian, based on freedom of will and not on race concept.

19 The draft of Ofner's letter is dated "June 13", but postmarked on June 14. Herzl's letter is dated "June 11", but it was apparently dispatched later for it bears the Munich incoming letters mark of June 14.

With this the discussion was concluded. The Viennese letter of June 11, 1897, and the Munich letter of June 14, 1897, were published in *Die Welt* of July 7, 1897.[20] Herzl added a short comment indicating that the Congress did not need to fear the public opinion of any other country outside Switzerland. The Committee for the preparation of the Zionist Congress, however, had drawn its conclusion from the Munich statement. "The Congress will meet on August 29 in Basle."

V

This turn of events was not unwelcome to Herzl. From the very beginning he had been in favor of a Swiss town and opposed to Munich as a meeting place for the Congress.[21] The further development showed that he was right.

The very atmosphere of Munich was most inappropriate to the Congress. This is true not only as regards Munich, but of southern Germany in general.[22] The Jews of southern Germany constituted an element of singular characteristics in the Jewish population of Europe. They were descendants of those Jews who, after the persecutions of the Crusades and the Black Death, had not emigrated to the East, but had fled from market towns and places where native business interests had thrown them out to little villages owned by petty princes, to live there for centuries in small family groups. Since the beginning of the nineteenth century when freedom of trade was declared, they had returned to the towns, engaged in business, become well-to-do, had their sons educated at universities, but remained closely associated with their rural and small town surroundings, suspicious against all that was strange to them, politically liberal-minded but socially strictly conservative, and slow to move. Their Judaism was a Judaism of sentiment, and made them utterly mistrustful of any predominantly intellectual approach to Jewish affairs. They were strong individualists, lacking group feelings exceeding family and neighborhood loyalties. Ac-

20 The preceding four numbers of *Die Welt* contained notes on "Munich", referring to the difficulties which had arisen there.

21 See Tagebücher I, 4, p. 595; II, 5, p. 4; II, 5, p. 15.

22 The Jews of Baden had no opportunity to protest, though they were inclined to do so, since the old Grand-Duke was one of the most devoted supporters of Herzl; see Tagebücher I, 3, p. 382 and II, 5, p. 110.

cordingly, religious liberalism of northern Germany was as alien to them as Jewish nationalism of the East.

Vienna, on the other hand, was the intellectual clearing-house of the East. Viennese Gentiles and natives of the Austrian Alpine countries are very similar to the Bavarian population. Viennese Jews, however, did not originate from Alpine countries, and only a part of them came from little Bohemian and Moravian villages and towns where social conditions resembled those in southern Germany. The greater part came from the East: from Slovakia and Hungary, from Galicia and Bukovina, from Rumania and Russia. These countries were countries of Jewish mass settlement, and therefore of Jewish cultural activities and national consciousness. Viennese people themselves are famous for their easygoing carelessness; almost all leading personalities of early Jewish nationalism in Vienna, however, including the friends and collaborators of Herzl, were Jewish intellectuals from Eastern Europe.

Munich and Vienna were opposed to each other as representatives of a Jewish "West" and a Jewish "East" in Europe. Zurich, Paris, and London are certainly situated geographically more in the West; but their Jewish population always consisted of large numbers of immigrants from the East, whereas Jews living in southern Germany had been tied up to their surroundings for generations.[23] Jews from Eastern Europe could, therefore, more easily gain influence in Western European cities as well as in Vienna than they could have done in Munich, Stuttgart, or Karlsruhe. That is why Herzl found an early supporter in Switzerland while he could not find a friend to assist him in Munich. The choice of the Congress meeting place fell to Basle after Dr. Farbstein of Zurich had carefully prepared the ground.[24] Moreover, there was not an antisemitic movement in Switzerland at that time, powerful enough to frighten the Jews there. The representatives of Munich Jewry, on the other hand, were almost certain to protest against the Congress meeting in their city as soon as they heard about the project. Their attitude becomes understandable if time and place receive proper consideration.

[23] See Jacob Wassermann, *Mein Weg als Deutscher und Jude* (Berlin, 1921) and Jacob Picard, *Der Gezeichnete* (Berlin, 1937); these are the authors to give a fair picture of South German Jewry.

[24] See Tagebücher II, 5, p. 15; 5, p. 22.

APPENDIX: DOCUMENTS

1

Letter by Sigmund Raff to the Jewish Community of Munich

München, 24. Mai 1897.

Sehr geehrter Herr Vorstand!

Unter Vorlage einer Notiz im hiesigen Generalanzeiger, gestatte ich mir, nachdem auch in anderen ernst zu nehmenden Organen derartige Pressergüsse bereits gestanden, die Bitte an die verehrliche Vorstandschaft der israel. Kultusgemeinde zu richten:

Es wollen im Einvernehmen mit Herrn Rabbiner Dr. Werner geeignete Schritte unternommen werden, ein etwaig geplantes Zusammentreten des "Weltkongresses" zu verhüten.

Herr Rabbiner Dr. Hildesheimer u. A. haben bereits die Erklärung abgegeben, dass ihre Unterschriften gegen deren Wissen und Willen erfolgt sind, es scheint also die ganze Mache nur dazu angetan, Wasser auf antisemitische Mühlen zu liefern.

Ist nun nach Allem, was meine Informationen mir ergeben, der ganze "Weltkongress" ein plumpes Manöver, so wäre doch andererseits durch Lancierung geeigneter Notizen in anständige Blätter der Weiterverbreitung solcher tendenziöser, beunruhigend wirkender Zeitungsberichte vorzubeugen.

Hochachtungsvollst

Herrn Rechtsanwalt A. Ofner, Wohlgeboren (*Signed*) Sigmund Raff.

1. Vorstand der israel. Kultusgemeinde, hier.

2

Report of An Unidentified Speaker Submitted to the Meeting of the Executive Committee of the Munich Jewish Community, in June, 1897.

Bekanntlich haben gegen Ende des vorigen Monats verschiedene Zeitungen offenbar auf Grund einer Meldung der *Kölnischen Zeitung* eine Nachricht gebracht über einen Plan, das Königreich Israel in Palästina neu zu errichten und gleichzeitig auch über einen am 25. August hier in München abzuhaltenden Kongress jüdischer Abgeordneter aus allen Teilen der Welt. Infolge dieser Nachricht wurde in der vorigen Sitzung der Verwaltung beschlossen, diese Angelegenheit weiter zu untersuchen, und mir der Auftrag erteilt, ein Referat über die Zionistenbewegung zu erstatten.

Die moderne Zionistenbewegung geht zweifelsohne von einer Idee aus, die der bekannte Wiener Journalist Dr. Theodor Herzl in ausführlicher Weise zuerst in einer eigenen Broschüre behandelt: *Der Judenstaat*, von der im vorigen Jahre schon eine dritte Auflage erschienen ist. *Der Judenstaat* Dr. Herzl's gibt sich als Versuch einer modernen Lösung der Judenfrage. Um diesen Versuch und damit auch die ganze Bewegung und das Ziel des geplanten Kongresses zu verstehen, sei es gestattet, einen Moment bei dieser Broschüre zu verweilen. Er stellt zunächst die Behauptung auf, dass die Judenfrage (mit anderen Worten der Antisemitismus) weder eine soziale noch eine religiöse, sondern eine *nationale* sei. Wir sind ein Volk—*Ein* Volk. Daraus zieht er den erweiterten Schluss, dass wir überall *als Fremdlinge* ausgeschrieen werden, auch da, wo wir seit Jahrhunderten wohnen. Wir seien überall *vergebens brave Patrioten*, da man uns *nicht in Ruhe lassen wird*. Ein Teil der Juden mag sich den fremden Völkern assimilieren. "Die Volkspersönlichkeit der Juden kann, will und muss aber nicht untergehen" (S. 14). Sie kann nicht, weil äussere Feinde sie zusammenhalten, sie will nicht, wie die Geschichte der Leiden der Juden beweise, und sie muss nicht, das versuche er darzutun. Die *Staatsidee*, welche er entwickelt habe, habe die Macht, das Judenvolk von einem Wohnort nach dem anderen zu verpflanzen. "Ueber's Jahr in Jerusalem" sei kein Traum, er wolle zeigen, dass daraus ein tagheller Gedanke werden kann. Zur Auswanderung seien erst die Verzweifelten, dann die Armen, die Wohlhabenden und schliesslich die Reichen zu veranlassen. Den Assimilanten werde durch die Fortschaffung der überflüssigen Elemente geholfen. Er

behauptet (S. 22), überall gelte der klassische Berliner Ruf: "Juden raus." Wir *können* nicht bleiben.

Seite 27 entwickelt er seinen Plan: Im Detail führt er dann aus, wie die von ihm gedachte Company und die sich anschliessenden Ortsgruppen zu handeln haben und sein Schlusswort klingt aus in die emphatischen Sätze (S. 85): "Darum glaube ich. . . ."

Es ist kein Wunder, dass diese geschickt geschriebene Broschüre, die Manches enthält, was jeder, auch der ruhig denkende Beurteiler, billigen muss, in gewissen jüdischen Kreisen zündend wirkte. Der günstigste Boden für ihre Einwirkung ist Wien und dort hat in der Tat, wie ich schon in voriger Sitzung mitteilte, die zionistische Bewegung beziehungsweise das *Nationaljudentum* am meisten Anhänger gewonnen. Dort besteht, wie aus der vorliegenden ersten Nummer der *zionistischen* Zeitschrift *Die Welt,* datiert vom 4. Iuni 1897, hervorgeht, ein Einzelverein "Wien" des Verbandes Zion, der offenbar unter der Leitung des Dr. Herzl den Mittelpunkt für die Bestrebungen der Nationaljuden bildet. Ausserdem aber bestehen eine Reihe von nationaljüdischen Studentenverbindungen und sogar nationaljüdische Mädchenvereine, die mit diesen zusammen arbeiten und kneipen. Parallel mit der rein nationalen Bewegung, wie sie in Wien herrscht, geht eine mehr aus religiösen Motiven entsprungene und von alters her besonders unter den polnischen Juden gepflegte zionistische, respektive messianische Bewegung. Die messianische Idee hat ja von jeher bei schwärmerisch angelegten Gruppen der Juden zu nationalen Auswüchsen geführt—ich erinnere nur an Sabbatai Zwi, an Frank—und fast immer waren es gerade die polnischen Juden, die sich diesen Schwärmereien hingaben. Es ist also nur natürlich, wenn z. B. die Juden, in Tarnow wie in der vorliegenden Zeitschrift *Die Welt* (S. 9) berichtet wird, in formeller Weise "dem Verbande der österreichischen Zionsvereine" in Wien beigetreten sind.

Ebensowenig ist es auffällig, dass auch in New York, wo ja bekanntlich Juden polnischer Abkunft überwiegen, sich am 4. Mai ein "Amerikanischer Zweigverein der zionistischen Bewegung" (Zeitschr., S. 5) gebildet und folgendes beschlossen hat:

1) dass er sich voll und ganz der europäischen Bewegung anschliesst und sich mit derselben vollkommen identifiziert;
2) dass er zu dem am 25. August in München stattfindenden Weltkongress der Juden Delegierte in später zu bestimmender Anzahl entsendet;
3) dass er mit voller Kraft auf die Verwirklichung der Ziele der Bewegung hinarbeitet und keinerlei anderes Programm aufnehmen darf;
4) dass er dem Lande, in welchem er sich organisiert hat und in welchem seine Mitglieder das Heimatrecht erworben haben, volle Loyalität bewahrt;
5) dass die Mitglieder des Vereins einen Jahresbeitrag per drei Dollar zu bezahlen haben, welcher monatlich zu Raten von 25 Cents zu entrichten ist, und schliesslich
6) dass das Betreiben jeglicher Lokal-Politik gänzlich ausgeschlossen ist.

Wir könnten nun diesen Vorgängen mit ziemlicher Gleichgültigkeit gegenüberstehen, wenn nicht der unglückliche Gedanke aufgetaucht wäre, einen Kongress (s. Zeitschr., S. 2) gerade nach München zu berufen. Kein Mensch wusste bisher, ob dieser Kongress nur auf einer Zeitungsente beruht oder ob er wirklich stattfindet; dass dies der Fall ist, gibt die vorliegende Nummer des, wenn ich so sagen darf, offiziellen Organs des Judenstaats feierlichst bekannt. Schlimmer als die Spöttereien der Feinde, meint hier Herzl, wirkt die *Angst* mancher unserer Stammesgenossen, etc. H. begeht den Fehler, den alle Schwärmer von jeher begehen, dass er das *Nächstliegende* übersieht und dafür gegen Windmühlen, die er sich selber konstruiert, kämpft. Das Nächstliegende bei dem *Münchener Kongress* wäre gewesen, dass H. mit hiesigen Herren, von denen er ein Interesse für jüdische Angelegenheiten voraussetzen durfte, sei es mit dem Rabbiner oder den Vorständen der Gemeinde, Fühlung genommen hätte, um zu hören, ob überhaupt ein solcher Kongress hier stattfinden kann, ohne *Schaden* anzurichten. Wie er jetzt geplant ist und wie er nicht bloss von antisemitischen, sondern auch von unparteiischen Kreisen aufgefasst wird, *kann* er zunächst uns bayerischen Juden schaden. Wir sind also gezwungen, selbst wenn wir manchen Bestrebungen der Zionisten zustimmen könnten, dem Kongress, der auch von den ihm ursprünglich nahestehenden Herren in Berlin verpönt wird, entgegenzutreten, nicht aus Angst, weil wir nichts von Judensachen wissen wollen, sondern im Interesse unserer eigenen Sicherheit. Wir können mit vollem Recht annehmen, dass die *antisemitische Bewegung* durch die-

sen schlecht vorbereiteten, unzeitgemässen Kongress, der Elemente vereinigen soll, die sich unmöglich auf die Dauer vereinigen lassen—man denke nur an Nordau den Gottesleugner und irgendeinen alten polnischen Rabbi, der der Kabbala huldigt—neue Nahrung bekommt. Die weitere Folge des Kongresses wird nicht *eine Versöhnung* sein, wie H. glaubt, sondern eine Vermehrung des Zündstoffes gegen die Juden und wir, die dem Kongress zunächst wohnenden Juden, werden zuerst darunter leiden. Es scheint daher unbedingt nötig, dass wir als die berufenen Vertreter der Juden Münchens gegen diesen Kongress Stellung nehmen. Es fragt sich nur auf welche Weise. Bei den Vorbesprechungen, die ich in dieser Sache teils mit dem Herrn Rabbiner teils mit anderen pflog, wurde die Meinung laut

1) man müsse zunächst den Kongress auf gütlichem Weg durch Verhandlungen mit dem Unternehmer zu verhindern suchen;
2) es wären eventuell polizeiliche Massnahmen zu ergreifen.

Notes From the Discussion

Der Antisemitismus ist es, der den Lärm macht und nicht die *zionistische Bewegung*. Diese Bewegung ist eine ideale und kann nicht durch Gewaltmassregeln abgehalten werden, sie würde dadurch gerade gefördert.

Keine Drohung soll ausgesprochen werden, sondern nur eine Warnung.

"Presscomité."

Polizeiliche Intervention.

Schreiben an Herzl.

3

Letter of the Munich Jewish Community to Dr. Theodor Herzl

Verwaltung
der israelitischen Kultusgemeinde
in München

No. 414 München, den 13. Juni 1897

An
Herrn Dr. Theodor Herzl
Hochwohlgeboren
Wien

Ew. Hochwohlgeboren!

Wie wir den Notizen verschiedener Tagesblätter entnehmen, beabsichtigen Sie, Ende August d. Js. einen Zionisten-Kongress nach *München* einzuberufen.

Wir können unser Befremden nicht unterdrücken, dass—die Richtigkeit dieser Zeitungsnachrichten vorausgesetzt—weder dem hiesigen Rabbinate, noch der unterfertigten Kultusverwaltung von irgend einer Seite eine offizielle Mitteilung über Ihr Vorhaben zugekommen ist. Wir wollen nicht unterlassen, jetzt schon darauf hinzuweisen, dass für die von Ihnen geleitete Bewegung bei den Glaubensgenossen unserer Stadt nicht die geringsten Sympathien bestehen, und dass wir in der Abhaltung des Kongresses in München oder Bayern geradezu eine Gefahr für unsere Glaubensgenossen erblicken. Es dürfte Ihnen wohl bekannt sein, dass sich die Presse in Bayern bereits lebhaft mit der Frage der Zionisten-Bewegung beschäftigt und in böswilliger Weise den Beweis für geliefert erachtet, dass die Juden Liebe und Anhänglichkeit zu ihrem Vaterlande nicht besitzen. Zur Abwendung der von uns befürchteten Gefahr halten wir uns für verpflichtet, das dringende Ersuchen an Sie zu richten, den Kongress unter allen Umständen ausserhalb Münchens und Bayerns abzuhalten.

Dabei wollen wir Ihnen weiter zu bedenken geben, dass nach den Bestimmungen des bayerischen Vereinsgesetzes die Möglichkeit besteht, dass die am Kongresse beteiligten Ausländer nicht zum Worte verstattet werden und bei dem Umstande, dass—wie wir annehmen—der Kongress fast ausschliesslich aus Ausländern besteht, die Tagung desselben vereitelt werde.

Wir erlauben uns, Vorstehendes mit der wiederholten Bitte Ihrer Erwägung anheimzugeben, von der Abhaltung des Kongresses in München und Bayern Umgang zu nehmen und uns Ihre Entschliessung baldgefälligst bekannt geben zu wollen.

Hochachtungsvoll

Die Verwaltung der israel. Kultusgemeinde München
Der I. Vorstand Der Sekretär
(signed) Ofner (signed) Rein

4

Letter of Dr. Theodor Herzl to the Munich Jewish Community

"ZION"

Verband der österreichischen Vereine
für Kolonisation Palästinas und Syriens.

Wien, am 11. Juni 1897.
II, Rembrandtstrasse 11.

An die löbliche Vorstandschaft
der Israelitischen Kultusgemeinde

München.

Hochgeehrte Herren!

Einige Notizen in den Münchener Tagesblättern haben unsere Aufmerksamkeit auf eine Agitation hingelenkt, die dort gegen die Veranstaltung unseres Zionisten-Kongresses eingeleitet worden ist. Insbesondere heisst es, dass sich der Münchener Kultusvorstand gegen diesen Kongress, zu dem er nicht eingeladen worden sei, verwahre. Um diese Sache klarzustellen, wenden wir uns direkt an Sie.

Wenn wir den Münchener Kultusvorstand nicht zum Kongress eingeladen haben, so unterliessen wir dies nicht aus Mangel an Courtoisie oder weil wir Sie nicht als dazugehörig ansahen. Wir wollten es Ihnen vielmehr völlig anheimstellen, sich als gern gesehene Genossen am Kongresse zu beteiligen oder sich diesem fernzuhalten. Wir glaubten taktvoll zu handeln, wenn wir Ihnen die Stellung zum Kongresse überliessen, und Ihnen eventuell die Verlegenheit ersparten, sich aus vermeintlichen Opportunitätsgründen gegen Ihre Stammesgenossen erklären zu müssen. Zwar enthält der Zionismus nichts, was gegen Sitte und Gesetz verstiesse, und nur Böswillige können diese Bewegung als antipatriotisch hinstellen. Aber wir wissen nur zu gut, wie viele falsche Vorstellungen noch über unseren Versuch, die Judenfrage friedlich und menschenfreundlich zu lösen, verbreitet sind.

Es ist eine der Aufgaben unseres Kongresses, die öffentliche Meinung über das Wesen des Zionismus aufzuklären. Wir beehren uns, Ihnen gleichzeitig eine Nummer unseres Parteiblattes *Die Welt* zu übersenden, da finden Sie einen informierenden Artikel über die Zwecke des Kongresses.

Wir haben den Kongress nach München einberufen, weil diese Stadt als gastfreundlich gilt und ein geeigneter Verkehrsmittelpunkt ist. Einen Protest von jüdischer Seite gegen unsere Versammlung haben wir nicht erwartet und wir glauben, dass auch Nichtjuden einen solchen Protest nicht verstehen würden.

Es scheint uns, dass die Israeliten, die sich nicht als Nationaljuden, sondern als Angehörige einer andern Nation fühlen, uns ruhig unseren Volksgefühlen überlassen sollten. Wir sprechen nicht in ihrem Namen, sondern nur in unserem eigenen; wir achten ihre Nationalität, mögen sie die unsere achten, wie das unter den Völkern üblich ist.

Noch eine Besorgnis, die etwa auftauchen könnte, glauben wir im Vorhinein zerstreuen zu sollen. Der Zionisten-Kongress ist eine geschlossene Versammlung, in die man nur mit Eintrittskarten gelangen kann, und die Einberufer wie die bereits angemeldeten Teilnehmer sind fest entschlossen, dieser Versammlung einen würdigen Charakter zu geben und zu erhalten. Wir glauben nicht, dass unsere Versammlung dem Ansehen der Judenschaft abträglich sein oder Spott und Verachtung erregen wird —wenigstens nicht mehr, als ohnehin schon gegen uns vorhanden ist.

Wir schliessen. Wir fragen Sie, hochgeehrte Herren, da uns die Umstände zu dieser Frage nötigen: welche Stellung nimmt der löbliche Kultusvorstand von München unserem Kongress gegenüber ein? Protestiert er gegen die Abhaltung des Kongresses in München? oder betrachtet er die ganze Angelegenheit als eine ihm fremde, um die er sich nicht kümmert?

Aus der gefälligen Antwort werden wir die Konsequenzen ziehen. Wir halten es für loyal, Sie schon jetzt darauf aufmerksam zu machen, dass wir die vorliegende Zuschrift veröffentlichen werden, falls wir durch Ihren Widerspruch genötigt sein sollten, den Kongress von München weg nach einem anderen Orte zu verlegen.

Wir bitten Sie, uns Ihre Antwort bald zusenden zu wollen. Sollte eine Beratung der löblichen Vorstandschaft nicht sofort möglich sein, so ersuchen wir um die Mitteilung des Zeitpunktes, bis zu welchem wir Ihre Antwort erwarten dürfen.

Genehmigen Sie, hochgeehrte Herren, den Ausdurck unserer vorzüglichen Hochachtung.

Die vorbereitende Kommission des
Zionistischen Kongresses
(Signed) Dr. O. Kokesch — (Signed) Dr. Theodor Herzl
Schriftführer — Vorsitzender

5

Answer of the Munich Jewish Community to Dr. Herzl

No. 417 — München, den 13. Juni 1897.

Herrn Dr. Theodor Herzl, Wien.

Ihr geehrtes vom 11. ds. Mts. datiertes Schreiben ist heute, wahrscheinlich zu gleicher Zeit, zu der Sie unsere Zuschrift vom gestrigen erhielten, an uns gelangt.

Die uns gegebenen Aufklärungen über Ziele und Zwecke der Zionistenbewegung sind nicht geeigenschaftet, unsere Stellungnahme zur Abhaltung des Zionisten-Kongresses in München und Bayern zu verändern. Wir sind daher veranlasst, unser Ersuchen zu wiederholen und um jedes Missverständnis auszuschliessen, förmlich gegen die Abhaltung des Kongresses in München Protest zu erheben.

Hochachtungsvoll

Die Verwaltung der israel. Kultusgemeinde München
Der I. Vorstand (Signed) Ofner — Der Sekretär (Signed) Rein

EIKE VON REPGOWS VERHAELTNIS ZUR BIBEL

Literaturgeschichte eines Problems[1]

Von

Guido Kisch

New York

NOTE. Due to the present war conditions in Europe an article on Rashi by Doctor Louis Rabinowitz of London, now chaplain in the British army, did not arrive in time to be included in this issue as originally planned. In order not to delay the appearance of the latter, no time was left for translation from the German of the essay on Eike von Repgow's relationship to the Bible which must replace the Rashi article. It, therefore, appears in the original German as an unavoidable exception from the principle to publish articles and reviews in the English language only.

I

Das Problem "Bibel und Recht"

Wie hat in jener mittelalterlichen Zeit, deren geistige Grundlage das Christentum bildet, deren politische Grossmacht die Kirche

[1] Die vorliegende Arbeit bildet einen weiteren Beitrag zu meinen *Sachsenspiegel*-Forschungen, deren Zusammenfassung in einem selbständigen Buch bevorsteht. Es

darstellt, die Heilige Schrift auf Rechtsdenken, Rechtsgestaltung und Rechtsliteratur eingewirkt? Die hier gestellte Frage ist bloss ein Ausschnitt aus dem grösseren Problembereich des Einflusses der Bibel auf die Geisteskultur des Mittelalters überhaupt.

Die rechtsgeschichtliche Forschung hat sich dieses wichtige Thema namentlich für Deutschland ebenso entgehen lassen wie die bibelgeschichtliche Wissenschaft. Das Interesse der letzteren an solchen Fragen erschöpfte sich bisher in spärlichen Bemerkungen über die Bedeutung von Petrus Comestors Historienbibel für die deutsche Geschichtsliteratur.[2] Auch in der Geschichte der deutschen Literatur des Mittelalters haben sie wenig Beachtung gefunden.[3] Während umfangreiche Werke über den Einfluss der Bibel auf das ältere englische Schrifttum vorliegen,[4] fehlt es an ähnlichen neueren Einzeluntersuchungen für das deutsche Mittelalter[5]. Allein zu Frei-

wird voraussichtlich im Herbst 1941 erscheinen unter dem Titel *Sachsenspiegel and Bible, Researches in the Source History of the Sachsenspiegel and in the Influence of the Bible on Mediaeval German Law.* In dem vorliegenden Aufsatz wird die Literaturgeschichte des Problems, die dort wegen Raummangels eingeschränkt werden muss, in voller Ausführlichkeit dargestellt.

[2] Vgl. Hans Vollmer, *Materialien zur Bibelgeschichte und religiösen Volkskunde des Mittelalters* (Berlin, 1925), S. XXIII-XXV.

[3] Vgl. die lesenswerte Studie von Konrad Burdach, "Die nationale Aneignung der Bibel und die Anfänge der germanischen Philologie", *Festschrift für Eugen Mogk zum 70. Geburtstag* (Halle, 1924), S. 231-243.

[4] Vgl. Albert S. Cook, *Biblical Quotations in Old English Prose Writers* (London and New York, 1898; second series, 1903); Mary W. Smith, *Biblical Quotations in Middle English Literature before 1350* (New York, 1911), war mir nicht zugänglich; Edward D. Coleman, *The Bible in English Drama* (New York, 1931) mit Bibliographie.—Herbert Schöffler, *Abendland und Altes Testament* (Bochum, 1937), S. 40-44, unterschätzt stark den Einfluss des Alten Testaments im englischen Mittelalter; vgl. dazu Felix Liebermann, "King Alfred and Mosaic Law", *Transactions of the Jewish Historical Society of England* VI, 1908-1910, (London, 1912), S. 21-31; G. Kisch, "The Influence of the Bible on Medieval Legal Thought in England and Germany," *VIIIe Congrès International des Sciences Historiques Zürich 1938, Communications Présentées* II (Paris, 1938), S. 317 ff.

[5] Z. B. über die Frage, wie biblische Bilder, Anschauungen und Gedanken in die deutsche Sprache und Literatur aufgenommen wurden und so zu einem bleibenden geistigen Besitztum des deutschen Volkes geworden sind, kann man sich heute nur in sehr unzulänglicher Weise unterrichten. Die einzige weiter ausgreifende monographische Behandlung des Themas, die es meines Wissens gibt, ist methodisch verfehlt und auch sonst wissenschaftlich ohne jeden Wert, nämlich Sigmund Gelbhaus, *Mittelhochdeutsche Dichtung in ihrer Beziehung zur biblisch-rabbinischen Literatur* I-IV (Frankfurt a. M., 1889-1893); vgl. Albert Leitzmann, *Literaturblatt für germanische und romanische Philologie* XI (1890), S. 298-299, und Franz M. Goebel, *Jüdische Motive im märchenhaften Erzählungsgut,* Greifswalder phil. Diss. (Gleiwitz, 1932), S. 14. Ebenso wertlos ist Arthur Sakheim, *Das jüdische Element in der Weltliteratur* (Hamburg, 1924). Eine blosse Zusammenstellung von Parallelen bietet Leo Deutschländer, "Biblisch-talmudische Sentenzen und Motive in der Weltliteratur", *Festschrift für Jacob Rosenheim* (Frankfurt a. M., 1931), S. 287-355.—Nicht zugänglich war mir E. Stein von Nordenstein "Ueber den Einfluss der Bibel auf deutsche Sprache und Literatur", *Programm des k. k. Gymnasiums zu Klattau* 1856.—In seiner vielbändigen

danks *Bescheidenheit,* etwa um die gleiche Zeit wie der *Sachsenspiegel* vollendet, gibt es gegenständlich beschränkte, aber inhaltlich aufschlussreiche Studien philologischer Art.[6] Ein reiches Schrifttum beschäftigt sich mit der Einwirkung der Bibel auf die philosophische Spekulation, mit ihrer Bedeutung für die bildende und darstellende Kunst des Mittelalters.[7] Vergeblich sucht man jedoch nach einer angemessenen wissenschaftlichen Behandlung des Themas *"Bibel und Recht"* im allgemeinen und für Deutschland im besonderen.[8]

Geschichte der deutschen Literatur im Mittellater konnte Gustav Ehrismann diesen Problemen natürlich nur ganz nebenher Beachtung schenken; Gustav Ehrismann, *Geschichte der deutschen Literatur bis zum Ausgang des Mittelalters* II, 1-2 (München, 1922-1935), passim; besonders II, Schlussband (1935), S. 321, 438.—Vgl. Edward Schröder, *ZRG.* XLIV (1924), S. 9: "Den direkten und indirekten Einfluss der lateinischen Bibel auf den Wortschatz der Vulgärsprachen kann man sich nicht leicht gross genug vorstellen."

[6] H. E. Bezzenberger, *Fridankes Bescheidenheit* (Halle, 1872); Carl Loewer, *Patristische Quellenstudien zu Freidanks Bescheidenheit,* phil. Diss. Leipzig (Berlin ohne Jahr, [1901]).—Die Bedeutung der biblischen Sprichwörter für die deutsche Sprache und Literatur im besonderen hat seit achtzig Jahren keinen Gelehrten mehr angezogen. Noch immer muss man zu Carl Schulzes nützlicher Sammlung greifen, die für die Zeit ihres Erscheinens eine gute Arbeit war, längst aber wissenschaftlich überholt ist, Carl Schulze, *Die biblischen Sprichwörter der deutschen Sprache* (Göttingen, 1860). Thomas Stephens and Wilfrid Bonser, *Proverb Literature, A Bibliography of Works Relating to Proverbs* (London, 1930) verzeichnen kein neueres Spezialwerk. Die Ausführungen über biblische Sprichwörter bei Archer Taylor, *The Proverb* (Cambridge, Mass., 1931), S. 52-61, sind weder befriedigend noch erschöpfend.

[7] Vgl. Ernst von Dobschütz, Artikel "The Bible in the Life of the People", in *Encyclopaedia of Religion and Ethics* II (New York, 1910), S. 611-615, mit Literaturangaben; von Dobschütz, *The Influence of the Bible on Civilization* (New York, 1914); *Enc. Jud.* IV, S. 726-739, mit Bibliographie.

[8] Vgl. als Beispiel Ernst von Dobschütz' Artikel "Bible and Law" in *Encyclopaedia of Religion and Ethics* II, S. 613, ähnlich von Dobschütz, *The Influence of the Bible on Civilization,* S. 87 f.: "The Bible continued to exercise its influence upon the Law. As King Alfred of England when collecting the laws of his people put the ten commandments at the beginning, so likewise the German collections, *Schwabenspiegel, Sachsenspiegel,* and so on, have prefaces which present the national law as an emanation from the law of God as contained in the Old and New Testaments."—Das Sammelwerk *The Legacy of Israel* von Edwyn R. Bevan und Charles Singer (Oxford, 1927), S. 377-406, enthält eine kenntnisreiche Studie von Nathan Isaacs "The Influence of Judaism on Western Law," die aber weder auf selbständigen Quellenforschungen aufbaut, noch mit rechtshistorischer Methodik arbeitet. Der Verfasser begnügt sich, Grundsätze und Erscheinungen des jüdischen Rechts zu solchen staatlicher Rechtssysteme aller Zeiten und verschiedener Völker in Parallele zu setzen. Daher dringt er nirgendwo zu der eigentlichen rechtsgeschichtlichen Problematik vor.—Nur ein einziges Mal ist das hier betrachtete Problem in der Literatur ernstlich aufgeworfen worden, in einer elfseitigen Studie von Karol Koranyi, "Die Heilige Schrift und das weltliche Recht vornehmlich im Mittelalter", Sonderabdruck aus *La Pologne au VII-e Congrès International des Sciences Historiques"* (Warschau, 1933), von der ich erst nach Abschluss dieser Arbeit Kenntnis erhalten habe. Der Verfasser deutet an einigen Spezialbeispielen den Einfluss biblischer Rechtsideen auf das mittelalterliche Recht Europas an. Nur beiläufig berührt ist das Problem neuestens von Franz Bossowski, "Roman Law and Hebrew Private Law", *Bulletino dell' Istituto di Diritto Romano "Vittorio Scialoja"* XLVI, n. s. V (1939), pp. 354-363.

Meine eingangs erwähnte Untersuchung "Sachsenspiegel und Bibel"[9] liefert einen Beitrag zur Geschichte des biblischen Einflusses auf das mittelalterliche weltliche Recht und seine Literatur. In ihrem Mittelpunkt stehen *Sachsenspiegel*[10] und Bibel. Wohl ist an der grundsätzlichen Richtigkeit der Feststellung eines Sachkenners nicht zu zweifeln: "Seit Jahrhunderten steht der *Sachsenspiegel* im Mittelpunkt des Interesses, beschäftigen sich Juristen und Historiker mit den gleichen Fragen, und so ist kaum eine Möglichkeit denkbar, die nicht bereits irgendeiner der zahlreichen Sachsenspiegelforscher erwogen hätte."[11] Trotzdem aber glaube ich, in jener Abhandlung bisher noch nicht betretene Wege eingeschlagen zu haben. Die Fragestellung war gleichermassen von quellenkritischen wie von geistesgeschichtlichen Problemen ausgegangen. Der Weg der Textvergleichung und Textkritik führte stufenweise zunächst zur Aufdeckung bisher unbekannter Quellen, sodann zum Eindringen in die Stilgeschichte des *Sachsenspiegels* und in die Kompositionstechnik seines Verfassers, schliesslich zur Aufhellung der geistesgeschichtlichen Fragen. Zum ersten Mal ist dort der Versuch unternommen, das Verhältnis Eikes von Repgow zur Bibel mittels subtiler quellenkritischer Untersuchungen zu ergründen. Dabei musste sich auch eine andere allgemeinen sicherlich zutreffende Beobachtung eine

[9] Siehe oben Anm. 1. Da die Abhandlung bald leicht zugänglich sein wird, kann von einer summarischen Inhaltsangabe hier abgesehen werden.

[10] Ueber den *Sachsenspiegel*, der vermutlich zwischen 1221 und 1224 entstand, und über seinen Verfasser, Eike von Repgow (ca. 1180-1233), sowie über den gegenwärtigen Stand der Forschung zur Geschichte der Quellen des Rechtsbuches siehe Guido Kisch, "The Sachsenspiegel and Its Sources," *Germanic Review* XIV (1939), S. 3-13. Folgende Ergänzungen zu diesem Aufsatze seien hier angemerkt. Zu S. 4 Anm. 6: vgl. neuestens Heinrich Mitteis, *Die deutsche Königswahl* (Baden, 1938), S. 132-134; zu S. 12 Anm. 23: Eduard Eichmann, *Acht und Bann im Reichsrecht des Mittelalters* (Paderborn, 1909), S. 80 ff.; zu S. 12 Anm. 24: Gerhard Kallen, *ZRG.* LVIII (1938), S. 574-583, wonach "die *confoederatio cum principibus* in der Reihe der 'Quellen' zum Landrecht ausfallen kann"; ebenso Hans von Voltelini, *ZRG.* LVIII (1938), S. 552 f.; zu S. 12 Anm. 27: vgl. E. von Künssberg, "Rechtsverse", in *Neue Heidelberger Jahrbücher* 1933 (Heidelberg, 1933), S. 91; schon vor Heymann wies Julius Ficker, *Vom Reichsfürstenstande* II 2 (Graz und Leipzig, 1921), S. 100, auf die Benützung älterer Vorlagen durch Eike hin; zu S. 13 Anm. 29: zu ähnlichen Ergebnissen gelangte neuestens auch Voltelini, "Ein Beitrag zur Quellenkunde des Sachsenspiegels Landrecht", *ZRG.* LVIII (1938), S. 550; zu S. 13 Anm. 30: zur Frage, ob Eike vielleicht eine der späten Versionen der sogenannten *Vindicta Salvatoris* aus dem 10. Jahrhundert herangezogen hat, vgl. Ludwig Weiland, *Sächsische Weltchronik, MG. Deutsche Chroniken* II 1 (Hannover, 1876), S. 26; Ernst von Dobschütz, *Christusbilder, Untersuchungen zur christlichen Legende* (Leipzig, 1899), Belege zu Kap. VI, Nr. 37, S. 295* ff.; Nr. 8, S. 278* f.; S. 235 ff.; G. Kisch, "The Jewry-Law of the Medieval German Law-Books" II, *PAAJR.* X (1940), S. 165f. Anm. 126.

[11] Karl Aug. Eckhardt, *ZRG.* XLV (1925), S. 472.

Ausnahme gefallen lassen, nämlich dass in der Regel bloss der Zufall die Entdeckung quellenmässiger Abhängigkeiten zu bringen pflegt.[12] Denn es sind planmässige systematische Forschungen gewesen, durch die solche Zusammenhänge aus ihrer Verborgenheit ans Tageslicht gezogen wurden. Quellengeschichte und Ideengeschichte müssen innig zusammengehen. Auf beiden Pfaden muss die Untersuchung sich bemühen, vorsichtig vorwärtstastend vorzudringen. Die Richtigkeit dieser Erkenntnis erhellt deutlich aus der Auswahl der dort behandelten Quellenstellen, die durch das Ineinandergreifen von geistesgeschichtlicher und quellenkritischer Betrachtung bedingt war. Nur wo die Quellengeschichte einigermassen festen Boden vorfand, durfte die Aufhellung der geistesgeschichtlichen Zusammenhänge und Hintergründe mit einiger Aussicht auf Erfolg versucht werden. Deshalb waren gewisse Probleme auszuschalten, vor allem jene philosophischen Lehren, historischen Anschauungen und rechtlichen Einrichtungen israelitischen Ursprungs, welche durch das Chrisentum, durch Bibel und Kirche, frühzeitig zu allgemeinem europäischen Kulturgut geworden sind. Ihrem quellengeschichtlichen Ursprung und ihrer Fortentwicklung nachzuforschen, konnte in die Aufgabe nicht eingeschlossen werden, obwohl sie auch im *Sachsenspiegel* entgegentreten. Dies gilt besonders für die uralte Idee von den vier Weltreichen, die sich in Zeit und Raum ablösen,[13] jene Lehre, die sich zuerst bei Daniel 2, 36-45 findet. Sie war Eike bekannt und ist von ihm in *Sachsenspiegel* (III 44, 1) und *Sächsischer Weltchronik* (Kap. 11-13) verwertet worden. Aehnlich steht es um das biblische Zehentrecht, das früh zur allgemeinen kirchlichen und weltlichen Rechtseinrichtung geworden ist[14] und im *Sachsenspiegel* (II 48, 3-12; 58, 2) seine Regelung gefunden hat. In diesen und ähnlichen Fällen erschien der quellengeschichtliche Boden zu schwankend, um auf ihm philologisch, rechtshistorisch oder geistesgeschichtlich aufbauen zu können.

Das zu untersuchende Gebiet blieb immer noch weit genug und

[12] So Cl. von Schwerin, *Einführung in das Studium der germanischen Rechtsgeschichte* (Freiburg i. B., 1922), S. 107.

[13] Vgl. Hans Fehr, "Die Staatsauffassung Eikes von Repgau," *ZRG.* XXXVII (1916), S. 136; Wolfgang Stammler, *Mittelniederdeutsches Lesebuch* (Hamburg, 1921), S. 133.

[14] Vgl. zuletzt Erika Widera, "Der Kirchenzehnt in Deutschland zur Zeit der sächsischen Herrscher", *Archiv für katholisches Kirchenrecht* CX (1930), S. 33 ff. mit Literaturangaben.

konnte sicherlich nicht erschöpft werden. Trotzdem aber glaube ich, durch Kleinarbeit in Textkritik und Ideengeschichte das Quellenproblem des *Sachsenspiegels* ein Stück vorangebracht zu haben. In der biblischen Quellenfrage dürften Ergebnisse erzielt sein, an denen Zweifel wohl schwerlich möglich werden können. Es gelang sogar, Eikes individuelle Gedankenverbindungen und Gedächtnisfunktionen hinsichtlich seines biblischen Stoffes bis zu gewissem Masse aufzudecken. Die Ergründung dieser geistigen Vorgänge aus der Formgestalt, welche sie in *Sachsenspiegel* und *Weltchronik* angenommen haben, hat—im Gegensatz zu der herrschenden Lehre—zu der Ueberzeugung geführt, dass der Verfasser des *Sachsenspiegels* ein gründlicher Kenner des biblischen Schrifttums gewesen sein muss. Diese Erkenntnis stellte die Persönlichkeit Eikes in ein neues Licht und führte weiter zur Klärung der geistesgeschichtlichen Bedeutung der Bibel für den *Sachsenspiegel,* die vor allem in Eikes Rechtsquellenlehre bedeutsamen Ausdruck gefunden hat.[15] Die Bedeutsamkeit des Problems scheint—besonders im Hinblick auf die von der bisher herrschenden Anschauung abweichenden Forschungsergebnisse—die folgende Darstellung seiner Literaturgeschichte zu rechtfertigen.

II

EIKE VON REPGOW'S VERHAELTNIS ZUR BIBEL IM LICHTE DER BISHERIGEN FORSCHUNG UND KRITIK DER HERRSCHENDEN LEHRE

Zur Beurteilung einer bedeutenden Persönlichkeit, wie sie der Verfasser des berühmtesten deutschen Rechtsbuches des Mittelalters und des ersten Geschichtswerkes in deutscher Sprache darstellt, pflegt man sich an ihre Biographie und an ihre Lehre zu wenden. Ueber *Eike von Repgows Leben* haben sich aber bekanntlich nur sehr spärliche Nachrichten von historischer Gewissheit erhalten. Deshalb sind wir darauf angewiesen, vorwiegend aus seinen Werken Schlüsse auf die Persönlichkeit des Verfassers zu ziehen. Für die Gestaltung des historischen Bildes bedeutet das grundlegende Problem die Frage, ob Eike eine tiefere gelehrte Bildung besessen habe.

[15] Darüber ausführlich G. Kisch, "Biblical Spirit in Medieval German Law", *Speculum* XIV (1939), S. 38-55 und G. Kisch, *Sachsenspiegel and Bible.* Auf diese beiden Abhandlungen sei hier ein für allemal verwiesen.

Hat der Verfasser des *Sachsenspiegels* vielleicht eine kirchliche Erziehung und Bildung genossen? Verfügt er über eine Gelehrsamkeit, wie man sie zu seiner Zeit nur in einer kirchlichen Bildungsanstalt, etwa in einer Dom- oder Klosterschule, erwerben konnte? Nicht weniger bedeutend scheint ein anderes viel erörtertes Problem zu sein: Ist der Verfasser der *Sächsischen Weltchronik* ein Geistlicher oder ein Laie gewesen? Beide Fragenkomplexe berühren sich innig. Sie betreffen eine und dieselbe Persönlichkeit, Eike von Repgow, dessen epochale Bedeutung gerade auf jener hervorragenden Doppelleistung beruht: als Erster eine zusammenfassende Darstellung des deutschen Rechts in deutscher Sprache gegeben und so das wichtigste deutsche Rechtsbuch des Mittelalters geschaffen zu haben, ferner als Erster eine Geschichte der Menschheit von der biblischen Schöpfungserzählung an bis herab zu seiner eigenen Zeit in deutscher Prosa geschrieben zu haben.

Eikes Persönlichkeit hat die wissenschaftliche Forschung in alter und neuer Zeit oft und intensiv beschäftigt. Zuletzt hat der Wiener Rechtshistoriker *Hans von Voltelini* in seiner ebenso fleissigen wie gelehrten Abhandlung "Der Verfasser der *Sächsischen Weltchronik*" alles, was über Eikes historische Gestalt erforscht und geschrieben worden ist, sorgfältig zusammengetragen und übersichtlich geordnet, kritisch beleuchtet und durch eigene neue Beobachtungen bereichert.[1] Er kam zu folgenden Ergebnissen.

"So spricht nichts gegen, sehr viel für die Annahme, dass Eike auch der Verfasser der *Sächsischen Weltchronik* gewesen sei. Doch darf man nicht mit Zeumer daraus schliessen, dass Eike ein Gelehrter gewesen sei und eine tiefere gelehrte Bildung besessen habe." Schwerlich sei er Zögling eiher Dom- oder Klosterschule gewesen; für seinen Uebertritt in den geistlichen Stand fehle es an jedem Beweise. "Die Chronik zeigt ein durchaus laikales Gepräge." Sie sei das Werk eines Laien, der zwar das Lateinische beherrschte, aber nur oberflächliche theologische und kanonistische Kenntnisse besass.

Der Rezensent dieser Abhandlung *Karl August Eckhardt* hat der "trefflichen Methode Voltelinis und seinem klaren, durch Phantastereien nicht beirrbaren Urteil," durch welche sich "seine Studien über die Arbeiten vieler seiner Vorgänger hinausheben," das gebüh-

[1] "Forschungen zu den deutschen Rechtsbüchern" II, *Sitzungsberichte der Akademie der Wissenschaften in Wien*, phil.-hist. Klasse CCI, 4-5. Abh. (Wien, 1924), besonders S. 60, 47 ff., 18 ff., 39, 57 ff.

rende Lob gezollt[2] und Voltelinis Festellungen über Eike als Verfasser der *Weltchronik* mit und wegen ihrer Begründung akzeptiert. "Manches, was andere vor ihm *behauptet* haben, hat er [Voltelini] erst hinreichend *begründet* und zu sicherem Besitz unserer Wissenschaft gemacht." Nur hinsichtlich der kanonistischen Kenntnisse Eikes hat Eckhardt unter dem Eindruck von Karl Gottfried Hugelmanns Forschungen über Eikes Verhältnis zum kanonischen Recht[3] einen Vorbehalt gemacht. Später hat er sich in seiner Studie "Die Entstehungszeit des *Sachsenspiegels* und der *Sächsischen Weltchronik*" noch einmal ausdrücklich zu Voltelinis Auffassung bekannt.[4] Auch Harry Bresslau hat sich mit seiner bedeutenden Autorität hinter sie gestellt.[5] Schnell hat sie daher in neuere Werke über Eike von Repgow und den *Sachsenspiegel*, namentlich in die Lehrbücher der deutschen Rechtsgeschichte, Eingang gefunden.[6] So ist Voltelinis dargelegte Anschauung zur herrschenden Lehre erhoben worden.[7]

[2] *ZRG.* XLV (1925), S. 472-480.

[3] Hugelmann, "In den ban mit rechte komen", *ZRG.* XXXVIII, kanon. Abt. VII (1917), S. 33-97, besonders S. 93, wo unter Hinweis auf "Ssp. II 61, 1=Genesis 1, 28" und auf Ssp. III 42 Eike als "bibelkundig" bezeichnet wird; Hugelmann, "Die Wirkungen der Kaiserweihe nach dem Sachsenspiegel", *ZRG.* XL, kan. Abt. IX (1919), S. 1-62; Hugelmann, "Der Sachsenspiegel und das vierte Lateranensische Konzil", *ZRG.* XLIV, kan. Abt. XIII (1924), S. 427-487, besonders S. 472 f. Anm. 3. Vgl. auch schon Eduard Eichmann, "Das Exkommunikationsprivileg des deutschen Kaisers im Mittelalter", *ZRG.* XXXII, kan. Abt. I (1911), S. 194, wo Eikes "kanonistisch-theologische Bildung" gerühmt wird.

[4] Eckhardt, *Rechtsbücherstudien* II (Berlin, 1931), S. 123, 125.

[5] Bresslau, *Neues Archiv der Gesellschaft für ältere deutsche Geschichtskunde*, XLVI (1926), S. 295: ". . . überhaupt war es, wie Voltelini zeigt, mit der wissenschaftlichen Bildung Eikes, wenn er auch Latein verstand, nicht so weit her, wie mehrfach angenommen worden ist."

[6] So bei Planitz, Artikel "Sachsenspiegel", *Handwörterbuch der Rechtswissenschaft* V (1928), S. 229: "Seine [Eikes] literarischen und wissenschaftlichen Kenntnisse waren nicht sehr erheblich"; Walter Möllenberg, *Eike von Repgow und seine Zeit, Recht, Geist und Kultur des deutschen Mittelalters* (Burg, 1934), S. 14-17, mit teilweise eigener abwegiger Begründung. Vgl. Cl. von Schwerin, *Germanische Rechtsgeschichte* (Berlin, 1936), S. 154: "Ungewiss ist auch, ob er [Eike] eine gelehrte Bildung, etwa in einer Domschule, erhielt." Frühere Auflagen von Heinrich Brunners *Grundzügen der deutschen Rechtsgeschichte enthielten den Satz* "In seiner Jugend hat Eike gelehrte Bildung genossen"; so noch die 6. Auflage (1913), S. 109, und die 7. Auflage von Ernst Heymann (1919), S. 109. Dies wurde in der 8. Auflage (1930), S. 109, von Schwerin durch Einschiebung des Wortes "vermutlich", in Schwerins *Grundzügen der deutschen Rechtsgeschichte* (Berlin, 1934), S. 127, noch weiter durch den Ausdruck "vielleicht" abgeschwächt.

[7] Eine andere Auffassung vertritt—leider ohne Begründung—Kurt Müller, "Eike von Repgow", *Festschrift: Dem Andenken Eikes von Repgow . . . zur 700. Wiederkehr seines Todestages* (Dessau, 1934), S. 9-10; Eike sei ein Mann von "trefflicher Bildung" und "reichem Wissen." Vgl. ferner Wolfgang Stammler, *Geschichte der niederdeutschen Literatur* (Leipzig und Berlin, 1920), S. 19 f.: "Auch als Ritter und Schöffe

Und doch hat bereits Voltelini selbst den Schlüssel zur richtigen Erkenntnis gefunden, indem er feststellte:[8] "Nichts scheint entscheidender für des Verfassers Standesfrage, als sein Verhältnis zur Bibel." Dieses muss in der Tat ein schwerwiegendes, ja entscheidendes Kriterium bilden. Freilich nicht so sehr für eine eindeutige Lösung der Standesfrage Eikes, als für das Problem, ob er eine geistlich-gelehrte Bildung gehabt habe. Gelingt es, aus *Sachsenspiegel* und *Weltchronik* die geistige Einstellung ihres Verfassers zum biblischen Gedankengut zu ergründen, so wird dadurch mit ihren Werken zweifellos auch die Persönlichkeit Eikes zugleich in ein helleres Licht gerückt werden. Neue Perspektiven für die rechtsgeschichtliche Würdigung beider können sich auftun.

Wenn man daraufhin die reiche Literatur zum *Sachsenspiegel* durchmustert, entdeckt man aber mit Erstaunen, wie wenig Aufmerksamkeit und Sorgfalt jener Kernfrage geschenkt worden ist. Das Verhältnis Eikes zur Bibel, das Problem, ob der Verfasser des *Sachsenspiegels* die Heilige Schrift vielleicht genauer gekannt und aus ihr Anregungen für seine eigene geistige Einstellung und für seine Werke gezogen hat, hat bisher keine entsprechende Beachtung gefunden, obwohl gerade darin für die gelehrte Bildung eines Autors im Mittelalter ein wichtiges Kriterium erblickt werden muss.

In den *Handbüchern und Grundrissen der deutschen Rechtsgeschichte* wird die Frage entweder überhaupt nicht berührt oder bloss kurz gestreift. In Otto Stobbes *Geschichte der deutschen Rechtsquellen*[9] sucht man ebense vergeblich nach einer Andeutung wie in Richard Schröders *Lehrbuch der deutschen Rechtsgeschichte*.[10] Erst in der sechsten Auflage von Heinrich Brunners *Grundzügen der deutschen Rechtsgeschichte*[11] erscheint der Satz: "Gelegentlich schöpft Eike aus der *Historia Scholastica* des Petrus Comestor, dem 'Handbuch der Bibelkunde des Mittelalters,' " der in den beiden

ist Eike mehr gelehrten und geistlichen als ritterlichen Sinnes." "Bei den einzelnen Abschnitten [der Weltchronik] verweist Eike, fast modern, auf die für jede Periode in Betracht kommenden Spezialschriftsteller, ein für das Mittelalter auffallender und frühreifer Zug, der von gediegener Quellenkenntnis und historischem Verständnis zeugt. Wie im *Sachsenspiegel* uns der geistig geschulte Jurist anblickt, erkennen wir aus der *Weltchronik*, dass auch die *Geschichte* für Eike *Wissenschaft* war."

[8] S. 34.

[9] I, (Braunschweig, 1860), S. 304-307.

[10] 7. Aufl. (Berlin, 1932), S. 722.

[11] (München und Leipzig, 1913), S. 110. In etwas anderer Formulierung war er schon in der 5. Auflage (1912) enthalten.

noch folgenden Auflagen dieses Werkes unverändert beibehalten wurde.[12] In Claudius von Schwerins *Grundzügen der deutschen Rechtsgeschichte* findet man schliesslich die Bemerkung:[13] "Nichtjuristisches [im *Sachsenspiegel*] stammt aus der Bibel und aus der sie verarbeitenden *Historia Scholastica* des Petrus Comestor."

Nicht viel besser steht es mit der *Spezialliteratur*. Sie kommt zum grössten Teile über rein gefühlsmässige Urteile und vage Vermutungen nicht hinaus. Niemand hat es unternommen, der Lösung der Frage nach etwaigen biblischen Vorbildern des *Sachsenspiegels* auf Grund sorgfältiger Untersuchung des Quellenmaterials näher zu kommen. Daher fehlt es zumeist an einer befriedigenden oder auch nur ausreichenden Begründung für die behauptete Bibelunkenntnis Eikes. Um die herrschende Lehre zu kennzeichnen, sei die Stellungnahme der neuesten Werke über Eike und den *Sachsenspiegel* kurz wiedergegeben.

Hans von Voltelini war der einzige, der für die *Sächsische Weltchronik* wenigstens nach "Bibelsprüchen" gesucht und zum Vergleiche Adam von Bremen, Otto von Freising und andere mittelalterliche Autoren herangezogen hat. Seine Schlussfolgerung lautete aber:[14]

"Gelehrsamkeit gibt sich bei mittelalterlichen Geschichtsschreibern in aus der Heiligen Schrift und antiken Schriftstellern erborgten Wendungen kund. Die klassischen fehlen bei unserem Schriftsteller gänzlich. Er war daher kein Mann von auch nur einiger klassischer Bildung. Nichts scheint entscheidender für des Verfassers Standesfrage, als sein Verhältnis zur *Bibel*. Gewiss, er hat sie benützt. Er bringt die Schöpfungsgeschichte, erzählt von den Patriarchen und den Schicksalen des Volkes Israels, hier schon zumeist nach seinen Vorlagen, er kennt die Geschichte der Esther, einige Erzählungen des Buches Daniel und der Bücher der Makkabäer. Aber diese *Kenntnis ist keine tiefe*. Biblische Erzählungen, Auszüge, im besten Falle Perikopen, aber nicht die Bibel selber sind ihm nach dem Zeugnis der Chronik bekannt. *Nicht ein einziges Mal erscheint*, wenn von der Predigt abgesehen wird, *ein Bibelspruch*. Bei einem geistlichen Verfasser kaum denkbar, denn fast unwillkürlich mussten solche Sprüche einem solchen in die Feder kommen. Wenigstens ein Teil der Psalmen war ja als Brevier seine tägliche Lektüre. Dazu noch Lektionen aus dem Hohen Lied, dem

[12] 7. Aufl. (1919), S. 110; 8. Aufl. (1930), S. 110.

[13] S. 126.

[14] Voltelini, S. 33-35. Die Sperrungen stammen von Voltelini.

Buche der Weisheit, den Klageliedern des Jeremias, den Evangelien, Apostelbriefen usw. Wir finden Bibelsprüche denn auch fast bei allen geistlichen Urhebern. . . . Es wäre begreiflich, wenn in einem knappen, trockenen Annalenwerk solche Anführungen fehlen würden; dass in der Sächsischen Weltchronik sich keine finden, scheint ein untrügliches Zeichen davon, dass dem Verfasser eine nähere Kenntnis der Bibel fehlte und damit, dass er kein Geistlicher, sondern ein Laie war."

Walter Möllenberg, der sich schon früher gegen die Annahme einer geistlich-gelehrten Bildung Eikes ausgesprochen hatte,[15] macht sich in seinem Buch *Eike von Repgow und seine Zeit* Voltelinis Gedankengang in vollem Umfang zu eigen. Ohne den leisesten Zweifel an seiner Richtigkeit und Vollständigkeit wiederholt er emphatisch:[16]

"Nicht einmal die Bibel selber scheint er benutzt zu haben, sondern nur biblische Erzählungen, Auszüge, Perikopen. Kein einziger Bibelspruch wird in der Weltchronik angeführt, wie es bei Schriftstellern geistlichen Standes die Regel ist."

Eine Ueberprüfung der Ergebnisse von der textkritischen Seite unter Heranziehung des *Sachsenspiegels* lag Möllenberg fern.

Die Wirkungen solcher Lehren zeigen sich deutlich an der neuesten prächtig ausgestatteten Volksausgabe des *Sachsenspiegels* von *Hans Christoph Hirsch.* Ihr Herausgeber verfolgt das Ziel, das Rechtsbuch weiten Kreisen durch eine Uebertragung in die neuhochdeutsche Sprache nahezubringen. Das Werk soll als eine "blutgebundene deutsche Rechtsordnung," erwiesen werden.[17] Eine umfangreiche Einleitung, die von grossem Idealismus ihres Verfassers zeugt, sucht die Grundgedanken des *Sachsenspiegels* aus seinem Inhalt darzutun.[18] Die hohe Auffassung Eikes vom Recht und von den Pflichten der Männer, denen die Pflege des Rechts anvertraut ist, wird besonders hervorgehoben. Der Satz "Gott ist selber Recht, darum ist ihm Recht lieb" (*Prologus,* Zeile 10-11) wird eingehend betrachtet und ähnliche religiöse Gedanken Eikes werden dem Leser eindringlich vor Augen geführt.[19] "Die richtige Anwendung des

[15] Möllenberg, "Eike von Repgow", *Historische Zeitschrift* CXVII (1917), S. 393.

[16] (Zitiert oben Anm. 6), S. 15.

[17] *Eike von Repgow, Der Sachsenspiegel (Landrecht), in unsere heutige Muttersprache übertragen und dem deutschen Volke erklärt* von Hans Christian Hirsch (Berlin und Leipzig, 1936), Vorwort, S. VII, IX; V.

[18] S. 56-80.

[19] S. 13; S. 63: Ssp. II 13, 8; S. 83: Prologus, Zeile 10-11; 7-10; 11-14; Reimvorrede, Vers 148-150.

Rechts ist daher Eike das höchste irdische Gut, das Gott dem Menschen verliehen hat." "Recht und Gott, Gott und Recht sind eines."[20] Nirgendwo aber kommt der Gedanke auf oder findet die doch so nahe liegende Vermutung Raum, ob es sich bei den hehren Idealen von Recht und Gerechtigkeit im *Sachsenspiegel* nicht etwa um biblisches Gedankengut handle.[21]

Mehr abgewogen, aber im Ergebnis gleich negativ ist das Urteil, das *Alfred Hübner* in seinen *Vorstudien zur Ausgabe des Buches der Könige* über Eikes Verhältnis zur Bibel zum Ausdruck bringt.[22] Die Erwähnung des Problems bedeutet an sich schon ein Verdienst. Sie erfolgt bei der Untersuchung über Zweck und Ziel des sogenannten *Buches der Könige alter und neuer Ehe,* dessen Ueberlieferung in engstem Zusammenhang mit *Deutschenspiegel* und *Schwabenspiegel* steht.

Das *Königebuch* sei nur geschrieben, um das Recht des Rechtsbuches durch die Zurückführung auf die Schrift Gottes zu legitimieren, um ihm also eine göttliche Begründung zu geben. Anders sei dagegen nach Hübners Ansicht die Sachlage beim *Sachsenspiegel.* Gewisse Anklänge an biblische Gedanken seien allerdings unverkennbar, so in der Reimvorrede Vers 135 und 234 ff. "Fest steht für Eike, dass sich gegen Gott versündigt, wer das Recht nicht befolgt. Und wie im Erfurter Judeneid wird mit der Miselsucht Jesis gedroht. *Aber eine eigentliche Begründung des Rechts aus der Bibel gibt Eike nicht.* Dazu war das Recht für ihn noch zu sehr altes gutes Recht, das einer Legitimation entbehren konnte."

Hübner hat die quellenmässigen Beziehungen des *Sachsenspiegels* zur Bibel nicht erkannt und das Quellenverhältnis zwischen dem sächsischen Rechtsbuch und dem *Königebuch* unbeachtet gelassen; Ferdinand Frensdorffs anregende Bemerkungen zu dieser Frage sind anscheinend seiner Aufmerksamkeit entgangen.[23] Aus diesen Gründen ist ihm auch der Zusammenhang zwischen Kapitel 9, 1 des *Königebuches* und *Sachsenspiegel* II 13, 8 sowie die Quellengeschichte beider Stellen nicht klar geworden. Dies führte wiederum

[20] S. 83.

[21] Nur für die einzige, allerdings nicht zu übersehende Stelle Ssp. III 42 erwähnt Hirsch, S. 13, die Beweisführung Eikes aus der Bibel.

[22] *Abhandlungen der Gesellschaft der Wissenschaften zu Göttingen,* phil.-hist. Kl., 3. Folge Nr. 2 (1932), S. 117 ff., 123, 66 f. Die Sperrung im nachfolgenden Zitat stammt von mir.

[23] Frensdorff, "Der rechtshistorische Gehalt der Sachsenspiegel-Vorreden", *Nachrichten der Gesellschaft der Wissenschaften zu Göttingen,* phil. hist. Kl. 1921, S. 148 f.

zu einer Deutung der geistesgeschichtlichen Stellung des Verfassers des *Deutschenspiegels* (ähnlich wie der Eikes), die in den Quellen keine Grundlage findet.[24] Dabei scheinen die Anschauungen *Eugen Freiherrn von Müllers* nicht ohne Einfluss gewesen zu sein,[25] der auf Grund umfangreicher und sorgfältiger Textvergleichungen zwischen *Sachsenspiegel, Deutschenspiegel* und *Schwabenspiegel* die starke Einwirkung der Bibel auf *Deutschenspiegel* und *Schwabenspiegel* deutlich erkannt hat. Aber da er diese Probleme nur nebenbei verfolgen konnte, gelangte er für den *Sachsenspiegel* zu einer Auffassung, die Eikes Einstellung zur Bibel nicht voll gerecht wird und seine Abhängigkeit von der Heiligen Schrift nicht ins richtige Licht stellt.

Schliesslich sei auf *Hans Fehrs* monumentales Werk *Kunst und Recht* hingewiesen, das kürzlich mit dem dritten Bande *Die Dichtung im Recht*[26] seinen Abschluss fand. An einer grossen Zahl eindrucksvoller Beispiele zeigt Fehr, wie innig im Mittelalter die bewegenden Mächte von Recht, Wahrheit, Sittlichkeit und Religion zusammengingen.

Mit voller Wucht tritt namentlich im deutschen mittelalterlichen Recht die alte Idee zutage: die Rechtsnormen sollen nicht nur den Verstand, sondern auch das Gemüt bewegen. Sie sollen den Menschen im Innersten der Seele erfassen. Als Mittel dazu dienten einerseits poetische Ausschmückungen, andererseits die fromme Stimmung, in die der Mensch versetzt werden sollte. In seiner tiefen Gläubigkeit wird er angefasst. Die Hoheit und Gerechtigkeit Gottes wird ihm vor Augen geführt.

Mit feinem Instinkt weiss Fehr diese Gedanken aus den deutschen Rechtsbüchern herauszuarbeiten, wobei er dem *Sachsenspiegel* besondere Aufmerksamkeit schenkt.[27] Nach Eike ist Gott der Urquell alles Rechts. Gott ist gerecht, er liebt das Recht. Fehr führt die massgebenden Stellen aus dem Prolog zum *Sachsenspiegel* und den Beginn des *Textus Prologi* an.[28] Er weist auf die fromme Stim-

[24] *Hübner, a. a. O.*, S. 120, 132.

[25] von Müller, *Der Deutschenspiegel in seinem sprachlich-stilistischen Verhältnis zum Sachsenspiegel und zum Schwabenspiegel* (Heidelberg, 1908), S. 26, 161, 164-177. Auch Theodor Palmer ist wesentlich von Müllers Gedankengängen beeinflusst, die er teilweise übernommen hat; siehe weiter unten.

[26] (Bern, 1936), S. 37, 94, 293 f.

[27] S. 165, 297.

[28] Prologus, Z. 11-14; Homeyer, *Sachsenspiegel,* S. 137; Fehr, *a. a. O.*, S. 311, 87, 88; vgl. auch S. 84 den Hinweis auf Ssp. I 62, 10.

mung in diesen Einleitungen zum Rechtsbuch hin und hebt die Ermahnungen an die Richter hervor.[29] Fehr fühlt instinktiv die Wucht der erhabenen Gedanken und die Macht der poetischen Sprache im *Sachsenspiegel*. Umso erstaunlicher ist es aber, dass ihm die unmittelbare Quelle dieses Gedankenreichtums und seiner Formenschönheit nicht bewusst geworden ist: die Bibel.[30]

Fassen wir den gegenwärtigen Stand des Wissens kurz zusammen. Eike wird jede tiefere Kenntnis der Bibel abgesprochen. Die Heilige Schrift soll ihm nicht einmal unmittelbar bekannt gewesen sein. Wo er sie benutzt hat, soll er bestenfalls aus zweiter Hand geschöpft haben.

Man kann sich kaum des Befremdens darüber erwehren, dass selbst ein so scharfsinniger Gelehrter und gründlicher Kenner von *Sachsenspiegel* und *Weltchronik* wie Hans von Voltelini sich dem offenkundigen Sachverhalt so völlig verschliessen konnte. Dabei hat es an Anregungen nicht gefehlt, das Problem *Sachsenspiegel und Bibel* für sich einmal in mühsamer Kleinarbeit und mit der Gründlichkeit und Sorgfalt zu untersuchen, denen die mittelalterliche Rechtsbücherforschung in neuerer Zeit zahlreiche neue Erkenntnisse verdankt.

Vor allem hätten dazu *Karl Zeumers* tiefbohrende und feinsinnige Arbeiten über *Weltchronik* und *Sachsenspiegel* Anlass geben können.[31] Zeumer hatte Eike in zwei Fällen wörtliche Entlehnungen aus der Bibel und aus Petrus Comestors *Historia Scholastica* nachgewiesen: in *Sachsenspiegel* II 61, 1 und *Weltchronik*, Kap. 1, S. 67 Z. 22, für welche Genesis 1, 28 über die Herrschaft des Menschen über alle anderen Lebewesen von Einfluss war;[32] ferner in Ssp. III 42, 3 über die Vertilgung von Kains Geschlecht durch die Sintflut, wo eine wörtliche Uebersetzung der Worte des Petrus Comestor vorliegt.[33] Zeumer hat weiter auf Ausführungen in beiden Werken

[29] S. 88, 127, 311.

[30] Fehr hat biblischen Einfluss nur für das angelsächsische Recht (S. 22) und für das Eisenacher Rechtsbuch von Johannes Purgoldt aus dem Anfang des 16. Jahrhunderts (S. 11, 73, 302) erkannt.

[31] Karl Zeumer, "Die Sächsische Weltchronik, ein Werk Eikes von Repgow", in *Festschrift für Heinrich Brunner zum siebzigsten Geburtstag* (Weimar, 1910), S. 135-174 und S. 839-842, zitiert Zeumer I; Karl Zeumer, "Ueber den verlorenen lateinischen Urtext des Sachsenspiegels", in *Festschrift Otto Gierke zum siebzigsten Geburtstag* (Weimar, 1911), S. 455-474, zitiert Zeumer II.

[32] Zeumer I, S. 842.

[33] Zeumer I, S. 151.

Eikes aufmerksam gemacht, die "nicht nur religiösen, sondern geradezu theologischen und geistlichen Charakter" tragen. Es ist vor allem die Stelle Ssp. III 42, 3 mit der Untersuchung über den Ursprung der Unfreiheit, sodann die Vertrautheit mit kirchlichen Einrichtungen, ersichtlich aus den Bemerkungen über die Weihe des Chrisma am Donnerstag sowie über die Priesterweihe am Sonnabend in Ssp. II 66, 2.[34] Zeumer betrachtete diese Stellen als charakteristisch für Eikes kirchliche Bildung und Erziehung. Schon früher war *Ferdinand Frensdorff* durch sie veranlasst worden, auf eine "ausgebreitete theologische Gelehrsamkeit" Eikes zu schliessen; prüfte er doch in Ssp. III 42, 3 die Behauptung, die Unfreiheit sei biblischen Ursprungs, an den Zeugnissen der Heiligen Schrift.[35] Diese Auffassung hat Zeumer nicht nur geteilt, sondern besonders betont und mit Gewissheit auf eine kirchliche Bildung und geistliche Erziehung des Verfassers des *Sachsenspiegels* geschlossen.[36] Schon aus den wenigen Stellen, deren offensichtliche Benutzung in *Sachsenspiegel* und *Weltchronik* nachgewiesen werden konnte, gewann Zeumer die feste Ueberzeugung, dass "Eike selbständige Bibelstudien in der Vulgata gemacht hat."[37]

Zeumers Untersuchungen haben bekanntlich zu der Annahme geführt, Eike auch als den Verfasser der *Sächsischen Weltchronik* zu betrachten. Seine Beweisführung wurde aufs glücklichste bestätigt und ergänzt durch die gründliche Abhandlung von *Hermann Ballschmiede, Die Sächsische Weltchronik.*[38] Dies gilt auch von den Beweisen für Eikes Bibelkenntnis und gelehrte Bildung.

"Auffällig ist die genaue Kenntnis und Benutzung der Vulgata im *Sachsenspiegel;* auch die *Chronik* hat viel aus der Bibel geschöpft. Sogar die *Historia Scholastica,* die auch in der *Chronik* benutzt ist, hat Eike für sein Rechtsbuch herangezogen."[39] Ballschmiede meint, eine Aeusserung Ludwig Weilands wiederholend, dass die grosse Belesenheit, die sich in der *Weltchronik* offenbart, für einen Laien der damaligen Zeit fast un-

[34] Zeumer I, S. 841.

[35] Frensdorff, "Beiträge zur Geschichte und Erklärung der deutschen Rechtsbücher," II, *Nachrichten der Gesellschaft der Wissenschaften zu Göttingen,* phil.-hist. Kl. 1894, S. 18; vgl. Frensdorff III, *daselbst,* S. 46; auch V 1, *daselbst* 1923, S. 86; zustimmend Zeumer I, S. 841; vgl. S. 839.

[36] Zeumer II, S. 462.

[37] Zeumer II, S. 461.

[38] Phil. Diss. (Berlin, 1914); auch erschienen im *Niederdeutschen Jahrbuch* XL (1914), S. 81-140; vgl. Eckhardt, *Rechtsbücherstudien* II, S. 122 f.

[39] Ballschmiede, S. 47; vgl. S. 5, 10.

denkbar erscheint. Seine fromme christliche Gesinnung könne nicht angezweifelt werden. Aber daraus allein auf den geistlichen Stand des Verfassers zu schliessen, erschien ihm freilich nicht möglich.[40]

Schliesslich hat sich *Theodor Palmer* in einer scharfsinnigen, wenn auch hie und da etwas überspitzten Studie mit der religiösen Persönlichkeit "des Laien Eike von Repgow" eingehend beschäftigt.[41]

Palmer setzt sich die Beantwortung folgender Fragestellung zum Ziele: Welche sind die dem Laien Eike gehörenden religiös bedeutsamen Gedanken und Vorstellungen und wie waren sie innerhalb dieser Persönlichkeit aufeinander bezogen? Er versucht auch, die Verbindungslinien zwischen Eikes religiöser Gedankenwelt mit Dogma und Theologie seiner Zeit aufzudecken. Im Mittelpunkt seiner Beweisführung stehen die an Stellen aus dem Alten Testament anknüpfenden Betrachtungen in Ssp. III 42, wo Eike ausdrücklich auf die Bibel zurückgreift, um dem angeblichen Rechtszustande der persönlichen Unfreiheit zu widersprechen. "Eike zeigt nicht nur ein lebendiges Gewissen, sondern weiss sich mit seinem Gewissen in Beziehung zu Gott und den religiösen Gegebenheiten." "Eike steht mit der Grundanschauung der Kirche seiner Zeit, soweit sie im Lateranense festgelegt ist, in Uebereinstimmung, auch wenn er uns nicht alles, was dort gesagt wird, als seinen Gedankenbesitz zeigt." "Nach allem, was bis jetzt von Eike vor uns liegt, ist er als kirchlich gläubig anzusehen."

Aus welchem Grunde diese Anregungen Zeumers, Ballschmiedes und Palmers von der Sachsenspiegelforschung nicht aufgenommen worden sind, dafür dürfte sich schwerlich eine Erklärung oder gar eine Entschuldigung finden lassen. Wieso konnte man zu der herrschenden, aber offensichtlich schiefen Auffassung gelangen, dass Eike keine unmittelbare Kenntnis der Bibel gehabt habe? Wie konnte es kommen, dass niemandem die biblischen Wendungen, ja nicht einmal das reiche Gedankengut der Heiligen Schrift in *Sachsenspiegel* und *Weltchronik* aufgefallen sind? Wie konnte es geschehen, dass selbst diejenigen, die der erhabenen Ideen von Gott und Recht im *Sachsenspiegel* innewurden, nicht auf den Gedanken kamen, darin allbekanntes biblisches Geistesgut zu erkennen? Und das, obwohl ausgezeichnete Gelehrte, Historiker, Rechtsgeschichtsforscher und Philologen diesen Denkmälern des deutschen Rechts

[40] Ballschmiede S. 2, 47; Weiland (zitiert unten Anm. 43), S. 49.

[41] Theodor Palmer, *Eike von Repgow als religiöse Persönlichkeit*, phil. Diss. Münster (Borna, 1925), besonders S. 3, 10, 18, 21, 25-31.

und der deutschen Sprache Jahrzehnte hindurch ihre wissenschaftliche Aufmerksamkeit und Sorgfalt zugewendet haben?

Nicht einmal die ausdrücklichen Hinweise Eikes auf die Bibel, an denen es im *Sachsenspiegel* nicht mangelt, hat man näher betrachtet. Bereits Zeumer erschien es befremdlich, wieso der Herausgeber der *Sächsischen Weltchronik, Ludwig Weiland,* verkennen konnte, "dass schon der *Sachsenspiegel* von einer sehr gründlichen gelehrten Bildung seines Verfassers zeugt"[42]. Weiland hat wohl richtig erkannt, dass für die Darstellung der *Sächsischen Weltchronik* ausser Frutolf-Ekkehards *Weltchronik* und den *Pöhlder Annalen* "das Alte Testament mehrfach stark in Gebrauch genommen ist."[43] Aber er hat zum Beispiel zum ersten Kapitel, in dem beinahe nur Bibelstellen aneinander gereiht sind, nicht ein einziges Zitat aus der Heiligen Schrift als vermutete Quelle notiert. Man sollte nicht glauben, dass ihm der biblische Wortlaut und Gedankengehalt nicht aufgefallen sein könnte, nachdem er sich so eingehend mit der von ihm edierten Quelle beschäftigt hat wie kaum je ein Gelehrter.

Aber auch andere, und darunter sehr namhafte Forscher, sind nicht auf die Idee gekommen, Textvergleichungen zwischen Eikes Werken und der Bibel anzustellen, so nicht einmal *Carl Gustav Homeyer,* dem doch vereinzelte Anklänge an biblische Texte im Wortlaut des *Sachsenspiegels* nicht entgangen sind.[44] Und selbst als es Zeumer gelungen war, in einer Stelle im *Sachsenspiegel* die wörtliche Uebersetzung aus Comestors Historienbibel zu entdecken, hat es niemand der Mühe wert gehalten, auf diesem der Forschung gewiesenen Wege einen Schritt vorwärts zu versuchen. Wie unkritisch man dagegen zu Werke ging, dafür gibt es wohl kein besseres Beispiel als Gustav Roethes bekannte Elmendorf-Hypothese, die ich an

[42] Zeumer I, S. 172.

[43] Ludwig Weiland, *Sächsische Weltchronik,* in *Monumenta Germaniae, Deutsche Chroniken* II 1 (Hannover, 1876), S. 22; vgl. S. 50, 55f.

[44] Homeyer hatte in seiner *Sachsenspiegel*-Ausgabe zu Reimvorrede Vers 201 ff. auf Jesus Sirach (Ecclesiasticus) 9, 21 f. (S. 132 Anm.*), zu Ssp. I 1 auf Ev. Lucae 22, 38 sowie Apocal. 6, 2 und 19, 11 (S. 153 zu I 1), und schliesslich zu Ssp. III 42, 5 II auf Buch der Weisheit 2, 23 (S. 333 zu III 42, 5) hingewiesen; vgl. G. Homeyer, *Die Stellung des Sachsenspiegels zum Schwabenspiegel* (Berlin, 1853), S. 87 zu III 42, 4. Es geschah jedoch an ganz versteckten Stellen, das erste Mal im Variantenapparat, in den anderen Fällen mitten unter den Literaturnachweisen, wo naturgemäss niemand Hinweise auf Quellen suchte. Daher sind sie der Aufmerksamkeit sämtlicher Forscher entgangen. Dasselbe gilt für die Heranziehung von Ssp. Reimvorrede Vers 169 bis 172 als Parallelstelle zu Freidanks *Bescheidenheit* 78, 15-16 bei Bezzenberger, *Fridankes Bescheidenheit,* S. 364.

anderer Stelle widerlegt habe.[45] Niemand hat von der ebenso ausgezeichneten wie aufschlussreichen bibelkritischen Literatur Gebrauch gemacht, um den Problemen näher zu kommen, welche *Sachsenspiegel* und *Weltchronik* hinsichtlich ihrer Beziehungen zu Wortlaut und Gedankengut der Bibel aufgeben. Wie nahe liegt doch der Gedanke, zu diesem Zweck einmal zu den Ausgaben und Konkordanzen der Vulgata zu greifen.[46] Freilich selbst mit der Hilfe einer guten Bibelkonkordanz muss sich die Arbeit sehr mühsam und zeitraubend gestalten. Das ist anscheinend der Grund, warum sie bisher unterlassen wurde.[47]

So hat denn die Wissenschaft der Rechtgeschichte in der Frage des Verhältnisses Eikes zu Bibel und Theologie kaum einen Fortschritt aufzuweisen, seitdem vor mehr als zweihundert Jahren (1732) durch Carl Wilhelm Gärtners Ausgabe des Rechtsbuches die kritische Sachsenspiegelforschung inauguriert worden war. Im Jahre 1830 hatte Gustav Hugo mit feiner Einfühlung, wenn auch ohne nähere Begründung, hervorgehoben, dass sich bei Eike "namentlich bei der Entstehung der Leibeigenschaft und der Widerlegung derselben" so viel Gottesgelehrtheit finde, dass er sogar geneigt war, "in ihm eher einen Geistlichen, als einen Ritter zu vermuten."[48] In unserer Zeit aber werden Geist und Wort der Bibel als solche in Eikes Werken nicht einmal mehr erkannt.

[45] G. Kisch, "Biblische Einflüsse in der Reimvorrede des Sachsenspiegels", *PMLA*, LIV (1939), S. 20-36.

[46] Vgl. z. B. F. P. Dutripon, *Vulgatae Editionis Bibliorum Sacrorum Concordantiae*, editio tertia (Barri-Ducis, 1872).

[47] Nur K. A. Eckhardt hat in seiner *Sachsenspiegel*-Ausgabe (Hannover, 1933) sämtlichen Stellen des Rechtsbuches, deren Beeinflussung durch die Bibel bis dahin bekannt war, die Quellennachweise beigefügt und die betreffenden Bibelstellen abgedruckt. Die Ergebnisse, die er zu verzeichnen hatte, sind aber unvollständig, zum Teil unzutreffend geblieben. Z. B. von den zu Ssp. III 42, 3 angegebenen Bibelstellen sind nicht weniger als alle unzutreffend, vielleicht mit einer Ausnahme; zu Ssp. III 42, 4 ist bloss ein Vers aus Genesis vermerkt, während ein rundes Dutzend Bibelstellen als Quellen in Betracht kommen.

[48] Gustav Hugo, *Lehrbuch der Geschichte des römischen Rechts seit Justinian, oder der juristischen und meist zivilistischen gelehrten Geschichte* (3. Aufl.; Berlin, 1830), S. 160 f.; auch zitiert bei Stobbe, *Geschichte der deutschen Rechtsquellen* I, S. 307 **Anm. 41.**

THE LANDSHUT JEWRY OATH

I

Remarks

By

Raphael Straus

Jerusalem

Professor Kisch, in his valuable essay, "Studien zur Geschichte des Judeneides im Mittelalter," *HUCA.* XIV (1939), p. 447 f. note 48, and in *Historia Judaica* I (1939), p. 119 f., has raised objections to my interpretation of the miniature reproduced in *Zeitschrift für die Geschichte der Juden in Deutschland* V (1934), p. 44.

The legal historian—whether he be E. Rosenthal or G. Kisch—is completely correct in assuming that the illustrator of a medieval Jewry oath had to draw a Torah scroll as the important and appropriate legal requisite of the oath taking. In the case under discussion, however, the illustrator, unfortunately, has not fulfilled this expectation. It is impossible to conceive of the object which the *"Judenkönig Feifelein"* holds in his hand as a Torah either in the form of a scroll or a book. Not only the shape of the object in the swearer's hand but also the manner in which the Jew is holding it contradicts the interpretation that it is a Torah. The way in which a Torah—as *"Rodel"* (*rotulus*) or as *"Humash"*—was handled in an oath-taking ceremony is well known. The *Rodel* "is to be held in the right hand of the swearer" (Carolingian Jewry oath, Kisch, *HUCA.* XIV, 439). According to the Landshut Jewry Oath, when the Torah was in the form of a book, the swearer had to place his hand up to the wrist in it. If the object in question in the picture appeared in this position, it would certainly be a Torah in one form or another, even if it were drawn in a manner beyond recognition. But what do we actually have before us? An object which has not the faintest similarity to a book and is being held alongside and back of the swearer pointing downwards in a way which neither a Jew nor a Christian would have held the Holy Writ in the Middle Ages. The most important requisite of the oath could not have been so poorly drawn.

The embarrassing situation that the Jew was drawn apparently without the essential Torah and with an object that looks like a knife, exists, however, only so long as one assumes that the miniature really represents an oath-taking ceremony. In this case Professor Kisch would doubtlessly be correct in saying: "A symbol of this kind (i. e. the Jewish slaughtering knife) in the hand of one taking an oath would be as unusual as it would be out of place" (*Historia Judaica* I, 120). But is it not more appropriate to hold the opposite conclusion, since the Torah is omitted and a knife appears in its place, that this picture does not represent, therefore, the ceremony of taking an oath?

There is no reasonable basis for assuming that the miniature presents the Jew before or during the act of swearing. Both points that could be used to prove this, are of no importance. First, relative to the outstretched finger, there is no need to take this as a finger held forth in taking an oath. Rather this gesture is often found in medieval miniatures. It signifies that the person is explaining something. It is partly an aid to the artist's way of expression, partly a consequence of the fact that, in the Middle Ages too, the hands were used to emphasize speech. The second point is the fact that the miniature appears on the same page as the Jewry oath; but this is not a weighty argument. If then it is not a swearing scene, the drawing of a slaughtering knife seems by no means "unusual."

What does the scene signify? The illustrator has expressed his meaning also in letters. He is illustrating the Jewry oath—but, probably, also the other Jewry regulations of the Landshut municipal law—in that he draws the *"Judenkönig,"* the most representative figure of the Jews, Feifelein, who is well-known from many contemporary promissory notes as an enterprising man. He characterizes him, on the one hand, by the designation *"Judenkönig"* which raises the significance of his portrait above the merely individual meaning; on the other hand, by a striking object of the Jewish ritual, the slaughtering knife.

If the relationship between the miniature and the text of the Jewry oath (different from Rosenthal's and Kisch's interpretations) is in this way so much more loosely established, then there is little left for the "unusuality" of the slaughtering knife. I hold firmly to this loose interpretation of that relationship.

With regard to the "slaughtering knife"—as a result of Professor Kisch's objection—another solution appears to me more probable, although the use of the slaughtering knife in the Jewry oath ceremony during the eighteenth century is mentioned by Zacharias Frankel, *Die Eidesleistung der Juden* (second ed.,—Dresden, 1847, —p. 218). A promissory note of the Middle Ages could be held in the same way as one holds the handle of a knife if it were folded in a small rectangular form, as actually and often was done for purposes of preservation or of transport. The hand is then placed about its narrower part. This interpretation would have the following advantages over my previous one: there would be a closer relationship,—not to the Jewry oath itself,—but to the dispute which made it necessary; the "*Judenkönig Feifelein*" would then not merely be generally characterized as a Jew whose religion necessitates the slaughtering of animals according to ritual, but in particular as a Jewish money lender. The gesticulating left hand, then, becomes—graphically of very clear meaning—a sort of pictorial interpretation through the legal document in Feifelein's right hand. A final judgment, of course, is dependent on a re-examination of the original drawing.

In conclusion, a word on Professor Kisch's criticism of my reproduction of the medieval text may not be amiss. It was made from a transcription by the director of the Landshut archive, *Oberarchivrat* Knöpfler, which was not recopied by me. I could depend upon this copy because German state archive officials were, as a rule, very reliable in making such transcriptions.

II

Rejoinder

By

Guido Kisch

New York

Doctor Straus' remarks, sagacious and stimulating as they might be, do not seem to me convincing. I am still of the opinion that a scene from the ritual of taking the Jewry oath is pictured in the miniature under consideration. The object in the right hand of the swearing Jew cannot possibly be a Jewish slaughtering knife. Some

written letters, most probably symbolizing Hebrew characters, are clearly visible on the alleged slaughtering knife. The illustrator could never have seen such a ritual instrument because, according to Jewish law, the slaughtering knife necessarily had to have a perfectly smooth surface, by implication excluding any inscription thereon. Even if the picture would have no connection with the Jewry oath, the representation of a Jew bearing a slaughtering knife as a symbol would still remain very unusual. To the best of this writer's knowledge no picture with an attribute of this kind occurs in the medieval law manuscripts, the symbols of a Jew always being his beard, Jewish hat—worn also by the Jew on the Landshut picture—or badge (cf., e.g., Karl von Amira, *Die Dresdener Bilderhandschrift des Sachsenspiegels* II, Erläuterungen 1—Leipzig, 1925,—pp. 35 ff.). Nor is a promissory note in the hand of a Jewish money lender a pictorial attribute for a Jew in the Middle Ages. All these considerations make the assumption compulsive that the object in the hand of the swearing Jew with its clearly recognizable Hebrew characters can only be a Torah. It is true, however, that the manner in which the Jew carries it, shows a certain peculiarity. But this very fact in connection with the inscription *"Feifelein der Juden Chunch"* offers, in my opinion, the clue to the actual significance of the pictured scene. It is not the main act of taking an oath by the Jew under obligation to this solemn ceremony; it is rather the preceding—sometimes consecutive—act of testimony that the book carried before the non-Jewish court and used in the oath ritual, was, indeed, a genuine copy of the Torah. This testimony was usually given by a dignified and trustworthy Jew or by the swearer himself. From this interpretation the motion in the picture, that is the carrying of the heavy book in the right hand and the gesture of assertion of the left hand, becomes easily understandable. Viewed in this light the pictured scene appears in full harmony with the Jewry oath regulation in another Bavarian town statute, the Straubing *Stadtbuch,* which reads as follows: "The Jew shall produce the five books of Moses and shall raise two fingers and swear . . . that these books are the five books of Moses to be used by a Jew when taking an oath, in accordance with the law. . . ." (*HUCA.* XIV, 452). This testimony concerning the quality of the most important requisite for the oath, as prescribed also by the Landshut Jewry oath regulation,

could be performed, as already stated, by the swearer himself or by an outstanding representative of the Jewish community, a man of Feifelein's type. The poor reproduction of the Torah in the Landshut manuscript has no bearing on this interpretation. Medieval artists committed sometimes much greater inaccuracies than in this case. The well known picture of the Jewry oath found in the Augsburg editions of the *Laienspiegel* (1509) and the *Sachsenspiegel* (1517), reproduced in *Enc. Jud.* IX, p. 547, offers a telling example. Although the law, since early times, explicitly required the putting of the *right* hand into the Torah by the swearing Jew, yet he is pictured here resting his *left* hand on the Holy Writ indicated in this case also by distinct Hebrew characters. The misdrawing by the Landshut illustrator in picturing the Torah was by far not so serious. Therefore, no reason can be found therein to cast doubts on the correctness of the interpretation offered in this exposition. It seems simpler and more plausible than Doctor Straus' varying hypotheses.

BOOK REVIEWS

Sidney Osborne, *Germany and Her Jews*. Soncino Press. London, 1939. VIII + 358 pp.

Cecil Roth, *The Jewish Contribution to Civilization*. Union of American Hebrew Congregations. Cincinnati, 1940. XV + 420 pp.

C. A. Stonehill, Jr., *The Jewish Contribution to Civilization* (with a preface by Stephan Zweig). C. A. Stonehill. London and New Haven, 1940. 198 pp.

As is well known, modern anti-Jewish propaganda tries to propagate the belief that the Jewish mentality has always been of a purely destructive nature. The three books under review attempt to lay bare the malicious falsehood of this statement, each individual author approaching the problem in a different way. The scientific basis, however, is identical for all of them.

It is a well-known truism proved through millennial historical experience and evidence that the scholar, the writer, the scientist, the seeker after knowledge, the wise man and the saint have always held

a higher place in the imagination of the Jewish people than the man of power, the hero or the materialist. Forced migration scattered the Jews far and wide, but wherever they settled, they evinced a profound desire to master foreign tongues and foreign idiom and to collaborate in the great enterprises of mankind. Neither persecution, exile, inquisition nor pogrom succeeded in stamping out that invincible impulse to create, which has proved again and again its indestructible fertility wherever the Jew has been allowed to participate in the life of the community. There is no branch of human culture or civilization which Jews have not touched and enriched; poetry, music, art, philosophy, theology, law and jurisprudence, mathematics, physics, chemistry, medicine, and, in general, every province of technical and intellectual research. Naturally, in some branches the Jewish contribution has been more significant than in others.

M. J. Schleiden and Joseph Jacobs were among the first ones to approach the various problems of Jewish contributions to civilization in order to place the historical facts before the general reader and to impress him by arranging and presenting them against the background of general history of civilization. The time has come to remind the reading public of all these facts which have become even more remarkable with regard to quantity as well as to quality due to detailed researches in various fields of knowledge and as a result of more recent developments of culture during the past decades.

All three books under review are written from an apologetic point of view; all of them are based upon rich literary sources mostly of a general character being the well-known Jewish encyclopedias. Osborne's approach is purely apologetic; the book by Roth is the most scholarly one; Stonehill offers a bibliography of almost 2600 items, a collection of books by Jewish authors. In determining who is to be considered a Jew, all authors follow—for manifest reasons—the conception of the Nuremberg race laws and regard as a Jew a person whose immediate ancestors professed the Jewish religion.

Osborne's book is divided into three parts. The first comprises a discussion of the more general aspects of the Jewish question in Germany under topics such as: Jews in banking, industry, and commerce; Jews as physicians; German Jews as scientists and inventors; German Jews as lawyers, judges, and jurists; the Jews in music, etc. The Jewish descent of Richard Wagner is given especial attention. The presentations, however, do not offer a penetrating *geistesgeschichtliche* analysis either of the Jewish contributions to all these realms of science or of their specific Jewish character. The second part includes sketches of the

careers of over one hundred German-Jewish nobilities. The third includes biographical data of more than four hundred German-Jewish scholars. They are, in general, accurate; some omissions and errors are inevitable in works of this character. Here too, the nature of the arrangement of the material does not provide for an approach from the point of view of the history of ideas.

Roth treats the problem by offering brief sketches of Jewish cultural history such as: the Hebraic heritage; the process of degradation; the reviving of learning; the great voyages of discovery; the Jew in letters, art, music, stage, medicine; the economic sphere and public life; etc. By generally avoiding the accumulation of names and bibliographical material he successfully tries to picture how deeply Jewish achievements are embedded in general cultural progress and how, on the other hand, modern Europe and America are influenced by the "Hebraic heritage." Not all chapters are equally elaborated upon, some of them fall short resulting involuntarily in a mere enumeration of facts and persons. While new realms of Jewish activities, not adequately treated as yet, received due consideration on the basis of recent monographic literature, e. g. journalism and the Jew, or the Jews in agriculture, other spheres are neglected or inadequately treated. The latter refers especially to the chapter "Jews and Western Law" from which the great achievements of Jews in law and jurisprudence do not emerge at all. The author could have been guided by the rich biographical literature in this province. He refers only to the books on the great American jurists, Brandeis and Cardozo. Names such as Franz Klein and Julius Glaser, who were the pathfinders in criminal and procedural legislation, are not even mentioned. The very recent monograph by Hugo Sinzheimer, *Jüdische Klassiker der deutschen Rechtswissenschaft* (Amsterdam 1938; cf. *Social Research* V, 1938, pp. 496 ff.) remained unnoticed. This is especially regrettable in view of the fact that the role of the Jews played in law and jurisprudence during the nineteenth century formed an important topic in public discussion since 1933. There are more gaps in the bibliography; e. g. the most recent books on Jewish art: Franz Landsberger, *Einführung in die jüdische Kunst* (Berlin, 1935) and Rahel Wischnitzer, *Gestalten und Symbole der jüdischen Kunst* (Berlin, 1935) are missing. Nor is the reviewer's book *Die Prager Universität und die Juden 1348-1848* (Mährisch-Ostrau, 1935) including a complete bibliography of the Jews' relationship to European universities mentioned. Space does not permit going into detail. The American editor of the book which was originally published in England, corrected some inaccuracies but failed to eliminate the numerous printing errors; e. g. the

wrong title of the book by J. Guttmann (not Guthman) *Die Philosophie des Judenbunds* (!) occurs several times.

Stonehill's book catalogue, which aims only "to give a bibliographical survey of the entire contribution made by Jews of all nations to philosophy, literature, art, music, and science," offers perhaps the most impressive and, certainly, the most accurate account of Jewish cultural achievement. The record is restricted to creative works in the course of 2,000 years, titles dealing with the Jewish question having been eliminated. The arrangement is alphabetical and the authors' names are accompanied by shorter or longer biographical notes. Much of the matter is controversial, e. g. whether Columbus was really of Jewish origin. The emphasis is, in general, on the author and his original contribution to civilization. Many great names, however, do not appear at all, many great works are not represented. After all, one must not forget that this is only a bookseller's catalogue; however, a very unusual, much revealing and useful one.

From time to time there appears a book which is likely to be the best that will ever be written on a given subject. Although by no means, the merits of the three authors mentioned shall be underrated, probably none of the three books briefly glanced over here, can be considered of outstanding literary rank. In this writer's opinion, the greatness of the scientific task of uncovering and analyzing the manifold Jewish contributions to civilization far surpasses the forces of an individual. Specialists must rather join their efforts to describe painstakingly and appreciate duly the Jewish participation in all realms of civilization. Such a series of monographs, *geistesgeschichtlich* in the best and most comprehensive meaning of the term, must be supplemented by a most complete Jewish biographical and bibliographical dictionary. Without doubt, this is a far-reaching scientific project worthy of being considered by one of the world's learned academies. When it is successfully realized, Woodrow Wilson's expressive words will become proven irrefutably and extended to all spheres of human endeavor: "If we could but have the eyes to see the subtle elements of thought which constitute the gross substance of our present habit, both as regards the sphere of private life and as regards the action of the state, we should easily discover how very much besides religion we owe to the Jew."

Jewish Institute of Religion. *Guido Kisch.*

NOTICES OF RECENT PUBLICATIONS

Lazarus Goldschmidt, *The Earliest Illustrated Haggadah Printed by Gershom Cohen at Prague.* Barmerlea Book Sales Ltd. London, 1940. 61 pp. and VII plates.

The *Prague Haggadah* printed by Gershom Cohen in Prague in the year 1526 is a magnificent example of the creations of the early Hebrew printing press. With its beautiful large types, its plain as well as its decorated initials, its artistic pictorial ornamentation it is unique among the achievements of Hebrew typography. In this beautifully printed and illustrated book under review the well-known Talmud translator and bibliophile, Lazarus Goldschmidt, announces the discovery of an even earlier edition of the illustrated Haggadah, of the first complete liturgical haggadah which was printed as such, and he attempts to prove that the edition of 1526 is not the oldest. The relation of the one to the other is examined and compared with Italian editions, especially the Mantova Haggadah of 1560 so that the reader obtains a critical survey of: 1. the *dated Prague Haggadah* of 1526; 2. the *undated Prague Haggadah* supposedly prior to 1526, probably of 1515 (according to Goldschmidt, it is the oldest illustrated haggadah representing the link between manuscript and print); 3. the *Mantova Haggadah of 1560* produced after the Prague edition.

This is not the place for a detailed examination as to whether the editor's assumptions and conclusions will prove sound and acceptable to experts in the field of early Hebrew printing and bibliography (cf. Samuel Krauss, *JQR.* XXXI, 1940, p. 197 f.). The publication, however, naturally arouses the interest of the student in Jewish history.

Inventory of the Church and Synagogue Archives of Michigan, Jewish Bodies, prepared by the Michigan Historical Records Survey Project. Detroit, Michigan, 1940. VI + 64 pp.

Jewish communities of olden times have always kept accurate records of their history and membership. Almost every synagogue and locality had its own minute book, called the Pinkas. The rise and decline of a great number of Jewish communities in America during the nineteenth century makes it imperative to collect and record the documentary material in order to make it available to the future historian. The inventory of the archives of the Jewish congregation in Michigan meets this desire in an adequate way. It is a compilation establishing the identity and location of congregations, institutions, and organizations affiliated with Jewish religious bodies in Michigan. It represents one of a nation-wide series of inventories of ecclesiastical archives being compiled by the Historical Records Survey

Program. The book will be useful for those interested in the Jewish social and religious history of Michigan in more recent times.

The American Jewish Year Book 5701. Volume 42, edited by Harry Schneiderman for the American Jewish Committee. Jewish Publication Society of America. Philadelphia, 1940. XXXII + 815 pp.

The great importance and practical value of this Year Book for the student of current Jewish history was emphasized in a review of volume 41 in *HJ.* II, 1940, p. 60. The forty-second annual volume presents the most comprehensive survey of Jewish communities in the United States, consisting of data collected from 4,694 cities, villages, and rural areas, in an article written by H. S. Linfield, special agent of the United States Census Bureau. He shows that the rate of growth of the Jewish population declined during the last ten year period, the total number of Jews in the US. being 4,771,000 or 3.69% of the population of the country. The effect on the European Jewish population of the political and territorial changes since 1933 is described with precision in a documented study by Moses Moskowitz: "Changes in the Distribution of the Jewish Population in Europe 1933-1940," dealing with migration, natural decrease and transfer of territories. On the occasion of the fiftieth anniversary of the Central Conference of American Rabbis the historian of the American Jewish reform movement, David Philipson, presents its history in detail from the time of the organization in 1889 through 1939. The review of the year 5700 contains valuable information on the destiny of the Jews in all countries of the world, and was prepared by several members of the research staff of the Library of Jewish Information of the American Jewish Committee. The biographical section contains among others a description of the life and a scholarly appreciation of the work of Doctor Cyrus Adler written by Abraham A. Neuman with clarity and fullness. The volume was completed under the brilliant editorship of Mr. Harry Schneiderman, who has been responsible for twenty-one preceding year books.

Francis J. Oppenheimer, *Ezekiel to Einstein.* Liveright Publishing Corporation. New York, 1940. 138 pp.

An accumulation of facts and names concerning Jews in all ways of cultural life presented in popular form for the general reader.

BIBLIOGRAPHY OF PERIODICAL LITERATURE

The following list consists largely of articles of Jewish historical content that appeared in non-Jewish scientific periodicals. From other periodicals only essays on legal history of the Jews are included. *Authors are invited to co-operate by sending reprints to the Editor.*

General History of the Jews in Various Lands

Robert Anchel, The Early History of the Jewish Quarters in Paris. *JSS.* II, 1940, 45-60.

Salo W. Baron, Great Britain and Damascus Jewry in 1860-61. *JSS.* II, 1940, 179-208.

H. Bobek, Das Judentum im osteuropäischen Raum. *Deutsches Archiv für Landes- und Volksforschung* III, 1939, 697-706.

Alice C. Cramer, The Jewish Exchequer, An Inquiry into Its Fiscal Functions. *AHR.* XLV, 1940, 327-337.

Ilse Lichtenstadter, Some References to Jews in Pre-Islamic Arabic Literature. *PAAJR.* X, 1940, 185-194.

Joshua Starr, Johanna II and the Jews. *JQR.* XXXI, 1940, 67-78.

Solomon Zeitlin, Rashi and the Rabbinate. *JQR.* XXXI, 1940, 1-58.

Legal History

Berthold Altmann, Studies in Medieval German Jewish History. PAAJR. X, 1940, 5-98.

Franz Bossowski, Roman Law and Hebrew Private Law. *Bulletino dell' Istituto di Diritto Romano "Vittorio Scialoja,"* XLVI, 1939, 354-363.

Guido Kisch, A Fourteenth Century Jewry Oath of South Germany. *Speculum,* XV, 1940, 331-337.

Guido Kisch, The Jewry-Law of the Medieval German Law-Books. Part II: The Legal Status of the Jews. *PAAJR.* X, 1940, 99-184.

Relationship to Church and Christianity

N. H. Parker, Jewish Apocalypse in the Time of Christ. *The Crozer Quarterly,* XVII, 1940, 33-46.

Bengt Seeberg, Die Geschichtstheologie Justins des Märtyrers. *Zeitschrift für Kirchengeschichte* LVIII, 1939, 1-81.

Social and Economic History, Statistics

Crane Brinton, The National Socialists' Use of Nietzsche. *Journal of the History of Ideas,* I, 1940, 131-150.

N. W. Goldstein, Cultivated Pagans and Ancient Anti-Semitism. *Journal of Religion,* XIX, 1939, 346-364.

Isaak Heinemann, The Attitude of the Ancient World Toward Judaism. *Review of Religion,* IV, 1940, 385-400.

Max Horkheimer, Die Juden und Europa. *Zeitschrift für Sozialforschung,* VIII, Nos. 1-2.

Carl Mayer, Anti-Judaism Reconsidered. *Social Research,* VII, 1940, 169-183.

Cecil Roth, Marranos and Racial Anti-Semitism. *JSS.* II, 1940, 239-248.

Biography

Louis Gruss, José Julian Marti on Judah Philip Benjamin (1884). *Louisiana Hist. Quarterly,* 1940, January.

F. Mangold, Prof. Dr. Julius Landmann [outstanding scholar in Social Science]. *Zeitschrift für schweizerische Statistik und Volkswirtschaft,* LXXV, 1939, 446-468.

Samuel Pitlik, S. L. Rapoport's Historical Method. *JQR.* XXXI, 1940, 123-139.

Language and Literature

Mark Waldmann, Origin and Development of Judeo-German and the Old German Legends. *Philological Quarterly,* XIX, 1940, 288-294.

History of Art

Manfred Bukofzer, Allegory in Baroque Music. *Journal of the Warburg Courtauld Institutes,* III, 1939, 1-21.

Ludwig Münz, Rembrandt's "Synagogue" and Some Problems of Nomenclature. *Ibidem,* III, 1939/40, 119-126.

Rudolph Wittkower, Titian's Allegory of "Religion Succoured by Spain." *Ibidem,* 138-140.

Meyer Schapiro, From Mozarabic to Romanesque in Silos. *The Art Bulletin,* XXI, 1939, 313-374.

Bibliography

Salo W. Baron, Bibliography of Jewish Social Studies, 1938-39. *JSS.* II, 1940, 305-388; 481-605.

HISTORIA JUDAICA

Volume III OCTOBER, 1941 Number 2

GRAETZ'S *HISTORY* IN AMERICA

By

Solomon Grayzel

Philadelphia

Of the religious and intellectual movements which were transforming Jewish life in Germany during the nineteenth century, American Jewry heard but a pale echo. To some extent this may be attributed to the immigrants from Germany and to their leaders. The chief reason, however, was the nature of the situation in which American Jewry found itself during the better part of the century. The problems of adjustment to America, a new world literally and figuratively, took too much time and energy to leave much of either for interest in intellectual questions. America, with its freedom and opportunities, did not call for the self-justification and the pleas for tolerance which, in a large sense, formed the background of the stirrings among the Jews of Europe. Nor was the new intellectual environment such as to evoke intellectualism on the part of the Jews. By the time an American-born generation of German-Jewish origin grew to maturity, comfort and security had been attained. By this time, however, the problems which had given rise in Germany to the movement for the *Wissenschaft des Judentums* had been left behind. The new American generation was willing enough to accept some of the practical results of the German movement: they readily accepted reform. But the void left by the failure to meet the mental challenge which should have preceded these practical results could not easily be bridged.

This observation does not mean that the leaders of Judaism in nineteenth century America failed to report the intellectual events in Germany. Most of the rabbis were German-born and trained; many of them were the pupils or the colleagues of the participants

in the religious discussions in Germany. The pages of the *Occident* and of the *American Israelite* follow the arguments and also the prejudices of analogous contemporary newspapers in Germany. Newspaper reports, however, do not necessarily mean lively interest on the part of the readers. It was clear that the mind of the American Jew still had to be awakened. Isaac Leeser had tried to do it by means of a variety of publications including sermons, and prayer book and Bible translations. His energetic rival, Isaac M. Wise, saw more clearly what means were required, and in 1854 published his volume, *A History of the Israelitish Nation.*[1] It was a commendable effort, but far too theological in basis and too dry in form to meet the needs of the people for whom it was meant. It is a great pity, from the point of view of the development of an American Jewry, that twenty years were to elapse before Graetz's great *History* appeared in complete form in German, and forty years before it became available in English.

To those who read the periodicals then being published in the United States, the name of Graetz soon became fairly familiar. In August 1864 the *Occident*[2] published Graetz's article, "The Rejuvenation of the Jewish Race." Reading the article, one can see why the warm-hearted Leeser should have been taken by it and made it available in English translation. In his own remarks, Leeser heartily subscribes to Graetz's theory of Jewish nationhood rising to greatness through adversity, but reflects the shocked feelings of European orthodoxy at Graetz's interpretation of prophecy and at his division of Isaiah.

Thereafter, and especially in the years following the appearance of the various volumes of the German history, the name of Graetz occurs rather frequently in the American-Jewish weeklies. He arouses differences of opinion in accordance with the theological attitudes of the editors. The *American Israelite* takes pleasure in the discomfiture of German-Jewish orthodoxy over the failure of Graetz to declare the Talmud of divine origin.[3] The same periodical, on another occasion,[4] asserts that Graetz's work is subjective and not

1 Isaac M. Wise, *History of the Israelitish Nation,* I, (Albany, 1854).
2 *The Occident,* XXII, No. 5, August 1864.
3 *American Israelite,* Nov. 30, 1888.
4 *Ibid.,* Nov. 28, 1889.

Breslau 28 Febr. 1890

Dear Sir,

I beg to express my deepest gratitude for the honour your society has bestowed on me, electing me their honorary member. According to your wish, I send my portrait. Now you would not have any use of my literary works, as all of them are written in German. I shall take the honour to send the english translation of my "History of the Jews", as soon as it will be completly finished.

Very thankfully
Yours
Prof. Dr. H. Graetz

Mr. Ben. W. Austin
Dallas.

Autograph Letter in English
Addressed by Professor Graetz to an American Correspondent
Original in Possession of Dr. Guido Kisch, New York

really history. His "reflections" are "defective in numerous instances." It considers Guedemann's *Kulturgeschichte,* though far from perfect, to be an improvement over Graetz's historical views. The trouble, of course, was that Graetz's treatment of Reform Judaism, in the last volume of the German edition, aroused the German Reformers to fury. Naturally, the Reform leaders of America repeated the cry of pain. In 1889, in welcoming the arrival of Dr. Emanuel Schreiber to the United States to become the rabbi of Little Rock, Arkansas, the *American Israelite* goes out of its way to mention that this was the man who had written a book proving that Graetz had little historical ability.[5]

The Philadelphia *Jewish Exponent,* on the other hand, a weekly of conservative leanings, repeatedly spoke of Graetz in terms of veneration. On the occasion of Graetz's seventieth anniversary, this newspaper published a most laudatory article,[6] calling him "the Father of Jewish History," and urging contributions to a fund in his name for the furtherance of Jewish history and literature. The same article is careful to say that Jost was also a great historian, but that "a pragmatical delineation of Jewish History . . . began with Dr. H. Graetz . . . ."

The extent of the interest existing in America in Graetz's *Geschichte* is evidenced by the fact that as early as 1873 an English translation of the fourth volume appeared.[7] The Rev. James K. Gutheim was the translator, and the American Jewish Publication Society, the predecessor of the existing Jewish Publication Society, was the publisher. In the "advertisement" to this volume Gutheim also voices regret "that the learned author, who, throughout eight volumes sustained the reputation of an impartial historian, has, in the recently published eleventh volume, descended from his exalted standpoint by passing judgment . . . in a spirit of bitter partisanship . . . ."

Gutheim's effort was expressly motivated by the desire to stimulate the interest of the American Jew in his culture. His approach,

[5] E. Schreiber, *Graetzs Geschichtsbauerei* (Berlin, 1881); *American Israelite, loc. cit.,* p. 4.

[6] *Jewish Exponent,* August 26, 1887.

[7] *History of the Jews from the Downfall of the Jewish State to the Conclusion of the Talmud,* by Dr. H. Graetz, translated from the German by Rev. James K. Gutheim, 4th volume, second revised edition, (New York, The American Jewish Publication Society, 1873).

too, was consequently "practical"; he was not writing for the scholar, and therefore saw no need for including Graetz's notes. Curiously enough, he hoped that these notes would be called for, so that he left the references to them in the text. Gutheim's English is dignified, though a bit rigid. In this respect, at any rate, the translation to be discussed later is undoubtedly superior.

There is little question, though there can obviously be no direct proof, that the German original of Graetz's great work was exercising an influence upon American Jewry, if only through the rabbis of the more important congregations, most of whom were still of German origin. There were at that time, moreover, a good many Jewish laymen in whose home German was the spoken language and who might have acquired a set of the German edition. A gentleman who was active in the Philadelphia Young Men's Hebrew Association in the 1880's reports that the Jewish poetess, Emma Lazarus, specifically requested a set of the German Graetz as compensation for a prize which she had won in an essay contest on the subject of "Bar Kochba."

In a public address in 1896, Professor Richard Gottheil deplored the general ignorance of post-biblical history among the Jews of America.[8] Apparently this feeling had existed for a long time among the more thoughtful in the Jewish population. It was but natural that the desire to make the knowledge of Jewish history more widespread became coupled with the name and the works of Heinrich Graetz.

The year 1888 witnessed the third attempt on the part of American Jews to found a publication society for the purpose of spreading Jewish knowledge. The existing Jewish Publication Society was then established and at once began to consider what books to publish. At the very first meeting of the Society's Publication Committee the project of translating and publishing Graetz's *Geschichte* came up for discussion. It was, however, obviously too great an undertaking for a young organization, uncertain of its future. Time had to be given for the volunteer committees in the various large cities to see what membership they could enroll at the modest annual contribution of three dollars, which was the fee then decided on. The sub-

[8] Reprinted in the *American Hebrew*, May 15, 1896, p. 48.

ject of Graetz was not dropped, but an easier task was taken up first. In September 1889 announcement was made that Lady Magnus' *Outline of Jewish History,* a book for children which was being published in England, would soon appear, and that the works of Graetz and Gustav Karpeles would most likely follow.[9]

Criticism arose at once. Rabbi Henry Iliowizi of Philadelphia angrily objected to the choice of foreign authors:[10] "Are we so wretchedly poor that we could not produce some fair specimen of our own make to open the list of our Publication Society?" To this the modest answer was made that native talent really was non-existent and that Graetz and Karpeles were best calculated to create it.[11] Stronger objections were raised on the ground of the expense involved in issuing so enormous a work as that of Graetz, and the Society was urged to postpone this project indefinitely.[12] Most telling of all, however, was the objection voiced within the Board of the Jewish Publication Society by a man whose public spirit could not be questioned and whose knowledge of American Jewish Life was as thorough as anyone's. He claimed that American Jewry was not ready for anything so mature and scholarly as Graetz's *History,* no matter how modified and abridged. Outvoted on the question of entering upon the project, this man insisted that the volumes be investigated from the point of view of the public's ability to digest them before they were definitely accepted by the Jewish Publication Society of America.[13] The discussion represented another skirmish within the Society between those who urged the emphasis on novels and those who sought to give information.

The above discussion within the Committee took place not, like preceding discussions, on a vague project of translating and publishing the German edition, but on the desirability of purchasing pages of an edition of Graetz being prepared in England. F. D. Mocatta, at his own expense, had already begun work on an English edition of the famous *History.* He had entered into an arrangement with Graetz for the author himself to prepare an abridged text based on

9 *Jewish Exponent,* September 25, 1889.

10 *Jewish Exponent,* Oct. 4, 1889, p. 3.

11 *Ibid.,* p. 4.

12 *Jewish Exponent,* Oct. 18, 1889, p. 2.

13 Minutes of the Publication Committee of the Jewish Publication Society, Nov. 24, 1890.

his larger *History,* and for Miss Bella Loewy to translate it into English. The completed work was to be in four volumes.[14] In January 1889 a member of the Executive Committee of the Jewish Publication Society of America was empowered to enter into negotiations with Mocatta to see what he would charge for a thousand or two thousand copies of the first volume about to be published. In the end, as seems clear from the Executive Committee's discussions in March 1890, it was decided to purchase from Mocatta the rights to republish the manuscript separately in the United States. For this Mocatta charged one shilling per volume.[15] In December 1890 it was reported that the first volume would be ready in March, and by October 1891 it had been on sale for some time, and bids were ordered for the printing of volume II.[16]

The Publication Committee had decided to call the work it was publishing "The American Edition."[17] There was some justification for this in view of the changes being made. As far as Graetz himself was concerned, he prepared only the one text which was used both in England and the United States. He was condensing and revising his larger work for this purpose even while the translation was going on in England. Miss Loewy continually urged him to get along with this task, and he completed it only just before he died.[18] Miss Loewy translated the major portion of the first volume herself; the others were done by a variety of people under her editorial supervision.[19] On the whole, the work of the English translators was accepted by the Publication Committee in the United States. A comparison of the English and American editions, however, reveals a number of differences. The change of a word or a phrase here and there shows great care in the avoidance of Germanisms and in the creation of a smoother style. Presumably this was the work of Miss Henrietta Szold, although a vote of the Publication Committee in 1893 mentions Charles I. Hoffman and David W. Amram as having contrib-

14 *Jewish Exponent,* Sept. 25, 1889, p. 6; Minutes of the Executive Committee of the Jewish Publication Society, Jan. 20, 1889.

15 Minutes of the Publication Committee, Dec. 22, 1889; Minutes of the Executive Committee, March 9, 1890.

16 Minutes of the Executive Committee, Dec. 21, 1890.

17 Minutes of the Publication Committee, May 24, 1891.

18 *Jewish Exponent,* Oct. 23, 1891, p. 4.

19 Vol. I, Preface.

uted respectively to the revision of the second and third volumes.[20] Certainly the subsequent volumes underwent whatever revision was necessary at the hands of the very conscientious and painstaking Miss Szold. In checking on the translation of excerpts from the Hebrew poets, she invariably went back to the original. With some outside assistance, she added to Graetz's manuscript certain portions dealing with American Jewish history.

Maps were another improvement made in the American edition. The question of maps was raised from the very beginning.[21] The mere suggestion, which had not even occurred to the English publisher, showed a better understanding of how to make a book more useful. A committee, of which Dr. Cyrus Adler and Dr. Marcus Jastrow were members, was given authority to arrange for the preparation and inclusion of maps.[22] The maps they picked for the purpose might have been fairly useful, but the relegation of the maps to a pocket in the last volume destroyed, for all practical purposes, the good which might have been achieved.[23] Interesting, in this connection, is a letter received by the Jewish Publication Society from the sociologically-minded Joseph Jacobs, then in England, suggesting maps which would show "the distribution of the Jews in Europe and their expulsion from the cities and countries of Europe." For such advanced methods in the presentation of history no one was as yet prepared. Maps still meant geography. The suggestion was rejected.[24]

The idea of a sixth volume was also American. When, in March 1895, the printing arrangements for volume V were referred to Dr. Adler—as practical affairs connected with publication usually were—he was asked to prepare a circular announcing that a sixth volume would appear which would contain the maps, a complete index, and a memoir and portrait of the author.[25] In October of that year the appearance of volume V was fixed for Hanukkah, which fell on December 12, and Miss Henrietta Szold, then already Secretary of the Society, was asked to compile a complete index of all five volumes.[26]

20 Minutes of the Publication Committee, May 14, 1893.
21 Ibid., Nov. 8, 1891.
22 Ibid., Nov. 11, 1894.
23 Ibid., Jan. 7, 1894.
24 Ibid., Dec. 13, 1896.
25 Ibid., March 3, 1895.
26 Ibid., Oct. 6, 1895.

As the preface to volume VI points out, this index is different from and more useful than the indices to the five volumes individually.

By that time Graetz was already dead, and the Publication Committee decided that a biography of him, to be included in volume VI, was desirable. As a matter of fact, the inclusion of a biography of Graetz had been discussed as early as March 1892, a few months after his death. The latter event had caused a stir in Jewish circles and had called forth a flood of articles and long obituary notices in which his scholarship and achievements for Jewish History were praised.[27] It was but natural, therefore, for the Jewish Publication Society to want to include a biography of Graetz as a preface to volume II which was to appear next. Dr. Cyrus Adler, who had just returned from Europe, where he had met Israel Abrahams,[28] was asked to get in touch with the latter for the purpose of obtaining the right to republish his essay on Graetz.[29] This plan did not materialize, so that in 1896 the plan for the inclusion of a biography was revived. Dr. Benno Badt of Breslau was approached, again without result.[30] In the end, Dr. Philipp Bloch, Rabbi of Posen, a pupil and friend of Graetz, was engaged to write an original essay for use in the American edition.[31]

A number of chronological tables are presumably also the work of Miss Szold. They were calculated, like the entire volume VI, to add to the pedagogical value of the work.[32] The volume was declared ready for the press in October 1897 and for distribution on May 10, 1898.[33] With this the task, one of the most ambitious and most useful ever undertaken by an American Jewish publisher, especially if the youth and financial make-up of the Jewish Publication Society are kept in mind, was brought to an end.

What was the reaction of the American Jewish public? Most of the press notices were highly favorable and urged the public to purchase the volumes as they appeared. Practically alone in maintaining

27 Cf. *Jewish Exponent*, Sept. 18, 1891.

28 Cyrus Adler, *I Have Considered the Days*, (Philadelphia, 1941), pp. 168-70.

29 The essay appeared in *JQR.*, Old Series, IV, (1892), 165-203.

30 Minutes of the Publication Committee, Feb. 9, 1896.

31 Ibid., Feb. 14, 1897; cf. Preface to vol. VI, pp. VIII ff.

32 Preface to vol. VI, pp. IX-XI.

33 Minutes of the Publication Committee, Jan. 17, 1897; Oct. 24, 1897; Feb. 6, 1898.

an adverse attitude toward Graetz was the *American Israelite,* though it, too, urged everyone to buy the books.[34] The most outspoken criticism of this periodical was directed against the third volume, the one dealing with the Golden Age in Spain, with the rise of Rabbinism in France and Germany, and with the Crusading Era. It is still Graetz's point of view which is under attack. The unsigned review says: "A history of the Jews according to Graetz is not history yet, although the learned author was a veracious, ingenious, and enthusiastic Jew and eminent scholar." But he is charged with being overpartial to certain personalities and with permitting his emotions to run away with him.[35] This criticism is expressed more directly in the review of volume VI and of Dr. Bloch's Memoir which it contained.[36] The volume as a whole and the Memoir are considered the best publication of the Jewish Publication Society. Graetz himself, however, is subjected to the following analysis. He received his early education in Prussian Poland where "savage orthodoxy" prevailed. Consequently, "as an Israelite and theologian, he could not overcome the impression and instruction he had received in his days of youth," and his writings show the conflict between his orthodoxy and his scientific training. Contrasting the fourth with the last volume, the reviewer finds Graetz "a man without settled principles, wavering to and fro between two extremes." Decidedly the reviewer did not like Graetz's conclusions on the subject of Judaism.

The views of this reviewer form an interesting contrast with those of another, who, twenty years later, attempted to evaluate Graetz and his contributions to Jewish life. Writing in the Yiddish periodical *Die Zukunft,*[37] in commemoration of the hundredth anniversary of Graetz's birth, Dr. Jacob Greenfield sees Graetz as the opponent of both Orthodoxy and Reform, as a valiant fighter against anti-Semitism and as a protagonist of the national-cultural spirit. To him it seems that the dual training received by Graetz, the staunchly Jewish and scientific German, combined happily to create an historian whose objectivity was suffused with warmth and whose knowledge did not detract from his understanding.

[34] *American Israelite,* Sept. 17, 1891.
[35] *Ibid.,* May 3, 1894.
[36] *Ibid.,* June 9, 1898, p. 4.
[37] *Die Zukunft,* XXIII (1918), pp. 719-722.

It is not our purpose here to enter into the problem of Graetz as an historian. His prejudices are well known; and they were not confined to the subject of Reform Judaism. This, however, did not detract from his influence upon Jewish historical thought and knowledge in America. Of the greatness of that influence there can be no doubt. It may be measured by the number of sets of the American Edition sold by the Jewish Publication Society, which reached into many tens of thousands, though their price was not particularly cheap.[38] It may also be measured by the fact that other publishers thought it good business to produce a translation of the *Volkstümliche Geschichte,* another and more condensed abbreviation of the larger German work.[39] This was translated by Rabbi A. B. Rhine and published in 1919 under the editorship of Alexander Harkavy by the Hebrew Publishing Company in four volumes.[40] This edition, too, has undergone several reprintings. The same edition has also been translated into Yiddish and has had a fairly wide circulation in this form.[41] Nor is this all; every text-book written during the past fifty years has openly, or silently though quite as obviously, based itself on Graetz.[42] It would be difficult indeed to find a University thesis or any other volume, by Jew or Gentile, dealing with the Jews, wherein the name of Graetz does not appear in the footnotes or the bibliography.

The volumes of Graetz, sometimes the original German but usually the American Edition, have served as an inexhaustible mine for articles in Jewish dailies and weeklies. The sermons of the hundreds of American rabbis have not infrequently derived their meat and

38 The question of publishing a complete set of the *History* was discussed by the Publication Committee on June 2, 1898. On Nov. 6 of that year it was decided that the set be sold in a box for $9, and single volumes to members at $1.50. Subsequently the price rose to as high as $18 a set. During the past few years it has been selling for as little as $6.25 per set. It is very unfortunate that the early letters and records connected with the negotiations for and the publication of the *History* have been lost. There is therefore no way to obtain accurate statistics on the number of sets published and sold since the inception of the project.

39 See Graetz's Preface to vol. I.

40 *A Popular History of the Jews.* The translator says in his Preface that he drew upon Rabinowitz's Hebrew translation of the German edition.

41 *Die Yiddishe Folks-Geschichte noch der Folkstimlicher Geschichte der Juden,* reprinted, improved and brought up to date by Ben Zevi, n. d., Hebrew Publishing Co., 4 vols. This edition seems to be identical with a translation by Y. Y. Lerner (Warsaw, 1898), 3 vols.

42 Cf. *A History of Israel,* based upon Graetz and Dubnow, by Rabbi Simon Glazer, 6 vols., (New York, Star Hebrew Publishing Co., 1930). By his own admission (vol. I, intr. p. VII) the author drew mostly on Graetz.

substance, and sometimes even their attitudes and eloquence, from the English translation. Perhaps the situation is changing now. Within the past few decades historical investigation and popular writing have taken an upward turn, so that more books are available to the Jews of America. The fact remains indisputable, however, that an entire generation of American Jews has been brought up on Graetz's historical teaching and that Graetz's ideas have become current intellectual coin.

In a measure this is due to the general situation. The growth of Zionism, the improvement in the Jewish educational system, the events in the world which have awakened Jewish self-consciousness, the increase in English-speaking synagogue membership—each of these has been a factor in stimulating interest in Jewish history. The six volumes of Graetz, and his other books mentioned above, have for long been the only available popular means for satisfying this interest, and their popularity may be the result of these external events. In a larger sense, however, credit must be given to Graetz himself, in that his works have been equal to the demands made of them. Would Graetz have joined the ranks of the Zionists had he lived a few years longer and become acquainted with Herzl's ambitions? One cannot be absolutely certain of the answer to this question. Nevertheless, his *History* has served the Zionist cause by its delineation of a group culture and unity. His warm-hearted treatment of and his pride in the Jewish scholars of the past has certainly coincided with the efforts to revive Jewish culture on American soil, and may, in part, have been a stimulus to these efforts. His eloquent descriptions of Jewish martyrdom and Jewish fortitude and his outspoken castigation of anti-Jewish tendencies among the Christians have been balm to the hearts of Jews weighed down by events among peoples which refuse to become civilized. The sense of optimism which pervades his work and his faith in the future of the Jewish people have been a source of perennial encouragement. Graetz has undoubtedly been a builder of American Israel.

From the very first, and repeatedly since then, doubts have been raised regarding the wisdom of excluding Graetz's long footnotes from the American edition. In the review quoted above from the *American Israelite,* the Publication Society was taken to task for excluding footnotes completely because, with the apparatus omitted,

one cannot tell what is fact and what conjecture.[43] More recent, and also more profound criticism has been based on the claim that the notes are invaluable from a scholar's point of view. Indeed, it is said that the German Graetz should have been translated in full. For, if the existing edition has had such a tremendous effect upon the Jews of America, how much greater the scholarship which would have been fostered by the translation of the work in its entirety?

These plans, as we have seen, were actually discussed in the early history of the Jewish Publication Society. They failed of passage because of the financial weakness of the organization. Soon after the appearance of volume VI, a letter was received by the Society from a certain Mr. Max Green suggesting the publication of a seventh volume containing Graetz's notes and appendices. Mr. Green was thanked, and action was deferred.[44] Graetz himself explains the omission of the notes by saying, in the Preface to volume I, that notes are meant for scholars and these are able to read German. It is interesting to read, in the same Preface, of the hopes which the author had for the edition in English. In expressing his pleasure at the prospect of seeing this work appear, he says: "For in countries where English is spoken, books are not only bought, bound, and placed in libraries, but are also read, taken to heart, and acted upon." Graetz may have overestimated the love of reading Jewish books among English-speaking Jews, and it may or may not be true that a translation of the full work would have fostered deeper scholarship, but his hope that his work be taken to the heart of the public and acted upon seems to have been justified.

In view of the influence which Graetz's *History* has had upon American Israel, a debt is due both to the public and to the memory of Graetz to bring his work up-to-date. For it is obvious that, as time goes on, his *History* is bound to lose in usefulness and, therefore, in influence. To enable the American Edition to maintain its place two things must be done: its story must be carried forward from the point where Graetz left off; and, secondly, the five volumes of text must be brought in line with the best results of scholarly re-

[43] See *supra,* note 35.

[44] Minutes of the Publication Committee, Oct. 1, 1899.

search ever since he laid down his pen. Both are exceedingly difficult tasks.

The Hebrew Publishing Company recognized the need for a continuation of Graetz at the time when it published the translation of the *Volkstuemliche Geschichte*. As a supplementary volume to this edition, it published Dr. Raisin's *History of the Jews in Modern Times*.[45] More recently the Jewish Publication Society also decided to add a volume to its American Edition and entrusted this work to the noted scholar, Dr. Ismar Elbogen.[46]

It is to the credit of the lay leadership of the Jewish Publication Society at the present time that it recognizes the importance also of the second and more difficult part of the task. The enormous amount of historical research which has been carried on since Graetz's day, while again and again offering tribute to his remarkable insight and powers of interpretation, has served to amplify and modify much of what he said and, in some instances, to add entire chapters to Jewish history. This is familiar ground to anyone no matter how slightly occupied in the study of Jewish history, and need not be elaborated here. The point is that somehow the new material must be grafted on to Graetz, so that the American public might continue to have the advantages of Graetz's genius in the presentation of the basic material without missing the latest teachings of historical research.

No one man at present in sight in the field of Jewish history can be entrusted with this prodigious task. It would take another Graetz to rewrite Graetz in this fashion. The only other way is to invite a group of men to suggest the changes needed in Graetz's treatment of their respective fields. With this in view, a sub-committee of the Publication Committee of the Jewish Publication Society has been entrusted with the work of marshalling the historical man-power in the United States and in Palestine and then working their suggestions and corrections into a form presentable to the public. Professor Alexander Marx is to act as editor-in-chief.

The form which the revised Graetz is to take presents a serious problem. There are three possibilities: 1. The American Edition might be discarded in favor of the larger German Graetz, which

[45] (New York, 1919).

[46] This volume will appear probably in 1943.

would now be translated in full with the results of modern research incorporated. 2. The American Edition might be used as the basic text, with the suggestions and corrections of modern scholars incorporated into it. 3. The American Edition might be left substantially as it stands, while the suggestions and corrections are presented at the end of each volume in the form of appendices.

There is much to be said in favor of the first possibility. Against it, however, is the very practical consideration of cost, for with the contemplated additions the finished work would probably run into twelve or fifteen volumes. Besides, some fifty years of use have made the American Edition more or less standard with the English-reading public. In a sense, it has become a classic work which should not lightly be thrown onto the scrap-heap. The second possibility also has obvious advantages. Its disadvantage is one which applies to the first possibility as well, namely that it will freeze the results of research or require a new edition every five or ten years. At best, it is likely to destroy the balanced structure which Graetz built. The third possibility, however, will preserve the structure, while the appendices will present the latest conclusions and theories, adding a substantial bibliography, which can be changed from time to time as new data is uncovered. Indeed, it might be desirable to issue all the appendices in a separate volume available to all the thousands who now possess a set of Graetz.

This does not exhaust the problems which the editor-in-chief and his co-workers will have to solve. There is, for example, the problem of what to do about Graetz's treatment of the biblical period, which is probably the most antiquated treatment in the whole work. Substantial revision will be required in Graetz's attitude toward East-European Jewry, toward Mysticism, and toward a number of important personalities. It may be necessary to make radical changes in the chapters dealing with early American history. It is by no means certain that it will be possible to adhere too strictly to the third possibility described above.

In any event, what is most interesting is the fact that, fifty years after his death, Heinrich Graetz is still alive, and that the influence of his remarkable genius will continue with us for a long time to come.

SHEKEL MEDALS AND FALSE SHEKELS

By

Bruno Kisch

New York*

Introduction

Among the Jews the shekel has been known as the monetary unit of ancient times. Originally the shekel (Hebrew: *shakol* = to weigh) was the unit of weight for the precious metal, used as the means of exchange; for example: *Genesis* XXIII, 16; *Exodus* XXXVIII, 25-26; *Leviticus* V, 15; XXVII, 3-7; *Isaiah* LV, 2. In *Jeremiah* who was born about 650 before the common era, it is clearly described (XXXII, 9 and 10) how the shekel of silver and smaller units of silver were weighed on the scale.

A rich literature, both ancient and modern, treats the subject of the shekel as a weight and is concerned with the coins struck by the Jews since Hasmonean times. These coins, in accordance with the shekel as a weight, also bore the name shekel. Although this literature for centuries has been quite exhaustive, only a few modern authors have dealt with counterfeits of Jewish coins.[1] Until now, no fundamental differentiation has been made clear between counterfeit shekels and "shekel medals", as I would call them, which were struck without any aim at counterfeiting. By counterfeit or false shekels are to be understood coins which were produced and distributed with the aim of deceiving their recipient. Such counterfeits could spring as illegal stampings, mostly of inferior metals, from the days when the genuine coins were still in circulation (true counterfeiting). In much later times, moreover, imitations of the genuine coins were frequently made to deceive collectors.

* Dedicated to RUTH KISCH-ARNDT the most thoughtful partner of my life and my hobbies.

[1] Erasmus Froelich, *Annales compendiarii regum et rerum Syriae* (Vienna, 1744), pp. 91 ff. and plate XIX.—G. F. Hill, "False Shekels," *The Reliquary and Illustrated Archeologist*, VIII (1902), No. 4 and p. 134.—Hill, *The Medallic Portraits of Christ* (Oxford, 1920), pp. 78 ff.—Max von Bahrfeldt, "Falsche jüdische Schekel" (Silberlinge), *Blätter für Münzfreunde*, 1910, 4528.—Fr. Striebe, *Der jüdische Schekel* (Brüx, 1923).—Victor Katz, "šekel," *Kalendář česko-židovský*, XLVII (Prague, 1927/28), 169.—Philipp Lederer, *Zeitschrift für Numismatik*, XL (1930), 42.

On the other hand, shekel medals are the stampings or castings which were made in the form of the silver shekel as symbolical commemorative coins and were not intended to deceive the recipient. Such medals were produced for a definite purpose and distributed partly in Jewish, partly in Christian circles. They were only later misused by dealers to dupe ignorant collectors. As evident from seventeenth and eighteenth century literature[2] on the question of the genuineness of the shekel medals, educated circles, even theologians and orientalists, were enthusiastic collectors of these medals, because they believed them to be true shekel coins. This circumstance certainly motivated dealers and manufacturers to sell these "true shekels" despite the fact that men like Herman Conring[3] and Erasmus Froelich had urgently warned against purchasing any piece having square lettering as the genuine classic Jewish coin.

The Ancient Silver Shekel

It is not the purpose of this essay, which deals with shekel medals and spurious shekels, to enter fully into a discussion of the numismatics of the shekel. Only the silver shekel of the Hasmoneans may be briefly mentioned, which was the model for all later shekel medals. We have many specimens of genuine silver shekel coins. They bear the inscription: Shekel, half or quarter Shekel and the marking of the year, 1-5, an era of its own.[4] As in ancient times other peoples often began the reckoning of time with an event especially significant for their existence or their successful development, so the Jews also reckoned a particular era from the year of their liberation through the Hasmoneans. This fact is also explicitly mentioned in the First Book of the Maccabees (XVIII, 42). According to older authors (M. A. Levy,[5] Merzbacher[6]) the dates on the oldest shekels correspond to this era of the Maccabees. (Similarly, much later, following

[2] See, e. g., I. G. Lipsius, *Bibliotheca Numismatica* (Leipzig, 1801), and the thirty treatises in Ugolinus, *Thesaurus antiquitatum sacrarum* (Venice, 1765).

[3] H. Conringius, "Paradoxa de nummis Hebraeorum," *Thesaurus antiquitatum sacrarum* XXVIII.

[4] Cf. E. Merzbacher, *De siclis, nummis antiquissimis Judeorum*, Berlin Ph. D. thesis (Berlin, 1873); "Untersuchungen über althebräische Münzen," *Zeitschrift für Numismatik*, III (1876), 187 ff.; IV (1877), 350 ff.; V (1878), 151, 292 ff.; C. N. Mayer, *Die Zuteilung der dicken silbernen Schekel* . . . (Frankfurt a. M, 1919).

[5] M. A. Levy, *Geschichte der jüdischen Münzen* (Leipzig, 1862).

[6] Merzbacher, *Zeitschrift für Numismatik*, V (1878), 292.

the ancient example, France reckoned a new era from the Great Revolution and Italy from the beginning of the Fascist rule.) In the days of the Maccabees originated the right of the Jews to mint their own coins which always presupposed a certain amount of independence on the part of the master of the mint. Previously mints had been established in Palestine but only coins of the power ruling at any given period, e. g., of Egypt were struck. In earlier times then there existed only provincial mints under a foreign power.

The first Jewish shekels were minted by Simon the Hasmonean ca. 138 before the Christian era. The first historical mention of the Jewish right to strike coins is reported in the first Book of the Maccabees (XV 5, 6) where the confirmation by Antioch VII of the right granted the Jews by his brother Demetrius II is mentioned. In the translation of the Vulgate this interesting passage reads: "Nunc ergo statuo tibi omnes oblationes quas remiserunt tibi omnes reges et quaecumque alia dona remiserunt tibi et *permitto tibi facere percussuram proprii numismatis in regione tua. Jerusalem autem sanctam esse et liberam . . .*" (and permit thee to establish the minting of thy own coins in thy district. Jerusalem though shall remain holy and free).[7]

The shekel coins pictured on plate I as nos. one and two are, in the almost unanimous opinion of the experts[8] stampings of Simon of the Maccabees. This opinion is probably correct, although G. F. Hill[9] attributed this Shekel to the period of the first Jewish revolution[10] (66-70). In accordance with Jewish law these magnificent coins do not portray either man or an animal. The writing is in the ancient Hebrew lettering, not the square lettering used today. According to Merzbacher the weight of a whole shekel is 13.05 to 14.3 grams, of a half shekel 6.05- 7.13 grams. In the Catalogue of the British Museum (p. 269, plate XXX) Hill describes twenty specimens. The

[7] The wording of the latter passage in the Vulgate translation differs conspicuously from that in the Septuagint.

[8] Franz Perez Bayer, *De nummis Hebraeo-Samaritanis* (Valentiae Edetanorum, 1781), 65 ff. M. A. Levy, *Geschichte der jüdischen Münzen*, 38 ff., 111 ff.—E. Merzbacher, *Zeitschrift für Numismatik*, V (1878), 152, 291.—Frederic W. Madden, *Coins of the Jews* (London, 1881), 40.—B. V. Head, *Historia Nummorum* (Oxford, 1911).—Sam. Raffaeli, *Coins of the Jews* (Jerusalem, 1913), 61 ff., pictures 20, 28, 30.—E. Rogers, *A Handy Guide to Jewish Coins* (London, 1914).

[9] G. F. Hill, *Catalogue of the Greek Coins of Palestine* (London, 1914), pp. XC ff.; 269 ff.; pl. XXX.

[10] Cf. Théodore Reinach, *Monnaies Juives* (Paris, 1887), p. 12.

weight of a whole shekel described by him varies from 13.76 to 14.26 grams, the half shekel from 6.41 to 7.08, which closely correspond to Merzbacher's figures.

The inscription on these shekels is unambiguous and for the most part easily legible. The legend on the obverse reads around a goblet: *Shekel Israel* (Shekel of Israel), and correspondingly for a half shekel: *hatsi ha-shekel* (half-shekel). Above the goblet there is the letter indicating the year and, except on the coins of the first year, there is a *Shin* for the first letter of the Hebrew word *shenath* (year). The quarter shekel will not be considered here. The reverse bears the following legend around a three branched budding sprig: *Yerushalem kedoshah* or *Yerushalayim ha-kedoshah* (Holy Jerusalem).

There are varied opinions as to the meaning of the symbols on the shekels. According to Ramban's (1195-1270) Commentary on the Pentateuch the goblet on the obverse represents the urn in which mana, eaten by the Jews during their wandering in the wilderness, was preserved for eternal memory. The sprig in full bloom on the reverse is said to represent the staff of the high priest Aaron, set in full bloom through a miracle. In his travel diary of the year 1641, the Karaite Samuel Hakodesh describes a silver shekel which he saw in Jerusalem. He also interprets the symbols on the coin as Aaron's staff and the cup of mana.[11] Cavedoni's explanation[12] of the chalice, however, seems more convincing, that it represents a sacrificial cup used in the temple. As Cavedoni emphasizes, a cup appears on the table brought by Titus to Rome from the Temple and is still recognizable on the relief of the Arch of Titus in Rome. A similar goblet is found also on the coins accredited to Simon the Maccabee, struck in bronze, so that this design may actually be taken as typical for the very first shekel coin minted by Simon the Maccabee. Cavedoni, also in connection with this interpretation of the goblet, refers to the statement of the first Book of the Maccabees (XIV, 15) that Simeon added to the number of the sacred vessels in the temple, and the sub-

[11] A. Neubauer, *Beiträge und Dokumente zur Geschichte des Karäerthums* (Leipzig, 1866), p. 45. Samuel also mentions the two letters indicating the year; thereby, however, an error in reading or writing must have occurred to him.—Cf. also Odelem in his thesis.

[12] D. C. Cavedoni, *Biblische Numismatik* (Hannover, 1855), p. 29; M. A. Levy, *op. cit.*, p. 138.

stitution of the showbread table stolen by Antioch Epiphanes with "cups, chalices and golden scoops" is explicitly mentioned.

There are three types of chalices on the silver shekels: A: like Hill XXX/1-2; B: like Hill XXX/5; C: like Hill XXX/3, 4, 6, 7, 8, 9.

In types A and C, the base seems to rest on small ball-like objects. Only B and C have a beaded rim; in A, on the other hand, there are beads just beneath the rim on each side. On the reverse of the Maccabee shekel there is a staff with three branches extending in full bloom. Cavedoni[13] describes it as a hyacinth or a lily, the heralds of spring, the symbol of the new bloom and fortune of the Jewish people (*Isaiah,* XXVII, 6; XXXV, 1).

Concerning the legend on the shekel, the inscription on the one side—shekel of Israel—is self-evident as the indication of its value.[14] The inscription—Holy Jerusalem—is less easily understandable. True, Jerusalem even in *Isaiah* (XLVIII, 2; LII, 1) and elsewhere in the Bible (e. g. *Nehemiah* XI, 1) is described as the city of the sanctuary (*ir hakodesh*) but Levy correctly points out that, in ancient times, cities endowed with immunity and exemption from taxation were designated as holy and inviolable (ἱερὰ καὶ ἄσυλος). Levy emphasizes that the coins also of other privileged cities added to their names the title Holy, such as those of Tyrus, Seleucia, Laodicea, and that, according to Josephus (*Antiquities,* XIII 2, 3), Demetrius I declared Jerusalem as "holy and inviolable and free" (ἱερὰν καὶ ἄσυλον καὶ ἐλευθέραν). In this sense, moreover, the Vulgate translates the passage in I *Maccabees* where the Jews are granted the right to mint coins: *Jerusalem autem sanctam esse et liberam* (Jerusalem, however, shall be holy and free); whereas, according to *Septuaginta,* this passage reads: Jerusalem, however, and the sanctuaries shall be free. This designation on the Jewish shekel presumably was applied in a double sense, for the Maccabean masters of the mint were naturally well acquainted with the prophecies of Joel (IV, 17) which were fulfilled in their own era: and Jerusalem shall be holy.[15]

13 Cavedoni, *op. cit.,* p. 30.

14 As to the shekel value, see C. N. Mayer, *Die Zuteilung der dicken silbernen Schekel.*

15 Cavedoni, p. 24.

This then was the original of the silver shekel, minted by the Maccabees, which was the model later for all the shekel medals ever produced.

Scientific Investigation of the Shekel

When the people of a cultural epoch disappear, the objects used in their customs also disappear. Often long periods pass before later generations take interest in these objects and attempt to reconstruct from such relics of the past a picture of the life and activity of the by-gone era. That the Jewish sages and teachers of ancient times and the Middle Ages, who reverently investigated every word of the Holy Writ, did not leave the history of the shekel unnoticed, is well-known. Already the Talmud contains discussions on the appearance of ancient Jewish coins.[16] Unfortunately there is no Gemara to the *Mishna Shekalim* in the Babylonian Talmud. The information in the Mishna has been excellently treated by C. N. Mayer, from the point of view of numismatics. The present writer wishes merely to add the following brief remarks concerning these two passages of the *Mishna Shekalim.*

II, 1 "Shekels may be changed into Darics [that is Persian gold coins] in order to [lighten] the load of the journey"; and

VI, 6: "[If a man says: 'Lo, upon me be the duty of offering] gold', he may not offer less than a gold denar."

In more recent writings it is mentioned that counterfeit gold shekels had existed. From these two passages, however, it appears that there was no Jewish gold coin in ancient times. Otherwise it would have been more obvious to permit the Jerusalem pilgrims to exchange their silver shekels for gold shekels or to make one gold shekel the minimum amount for gold offerings.

The discussions in the Talmud and Midrash on monetary questions naturally are not based on the standards of present day scientific numismatics. Such a foundation obviously was not even intended, since they did not aim at treating subjects of religious practice according to the methods prescribed by Jewish law (*Halaka*); but the stories related required explanation and symbolical interpretation (*Haggada*), which did not expect or demand scientific exacti-

[16] Baba Kama 97 b; see also Bereshith Rabba to *Genesis* V, 2. Based on what there is said concerning the coins of Abraham, Joshua, David, and Mordecai, modern counterfeits were later produced.

tude. It is known that the scholars of the eleventh century such as Hai Gaon, were acquainted with the coins bearing old Hebraic inscriptions and discussed them in their writings.

The scientific rediscovery and investigation of the shekel begins with Ramban (1195-1270) who, in his Pentateuch Commentary at first throws doubt on Rashi's (1040-1105) assertion on the weight of the shekel. Once however, when, on a trip to the Holy Land, he saw a true silver whole and half shekel, he was convinced of the correctness of Rashi's statements.

The humanism of the Renaissance directed the interests of Christian scholarly circles to the coins of ancient Judea. In more or less full realization that Europe owed its cultural development above all, to the influence of the biblical and then of the Greeco-Roman culture, the humanists turned with high enthusiasm to the investigation of both these spheres. Modern language research and archeology arose. In the sixteenth century, for instance, there appeared Arias Montanus, noted Catholic scholar, and Melanchthon, famous Protestant scholar, who devoted studies to Jewish coins. In seventeenth century Germany, an era prolific in literature, an astonishing number of small and large writings on the ancient Jewish money system were produced many of which are mentioned in Lipsius' book.[17] For the most part, these German works are voluminous and pompous compilations; one writer plagiarizes the other, in most cases, as a thorough reading of the works show, without ever even having so much as seen a genuine shekel. But also throughout the eighteenth century scientific interest turned to the investigation of the ancient Jewish money system. There are few exceptions of real scholarship among the products of this literature. Ugolino's twenty-eighth volume of the *Thesaurus Antiquitatum Sacrarum* may be mentioned. For the present investigation, these works are important because it had to be established, when the first illustration of a shekel and the transcription of its ancient Hebrew legend appeared in literature. These first publications by Jews and non-Jews became the models for the false shekels and shekel-medals beginning to be manufactured with the Renaissance, the profitableness of which has first fully come to light with the knowledge of the mass of literature on the shekel written in the seventeenth and eighteenth centuries.

[17] J. G. Lipsius, *Bibliotheca Numismatica.*

The Spanish poet and theologian, Arias Montanus (1527-1598) was, to this writer's knowledge, the first to make an exact reproduction of a genuine silver shekel. In the appendix of the Antwerp Polyglot of 1572 this exact engraving of his shekel specimen appeared with the notation on its thickness and a transcription of the ancient Hebrew legend in square type. "Philipp. Gal." is named as the engraver, probably the well-known artist of Antwerp, Philippus Galle (1537-1612). The exactness of the letters displays the careful supervision by Arias Montanus; for in a new edition of this work, originally published in 1572 (*Tubalcain sive de mensuris*), in Arias Montanus' *Antiquitatum Judaicarum Libri IX* (Lugduni Batovorum, 1593) the engraving is reproduced but the engraver's signature omitted. In the engraving of 1593 many inaccuracies in details can be found, for example the letters *Aleph* and *Kaph* are incorrectly written.

The shekel pictured by Arias Montanus stems from the year One. The moving love of the humanist for the antique object, of the priest for the relic from classical Judaic times, is seen in Arias Montanus account on the acquisition of his shekel specimen which served as the model for the first exact publication of a shekel picture. As a participant in the Tridentine Council (1545-1563), he relates, he studied among other works Ramban's Pentateuch Commentary. He cites Ramban's passages on the shekel; and that very night when he studied this chapter, he received thirteen ancient gold coins from his friend, an archbishop, with the request for an expert numismatic and archeological judgment and with the permission to keep one of the coins as compensation therefor. Among these gold coins there was one silver shekel whose genuineness cannot be doubted from the engraving. Arias Montanus requested to keep this one, convinced that "*ipsum verum ac certum Israelitarum siclum, non casu, sed divino beneficio et consilio, ut credimus, nacti sumus.*" True W. Postell in his book, *Linguarum duodecim characteribus differentium alphabetum* (Paris, 1538), had published the first illustration of a shekel, thirty-five years before Arias Montanus, but there is no comparison with the painstaking accuracy of the illustration as given by Philip Galle's engraving. Despite this, Postell's picture may have been reproduced from a genuine shekel (of the year Two.)

Shortly after the shekel illustration of Arias Montanus, appeared in 1573 in Mantua the Jewish scholar's Azariah de Rossi's work, *Me'or Enayim*. This book also contains the picture of a shekel apparently from the year Four. The drawing and legend are only approximately correct. The size is incorrectly reproduced. The transcription runs all around the coin in the square type.

The illustrations, plate I nos. III, IV, V, are reproductions of the three oldest shekel pictures encountered in literature.

Counterfeit shekels

Counterfeit coins are as old as coin minting, even older. Cavedoni correctly points out that the biblical prohibition (V, 25, 13) to possess weight stones of two different weights is equivalent to a prohibition against the minting of counterfeit coins in pre-numismatic times, in which the silver money, as in Abraham's day (I, 23, 16) was still weighed by merchants. That false coins were known in classic antiquity is evident from the laws of the Romans and from specimens of spurious coins preserved from that era, while those Greek and Roman coins which, under a thin coat of gold or silver, have a center of copper, iron, or lead (*animae*), are also well known. Of some of these "*animae*" only the cores have been preserved which, in the course of time, have completely lost their silver coat; of others, the damaged silver plating permits the inferior black base to show through. In numismatic literature this counterfeiting is designated as *subaerati* (metal filled), *tunicati* (plated), *pellicati, pelliculati* (coated), also as *monnaies fourrées.*

It is noteworthy that counterfeits of shekels as ancient as the classic examples just noted are not known. It has been assumed by Werlhof that two shekels mentioned in the literature might be *subaerati*;[18] but this opinion is by no means based on sound argument in view of the fact that he never saw the coins in question. In behalf of the actual lack of ancient shekel counterfeits, it might be argued that, on the whole, much fewer silver shekels were minted than perhaps Denars or Greek coins. Another circumstance, moreover, is not to be overlooked. The silver shekels were primarily used for the Sanctuary as tithes or gifts. Among the Jews, therefore,

[18] Cavedonia, *op. cit.*, p. 42 note 25.

there might have existed an understandable timidity about counterfeiting coins destined principally for the Temple.

In later times, however, there was lively interest in offering collectors of ancient coins spurious specimens of shekels since the genuine ones, which were very rare, were in great demand and, therefore, very expensive. There were a great many later counterfeits of Jewish coins in general, but the silver shekels pictured as illustrations I and II were particularly counterfeited. Aside from the stampings of Vespasian and Titus, which extolled the conquest of Judea (*Judaea capta*),[19] probably no Jewish coin has been so frequently counterfeited in modern times as the silver shekel. Even today these counterfeits occur frequently among collectors and dealers while the later struck counterfeits of alleged coins of Abraham, David, Solomon, Mordecai, even coins of Adam and Eve, produced in accordance with talmudic and midrashic tales[20] are scarcely seen any more, because they are too obviously recognizable as counterfeits. The medals with portraits of Moses or Aaron (from the sixteenth to the nineteenth century)[21] do not fall within the range of counterfeits but more in the category of amulets and Jewish medals although they also, in former times, were considered as genuine ancient stampings.

The great modern counterfeiters of ancient coins, famous in the history of numismatics, counterfeited Jewish coins also. Of the counterfeits produced by John Cauvin (Cavinus) who lived in Padua from 1499 to 1570, the so-called Paduans, there are also some specimens of *Judaea capta*.[22] There is also a false silver shekel of the year Two made by the court councillor Becker of Offenbach, Germany, who died in 1830 and was notorious for his excellent counterfeits.[23] Perhaps the false shekel, pictured on Plate I no. VI, is one of Becker's products. In any case, later even less gifted counterfeiters produced Jewish shekels and imaginary coins, which pre-

19 Cf. Ph. Lederer, *Zeitschrift für Numismatik*, XL (1930), 42.

20 See *supra*, note 16.

21 Joh. Benedictus Carpzovius, *Ad nummos cornutum Mosis exhibentes* (Leipzig, 1659); also reprinted in Ugolinus, *Thesaurus antiquitatum sacrarum*, XXVIII (Venice, 1765). Theseus Ambrosius, *Introductio in Chaldaeo-Syriam linguam*, p. 21, mentions that he had seen medals with Jesus' portrait in Rome, under the reign of Popes Julius II and Leo X.

22 M. J. C. Rasche, *Die Schätzbarkeit antiker Müntzen* (Nuremberg, 1799), III, p. 74.

23 M. Pinder, *Die Beckerschen falschen Münzstempel* (Berlin, 1843).

tended to be Jewish coins, in such great numbers that, in the eighteenth century, there actually arose a literary discussion as to whether there ever were any Jewish coins at all, or whether all the specimens of Jewish coins found in collections were not to be considered altogether as modern falsifications.[24] This false view was caused, aside from the actual shekel counterfeits, also by the vast masses of commemorative medals, produced from the sixteenth century on. They correspond in appearance and legend, but not in size, to the Maccabean silver shekel, and always bear an inscription in modern Hebrew characters. In this respect, they differ from the Maccabean coins. These coins, which may be designated as "shekel medals" again and again in the seventeenth century puzzled investigators. Coins of this kind are mentioned as early as 1552, in a correspondence between Melanchthon and George III of Anhalt.[25] We shall learn presently that, at this time, there existed shekel medals and, in later literature, Melanchthon is even named as the first to have instigated their production in Joachimsthal[26]—whether correctly so or not, cannot be decided. Melanchthon, in a descriptive poem which he sent to George III with his shekel, used the expression: *"fragrantia thura"* (fragrant incense). From this fact it becomes evident that, as early as 1552, Melanchthon possessed a shekel medal of a type similar to the types A or B, as they are differentiated in this essay; for, while there is no genuine shekel with a smoking chalice, the device, on the other hand, appears on all shekel medals.

True, D. B. Villalpandus stressed already in 1604 that no genuine Jewish coin was found with a legend written in square type.[27] But such specimens were for a long time afterwards sold at a steep price even to scholarly collectors.

I. P. Odelem in his dissertation on Jewish coins, in 1699, printed a picture of a shekel medal and an ancient genuine silver shekel and remarked: *"Ex hisce igitur deducimus, quod nullus numus characteribus Assyriis notatus bonae notae sit aut multum vetustus. Genuini*

[24] See Ottho Sperling, *Dissertatio de nummis non cusis* (Amsterdam, 1700).—O. G. Tychsen, *Die Unächtheit der jüdischen Müntzen* (Rostock and Leipzig, 1779).

[25] Bretschneider, *Corpus reformatorum*, VIII, p. 964.

[26] S. Wigersma, *Tijdschrift van het Konjigl. Nederl. Genotschap voor Munt en Penningkunde*, XVIII, (1910) 17 f.

[27] J. B. Villalpandus, *Apparatus urbis ac templi Hierosolymitani*, III 2 (Rome, 1604), p. 372.

itaque Samaritaniis sunt insigniti literis."[28] He did not mention anything, however, about the age and origin of the shekel medal pictured by him.

The learned Mathias Hostus, who was a professor of Greek at the University of Frankfurt, was well versed in numismatics and has described the different types of coins of ancient peoples.[29] Of the Jews, he stated: *"Hebraei siclo suo insculpserunt virgam Aaronis efflorescentem cum thuribulo seu caliculo fumante."* As has already been mentioned, no genuine shekel displays a smoking chalice. It is, therefore, certain that Hostus also considered the shekel medals with the thickly smoking vase as shekel coins. In his description, the shekel is supposed to show *"hebraicis literis"* the legend SEKEL BISRAEL and the picture *"cum ara seu caliculo thuris fumantis."* Hostus refers to Joh. Forster as his authority so that it may be presumed that this professor in a German university, who wrote a scholarly work on the shekel, probably never had seen a genuine shekel and had not even studied the literature on this subject already existing, namely the books by Arias Montanus, Villalpandus and others. Such inferior scientific works naturally strengthened the collectors in their belief in the genuineness of their shekel medals. As late as 1727 Ch. Arbuthnot in a magnificently got-up volume on ancient coins[30] described the Jewish shekel in the following manner copied from Hostus and with all the latter's errors: "The type and inscription of the shekel were in Hebrew letters on one side SEKEL BISRAEL (that is, shekel in Israel) with an altar or chalice smoking incense; on the reverse HEKADOSH JERUSALAIM (that is, holy Jerusalem) with Aaron's rod budding." He also apparently had never seen a genuine shekel and perhaps not even a shekel medal.

J. C. Rasche, also writing without first hand knowledge of the subject, reached the height of nonsense in his work on coins, when he described a shekel medal of type B with a grossly misdrawn and thoroughly mistaken inscription, and designated its characters as "ancient Hebraic or Samaritan."[31] He emphasized that "Germany

[28] J. P. Odelem, *De re monetali Ebraeorum* (Helmstedt, 1699), § 16.

[29] M. Hostus, *Historia rei nummariae,* I (Leipzig, 1692), pp. 61, 284.

[30] Ch. Arbuthnot, *Tables of Ancient Coins* . . . (London, 1727), p. 38.

[31] J. C. Rasche, *Die Kenntnis antiker Müntzen,* I (Nuremberg, 1778), p. 282, plate IX no. 3.

must be reproached in that the Germans had struck all the existing Jewish coins in the past few years."

In view of such a complete lack of knowledge among the writers of the eighteenth century it is understandable when an expert like D. Eckhel spoke angrily of the silly pieces of silver with Hebraic inscriptions by which the easily deceived are often made fools of.[32] The opinions remained divided despite this. While experts like Herman Conring, amazing for his wealth of knowledge, in a letter to Hottinger[33] or Erasmus Froelich[34] urgently warned against confounding genuine with counterfeit shekels, Hottinger himself was opposed to Conring's view on this argument: *"Nullum vero nummum characteribus hebraicis ornatum esse bonae notae aut multum vestutum hactenus animadvertere non potui."* The "shekels" illustrated by him are shekel medals of our type B and the "Lyon Shekel" medal. John Leusdens in 1682,[35] Stephen Morinus in 1694,[36] and S. Lyon in an article as late as 1810[37] interceded in favor of the genuineness of these obviously not ancient shekel specimens.

Shekel Medals

By medals (derived from the Latin word *metallum*) are understood stampings or castings that, in contradistinction to coins which they resemble, are produced neither for purposes of money exchange nor as imitations of money.

Medals already existed in ancient times in the form of gold medallions which were used as gifts by Roman emperors. Symbolic and commemorative medals flourished in the period of the Renaissance that produced incomparably beautiful works of art of this type. From then on their use in commemoration of events or persons or as the symbolization of ideas, was never to die out.

Jewish medals of antiquity have up to now not been known. On the other hand, beginning with the Renaissance an abundance of medals came into existence commemorating Jewish personalities

32 J. Eckhel, *Kurzgefasste Anfangsgründe zur alten Numismatik* (Vienna, 1807), p. 34.

33 Hottinger, *Cippi hebraici* (second ed.; Heidelberg, 1662), p. 180 and plate V no 5.

34 E. Froelich, *Annales regum et rerum Syriae* (Vienna, 1754), p. 91.

35 Johannes Leusdens, *Philologus hebraeo mixtus* (second ed.; Utrecht, 1682), p. 186 ff.

36 Stephanus Morinus, *De primaeva lingua* (Utrecht, 1694), p. 303 no. XIII, p. 309.

37 S. Lyon, *Explanation of and Observation on an Antique Medal* (London, 1810).

and events in Jewish history as well as symbolizing ideas of Judaism. Among these Jewish medals the shekel medals are traceable from the sixteenth century and have been struck, cast and re-cast up to modern times in various types. All of them resemble more or less the original shekel represented in plate I, namely the silver shekel of Maccabean times. Except for some modern types the inscriptions appear in neo-Hebrew characters of a kind not used for the genuine shekel coins.

The first numismatist who aimed to write a book on Jewish medals (not coins) including "counterfeit shekels", was an American, David L. Walter of New York; except for some sketchy notes, however, he was not able to accomplish his purpose.[38] It was only G. F. Hill and M. von Bahrfeldt[39] who made profound researches and scholarly publications on this subject.

Both counterfeit shekels and shekel medals are found in most of the collections of Jewish coins or medals, but seldom in any quantity. Aside from the collection of this writer, containing 61 various types he knows of only one private collection with a considerable number of such objects, namely the collection of the well-known numismatist, Dr. Victor Katz of Prague, recently deceased.[40] The Municipal Art Collection of Goerlitz, Germany, possesses a third collection of counterfeit shekels consisting of 36 types. There are some specimens in the Museum of the Jewish Theological Seminary and in the collections of Dr. Guido Kisch and Mr. Samuel Friedenberg, both of New York City.

Purpose and Use of the Shekel Medals

When one reads the older numismatic literature[41] one is tempted to believe that shekel medals were struck only to deceive collectors and investigators. In former times many of them, moreover, were actually duped by these objects. But it is certain and demonstrable that the original purpose of their being minted was genuine. The dated shekel medal A (Plate II) from the year 1584, or the two

[38] See *American Journal of Numismatics,* XVIII (1889), 83; *ibidem,* XIX (1890), 43.

[39] *Supra,* note 1.

[40] Due to the present war conditions this writer was unable to include Dr. Katz's collection (about 25 pieces) in these researches.

[41] Otto Sperling, *Dissertatio de nummis non cusis* (Amsterdam, 1700), p. 102; Eckhel, *loc. cit.;* Levy, *loc. cit.*

shekel medals which bear in Latin letters the initials of their minters (C1, plate VII, and E1 plate IX) or the shekel medal of Prague mentioned below with the name of the firm that struck it, give excellent proof of this fact.

Above all, there are two motives which, as can be shown, induced gentile mints, even in anti-Jewish times, to use the Jewish shekel as a model for the medals. First, it was to stir up the memory of the era of Jewish independence with which the entire narrative of the Gospels is bound. This aim, in the period of humanism, from which stem the oldest reports on shekel medals, met with the deepest understanding of the broad circles.[42] Second, the shekel medals were to be reminders of the silver coins which were allegedly the reward for Judas Iscariot's treachery. In this sense they were of great interest to the naive masses, who desired at least to see or even possess such a silver coin, probably made familiar to every Christian in religious instruction. This desire was felt as much by secular and ecclesiastical princes, whose treasuries were supposed to preserve such silver coins of Judas as precious relics,[43] as by the masses of people of the sixteenth to the nineteenth centuries who went on pilgrimages to the holy tomb.[44]

O. Sperling believes that the trade in false shekels set in with the Oecumenical Council of Vienne (1311-1312) in an ever increasing volume and is connected with the stimulus given by Pope Clement V to Christian scholars to devote more time to the Hebrew language. Sperling's view, however, is not tenable, for shekel medals of the fourteenth or fifteenth century were neither preserved nor is their existence traceable through literature. Their first appearance occurs at the time of the flowering of humanism in the sixteenth century, as the literary and numismatic evidence shows.

It is more difficult to decide upon the question, to what extent the Jews themselves minted these medals or at least purchased pieces struck by Gentiles for their own purposes. Since the shekel medals

[42] For details see the section on the Meysel Shekel in this essay.

[43] M. F. Mely, in *Revue Numismatique,* Fourth Series, III, 500, and *American Journal of Numismatics,* XXXIV (1900), 69, offers a description of sixteen silver pennies allegedly of Judas, preserved as relics in various European church treasuries since the Middle Ages. Not a single one of these coins is of Jewish origin.

[44] That shekels of this type were used in Sunday schools as specimens for observation is clear from a warning (as late as 1897) against purchasing shekel medals as genuine coins; cf. *Am. Journ. of Numismatics,* XXXII (1897), 53 f.

have an inscription exactly like that of the Hasmonean silver shekel, transcribed from the ancient Hebraic into the modern Hebraic type, originally without a mistake, it may be safely assumed that these pieces were produced with the aid of experts in Hebrew writing and language. As has been mentioned, some pictures of shekels were already published with a transcription of their legend in square letters; the first of them was Postell's poorly made illustration (1538) and Arias Montanus' excellent and true illustration (1572). Despite this, I am quite sure that the first shekel medals were not made after the model of scarce and expensive publications of Christian scholars, but after the much coarser, yet among the Jews much more widely known illustration in the work by Azariah de Rossi (1573). Two facts substantiate this view. None of the ancient shekel medals is of the same size as the Hasmonean Shekel (about 21 mm in diameter) according to the illustrations by Postell or by Arias Montanus correct in this instance; but all of them have a diameter of about 35 mm similar to de Rossi's incorrectly reproduced shekel. In Postell's illustration the date above the chalice is clearly given in letter form; the alphabet of the transcribed letters appears on the same page. Above the chalice, there is a small zig-zag line which, open to misinterpretation as smoke, probably should represent the upper beaded rim of the goblet. In Arias Montanus' picture the letter designating the year 1 (pl. I no. IV) is so clearly written that it is impossible to mistake it. Besides, in Arias Montanus, this figure is carried over also in the transcription. It is quite otherwise in de Rossi, where the date, as can be seen, is above the chalice in incorrect type; in the transcription, furthermore, it is entirely omitted. Although de Rossi reads the letters above the goblet as *Shin-Dalet* and incorrectly gives them the meaning "Shekel of David", the figure above the chalice easily might have been taken as a cloud of smoke around the rim. The fact that all later shekel medals instead of a goblet with letters above it, show a smoking chalice, like the similarity in size, speaks for believing their model to be de Rossi's work.

It is striking that no shekel medals with ancient Hebraic letters exist from the sixteenth century. Perhaps this could be explained by the fact that, in those days as today this kind of type was entirely foreign to the layman and but slightly familiar to theologians, while

the modern Hebraic script was at least recognizable to the Christian layman, even though most of them could not read it. In any case the expert supervision over their production is noticeable in early shekel medals through the correctness of their lettering, in which the later stampings show a harmful lack of expertness. Many of the later shekel medals evince incorrect, partly defective or corrupt inscriptions with the partial use of phantastic and meaningless letters.

The great number of the various types of shekel medals is noteworthy. This however is not strange when one considers that these shekel medals, as in Görlitz, were sold as memorial tokens of pilgrimage in the pilgrimage chapels. In earlier times such places of pilgrimage were visited very often, and likewise there was a great demand for small souvenirs which the pilgrims brought back for themselves and their families. No less than 52,412 pilgrimage medals are reported to have been made between 1519 and 1522 and sold in Regensburg;[45] and Father Odilo Ringholz claims that on the Angel's Consecration Festival of Einsiedeln in 1466, within fourteen days, 130,000 such *"Zaichen"* (tokens) were sold at two pfennig apiece.[46] On considering such numbers one is no longer astonished over the great number of shekel medals placed in circulation by church institutions.

That the Jews actually effected the minting of these shekel medals has, until now, not been proven. But Jews in Russia and Galicia acquired and used them for various purposes, for instance, as a symbol of the money to be paid a Cohen upon the redemption of the oldest son; in analogy to the precept in IV Moses XVIII, 16 he received five of these shekels which were then repurchased from him with current coin. In several Eastern European countries, a shekel medal was placed on the collection plate which, at certain times, e. g. at Purim, was set up in the ante-room of the synagogue to encourage people to leave small gifts for the poor of the community. Finally, the fact that some shekel medals appear with a loop hole shows that they were worn as ornaments or amulets, whether by Jews or Christians is open to discussion.[47]

[45] W. Schrantz, *Die schöne Maria in Regensburg* (Regensburg, 1887).

[46] B. Müller, *Medaillen und Münzen im Dienste der Religion* (Berlin, 1915).

[47] The most original use of shekel medals was discovered by H. B. Walters (*Transactions of the Bristol and Gloucester Archeol. Soc.*, XXXIV, 119), according to whom

Whether the shekel of gold mentioned in literature was either a shekel medal or a counterfeit shekel, cannot be determined without examining the pieces. O. G. Tychsen mentions a specimen of this kind that appeared in 1650 weighing eight ducats.[48] O. S. Sperling also mentions this type of shekel made of gold.[49] Gold plated silver shekels are not scarce; in this writer's collection there are such specimens from the seventeenth and eighteenth centuries.

Shekel medals were not produced by the Zionist Organization which raises voluntary contributions under the name of shekels. On the other hand, at the *Kenesioh Gedoloh* in 1937 in Marienbad, a *sela* medal was distributed.[50] This medal, however, either in form and appearance or in inscription did not resemble the original Hasmonean silver shekel.

The very peculiar shekel medal F1 reproduced on plate IX, the origin of which is unknown as yet, probably has a Jewish source. It is a unique specimen of chisel work and was evidently struck after de Rossi's model as can be deduced from its ancient Hebraic inscription and the form of the chalice and leaves.

Types and Places of Coinage

All the shekel medals familiar to this writer are fundamentally of the same type. On the obverse there is a receptacle with rising smoke; circumscribing it, the inscription reads: *Shekel Israel* (Shekel of Israel). The reverse shows a branch with leaves and the inscription: *ha-kedoshah Yerushalayim* (Holy Jerusalem). The inscription and the design make it unquestionable that the original model of all later shekel medals was the Hasmonean silver shekel (pl. I, no. I). Except on the very few *modern* types (F1, pl. IX) the inscription is always, contrasting with its model, in modern Hebrew square letters. The inscription was originally so placed that of the two words on each face, one on the left hand, the other on the right hand side. It already points to a lack of comprehension of the text and therefore certainly to a non-Jewish origin, when, for the sake

---

the bell caster John Palmer of Gloucester embellished bells with casts of shekel medals between 1650 and 1665.

48 O. G. Tychsen, *Die Unächtheit der jüdischen Müntzen.*

49 Sperling, *Dissertatio de nummis non cusis,* p. 98. Cf. also *American Journal of Numismatics,* III (1868), 41.

50 *Sela* is a double shekel.

of symmetry, on the obverse for example, four letters are placed on each side of the chalice (E 1, E 2, pl. IX.)

Since genuine shekels, even among collectors in earlier centuries, were scarce and probably illegible because of the ancient Hebrew script, it may be concluded that all the later types of shekel medals go back to a first shekel medal as a model and not to the original Hasmonean shekel. This is evident from three peculiarities which besides the type of the letters, typically differentiate all shekel medals from antique silver shekels.

In the shekel medals originally a smoking chalice always appears. This smoke may have been derived from ignorance of the old Hebrew characters representing the date and placed above the chalice on the ancient shekels. This is true of de Rossi's shekel picture (the short zig-zag line over the goblet in Postell's first shekel illustration of 1538, representing the pearled rim of the goblet, may easily have been mistaken for smoke). This miscomprehension continues to be found in all shekel types since 1584.

On the reverse of the ancient shekel there is a staff with three budding branches (pl. I, nos. I, II). Its illustration in Postell is fair; in Arias Montanus, it is excellent; in de Rossi so bad that the buds may be taken as leaves of small branches. The fact that the shekel of 1584 as well as all later types have, instead of a staff with three buds, a more or less heavily leaved branch, supports the opinion that de Rossi's picture was the model for the first shekel medal.

The shekel medal of 1584 has on the reverse the word *ha-kedoshah* on the right side (heraldically on the left); the word *Yerushalayim* on the left side. It is just the opposite on the genuine shekel.[51]

Almost all the shekel medals produced with Hebrew square letters since 1584 resemble the shekel medal of 1584 in these three respects. The chalice is always smoking and, indeed, in later examples it becomes even a smoking vase; on the reverse, there is always a leaved branch, which in later types may even bear berries; and the position of the words is like that of the 1584 model.

The types of shekel medals with ancient Hebrew lettering are fundamentally different.

[51] This peculiarity of the order of the wording in the inscription is mentioned already by Villalpandus, *op. cit.*, p. 393.

This writer has established 81 different types of shekel medals but there may be many more. Often the types differ only in minute deviations, but others may differ in very essential ones, so that from the point of view of style, they can be categorized according to certain epochs of European art. The closely related types in turn may be assembled into family groups. Even the various forms of the chalice on the different shekel medals according to type (chalice, vase without or with handles) permit such a classification into groups.

It would be more correct to classify the types according to the medallists and the places of origin. Unfortunately, definite information for this is still lacking so that only six places can be proven where shekel medals were made: Joachimsthal, Hamburg, Görlitz, Holstein, Prague and New York. Except for the modern medals struck and cast in the United States, all shekel medals were made in the domain of the Holy Roman Empire. Hence, Rasche was justified when in 1778 he emphasized "that the Germans had struck all the existing Jewish coins during the past few years."

Joachimsthal Shekel Medals: The Meysel Shekel, the Oldest Dated Shekel Medal

In his work on the medals struck in the Erzgebirge in the sixteenth century[52] Victor Katz makes an allusion to the following report of the Joachimsthal pastor, John Muthesius, on the "schaw-groschen" or medals. "I could mention many beautiful groschen and products made here in the valley, among them, including works of noble art, many beautiful and truly religious articles can be seen, such as old Jewish shekels and other artistic commemorative pieces."[53] It appears that in the Erzgebirge in the sixteenth century shekel medals were produced, and when Muthesius speaks also of *"andern schönen Manumenten"* he means that they were religious commemorative tokens produced in those days in Joachimsthal after motifs from the Bible and the Gospels. Similarly, another book on coins mentions as a known fact that some silver shekels are found *"zur Gedächtnus"*, "in memoriam", cast again and again; the au-

[52] Victor Katz, *Die erzgebirgische Prägemedaille des XVI. Jahrhunderts* (Prague, 1931), p. 14.

[53] Joh. Muthesius, *Ausgewählte Werke,* II (Prague, 1897), 185. Muthesius lived in the sixteenth century.

thor's description of these shekels corresponds with type B.[54] No shekel medal has been identified as a Joachimsthal shekel as yet; but the excellent silver medal A on plate II may be considered a Joachimsthal piece. It is apparently a unique specimen of a shekel produced in 1584, which itself or its older model must have been the direct or indirect pattern of all types of shekel medals.

This shekel specimen comes from the collection of my father, Professor Alexander Kisch, late Rabbi of Prague, who designated it as a "Meysel shekel" and rightly valued it very highly;[55] it is now in the collection of Professor Guido Kisch, in New York. The expression "Meysel Shekel" merely means that this shekel was produced in Bohemia at a time when the great Jewish philanthropist, Mordecai Meysel, was leader of the Jewish community of Prague. Mordecai Meysel (1528-1601) was, in the second half of the sixteenth century, like his famed contemporary, Rabbi Löw ("hohe Rabbi Löw"), the well-known representative of a happy era in the history of the Jewish community of Prague.[56] He had received from the Emperor a number of unusual privileges, such as permission to erect the Meysel synagogue in Prague as well as to keep therein a "flag of David", a copy of which made in 1701 is still in the Municipal Museum of Prague, the original having been destroyed in the fire of the Prague Judenstadt in 1689. Meysel was also granted the privilege despite his having no children, to make a valid will. It might then be within the range of possibility though definite proof cannot be adduced, that this shekel medal of 1584, the correct minting of which required much Jewish and archeological knowledge, was connected with the Jews of Prague. Since the year of this medal, however, actually coincides with the golden age of Meysel and the Jewish community of Prague, the specimen may be aptly designated as the "Meysel Shekel" suggested by the late historiographer of Meysel.

It cannot be assumed that the Meysel shekel is actually the first shekel medal produced. The very fact that it is a cast, while the Joachimsthal medals were struck, speaks for an older struck model.

54 *Extract der Müntzsorten, deren im alten und newen Testament gedacht wird* (Munich, bey Adam Berg, 1604).

55 A. Kisch, article "Mordecai M. Meisel," in *Jewish Encyclopaedia,* VIII (1904), 443.

56 Alexander Kisch, *Das Testament Mardochai Meysels* (Frankfurt, 1893); A. Kisch, "Das Meiselbanner in Prag," *Kalender für Israeliten,* IX (Vienna, 1900).

It must be left undecided, however, whether this model also bore the date 1584.

The correspondence between Melanchthon and George III of Anhalt (1552) as well as that of the Swiss humanists brothers, Ambrosius and Thomas Blaurer,[57] and the work by Arias Montanus show the interest of the humanists in ancient Jewish numismatics. The early existence of "counterfeit shekels" also can be established from these sixteenth century letters. It is uncertain whether these and the still to be mentioned Hamburg shekel of Herman Tapkens of 1574 are counterfeits of genuine coins or shekel medals with square lettering.

Doctor Julius Cahn of Frankfurt am Main made the discovery that in the Uffizi at Florence, in a painting attributed to Lucas van Leyden (1494-1533) the thirty pieces of silver are represented as shekel medals.[58] Their type corresponds to the Meysel shekel. Unfortunately, it is impossible to establish a definite date for the picture. If the painting really comes from the middle of the sixteenth century, then this would represent the oldest original form of the shekel medals. In agreement with Melanchthon's letter, it speaks for the fact that there were already shekel medals in the middle of the sixteenth century. Since among the Judas silver pieces preserved in the church vaults not a single Jewish casting is found, the Meysel shekel remains the oldest specimen of shekel medals that can be definitely dated. It is of the greatest historical value among all the shekel medals. Therefore, it is to be designated as type A.

Its uniqueness strengthens the conception that it was produced for a definite purpose in 1584 and, perhaps, this is the only specimen to which the date was added in the die of an older struck piece.

Görlitz Shekel

In the coin trade of Europe certain shekel medals, which are offered often at low prices, are designated as "Görlitz Shekels", also as "Görlitz counterfeit shekels." The specimens are usually in silver or tin, seldom in lead or copper.[59]

[57] (Freiburg, 1910), nos. 896-897 (1541).

[58] G. F. Hill, *The Medallic Portraits of Christ,* p. 87 and note 1. This portion of the picture is reproduced by Hill in *The Reliquary and Illustrated Archaeologist,* VIII (1904), 135. There, 1530 is given as the date of the picture; conclusive proof, however, is missing.

[59] The present writer had to extend his investigations on this type of shekel medals

A German numismatist, Dannenberg, was the first to warn against the confusion of genuine shekels with those which "the Mayor of Görlitz, Emmerich," had made after a journey to Jerusalem and after a replica of the Holy Sepulchre had been erected in Görlitz. These shekels were used as souvenirs for the pilgrims.[60] The date of such imitations is also to be derived from the fact that specimen, among other coins, was deposited in 1671 in the knob on top of the steeple of the Berlin Nicholas Church.[61] According to Doctor S. Asche, in Görlitz, different types of shekels were sold as souvenirs of the visit to the Holy Sepulchre. The oldest "Description of the Holy Sepulchre" of Görlitz from 1719 mentions that in the Holy grave imitations of the silver pieces can be seen.[62] Such "silver pieces" were probably sold with the description of the Holy Sepulchre in Görlitz; in a specimen of 1743 in the Museum collection the shekel is still attached to the book. The Görlitz coin collection also possesses the casting mold of a shekel medal acquired in 1911 in Marklissa near Liegnitz (pl. X).

As to the supposed author of the Görlitz shekel medals, more details are contained in G. Dalman's *Das Grab Christi in Deutschland*[63] from which the Görlitz imitation of the Holy Sepulchre appears as the most remarkable in Germany. The means and the inspiration for it came, according to Dalman, from the Görlitz patrician, Georg Emmerich, who in 1465 was made a knight of the Holy Sepulchre in Jerusalem. Between 1481 and 1504, Emmerich was five times mayor of Görlitz.[64] Concerning shekel medals, however, Dalman offers no information. Whether the Görlitz shekel actually goes back to an idea of Emmerich must remain then an assumption unproven as yet. Yet it cannot be assumed that in the Jerusalem Holy

---

to Görlitz, Germany, where he was generously aided by the director of the Municipal Art Collection, Doctor S. Asche to whom he is especially indebted for the photos of the shekel medals.

60 Assembly of the Berlin Numism. Soc. of March 2, 1903; *Berliner Münzblätter*, XXIV (1903), 260 f.

61 Cf. *Z. für Numismatik*, VI, 139.

62 Theodor Neumann, *Geschichte der Stadt Görlitz* (Görlitz, 1850), mentions that, in the altar of the Görlitz Holy Sepulcre, there is an iron box for the thirty pieces of silver, and that castings of them in tin or silver are obtainable with the curator.

63 (Leipzig, 1922); cf. also G. Dalman, *Die Kapelle zum Heiligen Kreuz und das Heilige Grab in Görlitz und in Jerusalem* (Görlitz, 1916); R. Jecht, *Geschichte der Stadt Görlitz*, I (Görlitz, 1934), 774-781.

64 R. Jecht, "Urkundliche Nachrichten über Georg Emerich," *Neues Lausitzisches Magazin*, LXVIII (1892), 85 ff.

Sepulchre "silver pieces" were shown or their imitation sold, since neither old nor modern travel descriptions mention this. Thus Emmerich could not have carried such an idea with him from Jerusalem; it would probably have been imitated in other Holy Sepulchre churches in Germany as well.

The Hamburg Shekel

The numismatist Max von Bahrfeldt is to be credited with the discovery of archival documents, which show that, in the second half of the sixteenth century, with the permission of the Hamburg City Council, one Herman Tapken, a dealer in old clothes, struck silver shekels and sold them together with an explanatory booklet.[65] Since until now neither a specimen of the Hamburg shekel nor of the pamphlet was found, it cannot be ascertained whether these were shekel medals or actual imitations of an original shekel. In those days, Andreas Metzner was the mint master. The weight, given in the documents, 1 loth (about 16.7 grams) is greater than the weight of the genuine shekel which weighs from 13 to 14 grams. This tends, without being sound proof, to show that in Hamburg shekel medals were produced, and not counterfeit shekels. Moreover the Hamburg shekel was struck, since *"Stock"* and *"Obereisen"* are mentioned with which this shekel was *"geprägt"*. The following facts concerning the Hamburg shekel emerge from these documents.[66] At the convention of the coin examiners which met in 1574 in Braunschweig the *Generalkreiswardein,* Georg Stumpfeldt, reported on the inspection of the mints of the lower Saxon district; he came across a publication, in which the ancient Jewish shekel was highly praised in poetic form in Greek, Latin and in German, and which explained why such ancient coins were desirable. Stumpfeldt learned from an advertisement, contained in the book, that these coins were obtainable in Hamburg from Herman Tapken. Thus, by the City Council he found out that Tapken was licensed to strike such shekels and that the mint master of Hamburg produced these medals for him. Stumpfeldt, who bought two of these shekels from Tapken, with the booklet, was indignant over the price of 24 Groschen for

[65] Max von Bahrfeldt, "Falsche jüdische Schekel (Silberlinge)," p. 4528.

[66] State Archives of Magdeburg, Germany; Niedersächsisches Kreisarchiv, Münzsachen vol. 6/1, fol. 451-472.

pieces made of dollar silver and having a weight of 1 loth. Neither Bahrfeldt nor this writer were successful in finding a copy of the booklet. The Hamburg shekel, therefore, can not be identified, for the present, in the great number of shekel medals.

The Prague Shekel

Shekel medals also were produced in Prague without any aim at counterfeit or deception. This can be seen from the fact that shekel medals exist with the producer's name "C. Hoefer, Prag".[67] According to information received from Dr. Victor Katz of Prague, a medal of this kind is in the collection of Director Pribil in Prague.

New York Shekel Medals

The Jewish Theological Seminary Museum in New York possesses two types of shekel medals which were struck in America.[68]

One is a typical shekel medal (B 34, pl. VI). Mr. A. Nicholas of New York, during a trip in the middle of the nineteenth century to the Vatican, saw a shekel medal and was convinced that this was the genuine form of the silver pieces Judas Iscariot had received. He ordered a drawing of the medal and dies after it, from which he made a small number of specimens in silver and a larger number in a baser metal. The Jewish Theological Seminary possesses also the original printed description, "printed by John . . . publisher, 70 Wall Street", autographed by Nicholas. The Nicholas shekel is easily recognizable by a thin curved line above the goblet from the top to the middle of each side. The New York Herald of Jan. 7, 1857 carried a notice concerning this shekel medal, received from Mr. A. Nicholas, "conductor of the Bank Note List and Insurance Reporter," as "a facsimile of the shekel of the Sanctuary." According to the Herald, this shekel was produced after a plaster cast of the original in the Vatican. The description sold with the shekels mentions that, in translating and interpreting the shekel, Nicholas was aided by "Dr. Raphall, the eminent Hebrew scholar and Divine and Rabbi of New York and by a famous collector, Dr. L. Abrams, LL.D." The Nicholas shekel has, in contradistinction to most of the shekel medals, the word *Yerushalayim* to the right of the observer.

[67] Katz, "šekel", in *Kalendář česko-židovský*, 1927/28, p. 169.

[68] This writer is indebted to Professor Alexander Marx for his kindness in calling these specimens and the New York Herold notice thereon to his attention.

The only original feature of the shekel medals misinterpreted by Nicholas is that, without any further proof, he connected the smoking chalice with the smoking pot of Korah and his company.

Another type frequent in America, but unknown in Europe (B. 35, pl. VI) has a very flat and wide form of the goblet.

Masonic Chapter Shekel Medals

A special form of modern shekel medals, also known only in America, was struck by masonic lodges (G 1-5, pl. X). The obverse is a rather correct imitation of the obverse of the Maccabean shekel; the reverse bears various words and letters which concern the lodges. A silver medal of this kind with a Magen David on the reverse, from the Steuben Chapter Hornell, New York, is in the collection of the Jewish Theological Seminary. A similar piece in bronze of the Andrews Chapter, Andrews, Ind. is in the writer's collection. It is not a copy of the Steuben Chapter medal, for the former represents a shekel of the year Two, the latter of the year Three, and the copy of the shekel obverse is, in the Andrews Chapter medal, very exact, in the Steuben medal however, very inexact. There are similar medals of other masonic chapters.

Imitating these American lodge shekels are the American tokens, made and sold for charity purposes described further below.

Lyon's Fanciful Shekel

Since olden times, the most varied kinds of medallic figments of imagination have been produced as alleged copies of the ancient shekel. The illustration pl. XI shows the strange piece on which S. Lyon, a Jewish teacher of Hebrew published a pamphlet, the English edition of which appeared in London in 1810. "The medal was found by laborers in 1809, when digging amongst ruin near Huntingdon." The inscription translated reads: "Shekel of David left in the treasury of Zion in the Temple," and: "The Lord is the keeper of Israel, the Mighty King in Jerusalem."

That this is a counterfeit or a shekel medal and not, as Lyon attempts to prove, a genuine piece is evident at first glance. It was undoubtedly made after the model of a shekel medal, type B. Except for the illustrative parts described by the first letter of the objects pictured, the obverse shows, as these shekel medals, the smoking

urn, the reverse the leaved staff. Added to the unusual inscription, there is, on the obverse, a sacerdotal head covering with a half moon (!). Above it, as already discerned by Lyon, a *Kaph* (probably *Kohen* = priest), to the left, a horn, above which is the letter *Shin* (probably *Shofar* = trumpet), on the reverse to the right a five pointed crown, below a *Dalet* (probably *David* = David, because the inscription describes it as a shekel of David), and to the left, an ointment urn with a *Shin* next to it (probably *Shemen* = oil). Nothing is known concerning the origin of this interesting counterfeit, for the first time illustrated in J. H. Hottinger's Cippi Hebraici.[69] Hottinger did not consider the piece a genuine shekel. In 1697, a picture of a piece exactly like Lyon's was published by St. Morinus, who believed it genuine and to have been struck before the Babylonian exile. The naive inscription around this shekel probably resulted from the fact that the author of its casting was familiar with Villalpandus' opinion, who read the letters *Shin-Dalet* (year Four) above the chalice of his genuine shekel, as shekel of David as likewise de Rossi did. A specimen of this medal is in the New York Friedenberg collection.

The Holstein Shekel

Otto Sperling, in his *Dissertatio de nummis non cusis*,[70] claims that he knew a Christian "*hominem inter Holsatos diu viventem*" whom he did not want to mention by name, a man who, in his own home, struck shekel medals which "*elegantia et novitata*" were easily distinguishable from similar ancient pieces.

Signed Shekel Medals

Among the large number of shekel medals known to this writer, he found only two with the signature of the artist. One is a shekel of type C; the other is like type E. Since there are similar variants of both types without a signature, it may be assumed that the signed pieces, (C 1, pl. VII; E 1, pl. IX), are the models for many imitations. The signed shekel medal type C has, under the vase, bedecked with many flowers, the letters. I. to the left of the reader, .B. to the right of the reader. It is very probable that this medal can be assigned to Johan Buchheim (born in Breslau in 1664, died in 1683).

[69] Second ed. (Heidelberg, 1662), with a differing inscription.

[70] (Amsterdam, 1700), p. 102.

From him, among others, come a medal of homage of the City of Breslau of 1669, a Breslau school award medal of 1675, and a beautiful undated marriage medal.[71] A comparison of the shekel medal with Buchheim's marriage medal reveals a great many stylistic similarities. Especially notable is the miniature artistry of the picture and the overloading of the floral ornaments. This is found on the marriage medal as on the middle and base of the vase of the shekel medal, in both cases with preference given to a rosebud pictured like a daisy. This emphasis on minute ornamentation is seen in the Hebrew letters as in all the details of the marriage medal. Finally, the pictorial detail of the marriage medal shows a painfully efficient delight in symmetry. In the center of the obverse, for example, a table, to the right of it, the father, older son, younger son, to the left, in practically mirror-like symmetry, the mother, elder daughter, younger daughter, etc. This aesthetic need for bi-symmetry explains why the artist placed a period in the fine monogram not only after the letters but before them, too. The shekel medal is signed: .I. .B.; the marriage medal in which both letters are placed closer to each other: .I.B. In both cases, the periods are placed not half way up on each side of the letters but at the foot of each letter. If the .I. .B. shekel can be rightly attached to Johann Buchheim, then it is possible to find an approximate date for it, namely the latter half of the 17th century. This is verified by this fact: the beautiful and unusually ornamented type of the lettering, quite original for shekel medals, compares closely with the type which appears on the title and large chapter headings of the book *Yalkut Shem* published in Frankfurt am Main in 1687. Since Buchheim was born in Silesia and worked in Breslau, the .I. .B. shekel medal might well have been produced for Görlitz.

The second signed shekel medal, (type E 1), has the seal R.B. under the smoking urn. At present, there is no clue to the identity of the producer of this medal, which dates, probably, from the eighteenth century. It was also, as picture E 1 shows, used as a model for a similar copy (E 2). Yet the shekel medal with the cylindrical smoking chalice on a high slim leg with a flat pedestal occurs less frequently than the other types. The most frequent are the variations of the type of the smoking chalice (B).

[71] Pictured in *Medaile zemích českých* (Prague, 1924), plate V.

Categories of the Types of Shekel Medals

The most effective method appears to be to categorize the shekel medals according to their obverse. The backs also shaw differences of a typical nature which must be considered especially in subdividing the medals; but they are not so striking as the differences on the obverse. Naturally, there are also hybrid medals. The present writer suggests the following divisions:

A. The dated Meysel Shekel medal.
B. Chalice-like smoking urn with conical leg.
C. Handle-less smoking urn (neck narrower than body).
D. Two-handled smoking urn (neck narrower than body).
E. Cylindrical smoking urn with narrow leg and a broad pedestal.
F. Chalice without smoke (in contrast to A-E), ancient Hebraic inscription.
G. Shekel medals of the American Masonic lodges.
H. The imitations of G.

There are specimens of almost all the types in silver and base metals (tin, lead) including castings or strikings in various metals from the same die. Many specimens are gold plated; copper was seldom used since its color was not appropriate for pieces allegedly silver. Since in the literature of the seventeenth century, only shekels of type B are illustrated, it would seem that types C-E appeared only later, from the end of the seventeenth century on. The numbers of the variants of types B-F discovered up till now are divided as follows: type A: 1 specimen; type B: 45 varieties; type C: 8 varieties; type D: 16 varieties; type E: 2 varieties; type F: 2 varieties; type G: 6 varieties; type H: one variety.

Description of the Specimens of Shekel Medals Known up to the Present

The following descriptions are to be understood as to the left or right of the observer, not in the heraldic sense. For the chalice the following parts are differentiated: upper portion; centre; base; pedestal; The upper rim of the chalice is designated as the lip. Wherever no remarks are made, the inscription is correct. Obverse right side: Shin-1, Koph-2, Lamed-3; left side: Yod 4, Shin-5, Resh-6, Aleph-7, Lamed-8; reverse right side: He-I, Koph-II, Dalet-III, Vav-IV, Shin-V, He-VI; left side: Yod-VII, Resh-VIII, Vav-IX, Shin-X, Lamed-XI, Yod-XII, Mem-XIII means the letters of the inscription of the obverse (Arabic numbers) and the reverse (Roman numbers) so that errors can be briefly and easily referred to, for example: obv.2= Het means that in the word shekel there is a *H*et instead of a Koph, etc.

The pieces in the collections of this writer (Kisch), of the Görlitz Museum (Görlitz) and the Jewish Theological Seminary (J. T. S.) are notated accordingly; other collections are referred to only if they contain pieces not in the afore mentioned three collections.

Type B (Smoking Chalice with Conical Leg).

The dated Meysel shekel designated as type A belongs also to this group. The form of its chalice with smoke recurs in all the shekel medals of type B and in almost all of them the picture on the reverse appears: above and below a clipped staff from which protrude on the left and the right sides four small branches with leaves. The characteristic of the Meysel shekel (type A) that the lowest branch on the left side has only a single leaf, also recurs in practically all the shekel medals of type B. Deviations from these characteristics are referred to in the pertinent description. The fact that, aside from the dated Meysel shekel, the eldest representatives of type B come from the sixteenth century can be proven in that Villalpandus, in his work completed in 1603, offers a true specimen of type B 4.

The various forms of type B are differentiated some by the shape of the urn, some by the lettering and certain errors in the text. A series of specimens belong to type B which are very closely related to the Meysel shekel in the lettering and the form of the urn. Characteristic is the pressed form of 2 (see B1 through B7) which in later copies became by mistake a *Het* and in B 24 even a *Sameh*. Almost all the specimens of this type of lettering stemming from the sixteenth century are in silver.

B 1—Letters like type A; Obv. chalice, upper portion larger and broader than the base, both conical, lip elliptical. Rv. middle branch end in a point; on eight branches leaves only; silver cast, old gold plating; 31.5 mm; 16.8 grams; Kisch Collection.

B 2—Letters like B 1; Obv. chalice, upper portion broader than the base, both conical, the base higher than the upper portion; lip toward the top a concave line. Rv. exactly like B 1; silver cast; 31.5 mm; 14.4 grams; Kisch Coll.

B 3—Letters like B 1. Obv. chalice, upper portion broader than the base, both conical, of equal height. Rv. similar to B 1, slight differences; silver cast; 30 mm; 13.0 grams; Kisch Coll.

B 4—Similar to B 2; lettering and picture very much sharper; base of chalice lower, smoke more condensed; silver cast 32.5 mm; 14 grams. This type shekel is pictured with exactness in Villalpandus (Rome, 1604), pl. 180/181. Kisch Coll.

B 5—Similar to B 2, but a different type of lettering; the Aleph with a sharp downstroke, the Lamed like a Latin S, the Yod with a long horizontal line; Obv. upper portion of chalice much larger and broader than the base, half spherical; silver cast; 30 mm; 10.2 grams; Kisch Coll.

B 6—Lettering similar to B 4; Obv. Lamed similar to a 5; Rv. longer offshoot branches than B 4 up to the edge of the medal; burnished silver casting; 34 mm; 9.7 grams; Kisch Coll.

B 7—Lettering like B 6; Obv. identical with B 4; Rv. similar to B 6 but different placement of the leaves; silver cast; 33 mm; 15.5 grams; also in lead; Kisch Coll.

B 7a—Lead casting, perforated, of a specimen of B 7; 32 mm; Kisch Coll.

B 8—Lettering similar to B 6 but finer; Rv. 1=Het instead of He, 2 like Het with a small line above. 7 pressed into the leaf-work so that it can be taken as a small leaf. In X the middle line of the Shin is missing. Silver stamping, old gold plating, 35 mm, 14.2 grams; silver stamping, no gold plating, 34.5 mm, 13 grams; both Kisch Coll.

B 9—Lettering similar to B 8; Obv. chalice narrower and higher; Rv. identical with B 8; silver stamping 33 mm; 15 grams (struck); Kisch Coll.

B 10—Probably a casting of B 8, silver; 32 mm; 12.8 grams; a dot over the Resh (6); Kisch Coll.

B 11—Obv. over the smoke a small letter-like sign; 8 Lamed=S. Rv. XI Lamed=S, XIII Mem like an inverted Beth. 32 mm, 16 grams; silver, carved cast; Guido Kisch Coll.

B 12—Letters adorned in Baroque manner; Obv. pedestal of the chalice a thick line; Rv. middle branch ends on top as a leaf; silver, struck; 33.5 mm; Kisch Coll.

B 13—Rounded letters; Obv. pedestal of the chalice curved; Rv. error: I two Vav instead of He, XIII a type of Latin U instead of Mem; tin 35 mm; Görlitz Coll.

B 14—Lettering similar, errors (I and XIII) exactly as in B 13; sharp elevated rim; tin, struck; 35 mm; lead cast 35 mm; both Kisch Coll.

B 15—Lettering perceptibly influenced by B 14; Obv. e. g. 6, a kind of question mark instead of Resh, similar to B 13 and 14, but without errors in I and XIII. Rv. IV and VIII Resh instead of Vav, VI, instead of He a Resh form of the Mem; chalice ponderous; tin casting; 33 mm; Kisch Coll.

B 16—Lettering ornate, small; Obv. chalice upper portion very wide and large, smaller base; three thick columns of smoke; Rv. III a Resh, instead of a Dalet, IV and IX a Yod instead of a Vav; on the right side 5 offshoot branches; thickly leaved; lead, struck; 32.5 mm.

B 17—Hybrid casting, Obv. like B 4; Rv. like B 6; bronze, gold plated cast; Kisch Coll.

B 18—Not illustrated because it is very poorly preserved. Probably from the nineteenth century; Obv. chalice narrow, smoke in six wavy lines and dots; Rv. branch ornate with small leaves; *Yerushalayim* is written to the right of the observer; lead casting; 34 mm; Kisch Coll.

B 19—Not illustrated because it is very poorly preserved. Similar type, like B 40. Inscription correct; chalice very large and ponderous; upper portion and base almost identical in form and size. The top of the obverse corresponds to the bottom of the reverse; lead casting; 30 mm; Kisch Coll.

B 20—Lettering probably copying an ancient model such as B 1-B 7; Obv. 2—Het, 7 Aleph like N, 8 Lamed like a 5; centre of chalice circular and particularly large, smoke hardly visible, chalice very plastic; Rv. VI Resh instead of He, "JRRRSLRM"; lead casting; 28 mm; Kisch Coll.

B 21—Lettering clear, probably the nineteenth century; same type as B 42. He like Het; Obv. chalice richly ornate; beaded rim about the lip and pedestal, centre milled; Rv. centre bough of branch in above in a leaved branch; 10 side branches (not like most 8); XIII incipient Mem instead of concluding Mem, hence the maker was familiar with the Hebrew script, thus probably a Jew. Obv. and Rv. enclosed in beaded wreath; struck silver, 37 mm, 13 grams; Kisch Coll.

B 22—Obv. chalice narrow, lower half of the upper portion adorned with lines; pedestal curved in oval fashion; two smoke lines; Obv. and Rv. enclosed in a beaded wreath and a line around the margin; tin; 34 mm; Görlitz Coll.

B 23—Lettering very distinct; Obv. chalice narrow, centre divided horizontally; smoke thick; 2 like a He; Rv. centre bough of the branch ends without a leaf; eight offshoot branches; also the lowest one to the left is a leaved branch; silver; 37 mm; Görlitz Coll.

B 24—Lettering probably after the model of the shekels of the sixteenth century but thoughtlessly styled; e. g., in 1, 5 V the Shin has various imaginative forms, the Koph is similar to the Pe; chalice ponderous; silver cast; 32 mm; Görlitz Coll.

B 25—Lettering similar to B 1; Obv. chalice narrow, large centre; Rv. a leaf extends into the He (VI); silver cast; 30 mm; Görlitz Coll.

B 26—Hybrid casting; Obv. very similar to B 9 but centre of the chalice in three parts; lettering larger and coarser than in B 9, Rv. B 9, silver; 34 mm; Görlitz Coll.

B 27—Lettering of B 14; Obv. similar to B 14; Rv. very similar to B 14; the same errors; I two Vav. instead of a He, XIII a Latin U instead of a Mem, Lamed as a horizontal S, but VI the He different from B 14; tin; 34 mm; Görlitz Coll.

B 27 a—Very similar type; Mem and He correct; bronze cast; 34 mm Friedenberg Coll.

B 28—Lettering similar to B 13 and 14; Obv. chalice narrower, smoke thicker than B 14; Rv. similar to B 27; perhaps identical; in this case B 28 would be a hybrid form of Obv. similar to, not identical with B 13 and Rv. B 27; tin; 34.5 mm; Görlitz Coll.

B 29—Lettering like B 1; Obv. narrower; base of the chalice higher than B 1; Rv. only six branches visible; silver cast; 32 mm; Görlitz Coll.

B 30—Characterizing the lettering: Lamed similar to a 5, Koph like a brod Het; Obv. four waves of smoke, large space between 1 and 2; tin; 32 mm; Görlitz Coll.

B 31—Very similar to B 26 but obverse 2 correct; 4, 5, 6, touch each other; Rv. correct inscription I—He, II in the Koph the vertical line does not touch he curve, which however, as in 8, 9 and 26, has a small downstroke in front of it. Possibly B 31 was the original form and 8, 9, and 26 were produced after it. Silver; 34 mm; Görlitz Coll.

B 32—Obv. like B 2; Rv. centre bough touches above and below the edge of the metal. The He (I) touches the lowest leaf, which is not the case in B 1; silver; 34 mm; Görlitz Coll.

B 33—Lettering similar to B 12, broad letters; Rv. scanty leaves; silver; 31 mm; Görlitz Coll.

B 34—Nicholas shekel of New York; lettering with edges; Obv. through the upper portion of the chalice runs a curved line on each side of the lip of the chalice

downwards; Rv. central bough ends on top in three branches on 6 offshoot branches. *Yerushalayim* to the right of the observer; II Vav. instead of Resh. Silver struck; 35 mm; Kisch Coll., J. T. S., also in bronze and brass.

B 35—Presumably American; correct inscription; Obv. very broad flat upper portion of the chalice, broad, thick, curled smoke; pedestal elliptical; Rv. middle bough of the branch ends in four leaves; six offshoot branches; copper; 32 mm; Kisch Col., J. T. S.; also in brass (of only 29 mm diameter) and white metal.

B 36—Obv. small chalice with ornate lip and very narrow base. Four straight ascending smoke lines. Rv. middle bough ending on top in three pedunculated berries. Numerous offshoot branches with leaves and berries; legend correct; tin; 27 mm; Görlitz Coll.

B 37—Lettering has incorrect Lamed and Koph; Obv. very large ponderous chalice without a central portion from which extend 10 lines of smoke like blades of grass. Rv. staff with many branches with leaves and berries; tin; 31 mm; Görlitz Coll.

B 38—Presumably the beginning of the twentieht century (ornamental style of about 1900) ; Obv. chalice with large centre, narrow base, oval pedestal. Lettering practically completely imaginary letters, not decipherable; Rv. central bough touches the edge at the bottom; leaves merely intimated; chased silver casting; 28 mm; Kisch Coll.

B 39—Obv.; Rv. B 5; illustr. 57, in Hill, Med. Portr. of Christ.

B 40—Obv. chalice ponderous; upper portion and base almost the same; ascending flame; similar B 19 legend very faulty; 2 Tav, 3 Resh, 8 Resh; Rv. branch with many leaves and berries. I-Tav, II-Tav, VI-Tav, XI-Resh; lead; 32 mm; Kisch Coll.

B 41—Similar to B 2 or B 11. Rv. II Cheth, VI Cheth, XIII Mem like inverse Beth. Silver cast; 32 mm; 16 grams; Guido Kisch Coll.

B 42—Exactly like B 21, but only 28 mm; silver struck; 8 grams; Friedenberg Coll.

B 43—Very small chalice, a cloud over smoke. Imaginary letters not decipherable; Obv. shekel at the left side; Rv. tree with branches and roots. Silver; 28 mm; 8 grams; Friedenberg Coll.

Type C

The original form of type C may have been the .I. .B. signed medal, (C 1 pl. VII), probably from the second half of the seventeenth century, assigned to Johann Buchheim. Buchheim in his shekel medal departed in various respects from the scheme of his models. Certainly he did not have a genuine Hasmonean shekel; otherwise it would never have occurred to him to make a smoking urn out of the chalice of the shekel. Since Buchheim saw a smoking urn on all the shekel medals familiar to him, quite true to logic, he did not place a smoking chalice on the obverse of his shekel, which is unintelligible, but a true, chiselled, smoking urn, used in the churches. The baroque smoking urn reveals to the observer three sides richly adorned with flowers. The lettering of Buchheim is peculiar in that it is adorned with baroque flourish; the text is correct.

The reverse also breaks away from the scheme of eight branches off the central bough but preserves the middle bough clipped above and below. Many branches (17) extend from it which bear leaves and olive like fruits (this is also new). Beneath the smoking urn are the initials of the artist. Silver; 35 mm; Görlitz Coll.; Kisch Coll.

C 1—has been imitated in a series of various forms. In all cases the obverse has a smoking handle-less urn which has a defiable formation into the neck, body and base; it betrays its origin from Buchheim's model in that it is always formed with edges. The staff of the reverse ends above in a striking manner in three leaves as is the case in all C types of which the writer knows, except for C 1. Moreover in all C types except C 1, the Yod (VII) is missing on the reverse. This characteristic omission and the similarity of the lettering permits the assumption of the same origin for the C types. Belonging to it also is the die of CS on pl. X of the Görlitz Museum.

C 2—Beautiful ancient old silver casting; letters incorrect; a kind of 3 instead of a Lamed; instead of a Yod a Resh, of Koph a Het, of Wav a Resh; Obv. body of the urn has five levels, base three even levels; Rv. only two offshoot branches on the right, three on the left have leaves; silver; traces of gold plaiting; 28 mm; Kisch Coll.; silver, J. T. S.

C 3—Chiseled silver cast; lettering and errors as in C 2; Obv. smoke clouds end in spirals; neck of the urn narrower than C 2; Rv. four offshoot branches on the right, three on the left have leaves and berries; silver; 28 mm; Kisch Coll.

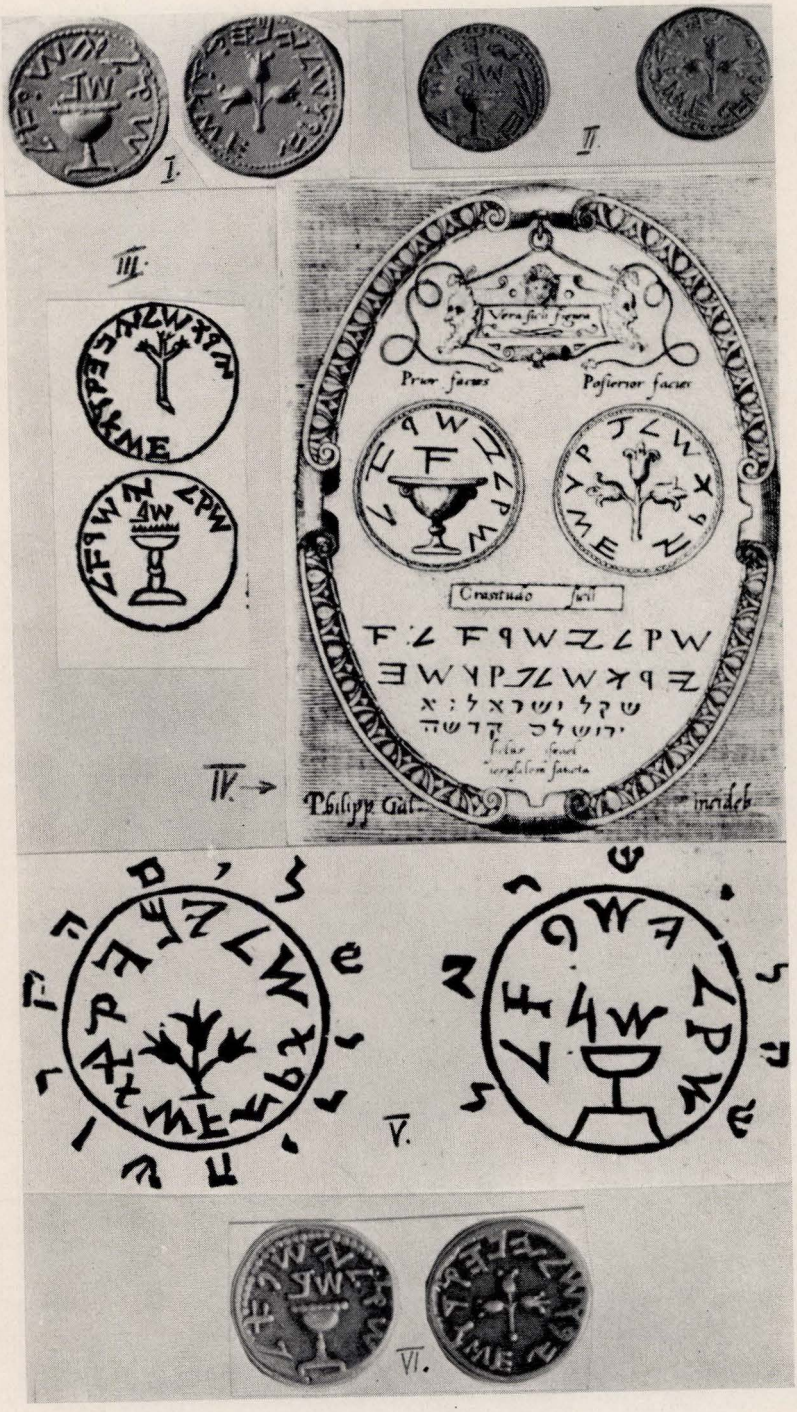

I.
II.
III.
IV.
V.
VI.
Prior facies
Posterior facies
Tbilipp Gal
inc. deb

PLATE I



PLATE II



PLATE III

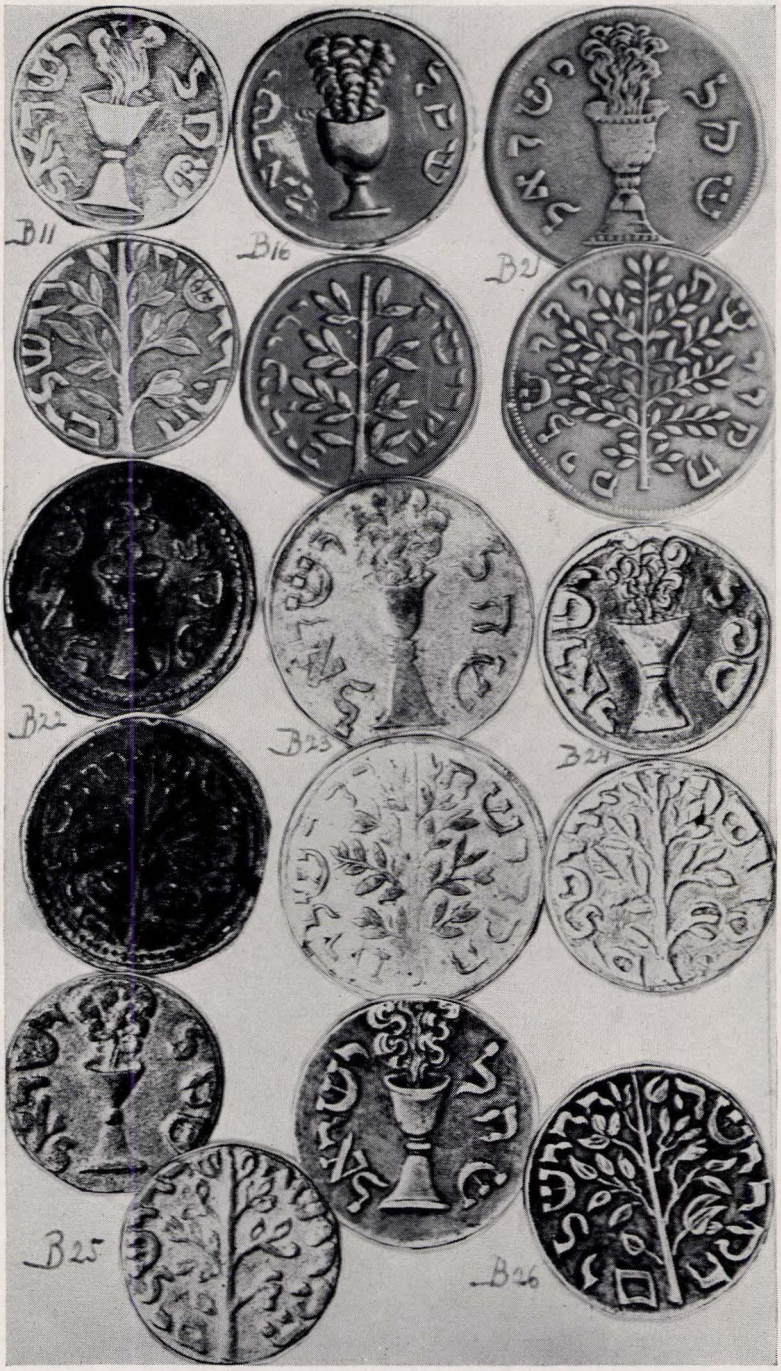


PLATE IV



PLATE V

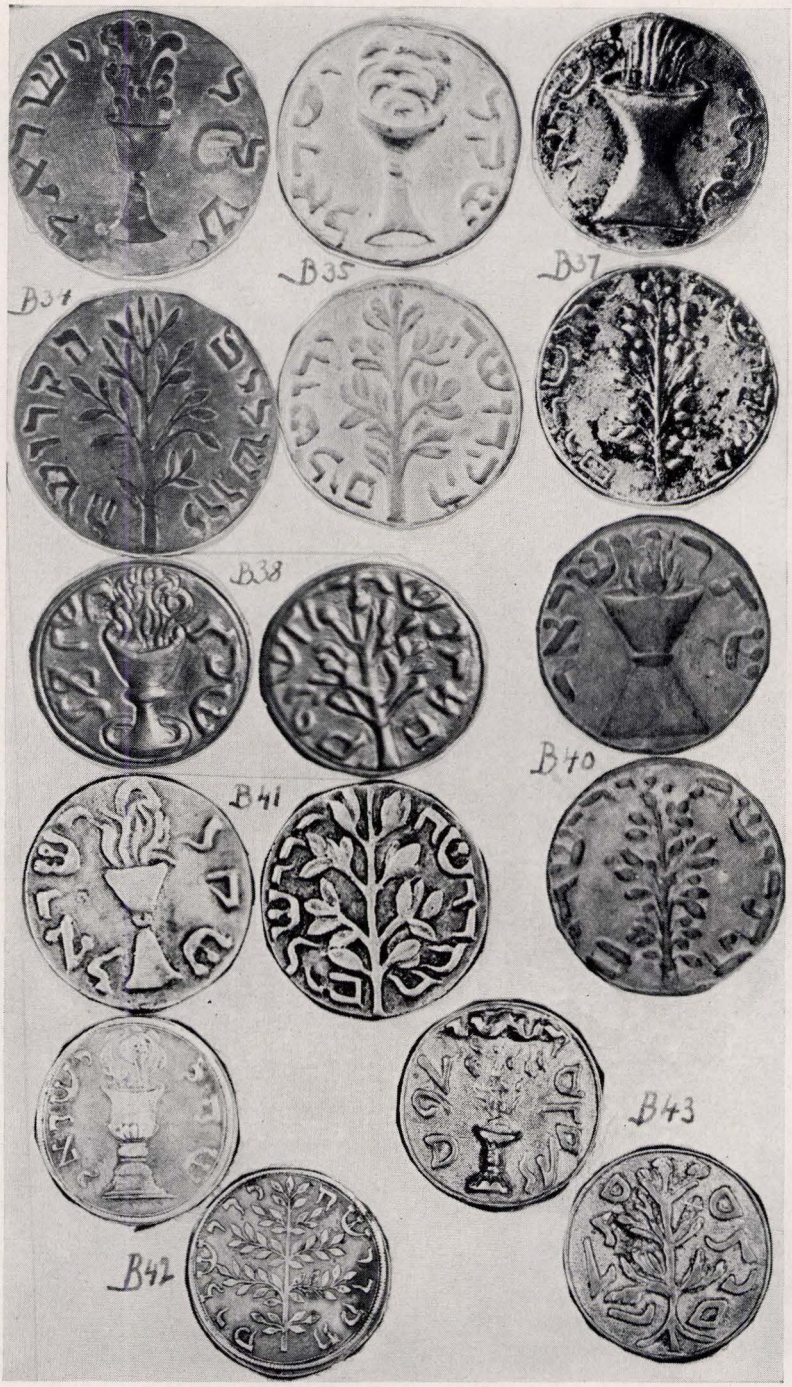


PLATE VI



PLATE VII



PLATE VIII

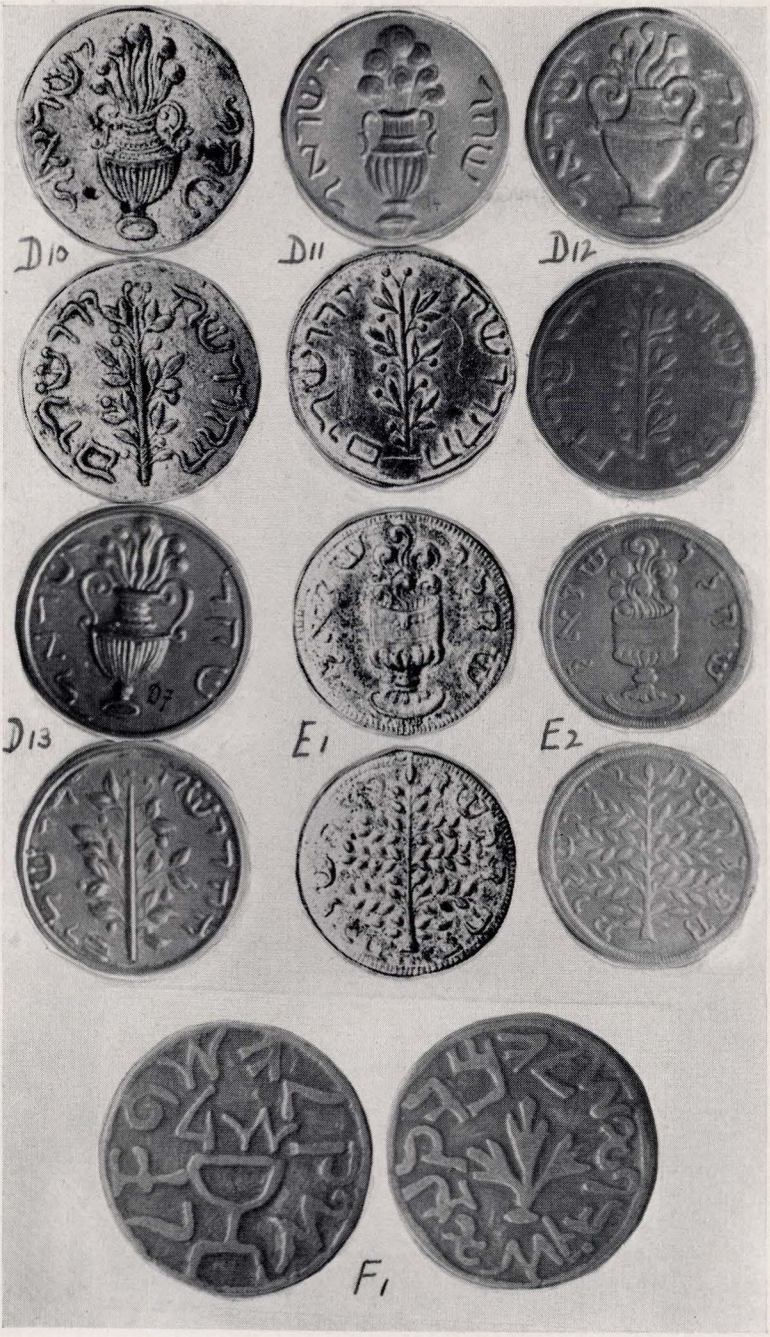


PLATE IX



PLATE X



PLATE XI

Lyon's Shekel—Reproduction of the Plate in Lyon's Pamphlet

C 4—Lettering and errors as in C 2; silver casting, chiselled; Obv. body of the urn trilateral, base likewise; Rv. four offshoot branches on the right side; three on the left have leaves and berres; edge in relief; silver; 29.5 mm; Kisch Coll.; Görlitz Coll.; lead cast; Kisch Coll.

C 5—Lettering and errors as in C 2; Obv. base trilateral; lined parallel; Rv. only four branches on the right, three on the left with leaves; lead cast; 31 mm; Kisch Coll; tin, Görlitz Coll.

C 6—Obv. almost identical with C 5; body of the urn narrower and shorter; base higher, trilateral, ribbed longitudinally; lead cast; 30 mm; Kisch Coll.; tin, Görlitz Coll.

C 7—Obv. smoking urn small, smooth base; Rv. middle bough short, branches ponderous; silver cast; 28.5 mm; Görlitz Coll.; lead cast, Kisch Coll.

C 8—Die in Görlitz Museum (pl. X). This writer owes to the kindness of Dr. S. Asche a cast of this form in white metal, 30 mm; Obv. smoking urn, thin, high base; He instead of a Koph, similar to B 23; Rv. the Yod (VII) is missing; Mem instead of Koph, instead of a concluding Mem a rectangle.

Type D

Buchheim's deviation from the shekel type of the sixteenth century had clear import; he substituted a smoking consecration urn for the unintelligible and misunderstood smoking chalice. The new type D, which probably stemmed from type C, again exchanged Buchheim's logic for something illogical. Buchheim's smoking urn was presumably considered as a vase and was adorned with two large handles. Perhaps (even if improbable) the memory of certain coins of Judea from the era of the second revolution lay behind it, for they show a large two handled vase (naturally without smoke). In short, the large group of shekel medals, designated in this essay as type D, bears on the obverse the curious and meaningless picture of a large two handled vase pouring forth smoke. The reverse of this type has something uniform in so far as the branch always bears leaves and berries and on top, for the most part, ends in two pedunculated berries. The individual specimens of type D differ in form and ornamentation of the body of the vase on the one hand, and of the handles on the other.

D 1—lettering distinct; Het instead of Koph, N instead of Aleph, Yod instead of Vav; embossed rim; Obv. handles adorned on the side and beneath; body of vase divided into three fields horizontally, each field ribbed; base an oval convex to the top, with dots; Rv. eight short offshoot branches with leaves and berries; middle bough ends above in two pedunculated berries; Yod (VII) is missing; silver struck; 31 mm; 10.5 grams; Kisch Coll.; Görlitz Coll.; bronze cast, Kisch Coll. A specimen exactly like type D 1 but without the embossed rim; 31 mm; silver struck; Kisch Coll.; Görlitz Coll.

D 2—Very similar to D 1; a different flatter form of the Shin; no embossed rim; Obv. Resh with a line at the lower end; Het instead of Koph; neck of vase short; on pedestal no dots; body of vase lined; Rv. like D 1; silver struck; 28.5 mm; Kisch Coll.

D 3—Very similar to D 1; concluding Mem narrower with the corners rounded off, like a Sameh; struck rim; Obv. ornamentation of the handles only on the side not beneath them; pedestal without dots; body of vase also lined Het instead of Koph; Rv. Yod (VII) is missing; lead struck; 31.5 mm; Kisch Coll.; tin, Görlitz Coll.; Kisch Coll.

D 4—Similar to D 1; Obv. lettering wider and more delicate than D 1; struck rim; handles middle and underneath ornate; body of vase ribbed in three parts; pedestal with dots; convex oval toward the top; 2 Koph=He; smoke thick; Rv. legend correct; silver struck; 32 mm; Görlitz Coll.

D 5—Obv. vase small; body ribbed, handles adorned only on the sides; pedestal convex oval toward the top; smoke thick; six waves of smoke; Rv. middle bough ends in two pedunculated berries; six offshoot branches on each of the right and left sides, partly with leaves, partly with berries; Het instead of He; Het instead of Koph; tin; 31 mm; Görlitz Coll.

D 6—Lettering extremely ornate; Obv. neck of vase short; body ribbed, pedestal has several concentric circles; smoke lines flowing, eight waves of smoke; handles adorned only on the sides; Lamed instead of Yod; Rv. each side has four branches with leaves and berries; Het instead of He, II Het instead of Koph, IV Yod instead of Vav., VII Yod is missing, VIII Yod instead of Vav; tin; 31 mm; Görlitz Coll.

D 7—Lettering wide; wide rim; Obv. neck of vase short; body horizontal divided into three parts, upper two parts with dots, lower part ribbed; pedestal seen from beneath; Het instead of Koph; smoke thick; six waves of smoke; handles adorned on the sides and beneath; Rv. middle bough extends above ending in three berries; on the right hand side five, on the left also five offshoot branches with leaves and berries; Between X and XI a dot; silver cast; 34 mm; 9 grams; Kisch Coll.; Görlitz Coll.

D 8—Almost identical with D 7; Obv. pedestal lightly striped from beneath; Rv. without a dot between X and XI; silver cast; 33 mm; 9 grams; Kisch Coll.; Görlitz Coll.

D 9—Obv. vase broad; body ribbed on the lower portion; not divided into three parts; pedestal a thick line; handles adorned only on sides; Rv. staff with many branches with leaves and berries; VII Yod is missing; tin; 30 mm; Görlitz Coll.

D 10—Lettering adorned similar to D 6 on the obverse; Obv. body of vase upper two fields dotted, lower field with narrow ribs; pedestal almost circular from beneath; handles adorned only on sides; Rv. middle bough above has two berries, right hand six, left hand seven branches with leaves and berries. Het instead of He and Koph; XII Vav instead of Yod; tin; 32 mm; Görlitz Coll.

D 11—Letters without understanding of the Hebrew script; Tav instead of Koph, Lamed like Resh, He like a Het; a horizontal rectangle instead of a concluding Mem; Obv. narrow vase; neck in two parts; body ribbed longitudinally, not horizontally divided; thick smoke in seven waves; handles consist each of two curves; Rv. middle bough ends in two berries above; on the right 4, on the left 5 branches with leaves the berries; tin cast; 31 mm; Kisch Coll.; Görlitz Coll.

D 12—Lettering ponderous, thick; Het instead of Koph and He, concluding Mem is a horizontal rectangle; Obv. vase with thick body, handles without ornamentation, pedestal straight; six smoke lines with waves; Rv. shorter middle bough ending in two berries; on the right five, on the left six offshoot branches with leaves and berries; lead; 31 mm; Kisch Coll.

D 13—Obv. neck of vase with three horizontal stripes; body ribbed longitudinally; handles without ornamentation; pedestal seen from beneath; N instead of Aleph; Rv. middle bough does not end in berries; on the right eight; on the left seven branches with leaves and berries; II Het instead of Koph, VI Het instead of He, IX Yod instead of Vav; 31.5 mm; tin; Kisch Coll.; Görlitz Coll.; lead, Kisch Coll.

D 14—Delicate incorrect lettering; Tav instead of He and Koph; not pictured because of poor preservation; Obv. wider longitudinally ribbed body of the vase, handles not ornate; neck ribbed longitudinally; six thin smoke lines; Rv. thin middle bough ending above in two berries; on the right five, on the left nine branches with leaves and Berries; lead; 31.5 mm; Kisch Coll.

D 15—Has a few striking peculiarities; lettering delicate, correct, Shin angular; struck rim; Obv. neck of vase very narrow divided horizontally; body narrow divided longitudinally; handles without ornamentation but adorned with nicks; Rv. middle bough, in contrast to all other types, is not straight but curved, ends blunt, two uppermost branches bear berries; on the right, 9, on the left, 8 branches with leaves and berries; *Yerushalayim* to the right side of the observer; lead; 30 mm; Kisch Coll.

D 16—Probably from the beginning of the 20th century; *"Jugendstil";* in style similar to B 38; lettering very wide correct; a rim; Obv. chalice like vase with large handles; a braid-like vapor of smoke; Rv. middle bough ends in a leaf; on the right and left each three branches bearing only leaves; legend on the right instead of *hakedoshah* merely *Kodosh;* chiseled silver cast; 25.5 mm; Kisch Coll.

Type E

Type E is an intermediary form between B and C. Here the smoke urn is similar to a chalice but with a cylindrical upper portion, a form such as smoke urns actually do have. The only two types of this kind familiar to the writer closely dependent upon each other, concerning both the lettering as well as the form of the chalice and of the branches. Lettering and branches are similar to B 21 and B 42.

E 1—Lettering small ornate adorned, with the signature of the artist R. B. under the chalice; rim milled. Obv. the chalice is richly adorned on the cylindrical upper portion, the lip, and the base. Typical is the symmetrical arrangement of the text found nowhere else; the right and the left side each have four letters which results in a meaningless separation of the words; Rv. middle bough ends in three leaves, widely

spreading branches on the right hand six, on the left, six; silver; 30 mm; Görlitz Coll.

E 2—Lettering form of the chalice and branches like E 1, milled edge; Obv. without signature, lip of chalice smooth; Rv. like E 1; struck silver; 25.5 mm; 7.0 grams; Kisch Coll.

Shekel Medals with Ancient Hebraic Lettering

Type F

This type is evidently made after the model of the incorrect shekel illustration published by A. de Rossi.

F 1—Is probably the only one of its kind; it is cut in silver. As can be gathered from a comparison with F 1, pl. IX the letters, the form of the urn, and the misunderstood branch with flowers are copied from de Rossi's illustration. The writer procured the medal in Leipzig; silver; 39 mm, 38.5 grams; Kisch Coll.

Type G

The American Masonic lodges struck coins belonging to this type. On the obverse is an almost correct copy of the ancient Hebrew lettering and a picture similar to that on the obverse of the Hasmonean shekel. The reverse contains lodge symbols, letters, and the name of the lodge concerned. More variations of this type undoubtedly exist, in addition to the following:

G 1—Obv. shekel of the year I; Rv. Steuben Chapter, No. 101 R.A.M.; Hornell, N. Y.; 28 mm; silver; J. T. S.

G 2—Obv. shekel of the year I. Rv. Pentalpha Chapter, No. 206, R. A. M., Flushing, N. Y.; 25 mm; bronze; Kisch Coll.

G 3—Obv. shekel of the year 3; Rv. Andreas Chapter, R. A. M., Andrews, Ind., No. 110; bronze; 28 mm; Kisch Coll.

G 4—Obv. shekel of the year 4; Rv. Orleans Delta, Chapter No. 1; bronze; 30 mm; Kisch Coll.

G 5—Lodge half shekel; Obv. smoking chalice as in the shekel medals of type B; encircling lettering *Hatsi Shekel Israel;* in square letters; Rv. Pulaski 26, New Haven, Conn.; silver struck; 27 mm; Kisch Coll. The obverse is identical with a shekel medal showing the usual reverse; probably of American origin; two variations in Friedenberg Coll.

Type H

Type H is an imitation of the lodge shekels (G) the legend written partially in imaginary letters. The writer is familiar with only one such piece.

H 1—Obv. shekel of the year II; Rv. THE COIN OF ELIJAH, GRAND RAPIDS WELFARE UNION. PEACE BE TO THEE AND ALL THY HOUSE; bronze; 28 mm; Kisch Coll.

Explanation to Plate I

I—A genuine silver shekel from year Two.
II—A genuine half shekel of silver from year Two.
III—The first shekel picture ever published, by Postell in 1538.
IV—The first exact shekel picture published by Arias Montanus in 1572.
V—Azariah de Rossi's reproduction of a shekel published in 1573.
VI—Counterfeited silver shekel from year Two, probably a Becker forgery.

ASHKENAZ = GERMANY

By

Luitpold Wallach

Florence, Alabama

The word *Ashkenaz* appears in *Genesis* X.3 as the name of one of Gomer's sons; in *Jeremiah* LI.27 as the name of a territory in the northern part of Asia Minor. According to the latter biblical tradition the name is connected with a land to the north of Palestine. But there is no geographical or ethnographical connection whatsoever between the biblical name *Ashkenaz* and its use in medieval Hebrew sources, namely in the form *Ashkenazim* for Jews living in the territory to the north of the Alps, and in the form *Ashkenaz* for the territory itself. Where, then, is the origin of the etymology *Ashkenaz*= Germany to be sought?

The solution of this problem has been attempted since the days of Leopold Zunz but the results have not been convincing. Other efforts to solve the question have been made during recent years.

Samuel Krauss[1] tried to find a solution *"auf geschichtlichem Wege";* but the manner in which he attacked the problem shows that he thought of a geographical solution only, since he concluded that the name *Ashkenaz* referred to a certain territory in the northern part of Asia Minor. This conclusion originated in the mentioned *Jeremiah* passage, but failed to explain the medieval identification *Ashkenaz*=Germany. Although Krauss was unable to explain the etymology, he recognized that its origin must be traced back to a gradual development, a suggestion which coincides with the explanation to be presented here.

Paul Rieger[2] voiced the opinion that the medieval Italian word for Germans *Tedeschi* may offer a clue. Summarizing his discussion of the earlier Hebrew sources for *Ashkenaz* he stated: "Thus, the use of *Ashkenaz* for Germany can be proved since the tenth century and its origin presumed from the official language of the Carolingian

[1] S. Krauss, "Die hebräischen Benennungen der modernen Völker," in *Jewish Studies in Memory of George A. Kohut* (New York, 1935), 387-89, 399.

[2] P. Rieger, *"Ashkenaz=Deutschland," MGWJ.*, LXXX (1936), 455-59.

era." In a second note on the question Rieger[3] offered another explanation saying: "It can no longer be determined whether the linguistic similarity to *diutisc-tedeschi* or to *Saxones* was the first reason for the use of the biblical name."

Neither Krauss nor Rieger were able to apply the scientific method in ferreting out the etymology of the geographical term *Ashkenaz*. In applying this method, the first principle of research is to ascertain the earliest use of the word and its linguistic and phonetic background. Since the usage of the term presupposes its history too, it is important to know whether *Ashkenaz*=Germany received its new usage by adoption or by adaptation (i. e. whether a geographical term—sounding like *Ashkenaz*—borrowed from a foreign language led to the new identification of *Ashkenaz* with Germany, different from the original biblical usage).

The present writer wishes to offer a new explanation, based on the hitherto unnoticed fact that the oldest sources for the etymology are to be found among writers who belonged and lived in the sphere of medieval Arabic culture. These men, as can easily be gathered from the passages quoted by Krauss and Rieger, are: 1. Saadya ben Joseph from Fayyum in Egypt (882-942) who also lived in Palestine, Syria and Babylonia; 2. Hasdai ibn Shaprut (tenth century), physician and diplomat of a Caliph of Cordova, an early Maecenas of Jewish science in Moorish Spain; 3. David ben Abraham Al-Fasi, a Karaite lexicographer of the tenth century.[4]

Since the oldest sources for the etymology originated among Jews of Arabic cultural background, it is evident that the originators of the etymology were not German Jews but Jews imbued with Arabic culture. This fact cannot be questioned by the *argumentum e silentio*, possibly uttered that the appearance of the etymology in historical sources of Arabic background is due only to the insignificance of the Jewish literary production in the German sphere during the ninth and tenth centuries. The validity of such an argument is weak. Everyone familiar with the Hebrew sources of this period must know that the very few Hebrew traditions of that time cannot be explained by the assumption that the greater part of them became lost in the course of centuries. It is due rather to the fact that the

[3] P. Rieger, "*Leschon Kenaan*=die Sprachen Deutschlands," *MGWJ.*, LXXXI (1937), 299-301.

[4] S. L. Skoss recently edited his dictionary.

scarcity of Jewish literary production in Germany during the ninth and tenth centuries was the result of the trifling number of Jews living there at that time. Only when the Ghibelline rulers during the twelfth and thirteenth centuries settled Jews in German towns which they founded or re-founded, did the Jewish population increase in Germany.[5]

It is important to know that Jews living in the German sphere have identified themselves with the name *Ashkenaz* only since the later thirteenth century, that means at least three centuries later than their Arabic co-religionists who were the first to refer to their northern brothers with the term *Ashkenaz*. Therefore, Rabbi Menahem ben Solomon Meiri of Perpignan, in his book *Bet ha-Behira* (thirteenth century), did not refer either to Rabbi Meir of Rothenburg (thirteenth century) or Rabbi Isaac ben Yehuda of Mayence (eleventh century) as *Ashkenazim*. Hence, it cannot be questioned in any way that the etymology *Ashkenaz*=Germany was created by Jews of the Arabic sphere culture.

Where, then, is the origin of the etymology to be found? The answer arises from the following consideration. Without any doubt, one may assume that Arabic Jews were familiar with the geographical picture of the world as suggested by the Greek geographer Ptolemy[6] who may have been known to them directly through translations, or indirectly by Arabic geographers whose geographic conceptions were usually based on those of Ptolemy. Recognition of this leads to the origin of the etymology investigated here. Since, as already has been mentioned, no historical or ethnographical connection exists between the biblical proper name and its use for the medieval Hebrew naming of Germany, the explanation of the problem under consideration can be based only on the principle of the similarity of sounds (*Lautähnlichkeit*).

As a mere philological suggestion without any proof, David Simonsen[7] linked *Ashkenaz* with *Scandza,* the medieval denomination for the territory north of the Alps, and later on in modern times,

[5] L. Wallach, "Die Judenansiedlung der Staufer in Deutschland," *MGWJ.*, LXXIX (1935), 241 ff.

[6] Cf. P. Schnabel, *Texte und Karten des Ptolemaeus* (Leipzig, 1938).

[7] D. Simonsen, "Kleinigkeiten," in *Judaica, Festschrift für Hermann Cohen* (Berlin, 1912), 301.

for Scandinavia. In Jordanes[8] who quotes Ptolemy as his authority *Scandza* appears as the territory plainly situated in the north.

For southern Mediterranean peoples as well as for members of the Arabic sphere of culture, Germany was the Northland during the Middle Ages. The ideas about the northern land expressed by southern peoples are very old. Medieval Jewish folk etymology, therefore, found in *Ashkenaz* a biblical equivalent for *Scandza*. Thus the logical succession of the etymological origin is to be explained as follows:

a. The connection of *Scandza* with the Arabic article *al* leads, with regard to sound and tonal quality to *Ashkenaz*.

b. Jewish folk etymology working according to the pattern that the names of all countries are found in the Bible re-discovered the equivalent for *al-Scandza* in the biblical *Ashkenaz*. Both words transcribed into Hebrew characters express similar sound values regarded from the phonetic point of view.

c. A certain historical link in the denomination is to be traced back to *Jeremiah* LI.27 where *Ashkenaz* denotes a territory to the north of Palestine.

A few literary traces of a folk etymological nature are preserved in medieval Hebrew literature that prove a very early endeavour to ferret out the origin of the identification of *Ashkenaz* with Germany. But these attempts did not recognize the origin. Therefore, the always latent and working folk etymology created for itself a historical foundation 1. by making use of the ancient literary and ethnographic motive of Canaan's flight before Joshua when he conquered Palestine, and 2. by using the medieval identification of the inhabitants of medieval Germany with *Sclavi* which can be found very often in middle Latin historical sources.[9]

The latter identification is found, for the first time, in the Hebrew *Josippon*.[10] There the identification of *Sclavi* with the Canaanites is given as a known folk etymology. *Josippon* undoubtedly was the

[8] *De origine actibusque Getarum*, ed. Theodor Mommsen, *Monumenta Germaniae Historica, Auctores* V, 1 (1882), p. 55 ff.

[9] Cf. Fritz Vigener, *Bezeichnungen für Volk und Land der Deutschen vom zehnten bis zum dreizehnten Jahrhundert*, (Heidelberg, 1901); L. Wallach, "Zur Chronik Ortliebs von Zwiefalten," *Revue Bénédictine* (1937), 202.

[10] Edited by David Günzburg (Berditshew, 1896-1913), column 4; cf. L. Wallach, "Quellenkritische Studien zum hebräischen Josippon," *MGWJ.*, LXXXII (1938), 190 ff.; LXXXIII (to appear), 133-146.

source referred to by Abraham Ibn Esra and David Kimhi in their commentaries[11] to *Obadiah* 20 where Josippon's identification is supported by the legendary, pseudohistoric connection with the Canaanites' flight before the Israelites and Joshua to Germany.[12] This ethnographical legend of Canaan's flight to Germany is a historification of the above mentioned medieval identification of Germany with *Sclavonia.* The motive of the legend is derived from the widely spread migratory legend about Canaan's flight before Joshua,[13] an ethnographic *topos* known equally to classical and Hebrew literature where—of course—Canaan's flight always led him to Punic North-Africa.

Summarizing the elements involved in the etymological development leading to the identification of the biblical name *Ashkenaz* with Germany, we arrive at the following stages:

1. *Al-Scandza* signified in the Arabic sphere of culture of the tenth century an arabicized geographical denomination for a land in the northern part of Europe.
2. This geographical term was identified by Jews of the Arabic sphere of culture with the biblical name *Ashkenaz* to name their co-religionists living in northern European countries.
3. The adaptation *Al-Scandza=Ashkenaz* was due to the medieval Jewish folk etymological belief that the names of the medieval countries were already mentioned in the Bible.
4. This folk etymology had a certain historical support by reason of the mention of a territory, *Ashkenaz,* to the north of Palestine according to *Jeremiah* LI.27.
5. Arabic Jews used the etymology *Ashkenaz*=Germany from the tenth century on.
6. Medieval German Jews adopted the identification not before the thirteenth century.

11 Cf. also Kimhi to *Joshua* IX. 7.

12 Saadia, Hasdai and the Karaite, *supra,* mention Alemannia-Sclavonia-Ashkenaz; as to the identification of Germany-Canaan-Sclavonia in Hebrew sources, cf. H. Tykocinski, "Lebenszeit und Heimat des Isaak Or Sarua," *MGWJ.,* LV (1911), 488-494; Tykocinski's interpretation of the passage quoted on p. 493 note 3 from Benjamin's of Tudela *Masaoth* is wrong, since according to the Hebrew wording "ota" refers to "Sclavonia." Canaan thus was not used as a special denomination for Bohemia, but for Sclavonia-Canaan-Germany. This identification can be corroborated by middle Latin sources collected by Vigener (*supra,* note 9).

13 A subject extensively treated by Hans Lewy, "Ein Rechtsstreit um den Boden Palästinas im Mittelalter," *MGWJ.,* LXXVII (1933), 84 ff., 172 ff.

THE SIGNIFICANCE OF THE JEWS IN THE MEDIAEVAL GERMAN CITIES

By

Raphael Straus

Jerusalem

In the well known Speyer Jewry Privilege of 1084, the bishop declared that he believed "to enhance a thousandfold the significance of the city by gathering there also Jews:" *putavi milies amplificare honorem loci nostri, si et judeos colligerem.*[1] The tone of the announcement appears somewhat unusual and if it did not awaken, it at least increased suspicion concerning the document.

If however the meaning of the Latin word *honor* is explained in relation to the development of the cities, the actual situation on which the privilege was based, also will be clarified. The word *honor* is discovered in quite a similar connection in the almost contemporary first municipal statute of Strassburg (1129), wherein is stated: *"Ad formam aliarum civitatum in eo honore condita est Argentina, ut omnis homo tam extraneus quam indigena pacem in omni tempore et ab omnibus habeant,"*[2] which means: ". . . the town of Strassburg was founded to the praiseworthy *purpose,* etc." The aim is praiseworthy because the Church, in the public interest, declared itself expressly in favor of the preservation of peace, especially of the peace of the market.[3] The so-called second Strassburg municipal

[1] Hilgard, *Urkunden zur Geschichte der Stadt Speyer,* I (Strassburg, 1885), 11, no. 11.—Cf. R. Straus, "Die Speyerer Judenprivilegien von 1084 und 1090," *ZGJD.,* VII (1937), 234-239.

[2] F. Keutgen, *Urkunden zur städtischen Verfassungsgeschichte* (Berlin, 1899), no. 126, p. 93.

[3] Cf., e. g., Gustav Schmoller, *Deutsches Städtewesen in älterer Zeit* (Bonn, 1922), passim; Richard Köbner, *Die Anfänge des Gemeinwesens der Stadt Köln* (Bonn, 1922), 138 ff., 320 ff. [Cf. Ferdinand Frensdorff, "Beiträge zur Geschichte und Erklärung der deutschen Rechtsbücher: V 1, Die Rechtsbücher und die Königswahl," in *Nachrichten der Königl. Gesellschaft der Wissenschaften zu Göttingen,* philolog.-histor. Klasse (Göttingen, 1923), p. 79: *"Der Schwabenspiegel* hat den Eingang überschrieben: *küniglich ere unde keiserlich ere* (von tiutscher liute eren, 98 W.), ein neuer Beleg zu der Verwendung von *honor, ehre* für Ordnung, auszeichnende Ordnung, Verfassung." Frensdorff, *ibidem,* note 3: "Erstes Strassburger Stadtrecht: *in eo honore condita est Argentina* (Keutgen, *Urkunden,* S. 93); Urkunde für Speyer 1084: *putavi milies multiplicare honorem loci, si et judeos colligerem,* Kraut-Frensdorff, *Grundriss zu Vorlesungen über das deutsche Privatrecht* (1886), S. 138; Arn. Lub. III 5: de *honestate Danorum.* Vgl. Dietrich Schäfer, *Berliner Akademie, Sitzungsberichte* (1921), S. 372 ff."—Editor's addition.]

statute (1214) also professes this 'praiseworthy' intention: the burghers desire it *"tanquam justitie et equitatis amatores,"* "as friends of justice and equity."[4]

The conclusion which may be drawn from this concerning the Speyer Jewry Privilege of 1084 is: the *honor* of the town shall not be enhanced a thousandfold because it is the Jews who are invited to settle, but, the acceptance of new burghers—who in this case happen to be Jews, *"et judeos"* as it is explicitly stated in the privilege—is to prove emphatically ("thousandfold") the 'praiseworthy' aim of the Lord of the city. The emphatic formulation then has no personal bearing on the Jews concerned, but an objective relation to the peace of the city: the fact that Jews are also to be peaceably permitted to settle—above all, Jews are to be included among the *"extranei"* of that Strassburg statute of 1129—is to enhance the "dignity" of the town.

It is probable that the idea emphasized in the Speyer Jewry Privilege is complete with this stress on "moral dignity." The word *honor,* however, can also be understood in the secondary sense of an economic and legal "significance"; for the word *honor* can be pertinently translated in this sense also. Examples of this can be found in both connecting links of mediaeval political development, in the classical as well as the biblical antiquity.

As to the Roman antiquity, recall the wealth of the meanings of the word *munus* and its derivatives. The word and its derivations occur in the meanings of dignity, office, compensation for holding office (*honorarium*), accomplishment in office, especially also political and military accomplishment (*moenia*-city walls).[5]

As to biblical antiquity, there is a parallel change in the meaning of the word *Kabod.*[6] It appears in the biblical and patristic literature under twenty-five different meanings, among them "moral dignity" and "value, significance."

If then the quotation from the bishop's privilege is understood in the sense: "I believed to enhance the cultural importance of our town a thousandfold by inviting Jews also," the text acquires a fuller

[4] F. Keutgen, *Urkunden zur städtischen Verfassungsgeschichte,* no. 127, p. 102.

[5] Th. Mommsen, *Römisches Staatsrecht,* III (Leipzig, 1887), 224.

[6] Cf. J. Schneider, *Doxa, eine bedeutungsgeschichtliche Studie* (1932), p. 40; Wilhelm Caspari, *Die Bedeutung der Wortsippe Kabod im Hebräischen* (Leipzig, 1908).

meaning. The remark gives then evidence in the first place of an increasing esteem for peaceful colonization methods in general at a time when civil wars were laying waste Germany no less severely than later in the Thirty Years War. In the second place it points in the same direction as the legislative measures of some bishops as territorial lords in the Rhineland, above all both the Burchards (of Worms and Basel). From the viewpoint of the history of the Jews in Germany it becomes understandable why the privilege does not name any grantees and why, strangely enough, it speaks in such general terms: the Jews should be granted the most favorable law which Jews hold in any other city.[7] Their infiltration was striven for not in the interests of tax revenues alone, as was usual in later times, but in the interests of the development of the city.

[7] [This phrase which has puzzled so many historians, is now explained by G. Kisch, "The 'Jewish Law of Concealment'", *Historia Judaica,* I (1938/39), 17 ff.—Editor's addition.]

BOOK REVIEWS

Salo W. Baron, *Bibliography of Jewish Social Studies, 1938-39.* Conference on Jewish Relations. New York, 1941. IV + 291 pp.

Just one decade ago the present reviewer outlined in a brief survey, in *Zeitschrift für die Geschichte der Juden in Deutschland,* III (1931), 117 ff., the history of Jewish historical bibliography. He then deplored the fact that, after the discontinuation of Steinschneider's *Hamazkir* in 1882 (21 vols.) and Brody-Freimann's *Zeitschrift für hebräische Bibliographie* in 1920 (23 vols.) no bibliographical periodical served the important purpose of collecting and listing the literary production on Jewish history estimated annually, at that time, at 3000 publications excluding Hebraica. The reviewer then stated: "The task of a universal bibliography of all Jewish historical publications is a great one with regard to content as well as to organization; it is of the utmost importance for the *Wissenschaft des Judentums.* It appears important enough to be placed on the program of the projected world congress of the Science of Judaism. The aim could be attained only through international co-operation of all scientific circles interested in this project." Unfortunately,—or perhaps fortunately,—it was not accorded success in those peaceful days.

Now the problem has found—it is not too much to say—its ideal solution through the painstaking efforts and unique organizing talent of a single scholar, Professor Salo W. Baron. In his preface to the volume under review he points out the reasons why the output of books and articles in various fields of Jewish social studies reached unprecedented proportions in 1938-39 due, first of all, to the tremendous expansion of antisemitism. Hence, unwittingly this bibliography with its 4231 items has become a monument to the great quantitative and qualitative achievement in the various fields of Jewish social studies in the two years preceding the war.

The term "social" is taken in its widest sense to include all publications likely to shed light on any phase of socio-economic, political and cultural life of the Jews in the past and the present in all countries of the world. The author chooses his own bibliographical systematization. It will always remain a very difficult task to satisfy specialists in bibliography or librarians as well as the scholars for whose use and aid this bibliography is intended. Whatever minor objections might be raised, it seems certain that Baron's bibliographical system is much superior to the one adopted in Freidus's *List of Works Relating to the History and Condition of the Jews in Various Countries* (1914) and has advantages compared with the form in A. Freimann's *Katalog der Judaica und Hebraica der Stadtbibliothek Frankfurt a. M.*

The completeness of the bibliographical material is, indeed, astonishing. The type of reviewers who take pleasure in exposing and filling gaps in an author's work, will doubtlessly have a difficult job. In completeness and exactitude, this bibliography is comparable only to the well-known series, *Jahresberichte der deutschen Geschichte.* The addition of important reviews to the titles of some books, or literary discussions on the problems presented in certain articles, is very useful. All technical questions, too, were given careful consideration and have found a happy solution. The bibliographical listing of the individual items shows accuracy throughout. The minute index of authors, editors and biographical subjects will greatly facilitate the use of the volume. The typography is also excellent.

In this case it is, indeed, no mere phrase (by the way, not used as yet in this review section), if one wishes to congratulate the author on the completion of this first volume. Vivant sequentes!

Jewish Institute of Religion. *Guido Kisch.*

Alex Bein, *Theodore Herzl, A Biography.* Translated from the German by Maurice Samuel. Jewish Publication Society of America. Philadelphia, 1940. 545 pp.

S. Posener, *Adolphe Crémieux, A Biography.* Translated from the French by Eugene Golob. Jewish Publication Society of America. Philadelphia, 1940. X + 283 pp.

Alex Bein's Herzl biography in English has been rightfully extolled in the American Jewish press as the most timely book of Jewish interest and as a great contribution toward the political education of American Zionists and of non-Zionists as well. From the point of view of Jewish historical scholarship, however, the English translation of the most scholarly and best documented biography of the founder of modern political Zionism such praise seems superflous. Mr. Bein's reputation as one of the foremost historians of Zionism was well established as soon as his Herzl book was first published in 1934. He made extensive use of all published and enormous masses of unpublished material collected in European and Palestinian, official and private, Jewish as well as non-Jewish archives. Hence, his picture of Herzl's life and political activities rests on a solid basis and, therefore, will remain an indispensable source for the historian, who will find additional information in the numerous articles published by Bein in various journals and newspapers. With regard to scientific research, a similar situation prevails in the case of the second biography here under consideration. S. Posener's life of the great French champion for justice and emancipation in the nineteenth century, Adolphe Crémieux, too, holds an outstanding place in modern Jewish historiography since the appearance of the original two volume edition in French in 1933/34.

While for scholarly purposes, reference to the complete original works equipped with full documentation will remain indispensable, the fact that they are now available in popularized English editions, deserves mention and acknowledgment. Both books attempt to bring nearer to the general reader great leaders and decisive epochs of more recent Jewish history. Selection and presentation of the material from the original editions are in both cases satisfactory throughout. Mr. Maurice Samuel's skill in translating and rearranging made out of Bein's German Herzl book, heavy in style and overloaded with details and documents, an easily readable and understandable work sometimes marked by dramatic expressiveness. Only those acquainted with the original edition can duly appreciate the great achievement of the translator. Such an improvement has not been attained in the Crémieux biography. The absence of documentation in the Herzl book is justified by the non-scholarly character of the work. In the Crémieux book "the notes have been reduced to a minimum," and for fuller references the reader is referred to the author's larger work in French. To this reviewer the method applied to the Herzl book seems more logical and consistent. In both cases the bibliographies appear satisfactory. For the student reader the addition of chronological surveys of all important personal data and political events would be very useful. The Herzl pictures, poor already in the German edition, still poorer in their reproduction, should be replaced in forthcoming printings by plates adequate of modern artistic technique.

The new policy of the Jewish Publication Society of America happily inaugurated by these two volumes, as important as they are successful, is very promising. Their wide circulation will certainly arouse and stimulate interest in Jewish history and Jewish historical literature in broadest circles. This, again, will doubtlessly open the way, ideologically as well as financially, to new publications of a similar type. The Jewish Publication Society then should consider to add to these popularized editions full translations of important scholarly works not available as yet in English. This important program, however, will still remain far from being completed, unless it is extended, beyond mere translations, to original scholarship and independent monographs of a similar quality in the fields of mediaeval and modern Jewish history as it was achieved already in the domains of Bible and Talmud.

Jewish Institute of Religion. *Guido Kisch.*

Ernst Fraenkel, *The Dual State, A Contribution to the Theory of Dictatorship.* Translated from the German by E. A. Shils, E. Lowenstein and Klaus Knorr. Oxford University Press. New York, 1941. XI + 248 pp.

The author presents an analysis of the theory and practice of the legal system of National-Socialist Germany. He propounds the thesis of the dual character of the present German state which contains a "Normative" as well as a "Prerogative" component. By the Prerogative State that governmental system is meant which exercises unlimited arbitrariness and violence unchecked by any legal guarantees, and by the Normative State an administrative body endowed with elaborate powers for safeguarding the legal order as expressed in statutes, decisions of the courts, and activities of the administrative agencies. The practical as well as the theoretical expositions of this book, based on exhaustive researches in the National-Socialist literature including the significant court decisions, are of great interest and importance particularly for a proper understanding of Jewry-legislation and Jewry-law practice in the Third Reich. The author's lucid and calm presentation gains in value through the fact that he is the first lawyer to pursue historically as well as juridically the development of the actual legal status of the Jews in Germany from the issuance of the first "Non-Aryan Laws" of 1933, followed by the "Anti-Jewish" legislation (Nürnberg Laws) of 1935, up to the complete denial of legal protection to the Jews from 1938 on. In 1934 the German Supreme Court still proclaimed the general supremacy of the law over National-Socialist ideology indicated, however, the possibility of deviation where Jews were concerned. But any effort to grant the Jews a minimum of legal security was bitterly opposed by the political extremists. They defeated Dr. Schacht's principle that the normal course of economic life must not be disturbed by a strict application of the procedures of the Prerogative State. The Jews were not to be regarded as constructive forces of the nation but rather as enemies of the state. Once they had been eliminated from the economic life, it was possible to deprive them of all legal protection without adversely affecting the economic system. Nevertheless, conflicts between the political principles and basic ideas of law and justice could still arise. As late as 1937 the Naumburg Appelate Court stated: "Even the interests of the ethnic community in the maintenance of German racial purity cannot afford to ignore the pressing demand that the law be applied and legal stability be preserved" (p. 88 f.). The Ministry of Justice, however, quickly declared a universal application of this principle inadmissible because of the existing Jewry legislation. The up and down in the struggle between political aims and legal order is mirrored in the author's selection of decisions of lower and superior courts; their critique by conscientious theoreticians of law in Germany is also demonstrated by examples. The courts finally capitulated to the political authorities. While the National-Socialist program of 1920 demanded only that the Jews should be treated legally as foreigners, the practical result was their complete outlawry. The

gradual abolition of the rule of law then reached even beyond the original and more modest goal of restrictive Jewry legislation.

Jewish Institute of Religion. *Guido Kisch.*

Leo Shpall, *The Jews in Louisiana.* Steeg Publishing Co. New Orleans, La., 1936. 53 pp.

The writing of American Jewish history is still largely the pursuit of the amateurs and the dilettantes. While there have been some creditable volumes produced by various hands, the task of preparing the history of Jews in the United States from the professional historian's point of view remains undone. At the same time, we need not discourage the amateurs since it is their enthusiasm which may some day be transmitted through endowments or other means into either foundations or chairs of history at American universities devoted to the teaching and study of Jewish history.

One of these enthusiasts is Mr. Leo Shpall who has a number of papers and brochures to his credit, all of them marked by earnestness and zeal. The work under review, apparently hitherto unnoticed in the North, is an unpretentious pamphlet which discusses briefly Jewish history in Louisiana, the city of New Orleans and other points of settlement in the state, sketches quickly some of the leading personalities among Louisiana Jews, and concludes by reprinting the decision of the court in a famous case involving the reading of the Bible in the public schools of Caddo Parish. Without doubt, Mr. Shpall did not offer his work as a complete venture in historiography about the Jews in Louisiana, since he has relied heavily upon secondary sources throughout. At the same time, he has endeavored to give a connected story in as brief a space as possible and has certainly described the high spots. Jews settled in Louisiana early in the eighteenth century, but were the subject of an expulsion order incorporated in the notorious Black Code of the French authorities. Individual Jews, however, continued to appear in the colony and numerous instances are cited by the author. He was unable to determine whether a synagogue existed in New Orleans in 1750 as some have believed. After passing through French, Spanish, and then French hands again, Louisiana came under American control. At this point the history of the Jews, beginning with such a dominant personality as Judah Touro, becomes a regular part of the whole pattern of Louisiana history. The first congregation was formed in 1828, the year which witnessed the first recorded Jewish marriage and the first interment in the Jackson Avenue cemetery in New Orleans. At the same time, Judah P. Benjamin, later a leader of the Confederacy, came to live in the state. Other important figures were Rabbi James Kopel Guttheim, David Cohen Labatt, Dr. Joseph Bensadon, Rabbi Isaac Leucht, Myer Isaacs, Herman Rosenthal, and the cele-

brated Rabbi Max Heller. Judah P. Benjamin and Benjamin Franklin Jonas have both represented Louisiana in the United States Senate. While the early settlers may have been Sephardim, Mr. Shpall indicates that Jews from Russia, Rumania and other European lands also found their way to the state. By the twentieth century, Louisiana's Jewish community had become an integral part of the entire community and has continued to play its role in the history of the state. New Orleans, of course, is the chief center with eight congregations noted at the time this pamphlet was written. Welfare activities, including schools, aid societies, hospitals, and federations have also been developed.

Within his limits, Mr. Shpall has done an informative job. Our major criticism does not rest with him, but rather with the American Jewish community which has failed to assay its own history, to collect its own records, to provide for a history of Jews in this country prepared by scholars trained in modern historical methods, completely familiar with the American scene. Until we have accomplished those steps and those aims, it will be up to Mr. Shpall and his kindred to delve into the lore of American Jewish history.

New York City. *Harold J. Jonas.*

Chaim W. Reines, *Personality and Community in Judaism.* Published by the author (in Hebrew). New York, 1940. 129 pp.

The problem of the individual and the group in Jewish religion and ethics is the hinge upon which the contents of the present book revolves. That interrelations exist between religion and social life has often been proved. This relationship, naturally, holds true with regard to Judaism, too. Some Christian theologians, however, have asserted the Israelitic religion is concerned with the group only, not with the individual. With collectivism as its main feature, it has been contrasted with Christianity, the religion of "individualism." This view, once much cherished in Protestant circles, is no longer widely maintained. Dr. Reines challenges it in this book. He points to both the individual and the collective aspects of Judaism. According to Reines, the social character of the Jewish religion is rooted in the ethical. The more Judaism purged itself of the mystical and magical elements of paganism, the stronger the social-ethical forces waxed. The group is the subject of the ethical, a fact which manifests itself in the covenant, in the idea of collective responsibility, and in worship. The individual cannot become a moral person except through the group. The individualistic aspect of Judaism reveals itself in the doctrine of individual responsibility, in the ideas of love, grace, mercy, as well as in the commandments directed to a single person. Judaism discovered the religious individual, it shaped his inner nature, and created prayer as a lyrical effusion. In connection with

this problem, the author discusses other relevant topics, e.g. piety, prayer, holiness, ethics, covenant, prophecy, Israel, and the essence of Judaism. But in his desire to cover so many problems, Dr. Reines had to omit intensive analytical investigation. Without doubt full consideration and definition of each term used would have, however, limited the discussion to only a few problems.

Many correct observations and remarks reveal the author's understanding and knowledge. In general, this is a praiseworthy book, interesting to the student of Jewish thoughts, written with warmth and sympathy.

Hebrew Union College. *Abraham Heschel.*

NOTICES OF RECENT PUBLICATIONS

Essays on Maimonides, An Octocentennial Volume, edited by Salo W. Baron. Columbia University Press. New York, 1941. 316 pp.

Contents: The Celebration of the Eight-Hundredth Anniversary of the Birth of Moses Maimonides.—Etienne Gilson, Homage to Maimonides.—Leo Strauss, The Literary Character of the *Guide for the Perplexed.*—Joshua Finkel, Maimonides' Treatise on Resurrection, A Comparative Study.—Richard Gottheil, A Responsum of Maimonides.—Salo W. Baron, The Economic Views of Maimonides.—Max Meyerhof, The Medical Work of Maimonides.

Richard W. Emery, *Heresy and Inquisition in Narbonne.* Columbia University Press. New York, 1941. 184 pp.

This doctoral thesis seeks an explanation for the strange fact that thirteenth-century Narbonne in Languedoc appears to have been practically free from heresy at a time when heresy was rife and the inquisition flourishing in near-by Beziers and Carcasson. Heresy has been related to particular social, economic, political and religious factors. The author demonstrates that lack of heresy in Narbonne is not to be attributed to a lack of any of these forces and conditions. In particular, he lays emphasis on the presence of a considerable Jewish community in Narbonne: "If we seek the germs of heresy in the mingling of many peoples, it might be pointed out that Narbonne not only was the home of the most important Jewish colony in the region, but that, of all the towns mentioned, it alone was a seaport" (p. 136; cf. pp. 22 f., 124 note 61). To this reviewer the mere fact that a Jewish community existed in Narbonne seems a rather weak point in the author's demonstration especially since no specific proof of an active role played by the Jews with regard to heresy has been adduced.

David Daiches, *The King James Version of the English Bible, An Account of the Development and Sources of the English Bible of 1611 with Special Reference to the Hebrew Tradition.* University of Chicago Press. Chicago, Ill., 1941. VII + 228 pp.

This scholarly book, "prolegomena to a study of the English Bible of 1611," first traces the history of English Bible translation; then makes an interesting and valuable *excursus* into the development of Hebrew scholarship among Christians in Europe from the Middle Ages to the Renaissance; and finally studies the work of the translators against a background of their times, differentiating between the two forces which produced such scholarship—the "back to the Bible" movement of the reformers and the disinterested scholarship that was a feature of the Renaissance. As to the Hebrew studies among Christians, see in addition to the author's quotations: Bernhard Walde, *Christliche Hebraisten Deutschlands am Ausgang des Mittelalters* (Münster i.W., 1916); H. Galliner, *Historia Judaica,* II (1940), 85-101; H. Hailperin, *ibidem,* 122 ff.

The Cartwright Petition of 1649, A Facsimile Reproduction of the Original Copy in the Sultro Branch of the California State Library. With an introduction by Nat Schmulowitz. Sutro Library Associates. San Francisco, 1941. 20 pp.

In January 1648 a petition for the readmission of the Jews to England was presented to Lord Fairfax and the General Council of War by Johanna Cartwright and her son Ebenezer, two Puritans settled at Amsterdam. After reference to the sufferings endured by the Jews in England before their expulsion in 1290, the petition pleaded for the repeal of the statute banishing Jews. Although no practical success resulted from this act it remains a memorable antecedent of Manasseh ben Israel's well-known activities. This is the first reproduction of the rare pamphlet since its original publication in 1649.

Donald S. Strong, *Organized Anti-Semitism in America; The Rise of Group Prejudice During the Decade 1930-40.* American Council on Public Affairs. Washington, D. C., 1941. VI + 191 pp.

Dedicated to the belief that the extensive diffusion of information is a profound responsibility of American democracy, the American Council on Public Affairs wishes to promote the spread of authoritative facts and significant opinions concerning contemporary social and economic problems. Through this factual history of antisemitism in the United States it served not only its immediate purpose but also rendered a highly important service

to scientific research. For the first time complete information is gathered on the major antisemitic organizations, their history and activities, and their relations to various religious, economic, political, and social groups. An interesting analysis of the causes for existence and operations of antisemitic organizations is offered, and their propaganda techniques are explained. The book is profusely annotated and accompanied by a useful bibliography.

Arthur Ruppin, *Jewish Fate and Future.* Translated by E. W. Dickes. Macmillan and Co. London, 1940. XI + 386 pp.

Among an otherwise almost exclusively apologetical and polemical literature, Ruppin's books *Die Juden der Gegenwart* (1904) and *The Jews of Today* (1913) were the first to attempt a comprehensive survey of and the presentation of detailed information about the legal, economic, and cultural situation of the Jews in the world. In 1930 he published the two volume standard work, *Soziologie der Juden,* which was succeeded in 1935 by *The Jews in the Modern World.* These works, though conceptually and systematically on the same basis, differ from each other because the general political and economic background of the social life of the Jews has undergone fundamental changes in the intervals of their respective publication. The present volume brings the statistical data concerning the increase of the Jewish population, its geographical distribution, numerical strength in the various countries, migration and vocational and social structure up to date. The modern aspects of old problems, antisemitism and assimilation, secular education and community life, are subject to a penetrating discussion. Even when the reader is not in the position to accept the author's arguments, he always can follow his trains of thought with interest, and profit by his thoroughgoing analysis of the differing phases and trends of modern Jewish life. One of the most fascinating sections is the one devoted to Zionism and the rebuilding of Palestine including an exposition of the Jewish-Arab relationship. Ruppin's book in its new form will render valuable service to anyone engaged in the study of the Jewish problem. Some errors which have crept into Ruppin's statistics have been recently corrected by Jacob Lestschinsky (*JSS.,* III (1941), 348 f.).

HISTORIA JUDAICA

A JOURNAL OF STUDIES IN JEWISH HISTORY ESPECIALLY IN LEGAL AND ECONOMIC HISTORY OF THE JEWS

VOLUME IV

(with three plates)

EDITOR

GUIDO KISCH

NEW YORK

HISTORIA JUDAICA

40 West 68th Street

1942

Reprinted with permission of the original publisher

KRAUS REPRINT CORPORATION

New York

1963

CONTENTS

ARTICLES

Cohen, Boaz: The So-Called *Jüdisches Hehlerrecht* in the Light of Jewish Law 145-153

Friedman, Lee M.: Mordecai Manuel Noah as Playwright (with two plates) 154-162

Hailperin, Herman: Saadia's Relation to Islamic and Christian Thought 1-15

Hailperin, Herman: Jewish "Influence" on Christian Biblical Scholars in the Middle Ages 163-174

Kisch, Bruno: The Engraver of the First Shekel Medals 71-73

Kisch, Guido: Two American Jewish Pioneers of New Haven 16-37

Kisch, Guido: The Yellow Badge in History 95-144

Slonimsky, Henry: Hermann Cohen (with one plate) 81-94

Stillschweig, Kurt: Jewish Nationhood as a Factor in Law 38-50

Wallach, Luitpold: The Scientific and Philosophical Background of Zunz's "Science of Judaism" 51-70

BOOK REVIEWS

American Jewish Yearbook 5702 (G. Kisch) 77

Berman, Jeremiah J., *Shehita, A Study in the Cultural and Social Life of the Jewish People* (Abraham Burstein) 76-77

Berman, Morton M., *The Role of the Rabbi: What Was, What Is, and What Shall the Rabbi Be?* (G. Kisch) 74

Broches, S., *Jews in New England, Six Historical Monographs, I: Historical Study of the Jews in Massachusetts* (Isidore S. Meyer) 175-176

Rivkind, Isaac, *Le-Ot-ul-Zikkaron, A Study in Jewish Cultural History with an Annotated Bibliography* (I. Elbogen) 175

Saenger, Gerhart, *Today's Refugees, Tomorrow's Citizens, A Story of Americanization* (G. Kisch) 75-76

Silver, Abba Hillel, *The World Crisis and Jewish Survival, A Group of Essays* (Joshua Trachtenberg) 74-75

Smalley, Beryl, *The Study of the Bible in the Middle Ages* (Herman Hailperin) 163-174

List of Abbreviations, see Volume I 1-2

Notices of Recent Publications 78, 176

Personal 177-178

Bibliography of Periodical Literature 79-80

PRINTED IN THE UNITED STATES OF AMERICA

HISTORIA JUDAICA

EDITOR

GUIDO KISCH

Volume IV APRIL, 1942 No. 1

CONTENTS

HERMAN HAILPERIN: Saadia's Relation to Islamic and Christian Thought 1-15

GUIDO KISCH: Two American Jewish Pioneers of New Haven 16-37

KURT STILLSCHWEIG: Jewish Nationhood as a Factor in Law 38-50

LUITPOLD WALLACH: The Scientific and Philosophical Background of Zunz's "Science of Judaism" 51-70

BRUNO KISCH: The Engraver of the First Shekel Medals 71-73

Book Reviews 74-77

Notices of Recent Publications 78

Bibliography of Periodical Literature 79-80

HISTORIA JUDAICA

40 West 68th Street

NEW YORK

Printed in U. S. A.

HISTORIA JUDAICA

Volume IV APRIL, 1942 Number 1

SAADIA'S RELATION TO ISLAMIC AND CHRISTIAN THOUGHT*

By

Herman Hailperin

Pittsburgh, Pa.

Jews, when seen in proper historical perspective, were never isolated,—not even in periods of greatest suppression. The "inner" Jewish historian should, consequently, broaden his horizon in the light of "profane" history. (That the *inner* Jewish history needs first to be known thoroughly goes without saying). Any careful study of the gaonic period in relation to "external" history, must, therefore, give evidence of historical and intellectual advance in the work of adjustments of the Jews to the non-Jewish world.

The work of Saadia embraced nearly all the branches of knowledge known and cultivated among the Jews, Arabs and Christians of

EDITOR'S NOTE. 1942 marks the one thousandth anniversary of the death of Saadia Gaon, one of the early founders and most original thinkers in the realm of Jewish Science and all of its ramifications. In commemoration of this memorable date, the Editor is pleased to present as the first article in the fourth volume of *Historia Judaica* the following essay from the pen of Doctor Herman Hailperin submitted some time ago for publication. Its proposed thesis is deemed especially fit for *Historia Judaica.*

* In Saadia (882-942), the greatest of the Geonim, the gaonic period reached its climax. An examination of the Genizah MSS. by the *historian* reveals that they embody progressive treatment of older ideas as intellectual problems and as cases requiring adaptation to new situations. Though it is true that the *Halakah* was, in general, the main field of gaonic interest, the continuing examination of Genizah MSS. convinces us, more and more, that on account of the limitation of sources up to our time we have been compelled to look upon the Geonim as halakists exclusively. (See Louis Ginzberg, *Geonica,* I, 201 f.). Speaking of the literature (outside of *Halakah*) of the gaonic period from the points of view from which the various parts of it were written, we may group them as follows: (1) Haggadic Responsa; (2) Tractates on biblical material (a) as to explanations, and (b) as to reconciliations; (3) Polemics against (a) freethinkers and heretics, and against (b) the Karaites; (4) Rational-philosophical treatments (on Reason and Revelation). H. Malter, *Saadia Gaon, His Life and Works,* (Philadelphia, 1921), p. *272,* points out that in Saadia we see not only the climax of the gaonic period but also the "actual originator" of the later development in Judaism. He says (p. *273*): "However, while many of Saadia's predecessors and contemporaries may have had a share in moulding the ideas of their time or of subsequent generations, the general development of our literature along all lines of knowledge and research actually began with Saadia. It was his comprehensive

his day.[1] Saadia, intellectually, was more than a "Gaon." His work must now be revaluated from that point of view, which sees this new period transfused with the elements of the thought and life of peoples around him. The Islamic peoples with *their* scholasticism founded upon a Syrio-Arabic Aristotle, the Christians in the East, and the sectaries within each of these groups, all made up an environment for Saadia, which offered a situation and compelled him to do a work of wide comparison, identification and harmonization. Materially, the ideas which had arisen in these various peoples were fundamentally one, and Saadia's work was, therefore, to interpret them in the terms and ideologies of each other. Saadia's preface clearly gives evidence that his greatest work, *Book of Philosophic Doctrines and Religious Beliefs,*[2] was intended not only for his own people, but also for non-Jews.

. . . I wish to preface this book with that which led me to write it, viz., the delineation of the cause of doubt among *mankind*[3] in their investigations, and the paths whereby (those doubts) may be removed. . . . And the thing which brought me to this matter was the fact that I saw many *human beings,*[4]

---

literary activity that welded numerous and diverse subjects of study and research into a rounded system of religion; that opened new perspectives to the thinking minds of the generations after him, and gave them a fresh and forceful impetus to continue to deepen the work he had begun." The present writer depended considerably upon Malter, and also on Isaac Husik, *A History of Mediaeval Jewish Philosophy,* (New York, 1916), pp. 23-47, for direction in finding the materials which reveal Saadia in his larger *milieu.*

[1] See Malter, *op. cit.,* pp. 137-271.

[2] In these words, Malter, *op. cit.,* p. 193, translates the Hebrew title *Sefer Emunot ve-Deot* (original Arabic title, *Kitab al-Amanat wa 'l-I-'tiqadat*). L. Ginzberg. "Notes" in Israel Efros, *Philosophical Terms in the Moreh Nebukim,* (New York, 1924), p. 131, says: "In the translation of the title *al-Amanat wa 'l-I-'tiqadat* by *Emunot ve-Deot* Judah ibn Tibbon uses *Deot* in the sense of religious beliefs and *Emunot* stands for philosophical doctrines. As far as I know Judah ibn Tibbon found no imitators in the strange use of these two terms." Cf. also on this point Malter, *loc. cit.,* note 455. The book therefore is to treat the principles of the Jewish religion by discussing them in comparison with the various philosophic doctrines which seem to be at variance with the teachings of the Jewish religion. The original was written in Arabic in 933, and critically edited by S. Landauer (Leyden, 1880). Judah ibn Tibbon translated the work into Hebrew in Lunel, southern France, in 1186. Thus far no critical edition of this classic Hebrew work has appeared. Seven Hebrew editions have appeared, the best that of Israel ha-Levi with a commentary (Josefow, 1885), which was used for the present article. (On pp. 92 and 183 f., the anti-Christian polemical passages were mutilated by the Russian censor. It was, therefore, necessary to make corrections on the basis of the Arabic original,—S. Landauer, *Kitab al-Amanat wa 'l-I-'tiqadat,* Leyden, 1880). No translation has been made, and the translations, therefore, are the present author's. The small excerpt from the Introduction translated by Malter, *op. cit.,* p. 200, is rather paraphrastic. The longer excerpt translated in Graetz, *History of the Jews,* (Philadelphia, 1894), III, 197 f., is too free and quite inaccurate.

[3] The italics are mine.

[4] The italics are mine.

as regards their beliefs and opinions,—some attaining to truth, loving it and rejoicing in it . . . some attaining to truth, but then finding difficulty in it, and not understanding it, and therefore not holding to it, . . . some not understanding it, but holding to it, therefore confessing that which is false, while thinking it is true [i. e. they do not know it is "false" to consider something true and hold to it while it is not comprehended by their mind] . . . some who live according to one religious belief, for a time, and afterwards despise it because of something which they noticed in it, and therefore change over from it to another religion for some time, and then despise it (the latter) because of something in it which seemed despicable to them, and after that change from it to another religion for a time, and then, in turn, forsake it because of something which seemed to invalidate it,—and this continually repeats itself all their life. It is like one who wants to walk to a city and does not know the way;—he walks a mile and finds himself lost, then returns and walks a mile in another direction and also finds himself lost and returns,—thus a third and a fourth time, even as Scripture puts it (*Ecclesiastes* 10:15): 'The labor of a fool wearieth him, for he knoweth not how to go to a city.'

And as I probed these principles and the evil of their confused ideas, my heart grieved . . . and my soul was moved on account of our own people, the Children of Israel, as I saw in my time many of the 'Jewish' rationalists entertain impure beliefs and confused ideas, while those who deny the faith boast of their unbelief and triumphantly deride the men of truth, though they are themselves in error. I saw men sunk, as it were, in seas of doubt, and already the waters of confusion covered them, and there was no diver to raise them up from their depths and no swimmer to take them by their hands and take them out. But as God has granted me some knowledge whereupon I can have them lean, and has endowed me with some ability which I might employ for their support, I felt that to help them was my duty and to guide them to truth a moral obligation upon me.[5]

In Book I,[6] Saadia discusses the problem of the eternity of matter and the Jewish doctrine of creation in time. Book II[7] takes up the subject of God's unity, His attributes and the problem of anthropomorphism. (This leads, among other topics, to a refutation of dualism,[8] and Christian trinitarianism as well as to a criticism of the doctrine of Christ's person).[9] The next Book[10] deals with biblical "Command and Prohibition," in which Saadia makes a distinction

[5] *Op. cit.*, pp. 36-38.
[6] Pp. 54-82.
[7] Pp. 83-104.
[8] Pp. 88 f.
[9] Pp. 91 ff.
[10] Pp. 104-124.

between biblical laws dictated by human reason and those that have their origin in divine revelation. That is to say, in taking up the subjects of Faith and Reason, there is a place for Faith in divine revelation.[11] The subject of Prophecy is taken up here,[12] also the question of the abrogation of the revealed Law.[13] Book IV[14] deals with Free Will and Determinism. Providence, the problem of evil, are taken up in Book V.[15] Saadia then discusses the nature of the individual soul in Book VI.[16] Book VII[17] takes up Resurrection and the refutation of the objections offered against this doctrine from the four sources of cognition.[18] Book VIII[19] deals with eschatology and messianism; here Saadia deals critically with the question of the historicity of the messianic time and the Christian doctrine of the Messiah.[20] Reward and punishment are the subjects of Book IX.[21] The last Book[22] is an essay on moral philosophy.

The divisions of the *Emunot ve-Deot* point very definitely to Saadia's acquaintance with the theories and discussions of the Mutakallimun, the scholastics of Islam.[23] The work, arranged on the Mu'-

11 Pp. 105-110 (Chs. 1, 2, and 3).

12 Pp. 110-113 (Chs. 4 and 5).

13 Pp. 115-117. See *infra*, p. 9 f.

14 Pp. 124-136.

15 Pp. 136-148.

16 Pp. 148-162. Malter, *op. cit.*, p. 224, note 503, quotes Isidore of Seville, whose view as to the time at which the soul is created was similar to Saadia's. Saadia's theory is that the soul like every other being is a creation of God; its creation takes place at the moment the body, its seat, is complete and about to come into the world. (*Emunot*, pp. 152 f.) Cf. Isidore: Animam non esse partem divinae substantiae vel naturae; nec esse eam priusquam corpori misceatur, constat; sed tunc eam creari quando et corpus creatur, cui admisceri videtur (*Sententiarum*, liber I, c. XII; *PL.* 83, p. 562 f.).

17 Pp. 162-174.

18 Saadia's epistemology is stated also in the Introduction, pp. 43 f.

19 Pp. 175-185.

20 See *infra*, p. 10 f.

21 Pp. 185-197.

22 Pp. 197-215. Malter, *op. cit.*, p. 257, note 541 a, says of this book: "The underlying idea of Saadia's disquisition is the famous Aristotelian doctrine of the *Golden Mean*. Saadia is thus the first mediaeval Jewish thinker who utilized this doctrine for Jewish Ethics. He was followed by a host of others, particularly Maimonides, who has treated the subject in all its aspects."

23 It is quite possible that Christian theology gave the first stimulus to the rise of an Arabic scholasticism. See G. F. Moore, *History of Religions*, II, 416f: "Other influences contributed to give discussion a wider range and a more academic character. In Syria particularly, Moslems, in their eager quest for knowledge, made acquaintance of Christian theology with its background of Greek philosophy, and in friendly or controversial discussion were put upon many problems, some of them common to both religions, others peculiar to their own. Under such stimulus to thinking they commenced to reason about them for themselves and make the beginning of a Moslem theology. . . . The incipient theologians were stigmatised as 'Debaters', with a depreciatory connotation—men who argued about things that God had put beyond argument by revelation." Whatever be the degree of "influence" it is well to remember what Moore, himself, *ibid.*, p. 416, says about the *early* origins of philosophic issues. "The

tazilite[24] model, indicates the character and method of the Mu'tazilites, the oldest sect of these Arabic dialecticians.[25] There are usually two main divisions in works of this kind: *Unity and Justice.*[26] The first begins with the treatment of revelation and certitude, and raises the epistemological question. (Saadia does this in his Introduction, as we have seen above).[27] Then it proceeds to prove the existence of God by showing that the world cannot have existed from eternity and must have been created in time. (This is the subject matter of Saadia's first section). Creation implies a creator. This is followed by arguments showing that God is one and incorporeal. The rest is devoted to a discussion of the divine attributes with the purpose of showing that God's unity and unicity are not affected by them. (All this corresponds to Book II in Saadia). The division on *Unity* closes with a refutation of opposing views, such as those of the dualists, trinitarians or infidels, to which Saadia devotes several pages. The second division of these Mu'tazilite works, dealing with *Justice,* centers about the doctrine of free will. (The whole of Saadia's Book IV deals with this). Psychology and ethics are therefore treated in this part of the work. To this may be added problems of a more dogmatic nature, eschatological and prophetic. (From Book III to the end of the work, Saadia's subject matter corresponds to these treatments). It is not to be questioned in the least that Saadia's masterpiece is modeled on the Mu'tazilite plan.[28]

---

first conflicts over freedom and necessity, also, had their origin in practical issues rather than in theoretical reflections on the sovereignty of God and the nature of man." One thinks, e. g., of the "problem of Job" in the Book of Job and in the rest of the Bible.

[24] The Mu'tazilah were called "the people of unity and justice". These are the cardinal ideas of the Mu'tazilah, and to prove them true they developed the dialectical instrument known as the *kālam.* (See Walter C. Klein, *The Elucidation of Islam's Foundation,* New Haven, 1940, p. 17). In its origin, the word *mutakallim* means, literally, a "speaker", that is, one, who in theological matters, speaks upon points that permit of dialectic inquiry. In its widest signification the *Kalam* is a philosophy of religion, the speculative activity of which is directed toward the treatment of the "propositions, usually derived from the creed as not subject to discussion,—make them the subject of debate,—talk and deliberate over them,—apprehend them in figures, which are supposed to make them acceptable also for thinking minds." (I. Goldziher, *Vorlesungen über den Islam,* Heidelberg, 1910, p. 100). This new speculative science served to rescue Islam and its tradition for the intellectual world.

[25] Husik, *op. cit.,* p. 24.

[26] Goldziher, *op. cit.,* pp. 103 f.

[27] P. 2 f.

[28] For this judgment, in general, this writer depended upon Husik, *loc. cit.* For a masterful treatment of this subject, see M. Schreiner, *Der Kalam in der jüdischen Literatur,* (Berlin, 1895), pp. 5-22. The quotations in the footnotes are extensive and given in the Arabic.

The speculative system of the Mutakallimun, known as the *Kalam,* was significant for the historical intellectual interrelations between Islam, Judaism and Christianity, which were to emerge again and again. Just as the application of dialectics to the problems of theological ideas of Islam is seen in the Kalam so did Judaism and Christianity experience the same searching analysis of their ideas, and in this same time. After all, these religions were born of the same *material* (body of ideas) and *formal* (in the Aristotelian sense) elements. And, as George Foot Moore[29] says, they "are so intimately related to one another that in a morphological classification they might be regarded as three *branches* of monotheistic religion in Western Asia and Europe." Therefore it is not strange that sooner or later they would in their reflection upon themselves for definition and defense pass through the same philosophic critiques. This is made easier for our comprehension when we remember that it was the use they all had to make historically of the rational science which they met in the Greek systems of thought. The great general modes of thought had, for the development of these religions, been inevitably fixed by the material and formal elements which came with their birth. Therefore, the question of the attributes of God receives identical treatment in all; likewise, creation and revelation, the particular and universal soul, active providence and miracle, soteriology and ethics, and the nature and limits of human reason. And there were not only these identities of problems and similarities of treatments, but actual historic impacts of one upon the other. Of course it is to be remembered that in spite of this common stock of religion those three faiths assailed each other violently on account of minute differentiations in their definition of truth applied in political, social, philosophical and religious directions, and as a consequence they fell into controversies, disputations and polemics, although at the same time they could not help but make large appropriations[30] of the thoughts and attainments of each other and permit

[29] *History of Religions,* II, xii.

[30] It seems that it ought to be added here that in jurisprudence also the same processes went on,—since this is cognate to our problem. Just as we see in the development of Latin Christianity, clearly from the time of Gregory the Great on, that the Christians did not develop their social law without large use of the Hebrew Scriptures, so in the East, in the same time, and to a more intense degree, Jews, Christians and Moslems all worked with the same body of legal concepts. V. Aptowitzer, "The Influence of Jewish Law on the Development of Jurisprudence in the Christian

penetrations of those thoughts, both intellectual and practical, into their institutions.

That Saadia was, intellectually, more than just a "Gaon" is clearly evident from his acquaintance not only with the Greek-Arabic world but also with Christian doctrines and beliefs.[31] Let us illustrate this by references to critical comments which he makes on the Christian Trinity, the abrogation of the Jewish Law by Christian and Muslim, and the Christian view of the Messianic fulfillment.

In the second section of his *magnum opus*,—the "Book on Unity,"—Saadia demonstrates that the concept of God as a creator necessarily implies the attributes of *life, omnipotence* and *omniscience*.[32] Having proved God's existence, unity and incorporeality, he proceeds to discuss his most essential attributes. They easily follow from what was said before. 'We cannot conceive a creator who creates *ex nihilo* unless he is omnipotent; omnipotence implies life; and the thing cannot be made perfect unless its maker knows what it is going to be before he makes it. These three concepts our reason discovers with one act of its thinking effort, for they are all involved in the concept,

---

Orient", *JQR*, I, (1910-1911), 217, points out that Jewish law has exerted a powerful influence on the development of jurisprudence in the Christian Orient. "Whether in Babylonia, Armenia, Syria, or Northern Africa, Christian judges pronounced sentence on the basis of Mosaic-talmudic statements of Law, Christian jurists delivered opinions according to biblical-talmudic or Karaitic legal maxims, and Christian codifiers incorporated Jewish law in their law books" *(ibid.)*. The author continues with a discussion of the relation of the Mosaic law to the Armenian law (pp. 218 ff.). In the same way, Aptowitzer directs attention to the traces of Jewish law manifest in the Syriac codes of three Catholic patriarchs of the Eastern Nestorian Church. These three patriarchs belong to Islamic times and lived and held office in Babylonia of the Gaonic period. The oldest of them, Henanisho Xenias, was in office as patriarch from 686 to 701 in Seleucia on the Tigris (*Ar.* Elmada'in). The two later patriarchs, Timothy and Jesubarnum, lived in the first quarter of the ninth century. Their official seat was *Bagdad,* the residence of the caliphs (*ibid.*, p. 225). There is evidence that a warm and close relationship existed between Jews and Christians in Armenia. In Babylonia, social intercourse between Jews and Christians was even more marked. According to Timothy and Jesubarnum, intermarriages were common and even circumcision was practiced in many a district of Babylonia among Christians (*ibid.*, pp. 228 f.).

31 In this connection it is proper to point out that Saadia was probably not the first, and certainly not the last of the Geonim, to reckon with Mohammedan and Christian ideologies. Hai ben Sherira Gaon (939-1038) is the authority for the statement that 'Rab Samuel Gaon [d. 1013], and others like him, used to pursue zealously, the study of non-Jewish literature.' (See Musafia, *Teshubot ha-Geonim,* Lyck, 1864, No. 99, p. 32.) It is no wonder, therefore, that Rab Samuel Gaon could write a highly rational and critical *responsum* upon the story of the Witch of Endor. Hai Gaon, himself, when criticised for his consulting the *Catholicos* in an exegetical difficulty (Psalms 141:5), justified his action by saying that the 'ancient pious scholars did not hesitate to receive explanations from those of varied beliefs' (See *Ginze Kedem,* Bk. III, *ed.* B. M. Lewin, Haifa, 1924, p. [67]).

32 Pp. 91-94; Husik, *op cit.*, pp. 33f.

Maker.'[33] There is no step by step inference from one to the other. Because of the limitations of languages we are forced to use three expressions. 'Hence it must not be thought that they involve a *plurality* in God. They are simply the implications of the one expression, *Maker,* and as that does not suggest plurality in God's essence, but signifies only that there is a thing made by the maker, so the three derivative terms, Living, Omnipotent, Omniscient, imply no more.'[34]

"In this matter," says Saadia, "the Christians erred, and advanced an idea concerning this which is not so, and it led them to make Him three, and they have (consequently) gone over to heresy. I maintain that they can be refuted on rational grounds; . . . for in this refutation I do not have in mind the ignorant among them, since they can comprehend only a corporeal trinity . . . but I intend to refute their scholars."[35] They say one cannot create unless he is living and wise, hence they regard his life and his wisdom as two other things outside of his essence.[36] 'But this is a mistake. For in saying that there are several attributes in him distinct from one another, they say in effect that he is corporeal—an error which we have already refuted. Besides they do not understand what constitutes proof: In man we say that his life and his knowledge are not his essence because we see that he sometimes has them and sometimes not. In God this is not the case. Again, why only three? They say essence, life, wisdom; why do they not add power, or hearing and seeing? If they think that power is implied in life, and hearing and seeing in wisdom, so is life implied in wisdom. They quote Scripture in their support, for example, the verse in II Samuel 23:2, "The *Spirit* of the Lord spoke through me, and his *Word* was upon my tongue." "Word" denotes, they say, his attribute of wisdom, and "Spirit" his life, as distinct persons. But they are mistaken. The expressions in question denote the words which God puts into the mouth of his prophets. There are other similar instances which they cite, and in their igno-

[33] Husik, *op. cit.,* p. 33.

[34] *Ibid.*

[35] Because of the mutilation of this passage by the Russian censor in the Josefow, 1885, edition, p. 92, this writer made use here of the Arabic original, Landauer, p. 86. He is indebted to Professor Boaz Cohen of the Jewish Theological Seminary of America for aiding him with the Arabic here, and *infra,* p. 9 and 11.

[36] Interesting, in this connection, are Husik's references (*op. cit.,* p. 34), to Christian analyses of the trinitarian divine attributes.

rance of Hebrew they take metaphorical expressions literally. If they are consistent, they should add many more persons in the Godhead, in accordance with the many phrases of the Bible concerning the hand of God, the eye of God, the glory of God, the mercy of God, and so on.'[37]

Saadia then discusses critically the doctrine of the Logos[38] and the various theories regarding the person of Jesus. In the latter treatment he gives evidence of his thorough acquaintance with inner Christian polemics on this point. There are four "sects" among the Christians, says Saadia, who hold four opinions, respectively, with reference to the person of Jesus,—three of them are rather ancient, but the fourth is of recent development. "The first group maintains that their saviour's body and spirit are God (of divine substance). The second maintains that his body was created, but that his spirit is from God. A third maintains that his body and his spirit were created, and there is a different spirit in him than in the Creator. But the fourth thinks that he is merely like (one of) the prophets. . . ."[39]

The above discussion on the doctrine of attributes shows clearly its relation to the Mohammedan Schools. There is no doubt, however, that the problem originated in the Christian schools in the Orient, where they found it necessary to rationalize the dogma of the Trinity.[40] Monotheism was a fundamental dogma of Islam. Hence it was necessary for the Mutazilites to meet the Christian Trinitarians with their own weapons and to show that the multiplicity of the divine attributes which they themselves could not deny, (since the Koran was authority for it), does in no way affect God's unity. The problem was just as important for Judaism as it was for Islam, and for the same reason. Hence Saadia's thesis: The inadequacy of language is alone responsible for our expressing God's essential attributes in the three words, Living, Omnipotent, Omniscient; they are in reality no more than interpretations of the expression, *Maker*.[41]

Saadia's discussion against the possibility of the Law being abrogated is directed no doubt against the claims of the two sister re-

37 (Josefow, 1885), pp. 92 f., and Husik, *op. cit.*, pp. 33 f.

38 (Josefow, 1885), p. 93.

39 *Ibid.*, p. 94: Landauer, *op. cit.*, p. 90. The views of the fourth "sect" have, undoubtedly, some relation to the elements of early and mediaeval Unitarianism.

40 Husik, *op. cit.*, p. 34.

41 *Ibid.*, pp. 34 f.

ligions, Christianity and Mohammedanism. The matter was much in dispute among the three religions.[42] Naturally, for Saadia, abrogation of the Law is impossible. For in the first place, 'the Jews have a unanimous tradition that the Torah would never be abrogated, and in the second place, the Law itself assures us of its permanent validity, "Moses commanded us a Law, an *inheritance* for the assembly of Jacob" (Deut. 33:4)'. The Law constitutes the national existence of the Jewish people; hence, as we are assured by the Prophets that the Jewish people is eternal, the Law must be likewise.[43] The Christians and Mohammedans maintained, on the basis of numerous passages in the Bible as well as for general reasons, that the original Law was, from the very first, intended only for a limited time, and was to be replaced by their respective religions. Saadia refutes their arguments. He shows that they have misinterpreted the biblical passages adduced by them. One of the refuted arguments had to do with the question of accepting the evidence of miracles in favor of a new law abrogating the old. There is no cogent reason, the opponents say, why we should be bound to believe in Moses because of the miracles he performed more than in other prophets [Jesus and Mohammed, respectively] who performed similar miracles. "I was greatly surprised," says Saadia, "when I heard this,—for the cause of our belief in Moses was not the signs and miracles alone, but the real cause of our belief in him and in every prophet was the 'intrinsic ethical value of the message he carried.' " The miracles are but a *secondary* matter. First we must ascertain if the prophet's message is sound and reasonable then we may look for the performance of miracles, as support; but should his message have no value, we do not look for miracles in such a case, for no miracle can prove the truth of that which is *inherently* untrue.[44]

As regards the Christian view of the Messianic fulfillment, Saadia, in a controversial passage, turns against those[45] who maintain a

[42] The Christians, for example, from the time of Paul, claimed to be the 'true Israel': Not only does the Old Testament belong to the Christians, but it is the *radix* of which the New Testament is the *fructus* (Ludwig Diestel, *Geschichte des Alten Testamentes in der christlichen Kirche,* Jena, 1869, p. 173, quoting Isidore's *De Officiis,* I, ch. 11). The Jews were well aware of this intention of the Christians—and of the Mohammedans later—and proceeded to answer it, from the earliest days, down through the times of Saadia, Maimonides, and into modern times.

[43] *Op. cit.,* pp. 114f. Saadia then quotes *Jeremiah* 31:36, and *Malachi* 3:22, in support.

[44] *Ibid.,* p. 117. See Malter, p. 210.

[45] Saadia's polemic is directed, here, also against those whom he names "so-called Jews" (p. 181) who held to the view that all the prophetic promises had reference to

totally different opinion from his, which was that the Messianic predictions of the prophets refer without exception to a future time in which they are sure to be fulfilled. Saadia points in particular to fifteen characteristic features of the Messianic time as described in the Bible, and shows that none applies historically to the condition of the Jews during the period of the Second Temple and the times following it.[46] He points out the mistakes made by the followers of the Church in interpreting certain passages of the Bible as referring to Jesus of Nazareth. For example in *Daniel* 9:26, "And after the threescore and two weeks shall an anointed one be cut off," the Christians see a reference to the death of Jesus.[47] Against that, Saadia maintains that the word *mashiah* (anointed), as used in *this* verse, can have no reference to a *certain* person, but means any anointed priest or king (cf. "if the *anointed priest,*" *Lev.* 4:3, or "and the *anointed priest* shall bring", *ibid.,* v. 16), and that the verb *hikaret* (to be cut off) may mean in scriptural usage only one who meets death *deservedly,* (and therefore, this cannot possibly refer to Jesus, who according to Saadia's opponents, died innocently).[48]

Strange as it may seem to us, Saadia is intimately concerned with the occult knowledge which had, not long before his life, for the first time received anything like a formulated statement, and thus had become a kind of public property. This knowledge, which we know by the name, "Cabala," has its beginnings in Gnosticism, in Pythagorean numerology, in the mystic speculations and esoteric doctrines of the apocalyptic writings and of the Talmud, and in the allegorical interpretations of the biblical writings by the Alexandrian Jews as well as by the Palestinian Jews.[49] But this literature, like any other literature, could not develop as long as it was intended as esoteric learning for special scholars, and not for the masses. In the last decades of the eighth century there appeared certain writings in the

---

the time of the Second Temple, when they were fulfilled. It seems that adherents of such theories were found among the Rabbanites as well as among the Karaites and other sectaries. See Malter p. 239, note 524, and p. 273, n. 577.

[46] *Op. cit.,* pp. 182 f. See Malter, pp. 239f.

[47] J. Guttmann, *Die Religionsphilosophie des Saadia,* (Göttingen, 1882), p. 239, note 2, remarks that the christological exegesis of this verse is at least as old as the Vulgate (See v. 25: *et ungatur sanctus sanctorum*).

[48] *Op. cit.,* pp. 183 f. This passage has been mutilated by the Russian censor because of its anti-Christian polemic. It was rendered here according to the Arabic original, Landauer, *op. cit.,* p. 253.

[49] See L. Ginzberg, "Cabala", *JE.,* III, pp. 459 ff.

nature of scriptural commentary (attempting to harmonize universal reason with the Scriptures), and as pseudepigraphic descriptions of God's majesty,[50] the beginnings of which go back to tannaitic esotericism and the other doctrines of antiquity mentioned above.

It is well known in general that the elements of occult knowledge have continued through the centuries, not only for the popular imagination but even for many scholars of a certain type. In the Jewish-Christian field, the Bible, of course, suggests problems of interpretation that could easily lead into esoteric forms as is seen when one thinks of the apocalyptic literature with its cryptographic language. Resurgences of this temper can be historically understood as we see them as protests against over-intellectual formulations of rational theology or in times of great political and social disturbances. The appearance of such works as we have referred to above in the gaonic period is a phenomenon of high historical interest. Whether it be viewed as a protest against an over-rational treatment of the religious literature, or as an emotional out-cry against the sufferings under the Sassanids (sixth century) and during the Arab conquests and invasions of the seventh century, or as arising out of conflict with Islam and its sectaries,—in any case, the renaissance of the "cabalistic" literature in the eighth century constituted another chapter in the preservation of this literature, which now, as in later centuries was to have a determinative effect on the whole field of biblical exegesis.

Among these works, mention may be made of the *Shiur Komah,* an esoteric treatise on the dimensions of the body of God and of his several members, the doctrines of which were known, it seems, already to Agobard[51] of Lyons (d. 840), in the West. The *Shiur*

[50] L. Zunz, *Die gottesdienstlichen Vorträge der Juden,* (Berlin, 1832), pp. 165f.

[51] Agobard shows familiarity, in his *De Judaicis Superstitionibus* (*PL.* 104:86), with certain doctrines of Jewish mysticism and esotericism—*Dicunt denique Deum esse corporeum, et corporeis lineamentis per membra distinctum,* etc.,—words which reflect the teachings of the *Shiur Komah.* In a critical note on this point in my doctoral dissertation, still in MS., (cf. H. Hailperin, "Nicolas de Lyra and Rashi: The Minor Prophets", *Rashi Anniversary Volume* [New York, 1941], p. 115), Professor Louis Ginzberg added the following comment: "Is it impossible to assume that Agobard came in contact with Karaites who often attacked the Rabbanites for the anthropomorphic teaching of the esoteric writings?" Favoring Professor Ginzberg's assumption is the fact that Lyons, Agobard's bishopric, attracted many and all kinds of Jews, since it led from Paris to Italy, and from Germany to Spain; it was the commercial seat of the Carolingian monarchy. The Jewish Community of Lyons rapidly became an important center (see T. Reinach, "Agobard et les Juifs", *REJ.,* L. [1905], xciii ff.). On the other hand, it is to be noted that Agobard, who speaks almost daily with Jews,

Komah must have been held in high regard by the Jews, since Saadia tried to explain it allegorically,[52] and Hai Gaon (d. 1038), in spite of his emphatic repudiation of all anthropomorphism, defended it on the ground that its language is allegorical and esoteric, and that 'its secrets can be explained fully only to those who possess the secret traditional norms of interpretation.'[53] Another work, important as the connecting link between the gaonic mystics and the later Cabala, Jewish and Christian, was the *Sefer Yezirah,*[54] the first speculative treatise in Hebrew. Saadia Gaon, arch-exponent of rabbinic Judaism not only did not reject this material, but wrote a commentary on the *Sefer Yezirah* in 931, with the apparent aim of showing its rationality. In this commentary Saadia reveals great acumen as a literary critic, he gives expression to the view that a part of biblical literature had a historical development before it was written down, he deals with Hebrew grammar and phonetics, he contributes historical data about the Babylonian and Palestinian Jews in their naming the letters of the Hebrew alphabet, and he gives expression to the idea that the universe is a macrocosm, and man, a microcosm.[55] Not only Saadia, but other Geonim also made allowance for a revival of Gnosticism; "it is certain," says Ginzberg,[56] "that numbers of the Geonim,

---

and who 'hears the mysteries of their error', and who reveals a general acquaintance with the details of Jewish worship and ritual as well as with certain haggadic traditions, might also have heard certain Jews express some of these tangential notions of early Jewish "gnosticism",—though, it is to be added, without reference most likely to the *Shiur Komah* as a work. Agobard says, *loc. cit., . . . qui quotidie pene cum eis loquentes, mysteria erroris ipsorum audimus.*

52 Ginzberg, "Cabala", *op. cit.*, p. 462.

53 J. Musafia, *Teshubot Ha-Geonim,* (Lyck, 1864), no. 29, p. 12a [of the *Hebrew* pagination].

54 This work, in particular, had a great vogue among certain Christian scholars of the Reformation time, and, it is interesting to note, has remained an important source for theosophists down to our own time. The *Sefer Yezirah* (Book of Creation) was introduced as a *complete work* to Christian scholarship in 1552 by a Latin translation of William Postel, this being ten years prior to the first issue of the printed Hebrew text (Mantua, 1562). A second Latin rendering belongs to the year 1587 (translated originally by Reuchlin?), when it appeared in the first and only volume of *Artis Cabalisticae Scriptores* under the editorship of Pistorius. This document, ascribed to the patriarch Abraham, aims to exhibit a system whereby the universe may be viewed methodically in connection with the truths given in the Bible, thus showing, from the gradual and systematic development of the creation and from the harmony which prevails in all its multitudinous component parts, that One God produced it all, and that He is over all. The English reader who wishes to become acquainted with this curious kind of learning should consult the word-for-word translation of K. Stenring, *The Book of Formation (Sepher Yetzirah) by Rabbi Akiba Ben Joseph,* (London, 1923).

55 Malter, *op cit.*, pp. 177-186.

56 *Op. cit.*, p. 464.

even many who were closely connected with the academies, were ardent disciples of mystic [occult] lore." Saadia, it is to be noted, lived in the East but his books and doctrines were carried to the West practically in his life-time.[57]

It seems correct to say that *certain elements* of this body of Jewish esoteric knowledge reached Western Europe much earlier than has been supposed by some Jewish scholars who have, in general, held the view that the occult mysticism of the Geonim did not find a place in the West until the thirteenth century. However, Jewish scholars do know that this body of material was brought over by a Babylonian, Aaron ben Samuel Ha-Nasi,[58] who emigrated to Italy in the first half of the ninth century, whence the Kalonymides family, in the tenth century,[59] carried the esoteric doctrines with them to Germany. Yet until the time of Eleazar of Worms (1220) these doctrines were held as private property of the Kalonymides and were kept secret until Judah the Pious (d. 1217), himself a member of this family, commissioned his pupil Eleazar to introduce the oral and written esoteric doctrine into a larger circle. Eleazer of Worms, who was strongly influenced by Saadia, became the most important literary exponent of the movement.[60] (The evidence that the cabalistic elements were not so closely guarded, as the mediaeval Jewish scholars maintain, is to be seen in Agobard, as mentioned above, and also, in an Anglo-Saxon work of the eighth century, which reveals some familiarity with the doctrines of the *Shiur Komah.*[61])

In Spain, the emotional side of the Jewish mind rose in revolt against the Aristotelian rationalism that had come to a rather dominant place in Jewish thought. And so, it may be said, that as this rationalism was stronger in Spain than elsewhere, so in turn, was the

[57] For the use of Saadia's commentary on the *Sefer Yezirah* in the West, see Malter, pp. 288f. With reference to Saadia's works in general, it can be said that the grammarian Jonah Ibn Ganah (990-1050), the exegete Abraham Ibn Ezra (1093-1167), the philosopher and codifier Maimonides (1135-1204), and numerous others, built on the foundations laid by Saadia Gaon. Their works are full of direct and indirect quotations from his writings. Some of Saadia's works became known even among the Franco-German Jews, at a very early period. Numerous scholars of the eleventh century in France, Germany and other non-Arabic countries, among them Rashi, quote Saadia and show familiarity with his views. See Malter, pp. 276-295.

[58] Cf. Ginzberg, *JE.*, I, 20f.

[59] See Ginzberg, *Geonica,* II, (New York, 1909), pp. 55 and 57.

[60] Ginzberg, "Cabala", *op. cit.,* pp. 464 f.

[61] See *supra,* n. 51. See also L. Blau, "Shiur Komah", *JE.,* XI, 298, quoting Zunz, *Literaturgeschichte,* p. 606.

cabalistic development as an emotional protest to be the stronger. The cabalistic elements in Spain, as they had found their way there in the wake of the gaonic and Saadianic materials, were to be syncretized with the Neo-Platonic philosophy among the Jews, (as among the Arabs also). Thus the Cabala in Spain was altered, whereas the Cabala as transplanted to Italy, remained, in general, unaffected by these extraneous philosophic influences.[62]

It is the Cabala in this form which the Spanish Christians received. Raymond Lullus[63] (*c.* 1225-1315), the most important of these who worked with this material, thus attempted to direct the cabalistic material into a *demonstrative* form, while the Cabala as it later affected Pico della Mirandola (1463-1494) and Johann Reuchlin (1455-1522) and many other Christians remained a *symbolic* theology. Thus we see a modified rationalism in the former, and room for the doctrine of the *via illuminationis* in the latter. It can readily be seen that these attitudes which go back in great measure to the writings of Saadia, were to exert a force upon the interpretations of Scripture among Jews and Christians, especially as to providence, eschatology and magical significations.

62 Ginzberg, *loc. cit.* The "Faithful Brothers of Basra" and the "Neoplatonic Aristotelians" of the ninth century had already left their marks on the Cabala in the East. And this accounts, in great part, for the form of the cabalistic material which was transmitted to Spain, and which was, in general, a gnostic form.

63 For important data on the relation of Raymond Lullus to the *formal, demonstrative* Cabala, see Carl Prantl, *Geschichte der Logik im Abendlande,* III, (Leipzig, 1927), pp. 155-177, especially p. 155, n. 74.

16

TWO AMERICAN JEWISH PIONEERS OF NEW HAVEN

By

Guido Kisch

New York

Introductory Remarks

The history of American Jewry in the past fifty years, has been enriched through the initiative of individual investigators as well as scientific organizations with much valuable research, many an interesting biography and enlightening source publication. Yet there are in it broad fields scarcely touched by research, the cultivation of which promises significant results. Particular importance may be attached to the study of the history of individuals and families. It elucidates not only the life and work of single personalities within the circle of their homes and their local communities, but at the same time throws light on the motives and background of the social life of the Jews in its ascending development. Compared with the numerous modern biographies and autobiographies of and by more or less prominent personalities of the Jewish life, the available documentary material on earlier centuries lags markedly behind even in point of quantity. The attention of the pioneer generations in America was directed more toward actual accomplishment and less toward the preservation of historical reports. Numerous invaluable historical documents perished for the lack of historical sense and understanding. Despite this the number of preserved documents is by no means inconsiderable. Many can be found in libraries and archives, only partially catalogued and accessible to the investigator; many slumber in the possession of private persons awaiting the day when they will fall into interested and competent hands. An attempt to organize a collection of the documentary material and an investigation of Jewish family history in America after the model of non-Jewish genealogical societies was undertaken several years ago and revived not long since, but it failed both times.[1] Even before the destruction of the Jewish communities in Germany the present writer made an

[1] The sole result was the first and only issue of the periodical, *The Saint Charles,* I (New York, 1935).

appeal there in 1936 to place at his disposal for scientific treatment any private letters which Jewish emigrants in the first half of the nineteenth century had written home and which, at that time, were in danger of imminent destruction.[2] This likewise met with no success. Only a lucky chance led to the discovery of letters from an unfortunate indentured servant to his relatives in Württemberg in 1818-1819. After more than one hundred years they were found among the papers of his cruel master in America, who had intercepted the correspondence of his slave.[3] The daily record which an artistically gifted and journalistically talented emigrant from Bohemia, S. E. Rosenbaum, had kept on his nine weeks' voyage from Hamburg to New York in 1847, a chronicle of exceptional charm, was another lucky find of this writer in the United States.[4] Such discoveries, insignificant as they may appear, assume all the more importance for the cultural history of the immigrant generations as the loss of material of this kind in Europe becomes more and more probable, except for that deposited in public archives.

The group of private documents which has inspired this essay must be considered in this light. Mrs. Stephen S. Wise has been so kind as to direct the attention of the writer to them and to place them at his disposal for scientific treatment, which is here gratefully acknowledged. They are miscellaneous papers handed down in her paternal family, Wassermann-Waterman, from the years 1838 to 1854. They fall into the following three groups:

I

1. A half-leather bound volume of manuscript poems by Sigmund Wassermann in the German language, entitled "Gedichte von Sigmund Wassermann, 18. Juli 1838." 235 pages written in ink, 11 x 17 cm; pages 71/72 are missing. The titles of the poems are indexed on page 231. Various dates from July 18, 1838 to August 25, 1839.

2. A leather bound volume of 158 pages, 10 x 16,5 cm. Sigmund Wassermann's travel diary covering his voyage from Bremen to New York (?) from May 14, 1841 till July 9, 1841, with a supplement running to Septem-

[2] Guido Kisch, "Privatbriefe als Quellen der jüdischen Familienforschung", in *Jüdische Familienforschung,* XII (1936), p. 706 and note 17.

[3] G. Kisch, "German Jews in White Labor Servitude in America", in *Publications of the American Jewish Historical Society,* XXXIV (1937), 11-49.

[4] G. Kisch, "A Voyage to America Ninety Years Ago. The Diary of a Bohemian Jew on his Voyage from Hamburg to New York in 1847", in *Publications of the American Jewish Historical Society,* XXXV (1939), 65-113.

ber 26, 1841. Chiefly poems composed and written down in pencil during the voyage, interspersed with a few notes concerning the weather and other aspects of the trip.

3. A small printed volume, perhaps the only copy in existence, *Gedichte* von Sigmund Wassermann. 162 pages. "Regensburg, 1841, gedruckt bei J. Reitmayr."

II

A. Six letters by Leopold Waterman dated:

1. New Haven, September . . . 1844, addressed to his parents and brothers and sisters in Bruck, Bavaria. The day was omitted. The letter was probably written in New York soon after his arrival in America and later mailed in New Haven. (Appendix, No. 1).

2. [Probably New York], June 9, 1854, addressed to his wife Nanny Waterman in New Haven. Farewell letter before embarkation for Europe. (Appendix, No. 2).

3. Paris, July 12, 1854, to L. and J. Waterman, New Haven. Letter on business.

4. Bayreuth, August 8, 1854, to Julius and William Waterman, New Haven. Letter on business.

5. Bayreuth, September 1, 1854, to L. and J. Waterman, New Haven. Letter on business with a personal postscript to Mrs. Nanny Waterman.

6. Bruck, September 8, 1854, to Julius and William Waterman. Letter on business.

B. Excerpts from Leopold Waterman's travel diary extending from June 10 until August 5, 1854. 40 pages quarto in Leopold Waterman's own hand and sent by him to his wife at New Haven (see the first item in the Appendix, No. 3).

III

Manuscript of eight sermons or addresses delivered in New Haven:

1. Leopold Waterman's first sermon, preached at the consecration of a new prayer hall after the secession of his group from the congregation Mishkan Israel; probably of 1846, some pages missing.

2. Rosh Hashanah Sermon, probably of 1846; text in full.

3. Hanukkah Sermon, probably of 1846; fully written out, reproduced in the Appendix under No. 5.

4. Address delivered on May 27, 1849, on the occasion of the reunion of the New Haven congregations, when Leopold Waterman accepted the Presidency of the congregation Mishkan Israel and its first Cantor, Rev. Samuel Zunder, was inducted in office; text in full.

5. Sermon for Pesah; fully written out.

6 and 7. Sermons for Shabuot and another undefined occasion; fragmentary sketches.

8. Lecture: The Periods of Human Life; fully written out. Since the sermons No. 4-7 repeatedly refer to the New Haven synagogue and the reunion of the congregations and since, according to *Israels Herold* No. 10, of June 1, 1849, the presidential address was delivered on May 27, 1849, all of them must date from the period of 1849 to 1854; the sermons No. 1-3 from a date earlier than 1849, probably from 1846.

Two Young Pioneers

Only a fragmentary yet an exceedingly interesting picture can be reconstructed from these documents. Two impressive characters emerge, molded on the high intellectual level of the early emancipation period in Germany. Sigmund and Leopold Wassermann came from a well-to-do, even wealthy good-Jewish family which originated in Bruck, near Erlangen, Bavaria. Mrs. Wise has a drawing of the very presentable ancestral home there and pictures of the members of the family. Unfortunately present conditions do not permit any further archival investigations in Europe into the origin and history of the Wassermann family. They would undoubtedly reveal a distinguished Jewish milieu economically prosperous and of high intellectual culture. Sigmund and Leopold Wassermann as well had a good Jewish and an excellent secular education. Unusual literary talent won for Sigmund Wassermann as early as his third year in America an instructorship for German language and literature at Yale College in New Haven. The knowledge of Judaism and his Jewish interests made of the businessman Leopold Wassermann a successful lay preacher, leader and organizer of the nascent Jewish community of New Haven. Both brothers from their early youth were imbued and inspired by the ideals of Judaism, developing to Jewish national consciousness and enthusiasm for Zion. Such ideas and sentiments, once kindled so early, could not but suppress the seeds of German national feeling as so often awakened in the German-Jewish youth by the influence of the German schools and the Jewish political activities of Gabriel Riesser. In their individuality Sigmund and Leopold Wassermann represent a quite exceptional case of mental development and character formation deviating from the general. There was no *Lebensraum* for such spirits in the reactionary Germany of the nineteenthirties and forties with its op-

pressive and restrictive Jewry legislation. The brothers Wassermann though unburdened by financial difficulties, drew the inevitable conclusion and sought a new fatherland in free America. Only men of their calibre could fully comprehend at the first glance the blessings of this country which, despite the continuance and cultivation of the Old-World family ties, they would never abandon. Today it is idle to speculate on what development the history of the Jews of Europe might have undergone if the majority of the German Jews at that time had thought and acted similarly or even if only the Central European "To America" ("Auf nach Amerika") movement of 1848/49[5] had had greater success. For the historian and sociologist it is interesting to note that the Bruck family Wassermann which later, in Europe, brought forth geniuses like Albert Einstein and Jacob Wassermann, had sent pioneering spirits like Sigmund and Leopold Wassermann to America as early as the beginning of the forties of the nineteenth century.

Sigmund Waterman

The first to arrive was Sigmund Wassermann who set foot on American soil on July 9, 1841. Three years later we find him already installed as instructor of German language and literature at Yale College, a highly respected position. This was no mere accident. Sigmund Waterman had probably even before leaving Europe pursued studies in the history of literature. This implies that he was among the first Jewish youths to make their way through the narrow gate of the ghetto early in the nineteenth century and who under the urge for a higher education streamed to the universities.

More than that, however, Sigmund Waterman had distinct talent for poetry. The two manuscript volumes of poetry preserved in the family are eloquent witnesses to it. Whoever reads them is seized by the poetic ardor of their author and senses the ease with which the young poet masters the German language. Strong feeling and a wealth of thought strive for a natural expression beautiful in form and powerful in impressiveness. Poetry seems to have been the obvious channel for expressing the ideas and emotions of this young man, full of enthusiasm for everything noble and lofty. His diary

[5] G. Kisch, *Israels Herold*: The First Jewish Weekly in New York", in *Historia Judaica,* II (1940), p. 69 and note 9.

of the voyage to America is a unique counterpart to the travel descriptions of the Bohemian painter, S. E. Rosenbaum: Sigmund Waterman recorded all the impressions of his almost eight weeks' voyage across the ocean in poetic form. This diary, like Rosenbaum's, deserves publication in full, which space limitations, unfortunately, here do not permit. In the whole great mass of travel diaries of America voyagers not many human documents are likely to be found comparable to these two. Every experience, every impression and emotion during the voyage are captured and recorded in a poetic mold: Sea and Sky, God and Earth, Storm on the Ocean, "Evening at Sea," Faith, Blessing, Change, "Worth of Man," "A Bird Perching on the Mast Near the English Coast," "Good Captain Arnsfeld;" but also "Rough Fellow-Travellers" and even "Seasickness." Sentimental emotions and reflections on the past play a large role in the poetic content of the diary. It even contains a fragmentary essay: "Glance at the Past" in prose with strong emphasis on martyrdom and thoughts about the life to come. Throughout the whole volume, however, runs the expression of love and yearning. The young bard, the fashioner of this eternal material of poetic inspiration had to leave his adored sweetheart and later wife, Johanna, behind in Europe. Her image accompanies him through all the vicissitudes, the hope for a happy reunion gives him the strength for enduring everything; it is the goal of all his desires in diverse variations, the content of many of his stanzas.

Strong poetic talent is discernible in all his verses, even if it does not find everywhere equally felicitous expression. One short example must here suffice:

Aus dem Osten steigt des Tages Schimmer,
Morgenrot mit rosigtem Geflimmer
Krönt die Küsten,
Wellen brüsten
Sich mit ihrer goldnen Krone.

Aber mit des Tages Strahlen
Werden neu auch meine Qualen
Und die Sehnsucht neu erglüht,
Wenn des Traumes Reich entflieht.

In various poems the influence of the German classics is unmistakable, especially of Schiller, who even in post-Mendelssohnian

times was the favorite poet of German Jews as the protagonist for freedom and the dignity of Man. In the travel diary the names of other poets are also expressly noted, Herder, Klopstock, and Schlegel. Klopstock, the author of the *"Messias,"* who—as is well known—dedicated an ode to Emperor Joseph II as the liberator of the Jews, seems to have made a particularly deep impression on Sigmund Wassermann. Reading the *"Messias"* had once inspired him to write an ode of admiration in Klopstock's own style: "On Klopstock's Messias, to My Beloved," which begins with the verses:

(Über Klopstocks Messias an meine Geliebte)

Geliebte, ich übergebe Dir dankend den letzten Teil des Messias,
Der mich so oft schon entzückt in goldenen Träumen gewiegt.
Ach ! es wäre Verbrechen, mit stammelndem, lallendem Munde
Zu äussern, was ich empfinde, wie gross er ist, der Meister.

Without doubt it was Klopstock's solemnity of diction and the deep religiosity of his thought that stirred such admiration in Sigmund Wassermann. Faith and trust in God are another frequently recurring motif in the poems of the travel diary. But aside from a short note "Shabbat Rosh Hodesh" in Hebrew letters, it contains no remark and no poems of specifically Jewish character.

In the older, much more comprehensive volume of Waterman's poems, on the other hand, thoughts on Jewish religiosity and Jewish fate are expressed more frequently. Unfortunately, space here does not permit to present the full evaluation which this book of poems deserves. From the following titles of some of the poems it may be seen what themes occupied the poet's mind: The True Religion; The Spirit of the Mother; To My Mother; The Unfathomable; The Aim of Life. In the poem "The True Religion," the aftereffect of Lessing's ideal of the equal value of the different religions is still felt. The ever more impressive fetters of political reaction, however, which affected the Jews more than any other class of Germany's population, must have been a specially heavy burden to the Jewish youth. They had to realize that all paths to a prosperous economic and intellectual development in the "Fatherland" were being barred to them, that their native land was not their fatherland. The "good German youth," *der deutsche biedere Jüngling,* as Wassermann repeatedly called himself, clearly recognized the

grievous, nay tragic, dilemma in which he, his entire people, were engulfed:

Soll mir wählen zwischen zweien Dingen,
Gleich mir teuer, gleich mir anverwandt,
Will ich süsse Freiheit mir erringen,
Lass als Opfer ich das Vaterland.
Bleib ich, ach, im teuren Vaterlande,
Wo verfolgt der Jud, als Aussatz gilt,
Wo ihm schnaubend folgen Hass und Schande,
Find ich hier des Lebens schönes Bild?

In the fragmentary poem "The Youth's Fantasy" six stanzas of which are unfortunately missing, the young poet believes he has found the solution: the return of his people to the land "which long ago He promised unto us":

Herr Gott, auf Deinem Himmelsthrone,
Sieh herab auf Deine schwachen Erdensohne.
Ich fleh zu Dir mit aufgehobnen Händen,
Dass Du uns Hilfe, Rettung mögest senden.

Sieh ! Dein Volk, das Du Dir auserlesen,
Das immer Dir Dein Lieblingsvolk gewesen,
Liegt beraubt der Freiheit Freuden
Tief gedrückt von schwerer Knechtschaft Leiden.

Um Freiheit beten alle Dich nun an,
Wenn Du nur gehst mit Hülfe uns voran,
Du zerbrachst schon oft der Sklaven Ketten
.....

Dann erheben sich des Dankes frohe Lieder
Und Gott der Herr sieht gnädig auf uns nieder,
Und seine Vatergüte woll'n wir preisen
Im Land, das lang er uns verheissen.

Ein jeder ruhe dann nach Gottes Worte
Bei seiner fetten Rinder Horte,
Ein jeder baue seinen Weinberg an
Und spreche: Das hat Gott getan.

Soon, however, the poet came to realize that the idea of Zion was only "the fantasy of a youth." In the poem "The Israelite

Youth," *"Der israelitische Jüngling,"* he describes with deep emotion and stark realism the desperate situation of the Jewish youth of Germany in his day. The cold reality destroys the sweet dreams of Zion, which must be replaced with more realistic plans:

Besser fern in fremden Landen sterben,
Als zu leben in Verworfenheit,
Besser rasch zu fliehen als verderben,
Besser als zu schmachten in der Niedrigkeit.

Drum wende ich den Fuss von hinnen,
Ich lasse stöhnend nur ein Friedensgrab,
Dort nach Frankreichs freien Himmelszinnen
Setz ich mutig hin den Wanderstab.

Wandle hin, wo's freier . . . lebet,
Nach Amerikas beglücktem Strand,
Und wenn leichter sich der Busen hebet,
Jauchz' ich wonnig einem neuen Vaterland.

These lines were written in the Spring of 1839. Two more years had to pass before his yearning for a true homeland found its enduring fulfillment in America.

Sigmund Waterman retained his position at Yale College from 1844 to 1847. During that time he began medical studies there which he finished in 1848, obtaining the degree of Doctor of Medicine; the first Jew to receive a degree from Yale. He established a medical practice in New York City, where he was appointed Police Surgeon, a post he filled for thirty years. In the time of the Civil War Governor Morgan made him draft surgeon in which capacity he did meritorious work during the riots of 1863. He was instrumental in introducing spectroscopic analysis into medical practice and became Professor of the Diseases of Urology in the Eclectic Medical College of the City of New York. For fifteen years he was physician of the Hebrew Orphan Asylum of New York and was active in many charitable and medical institutions. His name is also recorded among the founders of the Maimonides Library. He died in New York City on March 16, 1899, in his eighty first year.[6]

[6] The last mentioned biographical data are based on the *Yale Obituary Record*, 1890-1900, made accessible to the author by courtesy of Yale University. Strangely

Leopold Waterman

Leopold Waterman grew up in the same environment and was brought up in the same spirit as his elder brother. He was no less talented and likewise had a poetic vein which manifested itself, however, more in masterly prose than in verse. The documents available contain no information about his youth in Europe and the reasons for his emigrating to America. It would seem that the rapid successes of his relatives and friends in the land of freedom all the more induced the young businessman to follow in their wake, since favorable prospects were opening in the field of commerce, and the road was already partially smoothed out for him. On the 22nd of June, 1844, Leopold Wassermann left Europe and made the voyage from Bremen to Baltimore in forty nine days in the frigate *Everhard.* From there he traveled by steamer and rail via Philadelphia and New York to New Haven to join his brother Sigmund Waterman. The trip across the Atlantic and his landing in America are described in some detail in a highly interesting letter to his parents and other members of his family. Since such letters of Jewish immigrants are rare, publication of this cultural historical document in full is justified. Especially noteworthy are Leopold Waterman's philosophic detachment in describing the events and his spontaneous enthusiasm for America. "Over the accommodations of the ship, the treatment to be expected and the manner in which the needs of the passengers are cared for on the Bremen vessels" writes Leopold Waterman, "I draw a dense curtain so as not to frighten off anyone by my portraiture; for, looked at coolly, it is only a short time that one must endure, it is true, a good deal; and America is a country not unworthy of a sacrifice such as the emigrant is forced to offer. I at least, no matter what my lot may be, shall never regret having sought a new home, where only one comes to the recognition of true human dignity and in the free employment of one's own strength can become the master of one's own fortune." Leopold Waterman made zealous and energetic use of these powers and his labors bore rich reward. His economic success must have been considerable and swift. Ten years after his arrival in America he was the head of an important business establishment, L. and J. Waterman, on Chapel

---

enough, Sigmund Waterman's name is not even mentioned in Solomon R. Kagan, *Jewish Contributions to Medicine in America* (second ed., Boston, 1939).

Street in New Haven living in his own commodious house on Orange Street and owning a good deal of additional real property. On June 9, 1854, he set out on a business trip to Europe where he bought goods running into a large sum of money for shipment to America. The trip led him to Liverpool, London, Paris, Bruck, Bayreuth, Offenbach, Fürth, Leipzig, Plauen, Augsburg, Paris, and London. All letters which Leopold Waterman wrote during his visit in Europe have been preserved and testify to his great ability and probity as a man of business. He also kept a travel diary full of points of interest for the family history. The splendid power of observation, the personal modesty, the serene and lucid mind that speak from these pages lift them above the level of the ordinary diary and make them a document valuable for understanding that period. Although passenger traffic between America and Europe was then already mostly carried by steamers, which nevertheless took some three weeks for a crossing, the voyage was by no means without danger. Leopold Waterman and his family were aware of this, witness the personal leavetaking and the letter of June 9, 1854, on the eve of his departure. The hope that the "God of love would bring him back again safely to the bosom of his family" unfortunately was never fulfilled. Leopold Waterman lost his life at the age of only thirty-two on his return trip to New Haven from his European journey. The steamship *Arctic,* which he had boarded after having exchanged his return ticket with a cousin, sank on September 27, 1854, in collision with the S. S. *Vesta* near Cape Race off the coast of Newfoundland, with loss of 350 lives. Among them, Leopold Waterman became a victim of the storm driven seas.[7] With him was drowned one hope of Judaism in America long before his energies could have become fully developed in behalf of the Jewish community.

Beside his family and business activity Leopold Waterman had a third field to which he applied his powerful energies with devotion and enthusiasm: Judaism and the Jewish community. Unfortunately, only few reports of his activities in Jewish religious affairs have been preserved; but the few documents which escaped destruction indubitably establish the fact that Leopold Waterman had in a pro-

[7] For details about the disaster of the *Arctic,* see *The New York Atlas,* XVII, No. 20 of October 8, 1854, p. 2, col. 7; No. 21 of October 15, p. 2, col. 1-3; *The United States Magazine,* I (New York, 1854), pp. 199-203; *The Independent,* VI (New York, 1854) of October 12, 1854, p. 324, col. 1.

nounced degree the qualifications for Jewish leadership in the best sense of the word, gifted and with the capacity for playing a significant role in American Jewish life. He became acquainted with Isaac M. Wise when the latter was preaching in the New Haven synagogue in 1846 and the two men "formed an intimate friendship which lasted to the end of Waterman's life." In Wise's *Reminiscences* Waterman is recalled as "a noble man, a poetically gifted idealist."[8] He enthusiastically joined in the furthering of Jewish intellectual interests. When, in the Spring of 1849, Isidor Busch, after the failure of the revolution of 1848 in Austria, had fled to America, and there planned the publication of the first Jewish weekly in the German language, Leopold Waterman was among the first to show interest and to promote the project. In the first issue of *Israels Herold,* prominence is given to a noteworthy dedicatory poem by Leopold Waterman, *Ermutigung,* which in inspired and impressive verses sings the praise of the liberation of Israel and its promising development in the land of freedom.[9] In a later issue, he published a poem, *Gebet,* which not only displays deep inspiration but also the unusual gifts of the poet, who undoubtedly—like his brother— in this instance wrote under the influence of Klopstock's works. The idea of an American Jewish weekly not only received intellectual support from Waterman but also material assistance. His name is repeatedly found in the list of those who voluntarily and without remuneration attended to the advertising and circulation of the paper.

In 1851 when Louis Kossuth, the famous Hungarian patriot, visited New Haven, he was greeted by a group of notable citizens which included Leopold Waterman as the Jewish representative.[10]

Yet these are merely minor episodes culled from Leopold Waterman's Jewish activities. Most of his energy he applied to the growing Jewish community and its religious institutions in the new home of his own choice, New Haven. At the one-hundredth anniversary

[8] Isaac M. Wise, *Reminiscences,* edited with an introduction by David Philipson (Cincinnati, 1901), p. 27 f. No article on Leopold Waterman is found in the *Jewish Encyclopedia;* cf. G. Kisch, *"Israels Herold", Historia Judaica,* II (1940), p. 74 note 16.

[9] G. Kisch, *loc. cit.,* p. 73 f. Other poems appeared in the early volumes of the *Deborah;* I. M. Wise, *Reminiscences,* p. 27.

[10] Cf. Rollin G. Osterweis, "Mishkan Israel—1840-1940", in *Congregation Mishkan Israel, New Haven, Conn., Centennial Volume* (New Haven, 1940), p. 11.

recently celebrated by the congregation Mishkan Israel of that city[11] the memory of Leopold Waterman ought to have been honored with the grateful recognition of him as the congregation's spiritual creator, and first "lay preacher." He must be credited with substantial services toward the institution of the first synagogual services and in the erection of the first synagogue in New Haven. Leopold Waterman was without doubt the intellectual leader of the young community and even succeeded—if only temporarily—to unite the conservative and the reformatory elements in one congregation and attendance at the same religious services. This was all the more remarkable since only a short time before Leopold Waterman had been instrumental in the previous secession from the congregation Mishkan Israel.[12] Now in recognition of his meritorious services he was elected the first President of the re-united congregation. In the issue No. 10 of June 1, 1849, *Israels Herold* contained a detailed report on the subject which reads as follows: "It is no doubt common knowledge that the Jews of this city formed two separate congregations. We rejoice to learn that the difficulties that had brought about this separation, have been overcome in a manner satisfactory to both factions and that these now attend worship unitedly in a room of the Brewster House. Complete concord now rules among them and, as we learn from a reliable source, they are resolved as soon as possible to erect a synagogue, adequate to the needs of their quickly growing membership. A committee has been appointed with full powers for purchasing an appropriate lot for the new building, and it is also authorized to make all requisite preparations for it."

At these services on the high holidays Leopold Waterman voluntarily assumed the honorary role of preacher. The enthusiasm for Judaism which imbued him and actually rose to the point of Jewish national consciousness, and his desire to awaken the ancient spirit of Judaism in a worthy modern form to new and invigorated life, made him an ideal herald of the eternal verities, a man who, in

11 See preceding note. The historical facts subsequently presented in the text remained unknown to the authors of the *Centennial Volume.*

12 The following account, going back to the year 1846, is all I. M. Wise, *loc. cit.,* p. 27, has to offer: "Leopold Wassermann of blessed memory, . . . had seceded from the congregation, with several others, had organized a new congregation, and had furnished a hall to be used as a temporary synagogue."

wealth of thought and power of speech, did not fall below any of the European rabbis officiating in America in those days, although from genuine humility he himself would not have his sermons called sermons but merely "addresses." Even the small number of these sermons or addresses from Leopold Waterman's hand which have come down to us, are sufficient grounds for the foregoing estimate; they testify to his enthusiasm for the Torah whose content was well known to this lay preacher and was cited by him in the Hebrew text. At the same time they mirror important and hitherto almost forgotten stages in the history of the congregation Mishkan Israel of New Haven.

Five sermons are preserved in their entirety; of three others we have only fragmentary outlines. A Hanukkah sermon as a contribution to the history of Jewish lay preachers in America is printed in full in the appendix to this essay.

All the sermons exhibit good organization and great buoyancy of thought, depth of feeling, persuasiveness and dignified diction. Leopold Waterman must have been an excellent speaker. He would preface his sermons with a short prayer, which at the same time was a welcome to the congregation once again reassembled on a festive occasion after a longer interval. In the Shabuoth sermon[13], he prays for God's protection of those "who travel the wildly surging seas in flimsy vessels". It was the time of the year which was commonly favored by emigrants for the crossing to America. The first part of the sermons is devoted to the historical and religious explanation of the given festival and its meaning; in the second part follows its practical application to the Jewish life of the present.

The repeatedly recurring thought that Jewish national feeling must be quickened into new life, finds pregnant expression in the Hanukkah sermon. "Our people succumb more and more to enervation . . . and everyone who earnestly strives for the preservation of

13 *Israels Herold,* no. 10 of June 1, 1849, published on page 78 the following report on this sermon and the services: "Am vergangenen Schebuothfeste versammelte sich eine zahlreiche, sehr achtungswerte Zuhörerschaft, worunter auch mehrere Nicht-Israeliten waren, infolge dessen das "New-Haven Paladium" einen sehr schönen Bericht in seinem Blatte vom 28. Mai lieferte. Es versichert, dass der Gottesdienst, obwohl, wie sich von selbst versteht, hebräisch, einen erhebenden Eindruck machte. Nach dem Gottesdienste hielt Herr L. Waterman eine deutsche Anrede, welche nach allgemeiner Versicherung von der schönsten Begabung des Autors zeugt, und in sehr beredter Weise für die den Anforderungen unseres Zeitalters angemessenen Reformen sprach."

his faith and the welfare of his brethren, must regard with melancholy eyes the sad remnants of this once most mighty people. Years of oppression and enslavement have dulled that nation-consciousness so indispensably necessary for the freedom of a people; in place of a close affectionate union, very often differences of opinion among our own co-religionists effect disturbance and destruction. Here in this beautiful land of freedom where we can devote ourselves unmolested to the practice of our religion, such conditions are all the more deplorable" . . . "The opinion concerning our faith which is spread abroad by ourselves must, particularly in the present period, exert an incalculable influence; and the fate of our nation in the century to come may well depend on the way in which today's generation makes use of the present moment". Such words manifest a personality conscious of all responsibilities, one who clearly realized the reach of the decisions and actions of his contemporaries for the religious future of the subsequent generations in America.

The sensitive reader will guess the aims of such trains of thought. The ideas of transforming the religious life and all the religious institutions of the community to conform with the contemporary requirements, only touched on in the Hanukkah sermon, are in the Pesah sermon expanded into a broadly conceived and far-reaching program of reform. It is the longest of the preserved sermons. The everlasting and inviolable legal force of the divine Torah is the point of departure. Contrasted is the historical fate of the "Jewish nation." "This once so mighty people is dispersed in every corner of the globe, the splendid city and the magnificent temple are dust and ashes and the palaces of its enemies rise on their ruins. With them vanished our nationality—our judges, our prophets, are no more." Religious indifference and internal discord strangle the feeling of nationality. But the universal urge for freedom and the spirit of the new era shall also revivify Judaism. "Reform" is the command and the need of the hour. Then follows a discussion of the concept of reform, which Leopold Waterman wanted to have understood only in the sense of a transformation of the external forms of the religious ceremonies, "the nature of religion, however, remains inviolable and eternal and frail human reason trembles before its might." The reform of the ceremonies is to be preceded by a self-questioning, the application of the religious principles is to show in

the moral behavior towards one's fellowmen, in mutual respect and peaceable collaboration within the community. At religious services disturbing usages are to be discontinued, propriety and decorum are to be maintained in the house of God, attendance at the synagogue shall be regular, enjoined by inward urge and not by external coercion. Hymns shall be introduced and enlightening words spoken. Conscientious and competent teachers shall win over the hearts of the children for Judaism and familiarize them with the religious doctrines "in the language of our people," "to enable them to grasp the meaning and spirit of our faith in all its depth and to pattern their lives after it." "We must tear ourselves out of our lethargy; great efforts are demanded of us and united efforts must we make in order to reach our goal. . . . Our congregation was founded many years ago and yet comparatively little has been accomplished, while others surpass us even in the first year of their existence."

Who would doubt the sincerity of enthusiasm, the nobility of endeavor, the purity of ambition which find expression in this program of reform? The central idea alone of winning over and inspiring the youth in behalf of Judaism testifies to the ethical earnestness with which the entire plan was conceived and was to be carried out in the sense of its originator. It was denied to him to collaborate in its materialization, and to live to see it. Was it a dim presentiment which made Leopold Waterman conclude his Pesah sermon with the words: "Many of us are perhaps nearer the grave than they think; soon perhaps the hourglass of our life-time will have run out, and a narrow cold grave is all that will remain as property of our decaying bodies. Well for us then if our guiltless souls can make the flight to the bright beyond, if we may draw near the fountain head of clarity and receive from the hand of the Highest the reward for our good deeds."

APPENDIX

Selection from Leopold Waterman's Papers.

1

Leopold Waterman's Letter to his Parents about his Journey to America.
New Haven d. Septbr. 1844

Meine teure Ältern und Geschwister!

Lasst mich hineilen zu Euch, meine Lieben, lasst in Euren Armen mich ausruhen von den Beschwerden der Seereise, an Eurer Brust mir Kraft und Mut sammeln zu einem regen und unermüdeten Streben. — Ach! vergebens denke ich mich zurück in der Vergangenheit liebliche Tage, dem Träumenden gleich, der nach dem Erwachen

die Augen schliesst, um den süssen Traum festzuhalten und weiter zu spinnen, der während des Schlummers ihn angenehm umgaukelte;— die beglückenden Gebilde der Phantasie fliehen erbleichend zurück vor der Wirklichkeit und nichts bleibt mir als "Erinnerung".—O, dass ich meine Feder tauchen könnte in den Strom der Empfindungen, damit ich im Stande wäre, Euch ein Bild meiner Seele zu entwerfen, die von der Neuheit des Erlebten angeregt, sich auf einem Punkt befindet, wo nie gekannte Gefühle, nie zuvor gehabte Stimmungen sie durchfluten. Doch so wenig es in der Macht des genialsten Künstlers liegt, seiner noch so trefflich dargestellten Skizze Geist und Leben einzuhauchen, eben so wenig vermag meine schwache Hand durch die arme kalte Sprache der Schrift die Regungen wiederzugeben, die in meinem Innern hin und herwogten wie Ebbe und Flut.

Indem ich es versuche, Euch eine flüchtige Schilderung von unserer Seereise zu machen, kehre ich zu dem Tage zurück, an welchem ich von Bremerhaven aus an Euch geschrieben habe. Wie ich in jenem Briefe, den Ihr empfangen haben werdet, bemerkte, engagirten wir uns auf der Fregatte "Everhard" nach Baltimore, während unsere Ware auf "Antilope" nach New York gesandt wurde.—Samstag den 22. Juni früh 4½ Uhr verliessen wir den Hafen und liefen bei günstigem Süd-Südost Wind um 9½ Uhr aus der Weser in die Nordsee ein, worauf uns alsbald der uns begleitende Lotse verliess. Im Osten war die Sonne aus dem Schosse des Meeres aufgetaucht, mit ihrem blendenden Lichte die sanften, blaugrauen Wogen beleuchtend, die davon erglänzten wie funkelnde Krystalle; das Himmelsgewölbe lag heiter über uns ausgespannt, und mit der Ruhe, die ringsumher herrschte, senkte sich süsser Friede uns ins Herz. In den darauf folgenden Tagen passierten wir den englischen Canal (Canal la Manche), in welchem uns der Anblick des romantisch-schönen Kreidegebirges und der grossen Anzahl Schiffe (wir zählten 140) angenehm überraschte, worauf alsdann unser Fahrzeug auf den Wogen des Atlantischen Meeres stolz und mutig seine Bahn verfolgte. In der Nacht vom 24.-25. July hatten wir Sturm; ich lag wie alle anderen Passagiere in tiefem Schlaf, als ich durch mehrere, rasch aufeinander folgende, heftige Stösse geweckt wurde. Auf das Verdeck eilend, bemerkte ich, dass die Segel eingezogen wurden; mit mattem Schimmer stahl sich das blasse Mondlicht zuweilen durch das düstere Gewölk, welches sich am Horizont auftürmte und ihn verdunkelte. Immer höher hob sich unser Schiff, immer tiefer wurde es wieder hinuntergeschleudert; in wildem Grimme heulte der Orkan durch die Masten und Taue, die Fluten peitschend, die unter lautem Getöse an den Planken unserer Fregatte zerschellten, und ihren schneeweissen Gischt weit über unser Haupt hinausspritzten. In starken, rauschenden Güssen strömte der Regen herab; das Rollen des Donners, das Leuchten des Blitzes, der den dichten Wolkenschleier nun zerriss, um einen Moment die krasse Szene zu erhellen, erweckte Gefühle in meiner Brust, deren Dartstellung ausser dem Bereiche meiner Feder liegt und von denen Euch nur Euer Selbstempfinden einen schwachen Begriff möglich macht. Merkwürdig ist es, dass gerade in den Stunden der Not die Furcht ganz in den Hintergrund tritt, und einer kalten "Resignation" die Oberhand lässt. "Der Mensch gewöhnt sich an Gefahr wie an Vergnügen; die oftmalige Wiederkehr derselben schmälert ihre Wirkung und macht ihn gleichgültig für beide".—

Ein heiterer schöner Tag folgte dieser schaurigen Nacht, und bald war diese bei den Meisten selbst aus der "Erinnerung" verwischt. So eilt der Mensch mit dem Strom der Zeit leichtsinnig an den wichtigsten Momenten seines Lebens vorüber; die Vergangenheit sinkt hinter ihn hinab, als wäre sie nie Gegenwart gewesen. Vielleicht wäre es auch für mich besser, könnte ich in dem "Jetzt", in dem "Genuss", das "Verlorne" und das zu "Hoffende" vergessen!—

Über die innere Einrichtung des Schiffes, über die Behandlung, die man zu erwarten hat, und endlich über die Art und Weise, wie für die Bedürfnisse der Passagiere auf den Bremer Fahrzeugen gesorgt ist, ziehe ich einen dichten Schleier um niemand durch mein Gemälde abzuschrecken; denn beim Lichte betrachtet, ist es ja doch nur eine kurze Zeit, in welcher man freilich Vieles erdulden muss, und America ist ein Land, das eines Opfers, wie der Auswanderer es darbringen muss, nicht unwürdig ist. Ich wenigstens werde es (welches Los mir auch bestimmt ist) nie bereuen, da eine neue Heimat gesucht zu haben, wo man erst zu der Erkenntnis wahrer Menschenwürde gelangt und in der freien Anwendung seiner Kraft der eigene Schöpfer seines Glückes werden kann.—

Von der Seekrankheit, von welcher fast alle schon in den ersten Tagen überfallen wurden, blieb ich allein verschont, doch half mir dieses weiter nichts, als dass ich

bei meiner Ankunft in New York ein Brechmittel einnehmen musste, um einer schwereren Krankheit vorzubeugen, welche gewöhnlich die Folge von dem Ausbleiben der ersteren ist. Die Schiffsleute rechnen circa 1100 deutsche Meilen von Bremen bis Baltimore; bei günstigem Winde legte unser Fahrzeug oft 54 deutsche Meilen in 24 Stunden zurück, doch war es auch oft der Fall, dass es in derselben Zeit keine zwei Meilen zurücklegte.—

Nach einer 49 tägigen Fahrt, kamen wir gesund und wohlbehalten in Baltimore an und setzten an demselben Tage unsere Reise per Dampfboot und Eisenbahn über Philadelphia nach New York fort. Diese Reise welche wir bei nicht mehr als 4 ¼ Dollar Kosten in 32 Stunden gleichsam im Fluge abmachten, war die angenehmste, die ich in meinem Leben hatte, und es wird mich deshalb nie gereuen, diesen Weg eingeschlagen zu haben. Abgesehen davon, dass wir viel bequemer und in besserer Gesellschaft reisten, als es auf dem New Yorker Schiff gewesen wäre, hatten wir auch eine schnellere Fahrt, da letzteres erst ankam, nachdem ich schon 5 Tage in New York war. Unsere Ware erhielt ich in gutem Zustande franko, und obgleich dieselbe in das Mauthaus gebracht wurde, so brauchte ich doch nichts dafür zu bezahlen. Während meiner Anwesenheit in New York logierte ich bei I. Levin, wo ich freundschaftliche Aufnahme fand; Philipp Frankenheimer, zu einem flotten amerikanischen Gentleman herangewachsen, und Ph. Pfeifer, die zum Einkauf in New York sind, nahmen mich jauchzend in Empfang. Ersterer welcher Babett und Jette hierherbrachte, während ich in New York zurückbleiben musste, erwartet seine beiden Brüder, um alsdann nach Hause zu schreiben;— Samuel ist im Süden, wo er mit Pfeifer einen Store hält; in Verbindung mit Philipp errichten sie daselbst noch zwei Stores (Läden) und ich bin zu einem derselben als Commis engagirt. Die Bedingungen sind noch nicht festgestellt; für mich ist es im ersten Jahre sehr vorteilhaft, da ich mich hierdurch mit den Sitten sowie mit der Sprache des Landes am besten bekannt machen kann. — Wer hier Kenntnisse besitzt, dem wird es ein Leichtes, sich durchzubringen; so z. B. würde ich mir durch Klavierunterricht ein angenehmes Leben machen können, wenn ich den Handel nicht vorzöge. Es lässt sich indessen vorher nichts bestimmen, man benützt, was der Augenblick darbietet.—

Die Ankunftsanzeige oder vielmehr die Abfahrtsmitteilung, welche wir von Bremerhaven aus hierher sandten, traf erst nach uns ein und Ihr könnt Euch daher die Überraschung der Unsrigen selbst vorstellen. Über die Verhältnisse unseres lieben Sigmunds bist Du schon zu gut unterrichtet, um sie Dir hier nochmals näher zu schildern, lieber Vater; er ist noch schöner eingerichtet wie Du, lebt hier sehr geachtet und hat erst kürzlich für seine Verdienste als Professor der deutschen Sprache von den Studenten ein Dankschreiben erhalten. Nicht so gesund wie unsern Sigmund traf ich unsere Johanne an; ihr "Dicksein", welches Erstern zu der Meinung veranlasste, sie sei schwanger, ist Folge einer Krankheit, die sich mit Gottes Hülfe wieder heben wird.

Und nun wünsche ich Euch Allen ein herzliches Lebewohl! Der allgütige Vater erhalte Euch im Genusse freudenreicher Tage gesund und glücklich und mache Euer Leben dem heitern Frühlingsmorgen gleich. Die Kraft, die ich jetzt in ächter Jugendfrische in mir fühle, der frohe Mut, welcher in meinem Busen lebt und mich anregt zu einem tätigen unermüdeten Wirken, lässt mich auf eine erfolgreiche freundliche Zukunft hoffen. Möge mir der Allmächtige auch ferner mit seinem Segen beistehen und mich in den Stand setzen, Euch durch Handlungen zu überzeugen, dass ich Eurer Liebe würdig bin. Ich küsse Euch und verbleibe mit unveränderlicher Gesinnung Euer Sohn und Bruder

Leopold Waterman

care of Mr. Sigmund Waterman, Professor of the German language on the Yale College, New Haven State of Connecticut, Nord-Amerika via Havre.

Meine sämtlichen Verwandten, Freunde und Bekannte grüsse ich mit der vollen Wärme eines innig fühlenden Herzens. Sie sind mir alle zu lieb, als dass ich mit der Benennung Einzelner eine Ausnahme machen könnte.

2

Farewell Letter to Mrs. Nanny Waterman, New Haven.

Meine liebe Nanny!

Dank! Herzlichen Dank! für Deine liebevollen Abschiedsworte. — So ungekünstelt und deshalb so ergreifend, so rein und deshalb so wahr. — Gewiss sie kamen

Dir vom Herzen, denn sie drangen ja so voll in das meinige, gewiss Du vergossest Tränen, als Du sie aufs Blatt niederschriebst, denn ich habe ja auch geweint als ich sie las. Ja, geweint, recht herzlich, recht bitterlich geweint. Und Gott sie Dank, dass mein Herz bei all seiner äusseren scheinbaren Kälte noch so weich, so zärtlich ist; Gott sei Dank, dass ich ein Wesen *mein* nennen kann, das die zarteste Saite desselben so leicht zu berühren vermag.— Beruhige Dich, liebe Nanny, ich will es auch tun; der Gott der Liebe wird über Euch wachen und mich glücklich wieder in Eure Mitte zurückführen. Lebe wohl! Gieb unserm Getterla, Bernardle und Albert ein Dutzend recht warme Küsse; grüsse recht innig unsere Tony, Justine, Jetta, William, Isaak, pp. und sei versichert meiner ewigen Liebe und Treue!

Freytag
June 9/1854

Dein
Leopold.

Mr. Wormser lässt Dich grüssen.

3

Specimen Page from the Travel Diary of Leopold Waterman.

Samstag, Juny 10, 1854.

Eben verhallte der letzte von den drei Kanonenschüssen, die unsere Abfahrt aus dem Hafen verkündeten. Noch bemerken wir die versammelte Menge, die uns ein letztes Lebewohl nachwinkt. Mein feuchtes Auge bleibt wehmütig auf den Punkt gefesselt, wo ich vor wenigen Momenten die liebenden Abschiedsworte meiner Brüder, den letzten Händedruck meiner Freunde entgegennahm. — — —

Wie anders, wie so viel anders, sind die Verhältnisse, unter welchen ich meine zweite Heimat verlasse, als diejenigen, unter welchen ich vor 10 Jahren das alte Vaterland verliess! — Wie verschieden meine jetzigen Gefühle von denen, die mich damals bewegten! —

Ein hülfloser, unerfahrener Jüngling, alleinstehend und arm an Allem —ausgenommen an Hoffnungen und Wünschen und an dem Bewusstesein eigener Kraft und festen Willens — riss ich mich damals rasch und mutig los von Allem, was mir teuer war, um auf schwankem Fahrzeug,—preisgegeben den trügerischen Elementen des Lebens, —mir den sicheren Hafen einer ruhigen Zukunft zu suchen.—Von süssen Erwartungen erfüllt, gedachte ich nicht der Täuschung;—auf eine heitere Fahrt mit voller Zuversicht bauend, vergass ich den Sturm! — — Wie gut ist es, dass der Mensch nicht im Voraus zu bestimmen vermag, wie viel Kraft, wie viele Kämpfe und Anstrengungen erforderlich sind,—wie vielen bitteren Täuschungen er ausgesetzt ist,—und wie vielen harten Entbehrungen er sich zu unterwerfen hat, um den Ort zu erreichen, der das Ziel seines Wunsches bildet.—Mancher froher Mut würde bangend zurückweichen,—mancher kräftiger Arm würde erschlaffen,—und manche frische, vom Feuer der Begeisterung gerötete Jugendwange würde erbleichen.—

Ein Mann, der sich und die Welt kennt,—geprüft und erfahren,—im Besitze alles dessen, was das Leben angenehm und reizend zu machen vermag, verlasse ich das Land, das in der Tat mir zu einer neuen Heimat geworden ist.—Nicht die Befriedigung irgendeines Ehrgeizes,—nicht die Sucht nach Schätzen oder Gütern, die mich Erfahrung als Trugbilder kennen lehrte,—sondern die Erfüllung einer teuern Pflicht, eines innigen Verlangens, veranlasst mich, den Ort wieder zu besuchen, wo ich die Tage meiner Kindheit verlebte.—

Zwar füllt mich die Trennung von meinen Lieben—(die so innig mit meiner Seele verwachsen sind, dass ich mir ein Leben ohne sie nicht zu denken vermag) mit den Gefühlen des herbsten Leides und der tiefsten Wehmut, doch flüstert eine süsse Ahnung den beschwichtigenden und beruhigenden Trost des baldigen Wiedersehens in mein Gemüt.—

Lebet wohl! Weib, Kinder, Freunde, Amerika—lebet wohl!—Gott, der Lenker des Geschickes, möge Euch bewachen und beschützen! Mit seiner Hilfe kehre ich bald wieder zu Euch zurück, um auf dieser Erde mich vielleicht nie mehr von Euch zu trennen.

4

Poem, Originally published in "Israels Herold" (1849).

Ermutigung

Den finstern Hass und der Verfolgung Leiden
Hast "Israel" nun lang genug getragen;
Ein heitrer Morgen muss ihm endlich tagen,
Und kräftig muss sein Schicksal sich entscheiden.

Willkommen "Herold" schön'rer, bess'rer Zeiten!
Du milder Hoffnungsstrahl nach trüben Tagen!
Sei uns ein Freund, der mindert unsre Klagen,
Sei uns der Schöpfer heissersehnter Freuden!

Hier wo der Menschheit heil'ge Rechte blüh'n,
Wo uns der Liebe Bande schön umschlingen,
Und Licht und Wahrheit kühn ihr Banner schwingen,—

Hier gibt's noch Männer, die fürs Gute wagen,
Noch warme Herzen, die fürs Schöne schlagen,
Und feur'ge Seelen, die für Tugend glühn!

Die Freiheit erst verleihet Reiz dem Leben.
Hier hemmen unsre Kräfte keine Schranken;
In freier Sprach ergiessen sich Gedanken,
Die unsern Taten mächt'gen Aufschwung geben.

Beim ernsten Werke darf der Mut nicht wanken,
Und innig wie des jungen Epheus Reben
Sich mit der Eiche starkem Zweig verweben,
Muss reife Weisheit rege Kraft umranken.

Vom Feuer der Begeisterung durchdrungen,
Sei denn der Kampf mit Vorurteil begonnen!
Der Siege herrlichster ist uns gewonnen

Wenn wir die Macht des ärgsten Feind's bezwungen.
Mög' nun auch Gottes Segen uns umschweben,
Der guten Sache heil'ge Weih' zu geben!

5

Hanukkah-Sermon Preached in the New Haven Prayer Hall; Probably in 1846.

Vater, wieder trete ich, ein schwacher Sterblicher, hin vor Deinen erhabenen Thron, wieder beuge ich in Ehrfurcht und Demut mein Knie vor Dir, und meine bebende Lippe stammelt zitternd die Bitte meiner zagenden Seele. Glorreiches, mächtiges Wesen, Geist der Klarheit und der Vollkommenheit! Langmütig und erbarmungsvoll, wie Du regierest das Weltall, schaue auch nieder in die Mitte der Wenigen, die sich hier versammeln, um Dich zu preisen und Dir zu danken. Das Herz der Guten und Frommen, die den Pfad der Tugend und des Rechtes wandeln, stähle zur Ausdauer und erfülle den leisesten Wunsch, der sich in ihrer Seele regt! Denen, die noch nicht durchdrungen sind von der Fülle Deiner Allmacht, in deren Brust noch nicht glüht das Feuer der Erkenntnis, verleihe mit Deiner unerschöpflichen Milde und Gnade Deinen Segen und erwärme sie mit dem belebenden Strahl der Wahrheit und des Friedens, damit sie einsehen, dass Du der einzige, wahrhafte Gott bist, und ihr Loblied,—Dir geweihet—, sich vermenge mit dem Sange der Gerechten.

Amen.

Meine Freunde!

Wäre das menschliche Herz ein Spiegel, und könnten wir daraus zurückstrahlen sehen die Gefühle, dies es durchfluten, Sie würden die tiefe Erregung wahrnehmen, die in diesem Augenblicke mächtig das meinige ergreift. Und in der Tat, es ist etwas Grossartiges, Erhabenes, was ich mir zum Ziele setze. Aufmuntern soll ich Sie, Meine Verehrten, zu edlen Taten ; erwecken soll ich in Ihrer Brust den Keim der Liebe, der, von der liebevollen Hand des Schöpfers dahin gepflanzt, in unserer Seele schlummert. Auffordern soll ich Sie zu erfüllen die Pflichten, uns auferlegt nach den Gesetzen der Natur. Anfachen soll ich in Ihren Busen den Funken der Begeisterung, damit er auflodere zu einer heiligen Flamme, die, Wärme verbreitend, leuchtet und erhellt. Und was könnte ich Besseres zu meinem Zwecke finden als die Geschichte

jener kleinen Heldenschar, deren Andenken uns der heutige Festtag mit frischen Farben lebhaft ins Gedächtnis zurückführt? Wer von uns hat je die Taten der Makkabäer gelesen, ohne ein erhebendes Gefühl des Stolzes empfunden zu haben, einer Nation anzugehören, aus deren Mitte solche Männer auferstehen konnten, ohne sich glücklich zu preisen, die Bekenner eines Glaubens zu sein, der solche Begeisterung zu entflammen, solcher Aufopferung fähig zu machen vermag. Wir sehen einen Vater mit seinen fünf Söhnen, unter den Augen eines barbarischen Feindes, mit kühner Verachtung aller Gefahren sich in dem Momente zu Verteidigern ihres Glaubens erheben, wo die Unterdrückung am härtesten, das Elend und die Not ihrer Brüder am höchsten war, durch ihr Beispiel ein ganzes wehrloses, schwaches Volk bewaffnen, und, obgleich wenige an Zahl, den weit mehr überlegenen Feind bekämpfen und überwinden.

Vieler edler, grossmütiger Handlungen ist der Mensch fähig und die Selbstaufopferung Einzelner, macht sich sehr oft unserer Anerkenung und unseres Staunens würdig. Ein bewunderungswerter Charakterzug ist es von dem Freunde, der Vermögen, Freiheit, ja sogar sein Leben daransetzt, den Freund aus der Gefangenschaft zu befreien. Ein heldenmütiger Entschluss ist es, der den Mann veranlasst, freiwillig von Weib und Kind zu scheiden, und, der Stimme der Ehre, dem Hülferuf seines Vaterlandes gehorchend, entschlossen und mutig sich stürzt in die Gefahren der Schlacht. Aber wieviel mehr Anspruch hat derjenige auf unsere Bewunderung und Sympathie, der nicht nach äusserer Grösse, nicht nach Ruhm geizend, sich aufwirft zum Kämpfer für seine Religion, und freudig dahinsinkt als ein Märtyrer für sein Volk. Die Geschichte der jüdischen Nation liefert uns mehrere Beispiele dieser Art. Wer von uns erinnert sich nicht jener Mutter, die sieben ihrer Kinder, nicht von einer Krankheit dahingerafft, sondern von Henkershänden gefoltert, gemartert und langsam dahingeschlachtet siehet, und sich, obgleich mit gebrochenem Herzen, standhaft weigert, denselben durch Verleugnung und Entsagung ihres Glaubens, Linderung, Rettung, Befreiung, ja selbst Hoheit und Grösse zu verschaffen. Gibt es wohl ein grauenhafteres und zugleich staunenswürdigeres Gemälde der menschlichen Natur?

Ein anderes Bild liefert uns das gegenwärtige Jahrhundert, sowohl in Hinsicht auf die Verhältnisse der Israeliten, als auch auf deren Charakter, welcher letzterer sich nach dem ersteren gestaltet und bildet, und wenn ich die Stellung beleuchte, die wir in der jetzigen Epoche einnehmen, so kann ich leider nur mit tiefem Schmerze das Urteil fällen, dass unser Volk sich immer mehr der Erschlaffung hingibt, je weniger es von aussen Anfechtungen erleidet, und mit mir muss jeder, dem die Aufrechterhaltung seines Glaubens, das Wohl seiner Brüder am Herzen liegt, mit wehmütigem Blicke auf die traurigen Überreste des einst mächtigsten Volkes verweilen. Jahre der Unterdrückung und der Knechtschaft haben jenes Nationalgefühl abgestumpft, welches zur Freiheit eines Volkes so unablässig erforderlich ist, und an der Stelle einer liebevollen engen Vereinigung wirkt sehr oft die Verschiedenheit der Meinungen und Ansichten unserer eigenen Glaubensgenossen störend und verderbend ein.

Hier in diesem schönen Lande der Freiheit, wo wir ungestört der Ausübung unserer Religion nachhängen können, sind solche Verhältnisse umso mehr beklagenswert. Ein inniges Zusammenhalten, ein gegenseitiges Achten, Unterstützen und Hilfeleisten, ein würdevolles Emporrichten aus dem Staube, eine gemässigte, aber doch kräftige Sprache, wo es gilt, unsere Grundsätze zu verfechten, ein bei allen unseren Handlungen hervorleuchtendes Wohltäthigkeitsgefühl, ein dem jetzigen Zeitgeiste angemessener Gottesdienst, die Abschaffung veralteter Zeremonien, und die Beibehaltung und strenge Ausübung vernünftiger Gebräuche, dieses ist es, was der jetzige Moment von uns fordert, was er mit Recht von uns fordern kann! Und ist es nicht alles dieses, meine Freunde, was wir beabsichtigen? Sind nicht gerade diese die Grundsätze, unter denen wir unsere kleine Gemeinde gebildet haben? Der Unglaube und der Spott der Menge darf uns in unserem edlen Vorsatze nicht irre machen. Lehrt uns die Geschichte nicht hinlänglich, wie vereinte Kräfte da mutig und unternehmend durchführen, wo die zerteilte, einzelne Kraft ermattet und erschlafft? Wie das Beispiel Einzelner zuweilen mächtig auf das Ganze wirkt, und wie ein gutes Unternehmen Nachahmung und Verehrung findet? Wir haben die Wahrheit und Bedeutung dieser Lehren seit kurzem an uns selbst erfahren. Mit frohem Selbstgefühl können wir zurückschauen auf das, was wir geleistet, und es muss für uns eine Quelle der Aufmunterung sein, unser angefangenes Werk, von dem Segen des Barmherzigen begleitet, so schön gedeihen zu sehen.

Und doch ist, was wir getan, nur ein schwacher Anfang von dem, was uns noch zu tun übrig bleibt. Wir haben diese Halle eingeweiht zum Dienste des Herrn, wir haben sie nach Kräften verzieret und ausgeschmückt, aber treten wir auch ein in dieselbe wie wir sollen? Mit vertrauensvoller Hingebung, reinem Gewissen und frommer Andacht? Die wichtigste Aufgabe ist es, uns immer mehr zu veredeln, und zu vervollkommnen, damit wir immer näher kommen dem göttlichen Urbilde, nach dem wir geschaffen, damit wir uns zuwenden die Zuneigung und das Zutrauen unserer Glaubensgenossen und uns erwerben die Achtung unserer Mitbürger. Die Meinung, die wir durch uns selbst von unserem Glauben einflössen, muss, besonders in der gegenwärtigen Periode einen unberechenbaren Einfluss haben, und das Schicksal unserer Nation in dem kommenden Jahrhundert möchte leicht von der Art und Weise abhängen, welche Anwendung die gegenwärtige Generation von dem jetzigen Zeitpunkte macht. Die Wahrheit dieser Ansicht hat sich meinem Geiste mit der tiefsten Überzeugung aufgeprägt, und mit vollem Gewichte hängt sie an dem Triebrade meiner Handlungen. Von ihr ausgehend habe ich Ihnen, meine Freunde, zu wiederholten Malen an dieser Stätte Worte der Liebe, Ermahnungen zur Einigkeit zugerufen, und auch heute wieder ist Einigkeit und Liebe alles, was ich von Ihnen fordere, denn sie sind es, als Grundpfeiler unseres Gebäudes dienend, die Werke unserer Anstrengungen stützen und zusammenhalten.

Mutig und vertrauensvoll, meine Freunde, können wir den eingeschlagenen Weg verfolgen. Dank dem immer mehr vorwärtsschreitenden Geist der Zivilisation und der Aufklärung! Das finstere Zeitalter des blinden Wahns und des Vorurteils verschwindet immer mehr, und bald tagt herauf im Osten die Morgenröte, die mit sich führt den Lichtstrahl eines allgemeinen Glückes für das ganze Menschengeschlecht.

Die Bestimmung des Judentums kann es nicht sein, spurlos von der Bühne der Welt zu verschwinden, und seines einstigen Glanzes für immer beraubt zu bleiben. Trübe Gewitterwolken mögen den Horizont einhüllen, den Strahl der Sonne abhalten und verfinstern; aber durch Gewölke, durch Finsternis und Nacht bricht diese sich Bahn, und mit der früheren Pracht zieht sie wieder majestätisch herauf am blauen, reinen Firmamente. Die Geschichte des jüdischen Volkes ist die merkwürdigste und wunderbarste von allen anderen, und selbst in der tiefsten Erniedrigung, in seinen härtesten Missgeschicken erkennen wir deutlich die strafende und doch schützende Hand des Barmherzigen. Mächtige Reiche haben sich neben ihm erhoben und es zu verschiedenen Malen erobert und unterjocht. Israel ist immer wieder jung und kräftig herausgetreten aus der Gefangenschaft, und seine Unterdrücker sanken für immer hinab in den Strom der Vergessenheit. In allen Theilen der Welt zerstreut, schwach und kraftlos in sich selbst, hat es Trotz geboten den grausamen Verfolgungen anderer Nationen, und die zu seiner Vertilgung tief gelegten Pläne des wildesten Hasses und des Fanatismus fielen verderblich zurück auf seine Feinde. Es glich einem kleinen Bache, der vom Gesträuche überwachsen, unbeachtet dahinfliesst, wenn das Antlitz des Herrn sich von ihm abwendete, doch unter dem Segen des Allmächtigen anschwellend zu einem mächtigen Strome, der über Felsen und Gestein sich stürzend, unaufhaltsam, wild und schäumend dahinbraust und alles mit sich fortreisst, was sich hemmend in seine Bahn wirft.

Das wachende Auge, die rettende Gegenwart des Unsichtbaren war mit ihm in der egyptischen und babylonischen Gefangenschaft, bei seinem Herumirren in der Wüste und bei der Zerstörung seiner Tempel. Können wir uns so vieler Beweise der Liebe und der Gnade des himmlischen Vaters erinnern, ohne in stummer Verehrung hinzufallen auf unser Antlitz und den weisen Lenker des Geschickes zu preisen und anzubeten? Ja, einst mus er wieder anbrechen, der Tag der Glorie für Israel, ein neuer Tempel wird sich erheben in der früheren Pracht und in die Tore der geheiligten Stadt werden einziehen die frommen Scharen aller Nationen, vereinigt und umschlungen mit dem göttlichen Bande der Liebe und der Eintracht. Der Rauch der Öfen wird wieder versöhnend aufwirbeln zu den Wolken, und in Jubelhymnen wird die ganze Menschheit preisen den glorreichen Schöpfer des Weltalls.

Allgütiger, der Du kennst die Gedanken der Menschen und vernimmst die Bitte, die aus gläubigem Herzen sich losringt, der Du siehest die Träne des Trauernden und hörest die Seufzer des Bedrängten und den Hülferuf des vom Unglück Verfolgten, breite segnend aus Deinen schützenden Arm über alle Kinder Israels. In unserer Seele halte wach den Strahl der Hoffnung und der Zuversicht, damit wir nie stille stehen, nie wanken, sondern unermüdet vorwärts dringen zu dem Ziele unserer Bestimmung. Amen.

JEWISH NATIONHOOD AS A FACTOR IN LAW*

By

Kurt Stillschweig

Stockholm, Sweden

Law Concerning Jewish Nationhood

If Simon Dubnow's opinion is accepted that the subject of Jewish history is the "national individuality" of the Jewish people,[1] then this interpretation must be valid correspondingly for Jewish legal history. In this essay, by Jewish legal history is understood the historical presentation of the status of the Jews in law in Europe. The subject of Jewish legal history is the legal norms instituted by the surrounding non-Jewish world which result from the "national individuality" of the Jewish people or of individual members of that people.

The national individuality of the Jews manifests itself in the religious sphere. It appears, however, also outside the field of religion, in a series of ethnic characteristics which, all together, comprise the Jewish "nationhood" (*Nationalität*) and which individually differ with regard to time and place, such as for instance, the peculiarities of speech, dress, etc. Consequently, Jewish legal history contains laws which pertain to the Jews either as a religious or as an ethnic minority. The regulations of the latter kind which, till now, have not been recognized as comprising a separate body of law, will be designated "law concerning Jewish nationhood" (*"jüdisches Nationalitätenrecht"*) and the attempt will be made to clarify its causes of origin and its structure.[1a]

* Editor's Note. Doctor Stillschweig's interesting and stimulating essay which attempts a theoretical discussion and systematization of certain aspects of the juridical category "Jewry-Law" is published here although the Editor's views, by no means, coincide with those of the author. The latter did not try to coordinate his idea of a "Jewish Legal History" with the Editor's concept of "Jewry-Law" now generally accepted in the science of legal history of the Jews. Cf. G. Kisch, "Jewry-Law, Past, Present, and Future", to appear in *Judaism of Tomorrow,* ed. by Leo Jung. As pointed out in his note la, Dr. Stillschweig himself became aware of the fact that he applies a modern ideology and terminology to periods unfamiliar with these concepts and the underlying considerations. Hence his results must also differ from those of the Editor.

1 S. Dubnow, *Weltgeschichte des jüdischen Volkes,* I, (Berlin, 1925), Introduction.

1a In this connection it must first be explained that the development of the subject is treated here only up to 1933. Even a summary treatment of the problems pertaining

The law concerning Jewish nationhood is in its content very diversified. Yet, a common characteristic feature is recognizable in all its norms. Since all the legal measures under consideration directly or indirectly are based on the ethnic characteristics of the Jews, they represent the result of certain sociological phenomena to which the Jews from time immemorial have been subjected, namely dissimilation and assimilation. Accordingly, the law concerning Jewish nationhood can be divided into two large main groups, which may be described as the positive and the negative. This classification, naturally, is made only for the purpose of simplifying the terminology and does not imply any valuation of the concepts involved. Positive law concerning Jewish nationhood is that body of laws which recognizes a Jewish ethnic peculiarity without purporting to change it in the assimilatory sense. Negative law concerning Jewish nationhood is that body of laws which denies the existence of a separate Jewish nationhood or is directed toward de-nationalizing the Jews. When, for instance, in former Czechoslovakia, a regulation concerning the census read[2]: "Jews may profess to the Jewish nation," doubtlessly here a rule of positive law concerning Jewish nationhood is in question. Contrarily, a Prussian imperial regulation of 1790 declared[3] it as desirable that "this nation be made entirely equal with the other citizens . . . and its acceptance by the other citizens be facilitated as much as possible." Such a regulation must be classified as belonging to the negative laws concerning Jewish nationhood. The same holds true for measures which aim at removing individual ethnic characteristics, such as the prohibition, frequently issued in the period of the Emancipation, against the use of Jewish names or of Hebrew writing in business transactions. On the other hand, those regulations which affect the Jews not as an ethnic but as a religious minority, do not belong either to positive or negative law concerning Jewish nationhood. Into this category falls the so-called Sabbath

---

to later periods would overstep the bounds of this essay. Then, too, a certain anachronism is suggested and must be accepted. As a rule, the concept of "law concerning nationhood" includes regulations instituted only within the last five or six decades; this essay, however, will comprise also much older laws. But this anachronism is quite harmless and should not raise any objections to the author's interpretation of the term "law of nationhood" as applied here.

[2] Cf. Stillschweig, *Historia Judaica,* I (1939), 43.

[3] Rönne-Simon, *Die früheren und gegenwärtigen Verhältnisse der Juden* (Breslau, 1843), 226.

clause as found in several treaties relating to minorities,[4] whereby the Jews were not to suffer any legal disadvantages from their observance of the Sabbath, regardless of the nationality to which the individual Jews might profess.

Historical Development

Historically, law concerning Jewish nationhood developed in three stages. These phases of development have been treated at length by the writer elsewhere[4a] and need be sketched here only in broad outline.

1. The first stage extends from the Middle Ages until about the beginning of the modern era. This phase is governed by the cosmopolitan views of the Church which basically was indifferent toward national differences in the *civitas dei.* In the case of the Jews, however, the missionary work of the Church took an interest in preserving their ethnic differences in order to distinguish as *testes veritatis* those among them who did not accept Christendom, to segregate them as unbelievers "from other peoples." As a result of this attitude the ecclesiastical legislation and the law influenced by the Church instituted numerous regulations which aimed at isolating the Jews. These laws may rightly be classified as positive law concerning Jewish nationhood.

2. Unlike the macrocosm of the vast empire of the Church, the microcosm of the absolute states did affect the Jewish nationality, to a great extent. Wherever absolutism was not interested in the ethnic differences of the subjects—in the France of the *ancien régime,* for instance[5]—it did not alter anything in the principles of Church law but often issued regulations which expressly preserved the older positive laws concerning Jewish nationhood. Where, on the other hand, absolutism framed generally unifying measures—especially in Austria from the time of Joseph II[6]—the old established state of the law was disrupted and negative law concerning Jewish nationhood was created. Impetus was given to this trend not in national but in political motives, since absolutism in its original stage was as

[4] Cf. Stillschweig, *Die Juden Osteuropas in den Minderheitenverträgen* (Berlin, 1936), 123 ff.

[4a] See the preceding and the following notes.

[5] Cf. Stillschweig. *MGWJ.,* LXXXI (1937), 457 f.

[6] Stillschweig, *MGWJ.,* LXXXI (1937), 324 ff.

indifferent to nationality as was ecclesiastic legislation. If, for example, Joseph II decreed unity of speech for all the nationalities in his polyglot empire, he was motivated not by the preference for a distinct national tongue or culture but by centralizing tendencies. Legally this attitude produced de-nationalizing laws, which, insofar as the Jews were concerned, were negative laws concerning Jewish nationhood.[7] Yet from the point of view of historical development, it is important to remember that the pertinent regulations,—such as those restricting the Yiddish language, prohibiting the use of Jewish names, suppressing the differences in clothing, dissolving Jewish autonomy, expressed in the organization of the Jewish nationality, etc.—all such regulations were not based on national-political, but on a-national centralistic considerations.

3. Only since the rise of nationalism in Europe can one speak of national-political motives in the true sense of the term. The idea of nation led partially to the assimilation, partially to the dissimilation of the Jews, from which in part negative, in part positive law concerning Jewish nationhood resulted. This development followed three different basic trends.

(a) The first originated in the French Revolution. The latter created the idea of "nation" and the "national state," so that in the national states of the nineteenth century, the principle reigned supreme: *"cuius regio, eius natio."* For the Jews, the ideological combination of emancipation and nationalization resulted in their legal obligation to become assimilated,—i. e., negative law concerning Jewish nationhood—a process most clearly recognizable in the French conception of nation.[8] The fundamental principle derived from this concept was that the Jews henceforth were qualified legally only as a religious community.[9] In other words: all regulations of constitutional and international law applying to nationalities i. e., to ethnic or national groups, were not applicable to the Jews. This was recognized in the national states as well as the states of multiple nationalities in western and central Europe. The national states, from the aspect of constitutional law, only to a very modest extent, took notice of groups which belonged to a foreign nationality. How

[7] Cf. *loc. cit.*

[8] *Loc. cit.*, 459 ff.

[9] Only during the period of transition there were some deviations from this principle.

then could they consider their Jewish subjects—numerically a very small group—as a separate nationality? Even in the states of multiple nationality (Switzerland, Belgium, Austria) the situation was not much different. In these states the recognition of nationhood was expressed principally in rules concerning the languages to be used, and these rules were as little cognizant of the special tongues of religious groups as was the case in the Josephinian state. This fact emerges from decisions of the Supreme Court in Hapsburg Austria significant for the negative trend in the law concerning Jewish nationhood in that era.[10] In the sphere of international law the same can be observed. Thus, in the nineteenth century, only those regulations of international law which concerned religious minorities applied to the Jews—for example, the well known protective clauses of the Treaty of Berlin.[11]

The fact that the Jews were considered merely as a religious group compelled the European nations to regard those who "professed to the Mosaic faith" as members of the individual nations. Consequently, the Jews were compelled to enroll themselves as "Israelites" within the body of a non-Jewish nation. This naturally was of no moment with regard to nationhood, but only from the statistical and sociological aspects, as for instance in the former Prussian provinces of Posen or Silesia, where the statisticians were in a quandary over designating the Jews as Poles or Germans. In Austria (and later in the treaties concerning national minorities in the post-war era), however, the question of Jewish nationhood was an important legal problem, for which no uniform solution was found.

(b) In western and central Europe the French concept of a nation remained of decisive importance in the formation of the law concerning Jewish nationhood up to the first World War. The development in Czarist Russia and in Roumania, on the other hand, was influenced by other factors. The French concept of nation was based on formal ideological characteristics of a political nature, whereas in Russia and Roumania the national idea adopted religious elements. This difference was very essential for the formation of the laws concerning Jewish nationhood.

10 Stillschweig, *MGWJ.*, LXXXI (1937), 330 ff.
11 Stillschweig, *Die Juden Osteuropas*, p. 17 f.
12 *MGWJ., l. c.*

According to Russian law the orthodox religion was the "dominant faith."[13] Consequently Russian constitutional law considered even all non-orthodox Christian denominations as not belonging to the Russian nation. Naturally, this applied particularly to the Jews. From the point of view of constitutional law this had a twofold bearing. Firstly, the Jews were considered as a "national creed," that is, as the Senate explained in 1908,[14] "they represented a separate group of the population which had remained unamalgamated with the autochthonous Russian population." Secondly, the Jews were "alien born subjects," *"inorodcy,"* similar to the Kalmucks, Kirghizes, etc.[15] and thereby were placed in opposition to the "native born subjects." Apart from autochthonous Russians, the national minorities in western Czarist Russia, too, were counted among the "native born subjects."

From this double nature of their status according to constitutional law the Jews received a twofold status with respect to the law concerning Jewish nationhood. The stress on the religious issue led to the attempt—in accordance with the pre-absolutistic conception of the Church—to keep the Jews as unbelievers remote from the Christian world. Accordingly a system of regulations served to segregate the Jews, which may be counted as positive law concerning Jewish nationhood. On the other hand, the Russian concept of nation also developed assimilationist features directed principally against non-Jewish minorities. "The Slavic streams were to flow into the Russian sea," according to a modification of a saying by Pushkin. Soon this policy was extended to the Jewish *"inorodcy."* In 1840, according to a document of 1865,[16] "the amalgamation of the Jews with the rest of the population was regarded as a desirable goal by the Czar," for the first time. As a result negative law concerning Jewish nationhood emerged. As in western and central Europe in the eighteenth and the beginning of the nineteenth centuries, Russia also issued prohibitions against wearing special Jewish garb and against the use of the Yiddish language in business, regulations con-

[13] Art. 62 of the constitutional law of 1832.

[14] Mysch, *Rukovodstv k russkim zakonam o evrejach* (fourth ed., St. Petersbourg, 1914), p. 1 note 2.

[15] *Swod Zakonow Rossijskoj Imperii,* vol. IX (St. Petersbourg, 1899), § 762 (=§ 835 in the ed. of 1876).

[16] August Scholz, *Die Juden in Russland* (Berlin, 1900), p. 21; Mysch, *op. cit.,* p. 7.

cerning the Russifying of Jewish names, rules on the dissolution of Jewish autonomy, etc. The Jews themselves naturally were most aware of the contradiction in the legislation. "The government," relates Shmarya Levin in his memoirs,[17] "asserted that it desired to assimilate us; as a matter of fact, though, it placed thousands of hindrances in our way."

Just as the French concept of nation influenced the policy with regard to the Jews in western and central Europe, the Russian concept of nation reacted on the treatment of the Jews in southeast Europe. This was the case especially in Roumania. Here the interdependency of cause and effect with regard to the Russian and Roumanian ideas was historically established in that the Danube principalities of Moldavia and Wallachia—the future Roumania—were occupied by the Russians for several years after the peace of Adrianople in 1829. The law concerning Jewish nationhood in Roumania up till the first World War, therefore, exhibits principles similar to its Russian model. The Roumanian legislation, however, went even a step further in that it considered the Jews not merely as a separate ethnic group but even as "foreigners" or "aliens" (*"straini"*).

(c) The positive law concerning Jewish nationhood in Russia and Roumania and the negative nationhood law had a common basis: neither recognized the Jews as a "nationality" in the genuine meaning of the term. Hence neither of them granted the Jews any "national rights," nor any privileges which would favor or even develop the "national individuality" of the Jews. In the negative segment of Jewish nationhood law this is easily intelligible; it follows directly from its goal toward assimilation. But even the positive segment of the law in Russia and Roumania recognized the Jews as a separate ethnic group, not in order to qualify them as a "nationality" with a legally protected national life of their own, but in order to segregate the Jewish from the dominant population.

Recognition as a nationality with the right to a free national-cultural development, however, was the aim toward which large groups of Jews in Eastern Europe and Austria strove. This longing corresponded with the general recognition of the principle of nationhood all over Europe in the nineteenth century. Nevertheless it was fully

[17] *Jugend in Aufruhr* (Berlin, 1933), p. 109.

realized only after the first World War, when the idea of the right of self-determination for all peoples spread everywhere.

The principle of self-determination had basically a twofold meaning. Firstly, in the formation of states and the marking of boundaries, only the will of the nations would be the deciding factor, for the future. Secondly, the ethnic groups which must continue to exist amidst a foreign national surrounding world, should have the right to lead its own national life as a nationality recognized by constitutional law.

The latter idea entered into legislation after the downfall of Czarism in Russia. After the March Revolution had brought the Jews civil emancipation, the Bolshevist government promised measures favoring the "free development of the national minorities and ethnic groups."[18] The application of this program to the Jews at first met with opposition. Even before the revolution Lenin had declared the concept of a Jewish nationality to be a "reactionary" and "wholly untenable" idea.[19] Bolshevist spokesmen asserted, moreover, that the most essential element of the concept of nation was a national territory, lacking in the case of the Jews. Despite all this, the Jews ultimately succeeded in obtaining at law recognition of their "nationality" as well as of the Yiddish language. If, though, the legal status of the Jews, as developed later, did not satisfy their earlier national-political expectations, still, with regard to historical development, the Russian example signified the first essential transmutation and further growth of the positive law concerning Jewish nationhood.

A similar process took place in the west Russian border states, in south-eastern Europe and, to a certain extent, also in the disintegrating Hapsburg monarchy.[20] In these regions, the fundamental idea of the thesis of self-determination—the marking of boundaries only in accordance with a nation's will,—resulted in changes in territory and the rise of the so-called succession-states. This fact was, from the very beginning at least in principle, favorable for another thesis resulting from the idea of self-determination. Similar to the development in Russia the succession-states also shared hesitation

18 Klibanski, *Die Gesetzgebung der Bolschewiki* (Leipzig-Berlin, 1920), p. 2.
19 Cf. Dubnow, *Weltgeschichte des jüdischen Volkes,* X, p. 355.
20 Cf. Stillschweig, *MGWJ.,* LXXXII (1938), p. 217 ff.

and objections to applying the idea of self-determination to the Jews.[21] Thus the results, from the point of view of the law concerning Jewish nationhood, was not everywhere the same. The main achievement was that the legislation considered the Jews as a "nationality."[22] The problem flowing from this attitude, namely what national rights should be accorded this "nationality," was solved in various ways. In the Ukraine and the Baltic states, a Jewish-national autonomy was granted; elsewhere, limited autonomy as to language and education was recognized. In the Czechoslovakian Republic even these rights were not granted so that the deviation from the earlier legal status consisted there principally in the mere formal recognition of the Jews as a nationality.[22a] In fact certain national and economic motives sometimes even induced the legislation of the succession-states, for instance in post-war Austria, to reject the recognition of a Jewish nationality altogether, thus continuing the old negative law concerning Jewish nationhood.

Except for the succession-states of Austria, the idea of self-determination did not change the political status of the Jews in western and central Europe. Here the assimilationist ideology was so dominant among the Jews that no necessity or even opportunity was offered to legislation to recognize the Jews as a separate nationality.

Systematization

A. Positive Law Concerning Jewish Nationhood.

Positive law concerning Jewish nationhood includes three spheres.

1. The first consists of all regulations which aimed at or effected the segregation of the Jews up to the end of the eighteenth century. To this category, above all, belong the ecclesiastic legislation and those laws influenced by the Church which forbade *connubium* between Jews and Christians, prohibited their dining and bathing together, barred Jews from holding Christian slaves or servants, and even ordered them to wear a badge to distinguish and separate them from the rest of the population. The rules on Jewish autonomy belong also within this group, although they were effected not only by

21 Stillschweig, *loc. cit.*, and *Die Juden Osteuropas,* p. 32 ff.

22 Stillschweig, *op. cit.*, p. 230 ff.

motives of segregation but also by the concurrence of other reasons, mainly of a fiscal nature.

2. Positive law concerning Jewish nationhood is not exhausted with these laws which were valid up to the end of the eighteenth century. In later periods, too, regulations occur preserving the segregation of the Jews or their recognition as a separate ethnic group. As for western and central Europe, they represent only isolated remnants of the older legal ideology, as for instance, a regulation issued by the Prussian ministry in 1818[23] emphasizing that the Jews in Prussia were "not accepted as a religious denomination, . . . but as the representatives of a dissolved nation." In western and central Europe, this type of legislative conception gradually disappeared. In Russia and Roumania on the other hand, until the first World-War, legal measures were instituted or preserved which aimed at the segregation of the Jews, such as the establishment of settlement districts, the Roumanian regulations concerning vagrants, obstacles to marriage, etc.

It must not be overlooked, however, that two essential differences existed between these laws and the regulations of positive law concerning Jewish nationhood valid till the end of the eighteenth century. As already explained, in Russia—and to some extent in Roumania—side by side with the tendency towards segregation strode the endeavor to assimilate the Jews. This was not the case in the older regulations of the positive law concerning Jewish nationhood. Intimately connected is a second point: although pre-emancipatory legislation separated Jews from the dominant population, at the same time the autonomy granted the Jews gave them opportunity to develop their ethnic individuality. Russian and Roumanian legislation took a different stand. True, it also knew, to a greater or lesser extent, a Jewish autonomy; but in the nineteenth century, it tended to destroy this autonomy to effect the separation of the Jews from the dominant population.

3. The third sphere of positive law concerning Jewish nationhood consists of those laws which sprang from the concept of self-determination. These regulations differ from the older law chiefly in that they no longer qualify the Jews as an ethnic group *sui generis,* but

23 *Jahrbuch des protestantischen Kirchen- und Schulwesens von und für Schlesien,* I (Breslau, 1818), 482.

place them legally on an equal level with other (non-Jewish) nationalities. Rules of this type, therefore, can be designated as genuine laws concerning Jewish nationhood.

The basis of genuine law of Jewish nationhood is the recognition of the Jews as a nationality effected expressly or tacitly by constitutional or international law.[24] A series of legal consequences follows, the purpose of which is, from this foundation, to open up to the Jewish "national individuality" the possibility of developing along its own national-cultural lines.[25]

True, the older law as made or influenced by the Church, also presented the Jews, to a certain extent, with similar opportunities by granting them autonomy. But, from the point of view of the older law, this was merely a secondary effect arising only indirectly. The purpose of the older regulations consisted in any case in keeping the dominant population apart from the Jews by preserving the Jewish-ethnic characteristics. On genuine law concerning Jewish nationhood, however, this aim has no bearing; for it is supposed to serve the idea of the self-determination even of minorities. The preservation and encouragement of the national character are thereby considered as factors of culture and as achievements at law and thus elevated to an object of legal protection. Moreover, this modern conception does not keep the individual members of the Jewish minority apart by compulsion from their surrounding world. Should the individual Jew wish to join a different national group, as a rule, the possibility is open to him to embrace a foreign nationality.

B. Negative Law Concerning Jewish Nationhood.

Negative law concerning Jewish nationhood in western and central Europe consists of laws which indeed served the same purpose, the de-nationalization of the Jews, but were entirely different as to their origin. Whereas the French revolutionary legislation concerning the Jews was rooted in the national idea, the Austrian absolutistic laws were based on views directly opposing the national principle. For the legal status of the Jewish diaspora the effects of Austrian absolutism were hardly of lesser importance than the national-political measures of the French revolutionary legislation.

[24] *MGWJ.*, LXXXII (1938), 234 ff.
[25] *Die Juden Osteuropas*, p. 94 ff.

Hence the negative law concerning Jewish nationhood must be considered as a unit, regardless whether its political basis was the absolutist concept of the state or the national idea.

In its aims, negative law concerning Jewish nationhood was directed against the ethnic character of the Jews, as individuals as well as a collective group. Against the Jews as individuals, in that the laws required that the individual Jews lay aside their Jewish-ethnic characteristics; against the Jews as a collective whole, in that the pertinent regulations dissolved the autonomous Jewish community organization. In the formulation of the laws, the demand for denationalization was expressed in diverse ways. The French legislation and those regulations under French influence expressed it for the most part in general terms; for instance a decree of Jérôme Bonaparte in 1808 declared "that the Jews should no longer constitute a separate society in the state."[26] Elsewhere, the laws reduced the sociological issue of assimilation to its component parts; they contained rules which sought to adapt to the surrounding world the external features (clothes, wearing of the beard), the names, language, and to a certain extent, even the religion of the Jews. The great significance applied to these assimilatory regulations is evident from the fact that their violation often was threatened with banishment.

According to its internal structure, negative law concerning Jewish nationhood represents a body of law complete in itself. Its place in the system of law results from its relation to another factor of legal historical relevancy, namely Emancipation. Between the negative law concerning Jewish nationhood and Emancipation, there existed a relationship in the conception of constitutional law; it was established by the doctrine of the "contract of subjection" between the State and its individual subject. This doctrine which sought, at the end of the eighteenth century, to interpret the relationship between State and subjects as a "contract" in the sense of private law co-ordinated to its general thesis also the juridical conception of the Jewish question. The law regulating this problem was conceived as a "contract" between the State and the Jews. If the Jews now desired legal equality or an improvement in their legal status, the State as the other contracting party was in the position to demand a compensatory act from them, namely their de-nationalization. Negative

[26] Rönne-Simon, p. 382.

law concerning Jewish nationhood is thus the contractual counterpart of Emancipation. Their relationship was fashioned diversely in the pertinent laws. Some of these laws considered the Jews obligated to satisfy their part of the contract first, that is, first they were to give up their separate nationhood, then emancipation would follow. This principle was basic in the legislation of Austrian absolutism with respect to the Jews. A Bohemian regulation of Francis I in 1792,[27] for example, declared "the Jews are to be brought ever closer to their destiny as citizens in order then to enable legislation to do away entirely with the difference between Christian and Jewish subjects preserved until then." Elsewhere emancipation and assimilation were considered as obligations to be exchanged one for another. At times this character attached to them was even expressly pointed out in the legal terminology. The Schroetter draft of the Prussian Edict of Emancipation,[28] for instance, designated dissolution of the separate Jewish nationality as a "condition" (*Bedingung*) which the Jews had to fulfill in order to attain equality; "to satisfy this condition," it continues in the language of a creditor making a private contract, "the Jews are granted a period of six months." In its final wording the Prussian Edict of Emancipation replaced the term "condition" (*Bedingung*) with the word "obligation" (*Verpflichtung*). In practice, however, little differentiation was made between "condition" and "obligation;" as late as 1818 the Prussian minister of Justice declared that the civil rights were to be interpreted for the Jews as "conditional favors" (*bedingte Begünstigungen*).[29]

In recent years laws concerning Jewish nationhood are being made on the basis that the "condition" did not take place, the "obligation" was not fulfilled. This conception resulted in the fact that negative was transformed into positive law concerning Jewish nationhood.

[27] Cf. Ferdinand Schirnding, *Die Juden in Österreich, Preussen und Sachsen* (Leipzig, 1842), p. 5.

[28] Ismar Freund, *Die Emanzipation der Juden in Preussen* (Berlin, 1912), II, 228f.

[29] Rönne-Simon, p. 489.

THE SCIENTIFIC AND PHILOSOPHICAL BACKGROUND OF ZUNZ'S "SCIENCE OF JUDAISM"

By

Luitpold Wallach

Florence, Ala.

INTRODUCTION*

Leopold Zunz once said (I,347) that the life of an individual has a lasting value for mankind only if the world spirit left its impress on it. "If the biography of an individual human being will arouse our interest and sympathy, if it will have any value at all for us, then it must not report merely on trivial, indifferent matters, on a life which does not represent more than that of Gellert's[2] old man who was born, grew up, married, and died; who earned money for a livelihood and perhaps something more than that. For only that is interesting in a human being which the spirit effects in him, that which at the same time is of value to the rest of mankind. It is ideas and achievements, which elevate an individual human life. Only of such a man is it worthwhile to write and read a biography. Sometimes even the sufferings of a human being are such, that they are worth describing, namely, if these sufferings originate from a conviction for which they were endured; such sufferings equal deeds." These words of Zunz, reflecting Hegel's theory of the world spirit, outline the goal for a revaluation of the man and his work. A mere repetition of the well-known circumstances of Zunz's life will not serve this task. Although the harmony of Zunz's mode of life with his conceptions as

* The author is indebted to Professors Alexander Marx and Boaz Cohen of the Jewish Theological Seminary of America for the liberality with which their Library supplied him at any time with the necessary books. Miss Myrtle Emerson, Librarian of the Florence State Teachers College, was very helpful in securing books from the Library of Congress.

[1] In this essay, references to the works of Zunz are placed within parentheses in the text whereby the following abbreviations are used:
I-III=Leopold Zunz, *Gesammelte Schriften*, 3 vols. (Berlin, 1875-1876). BZ=*Das Buch Zunz, Eine Probe eingeleitet und herausgegeben* von Fritz Bamberger (Berlin, 1931). ZWJ=*Zeitschrift für die Wissenschaft des Judentums*, hgg. von dem Verein für Kultur und Wissenschaft der Juden (Redakteur :Zunz, Dr.), Erster Band, (Berlin, 1822-23). B.=August Boeckh, *Encyklopaedie und Methodologie der philologischen Wissenschaften*, ed. E. Bratuschek, 2nd ed., (Leipzig, 1886), composed of lectures delivered 1809-65.

[2] Christian Fürchtegott Gellert (1715-69), German poet and writer.

an historian and antiquarian does represent a subject of research, it is by far superseded by those conceptions of his which have an historical value of their own, surpassing the limitations of the individual Zunz. His ideas of a science dealing with Jewish objects, its principles and lessons, achievements and goals, abandon the sphere of Zunz's personality and become problems of nineteenth century Judaism as soon as one traces their origin to the underlying cultural development, of which they are a part. Jewish history reveals a logic of its own emerging from these ideas. They resulted from and reflected the very world in which Zunz lived; they were the impress of this world and its culture upon his thought. These *momenta* are in a state of mutual interchange determining each other and determined alike. Zunz's historical place in the Jewish Emancipation as well as in the Geistesgeschichte of his era becomes clear in this twofold view only.

The main difficulty in judging and comprehending Zunz's cultural and philosophical background lies in his method of organization as applied to his writings. Never did he give a coherent account of his thoughts concerning his scientific conceptions or philosophical principles. His background is many-colored and embodies the entire cultural richness of his dynamic era, but since his more erudite modern critics are rather uncertain about their knowledge of this richness, Zunz is still seriously misinterpreted. To classify him under the category of the "great man" is unsubstantiated because his greatness never became apparent to his panegyrists. Reading and re-reading his writings, now logical, now prophetic or even poetical, allows one to recapture step by step his fashion of thinking, a task burdened by the fact that he very often shifts without notice from one interest or aspect to another. His lack of a deeper philosophical training might be responsible for this. Thus, his way of thinking can be conceived only by a comprehensive *Zusammenschau* of utterances expressing his thoughts. True, Zunz shows a consistency of opinion. His earlier writings, however, reflect a flexible philosophical mood which offers the clue to the different scientific conceptions as found in the young Zunz; but with the years, this mood became more and more petrified.

The endeavor to transplant Zunz's mythical picture from the homiletic sphere back into the historical, began during the last dec-

ade. Ismar Elbogen, the historian of *Wissenschaft der Judentums,* always stressed the importance of such an approach. He and Alexander Marx contributed to it by making available letters and other documents of Zunz's *Nachlass.*[3] Max Wiener[4] inaugurated the revaluation of the man by a religio-psychological analysis of his work. The present writer[5] outlined Zunz's conception of history and the methodological approach to be used in dealing with Zunz as an historical figure. The foundation of the Science of Judaism as connected with Zunz was treated by him in a special essay.[6] Recently, Fritz Bamberger[7] tried to deal again with Zunz's historical conceptions.

The present study endeavors to show the broad cultural background of Zunz's conception of *Wissenschaft.* A number of hitherto unknown influences on Zunz's thinking will, in this writer's opinion, alter the current picture of Zunz sanctified by repetition. To ferret out a man's cultural background, naturally, does not mean to "debunk" him. There is not the slightest doubt of his originality; such a doubt would indeed be "ludicrous." Refuting such an attitude, Goethe[8] says: "One also could ask at the same time a well-nourished man for the oxen, sheep, and pigs, which he ate, and which gave him strength." There is considerable speculation as to Zunz's plan of a Jewish Science and its character. Even Elbogen[9] could not arrive at a definite conclusion as to Zunz's real intentions. Yet the problem can be answered in a very definite way by outlining this plan and its scientific, cultural, and philosophic sources.

[3] An enumeration is found in *Jahrbuch für Jüdische Geschichte und Literatur,* XXX (Berlin, 1937); A. Marx, "Zunz's Letters to Steinschneider," *PAAJR.,* V (1933-34).

[4] Max Wiener, *Jüdische Religion im Zeitalter der Emanzipation,* (Berlin, 1933), 175 ff.

[5] Luitpold Wallach, "Ueber Leopold Zunz als Historiker", *ZGJD.,* V (1934), 247 ff.

[6] L. Wallach, *Leopold Zunz und die Grundlegung der Wissenschaft des Judentums,* (Frankfurt a.M., 1938).

[7] Fritz Bamberger's essay, "Zunz's Conception of History", *PAAJR.,* XI (1941), 1-25, contains a number of unsubstantiated statements offered as pragmatic theses, but not set forth in accordance with the methodology of *Entwicklungsgeschichte.* One cannot "refer briefly to the contemporary general conceptions of philology and history" (p. 6), and then assume that they influenced Zunz. It is rather imperative first to understand Zunz, and then to find out to what extent his ideas are original or can be traced back to external influences. The following presentation will disprove most of Doctor Bamberger's assertions.

[8] J. P. Eckermann, *Gespräche mit Goethe,* ed. Otto Harnack, II, 61.

[9] I. Elbogen, "Neuorientierung unserer Wissenschaft", *MGWJ.,* LXII (1918), 85.

Zunz's Plan for an Encyclopaedia of a Jewish Science

Zunz's thesis *Etwas über die rabbinische Literatur,* (Berlin, 1818) contains his plan of the science which he wished to be inaugurated. To him, it is the "most dignified end of all research" to make "a contribution to the knowledge of man" because science is "the playground of human activity" (I,27). This basic conception determines Zunz's plan of how to deal in a scientific manner with the Jews as men who produced by their literary activities materials for a science. Zunz was fully aware that his "own way, by which he appropriated science, transformed it again into new material to be dealt with in a scientific manner" (I,27). Hence, the analysis of the composition of his plan furnishes indeed an insight into Zunz's thinking.

In analogy to the goal of science, the scheme of sciences, representing the various activities of the human mind and of man, is based on the status of man. This homocentric foundation is determined by the fact that "man is the subject of Church and State" (I,9). In accordance with this Hegelian view, the plan, outlined below, offers a specification of those activities of the human mind which are connected through the Church (A), since according to Zunz's terminology, the Jews form an "ecclesiastical unit" (I,37). In the same manner, a series of sciences results from the fact that man is the subject of the State (B). It is important to note that the conception of Judaism as a Church is the adaptation of Hegel's conception of the term Church to Judaism. Zunz could determine man as the subject of both institutions because he adhered to Hegel's[10] idea that the Church "is not merely a religion as opposed to another religion, but is at the same time a particular form of secular existence, occupying a place side by side with other secular existences."

Having dealt with the *activities* of man and the sciences resulting from them, Zunz turns to the question of how "the inhabitant of the earth regards his planet" (I,11). In modern terms, we would say, he turns from the sphere of the moral sciences to that of the natural sciences. He distinguishes between the sciences dealing with "the knowledge" of nature (C), and those dealing with the "utilization of this knowledge of nature" (D). "From the knowledge of nature to its utilization there is only one step" (I,14). This interest of man

10 G. W. F. Hegel, *Vorlesungen über die Philosophie der Geschichte,* ed. Eduard Gans, (Berlin, 1837), 343.

in the earth was characterized by Hegel[11] as typical for his period. "As a leading feature demanding our attention in determining the character of the period may be mentioned that *outward* urge of the Spirit (*dieses Hinaus des Geistes*)—that desire on the part of man to become acquainted with *his* world."

The next step forward into the higher sphere of man, leads "to the universal life of the nation" (I,16) which finds its twofold scientific expression in the *history* and the *antiquities* of the Jewish people.

Over all these special sciences philosophy reigns supreme "with exclusive majesty" as the sum total of human wisdom, as "the elevated historical knowledge" (I,27). Jewish philosophy does not yet exist as a special discipline of research. But by treating scientifically the accumulated Jewish material and by applying the special sciences to it, one approaches a conception of science "elevated above all earthly pedantry, surviving countries and nations" (I,27). If this step should be reached, "a true history of Jewish philosophy" will be initiated.

What follows is "a survey of the more important sections of this tabulation of sciences" (I,7) representing Zunz's plan of an encyclopaedia of the sciences which deal with Jewish objects. "Our science," says Zunz (I,7), "consists of different sciences, each of them to be cultivated in its individual branches."

Zunz's encyclopaedia of sciences (I,8-22).

A. Sciences as determined by the "Church."
   Theology; mythology; dogmatics; religion: customs, liturgy, religious principles, and rites of the Synagogue.

B. Sciences as determined by the "State."
   Legislation; jurisprudence, writings on legal matters; comparative juridical terminology of Hebrew, Roman, and Hellenic Law.

C. Sciences based on the knowledge of nature.
   Mathematics, astronomy, geography, chronology; medicine.

D. Sciences based on the utilization of the knowledge of nature.
   Technology;[12] industry; commerce.

[11] *Ibidem*, p. 414.

[12] Zunz allows himself a tautology, *Technologie* being identical with *Gewerbekunde*.

E. Sciences dealing with the "embellishment" of nature's material (I,15).
Poetry; architecture; typography; music; inventions.

F. Sciences expressing the universal life of the nation.
   a. History, as the "passing by", and
   b. Antiquities, as the "lasting" in the universal life of the nation (I,16).
   c. Language, the "lever" of history and antiquities:
      1. Poetry, "the beginning of the formation of language" (I, 17);
      2. Rhetoric or the art of style (I,18): the hyperbole; the philosophical style; the difference between "prosaic poetry and poetic prose" (I,19); (=B, 654,693).
      3. Grammar: history of the Aramaic language, of the Hebrew language; lexicography, synonymy; etymology.

G. Sciences subsidiary to others.
Palaeography (I,21), "a chronological collection of facsimiles" in order to date "undated manuscripts;"[13] catalogues of manuscripts and libraries (I,22); annals of typography; bibliography (I,26).

Zunz's Conception of Literature

At first sight, it may be surprising not to find "literature" listed in this plan as a special science. It must be recalled that literature is for Zunz identical with the material to be treated scientifically. His entire scheme of sciences is based on "the literary products of the Jewish people" (I,7). The literature of a nation is considered "to be the entrance to the universal knowledge of its cultural development through all ages, determined by the existing and the newly created, i. e., the external and the internal, by destiny, climate, customs, religion, and chance" (I,6 f.). In this case, Zunz does not refer to the corresponding conception of August Boeckh to whom he is otherwise much indebted. Boeckh (p. 742) vigorously rejected such a differentiation in dealing with literature: "I cannot approve of the opinion of some scholars to attribute the internal history of literature to the synchronistic introduction, the external to the eidographic repre-

[13] Erroneously called by Zunz *Diplomatik,* a term used since Mabillon's *De re diplomatica libri* VI (1681) for records and deeds only. Zunz has in mind what is called palaeography.

sentation. Internal and external cannot be separated; the external must express the internal characteristics of the *genus.*"

Zunz reproduces that theory of "literature" as developed by Johann Gottfried Herder in *Die Fragmente über die neuere deutsche Literatur* (1767), and later applied to the Jewish sphere in *Vom Geiste der Ebräischen Poesie* (1782-83).[14] According to this theory, character and personality of a nation find expression in literature as shaped by physical and social environment, by tradition and religion, by climate and soil, by customs, chance and destiny. There is no doubt that Zunz adopted Herder's theory.

Other evidence of Herder's influence may be found. In the preface to volume I of *Vom Geiste* Herder mentions that he was influenced by the book "Cosri". Zunz in the preface to his essay (I,1) likewise refers to Khosroo, whose Persian surname, as used by Zunz, was *Nuschirwân,* and who was the greatest of the Sassanide rulers. At another point, Herder wrote (II,352): "The cursing of enemies is by no means in accordance with the spirit of the Christian religion." Correspondingly, we find the following in Zunz (I,31): "To insult and to curse the enemy people suits the Roman statesman, but not a Christian preacher." Zunz's conception of the "Hebrew canon" as the basis of Christianity reflects a recurring opinion (I,5) of Herder's. Zunz who possessed a copy of Herder's works (BZ.25), closes his classical essay, "Salomon ben Isaac, genannt Raschi," by a reference to Herder (ZWJ.,381). He even imitated Herder's so-called *Heuschreckenstil* (grasshopper-style) by sometimes enumerating things which have nothing in common.

Zunz's adoption of Herder's idea of evolution, the "genetic principle" is significant. The individual as well as the entire nation grew genetically, like the old man from the child, the plant from the seed. "In the same manner as the tree from the root, so must it be possible to derive the progress and the bloom of any art from its origin. It contains in itself the entire character of its product, in the same way as the plant with all its parts is wrapped up in the grain of seed."[15]

[14] I (Dessau, 1782), II (1783); translated into English, *The Spirit of Hebrew Poetry,* by J. Marsh, (Burlington, 1833).

[15] Friedrich Meinecke, *Die Entstehung des Historismus,* II (Munich-Berlin, 1936), 402; cf. also E. Seeberg, "Zur Entstehung des Historismus", *Historische Zeitschrift,* CLVII (1937), 241 ff.; E. N. Anderson, "Meinecke's Ideengeschichte and the Crisis in Historical Thinking", *Medieval and Historiographical Essays in Honor of James Westfall Thompson,* (Chicago, 1938), 361 ff.

Sharing Herder's view, Zunz could speak of the "bloom of the ancient Hebrews" (I,3), or the "blooming of classical education" (I,4). How deeply he adhered to the genetic principle, in its first vegetative or biological form, is indicated by the following passage which applies that principle to Jewish science. "Many a field is yet to be cultivated still covered with weeds, but holding out promise of prosperous harvest;—many a noxious seed is still being sown, and takes away from the abler neighbor growth and health;—many a ripe harvest is being crushed by the shower of passion, malice, and sham wisdom;—even many a fine fruit lies on the ground buried or trampled under" (I,29). To search out in each people the seeds which may produce art or sciences is a basic endeavor of scientific approach as viewed by Herder and Zunz, and later by the romantic doctrine of the creative *Volksgeist*. Its background is traceable to classical scholarship. The agrarian ceremonies of the Elysian Mysteries became symbolizations of the deepest secrets of life by conceiving the growth of the grain of seed entrusted to the soil as an image of life's rotation (B.,454). The genetic principle represents itself in the life of a nation as a "chain of changes" which began far back in primeval times. This career is held together "over ages and nations by the thread of mankind's culture."[16] Applying the principle to his science, Zunz accordingly stated that "science, elevated above all earthly pedantry, survives countries and nations" (I,27). It is erroneous to view Zunz's genetic conception of historic development as representing the idea of the unbroken "tradition" in the sense of the mediaeval Jewish historical category of *shalshelet ha-kabbalah*.

The Historical Appropriateness of the Expression "Our Science"

Zunz's plan represents itself as an encyclopaedia of sciences dealing with Jewish objects. Yet, its designation is still not 'Science of Judaism' or 'Jewish Science,' a term of Hegelian origin, which appeared only in 1821 in the circle of the 'Verein für Cultur und Wis-

[16] Meinecke, *op. cit.*, II, 409.—Cf. also the forgotten article by A. Kohut, "Die Verdienste Herders um die Juden und die jüdische Wissenschaft", in S. R. Hirsch's *Jeschurun* XV (1868-69), 155 ff.; 228 ff.

senchaft der Juden' (1819-24)[17] whose journal was edited by Zunz (ZWJ.) The term applied by Zunz is *unsere Wissenschaft*, 'our science' (I,4,5,7,23,24). This designation shows a definite historical appropriateness. August Boeckh[18] and Friedrich Carl von Savigny[19] whose lectures at the University of Berlin Zunz attended (BZ,19-21) spoke in the same way of 'our science' as did Zunz. They used this term for the same purposes. Boeckh, Savigny and Zunz, each was convinced that he was destined to accomplish something for his era. Each was under the impress of the slogan created by Savigny "Of the vocation of our age" (*Vom Beruf unserer Zeit . . .*). This was also the conviction of the *Cultur-Verein* and of Immanuel Wolf who wrote the entirely Hegelian program of the society under the motto of "the vocation of our age" (ZWJ,21). What was the "vocation" of Boeckh's, Savigny's, and Zunz's age?

To Savigny 'our science' meant the best mode of treating law as expounded in his book *Of the Vocation of Our Age for Legislation and Jurisprudence* (1814). To Boeckh[20] it was "the project of a whole, treated with scientific spirit and broad conceptions, arranged according to established notions"; for 'our science' has to meet the necessities of 'life' and 'the existing point of view of scolarship.' He thought to exemplify this by his work *Die Staatshaushaltung der Athener* (1817). Zunz dealt with 'our science' in his thesis, *Etwas über die Rabbinische Literatur* (1818). Although he adhered to the same contemporary scientific conception as Savigny did, this does not mean an ideological influence on Savigny's part. A recent attempt[21] to trace back certain features of Zunz's historical conception to the head of the "Historical School" is unsubstantiated.[22] Savigny's anti-liberal attitude excludes an ideological, methodological or scientific influence on the liberal Zunz. Moreover, Savigny himself pointed out that "this opinion that every age has a vocation for every thing" is "a prejudice of the most dangerous kind."[23]

17 The present writer is preparing an essay "The Kultur-Verein as a Jewish Age-Group".

18 A. Boeckh, *Die Staatshaushaltung der Athener,* I (Berlin, 1817), VI: *unsere Wissenschaft.*

19 Friedrich Carl von Savigny, *Vom Beruf unserer Zeit für Gesetzgebung und Rechtswissenschaft* (1st ed., 1814), 3rd ed. Heidelberg, 1840, 22: *unsere Wissenschaft.*

20 A. Boeckh, *Die Staatshaushaltung,* p. VI.

21 Cf. Bamberger, *op. cit.,* p. 11 and *passim.*

22 This writer denied the possibility of such an influence in *ZGJD.,* V (1934), 250.

23 Savigny, *op. cit.,* English transl. by A. Hayward, (London, 1831), 61.

Proof for the Utilization of a Pattern by Zunz

Preceding his outline, Zunz offers the hermeneutic principles to be applied by the different sciences to the existing material. This seems appropriate "criticism" (I,22) for a man who designated himself a disciple of August Boeckh and of the author of the classical *Prolegomena ad Homerum* (1795), Friedrich August Wolf. Theoretically, he divided this criticism in three sections, the doctrinal, dealing with ideas, the grammatical, dealing with the language, and the historical, dealing with history (I,7). Zunz continues: "Let us now proceed to the literary products of the Jewish people" (I,7). These words indicate that Zunz followed a certain pattern the principles of which he employed for his task. A counterpart to this way of argumentation occurs in another passage (I,136): "Let us now proceed to the Jews." As shown previously (*ZGJD.*V,1934,251), this phrase was used because Zunz applied the method of another discipline to the Jewish sphere. The phrase is a Latinism traceable to scholars of the 18th and 19th centuries and forms a part of their hermeneutic language. *Pergamus ad aliud,* says for instance Fr. A. Wolf[24]; and Hegel: "Let us now proceed to the element of religion."[25] This phrase was always used as a carry-over from one subject of research to another. Hence the drawing on a certain pattern is here evident.

August Boeckh's *Encyclopädie,* the Pattern of Zunz's Plan

The systematizations of the *klassische Altertumswissenschaft* of Fr. A. Wolf and A. Boeckh are a possible pattern. An influence of this kind on Zunz was previously suggested but remained unevidenced. Fritz Bamberger[26] showed that the characterization of poetry as the beginning of language (*supra,* Fcl) reproduces Wolf's viewpoint. But Boeckh's influence exceeds by far that of Wolf, thus coinciding with Zunz's self-characterization that Wolf attracted him, whereas Boeckh instructed him (BZ,19). Zunz's division of the critical method, as mentioned previously, seems to go back to Boeckh (pp.83,170), whose *Encyclopaedie* furnished the main pattern. A selection of instances follows which might prove this influence.

[24] Fr. A. Wolf, *Prolegomena ad Homerum* (1795), p. LXXX.

[25] Hegel, *Vorlesungen,* ed. Gans, 297.

[26] Bamberger, *op. cit.,* p. 13 f.

Zunz's division E, follows Boeckh's Aristotelian view (p.397) of the 'outer private life or economy,' i. e., 'the useful utilization of the material goods provided by nature or created artificially.' The conception of religion expressed in the sentence 'We understand under this term more the external just as the Latin language does,' (I,8), corresponds to Boeckh's classification (p.428 f.) of 'Cultus as the external religion' contrasted to mythology as the 'internal religion.' Zunz's differentiation between liturgy and religious maxims is also stressed by Boeckh (p.444). The explicit mention of the Latin again reflects Boeckh's opinion (p.456) that the Romans satisfied with 'the external religion' lacked a speculative interest.

Language (Fc) is defined as 'the first friend who condescendingly guides us into the paths leading to science, and at the same time, the last friend, to whom we passionately return' (I,17). This formulation presupposes Hegel's theory of the self-realization of the spirit which returns to itself. In this sense, language is, in accordance with Boeckh's theory (p.467 f.), "the organ of knowledge and poetry, that formation of knowledge by which the latter is connected with art and knowledge. From poetry emanates prose as an adequate expression of scientific thinking." Boeckh reiterated again and again the implicit connection of language and knowledge.

The assertion that over all special disciplines philosophy reigns supreme 'with exclusive majesty' (I,27), reflects Boeckh's statement (p.590) that philosophy is 'the highest grade of knowledge and the highest subject of philology if it is reperception of the perceptible.'

'Ethics' is declared by Zunz to be 'the source of the religious as well as of the juridical principle' (I,10), the source of the sciences determined by Church and State (A and B). This conception becomes understandable only from Boeckh's underlying viewpoint (p.630 f.) that the empirical moral sciences derive from ethics. "The basis of our entire division must be taken from ethics" (p.58), i.e., ethics in the sense as employed in Plato's *Republic*: not only as virtue and *Pflichtenlehre,* but as creating conditions.

Classical Hermeneutics Applied To 'Our Science'

The classical foundation of Zunz's plan is also reflected by the adoption of classical hermeneutics. According to Boeckh the special advantage of ancient history consists in the fact that 'it is closed in

itself'; it therefore can be easier surveyed (pp.259,348). This idea bearing on Hegel's theory that science comes into existence as soon as a period has come to its end, is reflected in Zunz's opinion that, with the disappearance of neo-Hebrew literature, "science appears in order to render account of the closed period" (I,4;III,81). Now there is an opportunity to survey Jewish literature from the oldest times to the very end, to survey the entire course of a people's history and to draw conclusions for our present age.

Zunz's scientific terminology (*'Altertumkunde,' 'Antiquitäten,'* etc.) is self-evidently borrowed from classical scholarship. A category like *"wissenschaftlich belehrend"* (scientifically instructive) (ZWJ,124) is the Latin *suasorius,* employed for instance by Boeckh (p.741) to characterize Seneca's writings. Zunz's reiterated complaint concerning *"Subsidien"* (I,4,35) is another of these hermeneutic categories used by classical scholars.[27]

All these examples show that Zunz was urged to draw up his plan of an encyclopaedia dealing with 'our science' by the very fact that he was a classical scholar. Judaism was to him a neglected sphere of culture belonging to classical antiquity (I,34,36;II,2,190; ZWJ,22). Taking the scientific categories of classical research as a yardstick, he could expect to discover 'the good and the fair' (I,24, 31,328,348;II,87) in the Jewish objects and to see them realized in the scientific endeavor dealing with them. It would be wrong to conceive this category in an aesthetic sense only. Zunz used it in the more ethnographic and ethical Greek meaning of *Kalokagathia,* indicating the highest degree a people can possibly attain in the beauty of outward form and the goodness of its inner character.

Occasionally the word 'political' is used in the more original Greek meaning of 'social.' Attaching to this term such a connotation, Zunz says (I,330): "All sciences are political, for science is the coherent knowledge of the genesis and development of creative ideas, and of their effect on human society."

Characteristic is also the importance attributed by Zunz to the necessity for a Hebrew dictionary. He writes: 'A Forcellinian lexicon is wanting' (I,20), referring to one of the leading Latin dictionaries of his time (A. Forcellini, *Totius Latinitatis Lexicon,* Padua, 1771).

[27] Cf. Boeckh, *Encyclopaedie* 129, 344; Fr. A. Wolf, *Prolegomena,* 3, 6.

Zunz's Conception of 'Suffering'

The beginning of the famous second chapter, entitled "Sufferings" in Zunz's work *Die synagogale Poesie des Mittelalters* (Berlin, 1855) reads as follows: "If there is an ascending scale of sufferings, Israel reached its highest degree. If the duration of afflictions and the patience with which they are borne, confer nobility upon man, the Jews may vie with the aristocracy of any country. If a literature which produced a few classical tragedies is deemed rich, what place should be assigned to a tragedy extending over fifteen centuries and composed and enacted by the heroes themselves?

[The dispersion of the Jews sufficiently disastrous in itself, but especially so when considered in connection with their desire for reunion, should have filled a sympathetic heart with respect and charitableness; the Jews were all the more entitled to proper treatment, as among them the 'stranger' had always been protected."]

This often quoted passage was incorporated by George Eliot into her novel *Daniel Deronda* (1876).[28] It inspired M. J. Schleiden[29] to write *Die Romantik des Martyriums bei den Juden des Mittelalters* (Leipzig, 1878). Yet, this passage has been misinterpreted and incompletely quoted.

Zunz's conception of 'suffering' is entirely based on Aristotle's theory of drama and tragedy. Accordingly (*De Poetica,* 1448a3) we are told "in a play the personages act the story." The graver poets 'would represent noble actions and those of noble personages' (1448b4). A tragedy, then, is 'the imitation of an action that is serious and also, as having magnitude, complete in itself' (1449b6), it is 'an imitation not of persons but of action and life, of happiness and misery' (1450a). This Aristotelian theory is easily recognizable in Zunz's words. The 'suffering' of the Jews were to Zunz, in Aristotle's words, "a third part of the plot" (1452B11).

Now, to which literature does Zunz allude in comparing Jewish literature with another one? It is obvious that that literature which produced but a few classical tragedies and none the less is deemed "rich," cannot be classical literature with its numerous tragedies.

[28] Vol. II, book VI, ch. XLII, p. 123 of the edition of the New York Publishing Company, New York, *sine anno;* cf. L. Wallach, *JQR.* XXXI (1941), 285, n. 21.

[29] Cf. M. I. Schleiden, *The Importance of the Jews for the Preservation and Revival of Learning during the Middle Ages,* (London, 1911).

By "rich" Zunz refers to Herder[30] who compared Hebrew literature and language with Arabic which he considered the most cultivated of Oriental languages. Therefore Herder stated: "I can very well believe that the language of which we are speaking (*viz.* Hebrew), in the hands of another people, might have become *rich* and refined. How copious has the Arabic become, and the Phoenician, too, may have been *rich* enough in the language of trade and numbers; but as for this race of herdsmen from what resources could they form a language?"

Another source Zunz had in mind when he composed his elegy, is to be found in Plato's *Laws* (VII,817 B):[31] (as to the strangers) "Most excellent of strangers, we ourselves, to the best of our ability, are the authors of a tragedy and one superlatively fair and good; at heart, all our policy is framed as a representation of the fairest and best life, which is in reality, as we assert, the truest tragedy. Thus we are composers of the same things as yourselves, rivals of yours as artists and actors of the fairest drama, which, as our hope is, true law and it alone, is by nature competent to complete. Do not imagine, then, that we will ever thus lightly allow you to set up your stage beside us in the market place, and give permission to those imported actors of yours."

This passage, compared with Zunz's own formulation proves that his elegy was always quoted in a fragmentary manner. His thought and his source show that the second paragraph, quoted above, is part of the original thought. The picture of the elegy makes sense only if the 'stranger' is included.

In this light Zunz's idea will be better understood. He compares the sufferings of the medieval Jews amidst a hostile world which treated them as 'strangers,' with the great contributions the 'strangers' made to Greek culture. This comparison is implicitly contained in his association of thought; furthermore the idea that, according to Greek mythology, in the same sense as the strangers in ancient Greece contributed to the rise of Greek culture, so would the Jewish 'strangers' do if they were given complete emancipation. Is there a better example how the classical scholar Zunz adapted principles of Greek culture to the Jewish sphere? Are not the rudiments of Greek

[30] J. G. Herder, *Vom Geist der Ebräischen Poesie,* I (Dessau, 1782), 10-12.
[31] Plato, ed. R. G. Bury, II *(The Loeb Classical Library).*

culture connected with the advent of strangers? Were not various Greek states founded by strangers?[32] Therefore why withhold from the Jews the complete emancipation when the historical analogy recommends it?

Finally, there is a possibility that the beginning of the passage here under consideration was modelled by Zunz according to the tenor and conditional formulation of the introductory words used by Boeckh in *Die Staatshaushaltung der Athener* (Berlin, 1817): "If the area and population of states were the only scale for measuring their greatness and importance, the Athenians would stand far beneath the Huns and Mongolians."

All this shows clearly the mosaic manner of Zunz's thinking deeply imbued by classical conceptions, which he hoped to refind in his own era. His life proved, however, how dangerous it is to look upon the modern world with the eyes of an ancient Greek and to search for the realization of Hellenic principles outside of Greek soil.

An Example of Zunz's Scientific Method

Zunz's basic connection with classical scholarship is not only reflected in his thoughts but also in his scientific method.

Zunz was very much interested in the Psalms as an expression of Hebrew poetry. For a long time the Psalms were treated as if they were a work of classical literature. Scholars expected to find in them what they found in Greek and Roman poetry. But already Herder[33] protested against such a method which transplanted the established hermeneutics of a developed science into an undeveloped sphere of research: "The composition of a song will be appreciated on the basis of the particular nature of perceptions, sentiments, and of language, in which it sprang up. What does it mean to call this or that Psalm a Pindarian?" Pindar, then, was the yardstick for the valuation of the Psalms. A reflection of this method is still recognizable in Zunz's treatment of the Psalms. In preliminary studies on the Psalms,[34] he made this statement: "The Psalms are not (like Pindar etc.), not a whole, not explained or hardly explained, by similar products of that literature." This seems to prove that Zunz shares Herder's

32 Hegel, *Vorlesungen,* ed. Gans, 234-39.

33 Herder, *Vom Geiste der Ebräischen Poesie,* II, 317, and *passim.*

34 I. Elbogen, "Von Leopold Zunz' Psalmenstudien", *Festschrift für Armand Kaminka* (Vienna, 1937), 30.

attitude concerning the methodological problem, and that he refers to Boeckh's[35] essay, *Ueber die kritische Behandlung der Pindarischen Gedichte.* Boeckh stressed the necessity of dealing with "an entire given literary work as a finished whole" and "the main difficulty of criticism in dealing with Pindar and the rest of Hellenic lyric of similar kind."

The Literary Influence of the *Humaniora*

Zunz as a student of the *humaniora* was not only influenced by classical scholarship but also by classic German literature, especially by Friedrich Schiller's poetry. The study of Latin and Greek, and of the classics of German literature, Schiller and Goethe, determined this feature of German culture.[36] Therefore, it is not surprising to detect a literary influence of Schiller's poetry on Zunz's speech, and even direct quotations of this literature very popular in that period. A person able to intersperse his speech with as many allusions to well-known poems as possible was looked upon as highly educated (*"gebildet"*).

Zunz speaks, for instance, of the "goods of mankind" (I,37) in the same sense as Schiller does in the poem *Das Siegesfest,* v.101, 'Von des Lebens Gütern allen.' The statement that "emancipation and science" are supposed to be 'kein leerer Schall' (no empty sound; I,36) is traceable to *Die Worte des Glaubens,* v.13, 'Und die Tugend, sie ist kein leerer Schall.' A reference to the same poem, v.1, 'Drei Worte nenn' ich euch, inhaltsschwer;' and to *Die Worte des Wahns,* v.1, 'Drei Worte hoert man, bedeutungsschwer;' is found in Zunz's assertion that the text of his sermon (II,83 f.) will recommend 'three weighty words,' 'Drei gewichtsschwere Worte.' The figure of speech, dealing with the curiosity of the scholar who wants to remove "the veil" from the past (I,16 f.) is a reference to *Das verschleierte Bild zu Sais,* v. 5 'Stets riss ihn seine Forschbegierde weiter;' vv.,22f. 'Was ists, das hinter diesem Schleier sich verbirgt?'

The panegyric words "und über alle diese Räume . . . reigns philosophy with exclusive majesty" (I,27) are an echo of *Die Worte*

[35] *Abhandlungen der Preussischen Akademie der Wissenschaften,* hist.-philolog. Klasse, 1822-23 (Berlin, 1825), 264.

[36] Cf. Fr. Paulsen, *Geschichte des gelehrten Unterrichts auf den deutschen Schulen und Universitäten,* (Leipzig, 1885); as to Schiller's poems, cf. Schiller's *Sämtliche Werke* (Helios-Klassiker), vol. I.

des Glaubens, vv.21 ff,' Hoch über der Zeit und dem Raume webt— Lebendig der höchste Gedanke.' Another typical commonplace of the German classics is "these agreeable flights in *das Reich der Hoffnung*" (I,28) with the impressive background of Schiller's *Hoffnung,* 'Es reden und träumen die Menschen viel von bessern künftigen Tagen.' A free rendering of Schiller's epigram *Tonkunst,*

'Leben atme die bildende Kunst, Geist fordr' ich vom Dichter,
Aber die Seele spricht nur Polyhymnia aus';

represent the closing words of a jubilee speech (II,142):

'Leben bilden die Lehr' und die Geist ausströmende Dichtung,
Aber die Seele spricht nur in des Meisters Gesang.'

Once the concluding verses of Goethe's *Das Göttliche* (The Godlike) are quoted without reference (II,134):

Be the man that is noble,
Both helpful and good,
Unweariedly forming
The right and the useful,
A type of those beings
Our mind hath foreshadow'd.

These examples show that Zunz was indeed imbued with the literary sector of the humaniora too. His appreciation for the *humaniora* was so great as to let him state that he who is not imbued with classical education (*"klassiche Bildung"*) (I,25) can impossibly make any contribution to a science dealing with Jewish objects!

Philosophical Influences

To the influences on Zunz by Herder and Hegel already mentioned in this essay the following instances interspersed in Zunz's outline may be added.

Bearing on a problem of comparative jurisprudence is the remark (I,9): "Even more interesting is the task to compare systematically the entire doctrine of *culpa* so sagaciously treated in the talmudic *baboth,* with the Roman Law." This suggestion is Zunz's answer to an opinion like Hegel's[37] that "in Mosaic law where the distinction between *dolus, culpa,* and *casus* is also not yet clearly recognized, there is nevertheless an asylum opened for the innocent homicide, to which he may betake himself."

[37] Hegel, *Vorlesungen,* ed. Gans, 129.

The classification of the arts in Zunz's plan (E) as sciences dealing with the "embellishment" of nature is likely to be the vestige of an influence by Henry Home's *Elements of Criticism* (1761). Home was a member of the English aesthetical school which developed the analytical method of treating beauty later elaborated by Immanuel Kant. Embellishment of nature was a category cultivated by Home. Zunz referred to Home (I,28) who is known for his predilection for exemplifying philosophical problems either by trains or by gardening! The mentioned reference and trace, however, are the only vestiges discoverable in Zunz's works.

Johann Gottlieb Fichte's lectures *Ueber die Bestimmung des Gelehrten* (1811)[38] are also used and quoted by Zunz without naming the author. Fichte expressed in the fourth lecture the opinion that the progress of mankind is based on the advance of science. Delay of the latter means to delay the former, because science itself is a branch of human education and each branch of it must be developed. Accordingly, Zunz says (I,28): "To whom science does not appear as an integral part of intellectual creation, there is nothing to be said by us." Zunz prefers to turn to the "nobles among the peoples, who know, that man may never rest in his upward trend,—to those who are less concerned about what was done than about what still is to be done." This attitude and these words are Fichte's who said: "If the following rule concerns all men, all the more it concerns the scholar: the scholar should forget what he has done, as soon as it is done, and always think of that what he has yet to do," for the scholar is the educator of mankind.

Another influence of Fichte on Zunz is the latter's adoption of Fichte's idea of a *"Lehranstalt."* The establishment of *Lehranstalten* (I,36) was one of Zunz's hobbies which he pursued all his lifetime. Fichte's *Deduzierter Plan einer zu Berlin zu errichtenden höheren Lehranstalt*[39] clearly shows his intentions.

Conclusions

No doubt can any longer prevail that Zunz stood amidst the cultural development of his era which left its rich impress on him. His basic conception of a science dealing with Jewish objects is entirely

[38] Cf. J. G. Fichte's *Werke*, ed. by F. Medicus, V (Meiner's *Philosophische Bibliothek*, vol. 131); *Insel-Bücherei* (Leipzig), no. 253, pp. 37 ff.

[39] Ed. by Eduard Spranger, 2nd ed., 1919 (Meiner's *Philosophische Bibliothek*, vol. 120).

based on the hermeneutics and methodology of classical scholarship. As to its origin, the Science of Judaism, traditionally attributed to Zunz, forms in its very foundation a special outgrowth of classical scholarship. The historian of science should list it within the history of classical scholarship.[40]

Zunz's intention in drawing up his encyclopaedia of sciences was determined by the classical conviction that "the ideas of Antiquity must and can be brought in lively connection to modern thinking, and in this capacity they exercise a cleansing effect" (B.,27). The result of the *humaniora* is *humanitas, "Humanität,* education in connection with the sciences" (I,10), or as it was termed by Boeckh (p.257) "as the knowledge of truth is development in the history of science, so is the effective knowledge of *Humanität* development in the entire history of culture." This cultural philosophic conception was carried by the supposition that this intellectual education does not exist only in rational, but also in ethical and aesthetical values. By revealing these values in the material accumulated by Jewish history the moral basis for granting the Jews complete emancipation is given, since by the existence of those values as proven, the Jewish position in "the history of mankind" (B.,257) is determined.

Classical scholarship occupies the broadest and nearly exclusive basis in Zunz's scientific conceptions. Yet other less important influences are traceable. One resulted from his connection with the *Verein für Kultur und Wissenschaft der Juden* (1819-24) the periodical of which was edited by Zunz. The program of science sponsored by this group[41] whose leading members were born between 1790 and 1800, was Hegelian to the very core (ZWJ,1-24). After this disclosure of Zunz's scientific background, it will be easier to disentangle the different currents and undercurrents in Zunz's conception of history which will be treated in another essay by the author. How farflung such an undertaking is may be shown by one instance.

Some of Zunz's writings contain collections of data of a lexicographical nature which give them the appearance of "catalogues." These catalogues have nothing to do with Jean Paul's *Hesperus* which Zunz read (BZ,17), although this work contains similar collections; nor have they anything to do with an alleged Romantic atti-

40 Cf. J. E. Sandys, *A History of Classical Scholarship,* III (Cambridge, 1908), 95 ff.
41 Cf. *supra,* note 17.

tude. They reflect rather a methodological influence of Johann Christoph Adelung's work *Mithridates oder allgemeine Sprachenkunde.*[42] This work must have served Zunz as a model—*mutatis mutandis*—because he quotes it in his writings containing such catalogues (ZWJ,120,327). This fact points, moreover, to an influence of Adelung's *Versuch einer Geschichte der Kultur des menschlichen Geschlechts* (Leipzig, 1782). In this work the enlightened and humanistic historical category "history of mankind" is replaced by the term "cultural history" or "history of culture." These two denominations indicating two different historical approaches are used also by Zunz side by side.

No room was left for Romantic undercurrents in Zunz's conception of science which was, in its classical formation, exclusively carried by the spirit of the Mendelssohnian and Kantian philosophy.[43] It was quite symptomatic that Zunz's Hegelian friend, Immanuel Wolf, found "the vocation of the age" (ZWJ,21) expressed in a science which was supposed to be a real science (ZWJ,23), 'die hohe, die himmlische Göttin.' By this anonymous reference to Friedrich Schiller's sharp epigram *Wissenschaft*:

'Einem ist sie die hohe, die himmlische Göttin, dem andern
Eine tüchtige Kuh, die ihn mit Butter versorgt,'

these young men of the Kultur-Verein identified themselves with the Kantian spirit modified by Schiller's ethical rigorism.

42 I (Berlin, 1806); II-IV, ed. by I. S. Vater, (Berlin, 1809-17).

43 Franz Delitzsch, *Zur Geschichte der jüdischen Poesie,* (Leipzig, 1836), 30, correctly recognized this fact for Jewish poetry.

THE ENGRAVER OF THE FIRST SHEKEL MEDALS

By

Bruno Kisch

New York

In his essay "Shekel Medals and False Shekels"[1] the writer traced the history of the "false shekels" back to the sixteenth century, the period when Joachimsthal (Bohemia) was renowned for its mint and particularly the artistic religious medals produced there. Among them the shekel medals were remarkable, as mentioned by the contemporaneous pastor of Joachimsthal, Johann Muthesius.[2] The only specimen of these medals which has come down to us, the Meysel shekel of 1584, was considered by this writer as a cast made from an original which probably had been struck at Joachimsthal in the middle of the sixteenth century. This can now be supported by the following observations.

Only two of the 558 medals which were struck in Joachimsthal during the sixteenth century and listed by V. Katz, namely nos. 335 and 338, show a chalice in the centre.[3] On the obverse, no. 335 represents the portrait of Emperor Ferdinand I (1556-1564), no. 338 that of Maximilian II (1564-1576). Both medals show on the reverse a smoking chalice exactly of the same kind as the smoking chalice of the Meysel shekel. No. 335 has around the portrait the following inscription: DATE: CAESARI. QVAE SVNT. CAE/ SARIS-FER. The corresponding inscription of 338 reads: DATE. CAESARI QVAE SUNT/CAESMAXI:. The reverse inscription around the smoking chalice of no. 335 is: DATE. DEO. QVAE. SVNT. DEI; at the right and left of the chalice respectively: ORATIO. The reverse of no. 338 differs from that of no. 335 only by showing DE instead of DEI. Both medals described here have a diameter of 20 mm. The reverse of no. 338 recurs on a cast medal, representing St. Paul (Katz, no. 90). The term ORATIO means that, in the artist's opinion, the smoking chalice is symbolic of the prayers rising to the Lord.

1 Bruno Kisch, "Shekel Medals and False Shekels", *Historia Judaica,* III (1941), 67.

2 Johann Muthesius, *Ausgewählte Werke,* II (Prague, 1897), 185.

3 Victor Katz,*Die erzgebirgische Prägemedaille des* 16. *Jahrhunderts* (Prague, 1931).

Nos. 335 and 338 were produced, according to Katz's researches, by one of the most famous engravers of the sixteenth century, Nickel Milicz of Joachimsthal.[4] The fact that he alone of all Joachimsthal stamp-cutters put a smoking chalice on a medal exactly at the time when the first shekel medals were mentioned in literature (about 1550) justifies the assumption that the first shekel medal was made by him. Support for this is offered by the inscriptions of the aforementioned medals nos. 335 and 338. Jesus' well-known saying: "Render unto Caesar the things which are Caesar's, and unto God the things that are God's" is found in *Matthew* XXII, 21 with reference to the Roman Emperor. The artist had the ingenious idea to divide this sentence into two parts. He placed the words: "Date Caesari quae sunt Caesaris" around the Emperor's portrait, which was on every secular coin of that time. The words: "Date Deo quae sunt Dei" were placed by him around the smoking chalice, being the symbol of the shekel of the sanctuary. It was probably known to him from the obverse of the shekel medals. The artist liked this idea so well that he repeated it twice on different medals. While neither bears a date, the older of them, no. 335, was struck during the reign of Emperor Ferdinand I, between 1556 and 1564. If the shekel medal indeed gave the inspiration, the time coincides exactly with the supposed date of the coinage of the first shekel medal, about 1550.

The assumption that the first shekel medal was struck by Nickel Milicz is further supported by a list compiled in Prague in 1824 which enumerates 52 different dies, transferred in that year from the Prague mint to that of Vienna.[5] Some of them are attributed to Nickel Milicz; under no. 44 the die of the obverse of Katz no. 388; under no. 49 the die of a "medal with Hebrew lettering"; under no. 50 two dies of "a medal with Hebrew lettering." No other Joachimsthal medal with Hebrew lettering is known up till now, except the shekel medals mentioned by Muthesius. Emperor Rudolph II who resided in Prague and was an enthusiastic collector of art objects had bought these dies in 1612 from the heirs of Daniel Jahn a citi-

[4] Victor Katz, "Wolf Milicz, Nickel Milicz a Zachariáš Kempf", *Numismatický Časopis Československý*, II (1926), 85.

[5] *Katalog der Münzen-und Medaillen-Stempelsammlung des k.k. Hauptmünzamtes in Wien* (Vienna, 1901), p. 1174.

zen of Prague. Daniel Jahn, the owner of all the aforementioned Joachimsthal dies of the sixteenth century was a grandson of Nickel Milicz and a son-in-law of another engraver of medals, Zacharias Kempf.[5a] Kempf was Nickel Milicz's son-in-law.

All these facts seem to justify the assumption that it was Nickel Milicz of Joachimsthal who made the first shekel medals at about 1550. They must have been struck; however, no specimen of these original shekel medals is known up to date. The fact that Nickel Milicz died prior to 1575[6] proves that the Meysel shekel was not cast by him but was copied from an older (probably struck) model. Zacharias Kempf, Nickel Milicz's son-in-law, used time and again the dies inherited from his father-in-law, and remodeled them repeatedly.[7] It is, therefore, very likely that it was Kempf who made the Meysel shekel. Kempf was working from 1561 to 1601 and was probably the last prominent master of the Joachimsthal school of artists, yet he did not reach the artistic level of his father-in-law. The Meysel shekel exhibits two stylistic features of the later Joachimsthal medals. Firstly, the figure 1 is shaped like an I, which was customary in the Milicz workshop after 1565.[8] Secondly, this shekel medal shows an adorned rim like many of the other Kempf medals. True, the Meysel shekel is a cast, but no. 90 in Katz's work is also a cast and its reverse is definitely a copy of the reverse of Nickel Milicz's medal no. 338.

When peace once will return it will perhaps be possible to identify the dies of the Joachimsthal Hebrew medals mentioned in the Vienna list of 1824. For the time being so much is certain that the first shekel medals were struck in Joachimsthal between 1544 and 1564. Their dies were made by Nickel Milicz who regarded the smoking chalice as a symbol of prayers. The Meysel shekel may be attributed with some probability to Nickel Milicz's son-in-law Zacharias Kempf.

[5a] This fact was first established by the late Prague numismatist, Edward Fiala; cf. V. Katz, *Numismatický Časopis*, II (1926), 85.

[6] Also with reference to the following statements, see Katz, *Numismatický Časopis*, II (1926), p. 96, 110.

[7] Katz, *Die erzegbirgische Prägemedaille*, p. 227.

[8] Katz, *loc. cit.*, p. 158.

BOOK REVIEWS

Morton M. Berman, *The Role of the Rabbi: What Was, What Is, and What Shall the Rabbi Be?* Jewish Institute of Religion. New York, 1941. 24 pp.

This impressive address delivered at the exercises of the Jewish Institute of Religion on the opening of its twentieth year should be read by every rabbinical student of whatever religious approach to Jewish law and life upon his entering the rabbinical school, and should be re-read upon his graduation. Jewish knowledge and personal piety are described with genuine enthusiasm and convincing persuasiveness as the main pillars of rabbinical education and practice. Yet, this is not the cause for bringing Rabbi Berman's address to the attention of the readers of this journal not devoted to Jewish homiletics. More than one half of the author's presentation is concerned with the history of his problem, beginning with the Berlin *Kulturverein* prize essay of 1841 on *Was war, was ist, und was soll der Rabbiner sein?* The complete literature on this important question published during the past century is critically surveyed. A valuable bibliography of all pertinent publications of European as well as American origin is contained in the notes. An old desideratum of the Science of Judaism is a comprehensive history of the rabbinate. May we expect from Rabbi Berman, as a contribution to this voluminous work, a history of the rabbinate during the past century, even if it would be confined to the American scene only? His pamphlet proves him the right man for the task.

Jewish Institute of Religion. *Guido Kisch.*

Abba Hillel Silver, *The World Crisis and Jewish Survival. A Group of Essays.* Richard R. Smith. New York, 1941. 221 pp.

Though ostensibly diverse in content, the five papers included in this volume are essentially an eloquent and often stirring exposition of the unity of Israel and its faith. The third essay, in particular, entitled simply "Israel," originally delivered before the Central Conference of American Rabbis, makes this theme explicit. It contains an unsparingly critical analysis of the early Reform negation of the nationhood of the Jewish people—that "improvised philosophy of Jewish history," as Dr. Silver labels it, which he tellingly equates with the Paulinian rejection of nation, land, race or language, and whose shallow opportunism history has now so effectively demonstrated. This essay is easily the outstanding one in the volume, impressive alike for its vigor and forthrightness, its scholarship and realism.

The same theme is implicit in the title essay, also presented to the Rabbinical Conference, in which the author voices what is ultimately a mystic faith in the will and ability of the Jews to survive, supported though it is by evidence from their historic experience. Weakest among the chapters is that entitled "The Rediscovery of Judaism," calling for a return to the Jewish faith as an essential element in such survival. Unfortunately Dr. Silver is not very clear as to what this religion is or requires of its adherents, so that the total effect is hazily hortatory and prolix. One is tempted to surmise that the nature of his audience—the Union of American Hebrew Congregations—impelled him, no doubt unwittingly, to "pull his punches." Rabbis can evidently be called upon to face the facts of life more readily than their lay followers.

The fourth essay, "In the Midst of Many Peoples," a compilation of addresses delivered before the Harvard Summer Conference of 1940, offers the well-known characterization of Nazi racism and anti-Semitism as political weapons, with the equally orthodox program of combatting them in America through education in democratic principles, greater mutual understanding, and the fostering of a pluralistic cultural ideal. The effectiveness of this presentation is no wit diminished by the fact that it covers familiar ground. Dr. Silver possesses a fertile and forceful pen, which lends his thought an impressively persuasive character. "The Prophet and his People," the Harvard Dudleian Lecture of 1940, the last in the book, is an eloquent and stirring appreciation of the character and role of the prophets, which reveals something of the prophetic spirit in the author himself. Here, too, Dr. Silver does not fail to point up the essential unity of national and religious aspiration which is the basic motif of his Jewishness, and the one platform upon which a healthy Jewish future can be built.

Easton, Pa. *Joshua Trachtenberg.*

Gerhart Saenger, *Today's Refugees, Tomorrow's Citizens, A Story of Americanization.* Harper and Brothers. New York, 1941. XIV + 286 pp.

Several pages would be needed if this book which promises to become an important historical source, were to be accorded appropriate evaluation. Hitherto unpublished data on the victims of modern expulsion and persecution, secured through interview and investigation by a corps of students and social scientists, are here woven together into a stirring and human account that will capture the interest of historian as well as sociologist who is concerned with the impact of events uprooting whole peoples and civilizations. Background and predicament of those who fled Nazi oppression are

shown, the major refugee problems and difficulties analyzed, successes and failures of new assimilative tasks presented and critically examined. From a scholarly point of view, too, the book deserves the praise which it has received in the daily press upon its publication.

G. K.

Jeremiah J. Berman, *Shehitah: A Study in the Cultural and Social Life of the Jewish People.* Bloch Publishing Co., New York, 1941. 514 pp.

According to Dr. Berman *Shehitah* is "a Jewish religious practice of sociological and ethical consequence." He has an historical awareness of the tremendous factor the dietary laws have been and still are in the life of the individual and the group, and also of the higher issues involved in serving "the moral and physical well-being of man." The mass of factual and expository matter he has gathered form a volume of unusual value and interest.

This book is unique among its kind. No comparable representation of the methods and effects of Jewish ritual slaughter and its history has ever before appeared. The data, extending from antiquity to the present time, omit no relevant detail. Biblical and talmudic legislation, controls, and oddities are recounted. The body of the work covers *shehitah* in Europe and the Orient after the year 1000. The several chapters of this section depict the *shohet's* place in communal life, his (and sometimes *her*) qualifications, the place and control of the meat dealer, community *shehitah* taxation, sale of "Jewish" meat to Gentiles, and modern anti-*shehitah* legislation.

Of special interest to American readers is the long account of *shehitah* in this country, with special reference to the city and state of New York. Dr. Berman corresponded over a period of years with representatives of all available American as well as foreign communities; his tabulations form a valuable addendum to an extraordinary story. Other American countries and modern Palestine also have been included.

The final portion of the book treats of religious considerations. It demonstrates the humaneness of Jewish methods of slaughter, their hygienic and ethical value, and their general salutary effect on an entire people. The discussion gives the writer the opportunity to consider the effect of all Jewish ceremonial laws upon the welfare of man: "*Shehitah* is found to be but one of a number of Jewish enactments, each one of which is salubrious in its effects. The good in some of these regulations has come to light only in recent years, in the findings of physiology and in the experience of medicine. When we place these beneficial Jewish laws together their cumulative effect cannot but impress deeply the student of Jewish law."

The volume is well gotten-up, and embellished with pictures of shehitah materials, documents, tokens, among them even a kosher meat order blank used in Nazi Germany in 1937.

New York City. *Abraham Burstein.*

The American Jewish Year Book 5702. Volume 43, edited by Harry Schneiderman for The American Jewish Committee. Jewish Publication Society of America. Philadelphia, 1941. XLI + 884 pp.

The great importance and practical value of this Year Book for the student of current Jewish history, already stressed in these pages previously, is enhanced by the 1941 edition completed under the excellent editorship of Mr. Harry Schneiderman, who has been responsible for twenty-two preceding year books. Space permits no more than listing the most important articles and the new features of the volume. First place was given to the Review of the Year "because events affecting Jews transcended in importance any single topic which may have been the subject of special articles." The Review comprising over 300 pages and covering all countries of the world inhabited by Jews is the largest annual review of Jewish affairs published anywhere. It is the co-operative work of several collaborators specialists in their individual fields. Included, for the first time, is a classified and annotated bibliography of books of Jewish interest in English published in the United States since 1940. It was compiled by the Librarian of the American Jewish Committee, Harry J. Alderman. The necrology as well as the biographical sketches have been expanded considerably. No less than eleven extensive biographies are presented; among them the following of special interest to historians: David W. Amram by L. E. Levinthal; Zevi Diesendruck by A. Heschel; Jacob Mann by V. E. Reichert. "Special articles" on the occasion of anniversaries are devoted to Jehuda Hallevi by Samuel S. Cohon, and Heinrich Graetz by Ismar Elbogen. No need to stress the importance of the detailed section "Statistics of the Jews" including studies on the distribution of the Jewish population all over the world and the changes effected by the mass migrations during the past years. If one finally considers the very detailed directories and lists of Jewish organizations etc., among them a list of Jewish periodicals, it is evident that the new volume of the American Jewish Year Book should be on the desk of every scholar concerned with Jewish affairs. *G. K.*

NOTICES OF RECENT PUBLICATIONS

Cyrus Adler, *I Have Considered the Days.* Jewish Publication Society. Philadelphia, 1941. XIV + 447 pp.

J. X. Cohen, *Jewish Life in South America.* Bloch Publishing Company. New York, 1941. XII + 195 pp.

Philip Birnbaum, *The Arabic Commentary of Yefet Ben 'Ali the Karaite on the Book of Hosea.* Dropsie College. Philadelphia, 1942. LXII + 247 pp.

David Efron, *Gesture and Environment, . . . Aspects of the Gestural Behavior of Eastern Jews and Southern Italians in New York City.* King's Crown Press. New York, 1941. X + 184 pp.

Louis Finkelstein, *The Beliefs and Practices of Judaism.* Devin-Adair Company. New York, 1941. 92 pp.

David Gurevich, *The Jewish Population of Jerusalem, A Demographic and Sociological Study.* Jewish Agency of Palestine. Jerusalem, 1940. 95 + 65 pp.

Vladimiro Jabotinsky, *La Nacion Judia Y La Guerra.* Biblioteca Oriente. Buenos Aires, 1941. 200 pp.

Guido Kisch, *Sachsenspiegel and Bible, Researches in the Source History of the Sachsenspiegel and the Influence of the Bible on Mediaeval German Law.* University of Notre Dame. Notre Dame, Indiana, 1941. X + 198 pp.

Jacob Lestschinsky, *Dos Sovetische Jidentum, Sein Fargangenheit Un Kegnwart* (Jewry in Soviet Russia, Past and Present; Yiddish). Yiddisher Kemfer. New York, 1941. 382 pp.

Raphael Mahler, *Jewish Emancipation, A Selection of Documents.* American Jewish Committee. New York, 1941. 72 pp.

Julian Morgenstern, *Amos Studies.* Hebrew Union College Press. Cincinnati, 1941. XI + 428 pp.

Abraham A. Neuman, *Cyrus Alder, A Biographical Sketch.* American Jewish Committee. New York, 1942. X + 233 pp.

David Philipson, *My Life as an American Jew.* John G. Kidd and Son. Cincinnati, 1941. 526 pp.

Hermann Vogelstein, *Rome.* Translated from the German by Moses Hadas. Jewish Publication Society. Philadelphia, 1940. XIII + 421 pp.

BIBLIOGRAPHY OF PERIODICAL LITERATURE

The following list consists largely of articles of Jewish historical content that appeared in non-Jewish scientific periodicals. From other periodicals only essays on legal history of the Jews are included. *Authors are invited to co-operate by sending reprints to the Editor.*

General History of the Jews in Various Lands

Berthold Altmann, The Autonomous Federation of Jewish Communities in Paderborn. *JSS.*, III, 1941, 159-188.

Martin Buber, Israel und die Völker. *Neue Wege,* XXXV, Zürich, 1941, 101-113.

David Ginsberg, Prilozi k historiji Jevreja na Balkanu (Contributions to the History of the Balkan Jews I: The Jews in Skoplje-Uesküb). *Omanut* (Croatian), V, No. 1-2, Zagreb 1941, 7-28.

Max M. Lazerson, The Jewish Minorities in the Baltic Countries. *JSS.*, III, 1941, 273-284.

Rudolf Löwenthal, The Jews in China. *Chinese Social and Political Science Review,* 1940, 119-261.

Gerhard Neumann, German Jews in Colombia. *JSS.*, III, 1941, 387-398.

Nathan Osterman, The Controversy over the Proposed Readmission of the Jews to England (1655). *JSS.*, III, 1941, 301-328.

Trude Weiss-Rosmarin, Waxman's "A History of Jewish Literature," A Critical Review. *Jewish Spectator,* VI, No. 8, 1941, 17-20.

A. S. Yahuda, King Alfonso and the Jews. *The Jewish Forum,* 1941, April.

Legal History

Alice C. Cramer, The Origins and Functions of the Jewish Exchequer. *Speculum,* XVI, 1941, 226-229.

Konstantin von Hohenlohe, Noch einmal Ursprung und Zweck der Collatio Mosaicarum et Romanarum legum. *Archiv für katholisches Kirchenrecht,* CXIX, 1939, 352-364.

T. P. Mc Laughlin, The Teaching of the Canonists on Usury. Mediaeval Studies, I, 1939, 81-147; II, 1940, 1-22.

J. Ph. Lévy, Un palliatif à la prohibition de l'usure: le"contractus trinus" ou "triplex". *Revue historique de droit Français et étranger,* Quatrième serie, XVIII, 1939, 423-433.

Joshua Starr, Jewish Citizenship in Rumania. *JSS.*, III, 1941, 57-80.

Social and Economic History, Statistics

Werner J. Cahnman, The Decline of the Munich Jewish Community. *JSS.*, III, 1941, 285-300.

Jacob Lestschinsky, The Natural Increase of Jewish People During the Last Century. *Medical Leaves,* III, 1941.

Hilde Ottenheimer, The Disappearance of Jewish Communities in Germany, 1900-1938. *JSS.,* III, 1941, 189-206.

Raphael Straus, The Jews in the Economic Evolution of Central Europe. *JSS.,* III, 1941, 15-40.

Biography

Henry J. Cadbury, Spinoza and a Quaker Document of 1657. *Mediaeval and Renaissance Studies,* I, London, 1941, 130-132.

Raphael Mahler, Jacob Mann's Life and Works. *Yivo Bleter,* XVI, 1940, 170-181.

M. Wischnitzer and E. Tcherikower, In Memory of Saul Ginzburg. *Yivo Bleter,* XVI, 1940, 161-169.

Language and Literature

Félix Falk, Eine jüdisch-deutsche Fassung des Wilhelmus von Nassowe. *Bijdragen voor Vaderlandsche Geschiedenis,* 1939, Nov.

Raphael Levy, The Plural Usage in Judaeo-French. *Modern Language Notes,* LV, 1940, 532-534.

Raphael Levy, Rashi's Contribution to the French Language. *JQR.,* XXXII, 1941, 71-78.

Harry Slochower, Attitudes Toward Heine in German Literary Criticism. *JSS.,* III, 1941, 355-374.

Francis Lee Utley, Noah's Ham and Jansen Enikel. *Germanic Review,* XVI, 1941, 241-249.

History of Philosophy

J. V. Courneen, Philo Judaeus Had the Concept of Creation. *The New Scholasticism,* XV, 1941, 46-58.

History of Art

Helen Rosenau, The Synagogue and Protestant Church Architecture. *Journal of the Warburg and Courtauld Institutes,* IV, 1941, 80-84.

Edgar Wind, The Subject of Botticelli's "Derelitta". *Journal of the Warburg and Courtauld Institutes,* IV, 1941, 114-117.

Rachel Wischnitzer-Bernstein, The Messianic Fox. *Review of Religion,* V, 1941, 257-263.

Bibliography

Guido Kisch, A Decade of American Research in Mediaeval Legal History. *Progress of Mediaeval and Renaissance Studies in the United States and Canada,* Bulletin No. 17, 1942.

HISTORIA JUDAICA

Volume IV OCTOBER, 1942 Number 2

HERMANN COHEN

By

Henry Slonimsky

New York

One hundred years have elapsed since the birth of the man who more than any other embodied the grandeur, the fond hopes, the tragic defeat of German Jewry. We are celebrating that birthday in the midst of wartime. The Germany which he feared and which he judged in advance, is affronting the world; the Germany for which he spoke seems buried out of sight forever. And the Jewry whose living embodiment he was, and the ideals which he defended with such high pathos, seem both to have been consigned to the flames. Everything seems to be hanging in the balance. But one would really have to succumb to that "Satan in the shape of Serpent Doubt" of which he spoke himself in a rare mood of dejection (*"Satan in der Gestalt der Schlange Skepsis;"* Briefe, p. 59) to doubt that truth is great and will prevail. What kind of Germany will be disinterred out of the ashes, who can say; certainly no German of his generation spoke so grandly of it as this Jew. But the Jew Cohen is eternal, as eternal as Judaism itself. There was a daimon in the man in whom centuries of German Jewry were summed up and found a voice. No argument is so impressive, so convincing, as the authentic man, the incontrovertible soul. In this case, his books give us a reflection of the man,—they are something less than the living man and yet always something more than mere books. So that although what we set out to give may appear to be only the survey of a thinker's life, it is in reality the life-beat of a man chosen by destiny to be the spokesman for a whole people.

Hermann Cohen, equally noteworthy in the history of philosophy and in the history of Jewish philosophy, and combining the two not in accidental union but in interpenetration so as to bring one to bear

upon the other, has made the most important contribution to the defence and interpretation of the Jewish religion in our day.* His influence has hardly begun. His work in general philosophy was eclipsed by the events connected with the world war of 1914; and similarly his influence on Jewish thought was deflected by the cataclysmic disasters which have befallen the Jewish people in and after the same period. But so great an achievement is bound to re-emerge at the right historic moment, both in Logic and Metaphysic, and more specially in the philosophy of the Jewish religion. In passion, power, and depth he is one of the few great Jewish theologians of the last half century.

Cohen's philosophic development spans a period of fifty years. From the first distinctive essays written under the aegis of Steinthal in the late sixties of the nineteenth century to the *Religion der Vernunft aus den Quellen das Judentums* published one year after his death in 1919, we have the spectacle of one long unremitting effort of thought, disciplined and impassioned throughout, and devoted to a single high unfolding aim. In that single effort three successive stages are discernible, each arising out of the other: one devoted to the re-discovery of Kant; a second to the elaboration of his own system; and a final crowning phase in which he identifies himself, personally and philosophically, with Judaism. There is no break with the past in this last period, he carries over the maturest results of all his thinking into it; nevertheless Cohen is led to give up, almost

* Hermann Cohen was born on July 4, 1842 as only child of the *hazan* and Hebrew teacher of the small Jewish community of Coswig near Dessau, the birthplace of Moses Mendelssohn. He was intended for the rabbinate, and after preparatory studies in the Gymnasium in Dessau and private instruction in Hebrew and Rabbinics from his father, he was sent to the Jewish Theological Seminary in Breslau where he had as teachers Frankel, Bernays and Graetz. He gave up theology however, and after extensive studies at the Universities of Breslau and Berlin, he took his doctorate in philosophy at Halle in 1865. After several years of free-lancing in Berlin, during which he published a number of notable essays in Steinthal and Lazarus' *Zeitschrift für Völkerpsychologie,* he issued his first major work, *Kants Theorie der Erfahrung,* in 1871. The book marked the beginning of a new interpretation of Kant, and was the means of his habilitation as Privatdozent in the University of Marburg in 1873 at the invitation of F. A. Lange, the famous author of the *History of Materialism.* In 1876, after Lange's death, he became full professor in Marburg and remained there till 1912, publishing his various works on Kant and the three successive parts of his *System of Philosophy,* and slowly building up with his younger colleague Paul Natorp the so-called "Marburger Schule," a distinctive school of thought. Upon his retirement at seventy he removed to Berlin, where he devoted himself almost entirely to Jewish things, giving courses at the "Lehranstalt für die Wissenschaft des Judentums" and founding the "Akademie für die Wissenschaft des Judentums." He died at seventy-six, active to the very end, in 1918.



HERMANN COHEN

A crayon study by Max Liebermann hitherto not reproduced, for his Hermann Cohen portrait. Courtesy of Dr. Bruno Kisch, New York.



without awareness, the basic assumption of a life-time of philosophizing in favor of the God of religion. The basic assumption of philosophic idealism is the sole autonomy and reality of thought; that is replaced in the end by the reality of a transcendent God. In addition there is something of transfiguration in this final phase, the old man rounding out a long life of high thinking by a return to his native beginnings, finding his own and his thought's consummation in his people's religion and his people's high and tragic destiny.

Cohen makes his philosophic start with Kant, because Kant stands for two supreme values in his eyes, namely Science and Morality. The Kantian philosophy, as Cohen interprets it, does away with metaphysics and its pretensions to know absolutes; it replaces metaphysical speculation by a "critique" of science. What do we know when we know in any exact sense, as in mathematical physics? What are the grounds of its validity, and what is the relation between the *science* of nature and the nature which is disclosed in that science? Is that relation perhaps one of identity? Kant's *Critique of Pure Reason* is in its main parts a reflection on another book which is not mentioned, namely Newton's *Principia;* it is a reflection on the bases of all exact science, as built up by the great masters at the beginning of modern times, Kepler and Galileo, and culminating in Newton, and going beyond Newton in creative continuity to our own day. The result of that reflection is the discovery that those bases are a product of "pure reason," that underlying Newton's *Principia* are deeper lying *principia,* which are so many phases of creative thought. In other words, analysis shows that the science of nature, in which alone nature is truly given to us, is not a reading off or transcript of something already existing and independent (as common sense assumes), but in every element and at every step is a construct of thought, a set of thought determinations. That is clearly the case in Geometry and Arithmetic, but is also shown to be the case in Mechanics and Mathematical Physics.

Such a view is called Idealism, but since Idealism is the generic name for a great variety of types, and since it is most popularly associated with the view of the subjective character of our sense-perceptions and therefore of the world, the Kantian and Cohenian Idealism must be distinguished from the others as critical or scientific or mathematico-physical Idealism. The notion that the world is thereby rendered unreal or subjective, as might seem to be the case with

physiological or psychological Idealism ("the world is my idea," *esse est percipi*), must be banished at the start. Nothing could be more real, more secure, more objective, more independent of one's private thinking or failure to think, than the universe set up by Newton, the system of modern Physics. The fact that this system has a continuous and cumulative history, that it is capable of methodical and constant progress, is ample proof, if proof were needed, that it is as objective and real as any object can well be. Indeed, such Idealism may equally be designated as Realism.

But the main point to be noted is that the tie which binds Cohen to Kant is the common view they hold of the function of philosophy, namely, that it is not some private and unpredictable revelation starting afresh with every new thinker, with every interesting speculative talent, but rather a single and common undertaking (like science itself) with method and with cumulative progress. There can be only one philosophy since there is but one human mind, and that philosophy is the *"perennis philosophia"* of which Leibniz spoke, and of which Leibniz himself is a distinguished builder, and along with Leibniz that select company of classics stretching back to Plato, the creator of philosophy as science, and to Plato's forbears, Parmenides and Pythagoras, and forward from Plato to Cusanus and Galileo, who in renewing Platonism inaugurate modern times, and so on through Descartes and Leibniz to a provisional peak in Kant: in a word, then, the company of the philosophers among the mathematicians and the mathematicians among the philosophers. Such a reading of the history of philosophy is of course a drastic simplification, relegating as it does a whole host of interesting names to the role of side-figures; but it has the immense advantage of laying bare the main current of human thought by tying up philosophy to ascertainable truth, and so giving humanity an anchor in the common and universal reason of mankind, and defending it against all wild and uncontrollable speculation, the swarm of irrationalisms and romanticisms with which the ages abound, dangerous in themselves, and even more dangerous in the next great sphere of human endeavor, the sphere of conduct and morality. The great German romantics who followed upon Kant are an instance in point. They cut philosophy loose from its anchorage in exact science and indulged in an orgy of speculation. But the net result was to bring philosophy into disrepute and complete eclipse for a whole generation; and in

our own day Fichte and Hegel have been disinterred to serve as sponsors for the Nazi regime.

Cohen's re-reading of the history of philosophy so as to uncover the essential kinship between the great classics of thought from Plato to Kant, and his re-reading of the philosophers themselves so as to lay bare their essential contribution, is one of his notable achievements. In the case of Kant that is notorious, for Cohen is primarily the head of the neo-Kantian movement. But in the case of Plato too Cohen has furnished a re-interpretation of the Doctrine of Ideas which is a striking illustration of his method of simplification and laying bare the essential. Whatever else the "Idea" in Plato may mean and has been taken to mean in the course of the ages, whether metaphysical or aesthetic or mythological, Cohen shows from the actual text of Plato that its central core of meaning at Plato's own maturity is that of scientific hypothesis. The "Idea" may figure as a hyperuranian entity in the ecstasy of a first discovery in the early poetic dialogues, but in Plato's sober mood it is a hypothesis of thought, a foundation laid by thought in the process of building up the object of knowledge, as e. g. in Geometry. He asks the question, what is science?—the same question which Kant had asked. And his answer is the same as Kant's: that in science (e. g. geometry or astronomy) which constitutes it science is a foundation laid by thought, an "idea" which serves as hypothesis. Thus Plato's Idealism links itself with that of Kant, and is an idealism of science, not of ecstasy or hyperuranian speculation, as has been assumed through the centuries.

This orientation of philosophy to science, the mark of the true (though somewhat austere) classics in the history of thought, Kant designates by the strange name "transcendental" or "transcendental method." Since Kant chose to use the term, and since it characterizes the type of philosophy which Cohen brought to a consummation, we must explain it. Transcendental then is the opposite of transcendent; it is that which has reference to "experience," to science in the first place, and then to the two other great objective realms of human experience, the sphere of law and government on the one hand, and the world of art creation in its various manifestations on the other. The transcendental method in philosophy would then be first of all philosophy's refusal to have some new wisdom of its own (i. e. to be a metaphysics), the refusal to offer some special revelation or in-

sight as to the ultimate nature of reality over and above what is already implicitly contained in the great achievements of mankind, namely in science, in law and government, and in art, in which the mind of mankind has already found embodiment. But starting with these facts of experience, these fabrics and edifices of civilization, slowly built up in a huge creative urge with a grand kind of naiveté, it is the business of philosophy to bring them all to a kind of self-consciousness. What is involved, what is at work in them all? What common principle, if any? What part has reason had in that great creative effort? And that precisely is the answer and the function of philosophy: the attempt on the part of thought to give an accounting to itself of the hidden bases of human experience, to uncover its foundations and to elicit the grounds of its validity, results in the insight that the underlying first principles throughout are creations (*Grundlegungen* or *Ideen*) of reason. Idealism or Rationalism is thus the resulting philosophy which emerges when you start with the experience actually achieved by mankind and ask how it came into being. Thought is shown to be the law-giver and creator of science, of morality, and of art, in the three basic disciplines of philosophy; that is, it is seen to be the law-giver and creator of what alone must pass for reality to the adult civilized man. Any interest in a supposed reality beyond what the mature mind of mankind has achieved is mythological and must be ignored. And so, with a glorification of mind as the sole guarantor of reality, there is united an element of self-restraint and resignation, namely the indifference to metaphysical questions as a mythological stage long passed. This is Cohen's point of view at the height of his career, and finds elaborate exposition in his three great systematic works on Logic, Ethics and Aesthetics. What he gives is a philosophy of autonomous reason as the self-consciousness of a mankind creatively at work in the three great fields of adult human endeavor: knowledge, conduct, beauty. Nothing more is needed; nothing less will do.

Now we can turn to our main interest in Cohen, namely his conception of God and religion; and here we find that his development can be described as a passage from philosophy to religion, a change of philosophy into religion. At first indeed his God seems less real than even Kant had allowed, but that is because he takes the Kantian idealism more seriously and consistently than Kant himself had done.

God in an idealistic system cannot possibly be more than idea, since ideas are the very substance of reality and there is no independent reality beyond them. Kant's great inconsistency had been to posit a "Ding an sich," a metaphysical core behind phenomena, forever unknowable in the realm of scientific experience, but in the realm of the moral in immediate contact with us as the noumenal world whence we derive freedom and the moral law and making possible for us a reasonable faith in God and immortality. Cohen in doing away with the *Ding an sich* (as the last remnant of metaphysics which Kant had been unable to slough off) in the first field of theory or knowledge, finds himself bereft of whatever comfort it might bring in the second field of conduct or practice. But idealism teaches that there is no transcendent reality, nothing but the *"Grundlegungen"* or foundations laid by thought; consequently God cannot be more and should not be more than such a Grundlegung, such a need and necessity of thought. God is no metaphysical reality, there being no such thing. God is *"Idee,"* the highest award Idealism can grant; however, as such it is far and away the most important of all of thought's positions.

God serves first of all as the "regulative" idea integrating the world of theoretic experience, the world of scientific fact and knowledge. Only on the assumption that there is an underlying unity within nature, as if it had all issued from a single plan and a single mind, can we build up a true science of nature.

God serves a similar function in the realm of moral values. God is the symbolizing expression for the unity of the moral world, the head so to speak of the kingdom of moral beings.

But when that has been said the problem only begins. God may be indispensable as the *Idee* which co-ordinates all of nature and as the *Idee* which dominates the world of moral values; but the real work begins, the real difficulty and the real indispensability of God, when the question of the relation of the two worlds is raised. How can nature be made receptive for the good? How can the good be realized within nature? For both worlds may have this in common that they have their foundation in thought, and a God-idea is responsible for each; but despite that common ground and origin, eternally amazing though it may be, the tension between the two, between that which is and that which ought to be, is so enormous that the entire drama of life and history lies between. What power will bridge that

chasm? Is it to be another *Idee* to co-ordinate the two *Ideen?* Surely it will have to be more than an *Idee,* more than a hypothesis; it will have to be a real power. This is the point where the inner force of Cohen's religiosity begins the unconscious movement in the direction of breaking down the walls of Idealism.

Cohen however is fully convinced that he is still operating within the domain of idealistic ethics with its claim of absolute autonomy. Such autonomous ethics rises of its own accord, through the sheer importance of the values at stake, to the idea of a God who will assure the permanence of nature so that the good may be realized. God at this stage is the warrant that humanity working under the conditions of nature will realize its destiny.

And still within the idealistic context, though clearly involving one step further in the unconscious direction of giving it up, Cohen insists that God must transcend both nature and morality. That is a matter of capital importance, and is directed against pantheism and the danger which pantheism implies for ethics. It is all very well to equate God with nature; the *"deus sive natura"* of Spinoza has become the stock in trade of all unthinking poets and of all facile philosophizers. Nay more, "the heavens declaring the glory of God" bear eloquent witness to the fact that a certain leaven of pantheism may well be present as intrinsic part of religious emotion. But it is the other half of the equation which must give us pause. For if God is equal to nature, then nature must be equal to morality, and that would be simply wiping out the world of morality. All the heavens separate the two; all heroism, all drama and tragedy, all history, bear witness to the gulf which yawns between them,—that gulf the bridging of which is indeed the task of all time and all history. And from that identification of nature with morality there is but one escape:—to make God transcend both. God is more than nature, more than morality, he is beyond both.

It is at this stage of his thought that Cohen points to the essential equivalence between the ethics of idealistic philosophy and the doctrine embodied in historical Judaism. In passages of magnificent eloquence Cohen sets up the claim (in the second volume of his system of philosophy, namely the *Ethik des reinen Willens*) that Judaism in point of content has been the historic source of the major ideas with which philosophic ethics operates. Judaism both in its prophetic and its later rabbinic form is essentially the doctrine that all of exist-

ence is a moral order grounded in God and headed for a Messianic age as the goal of all history. And while at this point of his career Cohen is filled with the pathos of the idea that all religion must eventually find its consummation in ethics, and that the existing religions must strive progressively to "idealize" themselves and meet together in such a common ethic of reason, still for the present he feels that the various historic religions, but quite especially Judaism and Christianity, must continue to be cultivated by their adherents not merely on the grounds of loyalty and piety, but because of the important educative functions they still exercise. Conversely, however, while we remain loyal to our respective traditions and draw whatever power we can from those great sources, we must still have the goal before our eyes of the eventual dissolution of religion within ethics.

Such in large outline is the form which Cohen's philosophy had assumed when he rounded out his teaching career at the age of seventy and retired from active University life. It is embodied in a series of volumes constituting a "System of Philosophy" and bearing the traditional titles Logic, Ethics, Aesthetics. This system may well prove to be the last great statement of the idealistic position for a long time; in point of power, consistency, and a certain loftiness of outlook, it is a most impressive formulation of a great heritage and tradition (the tradition of enlightened European culture, of Plato, Kant, Goethe, Mozart, against the general background of Prophetic morality) at the threshold of a new age, an age about to disown it.

Cohen had six more years to live, as if to prove that the best was yet to be. According to the premises of his philosophy there was no legitimate interest which philosophy did not cover: science, morality, art, these three constitute the entire range of human endeavor, of "experience," and philosophy which is the inner wellspring of principles from which the threefold endeavor is fed is a unity of creative reason allowing nothing beside itself.

But the removal from formal academic life gave Cohen perspective towards his own system, and the immersion in a richer Jewish environment in Berlin allowed an interest to emerge which till then had been rigidly disciplined. That interest is religion. The actual presence of a powerful religiosity within his own person led him to consider whether there was not a function which religion could and did subserve. The rehabilitation of religion proceeds at first timidly, for as we have seen religion was to receive an honorable end in ethics,

an end that is a consummation but still an end; and even now when religion rises to meet a hitherto neglected need, it must remain a religion drawing its prerogatives from reason (as indeed Cohen's culminating work on religion in which the old idealistic position had been virtually abandoned still seems to insist on it in the title, *Die Religion der Vernunft*). So then, if the *Grundrichtungen* or fundamental directions which the human mind travels have already been pre-empted, namely by Science, Morality, and Art, and Religion must still find a place, we will say not that it is on a par with these three, but that it has *Eigenart,* distinctiveness.

And what pray is that distinctiveness, that distinctive use and place for religion? Religion is the concern for the individual. The individual is the forgotten man of Philosophy. In the high debate on first principles it is he who has been overlooked; in the shuffle of great problems and high concerns the individual with his private problems and personal griefs has been lost.

So then Ethics is not enough. Ethics with its imperatives still leaves an area of human experience untouched, unconsidered, namely, the area of men's sufferings, men's need of pity and love, men's entanglement in sin and need for forgiveness. Has Ethics no heart for these things? Apparently not. It must deal with more cogent issues first and last, and those others are left by the wayside. Ethics envisages man not as "flesh and blood," not as frail mortal creature beset by temptation, but solely as bearer of the moral law, as protagonist of the great overarching ideas, such as the state, the primary realization of the good, and humanity, its most comprehensive realization. Concessions to man's frailty and mortality dare not enter into its calculus. The man of Ethics is man writ large (as Plato's Republic is delineation of man on a macroscopic scale), man as state, man as mankind, man as disembodied moral law. Cohen's Ethics is too deeply oriented in Prophetism with its predominant political and worldhistoric interests to have room for private sorrows. And God too, so far as Ethics finds it necessary to have that idea, has no time for the individual; here he is the God of mankind. The God of Ethics corresponds to the Prophetic God of worldhistoric sublimity, not to the God of the Psalmist's cry.

But when that has been said, and the moral demand allowed its indisputable first place, has the whole story been told? The "gates of tears" and the "gates of prayer" and that amazing event in every

man's life summed up in the Hebrew word *"Teshuvah"*: are they old wives' tales, are they an aging man's weakening before the rigor of the law? We know on the contrary that the deepest things of the soul begin where the abstract law ends. Suffering is the badge of all our tribe, the greatest of poets makes his one Jewish character say of his own people; but he might well have said it of all mankind. Suffering is our common human lot, and suffering precisely in proportion as we are good, simple, unaggressive, poor. And what can our treatment of each other, our emotion for each other, be in the face of that universal fact? The emotion aroused by our common plight is sympathy, compassion; and compassion presently ripens and is transfigured into love, from which in turn it is fed. It is a profound insight of Cohen's that religion begins where love begins. The love which men bear for each other leads them to discover the God of love from whom alone they draw their love for man. And the daily call to Israel to love God in turn, with all our heart and soul and might, crowns and completes this circle of love which takes its rise in common suffering. Love is the specific emotion of religion as respect is that of the moral life. The respect remains indispensable, the respect for each other as bearers of a common humanity and of the moral law, the respect without which compassion and love themselves would become an unmanly and pathological flow of feeling. But love is still the more comprehending emotion because suffering is so large a fact. There is a mystic bond which ties love and suffering together, and they are found conjoined in one of the most memorable of rabbinic concepts, "suffering of love": a tragic and cryptic phrase concerning God's treatment of Israel which leaves its meaning unsettled. Is it a suffering love, or a love which inflicts suffering, or more probably both together and at once? The theme remains for endless meditation.

There is one form in which suffering makes itself felt to us all for which we quite specially need and invoke a God of mercy. We are all of us laden with wrong and guilt; with sin, as the saying goes. And if anywhere mere Ethics is seen to be inadequate, it is here in the face of man's deep need for cleansing and forgiveness. Ethics may indeed, in its high mood of optimism and virility, point to the endless road which the good must travel and so calm us about the evil of each day. But somehow it is not enough for actual living men to be told that evil will gradually be overcome by good in the process

of history. "The latter days" are too far off; we want each of us now and here to be rid of our burden, to rise above it cleansed and renewed. The moral command as such is quite incapable of working this miracle, of freeing us from such entanglement; and the God of morality is likewise helpless here. Cleansing from sin calls for a God who is a God not of mankind but one with a heart for the individual's sorrows; and so in his guilt man turns to such a God of forgiveness. Not indeed that he is to be relieved of the work of re-making himself through all the prescriptions of *Teshuvah;* but he gets the power for such re-creation from the assurance of a God who forgives. The delicate balance between "faith" and "works," the need for moral effort as for free grace, both equally and neither cut off from the other, is expressed classically for Judaism in the great utterance of Akiba at the end of *Mishnah Yoma,* which Cohen has taken as the motto of his book: "Blessed are ye oh Israel: before whom do ye make yourselves clean and who makes you clean? It is your father in heaven."

God as our father in heaven may serve to remind us of the road we have travelled. We have passed insensibly from philosophy to religion. Such a God is no longer an Idea of Idealism; he is a real God, a God real beyond the creation of reason. The God of humanity and of man as moral being may be a supreme hypothesis of reason, may be *"Idee";* but a healing and forgiving God, the God of the individual's troubles and sorrows, has to be a real God. Ethics rightly starts out with the claim of creative autonomy and permits religion as mere *"Eigenart"* within its domain; but religion by its sheer inner weight is bound to break through, and the God of religion becomes the source of all things.

Such a real God had already strained against the walls of rationalist Ethics in the notion of the transcendent God who was to assure the correspondence of nature to morality; to assure, that is, the continued existence of nature and its receptiveness to the good. What mere Idea of reason could shoulder such a task? It is only the immense stake which Cohen has in philosophy, in the philosophy which sees in reason the hope and anchor of mankind, that makes him so slow, so unwilling to yield the least of its prerogatives.

But now the transcendence of God gives way to a new conception which henceforth is supreme and becomes the culminating notion of Cohen's whole system of thought. He proclaims it as the ultimate

meaning of religion, of Jewish monotheism, and the final bedrock of philosophy. That notion is expressed as *"die Einzigkeit Gottes."* To be understood the expression is not to be taken literally. Not *monos* or *solus,* not a one and only God as against the many Gods of polytheism is the meaning; *"die Einzigkeit Gottes"* goes deeper than that. The expression stands for the complete otherness of God, the utter incomparableness of God with all other being. The thought is not new in Israel. Maimuni, a focus of deepest rationalism with ancient mysticism, had urged it upon the world in the *Guide.* And at its first appearance it is already present. The theophany at the burning bush, by a marvel of intuitive reason and of philosophic anticipation in a people which did not cultivate philosophy, proclaims such an *einzigen Gott.* In almost Eleatic terminology God is designated as "I am that I am," as the seat and source of Being. The thought that God alone is reality is at the very heart of religious thinking; and that precisely is the Jewish viewpoint. Not indeed that the world is to be declared unreal, but that the world and mind are to be regarded as having their origin in God. Origin or *Ursprung* is the basic category of his Logic and one of Cohen's most memorable contributions to the thought of our day; and now the same category receives unexpected application at the opposite end of the system. God has the logical character of *Ursprungsbegriff.* The old religious concepts of creation and revelation receive a new place, a new justification. Creation takes place not as a single act in time, but as our prayerbook has it, "God in his goodness renews creation every day continually." And similarly revelation is the unceasing communication of mind to man from the same infinite wellspring of being. And so the circle is completed. God is restored to ontological status, he resumes his character of Being. As *Ursprung* of nature and of reason he cannot well be an Idea of that reason. At the end of the long journey of philosophy he is restored to his ancient and pristine place as source and origin of all that is.

If there is a certain pathos in this slow yielding of the sovereign claims of reason, in this drama of the progress of philosophy into religion, we must consider the depth of conviction with which Cohen held to Idealism as the supreme creation of the European mind, of which he was the last great exponent and for which he felt a deep responsibility. His intellectual conscience compels him to give an accounting at every step, and there is no formal capitulation to the

very end. And not merely is there a theoretical reluctance. The central core of right and autonomous law within him is slow in melting before the sun of the newly discovered God on the horizon, refusing to see that whatever power and vision it may have are borrowed from that greater light.

The book in which this progress is unfolded is practically unknown. In the opinion of Franz Rosenzweig, who was Cohen's only compeer as serious Jewish theologian of our time, "it will be read when the language in which it is written can be understood only by scholars." It is indeed for the ages, but surely also and quite specially for us today. The thirty-two chapters of which it consists are profound meditations on perennial Jewish themes, and are bound to become a comfort and guide for the troubled and perplexed among us in these tragic days.

SELECT BIBLIOGRAPHY

Principal Works. *Kants Theorie der Erfahrung* (Berlin, 1871; 2nd enlarged ed., 1885; 3rd ed., 1918, with important final statements just before his death). *Kants Begründung der Ethik* (1877; 2nd enlarged ed., 1910). *Kants Begründung der Aesthetik* (1889). *Das Prinzip der Infinitesimalmethode* (1883). *Logik der reinen Erkenntnis* (1902). *Ethik des reinen Willens* (1904). *Aesthetik des reinen Gefühls* (2 vols., 1912). *Der Begriff der Religion* (1915). *Religion der Vernunft aus den Quellen des Judentums* (1919; 2nd revised ed., 1929). *Jüdische Schriften* (3 vols., 1924, a collection of all his minor Jewish writings, ed. by B. Strauss, with introduction by Franz Rosenzweig). *Schriften zur Philosophie und Zeitgeschichte* (2 vols., 1928, a collection of all his minor philosophical writings, ed. by Görland and Cassirer). *Briefe* (ed. Strauss, Schocken-Bücherei, 1939, selected letters of great interest).

Literature. Ueberweg, *Geschichte der Philosophie,* vol. 4, 12th ed. (1923), pp. 434-8, bibliography, p 714. Ernst Troeltsch, "Der Historismus und seine Probleme," in *Gesammelte Schriften,* III (1922), pp. 541-6. Monographs by J. Klatzkin (2nd ed., 1921; from Jewish nationalist viewpoint) and W. Kinkel (1924, rejects later religious phase); both contain bibliographies. P. Natorp, *Hermann Cohen als Mensch, Lehrer und Forscher* (1918); *Hermann Cohens philosophische Leistung* (1920). Articles by Cassirer Görland, and Kinkel in the *"Cohen-Heft" of the Kant-Studien* (vol. 17, Heft 3, 1912). A. Lewkowitz, *Religiöse Denker der Gegenwart,* (Berlin, 1923), p. 45-53. On the basic idea of Cohen's Logic: D. Gawronsky, *Das Urteil der Realität* (Marburg, 1910) and J. Gordin, *Untersuchungen zur Theorie des unendlichen Urteils* (Berlin, 1929). F. Heinemann, *Neue Wege der Philosophie* (1929), pp. 65-84. R. A. Fritzsche, *Hermann Cohen, Aus persönlicher Erinnerung* (1922). Best statements of Cohen's Jewish position: Rosenzweig's introduction to H. Cohen's *Jüdische Schriften* (now also in Rosenzweig's *Kleinere Schriften* (1937), pp. 239-350; S. Ucko, *Der Gottesbegriff in der Philosophie Hermann Cohens* (1929); Julius Guttmann, *Die Philosophie des Judentums* (1933), pp. 345-362.

Translations. The translation of Cohen's work labors under great difficulties. There is the difficulty of language and of unusual complexity of thought, as well as the fact that a whole cultural background peculiar to Germany is assumed as a matter of course. A volume of selections with a lengthy introduction is in process of preparation for the Jewish Publication Society of America and may be expected within a year or two. Seven of Cohen's most important essays have been translated into Hebrew and published by Z. Voyeslavsky (Hebrew University Press, Jerusalem, 1935).

THE YELLOW BADGE IN HISTORY

By

Guido Kisch

New York

I

Modern and Genuine Mediaevalism

For the past few years we have become accustomed day by day to read and hear of Jews being discriminated against, deprived of all legal rights, bodily injured, even killed outright or put to death by way of concentration camps, by forced removal into exile, by wholesale deportations, or similar devices of modern civilization, for no other reason than that they are Jews. Such measures, originally directed against the Jews alone, but later applied to other religious and national groups as well under the pretext of alleged law, are often characterized as a return to the methods of the "darkest Middle Ages." True, all the means of castigation and ways of oppression used by the Nazis in their powerful attempt to annihilate Jewry and Judaism, from their accession to power to this very day, lack originality. Indeed, the bulk of their antisemitic laws and legal techniques have at least forerunners or parallels, if not direct models, in mediaeval practice. To mention only one example, as yet generally unnoticed. The "Non-Aryan Laws" of 1933, the first act of anti-Jewish legislation in the Third Reich, although actually aimed only at the Jews, dealt merely with "Non-Aryans"—a concession probably to international law and foreign politics unavoidable in the early days of Nazi rule. Even this finds its pattern in Italian statutes of the fourteenth and fifteenth centuries which ruled in general that "no Christian can be imprisoned for debt upon the application of a non-Christian or any person acting for a non-Christian"—this legal provision also being directed first of all against the Jews.[1] Tracing modern anti-Jewish measures—the prohibition against holding public office and employing non-Jewish servants, confinement to the ghetto, confiscation of personal property, expulsion from the native land, etc.—to their mediaeval roots and models would offer no difficulty. To a thoughtful observer it will appear, in all probability, as though the mediaeval oppressions and persecutions of the Jews have been extensively and carefully studied by experts in order to

revive all the means and methods of by-gone days and to transform them into sharper-edged modern tools. In accomplishing this in a masterly manner the Nazis achieved their only trait of originality. Their modernization of mediaevalism shows an unprecedented refinement in force and mercilessness, in disregard for the established principles of law and morals, in complete non-recognition of individual human dignity. Mediaeval culture must, after all, be measured with a yardstick entirely different from that to be applied to twentieth century civilization. In view of this fact and considering that, up to the summit of the Middle Ages, the Jews in Central Europe enjoyed in normal times a comparatively favorable, lawful and, in certain respects, even privileged position, the regulations of the Third Reich in recent years reach a level almost unequalled in the history of morality in law.

Viewed in this light one of the most recent decrees compelling all Jews in Germany and German-dominated territories to wear a yellow David star as a badge of infamy, represents an exemplary instance for comparing genuine and modern mediaevalism in the sphere of Jewry legislation. It is indeed a very refined resuscitation of one of the most harmful and objectionable regulations of mediaeval Jewry-law.

II

Mediaeval Jewish Apparel

The yellow badge, this modern stigmatization as well as its precursor in the Middle Ages, is intended to create an external and easily noticeable mark distinguishing the Jews from the rest of the population. To understand this institution of the yellow badge in its historical development and legal-sociological significance one must first pose a question concerning the Jewish costume in general; namely, did such a matter as typically Jewish attire and dress exist at all, prior to the mediaeval garb and badge regulations?

Although there is no definite proof that a distinctively Jewish dress was worn in antiquity, yet some biblical precepts necessitated, to a certain extent, a distinction of Jewish attire from that of the non-Jewish environment. The injunction against using garments "mingled of linen and woollen" (*Leviticus,* XIX. 19), so-called *sha'atnez,* imposed the only restriction on material. According to *Numbers,* XV. 38-40, and *Deuteronomy,* XXII. 12, fringes, threads

with a cord of blue entwined, were to be fastened to the four corners of the garments. In addition, *Leviticus,* XIX. 27, and XXI. 5, contain two prohibitions, important for the appearance of the hair-dress, forbidding the removal of the "corners (side-burns) of the heads" and the shaving of the beard. There can be no doubt that these biblical precepts were observed by the Jews in ancient times as well as through many centuries in the Middle Ages. This fact then must have had some bearing on the Jews' apparel, even if their costumes did not otherwise differ in principle from that of the rest of the mediaeval population. This observation, although seemingly manifest and almost indubitable, deserves especial emphasis with regard to the assumption, universally accepted among scholars, that the mediaeval era knew of no specifically Jewish attire prior to 1215, the fateful date of the institution of the Jew-Badge by the Fourth Lateran Council.[2]

From comparatively early centuries of the Middle Ages several interesting accounts have come down to us which testify to the assertion set forth above.

In the biography of Saint Ansgar (died 876), the *Vita S. Anskarii,* composed in the ninth century shortly after his death, there is a passage that "a man [this alludes to Christ] appeared dressed according to Jewish custom."[3] Earlier in the same century (839) Bodo, a cleric at the imperial court, abandoned Christianity because of theological scruples, and "had himself circumcised, allowed his hair and beard to grow long, changed his name, and boldly assumed the name Eleazar instead."[4] Nearly at the same time Agobard, archbishop of Lyons (779-840), in his anti-Jewish pamphlet "Concerning Jewish Insolence," *De insolentia Judeorum,* complained of the Jews' "exhibiting women's vestments presented to their wives by imperial princesses or the spouses of court dignitaries."[5] While the first account clearly offers proof of the existence of a traditional Jewish attire, distinctly noticed by the non-Jewish world, the last statement is particularly conclusive in itself. It reveals that archbishop Agobard, the first occidental "antisemite" politically, felt displeasure because some Jewesses did not adhere to their traditional garb but even preferred the sumptuousness of costume as displayed only at the imperial court. The problem as to whether it was the gentler sex to set the example for abandoning Jewish simplicity and forsaking the traditional costume, will be very hard to decide.

Whatever the solution of that question may be, it is a matter of fact that, from the thirteenth to the middle of the seventeenth century, several rabbinical ordinances concerned themselves with Jewish attire and dress. The first rabbinical synod which convened, probably between 1208 and 1215 in one of the Rhenish communities of ancient renown, Mayence perhaps, decreed "that no one shall cut his hair in non-Jewish fashion, or shave his beard either with a razor or in such a manner as approximates the effect of a razor, nor shall one wear long hair." Rabbinical ordinances issued as late as 1642 on the island of Corfu, Greece, make it "an obligation for the daughters of Israel . . . to be careful in their clothes, so as not to transgress the prohibition against imitating the Gentiles."

All provisions of this kind doubtlessly originated in the biblical prohibition of a general nature against imitating specifically non-Jewish customs (*Leviticus,* XX. 23; XVIII. 3), discussed also by Maimonides (*Mishne Torah, Abodah Zarah,* XI. 1) and reinterpreted in later rabbinical literature in accordance with contemporary conceptions and needs. The recurring emphasis on this biblical principle offers clear evidence for the recurring discrepancy between the law and everyday life. But this deviation from the precepts of Jewish law was not always motivated only by the natural inclination and desire to follow the customs and fashions in dress of the country. The avoidance of expressly Jewish characteristics in attire and garb and their adaptation to the non-Jewish environment were in times or places of danger welcome and even necessary means for diverting general attention from the perilous fact of Jewish identity. In situations of this kind Jews were sometimes even compelled to practice deception to save themselves from insults to which they would otherwise be exposed. Jewesses assumed the nun's habit, Jews dressed as Christian priests even wearing genuine priestly vestments, to ensure immunity when travelling. These and like practices, justifiable and tolerated by rabbinical authorities only in situations of danger, probably gained ground among the Jews and were adopted to a much greater extent than admissible on the basis of Jewish law. This was the reason why rabbinical ordinances time and again repeated their prohibitions, with the aim of preventing those temporary expedients of emergency from becoming a regular routine in Jewish life.

From all this emerge three important conclusions.

1. A long time before the Fourth Lateran Council made the distinction of the Jews from the Christian population compulsory by means of differences in garb, the Jews had always been easily distinguishable to their contemporaries. Specifically Jewish characteristics in apparel were distinctly recognizable in many European countries. The Jews were distinguished, first of all, by their beards worn as required by Jewish ritual law; and no less by their particular headcovering. The older form of the "Jewish hat," *pileus cornutus,* i.e., horned hat, is conical and low without a brim or with only a very narrow brim. The top often bends over so that the "horn" of the *pileus cornutus* is distinctly marked. From this three different later types developed, all of them made of felt and characterized by a broad-brimmed or even hemispherical cap surmounted by a long narrow shaft ending in a globular knob. While the latter more recent forms are commonly found on paintings on glass and in illuminated manuscripts from the twelfth century on, particularly in Germany, the older design is traceable only to the eleventh century. There can be no doubt, however, that it is much older, although its ultimate origin has not yet been discovered nor elucidated satisfactorily. Most probably the allusion to "dress according to Jewish custom" in the biography of Saint Ansgar from the ninth century cannot refer to anything other than to the Jewish beard and hat. They were, indeed, characteristic of Jewish apparel in the Middle Ages. The Jewish minnesinger, Süsskind von Trimberg, is pictured with both these attributes in the famous *Manesse Codex* of the thirteenth century. And when in one of his poems (in Middle High German) he expressed his desire to abandon poetry and to retire from the profession of troubadour, to change from a minnesinger to a Jew, he openly declared, "he will allow his beard of gray hair to grow long, henceforth will go on to live as old Jews live, his cloak shall be long, deep-shaded by a hat, he will walk in all humility."[6]

2. As evidenced in the examples presented above, there always existed among Jews the tendency to adjust their traditional attire and costume to the manner and fashion preferred by the world surrounding them. The degree of assimilation in garb differed in various countries. In thirteenth century Spain, for example, "Christian and Jew dressed one like the other." In Northern France from the twelfth to the fourteenth century, the Jews were undistinguishable in attire from the Christians among whom they lived. They used to

walk bare-headed, and it is well known that in France the unique custom existed of ascending to the reading of the Torah bare-headed. In Germany and the rest of Central Europe, on the other hand, beard and head-dress as traditionally worn put distinguishing marks on the Jews even in times when, after the adoption of the national costume of their places of residence, all other differences in their appearance had almost completely vanished.

3. The traditional marks of Jewish distinctiveness, although to some extent imposed by Jewish law, yet adhered to voluntarily by the Jews, carried no connotation of any diminution in their legal rights or even social standing. This applies generally to times of peace and is by no means contradicted by the fact that, in times or places of danger, the desire for self-protection, as only natural, came to the fore. Otherwise the recurrence of rabbinical ordinances, prohibiting the imitation of non-Jewish fashions, would have been entirely out of place and would be unintelligible. The rabbis would not have persisted in enforcing customs and practices which had proved harmful or dangerous to Jewish life.

The Middle Ages is the period of the greatest variety and differentiation in social classes or "estates." Differences in costume are effected by differences in class, means, profession, and other factors. "Clothes make the man." Everyone's position, from beggar to king, is easily recognizable from his clothing. The dress of clerics and professional men is prescribed by established tradition, that of the laboring and agricultural classes dictated by considerations of convenience. Mediaeval literature throws into relief this unswerving loyalty to traditional custom by designating the costumes of the several classes as "conforming to law" (*junkherren und knehte, gekleidet nâch ir rehte*). Members of one and the same social group are knit together also through identical garb, a sort of symbolic bond.

This applied to the Jews as well as to any other group in mediaeval society. From the point of view of the world which surrounded the Jews in the Middle Ages, there was no different aspect of this problem with regard to them. This attitude becomes evident beyond doubt from numerous illustrations in mediaeval manuscripts representing Jews and members of other classes of the population in their distinct attire, yet on the same footing and without disparagement of the Jew. In the illuminated manuscripts of the *Sachsenspiegel,* all of them going back to a lost archetype from the end of the thirteenth

century, Jews are pictured side by side with soldiers in full accoutrement, with Franks and Saxons standing before the judge, and also with clerics, each type clearly recognizable from costume, mark of distinction, or symbolic attribute, the Jews being identifiable by their beards and pointed hats. No pejorative connotation for the Jews is implied in these pictorial representations, as can be gathered also from the well known miniature of the Jewish minnesinger, Süsskind von Trimberg, in the Manesse manuscript, pictured in fashionable dress, though with beard and pointed hat, standing before the bishop [of Constance?] and other dignitaries. The same conclusion flows from the fact that the Jewish hat was among other symbols employed as a sort of coat of arms on Jewish official and private seals in the thirteenth and fourteenth centuries. Jews would never voluntarily have used symbols of degradation as their personal emblems.[7] And the occurrence of a variety of emblems on mediaeval Jewish seals, such as the crescent, the signs of the zodiac, fishes, the *Magen David,* etc., is proof that their choice was left to the Jews. Archbishop Rimbert, in his biography of Saint Ansgar, did not shrink from characterizing even Christ as "a man dressed according to Jewish custom." If, on the other hand—also in the ninth century—Pope Nicholas opposed the wearing by the bishop of Orta of a head-dress resembling that worn by Jews, his motive was evidently to keep away from the Church things Jewish.

In point of historical development, socially as well as legally, there is a striking parallel between the Jewish garb and the ghetto. The Jews' living together in separate quarters of the mediaeval cities originated, just as did their typical attire, in religious precepts or needs and established social traditions, to a certain extent also in considerations of occupational convenience. As long as garb and ghetto represented voluntary institutions not subject to any outside and compulsory regulation, no diminution in legal status nor social degradation attached to them. The change to the latter connotation became effective, however, the moment garb and ghetto were transmuted from voluntary institutions to compulsory ones imposed by non-Jewish legislation regardless of their own will. The relegation of the Jews to restricted dwelling-places and to wearing a prescribed garb implied naturally their prohibition from living in the ordinary ("non-Jewish") quarters and wearing the common costume. The inevitable consequence was not only discrimination a-

gainst the Jews legally, but also their degradation socially. While in the development of the ghetto this phase was reached in Germany at the end of the thirteenth and in Italy only in the sixteenth century, the transformation of Jewish garb into a badge of shame was initiated as early as 1215.[8]

Before turning to a discussion of the memorable decree of the Fourth Lateran Council held in the year just mentioned, a problem should be touched on briefly which has played a considerable role in recent pseudo-scientific discussion and antisemitic propaganda. Is there indeed satisfactory evidence, from pictorial sources, to prove the racist assertion that the so-called "Jewish nose" was clearly recognized as a distinct sign of racial differentiation as early as the Middle Ages? It is Wilhelm Grau, the official Nazi expounder of Jewish history, who maintains: "The pictorial representations which have come down to us from those days show distinctly that even the Middle Ages recognized and learned to despise the different race of the Jews by their crooked noses."[9] His only proof is a "Jewish nose" found in a wood-cut of a Jewish-Christian disputation, taken from an anti-Jewish book of 1477 and again used as frontispiece by Grau for his *Antisemitism in the Late Middle Ages*. This outspoken Nazi view recently received unintentional support from a Jewish author's thesis: "From the very beginning of European art in the early Christian centuries a ridiculous type was created to represent the Jew, generally a gnarled and decrepit being with sharply pointed and well-accentuated features, weak-kneed and woebegone, with a pointed, dishevelled beard clad in a loose gaberdine and some sort of a round cape. In the later Middle Ages, beginning with the twelfth century, the conical or funnel-shaped hat and the yellow badge were added to this type."[10]

It is true that anti-Jewish caricatures have come down to us, especially from the period when, after the invention of printing, mass production and dissemination of broadsides set in for religious and political propaganda. The broadside, this "intellectual scourge" of the Reformation era, successfully employed in all fields of its activity exaggeration and over-exaggeration, the characteristic feature of this type of literature and pictorial representation. It is by no means accidental, therefore, to find "Jewish noses" in one of the wood-cuts of 1475 which depicted the alleged ritual murder at Trent. There is no connection, however, with the legitimate pictorial representa-

tions of Jews which are preserved and can be studied in hundreds of illuminated manuscripts of the Middle Ages. Jews are there pictured in different social settings, appearing even before emperors and high Church dignitaries. In spite of their Jewish attributes, that is beard and hat only, their apparel, carriage and gestures, completely dignified, show them to have been figures far from debased in the conception of the non-Jewish artists. This may readily be seen by a mere glance at the much reproduced picture of Süsskind of Trimberg before the bishop of Constance of the thirteenth century, already mentioned, or of Josephus before Vespasian in a Fulda manuscript of the twelfth century, also well known in the literature.[11] Among hundreds of mediaeval illustrations which bear witness to the truth of this general observation, may be mentioned particularly the representation of Philo in an Admont manuscript of the eleventh century[12] and the picture of a Jew side by side with a catholic priest in the Heidelberg and Dresden *Sachsenspiegel* manuscripts from the fourteenth century.[13] In an intensive study extending over more than thirty years of continental illuminated manuscripts of the Middle Ages, the present writer was unable to discover "Jewish noses" prior to the second half of the fifteenth century. While the Nazi assertion, transparent in its propagandist aim, can be dismissed without detailed refutation, the Jewish author's erroneous theory will be thoroughly disproved elsewhere by this writer. The Jew as a despised and decrepit member of an inferior race is by no means the prevailing conception in mediaeval art.

III

The Badge of Shame

On November eleventh 1215 a most brilliant assembly of 412 bishops, 800 abbots and priors, numerous representatives of prelates and cathedral chapters, and deputies of almost all Christian princes convened in Rome in the Church San Giovanni in Laterano. Pope Innocent III (1198-1216) presided over this illustrious gathering, the Fourth Lateran Council, one of the most important ecumenical councils and of lasting influence on Christian faith and life all over the world. In canon 68 the conciliar decrees ordained that "Jews and Saracens of both sexes in every Christian province and at all times shall be marked off in the eyes of the public from other peoples through the character of their dress."

It is well known that Innocent's activities as pope were largely concerned with the two problems of reviving and propagating the orthodox faith and firmly establishing the political power of the papacy. Christendom, he maintained, was not only a moral unity but a visible concrete world state under clerical guidance; although it was governed by territorial rulers, yet each part and the whole must recognize the supremacy of the Roman See and the plenitude of power held by Peter's successor, the representative of Christ. It was entirely in line with this conception to lay down rules also for the small number of Jews then living among Christian peoples. Innocent III initiated no really new legislation with regard to the Jews: he merely elaborated on the traditional Church policy or sought to enforce older decrees by drastic measures. As early as 1205, he formulated the theological doctrine of the "eternal servitude" of the Jews, which was most sharply emphasized and referred to their guilt for Christ's death. Like Cain they were to be wanderers on earth moving from place to place until their countenances should be filled with shame and they seek the name of the Lord. This doctrine, until then conceived only theologically, now acquired—probably not unintentionally—a political coloring. And it is by no means merely accidental that, as early as 1204, Innocent III expressed the desire to mark the Jews.

Viewed in this light, the general tendency of Pope Innocent's Jewry legislation, particularly in the matter of dress, becomes more understandable. The Jew should be segregated socially even more and more strictly than he had been in the past. The anti-Jewish laws enacted by the Christianized Roman Empire and the Church were to be observed scrupulously so that the repression of the Jew might serve as a warning example to those vacillating Christians who might be tempted to succumb to the religious influence of this or any other infidel group. For this purpose a measure was introduced not derived from previous conciliar enactments, the prescription of a distinctive Jewish garb.

Distinguishing clothes or marks were by no means an original invention of the thirteenth century. Their origins—probably reaching back to Byzantium and the caliphate—are not yet satisfactorily elucidated. The idea of imposing an outward mark of discrimination on "unbelievers" occurs, however, as early as 634 when the second calif, Omar, commanded these to wear a girdle, head-gear and a

seam on their upper garments, all of which were to be yellow for the Jews, blue for the Christians, and black for the Magi. This regulation has often been repeated and was extended to all countries under Islamic rule. Whether this can be linked up with the decree of the Fourth Lateran Council concerning the costume of the Jews must remain an open question, for the time being.[14] It might well have been some sort of retaliation for the similar restriction imposed on the Christians in Islamic countries, since the conciliar decree applied, according to its wording, to Saracens as well as to Jews.

Be this as it may, and irrespective of the historicity of alleged cases of Jew-badges ordered to be worn in European countries prior to 1215, so much is certain: the papal decretals went into every country and the conciliar decrees were valid for the whole of Christendom. There is also no doubt that ecclesiastic propaganda turned the Jewish question into a problem of international importance. Hence it is only in accord with the logic of events that sooner or later the conciliar decree of 1215 ordering the distinction in Jewish garb was enforced in the various Christian countries. It remained not only Church law of all-encompassing authority, but was also introduced into secular legislation. Hence the Jews too were subjected to the laws of the Church. It took, however, a century or two before the institution of the badge was firmly rooted in almost the whole of Europe.

Among the secular powers England was the first to impose upon the Jews the obligation of wearing badges to distinguish them from non-Jews. Under the powerful influence of the Church, King Henry III decreed as early as 1217 that the Jews should wear on the front of their upper garment the two tables of the Ten Commandments made of white linen or parchment. In 1222 the Council of Oxford made it a requirement that each of the tables be two fingers broad and four long while the color should differ from that of the garment. Under Edward I, in 1275, the white color was changed to yellow, the length to six, the breadth to three fingers, and the obligation of wearing the badge was extended to Jewish women on pain of severe penalty.

France, where sporadic cases of distinguishing marks for Jews are recorded even before 1215, speedily followed. Shortly after the Fourth Lateran Council the Jews were ordered by a papal de-

cree "to wear clothes by which they would be distinguishable among the Christians, but were not to be forced to wear such as would lay them open to the danger of loss of life." Rabbi Isaac ben Moses of Vienna who sojourned in Paris probably in 1217, relates in his work *Or Zarua* (II, 39 a) as follows: "When I, the author, was in France we used to wear round signs (wheels) upon the clothes for thus it was decreed against the Jews at the time. . . . Some used to sew them into the garment. . . . Others used to make a circle from parchment and attach it to the garment by means of a needle . . . and my teacher, R. Samson of Coucy, . . . decided them to be permissible (for wearing on the Sabbath) because the wheels were attached to the garment." The use of the badge, however, seems not to have become general in France until 1269, but to have differed locally. It was Louis IX who in that year imposed the badge on the Jews generally, after several French Church councils had already sought to enforce the Lateran decree. Both men and women were to wear badges on the outer garment, both front and back, round pieces of yellow felt or linen, a palm long and four fingers wide. Caught without this badge, the Jew was to lose his upper garment to his denouncer; for relapse after previous conviction, a fine of ten pounds was threatened, the money to be dedicated by the king to pious purposes. Despite all counter-efforts by the Jews, this edict soon went into force and was subsequently re-issued. Under King John the color of the badge was changed from saffron yellow to particolored red and white. The age at which its display became compulsory varied locally between the seventh and thirteenth or fourteenth year. At times women had to wear a veil called *orales*. Philip IV commercialized the institution by making the Jews pay an annual sum for the use of the badges, in a similar way as in our own day automobile license plates are sold by the authorities.

The introduction of the Jew-badge in the Iberian peninsula varied in the different kingdoms. When, shortly after the Lateran Council, strict enforcement menaced the Jews in Castile, they began to emigrate to Moorish territory and threatened to leave the country altogether, and thereby considerably weaken the financial strength of the kingdom. Thereupon, in 1219, Pope Honorius III had to grant a postponement, and Ferdinand of Castile could suspend the law until a more propitious time. The badge was put in force only

in the middle of the fourteenth century, and in the beginning of the fifteenth an order was added forbidding Jews of both sexes to dress in the national costume, only long cloaks reaching down to the feet being allowed to them. In Aragon the badge was introduced in 1228, in Navarre in 1234, in Portugal as late as 1325. Many exemptions were granted either for distinguished services, as in the case of physicians, or for a money consideration, whereas in France exemptions from wearing the badge were allowed only for travel. In Spain as well as in Portugal the use of the badge seems not to have become universal in the short period prior to the expulsion of the Jews from these countries.

In Italy the distinguishing marks found general application only in the fifteenth century, except for Sicily where Frederick II as early as 1221 compelled the Jews to wear a distinctive costume. In the Italian countries the form of the badge was in general also the wheel. In Rome its diameter was to be at least one finger in length, while in Venice, Parma and Verona the oval shape of an O was employed. Women had to wear on their veils two strips of blue color. Later Italian Jews had to wear yellow birettas, and finally hats of black felt threaded with red. By Pope Paul IV's decree of 1555 the head-gear of Jewesses was to be made of a quadrangular piece of yellow cloth of about one yard. In order to avoid this stigmatizing conspicuousness many Jewesses preferred to dress altogether in yellow.

As to Germany, Austria, and Bohemia no explicit mention of the yellow or red wheel as a Jew-badge is found in the sources prior to the fifteenth century. This is doubtlessly due to the fact that in these countries the Jews were already differentiated and easily distinguishable by their "horned hats" which they had always worn of their own free will, according to old tradition. The wearing of these hats was made obligatory, however, from the second half of the thirteenth century onward, as attested by several law sources of that time. The laws required in particular that Jews must wear the hat on leaving the synagogue and when taking an oath.[15] The Jew-hat was also employed for publicly pillorying Christian women convicted of sexual relations with Jews. The same head-gear also accompanied the Jewish offender sentenced to death on his last journey.

The transformation of a traditional custom into a compulsory obligation was effected in Germany, too, in response to the numerous regional Church councils which, time and again, called for the strict enforcement of the Lateran Council decrees.[16] All this offers ample evidence of how erroneous, though generally accepted, the opinion is that it was "love of justice" alone on the part of the German emperors which kept them from an earlier introduction of the badge.

While the hat remained the chief mark of distinction for the Jews in Germany, Austria, and Bohemia throughout the fourteenth century, it was chiefly due to the influence of the papal legate and great philosopher, Nicholas of Cusa, and of the fanatical Franciscan preacher, John of Capistrano, that the enforcement of a distinctive badge was finally accomplished in the course of the fifteenth and sixteenth centuries. Already in 1418 the Council of Salzburg had suggested that Jewish women wear tinkling bells as well as badges on their garments. By the fifteenth century the Jews were forbidden to wear head coverings of helmet shape, the *Gugeln*—derived from the Latin *cucullus*—, which had become widespread among the middle and lower classes in Central Europe and were also customary, to a certain extent, among the Jews. Thus, even if only slowly, yet gradually the yellow badge—called in German *gelber Fleck* [yellow stain]—found its way into German and Austrian legislation and everyday practice. In 1434, in the city of Augsburg,—probably the first instance in those countries—a yellow wheel, called *Ringel,* was ordered to be attached to the breast of Jews' garments, while Jewesses were to wear pointed veils. This ordinance was extended to all of Germany by the *Reichspolizeiordnung* in 1530 (art. XXII). In some towns, such as Worms, perhaps also Zürich, the Jews were required to display a distinctive sign on the facades of their houses. In the Austrian provinces a decree of Ferdinand I, in 1551, made it obligatory for Jews to wear upon the left front-side of the coat or dress a yellow wheel, two centimeters wide and eight centimeters in diameter. Any Jew caught without such a sign was to forfeit all garments from which he had dared to leave off the distinguishing mark. The spoils were to be divided between the authorities and the informer, who received his share as a reward. Stripping the transgressor of all his clothes exposed him, furthermore, to public humiliation. Repeated violation meant the expulsion of the offender and his family from all Austrian

lands. This decree was typical of the legal status of the Jews in large parts of Europe at that time.

It has been only a small fraction of all the complicated laws concerning the yellow badge and distinctive garments to be worn by the Jews that could be mentioned in these pages. The outline of the historical development, as presented here, brief and sketchy as it must be, reveals nevertheless with full clarity how the "marking off of the Jews in the eyes of the public from other peoples through their dress," as decreed by the Fourth Lateran Council, became an international system of laws intended and employed to suppress human freedom and dignity for more than five hundred years.[17]

IV

Discrimination Against the Jews

In its decree concerning the distinguishing garb of the Jews the Lateran Council had set forth three motives for that stringent measure. First, "while in some Church provinces a difference in dress distinguishes the Jews or Saracens from the Christians, in certain others such a confusion has grown up that they cannot be distinguished by any difference." Secondly, "it happens thus at times that through error Christians have relations with the women of Jews or Saracens, and Jews or Saracens with Christian women." In order to prevent such relations or pretexts of mistake leading to illicit intercourse, a distinguishing dress was made obligatory in general. And this more particularly for a third reason, namely, that this very law had been enjoined upon them already by Moses.

To begin with the third reason: this application of the law of the fringes to the law of the badge is far-fetched and can be easily disposed of. The very reference to Mosaic law, moreover, shows clearly that the ordinance concerning the badge was intended primarily for Jews, because their laws could not apply at all to the Saracens who also were mentioned in this connection. A mere glance at the pertinent biblical passage, *Numbers* XV. 38-40, offers plain evidence for an entirely different meaning and a purely religious aim expressed in its precepts. No difference in costume to distinguish the Jews from non-Jews was prescribed at all by Moses. Indeed, the third reason was invariably dropped from the numerous papal decretals and conciliar decrees, which frequently repeated and emphasized the garb regulation of the Fourth Lateran Council for every

part of the world. The reference to the Mosaic command was not even embodied in the *Corpus Juris Canonici*.[18]

The second reason, on the contrary, was almost always reiterated in the later ecclesiastical legislation. Since it is based on the first reason advanced in the Lateran decree, the implications of the latter may be considered first.

Some scholars precluded a proper understanding of this very plain passage by putting unnecessary obstacles in their way. While the conciliar decree clearly speaks of Jews distinguishable by their different garb in "some" (*in nonnullis*) Church provinces, these authors tried to establish the "certain" provinces where a difference already existed and, more, even where the Jew-badge was presumably in use prior to 1215. The introductory clause of the decree, however, merely made a statement of actually prevailing conditions: that in some countries the Jews were distinguishable, namely by their traditional marks—their beards and head-gear,—whereas in other countries they were no longer distinguishable, probably due to those "assimilatory" tendencies described in the second chapter of this essay. Consequently, no particular distinguishing marks were appointed in the conciliar canon, their choice being left to future provincial Church and state legislation. All this explains in the simplest way why Jewish garb and the Jew-badge in particular were made obligatory by law in some ecclesiastic provinces earlier, and in others at a later date. To mention an individual example, the yellow badge made its first appearance in Germany as late as the fifteenth century. It was preceded by the Jewish hat which, first worn of the Jews' own free will, from the second half of the thirteenth century onward was transmuted into a compulsory Jewish distinction. In contradistinction, in other countries such as England, some parts of France, Spain and Sicily, Jewish "assimilation" in garb had already progressed so far by 1215 that the execution of the Lateran Concil precept there was almost instantaneous. Thus in this respect the first reason advanced in the conciliar argument seems indeed to have corresponded to the actual conditions existing at the time.

This conclusion may have implications also for the second reason set forth as a motive by the Lateran Council in its canon 68, namely sexual relations between Jews and Christians. It was expressly stated therein—and this is in conformity with Jewish sources—that

such relations occur *interdum,* "at times," that is, now and then. This fact, however, by no means bears out the opinion advanced by Johannes Scherer, and later accepted by other scholars, that this reason, officially posited in the conciliar decree, was actually fictitious only and presented merely as an excuse for the introduction of discrimination against the Jews, while the real and sole intent was to mark the unbelievers and segregate them from society. Nor is this assumption supported by the observation that regional Church councils, in later times, threatened sexual relations between Jews and Christians with different punishments of a seemingly milder character.[19]

It must rather be borne in mind that it was just the Fourth Lateran Council which, in its third canon later incorporated in the Canon Law Code, the *Corpus Juris Canonici* (c. 13 X. 5, 7), issued extensive regulations concerning heretics and imposed on the secular powers as a particular duty "to exterminate all heretics from the lands under their jurisdiction to the best of their ability" (*pro viribus exterminare*). Secular legislation quickly responded. Within two and a half decades laws in various countries placed heresy under the penalty of death at the stake, thus much intensifying the severity of the punishments previously applied. A thirteenth century source, the South German law-book *Schwabenspiegel,* of about 1275, assigns the penalty of death by fire for the serious crime of sex relations between Christian and Jew. The justification of this severe penalty imposed for this "denial of the Christian faith," places it beyond doubt that such relations were considered by the Christian world to be cases of heresy. As far as Christians were concerned, the Church was in a position to force the secular authorities to execute the ecclesiastical punishment by the addition of secular penalties. In the case of the Jews, however, who were not considered heretics under Canon law, the Church had to resort to different preventive measures. Hence it was quite in line with anti-heretic policy when the Fourth Lateran Council sought to prevent sexual relations of a heretical nature by extraordinary measures of exceptional severity.

If this line of argument is conclusive in itself, then there is no need of unwarranted exculpation or justification of the popes, as attempted by some authors.[20] As to Pope Innocent III, his letter addressed to the archbishops and bishops of France shortly after the Lateran Council, in 1215 or 1216, unmistakably lays bare his attitude. The

Pope realized that distinctive clothes involved dangers to personal inviolability and therefore decreed that "the Jews should not be forced to wear such garb as would expose them to the danger of loss of life."[21] This was interpreted to mean that they should be excused from wearing badges when on a journey, which later became the general custom.

But even if the prevention of intermarriage and extra-marital sexual relations between Christians and Jews is to be recognized as an aim of the badge law issued by the Fourth Lateran Council, it must not be overlooked that this was only a specific means to put into execution the general Church policy of segregating the Jews from Christian society. In this way losses to the Christian religion by close contact of its adherents with Jewish life were to be prevented. In its endeavor the Church was for a long time unsuccessful. Social intercourse and cordial relations persisted between followers of both religions up to the thirteenth century, naturally not without temporary interruptions in certain periods. Pope Innocent's very demand that Jews should be easily distinguishable shows that, in his day, there were no great differences between Jews and Christians, neither in speech nor in dress. All the more urgent thus appeared the necessity to exert influence upon the secular powers to enforce the "badge of shame" in order to draw a sharp line of demarcation between the true believers and the world of unbelievers.

The reasons advanced to justify the introduction of the Jew-badge vary in the different legislations. It is quite obvious that the motive of preventing illicit intercourse between Christians and Jews should frequently be repeated in papal decretals and conciliar decrees. The great theologian and philosopher, Thomas Aquinas, in his *responsum* to duchess Aleidis of Brabant, issued between 1261 and 1274, completely followed the Lateran Council's argumentation in canon 68.[22] This also penetrated into and was retained by secular legislation as late as 1760, when Empress Maria Theresa changed the yellow wheel to a yellow cuff in Austria, "to prevent sinful intercourse of young Jews with loose women."

Even in mediaeval Church legislation, however, various other reasons were cited to make the introduction or stricter enforcement of the badge plausible. Frequently the reason is added that the Jews wear not only clothes indistinguishable from those of the "gentles," but such as give them an aristocratic appearance. Sometimes the com-

plaint is voiced that Jews are mistaken for clerics and as such respectfully saluted. Other documents stress that the Jews have to be set apart by a distinguishing garb because of their guilt in killing the Savior and in permanently remaining enemies of Christ's Cross; the latter opinion in particular was repeated by Nicholas of Cusa. In a bull issued, in 1239, to the Bishop of Cordova, Spain, Pope Gregory IX charged the Jews with stealing Christian children and selling them to the Saracens, hereby advancing a new reason for the enforcement of the badge.[23] It is to be noted, however, that a bull almost identical in phrasing was addressed by Pope Martin V to the Christians of the Crimea without mentioning the Jews. Spanish documents of the end of the fourteenth and the beginning of the fifteenth century offer the following reasons for the enforcement or reenforcement of the badge: professing Jews should be distinguished from those who had become converted to Christianity; the fact that the Jews are stubborn unbelievers should be made manifest to all true believers; improprieties should be prevented; excessive influence of the Jews should be curbed. In a decree of 1551 Ferdinand I as king of Bohemia, in order to support legally the introduction of the yellow wheel, charged the Jews with practicing usury and committing other misdeeds. Often no other reason was adduced except the aim that Jews be clearly distinguished from Christians, so that they should be easily identified as Jews "and not be mistaken for honest folk." As late as 1705 the Jews of Prague were charged with making and selling fly-poison for poisoning Christians, the aim of the accusation being to prevent the then impending abolition of the Jew-badge.

There is no need to go further into details with regard to the actual or alleged reasons for the yellow badge as a legal institution. Nor does lengthy comment on the instances presented seem necessary. To the discriminating historian as well as to every unbiased observer of the historical development the conclusions to be drawn are obvious. Even if it might be conceded that, to a limited extent, the introduction of the Jew-badge—in conformity with the prevalent Church policy—was based on principles of law, it is established beyond doubt and controversy that such originally lawful institution was quickly transformed into an efficient tool for the unrestrained exercise of political arbitrariness against the Jews and for financial extortion. If the slightest doubt remained concerning the logic or his-

torical accuracy of this argumentation, it will be completely removed by considering the deleterious and even disastrous effects worked on the Jews by the yellow badge for almost six centuries.

V

Jewish Degradation

It seems, indeed, as superfluous as useless an undertaking to make an inquiry into the problem as to whether or not in introducing or enforcing distinguishing garb and Jew-badges the intention of lowering the Jews in honor, esteem and social position accompanied the purpose of their differentiation and segregation. Once enforced by ecclesiastic and secular legislation, the badge in particular was bound with inevitable certainty to effect the social degradation of the Jews as a natural consequence of the actual diminution of their legal status. In his classical *History of the Jews,* the famous Jewish historian Heinrich Graetz vividly describes all the implications of that social degradation inflicted on the Jews. He writes:[24]

"Provincial councils, assemblies of estates and royal cabinets thenceforward, in addition to their deliberations on the exclusion of the Jews from all honors and offices, determined on the color, form, length and breadth of the Jew-badge, with pedantic thoroughness. The Jew-badge, square or round in form, of saffron yellow or some other color, on the hat or on the mantle, was an invitation to the gamin to insult the wearers, and to bespatter them with mud; it was a suggestion to stupid mobs to fall on them, to maltreat and even kill them; and it afforded the higher classes an opportunity to ostracize the Jews, to plunder them, or to exile them."

"Worse than this outward dishonor was the influence of the badge on the Jews themselves. They became more and more accustomed to their ignominious position, and lost all feeling of self-pride and self-respect. They neglected their outward appearance, because they were nothing but a despised, dishonored class, which could not have even the least claim to honor. They became more and more careless of their speech, because they were not admitted to educated circles, and in their own midst they could make themselves understood by means of a jargon only. They lost all taste and sense of beauty, and gradually became, to some extent, as despicable as their enemies desired them to be. They lost their manliness and courage, and a child could place them in terror. The punishment which Isaiah had prophesied for the house of Jacob was fulfilled to the letter: 'Thou shalt speak out of the ground, and thy speech shall be low out of the dust.' "

Among the distinguishing marks it was chiefly the yellow badge that caused the degradation of the Jews legally as well as socially. The real causes which produced this deleterious effect on an innocent class of the population are deeply embedded in the mediaeval system of penal law and concept of honor. Although the Jewish situation is understandable only against the general background of mediaeval civilization, the following clue to a proper interpretation has been completely overlooked in the voluminous literature on the Jew-badge. In mediaeval criminal law degrading punishments were particularly developed and especially refined. They aimed at public humiliation of the offender, a degradation of the culprit in the eyes of his fellow-men. In this category belong, for instance, the punishments by exposure to public ridicule and assault in the pillory; temporary wearing or carrying of certain objects either symbolic of the offender's profession, e.g., a book in the case of clerics, or connected with the execution of criminal punishment, such as rope or sword; permanent wearing of an ignominious garb. Thus the imposition on the Jews of the yellow badge, particularly by secular legislation (this sign, as is well known, was not prescribed by the Lateran Council), immediately placed them on the same level with ordinary offenders.

At first glance this act seems to be utterly arbitrary and lacking any juridical justification. If, however, the doctrine of the Jews' responsibility for the crucifixion of Christ, predominant during the Middle Ages, is recalled, the juridical link is readily found. In accordance with God's precept, these eternal offenders should not be killed, rather should they be preserved in permanent humiliation. Hence the yellow sign should mark them off in the same way that other offenders were punished.

The correctness of this interpretation can be easily proved by a comparison with some regulations of mediaeval criminal law not concerned with Jews. According to a judicial form of the fourteenth century, desecration of the Host was to be punished by wearing a large picture of the Host painted in yellow color on both breast and back of the offender's garment. In Augsburg persons guilty of heresy had to wear a yellow cross on the front and back of their garments. A fifteenth century criminal code of Tyrol imposed on a malicious and fraudulent debtor the penalty of publicly displaying a yellow disk on his clothing until the debt be paid in full. False witnesses, sorcerers, prostitutes and others were stigmatized analogously. In

a Basle court decision, rather late, an offender condemned to permanently carrying a stick as a defamatory sign, was excused from doing so while on a journey, exactly like the exemptions granted to Jews under similar circumstances.

In the light of the cases mentioned above, the several explanations for the choice of a round form for the Jew-badge may also well have an historical foundation; namely, that the badge represented a piece of money and hence stigmatized the Jews as accomplices of Judas Iscariot or as usurers; or that it represented the Host, symbolic of the body of Jesus, and was therefore reminiscent of the crucifixion, or of the desecration of the Host with which the Jews were so frequently charged during the Middle Ages.

The preference of yellow for the badge still calls for explanation. The illuminated manuscripts of the Middle Ages picture Jew-badges as well as Jewish hats in a variety of colors. The badges are white, red, yellow, and even particolored, red and white. Several Church councils specified no particular color for the badge, but only that it should differ from that of the garment. Where, however, specifications were made, yellow was the predominant choice. As colors of the hats there occur: white and yellow, sometimes trimmed with green cords, red, and also, though rarely, gray and blue. Often in one and the same manuscript or in the same glass painting the colors vary. It has been suggested that the picturesque variety of colors may have sprung from oriental fancy, or, on the other hand, from the painter's predilection for diversity of color. Greater probability, however, seems to attach to another suggestion: it was an easily comprehensible endeavor of the Jews to evade the badge regulations and to efface the distinguishing differences in their costumes by the choice of various colors. Re-issued badge regulations often refer to practices of this kind.

Yet yellow always remained officially the prevalent choice. The explanation for this fact is also simple. Among the colors, yellow seems to be the most conspicuous and quickly and easily attracts attention. It was therefore, particularly in the Middle Ages, used to mark those classes of offenders to whom general public attention was to be directed, to deter others from similar misdeeds or banned professions. In Italy, for instance, insolvent debtors had to wear yellow or green hats. In Germany, prostitutes and concubines of clergymen were compelled to have yellow head-bands or veils. Hence yellow

seemed also the most appropriate color to distinguish the Jews. This explanation, now supportable by many instances from mediaeval sources, seemed the most plausible one already to Goethe, without documentary support. The pertinent and very interesting passage in his *Farbenlehre* escaped, however, the attention of all previous writers on the yellow badge.[25]

The various legal aspects with their implications as set forth here save the historian the trouble of demonstrating at great length the effect of the yellow badge on the standing of the Jew in mediaeval and post-mediaeval society. Graetz's description, though more sensed instinctively than conceived on the basis of a proper insight into the historical facts and developments, gives an adequate picture of the actual condition of the Jews externally as well as internally.

One of the earliest passages which testify to the degrading effect of the compulsory Jewish garb is found in the Sermons of Berthold of Regensburg dating from between 1250 and 1272.[26] In berating women for overindulgence and extravagance in dress he points out that none are supposed to wear yellow head-bands or veils except Jewesses, prostitutes or concubines of clerics. No wonder that on account of the social position to which the Jews were relegated, they had to suffer continually all sorts of contemptuous and brutal treatment. They were exposed to attacks by individuals or assaults by the mob; they were robbed of their possessions and even of the clothes on their bodies, under the pretext that they had been caught without the badge. In such cases—as previously mentioned—the apprehenders even had the right to take everything found on them. They were threatened with severe and degrading penalties for non-compliance with the badge regulations, such as fines—thereby the badge being converted into a source of state revenue—corporal punishment, imprisonment, expulsion and permanent exclusion from the country, and even the death-penalty.

The reaction of the Jews against all these humiliations was quite natural. Unlike the ghetto, the badge was deeply resented. They combatted, with all means at their disposal, this mark of degradation, which made of every one of them a target for attack, and greatly hampered their economic activity. As previously mentioned, in 1219 Spanish Jews threatened to leave the country, unless Ferdinand of Castile revoked the badge law; which he did, with the concurrence of the ecclesiastical authorities. A few decades later, Mordecai ben

Joseph, of Avignon, was arrested for indignantly opposing the wearing of the badge. Large amounts of money were offered Paul IV and other popes for the revocation of the humiliating badge laws.[27] Thus in various countries, particularly in Spain, Portugal, and Italy, the Jews were able to resist the infliction of the badge with more or less success for a considerable period. After it was generally instituted, however, only physicians, scholars and financiers succeeded in obtaining—mostly by a payment—individual exemptions for themselves and their families. General exemptions were restricted only to journeys, to avoid exposing the individual Jew to attack and abuse. Sometimes exemptions were also granted for personal merits, especially in military service, but these as well as the general privileges were often arbitrarily revoked, particularly in Spain during the fifteenth century.

While the traditional discrimination against the Jews continued all over Europe for centuries, finally an age dawned in which a less biased and more fair-minded judgment of the Jews began to make headway everywhere, and particularly in Germany. The seventeenth century had already brought with it a somewhat kindlier treatment of the Jews in many spheres, and the eighteenth developed further into the period of Enlightenment and Humanity. Enlightenment sought to penetrate the dense fog of prejudices and to lead people to an independent judgment in accord with their own natural feelings. Inspired by it, Humanity emerged from the narrow circle of purely religious, national, class and similar ideas, and attempted to understand also human beings of a different type and to do them justice. This change in ideology naturally spread also over the attitude toward the Jews, and the era of "Emancipation" brought them complete relief from all humiliating differentiations socially as well as legally, including the abolition of the yellow badge.

Even before this period, as early as 1624 the "Jewish sign" was temporarily invalidated for the Jews in Vienna; and in 1691, the yellow wheel was entirely abolished by the Count Palatinate John William in favor of the Jews of Mannheim, perhaps the first and probably the only instances of their kind in the seventeenth century. An attempt to revive the badge made by the Palatinate government in 1721, in order to obtain money from the Jews through granting exemptions, remained unsuccessful.

In Austria, at the end of the eighteenth century, the enlightened monarch Joseph II tried to combine the idea of the welfare state with that of the authoritarian state. His famous letter of May 13th, 1781, addressed to Count Heinrich Blümegen, which initiated the issuance of the Edict of Tolerance, contained the following clause: "Moreover, all those humiliating and spiritually oppressive coercive laws, which impose on the Jews a difference of clothes or costume or particular external signs, are to be done away with." The *Hofkanzlei,* the supreme administrative body for the Austrian and Bohemian provinces, was very much in favor of this reform which, in its opinion, would gradually remove the animosity between Jews and Christians. The executing authorities, however, were slow and negligent in carrying out the imperial order, whereupon a new and even stricter decree was issued on September 17, 1781, which soon led to the complete abolition of the yellow badge in the lands of the Austrian Crown. So quickly and completely was it wiped out that not even one specimen could find its way into the otherwise rich costume collections of Austro-Hungarian museums.

In France the Jew-badge disappeared definitively only after the French Revolution in 1789; and nine years later, in 1798, came the hour of deliverance for the Jews of Rome. As to the Polish Jews there is no evidence for their wearing particular badges in the seventeenth and eighteenth centuries.

In Prussia the Jew-badge, even at the beginning of the nineteenth century, played a role in the discussions of Jewish emancipation. It is no longer mentioned in the Prussian Edict of Emancipation of March 11th, 1812, which made the Jews "natives (*Einländer*) and Prussian citizens," conferring on them all civil and some political rights. An edict of October 30, 1812 promised admission into the grandduchy of Posen to Jews not wearing any badge. Yet with the return of reaction it happened in Prussia that the revival of the Jew-badge was officially suggested to facilitate police control over the Jews. Though this attempt remained unsuccessful, it is worth while to note that the modern revival of the yellow badge originated in the very state and territory which had resisted its abolition for the longest time.

VI

Modern Revival of Jewish Outlawry

In 1915, when Felix Singermann wrote on the Jewish marks of distinction in the Middle Ages, he concluded his doctoral dissertation on the subject as follows: "Recognized in their rights as men, respected in their human dignity, the Jews in almost all countries now enjoy citizenship, are entitled to partake in all intellectual and economic achievements and able to collaborate in extending them." In fact, at that time and even after the first world war, the idea of law and justice seemed to triumph all over the world. The civilized nations had accorded the Jews complete legal emancipation in the second half of the nineteenth and the first quarter of the twentieth century and abolished all discriminatory legislation. When Emancipation had made the Jew the holder of equal political rights, it seemed as if a political Jewish question no longer existed, the problem involved having been relegated merely to the sphere of social life.

This proved however a "great illusion." The most important democratic state founded after a lost war in the very heart of Europe, was not built on a solid foundation. It quickly fell victim to the National-Socialist ideology which, from the very beginning and during the brief life of the Republic, undermined it from within and without. Racial antisemitism of German origin and German mold, for long the most potent means of the Nazis in their struggle for power, was immediately integrated into the system of law of the Third Reich. Now it became the corner-stone of an anti-Jewish legislation of unprecedented severity. Discriminating and degrading "Jewry-law" in concept and concrete reality, which seemed to be buried in the history of law, came suddenly to life again and became bitter actuality, as early as 1933. This is not the place to trace and study its development in detail through the different stages as determined by the course of political events. Among the numerous German laws of this period, contradictory to the fundamental concepts of traditional law, one is unique in history: the decree of September 1, 1941, (Reichs-Law Gazette of September 5, 1941, vol. I, p. 547) officially reviving the yellow Jew-badge. It rounded off a long series of measures for annihilating the Jewish community, which was carried to completion only a few weeks later by the merciless de-

portation of all Jewish inhabitants of the Reich and the complete confiscation of their possessions.

The German badge-law of 1941 imposed on all Jews over six years of age the permanent wearing of a six-pointed star, outlined in black on yellow cloth with the black superscription "Jew."[28] It manifests the method applied by the National-Socialists in many other cases of their disregard for the generally recognized principles of human intercourse: official legalization of private actions of force and oppression after they had been actually practiced over a shorter or longer period, when at length the time has passed for considerations of convenience, and international public opinion could be ignored.

In the sad annals of Jewish history under the National-Socialist regime, it was in fact the revival of visible stigmatization of the Jews that marked the very first official act of anti-Jewish violence. This was April 1, 1933, when 60 million Germans were first officially mobilized against 600,000 defenseless Jews. Storm troops marched through the streets of German cities, towns and villages, armed with posters, paint pots, rubber truncheons and revolvers. At 10 a.m. all the windows of Jewish shops and all the brass plates of Jewish physicians and lawyers were seared in large letters with the word *"Jude"* or *"Jüd"* (Jew) or the David's star. Other slogans also appeared among the inscriptions, such as: "Perish Judah," "Do not buy from Jews," "Death to Jewry." Storm Troop sentries were posted in front of every door. None of the victims, until then full-fledged German citizens and now suddenly placed entirely outside the pale of the law, would have dared to remove the resuscitated Jew-badge. The Berlin street-cars carried flags on that day. "Victory over World Jewry" was the motto proclaimed in large headlines displayed by hundreds of German papers the day following the Jewish boycott. The leading party organ, *Völkischer Beobachter,* reported on April 3, 1933 from Hamburg on the boycott day:

"No disturbances occurred anywhere. Here and there, however, provokers seem to have been active during the night. In blue or red color, they painted on the windows of Jewish stores in large letters the word 'Jew' and even some caricatures."

Once more the Jew-badge was revived, in the country of Schiller, Goethe, and Kant, and after little more than one hundred years had elapsed since full emancipation had been accorded the Jews. Need-

less to point out that the situation was entirely different from that in the Middle Ages. This writer will never forget his impressions and emotion on walking through the streets of Halle in the evening of April 1, 1933, and driving through the streets of Cologne on the following morning. "I myself could scarcely believe that such things could occur in a twentieth-century civilization," said President Roosevelt five years later on November 15, 1938, after the November pogrom. In deference to the reaction evoked in the foreign press, however, the removal of the Jew-signs painted on Jewish shop windows and doctors' and lawyers' plates was quickly ordered by the authorities. After this public and general stigmatization there was no need for individual badges, for the time being. The slow doom of Jewry was now well under way.

Nevertheless, once officially introduced, the Jew-badge remained an instrument as important as it was efficient, in the arsenal of deadly weapons against the Jews. Until now very little about its application prior to the general badge law of 1941 has come to the knowledge of the outside world. Yet some remarkable instances are recorded.

A carefully assembled collection of facts and documents relating to three years' persecution of German Jews, *The Yellow Spot,* published a photo taken in 1934 in Gailingen near the Swiss frontier. In front of a café owned by a Jew a Storm Troop sentry is pictured warning two Swiss visitors against entering the Jewish premises. On the door is seen a yellow spot on a black ground, probably the first instance of this practice. Another picture, an antisemitic poster used by the Nazis in Karlsbad before the annexation of Czechoslovakia and reproduced in an anonymous pamphlet,[29] displays mediaeval Jewish costumes with particular emphasis on the badge. The inscription reads: "The Jew-badge was a warning against race-defilement (*Rassenschande*)." Conspicuous among these pictures is a large-sized reproduction of one used by Wilhelm Grau as frontispiece in his book, *Antisemitism in the Late Middle Ages.*

All this, by no means accidental, testifies to the correctness of the assertion, as previously pointed out by this writer, that the most rigorous treatment of the Jews in the Middle Ages must have been studied systematically and carefully by the Nazi leaders. The Jews were stigmatized as criminals against Germany in order to legitimize every severity visited and to be visited upon them. Posters inscribed *"Judentum ist Verbrechertum"* (Judaism is criminalism) as dis-

played in Vienna and reproduced in the pamphlet mentioned, are telling proof. Even the mediaeval pillory was revived for the cases of what was called "race-defilement."

From behind the electrically charged wires of the concentration camps, very scanty reports only have reached the outside world. Yet there is reliable documentary proof for the fact that there also the yellow badge was applied in order still further to worsen the condition of the otherwise ill-fated enough sufferers. In December 1935 there was smuggled to London an authentic yellow armband which Jewish "race defilers" had to wear in the Columbia House in Berlin. Another documentary proof is furnished by Irmgard Litten in her story of the tragic fate and death of her son, *Beyond Tears,* "one of the most heartbreaking books ever written." In 1937, when she visited her son in the Dachau concentration camp, Mrs. Litten observed that his "uniform was not marked, as previously, only with the plain red stripes that indicated a political prisoner: there was now a large yellow spot on each of these stripes, and also on his chest and his legs. I saw it already on some of the people in Lichtenburg" [another concentration camp]. The "Jewish companies" were being stigmatized by this badge. "I know," Mrs. Litten wrote, "that in all the camps, and especially in Dachau, the Jewish company is shockingly illtreated." To understand what this implies, one must read the moving details in Mrs. Litten's book. Again a striking reversion to the Middle Ages which, however, marked with a yellow Jew-hat only lawfully executed criminals.

All the documentary proofs presented force on the thoughtful observer the question why, after all these precedents, and only in September 1941, wearing the yellow badge was made compulsory for all Jews in Germany. For what reason was it deemed necessary to add this new measure to the preceding decrees, already directing every Jew to carry a yellow identification card and, in case of emigration, a passport marked with a "J" [Jew]? Was the stigmatization of the Jews not yet complete enough?

The answer to these questions is a twofold one. It must consider and explain the relevancy of that measure with regard to the Jews as well as to the non-Jewish population of Germany.

As to the Jews, the key to the motives for introducing the yellow badge officially and for applying it to the entire Jewish population, is readily found in the book by the National-Socialist expert on

Jewish history, Wilhelm Grau, who drew from history in more than one instance the pattern for adapting and refining the mediaeval measures for modern use. In his *Antisemitism in the Late Middle Ages,* Grau pointed out (p. 153): "This style [imposition of the yellow badge on the Jews] was compulsory, not voluntary, a form of humiliation and disgrace, not a mark of honor. The Jews wore it with a feeling of inward bitterness, the Christians were glad at having put upon the Jews the merited brand of infamy." But rejoicing over approaching the goal of the annihilation of the Jews in Germany and the then German-dominated territories was only one of the causes. This annihilation was to be prepared by completely isolating the Jews. Moreover, the "victory over world-Jewry" was not yet won. Therefore, through measures portending the final stage in the tragedy of European Jewry, most precious foreign exchange could possibly still be obtained from the American relatives of the unfortunate victims. The same means had been previously applied for the same purpose, after the fall of Poland, in such cities as Warsaw, where the Jewish population could be immediately confined to ghettos. All the more was the same strategy to be employed in Germany proper and the other subjugated countries where, until then, ghettos had not yet been instituted officially.

The story has, however, still another side. And this refers directly to the non-Jewish or "Aryan" population. To cite only the best-known example, the pogrom of November 10, 1938: The acts of violence, including the burning of the synagogues, were committed under orders by troops supported by groups of German civilians extending through all classes. Other groups, however, remained passive. It was a passivity that ranged from lack of comprehension to disapproval. Though open opposition was rare, yet secret acts of aid extended to Jews in those days of tribulation were reported. This was neither the first nor the only occasion for some Germans—small though their number may have been and probably still is—secretly to prove their aversion to the violence which they were compelled to witness and even to inflict. Increasing persecution of the Jews was sure to strengthen the remaining feelings of human kindliness not yet extinct in the German populace. It was so particularly in the countries more recently invaded by the Germans, such as Czechoslovakia, Holland, or Belgium, where democratic ideals had penetrated much more deeply into the popular mind than they

ever had in the Reich. There is no doubt that the German authorities were well acquainted with these trends and fully aware of their bearing. The situation can perhaps be best explained by a comparison. Just as the normal State must for self-protection isolate or eliminate elements not conforming to its law and order, so the National-Socialist State, likewise for self-protection, must isolate or eliminate elements objectionable to its policies. Here the badge law comes into the picture. All Jews from the sixth year on should be distinctly marked off in order to place under public control and criminal punishment any contact of German Aryans with Jews, prompted by ordinary kindliness or pity. Hence, besides its tragic effect on the Jews, the resuscitation of the yellow badge was directed against the Aryans as well, in its aim to convict any non-Jew of what in National-Socialist law is laid down as a crime, namely, associating with or befriending Jews.

This interpretation is by no means merely a hypothesis. Its correctness is supported by the official comment of the "Reichsprotector" for Bohemia and Moravia upon tightening the badge laws in former Czechoslovakia. It was published on October 5th, 1941, in the Prague Nazi paper *Der Neue Tag,* and read as follows:

"In the Protectorate, from now on and without exception, every Jewish person considered a Jew in accordance with the decree of the Reichsprotector in Bohemia and Moravia of June 21, 1939, has to wear the badge. To these persons apply accordingly also all other restrictions, commands, and prohibitions. Since, furthermore, Jewish synagogues and chapels have for a long time not served religious purposes, but have been meeting places for all subversive Jewish elements and centers for illegal whispering propaganda, the closing of all Jewish chapels and synagogues has been ordered. Finally certain Czech circles, particularly in recent days, have manifested an outright demonstrative friendliness to Jews. They are mostly those elements who, through such an attitude, want to show their hostility to the Reich. Thus the State police has been instructed to take police action (protective custody [meaning concentration camp]) against all persons who, in the streets or in public places of entertainment, show ostentatious friendliness to visibly marked Jews or converse with them. The Deputy-Reichsprotector has deemed this measure necessary because, in court martial proceedings the hitherto gained knowledge has been confirmed anew that, in the Protectorate of Bohemia and Moravia, the Jewish element is to a preeminent extent actively engaged in inciting the population as well as organizing resistance."

Only from these motives together, as set forth in the preceding presentation, does the rigor of the 1941 badge laws become understandable. To stigmatize the Jews as criminals and to convict non-Jews of unlawful intercourse, this was the twofold aim of this criminal legislation. It seems, however, not to have completely attained its goal: several months after it had been in force, a new decree had to be issued against friendly intercourse with Jews.[30] Moreover, all Jewish homes throughout Germany were ordered to be marked with a conspicuous black *Magen David* on a white ground.[31]

It is worth while mentioning that the second paragraph of the previous law deprived the Jews of the right "to wear orders, distinctions of honor or other insignia," which related chiefly to veterans of the first world war, a punishment which the German penal code inflicted only after conviction of crime.

The penalty for disregarding the badge law was fixed at one hundred and fifty Reichsmark or imprisonment up to six weeks. But according to paragraph 4 II, the penalty is really unlimited and arbitrary, as is the case in most of the present German laws. No exemptions from wearing the badge were provided in the decree. It was successively extended to the countries overrun by Germany, Belgium, the Netherlands, France, and probably also all the others from which news is unobtainable on account of the war. According to official German information,[32] "obliging the Jews to wear a white armlet with a blue Zion star on the left arm, was one of the first measures taken in the formerly Polish territory. Slovakia in April 1941, Croatia at the end of May decreed the marking of the Jews. Since August 14 all Jews in the large cities of Czernowitz (Bukovina) and Jassy (Rumania) wear a yellow Zion star by order of the Rumanian military authorities."

After antisemitic demonstrations the students of the University of Budapest recently passed a resolution to have the yellow David star badge forced on their few Jewish fellowstudents still permitted to study under the *numerus clausus*.[33] More heartening news has been reported from occupied Belgium and Croatia. In a silent mass protest against the humiliation of the Belgian Jews the citizens of Antwerp made common cause with them by flocking into the streets ostentatiously wearing the same armband with a yellow David's star, so that the Germans were unable to make out who was Jewish and who was not.[34] After the conquest of Yugoslavia later the

catholic clergy in Croatia protested in a similar way by "wearing the same badge which the Pavelitch government has forced on the Jews."[35] This spirit is illegal for the time being. Yet this spirit cannot be killed with its bearers. It is the spirit which some time will aid in purging the world of the resuscitated shame of the yellow badge.

A SELECTION OF DOCUMENTS CONCERNING THE JEW-BADGE*

1

THE FOURTH LATERAN COUNCIL OF 1215: DECREE CONCERNING THE GARB DISTINGUISHING JEWS FROM CHRISTIANS

Canon 68

In some Church provinces a difference in dress distinguishes the Jews or Saracens from the Christians, but in certain others such a confusion has grown up that they cannot be distinguished by any difference. Thus it happens at times that through error Christians have relations with the women of Jews or Saracens, and Jews or Saracens with Christian women. Therefore, that they may not, under pretext of error of this sort, take recourse to excusing themselves in the future for the excesses of such accursed intercourse, we decree that such [Jews and Saracens] of both sexes in every Christian province and at all times shall be marked off in the eyes of the public from other peoples through the character of their dress. Particularly, since it may be read [in *Numbers,* 15:37-41] that this very law has been enjoined upon them by Moses.

Latin text in J. D. Mansi, *Sacrorum Conciliorum Amplissima Collectio,* vol. XXII, 1055; *Corpus Juris Canonici,* c. 15 X. de judaeis, Sarracenis, et eorum servis, 5, 6; often reprinted, see Grayzel, *The Church and the Jews in the XIIIth Century,* p. 308.

The English translation is from J. R. Marcus, *The Jew in the Medieval World,* p. 138, revised from the Latin text by the present writer.

2

INTRODUCTION OF THE JEW-BADGE IN ENGLAND BY KING HENRY III

OXFORD, MARCH 30, 1217

The King to the Sheriff of Worcester

We order you to have published and observed throughout your bailiwick that all Jews wear upon the fore part of their upper garment, wherever

*All translations are by the present writer except when differently stated.

they walk or ride, within or outside the village, two white tables made of white linnen or parchment so that, by a sign of this kind, Jews can be patently distinguished from Christians.

Latin Text in D'blossiers Tovey, *Anglia Judaica* (Oxford, 1738), p. 79.

3

POPE HONORIUS III, IN A LETTER TO THE ARCHBISHOP OF TOLEDO, UPON THE LATTER'S AND KING FERNANDO III'S REQUEST, SUSPENDS THE EXECUTION OF THE DECREE OF THE FOURTH LATERAN COUNCIL CONCERNING DISTINCTIVE GARB OF THE JEWS

Lateran, March 20, 1219

Honorius Episcopus, servant of the servants of God to the venerable brother, the Archbishop of Toledo, Legate of the Apostolic See, greetings and Apostolic blessings.

On behalf of our dearest son in Christ, Fernando, illustrious king of Castile, as well as on behalf of yourself, we have been informed that the Jews residing in the kingdom of Castile are so seriously wrought up over what was decreed in the General Council about their having to wear signs, that some of them may choose rather to flee to the Moors than to wear such a sign, conspire because of this otherwise, and hold secret meetings. From these great damage could arise to the King, whose revenue derives in large part from those very Jews, and the kingdom itself is threatened by disgrace. Wherefore we have been humbly petitioned both on behalf of the King mentioned as well as yourself that by our permission you be relieved from executing this decree, since you could not proceed therein without grave scandal. Therefore, since in paternal solicitude we desire to provide for the tranquility of the mentioned King and Kingdom, by the authority of this letter we order you to suspend the execution of the aforementioned decree for as long as you may deem appropriate, unless perhaps you should receive a special Apostolic mandate with regard to the execution of that decree; notwithstanding any letters obtained from the Apostolic See concerning matters not included in this text.

Given at the Lateran, on the thirteenth before the Kalends of April, in the third year of our Pontificate.

Latin text in Moritz Stern, *Urkundliche Beiträge über die Stellung der Päpste zu den Juden,* II, (Kiel, 1895), No. 180, p. 13 f.

4

WEARING OF JEWISH HATS OBLIGATORY
Provincial Council of Breslau in 1267

We also decree and ordain that Jews shall resume the horned hat, which at one time they were accustomed to wear in these parts, and presumed in their temerity to put aside, so that they should be clearly discernible from Christians, as it was one time laid down in the General Council. Whichever Jew then should be caught going without such sign shall be punishable by a fine according to the custom of the country.

Latin text in Julius Aronius, *Regesten zur Geschichte der Juden im Fränkischen und Deutschen Reiche* (Berlin, 1902), No. 724, p. 302.

5

WEARING OF JEW-HAT OBLIGATORY
Schwabenspiegel (*circa* 1275), South German Law Book
Article 214, 10

The Jews shall wear hats that are pointed; thereby they are marked off from the Christians, so that one shall take them for Jews.

Text in Middle High German in Heinrich Gottfried Gengler, *Des Schwabenspiegels Landrechtsbuch* (second edition, Erlangen, 1875), p. 177.

6

COMPULSORY DIFFERENTIATION OF THE JEWS FROM CHRISTIANS
Johannes Purgoldt's Law Book from the beginning of the sixteenth century

Book VIII, Article 102

In all respects the Jews shall be different, in their dwellings, clothes, and other things. Their houses shall be separated from those of the Christians, and all of them shall be together, and ropes shall be drawn across the streets. Their clothes shall also be separate from the clothes of the Christians; males shall not wear *kogeln* but higher hats of felt. So writes Pope Innocent the First [sic!]. Moreover, it is also written in the *Weichbildrecht* that no Jew shall walk from his *shul* [synagogue] or from his house into the street without hat. Men shall also wear boots, and go without wooden shoes; the women with wound veils and with wide windows on their cloaks, and without wooden shoes. That they now go about differently, that is a sign that to the princes Jewish gold is dearer than the honor of God or Holy Christendom.

Text in Middle High German in Friedrich Ortloff, *Das Rechtsbuch Johannes Purgoldts* (Jena, 1860), p. 255.

7

GENERAL INTRODUCTION OF THE YELLOW BADGE IN GERMANY BY THE REICHSPOLIZEIORDNUNG OF 1530

XXII

Concerning the dress of the Jews.

§ 1

A yellow ring on coat or cap, not covered over, shall always and publicly be worn by Jews for their identification.

§ 2

In order to have this our regulation concerning clothing and ornament more strictly observed and executed, . . . it is ordered that any infraction shall be punished by the proper authorities with confiscation of the clothes or ornaments worn in violation of this our regulation and by a fine, twice the value of the clothes or ornaments, to go to the local authority.

German text in Johann Christian Lünig, *Teutsches Reichsarchiv,* II (Leipzig, 1713), p. 573.

8

INTRODUCTION OF THE YELLOW BADGE IN AUSTRIA BY EMPEROR FERDINAND I IN 1551

Vienna, August 1, 1551

We, Ferdinand, by the grace of God King in Hungary and Bohemia etc. It has come to us frequently and credibly to what an extent the Jews, whom we have mercifully admitted and permitted to dwell and live in a number of places of our principalities and lands, practice indecent intolerable usury, and with their usurious contracts and dealings inflict onerous and pernicious damage and injury on our Christian people and subjects; that furthermore they also indulge in many other ways in all sorts of evil, scandalous and vicious actions to the disgrace, defamation and disparagement of our sacred Christian name, belief, and religion. These scandalous evil actions are said to flow in good part from the fact that the Jews in numerous localities dwell and move about among the Christians without any distinguishing marks and without any difference in clothes and costume and thus cannot be distinguished from Christians nor recognized as Jews.

Therefore, it is due and proper to us as a Christian governing Lord and Prince, by virtue of our office, to take appropriate account of this: not only

to abolish the vexations, pernicious taking of interest and practice of usury by the Jews, but, as far as possible, also their other sinful evil dealings and actions flowing from the circumstance that the Jews dwell intermingled with the Christians and cannot be distinguished from them. Hence, we order that there be observed a distinction between Christians and Jews in clothing and costume and, as is done in numerous countries, the Jews be marked and recognizable by a certain sign.

Thus we decree and order . . . that all Jews, settled in our hereditary principalities and lands or now and then sojourning in them on business, shall begin within one month from the publication of this our general decree to use and wear publicly and uncovered a sign, by which they are to be distinguished and recognizable from Christians: namely on the outer coat or dress over the left breast a yellow ring, circumference and diameter of the circle as herein prescribed and not narrower nor smaller, made of yellow cloth (notwithstanding any previous enactments or exemptions which are hereby revoked).

If after the expiration of the aforementioned term of one month any Jew violates this our decree and order and does not wear the mark described, he shall for the first and second offence forfeit the clothes he wears and everything found on him, half of which shall go to the denouncer and the other half to the administrative authority or court, in whose jurisdiction the Jew was found without badge. In case of the third violation, however, he shall, in addition, be promptly expelled with his wife and children from all our Austrian principalities and lands and for all time.

When, however, Jews travel across the country according to their trade and need, they shall not be obliged to wear these badges on the roads, but when they come to taverns or other shelter in towns or villages they shall produce the badges again and wear them and thus proclaim themselves as Jews.

And accordingly we command earnestly each and all of you and it is our will that you firmly execute and observe this our decree and order and that you proceed against such Jews as, in our aforementioned principalities and lands, are found without the above described badges, with the appointed penalty; and that, furthermore, you shall provide and do everything to promote the execution of this our decree and order.

Done in our City of Vienna, the first day of August [fifteen hundred] fifty-one.

Ferdinand.

German text in Alfred Francis Pribram, *Urkunden und Akten zur Geschichte der Juden in Wien,* I (Vienna. 1918), pp. 10-12.

9

AUTOGRAPH LETTER OF EMPEROR JOSEPH II OF MAY 13, 1781, TO COUNT HENRY BLÜMEGEN, OUTLINING THE EDICT OF TOLERATION

Article 6

Moreover, all those humiliating and spiritually oppressive coercive laws which impose on the Jews a difference of clothes or costume or particular external signs are to be done away with.

German text in Pribram, *Urkunden und Akten zur Geschichte der Juden in Wien,* I (Vienna, 1918), p. 441.

10

CONCERNING THE ABOLITION OF THE JEW-BADGE BY EMPEROR JOSEPH II: OPINION OF THE CHANCELLERY (*Hofkanzlei*).

Vienna, September 7, 1781

On the one hand, the dislike of Jews for Christians, so interwoven in their religious system, can never be entirely removed; on the other hand, the Christian mob, too, is possessed by many prejudices and hatred against the Jews. Hence prudence demands not suddenly to make too vigorous an attack on these mutual prejudices, but to dissipate them gradually. With this aim and to promote their mutual external approximation, equality of the Jews in garb with the Christians should not only be permitted, but the pertinent inequality should be outright abolished, this inequality being a material cause of the detestation of the Christians for the Jews.

German text in Pribram, *Urkunden und Akten zur Geschichte der Juden in Wien,* I (Vienna, 1918), p. 457.

11

EMPEROR JOSEPH II URGES ABOLITION OF THE JEW-BADGE

Prague, September 17, 1781

Dear Count Blümegen:

I note that the general decree issued for making better use of the Jews and the abolition of the externals distinguishing them, is not at all being enforced. In Brünn, a Jew on entering the city-gate is compelled to pay a *Siebzehner.* In Prague, a Jew must still wear the yellow cuffs. Thus, the Chancellery will see to it that the orders given by Me are not taken *ad statum notitiae,* as mere notices, but are put in execution. Else I should have to call to account those responsible therein.

Prague, September 17, 1781.

Joseph.

German text in Gerson Wolf, *Judentaufen in Österreich* (Vienna, 1863), p. 81. The text of this letter is missing in Pribram, *Urkunden und Akten zur Geschichte der Juden in Wien* (Vienna, 1918).

12

Final Abolition of the Jew-Badge
Rescript by the Bohemian Government
Prague, October 12, 1781

Whereas His Imperial Royal Apostolic Majesty, in conformity with the supreme decree for making better use of the Jews already received, has been graciously pleased to decide furthermore that the distinction in Jewish costume and clothes hitherto observed shall be completely abolished, consequently, the wearing of yellow cuffs by males as well as of yellow bands by unmarried females be done away with:

Therefore, the district prefect [*Kreishauptmann*] is to transmit this all-highest will and intention to all municipal and other authorities with the annotation that in respect of dress no obstruction shall be caused to Jews by any one, provided their conduct is otherwise quiet and orderly.

Done at the Royal Palace at Prague, October 12, 1781.

His Roman-Imperial Royal Majesty's Burgrave, President and the Councillors of the Imperial-Royal Provincial Government.

E. E. Prince Fürstenberg.

German text in Tobias Jakobovits, "Die Judenabzeichen in Böhmen," in *Jahrbuch der Gesellschaft für Geschichte der Juden in der Czechoslovakischen Republik,* III (Prague, 1931), p. 174 f. Not in Pribram, *Urkunden und Akten zur Geschichte der Juden in Wien* (Vienna, 1918).

13

Official Resuscitation of the Jew-Badge in the Third Reich and German-Occupied Territories

Ordinance of November 23, 1939, Prescribing Distinctive Signs for Jews and Jewesses in the German Government-General Established in Former Poland.

§ 1

On and after December 1, 1939, all Jews and Jewesses living in the territory of the Government-General and who are ten years of age or more, must

wear on the right sleeve of their clothes, overcoats, or mantles, a white armlet not less than ten centimeters [four inches] in width, bearing as a distinctive sign the Star of David.

Jews and Jewesses must provide themselves with such armlets with the prescribed distinctive sign.

§ 3

(1) Infractions of the present ordinance will be punished by imprisonment or fine to any amount, or by one or the other penalty.

(2) Sentences shall be passed by the Special Court.

Verordnungsblatt des Generalgovernments für die besetzten Gebiete, 1939, p. 61.—*German Occupation of Poland—Polish White Book* (The Graystone Press, New York, 1941), p. 170.

14

Nazi Police Decree for Marking the Jews in Germany

September 1, 1941

§ 1

(1) Jews (§ 5 of the first decree for executing the Reich Citizenship Law of November 14, 1935, *Reich Law Gazette,* I, p. 1333) who have completed their sixth year are forbidden to show themselves in public without the Jew star.

(2) The Jew star consists of a six-pointed star, outlined in black on yellow cloth the size of the palm of one's hand, with a black superscription: "Jew." It must be worn visibly and firmly sewed to the left breast of clothing.

§ 2

Jews are forbidden:

(a) to leave the precinct of their residence community without carrying with them a written permit from the local police authorities;

(b) to wear any orders, decorations, or other insignia.

§ 3

Paragraphs 1 and 2 do not apply:

(a) to Jewish persons living in mixed marriage if there are any descendents of such marriage and these are not classed as Jews, even if the marriage does not exist any more or the only son has fallen in the present war;

(b) to the Jewish wife in a childless mixed marriage during its duration.

§ 4

(1) Whoever violates the prohibitions in §§ 1 and 2 purposely or by negligence is punishable by a fine up to 150 Reichsmark or six weeks' imprisonment.

(2) Further police measures of protection as well as penal provisions according to which a severe penalty is incurred, remain unaffected.

§ 5

This police decree applies also to the Protectorate of Bohemia and Moravia with the proviso that the Reich Protector of Bohemia and Moravia is empowered to adjust the provision of § 2 No. a to the local conditions in the Protectorate of Bohemia and Moravia.

§ 6

This police decree comes into force fourteen days after its promulgation.

Berlin, September 1, 1941.

For the Reich Minister of the Interior:

Heydrich.

German text in *Reichsgesetzblatt,* Vol. I of September 5, 1941, page 547.

15

Additional Official Comment on Putting into Force the Preceding Decree in Bohemia and Moravia on September 19, 1941

It is impermissible to cover up the badge in any way.

For the present, every Jew receives two stars, if employed three.

The police decree provides no exemption. Application to the authorities for exemption from the obligation to wear the Jew-star are therefore useless and inadmissible.

According to paragraph 4 of the police decree violation is not only punished by fine or imprisonment but is also threatened with more far-reaching police measures for security.

Jüdisches Nachrichtenblatt, Prague, September 26, 1941.

NOTES

1 Almost identical provisions of this type are contained in the Statutes of Trent (first half of the fourteenth century), Bologna (1449), and Reggio (1480); their text is reproduced in Richard Baumgart, *Die Entwicklung der Schuldhaft im italienischen Recht des Mittelalters* (Berlin and Leipzig, 1914), p. 432 f. (Trent): "Volumus et ordinamus quod nullus Christianus ad petitionem alicuius non Christiani vel habentis causam ab eo non Christiano pro debito civili personaliter gravari vel capi possit; et si caperetur vel personaliter gravaretur, talis captura et personale gravamen sint nulla et nullum ipso jure et de facto immediate relaxetur

et capi faciens eidem Christiano capto vel personaliter gravato teneatur ad omne ejus damnum, expensas et interesse."

2 Cf., e.g., Israel Abrahams, *Jewish Life in the Middle Ages* (London, 1896), pp. 280, 287; *Jewish Encyclopedia,* IV, 296; A. Berliner, *Aus dem Leben der deutschen Juden im Mittelalter* (Berlin, 1900), p. 62; Karl von Amira, *Die Dresdener Bilderhandschrift des Sachsenspiegels,* II. Band : Erläuterungen, Teil I (Leipzig, 1925), p. 39.

3 Vita S. Anskarii, Chap. 4, in *Monumenta Germaniae Historica, Scriptores,* vol. II (Hannover, 1829), p. 693: "Cumque ab oratione surrexisset, ecce vir per ostium veniebat, statura procerus, judaico more vestitus, vultu decorus." Another reference of the ninth century to "Jewish clothes," especially a kind of head-covering, is found in Joannes Diaconus, *Sancti Gregorii Magni Vita,* in *Patrologia Latina,* vol. 75, p. 207 D: "Nam reverendae memoriae Nicolaus pontifex Arsenium, quondam Hortanae civitatis episcopum, judaicas tunc primum pellicias introducere molientem, adeo aversatus est, ut ei palatinam processionem vellet adimere, nisi superstitiosae gentis vestes abjurando, cum sacerdotalibus infulis consuetudinaliter procedere studuisset." Cf. M. Güdemann, *Geschichte des Erziehungswesens und der Kultur der Juden in Italien während des Mittelalters,* II (Vienna, 1884), p. 48; Raphael Straus, "The Jewish Hat As an Aspect of Social History," *Jewish Social Studies,* IV (1942), p. 61.

4 Prudentii Trecensis *Annales,* ad an. 839, Julius Aronius, *Regesten zur Geschichte der Juden im Fränkischen und Deutschen Reiche* (Berlin, 1902), No. 103 (839), p. 44; Jacob R. Marcus, *The Jew in the Medieval World* (Cincinnati, 1938), p. 353 f.

5 Migne, *Patrologia Latina,* vol. 104, p. 74 C: ". . . dum ostendunt vestes muliebres, quasi a consanguineis vestris vel matronis palatinorum uxoribus eorum directas;" Aronius, *l.c.,* No. 90 (826-827), p. 38; Friedrich Wiegand, "Agobard von Lyon und die Judenfrage," in *Festschrift der Universität Erlangen für Luitpold von Bayern* (Erlangen, 1901), p. 13.

6 Meier Spanier, "Süsskind von Trimberg," in *Zeitschrift für die Geschichte der Juden in Deutschland,* VII (1937), 152 ff.:

Ich var uf der toren vart
mit miner künste zware,
daz mir die hêrren niht welnt geben,
daz ih ir hof wil vliehen,

Unt wil mir einen langen bart
lân wahsen griser hare,
ich wil in alter Iuden leben
mich hinnan vür wert ziehen.

Min mantel der sol wesen lang,
tief under einem hute,
demüteklich sol sin min gang
und selten me gesingen hovelichen sang,
sid mich die hêrren scheiden von ir guote.

For bibliography on Süsskind von Trimberg, see Aronius, *loc. cit.*, no. 397, p. 178 f.; Spanier, *loc. cit.*, p. 138 f., n. 1, to which an interesting work of fictionalized history is to be added, Joseph Kastein, *Süsskind von Trimberg oder die Tragödie der Heimatlosigkeit* (Jerusalem, 1934). The best reproduction in multi-color of Süsskind von Trimberg's picture from the *Manesse Codex* is found in Philo-Lexikon, Handbuch des *jüdischen Wissens* (Berlin, 1936), plate 7 facing pages 151-152.

7 The argumentation of Chayim Lauer who takes the Jewish hats as chalices is neither based on unobjectionable premises nor is it convincing at all; Ch. Lauer, "Zur Geschichte des 'Zürcher Semak'," in *Jahrbuch der jüdisch-literarischen Gesellschaft zu Frankfurt a.M.*, XII (1918), pp. 16, 326.

8 The ideological connection of ghetto and garb in their historical development is evidenced by the following passage from Johannes Purgoldt's *Law Book* from the beginning of the sixteenth century, ed. Friedrich Ortloff (Jena, 1860), book VIII, article CII: "Allen enden sullen dye iuden underscheit haben an husern, an kleydern und an andern dingen. Ir huser sullen gesundert sey us den cristen, und bey einander, und seyle uber dye gassen gezcogenn. Ir kleyder sullen auch gesundert seyn von den kleydern der cristen: dy man sullen keyne kogeln tragen, sundern hoer filtzhut. Das schribt der babst Innocentius der erste. Daruf so stehet auch geschriben in dem wichpildsrechte, das kein iude us seyner schule ader us seyme huse gehen sulle uf die strasse ane huett. Dye man sullen auch stefeln an tragen, und ane holtzschun gehen; dy wyber mit umbgewunden sleygern und mit witen heubtfenstern an denn menteln, und ane holtzschw. Das sye nhw aber anders gehen, das ist eyn zceichen, das den fursten ir golt lieber ist wan gotes ader der heylgen cristenheit ere."

9 Wilhelm Grau, *Antisemitismus im späten Mittelalter* (Munich, 1934) p. 136.

10 Joseph Reider, "Jews in Mediaeval Art," in *Essays on Antisemitism* (New York, 1942), p. 51.

11 Reproduced in *Encyclopaedia Judaica,* IX (1932), pp. 403-404.

12 Reproduced in Howard L. Goodhart and Erwin R. Goodenough, *The Politics of Philo Judaeus with a General Bibliography of Philo* (New Haven, 1938), plate facing p. 178.

13 Reproduced in Guido Kisch, "The Jewry-Law of the Mediaeval German Law-Books," II, plate facing p. 124.

14 This problem as well as the history of the Jew-badge in Islamic countries is by no means clarified and calls for further investigation.

15 No provision of this kind is found in the oldest mediaeval law-book of Germany, the *Sachsenspiegel* (*ca.* 1220-1224). According to its South-German counterpart, the *Schwabenspiegel,* composed about 1275, article 214, 10, ed. Gengler, "the Jews shall wear hats that are pointed; thereby they are marked off from the Christians, so that one shall take them for Jews" ("die juden suln hüte tragen, die spitz sin; da mit sint si uz gezeichent von den christen, daz man si für juden haben sol"); *Weichbild-Vulgata* (second half of the thirteenth century), ed. Daniels-Gruben, art. 139: "Judaeus etiam synagogam exire non debet sine mitra judaica;" *Meissener Rechtsbuch* (*ca.* 1357-1387), ed. Ortloff, III 17, 47: "Von ersacztem alden rechte sal keyn jodde usz der synagogen gen ane hud." As to the wearing of a Jewish hat during the oath ceremony, cf. *Meissener Rechtsbuch,* III 17, 46: "Ist abir dy sache obir funfczig lodige margk, so sal he swern uf deme rodal, unde sal eynen grauwen rogk ane habe ane hemmede an blosser hud, unde zcwu graue hossen ane vorfusse, unde eyn hud, der mid lammesblute gefuchted sy, do sal he uffe sten, unde eynen spiccen hud uff deme houbte;" similarly, according to the Jewry-oath formula found in a fourteenth century manuscript of the Leipzig University Library; G. Homeyer, *Die deutschen Rechtsbücher des Mittelalters,* (Weimar, 1931-34), No. 681; C. G. Haltaus, *Glossarium* (see note 17), p. 1053; cf. also Otto Stobbe, *Die Juden in Deutschland während des Mittelalters* (Braunschweig, 1866), p. 274 note 167.

16 Provincial Council held in Breslau in 1267, Aronius, no. 724, p. 302: "Item statuimus atque ordinavimus, ut judei cornutum pileum, quem quondam in istis partibus consueverunt deferre et sua temeritate deponere praesumpserunt, resumerent, ut a Christianis discerni valeant evidenter, sicut olim in generali concilio fuit definitum. Quicumque autem judeaus sine tali signo deprehensus fuerit incedere, ad morem terrae poena pecunciaria puniatur." Similar decrees were issued by the Church Councils of Vienna in 1267, Olmütz in 1342, Prague in 1355 (*pilea lata*), Salzburg 1418; cf. Stobbe, *op. cit.,* p. 273 f.n. 166.

17 A Christian author of the middle of the eighteenth century, Christian Gottlob Haltaus, puts it aptly in his *Glossarium Germanicum Medii Aevi* (Leipzig, 1758), p. 1048: "In vita communi vestitum inusitatum et notam aliquam gestare cogebantur, verbo quidem ad distinctionem, re autem vera ad ludibrium et traductionem."

18 Aemilius Friedberg, *Corpus Juris Canonici,* Vol. II, (second ed., Lipsiae, 1881), p. 777; cf. Stern, *Urkundliche Beiträge über die Stellung der Päpste zu den Juden,* II, p. 8 n. 3.

19 Grayzel, *op. cit.,* p. 62 n. 101.

20 Abrahams, *op. cit.,* p. 300; Felix Singermann, *Die Kennzeichnung der Juden im Mittelalter* (Berlin, 1915), p. 48.

21 Grayzel, *op. cit.,* p. 140 no. 31: "Mandatur ut permittant judeos talem gestare habitum per quem possint inter Christianos discerni, nec ad talem portandum compellant, per quem possint vite dispendium sustinere."

22 Aronius, no. 770, p. 326.

23 Fritz Baer, *Die Juden im christlichen Spanien,* I 2 (Berlin, 1936), no. 53, p. 27 f. and note; Stern, *op. cit.,* II, no. 201, p. 43 f. and note 2.

24 Heinrich Graetz, *Geschichte der Juden,* VII 1 (fourth ed., Leipzig, *sine anno*), p. 17. In quoting this passage from the English edition by the Jewish Publication Society, III, p. 512 f., the present writer has revised that in places inaccurate translation from the German original.

25 Goethe's *Theory of Colors,* translated from the German by Charles Lock Eastlake (London, 1840), § 771, p. 308: "When a yellow color is communicated to dull and coarse surfaces, such as common cloth, felt, or the like, on which it does not appear with full energy, the disagreeable effect alluded to is apparent. By a slight and scarcely perceptible change, the beautiful impression of fire and gold is transformed into one not undeserving the epithet foul; and the color of honor and joy reversed to that of ignominy and aversion. To this impression the yellow hats of bankrupts and the yellow circles on the mantles of Jews, may have owed their origin."—There might be a connection with Roman custom; cf. Juvenal, *Sat.,* VI, 120.

26 Aronius, no. 757, p. 319.

27 Cf. Salo W. Baron, *A Social and Religious History of the Jews,* II, p. 91.

28 A six-pointed yellow star worn on the hat or upper garment occurs for the first time as a Jew-badge in Portugal, in the first half of the fourteenth century; cf. Singermann, p. 27.

29 *Hitler Doomed to Die, Inside Story of the Maniac Dictator* (no place or year given), p. 93.

30 *New York Times,* November 14, 1941, p. 11.

31 *Reconstruction-Aufbau,* of April 10, 1942, p. 5.

32 Contained in an anonymous article "Der gelbe Judenstern," in *Weltdienst,* of October 15, 1941.

33 *The Daily Hebrew Journal,* Vol. XXV, Toronto, January 28, 1942.

34 *New York Times,* November 23, 1940; *Jewish Telegraphic Agency Bulletin,* September 24, 1941.

35 *Jewish Telegraphic Agency Bulletin,* February 6, 1942.

BIBLIOGRAPHY

I

Modern and Genuine Mediaevalism

Legal Status of the Jews in the Middle Ages

Guido Kisch, "Research in Mediaeval Legal History of the Jews," in *Proceedings of the American Academy for Jewish Research,* vol. VI (1934-35), pp. 229-276.

Guido Kisch, "The Jewry-Law of the Mediaeval German Law-Books," Part I, *ibidem,* vol. VII (1935-36), 61-145; Part II, *ibidem,* vol. X (1940), 99-184.

Guido Kisch, "The Jews in Mediaeval Law," in *Essays on Antisemitism* (New York, 1942), pp. 57-66.

Guido Kisch, "Jewry-Law in Central Europe, Past, Present and Future" [to appear in *Journal of Central European Affairs,* II (1942), no. 4].

II

Mediaeval Jewish Apparel

Mediaeval Jewish Costume in General

Hilaire and Meyer Hiler, *Bibliography of Costume* (New York, 1939), p. 482, under "Jews."

Jewish Encyclopedia, IV (1903), pp. 293-299.

Jüdisches Lexikon, V (1930), pp. 1009-1027; article "Trachten der Juden," by Max Grunwald.

Encyclopaedia Judaica, X (1934), pp. 99-110; article "Kleidung, im Mittelalter" by Samuel Krauss.

Abraham Berliner, *Aus dem Leben der deutschen Juden im Mittelalter* (Berlin, 1900), pp. 62-71.

Moriz Heyne, *Körperpflege und Kleidung bei den Deutschen von den ältesten geschichtlichen Zeiten bis zum 16. Jahrhundert* (Leipzig, 1903), pp. 303-305, 323 f.

Louis Rabinowitz, *The Social Life of the Jews of Northern France in the XII-XIV Centuries* (London, 1938), pp. 62-68.

Rabbinical Ordinances Against Imitating Non-Jewish Garb

Louis Finkelstein, *Jewish Self-Government in the Middle Ages* (New York, 1924), pp. 235, 324, 262 f.

Selig Auerbach, *Die rheinischen Rabbinerversammlungen im 13. Jahrhundert;* University of Würzburg Ph.D. thesis (Würzburg, 1932), pp. 35 f., 91 f.

F. Rosenthal, "Einiges über die Takkanot SchUM," *Monatsschrift für Geschichte und Wissenschaft des Judentums,* XLVI (1902), p. 249 f. note 4.

Beard

Louis Ginzberg, article "Beard," in *Jewish Encyclopedia,* II (1902), pp. 612-615.

Continuous Covering of the Head

Leopold Löw, *Gesammelte Schriften,* II (Szegedin, 1890), pp. 311-328.

Adolf Rosenzweig, *Kleidung und Schmuck im biblischen und talmudischen Schrifttum* (Berlin, 1905), pp. 75-93.

"Jewish Hat"

Karl von Amira, *Die Dresdener Bilderhandschrift des Sachsenspiegels,* Volume II: *Erläuterungen,* Part I (Leipzig, 1925), pp. 35-40. The fullest account of examples from mediaeval glass paintings and manuscripts.

Albert Boeckler, *Die frühmittelalterlichen Bronzetüren.* Volume III: *Die Bronzetür von Verona* (Marburg a.L., 1931), p. 28 f.

Raphael Straus, "The 'Jewish Hat' As an Aspect of Social History," *Jewish Social Studies,* IV (1942), pp. 59-72. This article came to the attention of the present writer only after work on his first two chapters was finished. The books by von Amira and Boeckler remained unknown to Mr. Straus.

Hans W. Klewitz, "Die Krönung des Papstes," in *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte,* Kanon. Abt., XXX (1941), pp. 98-130. Interesting for a comparative study on the Byzantine origin of the coniform head-gear of the popes.

Seals Using Jewish Hat as Emblem

Alexander Kisch, "Trois sceaux Juifs du Moyen Âge," in *Revue des Études Juives,* IV (1882), p. 279.

Emile Ouverleaux, "Notes et documents sur les juifs de Belgique," *ibidem,* VII (1883), p. 125.

Emanuel Forchhammer, *Geschichtsblätter für Stadt und Land Magdeburg,* XLVI (1911), pp. 155, 388 note 434.

Richard Grünfeld, *Ein Gang durch die Geschichte der Juden in Augsburg* (Augsburg, 1917), pp. 1, 18, and picture, reproduced in *Encyclopaedia Judaica,* III (1929), p. 687/688.

Ghetto

Louis Wirth, *The Ghetto* (Chicago, 1928).

Alexander Pinthus, *Die Judensiedlungen der deutschen Städte;* Doctoral dissertation of Technische Hochschule Hannover (1931); published also in *Zeitschrift für die Geschichte der Juden in Deutschland,* II (1930).

III

The Badge of Shame

General Surveys

Christian Gottlob Haltaus, *Glossarium Germanicum Medii Aevi* (Lipsiae, 1758), article "Juden-Kleidung et Juden-Zeichen," pp. 1054-1056.

Selig Cassel, article "Juden (Geschichte)," in Ersch and Gruber, *Encyclopädie der Wissenschaften und Künste,* II 27 (Leipzig, 1850), pp. 75-77.

Moritz Stern, *Urkundliche Beiträge über die Stellung der Päpste zu den Juden,* II 1 (Kiel, 1895), pp. 4 ff., and *passim.*

Israel Abrahams, *Jewish Life in the Middle Ages* (London, 1896), pp. 93, 296-306.

Eugen Nübling, *Die Judengemeinden des Mittelalters, insbesondere die Judengemeinde der Reichsstadt Ulm* (Ulm, 1896), pp. 52-54, 161 f.

Joseph Jacobs, article "Badge," in *Jewish Encyclopedia,* II (1902), 425-427.

Emanuel Forchhammer, "Beiträge zur Geschichte der deutschen Juden," in *Geschichtsblätter für Stadt und Land Magdeburg,* XLVI (1911), pp. 153-155.

Adolf Kober, article "Judenabzeichen," in *Jüdisches Lexikon,* III (1929), 412-416, including bibliography.

Siegbert Neufeld, article "Judenzeichen," in *Encyclopaedia Judaica,* IX (1932), 545-548.

Solomon Grayzel, *The Church and the Jews in the XIIIth Century,* Ph.D. thesis of Dropsie College (Philadelphia, 1933), pp. 61-70.

Salo W. Baron, *A Social and Religious History of the Jews,* II (New York, 1937), 90 f.; III, 117.

Jacob R. Marcus, *The Jew in the Medieval World* (Cincinnati, 1938), pp. 137-139.

Adolf Kober, article "Jew Badge," in *Universal Jewish Encyclopedia,* VI (1942), 89 f.

Cecil Roth, *A History of the Jews in England* (Oxford, 1941), p. 95 f.

Monographs

Ulysse Robert, *Les signes d'infamie au moyen âge* (Paris, 1891). Of value only as a collection of historical material.

Felix Singermann, *Die Kennzeichnung der Juden im Mittelalter;* Freiburg i.B. Ph.D. thesis (Berlin, 1915). Therein an almost complete compilation of the pertinent source material as far as France and Germany are concerned; inadequate, however, for the rest of Europe. Inadequate also in expounding the archeological material to which particular importance must be attached because of the taciturnity of the sources in some respects.

Tobias Jakobovits, "Die Judenabzeichen in Böhmen," in *Jahrbuch der Gesellschaft für Geschichte der Juden in der Czechoslovakischen Republik,* III (1931), 145-184. A history of the Jew-badge restricted to Bohemia. This monograph is supplemented by Leopold Moses, "Der gelbe Fleck in Prag," *ibidem,* IX (1938), pp. 459-462.

Pope Innocent III and the Jews

E. F. Jacob, article "Innocent III," in *Encyclopaedia of the Social Sciences,* VIII (1932, 1937), p. 57 f., with bibliography.

M. Elias, "Die römische Kurie, besonders Innozenz III, und die Juden," in *Jahrbuch der jüdisch-literarischen Gesellschaft zu Frankfurt a.M.,* XII (1918), pp. 37-82. The problem calls for re-examination and exhaustive treatment.

G. Kisch, "The Jewry-Law of the Mediaeval German Law-Books," II, pp. 160 f.

IV

Discrimination Against the Jews

Ecclesiastical and Secular Laws Against Heresy

Eduard Eichmann, *Acht und Bann im Reichsrecht des Mittelalters* (Paderborn, 1909), p. 34.

G. G. Coulton, *The Death Penalty for Heresy from 1184 to 1921* (London, 1924), pp. 1-19.

Karl G. Hugelmann, "Der Sachsenspiegel und das vierte Lateranensische Konzil," in *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte,* XLIV, Kanonistische Abteilung, XIII (1924), p. 487 note 1.

Guido Kisch, "The Jews in Mediaeval Law," in *Essays on Antisemitism* (New York, 1942), p. 63 f.

Guido Kisch, *Jewry Law in Mediaeval Germany in the Light of Law-Books and Court Decisions* (to appear in 1943).

V

Jewish Degradation

Degrading Punishments in Mediaeval Penal Law

Jacob Grimm, *Deutsche Rechtsaltertümer,* fourth ed. by Andreas Heusler and Rudolf Hübner (Leipzig, 1899), vol. II, pp. 302 ff.

Rudolf His, *Das Strafrecht des deutschen Mittelalters,* I (Leipzig, 1920), pp. 569-577.

Hanns Bächtold-Stäubli, *Handwörterbuch des deutschen Aberglaubens,* III (Berlin-Leipzig, 1930-31), pp. 581-582.

Otto Stobbe, *Die Juden in Deutschland während des Mittelalters* (Braunschweig, 1866), p. 275 n. 168 (1393).

Eberhard Freiherr von Künssberg, *Rechtliche Volkskunde* (Halle-Saale, 1936), p. 171.

Shape of the Jew-Badge

Camille Enlart, *Manuel d'archéologie Francaise depuis les temps Mérovingiens jusqu'à la Renaissance,* Vol. III: Le Costume (Paris, 1916), p. 436 f.

Yellow as Badge Color

Richard Baumgart, *Die Entwicklung der Schuldhaft im italienischen Recht des Mittelalters* (Berlin-Leipzig, 1914), pp. 483-485.

Hanns Bächtold-Stäubli, *Handwörterbuch des deutschen Aberglaubens,* III, pp. 581-582.

Abolition of the Badge in Austria and Prussia

Alfred F. Pribram, *Urkunden und Akten zur Geschichte der Juden in Wien,* 2 vols. (Vienna, 1918), Index, under "Gelber Fleck."

Gerson Wolf, *Judentaufen in Österreich* (Vienna, 1863), p. 81.

Ismar Freund, *Die Emanzipation der Juden in Preussen,* 2 vols. (Berlin, 1912), I, p. 237; II, p. 453 ff.

Selig Cassel, article "Juden (Geschichte)," in Ersch and Gruber, *Encyclopädie der Wissenschaften und Künste,* II 27 (Leipzig, 1850), p. 77.

VI

Modern Revival of Jewish Outlawry

Guido Kisch, "Jewry-Law in Central Europe, Past, Present, and Future" [to appear in *Journal of Central European Affairs,* II (1942), no. 4].

[Anonymous], *The Yellow Spot, the Outlawing of Half a Million Human Beings, A Collection of Facts and Documents to Three Years Persecution of German Jews* (Knight Publications: New York, 1936).

Konrad Heiden, *The New Inquisition* (New York, 1939).

[Anonymous], *The Persecution of Jews in German-Occupied Poland.* Free Europe Pamphlet, No. 2. (London, 1940), p. 8 f.

THE SO-CALLED *JÜDISCHES HEHLERRECHT* IN THE LIGHT OF JEWISH LAW

By

Boaz Cohen

New York

"Das jüdische Hehlerrecht" is the title of the third part of Herbert Meyer's book *Entwerung und Eigentum im deutschen Fahrnisrecht: Ein Beitrag zur Geschichte des deutschen Privatrechts und des Judenrechts im Mittelalter.*[1] In this section the author develops the thesis that the clauses in the medieval *Judenprivilegien* of various countries regulating the receipt of stolen goods were inspired by what he chose to call *Jüdisches Hehlerrecht.* Prior to a scrutiny of the accuracy of his facts, the correctness of his inferences, the soundness of his theories, and the spirit that informs his thesis, it would be well to note where the author obtained the sinister term *Jüdisches Hehlerrecht* with all its ominous implications, and to recall precisely what he meant by this term.

Meyer himself discloses that he had this term on good authority, that *Hehlerrecht* is a juridical term for certain provisions in Jewish law favoring the receiver of stolen goods.[2] But as discretion is the better part of wisdom, he avoided making reference to a single source where this term can be found.

As a student of German law, Meyer should have known that the term *Hehler,* having two meanings, namely, *Verberger gestohlenen Gutes* and *Herberger von Verbrechern,*[3] corresponds to *receptator* in Roman law which signifies one who harbors a thief,[4] (e.g. *Digesta* I. 15. 3. 1), as well as one who receives stolen goods. The statement in Roman law (*Digesta* XLVII. 9. 3. 3), *quia receptores non minus delinquunt quam adgressores,*[5] is the prototype for the German

1 (Jena, 1902), pp. 166-302, especially 192 ff.; cf. also H. Meyer, "Das jüdische Hehlerrecht", in *Deutsche Rechtswissenschaft,* II (1937), pp. 97-111; H. Meyer, "Das Hehlerrecht der Juden und Lombarden", in *Forschungen zur Judenfrage,* I (1937), pp. 92-109.—A critical discussion from the point of view of legal history of the concept *"Jüdisches Hehlerrecht"* was published by Guido Kisch, "The 'Jewish Law of Concealment'," in *Historia Judaica,* I (1938), pp. 3-30, where full references to the literature on the subject may be found.

2 *MGWJ.,* XLVII (1903), 383.

3 Cf. Grimm, *Deutsches Wörterbuch,* ed. Heyne (Leipzig, 1877), *s.v. Hehler.*

4 Cf. also H. J. Heumann, *Handlexikon zu den Quellen des römischen Rechts,* 9th ed. (Jena, 1907), p. 492.

5 Cf. A. Thirion, *De la complicité par recel de choses* (Paris, 1896), p. 17.

maxim: *"Der Hehler is eben so wie der Stehler,"*[6] and for the French proverb: *"Les receleurs sont les voleurs."*[7] An even closer equivalent to *Hehler* is the term *occultator,* literally, a concealer, applied to one who harbors criminals, (*Cod. Theod.* X. 12. 1. 1; and chapter heading in *Cod. Just.* IX. 39. 1: *De his qui latrones vel in aliis criminibus reos occultaverunt*). Only the European systems of law derived from Roman law possess the technical term corresponding to *Hehler.*[8] Hence English law which is independent of it has no single term for this concept.

Now Jewish law. In Tannaitic texts, the verb "to conceal" is used in connection with the purchase of stolen goods, but the noun "concealer" is unknown. Thus it is prohibited to buy fruit or wood from watchers employed in orchards, since they are suspected of having stolen them (*Mishnah, Baba Kamma,* X. 9). But it is permitted to purchase from them if they are seated (in a public place) with baskets of fruit and the scales before them (for it is presumed that they are not stolen). However if the vendors ask the purchasers to conceal them (*le-hatmin*), it is prohibited (*Tosefta, B. K.,* XI. 8; *Babli,* 119a).

On the basis of German and French translations Meyer presents in disjointed fashion the relevant and irrelevant passages in Jewish law relating to the receiving of stolen goods.[8a] Out of this material he concocts a *Jüdisches Hehlerrecht,* which may be summed up as follows: (1) The Jewish law connives at the receiving of stolen goods, because it permits the Jew to buy goods, even if he entertains suspicions as to their origin, so long as he does not know they were stolen. "This completes the development of the Jewish law into a *Hehlerrecht*:" "Damit ist die Entwickelung des jüdischen Rechtes zum *Hehlerrecht* vollendet." Hence the Jewish merchants and pawnbrokers are a safe market for the thief, who knows that he will not be questioned about the origin of his goods (p. 192). (2) Even the

[6] Cf. Grimm, *l.c., s.v. Hehler;* Bluntschli and Maurer, *Deutsche Rechtssprichwörter* (Nördlingen, 1869), p. 307.

[7] Cf. Montesquieu, *Esprit des Lois,* II, Book 29, ch. 12 (Paris, 1937), p. 240.

[8] Thus in French it is the *receleur;* in Spanish, *encubridor,* (*ley de encubrimento*); in Italian, *ricettatore.* However, the Yiddish term "passer" is derived from the Polish, cf. Stefan Rozenband, *Paserstwo* (Warsaw, 1930); the American term is "Fence," cf. *"Criminal Receivers in the United States Social and Economic Problems of the 'Fence',"* published by the Association of Grand Jurors of New York County (New York, 1928).

[8a] Meyer, *Entwerung und Eigentum,* pp. 184-192.

innocent Jewish trader who sells in good faith goods which turn out to be stolen, has an advantage over the Christian merchant, because the Jew need not fear any loss, if the original owner sues for his goods. For he can always claim compensation for them, but not so the Christian (p. 192; cf. pp. 256-7).

Meyer's statement that a Jew is permitted to purchase objects even if he is suspicious about their origin is nothing short of libel. For the *Mishnah, Baba Kamma,* X. 9, and the *Baraitot Babli,* 118b-119b, enumerate various classes of people from whom it is prohibited to purchase certain objects because they are suspected of trading in stolen goods. The attitude of the rabbis of the Talmud towards dealing in stolen goods was tersely formulated by Maimonides as follows: "Any object which is presumably stolen, may not be purchased" (*Hilkot Genebah,* VI. 1). "It is prohibited to purchase stolen goods from a thief, and it is a grievous sin to do so, for one thereby assists criminals, and encourages them to commit further theft; since they would not steal if they had no buyers; and to such a purchaser is applied the verse: 'Whoso is partner with a thief hateth his own soul' [Proverbs 29.24]" (*Hilkot Genebah,* V. 1).

That Meyer was writing *magna cum ira et sine studio* and was formulating his theory of the *Jüdisches Hehlerrecht* under the stress of great emotion is apparent from his remark: "Herr Eschelbacher reproaches me for having glossed over the passages in the *Shulhan Aruk* in which the receipt of stolen goods is expressly prohibited. Yes, but what did they concern me? (*Ja, was gingen die mich an?*) . . . It is self understood that Jewish law prohibits the receipt of stolen goods like any other law, but that did not prevent it from putting the receiver of stolen goods in a more favorable legal position than other systems of law did."[9] This last statement is absolutely false, for in Jewish law the criminal receiver of stolen goods must always return the property to its original owner without any compensation whatsoever and under all circumstances. This rule, first formulated by R. Hai Gaon,[10] is accepted by all the legal writers.[11]

9 *MGWJ.*, XLVII (1903), 383.

10 *Mishpate Shebuot* (ed. Hamburg, 1782), ch. 19, f. 15b.

11 Cf., e.g., Rashi to *Baba Kamma,* 115 a; R. Isaac (ben Samuel), quoted in *Tur, Hoshen Mishpat,* 356; *Tosafot,* quoted by *Shilte ha-Giborim* on Alfasi, to *Baba Kamma,* X, 214; *Semag* (ed. Kopys, 1807), positive precept, 71, f. 42 c; *Hagahot Maimuniyot,* to *Hilkot Genebah,* V. 3; *Mordecai, Baba Kamma,* 166; R. Asher, *Baba Kamma,* X. 18.

It was incorporated by Isserles in his glosses to the *Shulhan Aruk*.[12]

Now, let us examine Meyer's evidence for the implementing of his *Jüdisches Hehlerrecht* in the medieval charters granted to Jews. As an illustration of the first point he makes, namely that a Jew may purchase goods as long as he does not know they are stolen, he cites (p. 196) from the Austrian Charter of 1244 as follows:

Item si christianus impetiverit judeum, quod pignus, quod judeus habeat, ei furtim aut per violentiam sit ablatum, judeus juret super illo pignore, quod, cum recepit, furtim esse ablatum aut raptum ignoravit, hoc in suo juramento implicito, quanto sit ei pignus hujusmodi obligatum, et sic probatione facta christianus sortem et usuras ei persolvet medio tempore accrescentes.

If a Christian claimed that a pledge in possession of a Jew had been stolen or robbed from him, then the Jew must take an oath that he did not know at the time when he received it, that it was stolen or robbed. In the same oath he must affirm for what sum he did take the pledge. When this evidence is given, then the Christian must pay him the principal with the interest that accumulated in the meantime.[13]

While in the *Judenprivilegien* this is the earliest reference to the provision requiring the Jew to take such an oath, it is noteworthy that instances of just such an oath are found in the Law Merchant as early as the eleventh century. The rule in the charter according to which the Jew must take an oath that he did not know that the object was stolen or robbed, is considered by Meyer as pure Jewish law. But there is no provision anywhere in Jewish law which would require a person to take such an oath. However, the fair charter of Chapelande for the year 1075 declares:

Si autem res vendita fuerit, et emptor legitime probaverit se nescire illum esse latronem de quo emerat, nec illam rem fuisse ablatam in treuga Dei, habebit rem suam et reddet emptori tantum quantum dedit.[14]

If the thing should have been sold, and the buyer has lawfully proved that he was unaware of the fact that it was a thief from whom he bought it, or that it was robbed in violation of the truce of God,[15] the owner shall have his property and pay the buyer what he gave for it.

[12] *Hoshen Mishpat*, 356, 2.

[13] Cf. J. E. Scherer, *Die Rechtsverhältnisse der Juden* (Leipzig, 1901), p. 201; James Parkes, *The Jew in the Medieval Community* (London, 1938), p. 181; Israel Isserles, in his *Responsa, Terumat ha-Deshen*, no. 309, makes it quite clear that the payment of the interest is only required by the law of the land.

[14] Paul Huvelin, *Essai historique sur le droit des marchés et des foires* (Paris, 1897), p. 455.

[15] For the doctrine of the Truce of God in mediaeval law, cf. Julius Goebel, *Felony and Misdemeanor*, I (New York, 1937), p. 298 ff.

Moreover, article 6 of the Charter of 1090 for the Jews of Speyer is quoted by Meyer as an example of the so-called *Jüdisches Hehlerrecht* which gives the Jewish purchaser of stolen goods an advantage over the Gentile (p. 194). According to the text of this law, if a stolen article should be found among the Jews, and the Jew claims that he bought it, he shall prove by an oath, in accordance with his law, how much he has paid for it, and in return for the price he paid, he shall restore the object to its owner.[16]

Meyer again argues that the clause in this charter as well as similar ones in subsequent *Judenprivilegien* are of Jewish origin, since they gave the Jewish purchasers of stolen goods the right to be reimbursed before returning the object to the rightful owner, whereas Roman[17] and German law required that even the innocent buyer restore the goods without any compensation. This reasoning is unsound. According to the old Anglo-Saxon law[18] the purchaser could recover the price he had paid for the goods provided he could bring witnesses that he acquired the object in an open place. A similar provision is found in the old Burgundian law.[19] Furthermore, it is known that, early in the eleventh century the German merchants[20] were asserting the validity of sales made at fairs, and in France,[21] too, the man who

16 Cf. G. Kisch, *l.c.*, p. 15.

17 According to Roman law, when stolen goods were passed from vendor to buyer, the loss fell on the buyer even if he acquired possession of them in good faith, in harmony with the principle: *"Nemo plus juris in alium transferre potest quam ipse habet* (*Digesta* L. 17, 54) ; cf. the statement of Rashi: *"En Adam makneh dabar shelo zakah bo"*, "a person cannot transfer something he does not own" (*Ketubot*, 91 b). The law applied, whether the object was stolen from the owner, or from one to whom he had entrusted it; for details on the Roman law, see Max Radin, *Handbook of Roman Law* (St. Paul, 1927), p. 228 ff.; John Moyle, *The Contract of Sale in the Civil Law* (Oxford, 1892), p. 18; Scherer, *Die Rechtsverhältnisse der Juden*, p. 148, note 1; S. Mayer, *Die Rechte der Israeliten, Athener und Römer*, II, (Leipzig, 1866), 186 ff.; A. Thirion, *De la complicité par recel de choses*, p. 12 ff.; J. P. Benjamin, *A Treatise on the Law of Sale of Personal Property* (6th ed., London, 1920), p. 472 ff.; L. Goldschmidt, *Zeitschrift für das gesamte Handelsrecht*, VIII (1865), pp. 230-246. According to German law, however, one could claim his goods from a third party only if it were in the latter's possession as stolen goods.

18 Cf. the text in Meyer, *l.c.*, p. 127. Heinrich Brunner, *Deutsche Rechtsgeschichte*, II (Leipzig, 1892), p. 507 n. 82, was quite correct in pointing out that the provisions in the charters for the Jews have a precedent in Anglo-Saxon law. Meyer, (p. 193), tries to refute this view on the ground that the Anglo-Saxon law "handelt von dem Erwerbe durch Publizität; but so does the Jewish law give the right to the purchaser for reimbursement only because he bought it in market overt as pointed out *supra*.

19 Otto Stobbe, *Die Juden in Deutschland während des Mittelalters*, (Braunschweig, 1866), p. 241.

20 Cf. W. Mitchell, *An Essay on the Early History of the Law Merchant* (Cambridge, 1904), p. 93.

21 J. B. Brissaud, *History of French Private Law* (Boston, 1913), p. 300, note 1. In view of the fact that the opinion quoted in the name of R. Tam, that the privilege

bought chattels at a fair or market had the right to demand restitution of the price paid. Since neither Roman nor German law protected the innocent purchaser of illicit goods against the claims of the original owner, the medieval merchants as well as the lords and communities where the fairs took place effected changes in the existing law which better served the interests of commerce. It was the development of the idea by the medieval merchants that the bona fide purchaser of goods in market overt should be protected, as well as the canonist view of the importance of good faith, which more than anything else undermined the Roman and Germanic principle with no remedy for the honest buyer.[22] The privilege of market overt, which originated in the fairs, was gradually extended to the towns.[23] While this rule was recognized at first only by the law-merchant in France, Germany,[24] Italy,[25] England[26] and Austria, it subsequently passed also into the common law of these countries.[27]

Hence, it is abundantly clear that the rule in the charters which protected the Jewish purchaser of stolen goods, was taken over from the law-merchant, and was not influenced in any way by Jewish law. Yet, there is one point in the charter of Speyer that seems to be connected with Jewish jurisprudence, namely, that the purchaser must affirm under oath *how much* he paid for it, before he can be reim-

---

of market overt extends even to one who purchases from a notorious thief (cf. Mordecai, *B. K.*, 166), is contrary to the explicit ruling in the *Talmud, Baba Kamma,* 115a, it appears that his view, not shared by the German authorities, was influenced by the French law of the time. Thus Huvelin, *Marchés et Foires,* p. 461, on the basis of *Li Usaige de Borgoigne,* ed. Marner, XIV, writes: 'La personne qui a acheté dans un marché un meuble volé ne peut être poursuivie pour vol ou complicité de vol; elle peut être poursuivie en restitution de ce meuble mais seulement contre remboursement du prix qu'elle a payé. Peu emporte d'ailleurs sa bonne ou sa mauvaise foi, le fait matériel de l'achat sur le marché suffit."

22 Cf. Mitchell, *l.c.,* p. 97; Holdsworth, *A History of English Law,* V (London, 1924), p. 80 f. Similarly Rashi's remark that one who buys goods in the market in public presumes that they are not stolen (*Baba Kamma,* 115a, *s.v. Takkanot ha-Shuk,* and 119a, *s.v. we-ha-turtani*), reminds one of the Coutume de Perpignan, XXV quoted by Huvelin, *Marchés et Foires,* p. 462, note 1: "Item si quis rem furtivam in nundinis vel in foro vel publica in platea bona fida emerit, . . ."

23 Huvelin, *l.c.,* p. 462.

24 Cf. L. Goldschmidt, *Universalgeschichte des Handelsrechts,* I, (Stuttgart, 1891), pp. 111-112.

25 Cf. Antonio Pertile, *Storia del Diritto Italiano,* IV, (Turin, 1893), 258, n. 34.

26 Cf. W. S. Holdsworth, *A History of English Law,* I, (Boston, 1927), 569; II (1923), 111-112; IV (1924), 522; V (London, 1924), 110; Pollock and Maitland, *History of English Law,* II, (Cambridge, 1899), 165; Theodore Plucknett, *A Concise History of the Common Law* (London, 1936), p. 226.

27 Mitchell, *l.c.,* p. 100 ff.

bursed.[28] This rule was adopted because it was more stringent than the non-Jewish law. Thus according to the Anglo-Saxon and Burgundian law, alluded to previously, the purchaser could be reimbursed without proving how much he paid. Similarly, Lombard purchasers could claim the price they had paid, on their mere word, without further proof.[29] This, too, was the general rule in the law-merchant.[30]

If one compares the Jewish law concerning the purchase of stolen goods as practiced in France and Germany during the eleventh to thirteenth centuries,[31] with the provisions in the charters granted to the Jews in the same period,[32] one finds first, that nothing has been taken over from Jewish law except the rule requiring the Jew to take an oath as to *how much* he had paid for the object; and, secondly, that the Jew enjoyed no advantages over the Gentile, inasmuch as the Jewish law, which protected the innocent purchaser, did not make any distinction between Jewish and Gentile purchaser.

The Jewish law as practiced in this period concerning the innocent purchaser of stolen goods, in cases when the thief was not apprehended, may be summed up as follows: The original owner could sue for his goods which were stolen and sold, only if the transaction occurred before he abandoned them, i.e. before *Yeush*. Books could always be claimed, since people do not abandon them, even if stolen by Jews. Although there is a general presumption that the victims of theft usually abandon their goods, yet it is not held if the owners are claiming them back. The purchaser receives his price only if he

28 *Mishnah, Baba Kamma*, X. 3. The clause: "If a man recognized any of his utensils or books in the hands of another," with which this *Mishnah* begins, is strikingly analogous to the Code of Hammurabi 9: "If a man has lost anything and finds it in the hands of another." According to the Code, if the innocent purchaser of stolen goods is sued by the original owner, he must bring the vendor who gave it to him and the elders before whom he bought it, and the plaintiff must bring witnesses who recognize that it is his property. After the judge weighs the evidence, the purchaser shall receive back the money he paid from the house of the seller. Cf. Wilhelm Eilers, *Die Gesetzesstele Chammurabi's*, in *Der Alte Orient*, vol. 31, Heft 3/4, (Leipzig, 1932), p. 18, no. 9. Similarly *Exodus* XXII.8 seems to deal with a case where a man recognizes his property in the possession of another and says: "This is it;" then both parties must appear for trial, and whoever is found guilty pays twice the value of the property as compensation. This verse of *Exodus* is parenthetical as the rabbis have noted (cf. *B. K.*, 107 a) and appears to have nothing to do with deposits; cf. Stanley A. Cook, *The Laws of Moses and the Code of Hammurabi* (London, 1903), pp. 218-219.

29 Kisch, *l.c.*, p. 19.

30 Huvelin, *l.c.*, p. 463.

31 The chief sources for this period are: Rashi's comments on *Baba Kamma*, 114b, 115a; *Tosafot;* R. Eliezer ben Nathan; Isaac Or Zarua; Moses of Coucy; Mordecai ben Hillel.

32 They are conveniently assembled by Meyer, *l.c.*, pp. 194 ff.

bought the object in market overt, in which case he had every right to assume that it was not stolen goods.[33]

If the original owner was a rich man and was not accustomed to sell his goods or books, he could claim them, if there was a rumor in town that burglary had been committed, and his neighbors knew that thieves had entered his house. If the original owner, however, were a poor man and was accustomed to sell his goods or books, then he could claim them back only if his neighbors testified that they knew that thieves had broken into his home and had witnessed them carrying out books and goods on their shoulders which they now identified as those in the purchaser's possession.[34] If he were not accustomed to sell his goods, but if they were of the kind that one often lent or hired out, then it was sufficient if he had witnesses who could identify the goods as his. But if the goods, that he was accustomed to sell, were not the kind one was likely to lend or hire, then the original owner could claim them only if there were witnesses that thieves had broken into his house, carried his goods away, and who could identify the goods in the possession of the purchaser as those of the owner.[35] R. Tam maintained that books are to be considered as objects that are usually loaned out or rented out; but R. Mordecai ben Hillel noted that the custom was not to consider books as such.[36] The privilege of the market overt (*Takkanat ha-Shuk*) was introduced in the interest of commerce[37] and in order to protect the innocent purchaser.[38]

[33] *Tosafot, Baba Kamma,* 114b, *s.v. Ha-Makir;* Or Zarua to *Baba Kamma,* no. 552. The hypothetical question of *Tosafot, l.c.,* "why should not the purchaser of stolen goods be reimbursed even if they were not bought in market overt, for may he not claim that he wished to rescue the goods for the owner and to restore the lost object to him," calls to mind the following passage from *Digesta* XLVII.9.3.3: "Or what if he received them (i.e. stolen goods) for the purpose of taking care of them, and keeping them safely for the person who lost them? He certainly should not be held responsible;" "aut quid, si ad hoc recepit, ut custodiret, salvaque faceret ei qui amiserat? utique non debet teneri."

[34] Raban, (ed. Prague, 1610), f. 91c.

[35] *Semag* (ed. Kopys) , f. 42c, positive precept 71.

[36] Cf. *Tosafot, B. M.,* 115[a] *s.v.* We-ha; Mordecai, *B. K.* 162; *Hagahat Maimuniyot, Hilkot Genebah,* V; *Nimuke Joseph,* to *B. K.,* X no. 213.

[37] Cf. Raban, *l.c.,* f. 91c.

[38] Cf. Or Zarua, *l.c.,* no. 552. According to Joseph ibn Habib, a Spanish scholar of the 14th-15th centuries, the strict law required that the purchaser of stolen goods return them to the original owner without compensation, but the purchaser is reimbursed by virtue of the privilege of market overt, which was an enactment of the rabbis to discourage people from purchasing from thieves; cf. *Nimuke Joseph,* to *B. K.,* X no. 212; *Mareh ha-Panim,* to *Yer.. B. K.,* X 3.

That the Jewish law concerning the receipt of stolen goods cannot be detected in the medieval charters granted for Jews is more than obvious when we notice that nearly all the provisions in Jewish law of this period protecting the purchaser are missing in the *Judenprivilegien*. Most interestingly Jewish law[39] anticipated by many centuries the rule concerning the market overt which is foreshadowed in the Anglo-Saxon law of the seventh century, and which was first introduced into the law merchant in the eleventh century, and thence gradually passed into the common law of various European countries.[40]

39 While Raba, a Babylonian scholar of the fourth century, is the first to mention the doctrine of market overt, *B. K.*, 115a, it is obvious that the rule was instituted long before him, for his remark that the privilege of market overt was not granted to the notorious thief, presupposes the existence of such a doctrine. The principle seems to be implied also in *Tosefta, B. K.*, XI. 8.

40 It is noteworthy that the privilege of market overt is not acknowledged by Scotland or by any state of the United States; cf. *Encyclopedia Britannica,* XXV (11th ed., Cambridge, 1911), p. 955a.

MORDECAI MANUEL NOAH AS PLAYWRIGHT*

By

Lee M. Friedman

Boston, Mass.

Mordecai Hanuel Noah holds a minor place in Jewish history largely because of a colorful and vain-glorious dream—his impracticable and fruitless plan to establish a Jewish homeland on a little island in the Niagara River. Today, perhaps, Noah would be buried in the oblivion of the forgotten past were it not for the many facets of his vibrant personality. He was neither a great man, nor were any of his achievements in the many and varied spheres of his restless activities first class. Author, politician, traveler, diplomat, playwright, newspaper editor, and leader in Jewish communal affairs, he never accomplished anything of prime importance. Yet the very fact that more than a hundred years ago, he, an American Jew, pioneered in so many directions and impressed himself as important on so many of his contemporaries, gives him prominence in American Jewish history.

Long before Washington's birthday was a national holiday, as early as 1791 Philadelphia began to celebrate the day. Parades of militia, freemasons and patriotic societies, and staid orations at the University of Pennsylvania, expressed popular esteem for our first President. So in 1820, according to custom, Philadelphia's citizenry on the eighty-eighth anniversary of the birthday of the Father of his Country made high holiday in his honor.

Although sickness and hard times had combined to make the theatrical season financially disappointing, Warren and Wood, proprietors of the Old Drury on Chestnut Street, decided to tempt the public with a daring novelty to climax the day's celebration. They circularized the town with a broadside of which the copy reproduced here might be the only one still in existence.

* *Bibliography*: M.M. Noah, *She Would Be a Soldier, or The Plains of Chippewa,* (New York, 1819).—Joseph H. Ireland, *Records of the New York Stage, 1750 to 1860,* (New York, 1867).—Wm. Dunlap, *History of the American Theatre,* (London, 1833).—Geo. C. D. Odell, *Annals of the New York Stage,* (New York, 1927).—J. T. Scharf and T. Westcott, *History of Philadelphia,* (Philadelphia, 1884).—S.B.H. Judah, *Gotham and the Gothamites,* (New York, 1823).—A. B. Makover, *Mordecai M. Noah,* (New York, 1917);—Isaac Goldberg, *Major Noah,* (Philadelphia, 1936).—A. H. Quinn, *A History of the American Drama,* (New York, 1923).—M. G. Mayorga, *A Short History of the American Drama,* (New York, 1932).

To guarantee a sure-fire success they had chosen not only a play written by a native Philadelphian, but the last year's smash hit of the New York stage. The combination of a curtain-raiser, Robinson Crusoe, and "She Would Be A Soldier," realized their fondest expectations with the biggest success of the season—an $1178.50 cash house, far in advance of the season's nightly average of $399.50 and overtopping the next biggest attraction, H. Wallack's "Rob Roy," by $13.

The play "She Would Be A Soldier" had been written for the New York benefit performance of the English actress Miss Lessugg by theatre struck Noah. He had first met her as a fellow-passenger aboard the vessel that was bringing him home from a European visit. He had found her a gay, kind-hearted, high spirited, English girl of considerable talent and promise, and gladly accepted the invitation to write a play for her benefit performance. In three days he dashed off this opus to afford her special opportunity to exploit her charms. It was what the thespians of the day called a "breeches play"—a chance for the leading lady to go the limit of female daring by appearing in male attire. The heroine, Christine, flees an undesired suitor, dons male disguise as a soldier, and follows her lover, Lenox, to the American camp on the Plains of Chippewa. While the American army and the British forces are making preparations to engage in battle so many young ladies are on hand in camp to entertain the soldiers in 1942 style that Christine believes her hero Lenox has fallen in love with one of these fair entertainers. She attempts to communicate with Lenox and is arrested as a spy. Owing to her incomprehensible silence, and the usual military inaptness, she is speedily condemned by court-martial. She is facing a firing squad when, at the last moment, Lenox rushes in to rescue her so that true love may again triumph. Incidentally the British are soundly thrashed so that the hero is enabled to win on the field of battle not only his lady fair but the public thanks of a grateful country. As the play unfolds ample opportunity is provided for patriotic bombast, flag waving, and military marching and counter-marching, interspersed with chorus and Hail Columbia songs, a few chaste "pas," and a dash of the comic .

Noah himself had no great illusions about the merit of his production. He presented it as a dramatic bagatelle, the reception of which "far exceeded its merits." Beyond its dramatic worth, how-

ever, it did serve as a landmark in American dramatic history. At a time when the American stage supplied the demands of its audiences almost exclusively with plays imported from England this play struck a native note and was one of the earliest dramatic presentations of an American theme based on no foreign model to guide the author. Raw, crude, creaking at the joints, but America could say, "an ill-favored thing, Sir, but mine own." It offered a native challenge for a place in the repertoire of the domestic theatre. In the preface to the play, published in the year it was first produced, 1819, Noah pointed out:

"An American audience, I have no doubt, would be highly pleased with an American play, if the performance afforded as much gratification as a good English one; but they pay their money to be pleased, and if we cannot afford pleasure, we have no prescriptive right to ask for approbation."

After contrasting the professional playwrights of England with the amateurs of America he concludes:

"We must not expect, therefore, more encouragement for the American drama than may be sufficient to urge us on. We will succeed in time, as well as the English, because we have the same language, and equal intellect; but there must be system and discipline in writing plays—a knowledge of stage effect—of sound, cadences, fitness of time and place, interest of plot, spirit of delineation, nature, poetry, and a hundred *et ceteras,* which are required, to constitute a good dramatic poet, who cannot, in this country, and while occupied in other pursuits, spring up over night like asparagus, or be watered and put in the sun, like a geranium in a flower pot."

In spite of the praise of Odell, in *Annals of the New York Stage,* II (1927), p. 535, that "many passages of 'She Would Be A Soldier' are brightly written, the first scene between Christine and Lenox is charming, and the speeches of the noble savage have a fine ring," today the play reminds only of the dead past. Miss Lessugg's personal charm and the patriotic appeal of Noah's play united to make her farewell benefit in the play's premiere a great success. It could be boasted that the occasion had attracted a record house of $1,300. From that date, June 21st, until the New York season closed on July 5th, the production continued to fill the theatre. There was sufficient demand for the play to cause Noah's old friend Longworth to bring it out immediately in print at his *Longworth Dramatic Repository*

Shakespeare Gallery. Noah good-humoredly suggests: "I had no idea of printing it, until urged to do so by some friends connected with theatres, who, probably, were desirous of using it without incurring the expense of transcribing from the original manuscript."

The play, measured by the standards of the day, was however not so bad as to merit the scurrilous and venomous Samuel B. Judah lampoon. Declaring that in "a pertinacious scribbler N**h . . . the Muse had gained but a sorry jade and stumbling donkey," Judah poured out on Noah his jealous and unjust criticism in a vain attempt to discredit him.

> "Thou bloated impudence; still turn thy pains
> To letters nature unknown, and art forgot,
> Without a character, a form or plot,
> New loads of words thou mayst together lay,
> And swear, though damned, it is a play."

The thirty-five year old Noah who wrote this play was not yet the militant politician, the pompous diplomat, nor the conceited, self-appointed leader in Israel whom we have come to picture to ourselves as the renowned Mordecai Manuel. He was, rather, still the winsome lad who had worked on the little weekly paper published by Jemmy Riddle "at the corner of Chestnut and Third Street, opposite the tavern kept by that sturdy old democrat, Israel Israel." He was still but a latter-day version of the stage struck lad who bought with his hard earned savings of $18 a season ticket at the Chestnut Street Theatre and who, when he finally attempted a little melodrama under the title of "The Fortress of Sorrento," traded his manuscript at David Longworth's "Dramatic Repository" in New York for a copy of every play there published and so gained "a tolerably large dramatic collection." That had been his first attempt at dramatic composition, still-born in 1808 and never published.

This was the Noah whose charm and savoir-faire made a deep impression on his contemporaries, and cast an aureole about his memory which so often has puzzled his biographers—the Noah whom his fellow newspaper editors, George P. Morris, Theodore S. Fay, and Nathaniel P. Willis, graphically describe in their *New York Mirror* of February 28, 1835:

"On my return to my boarding-house, I found we had a newcomer, Mordecai M. Noah, from New York. I had no preconceived partiality for him;

but I never suffered any petty prejudices to interfere with my opinions. The major is a little 'more fat than hard beseems' on first appearance; but, such were the honesty of his smile, his playful remarks, his generous feelings toward all, both friends and foes—I speak politically—that a single day made him a favourite. In the morning he was inquired for, and at noon they hoped that he had not been invited to dine out; and if this was our misfortune, we waited for him at supper. He was the life of our board. He seemed above all prejudice, and stopped all political disputes with some playful remark or some well-told tale. The Israelite brought us all into Christian harmony, and the middlewall of partition was broken down between all denominations. If there was a charitable proposition started, he was among the first to encourage it. In all social circles the major was prominent, and politicians wonder how such a kind-hearted and amiable man could be at the head of a political journal. He took up his own paper and laughed at some of the remarks that it contained. He had access to all classes of society, and was on good terms with everybody. His talents are peculiar; no politician ever dodged a blow, or escaped a thrust so well as himself. He has arisen in an editorial storm, as if refreshed by the hurricane that blew about his ears. He has, and I believe deservedly, a great reputation for discerning the signs of the times, and it is a sad augury to any candidate to be unsustained by him. With his bland manners, his political aptitude and perseverence, I am inclined to think that he will have a large share in all coming contests in the fields of politicks for many years. Such an editor will always find that he possesses power in the community, and it is seldom that one knows that he has strength without an inclination to use it; in politics more particularly than in other forms of power."

Never again was Noah to achieve equal success with one of his other dramatic efforts. Although during the next twenty years he did not abandon the theatre it is for his "She Would Be A Soldier" that he has a place in the annals of the American stage. Indeed as late as July 8, 1848 the play was still being presented, and Montrose J. Moses considered it worthy of reprinting in his *Representative Plays by American Dramatists* (1918).

Noah's eleven other plays are:

The Fortress of Sorrento
Paul and Alexis
The Wandering Boys or The Castle of Olival
The Siege of Tripoli, afterwards presented as Yusef Caramalli
Marion, or The Hero of Lake George
The Grecian Captive, or Fall of Athens

Oh Yes, or The New Constitution
The Siege of Yorktown
The Grand Canal
Wall Street, or Ten Minutes Before Three
Natalie, or The Frontier Maid

All of them are happily buried in oblivion. If two are still remembered at all, it is only by virtue of incidents which have found a place in the folk-lore of the American stage.

The "Siege of Tripoli" was presented for the first time at New York's Park Theatre on May 15, 1820, for the author's benefit. The house was "crowded with beauty and fashion." Before the play was finished a fire broke out and the theatre was completely destroyed. The treasurer had taken the money home for safe keeping and next morning it was presented to the author. Noah "notwithstanding his own pecuniary wants, and they were many at the time, returned every fraction of the amount, and caused it to be divided among the performers who had been stripped of their little all by the fire."[1]

The other story is connected with "The Grecian Captive" which appealed to the contemporary popular sentiment aroused by the Greeks' struggle for independence. The play had been written for a benefit performance for Noah's uncle, Aaron Phillips, the actor who was cast for the part of Alexander. As Joe Cowell, the comedian, tells it:[2]

"I was cast for what was said to be the best part in the piece; at all events, it was the longest; all I ever did know about it was the name, and that was Goodman."

Cowell did not think it worth while to learn the lines for just one performance; so he and the other performers decided to extemporize their parts. As they were proceeding thus:

"Captive: My faithful Goodman, do I behold once more
That honest form?
Goodman: Master, most dearly loved,
Let an embrace assure me that I do not dream,"

the captive whispered to him, "Dam' me Joe, look at the books."

"And upon turning to the audience, every one in the front had a copy in his hand. To increase the attraction, the play had been published, and every

[1] James Rees, *Dramatic Authors of America* (Philadelphia, 1845), pp. 109-111.
[2] Joe Cowell, *Thirty Years Passed Amony the Players in England and America* (New York, 1844), pp. 63-65.

purchaser of a box-ticket had been presented with a book, which arrangement I had never heard of till then. I am not easily embarrassed, but this annoyed me exceedingly. If I had not been the principal victim in the business—for I was on the stage nearly the whole of the piece—I could have enjoyed the anxiety of the audience endeavouring to find out where we were. You might see one thumbing over the leaves one after another, then turn them all back, listen an instance, and then begin again. Another appeal to his neighbor, and he shake his head in despair."

The fluttering of the leaves so disturbed the players as almost to break up the play. Finally in the last scene Phillips made his entrance astride a live elephant. The poor beast, frightened by the rustling of the pages, produced what Cowell called "an unexpected hydraulic experiment to the discomfort of the musicians" and closed the performance amid the shouts of the audience.

Note Concerning the Plates

The original of the contemporary caricature of M. M. Noah is found in the Theatre Collection of the Harvard College Library, through whose courtesy the reproduction was made possible. To the best of the writer's knowledge, this picture has not previously been reproduced. In spite of his efforts, he was unable to identify its original source.

The broadside concerning the performance of M. M. Noah's 'She Would Be A Soldier' is in the writer's collection.



M. M. NOAH.

Theatre....First Night of Robinson Crusoe

Anniversary of the Birth of Genera

George Washington.

On this Evening, the front of the Theatre will be decorated with a full len
Portrait of the Illustrious Washington.

Tuesday Evening, February 22, 1820,

Will be presented, (last time this season) the favourite American Drama of

She would be a Soldie

Or, the Plains of Chippewa.

Written by M. M. Noah, Esq. and performed in New York last season, with the most distinguished approbation.

The Scenery, Dresses and Decorations, entirely new.

The General, Mr. HUGHES. Jasper, Mr. BURKE. Lenox, Mr. DARLEY.
Honorable Captain Pendragon, Mr. WOOD. Jerry, Mr. JEFFERSON. La Role, Mr. BLISSETT
Jenkins, Mr. JACKSON. Indian Chief, Mr. H. WALLACK. First Officer, Mr. T. JEFFERSON.
Second Officer, Mr. CARTER. Corporal, Mr. KING. Soldier, Mr. HATHWELL. Waiter, Mr. DUR
Jailor, Mr. CRAMPTON. Soldiers, Peasants, Indians, &c.

Christine, Mrs. DARLEY, in which she will sing the favourite Song,

"It was Dunois, the Young and Brave,"

Written by the late Queen of Holland.

Adela, Mrs. WOOD. *Maid, Mrs. CRAMPTON.*

In Act 1st, A VALLEY, with the cottage of Jasper at the side—an Arbour opposi
in the distance Mountains. In this act, *A Characteristic Ballet*,
(Composed by Mr. Francis) the principal parts by Mrs. H. WALLACK.
And Misses C. & K. Durang, Mrs. Carter, Mrs. Jackson, Misses Hathwell, Seymour,

Scene Third, a Beautiful View of the

AMERICAN CAMP.

Rows of Tents in the rear, &c. *MARQUEES* on the right and left, &c.

Act 2d, A MEAN LOG HUT, furnished as a Tavern, in York, Upper Canad
Scene 2d, The American Camp at Day-break—the reveille performed by a Milit
Band. Sentinels on duty before the tents....a part of the troops advance and are pa
in review by the General, &c. &c.

Act 3d, The Pavillion tent of the General, with a different View of the CA
Last Scene, before the Tent, the Camp in View—the Drums Roll, and the Proces
for the Execution of Christine, &c.

Review Section

JEWISH "INFLUENCE" ON CHRISTIAN BIBLICAL SCHOLARS IN THE MIDDLE AGES*

By

Herman Hailperin

Pittsburgh, Pa.

The history of intellectual relations between Christians and Jews, as seem mainly in the field of biblical exegesis, has been treated after a fashion—though, it is to be noted, not raised to the heights of a separate historical topic—in such older works as Humphrey Hody, *De Bibliorum Textibus Originalibus, Versionibus Graecis, Et Latina Vulgata, Libri IV,* (Oxford, 1705); Richard Simon, *Histoire Critique du Vieux Testament* (Amsterdam, 1685); G. W. Meyer, *Geschichte der Schrifterklärung,* 5 vols., (Göttingen, 1802-1809); Ludwig Diestel, *Geschichte des Alten Testamentes in der christlichen Kirche,* (Jena, 1869); F. W. Farrar, *History of Interpretation,* (New York, 1886). One must not fail to mention also a valuable book, the main title of which does not reveal its most important contents, Adalbert Merx, *Die Prophetie des Joel und ihre Ausleger,* (Halle, 1879); its subtitle reads: *Von den ältesten Zeiten bis zu den Reformatoren, eine exegetisch—kritische und hermeneutisch—dogmengeschichtliche Studie.* This work devotes ninety pages to the Christian development of exegesis in the Patristic period and in the "Latin" Middle Ages; about fifty to the Jewish development from the beginnings of the exegetical process through the classical commentators, Rashi, Ibn Ezra, Kimhi, Abarbanel, and the Jewish philosophical exegesis; about one hundred pages to the "Vereinigung jüdischer und christlicher Exegese"; another seventy-five to the development of the Protestant exegesis.[1]

* Beryl Smalley, *The Study of the Bible in the Middle Ages.* Oxford University Press. Oxford, 1941. Pp. XVI, 295; 2 plates.

[1] More specialized works in this field, on the early Middle Ages, are M. Rahmer, *Die Hebräischen Traditionen in den Werken des Hieronymus,* (Breslau, 1861), and Louis Ginzberg, *Die Haggada bei den Kirchenvätern und in der apokryphischen Literatur,* (Berlin, 1900), and also vols. V and VI of *Legends of the Jews,* and several other monagraphs by Professor Louis Ginzberg, (cf. H. Hailperin, "Nicolas de Lyra and Rashi: The Minor Prophets," in *Rashi Anniversary Volume,* N. Y., 1941, pp. 141 f., n. 62). S. A. Hirsch worked in Roger Bacon and Johann Reuchlin, contained in Hirsch, *A Book of Essays,* (London, 1905); see also his "Presidential Address," in *Transactions of the Jewish Historical Society of England,* (Edinburgh and London, 1915), VII, pp. 1-18, for interesting data on certain men of the 'school of Roger Bacon'; and E. Nolan and S. A. Hirsch, *The Greek Grammar of Roger Bacon and A Fragment of his Hebrew Grammar,* (Cambridge, 1902). The present writer has investigated the relation of Nicolas de Lyra to Jewish exegetical materials, *op. cit.,* pp. 115-147; see especially, pp. 118f.

A highly significant and very welcome recent contribution to this wide field is Beryl Smalley's *The Study of the Bible in the Middle Ages.* The work is generally well-founded, the product of painstaking research that seems to be sound. The title ought to be dated. The book really deals with *studies on* the study of the Bible. As for its purpose and scope, let the author speak her own words:

> This book is not a history of biblical scholarship in the Middle Ages, which I am not competent to write. I only mean to show that such a history ought to be written and to clear the ground in order that such a history may be written some day. My subject is the medieval conception of Bible studies. The scope of my book is limited to circles where Bible study was a vocation or a profession, and therefore to the study of the Bible in Latin (p. xiii).
>
> . . . Its subject-matter is the interpretation of semitic literature by a western people, whose cultural tradition was Latin, which might be summarized as the history of an effort to reach the biblical through and past the classical. It might also be described, at least partially, as the history of Jewish influence on Christian scholars, in three stages, distinct though overlapping: Philo, Rashi, Maimonides. I have kept on the whole to a chronological arrangement for simple convenience, and have picked out for description those teaching institutions where biblical studies were most flourishing at a given time (p. xvi).

The work consists of an Introduction (pp. ix-xvi); Chapter I, The Fathers (pp. 1-23); Chapter II, Monastic and Cathedral Schools (pp. 24-57); Chapter III, The Victorines (pp. 58-85); Chapter IV, Andrew of St. Victor (pp. 86-155); Chapter V, Masters of the Sacred Page: The Comestor, The Chanter, Stephen Langton (pp. 156-218); Chapter VI, The Friars (pp. 219-265); Conclusions (pp. 266-270). The unique and most creative contributions in this work are the studies on *the Gloss* (pp. 31-45), and Chapters III and IV, the Victorines, and Andrew of St. Victor, respectively. All students of mediaeval history will henceforth be beholden to Dr. Smalley for clearing up several knotty problems as to the "authorship" and "composition" of the *Glossa Ordinaria* and the other glosses, and for assigning to the Victorines their rightful high place in the unfolding of a sound exegetical method in the later Middle Ages. It is no exaggeration to say that this work becomes now indispensable prolegomena to Nicolas de Lyra (d. 1349), the greatest Christian biblical exegete of the later Middle Ages, and the *sine qua non* of any sound historical background to the pre-Reformation Christian Hebraists, and to the Reformers. Dr. Smalley has succeeded, very well indeed, in destroying any historical misconception as to the number of Christian scholars who felt the necessity of consulting Jews and Jewish materials of the "school of Rashi" in the century and a half *before* Lyra.

The positive value of the book under review cannot be diminished by pointing out certain shortcomings, some of them serious. It may be repeated, the book is indispensable; but this is to be understood not with reference to the work as a whole, but rather to certain sections, especially to the section on

the Victorines, including the excellent chapter on Andrew of St. Victor. Dr. Smalley has done a fine job, each section taken by itself. There are, however, only threads, but no warp in Smalley's book; they are pieces thrown together, and not woven. The disorderly character of the book *as a book* caused some difficulty in setting forth this review. The work is discursive and jumpy; it should have a simpler plan. The center, as was implied above, is consistent (i. e. the Victorines and Andrew). All that precedes it should therefore have been presented as a "Prologue"; all that follows, as an "Epilogue"; what are now chapters III and IV, ought to be the heart of the work. The section on the Victorines should have received even more detailed treatment than has already been given to it; chapter VI, The Friars, on the other hand, deals mainly with materials worked over by others, most of which is quite well-known. The book ought not to try to "cover it all." It lacks texture, considering the obligations of the subject.

A factor that contributes to the episodic character of her book, to her own summary characterization of the account as a "series of revivals, each marked by the reception of fresh material" (p. 266), is Dr. Smalley's idea of "influence"—the pitfall of many a historian of ideas.[2] There are always revivals; it is the inquisitive nature of the human mind that produces revivals; men seek information, *only because there had been previously a long development of historical borrowings and convergences in thought and institutions.* If Dr. Smalley, instead of thinking in terms of the "influence" of Philo, of Rashi and of Maimonides on Christian scholars (p. xvi), had aimed to present the course of intellectual contacts in their true continuity, her work would most persistently give evidence of an *unavoidable relationship of Christians and Jews,* contacts that would prove to be *inescapable.* What follows, it would seem to this reviewer, constitutes a historically valid statement of the *"Urgeschichte"* of Dr. Smalley's central thesis.

The appropriation of the Jewish Scriptures by the Church created a problem of many consequences. The original Christian Old Testament was the Greek Bible, not the Hebrew; the western Church, translating into Latin, received its Bible from the Greeks. Now these sacred Scriptures, which went back to the Hebrew, had the "prestige of immemorial antiquity and the authority of divine revelation."[3] The Jews had had for centuries their own methods of interpreting their Scriptures. The New Testament text itself contains in many places Jewish exegetical treatments of words and ideas.[4]

[2] The idea of "influence" is elusive, and always a serious obstruction in the way of viewing historical events in their true perspective. Cf. Hailperin, "Maimonides in History," in *A Rabbi Teaches,* (N. Y., 1939), pp. 155 ff.

[3] G. F. Moore, *History of Religions,* (N. Y., 1920), II, 129.

[4] See G. F. Moore, *Judaism in the First Centuries of the Christian Era,* (Cambridge, 1927), I, 249 f.

Inasmuch as Christians considered both the Old and New Testaments to be divinely inspired, and since they assumed that revelation must be consistent, that is, coherent in its various periodic manifestations, the Church "from the beginning found the distinctive doctrines of Christianity expressed or implied in all parts of the Old Testament."[5] The need for searching and examining the older Scriptures was very great, if they were to find a fulfillment of the Old Testament in the New.

If this matter presented a problem, the appearance of Pauline Antinomianism rendered the problem of interpretation more complex. According to Paul, the Law of Moses had been abrogated in favor of the New Dispensation with its offering of salvation to *all* the children of men. What was the Church to do with these Jewish Scriptures—on the one hand, the Word of God, and on the other, displaced now by a new Revelation and a new offering of Grace? The question was, how were the Christians to interpret the many precepts, legal and ritualistic, in the Old Law. Such a situation could be met only by a method of interpretation which would find concealed meanings in the Scriptures. A system of allegorizing and of "explaining away" difficulties appeared in the several Christian schools. The conviction grew that the author of the particular passage intended something "other" (Greek: ἄλλος)[6] than that which was literally expressed. Allegory, already a familiar method among the Jews of Palestine and Alexandria, did not fail to establish itself in the Church. Is it not safer, historically, to talk this way, than for Dr. Smalley to speak on p. xvi, of "influence"? In justice to Miss Smalley, her statement on this matter, on p. 5, is a more guarded delineation of the true situation.

As the Church developed, its religion grew more and more intellectual. The Fathers, important witnesses to the history of interpretation, had to resort to intellectual decisions, bound up with the question of getting at the correct text, of understanding the original languages of the Scriptures, and of reconciling Christian ideas with contradictory philosophic notions. All this had to be done if Christianity was not to be left a mere cult. In this growing religious intellectualism, Jews, who were found everywhere in the Mediterranean world, played the peculiar role of teachers and interpreters of the Old Testament. One must remember that the early Church sensed in no vague manner that Jesus, the Jew, and his contemporaries had acknowledged the authority of Old Testament literature, that the accepted Jewish Scriptures enjoyed a central and controlling position in the divine service, and were the texts for sermons and preachments. Though the Jewish Scriptures belonged to the *Old* Dispensation, yet their "economy was the divine

[5] *Ibid.*, p. 250.

[6] Ginzberg, "Allegorical Interpretation," *JE.*, I, 403.

institution preparatory to the Christian redemption."[7] The New Testament canon was formed gradually. It took some time for the New Testament Scriptures to become known and to be recognized as being of "co-ordinate authority with the Jewish Scriptures."[8] In fact, the Apostolic Fathers made more use of the Old Testament than of the New.[9] It is not surprising, therefore, that we find in the works of the Church Fathers many examples of the use and adaptation of Jewish lore in so far as it helped to clarify the meaning of Scripture.[10] It is quite correct to say that there lay in the Christian Fathers the content of Jewish ideology and methodology which had, already in the New Testament, been incorporated into Christian method.[11]

Had Dr. Smalley been conscious, in the course of all her careful researches, of this *"Urgeschichte"* and *Geschichte* in their full import, she would not so easily have fallen into the trap of intimating much too rapidly that certain *haggadic* statements found in Hugo of St. Victor (d. 1141) necessarily have their source in Rashi's *Commentary.* See Smalley, p. 78, no. 6, with reference to *Gen.* 4:23 and examine further the *haggada* about blind Lamech who slew Cain and Tubal-Cain. If the interested student will place in parallel columns the excerpts from Rashi, *ad. loc.,* and from Hugo (*PL.* 175:44), he will see clearly that the Hugo account was not borrowed from Rashi, though, of course, the subject is the same. The *Glossa Ordinaria* cites this Jewish *haggada* in the name of Rabanus—*"Aiunt Hebraei etc.", Biblia Sacra, cum Glossis etc.* (Lyons, 1545), I, 46 E. It is to be found in so early a Christian source as Ephraem (d. 381)[11a] and later in St. Jerome (*PL.* 22:454 f.), and in the early Jewish midrashic sources, in the *Tanhuma,* Bereshit, 11.[11b] It seems correct to say that by the time of Hugo, this *haggada* was part of the *common* fund of thought among Jews and Christians. The safest procedure for the historian, here, is to ask: Was Hugo's attention to *Gen.* 4:23 directed in any *new* way through the "school of Rashi"? Miss Smalley's reference to *Gen.* 49:12 is, on the other hand, accurate; she should have cited the detailed parallel, and not merely have hidden it in a bare footnote reference. Because it is germane to our subject, we give it here in full. Hugo's interpretation of this passage in *Gen.* 49:12 is, so far

[7] Ph. Schaff, *History of the Christian Church,* (N. Y., 1920), I, 66.

[8] F. W. Farrar, *op. cit.,* p. 165, n. 3.

[9] *Ibid.* This statement, of course, does not hold good after 200 C. E.

[10] See S. Krauss, "Church Fathers," *JE.,* IV, 82; L. Ginzberg, *Legends of the Jews,* V, p. IX; in vols. V and VI, Ginzberg refers to about eight hundred passages in the Church Fathers together with their parallels in the Talmud and Midrash.

[11] See this writer's review of two of Dr. Smalley's earlier studies, in *HJ.* (1940) II, p. 123.

[11a] Ginzberg, *Die Haggada,* pp. 66 f.

[11b] For the relationship between the Christian and Jewish versions of this legend, Ginzberg, *Die Haggada,* p. 67.

as we know, nowhere found in the Church Fathers or in the *Glossa Ordinaria*. Since the interpretation referred to here is found in Rashi, and not in earlier or later Jewish literature, we infer that Hugo depended directly on Rashi. The Vulgate on *Gen.* 49:12 reads: "His eyes are more beautiful than wine, and his teeth whiter than milk" (*Pulchriores sunt oculi eius vino, et dentes eius lacte candidiores*). Hugo feels that St. Jerome has not given an accurate translation, failing to give the force of the Hebrew words.

> *His eyes are more beautiful than wine.* In the Hebrew, the expression means: *"bloodshot."* And it denotes, according to the Hebrews, "an abundance of wine," which is seen in the eyes of drunkards.[12]

In summarizing all the "Hebrew differences" in *Gen.* 49, Hugo, taking this point of departure from the Latin Vulgate, goes a step further on this point, and says:

> *His eyes are more beautiful than wine,* that is, "bloodshot" *as a result of* wine or *on account of* wine.[13]

Rashi's comment is as follows:

> *Haklili*: the meaning is "red," as the Targum translates it,—and so [in Proverbs 28:39] "who hath redness of eyes" [those who drink much wine], since those who drink much wine have red eyes. *Mehalab*: from drinking much milk [his teeth will be white], for there will be in his land a good pasture for his flocks. And that is the meaning of the text: 'There will be redness of eyes because of abundance of wine and there will be whiteness of teeth because of abundance of milk.'[14]

Rashi means to say that the "mem" of *miyayin* and *mehalab* is not the "mem" *comparativum* (his eyes shall be redder *than* wine). Rashi's interpretation is that which Hugo follows.[15]

The problems that grew out of the acceptance of the Jewish Scriptures by the Christians emerge again and again in the history of exegesis for many centuries. In the light of this historical development, how can our author speak of the "Jewish influence on Christian scholars, in three stages, distinct though overlapping: Philo, Rashi, Maimonides"? Where shall we place the "influence" on Jerome? Where on Rabanus Maurus? It is likewise not surprising that Dr. Smalley should express so distortive a statement on Andrew of St. Victor: "The actual extent and quality of Jewish influence on Andrew still remains incalculable, and probably must always remain so" (p. 127).

[12] *PL.* 175:59. *Pulchriores sunt oculi eius vino*—In Hebraeo habetur, "rubicundiores." Et notat, secundum Hebraeos, abundantiam vini, quod apparet in oculis potantium.

[13] *Ibid.*, 61. *Pulchriores oculi eius vino*—Id est, *rubicundiores de vino* vel *propter* vinum (The italics are mine).

[14] *Ed.* Berliner, *ad. loc.*, (Frankfurt a. M., 1905), p. 96.

[15] It is interesting to note here that this is the accepted interpretation in the modern versions (Luther, King James, The Jewish Publication Society of America). Among Jewish commentators, Saadia Gaon (882-942), as quoted by Ibn Ezra, *ad. loc.*, gives this passage an interpretation similar to the Vulgate's—the "mem" of *miyayin* and *mehalab* as "mem" *comparativum*.

Since early Christianity was compelled to make war against the religion from which it sprang, yet keep intact its Scriptures as divinely inspired, the first system of Christian exegesis naturally had to adopt the allegorical method as a theory of interpretation. At this point of the unfolding of her thesis, Dr. Smalley could now proceed with her description of the Christian allegorical school of Alexandria (pp. 5 ff.). In this historical setting, it is not without well-established precedent when Andrew or anyone else says that the " 'literal sense' is the Jewish explanation" (Smalley, p. 134); Origen had said it a long time before.[16]

The late Professor D. S. Blondheim[17] has raised the pertinent question whether there were not linguistic influences of the Synagogue culture upon the growing Latin Church, and of the Christian Bibles upon the Jews. The material for the examination of this lies in the history of the *Vetus Latina* or *Itala.* Jews and Christians alike depended in this time upon the Septuagint. As the Latin West developed its ecclesiastical Latin and as the Jews moved farther away from the Greek world, a common task appeared. Both were under the necessity of understanding the Bible according to the living language. According to Blondheim, the vocabulary, employed by the Jews in the Middle Ages in their glosses, had accords with the *Itala.* When the Christians of the West faced increasingly the need of a Latin version of the Bible they found more or less ready at hand the Latin translations of passages and interpretations of ideas which the Jews had already prepared for their own use.[18] This question appears in such magnitude as to make it proper to ask whether "the Jews had a Latin version of the Old Testament anterior to the Christian translation."[19] In any case we now know that Greek-speaking and Latin-speaking Jews did depend upon certain standard Greek and Latin versions for use in the Synagogue, for the reading of the Scriptures, for the liturgy, and for biblical citations in sermons.[20]

Dr. Smalley, unfortunately, ignores completely the currents that were flowing *toward* the Jews from the non-Jewish cultures, Islamic and Christian; there were currents and cross-currents and "influences" in both directions. She has no word to say about the historical significance of the polemical motif as perhaps the most important single factor in helping to

16 Origenis *De Principiis,* (*ed.* C. H. E. Lommatzch), Lib. IV, Ca. I, Par. 8, in *Opera Omnia,* (Berlin, 1847), XXI, p. 422.

17 Blondheim, *Les Parlers Judéo-Roman et la Vetus Latina,* (Paris, 1925), p. X. All that Blondheim says in the Introduction, pp. IX-CXXXVIII, is pertinent to the whole question of consequent early relations.

18 *Ibid.,* pp. XXXIV ff.

19 *Ibid.,* pp. XXXVI f.

20 As regards Greek culture and the Jews, see Saul Lieberman, *Greek in Jewish Palestine,* (New York, 1942), pp. 29-67.

preserve the Hebrew materials among the Christian scholars. Miss Smalley does not seem to sense that part of the impetus to the rise of the Northern French school of Jewish exegetes came from the desire on the part of the Jewish scholars to dispute with the Christians on the more solid ground of the historical-literal interpretation (*peshat*) and to refute the typical, allegorical spirit of Christian exegesis,[21] which also was a kind of "midrashic" interpretation, especially in its Christological exegesis of Old Testament passages. Nor does the author seem to know that the *"PaRDeS"*, the *fourfold* method of interpretation *among the Jews* of the *later* Middle Ages, was an adoption of the four-fold scheme of the Christians;[22] the Talmud knows only of *peshat* and *derash,* but not of *remez* and *sod.* Smalley's work is not sufficiently aware of the degree of Christian and Jewish communication and intellectual reciprocity that went on in the Middle Ages.

Whatever be the long history of the *Itala* in relation to its dependence upon direct Jewish information, we know that in the time of St. Jerome (331-420) the Jews were examining the Christian Latin Bibles and were severely criticizing their divergences from the original text. The whole work of Jerome, in its beginnings, must be understood in the light of the deficiencies of the *Itala* and the exegesis that would come from it. Jerome is highly sensitive to the intellectual situation.[23] In the *Preface to the Pentateuch,*[24] he states that he was prompted to go to the Hebrew original by the zeal of Origen, who had used the Hebrew as the deciding factor in authenticating the several Greek versions which differed one from the other, in many instances, in his Hexapla. But above all Jerome was encouraged in his work of translation, because *in quibus multa de veteri testamento legimus quae in nostris codicibus non habentur.*[25] In his letter to Paulinus (*cir.* 394) Jerome criticizes such translators as had read into the Scriptures their own notions without regard for the intention of the original author.[26] This is so

21 See E. M. Lipschütz, *Rabbi Shelomo Yitzḥaki,* (Warsaw, 1912, in Hebrew), pp. 174 f.

22 See W. Bacher, "L'Éxégèse biblique dans le Zohar," *REJ.* (1891), XXII, 38; note especially A. Kaminka, "Bibelexegese", *Encyclopaedia Judaica,* IV, 633: "Indessen scheint diese vierfache Methode gar nicht jüdischen Ursprungs, sondern der christlichen Exegese entlehnt zu sein . . . ."

23 *PL.* 25:346: "For they [i. e. the Hebrews] are wont to make fun of us, and to raise the eyebrow, and with inflated creeks to belch out their knowledge of the Scriptures, if they might be able to show a *dissonance of words* in our manuscripts, not to mention a *discrepancy of the senses* [interpretations], which if it were so, is rightly to be reprehended"; *"Solvent enim ridere de nobis, et attolere supercilium et inflatis buccis ructore scientiam Scripturarum, si non dicam sensuum discrepantiam (quae si fuerit, juste reprehenditur) si verborum dissonantiam in nostris codicibus potuerint demonstrare."*

24 *PL.* 28:148.

25 *Ibid.*

26 *PL.* 22:544.

definitive a statement upon the need of knowing the signification of the original, that one cannot help but feel that it did have effect in historical exegesis.

Jerome of course had to establish contacts with Jews in order to develop his apparatus for translation and exegesis. According to his *Preface to Samuel* Jerome assumed that in scriptural matters, every Jew who has "studied Torah" is competent to give some satisfactory explanations.[27] Jerome would appeal again and again to the authority of Jewish teachers, especially in answer to his critics. "If anywhere in translation I seem to you to go wrong, ask the Hebrews, consult their teachers in different towns."[28] It would be a special and extensive study to describe the characteristics of Jerome's translation from that point of view which would define the idiomatic preservations of the Hebrew. In spite of all the difficulties that beset Jerome it is now generally recognized that he did a remarkable service in that he made his Latin flexible and capable to express accurate, natural and idiomatic images of speech. Yet in view of the fact that Jerome had to meet problems in phonetics, grammar and idea, it is no disparagement to say *that for later times the Vulgate would present many technical problems.* Thus it is natural that *the feeling of a necessity to know the original Hebrew was not lost.*

There is nothing in Jerome to indicate that he moved toward the development of a formal system of exegesis; rather is it to be said that the whole impact of his scholarship had the effect of keeping open the streams of an enlarging biblical and exegetical inquiry. Jerome is remembered mostly because his epoch-making work of translation is based so closely upon his historical understanding of it. One is prone to forget that in his commentaries he continues the allegorizing methods of Origen[29] and of the early Fathers, as well as of the Jewish Palestinian haggadists.[30] Likewise with reference to the multiple interpretation of Scripture, Jerome continued a threefold scheme: *historia, tropologia,* and the *intelligentia spiritualis.*[31] His commentaries were read and studied throughout the Middle Ages. The Vulgate carried implications suggestive of many problems. Jerome's exegetical

27 *PL.* 28:558. Jerome says: "Ask some Hebrew (*interroga quemlibet Hebraeorum*) to ascertain whether I have deviated from or remained faithful to the Hebrew text." The Jews were also acquainted with the Septuagint, Aquila's version, the Apocrypha, and also with the New Testament. The last mentioned is evident from Jerome's remark on *Isaiah* 11:1; see S. Krauss, *JQR.*, VI (London, 1894), 233.

28 *PL.* 28:152. *Sicubi in translatione tibi videor errare, interroga Hebraeos, diversarum urbium magistros consule.*

29 Thus, for example, he declares that the sacrifices in *Leviticus,* the description of Aaron's vestments, and all the regulations connected with the Levites, are symbols of things heavenly; see *PL.* 22:545, his "Letter to Paulinus."

30 See Rahmer *op. cit.,* pp. 17-58.

31 *PL.* 22:1005.

works furnished the material out of which these problems might appear and be treated. Thus it can be said that his version would, for the scholar, not be final and sufficient. All the elements of Jerome's work were veritable exponents of the historical mind. Jerome left the emphatic impression for *all* times that the scholar must know the original languages, and, in the case of the Old Testament, the Hebrew, that he must be bound to the historical sense, that he must be conscious of the currents of history and the conditions under which historical material arose.

Miss Smalley (pp. 8 f.) does not emphasize sufficiently that St. Jerome cast a long shadow across the years. What Aristotle meant for philosophy in history, Jerome personified for exegesis in history; what the Talmud meant for the subsequent development of rabbinic thought, Jerome came to mean for the subsequent development of Christian exegesis. He becomes the everlasting archetype and the ever-watchful critic. There is no need of talking about "revivals" after the manner of our author; we deal here with a *tradition,* not with "influence." It is no surprise, therefore, if our author says that Rabanus "improved on Bede by finding a literal as well as a spiritual exposition for the book of Kings" (p. 29). The historian may not speak thus; there simply was another Hebraic line outside of Jerome which touched Rabanus;[32] it is not a matter of "improving on Bede." Likewise Miss

[32] A careful examination of Rabanus' Commentaries on the "Four Books of Kings" (829 C. E.) and on "Chronicles" (c. 834-838), led the present writer to conclude that in Rabanus is evidence of another line of Hebrew interest which goes beyond the equipment bequeathed by Jerome. "Beati Rabani Mauri . . . . Commentaria in Libros IV Regum," *PL.* 109: [10], with variant reading: Praeterea Hebraei cuiusdam modernis temporibus in legis scientia capitulis traditionem Hebraeorum habere non paucis locis [Praeterea ex capitulis Hebraei cuiusdam, modernis temporibus in legis scientia periti, traditionem Hebraeorum non paucis locis, etc.], simul cum nota nominis eius inserui . . . *Ibid.,* 328: Sed Hebraeus cuius dicta in expositione Regum aliqua posui, et in praesenti opere non pauca inserui . . . intelligi vult, etc. Rabanus' "recent Jew" has not yet been identified. The "higher criticism" of Rabanus' commentaries has discovered that these inserted sections, quoting the "Jew," were passages taken from a Pseudo-Jerome work, *De quaestionibus hebraicis in libros regum et Paralipomenon,* (*PL.* 23: 1329), fashioned after the manner and in the style of Jerome's *Quæstiones Hebraicae* and *interpretatio Hebraicorum nominum,* but much more filled with rabbinical traditions and interpretations. This treatise for a long time passed under the name of St. Jerome. S. Berger, *Quam notitiam linguae hebraicae habuerint Christiani medii aevi temporibus in Gallia* (Nancy, 1893), p. 2, sees in the author a Jewish convert to Christianity, trained in the Talmud from his youth. Smalley, p. 29, evidently was misled on this point by Berger; see the end of this note. A short article, by Paul Rieger, "Wer war der Hebräer, dessen Werke Hrabanus Maurus benutzt hat?", *MGWJ.* LXVIII, (1924), 66-68, judges the account of the relationship between Rabanus Maurus and a Hebrew scholar to be legendary in its entirety. On the other hand, the author of the article, "Le B. Raban, Archevèque De Mäience," *Histoire littéraire de la France,* (Paris, 1866), V, pp. 160 f. and 196, sees no ground for questioning the historicity of the "modern Jew." Confusion over this question arose, it seems to this writer, because of the misunderstanding of the phrase "modernis temporibus" used by Rabanus with reference to the "Jew." The phrase does not necessarily mean a person living in Rabanus' own time. It is also clear from Rabanus' testimony that he undoubtedly found

Smalley's reference to Langton's knowledge of a statement in Kimhi (p. 192) must be seen in the light of the whole long drama of Christian and Jewish intellectual relations, and not merely in one scene of one act.[33] To talk of an independent critical attitude in accepting or rejecting St. Jerome or the Fathers as signs of the "coming of age" (p. 254) is puerile and unscientific writing. As much may be said of the statement: "Berger did not know that the literalist school of Rashi influenced Christian commentators through Andrew" (p. 265).

We may take up here too the problem of the *literal* and *spiritual* interpretation of Scripture. Dr. Smalley seems to be always conscious of a certain dichotomy and confusion in this matter, in Origen (p. 6), in Hugo of St. Victor (p. 61), and in many others. Of Origen, she says: "He was too fascinated by the spirit, just as Philo had been, to define the letter clearly. Origen was such a giant, however, that he could concentrate an allegory and yet leave vast monuments of literal exegesis."[34]

Our author, unfortunately, seems to emphasize the external history, apparatus, etc.; she does not sufficiently examine the intellectual reasons; she insists on seeing only a dichotomy in commentators, Christian and Jewish, who are not historical and literal purists, perhaps under the burden of worshipping her "literalist" hero, Andrew of St. Victor. Who among the great biblical expositors—ancient, mediaeval, or modern—are *pure* literalists? She says, for example, of Rashi (p. 122) with reference to the literal method in contrast to the *haggadic*: "His originality lies only in his preference for the literal as an alternative." The present reviewer's forthcoming book, *Rashi and Christian Biblical Interpretation,* deals with this problem as follows:

> Rashi really cherished a predilection for historical and literal interpretation, but when he could not find a satisfactory explanation according to this method, and if tradition at the same time offered one, he resigned himself to the haggadic method, and very frequently so. Rashi, it is to be noted, is not under the impression that he must diminish "event" for the sake of a general idea. Of course he accepts the traditional Jewish (which also was the Christian) theological interpretation of history but not to such a degree as to take events as "theological texts." He knows the facts, and why events happen. We today speak of a fact, and we want the true facts. But we are accustomed also to ask, in continuation, what is its significance? Something

---

this Jewish information in a written manuscript. In the *Praefatio, PL.* 109: [10], Rabanus adds explicitly: *quod scriptum reperi.* See also in this connection, J. B. Hablitzel, "Hrabanus Maurus, ein Beitrag zur Geschichte der mittelalterlichen Exegese," *Biblische Studien,* XI, 3, (1906), p. 9. Louis Ginzberg, *Die Haggada bei den Kirchenvätern,* I: *Die Haggada in den pseudo-hieronymianischen "Quaestiones,"* (Amsterdam, 1899), pp. V f., 105, and *passim,* proved beyond any doubt that the author of the pseudo-"Quaestiones" was not a Jew. He was evidently a Christian who, of course, had the help of one or more Jews learned in the Haggada. The work must have been composed in the eighth or early ninth century, and was ready at hand for Rabanus' use.

[33] See Hailperin, "Nicolas de Lyra and Rashi," *op. cit.,* p. 135, n. 50.

[34] Cf. also Smalley, p. 61 with reference to Hugo, and p. 8 with reference to Jerome.

like this must have been in the minds of all commentators: facts, events occurred naturally, or humanly; but it is felt that the *significance* lies *in* the event, not added to it out of our own minds, or attached to it. To some, this reaches a philosophical, or mystical meaning, as they would choose to say; to others, a moral or parabolic meaning, and from it they derive metaphors and similes for homiletics. Saying this, we do not intend in this short study to attempt to define the theology of Rashi, nor to discuss his view of the revealed and inspired word. It is enough to say that he believed that God alone could have uttered the ideas and the wisdom in the Scriptures.

On the problem of mystical exegesis among such Victorines as were also *literal* expositors, the same work will state:

> Now the question arises, and seeks an answer: Since the Victorines were mystics, what led them to make use of the historical-literal Rashi materials? It is necessary for an explanation to recall that in this time there is a semi-antirationalistic movement among the Christians. In Abaelard and Gilbert of Porée there was the beginning of the rationalistic, which when it came to Scripture would have to depend upon allegory in many places. The mystic, therefore, would at times hold to the literal and moral, strange as it may seem for him to do so, more than to the allegorical.[35] Hugo, founder of the French mystical school in the Middle Ages, is also historical in the sense that he does not wish to see the literal-moral senses pushed aside in the interest of the typological-tropological and allegorical interpretation. He is drawn to the "school of Rashi," it appears, because it seems to fortify interpretation against extension and over-refinement of exegesis, in any casuistic, philosophic sense, such as, we may say, was to appear not long after in Ibn Ezra and in Kimhi.

As to Andrew's strict literal exegesis and his abundant use of Jewish literal exegesis, without apology, (whole of Chapter IV), we can only say that he, more than all other Christian commentators of his time, was concerned over the dangers of allegory and symbolism; he may have felt it personally more strongly than others.

Miss Smalley, in the section on the Jewish sources (pp. 121 ff.), conveys inaccurate and misleading meanings of Jewish exegetical terms, "halachic and aggadic systems of biblical exegesis"; she is not intimately acquainted with the spirit and intention of Rashi's *Commentaries*. Her conception of Lyra's role in the history of exegesis (pp. 262 f.) is wrong from beginning to end; she evidently did not examine Lyra's writings in the same way in which she investigated the Victorines.

A most valuable part of this work, pp. 271-289, are the transcriptions from the several commentaries of Andrew, still in MS.

A history of Christian and Jewish intellectual relations in the Middle Ages is yet to be written. The work under review is one of the most important of several necessary foundations that will make it possible to write such a complete account. Its author has successfully filled in what was for a long time a serious *lacuna* in the history of the period. She has made the Victorines real in their role as interpreters of Holy Writ.

[35] The present writer is indebted to Prof. G. B. Hatfield of the University of Pittsburgh for this penetrating and keen observation.

BOOK REVIEWS

Isaac Rivkind, *Le-Ot-ul-Zikkaron. Bar Mitzvah. A Study in Jewish Cultural History with an Annotated Bibliography.* New York, 1942. 167 pp. and 5 plates.

It was an original and praiseworthy idea of Mr. and Mrs. Isaac Rivkind to dedicate to their son Baruch Daniel on the occasion of his *Bar Mitzvah* a study of the *Bar Mitzvah* institution. The introduction is so warm and humane a document that it deserves to be translated into English and given wide circulation. Although *Bar Mitzvah* is an extremely popular institution its origin is unknown. Maharil, at the end of the fourteenth century, is usually considered to have been the first writer to mention it. Mr. Rivkind has found some earlier evidence but it is not absolutely clear that his sources have the *institution* in mind and not rather the bare implication that, when a boy becomes *bar mitzvah,* he is obligated to fulfill all the commandments. The author gives a full account of the rabbinic statements concerning the initiation of the boy, the ceremony in the synagogue, the institution of a *derasha* delivered by the boy, the festival meal, the various customs among the Jews of different countries, and the laudable practice of initiating the boy in pious works. The bibliography of the subject (pp. 83-156) is a uniquely rich collection of 513 items—all sorts of publications of both serious and gay content, not excluding even a menu card, humorous as well as learned (p. 53). The book is extremely interesting and offers rich information about a subject little studied.

New York City. *Ismar Elbogen.*

S. Broches, *Jews in New England, Six Historical Monographs, I: Historical Study of the Jews in Massachusetts* (1650-1750). Bloch Publishing Company. New York, 1942. 68 pp.

This first in a planned series of six monographs on the history of the Jews in New England has the Jews in Massachusetts in the period from 1650 to 1750 as the subject of its historical study. Lee M. Friedman, Leon Huhner, Joseph Lebowich, and others have preceded the author in his endeavor to contribute to the history of this important section of the American Jewish community. Due to the fragmentary nature of the sources at hand Broches' monograph is of a sketchy character; it does not provide a complete history of the Jews of Massachusetts. Most of the documents presented deal with individual Jews in Boston and their commercial dealings, notably the manufacture of snuff. Most interesting is a Hebrew signature

in an army payroll of 1775 representing the receipt of Abraham Solomon, of which a photostatic reproduction is appended. Other items of particular interest deal with the procuring of Hebrew prayerbooks for the holidays, New Year's greetings, provisions for a Jewish cemetery and access thereto, and the "oath made upon the Old Testament after the manner of the Jews."

The author's presentation, though meritorious particularly for the discovery of hitherto unknown material of historical value, suffers from several shortcomings. The references to the original documents are neither complete nor accurate, a fact which impairs the value of the 35 pages of source material and makes it often almost impossible for the student to check the originals. The transliteration of expressions in foreign languages is wrong in such cases as *minyon* or *Socondi;* the bibliographical data are incomplete. Space does not permit to point out other errors and inaccuracies.

This reviewer wishes to encourage every research in American Jewish history which is badly needed in order to reach some day the goal of a truly scholarly history of American Jewry. It is with an eye toward this aim that he feels it his obligation to emphasize that, in the forthcoming monographs, the method of publishing the documents and their historical evaluation should be considerably improved. This criticism can, however, by no means diminish the present merits of the work.

American Jewish Historical Society. *Isidore S. Meyer.*

NOTICES OF RECENT PUBLICATIONS

The American Jewish Committee: Thirty-Fifth Annual Report. New York, 1942. 131 pp.

John S. Curtiss, *An Appraisal of the Protocols of Zion.* Columbia University Press. New York, 1942. XI + 118 pp.

Essays on Antisemitism (*Jewish Social Studies*: Publications, No. 2). Conference on Jewish Relations. New York, 1942. XI + 202 pp.

Contents: Salo W. Baron, Foreword.—Ralph Marcus, Antisemitism in the Hellenistic-Roman World.—Solomon Grayzel, Christian-Jewish Relations in the First Millennium.—Joseph Reider, Jews in Mediaeval Art.—Guido Kisch, The Jews in Mediaeval Law.—Samuel Rosenblatt, The Jews and Islam.—Marc Vishniak, Antisemitism in Tsarist Russia.—Raphael Mahler, Antisemitism in Poland.—B. Weinryb, The Economic and Social Background of Antisemitism.—I. S. Wechsler, Psychology of Antisemitism.—Jacob R. Marcus, Defenses Against Antisemitism.—Z. Diesendruck, Antisemitism and Ourselves.

Eli Ginzberg, *Report to American Jews on Overseas Relief, Palestine and Refugees in the United States.* Harper and Brothers. New York, 1942. IX + 92 pp.

Bernard Heller, *The Odyssey of a Faith.* Harper and Brothers. New York, 1942. XVII + 277 pp.

The Fighting Jew. Committee for a Jewish Army of Stateless and Palestinian Jews. New York, 1942. 59 pp.

Leo Jung, *Crumbs and Character, Sermons, Addresses, and Essays.* Night and Day Press. New York, 1942. IV 315 pp.

Saul Lieberman, *Greek in Jewish Palestine.* Studies in the Life and Manners of Jewish Palestine in the II-IV Centuries C. E. Jewish Theological Seminary. New York, 1942. IX + 207 pp.

Proceedings of the American Academy for Jewish Research, Vol. XI. New York, 1941. XXI + 163 pp.

Rashi Anniversary Volume (*Texts and Studies,* published by the American Academy for Jewish Research). New York, 1941. 248 pp.

Contents: A. Marx, The Life and Work of Rashi.—I. Elbogen, What Does Rashi Mean to Us Today?—B. Weinryb, Rashi Against the Background of his Epoch.—S. W. Baron, Rashi and the Community of Troyes.—A. Freimann, Supercommentaries on Rashi's Pentateuch Commentary.—H. Hailperin, Nicolas de Lyra and Rashi: The Minor Prophets.—V. Aptowitzer, The Genesis of Rashi's Talmud Commentary.—M. Higger, The Yerushalmi Quotations in Rashi.—B. Cohen, Rashi as a Lexicographer of the Talmud.

PERSONAL

Due to the present war conditions word was received only recently of the death of Dr. phil. Louis Lewin at the age of seventy-three in Palestine, on December 22, 1941. Lewin who from 1905 to 1925 held the office of rabbi in two congregations of old renown, Kempen (Posen) and Kattowitz (Upper-Silesia) and headed a Jewish educational institution in Breslau from 1925 to 1937, represented the scholarly type of rabbi which, from the days of Zunz on, produced in the Rabbinate of Germany and Austria not only theologians, philosophers, and philologists, but also some historians of high rank. Among Lewin's foremost publications on East-European history are: *Aus der Vergangenheit der jüdischen Gemeinde Pinne* (Pinne, 1903); *Geschichte der Juden in Lissa* (Pinne, 1904); *Die Landessynode der grosspolnischen Judenschaft* (Frankfurt a.M., 1926). His numerous smaller contributions to the political and cultural history of East-European Jewry, amounting to about a hundred articles, are scattered in Jewish and general historical periodicals. Special mention deserve Lewin's researches in the

history of Jewish physicians: "Jüdische Ärzte in Grosspolen," *Jahrbuch der jüdisch-literarischen Gesellschaft Frankfurt a.M.*, IX (1912); "Die jüdischen Studenten an der Universität Frankfurt an der Oder," *ibidem*, XIV (1921), XV (1923), XVI (1924); *Geschichte der israelitischen Krankenverpflegungsanstalt zu Breslau* 1726-1926 (Breslau, 1926). Lewin was also particularly interested in Jewish genealogy, meritorious contributions to which are contained in almost all his writings. During his lifetime he gathered a collection of most valuable material on the history of Jewish communities in Posen, Silesia, and other parts of Western Poland which he generously placed at the disposal of scholars throughout the world. Louis Lewin as historian and collector of archival material found due appreciation from the well known historian and archivist of Eastern Europe, Adolf Warschauer, in his *Vierzig Jahre deutsche Kulturarbeit in der Ostmark.*

Guido Kisch.

Professor ALFRED FRANCIS PRIBRAM, who died at Kew, Surrey, England, on May 7, 1942, had been professor of modern history at the University of Vienna from 1887-1930. His main interest was in the German diplomatic history of the second half of the seventeenth century and, later, in that of the pre-World War period. His achievements received recent appreciation in the *American Historical Review*, XLVII (1942), p. 975 f. The reason why Professor Pribram, descendant of an old Jewish family of scholars of Prague, Bohemia, deserves mention in these pages too, is his monumental two-volume work, *Urkunden und Akten zur Geschichte der Juden in Wien*, published in 1918 by the *Historische Kommission* of the Jewish Community of Vienna. It comprises the complete body of Jewry-law governing in the city of Vienna from 1526 to 1849. It was taken from official Austrian archives and all available printed sources, and edited with a valuable Introduction of 164 pages. Although a unique and classical work, the book hitherto escaped the attention of many a historian, Jewish as well as non-Jewish, and found—curiously enough—not even a reviewer in the *Monatsschrift für Geschichte und Wissenschaft des Judentums* at the time of its publication.

G. K.