VOL. XVII APRIL, 1955 PART 1

HISTORIA JUDAICA

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

Editor
GUIDO KISCH
New York City

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Historia Judaica

THE DEVELOPMENT OF THE JEWISH LAW ON INTEREST FROM THE BIBLICAL PERIOD TO THE EXPULSION OF THE JEWS FROM ENGLAND

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I

The Biblical Period

SOME thirty years ago, there appeared a work by I. H. Weiss, *Dor Dor Vedorshav* (Generations and Their Interpreters), which has since become famous. In five volumes the author attempts to give a history of Jewish oral tradition and its interpreters. The present essay has, of course, no such ambitious aim; it will rather attempt to follow up the exegetical history of one pentateuchal law, the law on usury or interest, in its development and ramifications from biblical times to the time of the expulsion of the Jews from England. Even with reference to this law, this essay will be confined mainly to the problem of interest taken by Jews from Gentiles. Such narrowing down of the subject is necessitated not only by its intrinsic importance for the history of group relationships, but also by the progress of scholarly investigation since the early decades of this century. The study of comparative religion, of sociology and economic and general history, has developed to such an ex-

tent that generalizations formulated by earlier scholars have to be re-examined and often rejected. In addition, new sources of information have been discovered, and investigations into the general history of ideas provide us with a deeper understanding of the motivating forces that stand behind the formulation, the exegesis, and the application of biblical and talmudic law. We are, morever, helped in our inquiries by the fact that competent research on the law of usury has recently been made in the fields of Islamic, Canon, and Civil Law.[1]

Deuteronomy 23:20f. may well serve as the starting-point, because the two verses are the most controversial and hence perhaps the best known of the three pentateuchal passages that deal with the question of interest, and that form the basis of all further discussion on the question of interest.[2] They influenced the economic structure of many European lands prior to the Renaissance and after it, and were instrumental in bringing about the rise and fall, nay, the expulsion and complete destruction of many a Jewish community during the Middle Ages. Their translation runs as follows:

> Thou shalt not lend upon interest to thy brother: interest of money, interest of victuals, interest of anything, that is lent upon interest. Unto a foreigner thou mayest lend on interest, but unto thy brother thou shalt not lend upon interest, that the Lord, thy God may bless thee in all that thou puttest thy hand unto, in the land whither thou goest to possess it.

In an article published elsewhere the present writer has dealt with the literary and sociological aspects arising from biblical and ancient Near Eastern material on the subject of interest.[3] The results of that inquiry can here be summarized only in the briefest possible form.

[1] Cf. e.g., J. Schacht, *Esquisse d'une histoire du droit musulman*, (Paris, 1952); T. P. McLaughlin, "The Teaching of the Canonists on Usury (XII-XIV Centuries)," *Medieval Studies* I (1939), 81-147; Benjamin N. Nelson, *The Idea of Usury* (Princeton, 1949). For a useful summary treatment of the problem of Jewish law on usury see Jehuda Rosenthal, "Ribbith min hanokhri" V *Talpiyyoth*, (1952), pp. 475-492, VI (1953), pp. 130-152 (Hebrew).

[2] Cf. *Exodus* 22:24, and *Leviticus* 25:35-38.

[3] *Journal of Theological Studies*, N. S., IV (1953), 161-170.

The main elements in the deuteronomic law and in the two other pentateuchal laws on interest in Exodus and Leviticus are characterized by their religious connotation and their apodictic form. They stand in marked contrast to all the known legislation of the ancient Near East. There, loans without interest are not mentioned at all and occur but rarely in the documents, whence it may be inferred that such non-commercial transactions were of little legal importance.[3a]

In biblical law all Hebrews are *re'im*, i.e., friends. God, through His covenant with the whole people, is also, and particularly, the protector of the poor. *They* are His people. There is a true fraternity which unites, as it were, God with the people and the people with God. Hence, the orphan and the widow must not be oppressed, and the creditor must not take interest from his brother in need. Non-semitic "primitive" people also have no legislation on loans without interest, though we have evidence of many early social units whose blood-relationship carried with it an economic as well as a social solidarity.

For the inner understanding of our Law it is important to realize that it differentiates clearly between the Hebrew and the alien. Max Weber, in his stimulating *Essays on the Sociology of Religion*,[4] formulates this distinction as one between internal and external ethics, between *Binnen- und Aussenmoral*. Nelson[5] speaks of "tribal brotherhood" as set against "universal otherhood." In spite of some universal tendencies which appeared sporadically, this distinction was on the whole maintained throughout the three great denominations of mankind until the end of the Middle Ages. The alien for the Jew was the Christian and the Mohammedan, the alien for the Christian was the Jew and the Mohammedan,

[3a] Cf. G. R. Driver and J. C. Miles, *The Babylonian Laws*, I (Oxford, 1952), 210.

[4] Cf. his *Gesammelte Aufsätze zur Religionssoziologie*, II (Tübingen, 1921), 357 f.

[5] *The Idea of Usury*, p. viii.

the alien for the Mohammedan was the Christian and the Jew.

It is the task of this paper to show the development of the relevant biblical laws, and to trace the relationship between practice and theory, or to put it differently, between economics and faith.

Before leaving the biblical period and biblical theology, it should be emphasized that the biblical laws on usury are general admonitions only. As in the early usury-laws of Christianity and Islam, no punishment is attached to their trangression, and nowhere do we read of fixed rates of interest as in Babylonian law; neither is it said that a written agreement between creditor and debtor becomes invalid if interest is stipulated in it. Biblical legislation mirrors the life of a semi-nomadic and, later, agricultural society, where moneylending did not play a major part, and where all loans, including those of victuals, were *mutua,* usually up to the time of the next harvest, when they could be repaid by the debtor. The Hebrews were not merchants at that time; the Canaanite, rather, was synonymous with the merchant, as later in the Middle Ages the Jew with the usurer. Hence direct references to moneylending occur only rarely in the Bible.[6] Nevertheless, we have to assume from those that do occur that transgressions took place.

In Numbers 10 and 11 of the Aramaic Elephantine Papyri of the years 456-5, we have explicit external evidence that Jews loaned each other money at interest. The terms *marbith* and *marbitha* are used quite openly. The names of debtors, creditors, and witnesses—and, in Number 11, the name of the scribe—are definitely Jewish. That biblical injunctions are completely ignored is not surprising, if one realizes that even strict monotheism was not adhered to by this Egyptian Jewish colony, though they sought and received religious enlightenment from Jerusalem on ritual matters. In the Tebtunis Papyri, Numbers 817 and 818, we

[6] Cf. 2 *Kings* 4:1-2; *Habakkuk* 2:6; *Ezekiel* 18:8ff; *Psalm* 15:5; *Proverbs* 28:8; *Nehemiah* 5:1-5.

also read of loans at interest between the Jews of the Epigone. These documents are written in Greek and belong to the years 182 and 174 B.C., respectively. Papyrus 817 reveals perhaps an increasing awareness of duties incumbent on a religious Jew who lends money to a fellow Jew, because in it interest is stipulated only in case the loan is not repaid by the end of the year.[7] It must be remembered, however, that in Greece and Rome, too, a strong antagonism against the taking of interest had for a long time been developing. Not only do we have the famous utterances of Plato, Aristotle, and Cato against usury, but many legislators were forced to release debtors from paying interest as well as their debts in the last pre-Christian centuries. Over and over again Roman rulers fixed the rate of interest and on several occasions forbade the taking of interest altogether. Loans without interest were common in all classes of pagan Ptolemaic and Roman Egypt. We have documents referring to this usage from Alexandria, from Upper Egypt, and from other parts of the Nile country. Whether, therefore, the form of the Tebtunis transaction 817 was prompted by Jewish influence, or by pagan custom, or by both, we can no longer tell.

II

The Mishnaic and Talmudic Period

It is, in all probability, an accident that we have no further documents of the kind mentioned, because the law against taking interest had not yet assumed such form as to altogether preclude inter-Jewish usurious transactions, and though, for instance, two passages in the New Testament advocate disinterested benevolence in favor of a needy borrower,[8] the parable of the ten talents in Matthew[9] seems

[7] The Greek term for "interest" is the ordinary *tokos*.
[8] Cf. *Matthew* 5:42, and *Luke* 6:34.
[9] 25:14-30.

to imply the general practice of charging interest in the case of commercial loans. Palestine, after all, was gradually and consciously adapting her traditional agricultural activities to Greek and Roman methods of trade and industry, and we know from contemporary non-Jewish records and from frequent references in the early halakhic Midrashim, the Mishnah, and the Gemara, that Jews were not only farmers, but also artisans, traders, workmen, sailors—and bankers, though it might be pointed out that the new Hebrew and Aramaic words for this profession, *shulhani* and *pethora'ah,* are literal translations from the Greek *trapetzites.*

Philo and Josephus, too, discuss the biblical laws on interest,[10] and their views are not without influence on the literature of the early Church fathers and, later, in the Renaissance, on the Italian Jewish humanist and physician, David de Pomi. Yet they remain, as it were, outside the pale. Not that they reveal a more universal outlook than some of the rabbis. These, too, echo the inner struggle for adjustment between *Binnen- und Aussenmoral*—or to give it a more Jewish formulation—between the God of Israel and the King of the Universe. But halakhists and aggadists alone—not least perhaps because of the language they used —get their hearing in Jewish religious law proper, and are discussed and developed from generation to generation. For some two millennia they have been the inner voice of Jacob. What have they to say?

An amazing statement opens the discussion. The tannaitic Midrash Sifre[11]—followed by a minority of eminent Jewish scholars of the Middle Ages and the Renaissance, among them Maimonides, Gersonides, Aaron Halevy of Barcelona, author of the *Sefer Hahinukh,* and Abarbanel —understands the deuteronomic *la-nokhri thashikh,* i.e., unto a foreigner thou *mayest* lend at interest, as a com-

[10] Philo, *De virtutibus,* VIII, ch. 14, 82, p. 210, ed. F. H. Colson, (London, 1939; Josephus, *Antiquities,* IV, 266, pp. 603 f., ed. H. St. J. Thackeray (London, 1934); cf. also J. Rosenthal, *op. cit.,* 1952, p. 477.

[11] Ed. M. Friedmann (Vienna, 1864), p. 121b.

mandment, as a *mitzvath ʿaseh,* i.e., thou *shalt* lend at interest to a foreigner. I am, of course, aware that this Sifre is not usually interpreted as a commandment, but as a permission, the inference being that a direct and indirect commandment would be transgressed if one lent money to a Jew at interest. We need not, however, discuss it here. It is possible that heavy oppression under Roman rule in the first part of the second century—Rabbi Akiba is closely connected with the revolt of Bar Kochba against the Romans—and the editing of the Sifre—led to such an interpretation; all the more so as the imperfect tense used in the Hebrew text may express command as well as permission.

The Mekhilta,[12] on the other hand, a contemporary tannaitic Midrash on Exodus, belonging to the school of Rabbi Ismael, holds quite a different view, and we can observe the Halakhah in the process of groping and growing. The biblical verse to which it refers runs as follows: "If thou lend money to my people, to the poor with thee, thou shalt not be to him as a creditor, and ye shall not lay interest upon him." The interpretation of the Mekhilta implies that interest-free money should be lent to Jews and Gentiles alike, though with the reservation, "that if an Israelite and a Gentile stand before you to borrow, my people [i.e., the Jews] should be given preference." As for inter-Jewish money lending, the Mekhilta still seems not to generalize the law against taking interest from a fellow Jew.[13] It stresses the word *heʿani,* i.e., the poor in the context of the biblical verse, "to the poor with you you should not be as a hard creditor, but you may be so to the rich." From the third century onwards, the law against taking interest from a fellow Jew was applied to anybody, rich or poor.

The Mekhilta adds further interpretations to the biblical exhortations, which form the basis for later halakhic discussions and decisions. On the beginning of the verse, "If you lend money," the Mekhilta says, "You may lend

[12] Ed. J. Z. Lauterbach, III (Philadelphia, 1935), 148.

[13] It must be added, however, that Lauterbach's text of this passage is doubtful.

him money on the condition that he repay you money, but you may not lend him produce on the condition that he return produce to you." And again, "You may lend him money on condition that he repay you money, but you may neither lend him money on condition that he repay you in produce, nor produce on condition that he repay you in money." The reason for what may be termed a gloss on the biblical verse is obvious: the price of the produce, at the time when it is returned, may have gone up. The transaction would thus involve some form of interest.[14]

The Mekhilta further denounces five people as each guilty of five transgressions if they participate in one way or another in charging interest. We need not recount the five transgressions here, but the five people—the lender, the borrower, the guarantor, the witnesses, and the notary—are of special interest because Ambrose, a Church father of the early fifth century, also holds both the borrower and lender guilty of the offense of usury.[15] Islamic tradition—again not the Koran itself—is even more closely related to, and dependent on, Jewish rulings. It curses him who feeds on usury, the borrower, the scribe of the deed, and the witness to it.[16]

The Mekhilta on our verse in Exodus ends with a homiletic statement. Rabbi Meir, a disciple of Rabbi Akiba, says: "He who lends on interest, saying to the scribe, come and write, and to the witnesses, come and sign, has no share in Him who decreed against taking interest."[17] Similar denunciations of usury, which may or may not stand in a legal context, occur frequently in contemporary or later aggadic and halakhic Midrashim, such as *Sifra, Tanhuma,* and the *Rabboth,* in the *Mishnah, Toseftoth, and Baraitoth,* and, of course, in the two *Talmudim.*

[14] For similar Islamic traditions cf. A. J. Qureshi, *Islam and the Theory of Interest* (Lahore, 1946), p. 73.

[15] Cf. F. X. Funk, "Zur Geschichte des Wucherstreites," in *Festschrift A. Schäffle* (Tübingen, 1901), p. 262.

[16] Cf. Qureshi, *op. cit.,* p. 47.

[17] Cf. a similar *Baraitha,* handed down in the name of Rabbi Meir's colleague, Rabbi Jose b. Halafta, in *Babha Metzia* 71a, and Yer. *Babha Metzia* 10d. For a learned discussion on our problem in this period, cf. A. Büchler, *Der Galiläische Am ha'Ares* (Vienna, 1906), pp. 237-254.

Transgressors against the evergrowing injunctions are called robbers[18] and murderers.[19] They are likened to those that rear pigs and are described as denying the fundamental tenets of the Jewish faith.[20] One should rather sell one's daughter than lend at interest,[21] the taking of which is compared to the bite of a serpent;[22] usury leads to the handing over of property to foreign overlords;[23] or, in a more positive formulation, a Jew who lends without charging interest is to be regarded as having fulfilled all the commandments.[24] The frequency of such utterances implies, of course, the frequency of offenses and growing economic unrest.

It is to be stressed, however, against the apologetic tendencies of almost all Jewish scholars, that such views refer to inter-Jewish transactions only, unless the Gentile is especially included in the prohibition. The mere expression *'afilu ribbith degoy*,[25] i.e., even interest from a non-Jew, implies that where equality between Jew and non-Jew is postulated, the difference between them is still clearly felt.

There would, indeed, be rich reward for further detailed inquiry into the development of the inter-Jewish legislation on the question of interest. We have, for example, in these early centuries discussions, but as yet no decisions, as to whether paid interest, fixed or unfixed, can be taken back for the debtor by the judges. Even the loss of the principal may be involved as a deterrent.[26] We have references to *Shtaroth*, on which interest was specified.[27] The necessity of rescinding these documents is proposed, in order to free

[18] *Mekhilta des R. Simon*, ed. D. Hoffmann (Frankfurt, 1905), p. 152, 26; *Babha Kama* 94b, and *Babha Metzia* 42a.

[19] Cf. *Babha Metzia* 61b.

[20] Cf. *Tanhuma, Hukkath* (ed. S. Buber, Wilna, 1885), p. 115; *Tosefta, Babha Metzia*, 6.

[21] Cf. *Kiddushin*, 20a.

[22] Cf. *Shemoth Rabbah*, section 31, p. 114a (ed. Amsterdam, 1777).

[23] Cf. *Sukka* 29ab, *Babha Metzia* 70b, and W. Bacher, *Die Agada der Palästinensischen Amoräer*, II (Strassburg, 1896), 269, notes 5, 6.

[24] Cf. *Shemoth Rabbah*, section 31.

[25] E.g., in *Makkoth* 24a and *Sanhedrin* 25b.

[26] Cf. *Tosefta, Babha Metzia*, ch. 5; *Babha Metzia* 61b, 62a, 72a.

[27] Cf. *Babha Metzia* 72a.

the borrower from his obligations.[28] We also learn that moneylenders were declared unfit to be witnesses.[29] Since we are, however, mainly concerned with the history of group relationships between Jew and Gentile as expressed in halakhic literature, we must devote our attention to this special aspect. Even here we meet with an amazing variety of traditions.

The *Mishnah, Babha Metzia,* V.6, says quite plainly that one may lend to and borrow from Gentiles at interest. In the discussion of the Gemara on this Mishnah the following sentence is quoted from Proverbs 28:8: "He that augmenteth his substance by interest and increase, gathereth it for him that is gracious to the poor." The Gemara refers the second part of this verse, "gathereth it for him that is gracious to the poor," to Shabhur I (241-272), a Persian king, who, perhaps because of his continuous fights with the Romans, befriended the Jews of his country. It is known, for instance, that Samuel, who formulated the famous principle, "*Dina dhemalkhuta dhina,*" i.e., the law of the kingdom is law, enjoyed his special favor. The Gemara then continues with a statement in the name of a Babylonian Amora of the end of the third century, Rabh Huna, who holds that the beginning of the verse in Proverbs, "He that augmenteth his substance by interest," refers to a Jew who takes interest even from a non-Jew. Rabh Huna thus objects to taking interest from anybody. The fact, incidentally, that this view is challenged, though not quite refuted, by Rabha on the ground of the deuteronomic law and the very Mishnah which precedes the Gemara, is again ignored by all scholars who deal with the subject.

Rabbi Isaac Nappaha, a Palestinian Amora of the early fourth century, refers our verse in Proverbs to a Jew who lends money to another Jew at interest. He collects his illicit gain only to hand it over to wicked Esau, i.e., Rome, who ultimately gets hold of it to distribute it to the poor, like the harlot who shares the rewards of her profession with the

[28] Cf. *Sanhedrin* 25b.

[29] Cf. *Mishnah Sanhedrin* III, 3; *Mishnah Rosh ha-shanah* I, 8; *Mishnah Shebhuoth,* VII, 4.

sick.[30] Unquestionably, the economic and political pressure of Rome has here shaped the rabbi's opinion. It is a challenging answer to the earlier view of Rabh Huna. Yet one must beware of generalizations about the attitude of Babylonian Jewry, on the one hand, and Palestinian Jewry, on the other.[31]

A Palestinian Midrash with an equally hostile attitude towards Rome comes from the same school and is ascribed in *Koheleth Rabbah* to Rabbi Levi, the famous contemporary of Rabbi Isaac and like him a disciple of Rabbi Johanan,[32] and in *Bereshith Rabbah*[33] to Rabh Abhun, another Palestinian Amora of the fourth century. We are told that a master once taught his pupil not to lend at interest while he was doing so himself. When asked by the pupil about the discrepancy between his theory and his practice, the teacher answered that the prohibition refers only to interest charges to Israelites but not to Gentiles.

A further example of the fluctuating state of relations prevailing between Jews and Gentiles is the passage quoted above from the Mekhilta on Exodus. Money should be lent to Jew and Gentile alike with the reservation that Jews must be given preference. The same Gemara, which began with Rabh Huna's almost universalistic attitude, continues by questioning the exegesis of the Mekhilta: "Is it not obvious that Jews come first?" Whereupon Rabh Nahman concludes the discussion in the name of the same Rabh Huna. "Even if a Jew has an opportunity to lend money to a Gentile at interest, a Jew in need of money, who need not pay the lender interest, must be given preference."[34] The second tradition on Rabh Huna's opinion is, of course, very different

[30] Cf. *Tanhuma, Re'eh,* p. 11, and Buber's references to parallel passages.

[31] Jehudah Rosenthal, *op. cit.*, pp. 480 ff., overlooks the changing position in Babylonia itself, and the different views held on the subject by Babylonian authors. Cf. *Babha Metzia* 70 b f.

[32] On *Ecclesiastes* 8:4.

[33] Section 55, cf. W. Bacher, *Agada der palästinensischen Amoräer,* III (Strassburg, 1899), 430.

[34] Cf. also *Tanhuma, Mishpatim,* p. 43.

from the first, a fact well observed by later rabbinic authorities.[35]

Yet the authority of Rabh Huna's first view, according to which the Jew may lend money to the non-Jew only if it is economically necessary, is taken seriously. In contrast, again, to current apologetic views, the reason for this decision is not based on an ethical principle, but rather on religious self-protection: the Jew might adopt evil practices, *shema yilmadh mi-maasav,* hence he should reduce his contact with the Gentile world to a minimum. There was at the time neither desire nor need to specialize in money-lending, as Jews still had access to practically all pursuits, including agriculture. The Jewish scholar, the *talmidh hakham,* on the other hand, is allowed to take interest from Gentiles even when there is no economic necessity, because he would not be influenced by alien practices. It is likely that this concession to the scholar was also made to enable him to pursue his studies without laboring too hard for his livelihood. It may be mentioned, incidentally, that Christian development followed the opposite course. In the early Christian centuries usury, even inter-Christian usury, was forbidden only to the clergy, later to every member of the Church. In Jewish Law, the permission given to the scholar was eventually extended to the ordinary layman, first without, then with, authoritative sanction.

In the Gemara in *Makkoth,* a homiletic statement is found, as is often the case at the end of tractates. This shows the attempt to do away entirely with the distinction between "tribal brotherhood" and "universal otherhood." Economic difficulties are disregarded, only religious values of a universal order are stressed. The words of the psalmist, "Oh Lord, who shall sojourn in thy tabernacle? . . . He that putteth not out his money on interest," are applied only to him who refrains from taking interest from Jew and Gentile alike.[36]

[35] Cf., e.g., Rabbenu Tam in *Tosafoth* on *Babha Metzia* 70b, s. v. *tashikh.*

[36] In this passage, too, a literal translation would have to include the word "even" before Gentile. It is interesting that Rashi, who witnessed the

There is one more aspect regarding moneylending at interest in talmudic literature, which calls for attention: the regulations against the employment of a non-Jewish intermediary, a device resorted to apparently in order to make inter-Jewish usurious transactions possible. A number of tannaitic traditions related in both Talmudim and in the Tosefta on *Babha Metzia* have a bearing on the subject, though some of them leave certain loopholes for circumvention of the biblical injunctions.[37] This intermediary Gentile played a very considerable part in the formulation of Anglo-Jewish mediaeval *Shtaroth.* The practice of Jewish money-lending among pre-expulsion Anglo-Jewry can, in fact, be understood only against the background of these early tannaitic traditions.

The problem has a history in pre-mishnaic times as well—not in Jewish, but in Roman law. It was mentioned before that the class struggle in pre-Christian Rome brought about various anti-usury laws. Nevertheless, money was needed, and Livy[38] tells us that at the beginning of the second century B.C. creditors had found a device (*fraus*) for collecting interest by transferring the ownership of accounts to citizens of allied states, who thus became the real or fictitious lenders without being subject to internal Roman legislation. But Sempronius made the Roman Code obligatory for all, citizens and allies alike, thus favoring the debtors who were overwhelmed with unrestricted charges.

The Jewish laws have had the same tendency, even if they did not succeed in suppressing such evasive tactics

disastrous consequences of the first crusade for the European Jewish communities, tried to harmonize the reasoning of the Gemara in *Babha Metzia* and that of the Gemara in *Makkoth* by explaining the latter in such a way as to imply that the lending of money at interest by Jews to Gentiles might bring about inter-Jewish moneylending at interest. Such interpretation hardly fits the context of our passage in *Makkoth.* Here, Christian scholars of the Middle Ages, like Nicholas de Lyra (1265-1349) in his commentary on Deuteronomy 23:20 f., were right to claim the Gemara in *Makkoth* for its more universal tendencies, even if their own theories did not entitle them to describe universal love as the distinguishing mark of their religion.

[37] Cf. *Babha Metzia,* 71 b. f. and *Yerushalmi, Babha Metzia,* 10 c, *Tosefta Babhia Metzia,* ch. V.

[38] Ed. E. T. Sage, X (Cambridge, Mass., 1935), 18.

altogether. That these were current is evident not only from the various *Halakhoth,* but also from the following homiletic statement which comes from the Gemara in *Babha Metzia,* 61 b. Kabha said: "Why did the All-Merciful mention the exodus from Egypt in connection with the law on usury? . . . The Holy One, blessed be He, answered: I, Who distinguished between the first born and those who were not first born in Egypt, shall in future punish him who hangs his money on a Gentile, and lends it at interest to a Jew." James Parkes refers to similar evasions by mediaeval Christian usurers, who, observing the canonical prohibitions for themselves, placed their funds at the disposal of Jews and collected the profits from them.[39]

III

The Geonic Period

Turning to the geonic period, which lasted from about the seventh to the eleventh century, Jewish life at that time had its main autonomous center in Babylonia. There the decisions of the Geonim were on the whole binding with respect to all questions on ritual and civil law that arose in Babylonia as well as in the remotest communities of Europe and Africa, until the western centers became independent of the East. There are ample records of the manifold activities of the Jews in the new Islamic world, which transformed most of the provinces of the Byzantine Empire, all of Persia, and many adjoining provinces of India, North Africa, and Western Europe into a vast flourishing realm.[40] They were artisans, builders, armorers, and merchants. Even Wellhausen, in an otherwise anti-Jewish statement, concedes that they were the teachers of the Arabs in agriculture and horticulture.[41] Yet the Koran is the first source that accuses

[39] *The Conflict of the Church and the Synagogue* (London, 1934), p. 347.

[40] Cf. S. W. Baron, *A Social and Religious History of the Jews,* I (New York, 1937), 307 f.

[41] J. Wellhausen, *Skizzen und Vorarbeiten,* IV, Medina vor dem Islam (Berlin 1899), pp. 13 f.

the Jews of usury.[42] Nowhere in the Graeco-Roman world had they been reproached for charging interest, and even in Christian sources of the tenth century they were identified only with *mercatores* and not with *usurarii*.[43] The special stress laid by Mohammed on the prohibition of all usurious activities may have led him to attack Jewish practices, which stood in the way of his thoroughgoing economic reforms among his adherents. Contemporary rabbinic literature, on the other hand, offers little original material on the subject. Halakhic compendia, like the *Halakhoth Pesukoth* of the eighth century, ascribed to Rabbi Jehudai Gaon, or the *Halakhoth Gedholoth* of the ninth century by Rabbi Shimon Kayara, merely repeat previous rulings and try to classify them. Rosenthal's attempt to trace a further development in the direction of a universal prohibition against usury under Islamic influence is not always convincing: it is based on a spurious and not understandable text, which is not incorporated in the latest critical edition and, in the case of *Halakhoth Gedholoth*, on an *argumentum ex silentio*.[44]

There is, however, one responsum by Rabh Amram Gaon of the ninth century, in which he goes beyond the view of Rabh Huna discussed above. According to Rabh Huna, a Jew may take interest, even fixed interest, from a non-Jew, if it is economically necessary. Rabh Amram forbids this as well, permitting only unfixed interest, such as would come about in a credit transaction involving the exchange of money and fruit, discussed in the *Mekhilta*. Rabh Amram adds that the Muslims, too, allow this according to their law.[45] This can hardly be a reference to inter-Muslim law, because such transactions would be forbidden

[42] Cf. *Koran*, IV, 160 f. For further references in Arabic literature, cf. R. Leszinsky, *Die Juden in Arabien zur Zeit Mohammeds* (Berlin, 1910), p. 17.

[43] Cf. R. Straus, "The Jews in the Economic Evolution of Central Europe," *Jewish Social Studies*, III (1941), 20.

[44] Cf. Rosenthal, *op. cit.*, p. 482; but see his reference to the views of R. Hanan'el.

[45] Cf. *Sha'are Tzedhek* (Salonica, 1792), p. 40a; J. Z. Lauterbach, "The Attitude of the Jew Towards the non-Jew," in *Central Conference of American Rabbis, Yearbook*, XXXI (1921), 232.

there as well,[46] but must be to Islamic law vis-à-vis aliens or to the local practice of contemporary Muslim courts.

Be that as it may, this is a fine example of rabbinic struggle for true equality before the law among the nations. Rabh Amram's further observation, that the scholar should not charge even unfixed interest, is in strange contradiction to the Gemara in *Babha Metzia* 71a, where he is given full permission to take interest from a non-Jew.

A little later, apparently in the tenth century, an anonymous questioner asked whether a Jew who takes interest from a non-Jew should be excommunicated. The answer, also anonymous, is quite different from that of Rabh Amram. "We see," it says, "that to take interest from a non-Jew is a small matter, and one cannot excommunicate a transgressor because the All-Merciful has never forbidden the charging of interest to the non-Jew. . . . The Mishnah, too, informs us that one may borrow from them and lend to them at interest. If one is strict, however, one should refrain from doing so." Without open reference to changes in economic conditions, the observance of an amoraic extension of the law is left to the pious. The biblical and mishnaic injunctions come to the fore again. There is an echo, perhaps, in this responsum of the activity of Jewish court bankers of the early tenth century in the Abassid Caliphate or a little later in the Fatimid Caliphate of Egypt and Syria.[47]

IV

The Rabbinic Period

A. HALAKHAH

Meanwhile the center of Jewish life shifted towards Europe. The great academies of Babylonia were gradually replaced by famous schools in France, Germany, and Spain.

[46] Cf. Qureshi, *op. cit.*, p. 73.

[47] Cf. L. Massignon, "L'influence de l'Islam au Moyen Age sur la fondation et l'essor des banques juives," in *Bulletin d'Etudes Orientales* (1931), 4 ff.

The final dissolution of the Caliphate, and what seemed to be the rising and vigorous civilization of the West, gave direction to the course of Jewish history. Competent monographs on the various European countries and general histories contain detailed accounts of what is general and what is specific in their fate. Two common factors, however, stand out and are closely interwoven: the progressive Christianization of Europe with its concomitant anti-Jewish legislation and the development of the feudal system with its demand for a Chrisian oath on the acquisition of land. Both trends brought about an alienation of the Jew from the soil. He who possessed land possessed power. And the Church insisted that infidels should have no power over Christians. Hence, the Jews were to be shut off from ownership of most available land. The clerical forces, moreover, desired to safeguard their tithes, which might have been lost through Jewish ownership of land.

Yet again one must beware of generalizations, for even in countries like Spain and Italy, where Jewish urbanization took place much less rapidly than, say, in England and Germany, it appears on closer study of the sources that the Jews themselves, together with many people in whose midst they lived, no longer desired close contact with the soil. Their constant migrations were hardly conducive to such an attainment. Their religious requirements, too, as well, perhaps, as security considerations, demanded closely knit communities in towns rather than scattered settlements in the country. There were, it is true, some German-Jewish moralists in the circle of Rabbi Samuel Hehasidh, his son Yehudah, and R. Eleazar of Worms, who viewed the new economic development towards finance and moneylending with anxiety and disfavor.[48] According to them one should not charge interest to Gentiles if one can make a living from the fields, though they do not venture to state this in terms of a legal prohibition.[49] It seems, however, as though they no longer

[48] Cf. Fritz Baer's stimulating analysis of the religious and social tendencies of the *Sefer Hasidhim*, *Zion*, III (1938), pp. 30 f., 37-39.

[49] Cf. Moses Hoffmann, *Der Geldhandel der deutschen Juden während des*

reflect the feelings of the masses and even of most of the outstanding rabbinic leaders of the time, who tried with great vigor to facilitate rather than to impede the new activities. If an *argumentum ex silentio* is permissible, one might even say that the German *Hasidim* deliberately ignored the "progressive" views of their learned contemporaries. It can hardly be assumed that they were unaware of the decisions of such famous authorities as R. Tam. There were, in fact, in the thirteenth century French and English governmental attempts to bring the Jews back to the land, but they were not, or could no longer be heeded. Special permission, backed by ancient tradition, was given by the rabbis to sell fields to non-Jews.[50] The Jews took pride in, and sometimes boasted of, their acquired abilities as promoters of commerce, trade, and industry, and as providers of money for the building of magnificent fortified cities and abbeys.[51]

Similarly, it might perhaps be said that the Jews chose the ghetto of their own free will before they were compelled to live in it, or—with signs in the opposite direction—that they fought for assimilation before it was suggested to them by European liberals. Cecil Roth, on the other hand, concluded his recent authoritative book on the intellectual abilities of mediaeval English Jewry with the following words: "These men were usurers from compulsion, they were scholars by taste." Such an evaluation can hardly be maintained without reservations in the light of the rabbinic literature of these critical centuries. Had the Jews been compelled, for instance, to make any concessions to the ruling faith or to desecrate the Sabbath or even the dietary laws, they would have left England long before they were driven out. And had such conditions been made on their arrival at these shores, they would never have come. It is

Mittelalters (Leipzig, 1910), p. 77; *Sefer Hasidhim*, ed. J. Wistinetzki, secs. 133, 808; ed. Bologna (1538), p. 144.

[50] Cf. R. Eliezer b. Nathan, *Sefer Ebhen ha 'ezer* (Prague, 1610), p. 55d, 290.

[51] Cf. Cecil Roth, *A Short History of the Jewish People* (London, 1948), pp. 206 f.

true that they complained more and more about the shrinking opportunities to support themselves, but they did not consider a return to the land. Only a few cut the Gordian knot of their anomalous religious and economic existence by a revolutionary step: In 1211, 300 rabbis from France and England immigrated to Palestine.

The often quoted responsum of the French eleventh century scholar Joseph ben Samuel Tov Elem (Bon Fils) leads right into our problem. Barter as a form of exchange was gradually falling into disuse. Yet taxes, for which the community was responsible to the government, were still distributed evenly among the Jewish owners of fields and among merchants and traders. Rabbi Joseph Bon Fils is here asked whether, under changing conditions, this practice should be continued. Leah, the questioner, points out that she is assessed both for the ground she holds and for the crop it yields, as though it were principal and interest. The vineyard requires expenditures and hard labor; in addition, the rulers of the land take their share from it. Sometimes there is a poor harvest, sometimes it is burned or destroyed. In contrast, money lent on interest is profitable, because the pledge of the borrower remains in the hands of the lender and the principal increases without effort or expense. Other forms of business, too, yield more than agricultural labor. Rabbi Joseph Tov Elem agrees with the arguments of Leah against those who wish to assess her.[52] Though his responsum may be interpreted as favoring agricultural labor, financial transactions of the type described are taken for granted.

Somewhat later, efforts were made by the leading rabbis to come to terms with economic necessity, or at least to find an excuse for transgressions from the norm. But such efforts were often merely *halakhoth le'aḥar ha-ma'aseh,* i.e., authoritative decisions *after* certain practices had established themselves. For instance, there is a rule given by Samuel in the *Gemarah Ab'odhah Zarah,* 2b: "In the diaspora one must

[52] Cf. a quotation in R. Meir of Rothenburg's Responsa, ed. Bloch (Budapest, 1895), No. 941.

not do any business with idolators on the day of their festival." In Rashi's time, Christians were still considered idolators.[53] Even towards the end of the twelfth and in the thirteenth centuries, their status was under discussion: Only with difficulty could the Jews refrain from dealing with Gentiles on Sundays and Christian holy days, especially as business could not be transacted on the Sabbath. Though the passage does not deal directly with the charging of interest to Gentiles, Rashi makes a remark on it which illuminates the group relationships that prevailed between Jews and Christians in his time. "We cannot," he says, "maintain ourselves unless we do business with them, because we live amongst Gentiles and our maintenance comes from or through them, and also out of fear."

In Rashi's responsa on the question of interest charged by Jews to Gentiles, he also takes such transactions for granted.[54] In one case he even allows a Jew to take interest from another Jew through a Jewish intermediary, for the Torah only forbids direct loans from Jew to Jew at interest. A proxy does not take the interest for himself, and though he would be the moneylender's legal representative, the moneylender could not be held responsible, because there is a general rule according to which one cannot be guilty if the actual transgression has been committed by someone else: *'en shaliaḥ lidhebhar 'abherah.* It is significant, however, that Rashi adds that the decision should not be publicized.[55] As far as I can ascertain, we have, apart from one document, no *Shtaroth* whose contents appear to make use of Rashi's daring interpretation; this document is mentioned by Mordecai ben Hillel, a disciple of R. Meir of Rothenburg, and ascribed without comment to Rabbi Jacob of Orléans, who was killed during the pogrom in London in 1189.[56] It is also known

[53] Cf. Baer in Jubilee Volume for J. N. Epstein, *Tarbiz,* XX (1949-50), 320, n. 1, and 325 ff.

[54] See Index under *ribbith* in I. Elfenbein, *Teshubhoth Rashi* (New York, 1943).

[55] Cf. Elfenbein, *op. cit.,* pp. 198 f.

[56] Cf. *Haghahoth Mordecai* on *Babha Metzia,* p. 173b., 630. The decision of Jacob of Orléans differs from that of Rashi in that it bases its allowance

that the question whether one Jew may borrow from another Jew at interest was once put to the London Beth Din.[57] The answer has not been handed down to us.

Regarding a non-Jewish proxy, Rashi still held strict views, which were in accordance with tannaitic and amoraic traditions.[58] Only Rabbenu Tam, Rashi's grandson, found it possible to decide that a Jew may borrow from another Jew by sending a pledge through a Gentile.[59] The Jewish lender may accept the pledge from a Gentile and give the money to him or even to the Jewish borrower. But while doing so he must say to him: "I lend to you in behalf of the Gentile." The lender must not rely on the borrower, but only on the pledge. The borrower, on the other hand, has nothing to do with the pledge; if it should be lost, he would have no dealings with the lender, who only received it from the Gentile.

Mediaeval responsa deal with many similar cases which cannot be enumerated here. Sometimes they allow, sometimes they forbid, circumventions of this type.[60] It is clear, however, that rabbinic legislation opened, or better, cleared a path, for practically every variety of Gentile-Jewish and even inter-Jewish money transaction. The authority and energy of Rabbenu Tam carried great weight with his contemporaries and successors. He was so certain of the correctness of his opinion that he could say: "It is a special commandment a *mitzvah min ha-mubhhar* and perfectly legal to give maintenance to all sons of the covenant, and it is permitted to lend on interest in the way described."[61] Elsewhere in *Tosafoth* on *Babha Metzia,* 70b, he defends his deviation from previous practice in a detailed manner, re-

of inter-Jewish moneylending at interest on the assumption of a gift made by the borrower to the lender. A Spanish talmudist of the fifteenth century, Joseph ibn Habhibh, in an additional note declared such circumvention invalid.

[57] Cf. Th. Madox, *History and Antiquities of the Exchequer,* I (London, 1769), 244 and note.

[58] Cf. Rashi on *Babha Metzi'a,* 71b.

[59] Cf. *Tosafath, ad locum; Responsa of Meir of Rothenburg* (ed. Prague, 1608), p. 106b.

[60] Cf. Hoffmann, *op. cit.,* pp. 32-78; also the views of R. Moshe b. Todros and Abraham ben Isac of Narbonne as quoted by Rosenthal, *op. cit.,* p. 485.

[61] Cf. *Responsa of Meir of Rothenburg,* ed. Bloch (Budapest, 1895), 796.

ferring clearly to contemporary conditions, and goes beyond the more general statement of Rashi. "Today," he says, "people usually lend money at interest to Gentiles, and we decide leniently in the case of a rabbinic ordinance . . . because we have to pay taxes to the king and princes and everything is *Kedhe ḥayyenu,* i.e., to sutsain us; we live amongst the nations, and it is impossible for us to earn a living unless we deal with them. It is therefore no more forbidden to lend at interest because one might learn from their deeds, than it is to engage in any other business." This remark is followed by a strange refutation of a theory according to which the Noachides were already warned against usury. There is no need here to recount the aggadic statement to which he refers,[62] and the halakhic bypaths through which he leads us. It seems likely, however, that this is the first polemic utterance against Christian views regarding the taking of interest.

In the thirteenth century scholastic exegesis added philosophical objections to their own traditions against the taking of interest. Nicholas de Lyra, for example, in his Commentary on Deuteronomy, 23:20f., mentions Aristotle's *Ethics* in support of the Canon laws: "*Et etiam philosophus dicit, quod* [*usura*] *est contra naturam.*" In later centuries, the laws of Nature were generally identified with the Noachide laws. Though Christian authors of the twelfth century quoting Aristotle in their favor, could not be found, it looks as if Rabbenu Tam here answers a question that was put to him from outside his circle rather than from within it. Some references to Christian exegesis in contemporary Jewish literature and the knowledge of Jewish exegesis available in the schools of Chartres increase the likelihood of such a proposition.

Moses Hoffmann quotes a number of European authorities of the thirteenth century, who followed in the foot-

[62] It can not be found in the printed edition of our *Targum Yerushalmi* on Exodus 13-17, but the version Rabbenu Tam had in mind occurs in *Pirke de R. Eliezer,* ed. G. Friedlander (London, 1916), sec. 33. Cf. also Nahmanides on Genesis 34:13.

steps of Rabbenu Tam, used his arguments and almost his very words: Rabbi Isaac ben Samuel of Dampierre, Rabbi Eliezer ben Joel Halevy, Rabbi Eliezer bar Nathan, Rabbi Isaac Or Zarua of Vienna, and Rabbi Meir of Rothenburg.[63]

Even Spanish scholars of the period, who were not faced with the economic difficulties of their German, English, and French brethren, decided that one may take interest from Gentiles. Maimonides permits it if it is economically necessary, basing himself on the first opinion of Rabh Huna, though regarding the law in Deuteronomy against the alien as a positive commandment.[64] Naḥmanides recommends refraining from lending money at interest to Gentiles but makes no halakhic reservations.[65] Significantly, neither of them adds any remarks which could be interpreted as springing from contemporary restrictions on the professional activities of the Jews. That they were nevertheless increasingly engaged in money-lending is no contradiction. In Toledo, for instance, during the twelfth and the thirteenth centuries no less than 54 documents in Arabic (of 1175 published) speak of Jewish creditors and only three of Jewish debtors.[66]

Rabbi Solomon ben Adreth (1235-1310) quotes Naḥmanides and adds that nowadays everyone considers himself a scholar, implying, of course, that everyone is taking interest from Gentiles beyond the minimum rate.[67]

There is one more point in the halakhic discussions of the twelfth and thirteenth centuries which requires our attention. It is the first mishnaic injunction in *Abhodhah Zarah,* according to which one must not take interest from, nor give interest to, Gentiles on the three days preceding their holidays, one of the implications of the prohibition

[63] *Geldhandel der deutschen Juden,* pp. 76 ff.

[64] *Hilkhoth Malveh ve-loveh,* V.

[65] See *Novellae* of Nahmanides on *Babha Metzia, ad locum,* as quoted by Rosenthal, *op. cit.,* p. 488, n. 55, 56, and the relevant passages in his *Commentary on the Pentateuch.* Like Rashi, Moses of Coucy, and Abraham ben David of Posquières. however, he does not consider the deuteronomic law against the alien as a positive commandment.

[66] Cf. S. W. Baron, *op. cit.,* II, pp. 15 f.

[67] Cf. Rosenthal, *op. cit.,* p. 488.

being that Gentiles might use the money thus obtained for idolatrous purposes. The passage itself refers, of course, to pagan times, but it has to be interpreted in the light of contemporary conditions. What could the rabbis do? Rashi's opinion on the general aspect of the problem was referred to above. He was already faced with the fact that people ignored this particular law. The Tosaphists have long arguments on the subject. They, too, and even more so than in previous generations, see themselves confronted with the fact that the Jews now do business with Gentiles even *on* their holidays, let alone three days before them. Are they idolators or not? Among the Tosaphists[68] the matter is not yet decided on principle. Some put forward an ancient tradition from talmudic times, according to which Gentiles outside Palestine are not to be considered idolators, because they only observe the custom of their fathers. Others, likewise referring to talmudic precedent, maintain that they have to keep up neighborly relations because enmity might otherwise ensue.[69] Rabbi Elḥanan ben Isaac, a French Tosaphist of the twelfth century, explains that sacrifices connected with pagan idolatry are no longer offered, consecrated wafers being the only thing people could buy with the money they get from the Jews. Rabbenu Tam again makes a remarkable statement. "The Mishnah," he says, "can refer only to interest-free loans, but moneylending at interest is to be permitted because the borrower suffers a good deal from it."[70] Similarly, Rabbi Eliezer ben Nathan says that formerly it was forbidden to do business with idolators who were on their way to a holy shrine; on their return it was permitted. "But we deal with them even when

[68] On *Abhodhah Zarah*, 2a.

[69] Nahmanides on *Abhodhah Zarah*, 13a, holds a similar view, though he expresses his surprise at the fact that people simply ignore the mishnaic injunction; cf. J. Katz, "Sobhlanuth dathith beshitatho shel R. Menahem Ha-Me'iri behalákhah ubhefilosofiyyah," *Zion*, XVIII (1953), 18 f. n. 15.

[70] The same theory, that moneylending at interest leads to the impoverishment of the borrower, is expressed in the uncensored *Tosafoth* on *Babha Metzia* 70, b, s. v. *tashik;* cf. also the independent edition, *R. Elchanan b. Isaac's Tosafoth zum Tractat Aboda Sarah*, by D. Frankel (Husiatyn, 1901), p. 2.

they are on their way to the shrine, because otherwise it would cause enmity, and business is necessary for our support. The pilgrimage is, moreover, merely a custom handed down to them by their fathers."

It must be pointed out that, following an ancient talmudic rule applied to pagans of old, references to Christians and Christianity are almost always derogatory. Christian saints, for instance, are referred to as *kedeshim,* hierodules, Christian priests as *gallahim,* the shorn ones. This is of special importance for the text of some English *Shtaroth* to be discussed at the end of this essay.

Only one scholar systematically refrains from all attacks on Christianity: Menachem ben Solomon Me'iri, who lived in Provence in the thirteenth century, and who combined great talmudic scholarship with considerable scientific knowledge. Whereas Maimonides considered all Christians idolators,[71] Meiri coined a special phrase for the great denominations of mankind, *'umoth ha-gedhuroth bedharkhe ha-dathoth,* nations included in or embraced by the paths of religion. Though the thirteenth century is generally thought of as a Renaissance before the Renaissance and reveals in its secular literature many indications of growing tolerance,[72] Meiri is, I think, the first theologian to express himself in such terms. His approach to our problem is therefore doubly significant. "In our days," he says, "no one cares about refraining from business dealings with and loans to Gentiles even *on* their festivals. Not a Gaon, not a rabbi, not a scholar, not a pupil, not a *Ḥasidh,* and not one who pretends to be a *Ḥasidh.* All these laws refer only to real idolators and their images, but all transactions with Christians are perfectly legal."[72a]

This seems to be the conclusion of a remarkable development. Pre-supposing simple agricultural conditions, the

[71] Cf. e.f., Joseph Wiener, *Maimonides' Commentar zum Tractat Abodah Zara Mischnah* 3 *und* 4 (Berlin, 1895).

[72] Cf. the author's *Die Ungläubigen in der mittelhochdeutschen Literatur von* 1050-1250 (Berlin, 1933), p. 75; T. W. Lampen, "Alexander v. Hales und der Antisemitismus." in *Franziskanische Studien,* XVI (1929), p. 9.

biblical commandments did not go beyond general exhortations, differentiating clearly, however, between the Israelite and the alien. Early halakhic Midrashim, Mishnah, Baraitha, and Tosefta developed many laws regulating all details of inter-Jewish and Jewish-Gentile loan transactions, in general allowing the taking of interest from Gentiles and barring financial transactions only on certain pagan festivals. According to the Gemara in *Makhoth,* one should refrain from lending money at interest altogether. The Gemara in *Babha Metzia,* if properly analyzed, left the decision open, the first version restricting it to economic necessity, the second permitting it without restriction. A number of Palestinian amoraic sources go back to the mishnaic rulings and echo open hostility towards Rome. Some of the Geonim reduce the permission to a minimum, in all probability under the influence of the strong anti-usury legislation of Islam, which was itself modeled on earlier Jewisn traditions.

During these centuries most professions were open to and practiced by the Jews. From the eleventh century onwards, economic development shifted generally from agriculture and barter to trade, industry, guild-formation, and town-building. These Jews were gradually, though not in all countries and apparently not entirely against their will, excluded from active participation in the full development of the countries in which they lived. Notwithstanding some authorities, who viewed the new trends with anxiety, moneylending to Gentiles at interest became permissible generally, for layman and scholar alike, both before and on non-Jewish festivals and even on Jewish half-festivals.[73]

[72a] Cf. Katz, *loc. cit.,* pp. 18 Cf. also the statement which R. Yehiel of Paris made in 1240 in the course of a public disputation with the convert Nicholas Donin: "We maintain relations with you [Christians] which we would not be allowed to have with idolators. The [first] Mishnah [in *'Abhodhah Zarah*] says: 'Three days before their holidays one must not do any business with them.' Now, go through the Jewish streets, and you will see how much business Jews do with Christians even on their holidays." *Vikkuah Rabbenu Yehiel mi-Paris,* ed. by S. Grünbaum (Thorn, 1873), p 10. In contradistinction to the views of Meiri, those of R. Yehiel of Paris reflect the atmosphere of the disputation rather than genuine principles.

[73] Cf. the views of Mordecai ben Hillel, Isaac ben Samuel of Dampierre,

Occasionally, it was even considered a special commandment, a *mitzvah min ha-mubhhar*,[74] because it enabled the Jew to make a living.

B. BIBLICAL EXEGESIS AND POLEMICS

It will be remembered that the remark of Rabbenu Tam on usury and the Noachide laws appeared to have been prompted by apologetic and polemical considerations. In the exegetical literature of the Bible, there are at least four utterances belonging to our period and revealing their controversial nature quite clearly. The first one is early and is found in Kimḥi's Commentary on Psalm 15. Kimḥi lived between 1160 and 1235, in Narbonne. The second comes from Joseph b. Nathan ha-mekanne, a French rabbi of the early thirteenth century, who engaged in a number of disputations with Christian scholars. His comments on various passages of the Pentateuch include one on Deuteronomy 23:20 f.[75] The third is by a well-known disciple of Naḥmanides, Baḥya ben Asher of Saragossa. He flourished at the end of the thirteenth century, and his views are expressed in his Commentary on the same passage in Deuteronomy. The French philosopher Gersonides, born towards the end of the thirteenth century, must have written his Commentary on Deuteronomy in the first half of the fourteenth century. But his fame as a rabbinic scholar and scientist—some of his works were translated into Latin even during his lifetime—warrants his inclusion in this survey.

In Psalm 15:5 it is said: "Oh Lord, who shall sojourn in thy tabernacle? . . . He that putteth not out his money at interest." Since Jerome, this verse together with Ezekiel 18:8 had been used by Christian scholars to emphasize the

Rabbenu Tam, and Eliezer ben Samuel of Metz, as enumerated in Hoffmann, *op. cit.*, p. 81.

[74] Cf. *Responsa of Meir of Rothenburg*, ed. Bloch, sec. 796.

[75] Cf. Z. Kahn, "Sefer Joseph ha-mekanne," in *Festschrift Berliner* (Frankfurt, 1903), Hebrew Section, p. 89. Kahn's interpretation is apologetic and need not be considered here.

universal character of the prohibition against taking interest. Kimḥi has this to say: "David and Ezekiel forbade only what the Torah forbade, and the Torah forbade the charging of interest to the Israelite but permitted him to do so to the alien. . . . The Hebrew must not overreach or rob the alien or steal from him, but interest which he takes by full agreement [with the non-Jewish lender] is permitted. . . . The Jew is under no obligation . . . to lend to Gentiles without interest, because generally they hate the Jews. But if the Gentile is kind to the Jew, the Jew must certainly be kind and good to him. I have been rather long-winded," Kimḥi concludes, "but the reader should find an answer to the arguments put forward by Christians who maintain that David did not distinguish between an Israelite and a Gentile. . . ."[76] Joseph b. Nathan ha-mekanne, too, defends himself explicitly against Christian attacks on the Jewish laws on interest. He first uses Kimḥi's argument in somewhat modified form; he may or may not have been influenced by him: "There can be no difference between the law in Deuteronomy and Psalm 15:5 because David was [by way of tradition] a disciple of Moses and could not add to or detract from his words." He continues: "If the rebellious [Christians] say that they are our brothers, because it says, Thou shalt not abhor an Edomite[77] because he is thy brother [Deuteronomy, 23:8], Rabbi Moses of Paris[78] has answered already that Obadiah [the prophet] saw cause to annul this brotherly love by saying: 'Foreigners entered into his [Judah's] gates. Even thou wast one of them' (1:11). Obadiah was then addressing Edom. . . . Moreover, the term *nokhri,* i.e., alien, is clearly applied to non-

[76] Cf. the *Editio princeps* of 1477, the second ed., Naples, 1487, the first Bomberg edition of 1517, and the Salonica edition of 1522. All other editions are censored and even S. M. Schiller Szinessy's *First Book of Psalms with the Longer Commentary of Kimi* (Cambridge, 1883) contains comments which do not represent Kimhi's view.

[77] For the equation Edomite=Christian, see below.

[78] He belongs to the twelfth century, cf. H. Gross, *Gallia Judaica* (Paris, 1897), p. 513. This Rabbi Moses of Paris is also mentioned in English pre-expulsion records as a moneylender; cf. Joseph Jacobs, *The Jews of Angevin England* (London, 1893), p. 229.

Israelites, as can be seen from Judges 19:12. Hence there can be no objection to Jews taking interest from Gentiles, and there is nothing in it, i.e., in the Christian arguments. But you [Christians] lend money at high rates of interest, one measure for two [100 percent], and you draw out the time for the buyers of merchandise . . . and take reward for delayed payment."

Explicit reference to Christian exegesis is not made by Baḥya, but knowledge of it is surely implied. The relevant passage reads: "Now we are allowed to take interest from Gentiles in order to distinguish between our brothers, the sons of the covenant, and the other nations. . . . We should have no dealings with them to their advantage. . . . The Gemara in *Makkoth* merely applies to the pious. . . ." It must be realized that Christians knew of this passage in *Makkoth,* and made use of it in their polemics against the Jews, as can be seen from the commentary on Deuteronomy by Nicholas de Lyra of the early fourteenth century. "The *nokhri,* i.e., the alien [of the deuteronomic injunction]," Baḥya continues, "includes the sons of Esau, i.e., the Christians, and though it says in the story of Jacob and Esau: thus says thy *brother* Esau, such relationship has since been dissolved by the prophet Obadiah,"[79] whose references to Edom are known to us from the aforementioned R. Joseph b. Nathan ha-mekanne.

This is not the ordinary exegesis of a learned mediaeval rabbi, who knows how to use his quotations, but has its definite historical background in contemporary Christian-Jewish polemics. Ever since Jerome's Commentary on the Book of Obadiah, Christians have complained against the identification of Edom and Esau with Rome.

The most remarkable statement comes from Gersonides. In his Commentary on Deuteronomy 23:21 and in his summary thereon, he expresses the following views, which,

[79] Here, too, the *Editio princeps* must be consulted for a proper understanding of the fierce temper of the mediaeval Christian-Jewish controversy on the subject of usury.

from the context, must refer to Christians.[80] ". . . He commanded us[81] to lend money to an alien on interest, if he needs it . . . because one should not benefit an idolator [literally: idolators] in order thus to remove him further from [the possibility of] idolatry.[82] Moreover, there is a direction[83] [in the biblical law] that one should chastise the alien to draw him away from idolatry." In the other version ". . . one should do him as much damage as possible so that no deviation from the righteous path could occur through him."[84]

To read such a passage without the background against which it belongs must cause perplexity and bewilderment at first sight. But in its mediaeval framework it is not only not unusual but calls to mind a strong similarity to an earlier view expressed in the Summa of Raymond de Pennaforte,[85] a Christian scholar and saint of the thirteenth century, who quotes an opinion on the verse in Deuteronomy which in its main tendencies goes back to the Church father Am-

[80] Gersonides refutes the argument that Deuteronomy 23:21 refers to Palestine only. For contemporary inter-Jewish transactions, cf. the beginning of his Commentary on this passage (ed. Venice, 1547).

[81] He shares this view with Maimonides without, however, allowing for the talmudic reservations in the first version of Rabh Huna in *Babha Metzia* 70b.

[82] [התועלת] הב׳ והוא שצוונו להלוות לנכרי ברבית כשיצטרך לזה שנ׳ לנכרי תשיך והנה התועלת בזה הוא שלא להנות עובדי ע״ז להרחיקנו יותר מעבודתה עם שבזה הישרה ליסר הנכרי מעבוד ע״ז.

To translate להרחיקנו "to keep *us* away from idolatry" is difficult, because contact with the alien through moneylending would have the opposite effect.

[83] הישרה of the Bodleian Mss. *Hunt* 110 and *Mich.* 361 seems a better reading than הישירה of the printed editions. I am indebted for this reading to Mr. O. Lehmann, M.A. of the Bodleian Library.

[84] מפני שהוא עובד ע״ז חייבה אותנו התורה להלוות לו ברבית כשירצה ללות ממנו לגרום לו מהנזק מה שאפשר שלא תהיה בו נטיה מן היושר.

An alternative translation would be: ". . . one should do him as much damage as possible without deviation from righteousness," i.e., without demanding from him exorbitant rates of usury. For reasons to be given subsequently, the first translation nevertheless seems preferable.

[85] II (Verona 1744), p. 216: "Tanto pensionis onere [Judaeus] gravandus est, ut ipsa excationis suae poena compellatur ad rectitudinem festinare," quoted by McLaughlin, *loc. cit.*, p. 92. Earlier still, Rolandus Bardinelli, who ascended the papal throne as Alexander III in 1159, showed the same trend of thought: "Laicis vere licere poterit ab haereticis vel unfidelibus vel ab aliis publice ecclesiam impugnantibus usuram exigere, non causa captandi commodi, sed adversarium ad unitatem ecclesiae huiusmodi afflictionibus revocandi"; cf. McLaughlin, *loc. cit.*, p. 137.

brosius of the fourth century: "The Jew must be loaded with such a burden of usury that by the very punishment of the charges imposed upon him he is compelled to move quickly towards righteousness."[86]

The war between the leaders of the great religions was bitter and unrelenting on both sides. The Jews continued to defend themselves unless they were silenced or expelled. There is, for instance, a Hebrew letter written in the thirteenth century by Jacob ben Elijah of Venice to a convert, who apparently reproached the Jews for their usurious activities. It is generally known that conditions in Italy were much more favorable to the Jews than in France, Germany, or England. Hence Jacob ben Elijah is self-assured and almost vigorous in his attack. "Look at the court of Rome, which rules from sea to sea . . . everybody there runs after usury. . . . Their aftercrop yields more than our harvest. . . . Only by taking interest are they able to display their grandeur . . . to destroy cities and to build fortresses. . . . Christians take usury from their own brethren who keep their law and share their faith, but what are we, what is our life, what our strength? Blessed be our God, the God of our salvation who increased our wealth. By it, we can defend ourselves and our sons and our daughters, by it we can frustrate the designs of our opponents, and spoil the plot of our enemies. Why should you complain against us?"[87]

In thirteenth century France, too, the Jews stood up to plead their cause and to draw attention to the general economic necessity of their transactions. Even after the restrictive regulations of Louis IX against moneylending had been promulgated, Rabbi Meir ben Simon of Narbonne, in 1246, argued, in the presence of the heads of his community, before Christion noblemen and princes, that kings and lords must constantly borrow money. If not for the loans he

[86] Cf. *De Tobia Liber Unus*, Migne, *P. L.* XIV (Paris 1845), 779.

[87] Cf. *Ginze Nistaroth*, ed. J. Kobak, I-II (Bamberg, 1866), 16 f.; also M. Güdemann, *Geschichte des Erziehungswesens der abendländischen Juden*, II (Vienna, 1884), 247 f,; S. Grayzel, *The Church and the Jews in the XIII Century* (Philadelphia, 1933), pp. 46 f.

received, Louis IX himself would have lost some of his fortified cities. It was a Jew who enabled him to carry out his war.[88]

C. DOCUMENTS

It is this climate of clear separation between the creeds, of basic inability or unwillingness to see the other view, of religious consciousness and faithfulness, of the less and less tolerated position of the Jews among the Gentiles, which forms the spiritual background of the Hebrew *Shṭaroth* of mediaeval Anglo-Jewry. It is sometimes maintained that religion had little or nothing to do with the expulsion.[89] But what do we observe in reality? There is a vast amount of international literature, Jewish and Christian, on the problem of moneylending to infidels. In rabbinic and canon law, in biblical exegesis, in open theological disputations, the same questions are discussed over and over again, with pride or with fear, with harshness or with consideration, very often in similar formulations. Even secular leaders, kings and princes, could not ignore them. They recur, with obvious variations and modifications in civil law.[90] Life had to adapt itself somehow to economic exigencies. It is certainly true that not every money transaction was felt to be a religious act, just as not every acquisition of an estate of freehold, though accompanied by a Christian oath, implied a religious experience, from which the Jews were, of course, excluded. It is also obvious that many forgot their obligations towards their brothers in the faith. But if they did, they were not unchallenged, for the general temper of the age was as God-centered as it was exclusive of outsiders.

[88] Cf. H. Gross, "Meir ben Simon und seine Schrift Milhemeth Mitzwah," *MGWJ*, XXX (1881), 297.

[89] Cf. J. M. Rigg, *Calendar of the Plea Rolls of the Exchequer of the Jews*, II (London, 1910), xx.

[90] Cf. the important works of Guido Kisch, *Jewry-Law in Medieval Germany* (New York, 1949), and *The Jews in Medieval Germany*: A study of their Legal and Social Status (Chicago, 1949).

These statements can be illustrated by some observations on the Hebrew *Shṭaroth* of mediaeval English Jewry. It is a strange coincidence that, to my knowledge, not a single responsum by English rabbis on the question of moneylending has been preserved, whereas there are so many from France, Germany, and Spain. On the other hand, there exist few if any Hebrew documents of the period. The evidence is thus complementary. Yet one must not think for a moment that Anglo-Jewry was without religious guidance in these matters. It is misleading, for instance, though not actually wrong, for M.D. Davis to say simply that inter-Jewish moneylending with the help of a non-Jewish proxy was contrary to the letter of the Law.[91] As if there had not been long arguments on this question since the tannaitic period and as if Rabbenu Tam, one of the leading scholars of the time, had not given his verdict on the permissibility of such transactions. It is always the principle of Jewish law, and of any other law, to decide such questions according to the latest authorities.

Anglo-Jewish moneylenders, therefore, acted, as far as one can judge from their documents, in strict accordance with rabbinic law or, as it is said in various *Shṭaroth*, *kethikkun hakhamim*.[92] I could not find a single *Shṭar* which indicates that Jews loaned to each other at interest without employing the precautionary device of Rabbenu Tam. Though the previously quoted off-the-record opinion of Rashi and the draft *Shṭar* of Rabbenu Jacob of Orléans could have provided a precedent for a more or less plain inter-Jewish transaction, mediaeval Anglo-Jewry did not make use of either of them. The only inter-Jewish deed cited by Davis is merely a draft, has no signature, and is not wholly legible. Moreover, there are gaps in it precisely where one would expect the insertion *ribbith 'al yede goy*.[93] Even the English Court of the Exchequer of the

[91] *Hebrew Deeds of English Jews before* 1290, Publications of the Anglo-Jewish Historical Exhibition, No. 2 (London, 1888), viii.

[92] Cf. e.g., Davis, *op. cit.*, deeds 6, 7, 79, 98.

[93] As, e.g., in deed 31, p. 72.

Jews, staffed by Christian judges, acted on the assumption that though it was permissible for a Jew to take usury from a Christian, it was unlawful for him to take usury from another Jews. This is known from a notable case in 1272.[93a]

There are, however, certain striking subtleties in the texts of these documents. Not only do they indicate rabbinic supervision, but they also appear to be influenced by the legal practice and theory of the non-Jewish surroundings. The expression *ribbith*, for instance, is used only in direct connection with the technical term *ribbith 'al yede goy*, or *ribbith legoy*, i.e., "interest gained directly from a Gentile" or "through a Gentile intermediary." *Ribbith* thus occurs altogether only four out of some thirty times where *shebbah*, profit, is used. This does not seem to be accidental. Sir Hilary Jenkinson has published some inter-Gentile documents on interest-bearing loans. There, too, the expression *lucrum*, gain, is found instead of *fenus*, usury.[94]

In the thirteenth century, the Roman law concepts *lucrum cessans* and *damnum emergens* were adopted by jurists and theologians, i.e., if a loan was made without interest for a stipulated period, the lender could hold the debtor responsible for loss of gain or for damage if the latter did not pay up in time. There could, of course, be no control over the honesty of the statements of the partners. There are some stipulations in the documents under consideration which seem to echo regulations of canon[95] and civil law, unless one assumes that certain formulae were coined independently by the lawyers on both sides, for example, the term *'im ya'abhor ha-zeman*, i.e., if the stipulated time for repayment of the loan is over. In geonic or talmudic, to say nothing of biblical law, there is no direct

[93a] Cf. Nelson, *op. cit.*, p. 11.

[94] Cf. Hilary Jenkinson, "A Money-Lender's Bonds of the Twelfth Century," in *Essays in History, Presented to R. L. Poole* (Oxford, 1927), pp. 204 ff.

[95] Cf. Hoffmann, *op. cit.*, pp. 98 f; H. Zimmels, *Beiträge zur Geschichte der Juden in Deutschland, insbesondere auf Grund der Gutachten des Rabbi Meir von Rothenburg* (Vienna, 1926), p. 59; McLaughlin, *loc. cit.*, p. 145.

precedent for dealing with such cases.[96] In the inter-Jewish *Shṭaroth* on moneylending, this concept suddenly appears: " . . . if the money is not repaid in due course, Jew A, the creditor, allows Jew B, the debtor, to borrow money on interest from a Gentile to indemnify Jew A against damage or loss of gain."[97] The time of short-term, interest-free *mutua* is over, and the debtor must bear the consequences for delayed repayment, even if the lender does not formally dissolve the responsibilities of brotherhood.

It is a confirmation of similar observations of Sir Hilary Jenkinson regarding inter-Gentile transactions[98] that, when Hebrew records were withdrawn from the King's Ark, where all bonds were deposited, reference was not made to the amount of interest accrued in the course of time. The Jewish creditor merely informed the authorities in writing that he had no further claim for a certain principal amount owed to him by the Gentile debtor. Moreover, I counted at least a dozen acquittances in which the creditor stated that he lost the original bond or was not in possession of it, surely a peculiar occurrence among people who by now had become professional moneylenders.[99]

One cannot discuss the references to Christians and Christianity in these *Shṭaroth* without mentioning the Christian attitude towards the Jews. Ever since the Church had established itself religiously and politically as the *Ekklesia tou Theou*, the assembly of God replacing the old covenant,

[96] Cf., however, the *Tebtunis Papyrus* 817 discussed *supra*. The *Mishnayoth Babhia Metzia*, V. 3 (65b) and *Babha Bathra*, X, 5 (168a) have an indirect bearing on the problem, as shown by the responsum 651 of the Spanish thirteenth century authority Rabbi Solomon ben Adret (ed. Hanau, 1610, p. 172b). The following question is asked: "It has become customary [!] to write [inter-Jewish] bonds in which it is said: 'If I do not pay you back at a certain time, I shall give you so and so much.' Does this involve *ribbith* in the halakhic sense?" Rabbi Solomon ben Adret replies that such usage is not to be permitted, especially if it is clear that an evasion of the law is intended. He points out, however, that, strictly speaking, we have to deal with a penalty (*kenas*), not with interest or usury.

[97] Cf. also the German term: *Schadengeld;* and G. Kisch's discussion on the subject: *The Jews in Medieval Germany*, p. 239.

[98] Cf. H. Jenkinson, *op, cit.*, p. 204.

[99] Cf. Davis, *op. cit.*, pp. 184, 208, 233, 240, 242, 243, 249, 263, 273, 274, 279, 280.

the *Kenesseth Yisrael,* insults had been hurled against the Jews which eventually led to bloodshed, persecution and expulsions. Notwithstanding the necessary theological reservations for pre-Christian Israel, and the friendly attitude of individual emperors, bishops, abbots, and many Christian citizens, the Jews were with increasing regularity described as a nefarious sect, as infidels, unbelievers and rebels, miserable and faithless, and they were looked upon as the enemies of God, a nation always ready to think of and believe in every crime. They were made to appear as mad, blasphemous, and profoundly foolish.[100] In the wake of the crusades deeds followed upon words, and many European countries witnessed pogroms carried out by armed bands against women, children and old people. In the intervals, the cold war continued right down to the period of the texts of the *Shṭaroth.*

During a cold war, the hostile nations meet and do business with one another. So did Gentiles and Jews in pre-expulsion days. Several times laws are mentioned as enforcible by either Jewish or Gentile courts.[101] Unlike the Christians, the Jews were able to sue their debtors, if for no other reason than because the king was interested to draw his revenue from them. Jewish and non-Jewish witnesses appear in Hebrew records,[102] though there had to be at least two Jewish witnesses to make a Hebrew deed valid. The Gentile intermediary must also have been at the disposal of the Jew where necessary. There are constant references to the year of the reign of the king, and to special Christian holidays to make the *Shṭar* understandable to the Royal Exchequer. The king himself is often referred to as "His Majesty, may he live."[103] Occasionally, the Jews send their greetings to the Jewish and Gentile chirographers

[100] Cf. the author's *Die Ungläubigen,* p. 24.

[101] Cf., *e.g.,* Davis, *op. cit.,* pp. 145, 158, 167, 204, 223, 322.

[102] Cf. Davis, *op. cit.,* pp. 129, 135, 140, 175. On the importance of high Christian officials who acted as witnesses to inter-Gentile transactions, Jenkinson, *op. cit.,* pp. 196 f.

[103] Cf. Davis, *op. cit.,* pp. 127, 135, 139, 142, 150, 220, etc.

when they forward their acquittances to them.[104]

But here the normal relationship between the two different faiths comes to an end. The very form of these greetings is not without significance, the word for Christian being peculiar. It is not *goy* or *notzri* as one might expect, but *'arama'i.* Now *'arama'i* often has a derogatory connotation, meaning Roman or pagan rather than Christian. It is used almost exclusively in the deeds under consideration. I found only one passage where *'arelim,* i.e., the uncircumcised, occurs instead and a few, as it were ordinary, *goyim.* There are also a number of derogatory terms in these *Shṭaroth* which are the more remarkable because they occur in legal documents, which were placed in the royal coffers. Here are a few examples. *Gallaḥ,* the shorn one, is a term for a member of the clergy; *nittel* for *dies natalis,* spelled not with a *teth,* which would be the normal transcription, but with a *tav,* which is a reference to Jesus' death by hanging; *kadhesh* and *kedheshah,* hierodule, instead of saint, *kedheshim* for all saints. St. Michael frequently appears as *'Ikkel,* i.e., the crooked. *'Innuy,* i.e, chastisement, stands for lent. This may refer either to the penitential character of this period or to the disastrous consequences it often had for mediaeval Jewish communities.[105]

This is not altogether surprising because in the same *Shtaroth,* which refer to Christian saints, appear the names of people whose fathers were killed in pogroms on the continent or in England, and hence received the epithet ornans, *Kedhoshim,* i.e., the saints. By no means all documents have these derogatory references to Christianity,[106] but the fact that there are so many is indicative again of the bitterness that prevailed in the communications between the two camps.

Especially towards the end of the period anxiety broke

[104] Cf. Davis, *op. cit.,* pp. 279 f., and similarly two Latin acquittances, pp. 287 ff.

[105] Cf. Davis, *op. cit.,* pp. 24, 25, 28 ,54, 57, 78, 84, 93, 97, 124, 220, 263, 279, 342, etc. The use of these derogatory terms goes back to a talmudic tradition in *'Abhodhah Zarah* 46a. The reference to Richard de Malebys as *hayyah ra'ah* has been noticed by Davis, p. 288.

[106] Cf. Davis' list, pp. x f.

out here and there that all written agreements might be futile. A Norwich deed of 1277 reckons with the possibility that Abraham, son of Deulecresse, i.e., Gedalyah, may not retain peaceable possession of the manor he was about to purchase from Sir James of Ilketshalle. Someone else feared, in an undated *Shtar* of Norwich, that the King might seize a debt under some hollow pretext.

A little earlier already, in 1268, a Jew, Aaron de la Rye, sold two of his bonds to one of the famous Christian usurers of the time, the Chancellor of the Exchequer, Sir Adam de Stratton. This *Shtar* stipulated that Sir Adam's acquired rights against the Christian debtor would be upheld in accordance with the statutes and customs of the Jews, *kehok uminhagh ha-yehudhim.*[107] Sir Adam wanted to make sure that there would be no difficulties in charging interest to a Christian, *'al yedhe yehudhi,* by way of a Jewish proxy, as one might say. He could not then know that a few years later the statutes of the Jews would be discontinued by royal decree.[108]

When the end came in 1290, sixteen thousand Jews were expelled from the island to destinations not always known. This is the unfinished history of a law and of an idea; the battle went on for a good while to come with faith still unyielding on either side.

[107] Cf. Davis, pp. 169, 209, 217, 350.

[108] According to Peter Elman's M.A. thesis on "Jewish Finance in Thirteenth Century England" (London, 1936), p. 106, some Jews continued to lend money at interest to Gentiles even after 1276.

THE JEWISH BADGE AND THE YELLOW STAR IN THE NAZI ERA

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I

THE JEWISH BADGE IN GOVERNMENT GENERAL, IN GERMANY, AND IN THE PROTECTORATE

DISTINGUISHING signs for Jews, of a humiliating or restrictive nature, as, *e.g.*, the Jewish hat, the Jewish yellow spot, the Jewish badge, and the Star of David, disappeared with the political emancipation of the Jews or even before.[1] However, the revival of medieval anti-Jewish legislation in the Nazi era brought to the fore the problem of special marks for Jews. The first suggestion probably came from Reinhard Heydrich, chief of the German Security Police, at the historical meeting in Goering's headquarters on November 12, 1938.[2] No action on this specific subject was decided upon at this meeting.

It seems, however, that the idea of segregating and humiliating the Jews was already deeply rooted in the minds of some Germans as a result of continuous and perseverant Nazi propaganda. This may explain several instances, since September, 1939, of spontaneous, unauthorized imposition of the Jewish badge by German military and civilian authorities in occupied Poland. From the records of those tumultuous and chaotic days of the beginning of the Nazi in-

[1] Guido Kisch, "The Yellow Badge in History," *Historia Judaica*, IV (1942), 95-144. See also Raphael Straus, "The Jewish Hat as an Aspect of Social History," *Jewish Social Studies*, IV (1942), 59-72.

[2] *Trial of the Major War Criminals Before the International Military Tribunal* (*Nuremberg*, 1946-49) (hereafter cited as *Trial*), IV, p. 499.

vasion of Poland that have come down to us, the Jewish badge was introduced almost simultaneously in Lodz (Litzmannstadt), Kalisz, Rzeszow (renamed Reichshof by the Germans), Wloclawek (Leslau). Since no uniform central legislation on Jewish affairs was extant, the Jewish marks ordered by the local administration showed great variety in design and scope. Thus the *Stadtkommissar* of Wloclawek, SA Oberführer Cramer, on October 24, 1939, ordered all Jews, without regard to age or sex, to wear a yellow triangle on their backs, at least 15 cm. high and 15 cm. wide.[3] The *Regierungspräsident* of the province of Kalisz, Uebelhoer, on November 14, 1939, commanded all Jews under his jurisdiction to wear a Jewish badge of "Jew-yellow colour" (*von judengelber Farbe*) on their (right) arm.[4] A German scholar, Dr. Herbert Morgen, who made a trip through the "new German Eastern Areas" at the time, summed up this exuberant development in the following words: "As an external sign of belonging to their tribe the Jews carry—depending on the directive of the *Landrat*—a yellow Star of David or a yellow triangle or something like it on their breasts and back. The general impression one receives of this human mass is appalling. And one quietly arrives at the conclusion that one is dealing here with a completely degenerate, inferior part of human society."[5]

The humiliating tendency in marking the Jews is clearly indicated in this statement. In some instances this intention expressed itself in bizarre and strange forms. Thus, in Ozorkow, near Lodz, the Germans assembled the entire Jewish population in a school building, ordered them to strip off their clothes and sorted them into two groups: the fit and the unfit for labor. The fit ones were marked with a

[3] *Leslauer Bote, ABC dla Wloclawka i Kujaw,* No. 15, Oct. 25, 1939, as reproduced in a photostatic copy in *Contemporary Jewish Record,* III (1940), 49.

[4] *Litzmannstädter Zeitung,* Nov. 18, 1939.

[5] *Zeitschrift für Geopolitik,* XVIII (März, 1941), 139, quoted from Max Weinreich, *Hitler's Professors* (New York, 1946), p. 94.

great "A" on their buttocks, the unfit with "B."[6] This multifarious diversity was eventually superseded by the decree of Hans Frank, the German chief executive of the Government General, on November 23, 1939.[7] In his ordinance Frank directed all Jews of the GG above the age of ten years to wear on their right arms a white badge at least 10 cm. wide, with a Star of David, under legal penalty of fine and imprisonment. On the same date the Governor General also ordered that Jewish business enterprises and stores be marked with a Star of David, overruling previously issued local regulations as, *e.g.*, in Cracow (September 8, 1939) and Rzeszow (September 13, 1939) .

Only two years after the introduction of the Jewish badge in GG the Reichsminister of the Interior issued a police decree on September 1, 1941 concerning the marking of Jews in Germany proper, in the incorporated former Polish provinces, and in the Protectorate of Bohemia and Moravia. This decree differed substantially from the decree in the GG: It ordered the Jewish badge for all Jews above six years of age; the badge was defined as a yellow sexagram the size of a person's palm (*handtellergrosser Sechsstern*), with the inscription "*Jude*" in black, to be worn visibly on the left side of the chest. Simultaneously, Jewish stores were ordered to display a Star of David on the front.[8]

[6] Shlomo Lipman, "In the Camps around Posen," *Bleter fun pain un umkum*, (Melbourne, 1949), p. 87.

[7] *Verordnungsblatt für das General-Gouvernement* (1939), p. 61. The Government General comprised the area of Central Poland occupied by the Germans. It will be referred to as GG. Characteristic of the confusion concerning the Jewish badge may be the following fact: Only two days before the decree of the Governor General was issued, *i.e.*, on November 21, 1939, the Governor of the district of Cracow, Dr. Wächter, promulgated a decree compelling only Jews over twelve years of age in his district to wear the Jewish badge. *Krakauer Zeitung*, No. 8, Nov. 21, 1939.

[8] *Reichsgesetzblatt*, I (1941), 547; *Verordnungsblatt des Reichsprotektors in Böhmen und Mähren* (1941), No. 44, 497. The full text of the decree is also found in Bruno Blau, "Der Judenstern der Nazis," *Judaica*, IX (Zürich, 1953), 34-35. On the Jewish badge in Czechoslovakia see the following articles: "Zur Kennzeichnung der Juden. Die Ausfolgung der Kennzeichen," *Jüdisches Nachrichtenblatt*, No. 38 (Prague, 1941); "Die Ausgabe von Judensternen," *ibid.*, No. 16 (1942); also Jiří Weil, *Život s hvězdou* [Life with a Star] (Prague, 1949); L. Brod, "Magen David—the Emblem of Jewishness," *Věstník židovské obce náboženské*, XII, 24 (1950), 282.

It is not known whether the introduction of the Jewish badge in Germany and in the German-occupied Czech and Polish areas was preceded by discussions or dissent in Nazi ruling circles. In Western Europe, however, where, for various reasons, the Germans could not act with complete disregard of local political factors and conditions, the introduction of this discriminatory device was not so easy and involved the Nazis in various protracted discussions and embarrassing situations.

II

The Battle of the Badge in France

As far as we know, France was the only Nazi-occupied country where anti-Jewish legislation on segregation paralleled similar anti-Negro legislation. On November 8, 1940, the German authorities in France issued several travel restrictions concerning Jews and Negroes. However, as was pointed out by Magny, Prefect of Police in the Seine district (Great Paris), these regulations could be fully enforced only with respect to the Negroes who could be distinguished by the pigmentation of their skin, and not the Jews, who lacked distinguishing marks.[9]

In order to find a remedy for this "lack of distinguishing marks," the chief of the Jewish Department in the Gestapo in Berlin, Adolf Eichmann, suggested at a conference of experts on Jewish affairs, held in Berlin on March 4, 1942, that the Jewish badge be introduced in all occupied European countries. In compliance with this suggestion, and upon direct instruction from Himmler, Hellmuth Knochen, chief of German Security Police in the Occupied Zone of France (Northern France) and in Belgium, on March 10, sent invitations to experts on Jews in France, Belgium, and Holland to convene in Paris on March 14, to

[9] Leon Poliakov, *L'Étoile Jaune* (Paris, 1949), pp. 54-55,

discuss the simultaneous introduction of the Jewish badge in all three countries.[10] Knochen intended to proceed with considerable speed. But he had to face unforeseen obstacles.

First, the German authorities were much concerned about bringing into line also the French Government in the Free Zone of France. The Germans even tried to put pressure on Vichy to publish the decree before the Germans did so in the occupied areas. But the Vichy Government showed itself completely non-coöperative at this point. Particularly strong was the opposition of Xavier Vallat, Vichy's Commissary for Jewish Affairs. Only a short time before Vallat had shouted down the SS representative, Captain Dannecker, with the following words: "I am an anti-Semite of a much older vintage than you! I could be your father!" (February 17, 1942).[11] It was with a feeling of relief, therefore, that the German ambassador to Vichy, Otto Abetz, reported on March 31, that the non-coöperative Xavier Vallat had been removed from his post. But neither did the new Commissary, Darquier de Pellepoix, budge from the negative Vichy attitude toward the Jewish badge. Before this duel between the Vichy Government and the Germans came to an end, new opposition was signaled, this time from the German side. The chief of the German military administration of Belgium, Brigadier-General Eggert Reeder, announced his staunch opposition to the Jewish badge and was backed by the Military Governor of Belgium, General von Falkenhausen, a firm opponent of National Socialist extremism.

While the procedure in France and Belgium was thus stalled by these negotiations, the German authorities in Holland grew impatient and published the decree on the Jewish badge on April 27, 1942 without synchronization with the other Western countries.[12] Eventually, on June 1,

[10] *Ibid.*, pp. 24-25; Gerald Reitlinger, *The Final Solution* (New York, 1953), p. 313.

[11] Poliakov, *op. cit.*, p. 29.

[12] *Ibid.*, p. 26; Goe, "Hollands Juden erhielten den Judenstern," *Die Judenfrage*, No. 10 (1942), 97-99.

1942 the German Military Commander in France published the ordinance (dated May 29) enjoining all Jews above six years of age to wear a yellow sexagram the size of a person's palm on the left side of the chest with the inscription "*Jude.*"[13] Belgium followed. In the Free Zone of France, however, the Jewish badge was not enforced but after November 11, 1942, when Southern France was occupied by the Germans.

In any case, the Battle of the Badge ended only with a half-victory for the Germans. In all three countries the decrees on the Jewish badge were loaded with exemptions, emasculating the whole concept. Besides, many Jews not entitled to exemptions from the badge tried by every means to evade this discrimination and frequently succeeded in doing so. In all Western countries a strong resentment against the branding of the Jews spread among all strata of the population and manifested itself in various forms of protest and indignation.[13a]

III

The Jewish Badge in Other Occupied and Satellite Countries

In spite of the difficulties encountered in the West the Germans insisted on the introduction of the Jewish badge in all other countries under their jurisdiction or influence. The results differed, varying from complete failure to full implementation of the discriminative policy. Total failure was experienced in Denmark. The Germans tried to prepare the Danish population for this measure by a press propaganda campaign carried on in semi-official Nazi periodicals.[14] However, it failed to produce the desired effect,

[13] Full text of the ordinance in Poliakov, *op. cit.*, pp. 40-41.

[13a] More on this below in sections IV-VI.

[14] Cf., *e.g.*, Ola Vinberg, "Judestjärnan," *Ragnarok*, VII (1941), Nos. 6-7, 214-215.

meeting the vigorous opposition of King Christian X, who declared that he would be the first to put on the Jewish badge. The Germans had to beat a retreat.[15]

Another resistance spot was Hungary. The Hungarian Premier Nicholas Kallay categorically rejected, in December, 1942, German demands for several anti-Jewish injunctions including the Jewish badge. After the Kallay Cabinet was dismissed in March, 1944, the newly appointed Quisling Cabinet headed by General Dome Sztoyay yielded to German pressure and introduced the Jewish badge.[16]

Bulgaria, too, tried until the fall of 1942, to evade the implementation of the Jewish badge. Finally, the Bulgarian Cabinet adopted on August 26, 1942 a resolution ordering the wearing of the Jewish badge. However, this injunction was only halfheartedly enforced by the Bulgarian authorities. According to Himmler's Intelligence Service, two and a half months after the law was introduced only one fifth of the Jews in Sofia wore the badge. The manufacture of new badges, a thriving industry in some countries, ceased entirely in Bulgaria. The attitude of the Bulgarian population toward the anti-Jewish measures was absolutely negative. After the war, a stalwart anti-Semite, Professor Petko Stainow, who during World War II wrote approving articles on Bulgarian anti-Jewish laws in Nazi law journals, found it necessary, in September, 1944, in order to ingratiate himself again with the Bulgarian public, to write a jubilant article, "The Stars Are Falling!" (meaning the Jewish Stars of David).[17]

Rumania, in spite of that country's long anti-Semitic

[15] Poliakov, *op. cit.*, p. 70.

[16] Reitlinger, *op. cit.*, pp. 416-423; [Anonymus], "Die gelbe Armbinde. Einsickernde Ostjuden. Abwehrmassnahmen gegen Parasiten," *Deutsche Zeitung* (Budapest), March 27, 1943; Dávid M. Gáspár, *A sárga esillag* (The Yellow Star) (Budapest, 1945).

[17] Poliakov, *op. cit.*, pp. 38-39; Reitlinger, *op. cit.*, p. 380; Henri Monneray (ed.), *La persécution des Juifs dans le pays de l'Est présentée á Nuremberg* (Paris, 1949), p. 249; Peter Meyer, "Bulgaria," *The Jews in the Soviet Satellites* (Syracuse, 1953), p. 624; Petko Stainov, "Die neue Judengesetzgebung in Bulgarien," *Zeitschrift für osteuropäisches Recht*, VII, 11-12 (1941), 553-58; IX, 1-3 (1942), 51-59.

record, carried on a cautious policy of not antagonizing both parties, their Nazi allies and the Western democracies. The anti-Jewish policies of the Rumanian Government, though hard enough and cruel, were nevertheless more moderate than the Germans wanted. In general, the Rumanian anti-Jewish policy was much more severe in the occupied regions than in the old Rumanian provinces. Thus the yellow Star of David was introduced in the occupied provinces of Bessarabia and Bucovina in September, 1941 for all Jews above twelve years of age.[18] In Transnistria, a new Rumanian province created from the former Soviet territories of Bessarabia and Southwestern Ukraine, the Jewish Star was introduced in July, 1942. In some places also Jewish dwellings had to be marked with a Star of David.[19] In the "old countries" the problem of marking the Jews was discussed since the autumn of 1941, but no action was taken until 1943. In 1943, however, the chances of a German victory were already slim enough to discourage the Rumanian Government from anti-Jewish measures. Significantly enough, the military commander of Czernovitz (Bucovina), Dragolina, abolished the Jewish badge in that city in October, 1943.[20] Early in May, 1944, yielding to the incessant pressure of German press propaganda, the Ministry of the Interior ordered the Jews of Moldavia to start wearing the Star of David immediately because this province became "an area near the front."[21]

The Germans were very anxious to see the Jewish badge spread all over Europe. In May, 1942, the SS officer, Dannecker, boasted in an official statement that the Jewish badge had already been introduced in Germany, Belgium, the Netherlands, the Government General, the occupied Russian territories, Slovakia, Croatia, and Rumania.[22] In

[18] ITA Bulletin of Sept. 21, 1941.

[19] Matatias Carp, *Transnistria* (Buenos Aires, 1950), p. 249.

[20] Reitlinger, *op. cit.*, p. 410.

[21] Joseph Schechtman, "The Jews in Rumania During World War II" (typescript in the archives of YIVO, New York), pp. 54-55.

[22] Poliakov, *op. cit.*, p. 37.

territories under direct German occupation the Jewish badge was introduced without too much discussion. In Serbia the German military commander ordered the Jews on May 30, 1941 immediately to start wearing the Jewish badge.[23] After the Germans took over the Greek territories formerly occupied by the Italians an ordinance of the SS commander of Thessalonica, of February 12, 1943, enjoined the Jews to wear a yellow disk on their left breast, bearing not an inscription, but their respective registration number.[24]

In German-occupied Russian areas the Jewish badge was introduced immediately after the invasion. However, no general order was issued, and local varieties of the badge obtained in different places during the short span of time between the invasion and the total extermination of the Russian Jewry.[25]

IV

The Implementation of the Jewish Badge and Its Consequences

The Germans introduced distinguishing marks not only for Jews. In order to prevent the escape of foreign slave laborers, brought by force to Germany from the occupied countries, the Nazis ordered them to wear signs, too. Thus, *e.g.*, the Polish forced labor workers in Germany had to wear on their right chest a sign with a capital "P."[26] In the concentration camps the Germans introduced a very elaborate system of marks of various colors and shapes, for the diverse categories of camp prisoners.[27] But while among

[23] Blau, *Judaica*, IX, 40-41.

[24] *In Memoriam: Hommage aux victimes juives des Nazis en Gréce*, II, prepared by Joseph Nehama, ed. by Michael Molho, (Salonica, 1949), p. 19.

[25] Records of various German local authorities quoted in H. Monneray, (*supra, n.* 17), p. 298, and Raul Hilberg, "The Role of the German Civil Service in the Destruction of the Jews" (Master's thesis, Columbia University, New York, 1950), p. 83.

[26] *Reichsgesetzblatt*, March 8, 1940.

[27] A table of the various marks in the concentration camps (18 different

the Gentile population only certain exceptional categories were forced to wear the discriminatory marks, all the Jews were condemned to this stigmatization. The purpose of this measure was humiliation and degradation, isolation and segregation of the Jews, as well as strict control of their movements and activities. This was frankly admitted in a rather cynical vein by Joseph Goebbels. In his editorial of November 16, 1941 the German Propaganda Minister described the Jewish Star as " a very human ordinance" (*eine äusserst humane Vorschrift*), which is "quasimodo a hygienic prophylactic in order to prevent the Jew from sneaking into our ranks without being recognized." And the Minister continued: "Wenn einer den Judenstern trägt, so ist er damit als *Volksfeind* gekennzeichnet."[28] In the Polish-Jewish ghettos the rumor circulated that Goebbels used much more drastic language in one of his addresses on the air, namely: "Das ist kein Schandfleck—das ist ein Todesurteil." But no such statement is to be found in Goebbels' published speeches and editorials. However this may be, the introduction of the Jewish badge always signalized a development for the worse. Thus, in Germany the Jewish badge was introduced on September 1, 1941 and on September 16 deportation to the East began.

In general, the implementation and the consequences of the Jewish badge were not the same in all Nazi-dominated countries. Polish Jewry began to feel the impact of Nazi anti-Jewish policy in the first months of World War II. As noted above, the Jews of the Government General were ordered to wear the Jewish badge in the autumn of 1939, while the Jews in the Polish areas incorporated into the Reich did not have to do so until as late as September, 1941, and the Jews in the Russian and former Eastern Polish areas not until the summer of 1941. The

patterns in 8 colors) is reproduced in Eugen Kogon, *The Theory and Practice of Hell* (New York, n.d.), p. 297.

[28] This editorial was published in *Das Reich* of November 16, 1941 under the title, "Die Juden sind schuld!" and reprinted in a collective volume of Goebbels' essays, *Das eherne Herz* (Munich, 1943), pp. 86-91.

Jews of the GG were compelled to wear on their right arm a white brassard with a Star of David, while the Jews of the incorporated areas and of the former Soviet Zone were forced to wear a yellow Star of David on their chest. Overzealous officials tried to increase the burden by additional aggravations. Thus in Dinaburg (Dvinsk or Daugavpils) in Latvia, Jewish women had to wear two yellow Stars, on their left chest and back, the men a third Star on their left knee. The Star was, according to the account of an eyewitness, a pentagram, hinting at the Jewish relationship to communism.[29]

A most dismal situation developed in the GG. Defiance of the order to wear the Jewish badge was threatened with imprisonment and a fine "up to an indefinite limit") (*bis zu unbestimmter Höhe*). The president of the province of Kalisz, Uebelhoer, introduced the death penalty for transgressors. The manner in which the German administration carried out the supervision of these orders inflicted even more hardships on the Jews than were provided by the law. Jews caught on the street without a badge were often severely beaten.[30] The gradation of punishment was usually this: in Warsaw—money fines, flogging, prison sentence for several months, deportation to a labor camp; in Czes-

[29] Paula (Pessie) Frankel-Zaltzman, *Haftling Numer 94771* (in Yiddish; Montreal, 1949) p. 30. Conversely, another eye-witness states that the Jewish badge in Dünaburg was by no means different; it was a hexagram as elsewhere. Jacob Rassin, *Mir viln lebn* (We want to live) in Yiddish; New York, 1949), p. 33. An interesting comment on the difference between the two symbols, the pentagram and the hexagram, was published in the collaborationist newspaper *Paris-Midi* of June 8, 1942. Overlooking completely the fact that the pentagram became a Soviet symbol, the writer of the article, one R. Auberlain, declared: "Quoi qu'il en soit, il n'est peut-être pas inutile de faire ici une distinction entre deux symboles fréquemment confondus: nous voulons parler de l' hexagramme, ou 'sceau de Salomon,' et du pentagramme, étoile à cinq branches au lieu de six, emblème de tout l'Islam, de tous les vieux cultes lunaires . . . emblème antisémite ([sic]. Quoted from Poliakov, *op. cit.*, pp. 74-75.

[30] Thus, a Jewish woman in Warsaw was cruelly beaten in the Bielanska Street for this crime. Emanuel Ringelblum, "Notes from the Warsaw Ghetto," *Biuletyn Zydowskiego Instytutu Historycznego*, No. 2 (Warsaw, 1952), p. 92 (hereafter cited as *Biuletyn*). Instances of the beating of Jews on the streets for not wearing the badge are also recorded in Ludwig Hirszfeld, *Historia jednego zycia* (The Story of a Life) (in Polish; Warsaw, 1946), p. 188.

tochowa—beating, a six-month prison sentence, shooting; in Cracow—a money fine, beating and torture, an eight-month prison sentence; in Bialystok—severe penalties including shooting.[31] In many cases a prison sentence or deportation to a labor camp actually meant a death sentence. A characteristic exchange of letters has been preserved. The *Judenrat* of Sawin on February 6, 1942 asked of the *Judenrat* of Lublin: A man from Cracow, one Moses Shulman, was arrested in May, 1941 in Biala Podlaska for not wearing the Jewish badge and was transferred to the prison in Lublin. Since December, 1941 no letters have been received from him. Is he still alive?[32] A Jew in Warsaw was arrested for the same crime and deported to Auschwitz. He never came back.[33] The Jewish historian Emanuel Ringelblum recorded as an exceptionally fortunate incident the case of the famous Polish-Jewish educator and writer, Janusz Korczak (pen name of Dr. Henryk Goldszmidt, a neurologist). Korczak refused to wear the Jewish badge and was arrested, but he was later released from prison thanks to the intercession of his friends.[34] Rumors circulated in Warsaw that for every Jew without a badge brought to the Gestapo a reward of one hundred zloty was paid.[35] In general, the German SS and policemen were very efficient in hunting down the Jewish badge saboteurs and in meting out severe punishment to them on the spot or dragging them off to jail. Significantly enough, after the end of the war, former SS men brought to trial before German courts (*Spruchkammern*) attempted to argue that the "mere knowledge of the fact that the Jews were obliged to wear a Jewish Star cannot be considered as a basis for condemnation."[36]

[31] Michal Weichert, *Diary* (typescript, in Polish, in the archives of the Jewish Historical Institute, Warsaw), p. 33; Shlomo Waga, *Hurbn Chenstokhov* (Buenos Aires, 1949), pp. 37-38; Simon Segal, *The New Order in Poland* (New York, 1942), p. 217; B. Mark, *Der oyfshtand in Bialystoker ghetto* (The Uprising in the Ghetto of Bialystok) (in Yiddish; Warsaw, 1950), pp. 63-64.

[32] *Dos Bukh fun Lublin* (in Yiddish, Paris, 1952), p. 377.

[33] Ringelblum, *Biuletyn*, 187.

[34] *Ibid.*, pp. 160, 185.

[35] *Ibid.*, p. 131.

[36] A. W. Massow, "Der gelbe Stern," *Spruchgerichte*, II (Hamburg, May,

Jews were severely punished not only for failing to wear the Jewish badge but also for wearing a soiled or creased badge, for wearing the badge a centimeter lower or higher than the precisely prescribed location, for pinning the badge to the garment with safety pins instead of sewing it firmly, and so on.[37] Frequently, these crimes were penalized with a fine, but sometimes heavier punishment was inflicted. Thus, a 19-year-old girl, an employee of the Central Association of the Jews in Germany, was seized during a Gestapo raid in Berlin on the ground that she had pinned the badge on her overcoat. She was immediately deported to a concentration camp without being permitted even to say farewell to her mother. She never came back.[38] The practice of pinning on the badge instead of sewing it securely developed partly because of the scarcity of badges. One badge had to serve for several pieces of clothing and was constantly shifted from one to another. In one place in Eastern Poland the Jews pleaded that they could not provide in time the necessary amount of yellow material for the manufacture of the badge. As reprisal the Germans shot the head of the Jewish community.[39] In France only three badges per person were distributed upon delivery of one ration coupon for textiles.[40]

But, as time went on the Draconian German reprisals created a panicky atmosphere and forced strict compliance with badge regulations. The Jews used all kinds of mnemo-

1948), 136-37; Peters, "Genügt die Kenntnis eines Angehörigen der Waffen SS von der Pflicht der Juden zum Targen des Judensterns zu seiner Verurteilung wegen organisierten Verbrechens?" *Spruchgerichte*, I (Hamburg, September, 1947), 6-7.

[37] *Dos Bukh fun Lublin*, 386; Ringelblum, *Notitsn fun varshaver ghetto* (in Yiddish; Warsaw, 1952), p. 17 (hereafter referred to as *Notitsn*).

[38] Blau, *Judaica*, IX, p. 38; Abraham Lewin, "Funem Ghetto togbukh" (From the Ghetto Diary) (in Yiddish), *Bleter far geschichte*, V, 4 (Warsaw, 1952), 54, relates the following episode under May 29, 1942: "Yesterday . . . I saw before the Ghetto gate at Nalewki Street and the corner of Swietojerska Street a [German] gendarme thrashing a young Jew for wearing a soiled badge . . . a barbarous scene."

[39] *Pinkas kedoshey kehilath Kosow Poleski* (The Memorial Book of the Martyrs of the Community of Kosów Poleski) (in Hebrew; Jerusalem, 1946) pp. 13-14.

[40] Poliakov, *op. cit.*, p. 40.

nic devices to facilitate complete observance of the law and to avoid dangerous omissions or other transgressions. In Jewish apartment houses, on the walls and particularly on the inside of the entrance doors, large posters were placed with the following inscriptions: "The Badge!" "Remember the Badge!" "Attention, the Badge!" "Have you already put on the Badge?" "Before leaving the building put on the Badge!" In some apartment houses a huge picture of the armband with the Star of David and of a death's head hung on the wall.[41]

A new branch of the clothing industry developed, the manufacture of the Jewish badges. In Poland the production of the badges was not centralized but left to the individual initiative of private firms. Various fashions developed. Wealthy and esthetically-minded persons preferred to wear badges with artistic, hand-embroidered stars. Expensive armbands were made of silk and satin instead of ordinary cotton. Celluloid and plastic bands enjoyed great popularity because they were washable and not easily crumpled. However, the privilege of wearing a celluloid badge was not granted to everybody; in Cracow, *e.g.*, only owners of a so-called "dwelling license" were permitted to wear it.[42] Another thriving industry was the manufacture of protective cases, preferably of leather, for the badge. These cases prevented the badge from being soiled or wrinkled and had a celluloid window through which the Star of David could be seen. In smaller localities the Jews contented themselves with simple homemade badges.

Since the production and distribution of the badges in Poland and Eastern Europe in general were not centralized, it is impossible to obtain exact figures about the volume of

[41] Information on these problems can be found in many published memoirs and narratives of the ghetto survivors, *e.g.*, Jonas Turkow, *Azoy is es geven* (Thus It Happened) (in Yiddish; Buenos Aires, 1948), p. 121; cf. also Leib Spizman, *Di Yidn in Nazi Poyln* (Jews in Nazi Poland) (in Yiddish; New York, 1942), pp. 74-75, and L. Brener, *Vidershtand un umkum in Chenstokhover ghetto* (Resistance and Extermination in the Ghetto of Czestochowa) (in Yiddish; Warsaw, 1951), p. 16. Incidentally, the present writer knew these devices from his own personal experience.

[42] Spizman, *op. cit.*, p. 74.

this industry. In Cracow, where the Jewish community was delegated to distribute the badges, 52,800 badges were handed out by September 30, 1940.[43] For a community with a Jewish population of about 70,000 this was a rather low figure.[44]

There were, however, exemptions from wearing the Jewish badge. Among these were foreign Jews, particularly citizens of neutral countries,[45] and a few Jewish personalities whose activities seemed to be important to the Germans, *e.g.*, occasional members of the *Judenrat,* managers of great Jewish workshops, managers of the Jewish Self-Help organization, collaborators and Gestapo agents. In general, these exemptions were very rare in Eastern European countries and more frequent in Western Europe. Ringelblum remarks that in Warsaw only three Jews were exempted from the badge but later adds to this list two Jewish Gestapo agents.[46]

Baptized Jews tried to get a general release from the Jewish badge and asked the Polish "Central Council for Social Welfare" (*Rada Glowna Opiekuncza,* generally referred to as RGO) to intervene on their behalf. This intervention resulted in fatal consequences for the converts. The Germans resorted to a nasty ruse in their negotiations with the RGO. They asked for a list of converts to be exempted and when it was presented to them, they used it to force the converts to move into the Jewish ghetto.[47] Of course, no exemptions from the badge were granted to them. The converts still kept on believing that they could claim a privileged status but they were soon severely disillusioned. Thus, *e.g.*, a baptized family in Warsaw that did not care to wear the Jewish badge was punished, in

[43] *Bericht der jüdischen Gemeinde in Krakau* (Cracow, 1940) (mimeographed, in the archives of the Jewish Historical Institute, Warsaw), p. 87.

[44] *Ibid.* The official census of Jews registered with the Jewish community in the summer of 1940 gives the number as 68,482 persons.

[45] Ringelblum, *Notitsn,* p. 23.

[46] *Ibid.*, pp. 149, 189; Benjamin Orenstein, *Hurbn Otwock, Falenic, Karczew* (Bamberg, 1948), p. 17.

[47] Hirszfeld, *op. cit.*, pp. 188, 191.

October, 1940, by the imposition of a prison sentence of eight months on each member.[48] But there were also different reactions. A group of baptized youths, after they were forced to live in the ghetto and put on the Jewish badge, decided to make of it a festive event. In April, 1941, at 38 Sienna Street[49] in Warsaw, a celebration took place in which they put on the Star of David, and appropriate speeches were made.[50]

While total exemption from the Jewish badge was rare in Poland, a whole system of partial alleviations and privileges developed. The German policy of "divide and rule" created an entire hierarchy of badge-owners of different categories. The Jewish badge was particularly dangerous because it exposed its bearer to every whim of every German passerby, soldier or civilian, who could dispose of his quarry at will, drag him to his home or office for any kind of dirty or hard work, take him to a forced labor camp, order him to do humiliating exercises, and the like. The Germans therefore permitted certain privileged groups of Jews to wear an additional badge which allegedly would protect them from that kind of treatment. For instance, Jews who were considered a valuable labor element were permitted to wear a badge with a large "A" (*Arbeiter*, workman) and the registration number of the Labor Office. Jewish employees of the (German) Labor Office were identified by an additional violet armband with the inscription, "*Arbeitsamt.*" Employees in the armament industry wore green badges, the deaf and dumb yellow badges, the Jewish police a yellow badge with the letters J. O. (*Jüdischer Ordnungsdienst*).[51]

The greatest inventiveness in this field was demonstrated in Warsaw, where the mania for additional badges reached absurd dimensions. According to various sources

[48] Ringelblum, *Biuletyn*, p. 155.

[49] Sienna Street was the "aristocratic" quarter of the Warsaw ghetto where many wealthy converts used to live.

[50] Ringelblum, *Notitsn*, pp. 104-105, 112.

[51] Philip Friedman, *Zaglada Zydow lwowskich* (Extermination of the Jews of Llow) (in Polish; 2nd ed., Munich, 1947), p. 12.

the Warsaw ghetto had the following additional badges:

A badge of the Red Cross for Jewish physicians. This badge, however, was prohibited to the Jews by a German ordinance of March, 1940, and had to be changed for a new brassard with the inscription, "Lekarz-Arzt" and a large Star of David.[52]

A green badge for collectors of old metal scrap and rags.

A white badge with the inscription, "Patronate for Refugees," worn by the appropriate officials of the *Judenrat.*

A white badge with the inscription, "Labor Battalion" (of the *Judenrat*).

A white badge with the inscription, "Association of War Invalids of 1939."

A large dark blue badge for the executive members of the *Judenrat.*

A narrow dark blue badge for the employees of the *Judenrat.*

A yellow badge for the Technical Building Department of the *Judenrat.*

A yellow badge with a black inscription, "Jewish Police" (in Polish, *Sluzba Porzadkowa*).

A yellow badge with the inscription, "The Transfer Place" (*Umschlagplatz*).

A yellow badge with a red inscription for the guards of the anti-aircraft service.

A seagreen badge for the employees of the Transfer Office of the Jewish Social Self-Help.

A bright violet badge for officials of the *Judenrat* employed in transfer measures.

A dark violet badge for bus and truck drivers.

A bright green badge for employees of the Department of Trade and Commerce (*Judenrat*).

A white badge with a blue Star of David and the inscription, "*Prasa-Presse.*"

A white badge with red stars for the Jewish Emergency Squad (*Zydowskie Pogotowie Ratunkowe*).

A white-bordered black badge with a white inscription for employees of the funeral offices.

A gray badge with a black inscription for employees of the vocational schools (*Judenrat*).

This list, observes the author of the memoirs who compiled this extensive enumeration of badges in his diary, is by no means a complete one.[53] Dr. Ringelblum mentions

[52] Ringelblum, *Biuletyn*, p. 106.

[53] The list of the various badges in Warsaw has been recorded by Mr. Janowski (the "Aryan" name of engineer Henryk Brisker) in his diaries (manuscript in the archives of the Jewish Historical Institute, Warsaw, No. 90/ii).

in his diary another badge with the inscription, "Economically useful Jews" (*wirtschaftlich wertvoller Jude*).[54] Incidentally, this latter type of badge was used also in other ghettoes besides Warsaw.

The overexpansion of these identifications eventually resulted in general confusion, and consequently invalidated the practical protective value of the additional badges. The whole system was criticized by both its Jewish victims and its German initiators. An interesting criticism was voiced by a Jewish teacher and historian in Warsaw, Abraham Lewin: "Today [May 27, 1942]," writes Lewin in his diary, "a new ordinance concerning the Jewish armband has been promulgated by the [Warsaw] ghetto commissioner Auerswald . . . . This ordinance orders the Jews to wear only the one compulsory badge. To more than this one, or to an alternate badge, are entitled only members of the Jewish police, who have, in addition to the ordinary Jewish badge, a special police badge. Until now all kinds of offices, *e.g.*, the offices of the Jewish community and others, as well as some professions, *e.g.*, physicians, dentists, etc., had their special badges with the indication of their occupation. This was supposed to be a kind of protection in the street against the German oppressors. It [the protective badge] has to indicate: We are not common Jews, we are fulfilling important functions, therefore we have to be privileged. The new ordinance put an end to this. No longer are there various categories of Jews. There is only one large mass of outlawed, outcast, persecuted, tormented, spat on, kicked on, insulted and murdered Jews."[55]

Incidentally, even before the German administrator of the Warsaw ghetto issued his ordinance, the Governor General, Hans Frank, cancelled the issuance of the additional badges in a decree dated November 13, 1941, with the fol-

Cf. also the diaries of Jan Mawult (pen name of the Warsaw lawyer, Gombinski) (manuscript in the archives of the Jewish Historical Institute, Warsaw).

[54] Ringelblum, *Notitsn*, p. 130.

[55] Lewin, *op. cit.*, p. 50.

lowing motivation: "Many offices and institutions provide the Jews working for them with special badges in various colors (*e.g.*, the railroad administration, the administration of the forests, the highway construction offices, the army, the department for guarding and protecting industrial plants, the auxiliary police, etc.) . . . Therefore, it is ordered that the Jews are not permitted to wear any other badge but the legally prescribed Jewish armband."[56] However, some of the additional Jewish badges survived the orders of both Frank and Auerswald.

Jews who could not obtain exemption or a protective badge sometimes tried to camouflage the embarrassing and dangerous emblem with various devices. Thus, in the summer Jewish men used to wear white coats because the armband was not so conspicuous on this background. For the same reason women preferred white blouses with short sleeves just the right length to inadvertedly cover the provocative badge. Briefcases, pocketbooks, flowers, various packages were carried in such a way as to serve the same purpose. Of course, all these devices were of short duration, meeting with the quick and often brutal reaction of the Germans.

A paradoxical situation developed in connection with German-Polish relations. It is well known that the Germans never succeeded in creating a Polish Quisling government. The activities of the Polish underground and widespread sabotage by the Polish population drove the Germans to savage measures such as raids on the civilian Polish population, deportation of many thousands of Poles to slave labor camps and concentration camps, and public executions in the streets. It happened more than once that Poles used the Jewish badge for camouflage during German round-ups. Characteristic episodes in Warsaw and Cracow were recorded by Dr. Ringelblum in his diaries. "A terrible day," wrote Ringelblum on May 8, 1940. "In all the streets

[56] *Rapporte des Generalgouverneurs. Hauptabteilung. Innere Verwaltung. Abteilung I. Allgemeine Stadtverwaltung, I,* 1330/41 (in the archives of the Jewish Historical Institute, Warsaw).

they [the Germans] are rounding up the Poles. Jews are screened to see whether they are not [camouflaged] Poles .... I heard that during the raid some Jews of Aryan appearance were asked to speak Yiddish in order to identify themselves as Jews."[57] A new trade developed. Many young Poles bought or borrowed a Jewish badge for the price of ten to fifty zlotys.[58] Some Poles also wanted to enter the ghetto in order to get in touch with the Jewish underground or for commercial purposes and to this end put on the Jewish badge (entering the ghetto without a police permit was forbidden to the Poles). "In the candy stores and cafés [of the ghetto]," writes Ringelblum, "a new business has developed. A woman lends [for a while] the Jewish badge to [Aryan] customers and gets for it ten to twenty groshen [a piece]."[59] In January, 1943 the Poles were jubilant over the German defeat at Stalingrad and made no effort to hide these feelings from the Germans. In retaliation the Germans arranged one of the most gigantic raids in Warsaw. Many Poles used the protective refuge of the Jewish badge then and escaped to the ghetto.[60]

Less complicated was the situation in Germany. About 166,000 persons were compelled to wear the Jewish badge in compliance with the law of September 1, 1941. The deportations, however, very soon reduced considerably the number of Jews. Thus, on April 1, 1943 only 14,393 Jewish badge bearers were registered in Germany, while 17,375 Jews of mixed marriages were exempt from this identification. Jews guilty of failing to wear the badge were sent to a detention camp (*Sammellager*) for 56 days. In the meantime their police records were minutely scrutinized, and if the smallest lapse could be found, *e.g.*, a delay in

[57] Ringelblum, *Notitsn*, pp. 22, 34; idem, *Biuletyn*, pp. 104-106, 110. 130, 133, 197.

[58] T. Walter, "The Jews Under the German Occupation in Poland," *New Europe*, I (New York, December 1, 1940), 23; Jon Evans, *The Nazi New Order in Poland* (London, 1941), p. 127.

[59] Ringelblum, *Notitsn*, p. 98 (of February 28, 1941). Cf. also Bernard Goldstein, *The Stars Bear Witness* (New York, 1943), p. 79.

[60] Wladyslaw Szpilman, *Smierc miasta* (Death of a City) (in Polish; Warsaw, 1946), p. 136.

paying taxes, this was used as a pretext for deporting the defendant to a concentration camp, that is, to a point of no return. Curiously enough, the parsimonious German administration was extravagantly prodigal, in spite of the shortage of raw material, in preparing about one and a half million yellow Jewish stars. This great reserve, however, was not distributed to the countries with a shortage of Jewish badges, but on orders of the German Security Police, was carefully stored in 1943 in the cellars of the "Central Association of the Jews in Germany." A few months later, the Security Police suddenly ordered about ten thousand stars to be sent back to their headquarters in Kurfürstenstrasse. It was rumored that the Gestapo officials intended to use these stars for camouflage and to go underground in case the Third Reich should collapse.[61]

In France, in the Nazi-occupied Northern Zone, 110,292 Jews above the age of six years were registered in November, 1941. Of these 100,455 were eligible for the Jewish badge, among them 61,864 French Jews and 38,591 foreign Jews, *i.e.*, stateless Jews and citizens of Nazi-occupied and satellite countries. Exempt Jews, citizens of neutral and American countries and of Great Britain, numbered 9,837. Besides, several individual exemptions were granted to the following persons: the widow of Professor Henri Bergson, the famous French writer, Madame Colette, the wife of the Vichy Ambassador De Brinon, three protégés of Marshal Pétain, eight "economically useful Jews," and fourteen employees of the German and French police and espionage. These exemptions were sarcastically criticized in the collaborationist press.[62]

For the 100,455 Jews eligible for the Jewish badge and its prospective buyers certain French private firms prepared about 400,000 badges using for this purpose 5,000 meters of cotton material, of a total weight of 700 kg. (about 1,680 pounds). The demand, however, was much smaller

[61] Blau, *Judaica*, IX, pp. 37-40.

[62] *E.g.*, a characteristic joke appeared in *Le Reveil du Peuple*, December 7, 1942: "Pourquoi une démie-étoile?—Parce que je suis démi-Juif. . . ."

than the supply. According to the reports of the French police (the police precincts were charged with the distribution of the badges) by June 17, 1942, only 83,000 badges had been distributed. The German police tried to present this figure as practically equal to the number of actual Jewish badge bearers in order to conceal the embarrassing discrepancy between the number of the Jews and the number of the actual badge bearers. We should bear in mind that every Jew was entitled to receive three badges, and it is reasonable to assume that the majority fully availed themselves of this small quota. Consequently, the figure of 83,000 distributed badges as against 110,455 Jews eligible to bear the Star makes a rather bad picture and shows the complete failure of the German administration.[63] The hostile attitude of the French public toward German anti-Jewish legislation made it impossible to enforce the strict observance of the law.

In Holland the list of exemptions included among others: thirteen "old party members" [sic!], three picture experts, a German Olympic champion of 1896, and the son-in-law of a former Dutch Royal librarian.[64] Both in Holland and in Belgium it is impossible to tell how many Jews evaded the Draconian stigmatization. In both these countries the reaction of the non-Jewish population was very strong, perhaps even more vigorous than in France. It can therefore be assumed that in all the western countries of Europe the Germans suffered a moral defeat in the Battle of the Badge.

V

Jewish Reaction to the Badge

Jewish reaction was not uniform. Rather it was a strange mixture of ambivalent emotions, an extended gamut

[63] Poliakov, *op. cit.*, pp. 40-42, 37, 62-64; Reitlinger, *op. cit.*, pp. 313-14.
[64] Reitlinger, *op. cit.*, p. 338.

from the feeling of shame to an elated sentiment of pride. The first reaction was in many cases a feeling of humiliation and depression. An underground Hebrew paper in Lodz, Poland, *Min ha-metzar*, dated July 8, 1941, reported that many Jews, particularly from the ranks of the intelligentsia, shunned the streets, preferring to stay for weeks in their homes in voluntary seclusion.[65] A similar reaction has been recorded from Warsaw: "For many weeks the Jewish intelligentsia retired to voluntary home arrest. Nobody dared to go out into the street with the stigma on his arm, and if compelled to do so, tried to sneak through without being noticed, in shame and in pain, with his eyes fixed to the ground."[66] The emotional reaction of a girl in Boryslaw (Eastern Galicia) has been described by an eye witness in this way: "Mother, I am afraid to walk in the street. Look, there is nobody in the street. People don't like to show up with the badge . . . . Where to hide myself? How to conceal the infamy?"[67] An old Jewish man in Paris wrote a letter of protest to Marshal Pétain calling the Jewish badge "une disposition humiliante."[68]

Reflection, however, gave birth to quite different attitudes. This curious emotional ambivalence has been rightly pointed out by a keen observer, himself a survivor and a historian of the Nazi catastrophe, who a few weeks after the liberation arranged an interesting interview with some French Jews. His first question was: "Did you feel disturbed on having to put on, for the first time in your life, a Jewish badge?" Most of them answered: "We were proud to wear it." However, the investigator had his doubts whether these

[65] Nos. 1-4 of *Min ha-metzar* have been reproduced in full in *Dapim l'heker ha-shoah ve-ha-mered* (Leaves for the Research of the Catastrophe and the Resistance) (in Hebrew; Haifa, 1950), pp. 115-147. The facts referred to are quoted in *Dapim*, No. 1, p. 126.

[66] Szpilman, *op. cit.*, p. 45.

[67] Koppel Holcman, *Ziemia bez Boga* (Earth Without God) (in Polish; Wroclaw, 1947), I, 215-17. Cf. also Mark Dworzecki, *Yerushalayim d'Lite in kamf un umkum* (Jerusalem of Lithuania in Struggle and Destruction) (in Yiddish; Paris, 1948), p. 28.

[68] Poliakov, *op. cit.*, p. 45.

answers were not post-fabricated imaginative conceptions, subconsciously constructed.[69]

The reaction of pride and awareness of Jewish self-consciousness and dignity was particularly strong in Poland. This writer happened to see a prominent Jewish social worker, the late Dr. Cecilia Klaften, a few days after the introduction of the badge in Lwow (Lemberg). She told him how proud she felt on being marked as a Jewess and of her intention to demonstrate with her head erect this sign of her belonging to the Jewish fold. Dr. Ringelblum observes in his diaries that the Jewish badge became a touchstone and an internal moral problem to the Jews because it stood for what he tersely calls Jewish solidarity and awareness of the common enemy.[70] Ringelblum also relates the following characteristic episode. The Nazis invited the chairman of the *Judenrat* in Lublin, Dr. Alten, to discuss with him the implementation of the Jewish badge. During the discussion the Germans used the expression, "the badge of infamy" (*Schandfleck*). Dr. Alten promptly replied that to him it was a "badge of honor" (*Ehrenzeichen*) and was penalized for his boldness with three days' imprisonment, a surprisingly mild punishment according to Nazi standards of "justice."[71] The underground paper *Min ha-metzar* published a Hebrew poem, "*Magen David*" (The Star of David), in which the author expressed his belief that the Star would, in years to come, again be elevated to eminence as a symbol of freedom and salvation.[72]

It would be interesting to know what were the reactions of the religious, particularly of orthodox Jewry. However, the pertinent source materials are rather scant. In a story about a pious Jew called Leizer Yossels in a small town

[69] *Ibid.*, p. 43.

[70] Ringelblum, *Biuletyn*, pp. 93-94.

[71] *Ibid.*, p. 100.

[72] *Dapim*, 1, 116. Since *Min ha-metzar* was a secret publication, no contributions were signed by their respective authors. According to B. Mark, *Umgekumene shraiber fun di ghettos un lagern* (The Perished Writers of the Ghettos and Camps) (in Yiddish; Warsaw, 1954), p. 176, the author of this poem was Alter Shnur (pen name of Israel-Ber Itzinger).

in Poland, the following characteristic details deserve attention. Leizer Yossels, it was told, managed to transform the Jewish badge, imposed by the Nazis for the sake of social debasement, into a symbol of sanctity and distinction. He was the first in the *shtetl* to put on the badge, and when he did so he said: "See what a sainted people we are! We have been marked with the Crown of Torah." He considered his traditional Jewish garb, the *kapote,* as endowed with distinction by the Star of David and as holy as, or even holier than, the prayer shawl (*tales*). He therefore used to carry the Star-marked *kapote* to religious services like a *tales.* Before passing away (he died a natural death in the ghetto, a fact considered in those times as a sign of God's special grace), he asked to be buried in his holy *kapote* with the Star of David.[73] Historically, there is nothing amazing in this story. Jewish history knows of many instances where the wisdom of the experienced Jewish people transformed vicious devices, intended for social degradation and humiliation, as *e.g.,* the Jewish hat, the special Jewish garb, etc., into sanctified institutions helping to maintain and to protect Jewish identity and Jewish traditions.[74]

Psychological resilience in the face of humiliation found its expression also in another way, in ridiculing these disabilities in popular jokes.[75] Suffice it to give one example. The following *bon mot* was popular in Warsaw: Nalewki (the main street of the ghetto) is nowadays like Hollywood. Wherever you go you see nobody else but stars![76]

There were other reactions, too. In some places like Szczebrzeszyn and Kosow Poleski the Jews first tried to ignore the injunction completely but were soon brought to heel by brutal German reprisals.[77] It sometimes happened

[73] A. Sarfi, "Leyzer Yossels in ghetto," *Undzer Veg* (New York, March, 1954, p. 29.

[74] Cf. Guido Kisch (*supra,* n. 1), and Raphael Straus (*supra,* n. 1).

[75] Ringelblum, *Notitsn,* p. 35.

[76] Ringelblum, *Biuletyn,* p. 102.

[77] Zygmunt Klukowski, "The Pain and Destruction of the Jews in Szczebrzeszyn: Pages from a Diary," *Bleter far geshikhte,* IV, 2 (Warsaw, 1951), 136; cf. also *supra,* n. 39.

that individuals tried to express their protest in their own way, as *e.g.*, the already mentioned incident with Janusz Korczak in Warsaw. In Paris the Jewish protest developed into public demonstrations. German Gestapo officials received secret intelligence that a Jewish protest march was expected in the Champs Elysées on June 7, 1942. We do not know what kind of precautions the Germans took to prevent the march. As a matter of fact, another kind of demonstration took place on that day, Sunday, June 7, 1942. A number of Jewish war veterans of 1914-1918 put on all their war decorations just below their Jewish badges and ostentatiously walked in the streets and boulevards of Paris. Other promenading groups put their Jewish stars on their backs or on their buttocks in order to ridicule the law. The French police smiled benignly at this *mascarade* (a term used in the pertinent German police record) but did not intervene. In conversations on the street Jews declared that they were proud to wear the badge and to be the object of Nazi oppression.[78] Another reaction, already mentioned above, was sabotage of the order by various clever devices.[79]

VI

The Reaction of Non-Jews

Significantly enough, in some countries the reaction and resentment of non-Jews was even stronger than that of the Jews. This was particularly evident in the Western countries. In France, after the publication of the decree, many French Gentiles demonstrated their sympathy toward the Jews in various ways: by publicly wearing yellow handkerchiefs in their coat pockets, by ostentatiously carrying yellow flowers and bouquets, by putting on yellow paper stars, and the like. For wearing a mark imitating or

[78] Poliakov, op. *cit.*, *pp.* 46-48.
[79] *Ibid.*, pp. 52, 72.

ridiculing the Jewish badge (*un insigne fantaisiste parodiant l'étoile juive*) many Frenchmen were arrested. A list of twenty people deported to the concentration camp Drancy (this was only a partial list of the total deportation) included Alice Couroble who later published a book about this experience under the title *Amie des Juifs* (Paris, 1945). German police reports from the country confirmed that the feelings of the population there were the same as in Paris. "Large masses" in Bordeaux, "almost all classes of the population" in Nancy, were reported as opposed to this German anti-Jewish legislation. However, some Nazi-controlled collaborationist newspapers vociferously supported the Germans, and small anti-Semitic groups (the largest of them is said in German reports to have been composed of a dozen individuals) tried to stage anti-Jewish demonstrations in Paris.[80]

Reaction was strong in the Low Countries. In Holland many non-Jews appeared on the streets with the Jewish Star and were punished for it with six weeks in jail. Particularly vigorous opposition developed in religious circles.[81] Popular feeling in Belguim is well characterized by the following episode: A Rexist, pro-Nazi newspaper in Brussels complained about Belgian teachers telling the Jewish children that the star was a mark of distinction. To cor-

[80] *Ibid.*, pp. 65-80, 87-91. The strong reaction of the French population against the Jewish badge is described by several French-Jewish writers in *Yizkor-Buch tsum ondenk fun* 14 *umgekumene Pariser yidishe shraiber* [Memorial Volume to Commemorate Fourteen Deceased Jewish Writers of Paris], ed. by I. Spera and others (in Yiddish; Paris, 1946), pp. 17, 20, 196-97, 218. Of special interest are the pertinent reminiscences of the poet Moshe Shulstein: "I cannot forget the literary magazine, 'Di gele late' [The Yellow Spot], which A. Bekerman, M. Dzialowski, and I prepared for publication in June, 1942, to coincide with the putting on of the Yellow Spot. . . . The material in this magazine was dedicated to this event . . . and included articles, accounts (reportages), songs, pictures, and letters by French writers to us about the Yellow Spot with expressions of sympathy and consolation. . . . On the very day when the Yellow Spot was introduced, French women kissed Jewish women, people in the subway trains offered seats to Jewish passengers, one shook hands with Jewish passers-by in the streets, and priests uncovered their heads on greeting them. Teachers leading their classes for a walk in the streets arranged that a Jewish child wearing a badge should always be paired arm in arm with a French [Gentile] child," *ibid.*, p. 20.

[81] *Ibid.*, pp. 69-70.

roborate this complaint the newspaper related the following incident: A school mistress taking her children for an outing was overheard telling a little Jewish girl, "Nita, stand up straight. Show how proud you are to wear the pretty star."[82] It has been surmised that in order not to antagonize the Belgian population the German military administrators showed steadfast opposition to the introduction of the Jewish Star.[83] Popular resentment and the King's opposition prevented the introduction of the Jewish Star in Denmark.

The feelings of the Czechs, at least of a considerable portion of them, were pointedly expressed in a public statement by Hubert Ripka, former long-time Secretary of Foreign Affairs and during World War II a member of the Czechoslovak National Committee in London. On September 18, 1941, Ripka addressed the Jews of Czechoslovakia over the BBC in the following words: "Jews of Czechoslovakia, we think of you with profound sympathy in these days . . . . Today they [the Germans] wish to designate you publicly by a mark of shame. But the yellow Star of David is a mark of honorwhich all decent people will respect . . . . Jewish friends, do not hide your Jewish identity, be proud of it."[84] In Bulgaria, where public resentment against the anti-Jewish legislation enacted under Nazi pressure was extremely high and led to many stormy demonstrations, the head of the Orthodox Church, Exarch Stephan, published in the official paper of the Church an order prohibiting the wearing of the Jewish Star to baptized Jews because "it is incompatible with wearing the Cross." In order to fully evaluate the importance of this statement it may be noted that the Christian priests in Bulgaria engaged in mass "mercy baptisms" to save Jews from persecution.[85]

It is also interesting to realize that the Jewish badge

[82] Joseph L. Baron, *Stars and Sand* (Philadelphia, 1943), pp. 281-82; *Hitler's Ten Year War on the Jews* (New York, 1943), pp. 253-54.

[83] Reitlinger, *op. cit.*, pp. 342-43.

[84] Baron, *op. cit.*, pp. 280-81.

[85] *Donauzeitung*, Nov 22, 1942, quoted by Meyer, "Bulgaria," *The Jews in the Soviet Satellites*, pp. 571, 622-23.

was opposed by some Germans. A commander of the German Security Police in White Russia, SS *Obersturmbannführer* Strauch, complained in a report of July 25, 1943 that a high official of the *Generalkommissariat* allowed a number of Jews to take off the Jewish Star and issued them identification cards as White Russians based simply on their insistence that they were "one-quarter Jews."[86] Ringelblum relates a characteristic anecdote: A Jew inadvertedly lost his armband. A German officer drew his attention to it in the following words: "*Sie Jude, Sie haben das zwanzigste Jahrhundert verloren.*"[87] And last, but not least, was it consideration for the popular sentiment in Berlin that moved Goebbels to make an effort to eliminate the Yellow Stars from the streets of the capital?[88]

There is no record of Polish demonstration against or opposition to the Jewish badge. The underground paper *Min ha-metzar* reported a rumor that several members of the Polish Socialist Party (PPS) in Lodz planned to put on the Jewish badge as a token of solidarity with the Jews. There is, however, no evidence that any action of this kind actually materialized. In any case, the situation in Poland was entirely different in many ways. As we have seen before, the Poles sometimes had to use the Jewish badge for their own protection in emergency cases. This, of course, cannot be considered a pro-Jewish demonstration.

[86] Nuremberg Trial documents quoted in Hilberg, *op. cit.*, p. 89. Another case of antagonistic reaction against the Jewish badge is reported in the recently published correspondence of a high officer of the German Wehrmacht, who wrote in one of his letters from Minsk, on the Eastern front, on November 19, 1941: "Die Judentransporte aus dem Reich nach Minsk. . . . Das ist, ebenso wie der Judenstern in Berlin, wie ich ihn im September dort sah, eines angeblichen Kulturvolkes würdig! Es *muss* sich ja das alles mal an uns rächen, und mit Recht!" "Ausgewählte Briefe von Generalmajor Hellmuth Stieff," *Vierteljahrshefte für Zeitgeschichte*, II, 3 (1954), 302-303.

[87] Ringelblum, *Notitsn*, p. 97.

[88] Cf. the following entry, dated April 18, 1943, in his diaries: "I gave orders to investigate all Jews still left in Berlin. I do not want to see Jews with the Star of David running about the capital. Either the Star must be taken from them and they be classed as privileged, or they must be evacuated altogether from the capital of the Reich." *The Goebbels Diaries* 1942-1943, ed. by Louis P. Lochner (New York, 1948), p. 335. (Of course, evacuation meant extermination.)

A bitter piece of historical irony occurred in Czechoslovakia after the war. The popular feeling of hatred against the Germans was so high that every person of German origin or who spoke German was compelled to wear a German mark of distinction. Thus, historical Nemesis caught up with the Germans for their misdeeds of the occupation period. However, in the first storm of indignation, the officials did not bother to distinguish between the ethnic ("racial") Germans and the Jews, former Austrian and German citizens, who had been inmates of concentration camps and were liberated. Thus the victims of the Nazis were ordered to wear the "German badge" together with their oppressors. Only after many explanations and interventions, *e.g.*, by the World Jewish Congress, to "exclude all Jews from the group of Nazi traitors" were the law and the administrative practice changed and the Jews freed from the new badge.[89] [90]

[89] Meyer, "Czechoslovakia," *The Jews in the Soviet Satellites*, p. 79. Judah Nadich, chaplain of the United States Army in Europe during World War II and since August, 1945 adviser on Jewish affairs to General Eisenhower, writes on the yellow badge of the Germans:" The next morning [October 12, 1945] I drove across . . . the Sudetenland. . . . One is only human and I must confess to having felt some measure of satisfaction at seeing these same *Sudeten* Germans now walking the streets of the town and villages of this part of Czechoslovakia with yellow bands on their sleeves. They were thus set aside from the rest of the Czech population prior to their deportation to Germany." Judah Nadich, *Eisenhower and the Jews* (New York, 1953), p. 201.

[90] During the process of typesetting of the present essay an article containing supplementary material appeared: "The Yellow Badge: A Shibboleth in Nazi Europe," *Weiner Library Bulletin*, VIII (1954), pp. 40, 42.

REVIEW SECTION

Ancient Israel

ANCIENT ISRAEL. By *Harry M. Orlinsky.* (The Development of Western Civilization, Narrative Essays in the History of Our Tradition from Its Origins in Ancient Israel and Greece to the Present. Edited by Edward W. Fox). Cornell University Press. Ithaca, N. Y., 1954. xiv, 193 pages.

THIS history of ancient Israel by Professor Orlinsky of the Hebrew Union College—Jewish Institute of Religion in New York, follows quickly a similar book by Professor Cyrus H. Gordon of Dropsie College in Philadelphia (*Introduction to Old Testament Times;* Ventnor, N. J., 1953). Both authors are young Jewish scholars of recognized ability and eminence; both are experts in biblical studies; both have been pupils of Professor W. F. Albright of Johns Hopkins University, and like him, both view with distaste the findings of the radical school of biblical literary criticism, yet in matters of detail they reach conflicting conclusions, although they both believe that many narratives in the Bible, which had often been regarded as legend or fiction, have been confirmed by the archaeological excavations in recent years.

Dr. Orlinsky's book is part of a series of volumes intended as textbooks for a college introductory survey course, and is eminently well suited for such a purpose. The author, learned as he is, has avoided technicalities and has written in a clear, attractive, and interesting style the ever fascinating epic of ancient Israel from 2000 to 300 B.C.E.

Errors of fact are rare: the following list may include, besides what this reviewer regards as errors, some new discoveries unknown to him. Saul delivered Jabesh before, not after, his coronation (p. 64); was Phoenicia ever "at the mercy of Israel" (p. 73)? Chronicles, but not the early sources, attribute the organization of musical guilds to David (p. 74); David's professional army was in the charge of Benaiah, not of Joab, the commander of the militia (p. 75); the Temple in Jerusalem did not become the national shrine until long after Solomon, who built it as the royal palace chapel (p. 79); Samaria was not utterly destroyed by Sargon II in 722 (p. 101); under Tiglath-pileser III, Judah did not ally itself with Israel and Aram against Assyria (p. 107); nothing indicates that the High Priest had civil authority under Persian rule (pp. 131, 140); the Samaritan temple on Gerizim was probably built a century after Sanballat (p. 140).

The author presents the traditional views on the Bible, which critical historians have rejected: "In sponsoring monotheism, Moses was actually

not introducing a new concept" (p. 40); the Pentateuch is substantially Mosaic in origin (pp. 40, 56); Amos derived his teaching from Samuel, Nathan, Elijah, Elisha, and even Deborah (pp. 99, 127); the Book of Esther "may . . . safely be considered a reflection of fact" (p. 134). He considers the golden calf (p. 37), the Tabernacle (p. 38), and the Ark containing two stone tablets (p. 38) as historical. He usually accepts Chronicles as genuine history, but seems to be uncertain on page 112, note 11. Orlinsky's only concession to critical research seems to be his admission that there is a "Second Isaiah" (beginning with Is. 40).

The final chapter of the book, "The Hebraic Spirit: The Prophetic Movement and Social Justice," is a superb crown for this fascinating volume. No one could object to its keynote: "The prophetic movement forms the climax of biblical history." In fact, this reviewer believes that Dr. Orlinsky modestly underestimates the epoch-making role of the two greatest, most influential, prophets (notably responsible for Gentile religious progress), namely, Amos, the first, and the Second Isaiah, the last, of the great prophets. It is hardly enough to say that "the prophets . . . took their stand on two fundamental ideas: . . . a covenant between God and His people Israel, and that this covenant bound the Israelites to a completely ethical relationship one to the other" (p. 148). Going far beyond the limits of a national religion and the assurance that the sole God in existence was solely—or even primarily—concerned with Israel, Amos declared (9:7) that in God's eyes the Israelites were not more important than the Negroes of Africa ("the children of the Ethiopians") and that God did no more for the Israelites when He delivered them from Egypt than for their worst enemies, the Philistines and the Arameans. And as for Second Isaiah, his horizon was not limited to his own people, the Jews: the Servant of the Lord was called by God to be a light for the Gentiles (Is. 42:6), that all men might recognize that there is no other God (45:6): unto Him every knee shall bow, every tongue shall swear (45:23).

Despite inevitable differences of opinion, this reviewer admires this excellent volume and wishes it great success.

Harvard University ROBERT H. PFEIFFER

THE FALL AND RISE OF ISRAEL: THE STORY OF THE JEWISH PEOPLE DURING THE TIME OF THEIR DISPERSAL AND REGATHERING. By *William L. Hull.* Zondervan Publishing Company. Grand Rapids, Mich., 1954. Pp. 424.

WHO would have believed in 70 and 135 C.E. that more than a millennium and a half later a book appearing under the title, *A History of the Decline and Fall of the Roman Empire,* would be followed almost exactly two centuries later by another book entitled *The Fall and*

Rise of Israel? It is true that what Roman Imperialism stood for prevails to this day; but at the same time history has made such legends on Titus' coins as *Judaea Devicta* and *Judaea Navalis* seem today to have been somewhat premature.

The author is one of the few who have written on modern Israel as a practicing Christian. His is a religious interpretation of history, after the tradition of the writers of the historical and prophetical books in the Bible, so that "all great events of history happen by the permissive will of God . . . History, then, whether recording a punishment or a blessing, is the fulfillment of prophecy, and this point has been uppermost in my mind while writing this book."

The volume is divided into four main parts, covering, respectively, the period from the Babylonian Exile to the beginnings of modern Zionism (pp. 27-130), the period of the British Mandate of Palestine (pp. 133-276), the historical circumstance of Israel becoming a sovereign reality (pp. 279-317), and Israel from 1948 to 1954 (pp. 321-396). A useful bibliography, footnote references, and an index bring the book to a close.

The Reverend Hull has caught well the spirit of Diaspora Judaism in relation to the land of Israel. Thus he has noted the talmudic dictum that "if a man desires to leave Palestine he cannot force his wife to go with him. But if he desires to immigrate to Palestine he can divorce his wife if she refuses to accompany him. It further adds, 'It is better to dwell in the deserts of Palestine than in palaces abroad.'" At the same time the author has not been afraid to point out the frequently brutal and inhuman attitude that virtually the entire Christian world has displayed toward the Jews in the diaspora and in Palestine-Israel. He records with passion the Nazi treatment and decimation of the Jews and how the rest of the civilized world played so effectively the role of the silent partner. "Six million Jews could perish," the author reminds us, "but the immigration quota of Palestine was sacrosanct." And how many Christians even today, the theologians among them especially, recall and cite in this connection the statement by Jesus to his disciples, "Inasmuch as ye have done it unto one of the least of these my brethren, ye have done it unto me" (p. 199; from Matthew 25:40).

The Reverend Hull, a resident in Palestine since 1935, and according to the dust jacket "still actively engaged in his mission work in Jerusalem," looks upon modern Israel with considerable satisfaction and affection. He regards "The Israel Army, Navy and Airforce . . . as descendants of Gideon's and David's armies." As a faithful Christian, he believes that Jesus Christ will come a second time to usher in the final salvation, and regards modern Israel as a sign and a step in that direction.

Unlike some others who have written about Israel during the four thousand years of its existence, the author's attitude is sympathetic and historically correct. This is so, perhaps, because the Reverend Hull is

a Christian who practices what he believes. In any case, the reviewer would end on a personal note, viz., the author, the Canadian Supreme Court Justice who wrote the Foreword, and the reviewer—all three are Canadians by birth.

HARRY M. ORLINSKY

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JEWS IN THE MIDDLE AGES

THE HISTORY OF THE JEWISH KHAZARS. By *D. M. Dunlop.* Princeton University Press. Princeton, New Jersey, 1954. xv, 519 pp.

THE Khazars, a people remarkable alike for their far-famed conversion to Judaism and their less known rôle as the champions of Christendom who helped to stem the onslaught against it of the Muslims in Eastern Europe, are of no mean historic interest. The work under consideration is acclaimed in the publisher's blurb as the 'first comprehensive history of the Khazars in any Western language." The author himself, evidently a master of the vast literature on the subject, advances no such extravagant claim. In his lucid summary of the existing original sources, in a variety of languages not easily accessible, and of the wide range of modern literature thereon, in a Babel of languages both Eastern and Western, he modestly states that there is little new in his work, his main task having been "to go over the available material and construct therefrom as coherent an account as possible of the fortunes of the Khazar nation and state." Both characterizations are at some distance from the truth. Previous accounts of the Khazars are available in Western languages, in fact, even in English, as the author acknowledges. At the same time, the merit of his work transcends the author's own modest appraisal of it. Apart from making accessible for the first time some original sources—references to the Khazars excerpted from Arabic, Persian, and Chinese works—Dunlop also presents some valuable results of original research in his discussion of sources previously known and the literature thereon.

Much in the history of the Khazars, from their first emergence till the collapse and final disappearance of their kingdom, presents highly controverted questions. In his detailed discussion of them, the author quotes lengthy excerpts from the original sources and enters into scholarly debates with mediaeval and modern authorities whose works he has consulted. Without neglecting the problems presented by the pre-Islamic contacts of the Khazars with their Greek and Persian neighbors and their wars with the Arabs and other enemies, the author accords high rank to the matter of the conversion of the Khazars to

Judaism. In two lengthy chapters he deals with the references to it in Arabic and Hebrew sources.

His main conclusions are not new. The publications of scholars like Harkavy, Schechter, and Asaf demonstrated that the correspondence between the Hispano-Jewish minister Hasday ibn Shaprut and Joseph the Jewish king of the Khazars, first published in the collectanea *Kol Mebhasser* by Isaac Akrish in 1577 and long regarded by critics as a forgery, is corroborated by documents dating from the tenth and eleventh centuries. Also, in his discussion of the various other arguments pro and con the historicity of the correspondence, the author is largely no more than the mouthpiece of earlier writers on the subject. Partly original, on the other hand, are his arguments for the thesis that the "long" version of Joseph's Reply, published by Harkavy, represents that document in its more nearly original form. He makes an interesting comparison of four relevant documents—Hasday's Letter, the "short" and "long" versions of the Reply, and the so-called Cambridge document published by Schechter—as regards the frequency of the occurrence therein of the Vav conversive. The author seems to overstrain the evidence afforded by the rate of occurence in the relevant documents of that grammatical construction. (Its technical name now adopted by all grammarians of standing is, incidentally, "Vav consecutive.") Rather more convincing is his conclusion, from the Hebraized spelling of Arabic words in the "long" version of the Reply, that the version 'was written in a non-Arabic-speaking environment," in support of which the author might have pointed to the frequency of the same phenomenon in Kimhi's biblical commentaries, written and transmitted in non-Arab Provence.

Dunlop's treatment of the main Khazar problems is, on the whole, adequate. The same can hardly be said of his digressions to peripheral questions. Quite serious, for instance, are the defects of his treatment of the Khazars' relations with the Hungarians. It bristles with inaccuracies, his otherwise astonishingly broad linquistic equipment evidently stopping short of first-hand acquaintance with the Hungarian language. His diffidence in equating the Magyars with the Hungarians betrays his unawareness of the fact that "Magyar" is but the native Hungarian equivalent of "Hungarian." His assumption that "Magyar" was the name of only one of the seven Hungarian tribes is not borne out by native Magyar tradition, which traces that name from an ancestor called "Magyar," an eponym obviously quite as legendary as his brother "Hunor," the Huns eponymous ancester in Magyar tradition.

The meaning of Atelkuzu, the territory of the Magyars prior to their conquest, under Arpád, of Pannonia on the middle Danube, as "[the country] between the rivers" is needlessly questioned by the author. Still extant in Hungarian saga as Etelköz, its first component is evidently "Atil," the name of the Khazar capital and of the river

on which it was situated, a name denoting "river" in the Khazar tongue, while " . . . kuzu" = " . . . köz" in Hungarian—prepositions in that tongue invariably occur as postpositional enclities—denotes between."

This, in turn, has an important bearing on the etymological origin of the name "Khazar" = Kazár. Failing to utilize in that connection the Khazar elements in the Hungarian language, the author, apparently misled by the second-hand sources he blindly follows, equates the Khazar title, K-nd-r Khāqān, with the supposed Hungarian title "köndür" = chief, judge. There is no such Hungarian title. The amusing mistake is apparently due to confusion with the Hungarian "kandúr" = tomcat. Fanciful etymologists used to derive that word from "kend" and "ur": "kend" = German "Sie," the polite form of address, úr = lord. But such derivation is now generally admited to be a mere joke.

The father of the above-mentioned Arpád is referred to by the author under a variey of names: Almutzes, Salmutzes, Olom, Almish, and Almush. Once when citing an authority who spells the name "Almus," the form that has only of late been replaced by "Almos" in the writings of native Hungarians, he apologetically added "[*sic*]."

As for Hungarian recollections of ancient Magyar associations with the Khazars, any native could have acquainted Mr. Dunlop with a street named Kazárucca in the heart of Budapest's Jewish quarter; he could also have told him that in the slang of Hungarian anti-Semites "Kazár" as a term of abuse is a near-equivalent of "zsidó" = Jew.

The author should have either consulted native Magyars or omitted the Magyar side of his account of the Khazars.

Similarly superficial is the brief reference, in a page and a half at the tail end of the book, to the speculation that the modern Jews of Eastern Europe are the descendants of the mediaeval Khazars. In view of the fact that the sources on the Khazars report them variously as a fair and as a dark race, it is a gratuitous assumption that Khazar descent accounts for "the frequency of a blonde, fair-skinned and often blue-eyed type among the easteuropean Jews." Would the ubiquitous Khazars be called in to account for the perplexing frequency of that same type among the modern Sabras? It is palpably absurd also to speak of "the absence of western influences in Yiddish" or its "affinities with some German dialects." Are European influences absent from American? Has that language merely some affinities with some English dialects? Incongruities of that kind, mainly on peripheral issues that might safely have been omitted by the author, only mar an otherwise excellent work whose merits deserve unstinting praise.

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AGOBARD OF LYONS CHURCHMAN AND CRITIC. By *Allen* Cabaniss. Syracuse University Press. Syracuse, N. Y., 1953. Pp. xii and 137.

THE writings of Agobard, Bishop of Lyons in Southern France, have long since won recognition as a prime source for the history of Jews in the ninth century. This is especially true of his trenchant epistles addressed to the imperial Court of Louis I the Débonnaire (or, the Pious) and to other persons in authority. Springing from actual and (to the Bishop) very painful events in the city and diocese of Lyons and Southern France, Agobard's works vividly portray the deep resentment and vigorous action of a Prince of the medieval Church in the face of repeated successes of Jewry and Judaism within his domain. His own pen describes the humiliation meted out by the Emperor himself, his mounting frustration, and the final, ignominious defeat he suffered in his unrelenting struggle against the Jews and their ascendant faith. He tells how he even had to withdraw from his See temporarily, when his defiance of imperial orders precipitated imminent peril as the Master of the Jews summoned royal *missi* to Lyons to call the Bishop to account.

Agobard's writings show the Jews of the Carolingian Empire strongly entrenched in the favor of the Emperor and his counsellors. His works add vivid reality to factual data preserved in imperial charters of the ninth century. One of his compositions, undertaken jointly with two colleagues, attacks the "superstitions of the Jews" and collects into a convenient compendium the numerous anti-Jewish opinions of the Fathers and decisions of Church councils past and present. In an effort to discredit Jewry and Judaism at the Court, the churchmen quote, directly or indirectly, from Jewish mystical writings which may have been the *Otiot* and the *Hekhalot*, ascribed respectively to Rabbis Akiba and Ishmael, the *Sefer Yetzirah*, the *Shi'ur Qomah*, and a caustic version of the life of Jesus, the *Tol'dot Yeshu*. Agobard introduced the Christian attack on the Talmud.

Allen Cabaniss presents a well-rounded picture of the personality and the intellectual and spiritual outlook of Bishop Agobard. The seventy years of Agobard's life—769 to 840—spanned the reigns of Charlemagne and his son Louis I and coincided with the rise of the Carolingian Empire to the height of its power and its incipient decline. The author outlines clearly the contents of the many extant writings of the prelate. On them he builds for the most part his description of Agobard's activities, at the same time drawing from many other contemporary sources. The Bishop (Cabaniss correctly never entitles him *Archbishop*) of Lyons emerges as a theologian and intellectual leader well-grounded in Scripture, with a slight knowledge of Hebrew, largely indebted to Augustine for his theology, and the possessor of a vigorous Latin style. He appears to have been a somewhat unimaginative rationalist, who mercilessly attacked the image worship of his day. He spoke out boldly against the

doctrine of verbal inspiration of Scripture and denied the justice of the ordeal by battle. He sardonically exposed the superstitions of the masses, whose credulity was being exploited by certain unscrupulous "weather-makers," who were conducting an apparently profitable "racket." In the field of liturgy Agobard opposed the use of poetical compositions which were not scriptural in origin, thus taking a stand surprisingly close to that of the Karaites.

Cabaniss describes in detail Agobard's role in the great political events of his time. During the first revolt of the sons of Louis the Débonnaire against their father, Agobard appears to have remained neutral. But he unhesitatingly played a leading role in the second uprising which, like the first, also proved abortive; and the Lyons prelate had to follow his would-be emperor Lothair into exile. A thorough familiarity with the sources and a clear exposition characterize Cabaniss' work as a whole.

On the subject of greatest interest to the readers of this journal, Cabaniss adds little, if anything, to our previous knowledge. He does not pursue some of the suggestions adumbrated by Friedrich Wiegand, "Agobard von Lyon und die Judenfrage," in the *Festschrift . . . für Prinzregent Luitpold von Bayern* . . . I (Erlangen and Leipzig, 1901), 221-250. Cabaniss does not follow Wiegand, whose proof to the contrary remains uncontroverted by Cabaniss' assertion that Agobard stood on firm canon law in his action against the Jews. For the most part, Cabaniss accepts Simson's dating of the prelate's writings on the Jews. He does not delve into the admittedly difficult but rewarding problem of the person of the "Master of the infidel Jews," to whom Agobard refers several times, once even by name. Was he only a local official, or an officer with empire-wide authority? And was he a Jew and interpreter of Jewish law? These questions, which have led scholars to widely divergent conclusions, can hardly be answered on the basis of the Bishop's works alone.

On the face of things, Agobard appears to have been aroused against the Jews (with whom, he tells us, he is in daily contact) because of their refusal to take the market-price as ransom for those of their slaves who accepted baptism. To Cabaniss, the Churchman's attack based itself on three principles of opposition: the effort of the Emperor to supersede canon law with secular law, the challenge to the "universality of Christianity" implicit in the Jews' resistance to the baptism of their slaves, and the challenge to the doctrine of brotherhood in the denial of Christian privileges to slaves. Apart from the fact that this formulation hardly fits the actual conditions of ninth century Frankland, it is highly doubtful if these were Agobard's motivations.

Setting aside for the moment the moral issue involved in slave-holding (a question that did not exercise the ninth century overmuch), it is possible to see the situation in its realistic political and economic aspects. Imperial legislation had long guaranteed to Jews the right to

live by their own law in Frankland. That law required them to convert to Judaism within twelve months any slaves whom they retained for personal service. This raised the slave to a social and religious plane comparable to that of his master's. Furthermore, the law of the Jews forbade them to sell such a converted slave to a non-Jew under penalty of ten times the selling price. This was designed, of course, to protect the slave's right to remain a Jew. An actual incident arose involving a female slave, a Jewess, who, Agobard claimed, accepted baptism. When now Bishop Agobard accused the Jews' Master of acting "unreasonably" in this matter, it was probably because the Master was insisting on a strict observance of the law. Obviously, such a decision frustrated Agobard's attempts to ransom Jewish slaves who had accepted baptism. In addition, imperial charters explicitly declared that the slaves of Jews might be converted only with their masters' consent, condemned the practice of baptizing such slaves in order to effect their freedom, and cited canon law in support. Wiegand has demonstrated that the imperial position was a normal and essentially Christian outlook in the ninth century.

Agobard attacked the Jews on theological grounds. However, he did so because this was the only basis on which he could claim competence in bringing charges against them. We have to thank Cabaniss for providing such a well-rounded picture of the Bishop of Lyons that the question of his motivation in the matter may now be pursued further. Cabaniss shows Agabord to have been a leader of the agitation in ecclesiastical circles against lay possession of former Church property. Now, the Jews in Southern France—certainly in the *Narbonnaise* and probably also in the *Lyonnaise*—were among the largest owners of landed estates, including former Church holdings. Charlemagne and his father, Pepin, had been most liberal in making such grants and had even conferred on the leader of the Jews political power and prestige of an astonishing order.

It would seem, then, that Agobard's action against the Jews for refusing to surrender their slaves probably involved far more than theology. For without adequate labor to work their fields (the favorable immigration policy of the Carolingians highlights the manpower shortage of the day) and especially their vineyards, these Jewish estates would be reduced to wasteland and their landholding rights might become forfeit. The Church could then come into her own. Furthermore, in so far as the Jews were a vital pillar of economic and political support to the Emperor, the prelate's effort to undermine their economic position had obviously wider implications. In another connection, Cabaniss points out that Agobard's complaint about juridical procedure in Lyons probably had some reference to the Jews. This is very likely so, as is probably also his attack against the numerous jurisdictions valid in his time and the ease with which certain persons could appeal to the imperial Court. But in neither of these writings does the Bishop mention the Jews by name,

and his references are very vague—in order to avoid the charge that he was exceeding his competence.

Agobard implies that he was galvanized into action by the successful competition which Judaism and Jews offered to Christianity in his time. With bold strokes he draws a melancholy picture of how the market date in Lyons was changed from Saturday to Sunday in order to accommodate the Jews, with consequent detriment to the religious life; how Christians preferred Jewish preachers to their own, observed Jewish Sabbaths, holy days, and dietary regulations while neglecting their own; and accepted the Jews' claim that they were the sole true people of God. Only a year or two before Agobard's death, the Christian world was shocked by the conversion of Deacon Bodo to Judaism, who was none other than the chaplain of Emperor Louis himself. Bodo accepted circumcision, became Eleazar by name, let his beard grow, studied Hebrew, put on military dress—all in assertion of his new-found Jewishness—carried on effective anti-Christian agitation in Spain, and married a Jewish girl. The perspicacious Bishop of Lyons recognized in Jewry's political prestige and social status the source of that power which enabled Judaism to challenge Christianity so effectively. Consequently, he aimed his attack at a mainstay of their economic and political position, namely, their vast estates, *via* the labor force in the fields. In so far as he might induce any of these to accept baptism, he thought that he had at his disposal a powerful theological springboard for his action, since canon law forbade Jews to acquire Christian slaves.

Agobard's strategy ended in dismal failure. Humiliation, frustration, flight from the imperial *missi* summoned by the Jews' Master, all harried him, while he had to take note of Jewish influence and prestige at home and in the imperial Court. His efforts were barren of results in his own day. But his anti-Jewish writings, excerpted and reproduced by his followers, brought forth bitter fruit in a later generation, when the economic and political position of the Jews began to totter. Agobard dead thus proved more efficacious than Agobard alive.

Professor Cabaniss' short study is highly welcome. Only its brevity and an over-readiness to accept the judgments of the anti-Jewish prelate need be deplored. He has made his contribution in the area of our special interest by providing a fuller picture of the energetic Bishop of Lyons than has heretofore been available in one study.

City College of New York ARTHUR J. ZUCKERMAN

JEWS IN MODERN EUROPEAN CIVILIZATION

FORGOTTEN LEADERS IN MODERN MEDICINE: VALENTIN, GRUBY, REMAK, AUERBACH. By *Bruno Kisch.* (Transactions of the American Philosophical Society, N. S., Vol. 44, Part 2, pp. 139-317). Philadelphia, 1954.

THE author of this valuable, scholarly, and instructive monograph, himself a distinguished physician, scientist, and teacher, has rescued from near-oblivion four medical scientists of the nineteenth century whose work entitles them to a more honored place in medicine's Hall of Fame than has been allotted to them.

Gabriel Gustav Valentin (1810-1883), David Gruby (1810-1898), Robert Remak (1815-1865), and Leopold Auerbach (1828-1897) are the four men whose lives and works the author has brilliantly recreated and sympathetically interpreted. Valentin was born in Breslau, Silesia; Gruby in South Hungary; Remak in Posen, Prussia; and Auerbach, like Valetin, came from Breslau. Besides their contemporaneity, they had certain other characteristics in common. Most noteworthy is the fact that they were all Jewish and retained their faith throughout their lives. This is significant, because their refusal to renounce the faith of their fathers barred them from the academic and professional positions—especially in the land of their birth—which they merited for their outstanding scientific work. One may perhaps question whether any or all of these medical heroes would have been more famous and made even greater scientific discoveries had they either chosen to be converted to Christianity or encountered less difficulty because of their Jewishness. Kisch wisely refrains from attempting to answer this hypothetical query, devoting himself to a detailed account of the lives and works of his four subjects. Nevertheless, the record does demonstrate that those same traits of integrity and stubborn rectitude, which enabled them to retain their religious faith and their self-respect, were also responsible, when coupled with a zeal for learning and a desire to extend the bounds of knowledge, for the great contributions to medical science which they did succeed in making.

Gabriel Gustav Valentin graduated in medicine from the University of Breslau. He wanted to devote himself to a career in teaching and research, but because he was a Jew, he was unable to obtain academic recognition especially in his own country. However, supporting himself by medical practice, he undertook to do research as well. He soon distinguished himself in microscopy and made many significant contributions to the then new science of histology. Valentine's work in embryology was outstanding, and he soon began to win prizes and other awards. At the age of twenty-five he was offered the professorship of anatomy and physiology in the small and relatively unknown University of Bern, Switzerland, where his Jewishness was not considered a bar to an academic

post. Here he remained for the rest of his life. He wrote an important textbook on physiology and may be regarded as one of the modern architects of this science.

Born in Hungary in the same year as Valentin, David Gruby studied in Pest (before that city was joined to Buda) and then went to Vienna for a medical degree. He was a brilliant student, and his thesis, the first text on microscopic pathology, won him wide acclaim. An offer of a professorship if he would embrace Catholicism was refused, and Gruby went to Germany and England. He finally settled in Paris, where he opened a private research laboratory. He taught normal and pathological microscopic anatomy, and among his students were Magendie, Claude Bernard, Flourens, and Milne-Edwards. Gruby practiced medicine for a living. From 1841 on he made some of his most important discoveries, including the establishment of the etiological relationship of certain molds to skin diseases, especially in children. He also made significant advances in our knowledge of parasitology and in experimental infections. Gruby pioneered the use of cotton in medicine and surgery; he devised a mobile hospital for military use, and was probably the first in France to develop a wheeled stretcher for use on the battlefield. Besides all this, he studied astronomy and meteorology as a hobby. Gruby died a bachelor.

Robert Remak, the third member of this remarkable quartet, is perhaps the best known and most important figure. He studied in Berlin and was a brilliant clinician as well as scientist. A contemporary of the great Virchow, he anticipated certain of the latter's discoveries. He made notable contributions to neuro-histology, embryology and physiology. Upon his death in 1865 he was characterized as one of the greatest and most peculiar geniuses of modern medicine.

Last is the sketch of Leopold Auerbach, born, like Valentin, in Breslau, but eighteen years later. He, too, studied medicine in Breslau but, denied an academic post, practiced medicine and did research in his home laboratory. There this solitary worker discovered the *plexus myentericus* in the intestinal tract, first saw the conjugation of nuclei in the fertilized egg, and demonstrated that the endothelium in capillaries consisted of a layer of nucleated cells. He died of an obscure infection, his mind busy with scientific ideas to the very end.

These four biographies are exhaustively documented and lavishly illustrated. The American Philosophical Society deserves high praise for publishing this noteworthy contribution to the history of medicine.

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THE ENGLISH LEGEND OF HEINRICH HEINE. By *Sol Liptzin.* Bloch Publishing Company. New York, 1954. 186 pages.

IN 1841, after the publication of the *Book of Songs,* the great German dramatist Friedrich Hebbel wrote about Heine's poetry: "His wit is only the cheerful veto expressed by his heart against his intellect." These words reveal the conflict in Heine, which made him one of the most controversial literary figures of the nineteenth century. This conflict between heart and intellect has often been described as characteristic of the Jewish people in general. Most of the critics, however, overlook the fact that it is rooted in the epoch also. The age in which Heine lived was one of transition from Romanticism to Early Realism, the turbulent age of the Industrial Revolution, and Heine, in many respects still a German Romanticist, had to face the changing world of society and politics. A new type of writer appeared in French as well as in German literature, a writer best described by the title of a timely novel by A. von Sternberg, *Der Zerrissene* (The Torn One) (1832).

With deep understanding and admirable industry Dr. Liptzin follows the ever-changing legend of Heine in England. Heine's youthful poems were largely condemned as expressions of immorality, destruction, and cynicism. The *Athenaeum* considered his articles unpublishable. Animosity against the poet reached its climax when Thomas Carlyle began his attacks in the *Edinburgh Review.* For him Heine was a "blackguard." Once he even called him "the dirty, blaspheming Jew."

In the Mid-Victorian era this attitude changed completely. George Eliot ranked Heine's poems second only to Goethe's. When Heine died in 1856, he was eulogized in the English press as one of the greatest of contemporary poets. According to Matthew Arnold, Heine made literature an expression of the burning questions of contemporary life: "Heine's intense modernism, his absolute freedom, his utter rejection of stock classicism and stock romanticism, his bringing all things under the point of view of the nineteenth century, were understood and laid to heart by Germany, through virtue of her immense, tolerant intellectualism, much as there was in all Heine said to affront and wound Germany. The wit and ardent modern spirit of France Heine joined to the culture, the sentiment, the thought of Germany. This is what makes him so remarkable: his wonderful clearness, lightness, and freedom, united with such power of feeling, and width of range."

In the Victorian age his Jewishness was no longer regarded as of great importance. What was the attitude of the English Jews toward Heine? Among the few who wrote about him, Israel Zangwill is the most outstanding. He saw in the German poet the embodiment of many dualisms, Jew and German, German and Parisian, a romantic poet and a modern realist. For Zangwill Heine also belonged to the "Dreamers of the Ghetto." He described the dying poet as exclaiming: "My father was Germany, my mother was the Ghetto; the brooding spirit of Israel

breathes through me that engendered the tender humor of her sages, the celestial fantasies of her saints."

At the end of the nineteenth century, the "Heine controversy" in England seemed to be over. His poems became popular, especially through musical compositions. A poet of the past, however, is ever subject to changes in judgment and appraisal. Nobody can predict whether Heine's works will be felt as a living force in the future also. Liptzin comes to the right conclusion: "Each age and each people have had an affinity for some distinct aspect of the complex personality and have superimposed their new insight upon the insights of their predecessors. A survey of the English legend from 1828 to the present day reveals many varying and often contradictory approaches and interpretations."

Brandeis University RUDOLF KAYSER

AMERICAN JEWISH HISTORY

MYER MYERS, GOLDSMITH 1723-1795. By *Jeanette W. Rosenbaum.* The Jewish Publication Society of America. Philadelphia, 1954. 141 pp. and 30 plates.

ALTHOUGH there are many general books on the goldsmith's craft, American, English, and European authoritative studies of individual masters are as yet few and far between. Any author, therefore, who enables us by his work to estimate the production and standing of a single craftsman is entitled to our gratitude for the very real contribution he makes to the study of the goldsmith's art as a whole. Mrs. Rosenbaum's new book on Myer Myers not only achieves this aim, but is especially remarkable as the first essay on the work of a Jewish silversmith either in America or England.

Every craftsman's work requires an appreciation of the social background of his day, and if to this we can add some personal knowledge of the man himself, his work will at once acquire an individuality seen as an expression of its maker's life. In this, as a whole, students of silver are more fortunate than those of furniture and other artifacts, since the regulations of the goldsmiths' guilds invariably enforced the use of an individual mark by which a piece could be attributed to a specific maker and a craftsman's work traced through its varying developments. Goldsmiths, nevertheless, with the exception of the loquacious Cellini, have usually proved a self-effacing race, and few have left wider records than may be found in the annals of their guilds. Myers shared this reticence, and Mrs. Rosenbaum perforce had recourse to painstaking research in contemporary documents for material on which to construct her extremely interesting sketch of his life and career.

Myers was born in New York in 1723 of parents who had emigrated from Holland. The family were members of the congregation of Shearith Israel, the Sephardic and the earliest synagogue in America, and Mrs. Rosenbaum suggests that Myers may well have been educated in the congregation's school. Little is known of the silversmith himself, however, till the record of his obtaining his freedom as goldsmith in 1746, his apprenticeship, as far as we know being unrecorded. It would have been interesting to have established from whom he learned his skill, but this is at present denied us. Nothing is heard of him again until 1754, and in the next year he is found trading in Philadelphia as well as New York. By 1759 he had grown in stature and was President of Shearith Israel, as he was again in 1770. The Revolution drove him and his family to Connecticut. By 1782 they were to be found in Philadelphia; in that same year the Spanish-Portuguese congregation of Mikveh Israel was reorganized in that city, to the building fund of which Myers made substantial donations. After the British evacuation of New York he returned there to end his days in prosperity, dying in 1795.

Mrs. Rosenbaum's story of Myers' life clearly demonstrates the goldsmith's determination not to allow the disturbances of his times to prevent him from following his chosen trade, while the records of his adherence to both Shearith Israel and Mikveh Israel show him to have been a devoted supporter of his faith. What of his silver, as revealed by the excellent illustrations of a selection of his surviving pieces? They appear without exception to be pieces of great integrity of craftmanship with a sure sense of line and proportion, if perhaps comparatively stereotyped in conception of form and decoration when set against the work of some of his more famous contemporaries. The Cornell coffee-pot is, I think, his most individual inspiration with a particularly graceful and beautifully placed spout.

But it is for his synagogue pieces that Myers claims our attention as an important contributor to the history of American silver. These comprise five pairs of Rimonim or Bells for the Torah scrolls, of which two pairs each belong to Touro Synagogue, Rhode Island, and Mikveh Israel, Philadelphia, and one pair to Shearith Israel, New York. The latter is identical with one of the pairs at Rhode Island. These parallel pairs of bells in New York and Rhode Island, made about 1765, have bodies of triple bulb form pierced and chased with flowers and foliage. In this pierced decoration they closely resemble a pair of bells of 1719 by the London goldsmith Gabriel Sleath, now at Bevis Marks Synagogue, but formerly belonging to the Barbados congregation, which had been founded in the mid-seventeenth century. This raises the interesting question whether Myers' design for these bells originated from the Barbados examples, or whether both the London maker, Sleath, and Myers some forty-five years later were working from some common pattern, presumably an engraved design. Let it be said that Sleath's bells are

not unique among English examples. Others of the same form as those of 1724 by the Jewish goldsmith Abraham de Oliveyra are in the Jewish Museum, London, and more could be cited. On the whole one inclines to the belief that Myers must in some way have seen the Barbados bells, since connections between New York and that island were very close at the time.

The other pair of bells at Touro Synagogue is of the same general form, but these have solid bodies with engraved decoration in place of the piercing. Myers' final pair at Mikveh Israel are of quite different form, with pear-shaped bodies partly chased with fluting. Both form and decoration could be paralleled in English domestic pieces, such as coffee-pots of the same period, though Mr. Schoenberger has suggested German influence, comparing them with a pair of Nuremberg bells of about 1750 in the Jewish Museum, New York.

Whatever his sources, there can be no doubt that in his Rimonim Myer Myers made a noteworthy contribution to the corpus of American silver in working in a medium which no other of his compatriots essayed.

The book is beautifully produced with a most attractive cover and map end papers of Myers' New York, and there is an authoritative catalogue of all the goldsmith's known pieces by Mrs. Ives Buhler of the Fine Arts Museum, Boston.

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THE CONFESSION OF A MEDIEVAL JEWISH CONVERT

By Solomon Grayzel
Philadelphia

The Background

THE following is the official record[1] of what happened to Baruc the German, a person otherwise unknown. In July, 1320, Baruc lived through the events which bear in Jewish history the name of the Shepherds' Persecution. He became a convert to Christianity, reverted to Judaism, undertook a religious disputation with a bishop, who later became pope and, finally, took an oath to remain a Christian. The notes reproduced here, in translation from the Latin as the episcopal notary took them down, though fairly brief, reveal certain aspects of Baruc's character and some of the mental anguish he experienced. But they also have wider implications. Baruc's experience cannot have been unique; hundreds, if not thousands, of Jews must have faced the same decision during that age of totalitarian faith. For a better understanding of Baruc's predicament some background information appears to be necessary.

[1] Published by J. M. Vidal as part of an article, "L'Emeute des Pastoureaux en 1320," in *Annales de St. Louis des Francais*, III (1898-9) 154-174. Vidal drew it from the Vatican Archives, Ms. Lat. 4030, ff. 28b-31b.

I

The Attitude of the Church Towards Compulsory Baptism

Forcible baptism of Jews was not uncommon during the centuries following the triumph of Christianity. Their fate under the Visigoths in Spain is merely the best known instance of a happening that occurred in various other parts of the world and about which the available documentation is more vague.[2] To be sure, some powerful voices were raised against such compulsion in the matter of faith. Theodoric the Ostrogoth, at the beginning of the sixth century, expressed the view that *religionem imperare non possumus* ("We cannot compel faith");[3] and towards the end of the same century, Pope Gregory the Great, writing to the Bishops of Arles and Marseilles, pointed out that those converted by force cannot be expected to remain faithful to their new religion.[4] This attitude, which takes for granted reversion on the part of a forced convert, appears to have been the prevailing one down to the twelfth century.[5] The Visigothic bishops at the Fourth Council of Toledo (633) and at the Sixth Council (638) refused to countenance

[2] For the forced conversion of the Jews under the Visigoths see Jean Juster, "La condition légale des Juifs sous les rois Visigoths," *Études d'histoire juridiques offertes à Paul-Fréderic Girard* (Paris, 1913), II 275-335, especially pp. 5 and 12. Cf. also Solomon Katz, *The Jews in the Visigothic and Frankish Kingdoms of Spain and Gaul* (Cambridge, Mass., 1937), pp. 10 ff. Jean Juster, *Les Juifs dans l'Empire Romain* (Paris, 1914), I, 274, n. 5, II, 198 ff., cites examples of other such events. Cf. James Parkes, *The Conflict of the Church and the Synagogue* (London, 1934), pp. 200 ff.

[3] *Patrologia Latina* (= *P.L.*) 69, col. 561, no. xxvii.

[4] Dum enim quispiam ad baptismatis fontem non praedicationis suavitate, sed necessitate pervenerit, ad pristinam superstitionem remeans inde deterius moritur unde renatus esse videbatur. *Monumenta Germaniae Historica* (= MGH.), Reg. Greg. I, I, no. 45.

[5] The Theodosian Code expressed it in 16.18.23 (cf. Juster, *Les Juifs dans l'Empire Romain*, I, 273, nn. 1-2). For other instances see Aronius, *Regesten zur Geschichte der Juden im fränkischen und deutschen Reiche bis zum Jahre* 1273 (Berlin, 1902), nos. 46, 142, 144 (when Henry II, in 1012, permitted the reversion of Jews whom he himself had caused to be converted in connection with the expulsion from Mainz decreed by him), 202.

such a return,[6] yet as late as 1097 Emperor Henry IV permitted the reversion of those baptized by force during the First Crusade.[7]

If the tendency to wink at the reversion of forced Jewish converts was widespread till the beginning of the era of the Crusades, it clearly lost ground with the opening of that era. The great Bull of Protection, *Sicut Judeis,* which at the request of the Jews was issued by almost every pope of the twelfth and thirteenth centuries and even by some of the fourteenth century, was not clear on the issue. Harking back to the sentiments expressed by Gregory I, it urged Christians to refrain from converting Jews by violence, and suggested that people so converted cannot be expected to be loyal to their new faith.[8] It is conceivable that under different circumstances this statement might well have developed into open permission for converts under duress to return to Judaism. But the intensification of Christian zeal, the growth of the Papacy's power, and the loss of economic and social status by the Jews gave the attitude toward forced conversion a different turn. The change became especially noticeable with the establishment of the Inquisition, about the middle of the thirteenth century.

The fundamental question in the matter of forced conversion—and the one that was crucial in the story of Baruc —was the meaning of the word "compulsion." It had long been taken for granted that threats of expulsion from one's home, city, or country, or of confiscation of the Jew's property did not constitute compulsion; a Jew who preferred baptism to exile or poverty could not be considered as having been forced to change his religion. Compulsion,

[6] Cf. Katz, *op. cit.*, pp. 13 f.; Juster's article, cited above, pp. 37-8 and notes.

[7] Aronius no. 203. Antipope Clement III called this *inauditum* and *nefarium* (*ibid.*, no. 204).

[8] Statuimus etiam ut nullus Christianus invitos vel nolentes eos ad baptismum per violentiam venire compellat . . . Veram quippe Christianitatis fidem habere non creditur qui ad Christianorum baptismam non spontaneus sed invitus cognoscitur pervenire. Cf. S. Grayzel, *The Church and the Jews in the XIIIth Century* (Philadelphia, 1933), p. 92, no. 5; pp. 76 ff.

in the sense in which the Bull of Protection used the term, was limited to the purely physical. But even within this meaning of threat to life, theologians found room for further attrition.[9] Some argued that the sacrament of baptism was indelible; once it had been undergone, no matter what the circumstances, its recipient would be a blasphemer if he disregarded it. Another viewpoint was based on the assumption that this indelible character of baptism was not effective if, during the process of baptism, the recipient voiced his objection. Yet this apparently more lenient position proved to be no better than the other when its adherents asserted that if the one forced into baptism ceased objecting during any moment of the actual ceremony, it could be assumed that for the time being he had become reconciled to his fate, and he could therefore no longer be regarded as having been completely unwilling. This view was expressed by Innocent III as early as the year 1201, when he wrote to the Bishop of Arles stating his agreement with the views of those who asserted that people silenced by violence or torture had expressed a conditional willingness though, absolutely speaking, they were unwilling.[10] More than seven decades later, Nicholas III, in response to a similar question, made a similar reply, permitting the inquisitors who had approached him to punish such Jews as had accepted Christianity under threat of death and had then reverted to Judaism. They had not been, the Pope argued, *precise coacti;*[11] consequently, if they failed to respond to excom-

[9] A discussion of the views of various theologians is found in Peter Browe, *Die Judenmission im Mittelalter und die Päpste* (Rome, 1942), pp. 254 ff.

[10] Grayzel, *op. cit.*, pp. 100 f., no. 12; A. Potthast, *Regesta Pontificum Romanorum,* 2 vols. (Berlin, 1875), no. 1479. Verum id est religioni Christiane contrarium ut semper invitus et penitus contradicens ad recipiendam et servandam Christianitatem aliquis compellatur. Propter quod inter invitum et invitum, coactum et coactum, alii non absurde distinguunt, quod is qui terroribus atque suppliciis violenter attrahitur et, ne detrimentum incurrat, baptismi suscipit sacramentum, . . . talis . . . characterem suscipit Christianitatis impressum et ipse tanquam conditionaliter volens, licet absolute non velit, cogendum est ad observantiam fidei Christiane . . . .

[11] Bibliothèque Nationale, Fond Doat 37, fol. 191 ff. (cf. *REJ,* III, 217, no. 50): Sicut nobis significare curastis dudum in Comitatu Marchiae contra Judaeos inibi commorantes per Christianos illarum partium persecutionis in-

munication and imprisonment, they were to be treated like heretics. By the end of the thirteenth century, this attitude was definitely incorporated into Canon Law.[12]

Clearly, a continuously vociferous objector to conversion by force was not likely to survive persecution. Therefore, all that was left of the broadminded sentiments implicit in the official Bull of Protection (*Sicut Judeis*) was an exhortation to Christians to refrain from rioting against the Jews, or, at least, not to include forced conversion in their anti-Jewish acts. This, to be sure, must not be minimized. The thirteenth and fourteenth centuries were difficult years for the Jews. Much depended on the seriousness with which the secular and regular clergy took the papal exhortation. The Baruc story itself bears witness to the protection which some of the clerical institutions extended to the Jews, too little and too late though it proved to be. Nor can one tell how many riots were prevented because it was officially known that the Pope frowned on this method of counteracting "Jewish obstinacy." The fact is, however, that persecutions and expulsions followed one another frequently, each such incident leaving behind it a heap of corpses and a number of converts whose difficulties only then began.

II

Inquisitor, Bishop, and Heretic

Those converted by force were naturally tempted to deny their conversion, to practice Judaism clandestinely, or to wander away into a more or less distant country in the

surgente procella plures ex dictis Judaeis metu mortis qui eis per praefatos Christianos inferebatur, non tamen absolute seu precise coacti, se baptisari fecerunt; . . . Postmodum vero praedicti taliter baptisati sacramentum baptismatis quod sic receperunt damnabiliter contempnentes nec notari apostasiae crimine formidantes ad caecitatem iudaicam redierunt . . . . Nos super hoc taliter respondemus quod veris existentibus supradictis contra dictos apostatas tanquam contra haereticos potestis commissum vobis ab Apostolica sede officium exercere. The date for Nicholas III corresponds to May 7, 1277.

[12] Sexti Decret., Lib. V, tit. II, c. xiii; cf. Browe, *op. cit.*, p. 259, n. 220.

hope of being able there to practice Judaism openly. In this the Jews thus converted followed the example of the Albigensians, Waldensians, and other heretics from among the Christians. Since the bishops and other constituted authorities proved unable to cope with the purely Christian problem, inquisitorial powers were taken out of their hands and the Inquisition, a new institution, was established in the third decade of the thirteenth century[13] and entrusted largely to members of the new orders of monks, the Dominicans and Franciscans. On the one hand, many bishops resented this diminution of their authority, and the popes had to urge them to cooperate with the inquisitors.[14] The inquisitors, on the other hand, sought to extend their authority by including within their jurisdiction Jews whom they accused of proselytizing among Christians, and certainly such others as were suspected of having relapsed after baptism. These charges, coupled with complaints of non-cooperation by ecclesiastical and civil authorities, resulted in the repeated issuance of the Bull which began with the words *Turbato corde* and which gave the inquisitors broad powers,[15] especially as regards Jewish converts.

[13] Albert C. Shannon, *The Popes and Heresy in the Thirteenth Century* (Villanova, Pa., 1949), ch. IV, pp. 48 ff.

[14] For example, Martin IV, *Ex parte vestra*, October 21, 1281 (Potthast, 21806); O. Raynaldus, *Annales Ecclesiastici* (Lucca, 1747-56), a.a. 1281, no. 18), in which the pope orders the bishops to deny sanctuary to suspected heretics and relapsed converts and permits inquisitors to remove such suspects from churches. This was repeated by John XXII on July 3, 1322; Vidal, *Bullaire de l'Inquisition française au XIVme siècle* (Paris, 1913), pp. 69-70, no. 38; cf. Grayzel, in *HUC Annual, XXIII*, Pt. 2, pp. 64-5. Nicholas IV, *Attendite fratres*, on January 28, 1290 (Potthast, 23170), in which he ordered the bishops not to interfere with investigations conducted by the inquisitors. He sent a similar Bull to the secular authorities (E. Langlois, *Les Registres de Nicolas IV*, no. 2029) which were apparently equally loath to cooperate. As early as 1263, James I of Aragon, while ordering local officers to cooperate with the Inquisition, enacted that a Jew may not be condemned without specific royal permission. See F. Baer, *Die Juden in Aragonien während des* 13. *und* 14. *Jahrhunderts* (Berlin, 1913), pp. 85 f. Similarly, King Philip of France, in 1293 and again in 1299, ordered that cooperation be extended to the Inquisition, but royal officers must be present at trial and condemnation and must, in case of doubt, refer the matter to the royal curia (Fond Doat 37, fol. 247r.).

[15] The first publication of the Bull seems to be that of Clement IV on July 27, 1267 (Potthast, 20095). It was followed with slight modifications by Gregory X, March 1, 1274 (Potthast, 20798); Nicholas IV, September 5,

It is to be noted, however, from the case of Baruc that there were bishops who took the initiative in arresting and interrogating relapsed converts. Of course, Jacques Fournier was not the ordinary bishop. He was known for his zeal in discovering and punishing heretics, and within fifteen years he was to become Pope Benedict XII.[16] To be sure, he had an inquisitor as a member of the court which examined Baruc, but the Bishop conducted the examination. One may well assume that men in Baruc's position preferred it so. For the Inquisition was clearly police-minded and saw its task in terms of eliciting confessions and inflicting punishment; an episcopal court was much more likely to be interested in discussion and instruction. In any event, there was little mention of punishment during these proceedings; and the Bishop's patience, in view of his power, was extraordinary. Nonetheless, the imminence of stern punishment must have been constantly in the mind of everyone present at the hearings, and Baruc's consciousness of this fact can be sensed in the care with which he chose his words, his frequent changes of mind, and his final submission. Baruc was decidedly not a brave man; unlike the hundreds of Jews whom he saw martyred, he was afraid of pain and death. Let him who is braver condemn him.

1288 (Potthast, 22795); and September 9, 1290 (Potthast, 23391); Martin IV, March 1, 1281 (Potthast, 21806); John XXII, July 3, 1322, somewhat different in content and commencing *Ex parte vestra* (Grayzel, "References to the Jews in the Correspondence of John XXII," *Hebrew Union College Annual*, XXIII, Pt. 2, pp. 64 f.); and Innocent VI, September 30, 1359, also somewhat different and beginning *Anxia nimis mente* (Vidal, *Bullaire*, no. 229). Cf. Browe, *op. cit.*, pp. 259 ff., and especially Guido Kisch, *The Jews in Medieval Germany* (Chicago, 1949), p. 463, no. 101.

Gregory X states the charges brought by the inquisition to be that ". . . non solum quidam de iudaice cecitatis errore ad lumen fidei Christiane conversi ad pristinam reversi esse perfidiam dinoscuntur, verum etiam quamplurimi Christiani veritatem Catholice fidei abnegantes se dampnabiliter ad ritum iudaicum transtulerunt . . . ."

[16] Cf. G. Mollat, *Les Papes d'Avignon* (Paris, 1930), p. 66. In 1321, the year after this discussion with Baruc, this Bishop carried out the confiscation and burning of the Talmud, as ordered by John XXII (cf. Grayzel, in *HUC Annual*, p. 58). In February, 1326, the pope commended him for his zeal in the matter of heretics (*Annales de St. Louis des Français*, 1905-6, p. 12, no. vi; p. 13, no. vii. See also Victor Fons, Evèques de Pamiers," in *Memoires de l'Académie des sciences, inscriptions et belles-lettres de Toulouse*, Series 7, year 5 (Toulouse, 1873), p. 70.

III

The Shepherds' Uprising

The occasion of Baruc's misfortune was the so-called Shepherds' Crusade,[17] one of those periodic revolts of the lower classes of Western Europe, of which the fourteenth century was to have its full share. It was due, presumably, to rumors that another crusade was being organized. Thereupon the lowest agricultural classes, subsumed under the general name of shepherds,[18] seeing in this prospect an opportunity for breaking away from their dull and harsh existence, gathered in large numbers to participate in the great adventure. Without organization or leadership, with boys and women among them, they were nothing but gangs of ruffians, a danger to life and property. They began with the Jews as the most likely victims, especially since by so doing they won the rabble of the towns to their side. Where Jews were not available, they attacked others. It took a little while for the civil authorities to assert themselves. Pope John XXII issued a number of Bulls urging the suppression of the shepherds and the protection of the Jews.[19] As is evident from Baruc's testimony concerning the events of July 15, 1320, when in all likelihood at least the first papal letter had already reached its destination, the ecclesiastical authorities took whatever steps they could to offer the Jews protection. But this protection was insufficient until the civil authorities took a hand in the matter. A few months later the bands were brutally repressed. In the meantime, however, numerous Jews had lost their lives or, like Baruc, had been forced into baptism.

[17] Cf. H. Graetz, *Geschichte der Juden* (Leipzig, 1873), VII, 277 ff. (English ed., IV, 55-6); S. Dubnow, *Weltgeschichte des jüdischen Volkes* (Berlin, 1927), pp. 275 f.; Robert Anchel, *Les Juifs de France* (Paris, 1946), pp. 79-82.

[18] John XXII, in his letters on the subject (see the next note), spoke of them as *porcorum et ovium aliorumque animalium custodes rusticani qui se nominant pastorellos.* He further described the bands: *impuberibus ad hoc et mulieribus imprudenter (impudenter?) assumptis.*

[19] Between June 19 and July 9, 1320, he dispatched four letters to the archbishops and bishops of Narbonne and Toulouse and the civil authorities of southern France. Cf. Vidal, "L'Emeute des Pastoureaux en 1320," in *Annales*

Baruc's narration of the events he had witnessed sheds some light on the story of the Shepherds' Uprising as it is told in the sixteenth century Hebrew chronicle *Shevet Yehudah* by Solomon ibn Verga.[20] Where the two narratives overlap, it becomes clear that the chronicle was not far wrong, although at various points it confused geographical names and the chronology of events. After reporting that both the French king and the Pope urged the defense of the Jews, but that the local population sided with the shepherds, Ibn Verga describes as follows the events which Baruc also mentions:

". . . And from there they went to Sardil[21] and killed all the Jews to be found there, except a small number who gave their possessions to the officials that they should hide them in their homes. When this became known to the officer of Toulouse, he sent horsemen whom he ordered to try to capture some of the shepherds, imprison them, and bring them to him at Toulouse. The horsemen went and captured many of them and brought ten cartfulls, arriving in Toulouse at night. But some priests who were in the town arose and unbound the shepherds. In the morning they called out, saying: 'What a miracle happened to the shepherds! For the Redeemer has freed them and thereby indicates the justice of their cause.' The entire town was thrown into an uproar and the people determined to save the shepherds from the hands of the Seneschal of Toulouse. The latter tried to save them [the Jews], but he saw that he had no power. Now the Jews who had taken refuge in the Tower of Narbonne, hearing that the shepherds had been arrested and unaware of what happened afterwards, considered that they had nothing more to fear since the shepherds had fallen. They hurriedly left the Tower, and the shepherds fell upon them on the way. While the Jews were striving against them, the villagers came out to help the shepherds. One hundred and fifty Jews fell there. . . ."

Baruc speaks rather of the Fortress of Verdun (sur Garonne) to which the bailiff of surrounding territory sent the endangered Jews. He also speaks of the arrest of many shepherds; in fact, he mentions twenty-four cartloads rather

de St. Louis des Français, III (1898-9), 145 ff.; Grayzel, in *HUC Annual*, XXIII, Pt. 2, pp. 47-52, nos. X, XI, XII, XIII.

[20] Solomon ibn Verga, *Sefer Shevet Yehudah*, ed. Ezriel Shohet, with notes by Yitzhak Baer (Jerusalem, 5607), pp. 22-5; Fritz Baer, *Untersuchungen über Quellen und Komposition des Schebet Jehuda* (Berlin, 1923), pp. 2-14.

[21] Baer asserts that this is a misreading for Castel-Sarrasin.

than ten. He credits Alodetus, Sub-Vicar of Toulouse, with bringing them into the Tower of Narbonne (Castrum Narbonense), which may imply cooperation between the secular and the religious authorities. He tells the story of the release of the imprisoned shepherds, which is obviously more credible than that told in the *Shevet Yehudah*. Further evidence of confusion in the chronicle is the assumption that the Tower of Narbonne was at some distance from Toulouse. The Baruc story indicates that the Tower was in the city or close to it. Since the imprisoned shepherds were brought to this very Tower, it could not have been the place where the Jews were in hiding. Clearly, Ibn Verga confused the Fortress of Verdun sur Garonne with the Tower of Narbonne. This led him to a further confusion: he knew that a hundred and fifty Jews had been killed in that neighborhood, the figure given by Baruc as well, and Ibn Verga attributed this number to the massacre near the Fortress of Verdun.

IV

Baruc's Position

The transcript of the proceedings at the Episcopal Court of Pamiers permits us to draw a number of conclusions about Baruc himself. That he was of German origin is obvious from his name, Baruc Teutonicus; German was his native language, and he needed an interpreter in a court which was conducted in the Provençal dialect. From his statement that he had been teaching Judaism for about twenty-five years, it may be assumed that he was about fifty years old, or somewhat less. His presence in southern France is no doubt to be connected with the return of the Jews to France in 1315, following their expulsion in 1306. It is plausible to assume that the returning French Jews, conscious of their religious needs, induced some learned German Jews to accompany them or to follow them some years later in order that religious guidance might not be lacking in the restored communities. Baruc was one of these. A domestic tragedy, such as the death of his wife (who is not mentioned

in the proceedings, though his sons are) may have helped to induce him to seek a different environment, and so he left his little school, or whatever minor office he held in some Jewish community in the Rhineland, and cast his lot with the Jews of Toulouse. Baruc prided himself on his knowledge of Jewish law; he spoke of his books and his studies. He is not referred to as a rabbi, for that word had not yet assumed the sense in which it came to be used later. He appears not to have been paid for any religious function he may have performed for the Jews of Toulouse; he derived his livelihood from moneylending on a small scale. But his position in the community was a respected one, and wealthy, influential Jews like Solomon of Ondes sought his advice on matters of Jewish faith and law.

The impression is inescapable that Baruc was a clever man, though not as clever as he thought. He relied on his wits, stalling for time, finding excuses, yielding and then reasserting himself. These were the only weapons he had to save his life and his religion. His methods could avail with changing adversaries and divided opinions, such as he encountered on the day of the riots. The Bishop and the inquisitor, however, conscious of their power, proudly firm in their convictions, united in their aims, remained unyielding. Baruc's attempts at tactful argument served merely to emphasize his essential weakness.

The contents of the report do not permit any judgment on the extent of Baruc's knowledge of Jewish law. The actual details of his disputation with the Bishop are not given. The points about which Baruc raised doubts were such as any fairly learned Jew might well have been expected to know, so that, lacking his supporting arguments, we cannot tell how well informed Baruc actually was. It may be that the notary did not record these supporting arguments because he could not follow them. In all likelihood, all that the notary was concerned with was that Baruc raised certain questions, disputed about them for so many days, and acknowledged himself defeated by the Bishop. One must remember, moreover, that apart from all other difficulties—his fears, his need for quick thinking and tact—Baruc la-

bored under a language difficulty. When he wished to present a complicated argument, he was linguistically beyond his depth and had to resort to an interpreter. To be sure, this interpreter was also a Jew, but not necessarily a learned one. Before being recorded, therefore, his statement went through two distortions: that of the interpreter and that of the notary. For this reason we may doubt that even his references to the Talmud are given exactly as Baruc made them.

The Talmud entered the discussion at several points. As soon as Baruc had completed his description of the situation in which Solomon of Ondes found himself, he was asked whether Solomon had undergone purification in accordance with talmudic regulations. No such question is found in the report of the proceedings; but we must assume that the question was asked and that Baruc would not of himself have offered a description of such a ritual. The apparent digression on the part of the court had a double motive. For one thing, the questioners sought to fortify their contention that the Talmud contained blasphemies against Christianity; this would be clear if Baruc admitted that baptismal water was considered a pollution which had to be scrubbed off.[22] At the same time, if Baruc admitted that Solomon or he himself had undergone such a ritual of purification, he would be conceding that he and his fellow Jews considered his baptism to have been regular and binding.

It is difficult to believe that Baruc really admitted the existence of any such talmudic prescription as a rite of Jewish re-baptism. The Talmud discusses baptism in connection with proselytes and with ritual uncleanness,[23] but it nowhere recognizes the validity of a ceremonial by which

[22] For accusations against and burnings of the Talmud see Grayzel, *The Church and the Jews*, pp. 240-3, nos. 96-8; pp. 274-80, no. 119. In the second half of the thirteenth century, Clement IV issued his Bull, *Dampnabili perfidia*, on July 15, 1267, and Honorius IV his *Nimis in partibus* on November 18, 1286 (Potthast, nos. 20081 and 22541). John XXII was to issue a similar accusation within several months of this trial of Baruc, on September 4, 1320 (see Grayzel, in *HUC Annual*, XXIII, no. XVI), and the presiding bishop at this trial was to respond to it (see *supra*, note 16).

[23] Yebamot 47b.

a Jew ceases to be a Jew.[24] The ritual which Baruc described, including paring of the nails and cutting of the hair, is the one imposed upon the ritually unclean.[25] It is not at all excluded that the medieval Jews in certain parts of Europe resorted to the same ritual as part of the penance to be done by a sinner who sought to return to the fold. This would be considered custom, not talmudic law. If Baruc possessed any learning, he would not have ascribed it to the Talmud even while admitting the existence of the ritual.[26] The chances are, however, that the Talmud was brought into the discussion by Baruc's examiners, that Baruc's denial was either not understood or considered unimportant, and that the word Talmud was entered into the record by the scribe.

Baruc claimed that the reason he did not go through this purification ritual was his conviction that his Christian baptism had not been valid because he had submitted to it only under fear of death. It was perfectly natural therefore for the Bishop to ask why he had not preferred to die. Baruc's answer was to draw a distinction between a persecution carried out by a mob, so that it is temporary and fleeting, and one imposed by a prince, so that it is permanent in nature and unavoidable. One bows before the first and later does penance and returns to Judaism; but in the case of a so-to-speak "legal" persecution a Jew must permit himself to be killed rather than converted. Although speaking in the name of the Talmud, Baruc was here relying on a statement of Maimonides, which he was interpreting rather liberally in his own favor.[27]

[24] Cf. A. Berliner, "Zur Charakteristik Raschis," in *Gedenkbuch zur Erinnerung an David Kaufmann*, ed. Brann and Rosenthal (Breslau, 1900), pp. 271-2.

[25] Baba Kamma 82a.

[26] At that very time, the famous inquisitor Bernard Gui was compiling his *Practica Inquisitionis heretice pravitatis*, in which he included a description of this very ceremony quite in accord with its description in Baruc's report. Cf. Bernard Gui, *Manuel de l'Inquisition*, ed. et traduit par G. Mollat, II, (Paris, 1927), 7-9.

[27] *Mishneh Torah*, "Yesodei haTorah," v, 3: " . . . But in time of persecution, that is, when a wicked king arises, like Nebukadnezzar and his like, and he decrees against Israel to destroy their faith or one of the commandments, he [the Jew] must permit himself to be killed and not transgress even one of the other commandments [that is, outside of the three for which

Having failed to persuade the court that his baptism had been invalid, Baruc was faced with the alternative of categorically asserting that he preferred to be a Jew—whereupon he would have incurred the severe punishment reserved for heretics—or of pleading that he did not know what Christianity was and therefore could not accept what he did not understand. He made the latter plea, and the Bishop departed from his role as judge and assumed the role of teacher. He took Baruc through the entire Christian creed and bolstered his arguments with copious citations from the Jewish Bible. Presumably Baruc was not altogether silent, otherwise the period of instruction would have been briefer than the month or more recorded in the report.[28] But whatever his attempts at arguments, he was clearly no match for the Bishop in the discussion of theological abstractions. Of all things, he is portrayed as being most obstinate in connection with the idea of bodily resurrection, from which fact we may again conclude that Baruc was not understood.

Baruc was overwhelmed, he was not convinced. He felt that somehow the clear sense of the Bible had an answer to the theological structure which the Bishop had erected for him. He asked for a Bible. The one given him was presumably a Hebrew Bible, of which there must have been a number in the Christian institutions of Pamiers as a result of repeated confiscations of Jewish books. Reading it, Baruc's faith was restored. At any rate, he hinted that he had doubts regarding the points to which he had previously

a Jew must suffer martyrdom at all times: idolatry, immorality and the shedding of blood], whether he is compelled to such violations in the presence of ten fellow-Jews or is alone with the idolator." The general principle enunciated by Maimonides in the two paragraphs preceding the one quoted follows the discussion of the matter in the Talmud (Sanhedrin 74a) that one must accept martyrdom rather than violate any law in the presence of ten fellow-Jews, lest one's actions profane God's name by making light of His Law in public. Otherwise, God's Law was given for life, not as a cause of death. The distinction between a persecution ordered by a prince and one due to a mob is not made in the talmudic passage quoted here.

28 The record is not above suspicion; either the date of the last discussion is wrong or the notary exaggerated the length of the arguments in order to make the disputation more impressive. But even if the disputation lasted only two weeks, Baruc is thereby proved to have been a person of some knowledge and of considerable mental agility.

given assent. Another series of sessions followed. Baruc had learned something from his last argument with the Bishop, and he now tried to use the subtle methods which his opponent had employed. The notary does not even bother to record the arguments by which the Bishop refuted Baruc's interpretation of the biblical verses. Baruc's efforts made no impression whatever.

After all, it was a foregone conclusion that Baruc could not win. Baruc and the Bishop did not talk the same language, both literally and figuratively. It was sheer magnanimity on the part of the Bishop—he probably thought of it in terms of love—that he bothered to argue with Baruc. Baruc, on the other hand, could not possibly have been so naive as to expect release from his predicament if he showed inability to accept the Christian dogma. His request for an opportunity to study the Bible and his prolonged arguments look very much like attempts to stall for time. Perhaps he hoped that his friends in the outside world would succeed in bringing pressure on the authorities, civil if not religious, to save him. They failed. Perhaps Baruc's final submission was due, not to lack of arguments, but to his having been informed that the situation was hopeless. As at the very beginning of his story, when he stood at the baptismal font of Toulouse, he faced the choice of Christianity or death. Again he made the same choice. This time before a festive and distinguished audience of churchmen and civil officers, he made oral confessions of his abandonment of Judaism and his acceptance of the Christian creed. Did he mean it? Did those present even expect him to mean it? We are not told how good a Christian he remained.

The Confession of Baruc
At One Time a Jew Who, Having Been Baptized, Reverted to Judaism

[I]

In the year of our Lord 1320 [Sunday], the 13th of July, the Reverend Father in Christ, Lord Jacques, by the grace of God Bishop of Pamiers, having learned that Baruc the German—at one time a Jew, who had abandoned Jewish blindness and perversion of faith, became

a convert, and received the sacrament of baptism in the city of Toulouse during the persecution of the shepherds—had now, like a dog returning to his vomit, gone back to the rites of Judaism and, taking advantage of his opportunity, was living as a Jew with the Jews of the city of Pamiers, had him arrested and held in his prison. On this day he had him brought before him into the Chamber of the Episcopal Court of Pamiers. Present also were: Friar Gaillard de Pomiès,[29] lieutenant of the Lord Inquisitor of Caracasonne, Bernard Saxerius, a civil official of Pamiers and a man of distinction, as well as David of Troyes, a Jew who had been called for the purpose of acting, if necessary, as interpreter from the Hebrew for the Lord Bishop. The Bishop interrogated Baruc concerning the above matters, Baruc having first taken an oath on the Law of Moses that he would tell the whole and unvarnished truth both about himself as principal and about others as witnesses.

Having taken the oath, Baruc spoke up and confessed as follows: That same year, on Thursday, a month ago [June 12], shepherds wearing the cross had come from Bragayrac to the town of Grenade [near Toulouse] and threatened to kill the Jews. Solomon of Ondes, a Jew, then went to the bailiff of Grenade, and with him went the Jew Eliezer, Solomon's scribe.[30] As Solomon later recounted to Baruc, he asked the bailiff whether he [the bailiff] could guarantee his safety from the shepherds. The bailiff said he could. Later, however, when a great multitude of the shepherds arrived, the bailiff told Solomon that he could not keep him in safety, but that he should embark in a boat on the Garonne and go to Verdun [sur-Garonne] where there was a royal fortress.

Embarking in the boat, Solomon went down towards Verdun. The shepherds, seeing and hearing about this, pursued him in a small vessel and, taking him out of the water, led him [back] to Grenade. There the shepherds told Solomon that he must either baptize himself or they would kill him. The bailiff, who was present, said that if they killed Solomon, they should kill him, too. Hearing this, the Jew said that he did not want the bailiff to suffer anything on his account. He then

[29] The head of the Inquisition of the district of Carcassonne was at this time Jean de Beaune (1316-24). His lieutenant at Pamiers was Gaillard de Pomiès, a Dominican. Cf. Vidal, *Bullaire*, p. 47, n. 2.

[30] Eliezer must have occupied the post of secretary, that is, business assistant. Solomon was apparently a man of considerable affairs. The attitude of the bailiff testifies to this, as well as the fact that Solomon was taken under the wing of the seneschal, a royal officer (see *supra*, n. 14), while he appealed his case to Rome, or, more likely, to keep him out of the hands of the Inquisition and thus avoid the situation in which Baruc now found himself. Baruc, too, appears to have been ready to go to considerable trouble for the sake of Solomon.

asked the shepherds what they wanted of him.[31] The shepherds replied that he must baptize himself or have himself baptized or they would kill him. Thereupon the Jew said that he would rather be baptized than killed. Solomon was there baptized along with Eliezer, his scribe.

On the next day [Friday], Solomon and Eliezer, now baptized, came to Toulouse, to him, the narrator,[32] and recounted all that had befallen them. They said that they had been baptized but not from the heart, and that, if they could, they would willingly return to Judaism. He, the narrator, answered them that while he knew Jewish law, he did not know Christian law and could not therefore advise them whether they could without punishment return to Judaism; he would, however, inquire of Friar Raymond of Junac, lieutenant of the Lord Inquisitor of Toulouse, whether this could be done. Then he, the narrator, along with Bonet of Agen, a Jew, went to the said Friar Raymond and to Master Jacques, notary of the Lord Inquisitor of Toulouse, and told them of Solomon's case. He asked them whether baptism, not from desire or willingness to accept it, but purely out of terror, was valid. They—so the narrator said—answered that such baptism was not valid. The narrator understood them to say that such baptism, so received, was not baptism. They hastily returned to Solomon and Eliezer and told them what Friar Raymond and Jacques had said, namely, that such baptism was not baptism and that they could openly return to Judaism.[33]

Subsequently, he heard it said that Solomon had placed himself in the prison of the Lord Seneschal of Toulouse until such time as the said Lord Seneschal would be informed by the Roman curia whether such baptism [as Solomon had undergone] was indeed baptism. He [Baruc] said, moreover, that baptized Jews, desiring to return to Judaism, must act as follows according to the doctrines of the Talmud:[34] they must cut off the nails of their fingers and toes, shave their heads, and then wash their entire bodies in running water, just as, according to law, a

[31] It sounds like both an offer of money and an attempt to elicit a clear threat of death which could be used later to prove the conversion invalid.

[32] Hereafter, the expression "the narrator" is used for the Latin *qui loquitur*.

[33] Baruc's object in telling the story of Solomon of Ondes as an introduction to his own thus becomes clear: he sought to indicate that there was good reason for him to believe that his own forced baptism would likewise not be valid. In telling the story he had to be careful not to give the impression that he had advised Solomon to revert, for such advice placed him in the category of a Jew who lures Christians to Judaism, a very serious matter (as indicated in the Bull *Turbato corde*, see *supra* n. 15). The next question addressed to Baruc must have been where Solomon was now; whereupon Baruc realized that he was getting Solomon into trouble and therefore hastily announced that Solomon was still awaiting a decision on the validity of his baptism. Thereby, however, Baruc seriously weakened his own argument.

[34] The scribe wrote *Calmutz*.

woman convert is supposed to do when she is about to wed a Jew; for they believe that baptism pollutes those who receive it.

Afterwards, on the following Sunday [June 15], Alodetus, subvicar of Toulouse, brought twenty-four wagonsful of shepherds captured by him because they had massacred one hundred and fifty-two Jews in Castelsarrasin and the surrounding places. But when the said shepherds were near the castle of Narbonne and when twenty wagons of them had already been taken into the castle, the shepherds in the last wagons began to call out to the populace of Toulouse gathered there in great numbers, asking for help on the ground that they had been led captive and were to be incarcerated for wanting to avenge the death of Christ. Thereupon some of the populace of Toulouse broke the cords by which the shepherds were bound in the wagons. Those freed left the wagons and began to shout along with the populace: "To death, to death! let all Jews be put to death!" All this Baruc said he heard commonly recounted in Toulouse; he had not witnessed it, however.

When the shepherds and the populace, in the midst of great excitement, went to the Jewish quarters, he was in his chamber, studying and writing. Many of the populace came to this chamber in which he was studying and called out against him: "To death! Either you have yourself baptized or we shall kill you immediately." He, seeing the fury of the populace and that, before his own eyes, they were killing other Jews who had said that they would not be baptized, answered that he preferred to be baptized than to be killed. Then, taking hold of him, they immediately led him out of his house, not permitting him to take other clothes or anything else from the house, but just as he stood they led him to the Church of St. Stephen of the See of Toulouse. While he was there, two clerics pointed out to him a number of Jews lying dead outside the church, though right close to it. They said to him: "Unless you become baptized, it will be proper to kill you just as those who, as you see, were killed." And right there, he was lightly beaten by some of the bystanders. He replied that he was quite willing to be baptized, but that he had a friend, a certain Dominican friar living in the house of the Dominicans in that city, named Friar Jacob the German;[35] and he wished that this friar should be his godfather. He said that he spoke thus, thinking to himself that if he could come into the hands of the said friar, who was a good friend of his, he would be saved from death without being baptized.

Thereupon the above-mentioned clerics led him out of the church and wished to accompany him to the house of the Dominicans. While they were outside the church, before his very eyes, Asser, a Jew from the province of Tarascone, and another Jew were killed. Moreover,

[35] Fr. Jacobus Alamannus. He and Baruc must have been brought together by their common German origin.

several of the people of Toulouse questioned the clerics whether he, the narrator, had been baptized. They replied that he had not been. He asked them to say that he had indeed been baptized, but the clerics replied that they would not say so. Thereupon, he said, he was struck on the head, not, to be sure, to the extent that blood flowed as a result of the blow, but a swelling resulted which, however, was cured without aid from a physician, bandage, or medicine.[36]

Having received the blow so that he thought his eyes would jump out of his head, and seeing that other Jews who had refused to be baptized had been killed, and since the two clerics told him that they could neither defend him nor accompany him to the house of the Dominicans because he would be killed before he got halfway there, he asked the said clerics for advice what to do to avoid being killed. The clerics said to him: "You see very well that either you become baptized immediately or you will be killed on the spot." And the narrator answered: "Go back to the church; I would rather be baptized than permit myself to be killed." They returned to the above-mentioned church. When they were there, he said to the clerics that they should wait a little while to see whether his sons would come.[37] When they had waited a little while and his sons did not come, the clerics said that they could not wait any longer and that he should be baptized at once or go outside the church where other Jews were being killed. Then he said that he wanted the subvicar of Toulouse as his godfather. He expected that the attendant of the subvicar, by the name of Peter Savardus, who was a friend of the narrator, if he should come with the vicar, would save him from death without his being baptized. When he was told that the said subvicar could not come because on that very day he had led the shepherds from Castelsarrasin, he was deeply upset and fell silent. He remained so for a while. Once more the clerics told him to enter the stone section where the baptismal fonts were located. He replied that he willingly would, but he added the one word, "subvicar," intending to indicate thereby that the subvicar should be his godfather. He intended also, he said, to imply that if the subvicar arrived after the baptism and said that a baptism accepted in fear of death was not

[36] The Court elicited this information in order to make clear that death had not been so imminent as Baruc claimed: where there was no blood and no need of a physician there could not, presumably, have been any threat to life. Baruc next tries to strengthen his argument by showing that reminders of death were constant.

[37] It is strange that the sons are mentioned only this once; the record cannot be complete on this point. They would certainly have been mentioned if they had perished during the riots, for that would have added strength to Baruc's claim; they would likewise have appeared in the discussion if they were minors, for then the Church would have been interested in their whereabouts as soon as Baruc's future as a Christian was assured. Perhaps the discussion about them took place outside of these proceedings.

valid, his baptism, though completed, should be invalid; if, however, the said subvicar declared that such a baptism was valid, his baptism should also be considered valid. Thereupon he voluntarily entered the baptistry in which others also were being baptized. He stood in front of the chaplain and the chaplain did about him, he believes, whatever is generally done when men are baptized. However, before the chaplain began to read and do whatever was done at a baptism, the clerics told him to say to the chaplain that he came to the baptism and did what he was doing wholeheartedly; for, if he did not say so, he would be killed. And he then told the chaplain that he wholeheartedly wanted to be baptized, although, he said, the very contrary was in his heart.

Then, he said, he was placed in the stone section in which there was water and he was baptized. About him, he believes, was done whatever is usually done in a baptism, and he was named Johannes. The ceremony over, he asked the clerics to accompany him to his home that he might see whether anything remained of his property. The clerics answered that they would not go to his home because they were tired and were sweating; but they led him to their home and he drank with them of their wine.[38] Afterwards the clerics accompanied him to his home to see whether anything remained of his property. They found in his home that all his books had been destroyed and his money stolen. All they found were seven pieces of cloth, some of which were pledges deposited with him [by borrowers] and the rest his own, among these a silken coverlet. Having put the pieces of cloth in a sack, he and the cleric who called himself his godfather left the house. But even before they were outside the house [compound] they met a member of the chapter of Toulouse, or of the household of that chapter, with whom the godfather was acquainted and who was armed to protect the Jews. The cleric who was the narrator's godfather said to the member of the chapter or of its household: "This man was baptized and is a good Christian." The member or familiar of the chapter then winked to the narrator and he went over to him. The man whispered to the narrator: "Do you want to be a good Jew?" He responded that he did. He said: "Have you any money?" He [Baruc] answered that he did not have any, "but take this," and he handed over to him the sack containing the above-mentioned articles. The man had the sack

[38] If the clerics were thirsty on that June day in southern France, one can imagine how parched Baruc was after the events of that day. It is quite likely that the clever Bishop drew from Baruc this apparently harmless story of his drink in order to prove that at that point Baruc considered himself a Christian, for, had he been an observing Jew, he would not have drunk of wine touched by non-Jews. Baruc, on the other hand, probably did not consider this a transgression, since the strictness of the law about wine of a non-Jew used for non-ritual purposes had by that time been considerably relaxed in wine-growing countries. Cf. L. Rabinowitz, *The Social Life of the Jews of Northern France in the XII-XIV Centuries* (London, 1938), pp. 72, 132.

carried away somewhere and said to the narrator: "Have no fear. Say that you are a Christian and so you will escape."

When he and his godfather were outside the house, they met ten members of the chapter and with them many armed servants. One member of the chapter called over to the narrator and said to him in a hushed tone: "Are you a Jew?" He [Baruc], also in a hushed tone so that the cleric could not hear him, answered that he was. The member of the chapter said to the cleric that he might go his way and that he could dismiss the narrator. The member of the chapter then entrusted him [Baruc] to a servant, with instructions to watch over him as he would his own body, warning him of this in the name of the chapter, the subvicar, and the seneschal of Toulouse. The servant took charge of him and led him along the street; and, when they were near the Common House, or Chapter House, the narrator said that he was a Jew, but when they were in other streets and the servant was questioned whether the narrator were a Jew, the servant would answer that he had been baptized and was now a Christian. The servant would say this under instruction of the narrator.

The narrator said that the killing and the despoiling of the Jews lasted till the evening of that day.[39] At about evening time of that day he said to the servant that they should go to the subvicar of Toulouse, to the end that he might question him whether baptism received under such fear of death was valid, whether or not it was baptism.

When they arrived at the house of the subvicar, he was having his evening meal. At the instance of the narrator, the servant spoke up: "Behold, here is a Jew who desires to be baptized by you, Lord Subvicar." The subvicar replied: "We are dining; go to the table." Since the narrator did not want to eat,[40] he looked round about and noticed Peter of Saverdun. He [Baruc] drew him aside and told him that he did not want to be baptized and that he should say to the subvicar that he should not be compelled to accept baptism, for, as he [Baruc] said to him [Peter], such baptism was not valid. Peter then told the servant to withdraw, for he would guard Baruc himself. When the servant had departed, he entrusted him [Baruc] to another servant, with whom he set out for a walk to the Castle of Narbonne.[41] When the subvicar had dined, they returned. The subvicar then said to the narrator: "Do you want to be baptized at once or will you wait till tomorrow?" Peter of Saverdun drew the subvicar aside and talked to him, but he [Baruc] does not know what he said to him. But thereupon the subvicar said: "For certain I shall not baptize this Jew or any

[39] That is, Sunday, June 15.

[40] Baruc now had his chance to counteract the impression left by his drinking of the wine. He pointed out that he had refused to eat *trefa* food.

[41] Thus we learn that the castle was in the neighborhood.

other who has been compelled."[42] From this the narrator says he concluded that the baptism already received by him had not been a proper baptism. For, while he was being baptized, he said he had it in his heart that, if it pleased the subvicar [to declare] that the baptism which he received should be valid, he would consider himself baptized, otherwise not.

After this happened, he took counsel and held conversation with Peter of Saverdun whether it was expedient for him to remain in the Castle of Narbonne or to go elsewhere. When the said Peter told him that the Jews who stayed at the Castle of Narbonne would either be baptized or killed,[43] they concluded that he should depart from Toulouse. Peter gave him three sterlings and accompanied him to the beginning of the highway which led directly to Montgiscard, warning him to travel rapidly and to speak German on the way.

He soon arrived at Montgiscard. Arrived there and passing quickly through the said castle, he encountered many armed men who demanded whether he was a Jew or a Christian. He inquired what sort of men they were and they answered that they were shepherds, "and if you are a Jew we want to kill you unless you accept baptism." He answered them that he was not a Jew. Whereupon the armed men said that they would put him in prison. He said to them: "Do you have the power to put men in prison?" The armed men answered that they had such power because the bailiff of that place and his men were there [with them]. He, thinking that [if so]he would not be harmed by them, said that he was a Jew. They led him to a certain house in which were Baco Bendit, Lupus and Bona, children of the said Baco Bendit, and several other Jews. He spent that night and the next day with them. The following night, they, in the company of that town's bailiff's men, came to the town of Mazères and from Mazères they went to Pamiers.

He was questioned whether in Pamiers or elsewhere he had become re-Judaized in the form and manner described above. He answered that he had not, for, according to the Talmud,[44] only those are subjected to the process of re-Judaization described above who want to return

[42] "Pro certo ego non baptizabo coactum istum judeum vel quemcumque alium." This was an equivocal statement. Baruc drew from it the general principle that forced conversions were invalid. The Court had brought out in what preceded—for it must have done more intense questioning than is here recorded—that Peter, Baruc's friend, had misled the subvicar into believing that Baruc had not yet been baptized. The question at issue, the Court could —and probably did—argue, was not whether a Jew ought to be baptized by force, but whether the sacrament was invalid if the one baptized by force failed to protest at the crucial moment. The basis was not humaneness, but theology.

[43] Presumably Peter feared that the townspeople in league with the shepherds would soon overpower the local civil and ecclesiastical forces.

[44] The scribe wrote *Colnut*.

to Judaism after having been baptized properly and voluntarily; but if a person had not been properly baptized or had been compelled to accept baptism, he is not re-Judaized in the said manner, since they believed that such baptism was nil.[45]

He was asked whether he had told any one or more persons who had been baptized through fear that they were not baptized and could with impunity and without sin revert to Judaism.[46] He answered that he had not done so, except as he had previously stated regarding Solomon and Eliezer.

He was asked whether he had told any one or more Jews to accept baptism for the time being in order to evade death and that they might afterwards revert to Judaism. He replied that he had not.

He was asked whether he had ever been present at a re-Judaization of a baptized Jew. He answered that he had not.

He was asked whether he was acquainted with any Jew who had been baptized and later reverted to Judaism. He said that he was not.[47]

This confession was made in the year and on the day indicated above, in the presence of the above-named and of myself, Guillermus Petri Barta, notary of the said Lord Bishop, who wrote and received the above.

[II]

Later in the same year, on the 14th of the same month,[48] the said Baruc stood in the Court of the Episcopal Chamber aforesaid, in the presence of the Lord Bishop. The confession which he had made the day before was read to him in the vulgar tongue, and he was asked by the Lord Bishop whether he wanted to hold to the said confession or add to, correct, or change it in any respect. He replied that he was holding to it and wanted to hold to it, except for adding that when the baptized Jews, Solomon and Eliezer, came from Grenade of Toulouse to him, the narrator, as was described in the confession above, they found with him a Jew by the name of Salvatus from the province of Tarrascone.[49].

[45] If this describes actual practice among the Jews of that or any other period, it implies a thoroughly Christian recognition of the efficacy of baptism. This is difficult to believe. The chances are that Baruc was trying to emphasize that no one could possibly take his baptism seriously.

[46] The question foreshadowed the Court's verdict; it had no intention of taking the matter of fear into consideration.

[47] The last questions were part of the prescribed inquisitional procedure; cf. Mollat's edition of Bernard Gui's *Manuel de l'Inquisition,* as above.

[48] That is, the very next day, Monday, July 14.

[49] Baruc appears to have suspected that his movements and actions on that fatal day had been thoroughly checked. If it were found that he had failed to mention anyone, it might be suspected that he was trying to protect that person who might thus get into trouble.

He also added that when he told Solomon and Eliezer that the baptism which they had received was not a valid baptism and that they could return to Judaism, he now said that what he had told them was this: in view of the fact that such baptism was not a valid baptism, they could return to Judaism.[50] He also said, by way of addition, that the massacre of the Jews which had taken place that day in Toulouse, as he had previously deposed, was to the extent of 150 killed, or thereabouts.

He was asked by the Lord Bishop if, when he stood before the chaplain and the chaplain was proceeding with the ritual of baptism and, particularly, when he was placed in the baptismal font and in the very act of being baptized, he made it clear by word or act, or showed a contrary will by resisting, that he did not desire to be baptized. He replied that he had not, because he was afraid that he would be killed if he did or said anything of this nature and because his godfathers had instructed him to say, when in front of the chaplain, that he was coming to the baptism wholeheartedly, otherwise he would be killed. He believed that the chaplain heard this [warning]. On this score, he said, he would abide by the oath of the said chaplain who, he pleaded, should be questioned whether he [the chaplain] believed that he [Baruc] would be killed if he contradicted or resisted by word or deed.[51]

He was questioned whether according to his Law, or Talmud,[52] or according to his own opinion, a Jew, believing that he could gain salvation only by adhering to Jewish Law and not through the sects of Christians or pagans, ought to permit himself to be killed rather than be converted to the sect of the Christians or pagans through which he believed he could not gain salvation. He replied that if someone, not ordered to do so by a prince, wanted to kill him, or any Jew who believed that he cannot gain salvation except through Judaism, unless he went over to the Christian or the pagan sects, it would be preferable to go over to the sect of the Christians or of the pagans rather than permit himself to be killed, since such occurrences would be temporary and fleeting and soon thereafter one could do penance and return to Judaism. If, however, such a thing were done by order of a prince, namely, that Jews be killed unless they become baptized or go over to paganism, then a Jew ought rather permit himself to be

[50] Baruc sought to make it clear that he, as a Jew, was not passing judgment on Christian doctrine; he had merely assumed that, since baptism received under duress was not valid, it should not be considered binding.

[51] This last exchange touched the heart of the matter. No wonder Baruc became emotional.

[52] The scribe wrote *Talmutz*.

killed than be converted to Christianity or paganism, since the command of a prince remains in force for a long time.[53]

He was asked whether he himself believed that it was a greater sin for a Jew who believed that he could be saved only through Judaism to let himself be baptized lest he be killed than to permit himself to be killed lest he be baptized. He answered that it was a greater sin for such a Jew to let himself be baptized than be killed.

He was asked whether he thought that a Jew who believed that he can be saved only through Judaism sinned in any respect if he permitted himself to be killed because he did not want to go over to paganism. He answered that he did not think so; indeed, such a person did well.

He was asked why, believing as he did—that a Jew who permitted himself to be killed because he did not want to go over to Christianity or paganism did not sin but rather, as he said, did well, whereas he who permitted himself to be baptized or paganized sinned—he himself preferred to be baptized rather than be killed.[54] He replied that he did not believe that his baptism was a perfect baptism, because it was sudden and because in his heart he held that, if the subvicar of Toulouse confirmed his baptism, it would be baptism, if not, it would not be; moreover, because he thought that he would do penance for accepting baptism. For these reasons he preferred to be baptized than to be killed.

He was asked whether he wanted to live after this as a Jew or as a Christian. He answered that he wanted to live as a Jew and not as a Christian, for the reason that it did not seem to him that he was a Christian.

He was asked whether he believed at the time he was baptized that the baptism had any validity for him or whether he wanted it to have any validity for him. He answered that he never believed that the baptism had any validity for him and that he had not accepted it except for that passing time and hour.

Witnesses: Lord Peter of Verger, Archdeacon of Majorca; Master David, the Jew; and I, Guillermus Petri Barta, the above-mentioned notary who received and wrote the above.

[53] According to the statement of Maimonides cited *supra* note 27, it is not so much a question of time as of public or private *hillul haShem* (desecration of God's name). Martyrdom must be accepted even in the case of an unofficial persecution, if it involves an act of denial in the presence of a number of Jews.

[54] Baruc must have known that sooner or later this chief weakness of his position—namely, that he was alive—would be brought up. He was called upon to justify his desire to live before judges who sat in security and were oppressed by no sense of fear. He repeated, probably in tones of despair, the argument to which he had stuck all through and which his judges refused to admit.

[III]

Immediately the Lord Bishop urged Master Baruc and warned him that, since the baptism had been accepted by him, as was said above—since it was accepted by him not through absolute force or compulsion[54a] —law and reason obliged him to hold to and believe in the Christian faith; for that chain of circumstances which had pushed him[55] toward the faith, had drawn him not towards anything worse but towards something better. He must, therefore, henceforth believe in and hold to the Christian faith; otherwise, he must know for certain that, should he obstinately persist in his Judaism, he would be proceeded against according to law, as against an obstinate heretic.

Then Master Baruc responded that he did not know what the Christians believed and why they believed that which they believed; he does know, however, his own Law and belief and why the Jews believe that which they believe, since their belief is proved through the Law and the Prophets, which Law and Prophets he had read as a teacher for twenty-five years. Unless, therefore, it could be shown through his Law and Prophets that what the Christians believe is in accordance with the Law and the Prophets, he would not want to believe in or hold to the Christian faith and would rather die than give up Judaism, for he wielded no slight authority among the Jews of those parts.[56] But, he said, if the Lord Bishop or someone else would prove to him or show him that what the Christians believed in and held to was in accord with their Law and Prophets and that the sect and rites of the Jews had long since lost their powers of salvation, he was prepared to give up the sect and rites of the Jews and go over to the faith and creed of the Christians.

The Lord Bishop undertook to do this, trusting, as he said, in the help of God. In the presence of the Jew, Master David, and of some recently-baptized Jews who might, if need be, interpret the words of Baruc and of the Law to the Lord Bishop and who might also be able to interpret for Master Baruc who could not freely speak the common language of the country, the disputation commenced on the articles of the Christian faith. Baruc, the Jew, resisted with all his knowledge by use of the Old Testament that which was said in behalf of the Christian faith by the Lord Bishop.

First they disputed about the article of the Trinity of Persons and the Unity of the Divine Essence and the proper names of the Persons and their procession. This lasted about fifteen days, and in this disputation Baruc was completely vanquished. Having nothing further

54a . . . *non vi vel coactione absoluta* . . .; see *supra,* notes 10 and 11.

55 . . . *illa necessitas que impulit eum* . . .

56 The blow having fallen and his first line of argument having been set aside, Baruc falls back on a challenge to Christianity. He starts out bravely but, characteristically, weakens in the very next sentence.

to say he confessed that there was Trinity in the Divine Persons and Unity in the Divine Essence or nature. This he said he believed, convinced through the authority of the Sacred Scriptures, the Law and the Prophets. He confessed, moreover, that according to the Scriptures these were the proper names of the divine Persons: Father, Son, and Holy Ghost, and that this was also the proper procession of the Persons.

Thence the disputation went over to proof that the Messiah, or Christ, promised in the Law and the Prophets, had to be both God and man so that through his divinity and true humanity he would constitute one Person who would be indeed God and man. This disputation lasted about eight days. The Jew, having nothing more to say against this according to Scripture, vowed that on this subject he would not depend upon Scriptures since they say that their Messiah who is to come has to be, like other men, purely human. He confessed that he believed this article according to divine Scriptures.

Thence they went over to proof that the Messiah promised in the Law had already come. This proved more difficult than other subjects. The disputation lasted three weeks or more. Nevertheless, the Jew, vanquished, agreed to this article. Thereafter, it was easy to show through the Law and the Prophets that Christ had been conceived by and born of a virgin, that he suffered death for us and our salvation, that he descended to hell and on the third day was resurrected, that he ascended to heaven and would come again to judge the living and the dead. He agreed, moreover, also to the sacraments of the Church and their efficacy for the remission of sins and the conferring of grace, although he hesitated a bit in the matter of the sacrament of the altar. It was difficult, however, to prove to him the immortality of the human body after resurrection and why such bodies will not need food or other necessities of life, that birth and corruption will cease in such bodies, and that the bodies of the condemned can remain in perpetual fire without being consumed by it even while they sustained intolerable pain.[57] Nevertheless, the Jew assented to all this; but he asked why the legislation of the Old Law was not now observed by the Christians

[57] It seems certain that the scribe here misrepresents the situation. For it is incredible that the points in dispute were Resurrection and Reward-and-Punishment. Baruc could not have denied these cardinal principles of Pharisaic Judaism which Christianity had taken from Judaism and the expression of faith in which is part of the daily Jewish prayers. What he doubtless argued—or attempted to argue, though the notary did not follow him—was the difference between the Days of the Messiah and the age following God's judgment. He probably objected to the Christian claims to exact knowledge about the nature of Resurrection and of punishment. He may have had in mind the talmudic statement (Sanh. 99a) that "All the prophets prophesied only for the days of the Messiah; but as regards the World to Come, 'No eye hath seen [it], O Lord, except Thee' (Isa. 64:3)." Cf. *Mishneh Torah,* "Hilkot Melakhim," ch. XII. See the discussion in Joseph Klausner, *The Messianic Idea in Israel* (New York, 1955), pp. 519 ff.

since in every other respect they adhere to the faith and beliefs of the Prophets. It was proved to him through the Prophets and the Law that, with the coming of Christ's they had to cease.

He then remained firm in the above beliefs for about fifteen days, saying that thereafter he did not want to be known as Baruc but as Johannes, and not as a Jew but as a Christian. He wanted, however, to inform himself better by reading for himself in the books of the Law and the Prophets. It was subsequently reported to the Lord Bishop that he had begun to waver in the Christian faith and that he had told some people that he did not believe that which the Christian faith believes. As a result a final inquiry, which follows, was made of him by the Lord Bishop.

[IV]

Afterwards the Lord Bishop gave further instruction to the said Baruc, explaining to him those matters of which he had doubts and which he said he had found when reading for himself in the books of the Law and the Prophets. Thereupon he said that he was completely desirous of being a Christian and abjuring Judaism.

Later, in the same year, on the 14th day of August,[58] the said Baruc was led into the presence of the Lord Bishop in the Episcopal Chamber of Pamiers. In the presence at the Court, along with the Lord Bishop, of Gaillard de Pomiers, he was questioned whether he had made the confession already given before the Lord Bishop had instructed him and proved to him from the Old Testament that the Divine consists of a trinity of Persons, namely, Father, Son, and Holy Ghost, and a unity of God and that this is compatible. He answered, yes; but, he said, he afterwards discovered in the Old Law some things that contradicted this.

He was asked whether, inasmuch as the Lord Bishop had instructed him and had proved to him that there was a trinity of Divine Persons and a unity of their essence, he had told anyone or any number of people that it seemed to him to be true, according to the Scriptures of the Old Testament, that there was a trinity of Persons and a unity of their essence and whether, having expressed himself to this effect, he had believed it in his heart. He answered that it was true at that time; but afterwards, he said, he read and studied the writings of the Old Testament and found some matters to the contrary, as a result of which he has some doubts.

He was asked for what length of time he had remained in the faith that there was trinity in the Divine Persons and unity in their essence.

[58] There is something wrong with the notary's calculations. The various discussions and the two-weeks interval for Baruc's private reading add up to two months. The final interrogation should therefore have been dated September 14.

He answered that for eight days he had read and studied the Scriptures of the Old Testament and found nothing to the contrary, namely, that there was no trinity of the Divine Persons and unity of their essence. Consequently, he believed this for that length of time. But later, he said, he found contradictions in the Scriptures and he then began to doubt, and he still doubts.

He was asked which were the Scriptural passages of the Old Testament which induced him to doubt that there was trinity in the Persons. He replied that the first passage to make him doubt was the teaching[59] to be found in the fifth book of the Law: *Hear, O Israel, the Lord thy God is One God.*[60] This teaching he interpreted as denying the trinity of Persons: by the fact that it says *Lord God* it establishes the unity of essence and nature; while by saying *is One* it posits the singleness and unity of the Person.

Secondly, the other *dictum* that made him doubt is in the same book: *Reu attah ki ani ani hu ve'en Elohim immadi ani amit ve-ahayeh...*,[61] which command is thus set forth in the vulgar tongue: "Behold now that I, I am He and there is no God with Me; I kill and I cause to live." This teaching he expounded as follows: *I, I am* excludes the plurality of Persons by putting the pronoun "I" twice; this is further asserted by the following clause, since it says: *there is no God with Me.*

Thirdly, what made him doubt, he said, was the teaching towards the beginning of the same book: *Atta hareta la-da'at ki Adonai hu ha-Elohim en od mi-lebado.*[62] This teaching he thus explained in the vulgar tongue: "You shall see so as to know that Adonai is Elohim; outside of Him there is none." This teaching is written among us as follows: ". . . that thou shalt know that the Lord Himself is God and He is not other than One." This teaching he explained as follows: Because, he said, Jews [*sic*] say that in Divinity there is a father and a son, two distinct Persons, they assert that by the name *Adonai* the Father is to be understood, while by the name *Elohim* the Son is understood;

[59] The Latin word used here and elsewhere in this connection is *auctoritas*. The term *mitzvah*, which Baruc might have used, does not cover all cases. It is more likely that Baruc used the word *Gebot*, which is more general. We translated it as "teaching."

[60] Actually, of course, the *Shema'* (Deut. 6:4) reads: "Hear, O Israel, the Lord our God, the Lord is one."

[61] Deut. 32:39. As the scribe transliterated the quotation, it appears as follows: *Ru atha qui havi hahavi hu veuhelohim ymmazi havi hamitz vahayie.* The transliteration does not represent the notary but a later copyist: *V* and *N*, for example, are easily confused. The sentence is then translated into Provençal: *Veiatz ara que yeu yeu so, enoya Dieu ammy; yeu aucire et yeu viure fare.*

[62] Deut. 4:35. As the scribe transliterated the sentence, it appears as: *Atha horessa lazahat qui adonay hu haheloim veu hotz milnedo.* If the use of *hotz* (*hutz*) goes back to Baruc, it indicates that he quoted by heart. The sentence is translated into Provençal: *Tu garda per saber que Adonay es habeloim* (*sic*) *mes plus ses lu ses lu.*

and since Sacred Scriptures frequently sets down both names separately and sometimes even side by side, therefore they say that God the Father is distinct in person from the Son. Their opinion, however, he said, is destroyed by this teaching, for here it is said: *Adonay hu Elohim*, and this *hu* signifies "the same one" and thus the Father is completely the same as the Son. From this he deduced that the Father is not distinct in person from the Son.

Fourthly, what made him doubt, he said, is that the books of Moses frequently say, when God is spoken of, "I am Adonai," and not "I am Adonai Elohim," which would have been the case, it seems, if Father and Son were God.

Fifthly, he said he was made to doubt by the teaching found in Isaiah: *Koh amar Adonai, Melekh Yisrael ve-Go'alo, Adonai Tzeba'oth, Ani rishon ve-Ani aharon u-mibal-addai en elohim.*[63] It is expressed among us thus: "Thus saith the Lord the King of Israel and his Redeemer the Lord: I am the first and I am the last and without Me there is no god." This he interpreted so as to deny that the Son is not distinct from the Father but is rather the same Person as the Father, for in the Hebrew the first clause reads, *Adonai Tzeba'oth*, by which is to be understood the Father; then, the second clause says, "I am the first and I am the last," adding, "and there is no Elohim beside Me." It is as though it were saying that that which is to be understood by Elohim is nothing other than *Adonai Tzeba'oth*. Thus the Son is the same as the Father.

Sixthly, he was made to doubt by what it says in the Third Book of Kings, after Elijah's sacrifice. The people exclaimed: *Adonai Hu ha-Elohim; Adonai Hu ha-Elohim.*[64] He interpreted this as follows: Since the people did not say: *Adonai Elohim*, but *Adonai Hu Elohim*, the Scriptures desired to indicate that in Divinity there is no Father and Son, since otherwise it would have said *Adonai Elohim*. By placing the *hu* in the middle, it made no distinction of Persons, Adonai and Elohim, that is, of the Father and the Son; and so the person of the Father and of the Son is single.

For the moment, he said, he did not recall what other statements made him doubt whether the Father and the Son were one Person or several. He was asked whether he had brought these teachings forward at the beginning, during the disputation he had had on the subject with the Lord Bishop. He answered that he had produced all or the major part of them; and, he said, they had been resolved for him by the Lord Bishop, but, he said, he did not remember the solution.[65]

[63] Isa. 44:6. As the scribe transliterated the verse, it appears as: *Tho amar Adonay mehelet vogoalo Adonay Sabaoth anu, risson vahami Haharon humibalazai heu heloim.*

[64] I Kings 18:39. The Vulgate calls the books of Samuel I and II Kings. As the scribe transliterated the phrase, it appears as: *Adonay hu ayheloim Adonay hu habeloi.*

[65] As usual, Baruc weakens his own argument.

[V]

Later in the same year, on the 25th of September,[66] the said Johannes appeared for trial in the Chamber of the Episcopal See of Pamiers before the Lord Bishop, assisted by Friar Gaillard de Pomiès and in the presence of the Archdeacon of Majorca and the canon of Narbonne; Germanus of Chateauneuf, Archdeacon of Pamiers; Jacques of Albi, Prior of the Monastery of Pamiers; Hugh Artaudi, Prior of Pradières, and of many other canons of the Church of Pamiers; and of the religious men, the priors of the Blessed Mary of Carmel, along with three of his associates, and of the Augustinians, the sub-prior of the Dominicans, four Franciscans, the consuls of Pamiers, and many other burghers of the said town; and of distinguished men, Bernard Saxerius, royal official of Pamiers, Hugh de Habelheriis, judge of appeals of Pamiers; Master Guillermus of St. Julian of Pamiers; Johann Baustz, a judge of Pamiers—all men learned in the Law—and of myself, the notary signed below.

The entire above-mentioned confession which had been made by him was read to Baruc in the vulgar tongue. He there admitted that it was true and that he wanted to persevere in it. He was there asked, moreover, whether he had been instructed in the Christian faith by the Bishop concerning all the articles of faith and the sacraments of the Church, individually and separately, and all this through the Scriptures of the Old Testament. He was also asked whether he believed with his whole heart the truth of all that the Holy Roman Church taught regarding the articles of faith and the sacraments and about the abrogation of the laws of the Old Testament, and also whether he believed that the doctrines of the Church were in accord with the Law and the Prophets of the Old Testament. He answered that he believed, and made oral confession that the Catholic faith was true as well as all the articles of the faith and all the sacraments of the Church, and that whatever the Roman Church teaches and preaches about these articles of faith and sacraments, it teaches and preaches in accordance with the Law and the Prophets of the Old Testament. He said, moreover, that he believed this faith from the heart and that he would believe it and teach it henceforth. And he said he believed that the persecution, as a result of which he was baptized, had come upon him for the good of his soul and that he had not been induced to believe the Catholic faith through fear of death or of torture, or by the force of imprisonment, threats, terrors, blandishments, or promises, but rather through the Holy Scriptures as explained to him by the Lord Bishop.

[66] It does not seem likely that more than a month would have been permitted to pass before the final, tragic scene was enacted. If so, it means that Baruc remained obdurate and that tremendous pressure, physical and mental, was added to previous discomforts of a medieval prison. It is more likely, however, that the August date for the second disputation is a scribal error, and that this last scene followed upon it by only ten days.

As a result, he voluntarily abjured the Jewish perversion of the faith and the superstitions and ceremonies of the Jewish Law and every other heresy. He took an oath, moreover, regarding all others who, having received baptism and afterwards reverted to Judaism, heretics, and those who believed in them, favored them, defended them, sheltered them, represented them, or were their friends, as well as regarding such as were fugitives because of their heresy, that he would himself—and that he would to the best of his ability cause others to—pursue, investigate, capture, and reveal, bring them or have them brought before the Lord Bishop or the inquisitor of depraved heresy. He swore, in addition, to observe and obey the orders of the Church and of the Lord Bishop or his successors, and that he would do and complete every penance, punishment, satisfaction, and burden which the Lord Bishop or his successors, themselves or through someone else, would cause to be enjoined and imposed upon him, Johannes, in his person or his property.

[VI]

Later that same year, on the third of December, the said Master Johannes appeared before the Lord Bishop and Friar Gaillard de Pomiers in the Episcopal Chamber of Pamiers and, renouncing [whatever claims he may have made] in the matter and bringing his case to a conclusion, he begged not for judgment but for mercy, asking and supplicating that he be dealt with mercifully by the above-named lords.

The said Lord Bishop and Friar Gaillard proceeded to render judgment and to make declaration in the following manner: "Know all . . ." —The sentence is to be found in the book of judgments on depraved heresy.[67]

Done in the year, on the day, in the place, and in the presence of the witnesses above-named and by the hand of Master Guillermus Petri Barta, notary of the Lord Bishop, who received and wrote down all the above.

And I, Rainaudus Iabbaudi, cleric of Toulouse, juror in matters of the Inquisition, have, at the order of the Lord Bishop, faithfully corrected the above confession with the original.

[67] Some idea of the nature of the sentence may be obtained from Bernard Gui's *Manuel de l'Inquisiteur*, pp. LI.

THE DISCUSSION AND STRUGGLE OVER JEWISH EMANCIPATION IN ALSACE IN THE EARLY YEARS OF THE FRENCH REVOLUTION

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ANY statement that during the French Revolution the Jews of Paris, the Sephardic Jews of the Southwest, or the Comtadin Jews of the former Papal provinces were persecuted just because they were Jews, could be strongly and easily opposed and dismissed. But there is no doubt that in many instances Jews were persecuted as such in both parts of Alsace, in Metz, and in Lorraine; they were persecuted even by the revolutionary elements. Thousands of cases of mistreatment of Jews can be cited from archival and published sources. Here are some of them:

The Alsatian Jews complained that they were not given the opportunity to share in the distribution of communal property (*biens communaux*).[1] At the request of the departmental *Directoire* the city of Huningue (Lower Rhine) collected from eighty communities petitions against the emancipation of the Jews.[2] In Issenheim armed patrols entered Jewish houses and extinguished the lights, thus forcing the Jews to go to bed early. In Bollviller the Jews were not allowed to leave their houses at night; the roofs and windows of Jewish houses were broken; Jews were arbitrarily arrested and fined by the Mayor. On April 29, 1790, at the request of the Alsatian Jewish leader Marx Berr, the Alsatian *Commission intermédiaire* ordered the Bollwiller Mayor to stop persecuting Jews.[3] The Lower Rhine *Direc-*

[1] Z. Szajkowski, "Jewish Participation in the Sale of National Property during the French Revolution," *Jewish Social Studies*, XIV (1952), 311-12.

[2] City Archives of Strasbourg II-80; R. Anchel, *Napoléon et les Juifs* (Paris, 1928), p. 11.

[3] Veron-Réville, *Histoire de la Révolution française dans le département du Haut-Rhin* (Colmar, 1865), p. 45; AdHR[=Archives départmentales, Haut-Rhin], C 1597.

toire attacked the Mayor of Bischeim for assigning exclusively to Jewish houses soldiers who had been sent to prevent a pogrom in the town.[4] On April 23, 1790, the Christians of Bergheim petitioned the National Assembly against the emancipation of the Jews, requesting that they be deported to commercial centers to live among their Sephardic coreligionists.[5] On May 8, 1790, the city of Molsheim stated that the Jews wrote their petition for emancipation "in a moment of folly."[6] The author of a Nancy pamphlet against the acceptance of Jews by the National Guard wrote that to defend Jews was to prostitute a writer's talent.[7]

A large number of Strasbourg people petitioned the King to refuse to sign the Law of September 27, 1791 granting citizenship to the Jews.[8] One Alsatian counter-Revolutionary pamphleteer wrote in 1792: "The Jews replace the bourgeois."[9] During the elections in Lixheim (Meurthe) on Novembre 25, 1792, Jews were chased out of the church where the election was held because they refused to act against their religious convictions and did not uncover their heads.[10] In a petition dated April 13, 1793, demanding the expulsion of the Jews, the Colmar

[4] *Avis . . . Délibération du Directoire du département du Bas-Rhin. Du lundi* 21 *mai* 1792 (Strasbourg, 1792). 4 pp. (4°). Suzanne Salomon Cerf of Metz rented her house to Abraham Gringuelot until July 3, 1793. Then, against her will and without any formalities, city officials rented the house to six families. Their contention was that she was Jewish and wanted to rent the house only to Jews. On September 23, 1795, the *Directoire* expelled the six illegal tenants. *Extrait des registres des délibérations du département de la Moselle . . . du* 1 *vendémiaire, l'an* 4 . . . (Metz, 1795), placard.

[5] AN[=Archives Nationales, Paris], DIX-IV-LVI (1638).

[6] *Ibid.*

[7] *Lettre d'un citoyen, aux gardes-citoyens de la ville de Nancy, en réponse à la question: Les Juifs doivent—ils être admis dans la Milice Nationale?* (no place and no date given), 6 pp., p. 1 (Nancy Library, 702013-6).

[8] AN, BB-16-622.

[9] *Je vous dirai vos vérités* (no pl., no date), p. 28.

[10] A. Troux, *La Vie politique dans le département de la Meurthe d'août* 1792 *à Octobre* 1795, I (Nancy, 1936), 138-39. In Lixheim (Lorraine) anti-Jewish feeling was so violent that Jewish creditors were afraid to collect the debts owed to them by Christians, and because of this they were granted a delay in paying their tax. J. Godechot, "Les Juifs de Nancy de 1789 à 1795," *REJ*[=*Revue des Etudes Juives*], LXXXVI (1928), 8.

District accused the Jews of discrediting the *assignats* (paper-money) and stated that the Jewish leader Cerfberr prepared warehouses full of food for the invading armies from Germany and that "offers were made by Jews to the Pope adverse to our liberty," etc.[11] In the eyes of the brand new Alsatian revolutionaries the Jews were a lazy people, because they observed the Sabbath. During a wheat crisis, when the peasants were short of help for the harvest, the Strasbourg District decided to send to help them "especially those of Moses' religion, who live in laziness."[12]

Jews were forced to pay higher taxes and to make larger revolutionary contributions than Christians. In some areas, "patriotic" contributions were imposed only on Jews, and frequently they refused to pay because they did not have enough money.[13] On the other hand, the same thing happened after the Terror, e.g., in 1796 in Jungholtz, Bollwiller, Soultz, and Rimbach. In Rimbach on October 21, 1796, thirty-two Jews proved that even poor Jews were taxed for large sums. This compelled the authorities to assess the richest Christian family three-quarters of the total local taxes.[14] On September 4 and 25, 1790, the city of Strasbourg restricted the rights of Jewish peddlers and ordered gatherings of Jews in the market to be dispersed.[15] In August, 1793, the City Council brutally scattered Jewish merchants found on the *Poële des pelletiers.* Eighteen Jews protested against such ruthlessness, which could only reinforce anti-Jewish feelings, but their protest was rejected. The Mayor arrested twenty-three Jews and held them in

[11] ". . . des offres faites par les Juifs au Pape contre notre liberté." AdHR, L645.

[12] Henry Brunschwig, *Les Subsistances à Strasbourg pendant les premières années de la Révolution française* (Strasbourg, 1932), pp. 90-91.

[13] Z. Szajkowski, *Poverty and Social Welfare among French Jews* (1800-1880) (New York, 1954), pp. 6-7.

[14] M. Ginsburger, *Histoire de la communauté israélite de Soultz* (Strasbourg, 1939), pp. 40-41.

[15] *Proclamation de par les Maire et officiers municipaux de la ville de Strasbourg* [4 *septembre* 1790]. *Placard; Proclamation de par les Maire et officiers municipaux,* Strasbourg, 25 septembre 1790. Placard; *Réimpression de l'ancien Moniteur,* VI, 83.

prison for 65 days. Two of them, Abraham Schwartz of Westhoffen and Samuel Weyl of Westhausen, later asked for compensation of 800 and 700 pounds respectively.[16]

The Jews continuously protested against the persecution and made strong demands for protection.[17] On April 16, 1790, the National Assembly ordered that the Alsatian Jews be protected. On April 9, 1790, the Alsatian Jewish leader Marx Berr [Cerfberr], a son of Cerfberr de Medélsheim, called on the Strasbourg Mayor for help. On November 1, 1794, the National Assembly again discussed and granted an Alsatian Jewish request for protection.[18] At the end of 1794 the Jews of Lower Rhine stated in a petition to the National Assembly that enemies of the Republic in their department were treated much better than Jews; they declared that taxes were more equitably distributed in countries where slavery was practiced than in Alsace; that Jews were still being chased out of Strasbourg, and so forth. The petition concluded with these words: "Long live the National Convention, which should establish the empire on a basis of liberty and equality."[19]

Essentially, the Christian population and even the Jacobins desired to maintain the anti-Jewish restrictions, of the pre-Revolutionary days, especially the prohibition against the Jews taking up free residence. The Nancy Bishop, A.L.H. de la Fare, well known for his fight against Jewish emancipation, stated in 1790 that the Jews did not

[16] AdBR[=Archives départementales du Bas-Rhin], L-I-1222; AdHR, L123.

[17] Individual Jews protested against the delay in granting citizenship to the Jews, e.g., the Worms brothers of Lorraine, who, as early as 1787, were granted all rights as a reward for their services to the army. AN, C82-817/12(43).

[18] *Réimpression de l'ancien Moniteur,* IV, 133; R. Reuss, *L'Alsace pendant la Révolution,* II (Paris, 1894), 25-26; *Opinion de M. le Comte Stanislas de Clermont-Tonnerre, relativement aux persécutions qui menacent les Juifs* (no date, no place), 4 pp.; *Extrait du registre des arrêtés du Comité Législation. Séance du* 11 *brumaire, l'an troisième* . . . (Strasbourg, 1795), 2 pp.; M. et E. Ginsburger, "Contribution à l'histoire des Juifs d'Alsace pendant la Terreur," *REJ,* XLVII (1903), 297-98.

[19] *Copie de la pétition par plusieurs citoyens du Bas-Rhin, à la Convention Nationale* (avec: Extrait du registre des arrêtés du Comité de Législation du 1 novembre 1794) (Colmar, 1794), 7 pp. (Colmar Library B63).

monopolize any trades that were against the people's interests. The main reproach made against Jews was their settlement all over the province, their purchases of houses and land, and their new privileges which had not been granted to them by the old regime.[20] Out of forty-three cases of anti-Jewish actions in the Lower Rhine in 1790-1794, cited by the historian Rod. Reuss, twenty-two were against Jews who desired to take up new residences, trades, etc.[21] In 1790, a Jew of Wintzenheim received protection from the army against the bourgeois who wanted to expel him from the city. Thionville requested the expulsion of the Jew Mayer Levy.[22] On September 25, 1790, the district of Sarreguemines proposed to the Metz district action to maintain the old anti-Jewish restrictions.[23] The Jewish market-merchants Marix Wolf and Mathias Caen, in their petition to the Agricultural Committee of the National Assembly of December 10, 1790, complained that for the past year they had been forced to pay 15 sols per day for limited permission to sell their merchandise in Besançon. Because they sold it at a cheaper price than the local Christian merchants, the latter obtained an order forbidding their trade altogether.[24]

On July 20, 1790 the National Assembly abolished the protection and residence tax imposed on Jews,[25] thus giving them the right of free residence. Yet at the end of September, 1789, Colmar tried to expel the Jews. On the other hand,

[20] [A. L. H. de la Fare], *Opinion de M. l'Evêque de Nancy, député de Lorraine, sur l'admissibilité des Juifs à la plenitude de l'état civil, et des droits de citoyens actifs* (Paris, 1790), p. 12.

[21] R. Reuss, "L'Antisémitisme dans le Bas-Rhin pendant la Révolution," *REJ*, LXVIII (1914), 247.

[22] J. Liblin, "Chronique du serrurier Dominique Schmutz de Colmar," *Revue d'Alsace*, XXIV (1874), 389-90; N. Dorvaux et P. Lespraud, "Cahiers de doléances . . . de Thionville èn 1789," *Annuaire de la Société d'histoire et d'archéologie*, XXXI (1922), 555.

[23] Archives départementales de la Moselle, L532.

[24] Ch. Schmidt et F. Gerbaux, *Procès-verbaux des comités d'agriculture et de commerce . . .*, I (Paris, 1896), 703.

[25] *Lettres patentes de Roi, sur de Décret de l'Assemblée Nationale, du 20 juillet dernier* [1790], *portant suppression des droits d'habitation, de protection, de tolérance et de redevances semblables sur les Juifs. Données à Saint-Cloud le 7 août* 1790. *Transcrites en Parlement, le* 21 *du même mois* (Metz, 1790), 3 pp.

a Christian innkeeper, Jacques Gretschar, stated then that he would kill anybody trying to expel his Jewish lodgers. On April 25, 1791, Colmar protested even against the Jews' taking up residence in the city's suburbs.[26] On September 21, 1790, the Strasbourg district declared that the city of Bischeim had no legal right to bar Jews. On December 7, the district reproached the city of Mutzig for demanding a residence tax from a Jew. But on December 11 the same district stated that since the National Assembly had not yet come to any decision on the status of the Jews, the city of Lingolsheim had the right to refuse to permit new Jews to establish themselves there.[27]

Strasbourg petitioned the National Assembly to expel Cerfberr and other Jews who had moved in before 1789 against the city's will.[28] On February 1, 1793, a Jew paid to the city of Soultz 66 pounds in silver as a residence tax. No Jew was allowed to stay overnight in Rouffach. In Mutzig and Langensoultzbach Jews were asked to pay special residence taxes. In Gottershausen Jews had to pay a special toll to pass through the village with a funeral procession. In Bouxwiller they still paid a special tax for the ritual slaughtering of cattle. In Bollwiller, Jews continued to pay a special tax for the poor Christians.[29] The Jacobin Clubs

[26] City Archives of Colmar, B63; *Très-humble et très-respectueuse Adresse à l'Assemblée Nationale, exprimant le voeu de la commune de Colmar* [le 25 avril 1790], (Colmar, 1790), 4 pp. Even at the beginning of the First Empire Jews were not allowed to reside in Colmar itself, but only in the neighboring villages of Wintzenheim and Hofbourg. Edmond Compagnac, "D'une rive à l'autre du Rhin en 1793," *Annales rèvolutionnaires*, XI (1919), 554.

[27] AdBR, L-1-825, L-6-85; AdHR, L645.

[28] *Très-humble et très-respectueuse adresse que présente à l'Assemblée Nationale la Commune toute entière de la ville de Strasbourg* [Strasbourg, 1790], 14 pp. (4°) and (Paris, 1790), 20 pp. (8°). German edition: *Unterthänigste-gehorsamste Vorstellung* . . . (Strassburg, no date), 11 pp.

[29] G. Durwell, "Histoire de la ville d'Alsace et de ses environs," *Revue d'Alsace*, L (1899), 154; AdHR, L645; Reuss, *REJ*, LXVIII, 246-64; R. Anchel, *Napoléon et les Juifs* (Paris, 1928), p. 12. In 1790, Isaac Israël and Joseph Moïse of La Beuvery (near Etanges) protested against the levying of special taxes for the Church's lighting, for the Christian teacher and the priest, de Monthalon. The tax was probably paid, because in 1791 there were repeated protests from the Jews. Archives of the Metz Jewish Community, Gal 29-30-31.

of Colmar, Nancy, and Toul in 1793 requested that the Jews be expelled, and the Nancy Club petitioned the Paris Clubs to expel the Jews from France altogether.[30]

It should be noted that the persecutions were not directed against Jews only, but also against non-Catholic Christians and new residents.[31] The same is true with regard to the economic protectionism directed against the Jews. The brewers of Landau (Lower-Rhin) had a concession for brewing beer; in March, 1791 they demanded compensation if they should lose their profits as a result of the law on patents.[32] But the persecution of non-Catholic Christians and foreigners was not so well organized nor was it carried out on as large a scale as the anti-Jewish persecution, in which all sections of the population and all political parties took part. It should be pointed out that, although the Alsatian Protestants were often attacked themselves, they nevertheless participated in the well-organized campaigns of the Catholics and even of the lay Jacobins against the Jews.

Even most of the sincere revolutionary leaders in Alsace and the neighboring regions were anti-Jewish, among them Jean-Baptiste Reubell (Rewbell, 1748-1810), deputy from Colmar and Sélestat to the National Assembly, who became one of the leading anti-Jewish figures. A man of great influence, energetic, and cultured, he regarded as lawful any means that furthered his purpose and availed himself of every legal trick to carry through his ideas. According to Rewbell, even Robespierre himself was too timid; he,

[30] Paul Leuillot, *Les Jacobins de Colmar* (Strasbourg, 1923), pp. 67-68; R. Pariso, *Histoire de Lorraine,* III (Paris, 1924), 240; Dr. J. F. E. Robinet, *Le mouvement religieux à Paris pendant la Révolution,* I (Paris, 1896), 330.

[31] The Colmar and Selestat Catholic clergy called for the renewal of the 1624 restrictions against Lutherans and Calvinists and the destruction of their churches. The people of Bassing (near Nancy) requested the expulsion of the Anabaptists. The people of Uberkinger, Dienze, Grening, and Insming (Lorraine) submitted petitions not only against Jews, but against Anabaptists, too. *Archives parlementaires,* III, 5; M. J. Krug-Basse, *L'Alsace avant* 1789 (Paris-Colmar, 1876), p. 228; Charles Etienne, *Cahiers de bailliages des Généralités de Metz et de Nancy . . .,* I (Nancy, 1912), 685; II, 31-32, 119, 180, 234.

[32] Schmidt et Gerbaux, *op. cit.,* II, 121.

surely, was the strongest personality in the *Directoire*.[33] Rewbell, a lawyer and the son of a notary, grew up in the Alsatian atmosphere, where every Jew was looked upon as a usurer. He appeared before Alsatian courts in cases involving Jews and Christians. Although the Alsatian Jewish pamphleteer Michel Berr wrote on Rewbell's anti-Jewish *déclamations interessés*, we know that Rewbell disliked Switzerland because he lost a lawsuit in which he defended Jews against the *Grand Conseil* of the Berne canton.[34]

One historian has noted two phases in Rewbell's anti-Jewish activities: the one prior to July 14, 1789, and the other since the outbreak of the Revolution.[35] It seems that at the beginning of the Revolution Rewbell favored the Jews. On August 15, 1789, he wrote from Versailles to the Colmar *Commission intermédiare* that the anti-Jewish laws did not help to improve their morale, and he expressed the hope that the new laws would better the Jews' status and make of them honest working people.[36] It seems, then, that only later, and under the influence of the other Alsatian deputies, did Rewbell join the anti-Jewish circle. He had ample vigor to fight his Alsatian colleagues on many issues,[37] but not on the Jewish problem. But when the Jews were granted full citizenship on September 27, 1791, he fully respected the law and during the Terror he tried to combat the special restrictions with which a Commissioner of the *Comité de Salut Public* threatened the Alsatian Jews.[38]

[33] A. Mathiez, *Le Directoire de* 11 *brumaire an IV au* 18 *fructidor an V*, publié par Jacques Godechot (Paris, 1934), pp. 43-45.

[34] *Lettre d'un Alsacien, sur les Juifs d'Alsace, à M. Reubell . . .* (Paris, 1790), p. 6; Michel Berr, *Euloge d'Abraham Furtado* (Paris, 1917), p. 13; P.-L. Hanet-Cléry, *Mémoires*, II (Paris, 1825), 19; Jacques Godechot, *Les Commissaires aux armées sous le Directoire*, II (Paris, 1937), 15-16.

[35] Jean Braun, "La Révolution de 1848 et la Seconde République dans le Haut-Rhin," *Le Département du Haut-Rhin commémore trois siècles de vie française* (Colmar, 1948), p. 105.

[36] AdHR, C1603; *Revue d'Alsace* (1862), p. 531.

[37] On the different attitudes towards Protestants of Rewbell and the Deputy Abbot Eymar de Wachrétien, see: *Dire et opinion de M. l'Abbé d'Eymar, député d'Alsace sur l'adresse de M. les Protestants . . .* (no place, no date), pp. 3-8.

[38] Félix Schaedelin, "Reubell," *La vie en Alsace* (1928), p. 233.

According to the historian Albert Troux even thoroughgoing *Montagnards* expressed the blind hatred of the common people (*petit peuple*) toward the Jews. For some Jacobins their anti-Jewish propaganda was a means to defend themselves against accusations of being too moderate revolutionaries. This was the explanation of Rapinat's (Rewbell's brother-in-law) anti-Jewish attitude given by the historian Jacques Godechot.[39] The same thing happened with Rewbell. When he was accused, in April-June, 1791, of speculating with nationalized properties, his hatred of the Jews helped him to regain popularity among the people of Haut-Rhin.[40] But his popularity and influence gradually waned. L. M. M. Carnot charged him with helping speculators; Rewbell and his family were accused of financial speculations and of seeking the friendship of aristocrats. He was then forced to be cautious in order not to discredit himself in Paris by imprudent acts, and he stopped his attacks against the Jews.[41]

It took much courage for an Alsatian Jacobin to defend Jews. He would make many enemies and jeopardize his career. This happened to the deputy public prosecutor of Strasbourg François-Laurent Xavier Levrault (1762-1821), who signed a pro-Jewish report prepared by the Strasbourg Friends of the Constitution (*Société des Amis de la Constitution*). On February 7, 1790, this Society decided to accept Jewish members and to censure P. F. de Latour-Fossaic's anti-

[39] Troux, *op. cit.*, II, 101; Godechot, *Les Commissaires*, II, 71.

[40] Raymond Guyot, *Documents biographiques sur J. F. Reubell*, 1747-1807 (Tours, 1911), p. 16.

[41] *Ibid.*, p. 172; A. Mathiez, "Les Malles de Reubell," in *Annales révolutionnaires*, IX (1917), 541-43; X (1918), 246-47; XV (1923), 414; *ibid.*, *Le Directoire* (Paris 1934), p. 44; L. Bour, *La Grande Révolution dans l'arrondissement de Sarrebourg sous le Directoire et le Consulat*, 1795-1802 (Metz, 1936), p. 12; F. Normand, "Jean-François Reubell," *Les Contemporains*, No. 940 (Paris, 1910), p. 7: *Testament de Rewbell* (Colmar, 1799), 21 pp.; Etienne François Housset, *Rapport . . . (Paris, an VII)*, 26 pp.; *Observation de Reubell . . . sur le rapport fait par Housset* (no place given, 1799), 3 pp.; Georges Mauguin, "La Carrière militaire d'un ami de Moreau; Le Général Jean-Jacques Reubell," *Revue des etudes napoléoniennes*, XL (1940), 219.

Jewish pamphlet.[42] On February 20, 1790, Marx Berr [Cerfberr] was officially enrolled as a member. The Society voted to publish Berr's speech together with the Society's statement that this was the first public manifestation in Alsace against anti-Jewish feelings, and to nominate a special commission of five members to study the problem of Alsatian Jewry.[43] On February 27, 1790, R.-F.-P. Brunck, one of the Society's founders, reported, in the name of the Commission, in favor of granting full citizenship to the Jews. The report stated that the rich landowners and the officials were against emancipation of the Jews because they were afraid of losing a source of income; the priest circulated the counter-Revolutionary statement that the Jews would buy the nationalized properties and enslave the peasants; many Christian artisans were afraid of Jewish competition. But the report declared that the Jews would become an economically useful element. "How many villages do not have any shoemaker? Should a Jew take up this trade, he would sell his shoes much cheaper to the peasants than the Christian shoemakers of the cities. . . . If we made peasants and handicraftsmen of the Jews, they would expand the industry and commerce of our province."[44] The same meeting of the Society voted that a request be made to the City to discontinue the blowing of the Shofar, a tradition of pre-Revolutionary days, a sign to Jews not

[42] P. F. de Latour-Foissac, *Plaidoyer . . . contre les Juifs . . .* ([Strasbourg], 1790), ii+109 pp.

[43] F. C. Heitz, *Les Sociétés politiques de Strasbourg pendant les années 1790 à 1795* (Strasbourg, 1863), pp. v, 13.

[44] The same idea—that emancipated Jews would enrich France—was repeated in many other pamphlets: La Baronne de Vasse, Anglaise, *Mémoires à L'Assemblée Nationale, pour demontrer aux français, les raisons qui doivent déterminer à admettre les Juifs indistinctement aux droits de citoyens* (Paris, 1790), 9 pp.; *Recueil de pièces relatives à l'admission des Juifs à l'état civil* (Paris, 1790), p. 25 (Discours de l'Abbé Bertolio); *Adresse de l'Assemblée des représentants de la Commune de Paris, à l'Assemblée Nationale, sur l'admission des Juifs à l'état civil . . .* (Paris, 1790), p. 11; [Israel Bernard de Valabregue], *Schreiben eines Lords . . . Zur Verteidigung der Juden* (Breslau, 1804), pp. 60-61.

authorized to stay in Strasbourg, that they should leave the city.[45]

Brunck's report drew furious attacks—verbal and written—from the anti-Jewish elements.[46] Since Levrault, as secretary of the Society, had signed the pro-Jewish report, the anti-Jewish elements attacked him strongly. The Strasbourg Second Section stated that he was a "bad citizen," and demands were made that the Society be disbanded. Levrault sued his attackers. However, on April 3, 1790, the General Council of Strasbourg called a special meeting for April 7 to discuss the pro-Jewish report, and it seems that Levrault became frightened. In a letter published on April 7, 1790, he stated that he signed the pro-Jewish report, not because of any personal pro-Jewish sentiments, but in his capacity as secretary of the Society. He stressed the fact that he had not prepared the report and had never pleaded before the National Assembly in favor of the Jews, and he declared himself ready to execute any order of the General Council concerning this problem. The Council voted to petition the National Assembly against the emancipation of the Jews, and on April 8 the City Council published

[45] F. L. X. Levrault, *Rapport de l'Assemblée de la Société des Amis de la Constitution, le 27 février 1790, sur la question de l'etat civil des Juifs d'Alsace* (Strasbourg, 1790), 32 pp. Another edition of the same report was signed by the President and two secretaries of the Society: [R. E. P. Brunck], *Rapport lu à l'assemblée de la Société des Amis de la Constitution de Strasbourg, le 27 fevrier 1790, sur la question de l'état civil des Juifs d'Alsace* [Signé: Barbier de Tinan, président; Genthon, Levrault, secrétaires] (Strasbourg, 1790), 31 pp. German edition: *Bericht welcher in der Gesselschaft der Freunde der Konstition über die Frage vorgelesen wurde: Konnen die Juden in Elsasse des Burgerrechts teilhaftig werden?* (Strasbourg, 1790), 38 pp.; *Observations sur la possibilité et l'utilité de l'admission des Juifs en Alsace aux droits de citoyens adressées à un Membre de la Société des Amis de la Constitution à Strasbourg*, par un ami de l'homme (Strasbourg, 1790), 20 pp.; *Réflexions sur la Société des Amis de la Constitution* (Question des Juifs) (Strasbourg, 1790), 4 pp.; Heitz, *op. cit.*, pp. 17-18. On Brunck see: E. Barth, *Notes biographiques sur les hommes de la Révolution à Strasbourg* (Mulhouse, 1877), pp. 20-22.

[46] Foissac, *Observations sur un écrit en faveur des Juifs de l'Alsace, présenté au Comité des Amis de la Constitution de Strasbourg, le 27 février dernier* [Phalsbourg, ler avril 1790] (Strasbourg, 1790), 20 pp.; Ginzrot, *Antwort über eine Schrift betitelt: Bericht welcher in der Gesellschaft der Freunde der Konstitution über die Frage vorgelesen wurde . . .* (no place given, 1790), 15 pp.

the text of its request to the Deputy E. F. J. Schwendt and to the National Assembly to fight Jewish emancipation.

During a discussion on the Jewish problem in the City Council on April 10, 1790, a fight broke out between the anti-Jewish elements and Levrault and his friends. The discussion of April 10 makes it clear that this conflict was not confined to the Jewish problem alone. The fight against Jews was a pretext for a general attack on the revolutionary principles of the Society of Friends of the Constitution. A move even got under way to exclude Levrault from the City Council because of his "memberhip in this dangerous Society" (*Mitglied einer gefährlichen Gesellschaft*). The next day, April 11, Levrault's friend published a pamphlet which stated that this "dangerous Society"—the Friends of the Constitution—was a lawful association and that Levrault had the right to sign the pro-Jewish report because on February 27 he had not yet officially taken over his office on the City Council. The pamphlet maintained that Levrault had the right to express his private opinion on the Jewish problem, and that the attacks against him were directed against the personal liberty of every citizen. In fact, the title of the pamphlet was a statement in itself: "Citizens of Strasbourg, look out for your liberty."[47]

The political clubs did not always represent the large

[47] *Reproche fait à M. Levrault d'avoir signé, comme secrétaire de la Société des Amis de la Constitution, le rapport sur l'état civil des Juifs* (Strasbourg, mars 1790), 2 pp.; *Assemblée de la Comune. Extrait dés registres du Conseil Général de la Commune de la ville de Strasbourg. Du 3 avril* 1790 (Strasbourg, 1790), placard; Levrault, *Lettre écrite par le Substitut du Procureur de la Commune de Strasbourg, à M. Poirot . . . 7 avril* 1790 (Strasbourg, 1790), 1 p. (fol.); *Bürger zu Strasbourg, gebt acht auf euere Freyheit* (Strasbourg, 11 avril 1790), 4 pp.; *Trés humble adresse présentée à l'Assemblée Nationale par la commune . . . de Strasbourg . . .* (Strasbourg, avril, 1790), 14 pp. German edition: *Unterthänigste Vorstellung der Gemeinde von Strassburg . . .* (no place no date), 11 pp. *Lettre écrite à M. Schwendt, deputé à L'Assemblée Nationale, par MM. les Maire et officiers municipaux de la ville de Strasbourg,* le 8 avril 1790 (no place, no date), 1 p. (fol.); Heitz, *op. cit.*, p. 30; Barth, *op. cit.*, pp. 97-99; Anchel, *op. cit.*, p. 11; P. Hildenfinger, "L'Adresse de la commune de Strasbourg à l'Assemblée Nationale contre les Juifs (avril 1790)," *REJ*, LVIII (1909), 112-128.

masses.[48] Still, they were always a revolutionary force, especially in Alsace. The discussion on Jews only aggravated the general political struggle there. The reactionary elements failed in their nationwide move of February-May, 1791 to hamper the activities of the clubs. The Jacobin clubs came out of this struggle stronger everywhere in France except in Alsace, where the *Amis de la Constitution* of Colmar, Thann, Cernay, and other places were forced to disband.[49]

There was not a single Alsatian revolutionary leader capable of stopping the organized attacks upon Jews. Even the Strasbourg Mayor Frédéric de Dietrich joined in these attacks and signed the anti-Jewish petitions sent to the National Assembly. The historian Gabriel G. Ramon notes one main fault in Dietrich's career—the help he gave to the anti-Jewish elements. The hatred against Jews was so strong among the Alsatian Catholics and Protestants that nobody made an effort to understand the Jewish problem and, of course, nobody admitted "*mea culpa.*"[50] Dietrich

[48] F. V. A. Aulard, *Histoire politique de la Révolution française* (Paris, 1901), p. 94.

[49] L. de Cardenal, *La Province pendant la Révolution. Histoire des Clubs Jacobins* 1789-1795 (Paris, 1929), p. 25.

[50] Gabriel G. Ramon, *Frederic de Dietrich* . . . (Nancy, 1919), p. 116. On October 28, 1790, the Paris Jewish leader David D. Silveyra obtained a document from the Constitutional Committee which stated that all those Jews who had obtained letters patent prior to the Revolution could now benefit from the Law of January 28, 1790, granting citizenship to the Sephardic Jews: *Decision du Comité de Constitution. Requise par David D. Sylveyra, Syndic Agent des Juifs français patentes* (Paris, 1790), 1 p. Sylveyra sent a printed copy of this statement to the Alsatian Jewish leader Cerfberr, who showed it to Dietrich, "who was among his friends"—as he wrote—and the Mayor requested that a copy be sent officially to his office. It seems that Cerfberr wanted to use this statement in his controversy with the city about the right of residence for himself and his family. AN, D-IV-LVI (1638). On Cerfberr's conflict with Strasbourg see: Z. Szajkowski, "The Jewish Problem in Alsace, Metz, and Lorraine on the Eve of the Revolution of 1789," *Jewish Quarterly Review,* XLIV (1954), 206-21. It is worth while to mention a pamphlet of February 11, 1790 (the day Levrault's friends published their pamphlet, cf. note 47) addressed to Jews, Protestants, and Catholics, in favor of the Mayor Dietrich: "Croyez vous qu'il [Dietrich] fera des injustices à sa patrie, aux Catholiques, aux Calvinistes, aux Juifs?" *A la Garnison de Strasbourg,* par un Strasbourgeois qui a voyagé vingt-quatre ans (Strasbourg, ce 11 février 1790), 3 pp.

was a *nouveau riche* aristocrat (his father was made a baron in 1761). The historian A. Mathiez declared that he never was a democrat. He liked to live in luxury, and in the revolutionary clubs he detested men from the lower classes who wanted to compete with the wealthy people. His revolutionary career was full of intrigues against the unity of the Republic.[51] Alsace was a strong counter-Revolutionary center, teeming with reactionary plots against the Republic,[52] and the anti-Jewish propaganda was one of the many devices used by the reactionary forces to combat the Revolution. On September 18, 1792, the officials of the Haguenau district sent a special commissioner to Strasbourg with a request for help in preventing an anti-Jewish pogrom, which was being prepared by twelve cities and villages. On October 3, 1792 they protested against the silence of the Strasbourg officials in this matter. They declared that the main criticism against the Jews was that without their money there would have been no Revolution, and the counter-Revolutionary priests would not have been deported. If the anti-Jewish pogrom were not prevented, it could very well be the signal for civil war.[53]

In spite of well-organized anti-Jewish propaganda and persecution the Jews found many sincere friends not only in Paris, where only one out of sixty districts opposed Jewish emancipation,[54] not only among the Paris Commissioners and other leaders connected with the provinces,[55]

[51] Dietrich escaped to Switzerland, but fearful that his property would be confiscated and hoping for the defeat of the Robespierreists, he returned. The Strasbourg Jacobins were afraid to take him before a court in Strasbourg, where he could be freed; on a petition to transfer his case to a different court is to be found the signature of a Jew, Simon Mayer. Dietrich was tried in Besançon; he was deported and, during the Terror, he was sentenced to death in Paris. Mathiez, "Un complice de Lafayette, Fréderic Schneider d'après les documents inédits," *Annales révolutionnaires*, XII (1920), 389-408, 471-499.

[52] E. Vingtrinier, *La Contre-révolution*, I (Paris, 1924-25), 254-64, 357-61; II, 155-56.

[53] AdBR, L-I-825.

[54] Sigismond Lacroix, "Ce qu'on pensait des Juifs à Paris en 1790," *La Révolution française*, XXX (1898), 97-117.

[55] On April 6, 1792, Lafayette wrote to Metz officials on the Jewish problem: "Les soldats de la Constitution doivent savoir que la liberté religieuse

but also among local Alsatians.[56] The Alsatian Jews found a great friend in Jean George (Eulogius) Schneider, who was born on December 20, 1756 in Wipfeld, a small village of Franconia. For a time he was a Franciscan monk. Later he became professor of Hebrew at Augsburg, and this period of his life probably influenced his later attitude in favor of the Jews. In June, 1791, Schneider arrived in Strasbourg. Breaking away from the Church, he married an Alsatian woman. A very talented man, Schneider soon became an extremist Jacobin orator and leader, even more extremist than A. L. L. de Saint-Just himself, who was Robespierre's representative in Strasbourg, and was appointed public prosecutor of the Revolutionary Tribunal of the Lower Rhine department.[57]

Unlike the other Alsatian Jacobins, Schneider was not an anti-Semite. When Marx Berr [Cerfberr], the son of the Alsatian Jewish leader Cerfberr de Medelsheim, paid for the uniform of a soldier volunteer, Schneider celebrated this act in a song.[58]

est un de ses principes les plus sacrés" (City Archives of Metz, 3 P2). André Foussedore, Commissioner in Alsace, published a proclamation against the anti-Jewish persecution: *Foussedoire, Représentant du peuple dans les départements des Haut- et Bas-Rhin* (Colmar, [an III]), 4 pp. French and German.

[56] In 1790, an anonymous Strasbourg pamphlet stated that the granting of full rights to Protestants and Jews would bring back to France all the wealth which despotism and intolerance had compelled them to export: *A la Garnison de Strasbourg,* par un Strasbourgeois qui a voyagé vingt-quatre ans (Strasbourg, 11 fevrier 1790), 3 pp. The Société des Amis de la Constitution of Epinal (Vosges) warned the peasants against despotism, which divided men according to their religion, Christians and Jews, and thus isolated them from each other: *Adresse de la Société des Amis de la Constitution à ses frères les habitants des campagnes* (Epinal, 1792), pp. 2-3 . Among the candidates for the Jury of the Colmar district in 1794 were three Jews: *Liste des citoyens domiciliés dans l'étendue du District de Colmar . . . de Jurés d'accusation et de jugement dans le cours du troisième trimestre de la troisième anneé* (Colmar, no date), 4 pp. On the other hand, not one Jew was on the Metz jury, cf, e.g., *Liste des quatre-vingt quatre citoyens, à raison d'un par mille âmes . . . pour remplir les fonctions de jurés . . .* [5 juin 1794], 6 pp.

[57] Charles Nadier, *Oeuvres complètes,* VIII (Paris, 1833), 48-49.

[58] "Eine That, wie deine That,
Ist der Franken-Freiheit wert!"
in *Argos,* No. 9 (July 9, 1793). In one case, 9 out of 69 persons donating clothing and helping the families of volunteers were Jews: *Dons patriotiques pour l'equipement du bataillon des volontaires de Strasbourg et pour les*

Jews and peasants—but mostly Jews—were at that time violently attacked as food speculators.[59] The Lower Rhine even accused the Jews of developing among the peasants a love of money.[60] The food crisis was no worse in Alsace than in other parts of the country; for a while the situation was even better there. But, as all over France, many Alsatians, too, were accused of being speculators. Cities organized punitive expeditions against villages for not delivering enough supplies.[61]

Mention should be made of the role of the Jewish army purveyors. They were always of great importance to the government, but they also were much disliked, especially by the peasants, who were not always happy to sell their products, particularly if they were paid with *assignats*.[62] A Strasbourg pamphleteer wrote in 1790 that the Jew is the one who takes over "the often distasteful occupation of a contractor for the government."[63] They were also hated as speculators by the revolutionaries[64] and by the admin-

secours à fournir aux femmes et enfants des citoyens qui sont voués à la défense de la Patrie aux frontières [Strasbourg, aout 1792], pp. 11-12. Later, in July, 1793, Schneider wrote that Marx Berr acted in such a patriotic manner at a time when the majority of the "uncircumcized" were fighting against the Jacobins. J. Sée, "Quelques idées d'Euloge Schneider sur les Juifs," *Revue d'Alsace,* XLI (1891), 134.

[59] *Allgemeine Zeitung für alle Stande,* March 18, May 12, Aug. 2, 1793; "Die Juden legten die Hand auf alle Landesprodukte, die sie erfassen konnten"; A. Gestermann, *Geschichte der elsässischer Bauern- und Landwirtschaft,* II (Colmar, 1939), p. 95.

[60] Reuss, *op. cit.*, p. 255.

[61] In 1793, Guebwiller sent such an armed expedition against the peasants of Gundolsheim. On November 12, 1795, 800 horses were requisitioned from the peasants of Moselle. Brunschwig, *op. cit.*, p. 110; R. Foller, "Le massacre de Gundolsheim," *Revue d'Alsace,* LXXXIII (1936), 339-60; [André Ulrich], *Recueil des pièces servant à l'histoire de la Révolution à Strasbourg* [=Livre bleu], (Strasbourg, 1795), 29-30; René Paquet, *Bibliographie analytique de l'histoire de Metz pendant la Révolution* (Paris, 1921), p. 1290.

[62] Reuss, *op. cit.*, p. 267.

[63] "Er ist es, welcher Lieferungen, Zahlungen und so andren eben nicht immer beliebtes Geschäft für Regierungen übernimmt." J.. *Die Juden-Verfolgungen* (Strasbourg, [1790]), p. 15.

[64] The *Montagnard* Joseph-François Wulliez declared in 1793 that because of the failure to buy provisions at the legal *maximum* price, the profits would now go to speculators, especially Jews. Troux, *op. cit.*, II, 66.

istration, which in the end had to pay for the supplies.[65] This was a vicious circle during the Revolution. The number of Jewish financiers was small,[66] but the tradition of the economic usefulness of the Jews, the idea that the Jews could accomplish great things in this field, still persisted. In 1795 Paris was threatened with famine, and the people in a public demonstration at the Convention on May 20, 1795 asked for bread. At the time the walls of Paris were covered with posters dated June 8, 1795 and signed by the citizen Seigneur of the Section de la Butte-des-Moulins, who proposed that the Jews (the *nation juive*) be asked to import to Paris wheat from abroad, because only they with their commercial connections could do it.[67] As a matter of fact, in some instances the Jewish merchants saved the people from starvation. During the bread crisis in Strasbourg (August, 1789-March, 1790), a Jewish secret agent of the wheat-commission of Mayence helped to import wheat from Germany to Strasbourg.[68] In 1789 Berr-Isaac Berr made a loan of 6,000 livres to Nancy for the purchase of sacks, and Cerfberr de Medelsheim saved Lorraine from starvation by importing wheat from Germany.[69] In the year III (1794-95), the district of Metz commissioned the Jew Zacharias-Cerf to import wheat to the extent of 1,500,000 livres.[70]

Here mention also should be made of the well-known attacks against Jews by Charles-François Dumouriez, com-

[65] According to the historian Jacques Godechot the request of Jewish creditors, in 1789-1790, to be paid for their deliveries to the administration aroused anti-Jewish feelings among the officials in Lorraine, who could not pay them. Godechot, *op. cit.*, pp. 9-10.

[66] Only 8 out of 150 financiers listed by the historian E. Soreau were Jews and they did not play an important role. Edmond Soreau, "Les hommes de finance pendant la Révolution, *Revue des études historiques,* CI (1934), 315-18.

[67] Etienne Charavay, "Un appel à la nation juive pour se charger de l'approvisionnement de Paris," *La Révolution française,* XXIV (1893), 62-68.

[68] Brunschwig, *op. cit.*, p. 30.

[69] Godechot, *op. cit.*, pp. 15-16; Charles Poisson, *Les Fournisseurs aux armées sous la Révolution française. Le Directoire des Achats . . .* (Paris, 1932), pp. 119-120.

[70] Paquet, *op. cit.*, p. 1323.

manding general of the Army of the North. These attacks were aimed not against Jews directly, but against the *Directoire des Achats* (Purchasing Directory), created on November 4, 1792 by the three Ministries of Defense, and headed by the Protestant banker Jacques Biederman, of Swiss origin, Professor J.-A.-J. Cousin, and the Strasbourg Jew Marx [Cerf=] Berr (1758-1817). Dumouriez struck at the entire Directory, but particuraly it's Jewish purchasing agents, Marx Berr and the brothers Lipmann (1760-1827) and Théodore Cerfberr (1766-1832). It has already been noted that army contractors were frequently criticized, but at that time the Directory's leaders also fell victims to the conflict between the Minister of War, J.-N. Pache, and the Minister of Interior, J. B. D. Roland. Pache was pushed into the Ministry by his Girondist friends, but when he later went over to the Montagnards, Roland took away from the Directory the right to supply his Ministry. Dumouriez was a known friend of the Girondists and this strengthened his assaults on the Directory. This agency had been created in a moment of grave financial crisis, drought, speculation, and political conflict. Bankers were active in both factions of the Revolution. Biederman was a friend of both the Girondists and the Dantonists, and he was not impartial. But the Jews in the Directory—all of them were Ashkenazic Jews—did not participate in these factional conflicts. Marx Berr was undoubtedly a very ambitious banker, but his activities were restricted to the contracting business. On February 12, 1793, the Directory was suspended, but Marx Berr probably continued his activities for the naval forces.[71]

[71] Bidermann et Marx-Berr, *Réponses . . . aux questions du Comité de la Guerre . . .* (no place, no date), 103 pp. et tableaux; *Observations pour le citoyen Baruch Cerf-Berr . . . en réponse au Général Custines* (no place, no date), 30 pp.; *Observations pour le citoyen Lipphmann Cerf-Berr . . .* (Paris, no date), 19 pp.; Poisson, *op. cit.*, pp. 8, 14, 30, 117-18, 119, 129, 141, 204-08, 219, 222-23, 235-46; Camille Wolf, "Cerf-Berr et Coustine," *L'Univers israélite*, LIII, (1898), 705-07; [Levylier], *Notes et documents concernant la famille Cerfberr*, II (Paris, 1905), pp. 6-135. Laurent, Representative of the People, ordered the execution of all Jewish peddlers who followed the French army

Schneider, too, criticized Jews, but not being ideologically an anti-Semite, he could observe and judge the situation with an open mind. He vehemently assailed the peasants for hiding their products and for speculating. In his periodical, *Argos,* of July 15, 1793, he strongly censured the attacks upon Jews. Usury, speculation, and other evil phenomena should be destroyed, he wrote, but all those responsible for these misfortunes should be attacked, and not the Jews alone, because any charge directed especially against Jews would be contrary to the spirit of Liberty and Equality. The peasants, even more than the Jews, are responsible for discrediting the *assignats* (paper-money). "It has been proved," he wrote, "that one could be a Jew and at the same time a good citizen. The Jewish religion does not make anybody lazy or a speculator." If, prior to the Revolution, Jews made a living out of dishonest and "unproductive" occupations, than the anti-Jewish laws and restrictions were responsible for this state of affairs. "Law and reason recognize only the man, the citizen, and not the baptized or the circumcized. In our Temples we are religious, but in the market and in the popular assemblies we are citizens." Schneider repeated his defense of the Jews in the Strasbourg Jacobins' Club on July 16, 1793, and for this he was called a man who had sold himself to the Jews. In a special supplement to his *Argos* he published a paper by Abraham Lambert, a Jew of Mannheim, who took up residence in Alsace and became a known patriot.[72]

in Belgium: Emile Ouverleaux, "Notes et documents sur les Juifs de Belgique, sous l'ancien régime," *REJ,* IX (1884), 283.

[72] E. Schneider, in *Argos,* July 3, 1792, June 16, and July 15, 1793; *Über die Juden,* supplement to the *Argos,* III (July, 1793), after p. 56. 8 pp.; Julien Sée (see note 58); Dr. M. Ginsburger, *Ein Urteil über die Juden* (no place, no date), 1 p. (fol.) reprint; F. C. Heitz, *Notes sur la vie et les écrits d'Euloge Schneider* (Strasbourg, 1862), pp. 76-77; Campagnac, *op. cit.,* pp. 553-54. On Schneider see also: E. Mühlenbeck, *Euloge Schneider,* 1793 (Strasbourg-Paris, 1896); C. W. Faber, *Eulogius Schneider* (Mulhouse, 1886), 52 pp.; R. Jaquel, "Eulogius Schneider et l'historiographie allemande," *Annales historiques de la Révolution française, VIII,* 399-417; IX, 1-27, 103-15; X, 61-73; XII, 218-48; I. Ehrhard, *Schneider, sein Leben* (Strasbourg, 1894), 223 pp.; J. Grass, "E. Schneider auf der Guillotine," *Cahiers d'archéologie et d'histoire d'Alsace,* III, 1108-12.

H. Grégoire and others were the great protectors of the Jews in Paris, but Schneider, the Jacobin of German origin, became the defender of the Jews in Alsace. Their philo-Semitism had different origins: Grégoire was driven to the defense of the Jews by various philosophical influences, Schneider by his practical revolutionary ideas on the economic problems of the Revolution. Schneider was much swayed by the ideas of Christian Wilhelm von Dohm and Anacharsis Cloots that the anti-Jewish laws and not the Jews' nature of religion was responsible for all the evils connected with the Jewish problem.[73] In a way, all three of them argued as economists, and they were all influenced by the pro-Jewish sentiments then prevailing in Germany.

Schneider's intervention greatly helped the Jews of Alsace. The Revolutionary Tribunal was established in Strasbourg by Saint-Just, who arrived together with Lazare Hoche in November, 1793 to save Alsace for the Republic by terror.[74] With another man than Schneider as the public prosecutor, the Jews would have suffered far more than they did. For a time, his word was law in Strasbourg. In November, 1793 an imaginary war of words and propaganda took place between the Cathedral of Freiburg in Breisgau, on the left bank of the Rhine River, and the Cathedral of Strasbourg. From Germany came the ironic remark that the Protestants and the Jews had probably already given up their religions. Schneider replied that not only Protestants and Jews, but everybody was converted to the new Religion of Reason and the Fatherland (*Culte de la Raison et de la Patrie*).[75] It was probably under Schneider's influence that the Strasbourg Mayor, P. F. Monet, on November 19, 1793 called upon Jews, Calvinists, Lutherans, and Catholics to

[73] C. W. Dohm, *Ueber die bürgerliche Verbesserung der Juden* (Berlin, 1781); French edition: *De la réforme politique des Juifs* (Dessau, 1782); Anacharsis Cloots, *Lettres sur les Juifs . . .* (Berlin, 1789), 90 pp.; L. Kessler, "Anacharsis Cloots and his 'Lettres sur les Juifs,'" *The Jews in France*, II (New York, 1942), 75-92 (in Yiddish).

[74] Bonnal de Ganges, *Les Représentants du peuple en mission près les armées* 1791-1797 (Paris, 1898), pp. 300-75.

[75] Campagnac, *op. cit.*, pp. 485-87.

unite, to forget hatred and fanaticism, and the like.[76] This could not have happened during the previous administration of Mayor Dietrich.

Schneider himself fell victim to the terror and the struggle among the revolutionary leaders. On order of Saint-Just and P. F. J. Lebas he was arrested in November, 1793, and on April 10, 1794 he was guillotined in Paris.

On May 3, 10, and 13, 1794, the Strasbourg *Club des Jacobins ou des sans cullotes* again discussed the Jewish problem. Most members were then unfriendly toward the Jews, who were accused of being usurers, and some even demanded their expulsion. Others, however, stated that Christians, too, were usurers, and the Club passed a resolution proposed by Bois and Lazare Zay, a Jew, to combat all usurers, and not Jews alone. A similar resolution was passed on May 3, 1794 by the Strasbourg *Société populaire.*[77] This was a resolution in the spirit of E. Schneider. But in any case, the officials did not care very much for resolutions in Schneider's spirit. On May 11, 1794, the prosecutor of the Lower Rhine Criminal Court called on the patriots to combat the speculators, especially the Jews. On July 29, 1794, the National Agent (*Agent national*) of the Strasbourg district warned the city councils to watch out for Jewish usurers.[78] A similar warning, directed especially against Jews, was given on June 12, 1794 by the proesecutor of the Upper Rhine Criminal Court at Yves.[79] The *Société*

[76] "Prosélytes de Moïse, de Calvin, de Luther et de Rome, tendez-vous tous une main fraternelle; trop souvent le fanatisme arma vos bras pour vous entre détruire; oubliez vos haines dans les épanchements de l'amitié, dans les doux sentiments de la nature, dans les touchantes maximes de la morale." P. F. Monet, le Maire de Strasbourg, *Au Peuple* [Strasbourg, 29 brumaire, an 2]. Placard (Jewish Theological Seminary, New York, N. Y.). The appeal was published on the eve of a demonstration in favor of the new revolutionary religion (*fête de la Raison*): R. Reuss, *La Constitution civile du clergé et la crise religieuse en Alsace* 1790-1795, II (Strasbourg, 1922), 230-237.

[77] Heitz, *op. cit.*, pp. 346-50; Lazare Zay, "Judenschaft," *Strassburgische Zeitung* (1794), p. 253; Mühlenbeck, *op. cit.*, p. 7.

[78] F. Neuman, *Invitation de l'accusateur public près le tribunal du département du Bas-Rhin, à ses frères les sans-culottes* (Strasbourg, May 11, 1794), placard; Mühlenbeck, *op. cit.*, p. 7.

[79] *L'Accusateur public près le tribunal criminel du département du Haut-*

des Amis de la Constitution of Thann rejected the proposition of the Colmar Society calling for the expulsion of the Jews, but it did decide to keep them under observation.[80]

In conclusion it should be stated that, with rare exceptions, even the majority of revolutionaries in Alsace and neighboring departments were strongly anti-Jewish. Jewish emancipation was obtained and safeguarded against their will.

Rhin, à tous les bons patriotes du même département (Colmar, June 12, 1794), placard.

[80] Henry Poulet, "L'Esprit public à Thann pendant la Révolution," *Revue historique de la Révolution française*, XV (1923), 367-68.

REVIEW SECTION

American Judaism

CONSERVATIVE JUDAISM, AN AMERICAN RELIGIOUS MOVEMENT. By *Marshall Sklare.* The Free Press. Glencoe, Ill., 1955. 298 pp.

THIS book undertakes a task which has not been attempted before, at least not with comparable thoroughness: the sociological interpretation of a religious movement within American Judaism. On the whole, it is not so much the facts which are new (the reader familiar with American Jewish life often feels that he has known them all along), but rather the standpoint from which these facts are viewed: that of the impartial sociological interpreter. The reader familiar with the facts of American Jewish life must nevertheless confess that this book sheds much new light on them.

A book such as this is valuable not only as a piece of academic research, but also as a cathartic for those whose concern with Jewish life is not merely academic. It can purge them of pious illusions. To be sure, no thoughtful Jewish leader needed this book as evidence that participation in organized Jewish religious activities is not always motivated by purely religious considerations, nor can anyone fail to see that most of the non-religious considerations have to be understood in sociological terms. But whereas such piecemeal sociologizing forces itself on any intelligent person standing in the midst of Jewish life, only a detached observer could carry out the task accomplished by the present work: the *systematic* treatment of a movement, such as Conservative Judaism, *as a whole,* in sociological terms. The picture which emerges is, to put it mildly, alarming.

Piecemeal sociologizing in the field of religion is at worst a little sobering. It makes one realize that *some* apparently religious activities have motivations quite other than religious. But Sklare's book conveys the impression that not merely certain aspects, but all of Conservative Judaism, can be explained in sociological, i.e., essentially non-religious terms. (To be sure, Sklare makes the occasional disclaimer, but we hope to show both that and why these disclaimers are spurious). It appears that in order to understand the phenomenal rise of Conservative Judaism in America, we need only understand what happened to a certain group of East European Jewish immigrants who showed a strong degree of social mobility and who, despite the necessary processes of "acculturation and assimilation," retained the "bonds of ethnicity." Even to understand the strains and stresses within the Conservative rab-

binate, or within Conservative theology, sociological categories seem sufficient. Recourse to specifically religious categories seems nowhere necessary.

That such a picture is alarming to those concerned with the perpetuation of Judaism goes without saying. But though alarming, it could be extremely wholesome—if it should prove to be the truth. And indeed, there would seem to be much truth in this picture. Jewish life in America is motivated non-religiously to a far greater degree than can be realized by most of its active participants; perhaps only a detached observer can fully perceive the extent to which "religious" life receives impetus from non-religious factors. Surely no active rabbi could have written Sklare's chapter on the Conservative rabbi, one of the most brilliant in the book, which analyzes pitilessly the secular forces that press against the rabbi, threatening, if not actually compelling, him to become a mere "functionary," *shtadlan* and community organizer. A rabbi anxious to save some vestiges of his rabbinic calling would have to be almost superhuman to be willing and able to see these facts in their depressing proportions and yet to continue with his work.

But although there is much truth in Sklare's presentation, we submit that it is not without serious distortions and that, once these are removed, the picture is considerably less gloomy. Our criticism concerns, not Sklare's facts nor his general method of dealing with them, but these two fundamental assumptions of his entire inquiry: (1) that religion, though in part transcending sociological categories, is nevertheless in part a social phenomenon and may be studied as such by the social sciences; (2) that the general categories of the social sciences are applicable to the particular phenomena of Jewish existence.

It must be admitted at once that both these assumptions are, in principle, both justified and necessary. After all, the religious believer and the Jew are human beings and as such social beings; hence, it must be possible to study them in this capacity. It may be startling to the observant Jew to hear his food-laws described as "taboos;" but if that term signifies an aspect of man's religious behavior, we cannot, without investigation, deny its application to Jewish religious behavior, for the Jew is a man. The sociological student of Jewish religion, then, must make use of these two assumptions, *but he must use them with a special kind of caution.* Sklare, we fear, lacks this caution.

As regards the first assumption, Sklare admits, to be sure, that religion is in part a "supra-social" phenomenon, in which capacity it presumably escapes sociological inquiry. But this general admission is methodologically totally sterile as long as one is unable to distinguish the social from the supra-social part, a distinction possible only if some knowledge is possessed of both. Since Sklare disclaims knowledge of the supra-social, he is unable to point to it as transcending sociological categories, and, indeed, treats in terms of the latter that which may well transcend them. Thus, in explaining the remarkable phenomenon of

vital Jewish loyalties in mid-twentieth century America (a thing few dared hope for a generation ago), he lists such non-religious factors as "ethnicity," "protection from *anomie*," and "common descent" (pp. 32 ff.). But since he refrains from inquiring into possible additional *religious* motivations (which would have involved abandoning social for supra-social categories), he gives the possibly distorted impression that sociological explanation alone is sufficient. Again, discussing recruitment for the Conservative rabbinate, Sklare draws attention to such factors as social, economic, and class background, as well as the attractions of position, status, etc. He omits (as escaping sociological investigation) the possibility of a person becoming a rabbi for purely religious considerations. And this omission does not merely limit, but distorts, the picture. For in the absence of any treatment of the authentically religious as such, an incomplete picture necessarily appears as complete.

If general sociological categories are applied to specific Jewish circumstances (the second of Sklare's basic assumptions), this too must be done with the greatest of care. To term Torah scrolls "objects of adoration" (p. 49) is to obscure a basic difference between Judaism and all forms of paganism. To label Judaism an "ethnic church" is either unhelpful (if the term is to convey something different than, say, in the case of Scandinavian Protestants) or else downright erroneous (if it is meant to convey the same thing). Nineteenth century German-Jewish immigrants very quickly dropped what was in one sense their "ethnic" language (German) while retaining to some degree what was their ethnic language (Hebrew) in another sense. To be sure, the situation is different in the case of Jewish immigrants from Eastern Europe. Still, it would seem to be at least as similar to that of the German Jews as to that of the Scandinavian Protestants.

Altogether, Sklare's use of the concept "ethnicity" illustrates as glaringly as any other his failure to come to grips with the peculiarities of the Jewish situation. With little reflection he applies this term in its general meaning (indicating a kind of cohesion which, whatever else it is, is at any rate secular in character) to the Jews. However, in the case of the Jews ethnic cohesion is often not purely secular, even if all "ideological commitments" are lacking. Sklare rightly points out that participation in the activities of a third-generation sisterhood is frequently possible without "ideological commitments, and without obligation to participate in religious services." But this does not prove (as he seems to think it does, p. 80) that the motivation of either the new member in joining or of the sisterhood in permitting her to join is purely secular-social. *For what appears on the surface to be a purely secular "ethnic" cohesion may well have hidden religious motivations.* This reviewer is convinced that such motivations do, indeed, exist; that without them the revival of "ethnic" Jewish loyalties cannot be fully explained; and that in them lies perhaps the greatest promise of a genuinely religious future for the Jewish community in America. But Sklare's dogmatic

application of general sociological categories to specific Jewish circumstances bars him from even entertaining the problem.

It might be objected to the above criticisms that they imply that the sociology of religion, as a science, is impossible. For according to them such a science requires, beyond its own proper methods and data, support from two types of knowledge which are presumably non-scientific: some degree of knowledge of the supra-social aspects of religion (which sociology requires, if only to perceive its own limitations), and a kind of intuition of the concrete (which sociology requires in order to avoid applying categories where they do not fit). But such objections would not disturb this reviewer, who believes that sociology (and in particular the sociology of religion) is more of an art than a science. It is its shortcomings as a work of art which preclude the present work, in many ways a splendid achievement, from being the definitive work on the subject.

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AMERICAN JEWISH HISTORY

A PRICELESS HERITAGE: THE EPIC GROWTH OF NINETEENTH CENTURY CHICAGO JEWRY. By *Morris A. Gutstein.* Bloch Publishing Company. New York, 1953, 488 pp.

THE JEWISH COMMUNITY IN ROCHESTER: 1843-1925. By *Stuart E. Rosenberg.* Columbia University Press. New York, 1954. 325 pp.

HISTORY OF THE JEWS OF PETERSBURG: 1789-1950. By *Louis Ginsberg.* Petersburg, Virginia, 1954. 118 pp.

EVENTFUL YEARS AND EXPERIENCES: STUDIES IN NINETEENTH CENTURY AMERICAN JEWISH HISTORY. By *Bertram Wallace Korn.* The American Jewish Archives. Cincinnati, 1954. 249 pp.

NOT every scribbler is a writer. Nor is every chronicler a historian. History writing is an enterprise which demands a wide variety of skills. Not least among these, to be sure, is the researcher's ability to dig up the raw data; but this is merely the beginning. The serious historian must be something of an artist, too, selecting from his arsenal of "facts" those which form a meaningful pattern, organizing them so as to display that pattern in all its color and design and significance, and finally clothing them in a style which commands attention and interest. Lacking these attributes a work of history discloses no more than its author's industry, commendable but unrewarding to any but the unredeemable addict.

Judged by such a standard, or indeed by any, the first of the community histories listed above has little to recommend it. Dr. Gutstein has not progressed beyond the first stage. His book is crammed with interesting and even important data. There can be no doubt that he has done a great deal of arduous research. But the sheer undifferentiated mass of the material he incorporates in this volume renders it virtually unreadable. One cannot escape the impression that he has omitted not one of the "facts" he so laboriously unearthed. "They met in the office of Grunebaum Brothers at 45 Clark Street on June 20th, 1858, at 3:00 o'clock in the afternoon"! This, mind you, to record not the initiation of a conspiracy with world-shaking consequences, but the modest beginning of a *Reformverein!* The writer who lacks the courage to discard immaterial detail, or the judgment to distinguish between what does and does not matter, is hardly likely to produce an interesting or useful work. This is a fault which is manifest on every page.

This failure of judgment is also evident in the overly rigid, static organization of the data. Everything is neatly pigeon-holed, detail stacked upon detail, with the result that there is a good deal of duplication—the chapter entitled "Conflict and Strife," for instance, repeats almost verbatim material already given in the earlier chapter "Synagogue Ideology"—and, more important, the total effect is one of woodenness. The section on "Synagogue Life," to cite an example, is devoted entirely to an account of the multitude of regulations affecting synagogue practices, but fails to emit the faintest spark of "life." One searches indeed in vain for a key to the actual life of the Chicago community. Though the volume abounds in names it houses no people. Moreover, the author has fallen prey to the common trap of community historians: he has permitted the recorded data to determine his proportions. Since the records of the German Reform congregations are the more voluminous and accessible, he has devoted his major attention to them, although there were already enough East Europeans in Chicago by the eighteen-sixties to found several congregations of their own, and it was not long before the East Europeans actually outnumbered the Germans by far. As a result, the colorful, teeming East European community gets far less space than it merits, and its burgeoning "secular" interests and activities, such as the important labor and Socialist movements in the last decades of the century, are swamped by the top-heavy accumulation of insignificant detail concerning the congregations. A closer study of the Yiddish press of this period would undoubtedly have made it possible to present a more balanced account. Nor can one discern here the form of any organic relationship, whether positive or negative, between the Jewry of Chicago and the embracing non-Jewish community; aside from a formal bow in the direction of "interfaith" activities and Jewish "contributions," and glancing references to the effect of life in America on Jewish usage, these pages portray a Jewish community which appears, incredibly, to have existed in virtual isolation from its surroundings.

Finally, charitable as one may wish to be, it is impossible to avoid a word about the style. When not self-consciously "arty" and stilted, the work is couched in a language so wearyingly pedestrian and often even, slipshod, as to render it a chore to read, altogether aside from the nature of its contents.

Yet, having vented the inescapable exasperation which such a book evokes, one must in fairness acknowledge the usefulness of a good deal of its material. This is undoubtedly the most complete record of the data of Chicago Jewry during the nineteenth century so far published. We have here an exhaustive account of the origin and internal administration of Chicago's congregations, of the emergence of the Reform movement, its radical deviations and gradual modulation in practice and ideology, the internal politics of the Orthodox community, the rabbinic and lay leaderships of both groups, the educational and welfare institutions, and the like.

But Rabbi Gutstein himself, in his opening paragraph, has said the last word about his book. In charging his predecessors with "an apologetic or a theological point of view, or [with] merely a chronological and factual presentation of events," giving neither "a comprehensive nor complete picture of the evolution of the local Jewish community in a sociological sense, and in light of the total economic, cultural, political and social environment," he has stated precisely the faults of his own work.

By contrast, Dr. Rosenberg's study of the Rochester community is both readable and interesting. The writer has the advantage of working in a more limited area, and of pursuing his subject into the first quarter of the twentieth century, by which time it was possible to bring into focus more precisely the diffuse strands and trends characteristic of the founding period. But the merit of the work lies essentially in its integration of the material, in its developmental movement, and in its more judicious balance between the two sub-communities, German and East European. Here, too, the space is unevenly proportioned, with the lion's share going to the earlier and more articulate Germans, and their Reform congregation (by the end of the eighteen-seventies the East European immigrants probably equalled and even outnumbered their predecessors), and to the congregational activities as against the "secular." But the author has succeeded in portraying fairly adequately the religious, cultural and economic contrasts and conflicts of the two groups, the role of the older settlers in the development of the garment industry, and of the newcomers as the working "masses" who powered the machines, of the struggle between the two, complicated as it was by ideological and cultural differences, and of their rival religious and social institutions. There emerges a sense of the complex interrelatedness of the disparate communities, of the virility of their inner life, of forces

operating on the American scene to embitter their relations, and then, in time, to bring them slowly together, as the newer group matured and prospered, into something approaching the homogeneous community of today. This work is not without its shortcomings—one could wish, for instance, for a fuller account of the Yiddish cultural milieu—but it is so far superior to Gutstein's in every respect as to render such caviling ungracious.

The little book by Louis Ginsberg on the Jews of Petersburg, Virginia, lacks the ambition or the scope of the others, and should not be judged, perhaps, by the same criteria. Nor is its author a "professional" historian or writer, but a business man who makes no pretense at literary skill. He is surely to be commended on the industry with which he has ferreted out the facts of Jewish history in his town, and the interest which prompted him to devote himself to such unprofitable labors. His volume is not a history, but a chronological compilation of data, dates and names and incidents, without any artistry in its organization or presentation, nor insight into motivations and trends. He has made available, however, the bare facts of his community's past, and for this we must be grateful.

Dr. Korn's volume is of another sort, a collection of eight brief essays on various aspects of Jewish history in America during the nineteenth century. These include a survey of the "integration" into American life of forty Jewish "refugees" from Central Europe after the revolution of 1848; a description of the American Jewish community in 1849; an analysis of the attitude—or rather, the lack of one—of the Know-Nothing movement toward the Jews; an exposure of the worthlessness of certain presumed evidences of Judah P. Benjamin's self-identification as a Jew; the story of the first prayer by a rabbi before the Congress in 1860; an account of Isaac Mayer Wise's opinions on the Civil War; the history of Maimonides College, the first American Jewish theological seminary, whose brief career spanned the years 1867-1873; and an account of the Jewish community's scant efforts in behalf of the welfare of its men in uniform during the Spanish-American War. Of these, the third and seventh essays appear here for the first time, the others having already been published elsewhere. These are models of their kind, meticulous in their scholarly thoroughness, fully annotated, well organized, ably reasoned, and to top it all, entertaining reading too. They constitute the sort of spade work essential to a fuller appreciation of the American Jewish experience, and add measurably to the body of knowledge which, though showing up ultimately as footnotes, will make possible a more or less definitive history of American Jewry.

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YIVO ANNUAL OF JEWISH SOCIAL SCIENCE, Volume IX. Edited by *Koppel S. Pinson.* Yiddish Scientific Institute. New York, 1954. 398 pp.

AMONG the publications which have appeared in honor of the American Jewish Tercentenary is the current *Yivo Annual of Jewish Social Science.* The fifteen essays it includes deal with various historical and sociological aspects of American Jewish history, with preponderant emphasis on the east-European stratum of the community. Except for that loose bond, the individual studies have little in common in scope or approach—some were prepared as addresses and others as heavily documented historical articles; some treat sweeping communal trends while others present minute details of various congregations and schools.

To this reviewer, the greatest merit of the Yivo volume lies in the new material it brings to light. The historian will welcome the publication of the Friedlaender-Dubnow correspondence, ably edited by Moshe Davis, and the letters to and from Jacob Gordin, presented by Jacob Shatzky. Similarly, the archival material bearing on the history of the Jews of Albany and Boston (in studies by Louis Silver and Z. Broches) is of value, though it is not always presented in a fully digested state. The essays by Jeremiah J. Berman, Mark M. Krug, and Rudolf Glanz competently integrate official records and contemporary journals for their respective subjects—Jewish education in New York City, Yiddish schools in Chicago, and Jewish social conditions in muckraker literature. A special word might be added here on the essay by Leibush Lehrer on the belongingness of Jewish youth, which raises questions in social psychology and suggests interesting methodology in evaluating Jewish reactions.

Those essays of broader scope have a more difficult task of synthesis, but despite abridgment and lack of full documentation, some have raised interesting points. Joseph Opatoshu's beautifully written article on fifty years of Yiddish literature ably distinguishes between the literature of the nineteenth century Jew in America and those arriving after 1905. The study by Solomon Grayzel of American Jewry's literary tastes contrasts the writing and reading habits of immigrant Jews with their more fully Americanized descendants. The articles by Opatoshu and Grayzel, as well as Shlomo Noble's essay on the image of the American Jew in Yiddish and Hebrew literature, further prove that careful examination of literary productivity are valuable indices to material and social history. Finally, Abraham G. Duker's concise "Socio-Psychological Trends in the American Jewish Community since 1900" points up the need (emphasized in the recent study of the Social Science Research Council) of integrating allied social science disciplines with history.

It is interesting that all the essays but one deal with internal history of the Jewish community—mainly, what Jews thought about Jews, wrote about Jews, or how they organized with Jews. Glanz's essay, which

this reviewer thought superior in choice of subject and content of material, is the only one which grapples concretely with the interrelation of Americans and Jews. Cultural history and communal studies are indeed necessary, but unless interaction with the American scene is studied, especially in an America which recognizes no official Jewish community or nationality, American Jewish historiography remains one-dimensional. The American scene means more than a vague "environment," or new-found freedom, or uprootedness, or materialistic acquisitiveness. And unless studies follow which correlate internal Jewish history with specific situations in the American totality, the writing of American Jewish history will fall short of its mark.

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THE JEWS IN MEDIEVAL GERMANY

DIE DEUTSCHE STADT IM MITTELALTER VON DER RÖMERZEIT BIS ZU DEN ZUNFTKÄMPFEN. By *Hans Planitz*. Böhlau-Verlag. Graz-Köln, 1954. viii and 520 pp.

DEUTSCHE RECHTSGESCHICHTE. Band I: Frühzeit und Mittelalter. Ein Lehrbuch. By *Hermann Conrad*. Verlag C. F. Müller. Karlsruhe, 1954. xxvii and 639 pp.

WHOEVER intends to make an inquiry into the legal and social status of the Jews in Germany during the medieval period cannot confine himself merely to the study of Jewish life within the ghetto walls, as has frequently been done by Jewish historians in the past. Even today there are serious students of Jewish history who believe that research in medieval Jewish history can be conducted on the basis of so-called "Jewish" (meaning Hebrew) source material alone. This is applicable only to the religious life of medieval Jewry, including their liturgy and literature. Those historians, however, disregard the fact that, despite seclusion within the ghetto, the political and cultural life of the peoples among whom the Jews were living, could hardly have been just a "surrounding world" with unimportant or no mutual contacts. Of course, precisely the contrary is the historical truth, evidence of which can be found in the development and vicissitudes of all Jewish communities the world over.

The student of medieval German Jewish history will now find welcome and urgently needed information of a legal-historical nature in the two voluminous works indicated above. Their authors are well-known specialists in the field of general German legal history.

The problem of the origin and development of the medieval city is (not only in Germany) a very old one, having intrigued several gen-

erations of historians, jurists, and economists. Planitz's work, based on the author's previous exhaustive monographic studies of all important German cities, offers a comprehensive genetical survey. Here, the genesis of the German city is summed up in accordance with the present state of knowledge. The prehistory, early history, and the various roots of the origin of the medieval city in the German territories are followed by topographic, sociological, and demographic inquiries. Finally, the history of the legal and constitutional development is presented. All this is well done, and it is to be expected that this posthumously published book will become an historical standard work.

The important role played by early Jewish merchant travelers and immigrants in the founding of commercial settlements on German soil is given due attention. Numerous references to Jews occur in the course of the presentation (see Index, p. 513), the *sedes materiae* being found on pages 277-282. Early charters granted to Jews by town lords are mentioned, and the relationship of these merchants (different from the others only in religion) to the king, municipal authorities, and their fellow-inhabitants is described. Their legal rights and obligations are analyzed, among them military duty and the obligation to pay taxes. The changing role of the Jews in the economic life is observed, and the ghetto with its Jewish self-government and the administration of Jewish law is pictured. All in all, a miniature portrait of Jewish participation in medieval German city life is drawn in the five and a half pages devoted to this specific subject. These pages are accompanied by four and a half pages of footnote references.

The impression is conveyed that the author's findings are for the most part his own where generally accepted results of earlier research are not involved. True, Fritz Rörig's important researches on the economic activities of the Jews in the early period of the Middle Ages and their significance for the origin of the German city are cited ("Magdeburgs Entstehung und die deutsche Handelsgeschichte" in *Miscellanea Academica Berolinensia,* Berlin, 1950, pp. 103-132). So also are this reviewer's publications, *The Jews in Medieval Germany: A Study of Their Legal and Social Status* (Chicago, 1949), and the accompanying volume, *Jewry-Law in Medieval Germany* (New York, 1949). However, the references to these publications seem to have been added after the completion of the work, because their results were not expounded in and did not materially influence Planitz's presentation. Moreover, Planitz overlooked other important older and more recent contributions to the history of medieval German Jewry, for instance, Michael Tangl, "Zum Judenschutzrecht unter den Karolingern," *Neues Archiv für ältere deutsche Geschichtskunde,* XXXIII, 1907, 197-200, Hugo Steinthal, *Die Juden im fränkischen Reiche, ihre rechtliche und wirtschaftlich-soziale Stellung,* Ph.D. thesis, Breslau, 1922 (only in typescript), and Henri Laurent, "Marchands du Palais et Marchands d'Abbeyes," *Revue historique,* CLXXXIII, 1938, 287 ff.

Despite some of Planitz's own fine observations, the picture presented by him of the role played by medieval Jewry in the founding and development of the German cities and their status in legal history is by no means up-to-date and in several respects incorrect (cf., *e.g.*, Planitz's adherence to the antiquated *Hehlerrecht* theory of Herbert Meyer; his reference to the "racial-religious and economic antagonism between Christians and Jews as causes for the first heavy Jewish persecutions beginning with the second crusade," his treatment of medieval chamber serfdom, etc.). Many more examples could be adduced. From this shortcoming in an otherwise remarkable work the non-Jewish as well as the Jewish reader will suffer, for he will be unable to find in the volume information on the latest results of research in medieval legal and social history of the Jews. On the other hand, the Jewish historian, not versed in legal history, will be able to avail himself of Planitz's profound treatment of the genesis of the medieval city in Germany, so important for the study of the emergence of the Jewish community.

The second comprehensive volume listed above, dedicated to the memory of Planitz, has an entirely different purpose. According to the title page, it is conceived to be a textbook ("Ein Lehrbuch"). The title is reminiscent of Richard Schröder's *Lehrbuch der deutschen Rechtsgeschichte*, whose seventh (last) edition appeared in 1932. The results of modern legal-historical research should be presented to the student in all-embracing completeness and with brevity. Whether this goal has been attained by the author can be determined only by a penetrating study of the entire volume. For this the reviewer could not find time at present, yet he did not want to delay for a year or more an appreciation of the section of interest to the readers of this journal.

Obviously, the role of the Jews in medieval Germany has been touched upon also by this second author. There are several references to them, usually directing the reader further to pages 405-406, where the legal status of German Jewry is summarized on one tightly printed page, bibliographical notes being given on page 425. To begin with the latter, neither Steinthal, nor Laurent, nor Rörig is cited. Nazi publications, such as those by Ernst Kelter and Walter Zuncke, should not have been mentioned, because they are of hardly any value at all. In the case of other works, such as those by Georg Liebe, George A. Löning, and Werner Sombart, it would have been proper to point out their anti-Semitic tendency. Instead of Solomon Katz, Jean Juster's meritorious two-volume work and the monograph, "La condition légale des juifs sous les rois Visigoths" in the Girard jubilee volume, should have been included. The two volumes by this reviewer, mentioned above, are cited, and the reader is referred to the listing of additional publications on Jewry-law of the same author by Karl Frölich in *Savigny-Zeitschrift für Rechtsgeschichte*, German. Abt., LXVII, 1951, 450-459.

In fact, if appearances do not deceive us, Conrad seems to know these works of the reviewer only from Frölich's review. Otherwise he would not have adhered to the long since antiquated alien-law theory, to the *Heblerrecht* doctrine, to the derivation of the so-called *Heblerrecht* from the Talmud, to the alleged exclusion of Jews from legal protection, to the antiquated evaluation of Frederick II's charter for the Jews of 1236, etc., etc. The picture we get is completely obsolete from the viewpoint of legal history. Again, the general reader will not be served well. However, the Jewish historian may find information on medieval law and its institutions in Germany in Conrad's book, although it seems to this reviewer that Schröder's work, with its exhaustive bibliographies extending up to 1932, has not yet become antiquated or superfluous.

The reviewer wonders why the two German authors, who cited his publications (both appeared in 1949, five years prior to the dates of publication of the works under review), did not avail themselves of the results of his researches of about twenty years. If they had not cared to accept his findings, they would probably have carried on a polemic. The only conclusion possible is that they did not read these works, possibly because of language difficulties. The reviewer is, therefore, curious concerning the fate that awaits his most recent volume, *Forschungen zur Rechts-und Sozialgeschichte der Juden in Deutschland während des Mittelalters* (Zurich, 1949). At present, the publication of *some* of his results in German (the bulk of his studies is still available in English only) seems to belie his original misgivings concerning the necessity and usefulness of his latest publication in the German language.

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BIBLIOGRAPHY

DIE DEUTSCHE GESCHICHTSWISSENSCHAFT IM ZWEITEN WELTKRIEG. BIBLIOGRAPHIE DES HISTORISCHEN SCHRIFTTUMS DEUTSCHER AUTOREN 1939-1945. Herausgegeben im Auftrag des Verbandes der Historiker Deutschlands und der *Monumenta Germaniae Historica.* By *Walther Holtzmann* and *Gerhard Ritter.* Simons Verlag. Marburg-Lahn, 1951. xi and 149 and 512 pages.

IT seems that the time is not very far distant when the important chapter of German-Jewish history that was closed so tragically will find its historians. The recently founded Leo Baeck Institute, with branches in Jerusalem, London, and New York, will probably direct its attention first to the period of the annihilation of the Jewish com-

munity of Germany during the Nazi regime. It will be a difficult task to bring together the pertinent historical material—not only the documentary evidence but also the books published between 1933 and 1945. To the best of my knowledge, this material in its entirety is not collected in any German library. The holdings of the Library of Congress might be more complete. However, much was destroyed through military action and upon order of the occupation forces. The general as well as the Jewish historian, therefore, sees himself confronted with most difficult problems of bibliography.

There are two voluminous publications that will considerably help in the historians' arduous task. The older one is of Nazi origin, a "bibliographical selection from the German scholarly literature of the years 1933-1938," *Ergebnisse deutscher Wissenschaft,* by Adolf Jürgens (Essen and New York, 1939). It comprises all departments of research, the humanities as well as science, and is arranged accordingly. Within each section the alphabetical order of authors is followed.

While the aforementioned bibliography was compiled by the German book trade for purposes of Nazi propaganda, the book under review is a piece of scholarly work composed by thirty historians under the guidance of two outstanding professors of history, Walther Holtzmann and Gerhard Ritter. The arrangement is a systematic one; more than 8,500 items, books and articles in periodicals, are listed. German historical literature published 1939-1945 is dealt with exclusively. The approach is one of scholarly objectivity. A critical annotation proved impossible because of the tremendous bulk of material. This is very much to be regretted, and one of the reasons for this regret will become clear readily. Undoubtedly, this bibliography is a standard work and the merit of the editors and those who cooperated cannot be overestimated nor praised enough.

The Jewish historian, in particular, will find guidance for every problem of general German history that may seem to him important for a background study of Jewish history. It is doubtful, however, whether the *Deutsche Geschichtswissenschaft im zweiten Weltkrieg* will be of similar usefulness as far as Jewish history in Germany is specifically concerned. First, publications on Jews, or the so-called Jewish question, are not listed under a common heading or in a separate section. Laudable scholarly impartiality no doubt accounts for this procedure in arrangement. The respective publications occur within the various chapters and subsections of the book, *e.g.*, under political, economic, or cultural history. Neither has the topic "anti-Semitism" a separate section, the pertinent items again being distributed in the aforementioned manner. Hence, in order to find a certain bibliographical entry by means of the excellently worked-up Index, one must know the author of the particular publication. With such an arrangement it is impossible to gain a bibliographical orientation on publications concerning Jews or anti-Semitism in that ill-fated period.

Secondly, again for praiseworthy scholarly reasons, some unscholarly, pseudo-scholarly, or merely Nazi-propaganda publications of a scandalous type were omitted altogether. This will doubtless render impossible the task of seeking out some criminal Nazi literature and exposing it or using it from a critical-historical point of view. It might have been better to include even such items and through appropriate annotation to identify them as anti-Semitic or Nazi propaganda. Failure to use this method has led the editors of this book and their collaborators into the pitfalls of such an omission. The listing of such Nazi publications as W. Frank's articles in the infamous *Forschungen zur Judenfrage,* or the *Schriften des Reichsinstitut für Geschichte des neuen Deutschland* (II, Nos. 4473 ["Walther Rathenau und die blonde Rasse"], 4490, 5366) either should have been omitted altogether or characterized as anti-Semitic. The same applies, for instance, to II, 778 (Kelter), 1337 (Zuncke), 1985 (W. Grau), 4180 (S. Erasmus), 5444 (Miczynski), to I, 2174a (G. Kittel), among others. II, 2643 (Weizsaecker) also should have been labelled "anti-Semitic," inspite, or because, of the fact that this article is not without value.

For the study of the history of German Jewry, the compilation of a critically annotated bibliography will prove an absolutely indispensable task of urgent priority. A first attempt in this direction for the fields of legal and social history during the Middle Ages was made by this reviewer in the bibliographies contained in his works, *The Jews in Medieval Germany* (Chicago, 1949) and *Forschungen zur Rechts- und Sozialgeschichte der Juden in Deutschland während des Mittelalters* (Zürich, 1955). There one will also find critical notes on most of the abovementioned books. An all-inclusive, critically annotated bibliography remains, however, a *desideratum* for the future historian of German Jewry.

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BIOGRAPHY

OESTERREICHISCHES BIOGRAPHISCHES LEXIKON 1815-1950. Herausgegeben von der Österreichischen Akademie der Wissenschaften. Nach Vorarbeiten von *Anton Bettelheim* und *Oswald Redlich* unter Mitwirkung bewährter Sachkenner und der Leitung von *Leo Santifaller* bearbeitet von *Eva Obermayer-Marnach.* Verlag Hermann Böhlaus Nachf. Graz-Köln, 1954. Lieferung 1, 2, 192 pp.

THIS extremely important biographical encyclopedia, initiated by the well-known Austrian biographer, Anton Bettelheim (1851-1930) and sponsored by the famous Vienna Academy of Sciences, is intended in

part to take the place of and to supplement the old standard work of Austrian biography, Constant von Wurzbach's *Biographisches Lexikon des Kaisertums Österreich* which appeared in sixty volumes in Vienna, 1856-1891. The new *Lexikon* is a cooperative undertaking under the direction of the outstanding Viennese historian, Leo Santifaller, and is supported by the Austrian Ministry of Education. All these facts warrant it to be a well-conceived, unbiased scholarly work that will serve future generations of seekers after information of all kinds.

According to the introductory note, "men and women were included who were living in the changing political body of Austria in the period between 1815 and 1950, and who had attained noteworthy achievement in some field of public life, the arts, the sciences, in economic life, politics, etc. The year 1950 was chosen as the latest year of death of inidividuals and served as the deadline for inclusion. Because only through the amalgamation of various peoples and the reciprocal influence of the most varied elements could the phenomenon of 'Austrian civilization' come into being, the entire geographical area of the former Austrian monarchy had to be included."

In view of the fact that the former Austrian empire counted among its citizens and inhabitants several hundreds of thousands of Jews, the importance of this biographical lexicon for modern Jewish history too is self-evident. And it is enhanced by the fact that the only Jewish biographical encyclopedia, S. Wininger's *Grosse jüdische Nationalbiographie* (7 vols., Czernowitz, 1925-36), lacks to a considerable degree the quality of reliability so essential for a reference work of this type.

A substantial number of bearers of Jewish names and personalities of Jewish descent are found and biographically analyzed in the *Lexikon*. Their significance was felt in a wide range of the aforementioned various fields of human endeavor. With reference to geographical distribution, after Vienna come Bohemia and Moravia with their large Jewries which, following early emancipation, were quick to participate in secular culture, even as far back as the middle of the eighteenth century. The following names may be mentioned from among prominent Austrian Jews listed: Nine bearers of the name Adler, among them Alfred, psychiatrist and early follower of Freud; Emanuel, Karl, and Siegmund, outstanding as professors of law at the University of Vienna; Victor, social-democratic protagonist of international reputation; Max, sociologist; Guido, famous musicologist; Friedrich, journalist and poet. In addition, there are to be pointed out Victor Aptowitzer, talmudist; Isaia Ascoli, philologist; Raoul Auernheimer, writer; Eduard Bacher, editor-in-chief and publisher of the *Neue Freie Presse,* the well-known Viennese daily, once of world-wide influence; Adolf Bachrach, prominent lawyer and legal adviser to the Hapsburgs; Robert Barany, otologist and Nobel prize winner; Samuel von Basch, attending physician to the unfortunate Emperor Maximilian of Mexico; Richard Beer-Hofmann, lyrical poet and representative of Viennese neo-romanticism; Edmund Benedikt, "one of Vienna's most

famous lawyers"; Moritz Benedikt, journalist and theorist in political economy; Hugo Bettauer, writer, author of "The City Without Jews"; Anton Bettelheim, Austrian biographer; Nathan Birnbaum, friend of Theodor Herzl, Zionist leader; Bertold Bretholz, official historiographer of Moravia and historian of Moravian Jewry; Ignaz Brüll, composer; Max Büdinger, historian; Hirsch Perez Chajes, Chief Rabbi of Vienna, famous preacher and leading Zionist.

The list could be continued and will surely increase from volume to volume. The identification of Jews will sometimes be difficult, particularly the determination whether individual personalities adhered throughout their lives to their inherited religion or became dissociated from Judaism, as happened not infrequently during the period of emancipation and assimilation. Those interested in these and other details of relevance for Jewish history will have to engage in special research, guided by the bibliographical references found at the end of each biographical article. For only rarely is Jewish descent expressly mentioned (*e.g., Karl Isidor Beck,* a poet, convert to the Reformed church), and rightfully so in an encyclopedia of this type.

Random examination proved, generally speaking, the reliability and impartiality of the work. Naturally, in the handling of such a wealth of biographical and bibliographical material some inaccuracies are unavoidable. Here are a few remarks which may perhaps be of use for a supplementary volume after the completion of the work: *Elias Altschul*: born 1797, died 1865; for bibliography see G. Kisch, *Die Prager Universität und die Juden* 1348-1848 (Mährisch-Ostrau, 1935), p. 110 n. 392, a book that will also offer information for other biographical articles; *Aptowitzer*: read "Mekize" instead of "Melcize"; Robert Austerlitz, industrialist, painter, and writer (born Prague, November 28, 1862; died March 26, 1937) should have been included (cf. Austerlitz, Jr., *In memoriam Robert Austerlitz,* 1862-1937, Mährisch-Ostrau, no year given [ca. 1938]); *Eduard Bacher* is treated all too briefly; *Hermann Bielohlawek* was one of the most unscrupulous Jew-baiters of Vienna; *Bertold Bretholz*: read Bertold instead of Berthold. In the list of frequently quoted works the abovementioned seven-volume Jewish *Nationalbiographie* by Wininger does not appear.

Closer examination might bring additional shortcomings to light. However, they can by no means seriously impair the usefulness of this publication, which is to be recommended to Jewish historians for consultation and to Jewish libraries for placement in their reference room.

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Historia Judaica

ECONOMIC AND SOCIAL CONDITIONS AMONG THE JEWS OF ALGERIA 1790-1848

By MORTON ROSENSTOCK
Queens College Library
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I

ECONOMIC ACTIVITIES

PRIOR to the French conquest of Algeria in 1830, a considerable part of its import-export trade was concentrated in the hands of the great Jewish merchants of Algiers. The House of Bacri was most prominent, but it had serious competition from other Jewish firms.[1] The records of shipping from the port of Algiers repeatedly mention the following names of Jewish families among others: Bacri, Duran, Cohen-Solal, Seror, Nahon, Moatti, Levi-Valensi, Busnach, Tabet, Stora, Amar, Bouchara, Daninos, Tubiana, Aboucaya,

[1] See Morton Rosenstock, "The House of Bacri and Busnach: A Chapter from Algeria's Commercial History," *Jewish Social Studies*, XIV (1952), 343-64. For general information on the French conquest of Algeria, see Paul Azan, *Conquête et pacification de l'Algérie* (Paris, 1931); Gabriel Esquer, *Les commencements d'un empire—la prise d'Algér* 1830 (Paris, 1929); Camille Rousset, *L'Algérie de* 1830 à 1840, 2 vols. (Paris, 1887); Wilfrid S. Blunt, *Desert Hawk* (London, 1947); M. M. Knight, "The Conquest of Algeria—A Case of Historical Inertia," in *Essays in Intellectual History* (New York, 1929). For a recent general work on the Jews of North Africa, see André Chouraqui, *Les Juifs d'Afrique du Nord: marche vers l'Occident* (Paris, 1952).

Sarfati, Portuguez, Abulker, Azulai, Temin, Smagia, Bongiorno.[2] In fact, this list reads like a "Who's Who in Algerian Jewry," for it includes almost every family of the Algiers Jewish aristocracy. These great merchants constituted the favored few in the Jewish community, and their superior wealth made them outstanding in communal and religious affairs as well as in business.

The principal articles of export were Algerian wheat, barley, and wool, but there were other items too: ivory, gold, silver, wax, coral, ostrich feathers, horses, cattle, hides, camel's hair, wine, and brandy. The Jews had agents and business correspondents in all the major ports of the Mediterranean, but their trade was particularly intensive with Livorno and Marseilles. From Europe were imported cotton goods and silk, ironware, drugs, spices, coffee, paper, and a variety of other goods.

The extent to which the Jews controlled this import-export trade has been frequently exaggerated, even as regards the pre-French era. For one thing, the import duty under the old regime discriminated heavily against the Jews. Whereas non-Jews paid a 5 per cent ad valorem tax on imports, Jews paid 10 per cent and more.[3] After the violent events at the start of the nineteenth century, when the Jewish position became most insecure, the Moslems began a dangerous competition.[4] In addition, the Jews had to be very cautious in exporting wheat during years when that grain was not abundant. Busnach and Bacri aroused the ire of the Moslem populace for allegedly shipping wheat in a year of scarcity. Occasionally, a rabbinic ban had to be imposed on such shipments.[5] Following the French conquest, Jewish exporters

[2] M. J. M. Haddey, *Le Livre d'or des Israélites Algériens* (Algiers, 1871), *passim.*

[3] Ministère de la Guerre, *Tableau de la situation des établissements français dans l'Algérie en* 1873 (Paris, 1838), p. 373. Venture de Paradis, who visited Algiers in 1789, stated that the import duty for Jews was 12½%. See Venture de Paradis, "Alger au XVIII Siècle," *Revue Africaine*, XXXIX (1895), 292-93.

[4] William Shaler, *Sketches of Algiers* (Boston, 1826), p. 68.

[5] Abraham Cahen, *Les Israélites dans l'Afrique septentrionale* (Constantine, 1867), p. 185.

were faced with even more intense competition from French firms.

Connected with the import-export trade was shipowning, and there is considerable evidence of Jewish participation in that field. The Bacri were the most prominent, but not the only, example of large-scale Jewish shipowners. Some Jews even had interests in those ships which were the bread and butter of the Barbary Turks, the corsairs.[6] Jews often purchased the cargos of captured vessels and even the ships themselves; Busnach acted as broker in the transfer of moneys from the sale of seized ships in foreign ports. Jews did not take part in actual piracy. There was, however, an official called the Jewish *chaouch,* who acted as liaison man between the government and the Jewish merchants in the sale of captured cargoes, and who received a share of the proceeds.[7]

Jews were permitted freely to purchase Christian slaves who had been captured on these piratical ventures. These captives were bought either for speculation or for use as domestics. This was not unusual for Algiers—Christian consuls and traders generally used slaves as household servants. The Turks were especially careful not to allow slaves to convert to Islam in order to be freed, even if they belonged to Jewish masters.[8] Jews were the customary agents in the redemption of European slaves held in Turkish prisons, but this business was on the wane in the nineteenth century.[9]

In these and similar enterprises, the Jews frequently acted merely as agents of the Turks, who invested their funds in Jewish businesses. The Dey of Algiers was himself a heavy investor in Jewish enterprises.[10] The Turks made

[6] De Paradis, *op. cit.*, pp. 304, 307, 311.

[7] Albert Devoulx, *Le Régistre des prises maritimes* (Algiers, 1872), *passim.*

[8] De Paradis, *op. cit.*, pp. 314; XL, 34; Cahen, *op. cit.*, p. 194; Isaac Bloch, *Inscriptions tumulaires des cimitières Israélites d'Alger* (Paris, 1888), *passim;* Mrs. Broughton, *Six Years Residence in Algiers* (London, 1845), pp. 49, 404-05.

[9] Haddey, *op. cit.*, pp. 41-42, 46-47, 73; S. Gsell, G. Marçais, and G. Yver, *Histoire de l'Algérie* (Paris, 1929), p. 184.

[10] See, for example, Eugene Plantet, ed., *Correspondence des Deys d'Alger*

good use of the Jews, who were the only brokers and bankers in Algiers. The story is told of a Jewish broker for the Dey Hussein, who was ordered to get a diamond similar to one in the Dey's possession within a week or face decapitation. In the course of frantic searching he finally located two similar diamonds owned by the Dutch consul, bought them for 60,000 francs, and presented them for the Dey's approval. The latter, fortunately, was satisfied, and paid his agent 10,000 francs profit.[11] Such occurrences were not rare. Turks and Jews understood each other, for both followed the Oriental philosophy of commerce, which held human life practically worthless. Incidentally, the man of whom the above story was told later became a broker for the French governor-general of Algeria and specialized in the purchase of gifts for Arab chieftains.

Turks often gave money to Jews to be loaned at interest (usury is forbidden by the Koran) and would share in the profits.[12] The Jews advanced money to Arab chiefs, Turkish soldiers, and Moorish merchants. These operations involved an element of risk, since the Turks and Moors occasionally looked for quarrels in order not to pay their debts. But the Jews, and their Turkish silent partners, made out well despite this hazard. In the early days of French rule, when capital was scarce owing to French indecision as to whether to stay in Africa, the Jews continued to practice the money trade and charged, as did French usurers, above the legal rate. Usury on a small scale was practiced by some Jews on the occasion of festivals, when their poorer coreligionists would pawn their valuables in order to take part in the holiday.[13] But moneylending, on the whole, was no longer as fruitful under French rule as it had been formerly.

Jews served in various capacities in the Turkish bureau-

avec la Cour de France, 1579-1833 (Paris, 1889), II, 454; De Paradis, *op. cit.*, XL, 69; Rosenstock, *op. cit.*, *passim*.

[11] Louis de Baudicour, *La Guerre et le gouvernement de l'Algérie* (Paris, 1853), p. 257.

[12] Johanny Pharaon and Goldscheider, "Lettre sur l'état des Juifs de l'Algérie et sur les moyens de les tirer de l'abjection dans laquelle ils sont tombés," *Archives Israélites*, I (1840), 539.

[13] *Ibid.*, pp. 479-80.

cracy at Algiers.[14] They were in charge of the weighing, verifying, and evaluating of the state's moneys and jewels. They served also as interpreters and secretaries for the Dey. It should be noted that the *mokadem*[15] had the privilege of farming the 2 per cent export duty on ostrich plumes, tobacco, and wool. Jews acted as bankers for the state in paying the regular troops. The task of coining money for the Regency was entrusted to Jewish mint masters, who worked in the Kasbah under the supervision of an ignorant Turk. It is evident that the Turks had an ambivalent attitude towards Jews, combining great confidence in Jewish abilities as business agents, brokers, bankers, interpreters, and skilled artisans, with a profound contempt for them in religious, legal, and social matters.

The overwhelming majority of Algerian Jews were far removed from this high level of commerce; like the Moroccan Jews of today, they were primarily artisans, peddlers, struggling shopkeepers, and petty brokers. In the interior regions, the commercial elite did not exist, and the Jews there, for the most part, vegetated in miserable poverty.

Jewish shopkeepers sold groceries, meat, fruit and vegetables, tobacco, and similar articles. Their stores were not well-kept according to European standards, but, as travellers often learned, one could buy more cheaply from a Jew than from a Moor. Jews acted also as agents for Arab and Berber peasants who came to the city to sell their wares. "In Algiers, an Arab will not sell two chickens without the aid of a Jew."[16] By employing Jews as intermediaries, the Arabs were assured of getting a better price than they could have obtained without them; moreover, the Jews had a reputation for knowing money, which was important in a land where people were continually passing debased coinage. A traveller described the process involved:

[14] Cahen, *op. cit.*, pp. 189-90; Broughton, *op. cit.*, pp. 177-78; De Paradis, *op. cit.*, XXXIX, 293; Pharaon and Goldscheider, *op. cit.*, p. 539; Hamdan ben Othman Khoja, *Aperçu historique et statistique sur la régence d'Alger* (Paris, 1833), pp. 137-78; M. Rozet, *Voyage dans la régence d'Alger* (3 vols.; Paris, 1833), III, 103.

[15] Head of the Jewish community.

[16] Rozet, II, 227.

Many Bedouins, bringing their cattle or wheat to market, employ the Jew as broker, and refuse to sell without his mediation. When such an Arab arrives in town, he is immediately surrounded by a crowd of importunate Jews, who obtrude their services with loud noise. . . . The market place of Algiers is daily full of industrious little Jews who offer their services to buyers and sellers—now act the interpreter, then again carry the bought wares after the buyer.[17]

Peddling in the cities was handled exclusively by Jews, who sold muslins and other textile goods.[18] At an early age Jewish children were initiated by their peddler parents into the art of huckstering; under French rule, they could be seen selling tobacco or fruits to the soldiers. Nearly all the poorer boys were engaged in bootblacking, catering to the French trade.[19]

As peddlers in the villages and countryside, the Jews had almost no competition except in a few Kabyle tribes. The Jews of the interior secured their merchandise, primarily textiles, from the importers in the coastal cities, and sold it, in turn, to the natives.[20] Thus, almost all the commerce with the Moslems in rural areas was carried on with Jews as intermediaries. But the risks to life and property more than balanced the lack of competitors.

In one branch of commerce the Jews had to be extremely cautious. Some of them were engaged in distilling brandies, known as *araki* and *m'haia*, from dates and figs. Under the Regency, they were strictly prohibited from selling any intoxicating liquors to the disciples of Mohammed, who are forbidden such pleasures by the Koran. Occasionally, however, when these restrictions were ignored by both parties, the Jews were subsequently accused of provoking transgressions of the law of the Prophet. In contemporary rabbinic works, the Jewish religious authorities themselves forbade, under pain of severe penalties, the sale of spirits to Moslems.[21]

[17] Francis Pulszky, *The Tricolor on the Atlas* (New York, 1855), pp. 189-90.

[18] Mrs. Philip, *Letters from Algiers* (Edinburgh, 1853), p. 22.

[19] Rozet, *op. cit.*, II, 231; Pulszky, *op. cit.*, p. 190; Philip, *op. cit.*, p. 21.

[20] De Baudicour, *op. cit.*, p. 256. Jews were particularly active in the search for ostrich plumes in the Mzab country. See De Paradis, *op. cit.*, XXXIX, 296.

[21] Cahen, *op. cit.*, p. 192.

The largest single group of Jews engaged in a variety of traditional handicrafts. These were tailors, tinsmiths, coppersmiths, jewellers, watchmakers, glaziers, goldsmiths, silversmiths, swordsmiths, lacemakers, embroiderers, turners, shoemakers, and so forth. Seated for long hours in their small, narrow booths, they became, through patience and application, artisans of the first rank. Some of these occupations, particularly those of tailor, lacemaker, embroiderer, and precious metal worker, were Jewish specialties, if not monopolies. Travellers were impressed with the Jewish embroiderers, whose arabesque designs on silk or gold cloth were of extraordinary grace and complexity.[22] There can be no doubt that the Jewish artisans excelled their Moslem competitors both in industry and in skill. Nevertheless, the great majority of them lived plunged in the utmost depths of poverty. As for Jewish agriculturists, there were none at all before the French conquest and for several decades thereafter.

After its re-establishment in 1792, the Jewish community in the coastal city of Oran became quite active commercially. Its import-export trade with Spain and Gibraltar was quite extensive.[23] Jewish merchants are known to have loaned large sums of money to their hereditary enemy, Spain. It is interesting to note also that at this time a few Jews were living illegally in the Spanish port of Almería. The bulk of the Jewish population of Oran were engaged as petty merchants, artisans, and peddlers.[24] The Jewish community of Constantine was the only sizable community in the interior, and a few of its Jews did carry on a profitable export trade.[25] But the majority of Constan-

[22] Rozet, *op. cit.*, II, 224; Cahen, *op. cit.*, p. 190 ff. Pulszky, *op. cit.*, p. 189; G. S. F. Pfeiffer, *The Voyages and Five Years Captivity in Algiers* (Harrisburg, 1836), pp. 371-72; H. Fisquet, *Histoire de l'Algérie* (Paris, 1842), p. 316.

[23] Isaac Bloch, *Les Israélites d'Oran de* 1792 *à* 1815 (Paris, 1886), pp. 6-7, 17. A typical Jewish merchant of Oran in this period was Judah ben-Dzeria Churaqui; for his life story, see *Archives Israélites*, VII (1846), 589-90.

[24] See figures in Ministère de la Guerre, *Tableau de la situation des établissements français dans l'Algérie en* 1839 (Paris, 1840), pp. 232-35.

[25] Mordecai M. Noah, *Travels in England, France, Spain and the Barbary States* (New York, 1819), p. 368.

tine Jewry showed an occupational distribution similar to that of their coreligionists elsewhere in Algeria.

During the 1840's the French government began a campaign to stimulate emigration to the new colony. As a consequence, its European population more than quadrupled between 1840 and 1847.[26] In the single year 1844 6,153 ships entered the ports of Algeria.[27] The influx of newcomers brought about a tremendous increase in business. Real estate speculators were especially active, 90 per cent of the transactions being concluded by Europeans. The Jews played a *very minor role* in this speculation, having already been eliminated to a large extent, by a government order in 1836 which forbade the transfer of real property from Moslems to Jews. The government's motive in this arbitrary action was revealed by Marshal Bugeaud, who said: "If the Jews were able to acquire [land], they woud soon be the owners of most of Constantine."[28]

Going further in our investigation of economic conditions during this period, we discover a chorus of almost unanimous reports from contemporary travellers and writers concerning a crisis in Jewish business owing to the French occupation, and stories about Jews complaining of their sad lot under France as compared with that under the Turks. A few examples will suffice. One visitor to Oran noted the completely altered appearance of the city: "Elegant warehouses now occupy the site of the wretched huts where the Jews formerly displayed their goods for sale."[29] The German naturalist, Wagner, reported that ". . . the Jews encounter considerable competition from the numerous busy European speculators, who surpass them both in cupidity and avariciousness. . . ."[30] Another traveller recalled that "many among them [the Jews] have become wretchedly poor since the arrival of the French."[31]

26 Gsell, *et. al., op. cit.*, pp. 281 ff.

27 Quétin, *Guide du voyageur en Algérie* (Paris, 1847), p. 160.

28 *Ibid.*, p. 167; Claude Martin, *Les Israélites Algériens de* 1830 *à* 1902 (Paris, 1936), p. 62; E. Pellissier de Reynaud, *Annales Algériennes* (2nd ed., 3 vols.; Paris, 1854), III, 268-69.

29 Madame Prus, *A Residence in Algeria* (London, 1852), p. 322.

30 Pulszky, *op. cit.*, p. 189.

31 Philip, *op. cit.*, p. 48.

Regret for the days of the Turkish regime seems to have been fairly common among certain groups of the older generation. For example, the traveller Benjamin II reported:

> The young are well satisfied with the French government, but the older members with whom I spoke on this subject, fancy that since the French have taken possession of the country, religious feeling has been on the decline, and that commercial transactions are not so profitable as when the Arabs were in power.[32]

A German adventurer, Prince Pückler-Muskau, spoke with a Jewish broker on this subject:

> "It is true," said he to me, "we were sometimes hanged and speared, and very often flogged for the merest trifles; that was better, however, than as things are now—we earned more and possessed ten times as much money. . . . The Turk never asks how much a thing costs, and never makes a bargain. When we wanted money for anything, we went to our patron and said, 'Give us so many thousand francs—we will pay you so much per cent out of the profit.' Without difficulty and on the security of our simple word, we received the money. . . . The French don't understand this country. It is quite out of the question to expect to make any profit by them; for every one wishes to grow rich as fast as he can, and they are even more niggardly than we, the despised Jews."[33]

If one disregards the usually inaccurate embellishments of which travellers are fond, one finds that their impressions are verified by other, more reliable sources. The sudden appearance of a host of French competitors, eager for business, was almost calamitous, for the Jews had known, for the most part, only the competition of slothful Moors. We know that the extent of Jewish participation in the export-import trade decreased. Unsettled conditions and the continuous wars in the interior cut off a good deal of the trade with the Moslem tribes. Physical destruction of property in the wars and government expropriations without indemnification further increased the misery of some Jews. The sharp increase in prices accompanying the French conquest bore down heavily on the poor artisan class and reduced many to unemployment. When the high cost of living is added to the competition of European businessmen and

[32] I. J. Benjamin II, *Eight Years in Asia and Africa from* 1846 *to* 1855 (Hanover, 1859), p. 271.

[33] Prince Pückler-Muskau, *Travels and Adventures in Algiers* (3 vols.; London, 1839), I, 136-37.

workers accustomed to European needs, the complaints of the Jews become understandable.

Statistics of the number of licenses issued to businessmen in the early part of this period show a definite trend in the direction of a decrease in the proportion of Jewish businessmen to the total. Although the absolute number of Jewish licensed businessmen increased 30 per cent in these years, this growth compares very unfavorably with that experienced by the non-Jewish businessmen, whose number increased by more than 70 per cent.

Number of Licensed Businessmen in Algeria[a]

Year	*Jews*	*Non-Jews*	*Total*	*Percentage of Jews*
1835	679	2371	3050	22
1837	649	2572	3221	20
1838	664	2723	3387	19
1839	665	2721	3386	19
1840	622	2812	3434	18
1841	750	3438	4188	18
1842	886	4047	4933	17
Percentage Change	+30%	+70%	+61%	−5

[a] See statistics in: Ministère de la Guerre, *Tableau . . .* 1837, p. 342; *ibid., Tableau de la situation des établissements français dans l'Algérie en* 1838 (Paris, 1839), p. 193; *ibid., Tableau . . .* 1839, p. 242; *ibid., Tableau de la situation des établissements français dans l'Algérie* 1842-1843 (Paris, 1844), p. 242.

The trend illustrated by this table became even more marked with the passing of the years, as an increasing number of Europeans came to Algeria. At the same time the Jewish population grew steadily, aggravating the economic condition.

It was these very real economic factors rather than mere nostalgia for the "good old days" that caused many Jews to regard their position as deteriorating. Objective experience reinforced this feeling. Pauperism became an especially pressing problem in the 1840's. The following estimates, made by contemporaries, as to the number of those receiving charity in the Jewish community of Algiers (population, roughly 6,000) are, in all likelihood, exagger-

ated, but they do indicate a progressive worsening of the indigency problem:[34] 1842 - 600; 1843 - 600; 1846 - 1000; 1847 - 1500. It may be noted that the Rothschild family of Paris occasionally extended generous aid to the Algiers community.[35]

The economic crisis that faced the Jews of Algiers in the 1840's might have caused the complete ruin of a large segment of the population, were it not for the Jewish ability to adapt to new conditions. The profound misery of the lower classes necessitated a shift in their occupational distribution towards white-collar jobs. A few of the wealthy had begun to build hotels and modern bazaars, but the real revolution that was commencing was shown in the entrance of poorer Jews into such occupations as that of lawyer's clerk, notary, interpreter, tax collector, administrative employee, and the like.[36] Jewish shopkeepers, faced with increasing competition began to keep their stores clean to please the French and took in new lines of merchandise. Innovations did not frighten them. Jewish commercial ingenuity, adaptability, and activity thus facilitated a partial recovery from the poor economic conditions in the middle of the century.

There still remains the question of the business ethics of the Algerian Jews. The repeated accusations of contemporary writers and subsequent historians concerning the avariciousness and cupidity of the Jews should be considered. What was the so-called "Barbary mentality" of those Jews and what was its motivation? One writer may be taken as an example of what was said then and later: "The male population seem to have one god—Mammon, and their whole aim is to amass riches by every means in their power, short of actual robbery."[37] Another, while admitting the avariciousness of the Jews, moderated his conclusion by saying: "The love of money makes the Arab a robber, and the

[34] *Archives Israélites*, III (1842), 372: *ibid.*, IV (1843), 111; *ibid.*, VII (1846), 483; *ibid.*, VIII (1848), 376-77.
[35] *Ibid.*, VIII (1848), 376.
[36] *Ibid.*, *I* (1840), 540; *ibid.*, IV (1843), 104; Martin, *op. cit.*, p. 62.
[37] Philip, *op. cit.*, p. 118.

Turk an oppressor; whilst with the Jew it only stimulates his commercial industry and his spirit of speculation."[38]

On the other hand, upon reading such adverse criticism, the famous Scottish poet and traveller, Thomas Campbell, was aroused to a defense of the Jews. Although his reaction was somewhat emotional, it is nevertheless interesting:

I find the French authors who write about Algiers joining with all the world in abusing the Jews. The page of a talented author is now before me, in which he says, "Nature has denied them even the courage to commit bad actions." . . . Now this puts up my blood. Are the Jews made by Nature differently from ourselves? It is blasphemy against Nature to say so. The same God has made us, and meant us to be brothers of a common family. Shall the oppressor blame the Jew for faults which oppression alone has produced? Let me not forget to tell you that the Jews are the best, because the cheapest, shopkeepers in Algiers; you will get an article always lower at a Jew's shop than elsewhere, and often at half the price.[39]

The charges of cupidity are a bit surprising, considering the experience of many that the Jews were fairly decent in their commercial relations. Pückler-Muskau, for instance, warned all strangers to Algiers against the extortions of *European* shopkeepers:

In my whole life I have never been so shamefully cheated and overcharged. . . I mean this to apply to the Christians; for the Jews. . . if they cheat at all, do so with decency.[40]

But assuming, as was probably true, that the Jews had been assimilated to the world of Barbary and did cheat, lie, oversell, and in general practice a corrupt commercial morality, was there any motive for them not to do so? To earn profits was the only means of survival, particularly in the days of the Turks, when they were fiscally, physically, and mentally oppressed. The astute observer Mordecai M. Noah expressed this thought remarkably well:

Their skill in business, and the advantage they take of Christians and Moors, have been the subject of severe and just animadversion. They will, if not narrowly watched, avail themselves of opportunities to overreach and defraud. For this the world has showered upon them

38 Pulszky, *op. cit.*, p. 191.

39 Thomas Campbell, *Letters from the South* (2 vols.; London, 1837), I, 150-51. Campbell, one of the foremost British poets of the nineteenth century, visited Algiers in 1834.

40 Pückler-Muskau, *op. cit.*, I, 335-36.

opprobrium and insult. But has the world ever held out inducements for the Jew to be honest, except in countries where they enjoy equal privileges? If they are just, they are not credited for it; if they possess merit, they are not encouraged and rewarded; if they do a good action, approbation does not follow. Proscribed and insulted, their virtues denied, public opinion attaching to them the odium due to bad men of all persuasions, no friend, no solace in misfortune, hunted, despised, and shunned, it is still asked of them to be honest. . . . What is the incitement to virtue? The approbation of conscience and the world. The Jew in Barbary has no friend but his wealth; *that* purchases protection and toleration; and he is ever zealous and active in the accumulation of it. And if he is not fastidious in his mode of acquirement, he is not singular—exclusive honesty is the property of no sect.[41]

II

Social Conditions

The Jewish population of Algeria during this period cannot be determined with complete accuracy. Even today, Jewish population statistics are not always trustworthy. Inaccuracy and estimates were therefore especially prevalent a century ago before the adoption of advanced statistical techniques. However, we have no recourse but to regard these figures as the approximate truth. Choosing 1843 as the year for which the most complete statistics are available for this period, the following picture emerges:

Jewish Population in Major Algerian Cities (1843)[a]

Algiers	5941	Mostaganem	499
Oran	4287	Bone	450
Constantine	3105	Mascara	320
Tlemcen	1508	Philippeville	118
Medea	625	Miliana	112

[a] For Jewish population statistics during this period, see: De Paradis, *op. cit.*, XXXIX, 267; Ministère de la Guerre, *Tableau . . .* 1837, p. 300; *ibid., Tableau . . .* 1838, p. 130; *ibid., Tableau . . .* 1839, p. 55; *ibid., Tableau de la situation des établissements français dans l'Algérie en* 1841 (Paris, 1842), p. 82; *ibid., Tableau . . .* 1842-43, p. 80; *ibid., Tableau de la situation des établissements français dans l'Algérie en* 1843-1844 (Paris, 1845), p. 57; *ibid., Tableau de la situation des établissements français dans l'Algérie en* 1844-1845 (Paris, 1846), p. 65; Maurice Eisenbeth, *Les Juifs de l'Afrique du Nord: démographie et onomastique* (Algiers, 1936), p. 14.

[41] Noah, *op. cit.*, p. 310.

A striking fact is that the Jewish population of Algeria was quite small as compared with the populous Jewish centers of contemporaneous Eastern Europe. The largest community was in the capital city of Algiers, but even this community did not go far above 6,000 in the period under discussion.[42] On the other hand, when we compare the Jewish population of 6,000 with the total population of Algiers, which was approximately 30,000, we observe that the Jews constituted about 20 per cent of the city's entire population—an important segment.

After 1830 there was a movement of Moroccan Jews across the border to nearby Algerian cities.[43] The community of Oran contained a large floating group of Moroccan immigrants, and its population consequently experienced important fluctuations. The total Jewish population of Algeria, however, grew steadily, particularly after the French conquest. This was due, not to external immigration, which was an uncertain factor, but to the constant, if small, annual natural increase. Although both the Jewish birth and mortality rates were high, the mortality rate was lower than that of the Europeans or Moslems.

Comparative Mortality Rates

Per 100 Population in 1844[a]

Jews	2.16
Moslems	3.24
Europeans	4.29

[a] Ministère de la Guerre, *Tableau* . . . 1844-1845, p. 69. See also, for further statistics on this question: *ibid., Tableau* . . .1837, p. 301; *ibid., Tableau* . . . 1838, p. 131; *ibid., Tableau* . . . 1839 p. 56-57; *ibid., Tableau* . . . 1842-43, p. 76-77; *ibid., Tableau* . . . 1843-1844, pp. 60-61; *ibid., Tableau de la situation des établissements français dans l'Algérie* (Paris, 1851), p. 110; J. C. M. Boudin, *Histoire statistique de la colonisation et de la population en Algérie* (Paris, 1853), pp. 7, 15, 28.

[42] The figure of 7,000 given by Venture de Paradis for 1789 is open to serious question. This author, in the same work, gives three or four different estimates for the Algiers community—all of which seem exaggerated. See De Paradis, *op. cit.*, XXXIX, 267; XLI, 111, 118.

[43] Benjamin II, *op. cit.*, p. 269; *Correspondance du Capitaine Daumas, Consul à Mascara* (1837-1839) (Algiers, 1912), pp. 85-86.

The situation reflected in these figures aroused the fears of a French statistician, who wrote: "If things continue to follow their former path, the time is not far when, without the aid of immigration, the cities of Algeria will be exclusively peopled by Jews."[44] His prediction might have proved correct had it not been for the unhygienic housing conditions under which the Jews lived and for the fact that the Jewish increase was completely counterbalanced by the rapid growth of the European population, constantly augmented by immigrants.

Under the Turks, the Jews of Algeria lived in their own quarters in the cities. The houses they occupied could be owned fully by them, and rich Jews often possessed luxurious homes.[45] In 1789 the Jewish quarter of Algiers, the *Hara*, contained about 180 houses.[46] The *Hara* was far from clean, and its low houses, built in Moorish style, lined narrow streets and alleys where the sun never penetrated. The homes of the rich were clean and elegant, but for the great majority life in the *Hara* was terribly overcrowded and unhealthy.[47] After 1830, some of the richer families began to move out of the old quarter.

Living in these insalubrious quarters, it was not surprising that the dreaded cholera attacked the Jews with particular deadliness. According to an eyewitness, in 1787 the plague killed 1,771 Jews.[48] A cholera epidemic in Oran in 1834 killed 125 people, of whom 44 were Jews.[49] The epidemic of 1835, which felled 1600 French soldiers, struck the Jewish community of Algiers especially hard.[50]

Health conditions grew so bad that finally the Jews were forced to modernize their old quarters. In 1846 the

44 *Ibid.*, p. 12.

45 Cahen, *op. cit.*, pp. 192-93; René Lespès, *Alger* (Paris, 1930), p. 179 n.

46 De Paradis, *op. cit.*, XXXIX, 267.

47 Rozet, *op. cit.*, II, 217; III, 80-81; Abbé J. J. L. Bargès, *Tlemcen* (Paris, 1859), p. 97; Pharaon and Goldscheider, *op. cit.*, p. 478; Campbell, *op. cit.*, I, 150; William Lumsden, *Journal of a Trip to the Algerine Territory in* 1837 (Glasgow, 1847), p. 26.

48 Bloch, *op. cit.*, p. 70.

49 *Correspondance du Général Drouet d'Erlon* (Paris, 1926), p. 75.

50 Wilfrid Blunt, *Desert Hawk* (London, 1947), p. 66; Lespès, *op. cit.*, p. 218 n.

Jews of Oran raised 80,000 francs for the construction of fountains and an adequate sewage system.[51] The following year a subscription was opened to found a hospital for the Oran Jewish community.[52] A visitor in Algiers found that "every Christian who passes by is taken for a doctor, and it is rare that he is not invited for a consultation. Those people believe themselves always sick. . . ."[53] The truth is that it was a rare family which did not have at least one ill member.

The vernacular of the Algerian Jew was the Judeo-Arabic language.[54] In the coastal cities the Jews spoke the Mediterranean *lingua franca* which they employed in their relations with Europeans.[55] This knowledge aided the Jews considerably in learning the language of their French liberators, which they realized would be commercially useful. The younger generation, especially those who attended the French-Jewish schools, acquired a knowledge of French with remarkable rapidity. But this was true, for the most part, only in the larger cities. The older generation and the Jews of the interior continued to speak their Judeo-Arabic dialect almost exclusively.[56]

Under the Turks restrictions on Jewish dress were designed to prevent Jews from wearing bright colors, especially green, the color of Islam. Men wore two vests or waistcoats, one of which was long-sleeved and embroidered with silk or occasionally gold; a large pair of breeches; stockings; sandals; and a skull cap of black cloth or velvet.[57] Women wore a large robe of black or blue wool with short sleeves. Jewesses went unveiled, but many adopted the metallic headgear of the Moorish women—the *sarmah.* This was a conical object,

51 *Archives Israélites,* VII (1846), 461.

52 *Ibid.,* VIII (1847), 84.

53 Fisquet, *op. cit.,* p. 319.

54 See Marcel Cohen, *Le Parler Arabe des Juifs d'Alger* (Paris 1912), passim.

55 Fisquet, *op. cit.,* p. 373; Rozet, *op. cit.,* II, 254.

56 Joseph Cohen, "Aperçu général sur les moeurs des Israélites Algériens," *Archives Israélites,* IV (1843), 32; J. J. F. Poujoulat, *Etudes Africaines* (2 vols.; Paris, 1847), I, 46; Pulszky, *op. cit.,* p. 190; Philip, *op. cit.,* p. 51; Joseph Williams, *Four Months in Algeria* (Cambridge, 1859), p. 51.

57 Fisquet, *op. cit.,* p. 318; Rozet, *op. cit.,* II, 217.

about two feet in length and made of delicate filigree work, which held the long tresses of the women.[58]

The Jewish women had a great penchant for jewelry of all sorts—earrings, strings of pearls, bracelets, *kal-kals* (rings of silver attached above the ankles). The ordinary Jewess, however, had to be content with the tinsel variety of precious jewels. A French visitor remarked that at a ball given by the governor-general, he saw Jewish women each of whose costumes alone was worth four or five thousand francs.[59] The women also adopted the Moorish custom of applying henna to the soles of the feet, the palms of the hands, and the nails. Some, in addition, blackened their eyebrows.[60]

Only the children of wealthy Jews were well dressed. As for the others, "one has never seen anything dirtier or more unfortunate than the children of the poor class."[61] They ran about the narrow alleyways dirty, half-naked, and in rags.

A remarkable transformation in dress among the Jews and especially the women took place upon the approach of the Sabbath or festival days. "To see them on a Friday evening in their rags . . . one would say they were not worth a sixpence; but meet them on their return from the bath the same evening, and you would say, Behold, a society of queens!"[62] On these days, the Jews dressed in their very best clothes and there was a feeling of joy and happiness in the air. But the Sabbath finery did not indicate their true economic condition. As one observer remarked: "Their gorgeous apparel often forms a ludicrous contrast with other symptoms of poverty in their circumstances."[63]

In dress, as in language, the older generation of poor Jews was not affected by the French occupation. But the rich and the youth, particularly in the large cities, discarded their old dress, and soon began to imitate French styles.

58 Rozet, II, 14, 58-59, 218-19; Fisquet, *op. cit.*, pp. 320 ff.; J. Clark Kennedy, *Algeria and Tunis in* 1845 (2 vols.; London, 1846), I, 250.

59 Fisquet, *op. cit.*, p. 325.

60 Rozet, *op. cit.*, II, 220

61 *Ibid.*, p. 221.

62 Philip, *op. cit.*, p. 49.

63 Campbell, *op. cit.*, I, 149.

Many young Jewesses gave up the *sarmah,* that enormous coiffure which made them the butt of the jokes of French troops and tourists, and began to dress according to the latest Parisian fashions.[64] The adoption of European attire led to participation by Jewish women in brilliant soirees and balls, and to the frequenting of French cafés by the male youth, who soon learned the art of playing billiards.[65]

Jewish taste in matters of food ran along the same lines as that of their Moslem neighbors. Stews, couscous, and lamb fried in oil were standard dishes in the Moslem manner. The Jews also ate fish, cheese, peppers cooked in oil, tomatoes, melons, figs, dates, olives, and other fruits and vegetables of the country. Although they loved coffee, they did not follow the Moslem habit of drinking it to excess. Copious amounts of wine and *m'haia,* a brandy made of dates and figs, were consumed at important meals and on festivals.[66] At least in the matter of food, Jewish tastes were admired by the Moslems. The latter had a saying: "The cooking of the Jews, the bed of the Christians, and the society of Moslems."[67]

In eating habits, the Jews followed the custom of the land. At mealtime, they crouched around a very low table and did not hesitate to make extensive use of their fingers. But under French influence many Jews adopted European furniture and began to use tables, chairs, forks, and spoons.[68] Again, it must be noted that this assimilation occurred only with the wealthier residents of the large cities.

The Jews loved family reunions, festivals, and joyous occasions, at which time Jewish musicians would play secular songs on instruments and in modes which were closely related to those of the Arabs. At parties there was dancing as well as singing. Members of opposite sexes, however, did not dance together.[69] There was usually a collection plate

[64] *Archives Israélites,* VI (1845), 696; Cohen, *op. cit.,* 28-29; Pharaon and Goldscheider, *op. cit.,* p. 540; Fisquet, *op. cit.,* p. 318; Poujoulat, *op. cit.,* p. 46; Pulszky, *op. cit.,* p. 189; Campbell, *op. cit.,* I, 147-48; Abbé Suchet, *Lettres édifiantes et curieuses sur l'Algérie* (Paris, 1840), p. 337.

[65] Pharaon and Goldscheider, *op. cit.,* p. 540; Philip, *op. cit.,* p. 50; Pückler-Muskau, *op. cit.,* I, 96-97.

[66] Rozet, *op. cit.,* II, 221-23; Bargès, *op. cit.,* pp. 91-92.

[67] E. Daumas, *La Vie Arabe et la societé musulmane* (Paris, 1869), p. 297.

[68] Cohen, *op. cit.,* p. 33; Poujoulat, *op. cit.,* p. 46; Fisquet, *op. cit.,* p. 375.

for the musicians, into which spectators dropped their contributions.

The Algerian Jews observed Jewish Law with great meticulousness and rigor. To liberal French Jews their piety seemed fanaticism, but to the Algerian Jew Judaism was the focal point of life. Sabbath observance and synagogue attendance were unquestioningly adhered to, and rabbis were regarded with great veneration. The rabbinic legal tradition that was followed varied; the most popular were the so-called customs of Algiers, Oran, Tlemcen, and Castile.[70] Polygamy, it may be noted, was not altogether unknown.[71]

The Algerian synagogues were not distinguished architecturally. In Algiers most of them were demolished by the French in order to make room for public improvements, but later a large new synagogue was built at government expense.[72] Order in the synagogues was quite lax. The synagogue of Bone, known as the *Ghriba*, was revered by Jews and Moslems alike because of a miracle which had allegedly occurred there in connection with its Torah scrolls.[73]

An interesting facet of Jewish religious feeling was evidenced in the keen interest shown by the Algerian Jews in Jerusalem.[74] Boatloads of old Jews going to Palestine to die on holy soil frequently left Algerian ports.[75] In 1832, the French commander remarked that an "important emigration" of Jews to Jerusalem was taking place.[76] In 1845, the French consul in Jerusalem was astonished at the increasing number of Algerian Jews in the Holy Land.[77]

A characteristic of the Algerian Jews which was remarked upon with favor by all who came in contact with

[69] Rozet, *op. cit.*, II, 257; Fisquet, *op. cit.*, pp. 376-78; *Archives Israélites*, IX (1848), 452.

[70] E. Sautayra, and M. Charleville, "Code rabbinique: Eben Haezer," *Revue Africaine*, XIII (1869), 182.

[71] See Benjamin II, *op. cit.*, p. 267.

[72] *Archives Israélites*, VIII (1847), 378.

[73] Benjamin II, *op. cit.*, pp. 261-62.

[74] Lumsden, *op. cit.*, p. 27; Bloch, *op. cit.*, p. 78.

[75] Shaler, *op. cit.*, p. 68.

[76] *Correspondance du Duc de Rovigo* (1831-1833) (3 vols.; Algiers, 1914-1921), II, 345.

[77] *Archives Israélites*, VI (1845), 853.

them was their hospitality, to Jew and non-Jew alike. The Jews also had the virtue of regarding charity to their co-religionists as a duty.

Marriage among the Jews of Algeria occurred, in common with the other peoples of the land, at an early age, mates being chosen by the parents for their children. The marriage ceremony involved certain customs which are unfamiliar to Western Jews. The strangest was that of placing the bride on a throne of cushions where she remained motionless, as it were, on inspection for a few days. Another exotic practice was the torchlight procession, when the bride was escorted to the home of the groom to the accompaniment of weird cries of "yoo, yoo." Also, following Moslem custom, the bride had the palms of her hands and the soles of her feet reddened with henna. The eyebrows and eyelids were blackened, a red triangle was placed on each cheek, and the back of the hands were marked with a zig-zag design. Prior to the marriage, the bride was stuffed with couscous in order to fatten her and thereby make her more appealing to her spouse.[78]

In accordance with Jewish religious law, divorces could be granted by rabbinic tribunals. French law, however, did not allow divorce, and the French Jews, in their desire to assimilate the Algerian Jews as rapidly as possible, objected to the lenient policy of the government with regard to Jewish divorces. During 1843, a year for which we have statistics on this question, divorces amounted to approximately 12 per cent of the marriages.[79] There is no way of knowing, however, whether 1843 was an average year in this respect.

Another occasion for joyous celebrations was the ceremony of circumcision. Regardless of the financial status of the child's parents, luxuries were not spared at the solemn feast which followed the ceremony. Huge quantities of wine, *raki* (or *araki,* a type of brandy resembling anisette), and *m'haia* were consumed, in addition to the usual pastries

[78] Rozet, *op. cit.,* II, 129-30, 257-62; Fisquet, *op. cit.,* p. 355-63; Poujoulat, *op. cit.,* I, 46. For a description of a Jewish wedding in Tlemcen in the 1840's, see Marcotte de Quivières, *Deux ans en Afrique* (Paris, 1855), pp. 216-19.

[79] Ministère de la Guerre, *Tableau* . . . 1843-44, p. 61.

and other delicacies. At these affairs, everyone, including non-Jews, was welcome, and apparently everyone was inclined to appear.[80]

The Jewish women of Algeria enjoyed considerably better treatment at the hands of their husbands than did the Moslem women. For one thing, Jewish women had freedom of movement, which is unusual in a Moslem land. Jewish women could accompany their husbands on promenades and sit down with them at mealtime. Europeans could visit Jewish homes freely because the women were allowed to converse with them.[81] Although occupied with the drudgery of housework and regarded as inferior to her husband intellectually, the Jewish woman was in reality the queen of the home. A sharp observer of women confirmed this:

> The Jewess reigns in her household. The monogamous Israelite loves his family, falls back upon it like a fortress, and doesn't take any pleasure outside of his home; which could explain the perpetuity of the Jewish race and its well-being in the midst of tribulations.[82]

It was the unanimous opinion of European visitors and residents that the Jewish women of Algeria were extraordinarily pretty. One remarked: "When you encounter the native women of Israel, admiration rivets you to your spot."[83] Another elaborated:

> Many of the Jewesses, when young, are strikingly handsome . . . The dark and expressive eyes, the beautifully formed forehead, the raven hair, the arched eyebrow, and a peculiar softness of expression about the mouth, show that the beauty of the daughters of Israel has not degenerated.[84]

In addition, the Jewish women of Algeria allegedly possessed an admirable feeling for coquetry.[85]

It is difficult to gauge precisely how much romantic

[80] Fisquet, *op. cit.*, pp. 351-54.

[81] Pulszky, *op. cit.*, p. 191; Rozet, *op. cit.*, II, 257, 267; Fisquet, *op. cit.*, p. 319.

[82] Benjamin Gastineau, *Les Femmes et les moeurs de l'Algérie* (Paris, 1861), p. 24.

[83] *Ibid.*, p. 23.

[84] Kennedy, *op. cit.*, I, 251.

[85] See, for further information on Algerian Jewish women: Rozet, *op. cit.*, II, 216; Fisquet, *op. cit.*, p. 326: Pulszky, *op. cit.*, p. 187; Philip, *op. cit.*, p. 51; Count St. Marie, *Algeria in* 1845: *a Visit to the French Possessions in Africa* (London, 1846), p. 145.

contact there was between French soldiers and Jewish women. It seems reasonable, however, that there were such associations. Some writers point out that the arrival of French troops brought about a decline in Jewish moral standards. One Frenchman flatly stated that "At Algiers there are few Jewish houses which are not places of prostitution open to all comers, and, one must add, to all kinds of vices."[86] But in the case of this writer, one must allow for the fact that he was a bitter opponent of Jews in general. On the other hand, a guide for travellers to Algeria supports him to a certain degree by describing the "charming Jewesses" who were to be found in the public houses of Algiers.[87] A more balanced account of the situation is given by another observer:

> . . . the Jewesses in Algiers are wrongly charged with immorality; only some of the poorest are unable to withstand the temptation. On the whole, the houses of bad repute are peopled rather by French and Moorish girls than by Jewish ones. The Jewesses of the wealthier classes are modest and virtuous, though they do not hide themselves before the stranger like their Mohammedan sisters. Their virtue is so much more to be commended as . . . attempts at seduction are nowhere more common than at Algiers.[88]

Besides pointing out "extensive" Jewish participation in prostitution, it was also alleged that the Jews provided more than their share of criminals. A cursory examination of court statistics is sufficient to demonstrate the falsity of this charge. The Jews consistently had a proportionately smaller number of criminals than any other group in Algeria.[89] Actually, the campaign of slander against the Jews of Algeria was a weapon used against them in the struggle for the establishment of a consistorial organization, a measure which would have tended to incorporate the Jews into the French state. Many Frenchmen opposed this step, claim-

[86] Pellissier de Reynaud, *op. cit.*, II, 454.

[87] F. Gomot, *Guide du voyageur en Algérie* (Paris, 1884), pp. 110-11.

[88] Pulszky, *op. cit.*, p. 190

[89] For statistics, see Ministère de la Guerre, *Tableau . . .* 1837, pp. 239-43; *ibid., Tableau . . .* 1838, pp. 97-98; *ibid., Tableau . . .* 1839, p. 101-02, 108; *ibid., Tableau . . .* 1841, pp. 161, 167-68; *ibid., Tableau . . .* 1842-43, p. 232; *ibid., Tableau . . .* 1843-44, p. 288; *ibid., Tableau . . .* 1844-45, p. 284; *ibid., Tableau . . .* (1851), pp. 160-61, 163-65.

ing that it would antagonize the Arabs. The charges of low morality thus fall into proper perspective.

It is true that the great mass of Algerian Jews believed in many puerile superstitions, of Moslem as well as Jewish origin. The evil eye was regarded with deepest horror, and sorcerers and amulets were resorted to for the purpose of forestalling its influence. Various rites, such as the killing of a black cock and the smearing of its blood on an ill person, were designed to ward off the evil eye. Belief in diviners went to such lengths that when an earthquake was predicted for December 25, 1842, some Jewish families passed the night in the cemetery, tearfully waiting for the end.[90]

In common with the other peoples of Algeria, the Jews had great veneration for the dead. The Algiers Jewish community possessed three cemeteries, but they were all expropriated by the French government for public purposes. Upon the protests of the Consistory of Algiers, the government allotted the community a new area for use as a cemetery.[91]

It was an interesting feature of funerals that the procession stopped first at the tomb of Rabbi Simon ben Zemach Duran, where the mourners took off their shoes, kissed the stone, and recited prayers.[92] The gravestones themselves showed a great regard for the dead, for they were usually made of beautiful imported Italian marble. At the burials the Jewish women followed the Moslem custom of crying fiercely while tearing at their faces and hair. Enlightened French Jews tried to stop this, but met with resistance.[93]

The Jews of Algiers followed many superstitious customs in connection with deaths and burials. The strangest was that immediately before the corpse was interred, the rabbi would throw a handful of gold coins as far away from the open grave as possible in order to distract the

90 See, on superstitions, Benjamin II, *op. cit.*, p. 263; Rozet, *op. cit.*, II, 244-45; Fisquet, *op. cit.*, pp. 371-72, 375.

91 Bloch, *op. cit.*, pp. 4, 11-14, 17; *Archives Israélites.* VII (1846), 482 ff.; Bargès, *op. cit.*, p. 93.

92 Rozet, *op. cit.*, II, 246-52.

93 *Archives Israélites*, IX (1848), 449; Pulszky, *op. cit.*, p. 192; Fisquet, *op. cit.*, p. 364; M. Berbrugger, *Algérie historique, pittoresque et monumentale* (3 vols.; Paris, 1843), I, 44-47.

devil. The corpse would then be buried immediately. A traveller recounts that he questioned a Moor about this ceremony: "I asked him if it was not unlike a Jew to throw away his money? 'Ah, yes,' he said, 'but it is very like a Jew to cheat a devil.' "[94] This custom was practiced only at the burial of males, because, it was said, Satan had enough trouble on his hands without seeking after the souls of women.

Frequent pilgrimages were made to the tombs of the great rabbis, Barfat and Duran at Algiers, and Ankaoua at Tlemcen.[95] In this respect, again, the beliefs of Jews and Moslems showed a strange interpenetration. It is said that more Jews than Moslems journeyed to the tomb of the Moslem *marabout,*[96] Sidi Yakoub, while Moslems held the Ghriba synagogue of Bone in great veneration.[97]

The economic and social conditions prevailing among the Jews of Algeria began to undergo profound changes in this period, changes which came as consequences of the influence of French law and civilization, and the actions of French Jews. The ancient customs of the Jews in dress, food, language, their religious attitudes, their occupations, recreations, superstitions—all were on the road to modification as a result of the political revolution of 1830. The French conquest resulted in raising the Jews to the legal level of Moslems. But this radical step was only the beginning of the familiar process of social and economic emancipation and assimilation, which assumed definite form by 1848.

[94] Campbell, *op. cit.*, I, 297.

[95] Benjamin II, *op. cit.*, pp. 269-70.

[96] *Marabout*—Moslem religious hermits who are given great respect and play a very influential role in all affairs. After death, their tombs acquire holiness and are the object of much veneration.

[97] R. Jungmann, *Coutumes, moeurs, et usages des Algériens* (Strasbourg, 1837), pp. 54-55.

THE STRUGGLE FOR JEWISH EMANCIPATION IN ALGERIA AFTER THE FRENCH OCCUPATION

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AFTER the occupation of Algeria in 1830 by France the new authorities introduced many changes in the administration of the Jewish communities. All these changes were established in such a way as not to destroy the old communities system, but rather to modernize it and to leave within the jurisdiction of lay leaders and rabbis only purely religious and philanthropic matters. Civil matters (birth, marriage, and death registers, etc.) the French subordinated to their own jurisdiction, which also applied to all non-French Europeans living in Algeria. The religious court of the Jews (*Beth-din*) found its powers increasingly restricted by various decrees (of October 28, 1830; October 8, 1832; August 10, 1834; February 28, 1841; and September 26, 1842), which deprived it of jurisdiction over criminal cases and permitted Jews to appeal from its decisions to the French administration. In the end, the *Beth-din* was permitted to judge only religious matters; all other affairs had to be submitted to the French judicial bodies.[1] On November 16, 1830, the French authorities nominated for the city of Algiers a *Mokdem* (*chef de la nation juive*), who exercised some police powers over the community and was also an official assistant to the mayor. On June 21, 1831, a council of three laymen was nominated to assist the *Mokdem* in his duties and to collect taxes. On March 28, 1836, the *Mokdem's* title was changed to *Adjoint Israélite,* and an ordinance of January 6, 1836, transformed him into a regular French official with a yearly salary of 2,000 francs.

[1] Situation des Israélites en Algérie. Rapport général, par M. [Michel A.] Weill, Grand Rabbin, 1850," AN (=Archives Nationales), $F^{19}11143$; André Chouraqui, *Marche vers l'Occident. Les Juifs d'Afrique du Nord* (Paris, 1952), pp. 100-101.

The French Jews early became interested in the situation of Algerian Jewry. Basically, they considered the Algerian Jews as an uncivilized horde. In 1840, the *Archives Israélites,* at that time the influential Jewish journal, wrote: "It is an abominable race, greedy . . . incapable of gratitude and generous sentiments."[2] But, as they were nevertheless Jews of a French colony, something had to be done in their behalf in order not to harm the prestige of French Jewry. As early as November, 1833, the Central Consistory of French Jewry requested that the Government create a consistory in Algeria modeled after those of France. On December 12, 1836, the Central Consistory wrote to the Ministry of Justice and Religious Affairs: ". . . some advantage to the Government could result from the establishment of a Jewish Consistory in Algeria placed, as all departmental consistories, under the direction of the Central Consistory. It appears to us that this would attach to France an important part of the African population and accelerate the moral regeneration of these new fellow-citizens."[3]

The request was not granted. The Central Consistory then asked the regional consistory of Marseille to make a survey of the situation of Algerian Jewry. At the same time various private persons became interested in helping the Jews of Algeria. One of them was the well-known Jewish Saint-Simonian, Gustave d'Eichthal, who visited Algeria and prepared a project on how to organize Jewish consistories there. In a long letter dated September 28, 1838, D'Eichthal proposed to replace the old *Beth-din* with French-type consistories, which should, first of all, function as an institution of enlightenment. According to his letter, such a proposal had been made before by Tama, a Jewish merchant from Marseille who lived in Algeria already before 1830. In order not to destroy too rapidly the old communities administration, D'Eichthal proposed that the *Mokdem* should become a member of the modern consistories; he should even continue to keep his title. He further proposed

[2] *Les Archives Israélites,* I (1840), 476-80, 537-48.
[3] AN, $F^{19}11143$.

that the Algerian Jews should accept the resolutions of the Sanhedrin, that had been convened by Napoleon I in 1807; a Judaeo-Arabic translation of them together with a historical introduction, should be circulated. The rabbis should become government officials, and young Jewish men from Algeria should study at the rabbinical school in France. G. d'Eichthal cautioned that the French jurisdiction over divorces be not forced upon the Algerian Jews before they became French citizens. One of the very first tasks should be the establishment of modern schools for children, not only for boys, but also for girls. D'Eichthal even foresaw the formation of special Jewish army units commanded by Jewish officers. And he asked the Central Consistory of France to send a delegate to Algeria. According to his letter he had already had earlier talks on these subjects with Jewish leaders in France.[4]

The Moslems were against any statute that would take away from them their separate administration, and the French Government did not touch their complete separatism. The Catholics of Algeria already had their legal statute, and another one was being prepared for the Protestants. Finally on April 3, 1839, the Ministry of War, which controlled Algeria's administration, instructed the Governor to prepare a statute for the Jews. But the Governor failed to act, and after a new intervention from the Central Consistory dated September 4, 1839, the Minister on that same day asked the Governor of Algeria to carry out the instruction of April 3. In the beginning of 1840, a commission for the preparation of a Jewish statute was created in Algiers. It was composed of Mayor Clément, Chief Rabbi Gionda di David Amano, the leader of the Algiers Jewish Community, Mardoché Amar, and other Algerian and French Jews. Because of the inaction of this commission the Paris Central Consistory intervened yet again on January 7, 1841, asking once more for the creation of Algerian Jewish consistories.[5]

[4] In the author's possession.

[5] AN[19]11143; *Les Archives Israélites*, I (1840), 270; Archives of the Paris Central Consistory, Minutes of December 24, 1837, April 8, 1838,

As a result of all these efforts, the Algerian Administration, in a report of June 7, 1841, proposed to the Minister of War that the separatist character of the Algerian Jewish communal administration be changed and that it be replaced by consistories to be formed in accordance with the system of the French consistories created by Napolon I in 1808 and controlled by the French administration. This, the report stated, would help to emancipate the Algerian Jews, who would then serve as intermediaries between France and the Moslem population. If the Jews were granted civil rights, they would abolish polygamy and accept French jurisdiction over divorces. In 1841, the Government again named a commission to settle the Jewish problem. As this commission was not successful either, Jaques-Isaac Altaras (1786-1873), President of the regional Marseille Consistory, went to Algeria in 1842 together with the young lawyer Joseph Cohen (1817-1899). Their intention was to create Jewish consistories on the pattern of those in France. Their journey alerted the Government in favor of Algerian Jewry. In a report submitted to the Minister of War, they proposed: (1) Algerian Jews should be forced to abandon their traditional garments and dress in the European manner[6] (but the Ministry was opposed to such a drastic step); (2) civil rights should be granted to the Jews, who should serve in the militia (the Ministry was disposed to grant such rights only to the rich Jews); (3) Jews should be permitted to become colonists (the Ministry was in favor of this proposal since Jews were not barred from agriculture anyway); (4) the French civil laws governing births, marriages, and deaths should be introduced for Jews; (5) the *Beth-din* should be deprived of jurisdiction not only over civil, but also over religious matters, and the laws valid for the Europeans living in Algeria should be adopted for the Jews (the Ministry was in favor of this step); (6) the Jewish ministers should become government functionaries

November 24, 1839; Claude Martin, *Les Israélites algériens de* 1830 *à* 1902 (Alger, 1922), pp. 19-21.

[6] On the clothing of Algerian Jews see J. Hanoune, *Aperçu sur les Israélites Algériens et sur la Communauté d'Alger* (Alger, 1922), pp. 19-21.

(this was accepted by the Ministry); (7) schools should be organized for children; (8) the old system of *Mokdems* should be replaced by the introduction of French consistories (this, too, was approved by the Ministry). Many of these recommendations had been made earlier by various persons and, in 1840, in the *Archives Israélites.*[7]

As a result of the report submitted by Altaras and Cohen, the Ministry of War, on February 17, 1843, appointed a commission to prepare a draft of a statute for the Algerian Jews. The Deputy, Eugène Janvier, was named as the commission's president. Its members were Cuvier, of the non-Catholic office at the Ministry of Justice and Religious Affairs; Artaud, Inspector General of the universities; the deputies Max Cerfberr, Adolphe Crémieux, and the attorney Anspach, all three of the Central Consistory; Fellmann, of the Algerian office of the Ministry of War. Maurice Meyer, who had lost his professorship in Rouen because he was a Jew, was appointed the commission's secretary. On March 3, 1843, the Minister of War, the Maréchal Nicolas Soult Duc de Dalmatie, instructed the Commission to investigate the civil statute of the Algerian Jews (especially the problems of marriage, divorce, polygamy, etc.), the statute of the *Beth-din* and of the communal rabbis, the organization of schools, and the possibility of replacing the old communal administration by consistories. [8]

Altaras and Cohen had intended to initiate emancipation of the Algerian Jews by establishing schools. The new commission to a large extent discussed the situation of the existing religious schools and decided that the Government should finance and establish modern schools with a combined

[7] "Rapport sur la formation d'une Commission qui serait chargée d'examiner diverses questions relatives aux Isräelites Algériens d'aprés les Mémoires de M. M. Altaras et Cohen qui ont eté en mission en Algérie," in the author's possession; *Les Archives Israélites,* I (1840), 476-80, 537-48; Zosa Szajkowski, "New Materials on Altaras and His Colonization Plan," *Yivo-Bleter,* XXI (1943), 55-57 (Yiddish).

[8] AN, $F^{19}11143$. The minutes of the Commission are in the author's possession. They were, for some reason, originally sent to Altaras by the *Conseil d'État* and thus escaped destruction with the archives of the *Conseil* in 1871. The Commissioin held the first meeting on March 27, 1843 and the last on June 2, 1843.

secular and religious curriculum stressing the teaching of the French language. On this occasion, Adolphe Crémieux told how he founded Jewish schools in Egypt during his 1840 visit there in connection with his intervention in the Damascus blood-accusation.[9]

The organization of consistories was planned by the Commission in such a way as to give to the advocates of emancipation the upper hand over the orthodox elements. The three representatives of the Central Consistory, assisted by Artaud and Janvier, asked for the establishment of three separate regional consistories for Algiers, Oran, and Constantine respectively, which were to be controlled by the Paris Central Consistory. They maintained that this would speed up the assimilation of the Algerian Jews. This example and influence, they felt, should come from France. Their suggestion was accepted by the Commission, although Cuvier, representing the point of view of the anti-Jewish military administration in Algeria, demanded the formation of local Algerian consistories dependent, not on Paris, but rather on a Central Consistory in Algiers.

Because of the lack of enlightened local Jews capable of influencing their communities, it was decided to appoint a small number of consistorial leaders. Half of these, including the president, were to be taken from among the French

9 "Mr. Crémieux développe le plan qu'il a suivi; dans l'organisation des écoles juives d'Egypte, qui avant celà étaient dans un état pareil à celui ou on voit aujourd'hui les écoles juives de l'Algérie. . . . Mr. Crémieux a fait disparaitre cette organisation vicieuse, en établissant une Commission l'Instruction Publique, en mettant à la tête de l'école des garçons un chef capable, assez versé dans la langue française, et israélite d'origine; à la tête de l'école des filles une chrétienne, femme instruite et distinguée. Au-dessus de cette Commission, il a placé l'autorité et l'inspection du Grand Rabbin et de deux Comités, l'un composé de 12 Juifs des plus notables du pays, l'autre des Consuls de divers pays et de quelques Français de distinction. Les professeurs juifs qui exerçaient antérieurement ont eté conservés pour enseigner l'hébreu. Les enfants pauvres ne payent pas la rétribution. Les enfants riches sont obligés de la payer et d'apporter en outre le déjeuner quotidien de leurs condisciples pauvres. Les écoles diverses ont été fondues en une seule pour les garçons et une seule pour les filles, et ces établissements aujourd'hui sont dans un état si florissant que les Catholiques ont demandé comme une faveur et obtenu d'y être admis. L'école française des Israélites d'Alexandrie compte aujourd'hui 300 eléves, celle du Caire 200 environ." From the Commission's minutes, April 3, 1843.

Jews living in Algeria, and the *Beth-din* was to be controlled by the French administration.

It seems that even at that time various circles advocated the granting of full French citizenship to the Jews. This was the idea underlying all projects aimed at the assimilation of the Algerian Jews and at the basis of many of the Commission's discussions. But Cuvier, from the first meeting of the Commission, fought against any decision that would allow the Algerian Jews to profit from French jurisdiction. He argued that they themselves had not made such a request; that they would accept French jurisdiction but not French civilization. Cuvier asserted that, in the eyes of the Algerian Jews, religious principles and civil jurisdiction were part of one indivisible principle, and it was too early to introduce to them principles of civil law, which were only then beginning to be understood even in European France. And he bolstered his case with examples from the report of Altaras and Cohen who, with their enlightened approach and firm opposition to orthodoxy, sharply and uncompromisingly attacked the rabbis, the *Beth-din,* and the religious schools. Cuvier did favor the granting of French citizenship to individual Algerian Jews who might deserve it, but—resorting to a well-worn argument—said that in France itself not all Jews were granted citizenship at once. However, the Jewish members of the Commission fought Cuvier's position. At the meeting of March 29, 1843, Anspach made a statement, which was very characteristic of the French Jewish leaders:

"Even in the spirit of those who brought us together there exists the possibility of a reform. Wheresoever France has laid her hand, she has transformed and succeeded. The small difficulties of details will be overcome. The Jews are not a nation; they are an assembly of individuals, without political links, united only in the Synagogue. In assimilating them we shall not come down to them—as it has been said— we shall lift them up to us. They will gain the respect of the local population when the Moslems see among them the French organization. It has been said that the Jews have not asked for assimilation. They desire it with all their hopes, and even if they have not asked for it, we should take up this problem. They do not know all our civil customs, they ignore the use of family names and instead call themselves son of . . . son of . . . [The Jews of France] were formerly in the same frame of mind in France and they willingly exposed themselves to the new

conditions. There will be no obstacle to a similar measure in Algeria . . . It has been said that in France the distinction between Jews and [other] citizens still exists in some provinces. It is true that some still prefer their religion to obligations under the French law; but they do give up without murmuring. The same principle could be applied to Algeria, because Jews are everywhere the same."

The other French members of the Commission approved Anspach's ideas. Janvier declared that the time had come for a full and fundamental reform and not for temporary measures. The majority of the Commission were for applying French jurisdiction to the Algerian Jews.

But already in his instructions to the Commission of February 17, 1843, the Minister of War had asserted that the Commission should not decide to grant full French citizenship to the Algerian Jews because the Arabs would dislike such a step and, besides, the Jews were not prepared for it, in any case. Consequently, the Jewish members of the Commission acted carefully, demanding only the assimilation of the Algerian Jews within the French sphere of jurisdiction.

It is worth while to note that, in connection with the Commission's activities, the Minister of Justice, in a letter to the Minister of War dated August 16, 1843, envisioned the establishment of Jewish consistories in other French colonies.

At first the Ministry of War was disposed to accept the Commission's project. In a letter of June 28, 1843, to the Minister of Justice, the Minister of War did not express any opposition to it. On February 19, 1844, the Commission's proposal for a statute for the Algerian Jews was examined by the *Conseil d'Etat*, France's highest juridical body. But on the same day the Legislative Commissions of the Army and the Navy decided to obtain first the opinion of the military administration in Algeria itself. This was a routine course of action whenever a measure concerning Algeria was being prepared, but it greatly complicated and dragged out matters. Finally, the Ministry of War categorically decided against the application of French jurisdiction in matters concerning the Algerian Jews even though this would not have

been tantamount to granting them French citizenship.

Algeria was administered by the military authorities, and no statute in favor of Algerian Jewry could have been adopted against their will. The military authorities of Algeria were strongly anti-Jewish, and the Governor of Algeria, Maréchal Bugeaud, was an open anti-Semite. On October 24, 1845, the Director-General of Algerian Civil Affairs Blondel wrote to Albert Cohn: "It is a pity to see a man of Maréchal Bugeaud's talent unwittingly carried away by miserable passions. . . . I cover my head with my coat in deploring the errors of a man who, in contradistinction to his excellent military abilities and his devotion to his counry, has so little understanding for governmental and administrative issues."[10]

On September 9, 1843, Bugeaud intervened at the Ministry against the prompt voting of a statute for the Algerian Jews. He wrote: "I found Oran much more beautiful since my last visit. Unfortunately, the largest part of its population consists of rapacious Jews who have become insolent because we emancipated them too soon." On November 30, 1843, he wrote again: "The insolence of the Jews who were emancipated too soon has given a new impetus to the discontent of the Moslems and it is no exaggeration to attribute the Moslems' aversion to this resentment. Would it then be wise now to sanction this state of affairs by legislative action resulting from too great tolerance? I do not think so. . . . They [the Jews] are still far away from human dignity." In Paris the Maréchal's protest was taken very seriously. On December 12, 1843, the Minister of War assured the Maréchal that the projected statute would not imply the emancipation of the Jews.[11]

The military Governor of Algeria also opposed granting to the Paris Central Consistory any right to check the activities of the Algerian consistories. He demanded that the Jewish problem of Algeria remain a purely colonial matter, for he was afraid that in the future French Jews might intervene

[10] AN, F[19]11143 (Report of July, 1845).
[11] *L'Univers israélite*, XX (1865), 535.

in favor of their Algerian co-religionists. His demand was granted.[12]

On November 9, 1845, an ordinance on the organization of the Algerian Jewish consistories was published. This document contained not even a trace of the Commission's original proposition to apply French jurisdiction to Algerian Jewish matters and to give the French Jews a certain amount of control over the Algerian consistories. In the spirit of the ordinance, the newly created consistories had only educational functions: establishing schools; seeing to it that the rabbis kept reminding the Jews that they should be faithful to France; reminding the Jews to abide by the moral principles of the decisions voted by the Sanhedrin and so on.

This ordinance represented a victory for the anti-Jewish elements within Algeria's military administration. The fight for Jewish emancipation had to continue. It was carried on by strengthening the anti-Orthodox elements in the Algerian consistories. Of course, this strategy pleased the French authorities. On May 26, 1846, the authorities of Algeria insisted that the Chief Rabbi of Algeria, the President and the majority of the consistorial leaders should be French Jews living in Algeria. On November 22, 1846, the Government acted in accordance with this request and appointed to the consistorial leadership of Algeria the Rabbi Michel A. Weill, Director of Algerian Jewish schools, the attorney Joseph Cohen, and the merchant Marx Gougenheim—all of them French Jews. The two other appointees were Dr. Messaoudo Miguères and Lazare Lévi Bram of the Chamber of Commerce, (both Algerian Jews).[13]

The Ordinance of November 9, 1845 became law a year later and the Algerian Consistory was officially installed on January 31, 1847. No one was satisfied with the results obtained, and there were many reasons for such dissatisfaction.

Algeria at that time, was suffering from severe eco-

12 AN, F[19]11143; Z. Szajkowski, *loc. cit.*, pp. 54, 64-65.
13 AN, F[19]11143.

nomic depression. After the occupation in 1830, the Algerian Jews took up many new occupations: They traded with Europeans; wealthy Jews became very active in the real-estate business, building many houses and helping greatly to develop Algiers and other cities. Poor Jews worked for the French. But the depression which began in real-estate and other business fields at the end of 1846 ruined many Jews economically and the newly established consistories had to sacrifice many important activities in order to help these Jews to survive the hard times. In 1849 the Consistory of Algiers had an income of 54,540 francs (including 45,000 francs from ritual slaughtering). Of this sum, 42,000 francs were spent in weekly assistance to the poor, 2,200 francs for additional Passover help, and 3,500 francs for the distribution of meat and clothing.[14]

The proponents of rapid civil and religious reform were dissatisfied with the consistorial activities, and the orthodox element was scandalized by the demands of the reformists, who were mostly French Jews. The consistories were kept in a state of agitation by the numerous conflicts between these two factions, by dissensions between the rabbis and the lay members, by a strong antagonism between the rich and the poor, and by a multitude of conflicts of a purely private character.[15]

[14] AN, $F^{19}11143$, $F^{80}1631$.

[15] Following are a few instances of such factional conflicts: During the consistorial elections of 1847 in Constantine, the Consistory stated that the candidate Messaoud Ghozlan understood well the French spirit and the value of assimilation, while his adversary, the cantor Jacob Simon Ben Amour, was an enemy of progress with little knowledge of the French language. The Constantine Director of Civil Affairs warned that Ghozlan's victory would stir up trouble; nevertheless, he was appointed "in order to avoid a majority of the strictly religious elements." On January 21, 1848, the orthodox Jews of Mostaganem protested against the appointment of Salom Sarfati to the city council becuse he was born in Morocco. The French authorities of Oran reported to the Governor that "the fight . . . against Sarfati is one of old ideas and old influences against the civilizing movement and the educated people." Abraham Benaim [Ben Haim] was a leader of the Oran Jewish Community from 1835 to 1845. In 1848 he was elected to the Consistory, but later on being rejected, he wrote to the Governor that he was already "a partisan of progress and civilization," while his opponent, Kanoui, "was sowing wheat on the cemetery," that "the salary of the rabbi's servant was paid by the community," and so forth (AN, $F^{80}1631$).

The Revolution of 1848, through the introduction of *universel suffrage,* strengthened the orthodox element in the consistories. Control over the Algerian consistories was transferred from the military authorities to the Ministry of Justice and Religious Affairs. Rabbi Weill of Algiers, in a report to the Ministry, wrote that the Revolution found followers among the fanatical orthodox and the "demoralized" youth, for whom the word "Revolution" was a synonym for rejection of all authority and order. Before the Revolution the Government had appointed the consistorial members from a number of whealthy Jewish notables, but the Revolution brought into consistorial activities representatives of various Jewish classes. In his report Rabbi Weill strongly attacked *le titre pompeux de suffrage universel.* And he asked that the right to vote be taken away from the large number of poor as well as from the "foreigners and adventurers," that is, the immigrant Jews from Tunisia and Morocco, who were orthodox.[16]

Rabbi Weill's report was followed by two similar reports from Constantine and Oran, and these three were used as the basis for a draft of a new ordinance, which was at once supported by the Paris Central Consistory. This project revived the 1841-1843 proposals to speed up the emancipation of the Algerian Jews by placing their consistories under the control of the Central Consistory and appointing a leadership with a majority of French Jews living in Algeria. On October 19, 1850, the Minister of War expressed his opposition to these revived proposals, but the matter was held under discussion for another few years. On May

[16] Among the leaders of the orthodox opposition was a Jewish immigrant from Poland called Rubenstein, who was often denounced by the reformed Jews. Rubenstein and another Polish Jew, Dolilietz [Dolicky], in 1850 sent petitions to the Government against Rabbi Weill. Among the Jews who then lived in Algeria was a group of Jewish participants in the Polish revolution against Russia, among them Abraham Rogozinsky and his son Abraham, Moïse Fraedlinger [Feitlinger], Gottlieb Kruger, Isidore Pratkowsky, and others (AN, $F^{80}607$, 608, 630, 1631; $F^{19}11144$).

4, 1856, Rabbi Weill and his reform followers again renewed their old proposals, now supplemented by a number of additional demands: replacement of the numerous small synagogues (over 25 in Algiers, 10 in Constantine, 17 in Oran) by a few large ones; reduction of the influence of the rabbis, and the like. On July 8, 1857, the orthodox majority of Algerian Jewry sent a petition to the Government denouncing the proposals of Rabbi Weill and his friends, but these were nevertheless supported by the Central Consistory and in an official Government project of 1858.[17]

A decree of August 29, 1862 placed the Algerian consistories under the supervision of the Central Consistory (Article XI), which also had to mediate between the Algerian Jews and the Government. A representative of the Algerian Jews, who had to be a resident of Paris, became a member of the Central Consistory.[18] This was a great victory for the reform elements, whose aspirations were furthered still more by a Decree issued September 16, 1867, which abolished the special Central Consistory of Algeria and placed the three regional consistories of Algiers, Constantine, and Oran under the direct control of Paris.[19]

All these discussions and conflicts had one major positive point: They helped to draw the Government's attention to the problems of Algerian Jewry. Indirectly they also influenced the opinion of the *Senatus-Consult* of July 14, 1865, which stated that Algerian Jews were Frenchmen who had the right to demand individual French citizenship. But only a few Jews took advantage of this prerogative.

[17] "Situation des Israélites en Algérie. Rapport général," by Rabbi Michel A. Weill (AN, $F^{19}11143$); AN, $F^{80}1631$; $F^{19}11144$; *Organisation du Culte israélite en Algérie,* Rapport au Conseil de Gouvernement par M. Bequet, Conseiller-Rapporteur (Alger, 1858), 16 pp.; *Ministère de l'Instruction et des Cultes. Epreuve. Culte israélite* [Paris, April 1857, Second project of the Decree], 18 pp.; *L'Univers israélite,* May, 1857; Jaques Cohen, *Les Israélites de l'Algérie et le Décret Crémieux* (Paris 1900), p. 88.

[18] Isaac Uhry, *Recueil des Lois . . . concernant les Israélites depuis* 1850 . . . 2me édition (Bordeaux, 1887), pp. 44-47.

[19] *Ibid.,* p. 63.

All the discussions and decisions in favor of the Jews would probably have remained only half-successful attempts in the fight for Jewish emancipation if the Decree of October 24, 1870 had not granted collective French citizenship to the Algerian Jews.

SOME LEGAL AND POLITICAL VIEWS OF JUDAH P. BENJAMIN

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THE views expressed and policies advocated by Judah P. Benjamin paralleled the geographic changes that accompanied his political and legal career. Never a doctrinaire, Benjamin adapted his views to the exigencies of the tasks before him. It happened that many of the causes he advocated were controversial, but in his hands they also became dramatic and inspiring. The cause did not have to be important to evoke his hyperbole. It might just as well have been a routine commercial dispute or a matter as far-reaching as the Dred Scot case, that would cause him to pour out, with forensic genius, all the learned opinions on the case and make it appear that the future of justice or the nation depended upon whether or not everyone agreed wih his views. Moving from New Orleans to Washington, Richmond, and London, the causes he supported changed, but never the zeal and fervor he brought to them. Roughly speaking, Benjamin's views may be said to fall into three stages: a) the comparatively liberal period as a member of the New Orleans bar; b) the period as the leading Southern orator and defender of slavery in the United States Senate; c) the period as a British barrister and student of pure law.[1]

Although best known as a politician and political orator, Benjamin's chief distinction lies in law. At the age of 23, he published, together with Thomas Slidell, the *Digest of the Reported Decisions of the Superior Court of the late Territory of Orleans and Supreme Court of the State of Louisiana.*[2] Based on 6,000 decisions, the *Digest* explained the

[1] For Benjamin's biographical data see P. Butler, *Judah P. Benjamin* (Philadelphia, 1906); R. H. Meade, *Judah P. Benjamin, Confederate Statesman* (New York, 1943).

[2] J. P. Benjamin and T. Slidell, *Digest of the Reported Decisions of the Superior Court of the Late Territory of Orleans and Supreme Court of the*

principles and pointed out their implications. The Louisiana decisions were grounded on the Spanish and French legal systems as well as the legislation passed after the cession of Lousiana to the United States. This early work gave Benjamin an intimate insight into both the Roman and Napoleonic codes and into the workings of international commercial law.

Some of his early legal cases, such as *McCargo vs. New Orleans Insurance Company*,[3] *Locket vs. Merchants Insurance Company*,[4] and the suits by the United States against the associates of Narcisco Lopez,[5] were of international significance and gave Benjamin a national reputation. They show that he defended progressive and unpopular opinions. Although one might argue that Benjamin was merely defending his clients, the vehemence and emotional appeal behind his arguments, which run counter to the then Southern views, indicate that he actually believed that justice was on his side.

The cases against the insurance companies involved a vessel which was carrying slaves from Norfolk, Virginia, to New Orleans. On February 17, 1826, the brig *Creole* carried 186 slaves. While en route, the slaves mutinied, killed one passenger, wounded one of the agents, and rerouted the ship to Nassau in the British Bahamas. There the authorities arrested the mutineers, but nearly all the others went ashore on British territory and became free. The slave owners sued the insurance companies for compensation and won in the lower courts of New Orleans. Benjamin was engaged to appeal some of the cases to the Louisiana Supreme Court.[6]

Benjamin, in his brief, disregarded the evidence in his favor. Instead, he examined exhaustively the wider implications of the case. Dealing briefly with technical arguments,

State of Louisiana (New Orleans, 1834). T. Slidell published a revised edition (New Orleans, 1840).

[3] 10 *Robinson's Louisiana Reports*, 202-339 (1845-1846).

[4] Brief for Defendants, MS. Howard Library, New Orelans.

[5] *New Orleans Delta*, Jan. 3, 10, 11, 14, and 23, 1851; Butler, *op. cit.*, pp. 179-183; Meade, *op. cit.*, pp. 66-67.

[6] 10 *Robinson's Louisiana Reports*, 202-205.

he contended that the risk never commenced, since the slaves were put on board in or near Richmond instead of Norfolk; that the insurers were discharged because the ship was unseaworthy and violated Federal shipping laws; that the change in destination following consummation of the mutiny was an unjustified deviation which destroyed all claims against the underwriters.[7]

But the main point upon which he built his case and upon which he dealt at length was that, since slavery was illegal under international law, the contract was void. The question here depended, he argued, on whether the slaves acquired their freedom by

> foreign interference, a risk assumed by the underwriter, or by the effect of the nations on the parties, against which no insurance was or would be made . . . The position that slavery is a contravention of the law of nature is established by the concurrent authorities of international law, and of adjudications of courts of justice from the era of Justinian to the present day . . . Slavery is against the law of nature; and although sanctioned by the law of nations, it is so sanctioned as a local or municipal institution, of binding force within the limits of the nation that chooses to establish it, and on the vessels of such nations on the high seas, but as having no force or binding effect beyond the jurisdiction of such nations.[8]

Benjamin's position here with regard to the status of slavery under international law is completely contrary to his arguments on the floor of the United States Senate in his debate with William H. Seward, Senator from New York,[9] and his legal defense of slavery during the Dred Scott controversy[10] which will be discussed later and which belong to a Benjamin entirely devoted to the defense of slavery.

Benjamin's progressive views on slavery were still more eloquent in his brief for the defendant in another *Creole* case, *Locket vs. Merchants Insurance Company.*[11] Referring to the cruel manner in which the slaves were crowded into

[7] *Ibid.*, pp. 260-268.

[8] Benjamin cited Thomas Cooper, *The Institutes of Justinian* (New York, 1841), p. 582, that "slavery is fixed by *juris gentium* by which one is subjected to another contrary to nature."

[9] *Congressional Globe,* 34th Cong., 1st Sess., pp. 1093-1094.

[10] *Ibid.*, 36th Cong., 1st Sess., pp. 1066-1088.

[11] *Locket vs. Merchants Insurance Company,* Brief for Defendant, Howard Library, New Orleans.

the brig, he asked, "Will this court be disposed to recognize one standard of humanity for the white man and another for the Negro?"[12] He attacked the assumption that the slaves were resigned to their lot. There could be no insurance of slaves because the slaves were anxious to be free and were not mere merchandise:

> What is a slave? [Benjamin asked.] He is a human being. He has feelings and passions and intellect. His heart is like the white man's, swells with love, burns with jealousy, aches with sorrow, pines under restraint and discomfort, boils with revenge and ever cherishes the desire for liberty. His passions and feelings in some cases may not be as fervid and as delicate as those of the white man, nor his intellect as acute; but passions and feeling he has, and in some respects they are more violent, and consequently more dangerous, from the very fact that his mind is comparatively weak, and unenlightened. Considering the character of the slave and the peculiar passions which, generated by nature, are strengthened and stimulated by his condition, he is prone to revolt in the very nature of things and ever ready to conquer his liberty when a probable chance presents itself.[13]

And since police measures had to be taken, Benjamin concluded, there could be no insurance of slaves. The Louisiana Supreme Court reversed the lower court's decision and ruled in favor of the defendants.[14]

In view of his later speeches on the floor of the Senate favoring the annexation of Cuba,[15] Benjamin's participation in the trial of the associates of Narcisco Lopez shows again that his views underwent a radical change as the years passed by. Lopez had organized an expedition to free Cuba from Spanish rule. Since public opinion in New Orleans favored the accused, the United States Government had not been able to obtain a conviction of those charged with violating the neutrality laws. The first case ended in a mistrial, the juries failing to agree.[16]

The United States District Attorney of New Orleans then engaged Benjamin to assist him in presenting the case

12 *Ibid.*

13 *Ibid.*; Meade, *op. cit.*, p. 62.

14 John Basset Moore, *A Digest of International Law* (Washington, D.C., 1906), II, 352; George Richard, *Law of Insurance* (Fourth ed., New York, 1932), p. 764.

15 *Congressional Globe*, 35th Cong., 2nd Sess., pp. 904 *et seq.*

16 *New Orleans Delta*, See note 5; *Butler, op. cit.*, pp. 179-182.

to the juries. Since the guilt of the accused was obvious, and since Benjamin felt the unpopularity of the indictment, he made an emotional appeal to the jury in favor of the neutrality laws and painted a glowing picture of the people under Spanish rule:

> What a blaze of indignation fired the whole nation a few days ago, when some British officers, provoked to madness by the aggressions of our own people, crossed over to our soil and burned a steamer within our territory. The blood mantled to every American cheek and every arm was raised to repel the insult offered to our sovereignty. And yet, in the face of such character, we are to listen day after day to verbal criticisms and metaphysical niceties of language to show that there has been no violation of law.[17]

But Benjamin's labors were in vain and, as the *New Orleans Delta* put it, "against the spirit of the age."[18] The jury once again failed to reach a decision.[19]

But perhaps better proof of Benjamin's early liberal views and a more revealing insight into his democratic philosophy may be found in a speech he made before the New Orleans Free Schools. Delivered on Washington's Birthday in 1845, the address was entitled "Education, the Foundation Stone of Republican Government."[20] Full of references to ancient and modern writers, the speech bears the mark of Benjamin's early, more flowery style. Cicero, Shakespeare, Montesquieu, as well as Washington, were quoted extensively to adorn the lofty style of the address.

Benjamin defined "the democratic system of government" as based "on the virtue of the people. . . . Virtue of the people means the love of our country and its laws."[21] In order that the people may love the country, they must have a fundamental understanding of the workings of the government.[22] Because each American participates in the rule of the country, an ignorant populace would be dangerous to a republican system of government. Referring to

17 *New Orleans Delta,* Jan. 24, 1851.
18 *Ibid.,* March 9, 1851.
19 *Cf.* Butler, *op. cit.,* p. 181; Meade, *op. cit.,* pp. 66-67.
20 Davis J. Brewer (ed.), *The World's Best Orations* (St. Louis, 1899), X, 99-110; Edwin A. Alderman (ed.), *Library of Southern Literature* (Atlanta, 1907), I, 308-315.
21 Alderman, *op. cit.* p. 312.
22 *Ibid.*

the then often heard argument that the people are incapable of ruling themselves, Benjamin asserted that the best answer would be that

> the whole mass of the people must be furnished with that degree of instruction which is required for enabling them to appreciate the advantages which flow from a judicious selection of their public servants. . . . . Nor is this [universal education] an utopian idea; if not easy of attainment the object is at least practicable with the means that a kind Providence has supplied for us.[23]

Free universal education should be offered to both boys and girls and should have as its object the emulation of Washington and the love of the country, Benjamin declared:

> What. then, are the means by which to kindle this love of country into a steady and enduring flame. . . .? Your Free Public Schools! Let the young girl be instructed in the history of her country; let her be taught the history of the wives and mothers of the Revolution; of that unfaltering love which lifted them high above the weakness of their sex; and the first lesson that a mother's love will instill into the breast of the infant on her knee will be devotion to the country. . . . Take the young boy of America and lead his mind back to the days of Washington. Teach him the story of the great man's life. . . . Let him contemplate the hero, the patriot, the sage. . . . Teach him to appreciate the less brilliant but most useful and solid triumphs of the statesman.[24]

Realizing the value of the sciences in education, Benjamin expressed ideas akin to the Emersonian New England reaction against obscurantism. He attacked the missionary movements and by implication the revival meetings that were being held in the South:

> The absence of primary education has caused that mind in great degree, to run riot, for want of proper direction. . . . Let this [education] be supplied, and instead of indulging in visionary schemes . . . instead of becoming the notary of a Mormon or a Miller, free man of America will seek other and nobler themes for the exercise of his intellect. . . . The boundless fields of the arts and sciences will be opened. . . . We shall cease morally as well as physically to be tributaries of the old world.[25]

Benjamin entered the United States Senate in 1853. His profound legal knowledge combined with great forensic ability soon made him a leader among Southern Senators.

As Allan Nevins points out:

[23] *Ibid.*, pp. 314-315.
[24] *Ibid.*, p. 313.
[25] *Ibid.*, p. 314.

By general consent the most brilliant Southern speaker was a man of alien birth and Jewish blood. . . . At first glance no man was less prepossessing. His short body, thick and ill-proportioned . . . spoke against him until he began to speak. Then his deeply musical voice, the grace of his delivery, his exquisite diction and the keen plausibility of his arguments produced an irresistible impression. As the bar, first of America and later of Britain, was to testify, he was an admirable advocate. The Senate gallery stirred with expectation when he rose, and sighed with regret when he sat down.[26]

Because the country was divided by a constitutional crisis, Benjamin's leadership was indispensable to the Southern cause. In reply to the Northern moral and ethical attack upon slavery, the South quoted constitutional and colonial law to support its legality. In retrospect the legal conflict may seem not to have been the basic one, but as the debate became more and more bitter, as the Dred Scott case was decided in the Supreme Court, the constitutional conflict appeared to be the more controversial. It was here that Benjamin's accumulated knowledge of law and legal history, his ability to present dramatically the Southern case in the Senate, added authority to the cause of slavery.

Benjamin's more important speeches dealt with the legal aspects of slavery. His first major encounter was with Charles Sumner, Senator from Massachusetts, one of the boldest and most scholarly members of the Senate,[27] over the constitutionality of the Fugitive Slave Law. Benjamin reviewed the provisions of the Constitution, which require that full faith and credit be given by each state to the public acts, records, and judicial proceedings of the other states; and that fugitive slaves escaping from one state into another "shall be delivered up on claim of the party to whom such service or labor may be due."[28] Benjamin asked Sumner whether he acknowledged any obligation for the return of fugitive slaves from free states to slave states.[29] In a quandary, Sumner asked Benjamin whether a free but colored citizen of Massachusetts could be seized in Louisiana and sold into slavery. Benjamin answered that he thought this

[26] Allan Nevins, *The Ordeal of the Union* (New York, 1950), III, 428.
[27] Mrs. J. Davis, *Jefferson Davis* (New York, 1881), I, 557-558.
[28] U. S. Constitution, Art. IV, sec. 2.
[29] *Congressional Globe*, 33rd Cong., 1st Sess., p. 1790.

was entirely unconstitutional. Sumner then said that he was very glad that Benjamin agreed it was unconstitutional and asked him to introduce a bill to carry out the constitutional provision to secure the rights of the colored citizens of the North in the South.

"This is a very extraordinary method of answering a question," Benjamin retorted. "I have heard of the Yankee method of answering one question by asking another. But this is answering one by asking two." (laughter)[30]

There was more to the debate than appeared on the surface. In the slave states color indicating African descent gave rise to the presumption that the person was a slave.[31] A colored citizen from the North, therefore, had to offer proof why he should not be treated as a slave. Because of the difficulty of offering positive proof, free Negroes were often sold into slavery if they happened to enter a slave state.

Sumner's query concerning the fate of the free Negro was legitimate because a colored citizen was not granted his constitutional rights in the South. But so was Benjamin's answer in regard to the free Negro in Louisiana. Louisiana differed from other Southern states in this respect. While in other slave states a colored person could be sold into slavery and the burden of proof to the contrary rested upon the Negro, in Louisiana the burden of proof lay on the person who claimed ownership of a slave.[32]

Benjamin had won the *Creole* cases, as described above, upon the argument that slavery was outlawed under the law of nations. But when now William Seward argued the same point, Benjamin called it heresy. He offered opinions by John Quincy Adams, who in his last years had been the leader of the anti-slavery forces,[33] and by Chief Justice Marshall to show that slavery was not outlawed by international law.[34]

He then said that he noticed that Seward was studying

30 *Ibid.*

31 William Mack (ed.), *Corpus Juris* (New York, 1914-1935), LVII, 747.

32 *Ibid.*, p. 748; *Miller vs. Belmonti*, 11 Robert 339.

33 W. C. Ford (ed.), *The Writings of John Quincy Adams* (New York, 1913-1917), VII, 416. Adams, however, attempted to declare the slave trade illegal under the law of nations.

34 Henry Wheaton, *History of the Law of Nations in Europe & America* (New York, 1845), p. 635.

the law of nations. Benjamin would, therefore, give him a little passage from Cooper's *Justinian*: "Slavery is where one man is subjected to the dominion of another according to the law of nations."[35]

MR. SEWARD: "Have you no more ancient authority?"

MR. BENJAMIN: "I give you the earliest and the latest."

MR. SEWARD: "I beg to correct the honorable Senator. He did not read the whole passage. He ought to be candid and read the whole sentence."

MR. BENJAMIN: "Slavery is where one man is subjected . . . though contrary to natural rights."

MR. SEWARD: "Though contrary to natural rights."

MR. BENJAMIN: "The proposition of the Senator from New York did not touch upon natural rights. He spoke of the law of natural rights."[36]

Thus the defense of slavery was legal rather than moral. According to the law of nations slavery was legal; but according to the laws of nature, the moral code which superseded civil law but was not binding, slavery was illegal.

Did Benjamin believe in the distinction between the two types of law—*jus civile, jus gentium,* and *jus naturale?* In *McCargo vs. New Orleans Insurance Company,* he argued that natural law is more binding than municipal law.[37] Now, when it did not suit his purposes, he reversed the argument. Later in 1860, Benjamin defended North Carolina's right to secession precisely upon the principle of natural rights.[38] It is hard to reconcile these views, but a rationale could be found in Benjamin's often repeated argument that slavery was prerequisite to law and order. The North and the Western world, the argument ran, prohibited slavery because it had only a handful of Negroes.[39] But were the South to free its slaves, the fate of the whites in Haiti and Santo Domingo awaited them. Slavery was legal because it was permitted by the law of nations; it was moral because it was indispensable for the continuity of law and order.[40]

On March 6, 1857, the Supreme Court made known its

35 T. Cooper, *The Institutes of Justinian* (New York, 1841), p. 582.

36 *Congressional Globe,* 34th Cong., 1st Sess., p. 1094.

37 10 *Robinson's Louisiana Reports,* 202-339.

38 *Congressional Globe,* 36th Cong., 2nd Sess., pp. 212-218.

39 In 1861 Louisiana's total population was 709,290, of which 357,642 were white, 333,010 slaves, and 18,638 free Negroes. *Appleton's Annual Encyclopedia* (New York, 1861).

40 *Congressional Globe,* 35th Cong., 1st Sess., pp. 1093-6.

decision in the case of *Dred Scott vs. Sandford*.[41] This pro-slavery decision was even more favorable to the Southern point of view than anything Benjamin had ever advocated. Benjamin had never held that slavery could not be prohibited by legislation, as the majority of the Court decided.[42] Nor was the position of Chief Justice Taney that the Negro was ineligible for citizenship ever maintained by Benjamin. He had admitted that free Negro citizens had the same rights as white.[43] He had argued for the strict observance of the Missouri Compromise, but the *Dred Scott* decision made it unconstitutional.[44]

There were, however, parts in the Supreme Court decision that vindicated Benjamin. He had argued in the Senate that slaves were property and that the Federal Government must protect slave property.[45] James G. Blaine asserted that Benjamin was the author of this doctrine.[46] In regard to whether or not slavery was permitted under the law of nations, the Supreme Court said that slaves were property under the Constitution, and international jurisprudence relating to this point was irrelevant. Benjamin had claimed that slavery was legal under the law of nations though contrary to natural rights.

The controversy that arose after the Supreme Court decision caused Benjamin to prepare an address in which he reviewed the historical background of slavery.[47] Delivered on March 11, 1858, the speech was published in pamphlet form under the title "Slavery Protected by the Common Law of the New World, Guaranteed by the Constitution. Vindication of the Supreme Court Decision."[48] In this thorough though partisan study of the subject, Benjamin attempted to prove that slavery was permitted under common law. Historians generally agree that American slavery

41 19 Howard 393 (1859).
42 *Congressional Globe*, 34th Cong., 1st Sess., pp. 1090-1094.
43 *Ibid.*, 19 Howard 489.
44 *Congressional Globe*, pp. 1090-1094.
45 *Ibid.*
46 J. G. Blaine, *Twenty Years in Congress* (Norwich, Conn., 1884-1886), I, 160.
47 *Congressional Globe*, 35th Cong., 1st Sess., pp. 1066-1068.
48 Washington, 1858.

was derived from Roman law rather than from common law.[49] Benjamin, however, cited King George II to the effect that "the slave trade [was] very advantageous to Great Britain . . . and necessary for supplying the plantations and colonies thereunto belonging with sufficient numbers of Negroes at reasonable rates."[50] South Carolina had passed a law in the year 1760 prohibiting the importation of slaves and was reprimanded by the Crown.[51] Lord Mansfield's decision of 1773 that "there is no law in England affording the master control over his slave,"[52] subverted the common law by judicial legislation. In support of this contention, Benjamin cited Lord Stowell that slavery was permitted in the colonies[53] and that villenage was a kind of slavery. Slavery was permitted in France until 1789 and continued to be practiced in the French colonies for some time afterward. Recent Spanish literature, he said, employed slaves in the romances. And finally, the fact that the Northern states had to pass legislation to free the Negroes proved that slavery was natural and had to be outlawed.[54]

These arguments, of course, did not convince anyone except those who had already been convinced. The same could be said of Benjamin's last two speeches in the Senate. The first of these was a defense of the right to secede. South Carolina had withdrawn from the Union on December 20, 1860, and Benjamin spoke on the 31st.[55] In the first part of his speech he sought to prove that any state possessed a constitutional right to withdraw from the Union. He quoted Daniel Webster[56] and James Madison[57] to establish that

> the right of the people of one generation, in convention duly assembled, to alter the institutions bequeathed by their fathers is inherent . . . by the same power under which one legislature can repeal the acts of a former legislature, so can one convention of the people, duly assembled,

[49] *Corpus Juris,* LVII, 646; T. Cooley, *A Treatise of Constitutional Limitations* (6th ed., Boston, 1890), p. 360.
[50] 23rd Act 1749, George II.
[51] *Congressional Globe,* 35th Cong., 1st Sess., p. 1066.
[52] *Ibid.*
[53] 2 *Haggard Reports* 126.
[54] *Congressional Globe,* 35th Cong., 1st Sess., p. 1067.
[55] *Ibid.,* 36th Cong., 2nd Sess., pp. 212-218.
[56] *The Works of Daniel Webster* (Boston, 1851), VI 221-229.
[57] *Elliot's Debates* (Washington, 1836), II, 233.

repeal the acts of a former convention duly assembled. South Carolina in a convention repealed the ordinance of 1788.[58]

But how can one state dissolve a compact without the consent of the other signers? The compact was violated by the other states and therefore not binding. It was as if, Benjamin argued, a law could be passed giving only one Senator to South Carolina. Would not South Carolina then have the right to secede? Now that property, slaves, were being stolen, she had the same right.[59]

The second part of Benjamin's argument was based on the contention that, even assuming that South Carolina had no constitutional right to secede, she still had a right to revolt under the law of nature. The Declaration of Independence was quoted as an authority. The remaining states had a choice either to let her depart in peace or to declare war. In the latter case, it would be a civil war and not a rebellion. Emer de Vattell's *Law of Nations* was quoted to prove that the other states would have to recognize South Carolina as an independent state until she was defeated on the battlefield.[60] The citizens of South Carolina had a choice either to follow the laws of the Union or the laws of their independent state. They chose the latter, and no treason could be committed by citizens who obeyed their state laws.[61]

Benjamin's final speech in the Senate was his farewell address delivered on February 4, 1861. Louisiana had seceded from the Union on January 26. Benjamin disputed the argument that Louisiana had no right to secede because she had been acquired by purchase. The Federal Government, he said, had been reimbursed a "hundred-fold" for the purchase price of the territory of Louisiana by the sale of public lands. But the Government, he claimed, had not discharged its obligations in regard to the sovereignty of the people. Using circular reasoning, Benjamin argued that the denial of the right of secession was in itself the major cause of secession.

58 *Congressional Globe*, 36th Cong., 2nd Sess., p. 213.

59 *Ibid.*, pp. 213-214.

60 E. de Vattell, *Le Droit de Gens* (London, 1758; photographic reproduction, Washington, 1916), p. 424.

61 *Congressional Globe*, 36th Cong., 2nd Sess., p. 216.

History will glorify, he concluded, the patriotic Southern Senators who had the courage to secede.[62]

Thus ended Benjamin's career in Washington. Because he liked politics and the political game, he refused to leave the Senate or to give up private law practice when twice he was offered high positions. During the late winter of 1852-1853, Millard Fillmore nominated him to be a Justice of the Supreme Court.[63] Again in August, 1858, President Buchanan offered him the Ministry to Spain.[64] In both instances he declined. Benjamin liked law even more than he liked politics. His virtues as a Senator stemmed from his legal genius rather than from his political insight. As a politician he lacked independent judgment and was the mouthpiece of John Slidell, the senior Senator from Louisiana. His views, once cosmopolitan and liberal, now assumed more and more the narrow class consciousness of the Southern ruling class.[65]

Having served as Secretary of War, Attorney General, and Secretary of State in the Confederate Cabinet, Benjamin escaped to England at the end of the Civil War. In 1866 he entered Lincoln Inn to prepare himself for the bar, and soon he became a British barrister. In the United States Benjamin had been too much preoccupied with politics to be able to devote his time to pure law. But now that he had retired from politics, he busied himself writing and rewriting a work which required unusual technical legal knowledge. In 1868 it was published: *Treatise on the Law of Sale of Personal Property; with special Reference to the American Decisions and the French Code and Civil Law.*[66] Commonly known as *Benjamin on Sales,* the book went through three English and four American editions before the author's death. After his death the work saw four more English and three more American editions. The latest English edition appeared as recently as 1931.[67]

62 *Ibid.,* pp. 721-722.

63 *Charles Warren, Supreme Court in U. S. History* (Boston, 1922), II, 516-519.

64 *Buchanan Papers,* MSS, Library of Congress.

65 *Cf.* Roger W. Shugg, *Origin of Class Struggle in Louisiana* (Baton Rouge, La., 1939), pp. 1-156.

66 (London, 1865), p. 772.

67 *Library of Congress Catalogue* XII, 400-401.

The author, the preface to the first edition explained, followed *Blackburn on Sales.*[68] "An effort," he added modestly, "was made to afford some compensation for the imperfections of the attempt by reference to American Decisions and to authorities of civil law not elsewhere accessible." Actually, however, he followed Blackburn only in the topical treatment of the subject matter. Benjamin's work is much wider in scope. Its principles are as applicable to other branches of law as to sales. Fraud, illegality, breach of contract, public policy, and other factors have important bearing on the entire judicial system. The study, moreover, by discussing American decisions and pointing out the main features of the civil law and the French code, offers an insight into comparative law.

Benjamin defines sale under the common law as "a transfer of . . . property in a thing for a price in money."[69] He was dissatisfied with the usual definition of sale as "a bargain and sale of goods" because it would include barter and it would not require price. Barter and gifts are not sales. Thus there could be no contract of sale without the following elements: a) parties competent to contract; b) mutual assent; c) ownership of property; d) a price in money paid or promised.[70]

There is a basic difference between a sale by common law and a sale by civil law: the former recognizes a sale only by an owner or his lawful representative, while under the latter a sale is merely a transfer of possession but not necessarily of ownership. Thus by common law a person, however innocent, who acquires property not from the owner and sells it to another, gains no title whatsoever; the owner may take back his property. But under civil law, property passes by virtue of possession; the actual owner may merely sue for indemnification.[71] French law, followed among the Latin peoples, some Central European countries, and in South America, is confusing on this point. Article

[68] Colin Blackburn, *A Treatise of the Effect of Contract of Sale; on the Legal Right of Property and Wares and Merchandise* (London, 1845).

[69] Benjamin, *op. cit.*, (4th ed., Boston, 1884), p. 1.

[70] *Ibid.*, p. 2.

[71] *Ibid.*, p. 8, 442.

1599 of the French Code reads: "The sale of someone else's property is void."[72] This statement would indicate that the French Code rejected the Roman principle of sale. But unfortunately, Article 1592, instead of defining a sale to be a transfer of ownership, says: "La vente est une convention par laquelle l'un s'oblige à livrer une chose et l'autre à la payer."[73] Benjamin was of the opinion that French law followed common law and that the other articles indicating the contrary had to be reinterpreted.[74] Slavery having been abolished in the Western World by the time the book was published, there was no need to discuss the sale of a slave. Yet one wonders, how the sale of a slave was ever consummated according to common law. As most of the slaves were kidnapped in Africa, there was no legal ownership under Benjamin's definition of property. The fact that the Negro passed from hand to hand did not make the possessor an owner if the property was acquired by abduction any more than it did a horse that had been originally stolen. Here, it seems, is additional evidence that American slavery had as its legal basis the civil law and not, as Benjamin had argued, the common law.

Although the main purpose of the work was to offer the decisions rendered by the courts and the statutes on sales, the author nevertheless expressed his own opinion and sometimes argued against recognized authorities. Thus he disputed Robert Pothier's opinion that under civil law an order to purchase something could be withdrawn if another letter was sent withdrawing the order before the first letter was received by the other party. But according to Pothier, any expense incurred after receipt of the first letter must be borne by the one who gave the order.[75]

"It is impossible," Benjamin said, "to read the reasoning of the eminent judge without feeling that it fails to meet the difficulties of the case." Pothier placed the purchaser under obligation while insisting that there was no purchase;

[72] *Ibid.*, p. 441.
[73] *Ibid.*, p. 442.
[74] *Ibid.*
[75] Robert Pothier, *Oeuvres de Pothier* (Paris, 1843), III, 32; Benjamin, *op. cit.*, pp. 94-95.

the purchaser suffered losses without any possibility of making a profit.[76]

Benjamin also forcefully expressed his dissatisfaction with certain common law practices which tended to restrain trade. He pointed out, for example, that certain contracts are prohibited by common law as being against public policy. Most of these were not within the scope of his work, such as contracts in restraint of marriage.[77] But others, such as forestalling, the buying of all merchandise coming into the market, or dissuading persons from bringing their goods there or persuading them to enhance the price, were prohibited as being contrary to public policy. "It is impossible not to be impressed," Benjamin said, "with the words of Lord Campbell in *Hilton vs. Eckersley*: 'I enter upon such considerations [of public policy] with much reluctance and great apprehension when I think how different generations of judges, and different judges of the same generation, have differed in opinion on questions of political economy.' "[77] And Benjamin greeted with favor "the radical change of public opinion" towards limiting the application of public policy. Speculation, he felt, was part of genuine commercial activity.[78]

From an American point of view, this work made better known to the British legal world the Supreme Court decisions and the various state statutes and common law rules. As edition followed edition, more and more of American law was incorporated and more uniformity in legal procedure among the Anglo-Saxon people was thereby created. More than a half the revisions in the second edition concerned American decisions.[79]

But perhaps the most salutory effect of this learned book was that it accelerated the enactment of statutes eliminating certain inequities in the common law. Benjamin called the common law rule that a woman may not enter into a

[76] Benjamin, *op. cit.*, pp. 95-96.

[77] Hilton vs. Eckersley, 6 E & B 47; Benjamin, *op. cit.*, p. 590.

[78] Benjamin, *op. cit.*, pp. 590-591. Freedom of contract was actually guaranteed by the statutes, 7 & 8 Victoria, c. 24.

[79] *Ibid.* (2nd Eng. ed., London, 1873).

contract during her coverture a "very rigid rule."[80] By the acts of 1872 and 1874 the common law rules regarding married women were repealed.[81] Under the two enactments a wife deserted by her husband might enter into contract. Women's rights were further extended in 1882 so that a married woman might acquire personal property, earn money, and have her own separate accounts.[82]

An anecdote, reported in the British press, summed up the great contribution of the volume. One morning soon after the publication of the book, Baron Samuel Martin took his seat on the bench and asked the chief clerk to have Benjamin's volume handed to him:

"Never heard of it, my Lord!" answered the clerk.
"Never heard of it!" ejaculated Sir Martin. "Mind that I never take a seat here again without that book by my side."[83]

From a Jewish point of view, it is deplorable that though a genius in Western jurisprudence, Benjamin was ignorant of the legal tradition of his own people. Many Jews have achieved fame as practitioners of medicine, the sciences, and the professions. But the study of philosophy, mathematics, medicine, and other sciences was, up to the modern times, merely an adornment, while they devoted their very lives to the study of the law. Like other great legal scholars of Jewish ancestry since the nineteenth century, Benjamin lacked the knowledge of the talmudic and rabbinic legal literature so that one cannot trace any peculiar Jewish idea in his legal writing or practice. It is otiose, therefore, to speculate what effect the law of sales and contracts in the *Yad ha-Hazakah* and *Hoshen Mishpat* would have had on *Benjamin on Sales*. But wittingly or unwittingly, Benjamin's great contribution to the jurisprudence of America and England was certainly in the tradition of the *Halakah*.[84] It was that kind of scholarship which combined learning with

[80] *Ibid.*, p. 43.
[81] 20 & 21 Victoria, c. 85; Benjamin, *op. cit.*, pp. 44-45.
[82] 45 & 46 Victoria, c. 75; Benjamin, *op. cit.* (4th ed.), pp. 47-48.
[83] *The Daily Telegraph* (London, Feb. 10, 1883); Butler, *op. cit.*, p. 393.
[84] *Cf.* Guido Kisch, *Historia Judaica*, I (1939), 127-130; XVI (1954), 134; Helen Silving, *American Journal of Comparative Law* (April, 1955), *pp.* 292-297. Both discuss the relationship between the Jewish legal tradition and the legal scholarship of Jews in Germany.

practice, detailed analysis with general principles, current practices with historical precedents, and respect for authority with forceful dissent that made *Benjamin on Sales* a classic in legal literature. But most of all, it was patience like that of a talmudic scholar which enabled him, in his advanced years, to fulfill in a strange country his life-time love for the advancement of legal learning.

Benjamin's treatise revealed his real genius. His ability to present the most technical and subtle legal points in a clear and precise manner disclosed a great master not only of law but also of the English language. His reputation as an orator is well deserved. But his speeches were sometimes too flowery and involved to suit the modern taste. *Benjamin on Sales,* however, is a work that can be understood and appreciated not only by lawyers but also by laymen who want to gain a conception of the comparative meaning of property and its transfer under common and civil law.

SOME SERMONS IN THE SPIRIT OF THE PITTSBURGH PLATFORM

By STUART E. ROSENBERG
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DAVID EINHORN expressed the aim of the first generation of American Reform rabbis as the freeing of the Jew from his "outmoded religious attitudes and practices."[1] This was as much effect as it was cause. Just as the rabbinate itself became a new institution in response to the American environment, so the ideologies developed by these American reformers were the slow product of their reaction to their time and place.

Three major areas of reconciliation confronted Jews and Judaism in late nineteenth-century America. The first concerned the problem of living within a western democratic society with its new privileges and responsibilities. Closely related to this problem were the issues raised by the Christian nature of this society which prevailed in spite of the secular character of democratic guarantees. Indeed, this presented something of an enigma and necessarily produced ambivalent responses. These were, in the main, the two significant ideological battlefronts on which the early reformers were engaged. To be sure, the evolutionary hypothesis had been discussed both in Europe and America long before Darwin's *Origin of Species*. But it was not until Darwin's first book appeared that the controversy over evolution reached heightened fury. When, in 1871, his *Descent of Man* was published, the issue became even more pointed, and theologians in particular were heatedly involved in the debates that ensued. Thus the Jewish reformers of the 1880's and 1890's were drawn into still a third area of reconciliation. It was their task—much more so than those who had preceded them—to adjust Jewish theology to the accept-

[1] Quoted in Bernhard N. Cohn, "Early German Preaching in America," *Historia Judaica*, XV (1953), 97.

ed scientific theories of their day, theories which to some religionists were patently subversive of traditional religious thought and practice.[2]

Theirs was an age of rational religion and irreligion. In November, 1885, there was convened in Pittsburgh a conference called by Dr. Kaufman Kohler. The conference drew up an expression of Reform principles which sought to establish a basic formulation of "theology," a guide to the fledgling movement. Yet, of the eight points of the platform, only one dealt with a purely theological problem.[3] The others, in one way or another, treated the areas of reconciliation mentioned above. The primary concerns of the Platform are reflected in these statements:

The Platform declared that "Judaism presents the highest conception of the God-idea"; it spoke of the "consecration of the Jewish people to its mission as the priest of the one God" and claimed "that the modern discoveries of scientific researches in the domain of nature and history are not antagonistic to the doctrines of Judaism." Its intention was to "mainain only such ceremonies as elevate and sanctify our lives, but reject all such as are not adapted to the views and habits of modern [Western?] civilization." Judaism was a "progressive religion, ever striving to be in accord with the postulates of reason." Since Christianity and Islam were "daughter religions of Judaism" the "Platform" expressed appreciation of "their providential mission to aid in the spreading of monotheistic and moral truth." "We acknowledge," the Platform framers added, "that the spirit of broad humanity of our age is our ally in the fulfillment of our mission, and therefore we extend the hand of fellowship to all who operate with us in the establishment of the reign of truth and righteousness among men.[4]

[2] For an interesting analysis of this question see Joseph L. Blau, "An American-Jewish View of the Evolution Controversy," *Hebrew Union College Annual,* XX (1947), 617-634.

[3] Point number 7: "We reassert the doctrine of Judaism that the soul is immortal, grounding this belief on the divine nature of the human spirit, which forever finds bliss in righteousness and misery in wickedness. We reject as ideas not rooted in Judaism, the beliefs both in bodily resurrection and in Gehenna and Eden (Hell and Paradise) as abodes for everlasting punishment and reward."

[4] From the declaration of principles announced in Pittsburgh in 1885.

While the Platform was an extremely useful instrument, it obviously had no binding character. It did, however, mark a path and indicate a direction. It presented, as it were, a focus for the rabbis, a blueprint for the teaching and preaching of Reform. [4a] In what way did the pulpit reflect these pronouncements? And in what ways did some of the rabbis modify or extend its viewpoint in the years immediately following its promulgation? Here we shall discuss some sermons preached by a number of these rabbis as they bear upon these significant areas of thought.[4b]

Dr. Joseph Krauskopf, who in 1883 was among the first four graduates of the Hebrew Union College, expressed most sharply the desire of the new American rabbi to emancipate Judaism from its outlandish, oriental characteristics in order to fit it into the western American environment. He called upon his listeners to

> observe what little progress the Israelite has made in his religious unfolding since he started upon his westward journey. His heart and mind, when at service, are still in the Orient. He still builds his synagogue in the Oriental style of architecture, and its Holy of Holies he places in the East, in imitation of the heathen temples consecrated to the Sun, and towards that side he turns his face in prayer, in the belief that from that quarter God will turn a readier ear to his supplications. He still prays in the language of the East, even though he may not understand a word he says. Though far away from the Oriental climes and environments, he still repeats prayers that had a meaning there, but are out of place here, prayers concerning sacrifices, which he no longer brings, concerning the kind of oil to be used for his Sabbath lamp, neither of which are any longer used by him. He prays for an abundance of rain at a time when a little less than we usually get at that season would not come amiss. He prays for a speedy return to the Orient, without really meaning a word of it.[4c]

See David Philipson, *The Reform Movement in Judaism* (New York, 1907), pp. 491-492.

[4a] Philipson called the Pittsburgh Platform "the most succinct expression of theology of the Reform movement that had ever been published to the world . . . it still stands as the utterance most expressive of the teachings of reformed Judaism." Philipson, *op. cit., pp.* 491-492.

[4b] The sermons which are used as source material appeared in the columns of the *Jewish Tidings*, published in Rochester, New York, from 1888 until 1893. On the *Jewish Tidings* see Stuart E. Rosenberg, "Notes on the Political Attitudes of the *Jewish Tidings*," *Jewish Social Studies, XVII* (1955), 323-328.

[4c] *Jewish Tidings*, October 31, 1890, p. 2. For biographical details of Krauskopf see the literature cited by Blau, *loc. cit.*, p. 620, n. 10.

Rabbi Krauskopf was critical not only of the Orthodox whose "Oriental" ways he felt were out of keeping with American life, but of some of the customs which were still observed in the Reform synagogue. He contended that the progressive congregations were not as yet sufficiently Westernized:

> Are we so very sure that we ourselves have kept pace with the westward strides of civilization, that we have completely emancipated ourselves from all obsolete and obstructive orientalism? Does not the objection raised against the use of antique hand-written parchment-scroll, instead of the simple modern book of print, apply to us? Does not the objection against the use of Hebrew, of a language unintelligible to almost all the worshippers, apply to us? Do you not still force your poor children in your Sabbath schools to study this language of the East, though you know that they will not learn it, that, for the little time they can devote to it, they cannot learn it?[5]

Indeed, he went still a step further. He sought to free the Jewish congregation in America from all traces of foreign influence. He asked why it was necessary to add "yet another foreign language . . . the German, which, however necessary it may have been for our German-born grandparents and parents, has ceased to be with us?" He was willing to sanction "a little Hebrew" in the service, "in deference to the position it once held as the Holy Language, and as a memento." But why German, he asked? "Has it any greater merit before God than the language of our own blessed country?" "Why conduct all our Saturday and holiday services in that tongue, and preach a sermon in it every other Saturday?" Krauskopf was, as an American-trained rabbi, urging the complete Americanization of the Jew, even with respect to the conduct of his religious services. In Boston, Dr. Solomon Schindler was telling his congregation much the same thing. Superstitions of eastern origin, he said, had to be discarded. The concept of "standing nearer to God than any other people" was likewise to be eliminated from the Jewish outlook as part of an irrelevant inheritance from ancient Palestine. "Judaism," he declared,"has burst through its oriental garments," just as Christianity was "throwing out more and

[5] *Jewish Tidings,* October 31, 1890, p. 2.

more of the ballast with which paganism had loaded it."[6]

The "mission theory" as a rationale for Jewish survival in the Diaspora, a concept which was developed and heightened by the Jewish anti-nationalists of Western Europe, became an important and useful doctrine for the American Reform rabbis.[7] It offered them a twin platform: They could, with one basic approach, negate Jewish nationalism as the motivation for Jewish life while defending the need for integration into the American context in all matters save religion. If Jews were to remain a community apart from the majority, it was only for religious and theological purposes.

Here in America the mission idea was given even further significance. It became, as it were, a theological support for the extension of the political concept of democracy. While in other lands it had been the habit of each religious group to claim that only its way was the right way, that none who held another creed could be saved, the feeling of the American Reform rabbi was that "in our time and especially in our country such views are being rapidly outgrown . . . for independent thinkers uniformity is impossible."[8] The Rabbi of New York's Temple Emanu-el, Dr. Joseph Silverman, went even further. For him the "millenium was not far off." "Better days are coming," he said. "Men come in personal contact with one another in business, pleasure, society, lodges, clubs, hotels; they meet in schools and academies and charities, on the forum, in the assembly halls, in the press, stand side by side in a thousand various walks of life and recognize that they are all alike. They throw off their theologies, and religion, pure and simple, makes them one. Catholics, Prot-

[6] *Jewish Tidings,* December 19, 1890.

[7] For an analysis of the anti-nationalistic and "assimilationists" overtones of the "mission" concept see *Ahad Ha-'Am's* essay, "Slavery in Freedom," in *Kol Kitve Ahad Ha-'Am* (Hebrew), (Jerusalem, 5713,[1952-3]), pp. 64-69, or in English translation in Ahad-Ha-'Am, *Selected Essays,* by Leon Simon (Philadelphia, 1936), pp. 171-194. For a discussion of the "mission of Israel" from the Reformist point of view see Kaufman Kohler, *Jewish Theology* (Cincinnati, 1943), Pt. III. For a critique of the views there set forth see Mordecai M. Kaplan, *Judaism As a Civilization* (New York, 1935), pp. 93-99; 112-121; 253-263.

[8] From a sermon by Dr. Max Landsberg of Rochester, N. Y., appearing in *Jewish Tidings,* December 6, 1889.

estants and Jews commence to recognize one another as men and brothers, women and sisters, children of 'Our Father' in heaven."[9]

The mission of the Jews seemed very clear to these rabbis. It could never be performed while Jews lived together in "one small territory." Dr. Max Landsberg defined the concept in these terms:

Every Jew who understands the mission of his people strives after the ideal to be a Messiah, or—what is the same—a Christ, in his generation, to lead a godlike life, to become as nearly perfect in virtue and in justice and love as mortal man can be, to respect every man's creed as long as he is sincere in his belief, and only to judge men by their actions—in a word, to be holy as God, our heavenly Father, is holy. In this sense Israel has been a missionary to humanity and wrought wonders greater than any reported in the sacred writings; it has opened the eyes and ears of the nations, it has made the blind to see and the deaf to hear, and has been one of the most powerful factors in the promotion of civilization.

This great task it could accomplish by being scattered among all nations; it can continue to accomplish it by forever remaining scattered among mankind. If gathered in a corner of Asia, returned to the place where their cradle stood, the Jews might continue to make progress among themselves; but even this would be extremely doubtful. The most heterogeneous elements would be forced together, the same mixture as if as many Christians were collected from all ends of the earth from all nationalities, and were compelled to become a nation by themselves. The most natural consequence would be degradation. They would exercise probably as little influence upon the world's progress and civilization as do to-day the Greeks, the Roumanians or Bulgarians. Their mission is and remains to be, as Jesus himself said to them, 'the salt of the earth,' scattered everywhere in numbers, small in proportion to the nation in whose midst they live, but to salt the whole people with a liberal spirit, by teaching through their example an idealistic conception of life, self-sacrificing love and charity and, above all, justice, thus to further the day on which they hope to see realized their messianic expectations, when "God's kingdom will come, when the worship of His majesty and obedience to His will shall unite all His children in one common bond of brotherhood and peace, when vice will disappear and wickedness vanish like smoke, when the reign of iniquity will be crushed on earth," and all men will recognize God as the universal father.[10]

[9] *Jewish Tidings*, May 11, 1888. For biographical data on Rabbi Silverman and the rabbis mentioned hereafter see "Biographical Sketches of Rabbis and Cantors Officiating in the United States," *The American Jewish Year Book, 5664* (Philadelphia, 1903), pp. 40-108; also *Universal Jewish Encyclopedia*.

[10] *Jewish Tidings*, March 2, 1888.

Indeed, one rabbi believed that the mission of the Jews should be translated into specific practical reality and institutionalized. Dr. Israel Aaron of Buffalo, New York, did not "sympathize with the foreign mission work of Christian churches. We do not believe that we are called upon to aggrandize our number in this way." However, he felt that the synagogue could learn from the church how to carry out its work among Jews themselves through an "adjunct mission." Its task would be to teach the principles of Reform Judaism and the glories of America. He believed that there was no reason why large congregations should not be able to carry out such a program.

If we believe the principles of reform Judaism do not abolish one iota of Judaism, but rather strengthen it, we should have the courage to carry our convictions into doing something toward making our conception of reform Judaism general among all Jews. There are a great many of our co-religionists who are quite sure that we are engaged in destroying Judaism, and who look upon reformers with disfavor. Is it not time that we begin to eradicate this? And what more efficacious agent can we have than a permanent place devoted to an intelligent, practical exposition of the purposes of Judaism, as we understand it? The practical side of Judaism has been confined hitherto to the giving of pecuniary help. Charity in Israel has been magnificent, but it has gone no further than physical needs. Should we not begin to do something for the spiritual needs of the people, who look to us for help?

There are hundreds of children growing up about us religiously trained in a way which includes no adequate idea of Judaism, who will one day emerge from the circumstances which now environ them, and, in this land where there is no ghetto to perpetuate old ways, they will be in great danger of estrangement from all religion. It is a well-known fact that almost all apostasy from Judaism and conversion to Christianity have come from Jews trained in this way. And almost all aggressive revilers of religion, anarchists, nihilists, etc., with Jewish blood in their veins, have emanated from the same kind of people. Why? Because they do not know their own religion essentially. . . .

. . . We should endeavor to reduce the possibility of such results in America. Our brethren with the taint of Russian civilization upon them demand a certain amount of earnest attention. They are destined for Judaism and for Americanism. We should teach them to find their way into American life and civilization correctly; not to sacrifice one for the other, but to cherish religion and love of country as harmonious spiritual possessions. . . . The good name of Judaism demands that we do not leave them entirely in the hands of strangers and exposed to the

thousand pitfalls which infest the part of the city in which they perforce must dwell.

Let us have some missions, conceived for purposes, and conducted in a spirit, worthy of the end of the nineteenth, and the beginning of the twentieth century. . . . Shall we have much longer to wait till our men of wealth, who are imbued with the sympathy and kindliness which has ever characterized the Jewish sect, shall see the wisdom and beauty of this high and more enduring philanthropy? Modern conditions require modern methods for the old, old, faith. Lay the foundations of your missions! They will be the branches which finally will converge and join the broader stream of the grand mission of Judaism.[11]

This intriguing suggestion for carrying out the mission of Judaism through Jewish missions never took root in America. Indeed, the reformers generally understood the role of the "mission" as a subtle, philosophical influence rather than as an institutional endeavor. Consciously or unconsciously the ideas had come to America from the intellectual and philosophical circles of Europe. Among others, Moses Mendelssohn in Germany and Nahman Krochmal in Galicia, influenced by the philosophy of their day, had developed rationales for Jewish corporate survival which placed the major emphasis upon the so-called "religious genius" of the Jewish people. For them, Judaism never intended that its adherents strive to make proselytes. What Judaism did possess was a divine mandate to teach the peoples of the world the high principles of morality because of its own religious and moral excellence. This was conceived to be its special function and role in the world.

This idea was echoed in the Jewish Reform pulpits throughout the last decades of the nineteenth century, and indeed, reverberates to our day. Dr. Adolph Guttman of Syracuse, New York, put the matter directly in one of his sermons:

Our great mission is that of bringing all men together in the bonds of brotherhood, that of teaching true faith and to illustrate that faith; that of supporting everything that is grand and beautiful, and of depressing everything that is mean and base. . . . This is the specific quality, the specific characteristic of Israel. Greece had her mission of art and philosophy, Rome of law and civic virtues, but to Israel was assigned the part of religious priesthood.[12]

[11] *Jewish Tidings,* October 25, 1889.
[12] *Jewish Tidings,* October 25, 1889.

Yet it was obviously necessary to reconcile this Jewish mission with Christian claims for Christianity as the only true religion. To do this it was apparent that religious toleration required an attitude toward Christianity which was positive. And in an attempt to resolve the dilemma, some rabbis saw a further extension of the "mission." Every orthodox Christian church, in the opinion of Dr. Max Landsberg, was by its existence a reproach to Judaism, "calling out: 'Thou art dead; thou art an anachronism; I am thy heir; I have brought to mankind the glad tidings.' "[13] But Judaism had flourished and grown even in the face of such antagonism. And it was precisely in this area, Dr. Landsberg thought, that the mission of Judaism was to make its real influence felt: in its opposition to the bigoted and narrow spirit of religion and the affirmation, made by its very existence, of the universal outlook of its prophets.[14]

While this was a very neat interpretation of the "special Jewish genius" for religion, apparently it was not universally accepted among all Reform rabbis of the period. There were some, like Dr. Solomon Schindler, who felt that the Jews could not justify the doctrine of election in any form. It was his contention that the time had come for Jews to "discard the idea . . . of having been selected by God for some special work or mission."[15] From his point of view, such a concept was clearly related to the particularistic ideas associated with the belief in a Palestine-centered Judaism. It was an ancient, "erroneous conception" which placed emphasis upon the nation or race instead of preserving the religious values inherent in Judaism.[16]

There is a hint of an interesting and profound paradox in Schindler's argument. The reformers had seized upon the mission theory as a way of justifying the continued existence of the Jewish people in a non-nationalistic form, living as

13 *Jewish Tidings,* March 29, 1889.

14 *Ibid.*

15 *Jewish Tidings,* December 19, 1890. In another sermon quoted in *Jewish Tidings,* February 5, 1892, he said: "The more intelligent classes of the Jews [have] renounced the selfish theory of their being the chosen people of God."

16 *Ibid.*

they were as American nationals. And yet in order to pursue the mission they needed a sense of corporate identity. Moreover, that very identity, although now defined metaphysically in new terms, was, nevertheless, intimately bound up with the biblical and traditional concept of the people of Israel as a people apart, a sacred, therefore a separate, people, "a peculiar treasure," "a kingdom of priests, and a holy nation."

Indeed, at least one Reform rabbi reached the conclusion that the rival missions of Judaism and Christianity would ultimately clash. It was Dr. Solomon H. Sonneschein of St. Louis, Missouri, who felt that the "grandeur and aggressiveness" of the "world-embracing organization" of Christianity had less attraction for America than "the Judaism of today." It was his opinion that

> . . . the history of any church will teach us that just at the commencement of a new era, the forerunners, the first representatives of that new era, are in the most humble and gloomy obscurity. They are not grand in influence. They follow humble pursuits in life, and still, the glorious crown of success is already hovering above them. And another thing—it is not the believer who now-a-days rules the destinies of religion; mark you, not the unconditional believer, who never doubts a particle of the validity or divinity of his special religious denomination. It is the honest doubter who will have to decide which side shall win. Whichever side the average of enlightened and honest doubters will give their sympathies to will win. Then, too, we are living in a new country; the traditions, the customs, yea, even the literature of the old world, is, meritoriously speaking, a thing of the past. We are building up new customs, we are forming a new nationality, hence, a new language, and we are just beginning to lay the foundations of a new literature, the corner-stone of which will be the ever-lastingly divine preamble to the American constitution. Which side will win the sympathy of this new country of ours? When, instead of a scanty 25 millions of people, this Mississippi valley shall boast 200,000,000 inhabitants, brave, free enlightened, to which religious camp will they acknowledge allegiance? Whose are the brighter prospects? Inasmuch as Judaism is a religion of justice, and Christianity of mercy, we immediately have one distinction to guide our conclusion. Is a people, a nation, a humanity that strives for justice to all; a commonwealth which strives to bind all the nations of the earth into one brotherhood in all the great living issues of humanity; is a government which warrants free education to all alike; a government in the scale of whose judgment the very poorest is allied to the very richest,

the humblest the same as the highest; is such a government, such a commonwealth, such a nation, destined to rely on the idea of mere mercy and grace? No. Grace will retain its power within the precincts of the human heart and in the family, not beyond. Beyond my heart, beyond my wife, my children, my parents, and my few friends, I know no grace; but justice, stern, unyielding justice, founded upon a sound education, that, from boyhood and girlhood on, knows the right from the wrong; that grows up under the principles of responsibility for all actions, whether great or small; the principles that I have to bear the consequences of everything I say or do, and even when committing an error, a grave mistake or a crime, ready as a brave man or woman to say, "I have done wrong; I want to be punished." This is just. This is the swaying idea of the future; that idea will reign in the world as surely as there rules in the heavens a power and law of justice.[17]

If this was an extreme judgment regarding the power of Judaism in democratic America, there were, nonetheless, other Reform rabbis who felt that Judaism would flourish in America because it was "based on reason." Dr. Louis Kleeberg of New Haven told his congregation that "reason is given us by God, hence we may employ it in judging on all matters—religious and material alike, and the more we employ it the better we please Him who gave it to us."[18] A new day was dawning, many of these rabbis felt, and a progressive Judaism would take root in the soil of America. "Mythology might have satisfied the minds of misty medievalists, but it has seen its day, and does not satisfy the thinking mind of the nineteenth century. . . . The masses are opening their eyes and using their minds, and they will no longer be kept in the dark."[19] As Judaism brought its influences to bear upon the American community, it would create a favorable climate for all higher forms of religion. Dr. Kaufman Kohler summed up this feeling in these words:

Religion has yet a great mission to fulfil in this free land; yet not the religion of the bigoted, the hypocrite, the narrowminded sectarian, but the religion of him that feels that there is but one truth and one justice and one love in heaven, so should the one great God and Father and one common brotherhood of man form the pillars upon which state

[17] *Jewish Tidings*, December 14, 1888.

[18] *Jewish Tidings*, January 9, 1891.

[19] From a sermon by Rabbi Tobias Schanfarber appearing in *Jewish Tidings*, November 8, 1889.

and society rest; that religion, which looks forward to the establishment of a covenant of peace and friendship between all men and nations on earth, which, if anywhere, will be first concluded on the blessed soil of the youngest child in the family of the nations.[20]

A note of warning, however, was sounded by Dr. Joseph Krauskopf of Philadelphia. Preaching at the dedication of a temple in Albany, New York, he took up the "claim made by agnostics and unbelievers, that religion had outlived its era of power and usefulness; that religion can no more command the respect of intelligent people; that religion has been relegated to the nursery, there to be used as a bugaboo to frighten little children with." On the one hand, Rabbi Krauskopf suggested, there were loud wails that religion was losing its hold upon the people, and on the other, jubilant shouts that rational men and women were cultivating and propagating their religious life. Why, he asked, does religion flourish in progressive congregations and decline and decay among the orthodox? To these questions he replied:

We have but to examine into the religious principles and practices of this congregation and of the other congregations, Jewish and non-Jewish, that foster the liberal and rationalistic creeds, with those opposed to them, and we have the answer. It were a miracle, indeed, were we to hear any other sound than the wail of decline arising from out their churches. We cannot expect different results from churches in which doctrines that are preached one day as revealed gospel truth are proven absurd the next day in schools and colleges, in which fable is turned into history, and myth into creed in which that which is hidden from the finite mind, which transcends the limits of human knowledge, is spoken of and dealt with as if it were the veriest commonplace of our every day experience, in which religion is made synonymous with forms and rites, and ceremonies and lip service; in which fortunes are expended upon converting in heathen lands, while in their immediate neighorhood people are starving or suffering for want of a kindly hand to guide, or of a cheering word to comfort.[21]

Moreover, the *Zeitgeist* had to be reckoned with. Religion had to conform with the new knowledge, the Reform rabbis felt. But it also had to be congenial to the climate of industrial America. While one did not have to accept *in toto* the various theses which attempt to trace

[20] *Jewish Tidings*, May 10, 1889.
[21] *Jewish Tidings*, May 31, 1889.

capitalistic theories to Protestant or Jewish sources, empirically, at least, only that religious view which sought to harmonize religion with the expanding American civilization, its "gay nineties," and its optimistic outlook was thought to be suited for America. Dr. Joseph Silverman gave voice to this idea in a sermon entitled "The Millenium":

> There should be no conflict between religion and the spirit of the age. As long as religion will point backwards to the asceticism and martyrdom of its dead heroes as worthy of emulation to-day, will call that right life and offer as a reward a seat in heaven, the hope for better days is in vain. The dead heroes of old may be worthy of admiration; their conduct, however, is no criterion for the present. Their habits of life engendered privations and an austerity from which there was but a short step to asceticism and martyrdom. Modern life, however, with its civilization, is full of comfort and ease, bubbles over with fun, runs riot with excitement, whirls along with industries and sparkles with flashes of recent enlightenment. Whatever will oppose such a spirit must fail. In order to succeed, religion must be in sympathy with modern achievements and aspirations. There is much room for reform in the present, and religion can open up for itself a rich field for activity by elevating man in his various vocations and pursuits, and thus leading the world upward while it is going forward. The world must have its pleasures.[22]

Of course, the central intellectual problem that loomed largest was the question of Darwinism. The Bible, and particularly the Jewish Bible, was under attack by the adherents to the evolutionary hypothesis. Spencerian philosophy was the ruling viewpoint of the day. Its premises, however, were agnostic. It thus became necessary, even for Reform rabbis who accepted the evolutionary concepts, to interpret the function of the Bible through the eyes of a non-Spencerian philosophical outlook. Some of these men approached the question from what later became identified as the Bergsonian viewpoint. Their desire was to strengthen the position of the Bible-believer by redefining the nature of the Bible. Evolution was for them "a creative evolution." The Bible was of value because it dealt with creation in terms of values, and since it was not a scientific handbook, it did not conflict with the new knowledge. Dr. Max Landsberg discussed these questions in one of his sermons. He declared that

[22] *Jewish Tidings*, May 4, 1888.

. . . there is a great difference between the scriptural and scientific accounts of creation, but we do not by recognizing this throw discredit on the Scriptures. Science explores only secondary causes, and cheerfully confesses its ignorance when it comes to the first cause, which must be a matter of religious belief. The Scriptures give an account of the origin of things as it was believed to be true by the writer. How glorious it is compared with other accounts of the creation accepted by nations who had reached the height of civilization and were well acquainted with astronomy. There is no attempt to account for the existence and the origin of God himself. All that the Scriptures claim is that God is the Creator and that what He wills He creates.[23]

In still another sermon he justified the incorporation of evolutionary concepts into Jewish theology as the vindication of the idea of "progressive revelation." God's power and will were never revealed at any one time, nor were they wholly registered in any sacred document. On the contrary, he argued, God's power continued always to work through the spirit of man and "the truth is revealed by the conscious activity of the human spirit."[24]

He went further, declaring that such an attitude was "Jewish doctrine . . . the religious thought of the Jewish people." Jewish theology, he claimed, was always in harmony with the revelations of science, "which are revelations of God as truly as were the words of the prophets, and is far from being a new invention, or the result of the bewilderment of a modern unbelieving philosophy."[25] What is more, Landsberg turned the tables upon the fundamentalists:

Foresooth, not those are the unbelievers who proclaim the continuous widening of divine revelation, who hold that this revelation is accessible to every man whose soul aspires to God and virtue; but those are practically the unbelievers who confine divine revelation upon the narrow compass of one people, of one book, of one period of time, instead of extending its stream over the whole human race and through all centuries.[26]

It was one thing to see a harmony between the purposes

[23] *Jewish Tidings,* November 15, 1889. See also Blau, *Op. cit.,* pp. 623-24. Blau quotes Dr. Joseph Krauskopf: "Even the most extreme of evolutionists explain gradual succession but never the Origin. . . . Every evidence for evolution is evidence for the existence and work of an Evolver."

[24] *Jewish Tidings,* September 7, 1888.

[25] *Ibid.*

[26] *Ibid.*

of science, its findings and the essential spirit of the Bible. But if divine revelation was distributed over the centuries and not confined to the "narrow compass of one people, of one book," then what could be said of the theory of Israel's special genius for religion and what support could there be for the whole structure of the Reformist mission concept?

Some of the Reform rabbis were obviously aware of this difficulty. Rabbi Joseph Stolz of Chicago tried, on at least one occasion, to meet the problem. He recognized that the "Bible is not infallible. Scientists have shown that the first chapter is not correct. . . ." But the Bible, he maintained, was still a precious book, if understood correctly. While its "every word was not inspired . . . it contains the highest religious and ethical truths that have ever been uttered."[27] On these grounds it deserved to be retained and studied by all men. Dr. Harry Berkowitz, then of Kansas City, Missouri, justified the revered position of the Bible even from the critical viewpoint, in these words:

> Even though the Bible be in the handwriting of men, it is, nevertheless, the dearest treasure which the world possesses, because it alone of all the writings of antiquity recognizes the dignity of man as the image of God. It alone cares for the people, and makes the poor, the indignant and distressed its special charge. It alone breathes the spirit of liberty, of respect to man, of reverence to the Supreme, building all these upon the rock of righteousness. In no way does the critical school really detract from the value, the worth and intrinsic authority of the sublime teachings of the Bible. It enhances because it clarifies them.[28]

In a guest lecture delivered at Temple Beth Emeth in Albany, New York, Rabbi Krauskopf of Philadelphia dealt with the question in terms of "intellect" and "morality." The problem was to learn how to distinguish between these two qualities. Intellect was progressive, changeable, environmental. Morality was eternal, changeless. The moral law of the Bible was binding for all time, while its "intellectual" development was primitive, a product of its times. He pointed out:

> Nature makes no leaps. It does not pass at a bound from a Jubal to a Steinway, from a Tubal Cain to a Bessemer, from a primitive stone

[27] *Jewish Tidings*, January 27, 1893.
[28] *Jewish Tidings*, January 10, 1890.

hatchet to a Krupp gun, from a dugout canoe to an ocean steamer, from cuniform writing to the printing press. Between these lie thousands of years of intellectual development.

This progress is in the realm of intellect; not in that of morality. The moral law is eternally the same. Murder and theft were regarded as wrong before the decalogue prohibited them; they will be so regarded while civilization endures. The rule is: Right once, right always; wrong to-day, wrong unto eternity. Not so in the intellectual realm. Guttenberg's press, Watt's engine, Stevenson's locomotive and Fulton's steamboat may be found, perhaps, in some museum; but they are no longer patterns. Many even succeed in giving the human mind a direction from which it does not swerve for centuries, but among them is not one whose views and doctrines will stand the test of truth and usefulness for all time. We still accept much of the philosophy of Plato and Aristotle, but we reject more. They were wise, perhaps the wisest, in their time; but the human mind has advancd since then. Moses was wise in his time; but even his wonderful wisdom has been dimmed, in some minor features, by the more fully developed intellect of to-day.

Assuming him to be the author of the entire Pentateuch, the scientifically trained mind of to-day will not accept in its entirety, or literally, his account of the origin of the universe, of the descent of the first pair of human beings, of the origin of the different languages or his conception of God. Even Moses was a child of his time. His mind was held down by the limitations of his age. Since his time 3,000 years have passed, and in the meanwhile the human mind has not been idle. It has acquired knowledge that has enabled it to fill up the gaps in the past, to remove the false and to burnish what the dust of ages has tarnished. But this purifying process has aroused bitter antagonism in some quarters, so bitter, in fact, that the mere mention of the name Darwin, for instance, is sufficient to brand one as a heretic; the espousal of his doctrine is believed to be a grievous sin. Such antagonism simply defeats its own ends, and besides is uncalled for. A belief in a doctrine not found in the Bible, or the rejection of one that is found there, does not make one an infidel. A person may reject this or that conception of God, and yet be a truer believer in God than another who holds the view which the first rejects.[29]

Despite the attempt on the part of these and many other Reform rabbis to meet the intellectual challenges to religion by seeking a harmony between science and Judaism, they were, nevertheless, confronted with what one of them called "the coldest indifferentism." Religious loyalties were weak. Yet even in their fervent appeals to strengthen Jewish

[29] Quoted in *Jewish Tidings*, May 31, 1889.

religious life two of these men used extrinsic, ulterior motivation. In some quarters, at least, it was not possible or advisable to preach Judaism to Jews for its own sake or for its intrinsic values. When Dr. Max Landsberg desired to awaken fervor and enthusiasm for Jewish observance he indicated these practices "would so influence our conduct as to raise us up in the eyes of our fellowmen and remove prejudice against us from their minds."

Then our women would not lower themselves in the eyes of their own servants, by indiscriminately having the hardest housework done on the Sabbath-day, by engaging seamstresses and dressmakers, who are bound to keep their own Sunday, to work on the Sabbath-day in their families; then they would not so degrade their own religion before the people who watch them with great attention, as to use the Sabbath-day habitually for shopping expeditions, and not only the afternoon, but even in the morning at the hour of divine services! You will talk about the necessity of transferring the Jewish Sabbath upon Sunday, because the people are unable to attend services on Saturday morning? O, if only all those men, women and children would come, who could, this temple would be overflowing, and new fervor and devotion would permeate our people, and they would regain what they have lost, the respect of the community for their religion! But instead of this enthusiasm, alas, the coldest indifferentism prevails; the most trifling causes suffice to keep away our young men and women, not only every week, but on the holiest days of the year. And if you deem it more essential to attend your schools and colleges on one day of the year, than to join with your people and to identify yourself with them in their hopes and aspirations in their priestly mission among mankind, do you suppose that you gain one-tenth as much in knowledge and the promotion of your studies, as you lose in the esteem of your Christian associates, who are amazed, and naturally judge the value and the vitality of a religion by the love of its confessors for it? And when you hold gatherings for social amusement or for the refinement of your taste, do you think you gain in the esteem of the people, if of all the seven nights of the week which are available you are determined just to pick out the eve of the Sabbath-day, as if to manifest how little you care about it.[30]

And in neighboring Buffalo, when Dr. Israel Aaron spoke to his congregation about Sabbath observance, he, too, used a pragmatic rather than a religious approach. He contended:

A comparison of Sabbath-keeping Jews with Sabbath-breaking Jews,

[30] *Jewish Tidings*, October 11, 1889.

according to oft-quoted statistics, abundantly verifies the longevity of the pious. The keeper of the Sabbath lives longer, lives happier, lives better. It is not religion alone, but science, common sense and honesty which preaches this. It is established by facts that the observance of the Sabbath is required by natural law, and if man were nothing more than an animal, and if his existence were confined to this earth, he would find it to his interest to keep the Sabbath.[31]

While these rabbis were preaching a rational religion, they were witnessing the decline of religious observance among their people. To inspire a return to Jewish observances they seemed unwilling or unable to utilize tools other than the "practical" and the "reasonable." Perhaps they could not accept Spencerian thought throughout. Ironically, however, not unlike the Pittsburgh Platform, they were more sociological than theological in their approach to the religious problems of Judaism in America.

31 *Jewish Tidings*, February 5, 1892.

REVIEW SECTION

Responsa Literature

THE RESPONSA LITERATURE. By *Solomon B. Freehof*. Philadelphia: The Jewish Publication Society of America, 1955-5716. 304 pp.

"THE purpose of this book," says the author in the Introduction, "is to give a general description of the responsa literature: its development, the great contributors to it, how it reflects Jewish history, the stirring controversies which it records, and even some of the strange and curious items which it contains and which serve to illustrate the spiritual depth and geographical extent of its influence. The book is addressed, not to the scholar — although it is hoped that scholars may find some interest in it— but rather to the general reader. Terms are therefore explained, literatures characterized and historical backgrounds described which the scholar would not need but which the general reader may find helpful. In brief, this book has been written in the hope that its readers will gain some understanding of the creative part which Jewish law has played in Jewish life, and that younger scholars may, perhaps, be moved to devote their energies to pioneer in this unplowed field" (p. 18).

The unique quality of the book is its down-to-earth language. The distinguished author can be described as an "activist" in all of his thinking and writing. The reader of average intelligence with a fairly good capacity to respond to everyday historic connotations can actually sit down now to enjoy reading about responsa! The old canon relative to the work of translation from language to language may be justly applied to Dr. Freehof: he knows thoroughly the language from which he is "translating"; he is a master of the language into which he is "translating"; and, above all, he is naturalized and humanized in the materials and content.

What ought especially to interest the readers of *Historia Judaica* are Freehof's many observations about the need to use the responsa more and more for the scientific study of history and sociology, first suggested by Zechariah Frankel. The author succeeds in giving the reader the "incidental" information contained in the responsa — incidental only for the original respondent, but often of social and historical importance for the research student.

This work, though addressed to the general reader, has value for students of the history of law. Freehof presents material on the Jewish

captives of the Middle Ages and their status in Jewish law (pp. 109 ff.); on the ordination dispute in France (pp. 111 ff.); on the marriage of Marranos (pp. 115 ff.); the status in Jewish law of the Karaites (pp. 124 ff.); on divorce by post (pp. 136 ff.); church building used as a synagogue (pp. 144 ff.), etc., etc. Pages 193 to 223 deal exclusively with the topic, "History in the Responsa."

The book consists of an Introduction and eight sections: 1) Origins and Development of the Responsa; 2) The Leading Respondents; 3) A Selection of Responsa; 4) Widespread Debates; 5) History in the Responsa; 6) Modern Inventions; 7) Curious Responsa; 8) Prospective Development of the Responsa Literature. The work is well documented and in addition contains a helpful Reference List of Responsa (pp. 293-296).

HERMAN HAILPERIN

Pittsburgh, Pennsylvania

HISTORY OF ANTISEMITISM

HISTOIRE DE L'ANTISEMITISME: DU CHRIST AUX JUIFS DE COUR. By *Léon Poliakov*. Paris: Calmann-Lévy, 1955. 342 pp.

ANTISEMITISM has been the source of so much misery to the Jews and so much evil to Western society in general that one does not wonder at the steady flow of discussions seeking to trace its causes. Nor is it surprising that every serious investigator of antisemitism has adduced a different motive or combination of motives for it: religious, economic, national, racial, emotional, and every conceivable combination of these and others. Léon Poliakov, who in 1951 wrote a book on the Nazi program for the extermination of the Jews of Europe (*Bréviaire de la Haine*, translated into English in 1954 under the title, *Harvest of Hate*), now submits a new variation on the theme of antisemitism and its roots, attempting to prove that these lie in religious psychology, more explicitly, in the psychology of those religions which trace their origin from Judaism itself. Anti-Jewish attitudes, he maintains, are not traceable to any appreciable extent in lands into which Christianity or Islam never penetrated.

No doubt the theory advocated by Poliakov will become clearer as he develops his theme. For what we have thus far is only a third of the story, the part that deals, as the title indicates, with the period from the rise of Christianity to the appearance of the so-called Court Jews, by which the author probably means the beginnings of modern capitalism in Europe. A second volume is promised, which will deal with the theme in such countries as were for a time, and such as have never

stopped being, Moslem. A third volume will cover the nineteenth and twentieth centuries. Until the entire argument is before us, we cannot judge whether Poliakov has or has not proved his case.

The volume under discussion is divided into four sections. The first covers the period from the emergence of Christianity to the end of the eleventh century. Only some fifty pages are devoted to this first millenium of the Christian Era. The author finds no anti-Jewishness among the people during this period, Agobard and his like being the exceptions who, by their very lack of success, show how free from Jew-hatred was the rest of the population. The next section of the volume deals with the age of the Crusades. It was during these three centuries that the foundations for antisemitism were laid. Yet even as late as the thirteenth century Jews were indistinguishable from their Christian neighbors in clothing, speech, and attitude; in mind and manners, though not in religion, they still appeared as inseparable from their surrounding society. The author admits that anti-Jewish feelings were increasing, especially during the thirteenth century, but they were not yet deep enough to be called an integral part of the Christian mentality. The real change in attitude came during the fourteenth century, which the author calls "the Century of the Devil."

The series of calamities that overwhelmed Europe during the fourteenth century — famine and plague, peasant revolts and political upheavals — prepared the minds of men to accept the notion that the two opponents of Christianity, the Devil and the Jews, had made common cause. Poliakov submits a long series of charges, afflictions and expulsions to which the Jews of Central Europe were subjected as evidence that this century was the crucial one in the development of anti-Jewishness. Once developed, it became characteristic of the Christian mind. This is proved during the "Age of the Ghetto," as Poliakov calls the fourth section of the book. For we now have two types of antisemitism: in its "pure state," as in France and England, where there were no Jews but where anti-Jewishness was to be found nonetheless; and in its "active state," in countries where Jews were to be found, and where they were driven into ghettos and subjected to severe restrictions. Luther affords the author an excellent opportunity to show the continuance of the identification of anti-Jewishness with firm belief in the reality of the Devil. Chapters are devoted to Poland and to Russia. Two appendices bring the book to a close, one dealing with modern Jews in relation to blood-types, the other dealing with racialism. There are also numerous notes; and yet the author now and then fails (probably through oversight) to give sufficient credit to some of the scholars upon whose work he had to depend. For example, on page 29, n. 2, one expects some reference to the considerable amount of work done by Guido Kisch on the subject of the medieval German lawbooks.

M. Poliakov has read a great deal and has gone deeply into the

sources. He quotes extensively from the writings of leaders of Christian thought to demonstrate that hatred of Jews became a spiritual habit. He writes well, dramatically and persuasively. He has good insights, for example, that first you kill and then you hate, or that antisemitism grew as literacy increased. Nevertheless, one wishes he had not undertaken to write so much but that, instead of giving so many examples as in effect to write a history of antisemitism, he had concentrated on clarifying his thesis. Its presentation in one volume, rather than in three, would have brought out the salient features of the argument which is his unique contribution to the understanding of the subject.

Because the author tried for so much and was consequently dependent upon the works of others, he has occasionally been led into error. Thus (p. 82), he accepts the least likely explanation of why the badge was yellow in color; the fact is that it was not always yellow at all. So, too (p. 94), he adopts the antisemitic attitude that Jews all but venerate money. Nor is it easy to accept the claim often made for Louis IX, and here repeated, that he tried hard to make the Jews give up moneylending; edicts and confiscations are hardly conducive to positive results. The Council of Béziers in 1246 was not the first to decree against the employment of Jewish physicians (p. 167); a similar decree occurs earlier, in the Council of Trèves in 1227 (cf. Grayzel, *The Church and the Jews in the XIIIth Century* [Philadelphia, 1933], p. 318). Earlier still, in 1171, there is a record of a persecution traceable to the employment of physicians in Bohemia (Bondy-Dvorsky, *Zur Geschichte der Juden in Böhmen, Mähren und Schlesien* [Prag, 1906], I, 14). One is surprised to see John Pfefferkorn called (p. 233) "a moderate and sincere man," but this may be a matter of taste.

There are some slight errors, owing perhaps to faulty proofreading: on page 77 Innocent III is given for Innocent IV; the fourteenth, and not the thirteenth century, is correct for the expulsion of the Jews by Philip the Fair on page 97; read John XXII, not John III, on pages 156-157; read Innocent VIII, not Innocent IV, on page 158; read *responsum*, not *responsa*, on page 175; read *talmid hakham*, not *talmud hakham*, on page 184.

SOLOMON GRAYZEL

Jewish Publication Society of America

American Jewish History

JEWS FROM GERMANY IN THE UNITED STATES. Edited by *Eric E. Hirshler.* New York: Farrar, Strauss, and Cudahy, 1955. x, 182 pp.

THE contribution of the German Jew to the civilization of the United States has been varied and significant. The definitive history of that contribution is yet unwritten; and the need for it constitutes a challenge to all who labor in the field of American Jewish research.

The volume under review serves a double purpose: it emphasizes the need for the definitive study, and it offers valuable assistance for the larger task. Composed of five essays by five competent scholars, the book provides insight into the quality of German Jewish immigration from the middle of the seventeenth century into the middle of the twentieth. By sketching the European scene from which each successive exodus took place and considering the American milieu into which each arrived, the essayists have suggested a proper blueprint for the future *magnum opus* in their field.

The authors and titles of the five component parts of the study are: "Problems of American Jewish and German Jewish Historiography," by Selma Stern-Taeubler; "Jews from Germany in the United States," by Eric E. Hirshler; "The German Jewish Immigrants to America: A Critical Evaluation," by Bernard D. Weinryb; "Aspects of the Influence of Jews from Germany on American Jewish Spiritual Life of the Nineteenth Century," by Adolph Kober; and "Cultural Contributions of the German Jew in America," by Albert H. Friedlander.

Dr. Stern-Taeubler brilliantly analyzes the "cultural baggage" that German Jews like Jacob Franks and the Gratz brothers brought to Colonial America. The longer essay by Eric Hirshler offers valuable perspective in tracing the links of "the historic chain from Joseph Simon to Albert Einstein." Dr. Weinryb adds strength to the general presentation by the use of statistical material and convincing interpretations of that material. The tendency of the first two authors to stress the colonial period receives needed balance in Rabbi Kober's focus on the nineteenth century — generally regarded by American historians as the period of German Jewish immigration. Dr. Kober's catalogue of the contributions to American spiritual and cultural life made by German Jewish rabbis suggests many avenues for additional research. Dr. Albert Friedlander, in the final essay, points clearly toward one such avenue in sketching "the transferral of German Reform concepts into this country."

All five authors demonstrate skill in handling their respective themes. To this reviewer they appear more at ease with the trends of European intellectual history than with the prevailing moods of the shifting American scene; but both of these areas are secondary here to

"Judaeus Germanicus-Americanus" himself, and with *him* the essayists are always at home.

The editor, Dr. Hirshler, has performed his difficult task with distinction for he has converted five articles into a unified study. Three criticisms of a constructive character do suggest themselves. The first pertains to the organization of the material. Both because of its essential survey character and its comparative length, the editor's own essay might better have been placed first than second in the arrangement of the contents. In fact, the whole study would appear less awkward structurally if divided into two major "blocks": the first, Hirshler's five chapters of eighty pages, and the four briefer articles of twenty or twenty-five pages each comprising the other section.

The second criticism which occurred to this reviewer concerns the title of the book. *Jews from Germany in the United States* is accurately descriptive, but little more. *The German Jew in American Civilization* seems equally accurate and somewhat richer in reader appeal.

The third criticism is more definite and perhaps less tinged with personal predilections. The failure to provide an index is a serious weakness in a study of this kind. If the book is to attract the attention of scholars as well as general readers, it must certainly have at least an index containing the names of prominent individuals.

The material included in the study is impressive for its sound interpretations and its careful documentation. The analysis of the identification of the mid-nineteenth century German Jewish immigrant with general German culture, offered by Dr. Hirshler, is supported by a wealth of evidence which this reviewer once stumbled upon in writing the history of New Haven, Connecticut. The only single piece of documentation that went astray is contained in the allusion on page 84 to the patriotic contributions of German-American Jews during the First World War, including a reference to George M. Cohan and his popular war song "Over There." Despite his name and numerous Jewish associations, George was as genial an Irishman as any American "born on the Fourth of July" could manage to be.

ROLLIN G. OSTERWEIS

Yale University

JEWS IN SWEDEN

GÖTEBORGS MOSAISKA FÖRSAMLING 1780-1955. MINNESSKRIFT TILL 100-ÅRSDAGEN AV SYNAGOGANS INVIGNING 12 OKTOBER 1855. [The Jewish Community of Göteborg 1780-1955. Jubilee Volume at the One Hundredth Anniversary of the Dedication of the Synagogue on October 12, 1855.] By *C. Vilh. Jacobowsky*. Göteborg 1955. 119 pp.

JUDAICA in the Swedish language are scant. It was therefore a welcome idea of the Jewish Community of Gothenburg to commemorate by a *Festschrift* the centenary of the beautiful Gothenburg synagogue and the one hundred and seventy-fifth year of the founding of this community. Its author is Chief Librarian Dr. C. V. Jacobowsky of the "Stiftsbibliotek" in Skara, a scholar well versed in Jewish history and owner of a rather remarkable Jewish library containing the best collection of rare items on Scandinavian Jewish history.

This *Festschrift* deserves interest not only within the boundaries of Swedish Jewry. It is based on a thorough study of various archives, both Jewish and non-Jewish. Besides the standard work by Hugo Valentin on the history of the Jews in Sweden (in Swedish, 1924), Jacobowsky's monograph is the only work dealing with the development of a Swedish Jewish community.

The history of the Jews in Sweden begins only with the end of the eighteenth century, when King Gustav III (1771-92) was anxious to attract wealthy German Jews to his country. Whereas previously Jews were settled only on the island of Marstrand, about 1800 some twenty Jews founded a small synagogue in Gothenburg. As early as 1813 they proved their loyalty toward Sweden by singing and printing a Swedish "*Te Deum*" after the battle of Leipzig. Other patriotic events were landmarks for the young community, which developed after German-Jewish patterns. In 1837 it employed as its first spiritual leader the German-born Dr. Carl Heinemann from Sandersleben, a modern yet traditional rabbi. In a few years there arose the usual quarrels over ritual between community and rabbi. Gothenburg was until the last decade of the nineteenth century the leading Jewish community in Sweden and the cradle of synagogue reform, against which Rabbi Heinemann rose. Before his appointment, several other German rabbis and preachers had shown an interest in the pulpit of Gothenburg, among them Abraham Mose Tendlau, Wilhelm Jacob Auerbach, and Abraham Geiger. Geiger had no chance at all of being appointed because he was too liberal. Now, the reform party prepared a Hebrew prayerbook with a Swedish translation on the pattern of the Hamburg Temple prayerbook. This was to become the prayerbook of the community in the new synagogue which opened before the high holidays in 1855. The story of this *Kulturkampf* is vividly described by Jacobowsky, After the battle had been lost for the rabbi, he withdrew from the community and became headmaster of a Gothenburg commercial school.

When, in 1855, the rabbinical post was again vacant, nine candidates applied for the position, among them Adolph Neubauer, then twenty-four years old. The German-born Moritz Wolff, then rabbi of Culm, was chosen. He favored the introduced reforms and was the first scholar to be a rabbi in Sweden. He specialized in Orientalia and religious philosophy. The cantor who was appointed in the same year

was destined to become even better known in the Jewish world. He was Abraham Baer, author of the famous *Ba'al T'filla oder der praktische Vorbeter*, a compendium of the traditional ashkenazic liturgical melodies, published in Gothenburg in 1877 and frequently reprinted, lately in New York in 1954.

In the middle of the eighteenth century the Jewish community of Gothenburg developed into a well-to-do, progressive Jewry, still numbering not more than a few hundred members. Jews took an active part in the political and spiritual life of the city. They made large donations for public and Jewish purposes. Until the end of the century, the community was more or less homogeneous, a kind of "German-Jewish" *kehilla*. The sociological change came with the larger influx from Eastern Europe after 1881. The history of the community now reflected the tensions between East and West, in much the same phenomana as appeared those days in English and American Jewry, but with the difference that in Sweden the newcomers succeeded in being integrated into the established community, which remained undivided. Some orthodox newcomers founded smaller *minyanim* even in Gothenburg but remained within the original community.

All the rabbis who succeeded Dr. Moritz Wolff came from Germany. Today the community consists of about 2300 members, of whom 1300 live in the city of Göteborg, the rest, most of them refugees who arrived in 1945, in smaller towns in the vicinity.

This is the simple story of the *Festschrift*, which contains good reproductions of the synagogues, of outstanding Jews, and interesting documents from various archives and libraries.

KURT WILHELM

Stockholm, Sweden

NECROLOGUE

KURT STILLSCHWEIG

1905 — 1955

KURT STILLSCHWEIG was born into the family of a merchant from Posen. He studied law at the University of Berlin, and having passed the juridical examinations, entered the legal profession at the very time of Hitler's accession to power. Not wishing to leave his aged parents behind, he remained in Berlin until a few months before the outbreak of World War II. Late in 1939 he immigrated to Sweden, taking his parents with him. For the ensuing eleven years he was connected with the Stockholm office of HIAS, at the same time preparing for the Swedish bar examination, which he passed in 1954 with the highest distinction. At the time the Swedish press reported that it had been many years since even a Swedish-born student had attained such a level of excellence in these examinations. His Swedish University professors considered Stillschweig an outstanding expert in the field of international law, and a promising career was assured him in his new homeland. However, he suddenly took ill and passed away on August 15, 1955, after an operation.

Already in Berlin Kurt Stillschweig devoted himself to Jewish studies, specializing in the problems of Jewish minority rights, the practical application and theoretical study of which played an important role for Jews of almost all European countries in the period between the world wars. Unusually gifted in his literary style, which he quickly acquired in the Swedish language also, and avoiding superficialities, he succeeded in presenting the results of his studies clearly and in an attractive manner. These were embodied in a number of articles in various scholarly journals, Jewish as well as general, and finally, in a comprehensive volume, *Die Juden Osteuropas in den Minderheitsverträgen* (Berlin, 1936). In a letter addressed to Stillschweig upon the publication of this historically still valuable work, the Jewish historian Simon Dubnow wrote: "Aside from Janowsky's monograph, this is the chief profound and systematic study in the field of the Jewish minority problem. It will become an indispensable vademecum for the politician, the lawyer and—last though not least—for the student of Jewish history."

Stillschweig continued studying the problems of minority rights for the Jewries in the various European countries. Moreover, he extended the scope of his juridical and sociological studies concerning European Jewry, of which the following essays, all published in *Historia Judaica*, give evidence: "Nationalism and Autonomy among Eastern European Jewry" (VI, 27-68); "Jewish Assimilation as an Object of Legislation" (VIII, 1-18); "International Protection of Human Rights and Funda-

mental Freedoms" (IX, 35-56; X, 43-60); "The Jews of Germany as a National Minority" (discussing the development under Nazi rule) (XI, 53-76). Another essay dealt with the at that time actual problem of legislation outlawing anti-Semitism in Sweden, "Legislative Proposals against Anti-Semitic Propaganda in Sweden" (VI, 139-146). Dr. Stillschweig's publications in the Swedish language, dealing with "Jewish Emancipation" (1943), "The Jewish Minority Problem as a Post-War Question" (1944), and "National Socialist Anti-Semitism" (1946), were sponsored by a Swedish group of culturally interested intellectuals and served as important media for the information of Swedish public opinion on these topics. They were reviewed in this Journal (VI, 205; VIII, 214 f.).

Dr. Stillschweig's untimely death terminated the activities of a most promising and devoted student for whom the Jewish community and Jewish scholarship had entertained great expectations.

KURT WILHELM

Stockholm

GUIDO KISCH

New York

NOTICES OF RECENT PUBLICATIONS

H. G. Adler, *Theresienstadt* 1941-1945. *Das Antlitz einer Zwangsgemeinschaft. Geschichte - Soziologie - Psychologie.* J. C. B. Mohr (Paul Siebeck). Tübingen, 1955 (New York: Arthur M. Adler, 49 West 47 St.) xlv and 773 pp.

Franz J. Beranek, *Mitteilungen aus dem Arbeitskreis für Jiddistik.* Butzbach (Falkensteinerstr. 4), 1955. 16 pp. (Typescript).

Shlomo Eidelberg, *The Responsa of Rabbenu Gershom Meor Hagolah, Edited, Annotated and Prefaced.* Yeshiva University. New York, 1955. xvi (English) and 195 (Hebrew) pages.

Christian D. Ginsburg, *The Essenes: Their History and Doctrines; The Kabbalah: Its Doctrines, Development and Literature.* The Macmillan Company. New York, 1956. 245 pp.

Fritz von Hippel, *Die Perversion von Rechtsordnungen.* J. C. B. Mohr (Paul Siebeck). Tübingen, 1955. xvi and 213 pp.

Immanuel Lewy, *The Growth of the Pentateuch: A Literary, Sociological, and Biographical Approach.* Bookman Associates. New York, 1955. 288 pp.

John M. Oesterreicher (Editor), *The Bridge: A Yearbook of Judaeo-Christian Studies.* Volume I. Pantheon Books. New York, 1955. 349 pp.

Gustav Saron and Louis Hotz, *The Jews in South Africa: A History.* Oxford University Press. New York, 1955. xvii and 422 pp.

Joseph Tenenbaum, *Race and Reich: The Story of An Epoch.* Twayne Publishers. New York, 1956. xvi and 554 pp.

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Historia Judaica

THE HALAKAH AND THE PROSELYTING OF SLAVES DURING THE GAONIC ERA

By Ben Zion Wacholder
Los Angeles, California

I

ONE of the greatest religious expansionist movements ever known to man took place during the second half of the first millennium, C. E. Christianity and Mohammedanism, the two daughter religions of Judaism, conquered Europe, North Africa, and Asia Minor. Judaism, however, either because of its political impotence, the inflexibility of its ritual, or its insistence on genuine persuasion, did not participate in that proselyting avalanche. Since it required that the candidate for conversion have an intellectual knowledge of the issues involved and a yearning for the new faith, as described in the Talmud, Judaism was no match for the Gospel and the sword of the Cross and the Crescent. The few who did become Jews left no visible mark upon Jewish life.[1]

[1] Bernard J. Bamberger, *Proselyting in the Talmudic Period* (Cincinnati, 1939, and William G. Braude, *Jewish Proselyting in the First Five Centuries of the Common Era* (Providence, R. I., 1940) maintain that there was active Jewish proselyting during the talmudic period. But even they would admit that Jewish proselyting was never remotely comparable to the Christian or Mohammedan movement in number.

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In the institution of slavery among Jews there existed an important exception to the general rule that the Jews did not actively propagate their faith. Slaves owned or traded by Jews were persuaded and pressed to follow the precepts of Jewish law. While it is true that the Jewish proselyting of slaves was not an active missionary movement and there was no forcible conversion comparable to that by Christians and Mohammedans, the results were not dissimilar. Like the other proselyting movements, the conversion of slaves to Judaism encompassed, relatively speaking, a large increase of Jews distributed over a wide geographic area. Social and economic pressure was used when persuasion failed. It also brought modifications in the Halakah as well as in the legal systems where the Jews lived, and had a profound impact upon the socio-economic conditions of the Jews.

The proselyting of slaves to Judaism was not a new movement during the Middle Ages. The ancient doctrine that it was incumbent upon the master to impose his religious practices on his slave had been implied in the Pentateuch. The master was enjoined to circumcise his bondsmen and their sons;[2] the master was likewise responsible for the slaves' rest on the Sabbath.[3] When a slave had been manumitted, the implication was that he became a free Jew.[4] The Gibeonites are a good example of the absorption of an alien tribe into Judaism through the process of slavery.[4a]

The proselyting aspect of the institution of slavery is clearly defined in the Talmud. By talmudic law the slave passed through two phases before he became a Jew. When acquired, he was to be circumcized (*milah*) and immersed in water (*tebilah*). Thereafter, he was legally known as *ebed kena'ani,* a Judaized slave,[5] and as such he was obligated to follow the laws observed by Jewish women.[6] Although

2 *Gen.* 17:12-13.
3 *Ex.* 20:10;*Deut.* 5:14.
4 *Ex.* 21:26-27.
4a *Josh.* 9:3-27.
5 *Yebamot* 48b.
6 *Hagigah* 4a, *Nazir* 61a, *Keritot* 7b.

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brought up as a Jew, the slave was not allowed to study the Torah or to wear phylacteries and like symbols of freemen.[7] But although he was not considered one of the ten (*minyan*) required for public worship,[8] the slave could partake of the Passover sacrifice from which uncircumcized born Jews were excluded.[9] The talmudic literature sometimes refers to the acquisition of slaves as holy work, for thereby more men come to recognize the God of Israel.[10] A Jew who sold his slave to a Gentile and thereby deprived him of the opportunity to worship God, had to pay ten times his value as a penalty.[11] The second phase of the slave's becoming a full Jew was much simpler. He was granted a document of manumission and immersed once again in water.[12] This completed all legal and ceremonial requirements and made him a full proselyte. It should not be forgotten, however, that the granting of freedom was not always dependent on the master's will. If the master injured a limb of a slave,[13] exported him outside Israel,[14] did not ransom him when in captivity,[15] among other circumstances,[16] the slave gained his freedom.

The legal status of the slave was sometimes used to legitimize and rehabilitate bastards (*mamzerim*). A person born of an incestuous union was not allowed to intermarry with free Jews, but he could marry a slave. The offspring of a bastard and a slave was considered a slave. The bastard-father of a slave could grant his child a document of manumission and thereby make him a free Jew. This process was used in talmudic and gaonic times to solve the social problem created by prohibited marriages.[17] Thus slavery in the talmudic

7 *Ketubot* 28a-b, *Gittin* 40a.
8 *Gittin* 38b, *Berakhot* 47b.
9 *Ex.* 12:44.
10 *Yer. Abodah Zarah* 1,1.
11 *Gittin* 44a. One version states that the master had to pay a hundredfold.
12 *Yebamot, op. cit.*
13 *Kiddushin* 24a-b interprets *Ex* 21:26-27 to mean any visible defect.
14 *Mishnah, Gittin* 43b; cf. *gemara* there.
15 *Gittin* 38a.
16 See M. Maimonides, *Yad Ha-Hazakah, Hilkhot Abadim*, 8, *passim*.
17 *Kiddushin* 69b; *Halakhot Gedolot, Milah* 24, 4 (Venice, 1568).

period served as an economic, social, and proselyting catalyst to increase the number of Jews.

But although the institution of slavery had deep roots in antiquity and served as a proselyting influence during the talmudic period, the movement assumed new dimensions during the gaonic period in the second half of the first millennium of the Common Era. While the Talmud abounds with cases of slaves who were granted freedom, the numbers involved are insignificant compared with those of the later period. There is, moreover, evidence that certain Talmudists advocated a go-slow policy with respect to granting freedom to slaves.[18] They were to be manumitted only for religious, ceremonial, or legal purposes.[19] Such strictness does not seem to have been observed during gaonic times. Nor is there any evidence that in talmudic times the Jews were engaged in extensive slave trade among themselves or in any trade to sell slaves to Gentiles.[20]

The first legal ruling which permitted slavery is found in a responsum by Nahshon Gaon:

> You have asked, "It is customary in our place to buy slaves at low cost since there is no more profitable merchandise. Is it permissible to sell them immediately? For only one of a hundred remains under Jewish jurisdiction; the others are sold at great profit." Since they [the slaves] have not taken upon themselves to observe the [Jewish] laws, it is permissible to sell them to Gentiles. The sages' statement that one is not allowed to sell a slave to Gentiles refers only to those who have obligated themselves to observe the laws, but it is permissible to sell these non-Judaized slaves.[21]

This decision, which gave halakic legality to the slave trade,

[18] Note 8.

[19] *Berachot* 47b.

[20] Note 11. This was prohibited. A possible exception may have occurred when a slave outrightly refused to be circumcized. *Yebamot* 48b.

[21] וששאלתם רגילין במקומנו לקנות עבדים בזול ואין לנו סחורה כמותה מהו למוכרן לאלתר שאין עומדין בדין ישראל כלל אלא אחד ממאה ויש לנו בהן ריוח גדול, כיון שאין מקבלין עליהן מצות מותר למוכרן לגויים שכשאמרו חכמים אסור למכור עבדים של ישראל לגויים בעבדים שקבלו עליהן מצות אבל הללו שאין מקבלין מצות מותר. *Sha'arei Zedek* 26b, no. 27 (Salonika, 1792).

undoubtedly extended and facilitated the economic horizon of the Jews.

But it is clear that although the Gaon implied that he was basing his decision on the Talmud, it was actually a new ruling grounded on a novel interpretation of the sources. Yebamoth 48b states: "Rabbi Joshua ben Levi said: 'If one buys a slave from a Gentile and he [the slave] refuses to be circumcized, the owner may tolerate him for twelve months. If he persists in his refusal, the owner shall sell him to a non-Jew.' " This statement is challenged by the contrary opinion of Rabbi Akiba, who ruled that slaves who refused to be circumcized might not be held even for a short while. Rab Papa interprets R. Akiba's decision to apply only "if there was no condition [to circumcize the slave] but if it was agreed [not to circumcize] the agreement is binding."[22] Rab Papa's statement is not clear, and the commentators differ as to what he meant to say, but no commentator interprets it to mean, as Nahshon Gaon does, that slaves might be kept and sold freely if they were not circumcized.

There are three glosses of what Rab Papa intended to say: Rashi quoted his teacher, that if the slave had agreed to be converted but later changed his mind, then he might be kept for twelve months to give him a chance to change his mind again. According to this interpretation, a slave might be bought only if he agreed to be circumcized. Rashi's own opinion is that the owner might keep the slave for twelve months if he told him that he would give him that period of time to make up his mind. This would permit buying a slave who refused at the time to be converted, but it would not, as Nahshon Gaon ruled, allow the purchase of a slave with the sole purpose of selling him to a Gentile and without the slightest intention of converting him. Rabbi Hananel, mentioned by the Tosafists, holds that a slave might be kept for a year only if he hedged and asked for postponements, but if he refused outright, it was not permitted to

22 הני מילי היכא דלא אתני בהדיה אבל היכא דאתני אתני.

hold him. Hay Gaon is of the same opinion.[23] Thus there is no valid authority for Nahshon Gaon's assumption that a slave might be bought merely for profit. Alfasi, Maimonides, and Asheri agree that a slave might be bought if there is a fair chance that he might be circumcized.

But the fact that Nahshon Gaon did legalize the Jewish slave trade indicates that there were compelling economic and social forces which modified the general talmudic principle that slaves were to be bought only if there was a chance or intention to convert them. The pressures under which some of the gaonic rulings were made can be appreciated from an inquiry recorded in several places: "There are places [in Moslem countries] where Jews are not allowed to own women slaves unless they are Christian, except when unknown [to authorities] which is dangerous. Some of them are Judaized immediately, others after the passage of time. But still others, and they are in the majority, stall or refuse outright. . . ."

"But the Jews who live in those places are in great need of them. Whoever does not own a woman slave is very much inconvenienced; his wife or his children must carry water on their shoulders, wash clothes, and go to the bakery in the company of heathen, licentious slaves—since there are no other maids available. Are the owners allowed to hold them [the women slaves] if their movement on the Sabbath and feast days is restricted in such a manner that the slaves could not profane the days of rest, or are all slaves equal [and must be Judaized]?"[24]

The inquirer of this responsum pictured a prosperous middle or upper class Jewish community. Slavery was a problem, not only for the trader of slaves, but for entire communities, whose comfort was endangered by the legal re-

23 Maimonides, *op. cit.*, 8, 12, is not clear, but *Tur Yoreh Deah*, no. 277 cites only Rashi's first interpretation. Hay's opinion is mentioned in *Tosafot*. *Cf.* Alfasi and Asheri to *Yebamot* 48b.

24 A. Harkavy (ed.), *Teshubot Ha-Geonim* (Berlin, 1888), no. 431. An abbreviated version of the same responsum is found in no. 11. See S. Assaf, עבדים וסחר העבדים בימי הבינים Zion, IV, (1939), p. 92, no. 7.

quirement that all slaves be converted. In Christian countries Jews were restricted to non-Christian slaves; in Moslem countries to Christians. But this was not always enforced. Zemah Gaon, for instance, was asked about a female slave who claimed that she had been freed but did not live like a Jewess; shoud she be believed? He ruled that she should be considered a slave, "because the conversion of slaves is not secret.[25] But restrictions by local authorities on the owning or trading of certain types of slaves varied from locality to locality, as did the degree of their enforcement.[26]

Slavery has always been an evil. But the fact that the Jewish-owned slave could find redress or even endanger the master's life by denouncing him to the local authorities tended to mitigate the worst features of the institution of slavery among Jews. If the slave desired his freedom, he had only to declare that he wanted to become a Christian or a Moslem, depending on the religion of the area. Outright oppression and abuse would have led to greater enslavement of the master than the slave. This situation re-enforced the determination of the Jews to convert the slaves. "In a place where they [the Jews] are afraid that the unconverted slaves may reveal Jewish secrets to their mortal enemies and thereby bring danger or war upon the Jews, unconverted slaves should not be held at all."[27] Thus, because of fair treatment, many slaves were eager to accept Judaism.[28] There are several responsa which tell of slaves who wanted to be circumcized, but the masters hesitated or refused, hoping to sell them to Gentiles.[29] In one instance, a slave who changed

25 *Sha'arei Zedek* 27a, no. 30; B. Lewin (ed.), *Ozar ha-Geonim*, VII (Jerusalem, 1938), 115. שטבילת עבדים לא בסתר היא

26 Abrahams, *Jewish Life in the Middle Ages* (Philadelphia, 1911), pp. 91-125; B. Hahn, *Die wirtschaftliche Tätigkeit der Juden im fränkischen und deutschen Reich bis zum zweiten Kreuzzug* (Freiburg, 1911); Assaf, *op. cit.*, pp. 96-125; J. Mann, *JQR*, N.S. X (1919-20), 144-151. All discuss aspects of Jewish slavery, but Hahn and, to a certain extent, Abrahams cite papal edicts against the proselyting of slaves by Jews.

27 Harkavy, *op. cit.*

28 *Sha'arei Zedek*, 26a, no. 20.

29 *Ibid.*

hands from a Jew to a Gentile, when freed by the latter declared his willingness to become a Jew.[30]

There were even more immediate and compelling reasons for the conversion of slaves. The presence of an unconverted slave in a Jewish household endangered observance of the dietary laws. Wine touched by such a slave could no longer be used, not to speak of maids who could not salt meat or cook without supervision.[31] No wonder, then, that the Geonim were appalled when asked about cases where masters refused to convert their slaves to Judaism.

It should be emphasized, however, that not all Jewish-owned slaves cheerfully accepted Judaism. For many slaves it must have been very difficult to undertake to follow halakic requirements which they little understood. The refusal of slaves to be converted created two important legal problems: (a) Was the master responsible for the slave's observance of Jewish law; (b) should a master force his slave to be Judaized?

According to the Talmud responsibility for the observance of Jewish laws rested entirely upon the slave. Except for the "positive commandments that are to be observed only at certain times" and laws that might interfere with his servitude, a Jewish-owned slave had the same obligations as a Jew.[2] Nachmanides, writing in the thirteenth century, said that although the slave was personally obligated to observe the commandments, the master, too, had to make sure that he actually followed what was prescribed by the Torah. Thus, the commandment to keep the Sabbath was incumbent on both master and slave. But since the actual observance of the Sabbath by the slave was under the master's supervision, the latter was responsible for seeing to it that the former carried it out, and if he did not, he was to be punished. According to the Talmud, once a slave was cir-

30 S. Assaf (ed.), *Teshubot ha-Geonim,* II, (Jerusalem, 1929), 224.

31 Note. 25.

32 *Hagigah* 4a, *Nazir* 61a. See V. Aptowitzer, מחקרים בתשובות הגאונים (Jerusalem, 1941), pp. 122-134, who cites most of the talmudic authorities on the subject.

cumcized or immersed in water, the observance of Jewish law was a life-long obligation of which he could never divorce himself.[33]

Nachmanides was writing at a time when slavery as an institution had declined, and talmudic scholarship was at its peak. The Geonim, on the other hand, lived at a time when slavery among Jews reached its height. The Geonim of Sura and Pumpedita, moreover, were less rigid in halakic rulings, for they were neither aided nor hampered by such classical codifiers and commentators as Alfasi, Maimonides, and Rashi. For the Geonim the Talmud was still an open book, adaptable and flexible. Because of this, there is in the gaonic responsa more free interpretation of and deviation from rulings accepted later by classical talmudic scholarship. This explains the many gaonic decisions which seem to us to contradict the Talmud.

Thus, Natronai Gaon deviates from the talmudic axiom that once a slave was Judaized, he could never divorce himself from his Jewishness:

> You have inquired regarding a Jewish-owned slave who escaped or was taken captive and by his own will ate Gentile foods and drank prohibited wines. Now, however. he repents. It seems to us that he is not like a Jew who could be smitten for sins he has committed. A slave is like cattle, in that, under Jewish auspices, his owner must make him observe all laws and days of rest applicable to him. . . . But since he escaped, and certainly if he was taken captive and returned to the owner, he should once again observe the laws.[34]

This decision lowered the position of the slave from that prescribed in the Talmud and accepted by Halakah.

This responsum is not an isolated case which might be regarded as a curiosity. Another ruling states that a slave who had been suspected of stealing, of the improper slaughtering of animals, or of other misdoings could be sold to a

33 M. Nachmanides, *Commentary, Ex.* 20:10.

34 *Sha'arei Zedek*, p. 24b, no. 9. Aptowitzer's interpretation of וחזר למצות כשאר עבדים to mean that the slave must be circumcized again is not necessary. Aptowitzer, *op. cit.*, p. 125.

non-Jew.[35] The talmudic penalty for selling a slave to a Gentile was a fine imposed on the seller equal to ten times the price received, in order to buy back the slaves. But Gaon Cohen Zedek ruled otherwise:

> You have asked: "If one sells his slave to a Gentile, he [the master] is fined ten times the amount he received. Is the purpose of the fine to redeem the slave, or is it for some other purpose?" We have seen that we do not bind him [the master] to redeem the slave from the Gentiles. But the sages punished the master because he kept his slave from observing the commandments. The fine should be utilized for the liberation of [Jewish] captives, linen for the dead, or to support the Torah students.[36]

Another group of Geonim confirm that a converted slave is a limited proselyte who may never divorce himself from his Jewishness. Asked about a slave who, sold to a non-Jew, reverted to his former faith, and was later repurchased by a Jew, whether such a slave required another conversion, one Gaon responded emphatically in the negative. A slave who reverted to his former habits was like an apostate Jew (*meshumad*), of whom only repentance was required.[37] Maimonides, incidentally, agrees with this school of thought: "A slave . . . who took it upon himself to observe the laws is redeemed like any other captive Jew."[38] But Maimonides adds that any captive, free or in bond, if he violated any law spitefully, should not be redeemed.

On the question whether a slave could be forced to accept Judaism, opinion among the Geonim was equally divided. Talmudic law on this point is moot.[39] A superficial reading of *Yebamot* 48b would indicate that a slave, like any other proselyte, had to accept Jewish law freely and willingly. But Asheri quotes Rashi to the effect that conversion

35 *Sha'arei Zedek*, p. 23b, no. 3. Aptowitzer maintains that this responsum is also by Natronai Gaon.

36 *Ibid.*, p. 26a, no. 19. See also Natronai's responsum, p. 27b, no. 37. Both Natronai and Kohen Zedek lived in Sura.

37 *Ibid.*, p. 23a, no. 3; *Ittur* II, 23b (Lwow, 1860); *Bet Joseph*, *Tur Yoreh Deah*, no. 267.

38 Maimonides, *op. cit.*, *Matnot* 'Aniyim 8,14.

39 See Aptowitzer, *op. cit.*, pp. 126-127. But *cf. Yer. Yebamot* 7,1.

might be forced upon a slave.[40] But in Rashi's time forced conversion was a mere theoretical problem; in the gaonic epoch, it was a very live issue. Sar Shalom Gaon ruled that a maid who was Judaized forcefully but by habit stopped practicing idol worship could be entrusted with wine and with the dietary laws like any other bona fide slave.[41] Sherira Gaon, on the other hand, decided that a Christian slave who refused to be immersed in water was legally a Christian.[42]

Aptowitzer is of the opinion that both controversies, whether the slave or master was primarily responsible for the former's observance of the laws and whether a slave might be forcefully Judaized were intertwined. Those who maintained, according to Aptowitzer, that the slave's observance was primarily the master's responsibility also held that the slave could be forcefully converted, and vice versa. For if the slave was not personally responsible for the observance of the laws, there was no need for him to consent to the Jewish faith. He also points out that the Pumpedita Geonim, Sherira and Matitiahu, maintained that the status of the slave was not unlike that of any other convert to Judaism, while the Sura authorities, Natronai, Cohen Zedek, and Sar Shalom, held that the conversion of a slave was different from that of a proselyte.[43]

Further evidence of the Sura school's departure from talmudic slave Halakah involves the well-known Exilarch Bustenai. When Caliph Omar ben Chatab took captive the two daughters of Chosroes I, he gave one, Dara, to the Exilarch. Two sons were born of the union of Bustenai and Dara. After Bustenai's death, the other sons of the Exilarch argued, with sound halakic logic, that since there was no record that Dara was ever emancipated, her sons were to be considered legally in bondage until granted manumission. For a while the legitimate sons succeeded in excluding Dara's

40 Although Asheri's interpretation of Rashi has been questioned by Aptowitzer, *op. cit.*, p. 131, no. 6, Rashi's words דכל מילת עבדים בעל כרחם imply that this was also Rashi's own opinion.

41 *Sha'arei Teshubah* (Salonika, 1802), no. 254.

42 *Sha'arei Zedek*, p. 25b, no. 16.

43 Aptowitzer, *op. cit.*, pp. 132-133.

sons from their father's patrimony. But after heated controversy the Sura Geonim legitimated the two sons of the captive and restored to them their due rights.[44]

To legitimate Dara's children, Natronai Gaon evolved a far-reaching halakic decision: offspring of a master and his slave should be considered legitimate. The legal fiction behind this ruling was that, there being no evidence to the contrary, it should be assumed that the master freed his slave before he had sexual intercourse with her. This ruling invoked the talmudic principle: "One does not have illicit sexual relations when one can do it legally."[45] In Bustenai's case it meant the restoration of rights to the captive's children. This ruling eliminated legal ostracism from many unions with slaves and granted inheritance rights as well as freedom to the offspring.[46]

Another Sura Gaon, Aaron, carried this legal fiction one step further. While, in the Bustenai case, the ruling assumed that the master's sexual relations with his woman captive were sufficient proof that he had manumitted her, Aaron Gaon ruled that sexual relations between any free man and a woman captive proved that she was free. When a man had relations with somebody else's slave, in the absence of contrary evidence it must be assumed, Aaron Gaon said, that he had bought her and emancipated her. Although Aaron's opinion did not prevail, it does show how far removed the gaonic slave Halakah was from its talmudic sources.[47]

The Pumpedita Geonim challenged the Bustenai precedent. While it is true that the Pumpedita opposition is sometimes ascribed to factional jealousy between the two schools, there is adequate proof that, in this as in other slave Halakah, the Pumpedita scholars followed the talmudic sources. Sherira and Hay of Pumpedita were asked about the case of a man who died childless except for a son by a

[44] Lewin, *op. cit.*, pp. 39-40.

[45] אין אדם עושה בעילתו בעילת זנות *Gittin* 81b; *Yebamot* 22a, however, does not invoke this principle in regard to a son of a slave. *Cf.* also *Maggid Mishnah, Yad Ha-Hazakah, Nahalot* 4, 6.

[46] Lewin, *op. cit.*, pp. 40-41.

[47] *Ibid.*, pp. 40-41.

slave. The deceased man's brother then married his former sister-in-law. The crucial question was whether the existence of a son by a slave would remove the levirate requirement. Sherira and Hay ruled that, contrary to the Bustenai precedent, the man who married his sister-in-law acted legally, but the slave's son should be granted freedom.[48] The controversy between the two schools continued long after the gaonic period.[49] Maimonides, incidentally, agreed with the Pumpedita school, although he conceded to the Sura school when the master was a talmudic scholar.[50]

It may be that the differences between the Sura and Pumpedita Geonim had economic and social roots. Sura was an important commercial and political center. Moneys collected from distant communities of the Diaspora flowed into the coffers of the exilarchate. The wealth of the Sura Jewish community effected a more pragmatic attitude in its scholars.[50a] Thus, the Sura Geonim legalized the slave trade, rejected the idea of freedom of choice in accepting the Jewish faith, and refused to consider the slaves' forced conversion as eternally binding.[51] Since many Jewish masters had children by their slaves and since they were brought up as Jews, legal means had to be found to legitimize them. The Pumpedita scholars, however, were farther removed from the Mohammedan centers of influence and from the economic pressures of the capital. Thus the latter school could more freely follow talmudic procedures objectively.

Socially, slavery degraded Jewish morality. As one inquirer to Natronai Gaon put it: "Many people . . . buy

48 *Ibid.*, pp. 41-42; *Sha'arei Zedek* 25b, no. 15. *Cf.* S. Baron, *The Jewish Community: Its History and Structure to the American Revolution*, III, (Philadelphia, 1945), 39.

49 Rashba, *Responsa* (Vienna, 1812), no. 1183.

50 Maimonides, *op. cit.*; *Geirushin* 10, 19; *Nahalot* 4, 6.

50a Thus, in Sura (Baghdad) wives were not required to grind wheat, to wash or to bake for their husbands; such work was performed largely by servants; Lewin, *op. cit.*, VIII, 171.

51 There were other differences of opinion between the two schools: Whether the master or the servant makes the required blessing during the immersion in water; whether a slave may take an oath. In both cases the Sura Geonim reduced the rights of the slave. *Sha'arei Zedek* 73b, no. 10. Aptowitzer, *op. cit.*, pp. 132-134.

good-looking slaves, claiming that they acquired them for service, but it is suspected that they have ulterior motives. Should they be permitted to hold them? There are some who claim: 'She is my concubine; I have already manumitted her.' Should each case be investigated and the master be forced to show the documents of manumission and marriage?"[52] In Egypt attempts were made to prevent marital deterioration by writing in the *Ketubah*: "That he [the husband] shall not keep in his house a woman slave whom she [the wife] hates. . . . And if he should keep in his house a woman slave whom she hates," the wife may demand a divorce.[53]

The proselyting and the freeing of slaves sometimes created a racial problem, brought about by the owning and trading of Negro slaves, referred to as *Zangai.* They are mentioned again and again in the gaonic codes and responsa.[54] Targum Yonathan to Genesis 10:7 mentions Libyans and Zangai as descendants of Sabtekha, one of the sons of Cush.[55] Since Cush was supposed to be Ethiopian, Negro slaves were his descendants. Some Geonim classified the Zangai with the Seven Canaanite Tribes who, according to one opinion in the Talmud, may not be converted. According to Halakah, such a connection is entirely unjustifiable; it must have been pure racial prejudice which connected Negro slaves with the Canaanite Tribes. The majority of the Geonim, including the *Halakhot Pesukot* and *Halakhot Gedolot,* rejected the idea that the Zangai could not be considered proselytes after they had been granted freedom.

In many cases the masters brought the slaves' children up with their own. The talmudic restriction on education, inter-marriage, and social intercourse melted before the intimate contacts between master and slave. As one inquirer to Sherira Gaon wrote:

52 *Sha'arei Zedek* 27b, no. 38.

53 A. Freimann, (ed.), *Teshubot ha-Rambam* (Jerusalem, 1934), no. 197.

54 J. Epstein, *JQR,* N.S., IV (1913-14), 427; *Halakhot Gedolot* 108b (Berlin, 1888).

55 Also, *Targum Yonatan,* I, Chr. 1:9.

> Reuben (X) had male and female slaves: two of them sired a son. Now Reuben (X) sent the son to the scribe where he studied the Torah (and) the Prophets. This slave served his master, and he entrusted him with his money. A (quorum of) ten Israelites performed the seven (marital) blessings in the presence of his master . . . and the pair then gave birth to children. When the master died without giving them a document of manumission, the court made a settlement with the slave, in order that the deceased's money should not be lost, to grant him freedom. Since the master has left a minor son, will he be able after growing up to restore the servant to slavery? Has the marriage ceremony helped them to gain freedom? And is the Court's manumission valid?

Sherira replied to all questions in the negative and expressed the opinion that the son would be able to reclaim the servant.[56] But this and similar inquiries show how social and economic conditions removed legal barriers between master and slave.

S. Assaf exaggerates when he states that there was a general tendency among the Geonim to side with the slaves and to alleviate their lot whenever the problem of manumission came up.[57] The Geonim, as the responsum previously quoted indicates, attempted to achieve mutual adjustment between the Halakah and the institution of slavery. But as the gaonic era came to a close in the tenth century, the institution of slavery among the Jews passed its heyday. Beginning with the eleventh century there was a general decline in the number of responsa on cases involving slaves. In the new cases of that time the emphasis was on freeing the slaves rather than on keeping them. But even during the ninth and tenth centuries internal and external causes contributed to the decline of slavery among the Jews.

Internally, the waning of the exilarchate and the Sura Yeshibah, which was the center of the slave trade, contributed to the fading out of slavery. The amazing growth of the Karaite movement, aided perhaps by the moral deterioration of Suran Jewry, which attacked certain halakic

[56] *Sha'arei Zedek* 26b, no. 29, another responsum concerning a master whose slave studied the Torah, 27b, no. 37; Lewin, *op. cit.*, pp. 97-98.

[57] Assaf, *op. cit.*, p. 102.

legislation, further weakened the institution of slavery.[58] Externally, the movement of the Jewish population to feudal Europe removed its economic substructure. And, finally, the Christian and Mohammedan restrictions imposed upon the ownership and proselyting of slaves all contributed to the gradual but continuous decline of slavery among Jews.[59]

This explains why, in the tenth and eleventh centuries, there was a shift in the responsa literature from the problems of owning slaves to those of freeing them. There was a correlative rise in the position of the Jewish-owned slave and a decline in the economic and social status of the Jew. Masters granted freedom to their slaves to become effective after they died. This had been legally possible before, the slave continuing to be formally in bondage until the master's death, but it occurred infrequently. Hay Gaon, as cases multiplied, advised removal of the technical difficulty, the freed slave pledging himself to continue to serve until the master's death.[60] Letters of manumission in the *Genizah* and their forms recorded in the *shetarot*, contracts, and codes are further evidence of the new trend.[61]

What is striking about the document of manumission is its wording which is very similar to that of the document of divorce. There are slight differences among the various kinds of documents, but most spell out the rights of the redeemed which had previously been denied him: to intermarry with the congregation of Israel and to study the Torah. These documents also conclude with the traditional phrases: "According the laws of Moses and Israel."[62]

58 The Karaites believed that the levirate laws are applicable to female slaves; and that a slave who fled from his Jewish master should be freed. Harkavy, *Le-Korot Ha-kitot be-Israel*, Graetz, *Sefer Dibrei Yemei Israel* (S. Rabbinowitz, ed.), III, 506-507.

59 Abrahams, *op. cit.*, pp. 97-98.

60 Judah ben Barzilai al-Barceloni, *Sefer Ha-Shetarot* (Berlin, 1898), pp. 125-127.

61 A. Marx, *JQR*, N.S., I, (1910-11), 434; J. Mann, *The Jews in Egypt and in Palestine under the Fatinnid Califs*, II (Oxford, 1922), p. 363; Isaac ben Aba Mari, *Sefer ha-Ittur* 34a (Lwow, 1860).

62 For a halakic critique, see *Keneset ha Gedslah, Shulhan Aruch Yoreb De'ah* no. 267.

External factors prohibiting conversion finally brought about a modification in the Halakah concerning the holding of slaves. Mordekhai ben Hillel, in the fourteenth century, ruled that slaves bought in localities where their circumcision was prohibited were not allowed to be circumcized by Jewish law either.[63]

The tendency to free slaves rather than to keep them in bondage is also indicated in the *Tur* where most of the elaborate slavery laws pertain to the problems of emancipation.[64] This important code further emphasized the trend toward emancipation by placing the laws of slavery between the laws of circumcision and those of proselytes. This is in sharp contrast to Maimonides, who placed slavery laws at the end of the book of *Kinyan,* after the laws of messengers and partners.

It is not the purpose of this paper to deal with Jewish slavery after the gaonic era, ending roughly at the end of the first millennium; slavery among Jews after this time was comparatively rare and isolated. During the period when the slave trade was extensive and slave ownership almost universal, the responsa literature describes weddings,[65] mourning, [66] circumcision,[67] and immersion in water in astonishing detail. The slave's faithfulness or his treachery and the close contact between master and slave are depicted in a lifelike manner. The Geonim, as the legal representatives of early mediaeval Jewry, strove to reconcile the slavery institution with Halakah. Being mainly legalists, they were not social reformers. But the halakic tradition which, ever since antiquity, emphasized again and again the missionary duty of the Jewish master toward his slave and his responsibility to bind him forever to the Jewish people, reached its culmination during the period of the Geonim.

[63] *Mordekhai, ha-Holez, Yebamot,* near end, printed with many editions of the Talmud.

[64] *Tur Yore De'ah* no. 267.

[65] Lewin, *op. cit.,* VIII, 14, no. 11; II, 91.

[66] ואפילו על עבדים כשרים שמשמרים את האמונה אומרים קדיש. *Teshubot Geonim Kadmonim no.* 118 (Berlin, 1848).

[67] Lewin, *op. cit.,* II, 128-131.

How many slaves were actually absorbed and assimilated by the Jewish people? The writer of this article is not a statistician, and even if he were, it is doubtful that there are enough data available to reach a numerical conclusion. But there is sufficient documentation to establish that many if not all of the Judaized slaves were finally emancipated and were absorbed by the Jewish population. A reasonable guess might be that between the seventh and eleventh centuries Middle Eastern and North African Jewry doubled as a result of the proselyting of slaves. There is strong probability that the institution of slavery had more far-reaching anthropological, sociological, and economic effects than is generally assumed. So far students of Jewish history have paid but scant attention to one of the major movements in early medieval Jewish life.

THE ATTITUDE OF FRENCH JACOBINS TOWARD JEWISH RELIGION

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FRATERNIZATION of all religious groups was a slogan often used after the outbreak of the French Revolution in 1789, and many revolutionary leaders were very serious about it. The Jewish emancipation was not the result of a political plot, but of a sincere desire to put an end to the restrictions imposed upon the Jews.

On October 27, 1791, the Deputy Raymond de Carbonnières spoke at the Legislative Assembly on the fraternity of the faiths, and he proposed that the Government cover the budgets for the religious activities of all faiths, including the Jews.[1] (This was realized only in 1831.) The Minister of Justice, in his circular of January 10, 1792, declared to the tribunals that the law does not make any distinction between Jews, Christians, or others. Not the opinions, but the actions of everyone should be taken into consideration.[2] Later, on November 27, 1793, during the Terror, the Representative to the Army of the Western Pyrénées called on the army to keep alive hatred only against the Spanish enemies and to express feelings of friendship and fraternity to all Frenchmen, Catholics, Jews, Protestants, and Moslems, provided that they would defend France's unity.[3]

[1] *Moniteur* (réimpression), (1791), 255; R. Reuss, *La Constitution civile du clergé et la crise religieuse en Alsace* (1790-1795) (Strasbourg, 1922), I, 336-37.

[2] *Lettre de M. Dupont, Ministre de la justice, à tous les tribunaux sur la liberté des cultes religieux* . . . du 10 janvier 1792 (Bordeaux, n.d.), p. 5: "Elle [la loi] ne distingue pas entre le Juif & le chrétien, le Protestant & le Catholique, le conformiste et le dissident. Elle ne juge pas les opinions et les personnes, mais les actions."

[3] [B.J.B.] *Monestier, réprésentant du peuple près l'armée des Pyrénées occidentales . . . à ses frères d'armes* . . . (Pau, n.d.), 3 pp. ["Amitié, fraternité à tous les Français, catholiques, juifs, protestants, musulmans, pourvu qu'ils aiment et qu'ils défendent l'unité. . . ."]

Fraternization of all faiths was not always mere empty talk. In the traditionally anti-Jewish province of Alsace the Fête de la Constitution of 1791 was observed together by Christians and Jews in the churches and synagogues of Bischheim and Bischwiller. In Bischheim one hundred Christians and Jews assembled at a banquet in the house of a rich Jew.[4] Of course, Jews were requested to give up something of their traditional life. An Alsatian pamphleteer of 1790 asked that an end be put to the legend of the Jews' guilt for the crucifixion of Christ and of God's condemnation of the Jews to eternal damnation. But at the same time he appealed to the rabbis to purge the Jewish religion of a multitude of superstitions and ceremonies incompatible with the new state of the nation.[5] In June, 1791 a member of the *Société populaire* of Saverne stated that there could be no equality as long as superstition reigned among the Jews.[6]

Basically, the Jacobins considered the Jewish religion dangerous as all other "old" religions, and the founders and followers of these religions were described as dangerous charlatans and enemies of the human race.[7] Anacharsis Cloots,

[4] *Geschichte der gegenwertiger Zeit,* II, Oct. 26, 1791; *Les Annales patriotiques littéraires de la France,* V, July 26, 1791; *L'Auditeur national,* I, Oct. 29, 1791; Reuss, *op. cit.,* I, 336-37.

[5] *Observations sur la possibilité et l'utilité de l'admission des juifs en Alsace aux droits de citoyen* . . . (Strasbourg, 1790), pp.14-17.

[6] Dagobert Fischer, *La Société populaire de Saverne pendant les années* 1791 *à* 1794 (Mulhouse, 1869), p. 15.

[7] "Tous les religionnaires ont été et sont encore les ennemis nés de l'humanité, des charlatans, des empiriques, *Moyse* chez les *Egyptiens, Jésus* chez les *Juifs.*" Sébastien Lacroix, *La Religion nouvelle* . . . (Marseille, an II), p. 3 [a speech at the general assembly of the "Sociétés populaires du Midi"]. —"C'est ainsi que les Mahomet, les Luther, les Calvin se sont entés sur Jésus, lequel s'étoit ci-devant enté sur Moyse." *Discours prononcé par Balthassard Faure dans l'église ci-devant cathédrale la Commune de Nancy,* . . . 20 *brumaire, an second* . . . (Nancy, n.d.), p. 5.—". . . J'ai parlé des prêtres en général, tels que le papiste, le disciple de Luther et de Calvin, le Rabin. . . le Moufti . . . tous, sans exception, n'ont en vue que de soigner leur intérêts." *Discours sur le fanatisme et la célébration des fêtes décadaires, prononcé au temple dédié à l'Être surprême,* par un Membre de la Société Républicaine de Bruyères (Bruyères, n.d.), p. 11.—"Ouvrez l'histoire des Juifs, voyez Moise leur dictant des loix que Dieux lui même avoient confiées, sur le Mont Sinai." *Discours prononcé à la Société populaire de Charolles* . . . *le* 21 *brumaire de l'an deux* . . . (Macon, n.d.), p. 7.—"Le catholique, le juif, le protestant, qu'une difference d'opinion et de culte divisait depuis tant de siècles, heureusement réunis, ne reconnaissent plus d'autre divinité que la liberté, la nature, la

author of *Lettres sur les Juifs* (1782), who was always friendly towards Jews and defended them from a revolutionary-cosmopolitan point of view, showed his contempt for religion by drawing a comparison between the "dreams of Moses and Christ" and the accomplishments of the Convention.[8] Manuel, procurator of Paris, attacked all religions, the priests and rabbis.[9] Still, to some Jacobins, including the pro-Jewish minded Alsatian Jacobin of German origin, Eulogius Schneider, Christianity was at first a revolt against a degenerated Judaism.[10] One Alsatian revolutionary called upon Jews not only to forget about the Messiah, because they now lived in a state of equality and liberty, but he also expressed his hope that some day they would accept Christ's teaching.[11] To many Jacobin pamphleteers the Jewish religion was the source of many evils in Christian life. Thus, e.g., Sunday rest was only a logical result of the Jewish Sabbath and should be replaced by the more Revolutionary *Décadi.*[12] Here the influence of the Encyclopaedists, who hated the Jewish religion as a source of Christianity, may

raison." *La Gazette française,* No. 688, 28 brumaire an II.—"Le Dieu farouche d'Israél, l' implacable Jehova, le Dieu équivoque des chrétiens . . . vont donc courber leurs têtes superbes devant la seule divinité des hommes libres, la Raison de tous les temps. . . ." *Le Batave,* II, No. 286, Nov. 28, 1793.

8 *Anacharsis à Paris ou Lettre de Jean-Baptiste Cloots, à un Prince d'Allemagne* (Paris, 1790), p. 24. On Cloot's attitude towards Jews see L. Kessler, "Anacharsis Cloots and His "Lettres sur les Juifs," *The Jews in France* (New York, 1942), II, 75-92.

9 *Le Courrier français,* No. 131, May 10, 1792; L. Kahn, *Les Juifs de Paris pendant la Révolution* (Paris, 1898), p. 183.

10 "Jesus hatte den grossen Plan entworfen, dass sinnliche, sklavische, durch Aberglauben und Priesterlist verdorbene Judentum zu zerstören, und auf dessen Trümmern eine geistige, freie, aufgeklärte Religion zu gründen." Eulogius Schneider, *Das Bild des guten Volkslehrers* . . . (Strasbourg [1792]), p. 2.—"Duldet jede Religion, aber duldet keine Pharisäerreligion." Dr. Thaddaus Anton Dereser, *Über religiöse und politische Toleranz* . . . (Strasbourg [1792]), pp. 18-19.

11 *Johann Friedrich Riechter in der Gesellschaft der Jacobiner an seine Mitbürger. Strassburg den* 14 *October* 1792 . . . *Erste und zweite Rede* (n.p., n.d), p. 39.

12 "Die Sabbats-Feyer ist ein jüdisches Gesetz, an welches die Christen so wenig gebunden sind, als an die blutigen Opfer." Matthias Engel, *Meine Meinung über die Verlegung der Sonntags-Feyer auf den Dekadi* [Strasbourg, 1794], p. 10. For a Jacobin analysis of the Jewish Sabbath see J. J. Kämmerer, *Die Religion der Jugend und der Vernunft über die Feier der Dekaden* (Strasbourg, 1793), pp. 14-20.

clearly be seen. Biblical and other historical Jewish subjects, which were very popular among Christian scholars and in the dramatic literature prior to 1789, were neglected during the Revolution. Biblical heroes were replaced by Greek and Roman legendary figures, which could more easily be adapted to the revolutionary slogans.[13]

But the anti-religious propaganda had its positive effects, too. Hatred of Jews and other non-Catholics was no longer an official policy. B. Faure, the leader during the period of the Terror in Nancy, stated on November 10, 1793: "There are no longer in the Republic Jews, nor Protestants, nor Anabaptists, nor Catholics; there are only French republicans."[14] Dechristianization was the first major factor paving the way for full freedom of religious minorities, including the Jews.[15] The Catholics ceased to be the dominant element in France's life; they became merely the largest of many religious groups. At the inauguration of the Temple of Reason in Epinal on January 29, 1794 the Jacobin Christophe Denis stated: "I am not asking you today to abjure the Catholic faith which you worshipped yesterday, but I must warn you that this religion cannot claim any domination, that this religion is not the public religion any more than the religion of the Jews, of the Moslems, the Anabaptists, or others. . . . I am asking you citizens to consider the fact that of every hundred people on this earth, only one at most practises your faith; the others profess religions established by Moses, Confucius, Brama, Mohammed, Luther, Calvin, etc."[16]

As a result of the break with the Catholic Church, the religious freedom of the Jews was sometimes protected by non-Jews. Thus, e.g., at the beginning of the Revolution

[13] Biblical subjects came back already during the First Empire, but only later did they again enjoy popularity on a large scale.

[14] *Discours prononcé par Balthazard Faure . . . 20 brumaire an second . . .* (Nancy, an II), 7 pp.; G. Floquet, "Le Culte de la Raison . . . à Nancy pendant la Révolution," *Revue de l'Est,* XIV (1900), 541.

[15] R. Anchel, *Napoléon et les juifs* (Paris, 1927), p. 572.

[16] J. K., "L'Inauguration à Epinal du Temple de la Raison le 10 pluviôse an II," *La Révolution dans les Vosges,* XVI (1927), 92, 94. On Chr. Denis (1742-1813), a notary who later became secretary of the Vosges departement, see A. Philippe, *ibid.,* III (1924-25), 244-51.

Paris protested against the participation of the National Guard in Catholic processions because Jewish guards could not to be forced to take part. The *Société populaire* of Nice protested—in the name of freedom of commerce—against prohibiting Jews to open their stores on Sundays.[17]

According to the historian Robert Anchel, the Terror gave the persecutions of the Jews an anti-religious color. However, the opinion of the historian A. Aulard that the condemning of Jews during the Terror was not an act of anti-Semitism, but rather punishment for counter-revolutionary activity seems to be more acceptable.[18] So are the conclusions of the well-known Alsatian historian Rodolphe Reuss, that the anti-religious laws were directed mainly against the Catholic Church because of its anti-revolutionary attitude; "the brutal violences of the iconoclastic Jacobins were directed against Jews only in the form of ricochets."[19] The Jews could not be as dangerous to the Revolution as the Church was. Although the idea of having separate Jewish communities was repugnant to the Revolution,[20] there was no need for drastic action against Jews as a group. Robespierre himself was one of the first to demand citizenship for the Jews.[21] Already prior to the Terror the Friends of the Constitution stated that Jews and Protestants more readily respected the new order than the Catholics did. In 1791, François de Neufchâteau, in a discussion on the civic oath to be taken by Catholic priests, stated to the Legislative Committee: "No other faith presents this system of resistance to the law. The Protestants, the Jews, have different religious

17 Kahn, *op. cit.*, p. 183; Joseph Combet, *La Révolution à Nice* (Paris, 1912), p. 58.

18 Anchel, *op. cit.*, p. 14; A. Aulard, in *La Révolution française*, LXXXI (1928), 272.

19 Reuss, "Quelques documents nouveaux sur l'antisémitisme dans le Bas-Rhin de 1794 à 1799," *REJ*, LIX (1910), 269; *idem*, *Notes sur l'instruction primaire en Alsace pendant la Révolution* (Paris-Nancy, 1910), pp. 50-51.

20 Kurt Stillschweig, "Die Judenemanzipation im Licht des französischen Nationsbegriffs," *Monatsschrift für Geschichte und Wissenschaft des Judentums*, LXXXI (1937), 457-78.

21 A. Mathiez, "Robespierre et l'émancipation des juifs," *AHRF* [*Annales historiques de la Révolution française*], VIII (1931), 261-62, and "Robespierre et Grégoire sous la Constituante," *ibid.*, 261.

maxims than ours; but they are submissive to the law, they respect all established authorities."[22]

The Jacobins were not ideological atheists, as has already been proven by the historian Albert Mathiez in his discussion with Aulard. The Jacobins did not fight religion as a principle, but only the Catholic Church for its association with the counter-revolution. Because of the Church's position dechristianization of the population meant for the Jacobins saving the Revolution. Robespierre was not an atheist; he attacked those enemies of the country who fought the Revolution with the help of the "dagger of fanatism and the venom of atheism." The Girondists, too, were not atheists, i.e., non-believers in God as a matter of principle. Already on June 8, 1791, the Directoire of the department of the Gironde warned against "those men without religion . . . who identify the Clergy with the sacred law of religion and faith."[23] In Marseille, Moignet warned that the Monarchy wanted to make a come-back through atheism. The revolutionary song writer Aristide Valcourt urged that the Church be renounced, but that the Creator be respected and he shunned atheism. The Jacobin Claude Liégerot of Epinal declared in a speech of August 7, 1794: "God exists; this truth is known by all ages and peoples: let us worship him and adore his greatness and his goodness; but mean cere-

[22] *Le Mercure universel,* II, Apr. 21, 1791; *L'Auditeur national,* I, No. 60, Nov. 30, 1791; Kahn, *op. cit.,* pp. 182-83.

[23] Pierre Flottes, "Le Club des Jacobins de Bordeaux et de la monarchie constituonnelle," *La Révolution française,* LXIX (1916), 337-62; Mathiez, *Robespierre et le Culte de l'Être Suprême* (Le Puy, n.d.), 32 pp.; *idem, Robespierre et la déchristianisation* (Le Puy, n.d.), 63 pp.; G. Lenôtre, *Le Mysticisme révolutionnaire. Robespierre et la "Mère de Dieu"* (Paris, n.d.), 335 pp.; Mathiez, "Le Robespierre de M. Lenôtre," *AHRF,* IV (1927), 97-110; G. Kerl, *Robespierres Kirchenpolitik* (Leipzig, n.d.), 67 pp.; A. Richard, *Le Gouvernement révolutionnaire dans les Basses-Pyrénées* (Paris, 1927), pp. 153-160; G. Lefebure, "Le Culte de la raison et l'athéisme," *AHRF,* IV (1927), 593-94; Mathiez, *La Révolution et l'eglise* (Paris, 1910), p. 144; *idem, Contributions à l'histoire religieuse de la Révolution* (Paris, 1907); Aulard, *Le Culte de la raison et le culte de l'Être Suprême* (Paris, 1892); Edith Bernardin, *Les idées religieuses de Mme. Rolland* (Paris, 1933); *Discours de Maximilien Robespierre .. . 20 prairial, an second* (Bordeaux, 1794), p. 5; G. Rouanet, "La Religiosité des Girondins," *AHRF,* V (1928), 108-109; Aulard, *Études et leçons sur la Révolution française* (5e serie, Paris, 1907), pp. 203-303; *Adresse du Directoire du Département de la Gironde . . .* 8 juin 1791 (n.p., n.d.), 10 pp. (City archives of Bordeaux, BI).

monies should not disgrace our veneration for him."[24] This was also the policy of the Jewish Jacobins of Saint-Esprit-lès-Bayonne who, in a proclamation of May 31, 1794, on the Festival of the *Etre Suprême,* cautioned against the aristocracy and godlessness.[25]

Did the Jacobins persecute the Jews because of their religion? According to the majority of Jewish historians, a Jew named Jean de Mendes was guillotined in Bordeaux for having stated that he could not accept the Constitution because of his religious principles.[26] But the same Mendes (known later as Blondin) had been converted to Christianity in 1776 and, upon his conversion, received a yearly pension of 150 livres from the King of France. On July 20, 1794, he was sentenced to death. In most official documents Mendes figures as a converted Jew (*ex Juif*).[27] Of course, Bordeaux Jews, too, suffered from the Terror but not to the extent of having to pay with their lives. On July 19, 1794, a 34-year-old Jewish peddler, Jassé Carcassonne, was guillotined in Nîmes (department of Gard). According to some historians, Carcassonne, and other Jewish victims (the Cantor Mardochée Mayrargues and David Crémieux), were executed because of their refusal to recognize the new revolutionary religion of Reason.[28] Before the Revolution, only thirty-

[24] Moignet, *Discours prononcé dans la fête célebrée en l'honneur de l'Être-Suprême de Marseille, le* 20 *prairial* (Marseille, an II), p. 4; Aristide Valcourt, "Strophes sur l'Être Suprême," in *Recueil d'hymnes républicaines . . .* (Paris, an II), p. 99; Claude Liégerot, *Discours prononcé au Temple de l'Eternel, au Clerjus le* 20 *thermidor, l'an II . . .* (Epinal, n.d.), 6 pp.; *La Révolution dans les Vosges,* VII (1913), 53.

[25] E. Ginsburger, *Le Comité de surveillance de Jean-Jacques Rousseau, Saint-Esprit-lès-Bayonne* (Paris, 1934), p. 32.

[26] T. Malvezin, *Histoire des juifs à Bordeaux* (Bordeaux, 1879), p. 27; H. Léon, *Histoire des juifs de Bayonne* (Paris, 1893), p. 163; Léon Berman, *Histoire des juifs en France des origines à nos jours* (Paris, 1937), pp. 637-68; Salo W. Baron, *A Social and Religious History of the Jews* (New York, 1937), II, 227; A. Tcherikower, "The Jewish Struggle for Rights during the French Revolution," *The Jews in France* (New York, 1942), II, 55 (in Yiddish).

[27] Departmental archives of Gironde, C 84 and 1093, L 57, p. 127; city archives of Bordeaux, fonds R. Brouillard, Inventaire de la serie L, V, 59a; A. Vivie, "Dictionnaire des arrestations," VI, 573, and documents, XV, 36; *Journal du Club National,* March 22, 1794; A. Vivie, *La Terreur à Bordeaux* (Bordeaux, 1877), p. 386; printed sentence of July 20, 1794. Broadside.

[28] Joseph Milner, *Jews in France* (Paris, 1953), p. 72 (in Yiddish).

seven Jewish families lived in Nîmes; during the Revolution many Jews from the neighboring Papal territory of Avignon and Comtat Venaissin emigrated there. Nîmes became a center of bloody riots, most of them growing out of the conflicts between the Catholics and the large number of Protestant inhabitants. The small Jewish community suffered, too. The Cantor, Mardochée Mayragues, was forced to bow before the altar of the new religion. When, on December 8, 1793, a Jewish delegation was received by the city council, a Jewish representative made a patriotic speech and offered 930 livres and a basket of gold (probably from the synagogue ornaments). But Mayrargues and Crémieux did not suffer physically and Carcassonne was not guillotined because of his religious principles. Nîmes was for a time governed by a federalist city council, of which Carcassonne was a member, and as a result of his federalist activities he was guillotined together with other Nîmes federalists.[29] In fact, we do not know of any Jew anywhere in France who during the Terror lost his life because of his religion.

The question arises whether the attitude towards Jews should be discussed chronologically according to the various political periods of the Revolution. In this case, too, the conclusion should be negative for some regions. Where anti-Jewish feelings existed during the old regime and at the beginning of the Revoltuion, it also became the policy of the local Jacobins during the Terror and was later continued during the Thermidor.[30] Some Jacobins disliked Jews as a

[29] City archives of Nîmes, Club populaire, December 8, 1793; S. Kahn, *Notice sur les Israélites de Nîmes* (Nîmes, 1901), pp. 9, 18-19, 29; F. Rouvière, *Histoire de la Révolution française dans le département du Gard* (Nîmes, 1889), IV, 327-34, 459; *Jugement rendu par le Tribunal révolutionaire etabli à Nîmes, qui condamne les nommés . . . Jassé Carcassonne . . . membre de la municipalité à l'époque du fédéralisme . . . à la peine de mort . . . du Ier thermidor an second . . .* (Nîmes, 1794). Broadside; F. A. Aulard, in *Révolution française*, XIII (1887), p. 380. On the bloody conflicts between Protestants and Catholics in Nîmes see *Victoire remportée par les patriotes de la ville de Nismes sur les soi-diseurs Catholiques . . .* (Paris, n.d.); *Anniversaire du massacre des catholiques de Nismes*, le 13 juin 1790, and many other contemporary pamphlets.

[30] On November 21, 1793, Robespierre proclaimed the end of the official anti-religious persecution and freedom of religious practices. Still, the fight against religion continued till the end of the Terror, and even later, during the Thermidor. As late as December, 1798, the Jews of Hochfelden were denounced

group of merchants, but on the other hand, Thermidor rulers were ideological adversaries of the Jews. The historian Jacques Godechot divided the history of the Jews in Nancy during the Revolution into three periods: (1) the time prior to the Terror, (2) the time of the Terror, and (3) the Thermidor. But such a division can be accepted only with the understanding that it represents no more than a reflection of the city's general events. If Jews suffered during the Terror more than before or afterward, then it was due solely to the fact that this was a time of violence in which everybody suffered more. Since Nancy was known as an aristocratic city, everyone there including the Jews suffered during the Terror. However, when the Nancy dictator, B. Faure, demanded of the Jews that they forget their Messiah, this should not be understood as an anti-Jewish act. The next day the Nancy Rabbi, Jacob Schweisch, resigned from his office. Of course, he was forced to do so, but as a result the Jew Salomon Lévy was appointed member of the city council.[31]

In the Revolution the Jews had many foes in various regions, among the Jacobins of Alsace and neighboring departments and among the counter-revolutionaries. They also had many friends among the partisans of the Revolution; without them the Jews would never have been granted citizenship. Persecution of the Jewish religion by Jacobins should not be understood as an ideological struggle for the abolition of the Jewish faith, or as action of an anti-Jewish character, as some historians maintain. Jews who desired to perform their religious rites and follow their religious traditions—to observe the Sabbath, to wear Sabbath garments, to have separate Jewish cemeteries, and the like—were victims of the general drive against those who were regarded as being

for practicing their religion. Reuss, "Quelques documents . . ." pp. 273-74. On other similar facts see Kahn, *op. cit.*, pp. 312 *et seq.*

[31] J. Godechot, "Les Juifs à Nancy de 1789 à 1795," *REJ*, LXXXVI (1928), 23, 25-27; *idem*, "Le Comité de surveillance révolutionnaire de Nancy," *La Révolution française*, LXXX (1927), 249, 254; B. Faure, *Discours . . . 20 brumaire an second*, 7 pp.; A. Troux, *La Vie politique dans le département de la Meurthe d'aout 1792 à octobre 1795* (Nancy, 1936), II, 225-27; Floquet, "Le Culte de la raison et de l'Être Suprême et les fêtes civiques à Nancy pendant la Révolution," *Annales de l'Est*, XIV (1900), 544.

opposed to the Revolution.[32] The Colmar Jacobins protested against the Jews' not working on the Sabbath.[33] In Nancy, Tomblaine, Sarrebourg, Metting, and Lixheim (Lorraine) anti-Jewish feeling arose over the Sabbath observance, but no anti-Jewish acts were then noted there.[34] The people of Bordeaux protested against permitting a separate Jewish cemetery.[35] Even in Saint-Esprit-lès-Bayonne (where the Jacobin Club was composed mostly of Jews) Jews were forbidden to wear Sabbath garments or to light Sabbath candles.[36] In order to wreck anti-Republican sentiments and fanaticism, Strasbourg Jews were forbidden, on June 27, 1794, the use of the Jewish cemetery at Rosenviller. The same order forced the Jews to state their means of livelihood, which could be taken as motivated by anti-Jewish feelings.[37] During the Terror the District of Strasbourg took severe measures against the Jews for the practice of their faith. Simon, the agent of the District, spied on the Jews and reported to Mayor Monet that he did not see any Jews at the Temple de Génie, probably because "they are more attached to their Talmud than to the Constitution of the Republic."[38] The famous Strasbourg Jacobin leader and friend of Jews, Eulogious Schneider, praised the attitude of some Protestant pastors who declared themselves partisans of the new religion and enemies of all priests, rabbis, and preachers.[39]

The drive against religion was often exaggerated by local Jacobins and commissioners sent from Paris, but this

32 These subjects will be treated in separate studies.

33 P. Leuillot, *Les Jacobins de Colmar . . .* (Strasbourg, 1923), p. 271.

34 Godechot, *op. cit.*, p. 834; Troux, *op. cit.*, II, 639-40.

35 G. Ducaunnes-Duval, *Ville de Bordeaux. Inventaire sommaire des archives municipales. Période révolutionnaire* (Bordeaux, 1929), IV, 291.

36 *Guerre aux tyrans. Paix au peuples, les représentants du peuple près des Pyrénées occidentales 5 juillet,* 1794 (Bayonne, n.d.). Broadside; Albert Darricau, *Scènes de la Terreur à Bayonne . . .* (Bayonne, 1903), p. 149; Ed. Ducéré, *Dictionnaire historique de Bayonne,* (Bayonne, 1911), I, 459.

37 *Délibération du Directoire du district de Strasbourg. Du 9 messidor, l'an second . . .* (Strasbourg, 1794), 7 pp.; *L'Agent national du district de Strasbourg à ses concitoyens* (Strasbourg, June 26, 1794), 7 pp.

38 R. Reuss, *Séligmann Alexandre ou les tribulations d'un israélite strasbourgeois pendant la Terreur* (Strasbourg, 1880), pp. 26-27.

39 E. Schneider, *Le Saint décadi, 20 novembre* 1793 (n.p., n.d.), 5 pp.; *Argos, oder der Mann mit Hundert Augen,* III, 489; F. C. Heitz, *Notes sur la vie et les écrits d'Euloge Schneider* (Strasbourg, 1862), p. 109.

was done against the will of Robespierre and his close friends. Of course, in some cases of excessive suppression of religion, local administrators demonstrated their anti-Jewish feelings. Nevertheless, their acts could rarely be called open anti-Jewish demonstrations, because not Jews alone were persecuted. On November 22, 1793, February 1, 1794, and June 1, 1794, the city of Strasbourg forbade Jews to pray in their synagogues, but the same order forbade all other gatherings, both Jewish and Christian, except those of the new revolutionary religion and revolutionary clubs.[40] The closing of the Lunéville synagogue[41] was, most probably, not an anti-Jewish act but part of a general campaign against religious fanaticism. Rabbis were forced to take an oath of allegiance to the Republic, but this occurred even in the post-Terror period,[42] and the same oath was forced upon Catholic priests and Protestant ministers. The Deputies N. Hentz and J.M.C.A. Goujon ordered the arrest not of rabbis alone, but also of Catholic priests and Protestant pastors.[43] Seven Alsatian cantors and ritual slaughterers of Diebolsheim, Muettersholz, and other communities were arrested and held four weeks in the prisons of Sélestat, Colmar, and Besançon. But they were not arrested because they were Jews; they were apprehended together with sixteen Catholic priests and ten Protestant ministers as a result of the destruction by counter-revolutionaries of the Tree of Liberty in Hirsingue.

Of course, anti-Jewish feeling was always strong in Alsace. Yet when, at the end of 1793, the Convention's commissioner in Alsace, M. A. Baudot, called for *régénération guillotinière* against the Jews, he probably meant to fight religious Jewish fanaticism and not Jews as such.[44] In fact,

40 *Délibération du Directoire de Strasbourg du 13 pluviôse l'an second . . .* (Strasbourg, an II). Broadside; *Agent national du district aux Communes*, Strasbourg, June 25, 1794 (n.p., n.d.), 2 pp.; Reuss, *Les Eglises protestantes pendant la Révolution* (Paris, 1906), p. 148.

41 Edouard Gérardin, *Histoire de Lorraine* (Paris, 1925), p. 79.

42 "Etat des Rabbins qui ont prété le serment de haine à la royauté et à l'anarchie, et la fidélité pour la maintien de la Constitution de l'an trois et de la République" [Cernay, 1797]. Departmental archives of the Upper Rhine, L 645.

43 F. Schaedelin, *Un Jacobin: Joseph Bruat* (Colmar, 1932), p. 213.

44 On these arrests see Johann Karl Gerold, *Bilder aus der Schreckenszeit.*

every religious leader was suspect.[45] Ornaments of churches were confiscated and so were ornaments of synagogues.[46] At the revolutionary parades in honor of the new Religion of Reason all old religions were ridiculed. At such a parade in Bordeaux on December 10, 1793, four rabbis, many priests, judges, and others represented the old regime. A midget named Richefort was dressed like the Pope, and a giant Jew named Mardochée Cordova kept leaping over the midget's head.[47] At the first such festival of the new religion in Strasbourg rabbis holding torn copies of the Talmud paraded beside Catholic priests and Protestant pastors. It is probable that they were not really rabbis but only Jacobins in rabbinical garments. On the other hand, it was in preparation for this event that Mayor P. F. Monet, on November 19, 1793, called upon Jews, Calvinists, Lutherans, and Catholics to unite, to forget hatred and fanaticism. After the festival, however, the Jacobins complained that not one rabbi or minister had as yet renounced his superstitious practices.[48] Thus, Jewish participation in demonstrations of the revolutionary religion became a part of the decorative program of such festivals even in places where Jews did not reside. According

Erlebnisse eines deportirten elsässischen Geistlichen (Strasbourg, 1883), pp. 13-15; Abbé C. A. F.[rayhier], *Histoire du clergé catholique d'Alsace . . .* (Colmar, 1876), pp. 338-43; A. Waltz, *Sigmund Billings kleine Chronik der Stadt Colmar* (Colmar, 1891), p. 316; F. L. Rumpler, *Quelques pièces fugitives* (n.p., n.d.), pp. 6-7; Dereser, *Rechenschaft über mein Betragen vor und in der Revolution* [Strasbourg, 1795], p. 12; Reuss, *Les Églises protestantes . . .*, pp. 188-192; E. Becourt, "Années de jeunesse de Jean-Louis Stoltz," *Revue d'Alsace,* LXXII (1925), 231-32; André Ulrich, *Recueil des pièces servant à l'histoire de la Révolution à Strasbourg*[*-Livre Bleu*] (Strasbourg, 1795), I, 100; II, 127; J. Foesser, *Meistratzheim* (Strasbourg, 1939), p. 227.

45 "Verdächtig wer irgend ein Kirchenamt bekleidet hatte als Sakristan, Organist usw. bei Christen und Juden"; Foesser, *op. cit.*, p. 209.

46 This subject will be treated in a special study.

47 Vivie, *op. cit.*, II, 134; *Fête de la raison* (Bordeaux, 1793),8 pp.; *Histoire des théâtres de Bordeaux* (Bordeaux, 1860); Dr. Jean Barraud, *Vieux papiers bordelais* (Paris, 1910), pp. 103-106; P. Bernardau, *Annales . . .* (Bordeaux, 1803), pp. 290-291; Vivie, "Inauguration de la désée de la raison à Bordeaux," *La semaine religieuse du diocese d'Angoulême,* Sept. 10, 1865.

48 [Pierre François] Monet, le Maire de Strasbourg, *Au Peuple,* Strasbourg, 29 *brumaire,* an II (no place, no year given). Broadside; *Description de la fête de la raison, célebrée pour la première fois à Strasbourg, le jour de la troisième décade de brumaire de l'an II . . .* (Strasbourg, n.d.), 16 pp.; Reuss, *La Constitution civile . . .*, pp. 230-237; Z. Szajkowski, "The Discussion and Struggle over Jewish Emancipation . . .", *Historia Judaica,* XVII (1955), 140-141.

to a report by the Deputy Joseph Marie Lequinio (1755-1813) on his revolutionary mission in Rochefort, Jews there and in St.Jean-d'Angély renounced their religion during festivals of the new faith. But no mention of such acts could be found in the archives of the cities or departments, or in regional historical studies on this period. It is possible that Lequinio, who called himself "citoyen du globe" and demanded the destruction of the three religions of the Catholics, Protestants, and Jews, found for the celebrations figurants who dressed as rabbis.[49] Again, this does not prove that there were no anti-Jewish acts, but those that occurred were the result of local feelings and not evidence of anti-Jewish feelings on the part of the French Republic at the federal level.

How did the Jacobins' attitude towards the Jewish faith influence the religious life of the Jews? This will be the subject of a larger special study, but a few characteristic facts should be mentioned in conclusion.

On December 10, 1793, the Jew Alexandre Lambert delivered a speech against the Jewish religion in the Temple de la Vérité of Saint-Jean-d'Angély.[50] On March 8, 1794, a Jew of Montaigne Seignanx (in the Landes) invited the Paris Representative, B.J.B. Monestier, to attend his wedding to a gentile woman, this wedding being a symbol of "equality and brotherhood."[51] In Saint-Esprit, Peyrehorade, and other places where Jews were forbidden to observe the Sab-

49 ". . . nous avions trois religions à detruire, la catholique, la protestante et la juive, et par conséquant, autant intérêts différents à ménager et à combattre. . . . A. Rochefort, à Saint-Jean-d'Angély, etc. les Juifs ont, aussi publiquement que les autres, abjuré les mensonges de leurs prêtres et dévoué leurs livres d'impostures au feu des bûchers patriotiques qui portoient dans les airs les flammes epuratrices de la raison." [J. M.] Lequinio, *Guerre de la Vandée et des chouans* (Paris [1794]), pp. 168-69. On Lequinio's mission see Ch. L. Chassin, "La mission de Lequinio . . .", *Révolution française*, XXVIII, 119-140; Aulard, "Lequinio et la déchristianisation," *ibid*, XXXI, 295-99. According to L. Kahn, *op. cit.*, p. 187, the Jews of Rochefort did manifest their disinterest in their past religious attachments. On Saint-Jean d'Angély see note 50.

50 Alexandre Lambert, *Discours de morale, prononcé le 2 décadi, 20 frimaire l'an 2e de la république une et indivisible, au Temple de la Vérité, ci-devant, l'église des bénédictins, à Angély-Boutonne, ci-devant Saint-Jean d'Angély, fait par le citoyen Alexandre Lambert fils, juif et élevé dans les préjugés du culte judaïque* (Rochefort, n.d), 23 pp.

51 Richard, *op. cit.*, p. 185.

bath or to engage in other religious practices, they often refused to obey such orders. There is a story about a revolutionary meeting in Saint-Esprit, during which Jews applauded a speaker who criticized the Christians, and the latter applauded a speaker who criticized the Jews.[52] In Peyrehorade a Jew was named as one of twelve preachers for the Religion of Reason. But the Jews there refused to bring to the revolutionary club their Torah scrolls and religious ornaments because the Catholics had refused to give up their crosses and religious pictures. Nevertheless, with the exception of a speculator, not one Jew in the district was arrested or fined during the Terror.[53] Rabbi Nounès of Saint-Esprit was taken into custody because he chose to close the synagogue rather than preach revolutionary ideas. While Nounès was in prison, two other synagogues were closed by the Jacobins. Perhaps this should establish the existence of a religious revolutionary faction among the Saint-Esprit Jews. The historian H. A. Taine noted the existence of such factions among Christians in various parts of France. According to some sources, Rabbi Abraham Andrade, a leading Jacobin of Saint-Espirit, hid scrolls of the Torah.[54] On the other hand, leaders of Jewish communities may have felt that they should officially accept the new regime in order to save not only their own lives but also their entire communities. Thus, for example, the Jewish Jacobin leader of Saint-Esprit-lès-Bayonne, Louis Gomez aîné, stated in a petition of April 29, 1795 against his arrest that he accepted his role during the Terror for fear of being persecuted, but thanks to him and his colleagues the guillotine was very active in the department, but not in Saint-Esprit itself.[55]

In summing up, it should be said that the Jews were not persecuted because they were Jews, and the anti-religious campaigns were not directed mainly against the Jewish religion as such. Where Jews suffered, it was because of general anti-religious acts.

[52] Ducéré, *op. cit.*, I, 459.

[53] E. Ginsburger, "Les Juifs de Peyrehorade," *REJ*, CIV (1938), 50-51.

[54] Ginsburger, *Le Comité de surveillance . . .*, p. 96; Darricau, *op. cit.*, p. 150; Léon, *op. cit.*, pp. 162-63.

[55] Archives Nationales (Paris), D-III-99 (dr. 1, p. 21-27).

GERMANIA JUDAICA

The Odyssey of the Last Standard Work of Jewish History in Germany *

By Zvi Avneri
Haifa, Israel

GERMANIA JUDAICA is the title of the great historical encyclopedia in which the history of German Jewry was to be presented in alphabetical order according to countries and places of the ancient German Empire. The history of all Jewish settlements within its territory was to be written on the basis of primary source material and all other sources available. Footnotes and bibliographies were to be appended in order to make the work useful for scholars in spite of the fact that it was intended to appeal to the general reader. Only the first volume, covering the period from the origin of Jewish settlements in Germany up to the year 1238, has appeared, published in 1934.

The *Germania Judaica* has not been favored by good fortune. It was in 1903 that the newly founded *Gesellschaft zur Förderung der Wissenschaft des Judentums* in Berlin passed a resolution to follow the earlier example of the *Société des Études Juives,* which in 1897 had published the *Gallia Judaica, Dictionnaire géographique de la France d'après les sources rabbiniques.* The resolution contemplated a similar work for German Jewry.

* Editor's Note:—The Editor gladly opens the pages of Historia Judaica to this article on the *Germania Judaica,* sharing the author's hope that scholarly assistance will result from its publication. Correspondence on the subject should be addressed to the New York branch of the Leo Baeck Institute, 1239 Broadway, New York 1, N. Y. (*not* to Historia Judaica), which will forward communications to the headquarters in Jerusalem.

The *Germania Judaica,* however, was to differ from its predecessor in various respects, as may be seen from the plan published in the *Monatsschrift für Geschichte und Wissenschaft des Judentums,* XLIX (1905), 508-512, and in the Introduction ("Vorwort") to *Germania Judaica,* Volume I. The *Gallia Judaica* had been the work of one man; Henri Gross, its author, was a master in the field of rabbinic literature. His chief interest had been to identify the French geographical names found in that Hebrew literature. In addition, he had included biographies of the Hebrew authors who had lived in medieval France and had accompanied them with rather short notes on the Jewish communities of that country, drawing chiefly from the numerous volumes of the *Revue des Études Juives* which had appeared previously. The limit of the time period for the *Gallia Judaica* was fixed by the final expulsion of the Jews from France in 1394. In contrast, the aim of the *Germania Judaica* was to collect *all* the information to be found in Jewish as well as non-Jewish sources, to give the full history of each Jewish community, and to cover a much more extended area and period than the French work. The area was to include the territory of the modern German Empire of 1871, the Duchy of Luxenbourg, the former Duchy of Limburg, and the Austrian Crown lands, among them Bohemia, Moravia, Silesia, and the Tyrol, also Friuli, i.e., the Roman Empire of the Middle Ages excluding Flanders, Brabant, Hainaut, Holland, Burgundy, and the territory of Belfort and Savoy. Switzerland was to be treated in an appendix. As the Jews had never been expelled from that area by a general order, it was decided to carry the work up to the time of the Congress of Vienna in 1815, for the treaties entered into there may be considered as constituting a caesura in the history of German Jewry. Accordingly, the *Germania Judaica* had to be divided chronologically: the first part was to deal with the period ending in 1238, when Emperor Frederick II issued his Jewry statute, regarded as a landmark

in Jewish history; the second part was to go to the end of the Middle Ages, approximately 1500; the third was to cover the period from 1500 to 1815.

So vast a project could be achieved only by the collective work of a considerable number of scholars acquainted with the local or regional history of the Jews and headed by a board of editors whose main task it was to coordinate the work done by the various authors. The editors were Marcus Brann of Breslau and Aron Freimann of Frankfort, whose combined qualifications guaranteed the requirements of modern Jewish historiography. Brann was a disciple of Graetz; but unlike his master, he was the first rabbinic scholar to have been trained as an archivist. His *Geschichte der Juden in Schlesien* was the first history of the Jews of a particular region that was based chiefly on materials drawn from non-Jewish sources and was welded within the framework of the political and social development of the various principalities of Silesia. Aron Freimann combined the bibliographical interest of a librarian with erudition in rabbinic literature, especially that of Germany, as he had already proved in numerous publications. Other scholars, headed by Moritz Steinschneider, assisted the editors with their advice. For some time Arthur Süssmann, a promising young scholar, acted as scientific assistant to the editors. Unfortunately, he died in 1915, a victim of the First World War. He was succeeded by Hayim Tykocinski, who in the end wrote more than half of all the articles.

Work on the *Germania Judaica* was begun with a systematic perusal of rabbinic literature and German collections of documents. The next step was to draw up lists of places where Jews had lived before 1238 and of prominent persons who were to be included in the encyclopedia. Both lists were published in the *Monatsschrift* in 1907. Two years later, eight articles, written by Brann, Freimann, and Tykocinski, appeared in the same periodical with the twofold aim to

profit from criticism and to set an example for the authors who were to take part in the work. By 1914 the bulk of the first part (up to 1238) was ready for print. However, the outbreak of the First World War confronted the *Gesellschaft zur Förderung der Wissenschaft des Judentums* with unforeseen obstacles, and it was decided that for the time being publication would be limited to the first half of the volume, comprising the letters A-L (1917).

In 1920 Brann, the initiator of the whole project, died suddenly. Despite all efforts at searching, the manuscript of the second half of part one (M-Z) could not be found among his papers. The German inflation of the nineteen-twenties made it impossible to resume the work and to reconstruct the lost material. Years passed before this could be achieved. It is chiefly to the credit of Adolf Kober and Tykocinski that the second half of part one was finally published, in 1934.

In some respects the volume did not follow the original plan. It opened with the article "Germany," written by Ismar Elbogen, who had taken Brann's place as editor. This article may be considered a résumé, based on the 230 odd articles of the volume, giving the general trends of the development of German Jewry in the early medieval period. Luxembourg, Limburg, and Switzerland had been excluded, in order not to delay publication of the volume any longer (in 1934!). Yet the main task had been fulfilled. Reviews were generally favorable and encouraged the Society, the editors, and the authors to continue the work. [1]

So it was decided to start preparations for the second part, with the period of the Black Death (1349), and not the year 1500, as *terminus ad quem*—an ominous deviation

[1] [The following reviews came to my knowledge: Adolf Kober, *MGWJ*, 79(1935), pp. 11 ff.; W. Cahnmann, *Central-Vereins-Zeitung*, 1935, No. 42, 3rd Beiblatt; Ludwig Feuchtwanger, *Bayerische Israelitische Gemeindezeitung*, XI (1935), No. 1.—Editor.]

from the original plan. A scientific secretary was engaged (Ernst Fraenkel, now at the University of Frankfort) who was to work in constant touch with one of the editors, I. Elbogen (the other again to be A. Freimann), and also to write part of the articles. The secretary was assisted by Hilde Ottenheimer, secretary of the *Gesellschaft* who was to compile the articles on the Jewish communities of Württemberg. Every article should be typewritten and copies sent to the editors, who after perusal were to return them to the central office. E. Fraenkel compiled a place list, and A. Freimann, assisted by Jakob Freimann and Moritz Stern, a list of persons whose biographies were to be included. Both lists were published in the seventh volume of the *Zeitschrift für Geschichte der Juden in Deutschland* (1937). As a result of this publication a number of corrections and additions were received. A limited number of experts (13) was chosen for the various regions; most of them at once set to work, and by 1939 about 400 articles had been sent in.

This dry account of facts and figures can convey not even a hint of the strain under which the central office and the contributors worked. Under the pall of the constant threat of Gestapo searches, arrest, confiscation of notes and books, all of them made a heroic effort to accomplish the task they had taken upon themselves. Even after the "Kristallnacht" and the pogroms of November, 1938, work was continued. Conditions grew more oppressive, however. The Nazis confiscated for one of their "scientific" research institutes articles found with A. Freimann. One by one contributors and editors left Germany. For some time Kober was co-editor and afterwards sole editor, until he, too, emigrated to the United States. Those who remained met their death in concentration camps, among them I. Ottenheimer of the central office. With the emigration of the other scientific secretary, E. Fraenkel, to England in 1939 the whole work was interrupted. He succeeded in taking with

him a box full of notes (by Tykocinski, himself, and others) and in keeping it in his London home during the "Blitz" to the end of the war, then somehow—it was lost. In 1945 he had handed the box over to a representative of Dr. Leo Baeck, but it has been impossible to trace its whereabouts. Perhaps these lines will lead to its rediscovery.

That it is at all possible to resume the work is due to the daring of the late Professor Eugen Mittwoch, the last president of the *Gesellschaft zur Förderung der Wissenschaft des Judentums.* Before the Nazis closed the office of the Society and confiscated all that was to be found there, he took the typewritten articles to his home, and when he left Germany for London, he carried them with him.

In 1954, some years after Mittwoch's death, his widow handed the manuscripts over to Dr. Alexander Bein, member of the Board of the Israel Historical Society, and he deposited them in the archives of that Society in Jerusalem. In 1955, the Board of the Leo Baeck Institute of Jews from Germany resolved to complete the *Germania Judaica* as one of a number of scholarly works designed to commemorate European Jewry, and the Israeli branch of the Institute was charged with the execution of that resolution.

The Advisory Board of the Institute has entrusted the writer, who in 1934 had contributed some corrections to the first part of the *Germania Judaica,* with preparations for the completion and publication of part two. Five of the thirteen original contributors are still alive. All of them have agreed to participate in the undertaking and have already begun sending in additional articles. Certain other scholars, too, have promised their cooperation and are forwarding articles. The list of place names has been revised and will shortly be published in *Blätter für deutsche Landesgeschichte* together with an invitation to scholars to offer corrections. From this list it will be apparent that this time the German part of Switzerland—which economically is

oriented mainly towards the north and the Jewish inhabitants of which largely hail from there—the territory of Belfort—which only in 1871 was separated from the rest of Alsace—Limburg, and Luxenbourg will be included in the work.

The difficulties to be overcome are obvious. Most of the sources for the first part were found in Aronius' well known work, *Regesten zur Geschichte der Juden im Fränkischen und Deutschen Reiche bis zum Jahre* 1273. For the years 1279-1349 there is practically no collection of source material.[2] The existing 400 articles (out of an estimated 1,200) were written twenty years ago and require revision in the light of new documents that have been discovered or printed since then. There is no bibliography of current literature in German-Jewish history except that published in the *ZGJD* in the early nineteen-thirties.[3] There does not even exist a post-war bibliography of German historical literature for the years 1945-1950, and there are no Jewish bibliographers or librarians in Germany who could compile an adequate bibliography for the continuation of the *Germania Judaica.* The only hope is that through publication of the place list contact will be established with local historians and they will offer help. The main difficulty, of course, arises from the fact that there are practically no Jewish scholars in Germany, and those living in other countries have not the necessary literature at their disposal. Competent contributors for whole regions of German-Jewish settlement have yet to be found. Even extensive use of microfilms and similar devices cannot wholly overcome that difficulty.

[2] [Cf. Guido Kisch, *Jewry Law in Medieval Germany: Laws and Court Decisions Concerning Jews,* American Academy for Jewish Research, Texts and Studies III (New York, 1949).—Editor.]

[3] [Cf. G. Kisch, "Bibliographie zur Rechts-und Sozialgeschichte der Juden in Deutschland während des Mittelalters" in the same author's *Forschungen zur Rechts-und Sozialgeschichte der Juden in Deutschland während des Mittelalters* (Europa-Verlag, Zürich, 1955, pp. 269-299).—Editor.]

In spite of all these obstacles, the Leo Baeck Institute is determined to bring *Germania Judaica* II to completion. The necessary funds for this purpose have been allocated. It remains for the surviving remnants of European Jewish scholarship to make it possible to set up a monument to Central European Jewry through the completion and publication of its last scientific undertaking.

REVIEW SECTION

STUDIES IN THE LEGAL AND SOCIAL HISTORY OF THE JEWS IN MEDIEVAL GERMANY

A BOOK REVIEW*

By SELMA STERN-TAEUBLER

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GUIDO KISCH'S most recent work offers a concentrated selection of his studies in the legal and social history of the Jews in Germany, published by him —for the most part in the English language—during the last two decades in various scholarly journals and annuals. In the new volume, written in German, only such essays have been included as are of general interest to historians and especially to students in the fields of legal, social, economic, and church history. They represent no more than a segment of the tremendous wealth of a magnificent and universally oriented life work that ranges over the legal history of the Middle Ages in general, the jurisprudence of the period of Humanism and Renaissance, as well as the legal, social, and constitutional history of the Jews. This writer, who has never engaged in original research on medieval Jewish history and is removed from the history of medieval law, ventures nevertheless to review the volume in a scholarly journal because she counts herself among those historians who owe a debt of gratitude for enlightenment, enrichment, and inspiration to the researches of a scholar in whom the perspicacity of a jurist and the refined perception of a philologist are conjoined with the high ethos of a historian, assiduous in his endeavor to maintain scholarly objectivity and ultimately to penetrate to historical truth.

The significance of Professor Kisch's researches cannot be better characterized than by the words with which he himself, in his methodological essay on "Otto Stobbe and the Legal History of the Jews," expressed his judgment of this founder of legal-historical research on the Jews in Germany: "With deep insight Stobbe had penetrated a tremendous volume of legal-historical source materials, laws of cities and countries, lawbooks and court decisions of all periods and territories. Moreover, he had examined a host of publications of historical documents

* Guido Kisch, *Forschungen zur Rechts- und Sozialgeschichte der Juden in Deutschland während des Mittelalters.* Europa-Verlag. Zürich, Switzerland, 1955. 312 pages.

and of collections of *Regesta* with a view to their legal-historical contents. This superb mastery of the sources combined with original monographic research that penetrated medieval German law in its making with historical discernment and juristic acumen, bestowed on Stobbe the ability and calling to write the first legal history of the Jews in the territory of the former German Reich. . . ."

Unlike Stobbe, Guido Kisch did not intend to write a comprehensive history of the legal status of medieval Jewry in Germany. He limited his task, in spite of the fact that he had to deal with a far more voluminous source material and a much greater number of modern and most recent publications in the fields of German legal history, general history of the Middle Ages, and Jewish legal, social, and constitutional history. For that larger task the subject seemed to him too tremendous in size and the preliminary studies available not sufficient for a scholar to dare to undertake it singlehanded. He therefore decided to select special problems or groups of problems to be investigated in detail in order to offer merely single bricks, as it were, that might be used for the larger structure of a legal history of the Jews.

Kisch's work treats these various problems in five parts. These are concerned with the legal relationship of the Jews to the emperor and the empire, to state and surrounding world, to city and burghers. These relationships are studied both in their historical actuality and from the theoretical view of the great medieval jurists.

In a historical introduction the causes for Jewish settlement in medieval Germany are explained, their territorial dissemination, their participation in the founding of cities, their persecution and resettlement are discussed. The first main chapter treats of the Jewish status in the public peace law, of the Jews' right to bear arms, and of the history of the so-called chamber serfdom.

Because of persecution during the first crusade of 1096, the Jews were included among the people specially protected in the Mainz Imperial Land Peace of 1103. Along with the churches and clerics and merchants and women, the Jews also received general protection and security. They were classed with groups which by no means lacked freedom or general legal capacity. Their persons and possessions were placed under public protection for an unlimited period of time, every act of violence against them was regarded as a particularly serious breach of the peace and was severely punished. This increased need for protection on the part of the Jews was also recognized in the medieval German lawbooks, particularly the *Sachsenspiegel,* to which Professor Kisch, in one of his books, devotes a penetrating analysis. However, the special protection they received had an adverse effect on their legal status. Safeguarded by inclusion in the king's peace, the

Jews henceforth were in no need of weapons, and they were prohibited from bearing arms, a right which, up to that time, they had enjoyed almost on a par with the other townspeople. By the same token, they forfeited their increased legal protection if they were armed. For, according to medieval law, whoever protected himself by carrying weapons renounced the protection offered by the special peace.

Deprivation of the right to bear arms necessarily altered the Jews' position with regard to their military duties, which had made their status almost equal to that of other freemen in the German Realm. In the medieval period the right to carry arms was also closely connected with the concept of honor. The prohibition against bearing arms, therefore, considerably lowered the social status of the Jews.

This development contains, in the author's opinion, one of the legal-historical roots of the complex and much discussed problem of the so-called chamber serfdom of the Jews which again and again attracts the attention of the legal as well as political historian. In contrast to earlier historians, such as Johannes E. Scherer, Eugen Täubler, and Ismar Elbogen, who traced the *servitus camerae* to medieval alien-law, and to Fritz Baer, who derived it from the Christian theological view of the Jewish Diaspora, Kisch sees the origin of the complete "appertainment" of the Jews, with their persons and possessions, to the imperial chamber, in three motivations: one constitutional and political; the second, social, bound up with the contemporary stratification in classes or "estates;" and the third, theologic-juridical. While Emperor Frederick II's Jewry privilege of 1236, in whose text for the first time the designation *servi camerae nostrae* is found, was considered by early historians merely a logical result from the charters bestowed on the Jews by Henry IV and Frederick I, according to Kisch it is to be regarded as an independent and completely new legal enactment that signified a regression in the development of the imperial Jewry policy in form as well as in legal substance. For through this privilege the Jews, henceforth excluded from the imperial and land peace legislation, were separated from all non-Jewish subjects of the Reich. They were protected only through privileges bestowed for definite periods of time, conferred and revocable according to the whim of the ruler, to whom the Jews were obliged to pay heavy taxes. Their status as the only *servi camerae imperialis* had changed. Formerly an individually privileged group on an equal footing with other groups, they became a special group within the population, personally as well as economically dependent. Thus the content of their privilege represented a special law, a *jus singulare*, governing the entire class.

The constitutional-political root of chamber serfdom was imbedded in the imperial centralistic power policy of the Ghibellines, who endeavored to regain for the Crown all alienated prerogatives and to

employ rigorously such as had been retained. Imperial policy regarding the Jews was made subservient to imperial policy as a whole. The Jewish population of the Empire was regarded as part of the imperial *regalia,* brought into close financial relationship with the imperial chamber, and directly subject to the ruler's power. Therewith, a relationship of legal and economic dependence was created, which found most conspicuous expression in Rudolph I's mandate of 1286 concerning confiscation of the property of fugitive Jews, to which Rabbi Meir of Rothenburg also fell a victim. This practical procedure on the part of the state reached its climax in the middle of the fourteenth century, when the so-called "gold penny" (*guldin pfenning*), the first regular imperial poll tax imposed on the Jews, anchored the personal bondage of the Jews in the law.

The second motive that was co-responsible for the creation of chamber serfdom, that of social status, was operative in the aforementioned prohibition against the Jews' bearing arms, which lowered their social standing and very adversely affected their honorable status in society.

The third root, the theologic-juridical, was planted, according to Kisch, in the Christian-theological doctrine of the medieval church. According to Christian doctrine, the Jews were condemned to eternal servitude as punishment for Christ's crucifixion. In accordance with God's precept, they were not to be killed, but until the very last day they were destined to live as serfs of the princes, serving through their bodily existence as eternal witnesses to the truth of biblical prophecies. The term *perpetua servitus* in the official documents of the Church gained actual importance during the first half of the thirteenth century, in the period of the anti-Jewish Church programs of the popes Innocent III, Honorius III, and Gregory IX. During that time, the concept of eternal servitude began also to penetrate secular legislation, where, up to then, it was as little known as in juridical literature. In Frederick II's privilege for the Jews of Vienna of 1237 (one year after the creation of chamber serfdom), for the first time in an official imperial document the phrase of the perpetual servitude occurs, "of old, imposed upon the Jews by imperial authority as punishment for their crime."

The link that connects the ecclesiastical *servitus* with the secular chamber serfdom was discovered by Kisch. It is Pope Gregory IX's new codification of church laws promulgated in 1234, which was to go into force as the sole official collection of decretals beside the *Decretum Gratiani.* In this, Gregory's, collection of decretals the old concept of *servitus Judaeorum* was incorporated, and it influenced decisively the legal formulation of the privilege of 1236. "This 'reception'," maintains Kisch, "is to be regarded less as an institutional

than as a spiritualized process of adaption to and equalization with the orientation of canon law." In this way the theological doctrine of the *servitus Judaeorum* penetrated into the realm of secular legislation and, in the period that followed, affected in the most fateful manner the political destiny of the Jews.

Professor Kisch's study of the historical motive that underlay Frederick II's privilege of 1236 is followed by a brilliant treatment of the juridical theories of chamber serfdom as found in the medieval German lawbooks. This discussion offered him also the opportunity for a critical investigation of all law sources available and for an exposition of all theories set forth by historians and legal historians who previously had delved into the problems connected with *servitus Judaeorum.*

The second part of Kisch's *Forschungen* is devoted to important individual problems of Jewish history in Germany: the legal status of the Jews in the medieval cities, the so-called "*jüdisches Hehlerrecht,*" and the history of the "Jewish oath."

The essay, "The Legal Status of the Jews of Worms in the Middle Ages," analyzes on the basis of hitherto unused legal documents of a Heidelberg manuscript and the Rhenish Jewry privileges, the relationship of the Jews to their various protecting overlords, the citizenship of Jews, and the organization of the Jewish community. Kisch's researches prove that the Jews of Worms, up to the middle of the fourteenth century, were received into citizenship and expressly designated as "citizens." They enjoyed citizen rights and bore the responsibility of citizens' duties. Their reception into the community was modeled on the legal form applied to Christians seeking citizenship. The organization of the Jewish community mirrored the historical development of the medieval city organization and constitution. Even the ornamentation of the synagogue imitated the artistic forms of the Worms cathedral.

In the essay on the so-called "*Jüdisches Hehlerrecht,*" a much discussed problem of legal history is studied, which, during the Nazi rule, was used for political propaganda and anti-Semitic incitement. The hypothesis was advanced by Otto Stobbe that the purely commercial privilege accorded the Jews in the Middle Ages—to release stolen movable goods acquired bona fide as property or security only against restitution of the money advanced therefor—had its origin in Jewish talmudic law. Thereupon, in 1937, Herbert Meyer offered the thesis that "the Jews knew how to evade being subjected to the German law, and they managed to obtain application of their 'Jewish national law' also in their legal transactions with non-Jews." In an interesting discussion Kisch proves that all these theories are entirely unfounded. Not a shadow of scholarly evidence has been adduced either for the

talmudic origin of the old trade privilege, accorded not only to Jewish but also to Lombard merchants, or for its intentional or general application in a criminal way by medieval Jewry. That purely commercial privilege was intended merely to protect commercial intercourse and the security of common trade.

"Studies on the History of the Medieval Jewry Oath" occupied the author for many years. Again and again he discovered new source material and employed for the investigation of his subject not only legal formulas and descriptive documents, but also pictorial material, such as manuscript illuminations, woodcuts, and etchings as well as poetical and prose literature. As early as 1939 Kisch published a similar article in the *Hebrew Union College Annual.* The present essay, much expanded, supplemented, and reorganized, demonstrates excellently the method of research of a genuine scholar, who untiringly delves into his material, continually coming upon new aspects of his theme and turning up new facts with a view to clarifying more and more the problems involved, even though this may make necessary the modification of previous results. The author describes the form and legal nature of the Jewry-oath, the role assigned to the Torah in the oath ceremonial, the proof of the genuineness of the Torah, the place and formalities of administration of the oath. He discusses and compares the Jewish and the Germanic elements of the oath ritual and studies the variety of southern-German, northern-German, Saxon and Swiss, Austrian and Moravian Jewish-oath formulas. He considers the Jewry-oath, which was practiced in courts until the period of Emancipation, "a typical product of the mixture of Jewish law and medieval Jewry law." Both laws were binding on the medieval Jew, who had to cope with both these legal spheres.

The third part of the volume is intended as a contribution to a scholarly fundament for a legal history of the Jews. A tremendous wealth of legal-historical material has to be mastered, numerous historical, juridical, and sociological problems await solution. The methodological problems raised and discussed by Professor Kisch offer assistance in the attainment of this goal. Suffice it merely to list here the titles of the several subsections in order to direct the readers' attention to the complexity of the various problems: "Jewish Law and Jewry Law," with special reference to the canon Jewry-law developed by the medieval Church; "Otto Stobbe and the Legal History of the Jews"; "New Tasks of the Legal History of the Jews"; "The Investigation of the Legal History of the Jews."

Part four reproduces a selection of extensive critical reviews from Professor Kisch's pen, published in English and in German during the last two decades. Each of these book reviews actually represents a scholarly article, which fruitfully examines and discusses the pertinent

problems, at the same time offering supplementary information, throwing new light on these problems, or viewing them from a different aspect.

This outstanding work is rounded out by an unusually rich bibliography, comprising thirty pages, which will prove to be a mine of information for research, not only in Jewish, but also in political, economic, cultural, literary, and church history. The volume is concluded with indexes of subjects, authors, and geographical names.

In one of his methodological studies Professor Kisch remarks that the great legal historian, Otto Gierke, sought to master the problems of legal history "with earnestness and a deep sense of responsibility." He also mentions Claudius Schwerin's statement that the task of the legal historian is "to enter into the spirit of the time and place represented by the historical source and to adjust one's own thinking to that of the source." These demands are fully realized in Guido Kisch's own work. And he earnestly fulfills Johannes Haller's postulate that "true history demands awe and humility, and more than anything else, honesty and the purest love of truth."

BOOK REVIEWS

History of Scholarship

DIE MATRIKEL DER UNIVERSITAET BASEL. Im Auftrag der Universität Basel herausgegeben von *Hans Georg Wackernagel.* I. Band: 1460-1529; II. Band: 1532/33-1600/01 (unter Mitarbeit von *Marc Sieber* und *Hans Sutter*). Verlag der Universitätsbibliothek. Basel, 1951, 1956. Pp. XV and 467; XXVI and 634.

TO every student of the history of scholarship and of the past of the great ancient seats of higher learning in Europe the importance and value of the unversity registers as an almost inexhaustible source material is well known. They contain the names of all matriculated students and, for the most part, of the rectors (presidents) and deans of the several faculties entered in chronological order. Sometimes events of historical significance and reflections on contemporary history and university life also found their way into these pages. These registers, were written mainly on parchment and, through the centuries, were preserved and guarded by academic officers.

Because of the international character of most of the medieval and modern universities, the unique source value of these records for research in the history of civilization, including biography and genealogy, was early recognized. A great number of them were studied in the original manuscripts usually deposited in the various university archives, but they were also made generally available in printed form. Lists of the published registers were compiled and alphabetically arranged according to the names of the cities in which the academies or universities were situated (Erich Weissenborn, *Quellen und Hilfsmittel der Familiengeschichte,* 3rd ed. [Gotha, 1930], pp. 77 ff.; Wilhelm Falckenheiner, *Universitätsmatrikeln* [Göttingen, 1928]). The remark in the last-mentioned work, "that publication [of the registers of the University of Basel] is not to be expected for the time being," is now outdated. The first two splendidly produced volumes, to be followed by several more in the not too distant future, covers almost the first century and a half of the existence of the University of Basel.

Founded in 1460 by the great Humanist Pope Pius II (Aeneas Silvius Piccolomini), the University of Basel was originally an ecclesiastical institution. Obviously, therefore, names of Jewish students are not to be found in its early registers, although a great number of biblical first names occur among its students. The University of Padua in Italy was one of the first, and for several centuries the only, institution of higher learning that opened its doors to Jewish youth (Guido Kisch, *Die Prager Universität und die Juden,* 1348-1848

[Mährisch Ostrau, 1935], pp. 90 f.; G. Kisch *Universitätsgeschichte und jüdische Familienforschung* [Halle, 1934], pp. 4 f.). Nevertheless, the publication of the *Matrikel der Universität Basel* deserves to be brought to the attention of the Jewish scholarly world because of another aspect.

During the sixteenth (and up to the seventeenth) century Basel was the center of humanistic studies. There the "prince" among humanist scholars, Desiderius Erasmus, resided for more than ten years of his largely itinerant life. There not only the classical languages but Hebrew too was cultivated by a number of congenial, outstanding scholars. The question whether the cultivation of Hebrew studies in Basel was somehow influenced by the model of Bologna, where a chair of Hebrew appears as early as 1464, still calls for exploration. In Basel the art of printing flourished, including the printing of Hebrew books. Although Basel did not have a Soncino, it still could boast of a Frobenius as the first printer of literature in the Hebrew language. From his *Offizin* issued such early Hebrew prints as Conradus Pellicanus' *Sepher Tehillim: Hebraicum Psalterium* (1516), Capito's *Institutiuncula in Hebraeam linguam,* and the latter author's *Hebraicarum Institutionum Libri duo* (1518). Numerous other literary works in Hebrew followed (see the extensive lists in Karl J. Lüthi, *Hebräisch in der Schweiz* [Bern, 1926], pp. 20-32; a number of sixteenth-century books in Judeo-German, among them a few printed in Basel, are described and analyzed in Arthur Cohn, "Ueber einige alte Drucke," *Festschrift zum siebzigsten Geburtstage David Hoffmanns,* Berlin, 1914, pp. 46-70; cf. also A. Cohn, *Von Israels Lehre und Leben,* Basel, 1928, pp. 273-280). Even an edition of the Talmud came from Frobenius' press, which, however, was considered objectionable because it was expurgated (*Talmud Babylonicum ex recensione M. Marini,* 8 vols. [1578-1581]; cf. Ernst Staehelin, "Des Basler Buchdruckers Ambrosius Froben Talmudausgabe und Handel mit Rom, *Basler Zeitschrift für Geschichte und Altertumskunde,* XXX [1931], 7-37).

All this printing and publication activity was due to the cooperative work of scholars who, as students and later as teachers, were educated or taught at the University of Basel and, through succeeding generations, were the leading hebraists in Europe. The names of Joannes Reuchlin, Conradus Pellicanus, Sebastianus Münsterus, Joannes Buxtorf, father and son, were and still are held in the highest scholarly esteem. All of them and also minor authorities are found in the Basel *Matrikel,* together with the necessary biographical data and bibliographical references.

In Basel it was customary, at the beginning of each academic year, for the newly-elected head of the University to have his name inscribed in the register. An appropriate statement was added to open the new page in the institution's history. Sebastian Münster, whose

rectorship lasted from May 1, 1547 to April 30, 1548, characteristically wrote inside an ornamental wreath three quotations from the Bible in Hebrew letters: Isaiah 54:12-13 (combined and adapted for the purpose); Proverbs 1:7; and Jeremiah 9:23. In Hebrew cursive script he also added to the traditional designation of the year, "*Anno a Christo nato* 1547," the following equivalent in accordance with the Jewish calender: "and in the year of the creation of the world five thousand three hundred and seven."

It is well known that during the early centuries not only the masters (*magistri*) and scholars (*scholares*) recorded their names in the *Matrikeln*, but also various other persons not students, including copyists, printers, proofreaders (*correctores*), booksellers, bookbinders, who were anxious to have their names entered in the university register in order to enjoy some personal privileges accorded to students. Thus records of people who participated in the process of Hebrew printing (sometimes converted Jews) may be found in the registers.[1] In Basel the name of Israel Sifroni of Gazolo, who from 1578 to 1584 was in charge of the Hebrew division of Froben's printing house and from whose pen prefaces, additions, and indexes to Hebrew books originated, does not appear. However, a comprehensive work on the history of printing in Basel has not yet been written nor has the history of the Christian hebraists and their achievements been investigated on a wide scale.[2] Under the auspices of the University Library, a catalogue of its treasures of Hebrew incunabula and early prints was recently completed, which soon will be published. It is to be hoped that on such a solid basis this gap in the *Wissenschaftsgeschichte* will be filled. Whoever undertakes this task or devotes research to certain segments of it will find important information in the *Matrikel der Universität Basel*. Scholarship owes a debt of gratitude to its editor, Professor Hans Georg Wackernagel, for his painstaking work in this exemplary edition, which complies with all the requirements of modern scholarship.

GUIDO KISCH

New York - Basel

[1] Cf. a letter (1519) of Thomas Murner to Bruno Amerbach, the famous printer's son, concerning a Jewish assistant's intended conversion to Christianity, Alfred Hartmann, *Die Amerbachkorrespondenz*, II (Basel, 1943), No. 647, p. 150.

[2] For the time being, cf. Immanuel Stockmeyer and Balthasar Reber, *Beiträge zur Basler Buchdruckergeschichte* (Basel, 1840).

CATALOGUS CODICUM MANU SCRIPTORUM QUI IN BIBLIOTHECA INSTITUTI STUDIORUM SILESIACORUM OPPAVIAE ASSERVANTUR. By *M. Boháček* and *F. Čáda*. Slezský studijní ústav. Opava, Czechoslovakia, 1955. Pp. 128.

THIS catalogue of the remnants of a great manuscript collection, which perished during the last days of World War II in bombardment and fire, contains a number of items of Jewish interest. Among them are several works on the Bible by Christian theologians, a biblical concordance, Johannes Reuchlin's *Vocabularius breviloquus*, and a set of instructions on how to carry on disputations with Jews. The titles, incipits, and explicits are in the original languages, comments and bibliographical remarks in Czech.

G. K.

EIN JAHRHUNDERT ORIENTALISTIK. Lebensbilder aus der Feder von *Enno Littmann* und Verzeichnis seiner Schriften. Zum achtzigsten Geburtstage am 16. September 1955 zusammengestellt von *Rudi Paret* und *Anton Schall*. Otto Harrassowitz. Wiesbaden, 1955. Pp. X and 195.

A very dignified *Festschrift* of an unusual type was presented to the well-known scholar, Enno Littmann, on his eightieth birthday. The fine introduction by Rudi Paret presents an intimate picture of the scholar and a warm appreciation of his life work in the various fields of oriental studies in which he was a pioneer and is still a leader. Sixteen selected biographies (necrologies) from his pen follow, which were previously published in various periodicals and biographical works.

All the scholars whose lives are described and whose scholastic merits are evaluated belonged to Littmann's circle of personal friends. Among them are Theodor Nöldeke, once the Nestor and teacher of generations of scholars in the fields of oriental, including Hebrew, studies; Mark Lidzbarski, the specialist in Semitic epigraphy; Eugen Mittwoch, an authority on Abyssinian philology; and Max Meyerhof, outstanding historian of Arabic medicine, the last two scholars belonging to the Jewish community. This series of biographical essays represents an important contribution to *Gelehrtengeschichte* in the author's lifetime. An elaborate, systematically arranged bibliography of Littmann's publications, comprising 525 items, compiled by Anton Schall concludes the splendidly printed volume.

GUIDO KISCH

JEWS IN MEDIEVAL GERMANY

THE RESPONSA OF RABBENU GERSHOM MEOR HAGOLAH. Edited, annotated and prefaced by *Dr. Shlomo Eidelberg*. Yeshiva University. New York, 1955. 195 Hebrew and XVI English pages.

PROGRESS in the study of history is to be achieved, not through the discovery of generalities, but through the careful unearthing of particulars. To know history *in general* is to know very little.

The present work under review is a good example of that type of scholarship which adds to the knowledge of particulars. Although Rabbenu Gershom is rather well known in popular circles because of the *Herem d'Rabbenu Gershom* against polygamous marriages, historical scholarship has added very little to the knowledge of his life and writings. Dr. Eidelberg's work represents the first attempt to gather into one collection the responsa of R. Gershom, hitherto found scattered in the published rabbinic writings of the later Middle Ages as well as in unpublished manuscripts. It is significant that the author makes special use of rabbinic sources which antedate the period of the Black Death (1349)—a period in Jewish history that brought in its wake the almost complete destruction of documents relating to Jewish life in Germany and in northern France.

Rabbenu Gershom was born in the province of Lorraine about 960. In the beginning of the eleventh century he lived and worked in Mainz. According to a manuscript source (see V. Aptowitzer, *Mabo Lesefer Rabiah*, Jerusalem, 1938, pp. 395 f.) he died in the year 1028, the year in which Rashi was born, says the same source, and not 1040, the year usually given. His writings mark a turning point in the social and religious history of the Jews in central and western Europe. He ushered in a new era of halakic enlargement on the treatment of Jewish family life, the status of the divorced wife, and the relations of Jews to their non-Jewish neighbors.

In seventy-seven sections Eidelberg offers a definitive collection of R. Gershom's responsa. This collection, or rather *selection*, is but a small portion of the responsa which the *Meor Hagolah* issued originally. The treatment is not that of the cloistered scholar but rather of the man who is sensitive to his environment and to the adjustments made necessary by that environment and its *realia*. For the questions, in the main, seem to have had their source in the practical matters of daily living and were addressed to a rabbi and jurisprudential scholar and appears to have been highly responsive to the time and its requirements. Most of the responsa of R. Gershom that have come down to us deal with laws of real estate, inheritance, and loans. Though the basic stuff in them are Scripture, Talmud, and the writings of the Geonim, the respondent is consistently naturalized in a setting of Jewish ownership of land,

fields, and vineyards, of Christian neighbors who loaned money to Jews on interest (!), and of Jews who gave their Christian creditors their vineyards as collateral. Some of the responsa deal with problems of marriage and with questions of ritual and communal enactments. In the questions concerning *kasher* and *terefah,* R. Gershom deals mainly with the laws about the lungs of cattle.

Dr. Eidelberg devotes five and a half pages to a valuable bibliography. The work is well conceived and is a positive contribution to Jewish history in the decades *before* the Crusades.

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IUDICIUM PROVINCIALE DUCATUS FRANCONIAE. Das kaiserliche Landgericht des Herzogtums Franken-Würzburg im Spätmittelalter. By *Friedrich Merzbacher.* C. H. Becksche Verlagsbuchhandlung. München, 1956. Pp. IX and 238.

MORE than seventy years ago, Eduard Rosenthal, the eminent legal historian, in his works, *Zur Geschichte des Eigentums in der Stadt Wirzburg* (Würzburg, 1878) and *Beiträge zur deutschen Stadtrechtsgeschichte* (Würzburg, 1883), touched on several problems concerning the role played by Jews under medieval procedural law. The present state of knowledge on the medieval status of Jews in the Bavarian cities of Würzburg and Landshut is summarized in respective articles in *Germania Judaica* (Breslau, 1934, pp. 475 ff., 152 f.), but there is no article on Straubing. In these as well as in other Bavarian cities and villages Jews settled during the Middle Ages in by no means inconsiderable numbers. They are first met in Würzburg in the year 1119. In the twelfth and thirteenth centuries they seem to have occupied a favorable position economically as well as with reference to their treatment under the law. This is evident from Dr. Merzbacher's researches on the jurisdiction and function of the Imperial Provincial Court (*kaiserliches Landgericht*) for the Duchy of Franken-Würzburg, which are based on extensive manuscript material in addition to the printed sources available. Since the scope of his work does not allow for studies on Jewish genealogy, he does not give a complete list of all the names of Jews that he found in the court protocols. However, even those mentioned in the course of his presentation clearly establish his point. He offers evidence for the fact—which emerged from his careful examination of the court archives—that Jewish plaintiffs represented a considerable percentage of all parties to litigation before the *kaiserliches Landgericht.* Again and again Jewish creditors were compelled, either by the negligence or the ill will of their debtors, to try to recover, with the assistance of the court, the sums which they had

advanced on credit. And for this purpose they had to resort to every stage of court procedure, even to the *Achturteil,* that is, the procedure for outlawing the delinquent debtor. The documentary evidence was so extensive that the author considered it requisite to append a separate paragraph to each chapter of his presentation, from which emerges a lucid picture of the treatment of Jews under the medieval law of procedure.

Jews like the nobility, were exempt from the jurisdiction of the *Zentgericht.* The competent forum for their litigation was either the *Landgericht* or the Jewish court at the *Judenschule.* Whoever, thus, wished to press a claim against a Jew had to do this either in the *Landgericht* or the local Jewish court. Judgments of other courts against a Jew were null and void ("die urteil . . . solten ime weder schaden oder hindern an libe noch an gute"; document of 1326, Municipal Archives Würzburg, p. 56). In numerous legal actions Jews appeared before the *Landgericht* as plaintiffs against their Christian debtors; the rabbinical court was exclusively competent in cases where Jews pressed claims against their fellow-Jews. At times the *Landgericht* even delegated its jurisdiction to the Jewish court. For litigations between Jews and Christians, the sources also mention "mixed" courts, that is, courts composed of Jewish and Christian members; sometimes a so-called *Judenrichter* appears, a Christian judge commissioned by the ruler to pass judgment in a court sitting in front of the synagogue.

The taking of an oath by a Jew was always performed in accordance with Jewish law. Specific Jewry-oath formulas were also provided in the procedure before the *kaiserliches Landgericht.* Merzbacher includes a short and a full oath formula (p. 120; there is a typographical error in the brief formula; read: *ee* [Law] instead of *er*). If a Jew called mixed witnesses, Christians and Jews, the oath was administered to the Christian in the Christian court, to the Jew before the synagogue.

The new documents unearthed by the author in Bavarian archives in general corroborate the picture of medieval legal procedure with reference to Jews that had been presented by the reviewer in his book, *The Jews in Medieval Germany* (Chicago, 1949). Nevertheless, research is indebted to Dr. Merzbacher for his painstaking evaluation of the legal-historical material and for directing attention to a wealth of sources previously unknown to and unemployed by Jewish historians.

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GUIDO KISCH

Nazi Persecution of Jews

RACE AND REICH: THE STORY OF AN EPOCH. By *Joseph Tenenbaum*. Twayne Publishers. New York, 1956. XVI and 554 pp.

IN recent years several attempts have been made to produce a comprehensive scholarly work on the Jewish catastrophe under the Nazi regime, for instance Léon Poliakov's *Harvest of Hate* and Gerald Reitlinger's *The Final Solution*. The book under review belongs to the same category, yet it is different from others both in its scope and its methods. Tenenbaum tries to place this tragic chapter of contemporary Jewish history into the frame of a broader and challenging concept of "Race and Reich," i.e., the concept of the Nazis' relentless warfare against the "inferior races" for the benefit of the only race fit for survival, the "Nordic master race." The Nazi racial philosophy and the master plan of conquest, subjugation, and extermination of the "subhumans," from its inception ("The German Racial Myth"; "Blood and Soil") to the first stages of its fulfillment, the annihilation of six million Jews, half a million Gypsies, and several millions of other "valueless" people, is methodically and systematically discussed by the author with a commendable thoroughness in utilizing a remarkable wealth of first-hand documentation and pertinent literature.

The author's sound background in philosophical and economic science and his medical training have stood him in good stead in a brilliant analysis of the Nazis' ideological struggle ("Hitler's Kulturkampf"; "The Churches"), their "Racial Medicine" and the "Nazi Economy" (as practised in various strange and risky ways inside Germany, in the occupied areas, in the concentration camps, in peace and in wartime). An excellent chapter deals with the organization and *modus operandi* of the notorious *Einsatzgruppen*, whose dreaded and mystery-cloaked activities are here for the first time fully exposed in a penetrating and detached study, based chiefly on the documentation of the *Einsatzgruppen* case trial before the Nuremberg Military Tribunal. Further searching analysis is to be found in the case history of a Nazi top performer in the extermination program, the master killer of Auschwitz, Rudolf Hoess. This reviewer, however, takes exception to the orthodox Freudian interpretation applied by the author to the defendant, which, in the final analysis, amounts to an attitude of "tout comprendre c'est tout pardonner" and might be misused by neo-Nazis and "revisionists" to exculpate and shield the criminals behind a thick maze of depth-psychological paraphernalia such as childhood traumas, superego, compulsory ideas, self-pity, psycho-anaesthesia, and paraonic behavior. The chapters on the "Solution of the Jewish Question" and

on "Gypsy Genocide" bring few relevant new findings, for these problems have been dealt with elsewhere before and in a more comprehensive manner (among others, in Tenenbaum's own book, *Underground*). Two appendices to the present work deserve special commendation: the meticulously elaborated and very useful "Who is Who" in the Reich leadership and "Hitler's Political Testament" (a photostated copy of the German original and an English translation).

In few important matters as well as in some minor ones this reviewer disagrees with Dr. Tenebaum:

P. 146: The author's statement that "[the German armies] won victory after victory . . . and yet they lost the war. . . . Their Archilles' heel . . . was . . . the corrupted economic machine," is a rather arbitrary judgment and does not reckon with the many—too many—other factors, military, political, and psychological, that greatly contributed to the German defeat.

P. 193: It seems somewhat exaggerated to speak of a Jewish revolt in Czestochowa, Lwów, or Brody, where owing to various circumstances, the valiant attempts of the Jewish underground failed to develop into a full scale revolt.

P. 230: The important episode of the Nisko camp has been completely omitted in the discussion of the early deportations from Bohemia-Moravia to the occupied Polish areas.

P. 239: The plan for a Madagascar reservation for Jews was launched much earlier than 1937-38. As early as 1931 a Nazi publisher in Erfurt issued the second edition of Egon van Winghene's pamphlet, *Arische Rasse, Christliche Kultur- und das Judenproblem. Vollzionismus ? Madagaskar* (the first edition appeared in 1927).

P. 271: There is no support for the author's assertion that "the death of Heydrich on June 1942 marked a milestone on the road of Jewish annihilation." The known facts point in the opposite direction —that the extermination program was decided upon and mapped out while Heydrich was still alive and took a very active and leading part in the preparations to realize the monstrous scheme (particularly at the Wannsee Conference, January, 1942).

P. 256: It seems that Tenenbaum's statistics of the Jewish losses in the Netherlands makes no allowance for the several thousand Jewish children and adults hidden and saved by Christian fellow citizens in that country, a well-known and fully documented fact.

P. 290: I wonder whether the German plenipotentiary in Denmark, K. W. Best, can be credited with the benevolent intention to tip off the Jews about the threatening deportation. According to published official German sources, Best was the author of the deportation plan.

P. 308: The figure of only 900 Jewish families in the Italian-occupied zone of Greece seems to be a mistake. Athens alone had more than 10,000 Jews.

Pp. 313-317: In the chapter on Rumania, the fate and survival of a part of the Jewish community in the Ghetto of Czernowitz (Černauti) should not have been omitted.

P. 379: Of the approximately 20,000 Jews arrested during the "Cristal Night," November, 1938, at least half were brought to Buchenwald, not to Sachsenhausen.

P. 438: The total number of "non-Aryan" Christians in Greater Germany was much higher than 190,000, probably about twice that number, according to the estimates of various German authorities (e.g., the noted German statistician Professor Friedrich Burgdoerfer, of the German Evangelical Church, a.o.).

These minor shortcomings do not, of course, impair the value of this stimulating and well-written book, outstanding for its clear exposition of the problems involved and for the abundance of material assembled. It is a notable scholarly contribution to research on the Nazi holocaust.

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JEWISH BOOK PLATES

EXHIBITION OF JEWISH BOOK PLATES. Graphic Archives and Museum. Jerusalem, 1956. Pp. XVI (English) and 99 (Hebrew).

AN exhibition of Jewish bookplates arranged by the Graphic Archives and Museum of the Art of Printing in Jerusalem offered the occasion to publish this richly and well-illustrated catalogue. An introductory essay on the history of the Jewish bookplate from the points of view of Jewish culture, book collecting, printing, and art is very sketchy and not well organized. The same applies to the manner of classification. This kind of treatment was probably required by and sufficient for the exhibition, the purpose of which was to popularize the artistic work of the printing press in this specific application. From a scholarly point of view, a method of approach to this extremely interesting material must still be worked out. The numerous valuable and scholarly publications on this very subject in the non-Jewish field may serve as models and guides, of course with necessary modifications from the Jewish angle. The scientific study of Jewish bookplates is still in its infancy. Every publication, therefore, is welcome and useful. This applies also to the booklet under review.

G. K.

NOTICES OF RECENT PUBLICATIONS

A. Büchler, *Studies in Jewish History.* The Adolph Büchler Memorial Volume, edited by I. Brodie and J. Rabinowitz. Oxford University Press. London and New York, 1956. xxx and 279 pp.

Moshe Davis (Editor), *Israel: Its Role in Civilization.* Harper and Brothers. New York, 1956. xvii and 338 pp.

Lawrence H. Fuchs, *The Political Behavior of American Jews.* The Free Press. Glencoe, Ill., 1956. 220 pp.

Kurt R. Grossmann (Editor), *Michael Wurmbrand: The Man and His Work.* Philosophical Library. New York, 1956. 127 pp.

Jewish Book Annual. 1956-1957. Volume 14. National Jewish Welfare Board. New York, 1956. 170 pp.

Jewish Studies. Essays in Honour of the Very Reverend Dr. Gustav Sicher, Chief Rabbi of Prague. Council of Jewish Religious Communities. Prague, 1955. 111 pp.

Manfred Krebs (Editor), *Johannes Reuchlin* 1455-1522, *Festgabe seiner Vaterstadt Pforzheim zur* 500. *Wiederkehr seines Geburtstages.* Stadtarchiv. Pforzheim, 1955. 265 pp. folio with illustrations.

Stadt Pforzheim (Editor), *Ausstellung Reuchlin und die Kunst seiner Zeit.* Stadtarchiv. Pforzheim, 1955. 52 unnumbered pages with illustrations.

Arnold Levy, *History of the Sunderland Jewish Community.* MacDonald. London, 1956. xii and 326 pp.

Hana Volavková, *The Pinkas Synagogue: A Memorial of the Past and of Our Days.* State Jewish Museum. Prague, 1955. 145 pp. and 68 illustrations.

Otto Muneles and Milada Vilimková, *Starý Židovský Hřbitov v Praze* [The Old Jewish Cemetery in Prague]. State Jewish Museum. Prague, 1955. 482 pp. in Czech and 39 pp. in Hebrew.

Oskar K. Rabinowicz, *Winston Churchill on Jewish Problems: A Half-Century Survey.* Lincolns-Prager Publishers, Ltd. London, 1956. 231 pp.

Hans Herman Walz and Heinz Horst Schrey, *Gerechtigkeit in biblischer Sicht.* Eine oekumenische Studie zur Rechtstheologie. Gotthelf-Verlag. Zürich, 1955. 164 pp.

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