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IN JEWISH HISTORY, ESPECIALLY IN
THE LEGAL AND SOCIAL HISTORY OF THE JEWS

VOLUME XIX

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GUIDO KISCH

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Historia Judaica

ENGLAND'S JEWISH NATURALIZATION BILL OF 1753

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IN 1753 there occurred one of those violent eruptions which periodically disturbed the normally placid course of eighteenth-century English politics. Like the Sacheveral trial, the Excise Bill of 1733, and the Quarantine Act, the Jewish Naturalization Bill of 1753 which caused this commotion was a relatively trivial matter. Yet because of it, as one observer noted, "the nation hath been worked up into a general ferment, as if Hannibal was at the gate."[1]

Why such a minor matter should so have excited the populace against the Jews, who had been virtually ignored since their readmission almost a century earlier, is a puzzling question, the answer to which should shed some light on the nature of the eighteenth-century English mind as well as on the age-old problem of anti-Jewish feeling. Before considering this question a brief examination of the Anglo-Jewish community would seem called for.

Social and Legal Status of the Jewish Community in Eighteenth Century England

Jews first entered England at about the time of the Norman Conquest, but they were expelled by Edward I in 1290. There followed a long hiatus of over four centuries,

[1] Josiah Tucker, *A Letter to a Friend Concerning Naturalization* (London, 1753), p. 6.

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during which time practically no Jews set foot on English soil. The reopening of England to them in 1657 came at an opportune time. Since 1492 Jews had been barred from Spain, and shortly thereafter from Portugal as well. These nations had been the scene of the "Golden Age" of medieval Jewry, and with their closure thousands of Jews, many of them men of property, influence, and culture, were set adrift to wander through a hostile Europe seeking sanctuary. The flourishing Jewish community of Poland was dealt a blow—from which it never recovered—by the Cossack Rebellion of 1648 and subsequent massacres. Furthermore, the Thirty Years War, which ended in that year, had proved especially trying to the Jews of Central Europe.

Consequently, England was hopefully regarded as a possible refuge. The great Dutch Rabbi (for Holland was now the most flourishing Jewish community) Manasseh ben Israel applied to Cromwell for readmission. Cromwell was sympathetic, but formal readmission was impolitic at this time of intense religious feeling. Shortly thereafter, however, in 1657, when a group of Marranos who had been trading in London renounced allegiance to Spain and openly declared themselves as Jews, nothing was done to interfere with them. Thus English Jewry was re-established in an informal, almost casual manner.

Their community prospered but grew slowly. By 1738 they numbered around 6,000, and in 1753, the year of the Naturalization Bill, there could not have been more than 8,000 of them, virtually all of whom lived in London. Most of these were Sephardic Jews, that is Jews whose ancestors had come from Spain or Portugal. Dutch Jews were in this category, too; many had come from Holland in the wake of William of Orange, whose expedition had been financed in part by Jews. German and Polish Jews, the Ashkenazim, followed. These were generally of a lower social class and were often looked down upon by their aristocratic, affluent, Sephardic brethren.

England was attractive to Jews on two counts: first, for the economic opportunities it offered, and secondly, be-

cause of the absence of persecution. England was rapidly becoming the commercial center of Europe, and commerce was a field in which the Jew excelled. Always on the move, one step ahead of persecution and seldom allowed to own land, the Jew had channeled his energies into trade. Aided by their experience and their world-wide connections Jewish merchants and brokers rapidly found a place in the English economy. The well-to-do Sephardim engaged in shipping, wholesale trade, brokerage, and stock-jobbing. Their activity in the latter field was quite marked, one observer noting how quiet the Royal Exchange seemed on a Jewish holiday.[2] A number of rich Jews were particularly prominent, among them Joseph Salvador, one of the first Jews to be appointed a Director of the East India Company, and the broker, Sampson Gideon, reputedly the richest Jew in England at the time.

It should not be thought that these men were typical. Below them was a substantial middle class composed of shopkeepers and artisans, such as silversmiths and watchmakers, as well as tailors, hatters, pencil-makers, jewel-cutters, etc. Below these were the lower-class Jews, mostly Ashkenazim, who eked out livelihoods as old clothes dealers, traveling peddlers, and occasionally as "fences," dealers in stolen goods.

Everywhere in the world except England and a few American colonies, notably Rhode Island, Jews were treated as third-class citizens. Many nations, such as Portugal, Spain, and the major portions of France and Russia, excluded them entirely. In Poland they were brutally terrorized, and in the German and Italian states they were compelled to live in ghettos. Even the advanced Jewish communities of Turkey, Holland, Hamburg, and Leghorn suffered from restrictions and discrimination. England alone gave Jews a large measure of freedom.

The rights won by English Jews in their brief century

2 Philo-Patriae, *Further Considerations on the Act to Permit Persons Professing the Jewish Religion to be Naturalized by Parliament* (London, 1753), p. 16.

of residence were many. By the 1680's they had been granted virtual legal equality, that is, they were regarded as persons competent to sue and give evidence in court. They enjoyed freedom to worship as they pleased and to teach their religion, though proselytizing was severely frowned upon. After 1691 they were relieved of special taxation, unlike other countries, which tried to milk the Jews through heavy extra taxes. Their persons were secure; with the exception of a small riot in 1732 there was no mob violence against them until the 1770's. If they had wealth and manners, they were free to move in the highest English circles on terms of complete social equality. They could live where they pleased without the confinement of ghetto walls. Although almost all English Jews did tend to concentrate in a small section of London, this was due to religious and social preference rather than compulsive restrictions. They were, indeed, barred from political activity, but this was not resented at the time. All in all, English Jews held practically the same position as the non-conformists and were slightly better off than the Catholics.

Certain minor economic restrictions were imposed on Jews. For example, they were not permitted the Freedom of the City of London, which kept them from operating retail shops in that area, nor were they allowed to join certain trading companies, such as the Russian Company and the Levant Company.

Disabilities of Foreign-Born Jews

Foreign-born Jews labored under other minor economic restrictions. All aliens, whether Jewish or not, were prohibited from owning English land or ships and from acquiring political rights and offices, and were barred, by provisions of the Navigation Act of 1660, from trading with the British colonies. Aliens were required to pay a stiff extra duty on goods exported or imported. The purpose of these restrictions was to keep trade in English hands and to encourage foreign-born merchants to become English citizens.

The usual way in which a foreigner could obtain nat-

uralization was by a private act of Parliament. This method was not only expensive but, for the Jew, was impossible, since one step in the proceedings involved taking the Sacrament of the Last Supper. This, as well as the Oaths of Supremacy and Allegiance which contained the phrase "on the true faith of a Christian," effectively prevented foreign Jews from receiving the benefits of naturalization.

Many Jewish merchants evaded the alien duties by having naturalized friends sign for their goods at the custom offices, but for obvious reasons this was not completely satisfactory. However, there were other ways in which a foreign Jew could avoid the restrictions placed on aliens. He could, for example, obtain from the King a grant of endenization. A denizen, as the term implies, was regarded as a dweller in the land. Although he was exempt from some of the restrictions placed on aliens, such as the alien duty, he did not enjoy all the rights of a natural-born subject, such as the ownership of land.

The theory behind the naturalization procedure was that one aspect of citizenship was membership in the state religion. Foreigners whose consciences forbade their joining the Anglican Church would not be molested, but neither should they be entitled to the same privileges enjoyed by a full citizen. The force of this argument was weakened by legislation which, in certain special instances, did allow foreigners, including Jews, to be naturalized without the usual cumbersome procedure. An act passed in the fifteenth year of the reign of Charles II provided for the naturalization of foreigners, of whatever religion, who exercised for three years any trade relating to flax, hemp, or tapestries. Likewise, a bill of 1740 naturalized sailors who had served for two or three years. These measures affected Jews only by implication, but an act of 1740 conferred more direct benefits. This act allowed Jews who had been living in the American colonies to be naturalized without taking the Sacrament and dropped the offensive phrase from the Oath of Abjuration. From 1740 to 1753, 185 West Indian Jews were naturalized by this act, 140 of whom lived in Jamaica.

The Jewish Naturalization Bill of 1753

If foreign Jews could become English citizens by living in America, why not Jews living in England itself? The reasons for facilitating Jewish naturalization seemed convincing. The primary purpose was economic; it was widely believed that England's population and wealth had suffered from the long series of wars she had fought. Any measure that would encourage immigration, especially immigration of wealthy and talented men, should be encouraged. Naturalization measures had long been a favorite device of Whig administrations. A bill to facilitate the naturalization of foreign Protestants had been passed in 1708, only to be repealed by the Tories in 1711. Similar bills had been introduced in 1747 and 1751 but had been defeated because of popular indignation. Although these bills would not have benefited Jews, the guiding principle for them was the same as for the Jewish Naturalization Bill.

Another reason behind the Jewish Naturalization Bill was the realization that since the Sacramental test for naturalization had been established in the reign of James I, it could not have been intended to hinder Jews, since there were no Jews in England at the time. Why should Jews suffer from an act aimed against Catholics? A potent factor, too, was the manner in which Jews had conducted themselves during the rebellion of 1745. Poor Jews enrolled in the London militia, while the wealthy exerted themselves to uphold England's credit by importing specie to stop a run on the Bank. Jews were active in an association formed to buy Bank notes at par in order to prevent depreciation of the currency. They loaned money to the Government against the security of the land tax, sacrificing better investment opportunities in order to aid their country.[3] Sampson Gideon was a host in himself. Calm and assured, he did

[3] Philo-Patriae, *Considerations on the Bill to Permit Persons Professing the Jewish Religion to be Naturalized by Parliament* (London: R. Baldwin, 1753), in "California State Library—Occasional Papers, English Series #3" (California State Library, 1939), pp. 89-92. (Mimeographed)

much to prevent a financial panic in those dark days when the Pretender was marching on London.[4]

Consequently, the Duke of Newcastle, a leading figure in the administration and the brother of the Prime Minister, Henry Pelham, was favorably disposed toward a request made by Joseph Salvador on January 14, 1753, that Parliament facilitate Jewish naturalization.[5] Newcastle conferred with Lord Chancellor Hardwicke who, with the aid of his secretary, Phillip Carteret Webb, prepared a bill for that purpose. On April 3 the bill, entitled "An Act to Permit Persons Professing the Jewish Religion to be Naturalized by Parliament; and for other purposes therein mentioned," was presented to the House of Lords by the Earl of Halifax and was read for the first time.

The bill's preamble declared that "many persons of considerable substance professing the Jewish religion" were prevented from being naturalized by the Sacramental test and noted the anomaly that American Jews were allowed to waive that requirement. Therefore, be it enacted that

(1) Jews, upon application to Parliament may be naturalized without taking the Sacrament.

(2) A clause to be inserted in every bill of naturalization preventing the naturalized subject from being a member of the Privy Council, or a member of Parliament [either House], from taking any grant of lands from the Crown, or holding any public office or place of trust.

[These restrictions had been standard procedure on all naturalization bills since the time of George I. They applied to all naturalized subjects and should not be regarded as special discrimination against Jews.]

(3) No person to be naturalized who has not resided in Great Britain or Ireland for three years, without being absent more than three months at a time, and who shall not bring proof of his having professed the Jewish religion for three years before. [This requirement was designed to prevent Catholics and others from

[4] Historical Manuscripts Commission Reports, *Manuscripts of the Marquis of Lothian* (1905), pp. 148 ff.

[5] Cecil Roth (ed.), *Anglo-Jewish Letters, 1158-1917* (London, 1938), pp. 128-130.

pretending to be Jews so as to be naturalized without having to take the English Sacrament.]

(4) Jews are disabled from purchasing or inheriting any advowson or right of patronage, etc. [This clause prevented Jews from owning Church livings, a reasonable restriction since the owners of such lands had the right to appoint ministers and officials of the Anglican Church.][6]

The bill quickly passed the Upper House without any opposition, not even from the Bishops—although old Bishop Thomas would have objected to it had not his deafness confused him somewhat—and was sent to Commons on April 16. The first reading there proceeded smoothly. On May 7, however, when it was proposed that the House turn itself into a Committee of the Whole in order to consider the bill, some opposition developed, spearheaded by William Northey. What terrible crime have the people of this kingdom committed, he asked, that they are to be deprived of their birthright? He expressed fear of an influx of Jews into England if the bill should pass, envisioning a time when they could "at some private meeting divide [the country] among their several tribes by lot as they of old did to the land of Canaan."[7]

Lord Dupplin, a protegé of the administration, tried to puncture this fantasy and bring the debate back to reality:

> Now all that is intended by this bill now before us, is only to naturalize a rich Jew without his receiving the Sacrament of the Lord's Supper in case he should desire it, and the Parliament should see fit to grant the favour: there is no such thing desired as a general naturalization of the Jews; nor can it be supposed that any poor Jew will be naturalized in consequence of this Bill, because of the great expense that attends every bill of naturalization; nay, even as to rich Jews the Parliament may . . . put a stop to their naturalization . . . if any danger would begin to be dreaded from too great an increase in their number.[8]

Ignoring these sensible remarks, Sir Edward Isham carried the attack still further, contending that even native-born English Jews should have no rights. He proposed that

[6] *Great Britain Statutes at Large,* 26 Geo. II, c. 26, XXI, p. 97.
[7] William Cobbett, *Parliamentary History of England,* XIV, p. 1372.
[8] *Ibid.,* p. 1375.

instead of going into Committee to consider this bill, the House should appoint a secret committee to inquire whether the Jews be allowed to have a synagogue and openly practice their religion in England.

This rhetorical flourish was ignored by the House. The next speaker, Robert Nugent, the genial fortune-hunter, expounded on the benefits of the bill. Naturalization was a cause close to Nugent's heart; in 1751 he had introduced a bill to naturalize foreign Protestants. He argued that the present bill would further the cause of Christianity by aiding in the conversion of the Jews. If Jews are freed from persecution, they may be easier to convert, since "persecution begets obstinacy." He also cited the contributions Jews had made to Dutch prosperity and claimed that through their knowledge of trade and world-wide correspondence they would increase English trade and aid in the financing of wars and the reduction of the national debt.

Sir John Barnard, who spoke next, may be considered the leader of the opposition to the bill. Barnard represented the commercial and financial interests of the City of London, whose Lord Mayor he earlier had been. He was reputed to be an enemy of Sampson Gideon and had long been hostile to the Jews. An anti-Jewish pamphlet published in 1738[9] had been dedicated to him, and in the pamphlets occasioned by the Naturalization Bill he was singled out for special praise by many of the anti-Jewish propagandists. He maintained that the Jews have always been the professed enemies of Christianity. "I know, Sir, that as a Christian I am obliged to love my enemies . . . but no precept of Christianity enjoins me to take him under my roof."[10] Since Barnard represented the commercial interests of London, the main burden of his argument was on economic grounds. Jews, he claimed, would not increase trade, but merely take the bread out of the mouths of honest Englishmen. "Have we

[9] *Reasons Offered to the Consideration of Parliament for Preventing the Growth of Judaism* (London, 1738).

[10] Cobbet, *op. cit.*, p. 1388.

not already as many English shopkeepers . . . as can be supported by the consumption?"[11] Certainly his constituents, the London shopkeepers, would answer this question in the affirmative. He expressed concern that Jews would become the only shopkeepers and, playing on the fears of the country gentry, asked what would become of their younger sons who would no longer be able to make their fortunes by marrying merchants' daughters. Finally, he reminded his listeners that there was a curse attached to the Jewish nation which might follow them into England.

In vain did Nicholas Hardinge attempt to restore sanity to the debate. He tried to place the bill back into its proper perspective, asserting that it gave the Jews "nothing but the power of obtaining from Parliament, at great expense, a privilege to live here and spend their money here. . . ."[12] He repeated the previous arguments of the bill's supporters, adding as further points in the Jews' favor their conduct during the rebellion of 1745 and the fact that they took care of their own poor rather than burdening the parish.

These arguments were apparently ineffective, for as soon as he stopped speaking, Nicholas Fazakerley, the member for Preston, rose to present another flight of fancy. As evidence of the undesirability of the Jews he cited their cruelty as recorded in the Book of Esther. If the Jews should gain control of the government, an event he seems to have regarded as imminent should the bill pass, then "God have mercy on such of this nation as shall continue Christian, for I am sure our rulers, the Jews, would have none."[13] He pooh-poohed the possible economic benefits of the Jews. His was the typical Tory attitude, distrustful of anything that smelled of "stock-jobbery" and nostalgic for the past, particularly for the good old pre-Hanoverian days. His advice was simple: "Instead of applying to the quack prescriptions of naturalizing Jews and foreign Protestants we should lessen

[11] *Ibid.*, p. 1393.
[12] *Ibid.*, p. 1396.
[13] *Ibid.*, p. 1412.

our yearly expenses . . . by reducing the Army [and the Civil list] to what it was at the end of Queen Anne's reign. . . ."[14]

The last speaker of the afternoon was the Prime Minister, Henry Pelham. He patiently reiterated the arguments for the bill, especially its benefits to trade, manufacture, and the public revenue. He declared the apprehensions of the opposition to be chimerical, "as if by naturalizing a few Jews our constitution was to be unhinged, our liberties sacrificed and the Christian religion extinguished."[15]

The question was then called. Despite the opposition the bill easily passed the second reading, 95 to 16.

In this first day's debate on the bill the pattern of the subsequent agitation is already clear. From the very beginning both sides seemed to be talking about two completely different bills, giving the entire proceeding the air of taking place in Wonderland. The opponents continually refer to the horrible consequences of the bill, knowing full well that such possibilities as hordes of poor Jews being naturalized, Jews owning Church property, and Jews gaining political power were expressly prohibited by the plain terms of the bill. The opposition, however, were not particularly interested in the terms of the bill. Their arguments were not addressed to their fellow legislators but to a larger audience.

The first indication that the public was becoming concerned over the issue came two weeks after the debates over the second reading. On May 21, the day before the third reading was scheduled, the House was informed that the Sheriffs of the City of London attended at the door. On being called in, they presented a petition to the House signed by the Lord Mayor, the Aldermen, and the Common Council of London expressing their apprehension "that should the said Bill be passed into a law, the same would tend greatly to the dishonour of the Christian religion, endanger our excellent Constitution, and be highly prejudicial to the in-

[14] *Ibid.*, p. 1405.

[15] *Ibid.*, p. 1417.

terests and trade of the kingdom in general and this city in particular."[16]

This petition made a great stir and was accounted by many to be the spark which ignited the clamor that followed. The hostility to the Jews of the London Common Council should have come as no surprise, since it was an antagonism of long standing. At the time of the Restoration of Charles II this same body had petitioned that the Jews, so recently settled in the kingdom, be expelled, and in 1684 they had petitioned the King against his practice of granting letters of endenization to foreign-born Jewish merchants.

On the same day that this petition against the bill was presented, the House received a counter-petition from a group of substantial London merchants, who "were of the opinion that the passing of this Bill into a law might encourage persons of wealth and substance to remove with their effects from foreign parts into this kingdom and increase the commerce and credit of this nation; and therefore praying that the Bill might pass into a law."[17]

Both of these petitions were presented for consideration on the following day. On May 22 two more petitions confronted the legislature. The first of these was a petition of merchants and traders of London intended as a rebuttal to the previous day's petition in favor of the bill. These merchants were apprehensive that the bill would greatly harm England's foreign trade, especially with Spain and Portugal.

The last in this battle of petitions was one signed by over 200 businessmen engaged chiefly in shipping and woolen interests, who urged the passage of the bill since the immigration of rich Jews would aid in the "increase of shipping encouraging the exportation of the woolen and other manufactures . . . of which the persons who profess the Jewish religion had, for many years past, exported great quantities."[18]

After the third reading of the bill some of the petitioners were called in to give their views and to be cross-

16 *Ibid.*
17 *Ibid.*
18 *Ibid.*, p. 1418.

examined. Those opposed to the bill were questioned rather sharply. When the interrogation of the petitioners was concluded, debate was opened once more. The opposition moved to postpone consideration for a month, hoping that in the interval the mounting tide of public feeling might influence the outcome in their favor.

The major speech on this motion was that of the Earl of Egmont. In a forceful address distinguished by its relative restraint, as compared with some of the hysterical speeches of other opponents, he explained why he was against the bill. The bill, he argued, was not necessary, since the condition of Jews in England was already good enough to attract rich Jews. It would be harmful to the nation in that it would diminish trade with Spain and Portugal. He reminded the House how sensitive the public was on all questions concerning religion:

> The present administration [should] remember the spirit that rose against their connection and overthrew them towards the end of the reign of Queen Anne. The origin of this was a silly measure [the Sacheveral trial] which jarred the same string as this. It is true they recovered their ground again by the accident of the Queen's death and the accession of the present royal family to the throne. But let them take care now; if they overthrow themselves by the same wantonness, the same presumption, the same inattention to, or ignorance of, the true temper of the people, they may fail never to rise again.[19]

As an enemy of the administration Egmont would be only too happy to have the Sacheveral lightning strike again. Indeed, he would do his bit to hasten that happy event. Noting that a general election was drawing near, he promised "that when that day comes, which is not far off, I shall not fear to set my foot on any ground of election in the kingdom (I who have spoken my sentiments and voted against the Bill) in opposition to any one man among you, or any new Christian who has appeared and voted for it. . . ."[20]

The question of postponement was then put and failed. Although administration strength remained virtually con-

[19] *Ibid.*, p. 1428.
[20] *Ibid.*

stant at 96, the opposition had by now swelled to 55, an indication that the agitation was making itself felt. Having failed on this test vote, the opposition retired, and the bill was passed, apparently without a division. On June 7, the last day of the session, the bill received the royal assent and became law. However, this was far from the end of the matter, for in the meantime the opposition had taken the question to the country.

Popular Agitation

Throughout the spring and summer of 1753 the Jew Bill was the hottest subject of debate in the kingdom, almost to the exclusion of all other topics. A flood of sermons, tracts, letters, satires, pamphlets, ballads, and advertisements engulfed the nation, the bulk of which opposed the bill. "The little curates preached against the Bishops for deserting the interests of the Gospel; and aldermen grew drunk at county clubs in the cause of Jesus Christ, as they had used to do for the sake of King James."[21] Nor was this excitement confined to England alone. In Edinburgh, the *Scots Magazine* printed the Jew Bill debates in full, the only subject at that time which they covered so completely. Other parliamentary topics were merely summarized briefly. The matter even received international attention. One French observer noted how "*en Angleterre l'animosité contre les Juifs augmente de plus en plus. . . .*"[22]

Before the advent of modern, reliable newspapers the cheapest and most extensive form of propaganda was the pamphlet. The Jew Bill was remarkable for the number of pamphlets it provoked. Cecil Roth, in his *Magna Bibliotheca Anglo-Judaica,* lists over sixty of them, but even this compilation does not pretend to be exhaustive. The *Monthly Review,* which noted all current publications, had to create a separate department for pamphlets relating to the Jews.

21 Horace Walpole, *Memoirs of the Reign of King George II* (London, 1846), I, 358.

22 Marquis D'Argenson, *Journal et Memoires du Marquis D'Argenson* (Paris, 1866), VIII, 133-134; see also p. 63.

The arguments advanced in these pamphlets exhibit the same curious feature that was noted earlier in connection with the Parliamentary debates—both sides seem to be talking about completely different bills. The supporters continually stress the limited nature of the bill, but undeterred, the opponents brashly assert, "Now, if this bill becomes a law, we are Jewish slaves and, what is the most dreadful of all, without any hope of relief from the goodness of God."[23]

The supporters of the bill laid heaviest emphasis on economic considerations. They stressed the economic benefits of the bill, repeating the arguments presented in Parliament that an influx of rich Jews would benefit all classes in the community. The economic arguments of its opponents were a trifle inconsistent, some asserting that the bill would attract hordes of poor Jews who would be a burden on public charity, others opposing the bill out of apprehension that the Jews would take over the property and power of England. In answer to the first point the supporters of the bill called attention to the fact that it would attract only rich Jews while poor Jews could come to England anyway. And to the second, they reiterated that the bill conferred no new privileges on English-born Jews and specifically prohibited naturalized Jews from holding public lands or offices.

The opponents, however, were not really interested in economic arguments, for, as one pamphleteer righteously proclaimed, "'tis impious to make the benefit of trade a sufficient Reason for passing of it into a law. Poor England would gain but a bad Bargain, if by engrossing all the riches of the Jews . . . she should lose the Riches of Eternity."[24] They stood on the high ground of religious principle. Jews were reviled as enemies of Christ, and relevant passages of Holy Writ were cited to demonstrate the inadvisability of the bill. Favorites were I Corinthians 16:22: "If any man

[23] *London Evening Post,* May 24, 1753, quoted in *Scots Magazine,* XV (May, 1753), 248.

[24] *Remarks on the Reverend Mr. Tucker's Letter on Naturalization* (London, 1753), p. 4.

love not the Lord Jesus Christ, let him be anathema," and II John 10: "If there come any unto you and bring not this doctrine [of Christ], receive him not into your house." Oddly enough, though both sides freely quoted Scripture, they ignored, so far as I can discover, this highly appropriate passage: "One law shall there be in thy land for the citizen and the alien within the borders" [Ex. 12:49; Lev. 24:22; Num. 9:14; 15:15 etc.].

A common religious objection to the bill was that it was unwise to encourage the immigration of a group of people who were in a state of damnation. To this a supporter of the bill asked: "Are we peopling the next world and obliging the Jews to be received there? No, we are peopling Great Britain; and whether the Jews are damned or saved is surely neither a political consideration of ours, nor are we competent judges of it."[25]

This was a proper reply, but it should not be thought that the bill's advocates always got the better of the argument. One of their favorite propositions was that the conversion of the Jews would be aided if they were treated in a benevolent and Christian manner, which, they averred, the passage of the Naturalization Bill would demonstrate. But, "if the conversion of the Jews be the aim of the Bill," queried William Romaine, "why are only rich Jews to be naturalized? Have not the poorer souls to be saved as well as the Rich?"[26] Furthermore, he pointed out that Jews had been well treated in England for over a century and very few converts had been made. [As a matter of fact, it was not until shortly after the *failure* of the Naturalization Bill of 1753 that important English Jews began to be baptized.]

Other arguments were advanced in addition to the economic and religious. Historical and legal points were raised, concerned primarily with the pre-expulsion regulations against the Jews, and whether or not they still applied.

[25] Philo-Patriae, *Further Considerations*, pp. 63-64.

[26] William Romaine, *An Answer to a Pamphlet, entitled, "Considerations on the Bill to Permit Persons Professing the Jewish Religion to be Naturalized* (London, 1753), p. 27.

Another cause for opposing the bill lay in the supposed depravity of the Jews. "The Jews murdered Christ, and would murder us if they had power."[27] Proof of this was to be found in their frequent crucifixion of Christian children on Good Friday. Other aspects of the bad character of the Jewish nation were their undesirable economic practices. No oath could bind them. Furthermore, they were devilishly crafty. "The Jews are the subtlest and most artful people in the world and are so dextrous in bargaining, that it is impossible for Christians to expect any advantage in dealing with them."[28] Jewish avarice was a favorite theme with the polemicists, who professed to believe that money was their real God and traced all their actions, even their services during the '45 rebellion, to self-interest and greed.

In addition to the many arguments pro and contra the bill the controversy produced an inordinate amount of sheer nonsense. In this category fall the many ballads, poems, playlets, satires , and other trivia dashed off for the occasion. Some of this was amusing, the rest pure hack. Not much can be said for either the meter or the sense of such ballads as "The Jews Naturalized":

> Our Rulers have dar'd the decree to revoke,
> Which was in Judea so frequently spoke,
> T'incorporate with us that fugitive tribe—
> But what is it Britons won't do for a bribe?
> Sing Tantararara, Jews All! Jews All!
> Sing Tantararara, Jews All! Jews All![29]

or "The Jews Triumph": (sample)

> But Lord! how surpris'd when they heard of the news,
> That we were to be servants to circumcis'd Jews;
> To be negroes and slaves, instead of True Blues,
> Which nobody can deny.[30]

More wit was shown by the anonymous author of *Seasonable Remarks on the Act Lately Passed in Favour of*

[27] *Ibid.*, p. 21.

[28] *Reasons Offered to the Consideration of Parliament for Preventing the Growth of Judaism*, p. 8.

[29] William Walker Wilkins (ed.), *Political Ballads of the Seventeenth and Eighteenth Centuries* (London, 1860), II, 315.

[30] *Ibid.*, p. 312.

the Jews, who, pretending to oppose the bill, mocked the farfetched arguments against it by inventing equally preposterous reasons, such as, "The act will be very pernicious to the inland trade of this Kingdom. It will sensibly lessen the consumption of . . . Hams and Bacon. . . ."[31] The other side was enlivened by fantasies such as the following conception of newspaper items 100 years after the passage of the Naturalization Bill:

—On Wednesday last dined at his grace the duke of Hebron's in Barkshire, Sir Nabod Issachar, attorney general.

—On Monday last a dispensation passed the great seal to enable Abraham Levy to hold a living in the Synagogue of Paul's.

—Last week 25 children were publicly circumcised at the lying-in hospital in Brownlow Street.

—Same day John Heartwell, shoemaker, was whipped round Duke's Place for speaking in disrespectful terms of the coming of the Messiah.

—We are also informed that the statue of Sir John Barnard, formerly father of this city, and a strenuous assertor of Christianity, is ordered to be taken down and that of Pontius Pilate to be put up in its room.

—This day was republished "Christianity not founded upon Arguments," and we hear that a statue has been erected in Westminster Abbey to the memory of the author.

—Last week was brought up to Newgate, under strong guard, George Briton, the outlawed smuggler, who was taken on the coast of Sussex in the very act of smuggling pork into this kingdom.[32]

This was all good fun, but to the politicians the bill was no laughing matter. As the Earl of Egmont had predicted, the bill developed into an important election issue; indeed, for a time it seemed the only issue. "We are fixing our members everywhere upon the test of their having voted for or against the Jews,"[33] reported the member for Morpeth. Candidates declared their sentiments by prominently displaying ribbons marked "No Judaism, Christianity Forever."

[31] *Seasonable Remarks on the Act Lately Passed in Favour of the Jews* (London, 1753), p. 19.

[32] *Craftsman*, 14 July 1753, quoted in *A Collection of the Best Pieces in Prose and Verse Against the Naturalization of the Jews* (London, 1753), pp. 65-71.

[33] Historical Manuscripts Commission Reports, *Carlisle Manuscripts* (1897), Volume XV, appendix VI, p. 207.

Those suspected of pro-Jewish leanings had to go to extravagant lengths to clear their good name. The representative from Exeter, Mr. Sydenham, felt compelled to issue a public declaration that he travelled on Saturday in order to prove that he himself was not a Jew. Despite this confession he was defeated.

Many districts issued specific instructions to all candidates urging them to oppose the Jew Bill and to work for its repeal as a condition of their support. *Gentlemen's Magazine* for September and October, 1753, records seven of these memorials. None of them mention any other issue than the Jew Bill, and without exception their complaints are expressed in religious terms.

Since reporters were not admitted to Parliament at this time, and since no records of divisions were kept, there is no way of knowing who voted for or against the Jew Bill. And without knowing what members committed themselves on the question, we cannot determine the precise effect of the bill on the election of the following year. Most writers on this subject have been inclined to regard the antagonism to the Jew Bill as an issue of extreme importance in this election. They cite the defeat of a General Oglethorpe, who had represented Haslemere for thirty-two years, as partial proof of their contention. Yet such an assumption must be made very carefully, for an eighteenth-century parliamentary election was an extremely complicated thing dependent upon many factors. Without extensive research it is impossible to sort out these factors and give them their proper weight. The effects of the Jew Bill on the election were certainly not as clear cut as has generally been assumed. How, for example, can one explain that Phillip Cartaret Webb, one of the drafters of the bill, was elected in this same borough of Haslemere?

Fortunately for the purposes of this study, it is not necessary to know whether the bill actually influenced the election; the important point is that at the time such an influence was generally taken for granted. Some elections

did seem to hinge upon the Jewish issue. In London, for example, in a contest described as "the greatest that was ever known in the Memory of man," Sir William Calvert, the only supporter of the bill in a field of five, finished fifth with 2,651 votes. Sir John Barnard, whose antagonism to the bill was notorious, received over 3,500 votes in the same contest.[34] Calvert's supporters were mainly non-conformists, who presumably felt that a gain for the Jewish minority might be followed by improvement in their own position. Despite their support for the Government, an enemy of the administration was easily returned to Parliament, and the Jewish question was blamed for this administration defeat.

Repeal

Faced with such widespread opposition, the Ministry began to reconsider the advisability of maintaining such an obnoxious measure. Pelham was always guided by the principles of his predecessor and political mentor, Robert Walpole, whose favorite maxim had been, "Let sleeping dogs lie." Always mindful of the commotion that had been worked up over the Sacheveral trial and Walpole's Excise Bill, the Prime Minister was careful never to allow a similar excuse for public opinion to get out of control. But though he was a cautious man, he was not a coward, and would probably have held his ground if he had thought that an important principle was at stake; the Jew Bill, however, was not worth risking his administration. He had never regarded it as a measure to further tolerance or civil liberties, but merely as a means to increase revenue. If the agitation would discourage the immigration of rich Jews, defeating the bill's purpose, then it was futile to stand stubbornly by it.

Furthermore, the clamor was striking embarrassingly close to home. An anonymous versifier was warning:

[34] William Maitland, *The History of London* (London, 1775), I, 712.

Britons! Beware of P[elham's] charm,
And know if 'tis not timely broke;
Virtue by bribery he'll disarm,
Laugh at your God, make Christ a joke.[35]

On July 13, scarcely a month after the bill had become law, Pelham wrote to his brother for advice, assuring him that he would acquiesce in his opinion. Pelham was slightly reluctant to repeal, for he thought "that bargaining with clamour was a dangerous experiment."[36] His brother, the Duke of Newcastle, was notorious for his timidity and lack of resolution. He seemed in this instance, Chesterfield sneered, "frightened out of his wits"[37] by the commotion and urged his brother to repeal.

No time was lost. On November 15, the opening day of the session, the first order of business presented to the House of Lords was Newcastle's repeal measure. In a speech described as "rather worse than usual"[38] he urged that the act be repealed because of the clamor that had been raised against it. The bill was a good idea, he insisted, but too unimportant to maintain in the face of such opposition.

Earl Temple could not follow this change in the party line. He had been for the bill from the beginning, and he saw no reason to change his mind. He especially feared the inauguration of an era of persecution if the opponents of the Jews succeeded in forcing the repeal of the bill. Repeal, he prophesied, would not satisfy them; to do this "you must persecute the Jews by excluding them from almost all the benefits of society . . . and put all dissenters upon the same footing as the Jews."[39]

The Lord Chancellor agreed with these arguments but favored repeal because the people were so aroused by the law

[35] *Collection of the Best Pieces Against the Naturalization of the Jews*, pp. 84-85.

[36] William Coxe, *Memoirs of the Administration of the Right Honorable Henry Pelham* (London, 1829), II, 467.

[37] Earl of Chesterfield, *Chesterfield's Letters*, ed. by John Bradshaw (New York, 1892), III, 1078.

[38] Duke of Bedford, *Correspondence of John, Fourth Duke of Bedford* (London, 1842), II, 138.

[39] Cobbet, *Parliamentary History*, XV, 95.

that "it will be impossible for any Jew, rich or poor, to live here with the same ease and security which he did before the law was passed."[40]

On November 22 the repeal bill passed the Upper House, with Temple demanding that his protest be entered in the Journals, and was sent to Commons.

In Commons those members who a few months earlier had been most enthusiastic over the benefits of Jewish naturalization now declared that their willingness to repeal was due to the triviality of the measure. They made it quite clear that they were bowing to the popular clamor, not, however, out of respect for the sovereign people, but merely to keep them quiet. There was a flurry of debate over the wording of the preamble, the opponents of the Jews taking exception to the clause, "And whereas occasion has been taken from the said act to raise discontents; and to disquiet the minds of many of his majesty's subjects,"[41] as an unjust reflection on the people of the kingdom. They claimed that the discontent was spontaneous and resented the suggestion that it had been engineered.

This objection was quickly suppressed and the preamble was allowed to stand by a vote of 113 to 47. The repeal bill then passed without opposition and received the royal assent on December 20.

In the meantime, the opponents of the Jews attempted to use the agitation to chip away at the rights previously granted them. On December 4 Lord Harley and Sir James Dashwood moved for the repeal of the Plantation Act of 1740. This was the law, mentioned earlier, which permitted Jews in the American colonies to become naturalized after seven years' residence. Since it was brought out that less than 200 Jews had taken advantage of this act in the 13 years it had been on the books, little enthusiasm could be aroused for its repeal. The administration was determined to go no further to appease the anti-Jewish clamor, fearing to make themselves seem ridiculous. "They who made the

[40] *Ibid.*, p. 99.

[41] *Great Britain Statutes at Large*, 27 Geo. II, c. 1, XXI, p. 158.

clamour," said Nugent, "now smile with us; if we gave way [they] would laugh at us."[42] The proposal was beaten down by an overwhelming vote of 208 to 88.

Conclusion

So ended the great Jew Scare of 1753. Its results were amazingly meager, considering the enormous amount of energy expended on it. At the end of 1753 the position of the Jews in England was exactly the same as it had been at the beginning of the year. Although the bill had been a law for a few months, no Jew had had the temerity to apply for naturalization, and so for all practical purposes it might as well not have been passed at all.

One casualty of the bill was Sampson Gideon. He had been against it from the very first as "directly contrary to my declared sentiments and my dislike to all Innovations."[43] As the most prominent English Jew he had been mercilessly assailed by the bill's opponents. He must have been extremely disturbed by such verses as "Christ's kingdom is not of this world; we are taught it. Quoth G[ideon], 'tis true; for by G[od] I have bought it."[44] Nor could he have been pleased by the suggestion of one pamphleteer that the Jews might set up Mr. G—n as their Messiah and raise a rebellion to support his title.[45] As a result, he formally dissolved all connection with his synagogue. Although he did not become a Christian and at his death insisted upon being buried as a Jew, he allowed his son, the future Baron Eardley, to be baptized.

A long-range consequence of the agitation of 1753 was a restriction of further advances in the status of the Jews. They now joined Catholics as political untouchables, groups which could not be aided without severe political reprecussions. Although Jewish rights were not diminished, full

42 Walpole, *op. cit.*, p. 364.

43 Roth, *op. cit.*, pp. 130-132.

44 *Collection of the Best Pieces Against the Naturalization of the Jews*, p. 64.

45 Romaine, *op. cit.*

emancipation was delayed for almost a century. Jews had to wait until 1844 to obtain a completely satisfactory naturalization law.

The most puzzling aspect of the whole controversy is why such a trivial measure, the "nothingness of a nothing" as Carteret described it, created such a violent reaction. This baffled contemporary observers, such as Horace Walpole, who marveled:

> An inglorious peace had been made, and the first hostages imposed that ever this country gave: not a murmur followed. The Regency Bill, with the tremendous clause of praemunire, had been passed without occasioning a pamphlet. The Marriage Bill, that bane of society . . . had not excited a complaint. . . . A trifling Bill, that opened some inconsiderable advantage to a corps of men, with whom we live, traffic, converse, could alarm the whole nation.[46]

In one respect Walpole was mistaken. He assumed too much. The whole nation did not "live, traffic, converse" or associate with Jews. On the contrary, except for the Londoner, the average Englishman had never seen a Jew. This ignorance may help to account for his easy acceptance of what more sophisticated men would have realized were absurd misrepresentations of the Jewish people. The Englishman was ready to believe any canard against the Jews. After all, hadn't they crucified Christ? Furthermore, the most familiar literary representation of Jews portrayed them in unsavory terms. Everyone knew Shakespeare's Shylock and Marlowe's Jew of Malta who gloated, "As for myself, I walk abroad o' nights/ And kill sick people groaning under walls:/ Sometimes I go about and poison wells."

This partially explains why the average Englishman could get so excited about the Jew menace, but what about the educated upper classes who should have known better? Some were undoubtedly sincere in their opposition to further extension of privileges to the Jews, but many apparently seized upon the issue for purposes of political advantage. How else can the conduct of the Duke of Bedford, for example, be explained? As Lord Lieutenant of Ireland he

[46] Walpole, *op. cit.*, p. 358.

had been distinguished for his tolerance; he held that "it was his settled maxim that persecution for religious principles only added strength to the sect it was intended to destroy."[47] Why, then, did he oppose the Jew Bill so vigorously? His only motive seems to have been to embarrass the Newcastle-Pelham administration. Bedford had once been a member of the administration, serving as Co-Secretary of State along with Newcastle, but had been forced to resign because of Newcastle's petty suspicions. After that the two men were bitter personal enemies. Newcastle, whose incompetence was matched only by his jealousy of truly able men, made many such enemies. This was particularly dangerous in the eighteenth century, a time when politics was based almost exclusively on personalities rather than principles. Consequently, when these men discovered that the Jew Bill was an issue capable of rousing the people, they exploited it to the limit.

To this extent, therefore, the Jew frenzy was a synthetic one. One indication of its artificial nature was the fact that it never got out of hand. Joseph Salvador may have been hissed when he took his seat at the theater, but otherwise there were no demonstrations against Jews. This absence of violence on the part of the usually volatile English mob lends credence to the supposition that the popular anger was not as deep as it has been represented.

Yet, "nothing is made out of nothing." The excitement of 1753 was not just a political hoax dreamed up for the coming election. It was built on the solid foundation of the fears and prejudices of the English people. England had just emerged from over two centuries of religious ferment. The Protestant Succession, as represented by the Hanoverian line, was universally welcomed as the symbol of religious stability. Barely recovered from their long religious turmoil, the English people were hypersensitive to any threat to their religious settlement, no matter how far-fetched.

[47] Bedford, *op. cit.*, p. xv.

Hatred of foreigners was another prejudice that was very strong in eighteenth-century England, and it was by no means limited to foreigners who happened to be Jewish. Even bills designed to naturalize foreign Protestants found the same violent reception as the Jewish Naturalization Bill of 1753. The Foreign Protestant Naturalization Bill of 1751 provoked so much indignation that it was withdrawn, smothered in petitions, before the third reading.

It would be a mistake to regard the agitation of 1753 as an outbreak of anti-Semitism. Anti-Semitism, as we know it, is a relatively modern development. Its main feature, the ineradicable hatred of the Jewish people, was quite beyond the eighteenth-century mentality. With few exceptions, objections to Jews were based on religious rather than racial considerations. If the Jews accepted Jesus Christ as their Saviour, declared one opponent of the bill, "then indeed their extraction is to be forgotten; and if they are natives of this kingdom, let them enjoy all the privileges and advantages of natural born subjects."[48]

In retrospect the whole episode assumes its proper proportions. It should not be blown up into an issue of major importance, nor cited as evidence of English anti-Semitism. As a matter of fact, it died down as quickly as it had flared up, and its direct effects were practically negligible. English Jews continued to enjoy a position unequaled anywhere in the world except for some parts of America. The history of English Jewry continued to develop in an atmosphere of tolerance. The agitation of 1753 was an aberration, and a temporary one.

[48] *Collection of the Best Pieces Against the Naturalization of the Jews*, p. 36.

APPENDIX

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MARRIAGES, MIXED MARRIAGES AND CONVERSIONS AMONG FRENCH JEWS DURING THE REVOLUTION OF 1789

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I

Recognition in France of the Jewish Law of Marriage

PRIOR to the Revolution of 1789 the autonomous character of the Jewish communities played a very important role in the life of the French Jews. These communities were allowed to control the most important religious and civil events in the life of the Jews, and their autonomy was strengthened by the fact that the French courts of law recognized the validity of Jewish marriage law, not insisting on the application of French civil law to marriages among Jews. This was the attitude of the courts even in the first years of the Revolution of 1789, when both friends and foes of Jewish emancipation voiced their opposition to the existence of autonomously administered Jewish communities. In fact, the Jewish law on marriage was recognized by some French courts of law even after September 27, 1791, when the last group of French Jewry, the Ashkenazim, were granted full citizenship and, as a result, the Jewish communities ceased to exist in their pre-Revolutionary form. The discussions on problems of law enforcement were even more important as a factor helping to prepare the later and complete assimilation of the Jews to French civil law.

The Jewish marriage law was often debated publicly in connection with conversions of Jews. In 1713 the converted Jew Claude-Marie Eliézer of Thionville was forced

to surrender their child to his Jewish wife. But this was not always so. Kendel Moch, the daughter of Abraham Moch, the head of the Jewish community of Haguenau, was married to Bernard Hirtz in 1723. In 1731 Hirtz converted to Catholicism and requested his wife to do likewise with their two children. When she refused, Hirtz married a Christian woman. Abraham Moch defended his daughter's right to guard the children in a memorandum in which he recalled the case of Eliézer of Thionville. But Moch was forced by the law courts to surrender the children to Hirtz.[1]

There was in the seventeen-fifties the famous case of the Alsatian Jew Borach Lévi, who, after his conversion, was not permitted by Canon law (indissolubility of the marriage) to divorce his Jewish wife Mendel Cerf and to marry a Christian girl. Lévi argued with the Church authorities that in Alsace and other French provinces Jews who converted to Christianity were later allowed to remarry if they first sent to their Jewish wives a summons to join them in the Catholic faith. In this way the Jew Salomon Lambert of Metz, who was baptized on May 29, 1751 in Verdun, was able to marry on the following July 27 the Catholic girl Marguerite Renaud of Récicourt. Lambert's Jewish wife, Colombe Hadamart, refused to embrace Catholicism. The Catholic authorities of Metz testified that the summons sent by Lambert to his wife was recognized by the Jewish community of Metz as a divorce according to Jewish law. But this was impossible, and therefore incorrect. For, according to Jewish law, the wife of a converted Jew remained legally married as long as her husband, although converted, did not divorce her according to the formalities of Jewish law. He could not force her to accept the divorce. On the other hand, he was not allowed by Canon law to divorce her. It is possible that Lambert sent to his wife not only

[1] *Mémoire pour Louis Etienne Bernard juif baptizé demeurant à Haguenau intimé & demandeur en requête. Contre Kendel Moch sa femme* (no place given [= n.p.], [1730]); Elie Scheid, "Histoire des Juifs de Haguenau," *REJ.*, X (1885), 204-210.

the official summons to join him, but also a Jewish letter of divorce without informing the Church authorities of this. Lévi also cited the already mentioned case of Bernard Hirtz and the case of Edel Bernheim, the wife of Aron Lévi of Zillisheim. In 1747 Edel Bernheim ran away with the Jew Wolf Bacher. Both were converted in Strasbourg. Edel summoned her husband to convert himself and to join her. The husband replied by requesting her to join him. Nevertheless, both fugitives were married on August 14, 1748. On March 29, 1749 the Sovereign Council of Alsace recognized the marriage as valid and ordered Aron Lévi to return his wife's dowry to her. In spite of all this Borach Lévi could not obtain the permission of the Church to remarry; he appealed to the Parliament of Paris which ruled against his request, on January 2, 1758.[2]

The Canon law, prohibiting converted Jews to remarry unless they became widowers, was even mentioned officially in the Letters Patent of 1784 on the Alsatian Jews.[3] This was probably a result of the Lévi case.

Another famous case of the 1760's-1780's involved the Bordeaux banker Charles Peixotto of Bordeaux who had married Sara Mendès Dacosta in 1762. On December 30, 1778, Peixotto obtained from the *Châtelet* of Paris an annulment of the marriage in accordance with the French civil law on marriage. This was the beginning of a long and famous litigation. Sara Mendès Dacosta refused to accept the decision of the *Châtelet* of Paris. She appealed to the Parliament of Bordeaux, which voided the decision of the *Châtelet* of Paris because Peixotto was a legal resident of Bordeaux. Peixotto then sent to his wife a letter of divorce according to the Jewish law and requested the Parliament of Paris to recognize the Jewish divorce as valid in accordance with French civil law. The case was again argued

[2] Isidore Loeb, "Borach Lévi," *Annuaire de la Société des Etudes Juives*, III (1882), 273-334.

[3] *Lettres patentes du Roi, portant Règlement concernant les Juifs. Du 10 Juillet* 1784 . . . (Colmar, 1784), art. 24.

before the Judges of the *Châtelet,* who decided on May 10, 1779 to ask for the opinion of the syndics of the Jewish *Nation* (community) of Bordeaux. On July 20, 1779, the Parliament of Paris approved the new decision taken by the *Châtelet.* On August 22, 1780, the syndics of the Bordeaux *Nation* held their first meeting on this conflict. But before they were able to reach a decision Peixotto was baptized in Spain (on April 18, 1781). Already on March 31, 1781, and again on May 21, 1782, he requested his wife to join him in the Catholic faith, obviously with the intention to have this action recognized as an annulment of the marriage. But his wife died before the controversy came to a legal end through the courts of law. As a result of the Peixotto case the Jewish *Nation* of Bordeaux took steps against the possible repetition of such a situation. In a memorandum submitted in 1788 to the Malesherbes Commission, which was preparing a statute for the Jews of France, the *Nation* of Bordeaux proposed that divorce be forbidden among Jews. In extreme cases, however, Jews could appeal to the *Nation,* which could grant a divorce but only by a three-quarters majority of the votes. Should the *Nation* reject such a demand, the person could appeal to the French courts of law.[4]

Halitsah, the law according to which the brother of a man who died childless must marry the widow in a levirate marriage or release her, was also recognized by the French authorities. Thus, the Parliament of Bordeaux, on May 7, 1768, ordered Daniel Tellès Dacosta to release his sister-in-law, Blanche Silva, widow of Jacob Tellès Dacosta, in accordance with Jewish law.[5]

At the end of 1751 (or in the beginning of 1752)

[4] The author is preparing a complete bibliography on the Peixotto case.

[5] Minutes of the Bordeaux *Nation,* No. 367, fol. 91, Apr. 17, 1768 (in the departmental archives of Gironde); L.F.B. [Beaufleury], *Histoire de l'établissement des Juifs à Bordeaux et à Bayonne depuis* 1550 (Paris, an 8 [1799]), pp. 138-140; T. Malvezin, *Histoire de Juifs à Bordeaux* (*Bordeaux,* 1875), p. 280; Cardozo de Bethencourt, "Le Trésor des Juifs Sephardim," *REJ.,* XXVI (1893), 242.

Daniel Nonez of Bordeaux married secretly and without parental consent. The syndics of the Bordeaux *Nation* asked the intendant to expel Benjamin Tudesco, a brother-in-law of Nonez, who had performed the marriage. Some of the witnesses to the marriage were excommunicated. The poor witnesses were deprived of the right to receive charity and expelled from the city.[6] But in an earlier case involving the marriage of a minor, the Bordeaux Parliament ruled contrariwise, always according to Jewish law. In Saint-Esprit-lès-Bayonne, an ordinance, renewed in 1700-1703, prohibited marriages without parental consent. In 1741, Abraham Robles of Saint-Esprit, a minor, married Sara Rodriges-Janic secretly and without the consent of his father Moyse Robles. In this case the Bordeaux Parliament ruled in favor of the Jewish law, permitting the marriage of minors and against the local tradition which became a rule.[7]

French jurisprudence also respected the Jewish tradition against breach of engagement. C. . . of Bordeaux was forced by the Bordeaux Parliament to marry the girl B. . . In the beginning of the eighteenth century Francis Francia of Bordeaux had to seek refuge in London for fear of being arrested for breach of promise.[8] The famous Paris revolutionary Jacob Pereyra, a Jew from Bayonne who, together with Anacharsis Cloots and other Hebertists, was guillotined on March 24, 1794, was compelled, in 1768, to flee to England because of an affair with the daughter of a Bordeaux Jewish banker.[9]

[6] Georges Cirot, *Recherches sur les Juifs espanols et portugais à Bordeaux* (Bordeaux, 1908), pp. 76-77.

[7] Salo W. Baron, *The Jewish Community*, III (Philadelphia, 1942), 204; Me Bouan, *A juger . . . pour Moyse Robles . . . contre Abraham Robles son fils, mineur de dix-neuf ans . . .* [Bordeaux, 1743], 21, 1 pp.; Graugeneuves, *A juger . . . pour Abraham Robles, Juif, du Faubourg Saint-Esprit . . . contre Moise Robles, son Père* [Bordeaux, 1743], 15 pp.; De Salviat, *La Jurisprudence du Parlement de Bordeaux* (Paris, 1787), pp. 23-30.

[8] *The case of Mr. Francis Francia, the reputed Jew, who was acquitted of high-treason, at the Sessions-House in the Old Baily, on Tuesday, Jan.* 22, 1716 (London, 1716), 12 pp.

[9] Beaufleury, *op. cit.*, p. 127; Paul d'Estrée, *La vieillesse de Richelieu*

The Jewish laws pertaining to property rights in marriage were also recognized by the French authorities. Marriage contracts drawn up by rabbis had to be registered with the authorities, but this was done only in order to protect Christian creditors. Thus, the Alsatian Sovereign Council, on January 11, 1701, and September 27, 1717, ordered that such contracts were to be deposited within fifteen days in the notaries' offices, so that Jewish debtors could not keep secret from Christian creditors information regarding their dowries and their financial marriage settlements.[10] In legal cases involving inheritance the authorities in Alsace, Metz, and Lorraine favored the law of the Jewish community councils which denied the right to converts to benefit from property inherited from Jews.[11] That the Jews enjoyed considerable autonomy concerning marriage law is evidenced by an order issued by the Sovereign Council on September 1, 1784 regarding the property of married Jewish women. This order aimed at equalizing, in this respect, the rights of the Jews with other inhabitants of Alsace, and particularly at protecting the interests of the Jews' Christian creditors. Yet when it happened that the recognized rules of the Jewish

(Paris, 1921), pp. 223-225. Cf. Louis Finkelstein, *Jewish Self-Government in the Middle-Ages* (New York, 1924), pp. 145-147. This tradition prevailed even in the nineteenth century. When David Athias was to become rabbi of Saint-Esprit in 1825, he was strongly opposed by Jacob Gommez Silva for breaking his promise given fifteen years earlier to Sara Silva (according to documents in the author's possession).

[10] *Louis par la Grâce de Dieu* (Colmar, January 11, 1701), Broadside. According to N. de Corberon, *Recueil d'ordonnances du Roy et règlements du Conseil Souverain d'Alsace* (Colmar, 1738) p. 37; and de Boug, *Recueil des Edits . . .*, I (Colmar, 1775), 310, the above cited ordinance was of Jan. 21, 1701. *Extrait des registres du Conseil Souverain d'Alsace* (n.p., 27 Septembre 1717), 4 pp.; *Extrait des registres du Conseil Souverain d'Alsace* (n.p., n.d.), 4 pp. [The rabbi of Robeauville could not seal inheritences]. See Z. Szajkowski, *The Economic Status of the Jews in Alsace, Metz and Lorraine* 1648-1789 (New York, 1954), pp. 88-89.

[11] Verdicts of the Metz Parliament, Feb. 23, 1704, and of the Council of Alsace, Feb. 9, 1746; *Extraits des registres du Conseil Souverain d'Alsace. Du 8 Janvier* 1785 (Colmar, 1785), 6 pp.; *Précis pour Salomon-David Alphen, contre M. Jean Pierre Pecheur. . . .* (Metz, n.d.), 42 pp.

communities regarding these matters differed from those enforced by this order, the order of September 1, 1784 was temporarily rescinded, as was Article XIX of the Letters Patent of July 10, 1784 concerning the same matter.[12] On the eve of the Revolution, in 1788, the Jews of Bordeaux demanded in their memorandum to Malesherbes that the Jewish law on inheritance be maintained, as this was the custom among the Ashkenazic Jews.[13]

In the first years of the Revolution the Jewish law on marriage was still recognized by French jurisprudence as valid for Jews.

An illegitimate child named Moize Mendes was born in Bordeaux on May 22, 1780. On July 18, 1780, he was circumcized by Abraham Burgues, who noted in his record of circumcisions that the boy was probably a son of David Mendes. The father was married on March 31, 1761 to Judith Daigullard. It is not known whether he divorced his wife and under what circumstances he married Rebecca Peixotto, after the birth of his son, on November 22, 1780. However, through a notarial act of May 14, 1797, David Mendes acknowledged that Moize was his son, and he demanded of the civil court of Bordeaux that it legalize this notarial act. On April 8, 1798, the court of law recognized Moize as David Mendes' son, because—as the judge argued in his decision—the Jewish law recognizes marriage by the simple act of presenting a ring and approves also polygamy. The court's ruling was then recorded in the register of circumcisions.[14]

Abraham Peixotto, Jr., of Bordeaux wanted during the Revolution to divorce his wife Rachel Rodrigues Monsante. He argued that at the time of his marriage he was a minor and was not married according to French law. But the

12 *Extrait des registres du Conseil Souverain d'Alsace. Du 8 janvier 1785* (Colmar, 1785), 6 pp.

13 Henry Léon, *Histoire des juifs de Bayonne* (Paris, 1893), p. 153.

14 City Archives of Bordeaux, GG 794, f. 10, No. 41.

rabbinical tribunal of Bordeaux decided in favor of his wife. On May 14, 1792, the Court of Justice of the Bordeaux district, presided over by De Brézets, delivered judgment in favor of Rachel Rodrigues, and their child, born on December 13, 1791, was declared legitimate. In the opinion of the court the marriage of the couple was subject to Jewish law, because the Decree of January 28, 1790, which granted full citizenship to Sephardic Jews, maintained their former privileges. According to the court the Jews were now subject to all political laws, but they were entitled to continue to live according to their religious laws, including the law on marriage. As the National Assembly had not yet decided on the forms of marriage for the various religious groups, the court had to recognize Jewish law.[15]

Güttel Weyl of Riedwihr demanded of the *Directoire* of the Upper Rhine to nominate a rabbi to arbitrate her claim of breach of promise against Joseph Biegert. On October 21, 1790, the *Directoire* named rabbi Jaques Meyer to arbitrate the case.[16]

The practice of religious marriage ceremonies without previous civil marriage was common even during the Revolution. Thus, on March 23, 1796, Athias, the "sy devant Rabin" (former rabbi), delivered a certificate that on the same day he had married Mordochaï Molina and Ester Carrançe. The certificate was later confirmed by the city officials. In 1810 a Jew from Orléans tried to legalize his marriage which had been concluded in the year IV (1795-96) in Paris by a religious ceremony only.[17]

Commonly recognized also was the Jewish practice of divorce. But the Jewish Assembly, called in 1806 by Napoleon I, stated that since the Revolution rabbis granted religious divorces only if written proof of divorce already

[15] *Ibid.*, GG 844, f. 89; Malvezin, *op. cit.*, pp. 276-77.

[16] M. Ginsburger, "Arrêtés du Directoire du département du Haut-Rhin relatifs aux Juifs (1790)," *REJ.*, LXXV (1920), 48.

[17] Cirot, *op. cit.*, p. 169; R. Anchel, *Napoléon et les Juifs* (Paris, 1928), p. 438.

granted by the French courts of law were submitted to them.[18] Not until May 21, 1802 did an order signed by Napoleon I direct rabbis to perform religious marriage ceremonies only for couples who had previously been married by a civil officer. On February 19, 1807, the French Jewish Sanhedrin convened by Napoleon I adopted decisions in the same spirit for marriage and divorce (Articles II and III). Thus, the French Jews became the first Jews in Europe to abandon their traditional religious law guarding important phases of Jewish life and to yield to the civil laws of the country in which they lived.[19]

II

Mixed Marriages

In Revolutionary France mixed marriages became a symbol of the new era. With the advent of the revolutionary regime a Jew was no longer forced to convert to Christianity in order to marry a Christian woman. (Mixed marriages mostly took place between Jewish men and Christian women.)

Protagonists and foes of Jewish emancipation alike advocated mixed marriages. Abbé Henry Grégoire was much interested in this problem.[20] Professor Christian-Guillaume Koch, Protestant leader of Alsace and opponent of Jewish

[18] Anchel, *op. cit.*, p. 171. In 1796, Isaac, son of Naphtali Hirzel Lévy, divorced his wife Leah, daughter of Aaron of Niedernai, in accordance with Jewish law. University Library of Strasbourg, manuscript 4047. Divorces for foreign Jews residing in France are still settled according to the divorce laws of Jews in their countries of origin. Renée Lévy, *Le Divorce juif et les conflits de lois qu'il peut engendrer* (Paris, n.d.), 189 pp.; bibliography on pp. 186-187.

[19] A. E. Halphen, *Recueil des lois . . . concernant les Israélites . . .* (Paris, 1851), p. 15; G. Tama, *Collection des procès-verbaux et décisions du Grand Sanhédrin* (Paris, 1807), pp. 51-54.

[20] According to information furnished to the author in 1955 by P. Gruenbaum-Balin, author of *Henri Gregóire, l'ami des hommes de toutes les couleurs* (Paris, 1948), 278 pp. Compare with H. Grégoire's *Motion en faveur des Juifs. . . .* (Paris, 1789), p. 18.

emancipation, wrote in an unpublished anti-Jewish memorandum of June, 1790 that the Jews should not be granted full citizenship, noting as one of the reasons for such a policy the fact that the Jews would never marry Christians.[21] On November 18, 1793, a Jacobin of Nancy demanded that Jewish men be forced to marry non-Jewish women, because Jews and Christians should form one united family.[22]

The Jacobins did not force mixed marriages upon Jews, but some Jews did marry Christian women. Thus, the Jewish physician Jacob Berr, the only Jewish member of the Jacobins Club in Metz during the Terror, who fought the preservation of autonomous Jewish communities, was—according to some sources—the first French Jew to marry a Christian girl during the Revolution.[23] In one instance, a Jew of Montagne-Seignanx (formerly Sainte-Marie de Seignanx, in the Landes) made his mixed marriage a question of principle. On March 8, 1794, he invited the Paris representative, B.-J.-B. Monestier, to attend his wedding to a non-Jewish woman, this wedding being a symbol of "equality and brotherhood."[24] A few other cases of mixed marriages might be cited. Raphaël Dennery of Metz, who served in the Legion of Nantes, married there during the Terror the Christian woman Emilie Diot. Their children were raised as Christians, but Dennery himself at the end of his life (he died in 1841) became an orthodox Jew.[25] In Bordeaux, Moyze Dacosta of Bayonne married Marie Charlat

21 Archives du Chapitre St.-Thomas, 148-b 77-6 (II-2) (in the City archives of Strasbourg).

22 City archives of Nancy, minutes, vol. 10, p. 174; Massé, *Discours prononcé à la Société populaire, dans sa séance du 17 fructidor, an II . . .* [Metz, n.d.], p. 9; Anchel, *op. cit.*, p. 16.

23 E. Carmoly, *Histoire des médecins juifs, anciens et modernes* (Bruxelles, 1844), p. 204. *Idem, Revue Orientale,* II (1842), 92; Chr. Pfister, *Histoire de Nancy,* III (Nancy, 1908), 327; Léon Bultingaire, *Le Club des Jacobins de Metz* (Paris-Metz, 1906), p. 101.

24 A. Richard, *Le Gouvernment révolutionnaire dans les Basses-Pyrénées* (Paris, 1927), p. 185; E. Ginsburger, *Le Comité de surveillance de Jean-Jacques Rousseau, Saint-Esprit-lès-Bayonne* (Paris, 1934), p. 33.

25 *Archives israélites,* III (1842), 117, 337-39.

of Paris, baptized on May 25, 1772.[26] The daughter of Isaac Marqfoy was married to Comte J. B. Treillard, a former attorney of the Paris Parliament, who later became a member of the State Council.[27] The father of Joseph Salvador (born in 1796) married a Christian woman.[28] Still, it would not be correct to speak of a large number of mixed marriages during the Revolution.

Instances of Jews breaking with the Jewish religion and tradition were then exceptional, and only very few Christian parents were ready to accept unconverted Jews as sons-in-law. This was rather a subject for anti-Jewish jokes and stories.[29] Most often mixed marriages provoked sharp family conflicts. This happened, for example, to the son of Jacob Delvaille of Bordeaux who—with his father's consent—married in the year V (1796-97) the Christian girl Françoise Vaugon. Only a civil marriage ceremony was performed. But later her parents-in-law requested her to become Jewish and when she refused, her husband left her and asked for a civil divorce. Subsequently, he came back to his wife and died on July 28, 1802 when his wife was pregnant. At first—while Françoise was still a minor—Jacob Delvaille was the legal guardian of his grandchildren, but when the mother came of age and demanded the guardianship of her own children, the father-in-law refused to recognize her. In the legal memoranda which were published on this affair came to light the tragedy of such a mixed marriage.[30]

[26] Departmental archives of Gironde, 3E 2-1741, notarial acts of Rauzan, Nov. 18, 1794.

[27] Léon, *op. cit.*, p. 420.

[28] A. Spire, *Quelques Juifs et demi Juifs* (Paris, 1928), I, 208.

[29] In Strasbourg an anti-Jewish satire on a Jew's love affair with a Christian woman was published: *Merkwürdige und seltsame Liebesgeschichte zwischen einem jungen verliebten Juden, und einer überschönen Büttners-Frau, welche sich am Rhein bey Strassburg zugetragen* 1790 . . . (n.p., n.d.), 4 pp. It is worth while to note the case of a Christian widow of Avignon who became pregnant by the Jew D. of Valabrèques. Aimé Vincenti, *Le Tribunal Civil du département de Vaucluse de l'an IV à l'an VIII* (Avignon, 1928), p. 95.

[30] Laine [Lainé], avocat, *Mémoire pour la dame veuve Delvaille contre le sieur Jacob Delvaille* (Bordeaux, [1803?]), 48 pp.; Duranteau, fils, avocat,

Did the loosening of the ties of the Jewish religion and the mixed marriages resulting from the Revolution influence Jews toward conversion? This is probable. Yet it was not visible during the Revolution, but only in the later years, beginning with the First Empire.

III

Restrictions of Jewish Marriages

Prior to the Revolution Jews could not marry or settle everywhere in France. In Alsace and neighboring provinces the right of domicile did not apply to a Jew's entire family, but only to his first-born son, who could marry and settle where his father lived. According to the Letters Patent of July, 1784, which also aimed at reduction of the number of Jews, Alsatian Jews could not marry without the special permission of the King.[31] Rabbis and community leaders were not permitted to marry Jews without such a permit. Even during the first years of the Revolution the Christian population of Alsace and the neighboring provinces tried to

Réplique pour le Citoyen Jacob Delvaille contre la Dame Françoise Vaugon (Bordeaux, [1803?]), 78 pp.

Following are a few facts on the extent of mixed marriages in the first post-Revolutionary years. On June 30, 1806, the police prefect of the Seine department reported that several (*plusieurs*) Jews of both sexes married Christians. S. Posener, "Les Juifs de Paris . . .," *Univers israélite*, XCI (1935-1936), 762. In 1808, 6 out of 36 Jewish family heads of Brest were married to Christian women (Louis Bernard, Lyon Cahen, Lion Lion, Jahel Hirche, Philipe Lion, Joseph Brunsvick; according to a census in the author's possession). In 1808, 3 of 23 Jewish families of Toulouse were of mixed marriages. Archives nationales, F^{19} 11023; J. Gross, "Les Juifs de Toulouse pendant la révolution et l'empire," *Revue des Pyrénées*, XVIII (1906), 257. In 1809, the Jewish peddler, "Burin (*ci devant Elias*) Thomas of Abbeville" (Somme), born in Hamburg, Germany, had a Christian wife. One woman of the Dijon Jewish community in 1809, Anne Crombach Sivry, was of Christian origin (censuses in the author's possession).

[31] Charles Hoffmann, *L'Alsace au dix-huitième siècle*, IV (Colmar, 1907), 350-352; Z. Szajkowski, "The Jewish Problem in Alsace, Metz, and Lorraine on the Eve of the Revolution of 1789," *Jewish Quarterly Review*, XLIV (1954), 223-226; *idem, The Economic Status of the Jews in Alsace, Metz and Lorraine* 1648-1789, pp. 26-28.

maintain the old anti-Jewish restrictions, especially the prohibition against Jews freely marrying and taking up residence.[32] Already in some of the memorials of grievances, requests were made that control of Jewish marriages should continue.[33]

The policy of the Alsatian departmental authorities was to continue the old restrictions against the Jews, since the National Assembly had not yet come to any decision on the Jewish status. Thus, Alsatian Jews were still forced to apply for permission to marry. On September 27, 1790, and February 22, March 3, and May 18, 1791, respectively, Jacques Wolf of Obersteinbrun, Meyer Dreyfus and Marc Dreyfus of Uffheim, and Jacques Dilisheim and Joseph Schwob of Hegenheim applied for and obtained such permits. But in many cases City Councils or districts prohibited the marriage of Jews. Nathan Lazard of Fegersheim on January 25, 1790 obtained the King's permit to marry, but the City Council ordered the rabbi not to perform the marriage ceremony. It also prohibited the marriage of Macholem Abraham and his fiancee Bessel of Mutzig. N. Lazard appealed to the *Directoire* of the Strasbourg district and was granted permission to marry, but on July 31, 1791, the same Directoire prohibited a Jew from Osthoffen from marrying off and settling his third son there. In September, 1790, Manuel Gerschen of Quatzenheim protested against being forced to pay 120 livres for permission to marry off his son. In October, 1790, the City Council of Mutzig forced Jacques Lévy to pay 60 livres for such permission. On February 15, 1791, the City Council of Odratzheim protested against permitting Jewish marriages. Samson Isaac of Uttenheim, who had obtained the King's permit to marry on February 25, 1789, was refused in June, 1791

32 Z. Szajkowski, "The Discussion and Struggle over Jewish Emancipation in Alsace in the Early Years of the French Revolution," *Historia Judaica*, XVII (1955), 124-126.

33 M. Liber, "Juifs et la convocation des États-Généraux," *REJ.*, LXIII (1912), 188.

permission to marry a girl of Fegersheim and settle there.[34] There were so many conflicts between city councils and Jews who were refused permission to marry that on January 25, 1791 the *Directoire* of Lower Rhine asked the National Assembly to decide the question of Jewish status in connection with the subject of marriage.[35] Only after Alsatian Jews were granted full citizenship on September 27, 1791, were they free to marry without restriction. But these anti-Catholic "Malthusanian convictions" continued to be a basic part of the anti-Jewish policy of the Catholics, among them L.G.A. de Bonald (1767-1840), who helped, with his anti-Jewish propaganda, to prepare Napoleon's anti-Jewish decrees of 1806 and 1808.[36]

It seems worth while to present some statistical data on Jewish marriages during the Revolution. Among the Jews of Metz there were 194 marriages in the year 1789—year VIII (September 23, 1799-September 22, 1800)—against 168 in the previous years 1777-1787. In the arrondissement of Metz 26 marriages were registered in 1789 against 25 in 1788. In Carpentras 73 marriages were registered in 1789-1791 against 71 in 1786-1788; in Avignon, 3 marriages in 1788 and the same number in 1789; in Cavaillon, 6 marriages in 1789-1791 against 1 in 1786-1788; in L'Isle-sur Sorgue, 3 marriages in 1789-1791 against 5 in 1786-1788. In Bordeaux, 35 Jewish marriages were registered in 1789-1791 against 34 in 1786-1788.[37] It seems that the number of marriages among Jews did not diminish in spite of the fact that many emigrated during the Revolution

[34] M. Ginsburger, "Arrêtés . . .," *REJ.*, LXXV (1922), 47, 53, 55, 60-61; R. Reuss, "L'Antisémitisme dans le Bas-Rhin pendant la révolution," *REJ.*, LXVIII (1914), 238, 250-251, 253-255; P. Hildefinger, "Actes du district de Strasbourg relatifs aux Juifs (1790)," *REJ.*, LX (1910), 238-239, 241-243.

[35] Archives nationales, D-IV-56, No. 1638; Hildenfinger, *op. cit.*, p. 242.

[36] J. Hours, "Un Précurseur oublié de l'antisémitisme français: le vicomte de Bonald," *Cahiers sioniens,* IV, No. 11 (1950), 165-169.

[37] According to the registries of the Jewish population in the departmental archives of Moselle and the city archives of Metz, Carpentras, Avignon, Cavaillon, L'Isle-sur-Sorgue and Bordeaux; Cirot, *op. cit.*, p. 183; S. Posener, "Les Juifs sous le Premier Empire," *REJ.*, XCIV (1933), 161-162.

from the former papal province of Avignon and Comtat Venaissin as well as from Metz. This, however, is a subject for a separate study.

IV

Forced Conversions of Illegitimate Children

Missionary propaganda among Jews, voluntary conversions of Jews, and forced conversions of Jewish children were frequent. From 1695 until 1789, 23 Sephardic Jews were converted, including 16 girls.[38] In Alsace and other provinces converted Jews were exempt from paying taxes and lodging soldiers for a period of three years.[39] Jews were often forced to pay annuities to their converted children.[40]

In time, however, forced conversions of children were prohibited. An ordinance of July 15, 1728 forbade such conversions in Bordeaux. In 1735, after a cousin of Samuel Lévy of Sierc was converted by force, the Jews of Metz petitioned the King, asking that, as was done in Bordeaux, all Jewish child-converts of Metz below the age of fourteen be returned to their parents. The priest of Donnelay attempted to convert by force a child of Simon Jacob (1743?). In 1752 the Alsatian Council ordered the priest Kellerman of Oberlauterbach to return to the Jew Gerson Kaufmann

[38] On conversions in Bordeaux and Saint-Esprit-lès-Bayonne, see Malvezin, *op. cit.*, pp. 151-169; Léon, *op. cit.*, pp. 135-139; Cirot, *op. cit.*, pp. 170-173. On conversions in the four communities of the papal province, see notes 41-45. The number of 23 converted Jews seems to be much underestimated

[39] A Broadside of Aug., 1683. There is no general study on conversions among the Jews of Alsace and neighboring provinces. Pierre Paul Neofid, converted in 1723 in Lorraine, was exempt from paying taxes: L. Vanson, "Curieuses requêtes des Juifs . . .," *Revue juive de Lorraine*, X (1934), 233-234. The converted Jew Jean Rodrigue of Nantes asked for exemption from taxes: city archives of Nantes, HH 182.

[40] Malvezin, *op. cit.*, Joseph Alphonse Albarès, who converted to Catholicism, was refused his heritage by his family in 1720. Me Caillavet, avocat, *A nosseigneurs de Parlement* [Bordeaux, 1720], 5 pp.

his child which had been snatched from him. In 1763 a Jewish child of Fenetrange was converted by force. After a protracted intervention and subsequent to a case where the child of Feiss Lévy of Zellviller was stolen from his parents, the Maréchal de Ségur promulgated in the name of the King an order forbidding the conversion of Jewish minors. This order, however, did not apply to Jewish children born out of wedlock. In 1769 the Parliament of Havre prohibited the forced conversion of the eleven-year-old Rebecca Gentilhomme and the thirteen-year-old Esther Pimentel. On September 7, 1776, the Parliament of Nancy forbade forced conversions of Jewish children under thirteen years of age and ordered the return to Hayem Elias and Cerf Isaïe Oulmann of their children who had been converted against their parents' will. On June 30, 1789, and on earlier dates, the Bishop of Carpentras, too, forbade conversion of Jewish children by force, thus repeating earlier prohibitions.[41]

However, every Jew of Avignon had to pay a fine of one hundred écus for failure to attend missionary sermons. The Jews of L'Isle-sur-Sorgue, too, were forced to listen to such sermons.[42] As late as May, 1790, the Jews of Carpentras were compelled to be present at the Abbé Pierre-François Boudin Justin's missionary sermons. At the meeting of the General Council of Carpentras on November 7,

[41] *Ordonnance du Roy. Du quinzième juillet* 1728 (Bordeaux, n.d.), 3 pp.; *Privilèges dont les Juifs portugais jouissent en France depuis* 1550 (Paris, 1777), p. 4; *Lettre de Mgr. le Duc de Choiseul à M. le Procureur General du Roi au Conseil Souverain d'Alsace.* A Compiègne, le 24 juillet 1767 (Colmar, 1767), 7 pp.; [*Arrêt du Parlement de Rouen. Du* 11 *Mars* 1769] (Rouen, 1769); *Archives israélites,* XX (1859), 170; Moïse Schwab, *Histoire des Israélites* (Paris, 1895), p. 285; *Edit de St. Office en exécution des ordres de Clément XIII, à nous adressés par lettre du C*[al] *Cavalechini, en date de Rome,* 18 *février, défendant de baptiser les enfants juifs ou de menacer de les baptiser* (Avignon, mars 1767), Broadside; [*Edit contre le baptême forcé des enfants*] (Avignon, 20 mars 1773), Broadside; [*Edit du* 20 *mars* 1776] (Avignon, 1776), Broadside; *Ordonnance de Monseigneur l'évêque de Carpentras concernant le baptême des enfants juifs,* 30 juin 1789 (Carpentras, 1789), Broadside & 3 pp.

[42] City archives of Avignon, FF, 1612-1613; Calvet, Library of Avignon, manuscript 5938, f. 00561 (Apr. 6, 1607).

1790, Flandrin demanded improvement in the status of the Jews, beginning with suppression of the sermons. But the procurator argued that this could be decided only by the *Assemblée représentative* of Comtat, and Flandrin's proposition was rejected.[43] In 1792 the Jews demanded that the pulpit from which Justin made his sermons and for which they were forced to pay should be given back to them.[44] During the Revolution the Abbé François-Valentin Mulot (1749-1804), one of the Paris mediators in the conflict between Avignon and Comtat, forced the authorities of Carpentras to return to his parents ("au nom des droits sacrés de l'homme") young Jassuda Michael Mossé, who had been forcibly converted to Christianity in 1784.[45]

A royal edict of April 13, 1682 permitted the Catholic Church to take charge of non-Catholic illegitimate children. But in 1762 the Duc de Choiseul prohibited the conversion

[43] City archives of Carpentras, Rév 49, fol. 15 & 21 (minutes).

[44] Jules Bauer, "Les Conversions juives dans le Comtat Venaissin," *REJ.*, L (1905), 93; H. Chobaut, "Les Juifs d'Avignon et du Comtat et la révolution française," *REJ.*, CII (1938), 25; Armand Lunel, "Du temps des ghettos comtadins," *Les Oeuvres libres*, no. 130 (Apr., 1932), 374. In Oct., 1789 and May, 1790, Abbé Justin still penned conversion sermons and other anti-Jewish writings (Bauer, *op. cit.*, 93). The Jewish request on the chair, signed by Joseph Samuel, Samuel de Baze, Mossé Crémieux, Samuel Lyon, City archives of Carpentras, Rev. 305. On conversions in the papal province, see also: Armand Lunel, *Nicolo Peccavi* (Paris, 1926); A. Spire, *Quelques Juifs . . .*, II (Paris, 1928), 24; Michel Mollo, *Les Mystères du Comtat, chronique d'une grande histoire* (Carpentras, 1856). (A novel on the Revolutionary period. Roboam, a converted Jew, who became a Dominican monk to seek revenge for the persecution of the Jews by undermining the Church. He appeals to the Jews to fight for their full emancipation.)

[45] *Compte rendu par M. l'Abbé Mulot, à l'Assemblée Nationale, comme commissaire du Roi à Avignon le 19 Novembre* 1791 (n.p., n.d.), p. 41; departmental archives of Vaucluse, fonds Lapeyre, no. 310, ff. 193-195 (statement by the child's father, Jacob Joseph Mossé, "citoyen actif de la ville d'Aix"). On Mulot's friendly attitude toward Jews see: *Recueil des pièces relatives à l'admission des juifs à l'état civil* (Paris, 1790), pp. 9, 18. On the Mossé case and other forced conversions of children in the papal province prior to its annexation by France in 1791, see: Chobaut, "Les Juifs d'Avignon et du Comtat et la révolution," *REJ.*, CI (1937), 27-28; E. Carmoly, "Joseph-Marq Mossé," *Archives israélites*, XXIII (1862), 461-466; Leopold Stein, *Der Knabenraub von Carpentras* (Berlin, 1863; Prague, 1897); Z. Szajkowski, "The Conversion of Zemah Carmi in Carpentras," *Yivo Bletter*, XXIV (1944), 123-130; Bauer, *op. cit.*, C. Roth, "Une Mission des communautés du Comtat Venaissin à Rome," *REJ.*, LXXXIV (1927), 1-14.

in Alsace of illegitimate children under five years of age who were recognized by their parents after the latter's marriage. This was later repeated in a royal order of July 24, 1767, but it applied only to Lutherans and not to Jews, with the additional provision that the children could not be removed from the convent after the parents had been married. On the other hand, children born to the parents less than nine months after their marriage were to remain with their parents.[46]

In 1790 the author of a pamphlet on Jews asked that Jewish mothers be allowed to choose the religion of their illegitimate children,[47] but officially the Edict of 1682 was not revoked. Abbé Henry Grégoire himself, then President of the Committee of Reports, wrote in April, 1790 to the priest of Dettwiller that the Edict was still in force. This was used by the Alsatian authorities as an excuse to continue the practice of forced conversions of illegitimate children. On the basis of Grégoire's letters, Alsatian Protestants were compelled to send their illegitimate children to the Catholic schools of Geudertheim and Candel.[48]

In October, 1790 the authorities of Obernai (Lower Rhine) arrested the Jewish girl Judel (Jédélê) of Osthoffen, an expectant mother. Her fiancé, Elias Salomon, asked for permission to marry her immediately and the departmental *Directoire* granted his request. But so many conditions were attached that the child was born in prison and forcibly baptized and kept in a Catholic institution. Eight days later Elias and Judel were married by the Rabbi Feishel Hirsch of Obernai, but the child was not given back to his parents. In April, 1792 the departmental *Directoire* decided

[46] On the other hand two brothers, Sephardic Jews of Bordeaux, denounced their sister as a prostitute in order to avoid payment of a dowry of thousand livres to her fiancé. Her illegitimate child was taken to Saint-Louis, a Catholic institution for foundlings; Cirot, *op. cit.*, pp. 56-57.

[47] *Sur les Juifs en France* (n.p., 1790), pp. 17-18.

[48] R. Reuss, *Notes sur l'instruction primaire en Alsace pendant la révolution* (Paris-Nancy, 1910), pp. 32-33. Should this be considered another proof of H. Grégoire's already known hopes for the conversion of Jews?

that the child should be raised at the *Directoire's* expenses in the Catholic foundling home in Strasbourg. Later, on April 27, 1792, the same authorities took a more liberal position and decided to return the child to his parents. But the Catholic Church refused to abide by the decision, and we do not know how this affair ended.[49]

The child of Jédélé of Krautergersheim was baptized in similar circumstances, and on May 5, 1792 the *Directoire* ordered that the child be returned to its parents. In June, 1791, the Jewish girl Hanne of Zellwiller, fiancée of Judel Veil, asked the authorities to forbid the forced conversion of her future child, but her request was not granted; in November, 1792 the child was still in Catholic hands. On May 21, 1779 an illegitimate Jewish child of Bischofsheim was forcibly baptized. On July 4, 1791, the departmental authorities decided to bring the child to the Strasbourg foundling institution. However, after the full emancipation of the Jews, the same authorities, on April 29, 1792, granted the request of Moyse Elias of Itterswiller for prohibition of the forced baptism of the child to be born to his daughter Marianne Moyse, fiancée of Jacob of Balbronn. A similar request of October 1, 1792 by Wolf Meyer of Obernai was also granted. The *Directoire* of Lower Rhine decided on October 29, 1791—over a month after the Jewish emancipation—to pay a pension of 24 livres from the funds of the pensions committee to the converted Jewess Marie-Elénore Bernheim.[50]

49 R. Reuss, "Un Chapitre de l'histoire des persécutions religieuses. Le clergé catholique et les enfants illégitimes protestants et israélites en Alsace au XVIII[e] siècle et au debut de la révolution," *Société de l'histoire du protestantisme français. Bulletin*, LII (1903), 6-31; *idem*, "L'Histoire d'Elias Salomon de Dauendorf et de Jédélé d'Obernai (1790-1792)," *REJ.*, LXVIII (1914), 235-245; *idem, La Constitution civile du clergé et la crise religieuse en Alsace*, 1790-1795, I (Strasbourg, 1922), 108, 113; *Geschichte der gegenwärtigen Zeit* (Strassburg, Dec. 2, 1790) (published by the Protestant *André Meyer*).

50 Reuss, "Histoire d'Elias Salomon . . .," *op. cit.*, p. 12; *idem*, "L'Antisémitisme dans le Bas-Rhin pendant la révolution," *op. cit.*, pp. 254-255, 257-259.

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V

Missionary Activities

The federal leaders of the Revolution were not concerned with gaining Jewish children for the Church, but some local authorities and pamphleteers could not forget their own Christian past and anti-Jewish feelings. Thus, an Alsatian anti-Jewish pamphleteer of 1790 demanded that Jews who might want to embrace Christianity should be protected against persecution by their former co-religionists.[51] An Alsatian revolutionary not only called upon Jews to forget 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 the teachings of Christ.[52] As for official Catholic circles, they still continued to dream of saving the Jews through conversion and in this spirit many pamphlets were published even during the Revolution.[53]

[51] *Sur les Juifs en France* (n.p., 1790), p. 17.

[52] *Johann Friedrich Riecher in der Gesellschaft der Jacobiner an seine Mitbürger. Strassburg den* 14 *October* 1792. . . . *Erste und zweite Rede* (n.p., n.d.), p. 39.

[53] *Réflexions sur la liberté du culte* (Paris, 1790), p. 9; [Franc de Pomignan], *Lettres à un juif converti* (Paris, 1790), 310 pp.; *Warnung für alle Nationen und Menschen aus dem traurigen Schicksale der jüdischen Nation hergleitet* (n.p., 1790), 4 pp.; François-Guillaume, *Sermonce générale de paix et de réunion à l'Eglise et à sa chaire apostolique adressée à toute la nation des juifs* (Riom, 1795), 116 pp. [First edition—Avignon, 1765, 110 pp.]; [Cl.-F. Des Fours de la Genetière], *Avis aux catholiques sur le caractère et les signes du temps où nous vivons, ou de la conversion des Juifs* . . . [Lyon], 1795); *Discours adressé aux Juifs et utile aux Chrétiens pour les confirmer dans leur foi* (Lyon, 1788), 141 pp. [with a letter of the Carpentras bishop. The sermon was probably delivered in the presence of *chers Israelites*]. André Gairal mentions in *La Question juive en* 1789. *Extrait de la contreverse et le contemporain* (Lyon, 1886), p. 18, an appeal of 1793 for the conversion of Jews. On Oct. 22, 1791, a woman named Marguerite Lefèvre was arrested for insulting Alphée de Gravende, *juive d'origine,* while returning from the *messe du roi.* A. Tuetey, *Répertoire général des sources manuscrites de l'histoire de Paris pendant la révolution française,* V (Paris, 1900), p. 351. In a petition of October, 1792, the "citoyenne Salomon, fille du grand Salomon, chef de la tribu de la nation juive, nouvelle convertie" asked the Convention to pay her annuities out of the funds from the properties of the *émigrés,* her

On a few occasions missionary activity took on the characteristic form of the re-establishment of the Jewish people —a converted one, of course—in Palestine. In this spirit should also be understood a project of 1798 for the restoration of the Jews in Palestine[54] and Napoleon I's appeal of 1799 to the Jews, well publicized by historians, in which he promised to restore Jerusalem to them. It seems now that Napoleon got this idea from Thomas Corbet, a brother of the Irish General William Corbet (1779-1872) of a Protestant family which was, most probably, influenced by such re-establishment projects in England.[55] But Napoleon himself later persecuted the sincere supporters of the restoration of a Christian-Jewish state. In the year XIII a group foretelling the revival of Judaism was discovered in Nantes (Loire-inférieure). Its leader, François Bonjour, a former priest of Fareins (Ain), and a few of his followers were arrested; his twelve-year-old son Elie Daniel was put in a hospital for the insane. After being released they emigrated to Switzerland.[56] In 1806-1807, a pamphlet was circulated in Paris in which the author called upon the Jews to enlist in the army because Napoleon would liberate Jerusalem. The police forbade the circulation of the pamphlet pending an investigation of the author's intentions.[57]

godfather Antoine-René Le Voyer, former governor of the Arsenal, and her godmother the duchesse Adelaide-Geneviève de Montmorency, Archives nationales, C 238, no. 248; Tuetey, *op. cit.*, VIII, 35; *Archives parlementaires,* LIII, 5.

[54] *Lettres adressées aux Juifs,* par deux auteurs anglois . . . (Paris, 1789); *Re-Establishment of the Jewish Government, an extract from a French Journal* [*Courier, June* 19, 1798] . . . *with a letter from a Jew to his brethren.* Translated from the Italian [London, 1798], 11 pp.; I. Bicheno, *Restoration of the Jews* . . ., 2nd edition (London, 1807), pp. 60-62.

[55] A. S. Yahuda, "Conception d'un état juif par Napoléon," *Evidences,* No. 19 (mai-juin 1951), 3-8.

[56] "Un nouveau Messie en l'an XIII," *Archives israélites,* LVIII (1897), 293.

[57] Samuel Yessite (Chrétien) Paly-Rasch, de la Maison de David, *Qu'est-ce qu'un Israélite chrétien?* (Paris, 1806), 15 pp.; E. d'Hauterive, *La Police secrète du Premier Empire, III* (Paris, 1908), 142.

In conclusion, it should be said that there was a great deal of confusion in the judicial status of the Jews during the Revolution. While the new regime advocated the complete abolition of autonomous Jewish communities, the French Law courts still recognized Jewish religious law on marriage as valid for the Jews. Many local administrations continued to restrict the freedom of the Jews even after the latter were granted full citizenship.

JEWS AS ROYAL BAILIFFS IN THIRTEENTH CENTURY ARAGON

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I

Royal Authority

SCHOLARS interested in thirteenth-century Aragonese history have frequently referred to the uniqueness of Aragon, particular stress being laid on the constitutional structure of the *Crowns* of Aragon,[1] and on the preferred position of the Jews within the Crowns. Authors investigating the political conditions have commented upon the limited power of the Aragonese monarch, while those interested in the Jews have marveled at the great freedom permitted the latter. A close examination of Aragonese history reveals that these phenomena are interrelated.

Aragon was not a state in the modern conception of the term, but rather a confederation of independent states ruled directly or indirectly by the same prince. At one time or another the ruler of Aragon claimed to be King of Aragon, Valencia, Mallorca, Sicily, Sardinia; Count of Barcelona, Roussillon, Provence; Marquis of Tortosa; Lord of Montpellier; and Duke of Athens. Like so many feudal titles, those of the Aragonese monarchs represented personal affiliations which were in no way indicative of political union.

Prior to the battle of Muret (1212) the main attention of the Aragonese monarch seemed to be directed toward the establishment of a Languedoc confederation to counter

[1] For the purposes of this paper, the expression "the Crowns" shall refer to the three states of Aragon, Valencia, and Cataluña.

the growing power of the French king. This was not surprising since the Aragonese king, as well as many of his nobles, held vast estates in southern France.[2] After the defeat of Muret, the policy adopted by the Aragonese monarch indicated a shift in attention from France to the Mediterranean area. This policy was one of aggrandizement which, at the end of the century, made the Crowns of Aragon the most powerful military state of the area.

The transference of emphasis, with the resulting territorial expansion and increase in military power, forced the Aragonese ruler to attempt to free himself of all restrictions placed upon his prerogative by the various constitutions of the Crowns. The king, when embarking upon a campaign of conquest across the sea, could ill afford to be delayed by a lack of funds or by the fear that during his absence the nobility would usurp his authority.

In each of the states of the Crown, the ruling power had a different constitutional structure. Within the small mountain kingdom of Aragon the monarch's authority was nominal. The king was constantly being reminded that each and every member of the upper nobility was his equal in authority and that, united, the nobility was more powerful than he.[3] These were not empty words. Most of Aragon was comprised of allodial land where the king had no authority.[4] The great noble families paid no taxes and had only one obligation to the state: to serve with the army for three days a year.[5] Should the nobles have decided to hold a meeting of the Cortes, they could have done so without

[2] Julian Paz y Espéso, *Documentos relativos a España existentes, en los Archivos Nacionales de París* (Madrid, 1934), no. 89; *Memorial historicó español: coléccion de documentos, opusculos y antiguedades,* 2 vols. (Madrid, 1851), II, 24-25.

[3] "Cada una de nostros vale tanto como vos, e todos juntos mas que vos." Antonio Michavilla y Villa, "Apuntes para el estudio de la vida social del reino de Valencia en la época de los reyes de la casa de Aragón, in *III Congres d'Historia de la Corona d'Aragó,* II (Barcelona, 1908), 118.

[4] Carlos López de Haro, *La Constitución y la libertades de Aragón y el justicia mayor* (Madrid, 1926), p. 107; Adolfo Bonilla y San Martín, *El Derecho aragones en el siglo XII* (Huesca, 1920), nos. XVII, XX, XXVI, XXIX, XLIII, XLIV, XLVII.

[5] López de Haro, *op. cit.*, p. 44.

the king's permission.[6] Even Zaragoza, the only important city within the state, was under the control of an oligarchy of nobles.[7]

In the county of Cataluña, the Count of Barcelona was truly one of a group of equals. Cataluña consisted of not only the county of Barcelona but the independent counties of Urgel, Ampurias, and Roussillon. Besides these, the Bishop of Andorra and the Count of Foix took an active part in the internal affairs of the area. Only marital alliances, first with Provence and then with Aragon, gave to the Count of Barcelona some preëminence.[8]

In Cataluña, however, the Count of Barcelona had an ally that did not exist in Aragon—the urban population. The Count of Barcelona and the merchants of both Barcelona and Lérida had very friendly relations; both were interested in expanding the commercial power of the county. This rapprochement between the Count and the cities led other cities within Cataluña, such as Gerona and Ampurdan, which were ruled by the feudal aristocracy, to willingly support the Barcelonan count in his constant war with the Catalan nobility. Despite this support, however, the Count of Barcelona could not defeat the allied Catalan aristocracy, which was usually able to count on the assistance of the Count of Foix.[9] The urban population, moreover, had only a restricted influence, for it was not fully represented in the Cortes until the end of the thirteenth century.

The monarch's position within the Kingdom of Valencia was rather uncertain. James I in 1224-38 was not powerful enough to conquer the kingdom and so required the backing of both the feudal Catalan and the virtually inde-

[6] Manuel Lasala, *Examen histórico foral de la constitucion aragonesa,* 3 vols. (Madrid, 1868-71), I, 217.

[7] López de Haro, *op. cit.,* 370-372.

[8] José Balari y Jovany, *Orígenes historicos de Cataluña* (Barcelona, 1899), p. 305.

[9] Eduart Gonzales Hurtebis, "Documents inédits del rey en Jaume I," in *Congres d'historia de la corona d'Aragó dedicat al rey en Jaume I,* II (Barcelona, 1913), no. LXXXIX; José Pellá y Forgas, *Historia del Ampurdan* (Barcelona, 1883), p. 508.

pendent Aragonese nobility. After the conquest the king was forced to surrender most of the kingdom to the nobles who had supported his campaign. These nobles carried their home customs into Valencia.[10] Thus a feudal and an allodial system developed within this state. The Valencian cities were not surrendered to the nobility, but they nevertheless maintained their independence of royal authority. As a result of the conquest, many Muslims left the state for the Muslim kingdom of Granada, leaving the Christian monarch with the problem of repopulating the area.[11] In order to attract settlers the king had to allow the cities benefits which restricted royal authority. James was also faced with the problem of the City of Valencia which, under Muslim control, had been governed as a republic. The Valencian merchants refused to accept any reduction of their liberties, and were powerful enough to defeat either the nobles who threatened their trade privileges throughout the kingdom[12] or the king who attempted to restrict their independence.[13]

This, briefly, was the constitutional situation within the thirteenth-century Aragonese Crown. In each of the states the king's powers were regulated and limited. Yet the Aragonese monarch was able to thwart the efforts of the nobility and create an efficient, an almost modern, bureaucratic governmental machine. To achieve this, the monarch employed Jews as bailiffs.

[10] "Coléccion de cartas pueblas," in *Boletin de la Sociedad Castellonese de Cultura* (*BSCC*), XV (1934), 68, no. LII; Angel Sánchez Gozalbo, "El Castillo de Palpes," in *BSCC*, XIV (1933), 458; Antonio Chabret, *Sagunto*, 2 vols. (Barcelona, 1883), I, 211; Register of the Crown of Aragon (= R.), R.9, f.43v.; R.11, f.173; R.16, f.244; R.18, f.9; R.28, f.30; R.44, f.174v; R.44, f.160v; Miguel Gual Camarena, "Contribución al estudio de la territorialidad de los fueros de Valencia," in *Estudios de Edad Media de la Corona de Aragón*, III (1947-48), 268.

[11] Juan Beneyto Pérez, *Instituciones de derecho histórico español*, 3 vols. (Barcelona, 1930), III, 60; Jesus Arias, "Origenes de Gandia," in *El Archivo*, I, 185; L. Torre Balbas, *Resumen histórico del urbanismo en España* (Madrid, 1954), pp. 35-41.

[12] Gual Camarena, *op. cit.*, 269.

[13] Vincente Boix, *Apuntes historicos sobre los fueros del antiguo reino de Valencia* (Valencia, 1855), p. 72.

II

The Jewish Bailiffs

The Bailiff was the chief royal instrument of government throughout the Crowns. His duties included, not only the collecting of taxes, but also the organization of the royal army in any given locality,[14] supervision of the repopulation and division of lands in a reconquered area,[15] the purchase of supplies for the royal household,[16] operation of the royal mill or oven in his area,[17] the impounding of goods and control of all export and import,[18] examination of the rights by which an individual held a certain piece of land or collected a certain tax,[19] supervision of the construction of public buildings and town walls, investigation of all problems brought to the king,[20] the return of all criminals to the proper jurisdiction,[21] payment of a salary to various other royal officials,[22] and the gathering of supplies for war.[23]

Considering that the bailiff was such a powerful individual, it is most surprising that between 1265 and 1283 the bailiffs of Zaragoza,[24] Valencia,[25] Xativa,[26] Tortosa,[27] Mur-

[14] J. Ernesto Martínez Ferrando, *Catálogo de la documentación relativa al antiguo reino de Valencia* (= Martinez), 2 vols. (Madrid, 1934), II, no. 259.

[15] R.21, f.141-141v. Martínez, II, nos. 207, 474.

[16] Martínez, II, nos. 61, 102. R.35, f.11; R.14, f.90; R.17, f.107v; R.60, f.92v.

[17] Martínez, I, no. 655.

[18] R.15, f.99v; R.40, f.163.

[19] Martínez, II, nos. 219, 258, 453, 1047, 1048, 1055, 1070, 1104.

[20] Martínez, II, no. 474.

[21] Martínez, II, no. 768.

[22] R.35, f.12. Martínez, I, nos. 660, 1825; II, nos. 41, 57, 85, 2029.

[23] R.60, f.92v; R.61, f.109.

[24] Jahuda Cavalleria was bailiff of Zaragoza from 1257 to 1276. Upon his death Muçe Alcostenti became bailiff until 1278. R.9, f.17; R.22, f.74; R.39, f.172v.

[25] As a result of a revolution, Cavalleria became bailiff and governor of the city and kingdom of Valencia in 1276. Once order was restored, he left, returning the administration to its former Christian bailiff. In 1280 Alcostenti became the bailiff.

[26] Martínez I, nos. 1455, 1489, 1490; R.50, f.242v. Simon Guasch was bailiff from 1273 to 1282. R.20, f.74; R.20, f.331; R.49, f.51.

[27] In 1265 Astrug Jacob Xixos was made Bailiff for life. R.13, f.271v.

viedro,[28] Segorbe,[29] Peñiscola,[30] Barcelona[31] and a host of smaller communities were Jews.

Scholars who have noted the employment of Jews as royal officials have explained this by saying that the Jews bought their office. The facts do not wholly substantiate this assertion. While Solomon Zaragoçano was given the bailiwick of Huesca[32] and Jucef Ravaya that of Besalú[33] in return for lending the king money, the usual procedure was to permit the Jews to collect the taxes of an area without entrusting them with the position of bailiff. Thus, in 1224, the tax collector of Daroca was a Jew, while the bailiff was not,[34] and on January 23, 1273, Vives Abenvives was granted the taxes of Beniopa for a year, though Sancho Roiz de Cavella, a Christian, was the bailiff.[35] Frequently the Jew was bailiff of one town but collected taxes in another. Thus it was that Benevist de Porta, while bailiff of Barcelona, collected the taxes of Perpignan[36] and Falier.[37] Muça de Portella,[38] Salomon de Cavalleria,[39] Muça Ravaya,[40] David

[28] In 1273 Solomon de Cavalleria was the bailiff. From 1276 to 1278 Muça de Portella was the bailiff. Solomon Costanti followed him; and in 1280 Muçe Alcostenti became the city's bailiff. The next year Jucef Avenzaprut became the bailiff. R.19, f.50-50v; R.40, f.163; R.20, f.319; R.49, f.63; R.49, f.46.

[29] Solomon de Cavalleria was bailiff in 1275, and Aaron Abinafia in 1276. Martínez I, no. 1800; R.38, f.15v.

[30] Xixos was bailiff in 1268 and 1269. He left in late 1269 and returned to the position from 1270 to 1273. Martínez I, nos. 700, 804; R.61, f.286v.

[31] Benevist de Porta remained in his post from 1263 to 1267, at which time the merchants of the city appointed their own bailiff. R.10, f.16; R.15, f.52v-53.

[32] Francisco de Bofarull y Sans, "Jaime I y los Judíos," in *Congres d'Historia de la corona de Aragó dedicat al rey en Jaume I*, II, (Barcelona, 1913), 837.

[33] R.15, f.-.

[34] Torbio de Campillo, *Daroca y su comunidad* (Zaragoza, 1915), no. 3.

[35] R.37, f.60v; R.37, f.63.

[36] R.14, f.22.

[37] R.12, f.17.

[38] The bailiff of Tarazona collected the taxes of Morevia. R.20, f.298; R.20, f.307.

[39] The bailiff of Xativa collected the taxes of Almonazir. R.20, f.238.

[40] The bailiff of Cataluña collected the taxes of Valencia. Martínez, II, no. 497.

Almasarani,[41] Aaron Abinafia,[42] as well as Vives Abenvives,[43] were all bailiffs in one area but collected taxes in other towns.

At other times, however, while the bailiff was a Jew, the revenues were assigned to a Christian. On August 21, 1272 Prince Pedro borrowed 11,875 *sueldos* from the Christian Pedro San Clemente, giving the taxes of Alfandech as security.[44] At the time Vives Abenvives was bailiff of Alfandech.

The argument that the Jews purchased bailiwicks has less validity when one examines the constant exemptions from taxation which were permitted the Jews. On July 2, 1258 Muça Abengayet of Xativa was exempted from all taxes because of services to the monarch.[45] On June 17, 1260, the Jewish population of Barcelona was relieved of paying the usual feudal levy to feed the king when he visited the city;[46] three years later the Jews of Perpignan were similarly exempted .[47] When the Christians and Moors of Valencia had to pay for the renewal of their privileges, the Jews were exempted.[48] This is a rather unusual fact, for it denies one of the basic premises of those who believe that the Jews received their privileges only in return for gold.

The list of special monetary privileges granted the Jews grew through the reigns of James and Pedro. In October of 1260 the taxes of the Jews of Jaca were cancelled.[49] In February of 1262 those of Monzon were abolished,[50] while in May Daroca's were reduced five hundred *sueldos*.[51] On

41 The bailiff of Peñaquila collected the taxes of Uxo. R.14, f.120.

43 The bailiff of Alfandech collected the taxes of Léria and Alcira. R.35, f.11; R.35, f.56v; R.35, f.61v.

44 Martínez, I, no. 1315. San Clemente, mayor of Alfandech, frequently loaned the king money by pledging the town's rents. R.35, f.18; R.35, f.19v; R.35, f.20. The rents of the town were pledged, on August 28, 1269, to Arnaldo de Romani for a loan of 40,000 *sueldos* while Vives Abenvives was the bailiff. R.35, f.16.

45 R.10, f.81v.

46 R.11, f.129.

47 Jean Régné, *Catalogue des actes de Jaime I, Pedro III et Alfonso III, rois d'Aragon, concernant les juifs,* (Paris, 1911), no. IV, Pièces Justificatives no. 178.

48 R.11, f.202v; R.11, f.233.

49 R.11, f.228.

50 R.12, f.6.

51 R.12, f.6.

February 1, 1264 Astrug Ravaya was relieved of paying all taxes for the rest of his life.[52] Jucef Abenzaprut and Samuel Zareal were also exempted from certain taxes.[53] Finally, because of Astrug Jacob Xixos' support of the Crown, he, his family, and the Jews of certain towns were not required to pay any taxes.[54]

Knowing the constitutional structure of thirteenth-century Aragon, it is not difficult to understand why the Aragonese king would be willing to shower special favors on any individual or group of individuals which would release him from constitutional limitations. He had to have some method by which to strengthen his power, and the nobility, who were opposed to any such expansion of royal authority, could not serve that purpose.

The clergy of Aragon could not be instrumental in the establishment of a royal organization for three reasons. First, most of the clergy came from the leading aristocratic families and were disposed to support the nobility. Second, there was a natural revulsion against any clerical interference in governmental affairs ever since, in 1206, Pedro I had gone to Rome and placed himself and his country under the protection of the Pope. When Pedro was killed at the battle of Muret, the Pope sent a prelate to Aragon to act as regent for Pedro's son, James. The nobles never forgave the king for placing the state under the papacy, and the king never forgot the humiliation of being a papal vassal. When James reached maturity he refused to recognize his father's oath and expelled the papal regent. The third reason for the inadvisability of using clerical officials in establishing a royal central administration was strictly political. During most of the latter part of the thirteenth century the papacy was under the strong influence of France, and France and Aragon were enemies.

Nor could the burghers, who would seem natural allies of the king, be used. First of all, there were legal restrictions against the employment of an individual from one part

52 R.13, f.251.
53 R.14, f.145v. Régné, no. 509.
54 R.57, f.180v.

of the state in another part;[55] thus the burgher population of Cataluña and Valencia could not aid the monarch in Aragon. Second, the position of bailiff demanded certain qualifications that were beyond the merchants, namely, a thorough knowledge of the spoken language, of Latin, and of Hebrew, since all three languages were permitted by law to be used in documents.[56]

Without attempting to demonstrate that the Jews were chosen because they were the only ones left to serve the monarch, it is sufficient to state that, while there were objections to the use of members of the various other social classes, there was an excellent reason which recommended the Jews to the king. Beside the fact that they had a command of the three languages required for documents and the fact that they had a source of capital on which the king could draw, the Jews were the only people within the Crowns who were completely subject to the royal jurisdiction. Under the law the Jews were considered royal serfs and as such could not be affected by the edicts passed by the Cortes or by the *Fueros* or *Usatges* of either Aragon or Cataluña.[57] Because Jews were thus dependent on the king for their rights, they would willingly serve him.

The Jews were constantly under legal restrictions of both the Church and the Cortes. In return for services rendered to the Crown, the king freed them of most of these restrictions, particularly that of wearing the yellow badge.[58] This dependence of the Jews on the king allowed the latter to have complete confidence in his Jewish officials. In the decade following the Cortes of 1265, the Jews became one of the chief pillars of the monarchy. When the Moors of Valencia revolted, James appointed Jahuda de Cavalleria

[55] Pedro Cabarte (ed.), *Fueros y observancias del reyno de Aragón* (Zaragoza, 1624), p. 9b.

[56] A. A. Neuman, *The Jews in Spain*, 2 vols. (Philadelphia, 1942), I, 28.

[57] When the Count of Ampurias attempted to regulate affairs within his own county, the Aragonese king informed him that all Jews were under his protection and could not be affected by any law save his own. R.81, f.87.

[58] Throughout most of the period the monarchs exempted the Jews from wearing the badge. R.60, f.25; R.46, f.178-178v; R.43, f.100; R.204, f.48; R.46, f.178v; R.208, f.12. In legal matters Jews and Christians were frequently regarded as equals. Cabarte, *op. cit.*, 126a.

governor of the kingdom. Cavalleria organized a royal army, restored order, and then returned home to Zaragoza where he held the position of bailiff.[59] When the nobility of Cataluña objected to Pedro's complete disregard of the Cortes, Pedro placed Muza and Jucef Ravaya in complete charge of the state while he took the field of battle and defeated the nobility.[60]

III

Jewish Administration

The system established by James proved so effective that when his son, Pedro, ascended the throne, he was able to completely disregard the wishes of the nobility and the customs of the land.[61] The effectiveness of this administrative system was clearly demonstrated when Pedro was able to organize a fleet of one hundred and forty ships and an army of fifteen thousand without either seeking the permission of the Cortes or even bothering to tell them for what purpose he had gathered the force.

Pedro (by 1280) almost succeeded in freeing the Aragonese monarch from the restraints of the Cortes; but he over-extended his authority. In 1282 he used his army to invade Sicily. He had attacked a foreign state without the permission of his nobles. When the invasion of Sicily resulted in an invasion of Cataluña by the French, Pedro had to compromise.

He appealed to the nobility of the Crowns for aid, but the nobles did not respond; they refused to support the king. He had become involved in war without their permission, and they left him to get out of it as best he could.[62] Some of the Catalan nobility even joined the Counts of Foix and Roussillon in supporting the French invaders. A few of the Catalan nobles, under the command of the Viscount Cardona, did aid the king.[63] For this assistance, however, he

59 R.20, f.331. Martínez, II, no. 49.
60 R.71, f.123. R.48, f.66; R.49, f.60; R.49, f.70; R.42, f.179.
61 Bernat Desclot, *Crónica* 2 vols. (Barcelona, 1947), I, 11.
62 Desclot, *op. cit.*, I, 129.
63 Ramon Muntaner, *Chronicle*, 2 vols. (London, 1920), I, 332.

had to sacrifice the entire administrative system.[64] But before he fully agreed to return to the ancient constitution, he put the administrative organization to excellent use. Quickly he neutralized the French forces in Navarra and those Valencian nobles who sympathized with the invaders.[65] Having at his disposal the entire revenues of the Crowns, he was able to buy ships from the Barcelonean merchants and pirates and thus prevent the French from attacking by sea.[66]

Pedro, however, realized that while the Jews could provide an army to help him, without the support of the Catalan and Aragonese nobility he would lose his crown.[67] To save it he agreed to remove all Jewish bailiffs and to allow the nobility a voice in foreign policy.[68] This condition, however, did not extend to Jews serving the king in other capacities. While canon law forbids any Jew from exercising authority over Christians,[69] and papal decrees forbade the employment of Jewish physicians, the Aragonese nobility apparently had no objection to Jews serving as royal physicians[70] or as royal ambassadors.[71] They were opposed only to their appointment as bailiffs.

It has been suggested that hatred of Jews was the reason for their removal from the office of bailiff. This cannot be substantiated. If anti-Jewish sentiment were the motive, why were Jewish physicians, librarians,[72] and ambassadors

64 Cabarte, *op cit.*, pp. 7c-9c. This was the document forced upon the monarch by the Cortes.

65 Muça ben Jucef Avebhalau commanded an army that occupied Albarracín. R.46, f.206.

66 Desclot, *op. cit.*, I, 308.

67 Pedro had virtually no army. Most of his power came from the fleet. It was the Catalan fleet which defeated France after the army of Catalan nobles had surrendered to the Count of Foix. After the French started to retreat, and Pedro had acceded to the nobles' demands, the Aragonese joined the war.

68 "That the king in his wars and treaties which affect the community will take the consul of the Richos Hombres, Mesnaderos, Caballeros and Honored Citizens and the Good Men of the Villages." Cabarte, *op. cit.*, p. 9b.

69 *Decretum*, Dist. 54 c.11.

70 Jews remained as royal physicians through most of the fourteenth century. R.223, f.160v; R.211, f.244; Amada Lopez de Meneses, "Crescas de viviers, astrologo de Juan I," in *Sefarad*, XIV (1954), 99ff.

71 Salomon ben Menassé and Bondarim Alfaquin served Jaime II as Ambassadors to North Africa. R.252, f.53-53v; J. Vernet, "Un Embajador judío de Jaime II," in *Sefarad*, XIII (1953), 125 ff.

72 Jahuda Bonsenyor served as librarian and translator for Jaime II. Jahuda

permitted to remain at court in the royal service? The nobility objected to the position of bailiff and not to the Jews as such. If any other group of individuals had held that position, the objections would have been the same. The nobility objected to royal independence and, after 1283, succeeded in curtailing it.

The power of the bailiff throughout the Crown was drastically reduced, in some areas becoming nearly a honorific title.[73] When the monarch attempted to utilize the clergy to regain his former position, the Cortes prohibited the employment of tonsured individuals in governmental service.[74] To prevent the monarch from employing the *Justicia* of Aragon in his struggle with the nobility, the nobles declared that only a member of the nobility could be a *Justicia.*[75] Finally, the Cortes declared that this body had the final voice in the interpretation of all laws.[76]

The Aragonese monarch had attempted to construct an extra-constitutional system independent of the nobility to free himself from all limitations and political influence. The instrument for forging this organization was the Jews, who were completely under the monarch's jurisdiction and power.[77] They were removed from office and the system abandoned when outside pressure forced the king to agree to the terms proposed to him by the nobles. While the former administrative system was still effective, the monarch showered privileges upon the Jews. Once the system was abandoned, the Jews were no longer needed and received no privileged treatment.

Bonsenyor, *Los Proverbis de Salomó*, trans. and ed. Gabriel Llabrés y Quintana (Palma, 1889), Preface, p. xii.

[73] In Tortosa and Barcelona and some of the smaller communities, the monarch merely appointed the bailiff who was stripped of all functional authority. The authority reverted to the city councils or to the nobles.

[74] Cabarte, *op. cit.*, p. 172.

[75] Jerónimo de Blancas, *Comentarios de las cosas de Aragón* (Zaragoza, 1878), p. 487.

[76] *Cortes de los antiguos reinos de Aragón y Valencia y Condado de Cataluña*, 26 vols. (Madrid, 1896-1926), I, 177.

[77] "Iudaei sunt domini regis." Thomam Mieres, *Apparatus super constitutionibus curiarum generalium Cathaloniae* (Barcelona, 1621), part I, p. 62b; Jesus Bergua Camón, "Fueros de Aragón de 1265 a 1381," in *Anuario de derecho aragones*, V, p. 455. "Que todos los judíos . . . sean . . . en especial guarda del senyor rey." Cabarte, *op. cit.*, printed in a special group of *fueros* at the end of the time, p. 11b.

REVIEW SECTION

HISTORY AND SOCIOLOGY OF THE TEREZIN GHETTO

A Book Review*

By Franz Kobler
San Francisco, California

WITHIN the steadily growing literature about the catastrophe of European Jewry, this book—extremely well produced by one of West Germany's most distinguished publishing houses—sets a new pattern. It combines a painstaking record of all pertinent phenomena with a critical analysis and a philosophical interpretation. While scrupulous statistical statements and most accurate descriptions offer an almost microscopic approach to the happenings, the author, Dr. H. G. Adler, historian, musicologist, novelist, who now lives in London, has at the same time, as the late Dr. Leo Baeck in his moving Preface says, "the spiritual ability to stand back and gain the perspective that is needed in order to perceive the defining lines and forms of the whole." This many-sided and profound treatment of the matter results in an exemplary instance of penetrating historical examination.

The present book, it is true, is not the first monograph on the subject. In fact, Zdeněk Lederer can claim credit for having done in his book, *Ghetto Theresienstadt* (London: Edward Goldston & Son, 1953), a pioneering work of lasting value on the history and structure of the concentration camp, which in various respects holds a particular place among the horror camps of the Nazi regime. Moreover, the author himself refers in his exhaustive bibliography, consisting of 355 items, to various studies, mostly unpublished manuscripts, dealing with Theresienstadt. Nevertheless, Dr. Adler's book is based on firsthand original research controlled by tragic personal experiences. The author himself, as he relates in an introductory note to the bibliography, was for thirty-two months an inmate of Theresienstadt, where his wife, Dr. Gertrud Klepetar, a physician and trained chemist, became director of the central

*H. G. Adler, *Theresienstadt* 1941-1945: *Das Antlitz einer Zwangsgemeinschaft. Geschichte-Soziologie-Psychologie.* [Theresienstadt 1941-1945. The Features of a Compulsory Community. History-Sociology-Psychology.] J.C.B. Mohr (Paul Siebeck). Tübingen, 1955. xlvi and 773 pp.

medical laboratory. In October, 1944, he, his wife, and her mother were transported to Auschwitz. While mother and daughter perished in the gas chambers, Dr. Adler was passed to other camps, including an annex of Buchenwald—his last stop—and was finally freed on April 13, 1945. Two months later he visited Theresienstadt where he received from the hands of Rabbi Baeck a hoard of documents and Dr. Adler's private records. These materials constituted the bulk of the Theresienstadt collection in the Jewish Museum of Prague, which later was transferred to Israel.

As a research worker of the Museum, Dr. Adler had access to this treasure of tens of thousands of documents and other objects. After having settled in England, he drew from them with religious devotion an all-embracing picture of the camp, its history, sociology, and psychology, stressing each of these three aspects in a separate part. In addition, on almost thirty densely printed pages a vocabulary of words used in official comunications and in colloquial language—a unique philological curiosity—brings to life the linguistic pecularities of the compulsory community. A comprehensive Appendix, containing a strictly chronological survey of external events, sources, and literature (bibliography), and three specific indices, conclude the work.

Although only the First Part of the book deals expressly with the history of the camp, the historical perspective dominates the entire work. The author himself even emphasizes the historical character of his study. There has existed scarcely a place, he declares, "where time-bound 'history' took place within such a reduced space of time. What otherwise is dispersed over vast territories as well as over years and centuries, was here restricted to months, days and hours. The three and a half years of the 'Ghetto' are therefore not merely an episode but real history." Consequently, in the First Part Dr. Adler set himself above all the task of presenting a connected general history of the camp from its foundation in October, 1941 to its end in May, 1945. And he makes us perceive that, for all the premeditated ghastliness of the happenings, which Leo Baeck has called an "experiment in the will to evil," a historical process was hidden beneath them, which falls into four distinct periods, each characterized by essential changes in the structure of the camp. Something like a gloomy "development" took place during the first three periods. In July, 1942, with the evacuation of the original population from the old fortress town of Theresienstadt (in Czech, Terezín) situated in northern Bohemia, the period of the "closed camp" came to an end and that of the "Ghetto Theresienstadt" began, to be followed in the summer of 1943, by the period of the "Jewish settlement", destined to come to a close in September, 1944. The fourth and last era of "Decay and Dissolution" set in at that time and ended after eight months.

Common to all periods is the continuous flow of transports to and

of deportations from Theresienstadt. Of about 109,000 Jews who were brought behind the walls of the fortress town in 1941-1942, almost 44,000 were in the same period deported to the East where most of them perished in the gas chambers of Auschwitz and other extermination camps. During the remaining years of the camp, new inmates numbered almost 32,000, while more than 42,000 were sent to the death camps. Thus, for the greater number of prisoners (88,000 of the 141,000), life in the camp was limited to the time between the arrival of the transports and their departures. Of the 53,000 Jews who escaped deportation, 33,500 died in Theresienstadt; only 19,500 survived. Even if to this sum the 3,500 survivors of the deportations are added, the total of the Jews of Theresienstadt who were alive at the time the camp was closed did not exceed by much one-seventh of all internees.

To the fear of deportation, which determined the life in Theresienstadt, were added fears growing out of a permanent reign of terror. The danger of imprisonment, of corporeal punishment, and of the death penalty hung constantly over the heads of the unfortunate people. The documentary testimony of eyewitnesses throws a glaring light on a system which "transformed crime into law and vice versa." Thus the revolting story of the nine Jews who, on January 10, 1942, were executed by hanging for having smuggled letters out of the camp (on February 26, 1942 seven other young men were hanged for the same "crime") is told in an excerpt of Joseph Klaber, the commander of the Jewish "Ghetto guard." Dr. Adler's own outstanding narrative gift brings to life such nightmarish scenes as those which took place when, on November 10, 1943, the whole population of 30,000 people, from the youngest to the oldest, were suddenly ordered to appear in the open outside the city walls for the purpose of a census. The intimidated masses were kept waiting in terrifying uncertainty for fifteen hours, only to be driven back afterwards in darkness and panic which plunged many into sickness and death. One would, indeed, have to fall back on Dostoevsky's *Memoirs from a House of the Dead* in order to find a parallel of this account.

And yet the hardships inflicted on the inmates of Theresienstadt by no means constitute the main theme of the present book. The central subject of Dr. Adler's examination is rather the superstructure of a compulsory community, erected on these bloody foundations with the diabolical intention of using it for the ultimate purpose of genocide and so arranged that the victims themselves kept the deadly mechanism operating. The sociological anatomy of the "Paradise Ghetto," dealt with mainly in the Second Part of the book, reveals Theresienstadt as a gigantic prison with a pretended "autonomy" maintained through "representatives" who were nothing but tools of their masters. In this community of "slaves governed by slaves" everything was regulated and controlled

by an absurdly detailed "constitution." Under the twofold pressure of this compulsion and the perpetual threat of deportation, all seemingly normal functions of human society lost their meaning. One by one the areas of these functions—administration, population, accomodation, food, labor, economy, law, health, social care—are subjected to a careful scrutiny, but the result always amounts to a monstrous self-contradiction. Administration became a "game where an outrageous cynicism was combined with infernally childish naiveté." Population was, in fact, permanent, catatstrophic over-population; on the average it amounted to 45,000 persons, reaching, in the summer of 1943, a density of 130,270 persons per square kilometer (Berlin, 4571). The habitation of an inmate consisted, in reality of only a most primitive sleeping accommodation, the average living space amounting, in March, 1943, to 2.05 square meters. Food was "much worse than in regular penitentiaries. Labor—an enormous aggregate of individual and collective efforts—became, "if not for every single person, certainly for the community, not a blessing but a curse." The economy was "under endless difficulties pitiably carried on from catastrophe to catastrophe" and ridiculously burdened by the childish creation of the superfluous "Ghetto money". Law and legal procedure became parodies of constitution and jurisdiction; public health and social care were senseless in a community which even outwardly soon resembled one enormous hospital or insane asylum.

On top of the continuously produced and reproduced institutional falsehoods, another outrageous lie was superimposed: the very preparatory machinery for mass murder was used as a show-window for the "human" treatment of the Jews. The transformation of the "closed camp" into a "Ghetto" and the further metamorphosis of the latter into a "Jewish Settlement" were in themselves devices which served this purpose. The accumulation of Jews from various countries—the "Protectorate," Austria, Germany, Danzig, Holland, Denmark, Poland, Slovakia, and Hungary—was intended to create the appearance of a peaceful, completely Jewish city in the center of Europe. But not even the most credulous visitor could have been deceived about the true character of the Jewish city if he had seen its normal daily aspect. When a delegation of the Danish Red Cross was to visit Theresienstadt at the end of 1943, disguise of the real conditions was organized on a gigantic scale under the self-mocking designation, "embellishment of the city" (*Stadtverschönerung*). The description of this "horrifying carnival" in which all inhabitants participated—the "embellishment" was made possible only by the deportation of 17,000 Jews to the death-camps—is one of the most stirring and illuminating chapters of Dr. Adler's book.

With unsurpassed precision, Dr. Adler has recorded the story of the life actually lived by the 141,000 Jews who, in the course of the years 1941-1945, were confined to the Bohemian fortress town. It was, above

all, a life of virtually incessant labor performed by almost all inmates of the "Ghetto," not only by those who were subjected to forced labor—men and women between 14 and 65 years of age—but even by very old voluntary workers. Practically everything that pertained to the sustenance and—most tragically—to the destruction of the community was performed by the inmates of the camp. Among the tasks, we find the construction of 2850 meters of railway track, three new wells, a water supply of 460 m, three new transformers, and—assistance in the terrible transports. In addition, in Theresienstadt were manufactured products of all kinds for the army and for German employers, from uniforms and wooden chests (the latter in enormous quantities) to leather bags and artificial flowers. "There is no more splendid evidence of the unbroken vitality of the Jews than the will to work shown by them in Theresienstadt and their achievements produced there." Only once more does the author give similar praise to the people of Theresienstadt: in the chapter dealing with the cultural life. Here he surveys the astonishing activities of the scholars and artists, poets, painters and musicians, actors, teachers and technicians, among the imprisoned Jews of Theresienstadt that took place in less than four years—lectures and concerts, dramatic and operatic performances, paintings and musical compositions, poems, studies and research. The chapter also gives an account of the camp library which, consisting mostly of stocks of looted Jewish libraries, grew into a collection of 180,000 volumes, besides about 60,000 volumes of specific Judaica.

The last part of the book is far more than its title "Psychology" betokens. It is true that, above all, a clear distinction of the types, a penetrating analysis of their characters and of the inter-relations between individuals and groups is given here, though similar observations are dispersed throughout the whole work. Once again pass before our eyes the participants in the most dreadful of all the dances of death, the members of the pseudohierarchy and the "governed" people: those "who cooperated and did not look on" and those "who cooperated and looked on", those "who looked on and did not cooperate" and those "who neither cooperated nor looked on," the thoughtless realists and the open-minded doers, the opportunists and the passive spectators, the fearful, the broken-hearted, and the men of strong will, the selfish and the saints. But these psychological descriptions serve rather as a means of critical evaluation, as steps toward a definite historical judgment of the phenomenon Theresienstadt.

With profound insight and religious fervor, Dr. Adler examines how far the Jews of Theresienstadt lived up to "the superhuman searchings of their hearts," whether their spiritual forces proved a source of strength or remained ineffective. In answering these questions the author applies the highest standards of Jewish ethics. The balance he strikes is tragic: "Scarcely anyone who took an active part in the life of the camp could

help being involved in guilt." The reason for this verdict is summed up in the statement: "A theory that suffering purifies cannot be accepted if suffering becomes excessive. Much can be asked for, too much destroys." Too much—this refers not only to physical torture and to mental grief and anguish, but equally to the overpowering spiritual temptations to which the inmates of Theresienstadt were subjected. "The dominant ideology infiltrated the 'Ghetto' with totalitarian thinking, with intolerance, with a crazy administrative machinery, with the madness of statistics which encompassed everything and nothing, influenced the forms of manners and colloquial language. The dominant ideology was omnipresent and poisoned even the protest which dared to contradict it."

A substantial portion of the book is devoted to the devastating effects of this intellectual compulsion, for which the odd materialistic term "brain-washing" has been coined. The author does not conceal his conviction that there was only one way open to the people of Theresienstadt, and above all to the "government": the way of self-destruction. This way—the way of *Kiddush Hashem*— was, as we know, chosen by the inmates of the Warsaw Ghetto. One of the major reasons why it was rejected by the Jews of Theresienstadt may be found in the special features of this particular compulsory community: Jews predominantly from Central and Western Europe, without that deep sense of unity with Jewish history and its meaning so inherent in Eastern Jewry, were exposed to the most diabolical temptation of a false hope. Still, not all succumbed to it. Dr. Adler pays tribute to those men and women who constituted the conscience of the camp and attempted to invest life there with meaning. Among them the late Leo Baeck holds first place. But there were others besides him, like Robert Stricker and Heinrich Löwenstein, or like the mother who admonished her distant children to beware of self-importance, a message which Dr. Adler has chosen as the last words of his book.

But the historic significance of Theresienstadt is not exhausted by the moral greatness of the good who saved their souls against the overwhelming onslaught of evil, nor by the passive martyrdom of the tens of thousands who passed through the gruesome fortress town on the way to the gas chambers of Auschwitz, Treblinka, and the other death camps. It is, indeed, to the perpetual credit of Dr. Adler that he has preserved the incomparable features of a Jewish community which, though created with the evil intention that it serve as an instrument of "the final solution of the Jewish Question," survived a thousandfold death and the doom of her oppressors, true to her will to live. By the incorporation of their story into the history of the Jewish people and of the nations, the prisoners of Theresienstadt have found a place in the memory of Israel and mankind. Justice has been done them in the name of the ideals of Judaism, and the human dignity of which they were deprived has

been restored to them at last. By this token, Dr. Adler's book is a transfiguration of the dead and a comfort for the survivors. It is, in its own way, one of the great Jewish Memor Books.

Early German Antisemitism

ER IST WIE DU: AUS DER FRÜHGESCHICHTE DES ANTISEMITISMUS IN DEUTSCHLAND (1815-1850). By *Eleonore Sterling.* Chr. Kaiser Verlag. München, 1956. Pp 235.

THE background of the catastrophe that led to the persecution and destruction of German Jewry has been analyzed in recent years in a growing number of studies on modern anti-Semitism. Among them the present study takes a special place in trying to examine the beginning of a philosophy of anti-Semitism in Germany in the period between 1815 and 1850. The author is assistant to the well-known German scholar and liberal politician Professor Carlo Schmid in Frankfurt. Publication of her book was made possible by the financial support of a number of organizations, among them the Claims Conference in New York and the Evangelical Churches in the Rhineland and Westphalia.

In her article, "Anti-Jewish Riots in Germany 1819: A Displacement of Social Protest" (*Historia Judaica,* XII, 1950, 105-42), Eleonore Sterling has already dealt with some major aspects of anti-Semitic excesses during the early part of the period covered in her present study. The "leitmotiv" of her book is expressed in Naphtali Wessely's translation of *Leviticus* 19:18 which appears on the title-page: "Liebe deinen Nächsten, er ist wie du: Ich bin der Ewige" ("... thou shalt love thy neighbor as thyself: I am the Lord").

The period between 1815 and 1850, reflecting the impact of enlightenment and emancipation and running through the "springtime of nations" to the liberal revolutions of 1848, revealed, side by side with apparent progress and tolerance, a deadly hatred toward the Jews. Originally, the author had planned only a historical-sociological investigation of the problem. She assumed that the religious fanaticism which had influenced the medieval persecutions had been successfully conquered and that early ninetetenth-century anti-Semitism had merely social and economic motives. As her investigation progressed, however, she discovered that enlightenment and secularization had only superficially solved the conflict between Christianity and Judaism. Thus the study turned into an examination and analysis of the nature of the Christian-Jewish conflict, with emphasis on religious history and the transference of that conflict to the arena of politics.

The problem is developed in four sections entitled (1) The Reality, (2) The Image, (3) The Theory, and (4) The History. The first section describes the political and economic development of the Jews within the framework of the general economic and social transition of the German society of the period, and characterizes the complex problems arising out of the progressive integration of the Jews after they had shaken off the shackles of the ghetto. It is this section which the author partially sketched in her earlier article. Against the background of the "historical facts" Eleonore Sterling measures the truth or the falsity, or falseness, of the ideas and theories on Judaism and Jews—"only then can one speak of 'anti-Semitism' when the reproaches cast upon the Jews no longer represent the truth and thus are inhumane."

On the basis of this premise the author deals with the image of Judaism in the Christian mind, the relationship of the two religions to each other, the growth of a spirit that denied the fruits of the enlightenment and found expression both in the ambiguous attitude of the liberals and radicals toward Judaism and in the anti-Semitism of the Conservatives and the "Germanomaniac" petty bourgeoisie.

The author's theses are clearly presented. The development of liberal principles in Germany did not keep pace with the economic transition from a feudalistic to a capitalistic society. German enthusiasm for liberty meant a nostalgic longing for the past and grew into the antithesis of the liberal movement. At a time when the overwhelming majority of the Jews still lived in suppression and poverty, they were marked as intruders and symbols of the new society.

The separation of the Jews from general society was not the result solely of social discrimination and corporative legislation; the majority of the Jews themselves tended to affirm their isolation in order to protect the "Jewish truth" and to preserve Jewish customs. It was their "progressive Messianism" that led Reform Jews into the camps of political liberalism and radicalism. The author stresses the dissension of the Jews in the economic, social, and religious spheres as well as in politics. In spite of this dissension, the image of the Jew in Christian theological and philosophical writings and especially in public opinion appeared essentially to be uniformly anti-Jewish. Although the "nearness of the Jews to God" was recognized, the strangeness and the "mysteries" of Judaism made the Jew appear weird and uncanny. This antipathy toward the Jew was based on theological as well as anthropological and biological reasons. Its transference into the field of politics was the decisive fact for the historical development and contributed to distortion and exaggeration of Jewish influence in German economic and political life.

The author investigates the attitudes of all political groups throughout Germany with regard to the Jewish problem. The attitude of the

liberals and radicals was dictated more by expediency than by idealism. In the Rhineland liberal calls for Jewish emancipation were based much more strongly on political than on humanistic considerations. They were a weapon of the Rhenish particularists against the Prussian state, and they were regarded as a welcome aid in the demand for the equalization of the growing industrial bourgeoisie and for equal rights of the Catholic Church in Protestant Prussia. In Baden, where a constitution already regulated the rights of the industrial class and the Church, emancipation of the Jews did not promise tangible results and was opposed as being "anti-social" and "antinational."

Among the radical "Young Hegelians," criticism of the Christian religion was based largely on the "Asiatic," i.e., "Jewish," character of Christianity. The Jew "is and remains . . . oriental" and "in spite of Reformation and enlightenment, he remains alien" to the German and Christian character. Although the Young Hegelians in general were not outspokenly anti-Semitic, they lent support to anti-Semitism against their will.

Quite outspokenly anti-Semitic, of course, were the Conservatives and the spokesmen of the petty bourgeoisie. While the Conservatives identified the profit system of the new capitalistic economy with the "medieval usury system" of the Jews, the craftsmen and shopkeepers of the petty bourgeoisie felt that Jewish emancipation had intensified their own economic plight. Romantic ideas and mystic notions as well as nationalistic and racial motives contributed to the anti-Semitism of these groups.

The historical development of the Jewish problem in Germany showed that the liberal Revolution of 1848, which based its demands for equal Jewish rights on political considerations, on economic necessity, and on the underlying dream for liberty, was able to reconcile the conflict between Judaism and Christianity only for a short period of time.

For her investigation Eleonore Sterling not only relied on leading historical, literary, philosophical, and political works, but intensively consulted contemporary pamphlets, newspapers, journals, and archival materials. Thus the book not only reveals the thoughts of leading personalities on the Jewish problem, but presents a cross section of public opinion from all classes of the people. Part of these materials had never before been utilized for historical research, which adds to the significance of this book. It is a well-written, serious study, presented carefully and without emotion, and open new vistas into the problems of early German anti-Semitism.

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Western Socialism and the Jewish Question

HA-SOTSIALISM HA-MAARABI U-SHEELATH HA-YEHUDIM (WESTERN SOCIALISM AND THE JEWISH QUESTION. AN INVESTIGATION INTO THE HISTORY OF SOCIALIST THOUGHT IN THE NINETEENTH CENTURY). By *Edmund Silberner*. Mosad Bialik. Jerusalem, 1955, Pp. 484.

SOCIALISM has been closely identified in Jewish public opinion with ideas of progress, tolerance, defense of Jewish rights and Jewish equality, as well as with the struggle against anti-Semitism. Now that Stalin's anti-Semitic record has been attested to by Communist leaders, and the anti-Jewish prejudices of Khrushchev and other Communist big-wigs are obvious to anyone who peruses the Yiddish newspapers, the negation of the identification of socialism with "philo-Semitism" should be more acceptable, especially when backed by facts. Dr. Silberner's many studies in the field of the relationship of socialist personalities and left-wing movements to the Jews and the Jewish problem have for many years done much to place such facts before the public. Especially worthy of mention in this connection is his lengthy monograph on Karl Marx's anti-Semitism in *Historia Judaica* (XI, 1949, pp. 3-52). Many of Dr. Silberner's studies on Fourier, Proudhon, Engels, Leroux, Bakunin, and other leaders, as well as movements, have appeared in the same journal and in *Jewish Social Studies* and other publications.

The volume under review includes such materials, as well as a good deal of new information, a closing chapter of conclusions, some detailed bibliographies and footnotes, and an appendix containing selections of writings and other documents. The book is of wide scope despite its all too terse, almost stenographic coverage in spots. The first part, dealing with France and Belgium, treats of Fourier and his school, Leroux, Proudhon, socialists after Proudhon, Bernard Lazare, and includes a chapter on Belgian socialists. The second part, on Germany, devotes five chapters to Marx, Engels, Lasalle, Moses Hess, and the German socialists after Lasalle. Four chapters on Owen, the Chartrists, the Webbs, and the social democrats take up the problem of British socialism.

While the writing is too succinct and choppy in its Hebrew translation, the story is very illuminating and none too pretty. In the eyes of the early socialist thinkers the Jews were a useless people. A person like Fourier was opposed to their emancipation. His school, with several exceptions, was outright anti-Semitic, and one of his followers, Toussenel, was a vulgar anti-Semitic propagandist. Leroux and Proudhon were more polite, but, in the long run, no less prejudiced. In the eighteen-sixties, socialists, particularly the Blanquists, too readily accepted racist theories. In the eighteen-eighties and nineties some French socialists viewed the anti-Semites as useful partners of the socialist movement

against the common foe of capitalism, presumably the Jewish kind. This love match did not last beyond the century. Nevertheless, even in the twentieth century there was no lack of anti-Semitic propagandists among socialists and syndicalists. Some socialists of Jewish descent also joined in the game of Jew-baiting. Lasalle did it secretly. Marx, of course, stated his opinions openly. Lazare was anti-Jewish during his early socialist career. The urbane Austrian Victor Adler did not like Jews. Among the English left-wingers, the Webbs expressed themselves time and again against the Jews. Add the names of Bakunin, Saurel, Picart, and a host of others, and the case is clear.

On the other hand, the socialist movement also had a record of defending Jews, particularly after World War I. Of course, those were different times. Then a sizeable part of socialism even learned to accept the right of the Jews to exist as a group. The problem of the attitude of various socialist thinkers and groups toward the group character of the Jews (nation, people, religion) is also taken up in the book, but their attitude toward Zionism is treated only in passing.

The book is, indeed, a mine of information and veritable proof of the author's great erudition and many-sided coverage. Nevertheless, it is rather a series of studies than the definitive work which we hope Dr. Silberner, now with the Hebrew University, will write some day. I would not like to indulge here in minutiae, but I cannot refrain from remarking that Jan Czynski, the pro-Jewish Fourierist, a Polish emigré who was active in Paris, was of Frankist descent. Unlike the overwhelming majority of descendants of the baptized Frankists, Czynski was very active on behalf of Jewish rights. I also missed in the index the names of Ludwik Krolikowski and certain other Polish socialists, mostly of the religious class. They were all active in Western Europe. For that matter, even American socialism was much affected by such trends imported here by immigrants. This, of course, is a different field of study, and it is to be hoped that someone will undertake it. Lady Passfield (Mrs. Webb), I believe, was of Jewish descent. However, I am not ready to say that this was the major reason for her anti-Jewish and later anti-Zionist prejudices.

I missed in the book a deeper analysis of causation and relationships. Why were so many socialists and anarchist leaders anti-Semites? Why has anti-Semitism been exhibited by so many otherwise decent socialists and liberals in our own century without their even being aware of it? Why this avalanche of vulgar Communist anti-Semitism? My theory is that secular anti-Semitism is the result of the continued impact on Western civilization of Christian *odium theologicum,* plus its folkloristic culture patterns attitudes. The impact remains even when the individual concerned is no longer a professing Christian. It is easier to abandon belief in religion than the complex of superstitious hatred that is too often a part of it. Of course, this is only one basic cause. Economic,

political, and other elements must not be discounted. More than that, the view that the Jews have outlived their reason for existence since the coming of Jesus is carried over in all areas and is particularly translated into hostility to Jewish group life. Such attitudes are easily taken over by emancipated Jews in their enthusiasm over the possibility of integration in Western civilization. In my opinion, this would explain a good deal of the persistence of anti-Semitism in left-wing circles. Furthermore, the role of the assimilated and baptized Jews and their descendants as carriers of anti-Semitism has not as yet been investigated, but it is worthy of the efforts of the researcher.

Another important defect of this work is the footnoting, which sends the reader to numbered items in the bibliography at the end of the book. Incidentally, the bibliography is the most extensive published on this subject, but this fails to assuage the irritation of the poor reader who is sent from pillar to post. The index, too, with names listed only in Hebrew—Latin spellings are indeed a must in such books—is a kind of maze, in which the reader is referred to a pageful of footnotes with no identification of the source for which he is looking.

Left-wing movements constitute such an important aspect of the history and politics of our own times that the publication of Dr. Silberner's book in English and other languages is essential for the scholar and the literate public. The Jewish community has paid a high price for the steady defection of many of its intellectuals to left-wing movements. Much of this defection has been the consequence of plain ignorance.

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LEGAL HISTORY OF THE JEWS

FESTSCHRIFT GUIDO KISCH: RECHTSHISTORISCHE FORSCHUNGEN. Collected on the occasion of his sixtieth birthday by his friends, colleagues and pupils, under the editorial chairmanship of *Karl Siegfried Bader*. W. Kohlhammer Verlag. Stuttgart, 1955. 322 pp. 5 plates.

RARELY has so distinguished a group of scholars joined to produce so valuable and informative a collection of essays in honor of a colleague, friend and teacher. The expressions of friendship and esteem with which several of the contributors begin their articles are truly touching. In his preface to the entire volume, Professor Karl Siegfried Bader, of the University of Zürich, asserts that the volume needs no other justification than a recital of Professor Kisch's achievements in

the field of the history of medieval German law, with which most of the contributions deal. Those of us who have come to know Dr. Kisch in the United States are bound to be highly gratified to see him so signally honored by outstanding European scholars.

Of the four parts into which the volume is divided, the first and longest is devoted to the history of German law. Professor F. L. Ganshof, of the University of Gand, Belgium, writes on the Ordinatio Imperii of 817 and shows how deeply it was rooted in the consciousness of medieval institutions long after the Empire had ceased to be a reality. Professor Bader follows with a learned discussion of the origin and application of the concept *Zwing und Bann,* the formula on which local administrative authority rested in various parts of Europe during the Middle Ages. Professor Adalbert Erler, of the University of Frankfurt-am-Main, investigates the similarity between *Billigkeit,* as it manifested itself in the law-court of Ingelheim, and the idea of "Equity" in English civil law. The next essay touches on the relationships among various cities and their learned jurists as an influence on the development of law. Professor Hans Thieme, of Freiburg, tells how in the sixteenth century Breslau turned to Basel, as to several other cities, for advice on its rights and legal authority. Professor Richard Horna, of Prague, who died before the book was published, provided a half-amusing, half-gruesome, bit of history when he told of the punitive powers long enjoyed by the medieval millers. The miller was a person of considerable importance in a neighborhood and the right to maintain order among the numerous folk awaiting their turn at the mill was naturally entrusted to him. A thief or disturber of the peace would be collared and chained to the mill door, sometimes by the neck, sometimes by the hair, and permitted to suffer thus for some time. If not often fatal, such punishment was always physically and socially painful. Professor Louis-Theo Maes, of Antwerp, discusses an aspect of the pilgrimages which played so important a role in medieval life. He takes up specifically the question of pilgrimage as a method of punishment, which sometimes amounted to long and harrowing exile. One of the popular goals for such imposed pilgrimages was Santiago de Compostella in Spain, and the regulations connected with it are an interesting chapter in medieval history. Finally, in this section of the book, Professor Gustav Korlen of Stockholm and Dr. Erich Woehlkens of Uelzen submit a number of the last-named town's medieval laws.

The second part of the volume is devoted to Roman and canon law. It opens with a discussion by Professor Adolf Berger, of the College of the City of New York, concerning the manner in which the Roman *ius civile* turned into "civil law" as distinguished from "canon law." The Rev. Dr. Arnold Ehrhardt discusses an aspect of the Christian rite of baptism and suggests that the questions and answers accompanying it are derived from a Roman ceremony. Professor Erik Wolf, of Freiburg, takes up

some aspects of Zwingli's social teaching; and Professor Gertrud Schubart-Fikentscher, of Martin Luther University, discusses Church law in the works of Christian Thomasius. The final essay in this section by Professor Erwin Jacobi, of Leipzig, deals with the problem of the rights to enjoy ecclesiastical preferment by a person of blemished reputation.

Skipping the third section for the moment, we find section four devoted to the arts as they reflect the law. The first touches on medieval folklore. Professor Hans Fehr, of Bern, traces the belief in trial by ordeal as it shows itself in medieval folk literature. The second turns on the treatment of law in fiction. Professor Thomas Würtenberger, of the University of Mainz, analyzes the novel *Der Grüne Heinrich,* by the famous Swiss novelist Gottfried Keller, to show how this great author attempted to resolve the inevitable conflict between Law and Justice. Dr. Jean Mazard of Paris brings the volume to a close with a discussion of a phase of the French Revolution. Having destroyed the authority of the courts as they had existed under the old regime, the revolutionary legislatures resorted to insignia to bolster the authority of the new magistrates. The badges and medals used for this purpose are given in beautiful reproduction at the end of the volume.

Returning now to the third section of the volume, we find that each of its three essays deals with an aspect of medieval Jewish history as reflected in medieval law. It is right and proper that this area of scholarship should be represented in a volume honoring a man whose contributions to Jewish historiography have been as important as those of Professor Kisch. Professor Frantisek Čáda, of the Masaryk University, makes use of local and general laws and privileges promulgated in Bohemia to discover when the Jewish community of Brno (Brünn) actually came into being. It is a pleasure to read the closely reasoned argument and the excellent use of the legal source material.

Professor Robert Feenstra, of the University of Leyden, turns attention once more to a subject with which Dr. Kisch dealt on several occasions, namely, the so-called Jewish *Hehlerrecht,* the right of a Jew to receive back the amount he had paid for an article if he bought it or took it in pledge without knowing that it had been stolen. The Nazis, in their heyday, had made much of this, interpreting it as suited their evil fancy. Somehow, the anti-Semites discovered this regulation to be derived from talmudic law and imposed by the Jews on their Christian neighbors. Professor Feenstra actually finds traces of it in Visigothic law, which would appear to indicate that its roots lay in early market laws of Germanic origin. Moreover, he argues, the insecure economic conditions of the early Middle Ages may have produced this as they produced other protective measures for the buyer of goods.

It stands to reason that the eighteen articles of which this volume

is composed will appeal to as many students of as many aspects of medieval history. This reviewer may be forgiven, therefore, for finding most interesting and helpful the comparatively brief discussion of papal legislation affecting the Jews submitted by Professor Walther Holtzmann, Professor of Medieval History at the University of Bonn and currently Director of the Deutsches Historisches Institut in Rome. In the course of his investigation of old collections of papal legislation, Professor Holtzmann came across references to the Jews, some known yet requiring correction of mistakes made in their transmission and some quite unknown until now or incompletely known. Professor Holtzmann limited himself in this article to material ascribable to Pope Alexander III (1159-1181). He identifies and analyzes all of this pope's legislation bearing on the Jews which has found its way into canon law. One cannot but admire his impeccable method and be grateful for the light he sheds on the places and people affected. Thus, he offers a document, heretofore but imperfectly known, through which he reveals a connection between a Jewish moneylender and the flight from England of Thomas a Becket. Two other documents, given in full, discuss a scholar who had become a convert to Christianity. The brief article is an invaluable addition to the meager literature on the subject.

One cannot end a review of this unusual volume without joining the scholars who contributed to it in extending good wishes to Professor Kisch. May his personal and scholarly influence long continue to affect his colleagues, pupils and friends.

SOLOMON GRAYZEL

Jewish Publication Society of America

HISTORY OF SWISS JEWRY

DER FRIEDHOF AUF DER JUDENINSEL IM RHEIN BEI KOBLENZ. By *Florence Guggenheim-Grünberg*. (Beiträge zur Geschichte und Volkskunde der Juden in der Schweiz, Heft 5). Verlag Jüdische Buchgemeinde. Zürich, 1956. Pp. 35 with pictures and maps.

SINCE the publication in 1902 of Augusta Steinberg's scholarly volume on the history of the Jews in Switzerland during the Middle Ages (*Studien zur Geschichte der Juden in der Schweiz während des Mittelalters*), no major historical monograph on the numerically small but intellectually and otherwise very alert, industrious, and successful Swiss-Jewish community has been produced (see G. Kisch, "The Jews in Switzerland," *Historia Judaica*, XIV, 1952, p. 162 n. 2). Only in recent years has interest in its historical past, remote and nearer to our

own age, come to life again and continued to grow. Efforts are being made toward a systematic preservation of historical monuments and documents as well as their methodical evaluation. Most commendable work in this direction is being done by the Federation of Swiss Jewish Communities, whose *Festschrift* on its fiftieth anniversary was reviewed in these pages (XVI, 1954, p. 125), and by the *Israelitisches Wochenblatt für die Schweiz,* now in its fifty-seventh year of publication, where currently attention is given to historical topics in addition to the customary anniversary reminiscences. One of these anniversaries in 1955, the founding in the year 1805 of the Jewish community of Basel, offered the occasion for the publication of the first modern Swiss-Jewish community history, *Zur Geschichte der Juden in Basel,* by Theodor Nordemann, which will be reviewed separately in one of the forthcoming issues of this journal.

While, understandably, for the most part amateur historians are at work, slowly historically trained researchers are emerging, among them Dr. Lothar Rothschild, rabbi of St. Gallen, whose doctoral dissertation was devoted to Johann Caspar Ulrich's well-known *Sammlung jüdischer Geschichten,* a chronicle of Swiss Jewry extending from the thirteenth century to the year 1760 (*Johann Caspar Ulrich von Zürich und seine Sammlung jüdischer Geschichten in der Schweiz,* Zürich, 1933).

Another systematically-minded explorer of Swiss-Jewish history is Dr. Florence Guggenheim-Grünberg, whose first, valuable contribution to the linguistic and cultural history of Swiss Jewry was reviewed in this journal (XIII, 1951, pp. 167f.). In the meantime, she has published three additional monographs on the Jews of Endingen and Lengnau (the only places in which Jews were originally allowed to live prior to their emancipation in Switzerland) and on the Swiss pastor Ulrich and his missionary work among the Jews in the eighteenth century. The fifth of the small booklets which form the "Series of Essays on the History and Folklore of the Jews in Switzerland," edited by Dr. Guggenheim-Grünberg, deals with an ancient Jewish cemetery on the so-called "Jewish island" in the Rhine river. From the seventeenth century on Jews from Switzerland and the neighboring South German Duchy of Baden were buried there. However, frequently recurring inundations of the island over many decades damaged tombstones as wellas graves, endangering the existence of the cemetery. Through the author's efforts, in 1955 extant remains were exhumed from seventy-four graves and, together with the preserved tombstones, transferred to the Jewish cemetery of Endingen-Lengnau. Dr. Guggenheim offers the history of the unique island cemetery, the efforts for its preservation, and the final solution of the problem. All the tombstones, both well preserved and damaged, are described, and their inscriptions are given in the Hebrew original and in German translation. Some of the tombstones are photographed

in their original and their present position, and to these are added maps and photographs of the original cemetery. Included also are the texts of the documents of 1689, 1709, 1747, and 1813 concerning the ownership of the burial place. This is, indeed, an exemplary piece of research both in historical method and presentation of results.

According to information received by this reviewer, one can hope that the continuation of Dr. Steinberg's work on the history of the Jews in Switzerland, covering the period from the end of the Middle Ages to the beginning of the nineteenth century, will soon see posthumous publication.

GUIDO KISCH

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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, 1956. Lieferung 3, 4. Pp. 193-384.

IN 1956 were published two additional fascicles of this extremely important biographical encyclopedia, comprising names from Dolliner to Fasser. The first two fascicles, as well as the biographical project in its general aspect, were extensively discussed in volume XVII (1955), pp. 156-158, of this journal. Instalments 3 and 4 under review show the same fine qualities which characterized their predecessors: accuracy, reliability, and impartiality. Again, a substantial number of bearers of Jewish names and personalities of Jewish descent are found and biographically described in the *Lexikon.* The following instances, taken from among the prominent Austrian Jews listed, may be mentioned. Outstanding rabbis and teachers of Jewish law: Hirsch Baer Fassel, leader of the Reform movement in Hungary, author of works on the "mosaic-rabbinical" law; David Feuchtwang, 1933-1936 chief rabbi of Vienna; Zacharias Frankel, founder and leader of the positive-historical school in modern Judaism, great talmudist, and first president ("Direktor") of the Jewish Theological Seminary of Breslau, editor of the *Monatsschrift für Geschichte und Wissenschaft des Judentums;* Pinkus

(not Pinkas) Frankl, early-deceased gifted scholar, editor with Heinrich Graetz of the *Monatsschrift;* Meir Friedmann, famous talmudist and renowned editor of important rabbinical works; Salomon Funk, authority on biblical and talmudic law. From the secular scholarly world: Armin Ehrenzweig, author of the leading handbook of Austrian civil law; Eugene Ehrlich, father of modern sociology of law; Salomon Frankfurter, librarian of the University Library of Vienna (uncle of Mr. Justice Felix Frankfurter); Sigmund Freud, founder of psychoanalysis; Heinrich Friedjung, Austrian historian of note (*The Era of Imperialism*) and national-liberal politician. In the field of literature and journalism: Ludwig August Frankl, author of the historic revolutionary poem, "Die Universität" (1848), early traveler to Palestine (*Nach Jerusalem!* 2 vols., 1858), champion of care for the Jewish blind; Karl Emil Franzos, author of masterly and widely read novels on Jewish culture and misery in Galicia. From among political leaders: Adolf Fischhof, the initiator and brains of the 1848 Revolution in Vienna; Alfred Fried, together with Baroness Bertha von Suttner, a leading actor in the modern European peace movement, early (1911) Nobel prize winner.

This list could be continued for other avenues of human endeavor. It proves—obviously without any intent of apologetics—the participation and lasting merits of Austrian Jews in the civilization of the Danube monarchy in the period between 1815 and 1950. In the absence of any comprehensive work on the history of the Jews in the Austrian-Hungarian Empire during the century prior to the destruction of its Jewish community, the *Biographisches Lexikon* performs a valuable function in offering important historical information.

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KARL JASPERS. Herausgegeben von *Paul Arthur Schilpp,* ord. Professor der Philosophie an der Northwestern University. (Philosophen des 20. Jahrhunderts). W. Kohlhammer Verlag. Stuttgart, 1957. Pp. xii and 871.

A new type of bio- and ergography appears in this bulky, closely printed volume. Karl Jaspers' "Philosophical Autobiography" fills the first eighty pages. It is followed by twenty-four essays by different authors, all of them philosophers of stature, on concepts of Jaspers' philosophy or aspects of his life-work and biography (about 570 pages). To Professor Jaspers' "Reply" a little more than one hundred pages are

devoted. The volume concludes with a bibliography of Jaspers' writings, comprising sixteen pages.

Despite the fact that this journal is not devoted to research in pure philosophy, a brief note—no more is possible—inviting the readers' attention to this monumental biographical work has a proper place here. "Jaspers is one of the few German scholars who, in the deluge of Nazism, did not waver for one moment. He preferred dismissal from his chair at the University [of Heidelberg] and exposure to danger to making the slightest concession [to Nazism]. In his first address after the downfall of Nazi rule, he designated as 'our undelible disgrace and shame' what happened to the Jews, and assumed even for himself and those few 'who in complete helplessness, outraged and desperate, were unable to prevent it,' metaphysical, though not political or moral, guilt."

This quotation is sufficient evidence that Karl Jaspers' attitude toward Judaism and the Jews—who, by the way played an important role in the philosopher's life—deserves the attention of Jewish historians. The quotation is translated from one of the contributions to the volume, "Das Judentum in Jaspers' Denken" ("Judaism in Jaspers' Thought"), by Julius Izhak Loewenstein (pp. 377-399). Jaspers himself touches on the problem several times in his philosophical autobiography.

This monumental biography will soon be available in English translation.

GUIDO KISCH

MICHAEL WURMBRAND: THE MAN AND HIS WORK. Edited by *Kurt R. Grossmann.* Philosophical Library. New York, 1956. 127 pp.

IN the nineteen-twenties and nineteen-thirties, Michael Wurmbrand was the correspondent of the Jewish Telegraphic Agency in Berlin, Prague, and Paris, and editor of the Agency's *News Bulletin.* After finding refuge in New York during World War II, he wrote for the *Aufbau* until his death in 1952.

In the first part of the book, six of his friends and associates—Nahum Goldmann, Shlomo Bickel, Gershon Swet, Boris Smolar, Kurt R. Grossmann, and Manfred George—record their impressions of his rare personality and their evaluation of his role in Jewish life during the eventful decades following World War I. His son-in-law, the British atomic physicist H. W. B. Skinner, adds personal touches about Wurmbrand within the circle of his family.

More important is the second part of the book, which contains

extracts from Wurmbrand's own works. These include four precious poems, which are in the best tradition of the German-Jewish literary renaissance even if they do fall somewhat short of the superb quality of Karl Wolfskehl or Richard Beer-Hofmann. Of Wurmbrand's six published and unpublished plays, only two scenes are reproduced. They are taken from the first and second acts of *Die Leuchte* (1938), and they reflect the mood of the mid-nineteen-thirties in Central Europe, when Jewish moral resistance to Nazi oppression took the form of a proud yea-saying to Jewishness for a' that and a' that, a proud wearing of the yellow badge. Wurmbrand's many essays and articles are represented by three selections originally published in the *Aufbau,* and a hitherto unpublished sketch, "Glimpse of Eternity," which deals with the life and death of German-Jewish refugees who were evacuated to a ghetto in Eastern Poland and who retained their dignity and humanity in the midst of filth and horror.

Wurmbrand was a quiet, sensitive person of Eastern European origin, who was steeped in Western European learning. He loved Yiddish and wrote an impeccable German. He combined the chassidic fervor of his native Sadagora, the seat of the Ryzhiner Rebbe, and the intellectual skepticism of Berlin, the main center of his literary and journalistic activity. This volume is a fine tribute to him. It will keep his ideas alive for hundreds and affect the flow of thoughts within the minds of a few. No monument of bronze or stone could accomplish as much.

SOL LIPTZIN

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DIE LETZEN DREISSIG JAHRE: RÜCKBLICKE. By *Hans Joachim Schoeps.* Ernst Klett Verlag. Stuttgart, 1956. Pp. 231.

TO write one's autobiography at the age of fifty-seven is quite unusual. So, too, is the synthesis of Prussianism and Judaism which is the leitmotif of the author's life. This volume is a description of the experiences, shaped by world-shaking events, of a highly intelligent and active Jewish youth in pre-Hitler Berlin, in his Swedish exile and in post-war Germany. Narrated in a fascinating style, it not only makes interesting reading, but offers also a contribution to the modern history of German Jewry, in spite of the fact that sometimes abstruse aspects are revealed and incomprehensible, even grotesque, conclusions are drawn. This latter criticism aside, the author has succeeded in becoming a fine scholar, whose work enjoys recognition in the field of religious and intellectual history.

GUIDO KISCH

NOTICES OF RECENT PUBLICATIONS

Josef Benzing, *Bibliographie der Schriften Johannes Reuchlins im 15. und 16. Jahrhundert* (Bibliotheca Bibliographica, ed. by Michael O. Krieg, Vol. XVIII). Walter Krieg Verlag. Wien, 1955. xiv and 50 pp.

Vittore Colorni, *Gli Ebrei nel sistema del diritto commune fino alla prima emancipazione.* Dott. A. Giuffrè. Milano, 1956. 80 pp.

Ernst Ludwig Ehrlich, *Geschichte der Juden in Deutschland* (Geschichtliche Quellenschriften, ed. by Johannes Hartmann). Pädagogischer Verlag Schwann. Düsseldorf, 1957. 95 pp.

Franz Kobler, *The Vision Was There. A History of the British Movement for the Restoration of the Jews to Palestine.* Lincolns-Prager, Ltd. London, 1956. 128 pp.

Jules Isaac, *Genèse de l'Antisémitisme, Essay historique.* Calmann-Lévy. Paris, 1956. 352 pp.

John M. Oesterreicher (Editor), *The Bridge: A Yearbook of Judaeo-Christian Studies.* Volume II. Pantheon Books. New York, 1956. 357 pp.

Marie Pierik, *The Psalter in the Temple and the Church.* The Catholic University of America Press. Washington, D.C., 1957. xi and 101 pp.

M. Y. L. Sacks (Editor), *The Writings of Rabbi Elijah of London.* Mossad Harav Kook. Jerusalem, 1956. (Hebrew).

Hermann Schwab, *Jewish Rural Communities in Germany.* Cooper Book Co. London, 1957. 93 pp.

Emil Utitz, *Egon Erwin Kisch, der klassische Journalist.* Aufbau-Verlag. Berlin, 1956. 213 pp.

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Historia Judaica

THE YELLOW BADGE IN HISTORY

By GUIDO KISCH
New York City

I

MODERN AND GENUINE MEDIAEVALISM

DURING the past years we became accustomed to reading and hearing daily of Jews being discriminated against, deprived of all legal rights, physically injured, even killed outright or put to death by way of concentration camps, forced removal into exile, wholesale deportations, or similar devices of modern civilization, for no other reason than that they were Jews. Such measures, originally directed against the Jews alone but later applied to other religious and national groups as well under the pretext of alleged law, are often characterized as a return to the methods of the "darkest Middle Ages." True, all the means of castigation and ways of oppression used by the Nazis in their powerful attempt to annihilate Jewry and Judaism, from their accession to power until their downfall, lack originality. Indeed, the bulk of their anti-Semitic laws and legal techniques had at least forerunners or parallels, if not

* This essay was originally published in *Historia Judaica,* IV (1942), pp. 95-144, which has been out of print for many years. It appears here in completely revised and considerably expanded form. The present version, therefore, replaces the older one, copyrighted 1942 by the author. It was not the author's intention, however, to supplement it with a history of the Jew-badge under Nazi rule. On the latter see Philip Friedman, "The Jewish Badge and the Yellow Star in the Nazi Era," *Historia Judaica,* XVII (1955), 41-70.

Pages 89-176 reprinted by Kraus Reprint Corporation.

direct models, in mediaeval practice. To mention only one example, as yet generally unnoticed: The "Non-Aryan Laws" of 1933, the first act of anti-Jewish legislation in the Third Reich, although actually aimed only at the Jews, dealt merely with "Non-Aryans"—a concession, probably, to international law and foreign politics unavoidable in the early days of Nazi rule. And even this finds its pattern in Italian statutes of the fourteenth and fifteenth centuries, which provided in general that "no Christian can be imprisoned for debt upon the application of a non-Christian or any person acting for a non-Christian"—this legal provision also being directed first of all against the Jews.[1] Tracing the anti-Jewish measures applied by the National Socialist rulers—the prohibition against holding public office and employing non-Jewish servants, confinement to the ghetto, confiscation of personal property, expulsion from one's native land, etc.—to their mediaeval roots and models offers no difficulty. To a thoughtful observer it would appear, in all probability, as though the mediaeval oppressions and persecutions of the Jews had been extensively and carefully studied by experts in order to revive all the means and methods of by-gone days and to transform them into sharper-edged modern tools. In accomplishing this in a masterly manner the Nazis demonstrated their only originality. Their modernization of mediaevalism bears witness to an unprecedented refinement in force and mercilessness, in disregard for the established principles of law and morals, in complete non-recognition of individual human dignity. Mediaeval culture must, after all, be measured with a yardstick entirely different from that to be applied to twentieth century

[1] Almost identical provisions of this type are contained in the Statutes of Trent (first half of the fourteenth century), Bologna (1449), and Reggio (1480); their text is reproduced in Richard Baumgart, *Die Entwicklung der Schuldhaft im italienischen Recht des Mittelalters* (Berlin and Leipzig, 1914), pp. 432 f. (Trent): "Volumus et ordinamus quod nullus Christianus ad petitionem alicuius non Christiani vel habentis causam ab eo non Christiano pro debito civili personaliter gravari vel capi possit; et si caperetur vel personaliter gravaretur, talis captura et personale gravamen sint nulla et nullum ipso jure et de facto immediate relaxetur et capi faciens eidem Christiano capto vel personaliter gravato teneatur ad omne ejus damnum, expensas et interesse."

civilization. In view of this fact and considering that, up to the height of the Middle Ages, the Jews in Central Europe enjoyed in normal times a comparatively favorable, lawful and, in certain respects, even privileged position, the regulations of the Third Reich in recent years sink to a level unequalled in the history of morality in law.

Viewed in this light, the decrees issued early under Nazi rule compelling all Jews in Germany and German-dominated territories to wear a yellow star of David as a badge of infamy present us with an excellent opportunity for comparing genuine and modern mediaevalism in the sphere of Jewry legislation. It was, indeed, a very refined revival of one of the most harmful and objectionable regulations of mediaeval Jewry-law.

II

Mediaeval Jewish Apparel

The yellow badge, this modern stigmatization as well as its precursor in the Middle Ages, is intended to create an external and easily noticeable mark distinguishing the Jews from the rest of the population. To understand this institution of the yellow badge in its historical development and legal-sociological significance, one must first pose a question concerning the Jewish costume in general, namely, did typically Jewish attire and dress exist at all prior to the mediaeval garb and badge regulations?

Although there is no definite proof that a distinctively Jewish dress was worn in antiquity,[1a] some biblical precepts

[1a] Cf. Eusebius, *Praeparatio Evangelica*, Book ix, ch. xxvii, from Alexander Polyhistor's (fl. at the time of Sulla in Rome) *Concerning the Jews*, in the name of Artapanus, translation from the Greek in Edwin H. Gifford, *Eusebius: Preparation for the Gospel* (Oxford, 1903), p. 464 (434b): "About the same time Chenephers died, having been the very first person attacked by elephantiasis; and he is said to have incurred this misfortune because he ordered the Jews to wear linen garments and not to wear woolen clothing in order that they might be conspicuous, and be punished by him." The Greek text is found in J. Freudenthal, *Hellenistische Studien*, II (Breslau, 1875), p. 234, ll. 30-35.— I owe this reference to the late Professor Alexander Marx.

necessitated, to a certain extent, a distinction of Jewish attire from that of the non-Jewish environment. The injunction against using garments "mingled of linen and woollen" (*Lev.*, 19. 19), so-called *sha'atnez*, imposed the only restriction on material. According to *Num.*, 15. 38-40, and *Deut.*, 22. 12, fringes—threads with a cord of blue entwined—were to be fastened to the four corners of the garments. In addition, *Lev.*, 19. 27, and 21. 5, contain two prohibitions, pertaining to the hairdress, which forbid the removal of the "corners [side-burns] of the heads" and the shaving of the beard. There can be no doubt that these biblical precepts were observed by the Jews in ancient times as well as through many centuries in the Middle Ages. This fact, then, must have had some bearing on the Jews' apparel, even if their costumes did not otherwise differ basically from that of the rest of the mediaeval population. This observation, although seemingly obvious and almost indubitable, deserves special emphasis with regard to the assumption, universally accepted among scholars, that the mediaeval era knew of no specifically Jewish attire prior to 1215, the fateful date of the institution of the Jew-badge by the Fourth Lateran Council.[2]

From comparatively early centuries of the Middle Ages several interesting accounts have come down to us, which testify to the assertion set forth above.

In the biography of Saint Ansgar (died 876), the *Vita S. Anskarii*, composed in the ninth century shortly after his death, there is a passage that "a man [this alludes to Jesus] appeared dressed according to Jewish custom."[3] Earlier in

[2] Cf., e.g., Israel Abrahams, *Jewish Life in the Middle Ages* (London, 1896), pp. 280, 287; *Jewish Encyclopedia*, IV, 296; A. Berliner, *Aus dem Leben der deutschen Juden im Mittelalter* (Berlin, 1900), p. 62; Karl von Amira, *Die Dresdener Bilderhandschrift des Sachsenspiegels*, II. Band: Erläuterungen, Teil I (Leipzig, 1925), p. 39.

[3] Vita S. Anskarii, Chap. 4, in *Monumenta Germaniae Historica, Scriptores*, II (Hannover, 1829), p. 693: "Cumque ab oratione surrexisset, ecce vir per ostium veniebat, statura procerus, judaico more vestitus, vultu decorus." Another reference of the ninth century to "Jewish clothes," especially a kind of head-covering, is found in Joannes Diaconus, *Sancti Gregorii Magni Vita*, in *Patrologia Latina*, vol. 75, p. 207D: "Nam reverendae memoriae Nicolaus pontifex Arsenium, quondam Hortanae civitatis episcopum, judaicas tunc primum pellicias introducere molientem, adeo aversatus est, ut ei palatinam

the same century (839) Bodo, a cleric at the imperial court, abandoned Christianity because of theological scruples and "had himself circumcised, allowed his hair and beard to grow long, changed his name, and boldly assumed the name of Eleazar instead."[4] Almost at the same time Agobard, Archbishop of Lyons (779-840), in his anti-Jewish pamphlet *De insolentia Judeorum*, "Concerning Jewish Insolence," complained of the Jews' "exhibiting women's vestments presented to their wives by imperial princesses or the spouses of court dignitaries."[5] While the first account clearly offers proof of the existence of a traditional Jewish attire, definitely noticed by the non-Jewish world, the last statement is particularly conclusive in itself. It reveals that Archbishop Agobard, the first political occidental "anti-Semite," felt displeasure because some Jewesses did not adhere to their traditional garb but preferred the sumptuousness of costume as displayed only at the imperial court. The problem whether it was the gentler sex that set the example for abandoning Jewish simplicity and forsaking the traditional costume, will be very hard to decide.

Whatever the solution of that question may be, it is a fact that, from the thirteenth to the middle of the seventeenth century, several rabbinical ordinances concerned themselves with Jewish attire and dress. The first rabbinical assembly, which convened probably between 1208 and 1215 in one of the Rhenish communities of ancient renown, Mayence perhaps, decreed "that no one shall cut his hair in

processionem vellet adimere, nisi superstitiosae gentis vestes abjurando, cum sacerdotalibus infulius consuetudinaliter procedere studuisset." Cf. M. Güdemann, *Geschichte des Erziehungswesens und der Kultur der Juden in Italien während des Mittelalters*, II (Vienna, 1884), p. 48; Raphael Straus, "The Jewish Hat as an Aspect of Social History," *Jewish Social Studies*, IV (1942), p. 61.

[4] Prudentii Trecensis *Annales*, ad an. 839, Julius Aronius, *Regesten zur Geschichte der Juden im Fränkischen und Deutschen Reiche* (Berlin, 1902), No. 103 (839), p. 44; Jacob R. Marcus, *The Jew in the Medieval World* (Cincinnati, 1938), pp. 353 f.

[5] Migne, *Patrologia Latina*, vol. 104, p. 74 C: " . . . dum ostendunt vestes muliebres, quasi a consanguineis vestris vel matronis palatinorum uxoribus eorum directas"; Aronius, *op. cit.*, No. 90 (826-827), p. 38; Friedrich Wiegand, "Agobard von Lyon und die Judenfrage," in *Festschrift der Universität Erlangen für Luitpold von Bayern* (Erlangen, 1901), p. 13.

non-Jewish fashion, or shave his beard either with a razor or in such a manner as approximates the effect of a razor, nor shall one wear long hair." Rabbinical ordinances issued as late as 1642 on the island of Corfu, Greece, made it "an obligation for the daughters of Israel . . . to be careful in their clothes, so as not to transgress the prohibition against imitating the Gentiles."

All provisions of this kind doubtlessly originated in the biblical prohibition of a general nature against imitating specifically non-Jewish customs (*Lev.* 20. 23; 18. 3), discussed also by Maimonides (*Mishne Torah, Abodah Zarah,* XI, 1), and reinterpreted in later rabbinical literature in accordance with contemporary conceptions and needs. The recurring emphasis on this biblical admonition offers clear evidence for the recurring discrepancy between the law and everyday life. But this deviation from the precepts of Jewish law was not always motivated only by the natural inclination and desire to follow the customs and fashions in dress of the country of residence. The avoidance of typically Jewish characteristics in attire and garb and their adaptation to the non-Jewish environment were in times and places of danger welcome and even necessary means for diverting general attention from the perilous fact of Jewish identity. In situations of this kind Jews were sometimes even compelled to practice deception in order to save themselves from insults to which they would otherwise have been exposed. Jewesses assumed the nuns' habit, Jews dressed as Christian priests, even wearing genuine priestly vestments, to ensure immunity when travelling. These and like practices, justifiable and tolerated by rabbinical authorities only in situations of danger, probably gained ground among the Jews and were adopted to a much greater extent than admissible on the basis of Jewish law. This was the reason that rabbinical ordinances time and again repeated their prohibitions, with the aim of preventing those temporary expedients of emergency from becoming regular routine in Jewish life.

From all this emerge three important conclusions.

1. A long time before the Fourth Lateran Council made the distinction of the Jews from the Christian population compulsory by means of differences in garb, the Jews had always been easily distinguishable to their contemporaries. Specifically Jewish characteristics in apparel were recognizable in many European countries. The Jews were distinguished, first of all, by their beards worn as required by Jewish ritual law, and no less by their particular headcovering. The older form of the "Jewish hat," *pileus cornutus,* i.e., horned hat, is conical and low without a brim or with only a very narrow one. The top often bends over, so that the "horn" of the *pileus cornutus* is distinctly marked. From this three different later types developed, all of them made of felt and characterized by a broad-brimmed or even hemispherical cap surmounted by a long narrow shaft ending in a globular knob. While the latter more recent forms are commonly found in paintings on glass and in illuminated manuscripts from the twelfth century on, particularly in Germany, the older design is traceable only to the eleventh century. There can be no doubt, however, that it goes much further back than that, although its ultimate origin has not yet been discovered or elucidated satisfactorily. Most probably the allusion to "dress according to Jewish custom," in the biography of Saint Ansgar from the ninth century, cannot refer to anything other than to the Jewish beard and hat. They were, indeed, characteristic of Jewish apparel in the Middle Ages. The Jewish minnesinger Süsskind von Trimberg is pictured with both these features in the famous *Manesse Codex of* the thirteenth century. And when, in one of his poems in Middle High German, he expressed his desire to abandon poetry and to retire from the profession of troubadour, to change from a minnesinger to a Jew, he openly declared, "he will allow his beard of gray hair to grow long, henceforth will go on to live as old Jews live, his cloak shall be long, deepshaded by a hat, he will walk in all humility."[6]

[6] Meier Spanier, "Süsskind von Trimberg," in *Zeitschrift für die Ge-*

2. As evidenced in the examples presented above, there always existed among Jews the tendency to adjust their traditional attire and costume to the manner and fashion preferred by the world surrounding them. The degree of assimilation in garb differed in various countries. In thirteenth century Spain, for example, "Christian and Jew dressed one like the other." In Northern France, from the twelfth to the fourteenth century, Jews were indistinguishable in attire from the Christians among whom they lived. They used to walk bareheaded, and it is well known that in France the unique custom existed of ascending bareheaded to read the Torah. In Germany and the rest of Central Europe, on the other hand, beard and headdress, as traditionally worn, put distinguishing marks on the Jews even in times when, after the adoption of the national costume of their places of residence, all other differences in their appearance had almost completely vanished.

schichte der Juden in Deutschland, VII (1937), 152 ff.:

Ich var uf der toren vart
mit miner künste zware,
daz mir die hêrren niht welnt geben,
daz ih ir hof wil vliehen,

Unt wil mir einen langen bart
lân wahsen griser hare,
ich wil in alter Iuden leben
mich hinnan vür wert ziehen.

Min mantel der sol wesen lang,
tief under einem hute,
demüteklich sol sin min gang
und selten me gesingen hovelichen sang,
sid mich die hêrren scheiden von ir guote.

For bibliography on Süsskind von Trimberg, see Aronius, *op. cit.,* No. 397, pp. 178 f.; Spanier, *op. cit.,* pp. 138 f., n. 1, to which an interesting work of fictionalized history is to be added, Joseph Kastein, *Süsskind von Trimberg oder die Tragödie der Heimatlosigkeit* (Jerusalem, 1934). Recently an attempt was made to question that Süsskind von Trimberg was Jewish; see Raphael Straus, "Was Süsskint von Trimperg a Jew?" *Jewish Social Studies,* X (1948), 19-30; cf. Guido Kisch, *The Jews in Medieval Germany: A Study of Their Legal and Social Status* (Chicago, 1949), p. 518, n. 24. The best color reproduction of Süsskind von Trimberg's picture from the *Manesse Codex* is found in *Philo-Lexikon, Handbuch des jüdischen Wissens* (Berlin, 1936), plate 7 facing pp. 151-152.

3. These traditional marks of Jewish distinctiveness, to some extent imposed by Jewish law yet adhered to voluntarily by the Jews, carried no connotation of any diminution in their legal rights or even in their social standing. This applies generally to times of peace and is by no means contradicted by the fact that in times and places of danger the desire for self-protection naturally came to the fore. Otherwise the recurrence of rabbinical ordinances, prohibiting the imitation of non-Jewish fashions, would have been entirely out of place and meaningless. The rabbis would not have persisted in enforcing customs and practices which had proved harmful or dangerous to Jewish life.

The Middle Ages were a period of the greatest variety and differentiation in social classes or "estates" (*Stände*). Differences in costume arose from differences in class, means, profession, and other factors. "Clothes made the man." Everyone's position, from beggar to king, was easily recognizable from his clothing. The dress of clerics and professional men was prescribed by established tradition, that of the laboring and agricultural classes was dictated by considerations of convenience. Mediaeval literature throws into relief this unswerving loyalty to traditional custom by designating the costumes of the several classes as "conforming to law" (*junkherren und knehte, gekleidet nâch ir rehte*). Members of one and the same social group were knit all the more closely together by their identical garb, a kind of symbolic bond.

This applied to Jews no less than to all other groups in mediaeval society. From the point of view of the world that surrounded the Jews in the Middle Ages, this problem was no different for them than it was for the rest. This attitude becomes evident from numerous illustrations in mediaeval manuscripts, representing Jews and members of other classes of the population in their distinctive attire, yet on the same footing and without disparagement of the Jew. In the illuminated manuscripts of the *Sachsenspiegel*, all of them going back to a lost archetype from the end of the thirteenth century, Jews are pictured side by side with sol-

diers in full accoutrement, with Franks and Saxons standing before the judge, and also with clerics, each type clearly identified by costume, mark of distinction, or symbolic attribute, the Jews by their beards and pointed hats. There are no pejorative implications in these pictorial representations of Jews; this is true also of the well-known miniature of the Jewish minnesinger Süsskind von Trimberg in the Manesse manuscript, who is pictured in fashionable dress, though with beard and pointed hat, standing before the bishop [of Constance?] and other dignitaries.

The same conclusion flows from the fact that the Jewish hat was employed, among other symbols, as a sort of coat of arms on Jewish official and private seals in the thirteenth and fourteenth centuries. Jews would never voluntarily have used symbols of degradation as their personal emblems.[7] And the occurrence of a variety of emblems on mediaeval Jewish seals, such as the crescent, the signs of the zodiac, fishes, the *Magen David*, and so forth, is proof that their choice was left to the Jews. Archbishop Rimbert, in his biography of Saint Ansgar, did not shrink from characterizing even Jesus as "a man dressed according to Jewish custom." If, on the other hand, Pope Nicholas—also in the ninth century—opposed the wearing by the bishop of Orta of a headdress resembling that worn by Jews, his motive was evidently to keep away from the Church things Jewish.

In point of historical development, socially as well as legally, there is a striking parallel between the Jewish garb and the ghetto. The living together of Jews in separate quarters of mediaeval cities originated, just as did their typical attire, in religious precepts and needs and established social traditions and, to a certain extent also, in considerations of occupational convenience. As long as garb and ghetto represented voluntary institutions not subject to any compulsory regulation from outside, no diminution in legal

[7] The argument of Chayim Lauer, who takes the Jewish hats as chalices, is not based on unobjectionable premises nor is it at all convincing; Ch. Lauer, "Zur Geschichte des 'Zürcher Semak'," in *Jahrbuch der jüdisch-literarischen Gesellschaft zu Frankfurt a.M.*, XII (1918), pp. 16, 326. Cf. G. Kisch, *op. cit.*, p. 518, n. 25.

status or social degradation attached to them. The change to the latter connotation became effective, however, the moment garb and ghetto were transformed from voluntary institutions to compulsory ones imposed by ecclesiastical and secular legislation regardless of their own will. The relegation of Jews to restricted dwelling-places and to wearing a prescribed garb implied their exclusion from the ordinary ("Christian") quarters and from wearing the common costume. The inevitable consequence was not only discrimination against the Jews legally, but also the beginning their degradation socially. While in the development of the ghetto this phase was reached in Germany at the end of the thirteenth and in Italy only in the sixteenth century, the transformation of Jewish garb into a badge of shame began as early as 1215.[8]

Before turning to a discussion of the memorable decree of the Fourth Lateran Council held in the year just mentioned, a problem should be touched on briefly which has played a considerable role in the pseudo-scientific discussion of Nazi "scholars" and in anti-Semitic propaganda. Is there, indeed, satisfactory evidence from pictorial sources to corroborate the racist assertion that the so-called "Jewish nose" was clearly recognized as a distinct sign of racial differentiation as early as the Middle Ages? It was Wilhelm Grau, the official Nazi expounder of Jewish history, who main-

[8] The ideological connection of ghetto and garb in their historical development is evidenced by the following passage from Johannes Purgoldt's *Law Book* from the beginning of the sixteenth century, ed. Friedrich Ortloff (Jena, 1860), book VIII, article CII: "Allen enden sullen dye iuden underscheit haben an husern, an kleydern und an andern dingen. Ir huser sullen gesundert sey us den cristen, und bey einander, und seyle uber dye gassen gezcogenn. Ir kleyder sullen auch gesundert seyn von den kleydern der cristen: dy man sullen keyne kogeln tragen, sundern hoer filtzhut. Das schribt der babst Innocentius der erste. Daruf so stehet auch geschriben in dem wichpildsrechte, das kein iude us seyner schule ader us seyme huse gehen sulle uf die strasse ane huett. Dye man sullen auch stefeln an tragen, und ane holtzschun gehen; dy wyber mit umbgewunden sleygern und mit witen heubtfenstern an denn menteln, und ane holtzschw. Das sye nhw aber anders gehen, das ist eyn zceichen, das den fursten ir golt lieber ist wan gotes ader der heylgen cristenheit ere." The prohibition against Jews wearing certain types of boots and the compulsion to wear certain others are likewise found in Islamic countries in the beginning of the fourteenth century; cf. *infra,* note 14.

tained: "The pictorial representations which have come down to us from those days show distinctly that even the Middle Ages recognized and learned to despise the different race of the Jews by their crooked noses."[9] His only proof is a "Jewish nose" found in a wood-cut of a Jewish-Christian disputation, taken from an anti-Jewish book of 1477 and again used as a frontispiece by Grau for his *Antisemitismus im späten Mittelalter* (Antisemitism in the Late Middle Ages). This outspoken Nazi view received unintentional support from a statement by a Jewish author: "From the very beginning of European art in the early Christian centuries a ridiculous type was created to represent the Jew, generally a gnarled and decrepit being with sharply pointed and well-accentuated features, weak-kneed and woebegone, with a pointed, dishevelled beard, clad in a loose gabardine and some sort of a round cape. In the later Middle Ages, beginning with the twelfth century, the conical or funnel-shaped hat and the yellow badge were added to this type."[10]

It is true that anti-Jewish caricatures have come down to us, especially from the period when, after the invention of printing, mass production and the dissemination of broadsides for religious and political propaganda came into being. The broadside, this "intellectual scourge" of the Reformation era, in all fields of its activity successfully employed exaggeration and over-exaggeration, the characteristic feature of this type of literature and pictorial representation. It is by no means accidental, therefore, to find "Jewish noses" in one of the wood-cuts of 1475, which depicted the alleged ritual murder at Trent. There is no connection, however, with the legitimate pictorial representations of Jews that are preserved and can be studied in hundreds of illuminated manuscripts of the Middle Ages. There Jews are pictured in various social settings, appearing even before emperors and high church dignitaries. In spite of their Jewish at-

[9] Wilhelm Grau, *Antisemitismus im späten Mittelalter* (Munich, 1934), p. 136.

[10] Joseph Reider, "Jews in Mediaeval Art," in *Essays on Antisemitism* (New York, 1942), p. 51. See now G. Kisch, *op. cit.*, pp. 311-316.

tributes, that is, beard and hat only, their completely dignified apparel, bearing, and gestures show them to have been figures far from debased in the conception of the Christian artists. This may readily be seen by a mere glance at the much reproduced picture of Süsskind of Trimberg before the bishop of Constance of the thirteenth century, already mentioned, or of Josephus before Vespasian in a Fulda manuscript of the twelfth century, also well known in the literature.[11] Among the hundreds of mediaeval illustrations that bear witness to the truth of this general observation may be mentioned particularly the representation of Philo in an Admont manuscript of the eleventh century[12] and the picture of a Jew side by side with a Christian priest in the Heidelberg and Dresden *Sachsenspiegel* manuscripts from the fourteenth century.[13] In an intensive study of continental illuminated manuscripts of the Middle Ages, extending over more than thirty years, the present writer was unable to discover "Jewish noses" prior to the second half of the fifteenth century.[13a] While the Nazi assertion, transparent in its propagandist aim, can be dismissed without detailed refutation, the Jewish author's erroneous theory has been thoroughly disproved elsewhere by this writer. The Jew as a despised and decrepit member of an inferior race is by no means the prevailing conception in mediaeval art.

III

The Badge of Shame

On November 11, 1215 a most brilliant assembly of 412 bishops, 800 abbots and priors, numerous representatives

[11] Reproduced in *Encyclopedia Judaica*, IX (1932), 403-404.

[12] Reproduced in Howard L. Goodhart and Erwin R. Goodenough, *The Politics of Philo Judaeus with a General Bibliography of Philo* (New Haven, 1938), plate facing p. 178; and G. Kisch, *Pseudo-Philo's Liber Antiquitatum Biblicarum* (Notre Dame, 1949), plate facing title page.

[13] Reproduced in G. Kisch, *Jewry-Law in Medieval Germany: Laws and Court Decisions concerning Jews* (New York, 1949), plate facing p. 38.

[13a] The sole reference to this distinctive mark in a non-pictorial document from the Middle Ages known to this author is from the year 1451; cf. G. Kisch, *The Jews in Medieval Germany*, pp. 545 f., n. 156; with reference to the following sentence see *ibid.*, pp. 311-316.

of prelates and cathedral chapters, and deputies of almost all Christian princes convened in Rome in the Church of San Giovanni in Laterano. Pope Innocent III (1198-1216) presided over this illustrious gathering, the Fourth Lateran Council, one of the most important ecumenical councils and of lasting influence on Christian faith and life all over the world. In canon 68 the conciliar decrees ordained that "Jews and Saracens of both sexes in every Christian province and at all times shall be marked off in the eyes of the public from other peoples through the character of their dress."

It is well known that Innocent's activities as pope were largely concerned with the two problems of reviving and propagating the orthodox faith and firmly establishing the political power of the papacy. Christendom, he maintained, was not only a moral unity but a visible, concrete world state under clerical guidance; although it was governed by territorial rulers, yet each part and the whole must recognize the supremacy of the Roman See and the plenitude of power held by Peter's successor, the representative of Christ. It was entirely in line with this conception to lay down rules also for the small number of Jews then living among Christian peoples. Innocent III initiated no really new legislation with regard to the Jews: he merely elaborated on the traditional Church policy or sought to enforce older decrees by drastic measures. As early as 1205 he formulated the theological doctrine of the "eternal servitude" of the Jews, which was most sharply emphasized and referred to their guilt for Jesus' death. Like Cain they were to be wanderers on earth, moving from place to place until their countenances should be filled with shame and they should seek the name of the Lord. This doctrine, until then conceived only theologically, now acquired—probably not unintentionally—a political coloring. And it is by no means merely accidental that, as early as 1204, Innocent III expressed the desire to mark the Jews.

Viewed in this light, the general tendency of Pope Innocent's Jewry legislation, particularly in the matter of dress, becomes more understandable. The Jew should be

segregated socially even more strictly than he had been in the past. The anti-Jewish laws enacted by the Christianized Roman Empire and the Church were to be observed scrupulously, so that the repression of the Jew might serve as a warning example to those vacillating Christians who might be tempted to succumb to the religious influence of this or any other infidel group. For this purpose a measure was introduced not derived from previous conciliar enactments, the prescription of a distinctive Jewish garb.

Distinguishing clothes or marks were by no means an original invention of the thirteenth century. Their origins —probably reaching back to Byzantium and the caliphate— are not yet satisfactorily elucidated. The idea of imposing an outward mark of discrimination on "unbelievers" occurs, however, as early as 634, when the second calif, Omar, commanded these to wear a girdle, headgear, and a seam on their upper garments, all of which were to be yellow for the Jews, blue for the Christians, and black for the Magi. This regulation was often repeated and was extended to all countries under Islamic rule. Whether it can be linked up with the decree of the Fourth Lateran Council concerning the costume of the Jews must remain an open question for the time being.[14] This decree might well have been some sort of retaliation for a similar restriction imposed on Christians in Islamic countries, since the conciliar decree applied, according to its wording, to Saracens as well as to Jews.

Be this as it may, and irrespective of the historicity of alleged cases of Jew-badges ordered to be worn in European countries prior to 1215, so much is certain: The papal decretals went into every country, and the conciliar decrees were valid for the whole of Christendom. There is also no doubt that ecclesiastic propaganda turned the Jewish question into a problem of international importance. Hence it is only in accord with the logic of events that sooner or later

[14] On the history of the Jew-badge in Islamic countries see Ilse Lichtenstadter, "The Distinctive Dress of Non-Muslims in Islamic Countries," *Historia Judaica*, V (1943), pp. 35-52; Morris S. Goodblatt, *Jewish Life in Turkey in the XVIth Century* (New York, 1952), pp. 127 f.

the conciliar decree of 1215 ordering the distinction in Jewish garb should have been enforced in the various Christian countries. It not only remained Church law of all-encompassing authority, but was also introduced into secular legislation. Consequently, the Jews, too, were subjected to the laws of the Church. However, it took a century or two before the instruction of the badge was firmly rooted in almost the whole of Europe.

Among the secular powers England was the first to impose upon the Jews the obligation of wearing badges to distinguish them from non-Jews. Under the powerful influence of the Church, King Henry III decreed as early as 1217 that Jews should wear on the front of their upper garment the two tables of the Ten Commandments made of white linen or parchment. In 1222 the Council of Oxford made it a requirement that each of the tables be two fingers broad and four long while the color should differ from that of the garment. Under Edward I, in 1275, the white color was changed to yellow, the length to six fingers, the breadth to three, and the obligation of wearing the badge was extended to Jewish women on pain of severe penalty.

France, where sporadic cases of distinguishing marks for Jews are recorded even before 1215, speedily followed. Shortly after the Fourth Lateran Council a papal decree ordered Jews "to wear clothes by which they would be distinguishable among the Christians, but were not to be forced to wear such as would lay them open to the danger of loss of life." Rabbi Isaac ben Moses of Vienna, who sojourned in Paris probably in 1217, relates in his work, *Or Zarua* (II. 39 a): "When I, the author, was in France we used to wear round signs [wheels] upon the clothes for thus it was decreed against the Jews at the time. . . . Some used to sew them into the garment. . . . Others used to make a circle from parchment and attach it to the garment by means of a needle . . . and my teacher, R. Samson of Coucy, . . . decided them to be permissible [for wearing on the Sabbath] because the wheels were attached to the garment." The use of the badge, however, seems not to have become general in

France until 1269, but to have differed locally. It was Louis IX who in that year imposed the badge on the Jews generally, after several French Church councils had already sought to enforce the Lateran decree. Men and women were to wear badges on the outer garment, both front and back, round pieces of yellow felt or linen, a palm long and four fingers wide. Caught without this badge, the Jew was to lose his upper garment to his denouncer; for relapse after previous conviction, a fine of ten pounds was imposed, the money to be dedicated by the king to pious purposes. Despite all countereffforts by the Jews, this edict soon went into effect and was subsequently re-issued. Under King John the color of the badge was changed from saffron yellow to particolored red and white. The age at which its display became compulsory varied locally between the seventh and thirteenth or fourteenth year. At times women had to wear a veil called *orales*. Philip IV commercialized the institution by making the Jews pay an annual sum for the use of the badges, just as in our own day automobile license plates are sold by the authorities.

The introduction of the Jew-badge on the Iberian peninsula varied in the different kingdoms. When, shortly after the Lateran Council, strict enforcement menaced the Jews in Castile, they began to emigrate to Moorish territory and threatened to leave the country altogether and thus to weaken considerably the financial strength of the kingdom. Thereupon, in 1219, Pope Honorius III had to grant a postponement, enabling Ferdinand of Castile to suspend the law until a more propitious time. The badge was enforced only in the middle of the fourteenth century; in the beginning of the fifteenth an order was added forbidding Jews of both sexes to dress in the national costume, only long cloaks reaching down to the feet being allowed to them. In Aragon the badge was introduced in 1228, in Navarre in 1234, in Portugal as late as 1325. Many exemptions were granted either for distinguished services, as in the case of physicians, or for a money consideration; in France exemptions from wearing the badge were allowed only for travel. In Spain as well

as in Portugal the use of the badge seems not to have become universal in the short period prior to the expulsion of the Jews from these countries.

Distinguishing marks found general application in Italy only in the fifteenth century, except for Sicily where Frederick II as early as 1221 compelled the Jews to wear a distinctive costume. In the Italian countries, too, the badge generally took the form of a wheel—in Rome its diameter had to be at least one finger in length—while in Venice, Parma, and Verona the oval shape of an O was employed. Women had to wear on their veils two strips of blue color. Later, Italian Jews had to wear yellow birettas, and finally hats of black felt threaded with red. By Pope Paul IV's decree of 1555 the headgear of Jewesses had to be made of a quadrangular piece of yellow cloth of about one yard. In order to avoid this stigmatizing conspicuousness, many Jewesses preferred to dress altogether in yellow.

As for Germany, Austria, and Bohemia, no explicit mention of the yellow or red wheel as a Jew-badge is found in the sources prior to the fifteenth century. This is doubtlessly due to the fact that in these countries the Jews were already differentiated and easily distinguishable by their "horned hats" which they had always worn of their own free will in accordance with old tradition. The wearing of these hats was made obligatory, however, from the second half of the thirteenth century onward, as attested by several law sources of that time. In particular, the laws required that Jews wear the hat on leaving the synagogue and when taking an oath.[15] The Jew-hat was also employed for pub-

[15] No provision of this kind is found in the oldest mediaeval lawbook of Germany, the *Sachsenspiegel* (*ca.* 1220-1235). According to its South-German counterpart, the *Schwabenspiegel,* composed about 1275, article 214, 10, ed. Gengler, "the Jews shall wear hats that are pointed; thereby they are marked off from the Christians, so that one shall take them for Jews" ("die juden suln hüte tragen, die spitz sin; da mit sint si uz gezeichent von den christen, daz man si für juden haben sol"); *Weichbild-Vulgata* (second half of the thirteenth century), ed. Daniels-Gruben, art. 139: "Judaeus etiam synagogam exire non debet sine mitra judaica"; *Meissener Rechtsbuch* (*ca.* 1357-1387), ed. Ortloff, III, 17, 47: "Von ersacztem alden rechte sal keyn jodde usz der synagogen gen ane hud." As for the wearing of a Jewish hat during the oath ceremony, cf. *Meissener Rechtsbuch,* III, 17, 46: "Ist abir dy sache obir

licly pillorying Christian usurers and Christian women convicted of sexual relations with Jews. The same headgear also accompanied on his last journey the Jewish offender sentenced to death.[15a]

The transformation of a traditional custom into a compulsory obligation was effected in Germany, too, in response to the numerous regional Church councils which, time and again, called for the strict enforcement of the Lateran Council decrees.[16] All this offers ample evidence of how erroneous, though generally accepted, the opinion is that it was "love of justice" alone on the part of the German emperors which kept them from an earlier introduction of the badge.

While the hat remained the chief distinguishing insignia of Jews in Germany, Austria, and Bohemia throughout the fourteenth century, it was mainly due to the influence of the papal legate and philosopher Nicholas of Cusa and of the fanatical Franciscan preacher John of Capistrano that the enforcement of a distinctive badge was finally accomplished in the course of the fifteenth and sixteenth centuries.

funfczig lodige margk, so sal he swern uf deme rodal, unde sal eynen grauwen rogk ane habe ane hemmede an blosser hud, unde zcwu graue hossen ane vorfusse, unde eyn hud, der mid lammesblute gefuchted sy, do sal he uffe sten, unde eynen spiccen hud uff deme houbte"; similarly, according to the Jewry-oath formula in a fourteenth century manuscript of the Leipzig University Library; G. Homeyer, *Die deutschen Rechtsbücher des Mittelalters,* (Weimar, 1931-34), No. 681; C. G. Haltaus, *Glossarium* (see note 17), p. 1053; cf. also Otto Stobbe, *Die Juden in Deutschland während des Mittelalters* (Braunschweig, 1866), p. 274, n. 167.

15a See G. Kisch, "The 'Jewish Execution' in Mediaeval Germany and the Reception of Roman Law," in *Studi in memoria di Paolo Koschaker: "L'Europa e il Diritto Romano,"* Vol. II (Milano, 1954), p. 67, n. 2; p. 72, n. 5. A reference, by regrettable oversight omitted in that essay, may here be supplemented: Saul Lieberman, "Sin and Its Punishment: A Study in Jewish and Christian Visions of Hell," *Louis Ginzberg Jubilee Volume,* Hebrew Section (New York, 1945), pp. 249-270, especially 265 f.

16 Provincial Council held in Breslau in 1267, Aronius, No. 724, p. 302: "Item statuimus atque ordinavimus, ut judei cornutum pileum, quem quondam in istis partibus consueverunt deferre et sua temeritate deponere praesumpserunt, resumerent, ut a Christianis discerni valeant evidenter, sicut olim in generali concilio fuit definitum. Quicumque autem judaeus sine tali signo deprehensus fuerit incedere, ad moreum terrae poena pecuniaria puniatur." Similar decrees were issued by the Church Councils of Vienna in 1267, Olmütz in 1342, Prague in 1355 (*pilea lata*), Salzburg in 1418; cf. Stobbe, *op. cit.,* p. 273, n. 166; also Johannes Jodocus Beck, *Tractatus de Juribus Judaeorum: Von Recht der Juden* (Nürnberg, 1741), p. 45.

Already in 1418 the Council of Salzburg had suggested that Jewish women wear tinkling bells as well as badges on their garments. By the fifteenth century the Jews were forbidden to wear head coverings in the shape of a helmet, the *Gugeln* —derived from the Latin *cucullus*—which had become widespread among the middle and lower classes in Central Europe and were also customary, to a certain extent, among the Jews.

Thus, even if only slowly, the yellow badge—called in German *gelber Fleck* (yellow stain)—gradually found its way into German and Austrian legislation and everyday practice. In 1434, in the city of Augsburg—probably the first instance in those countries—a yellow wheel, called *Ringel,* was ordered to be attached to the breast of the garments of Jews, while Jewesses had to wear pointed veils. This ordinance was extended to all of Germany by the *Reichspolizeiordnung* of 1530 (art. XXII). In some towns, such as Worms, perhaps also Zürich, Jews were required to display a distinctive sign on the facades of their houses. In the Austrian provinces a decree of Ferdinand I, in 1551, made it obligatory for Jews to wear upon the left front-side of the coat or dress a yellow wheel two centimeters wide and eight centimeters in diameter. Any Jew caught without this mark was to forfeit all garments from which he had dared to leave off the distinguishing insignia. The spoils were to be divided between the authorities and the informer, who received his share as a reward. Stripping the transgressor of all his clothes exposed him, furthermore, to public humiliation. Repeated violation meant the expulsion of the offender and his family from all Austrian lands. This decree was typical of the legal status of the Jews in large parts of Europe at that time.

Only a small fraction of all the complicated laws concerning the yellow badge and distinctive garments to be worn by the Jews can be mentioned in these pages. The outline of the historical development, as presented here, brief and sketchy as it must be, reveals nevertheless with full clarity how the "marking off of the Jews in the eyes of the

public from other peoples through their dress," as decreed by the Fourth Lateran Council, became an international system of laws intended and employed to suppress human freedom and dignity for more than five hundred years.[17]

IV

Discrimination Against the Jews

In its decree concerning the distinguishing garb of the Jews the Lateran Council had set forth three reasons for that stringent measure. First, "while in some Church provinces a difference in dress distinguishes the Jews or Saracens from the Christians, in certain others such a confusion has grown up that they cannot be distinguished by any difference." Secondly, "it happens thus at times that through error Christians have relations with the women of Jews or Saracens, and Jews or Saracens with Christian women." In order to prevent such relations or pretexts of mistake leading to illicit intercourse, a distinctive dress was made obligatory in general. And this more particularly for a third reason, namely, that this very law had been enjoined upon them already by Moses.

To begin with the third reason: This application of the law of the fringes to the law of the badge is far-fetched and can be easily disposed of. The very reference to Mosaic law, moreover, shows clearly that the ordinance concerning the badge was intended primarily for Jews, because their laws could not apply at all to the Saracens who also were mentioned in this connection. A mere glance at the pertinent biblical passage, *Numbers* 15. 38-40, offers plain evidence for an entirely different meaning and a purely religious aim expressed in its precepts. No difference at all in costume

[17] A Christian author of the middle of the eighteenth century, Christian Gottlob Haltaus, puts it aptly in his *Glossarium Germanicum Medii Aevi* (Leipzig, 1758), p. 1048: "In vita communi vestitum inusitatum et notam aliquam gestare cogebantur, verbo quidem ad distinctionem, re autem vera ad ludibrium et traductionem."

for the purpose of distinguishing Jews from non-Jews was prescribed by Moses. Indeed, the third reason was invariably dropped from the numerous papal decretals and conciliar decrees, which frequently repeated and emphasized the garb regulation of the Fourth Lateran Council for every part of the world. The reference to the Mosaic command was not even embodied in the Canon Law Code, the *Corpus Juris Canonici*.[18]

The second reason, on the contrary, was almost always reiterated in the later ecclesiastical legislation. Since it is based on the first reason advanced in the Lateran decree, the implications of the latter may be considered first.

Some scholars precluded a proper understanding of this very plain passage by putting unnecessary obstacles in their own way. While the conciliar decree clearly speaks of Jews distinguishable by their different garb in "some" (*in nonnullis*) Church provinces, these authors tried to establish the "certain" provinces where a difference already existed and, more, even where the Jew-badge was presumably in use prior to 1215. The introductory clause of the decree, however, merely made a statement of actually prevailing conditions: that in some countries the Jews were distinguishable, namely, by their traditional marks—their beards and headgear—whereas in other countries they were no longer distinguishable, probably due to those "assimilatory" tendencies described in the second chapter of this essay. Consequently, no particular distinguishing marks were appointed in the conciliar canon, their choice being left to future provincial Church and state legislation. All this explains in the simplest way why in some ecclesiastic provinces Jewish garb and the Jew-badge in particular were made obligatory by law earlier, and in others at a later date. To mention an individual example, the yellow badge made its first appearance in Germany as late as the fifteenth century. It was preceded by the Jewish hat which, first worn of the Jews' own free will,

[18] Aemilius Friedberg, *Corpus Juris Canonici*, II (2nd ed., Lipsiae, 1881), p. 777; cf. Stern, *Urkundliche Beiträge über die Stellung der Päpste zu den Juden*, II, p. 8, n. 3.

from the second half of the thirteenth century onward was transformed into a compulsory Jewish insignia. In contradistinction, in other countries such as England, some parts of France, Spain, and Sicily, Jewish "assimilation" in garb had already progressed so far by 1215 that the execution of the Lateran Council precept there was almost instantaneous. Thus in this respect the first reason advanced in the conciliar argument seems indeed to have corresponded to the actual conditions existing at the time.

This conclusion may have implications also for the second reason set forth by the Lateran Council in its canon 68, namely, sexual relations between Jews and Christians. It was expressly stated therein—and this is in conformity with Jewish sources—that such relations occur *interdum,* "at times," that is, now and then. This fact, however, by no means bears out the opinion advanced by Johannes Scherer, and later accepted by other scholars, that this reason, officially expressed in the conciliar decree, was actually fictitious and was presented merely as an excuse for the introduction of discrimination against the Jews, while the real and sole intent was to mark the unbelievers and segregate them from society. Nor is this assumption supported by the observation that regional Church councils, in later times, threatened sexual relations between Jews and Christians with various punishments of a seemingly milder character.[19]

It must rather be borne in mind that it was precisely the Fourth Lateran Council which, in its third canon, later incorporated in the Canon Law Code, the *Corpus Juris Canonici* (c. 13 X. 5, 7), issued extensive regulations concerning heretics and imposed on the secular powers the particular duty "to exterminate all heretics from the lands under their jurisdiction to the best of their ability" (*pro viribus exterminare*). Secular legislation quickly responded. Within two and a half decades laws in various countries placed heresy under the penalty of death at the stake, thus much intensifying the severity of the punishments previously

[19] Solomon Grayzel, *The Church and the Jews in the XIIIth Century* (Philadelphia, 1933), p. 62, n. 101.

applied. A thirteenth century source, the South German law-book *Schwabenspiegel,* of about 1275, assigns the penalty of death by fire for the serious crime of sex relations between Christian and Jew. The justification for this severe penalty imposed for this "denial of the Christian faith" places it beyond doubt that such relations were considered by the Christian world to be cases of heresy. As far as Christians were concerned, the Church was in a position to force the secular authorities to execute the ecclesiastical punishment by the addition of secular penalties. In the case of the Jews, however, who were not considered heretics under Canon law, the Church had to resort to different preventive measures. Hence it was quite in line with anti-heretic policy for the Fourth Lateran Council to seek to prevent sexual relations of a heretical nature by extraordinary measures of exceptional severity.

If this line of argument is conclusive in itself, then there is no need of unwarranted exculpation or justification of the popes, as attempted by some authors.[20] As for Pope Innocent III, his letter addressed to the archbishops and bishops of France shortly after the Lateran Council, in 1215 or 1216, unmistakably lays bare his attitude. The Pope realized that distinctive clothes involved risks with respect to personal inviolability and therefore decreed that "the Jews should not be forced to wear such garb as would expose them to the danger of loss of life."[21] This was interpreted to mean that they should be excused from wearing badges when on a journey, which later became the general custom.

But even if the prevention of intermarriage and extramarital sexual relations between Christians and Jews is to be recognized as an aim of the badge law issued by the Fourth Lateran Council, it must not be overlooked that this was only a specific means to put into execution the general Church policy of segregating the Jews from Christian so-

[20] Abrahams, *op. cit.*, p. 300; Felix Singermann, *Die Kennzeichnung der Juden im Mittelalter* (Berlin, 1915), p. 48.

[21] Grayzel, *op. cit.*, p. 140, No. 31: "Mandatur ut permittant judeos talem gestare habitum per quem possint inter Christianos discerni, nec ad talem portandum compellant, per quem possint vite dispendium sustinere."

ciety. In this way losses to the Christian religion by close contact of its adherents with Jewish life were to be prevented. In its endeavor the Church was for a long time unsuccessful. Social intercourse and cordial relations persisted between followers of both religions up to the thirteenth century, naturally not without temporary interruptions in certain periods. Pope Innocent's very demand that Jews should be easily distinguishable shows that, in his day, there were no great differences between Jews and Christians, either in speech or in dress. Thus all the more urgent appeared the necessity to exert influence upon the secular powers to enforce the "badge of shame" in order to draw a sharp line of demarcation between the true believers and the world of unbelievers.

The reasons advanced to justify the introduction of the Jew-badge vary in the different legislations. It is understandable that the purpose of preventing illicit intercourse between Christians and Jews should frequently be repeated in papal decretals and conciliar decrees. The great theologian and philosopher, Thomas Aquinas, in his *responsum* to Duchess Aleidis of Brabant, issued between 1261 and 1274, completely followed the Lateran Council's argumentation in canon 68.[22] This also penetrated into secular legislation and was retained by it as late as 1760, when Empress Maria Theresa changed the yellow wheel to a yellow cuff in Austria, "to prevent sinful intercourse of young Jews with loose women."

Even in mediaeval Church legislation, however, various other reasons were cited to make the introduction of stricter enforcement of the badge plausible. Frequently it is added that the Jews wear not only clothes indistinguishable from those of the "gentles," but such as give them an aristocratic appearance. Sometimes the complaint is voiced that Jews are mistaken for clerics and as such respectfully saluted. Other documents stress that the Jews have to be set apart by a distinguishing garb because of their guilt in killing the Savior and in permanently remaining enemies of Christ's

[22] Aronius, No. 770, p. 326.

Cross; the latter opinion in particular was repeated by Nicholas of Cusa. In a bull issued in 1239 to the Bishop of Cordova, Spain, Pope Gregory IX charged the Jews with stealing Christian children and selling them to the Saracens, thereby advancing a new reason for the enforcement of the badge.[23] It is to be noted, however, that a bull almost identical in phrasing was addressed by Pope Martin V to the Christians of the Crimea without mentioning the Jews. Spanish documents of the end of the fourteenth and the beginning of the fifteenth century offer the following reasons for the enforcement or re-enforcement of the badge: Professing Jews should be distinguished from those who have become converted to Christianity; the fact that the Jews are stubborn unbelievers should be made manifest to all true believers; improprieties should be prevented; excessive influence of the Jews should be curbed. In a decree of 1551 Ferdinand I as king of Bohemia, in order to support legally the introduction of the yellow wheel, charged the Jews with practicing usury and committing other misdeeds. Often no other reason was adduced except that Jews be clearly distinguished from Christians so that they should be easily identified as Jews "and not be mistaken for honest folk." As late as 1705 the Jews of Prague were charged with making and selling fly-poison for poisoning Christians, the purpose of the accusation being to prevent the then impending abolition of the Jew-badge.[23a]

[23] Fritz Baer, *Die Juden im christlichen Spanien,* I, 2 (Berlin, 1936), No. 53, pp. 27 f. and note; Stern, *op. cit.,* II, No. 201, pp. 43 f. and n. 2.

[23a] In the seventeenth century German lawyers liked to enumerate various reasons explaining the introduction and meaning of the Jew-badge, all of them, of course, of a defamatory character. Philip Knipschild (1595-1657), in his *Tractatus de iuribus et principiis civitatum imperialium* (Ulm, 1657), lib. II, cap. 30, offered the following poem to his readers:

Cur ferat Hebraeus vocalem in pectore Quartam,
A multis quaeri, lector amice, solet?
Addictum aeternis ut se cruciatibus esse
Cogitat, haec secum signa doloris habet,
Aut quia pro nihilo numeris apponimus illam,
Inter mortales se sciat esse nihil.
Aut quia Judaeis augentur foenere nummi
Maior ab hoc numerus nam solet esse nota.

There is no need to go further into details with regard to the actual or alleged reasons for the yellow badge as a legal institution. Nor does lengthy comment on the instances presented seem necessary. To the discriminating historian as well as to every unbiased observer of the historical development the conclusions to be drawn are obvious. Even if it might be conceded that, to a limited extent, the introduction of the Jew-badge—in conformity with the prevailing Church policy—was based on principles of law, it is established beyond doubt and controversy that the originally lawful institution was quickly transformed into an efficient tool for the unrestrained exercise of political arbitrariness against the Jews and for financial extortion. If the slightest doubt remained concerning the logic or historical accuracy of this argumentation, it will be completely removed by considering the detrimental and even disastrous effects worked on the Jews by the yellow badge for almost six centuries.

V

Jewish Degradation

It seems, indeed, as superfluous as it is useless to inquire into the problem as to whether or not, in introducing or enforcing distinguishing garb and Jew-badges, the intention of lowering the Jews in honor, esteem, and social position

Cf. Eberhard Remann, *Die jüdische Sonderrechtsstellung in der Rechtswissenschaft des XVI.-XIX. Jahrhunderts* (Jur. D. thesis, University of Breslau, 1942) (in manuscript form only), p. 34. This poem is also quoted by Joh. Jodocus Beck, *Tractatus de Juribus Judaeorum*, p. 46, and as its author given Joh. Heidfeldius (*Sphinx Theologico-Philosophica*, c. 26). Beck also offers a German translation taken from M. Storren, *Evangelische Glaubenskrafft*, part. 3, cap. 2, pp. 523 et seq.

> Es ist, mein guter Freund, ein fast bekannte Frage,
> Warum der Jud das O an seinen Kleidern trage;
> Es soll diss Schmertzens O ein stetes Merckmal seyn,
> Dass er mit Recht gehör zur ewigen Höllen-Pein.
> Auch weil mans pflegt vor nichts in Ziefern hin zu setzen,
> Dass unter Menschen er, vor nichts sich hab zu schätzen.
> Vielleicht auch, weil er sich von Wucher nur ernährt;
> Dann durch diss Zeichen wird ein jede Zahl vermehrt.

accompanied the purpose of their differentiation and segregation. Once enforced by ecclesiastic and secular legislation, the badge in particular was bound with inevitable certainty to effect the social degradation of the Jews as a natural consequence of the actual diminution of their legal status. In his classical *History of the Jews,* the famous Jewish historian Heinrich Graetz vividly describes all the implications of that social degradation inflicted on the Jews. He writes:

"Provincial councils, assemblies of estates and royal cabinets thenceforward, in addition to their deliberations on the exclusion of the Jews from all honors and offices, determined on the color, form, length and breadth of the Jew-badge, with pedantic thoroughness. The Jew-badge, square or round in form, of saffron yellow or some other color, on the hat or on the mantle, was an invitation to the gamin to insult the wearers, and to bespatter them with mud; it was a suggestion to stupid mobs to fall on them, to maltreat and even kill them; and it afforded the higher classes an opportunity to ostracize the Jews, to plunder them, or to exile them.

"Worse than this outward dishonor was the influence of the badge on the Jews themselves. They became more and more accustomed to their ignominious position, and lost all feeling of self-pride and self-respect. They neglected their outward appearance, because they were nothing but a despised, dishonored class, which could not have even the least claim to honor. They became more and more careless of their speech, because they were not admitted to educated circles, and in their own midst they could make themselves understood by means of a jargon only. They lost all taste and sense of beauty, and gradually became, to some extent, as despicable as their enemies desired them to be. They lost their manliness and courage, and a child could place them in terror. The punishment which Isaiah had prophesied for the house of Jacob was fulfilled to the letter: 'Thou shalt speak out of the ground, and thy speech shall be low out of the dust.' "[24]

Among the distinguishing marks it was chiefly the yellow badge that brought about the degradation of the Jews legally as well as socially. The real causes which produced this injurious effect on an innocent class of the population are deeply embedded in the mediaeval system of penal law and concept of honor. Although the Jewish situation is un-

[24] Heinrich Graetz, *Geschichte der Juden,* VII, 1 (4th ed., Leipzig, n. d.), p. 17. In quoting this passage from the English edition by the Jewish Publication Society, III, pp. 512 f., the present writer has revised the translation, which is inaccurate in places, from the German original.

derstandable only against the general background of mediaeval civilization, the following clue to a proper interpretation has been completely overlooked in the voluminous literature on the Jew-badge. In mediaeval criminal law degrading punishments were particularly developed and especially refined. They aimed at public humiliation of the offender, a degradation of the culprit in the eyes of his fellow-men. In this category belong, for instance, the punishments by exposure to public ridicule and assault in the pillory; temporary wearing or carrying of certain objects either symbolic of the offender's profession, e.g., a book in the case of clerics, or connected with the execution of criminal punishment, such as a rope or a sword; permanent wearing of an ignominious garb. Thus the imposition of the yellow badge on the Jews, particularly by secular legislation (this sign, as is well known, was not prescribed by the Lateran Council), immediately placed them on the same level as ordinary offenders.

At first glance this act seems to be utterly arbitrary and lacking any juridical justification. If, however, the doctrine of the Jews' responsibility for the crucifixion of Jesus, dominant during the Middle Ages, is recalled, the juridical link is readily found. In accordance with God's precept, these eternal offenders should not be killed; rather they should be preserved in permanent humiliation. Hence the yellow sign would mark them off in the same way that other offenders were punished.

The correctness of this interpretation can be easily proved by a comparison with certain regulations of mediaeval criminal law not concerned with Jews. According to a judicial form of the fourteenth century, desecration of the Host was to be punished by wearing a large picture of the Host painted yellow on both breast and back of the offender's garment. In Augsburg persons guilty of heresy had to wear a yellow cross on the front and back of their garments. A fifteenth century criminal code of Tyrol imposed on a malicious and fraudulent debtor the penalty of publicly displaying a yellow disk on his clothes until the debt

was paid in full. False witnesses, sorcerers, prostitutes, and others were similarly stigmatized. In a rather late Basle court decision, an offender condemned to carrying a stick permanently as a defamatory sign, was excused from doing so while on a journey, exactly like the exemptions granted to Jews under similar circumstances.

In the light of the cases mentioned above, the several explanations for the choice of a round form for the Jew-badge also may well have an historical foundation, namely, that the badge represented a piece of money and hence stigmatized the Jews as accomplices of Judas Iscariot or as usurers; or that it represented the Host, symbolic of the body of Jesus and was therefore reminiscent of the crucifixion or of the desecration of the Host with which the Jews were so frequently charged during the Middle Ages.

The preference for yellow for the badge still calls for explanation. The illuminated manuscripts of the Middle Ages picture Jew-badges as well as Jewish hats in a variety of colors. The badges are white, red, yellow, and even parti-colored, red and white. Several Church councils specified no particular color for the badge, but only that it should differ from that of the garment. Where, however, specifications were made, yellow was the predominant choice. Colors of the hats were white and yellow, sometimes trimmed with green cords, red, and also, though rarely, gray and blue. Often in one and the same manuscript or in the same glass painting the colors vary. It has been suggested that the picturesque variety of hues may have sprung from oriental fancy, or, on the other hand, from the painter's predilection for diversity of color. Greater probability, however, seems to attach to another suggestion: It was an easily comprehensible endeavor by the Jews to evade the badge regulations and to efface the distinguishing differences in their costumes by the choice of various colors. Re-issued badge regulations often refer to practices of this kind.

Yet yellow always remained officially the prevalent choice. The explanation for this fact is also simple. Among the colors, yellow seems to be the most conspicuous and

quickly and easily attracts attention. It was therefore, particularly in the Middle Ages, used to mark those classes of offenders to whom general public attention was to be directed, to deter others from similar misdeeds or banned professions. In Italy, for instance, insolvent debtors had to wear yellow or green hats. In Germany, prostitutes and concubines of clergymen were compelled to wear yellow headbands or veils. Hence yellow seemed also the most appropriate color to distinguish the Jews. This explanation, now supported by many instances from mediaeval sources, seemed to Christian Thomasius (1655-1728) the most plausible one, and later also to Goethe, without documentary support. However, the pertinent and very interesting passage in Goethe's *Farbenlehre* escaped the attention of all previous writers on the yellow badge.[25]

The various legal aspects with their implications, as set forth here, save the historian the trouble of demonstrating at great length the effect of the yellow badge on the standing of the Jew in mediaeval and post-mediaeval society. Graetz's description, though sensed instinctively rather than conceived on the basis of a proper insight into the historical facts and developments, gives an adequate picture of the actual condition of the Jews externally as well as internally.

One of the earliest passages which testify to the degrading effect of the compulsory Jewish garb is found in the Sermons of Berthold of Regensburg dating from between

[25] Goethe's *Theory of Colors*, translated from the German by Charles Lock Eastlake (London, 1840), § 771, p. 308: "When a yellow color is communicated to dull and coarse surfaces, such as common cloth, felt, or the like, on which it does not appear with full energy, the disagreeable effect alluded to is apparent. By a slight and scarcely perceptible change, the beautiful impression of fire and gold is transformed into one not undeserving the epithet foul; and the color of honor and joy reversed to that of ignominy and aversion. To this impression the yellow hats of bankrupts and the yellow circles on the mantles of Jews, may have owed their origin." There might be a connection with Roman custom; cf. Juvenal, *Sat.*, VI, 120. Cf. also Christian Thomasius, *Dissertationum academicarum*, Tomus I, Diss. V, *De iure circa colores*, § 69, cited by Remann, *op. cit.*, p. 41. Georg Frommhold, *Die Idee der Gerechtigkeit in der bildenden Kunst* (Greifswald, 1925), p. 5: " . . . Die Farbe Gelb soll die Falschheit kennzeichnen." Cf. also Joseph Kohler, *Shakespeare vor dem Forum der Jurisprudenz* (Würzburg, 1883), p. 48, n. 1.

1250 and 1272.[26] In berating women for overindulgence and extravagance in dress, he points out that none are supposed to wear yellow headbands or veils except Jewesses, prostitutes, and concubines of clerics. No wonder that on account of the social position to which the Jews were relegated, they had to suffer continually all sorts of contemptuous and brutal treatment. They were exposed to attacks by individuals and assaults by the mob; they were robbed of their possessions and even of the clothes on their bodies, under the pretext that they had been caught without the badge. In such cases—as previously mentioned—the apprehenders even had the right to take everything found on them. The Jews were threatened with severe and degrading penalties for non-compliance with the badge regulations, such as fines —the badge thus being converted into a source of state revenue—corporal punishment, imprisonment, expulsion and permanent exclusion from the country, and even the death-penalty.

The reaction of the Jews against all these humiliations was quite natural. Unlike the ghetto, the badge was deeply resented. They combatted, with all means at their disposal, this mark of degradation, which made of everyone of them a target for attack and greatly hampered their economic activity. As previously mentioned, in 1219 Spanish Jews threatened to leave the country unless Ferdinand of Castile revoked the badge law, which he did with the concurrence of the ecclesiastical authorities. A few decades later, Mordecai ben Joseph, of Avignon, was arrested for indignantly opposing the wearing of the badge. Large amounts of money were offered Paul IV and other popes for the revocation of the humiliating badge laws.[27] Thus in various countries, particularly in Spain, Portugal, and Italy, the Jews were able to resist the infliction of the badge with more or less success for a considerable period. After it was generally instituted, however, only physicians, scholars and financiers succeeded

[26] Aronius, No. 757, p. 319.

[27] Cf. Salo W. Baron, *A Social and Religious History of the Jews*, II, 91; G. Kisch, "The 'Jewish Execution' in Mediaeval Germany" (*supra*, n. 15a), p. 72, n. 5.

in obtaining—mostly by a payment—individual exemptions for themselves and their families. General exemptions were restricted merely to journeys, to avoid exposing the individual Jew to attack and abuse. Sometimes exemptions were also granted for personal merits, especially in military service, but these as well as the general privileges were often arbitrarily revoked, particularly in Spain during the fifteenth century.

While the traditional discrimination against the Jews continued all over Europe for centuries, finally an age dawned in which a less biased and more fair-minded judgment of the Jews began to make headway everywhere and particularly in Germany. The seventeenth century brought with it a somewhat kindlier treatment of the Jews in many spheres, and the eighteenth developed further into the period of Enlightenment and Humanity. Enlightenment sought to penetrate the dense fog of prejudices and to lead people to an independent judgment in accord with their own natural feelings. Inspired by it, Humanity emerged from the narrow circle of purely religious, national, class, and similar ideas, and attempted to understand also human beings of a different type and to do them justice. This change in ideology naturally spread also to the attitude toward the Jews, and the era of Emancipation brought them complete relief from all humiliating differentiations, socially as well as legally, including the abolition of the yellow badge.

Even before this period, as early as 1624, the "Jewish sign" was temporarily invalidated for the Jews in Vienna; and in 1691 the yellow wheel was completely abolished by the Count Palatinate John William in favor of the Jews of Mannheim, perhaps the first and probably the only instance of this nature in the seventeenth century. An attempt to revive the badge, made by the Palatinate government in 1721 in order to obtain money from the Jews through the granting of exemptions, was unsuccessful.

In Austria, at the end of the eighteenth century, the enlightened monarch Joseph II tried to combine the idea of the welfare state with that of the authoritarian state. His

famous letter of May 13, 1781, addressed to Count Heinrich Blümegen, which initiated the issuance of the Edict of Toleration, contained the following clause: "Moreover, all those humiliating and spiritually oppressive coercive laws, which impose on the Jews a difference of clothes or costume or particular external signs, are to be done away with." The *Hofkanzlei,* the supreme administrative body for the Austrian and Bohemian provinces, was very much in favor of this reform which, in its opinion, would gradually remove the animosity between Jews and Christians. The executing authorities, however, were slow and negligent in carrying out the imperial order, whereupon a new and even stricter decree was issued on September 17, 1781, which soon led to the complete abolition of the yellow badge in the lands of the Austrian Crown. So quickly and completely was it wiped out that not even one specimen could be found in the otherwise rich costume collection of the Austro-Hungarian museums.

In France the Jew-badge disappeared definitely only after the French Revolution in 1789; and nine years later, in 1798, came the hour of deliverance for the Jews of Rome. As for the Polish Jews there is no evidence of their wearing particular badges in the seventeenth and eighteenth centuries.

In Prussia the Jew-badge, even at the beginning of the nineteenth century, played a role in the discussions on Jewish emancipation. It is no longer mentioned in the Prussian Edict of Emancipation of March 11, 1812, which made the Jews "natives [*Einländer*] and Prussian citizens," conferring on them all civil and some political rights. An edict of October 30, 1812 promised admission into the grandduchy of Posen to Jews not wearing any badge. Yet with the return of reaction the revival of the Jew-badge was officially suggested in Prussia to facilitate police control over the Jews. Though this attempt was unsuccessful, it is worth while to note that the modern revival of the yellow badge originated in the very state and territory which had resisted its abolition for the longest time.

VI

Modern Revival of Jewish Outlawry

In 1915, when Felix Singermann wrote his doctoral dissertation on the Jewish marks of distinction in the Middle Ages, he concluded as follows: "Recognized in their rights as men, respected in their human dignity, the Jews in almost all countries now enjoy citizenship, are entitled to partake in all intellectual and economic achievements and able to collaborate in extending them." In fact, at that time and even after the First World War, the idea of law and justice seemed to triumph all over the world. The civilized nations had accorded the Jews complete legal emancipation in the second half of the nineteenth and the first quarter of the twentieth centuries and abolished all discriminatory legislation. When Emancipation had made the Jew the holder of equal political rights, it seemed as if a political Jewish question no longer existed, the problem involved having been relegated merely to the sphere of social life.

This proved, however, a "great illusion." The most important democratic state founded after a lost war in the very heart of Europe was not built on a solid foundation. It quickly fell victim to the National-Socialist ideology which, from the very beginning and during the brief life of the Weimar Republic, undermined it from within and without. Racial anti-Semitism of German origin and German mold, for long the most potent tool of the Nazis in their struggle for power, was immediately integrated into the system of law of the Third Reich. Now it became the cornerstone of anti-Jewish legislation of unprecedented severity. Discriminating and degrading "Jewry-law" in concept and concrete reality, which seemed to be buried in the history of law, suddenly came to life again and became bitter actuality as early as 1933. This is not the place to trace and study its development in detail through the various stages as determined by the course of political events. Among the numerous German laws of this period contradictory to the fundamental concepts of traditional law one is unique in history:

the decree of September 1, 1941 (*Reichsgesetzblatt* of September 5, 1941, vol. I, p. 547), officially reviving the yellow Jew-badge. It rounded out a long series of measures to eradicate the Jewish community, which was carried to completion only a few weeks later by the merciless deportation of all Jewish inhabitants of the Reich and the complete confiscation of their possessions.

The German badge-law of 1941 imposed on all Jews over six years of age the permanent wearing of a six-pointed star, "Judenstern," outlined in black on yellow cloth with the black superscription "Jew."[28] It demonstrates the method applied by the National-Socialists in many other cases of their disregard for the generally recognized principles of human intercourse: official legalization of private acts of force and oppression after they had actually been committed over a shorter or longer period, when the time had passed for considerations of convenience and international public opinion could be ignored.

In the sad annals of Jewish history under the National-Socialist regime, it was in fact the revival of visible stigmatization of the Jews that marked the very first official act of anti-Jewish violence. This was April 1, 1933, when sixty million Germans were first officially mobilized against 600,-000 defenseless Jews. Storm troops marched through the streets of German cities, towns, and villages armed with posters, paint pots, rubber truncheons, and revolvers. At 10 a.m. all the windows of Jewish shops and all the brass plates of Jewish physicians and lawyers were smeared in large letters with the word "*Jude*" or "*Jüd*" (Jew) or the David's star. Other slogans also appeared among the inscriptions, such as: "Perish Judah," "Do not buy from Jews," "Death to Jewry." Storm Troop sentries were posted in front of every door. None of the victims, until then full-fledged German citizens and now suddenly placed entirely outside the pale of the law, would have dared to remove the

[28] A six-pointed yellow star worn on the hat or upper garment occurs for the first time as a Jew-badge in Portugal, in the first half of the fourteenth century; cf. Singermann, p. 27.

revived Jew-badge. The Berlin street-cars carried flags on that day. "Victory over World Jewry" was the motto proclaimed in large headlines displayed by hundreds of German papers the day following the Jewish boycott. On April 3, 1933, the leading party organ, *Völkischer Beobachter,* reported from Hamburg on the boycott day:

> "No disturbances occurred anywhere. Here and there, however, provokers seem to have been active during the night. In blue or red color, they painted on the windows of Jewish stores in large letters the word 'Jew' and even some caricatures."

Once more the Jew-badge was revived in the country of Schiller, Goethe, and Kant, and after little more than one hundred years had elapsed since full emancipation had been accorded the Jews. Needless to point out that the situation was entirely different from that in the Middle Ages. This writer will never forget his impressions and emotion on walking through the streets of Halle in the evening of April 1, 1933 and driving through the streets of Cologne on the following morning. "I myself could scarcely believe that such things could occur in a twentieth-century civilization," said President Roosevelt five years later on November 15, 1938, after the November pogrom. In deference to the reaction evoked in the foreign press, however, the removal of the Jew-signs painted on Jewish shop windows and doctors' and lawyers' plates was quickly ordered by the authorities. After this general public stigmatization there was no need for individual badges, for the time being. The slow doom of Jewry was now well under way.

Nevertheless, once officially introduced, the Jew-badge remained an instrument, as important as it was efficient, in the arsenal of deadly weapons against the Jews. For long very little concerning its application prior to the general badge law of 1941 has come to the knowledge of the outside world. Yet some remarkable instances were recorded.

A carefully assembled collection of facts and documents relating to three years' persecution of German Jews, *The Yellow Spot,* published a photo taken in 1934 in Gailingen near the Swiss frontier. In front of a café owned by a Jew a Storm Troop sentry is pictured warning two Swiss visitors

against entering the Jewish premises. On the door is seen a yellow spot on a black ground, probably the first instance of this practice. Another picture, an anti-Semitic poster used by the Nazis in Karlsbad before the annexation of Czechoslovakia and reproduced in an anonymous pamphlet,[29] displays mediaeval Jewish costumes with particular emphasis on the badge. The inscription reads: "The Jew-badge was a warning against race-defilement [*Rassenschande*]." Conspicuous among these pictures is a large-sized reproduction of one used by Willhelm Grau as frontispiece in his book, *Antisemitismus im späten Mittelalter.*

All this, by no means accidental, testifies to the correctness of the assertion, as previously pointed out by this writer, that the most rigorous treatment of the Jews in the Middle Ages must have been studied systematically and carefully by the Nazi leaders. The Jews were stigmatized as criminals against Germany in order to legitimize every severity visited and to be visited upon them. Posters inscribed "*Judentum ist Verbrechertum*" (Judaism is criminalism), displayed in Vienna and reproduced in the pamphlet mentioned, are telling proof. Even the mediaeval pillory was revived for cases of what was called "racedefilement."

From behind the electrically charged wires of the concentration camps only scanty reports reached the outside world. Yet there is reliable documentary proof for the fact that there also the yellow badge was applied in order still further to worsen the condition of the already sufficiently ill-fated sufferers. In December, 1935 there was smuggled to London an authentic yellow armband which Jewish "race defilers" had to wear in the Columbia House in Berlin. Another documentary proof is furnished by Irmgard Litten in her story of the tragic fate and death of her son, *Beyond Tears,* "one of the most heartbreaking books ever written." In 1937, when she visited her son in the Dachau concentration camp, Mrs. Litten observed that his "uniform was not marked, as previously, only with the plain red stripes that

[29] *Hitler Doomed to Die, Inside Story of the Maniac Dictator* (no place or year given), p. 93.

indicated a political prisoner: there was now a large yellow spot on each of these stripes and also on his chest and his legs. I saw it already on some of the people in Lichtenburg" (another concentration camp). The "Jewish companies" were being stigmatized by this badge. "I know," Mrs. Litten wrote, "that in all the camps, and especially in Dachau, the Jewish company is shockingly ill-treated." To understand what this implies, one must read the moving details in Mrs. Litten's book. Again a striking reversion to the Middle Ages which, however, marked with a yellow Jew-hat only lawfully executed criminals.

All the documentary proofs presented force on the thoughtful observer the question why, after all these precedents and only in September, 1941, wearing the yellow badge was made compulsory for all Jews in Germany. For what reason was it deemed necessary to add this new measure to the preceding decrees, already directing every Jew to carry a yellow identification card and, in case of emigration, a passport marked with a "J" (Jew)?[29a] Was the stigmatization of the Jews not yet complete enough?

The answer to these questions is a twofold one. It must consider and explain the relevancy of that measure with regard to the Jews as well as to the non-Jewish population of Germany.

As to the Jews, the key to the motives for introducing the yellow badge officially and for applying it to the entire Jewish population is readily found in the book by the National-Socialist expert on Jewish history, Wilhelm Grau, who drew from history in more than one instance the pattern for adapting and refining mediaeval measures for modern use. In his *Antisemitismus im späten Mittelalter,* Grau pointed out (p. 153): "This style [imposition of the yellow badge on the Jews] was compulsory, not voluntary, a form of

[29a] The melancholy history of this "J" mark is treated in a most revealing recent publication which, through official documentary evidence, offers an additional reason that obviously could not be known to me when writing the original version of this essay: Carl Ludwig, "Die Flüchtlingspolitik der Schweiz in den Jahren 1933 bis 1955" in *Die Flüchtlingspolitik der Schweiz seit 1933 bis zur Gegenwart* ([Bern], 1957), pp. 33, 41, 103-151.

humiliation and disgrace, not a mark of honor. The Jews wore it with a feeling of inward bitterness, the Christians were glad at having put upon the Jews the merited brand of infamy." But rejoicing over approaching the goal of the annihilation of the Jews in Germany and the then German-dominated territories was only one of the reasons. This annihilation was to be prepared by completely isolating the Jews. Moreover, the "victory over world-Jewry" was not yet won. Therefore, through measures portending the final stage in the tragedy of European Jewry, most precious foreign exchange could possibly still be obtained from the American relatives of the unfortunate victims. The same means had been previously applied for the same purpose, after the fall of Poland, in such cities as Warsaw, where the Jewish population could be immediately confined to ghettos. All the more was the same strategy to be employed in Germany proper and the other subjugated countries where, until then, ghettos had not yet been instituted officially.

The story, however, has still another side. And this refers directly to the non-Jewish or "Aryan" population. To cite only the best-known example, the pogrom of November 10, 1938: The acts of violence, including the burning of the synagogues, were committed under orders by troops supported by groups of German civilians extending through all classes. Other groups, however, remained passive. It was a passivity that ranged from lack of comprehension to disapproval. Though open opposition was rare, yet secret acts of aid extended to Jews in those days of tribulation were reported. This was neither the first nor the only occasion for some Germans—small though their number may have been and remained—secretly to prove their aversion to the violence which they were compelled to witness and even to inflict. Increasing persecution of the Jews was sure to strengthen the remaining feelings of human kindliness not yet extinct in the German populace. This was so particularly in the countries only later invaded by the Germans, such as Czechoslovakia, Holland, and Belgium, where democratic ideals had penetrated much more deeply into the

popular mind than they ever had in the Reich. There is no doubt that the German authorities were well acquainted with these trends and fully aware of their bearing. The situation can perhaps be best explained by a comparison. Just as the normal State must for self-protection isolate or eliminate elements not conforming to its law and order, so the National-Socialist State, likewise for self-protection, had to isolate or eliminate elements objectionable to its policies. Here the badge law comes into the picture. All Jews from the sixth year on had to be distinctly marked off in order to place under public control and subject to criminal punishment any contact of German Aryans with Jews prompted by ordinary kindliness or pity. Hence, besides its tragic effect on the Jews, the revival of the yellow badge was directed against the Aryans as well, in its aim to convict any non-Jew of what in National-Socialist law was laid down as a crime, namely, associating with or befriending Jews.

This interpretation is by no means merely a hypothesis. Its correctness is supported by the official comment of the "*Reichsprotector*" for Bohemia and Moravia upon tightening the badge laws in former Czechoslovakia. Published on October 5, 1941, in the Prague Nazi paper *Der Neue Tag*, it reads as follows:

"In the Protectorate, from now on and without exception, every Jewish person considered a Jew in accordance with the decree of the Reichsprotector in Bohemia and Moravia of June 21, 1939, has to wear the badge. Accordingly to these persons also apply all other restrictions, commands, and prohibitions. Since, furthermore, Jewish synagogues and chapels have for a long time not served religious purposes, but have been meeting places for all subversive Jewish elements and centers for illegal whispering propaganda, the closing of all Jewish chapels and synagogues has been ordered. Finally, certain Czech circles, particularly in recent days, have manifested an outright demonstrative friendliness to Jews. They are mostly those elements who, through such an attitude, want to show their hostility to the Reich. Thus the State police has been instructed to take police action (protective custody [meaning concentration camp]) against all persons who, in the streets or in public places of entertainment, show ostentatious friendliness to visibly marked Jews or converse with them. The Deputy-Reichsprotector has deemed this measure necessary because in court-martial proceedings previous knowledge has been confirmed anew that, in the Protectorate of Bohemia

and Moravia, the Jewish element is to a pre-eminent extent actively engaged in inciting the population as well as organizing resistance."

Only in the light of these motives together, as set forth in the preceding presentation, does the rigor of the 1941 badge laws become understandable. To stigmatize the Jews as criminals and to convict non-Jews of unlawful intercourse, this was the twofold aim of this criminal legislation. It seems, however, not to have completely attained its goal: several months after it had been in force, a new decree had to be issued against friendly intercourse with Jews.[30] Moreover, all Jewish homes throughout Germany were ordered to be marked with a conspicuous black *Judenstern* on a white ground.[31]

It is worth while mentioning that the second paragraph of the earlier law deprived the Jews of the right "to wear orders, distinctions of honor or other insignia," which related chiefly to veterans of the First World War, a punishment which the German penal code inflicted only after conviction of crime.

The penalty for disregarding the badge law was fixed at one hundred and fifty Reichsmark or imprisonment up to six weeks. But according to paragraph 4, II, the penalty was really unlimited and arbitrary, as was the case in most of the Nazi laws. No exemptions from wearing the badge were provided in the decree. It was successively extended to the countries overrun by Germany: Belgium, the Netherlands, France, and the rest. According to official German information,[32] "obliging the Jews to wear a white armlet with a blue Zion star on the left arm was one of the first measures taken in the formerly Polish territory. Slovakia in April, 1941, Croatia at the end of May, decreed the marking of the Jews. Since August 14 all Jews in the large cities of Czernowitz (Bukovina) and Jassy (Rumania) wear a yellow Zion star by order of the Rumanian military authorities."

30 *New York Times*, November 14, 1941, p. 11.

31 *Reconstruction-Aufbau*, April 10, 1942, p. 5.

32 Contained in an anonymous article, "Der gelbe Judenstern," in *Weltdienst*, October 15, 1941.

After anti-Semitic demonstrations the students of the University of Budapest passed a resolution to have the yellow David star badge forced on their few Jewish fellow students still permitted to study under the *numerus clausus*.[33] More heartening news was reported from occupied Belgium and Croatia. In a silent mass protest against the humiliation of the Belgian Jews the citizens of Antwerp made common cause with them by flocking into the streets ostentatiously wearing the same armband with a yellow David's star, so that the Germans were unable to make out who was Jewish and who was not.[34] After the conquest of Yugoslavia the Catholic clergy in Croatia protested in a similar way by "wearing the same badge which the Pavelitch government has forced on the Jews."[35] This spirit was illegal for the time being. Yet this spirit could not be killed with its bearers. It is the spirit which finally will aid in purging the world completely of the shame of the yellow badge.

A SELECTION OF DOCUMENTS CONCERNING THE JEW-BADGE*

1

THE FOURTH LATERAN COUNCIL OF 1215: DECREE CONCERNING THE GARB DISTINGUISHING JEWS FROM CHRISTIANS

Canon 68

In some Church provinces a difference in dress distinguishes the Jews and Saracens from the Christians, but in certain others such a confusion has grown up that they cannot be distinguished by any difference. Thus it happens at times that through error Christians have relations with the women of Jews or Saracens, and Jews or Saracens with Christian women. Therefore, that they may not, under pretext of error of this sort, resort to excusing themselves in the future for the excesses of such accursed intercourse, we decree that such [Jews and Saracens] of both

[33] *The Daily Hebrew Journal* (Toronto), Vol. XXV, January 28, 1942.

[34] *New York Times*, November 23, 1940; *Jewish Telegraphic Agency Bulletin*, September 24, 1941.

[35] *Jewish Telegraphic Agency Bulletin*, February 6, 1942.

* All translations are by the present writer except when otherwise indicated.

sexes in every Christian province and at all times shall be marked off in the eyes of the public from other peoples through the character of their dress. Particularly, since it may be read [in *Numbers*, 15. 37-41] that this very law has been enjoined upon them by Moses.

Latin text in J. D. Mansi, *Sacrorum Conciliorum Amplissima Collectio*, vol. XXII, 1055; *Corpus Juris Canonici*, c. 15 X de Judaeis, Sarracenis, et eorum servis, 5, 6; often reprinted, see Grayzel, *The Church and the Jews in the XIIIth Century*, p. 308.

The English translation is from J. R. Marcus, *The Jew in the Medieval World*, p. 138, revised from the Latin text by the present writer.

2

Introduction of the Jew-Badge in England by King Henry III

Oxford, March 30, 1217

The King to the Sheriff of Worcester

We order you to have published and observed throughout your bailiwick that all Jews wear upon the fore part of their upper garment, wherever they walk or ride, within or outside the village, two white tables made of white linen or parchment so that, by a sign of this kind, Jews can be patently distinguished from Christians.

Latin Text in D'blossiers Tovey, *Anglia Judaica* (Oxford, 1738), p. 79.

3

Pope Honorius III, in a Letter to the Archbishop of Toledo, upon the Latter's and King Fernando III's Request, Suspends the Execution of the Dedree of the Fourth Lateran Council concerning Distinctive Garb of the Jews

Lateran, March 20, 1219

Honorius Episcopus, servant of the servants of God to the venerable brother, the Archbishop of Toledo, Legate of the Apostolic See, greetings and Apostolic blessings.

On behalf of our dearest son in Christ, Fernando, illustrious King of Castile, as well as on behalf of yourself, we have been informed that the Jews residing in the kingdom of Castile are so seriously wrought up over what was decreed in the General Council about their having to wear signs, that some of them may choose rather to flee to the Moors than to wear such a sign, conspire because of this otherwise, and hold secret meetings. From these great damage could arise to the King, whose

revenue derives in large part from those very Jews, and the kingdom itself is threatened by disgrace. Wherefore we have been humbly petitioned both on behalf of the King mentioned as well as yourself that by our permission you be relieved from executing this decree, since you could not proceed therein without grave scandal. Therefore, since in paternal solicitude we desire to provide for the tranquility of the mentioned King and Kingdom, by the authority of this letter we order you to suspend the execution of the aforementioned decree for as long as you may deem appropriate, unless perhaps you should receive a special Apostolic mandate with regard to the execution of that decree; notwithstanding any letters obtained from the Apostolic See concerning matters not included in this text.

Given at the Lateran, on the thirteenth before the Kalends of April, in the third year of our Pontificate.

Latin text in Moritz Stern, *Urkundliche Beiträge über die Stellung der Päpste zu den Juden*, II (Kiel, 1895), No. 180, p. 13 f.

4

Wearing of Jewish Hats Obligatory

Provincial Council of Breslau in 1267

We also decree and ordain that Jews shall resume the horned hat, which at one time they were accustomed to wear in these parts and presumed in their temerity to put aside, so that they should be clearly discernible from Christians, as it was one time laid down in the General Council. Whichever Jew then should be caught going without such sign shall be punishable by a fine according to the custom of the country.

Latin text in Julius Aronius, *Regesten zur Geschichte der Juden im Fränkischen und Deutschen Reiche* (Berlin, 1902), No. 724, p. 302.

5

Wearing of Jew-Hat Obligatory

Schwabenspiegel (*circa* 1275), South German Law Book Article 214, 10

The Jews shall wear hats that are pointed; thereby they are marked off from the Christians, so that one shall take them for Jews.

Text in Middle High German in Heinrich Gottfried Gengler, *Des Schwabenspiegels Landrechtsbuch* (second edition, Erlangen, 1875), p. 177.

6

COMPULSORY DIFFERENTIATION OF THE JEWS FROM CHRISTIANS
Johannes Purgoldt's Law Book from the beginning of the sixteenth century
Book VIII, Article 102

In all respects the Jews shall be different, in their dwellings, clothes, and other things. Their houses shall be separated from those of the Christians, and all of them shall be together, and ropes shall be drawn across the streets. Their clothes shall also be distinctive from the clothes of the Christians; males shall not wear *kogeln* but higher hats of felt. So writes Pope Innocent the First [sic!]. Moreover, it is also written in the *Weichbildrecht* that no Jew shall walk from his *shul* [synagogue] or from his house into the street without a hat. Men shall also wear boots, and go without wooden shoes; the women with wound veils and with wide windows on their cloaks, and without wooden shoes. That they now go about differently, that is a sign that to the princes Jewish gold is dearer than the honor of God or Holy Christendom.

Text in Middle High German in Friedrich Ortloff, *Das Rechtsbuch Johannes Purgoldts* (Jena, 1860), p. 255.

7

GENERAL INTRODUCTION OF THE YELLOW BADGE IN GERMANY BY THE REICHSPOLIZEIORDNUNG OF 1530

XXII

Concerning the Dress of the Jews

§ 1

A yellow ring on coat or cap, not covered over, shall always and publicly be worn by Jews for their identification.

§ 2

In order to have this our regulation concerning clothing and ornament more strictly observed and executed, . . . it is ordered that any infraction shall be punished by the proper authorities with confiscation of the clothes or ornaments worn in violation of this our regulation and by a fine twice the value of the clothes or ornaments, to go to the local authority.

German text in Johann Christian Lünig, *Teutsches Reichsarchiv*, II (Leipzig, 1713), p. 573.

8

Introduction of the Yellow Badge in Austria by Emperor Ferdinand I in 1551

Vienna, August 1, 1551

We, Ferdinand, by the Grace of God King of Hungary and Bohemia, etc. It has come to us frequently and credibly to what extent the Jews, whom we have mercifully admitted and permitted to dwell and live in a number of places of our principalities and lands, practice indecent, intolerable usury, and with their usurious contracts and dealings inflict onerous and pernicious damage and injury on our Christian people and subjects; that, furthermore, they also indulge in many other ways in all sorts of evil, scandalous, and vicious actions to the disgrace, defamation, and disparagement of our sacred Christian name, belief, and religion. These scandalous evil actions are said to flow in good part from the fact that the Jews in numerous localities dwell and move about among the Christians without any distinguishing marks and without any difference in clothes and costume and thus cannot be distinguished from Christians nor recognized as Jews.

Therefore, it is due and proper for us as a Christian governing Lord and Prince, by virtue of our office, to take appropriate account of this: not only to abolish the vexatious, pernicious taking of interest and practice of usury by the Jews, but, as far as possible, also their other sinful, evil dealings and actions flowing from the circumstance that the Jews dwell intermingled with the Christians and cannot be distinguished from them. Hence, we order that there be observed a distinction between Christians and Jews in clothing and costume and, as is done in numerous countries, the Jews be marked and recognizable by a certain sign.

Thus we decree and order . . . that all Jews, settled in our hereditary principalities and lands or now and then sojourning in them on business, shall begin within one month from the publication of this our general decree to use and wear publicly and uncovered a sign by which they are to be distinguished and recognizable from Christians, namely, on the outer coat or dress over the left breast a yellow ring, circumference and diameter of the circle as herein prescribed and not narrower nor smaller, made of yellow cloth (notwithstanding any previous enactments or exemptions which are hereby revoked).

If, after the expiration of the aforementioned term of one month, any Jew violates this our decree and order and does not wear the mark described, he shall for the first and second offense forfeit the clothes he wears and everything found on him, half of which shall go to the denouncer and the other half to the administrative authority or court in whose jurisdiction the Jew was found without badge. In case of the third violation, however, he shall, in addition, be promptly expelled with

his wife and children from all our Austrian principalities and lands and for all time.

When, however, Jews travel across the country according to their trade and need, they shall not be obliged to wear these badges on the roads, but when they come to taverns or other shelter in towns or villages, they shall produce the badges again and wear them and thus proclaim themselves as Jews.

And, accordingly, we command earnestly each and all of you, and it is our will that you firmly execute and observe this our decree and order and that you proceed against such Jews as, in our aforementioned principalities and lands, are found without the above-described badges, with the appointed penalty; and that, furthermore, you shall provide and do everything to promote the execution of this our decree and order.

Done in our City of Vienna, the first day of August [fifteen hundred] fifty-one.

Ferdinand.

German text in Alfred Francis Pribram, *Urkunden und Akten zur Geschichte der Juden in Wien,* I (Vienna, 1918), pp. 10-12.

9

Autograph Letter of Emperor Joseph II of May 13, 1781, to Count Henry Bluemegen, outlining the Edict of Toleration

Article 6

Moreover, all those humiliating and spiritually oppressive coercive laws which impose on the Jews a difference of clothes or costume or particular external signs are to be done away with.

German text in Pribram, *Urkunden und Akten zur Geschichte der Juden in Wien,* I (Vienna, 1918), p. 441.

10

Concerning the Abolition of the Jew-Badge by Emperor Joseph II: Opinion of the Chancellery (*Hofkanzlei*)

Vienna, September 7, 1781

On the one hand, the dislike of Jews for Christians, so interwoven in their religious system, can never be entirely removed; on the other hand, the Christian mob, too, is possessed by many prejudices and hatred against the Jews. Hence prudence demands not suddenly to make too vigorous an attack on these mutual prejudices, but to dissipate them gradually. With this aim and to promote their mutual external approximation, equality of the Jews in garb with the Christians should not only be permitted, but the pertinent inequality should be outright abolished,

this inequality being a material cause of the detestation of the Christians for the Jews.

German text in Pribram, *Urkunden und Akten zur Geschichte der Juden in Wien,* I (Vienna, 1918), p. 457.

11

Emperor Joseph II Urges Abolition of the Jew-Badge

Prague, September 17, 1781

Dear Count Blümegen:

I note that the general decree issued for making the Jews more useful and the abolition of the externals distinguishing them, is being not at all enforced. In Brünn a Jew, on entering the city gate, is compelled to pay a *Siebzehner.* In Prague a Jew must still wear the yellow cuffs. Thus, the Chancellery will see to it that the orders given by Me are not taken *ad statum notitiae,* as mere notices, but are put in execution. Else I should have to call to account those responsible therein.

Prague, September 17, 1781.

Joseph.

German text in Gerson Wolf, *Judentaufen in Österreich* (Vienna, 1863), p. 81 The text of this letter is missing in Pribram, *Urkunden und Akten zur Geschichte der Juden in Wien* (Vienna, 1918).

12

Final Abolition of the Jew-Badge

Rescript by the Bohemian Government

Prague, October 12, 1781

Whereas His Imperial Royal Apostolic Majesty, in conformity with the supreme decree for making the Jews more useful already received, has been graciously pleased to decide furthermore that the distinction in Jewish costume and clothes hitherto observed shall be completely abolished, consequently, the wearing of yellow cuffs by males as well as of yellow bands by unmarried females be done away with:

Therefore, the district prefect [*Kreishauptmann*] is to transmit this all-highest will and intention to all municipal and other authorities with the notation that with respect to dress, no obstruction shall be caused to Jews by any one, provided their conduct is otherwise quiet and orderly.

Done at the Royal Palace at Prague, October 12, 1781.

His Roman-Imperial Royal Majesty's Burgrave, President and the Councillors of the Imperial-Royal Provincial Government.

E. E. Prince Fürstenberg.

German text in Tobias Jacobovits, "Die Judenabzeichen in Böhmen," in *Jahrbuch der Gesellschaft für Geschichte der Juden in der Czechoslovakischen Republik,* III (Prague, 1931), p. 174 f. Not in Pribram, *Urkunden und Akten zur Geschichte der Juden in Wien* (Vienna, 1918).

13

Official Revival of the Jew-Badge in the Third Reich and in German-Occupied Territories

Ordinance of November 23, 1939, Prescribing Distinctive Signs for Jews and Jewesses in the German Government-General Established in Former Poland

§ 1

On and after December 1, 1939, all Jews and Jewesses living in the territory of the Government-General and who are ten years of age or more, must wear on the right sleeve of their clothes, overcoats, or mantles, a white armlet not less than ten centimeters [four inches] in width, bearing as a distinctive sign the Star of David.

Jews and Jewesses must provide themselves with the armlets with the prescribed distinctive sign.

§ 3

(1) Infractions of the present ordinance will be punished by imprisonment or fine to any amount, or by one or the other penalty.

(2) Sentences shall be passed by the Special Court.

Verordnungsblatt des Generalgouvernements für die besetzten Gebiete, 1939, p. 61.—*German Occupation of Poland—Polish White Book* (The Graystone Press, New York, 1941), p. 170.

14

Nazi Police Decree for Marking the Jews in Germany September 1, 1941

§ 1

(1) Jews (§ 5 of the first decree for executing the Reich Citizenship Law of November 14, 1935, *Reichsgesetzblatt,* I, p. 1333) who have completed their sixth year are forbidden to show themselves in public without the Jew star.

(2) The Jew star consists of a six-pointed star, outlined in black on yellow cloth the size of the palm of one's hand, with a black superscription: "Jew." It must be worn visibly and firmly sewed to the left breast of clothing.

§ 2

Jews are forbidden:

(a) to leave the precinct of their residence community without carrying with them a written permit from the local police authorities;

(b) to wear any orders, decorations, or other insignia.

§ 3

Paragraphs 1 and 2 do not apply:

(a) to Jewish persons living in mixed marriage, if there are any descendents of such marriage and these are not classed as Jews, even if the marriage no longer exists or the only son has fallen in the present war;

(b) to the Jewish wife in a childless mixed marriage during its duration.

§ 4

(1) Whoever violates the prohibitions in §§ 1 and 2 purposely or by negligence is punishable by a fine up to 150 Reichsmark or six weeks' imprisonment.

(2) Further police measures of protection, as well as penal provisions according to which a severe penalty is incurred, remain unaffected.

§ 5

This police decree applies also to the Protectorate of Bohemia and Moravia, with the proviso that the Reich Protector of Bohemia and Moravia is empowered to adjust the provision of § 2, No. a, to local conditions in the Protectorate of Bohemia and Moravia.

§ 6

This police decree becomes effective fourteen days after its promulgation.

Berlin, September 1, 1941

For the Reich Minister of the Interior:

Heydrich.

German text in *Reichsgesetzblatt*, vol. I, September 5, 1941, p. 547.

15

ADDITIONAL OFFICIAL COMMENT ON PUTTING INTO FORCE THE PRECEDING DECREE IN BOHEMIA AND MORAVIA ON SEPTEMBER 19, 1941

It is not permissible to cover up the badge in any way.

For the present, every Jew receives two stars; if employed, three.

The police decree provides no exemption. Applications to the authorities for exemption from the obligation to wear the Jew-star are therefore useless and inadmissible.

According to paragraph 4 of the police decree, violation is not only punished by fine or imprisonment, but is also threatened with more far-reaching police measures for security.

Jüdisches Nachrichtenblatt, Prague, September 26, 1941.

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THE JEWISH STATUS IN EIGHTEENTH-CENTURY FRANCE AND THE "DROIT D'AUBAINE"

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ONE of the most curious aspects of the legal status of the Jews in France prior to the Revolution of 1789 was the application of the *droit d'aubaine* (right of *aubaine*)[1] to them. Under this right the government took possession, in whole or in part, of the estate of a deceased alien. But were the Jews of France aliens or French *régnicoles* (natives)?

Although Charles VI banished the Jews on September 17, 1394, a few Jewish centers were formed in France in the course of ensuing decades. In 1550 Henri II permitted Spanish and Portuguese Jews to settle in Bordeaux and other places in the territory of the Bordeaux Parliament, but only as Portugais or "New Christians" (*nouveaux chrétiens*). In addition, there were the Jewish communities in the papal province of Avignon and the Comtat Venaissin. Very small groups of Jews also dwelled in other parts of France. On April 23, 1516, however, Louis XIII ordered them banished. His successor, Louis XIV, expelled them from the French colonies on September 30, 1683, while Louis XV on February 20, 1731 forbade the Jews throughout France to do business in localities where they were not permitted to live. Yet, at the same time three large centers of Ashkenazic Jews again sprang up in the northeastern provinces of France: in Metz and in the provinces of Alsace and Lorraine—all with the approval and even under the protection of the kings of France. The letters patent of 1550 in favor of the Sephardic Jews were renewed in 1574, 1656, and 1723, each time being limited to the territory of the Bordeaux Parliament. In the

[1] On the general aspect of the right of aubaine in France, see Pierre Lainé, *Étude sur la capacité successorale des étrangers en France* (Paris, 1900), pp. 1-32; Colette Danjou, *La Condition civile de l'étranger dans les trois derniers siècles de la Monarchie* (Paris, 1939), 159 pp.

letters patent of June, 1776, all mention of a limited area was omitted, thus by implication allowing the Sephardic Jews to settle anywhere in France. However, this authorization was only theoretical, for all efforts to have these letters recognized by the Paris Parliament and in the colonies were in vain.[2] It is important to note that the Chamber of Domain (*Chambre de Domaine*), which was in charge of applying the right of *aubaine*, played a very important part in the fight against the recognition of the letters patent by the Paris Parliament. Officials of the Chamber stated in many memoranda that the New Christians were Jews, dangerous to the capital, and that they should be regarded as *aubains*.[3]

In the interior provinces of France the Jews were not even considered foreigners; they were simply outlawed. Jews from Bordeaux and Saint-Ésprit-lès-Bayonne were not tolerated in most of the French ports and other large cities. Driven out of Bayonne, they had to settle in the suburb of Saint-Ésprit. The Marranos were persecuted in Rouen and in Nantes, and in August, 1729, Jews of Bordeaux were driven out of La Rochelle. On June 22, 1724 and July 29, 1730, a few Bordeaux Jews were given permission to trade one month in the year in the territory of the Dijon Parliament, but on February 20, 1731 the Council of State revoked the permission. In 1728 Jacob Carim of Bordeaux settled in Poitiers, but in the 1740's he was ordered to leave the city. On February 23, 1758 Sephardic Jews and Bordeaux Jews of Avignon origin were forbidden to trade in Blaye. In 1771 a Bordeaux Jew named Lopez was ordered out of Marseille, the government stating as its reason that the privileges of the Sephardic Jews were limited to Bordeaux only. In 1781 two Jews from Bordeaux were arrested in Orléans and Rouen. In 1788 Abraham Garcia was not permitted to settle in Pau. Bordeaux Jews were also driven out of

[2] BN [= Bibliothèque Nationale (Paris)], manuscripts of Joly de Fleury, 472; P. Hildenfinger, *Documents sur les juifs à Paris au XVIII^e siècle* (Paris, 1913), pp. 41-42. The letters patent were registered on February 12, 1788 by the Parliament of Aix-en-Provence; I. Bédarride, *Les Juifs en France, en Italie et en Espagne* (Paris, 1859), pp. 372-73.

[3] BN, manuscripts of Joly de Fleury, 472.

Cognac, Rochefort and Saintes, and Jews of the papal province had great difficulty in trading in France.[4]

The Jews did not exist officially in Paris. They were tolerated there only as persons passing through the city.[5] In Lyon only Jews with patents or with individual letters patent granting them the rights of French natives were free to remain in the city without special permission; all other Jews had to carry certificates of good conduct issued by the syndics of their communities and to register in order to obtain passports. Still, they were not characterized there as foreigners.[6] Some Ashkenazic, Sephardic, Avignon, and Comtadin Jews obtained individual naturalization (*lettres de naturalité*) in order to secure recognition as *régnicoles* elsewhere in France and thus escape the application of the right of *aubaine*.[7] However, their number was small because the

[4] *Arrest de la Cour de Parlement de Tolo[u]se, portant que les juifs videront incessamment les villes de Nismes, de Montpelier, et autres du ressort de la Cour, . . .* (Tolose, 1680), 7 pp.; *Arrêt de la Cour du Parlement, qui fait défenses aux juifs de s'établir à la Rochelle à perpêtuité ou pour un temps. Du 22 août* 1729 (Paris, 1729), 4 pp.; *Arrêt du Conseil d'Etat du Roi qui casse deux arrêts rendus au Parlement de Dijon . . . Du 20 février* 1731 (Paris, 1731), 4 pp.; Camille Bloch, "Un Épisode de l'histoire commerciale des juifs en Languedoc (1738)," *REJ*, XXIV (1892), 272-80; P. Bonassieux, *Les Assemblées représentatives du commerce* (Paris, 1883), p. 451; Leon Brunschwicq, "Les Juifs de Nantes . . .," *REJ*, XVII (1888), 126-42; XIX (1889), 294; *idem*, "Les Juifs en Bretagne," *ibid.*, XXXXIX (1904), 113; Clement-Janin, *Notice sur la communauté juive de Dijon* (Dijon, 1879), pp. 65-66; Adolphe Crémieux, "Un Droit perçu sur les juifs étrangers venus en France au XVII[e] siècle," *REJ*, XXXXIV (1902), 301; Salomon Kahn, "Les Juifs de Montpellier au XVIII[e] siècle," *REJ*, XXXIII (1896), 285-93; E. B. Le Beuf, *Du commerce de Nantes.* (Nantes, 1857), pp. 37, 93; Cecil Roth, "Les Marranes à Rouen," *REJ*, LXXXVIII (1929), 113-55; N. Roubin, "La Vie commerciale des juifs comtadins en Languedoc au XVIII[e] siècle," *REJ*, XXXIV (1897), 283; Henri Sée, "Note sur le commerce des juifs en Bretagne au XVIII[e] siècle," *REJ*, LXXX (1925), 170-78; *ibid.*, "Les Marchands de Saintes et les juifs," *ibid.*, pp. 179-81; Jonas Weyl, "La Résidence des juifs à Marseille," *REJ*, XVII (1888), 99, 108; David Wolfson, "Le Bureau du commerce et les réclamations contre les juifs (1726-1746)," *REJ*, LXI (1910), 82-83, 92-97, 261-64.

[5] H. Monin, "Les Juifs de Paris à la fin de l'ancien régime," *REJ*, XXIII (1894), 85.

[6] Alfred Lévy, *Notice sur les israélites de Lyon* (Paris, 1894), p. 23.

[7] AN [=Archives Nationales], W 421, dr. 956-I, p. 190 (naturalization of Liefman Calmer). Hayem and Cerf Worms of Sarrelouis were naturalized in 1787 (AN, C 82-817-2). Z. Szajkowski, "The Jewish Problem in Alsace, Metz, and Lorraine on the Eve of the Revolution of 1789," *Jewish Quarterly Review*, XLIV (1954), 213 (naturalization of Cerfberr). *Lettres patentes du Roi qui accordent aux sieurs [Lion, Gerson, Eliézer] Homberg frères et*

official price or bribe exacted for such naturalization was very high. Thus, the historian Maurice Liber was correct in writing that the Jews "could not be compared to other Frenchmen, but they also could not be treated as real foreigners." In the opinion of the historian Robert Anchel, the Jews could not be Frenchmen because legally only Christians were Frenchmen. The Jews had an intermediate status,[8] but in their case the historical facts are often very complicated.

In the seventeenth century the jurisconsult Jean Bacquet considered the "New Christians" as *aubains*, but of a special privileged character, exempt from the right of *aubaine* and whose heirs were legally to be considered *régnicoles*. On the other hand, the jurist Lefèvre de la Planche, who, from 1693 to 1732, was the King's attorney in the Chamber of Domain in charge of the royal estates and thus in charge of the application of the right of *aubaine*, did not recognize the legal existence of the Jews in France. In his opinion their banish-

[*Joseph*] *Lallemant, négocians du Havre-de-Grâce, les droits de régnicoles et naturels françois, du mois de septembre* 1775 (Paris, 1776). *Lettre du sieur Berr-Isaac Berr . . . juifs naturalisé en vertu de Lettres patentes du Roi . . .* (Paris, 1790), 20 pp. In 1736 six out of thirty-six Jewish family heads in Bordeaux were naturalized, five were born in France, and twenty-five arrived from Spain and Portugal; L. Cardozo de Béthencourt, "Le Trésor des juifs séphardim," *REJ*, XXV (1892), 96. Moise Dalpuget was naturalized in 1759; *Extrait des registres du Conseil d'Etat du* 23 *mai* 1775 (Paris, n.d.); Moise Castro Solar of Saint-Êsprit-lès-Bayonne was naturalized in April, 1776 (AN, 0-1-236). The Jew Couen of Saint-Pierre (Martinique) was naturalized on October 3, 1765. A. Cahen, "Les Juifs dans les colonies françaises au XVIII^e siècle," *REJ*, V (1882), 80-81. Sara Allegry of Amsterdam was naturalized in 1772. La Servolle, *Au Roi et è nosseigneurs de son conseil* (n.p., n.d.), p. 12. A family named Bédarride was naturalized in 1730. Bédarride, *op. cit.*, p. 376. *Lettres patentes du Roi qui accordent aux sieurs Jacob de Perpignan, juif, négociant de Bordeaux, à sa femme, ses enfans et posterité les droits de régnicoles et naturels françois, données à Versailles au mois de mars* 1776, *enregistrées au Parlement de Bordeaux le* 2 *mai de la même année* (Paris, 1776). Israel de Valabrègue was naturalized in 1770 (AN, 0-1-234). Josué Gabriel de Pichaud, of Avignon origin, was naturalized in March, 1772 (AN, 0-1-235, f. 20). *Lettres patentes du Roi, portant naturalization du Sr. Jassuda David Crémieu, natif de la ville de Capentras . . .* (Aix, 1785), 10 pp. Ruben and Israël Moise of Lyon were naturalized in 1786 (BN, manuscripts of Joly de Fleury, 2494, f.155).

[8] M. Liber, "Les Juifs et la convocation des états généraux," *REJ*, LXIII (1912), 185; Robert Anchel, "Les Juifs à Paris au XVIII^e siècle," *Bulletin de la société de l'histoire de Paris et de l'Ile de France*, LIX (1932), 9-23.

ment from France by the declaration of April 23, 1615 was the only legal basis for considering their legal status. He did not even recognize the validity in the territory of the Paris Parliament of the letters patent of 1550 in favor of the "New Christian" refugees, or their later confirmation by letters of 1574, 1656, and 1723. La Planche's study was published posthumously by Paul Charles Lorry, who regarded the Jews' legal status from a more liberal point of view. He added a very strong pro-Jewish note to La Planche's legal attack upon Jews. The *procureur-général* of the Bordeaux Parliament wrote in 1758 that the Jews were not to be regarded as *aubains*, but as *régnicoles*.[9]

The government tried to assert its right of *aubaine* against the Jews, but in most cases it lost. These claims indicate, however, that there was a tendency in many instances to regard the Jews as foreigners and to disregard the privileges to which they were entitled.

In the 1720's to the 1730's the Jewish widow Gaspard Rodriguez Medine and her son Joseph won the right to inherit an estate left to them by a Christian attorney of the Bordeaux Parliament. In another case the Chamber of Domain ordered the confiscation of the estates left by Salomon Perpignan, who died in Paris in 1781, and of Abraham de Perpignan, who died in Lyon. In both instances the heirs proved that the deceased were members of the family of Jacob de Perpignan, who had been naturalized by letters patent of March, 1776, and the claims of the Chamber were rejected. Likewise rejected were the Chamber's claims to the estates of Phillips Heckser, who died in Paris on October 17, 1788, and Samuel Hirsch, who died in Paris in August, 1787. On May 3, 1783 the Chamber laid claim to the estate of Sara Mendes d'Acosta. But her husband, Charles Peixotto, who had been converted to Catholicism,

[9] *Les Oeuvres de Me Jean Bacquet* (Paris, 1688), p. 670; Lefèvre de la Planche, *Mémoires sur les matières domaniales ou traité du domaine* (Paris, 1765), II, 102-109; L.F.B. [Beaufleury], *Histoire de l'établissement des juifs à Bayonne* (Paris, 1799), p. 116; T. Malvezin, *Histoire des juifs à Bordeaux* (Bordeaux, 1875), pp. 228-29; Hildenfinger, *op. cit.*, pp. 35-38.

on August 20, 1783 vindicated the right of their two children to inherit her property.[10] Israel Bernard de Valabrègue, a well-known Parisian Jew of Comtadin origin, was a merchant and author, and interpreter at the Royal Library from 1749 on. In September, 1770, he obtained naturalization letter. Nevertheless, after his death on November 15, 1779 the Chamber of Domain, assuming that Valabrègue was an alien, ordered the confiscation of his property including a library of 1792 volumes. But on February 3, 1780 the Paris Parliament recognized the widow, Esther Salon Dalpuget, as the legal heiress and rejected the Crown's claim.[11]

Particularly illuminating is the case of Abraham Vidal, born in August, 1720, in Bordeaux to Joseph Haim bar Noah Vidal of Avignon origin, and Blanche Ravel, a Sephardic Jewess. In 1739 Vidal settled in Paris where he became a haberdasher and a respected member of the Jewish community; he was among the first founders of the *École gratuite de dessin,* a non-Jewish vocational school. Vidal was the uncle of Israél Baumarin (Bon Marino), who had converted to Catholicism in the 1750's in Britany and through the law courts had obtained custody of his two children from his wife, who had remained Jewish. When Vidal died in December, 1783, the syndic of the Sephardic Jews in Paris put his property under seal in order to protect the heirs. These were Vidal's daughter Miriam, who married Moyse Gard of Avignon, and Jean Charles-Marie (Joseph) Beaumarin and Marie-Gabriel-Beaumarin, children of the converted Israél. On December 23, 1783 the Chamber of Domain ordered the confiscation of the estate. Vidal's

[10] Dulimon, Poitevin, *Mémoire pour Pierre Niaguès . . . contre Cathérine Lopez de Paz, veuve Gaspard-Rodriguez Medine, et Joseph Medine, son fils* (Paris, n.d.); idem, *Observations pour Pierre Niaguès* (Paris, 1735); Malvezin, *op. cit.,* p. 229; Hildenfinger, *op. cit.,* pp. 3, 42-43, 252-53, 266, 271; BN, manuscripts of Joly de Fleury, 472, f. 76; *Mémoire . . . Vidal* (see note 13), p. 25-26. On Perpignan, see note 7; on Sara Mendes Dacosta and on Peixotto, see AN, Z-i, f. 842, and Z. Szajkowski, "Marriages, Mixed Marriages and Conversions among French Jews during the Revolution of 1789," *Historia Judaica,* XIX (1957), 35-36.

[11] AN, 0-1-234, f. 246 (Valabrèguès naturalization); Hildenfinger, *op. cit.,* pp. 34, 226-30; idem, *La Bibliothèque de Bernard Valabrègue* (Paris, 1911), 16 pp.

heirs appealed the decision. They hired the lawyer Martineau, who published a famous memorial on the subject, in which he recounted the fate of the Jewish people since the destruction of Jerusalem. The following are a few of the legal arguments presented by both parties:

(a) Those who represented the Crown stated that the letters patent which renewed the privileges accorded by Henri II in 1550 were registered only with the Parliament of Bordeaux. Jews residing in the territories of other parliaments could, therefore, not claim the right of *régnicoles*. To this Martineau replied that after the death of Henri II the letters patent of 1550 did not lose their force. The later letters patent, which confirmed those of 1550, were merely collective naturalization letters (*lettres générales de naturalité*) for the entire *nation* of the Bordeaux Jews.

(b) The Crown asserted that Vidal had not registered in Paris. To this Martineauu replied that the letters patent of 1776 did in fact require matriculation in the place of residence, but only for Jewish refugees newly arrived from Spain and Portugal, and not for those of French birth. In any case, on November 15, 1777, the Chief of Police had ordered the Paris syndic of the Bordeaux Jews to keep a register of the Sephardic Jews in the capital.[12] On November 28 of the same year Vidal was registered by the syndic. This, argued Martineau, should be recognized as a legal act of matriculation.

On February 18, 1784, the Parliament of Paris rejected the Crown's claim and the estate of Vidal went to his heirs.[13] The Chamber of Domain strongly protested against this decision. In a memorandum opposing the decision the Chamber

[12] *Copie d'une lettre . . . par M. Lenoir . . . au sieur Pereire . . . portant règlement pour les juifs portugais. Paris le 15 novembre 1777* [Paris 1778], 3 pp.

[13] Me Martineau, *Mémoire pour les héritiers d'Abraham Vidal, juif portugais, négociant à Paris; contre M. le procureur général* (Paris, 1784), 31 pp.; *Arrêt du Parlement de Paris portant qu'il n'y a pas lieu d'exercer le droit d'aubaine sur la succession d'Abraham Vidal* (Paris, 1784), 4 pp.; Béthencourt, *op. cit.*, XX (1890), 291-95; Hildenfinger, *op. cit.*, p. 266. On the Vidal family in Paris, see also L. Kahn, "Les Juifs de Paris de 1755 à 1759," *REJ*, XXXXIX (1904), 121-124.

stated that Vidal was not even a Portuguese Jew, but of Avignon origin. In any case, even the Portuguese Jews could not claim outside the territory of the Bordeaux Parliament the right to transfer their estates to their heirs.[14]

The right of *aubaine* was frequently asserted against Jews in the French colonies. On July 25, 1726, Abraham Gradis left Bordeaux for Martinique with the permission of the proper authorities. He died there in March, 1738. The King himself ordered the confiscation of his estate valued at over 70,000 livres. The colonial authorities wrote to the government on August 12, 1739 that although the Jews were not considered *aubains* in Bordeaux, they could be so regarded in the colonies on the basis of the *Code Noir* of March, 1685. However, on January 18, 1740, the government ordered the abandonment of the case because Gradis had been authorized to leave Bordeaux for the colonies. In March, 1751, Emanuel Cardoze of Bordeaux won his case against the colonial authorities who had ordered the confiscation of the estate left by his brother David. The Jew Campos of Saint-Ésprit-lès-Bayonne settled in San Domingo. After his death in 1757 the authorities tried to confiscate his estate. His children appealed to the Minister of the Naval Forces in charge of colonial administration, who requested the advice of the *procureur-général* of Bordeaux. On March 28, 1758, this magistrate replied that such confiscation contravened the decision of the Bordeaux Parliament which recognized the Jews as *régnicoles*. They could inherit property not only from Jews, but also from Christians, as had happened in the case of Medine. Campos' children obtained their father's estate. In February, 1758, the heirs of Moise Daguillard obtained permission to inherit his property in spite of the colonial administration's claim that he was to be considered an *aubain*. The same thing occurred in 1779 in the case of Benjamin Delbaille. Another Bordeaux Jew in the colonies, Depas, left his property to his daughter Esther,

14 "Mémoire intéressant sur les successions des juifs de Paris," BN, manuscript of Joly de Fleury, 472.

who was married in Bordeaux to Jacob Gradis. In this case, too, the right of *aubaine* was claimed. But Gradis, in order to avoid a long and expensive lawsuit, obtained the estate as a gift from the authorities. In the case of another Bordeaux Jew named Tota, the *Conseil supérieur* of the colony in May, 1780, requested of his family proof that the deceased had been registered in Bordeaux.[15]

Of a very different and curious character was the case of the Faxardo family. Raphael Faxardo, the son of Dom Pedro Faxardo (born in 1623 in Toledo), was born in 1669 in Spain. In 1722 he settled in France with his wife Hyacinthe Magdeleine de Pinedo Gusman and their five children. There he remarried his wife according to Jewish law, and they assumed the Jewish names of Abraham Faxardo and Sara Pinedo. The children, too, were given Jewish names. In France four more children were born to Abraham and Sara. In 1735 the family settled in the French colonies, where most of its members converted to Catholicism. Jean, Abraham's oldest son, born in Spain in 1697, assumed the name of Isaac in France. When he died on June 15, 1767 at the Cap, the *Affiches américaines* announced the death of *"Faxardo, juif portugais."* His property was ordered confiscated on the basis of a double right of *aubaine,* because he was a Jew and a Portuguese. But his heirs proved that the deceased came from Spain, whose nationals were exempt from the right of *aubaine* in France, and that he was a Catholic. On May 21, 1768 the Court rejected the government's claim. Salomon, Abraham's youngest son, born in 1726 in France, immigrated to the colonies in 1747. On June 26, 1752, at Saint-Yag, he was converted to Catholicism and became known as Salomon-Pierre. He died on the Cap on September 29, 1773, and four years later, on October 30, 1777, the treasurer of the *aubaine* ordered the confiscation of his estate. The heirs protested. They did not argue that

[15] Moreau de Saint-Méry, *Loix et constitutions des colonies françoises de l'Amérique sous le Vent* . . . (Paris, 1784-90), IV, 66, 260, 293, V, 889; Beaufleury, *op. cit.*, pp. 115-19; Malvezin, *op. cit.*, pp. 220-29; A. Cahen, *op. cit.*, IV (1882), 133-39, 144-45, V (1882), 75, 91-92, 258-67.

Salomon-Pierre was a converted Jew, but only that he was a *régnicole,* born in France. The outcome of this case is not known.[16]

These frequent but isolated attempts of the French monarchy to declare certain deceased Jews to be *aubains* and to confiscate their estates aroused all French Jews to come to the defense of their prospective heirs, for they rightly saw in them a threat to the legal and economic status of all Jews in France. Thus Martineau, the lawyer of Abraham Vidal's heirs, stated that the conflict was important for the entire *nation* of the Sephardic Jews.[17] David Silveyra, the syndic of the Sephardim in Paris, wrote on April 2, 1784 to the *nation* in Bordeaux that Jews in the French colonies had submitted to baptism in order to avoid confiscation of their properties after their death.[18] The claim of the right of *aubaine* against Valabrègue's estate alarmed the Jews of the papal province of Avignon and the Comtat Venaissin. In a petition to the Assembly of the Comtat Venaissin the Jewish community of Carpentras stated in connection with the Valabrègue case that the Jews were not foreigners in France but *régnicoles,* that Jews would be afraid to travel in France for commercial purposes for fear of losing their properties in case of death, etc.[19] On March 12, 1780, the Ordinary Assembly of the Comtat Venaissin decided to write to the Cardinal Secretary of State and to the Nuncio of Paris in favor of the Jewish petition. On April 27, 1780, the General Assembly of the province took a similar decision.[20]

16 Me Bourbon, *Mémoire pour le Sieur Alexandre Faxardo, neveu & légataire de Salomon Pierre Faxardo, appellant de sentence du juge du Cap du 27 mars 1779, aux fins d'arrêt & exploits des 19 & 21 juillet suivant: contre le receveur actuel de l'aubaine . . .* (Cap, 1780), 60 pp.

17 "Mais la question que l'on nous force d'examiner est trop importante pour rien négliger. Elle n'intéresse pas seulement les héeritiers du sieur Vidal; elle intéresse toute la Nation juive portugaise"; *Mémoire pour les héritiers d'Abraham Vidal . . .* pp. 1-2.

18 Silveyra's letter is in the library of the Jewish Theological Seminary, New York City.

19 The full tert of the petition will be published elsewhere.

20 Departmental archives of Vaucluse, E 12, C 43, ff. 20, 104.

Almost all attempts to apply the right of *aubaine* to Jews involved Sephardic Jews of France and the colonies or Jews of the papal province. Of the cases known to us, only Samuel Hirsch was, most probably, an Ashkenazic Jew.

The residents of Strasbourg and other free cities and Alsatian areas owned by foreign princes and other dignitaries were exempt from the right of *aubaine*. It would seem, then, that the right was not applied to Jews there either. The Alsatian historians L. V. Goetzman, Jules Krug-Basse, Charles Hoffmann, Rodolphe Reuss, and George Livet, the Metz historian Roger Clément, E. T. Bonvclat of Lorraine and many others, and the collections of local laws mention no such cases.[21] It may be possible to find, by long and painstaking research in the departmental archives, a few isolated cases in which the right of *aubaine* was applied to Jews of Alsace, Metz and its province, and Lorraine, but they would not permit the forming of any general conclusion. There were many other legal ways to take property away from the Jews. Nevertheless, on many occasions, though not involving claims to confiscate estates, the Ashkenazic Jews stated that they were not *aubains*, but French *régnicoles*.

In March, 1767, the King permitted certain foreigners to obtain *brevets* (patents), which gave them the right to engage in certain occupations and thus exempted them from

21 L. V. de Götzmann, *Traité du droit commun des fiefs . . .* (Paris, 1768), 2 vols.; Jules Krug-Basse, *L'Alsace avant* 1789 . . . (Paris, 1876); Charles Hoffman, *L'Alsace au dix-huitième siècle . . .* (Colmar, 1906-07), 4 vols.; Rodolphe Reuss, *L'Alsace au dix-septième siècle* (Paris, 1897-98), 2 vols.; Georges Livet, *L'Intendance d'Alsace sous Louis XIV*, 1648-1715 (Strasbourg, 1956), pp. 780-87: Jews; Roger Clément, *La Condition des juifs de Metz sous l'ancien régime* (Paris, 1903); E. T. Bonvalot, *Histoire du droit et des institutions de la Lorraine et des Trois-Evêchés* (Paris, 1895). The author wishes to express sincere thanks to the archivists Chr. Wilsdorf of Colmar, Gilbert Cohen of Metz, George Weill and Fucks of Strasbourg, and Et. Delcamb of Nancy who tried, though in vain, to find in the departmental archives cases in which the right of *aubaine* was applied to Jews. It is worth while to note a lawsuit between the Jew Judas Lévi of Metz and his debtor, Henri Millot of Burgaltroff, that concerned the right of *aubaine*: *Arrêt du Parlement de Metz sur l'inaléniabilité des fiefs contenu dans l'arrêt notable sur une question d'aubaine* (Colmar, 1783).

the right of *aubaine*. However, this edict did not apply to Jews. The lawyer Pierre-Louis Lacretelle the elder (1751-1824) pleaded, in 1775 before the Parliament of Nancy, in favor of two Jews of Metz who requested that they be granted *brevets* as merchants of Thionville. He stated that the Jews were not foreigners, but *régnicoles*, and that the right of *aubaine* was not applicable to them.[22] On the basis of this same edict of 1767 the four brothers Hayem, Cerf, Abraham, and Jacob Olry Worms, and Lyon Alexandre and Joseph Cahen of Sarrelouis obtained *brevets de maîtrise* in the city of Sarrelouis. Eight years later, however, the Christian merchants and butchers protested. They asserted that the Jews could not be considered *régnicoles*, that they were still aliens and that, in any event, only two Jews were allowed to reside in the city. The Jews contested this position. In a memorandum prepared for them by the lawyer La Servalle they stated that they could not be considered aliens because they were not regarded as *aubains* in the matter of inheritance.[23]

At the beginning of the Revolution the Jewish representatives of Alsace, Metz, and Lorraine stated in a memorandum submitted to the Minister of Finance and the government's real chief, Jacques Necker, that they were not foreigners but a *nation juive régnicole* and that the right of *aubaine* was not to be applied to them.[24]

The decree of April 30, 1790 (law of May 2, 1790) in favor of foreigners contained the clause: "without . . . prejudging anything regarding the problem of the Jews, which

22 Pierre Louis Lacretelle the elder, "Plaidoyer pour Moise May, Godechaux et Abraham Lévy, juifs de Metz, contre l'Hotel de Ville de Thionville et le corps des marchands de cette ville," *Plaidoyers* (Bruxelles, 1775), pp. 15-16, reprinted in *Mémoire pour deux juifs de Metz contre l'Hotel de Ville et le corps des marchands de Thionville. Textes de* 1777 *et de* 1823 (Paris, 1928), pp. 219-20.

23 Me La Servolle, *Requête au Roi, pour les juifs de Sarrelouis* (Paris, 1777), p. 14. On this conflict, see also Me Dimours, *Mémoire pour les maire, syndics, & communauté des habitans de Sarelouis . . . contre les juifs . . .* (n.p., n.d.), 43 pp.

24 Liber, *op. cit.*, LXIV (1912), 267.

was and remains postponed." This does not prove that the Jews were then considered foreigners. The paragraph had been added at the request of the Alsatian anti-Jewish Deputy Jean-François Rewbell (Reubell), who feared that the Jews would try to turn the decree to their own advantage for their emancipation. When Reubell stated on July 20, 1790 before the National Assembly that the Jews of Metz were foreigners, a voice replied: "This is not the truth."[25]

As late as March, 1790, after the Sephardic Jews had been granted (in January, 1790) full citizenship, the Chamber of Domain expressed its strong opposition to recognizing them as *régnicoles*.[26] According to Baruch Hagani, the law of May 2, 1790 setaside the discussion whether the Jews were *régnicoles* or aliens.[27] The right of *aubaine* was abolished altogether by a decree of August 6, 1790. Indeed, a decree of April 8, 1791 even permitted residents of foreign countries to inherit property in France. But the problem was still much discussed even later in connection with the Brancas tax and the liquidation of debts owed by the Jewish communities to Christian creditors.

From 1715 on the Jews of Metz were forced to pay a yearly tax of 20,000 livres to the Brancas family. This tax was abolished by the National Assembly on July 20, 1790. On this occasion the Jews of Metz argued, in a petition signed by Louis Wolff, with respect to a problem which was of great importance for the future of the Jewish communities. The Brancas family stated that the Jews of Metz were only tolerated foreigners and that the Brancas tax was to be considered similar to a *droit d'aubaine*. To this Wolff replied that the *droit d'aubaine* was well known in 1715, when the Brancas tax was originated, but, the Brancas tax was formulated only as a tolerance, protection, and residence charge. The Jews were not tolerated foreigners, but formed

25 A. E. Halphen, *Recueil des lois . . .* (Paris, 1851), p. 4; *Archives parlementaires,* XVII, 218.

26 Hildenfinger, *op. cit.*, p. 42, note 3.

27 B. Hagani, *Emancipation des juifs* (Paris, 1928), p. 188.

a well-organized body: "It is not as foreigners, but as constituents of a particular body [*corporation*] that the Jews obtained confirmation of their rights with every change in sovereign." In this respect they followed the practice of other Frenchmen, their fellow-citizens, forming corps or communities and obtaining confirmation of the rights of their already existing bodies. Jacques-François-Laurent de Visme [Devisme, 1749-1830], who, on July 20, 1790, reported to the National Assembly on the Jewish request, likewise argued against the claim of the Brancas family. He stated that the right of *aubaine* was only "a casual claim" resulting from the death of a foreigner and ending with the legal confiscation of his estate. The claim was not applied perpetually to the foreigner's descendants who, if born in France, became French natives (*régnicoles*). But here, the Brancas family had obtained a perpetual tax imposed upon Jews and their heirs. Moreover, the right of *aubaine* was a prerogative reserved to the King alone, and was not to be turned over to other persons.[28]

The Jewish communities had to pay such large amounts in taxes that they were forced to borrow money from Christians and thus became collective debtors to Christian creditors. During the Revolution the Jews demanded that the debts owed by them should be taken over by the government, as had been done with all debts of religious and other bodies that had been dissolved by the new regime. The Jews showed that prior to the Revolution they existed as autonomous communities, with their own constitutions and administrations. The Christian creditors, who fought the nationalization of the debts owed them by the Jewish communities, stated that the Jews were only tolerated foreigners, *aubains*. They argued that this could be established by the fact that after 1789 the local authorities ordered the Jews to continue the administration of their communal properties. In a reply

[28] Louis Wolff, *Mémoire pour les juifs de Metz . . .* (Paris, n.d.), pp. 6-7; J. F. L. de Visme, [Devisme], *Rapport fait . . . le 20 juillet 1790 sur le droit de protection levé sur les juifs . . .* (Paris, n.d.), pp. 5-9.

prepared on behalf of the Jews of Metz the lawyer Combines stated that, prior to 1789, the Jews in France had the status of a recognized body and that the order to continue the administrative functions of the Jewish community was forced upon them.[29] François-Balthazar Darracq (1750-1808), in a strong attack against the Jews delivered on March 7, 1799 at the Council of the Five Hundred (*Conseil des Cinq Cents*), pressed the same arguments. This was part of a well-organized effort to prove that the Jews—as foreigners—could not have been organized in communities which were in the category of those dissolved by the new regime. The Jews of Metz replied that they were not looked upon as foreigners. Foreign Jews could not settle among them; their possessions were not escheat to the Crown, because the right of *aubaine* was not applied to them. The Council of Five Hundred appointed a commission to report on the Jewish debts. On November 24, 1797, François-Marie-Joseph Riou de Kersalaun (1765-1811) presented the commission's conclusions in favor of nationalization of the debts owed by the Jewish communities. He also rejected the creditors' argument that prior to the Revolution the Jews were considered foreigners.[30]

In conclusion it should be said that prior to the Revolution of 1789 the legal status of the Jews was not clearly defined. This opened the way for many interpretations that were prejudicial to the Jews, not only during the old regime, but even during the Revolution. Thus, the debts owed by the Jewish communities were not taken over by the government, partly as a result of the propaganda statement that during the old regime the Jews were considered legally as aliens.

29 The Library of the Jewish Theological Seminary, manuscript 01530-6.

30 Puyproux the elder, *Réponse aux juifs de Metz* . . . (Paris, n.d.), p. 2; F. B. Darracq, *Opinion* . . . *dans l'affaire des juifs de Bordeaux* . . . (Paris, an VII), p. 4 (" . . . les juifs ne furent en France que des *aubains*, des *étrangers* vivant entre eux en *corps* de *nation*, de nation étrangère"); *Résumé pour les juifs de Metz* (Paris, n.d.), p. 3; F. M. J. Riou [de Kersalaun], *Rapport* . . . *sur les pétitions des juifs de Metz et d'Avignon* (Paris, an VI), p. 4.

REVIEW SECTION

The Jews and Ordeals in the Middle Ages

GOTTESURTEILSTUDIEN. By *Hermann Nottarp*. Bamberger Abhandlungen und Forschungen, Vol. II. Kösel-Verlag. München, 1956. 404 pp.

PROFESSOR Nottarp's volume, "Ordeal Studies," will most probably become the standard work on a subject that is of equal importance for the history of religion and of law. It was first published in 1949 in a different version, without bibliography or footnotes. In the present definitive edition, the text has been revised, brought up to date, in many places expanded, and—most important of all—provided with the scholarly *apparatus* that had been omitted in the earlier edition.

In view of the widespread application of the various types of ordeals in mediaeval criminal and civil procedure, the problem "Jews and ordeals" finds its justification. Cases are recorded in which Jewish plaintiffs had recourse to ordeals, demanding purgation by ordeal from a Christian peace-breaker; on the other hand, as early as Carolingian times, Jews were exempt from *ordalia* in charters of protection and also in the privileges of Speyer and Worms of about 1090.

The question of active and passive participation of Jews in the performance of and their exclusion from ordeals has been extensively discussed by this reviewer in his *The Jews in Medieval Germany: A Study of Their Legal and Social Status* (Chicago University Press, 1949, pp. 266 f., 501 f., and *passim*) and in his *Forschungen zur Rechts- und Sozialgeschichte der Juden in Deutschland während des Mittelalters* (Europa Verlag, Zürich, 1955, pp. 54 f.). There, exception was taken to Nottarp's assertion that "the intellectualist uprooted Jews," solely because of their "doubts as to the effectiveness of the ordeals sought and knew how to obtain exemption from their application against them." In reply to this I remarked: "This was by no means so simple. The reasons are to be sought elsewhere." This statement referred to the fact that, in medieval legal procedure, oath and judicial combat were basically considered the regular sources of evidence for *freemen*, whereas for those who lacked freedom or general legal capacity, ordeals found their proper application. Jews being freemen, they were not subjected to ordeals.

On p. 390, Professor Nottarp repeats his above-quoted assertion, modifying its wording as follows: "The Jews who had been driven from their homeland may from the very beginning have entertained doubts as to the effectiveness of the ordeals. Very early, therefore, they sought

and knew how to obtain exemption from the application of ordeals against themselves. . . ." He takes exception to the implication that he considers the skeptical attitude of the Jews toward the practice of ordeals as their *only* motivation in seeking and obtaining exemption. To prove his point, he refers to Ephraim bar Jacob of Bonn's description and denunciation of a water ordeal performed in Blois in 1171, which had been quoted by me (*Forschungen*, p. 55, n. 36). His conclusion, "Quod erat demonstrandum," is by no means conclusive, however, for he does not mention any other reason for the Jews' exemption from ordeals. In contrast, I offered two counterarguments to Nottarp's vague assumption that "the Jews sought and knew how to obtain exemption from the application of ordeals against themselves." This assertion, which he restated so emphatically, retains a derogatory flavor in spite of the dropping of the adjectives "intellectualist uprooted" (Jews) of the earlier version.

First, the fact must not be overlooked that the ordeals of hot iron and boiling water, as employed in judicial practice, from which Jews were early exempt, were performed with the assistance of the Church. The accompanying Christian ritual in itself made the ordeal by fire and by water nonapplicable to Jews for religious reasons alone. Secondly, Jews as freemen were not subjected to them. While Nottarp does not take the first-mentioned fact into consideration with reference to Jews, he still adheres to the antiquated "alien-law" theory, maintaining that "Jews as aliens who were not *Rechtsgenossen* were placed on the same level with the unfree whereas they desired to be treated as freemen" (p. 91). Nottarp's solution of the obvious incongruence reads: "The Jews achieved this legal status [of freemen] gradually by means of privileges accorded them by the rulers." By this argumentation another logical inconsistency of Nottarp's reveals itself.

As mentioned before, the entire range of problems was extensively discussed in my two volumes on the legal status of German Jewry in the Middle Ages. No objections were raised by any of the numerous reviewers. The basic results of my researches are today generally recognized and accepted. Subsequent scholarly investigations and argumentations, including those of Nottarp, have not produced any new results which would necessitate any change in the conclusions arrived at in my two earlier publications. Nottarp's persistent attitude toward the problem may possibly be due to the fact that the volume, *The Jews in Medieval Germany*, of which the *Forschungen* is *not* a translation, has escaped his attention.

GUIDO KISCH

Reuchlin Anniversary Volume

JOHANNES REUCHLIN, 1455-1522: FESTGABE SEINER VATERSTADT PFORZHEIM ZUR 500. WIEDERKEHR SEINES GEBURTSTAGES. Edited by *Manfred Krebs*. Selbstverlag der Stadt Pforzheim [1956]. 265 pp. 40 with numerous illustrations.

BIBLIOGRAPHIE DER SCHRIFTEN JOHANNES REUCHLINS IM 15. UND 16. JAHRHUNDERT. By *Josef Benzing*. Walter Krieg Verlag. Bad Bocklet, 1955. xii and 50 pp. with 3 illustrations.

WHILE in these times we indulge in the celebration of jubilees of almost every kind and in the commemoration of anniversaries of births and deaths of famous and even lesser known historical figures, Jewish historians seem to have overlooked completely the five hundredth birthday of Johannes Reuchlin (1455-1522), great humanist, learned Hebrew philologian, and fearless defender of the Hebrew scriptures, including the Talmud, in the vicious campaign of the unscrupulous and ignorant renegade Johannes Pfefferkorn. All the more, then, do these two volumes deserve to be brought to the attention of all interested in the struggle of the Jews for the preservation of their literature and in the intellectual situation during the period of the Renaissance and Reformation in Germany in general.

It is altogether proper and most fitting for this occasion that Reuchlin's native city, Pforzheim, should have refrained from publicity-seeking festivities and celebrations. Instead, the municipal administration revived the humanistic Reuchlin *Gymnasium* and established a Reuchlin House designed to put a roof over several cultural institutes, foremost among them the Reuchlin museum which had been destroyed during the last war.

A *Festschrift,* contained in the first-mentioned volume, published by the City of Pforzheim, is intended to revive the memory of the great humanist in a dignified scholarly fashion. Even its outer appearance serves this purpose excellently. The book is splendidly printed and magnificently illustrated. Among the illustrations, the reproductions of Hebrew manuscripts from Reuchlin's library stand out in particular. The contents, the collective work of a number of well-qualified scholars, offer very valuable historical contributions.

The *Festschrift* opens with a comprehensive essay by Hans Rupprich on Reuchlin's significance for the history of European Humanism. There follow monographic studies on Reuchlin's library, his biography, his role in Melanchthon's (his grand-nephew's) appointment to a professorship at Wittenberg; on Reuchlin's relationship to the "Prince among the humanists," Erasmus; on Pforzheim in Reuchlin's time; on his iconography; on the printer of Reuchlin's works. All in all, a splendid "Reuchlin-Buch," full of interesting, even fascinating, results of thorough research, enriching and stimulating scholarship so necessary for the

history of the sixteenth century in all its aspects, still neglected in recent times. Unfortunately, space does not permit going into detail. All scholars interested in this worldshaking period of history are urged to acquaint themselves with this extremely important publication.

From the point of view of Jewish history and the history of Christian hebraists, it is most regrettable that a competent scholar was not found to deal with the respective problems. Ludwig Geiger's *Johann Reuchlin, sein Leben und seine Werke* (1871) and *Johann Reuchlins Briefwechsel* (1875), meritorious works yet severely criticized already at the time of their publication, should by now have been replaced by editions and evaluations that measure up to the modern scholarly standards of the works on Erasmus by Allen and on Amerbach by Hartmann. Reuchlin's life and work deserve the attention of Jewish scholarship from the point of view of religious, political and legal history, philosophy and mysticism, Hebrew philology, musicology, etc. In fact, there would be room for another—a Jewish—volume on Reuchlin like that described here.

A welcome supplement to the *Festschrift* is the "Bibliography of Johannes Reuchlin's Writings in the Fifteenth and Sixteenth Centuries," the publication of which was in no way connected with the *Festschrift*, and indeed was prior to it, in 1955, appearing as volume XVIII of Michael O. Krieg's *Bibliotheca Bibliographica*, by Josef Benzing. This small booklet represents the first extensive list of all literary and scholarly publications of the great humanist. A total of 155 works and their various editions are described with bibliographical minuteness, including such publications as *De accentibus et orthographia linguae hebraicae, De arte cabalistica, De rudimentis hebraicis*, as well as the literature on the Pfefferkorn controversy. Indexes of titles, translations, and publishers arranged according to geographical locations conclude this useful compilation.

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GUIDO KISCH

ISRAEL'S ROLE IN CIVILIZATION

ISRAEL, ITS ROLE IN CIVILIZATION. *Moshe Davis*, editor. The Seminary Israel Institute. New York, 1956. xviii and 338 pp.

THIS is a re-issue of addresses delivered at the Seminary Israel Institute established in 1952 by the Jewish Agency for Palestine at the Jewish Theological Seminary of America.

The striving for Palestine-Israel among Jews, as it found expression in Zionism, was a symbol of the "Higher Jerusalem," a spiritual force as well as a social and political movement for the restoration of an earth-bound Jewish community in the land of the forefathers and "normalization" of the Jews therein. During the last half-century or so, when

Zionism became a living movement among Jews the world over, the second task has been emphasized more and more, and the slogan of becoming "like other peoples" has taken precedence. Only a number of intellectuals, such as the late Jehuda L. Magnes, continued to stress the specifically spiritual "mission" of Israel. The same situation has prevailed since the establishment of the State of Israel. To a great extent, the political-social goal became reality in 1948; the spirituality and the symbol of the high ideals has remained a dream or a goal toward which some, again a small minority, continue to strive.

It is mainly this latter aspect that the Seminary Israel Institute emphasizes—the symbol of Israel, the spiritual angle, with something of a mystical tinge which eludes practical socio-historical evaluation. This is probably behind the editor's assertion that we must "recognize that the genius of life transcends the contemporary" and that the "historic process . . . has its own laws of continuity and change" which can be realized only by future generations. Most of the addresses included in the volume under review are of this genre.

Part One, "The Role of Israel in the Modern World" and Part Two, "What History Teaches," deal for the most part with spiritual issues. The spiritual, symbolic aspect is the center of gravity not only in Louis Finkelstein's "The State of Israel as a Spiritual Force," through William F. Albright's "Israel—Prophetic Vision and Historical Fulfillment," but also in Carl J. Friedrich's "Israel and the End of History." Finkelstein expresses the hope that Israel "can achieve the formulation of an idea as powerful and significant in the affairs of man as theirs [the Jews'] were" in older times, while for Albright, the forces of Jewish restoration in Palestine lay in the idea of a covenant between God and His people based on justice, and the restoration was a result of carrying on "the prophetic tradition of Israel." Carl J. Friedrich, in his "Israel and the End of History," sets out with the proposition that "Western civilization is distinguished by a unique sense of history," which gives meaning to the actual course of events. This sense of history is an idea "which Western civilization has inherited from its Jewish antecedents."

> Western civilization is distinguished by its sense of history as a meaningful sequence of events. It owes this sense to the Jewish people and their monotheism. In a world united under law in a federation of states, the Jewish people were destined to play a crucial part. This part they could not play without a state of their own. Now that they have achieved it, the deeper significance of the tradition of a history that has meaning has once again become manifest.

Part Three, "The New State," is, for the most part, devoted to the *ma nishtana,* how does Israel differ from other nations? For Abba Eban it is the specific features of Jewish nationalism, "of Zionism as a version of the destiny and the mission of the Jewish people," which is some sort of compromise between "a national and a universal mission." Being more realistic, however, with respect to Israel's immediate neighbors—the Arab States— Abba Eban does not see any possibility of carrying out the "universal mission" among them and suggests that the "orientation be

found in the word Mediterranean. Israel not as a Middle Eastern country, but as a Mediterranean country."

In contradiction to Eban, Jacob Robinson ("A Democracy in an Autocratic World") sees the place for the mission of Israel precisely in the Middle Eastern area. After contrasting the autocratic world and the political instability of the Arab States with the State of Israel, he comes to the conclusion that "it is not unlikely that the smooth operation of a democracy in a friendly neighboring country may do more for the evolution of democracy in the Arab world than a mere hasty imitation of European constitutions and fascist ideologies."

Martin Buber ("Character Change and Social Experiment in Israel") has—or had—two pet ideas (or hopes), that of the new man, the *halutz* of the *kvutza* as he developed in Palestine, and cooperation between Jews and Arabs. He elaborated at length on both (in his *Path in Utopia* and elsewhere and in his articles and activities in connection with the Arabs). But both of these ideals became unworkable through what Buber calls "history." Mass immigration, technicalization, politization and urbanization changed the set of values and created a continuous crisis which undermined "the new social forms of life," and Arab-Jewish relations became the worst since the establishment of the State of Israel. So Buber has a new hope, to put together the two hopes, each of which "history" has shown to be unworkable, and to allow them to solve each other's problems. "The only thing . . . that could bring about real peace, real cooperation, is the influence of the best that Israel has produced, the new social forms of life on the Arab people." Buber admits that "I do not know how we can accomplish it," but he thinks "there is no other direction."

Allan Nevins ("The Future of Israel"), who taught at the Hebrew University in 1952, concedes the achievements of the Israelis, but, comparing Israel with other new countries, is concerned with the "transformation of Jewish character." Will it not lead to "a loss of idealism, of spirituality?" Nevins knows that "whenever English or continental people migrated overseas, the result to the colonists involved was a gain in practical and a loss in intellectual talents, the formation of an outlook more materialistic and less idealistic."

The last part, "America and Israel," contains a number of contributions. There is H. M. Jones' "The Land of Israel in the Anglo-Saxon Tradition," Robert T. Handy's "Zion in American Christian Movements," A. Bein's "American [Jewish] Settlements in Israel," and Selig Adler's "Background of American Policy toward Zion," which is partly an extension of his "The Palestine Question in the Wilson Era" (*Jewish Social Studies*, 1948). What Adler tries to show—his documentation seems to be too selective to permit a true historical evaluation—is that in America there are two trends with regard to Israel: a humanitarian one, stemming to a large extent from the Judeo-Christian tradition, and that of simple political necessity. "Reasons of state have therefore often

thwarted the sentimental and humanitarian impulses of the makers of American policy . . . [But] American interest in the Holy Land began with theology, and matters pertaining to God as well as to Caesar have played some part in every vital decision on the issue."

There are also to be found in the volume a few addresses of an historical nature. As usual in such a "symposium," the contributions vary in calibre. All in all, the volume is hardly an analysis of the reality of the State of Israel and the social or political forces operating there. It is rather an expression of the hopes and fears of a number of intellectuals who either "dream" of higher values or who, being dissatisfied with material achievements alone, would like to see in them a background for new spiritual developments to come. If, as Albright expresses it, the actual State of Israel is a dream which has been fulfilled, some intellectuals, particularly those who are not absorbed in the day-to-day reality of Israel, may continue to "dream" of fulfillment of other visions as well. The value of the book is in the fact that it summarizes the spiritual strivings in Zionism as reflected in the post-State period.

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HISTORY OF THE JEWS IN SOUTH AFRICA

THE JEWS IN SOUTH AFRICA: A HISTORY. Edited by *Gustav Saron* and *Louis Hotz*. Oxford University Press. Cape Town and London, 1955, xvii and 442 pp.

THE history of the Jews in South Africa is encumbered with its own special problems of evaluation: relatively little of the factual material needed to extract and interpret basic trends is to be found among the documents of the official archives. Instead, much of the essential information has to be sifted from neglected newspaper files, culled from forgotten family letters, and distilled from the recollections of surviving pioneer settlers whose reminiscences are inevitably colored and distorted by the passage of time. For the past twenty years this widely dispersed data has been painstakingly collected and classified by the enthusiastic members of the South African Jewish Sociological and Historical Society. It is largely on the basis of this bibliographical foundation that the book under review has been built.

The volume comprises a series of closely related studies presented by sixteen contributors, with emphasis on the vital formative period in the community's history—the era stretching from the diamond and gold discoveries to the time of Union (1870-1910), in the course of which the Jewish population increased from less than 4,000 to well over 40,000. To this, one of the joint-editors (Mr. Saron) has added a solid epilogue,

which summarizes trends during the past forty-five years in an admirably objective manner. Such a co-operative effort, involving the assignment of topics to a rather large number of specialists, must suffer inevitably from a good deal of overlapping; it is to the editor's credit that they have managed to keep duplication within reasonable limits.

The contributors have seized the opportunity to provide a really useful tentative assessment of the notable but by no means easily calculable share which the Jews have had in molding the existing structure of South African life. The chapters on the origins of the community and the numerous regional surveys lay a good deal of stress on the influence of economic forces and are less anecdotal and personal than might have been expected. There is a separate study on the politico-economic aspects of Jewish immigration, which is followed by chapters elucidating the Jewish rôle during the early mining revolution. The city of Johannesburg receives special attention, since, from the outset, Jews comprised at least one-tenth of the white population, and today the Golden City holds the largest Jewish settlement in Africa.

In spite of the attraction of the mines, the majority of Jewish immigrants found their economic niche as small-scale middlemen and manufacturers in the light industries; a few became farmers, helping to stimulate the transition from agricultural self-sufficiency towards scientific commercial farming in a number of noteworthy directions. The concluding chapters indicate a marked occupational redistribution, with the children and grandchildren of the original settlers gravitating increasingly towards the professions. A significant recent Jewish contribution to South African industrial progress consists of the special skills and aptitudes injected into many branches of production by the immigrants from Germany who arrived in the mid-thirties, but the specific nature of this contribution still awaits its chronicler.

These essays also recount how the newcomers created a network of special institutions to meet their communal needs. In the process there were many disputes between those of Western and those of Eastern European origin, but in due course such internal discords were overcome. A single organization, the South African Jewish Board of Deputies, emerged to speak and act on behalf of the whole community, and a distinctive pattern of South African Jewish life was evolved in response to a challenging environment.

This work provides a dispassionate guide to the history of a small but significant segment of South Africa's heterogeneous population; it should not be overlooked by readers seriously interested in Jewish affairs.

MARCUS ARKIN

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A Treasury of Jewish Quotations

A TREASURY OF JEWISH QUOTATIONS. Edited by *Joseph L. Baron*. Crown Publishers. New York, 1956. 623 pages.

THE book is a labor of love. For more than forty years, Dr. Baron gathered material for this work, culling quotable phrases, verses, and sentences from innumerable sources, ranging from the Bible to Mendes-France. But all this diligence and careful editing is to a large extent vitiated by the vague criteria adopted as the basis for inclusion or exclusion.

What is a Jewish quotation, according to Dr. Baron?

In the first place, it is any aphorism, maxim, proverb, or comment written or uttered by a Jew. For example, the picturesque expression "On Wings of Song," with which the German poet Heine begins a memorable poem, is a Jewish quotation by virtue of the fact that Heine was born a Jew. Or, the sentence "I am prepared for the worst, but hope for the best," is a Jewish quotation because among the many people who used it, Disraeli could be numbered. He was an Englishman of Sephardic origin and recorded it in *Alroy*.

In the second place, a Jewish quotation is any quotable comment on a Jewish theme by a non-Jew. For example: "I accuse!", an expression used by the non-Jew Zola, is Jewish because this Frenchman included it in his Open Letter on the Dreyfus case.

In the third place, a Jewish quotation is any comment about any topic by a Christian writer in a novel or a play with a Jewish hero. For example: "I build my hospital in the human heart" is a Jewish quotation because the English dramatist Richard Cumberland put it in the mouth of the Jewish character Sheva.

In the fourth place, a Jewish quotation is any picturesque expression used in the New Testament, because the authors of the Christian Scriptures were ex-Jews. For example, "O death, where is thy sting? O grave, where is thy victory?" is a Jewish quotation because it appears in Corinthians I, a part of the New Testament. Likewise, the sentence "He who loves not abides in fear" is Jewish because it was recorded by the Apostle John. Or "The spirit is willing but the flesh is weak" is included as Jewish because it occurs in Matthew.

Given these criteria for selection, it is small wonder that the book can boast of 18,000 quotations.

A more restrictive definition might have reduced this number considerably, perhaps by more than half, but it would have furnished a basic core to which accretions could have been made by the editor in later editions or by other scholars following in his pioneering footsteps.

The reluctance by editors and compilers to come to grips with fundamental issues, such as—what is a Jewish book, a Jewish proverb,

a Jewish song, a Jewish quotation, or Jewish folklore?—is understandable because of a wide range of differing opinions. Nevertheless, the issues must be faced and tentative solutions must be formulated as guides to further research and to more valuable compilations and anthologies.

Dr. Baron skirts his most difficult issue. Hence, his book is not the definitive Jewish Bartlett. It is of value primarily because it lets thousands of readers share the editor's pleasure in brilliantly expressed thoughts on various aspects of life, which have some relationship to Jewishness, however tenuous, or which interested a gifted Jew.

SOL LIPTZIN

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BIOGRAPHY

אגרות הרב ניסנבוים (תרנ"א—תש"א) ירושלים, תשט"ז.

IGGROT HA-RAV NISSENBAUM. Edited by *Israel Shapiro.* Introduction by Eliyahu Moshe Ganechovsky. [*No* publisher given.] Jerusalem, 5716 [1956]. VI and 416 pp.

RABBI Nissenbaum is known even in America as one of the foremost Jewish preachers of our day. His numerous volumes of sermons and sermonic thoughts have been popular for years among rabbis of all schools of religious conviction, and have greatly influenced the style and content of their preaching.

This collection of letters reveals him in another role—as the energetic and devoted servant of the rebirth of the land of Israel and the development there of a religiously orientated Jewish community. It serves, therefore, as an important source book for the history of the beginnings of the Zionist movement, and, in particular, for the role of the religious segment of Jewry in the early development of the movement. The letters also give us a fine insight into his character and personality.

Rabbi Nissenbaum started his public work in 1891, at the age of twenty-two, having been chosen head of *Nezach Yisrael,* the student organization of the Yeshiva of Volozin. His first letter to the poet Bialik records the sad closing of the Yeshiva by the Czarist Government, and pleads for help in arousing the Jewish community to try to have it reopened. At twenty-four he became the secretary of Rabbi Shemuel Mohliver of Bialistok, one of the most renowned rabbinic authorities of his age and the leading rabbinic champion of the Zionist ideal. It was this rabbi who founded the Mizrachi, a center for the furthering of religious work in Palestine. This is not to be confused with the official Mizrachi Zionist Organization, which was established much later.

The book is divided into two parts, the first containing Rabbi

Nissenbaum's letters from 1891 to 1922, and the second those from 1923 to 1941, two years before his tragic death as a martyr in the Warsaw Ghetto. The range of his correspondence was world wide, embracing leading Jewish personalities not only in Palestine and Russia, but also in Vienna, Berlin, Paris, London, and even in America and South Africa.

In the first section most of the correspondence is with Menachem Usishkin and with Chaim Nachman Bialik. With the former, Nissenbaum discussed practical problems of the early settlers in the Land of Israel—the establishment of a Garden of Ethrogim, to develop the growth and sale of such religious articles among the Jews of the Diaspora; the establishment of schools where religious tenets would be emphasized; the foundation of the colonial bank; and many similar problems which the religious proponents had in common with the general Zionists. The letters to Usishkin tell in detail of the halachic discussions that took place concerning the difficult problem which faced the early Palestinian settlers in the *Shemitah* year, the seventh year when the land was not to be cultivated. The matter aroused much bitter feeling, and Rabbi Nissenbaum's letters describe fully the many phases of the controversy. He urged Usishkin to try to get an allocation from the Baron Hirsch Fund, which supported Jewish settlement in Argentine. And he asked Usishkin for his personal opinion of Theodor Herzl, who had then come upon the Jewish scene, for there were conflicting opinions about him among the leaders of the Russian *Hoveve* Zionists.

His letters to Bialik reveal the early struggles of the great poet for recognition and for the publication of his early poems. Bialik pleaded for financial help, which Rabbi Nissenbaum's organization could not give; and when finally it did grant him a loan, Bialik was unable to repay it, which provoked our correspondent to upbraid him in rather harsh terms. Rabbi Nissenbaum advised him to show his poems to Ben Avigdor, a well-known publisher in Warsaw, who, he was certain, would publish them "if they are good." He congratulated Bialik on his marriage to Mania Auerbach, but pleaded with him that though he would now have to face everyday problems of life, he should not "cast aside the heavenly muse and not to forget us." In another letter he scolded Bialik for dating his letters in months and years according to the secular calendar. He asked him for a little poem which the organization could use for propaganda purposes, and the poet complied. Rabbi Nissenbaum, however, made slight changes in the text, which aroused Bialik's anger. Rabbi Nissenbaum wrote him an apology, addressing him as "my friend, the poet *haragzan v'haragshan*" (the angry one and super-sensitive one), but he told him, "pour upon me your wrath and pierce me with three hundred pens of iron, but let there stream forth from these pens beautiful verses which will bring streams of a different feeling in my heart."

There are letters to Rev. Z. H. Masliansky, the noted orator, after he came to America, and to Rabbi S. Shoenfeld in Louisville, pleading with them to organize the religious segment of American Jewry for Zionism.

To some correspondents Rabbi Nissenbaum often expressed himself in very strong terms, upbraiding them for inaction or disinterestedness, and when the recipients expressed their anger at his audacity, he replied: "What shall I do, if within me there burns a consuming flame?" That sentence, indeed, describes him and his dedicated service in truest fashion. His life in this period and in the next was a hard one. His wife died when she was only thirty-five years old, and soon after he lost a nine-year-old son. He was broken in spirit, but soon conquered himself and devoted himself with greater zeal to his work.

In the second section, dealing with the years 1923 to 1941, his letters again show his continued efforts in behalf of religious Zionism, but they also give a sad picture of his own grievous plight. He had lost much of his physical strength, his eyesight was weak, and there were many months when he was bedridden. And yet his spirit was undaunted and he worked on plans to publish his writings. Most of his letters in this section are addressed to one of his favorite disciples, Dr. Isaac Rivkind, who since 1923 has been associated with the Library of the Jewish Theological Seminary of America and was a great source of help to him in this distressful period of his life. It was through Rivkind's efforts that the late Dr. Hyman Enelow succeeded in obtaining for him an annual stipend from the Central Conference of American Rabbis, and in securing financial help for him from the Israel Matz Foundation. The correspondence with Rivkind was continuous, and Rabbi Nissenbaum consulted him on every detail of his literary work.

Sick as he was, Rabbi Nissenbaum nevertheless kept writing to the leaders of the Mizrachi Zionist Organization—Rabbi Meir Berlin, Rabbi Wolf Gold, and others—giving his opinion on almost every phase of their activity. His letters continue almost to the year of his tragic death in the Warsaw Ghetto.

This is a noteworthy collection of letters, edited with great care and with informative notes—a labor of love by Rabbi Nissenbaum's nephew—and supplied with a detailed index. It gives us an insight into one of the great personalities of our time and is a detailed portrayal of the early years of the Zionist effort. As such, it will be welcomed by all students of Jewish history.

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NARBEN BLEIBEN ZURUECK. Die Lebenserinnerungen des grossen jüdischen Chirurgen. By *Paul Rosenstein*. Kindler und Schiermeyer Verlag. München [1957]. 316 pp.

UNDER this German-language American-style title ("Scars Remain") the author, an outstanding surgeon, offers his memoirs. They are written in a most entertaining, almost journalistic style. Replete with human warmth and fine humor, they describe the difficult career of the son of a rabbi in imperial Germany of the last quarter of the nineteenth and the beginning of the twentieth centuries and his rise to the position of the most successful and much sought after director of the large hospital of the Jewish community in Berlin. Most interesting for the Jewish historian is Rosenstein's description of the gradually deteriorating condition of German Jewry under Nazi rule and its effect on the position, medical activities, and personal experiences of this previously—also among his Christian patients and colleagues—highly respected member of the medical profession, until for him, as for all his Jewish colleagues, escape by emigration was the only way of salvation. But even in the United States he was denied a working sphere appropriate to his medical abilities and achievements. This he was finally accorded in Brazil, his second home country. Albert Einstein, who probably read the book in manuscript, wrote of it: "The episodes and conditions described in this volume are in my opinion a remarkable contribution to the history of civilization of Germany and of German Jewry in our century."

GUIDO KISCH

NOTICES OF RECENT PUBLICATIONS

Michael Alper, *Reconstructing Jewish Education.* The Reconstructionist Press. New York, 1957. xii and 156 pp. (with portrait of the late Rabbi Alper).

Siegfried M. Auerbach, *The Auerbach Family: The Descendants of Abraham Auerbach.* Perry Press Productions Ltd. London, 1957. 171 pp.

Salo W. Baron, *A Social and Religious History of the Jews.* Volume III, 340 pp.: The High Middle Ages (500-1200). The Heirs of Rome and Persia. Volume IV, 352 pp.: The High Middle Ages. Meeting of East and West. Volume V, 416 pp.: The High Middle Ages. Religious Controls and Dissensions. Columbia University Press. New York, 1957.

Meir Ben-Horin, *Max Nordau, Philosopher of Human Solidarity.* The London Jewish Society. London, 1956. xiv and 309 pp.

Bernhard Blumenkranz, *Gisleberti Crispini Disputatio Iudei et Christiani et Anonymi Auctoris Disputationis Iudei et Christiani Continuatio.* Uitgeverij Het Spectrum. Utrecht (Holland), 1956, 83 pp.

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Albert M. Hyamson, *Jews' College London* 1855-1955. Jews' College. London, 1955. 142 pp.

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THE LEGAL AND SOCIAL HISTORY OF THE JEWS

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Historia Judaica

DAVID REUBENI'S INDIAN ORIGIN

By Ervin Birnbaum
New York City

WHO was the person commonly referred to as David Reubeni?

This question has puzzled previous generations as much as it does us. Was he an adventurer or an impostor, a selfless man who wanted to help out his suffering brethren in Portugal, a warrior from Arabia ready to conquer the Holy Land, or a desperate messenger trying to save his community in India? All of these hypotheses, and others not mentioned here, were put forth by certain worthy scholars, or at least are now attributed to them.

There are scholars who have despaired of ever finding the real solution to the puzzle of David. Abraham Kahane wrote: "This is a riddle to which no answer is possible."[1] Most of modern research, however, seems to indicate that an answer to the riddle is being sought, as can be assumed from persistent interest in the matter. But while the main concern of preceding writers has been the question of the authorship of the *Diary* (*Sippur*) attributed to David Reubeni, and the circumstances of its composition, the problem of his personality and origin has been pushed into the background.

In the light of the available material this writer is convinced that Reubeni was a messenger from India, seeking support for the tottering Jewish colony in Cranganore. The

[1] Abraham Kahane, *Sippur N'siat David Reubeni* ("Diary of David Reubeni's Travels") (Warsaw, 1922), Preface.

idea is not new. It was stated as a hypothesis by Elkan N. Adler more than fifty years ago.[2] But Adler did not follow up his theory to find supporting proof for it. In this paper an attempt is made to strike out in that direction by presenting logical and circumstantial proof of who David Reubeni actually was.[3]

I

Authorship of the Sippur

Since the nineteenth century, when the manuscript of the *Sippur* of David Reubeni was discovered in Oxford, it has been the basic and most important document for all scholarly research on that man and the events to which his name is attached. Historians seem generally to have accepted his authorship of the *Sippur*. Graetz, who published excerpts from it in his *Geschichte der Juden* in 1866,[4] while intimating doubts about the trustworthiness of the account, seems to believe that its author was Reubeni. Biberfeld, who published a substantial part of the document with notes and a few explanatory chapters,[5] silently acquiesces in the opinion that the story was written by David. Neubauer, the first one to publish the *Sippur* in its present scholarly edition,[6] is also the first to raise doubts as to its authorship. He writes: "To judge from the many clerical mistakes and frequent omissions in the Bodleian manuscript, it cannot be the original one written by David."[7] Pursuing that observation, Neubauer could have come to any of the following conclusions: (1) The story was written by someone else and its only connection with David Reubeni is that he is its hero; (2) the manuscript contains a copy of David Reubeni's

[2] Elkan N. Adler, "About the Indian Jews," *Jewish Chronicle* (London), May 11, 1906.

[3] Aaron Z. Eshkoly, *Sippur David Reubeni* ("Diary of David Reubeni") (Jerusalem, 1940), referred to hereafter as "Eshkoly." The writer used as his basic text Eshkoly's edition of the *Sippur*.

[4] Heinrich Graetz, *Geschichte der Juden*, IX (Berlin, 1866), n. 4.

[5] Eduard Biberfeld, *Der Reisebericht des David Reubeni* (Berlin, 1892).

[6] Adolf Neubauer, *Medieval Jewish Chronicles*, II (Oxford, 1895).

[7] *Ibid.*, Preface, p. xii.

Diary and for some reason suffered at the hands of the copyist; (3) the manuscript is the original written by David Reubeni's hand, but he was not particularly familiar with the Hebrew language. Although style militated strongly against David, it did not seem a big enough reason to invalidate the theory of his authorship. Consequently, Neubauer cautiously stated: "All I can say with certainty is that the Hebrew style of David's Diary is that of a German Jew; David might have been such, although a native of Egypt, who knew Arabic as his mother tongue."[8] Neubauer thus accounts for the irregularities that flow from the use of the language by formulating the hypothesis of David's German origin.

Already in Graetz's first edition an allusion to this hypothesis is found: "At this point I would like to remark that the origin of David Reubeni seems to be Germany. Only in the mouth . . . of a German Jew are these expressions comprehensible."[9] This passage, however, does not appear in the subsequent editions of Graetz's book.[10] It seems that Graetz or the later editors of his work changed this opinion on David Reubeni's origin. The notion that the manuscript was David's work was not questioned, however.

Later writers were also hesitant to take away the credit of authorship from David. Eshkoly refutes the idea that the *Sippur* might be a forgery and claims, in line with Neubauer, that the linguistic difficulties, barbarisms, awkward sentence structure, and mistakes in grammar show only a foreign influence on David. That influence was most probably German, less probably Slavic, possibly Romance.[11] Sonne, Eshkoly's sharp and bitter critic, believes in the Italian origin of the *Diary* because of a considerable number of Italian words in it. David Reubeni, however, did not know Italian. Therefore, "it is clear that granting the origin of the *Diary* is Italian, it could not have been written by David

[8] *Ibid.*, Preface, p. xiii.

[9] Graetz, *loc. cit.*

[10] In the subsequent German editions the added material on David Reubeni is found in note 5 instead of note 4 as in the first edition.

[11] Eshkoly, I, 195 ff.

Reubeni."[12] But this is not Sonne's conclusion. He looks for a solution that will be in harmony with the result of his research and that would still not preclude David's authorship. He winds up as follows: "The most reasonable conclusion from the facts we possess seems to me to regard the *Diary* as a work of collaboration between Reubeni and his Italian secretary."[13] Even Baer, who considers the book unreliable in so far as its factual information is concerned, attributes the *Sippur* to David. "Reubeni writes Hebrew as it was used in everyday speech, in a language unaccustomed to Hebrew literature and that was not familiar with realistic novels."[14] Baer gives David credit for the authorship of the *Diary* and tries to put him above suspicion of collaborating with others.

Thus, it would seem that the authenticity of authorship can be considered established.

II

Authenticity of the Subject Matter of the *Sippur*

As for subject matter, the *Diary* can be divided into two parts: (1) the historical, and (2) the legendary; in the language of Eshkoly, "historical and episodical." Eshkoly defines the two as follows: "The episodical side is his [David's] appearance as a prince of his royal brother from the kingdom of the Jews in the wilderness of Habor, seeking military help from European rulers and offering military support in return."[15] In David Reubeni as a historical personality "came to be expressed the striving of a generation for deliverance and their yearning for the coming of the Messiah, to which aspirations the legend of the Ten Tribes was closely knit."[16] Eshkoly's definition considers David historical only to the extent that he embodies the longing and

12 Isaiah Sonne, "Bibliotheca Historiographica Hebraica," *Jewish Quarterly Review*, XXXIV (1943), 256.

13 *Ibid.*, p. 256.

14 Yitzchak Baer, "David Reubeni," *Kirjat Sepher*, XVII (1940), 302.

15 Eshkoly, I, 184.

16 *Ibid.*

ambitions of his contemporaries; for all other purposes David is left in the realm of the episodical.

This distinction is legitimate. However, one could also draw the line between what is legendary and what is historical on the basis of our factual knowledge about David. Thus, some time after David's appearance in Italy, various sources corroborate his activities in Europe as described in the *Diary*. This could be considered historical. What precedes that, material so far not corroborated by contemporary evidence, may be taken as legendary.

Eshkoly's view assumes that in order to be historical, a person or a movement has to express the spirit of the age. This dynamic view of history cannot be ignored because of the obvious truths it expresses. However, it has to be supplemented from time to time with an individualistic view of history as a tool for the discovery of new facts and perhaps new interpretations. It might, therefore, be suggested that David be considered historical on the basis of the facts that are given in the *Sippur* and of the corroborative evidence concerning his activities in Europe, irrespective of whether or not these facts mirror the spirit and strivings of his age.

The following could be considered as some important historical facts in David Reubeni's life within the timespan covered by the *Sippur*—on the basis of agreement between the *Sippur* and contemporary evidence: (1) David's arrival in Rome and his interview with the Pope; (2) his visit to Portugal and interview with the king of that country; (3) his departure from Portugal.

About David's entrance into Rome and his dealings with the Pope there is a detailed account in the *Sippur*.[17] This fact is corroborated by various sources of Christian origin. One of these, written in Rome in March, 1524, states that "a Jewish ambassador came to the Pope from India and he commands 300,000 warriors in need of artillery against the Turks."[18] A letter of recommendation written

[17] Eshkoly, II, 33 ff.

[18] *Ibid.*, p. 170, from a letter of a Venetian orator in Rome.

on September 17, 1524 by Pope Clement VII to the Portuguse king says:

> The man who will deliver this letter to Your Highness was in audience before us. He is David the son of Solomon the Jew, an inhabitant—as it is said—of the wilderness of Habor. In that place—as it was pointed out by the translators—there dwell many of this people, who were now driven off in wars by their Ishmaelite neighbors, the servants of Muhammad. Before that, they were ruling over them [the Ishmaelites], but now they were forced to withdraw in fear because of the enemy's superiority in artillery. It seems that its use became known to these Ishmaelite peoples.[19]

The Book of Remembrance in the Vatican says that

> in this year [1525] there appeared before the Pope a delegation of Jews who dwell in the land of Arabia, headed by the brother of the king from the Arabian wilderness, from a tribe of Jews, and requested to enter into a treaty of war with the Christians against the religion of Muhammad of the Arabs and the Turks. They also asked the Pope's recommendation to the kings, to help the acquisition of artillery in which the Muhammedans are strong.[20]

David's stay in Portugal occupies a substantial part—almost half—of the *Diary*.[21] A brief mention of two sources of Christian origin on that point will suffice. One of them was from the inquisitor of Badachuz, Selaya, to King Joao III of Portugal; the other was written in Madrid to the king of Spain. They do not mention David Reubeni by name, but their reference to "the Jew who came from strange lands" and their complaint about his proselytizing influence in Portugal leaves hardly any doubt that the reference is to David.[22] Both sources date from the year 1528. David's stay in Portugal is also substantiated by a number of contemporary Jewish sources.[23]

At the end of the *Sippur* it is told that David was forced to leave Portugal, that he took a ship to Italy but

19 *Ibid.*, p. 172; from a letter of Clement VII to the king of Portugal.

20 *Ibid.*, p. 171; from Odoricus Raynaldus, *Annales Ecclesiastici*, XII (Lucae, 1755), 546.

21 *Ibid.*, II, 64 ff.

22 *Ibid.*, II, 178-179.

23 See, e.g., the evidence of Solomon Molcho, quoted in Eshkoly, *Hat'nuot Hameshichiot B'Yisrael* ("Messianic movements in Israel") (Jerusalem, 1956), 365.

was intercepted on the way and detained on the Spanish coast.[24]

A Christian source, written by the scribe of a certain Giambatista Ramussio in Venice, relates that "in November, 1530, there came to Venice one David the Jew, with the intention of staying here for some time and taking an apartment outside of the ghetto. He claimed to be a descendant of a royal house. Suspicion arose that he might be a deceiver. Consequently, the Government asked Giambatista, a famous traveler and an expert in Oriental languages, to check on the matter.[25] Ramussio, on the basis of his discussion with David, gives an account of his origin and past that substantially agrees with the *Sippur*. Ramussio's decision as to David's trustworthiness seems to have been negative, for the latter was requested to leave the city.

By no means can it be said that only the facts in the *Diary* that are mentioned are true. Here only the highlights of David's European trip were projected, those facts that are to be considered of historical value for the present inquiry. It is important, however, not to accept at face value the report of statements, conversations, and their embellishments only because David Reubeni's visit to certain cities is verified by various sources.

III

David in a New Light

From the sources quoted it is beyond doubt that David appeared in Rome at the latest in March, 1524. Prior to his arrival, or possibly simultaneously with it, a rumor spread among the Jews of Italy and Central Europe of a great Jewish settlement in India. On the basis of an official letter sent by an envoy from Hungary to Venice in October, 1523,

the news spread among the Jews of Hungary that a great number of Jews are found in a district of India. This district is surrounded by

[24] Eshkoly, II, 124 ff.

[25] *Ibid.*, p. 183; from Cicogna, *Delle inscrizione veneziane* (Venezia, 1827), p. 316, n. 3.

high mountains. For 2,000 years they did not move from that place until now, when they took the road to Jerusalem and requested it from the Turkish master.[26]

According to Rieger, the Hungarian Jews were the first to receive information of David's appearance through letters written in Damascus.[27] Although it can be assumed from Jewish sources that he visited at that time in Damascus,[28] his name is not mentioned in the Hungarian source. Any connection between David's appearance and the news of Indian Jews could, therefore, be considered tenuous.

It seems, however, that David claimed at first to have come from India, for a Christian source in Rome, written in March, 1524, mentions him as an Indian Jew.[29] Joseph Hacohen also states that "a Jew, David by name, came from a distant land, from India, to the gates of the king of Portugal."[30] On the other hand, a number of sources mention David as an inhabitant of the "Arabia deserta," as does the *Sippur*. This discrepancy naturally disturbed the scholars.

Eshkoly's statement that India was a collective term including all of the present-day Middle East, and consequently the names India and Arabia could have been used indiscriminately with reference to Arabia, can be substantiated.[31] Writing in the seventeenth century, Feria y Sousa declared: "The Portugues Dominions [are] generally comprehended under the name of India, though dispersed along the coasts of Asia and Africa."[32] According to Mingana, Ethiopia and

[26] Eshkoly, II, p. 169; from Marino Sanuto, *Diarii* XXXV (Venezia, 1879), 105.

[27] Paul Rieger and Herman Vogelstein, *Geschichte der Juden in Rom,* II (Berlin, 1895), 42.

[28] Eshkoly, *Hat'nuot Hameshichiot,* p. 343.

[29] Eshkoly, II, 170.

[30] Quoted by Eshkoly, *Hat'nuot Hameshichiot,* p. 402. Abraham Farissol, *Igeret Orchot Olam* (Itinera Mundi) (Prague, 1810), p. 8b, is equivocal. At one point he mentions David's original home as "Asia Major," at another as "Arabia Felix." For additional information on Farissol, see Julius Voos, *David Reubeni und Salomo Molcho,* Ph.D. thesis, University of Bonn (Berlin, 1933), pp. 24 ff. Voos, however, ignores the former statement, being convinced of David's Arabian origin.

[31] Eshkoly, I, 2.

[32] Feria y Sousa, *The Portugues Asia: or, The History of the Discovery and Conquest of India by the Portugues,* II (London, 1695), 499.

Arabia Felix were also called India because they "extended on the main route by sea to the West Indian ports. . . . Indeed, many other writers count as integral parts of India some localities situated in Persia, Afghanistan and Baluchistan. So the great Michael the Syrian clearly mentions the city of Kabul, in present Afghanistan, as part of India."[33] Schoff also indicates the great confusion in names that was prevalent in earlier periods in the area under consideration, proving that the Erythrean Sea referred to what is now the Indian Ocean.[34]

Yet this does not seem to be an adequate explanation. If the two names were so easily interchangeable, why does India appear only in the first original sources dating within less than half a year after Reubeni's arrival in Italy and in the writings of Joseph Hacohen, well recognized as an objective Jewish historian, while it is conspicuously absent in the later sources? This could be attributed to the whim of the various authors, but it seems to be much more reasonable to attribute it to the fact that upon his arrival David was accepted as an envoy of Indian Jews—which, indeed, he claimed to be—but with the passage of time the news was circulated that he represented the Ten Tribes in the "Arabia deserta." Once that rumor was propagated and struck roots for reasons to be mentioned later, the name India ceased to be used in connection with David. As to the speed with which the rumor gained credence, one can observe that, while in March he was still considered an Indian Jew, in September, 1524, in a letter from the Pope to the king of Portugal, a certain cautiousness in this connection prevailed. The expressions *ut referunt* and *ut per interpretes fuit significatum* are used with reference to David's alleged home in the wilderness of Habor. However, in a source from 1525, at least a year and a half after David's arrival, there is no longer any doubt that he represents a tribe of Jews living in the Arabian wilderness. By then India dropped out of

[33] Alphonse Mingana, "The Early Spread of Christianity," *Bulletin of John Rylands Library* IX (Manchester, 1926), p. 444.

[34] Wilfred H. Schoff, "The Name of the Erythrean Sea," *Journal of the American Oriental Society*, XXXIII (1913), 349.

the picture completely. No connection was sought between David Reubeni's sudden appearance in Europe and the situation of the Jewish community in India in his day.

IV

General Situation on the Indian Subcontinent

The political situation in India in the beginning of the sixteenth century was very unstable. Old dynasties and kingdoms that had preserved a precarious status quo in the restless subcontinent began to crumble, and new powers rose over their ruins.[35]

Despite an overwhelming majority of Hindus in the population, the Muslim conquerors succeeded through the centuries in wresting control over the larger part of the peninsula.[36] However, in the South, centered around the present-day province of Travancore, the Hindu empire of Vijayanagar was able to stem the onrush of the armies of Islam. Rarely was there peace between Vijayanagar and her Muslim neighbors, but the Hindu kingdom, under capable leadership, was able to hold its own against the Muslim dynasties of the Deccan (Central India). In the second half of the fifteenth century conditions changed in Vijayanagar. Palace intrigues became rife, with bad effects on the process of administration and government. In addition, the kings were of little personal merit. In 1486 there occurred the famous "First Usurpation" of power from the reigning sovereign by the governor of Chandragiri, named Narasinga Saluva. After his death the throne passed to his son Immadi Narasinga. Immadi was killed in 1505 by one of his generals. This event is known as the "Second Usurpation." There is only scanty historical information about the internal situation

[35] On the wars of the petty Muslim kingdoms against one another, against the Hindu rulers, and against the Moghul Emperor Babur, see Majundar, Raychandhuri, and Kalinkar Datta, *Advanced History of India* (London, 1950), pp. 425 ff. Also George Dunbar, *History of India,* I (London, 1949), 136, and others.

[36] The period of Muslim power in India began in 712 with the conquest of Sind.

of the Hindu kingdom in that period. Its external history, however, is amply recorded, consisting of almost uninterrupted warfare with the Muslim rulers.

To the North of Vijayanagar the Muslim Bahmani dynasty ruled since the year 1347. Its last scion ascended the throne in 1482, at twelve years of age. In the beginning of his reign his dominion was undisputed. By the year of his death, in 1518, the provincial governors had declared their independence, setting up five autonomous Sultanates. This upheaval, like the upheaval in the Southern Hindu kingdom, was accompanied by violent internal strife and external warfare.

While disorder and chaos became the rule of the day in Central and Southern India, a new Muslim star began to rise in the North. He came at the head of a Turco-Mongol horde from the vast spaces of Central Asia. Babur[37]—claiming descent from Timur on his father's side and from Chingiz Khan through his mother—was the founder of the Moghul dynasty and empire "under whose six emperors (1526-1707) Indian Muslims look back to their period of glory."[38] He took Kabul in 1504, thus coming in contact with India. In 1519, having taken Bajaur in siege, he crossed the Indus River. By then it became obvious that there was no power in India to stop the forward march of the victorious Moghuls. In 1524 Babur entered the Punjab, and in April, 1526, the victory of Panipat insured to the Moghuls the mastery of a substantial part of the subcontinent. The victory may be attributed to the fact that "Babur possessed a large park of artillery, the new fangled weapon then coming into use in Turkey and Europe, but previously unknown in northern India. Its power has already made itself felt at the siege of Bajaur (1519)."[39]

While the Moghuls were pressing from the North on the numerous kingdoms of the subcontinent, another new

37 Often called Baybars, or Barbar.

38 Richard Symonds, *The Making of Pakistan* (London, 1949), p. 22.

39 Vincent A. Smith, *Oxford History of India* (Oxford, 1921), p. 322. Symonds, *op. cit.*, p. 22, writing about Babur, says: "His easy victory . . . was mainly due to his superior artillery."

arrival was doing the same from the Western seacoast. After Vasco de Gama's successful voyage to India around the Cape of Good Hope, the Portuguese endeavored to establish commercial relations with the subcontinent.[40] They found the Hindus amenable to their wishes, but were opposed by the hostility of the Muslims and the Arab traders, who were jealous to preserve their monopoly on commerce with the West through the Red Sea. Portuguese reaction was violent. The Muslims were subdued, many of them were killed without mercy. When Governor Albuquerque conquered Goa from the Sultan of Bijapur—one of the five Sultanates that had grown out of the Bahmani kingdom—in 1510 and established the first European administration on Indian territory since Alexander the Great, he barred Muslims from office and employed only Europeans and Hindus. The former ruling caste suddenly found itself at the bottom of the ladder. No wonder, therefore, that the intense aversion of the oppressed Indian Muslims toward all foreigners and anything foreign turned fast into steadily growing hatred.

V

The Jews in India

Only scanty information about the Jews in India in that period is available. From various sources, only indirectly concerned with them, one can gather that there were Jewish settlements especially in the North around Kabul[41] (the vicinity of the Khyber Pass), in Bombay and its environs,[42] and on the Southwestern seacoast around Cranganore.[43]

[40] According to Kumar Goshal, *The People of India* (New York, 1944), p. 71, Vasco de Gama's voyage to India reaped a profit of 6,000 per cent. The mad scramble to establish trade with India is, therefore, easily understandable.

[41] H. W. Bellew, *A New Afghan Question, or, Are the Afghans Israelites?* (Simla, India, 1881), and others.

[42] On the Bombay Jews there is some material available, the most detailed, if not the best, being Haeem S. Kehimkar's book, *The History of the Bene Israel of India* (Tel Aviv, 1937). In the period of our concern there is no evidence of contact between the two colonies of Bombay and Cranganore.

[43] At present the Bene Israel of Bombay and Jews in the North are not

The Jews in Cranganore are mentioned in Jewish as well as non-Jewish sources.[44] Smith describes Cranganore as one of the two principal ports on the Malabar coast in the fifteenth century and the first quarter of the sixteenth.[45] Mateer mentions Cranganore as a ruined fort, "once the scene of European warfare and diplomacy, and a settlement of the Jews and Syrian Christians."[46] The location of Cranganore is about 25 miles to the North from Cochin, separated from the mainland by a lagoon or backwater on the West coast of India, called also the Malabar Coast.

As a starting point in tracing the history of the Indian Jews any of three events in Jewish history was suggested: (1) Samaria's fall in 721 B.C.E. and the dispersion of the Ten Tribes; (2) Jerusalem's fall in 586 B.C.E. and the Babylonian Captivity; (3) the Roman conquest. Concerning each of these events, legends sprang up that, relying on a historical basis, served as the point of contact between the distant Jewish colonies and their ancient homeland.[47]

Concerning the Cranganore Jews, Thurston tells that "Myn Heer Van Reeda, about the year 1695, had an Abstract of their History translated from the Hebrew into low Dutch. They declare themselves to be of the Tribe of Manasseh, a Part whereof was, by order of that haughty Conqueror Nebuchadnezzar, carried to the eastern-most Province of his large Empire, which, it seems, reached as far as Cape Comerin,[48] which journey 200,000 of them travelled in three years from their setting out of Babylon."[49]

According to Logan in his *Manual of Malabar,* there is a tradition among the Malabar Jews that their forefathers

under consideration, although the similarity between the name Khyber, in which area these Jews would have lived, and Chabor, mentioned in the *Sippur,* is striking. Cf. Eshkoly, II, 7.

44 A good bibliography is found in Alexander G. Kohut, "Correspondence between the Jews of Malabar and New York," *Semitic Studies in Memory of Alexander Kohut* (Berlin, 1897), p. 421.

45 Smith, *op. cit.,* p. 144.

46 Samuel Mateer, *Native Life in Travancore* (London, 1883), p. 4.

47 Gustav Oppert, "Ueber die jüdischen Colonien in Indien," *Semitic Studies in Memory of Alexander Kohut,* p. 369.

48 Cape Comerin is the Southernmost tip of the Indian peninsula.

49 Edgar Thurston, *Castes and Tribes in Southern India* II (Madras, 1909), 462.

came to India after their liberation by Cyrus.[50] Godbey notes that Malabar Jews stationed as soldiers at Malta in 1878 considered themselves the descendants of those Jews "stationed by Solomon in the east to collect gold and spices."[51] These are by no means the only traditions concerning the origin of the Cranganore Jewish community.

The earliest written evidence of the Jewish settlement in Cranganore is a charter, written on two copper plates in a Tamil dialect in the character that once prevailed on the west coast of the Indian peninsula. There are various readings of that charter. One of the translations runs thus:

Hail and happiness! The King of King, His Holiness, Su Bhashkara Ravi Varma, who wields the sceptre in many 100,000 places, has made this decree on the day that he was pleased to dwell in Muyirikodu in the 36th year of his reign. We have granted unto Joseph Rabban Anjavannan[52] the [dignity of] Prince, with all the seventy-two rights of ownership. He shall [enjoy] the revenues from female elephants and riding animals, and the income of Anjavannan. He is entitled to be honored by lamps by day, and to use broad-cloth and sedan chairs, and the umbrella, and the drums, of the north, and trumpets, and little drums, and gates, and garlands over the streets, and wreaths, and so on. We have granted unto him the land tax and weight tax. Moreover, we have by these copper tablets sanctioned that, when the houses of the city have to pay taxes to the palace, he need not pay, and he shall enjoy other privileges like unto these. To Joseph Rabban, the Prince of Anjavannan and to his descendants, and to his sons and daughters and to the nephews and sons-in-law of his daughters, in natural succession, so long as the world and moon exist, Anjavannan shall be his hereditary possession.[53]

The grant to Joseph Rabban was made at Muyirikodu, identified with Cranganore, where the Jews resided until, under Portuguese occupation, they settled near Cochin. There is slight disagreement among scholars in dating Joseph Rabban. Calculations vary between the third and fourth centuries of the present era. However, on the basis of a recently discovered inscription by the same king who made the grant, Bhaskara Ravi Varma, his reign began in 984 C.E.

50 Allen H. Godbey, *The Lost Tribes a Myth* (Durham, N. C., 1930), p. 342.

51 *Ibid.*, p. 344.

52 Oppert suggested that this is identical with the fifth or foreign caste.

53 Translation by Thurston, *op. cit.*, p. 464.

The grant to Joseph Rabban, falling in the thirty-sixth year of his reign, may have been made as late as the year 1020.[54]

Under the leadership of the Rabbani, their ruling family, the Cranganore, or Cochin, Jews remained autonomous for a long time. In a letter written by them in Hebrew to the Synagogue in Amsterdam in the seventeenth century they stated that

> They withdrew to India at the time when the Romans conquered the Holy Land. . . . They had seventy-two kings in succession in a period of a thousand years. As a consequence of a quarrel between two brothers, jealously engaged in a disputation on the question of succession to the Crown, they were subjugated by neighboring princes.[55]

Godbey is justified in stating that "Basnage, because 'king' is so large a word in his mind, is quite sceptical about the statements in the letter." However, he explains: "An Arab Malik or Hindu Raj is rather less than our European word 'king' suggests. A mercantile association may have a Malik. To call this persistent colony a Jewish kingdom is, therefore, rather misleading."[56] Oppert also makes it clear that his conception of the autonomous Jewish colony is that of a corporation.

At the end of the fifteenth and beginning of the sixteenth centuries the Jewish colony of Cranganore found itself in a desperate plight. Caught between the Hindu and Muslim kingdoms with their internal upheavals, violence, and strife, and simultaneously pressed from the sea by the Portuguese, who were anxious to control the seaports, the desperate community had nowhere to turn for help. It is also possible that some of their northern brethren from the vicinity of Khyber, fleeing from the Mogul conquerors, brought news of their inhuman cruelty to infidels and of their irresistibly powerful firearms. The Jews of Cranganore had to act fast if they wanted to save themselves.

[54] Sylvain Levi, "Quelques documents nouveaux sur les juifs du sud de l'Inde," *Sylvain Levi Memorial*, ed. by Paul Hartmann (Paris, 1937), pp. 364-368.

[55] Jacob C. Basnage, *Histoire des juifs depuis Jesus Christ jusqu'a présent*, ix (Hague, 1716), 1082. See also Oppert, *op. cit.*, p. 404.

[56] Godbey, *op. cit.*, p. 352.

"The miniature State proved too weak to survive the shock of battle when the Arabs and Portuguese commenced to struggle for the possession of Southern India. Cranganore was captured by the Mahometan Sheikh or Zamorin in 1524 and razed to the ground."[57] The *Cochin Census Report of* 1901 makes the following laconic statement about the final doom of the Jewish colony in Cranganore: "In 1524, the Mahomedans made an onslaught on the Cranganore Jews, slew a great number, and drove out the rest to a village to the east."[58] Oppert offers a more detailed report on the catastrophe that befell the Cranganore Jewish colony.[59] All the sources agree that Cranganore was destroyed by an onslaught of the Muslims, the latest in 1525. Since the Portuguese captured the fort of Cranganore in 1523, that attack was impending, and probably expected by the settlers as an attempt at reconquest. Prior to the Muslim attacks that culminated in the destruction of Cranganore, the Rajah Daniel, the ruler or king of the Jews, seems to have

sent his brother David to Europe to negotiate with the Pope and the Portuguese for an offensive and defensive alliance against the Zamorin. Anyhow, a mysterious stranger, who called himself David Reubeni, appeared in Rome in March, 1524 and producing credentials from the Portuguese authorities in India and Egypt, was received with much honor by the Pope, King John of Portugal, and the Emperor Charles the Fifth in turn.[60]

VI

Portuguese Interests in the Jews of Cranganore

David's Indian origin finds unexpected support in a seemingly trivial passage in the *Sippur*. While at the court in Portugal, the King got hold of a ship's captain in order to secure some information. The *Sippur* relates:

[57] Adler, "About the Indian Jews," *Jewish Chronicle*, May 11, 1906.
[58] Quoted by Thurston, *op. cit.*, II, 477.
[59] Oppert, "Ueber die jüdischen Colonien in Indien," *Semitic Studies in Memory of Alexander Kohut*, p. 411.
[60] Adler, *loc. cit.*, see also Adler, *Auto-da-Fé and the Jew* (Oxford, 1908), p. 30.

I stand before the King and the captain stands before the King. Then the King asked him in my presence: "Are there any Jews in the land of India and Calicut?" The captain answered, "There are Jews without number in Shingola[61] ten days' walking distance from Calicut." . . . The King continued to ask him, "Have you heard that the Jews have kings?" And he answered that there are over them kings of their own.[62]

It is striking that the King should have invited a captain to inquire concerning the Jews of India and Calicut. If David claimed to come from "Arabia deserta," why did the King ask about the Jews in India? Obviously, the Portuguese captain's audience with his King in the presence of David served the purpose of verifying the latter's claims and statements concerning the situation of the Jews in India.

In view of David's Indian origin, one could easily understand the interest of the Portuguese in him. Less than thirty years before his arrival at the Court, the Portuguese had succeeded in gaining a foothold in Malabar, India, which they hoped to develop into a flourishing trading post. Their ambitions were thwarted, however, by the hostile attitude and animosity of the Muslim kingdoms in India.[63] The Portuguese merchants and settlers found themselves in a difficult position. They probably would have been more than willing to reach an agreement with the Jews living in Cranganore to join ranks in fighting the Muslims in return for some slight concessions.

An alliance with the Jews in Southern India would have been greatly valued, for one of their popular professions in which they excelled was the military. Various sources speak of their traditional valor. These are a few apt examples from the period immediately following the destruction of Cranganore.

In 1536 the Zamorin of Calicut raised a corps "of Moors and Jews of whom there are many in Calicut." In 1550, the king of Cochin, at war with the Portuguese, avoided to engage in battle on Saturday, because on that day the Jews 'his best soldiers' are unwilling to fight. And Barros, in his *Decades,* I, IX, 3, writes similarly: "There are in Malabar many indigenous Jews, who are assimilated to the Pagans and Mussulmans

[61] On the Malabar coast in India, commonly called Cranganore.
[62] Eshkoly, II, 81.
[63] Cf. Edgar Prestage, *The Portuguese Pioneers* (London, 1933), pp. 260 ff.

to such an extent that they are less familiar with their own law than with that of the others. They are merchants, but they everywhere seek the favor of the princes, for the people hates them. They are brave and capable fighters."[64]

It is estimated that the population of Malabar numbered at that time about 300,000. Of these roughly one-third were Jews.[65] It would seem that the indigenous population of Malabar sided with the Jews against the fanatical Muslims; consequently, anyone representing the Jews could talk in the name of 300,000, a substantial number. According to the *Sippur* and other contemporary evidence, David frequently referred to that number as the sum total of inhabitants or warriors of his kingdom.

The political situation in distant yet so important India made the King of Portugal sensitive to David's request for a shipment of artillery. Only in this light can one understand the temporary suspension of inquisitorial practices toward the Marranos. To attribute the King's changed attitude to "chance" is by no means strictly historical.

One should not lose sight of the fact that the King of Portugal actually agreed to the delivery of the requested firearms to the destination assigned by David.[66] It does not seem plausible that the King would have undertaken to carry such a heavy burden on his budget and military machine for the sake of saving a Jewish tribe or even for the sake of building up a second front against the Turkish Empire. Much more plausible is the assumption that foremost in his mind were the economic interests of his country in its Indian possessions.

This point of view makes it possible to accept the transaction with respect to the firearms as a historical fact.[67] The consent of the Portuguese king to their delivery is also

[64] Sylvain Levi, "Quelques documents noveaux sur les juifs du sud de l'Inde," *Sylvain Levi Memorial*, pp. 364-368.

[65] Godbey, *op. cit.*, p. 353, based on Adler.

[66] Eshkoly, II, 90.

[67] Baer, *loc. cit.*, considers the King's promise of the firearms, mentioned in the *Sippur* as fictitious.

mentioned by Gedalia Ibn Yachia.[68] Even stronger support can be deduced from the *Sippur*. There it is also related that the King withdrew the order for the arms delivery.[69] This information obviously does not raise David's stature in the reader's eyes. In order to avoid the mention of that failure, the author could have refrained from introducing the subject altogether.

It does not seem probable that David's report was news of the Ottoman strength in firearms to the Pope or the king of Portugal. The Christian world had felt the power of Ottoman artillery for at least three quarters of a century. Speaking about the beginning of field artillery, Captain Kennedy says:

> The greatest example was the siege of Constantinople in 1453, at which the Turks used a large force of artillery, and in particular some monster pieces, some of which survived to engage a British squadron in 1807, when a stone shot weighing some 700 lbs. cut the mainmast of Admiral Sir J. T. Duckworth's flagship in two, and another killed and wounded sixty men.[70]

Word of such powerful weapons in the hands of the enemy must have spread like wildfire in the Christian countries. Therefore, when the Pope wrote to the Portuguese king concerning artillery, that "it seems that its use became known to these Ishmaelite peoples,"[71] his doubtful language could hardly refer to the Turks. However, at that time the Moghuls introduced the use of firearms into India. Several authors make special mention that Babur's victories over the petty kingdoms on the Indian subcontinent were due to his superiority in artillery.[72] This was real news in the West, information of significance for commercially enterprising nations like Portugal. No wonder that it is mentioned in almost every contemporary source on David.

The question arises: Why then was the king of Portugal's promise to David to send artillery to his kingdom

68 Eshkoly, *Hat'nuot Hameshichiot*, excerpt from Ibn Yachia's *Chain of Tradition* (Warsaw, 1890), pp. 61 f.

69 Eshkoly, II, 95.

70 *Encyclopaedia Britannica*, II, "Artillery" (London, 1929), 463.

71 Eshkoly, I, 172; from a letter of Clement VII to the king of Portugal.

72 See *Supra.*, n. 39.

rescinded soon after it was given? The answer is to be found in the general conditions then prevailing in India. Early in 1525, when David appeared before the king of Portugal, Joao III, he still represented a substantial local power on the Indian subcontinent. Since there was regular, though infrequent, contact between Portugal and her infant colony, the king must have received sufficient information to that effect, probably through the reports of ship captains. He may have doubted the value of an alliance with the Jewish colony, but obviously was undecided enough to give a hearing to their ambassador. Commercial interests may have been in favor of David; on the other hand, contrary forces of a political nature may have been simultaneously at work. From the king's promise to deliver the arms requested by David, it is evident that he chose to steer a moderate course vis-a-vis the subjugated peoples.

Soon, however, the first reports of the Muslim attack on Jewish Cranganore, which occurred in 1524-25, reached the mother country. Having been informed of its fall and destruction and the expulsion of the remnant of its Jewish inhabitants, the king perceived that he could no longer reckon with organized Jewish action and assistance. Any further step in the direction of cooperation would have been wasted effort. The obvious and logical step was to rescind the order for the arms delivery.

Thus, circumstances beyond his control brought David's mission to an inglorious end. Suddenly, he found himself speaking for a group that no longer existed. He could point to past glories and, perhaps, to future hopes. But the king of Portugal was interested in the present. And the present meant Jewish Cranganore in ruins, its sons, famous for their valor and courage, decimated and dispersed. David was politely ushered out of the country.

He was now left to his own means, without any official capacity. His statesmanship and realism offered him no more hope. His dreams were transformed into illusions. The resultant tragic confusion, despair, and resignation were alleviated only by the ideals of the mystics, to whom David probably turned for solace and comfort.

VII

On the Threshold of a New Era: Messianic Hopes

For a clearer understanding of the problem, it may be useful to point up the Jewish outlook on life in the beginning of the sixteenth century in that part of Europe that David undoubtedly visited, Italy and Portugal.

Jewish suffering reached a new peak on the Iberian Peninsula thanks to the establishment of the Inquisition in Spain, followed by the expulsion of the Jews in 1492. Similar attempts at inquisitorial activity were made in Portugal. By 1498 the Jews who were unwilling to convert had to pick up the wanderer's staff again.[73] Simultaneous with the period of Jewish suffering was the period of Reformation, a world-shaking crisis in the history of Christendom. Crises in world history have never brought much good for the Jews.

To the personal tragedies without number and to the world crisis one has to add the widespread belief among Jews—shared also by Luther but for different reasons—that the fall of Rome (Edom) was at hand. The temporal sword, fought over for a millennium by Pope and Emperor, fell decisively into the hands of secular rulers and was now threateningly turned against the very power that had tried to lay claim to it. Even the spiritual sword, whose exclusive possession by the Pope only few thinkers dared to challenge, was now wavering in the weakened papal hands. From the inside, the Reformation was shaking the pillars of Christianity. From the outside the victorious infidel, Suleiman the Magnificent, was threatening Europe. To the Jews this spelled the fall of Christianity.

A number of thinkers read into the strange things happening around them the approach of the day when the Messiah would come to redeem his people. Even so great a man as Isaac Abrabanel fell victim to that idea and published the results of his calculations of the advent of the Redeemer. Many of the Kabbalists who escaped from Spain

[73] Cf. Simon Dubnov, *Divrei Yemei Am Olam* (Tel Aviv, 1947), p. 241.

to Italy constantly added fuel to the wild fire of Messianic hopes. In 1502, a German Jew by the name of Asher Lämmlein appeared in the environs of Venice, claiming to be the forerunner of the Messiah. Although he soon disappeared, the expectations he had aroused lingered on.

The miserable situation of the Jew not only awakened hopes of miraculous redemption in the near future, but also gave added significance to the rumors that the Ten Tribes, considered lost for so many centuries, were actually flourishing under a king of their own somewhere in Arabia. They were supposedly independent, strong, warlike, and, simultaneously with the Messiah's arrival, they would probably march on Jerusalem in triumph.[74] All this explains the then existing atmosphere of expectation when the arrival of the Messiah seemed to be imminent. He would heal the wounds and lift up the broken-hearted from the wilderness of despair; he would instill new hope in the hopeless and give a new lease on life to the people. His coming would be a veritable redemption.

VIII

What Happened to David?

In a world saturated with such ideas, there appeared one day a dark, emaciated, dwarfish-looking man.[75] He had difficulties in making himself understood. Even Hebrew, probably his native tongue, sounded strange to European ears. He claimed to be David Rabbani, the brother of a Jewish ruler in India. The first news spread rapidly; it caused a sensation everywhere.

One can imagine the kind of relationship that developed between David and the Jewish leaders. Various hypotheses could be put forth as to what happened. Since the purpose of his visit is clear, as is the world outlook of Italian Jewry

[74] Cf. Abba H. Silver, *History of Messianic Speculation in Israel* (New York, 1927), p. 115.

[75] Cecil Roth describes him as "a diminutive shriveled specimen of humanity." Roth, *Venice* (Philadelphia, 1930), p. 72.

before his arrival, one can follow up the most plausible possibilities of development.

It is possible that there was a genuine misunderstanding of David's identity on the part of the Jewish leaders. His claim that he came from India did not disprove their belief that he was a prince of the Lost Tribes. As a matter of fact, David must have confirmed their belief, since up to the present day the tradition is current among the Cochin Jews and the B'nei Israel that the origin of their colony dates back to the days of the First Temple.[76] Once they agreed on this basic supposition, it was less difficult to straighten out geographical discrepancies, if they noticed any at all. In the light of the popular literature of the day, such as the writings of Benjamin of Tudela and Eldad the Danite, and the generally accepted belief that the Ten Tribes were somewhere in Arabia, it was natural to narrow down the broad and ambiguous term "India," used by David, to what could plausibly be considered its specific meaning, namely, Arabia. And if some discrepancy was noticed because of David's consistent use of "India," there was no reason why they should discard the most popular readings of the day because of his lack of geographical knowledge, unintelligible description, or perhaps difficulty in expressing himself.

Secondly, it is not beyond the realm of possibility that a number of Jews, immersed in Kabbalistic writings and the calculations of the final day to come, saw in this fantastic creature a fit instrument sent to them from heaven to fulfill the words of the prophets. Irrespective of David's claims, that might have been in contradiction to the beliefs of these people, they considered it their religious duty to overlook these discrepancies and make him fulfill the mission for which he had been sent.

Thirdly, one could perhaps imagine that David was extremely flattered by the attention that was paid to him by the community. He may have meant it as a sign of courtesy and gratitude not to object to the distinguished visitors when

[76] Godbey, *op. cit.*, p. 344.

they boasted of their keen comprehension by quoting to him by heart a passage from Eldad describing the place and the people from which he was supposed to have come.

These three hypotheses seem not to be contradictory. Rather they appear to supplement one another. Thus, having initially claimed that he came from India, David might have inadvertently given wings to the more acceptable news that he came from Arabia, represented the Ten Tribes, and was there to fulfill a mission of God.

Whatever the Jews thought of him, David persisted in his attempt to have his state recognized internationally and to secure help for it from the King of Portugal. It was a question of life or death for Jewish Cranganore, and David was probably fully conscious of the importance of his mission. Only when he realized that he had utterly failed to save his brethren and his home, and that any further activity would be futile, did he give up his aspirations for this goal. Soon he had to leave Portugal. He had no place to go. His home was in ruins. It is probable that in these moments of loneliness and despair he became a mystic.

One can hardly doubt that on his return to Italy he came under the strong influence of Solomon Molcho's forceful personality. The relationship between these two men is worth studying. Historical and personal circumstances reversed the roles of the two men. David, the master who had brought Molcho back to his ancestral religion, now became the latter's disciple.

It would be inconceivable to assume that under the influence of Molcho, the fiery messianic dreamer, David could have remained immune to mysticism. In a slow process of change that culminated in the visit of the two men to the Emperor and the supposed attempt to convert him to Judaism, David assumed the role that the Jews always thought he was playing in their midst. Thus the historical David Rabbani, the Jewish ambassador from India, became the legendary David Reubeni, the herald of a new messianic era.

IX

Conclusion

The facts set forth in this paper to prove David's Indian origin fall into three broad categories: (1) literary references to David's Indian origin; (2) circumstances in India and its relationship to European powers that made David's mission historically a high possibility; (3) the spirit of the age in Southern Europe to whose spell David succumbed after the failure of his statesman-like mission. These facts fall into their proper places and offer a new picture of a man so much misunderstood and derided by historians. No doubt, there are some rough spots in the picture that need further polishing and elucidation. But it is hoped that the approach here taken will help to lift the true image of David out of the realm of legend into that of history.

If the thesis of this paper concerning David's Indian origin is accepted as plausible, then it goes without saying that the description in the *Sippur* is of highly questionable authenticity. If David's homeland was India and he was a descendant of the ancient Rabbani ruling house of Cranganore, it seems hardly reasonable to suppose that there should be any Germanic, Romance, or Slavic traces in his medium of expression. There may be disagreement among scholars as to which linguistic trait is predominant in the *Sippur*, but all agree that at least one of them is conspicuously present.

Although David's authorship still can not be conclusively disproved, it is not in the least probable that the *Sippur* is his literary product. Much more plausible would be the hypothesis that, on the basis of David's oral account and perhaps a few written notes on his itinerary, interviews, and some significant events, a German Jew in one of the North Italian cities wrote a popular account of his activities. By no means could the writer divorce himself from the spirit of the age. Every age and generation assumes certain

things as facts without even thinking of testing them. So our writer assumed, together with his generation, that the Messiah was just around the corner, that the Ten Tribes really existed, and that the impending fall of Rome would be coincident with the glorious rise of Jerusalem. These facts he read into David's life, convinced that they were integrally related. At some points he confused David's account of his itinerary; at others he added what he had read in Eldad the Danite. But he remained true to his age and handed down to the future a book saturated with the spirit of his generation.

As for the Jews in Cranganore—their past glory, their effort to forestall their doom, their role on the stage of history, the role of one of their sons in a tragic period of Jewish history—these things seemed to have been destined to be forgotten and to lie buried forever.

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JEWISH AUTONOMY DEBATED AND ATTACKED DURING THE FRENCH REVOLUTION

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I

ON the eve of the Revolution of 1789 the Jews and Christians of France were not less socially separated from each other than in the Middle Ages.[1] Disliked and persecuted as they were, the Jews nevertheless were often able to defend themselves in an organized manner through their autonomous communities. These communities, largely agencies for collecting taxes and performing other duties for the government and local officials, were carefully controlled by the authorities, and the scope of their self-rule never afforded the Jews a great many legal rights. But without the communities the Jews would have been defenseless. It may be safely assumed that this was one of the reasons why they demanded in the beginning of the Revolution that their communal bodies be preserved. Uncertain about their future, they wanted to maintain a collective organization which could speak up in their name and defend them.

The Christian advocates of Jewish emancipation demanded—even before the outbreak of the Revolution—not only a better understanding of the Jewish problem by Christians, but also a partial or complete abolition of the autonomous Jewish communities as a condition for Jewish emancipation. Chrétien Guillaume Lamoignon de Malesherbes, who headed the so-called Mallsherbes Commission for the preparation of a new status advantageous to the Jews, looked

[1] Robert Anchel, "Sur l'histoire des Juifs en France," *Cahiers juifs*, XIX (1936), 33.

with much disfavor upon the Jewish communities. Pierre Louis Roederer of the Metz Academy, wrote in a draft of a study on the Jews for the Academy about the necessity to break up the Jewish communities. On the other hand, the Nancy lawyer A. Thiéry maintained in his *Dissertation,* which was honored by the Metz Academy, that the Jews should continue to retain their communities and chiefs for some time. According to the historian Maurice Liber, Thiéry's position was influenced by the Jewish leader Berr-Isaac Berr, who was then opposed to the dissolution of the autonomous Jewish communities. The abbot Henry Grégoire, whose study also received a prize by the same Academy, favored abrogation of the autonomous rights of the Jewish communities in all non-religious matters. He demanded prohibition of the use of autonomous Jewish law in matters of marriage, inheritance, the performance of notarial functions by rabbis, and in other functions practiced contrary to French civil law. Grégoire maintained that the Jews should be assimilated to the other inhabitants in all civil matters. They should be allowed to congregate only for religious affairs, and this, too, should be done under the supervision of French officials. Zalkind Hourwitz, a Polish Jew who fought for Jewish emancipation in France, was the author of the *Apologie,* a third study awarded a prize by the Metz Academy. He went even further and demanded that the rabbis and syndics of the Jewish communities be forbidden to control the life of Jews outside the synagogue. Indeed, Hourwitz went so far as to advocate the abolition of the functions of rabbis altogether. On September 20, 1789, he warned the Committee of Reports of the National Assembly against the "devotees of my nation, the rabbinical inquisition," and the "sewer" of the Jewish community.[2]

[2] Z. Szajkowski, "Protestants and Jews of France in Fight for Emancipation, 1789-1791," *Proceedings of the American Academy for Jewish Research,* XXV (1956), 119-121; A. Cahen, "L'Emancipation des juifs devant la Société Royale des Sciences et Arts de Metz et M. Roederer," *REJ,* I (1880), 101; Adolphe Thiéry, *Dissertation sur cette question: Est-il des moyens de rendre*

With the outbreak of the Revolution, the discussion on the abolition of the autonomous Jewish communities became even more lively. Many *cahiers des doléances* (memorials of grievances) demanded that they be done away with. On December 23, 1789, Stanislas de Clérmont-Tonnèrre, in the National Assembly, made his famous statement that "all should be refused the Jews as a nation, but everything should be granted to them as individuals." The corporate body (*corporation*) of the Jews, he argued, should be abolished; their judges (*i.e., rabbis*) should be dismissed; they should not form any separate political body within the French nation. In Paris only the *Section* of Mathurins voted on February 20, 1790 against granting citizenship to the Jews. Their main argument was that, being organized as a separate nation, the Jews could not remain loyal to the French nation. All other Paris sections decided in favor of the Jews but insisted on abolishing the separate Jewish communities. In February, 1790 the *Section* of Saint-Germain-l'Auxerrois resolved to demand of the Jews "a formal renunciation of their laws and particular judges." The resolution of June 30, 1790 adopted by Paris in favor of the Jews contained the same demand to put an end to "the particular nation within the nation."[3]

The opponents of Jewish emancipation used this discussion as an argument against the Jews in general. The abbot Jean-Sifrein Maury stated on December 23, 1789, in the

les juifs plus heureux et plus utiles en France? (Paris, 1788), pp. 98-100; M. Liber, "Les Juifs et la convocation des États Généreaux," *REJ,* LXIV (1912), 105; Henri Grégoire, *Essai sur la régénération physique, morale et politique des juifs* (Paris, 1789), pp. 151-161; Zalkind-Hourwitz, *Apologie des juifs* (Paris, 1789), pp. 38-39; Anchel, "Un Juif polonais en France: Zalkind Hourwitz," *L'Univers israélite,* XCII, No. 38 (1937).

[3] Liber, *REJ,* LXIII, 188; *Opinion de M. le comte de Clérmont-Tonnèrre, député de Paris, le 23 décembre* 1789 ([Paris], n.d.), p. 13; *Extrait du procès-verbal du district des Mathurins: du vingt février mill sept cent quatre-vingt-dix* [Paris, 1790], 4 pp.; *Rapport fait par M. Vion . . . sur les diverses adresses & pétitions des juifs de Paris* (Paris [Mars, 1790]), p. 23; *Adresse de l'assemblée des représentants de la Commune de Paris . . .* ([Paris], 1790), p. 12; Sigismond Lacroix, "Ce qu'on pensait des juifs à Paris en 1790," *Revue politique et littéraire,* XXXV (1898), 412-24; *idem, Actes de la Commune de Paris pendant la révolution* (Paris, 1898), III, 638; IV, 201-02; VII, 551-60.

National Assembly, that the Jews formed not only a religious sect, but a separate nation with its own laws. In these conditions, to grant citizenship to the Jews would be exactly the same as granting French citizenship to Englishmen and Danes without asking them to cease being Englishmen and Danes. The next day the Alsatian anti-Jewish leader François-Joseph de Hell renewed a project to abolish all autonomous rights of the Jewish communities, which had been debated in 1788 by the Alsatian Intermediary Commission. The Alsatian Deputy, Jean-François Reubell, wrote on January 5, 1790: "What do you think of people who demand to become Frenchmen, but still wish to preserve Jewish administrators, Jewish judges, Jewish notaries . . . their particular laws on heritage, marriage, tutelage, majority, etc.?" Another Alsatian Deputy, Charles de Broglie, asserted that the Jews' existence as a nation within a nation was dangerous and anti-social.[4]

Nor were the Jews themselves all of the same opinion on this matter. In their petition of August 26, 1789, the Jews of Paris renounced the privilege of having their own particular chiefs. But their brethren of Alsace, Metz, and Lorraine demanded, in a petition addressed on August 31, 1789 to the National Assembly, permission to retain their synagogues, rabbis, and syndics in the same manner as before. Only after the discussion of December 23 and 24, 1789 in the National Assembly, during which the separation of the Jews was strongly attacked, did all Jews—in their new petition of January 28, 1790—give up their request to maintain their independent communities. For a time the Jewish leader of Lorraine, Berr-Isaac Berr, refused to renounce autonomy of the communities in exchange for all civil rights.

[4] Maury, in *Gazette nationale ou moniteur universel,* Dec. 23, 1789; *Opinion de M. le Prince de Broglie* . . . (n.p., n.d.), p. 4; *Archives parlementaires,* X (1877), 756-57; *Revue des grandes journées parlementaires,* I, 16; Charles Hoffmann, *L'Alsace au dix-huitième siècle* . . . , IV (Colmar, 1906-07), 517-18; Szajkowski, "The Jewish Problem in Alsace, Metz and Lorraine on the Eve of the Revolution of 1789," *Jewish Quarterly Review,* XLIV (1954), 235-37.

This provoked a strong attack by Jacob Berr, a Jewish physician of Nancy, who advocated the complete abolition of autonomous Jewish communities. In a pamphlet he maintained that Berr-Isaac Berr wished to keep the Jews in a state of estrangement from non-Jews and to perpetuate their isolation. Jacob Berr held the "despotic regime" of the Jewish community responsible for many evils and criticized Berr-Isaac Berr for his "dangerous" request that the autonomous Jewish communities be maintained. But after the Ashkenazic Jews had been granted full citizenship, on September 27, 1791, Berr-Isaac Berr published a *Letter* to his coreligionists in which he called upon them to abandon the spirit of a distinct community. Jews, he wrote, should remain organized as a group only for religious matters; in civil and political spheres they should remain individuals and act as such.[5]

However, the decision was not left to the Jews. Citizenship was granted to them only on condition that they renounce under oath all particular privileges. This was clearly laid down in the text on the emancipation of the Ashkenazic Jews proposed by the Alsatian anti-Jewish deputies and adopted by the National Assembly. On the following October 8, 1791, the anti-Jewish deputy Etienne-François

[5] [Jacques Godard,] *Adresse présentée à l'assemblée nationale le 26 août 1789 par les juifs résidans à Paris* (Paris, 1789), pp. 6-7; *Adresse présentée à l'assemblée nationale, le 31 août 1789 . . .* [Paris, 1789], p. 13; Jacques Godard, *Pétition des juifs . . . adressée à l'assemblée nationale, le 28 janvier 1790* (Paris, 1790), p. 95; Berr-Isaac Berr, *Lettre à Monseigneur l'Evêque de Nancy . . .* (Paris, 1790), pp. 17-19; *Lettre du Sr. Jacob Berr . . .* (n.p., 1790), 10 pp.; Berr-Isaac Berr, *Lettre d'un citoyen, membre de la ci-devant communauté des juifs de Lorraine, à ses confrères . . .* (Nancy, 1791), pp. 8-10. On Dec. 23, 1789 Adrien Duquesnoy, deputy from Bar-le-Duc, noted in his diary concerning the National Assembly's discussion about Jews: "Mr. Duport avait d'ailleurs fait un raisonnement fort puissant à ceux qui assurent que les juifs ne consentiront jamais à se soumettre à nos lois: Vous avez exigé un serment; si les juifs le prêtent, ils sont dans le même cas que les autres citoyens français. Ce raisonnement ne frappait personne, parceque rien ne frappe ceux que des préjugés religieux aveuglent ou égarent." Robert de Crévecoeur, *Journal d'Adrien Duquesnoy, député du tiers état de Bar-le-Duc . . .* , II (Paris, 1894), 204.

Schwendt wrote to the city council of Strasbourg that the National Assembly regarded the Jews, not as a *corporation* which could no longer exist, but as individuals practicing their particular religion. The Jews had ceased to exist as a nation. This was a revengeful statement by a leader of the anti-Jewish opposition in the National Assembly, intended to pacify the defeated Alsatian fighters against Jewish emancipation.[6] Some modern Jewish historians have argued that by giving up their autonomous Jewish communities the Jews paid too high a price for their emancipation, that this was the beginning of complete renunciation of Jewish life. It is doubtful, however, whether the Jews could have retained the pre-revolutionary status of their communities, even if they had resigned themselves to live without civil rights. In the long run the status of non-citizens for the Jews would have been incompatible with the ideology of the new regime. Clérmont-Tonnèrre, who fought for Jewish emancipation, stated in the National Assembly on December 23, 1789 that, should the Jews refuse to dissolve their communities and become citizens, they should be banished. The same attitude was taken on the next day by Count Honoré-Gabriel de Mirabeau.[7]

The Jewish emancipation in France was a result of the revolutionary nationalist principles, *Prinzipienreiterei,* to use Max Nordau's term. There was only one way out for the Revolution: to integrate the Jews within the French people. This attitude sprang not only from humanitarian

[6] "Aux individus juifs, qui prêteront le serment civique, qui sera regardé comme une renonciation à tous privilèges et exceptions introduits précédement en leur faveur" (Decree of September 27, 1791); R. Reuss, *L'Alsace pendant la révolution française,* II (Paris, 1894), 247-48. According to Berr-Isaac Berr (*Lettre d'un citoyen,* p. 10), this proposition by the Alsatian deputies was rejected, but this is not exactly so.

[7] E. Tcherikover, in *Oifn Scheidweg,* II (1939), 12-13 (in Yiddish); Clérmont-Tonnèrre, *op. cit.,* p. 13; *Gazette nationale ou moniteur universel,* December 25, 1789 (Mirabeu: "Eh, messieurs, serait-ce parce que les juifs ne voudraient pas être citoyens, que vous ne les déclareriez pas citoyens? Dans un gouvernement comme celui que vous élevez, il faut que tous les hommes soient hommes; il faut bannir de votre sein ceux que ne le sont pas, ou qui refuseraient de le devenir").

feelings toward the persecuted Jews, but also from an urgent desire to amalgamate all segments of France's population. The revolutionary leaders looked upon the Jews as persecuted human beings, but they hardly gave consideration to the religious problem or to internal Jewish conflicts. Of course, it was difficult, indeed almost impossible, for the Jews suddenly and completely to abandon their millenia-old traditions and principles. On the other hand, there was nothing particularly anti-Jewish in the attitude of the revolutionary leaders against separate Jewish communities. The historian Graetz noted correctly that the Revolution emancipated the Jews without asking them to renounce even one iota of their religion.[8]

It should be mentioned that the Jews were not the only religious group trying to preserve their particular privileges of the pre-revolutionary period. The Protestants of Alsace, too, were organized in autonomous bodies, and this fact was mentioned in 1779 by the author of a pamphlet on the legality of Jewish law with regard to divorces in France.[9] During the Revolution it was difficult to accept the idea of being a Frenchman in the spirit of the new regime and to remain a Christian in the spirit of the old regime. Yet the Alsatian

[8] Heinrich Graetz, *Geschichte der Juden,* XI (Leipzig, 1911), 221. Cf. Max Nordau, *Zionistische Schriften* (Berlin, 1923), pp. 45-46; Baruch Hagani, *L'Emancipation des juifs* (Paris, 1928), pp. 153, 187-90; Louis Ménard, *Les Questions sociales dans l'antiquité* (Paris, 1898), p. 15; Mainfroi Maignal, *La Loi de* 1791 *et la condition des juifs en France* (Paris, 1903), pp. 21, 177; P. Sagnac, "Les Juifs et Napoleon," *Revue d'histoire moderne et contemporaine,* II 1901), 461; Kurt Stillschweig, "Die Judenmanzipation im Licht des französischen Nationsbegriffs," *Monatsschrift für Geschichte und Wissenschaft des Judentums,* LXXXI (1937), 457-78.

[9] "Les luthériens d'Alsace ne sont pas moins autorisés dans le royaume que les juifs; ils y sont reçus, comme les juifs, avec leurs usages et les lois de leur religion; ils y ont de plus que les Juifs un Tribunal de leurs Frères, chargé de juger leurs contestations, et de régler leurs droits, suivant les principes reçus parmi eux"; *Réplique pour la Dame Peixotto: Contre le Sieur Peixotto, son mari* (n.p., 1779), p. 29; Szajkowski, *Proceedings of the American Academy for Jewish Research,* XXV, 119-135. For a bibliography on the struggle of Alsatian Protestants against the nationalization of their properties, see Frédéric-Charles Heitz, *Les sociétés politiques de Strasbourg pendant les années* 1790 *à* 1795 (Strasbourg, 1865), pp. 61-62; André Waltz, *Catalogue de la Bibliothèque Chauffour* (Colmar, 1889), 454-57.

Protestants retained many of their old privileges. Thus, thanks to some legal hair-splitting and arrangements with the Catholics, the Protestant Chapter of Saint Thomas of Strasbourg was not nationalized. The deputy Pierre André of Lower Rhine stated in February, 1799 that the Protestants who suffered from religious intolerance should be the first to give up privileges whose destruction could only help to bring about social happiness. But Professor Christian-Giullaume Koch, the Alsatian Protestant leader and deputy who directed the Protestant fight against the abolition of their privileges, opposed Jewish emancipation because the Jews would continue to exist as a separate Jewish nation. The insistence of the National Assembly that the Jews surrender their former privileges was interpreted by Koch and Schwendt as a victory over the Jews, who would cease to exist as a *corps de nation* (national body).[10]

It is clear from the controversy on the abolition of the autonomous Jewish communities that the Jews were organized in legal corporate associations (*corporations*),[11] with their *syndics* and with statutes pertaining to almost all phases of collective and individual Jewish life.[12]

[10] The term *corporation* for the Jewish community was used in many documents of various periods: *Prix proposés, en* 1788, *par la Société Royale de Metz* (Metz, 1788), p. 2, and *Affiches des Evêchés et Lorraine,* No. XXXV, 1788 ("Les Juifs forment, presque par-tout où ils sont établis, des corporations autorisées"). The same term was used by the Central Consistory in a document of May, 1809, *Le Consistoire Central des israélites, à messieurs les membres du consistoire départemental* . . . [Paris, mai, 1809], p. 3: "Qu'il y a loin de votre organisation actuelle à celle qui réglait ces corporations anciennes." In some sources Jewish autonomy was called *police particulière;* see Stillschweig, *op. cit.,* p. 458.

[12] In legal and other French documents the leaders of the Jewish communities (*parnassim* in Hebrew) were called *syndics,* a term that pointed up the communities' functions as *corporations.* On the term *syndic,* see A. Chéruel, *Dictionnaire historique des institutions* . . . II (Paris, 1884), 1193. The syndic's function was called *syndicat,* a term employed even in the nineteenth century by the Jews of Bordeaux and Bayonne. According to the minutes of the Nancy Consistory (May 11, 1817), the syndic's functions ceased to exist after the founding of the consistories in 1808: "Que ses fonctions de syndic ayant cessé par l'effet du décret du 17 mars 1808." Berr-Isaac Berr wrote then: "Comme il n'existe plus ni communauté ni syndic des juifs"; *minutes* in the Archives of the Historical Society of Israel, Jerusalem.

II

In connection with another controversy, namely, that over the debts of the Jewish communities, the Jews had to establish that during the old regime they were organized as *corporations.* In this they were contradicted by their adversaries.

Prior to the Revolution the Jewish communities were forced to borrow money from Christians in order to pay high taxes and thus became collective debtors to Christian creditors. During the Revolution the Jewish communities demanded that these debts be assumed by the government, as was done with all debts owed by religious and other bodies that had been dissolved by the new regime.

In a petition addressed to the National Convention, Aaron Ravel, Aaron Vidal, and Milhaud stated in behalf of the Avignon Jews, that they had been organized as a *corporation* which had been dissolved by the Revolution and whose properties had been nationalized. They even criticized violently the very existence of these *corporations* "which cut up the State into an infinitude of parties. The *corporation* formed a multitude of separate small nations in the midst of the nation itself. Each of these *corporations* had different and often opposite interests. . . . All these revolting divisions must disappear in the light of the torch of Philosophy. . . ." The petitioners stated that the Jews had been an organized *corporation* which was forced to make loans guaranteed by mortgages on the communal Jewish properties. But the Jews were unable to repay the debts because they no longer existed as a *corporation* and because of the nationalization of the mortgaged communal properties. Would the government, they asked, dare to refuse the nationalization of their debts? "Will the Jews again be treated as before, *i.e.,* as citizens only in matters of paying taxes, but as foreigners in matters of rights? . . . No! French legislation will not be thus insulted. A contradiction that would disgrace our laws shall not be tolerated. . . . When a system is fun-

damentally just, then it is necessary to accept the consequences. . . . It is not possible to have abolished the *corporations* and yet to admit the existence of one of them. The National Convention cannot recognize the Jews. There are no more Jews in France. There are no more Catholics, Protestants, Jews, sectarians of any kind, there are only Frenchmen."

It seems that the doubts as to whether the Jews indeed had been organized before the Revolution as *corporations* under the law, constituted the main reason for not nationalizing their debts. Consequently, the Jews of Avignon published a second petition to the National Convention, in which they again tried to prove that during the old regime even the French occupation forces in the former papal province dealt with the Jews in tax and other matters, not as individuals, but as members of a *corporation.* This was repeated in a report that A. J. B. Chappuis submitted on April 5, 1797 to the Council of Five Hundred. He advocated the nationalization of the debts, recalling that when in 1768 France had occupied the papal province, the Jews petitioned the Parliament of Provence to register and thus to recognize as valid all previous privileges and statutes accorded them by the papal authorities. This the Parliament did on April 11, 1771.[13]

However, the Christian creditors, who feared the nationalization of the debts, thought differently. Dominique Chambaud, a creditor of the Carpentaras Jews, stated in a memorandum against Jassé-Haïn Crémieu, the son of one of the Jewish guarantors of the loans obtained by the Carpentras community, that the Jews never formed a legal body but existed only as a "tolerated tribe" (*peuplade toléré*). To this Cremieu replied, in a brief prepared by the lawyer

[13] *Observations pour les juifs d'Avignon à la convention nationale* [Signé: Aaron Ravel, Aaron Widal, Milhaud.] [Paris, 1794], 10 pp.; *Nouvelles observations pour les juifs d'Avignon* [Signé: Aaron Ravel, Aaron Vidal, Milhaud.] [Paris, 1794], 15 pp.; *Rapport fait par* [*A.-J.-B.*] *Chappuis, au nom d'une commission . . . séance du 16 Germinal* [*5 avril 1797*] (Paris, 1797), pp. 3, 5.

Chansaud, that the Jews of Carpentras formed a "real political community," with their own communal constitution. Even the manner in which the loans were made demonstrated that the Jews were organized in special bodies. Thus, loans were ratified by general assemblies of their community and approved by the papal authorities. When, after their emancipation, the Jews lost their communities, they also ceased to be debtors. Chansaud compared the situation of the Jews to the status of the members of the Marseille Parliament, who ceased to be debtors of the Parliament's creditors after the Parliament had been dissolved in 1771. The Christian creditor replied in a brief prepared by the lawyer Granet, that the Jews enjoyed a "legal existence, *i.e.*, a permission to exist, but not a political existence."[14] Yet, on March 5, 1799, the Civil Tribunal of the Vaucluse department (the former papal province) stated that the former Jewish community did exist as a *corps de communauté.* The same statement was made much earlier (on April 30, 1795) by the civil authorities of Avignon, and repeated again on August 2, 1799.[15]

The Jews of Metz, who also demanded nationalization of debts owed by them, put forward the same argument. In a petition addressed to the National Assembly they stated that their community was of a "political character." They formed "an unparalleled corporation, a state, a particular government in France." They had not only a synagogue, but also rabbinical judges, who were recognized by the Parliament and French jurisprudence. They had their own legislation on heritage and other civil matters. They paid

[14] *Mémoire pour le citoyen Jassé-Haïn Crémieu . . . contre le citoyen Dominique Chambaud . . .* [Signé: Chansaud] (Aix, an VII), pp. 2, 4-5, 27; *Précis pour les citoyens Dominique Chambaud . . . contre le citoyen Jassé-Haïn Crémieu . . .* [Signé: Granet] (Aix, an VII), pp. 11, 19, 38.

[15] *Mémoire pour . . . Crémieu,* p. 12. On April 30, 1795 the district of Avignon sent to the City Council a copy of a decision (of April 8, 1795) by the Legislative Committee ordering suspension of all suits by Christian creditors against the Jews of Avignon because the debts had been "contracted by them as a *corporation*"; Municipal Archives of Avignon, D 56, No. 26.

general taxes not as individuals but as an autonomous collective body. The Jewish community of Metz had authority over the provincial communities. This Jewish state of Metz was dissolved by the same revolutionary spirit which dissolved all other *corporations.*

Many officials openly affirmed the justness of the Jews' argument. The deputy Jacques-François de Visme stated in his report of July 20, 1790 to the National Assembly on the abolition of the Brancas tax which the Jews of Metz were forced to pay, that they formed a "particular *corporation.*" On August 18, 1791 the district of Metz, in an order on Jewish taxes, spoke not of Jews as individuals, but of the *communauté des Juifs.* A member of the Council of Five Hundred, Chappuis, also defended very strongly the thesis of the Metz Jews.[16]

The Christian creditors, on the other hand, stated that the Jews were only tolerated foreigners, *aubains,* and thus had no legal right to be organized in *corporations.* This point-of view was strongly opposed by Jews and non-Jews alike, who showed that prior to the Revolution the Jews were not considerded as *aubains.*[17]

There was no unanimity on the problem under discussion among the Jews themselves, and a conflict involving the Jewish community of Bordeaux became a subject of propaganda against the nationalization of the debts owed by the Jewish communities.

[16] Library of the Jewish Theological Seminary, New York, manuscript 01530-1; *Pétition à la convention nationale, pour les ci-devant syndics et élus de la ci-devant communauté des juifs de Metz* [Signé: Mayer Cahen Goudchaux] (n.p., [1792]), pp. 1-7; *Loi qui renvoie au directoire du district de Metz les contestations nées et à naître du rôle de contribution fait par les juifs de Metz, donné à Paris, le 27 mai* 1791 (n.p., n.d.) 4 pp.; together with the decision of the Moselle department, August 18, 1791; Chappuis, *op. cit.,* p. 3-5; [J.-F.L.] de Visme, *Rapport fait au comité des domaines, le 20 juillet* 1790, *sur de droit de protection levé sur les juifs . . .* [Paris, 1790], p. 8.

[17] Szajkowski, "The Jewish Status in Eighteenth Century France and the 'Droit d'aubaine,' *Historia Judaica,* XIX (1957), 147-161.

III

In September, 1791 the city of Bordeaux decided to abolish all separate religious cemeteries and to replace them with one large national cemetery. The Jewish cemetery was then confiscated and sold in 1796 as nationalized property to two Christians, Pierre Despiau and Augustin Pujol. In petitions of May 12 and June 8, 1796 the Jews demanded that the departmental authorities of Gironde annul the sale, which the authorities did on June 29, 1796. The decision was later approved by the Ministry of Finances.

This was the beginning of a very sharp conflict between the Jews of Bordeaux and the two buyers of the cemetery. Both parties put forward strongly worded and legally based arguments; both published pamphlets on the conflict. The Jewish point of view was defended by the lawyers Louis-Francia Beaufleury, the first author of a history of the Jews in Bordeaux and Bayonne, published in 1799; François-Placide Ferey, J.-J.-R. de Cambacérès, Minister of Justice in the year VII, and A.-J.-B. Debonnières. A representative of the Bordeaux Jews, Fonseca, was even sent to Paris. The defense of Despiau and Pujol was taken up by the lawyer and deputy François-Balthazar Darracq (1749-1817), who on this occasion attacked the Jews in general at the Council of the Five Hundred. This was the strongest attack of that period against Jews. Despiau and Pujol stated that no exception should or could be made in favor of the Jews, who, prior to the Revolution had been organized as a *nation,* and thus their properties should be nationalized, as was done with all other corporate bodies abolished by the new regime. The Jews replied that they had never been organized as such a body (*corporation*), but only as a philanthropic society, which owned the cemetery. Officially the cemetery was, in fact, always owned by such a society, but under the strict control of the *Nation.* Thus, on April 26, 1750 Alexander the elder was appointed by the *Nation* as treasurer of the cemetery. On March 22, 1761 the *Nation* granted from the cemetery's funds a loan to David Lameyra for one year

at an interest of five percent. On April 17, 1786 the *Nation* decided to prepare a register of all graves and provided that this register should remain with the Burial Society *Guemilut Hasidim* for safekeeping.[18]

The statement of the Bordeaux Jews that they had not been organized before 1789 as a *corporate* body was historically not correct; they did form a well-organized body known as the *Nation*.[19] Their argument was strongly attacked by their adversaries, who sought to nationalize the cemetery. At the same time, this argument was used as a weapon in the hands of those who fought the idea of nationalizing the debts of the former Jewish communities of the papal province and of Metz. It demonstrated, they said, that the Jews were never organized as *corporations* and thus could not request the nationalization of debts owed by them.[20]

IV

Of a very different character were the debts owed by the Alsatian Jewish communities. There, Jewish leaders, in-

[18] Minutes of the Bordeaux *Nation* in the departmental archives of Gironde, series I, Nos. 177, 282, fol. 41, 68, 139.

[19] Szajkowski, "Relations among Sephardim, Ashkenazim and Avignonese Jews in France from the 16th to the 20th Centuries," *Yivo Annual of Jewish Social Science*, X (1955), 187-191. Charles-Maurice Duc de Tayllerand-Perigord's statement of January 28, 1790, that the Jews of Bordeaux had no special laws, magistrates, or particular officials, was not accurate; *Revue des grandes journées parlementaires*, I (1897), 94. The text of the decision of February 18, 1790 to dissolve the Bordeaux *Nation* proves that the Sephardic Jews considered themselves as a *corporation*: "Les Juifs de Bordeaux ne pouvant plus être considérés comme Corps de Nation, l'assemblée des Anciens qui les représentoient s'est occupé immédiatement de la formation d'une Association de Bienfaisance"; Minutes, February 18, 1790 (see *supra*, note 18).

[20] *Mémoire pour les citoyens Pierre Despiau et Augustin Pujol de Bordeaux* (Bordeaux, n.d.), 32 pp.; *Mémoire à consulter et consultation, pour les citoyens français, professant le culte judaïque à Bordeaux* . . . [Signé: [Louis-] Francia Beaufleury, Ferey [J.-J.-R. de] Combacérès, [A.-J.-B.] Debonnières, [29 November 1798] (n.p., an VII), 7, 47 pp.; Despiau et Pujol, *Réponse à un Mémoire sous le nom des citoyens français, professant le culte judaïque à Bordeaux* [Paris, an VII; *Rapport fait par* [M.-F.] *Prévot, sur une pétition des citoyens Pujol et Despiau* . . . (Paris, an 7), 7 pp.; *Opinion de* [F.-B.] *Darracq dans l'affaire des juifs de Bordeaux* . . . (Paris, an 7), 31 pp.; L.F.B. [Louis-Francia Beaufleury], *Histoire de l'établissement des juifs à Bordeaux et à Bayonne* . . . (Paris, 1799), pp. 161-95.

cluding Cerfberr of Médelsheim, were the main creditors. According to Forbin des Issarts, the deputy of the Vaucluse department, who spoke out in favor of the Christian creditors of the former papal province, the government rejected a demand by the Alsatian Jews for the nationalization of the debts. However, if we are not mistaken, there never was any demand for nationalization of the debts owed by the Alsatian Jewish communities. This was due, perhaps, to the desire of Alsatian Jews to allow nothing to interfere with their struggle for emancipation and with their opposition to the decree of September 28, 1791 which had stopped the regular repayment of debts owed by peasants to them. Or, perhaps, Cerfberr, to whom the largest debt was owed, feared the nationalization of the debts. Much later the Alsatian Jewish consistories advocated, not the nationalization of the debts, but the rejection of the creditors' claims on the ground that the Council of Alsatian Jewish communities (the *Nation juive*), which had borrowed the money, had ceased to exist during the Revolution. This thesis was sustained in a brief submitted on November 11, 1834 by the three lawyers, Martin, L. Liechtenberger, and Michaux-Bellaire, and supported by the lawyer Rauter. A similar position was taken in 1851 by the lawyer Paul Fabre.[21]

Many more proofs that the Jews were in fact organized as *corporations* are known to us today, e.g., the contemporary statutes of the Jewish communities. But the proofs put forward by the Jews during the Revolution were sufficient in themselves to confirm that they did in fact form corporate associations. In the end, however, the Jews lost the struggle. Many motives shaped the government's policy against taking over the debts owed by the Jewish communities. The Jews were compelled to repay these debts, and in order to do this

21 *Rapport de M. le marquis Joseph-Charles de Forbin des Issarts . . .* [Paris, 1821], p. 4; *Consultation pour les israélites habitant le département du Bas-Rhin contre les porteurs des créances de l'ancienne nation juive d'Alsace* [Signé: Martin, L. Lichtenberger, Michaux-Bellaire, Rauter] (Strasbourg, 1835), 20 pp.; Fabre's brief, in the author's possession.

they were forced to retain some form of community organization to collect taxes and discharge other obligations. Thus, while the French Revolution emancipated the Jews on condition that the autonomous communities would be dissolved, it nevertheless continued the old patttern by forcing the Jews to maintain communities for the purpose of paying taxes.

BETTINA VON ARNIM AND THE JEWS

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My great talent is loving—Bettina

I

BETTINA VON ARNIM did not have the penetrating intelligence of Rahel Varnhagen nor the epic talent of Dorothea Schlegel nor the power of fascination of Caroline Schlegel, the wife of August Wilhelm von Schlegel, poet and translator of Shakespeare. Neither did she possess the poetic gift of her unfortunate friend, Karoline von Günderode.[1] But though she was not the greatest woman of German Romanticism, she was certainly the most brilliant.

Just as all these women were very different from one another, so the Romantic Movement was by no means uniform and followed no fixed pattern. Its character can really be determined only negatively, through its fight against rationalism and classicism and against every restriction on the freedom of the individual. In this movement, for the first time in German intellectual history, Jews took an active part, especially Jewish women. The salons of Berlin Jewesses were the meeting places of writers, artists, and scholars. The great Protestant theologian and philosopher, Friedrich Schleiermacher, and even a member of the royal family, Prince Louis Ferdinand of Prussia, were frequent visitors there and carried on a lively correspondence with these Jewish patronesses of learning and the arts.

Rahel Varnhagen, née Levin (1771-1833), who was married to the diplomat and writer Karl August Varnhagen von Ense (1785-1858), called her salon "the mirror and the

[1] See Margarete Susman, *Frauen der Romantik* (Jena, 1929).

abbreviated chronicle" of her times.[2] Dorothea Schlegel (1764-1839), the oldest daughter of Moses Mendelssohn, was married to the leading critic of the Romantic movement, Friedrich von Schlegel (1772-1829). She was a close friend of Henriette Herz (1764-1847), the gifted wife of the physician-philosopher Markus Herz, one of the earliest champions of Kant's philosophy.

Bettina Brentano von Arnim (1785-1859) was the most human and most universal of all Romantic women. Her life and her work were the expression of her ever-enthusiastic, ever-active personality, one that was incomparable in its strength of feeling, unrestraint, and courage. Wilhelm von Humboldt wrote about young Bettina in 1808: "Such liveliness, such leaps of thought and head—for, one moment she sits on the floor, the next on the stove—so much foolishness is unheard of."[3] Especially impressive is the description that Caroline Schlegel gives in a letter of the same year to Pauline Gotter: "She is a wondrous little creature, a veritable Bettine [from the Venetian epigrams] in physical pliancy and suppleness; inwardly sensible, but outwardly quite foolish; respectable and yet beyond all respectability; everything she is and does is not entirely natural, and yet it is impossible for her to be any different."[4] Thirty years later Jacob Grimm offered this evaluation: "She is an overflowing fountain who does not allow herself and others calm moderation of thought."[5]

As the sister of the poet Clemens Brentano and later as the wife of the poet Achim von Arnim, she was in the center of Late Romanticism. But she always remained open to life and its movements. In the era of Young Germany Heinrich Laube coined the expression "Bettina Boldness." Karl Gutzkow, in his autobiography, gives us a graphic picture of a visit to the aged Bettina and speaks of "two hours of

[2] Bertha Badt, *Rahel und ihre Zeit* (Munich, 1912), p. 9.

[3] Herbert Levin-Derwein, *Die Geschwister Brentano* (Berlin, 1927), p. 100.

[4] Reinhard Buchwald (ed.), *Carolinens Leben in Briefen* (Leipzig, 1923), p. 493.

[5] Levin-Derwein, p. 158.

conversation unforgettable to me." He calls her a "fluttering sylph" who is always ahead of a man's deliberate seriousness.[6]

In the face of all social conventions, and of religion as well, she preserved her individual freedom. She dreamed of a new world religion, but was impressed by Schleiermacher's Chritianity of emotions. She was as free from religious prejudice as from the social and national arrogance all around her. In this she differed especially from her brother Clemens, seven years her senior, who kept admonishing his sister to lead a more settled life. But Bettina confessed: "My soul is a passionate dancer; it leaps about to an inner dance music which I can hear and others cannot."[7] When King Frederick William IV of Prussia planned to build a cathedral in Berlin,[8] she exclaimed: "Build it in those scattered huts in Silesia![9] A dome in which the God of humanity reigns, every fireplace a sacrificed altar of compassion, of love of mankind."[10]

From her earliest youth this ardent love of mankind attracted her to all needy creatures. Through her association with them she dared to defy her own social circle, which she found boring and despised. People wanted to educate her into an "agreeable and amiable girl," but that seemed not at all pleasant to her, indeed quite "horrible." About the rich citizens of Frankfurt she writes to horrified Clemens, whose "barbaric sister" she calls herself: "In the streets there is the smell of chaffering; on Sundays the shops are closed! What is there behind those iron bars and grates? Chaffering,

[6] *Gutzkows Werke*, ed. by Peter Müller, III (Leipzig, 1911), 113 ff.

[7] All quotations from Bettina's works are based on her *Sämtliche Werke*, in seven volumes, ed. by Waldemar Oehlke (Berlin, 1922). The most recent books on Bettina are: Arthur Helps and Elizabeth Jane Howard, *Bettina* (New York, 1957), and Ina Seidel, *Drei Dichter der Romantik* (Stuttgart, 1956). See also the article by Bertha Badt, "Eine Judenfreundin in der deutschen Romantik," *Israelitisches Familienblatt*, 1926, Nr. 30, pp. 11 ff.

[8] See H. S. Reiss, *Political Thought of the German Romantics* (Oxford, 1955).

[9] A reference to the starving Silesian weavers; cf. Gerhart Hauptmann's drama *Die Weber*.

[10] Letter to Wilhelm von Humboldt, dated June 22, 1844; Levin-Derwein, p. 138.

money! What do people do with their money? Ah! They give banquets, they get dressed up and ride in back of the carriage with two servants. . . . All wealth is a stuffed figure which one can use for display, and the loafers are hungry horses; they don't care if the one of whom they eat their fill loses his bowels." The more Clemens exhorted Bettina to lead a conventional life, the more savagely she rebelled: "But morality and respectability, these are two stupid watchmen blocking the path of human existence and volition."

This youthful defiance drove Bettina out of the houses of the patricians and to the poor, the destitute, the residents of the suburbs and the *Judengasse,* the Frankfurt ghetto. They were all closer to her heart than her own class which Clemens respected so highly. In deep seriousness she acknowledged: "I know what I need. I need to keep my freedom. Freedom for what? For accomplishing and completing what my inner voice directs me to do."

It was this inner voice that led her to an unprecedented provocation of the so-called "fine society" and to a free, untrammeled way of living. In her old age she went even beyond that and aligned herself with political rebellion and the fight on behalf of all oppressed people. Goethe considered children rigorists. Bettina became a rigorist at the end of her life.

II

When Bettina was born in Frankfurt in 1785, the character of the *Judengasse* was probably still the same as Goethe had found it as a boy and described it in his autobiography. Conditions there were among the "things full of presentiment which crowded in on the boy and probably on the youth as well." Although he was repelled by the narrowness, the squalor, the swarming, the inhabitants were to him "nevertheless the chosen people of God and, no matter how things had turned out, they walked about in memory of the oldest times."[11]

11 *Goethes Werke, Jubiläums-Ausgabe,* XXII, 175 f.

There is hardly any doubt that Bettina's descriptions of her visits to the Frankfurt ghetto,[12] influenced Goethe's presentation, just as she had a large general share in the genesis of Goethe's autobiography *Fiction and Truth* (*Dichtung und Wahrheit*). In her old age Bettina herself gave us a lively, colorful, and at the same time grim picture of the *Judengasse* in her work, *Dies Buch gehört dem König* (1843).

In Bettina's youth it seemed as though the walls of the ghetto would crumble forever. After the Congress of Vienna (1815) and the ensuing reactionary epoch, however, the Frankfurt Senate sought to restore all former restrictions on the Jewish inhabitants. The struggle for the enforcement of equal civil rights went on for ten years, a struggle in which the Jews did not achieve complete success. It disturbed the social peace of the city, leading to anti-Jewish outbreaks on the part of the rabble. Only in 1824 was a kind of compromise between the Senate and the Jewish Community effected, but it complied primarily with the desires of the ruling class.[13]

In this struggle for power, which both sides also fought with pamphlets, Bettina's brother-in-law, Karl Friedrich von Savigny, the head of the "Historical School of Law," played a sorry role.[14] He had endorsed an opinion of the Faculty of Law at the University of Berlin that was intended to prove that the Frankfurt Jews had no claim to citizenship and that the ghetto had to continue.

Equality in civil rights for the Jews of Frankfurt, which had already been promulgated by the French general Jourdan,

[12] Compare the description by Achim von Arnim in his story, "Die Majoratsherren." L. Achim von Arnim, *Novellen*, ed. by Rudolf Kayser (Munich, 1918), pp. 64 ff. The history of the Frankfurt ghetto is treated by L. Kracauer, *Die Geschichte der Judengasse in Frankfurt a.M.* (Frankfurt a.M., 1906).

[13] On the Jews in Frankfurt and their persecution during the period of the Restoration, see A. Freimann and I. Kracauer, *Frankfort* (Philadelphia, 1929); Eleonore O. Sterling, "Anti-Jewish Riots in Germany in 1819," *Historia Judaica*, XII (1950), 105 ff.; Heinz Bender, *Der Kampf um die Judenemanzipation in Deutschland im Spiegel der Flugschriften* 1815-1820 (Jena, 1939); Siegfried Scheuermann, *Der Kampf der Frankfurter Juden um die Gleichberechtigung* 1815-1824 (Kallmünz, 1933).

[14] He was married to Kunigunde (Gunda) Brentano.

was confirmed by the ruler of the Grand Duchy of Frankfurt, Karl Theodor von Dalberg.[15] Dalberg was a rather ambiguous, opportunistic, insincere man. All of Bettina's statements about him indicate that she considered him malicious and disagreeable; he called Bettina "the little friend of the Hebrews." He was among the originators of the new municipal regulations of November 30, 1807, regarded by the Jews as a severe disappointment, and which provoked a polemical reply from Ludwig Börne.[16] In 1821 Börne wrote of the conditions in Frankfurt: "In Frankfurt, where I live, the word 'Jew' is the inseparable shadow of all occurences, all relationships, of every pleasant and unpleasant matter." On the Jewish side, the religious reformer, philanthropist, and pedagogue, the Privy Financial Counselor Israel Jacobson (1768-1828), stood out as a leader.[17]

Bettina tried to interest Goethe in this Jewish struggle for rights as can be seen from her book, *Goethes Briefwechsel mit einem Kinde* (1835). She sent him various pamphlets and called his attention to the Jewish journal, *Sulamith,* the organ of Israel Jacobson, published at Dessau from 1806 on, which stood for ideals of civilization and humanity. Its readership included many Christian intellectuals such as Dalberg and Bettina herself. On March 30, 1808 she wrote to Goethe about the journal: "I am enclosing everything that has appeared to date, except for a journal which the Jews publish under the title *Sulamith.* It is very prolix. If you want it, I shall send it to you, because the Jews present it to me as their protectress and little helper in need."[18]

Goethe greatly underestimated the extremely energetic and manifoldly talented Israel Jacobson, whose reforms of

[15] On Dalberg's attitude toward the Jews of Frankfurt, see Freimann and Kracauer, *op. cit.,* 193 ff. Dalberg was the oldest brother of the manager of the Mannheim theatre, a friend of Friedrich Schiller's.

[16] Börne's pamphlet is reprinted in his *Gesammelte Schriften,* II (Hamburg, 1862-1863); also in Börne, *Über den Antisemitismus* (Vienna, 1885).

[17] For bibliography on Jacobson, see *Encyclopaedia Judaica,* VIII (1931), 745 f.

[18] The text of Bettina's original letters to Goethe dealing with these pamphlets is almost identical with the letters as they appear in her first book, *Goethes Briefwechsel mit einem Kinde* (1835).

Jewish religious services aroused even the interest of the philosopher Schleiermacher. He mocked at the "Jewish Savior" (*Judenheiland*) of Brunswick without knowing much about him. But to Bettina Jacobson was not only the most prominent opponent of Dalberg, but also a pedagogical reformer. He had founded, in 1801, a new type of educational institution at Seesen in the Harz Mountains, where Jewish and Christian boys and girls were to be introduced to German culture. It was the spirit of Enlightenment and Neo-Humanism that prevailed in this and other pedagogical experiments of that type, including the "Philanthropin" in Frankfurt. To Goethe Bettina confessed that she had little interest in these new schools, with the exception of the Philanthropin which she often visited.

The faculty of the latter institution included Christian teachers. Among them was Joseph Franz Molitor (1779-1860), one of the most peculiar among the many eccentric figures of Late Romanticism.[19] In his youth Molitor had been influenced by his study of the writings of Kant, Fichte, and Schelling, later also of Franz von Baader, the Catholic theologian and philosopher who tended toward theosophy and mysticism. He had published books on the philosophy of civilization and of religion. When at the beginning of the century the Philanthropin opened its doors, Molitor joined this institute as a teacher as well as a pupil. He studied Hebrew, Aramaic, the Talmud, the Kabbalah, and the Zohar, in order to increase his knowledge of Judaism. These studies found a fruitful expression in his philosophical *magnum opus, Philosophie der Geschichte oder über die Tradition* (*Philosophy of History or On Tradition*), which appeared in four volumes between 1824 and 1853. The final volumes of this work attempt a systematic presentation of the Kabbalah, that intricate many-layered, mysterious Jewish mysticism which had spread in several European countries since the thirteenth century. Molitor found the Kabbalah far superior to Christian mysticism in religious depth

[19] On Molitor, see *Jewish Encyclopaedia,* VIII (1904), 651.

and poetic magic, and generally placed the original faith of the Jewish Bible far above that of the New Testament.

Molitor did much to shape Bettina's views on religion and history. Their conversations estranged both from Christianity and aroused in them a lively interest in Judaism. Bettina was so greatly impressed by Molitor that she could not talk enough about him. In her letters to Goethe and to her friend Karoline von Günderode she called him "my Molitor." He served as guide on her visits to the Philanthropin.

There were, however, in Frankfurt, still people like the historian Voigt who found it ridiculous that Molitor should examine Jewish children in Greek and Roman history. Bettina was outraged at this arrogance. She liked to visit the Jewish model school "because of the poor Jewish children who, together with the Christians, received their tiny little share of humane treatment there; and, if I may say so, this seemed to me an education in itself: to accustom children of the same age and the same ability from an early age to the fact that they have equal human rights, whether they be Jews or Christians."

It was entirely in this spirit that Molitor conceived of his pedagogical mission. Bettina tried to convince Goethe of the truth of these ideas: "This high-minded man believes that, since he has a body to sacrifice to the Jews and a mind to devote to them, both should be employed very usefully." At the same time she declined to speak to Dalberg again about the situation of the Jews, as Goethe wished her to do. That ruler saw only the vices and not the virtues of the Jews. "Their kind," said Bettina, "is, after all, humankind, and it ought to enjoy freedom for once." Thus she called Molitor's idea to get Christian and Jewish children into one school a happy one.

III

In the wide panorama that Bettina's second book of letters, *Die Günderode* (1840), offers us, there appears a touching marginal figure, Bettina's "Autumn Jew," old

Ephraim from Marburg. Bettina succeeded in arousing a lively interest in him in her friend Karoline von Günderode. The latter was also a woman free of prejudice and with humane feelings; otherwise no intimate friendship between the two Romantics could have developed. Bettina is very specific in describing her first meeting with old Ephraim, which took place in Marburg at the home of Professor Weiss: "The most handsome man! A white beard of half an ell, big brown eyes, a beautiful simple figure, the calmest forehead, a splendid, majestic nose, an orator's lips from which wisdom must resound sweetly." Everyone showed old Ephraim great reverence, although he was only a poor Jewish tradesman. He had once been a teacher of mathematics and had had students in Giessen and in Marburg, but had been obliged to make money and had thus become a dealer in clothing.

Rarely in her life did Bettina find such a kindly and wise conversational partner. Their talks were continued in Frankfurt, where Ephraim became a sort of private tutor to Bettina. He taught her mathematics and through his teaching rescued her from the "moth damage of domesticity." Bettina saw in him another Socrates; from him she learned to place the world of intellectual values above all other worlds and she asked him about everything that came to her mind.

Among other things, the two discussed the destiny of the Jews. Bettina instilled confidence in the old man: "At least you are closer to truth than others who consider a Jew an oppressed man; freedom rises from within, and a drop of it is enough to lift us above all scorn." Ephraim bitterly acknowledeged: "It is the Jew's path to creep through the thorns and thistles with which the Christians block his way, and he must be fearful of waking the dogs that will pursue him through the thorns so that he can proceed neither forward nor backward and often perishes in the sweat of his toil, and, sadder still, no longer finds his God in his own heart."

To Bettina this simple old man was a great model "who fulfils the difficult conditions of his life beyond the declining

bloom of his children, takes every laborious step toward the preservation of grandchildren, no longer spends any day as his own, does not pay any attention to himself, wandering to his family in the heat of day, stooping with an effort in order to gather the bread-crumbs on his path and to bring them to orphaned children." Bettina's language acquires an especial warmth and emotion when she tells about her visits with this old man whose life appears to her pure communication with the divine.

The story of Bettina's friendship with a young seamstress, Veilchen by name, reads like a tender novel. Veilchen was a little older than Bettina. An excellent embroiderer who lived in the ghetto, she taught this art to the wealthy families of the city. Bettina admired her skill; she had respect for every activity and consequently could not muster any pity for the French emigrés who mourned for their past life of leisure. This poor, humble, industrious girl bore her hard fate silently and serenely. Bettina's relationship with her transcended every social prejudice of her class. But never before had her actions aroused such wrath in her circle as did this harmless association. There is an account of it in Bettina's fourth book, *Clemens Brentanos Frühlingskranz* (*Clemens Brentano's Spring Wreath*), published in 1844, which presents the story of the brother's and sister's youth on the basis of their correspondence between 1800 and 1803, the fifteenth to the eighteenth years of Bettina's life.

Bettina's cordial friendship with the poor Jewish girl was a protest against the arrogance of the rich as well. Once she brought her the first violets she had found—an allusion to her name. Another time she came upon her friend while she was sweeping the staircase with a broom. "Oh, let me sweep a little, too," said Bettina and took the broom from her. This incident became known in the city. The scandal reached Clemens' ears, but Bettina could only laugh. She wrote her brother: "I just wanted to spin a little innocent thread in the web of the world, one tiny little thread, and—no, I am supposed to break it, because it is not the thing to do."

Bettina learned from Veilchen many Jewish religious customs, and was especially charmed by the celebration of *Rosh Chodesh* and the blessing of the moon (*Birkhath Levanah*). "And a Jew laments and prays that the hatred of his enemies may not blind him and their scorn not crush him. He places himself before the judge's bench of the moon, and on his way home from alien places he opens his garment to the light of the new moon so that it may shine upon his chest. Even though this may be nothing but custom, still it indicates that he wants to be lifted up to a higher sphere by the New Moon; he asks the powers of Nature to lift him up. How beautiful this is and how much truer than if I make an index of my sins and beg God to cancel this bad balance sheet!"

Bettina wanted to bring German poetry to her young friend, and while Veilchen threaded her needles, she read to her poems of Goethe. To brotherly reproaches she paid no attention. It seemed to her as though she and her brother spoke different languages. Why should the gossip of "fine society" concern Bettina? Clemens knew his sister's obstinacy "in offering defiance when you consider something right."

The further course of this tender friendship is not known to us. Presumably it waned when Bettina left Frankfurt. To Bettina it meant, among other things, the justification of her faith and her character: "You forbid me to associate with a poor Jewish girl; and I want to associate with everything that lives in this world as my contemporary."

IV

The aging Bettina was a dauntless fighter. Social sentiments, love of mankind, the libertarian urge of her youth—these had now become political demands for which she fought courageously and passionately. During the Berlin cholera epidemic in 1831 she fearlessly visited the sick who venerated her as their angel, and supplied them with food

and medicine. When, in 1837, seven liberal professors of the University of Göttingen were removed from their posts, she aroused the public and succeeded in securing for Jacob and Wilhelm Grimm, the masters of German philology, a call to Berlin. She used her personal connection with King Frederick William IV, whom she knew as crown prince, to obtain a pardon for the revolutionary writer Gottfried Kinkel. In her correspondence with the king and in connection with the sentencing of Gottfried Kinkel, she expressed her hope for complete religious tolerance in Prussia. On July 29, 1849 she wrote: "The most praiseworthy thing in the Prussian land, especially under Your Majesty's government, is the complete religious tolerance."[20]

In the field of religion she drew farther and farther away from the doctrines of the Church, in marked contrast with her brother Clemens, who thought he could find peace of soul in making a Catholic cross. She hoped for a social kingdom from Frederick William IV. How bitter was her disappointment!

Bettina's work *This Book Belongs to the King* (1843) is one of the most significant manifestoes of the political, social, and religious fight for freedom of this revolutionary decade. Bettina sent the king a copy with a letter, but no answer is known to us. This late work has the same loose form as Bettina's youthful writings. It constitutes a mixture of personal documents, such as letters and conversations, and fictional episodes.

By this time her attitude toward public life had become much more radical. She now came out far more passionately than before for the rights of the Jews.[21] In the first volume there are only occasional passages on this subject, but the second, subtitled "Conversations with Daemons," contains a full expression of her political convictions. At the beginning there is the beautiful story, "The Convent Berry" (*Die Klosterbeere*) with this dedication: "In memory of the

[20] Levin-Derwein, p. 158.

[21] Moritz Carrière's view that only her friendship with young Heinrich Bernhard Oppenheim was responsible for this championship of his co-religionists must be rejected.

Judengasse at Frankfurt." The dedication bears the date of Goethe's birthday, August 28, 1808. With her old passion for freedom Bettina even addresses herself to the nuns: "You, too, little nuns, who no longer turn and stir in your cells, dead to life, who no longer have any aim in life but to tell your beads with folded hands, if you break the shell, then you will fly into the sea of freedom again." These reflections lead her to the beautiful words: "Doubts are not errors and vows of faith are no crime against love; they transfigure the spirit and are shipwrecked on it which circumscribes the divine in the sea of creation and is submerged in it, casting off all garments in order to be free, naked, immaculate—and all searching is religion."

That is why Bettina wanted to be protectress of the suppressed in the spiritual field, too. In this connection her memories go back to the Frankfurt *Judengasse,* to the "brethren of Nathan the Wise," who dwelt in the narrow, dark houses, and to the children to whom she used to give flowers. Once more she conjures up the memory of the Primate von Dalberg who has been dead since 1817 but against whom she continues to bear a grudge. In an imaginary conversation Bettina has the ruler say bad things about the Jews, attributing to them the mind of usurers, filth, irresponsibility, egotism. In the face of such cheap accusations Bettina declares angrily: "A Christian makes an idol of superstition; it is his Christ." Her profound love of mankind transcended all dogmatic religions. She vigorously rejected attempts at converting the Jews.[22] To the Primate's question as to whether she does not consider Christianity to be truer than Judaism, she replies mockingly: "For a primate it is, but not for a rabbi." The idea that Christ was a Jew is in the center of this theological discussion. Thus she turned against a Church "which ejects the tribe of its founder from its bosom, an unmixed race equipped by Nature as one of its noblest, with keen senses and deep feelings." She recognized only one single religious commandment:

[22] Schleiermacher, too, opposed all attempts to convert Jews; he looked upon such conversions as expressions of indifference towards either religion.

"Love ye one another!" Her libertarian beliefs inevitably led Bettina to the idea of a religion of human conscience as the sole mediator between the human and the divine. In this faith she saw triumph over all existing religions.

In Bettina's loving kindness toward Jews and Judaism we must recognize the expression of a personality burning for freedom and justice, a personality that drove her to the side of the political rebels. So she cried out to the Prussian king in the tempestuous year of 1848: "There is a free kindness and goodness, but also a gentleness and greatness of soul that arises from maturity of the mind, which atones for all guilt."

REVIEW SECTION

The Jews in Medieval Germany

THE DEVELOPMENT OF THE GERMAN PUBLIC MIND: A SOCIAL HISTORY OF GERMAN POLITICAL SENTIMENTS, ASPIRATIONS AND IDEAS. THE MIDDLE AGES—THE REFORMATION. By *Frederick Hertz.* The Macmillan. New York, 1957. 524 pp.

THE author is a recognized authority in the field of sociology, of which he was professor at the University of Halle (Germany) in the pre-Hitler era. His book, *Race and Civilization,* translated from the second German edition and published in New York in 1928, has become a standard work on that important and for almost two decades very timely topic. In 1944, there followed *Nationality in History and Politics,* "a study of the psychology and sociology of national sentiment and character."

The jacket of the new volume, under review, describes it as follows: "This is a work of mellow scholarship and wisdom." It quotes a lengthy appraisal by the well-known British historian George P. Gooch, of which only the first and the last sentences are here reproduced: "This study of the German public mind is a work of solid and profound erudition . . . and the more we know the more we shall appreciate it. . . . No book, so far as I know, furnishes such a comprehensive survey of German political and social ideas and ideals."

This might possibly apply to the bulk of the material presented in the volume. With respect to the sections of immediate interest to the readers of this journal and to the reviewer, the judgment cannot be equally favorable by far.

The Jews in Germany during the Middle Ages and the Reformation period, their legal and social status, their image in and their treatment by "the German public mind," are referred to more or less extensively in several places (pp. 54, 94, 220, 288, 471). Even a full, though brief, chapter comprising eight tightly printed pages is devoted to "The Jews in the Middle Ages" (pp. 251-258).

One would expect that an author of the indubitable scholarly qualifications of Doctor Hertz would have thoroughly acquainted himself with the material pertaining to and available for this specific subject. Only on such a basis is a penetrating historical as well as sociological analysis possible for one whose chosen general and main topic, because of its extremely wide scope, does not permit an extensive study of the

primary sources. Unfortunately, the author has failed in both respects. His presentation amounts to no more than an unsatisfactory rehash of Graetz and Dubnow, apparently his main sources of information besides Stobbe, Scherer, Caro, and Hoffmann, certainly works of great merit at the time of their publication, but to a considerable extent obsolete today, as everyone knows. True, in addition to these, Hertz cites in his bibliographical note (p. 258) more recent literature, such as the reviewer's *The Jews in Medieval Germany*. It is more than doubtful, however, whether this book, with its extensive bibliographical section, was seriously consulted. If it had been, the author would have availed himself of the results of the researches contained therein. The way in which the remaining items of his bibliography on p. 258 are cited suggests the same approach. Stobbe's "new edition of 1902" is merely a photostatic reproduction of the original one of 1866. Still worse, instead of worthwhile recent monographs on various Jewish subjects enumerated in the above mentioned *The Jews in Medieval Germany* and in *Forschungen zur Rechts- und Sozialgeschichte der Juden in Deutschland während des Mittelalters* (Zürich, 1955), Hertz lists with no descriptive remark and with incomplete titles such Nazi publications as Walter Zuncke, *Die Judenpolitik der fränkisch-deutschen Könige und Kaiser bis zum Interregnum* (1941), and Fritz Kynass, *Die Juden im deutschen Volkslied* (1934). The years of publication themselves are indicative of the Nazi character of these books; and the firstmentioned dissertation was unfavorably reviewed for its deficiency in scholarship even by a Nazi scholar (see *Forschungen*, p. 292). Neither seems actually to have been seriously consulted.

With such an approach by the author to the numerous problems involved, one cannot expect even a satisfactory rehash of older literature, let alone a sound historical, sociological, and psychological analysis or interpretation. These are lacking with reference to the background and motives of Agobard's anti-Jewish activities (p. 54) as well as the atrocities against the Jews during the First Crusade. The latter are disposed of in one sentence: "The passing of the crusaders from Western Europe through the Rhinelands was accompanied by terrible atrocities against the Jews" (p. 94). Hertz still adheres to the long outdated "alien-law" doctrine (p. 251). He explains the, at times, favorable attitude of some popes toward the Jews with this sentence: "The Church could not treat the Jews like heathen or heretics, because they were the people of the Bible" (p. 251). He indulges in similar generalities in his account of "usury": "The interest charged was, indeed, enormous according to modern ideas, but this was due to the conditions of the time" (p. 252). The reasons for the introduction of the Jew-badge in 1215 are given as follows: "At the fourth Lateran Council (1215) the Jews were accused of taking excessive interest and of other actions. It was prescribed that they should wear a distinctive dress or badge and their intercourse with Christians was to be restricted" (p. 253). The author, without

making any sound inquiry into the question of "usury" as practiced by medieval Jews, states that "the charges raised . . . against the Jews certainly contained a good deal of truth"; he apparently also believes it to be correct that "the wearing of distinctive clothes or signs was justified by the Church also by reference to the Mosaic Law, which had prescribed them" (p. 258). If Hertz had consulted the recent literature on the subject (*e.g.*, the reviewer's article, "The Yellow Badge in History," *Historia Judaica,* IV, 1942, 109 ff.; cf. also *XIX,* 1958, 109 ff.), he would have avoided such glaring blunders.

But enough of enumerating such erroneous statements, meaningless generalities, and inconclusive conclusions, of which pages 251-258 are replete. It is unusual to find these faults in a book published by Macmillan. In view of Professor Gooch's evaluation and praise, the work should soon see further printings or a new edition. In this case, the entire material on the Jews should be subjected to thoroughgoing reexamination and extensive revision. If this were done, this section on the Jews would then be worthy of the high scholarship that is associated with Dr. Hertz's work.

GUIDO KISCH

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THE REFORMATION AND THE JEWS

THE LUTHERAN REFORMATION AND THE JEWS: THE BIRTH OF THE PROTESTANT JEWISH MISSIONS. By *Armas K. E. Holmio, Th.D.* Finnish Lutheran Book Concern. Hancock, Mich., [no year given]. 218 pp.

ACCORDING to the author's summary at the end of the volume, "the most important reasons for the concern of the Reformation with the Jews were the interest in the original language of the Old Testament, the arguments advanced by Jews against the Messiahship of Jesus, their position in the Bible's prophecies and the idea of the possible conquering of the Jews for Christianity." From the subtitle of his book, it is evident that the last point is the core of the author's historical presentation and theological argumentation. "Luther's book, 'That Jesus Christ Was Born a Jew' which appeared in 1523 marked the beginning proper of evangelical Jewish missions" (p. 155). For the change in Luther's attitude towards the Jews, distinctly marked by the publication of his anti-Jewish pamphlets in 1543, several motives have been suggested by Jewish historians from Graetz to Reinhold Lewin. The author finds "the chief reason . . . in the Jewish propaganda which had appeared in Moravia, as a result of which a few people had embraced Jewish religious customs." Other reasons are given, too, such as "the anti-Semitic

example furnished by the Catholic Church and possible personal unpleasant experiences with Jews. The most important reasons, however, were religious and national" (pp. 157 f.).

Luther's unfriendly attitude, maintained until his last sermon a few days before his demise, is considered by the author as "a comparatively restricted phenomenon." Nevertheless, "Luther did not forget his earlier mission thoughts. Even in his final sermon he expressed his hopes for the conversion of the Jews" (pp. 158 f.). Although the political consequences of Luther's altered position on the Jewish question has not escaped the author, he still arrives at the conclusion that "the general attitude of the Lutheran Reformation toward the Jews remained, despite everything, quite favorable compared to the way in which the Catholic Church continued to treat them" (p. 158). In another place (p. 122 f.), comparing the Jewish policy of the Reformation and the Catholic Church, he asserts that "the Protestant Fathers will be found, despite all, to be representing the dawn of a new and more human era for Israel."

The reader is invited to compare the above with Graetz's statement: "In the reformer and regenerator of Germany, then, the Jews had almost a worse enemy than in the Pfefferkorns, Hoogstratens, and Ecks, certainly worse than in the popes till the middle of the century. But few heeded the words of those wretches, known to be sophists and liars, while Luther's uncharitable utterances were respected as oracles by the Christians of the new faith, and but too well followed out" (*History of the Jews*, IV, 551 f.).

Doctor Holmio's argumentation, determined by the missionary-theological bent of his thought, is based mainly on the well-known, but to a great extent antiquated, literature, works by such scholars as Graetz, Ludwig Geiger, Reinhold Lewin, of which he offers a fairly good and useful bibliography (pp. 193-207). While missionary writings obviously attracted his special attention, the more recent publications on the sixteenth century, both source material and monographs, have not been given proper consideration. It was unavoidable that such an approach should result in a very one-sided, not to say biased, picture.

A fresh, penetrating analysis of the attitude of Luther, the other reformers, and the Reformation toward the Jews and the so-called Jewish question is a long overdue desideratum of historical research, all the more so since the picture was so badly distorted by anti-Semitic publications in the Nazi era. Since the publication of the volume under review the problem has aroused the attention of serious scholars in post-war Germany. Dr. Selma Stern-Täubler has just completed her comprehensive study on the Jewish advocate Josel of Rosheim (1480-1554) after many years of archival research (cf. for the time being, Stern-Täubler, "Principles of German Policy towards the Jews at the Beginning of the Modern Era," *Year Book* I of the Leo Baeck Institute, 1956, 15-27). For almost a decade this reviewer has been engaged in collecting

the sixteenth-century source material on the discussion of the Jewish status from the point of view of legal history. For an unbiased scholarly treatment of the complex questions involved only the cooperation of theologians, historians, and lawyers can prove fruitful.

GUIDO KISCH

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THE REVOLT OF MARTIN LUTHER. By *Robert Herndon Fife.* Columbia University Press. New York, 1957. xii and 726 pp.

THE scope of this voluminous biography is limited to Luther's development from his early youth to his appearance at the Diet at Worms in 1521. As is well known, his pamphlets concerning Jews date only from 1523 and 1543. For the author, nevertheless, a double opportunity was presented to refer to the Reformer's (he calls him "Martin" throughout the book) relations with Jews.

Luther's study and (limited) knowledge of the Hebrew language offered one of these opportunities. At Erfurt, in the early days of his studies, he had bought a copy of Reuchlin's *De rudimentis hebraicis* (1506). "Martin knows the Hebrew letters and their pronunciation and also some words which he probably took from the dictionary attached to Reuchlin's work. It is, however, half a dozen years later before evidence appears of real progress with the language of the Old Testament" (p. 151). The way in which and the persons from whom this knowledge was acquired are mentioned only in passing in a footnote (p. 151 n. 103; see also p. 242). The Reformer's interest and his instrumentality in the organization of Hebrew studies at the University of Wittenberg, including the appointment of some teachers of Jewish origin, surely deserved attention. One older and two recent publications, all of them apparently unknown to the author, touch on the matter, though they do not discuss it exhaustively: Herbert Schöffler, *Die Reformation* (Bochum-Langendreer, 1936, pp. 35 f.); Irmgard Höss, *Georg Spalatin* 1484-1545: *Ein Leben in der Zeit des Humanismus und der Reformation* (Weimar, 1956, pp. 117 f.); Eric Werner, "Two Obscure Sources of Reuchlin's *De accentibus linguae hebraicae,*" *Historia Judaica,* XVI, 1954, 46-54 (with special reference to Luther).

In addition to the mention of John Capistrano's anti-Jewish preaching in Erfurt (p. 35) and Luther's reference to the Jewish persecution in the Mark Brandenburg (p. 244), Reuchlin's controversy with the Dominicans of Cologne over the attempted burning of the Jewish scriptures is given some space (pp. 207 f.). The earliest letter preserved in the Reformer's own hand discloses his stand. It affords full support for Reuchlin and ends with a prayer for the humanist. Unfortunately,

the exciting and still not yet completely clarified continuation of the story does not fall into the period covered by the author.

The discussion of subjects of Jewish interest, obviously only peripheral in the early period of Luther's life, is treated here in a scholarly and fair, if not exhaustive manner.

GUIDO KISCH

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THE LEGACY OF GERMAN JEWRY

DAS VERMAECHTNIS DES DEUTSCHEN JUDENTUMS. By *Hermann Levin Goldschmidt.* Europäische Verlagsanstalt. Frankfurt am Main, 1957. 156 pp.

THE author of this volume is well known in European Jewish communities. For more than five years director of the *Jüdisches Lehrhaus* of Zürich, Switzerland, he has made himself a name as lecturer and writer. The fruits of his labor show that he is a thinker with the schooling of a philosopher and an understanding of general as well as Jewish problems.

His most recent volume, here under review, seems to be a collection of essays and popular lectures of the last few years. This may explain but cannot excuse the character of the book. German Jewry and Judaism in Germany played a leading role in the diaspora life of the Jews for more than a century and a half. This Dr. Goldschmidt knows well. Yet this knowledge did not prevent him from writing a bird's eye view of that historical development, its achievement, and its significance, a sketch which, in 136 pages of text, covers altogether too much ground and therefore contains all too little of substance. With shocking naivité the publisher proudly points out that 350 personalities are mentioned: 350 names on 156 pages! Of course, the author could not do justice to any of them, nor could he do justice to his readers. The result is a rather deplorable volume.

If there were an abundance of modern literature on German Jewish history available to German language readers, one would not mind so much. One would accept the slender volume for what it is, a selection of thoughtful and thought-provoking essays, and would not regret too much its sketchiness or its general approach. But as things are, the field is virgin and the hunger of the German public for good, reliable, and thorough information is remarkable. In this situation, Dr. Goldschmidt's little book may have disastrous effects; since it does not fill the need in a legitimate manner, it will disappoint those—Jews and non-Jews—who really wish to learn, and it may discourage others from writing more profoundly on the same subject. The *Year Books* of the Leo

Baeck Institute, dealing with some aspects of the same theme, do it in a far more satisfactory manner, but as they are available only in English, not all interested persons in Central Europe can profit from them. Dr. Goldschmidt has missed a great opportunity; it is to be hoped that he who holds so fine a promise will do better with his next book.

HANS LAMM

Düsseldorf

AMERICAN JEWISH HISTORY

THE WRITING OF AMERICAN JEWISH HISTORY. Edited by *Moshe Davis* and *Isidore S. Meyer*. American Jewish Historical Society. New York, 1957. 333 pp.

NOW that the fanfare attendant upon the Tercentenary Celebration of the Settlement of Jews in America has died down, one sadly reflects that not much more is left of the Tercentenary than the memory of the fanfare, lavish and expensive, all promise and no performance. The promised ten volume documentary history of the Jews in the United States has apparently gone the way of other good intentions; the national and local celebrations were an outburst of enthusiasm which produced a momentary flash but no lasting light. It is good to note, however, that scholarly publications, in their own quiet, solid fashion, have published special issues with articles of lasting interest to the student of American Jewish history. We have reference particularly to *Judaism*, *Historia Judaica*, the *Jewish Quarterly Review*, and the Israeli publication, *Gilyonot*.

It is a source of further satisfaction to note yet another proper and praiseworthy aspect of the celebration of the Tercentenary. In September of 1954, the American Jewish Historical Society convened a Conference of Historians on the Writing of American Jewish History. The purpose of the conference was, in the words of its organizers, Dr. Moshe Davis and Rabbi Isidore S. Meyer, "to consider the present status of American Jewish historical writing and to suggest methods and norms for future research." "The agenda was limited to four specific areas of research, namely: Local and Regional History, Economic History, Immigration and Biography." The papers delivered at the Conference and the discussion they occasioned have now been published. The volume constitutes an important contribution to American Jewish historiography.

If the Conference had done no more than to demonstrate strikingly that American Jewish history is a serious study, demanding the serious attention, energy, and talents of trained historians, it would have been eminently worthwhile. For too long has this discipline been the concern of the well-meaning amateur historian or the object of the amateurish efforts of the trained historian. A large (and we may add, valuable)

volume could be written just correcting the errors of fact and evaluation which abound in the standard volumes and texts. Professor Baron rightly points out that the very subject creates "staggering difficulties for the historian . . . aggravated by innumerable technical difficulties." The American Jewish historian must be versed in general American and general Jewish history and sociology and must be a linguist to boot.

At the time of the Tercentenary, a number of communal histories were published and a goodly number begun. In the section of the book devoted to this area of study, there is a fine paper by Professor Selig Adler, which would be useful to anyone essaying a communal history. The discussion of the papers prepared for this session, as at the other sessions, strikes the reader as pertinent and scholarly.

Dr. Selig Perlman has contributed a thoughtful paper on "America and the Jewish Labor Movement," and Professor Nathan Goldberg the scholarly "Dynamics of the Economic Structure of the Jews in the United States." The latter author raises the question as to who is to be considered a Jew in studies about Jewish participation or Jewish contributions, and properly points out that "the use of different definitions and classifications lead to different results and conclusions. Moreover, it is difficult, if not impossible, under such conditions, to compare the results of . . . several studies." We have sinned so much in claiming as our own men and women who never identified themselves with Jewry or Judaism, those who have formally left the fold, those having some Jewish ancestry and those having no more than "Jewish sounding" names. A little bending over in the other direction would make for both better history and greater self-respect.

The fullest section is the one on immigration. The articles of Drs. Robert Ernst, Arthur Mann, Clement S. Mihalovich and Bernard D. Weinryb are the works of fine scholars. The first three are "background pieces" against which American Jewish history is to be viewed and can be better understood. Dr. Weinryb's contribution is a well-documented story of Jewish immigration to the United States. He still retains the three-immigration-waves theory, viewing it as Moses Rischin remarks, as a "still serviceable . . . loose classification" which "ought not be peremptorily discarded." Mr. Rischin quite properly questions Dr. Weinryb's statement that the Sephardic Jews "formed the dominant stream of Jewish immigrants during the century and a half after 1654." They were outnumbered as early as the 1720's. He makes the even more significant assertion that "the German Jews of the nineteenth century were in reality a mixed multitude from Central and even Eastern Europe." The discussion at the immigration seminar is of unusual interest and merit. It is hoped that this session helped whet the student's appetite for the subject. Study of immigration will cause the scholar to focus his attention on the really significant quarter-century of American Jewish history, the final quarter of the nineteenth century.

The fourth seminar dealt with biography.

The American Jewish community in general and the students of its history in particular owe a debt of gratitude to the editors for planning and convening the Conference and for editing its proceedings, and to the American Jewish Historical Society and the late Louis M. Rabinowitz for sponsoring it.

ABRAHAM J. KARP

Rochester, N. Y.

THE AMERICAN REACTION TO THE MORTARA CASE: 1858-1859. By *Bertram Wallace Korn.* The American Jewish Archives. Cincinnati, 1957. 196 pp.

RABBI Bertram W. Korn, who has written other excellent works in the field of American Jewish history, has made a recent contribution, under review, that is notable in every way. It gives evidence of diligent and comprehensive research into the basic documents relating to his subject, and the material is arranged in admirable form.

After describing the celebrated Mortara Case, which revolved about the kidnapping of an Italian Jewish child, six years old, on the ground that he had been baptized in the Catholic faith, the author relates the European repercussions; the reaction of American Jews and the Buchanan Administration; the political considerations at stake; and the reactions of the American secular press, the American Protestants, and the American Catholics. At the end he tells us that Edgar Mortara died in Belgium in April, 1940, a devout Catholic Father, one month before the Nazi invasion of that country. "Had he lived, he might have shared the fate, in the Nazi annihilation-camps, of six million other human beings, who, like little Edgardo Mortara, had been born to parents who cherished the ancient faith of Judaism." Mortara poems by Penina Moise, Adah Isaacs Menken and an anonymous Protestant are included, and there is a discussion of the famous Finaly Case, which came to a climax after World War II and had a distinctly different ending from the Mortara Case.

The attitude of the Buchanan Administration has a decidedly contemporary flavor, demonstrating that state departments and presidents have a way of behaving that changes only slightly from generation to generation. It must be remembered that the American Jewish community in 1858-59 was small in numbers and without effective organizations, such as the American Jewish Committee, the American Jewish Congress, or the Bnai Brith, which today act in defense of the rights of Jews. Rabbi Korn does not hesitate to point out (p. 31) that "Isaac Mayer Wise, the great champion of Jewish unity and harmony, blundered" in addressing the Department of State on his own initiative, bypassing other individuals and congregations deeply concerned.

It is interesting to note that, apparently in connection with the Mortara Case, "on November 27, 1859, delegates from twenty-nine congregations in thirteen cities met at the Cooper Institute in New York City to create the first national representative Jewish organization, the Board of Delegates of American Israelites, with a view towards the establishment of a national forum for the discussion of Jewish problems and their solution." In going through the documents relating to the history of Congregation Rodeph Sholom, New York City, the reviewer found the names of the representatives of Congregation Rodeph Sholom, namely Levi Steinlein, Jonas Rosenberg, and J. Steinberg, who were designated to attend the preliminary meeting of the Committee of Conference. This Committee had been appointed by the trustees of nine New York congregations, in response to a call emanating from a Committee of the Congregation Shaarey Tefillah, at Mozart Hall, June 16, 1859. The purpose of the Committee of Conference was to organize a "Board of Representatives which would prove acceptable to every congregation in this city and the United States generally, and which would be enabled to act for the interests of Israelites all over the world." Another interesting aspect of the American discussion of the Mortara Case is to be found in the account of the Mass Meeting at Musical Hall, San Francisco, California, on January 15, 1859, attended by more than three thousand persons. Among the speakers were Rabbi Julius Eckman and Rabbi H. A. Henry, one of the first rabbis of Congregation Rodeph Sholom in New York City, prior to his becoming rabbi of Temple Shearith Israel, San Francisco. Other outstanding personalities, non-Jews as well as Jews, also played a role in the American reaction to the Mortara Case.

It is clear that many vital issues affecting the relationship of religious groups in this country and abroad were in the arena of discussion. Without doubt the different attitude of the Catholic Church in the Finaly Case may have stemmed from both altered political conditions and also the conviction that the Mortara policy, denying to the Jewish parents their abducted child, was one of "inhuman cruelty."

Rabbi Korn has written a fascinating story, giving proof again that life can be more dramatic and sensational than fiction. He has assembled evidence which is instructive, sometimes inspiring, and frequently amusing. He tells of the "talented humorist, lecturer and writer, Raphael J. De Cordova who, on occasion, acted as preacher at Temple Emanu-El of the City of New York," founded in 1846. At one of the protest meetings, De Cordova, "at one point in his address . . . felt he had spoken too long, and hurriedly finished his remarks. But the clamor for him to continue was so great, that he arose again and spoke for another fifteen minutes."

Anyone who wishes to understand the forces prompting the Catholic Church to respond, in a measure, to the compulsions of modernity must

read Dr. Korn's book. And anyone who wishes to know the by-products of an act of ecclasiastical folly and bigotry should peruse the comments of the Protestant critics. As for those who seek to understand the continuing and unchanging character of the Jewish community from age to age, they should study with care the chronicles presented in this volume. It is an illuminating narrative, which has placed in the author's debt everyone interested in Jewish self-knowledge and in Jewry vis-à-vis the non-Jewish world.

LOUIS I. NEWMAN

New York City

GENEALOGY

THE AUERBACH FAMILY: THE DESCENDANTS OF ABRAHAM AUERBACH. By *Siegfried M. Auerbach,* with an Introduction by Moses Auerbach. Perry Press Productions Ltd. London, 1957. 171 pp. in quarto.

THIS is the third major post-war publication on German-Jewish family history, after *The Feuchtwanger Family* and *Die Siegburger Familie Levison und verwandte Familien,* which came out in 1952 in Tel Aviv and Bonn, respectively. Dr. Auerbach's genealogical tables—scientifically compiled and drawn up and therefore to be admired by all those who, for sentimental reasons or for purposes of serious study, are interested in this type of historical research—represents a valuable contribution to what is commonly called the phenomenon of German Jewry. For here hundreds of descendants of Abraham Auerbach (1763-1845), the Bonn *Oberrabbiner* of the "Rhine-Mosel Consistoire," are not merely enumerated, but listed with every minute particular and, what is more, with details of the members of their families. Thus numerous well-known personalities of various walks of life—rabbis, doctors, civil servants, historians, and others—are mentioned. Carefully recorded, too, is the fate of those who belong to the living generations during the period of ferocious political persecution and sometimes last-minute escape to Israel, the United States, England, and other foreign countries. In addition, the system applied, supplemented by statistical data relating the age, native country, emigration from Germany, past and/or present domicile, occupation, cause of death, and so on, makes good "reading." The hope may be expressed that the author's efforts will inspire other German-born Jews, wishing to keep the memory of their ancestors alive among the younger generations and to strengthen family spirit, will follow this fine example of genealogy. The compiler-author, born in Frankfurt-am-Main, who once played a leading part in German industry and who, for the last twenty years or more, has been living in London, may be sure that this book will serve a useful purpose in the field of Jewish historical study in our time.

E. G. LOWENTHAL

London/Frankfurt-am-Main

MUSICOLOGY

THE PSALTER IN THE TEMPLE AND THE CHURCH. By *Marie Pierik*. The Catholic University of America Press. Washington, D.C., 1957. xi and 101 pp.

THE title of this little book is somewhat misleading; while the author endeavors to convey to the reader (in condensed form) the most important facts concerning the text and structure of the Psalms, she says very little about the role of the Psalter in the Temple. Nor is she any more informative on the subject of Psalmody in the Early Church.

All her sincerity and great devotion do not compensate the reader for certain errors stemming from secondary sources, such as, "as far back as the first century there is mention of the *Trop*" (p. 43), and "In Hebrew music the form of the phrases is preserved through all their variations . . . by the consistency of the accent. . . ." (p. 62). The worst mistake, however, occurs in the discussion of the Christian chant. There we read: "The Eight Psalm Tones . . . correspond to the Eight Modes" (p. 83), this more than forty years after the fundamental writings of one Peter Wagner, and more than twenty years after Gombosi's demonstration that Psalm-Tone, Mode, and Scale are related structures, but they by no means uniformly correspond to one another.

Good and useful are the chapters on form and rhythm, and "How Gregorian Chant Developed." They are solid, elementary expositions. Miss Pierik will do much better if she will specialize in *one* of the nine chapters of her book; and she will avoid basic errors if she will rely on primary sources, not on their second- or third-hand interpretations, of which her book is full.

ERIC WERNER

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NECROLOGUE

SIMON RAWIDOWICZ

1897 — 1957

WITH the passing of Simon Rawidowicz scholarship has lost a gifted and distinguished student of the history of Jewish thought; Hebrew literature outside the State of Israel—the last master of the cogitative, philosophical and publicistic essay; Jewish thought—one of its eminent original representatives.

Born on February 22, 1897 in Grajewo, Poland, he received an education that was the foundation of his vast Hebraic erudition in the old lore as well as in modern Hebrew literature, and of an original and rich Hebrew style. He used to take pride in the fact that his father had published a large volume of talmudic *novellae* (1929) while working as "a farmer in Merhavia." Rawidowicz was drawn to the rich, intellectual life of Berlin of the years following World War I, when Jewish and, in particular, Hebrew literature were thriving there. Here he completed his university studies in 1926. His doctoral thesis, *Ludwig Feuerbach's philosophische Jugendentwicklung und seine Stellung zu Hegel bis* 1839 (1927) was only the foundation for a major study, *Ludwig Feuerbach's Philosophie: Ursprung und Schicksal* (1931). The academic capacity of its author had been demonstrated even prior to his publications on Feuerbach. Studies on Feierberg and Ahad Haam had established the reputation of their young author, who, in 1924 published a complete edition of *Nachman Krochmal's Writings* with a full length treatise in Hebrew on the Galician thinker's life and thought, his circle and his impact.

In the period between the World Wars Rawidowicz prepared for publication volume VII (Berlin, 1930) of the jubilee edition of Moses Mendelssohn's *Gesammelte Schriften,* which contained the philosopher's *Schriften zum Judentum I* and also some two hundred pages of introductory and note material. He also directed the *Ayanot* publications, served as co-editor of *Ha-Tekufa* (1927-30), and was the founder and leader of the World Hebrew Union.

In 1933 Rawidowicz settled in London, where he was connected with the University of London School of Oriental and African Studies, worked on the Sokolow papers, prepared the *Sokolow Memorial Volume* (1943), and turned increasingly to the study of medieval Jewish thought. From his pen, a new annotated edition of Maimonides' *Sefer Hammadda* (Jerusalem, 1947) appeared (originally published in Berlin, 1922). In addition a series of studies on Saadia and Maimonides was begun in various periodicals.

From 1941 to 1948 Rawidowicz headed the Hebrew Department of the University of Leeds. There he launched the *Metsudah* as an organ of what remained of Hebrew creativity in Europe, of which seven books in five volumes appeared, 1943-1957. He wrote extensively on ideological problems of contemporary Jewry and the philosophy of Jewish history. These studies continued his earlier writing of a publicistic nature, to which he turned again in various articles written after he had settled in the United States, and which gave rise to a controversy of high caliber and considerable impact over some years.

In 1948-1951 he taught at the College of Jewish Studies in Chicago, where he edited the bilingual volume, *The Chicago Pinkas* (1952). At Brandeis University (since 1951) he taught Jewish philosophy and headed the area of Near Eastern and Judaic Studies. In 1954 he edited a memorial volume in Hebrew for Simon Dubnow. A revised edition of the Krochmal volume and two large volumes of essays on Jewish problems are to appear posthumously.

The end came suddenly on July 20, 1957 in Waltham, Mass. It was a shock to all who knew the esteemed scholar and remembered his strong build, great energy, incessant work interrupted by hearty and witty causerie, his ready smile, and his ideas and plans for future work.

MOSHE PERLMANN

Harvard University

NOTICES OF RECENT PUBLICATIONS

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Nathan Glazer, *American Judaism.* An Historical Survey of the Jewish Religion in America. University of Chicago Press. Chicago, 1957. xi and 176 pp.

Georg Landauer, *Der Zionismus im Wandel dreier Jahrzehnte.* Edited by Max Kreutzberger. Bitaon Verlag. Tel Aviv, 1957. 478 pp.

Isaac Lewin, *In the Struggle Against Discrimination.* Addresses before Various Organs of the United Nations and of the Congress of the United States. Bloch. New York, 1957. 148 pp.

Gertrud Luckner, *Freiburger Rundbrief.* Nr. 37-40. Deutscher Caritas-Verband. Freiburg i. Br., 1957. 112 pp.

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Historia Judaica

ATTITUDES TOWARDS PROSELYTIZING IN THE CLASSICAL HALAKAH

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THE attitude towards proselytism implied in the Halakah has been the subject of several studies.[1] As the Talmud is the basis of rabbinic law, these studies have concentrated on the talmudic sources. While this approach is correct as far as it goes, it does not go far enough. The Mishnah and Gemara, to be sure, are the basis of Jewish law; Halakah, however, is determined, not by the utterances of the Tannaim and Amoraim, but by the interpretation given to them by the medieval scholars. It follows that an analysis of the position of the Halakah towards proselytism must begin, not with the talmudic sources, but with the major rabbinic commentators and codifiers.

Analysis of the post-talmudic sources as they deal with proselytes leads directly to the classical period of rabbinics. Few gaonic responsa refer to converts; and the treatment of the question in the *Halakhot Gedolot,* the major gaonic code, contains little from which to draw conclusions. It was not until the first three centuries of the second millen-

[1] A. Z. Marcus, לתולדות דת נצרת, גרים (Jerusalem, 1937). William G. Braude, *Jewish Proselyting in the First Five Centuries of the Common Era; the Age of the Tannaim and Amoraim* (Providence, R.I., 1940); Bernard J. Bamberger, *Proselytism in the Talmudic Period* (Cincinnati, 1939), contain bibliographies.

nium, when the study of rabbinics experienced unprecedented growth, that the Halakah of proselytes was treated profoundly and extensively. The views expressed by the Tosafists, on the one hand, and by the scholars of Northern Africa and Spain on the other, became the basis of all subsequent rabbinic law. But as these two schools flourished independently, it is not surprising to find that they differed in their interpretations of the Talmud. This is especially true with respect to laws pertaining to converts, a subject particularly susceptible to emotional and social presuppositions.

Thus a study of the two classical schools reveals fundamental differences of opinion in their treatment of the proselyte Halakah. Although both used the same talmudic sources as the basis of their decisions, the methods of interpretation and the decisions arrived at were sometimes as diverse as if different sources had been used. On the surface it would appear that the divergences arose from the tendency of the Spanish scholars to emphasize codification, while the Franco-German rabbis stressed interpretation. But this cannot be pressed too far, for codification implies interpretation and implicit in interpretation is categorization.[2]

[2] This study adheres to the premise that interpretive passages relating to the laws of proselytes found in *Tosafot*, unless they deal with tentative assumptions or are otherwise implicitly or explicitly excluded, are also meant to be rules of law. Recently the old controversy has been renewed as to whether the Tosafists intended to be mere commentators, as R. Malakhi Hakohen maintained in יד מלאכי, כללי רש"י ותוספות (Przemysl, 1867), No. 14, p. 189, citing R. Bezalel Askenazi, שיטה מקובצת to Khetubot, 4a (Tel Aviv, 1956), p. 87 or legal interpreters, as maintained by the *Piskei ha-Tosafot* (printed at the end of talmudic texts). Ch. Tchernowitz, *Toledot ha-Posekim* (New York, 1947), II, 32-38, agrees basically with the former, but fixes rules by which, he asserts, the Tosafists indicated halakic intent. Tchernowitz's mechanistic system has been forcefully rejected by E. Urbach, *The Tosafists: Their History, Writings and Method* (Jerusalem, 1955), 569, n. 13 (in Hebrew). The latter points out that R. Malakhi overstates R. Bezalel's opinion. R. Bezalel does not hold that halakic decisions may not be deduced from Tosafist texts, something which he usually does in his *Shitah mekubezet*; all he intends to say is that the halakic intent is not present in *Tosafot* at all times. Be that as it may, this study draws support from the Tosafist digests and works such as R. Jacob Tam, *Sefer ha-yashar* (Vienna, 1811); R. Eliezer of Metz, *Sefer Yereyim hagadol* (Wilno, 1892), and others, which verify the premise as far as the subject of this study is concerned.

The Franco-German school approached the Talmud by way of the medieval scholastic system, viewing all the tractates as an organic unit. Having assumed this, they proceeded to unify all diverse elements of Halakah, the procedural and the formal, the aggadic and the halakic, the purely historical and the legal precedents, into a oneness that perhaps never was meant to be.[3] The Spanish codifiers, however, emphasized the basic halakic parts of the Talmud. But, as will be shown later, even this diversity fails to explain the fundamental tendency of the Spanish school to be more critical toward the candidate for conversion, while the Franco-German rabbis adopted a more benevolent and less restrictive attitude toward proselyting. It would appear that a more fundamental reason for the divergences of the two schools, as far as the proselyte Halakah is concerned, was the difference in their concept of the meaning of Judaism and its relation to the outside world. The interpretation of Judaism has been influenced by the prevailing religious and philosophical trends of the times, no matter how isolated the Jews have been from their environment.

The chief halakic spokesmen of the Spanish school were Alfasi and Maimonides; of the Franco-German, Rashi and the Tosafists. Actually, however, Maimonides summarizes in his *Yad ha-Hazakah* not only the views of the Spanish scholars but also those of North Africa and the Middle East. And although the center of the Tosafist school was France and Western Germany, it also included prominent members from the British Isles to Kievan Russia, Hungary, and the Balkans.[4] In other words, roughly speaking, the Spanish school represented the Halakah under Moslem rule; the Franco-German, that of the Christian world.[5]

[3] For a recent and excellent treatment of the Franco-German school, see Urbach, *op. cit.*, 523-574 and *passim.*

[4] *Cf. ibid.*, pp. 191-4.

[5] The Provence halakists, R. Abba Mari of Marseille, Rabad, R. Moses of Coucy, and others are treated here only incidentally. As far as the proselyte Halakah is concerned, there is no consistent trend; they differ among themselves depending on the issues involved.

Motive for Conversion

Based on Ruth 1:15-18, *Yebamot*, 47 a-b, states that a candidate for conversion, before he is accepted, must prove that his motives are entirely sincere. But, says the Talmud, this is only a preliminary requirement. If a candidate's ulterior motives have not been properly investigated, if they are not found out until after conversion, or even if the court flagrantly ignores them, the conversion is valid. Maimonides made this *baraita* the basis of his attitude toward those who want to be converted to Judaism. According to him, the fact that the test of sincerity is only a preliminary requirement enjoins caution in the admission of proselytes. The failure to check the true intentions of the candidates during biblical times explains the negative results of historical proselytism.[6] Interpreting biblical history in the light of Halakah, he says:

> Do not think that Samson, the Savior of Israel, or Solomon, the king of Israel, . . . married non-Jewish unconverted women. But the secret [*sic*] is that when a man or woman wants to be converted, he is investigated lest [his motives are] to gain money, to seek office, or to change his faith because of fear. If a man, it should be investigated whether his eyes are enticed by a Jewish woman; a woman, whether she desires to marry a young man of Israel. But if no such blemish can be found, then we instruct him in the burden of the yoke of the Torah, and how difficult it is for a gentile to observe it. . . . Only when it is evident that the proselyte desires to be converted because of love [of God], is he accepted. . . .[7] This is the reason why no proselytes were accepted during the reigns of David and Solomon: in the days of David their reason for wanting conversion was fear; in the days of Solomon, because of the unprecedented prosperity. For whoever forsakes the worship of idols merely for vain material advantage is not a righteous proselyte. But, nevertheless, many people were converted in the days of David and Solomon before unordained courts. Toward them the High Court adopted a careful attitude: they [the members of the Court] did not alienate them, for they had already passed through the ceremony of immersion; neither did they draw them near, but waited to see the outcome. And as Solomon converted women and married them . . . and as it was known that their conversion was only for material motives,

[6] Maimonides, *Yad ha-Hazakah, Hilkhot Isurei Biah*, 13, 14-18.
[7] *Cf. Yebamot*, 24b, 76a, 79a.

and as the conversion was not before the High Court, they were considered heathen, and the prohibition to intermarry with them remained.[8] But because sincerity is only a preliminary requirement, "Samson and Solomon were permitted to retain their wives even after the secret [conversion] became known."[9]

This lengthy passage from *Yad ha-Hazakah* is quoted here to indicate not only Maimonides' historical and legal view, but also his approach to the entire proselyte Halakah. To him conversion to Judaism meant not so much the acceptance of the commandments as the philosophical recognition of the unity of God. It is from the unity of God that the observance of the Torah naturally follows. That is why the proselyte, according to Maimonides, is instructed first, not, as the Talmud states, in the practical laws of *leket, shikha,* and *peah,*[10] to leave sheaves to the poor, but in the oneness of God and the futility of idol worship.[11] Those proselytes who are philosophically minded will not find onerous the steep path to the truth of the Torah; others should be excluded anyway.

Now to contrast this with the views expressed by the Tosafists. Commenting on the talmudic statement that proselytes were not accepted during the reign of David and Solomon because they were not sincere, the *Tosafot* attempt to reconcile it with known cases of converts having been accepted even though they had ulterior motives.[12] Thus the *Tosafot* tell of the man who came to Shammai and said that he wanted to be converted in order to become a high priest. Shammai sent him away, but Hillel accepted him.[13] Another case concerns a prostitute who called on R. Meir to be converted in order that she might marry his student and was accepted.[14] These examples were cited to prove that ulterior

8 Maimonides, *op. cit.,* 13, 14-16.

9 *Ibid.,* 13, 17. For Talmudic statements that seem to contradict Maimonides' views concerning Solomon, see *Lehem mishnah* to *l. c.,* which concludes with עיון צריך; *cf.* also R. David Kimhi's *Commentary* to I Kings 11:2.

10 *Yebamot,* 47a; *Gerim,* 1, 1.

11 Maimonides, *op. cit.,* 14, 1-5.

12 *Tosafot, Yebamot,* 24b, 109b.

13 *Sabbath,* 31a.

14 In *Minahot,* 44a, the reading is R. Hiya. But the Tosafot, *l. c., s. v.*

motives do not necessarily bar from conversion, and the Tosafists modified the rule of sincerity to conform with these precedents. Hillel and R. Meir accepted insincere proselytes because they felt that once converted, these would become sincere. Thus sincerity is judged, not only by present intentions, but also by the probable potential of the convert.[15]

Are Proselytes a Plague?

One of the most unfriendly talmudic passages concerning converts states: "Proselytes are as painful as an itch."[16] Although repeated four times, it is considered by some writers an aggadic statement and omitted in some major codes. Apologists of various periods have attempted to "explain" it.[17] Often the mere inclusion or omission of this passage is a guide to the writer's attitude toward proselyting. The *Tur* and the *Shulhan Arukh* do not quote it, while Alfasi and Maimonides do.

Maimonides' interpretation of this passage is interesting. Legally, he points out, a man who has been converted to Judaism, regardless of motives and whether or not he observes the Jewish ritual, is a Jew. "The sages said, 'Proselytes are as troublesome as a plague,' for the majority of proselytes convert themselves for some unworthy reason and therefore exert adverse influence on the Jews. . . . Remember what happened in the desert: the golden calf, the craving for meat, and most of the trials and tribulations were caused by the אספסוף who showed a bad example."[18]

That the Tosafists felt uneasy about this passage is clearly indicated by the fact that they offered six different inter-

lebeit, point out that the reading of the *Sifri, Shelah, 75* (Malbim ed.), is preferable.

[15] *Tosafot, Yebamot,* 24b, 109b. J. Karo quotes the *Tosafot* in his *Bet Yoseph, Tur Yoreh De'ah,* 268 (Wilno, 1924), p. 215b, but omits it in his code. S. Cohen restores it in his *Siftei Kohen, Shulhan Arukh, Yoreh De'ah,* 268, 23.

[16] *Yebamot,* 47b, 109b; *Kidushin,* 70b; *Niddah,* 13b.

[17] The *Zohar* (Wilno, 1911), I, 214b, explains this passage as referring to messianic times when the proselytes will be so numerous that no breathing place will be left in Israel for native Jews. For a modern treatment of R. Helbo's statement, see Braude, *op. cit.*, pp. 42-45.

[18] Maimonides, *op. cit., Hilkhot Issurei Biah,* 13, 17-18.

pretations: (1) R. Abraham ha-Ger explains that proselytes, having accepted Judaism voluntarily, observe the commandments more carefully than the average Jew and thereby remind God that born-Jews are sinning while strangers follow His precepts; (2) R. Isaac ben Samuel, one of the leading Tosafists, says that the *Shekhinah* dwells only among those Jewish families whose pedigree is unmingled with alien blood;[19] (3) Rashi states that, as proselytes are not acquainted with the ritual, their influence is adverse;[20] (4) because Jews are responsible for each other's sins, they suffer when a proselyte falters in the law;[21] (5) in twenty-four places the Pentateuch admonishes against oppressing or insulting the convert,[22] but Jews, being merely human, find it difficult not to insult him; (6) the primary reason the Jews have been in exile has been to attract converts, so proselytes have been the cause of the exile of the Jews.[23]

The first explanation is most revealing. This apologetic interpretation is interesting, not only because it is expressed by a convert, but also because it indicates the educational background of the Tosafist, Abraham ha-Ger. Unlike the other interpretations, which are based on talmudic sources, he shows a deep insight into the Bible. His idea that a righteous man reminds God of the evil of sinners is taken from I Kings 17:18. When the son of the woman of Zarephat became ill while Elijah was lodging in her house, she said to him: "What have I to do with thee, O thou man of God? Art thou come unto me to bring my son to remembrance, and to slay my son?"

The Placement of Proselyte Laws in Yad ha-Hazakah

In analyzing the major codes it is important to pay attention, not only to the treatment of the subject matter,

19 *Kidushin*, 70b.
20 *Pesachim*, 91b.
21 *Sotah*, 37b.
22 *Cf. Baba Mezia'*, 59b; Malbim, *Kedoshim*, 82, enumerates the passages.
23 *Pesachim*, 87a. *Rashi, Tosafot, Yebamot*, 47b; *Kidushin*, 70b-71a; *Nidah*, 13a; *Pesachim*, 91b.

but also to the position of a particular topic as it relates to the general organization of the work. This is especially true in the case of Maimonides' *Yad ha-Hazakah,* where the importance and relevance of various laws is indicated by their placement. The *Halakhot Gedolot* and the *Tur* arrange the laws of proselytes among and after those relating to circumcision, respectively. Why, then, did Maimonides, as Chaim Tchernowitz asks,[24] place the Halakah of proselytes in the thirteenth and fourteenth chapters of *Issurei biah*? Was Maimonides implying thereby an unfavorable attitude towards proselytizing?

Taken by itself the unfavorable location of the proselyte laws is no proof of Maimonides' personal views. His organization is basically different from that of other codifiers. His attempt to be comprehensive by including in his work the laws no longer applicable in his day would have made it awkward to collect the varied legislation applicable to proselytes in a special section. Consequently, Maimonides found it more logical to combine the laws pertaining to circumcision of converts with the other laws of *milah,* and to incorporate the prohibitions against the oppression of proselytes into *Hilkhot de'ot,* which deal with the laws of conduct.[25] The rules for the admission of converts, however, he placed among those relating to prohibited marriages. Technically, this is correct. Since conversion removes the prohibition against intermarriage with Jews and sanctions it, these laws properly belong in the section of *Issurei biah.*[26]

[24] כמו כן קשה לישב על פי סדר הגיוני את סידורן של ה' גרים בהלכות איסורי ביאה אלא משום שה' גרים תלויות בל"ת של חיתון וכך הן מסודרות בספר המצוות. Tchernowitz, *op. cit.,* I, 224. I have, however, been unable to find the Halakah of proselytes in the place indicated by Tchernowitz. Perhaps Tchernowitz is referring, not to Maimonides' *Sefer ha-mizvot,* but to the *Sefer Mizvot Gadol* by R. Moses of Coucy, *lo ta'aseh,* No. 116, where the rules for the admission of converts are treated together with the prohibition against Jews intermarrying with Ammonites and Moabites. But the system of R. Moses of Coucy is based on that of Maimonides and could not have been the basis of the organization in the *Yad ha-Hazakah.*

[25] Maimonides, *op. cit., Hilkhot milah,* 1, 6-7; *Hilkhot de'ot,* 6, 4. Positive proof that Maimonides treats, in *Issurei biah,* only the rules for admission can be shown by the laws of slavery. Although he devotes a special section to slavery legislation, the admission of slaves, like that of proselytes, is arranged with *Hikhot Issurei biah.*

[26] Prof. Samuel Atlas, commenting on this paper. I would like to take

Granted that the unfavorable placement of the rules for admission of proselytes by itself offers no proof of Maimonides' personal opinions towards proselytizing, other circumstantial evidence tends to point in that direction. Maimonides' unusual departure from purely halakic matter to express his historical and theological views concerning proselytes in the days of Samson and Solomon; his statement that "the majority of proselytes have been converted for ulterior motives, having been granted admission by deception," together with the placement of the laws for the admission of converts among those concerned with prohibited marriages, technical reasons notwithstanding, point to bias against proselytizing on the part of the author of the *Yad ha-Hazakah.*

Is Proselytizing a Commandment?

R. Shim'on ben Zemah Duran, better known as the Rashbaz, who flourished in the fourteenth century, was the first to ask why the computers of the commandments do not include the admission of proselytes as an obligation. He argues that proselytism should be counted as one of the six hundred and thirteen precepts found in the Torah.[27] Maimonides, Nahmanides and R. Moses of Coucy did not include proselyting as a commandment because there is no provision for the acceptance of proselytes in the Pentateuch. When they are accepted, the manner of their admisison, it is implied, is merely an oral tradition.[28] But is there also an oral law to admit proselytes? The Spanish classical rabbis are silent on this question.

The Tosafists seem to have been the first to enunciate the doctrine that Jewish law requires the acceptance of converts. It is interesting to note how they arrived at this conclusion. The Talmud deduces from Leviticus 24:22 the rule that conversion should be performed before a court of

this opportunity to thank him for his perusal of this article and for his helpful comments and suggestions.

[27] Simon ben Zemah Duran, *Zohar ha-Raki'a* on *Sefer Azharot* (Wilno, 1879) *'esin,* 40; *Encyclopedia Talmudit* (Jerusalem, 1954), VI, col. 426.

[28] הלכה למשה מסיני

three judges. "Ye shall have one manner of law, as well for the proselyte, as for the home-born."[29] *Mishpat,* law, had been interpreted to imply judgment also; there could be no judgment unless three judges were present; these, therefore, must preside at the admission of proselytes. The Tosafists, however, raised the problem, How can proselytes be admitted without a proper court? For a proper court is defined as consisting of three judges who have been ordained in Israel by a person whose chain of ordination goes back to the Sanhedrin.[30] They overcame this objection by invoking two complicated principles: "We fulfill their admission,"[31] and "You shall not bar the door in the front of converts."[32] Although there no longer are proper courts, unordained men have the commission of the ordained judges to convert proselytes. Were not these extraordinary principle invoked, proselytes could not be accepted; and this appeared to the Tosafists as unthinkable, there being a requirement to accept converts.[33]

One of the Tosafists found a more explicit regulation for the admission of proselytes without fulfilling the technical requirements. Numbers 15:15 states: "As for the congregation, there shall be one statute both for you and for the stranger that sojourneth with you, a statute forever throughout your generations." *Throughout your generations* indicates that even if there are some unavoidable technical imperfections in the admission of proselytes, these should not prevent the fulfillment of the main commandment.[34] Further proof is the fact that although there was, during the existence of the Temple, a requirement for the proselyte to offer a sacrifice, after its destruction proselytes were accepted without an offering.

The question whether or not proselytizing is a com-

[29] Except for necessary elucidation of the text, the Jewish Publication Society translation is used in this paper for all biblical references.

[30] *Tosafot Yebamot,* 46b-47a, *Kidushin,* 62b.

[31] *Ibid.; Gittin,* 88b, שליחותייהו קא עבדינן.

[32] *Tosafot,* 47a, וכמו שחשו לנעילת דלת בפני לוזין חשו נמי לנעילת דלת בפני גרים. *Cf. ibid.,* 109b, where the command to accept proselytes is treated.

[33] *Tosafot Yebamot,* 47b; *Kidushin,* 62b.

[34] *Tosafot Kidushin,* 62b.

mandment held more than theoretical interest. If proselytizing is a precept, it must continue despite prohibition by the local government, but if it is merely a voluntary act of the Jews, external law might be binding.[35] The fact that during the Middle Ages Jews jeopardized their lives and property by accepting proselytes seems to prove that they regarded proselytizing as a commandment. A responsum of R. Samson ben Abraham of Sens (1150?-1220?), a leading Tosafist, tells, without comment, of a difficult circumcision performed upon a year-old child converted to Judaism.[36] This certainly violated Church law and perhaps even local legislation. It is reasonable to assume that the conversion of Christian children to Judaism must have involved some kind of a danger.[37]

Circumcision

Of greater practical importance was the problem of the candidate who had been circumcised before conversion. This question has aroused more controversy than any other in this field.[38] According to one opinion in the Talmud, it had even been debated by the Shammaite and Hillelite schools.[39] Because the Arab and Near Eastern peoples practiced circumcision, it was a live issue. As Mohammedanism

[35] *Cf.* *Mordekhai,* Yebamoth, *Hagahot ha-Holez,* No. 110; and B. Wacholder, *Historia Judaica,* XVIII (1956), 105, regarding slaves who could not be Judaized because of prohibition by local authorities.

[36] R. Moses of Vienna, *Or Zaru'a* (Zitomir, 1862), II, 26a, No. 99.

[37] The Halakah sanctions the conversion of minors, but with the option, upon reaching manhood, of leaving Judaism (Ketubot, 11a). According to Rashi, *l. c.,* the consent of at least one of the parents is required. The Tosafists, however, regard the conversion of minors as a violation of a Torah law. The reason given is that it is assumed that to be converted to Judaism is a favor to the child, the court acting as proxy for the minor's future welfare. But, Tosafot ask, as there is no provision in Jewish law for minors to appoint proxies, how can the court claim to act as such? To avoid this technical difficulty, the Tosafists hold that to act for the welfare of the child, the Rabbis modified the Torah law to make it possible for the child to be converted: דיש כח ביד חכמים לעקור דבר מן התורה בקום ועשה. *Tosafot* to *l. c.*

[38] *Sabbath,* 135a; *Yebamoth,* 46b, 71a, 72b; *Nedarim,* 31b; *Abodah Zarah,* 27a. Arabs, Gibeonites, as well as Egyptians, practiced circumcision in antiquity; Herodotus, II, 37.

[39] *Sabbath,* 135a. For a recent treatment of these sources, see Bamberger, *op. cit.,* 42-52.

spread during the seventh century, the Geonim were often called upon to express their opinion on this subject.[40] *Yebamot,* 72a, indicates that the letting of a drop of blood only is required. *Sabbath,* 135a, differentiates between a child born without a foreskin and a candidate who has been previously circumcised. After an involved debate, in which both tannaim and amoraim participated, the general conclusion seemed to be that even if a boy born without a foreskin needed *hatafah,* the drawing of a drop of blood, it would not be required of a proselyte who had been previously circumcised.

Both Alfasi[41] and Maimonides,[42] following the gaonic decision,[43] rule that the more stringent opinion should be accepted. Nahmanides offers a theoretical explanation for this decision which is not only independent of the Talmud, but seems contrary to it. The talmudic law is more stringent with the one born without a foreskin than with the proselyte; Nahmanides argues that the reverse is true. The reason given by him is that blood-letting is required of a child born without a foreskin as a precautionary measure in case his propuce has been repressed; but for a proselyte it is an indispensable condition to entering into the covenant of Abraham.[44] *Milah* and *hatafah,* according to Nahmanides, assume the character of a sacrificial fulfillment of initiation.

Although the stringent view encountered but little dissent among Spanish scholars,[45] the Tosafists ruled that a candidate who had been previously circumcised needed no operation at all. While it is true that in the texts generally

[40] B. Lewin, *Ozar ha-Geonim* (Jerusalem, 1936-1940), II, 127-128; VII, 366; *Halakhot Gedolot* (Berlin, 1888), p. 107; Abba Mari of Marseille, *'Itur* (Lemberg, 1860), 22a.

[41] *Alfas, Sabbath,* 54a (Wilno, Rome editions).

[42] Maimonides, *op. cit., Hilkhot Milah,* 1, 7.

[43] See note 40.

[44] Nahmanides, *Milhemet ha-Shem* on *Alfasi,* 53b f. (Rome edition), defending the views of Alfasi from R. Zerahiah ha-Levi's arguments in *ha-Maor ha-Katan, l. c.;* and Nahmanides' Commentary on *Sabbath,* 135a.

[45] R. Hannanel, the eleventh-century Gaon of Kiruan, on *Sabbath,* 135a, ruled that a circumcised candidate requires no operation, his children are converted, but he himself is not allowed to intermarry if he should request permission. See *Tur, Yoreh De'ah,* 268, beginning.

used the position of the Tosafists is somewhat ambiguous,[46] the available digests of the Franco-German school agree that blood-letting should be dispensed with.[47] Perhaps the Tosafists reasoned, as described in the previous section, that the commandment to proselytize supersedes the regulations for carrying it out. Circumcision, a proper court, sacrifice in the temple, are required only when fulfillment is possible.

The two schools also differed as to the rules that applied when circumcision or immersion was witnessed by two men only, or performed at night when no court may sit. Although the Talmud says that a court is required,[48] it also cites the precedent of a proselyte who immersed herself to remove menstrual defilement and was not required to immerse again. Because such immersion is usually done at night in private, it appears to contradict the necessity of a court. In order to reconcile this contradiction, Alfasi and Maimonides rule that such technical shortcomings do not prevent the convert's children from being accepted as full Jews, but the convert himself is not.[49] The Tosafists hold that the presence of a court is indispensable only during the proselyte's acceptance of the commandments, but not for the immersion.[50]

Proof of Conversion

The differences between the two schools in regard to the admission of proselytes have been documented. Whether a man who claims to be a proselyte needs proof of conversion offers another contrast. In the Babylonian Talmud R. Judah says that only in Israel was proof of conversion needed, while the majority opinion requires proof in Israel or outside.[51]

[46] *Tosafot Sabbath*, 135a, *Yebamot*, 46b. On the one hand, the Tosafists defend the *Halakhot Gedolot* position that blood-letting is required, and on the other hand, they seem to rule that no operation is necessary.

[47] V. Aptowitzer (ed.), *Sefer Rabiah* (Berlin, 1918), I, 355; Eliezer of Metz, *Sefer Yereim ha-Gadol; Shiltei ha-Gibborim* on Alfas, 35b; R. Moses ben Isaac of Vienna, *Or Zaru'a* (Zitomir, 1862), II, 99, quotes responsum by R. Samson of Sens.

[48] *Yebamot*, 46b; *Kidushin*, 62b.

[49] Alfas, *Yebamot*, 15a-b; Maimonides, *op. cit.*, *Hilkhot Issurei Biah*, 13, 9.

[50] *Tosafot, Yebamot*, 45b; *Kidushin*, 62b.

[51] *Yebamot*, 46b-47a.

Maimonides, however, seems to agree with the late Palestinian *Gerim*:[52] "Palestine is favored, for the mere presence of the proselyte in the Holy Land qualifies him for acceptance in Israel. If one should say in Palestine: 'I am a proselyte,' we receive him at once. But outside of Palestine, we receive him only when he has witnesses with him."[53]

R. Jacob Tam, the founder of the Tosafot school, interpreted the talmudic sources requiring proof of conversion as referring only to cases where the proselyte had been known when he was still a Gentile. Citing an anecdote of a Gentile who made a pilgrimage to Jerusalem and partook of the Passover sacrifice, he ruled that a person who says he is a convert should be believed if there is no evidence to the contrary.[54] Incidentally, the two schools differ in the relative weight that they accord to legal decision as contrasted with precedents cited in the Talmud. The Tosafot law, like Anglo-Saxon jurisprudence, in the event of a conflict between formal rulings and actual precedents, tends to modify the former to agree with the latter.[54a] The Spanish scholars seem to put more emphasis on formal statements of law. This is true not only concerning the need for proof of conversion, but also in regard to the problem of ulterior motives, whether proselytizing is a commandment, whether blood-letting is always required before acceptance of Judaism, and in the matter of technical deficiencies in the ritual of conversion.

"God of Our Fathers"

The rabbis also debated whether a proselyte reciting grace or the *shemoneh 'esreh* is allowed to identify himself with Israel's past by saying: "God of *our* fathers" or "the land that thou has inherited to *our* fathers." Herein lies another difference.[55] Maimonides once again prefers the

[52] Maimonides, *op. cit.*, 13, 10. The *Migdal 'Oz* on *Yad, l. c.*, was the first to point out the Palestinian source of Maimonides.

[53] M. Higger (ed.), *Gerim*, 4, 5.

[54] *Tosafot, Peshaim*, 3b; *Yebamot*, 47a; J. Tam, *op. cit.*, 31a.

[54a] *Tosafot Yebamot*, 45b, 109b; *cf.* also *Berakhot*, 2a; *Sanhedrin*, 36b.

[55] *Mishnah, Bikkurim*, 1, 4; *Makkot*, 19a; Rashi on *Deut.* 26:11.

version found in the Palestinian Talmud which rules that a convert recites as any other Jew does.[56] R. Tam calls the Palestinian ruling an "error," and advises the proselyte to say, when praying in public, "God of *your* fathers," and in private, "God of Israel."[57] The opinion of the Tosafists is divided. R. Isaac ben Samuel, R. Tam's chief pupil, seems to argue that since there is no decisive *gemara* in the Babylonian text to confirm the *mishnah,* the Palestinian version should be followed.[58] This division of opinion within the Franco-German school probably accounts for the fact that in Würzburg a proselyte was temporarily barred from leading the services in the synagogue, but R. Tam's objections were finally overruled, and the convert continued to lead the prayers.[59]

The ruling of Maimonides in this matter, as well as his moving epistle to Obadiah Ger Zedek which is too well known to be quoted here,[60] offers another aspect of his views on proselytism. He imposes the full force of the law and advises the utmost caution before admitting a proselyte. But once the convert sincerely accepts the God of Israel and devotedly practices His Commandments, it is as if he had been present at Sinai and Abraham was his ancestor.[61]

Abraham or Obadiah

Since the Middle Ages it has been customary for proselytes—Christian, Mohammedan, or Jewish—to change their names upon conversion. Among Jews a uniformity soon

[56] *Yer. Bikkurim,* 1, 4; Maimonides, *op. cit., Hilkhot Bikkurim,* 4, 3; *cf.* Bamberger, *op. cit.,* pp. 65-68.

[57] *Tosafot, Baba Batra,* 81a.

[58] *Ibid. Makkot,* 19a, does support the majority opinion of M. *Bikkurim,* 1, 4, but *Jer. Bikkurim,* 1, 4, is emphatic.

[59] *Mordekhai, Megillah,* No. 786.

[60] A. Freimann (ed.), *Teshubot ha-Rambam* (Jerusalem, 1934), No. 42; *Mordekhai, op. cit.*

[61] The two schools follow their respective trends in other differences: whether a proselyte who had children prior to conversion has fulfilled the commandment to bear offspring. Maimonides, *Hilkhot Ishut,* 15, 6; *Tos. Yebamot,* 62a, *Hagigah,* 2b. Their divergence on *Ger Toshab* is too extensive to enter into here; Rashi, and the Tosafists and the Spanish school differ on whether a proselyte may judge a native Jew in criminal cases.

developed. In communities under Moslem domination or influence the name Obadiah was preferred. Thus, one of the Khazar princes was named Obadiah;[62] Maimonides wrote epistles to Obadiah Ger Zedek;[63] and a Norman crusader who was converted in the Near East adopted the same name.[64] In Christian countries, however, proselytes were given the name Abraham.[65] Both names are derived from talmudic lore. Abraham, the originator of monotheism and the ancestor of proselytes, needs no explanation here. Perhaps because the Moslems claim that Abraham was the founder of Mohammedanism, the name was avoided in their countries. Obadiah, signifying "servant of the Lord," parallels "servant of Allah," and may have been intended to remove the stigma of the original faith. Ancient sources, moreover, identify Obadiah the Prophet as a proselyte.[66] The phrase found in Obadiah 1:20, "and the captivity of Jerusalem that is found in Sefarad," was beleived to be a reference to Spanish Jewry.

Proselytes among Franco-German Jewry

More striking is the fact that in the Tosafist literature references to actual proselytes, named and unnamed, are

[62] A. Harkavy, in Graetz, *Dibrei Yemei Israel* (Rabbinowitz tr., Warsaw, 1893), III, 345, note 10.

[63] Freimann, *op. cit.*, No. 42, p. 40. It would seem that Maimonides draws a sharp distinction between converts in general and those whose sincerity can not be questioned. In addressing Obadiah he calls him *ger zedek;* R. Akiba's father, Yoseph, was a *ger zedek,* as was the father of R. Meir, according to the Introduction to the *Yad ha-Hazakah.* The phrase וכן שמעיה ואבטליון גרי־צדק היו in the Introduction to the *Yad ha-Hazakah* may be an answer to the problem raised by R. Yom Tob Lipman, *Tosafot Yom Tob* to Abot, 1, 10: If, according to Maimonides, Shemayah and Abtalion were converts, how were they permitted to preside over the Sanhedrin (*Yad, Hilkhot Sanhedrin,* 11, 11)? Perhaps Maimonides took the position that the rule barring converts from presiding over a court applied to ordinary converts only, and not to great scholars. For a similar interpretation, see R. Shimon ben Zemah, *Magen Abot* (Leipzig, 1855), 1, 10.

[64] J. Mann, *ha-Tekufah,* XXIII (1925), 253-61; *R. E. J.,* LXXXIX, 235-259; S. D. Goitein, "Obadyah, a Norman Proselyte," *Journal of Jewish Studies,* VI (1956), 74-84.

[65] R. Asher ben Yehiel, *Teshubot ha-Rosh* (Wilno, 1881), 15, 4, however, indicates that *peloni,* X, ben Abraham is the correct version. *Cf. Zohar,* 1, 96a.

[66] *Sanhedrin,* 39b; Bamberger, *op. cit.,* 204, has a good treatment on Obadiah as a proselyte.

numerous, while in the Sephardic writings of the period they are but scanty. The correspondent of Maimonides and the Norman convert, mentioned above, are all that we could find. But to enumerate all the proselytes recorded in Franco-German rabbinic sources would require a special study.[67] The Tosafist R. Abraham ha-Ger and two converts who were the subjects of the responsa by Meir of Rothenburg may be mentioned.[67a] The backgrounds of a few others are worth recording here: R. Abraham ha-Ger of Hungary, who wrote biblical exegeses and participated in polemics between Christians and Jews;[68] Abraham ben Abraham, whose practice of studying the Bible by comparing the Hebrew text with that of the Vulgate aroused disapproval and sympathy at the same time;[69] an unnamed proselyte of Pontoise, the subject of a responsum by R. Tam, who studied the Bible and the Talmud "day and night."[70] These were not a group of ignorant or ordinary people, accepting another faith for the sake of wealth or glory, but men who, like the Tosafists themselves, devoted their lives to learning and piety. It may be assumed that some of these converts were former monks and others associated with the Catholic clergy, as very few lay people knew Latin.

Perhaps the very presence of such dedicated converts among the Tosafists accounts for the tendency of the Franco-

[67] The writer is preparing a list of converts mentioned in the Tasofist writings. So far the list exceeds a score. But as cases of conversion are referred to only when unusual halakic problems are raised, it must be assumed that the actual number of converts during the twelfth and thirteenth centuries was relatively high. For non-halakic sources, *cf.* Carmoly, "Wanderungen im Gebiete der jüdischen Geschichte," *Ben Chananjah*, IV (1861), 205; A. Berliner, *Aus dem Leben der deutschen Juden im Mittelalter* (Berlin, 1900), p. 108; S. Grayzel, *The Church and the Jews in the XIIIth Century* (Philadelphia, 1933), pp. 198-199. The halakic sources would seem to substantiate Pope Gregory's charges, rejected by Grayzel: "*Nonulli etiam non re, sed solo nomine Christiani sponte se transferentes ad ipsos, et eorum ritum sectantes circumcidi permittunt, et Judeos se publice profitentur.*"

[67a] *Sheelot u-Teshubot* Meharam (Cremona, 1595), No. 54; (Prague, 1608), No. 103.

[68] Urbach, *op. cit.*, p. 194, attempts to identify Abraham ha-Ger of Hungary with Abraham ha-Ger the Tosafist, *Kidushin*, 71a. But since Abraham was commonly used as a name for proselytes, identification is doubtful.

[69] Aptowitzer, *op. cit.*, II, 253-256; *Mordekhai, op. cit.*, No. 786.

[70] J. Tam, *op. cit.*, 76a; Urbach, *op. cit.*, p. 112.

German scholars to rule in favor of the proselyte whenever the texts could be interpreted in a liberal manner. In other halakic matter the Tosafists show no definite disposition to leniency in legal interpretation, but are strict or flexible according to the particular case.[71] Actually, however, even in the proselyte Halakah it may be inaccurate to speak of strictness and leniency. It is more correct to say that the rules of admission were somewhat relaxed in order to observe more stringently the commandment to proselytize. There is an eagerness to increase the number of those who observe the laws of the Torah; contemporary extra-halakic sources confirm this impression. The *Sefer Hasidim* recommends tolerant treatment of apostates lest they denounce proselytes to the local authorities.[72] R. Judah ha-Hasid also admonishes those who serve *trefah* foods to proselytes whose conversion has not been completed. He urges that a man shall not postpone his marriage if he can choose a convert, "for Moses realizing that he could not return to Egypt married a proselyte." The talmudic statement that marriages are preordained in Heaven holds true whether one marries a convert or not.[73]

During the second half of the thirteenth century, the Tosafist scholastic style, as well as its interpretive method, was accepted in all centers of Jewish learning. Conversely, the formal rulings of Alfasi and Maimonides were generally accepted everywhere. Nahmanides, Rashba, and Asheri blended the two classical systems into a synthesis that attempted to minimize the divergent opinions of the two schools. In regard to proselyte legislation, the views of Maimonides, if not his underlying philosophy, prevailed. The vigorous campaign against Jewish proselytizing, adopted by the Church and local authorities after the Fourth Lateran Council of 1215, contributed to the prevalence of an unfriendly, or at least an indifferent, attitude toward proselytism. Even a scholar like R. Mordekhai ben Nathan,

71 Urbach, *op. cit.*, 78 and *passim*.

72 Judah ha-Hasid, *Sefer Hasidim* (Berlin, 1924), p. 73, No. 189.

73 *Ibid.*, p. 77, No. 114; p. 291, No. 1150; p. 285, No. 1128.

though of the Tosafist school, reluctantly agreed with the more severe Spanish tradition: "It seems to this writer, a mere layman," he emphasized, "that if a man is known to have an ulterior motive, he should be rejected. . . . I have written what seems to me; but the views of my teachers are different. My understanding, however, is unreliable."[74] If as staunch a follower of the Franco-German tradition as R. Mordekhai ben Nathan had to yield to Sephardic views, later codes naturally followed the Spanish Halakah. The *Shulhan Arukh,* essentially a product of Spanish Halakah, codified the more rigorous halakic laws.[75]

The two branches of classical Halakah differ in their basic approach to the admission of converts. The Spanish school does not recognize any injunction to proselytize. Thus *Yebamot,* 47a-b, stating the principle of purity of motive, became the nucleus of proselyte Halakah. It happens that this principle fits in well with Maimonides' general philosophic ideas. Only candidates with the most lofty aspirations can be admitted, lest they become a plague. Judaism is a spiritual aristocracy, and the ceremonies of circumcision and immersion are indispensable marks thereof. Any doubts in law are resolved against the candidate. But once the proselyte has passed through the severe screening, the glory of being a Jew, of sharing the Jewish past, present, and future, belong to him.

The Franco-German rabbis make the commandment to proselyte their basic premise. The *baraita* requiring purity of motive is viewed by the Tosafists as a mere thread in the

74 *Mordekhai, Yebamot, Hagahot* to *ha-Holez,* No. 110.

75 The *Shulhan Arukh, Yoreh De'ah,* 268-269, mostly quotes Maimonides. On the differences cited in this paper, Karo agrees with Spanish school: (1) only present motives should be considered (268, 12); (2) a candidate who has been circumcised prior to conversion needs *hatafah* (268, 1); (3) Karo cites Maimonides that proof of conversion is needed outside of Israel (268, 10); (4) a proselyte fulfills the commandment to bear children only if both he and his children have been converted (*Eben ha-'Ezer,* 1, 7); (5) the proselyte may say "God of our fathers" (*Orah Hayim,* 199, 4). But Karo, like the *Tur,* (1) places the proselyte laws in a more favorable light; (2) does not quote the statement that proselytes are a plague; (3) cites the Tosafist opinion that the presence of three judges during circumcision or immersion is only a preliminary requirement (*Yoreh De'ah,* 268, 3).

tapestry of talmudic proselyte legislation. Once the rulings and particularly the precedents dealing with the subject are analyzed, the proselytizing laws can be arrived at inductively. As there is a command to proselytize, doubts or contradictory passages regarding admission of proselytes must be decided in favor of the convert. A proper court, circumcision, immersion and proof thereof, these are but technical supplements to the injunction to convert. The Tosafists were not less strict than their Spanish colleagues in the observance of the details of the proselyte laws, but such details were superseded by the commandment to proselytize. The scholars of France and Germany put more emphasis on the practical observance of the Torah than on philosophical abstractions like purity of intention and sudden recognition of truth. The Tosafists had direct contact with actual converts who, like themselves, were immersed in the sea of Jewish learning. The learned rabbis felt that the recognition of the beauty of Judaism is but a slow and arduous process to be appreciated only after a lifetime of study. Thus the two schools express well the geographic differences in the intellectual climate of the time. Had the views of the classical Franco-German school prevailed rather than those of the Spanish school, the attitude of traditional Jewry toward proselytism would have been more positive.

FRENCH JEWRY DURING THE THERMIDORIAN REACTION

By Zosa Szajkowski
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ON the ninth day of Thermidor in the year II of the French Revolution (July 27, 1794), Maximilian Marie Isidore Robespierre and his friends were arrested. This marked the beginning of the end of the "Terror" that had lasted since July, 1793. The dissolution of the National Convention on October 26, 1795, brought with it the beginning of the *Directoire,* and Napoleon's *coup d'état* on November 9, 1799, ushered in the era of the *Consulat.*

The account of anti-Jewish persecutions during the period of the Terror was told by chroniclers and later accepted as fact by historians. Legends were even circulated of how Jews were miraculously saved from the Terror. Hanna Jacques Brunschwig-Padagay, daughter of Joel Padagay of Dornach (Upper Rhine), related that her father was warned to escape to Mulhouse because the Terrorists would arrest him. While leaving the house an old man came along, asked for food and blessed him. When Joel came back during the Thermidor, he found the key in the keyhole and everything inside the house in perfect order. The old man was none other than Elijah the Prophet, who had kept the house clean.[1]

What was the status of the Jews during the Thermidorian reaction which followed the tragic era of the Terror?

According to the historians Rodolphe Reuss and Robert Anchel the end of the Terror did not eradicate anti-Jewish feelings and acts. On the contrary, it seems that during the Thermidorian reaction anti-Jewish feeling survived not only in the local administrations, but also in some departmental and federal agencies. At the beginning of the

[1] S. Mock, "Sur l'origine de la communauté israélite de Mulhouse," *Univers israélite,* LII-2 (1897), 491-494, 526-530.

Thermidor the Jews in Alsace suffered less, but a little later, at the beginning of 1796, anti-Jewish attitudes there were reinforced when more radical elements with Jacobin tendencies again took over the Alsatian administration.[2] The Alsatian Jewish teacher and scribe, Jessel Lehman, recorded in his diary at that time that the Jews were living in fear of being banished from France.[3]

It is only natural that a Jewish historian should apply to the period of the Thermidorian reaction the assumption that reactionary victories encouraged anti-Jewish persecutions. But let us first examine the facts and see whether a similar situation prevailed during the period of the French Revolution which followed the Terror.

Jacobin violence against Jews and Judaism was a part of the drive against the Church in general. In some provincial centers, where a strong anti-Jewish feeling prevailed, Jews were singled out for persecution. During the Thermidorian reaction the fight against religion was relaxed. In the beginning of the period the Alsatian religious teacher Jessel Lehman noted in his diary: "On the Sabbath people again went to the synagogues and they [the Christians] went to church on Sunday, but they still did it with fear in their hearts, because this was not yet really permitted. . . . The men of the Revolution [*revolucje lajt*] were recalled because they were too strict with people and they even shed much blood. This [terrorist leader Eulogius] Schneider of Strasbourg who was arrested by the men of the Revolution was publicly guillotined."[4] In Bordeaux representatives of synagogues and individual Jews requested that the religious articles confiscated during the Terror be returned to them.[5]

It is the author's conviction that the fight against Judaism, the nationalization of synagogues, cemeteries, and other communal Jewish properties during the period of the

[2] R. Reuss, "Quelques documents nouveaux sur l'antisémitisme dans le Bas-Rhin de 1794 à 1799," *REJ*, LIX (1910), 252, 263; R. Anchel, *Napoléon et les juifs* (Paris, 1928), p. 25.

[3] Lehman's diary, manuscript in the Alsatian museum of Strasbourg, p. 29 A.

[4] *Ibid.*, p. 28.

[5] Departmental archives of Gironde, L 2177, 2203, 2214, Q 881.

Terror should not be regarded as acts of anti-Jewish policy, for these measures were not directed against Jews alone. However, it should be noted that the drive against religious practices—including Jewish religious practices—did not stop completely after the arrest of Robespierre and his friends.

In 1796 Pierre Charles Louis Baudin, deputy of the Ardennes, stated that a citizen could remain a Jew or a Moslem on the condition that he reject the religious observances and dogmas of Moses and Mohammed, because in a theocracy religion is closely tied in with the existing social order. In 1797 the deputy Albert Augustin Antoine Joseph Duhot attacked, at the Council of Five Hundred, the observance of the Sabbath by Jews and of Sunday by Christians. But again Jews were not singled out by him.[6] After the Terror synagogues and Jewish cemeteries were also nationalized and sold. In Metz the synagogue was put up for sale in 1795, but as a result of legal technicalities the sale was annulled in 1796.[7] After the publication of the law of May 30, 1795, granting religious freedom, the Jews of Carpentras requested that their synagogue be returned to them. However, as late as 1800 the synagogue was only rented to them. The Jewish cemetery of Avignon was nationalized and sold on August 4, 1797, to the Christian Etienne Bonnet for the sum of 1,188 livres.[8] In December, 1797, the Jews of Saverne protested against an order to destroy the monuments in the Jewish cemetery. In vain did they point out that even during the Terror this was not done.[9] Earlier, on November 28, 1794, Alexandre Halphen and Aaron Piquard of Metz were fined for carrying out Jewish religious burials.[10]

[6] [Pierre Charles Louis] Baudin, *Du maintien de la liberté des opinions religieuses . . .* (Paris, an IV), p. 7; *Le Journal de France,* Nos. 749-750, November 24-25, 1797.

[7] Departmental archives of Moselle, V, 166.

[8] City archives of Carpentras, Revolution 42, September 10, 1794, and May 15, 1800; H. Chobaut, "Les Juifs d'Avignon du Comtat et la révolution française," *REJ,* CII (1938), 33-35.

[9] D. Fischer, *Geschichte der Stadt Zabern* (Zabern, 1874), p. 125; Reuss, *op. cit.,* p. 270; Elie Scheid, *Histoire des juifs d'Alsace* (Paris, 1887), p. 277.

[10] *Extrait des jugements de la police municipale de la Commune de Metz: du 8 frimaire an III* [28 *Novembre* 1794] [Metz, 1794], broadside.

In contrast, the Jews of Sierck were permitted in 1795 to use their cemetery.[11] In Nice five Jews were sentenced in October, 1798, for building tabernacles for the Succoth holidays.[12]

In handling financial and other economic affairs of the Revolution, the Jacobins, who in their fight against religious practices rarely singled out Jews, were more influenced by traditional anti-Jewish feelings. This found expression in various forms of chicanery against individual Jews, who were forced to pay high taxes and fines. During the Thermidor, Jews demanded the annullment of fines imposed upon them during the Terror. Most of them did it without proclaiming their hatred for the defeated Robespierre.[13] An exception was a pamphlet published during the Thermidor by the rich merchant Séligmann Alexandre of Strasbourg, a son-in-law of the Alsatian Jewish leader, Cerfberr of Médelsheim. He sought not only justice, but also revenge against the Robespierre regime.[14] Generally speaking, during the Thermidor the Jews suffered less than during the Terror from the revolutionary economic policies. However, this should not be regarded as a change in the attitude toward Jews. With the end of the Terror the general situation in the country changed, and Jews, too, profited from it. Nevertheless, in many cases they were even then forced to pay extremely high taxes and were often singled out for discriminatory treatment.

On October 4, 1794, Léopold Samuel and Marx Samuel of Niederhagenthal (Upper Rhine) were taxed 4,500 livres each; they had to pay almost the entire taxes of the city.[15]

[11] Departmental archives of Moselle, Sierck 13.

[12] *Liberté, égalité, fraternité. Extrait du registre des jugements du Tribunal Correctionel de l'Arrondissement de Nice . . . du 8 brumaire an VII.* [Nice, 1798], broadside.

[13] The deputy Philippe Charles Aimé Goupilleau reported in favor of Charles Peixotto's demand to cancel his fine of 1,200,000 livres. *Rapport fait par Goupilleau sur la pétition du citoyen Charles Peixotto . . . du 24 vendémiaire an 7* (n.p., n.d.), 7 pp.

[14] Séligmann Alexandre, *Dénonciation à mes concitoyens . . .* (Strasbourg, an III), 38 pp.; R. Reuss, *Séligmann Alexandre . . .* (Strasbourg, 1880), 44 pp.

[15] Departmental archives of Upper Rhine, L 700.

On December 10, 1795, thirteen Jews figured prominently on a list of the fifty-eight richest people of Strasbourg, who had to grant a forced loan; five of the twenty-two families who were required to pay the highest taxes were Jews.[16] Two Jewish families resided in Diedenhoffen prior to 1789 and fourteen new families settled there during the first five years of the Revolution. In 1795 they were all, even the poor, forced to pay the compulsory tax. The Jews protested and won their case, with the exception of the wealthy Abraham. On October 21, 1796, Elie Lévy and thirty-one other Jews of Rimbach (Upper Rhine) stated in a petition that none of them was wealthy and that some were even paupers; but the city council nevertheless taxed them for large sums, while wealthy Christians were exempted from paying taxes. As a result of the Jews' complaint, however, one Christian family, which owned three-fourths of the property in the village, had to pay a similar percentage of tax. On February 24, 1796, Gabriel Bloch of Soultz (Upper Rhine) was asked to pay a tax of 11,000 livres; he proved that his entire possessions were worth only 4,400 livres and was reclassified among those taxable in the sixth category. Similar petitions were submitted by other Jews of Soultz, Bollwiler and Jungholtz. In the year VII (1799) the Jewish brothers Samuel were at the top of the 439 richest taxpayers (from 46 to 75,000 francs), but they refused to pay more than 5,200 francs.[17]

As they were earlier, so during the Thermidor, Jews were accused of speculating. On the other hand, a Jewish employee at the Ministry of the General Police in Lyon was the author of a song ridiculing speculation, aristocrats, and false democrats.[18] In 1795, when Paris was threatened with famine, the walls of the capital were covered with posters dated June 8, 1795, and signed by the citizen Pierre Seigneur

[16] Reuss (*supra*, n. 2), pp. 263-264.

[17] A. J. Kohn, *Zur Geschichte der Juden in Diedenhoffen* (Diedenhoffen, 1913), p. 32; M. Gunsburger, *Histoire de la communauté israélite de Soultz* (Strasbourg, 1939), pp. 40-41; F. L'Huilier, *Recherches sur l'Alsace napoléonienne* (Strasbourg, 1947), p. 12.

[18] Léon Kahn, *Les Juifs de Paris pendant la révolution* (Paris, 1898), p. 306.

of the *Section de la Butte-des-Moulins,* proposing that the *nation juive* be asked to import wheat from abroad, because only Jews with their business connections could do it.[19]

While, during the Terror, Jews served as councilmen and in other official capacities, they fell into disgrace during the new regime. A few Parisian Jews who were active during the Terror were arrested during the Thermidor.[20] According to the historian René Cuzacq Jewish Jacobins, who directed the affairs of Saint-Esprit-lès-Bayonne during the Terror, did not persecute Christians, and Christians did not persecute Jewish Jacobins there during the Thermidor. However, this was not so. Jewish Jacobins were persecuted there, and a Jew could not become a councilman. From the end of the Terror until 1838 no Jew could be mayor of Saint-Esprit, and in 1838 ten out of fifteen councilmen resigned because the Jew David Rodrigues was elected mayor.[21] The same happened in Bordeaux. There, in the beginning of the Thermidor, no important official functions were entrusted to Jews. The new rulers of the Thermidor considered it more advantageous not to have Jewish officials, though no Jew was among the important terrorist leaders of Bordeaux.[22] In the same city a few influential Jews were active in the Federalist movement of the Girondists. This, however, did not protect them from being singled out later in attacks against terrorists; for instance, in the lists of terrorists Jews were pointed out by notation of their religious affiliation.[23] In Carpentras, where some Jews were active

19 Etienne Charavay, "Un Appel á la nation juive pour se charger de l'approvisionment de Paris," *Révolution française,* XXIV (1893), 62-68.

20 Kahn, *op. cit.,* pp. 299-304.

21 René Cuzacq, Introduction to E. Ginsburger, *Le Comité de surveillance de Jean-Jacques Rousseau, Saint-Esprit-lès-Bayonne* (Paris, 1934), p. 4; Henry *Léon, Histoir de juifs de Bayonne* (Paris, 1893), p. 170; Peillic, *Le Vieux Saint-Esprit* (Bayonne, 1938), p. 15.

22 Z. Szajkowski, "The Sephardic Jews of France during the Revolution of 1789," *Proceedings of the American Academy for Jewish Research,* XXIV (1955), 157.

23 *Liste alphabétique des hommes de sang . . . à Bordeaux* (A Raison [Bordeaux], edition of 1802), pp. 2-3, 8, 11, 19, 21, 22: "Azevedo cadet; Astruc Fayan, juif section 9"; "Azévédo cadet, dit le Tauré, juif. Aaron (Di Soria), juif. Astruc Fayan, juif. Brandon, ex-juif. Dias frères, juifs. Furtado, juif, membre de la commission des neutres requisiteurs.

during the Terror, no Jews became members of the local administration before 1798. In Cavaillon Jewish Jacobins, including Lange Cohen, who was mayor of the city, were removed from office by the Paris representative Phillippe Charles Aimé Goupilleau. It is doubtful, however, that Goupilleau's act was of an anti-Jewish character, for on October 29, 1794, the same Goupilleau appointed Benjamin Monteaux, a rich Jew, as councilman of Avignon, most probably because of the absence there of active Jews during the Terror. Moreover, in a report asking that a fine of 1,200,000 livres imposed on Charles Peixotto during the Terror be rescinded, the same Goupilleau spoke of Jews in friendly terms.[24] In Nice, it was not until March 27, 1794, that Jews were appointed to the local administration of pure patriots, but no Jews were among the active terrorists there. Yet they were excluded from the administration appointed during the Thermidor by the Paris Representative, Pierre Etienne Befroy de Beauvoir. Only as late as March 24, 1801, and May 28, 1804, were Jews again appointed to administrative functions.[25] It must be emphasized, however, that the Thermidorian policy of dismissing terrorists from public office was not directed against Jews alone, though as always happened in cases involving minorities, entire communities were often held responsible for the acts of individual Jews who took part in political movements.

On November 19, 1797, Léon Aaron Worms was elected councilman of Landau. The liberal historian, Rodolphe Reuss, called this "a rare, if not unique, case for the period."[26] The case was, indeed, rare but not unique.[27]

Mendes, juif. Olivera, juif. Petit frères, juifs." A similar list of September, 1815 singled out many Jews of Bordeaux who had favored Napoleon I during the Hundred Days: *Esprit de 93, des descendants de Bonaparte et des hommes sans caractères* . . . (Bordeaux, September, 1815). On these lists, called *Livres rouges,* see A. Vivie, *La Terreur à Bordeaux,* II (Bordeaux, 1877), 469-474.

[24] Chobaux, *REJ.,* CII (1938), 27-29; Z. Szajkowski, "The Comtadin Jews and the Annexation of the Papal Province by France, 1789-1791," *Jewish Quarterly Review,* XLVI (1955), 192-193. On Peixotto's fine see *supra,* n. 13.

[25] Victor Emanuel, *Les Juifs à Nice,* 1460-1860 (Nice, 1905), pp. 46-48.

[26] Rodolphe Reuss, *La Grande Fuite de décembre* 1793 *et la situation politique et religieuse du Bas Rhin de* 1794 *à* 1799 (Strasbourg, 1924), p. 157.

[27] In the year III Hayem Worms was councilman of Sarre-Libre

At the same time, it should be remembered that this was a rare event for the traditionally anti-Jewish Alsatian province during all regimes, and the Thermidorian reaction should not be singled out.

(In 1845, more than fifty years after Jewish emancipation in France, the number of Jewish officials and officially respected professions of Jews was still relatively small: only one member of a departmental general council, two members of the Institute, eighty-one members of city councils, five mayors, nine judges, two deputy-attorneys, one consul, four huissiers, three notaries, one chief of a minister's office, two deputies, one police commissioner, seven lawyers, twenty-two physicians. There were also nine hundred and eighteen Jewish *notables,* who had the right to vote.[28])

The most striking and the most frequently cited fact of anti-Jewish persecution during the Thermidorian reaction was the order given on November 1, 1794, by the Legislative Committee to the Alsatian authorities that they should protect the Jews. However, a more careful study of the available sources reveals that this order was the result of a petition submitted by the Jews of the Department of Lower Rhine in June or in the first days of July, 1794 — a few weeks before the end of the Terror. The Jews complained that they were being persecuted, that they were still not allowed to visit the city of Strasbourg on certain days, the use of communal properties was refused to them, they were forced to pay higher taxes than Christians, etc. The petition was received by the authorities of Lower Rhine and in Paris on or about July 13, 1794. As a result the Paris representative in Alsace, André Foussedoire, warned on August 19, 1794, against persecuting the Jews. Subsequently, on November 1, which was already in the period of the Thermidor, the Legislative Committee ordered protection for the Jews. In

(Moselle). Joseph Lang was a councilman of Dortmarsheim. He was arrested in July 28, 1794, and liberated on the following August 16, 1794. In 1794, two Jews were councilmen of Niederrodern. L. Koch, "Die Juden in Niederrodern," *Strassburger israelitische Wochenschrift,* VII (1910), No. 14, 3. Tische (Hirschel) was mayor of Danendorf. "Sterbende Gemeinden: Danendorf," *Tribune juive,* May 25, 1934, p. 411.

[28] *Archives israélites,* VI (1845), 831-836.

other words, the action of the Legislative Committee grew out of local anti-Jewish feelings which prevailed during the Terror. The historian, Raphael Mahler, states, on the basis of this fact, that in Alsace a slogan was adopted for "a reinforced offensive against the Jews." This is much exaggerated, even if we take into account the anti-Jewish tradition of the Alsatian province.[29]

Anti-Jewish propaganda, where it did exist, was mostly a part of the general anti-revolutionary propaganda. In December, 1798, the municipal agent of Dambach was denounced for a statement made by him in a tavern to the effect that religion was being persecuted because a few Jews were in the government. He also warned against buying nationalized properties, and he predicted the outbreak of a revolt and an invasion. Curiously enough, a Jew was then a member of the city council, and the agent mentioned his name among the opponents of the regime.[30]

Some adverse policies of previous revolutionary periods were continued during the Thermidor, e.g., the refusal to nationalize the debt owed by former Jewish communities to Christian creditors. Prior to the Revolution the Jewish communities were forced to borrow money, mainly in order to be able to pay taxes. During the Revolution the Jews demanded that these debts be assumed by the government, as had been done with the debts owed by all other corporate bodies that had been dissolved by the new regime. This demand was rejected, an act in which the Council of Five Hundred concurred. The Council likewise refused to act

[29] Departmental archives of Lower Rhine, IL 825, 1222, 2L 43, L 1584; [*André*] *Foussedoire, représentant du peuple dans les départments des Haut- et Bas-Rhin* (Colmar, [1794]), 4 pp.; *Extrait du registre des arrêtés du Comité de Législation. Séance du* 11 *brumaire, l'an troisième* [1 *Novembre* 1794] *de la république française une et indivisible* (Strasbourg, [1704]), 4 pp. The Jewish petition was printed in *Copie de la pétition par plusieurs citoyens du Bas-Rhin, á la Convention Nationale* (Colmar, [1794]), 7 pp., together with the decision of November 1, 1794; Raphael Mahler, *History of the Jewish People,* I (New York, 1957), 272 (in Yiddish).

[30] Reuss (*supra,* n. 2), p. 274; *idem, La Grande Fuite* (s. note 26), pp. 207-208. In the canton of Ribeauvillé, Catholic priests who were persecuted but refused to emigrate found hiding-places among the Jews during the Directoire. Robert Faller, "Le Canton de Ribeauvillé et la politique religieuse du Directoire," *Revue d'Alsace,* LXXIX (1932), 342.

on reports in favor of the Jewish demand presented by specially appointed commissions. On the other hand, the Thermidorian regime followed the policy of the previous regimes in the case of the debts owed by Alsatian peasants to Jews. The decree of September 28, 1791, ordered the Alsatian Jews to present a list of debts owed to them. This the Jews refused to do. In the end, this list of debts was never presented.[31]

Among the emigrés who left France were some Jews. Most of them did not favor the old regime, but they took the anti-revolutionary line to escape the revolutionary events. The Thermidor did not whitewash the emigrés. The law of January 11, 1795, permitted the return of those emigrés who, at the time of their departure from France, had been earning their living by working with their hands, i.e., peasants, workers, artisans, etc. The Terror had not singled out Jews in the fight against the emigrés and neither did the new regime in enforcing the policy on emigrés. On the contrary, in some locations a very liberal policy enabled Jewish emigrés to benefit from the law of 1795 by a declaration that traditionally Jewish occupations of peddlers, traders in second-hand goods, horses, and cattle, were useful to the local population and that, as a result of anti-Jewish restrictions during the old regime, Jews were forced to make a living in such way.[32]

Of course, there were many public anti-Jewish attacks. The aristocratic newspaper *Le Babillard* proposed the levy of a special tax on Jews because they all possessed well-lined purses. Other newspapers protested, and the Jew Zalkind Hourvitz wrote that he himself knew many hundreds of Jews whose wallets contained no more than their safety identifications as loyal citizens.[33] From the Convention's

[31] The debts owed by the Jewish communities will be the subject of a special study. On the law of September 28, 1791, see Z. Szajkowski, "The Law of September 28, 1791, on Jewish Creditors in France," *Zion*, XIX (1954), 163-170 (in Hebrew).

[32] Z. Szajkowski, "Jewish Emigrés during the French Revolution," *Jewish Social Studies*, XVI (1954), 319-334.

[33] *Amis des lois*, October 25, 1797; *Journal de Paris*, No. 36 (brumaire,

rostrum the left-wing *montagnards* were on a few occasions accused of being Jews.[34] But the statement of the historian Raphael Mahler that "the propaganda against the remains of Robespierre's party took on in some newspapers an air of anti-Semitic propaganda" and that "whoever dared to say a good word about the previous regime was called a Jew,"[35] is greatly exaggerated. One of the strongest attacks against Jews from the rostrum of a legislative body during the Revolution was delivered on May 7, 1799, by the deputy François Balthazar Darracq at the Council of Five Hundred. His tirade was directed against the Jews of Bordeaux, who refused to permit their cemetery to become nationalized property. However, his speech could hardly be taken as an expression of the feelings of the Council of Five Hunderd. In fact, the Council refused to follow him, and the cemetery was given back to the Jews. On an earlier occasion Darracq was censured for his anti-Jewish remarks.[36]

In conclusion, it may be said that it would be very difficult to point out special anti-Jewish restrictions or other kinds of persecution that resulted from the general political developments during the Thermidorian reaction. There were many cases of anti-Jewish propaganda, even of the plundering of Jewish property,[37] but these instances did not take place on the order or under the influence of federal or departmental authorities.

Jewish emancipation in France was already well established. Of course, it was not yet accepted by the entire Christian population. A story was told about a Jew who visited a deputy. Still accustomed to the good old days of fraternization, he acted in a familiar manner toward him. This the deputy took as an insult.[38]

an VI); Kahn (*supra*, n. 18), p. 139; A. Aulard, *Paris pendant la réaction Thermidorienne et sous le Directoire*, IV (Paris, 1902), 412.

[34] Kahn (*supra*, n. 18), pp. 295-296.

[35] Mahler, *op. cit.*, I, 271.

[36] Z. Szajkowski, "Jewish Autonomy Debated and Attacked during the French Revolution," *Historia Judaica*, XX (1958), 43-44; *Journal de France*, Nos. 751-752 (November, 1797), 607.

[37] On March 21, 1798, the synagogue of Pfastatt was plundered; M. Ginsburger, *Aus dem Revolutionskriege* (Breslau, 1916), p. 4.

[38] A. Aulard, *Paris sous le Consulat, I* (Paris, 1903), 81.

The Thermidorian period may perhaps be characterized as a period of struggle by the Jews to retain the rights secured by them in the first years of the Revolution. But the entire French nation was engaged in a similar struggle. Be that as it may, the Thermidorian period—or the previous Terroristic periods—did not produce measures directed against Jews as a specific group. The Terror dealt even-handedly with the Jews as a group, and the same can be said of the Thermidor and the Directoire, and even of the Consulat. The historian Simon Dubnow was correct in writing that "during the ten years between the *Directoire* and Napoleon's Empire nothing important happened in the life of the French Jews."[39] Even Napoleon's anti-Jewish policy came in a later period, in 1806. Surely his appeal of 1799 to the Jews, in which he promised to restore Jerusalem to them, was in direct contrast to his later attitude toward Jews in 1806 and 1808.

[39] Simon Dubnow, *World History of the Jewish People,* VIII (New York, 1954), 123 (in Yiddish).

THE MERGER AGREEMENT AND REGULATIONS OF CONGREGATION TALMUD TORAH OF AMSTERDAM (1638-39)

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Introductory Remarks

IN 1579 the seven northern provinces of the Netherlands concluded the Treaty of Utrecht, by which they became united. Two years later, in 1581, they broke away from Spain and the dynasty of the Hapsburgs, and seven years after that declared themselves a republic. Though the new Calvinist state had come into being after a long war of independence against Catholic Spain, it was nevertheless a revolutionary innovation that, in conformity with the Treaty of Utrecht, no one in the territory of the Netherlands could be persecuted because of his religious convictions and practices. This fact encouraged Marranos (also called New Christians, Judaisers) from Spain, Portugal, France, and other countries to settle in the Netherlands that they might profess Judaism openly. Inasmuch as the city of Anvers remained under the hegemony of the Hapsburgs, Marranos left there for Amsterdam. The majority of the immigrants came from Portugal. After the annexation of that country by Spain in 1580, the activities of the Inquisition and the persecution of the Marranos increased, and many of their elite, such as professors, businessmen, poets, physicians, Catholic priests left, about a hundred years after their ancestors had been forced to embrace Christianity. In their new home, Amsterdam, they underwent circumcision and later professed Judaism openly.

The number of Jews in Amsterdam increased to about 200 in 1609, 1,000 in 1630, and 1,800 in 1655. Not only religious tolerance, but also the fact that the Netherlands was at that time the most important economic power in the

world and Amsterdam the center of import and export trade, banking, marine insurance, and commerce, accounted for the influx of Marranos.

The first Jewish religious services in Amsterdam were held on the New Year 5338 (1597), and the first Sephardic congregation, Beth Jahacob, was founded early in the seventeenth century. In 1609 we find the first rabbi, called Hakham, in Amsterdam, Rabbi Josef Pardo, of Venice, who had gone to that Italian city from Salonika. Later Moses ben Arroyo and Saul Levi Morteira, also from Venice, became rabbis of the congregation. A second congregation, Neve Shalom (Dwelling of Peace), was established in 1608, and Judah Vega, Isaac Uziel, and Menasseh ben Israel successively became its spiritual leaders. As early as 1618, a third congregation came into being, under the name Beth Israel (House of Israel). Among the first Hakhamim were David Pardo, a son of the above-mentioned Hakham Josef Pardo, Samuel Tardiola, and Isaac Aboab da Fonseca.

The difference in religious rituals from those of other Jewish communities in the European Diaspora, as well as the desire to maintain contact with fellow Jews from the country of their origin, led the refugees from Spain and Portugal to found several Sephardic congregations in the lands where they settled, such as Italy, Turkey, and the Netherlands. In Salonika, for example, there were five Spanish and three Portuguese congregations, in Constantinople in 1550 no fewer than forty-four. This fragmentation of the Jewish community resulted in financial and political weakness. No doubt, awareness of this situation and the desire to avoid the consequences of such division of religious strength induced Amsterdam Jewry in 1638 to merge the then existing Jewish congregations under a unified leadership. The new congregation was called Kahal Kadosh Talmud Torah (The Holy Congregation for the Study of the Law), after the Jewish community in Venice.

The executive committees of the three congregations reached agreement on the union on the 28th of Elul 5398 (early in September, 1638); one of the forty-two Haskamot (regulations) was changed by common consent on the 29th

of Heshvan 5398 (November, 1638); and on the Sabbath, the 6th of Kislev 5398 (December, 1638) the regulations were submitted from the platform of each of the three congregations to the members. The agreements were approved and were signed by the "toda Nacao Cabessas de Caza," the whole nation, the heads of households, on the 28th of Veadar 5399 (Spring, 1639).

The four spiritual leaders of the three united congregations—Saul Levi Morteira (Beth Jaacob), Menasseh ben Israel (Neve Shalom), David Pardo and Isaac Aboab da Fonseca (Beth Israel)—became the Hakhamim (rabbis) of Congregation Talmud Torah. The fifteen members of the executive committees of the merging congregations were reduced to a Mahamad (executive committee) of seven members; the members of the first Mahamad of the new congregation were David Ozorjo, David Hergas, Joseph Boeno Bivas, Jeozuah Jesurun [Rodrigues], Abraham Salom, Samuel Athias, and Abraham Pharar. This Mahamad worked out fifty-six additional regulations for the administration of the new congregation and signed them on the 28th of Ab 5399 (August, 1639). The text of the new regulations was written in seventeenth century Portuguese, interspersed with Hebrew and Ladino expressions.

These regulations did not originate in Amsterdam. They were, rather, the result of previous development in the course of the evolution of the Jewish community in the Diaspora, especially in Spain and Portugal. The originals of the Haskamot of the Spanish and Portuguese congregations, in force in those countries until 1492 and 1497, respectively, and those of the Sephardic Jews in Salonika and Venice during the sixteenth century, unfortunately are lost and cannot be reconstructed except in a fragmentary way through the Responsa literature. Only the Haskamot of Amsterdam are available in the ancient manuscript form. They served as a guide for the regulations of the Congregations Tsur Israel (Rock of Israel) of Recife (Brazil), Shearith Israel (Remnant of Israel) of New York City, Shaar ha-Shamayim (Gate of Heaven) of London, and other important Sephardic congregations that were founded after 1638.

These Haskamot, most important for the study of the history of Jewish communities, have not yet been analyzed or published in their entirety. D.H. de Castro appended to his book, *De Synagoge der Portugeesch-Israelitische Gemeente te Amsterdam* ('s-Gravenhage, 1875, pp. xxi-xliii), an abbreviated Dutch translation of the regulations and agreements. Mendes de Remedios included in his work, *Os Judeus Portugueses em Amsterdam* (Coimbra, 1911, pp. 180-197), excerpts from the regulations in Portuguese, but there are numerous mistakes.

The following analysis is based on the original Portuguese manuscript of the ninety-eight paragraphs, found in the Livreria Ets-Haim-David Montezinas of Amsterdam. The contents, partly translated, partly paraphrased, are arranged under various headings, the materials that belong together from the point of view of subject matter and systematics being coordinated and to some extent interpreted.[1]

I. Plenary Assembly

The fifteen members of the executive committees of the three separate Sephardic congregations of Amsterdam, which merged to form a unified congregation, agreed on a set of regulations. The draft of these regulations was submitted on the 6th of Kislev 5398 (1638) in each of the three congregations to their members (heads of families), who approved and signed them on the 28th of Veadar 5399 (1639), thus bringing them into force and effect. No provision was made in the regulations for a future plenary assembly. All authority and power were vested in the Executive Committee. Changes in the forty-two provisions

[1] It would be most desirable to publish the original of the *Ashamot pelas quais sera governado o K. K. de Talmud Torah de Amsterdam* in the Portuguese language together with the English translation prepared by the present writer. This will be done later if an opportunity should present itself. The same applies to a projected more penetrating evaluation. The existing literature on the history of the Amsterdam Jewish community is listed by Salo W. Baron, *The Jewish Community*, III (Philadelphia, 1942), pp. 57 ff. The present article is intended only to direct to this document and its important contents the attention of scholars interested in the early history of that Jewish community.

for the unification of the three congregations could be made in the future only by the unanimous agreement of the six Parnassim (elders) elected in 1638 by the fifteen trustees. Should any one of the six die, the vacancy was to be filled by the survivors through the election of one who had belonged to the respective congregation prior to 1638.

II. Membership

All Jews of the Portuguese and Spanish nation, who were residents of Amsterdam in 1638, or who should subsequently settle there, automatically became members of the newly founded Holy Congregation Talmud Torah.

If a member left the congregation for personal reasons, the Executive Committee had to try to bring him back into the congregation by mild and moderate means; even if this should prove unsuccessful, no force was to be applied.

Non-Sephardic Jews could not become members of the congregation and they could be admitted to services in the synagogue only by special permission of the Executive Committee. The great contrast between the refined manners and clothes and the wealth of the Spanish and Portuguese Jews—who had lived for more than a century as Catholics—and the Ashkenazic Jews of Amsterdam—who originated from Poland and Germany—led the Sephardim to consider themselves aristocrats and to hold themselves apart from the Ashkenazim, though most of the refugees from Spain and Portugal were ignorant of Torah and Judaism.

III. Central Control by Congregation Talmud Torah

The establishment of other congregations in Holland was prohibited under penalties in conformity with the Venetian custom, as well as the gathering of a *minyan* (a group of ten adult males assembled for religious services), except when such services were held in the homes of bridegrooms or mourners or on other special occasions.

IV. Election of the Executive Committee

The first Mahamad (executive committee) of seven members (six Parnassim and one Gabbay) of the new congregation was elected by the committee of fifteen of the three former congregations. Future executive committees were to be elected by the seven members in office by ballot box and balls. A majority of five out of the seven votes was required. The Executive Committee was thus a self-perpetuating body without need to consult a plenary assembly of the members of the congregation. This system, which had been in force for centuries on the Iberian Peninsula, the Sephardic refugees transplanted to Salonika and other communities.[2] After the election, the names of the six elders chosen were to be written on six slips of paper and put into an urn. Then, one by one, they were to be drawn out and the name on each registered in an election book in the order in which the slips were taken from the urn. In the same order each was to become president of the congregation for a term of two months. In a leap year of thirteen months the last president served three instead of two months. In this way each of the elders gained the necessary experience for his office. Thus the congregation did not have a permanent president, but six presidents each year in rotation. Elections were to be held twice a year. On the eve of the Sabbath preceding the first day of Passover, three elders and the treasurer were to be elected; the other three elders, on the eve of the New Year. The results were always to be proclaimed the following day in the synagogue.

No one was to be elected elder who had not been a Jew for at least three years after his formal reconversion to Judaism. Likewise, no one was to be re-elected elder before the expiration of three years from the end of his previous term in office. Fathers and sons, brothers, grandfathers and grandsons, fathers-in-law and their sons-in-law, cousins of the first degree, and brothers-in-law were not to serve simultaneously on the same Executive Committee. No one who was elected had a right to refuse or abandon the office.

[2] Baron, *op. cit.*, II, 47 f.

The members of the Executive Committee served without salary in an honorary capacity.

V. Rights and Duties of the Executive Committee

The Executive Committee, vested with the highest authority of the Jewish community, had almost autocratic powers to administer and to govern that community. It was also the highest judicial authority and had the right to punish members of the community by imposing penalties that ran from small money fines to excommunication.

All decisions of the Executive Committee were to be taken by a majority vote of five of the seven members. These decisions became law. There was no other authority to whom to appeal, because recourse to the plenary assembly of the members of the congregation was not provided in the regulations and because the members of the Executive Committee were not dependent for their election on the votes of the members of the congregation but were elected by their predecessors in office. The only guaranty against unfairness and injustice was a clause in the regulations which enjoined the members of the Executive Committee to rule and to act dispassionately in devotion to their office and in fear of the Lord. Each newly elected member, upon taking office, had to swear that he would perform his duties in conformity with the clause.

The decisions of the Executive Committee were taken by secret vote only when it appeared to be necessary or when a member asked for it. A member could also ask that certain discussions of a meeting be kept secret. In any case, all discussions concerning elections were to be kept secret.

Among the rights and duties of the members of the Executive Committee were the following:

(1) To assign seats in the synagogue to the members of the congregation, with the right, at their discretion, to change those assignments at any time so that no one should acquire a right of possession to his seat. No seats were assigned to women. Whenever they came to the synagogue, they were to sit on any vacant seat.

(2) To impose the Finta (direct taxes by general assessment) on the heads of the families every year or once in two or three years, at their discretion, and to control the regular Imposta (indirect taxes).

(3) To discharge employees of the congregation and to decide upon their final compensation in such cases.

(4) To permit persons, in addition to the salaried rabbis of the congregation, to deliver sermons in the synagogue.

(5) To nominate a person to proclaim legal rulings from the lectern in the synagogue.

(6) To elect six trustees for the religious school for children.

(7) Rulings on the religious law (*dinim*) were made by the Hakhamim of the congregation by majority vote. In the event of a tie, the decision was to be made by the Executive Committee. If any Hakham refused to recognize such a final decision, he was to be released from his office immediately, payment of his salary was to be terminated, and he could never be reinstated.

(8) To settle business disputes between Jews, with the exception of foreign exchange matters that could not wait.

(9) To elect treasurers for relief for the Holy Land and for the redemption of Jewish captives and prisoners.

(10) Any member of the Executive Committee had the right, in order to prevent a disturbance in the synagogue, to command silence and also to order any person to leave the synagogue.

(11) The meetings of the Executive Committee were to take place on Sundays, and if necessary, on weekdays also at an hour designated by the president. Important cases were to be decided only in the presence of all seven members of the Executive Committee. In the absence of any member from a meeting, five present members might, in minor cases, take decisions, but only unanimously. If any member was temporarily outside the country, a member of the former Executive Committee was to be invited to replace him.

(12) To fix the hours for the beginning of the religious services.

(13) To determine the penalties for tardy taxpayers.

(14) To distribute alms received among the poor.

(15) To elect the Hatanim Torah (Bridegrooms of the Law) for *Simhat Torah.*

(16) To permit members of the congregation to carry arms in certain cases in the synagogue or in its vicinity.

(17) To authorize the selling of kosher smoked meat and cheese, to approve ritual slaughterers and meat inspectors, and to give authorization for slaughtering to private persons in special cases.

(18) To revise and correct books in Ladino and Hebrew and to authorize their publication.

(19) To give permission for the circumcision of Portuguese and Spaniards who were not of the Jewish nation.

(20) To authorize the writing and delivering of a *get* (letter of divorce). Only in the case of imminent death could this be done legally without the authorization of the Executive Committee, with the proviso, however, that the document should become void in the event of recovery.

(21) To decide on which holidays sermons should be preached.

(22) To change the regulations of the congregation as long as the change was not contrary to the agreements for the unification of the three Sephardic congregations of Amsterdam dated Elul 28, 5398.

VI. Officers

1. The Hakhamim (Rabbis)

The newly founded united congregation took over the four salaried Hakhamim of the three former congregations. They were: (1) Hakham Saul Levi Morteira (1596-1660), from Congregation Beth Jaacob. Morteira was to teach the Talmud to advanced students and to preach in the synagogue three times a month in succession. His salary was fixed at 600 florins a year plus 100 sestos (baskets) of turf for fuel. (2) Hakham David Pardo (died 1657), from Congregation Beth Israel. He became the administrator of the cemetery and of the *mitsvot,* an honorary function in the

synagogue at the services, at an annual salary of 550 florins and 100 sestos of turf. (3) Hakham Menasseh ben Israel (1604-1657), from Congregation Neve Shalom. He was to preach on one Sabbath each month at a salary of 150 florins. (4) Hakham Isaac Aboab da Fonseca (1605-1693), from Congregation Beth Israel. He was to teach Hebrew grammar and the Talmud to elementary students; he was also to deliver the evening sermons for students.[3] His salary was 450 florins a year.[4]

During services in the synagogue the four rabbis were to be seated on a special bench. Morteira was to occupy the first seat; next to him Prado; then Menasseh ben Israel; and finally Isaac Aboab.

The rabbis also were to consider and adjudicate all law cases that arose and reach decisions by a majority vote. In the event of a tie the final decision was to be with the Executive Committee, and the rabbis had to accept it.

On Sabbaths and holidays, on fast days and on the Sabbath when the Ten Commandments and the Song of Moses were read in the synagogue, the rabbis were honored by being called to the reading of the Torah. They were chosen by lot. On these occasions and on the occasion of prayers invoking blessing in special cases, the rabbis were not to be addressed by their honorary title, Hakham, Rab, or Morenu, or by any other title, "in order to avoid inconveniences." On the other hand, the rabbis were to be addressed with due courtesy and respect orally or in writing by the title Hakham.

Two of the rabbis alternately were to assist the cantor at the sides of the reading desk in the synagogue during services on the New Year and the Day of Atonement.

2. THE HAZZAN (CANTOR OR READER)

Abraham Baruch was named Hazzan of Congregation Talmud Torah with an annual salary of 350 florins, plus 40

[3] Cf. De Castro, *op. cit.*, p. xxvii; Do Remedios, *op. cit.*, p. 191.

[4] Biographical data and bibliography on all these rabbis may be found in any Jewish encyclopedia.

florins for rent of his house. It was his duty to conduct services, to recite the prayers, and to read the portions from the Bible.

No one in the synagogue was allowed to raise his voice so loudly in praying that the cantor's voice could not be heard clearly.

Immanuel Abendana was appointed second Hazzan at a yearly salary of 60 florins. His duty was to perform the burial service for the dead.

3. THE SHAMASH (BEADLE)

Jacob Franco, with an annual salary of 160 florins, and David de Valle, with an annual salary of 140 florins, were appointed beadles of the new congregation.

Besides their usual duties, such as summoning the people to prayer and announcing the arrival of the Sabbath and holidays, they had to communicate to the members of the Executive Committee the hour of the weekly Sunday meeting of the Committee by order of the president of the Committee.

Disputes between members of the congregation had to be presented to the Executive Committee through the beadle.

4. SCHOOL TEACHERS

The congregation had a religious school, *Talmud Torah,* for younger boys. This school was directed by six trustees appointed by the Executive Committee. The *Ets Hayiim* school was a talmudic college for older boys, founded by the brotherhood of *Ets Hayyim* in 1637. It was located in the building of Congregation Beth Jaacob. This college continued in the same building after the union of the three congregations and was administered as before. The former teachers were taken over as officers of the new congregation. Mordechay de Castro was to instruct the small children and received a salary of 150 florins. Joseph Faro was to teach reading of the introductory sections of the weekly portion of the Pentateuch. He received an

annual salary of 250 florins. Jacob Comes was to teach the weekly portion of the Bible with the proper cantillation. His salary was 250 florins per annum. The cantor and reader, Abraham Baruch, was to teach the weekly portions with translations in Ladino at an annual salary of 350 florins plus 40 florins for rent. Shelomoh ben Joseph was to teach the weekly portions from the Prophets with the commentary of Rashi, accompanied by discussions. His yearly salary was 350 florins plus 40 florins for rent. Hakham Isaac Aboab was to teach Hebrew grammar and the Talmud for elementary students. Hakham Morteira was to teach Talmud with *Tosafot* for advanced students.

VII. Religious Practices

1. Seats in the Synagogue

The members of the congregation were entitled to be assigned seats in the synagogue by the Executive Committee, but they could not acquire property rights to them and other seats could be assigned to them by decision of the Executive Committee.

Women occupied the vacant seats in the synagogue with no specific assignment.

A newcomer to the synagogue could be accommodated only for the first day; afterwards the president of the Executive Committee had to assign him a seat.

2. Aliyoth

Persons to be honored by being called to read the Torah at the reading platform (Aliyoth) were chosen by lot, in order to prevent confusion and jealousy, also to save the elders additional work and to avoid disputes. How important this honor was considered by the members of the congregation is evidenced by the following fact. While the plenary assembly of all members of the congregation unanimously approved, on the sixth of Kislev 5398 (1638), forty-one of the forty-two regulations presented to them

by the fifteen trustees of the three original congregations, they refused to approve regulation No. 25 concerning the *Aliyoth,* recommending choice by lot. Regulation No. 25 was replaced by Regulation No. 43: A chest with three drawers was to be installed in the synagogue. Drawer No. 1 should contain slips of paper with the names of all married or single men above the age of twenty years. From this drawer four men were to be chosen by lot for the honor of an Aliyah on the Sabbath and on the first day of each Jewish month. (They were to be called in the order in which their names were drawn.)

Drawer No. 2 should contain slips of paper with the names of all male members above the age of fifty and of the Hakhamim. From this drawer one man was chosen by lot for the honor of the Aliyah to the last portion read on Sabbath or Holidays, fast days, and the Sabbaths on which the Ten Commandments and the Song of Moses were read.

Drawer No. 3 should contain on slips the names of all young men below the age of twenty. They were to be called to the reading by lot for the afternoon Sabbath service and for the Monday and Thursday morning services.

Persons recently circumcised, newcomers to Holland, and fathers of newborn sons had the right to the honor of being called up to the reading of the Torah without going through the procedure of drawing lots. Members of the congregation who had returned from abroad and whose names had not come out by lot in their absence for this honor, as well as members who had recently recovered from illness, could recite the Gomel benediction (for recovery from illness or salvation from danger) at the moment when the Scrolls of the Law were being taken from the Ark for the reading. Members who had been absent for many years and whose names had been removed from the drawers were to receive an Aliyah at the discretion of the president of the Executive Committee. He also had to take care that the names of the respective members were placed in the proper drawers.

3. CELEBRATION OF FESTIVE OCCASIONS IN THE SYNAGOGUE

Bridegrooms, fathers of newborn sons, "Bridegrooms of the Law" (hathanim Torah on Simhat Torah) had the right to celebrate the festive occasions in the synagogue, in such cases to assign the honorary functions during the services at their discretion, and to call nine men up to the reading of the Torah: a Cohen, a Levy, and seven Yisraelim. The celebrants and the nine men honored by them could, on ascending to the reader's desk, make a donation to the synagogue if they so desired. Outsiders were not permitted to make donations on such occasions.

The Bridegrooms of the Law had, on Simhat Torah and on the following Sabbath, the right to be seated on either side of the Ark in which the Torah scrolls were kept; next to them the president of the Executive Committee and the future president were seated. Other bridegrooms had the privilege only of being accompanied to their usual seats by the witnesses to their marriage and by no other persons, not even relatives.

It was forbidden to accompany a bridegroom or father of a newborn son with a procession in the street.

In the event there were, in the same week, several bridegrooms and fathers of newborn sons, the one who happened to be first in line had the right to choose the honorary function at the services he preferred, and the other honors were to be distributed equally among the other bridegrooms and fathers.

A father of a newborn son had the right to ask that the celebration be postponed to the following Sabbath.

4. MOURNING THE DEAD

After a funeral the first meal was to be sent by the president of the Executive Committee to the mourners at a cost of 4 to 6 florins, according to the size of the family. The mourners were not to be placed on a separate bench, but were to occupy their usual seats in the synagogue.

It was forbidden to accompany bridegrooms and mourners with a procession in the street, in order to avoid incidents that might be considered a provocation by non-Jews.

5. HASHKABOT

Hashkabot (memorial prayers for the deceased) could be recited only for those who had passed away during the current year. The prayer had to be recited at the moment when the doors of the Ark were opened or when the Torah scrolls were lifted from the reading desk.

Those called on such occasions to the reading of the Torah had the right to have the memorial prayer recited for a deceased person. Also, during the afternoon service on the Day of Atonement, the memorial prayers were to be recited in accordance with the requests of those present. During the prayers it was permitted to mention the deceased with their honorary titles.

6. SHOHET AND BODEK

The congregation had its own meat market with meat from ritually slaughtered animals, ritually inspected, by the Shohet (slaughterer) and Bodek (inspector of meat from ritually slaughtered animals). The slaughterers and inspectors had to be approved by the Executive Committee.

Any meat purchased outside the Jewish market was declared unfit to be eaten according to Jewish Law.

Anyone who wanted to have an ox or a sheep slaughtered, could obtain authorization from the Executive Committee.

No one had the right to sell kosher smoked meat or cheese without a permit from the Executive Committee, and the purchaser of these foods was cautioned to examine the seller's permit before buying.

Christian domestic servant girls who carried home kosher meat from the market had to be escorted by a person of the Jewish faith.

7. MISCELLANEOUS REGULATIONS

1. It was forbidden to talk during the services in the synagogue and when the Torah was read. No one was to leave the synagogue while the Torah was out of the Ark for the reading, because "the important duty is not to see the Torah but to listen to the reading." It was also necessary to remain in the synagogue to assist with the distribution of the Aliyoth by lots and to avoid confusion caused by absence.

2. No one was to pray in the synagogue standing, unless all those present were standing, in order not to disturb those nearby. If anyone wished, because of his devotion, to pray standing on the Day of Atonement or at another time, the Executive Committee was to assign him a special place.

3. No one was to lead the afternoon and evening services in the synagogue without permission of the Executive Committee or without the presence of at least one member of the Executive Committee in the synagogue. In the absence of any such member, permission was to be asked of any of the elders present.

4. Anyone who came into the synagogue during the Amidah prayer, which is recited standing, was not to take his seat until this prayer was finished.

5. In conversations with Christians, it was strictly forbidden to criticize their faith or to discuss religious matters with them with the intention to convert them to Judaism, for this would result in upsetting the "freedom we enjoy" ("Liberdade que gozamos") and would make the Jews hated for an act that is not commanded by the Law and is not a duty.

6. It was strictly prohibited, under penalty of excommunication, to circumcise anyone who did not belong to the Hebrew nation ("nacao hebrea") without the special permission of the Executive Committee, and the Executive Committee could give permission for the circumcision only of Portuguese or Spanish persons. Anyone who knew

of a case of circumcision in violation of this prohibition was under a duty to report it to the Executive Committee under penalty of excommunication.

7. Anyone who desired, on the Day of Atonement, to light lamps in the synagogue had to bring his own oil, which was poured into a large earthen vessel, and from it the lamps in the lamp stands of the congregation were filled, so that everyone who brought oil shared in the lighting of all the lamps. Only lamps of silver were allowed to be put on the lamp stands.

8. The shofar (ram's horn) was to be blown in the synagogue during (and after) the Musaf prayer on the New Year.

9. No one was to raise his voice in the synagogue, in the religious schools, from the gate of the synagogue inside, or even within a certain distance from the synagogue outside, in order to injure his fellow man.

No one was to raise his hand to strike a fellow Jew in the synagogue or in the abovementioned places, nor come to those places armed with a sword, a dagger, a stick, or any other aggressive weapon, except a walking stick if one needed it to lean on. Any transgressor of this rule was to be excommunicated immediately and separated from his fellow Jews. He was not to be readmitted, even upon a showing of repentance, until the Executive Committee decided the question by ballot and until he had paid a fine of 20 gross pounds. The "knife used by everyone" was not included in the prohibition unless it was used as an offensive weapon.

Anyone who had a quarrel with a Christian and was in need of carrying a weapon for his defense had to ask permission of the Executive Committee to carry the weapon.

10. No one, unless he was called, was to visit the house of a woman in child-bed until fifteen days had passed.

11. No Jew was to rent a house in which another Jew was living without the latter's assent, and the first Jew was not to resort to the ruse of having a Dutchman formal-

ly rent the house and then moving in later himself. Whoever did not respect this prohibition had to pay 20 pounds to the general fund of the congregation.

VIII. Social Welfare

1. SUPPORT OF THE POOR

The relief of the poor was left to the congregation. The asking of private alms was prohibited, and not even the Executive Committee had the power to permit it. Only persons of good repute and high moral standing were admitted to the regular relief of the general fund of the congregation distributed on the first day of each month. Admission was decided by balloting. The relief paid to each person monthly varied from two to six florins.

On Purim collection trays were placed in the synagogue and the proceeds of this collection were immediately distributed among the poor. On that day private persons could collect money for certain poor persons, but first they had to obtain the permission of the Executive Committee and state for whom they were collecting, and there was not to be two collections for the same poor persons.

Also, on the Sabbaths preceding the three holidays of Passover, Shabuot, and Succoth, offerings were pledged for poor Jews and later distributed among them by the Executive Committee.

On Hanukkah such contributions could be made to a fund for providing clothes for the poor, and on the Sabbath Mi-kamokha to the fraternity for attending the sick and burying the dead.

2. RELIEF FOR THE HOLY LAND

The Executive Committee was to elect a special treasurer for the Holy Land in charge of organizing collections for the poor of the Holy Land and of keeping the respective records.

Some members of the congregation were organized in fraternities for the Holy Land, for Jerusalem or Safed, and made regular contributions to them.

The Sabbath Nahamu, following the ninth of the month Ab, was the day for voluntary pledges for the Holy Land, and the regulations suggested that the members of the mentioned brotherhoods contribute larger sums at that time.

On a special place near the entrance door of the synagogue a small chest was to be placed bearing an inscription that it was for voluntary gifts for the Holy Land, and on the afternoon of fast days the special treasurer for the Holy Land was to collect such donations with this chest.

3. REDEMPTION OF PRISONERS AND CAPTIVES

A special treasurer elected by the Executive Committee was to be in charge of organizing collections for the redemption of Jewish prisoners and captives. This concerned political prisoners as well as Jews captured on the high seas by pirates, who would bring them to Portugal or Spain and hand them over to the courts of the Inquisition for investigation whether they were apostates of the Catholic faith.

Near the entrance door of the synagogue another small box was to be placed and on the afternoon of fast days the treasurer for the prisoners and captives was to collect voluntary contributions with it.

If there was not enough money in the collection box to provide for current needs, special collection days could be organized.

4. HEBRA BIKUR HOLIM (FRATERNITY FOR ATTENDING THE SICK AND BURYING THE DEAD)

The Executive Committee was to elect six trustees for the fraternity for visiting the sick. These trustees were to draw up their own regulations for the administration of the fraternity and elect members who were willing to assume the duties of the group.

IX. Finances

All the possessions of the three merged congregations became the property of the new united Congregation Talmud Torah. However, an inventory of the original property of each congregation was entered in the book that contained the agreements, "so that, in the event we should ever be compelled to leave the country, which God may prevent, the contribution of each of the congregations on entering the union will be known." The financial expenditures of the congregation were to be covered by various sources of revenues.

1. General Taxation

The first Executive Committee of the newly founded Congregation Talmud Torah was to prepare a general tax assessment for a period of one year and to tax the heads of households at their discretion. The next following Executive Committee was to work out similar tax assessments for a period of two to three years.

The Finta was to be paid in two annual installments; the first was due during the first month after Passover, the second, before the eve of the Day of Atonement.

The names of all taxpayers were written on a board and after the payment of each instalment a P (*page*, i.e., paid) was noted alongside the respective name.

A member of the congregation who wished to leave it for personal reasons was under an obligation to pay his Finta for the whole current year, even though he left the congregation at the beginning of the year. If the particular member did not pay the Finta, the Executive Committee could use discretionary means to enforce the payment.

2. Nedarim (Pledges for Charitable Funds)

Members of the congregation could make verbal promises to contribute to the general fund and to various charitable funds of the congregation. These promises were due by the eve of the Day of Atonement, and by Passover if made during the preceding six months.

3. NEDABOT (VOLUNTARY CONTRIBUTIONS TO THE GENERAL FUND OR CHARITY)

Voluntary offerings were to be made on the following occasions: on Passover, Shabuot, and Succoth for the poor of the congregation; on Hanukkah for the fund to provide the poor with clothes; on Sabbath Nahamu for the Holy Land; on Sabbath Mi-kamokhah for the fund for the redemption of prisoners and captives and for the expenditures of the Hebra; on Purim for the poor; on the afternoons of fast days for the general fund of the congregation (*Tsedakah*), for the Holy Land, and for the prisoners and captives.

4. TAXATION OF COMMERCIAL TRANSACTIONS

Taxes on exported goods had to be paid on the gross value of the goods including minor expenses. Taxes on imported goods were to be based on their sales price less the discount. The Imposta was payable in two instalments: the first, before the eve of Sabbath Ha-Gadol (the great Sabbath preceding the first day of Passover); the second, before the eve of Yom Kipur.

5. MEAT TAX

The caniseria (Ladino expression for meat market) was an important source of income through the meat tax.

6. RESIDUES OF WAX CANDLES

The residues of wax candles burned in the synagogue on the day of Atonement belonged to the general fund of the congregation.

7. FINES

Another important source of income were all kinds of fines:

(1) One who raised his voice against a fellow Jew in the synagogue or in its vicinity had to pay a fine of 50 florins to the general fund of the congregation.

(2) A 50-florin fine was to be paid for trying to hire

or for hiring a maid or nurse who was in the service of a fellow Jew without his express permission.

(3) Brokers who presented their brokerage disputes to the municipal general court instead of bringing them to the Executive Committee of the congregation had to pay a fine of 12 florins.

(4) Books printed in Ladino or Hebrew in Amsterdam without a license from the Executive Committee were confiscated for the benefit of the general fund of the congregation.

(5) Anyone who argued about religious matters with non-Jews, insulted their faith, or tried to convert them to Judaism had to pay a fine of 20 florins.

(6) A man who had been excommunicated because he had come armed or had struck a fellow Jew in the synagogue or in its vicinity, could not be reinstated, even on a showing of repentance and even after the Executive Committee had decided the question in his favor, until he had paid a fine of 20 gross pounds.

(7) Anyone dealing in small coins had to pay a fine of 6 florins.

(8) Anyone who did not respect the prohibition against renting a house in which another Jew was living without the latter's consent had to pay a fine of 20 pounds.

8. BALANCE OF REVENUES AND EXPENDITURES

The annual expenditures of the Executive Committee should not exceed the annual revenues. This was a rule that was not to be violated.

X. JUSTICE AND LAW ENFORCEMENT

1. LITIGATIONS AMONG JEWS

Disputes between Jews concerning business matters were to be arbitrated by the Executive Committee. Litigations over foreign exchange were excepted from the rule since postponement in settlement might lead to losses.

The Executive Committee was to grant hearings to

the parties involved and was to try its best to bring about agreements and compromises within eight days. Only if a compromise was impossible to obtain, were the parties free to bring the case before a general non-Jewish court. If a member of the Executive Committee was related, even in the fourth degree, to one of the parties, or if he was of the opinion that his judgment in a law suit might be influenced by personal bias, he was to declare himself disqualified for the case in question. The member of the Executive Committee thus eliminated as arbitrator had to be replaced by a former member of the Executive Committee.

Jewish brokers, whether they had or had not taken an oath, could not, in cases of disputes concerning brokerage, call another Jew before the municipal court, but only before the Executive Committee. If a broker completed a deal that had been proposed by another broker, the brokerage fee belonged to the one who completed the deal.

2. CRIMINAL OFFENSES

If a Jew should be arrested in Holland by the state courts of justice for misdeeds, robberies, frauds, or other crimes, the members of the Executive Committee were not to waste their time or the money of the Jewish community to help free such criminals. This especially in order to show such criminals that they could not hope for help from the Jewish community.

The Executive Committee had to acknowledge the punishment meted out to criminals by the Christian state courts in order to set an example.

3. LAW ENFORCEMENT

The Executive Committee of the congregation, with its practically dictatorial powers within the Jewish community, enforced the payment of taxes, fines, etc., by moral and religious sanctions of varying degrees of severity. They were powerful enough to enforce the mentioned payments and to maintain respect for the laws of the congregation. The rule of the Kahal rested upon the moral and religious

sanction of Jewish Law, rather than upon the temporal power of the external government.[5] The following methods of law enforcement were used: (1) non-admission on the Day of Atonement to services in the synagogue; (2) non-admission to all services in the synagogue; (3) non-admission to the honor of being called up to the Torah for the reading of the portion and denial of other honorary privileges in the synagogue; (4) the Berakha (euphemism for curse, i.e., excommunication of short duration); (5) the Herem (excommunication, i.e., exclusion from the congregation).

Excommunication was mandatory: (1) for seceding from the congregation for the purpose of common prayer in a separate *minyan*; (2) for acting contrary to the resolution of the Executive Committee of the congregation or even for signing papers for that purpose; (3) for not obeying orders of the members of the Executive Committee present in the synagogue, given to prevent disputes; (4) for raising a hand with the intention of striking a fellow Jew in the synagogue or in its vicinity, or for coming there armed with a sword, a dagger, a stick, or other offensive weapon; (5) for circumcising non-Jews without the permission of the Executive Committee; (6) for speaking in the name of the Jewish nation without special authorization from the Executive Committee; (7) for writing pasquinades or defamatory papers; (8) for writing, witnessing, or handing over divorce documents without the permission of the Executive Committee; (9) for dealing in prohibited coins; (10) for gathering for common prayer inside or outside the synagogue with persons who had not been admitted to the synagogue or who left the synagogue rebelliously because they refused to pay taxes.

[5] Cf. Abraham A. Neumann, *The Jews of Spain*, I (Philadelphia, 1948), 48.

REVIEW SECTION

BIBLIOGRAPHY

GERMAN JEWRY: ITS HISTORY, LIFE AND CULTURE. Published by the *Wiener Library* (Ilse R. Wolff, Editor). Vallentine, Mitchell. London, 1958. Pp. 279.

IN the Foreword and the Introduction the scope of this volume is defined as follows: "Throughout the years of its existence, for more than twenty years, the Wiener Library [in London] has systematically collected everything, books, brochures, periodicals, documents, etc., pertaining to the story of these [the German] Jews. The scope of the literature listed in the present booklet thus extends to the very beginnings of Jewish history in Central Europe, though the bulk relates to the post-emancipation period. (By "German Jews" is understood not only the Jews of Germany proper, but also the German-speaking and, to a large extent, German-educated Jews of Austria, Czechoslovakia and Switzerland). The present Catalogue is designed to give a clear picture of the various phases of the history of German-speaking Jews, before the Hitler regime put an end to its rich variety: their fight for emancipation, their religious and communal life, their many organizations, youth and welfare work, thought and learning, their role in Zionism and their ideological controversies. It goes on to deal with their share, both as groups and individuals, in the general pattern of national life and culture, as well as with the German attitude towards Jews, and anti-Semitism. Purely theological works, such as Bible studies, etc., have been excluded."

In the pages of this journal it has often been deplored that the past and contemporary history of German Jewry has not and is not being given the attention and care it deserves. The Wiener Library, the single-handed creation of Dr. Alfred Wiener, is an extraordinary exception. Its excellent record is evidenced—in addition to its numerous merits in the fields of scholarship, publications, and aid to research—by its great library, of the scope and extent of whose holdings the Catalogue under review offers a clear picture.

On 279 pages 3,500 entries are listed. Fortunately, the large unwieldy format of the *Wiener Library Bulletin,* used for preceding catalogues, was passed over in favor of a small handy octavo book. The type is clear, although its all too small size is trying to the eye of the reader. Bibliographically, the material is well described and adequately arranged under the following headings: (1) Reference Books, (2) History, (3) Jewish Life and Thought, (4) Integration-Assimilation-

Zionism, (5) Biography, (6) Participation in Cultural Life, (7) Participation in Economic and Political Life, (8) Antisemitism, (9) Periodicals. A carefully worked-up index concludes the volume.

The systematic arrangement is, of course, open to discussion. This reviewer, however, does not consider it necessary to enter into such a controversy, for the material in its present order offers to the scholarly and lay reader a good opportunity to quickly orient himself and to find easily the books he is looking for. He will find even more, for important articles in periodicals have been separately listed. Regrettable, however, is the restriction of the catalogue to "publications (acquired by December 1956) on the history of German Jewry until 1945." This procedure may have its good reasons both in some library technicality and in the fact that a catalogue, "Post-war Publications on German Jewry: Books and Articles 1945-1955," was compiled earlier and published in the *Year Book* I of the Leo Baeck Institute (London, 1956). The latter was devoted mainly to the Nazi and post-World War II periods. Unfortunately, the separation leads to odd results that can be remedied only in part by turning to the bibiliographies that appeared in volumes I and II of the above mentioned *Year Book*. To give an example: Several articles from *Historia Judaica* are listed in various sections, yet the name of this journal does not appear under the heading "Periodicals." On the other hand, some historical works are included despite the fact that their publication dates are later than 1945, *e.g.*, Nos. 909a (1949), 928 (1952), 942 (1948).

The listing of articles in periodicals could have been more extensive, particularly in the biographical section. Quite a number of essays and necrologues from *Historia Judaica* would be a welcome supplement to the items listed, *e.g.*, in Nos. 1000 ff. and 2064 ff. (Samson Raphael Hirsch); 2092 ff. (Solomon Maimon); 2013 ff. (Hermann Cohen). The situation also arises, as in No. 287, in which the anti-Semitic writings are included while the pertinent refuting critical essays are excluded. Important articles published in this journal would also supplement other sections, such as No. 3185 ff. (Polna ritual murder). In No. 2162 (Martin Philippson) the contents of the *Festschrift* are listed, though they have no biographical relevance for this item. According to the Introduction, cross-references are "extensive." Yet on page 155 the name Herzl is missing; a cross-reference to Nos. 1672 ff. would have been in order.

The absence of a number of important works, particularly in medieval history (the pre-emancipation period of the sixteenth to the eighteenth centuries is given no attention), is probably to be explained by the fact that such books are not in the possession of the Wiener Library, which, as is well known, from its inception concentrated mainly on collecting materials pertaining to modern and contemporary Jewish history. It is hoped that this gap will be filled in the future by the newly founded library of the Leo Baeck Institute in New York,

which is rapidly growing. In the meantime, Aron Freimann's *Katalog der Judaica und Hebraica, Stadtbibliothek Frankfurt am Main*, Vol. I (Frankfurt, 1932) remains an indispensable bibliographical aid.

As mentioned before, in general the rendering of the titles listed, the bibliographical descriptions, the useful annotations, and the data on birth and death in the biographical section are correct. However, a number of misspellings or printing errors have crept in, as is almost inevitable in publications of this kind. For example, No. 643 should be corrected to read: "Magdeburg Jury Court Decisions as Sources of Jewry-Law"; p. 53: Hannover; No. 1985: Cincinnati; No. 759a: Költzsch; No. 3408: Čechoslovakischen.

The critical remarks offered above are not intended to detract from the bibliographical merits of the Wiener Library and the editor of this volume which will doubtless prove to be an important and valuable aid for research in the history of German Jewry in all its ramifications.

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THE WORKS OF MOSES HESS. An inventory of his signed and anonymous publications, manuscripts, and correspondence. By *Edmund Silberner*. E. J. Brill. Leiden, 1958. Pp. xviii and 125.

"NEITHER the personality of Moses Hess nor his work nor the significance of either for the history of Socialism and Zionism can be adequately appreciated unless a satisfactory inventory of all the widely dispersed, partly yet unknown and partly very rare writings of the 'Communist Rabbi' aid the task of the scholar. None of the existing monographs on Hess includes an extensive bibliography, much to the regret of all those interested in the fascinating personality of this early 'Zionist' thinker."

The position expressed in these statements by the present reviewer (*Historia Judaica*, XIII, 1951, 173) remained unchanged until the publication of this volume. Preceding this work was a mimeographed annotated Hess bibliography published by its author in 1951 in Burt Franklins *Bibliographical Series* as number 4, and reviewed in this journal (*l. c.*). Professor Edmund Silberner of Hebrew University in the meantime continued his research and consulted numerous European libraries in order to include in this definitive inventory not only all the published writings but also the extant manuscripts of Hess. The latter are preserved for the most part in the International Institute of Social History in Amsterdam (which is responsible for the present publication) and the Zionist Central Archives in Jerusalem.

Compared with the slim pamphlet of seven years ago, the new Hess bibliography contains about four times as many items, a total

of some 1850. Its scope is much broader and earlier errors have been corrected. The identification of Hess' numerous *signa* made it possible to ascribe to him a number of articles that appeared to be anonymous. In some cases, internal evidence, style, content, and cross-references indicated Hess' authorship. Among other publications, Hess contributed to American newspapers, particularly the weekly edition of the *Illinois Staats-Zeitung*, creating an accessible body of writing. By these means Dr. Silberner has succeeded in compiling the most complete and comprehensive Hess bibliography ever published.

His material is arranged systematically under the following headings: (1) Printed Writings, (2) Manuscripts, (3) Correspondence, (4) Documents. In addition to the customary bibliographical data, the reader will find a number of useful annotations, descriptions, and excerpts. Appended is "A Selective List of Publications on Hess."

Professor Silberner is now preparing a volume of letters from and to Hess, which will throw new light on the colorful personality of the famous forerunner of Theodore Herzl. The bibliography together with this collection will doubtless stimulate interest and research in this early protagonist of modern Socialism and Zionism.

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THE NATIONAL SOCIALIST ERA IN EUROPE

DAS DRITTE REICH UND EUROPA. Bericht über die Tagung des Instituts für Zeitgeschichte in Tutzing, Mai, 1956. Introduction by *Paul Kluke*. Institut für Zeitgeschichte. München, 157, X, 182 pp.

GUTACHTEN DES INSTITUTS FÜR ZEITGESCHICHTE. Introduction by *Paul Kluke*. Institut für Zeitgeschichte . München, 1958, 439 pp.

THESE publications mark a milestone in the development of the *Institut für Zeitgeschichte*. It is in order, therefore, to preface this review with a brief survey of the Institute, which already occupies an important place in the research on the National-Socialist era in German and European history. The Institute was founded in October, 1947, but did not begin its busy activities until 1950, when, under a new name, it was converted into a State Institute jointly sponsored by the Governments of the Western German Federal Republic and of Bavaria. The following research objectives were set for the Institute: the history of National Socialism, of the Third Reich and of the contiguous prewar and post-war periods, *i.e.*, the years 1918-1933 and since 1945. Its quarterly publication, *Vierteljahrshefte für Zeitgeschichte*, covers the same range of topics, while the current bibliographical annex to the

quarterly has a wider scope, including contemporary world affairs in general. Besides the valuable quarterly and biliography, the Institute has published to date about a dozen books, chiefly monographic studies and collections of documents.

Two recent publications, *Das dritte Reich und Europa* and *Gutachten,* reveal some trends in the Institute's activities which only recently have taken on concrete form, namely: (1) the establishment of broader foundations for its research through contacts and conferences with similar institutes and with scholars of other countries; (2) the expansion of its field of activities into the area of applied science related to its scholarly research by preparing reference material for courts and other German offices dealing with indemnification cases.

A step in the direction of coordinating its own research with the efforts of other similar institutes was the convoking of the International Conference by the Institute in May, 1956, in Tutzing, Bavaria. About sixty scholars from West Germany, Western Europe, the United States, the Scandinavian countries, Austria, and Switzerland participated. On the list of participants are missing the names of representatives of Jewish research institutes (except for the director of the Wiener Library in London) as well as scholars and institutes from behind the Iron Curtain, although in some of those countries, *e.g.*, Poland, Hungary, Czechoslovakia, research and publications on the period of World War II have been developed.

The arrangement of the Tutzing Conference was different from the generally accepted pattern of international conferences. Instead of presenting a great number of scholarly papers on many and varied subjects, but limited in time to short summaries, the conference concentrated on only five major lectures. With the exception of the opening address by Th. Eschenburg, each lecture was accompanied by a co-lecture and followed by a thoroughgoing discussion. The five topics of the Conference were: The European Democracies between the World Wars, The Army in the Totalitarian State, The European States and the Rise of the Third Reich 1933-1939, Theory and Practice of the National Socialist Expansion, and Between Collaboration and Resistance. Of particular interest to the Jewish historian were the lectures on the last two subjects, and especially the paper, "Between Collaboration and Resistance," by Louis de Jong, director of the Netherlands State Institute for War Documentation in Amsterdam. In his excellent address, De Jong presented new and stimulating ideas on scholarly approaches to the problem of collaboration and resistance. In calling attention to the interdependence between these two phenomena during the Nazi occupation, De Jong emphasized the fact that in many instances, particularly in the case of the Jewish administrative councils and the Jewish resistance, both of these forms, collaboration and resistance, were in some way different expressions of the same struggle for survival. He also pointed out that there were various other in-

termediate forms of action and reaction, and that those forms were constantly changing according to new developments and situations. De Jong's paper and the co-lecture of J. Mattl (based primarily on his personal experiences as an officer of the Wehrmacht in the Balkan countries during World War II) initiated an interesting discussion. It is impossible, in a brief review, to present all the important problems raised by the lecturers and in the discussion, but this reviewer intends to return to the problems and issues involved on a later occasion.

In a prospectus issued by the Institute at its beginning, the study of the National-Socialist persecution of the Jews has been indicated as one of its future research projects. However, no comprehensive work on this subject has as yet been published. Only in the Institute's *Vierteljahrshefte* have a few valuable papers and documents appeared on specific aspects of Jewish history during the Nazi era. In this respect, the volume marks a further step because it presents, among some seventy miscellaneous expert opinions, about twenty related directly to Jewish history in the Nazi period. As mentioned, the papers included in the *Gutachten* volume are not scholarly treatises but expert opinions for the use of German courts and other offices. These opinions, authored by staff members of the Institute (Martin Broszat, Hans Buchheim, Helmut Heiber, Hermann Graml, and Helmuth Auerbach), are uneven in amplitude, some of them almost full-fledged scholarly treatises, others brief summaries prepared for quick reference. The authors draw primarily on German archival sources, court depositions and published materials, as well as on the documentation of the Nuremberg trials. Non-German sources have been consulted to a lesser degree, and sometimes the failure to utilize the standard works or documentary material of non-German origin is a serious handicap.

Of particular interest to the student of Jewish affairs are the comprehensive studies on the Jews in Rumania (pp. 102-182) and Hungary (pp. 183-220), and the useful surveys on National-Socialism and the Jewish question in Danzig (pp. 89-90 and 392-395) and Slovakia (pp. 221-229) and on the internment camps for Jews in France (pp. 94-101).

By and large, however, those expert opinions, by their very nature cannot pretend to scholarly completeness and perfection. This is not the proper place for a detailed analysis of the pertinent sections of the collection, but in view of the practical purpose for which the opinions have been composed and the requirements of future scholarly research, it seems appropriate to suggest at least some corrections and supplementary remarks that appear relevant to this reviewer:

In the chapter on the Jews in Eastern Galicia the figure of 100,000 given by Broszat (p. 223) for the Jewish population of Lwów (Lemberg) is positively an underestimation; an estimate made in July 28, 1941, by the Jewish Council in Lwów, put their number at 150,000, and the SS and Police Chief of Galicia, General Fritz Katzmann, mentions

even 160,000 (Document L 18 in *International Military Trial . . .* XXXVII, Nuremberg, 1947; Philip Friedman, in *Entzyklopedia shel Galuyot,* Vol. IV, *Lwów,* Jerusalem, 1956, pp. 602). The walled ghetto in Lwów was established, not in February (p. 230), but in September, 1942. The Jews of Lwów were deported, not to Majdanek (p. 230), but to *Obóz Janowski* in Lwów and to Belzec.

The statement that the Jewish badge was never introduced in Vichy, France (p. 238) is somewhat misleading. After November, 1942, when the Germans occuppied the Free Zone, the wearing of the badge was enforced there. (Philip Friedman, "The Jewish Badge and the Yellow Star in the Nazi Era," *Historia Judaica,* XVII, [1955], 46, and *Wiener Library Bulletin,* "The Yellow Badge," VIII, [1954], 40, 42).

In the article on the Hungarian Jews, we miss (on p. 196) a reference to the notorious massacre in Novy Sad (Ujvidék), where about 700 Jews were killed by Hungarian troops in January, 1942. Incomplete information about the fate of the Jewish forced labor battalions in Bor, Yugoslavia (pp. 209-211), can now be supplemented by the detailed account of a survivor and by the helpful introduction of Nathan Eck published in *Yad Washem Studies,* II (Jerusalem, 1958), 255-294. By the same token the situation of the deported Rumanian Jews in Transnistria (pp. 147, 163) can now be elucidated on the basis of the report on "The Jewish Self-Administration in Ghetto Shargorod (Transnistria)" by the former chairman of the Jewish Council there, published in *Yad Washem Studies,* II, 219-254.

Jewish emigration from Germany during 1933-1939 and the Haavarah agreement (not *Havarah,* which means something different in Hebrew), could have been treated more extensively if the author had consulted the book of Werner Feilchenfeld, *Jüdische Handelspolitik durch Transfervereinbarungen mit zentral- und ost-europäischen Ländern* (Tel Aviv, 1938), and instead of using M. Wischnitzer's obsolete articles in the *Central-Vereins Zeitung* of 1935-1937, had turned to his later study, "Jewish Emigration from Germany 1933-1938," in *Jewish Social Studies,* II, (1940), 23-44, and his book, *To Dwell in Safety,* (Philadelphia, 1948). For future reference, three recently published papers should also be utilized: W. Rosenstock, "Exodus 1933-1939: A Survey of Jewish Emigration from Germany," *Leo Baeck Institute Yearbook I* (1956), 373-393, and two studies in *Yad Washem Studies,* II (Ernst Marcus, "The German Foreign Office and the Palestine Question in the period 1933-1939," pp. 179-204, and Arthur Prinz, "The Role of the Gestapo in Obstructing and Promoting Jewish Emigration," pp. 205-218).

The treatment of the *Einsatzstab* Rosenberg is very short (pp. 284-285) and is based exclusively on Nuremberg documentation. Needless to say, there are many good and comprehensive studies and collections of documents in French, English, Polish, and other languages on the activities of the *Einsatzstab* Rosenberg in the Nazi-occupied countries.

However, it would go far beyond the limits of a review to cite this abundant bibliography. As regards the *Gutachten* on the legal position of the Jews in Upper Silesia 1933-1937 (pp. 87-88), it may be added that a competent scholarly book on the so-called Bernheim petition has recently been published in Hebrew by Nathan Fineberg (*Ha-maarakha ha-yehudit neged Hitler,* Jerusalem, 1957).

The paper on the deportation of the gypsies from Germany (pp. 51-61) goes beyond the time and area limitations set up. More pertinent material is to be found in J. Billig, *L'Allemagne et le genocide* (Paris, 1950), pp. 82-83; Philip Friedman, "Nazi Extermination of the Gypsies," *Jewish Frontier,* XVIII (1951), 11-14; Dora E. Yates, "Hitler and the Gypsies," *Commentary,* VIII (1949), 455-459; the *Wiener Library Bulletin,* X (1956), 11, and in several articles in the *Journal of Gypsy Lore Society,* XXII-XXVII.

The study on the PPS (Polish Socialist Party) confuses some historical data particularly in the early history of the party and in its activities during the era of independent Poland, 1919-1939. Without going into a detailed analysis of that era, we would like to point out only a few errors with respect to the period of the Second World War. Thomas Arciszewski did not remain in Poland during the entire period of the Nazi occupation (p. 383); he was brought to London by British paratroopers in July, 1944, and became Prime Minister of the Polish government-in-exile in November, 1944. It is inadequate to describe the activities of the Polish underground in Hungary with a lengthy and not too well-informed contemporaneous report of the German plenipotentiary in Budapest, Veesenmayer. Among other mistakes, the Veesenmayer report erroneously states that the "Polish Jew," Dr. Lowenstein-Opoka, headed the PPS underground in Hungary (the organization was actually headed by Mr. Siwek). Incidentally, the stalwart Polish Socialist, Stanislaw Lowenstein-Opoka, can be considered a Jew only by Veesenmayer's racial standards. Some errors at least could have been avoided if the author had seen the books relevant to this period of Polish and PPS history, *e.g.,* Stefan Korbonski, *Fighting Warsaw* (New York, 1957), and the same author's *W imieniu Kremla* (Polish) (Paris, 1956); Zygmunt Zaremba, *Szescdziesiat lat walki i pracy PPS* (London, 1952), and the same author's *Wojna i Konspiracja* (London, 1957).

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THEIR BROTHER'S KEEPERS. By *Philip Friedman.* Crown Publishers. New York, 1957. 224 pp.

THE author is an authority on the Jewish catastrophe under the Nazi regime and is best known to the American reading public through his book *Martyrs and Fighters: The Epic of the Warsaw Ghetto,* which appeared in 1954.

The present study relates the story of the non-Jewish humanitarians who risked life and liberty to help Jews during the tragic years. Alas, there were far too few of these selfless individuals! The memory of their brave and good deeds deserves to be recorded in the annals of the Jewish people. Friedman does this in a sober, objective, dispassionate, factual style. All the more effective is his narrative.

The book begins with a Foreword by Father John A. O'Brien of the University of Notre Dame on the influence of nineteen centuries of Christian teaching in convincing at least a few thousand Europeans that they were indeed their brothers' keepers. One wonders how many millennia it will take to convert more substantial numbers of professing Christians to this basic doctrine of Christianity.

The first chapter treats of the rare women who performed valorous deeds in hiding and saving Jewish friends and neighbors and in acting as courriers between the Ghetto-dwellers and the outside world. Though death was their constant companion, a handful of these angels of mercy managed to survive long enough to enjoy the gratitude of the resurgent Jewish people.

The chapter on the "Battle of the Badge" relates fairly well-known incidents of resistance to the introduction of the Yellow Badge in Germany and the occupied countries. This resistance in most cases failed to annul the degrading decree but did succeed in delaying its implementation for a short while. That the badge was not introduced in Denmark was due largely to the threat of King Christian X that, if the Jews of his land were forced to wear the Yellow Star, he and his family would wear it as a badge of honor.

The bulk of the book consists of an enumeration of country after country and the role of Good Samaritans in rescuing Jews from deportation and extermination. In Western European countries, such as France, Holland and Belgium, and in democratic countries, such as Denmark, Norway and Finland, a greater proportion of Jews was rescued than in Eastern European countries where democracy had not yet taken a firm hold. The former lands had been less indoctrinated in pre-Hitler days with anti-Semitism; and the Nazis, with insufficient time to seriously scar the national character, could count only upon the dregs of the local populations as coworkers in nefarious extermination procedures.

Undoubtedly, the most effective of the Christian saviors of Jews during the Second World War was Raoul Wallenberg, the Swedish diplomat and hero of Budapest, who survived the Nazi holocaust only

to die in Moscow's notorious Lubyanka Prison in a manner still insufficiently clarified. An entire chapter is properly devoted to him. The conflicting documents on the roles of Felix Kersten, Himmler's physician, and of Count Folke Bernadotte, Vice President of the Swedish Red Cross, are presented in detail but no attempt is made to evaluate the result of their efforts during the closing months of the War. The author's final comment about them is: "We are willing to call them heroes if they saved even one human life."

Friedman, who has spent a decade of research on the evil forces that engulfed European Jewry and of which his own family was a victim, felt a sense of relief on being able to accord the idealists, religious people, and humanitarians the grateful recognition they so richly deserved. If the Nazi regime perverted the nature of man made in the image of the Deity, the precious few individuals who defied this regime in its years of triumphant arrogance helped to restore faith in truth, justice and love.

The many pages of notes and references appended to the text are a most valuable bibliographic treasure for scholars and creative writers who wish to explore the subject further. For them the author has also collected about 60,000 pertinent bibliographical items, which he hopes to publish in the near future.

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