



GIFT OF
THE AUTHOR

JACOB Z. LAUTERBACH AND THE HALAKAH

SOLOMON B. ^{Bennett} FREEHOF

A reprint from
JUDAISM: *A Quarterly Journal of Jewish Life and Thought*
Vol. I, No. 3, July 1952

WZ
L 38 F

JACOB Z. LAUTERBACH AND THE HALAKAH

SOLOMON B. FREEHOF

A SPECIALIST tends to grow narrow. The smaller the field, the more likely he is to become an authority in it, although, alas, a great authority in a tiny world. In the words of the well-known jibe, "he gets to know more and more about less and less until he knows everything about nothing." His increase of knowledge in his little world grows more and more absorbing but it involves the impatient exclusion of other knowledge as outside of his interests, until he becomes, as Randolph once said of a fellow-Congressman, "ruined by excessive cultivation."

Such a shrinking of the field and narrowing of the mind is not likely to happen to a talmudist. It is, of course, theoretically possible that a man may spend his lifetime on the Mishnah Middot until he knows more than anybody else in the world about the courtyards and the gates of the Temple in Jerusalem; but that is hardly likely. As a man moves along in his study of even one tractate of the Talmud, he is led from logical reasoning to active fantasy, from law to folklore, to history and legend. As he moves from tractate to tractate, he journeys from prayers to festivals to marriage laws and divorce, to civil law with damages and contracts, to animals and their anatomy. The Talmud is indeed a vast "sea" full of all sorts of things. It is quite

.....
SOLOMON B. FREEHOF, rabbi in Pittsburgh, Pa., is author of *Reform Jewish Practice and Its Rabbinic Background*, and other works.

easy for a student of the Talmud to acquire an interest in mysticism and mathematics as did, for example, the Gaon of Vilna. The Talmud makes its children flexible, alert, and manysided.

When to the old-fashioned multiform talmudic study is added modern scientific training, the inquisitive mind, equipped with new organs of vision, comes to see the Talmud from the point of view of the research scholar and finds ever new roads and bypaths along which his mind can travel. Any modern Jewish scholar who began his scholarly life in his boyhood with a thorough grounding in the Talmud is likely to be somewhat of a polymath, certainly a manysided author competent to deal with a surprising variety of subjects; almost never is he a limited specialist, and certainly never a narrow mind.

Jacob Zallel Lauterbach was nourished by the Talmud during his childhood and youth spent in the small Galician town in which he was born and raised. He went on to a career astonishingly manysided. He received his doctorate at Heidelberg with a thesis on Saadia's Arabic Commentary of the Psalms; was a student in the Orthodox seminary in Berlin; came to America to write the articles on talmudic themes in the Jewish Encyclopedia from Volume VII to Volume XII and almost all the biographies of Tannaim and Amoraim. Indeed, most of the large articles on talmudic themes and post-talmudic law came from his pen (for example, the articles on Midrash

118160

JACOB Z. LAUTERBACH AND THE HALAKAH

271

Halakah, Mishnah, Pilpul, Sanhedrin, Semikah, Sheelot Uteshubot, Talmud Hermeneutics, Tosefta, etc., etc.). He then became a Conservative rabbi in the congregation at Rochester, New York, and later a Reform rabbi in a tiny southern congregation (Huntsville, Alabama). Then for more than a generation, as the climax of his career, he was professor of Talmud at the Hebrew Union College. Last year, some pupils and colleagues of his, through the Alumni Association, published an impressive volume of his essays.* This volume does not by any means include all his briefer writings; indeed, he left many in fields not even represented in this collection. All of them together, however, reveal the unflagging alertness, the endless curiosity, and the wide-ranging interests of his mind.

Lauterbach's writings might all be deemed talmudic, but they are manysided, as the Talmud itself is manysided. They go off into many fields of Jewish law. His original work may be said to begin with studies in the origins of talmudic literature (his articles, "Midrash and Mishnah," "Sadducees and Pharisees," and others). It was due to his interest in the halakic Midrash in its relation to the general development of talmudic literature that he was finally led to his monumental work, the scientific edition of the Mekilta.

In the meantime, as a member of the Central Conference of American Rabbis, he was chairman of the Conference Committee on Responsa and answered hundreds of questions from rabbis all over the country, recording only those in which there was something new to say. From his work in the history of the

talmudic literature, and from his concern with the application of talmudic law to modern American conditions through his responsa, he turned to the study of the basic moral principles, implied or expressed, underlying the entire structure of talmudic law. Hence his memorable essay on the "Ethics of the Halaka," and his fine, clarifying, rather exalted piece on the "Attitude of the Jew to the Non-Jew."

From his analysis of the spiritual substratum of Jewish legal literature, he moved into a field which absorbed him for the rest of his life and in which he wrote some remarkably original and creative essays, the vast realm of Jewish folklore. In this field, he wrote the "Naming of Children," "The Kapporoth Ceremony," "Two Sabbath Ceremonies," "The Breaking of a Glass at Weddings," and his largest and most important essay, "Tashlik: A Study in Jewish Ceremonies." This last is actually a book (130 pages), and in it he develops his theory of the relationship of Jewish ceremonies to Jewish law.

In all these fields, he was original and creative. After all, he had been trained in a discipline which scoffed at the obvious and gloried in new ideas (*hiddushim*). His basic studies on Midrash and Mishnah, on the Sadducees and Pharisees, etc., may not be the final word on these themes, but at least they present a complete picture of all earlier views and suggest many new insights on such basic questions as to why the Mishnah mode of teaching Halakah, without a biblical derivation arose and why even after it arose the old Midrash method still continued in use, as to what was the true relationship between Sadducee and Pharisee, and the like. Lauterbach's researches on the Pharisees made possible the work of Travers Herford, whose essays constituted the first considerable

**Rabbinic Essays of Jacob Z. Lauterbach*. With bibliography by Walter E. Rothman. Cincinnati: Hebrew Union College Press, 1951. xvi+570 pp.

break in the wall of Christian anti-Pharisaic prejudice. Herford himself said of Dr. Lauterbach's work: "Lauterbach has spoken the master word on the subject, and all future treatment of Pharisaism must take account of it. In the following pages, I have fully accepted and made use of Lauterbach's theory, and I would here express my deep obligation to him and my grateful acknowledgment of the help that I have derived from his writings. (*The Pharisees*, p. 16).

Lauterbach's responsa were in the classic form of rabbinic *teshubot*—beginning with the Talmud, analyzing the principles of the talmudic discussion, and going on through the Codes and the work of later rabbis. Since Dr. Lauterbach was writing his responsa for Reform rabbis, he naturally permitted himself considerable latitude in the weight which he gave to various authorities. He makes clear his attitude at the end of his large responsum, "Talmudic-Rabbinic View on Birth Control," and offers us a guide to the use of the Halakah in modern American life. After summing up the circumstances under which birth control is held to be permissible in Jewish law, he concludes:

Some rabbinic authorities of the eighteenth and nineteenth centuries would object to one or another of the above rules, and especially put restrictions upon the use of contraceptives, but we need not expect absolute agreement on questions of Rabbinic law. We must be content to have good and reliable authority for our decisions, even though other authorities may differ. We have the right to judge for ourselves which view is the sounder and which authorities are more correct. We have found that the arguments of those authorities of the eighteenth and nineteenth centuries who would oppose the use of contraceptives in cases in which we would recommend it are not convincing. With all our respect for these authorities, we may ignore

their opinions, just as they in turn have ignored the opinions of other authorities, especially those of Solomon Lurya, on our question.

What makes his responsa "liberal" is that he takes the responsibility of deciding which authorities seem sound to him, knowing nevertheless that other authorities may disagree. Yet, in the last analysis, did not all classical respondents do the same thing? Did they not all assume the responsibility of being selective?

Lauterbach's best known responsa are those on the question of "women rabbis," "autopsy," and "covering the head during worship." The latter responsum ends up in a characteristic Lauterbachian mood. Having shown that basically there are two lines of tradition on this question, Palestinian and Babylonian, therefore French and Spanish, he concludes:

Although in the last century this question of "hats on or hats off" was the subject of heated disputes between the conservative and liberal groups of Jewry, we should know better now and be more tolerant and more liberal towards one another. We should realize that this matter is but a detail of custom and should not be made the issue between Orthodox and Reform. It is a detail not worth fighting about. It should not separate Jew from Jew, and not be made the cause of breaking of Jewish groups or dividing Jewish congregations.

In his studies of the underlying ethical outlook of talmudic literature ("Ethics of the Halaka," "Attitude of Jew to Non-Jews"), he completely demolishes the familiar view that there is a basic opposition between prophet and rabbi. He demonstrates from talmudic literature the high reverence in which prophecy and prophets were held by the rabbis, and comes to the conclusion that the essential and *conscious* aim of the entire talmudic legal system was to inculcate into the habits of daily life the highest idealism of the prophetic teaching. In his

essay, "Attitude of Jew to Non-Jews," he is neither polemical nor apologetic, or perhaps in a sense both simultaneously. He clarifies and amplifies the concept of the worthy status of the Christian in Jewish law as a "son of Noah" and a "sojourning proselyte," without diminishing the special status of Israel as the "elder brother" in the service of God.

His essays in the realm of folklore, particularly his longest essay on "Tashlik," deal with the evolution of ceremonies in Jewish life and the attitude of the rabbinic authorities to popular customs. The development of Jewish ceremonial observance, as typified by certain well-known customs, is here reconstructed by the use of all that is relevant in the entire rabbinic literature. Dr. Lauterbach saw clearly that the popular customs, even when they arose in superstitious fear of demons, constituted the basic material with which the rabbis worked. The custom is the original clay; the ceremony as we have it in its final form has gone through many modifications in the hands of the skilled scholar-artist.

In all this variety of Lauterbach's writings, there is a definite unity. He who had lived in so many types of Jewish communities somehow found place in his Halakah and in his history of the Halakah for the average Jew. The Pharisees represented the emergent creativity of the Jewish laity. The legal literature, including the responsa of the rabbis, is still usable and must be in our day brought as an influence into the life of the Jew. The idealism of the prophet and the legalism of the rabbi are both part of the same great ethical endeavor. The masses of Israel, through the customs that develop among them, actually provide the material which, under scholarly modification, become the fixed ceremonial of Jewish traditional life. Lauterbach had a unified vision, though he never in philosophic fashion enunciated and analyzed his "world-view"; it is the vision of the people of Israel through all the ages, consciously or unconsciously, expressing its spirit in Judaism. The world-community of Israel is the source of our religious creativity and the fortress of our strength.

PAMPHLET BINDERS

This is No. 1523

also carried in stock in the following sizes

HIGH					HIGH				
1523	0	1/2	1	1 1/2	1523	12	14	16	18
1524	0	1/2	1	1 1/2	1524	12	14	16	18
1525	0	1/2	1	1 1/2	1525	12	14	16	18
1526	0	1/2	1	1 1/2	1526	12	14	16	18
1527	0	1/2	1	1 1/2	1527	12	14	16	18
1528	0	1/2	1	1 1/2	1528	12	14	16	18

Other sizes made to order

MANUFACTURED BY
V. VANDERBILT, NEW YORK