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MORENU HARABH:

Elements in the Development of Rabbinical Ordination  
in the Codes

BY

Allen H. Podet

D.H.L. Thesis  
Cincinnati, 1963  
Referee:  
Dr. Alexander Guttmann



Haphokh bah wehaphokh bah

Dekhulah bah



## ABSTRACT

Rabbinical ordination in its broadest sense includes somewhat more than semikah,<sup>1</sup> just as the broad interpretation of codes surely includes not only source codes but resource codifications as well.<sup>2</sup> Thorough enquiry into the area of intersection of ordination and codes is functionally impossible in a single effort. Here, selected aspects of certain elements of rabbinical ordination in the codes<sup>3</sup> are treated under eight heads.

1. A general introduction introduces semikah and ordination, and the distinctions between them in prebiblical and Biblical literature<sup>4</sup> are discussed. The special ceremony of laying on of hands<sup>5</sup> is investigated as a groundwork for later discussion.

2. Biblical ordination is examined, specifically in the cases which later became precedents for Rabbinic ordination<sup>6</sup> and other forms of investiture and authority transfer rites.

3. The talmudic understanding<sup>7</sup> of semikah is compared with aspects of Biblical and prebiblical ordinations and examined in itself.

4. Selected codical material sheds light on structural and halakic aspects of semikah and hattarath hora'ah.<sup>8</sup> Some of the primary codical material<sup>9</sup> is subjected to close analysis<sup>10</sup> in order to determine just what may be inherent

in the codical formulations, growing out of the historical halakic development.<sup>11</sup>

5. A case study, employing the historical methodology of structural analysis,<sup>12</sup> attempts to set the scene for the drama of the 16th century Berab controversy. It is putatively shown that structural conditions influence the halaka and that socioeconomic situations cannot be omitted from case studies in halaka.

6. Thirty-six documents of authorization are examined,<sup>13</sup> and many of them charted and analyzed and discussed.

7. A brief summary is included, which restates the theses of the halakic section of the paper and of the Berab investigation.

8. Four critical bibliographies<sup>14</sup> document and describe works of relevance to the subjects treated.

9. Two appendices<sup>15</sup> related to the halakic and Berab sections of the paper respectively are presented.

10. Some 1653 textual footnotes conclude the paper.

### A Prefatory Note

The present enquiry is a beginning rather than a conclusion of a study, since in every area it opens more questions than it resolves. The field of the study, once seemingly so narrow and confined, has proved to be vast and deep, but all the more engrossing for that. Throughout, the thoroughness of scholarship and inspiration of commitment of the academic faculty of the Hebrew Union College-Jewish Institute of Religion has been a constant goad and guide. Particularly has Dr. Alexander Guttman, the Rabbinics Referee, given of his time and knowledge and guidance, discussing approaches and results, progress and limitations, with interest and patience befitting a Distinguished Master.

Dr. Ellis Rivkin, my teacher and friend, has guided and shaped the very principles of my historical thinking, and whatever may be the value of the Berab study, it is a reflection of his thought and genius.

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I am deeply grateful for its unending encouragement. My colleague Rabbi Ephraim Bennett has also been most generous in helping me with the textual interpretation of readings.

Mrs. George Varsany undertook an heroic job of stenography, juggling nearly 10,000 notation cards, nearly half of them in a language she had never seen before, and it is she who is entirely responsible for the clean layout form devised for this paper. To Dianne Shanes, a note of thanks for her cheerful help with the manuscript.

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The present transliterations, which are inconsistent,

follow sources which are themselves inconsistent. The effort is to follow the commonest reading generally, the simplest system when possible. When a generally accepted transliteration is not available, I tend to follow a transliteration based on the principles of the Jewish Encyclopedia, but maintaining the distinction of the soft "taw" which has become common English usage.

A special note of thanks is due my brother, Rabbi Mordecai Podet, who preceeded me into the Rabbinate and has been, in many ways, a living inspiration to me. His example before me has been a guide and pattern.

A. H. P.

Dayton

December, 1963

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PART ONE  
A GENERAL INTRODUCTION TO SEMIKAH  
AND ORDINATION

# I. Some Preliminary Distinctions and Observations

## A. Semikah and the Root S-M-K

Semikah<sup>16</sup> is a variegated term in the vocabulary of the historical Jewish juridical<sup>17</sup> literatures.

Depending on time and usage, the word may refer to:

1. a state of proximity or physical contiguity;<sup>18</sup>
2. the process of conferring one's peccant responsibilities to an animal, as a scapegoat;<sup>19</sup>
3. an act of laying hands for symbolic reasons upon any sacrificial animal;<sup>20</sup>
4. the investment — sometimes through the symbolic process of laying on of hands — of an individual with special authority, power, or responsibility;<sup>21</sup>
5. a document testifying to such investment.<sup>22</sup>

The consonantal root s-m-k<sup>23</sup> perhaps originally meaning to close or join, comes to mean:

1. to mash or pack down;<sup>24</sup>
2. to hold up or support;<sup>25</sup>
3. to place in proximity or contiguity<sup>26</sup>
4. to perform the act of laying hands upon an animal<sup>27</sup> perhaps to denote ownership,<sup>28</sup> when the animal is to be sacrificed;

5. the action of ordaining or performing the rite of what we would call religious ordination;<sup>29</sup>
6. to find support for an opinion or position on a Biblical or other basis;<sup>30</sup>
7. to derive the Biblical hermeneutic from contiguity of verses;<sup>31</sup>
8. to be hardened<sup>n</sup> or resistant to an opinion or appeal;<sup>32</sup>
9. to lean;<sup>33</sup>
10. to feel safe, depend upon;<sup>34</sup>
11. to draw an order,<sup>35</sup> or refer an order for payment;<sup>36</sup>
12. to thicken or cause to become substantial;<sup>37</sup>
13. to help.<sup>38</sup>

Other meanings may be derived from these, and it is not always a simple matter to distinguish which significance is most adequate to any given context. It is evident that a slight misreading will change the entire significance of a text, and bitter academic battles have been waged over such points.<sup>39</sup>

Our interest primarily centers around the fourth and fifth definitions of semikah, and the fifth

definition of s-m-k. We are primarily interested for the purposes of this study, in an examination of some dominant Jewish codical attitudes in an area which overlaps what is generally understood by the term, "ordination".

#### B. The Concept of Ordination in its More Common Significance

Ordination is the investment<sup>40</sup> of a candidate with ministerial or sacerdotal functions; some<sup>41</sup> hold that it is the induction into the Christian<sup>42</sup> ministry by the laying on of hands, or by other forms; in any case, it is a "setting aside"<sup>43</sup> of a person for a special task related to the religious enterprise. Contemporary Christian usage often identifies ordination with the resolution, expressed by solemn oath, to subscribe to the discipline of entering holy orders.<sup>44</sup> The American Protestant ministry has by and large assumed the designation "ordination" for its own inductive ceremonies often in the absence of the "orders" from which the word came.<sup>45</sup>



Ordination has traditionally referred to the act of setting aside a person for a specific, generally sacerdotal task. In this special sense, the ordained person becomes:<sup>46</sup>

1. taboo in his person;<sup>47</sup>
2. marked off in his residence;
3. reserved in his occupation;
4. separated from ordinary tasks and pursuits.

In the present American society, the ordained one carries an aura<sup>48</sup> of mystery about him not unrelated to the special place of the Catholic<sup>49</sup> priesthood vis-a-vis the peasantry<sup>50</sup> in such areas as historically rich in examples as Spain from the Inquisition<sup>51</sup> to the present. Implied often is the possession of special powers by the ordained.<sup>52</sup>

Whether the above can legitimately apply to the position of the rabbi in contemporary American society is questionable.<sup>53</sup> Certainly it did not apply to the operational definition<sup>54</sup> of the rabbi at certain stages of the development of that concept.<sup>55</sup>

If we may list representative examples of aspects of the ordained ministry-priesthood, we

would find that out of a composite assembly of nine<sup>56</sup> major and characteristic elements which have differentiated clergy from laity, only one has characterized all phases of the developmental structure of the rabbinate.<sup>57</sup>

So that a multitude of disparate entities are included in the concept of ordination<sup>58</sup> just as a disparate mass of entities are signalized by the title "Rabbi".<sup>59</sup>

Ordination, however, seen primarily as a process of investiture, is not limited to the creation of rabbis.<sup>60</sup> Ordination in its larger<sup>61</sup> sense deals with the transfer of authority in any aspect of the broad area which we differentiate today as the religious, and which was not always so clearly differentiated.<sup>62</sup> It is involved in:

1. the act of a prophet transferring authority to his successor or surrogate;<sup>63</sup>
2. in the act of a leader in commissioning a religious functionary;<sup>64</sup>
3. in the act of a people in anointing<sup>65</sup> a king at a time when the king was the head of the national religious enterprise.

### C. Sacerdos and Sacer Vates

If we are to understand ordination as the creation of a sacerdos,<sup>66</sup> then we must include in that the legitimate function of a sacer vates<sup>67</sup> as well.

In this context the historical conflict between priest and prophet becomes clarified: they are appealing to the same authority.<sup>68</sup> So much will serve for a preliminary sketch of some problems involved in circumscribing ordination.

### D. Aspects of Ordination in the Jewish Literatures

#### 1. a codical note

A code<sup>69</sup> is a systematic<sup>70</sup> compilation<sup>71</sup> of laws.<sup>72</sup> It may have statutory force, but need not.<sup>73</sup> A common understanding of what is meant by the Jewish Codical Literature may include material from the redaction<sup>74</sup> of the Talmud<sup>75</sup> generally associated with Ravina<sup>76</sup> at about 499 C. E.<sup>77</sup> through the responsa<sup>78</sup> literature, which corpus has not, in fact, been sealed through the present day.<sup>79</sup>

## 2. the Biblical stratum

It is inconceivable that any study of Jewish<sup>80</sup> understandings of the development of a term, conceptualization, or structural complex<sup>81</sup> in the Talmudic period<sup>82</sup> and thereafter<sup>83</sup> can do other than begin with a consideration of the employment and development of that term or concept in the Hebrew Bible,<sup>84</sup> the root, titular if not actual,<sup>85</sup> of all subsequent Jewish thought.

## 3. need for limitation

It is equally evident that any consideration of an area as broad as the structural complex which will involve in turn the ideas associated with the terms "rabbi"<sup>86</sup> "semikah,"<sup>87</sup> "minui,"<sup>88</sup> "transmission of authority",<sup>89</sup> "conflict of authority",<sup>90</sup> etc., will quickly lead into a bottomless pit by virtue of the sheer endlessness of the subject matter unless fairly stringent procedural limitations<sup>91</sup> are laid down at the very onset. Insofar as these limitations are by nature a priori,<sup>92</sup> they will distort the pic-

ture obtained and are open to the charge of being arbitrary; but this is a limitation not specifically of this inquiry but of the academic discipline in general, and particularly with any academic attempt to chart and follow a meaningful path through what is in truth an organic<sup>93</sup> sea of materials, considering some to be of relevance because they lie in the way that we have charted, and ignoring others because they do not. We can see no way of avoiding this problem, and, although we note regretfully that it has always<sup>94</sup> been present, we are not unduly disturbed at its influence, nor by the tautology<sup>95</sup> into which it threatens to lead us.

#### E. Method: To Set the Biblical Scene

Accordingly, we shall consider the relevant material in the Biblical literature<sup>96</sup> under the following three heads:

1. Occurrences of the terms semikah and minui and their various relationships, together with the analyses<sup>97</sup> of these concepts;

2. Narratives dealing with transfer of authority and appointment;
3. An analysis of the changing character of charismatic religious leadership with an observation as to its progressive institutionalization.

In this way, it may become possible to set the scene of understanding an aspect of Jewish religious leadership which, based on Biblical usages, came to be expressive of concern for value at a later period in the development of the Jewish religion.

## II. Some of the Earliest Manifestations of Ordination; on the Origin of the Laying on of Hands in Pre- Biblical and Biblical Sources. Comparative Re- ligious evidence.

In order to understand the concept of transmission of power and authority by means of laying on of hands, it is necessary to indulge in comparative studies.<sup>98</sup>

### A. The Mystique of the Hand in Classic Literature

The hand is seen as the most important part of the working man. By the "skill of his hand" he supports himself, and through the "weakness of his hands" he goes under in the

primitive struggle for existence. In the Greek conceptual process, cheires and dynameis become at times interchangeable. (cf. C. Weinreith, Antike Heilungswunder, Giessen, 1909, p. 49, quoted in Lohse, p. 14) In Latin also, manus indicates in classic texts military strength. In the Romance and Aryan languages, one speaks of one's enemies being given "into one's hands", and this is based on the same principle, namely that the hand is the expression of the person's power. General and unrelated religious expressions confirm this conception.

#### B. The Hands and Their Power in the Bible

The might of the hand in the Hebrew Bible (Genesis 32:12, Proverbs 18:21, et passim). The Lord curses Israel for its many breaches of trust by giving His people into the "hand of their enemies" (Judges 2:14, 13:1). The hand is further used as an equivalent for power or strength, (as in Isaiah 28:2, or Deuteronomy 32:36, or 1 Chronicles 18:3). In addition we

encounter continually in the Hebrew Bible the expression "the hand of God". With His "hand", God created the heavens and the earth, and with His "hand" He regulates now their existence (Isaiah 48:13, 66:2, Psalms 95:4). The "hand" of God also passes over His nation for the consternation of His enemies and for the salvation of His people (in Exodus 7:4, 9:3; Deuteronomy 2:15; Judges 2:15; ~~1~~ Samuel 7:13; 2 Samuel 24:17; Psalms 80:18; Ezra 7:6; Ezra 7:9; Ezra 7:28; Ezra 8:18; et passim).

In the evaluation of the hands of man, an inequality is visible. The right hand manifests a decided superiority over the left. The right hand is the powerful one, the one which exerts force, which wields the weapons, which is trained and skilled, and which is preferable for administering blessings (as in Genesis 48:14).

It is the "right hand" of God which removes Israel from Egypt and guides the people through the Red Sea; the salvation of the people, (no less than the cursing of the Egyptians) is accomplished by the right hand of God (Exodus 15:6, 12.)



( Psalms 118:15 ff., Isaiah 41:13). The right hand of God, like the right hand of the kings, is a place of honor (Psalms 110:1). On occasions, the difference lies in that the right hand has a fortunate significance whereas the left, to the contrary presages misfortune (cf. G. Vanderleeuw, Phaenomenologie der Religion, Tuebingen, 1933, p. 189, referred to in Lohse, Op. cit., p. 14.

Power seems to transfer via the process of contact through the hand from the donor to the receiver, from the one who is touching to the person touched.

In Egypt we find that the divinity of the king can be transferred by virtue of laying on of hands (cf. Encyclopedia of Religion and Ethics 6:494). In Tibet the Dalai Lama endows people with power through the process of laying on of hands.

In ancient times the belief was widespread that the gods bestowed salvatory or blessing powers on man through the medium of hands.

By means of contact of the hands Zeus cured Io (O. Weinreich, Op. cit., p. 20 f). Often gods and demons can transfer their magical powers by laying on of hands. Even human wonder workers like Apollonius of Tyana can bestow health and life through the laying on of hands (Ibid, p. 45 ff). Capacities, powers and abilities may also be bestowed by the laying on of hands. Aesculapius may transfer medical abilities by using the juice of the panacea on his hand and rubbing therewith the chest of the afflicted (cf. O. Weinreich, Loc. cit.).

#### C. Laying on of Mana

In the Hebrew Bible, the magical power of the hand is demonstrated through power of transfer of mana in contact with a weapon in 2 Kings 13:14 ff. Elijah bends himself over the dead son of the Sun~~am~~ite, and raises him to life again by contacting mouth to mouth, eye to eye and hand to hand; in 2 Kings 4:32 ff., in 2 Kings 5:11, the magic of contact by the hand

is also clear.

An example of the laying on of hands in two cases out of Livy may be instructive. At the time of the installation of King Numa, the sacerdot placed his right hand on Numa's head in response to the command of Jupiter. In the case of the Consul Decius and the prayer to Jupiter, special mention is made of the contact of the chin and head by the hand (Livy 1:18 and 8:9. Cf. Behm, J., Die Handauflegung in Urschriftentum, Leipzig, 1911, quoted in Lohse, Op. cit., p. 17).

Nothing is clear in the documentation in the Hellenistic mystery of religions regarding the laying on of hands, which might normally be expected to be part of the initiation rite (cf. Lohse, p. 17).

It is of particular interest, that Mithras lays his hand upon Helios (cf. A. Dietrich, Eine Mithrasliturgy, Leipzig, 1903, p. 120).

#### D. Epithesis ton cheiron

It would seem that epithesis ton cheiron

in the New Testament and the Septuagint express the Hebrew semikah. It remains to deal with the peculiarities of the laying on of hands as it developed in the Jewish environment, so that one may observe <sup>o</sup> how a custom of universal significance was expressed in a particular form by the Jewish mentality, and by the developmental circumstances of the people with whom we are concerned.

## PART TWO

### BIBLICAL ORDINATION

# I. Biblical Uses of the Root S-M-K

The Hebrew root s-m-k<sup>99</sup> is one of the primitive<sup>100</sup> roots in the language. A Phoenician cognate of the root, s-m-k,<sup>101</sup> has been preserved for us in a proper name;<sup>102</sup> Dillman<sup>103</sup> notes the Ethiopic cognates of the root,<sup>104</sup> and it therefore might be said to be as old as alphabetic roots may be.

The root in some form occurs 48 times in the Hebrew Bible,<sup>105</sup> with four primary meanings:<sup>106</sup>

- A. Lean upon, with 'al or el, as in Ezekiel 24:2;<sup>107</sup>
- B. Lay on, as in sacrificial rites, cf.  
P document<sup>108</sup>
- C. Rest, as in Psalm 88:8<sup>109</sup>
- D. Support, sustain, literally and figuratively,  
as in Genesis 27:37<sup>110</sup> and other instances  
of Jahwist and Priestly documents, generally  
with (J-document) the accusative, as opposed  
to B. supra which characteristically employs  
(P-document) the dative. The beth essentiae  
seemingly is an exception.<sup>111</sup>

Of the four cases above, the second yields  
on case analysis the following subdivisions:

B. Lay on, as in sacrificial rites, etc.

1. Investiture of sacrificial victims

- a. Aaron and his sons s-m-k their hands on ('al-) the head of the sacrificial animal (bullock) in Exodus 29:10, 29:15,<sup>112</sup> 29:19.<sup>113</sup>
- b. The people s-m-k their hands (hand) on (dative 'al-) private offerings, as sin offerings, in Leviticus 1:4 et passim,<sup>114</sup> for a total of 14 occurrences of the formula in the Book of Leviticus.<sup>115</sup>
- c. In another P source, Numbers 8:12, the Levites consecrate at once two animals, one as a hattath and one as an 'olah.<sup>116</sup>
- d. The Chronicler<sup>117</sup> relates that both king and people consecrate an animal for ritual sacrifice.

2. Investiture of designated personages

- a. Ministrants: the people of Israel s-m-k their hands on the Levites in presenting them to the Lord,

as perhaps an act of consecration or sacred designation.<sup>118</sup> A characteristic P-document usage.

b. Condemnation (transfer of sin?)<sup>119</sup>

of a blasphemer by the witnesses prior to execution<sup>120</sup> is described by the Priestly Redactor as ceremonial laying on of hands.<sup>121</sup>

c. The special charismatic investiture of Joshua by Moses in Numbers 27.<sup>122</sup>

It should be noted that Joshua was already a person asher ruah bo, and that consequently this might represent a transfer of authority rather than a transfer of charisma as such.<sup>123</sup>

d. The investiture of the seventy elders by Moses.<sup>124</sup> It should be noted

that there is no mention of the process of laying on of hands here.

However, that has been the traditional interpretation of this passage.<sup>125</sup>



with the result that it has become  
a primary rationale for subsequent  
semikah transmission.<sup>126</sup>

It will be noted that in the above examples,  
not only does the term s-m-k in its Biblical  
usage not necessarily refer to sacerdotal or  
ministerial ordination,<sup>127</sup> but it does not even  
include in itself of necessity the specific  
laying on of the hands.<sup>128</sup> Very often, the  
idea of support~~er~~ either occurs without reference  
to the hands, or, more significantly, involves  
the hands in a case where symbolic ordination  
cannot be intended.<sup>129</sup>

## I I. Biblical Uses of the Root M-N-H

The root m-n-h<sup>130</sup> occurs in the Hebrew Bible 55  
times in its various forms, seven times more than  
the root s-m-k.<sup>131</sup> Its primary meanings are two:  
it may mean to count or reckon, or it may mean to  
assign or appoint.<sup>132</sup> Both the J document<sup>133</sup>  
and the E document<sup>134</sup> use it freely in the first sense,  
and it occurs statistically with greater frequency  
in D in the second.<sup>135</sup>

# A. To reckon or count

1. Grains of dust,<sup>136</sup> or money,<sup>137</sup> stars,<sup>138</sup>  
the flock as a symbol of peace,<sup>139</sup>  
days,<sup>140</sup> people or armies<sup>141</sup> may  
be counted in the sense of m-n-h.

Again, a possibility of textual confusion  
enters here: when the root m-n-h

is applied to an army, is it being "counted"  
or "appointed"? Even if the verb even-  
tuates in a numeration, it is not logically  
possible to be certain that the correct  
reading of m-n-h must go one way  
rather than the other.

2. Although descendents may be numbered,<sup>142</sup>  
living people could be either counted or  
appointed.<sup>143</sup> The problem is more  
acute with sacrificial animals,<sup>144</sup>  
where they will be in the normal order of  
procedure both especially designated  
and numbered. Which one does the Chron-  
icler imply with the root m-n-h? The  
problem becomes more tangled when the

style of composition permits on the one hand parallelism and on the other hand omission of details. It is entirely possible that even where m-n-h occurs in connection with s-p-r<sup>145</sup> as in 1 Kings 3:8 or in the Chronicler's descriptions in 2 Chronicles 5:6 or 1 Kings 8:5, one cannot say whether the two words are in repetitive parallel or in a complementary ideological construction.

#### B. To Assign or Appoint

1. A fateful "assignment to the sword", in the sense of destiny for death or destruction,<sup>146</sup> would seem clearly to be an appointment rather than a numbering of any kind. Also, a servant may be assigned<sup>147</sup> a place. However, if the servant is a servant of God, the assignment may indeed be an appointment or investiture. When the Chronicler speaks of porters appointed to discharge a duty,<sup>148</sup> he may well mean invested or commissioned

rather than merely assigned.

2. In the story of Jonah, whenever the Lord appoints something to a specific task, it is generally something which requires special powers not normally within the expectations of the object itself. Thus, in appointing the fish,<sup>149</sup> the Lord is investing it with special powers or responsibilities. It is not being called upon to perform a normal piscatorial function. Similarly, the appointments successively of the ricinus,<sup>150</sup> the worm,<sup>151</sup> and the wind<sup>152</sup> all share with the dramatic appointment of the fish<sup>153</sup> the facts that:

- a. each of them was appointed by the Lord, and
- b. in each case, the appointment involved something which, although it tested the laws of probability and chance beyond the statistically credible, was within the

borders of absolute possibility.

It may be seen here that m-n-h is used to demand the barely possible but highly improbable, in response to a direct mandate from the Deity.

### III. Biblical Significance of Authority Transfer

In Biblical times, several outstanding cases of transfer of authority not only command attention in themselves, but serve as support for later practices. The transference of mana<sup>154</sup> by virtue of transfer of possessions<sup>155</sup> or at least symbolized by conferral of a cape or mantle represents on the prophetic level a conferral of authority, power, and responsibility which invests in the receiver the charismatic mana of the donor, in some cases<sup>156</sup> without depriving the donor of it.

A truly charismatic investiture may be questioned in the case of Numbers 11:16-17 and 24-25. Here Moses ordains 70 elders to assist him in governing the people, and Maimonides explains<sup>157</sup> that the ceremony involved was that of the laying on of hands.<sup>158</sup> In this case, the transfer deprives Moses of none of his prophetic or authoritative mana, but invests the elders with juridical powers if not

charismatic ones.

A true transfer of charisma, however, may perhaps be seen in the investiture of Joshua by Moses.<sup>159</sup> Here, the sacerdote Eliezer was involved in the ceremony: Joshua was placed before him, perhaps in order to confirm divine approval of the man and/or the eventual succession. A portion of Moses' spirit<sup>160</sup> was transferred to Joshua.<sup>161</sup> Did this deprive Moses of authority or mana? One would think not; but it did invest Joshua with a measure of it.

#### IV. Mana Transfer via the Hands

It should be especially noted that in the Joshua story the laying on of hands is a primary element. From Deuteronomy 34:9 it would seem that the transfer of spirit could only be accomplished through this act. Therefore when it is said that some of Moses' spirit was imparted to the elders, Maimonides logically concludes that it must have been via the same process.

This is the only mention of the laying on of hands in the Old Testament.<sup>162</sup> It is from this mention

and the interpretation of it as a means of transferring authority in an authentic manner that the tradition grew that these very 70 elders, ordained by Moses himself, in turn ordained others, passing on the authentic ordination in a continuous chain down to the time of the second Temple. This interpretation is detailed in the Code of Maimonides,<sup>163</sup> which invests it with compelling authority.

As it happens, Maimonides does not consider a serious problem which arises from a close reading of the text.

Although the ordination of the elders takes place at the initiative of the Lord (Numbers 11:16a), the significance of which we have considered above,<sup>164</sup> the mana conferred is not that of God, nor is the mandate direct, but rather mediated, and the mana is min ha-ruah, taken from the spirit which the Lord has conferred upon Moses and bestowed upon the elders (Numbers 11:17a-beta). Thus the ruah conferred, even though the conferral as well as the origin is at the hands of the deity, is not drawn from that deity's presumably infinite store, but

detracted from that of the man Moses. Not only is he deprived of some ruah by virtue of the fact that they have it, but it further stands to reason that they can have — no one of them — as much of it as remains to Moses, and certainly not as much as he had originally. Otherwise, the principle of detraction, we-afzalti,<sup>165</sup> makes no sense. It follows that the multiplication of ordinands down through the ages, predicated on the subdivision of a fixed amount of ruah,<sup>166</sup> results in the diminution of the amount of ruah available for any ordinand.

Some might think that a policy of multiplying the numbers of the Rabbinate might, under this construction, result in a diminution of the ruah of the later Rabbis, but this is a problem for another consideration.

In any case, the question remains, what happens when one invested with ruah dies without investing of his own ruah in a successor? Judging by the fact that the chain from Elijah to Elisha terminated, are we to presume that the ruah perishes with the man rather than being reabsorbed into a revolving



fund, so to speak? If so, in consideration of the myriads of deaths of the ordained, only a very few of whom ordained successors (and even then, not with their total ruah, but, like Moses, only with a part of it), one might think that there is very little of the original ruah possibly left in the world. <sup>167</sup>

#### V. Conclusion: Biblical Semikah and Investiture

Such, then, is the origin of the Biblical custom of semikah, in the sense of imparting authority, power, or responsibility of a special nature effected by — and perhaps only later merely symbolized by — the laying on of hands.

##### A. A Pentateuchal Note

The last chapter of the Pentateuch <sup>168</sup> would suggest that, taken together with the other quotations supra, the actual effectuation of ruah transmission was accomplished in this manner, and only later did the custom take on perhaps a more symbolic value, eventually to be replaced entirely by a formulary appellation which nonetheless was to maintain the ceremonial name of semikah. <sup>169</sup>

## B. Sacrificial Animals

The "special designation" of animals designated for sacrifice may be seen, too, as an investiture of the animal with the personality *mana* of the contributor, so that in a sense the contributor was investing a part of himself in the animal, as in the examples above.<sup>170</sup>

This may derive from a more primitive custom of self-immolation or sacrifice of members of one's own family, generally the firstborn, who is the "selfhood" in the larger sense.<sup>171</sup>

## C. Investment with Sins

Again, the investment of an animal with the sins of the contributor<sup>172</sup> would seem to make sense only when the ceremony of laying hands on the animal is seen as a means of transferring to that animal the peccant part of the personality of the contributor.<sup>173</sup>

Otherwise, the sacrifice of the animal might be a punishment to the self,<sup>174</sup> but would hardly be a divestment of sin. What then would be the purpose of the ceremony of laying

on of hands? <sup>175</sup> This would in no wise contribute to the loss, and must therefore be explained in terms of transfer of sin. <sup>176</sup>

#### D. Relation of Semikoth

Thus, semikah of an animal and semikah of a person <sup>177</sup> are not unrelated employments of a term based on common ceremonial, but in fact are two aspects of the same philosophical principle in action, viz, transfer of mana.

That the mana is in the one case a desirable acquisition and in the other case a non-desirable one does not affect the fact that the result of the ceremony of laying on of hands denotes in either case a transfer of mana, which is seen as embodied in the greater personality of the transferrer. Whether it is positive mana, <sup>178</sup> to be shared, or negative mana, <sup>179</sup> to be eliminated, the transfer is made through the hands.

#### E. Transfer of Mana <sup>180</sup> and Philo's explanation in terms

There remains further the clear implication that not all of the mana may be translated, <sup>180</sup>

but that some of it remains with the original possessor. That this applies to positive mana we have seen;<sup>181</sup> may it not also apply to negative mana?<sup>182</sup> Ultimate responsibility then would remain with the doer for the act done, even beyond the bringing of a sacrifice, just as ultimate authority remains with Moses until he is removed from the scene, when Joshua, with his secondary supply of mana, so to speak, assumes command.<sup>183</sup> Similarly, as we shall see,<sup>184</sup> the student may not teach in the presence of his master, even though he have been highly trained by him.<sup>185</sup>

It should be mentioned in closing that it is not at all definite that semikah did not relate to the Roman manumissio,<sup>186</sup> and constitute by analogy a dedication of acknowledged owned property to the deity, whereby a thank-offering<sup>187</sup> too might be offered after semikah.<sup>188</sup> It might seem, however, that in spite of Lauterbach's explanation of semikah in terms of manumission<sup>189</sup> and Philo's explanation in terms of self-justification,<sup>190</sup> the evidence of Aaron,

who laid the sins of the children of Israel upon the scapegoat,<sup>191</sup> would tend to indicate such a transfer may be involved as we have described above. That animal and human elective semikah were often confused in the later literature shall become clear presently.<sup>192</sup>

THE TALMUDIC UNDERSTANDING OF  
SEMUKAH

### PART THREE

## THE TALMUDIC UNDERSTANDING OF SEMIKAH

# I. Some Similarities and Distinctions of Talmudic and Biblical Ordination

## A. A Jewish Historical Orientation

Those who tend to view the facts of the history of Judaism as elements integrally related in an unfolding process, whether of the "Jewish religious genius" or of some other principle also by and large tend to view the greater Talmudic period not as totally distinct from its Biblical and pre-Biblical predecessor period but as merged with it, or even overlapping it. Such persons might tend to point out that even though the redaction associated with Ravina may perhaps be dated as late as 499 C. E.,<sup>193</sup> this redaction embodied material some of which antedates the canonization of the Hebrew Bible. The same statement may be made of some extratalmudic materials available to us.

## B. The Chain of Semikah

I If the chain of semikah which passed traditionally from God to Moses to the 70 elders to their successors in each generation did

indeed, as Maimonides holds,<sup>194</sup> extend to the time of the second Temple, it was by then a recognizable and fixed institution, by which members of the Sanhedrin were dedicated to their office. Lauterbach summarizes:<sup>195</sup>

This ceremony was considered an especially important one in the latter part of the rule of Alexander Jannaeus, when it became desirable to prevent Sadducees from becoming members of the Sanhedrin. At that time only those were admitted to membership in the Sanhedrin who had been dedicated by ordination. Persons so ordained bore the title of "zaken" (elder, Sanhedrin 14a), like the seventy "elders" of Moses (Numbers 11:16). Three rows of scholars always sat before the Sanhedrin, and whenever it became necessary to choose a new member a scholar from the first row was chosen and ordained. Ordination was necessary not only to membership in the Great Sanhedrin, but also to membership in the smaller Sanhedrins and in any regular college of judges empowered to decide legal cases. It was decreed at the time of Judah ha-Nasi that any religio-legal decision, including decisions relating to the ceremonial law, could be handed down only by those properly authorized (Sanhedrin 5b).



Even Joshua himself was at a later stage seen in Rabbinic interpretation to have undergone what was to become rabbinic ordination.<sup>196</sup> Thus, although the Samaritan Targum on the ordination of Joshua confines itself to prophetic powers bestowed,<sup>197</sup> The Sifre<sup>198</sup> on Numbers 27:18 explains that God has Moses make of Joshua an halakic disciple, that he might begin exposition of the ~~halakah~~ under Moses' tutelage and later supervision. In this way, it would not happen that the people might question whether his master had indeed ordained him.

So also Joshua would become a teacher of authority as Moses. The Sifre to Deuteronomy<sup>34:9</sup> emphasizes again that the reason Joshua was filled with the spirit was that he was ordained by the process of laying on of hands. Sifre Zuta<sup>199</sup> on Numbers 27:18 clarifies that this ceremony was recognized as the symbol of blessing of a student, and on 27:19 continues that the reason for the presence of

the sacerdote Eliezer and the assemblage was to witness a public ordination.<sup>200</sup>

That the act of ordaining was seen, in using the hands laid on, as an act of pouring one's mana, so to speak, from one vessel into another is to be seen in Numbers Rabba 15 (179d) to Numbers 11:16, Numbers Rabba 21 (192a) to Numbers 27:18-20, et passim.<sup>201</sup>

This formed, in effect, the rabbinic interpretation of Numbers 27:15 ff., Deuteronomy 34:9 and Numbers 11:16 ff., which was to become an underpinning of subsequent rabbinic ordination.<sup>202</sup>

## II. Ordination of the Elders

### A. Notes on Terminology in the Talmuds

Talmudic consideration of semikah must first of all discriminate with J. Sanhedrin 19a (40) between semikah and semikuth. At the same time, B. Sanhedrin 13b lumps semikah of animals and elders into one category.<sup>203</sup>

Whereas the Babylonian Talmud preserves the usage s-m-k for the act of ordination, the Jerusalem or Palestinian Talmud employs the term m-n-h, or in the Aramaic m-n- (tertia infirma), to designate the same act, in the intensive construction.<sup>204</sup> That it was recognized that the terminology was interchangeable and a geographical variant alone is demonstrated by J. Sanhedrin 19a (4l):

There (i. e., in Babylonia),  
min/ni (ordination of  
scholars) is called semikutha.

In Palestine, too, one might have expected to find the Biblical usage; many have attempted to explain its absence,<sup>205</sup> but no conclusive reason has thus far been adduced. The possibility exists that the Roman persecution and prohibitions may have been conducive to a change in nomenclature. As we have seen, the precedence for the use of the term occurs more frequently in the Biblical literature than s-m-k itself.

The most compelling evidence for the correspondence of the two terms, however, is to be derived from parallel passages in the Jerusalem and Babylonian Talmuds, such as B. Kethuboth 112a which is functionally identical with J. Sanhedrin 18c (52); J. Rosh Hashanah 58b (22), in which the term s-m-k in the Babylonian text is replaced with the usage m-n-h in the Jerusalem text.

#### B. The Mishna<sup>h</sup> and its Exposition

In the Mishna<sup>h</sup> itself, semikah in the sense of ordination is dealt with only once: Sanhedrin 4;4:<sup>206</sup>

Before them sat three rows of disciples of the Sages, and each knew his proper place. If they needed to appoint (another as judge), they appointed him from the first row, and another came from the second row into the first row, and another from the third row into the second, and they chose yet another from the assembly and set him in the third row. He did not sit in the place of the former, but he sat in the place that was proper for him. (italics supplied)<sup>207</sup>

1. a primary interpretation

What light the Gemara may throw on this must be considered with the knowledge that the Gemara often tends to try to reconstruct the intention of passages with the original intention of which it is only vaguely familiar.<sup>208</sup> Indeed in the precedent of the passage above, R. Judah differs with the cited

2. statistic on the very organization of the recorders:<sup>209</sup>

Two court clerks were stationed before them, one at the left and one at the right; the one recorded arguments for conviction and the other recorded arguments for acquittal. (Iqar Tosaphoth) Yomtob ad loc. explains that it was part of their function to avoid repetition of arguments from different sources by recording each argument only once. The practical effect would be to avoid having many people buttress one argument so as to make the argument appear stronger than it was.) R. Judah maintains that there were three recorders, one who recorded the arguments for conviction,

one who recorded the arguments for acquittal, and one who recorded the arguments for both (that is, who recorded all arguments as a check to avoid oversights, rather than possibly reading who recorded inconclusive arguments.)

3. This is from the Mishna itself. A fortiori the same would apply to later Amoraic expositions of the meaning of the Tannaitic material.

2. an analytic problem

In analyzing the Mishna Sanhedrin 4:4, we must mention that the Hebrew involves what may be termini technici which are not apparent in the translation. The term "disciples of the Sages", for example, becomes in the later material more than merely an alert student. It is understood to refer to a technical level of achievement, and is used in connection with such recognized terms as "colleague", "student colleague" in the codical material, et al. Whether there

were specific requirements of a "disciple of the Sages", to use Danby's accurate rendering of talmid haham,<sup>210</sup> is something about which we have no direct and definitive contemporary evidence.

### 3. an analytic reading

"Each and every one<sup>211</sup> recognized<sup>212</sup> his place.<sup>213</sup> If they had to ordain,<sup>214</sup> they ordained<sup>215</sup> from the first (row).<sup>216</sup> One from the second (row)<sup>217</sup> came to him<sup>218</sup> to the first.<sup>219</sup> And one from the third (row)<sup>220</sup> came to him to the second.<sup>221</sup> And they chose<sup>222</sup> to them (selves)<sup>223</sup> yet another from the assembly,<sup>224</sup> and seated him<sup>225</sup> in the third (row).<sup>226</sup> And he did not sit in the place of the first,<sup>227</sup> but he sat<sup>228</sup> in the place which was proper for him."<sup>229</sup>

Such is the description of accession to the Sanhedrin given in the Mishna.<sup>230</sup>

### C. Qualifications and the Problem of Accession

The qualifications for membership in

the Sanhedrin are not given here. The reconstructed qualifications, with all the precautions of Talmudic reconstruction voiced above, are given by R. Jose b. Halafta as follows:<sup>231</sup>

1. appointees had to be men of respected scholarship;
2. appointees had to be modest in action;
3. appointees had to be well-liked by their fellows.

We may add to this from the above:

4. appointees had to have fulfilled the three rows of office prior to election to the body of judges.

Sifre contributes:<sup>232</sup>

5. candidates had to be physically strong;
6. candidates had to have demonstrated courage;

Among further prerequisites, Jose b. Halafta<sup>233</sup>

adds that:

7. members had to have filled a local judgeship;
8. members had to have held two successive



magistracies in the capital itself.<sup>234</sup>

Additionally, R. Yohanan<sup>235</sup> supplies the following desiderata:

9. candidates must have been tall;
10. candidates must have been of imposing appearance;
11. candidates must have been of advanced age;
12. candidates must have been able to understand foreign languages;
13. candidates must be familiar with the arts of magic.<sup>236</sup>

How many of the above qualifications actually were relevant to the selection of candidates is something we cannot know. Certainly, one who possessed them all would be a superlative judge, as well as at once a fit leader of the people and very nearly a charismatic personality in his own right. Certainly a counsel of 70<sup>237</sup> such men would carry very nearly uncontested and incontestable authority, to which authority no less than to their brilliance the Talmud remains

the most enduring monument, a source of inspiration and a guide for practice to the present day.

In spite of this, however, we may safely presume that much of the qualification material above is reconstructed, and sometimes fancifully so. If nothing else, we should normally expect a confusion between temporal layers, as between the gerousia referred to by Antiochus the Great,<sup>238</sup> which may be what Josephus calls the synedrion or boule consisting of presbyteroi (zeqenim), "elders", "sages",<sup>239</sup> the council which met in the lishkat hagazit (chamber of hewn stone),<sup>240</sup> or any of a number of other groups which were at one time or another referred to by the title sanhedrin.<sup>241</sup>

### III. Ordination into the Sanhedrin

#### A. Background Material

Formal ordination was necessary not only to appointment into the Great Sanhedrin, but also to sit on any of the lesser sanhedrins and juridical collegia

which decided civil cases, and by the time of Judah the Prince, even decisions on ritual law were to be handed down only by the ordained.<sup>242</sup>

#### B. The Early Material

The earliest layer of information refers, as might be anticipated, to individual, pre-institutional ordination of individual students by their masters, logically and procedurally no less than temporally following the Biblical and post-Biblical charismatic transfers of mana in a personal relationship.<sup>243</sup> The nomenclature, derived from s-m-k, has been explained, and is alluded to both in Tosephta and Talmud.<sup>244</sup>

Later, possibly under the influence of oppression<sup>245</sup> but perhaps more likely out of an ossified respect for the greater significance of the older procedure and the supposed character of its recipients and conferrers, the technique was changed to formal appellation, although the designation was maintained.

At the same time, the power to vest the authorization became the prerogative of the patriarch.<sup>246</sup>

At that time, feral restrictions were imposed upon ordination, and among the more permanent controls that issued from the experience after the Bar Kokhba revolution, was the effect that whereas the Collegium was unable authoritatively to ordain in the absence of the consent of the responsible Patriarch, he was fully able to do so without the consent of the Collegium.<sup>247</sup>

#### C. The Hadrianic Persecutions and the Institutionalization of Authority Transference

During the Hadrianic persecutions, of course, the entire process was proscribed utterly.<sup>248</sup>

The institutionalization of formal transmission of authorization functionally prohibited the patriarchate from entering into a direct student-teacher relationship with each of those whom he was expected to ordain, after the fashion of R. Judah b. Baba.

The personal nature of such intensive and

is the history of Judaism.<sup>249</sup> Such an

assumption would perhaps help to explain why

extensive contact between the bearer of the mana and the aspiring recipient thereof was precisely what was being symbolized by the ceremony of laying on of the (mystically potent or representatively potent) hands, as we have seen.

It is not surprising, therefore, that the ceremonial act, harking back to Joshua's investiture, was abandoned in favor of a designative act, under which the candidate was pronounced to be a Master.<sup>249</sup>

#### D. The Christian Influence

Jacob Zallel Lauterbach<sup>250</sup> emphasizes the influence of the growing apostolic ordination process<sup>251</sup> within developing Christianity as another reason for the abandonment of the physical laying on of hands. Whether Palestinian Jews were indeed moved to abandon a Jewish institution largely because it had apparently become by the second century a Christian institution is a matter of speculation, for which there are subsequent parallels in the history of Judaism.<sup>252</sup> Such an assumption would perhaps help to explain why

the Palestinian community, as opposed to the Babylonian community, felt called upon to change the name of the ceremony from semikah to minh'ui.<sup>253</sup> That the ceremony was the same in either case, the distinction being only one of name, is not clear. That, however, the process of ordination itself was called by the two names, which were interchangeable, seems established.<sup>254</sup>

At a later period, the imbalance was dialectically corrected, and both Patriarch and Collegium were required to assent to the investiture of ordination.<sup>255</sup>

#### IV: Degrees of Ordination Power: A Preliminary to Later Codical Modifications

There were apparently four degrees of ordination, discriminated by the power which was in each case conferred; without this conferral, of course, arbitration was always possible, particularly by open and mutual consent of the litigants, but authorization sometimes prevented some possibilities

of countersuit against the judge in a case of misjudgment:

- A. The lowest degree of ordination entitled the ordinand to decide religious questions;<sup>256</sup>
- B. The second degree empowered the ordinand to pass on religious and civil cases; <sup>257</sup>
- C. The third degree entitled the ordinand to judge religious, civil, and criminal cases<sup>258</sup>
- D. The fourth and final degree empowered the recipient to judge religious, civil, criminal, and sacrificial law. This last is peculiar to Jewish jurisprudence, and involves a detail of the sacrificial system of inordinate importance, to wit: the firstborn of any bred animal, such as, for example, the bekhor which in the Biblical idiom "opened the womb" of a cow, was automatically designated for the sacrificial system, i.e., the Temple at Jerusalem. However, it was required of all sacrificial animals that they be temimim, without blemish. Consequently, if a blemish appeared upon such an animal, then if the

blemish were of a permanent nature, the animal was "permitted" for secular use; if, however, the blemish were of a temporary nature, then it was not. The decision as to whether a given blemish was of a permanent and ergo disqualifying nature, or whether it was of a temporary character, determined whether the animal would be "permitted" for normal use, or even for slaughter. It also, in the nature of the case, determined whether the animal was due to Jerusalem or not. Consequently, the authority of "permitting" animals, i.e., declaring them permanently unfit for sacrificial use, assumed extraordinary importance, and the ordination "matir bekhoroeth," "he may permit the (use of the) firstborn animals", was but rarely awarded.

#### V. Ceremonial Elements in Conferring Semikah

The process of ordination has been described above. Beyond the material the various times of



their introduction to the present day;<sup>259</sup>

A. The central element in the ceremony was the conferral of the title "Rabbi";<sup>260</sup>

B. The candidate, at one time at least, donned a special garment the day of the investiture;<sup>261</sup>

C. The candidate was invested with the powers of decision and judgment;<sup>262</sup>

D. The scholars present formally praised their new colleague;<sup>263</sup>

E. The new ordinand "proved" himself by delivering a dissertation.<sup>264</sup>

## VI. The End of the Chain

### A. The Terminus of Ordination

The terminus of the process of ordination,<sup>265</sup> which struck at different places at various times, ceased in Palestine with the closing of the Judean academies.<sup>266</sup> Hillel II,<sup>267</sup> in response to the impending cessation of the determination<sup>268</sup> of the licit calendar,<sup>269</sup> is said<sup>270</sup> to have fixed the process<sup>271</sup> of intercalation.

## B. Terminological Consequences

Among the substitutions in terminology which followed the cessation of the use of the root s-m-k in Palestinian jurisprudence is that of the "Permit to Teach", where "teach" may be used as a technical substitute for "judge".<sup>272</sup> This designation, in Hebrew "hattarath hora'ah", was customarily embodied in a document, as opposed to the semikah per se, which was not necessarily documented (v. s)<sup>273</sup> The earliest formulary hattarath hora'ah, extant was issued by the authorities of the Babylonian academies in the 9th century C. E., and conferred authority in dealing with cases in religious and civil law (the Second Degree supra is the comparable semikah). An analysis of this document is appended infra, and will be dealt with in that place.

Eisenstein holds<sup>274</sup> that the term morenu, "our teacher", the German equivalent or substitute for the term rabbi,<sup>275</sup> was introduced into German circles by Shalom of Vienna and

his student, Jacob Moeln.<sup>276</sup> The Sephardic reaction to the abuse of the title Rabbi which followed the loss of its centrally authorized administration was also to avoid it, substituting the title of Hakham, "Sage", in use to the present day.<sup>277</sup>

C. The Local Community as a New Arbiter of Authority

The hattarath hora'ah often depended for its authority if not for its validity upon its acceptance by the local community<sup>278</sup> in the middle ages.<sup>279</sup> Rejection by the local community in some cases disqualified even men of great re~~known~~own from exercising legal jurisdiction.<sup>280</sup> The result in some cases was that although the Rabbi was empowered to exercise his religious and legal functions — even to the point of using compulsion — within his own province,<sup>281</sup> they could not extend their jurisdiction beyond the community which had elected them.<sup>282</sup> One begins to

see that the hattarath hora'ah, and perhaps as Spicehandler's evidence suggests, the semikah itself,<sup>283</sup> bore not only authorization-al responsibilities but jurisdictional ones as well, a thesis which further codical enquiry shall perhaps bear out.

PART FOUR

A STRUCTURAL VIEW OF SOME CODICAL MATERIAL

It is evident that vast structural changes in the nature and usage of ordination in concept and practice manifest themselves. In our examinations of semikah and related phenomena we have seen first one and then another phase, first one and then another aspect rise from obscurity or novelty to prominence, and begin to fade again to be replaced by its successor. It is necessary to ask, is there a pattern, are there causative factors at work, which would help us at least partly to understand the vast changes we have seen, and the even more disparate phenomena to come.

Certainly it seems that there are reasons for the changes which have occurred in the authority phenomena which we have considered, and some of them are relevant not only to the material gone before but will be valuable to understand some underlying processes at work whose results are yet to be seen. To understand even in part what is involved in the terminus of the chain of investiture of authority, we must consider, for example, the overweening relevance of the fact that with the formation of a relatively autonomous body politic in exile, not all the scholars of Babylonia

could be ordained in Palestine, and that the new authority had to partake, structurally speaking, of the force of civil authority, a point herein above dealt with in the notes, and a determiner in part of the ascendancy of hattarath hora'ah (sic, not hattarah ledina) over semikah.

In addition to examining the historical-legal processes in the abstract, it would be valuable for us to examine the operation of these processes and related structures which interact with them in a concrete case study. We shall therefore attempt to deal with structural aspects of selected literatures for a moment in order to come closer to understanding the historicolegal underlying processes, and as well examine in depth the case for the reinstitution of semikah under R. Jacob Berab in 16th century Turkish Palestine, an attempt which failed, and we shall try to understand what was involved, so to speak, "behind" the literary monuments of the effort, and why it failed.

We shall do this in the following chapters because it is our conviction that a code is not a document to be studied in an academic manner only, but must be

understood as — and this is the key — growing out of and speaking to a living situation. If a code is seriously intended to depict, suggest, or describe a way of life, it must both speak out of a living context and speak to it.

Before we begin, however, to examine the forces at work in the Berab case study, we must turn to an examination of the historicolegal processes at work in the legal and codical enterprise in order more nearly to understand the changes which we see transpiring.



# I. A Structural View of Some Codical Material

The vast sea of codical material in Jewish jurisprudence may be understood on the one hand as a manifestation of the breakdown of the Legal system, and on the other as a sign of its vitality. After the centralized conferral of the ordinative degree under the Jerusalem Patriarchate and Collegium was terminated circa the year 200, the chain of tradition was held to have ceased.

Undoubtedly one of the most brilliant and convincing documents on the problem of the original semikah<sup>284</sup> maintains that even during the Talmudic period itself, internal problems arose as to the validity and acceptability of the chain of authoritative expository and amendatory tradition. Perhaps the major point at issue between the zugoth<sup>285</sup> was precisely this: whether the authoritative chain of tradition, which had been responsible for the institutions which were to become the halaka, had, by the extension of Talmudic juridical principle, the right of interpreting such halakic pronouncements

and thereby effectuating what amounted to changes in the law.<sup>286</sup>

#### A. The Legal and Structural Implications of the Social Dynamic

With the cessation, then, of centralized authority, that force ceased which might, after the fashion of an early prosbul<sup>287</sup> or with equal efficacy a later and more circum-spect "reinterpretation", circumnavigate the original intent of the law as it might be derived from a naive reading.<sup>288</sup> It is a principle of juridical dynamics,<sup>289</sup> however, that the law, understood in its broadest sense,<sup>290</sup> reflects the dynamics of the social development. As a good map system expresses the experientially optimal way of relating in transit to fellow travellers so as to achieve a given destination, so a good legal system expresses those practices which a community, in the cauldron of day to day life, has found most nearly efficacious in terms of establishing relationships between its members in transit,

in pursuit each of his own goal, with respect to the overall goals set for the society at large. As the physical dimensions of a community change, so its maps, to remain good maps, must change to meet the altered times. Similarly, as the moral and technological dimensions of that community digress from the earlier patterns, the legal system, if it is to remain a meaningful legal system, must adapt to the new patterns, not merely in form-  
 ulary practices, but at times in very principle, if it would continue to be viable.

#### B. How the Legal Dynamic Meets the Needs of the Social Dynamic

The means of attaining these changes are manifold, and have been examined in another place.<sup>291</sup> Among these techniques, of particular importance to us, are the following, with their applications to the problems before us:

1. Abrogation, or the process of withdrawing from force a previously binding statute; when the previous statute bears divine

authority, as does the Torah, abrogation as a technique becomes out of the question, since,

a. only a court of equal or higher authority can utilize the technique of abrogation, as a basic legal principle under any legal system; in terms of Jewish jurisprudence of the period of its ascendancy, this would mean that the deity would have to issue a countermand; however,

b. the presumption of the perfection, infallibility, and omnipotence of the deity rules out a possibility of a change of a law, just as the timelessness ascribed to the deity rules out an ephemeral statute.

2.  
C.

Interpretation, or the process of application of the principles of previous case laws to new cases; when the primary legal texts of a society bear an authority other than that of the society

itself, i.e., an authority not answerable to the demands of the society at a later time, as e.g. not merely the Torah, but the Mishna~~h~~ and Gemara as well, then often a means of interpretation may contrive to "derive" later case procedures from earlier ones.

In this manner, for example, the Babylonian Talmud often derives, in a formalized hermeneutic manner, a guide for subsequent case laws from the interpreted "true intent" of a Pentateuchal case law.<sup>292</sup> Thus, the "application" of a principle of a given early case law to a later case in a vastly differing society remains the area in which the hermeneutic creative genius functions

#### C. Reactions to Inhibition of Authority Important to the Codical Scene

The problem arises, by whom are these ostensibly interpretive and actually creative

applications to be made? If they are to be made by a centralized authority or by his representatives, then there will be a centralized order answering to the centralized order of the original codex.

Upon, however, the breakdown of such centralized authority, the following possible alternatives present themselves:

1. The legal system, frozen or ossified at the point of its last generally accepted development, will gradually pass into obscurity and disuse, remaining perhaps an academic curiosity but exercising no perceived function in the lives of the people;<sup>293</sup>
2. A new centralized authority will be set up, its range being determined by the degree of allegiance which it can command, and its practice derived from one of two sources:
  - a. The relation which it may claim to

previous traditions in the case legal system in terms of precedent and reliance, regardless of the degree to which it may differ with earlier decisions; or

- b. The independent authority which it may claim on its own merits, powers of enforcement, or mandate of subscribers.

#### D. The Codical Solution to the Structural Problem

The history of Jewish codical jurisprudence has followed generally the practice of interpretation, the alternative of new authority (in the name, of course, of continued authority), and the source of relation.<sup>294</sup>

Even the Mishnah, which may be considered the primary codical source of Jewish jurisprudence, begins with a presumption of the earlier Biblical codes.<sup>295</sup>

Similarly, and for the same reason, the Talmuds base themselves on a linear textual

analysis of the text and problems of the Mishna~~x~~, with constant references, however, to proof texts drawn from the Biblical literature.

In each case, the point may be made that each one was intended in its time to be a final code, on the one hand terminating the need for future laws (and particularly for future confusions from multiple sources), and on the other hand drawing the user away from abject dependence, by then impossible, on past or previous codical matter which it held itself both to incorporate and to supercede. That these two characteristics are together characteristic of all codes is highly probable.

But for the same reasons that the Talmud in its time failed to provide an enduring and self-evident code of permanency, viz, that the dynamic of the developing society could not be contained or described in a definitive manner by any written text,<sup>296</sup> codes dependent on the authority of their framers once more began to appear in Israel.



## II. A Structural Problem Arising from the Nature of Codes

A. Unfortunately, although any given codifier, acting as above (2/b), might wish his code to be authoritative, and might by the very promulgation of his code seek to supercede earlier codifications; in the absence of a central clearing mechanism to eliminate conflicts there will arise a series of competitive codifications which, to the uncommitted academician, will tend to complicate and cloud issues rather than clarify them.<sup>297</sup> Fortunately, the radius of authority of a given scholar will clarify the issue for those living within such a radius: they are bound to observe the code which the authority of the scholar will enforce, regardless of other codes in existence which may be enforced within other circles of authority.

In the penumbra of overlapping authorities, however, the conflicts of codes become acute to the point where some sort of self-determination is almost always exercised by those

in such positions, with the result that they commit themselves to one or the other of the dominant authorities and the system which he represents. This, in fact, is the area of jurisdictional disputes.

B. A second manner in which the conflict of codical authorities is often resolved is in the absence of the codifier and the removal of the pressures, positive and negative, of his personality and personal interrelations.

When he is safely gone, so to speak, then the inherent merit of his codification can more accurately be discerned by those who are themselves searching for means to guide the people, and need no longer fear that they are placing themselves within the radius of the man's personal authority.

By this reasoning, "saints are safe authorities", which is to say, in espousing the code of Maimonides, for example, the person charged with moral responsibility for his

"flock" has before him the totality of what Maimonides had to say, and is not committing himself to an authority who will come out tomorrow with something which will discomfit the positions or authority of the espouser, and at the same time, a code which might, had Maimonides still been alive, have served to make Maimonides a competitor for authority with the espouser, now serves only to buttress the authority of the espouser.

It is for this reason that men not sometimes but often can achieve in death that recognition of greatness which will be denied to them so long as they are capable of change in position or threat of others' authority, which is to say, so long as they are alive.

- C. As a natural consequence, a ready-made measuring stick is at hand for the subsequent academic to use in appraising the relative value of codes: those which survive in use and perceived value to the people, generally

tend to reflect actual value in terms of genius of composition and/or construction, and those which terminate their active life with the lives of the formulators may be considered of limited value, and may be suspected of having survived as a result of the personal authority wielded by the formulator within the radius of his power.

#### D. Problems in Method

1. It is evident that this formulary reconstruction in logical terms must be modified in accordance with the needs of the individual case. Other factors than mere excellence in formulation may determine the persistence of a code,<sup>298</sup> or its suppression. However, even with this caveat, the fact that certain codes spring to mind as being of greater historical significance than others is not without meaning. The further fact that some of them are in use until the present day is of further consequence. That it is impossible

to deal with the more than fifty codes of Ginsberg<sup>299</sup> is manifest. It is also abundantly clear that not all of these codes are equally worthy of attention, neither from the point of view of their intrinsic organizational merit nor from the point of view of their historical influence upon subsequent codical endeavors and life in general of those who lived by the Jewish jurisprudence.

2. Although the earliest and most successful means of reconciling disparities in legislation and practice was, as Prof. M. Guttmann points out,<sup>300</sup> the process of conciliation, the effect of such conciliation, again, was not always to determine the licit harmonization of the original intents of disparate views, but more pointedly to presume a complex situation within the situational possibilities of which each view would at some point apply, so that both could

be seen as being essentially in harmony.<sup>301</sup>

Only rarely was it necessary — or

possible within the context which looked

upon prior halakic work as a sort of

textus receptus, functionally beyond

repudiation — to reject the opinion of an authority

even in the presence of a contradictory

opinion of an equal authority. "A God-

fearing man," Guttman summarizes

in interpretation, "must accord with

both teachings."<sup>302</sup>

3. Consequently, when the multiplication

of authorities reached the point where

any scholar of reknown found himself

besieged with questions for guidance

in the specifics of a day to day life

differing more or less radically from

that on the basis of previous halaka.

As the modus vivendi of the world wide

Jewish community, always more or less

interacting with the general communities

in which they lived, began more and

more to diverge from the Talmudic pattern of life, the questions increased in frequency, no less than in range of application or basicness. Additionally, the corpus of responsa of an authority answering questions coming out of an African milieu would hardly be applicable to the daily life of even a contemporaneous community in Eastern Europe, or vice versa.

4. Finally, not only does one need the thread of one basic question, or an aspect of one line of thought <sup>303</sup> in order to find his way in some comparative manner through the responsa literature, but more, in view of the vastness of the responsa literature itself, a more responsible and realistic approach is to confine one's comparisons, on a more or less intensive level, to an examination of the one thread in its convolutions through selected codices only, with the hope that many

major lines of thought of the less significant codices will be reflected in those considered.

Since the more outstanding codical material generally takes into account previous work to some degree, we shall consider the problem in the several major codes of our choice in order of composition or publication, and shall dedicate to each as intensive an examination as the intrinsic merit of the novel material and the limitations set upon us permit.

### III. An Analytical Examination of Selected Codical Material

#### A. The Epitome of Alfasi

##### 1. Background

After the Talmudic period, and the saboraic<sup>304</sup> work of codifying which went into the Talmud,<sup>305</sup> the first of the most prominent codifiers from our point of view<sup>306</sup> was the most important



of the African school, R. Isaac b. Jacob Hakohen Alfasi of Fez,<sup>307</sup> born 1013 at Kalat ibn Hamad, a village near Fez in North Africa, and died at Lucena in 1103. Alfasi's chief work, the Halakhoth, (appeared 1597 Cracow and later), often referred to as the RIF from the initials of its author, eliminates from its Talmudic research (and often epitome) all aggadah, and deals almost exclusively with the practical halakhoth.

## 2. Purpose

His purpose is to epitomize generally the Talmuds, and in case of conflict, to follow the reading of the Babylonian text for the reason that it, being the more recent text, must have in a given case consciously rejected the other argument.<sup>308</sup> He refers specifically to selected

<sup>e</sup>gonic material,<sup>309</sup> and sometimes cites those with whom he differs.<sup>310</sup>

The major supercommentary on Alfasi is the <sup>ph</sup>Sefer Hamaor,<sup>311</sup> by Zerahiah Halevi of Lunel,<sup>312</sup> in two parts: "The Great Luminary"<sup>313</sup> and "The Lesser Luminary".<sup>314</sup>

### 3. Methods

a. Perhaps the most direct manner of examining the method of Alfasi would be to consider the Talmudic arrangement under which he works. Such a procedure, formidable in even its most basic proportions, would be proper at this point. Necessity and the limitations upon us, rather than contentment with available and published substitutes in terms of their sufficiency to our purposes, force us to hold this desideratum in abeyance to another place. It may be of some

post hoc comfort to us to reflect that the excellent introductions of Strack<sup>315</sup> and Mielziner<sup>316</sup> are available in most comprehensive libraries, and that the former has recently been republished in paperback.<sup>317</sup>

- b. Another alternative is to take a random selection from the Alfasi Halakhoth and attempt to develop it through its topical journey so as to contrast the treatment of it in Alfasi with its treatment at other hands.

Since, however, it is our plan to do this in connection with the relation of pupil and teacher and the area where this overlaps the problems of semikah and subsequent hattarath hora'ah, it follows that in order to pursue this alternative most effectively, one should, short of writing :

one oneself, find an authoritative and comprehensive index to the Alfasi.

Since just such an index, a sui generis among indices, is in fact a primary code which we shall be considering, it would seem that the logical move of choice would be to defer consideration of selected and related Alfasi passages until we do indeed consider this index, which is the Beth Joseph by Joseph Karo,<sup>318</sup> and then, at that point, to trace back those Alfasi passages which prove to be of relevance.

Accordingly, our attention now turns to the Mishne Torah of Moses Maimonides, the first major topical code of note in the long and magnificent history of Jewish jurisprudence, which has from the time of its first acceptance until the present has never lost its centrality in the scholarship of the Jewish juridical mind.<sup>319</sup>

## B. The Code of Maimonides

### 1. Background

Moses b. Maimon,<sup>320</sup> known in the Arabic literature as Abu Imran Musa ben Maimun ibn Abd Allah, born at Cordova March 30, 1135, died at Cairo December 13, 1204,<sup>321</sup> is to many the finest systematic mind ever to come in contact with Jewish jurisprudence.<sup>322</sup> Maimonides, as he is universally called, led the life of a brilliant wanderer from the time he left his birthplace after the advent of the fanatical Almohades. He is distinguished for his brilliant and almost Aristotelian treatments of issues of Jewish philosophy and religious belief, which exercised a compelling and visible influence on Thomas Aquinas,<sup>323</sup> among others.

His profound intellect and superlative command of the tools of reason permitted him to formulate a construct of belief which at once harmonizes in his view the Biblical

and Aristotelian traditions; the codification of the monumental Mishne Torah (the Yad Hahazaqah,<sup>324</sup> so called from its 14 divisions; the number 14 literally equals the word YaD in Hebrew computation) was to such a mind inevitable.<sup>325</sup>

2. The codical influence of Maimonides and the succession of his code

- a. The Mishne Torah<sup>326</sup> constituted, with the Torah itself, the sum of the written and the oral law, so that it was only necessary for one who wished to be apprised of the definitive conclusions of the entire sea of the legistic material to consult these two works in order to discover systematically presented the whole of the relevant rabbinic and other<sup>327</sup> material on his problem. Strack, who considers<sup>328</sup> Alfasi and Asher b. Yehiel merely "epitomes", reserves the denomination "codes" for a select group in which the Mishne Torah is first both in time and systematization.<sup>329</sup>

- b. The members of this class he gives in order as the Sefer Mitzv<sup>ph</sup>oth Hagadol by the Tosaphist Moses of Coucy, 12th century, France,<sup>330</sup> which arranges the Talmudic law according to the 613 positive and negative precepts of the Torah;
- c. The Arba'a Turim by Jacob b. Asher b. Yehiel (q.v.s.), provided with Karo's Beth Joseph and Moses Isserles' Darkhe Moshe; and
- d. The Shulhan Arukh by Karo (16th century), derived from the same author's Beth Joseph and provided with all the commentators, we shall consider below.

### 3. Purpose

Lauterbach ironically observes that the stated aim of Maimonides, the facilitation of Talmudic study through brevity and system,<sup>331</sup> failed, because at the last "his words and expressions were regarded as so precisely

and accurately selected that they were themselves treated as carefully as the Talmud itself, and became material for interpretation and exegesis (Yad Makabi, Rule 3)," as we shall see below.

Because of this failure, the most cogent <sup>332</sup> code of antiquity in a relative sense <sup>333</sup> cannot be approached in its direct simplicity by a modern halakist, but must be read at once both for what it has to say in itself and for what has been said about it. We may now turn to the provisional reading of the Maimonides citation.



Maimonides

#### A Provisional Text. Introduction

Perhaps the most fundamental text which shall pass under our purview is that of Maimonides' Yad Hahazakah, Sefer Mada, Hilkoth Talmud Torah (1:3) , Cap. 5.

The temptation to analyze this work comprehensively, after the manner in which the subsequent texts are treated, is strong, but is to be resisted for two reasons:

1. In the first place, almost without exception, all of this text, nearly every word, is dealt with at length in the subsequent material and the analyses thereon. It is also in the subsequent material that it takes on its true and historically valid meaning in the context of the emerging halaka. Now it is a "source code", to anticipate a terminological distinction which shall be clarified; later it will become a "resource codification", bearing great and influential significance;
2. An excellent translation, without, however a separate analysis, has been provided for us in the recent

Book of Mishnah Torah, Yad HaHazakah, (trans. by R. Simon Glazer)

This fine work incorporates elements of analytic consideration into the text of the translation, and occasionally employs an infelicitous reading, but

to create a provisional and new translation in the face of the newly available one is a move which has been discouraged.

Readings of hitherto untranslated Maimonidean texts which cast significant light on his thought, thought-patterns, and ideas will be considered infra.

We now proceed, however, to present Cap. 5 of the aforementioned translation:

## 2. Text of the translation.

strives against the Shekinah, even as it is said: "Where the children of Israel strove with the Lord and He was sanctified in them" (Ibid. 20.13); and<sup>5</sup> whoever murmurs against his master is like unto one who murmurs against the Lord, even as it is said: "Your murmurs are not against us, but<sup>10</sup> against the Lord" (Ex. 16.8); and whosoever has suspicious thoughts against his master is like unto one who has suspicious thoughts against the Shekinah, as it is said: "And the people spoke against God and against Moses" (Num. 21. 5).<sup>1</sup>

2. Who is considered differing from his master? It is he who establishes by himself a school and settles down to preach and instruct without having authority from his master to do so, and his master is living, even though in another state. It is even forbidden to render a decision in the presence of one's master, and whosoever renders a decision in the presence of his master is guilty of an offense punishable by death.<sup>2</sup>

3. If the distance between one and his master be twelve miles, and a man asked him a question, he is permitted to answer it. To separate one from committing a forbidden act, one may decide even in the presence of his master. For instance? Suppose he saw a man doing something which is really forbidden, because he did not know that it is forbidden.<sup>3</sup>

<sup>1</sup>Baba Mezi'a, 33a; Horayot, 14b; The text herein is that of the Talmud Yer. C. G.

<sup>2</sup>Sanhedrin, 5b; Erubin, 62b and 63a. Such disciple is considered a rebel. C. G.

קעושה מריבה עם השכינה שנאמר אשר רבו בני ישראל אח' ויקדש בם. וכל המתרעם על רבו כמחרעם על ה' שנאמר לא עלינו חלונותיכם<sup>5</sup> כי על ה'. וכל המוריד אחר רבו כאילו מורידו. אחר שכניה שנאמר וידבר העם באלהיך ובמשה:

ב איהו חילק על רבו זה שקובע לו מדרש ויושב ודורש ומלמד שלא בדרשו רבו ורבו קיים ואף על פי שרבו במדינה אחרת. ואמר לאדם להורות בפני רבו לעולם. וכל חמורה הלכה בפני רבו חייב מיחה:

ג היה בינו ורבו יב' מיל ותשאל לו אדם דבר הלכה מותר להשיב.

ו להפריש מן האיסור אפילו בפני רבו מותר להורות. כיצד כוון שראה אדם עושה דבר האסור מפני שלא

preach and instruct without having authority from his master to do so, and his master is living, even though in another state. It is even forbidden to render a decision in the presence of one's master, and whosoever renders a decision in the presence of his master is guilty of an offense punishable by death.<sup>2</sup>

3. If the distance between one and his master be twelve miles, and a man asked him a question, he is permitted to answer it. To separate one from committing a forbidden act, one may decide even in the presence of his master. For instance? Suppose he saw a man doing something which is really forbidden, because he did not know that it is forbidden.<sup>3</sup>

<sup>1</sup>Baba Mezi'a, 33a; Horayot, 14b; The text herein is that of the Talmud Yer. C. G.

<sup>2</sup>Sanhedrin, 5b; Erubin, 62b and 63a. Such disciple is considered a rebel. C. G.

## CHAPTER V

## פרק חמישי

א כשם שאדם מצווה בכבוד

אביו ויראנו כי הוא חייב בכבוד

רבו ויראנו יתר מאביו. שאביו

מביאו להי' העולם הזה ורבו שלמדו

חכמה מביאו להי' העולם הבא.

ראה אבידח אביו ואבידח רבו של

רבו קודמת לשל אביו. אביו ורבו

נשואים במשה משה את של רבו

ואחר כך של אביו. אביו ורבו שביים

בשביה פודה את רבו ואחר כך

פודה את אביו. ואם היה אביו חלמיד

חכם פודה את אביו החלה. וכן

על אם היה אביו חלמיד חכם אף על

פי שאינו שקול כנגד רבו משיב

אבידח ואחר כך משיב אבידח

רבו. ואין לך כבוד גדול מכבוד

הרבו ולא מורא ממורא הרב. אמרו

חכמים מורא רבך כמורא שמים.

לפיכך אמרו כל החולק על רבו

כחולק על השכינה שנאמר בהצוהם

על ה'. וכל העושה מריבה עם רבו

father be a disciple of the wise, even though not weighty along-

side his master, he should reclaim the lost article of his

father first and after that reclaim the lost article of his

master. There is no honor greater than the honor due a

master, nor awe greater than the awe due a master. The

sages said: "The awe of thy master is likened to the awe of

Him Who is in heaven." (Pirke Abot, 4.15). They have, there-

fore, said: "He who differs with his master is likened unto

one who differs with the Shekinah, even as it is said: "Where

they strove against God" (Num. 26.9; Sanhedrin, 110a)

Whosoever strives with his master is like unto one who

1. Even as a man is under command to honor his father and fear him, so is he obliged to honor his master, but fear him yet more than his father; his father brought him to life upon this world but his master who taught him wisdom, brings him to life in the world to come. If he chances upon a lost article of his father and a lost article of his master, reclaiming that of his master precedes the one of his father. If his father and his master are burdened with a load, he should unburden the load of his master first and then that of his father. If his father and his master be incarcerated in a prison, he should free the master first and afterward free his father. If his father was a disciple of the wise, he should free his father first. Likewise if his father be a disciple of the wise, even though not weighty along-

not increased their knowledge of the Torah as they should and yet are seeking to appear great before the ignorant, and among their towns-people, jumping forward to occupy a front seat to judge and instruct among Israel, are the ones who multiply strife, and the ones who destroy the world, who extinguish the light of the Torah, and despoil the vineyard of the Lord of Hosts, concerning whom Solomon in his wisdom said: "Take us the foxes, the little foxes, that spoil the vineyards". (Song of Songs, 2.15).<sup>4</sup>

5. A student is forbidden to call his master by name even out of his presence, provided the name be of note that whoever hears it will know that it is he; neither should he mention his name in his presence, nor even call others whose name are identical with the name of his master, even as one does with respect to the name of his father; but he should always refer to them with a pseudonym even after their demise. He must not salute his master or return among salutation in a manner companions give and return among themselves. The manner to salute a master is to bow before him and say to him in tones of awe and respect: "Peace be unto thee, my master!" If his master saluted him first, he should answer him: "Peace be unto thee, my lord and my teacher."<sup>5</sup>

<sup>4</sup>Abodah Zarah, 27b; Sotah, 19a.

<sup>5</sup>Sanhedrin, 109a; Kiddushin, 31b and 32a; Berakot, 28b. C. G.

הקטנים שלא הרבו חזרה כראוי והם מבקשים להתגדל בפני עמי הארץ ובין אנשי ערים וקופצין ויושבין בראש לדין ולהורות ב"ש"א, אדם המרבים המחלוקה והם המהרימים את העולם והמכבין נרה של חזרה והמחבלים כרם ה' צבאות. עליהם אמר שלמה ברככתו אחוז לנו שועלים שועלים קטנים מחבלים כרמים: אדם ואסור לו לתלמיד לקרות לדבר בשמו ואפילו שלא בפניו. והוא שיהיה השם פלאי שכל השומע ידע שהוא פלוגי. ולא יזכיר שמו בפניו ואפילו לקרות לאחרים ששם כשם רבו בדרך שנושה בשם אביו. אלא ישנה את שם אפילו לאחר מותם. ולא יתן שלום לדבר או יחזיר לו שלום בדרך שנושים לריעים ומחזירים זה לזה. אלא שוזה לפניו ואמר לו ביראה וכבוד שלום עליך ה"ב. ואם נתן לו רבו שלום יחזיר לו שלום עליך רבי ומורי:

he should always refer to them with a pseudonym even after their demise. He must not salute his master or return among salutation in a manner companions give and return among themselves. The manner to salute a master is to bow before him and say to him in tones of awe and respect: "Peace be unto thee, my master!" If his master saluted him first, he should answer him: "Peace be unto thee, my lord and my teacher."

<sup>4</sup>Abodah Zarah, 27b; Sotah, 19a.

<sup>5</sup>Sanhedrin, 109a; Kiddushin, 31b and 32a; Berakot, 28b. C. G.

ידע באיסורו או מפני רשעו י"ל להפרישו ולומר לו דבר זה אסור ואפילו בפני רבו ואף על פי שלא נתן לו רבו רשות. שכל מקום שיש צדלול השם אין חולקין כבוד לרבו. במה דברים אמורים בדבר שנקרה מקרה אבל לקבוע עצמו להוראה ולישב ולהורות לכל שואל אפילו הוא בסוף העולם ורבו בסוף העולם אסור לו להורות עד שימות רבו אלא אם כן נשל רשות מרבו. ולא כל מי שמח רבו מותר לו לישוב ולהורות בחזרה. אלא אם כן היה תלמיד שדניע להוראה:

א"ר וכל תלמיד שלא הגיע להוראה ומורה הרי זה רשע שוטה וחס הרוח. ועליו נאמר כי רבים חללים הפילה וכו'. וכן חכם שדניע להוראה ואינו מורה הרי זה מונע חזרה ונתן מכשולות לפני העתים ועליו נאמר ועצומים כל הדעות (אלא ההלמידים

everyone whose master died may occupy a master's seat and teach the Torah, save if he be a disciple who attained judicial rank.<sup>6</sup>

4. A student who did not attain judicial rank but renders decisions behold him, he is a wicked, arrogant fool, of whom it is said: "For she hath cast down many wounded" (Prov. 7.26). Likewise a sage who attained judicial rank but does not render decisions, behold him, he is withholding the Torah, and distributes obstacles in the path of the blind, concerning whom it is said: "Yea, many strong men have been slain by her" (Ibid.). Those petty students who have been slain by her" (Ibid.). Those petty students who have

<sup>6</sup>Sanhedrin, 5b; See Berakot, 63a and b. C. G.

8. No deference should be given to a student in the presence of his master unless it was the custom of his master to treat him with deference. All manner of work which a man servant does for his master a student should do for his master. If, however, he happened to be in a place where he is unknown and he had no phylacteries on himself, fearing lest he be mistaken for a slave, he is not obliged to buckle on or remove his master's shoes. Whosoever prevents his disciples from rendering him service, deprives him of loving kindness and unyokes him of the fear of Him Who is in heaven. Any student who makes light of aught of all things pertaining to the honor of his master, causes the Shekinah to be removed from among Israel.<sup>1</sup>

9. If one beholds his master transgressing the words of the Torah, he should say to him: "Our master, you have instructed us such and thus." Whenever he quotes a lecture in the presence of his master, he should say: "So have you, our master, instructed us." He must not repeat aught of his master's teachings unless he mentions the name of the one who said it. At the demise of his master, he should rend all of his garments until his chest be exposed, and he should never mend the garments. Whereat are these words directed? Only respecting his true master, of whom he learned most of his wisdom; but if he did not learn from him most

<sup>1</sup>Baba Batra, 119a; Ketubot, 96b; Berakot, 26a. C.

6. So should he not remove his phylacteries in the presence of his master, and not lean but sit as if he were sitting in the presence of a king. He should not pray in front of his master, back of his master, or by the side of his master; needless to say, that he is forbidden to walk beside him. But he should distance himself behind his master, yet not straight back of him, when after he may pray. He should not enter a bath-house together with his master, and not sit in his master's place, and neither decide an argument in his favor when he is present nor destroy his argument. He should not sit in his presence until he will tell him to sit down, nor stand up before him until he will tell him to stand up or until he will obtain permission to stand up. When he is to take leave from his master he should not turn around with his back to his master, but step backwards, his face toward his master's face.<sup>1</sup>

7. He is obliged to rise up before his master when he will behold his approach from as far a distance as his eyes can see and remain standing until his master's figure will disappear; but he must not behold his full figure pass by and immediately thereafter sit down. A man is obliged to visit his master on a holiday.<sup>2</sup>

<sup>1</sup>Sanhedrin, 107b; Pesachim, 31a; Kiddushin, 31b; Yoma, 53a; Berakot, 28b. 35 C. G.

<sup>2</sup>Kiddushin, 32a; Sukkah, 27b. C.

own." (Pirke Abot, 4.15). And it is essential for a man to care for his disciples and to love them, for they are the sons who make life enjoyable, both, in this world and in the world to come.

13. The students increase the master's wisdom and broaden his heart. The sages said: "Much wisdom have I learned from my masters, more than that from my colleagues, but from my disciples more than from all of them combined." (Ta'anit, 7a). Even as a little fagot kindles the big one, so a small disciple sharpens the mind of the master to the end that he brings forth from him by his questions a beautified wisdom.<sup>13</sup>

#### CHAPTER VI

1. It is mandatory to respect every disciple of the wise even though he be not one's master, for it is said: "Thou shalt rise up before the hoary head and honor the face of the old men" (Lev. 19.32); the old man herein spoken of is, the old man who acquired wisdom. Whence onward is the obligation to rise before him applicable? From the time he will approach within four ells until he will pass by from in the front of him.

2. There is no rising up in a bath house, nor in a lavatory, for it is said: "Thou shalt rise and honor", a rising up which is accompanied by honor. Working men are not obliged

<sup>13</sup>Makkot, 10a; Ta'anit 7b. C. G.

עליך כשלך. וצריך אדם להודור בחלמידיו ולאחובם שום הבנים המצנים לעולם הזה ולעולם הבא: ין החלמידים מוסיפין חכמה ודרכה ומרחיבין לבן. אמרו חכמים מחבירי ומחלמדי יותר מכולם. וכשם ששנן קטן מדליק את הנדול כך חלמיד קטן מחדד דרב עד שיצונו ממנו בשאלותיו חכמה מפורארה:

#### פרק ששי

א כל חלמיד חכם מצוה להודור ואף על פי שאינו רבו שנאמר מפני שיבה תקום והדרת פני זקן וזו שקנה חכמה. ומאמת הייבין לעמוד מפניו משיקרב ממנו בארבע אמות עד שיעבור מכנע פניו:

ב אין עומדין מפניו לא בבית המרחץ ולא בבית הבטא שנאמר תקום הדרת קימה שיש בה הידור. ואין בעלי אומניות חייבין לעמוד לפניו כשם שצריך לרב ללכת אחריו חלמדי ולקרב. כך אמרו חכמים ין כבוד חלמדין חביב

רוב חכמתו הרי זה חלמיד חכם ואינו חייב בכבודו בכל אלו הדברים. אבל עומד מלפניו וקורע עליו כשם שהוא קורע על כל המתים למד ממנו אלא דבר אחד בין קטן בין גדול עומד מלפניו וקורע עליו: יוכל חלמיד חכם שיעזותו מכונותו אינו מדבר בפני מי שהוא למד ממנו בחדל ממנו בחכמה אף על פי שלא למד ממנו כלום:

יא הרב המובדק שרצה למחול על כבודו בכל הדברים האלו או באחד מהן לכל חלמדין או לאחד מן המון הרשות בידו. ואף על פי שמחל חייב החלמיד להודור ואפילו בשעה שמחל:

יב כשם שהחלמידים חייבין בכבוד הרב כך הרב צריך ללכת אחריו חלמדין ולקרב. כך אמרו חכמים ין כבוד חלמדין חביב

to all of his disciples or to one of them, the discretion is in his own power. Nevertheless, the disciple is obliged to adore him even at the very time when he foregoes all honor due to him.<sup>11</sup>

12 Even as the students are obliged to honor the master, so is the master obliged to treat his disciples with deference and to draw them near himself. Thus said the sages: "Ever let the honor of thy disciple be dear unto thee even as thine 35"

<sup>11</sup>Kiddushin, 32a; Berakot, 27b; Mo'ed Katan, 27a; Baba Mezi'a, 33a. C.

<sup>12</sup>Pir. Ab. 5. 10 C.

<sup>13</sup>Kiddushin, 32b. C.

to create a provisional and new translation in the face of the newly available one is a move which has been discouraged.

Readings of hitherto untranslated Maimonides texts which cast significant light on his thought, thought patterns, and ideas will be considered infra.

We now proceed, however, to present Cap. 5 of the aforementioned translation.

3. Comments. (Numbers refer to page and line of the above text.)

256:2. A man is not commanded to honor his father in the Maimonides text, but rather he is commanded regarding the honor of his father. This is a fortuitous variation, since as it happens the command is that he shall indeed honor, but there seems little reason to change the reading of the Hebrew.

256:6. Unless the father referred to is the Father of Heaven, he did not "bring him to life" upon any world.

The corresponding English idiom for this literal Hebrew translation requires the definite article.

256:10. "Chances upon" is stylistically preferable perhaps to the original "saw".

256:12b. "Reclaiming" is supplied and possible.

"Redeeming", though equally possible, is not supplied.

256:32. The pious substitution "Heaven" is an attempt to avoid referring to "Him".

257:6. "Murmurs" here differs from "differs" in its connotation.

257:21. Is an error in the English rendition. What is condemned is not differing from one's master, but rather differing with him. The student differs from the master in that the student is not the physical master. He cannot help that. To differ with one, however, is another matter.

257:22. To "establish a school" as a reading for "qobhea lo Midrash" is a reasonable and supportable rendering of the technical term, but the editor has not established it or supported it, nor has he provided a means of identifying it as a technical term.

257:24. "Weyoshebh wedoresh" may mean "settle down to preach", or it may, particularly in view of the later readings in the cumulative literature of "yoshebh", call for a technical rendering.



257:26. "Render a decision" seems preferable to "teach" for a translation which incorporates the analysis in the text, and even to "decide", perhaps.

257:31. "Miles" in an English-speaking text amounts to an outright mistranslation of the Hebrew mil.

257:33. "Decide" here is both inconsistent with "render a decision" above and deceptive.

258:2. Authority is not the issue here, and does not appear in the Hebrew text. Whether this is privilege, licence, or duty is unresolved in Maimonides.

258:25. "Authorization" is the word he wants here, not "authority".

258:30. Is it "rank" or "capacity" which is addressed here? The question is not as resolved as the translation would make it appear.

259:1. "Their knowledge" is questionable as a reading.

Torah is often hypostatized to the present day, when semikoth considered infra enjoin men to "spread the Torah", akin to the usage of "spreading the Gospel". It makes perfect sense here to read that they have not "spread the Torah."

259:5 "Occupy a front seat " may not be as tenable  
as the notion of sitting at the bench, to employ the  
English idiom.

259:21. Jastrow inter alia suggests that the name is  
distinctive, not noteworthy name; it is not distinctive.

259:29. "Pseudonym" is a common reading here, but connotes  
in the English an idea which I find foreign to the Hebrew.

259: 36. "Lord" is incompatible with his previous renderings  
of his term, meaning "master".

260:18. Jastrow p. 476b would prefer "compromise"  
to "decide an argument in his favor" for Hebrew  
line 9, but I tend to prefer the present reading as  
more meaningful.

260:19. "Destroy" is not the connotation of the Hebrew.

260:29b. The text has been sufficiently free to this  
point so that the called-for subjunctive of the Hebrew sur-  
prises by its absence.

261:18. "Loving kindness" is even worse than "lovingkindness",  
which at least suggested a technical term. After Nelson  
Glueck's Das Wort Hesed im Alttestamentliche Sprachgebrauche,

neither one was called for.

261:24. Not "to be removed" but "to remove itself".

261:29. Shemu'ah in the technical literature is not  
always a "lecture".

261:34. "Heart", not merely "chest". One is emotional,  
the other anatomical.

261:35. Not "mend" but "baste".

261:36. Hardly his "true master"; this is a key definition  
of a technical term.

262:12. Dabhar may be word or thing here. The former  
does not seem to take as much sense.

262:24. The use of "An accredited Rabbi" loses the sense  
that this is the same technical term translated  
"his true master" above.

262:30. Not "adore". We are not dealing with a Roman  
Catholic sainthood here, and "adoration" as such  
is applied even by the earlier Christian tradition  
only to the Deity.;

262:30b. He does not passively "forego", but actively  
"waives" his honors due.

262:32. The inconsistent rendering of the same root  
as "to honor" and "to treat with deference"  
obscures the reflected relationship clear in the Hebrew.

263:21. "Beautiful wisdom" in a text which has gone out of  
its way to read smoothly to the English reader  
is a caricature of the Hebrew through over-literality.

and accurately selected that they were themselves treated as carefully as the Talmud itself, and became material for interpretation and exegesis (Yad Makaki, Rule 3)," as we shall see below.

Because of this failure, the most cogent<sup>332</sup> code of relative antiquity<sup>333</sup> cannot be conscionably approached in its direct simplicity by a modern halakist, but must be read at once both for what it has to say in itself and for what has been said about it.

### C. The Sefer Mizwoth Hagadol

#### 1. Background

The interweaving of the codical material is such that a foreselection of what shall come causes us to devote consideration at this point to the codex of Moses b. Jacob of Coucy,<sup>334</sup> a student of Judah b. Isaac<sup>335</sup> in the first half of the 13th century. Whereas we saw that the initial -title of the RIF, derived from his name, was applied to his magnum opus, with Moses of Coucy, of whom relatively<sup>336</sup>

little is known, the reverse is true, and he is denominated the SeMaG, from the title of his masterwork, the Sefer Mitzvot<sup>w</sup>/Hagadol<sup>337</sup>  
 338  
 (i. e., Sefer Mitzvot ha-Gadol).

## 2. Method

The Sefer Mitzvot<sup>w</sup>/Hagadol follows the respective division of the 613 positive and negative commandments outlined in Maimonides Sefer Hamitzvot<sup>w</sup>/h/ q. v. s., but whereas Maimonides is interested in a systematic exposition of the Biblical views and employs the rabbinical material only insofar as it is useful to an understanding of the Biblical views, again betraying the genius for systematization which is his hallmark, Moses of Coucy seems only to begin with the Biblical citations, and then to develop them through the rabbinical material, becoming more diffuse as he attains distance from the citation.

## 3. Purpose

Some hold that he wished merely to gain an audience, a hearing, for the opinions

of the Tosaphists as against the Spanish scholars,<sup>339</sup> but his effect was to increase the audience of the Maimonidean work, which he himself admired.

#### D. The Code of Jacob b. Asher

The most important of all codifiers aside from Maimonides<sup>340</sup> and the first recourse<sup>341</sup> to this day of the student halakist, is the magnificent Jacob b. Asher b. Yehiel, whose monumental Arba'a Turim has been introduced.<sup>342</sup>

##### 1. Background

About Jacob b. Asher b. Yehiel<sup>343</sup> very little is known. His codex, however, from which he himself is often denominated "The Tur" or more properly "Ba'al Haturim",<sup>344</sup> stands a monument to his systematic genius.

##### 2. Method

This is the first original systematic compendium of consequence since the Mishne Torah, and the division of subject matter which it propounds has become the model for almost all subsequent work.

##### 3. On the method of the Tur.

In Jewish juridical codification, we are now prepared to mention that historically speaking there are three possible ways of systematizing the material to be codified:

a. After the broad order of the Mishna~~x~~,

which is to say, in the six orders, <sup>345</sup>

(1) Zeraim, Agriculture, including

appropriate benedictions; prayers; on tithes; regulations of planting; Sabbath~~ical year~~;

(2) Moed, Laws of the Sabbath and all

festivals; obviation of some inconvenient Sabbath rules through legal means;

(3) Nashim, Laws of marriage and

divorce;

(4) Neziqin, Torts and damages in

civil and criminal law;

(5) Qodashim, Laws of the sacrificial

cult and the Temple; proper slaughter and consumption of meat (Hullin);

(6) Toharoth, Laws of ritual purity

and ~~uncleanliness~~, impurity,

b. After the order of the formulation of

the commandments of the Torah, <sup>346</sup>

which is to say, the 613 precepts as

formulated for example <sup>347</sup> in the



Maimonidean classic, Sefer Hamizvot:

- (1) Prohibitions, 365 answering to the number of days of the solar year; and
- (2) Mandates of positive action, 248 answering to the number of bones of the body.

c. After the luminous categorization of the Arba'a Turim, the "Four Pillars of Jurisprudence", which include:

- (1) Orah Hayyim, Ritual laws, liturgy, Sabbath, Holy Days;
- (2) Yore Deah, The prohibited and the permitted; 348
- (3) Ebhen Ha'ezer, Marital and family relations; and
- (4) Hoshen Hamishpat, Torts and civil law.

Of the three, once they had all been placed in evidence, that is, after the introduction of the last given,<sup>349</sup> this last has predominated; with the result that, whereas Maimonides' brilliant compendia of

Biblical law in ~~the~~ Sefer Hamitzvot<sup>w/h</sup> and the oral law in the Mishne Torah will by no means suffer de- traction, the most significant subsequent work of primary importance was substantially based on the "Tur" system, #3 above. A further cause militating to this end is that subsequent work done under this arrangement, by the very nature of the significance of the earlier work done in accordance with other codificatory systems, took such works into con- sideration, and, so to speak, incorporated them and their findings and often methods as well, with the result that the later building stands all the higher for having built upon the former. 350

Drawing upon his wide views of contemporary life, Jacob b. Asher created a code less compendious — and less bulky — than Maimonides, and elim- inated in a practical manner those areas of law which were inapplicable to current life. This was his intention, 351 and further, he intended to meet the dynamic structural changes in societal process which had become manifest in the time elapsed since the Maimonidean formulation. 352

Like the works before him, Jacob b. Asher soon became endowed with commentators, without whom it is impossible for a student halakist to approach the work. The essential and major commentators with the names of their treatises include:

1. Joseph Karo, the Beth Joseph; a critical exposition;
2. Moses Isserles, the Darkhe Moshe;
3. Joel <sup>S</sup>~~L~~irkes, the Bayith Hadash; and others,<sup>353</sup>

each of whom, among others, we shall analyze in turn along with their relevant work.

#### E. A Textual Analysis of an Area of the Jacob b. Asher Codex

In approaching this monumental work for close analysis, we may make use of an aspect of the semikah problem to serve as a thread, by following which we may find our way through the beautiful and complex tapestry spread before us.

# 1. The uses of semikah

We have seen that the true semikah vanished certainly with Hillel II in the 4th century.<sup>354</sup> What we call semikah today was more or less revived in the 12th century, and was never accepted as such by the Sephardim, who still call their teacher "Hakham" instead of "Rabbi".

It is clear that there could not be enough legal status for semikah in its true sense to be recorded in the Codes. If we take Freehof's The Responsa Literature<sup>355</sup> and look in the index under "Ordination", we will see most of the rabbinic material available on the subject.<sup>356</sup>

However, if we take ordination to mean hattarath hora'a in the modern sense, then there is something in the Codes which we can use and follow up. Freehof submits that in the Yore Deah # 242 of the Shulhan Arukh we will find concentrated all that there is"

on the right of a pupil to teach in relation to his teacher. If we take it in the large Shulchan Arukh, we will have all the references back and forth; if we take it exactly the same paragraph in the Tur Yore Deah and look in the inside column of the Beth Joseph, we will have a compendium of all the rabbinic sources. It is essentially in this procedure that we are engaged, and in the ramifications which might be expected to flow from it.

## 2. Text and analysis

The text of section 242 of Yore Deah of the Arba'a Turim by Jacob b. Asher b. Yehiel does not exist in an adequate <sup>357</sup> and available translation. The following translation, annotation, analysis, and criticisms, then, represent an endeavor which, it is hoped, others may wish to carry further. Because of the interlinkage of comments from various sources upon the Tur text, and because these secondary sources will themselves require analysis, the text has been set off into numbered paragraphs which are discriminated by the thoughts expressed.

It should be noted that the translation attempts to remain as literal as possible, and yet to be as free as necessary in order to communicate not only the sense of the passages themselves, but the verbal peculiarities which will form the bases for the comments of others. <sup>358</sup>

It should also be noted that almost all of the analysis and crossreferencing will henceforth take place in the notes, which should therefore be followed with extreme care. <sup>359</sup>

A Critical Reading of The Abra<sup>1</sup>a Turim, Yore Deah, 242

1. Just as a man <sup>360</sup> is commanded <sup>361</sup> regarding <sup>362</sup> the honor <sup>363</sup> of his father and the dread <sup>364</sup> of him, so he is commanded regarding the honor of his master <sup>365</sup> and the dread of him; and of his master even more than of his father, <sup>366, 367</sup> since his father brought him into the life of this world, but his master brings him to <sup>368</sup> the life <sup>369</sup> of the world to come, so that <sup>370</sup> there is no honor which compares to the honor of his master, nor any dread like his dread. <sup>371</sup>

Thus our sages have said, "Let the fear of your master<sup>372</sup> be as the fear of heaven,"<sup>373</sup> so that anyone who disputes<sup>374</sup> with his master<sup>375</sup> is as one who disputes with the Shekinah,<sup>376</sup> and anyone who makes rebellion<sup>377</sup> against his his master is as one who makes rebellion against the Shekinah, and anyone who murmurs<sup>378</sup> against him is as one who murmurs against the Shekinah, and anyone who disparages<sup>379</sup> his master is as one who disparages the Shekinah.

2. Who is considered disputing<sup>380</sup> with his master?

3. Anyone who establishes<sup>381, 382</sup> a Midrash<sup>383</sup> or sits and expounds or ~~decides~~<sup>384</sup> without the permission<sup>385</sup> of his teacher while his teacher is yet alive, even though his teacher be in another province.<sup>386</sup>

4. It is prohibited to a man to ~~be~~<sup>render a decision</sup> in the presence of his teacher<sup>387</sup> ever.<sup>388</sup> Anyone who does ~~decide~~<sup>389</sup> before him<sup>390</sup> deserves death.

5. Maimonides (1134-1204) wrote that if he is twelve parasangs<sup>391</sup> away from his teacher<sup>392</sup> and a

person<sup>393</sup> asked him a matter of halakah by chance,<sup>394</sup> he could answer.<sup>395</sup> But it is prohibited to establish himself<sup>396</sup> for decision (i.e., as a judge), to sit<sup>397</sup> and to teach (decide cases);<sup>398</sup> even if he be at the end of the world<sup>399</sup> he may not decide cases until his master dies<sup>400</sup> or gives him permission.<sup>401</sup>

6. My father,<sup>402</sup> R. Asher b. Yehiel (1250-1328, in Hilkhoth ha-Rosh) wrote regarding a mature (finished) student<sup>403</sup> within twelve<sup>404</sup> parasangs<sup>405</sup>, (that he) is worthy<sup>406</sup> of death<sup>407</sup> if he decides cases,<sup>408</sup> but beyond twelve parasangs (from his master), although he is prohibited, the penalty does not apply.<sup>409</sup>
7. A student colleague<sup>410</sup> within twelve parasangs,<sup>411</sup> is prohibited<sup>412</sup> without penalty;<sup>413</sup> beyond twelve parasangs he is permitted.<sup>414</sup>
8. It is not considered "decision" (of cases) unless he (actually) decides<sup>415</sup> a case which came before him;<sup>416</sup> but if they<sup>418</sup> ask a student, "According to whom (is the halakah),"<sup>419</sup> (that is, they ask him no decision but a cut-and-dried reference), then since he is not teaching (deciding) a case which came before him,<sup>420</sup> it is permitted to answer. (For example, if they ask, "Is the halakah in such a case according to Hillel or Shammai?" Then, knowing that the halakah follows Hillel, he may say so, since he is not deciding a case.)
9. And we do not call it "decision" except where there is a novel element<sup>421</sup> involved for the questioner;<sup>422</sup> (that is, this case is not cut-and-dried.)



but as regards a known teaching,<sup>423</sup> known to all,<sup>424</sup> for example as in a case of a prohibited food which may be permitted if it imparts a deteriorating taste (A.Z. 39b bot. et pass., 36a; the controversy is in A.Z. 67b, cf. Maim. Kedusha, Maakhaloth asuroth, 15:28), or the use of proscribed foods which have become mixed with permitted foods in proportion of less than 1:60 and may thus be overlooked, or similar cases,<sup>425</sup> which, when they are permitted (to the one who brought the question) are not considered a novel decision since the decision is well-known<sup>426</sup> such rulings are permitted.<sup>427</sup>

10. As to preventing a possible transgression,<sup>428</sup> for example if he sees a man transgress<sup>429</sup> through ignorance or malice,<sup>430</sup> he may warn him<sup>431</sup> and tell him<sup>432</sup> that it is prohibited even before<sup>433</sup> his master, for wherever there is profanation of the Name,<sup>434</sup> one (is not concerned to) does not<sup>435</sup> reserve honor for the master.<sup>436</sup>

11. A student<sup>437</sup> is forbidden to examine a knife<sup>438</sup> for slaughter<sup>439</sup> in the presence<sup>440</sup> of his master,<sup>441</sup> which would appear<sup>442</sup> as if he<sup>443</sup> assumed<sup>444</sup> dominion<sup>445</sup> in his<sup>446</sup> presence. For his own use,<sup>447</sup> if he desires to slaughter,<sup>448</sup> he may examine it<sup>449</sup> before him,<sup>450</sup> but any other decision,<sup>451</sup>

even for himself,<sup>452</sup> is prohibited before him.<sup>453, 454</sup>

12. Maimonides wrote,<sup>455</sup> not all whose teachers<sup>456</sup> died are permitted<sup>457</sup> to sit<sup>458</sup> and ~~teach~~,<sup>459</sup> but only a student<sup>460</sup> who has attained<sup>461</sup> to ~~decision~~. Any student who has not attained to ~~decision~~ and ~~decides~~ anyway<sup>462</sup> is foolish, wicked and haughty, of whom it is said,<sup>463</sup> "For many afflictions have been sent down."<sup>464</sup>

13. But any sage<sup>465</sup> who has attained to ~~decision~~,<sup>466</sup> and does not ~~decide~~<sup>467</sup> diminishes the Torah,<sup>468</sup> places stumbling blocks before the mass,<sup>469</sup> and it is said of him,<sup>470</sup> "All of her murdered ones are bound up." These are those small<sup>471</sup> pupils<sup>472</sup> who do not increase Torah as is proper,<sup>473</sup> but seek to magnify themselves<sup>474</sup> before the ignorant<sup>475</sup> and their townsfellows, and jump<sup>476</sup> and sit at the head<sup>477</sup> to judge and teach in Israel.<sup>478</sup> They increase controversies,<sup>479</sup> put the world to the sword,<sup>480</sup> extinguish the light of Torah,<sup>481</sup> and ruin the vineyard of the Lord of Hosts.<sup>482</sup> Of them Solomon<sup>483</sup> said, "The little foxes who<sup>484</sup> ruin the vineyards."<sup>485</sup>

14. A student<sup>486</sup> may not call<sup>487</sup> his master by name,<sup>488,489</sup> even in his absence,<sup>490</sup> even if the name be an unusual one<sup>491</sup> so that all would know he refers to "x".<sup>492</sup>
15. Nor may he<sup>493</sup> mention his<sup>494</sup> name before him,<sup>495</sup> even to refer to another<sup>496</sup> of the same name,<sup>497</sup> but he<sup>498</sup> should change the name,<sup>499</sup> if he<sup>500</sup> is not living.<sup>501</sup>
16. He should neither greet<sup>502</sup> nor answer greeting<sup>503</sup> of his master as the rest of the people do,<sup>504</sup> who casually greet<sup>505</sup> one another.<sup>506</sup>
17. He should wait in his presence<sup>507</sup> and say to him with dread<sup>508</sup> and honor, "Peace to you, my master."<sup>509</sup> Or, if his master greets him,<sup>510</sup> he should say, "Peace to you, my teacher<sup>511</sup> and my master."<sup>512</sup>
18. He should not ~~eat~~ <sup>Remove his</sup> phylacteries<sup>513</sup> before<sup>514</sup> his master<sup>515</sup> or eat<sup>516</sup> before<sup>517</sup> him,<sup>518</sup> but always handle himself<sup>519</sup> as one who sits before a king.
19. He<sup>520</sup> should not ~~stand~~ <sup>station himself in</sup> before<sup>521</sup> him or after him, nor at his side.<sup>522,523</sup> Needless to say,<sup>524</sup> he may not walk at his

his side.<sup>525</sup>

20. How then should he do?
21. When he prays with<sup>526</sup> his master, let him get far behind him,<sup>527</sup> and not direct himself<sup>528</sup> toward his back,<sup>529</sup> but turn a bit to another side,<sup>530</sup> and thus too<sup>531</sup> when he walks with him.
22. If two<sup>532</sup> are walking with him,<sup>533</sup> the greater of the two<sup>534</sup> walks behind him on the right, sideways,<sup>535</sup> and the lesser on the left.<sup>536</sup> Beyond four<sup>537</sup> cubits,<sup>538</sup> anything<sup>539</sup> is permitted.<sup>540</sup>
23. He does not go in with him<sup>541</sup> to the bath,<sup>542</sup> but if he needs<sup>543</sup> his service,<sup>544</sup> he may.<sup>545</sup>
24. He does not sit<sup>546</sup> before him until he tells him, "Sit!"<sup>547</sup> and he does not stand<sup>548</sup> until he tells him, "Stand!"<sup>549,550</sup> or until he takes permission to stand.<sup>551</sup>
25. When he leaves him,<sup>552</sup> he does not turn his back<sup>553</sup> on him, but retreats<sup>554</sup> with his face to his master's face.
26. He does not sit in his place<sup>555</sup> or contradict him in his presence,<sup>556</sup> or deny<sup>557</sup> his words.<sup>558</sup>

27. He must arise before him<sup>559</sup> when he sees him<sup>560</sup> from afar,<sup>561</sup> as far as the eye can see,<sup>562</sup> until he is hidden from his sight,<sup>563</sup> so that he cannot see him: then he may sit.

Even if he is riding,<sup>564</sup> he is as important (kemehalekh)<sup>565</sup> as the king, (as if he were walking),<sup>566</sup> and one must stand before him. Maimonides wrote, "A pupil who sits always<sup>567</sup> before his master is not permitted to rise<sup>568</sup> except morning and evening,<sup>569</sup> that his master's honor<sup>570</sup> may not exceed<sup>571</sup> that of the Shekinah.<sup>572</sup> These<sup>573</sup> are the words of R. Abbahu<sup>574,575</sup> who said,<sup>576</sup> "A scholar may only rise before his master morning and evening, that his honor<sup>577</sup> may not exceed that of Heaven.<sup>578</sup> And my father,<sup>579</sup> R. Asher B. Yehiel, wrote in accord with R. Isaac b. Jacob Hacoheh Alfasi (1013-1103), the RiF, Halakoth ha-Rif and did not bring the argument<sup>580</sup> of R. Abbahu. The thinking<sup>581</sup> of R. Isaac b. Jacob Hacoheh Alfasi, according to whom in the halakah,<sup>582</sup> is that he did not set a limit<sup>583</sup>

to the matter.<sup>584</sup>

28. Similarly,<sup>585</sup> R. Akiba<sup>586</sup> compared the dread of them<sup>587</sup> to the dread of Heaven,<sup>588</sup> and read,<sup>589</sup> "You shall fear the Lord your God" so as to include the sages. If<sup>590</sup> a man encounter the Shekinah<sup>591</sup> many times in a<sup>592</sup> day, he must<sup>593</sup> stand in dread and fear.<sup>594</sup>
29. Every service<sup>595</sup> that a servant performs<sup>596</sup> for his master,<sup>597</sup> a student performs for his master.<sup>598</sup>
30. And if he<sup>599</sup> is in a place<sup>600</sup> where they<sup>601</sup> do not recognize<sup>602</sup> him,<sup>603</sup> and he has<sup>604</sup> no phylacteries<sup>605</sup> on his head, and he fears that they will hold him<sup>606</sup> to be a slave, he<sup>607</sup> does not put on his<sup>608</sup> shoe or remove it.<sup>609</sup>
31. Anyone<sup>610</sup> who prevents his student<sup>611</sup> from serving him<sup>612</sup> prevents him<sup>613</sup> from mercy and withholds<sup>614</sup> from him the fear of Heaven.<sup>615</sup>
32. Any student who neglects anything<sup>616</sup> pertaining to the honor<sup>617</sup> of his master<sup>618</sup> causes the Shekinah<sup>619</sup> to depart from Israel.<sup>620</sup>
33. One does<sup>621</sup> not honor<sup>622</sup> a pupil<sup>623</sup> before<sup>624</sup> his master,<sup>625</sup> unless it be his master<sup>626</sup> who honors<sup>627</sup> him.<sup>628</sup>

34. If he<sup>629</sup> saw his master transgress a Biblical precept,<sup>630</sup> he says to him,<sup>631</sup> "You have taught me,<sup>632</sup> O my master<sup>633</sup> such and such."<sup>634,635</sup>
35. He does not say<sup>636</sup> a thing<sup>637</sup> that he has not heard<sup>638</sup> from his master<sup>639</sup> until he mentions<sup>640,641</sup> the name of the one who said it.<sup>642</sup>
36. When his master dies,<sup>643</sup> some hold<sup>644</sup> that he rends<sup>645</sup> his garments<sup>646</sup> until he bares<sup>647</sup> his heart, and never<sup>648</sup> bastes<sup>649</sup> them.<sup>650</sup>
37. R. Moses b. Nahman<sup>651</sup> holds that he only tears them<sup>652</sup> a handbreadth.<sup>653,654</sup> He observes all of the laws<sup>655</sup> of mourning (abheluth)<sup>656</sup> and some of the laws<sup>657</sup> of the first day.<sup>658</sup> This was the conclusion<sup>659</sup> of my father, R. Asher b. Yehiel.
38. All of these things<sup>660</sup> by which he is to honor his master are only said<sup>661</sup> when his master is distinguished,<sup>662</sup> and most of his knowledge<sup>663</sup> is from him,<sup>664</sup> either<sup>665</sup> in Torah,<sup>666</sup> or Mishna<sup>667</sup> or Talmud.<sup>668</sup>
39. But if he did not learn most<sup>669</sup> of his wisdom<sup>670</sup> from him,<sup>671</sup> then he is like a<sup>672</sup> student colleague,<sup>673</sup>

and he need not honor<sup>674</sup> him with all these things,<sup>675</sup>  
 but stands before him<sup>676</sup> when he comes within  
 four cubits,<sup>677,678</sup> and tears the garment<sup>679</sup>  
 and never bastes it,<sup>680</sup> just as for<sup>681</sup> his master  
 who is distinguished,<sup>682</sup> even if he learned<sup>683</sup>  
 from him only one thing,<sup>684</sup> great or small.<sup>685</sup>

40. Any scholar<sup>686</sup> of the same opinion<sup>687</sup> may  
 not expound<sup>688</sup> before<sup>689</sup> one who is greater<sup>690</sup>  
 than he in wisdom,<sup>691</sup> even if he did not learn<sup>692</sup>  
 from him.<sup>693</sup>

41. That is,<sup>694</sup> if the distinguished master<sup>695</sup>  
 wishes to waive his honor<sup>696</sup> in all these things<sup>697</sup>  
 or one of them<sup>698</sup> for all his students or one of  
 them<sup>699</sup> he may do so<sup>700</sup> even though the master  
 (thus)<sup>701</sup> makes<sup>702</sup> the student forgo<sup>703</sup> the  
 commandment<sup>704</sup> of honoring him.<sup>705</sup>

42. Just as<sup>706</sup> the students are responsible<sup>707</sup>  
 to honor the master,<sup>708</sup> so the master is responsible  
 to honor<sup>709</sup> the students,<sup>710</sup> and to bring them  
 near,<sup>711</sup> as the sages said, "Let the honor<sup>712</sup>  
 of your students<sup>713</sup> be dear to you as your own." <sup>714</sup>  
 A man<sup>715</sup> should guard<sup>716</sup> his students and love<sup>717</sup>



them, them, for they are his sons<sup>718</sup> who give pleasure<sup>719</sup>

in this world and in the world to come.<sup>720</sup>

43. Students add<sup>721</sup> to the wisdom of the teacher<sup>722</sup>

and broaden his heart;<sup>723</sup> our sages said, "I<sup>724</sup>

learned much<sup>725</sup> from my masters,<sup>726</sup> more from

my colleagues,<sup>727</sup> and from my students<sup>728</sup>

more than all of them;" for just as the small

twig ignites the great, so the small<sup>729</sup> student

penetrates<sup>730</sup> the master with his questions

until exceptional wisdom issues from him.<sup>731</sup>

44. Between<sup>732</sup> the pecuniary<sup>733</sup> loss of his

father<sup>734</sup> and the loss of<sup>735</sup> his distinguished

master,<sup>736, 737</sup> the burden<sup>738</sup> of coming to the

assistance of<sup>739</sup> his master<sup>740, 741</sup> preceeds that

of his father.<sup>742</sup>

45. If both of them<sup>743</sup> were bearing physical<sup>744</sup>

burdens, he gives rest<sup>745</sup> the burden of his master

and then<sup>746</sup> that of his father.

46. If both of them are captive,<sup>747</sup> he redeems<sup>748</sup>

his master and then redeems his father.<sup>749</sup>

47. But<sup>750</sup> if his father was a sage,<sup>751</sup> then he

redeems his father first.<sup>752</sup> Maimonides wrote,<sup>753</sup>

"If he was a sage,<sup>754</sup> even though he be not equal<sup>755</sup> to his master, he returns his loss<sup>756</sup> and then the loss of his master."

48. My father, R. Asher b. Yehiel,<sup>757</sup> wrote, "As to the matter of redeeming<sup>758</sup> him or unburdening him, his father, if he was a sage, preceeds even if he was unequal to his master,<sup>759</sup> but as to the matter of returning his loss,<sup>760</sup> he<sup>761</sup> does not preceed unless he was equal to his master.<sup>762</sup>

49. His loss<sup>763</sup> preceeds that of his father or of his master.<sup>764</sup>

It is necessary that we have before us an extensive and intensive analysis of the Tur<sup>765</sup> as it is universally called, not only because of its above mentioned primacy as a codex in itself, but because subsequent work is so intimately based on it that a thorough investigation of it provides a substantial basis for an appreciation of what is being done in, and what problems are faced by, subsequent writings.

For the same reasons, and for the further reasons detailed in text and notes supra immediately prior to

the Tur text, the analysis per se has almost totally been carried out in the notes, which may on the one hand lead to seemingly compendious notation, but which seems the simplest and most efficacious manner of coping with the problems of analysis and ongoing crossreference discussed at the opening of the Tur text. It is neither possible to derive the benefits of these considerations regarding the Tur text nor regarding the texts to come without constant reference to these comments, which are an integral part therefore of the text of the present consideration.

#### F. An Introduction to Some Implications of Primacy for the General Acceptance of Legal Codes.

The legal codes with which we are dealing, it is now possible to see, may be divided into two broad groupings;

1. "Source" codes, whose treatment, systems of organization, sources of information, material presented, or case conclusions are in a sense original and essentially

analogous to what in textual higher criticism is designated "primary" material; and

2. "Resource" codifications, whose treatment, systems of organization, sources of information, material presented, or case conclusions are essentially analogous to what in textual higher criticism is designated "secondary" material.

Just as it seems valuable to avoid the possible value implications of the terms "primary" and "secondary" which give higher critics so much trouble,<sup>766</sup> so too here, it seems reasonable to explain what may seem an arbitrary division of codical material, because this division, in fact, has served as one of the most nearly prominent bases for discriminating the historical values of codes in competition.

The magnificent codex of Maimonides serves admirably<sup>767</sup> as an example of what we are calling a "source" code. Although it may not be in its totality original, the Maimonides ultimately represents in frequent case decisions the thinking of its author. Selection of buttressing material is another criterion of distinction, which Maimonides manifests negatively by providing none.

It seems to follow that the apparent if not the historical intention of a "source" code, and perhaps of the Maimonides code itself, is not merely the synopsis of previous or contemporary work but the provision of an independent codex, often systematized under original structural lines.

An example of what we are designating a "re-source" codification is the brilliant text of R. Jacob b. Asher. In contradistinction to the Maimonidean effort, it is manifest that the Arba'a Turim, while it may not totally restrict itself to presenting previous material, tends to guide itself by the guidelines laid down for it,<sup>768</sup> and has been so historically accepted. R. Joseph b. Ephraim Karo's monumental Beth Joseph, seen for a moment as a codification rather than in emphasis of it as a commentary, presents perhaps an even sharper picture of a text whose major emphasis is upon systematization and transmission, upon synopsis and clarification, of the thoughts and even frequently the organizations of thoughts which are the products of minds other than that of the writer.

The secondary distinction must be made explicitly, and has already been made implicitly, between a "code" and a "codification". This meaningful and significant<sup>769</sup> distinction is more often honored in the breach than in the observance, even in the present context:

1. A "code" is properly a formulation which presents a system of legistic material as a primary source;<sup>770</sup> whereas for our purposes,
  2. A "codification" is essentially a formulation of previous material.<sup>771</sup> Seldom is a legal formulation either purely a "code" or a "codification", either a "source" or a "resource"; rather, legistic formulations tend to combine the two tendencies, and are classed either by the dominant tone of the presentation, or, since we are dealing with sources which have historic implications, by the subsequent interpretation of its tenor.
- We may, therefore, in combining the two standards of terminology, classify a text such as the Maimonides

as a "source code", and the text of R. Jacob b. Asher as a "resource codification". Maimonides, in other words, is seemingly interested in producing a code, admittedly reflecting historical rabbinic thought,<sup>772</sup> whereas R. Jacob b. Asher is seemingly more nearly interested (and this is even more conspicuously true for R. Joseph Karo) in formulating in accessible form the organization and thinking which is notably not basically his in origin.<sup>773</sup>

If we consider what have been the historical implications of the qualitative distinctions between a source code and a resource codification, a major discriminating pattern emerges. In spite of the luminous structure of the Ara<sup>b</sup>'a Turim, it is manifest to some observers that the organization of the Maimonides "code" is structurally superior to that of the R. Jacob b. Asher "codification". Yet the Maimonides "codification" has occupied nowhere near the primacy in the historical picture of the development of the ongoing halaka that the R. Jacob b. Asher "codification" has.

R. Joseph Karo's Shulhan Arukh is an outgrowth

of the same author's Beth Joseph and both of them, and untold reams of subsequent codical material,<sup>774</sup> may seek enlightenment at the mouth of Maimonides, but they follow the method and pattern of the Arba'a Turim.

We are suggesting here that the reason for this eventuation in the subsequent halaka development was in great part due to the fact that the Yad Hahazaqah was accepted as a "source", whereas the Arba'a Turim was conceptually taken to be a "resource". Subsequent work would seemingly have to be built on the resource,<sup>775</sup> which manifestly laid the basis for that subsequent work in the past, on the foundations of the halaka itself, rather than on the source, which called what proved historically to be too great a degree of attention to itself.

It may be for this reason that the decisions of Karo, which are to this day primary resources (not sources) for the student of halaka, although they were based on R. Isaac Alfasi, Maimonides, and R. Jacob b. Asher equally, nonetheless follow the organization of the last of these.<sup>776</sup>



## G. The Codical Commentary of Joseph b. Ephraim Karo

R. Joseph b. Ephraim Karo was the last great codifier of rabbinic Judaism.<sup>777</sup> It is impossible to approach the work of R. Jacob b. Asher without giving due consideration to R. Joseph Karo's exhaustive treatment of that work, which has in itself become an authoritative document, and the basis for what is probably the single most widely employed document of rabbinical authority in current use.

### 1. Background

About R. Joseph b. Ephraim Karo, as opposed to R. Jacob b. Asher, a great deal is known. He was born in Spain or Portugal in 1488, and died in Safed on March 24, 1575.<sup>778</sup> After the Spanish expulsion of 1492, Karo eventuated via Ottoman Europe to Adrianople, where the famed mystic Solomon Molko,<sup>779</sup> who may have been instrumental in stimulating Karo's ongoing dialogues with the personified Mishna, known to him as the "Magid",<sup>780</sup> was practicing. Karo's platonic romance with the Magid lasted the better part of his life, and may have contributed to his eventuation

at Safed, <sup>781</sup> at which he arrived a scant three years <sup>782</sup> before R. Jacob Berab's celebrated intercourse <sup>783</sup> with R. Levi ibn Habib and the former's attempt to reinstitute the legitimate semikah, <sup>784</sup> which the latter frustrated.

For all his mystical tendencies, or perhaps because of them, Karo fell under the influence of Berab <sup>785</sup> and quickly became his student. He was a firm believer in his own and possibly Berab's destiny, and hailed and promoted the attempt to reestablish the legitimate ordination once again. <sup>786</sup>

Karo retains the honor of being, with de Trani and two others whose identity <sup>ies are</sup> ~~is~~ in doubt, <sup>787</sup> the recipients of the "true" semikah of Berab his master, whose influence over him is said to have been "profound". <sup>788</sup> The chain of Berab may have sundered in time, but not at Karo's fault. <sup>789</sup> He, at any rate, passed on the semikah to at least one student of his own that we know of, R. Moses Alshekh, <sup>790</sup>

and himself produced a codex<sup>791</sup> which achieved the highest authority<sup>792</sup> in subsequent time, and which we shall at length consider.

In addition to his unquestionable scholarly influence, R. Joseph Karo was a man of great political astuteness,<sup>793</sup> whose command of the forms and manipulative potential of authority<sup>794</sup> made him a head in his time of his community, and of the Safed sphere of influence.<sup>795</sup>

Karo's decisions carried great weight even with his adversaries,<sup>796</sup> and his authority was recognized during his lifetime.<sup>797</sup>

## 2. Method

The Beth Joseph<sup>798</sup> was begun in 1522 at, and Adrianople, and finished at Safed in 1542. The brilliant organization of the Arba'a Turim is followed throughout, and it is after the fashion of a textual commentary, but it is in fact much more. Each of 32 authorities,<sup>799</sup> from the Talmuds and the halakic Midrashim through R. Israel b. Petahya Isserlein, are

examined often critically on the points of the Tur and discussed. Karo looks upon the Talmudic and dissertative subsequent material not, as Maimonides, as a means to an end, as, of achieving a decision, but rather as an end in itself. Consequently, he presents the (epitomized) discussions of the critics and commentators in such a way that a serious student finds an index and representation of the most important critical literature on a given point of his discussion. It should be noted that, whereas

- a. Maimonides' choice of sources is limited to the Talmud, not even considering the Geonic literature, and
- b. R. Jacob b. Asher often does not cover the full range of available Talmudic material,
- c. R. Joseph Karo not only overhauls the Talmudic material, including archeological matter, but incorporates unbelievably wide ranges of contributions

of nearly all the significant ex-  
positions from the Talmudic time  
to his own, generally integrating  
and critically examining<sup>in</sup> many issues.

It is by no means accidental that his magnum opus  
has become a sine qua non for the halakic student.

Like Maimonides, who had his Aristotelian  
love,<sup>800</sup> Karo had his "Magid", but neither  
appears in the works of the men, who share  
a devotion to the Talmudic positions charac-  
teristic of rabbinism generally.

### 3. Purpose

R. Joseph Karo clearly states his purpose  
in the "Introduction" to the Beth Joseph  
the proliferation of halakic authorities in  
conflict, such conflict intensified by the  
high mobility of the times, militated on the  
one hand chaos of ignorance and on the other  
hand chaos of knowledge. The first was  
manifest in cases where persons untrained  
in a given tradition to which they were  
exposed sought an authoritative voice of  
guidance; the second was visible in the conflicts

of persons who brought any of several legal treatises, in the face of the multiplication of printed books, to buttress any positions they chose, or used such authorities to challenge positions. What was needed was a critical index to such materials.

In essence, we may say that whereas R. Jacob Berab failed to unify world Jewry around a spiritual nexus through the re-institution of semikah, R. Joseph Karo, his firm student, succeeded in a sense in carrying out the same ideal.

Methodologically, Karo reaches his critical opinions in two manners, one latent and one overt:

- a. Manifestly, he details where applicable the opinions of R. Isaac Alfasi, Moses Maimonides, and R. Asher
- b. Yehiel inter alia. In case of a disagreement, he proposes the opinion of any two of these who agree against the third.

b. Latently, he often decides on his own which position he will support in spite of his stated methodology.<sup>801</sup>

#### 4. Text and analysis.

The assumption of the following analytical summary rendition of the area of the Beth Joseph relevant to R. Jacob b. Asher's Arba'a Turim, Tur Yore Deah section #242, is that the text of the Tur is constantly available before the reader. The conciseness of the text infra and the dependence of the presentation, which substantially takes for granted a prior analysis of the Tur, is such that in the absence of the prerequisite work it is essentially of limited utility.

However, after such analysis,<sup>802</sup> the Beth Joseph is seen to be a brilliant illumination and, in the form of a commentary, even in fact a codification of the first water.

As in the analyses preceeding, we shall depend primarily upon the notes from this point for cross reference and other purposes.<sup>803</sup>

804

A Synoptic Reading of the Beth Joseph

1. Cf. Baba Mezia<sup>805</sup> (33a)<sup>806</sup> on end of Cap. 2;<sup>807</sup>  
cf. also Kerithoth 28a end.
2. Cf. Aboth Cap. 4.<sup>808</sup>
3. Cf. B. Sanhedrin,<sup>809</sup> Cap. "Heleq" (on Mishna #11), 109a.
4. Cf. Maimonides, Hilkoth Talmud Torah, Cap. 5;  
 but cf. Commensaries ad loc. who differs with Maimonides' definition.

R. Joseph Karo asks why R. Jacob b. Asher does not quote Maimonides at this point.<sup>810</sup>

5. Maimonides loc. cit.<sup>811</sup> explaining Cap. 1 of Sanhedrin 5b q.v., the narrative of Rabbi.<sup>812</sup> Cf. Ibid. story of R. Tanhum b. R. Ammi.<sup>813</sup> The reason for the 3 parasangs<sup>814</sup> here is that it was the breadth of the camp of Israel, cf. R. Solomon b. Isaac ad loc.<sup>815</sup>, who explains that since this was the breadth of the camp, no one would need come from further away to consult Moses.<sup>816</sup>

Cf. Cap. "Hada" (Sanhedrin 63a) s.v. "In the name of Raba",<sup>817</sup> which sets a code of permissions and penalties. Cf. Ibid. s.v. "in the name of Rabina"<sup>818</sup>  
 The talmid habher<sup>819</sup> is permitted to differ with the master (Ibid., in the name of R. Huna).



The Hagahoth Maimonith,<sup>820</sup> Hilkoth Talmud Torah<sup>821</sup>  
 #5 s.v. R. Maimon<sup>822</sup> and the Mordecai<sup>823</sup> on "Hadar"  
 (Sanhedrin 63a) hold that the prohibition depends on  
 whether the distinguished master was wont on occasion  
 to practice in that place.<sup>824</sup> Where this is not the  
 case, then outside of the 3 parasang limit<sup>825</sup> he  
 himself is permitted.

Tosaphoth on Sanhedrin loc. cit; makes the point that  
 he is permitted<sup>826</sup> even with his master's permission  
 within the 3 parasang limit, cf. Cap. "Aph-al-pi"  
 (on Mishna Kethuboth 5) 60b, which agrees,<sup>827</sup> s.v.  
 R. Abaye in the discussion where the order of author-  
 ities is set up (R. Yehudah preceeds R. Meir, etc.);<sup>828</sup>  
 also, s.v. R. Joseph on the opinion (Ibid.) of Rav  
 and Samuel in agreement.

R. Abaye's opinion would seem to hold that the  
 reason for avoiding the hearing of a case is not primarily  
defensus honoris magistrorum<sup>829</sup> but that one's  
 own decision not be subject to review.<sup>830</sup>

For concurrence of R. Solomon b. Isaac, cf.  
 R. Solomon b. Isaac ad loc.<sup>831</sup>

Where the master allows it, cf. R. Joseph Kolon<sup>832</sup>

Responsa, (shoresh)<sup>833</sup> #171, that authorization holds outside of 3 parasangs only.<sup>834</sup> Also, it is invalid for a full (complete) student,<sup>835</sup> who is not a student colleague,<sup>836</sup> even though he take permission from one master; he must obtain it from all his distinguished masters.<sup>837</sup> A student may not ordain others in the place of his teacher (Ibid.).

Tosaphoth to Sanhedrin 1 holds that R. Hiyya was not authorized to give permission to Rabh and Raba b. b. Hana in the town of Rabbi without his permission.

R. Joseph Kolon, op. cit., (shoresh) #117 holds that ordination can only be conferred by the teacher, but the teacher must ordain<sup>838</sup> (cf. on Cap. 1 at beginning of Sanhedrin 5a) s.v. Raba b. b. Hana, in the incident with the Exilarch, where<sup>839</sup> the one who did not teach him has no authority over him. He is a sniph peshita, or simple extension, of his ordainers.<sup>840</sup>

Also (shoresh)<sup>841</sup> #170<sup>842</sup> elaborates this as simply compulsion.<sup>843</sup>

Maimonides holds that a student colleague may teach even before him.<sup>844</sup> (Cf. Maimonides loc. cit. end, s.v. "In another case...if he did not learn." He seems to hold that Ravina's answer to R. Ashi, "I am a student-colleague of Mar,"<sup>845</sup> indicates that as a student colleague he may teach before him.<sup>846</sup>

R. Isaac Alfasi in relating this incident of Ravina does not condemn R. Ashi, which is prima facie evidence that he rejects the view proposed by Tosaphoth<sup>847</sup> and R. Asher b. Yehiel.<sup>848</sup>

Maimonides' definition of a student colleague has been given (Maimonides loc. cit.).

R. Joseph Kolon (shoresh #170) defines a student colleague as one who was a student and then became wise and was a colleague.<sup>849</sup> He need not be as wise as his teacher. The opinion of Maimonides differs, since he would question<sup>850</sup> if he learned most of his wisdom from this master, then, when he becomes for his own part wise and great, what is his status?<sup>851</sup> But any who learned some and not most of his wisdom from him may be considered his student colleague.<sup>852</sup> This opinion of Maimonides agrees with that of R. Joseph Kolon on the end of Cap. "Mi Shemeth" (on Mishna Baba Bathra 9) 158b, s.v. Ben Azzai, there described as a student colleague of R. Akiba, where he was first his student and later his colleague.<sup>853</sup>

6. Thus also R. Asher b. Yehiel on Cap. "Hadar" (on Mishna Sanhedrin 11), in agreement with Hagahoth Maimonith Cap. 5, Hilkoth Talmud Torah of Maimonides in the name of R. Isaac.<sup>854</sup>

7. Thus the Tosaphoth and R. Asher b. Yehiel on Cap. "Hadar" (on Mishna Sanhedrin 11) and Hagahoth Maimonioth<sup>855</sup> in the name of R. Simeon quoting R. Isaac.<sup>856</sup> Further, thus the Hagahoth Maimonioth<sup>857</sup> quoting R. Maimon<sup>858</sup> that all the Geonic decisions may be taught while his rabbi is yet alive, but nothing on his own authority, or reliance on his own evidence, e.g., for comparisons of cases.<sup>859</sup>
- Just as (Ibid.) it is forbidden to teach before the sage, so the sage is enjoined<sup>860</sup> from permitting the restricted.<sup>861, 862</sup> (Baer Hetebh<sup>863</sup> notes that R. Joseph Kolon (shoresh #170) writes on teaching before his master, even though R. Isaac of Corbeil writes, quoting R. Samuel Edels, "In Tannaitic and Amoraic times, etc."; he disagrees with the other commentators.)
8. A memra<sup>864</sup> attributed to Raba.
9. Quoting the incident of Ravina in Babylon, cf. supra. Were R. Ashi to have been his distinguished master, he could not have prohibited the knife before him.<sup>865</sup>
10. Ibid. s.v. "Amar Rabh", where it is permitted to a rabbinical student.

11. Thus R. Asher b. Yehiel loc. cit. distinguishes between permitting an explanation and forbidding a decision of issur weheter.<sup>866</sup> R. Isaac Alfasi and Maimonides consider that he may not prohibit the knife before his master. That any other teaching<sup>867</sup> is forbidden, cf. R. Joseph Kolon (shoresh #170) signif. Cap. "Elu tereph<sup>9</sup>th" (on Mishna Hullin 3) 40b and Cap. "Kol Gagoth" (on Mishna Erubhin 9) 94a, that a sage may not teach in the place of his colleague against the opinion of his colleague. That is, in the actual city of his colleague. But outside the city and the 3 parasang limit he may, since the other sage is not his master. Ibid. also relates that when two litigants come before a great master and there is a resident master, i.e., an old and exceptional master who lives in the city, then the guest master may not adjudicate without the permission of the master in residence.

I would distinguish between teachings of prohibition and teachings of money,<sup>868</sup> since the resident may not be competent in all aspects of (civil) law,<sup>869</sup> but this does not apply to teaching of prohibitions

and permissions.<sup>870</sup>

This touches also on blessings of the bridegroom and the bride, and it seems to me that if the fathers of the bride and groom want the guest master to bless, the resident cannot obviate this privilege but the guest may not interfere with the livelihood of the resident.<sup>871</sup>

We learn of an incident in (Sanhedrin 63a) s.v.

R. Elazar of Hagronia and R. Aha b. Tahlipha; they visited R. Aha b. R. Iqa in the city of R. Aha b. Jacob. There R. Aha b. Tahlipha demurred from interfering with the prerogative of "the Elder", R. Aha b. Jacob (R. Solomon b. Isaac ad loc. holds that the prerogative is the "honor" of the elder), since this would be tantamount to calling his competency into question in that he was not asked. Now we do not ask a sage to prohibit a knife,<sup>872</sup> and therefore his competency would not be threatened.

Yer. (on Mishna Niddah 2) Cap. "Kol Hayad" s.v.

R. Hanina<sup>873</sup> (who was resident in Sepphoris and who did not counsel with R. Johanan and R. Levi<sup>874</sup> who were in authority there) makes the point that one should not adjudicate a case which is in the least unclear to him unless he takes into counsel with

himself the sages of the city.<sup>875</sup>

Cf. Yerushalmi end of Cap. 1, Moed Qatan, where R. Yona seeks his colleague's counsel,<sup>876</sup> providing an example of one "not haughty to teach."<sup>877</sup>

12. The whole section beginning here is derived from Cap. 5 of Maimonide's Hilkoth Talmud Torah.
13. End Cap. 1 Abhoda Zara 19b s.v. R. Aba quoting R. Huna quoting Rav, with R. Solomon b. Isaac ad loc. s.v. hipilah, sent down. S.v. "bound," they bind themselves.

Based on R. Solomon b. Isaac, R. Reuben b. Nissim Gerondi concludes that one may never (until forty years of age) teach in a town in which is resident one greater<sup>878</sup> than he; but cf. Maimonides Cap. 5 Hilkoth Talmud Torah who does not discriminate age or status,<sup>879</sup> an omission also in R. Isaac Alfasi ad loc. (how long should Raba have hesitated to teach in the presence of R. Uri? Would his waiting until forty years mean that one should wait until forty years of age in the presence of a great teacher, or only that for the forty years that Raba waited no one should have taught? If one interprets according to

the second reading,<sup>880</sup> it would explain why Maimonides does not deal with the passage.)

In fact, we have not these days the problem of too many competent teachers that<sup>881</sup> we must decide which should restrain themselves. Our problem is that of incompetents seizing the authority to teach. In the fact of this, a competent man dare not withhold himself from teaching, lest an incompetent man will teach in his stead.<sup>882</sup>

14. Cf. Cap. "Heleq", (Sanhedrin)<sup>883</sup> an epicurean<sup>884</sup> practice; cf. Ibid. s.v. R. Nahman, quoting R. Yohanan on the condemnation of Gehazi for this reason. R. Solomon b. Isaac ad loc. allows the use of the proper name in the formula "my master, R. "X" but decries the untitled name.<sup>885</sup>
15. Even to mention it casually, cf. Maimonides, Hilkoth Mamrim #6. But cf. Hilkoth Talmud Torah #5, which seems to me less probable.
16. Cap. "Tephilloth Hashahar" (on Berakoth 4); R. Solomon b. Isaac ad loc. holds that he means omitting the title, agreeing with Maimonides. In any case, the student does not speak first. For Hagahoth Maimonioth



and R. Asher b. Yehiel cf. Darkhe Moshe.<sup>886</sup>

17. From Cap. "Heleq" (Sanhedrin) 101b, comparing him to a king; cf. Tur Orah Hayyim #38.

18. Maimonides means that he may not sit in his presence except as he would sit before a king (Maimonides loc cit.).

19. Cap. "Tephiloth Hashahar" (Berakoth) 27a s.v.

R. Yehuda quoting Rabb; R. Solomon b. Isaac ad loc.

supplies "opposite his master as well", lest they appear equal in stature, "behind his master" lest he appear to adulate him.<sup>887</sup>

The Shebhile Haleget <sup>9</sup>#43 holds that the prohibition only holds in private.<sup>888</sup> In public he may worship opposite<sup>889</sup> him.<sup>890</sup>

20. Cf. Yoma Cap. "Amar lahem hammemune" 37a

(on Mishna 4) s.v.R. Judah, that one who walks on his master's right is a boor.<sup>891</sup> The present practice is outlined there.

Maimonides writes <sup>H</sup>(Milkoth Talmud Torah Cap. 3, beginning, cf. Cap. 5) that it seems based on respect and convenience.<sup>892</sup>

The prohibition of praying near the master may be to avoid passing before him (distracting him).<sup>893</sup>

21. Beginning of Cap. "Maqom shenahagu" (Pesahim 4)

51a; cf. Maimonides Hilkoth Talmud Torah #5 which permits it as obvious, based on Cap. 21 of "En ben" (on Mishna Ned<sup>g</sup>rim 4) <sup>894</sup>

22. Maimonides Cap. 5 of Hilkoth Talmud Torah; cf.

Memra in Yoma Cap. "Hoziu lo" 43a (on Mishna 5).

23. Ibid., cf. Tur Yore Deah #240 on the father, <sup>895</sup> how much the more so more so here. It follows that it is permitted in his absence, however.

24. Section beginning here is from Cap. 1, Qiddushin 33a.

25. Rashba Responsum *draws a parallel to a case where the Torah is held in a different assembly* ~~"which is that a man"~~, <sup>896</sup> from the congregation.

cf. Shebhile Haleket #43 referring to Cap. 1 of

Qiddushin on the practice of R. Elazar to R. Judah

his master, out of respect for public view. But one

follows the practice of a guest master in regard to

his own master's honor. But cf. Cap. 1 of Qiddushin s.v.

Samuel, in a comment to R. Judah; thus a son need

not honor his father ~~if his master does not~~ <sup>897</sup> ~~if~~ *does not*

as there in the case of Samuel with R. Ezekiel.

Maimonides writes (Hilkoth Talmud Torah Cap. 6)

that one who sits always <sup>898</sup> before his master need

- not always rise,<sup>899</sup> referring to Cap. 1 of Qiddushin (33b) comment of R. Abahu<sup>900</sup> ad loc. on sages rising only morning and evening;<sup>901</sup> R. Tam<sup>902</sup> on Tosaphoth holds that he must rise even 100 times<sup>903</sup> a day unless he is in the academy<sup>904, 905</sup> and similarly the Mordecai<sup>906</sup> quoting R. Yohanan on the basis that he interrupts his study.<sup>907</sup> Here Maimonides seems to follow the Tosaphoth, R. Isaac Alfasi, R. Asher b. Yehiel.<sup>908</sup>
26. Section beginning here all from Cap. "Almana Nizoneth" (on Kethuboth 11) 96a.
27. Maimonides Cap. 5 of Hilkoth Talmud Torah, as we learn in "Tephilath Hashahar" (on Berakoth 4), p. 7a.
28. Conclusion of Gemara in Cap. "Yesh Nohalin" 119b (on Baba Bathra 8), as also R. Isaac Alfasi and R. Asher b. Yehiel on Cap. 1 of Qiddushin.
29. Maimonides Hilkoth Talmud Torah #5; cf. Tur Yore Deah #240 on the honor due father.<sup>909</sup>
30. Cf. Cap. "Tephilath Hashahar" (on Berakoth 4) with comment of R. Asher b. Yehiel ad loc. cf. Maimonides loc. cit.

31. Cf. Maimonides loc. cit., also Cap. 9 of his Hil koth Abhel, in accord with the Tannaitic teaching at the end of Moed Qatan, s.v. "Weal rabbo shelimdo torah." The citation of R. Nahman<sup>910</sup> in Torath Haadam<sup>911</sup> draws a heqesh<sup>912</sup> from Cap. "Elu Megalehin" (22b) s.v. R. Hiyya b. Aba, quoting R. Yohanan, with the comment of R. Solomon b. Isaac to the gloss of R. Hisda ad loc., where the issue is public as opposed to private mourning, and the upshot is that his master is classed as a parent. R. Asher b. Yehiel on "Elu Megalehin" argues with the opinion of R. Nahman.<sup>913</sup> Maimonides would then hold that until he bares his heart completely he cannot baste, rather than baring merely a handbreadth, so that it be actually rent in twain.

Maimonides in Cap. 9 of his Hilkoth Abhel holds that all must mourn a sage even if they were not his students. This comment puzzles R. Joseph Karo.

32. Cf. Mishna "Elu Megalehin": when R. Yohanan died, R. Ammi sat<sup>914</sup> for seven days and observed sheloshim. Says R. Aba son of R. Hiyya b. Aba,<sup>915</sup> R. Ammi<sup>916</sup> was his personal servant. Says R. Hiyya b. Aba<sup>917</sup> quoting R. Yohanan,<sup>918</sup> even his master is mourned

only one day;<sup>919</sup> and R. Nahman<sup>920</sup> writes that one mourns<sup>921</sup> with removal of shoes (shibha) and the rest of the laws of abheluth, and so Maimonides in Cap. 9 of Hilkoth Abhel. I hold that basting is permissible,<sup>922</sup> and that one day mourning as for a distant report of a close death<sup>923</sup> is sufficient, as for the Nasi.

R. Asher b. Yehiel writes that he observes all laws of abheluth as of a distant report. But this text is not clear.<sup>924</sup> Cf. Tur #374 at the end, where he writes that he removes his shoes for one who taught him wisdom.<sup>925</sup> Cf. also #340 which argues with the present usage. Yerushalmi Cap. "Mi shemetho" (on Berakoth 3) compares his master to his own dead lying before him, cf. end of section #374 in the Tur,  
Yore Deah.<sup>926</sup>

33. The end of Cap. 2 in Baba Qama 33a, where R. Meir<sup>927</sup> is quoted to speak of his master in wisdom rather than in Torah or Mishna,<sup>928</sup> R. Yehudah is more permissive,<sup>929</sup> and R. Jose extends it to one who taught him anything, even one Mishna.<sup>930</sup> R. Solomon b. Isaac ad loc. extends it to the reasoning of one of Maimonides in Cap. 5 Hilkoth Talmud Torah, where one who establishes himself as a student

Mishna, i.e., "Talmud".<sup>931</sup>

34. R. Yohanan<sup>932</sup> holds the view of R. Yehudah,<sup>933</sup>  
and R. Shesheth<sup>934</sup> that of R. Jose.<sup>935</sup> R. Asher b.  
Yehiel<sup>936</sup> follows R. Yehudah as did Maimonides in  
Cap. 5 of Hilkoth Talmud Torah,<sup>937</sup> and also R. Joseph  
Kolon, Responsum #170<sup>938</sup> (but cf. end of Cap.  
"Elu Meziioth" (on Baba Bathra 2) with R. Solomon  
b. Isaac ad loc.) holds that "the essence of the  
rabbinate depends on pilpul,<sup>939</sup> but as to what is done  
today, it takes up much time and I see no rabbinate  
in it."<sup>940</sup>

35. As a pupil. In the academies, however, they would  
sit constantly before them.

36. As a pupil. So R. Asher b. Yehiel on "Elu Megalehin".<sup>941</sup>  
So (cf. on Cap. 1 of Qiddushin, opposed to Ulla)  
R. Reuben b. Nissim Gerondi and the Nimmuge Joseph.<sup>942</sup>  
Cf. Sabbath 105b: all Babylonians showed this  
honor to each other. But Nahmanides<sup>943</sup> <sup>cited</sup> in Torath  
Haadam<sup>944</sup> demurs from this practice. R. Reuben  
b. Nissim Gerondi would have even the great honoring  
the small, so also Nahmanides, opposed to the opinion  
of Maimonides in Cap. 5 Hilkoth Talmud Torah, cf. supra,  
where one who establishes himself as a student

colleague is entitled thereby to (limited) honors; this conflicts with his Cap. 9 of Hilkoth Abhel which follows the Tannaitic position of Cap. 1 Qiddushin 33a that all join in mourning a sage, and rise for him.<sup>945</sup>

Rising to honor is to R. Joseph Karo applicable within the four cubit radius, but to Abaye this is only for one who is not a distinguished master.<sup>946</sup> For a distinguished master he must arise as far as the eye can see. R. Solomon b. Isaac, R. Asher b. Yehiel, and R. Reuben b. Nissim Gerondi hold that he must arise and tear garments,<sup>947</sup> etc., for a distinguished master in the Babylonian usage.<sup>948</sup> Nahmanides holds that this is the practice for a master who is not distinguished.<sup>949</sup> Since Maimonides is not clear on this, the present practice may be for his master who is not distinguished.

From this it appears that R. Jacob b. Asher in the Tur is not clear as to what practice applies to Babylonian sages and their masters who are not distinguished, or to the position of Maimonides and Nahmanides who would have the student rend for one who taught him even a little thing, and not baste, cf. R. Joseph Kolon ( ) #170.<sup>950</sup> Also the problem of for whom one rises at sight distance<sup>951</sup> is unclear.

37. Mishna Aboth Cap. 5.

38. Cf. Cap. 1<sup>952</sup> Qiddushin (32a), a controversy of Amoraim. R. Isaac Alfasi and R. Asher b. Yehiel hold the sugya<sup>953</sup> to resolve according to R. Joseph who holds that a master may waive his prerogatives, and thus also Maimonides in Cap. 5 of Hilkoth Talmud Torah, where a gezerah shawa<sup>954</sup> permits the student to observe the forms nonetheless.

39. The section beginning here is from Maimonides Cap. 5, Hilkoth Talmud Torah.

40. Mishna<sup>955</sup> Aboth, Cap. 4.

41. A memra of R. Hanina, Cap. 1, Taanioth (7a).

42. Cf. the Mishna at the end of Cap. 2 of Baba Me<sup>3</sup>xia (33a).

His father will understand concern for his master if it is only a matter of loss. But if life may be involved, his father preceeds. The other is a matter of honor, and his master has precedence.

But cf. the end of Tractate Kerithoth (28a) where both father and son are liable for the honor of the master. The matter needs further clarification.



43. Cf. Cap. 5 Hilkoth Talmud Torah of Maimonides — a puzzling comment.<sup>956</sup> The Tannaitic source is that if his father was equal, he does not do it, cf. Maimonides Hilkoth Gezelah Weabhedah Cap. 2, supported by Hagahoth Maimonioth ad loc.

Does he mean his distinguished master or can he refer to a student colleague here? No Mishnaic or Talmudic source gives who is not a distinguished master precedence over a father, although the term rabbo<sup>957</sup> is used alone, without qualification.

44. Cf. end of Cap. 2 Baba Mezia loc cit. If the sage is not his master, cf. Tur#244 in Yore Deah.<sup>959</sup> On customs of students and masters, cf. Tur Ibid. #246.

On tutelages and student conduct cf. R. Yerusha<sup>in</sup>

Toledoth Adam v'ehava #2

N. B. Cap. 1 of Nedarim (8b) s.v. Ravina.

From what I have written, you will see that the words of R. Jacob b. Asher are not altogether precise; he does not differentiate between a scholar of Babylonia and his master who is not distinguished, and this is so as well to some extent with Maimonides and Nahmanides.

As to the matter of rending clothes, he wrote that even if he learned only one thing from him,

large or small, he never bastes. If this is about his master who is not distinguished, then he contradicts himself. Surely the meaning is that it does not refer, in accord with universal usage, to his master who is not distinguished, that he tears and does not baste.<sup>960</sup>

If it refers<sup>961</sup> to a scholar who is in Babylonia, R. Solomon b. Isaac and R. Asher b. Yehiel and R. Reuben b. Nissim Gerondi do not mention a Babylonian scholar at all in their comments. Further, if this was the intent, he would have written that one should rise before him as far off as one could see him, as they in fact hold.<sup>962</sup>

And even though R. Joseph Kolon wrote in (shoresh) #170<sup>963</sup> that even for a master who is not distinguished one does not baste the rending, he had already clarified that this was the opinion of R. Hiyya<sup>964</sup> merely and of R. Eliezer b. Joel Halevi who follow R. Jose, but those who follow R. Yohanan<sup>965</sup> hold that he may baste.

45. Any scholar<sup>966</sup> of the same opinion should not speak before one greater than he in wisdom, etc. Cf. Mishna  
Cap. 5 Aboth.<sup>967</sup>

46. There is a dispute<sup>968</sup> of Amoraim in Qiddushin (32a).

R. Isaac Alfasi and R. Asher b. Yehiel both write on it, and their dispute seems resolved according to the opinion of R. Joseph, who holds that the master who wishes to dispense with his honors may do so.<sup>969</sup>

This agrees with the interpretation of Maimonides,

Hilkoth Talmud Torah Cap 5. As to that which is

written, that even though the master dispenses, it

is a mizwah incumbent upon the student to glorify

him,<sup>970</sup> it is also in Maimonides loc. cit.

47. Quoted from Maimonides Hilkoth Talmud Torah Cap. 5.

48. "Our sages said, let the honor etc." Aboth 4. <sup>971</sup>

49. From a memra of R. Hanina, Ta'anith (7a).

50. Cf. Baba Mezia Cap. 2 (33a): of the loss of his father

and the loss of his master (sic), the loss of his

master takes precedence. If his father was balanced<sup>972</sup>

against his master, the loss of his father takes pre-

cedence.<sup>973</sup> If his father and his master were

bearing a burden,<sup>974</sup> he unloads his master's and then

he unloads his father's. If his father and his master

were standing in the captives' garrison, let him redeem his master and afterwards redeem his father.<sup>975</sup> But if his father was a sage, then let him redeem his father and then redeem his master.

R. Asher b. Yehiel writes that "it seems for redemption of souls<sup>976</sup> we do not require equivalence<sup>977</sup> as for captivity." And this is the meaning surely of that which we learn in the Tannaitic stratum,<sup>978</sup> that we hold in the one case, "if his father was balanced against one who was the equivalent of his master," whereas in the other case we hold, "if his father was a sage."<sup>979</sup>

The reason of the case is that in redemption they are in physical danger, so that as regards his father, if he is a sage, even though he be not the equal of the master, he is responsible to save his soul from before the destroyer before any man; but as regards his loss, which is only an economic loss, especially if he is not the equal of his master, if he will act against his father slightly, it is not so bad.

As to the case when they are bearing a burden, the point is that even if his father is the equal of

his master, the master preceeds since there is neither physical danger nor economic loss but merely a need to release him from his toil; thus here we deal with honor alone, and he is responsible for the honor of his master more than of his father.<sup>980</sup> But as we learn in the Tannaitic source at the end of Cap.

"Kerithoth" (28a) if the son was worthy before the master,<sup>981</sup> then the master preceeds the father in every case, since both he and his father are responsible for the honor of his master:

But we have not learned this,<sup>982</sup> since this argument implies that<sup>983</sup> the honor of his master preceeds that of his father when his father is balanced against his master; whereas since his father is not obligated as regards the honor of the master, he need not give precedence to the honor of his master over that of his father.<sup>984</sup> The matter requires, to me, further clarification.

As to that<sup>985</sup> which the master<sup>986</sup> (R. Jacob b. Asher) wrote citing Maimonides, it is in Cap. 5 of Hilkoth Talmud Torah. And certainly his words are surprising since we learn explicitly in this Mishna, "and if his father was the equivalent of his master, then the loss

of his father takes precedence," which harbors the clear implication that if he is not equivalent, then the loss of his master takes precedence.<sup>987</sup> Further, he (Maimonides) writes himself<sup>988</sup> (Hilkoth Gezelah Weabhedah Cap. 2), "if there is a conflict between the loss of his master and that of his father, if his father was the equal of his master, then that of his father preceeds, and if not, then that of his master preceeds. This applies if his master be distinguished, so that most of his knowledge of Torah he has learned from him."<sup>989</sup>

The Hagahoth Maimonioth writes that according to the opinion of Maimonides in Hilkoth Gezelah Weabhedah is the principle which agrees with the halaka, whereas the opinion recorded in his Hilkoth Talmud Torah is a scribal error.<sup>990</sup> One of the sages, a grandson of Maimonides, writes in order to harmonize the contradiction that that which appears in Hilkoth Talmud Torah treats of a case where his master was not distinguished, but this does not seem to be the meaning to me from the words of Maimonides at that point, since towards the end of the same Cap. he writes in a tangential matter "of his distinguished master, from whom he has learned most of his wisdom; but if he has not

learned most of his wisdom from him, then this is a student colleague, etc." which indicates that until now he has been dealing with the distinguished master.

Furthermore, we have found neither in Mishna nor in Gemara that there ever accrue to his master who is not distinguished any precedence over his father, for in the Tannaitic stratum it merely states "his master", and assuredly it refers to his distinguished master, since had it referred to a master of no distinction, he certainly would not have been called merely "his master";<sup>991</sup> further, we have the argument in the Gemara of R. Yohanan who interpreted in accord with the opinion of R. Judah from the Tannaitic teaching of "his master who taught him wisdom etc."<sup>992</sup>

He teaches, "What is the definition of 'wisdom'?" It means, most of his wisdom." Further, on that Mishna with which he was dealing, the Talmud states, "Our rabbis taught, "his master" refers to that master who taught him wisdom, etc." Certainly here we are dealing with his distinguished master.<sup>993</sup>

Furthermore, we learn there, said Ulla, sages who are in Babylonia rise one before the other and tear for each other, but as regards loss in the place of his father, they always return to<sup>994</sup> his distinguished

master, which indicates that his father even though he is not a sage preceeds his master always when his master is not distinguished, and this accords with the interpretation of Maimonides<sup>995</sup> in the Commentary to the Mishna ad loc. to Mishna loc. cit. on his master, who is specifically distinguished. So that it is possible to reconcile the contradiction of the words of Maimonides and to examine carefully that in Hilkoth Talmud Torah he writes "he saw the loss of his father, and the loss of his master" whereas in Hilkoth Gezerah Weabhedah he writes, "the loss of his master conflicts with the loss of his father."<sup>996</sup>

This is to say that in Hilkoth Talmud Torah he treats a case where he saw the loss of his father before, and then he saw the loss of his master; since even though he saw the loss of his father first, even though (since) he could do nothing about it before he saw the loss of his master, he therefore (nonetheless) is responsible to give precedence to the loss of his master.

In any case, what is important in this matter is that he saw his father's loss first, for if his father had been a scholar, even if unequal to his master, he would take precedence, since the student saw



him first.<sup>997</sup>

And in the Hilkoth Gezelah Weabheda Maimonides deals with a case where the two losses are together in conflict. Consequently, even if his father be a sage, if he is unequal to his master, the latter's loss takes precedence.

However, there is no principle enunciated in the Gemara which would bear on this dispute. As a result, it seems as maintained by the Hagahoth Maimonioth that there is<sup>998</sup> a scribal error in Hilkoth Talmud Torah and we may take on principle the resolution in Hilkoth Gezelah Weabheda .

51. From the Mishna, end Cap. 2 Baba Mezia loc. cit.

As to a sage who is not his master, in what way is he obligated to honor him? R. Jacob b. Asher has taken up this matter, Text, Yore Deah #244.

As to the customary behavior of a master with his students and of his students with him, R. Jacob b. Asher has written in art. #246. The rest (supplement) of the laws of honor of the master and the instruction of a sage, how a sage is to conduct himself, cf.

R. Yeruham; loc. cit. (Caro often cites R. Yeruham's Toledoth Adam Wehawa, divided into Nethiboth, "paths"; in # 2 and # 3, Zerachya Halevi quotes Meir Halevi.)

Cap. 1 Nedarim (8b) s.v. Ravina, who had a vow of <sup>999</sup> his wife and came before R. Ashi, etc.

v. in hoc loc, from which we learn that he would not invalidate vows <sup>1000</sup> in the place of his master.

Maimonides writes in Cap. 6 of his Hilkoth Shebuoth that this applies where there is one greater than he; in this case, how shall we apply this? For in this case, Ravina was the student colleague of R. Ashi, as we know from Cap. "Hadar" (63a) and even so he would not loose the vow himself of his wife but came instead before R. Ashi; and we learn further in the same case of a "ban even in the place of his master."

R. Asher b. Yehiel explains that it is established for us in Cap. "Hadar" that a student may ban (Jastrow: "excommunicate") <sup>1001</sup> before his master in a place where there is "Profanation of the Name." That is to say, here, even in the place of his master, the ban is valid for we do not delay regarding this until he goes before his master. <sup>1002</sup>

R. Simeon b. Zemah writes in his Responsum #122 that when he mentions his master within a twelvemonth, <sup>1003</sup> he must say, "May I be the atonement for his resting

place." We may learn <sup>1004</sup> it for this by an argumentum  
a fortiori based on the case of his father. <sup>1005</sup>

And thus it appears to some of the sages who,  
 when they mention their masters in their books,  
 speak in this manner, saying, "Thus wrote my teacher,  
 the master so-and-so, behold, I am the atonement  
 for his resting place (abbr: H-K-M ).

We learn in the last Cap. of Eruvin (99a) that  
 R. Simeon b. Laqish <sup>1006</sup> said, he who spits (explanation  
Ibid.: brings up mucus and expectorates it) before  
 his master deserves death, as it is written, "All them  
 who hate me, etc." <sup>1007</sup> Read not, "Them who hate me,"  
 but "Them whom I hate." <sup>1008</sup> And of the case of the  
 one who is forced to spit and expectorates (because  
 he has eaten certain foods, not in insult), R. Solomon  
 b. Isaac explains ad loc. that if he had to spit it out  
 before his master he should rather have gotten away  
 from there or have swallowed it in concealment.

<sup>1009</sup>  
 It is written in Terumath Hadeshen #43 that in the  
 case of a student who sees his master about to eat  
 something prohibited by rabbinical prohibition,  
 it appears from two places in the Talmud that he

need not warn him, and he<sup>1010</sup> rejects the evidences.

He writes at the conclusion of his words, "In any case after we have produced evidence from two places, even though he rejected him, he should not search<sup>1011</sup> so much." It is written at the end of Orah Hayyim, "If a man quarrel with his neighbor... they stripe<sup>1012</sup> him because of the disgrace."<sup>1013</sup> But reasonable to me seems that which is said in the Gemara to Hullin (124a), "If this were said by Joshua b. Nun I would not follow it;" but they did not say, "if Moses had said it."<sup>1014, 1015</sup>

#### H. A Methodological Note on the Uses of Texts

##### 1. Historical criticism and attendant scotomata.

Perhaps it is true to the spirit of the unfolding halaka that the thoughts of the earlier works, such as the Tur, should find their clarification in later works, such as the Beth Joseph. Certainly and admittedly it is a method which compromises the historical process,<sup>1016</sup> which would dictate that, just as we feel quite free to disregard the later interpretations of a Biblical verse in the rabbinical literature when we seek its meaning in the Biblical period, and just as we are quite

prepared to disregard the Biblical meaning of a verse in context when we analyze its meaning in the rabbinic mind, so too we should determine the meaning of the Tur on a given subject without reference to the work of Joseph Karo. Similarly, were we to follow the historical method slavishly, we should search for the meaning<sup>1017</sup> of Karo without reference to the later expositors with whom we shall in turn deal; in fact, we should have to search for the meanings inherent in his Beth Joseph with a conspicuous abstention from the employment of his Bedeq Habayith, which is a later work of a later time by a later and more developed Joseph Karo.

## 2. Halakic Criticism and Attendant Scotomata.

However the halakic methodology which we have been employing does not follow this method slavishly. It feels free to take from previous works when these works shed light on later statements,<sup>1018</sup> and this is in accord with the method of the objective historian, provided that the earlier works were available to the later writers. Further, however, it deviates from historical methodology

in that it may employ later works to expound the meaning of earlier references. This it may licitly do, since the referent of the method is not what the work meant only to the author, but certain aspects of what it came to mean to the unfolding halaka, and to obtain this, it is not only licit but inevitable that Karo should serve as the key to Jacob b. Asher, and that Isserles should become the passkey to both. If we do not always manage to balance the historical interest with the halakic one, it is in part because their methods are antipodally opposed, and cross-analyses, be they even<sup>r</sup> so extensive, cannot even in the hands of a highly accomplished scholar reconcile them totally. Yet a procedure which undertakes one methodology to the neglect of the other is falsifying to the extent of that neglect both of them. The sincere student of the magnificent achievement of the Rishonim can only attempt to strike a delicate balance between them, emphasizing first one, and then the other, in an attempt more to indicate than to demonstrate. (It was not meant to be an independent work in the sight of its writer.)

cast light on one another, and hope<sup>1019</sup> that he

will not permit one to dominate the other to the point that the shadow of the one will obscure the reality of both.

In this manner, and following this ideology, we have attempted to use the Beth Joseph not merely as a text in its own right, but as an illumination; an illumination, we must add, not only of the Tur as such, but of the ideas reflected in the Tur which are undergoing flux and development, almost like living things with a life of their own, and which shall emerge again and again as time goes on.

It is in this spirit and through this reasoning that we now turn our attention to the Bedeq Habayith of R. Joseph b. Ephraim Karo.

#### I. The Supplementary notes of R. Joseph b. Ephraim Karo

The magnificent achievement of the Beth Joseph has overshadowed, and perhaps properly so, the work of the Bedeq Habayith. As the name of the latter demonstrates, it was not meant to be an independent work in the sight of its writer.

1. Background.

R. Joseph Karo's own structural situation has been sufficiently dealt with in connection with the Beth Joseph.

2. Method.

It would have been possible for Karo, or anyone in such a situation, had he conceived of himself as composing an independent work, to follow either of two methods.

a. Extensively, one may add to the material presented, increasing references point by point and elaborating the points made;

b. Intensively, one may analyze the material already there, without the intention of adding to it after the fashion of continuing a thin, straight line in a geometrical manner, but after the analogue of thickening the line as it stands.

*A Synoptic Reading*

1. R. Hirsch

Such an analysis might probe into the relations of the various citations among themselves, and how they contribute

2. R. Yerushalmi

brings up the case where there is evidence from



R. Joseph Karo's method here<sup>1020</sup> partakes of both methods above, and the reason for his eclecticism is manifest in his purpose.

### 3. Purpose

Karo did not seem to see his purpose as the creation of a separable text in the Bedeq Habayith.

Nor did he apparently wish to deviate from the method of the Beth Joseph, which is in itself an eclectic one, following the above dichotomy.

Karo seems to have understood the whole point of this text to have been the supply of oversights in particularly apparent areas of the greater and earlier text, which was the basis for not only this, but the Shulhan Arukh. It is this earlier text, the Beth Joseph, which he considered his life-work, and the function of the present text was merely to polish it.

### 4. Text and analysis.<sup>1021</sup>

#### A Synoptic Reading of the Bedeq Habayith

1. R. Hisda<sup>1022</sup> on R. Abaye's reason,<sup>1023</sup> cf. the argument there of R. Hamnuna.

2. R. Yeruham in N.B. in the name of R. Moses Isserles brings up the case where there is evidence from

the Torah or the words of the Sopherim, the case depends upon whether the evidence is used to back up the halaka, when it is permissible, or to confound it, when it would be heretical.

3. The Hagahoth Mordecai Cap. 1 (on Yebamoth)

poses the case where one prohibits himself that which is permitted, which would normally be unobjectionable, and concludes that it might cast suspicion on the

acts of another who does not prohibit himself the act in question; cf. R. Solomon b. Isaac thus on the controversy of Beth Hillel and Beth Shammai in

Yebamoth 15a. R. Yeruham Op. cit. #3. quoting

R. Meir b. Todros Halevi Abulafia<sup>1024</sup> on the end

of Cap. 1 Yebamoth loc. cit. s.v. R. Abaye on

vaccination, the principle of clear authority which

forbids two Botte Din in one city, that this applies

to<sup>1025</sup> one which follows Beth Hillel and one which

follows Beth Shammai. Rabba clarifies that any

Great Synagogue would dominate, but here the case

is where the Botte Din vacillate. Maimonides at the

end of his Hilkoth Akum holds with R. Abaye and R. Yeruham

in (nethibh) #2, s.v. "Raba". He writes following

heaven.

the opinion of R. Meir b. Todros Halevi Abul<sup>2</sup>fia  
that they may practice in each others' presence when  
they are not of divided counsel. Cap. "Haarel" (Yebamoth 77a), Cap. "Yom Tobh" (Rosh Hashanah

70b), Cap. 'Nosein' (Yebamoth 98a) hold that it  
depends on what is proposed: does it agree with the  
practice? Tosaphoth on Cap. "Haarel" (Yebamoth 77a)  
makes it depend on whether he is involved in the  
decision (in which case he is not followed).

R. Yeruham in N. <sup>#2</sup> 1026 siding with R. Meir b. Todros  
Halevi Abul<sup>2</sup>fia holds that even if the decision is  
given after the case has arisen it is reliable since  
the matter might not come up academically. If one  
sage prohibits, another may not permit (Cap. 1 Hilkoth Akum 7,  
Cap. "Elu Terephoth" Hullin 44a) following the comment  
of R. Reuben b. Nissim Gerondi ad loc. and R. Yeruham  
in N. <sup>2</sup> 1027 and R. Joseph Kolon (shoresh) #172.

R. Yeruham and R. Reuben b. Nissim Gerondi continue  
that this applies only when they are of equal stature  
in Halaka.

4. And R. Solomon b. Adret in a responsum<sup>1027</sup>  
supports Akiba that the fear of his teacher be as that of  
heaven.

5. Cap. 1 Moed Qatan 9a we say that a student who has separated<sup>1028</sup> from his master and remains overnight in the same city must take leave of him a second time.<sup>1029</sup>

J. The Commentary of R. Moses b. Isserles.

1. Background.

R. Moses b. Isserles, known as the ReMA from the initials of his name, b. Cracow c. 1520, d. there May 1, 1572, is nearly as influential as Karo himself.<sup>1030</sup> An outstanding authority in his own time, his epitaph reads,<sup>1031</sup> "From Moses<sup>1032</sup> to Moses<sup>1033</sup> there was none like Moses."<sup>1034</sup> He alternately agreed with and disputed with his relative and fellow pupil R. <sup>S</sup>olomon Luria. He was, like Maimonides, strangely attracted to philosophy, and treated the study of it<sup>1035</sup> with deference and honor. He honored Maimonides, and studied Greek philosophy against Luria's objections,<sup>1036</sup> mainly from the texts of Maimonides,<sup>1037</sup> who himself had not read the Greek philosophers.<sup>1038</sup>

3. His Criticism of Karo, which he tried to remedy through his Mappa Hagahoth<sup>1039</sup> was that the Iberian

sage had neglected the Ashkenazi practices and authorities in setting his "prepared table," and therefore Isserles prepared a "tablecloth" to cover these.

Isserles was in a way to the Ashkenazim what Karo was to the Sephardim, and in his Darkhe Moshe he is, like Karo, writing a commentary on the Tur, which, because of the time of its composition, is able to make an occasional reference to Karo as well.

## 2. Method

The Darkhe Moshe may be seen as a parallel to the Beth Joseph, and the derivative Mappa Hagahoth may be seen as a parallel in its turn to the Shulhan Arukh. What one did for the Sephardic community and authorities, the other did for the Ashkenazim.

Isserles bases his method, like Karo, on the common source, the Tur, and with cognizance of the work of Karo, attempts to fill the gap proceeding from that point.

## 3. Purpose

In addition to the above comments, we may say that Isserles does not merely want here to fill a

gap of authority in the Ashkenazic community,  
but also to exert the force of its authorities  
themselves, and to cause them to take their prominent place with the Sephardic leadership.

In working with the Karo text, here and later, Isserles is actually supporting the authority of the latter.

#### 4. Text and analysis.

In presumption of the prior material,<sup>1042</sup> an effort will be made that comments and points previously elaborated not be redeveloped in the following text and analysis unnecessarily.

#### A Synoptic Reading of the Darkhe Moshe

1. We may learn from this<sup>1043</sup> that he whose father is his master he calls "master" and not "father, my master".<sup>1044</sup> This is proven also by the beginning of Cap. "Hazahabh" (Baba Bathra 44a), where R. Simeon called his father, "rabbi"; it seems to me that this applies specifically where his father is a "distinguished master",<sup>1045</sup> but where he is not distinguished, then the paternal honor preceeds all others, as is explained in this article #242.<sup>1046</sup> Therefore he is called by the appellation, "father,

my teacher."<sup>1047</sup> And the same is the case  
infra<sup>1048</sup> article #246, regarding the sage who  
says of a meturgeman,<sup>1049</sup> "Thus said to me  
father, my teacher."

2. However as regards a student colleague who is  
not prohibited to teach before his master because  
of his honor but because it is forbidden to teach  
without permission,<sup>1050</sup> so that they may know  
that he does not err in his teaching,<sup>1051</sup> even  
if he takes permission from one master, it is  
sufficient.<sup>1052</sup>

R. Simeon b. Adret<sup>1053</sup> (Responsum #111)  
does not differentiate between a "distinguished"  
student and a "complete" student, but rather<sup>1054</sup>  
"within" and "without" the three parasang limit.

He holds<sup>1055</sup> that within three parasangs it is  
forbidden to teach because of the honor due  
his master, based on scriptural injunctions, and  
if he takes permission from one master he may  
not teach before the others. But beyond three  
parasangs, if he took permission from one master

R. Joseph B. ... brings evidence for this view from  
the case of R. Simeon b. ... and R. Yohanan:

it is sufficient.

And the same opinion is reflected in the Responsum #271 of R. Isaac b. Shesheth: that there is no difference here between a complete student and a student colleague; that even if he took permission from one master, he is prohibited from teaching within three parasangs, but beyond that limit he is permitted.

3. And thus have I found the opinion of R. Joseph Kolon of Pavia (the MaHaRiQ) ( ) #113, and similarly R. Isaac b. Shesheth has explained <sup>Resp.</sup> (~~simeon~~) #271: "but before him actually is, however, forbidden, since it is a display of disrespect for the teacher; but if it is not before him, even though it is within the three parasang limit, it is permitted."
4. Further clarification is needed as to just what logical conclusion (heqesh) the Master (Joseph Karo in the Beth Joseph) is drawing from the words of Maimonides<sup>1056</sup> who writes: "and if he learned most of his wisdom from him," when he becomes wise and as great as he, what will be the case. R. Joseph Kolon brings evidence for this view from the case of R. Simeon b. La<sup>9</sup>kish and R. Yohanan:



R. Simeon b. Lak<sup>9</sup>ish was a "complete" student of R. Yohanan, who was his "distinguished master," and furthermore, who ordained him; nonetheless, he used to dispute with him and teach before him in many places. This was only because he had educated himself and eventually became great.

The opinion of R. Isaac b. Shesheth (in <sup>Resp.</sup> ~~Siman~~) #271 agrees with this opinion of R. Joseph Kolon; further, he wrote in his General Introduction to Maimonides' Yad Hahazakah that if a student makes himself wiser than his master, he is no longer obligated regarding his honor to the same extent. Cf. also ibid., <sup>1057</sup> 4:14.

5. Cf. Legal Decisions of Israel b. Petahya Isserlein #238. If the student has permission to dispute with his master in some passage (decision) or teaching where he has textual evidence, then we see if the evidence is conclusive in support of the student's position and application of the evidence to the case at hand. If this is the case, why should he not dispute after this fashion? It is the manner of increasing Torah from the days of the Tannaim onwards. <sup>1058</sup>

6. And in the Responsum #247 of R. Solomon b. Adret of Barcelona, we learn that even if he drank a rebhi'ith<sup>1059</sup> of wine, he should not teach,<sup>1060</sup> but it is not prohibited for all that day except on a festival when we increase eating and drinking. In any case, if he had concentrated already on the halaka and the decision of the case,<sup>1061</sup> whether it be a permission or a prohibition,<sup>1062</sup> he is permitted to teach it,<sup>1063</sup> even immediately after feasting and drinking, even after a major feast as on a festival.

Accordingly, R. Joseph Kolon in his Responsum #170 writes that nowadays, any decision which is clarified in the poseqim<sup>1064</sup> is permitted to be taught by one who has drunk; and in the Torath Haadam #42 he<sup>1065</sup> writes, "one who drinks a rebhi'th of wine may not teach...this refers to their<sup>1066</sup> wines, which are strong, but of our wines,<sup>1067</sup> which are not so strong, he may drink and not be forbidden if he drinks only a rebhi'ith; but it is obvious that if he drinks a great deal,<sup>1068</sup> he is forbidden to teach. Even with a rebhi'ith one should be cautious and not teach except for

a very simple thing which he might have taught before his master.<sup>1069</sup>

In any case, when he drinks he may not teach it unless (Jastrow, Op. cit., p. 1438b on Sanhedrin 33b et passim) this is a case when you may say, "go and learn it (in the Bible) at school!"<sup>1070</sup> (i.e., an erroneous judgment of such a nature must be reversed); and the Sadducees (rejecting the rabbinic tradition) will accept it.

Cf. Tos. Shantz (Tosaphoth R. Samson b. Eliezer Shantz at the end of Cap. "Hayah Bodeqim" (on Sanhedrin 5, 42a) he writes: "one who drinks wine is permitted to judge civil cases, but this requires investigation, cf. ad loc." Cf. also Hoshen Mishpat section 7 dealing with cases of drinking; cf. infra text (Tur)<sup>1071</sup> #248, that a sage is not permitted to teach in the place of his fellow sage, and similarly whether he is permitted to conduct there (decide there with) authority, (rule) or authoritative counsel (rabhanuth) before the other sage; there is also to be found the case of the sage who prohibits, and whether his colleague is permitted to permit.<sup>1072</sup> and when a sage is considered faithful<sup>1073</sup> in his teachings.

7. And one may learn that it is permitted to mention his name<sup>1074</sup> as one may also mention "my master and my teacher."

8. And this is written in Toledoth Adam Wehaya,<sup>W</sup> (nethibh) #20. R. Reuben b. Nissim Gerondi, Gerona, 14th century, has written on Cap. 13 Moed Qatan (74a), "this case of a student who leaves his master and spends the night in the city, who must return and take from his master permission, this applies specifically when he has taken permission<sup>1075</sup> to go on that day, or to go on the next day whereas he remains an extra night.<sup>1076</sup> But if he originally took permission to go on the morrow, then he need not return and take permission, for it was with his master's knowledge that he would leave on the morrow that he obtained the original permission."<sup>1077</sup>

And the Roqeah<sup>1078</sup> writes in (<sup>Resp.</sup> ~~exman~~) #335,<sup>1079</sup> a master who sits at a feast is addressed, "by the permission of my teacher the master and my masters,"<sup>1080</sup> as we have found in Derekh-Erez Cap. #5, that a philosopher once greeted the sages of

Israel, leading off with Rabban Gamaliel first.<sup>1081</sup>

9. In the Hagahoth Maimonioth Cap. 6 s.v. R. Aha that the argument applies a fortiori if they were walking. And as to that which is said in Cap. "Shelosha She-akhlu" (on Berakoth 7, 47a) they do not honor on the paths but rather on the doorstep; at the mezuzah, according to the explanation of R. Jacob b. Meir son of R. Solomon b. Isaac who points out that<sup>1082</sup> the pictured two of them are not in one grouping, but each is going along by himself, so that one of them can hasten on to attend to his needs as he desires; but when they go together, then they must honor him in every place. The same is the opinion of the Tosaphoth in Cap. "Bameh Behemah" (on Sabbath 5, 51b). And according to the explanation of R. Yeeham in Cap. "Shelosha She-akhlu" (on Berakoth 7, 37b) and in the Mordecai loc. cit. it is written in the name of R. Asher b. Yehiel that he wrote that "in a place of danger, they do not honor."<sup>1083</sup>

10. The Mordecai writes in Cap. "Maqom Shenahagu"

(on Pesahim 4) in the name of R. Meir b. Barukh of Rothenburg, "To bathe with his father or with his wife's father, or the husband of his mother or sister, he knows<sup>1084</sup> no permission. However, I have repeatedly taught that it is prohibited, for there is no way to say that there it may be in a reservoir (where they would be together actually); but in our bath house it would be permitted, for on what grounds could we dispute?"<sup>1085</sup>

But R. Jacob b. Judah Weil<sup>1086</sup> wrote (<sup>Resp.</sup> ~~simon~~ #37) that "if he entered into the bath house before his master came in, then he need not leave,<sup>1087</sup> provided he was there first."

And in the Hiddushe Agudah<sup>1088</sup> Cap. "Magom Shenahagu" (on Pesahim 4), he writes that "A student should not bathe with his master; however nowadays, when we cover, there is no real mixture here, and they are therefore permitted to bathe together."

11. The same is written in Hagahoth Maimonioth Cap. 6 quoting R. Isaac of Corbeil; and it is written that

"he is not permitted to say that he is not culpable."

12. The Hagahoth Maimonioth writes on this (Cap. 8) s.v. "The master may waive." He states, that even if the master does not give honor to the student, only if he prides himself in that others confer honor on him, they confer honor <sup>1089</sup> on him before the master. Thus also has written Mordecai Cap. 3 on Qiddushin 74 in his section #459.

13. Nahmanides writes <sup>cf.</sup> ~~in~~ (Torah Haadam ~~simon~~) #43 that even regarding a rabbinical prohibition, if he sees that his master wishes to transgress it, he should warn him, even if he is not sure that it is prohibited.

In any case, in an uncertain case of rabbinical prohibition, one is not so punctilious in examining it. <sup>1090</sup> It is written in Toledoth Adam Wehawa, (nethibh) #2, section 5, regarding a thing which is a Biblical prohibition, if one <sup>1091</sup> does an act so as to permit it, and one of his students knows enough to argue against the act, let him do so before the act is perpetrated; but if he sees a

violation of a rabbinic prohibition, then let him argue the case after the deed. This is plain from Erubhin Cap. "Hadar" (67b).

14. R. Israel b. Petahya (Isserlein)<sup>1092</sup> writes in his Decisions (siman) # 237, "As to that which is written, that is it the general custom to say that this one is the "master" of that one since he learned from him once a tosephta or an explanation, even though perhaps he learned more novellae<sup>1093</sup> from the "student" than the latter learned from him; yet one should not be so punctilious after this custom, because the customs<sup>1094</sup> of our fathers are law (Sandmel, Torah, prefers, "revelation"), and there is some small substantiation to be brought from the Tosephta to Berakoth but I have no leisure to extend the argument."

But cf. supra at the beginning of the text, where I defined a "student colleague." R. Isaac b. Shesheth writes in his Responsum #271 that the practice of semikah which is followed nowadays is not so that the ordinand will be able to judge



cases and if he err he will not be liable to counter-suit for damages, for we could not get such permissive exemptions from ordaining rabbis but only from the Exilarchs or their authorized representatives, from whom we would have had to take permission (reshuth): and even if we maintain that the Exilarch gave this permission to others, and the others passed it on to still others, even this would not be valid, since when the institution of the Exilarchate became invalid (batel), its representatives also lost the legitimacy or validity of their authorization.<sup>1095</sup>

(I.e., even assuming that the authority was passed down, it was ultimately the authority of the Exilarchate, which became voided when the institution itself passed out of existence.) All this is explained in Cap. "Kol Haget" (on Gittin 3. 29 b), that the authorization of the owner ceases when he dies.<sup>1096</sup>

We must therefore say that this semikah<sup>1097</sup> is only to show that the student has attained to instruction<sup>1098</sup> and is in our opinion permitted to teach outside of three parasangs.

In fact, he must teach, provided that he take

permission from his master or if his master give him permission<sup>1099</sup> to establish a collegium (Yeshibah) in any place and to expound and to teach to anyone who comes to ask, and that is when they call him the Master.

This is a case where he is as if he were not a student, but were fit to teach others in any place, and to be called master;<sup>1100</sup> for if the case is not like this, then I see no point to the semikah at all. It would seem that in any case, one whose master is not living need not take permission to function as a master since the injunction regarding his master is only in force as long as his master is living, but not after his death, for they only enjoined after the case related in Cap. 1 of Sanhedrin (4b).

Consequently, if his distinguished master died, he needs to take no permission, and a "student colleague" needs no permission,<sup>1101</sup> since they decided only in regard to his distinguished master.<sup>1102</sup> Therefore I was much astounded at one master, R. M. Halevi, who decreed that anyone who had not taken permission from R. Isaiah, his bills of divorce

and waivers of levirate marriage<sup>1103</sup> would be void.

Certainly if they were executed properly and according to the ordinances of our sages they would be legal and proper. Why would they be void?<sup>1104</sup>

And wherefore does anyone need to take permission from a rabbi in order to write a bill of divorcement or to deliver it? And why should not the same be the case with a waiver of levirate marriage?

If perhaps it might be because of what they held (Qiddushin 6a) "Anyone who does not know the nature of writs of divorcement and marital procedures should not meddle with them," the point here is not to be a judge of a marital case lest one permit a union of a prohibited degree of consanguinity (terwah, roughly "incest"); but as to a bill of divorcement, which is written according to its proper form,<sup>1105</sup> why should this be invalidated? Surely (cf. Gitin 2a f) "Anonymous documents of the judges according to tradition are acceptable",<sup>1106</sup> and they contain all the legal practices on the forms of the bill of divorcement, as the authors have ordained them."

However, in the Responsum of R. David Kimchi,<sup>1107</sup> (siman) #12, he writes that they are accustomed nowadays to employ the semikah in order to establish that the bearer is fit to teach, and so that not any one of the students might teach; therefore they customarily employ the semikah so that it will be known that anyone who is not ordained has not attained to instruction and may not be relied (lismokh) upon, unless he is known to be a great man who, because of his modesty, does not seek the recognition of greatness, or because of other reasons. But my heart beats (I suspect) that all the writs of divorcement which are executed in our time which are not done by an expert of public repute, of whom we are not informed by sages that he is a great man, are open to suspicion.

Furthermore, they are accustomed to use the semikah because a student is forbidden to teach in the presence of his master except if he have taken permission from him.<sup>1108</sup> How then shall we know that he has taken permission? Because they were called to him<sup>1109</sup> with the title MoHaRaR,

"Our Teacher, the Master, Rabbi..."

And all this is not according to the Nahalath Aboth, where is written, "the sages taught, he does not know the meaning of semikah at the present<sup>1110</sup> time," And R. Jacob b. Judah Weil<sup>1111</sup> wrote in his Responsum (siman) #85 and #128, that if he did not take permission and issued writs of divorcement, even post facto it is not considered a valid writ of divorcement. And we do not say regarding this, "Anonymous documents of the judges<sup>1112</sup> according to tradition are acceptable."<sup>1113</sup>

If he is known and recognized by all but has merely not taken permission, then his writs of divorcement are valid.<sup>1114</sup> Writes Maimonides in Hilkhoth Sanhedrin Cap. 4, "The Court must authorize (lismokh) the words of individuals, provided that they are worthy for all things.

How is that to be understood? An outstanding sage who is fit to teach the whole Torah, the Court would ordain him for certain things (lemiqzath), such as to try cases of civil law but not to teach cases of prohibition and permission of a ritual

nature,<sup>1115</sup> etc." But it appears that this applied specifically in their days, when semikah was customarily practiced; the semikah, however, of our times, is nothing at all but merely taking permission, and he who is fit, is fit.<sup>1116</sup>

15. And he writes in the Decisions of R. Israel b. Petahya (Isserlein) (siman) #157, that even if he waives it, it is in any case forbidden to dishonor him.
16. And R. Judah Hehasid writes in the Sefer Hahasidim that that<sup>1117</sup> of his master takes precedence: this applies if he studied with him gratis; but if his father engaged a master for him, then his father preceeds all.<sup>1118</sup>

K. The Shulhan Arukh of R. Joseph b. Ephraim Karo

1. History

The history of the Shulhan Arukh has no parallel in the rabbinical literature.<sup>1119</sup> It was written in Karo's old age, for those who could not use or understand his fundamental Beth Joseph,<sup>1120</sup> and he himself prefers to refer in his responsa to the Beth Joseph. The popularity of this text is in

great measure due to the fact that its enemies saw it as the "text to beat",<sup>1121</sup> and thus, negatively, established its authority.

When the Ashkenazi community, particularly the Germans first and then the more ritually scrupulous Polish authorities, began to supplant the Sephardi community, it was felt that the Beth Joseph contained dangerous innovations, and the immediate reaction to the appearance of the Beth Joseph has been seen in the appearance of the Darkhe Moshe, which we have seen draws not only on Karo's triumvirate but on the aharonim, the later authorities, as well as the French and German Tosaphists,<sup>1122</sup> and emphasizes<sup>1123</sup> the force of custom.

There is an historical structural parallel between R. Abraham b. David's crippling criticism of the Maimonides code and Isserles' critical supplement to the Karo Shulhan Arukh, but whereas R. Abraham b. David was content to undermine,<sup>1124</sup> Isserles' proceeded to "correct", i.e., to supplement.

This set a structural pattern whose effect was ever to increase the authority<sup>1125</sup> of the Shulhan Arukh,

until it was competitive with the Talmud itself,<sup>1126</sup> although to Karo's mind, as we have seen, it was a second rate work for the guidance of those who could not use the Beth Joseph. Yet with the combined authority of Karo and Isserles, it successfully withstood all<sup>1127</sup> attacks.

To the present day, the Shulhan Arukh has gone the way of all codifications and become itself a text unapproachable except through the recognized commentative channels,<sup>1128</sup> whose opinions when in conflict with the original text often supplant it in practice.

## 2. Method.

The Shulhan Arukh's method follows the system of the Tur and consequently the Beth Joseph,<sup>1129</sup> and omits generally the sources and references, in order through brevity and lack of complication to provide a handy manual. The book is not to be considered without the Isserles' Mappa Hagahoth, whose premises and methods have been examined.

## 3. Purpose.

Karo's stated purpose, as we have seen, was to provide a handy manual of practices, analogous to a "Rabbis' Guide" of our own day, or a legal "Liber Formarum", but without going generally



into the thinking and analysis behind the decisions.

#### 4. Text and analysis.

The attempt to remove the quotations from the previous codical works from the Shulhan Arukh, historiologically permissible though it might be, would leave a shell of original material in a form in which it could not easily be generally followed. Consequently, such material has not, on the whole, been expunged. The attempt to present this text without the crucial Isserles gloss would, halakically speaking in terms of methodology, do justice to neither text. Consequently we shall present them together, after considering in greater detail the Mappa Hagahoth.

### L. The Glossary of Moses b. Israel Isserles to the Shulhan Arukh

#### 1. Background.

Since both the Sitz im Leben of Isserles and the context of his Mappa Hagahoth have been examined, we shall content ourselves to say here that this work stands in a dual relationship, and one side of the bilaterality should not be permitted to obscure the other.

- a. It is the critical supplement of the abstract of the Beth Joseph; and

- b. It is in itself after the nature of being an abstract of the Darkhe Moshe.

## 2. Method.

The method followed is a textual analysis of the Shulhan Arukh, section by section and even at times comment by comment, incorporating into the analysis the supplementary authorities described above, and opinions which sometimes are contrary to Karo's own views.<sup>1130</sup>

## 3. Purpose.

In addition to giving a "place in the sun" to the Ashkenazi authorities, Isserles' analysis reveals severe lacunae in Karo's construction, and sometimes oversights both logical and textual, which he supplements.

## 4. Text and analysis.

In the following combined text, the parenthetical comments of the Mappa Hagahoth are discriminated from the paranthetical comments of the editor by being placed first, and by being so labelled. The analysis for themost part, as is customary, is carried on in the notes.

A Critical Reading of the Shulhan Arukh, Yore Deah, #242,  
Incorporating a Critical Reading of the Parenthetical Notes  
of the Mappa Hagahoth.

Section: "One is Not to Teach<sup>1131</sup> Before His Master" and  
 Treatment of "A Master Who Relinquishes His  
 Honor"

1. A man is responsible<sup>1132</sup> for the honor and dread  
 of his master more than<sup>1133</sup> of his father<sup>1134</sup>  
 (Mappa Hagahoth: When the student's father<sup>1135</sup>  
 is his distinguished master, he is called in speech  
 "master"; when his master is not distinguished,  
 he is called<sup>1136</sup> "father". From an opinion of the  
 master.)<sup>1137</sup>
2. Anyone who disputes<sup>1138</sup> with his master is as  
 one who disputes with the Shekinah (etc., as in  
 R. Jacob b. Asher<sup>1139</sup>).
3. Who is considered disputing<sup>1140, 1141</sup> without<sup>1142</sup>  
 province.<sup>1143</sup> (Mappa Hagahoth: But it is per-  
 mitted<sup>1144</sup> to dispute<sup>1145</sup> a given decision<sup>1146</sup>  
 of teaching with him if the student has evidences<sup>1147</sup>  
 and proofs that the decision is with him. Cf. Decisions  
 of R. Israel b. Petahya Isserlein #238.)

4. It is prohibited to a man<sup>1148</sup> to teach<sup>1149</sup>....death.

(Mappa Hagahoth: Even the taking<sup>1150, 1151</sup>  
of permission is<sup>1152</sup> invalid within three<sup>1153</sup>  
parasangs if it is his distinguished teacher.

Cf. R. Joseph Karo, Beth Joseph, quoting the  
Tosaphoth Cap. 1 on Sanhedrin; R. Joseph Kolon  
#170).

If he is twelve parasangs<sup>1154</sup>.....permission. (Tur, sec. 5)  
(Mappa Hagahoth: All this is for a distinguished<sup>1155</sup>  
master, but for a student colleague, even within  
three parasangs it is permitted,<sup>1156</sup> cf. Tosaphoth,  
ad. loc. and R. Asher b. Yehiel, ibid., and  
Maimonides in Hilkoth Talmud Torah Cap. 5.  
Some say that in any case<sup>1157</sup> it is forbidden  
before his master<sup>1158</sup> actually, and even if not  
actually<sup>1159</sup> before him if it merely touches<sup>1160</sup>  
the honor of the master, i. e., that they ask<sup>1161</sup>  
the master, or that the master is outstanding<sup>1162</sup>  
in wisdom or in age,<sup>1163</sup> one should not teach in  
his city, cf. R. Joseph Karo, Beth Joseph,  
citing Cap. "Hadar.")

Some hold<sup>1164</sup> regarding a mature<sup>1165</sup> (Tur, sec. 5)  
penalty<sup>1166</sup> does not apply.<sup>1167</sup> (Mappa Hagahoth;

This applies specifically if he is accustomed <sup>1168, 1169</sup>  
to come to the city of a student, but if he is not  
accustomed to come there <sup>1170</sup> except by way of  
chance, he may yet practice outside of three parasangs.)

U2c.7 A student <sup>1171</sup> colleague.... <sup>1172</sup> permitted, <sup>1173</sup>  
even though <sup>1174</sup> he took permission <sup>1175</sup> from <sup>1176</sup> FNP 23C  
(continuing with the comment <sup>1177</sup> of R. Joseph Karo  
on Jacob b. Asher, ad. loc.).... his distinguished (Tur, sec. 7)  
masters. (Mappa Hagahoth: These distinguished masters  
are not considered as his own distinguished master,  
who is defined as the one from whom he has most  
of his knowledge, <sup>1178</sup> for then he could not have  
many <sup>1179</sup> distinguished masters; <sup>1180</sup> rather he means  
a finished student, <sup>1181</sup> distinguished from a student  
colleague, one who has grown up in the Torah and  
become a colleague of his own master, who is near <sup>1182</sup>  
to being great as his master, cf. R. Joseph Karo,  
quoting R. Israel b. Petahya Isserlein, #170.  
But there is a difference of opinion, and some hold  
that if he receives permission from one master, he  
may teach outside of three parasangs, cf. Responsum  
of R. Simeon b. Adret of Barcelona #111; in agreement  
cf. Responsum of R. Isaac b. Shesheth #281. <sup>1183</sup>

But within<sup>1184</sup> three parasangs,<sup>1185</sup> he is not permitted;  
 some say any who is not his distinguished master —  
i.e., that most of his wisdom is not from him<sup>1186</sup>  
 is a student colleague, cf. R. Joseph Karo, ibid.,  
 quoting Maimonides.)

5. A student cannot ordain others<sup>1187</sup> in the place<sup>1188</sup>  
 of his master.
6. If an ordinand<sup>1189</sup> does not receive ordination by  
 the hand of this rabbi but from others, so that he  
 becomes an extension of them, then this master  
 is not to take dominion<sup>1190</sup> over him since he is  
 not his master.<sup>1191</sup> (Mappa Hagahoth: But if  
 he ordained him alone, they were accustomed<sup>1192</sup>  
 that the ordinand bows somewhat before those who  
 ordained him, cf. R. Joseph Karo, citing R. Israel  
 b. <sup>P</sup>Tetahya Isserlein, #113, #117. Similarly.  
 one who studied at a given collegium for a time  
 may say that he was a product of the head of that  
 collegium even though his actual contact with the  
 man<sup>1193</sup> was limited; these customs<sup>1194</sup> are based  
 on firm principles, cf. Decisions of R. Israel b.  
 Petahya Isserlein, loc. cit.)

7. It is not considered<sup>1195</sup> teaching<sup>1196</sup>.... case<sup>1197</sup> (Tur, sec. 8) permitted.
8. And we do not call it<sup>1198</sup> teaching<sup>1199</sup>....sixty, (Tur, sec. 9) it is permitted.
9. One<sup>1200</sup> writes (Hagahoth Maimonioth quoting Maimonides)<sup>1201, 1202</sup> that all the written Geonic decisions he may teach while his master lives, as long as he adds nothing of his own and does not rely on his own evidence to compare cases for precedences.
10. One writes (cf., ibid., #9)<sup>1203</sup> that a sage may not permit<sup>1204</sup> a strange<sup>1205</sup> thing, so that it would appear that he is permitting the prohibited.
11. To warn<sup>1206</sup> about...for the master. (Tur, sec. 10)
12. If the household of a student<sup>1207</sup> requires instruction<sup>1208</sup> and asks him, he can not teach them in place<sup>1209</sup> of his master. (Mappa Hagahoth: But not all<sup>1210</sup> whose masters<sup>1211</sup> died<sup>1212</sup> are allowed to sit and teach, unless they have attained to instruction, Cf. R. Jacob b. Asher, Tur,<sup>1213</sup> quoting Nahmanides.)

13. Any student who <sup>1214</sup> has not...down. / (Tur, Sec. 12)  
(Mappa Hagahoth:  
 Little students, cf. quote of R. Joseph Karo, Beth  
Joseph, to R. Jacob b. Asher, Tur, ibid., Sec.  
 "These are they who extinguish the light of the Torah."  
 Let every man be cautious that he not teach when  
 he has drunk wine <sup>1215</sup> or other intoxicating beverages, <sup>1216</sup>  
 not even a simple <sup>1217</sup> case, unless it is clear <sup>1218</sup>  
 in the commentators <sup>1219</sup> and in the <sup>1220</sup> academies,  
cf. Nahmanides, Torath Haadam, article #42;  
 R. Joseph Karo, Responsum #170, cf. Hoshen Mishpat #7.)
14. <sup>1221</sup> (Tur, Sec. 13)  
 But any sage....up / (Mappa Hagahoth: This refers to  
 the matter of ordination which they practiced at  
 this time that <sup>1222</sup> the people might know who had  
 attained to teaching and what he might teach with  
 the permission of the master who ordained him; to  
 thus, if his master is already dead, he does not need  
 the semikah, Similarly with a student colleague,  
 as explained above, if he does not need permission,  
 he does not need semikah, cf. R. Isaac b. Sshesheth,  
 Responsum #271. Some say that those not ordained  
 "our masters" who give bills of divorce and halizah  
 give worthless documents.)



One must be careful with a bill of divorce or a halizah document as to whether it be correct unless he be known to all as an expert who out of modesty does not seek greatness. (Mappa Hagahoth: And therefore is not invested "Our Teacher", cf. R. David Cohen,<sup>1223</sup> (siman) #20. There are those who differ and are more lenient, cf. Responsum of R. Isaac b. Shesheth, cited supra, and in a case of desertion one should be lenient if bills of divorce and halizah have been given, but not otherwise, for the customs of Israel are law,<sup>1224</sup> it seems to me. And further, it seems to me that it is permitted to give the title "Our Master" to an arranger of divorces,<sup>1225</sup> even though properly semikah<sup>1226</sup> in the earlier days<sup>1227</sup> was not used thusly;<sup>1228</sup> in any case, now it is only a mere taking of permission, and there is no objection.)

15. A student<sup>1229</sup> may not call ~~himself~~<sup>1230</sup> refers ..... another...<sup>1231</sup>  
 is not living.<sup>1232</sup> (Tur, sec. 14, 15) (Mappa Hagahoth:  
 But a customary name he may use,<sup>1233</sup> not in his  
 presence, cf. R. Joseph Karo, Beth Joseph, quoting  
 Maimonides. This applies only when he says not

merely the unadorned name, but "My master and  
teacher So-and-So",<sup>1234</sup> cf. R. Solomon b. Isaac  
on <sup>1235</sup>["HeLeq"],<sup>1236</sup>

16. He should <sup>1237</sup> neither <sup>1238</sup> ...and my master.<sup>1239</sup>

(Mappa Hagahoth: This is the practice.<sup>1240</sup>

Some say, cf. Preface, Panim Meiroth, part I, (Eisenstadt)  
establishing the opinion of Yeshuoth Yaagcbh, (Orenstein)

Orah Hayim, (siman) #66, sec. 1. , that a student  
may never greet his master, as it is written,

"The children have seen me and were hidden."<sup>1241</sup>

Yerushalmi Talmudic references brought in by

Hagahoth Maimonioth Cap. 1, cf. also Toledoth

Adam Wehava, (nethith) #2; cf. also R. Joseph Karo

in Beth Joseph ad loc. quoting R. Jonah).

He <sup>1242</sup> should not <sup>1243</sup> remove <sup>1244</sup> ...a king.<sup>1245</sup> (Tur, Sec. 18)

(Mappa Hagahoth: If his master was sitting at a feast  
with others, let him take permission first<sup>1246</sup>

from his master and then from the others,<sup>1247</sup> cf.

Rokeah (siman) #335.

He should <sup>1248</sup> not pray <sup>1249, 1250</sup> ... (R. Joseph

Karo omit ithe catechistic form) walks with <sup>1251</sup> him,

or prays <sup>1252</sup> with him; beyond <sup>1253</sup> ...permitted<sup>1254, 1255</sup>

— but cf. Orah Hayyim (siman) #54.

He does not go <sup>1256</sup> ...may. (Tur, Sec. 19, 21, 22)

(Mappa Hagahoth: If the student was in the bath<sup>1267</sup>  
first,<sup>1258</sup> he need not leave,<sup>1259</sup> cf. R. Jacob b.  
Judah Weil, so that the proscription applies only  
in that part of the bath where they walk nude, but  
where they wear pants, it is permitted, cf. Aguda  
on Cap. "Maqom Shenahagu" on Pesahim 4.

Thus the common custom<sup>1260</sup> is to enter the  
bath with his master or father or mother or grand-  
father or brother-in-law even though all these are  
forbidden in the Gemara, ad. loc. cit. but the  
point is that we go now with pants.)<sup>1261</sup>

He does not sit<sup>1262</sup> ...face.<sup>1263</sup> (Tur, Sec. 24, 25)  
/ (Mappa Hagahoth:  
If he leaves<sup>1264</sup> his master<sup>1265</sup> with permission to  
practice but remains overnight, then he must renew  
the permission provided the master was not told  
by him at the time that he was going to extend his  
stay overnight; if he tells<sup>1266</sup> his so<sup>1267</sup> from the first,  
he need not renew his permission, cf. R. Reuben b.  
Nissim Gerondi, Cap. 1 or Moed Qatan.)

He does not<sup>1268, 1269</sup> sit in<sup>1270</sup> ...walking.<sup>1271</sup> (Tur, #26, 27)  
(Mappa Hagahoth: Some say that<sup>1272</sup> one need  
only<sup>1273, 1274</sup> rise<sup>1275</sup> before his<sup>1276, 1277</sup>

master morning<sup>1278</sup> and evening,<sup>1279, 1280</sup>

cf. R. Jacob b. Asher, Tur, quoting Maimonides specifically in school;<sup>1281</sup> but before others<sup>1282</sup> who do not know that he rises before him,<sup>1283</sup> he must rise.<sup>1284</sup> R. Joseph Karo, Beth Joseph, loc. cit., quoting the Tos.)

17. If three are walking,<sup>1285</sup> the master<sup>1286</sup> walks in the center, the greater on the right,<sup>1287</sup> and the lesser on the left. (Mappa Hagahoth: They may merely honor him at the doorway,<sup>1288</sup> and each go his own way if they are not together in a group; but if they are in one group, then they honor him on the streets as well. Cf. Hagahoth Maimonith Cap. 6, Hilkoth Talmud Torah; cf. also Tos. Cap. "Bameh Behemah", but in a place of danger<sup>1289</sup> they need not honor at all, cf. Mordecai quoting R. Eliezer b. Jose Hagelili, Cap. "Sheloshah Sheakhlu" ) on Berakoth 7.)

18. If they call<sup>1290</sup> his master to read the Torah in public, he need not stand all the time of the reading.<sup>1291</sup> (Mappa Hagahoth: When his master is on a raised bema<sup>1292</sup> and he on the ground, he need not rise

before him; even when the Torah is in the synagogue,<sup>1293</sup>  
 the congregation need not rise if it be in another  
 dominion(reshuth), cf. R. Joseph Karo, Beth Joseph,  
loc. cit., quoting the Responsa of R. Simeon b.  
 Adret of Barcelona.)<sup>1294</sup>

19. Every service<sup>1295</sup> ...master.<sup>1296</sup> (Tur, sec. 24.)

20. Anyone<sup>1297</sup> ...Israel.<sup>1298, 1299</sup> (Tur, sec. 31, 32.)

21. One does not<sup>1300</sup> . . . him.<sup>1301</sup> (Tur, sec. 33.)  
 (Mappa Hagahoth:

Even the son or student of the student does not  
 stand before the master or the father of the student  
 except<sup>1302</sup> if the master<sup>1303</sup> honor him,<sup>1304</sup>  
 specifically<sup>1305</sup> if the master is the master<sup>1306</sup>  
 also of this one who sits before him, cf. R. Joseph  
 Karo, Beth Joseph, loc. cit. quoting Shebhile Haleket.)

22. If he sees<sup>1307</sup> ...such.<sup>1308</sup> (Tur, sec. 34.)  
 (Mappa Hagahoth:

If he was about to transgress merely a prohibition  
 of the rabbis, one should still warn<sup>1309</sup> him, cf.  
 R. Solomon b. Adret, Torath Habayith (siman) #43.)  
 If one sees his master perform a deed which might  
 be considered a Biblical prohibition, let him allow  
 him to proceed since the case is in consideration<sup>1310</sup>

rather than a certainty, and consider it with him  
later, cf. Torah Adam Wehava nethibh #2.)

23. Whenever he<sup>1311</sup> mentions<sup>1312</sup> any report before him  
he prefaces: "Thus have you taught me, my Master."
24. He does<sup>1314</sup> ...said<sup>1315</sup> it.<sup>1316</sup> (Tur, sec. 35.)
25. When his master<sup>1317</sup> ...heart, and some say<sup>1318</sup> he (Tur, sec. 36)  
only tears a handbreadth;<sup>1319</sup> he never bastes,<sup>1320</sup>  
he mourns barefoot, with all the laws<sup>1321</sup> of  
abheluth and some<sup>1322</sup> of the practices of the first  
day or day of report.<sup>1323</sup>
26. Even for distant report<sup>1324</sup> he tears his garment for  
his master as for his father. (Mappa Hagahoth:  
Cf. Tur infra #340, #374.)
27. He whose master lies dead<sup>1325</sup> before him eats no  
meat<sup>1326</sup> and drinks no wine, as for his own dead.<sup>1327</sup>
28. When he<sup>1328</sup> mentions<sup>1329</sup> his master within the  
first twelvemonth, he should say,<sup>1330</sup> "I am merely  
the (curtain of his chamber)<sup>1331</sup> atonement for him."

29. One who spits<sup>1332</sup> before his master is included in the class of those who are called, "all who hate me — love death!"<sup>1333</sup> (Mappa Hagahoth: Specifically his phlegm,<sup>1334</sup> which he expels<sup>1335</sup> from his body with force, but mere spittle is permitted, for he may have<sup>1336</sup> to spit, cf. Toledoth Adam Wehava nethibh #2.)

30. All these things<sup>1337</sup> ...Talmud./ (Tur, sec. 38)  
(Mappa Hagahoth:  
 And at this time the essence of the rabbinate does not depend on who taught him exegesis and fine differentiation which we practice now but rather on who taught him legal decisions<sup>1338</sup> and investigation and set him on to the truth and uprightness, cf. R. Joseph Karo, ibid., cf. R. Joseph Kolon, #170.)  
 But<sup>1339</sup> ...garment<sup>1340</sup> as he tears<sup>1341</sup> it for (Tur), sec. 38)  
 all dead,<sup>1342</sup> over whom he mourns, even<sup>1343</sup> ...  
 small,<sup>1344</sup> he stands before him and tears for him — cf. Tur infra #340, sec. 8.

31. Any scholar<sup>1345</sup> ...him./ (Tur, sec. 39)  
(Mappa Hagahoth: A man should not teach<sup>1346</sup> until age forty<sup>1347</sup> if someone greater<sup>1348</sup> than he<sup>1349</sup> is in the city, even though he be not<sup>1350</sup> his master, cf. R. Joseph Karo,

Beth Joseph, loc. cit., quoting R. Reuben b. Nissim Gerondi. If a sage prohibits,<sup>1351</sup> his fellow may not permit<sup>1352</sup> except<sup>1353</sup> where it is called for, after balanced deliberation,<sup>1354</sup> but if he has a tradition<sup>1355</sup> that he has erred,<sup>1356</sup> cf. R. Yeruham quoting a common opinion or if he erred in a matter of mishna,<sup>1357</sup> he may permit it,<sup>1358</sup> cf. R. Reuben b. Nissim Gerondi Cap. 1 beginning, quoting R. Abraham b. David<sup>1359</sup> and R. Simeon b. Adret of Barcelona, and Maimonides. And even if he erred<sup>1360</sup> in deliberation<sup>1361</sup> he may reconsider it with the teacher until he can review the decision; therefore the opinion of R. Reuben b. Nissim Gerondi.) It is never prohibited to ask<sup>1362</sup> another for consultation (ibid., Mordecai), provided he inform the second that the first has already prohibited it.<sup>1363</sup>

R. Yeruham, Op. cit., nethibh # 2) And even if the first permitted<sup>1364</sup> it<sup>1365</sup> and his judgment has been executed, the second may not prohibit it<sup>1366</sup> because of balanced judgment<sup>1367</sup> ~~has to~~ Thus I found in Asheri, first Cap. ~~it~~ And all this is for that same teaching, but in another<sup>1368</sup> case<sup>1369</sup> he may teach



as he sees fit, cf. R. Joseph Karo, loc. cit.,

of R. Israel b. Petahya Isserlein, Responsum #172.)

32. If the distinguished <sup>1370</sup> ...him. <sup>1371</sup> (Tur, sec. 39, para 2) / (Mappa Hagahoth:

But it is forbidden to scorn him, cf. Decisions of

R. Israel b. Petahya Isserlein, (siman) #127.)

33. Let the honor <sup>1372</sup> ...own. (Tur, sec. 40)

34. Between the loss <sup>1373</sup> of his father <sup>1374</sup> and the  
loss of his master <sup>1375</sup> (R. Joseph Karo, Beth Joseph,  
loc. cit., supplies "distinguished" <sup>1376</sup> here)...father. (Tur, sec. 42)

If his father was the equal <sup>1377</sup> of his master, <sup>1378</sup>

the loss of his father preceeds. If both...redeems <sup>1379</sup>

his father first, then he redeems his master. (Tur, sec. 43, 44)

(Mappa Hagahoth: So too he lightens <sup>1380</sup> his burden <sup>1381</sup>

before that of his master even if he is not equal to

him in wisdom, but he does not return <sup>1382</sup> the loss of

his father first until he is balanced like (equal to)

his master, cf. R. Jacob b. Asher, Tur, quoting

R. Asher b. Yehiel. Some say his master's preceeds

his father's, which would be if he studied with him

gratis; but if his father <sup>1383</sup> engaged <sup>1384</sup> a master

for him and so taught him, then his father preceeds <sup>1385</sup>

in any case (Sefer Hahasidim of R. Judah Hahasid)  
and this is the principle.)

35. His loss<sup>1386</sup> ...master. (Tur, sec. 47)
36. He who says<sup>1387</sup> to his colleague, I would not receive  
it from you were you like Moses,<sup>1388</sup> they strike  
him because of the<sup>1389</sup> insult<sup>1390</sup> (to Moses).  
(Mappa Hagahoth: If a sage comments on a matter of  
halaka in his field — in a case which touches him  
— if he said it before the case, they accept it; if  
not, they do not. This is specifically when he  
reports a tradition; but if he is deducing an opinion  
on his own and can prove it (convince them), then  
they can accept it of him, cf. R. Joseph Karo, Beth  
Joseph, loc. cit., quoting R. Yom Tobh b. Abraham.  
But they hear<sup>1391</sup> not<sup>1392</sup> the other<sup>1393</sup> lest he  
make the case seem to agree with the first with  
whom it disagreed. If he has a simple<sup>1394</sup> comment  
to add,<sup>1395</sup> they may hear it. Cf. R. Yeruham,  
Op. cit., end nethibh #2, and quoting R. Asher b.  
Yehiel.)

M. It is perhaps in order to reemphasize that no legal process takes place, as the modern phrase has it, "in a vacuum." The unfolding of the halaka<sup>1396</sup> is in itself a terminology suggestive of the concept that the novelties of progressive halaka owe their existence more to internal factors than to responses to external pressures. It is characteristic of great halakists<sup>1397</sup> to be often more concerned, in explaining a given codical formulation, with a prior formulation on the same subject dating from two centuries before than with a socioeconomic setting of the halaka in its ~~own~~ time. Certainly both dimensions do exist, and should be given their respective dues. A given halakic structure is part of two intersecting lines or continua, it is that point in developmental halakic space-time where the two lines meet, and if the vertical one has been to many students of far greater consequence than the horizontal one, it has only led to a ~~certain~~ hindrance to the fullest understanding of the halaka.

1. Vertically, a halaka or a halakic formulation is heir to that which was done in its area previously, to applicable texts often regardless

of their antiquity and removal from the period of the specific halaka. For guidance, the formulator or reformulator looks down vertically to temporally previous customs and principles and practices on which he may build;

2. Horizontally, a halaka or a halakic formulation is equally reflective of the society from which it springs. It reflects the social and political organism of its framer, and often his economic interests as well, in the broadest sense of the term.<sup>1398</sup>

Here, too, the intracodical approach to Isserles may stress the greater leisure of the "Ashkenazi Karo" and his concern with critical analysis, but let it not be at the expense of the important recognition that the author of the Mappa Hagahoth and the earlier Darkhe Moshe was forging a place in the sin for the authorities of his place and period, and that if he had had less of a need to establish himself and his bailiwick, he might not have been so analytical or so critical. In the present

The country of Russia was one of the best writer"

proposals, from a logistic point of view, in

writer's view, the strides from Karo's more liberal interpretations to Isserles' fences about the law do not necessarily represent advances. Isserles himself, as we have seen, finds it necessary constantly to defend his greater stringencies,<sup>1399</sup> and whatever we may hold as to such moves having been necessary in order to obtain the acceptance, both of the Karo codex and of his own glossary, among the Ashkenazic groups, the fact remains that the same sort of thinking led in the end to the creation of a stiff and unyielding format, into which, like a medieval "iron maiden", the growing body of Judaism was forcibly shoehorned until at last, breaking its unnatural bond, it rejected the tradition almost entirely for years, finding only in our day a sense of self-security sufficient for it to seek a meaningful relation to the halaka.

N.    The Baer Hagolah of R. Moses b. Zebhi Naphtali  
Hirsch Sopher Ribkas of Vilna.

1. Background.

The century of Ribkas<sup>1400</sup> was one of the most productive, from a legistic point of view, in

the history of Jewish jurisprudence, as well as a time of turmoil for the social community. Perhaps the two factors are not unrelated.<sup>1401</sup>

After Ribkas settled in Amsterdam upon leaving his Vilna<sup>1402</sup> to which he had come from his native Prague, he prepared a new edition<sup>1403</sup> of the Shulhan Arukh and supplied therewith his own glossary of notes, the Baer Hagolah.

## 2. Method.

Ribkas takes as his method the provision of sources for the halakhoth upon which he is commenting, and secondarily, the annotation of short comments, which are characteristically direct and not generally of a detailed analytical nature.

## 3. Purpose.

The manifest purpose of the Baer Hagolah<sup>1404</sup> is to make the Shulhan Arukh even more useful by notes and directive comments to its later users.

## 4. Text and analysis.

Both the nature of the text and its manifest

purposes on the one hand, and the fact that many points which are herein discussed were considered at earlier appearances of these points in the older texts, suggest that for the avoidance of repetitiveness only original contributions should by and large merit extensive analytical notation.

A Critical Reading of the Baer Hagolah on the Shulhan Arukh

by R. Moses b. Zebhi Naphtali Hirsch Sopher Ribkas  
of Vilna

1. Mishna and discussion Baba Mezia and end of Kerithoth.
2. Memraoth of the Amoraim recorded in Sanhedrin 110a.
3. Maimonides Cap. 5 of Hilkoth Talmud Torah holds this is the meaning of "disputes with his master."
4. Boraitha Ibid. p. 5b q.v.
5. Ibid.
6. ~~A~~ <sup>M</sup> Memra of Rabba in Erubhin 62a.
7. R. Jacob b. Asher, Tur, quoting Maimonides on the Boraitha loc. cit. and commentary of Maimonides Ibid.

They do not argue from this Boraitha. The sense is that even if he did not take permission it is permitted<sup>1405</sup> outside of three parasangs.

8. According to the first reasoning,<sup>1406</sup> Erubhin 63a.
9. Ibid., according to the latter reasoning.
10. Ibid., in the name of his father. R. Asher b. Yehiel, from a memra of Rabba, Ibid., 63a, drawing a comparison between the Aaronides<sup>1407</sup> and the student who taught before R. Eliezer Ibid.
11. From a memra of Rabba, Ibid., and as the Tos. write ad loc., cf. the agreement of Sanhedrin 5b.
12. From a case of Tanhum b. R. Ammi Ibid., with the commentary of Tos. ad loc. in Erubhin 62b; even if he took permission<sup>a</sup> it does not help (apply) since his master was with him.<sup>1408</sup> This is derived from the case of the tenant of R. Abaye who petitioned before him (ref. Kethuboth 60b with commentary of R. Solomon b. Isaac and the Tos. ad loc. The point is that within three parasangs his teacher is important beside him. Thus R. Joseph Karo, Responsum #173,



that specifically outside three parasangs permission is valid. Thus R. Moses Isserles in his note supra.<sup>1409</sup>

13. R. Joseph Karo loc. cit.
14. Ibid., Responsum #117, agreeing with Tos. on Sanhedrin 5a end, from the comment of R. Hiyya to Rabbi: "My nephew is going down to Babylonia, etc."
15. Responsa Karo ibid.; cf. the ease of Raba b. R. Huna before the Exilarch.
16. Tos. ibid. and commentary of R. Asher b. Yehiel on Erubhin loc. cit. and the other commentators ad loc.
17. Appears in Tos. ibid. and commentary of R. Asher b. Yehiel ibid.
18. Hagahoth Maimonith loc. cit. quoting Maimonides.
19. Appears there (ibid.), in his name.
20. A memra of Rabba ibid., Erubhin 23a.
21. R. Asher b. Yehiel loc. cit.
22. Tur quoting Maimonides Hilkoth Talmud Torah Cap. 5 on a memra of R. Abba (cf. Abhoda Zara 19b).
23. Ibid.

24. According to R. Nahman, as R. Yohanan said,  
why was Gehazi condemned? (Ledron).
25. Maimonides loc. cit.
26. Maimonides ibid; and the Keseeph Mishneh (R. Joseph Karo) writes (Ibid) , "Whence do we know that a student must change the names?" Hilkoth Mamrim Cap. 6 in an opinion.
27. Sanhedrin, loc. cit.
28. Boraitha of R. Ashi, Berakoth 27b.
29. Maimonides Cap. 5 Hilkoth Talmud Torah  
quotation. Both there, in my notes, and in the Tur.
30. Loc. cit. from what is said, if he raise hand against the king; so he does not ~~lay~~ phylacteries before him (Sanhedrin 101b) so that the fear of his teacher be likened to the fear of the king.
31. Ibid. from a memra of R. Yehuda quoting Rabh, Berakoth 27a , which I indicated also on Tur Orah Hayyim #90.

32. I.e., R. Jonah; Tur derives it from what R. Ammi and R. Ashi taught, "beyond the four cubit limit," Berakoth loc. cit.
33. Boriatha to Pesahim 51a.
34. Quoting Maimonides ibid., quoting Midrash Ruth s. v. "And he said, sit here, and they sat";<sup>d</sup> he derives hence that the lesser<sup>1410</sup> cannot sit, etc.
35. Cf. Yoma 53a.
36. Maimonides ibid.; we learn from what is taught in a Tannaitic source about his father, cf. supra #230 art. #2, a fortiori we derive the honor of the master over that of the father.
37. From a memra of R. Abaye in Qiddushin 33a.
38. Both the explanation and the case of R. Abaye, Ibid.
39. From a memra of R. Jannai ibid. (Ed. <sup>1411</sup> the explanation is that those who dwell in the school probably rise morn and evening, cf. Tos. ibid., to of the verso)
40. Cf. Boraitha Yoma 36a

41. Cf. Shabbath 51b.
42. Shebhile Haleqet #43.
43. Maimonides ibid., Cap. 5, from a memra of R. Jacob b. Levi; also as expained on Rabba and R. Ashi in Kethuboth 90a.
44. Ibid., memra of R. Hiyya b. Abba quoting R. Yohanan.
45. Ibid., memra of R. Nahman b. Isaac.
46. Boraitha of R. Ashi Berakoth 27b.
47. Conclusion of the Gemara in Baba Bathra 119b written also in R. Isaac Alfasi and R. Asher b. Yehiel on Cap. 1 of Qiddushin.
48. Cf. Maimonides ibid., Cap. 5 on laws pertaining to his father #240 art.#11 and my notes thereon; cf. also art.#16 supra.
49. Cf. Maimonides , ibid.
50. Cf. Boraitha of R. Ashi, ibid. , Berakoth 27b;  
the explanation is that all that a student says is

assumed by his hearers to reflect the opinions and teachings of his master; if this is not the case, he bears the responsibility of clarifying the source of his tradition.

51. Maimonides, ibid., and Cap. 9 of Hilkoth Abhel; for comparison of master to father, cf. Moed Qatan 26a Boraitha.
52. Tur quoting R. Moses b. Nahman in Torath Haadam, quoting a comment of R. Hisda on women, etc., Gemara loc. cit. on Mishna, ibid., with commentary of R. Solomon b. Isaac ad loc. (26b) and loc. corr. in the Tal. of Jerusalem; R. Asher b. Yehiel agrees with this, and cf. R. Joseph Karo, Beth Joseph, both on Tur here to persuade those of the opinion of Maimonides.
53. Tur quoting Maimonides, ibid., cmp. in Boraitha to his father.
54. R. Moses b. Nahman; he refers to removing the shoe.
55. Tur, similar to what R. Hiyya b. Abba said quoting R. Yohanan, "Even his master" etc. Ibid., 25b.

56. R. Moses b. Nahman in Torath Haadam.
57. Also this is ibid. from the sugya in the Tal. of Jerusalem.
58. R. Moses b. Nahman in his Responsa derives it from the case of the father. Cf. my notes on Sec. #240, art. 9, supra.
59. A memra of R. Levi, Eruvin 99a.
60. According to R. Yehuda in the Boraitha and according to R. Yohanan, both of whom decided there, cf. Baba Mezia 33a in agreement with R. Asher b. Yehiel ad loc. and Maimonides Cap. 5, Op. cit.
61. A quotation from Maimonides ibid. on a memra of Ulla in Baba Mezia loc. cit.
62. A quotation from the Tur in agreement with R. Moses b. Nahman in Torath Haadam which R. Joseph Karo brings in the Beth Joseph by name.
63. From the case of Samuel who "rent his garment in woe, etc.," in Baba Mezia, loc. cit.
64. Cf. Aboth Mishna 7:5.
65. A quotation from Maimonides, Op. cit., Cap. 5

and from the case of R. Joseph and Rabba in Erubhin 31ab.

66. From the case of Rabba s.v. "that he was giving drink",  
ibid.

67. Cf. Aboth 4:13

68. Cf. Mishna Baba Mezia 33a.

69. Ibid., Mishna accordingly, Cf. Cap. 5 Hilkoth  
Talmud Torah for the case of a scribal error.<sup>1412</sup>

70. Mishna, loc. cit.

71. End Orhoth Hayyim (Ed. -<sup>1413</sup> explanation is of  
insult to Moses).

72. From a memra of R. Abbahu as explained in Tos. to  
Yebamoth top 77a.

P.N. The Commentary of R. Shabbetai b. Meir Cohen<sup>1414</sup>

We find ourselves in the area of the later commentators,  
whose secondary importance derives from the fact  
that they have produced as primary works not source  
codes or resource codifications, but rather have  
addressed themselves to the codes and codifications  
of others. In a sense, their importance is as well  
primary, since, as with R. Shabbetai b. Meir

(Ha-) Cohen, they are often the direct guides to present halakic decisions. One who would find a halakic directive, for example, would hardly content himself with the pronouncements of the Tur, or even of the Shulhan Arukh, but would in this area consult a commentator like Cohen. If we look upon the Beth Joseph and the derivative Shulhan Arukh as grounds to consider Karo a commentator, then Cohen would be a supercommentator, in that he elucidates the comments of another. In this elucidation, he analyzes, and in analyzing, he changes, and his changes take precedence to Karo, just as Isserles did in the Mappa Hagahoth.

Be this as it may, the supercommentators are not primarily codifiers, although they are contributors to the codical literature in its broader sense. Our interest in them, as a result, is not primary, since our primary interest is in the primary codical material, but rather secondary, in that they may clarify ideas which are met with in the earlier strata of materials; also and not insignificantly to our purposes, they may give us a broader view of the setting of the halakic structure as a whole.



## 1. Background.

Shabbetai b. Meir Hacoheh is not, it will be noticed, identified with a place name. Born in Vilna in 1621, by the time he died in Holleschau in 1662 he had lived in Tyktizin, Cracow, Lublin, Prague, Dresin, and perhaps Leipsic. In 1647 he published his magnificent Siphte Cohen<sup>1415</sup> on Yore Deah of Karo's Shulhan Arukh, which was approved by eighteen<sup>1416</sup> of the leading authorities of the age, and became the last word in applied case halaka. He was then twenty-six years of age.

## 2. Method.

Cohen was ~~ack~~<sup>known</sup> in his own time a man of great knowledge and erudition, who sometimes contested decisions of his predecessors and contemporaries as well, alienating many including R. David b. Samuel Halevi, whose Ture Zahabh we shall consider separately. His magnificent logical mind evidences itself in the Siphte Cohen as he dissects clearly the implications and applications of each successive area to which he turns. He is free to deduce new applications of given principles, and to induce the principles upon which case decisions are rendered. He will often cite a novel

source, but will as often reinterpret a given resource.

### 3. Purpose.

Cohen's purpose can be derived from the finished product: he is making the text upon which he comments realizeable for succinct scholarly use, and critically analyzing the thinking implicit in it.

### 4. Text and analysis.

The comments rendered in connection with previous readings as to the desire to avoid repetitiveness apply here, but in a lesser manner, since Cohen's novel approach is less nearly repetitive, if more prolix,<sup>1417</sup> than several of the previous strata of materials.

## Notes from a Reading of the Siphte Cohen by R. Shabbetai b. Cohen of Vilna.

1. One may learn from this that anyone whose father is also his master is to be called "master", and not "father, my teacher". This is demonstrated at the beginning of Chapter "Hazahabh,"<sup>1418</sup> and it seems to me that this applies where he is his distinguished master. (citation),<sup>1419</sup> This requires

investigation since we do not act in that manner today;  
even though it is evident that one is responsible for  
the honor of his master more than of his father,  
it is more common to address him with the name "father"  
which is peculiar to him<sup>1420</sup> the day of his birth.

It also appears here that the father ~~in~~ preferring  
the title "master" waives some of his due honor,<sup>1421</sup>  
as is explained in Orah Hayyim 472:5, a son as  
regards his father, even though he be his distinguished  
master, must defer at the feast<sup>1422</sup> even though  
the student with his teacher need not defer. Thus  
it would appear that the father waives the honor of  
also being the master in this. The same applies  
here, except that with Rabbi ("Rabbi", R. Judah  
the Prince, referred to by title even by his son), both  
it was different. We say that from the days of Moses  
until Rabbi, both Torah and greatness were not  
found in one person.<sup>1423</sup>

2. We learn in the Keseph Mishne<sup>1424</sup> that this<sup>1425</sup>  
applies when he is the source of the doctrine.  
But we see in the Bayith Hadash<sup>1426</sup> that it does  
not always seem so, because he need merely

share his authority with him. It is apparent that in examining a knife for slaughter there is no teaching at all which would prohibit it because of compromise of the honor of his master. The example<sup>1427</sup> applies to the procedure of the time of the Talmud. Cf. R. Joseph Cohen of Cracow Responsum #19.

3. R. Joseph Kolon Responsum #170 does not bear this<sup>1428</sup> out. A student who trained himself after leaving the master and became wise may dispute with him and teach before him just as R. Simeon b. Laqish disputed with R. Yohanan. This has been the method of study from the time of the Tannaim.<sup>1429</sup>
4. Cf. Abraham b. David<sup>1430</sup> and R. Solomon b. Adret Responsum #111, R. Isaac b. Sheshedh Responsum #271 grant permission even within three parasangs.<sup>1431</sup>
5. Derived from the opinion of Maimonides; but some say that even a student colleague<sup>1432</sup> is forbidden within three parasangs.
6. Not when he is standing in front of him, but when he is in his area.<sup>1433</sup> In front of him, even a student colleague is prohibited.

7. These do not differ<sup>1434</sup> in establishing a Scriptural text.
8. On occasions, for example market days or Monday or Thursday, but on a special occasion it is not what we call "customary".<sup>1435</sup>
9. Then he may do so<sup>1436</sup> even if it is his distinguished master, cf. Mordecai, loc. cit.
10. Even without taking permission, and this is evidenced in the Tos. Cap. 1 Sanhedrin 5b dealing with the case of R. Hamnu<sup>n</sup>a in Cap. "Hadar" p. 63a top. In the Hagahoth Maimonioth, Hilkoth Talmud Torah, Cap. 5, in any case one must take permission.<sup>1437</sup>  
Cf. R. Joseph Kolon, Responsum #170.
11. This refers to a "complete student", who is to take<sup>1438</sup> permission from all of his distinguished masters, but regarding a "student colleague" even R. Joseph Kolon writes,<sup>1439</sup> "permission from the master need only be taken from his distinguished master."
12. This applies to the "distinguished." It would seem that even if he did not learn most of his wisdom

from him, as long as he became more nearly wise and closer to his master he is called his "student" nonetheless, as will appear from what follows.

Maimonides and R. Joseph Kolon did not disagree on this, for Maimonides and R. Moses de Trani<sup>1440</sup> and R. Asher b. Yehiel all interpret after the opinion of R. Yuda at the end of "Elu meziyth", on Baba Bathra 2, who requires that he be his "distinguished master", of whom he gained most of his wisdom.

Otherwise he need only tear his garments upon the master's death and stand before him according to Maimonides and the Tur. If he did not, that is to say, gain most of his wisdom from him, he is as a "student colleague" and is not responsible for his honor in all of these things except for standing and tearing. It does not matter whether the learning involved be in Scripture, in Mishna or in Talmud.<sup>1441</sup>

13. Within the three parasang limit. The permission of one master is insufficient, and he needs permission from them all.<sup>1442</sup>

14. But if he did teach about something which came before him, it falls in this category, even if

someone asks of a halaka, "according to whom might this be prohibited?"<sup>1443</sup>

15. According to R. Reuben b. Nissim Gerondi it need not be so. Tos. and the Poseqim hold that this revolves around a case where someone is asking him for a novella.<sup>1444</sup>
16. Cf. also Erubhin Cap. "Hadar" 62b and also R. Solomon b. Isaac on<sup>1445</sup> Megillath Ta'anith that at the time the halaka was not often committed to writing in their days; particularly is this so in the Megillath Ta'anith.<sup>1446</sup>
17. This applies where he permits without qualification, cf. Hagahoth Maimonieth on Sanhedrin beginning p. 8, and the end of Cap. "Kol Hayad" (on Nidda 2) 20a bottom, s.v. R. Hananya.
18. I have found this in older editions of the Shulhan Arukh.<sup>1447</sup>
19. Maimonides Cap. 1 in the Hilkoth Biath Hamiqdash<sup>1448</sup> dealing specifically with a rebhi'ith of fresh wine, unmixed. A reference appears also in the Bayith Hadash<sup>1449</sup> and also in the Sefer Mizwoth

Haqatan, #133, deriving the case of the Bayith Hadash from Cap. "Hadar" 62b. R. Solomon b. Adret

Responsum #247 holds that on a major feast where much wine is drunk it is forbidden to teach all

that day.<sup>1450</sup> The Beth Joseph on Hoshen Mishpat

#7 does not seem to support this but the Sefer Mizwoth

Haqatan #133 follows Adret. Maimonides holds that it is permitted to teach as long as he does not set a precedent.

20. Even if he overeats to the point where his thinking becomes cloudy.

21. Anything which is not written in the texts which the Saducees acknowledge,<sup>1451</sup> it is prohibited to teach.

Cf. Kerithoth 13b.

22. Maimonides Hilkoth Sanhedrin #4, and it appears permitted from the end of the Qontres Hasemikah of Levi ibn Habib<sup>1452</sup> in his discourse with Jacob Berab, q.v.

23. As others refer to him.

24. Seemingly not actually in his presence; cf. R. Solomon b. Isaac



b. Isaac to Cap. "Heleq" (on Sanhedrin 11) s.v.  
 "Elisha."

25. In all of the classical books.
26. In many classical references including Beth Joseph,  
Bayith Hodosh, Orah Hayyim #38 who dwell on this.
27. If his colleagues were sitting at the feast, he takes  
 permission from his father, then from others, for  
 the terminal blessing. His master who studied with him gratis  
 precedes his father in this. <sup>1453</sup>
28. The point is that he should not equate himself with  
 his master.
29. For a student colleague it would be permitted to  
 walk anywhere, or to pray anywhere. <sup>1454</sup>
30. Beth Joseph, Orah Hayyim #60. <sup>1455</sup>
31. Thus Weil in his Decisions #37. <sup>1456</sup>
32. A parallel is drawn between a Jew and an idolater.
33. Eben Ha'ezer, 60:23.
34. According to R. Reuben b. Nissim Gerondi and Alfasi.

35. Supra 240:2.
36. Or until he sits, infra 244:9.
37. In spite of the quotations from Maimonides and the Tur.
38. There are some who say that he must rise as for the Shekinah, even 100 times a day.
39. From the Tur.
40. One may honor the student if the master does not do it himself but merely derives honor from the honoring of the student.
41. R. Joseph Cohen of Cracow, Responsum #19.
42. As a sign of honor, "my master has taught me so-and-so."
43. Even to arrest him had if necessary. 1455
44. Since anything that the student says is assumed to be learned from his master anyway.
45. According to the opinion of everyone. 1457
46. Cf. supra, 331:1 (60) see also 374:10.

47. As the masters write in their books in reference,  
 "thus wrote my master R.x, for whom I am the atonement."
48. This is the explanation of R. Yeruham. R. Solomon  
 b. Isaac differs.
49. If two scholars learn together, some hold that the case 1456  
 regarding them is as for a distinguished master.
50. That is to say that forty years after he was born,  
 according to R. Solomon b. Isaac and R. Reuben b.  
 Nissim Gerondi, Tos. in Sota 22b holds from the  
 time he started studying.
51. That is if the two of them are equally competent  
 it is permitted even though he has not reached forty  
 years, according to Tos. R. Solomon b. Isaac and  
 R. Reuben b. Nissim Gerondi differ.
52. If there is one older than he in the city, according to  
 R. Solomon b. Isaac, if he can convince him
53. That is, if he has already given his teaching and  
 it has been carried out. But academically 1457  
 he may permit it in discussion.

54. Even if he is greater than he in wisdom and in numbers. <sup>1458</sup>
55. Even if he permits it, it does not stand according to R. Reuben b. Nissim Gerondi, loc. cit., in the name of R. Abraham ben David. Similarly R. Isaac ben Shesheth Responsum #379.
56. Agreeing with the opinions of R. Yeruham and R. Solomon b. Isaac Isaac but the Tos. on "Elu terephoth" (on Hullin 3) 44b and others differ. There are many conflicting ramifications of opinion of this and it is not clear. Cf. R. Yeruham Responsum #2.
57. That is, he has a specific tradition that the law is not so.
58. In Hoshen Mishpat beginning of #25.
59. As in a n unresolved controversy of two Tannaim <sup>1459</sup> or Amoraim or Poseqim, if he can convince him on a matter of Mishna, then let him rescind his judgment.
60. R. Asher b. Yehiel quoting the Jerusalem Talmud, cf. Sefer Mizwoth Hagadol, Positive Precept #111: the Hagahoth Maimonioth end Cap. 1 Hilkoth Mamrim differs.

61. The case is where the first scholar prohibited because of the details of the case or in order to make a fence around the law. In an instance such as the latter, he <sup>1460</sup> may not permit even in another case.
  62. He must make restitution for the loss of his master, if he can only do so for one.
  63. Otherwise it would be simple.
  64. If he is not the equivalent, than the master precedes.
  65. Cf. in the text #251:9 and #252:9.
  66. A question is raised about this in the Beth Joseph, since there is no physical danger nor economic loss.
  67. If the master would only teach him on condition of being paid.
  68. Since a man maintains a right to look out for himself. <sup>1461</sup>
  69. From the Talmud or one Poseq.
- O. The Commentary of R. David b. Samuel Halevi of Ostrog
1. Background.
- R. David b. Samuel Halevi, generally called the TaZ after the initials of his magnum opus <sup>1462</sup>

was born in Lodmir or Vladimir<sup>1463</sup> in Volhynia  
c. 1586 and died in Lemberg, 1667. He was a  
 contemporary of R. Shabbetai b. Meir Cohen, and  
 the latter's great opponent. His famed collegium  
 at Ostrog (Ostroh), Volhynia, is where he wrote  
 his commentary of Shulhan Arukh, Yore Deah,  
 which he published in Lublin in 1646 and which was  
 soon accepted as among the highest authorities in  
 ceremonial law. After the Chmielnicki massacre  
 of 1648-9, he returned to Lemberg to accede to the  
 chief rabbinate of the city.

## 2. Method.

The Ture Zahabh is certainly as analytical than the  
Siphte Cohen, but seems from the text before us to  
 be more cautious. R. David b. Samuel did not  
 acquire the repute of disputing previous commentators,  
 and does not seem to manifest such a habit here.

It is perhaps because of this that the Council of  
 the Four Lands, in 1683, declared his authority  
 greater than that of Cohen, even though the latter  
 has since risen in critical halakic estimation.<sup>1464</sup>

## 3. Purpose.

The manifest purpose of the Ture Zahabh is  
 to provide a balanced analytical view of each

subject in turn, and as well to give additional source material for backing of the Shulhan Arukh statements. So successful was R. David b. Samuel in this that he and Cohen are considered among the greatest of the latter interpreters,<sup>1465</sup> and their decisions precede to the student halakist the decisions of the earlier strata of Karo and Isserles.

#### 4. Text and analysis.

Only in selected cases does the Ture Zahabh here indulge in extended analytical manoeuvres, but these are of the greatest interest.

#### Notes from a Reading of the Ture Zahabh by R. David b.

Samuel Halevi, Seventeenth Century Ashkenazic Authority<sup>1466</sup>

1. The Tur concludes that his father brings him into the life of this world and his master into the life of the world to come. It does not follow that in all things the fear of the master must precede that of the father.<sup>1467</sup>
2. Based on the measurement on the camp of Israel.<sup>1468</sup>  
Since it is written, "and it happened that any who wished to seek the Lord came to Moses."<sup>1469</sup>

3. Such as explicit Biblical prohibitions, cf. Terumath Hadeshen #42, by R. Israel b. Petahya Isserlein.
4. In Maimonides Hilkoth Talmud Torah , cited in the Tur. Cf. Shulhan Arukh #240. This applies specifically with the proper name. (Whether to identify him in his absence, a reference to his name might in certain cases be permissible, and other opinions previously discussed are cited in detail.) Where the relation is an exclusive one such as with his father, he is not to use his name either while living or dead. A student is not to use the proper name of his father or his master in their absence, even if it is not a common name, and would serve as a good identification.
5. And if his master greets him first he should answer him with the title, "peace to you my master and my teacher", as is the proper procedure and as it is here in Maimonides and the Tur. The principle is that he who answers should add somewhat to the glory of he who asks, cf. #169. <sup>1470</sup>
6. Explained in Orah Hayyim 38.



7. Not behind him, for it will seem that he is prostrating himself to his master, nor beside him for it will seem that he is equating himself with his master.
8. Cf. Orah Hayyim #90 which is the proper procedure.
9. The apparent confusion here is because this is from<sup>1471</sup> R. Reuben b. Nissim Gerondi; it is confused with a comment of Alfasi in Cap. 1 of Moed Qatan, although the principle could be derived from either source.
10. Even in his absence he may not contradict him.
11. From this we learn that those who ride on the way in a wagon and sit sometimes with uncovered head are wrong when they believe that there is no prohibition of this merely because they are not going on foot the four cubits which one may not walk. It is like riding on an ass or walking to ride, and all are equally subject to the restriction of not proceeding four cubits with uncovered head.
12. Based on the times of the reading of the Sh'ma.
13. Literally ("of the bema"),<sup>1472</sup> we are dealing with the reading stand which is more than ten handbreadths

high and four wide, and which is a reshuth in  
<sup>1473</sup>  
 itself.

14. Even if the master only honors himself in that others  
 honor his pupil, cf. Mordecai, Cap. 1, Qiddushin.<sup>1474</sup>

Even the wife of the scholar, i.e., a scholarly  
 family, is to be honored,<sup>1475</sup> but one who marries  
 an ignoramus is not. It follows, that as long as ~~he~~  
 is an unwed widow of the scholar we are to honor her.

If someone mentions the master of a man before  
 the man as if he were his fellow, the man need not  
 stop him and say he is not his fellow but ~~his~~ master.  
 Sometimes they even call him "thou", and there is  
<sup>1476</sup>  
 in this no cause for action.

15. For they will think that an unqualified<sup>1477</sup> comment  
 is one that he learned from his master.

16. Over whom he mourns. He is then to tear his garment.  
 The Tur interprets the business of tearing stringently.

17. To ask someone else, as is proper.

18. Even so that he may interpret stringently let the  
 second one not teach. And this applies specifically

where the decision of the first — a lenient decision — has already been effectuated the second one differs with him.

19. The difference is that this involves physical loss and danger.
20. The insult here is to Moses, for it is comparing him with any other person, whereas we know as a principle of faith that no one shall arise like Moses.
21. At first there seems no explanation for this. The difference however is whether he is saying something which is self evident or which requires that we depend on him as when he compares word with word, lest he err in this comparison. If he quotes a tradition from an elder who is living at the time, it is possible to accept it from him, since it could be checked with the elder.<sup>1478</sup>

P. The Baer Hetebh<sup>1479</sup> of R. Zechariah Mendel b. Aryeh Loeb of Belz<sup>1480</sup>

#### 1. Background.

A confusion exists here in that the late<sup>1481</sup> text,

Baer Hetebh, is ascribed to two savants, R. Zechariah Mendel b. Aryeh Loeb of Belz in Galicia

was a Polish Talmudist of the eighteenth century, born in Cracow, and later head of his own collegium at Belz. He is not to be confused with R. Zechariah Mende b. Aryeh Loeb, the Galician Talmudist of the same century, who was of the family of Moses Isserles (and traced the common ancestry to R. Solomon b. Isaac), who is associated with Frankfort on the Oder. Max Seligsohn<sup>1482</sup> identifies Zechariah Mendel as the author of the Baer Hetebh, the well-known commentary to Yore Deah, as does the editor of the present edition, who, of course, has no privileged information.<sup>1483</sup>

R. Judah b. Simon Sopher Frnakfurt Ashkenazi (Tiktin)<sup>1484</sup> officiated as dayyan, "assistant Rabbi",<sup>1486</sup> at Tikotzin, Poland, at about the time of Zechariah Mendel b. Aryeh Loeb of Belz. He wrote a Baer Hetebh to Yore Deah which became incorporated into the printed editions of many texts, and is referenced among others in Guttmann, Jacobson, Cohen, Op. cit.,<sup>1487</sup> Following the editorial tradition,<sup>1488</sup> we assume that the present text is to be ascribed to R. Zechariah Mendel b. Aryeh Loeb of Belz.

## 2. Method.

The text before us is essentially a critical compendium of comments found in and flowing out of the Siphte Cohen and the Ture Zahabh, to which have been added critical comments from other sources and many which seem reasonably original with the author of the Baer Hetebh.

## 3. Purpose

In the face of the problems raised in (1) on the background of the author and his situation, we can only suppose from the text itself that the purpose of the presentation is to clarify, correct and buttress the texts upon which he is commenting, and to reconcile, to some extent, the opposition of the two texts which are the basis for his compendial work.

## 3. Text and analysis.

Reference is made to the procedural comments under this head previously elucidated.

### A Critical and Synoptic Reading of the Baer Hetebh

1. R. Sabbatai Cohen writes that it is not now the custom to address one's father who is one's teacher as "master"; perhaps by permitting this

the father relinquishes his honor, as noted in

Orah Hayyim #472 anent the cause.<sup>1489</sup>

2. ... The reason, writes R. Joel Sirkes (in Bayith Hadash)

is that insofar as he establishes for him a Midrash,<sup>(School)</sup>

he invades the area of sovereignty of the master.

3. R. Joel Sirkes (in Bayith Hadash) notes that from

R. Joseph Karo "this does not follow, since they

brought evidence for this practice that it was

followed regarding Torah from the days of the

Tannaim<sup>1490</sup> and the Amoraim and the Geonim

in many places. One might mention the need for

taking permission or waiting for his master's

death, Text<sup>1491</sup> infra art. 4"

4. The opinions of R. Abraham b. David? and R. Solomon

b. Adret and R. Isaac b. Shesheth concur that the

taking of permission is valid within three parasangs

(reports R. Sabbatai Cohen).

5. This "actual" is not that he stands before his master

but that he teaches in his place, which is proscribed

even to a student colleague (R. Sabbatai Cohen).

5. This "actual" is not that he stands before his master but that he teaches in his place, which is proscribed even to a student colleague. (R. Sabbatai Cohen)
6. That is, "Monday and Thursday or regular market days; but an irregular market day, such as a fair, is not called "normal" according to R. Shabbatai Cohen.
7. I.e., "even without taking permission, but in the Hagahoth Maimonioth it is written that he always needs permission; cf. on this R. Joseph Karo Responsum #170 which discusses the matter at length." (R. Sabbatai Cohen)
8. R. Sabbatai Cohen writes that with a "complete" student this is the case, but R. Joseph Karo writes of the student colleague that taking permission from his master is sufficient; the point is there, further, that if he has a distinguished master and the others are not so distinguished, he needs to take permission from his distinguished master.
9. R. Sabbatai Cohen writes: <sup>1492</sup> "From the words of the master it seems that according to this opinion he

need not have learned even most of his knowledge from him; any who have not grown up to be close to their master may be called his students, but it seems to me to be otherwise: if most of his wisdom is not from him, he owes him no special honors other than tearing; and as for the master's proof, that if it were so he could not have many distinguished masters (he is struggling to define "distinguished master" and "student" in order to fix responsibilities), this is nothing, for one might hold that he learned with one most of his wisdom in Scripture, and with another most of his wisdom in Mishna, or Talmud, or Midrash and Aggadoth, etc. Cf. my comment on art. #30, any whose master is not distinguished — that is, that most of his wisdom is not from him — is not responsible for these things.

"So that here when he writes that he took permission from one master and it is invalid, it is certainly as we have interpreted it. Moreover R. Joseph Karo wrote that even if he taught and ordained him, if eventually the ordinand taught himself more, he is able to dispute before him and to teach before him the Halaka



on a case. Certainly it is clear that R. Simeon b. Laqish was a complete student of Rabbi Judah the Patriarch, and he was his distinguished master and all of his wisdom was from him, and he ordained him, and nonetheless he disputed with him."

10. R. Mordecai Jaffe (16th century Eastern Europe), the Lebhush, holds, "permission of one of his masters is not valid for him, the implication being that the permission of all of his masters or of one if he has only one, it would be, and he agrees here with the comment of R. Solomon b. Adret, but some, disagreeing, hold that within three parasangs the taking of permission is invalid." (from R. Sabbatai Cohen.)
11. But if he teaches on a case which came before him even if they ask according to whose opinion it is prohibited he must answer, "According to So-and-so." From R. Sabbatai Cohen.
12. R. Sabbatai Cohen writes, it appears that this applies specifically when he simply permits without authority, but if he justifies his reasons and convinces him or brings textual evidence, it is permitted.
13. R. Sabbatai Cohen notes<sup>1493</sup> that "this editorial

note of R. Moses Isserles should logically be at the beginning of art. #13, and is misplaced."

14. R. Sabbatai Cohen notes that it is clear from Maimonides that even if it be a matter clear in the commentators, anything not explicit in the Scriptures confessed by the Sadducees he may not teach.

Similarly R. Joel Sirkes, (Bayith Hadash):

I am amazed that the master permits what is clear in the commentators; perhaps this is a cribal error, and should read "in the sentences" (i. e. , biphesugim instead of baposeqim). "

R. Solomon b. Adret writes in his Responsa, "on holidays of feasts when wine is drunk, like marriages and circummcisions et al, one may not teach until the morrow, unless he is sure that he is sober.

"But Maimonides writes that "a<sup>1494</sup>drunk may teach Torah and even laws and Midrash except if he be a sage who decides legal cases, for then his teaching will be taken for legal decision."<sup>1495</sup>

Thus R. Joel Sirkes (in Bayith Hadash) holds that "one in distress who is distracted does not

teach, as it is written, 'in distress do not teach.' 1496

As in Cap. "Hadar, " one should avoid teaching in anger or after a long pilgrimage or in a tavern etc., but this is not prohibited even ante facto."

15. "The semikah in this case," writes Maimonides, "indicated that the holder was fit for all cases.

"How was this? An outstanding sage who was fit to teach the <sup>oral</sup> ~~shote~~ Torah as a whole, the court would ordain him and invest in him permission to judge but not to teach prohibitions and permissions; 1497 or they would give him authority with regard to prohibitions and permissions but not to judge civil cases, et c."

However, semikah in our own time is nothing but a mere request for permission; cf. the end of the responsum Qontres Hasemikah of R. Levi ibn Habib and the responsum of R. Jacob Berab and the counterresponsum of R. Jacob ibn Habib, a correspondence of many letters. (From a comment of R. Sabbatai Cohen).

16. I.e., "to use the name in reference to others. Cf.

Cf. Text #340 art. 2; when he says, "my master and teacher 'X'" and it is permitted, this is in his absence; in his presence it is totally forbidden to call him by name, but only by title." (R. Sabbatai Cohen)

17. The Shebhile Haleget holds quoting Rabh that this prohibition obtains only in solitude; in public he need not be concerned for his master's honor and may pray before him; R. Sabbatai Cohen holds "if his father and his distinguished master who studied with him gratis dine at one feast, he takes permission <sup>11498</sup> first from the master and then from the father.
18. Thus R. Jacob b. Judah Weil (15th century Germany) deriving his stand from the practice that "if a Jew were in the bath and idolators came, he need not leave." But "it is not clear if this really is a fit precedent since one deals with honor of the master and the other with avoidance." (R. Sabbatai Cohen)
19. R. Sabbatai Cohen reports that "this is derived from R. Reuben b. Nissim Gerondi, who writes this based on the comment of R. Isaac Alfasi on the Scripture, "and on the eighth day he sent the people";

it is also written, "on the twenty- fourth day he sent the people"; from this he derives that a student who leaves his master and remains over, etc.

One may be surprised at the oversight in R. Reubenb. Nissim Gerondi itself that the quotation in Alfasi is a scribal error to begin with, and should read "on the twenty-third day", as in Chronicles 2:26, q.v.

"The plain meaning of the text is that for any case he should return and take permission; the difference lies in the possibility that he might dispute with him. The matter requires further clarification."

In the Ture Zahabh, of R. David b. Samuel Halevi (17th century Eastern Europe), R. Moses Isserles of Cracow and R. Sabbatai Cohen contradict him.

20. Cf. Text #240 art. 2 and art. 3 in R. Moses Isserles' notes.

21. Or he seat himself cf. Text #244 art. 9.

22. Cf. R. David b. Samuel Halevi, Ture Zahabh:

"from this we learn that those who travel in a wagon sitting often did so with uncovered head since, because it was not walking, they did not consider it

forbidden. Alternatively, it is not proper to remain so since one who rides on a wagon, like one who rides on a donkey, is as one who walks."<sup>1499</sup>

23. It is said that "since his dread is like that of heaven, it is proper for him to rise 100 times a day even; but if a man were to receive the Shekinah many times a day, he would not be obligated to rise." (Quoting the Lebhush, R. Mordecai Jaffe.)
24. They are behind him; each turns to the side, the greater at the right and the lesser at the left, but outside of four cubits all is permitted." (Quoting R. Asher b. Yehiel, Arba'a Turim.)
25. Cf. R. David b. Samuel Halevi, Ture Zahabh:  
"It seems this applies also in regard to the altar which is four handbreadths wide by ten in height, which is also an independent domain, and requires no standing, even when the Torah scroll is in the open ark; but people do so nonetheless out of courtesy."
26. "Even if the master does not dispense honor to his student but he honors himself in that others honor him, as I have already written," R. Joel Sirkes, Bayith Hadash

quoting on "the master who dispenses with his honor."

Further (ibid.) "the teacher need not rise before the student, even if he be a great sage; although I have seen great masters who glorified their students, even unimportant ones." Cf. also Text #244 art. 8.

27. In the responsum of Sheerith Joseph: "He honors the great principle of honoring the master; but if he has learned something from him, let him not honor his master before his master's master."

The Ture Zahabh (R. David b. Samuel Halevi) reports that "the Tos. hold it to be a positive commandment and a part of honoring the Torah, even with regard to the wife of a colleague as long as she does not remarry. However, in the responsum of R. Mintz: 'The wife of a colleague if she marry an ignoramus is due no special honors', from which we infer that when she was still the widow of the sage, they owed her honor." 1500

R. Joel Sirkes (Bayith Hadash) holds, "If one mentions the name of one's master before him as if he were a colleague, he need not retrace and say:

"he is not my colleague, but my master." I have also found that when one writes privately to a great man or encounters him repeatedly, he need not perpetually "Sir" him; if at times he addresses him in the second person singular it is nothing; and with a student colleague he need not "Sir" him in private speech."

28. R. Sabbatai Cohen comments, "But a report that he heard from his master he may plainly state, except that now people would think that he is giving his own opinion, and thus the case is different, so that he should never report without giving the source; nor should he dare report as his own a tradition he has from someone else lest he enwrap himself in a tallith which is not his."<sup>1501</sup>

29. "Even in a correspondence after the twelvemonth, he should write thus, as with his father cf. Text supra #140, art. 9 in R. Moses Isserles' note." (R. Sabbatai Cohen)

30. If he eats gourds or porridge, he may have a mouthful of saliva, and can discharge it in his master's presence because it could be dangerous.<sup>1502</sup>



cf. Tal. Cap. "Hanoder" (on <sup>Ne</sup>Hadarim 7).

31. I.e., "a tear to be mended, not as with his distinguished master according to the Ture Zahabh. "If two sages study together and listen and explain each to each, some hold that this is like a distinguished master<sup>1503</sup> as regards standing and tearing, but some dispute it. Cf. Text #340 art. 8." (From R. Sabbatai Cohen).
32. "The meaning is, forty years after he was born, which is how it is read by R. Solomon b. Isaac and R. Reuben b. Nissim Gerondi, but the Tos. (Cap. 1 Sota 22b ) explain it to mean from the year he started to study, not from the year of his birth." (R. Sabbatai Cohen.)
33. R. Sabbatai Cohen interprets, "But if they were equal it is permitted even though he is not forty years old. But the Tos. teach, "the prohibition of teaching until the fortieth year assumes he is equal in wisdom to the great man of the city and that the latter has attained to instruction. Consequently when there is one who has attained to the age of instruction and he has not, he does not teach in his presence; but if he be the greatest in wisdom, then he teaches

even if below the age of instruction." It seems that the opinions of R. Isaac Alfasi and R. Asher b. Yehiel agree with the Tos. and one should be severe rather than lenient here.

34. "Even if he permitted it, it is not permitted, even if he be greater in wisdom and authority," according to R. Abraham b. David and R. Isaac b. Shesheth, which applies if his teaching has already been executed; but if the two of them met in the synagogue, he may permit it. However, there are commentators who hold that "if one is greater than his fellow, in wisdom, he may overrule and permit what he has proscribed, even when it depends on his own opinion." (opinion of R. Sabbatai Cohen)
35. R. Sabbatai Cohen disputes this, and brings evidences from the Talmud and the commentators to prove that even though he have a tradition to support him, he may not permit. Vide. his extensive discussion, ad loc.
36. R. Sabbatai Cohen writes, "It appears precisely in balanced judgment that he errs, where dispute two Tannaim or two Amoraim or two commentators (of equal status), and the prohibitor decides in

accord with one and their dispute is held to be with the other, cf. as is written in Hoshen Mishpat #25.

But if he cannot reasonably persuade him that he erred even though he discuss it with the teacher so that he reconsider, he cannot permit it over his prohibition.

37. R. Sabbatai Cohen disputes the position of the commentators who hold that the reasoning is not that it touch the honor of the sage but that it is like cutting a prohibition, that is, he can prohibit what his colleague has permitted only if the teaching has already been executed.

38. The Ture Zahab disagrees in this matter, that if judgment has already been executed in a given case in accord with the first decision, e.g., part of the issue has been consumed or an engagement has been set up on a permitted thing, then the second cannot prohibit it since it is not totally in his jurisdiction any more. If no one else is involved, then the second can dispute and be more stringent (and R. Sabbatai Cohen writes that it not be done for a light reason; R. Asher b. Yehiel: from this

case may come a precedent just as were it discussed in the House of Study.)

38. "If the first sage prohibits on material (direct) grounds or as a fence around the law, he cannot permit even in another case" — R. Solomon Luria.
39. Both of them are before him to answer, but only one can, cf. Hoshen Mishpat #260, #264.
40. R. Joseph Karo (Beth Joseph) contents himself<sup>1504</sup> to unload, even when he is equal to his master, since there is neither danger of body or economic loss; this implies that if he is not equal, that obviously the master would preceed, and actually it is not clearly determined in R. Adher b. Yehiel." — R. Sabbatai Cohen.
41. "If the master would only teach him for hire and' a Jew or Jews hire him to teach, then the loss of the one who pays tuition preceeds." (R. Judah Hehasid, Sefer Hasidim; cf. Text #251, #252 art. 9.
42. Ture Zahabh: "But if he said, as R. Joshua, we do not administer stripes, for we find in Tal.   
 Yabbe ment,   
 sage, even if, at the time of the case, we have not to   
 him. And the explanation of Hoshen Mishpat is

Yebamoth, "Were he to be as Joshua b. Nun,<sup>1505</sup>  
I would not give him a daughter."<sup>1506</sup>

43. Ture Zahabh: "At first glance this does not make sense because the earlier part of the argument was also his. But perhaps it is to be understood thus, that it applies where he said the argument without support at all, on his own opinion, that it merely appeared to him to be so; then we read, we do not hearken to him, viz, we do not rely (support) on the mereopinion of that sage in that he is striking an analogy of cases on his own opinion, lest he err. If it be accepted,<sup>1507</sup> then it must be a clear resemblance to all, and we would be relying on the resemblance, not on the teacher. In that case, since this is evident, what does this come to teach us? That we must hold that he needs to be explicit so that we do not suspect that he is merely talking us into accepting what is really an obvious analogy, whereas he is not."

44. "Explained in Talmud or in one commentator.

In Talmud it would be if he had a report of a living sage, even if at the time of the case, we hearken to him. And the explanation of Nimmage Joseph<sup>U</sup> is

that when he is not alive we say he erred, and he supposes that thus he says; but when the sage is alive, we can know exactly what he says; it is surprising that R. Moses Isserles does not bring this case in evidence." — Ture Zahabh.

Q. The Bayith Hadash of R. Joel b. Samuel Sirkes of Cracow.

1. Background.

Born in Lublin in 1561, Sirkes<sup>1508</sup> died in Cracow in 1640 after a career of travel which took him to Brest-Litovsk, Pruzany near Slonim, Lubkow, Lublin, Miedzyboz, Beldza, Szydlowka, and Cracow. He was renowned as a great pupil of R. Phoebus, whom he succeeded in several positions,<sup>1508</sup> and given to favor cabala,<sup>1510</sup> and to oppose both pilpul and philosophy.

2. Method.

The method of Sirkes is to select seriatim phrases of the Jacob b. Asher text and to elucidate them after an analytic method, evidencing more interest in making the Tur practical and revelant than in hunting down sources. He is interested in clarifying the fundamental principles upon which the towering Tur stands, as embodied in the Mishna, the Talmudim, and the major codes.

### 3. Purpose.

The functional purpose of the Bayith Hadash<sup>1511</sup> seems to be, through clarification of the principles of law inherent in the Tur, and through the simple, logical and clear presentation of the relevance of that massive work's teachings, to help it to regain (or maintain) its primacy as a fundamental code of first resource.

### 4. Text and analysis.

Many of the foregoing ideas have been considered in connection with other texts, however the clarity of Sirkes presentation is remarkable in itself, and deserves special comment.

Notes from a Synoptic Reading of the Bayith Hadash on the Tur, Yore Deah #242, from ed. Rosenkrantz and Schriftsetzer, Vilna, 5682 (1921).

1. JUST AS A MAN IS COMMANDED.<sup>1512</sup> From<sup>1513</sup> Maimonides, Hilkoth Talmud Torah, and the principle is in the end of Cap. "Elu Meziyth".
2. ANY WHO DIFFER. In Cap. "Heleq", R. Hisda said, "any who differs with his master is like one who differs with the Shekinah, and he adduced there the example

of Korah.<sup>1514</sup> R. Solomon b. Isaac interprets,  
 "to differ with his collegium."

Simply "to differ" is not intended here, but rather  
 "to dispute" or "revolt against his master,"  
 therefore R. Solomon b. Isaac interprets it to mean  
 "to differ with his collegium."<sup>1515</sup> This is like the  
 action of Dathan and Abiram who differ with Moses  
 in order to contradict his words; but here he only  
 establishes for him<sup>1516</sup> a Midrash, and there is  
 no serious transgression involved.

For this reason, R. Moses Cohen was surprised  
 at Maimonides who wrote that one who establishes  
 a Midrash is in the class of one who differs with his  
 master, as Beth Joseph cites him as saying,

One may learn from the Moses incident that es-  
 tablishing a Midrash is understood to involve con-  
 testing the authority or the right to authority of  
 the superior, in the area of his expertise.

3. A MAN IS PROHIBITED FROM TEACHING BEFORE HIS  
 MASTER EVER. The meaning of "ever" is that he  
 is prohibited from teaching before him even if he  
 were to take permission.



4. ANYONE WHO TEACHES BEFORE HIM IS WORTHY OF DEATH. That is, if he does not take permission, then why shall he merit death "in his presence?"<sup>1517</sup>

It is like the case of the Aaronides and the incident of the student who taught before R. Eliezer in Cap. "Hadar", p. 63. He has become worthy of death, since he taught within the three parasang limit without taking permission. The principle is that anything done within three parasangs is as if it was done before him, since it is within his radius of authority. This, too, is the opinion of Tos. in Cap. "Hadar" and at the beginning of Sanhedrin. In that case the comment of Rabba that (in Cap. "Hadar") one who teaches out of the immediate presence of the master is not worthy of death, would refer to "outside the three parasang limit."

An exceptional case may be brought from the incident of Tanhum, the son of R. Ammi, at the beginning of Sanhedrin, who taught within the three parasang radius.

The prohibitions over drinking, and the differentiation of various wine and alcoholic beverages, are dealt with inter alia in Terumath Hadeshen #42.

5. A STUDENT IS FORBIDDEN TO REFER TO HIS MASTER BY NAME, EVEN IF IT BE AN UNUSUAL NAME. Cf. Maimonides Hilkoth Talmud Torah #5.  
It was already established in the text supra that it is forbidden to refer to others whose names are like the name of his master. (#240)
  
6. HE IS RESPONSIBLE TO STAND BEFORE HIM AS SOON AS HE CAN SEE HIM FROM A DISTANCE.  
Cf. Qiddushin 33, Maimonides has written that a student who sits before his master continually is not permitted to stand. Certainly this applies when he is engaged in the study of Torah, even in the face of the shaharith and arbhith services, cf. the end of p. 33a of Qiddushin. One may hold that a person occupied in the study of the Torah need only rise before the master morning and evening.
  
7. ONE SHOULD NOT HONOR THE TALMID HAKHAM.  
I have found that even if the master does not give honor to his student, if he honors himself in that others honor him it is like the analogy of the chief priest and the giving of honor to the assistant. (A citation).

8. THE MASTER IS RESPONSIBLE. R. Simha explained that the master need not stand before the student even if the latter is a very great sage. It is prohibited to teach before one of the great men of the generation, even though one has not studied under him, Tos. Cap. "En Omdin" (on Berakoth 5).
9. THE WIDOW. Of a wise scholar is to be honored after his death just as if the husband were still alive.
10. LET THE STUDENT NOT SAY ANYTHING WHICH HE HAS NOT HEARD FROM HIS MASTER UNTIL HE MENTIONS THE NAME OF THE ONE WHO SAID IT. In Cap. "Tephillath Hashahar" (27) directly or indirectly, it involves at least a misquotation and sometimes a falsification of attribution. The analogy is to be drawn between Moses and Joshua in that everything that Joshua said, he was saying by the authority which was vested by God and Moses, or by an analogous authority.
11. AND WHEN HIS MASTER DIES, THERE ARE SOME WHO SAY THAT HE IS TO TEAR HIS GARMENTS UNTIL HE BARES HIS HEART, AND HE DOES NOT BASTE

THEM EVER. Cf. Maimonides Cap. 5 of Hilkoth Talmud Torah, and in Cap. 9 of the Hilkoth Abhel, and cf. Cap. "Elu Megalehin" top of p. 26. The classification includes his father, his mother, his master from whom he learned Torah, the Nasi, the Ab Beth Din, etc. The derivation is from the incident of Elisha in II Kings 2:12, and the interpretation of that verse, seriatim.

12. BUT IF HE DID NOT LEARN MOST OF HIS WISDOM FROM HIM, THEN HE IS AS A STUDENT COLLEAGUE.

Cf. Maimonides, ibid., who considers him a student colleague, <sup>1518</sup> following the suggestion of R. Ulla.

Standard protocol of Babylonian scholars is to rise before each other and to tear their garments for one another.

13. THE LOSS OF HIS FATHER. Cf. inter alia the beginning of Cap. 12 of Hilkoth Gezelah Weabhedah cf Maimonides, and the Sefer Mizwoth Hagadol, positive precept, #74. Cf. also Hagahoth Maimonioth beginning Cap. 5 of Hilkoth Talmud Torah.

R. The Nequddoth Hakeseph of R. Sabbatai b. Meir Hacoen.

1. 1. Background

The opposition, and perhaps even enmity, obtaining between R. Sabbatai Cohen and R. David b. Samuel Halevi of Lemberg has been noted in the introductions to the backgrounds of Cohen's Siphte Cohen commentary on Yore Deah of the Shulhan Arukh published in 1646, and David b. Samuel's Ture Zahabh, qv. s.

2. Method.

The Nequddoth Hakeseph analyzes critically the serial points raised in the Ture Zahabh. The example infra, drawn from the segment of Yore Deah #242, illustrates a disqualification of an argument in section 9 of the TaZ.

3. Purpose.

The Nequddoth Hakeseph,<sup>1519</sup> as the name implies, is a commentary to the Ture Zahabh of R. David b. Samuel. It was not sufficient to Cohen that his Siphte Cohen was accorded wide authority in case decisions. His disagreements with David b. Samuel prompted him to write a seriatim analytical criticism of the points which David b. Samuel discusses, and to elucidate them.

In so doing, although we may question whether this was obvious to him, he was in effect adding to the luster of the text which he was practically speaking emending or correcting, and shedding authoritative glory on his own text as well.

4. Text and analysis.

Notes from a Synoptic Reading of the Nequddoth Hakeseph

by R. Sabbatai b. Meir Hacoheh.

Nequddoth Hakeseph of Siphte Cohen on the TaZ,

section 9:<sup>1520</sup> This is not relevant for the Talmudic citation only dealt with a special situation in itself, and was not applicable to this. (Cohen is attacking a calendative argument from the Ture Zahabh which was not cited in our reading.)

S. The Gilyon RaSHA<sup>1521</sup> of R. Solomon b. Akiba b.

Moses Guens Eger (Eiger) of Poznan (Posen).

1. Background

R. Solomon b. Akiba Eger was a noted German rabbi and commentator, b. Lissa 1785,<sup>1522</sup>

d. Posen December 22, 1852. He served in Kalisch, Russian Poland, and succeeded his famous father, R. Akiba Eger the Younger, at Posen. A prolific writer, one of R. Solomon's better-known works

is the present Gilyon of notes on the Shulhan Arukh,

Yore Deah, which was published at Koenigsberg.

The present text is from the edition of Gruber and

Longrien, Koenigsberg, 5619 (1858).

## 2. Method.

Rarely does Eger indulge in source-hunting,

compared to some other commentators. His interest

is seemingly centered upon analytical notes on

the numbered sections of the Shulhan Arukh.

## 3. Purpose.

Eger's purpose is to clarify and elucidate the

selected materials — not always the principles

behind the materials — which he finds troublesome in the text.

## 4. Text and analysis.

### A Synoptic Reading of the Gilyon RaSHA' by R. Solomon

#### b. Akiba Eger

Section 1. <sup>1523</sup> There is no difference between a talmid

hakham and a sage, for the great sages

were known by the name of talmid hakham.

The word talmid alone of course has a different significance. (Eger repeats here the sources for this definition which we have considered.)

The respect which he is to pay to his master continues after death to be extended to the widow of his master.

Section 2. If his master has interpreted leniently and he interprets before him stringently, they are permitted to place him under the ban.<sup>1524</sup>

Section 3. Anyone who has a permanent or steady master, another master is prohibited from teaching<sup>1525</sup> in his place.

Section 9. In a place where this is common, it may be permissable (to teach from such books).

Section 12. Cf. Or Hahayyim on the Torah, "Shemini".

Section 14. Isserles. He speaks of the semikah which is customary in our time.

Section 15. A symbol of aggrandizement on the part of the pupil.

Section 16. In the Tur Orah Hayyim #38 we find that if his master has already removed his phylacteries<sup>1526</sup> the student may do so.



Section 21. The Passover Hagaddah, however, does so<sup>1527</sup>

in mentioning the story of R. Akiba and R. Tarphon, etc.

Section 32. It would appear that any talmid hakham is

able to waive only his own honor but not to give

permission that his station<sup>1528</sup> may be taken

in vain.

Section 62. In Siphte Cohen. But compare in the same text

#251 at the end of paragraph 17.

T. The Pithhe Teshubhah of R. Abraham Hirsch (Zebhi) b.

Jacob Eisenstadt of Byelostok.

#### 1. 1. Background.

The author of the Pithhe Teshubhah and the subsequent

complementary Nahalath Zebhi was a Russian rabbi,

born 1812, died 1868, in Koenigs berg,<sup>1529</sup> after

serving as rabbi in Ottymia,<sup>1530</sup> government of

Kovno. His great work, partly published in Vilna

in 1836, the Pithhe Teshubhah, was started by him

at an early age. Some consider his novellae on this

work, added later under the title Nahalath Zebhi,

to be of secondary value. <sup>VALUE.</sup>

## 2. Method.

The two works basically follow the same pattern, the second attempting to fill gaps and add novellae to the structure of the first. Eisenstadt collects and indexes according to the Tur system nearly all the works of his predecessor authorities, and refers to almost all the later eminent rabbis.

## 3. Purpose.

In providing what has proved to be the most popular<sup>1531</sup> and useful general index to the responsa and decisions of the later authorities on the subjects dealt with in Karo's Shulhan Arukh, Eisenstadt covers a great range of materials, some of which are nowhere else presented. Much of his material is dealt with in other texts, some of which we have considered. Generally, he not only cites his source, but synthesizes the argument in an effective and usable manner.

## 4. Text and analysis.

Notes on a Reading of the Pithhe Teshubhah by R. Abraham

Hirsch (Zebhi) b. Eisenstadt of Byelostok.

### 1. REGARDING THE HONOR OF HIS MASTER. Cf.

Responsum R. David b. Zimra<sup>1532</sup>, n.s.,

"On the ordering of the reading of the Torah",

where he writes that in case his master ascends third for the reading of the Torah, the student is not permitted to conclude<sup>1533</sup> the reading, because this is as it were an insult in public;<sup>1534</sup> even if they called him, he may not accept the honor.

This is not an insult to the Torah, as might otherwise be interpreted,<sup>1535</sup> since the fact that his master was at all called, even if third, indicates respect for the Torah.<sup>1536</sup> If his master gave him explicit permission, however, then he is in any case compelled to accept the honor.<sup>1537</sup> (Citation from R. David b. Zimra).

2. IT IS PERMITTED TO DIFFER. Considered in Responsum #495 of R. David b. Zimra et passim.

As in R. Jacob b. Zebhi Emden, part 1, #5.

Cf. also Hut Hashani #20.

3. BEFORE HIS MASTER. Cf. Responsum Shebuth Jacob part II #64 on the one who has achieved the status of being fit to teach and does not teach.

Cf. also the Peri Megadim at the beginning of his comments on Orah Hayyim for an extensive discussion

on the order of precedent in assuming a position of teaching.

4. IF HE IS DISTANT FROM HIS MASTER. Cf. Beth Joseph #141, where Karo contents himself with the law that it is prohibited to teach before his master within three parasangs.

If his master was outside of the three parasang radius of authority, and he taught, and subsequently his master entered within that radius of authority, Karo considers whether the disciple's teaching stands; when his master re-enters the radius of authority which includes him, if he does not ask the consent of his master to his teaching, he is like one taught before his master, and is prohibited. However the Tos. on Sanhedrin fol. 89 holds that if he concluded his teaching while his master was outside the three parasang limit, he need not ask him. But if he returned while he was still in process of delivering the teaching, then he may not continue to teach without asking his master.

5. IF HIS HOUSEHOLD. Cf. Responsum Huth Yair #121 (Bachrach) where he seems to hold that all matters of prohibition and permission (ritual law) which come before a man

as regards his own household, he is permitted to teach.

6. THAT HE MAY NOT TEACH WHEN HE HAS DRUNKEN.  
Cf. Responsum Shebuth Jacob Sec. 1 #140. He might judge civil cases even after having drunken.
7. WHEN HE HAS DRUNKEN WINE. Cf. Responsum Huth Yair #177 on this.
8. ANY SAGE. It is possible that the opinion of this of R. Samuel Edels on Sota 1:3 is the result of the fact that at his time there was not popularly available a compendium on the Shulhan Arukh, but now that the TaZ and the SHaK and others of the latter interpreters (aharonim) are generally available it is permissible.
9. AND HE SHOULD NOT TEACH. One must discriminate between the decision of civil law and other teachings, especially of ritual law.
10. MY MASTER MY TEACHER. In the cited opinion of the author of the SHaK, this is precisely when he is not before him, however the Peri Hadish differs with the SHaK in this. (Hezekiah da Silva)

11. THE STUDENT IS NOT TO ASK. As in Panim Meiroth sec. 1 that if a student passes before the master he is not to address him first with greeting, for this is a boorish characteristic.
12. TO STAND BEFORE HIM. Not, according to some, on the 9th of Ab, which is an exceptional case.
13. AND PRECISELY. R. Jacob b. Asher quoting the responsum of R. Joseph Kolon.
14. HE INTERPRETS IT STRINGENTLY. Quoting on a note of Isserles. Cf. Yom Teruah p. 10, "he said."
15. HIS MASTER. When his master dies, cf. responsum Shaar Ephraim #91, where he deals with one who has made righteous proselytes in Israel and enters them under the wings of the Shekinah, whereupon (upon his death) they are to tear the garments for him like his master.
16. TO TEACH HIM TILL FORTY YEARS. A comment on the Isserles gloss. Sometimes he may teach civil law even though he has not achieved the age of forty years.

17. ON A MATTER OF MISHNA. On Isserles, cf. responsum of Shebuth Jacob, Part 1, #61, which discusses a request made of a master by means of a messenger, and who is to be responsible for the confusion of the response through the error in transmission of the messenger. The issue is to what degree a man is responsible for a blunder of his messenger or designated agent, particularly where transmission of a responsum is concerned.
18. HE MAY PERMIT IN A MATTER OF MISHNA. A comment on Isserles (Various disputing points of view are presented here, however the note does not appear in all texts of the Pithhe Teshubhah.)
19. EVEN IF HE ERRED. On Isserles. Cf. Responsum of Panim Meiroth, sec. 1, #3, but confer also SHaK on Hoshen Mishpat, #25.
20. THE SECOND IS NOT TO PROHIBIT. A comment on Isserles. Cf. Responsum Ridbaz, n. s., #362, which differs with this. However, if he erred in balance of judgment, and permitted then he rescinds his teaching and they prohibit even against his desires.

21. IN ANOTHER CASE. A commentary on Isserles.

Cf. Responsum Shibath Zion #25. This applies precisely where the second sage is asked about it, or is permitted to determine what seems to him to be the proper procedure in another case. He may not intrude on his own to permit that which has been prohibited by another sage. <sup>1538</sup>

22. THE HONOR OF YOUR STUDENT. On section 33.

Cf. Responsum Huth Yair #192.

23. HE UNLOADS HIS BURDEN. On Isserles. Cf.

in this regard, Responsum Ridbaz, section 2, #755 on the conduct of ritual teachings, "B".

U. The Nahalath Zebhi of R. Abraham Hirsch (Zebhi)

b. Jacob Eisenstadt of Byelostok.

1. Background.

The background of the author and the positions of relation of the present text and the Pithhe Teshubhah of Eisenstadt have been described together in the introduction to the preceeding article on the Pithhe Teshubhah, with the notes thereon.

2. Method.

The present text may be approached as an independent text, even though London inter alia <sup>1539</sup>



considers it an addendum of little value to the former text. It is sometimes treated as an independent text, as in a Vilna edition of the Shulhan Arukh,<sup>1540</sup> which presents the Nahalath Zebhi more prominently than the Pithhe Teshubhah.

2. The present text critically analyzes at some length extensive citations from the later masters, occasionally comparing them with each other and with the earlier masters.

### 3. Purpose.

The present text, derogated by some,<sup>1541</sup> not only "makes sense" in itself but serves to complement and fill out omissions in the earlier text. It does not seem to deserve the cavalier treatment accorded it.

### 4. Text and analysis.

Notes on a Reading of the Nahalath Zebhi by R. Abraham Hirsch (Zebhi) b. Jacob Eisenstadt of Byelostok

242: Article 21 in the note(s) of R. Moses Isserles,

Mappa Hagahoth to the Shulhan Arukh): This applies specifically if his father is also his master (further discussed in art. #140, and adduced as well in Baer Hetebh ad loc.). As to this which is written in the Responsum of Sheerith Joseph, THAT HE

that 'his opinion is not so, but rather even if he learned nothing from him (his father), his (the father's honor) is greater than the honor of his master," it seems to me that it appears that R. Moses Isserles accords to his principle (agrees with him in principle). In the Responsum of Sheerith Joseph (siman) #19, we have evidence<sup>1542</sup> from a citation, "If his father says, 'Give me some water to drink,' and his mother says..., he leaves his mother since (that is, attends to his father's needs first because of the principle which applies to his case, viz, that) 'Both she and I are bound (responsible) for his (the father's) honor.' The same is the case with the master.

"Do not answer me<sup>1543</sup> from the case of his father vis-a-vis his (paternal) grandfather, for there he would not say, 'I am responsible to honor him,'<sup>1544</sup> for he is not at all responsible to honor his paternal grandfather (i. e. he may honor him, but he is not duty bound to extend to him the forms of honor.)

"But as regards the master of his master, whom he is at least responsible to honor to some

extent because of his teachings, he must hold,

'Both he (his master) and I are bound to honor him.'"

One must observe that he agrees with the reasoning of R. Joseph Karo, who discusses the opinion cited in Isserles (supra, #240, art. 24, citing the opinion of R. Joseph Karo Responsum #44), "A man is not at all responsible for the honor of his paternal grandfather." But this is (merely a citation, and) R. Moses Isserles maintains there that properly he is to some extent so bound (that is, this is clearly implied in R. Moses Isserles' comment that he is bound for the honor of his father more than for that of his grandfather; it follows clearly and properly that he is to some extent bound for the honor of his grandfather), and the intent of R. Moses Isserles must therefore be merely that in the case of his father vis-a-vis his paternal grandfather, he may not hold as with the case of his master vis-a-vis his master's master, "Both he and I are bound for the honor of him."

The principle of the Responsum cited of R. Joseph Karo which brings the case of the father vis-a-vis the

mother is that "I may not hold that I am equally bound for the honor of both," as is written by R. Jacob b. Asher, Arba'a Turim, at the beginning of (Yore Deah) #240, since his father is distinguished above his mother in that his mother is also bound to honor him.

Therefore the honor of his father preceeds that of his mother, which is not the case<sup>1545</sup> here, for if it were otherwise, then he would be more responsible to honor his master than his master's master. Close examination reveals this to be a simple matter.

There is a problem with the opinion of R. Joseph Karo because of the analogy brought forth by the Tos. in Nidda 10b; R. Yohanan said quoting R. Simeon b. Yehozedeq: "It is intimated that he was his master, in Cap. 7:2, R. Simeon b. Laqish<sup>1546</sup> referred to R. Simeon b. Yehozedeq as a cattlekeeper, and R. Yohanan did not waive the honor due his master," vide loc.

According to R. Joseph Karo from the simple facts of the case he should have been more strict, because it is clearly stated in many places that

R. Simeon b. Laqish was the student of R. Yohanan, and if so, he was himself responsible for the honor of R. Simeon b. Yehozedeq, who was the master of his master.

Further, I have seen in the Tos. in another case (ibid.) , fol. 59a, they posed the same question, according to the explanation of R. Meir Lublin ad loc.

#### V. The Hiddushe Hagahoth of R. Judah Loeb b. Meir Hanneles<sup>1547</sup>

##### 1. Background.

Although Schloessinger does not mention it, the Hiddushe Hagahoth may be attributed to<sup>1548</sup> the 16th century rabbinical author and authority R. Judah Loeb b. Meir Hanneles (Haneles),<sup>1549</sup> whose Wayiggash Yehudah<sup>1550</sup> was published in Lublin in 1599, as a commentary on Tur, Orah Hayyim.<sup>1551</sup>

##### 2. Method.

This text traces down sources for comments appearing in the Tur and some which are reproduced in the Beth Joseph. Occasionally Hanneles will consider an analytic comment, but in the main he confines himself to citations of relevant prior work.

##### 3. Purpose.

The manifest purpose of the Hiddushe Hagahoth

is to supply the sources for the original codes, and occasionally to clarify there underlying meanings.

#### 4. Text and analysis.

#### Notes from the Hiddushe Hagahoth by R. Judah Loeb b.

#### Meir Hanneles.

1. In our gemara, R. Ashi.
2. R. Solomon b. Isaac explains "Uri" in the explanation of R. Homnuna to be the name of a place.
3. He means to say, #169, and similarly in all references to this article mentioned by R. Joseph Karo art. #170 should be read as art. #169.
4. The explanation of the words of the Tal. Jerusalem, R. Hanina dwelt in Sepphoris, and there would come before him questions of wisdom, judicial cases, and he used to speak on them. And R. Yohanan and R. Simeon b. Laqish were accustomed, etc., means that even though he were asked about a given case twice, he would teach the halaka of that case and he would not join himself to R. Yohanan or R. Simeon b. Laqish, and he was not afraid lest he would err in his judgment. We hold that "he was exceptionally wise," i.e., that sage was expert and great,<sup>1552</sup> but his danger was still great.

"Once upon a time," that is, on a certain occasion, he asked them to serve as colleagues with him on a case. "They responded, because of what?" Which is to say, Why is this day different from all other days? Why are you asking us now to serve on this case when you never asked us before? Why do you want to divide authority with us here whereas it is not your customary practice?<sup>1553</sup>

Replied he, "~~May~~ I stand accursed if it is not true, that every case on which I have taught a teaching I have learned from my Master, who judged it as a precedent<sup>1554</sup> before me by judging such cases as many times as I have hairs on my head.

"But this case I only saw judged before the Master twice, and since that is insufficient to establish a precedent (which requires three times), I cannot rely on the Master's precedent but must call on you to sit with me in judgment.

5. On the use of 'uqa desolmeh, a kind of gum made from trees used so that a ladder may stand firmly and not wobble. He asked R. Jonah his father who permitted it.

6. Even though R. Jonah permitted it, he instructed his son to go and ask an other elder, so that he would not be relying on himself alone.<sup>1555</sup> (This is an explanation of the qorban ha'edah.)
7. In our present gemara it refers to this memra of R. Abbahu (Aibo): Said R. Yannai.
8. From this expression we may learn that even as regards mourning (abheluth) according to some of the practices of the first day, Maimonides and Nahmanides disagree, since he ends in this manner. This is also the conclusion of R. Asher b. Yehiel. But this is to be rejected, since the practice of mourning (abheluth) according to some of the practices of the first day is not subject of dispute; consequently, it seems to me that this is a scribal error in the <sup>O</sup>b~~h~~oks of our Master (R. Joseph Karo), and it should read thus: And thusly is the conclusion of my father, R. Asher b. Yehiel, that there is his<sup>1556</sup> by custom all the practices of mourning (abheluth) according to sme of the practices of the first day. (Cf. R. Joel Sirkes, Bayith Hadash, ad loc.)



W. Perate Remaze Dine Tur Yore Deah Wehamehudashim,

associated with R. Josephb. Ephraim Karo.

The present text<sup>1557</sup> edition appends to the text of

Yore Deah #242 two brief inserts, of which this is the first.

The editor attributes it to Joseph Karo; it is unlisted under its present title in the usual references; it does not reappear in some proximal sections of Yore Deah.

It seems to have as its purpose the raising of questions which Karo discusses, and thus serves as a sort of geminal index to Karo. It is possible that it is anonymous, or the product of the editor himself, and bears Karo's name only to indicate that the questions are discussed by him.

The citations in upper case are from the foregoing text.

A Reading of the Perate Remaze Dine Tur Yore Deah  
Wehamehudashim.

242: EVEN IF HE GAVE HIM PERMISSION, HE MAY NOT

TEACH WITHIN THREE PARASANGS: If he took permission from one master of his, must he

take permission from his other masters?

HE MAY NOT ORDAIN OTHERS IN THE PLACE

OF HIS MASTER: Does the ordainer maintain authority over the ordinand even though he is not his master?

May the student colleague teach before his master?

What is the definition of "student colleague" as derived from the Geonic expositions, and may he teach while yet his master is alive?

HE IS FORBIDDEN TO PERMIT A QUESTIONABLE THING WHICH HIS MASTER...

When is he permitted to teach in the place of another sage?

What is a guest sage and what are the limitations of his authority?

- X. An Abstract of a Compendium of Practices Related to Teaching Cases of Prohibitions and Permissions, assembled by R. Sabbetai Cohen.

The present edition follows the text of Yore Deah #242 with two brief inserts, of which this is the second. The editor claims this is assembled by the Siphte Cohen, i.e., R. Sabbetai Cohen, q.v.s.

The thrust of the Compendium is to elaborate, concretize, summarize that which was attempted in the text proper. It is presented here in numbered sections which follow those of the text of the Vilna Shulhan Arukh. It is evidently<sup>1558</sup> intended to be read with the Karo text.

The method of the Compendium is rarely to present

sources, but to emphasize rather the application of the principles of the Shulhan Arukh. Occasionally Cohen will indulge in limited hypothetical analysis, but this text emphasizes the practical.

A Reading of An Abstract of a Compendium of Practices  
Related to Teaching Cases of Prohibitions and Permissions,  
assembled by R. Sabbetai Cohen.

1. If a sage issued a prohibition, and his teaching was executed, and (word of it) spread, he <sup>1559</sup> is permitted to ask a second sage only that he may tell him whether the first erred in a matter of Mishna, or that he erred in balance of judgment (the details of the particular case and the assessment of the relevance thereto of specific principles of jurisprudence deemed applicable, rather than erring in assessing the validity of the principles per se), or according to the process elaborated in Hoshen Mishpat (of R. Asher b. Yehiel, Arba'a Turim, and corresponding section in R. Joseph b. Ephraim Karo, Shulhan Arukh) Section #25, he <sup>1560</sup> may render permission.

But if he is unable to clarify that the original prohibition was an error, but he merely has a

tradition to permit, or he disagrees with him in the area of balance of judgment, then even if the first one recants and admits that he is right, he cannot permit, and if they (reversed the earlier decision and) permitted, then the permission is invalid, for it is as if the judgment of prohibition has been decided<sup>1561</sup> (i. e., to review the case amounts to setting a precedent for reversals, with the result that any case would always be subject to reversal, and no decision would ever be regarded as binding.)

Some say that even if the second (court) were to be greater than the first in wisdom and in numbers (the traditional requirement for abrogating the statute enactments of a prior court), it is unable to permit; but there are dissident opinions according to which it may permit, provided that it is greater.

If the first permitted, the second may prohibit,<sup>1562</sup> and if both are sitting in the academy, and the teaching of the first has not yet been executed, then the second may permit.<sup>1563</sup>

All of this applies to the selfsame case, but in another case he may teach a permission

provided the first did not prohibit it because of the seriousness of the case or as a secondary prohibition.

( Principle of the Syab<sup>g</sup>, the "fence around the law. ")

2. Where two sages disagree in the area of uncleanness and cleanliness or in the area of prohibition and permission, <sup>1564</sup> then in a Scriptural case they follow the one who rules severely, even if he be the less in wisdom and in numbers, that is to say, he has not as many students as his colleague. But if the lesser one was the student of the greater one, then the halaka is not according to the student in the place of his master, even though he is dealing more stringently in a case of Scriptural prohibition. But if the student became as wise as his master, then he is his legal equal.

If the case turns on a rabbinical enactment, then if the both of them are equal, so that it cannot be determined conclusively which is the greater, they follow the more lenient.

If one of them is greater in wisdom or in numbers and he rules leniently, then even if the case has

been concluded for severity, following the opinion of the lesser, they reverse (review) the case. If it is the greater who ruled severely, then they rely upon the lesser in time of emergency.<sup>1565</sup>

If one of them is greater in wisdom and the other is greater in numbers — that is to say, he has more students — then even if they do not give their (the students') opinion, and all the more so if most of them agree with him, the one who is greater in number is called "the greater" in relation to his colleague. But if one of them is greater in years, he is not considered the greater merely because of that.<sup>1566</sup>

Similarly, they may rely on a student in the place of his master in a case of rabbinical prohibition if it is a time of emergency.

And similarly in case of a dispute between an individual and the majority, if they have done according to the individual and have ruled with severity, they reverse (review) the case. If, however, it is the majority which has ruled severely, then they rely on the individual regarding a rabbinical prohibition at a time of emergency.

3. A time of emergency is to be understood specifically as a time of great loss, or of lesser loss for a poor man;<sup>1567</sup> as regards an important matter or for a wealthy man;<sup>1568</sup> for the honor of the Sabbath or a festival or for the honor of guests or for all prohibitions other than wine prohibited to Jews because of known or suspected manipulation by an idolator (cf. Jastrow, Op. cit., s.v. nesekh) where if it is possible to sell it to an idolator there is no great loss; it is not considered a great loss even though he may lose the profit, since he does not lose the principal.<sup>1569</sup>
4. All this which we have written is in regard to any (undefined) prohibition; but if one finds sometimes another view which allows permission on Talmudic grounds or on grounds of balance of judgment, one must follow his best judgment; a judge who is fit, who knows how to compel,<sup>1570</sup> to understand, and to teach, can do no other.

Consequently, if one finds in the Talmud or the interpreters of the halaka (posegim) comments which contradict these principles, it is because there may be another side or reason (to the case).

5. That which is found in many places in the words of the compiler or the Master or the rest of the successors (latter writers cf. Jastrow p. 1437b s.v. aharonim) who adduce at the inception of their presentation a given argument without qualification, and afterwards state a contrary argument with the formula, "There is one who permits...", or "There is one who prohibits...", or "Some permit...", or "Some prohibit...", or "There is one who disputes...", or "Some dispute...", this is because it appears to them that the basic principle ('iqar) is according to the general unqualified argument which they have written, and the other argument is merely a deduction (tephelah ~ dependency; cf. Jastrow, Op.cit. p. 548a) from the principle.

This whole matter requires investigation and calm reconsideration: Why is it merely a dependency? Is it because it is a case of the lesser against the greater, or a student against the master, or an individual in the place of the majority or the other cases of precedence which we have listed? If it is a rabbinical ordinance case, one should



rely on the dependency (yesh lismokh 'al hatephelah:  
we are to be guided by the one of less importance)  
in order to permit at the time of emergency.

But if it is a dependency because it is in their  
eyes (of the original classifiers referred to at  
the beginning of the article) in the presumptive  
legal status (cf. Jastrow, Op. cit., p. 445b, s.v.  
hazaqah #3) of the lesser against the greater, we  
do not reconsider the case since it is not clearly  
(bebherur, so Grossman-Segal, Op. cit., p. 49a;  
Jastrow, Op. cit. reads "in the correct sense",  
p. 166a) the lesser against the greater, for example  
if he proposed to deal stringently with a rabbinical  
prohibition; but if he is dealing with a case of  
Scriptural prohibition then we do not teach according  
to the argument of the dependency, neither to  
be more stringent nor to be more lenient, even at  
a time of emergency. A person should be stringent  
with himself in a case of Scriptural prohibition. <sup>1571</sup>

6. If the master and the student agree to one opinion ,  
they count them both for cases of prohibition or  
permission, even though the student is relying

on the argument of the master, since when the master taught him the law, the student relied upon his words. 1572

7. If the majority do not agree because of one line of reasoning (for da'ath, opinion), but each one has his own reasons and they all agree as to the conclusion ("judgment"), they are not to be relied on in order to permit a Scriptural prohibition. For permitting a rabbinical prohibition, they may be relied upon.
8. Any place where the words of the predecessors (rishonim as opposed to aharonim, successors, following Jastrow, Op. cit. q.v., p. 1437b, cf. supra art. #5) are written in a book and are well-known, and the successive legal interpreters differ with them, we follow the successors.

But if on occasion we find a Geonic responsum which was not recorded in the annal, and we find that others differ with him, then we need not follow the (later) successors, for perhaps they were unacquainted with the words of the Gaon; we presume that if they had heard of them they would have

reviewed them (following Jastrow, Op. cit., p. 334b).

Some contend that we do not follow the successors against the great ones among the predecessors, and that one should interpret stringently.

In any case, if a successor cites the predecessor and then differs with him, if he is well-known as one who is fit to do so, one may rely upon him, but the matter must be carefully considered.

If, however, the teacher has it in his power to compel, then he may decide according to any that he wishes, and in any case one should not differ with the earlier geonim, whose decisions were formulated before the time of R. Isaac Alfasi.

9. Just as it is prohibited to permit that which is prohibited, it is similarly prohibited to prohibit that which is permitted, even as regards the case of an idolator, and even in a situation where there is no loss, because generally speaking there is a side to the argument which will permit a lenient decision in some other place because of the prohibited, which would be a case where a prior lenient decision was eventually decided more severely.

This is so even though it would appear that

from a lenient position, a prohibition would not eventuate. For perhaps it would happen in time that a lenient decision would be handed down after a hundred cases. Consequently, if one is forced to prohibit because of doubt or because of the severe interpretation called for when the prohibition is not clear as the sun, then the teacher must explain that the prohibition is not clear but that we are bound to interpret it severely, and all the more so when the teacher issues a permission in time of emergency, and in similar cases; he must explain it thusly.

10. If a single court in a single city was divided as regards a prohibition, so that some teach one way and some the other, as in the discussion in Yebamoth 13b on Numbers Rabba s. 17 quoting Deuteronomy 14:1 (When one buried a dead, the law says one may not make incisions on the body (reading tithgodedu vide s.v., Jastrow, Op. cit., p. 210b Hithpolel cmp. polel ad loc., cmp. ibid., p. 11b s.v. agudah #12) where the real meaning is a prohibition against forming divisive factions in Israel.)

This matter (of the unresolved divisions in legal

decisions) leads to disputes in Israel, and the Torah becomes as it were two Torahs (through the divergency of opinions); therefore it is prohibited to form factions, or to act in a matter which tends to promote factionalization even though he does not teach so openly. This applies even though both of them be equal in wisdom and in numbers. Rather let them discuss and exchange opinions even at great length until they reach a unanimous conclusion. And if this be impossible, then, if it be a case of Scriptural prohibition, let them all follow the position of the more severe interpreters, and if it is a case of rabbinical prohibition, then let them follow the more lenient interpreters.

But if there be two courts in the city, then one may decide one way and one the other. This applies where both courts are well-known. But if two courts are not (well-) known in the city, then it is prohibited for part of the city to follow one practice and part the other, even though through this dispute two courts might become established, for this is even more clearly a case where dispute is increased.

If one court is greater than the other, then they relate to each other as two sages who disagree over a case where one is greater than the other, according to the principles outlined above.

#### Y. A Statement of Thesis.

In the opportunity to examine and compare in detail the selected strata of codical thought presented, we have constantly been alerted not merely to the broad field of authority transfer which we delineated as we began, but to a unique aspect of Jewish juridical authority transfer as manifested in the selected materials which deals with the special relation of teachers and pupils. This unique aspect is inherent in the nature of the master-disciple relationship, characterized as a special relationship, as that relationship was understood historically in the examined legistic matter.

That aspect is this: we may conclude, on broad general principles emerging from close scrutiny of the texts, that the examined aspects of authority relationships in halakic Judaism seem at least in part to tend, whether the investiture be documentary or otherwise, whether the conferring agency be an institution or a person whose authority

is individual, whether the relationship be formal or informal, to establish and protect the authority and status of the student.

That there are other considerations in semikah specifically and in master-disciple relationships generally is not to be denied, and that the halaka acts, as might be anticipated, to protect the master, is patent. But an emphasis may legitimately be laid upon the perceived need to establish and protect the student,

1. By preventing him from extending his budding authority into an area where it might be overruled by a superior authority;
2. By formalizing the relationship between master and disciple and thus defending mutual securities;
3. By making the responsibility for the disciple, in terms of moral guidance, academic education, case experience, personal guidance, protection and supportiveness, the responsibility of the master, and by formalizing this responsibility through visible acknowledgment of it on the part of the student, and, to a less explicit degree, on the part of the master himself;

4. By promoting the student's own self respect and honor, and his sense of the dignity and importance of his work by means of inculcating in the student a respect and admiration for the master and for what the master stands for, to which he may some day attain;
5. By promoting a sense of what we would today call professional dignity through formalizing the relations between colleagues; and
6. By giving the student a sense of his own legitimacy as one who could become an authentic representative of the entire historical chain of the halaka, through binding his labors in the present to the sources and wellsprings found in the work of the past.

In these ways, and through the practical means which emerge from the considered materials, the student was introduced into a protective and supportive relationship, and more, he was charged with the responsibility to become in his turn protective and supportive of his own students when he acceded to mastery. He was given a place to take in a firm and founded system, in terms of which



his own status was clear, and by means of which his own responsibilities to others, and the responsibilities of others towards him, were delineated. The result of the kind of thinking reflected in this unfolding pattern was visible in what is possibly one of the greatest and most highly developed juridical structures in the history of the human race.

This is a structure which gave to every man his place and his protection, to every station its proper debts and dues to those above and below it, to every member a knowledge of his privileges, his duties, and his rights, to every being within its frame a sense of his dignity and position, and to every man a means of relating to his past, to his fellow, and to his God. It is a system which cannot but command the respect and honor of all who see it, and the admiration of its students. It is a thing of greatness and majesty, with all of the occasional pettiness which it reflects at times from the human form to which it was molded, and it has been, in acceptance and in rejection, consciously and unconsciously, in the breach and in the fulfillment, the foundation stone of Jewish thought and practice to this very day.

It behooves us to turn our attention at this time to the fascinating case of R. Jacob Berab, whose history has, indeed, filled books, so as to examine how an aspect of the question of semikah was brought to meet the structural configurations of a specific case in a concrete historical setting, and so that we may come to understand how the structural circumstances in which Berab functioned acted upon the odd history of the reinstitution of semikah among Jews.

The facts of the case are at first glance simple:

1. Jacob Berab, a rabbi in 16th century Safed, then under domination of the Ottoman Empire, attempted in 1538 to reinstitute the legitimate semikah and to reconstitute the Sanhedrin;
2. Levi b. Jacob ibn Habib, Chief Rabbi of the Jerusalem community at that time, effectively stopped and foiled this plan, in spite of the fact that his own semikah would presumably have been authenticated in the process.

The investigation of these facts and the structures within which they operate is the subject of the following discussion.

An introductory note:

In the year 1538, in the city of Safed in the northern

PART FIVE

THE STRUCTURAL BACKGROUND OF PART IV:  
THE ATTEMPTED REINSTITUTION OF SEMIKAH  
IN SIXTEENTH CENTURY OTTOMAN-EMPIRE PALESTINE  
UNDER R. JACOB BERAB: A CASE STUDY UTILIZING  
A STRUCTURAL ANALYTIC APPROACH.

In the year 1538, in the city of Safed in the northern Galilee, one of the most brilliant and powerful scholars of the century faced a problem of the greatest immensity: whether or not to write a letter. Turkish Jewry — even world Jewry — stood at a crossroads. For the first time since the days of the Emperor Hadrian, it had become possible, even visible, that the entire Jewry of the civilized world could become gathered into one hand, and move with a unity and strength undreamt of since the time of the Talmud. The Plan, a work of <sup>Schem/</sup> ~~planning~~ and genius, had passed every portal but one, and that one was guarded by the brilliant and powerful Sage of Jerusalem, upon whose support the Plan now, at long last, depended. Every other barrier had been passed, and the moment to face the hostile Jerusalemite could no longer be deferred.

With his every hope riding on the stroke of his quill, R. Jacob Berab sat down to compose his missive, to open a correspondence the results of which might change the history of the civilized world, and to dispatch that letter to the Holy City, to one who already waited its coming.

Thus opened the Berab Controversy, an exchange of letters between Jacob Berab and Levi ibn Habib, which conceals under legal analyses of academic codes

one of the dramatic stories to come out of the Ottoman Empire, and with the study of whose proper structural setting this brief study deals.

The facts of the controversy are simple: in 1538, Jacob Berab, in a bid to concentrate and reinstitute the historical valid semikah, had himself ordained by the leading rabbis of the Holy Land, singly and in groups. Levi ibn Habib refused to ordain him, stopping his attempt, which died after three generations. In back of this story is a confluence of structures which will take us from Moslem Spain to Cromwell's England, from power politics to halakic disputations, from academic codes to economic structures.

Underlying the Berab Controversy is a <sup>e</sup>walth of details with which we cannot possibly begin to deal, even if we would. Our purpose in what follows is to suggest the broad forms of <sup>r</sup>certain structures which <sup>h</sup>those details comprise, and to shape an understanding of parts of structures which, like currents in a sea, swirled for a moment in a unique configuration which must be painted with the broad edge of a palette knife, and not with the detail brush. Not all the relative facts are presented, nor even all of those germane facts at our command;

but instead a putative reconstruction of a time and a dynamic is our attempt.

Our question is this: what were some of the structural complexes which led to the Berab Controversy, and what were some of the effects of it?

And to begin to answer that question, even within the drastic limitations which we must accept, we must step back for the sake of perspective, for an earlier and a broader view.

#### I. Background.

In view of the great halakic, structural, political and economic <sup>1573</sup> implications of the Berab Controversy, it is amazing that relatively little research has been devoted to it. A mere handful of articles and texts have made any comprehensive attempt to delve into the case, which presents in microcosm <sup>1574</sup> a universe of interacting structures of interest to the historian and the political economist no less than to the student of halaka.

Any halakic development proceeds from an interaction of structures, and reflects in itself not only what we have called the "vertical" line of evolutionary development, by virtue of which it must reflect what has

transpired before in that area of halaka, but as well the "horizontal" line of influence, by virtue of which it comes in response to a current configuration of structural dictates and needs from the society in which it is promulgated. The intersection of these two "lines" eventuates in the particular halakic situation obtaining at a given point within a given structure, in part determined by the demands of previous structural configurations and in part by the demands of contemporaneous ones.

#### A. The Inquisition.

In order to understand the structural backdrop against which the drama of the Berab controversy of 1538 is played, it is necessary to begin with the Holy Office of the Inquisition, which reached a height in the expulsion of the Jews from Spain in 1492, and which provided the impetus for the curious development that for the most part the great Western Jewish communities — specifically the communities which grew in England, France, and Holland — came from or were founded by professed Iberian Catholics. Most of the more prominent founders of what became the Jewish communities of the West were professing Christians.

Further, the major growth of the dominant Jewish

communities in the lands of Ottoman rule — a very substantial rule at this time — not only owes its impetus largely to professing Christians, but can trace its benefaction largely to a movement which involved primarily the relations of Christians with other Christians, and which touched on professing Jews hardly if at all.

#### B. A Background to the Marranos

The Jewish development in Spain during the Golden Age of Spanish Jewry was a story of involvement, of participation to the full in the Spanish-Jewish culture. The great names of the age produced not only Hebrew devotional hymns, but as well works of all kinds, poems, works of art, and military victories, under the permissive Islamic rule.

Just as all Jewish history is a history of involvement with the surrounding structures, <sup>1575</sup> so too, these men were part of a total civilization which had its Spanish aspects and its Jewish aspects. Some of their productions seem more reflective of what we choose to isolate as the Jewish aspect, and some of the Spanish, but the individuals, like Ibn Gabirol, apparently did not distinguish



them as sharply as we tend to do. Halevi, Gabirol, and other great Hebrew stylists produced Hispano-Islamic types of erotic poetry in Hebrew, the tongue of the Prophets, with the same facility with which they wrote devotional lyrics. The element which saves us the possibility of assigning the name "Jewish" to these men, rather than holding that they merely extended the modes of the day into another tongue, is that they chose to write Hebrew religious poetry. They chose to be Jews. They elected to take their talents in the area of the normative and do with them what no one else was doing, and this is their distinction. Nonetheless they remained a part of the community at large, in spirit as well as in politics and in the arts, and attained at times high positions of leadership and responsibility.

### C. The Structural Situation.

What became the fate of the Jews under the feudal system in Spain?

It is not altogether proper to speak of the Jews under the feudal system. The feudal system is not one of a piece, but undergoes changes. At first, as in Spain to the 14th century, or like Ottoman Turkey through the reign of Suleiman, the system may be in a stage of expansion, and with the acc

expansion, and with the achievement of a certain point, the decline of the structure may set in. The position of the Jew in the system will be influenced far more by the status of the structure than by the chronology, so that at the same time that the Jews were being persecuted in Germany, whose feudal structure was in a state of decline and morbidity, they were being welcomed into Christian Poland, then in a stage of healthy expansion. The variable of consequence is not the time but the structural position.

It therefore makes a great deal of difference to a structural orientation whether we speak of the position of the Jews in an ascending feudalism or simply in 14th century Spain, for only the former designation points up that the needs of the system differ in each stage, and the ability to use the Jew differs as well. Not only in Spain, but for our understanding of the Ottoman structures, we must distinguish the feudal system

1. In germination, as after the fall of Rome;
2. In early development, as 9th century Italy or 14th century Poland;
3. At its height, as in later Italy or in 15th century Turkey;
4. In its decline, as in 15th century Spain.

In any country which was in the first stage, Jews were not needed; peasants worked the land as serfs, and nobles were just beginning to acquire surplus <sup>1576</sup> and power. Feudal lords, no matter how high their station, were limited by their own capacities to consume. We may ask, how many meals can a man eat, and how much land can he administer, as long as it is primarily he himself who is doing the eating and administration?

In the second stage, power and the effective control of surplus are first beginning to be made manifest, or at least available. A feudal lord is still largely limited to his own consumptive capacities, but he can use an army of serfs or villains in a bid for power.

It is in the third phase that, with the introduction of money on a general scale, the ruling classes can really begin to indulge new appetites. In this phase foreign trade becomes a necessity, and the marginal position of the Jew takes on new significance. The Jew was not tied to the land, a wanderer by previous compulsion, an "international" by reason of the demands of the previous phases and the fact that he was always forced to be "on the move" since he was expendable, a man familiar with many countries, and highly vulnerable into the bargain.

In Ottoman Turkey, for example, after the experiences of the Crusades and the growing hostility to the West coupled with a new eye to trade with the West, the disfavor of the Syrian Christian merchants gave the Jewish trader a position of great significance and even dominance in areas of mercantile activity.

So that with the entrenchment of the third phase we would expect, and in fact we find, powerful, creative, cultural Jewish mercantile outposts dominant in Europe, as in fact occurred at Bari and Otranto in Italy, and at Salonica and Constantinople and even at Safed, Palestine, under the Ottoman Turks. Such outposts, more clearly in Italy only because of hitherto more abundant documentary evidence,<sup>1577</sup> dominated Jewish life and culture, codified its laws, amassed economic surplus, and received legal privileges exceeding those of the low nobility.<sup>1578</sup>

In the third phase, a structure which is essentially a feudalism will be presented with a challenge<sup>1579</sup> which it will either meet and conquer or which will in time destroy it. In either case, it will have to alter its structural basis radically, whether (1) in order to meet the challenge, or (2) as a consequence of its inability to meet it.

The challenge, like every structural challenge, is inherent in the structural situation whenever and wherever that situation has occurred or will occur. It is as significant for understanding the decline of feudal Spain in the 15th century and the consequent rise of the Holy Office of the Inquisition as it is for understanding the decline of Safed under Selim II "The Sot", successor to Suleiman II<sup>1580</sup> "The Magnificent" (El Kainuni, "The Lawgiver" in the Ottoman literature), in feudal Ottoman Turkey two centuries later.

The principle of the challenge is the natural limitation inherent in the feudal structure. By its very nature, a feudality directs itself toward the consumptive capacity of the feudal lords. The purpose of the feudalism, from the point of view of those who rule the feudalism, is the gratification of their needs by means of the siphoning off of available economic surplus, which is drained from the available serfdom in terms of produce or goods. While a feudalism is in an ascending phase, it is expanding, and the inherent seed of weakness within it does not show up.

At first, the economic surplus yielded by a stable fief, manor, or feudal grant will more than support

the household and mechanism of the lord; but this mechanism is an expanding mechanism, and the needs of the lord tend to expand, rather than to remain stable. To take one example, as long as there is a close and perceived interdependence between the lord and the primary producers of economic surplus, which is to say, as long as the lord (not in the technical sense) remains very "small", the primary source of the lord's armies can well be the serfs themselves, who will be pulled off the land for defense of the area or for mild aggression. In an interacting society, such as a feudal nobility, each member of the nobility knows many others and serves with them a common monarch, and isolation is relatively difficult (compared, say, to the autonomous warlordships of feudal China, some of which may still be in existence for all we know in the interior of the continent, untouched by the Communist domination). Some degree of friction or aggression is to be anticipated, even acting upon the most isolated nobles or those who wish to be so. This aggression can have, in the relatively primitive feudal structure, one of two results. Either the given noble will conquer, or he will go under. In either case, he will become more removed from those who owe him fealty.

If he goes under, he obviously is removed from them, in that he no longer controls them, and their fealty passes to the new feudal lord.

If, on the other hand, he emerges victorious, then his landed interest has by that amount grown greater, and he, as administrator, must be spread that much thinner over it, in consequence of which his contact with any given area of serfs or villains is correspondingly the less. In the extreme case, a true lord, in the technical sense, ruled over vast tracts of land, most of whose serfs had never even seen him. It was not always possible or expedient for such a lord to rely upon a hastily recruited army of serfs, whose primary loyalty, after all, was to their land, which they knew, rather than to what could only have been to them a name and a consumer of their surplus, and whose very identity moreover changed every so often, either through succession or conquest.

Furthermore, the defense of a large area was most successfully achieved not with hastily recruited serfs, as untrained as they were unwilling, but with highly trained professional soldiers. And what applies in part here to defense applies much more to planned aggressions.

And each aggression requires a corresponding increase in the mercantile professional army, whose allegiance is not to the land, but to the source of their rewards, i.e., the feudal lord.

Thus, the progressive control of more and more sources of economic surplus requires a heavier and heavier investment in the administrative and military apparatus of the feudal ruler, which in turn makes possible and at length necessary a fresh source of economic surplus to support it, until finally what is involved is nothing less than imperialistic expansion on the broadest possible scale, making control and competition both possible by massive and rapidly movable trained standing professional mercantile forces such as swept across the face of Europe. Such expansion and control is barely sufficient, and in time insufficient, to support itself, and to send economic surplus through to the seat of its administration, whether that consumer be imperial Egypt, imperial Rome, imperial Spain, or imperial Ottoman Turkey.

Now there are two limitations on the possible size to which a basic feudalism, or a system where the



destiny of the economic surplus is to be consumed, can expand. One of these is external, and one proceeds from the very structure of the feudalism.

The external limit is seen in the fact that eventually, one reaches the borders of another feudalism with competitive strength. Before that point, weaker feudal entities can be conquered and absorbed; but eventually, a competitive feudalism will be met, which can neither conquer nor be conquered by the first entity, and which sets an external limit to its expansion in that direction. Rome, perhaps, was an exception to this law in that it dominated an entire universe of activity, and before it could proceed any further, the second factor set in.

The internal limit grows out of the very expansion of the feudality in fulfilling itself; in evolving in terms of size to its very greatness. Control, no less than conquest, is eventually vested as we have shown not essentially in the serfs but in the mercantiles. Now Roman legionaries or Ottoman janissaries can be made to move faster between trouble spots, and transportation can be speeded up, and economic surplus can be handed back farther and

farther from its sources to the point of terminal consumption. But there is an absolute limit to how quickly a given <sup>1581</sup> army can be moved around, and there is a corresponding absolute limit as to how many "hands" can hand the surplus back before there is no surplus reaching the terminus at all; especially is this the case when we deal with any other form of surplus than money. <sup>1582</sup>

Thus the point is reached at which the level of expansion, rising ever higher like a motorcyclist climbing the walls of a circus pit, reaches its limit. The cyclist must go faster and faster to maintain his height, and yet his increased speed makes him go higher yet until he reaches the lip of the pit. At that point he faces a crisis: either he will find a new way of extending his support, or he will go into a decline. Similarly here, when the lines of power of an empire have reached their practical limit, then either it will evolve into other than a feudal system, finding a new way of meeting its needs, or it will go into a decline.

Money, in the sense of a universal medium of exchange, has made possible the expansion of an empire up to this point. From the seed of that very agency, so firmly implanted in the imperial feudal developmental structure, may grow the evolving new structure of a

true capitalism.<sup>1583</sup> Traditionally, the conceptual expectation that either the capitalistic reorientation will become the alternative of choice or the feudalistic decline will become the alternative of compulsion has been borne out consistently in every feudal economy, including those of Spain and Ottoman Turkey, England, Holland and France, Italy and Germany, and, with allowances for a special situation, the seat of power of the Roman Catholic Church as a political and potent entity. That this challenge has posed the critical question in every case, the question of existential being, to the evolving economies, can be no accident.

This crisis, this challenge, is reached in the latter part of the third phase of an evolving feudalism — historically, any evolving feudalism — necessarily, since it is inherent not in the details of the particular situation but in the fundamental structure of what a feudalism is.

The third-phase feudalism may either continue to be a feudalism and begin its decline, or switch, so to speak, onto the other track, become a capitalism, and continue its ascending journey. A feudalism cannot simply remain static at this peak point, because the very dynamic of the forces which have raised it to that point rule out the possibility of the system suddenly becoming static.

An economic structure is a growing, living thing, and the life of the structure which has caused it to grow is the very force which will force it on. Just as the rising speed of an express train coming to the end of its track will either have to go into a decline if it remains on that track, or ~~else will have~~ <sup>the train must</sup> to shift to another track, so too here, the very force which brought it thus far will not cease to operate simply because the limits of its opportunity are in sight.

In a real economic example, both resolutions to some extent exist, but one will dominate the competition.

If the feudalism perpetuates itself, then the control of economic surplus will be pursued with greater and greater frantiness and panic by the agencies of the feudalism, which burgeoned during the ascendent phase, as they face a supply of economic surplus perpetually dwindling relative to their needs, or more accurately, a supply which remains constant and may even fall a bit as their needs the while increase. The desperate struggle for continued existence sets in, so that the army, to take one significant example, finds need of more and more control over itself necessitating its own expansion which creates a greater disparity between its own

demands and the surplus available to it, which disparity foments greater unrest; the unrest calls for more control again, which puts an even greater strain on the surplus available; in this manner, a "vicious cycle" in the technical sense is generated within each agency, so that each of them, which could satisfy this expanding spiral during the period of ascendancy, suddenly finds its expansion limited by a tight parameter against which it strains. Weaker agencies collapse in chaos. Stronger agencies, like the strange beasts of the Greek mythology which consumed their own limbs, seize the surplus which would normally have gone to other agencies, and a desperate struggle for agency survival is in full swing. Every imperialism which has attained to this phase and has not abandoned the feudal structure has gone down in chaos and collapse. Since chaos is the antithesis of structured society, one may licitly say that to maintain a feudalism past this phase is to commit social suicide.

The alternative structural evolution into capitalism offers a contrast as of maturation with suicide.

A capitalism knows no inherent need of conquest. The principle of a capitalism, which is the exchange of

value for value, has minimal needs for arms to impose it, nor, by and large, have borders of nations been able long or successfully to halt it. If it takes me three hours of my work to make a pair of shoes, and two hours of my work to "get" a pair of shoes, I need little compulsion to participate in the expansion of free trade.

At the same time, the very nature of a capitalism, which, since it is constantly improving the means and capacity of manufacture, is just as constantly seeking to expand its trade and markets, guarantees the progressively greater interaction of people, and as well their progressively greater interdependency.

If any one thing is a sine qua non for capitalist development, it is, in marked contrast to the feudal principle, the need for peace and tranquillity, for that stability which alone can guarantee the unimpeded exercises of free men in trade. That protocapitalistic Holland developed a reputation of relative order whereas feudal Turkey, to the day of its decline, remained known as a warlike state, was no accident, but a matter of structural necessity. That the structural advent of capitalism to the Arab Middle East in our own day has brought to that area what amounts in the history of that area to calm and order is a current parallel.<sup>1584</sup>

#### D. The Inquisition in the structure.

When a feudal structure enters fully into the fourth phase and, having failed to meet the challenge, begins to decline, then its various agencies begin to struggle for their continued survival. In the face of a relatively declining supply of available surplus, two things result:

1. a fierce competition between agencies ensues, becoming bitterer as the demands become greater;
2. additional sources of surplus are sought to shore up the collapsing system.

Both factors are operative at once, but one tends to dominate. Often where Jews have suffered, that wealth which was in the hands of the Jews was looted by the nobility (substitute "army", "clergy", "monarchy", etc.) to enrich itself and postpone the inevitable decline.

In 1492, the low point of Spanish developmental economics, two events transpired which are related: the famous voyage of Columbus in search of a perilous route to the East sufficient need for which was not hitherto felt, and the infamous expulsion of the Jews from Spain. It is of interest that Christian Poland, in the second phase of development, welcomed those who could meet its new

needs for small merchants and traders who could operate on an international level.

Since the end of the rising Jewish phase in Spain marked by the riots of 1391,<sup>1586</sup> many Jewish families, or former Jewish families, found themselves in anomalous positions. As we have noted, Jews qua Jews played a very significant part in the Islamic Spanish structure which had fallen, and a well-integrated Jewish leadership class rose to corresponding prominence under the Christian domination which followed. To be a Jew under a reasonably tolerant Islamic rulership<sup>1587</sup> was not a grave restriction for one with political or other leadership aspirations, although it might limit the ultimate pinnacle to which he might ascend. During the Catholic administration as well, families which were at least nominally Jewish were well represented in high positions at court, and in the dominant economy as a whole. Here, however, a conspiracy<sup>C</sup> of both ideological and structural configurations militated to define sharply the areas into which Jews, even the most assimilated of Jews, might seek entry. Ideologically, from the days of Rome Judaism had been a religio licita, a permitted religion, owing its toleration perhaps more



than anything else to the fact that the denial of some truth to Judaism carried with it implicitly the denial of any truth to the foundations of Christianity. Here, too, the most apparent differentiation between the upper-class, disinterested Christian and the upper-class, disinterested Jew was no longer as with the pre-Almohade Jewish leadership the fact that the Jews produced literatures or materials which were unique to them, but rather that a certain subgroup of a given socioeconomic class bore the appellation "Jews", an appellation which served to turn visible rewards of their station which were for their friends concrete opportunities into what had to be for them grapes of Tantalus, forever just beyond their reach.

The all-important alternatives existed, of supreme structural significance, of leaving the peninsula as Maimonides did after the Almohade persecutive restrictions and going to someplace such as Fez, home of Al-Fasi (!), or preferring the comforts which class and position could confer on one who chose to remain in Spain.

With the conquest of Toledo in 1085 under Alfonso X of Castile, Jewish life flourished, but a formal anti-Jewish policy, following the antisemitic (i. e., anti-Jewish) policies

of the Lateran Councils of 1179 and 1215, was already promulgated as the third phase advanced under Alfonso the Wise of Castile (1252-1282) in the Siete Partidas.

By 1391, a collapsing economy, reeling from foreign campaigns, domestic crises, and internal administrative and military corruption, saw its desperation claim in one year an estimated 50,000 victims largely from the Juderias of principal and small cities.

Both the oppression from without and the opportunities from within acted to make professed Jews approach a challenge, not unlike the challenge which the feudalism was itself to be called on to face. To remain in Spain as a professed Jew was becoming — was obviously to become — more and more nearly impossible. The alternative was to leave Spain and remain a Jew, or to stay in Spain and become a Christian. Many followed each path, according as their interests and perceived needs, as their order of priorities that is to say, directed them. To those with highly vested holdings in terms of power or control or wealth, especially to those whose normative commitments to Judaism were nominal to begin with, the choice was somewhat easier. Estimated<sup>1588</sup> hundreds

of thousands elected to transfer at least nominal loyalties from the name of Jew to the name of Christian, at what must have seemed infinite profit to themselves. The essential element to be borne in mind is that these New Christians (Neo-Christians, Conversos, cf. Crypto-Jews, Marranos) firstly could not have been aware of the fate that awaited many of them as the 15th century ground on, and secondly, that they must have been aware of the alternative of leaving Spain to remain Jews.

Now, whether these New Christians were or were not secret Jews, of the high fidelity and commitment which they had never hitherto manifested, is an interesting question. Many historians tend to assume that they were, and to some historiographers the terminologies New Christian and Crypto-Jew become functionally interchangeable. Yet this curious<sup>u</sup> postulate finds no documentary evidence, certainly not at this period.

One might reasonably hold that such secret Jews would not be likely to leave mezuzoth on their doorposts, and thus glibly attempt to explain why no clear evidence whatever can be distinguished here.

On the other hand, one may with equal presumption and less assumption ask what is explained by this odd

hypothesis, and what function it serves, or, in short, what necessitates it? The facts of the case are sufficiently explained by what we have already seen, without hunting for what might be attacked as superfluous and largely gratuitous hypotheses. The major answer to this question, other than the fact that no one would ever simply be prepared to leave Judaism for anything as inane as Christianity only because of obvious and undeniable advantage, is that evidence is indeed adduced at the height of the Inquisition itself. Accordingly, we shall let the hypothesis and its promotive arguments rest until we reach that point.

The rise of the unencumbered New Christians into those areas which were the normative prerogative of their stations but from which they had been to this point denied entrance on a technicality was phenomenally rapid. Baptisms took place by the thousands, or according to some liberal observers, the hundreds of thousands. Christian friends of the departing Jews vied for the honors of sponsoring the baptisms of prominent personages, and even the Court was partial to the festivities.

Nothing, absolutely nothing, now blocked the entry or even dominance of this upper-class group into the administration of the law, the army, the universities.

Almost every important position at Court was filled by New Christians or their descendents.<sup>1589</sup> By 1480, both the Supreme Court of Justice of Aragon and the Cortes were presided over by New Christians or their descendents, who bore their New Christian title as a badge of honor, so that both for themselves and for their enemies, New Christian meant not only the Converso but his descendents.

In addition, the New Christians gained entry into one area of supreme importance in the politics and economics of the age to which they had never before had ingress: the Church. Friars, priests, bishops, and according to legend, even a Pope sprang from the Loin of Judah.

Thus, a collapsing economy had made life hard and harder for the professed Jews under its rule, and in an attempt to seize Jewish wealth in order to shore up its own collapse, was about to present the ultimate argument to the Jews: leave the country (without your capital, of course), or else. Or else what? Or else cease to exist as Jews. But even before this argument was presented to all and sundry in 1492, many if not most of the politically alert Jews of the upper classes had already faced the problem and made the choice solely in terms, not of governmental compulsion, but of a bid for additional

privileges and opportunities available to other segments  
of the higher classes. Were these Conversos insincere? <sup>1590</sup>

Perhaps, as a class, they were, but we have no evidence that they were any more insincere than Old Christians of the same socioeconomic investments. And judging by their representation in the One, Holy and Apostolic Church, we have a good deal of prima facie evidence that they were perhaps more sincere than their class colleagues.

One more point should be noted, and that is the vast intermarriage which took place between the New Christians and the Old Christians. It is, to some writers, highly conceivable that a family over four generations <sup>1591</sup> could maintain a secret synagogue in the basement, with weddings and bar mizwahs <sup>oth</sup> at mystically prearranged times, and instruction to children who had been until the age of thirteen totally ignorant of what was going on. In terms of intermarriage, however, it would seem to complicate matters if all this were to be done without the spouse "catching on", so to speak, that something unusual was transpiring in the "secret room" every week. Presumably when the husband once a year requested an odd meal in the springtime and consumed it lying on his left side while muttering the while under his breath, the dutiful wife would ascribe it to his annual bout with spring fever.

Just how ~~he~~ would cope with a minimum of three adult males acting in this manner has not in fact been preserved for us, but a reasonably perceptive woman might begin to wonder just what sort of family she had married into.

By June 5, 1449, the famed Edict of the City of Toledo which declared the Conversos unfit to hold public office reflected the fact that most <sup>u</sup>public offices were in fact in the hands of this group, and represented an official response to the fact that the attempt to save the economy had failed miserably. However, it pointed a way to shore up the matter, a way which was violently and viciously rejected by Pope Nicolas V in the Bulls of 1449 and 1451, on the pretext — text or pretext, in any case on the grounds — that it denied Christians the rights of Christians. By November 1, 1478, a scant twenty-seven years later, Pope Sixtus IV saw his way clear to establish, by Bull empowering the King of Spain to appoint three bishops, the Holy Office of the Inquisition on the precedent of occasional prior heresy trials through the centuries. We may ask, why the difference?

The primary evidence is most revealing here. The Toledo document (appended ) tells us in passing two things. The first is the obvious and consequently overlooked fact that it is being promulgated under the secular

authority of "My Lord the King," by a civil administrator. The second is that to anyone with even a remote knowledge of Judaism, the actual charges raised against the "secret Jews" are so remote as to be laughable, e.g., that the secret Jewish acts of the Conversos consist in affirming that there "is a God and Goddess in Heaven", or of decapitating lambs on Good Friday (an interesting new twist in developing Jewish rituals); a citation of New Christian offenses includes eating lamb on Holy Thursday (an offense which may puzzle a Jew until the significance of the agnus Dei to a good Catholic be called to mind), that they lend on usury, that they rarely hear mass (these two one can believe), and that they worship idols of the stone tablets, all of which (except for the eating of lamb) is proscribed in the strictest terms by Jewish law.

In the language of Jewish jurisprudence, with what are we dealing here? We are dealing here with a document whose manifest purpose, of purifying the Church of invidious Jewish practices, is patent nonsense, and whose intended effect was in fact to deliver the New Christian element into the hands of the state.

In what way does the Bull of 1478 differ with the document of Toledo, which had its parallels in other cities?



The most obvious distinction is not in its greater authenticity, but rather in the fact that the administrative power behind the Inquisition was not now the state, but the Church. Even so, it took over twenty years to reach some sort of working agreement with the state, and the eventual compromise was that the King was to select the Inquisitors, but that the enterprise was to be in the hands of the Bishops.

It must be remembered that the Inquisition was a fabulous source of wealth, first to the state, second to the Church, and third to the delators or denouncers who betrayed New Christians into its hands. Once in its hands, every conceivable physical and psychological torture device could be brought to bear on the unfortunate victim — some of which torture ideas were adapted by the Nazis during the Second World War even in our technologically advanced age — with the sure result of confession to any desired offense. Further, it was not always necessary for conviction to be awaited before the wealth of the victim could be looted. The entire trial, a process sometimes of years involving an entire court in the regal/ecclesiastical sense, was financed by the New Christian victim, and, not to mention the business

of bribes, conviction always involved a tremendous profit to those doing the judging.

At one stroke, many years in the building, many more before it reached its full potential, there came into being an institution which saved Spain from collapse — for a time — by permitting it to loot without gainsay, without halt, without explanation, and without limit, the resources of the greatest deposits of wealth in the land. State and Church entered into a holy partnership to purge the Church of heretical, secretly Jewish New Christians, who were suddenly discovered to be identical with the entire class of the wealthy New Christians. The resulting blood bath, by medieval standards, was no more shocking than the free use of torture, and the fabulous results made the subsequent discovery of America pale by comparison.

Although the entire New Christian class had been at once brought under the scrutiny of the Holy Office, a certain percentage of Jews, some of them families of wealth and limited station, had never been baptized at all, but had remained Jews. These families, because they were not under the aegis of the Church, were not subject — directly — to the Holy Office. Of course, if they were Judaizing (or proselytizing good Christians to Judaism), which was not

very hard to prove, that was something else again.

But soon a brilliant stroke of imaginative religious inspiration solved in a creative way the problem posed by this subclass.

In the year 1492, all Jews living in Spain were informed that they were shortly to be baptized or leave the country — and, of course, most of their wealth behind.

Of this subgroup, many elected to go; however, tens of thousands of others chose to go to the font. One cannot but admire the brilliance of this scheme, which at once guaranteed that every member of the class would either be looted of his wealth at once, or would place himself in a position where it could be in time extracted by the more subtle methods of the Office to which he was not subject. For once he had become a New Christian, nothing separated him from that group which was the chief object of the voracious attention of the Holy Inquisition.

In this manner, the challenge of the failing third phase in Spain was met and answered. Spain remained a feudalism, sinking deeper and deeper in holiness and glory, scarlet pomp and purity, until finally, when the mask at length did fall away, nothing was left beneath but total and irretrievable decay.

But in 1492, when the Jews had to leave (and some did with Columbus, as perhaps Luis de Torres and others), when the Jewish class was functionally dissolved, when every piece of New Christian gold was merely waiting to be picked up without risk, when a new route had reportedly been found to the fabled East, ah, then, how beautiful the world must have looked, and how brightly did the blazing bonfires hold forth against the descending night to come.

#### D. Spanish and Portuguese Marranos.

It was inherent in the very structure of the Inquisition, which by constitution was interested only in "backsliding" Christians of impure orthodoxy which it could save from the pits of hellfire in the world to come, that this Holy Office had, in theory, no power to inflict punishment upon confessed and convicted "lapsed" from faith. Once delated to and seized by the Holy Office, miscreants could rest secure that they would be encouraged, by every conceivable or inconceivable means, to purify their sullied souls through confession of their own Judaic practices, and as well through denouncing, or more properly "helping to attain salvation", any souls who had participated in such rites with them. Under the influence of sufficient

persuasion,<sup>1592</sup> physical and psychological, anyone could be brought to seek salvation both for himself and for his near ones, or in fact for anyone whose name he knew or whose name was suggested to him. Where denunciation at the lips of a self-confessed Judaizer was functionally as good as conviction, one might presume that the entire New Christian class opened up to the diggings of the Inquisition like a gold mine to a prospector who has stumbled on a strike, which opens into a vein, which leads to the main depository.<sup>1593</sup>

Once a penitent had seen the errors of his ways, the Holy Office after consuming, with the cooperation of the State, the bulk of his surplus directly and indirectly, could and most often did "relax" him from its clutches into the secular arm of the State, which would then help him to atone for his fall from grace by burning him alive, or, in cases where clemency was granted, generally in return for a public confession, allowing him to be strangled before being burnt. All this, of course, presumes that he survived the persuasion, which many did not.

The Inquisition also collected, on various pretexts,<sup>1594</sup> its share of Jews, and one must ask what motivation could have persuaded either a Jew or a New Christian to remain

in Spain at such a time?

One factor is that it became increasingly difficult to leave the Spanish state, certainly if one intended to remove with oneself one's wealth. For one thing, the mere conversion of real property in transportable form was viewed with suspicion. For another, old, higher-class, often landed families often had strong roots in the country. Just as the upper echelons of the German Jews in great part did not see themselves as anything but Germans, and just as the professed Jews of the Golden Age in Spain were full members of the Islamic Spanish civilization, all the more here, the nominal Jewish group did not see themselves as rootless wanderers in Spain for a time, but pointed to roots that ran back for many generations, and to dominance in the society at large. Further, such families often had holdings for generations which were not easily convertible to jewels or other media of exchange. But after 1492, it was impossible for anyone to claim exemption from the Inquisition on the grounds that he had not been a Catholic.

One alternative, that of absolutely impeccable and visible orthodoxy, was removed from the picture

by the clever introduction of the doctrine of limpieza, or purity of blood. Even a bishop of conspicuous economic attainment could now be examined, and if the word of the anonymous delator was insufficient, which it rarely was, then the "discovery" of some New Christian ancestor served to close the case. It has been noted that the New Christians intermarried into the best families of the land, and hardly a family existed which had not earlier boasted of a New Christian ancestor. Where none was obvious, an ancestor of this kind could generally be found, by those who stood to gain from an objective search for one. Friars and priests, even Inquisitors themselves, were now fair game for the looters. 1595

Not only Jews and crypto-Jews, but vast numbers of New Christians who, because of the insight that their station gave them into political trends, might structurally be expected to have journeyed to join the old communities of neighboring Portugal under Joao II, and indeed we find that this was the case. Particularly after the "expulsion" of 1492, did masses cross the border, of which a number, by virtue of massive bribes and other means, were able to bring in quantities of surplus.

Structurally, the New Christian situation of dominance

and control in Spain had its parallel in Portugal, but whereas the Inquisition when the Church acceded to its use in Spain had been an experiment, it was not a proven economic Godsend. However the very structure of the Inquisition guaranteed that it could not be instituted by the state, but only by the Church. After prolonged negotiations, it took nearly four decades after the general expulsion from Spain and over a full half-century from the 1478 establishment of the Inquisition in Spain for the Portuguese state to reach a tentative agreement with Pope Clement VII, who on December 17, 1531, appointed the personal confessor of Joao III, Frei Diogo da Silva, to the office of Inquisitor General, at last bowing to repeated requests from the Portuguese throne for an Inquisition after the highly successful Spanish model. 1596

But the Portuguese New Christian picture differs from the Spanish New Christian picture in one all-important structural detail. After the general influx, Manoel ("The Fortunate," 1495-1521) successor to Joao II, after his marriage to the Infanta, found the opportunities of state interesting. Ferdinand and Isabella had united through their union Castile and Aragon, and once Manoel had united with their daughter Isabella in 1496, the prospect



of a united Iberia under their offspring made it necessary that the economy of the smaller nation be brought to the level, both in terms of attainment and in terms of policies of supporting that attainment, of the larger. At the moment, moreover, the very welcome of Portugal was undermining the Inquisition's monopolistic hand in dealing with the Spanish New Christians and Jews. Never had this been more obvious than in 1492 itself, when many had taken the expulsion seriously and had indeed left for Portugal.

This error was avoided in Portugal, <sup>1597</sup> which profited by the mistakes of Spain and in place of presenting alternatives, decreed on March 19, 1497, a Friday, that in two days every Jewish child aged four to fourteen was to be baptized, by force if necessary, which would not affect the validity of the act, of course. Not more than an estimated seven professing Jews escaped "conversion" in Portugal by deportation to Africa.

Another error of the Spanish system was headed off when in 1499 Manoel prohibited any New Christian from leaving the country without special licence and made it nearly impossible for them to convert real holdings into transportable media.

Naturally, the New Christians were guaranteed every Christian protection, and under Pope Alexander VI, Manoel in 1497 declared a consoling twenty-year immunity from prosecution on matters of faith to the New Christian class. By 1515, he was secretly petitioning Rome for an Inquisition, while confirming the immunities of the New Christians in 1522 and 1524. Negotiations dragged on and on, and the Church, dealing with what was now visibly not a desperation experiment but a saleable commodity, after fixing on a division of the proceeds more in keeping with the proper dominance of God's portion over Caesar's, finally settled and gave in. After a magnificent bribe to Rome of the revenues of the Archiepiscopal See of Visieiu, the Bull Meditatio Cordis of 1547, with the cession of the ultimate power of confiscation in 1579, established the General Inquisition in Portugal.

Now structurally one may expect a great deal of Marranism in Portugal, as opposed to the structural position in Spain, precisely because Portugal had an opportunity to rectify the tactical errors of Spain, and conversion there was a matter not primarily of choice but of force, a point which cannot be too strongly emphasized,

since from it proceeds a vast difference in the nature of those who left (and those who remained in) Spain and Portugal. That R. Levi ibn Habib came from Portugal and not Spain is not an isolated fact, but part of a structural context, and it shall tell us a great deal about what he was and what he was not.

Between them, neither Spain nor Portugal ever developed the principle of merchant capitalism, nor in its time did Ottoman Turkey, and for the same basic reasons: the feudal ruling powers were enabled to use available means of supporting the failing feudalism, which means were sufficiently strong buttresses as to rule out the necessity for finding new and radically different orientations. The very success of the Inquisition functionally guaranteed that the Iberian would never see a need to become himself a capitalist agency until he had long since passed the point of challenge at which he could competitively do so. The Ottoman, too, found it so expedient to use capitalist agencies in support of his own failing feudalism that he never felt the need to become himself a capitalist agency.

And what made this very capitalist agency available to the Ottoman Turk? The very force which was supporting Iberia, which expressed itself in the Holy Office.

Thus, at one stroke, feudal states at both of the ends of the earth were buttressed by the same force, the seeds proceeding from which ultimately destroyed them both. Both of them were concerned with the consumptive medieval dynastic social structure and how it might be preserved; both of them visualized themselves as feudal economic structures, and never outgrew this visualization. Both of them were shored up and supported in their umbilical consumptive status by the evolutions and implications of a single historical force, which nurtured them beyond the point at which they could have become self-sufficient, competitively viable societies. Both of them were in their own self image aggressive conquerors, the profits of whose conquests could only be ensured and supported within the state or without, by armed force, to the last days of the organized empires.

#### E. Some Implications of the Rise of Merchant Capitalism.

After the institution of the Inquisition in Spain, one would suspect that every effort would be made to prevent the New Christians from leaving the country, and indeed, we find that continual orders were issued to this effect. After the general "expulsion" of 1492, the structural need to leave would become even more pressing to those

who could not fail to anticipate the effects of this move to plug the escape routes and clauses. Accordingly, we find as early as 1499 the cooperative Archbishop of Messina ordering that no captain or merchant might transport any New Christians overseas without explicit royal license, or he would himself face prosecution — and confiscation. In the same year in Portugal, a similar decree was published, a fortuitous accident indeed. From time to time, the bars were lifted and lowered, generally in response to huge bribes, but the laws preventing the purchase of lands or bills of exchange from New Christians functionally guaranteed that only a small group could sneak out. This small group, a group of interests and resources belied by its size, scattered in various directions.

Some, a minority, headed directly for the Holy Land or its environs. These, by and large impoverished, storm-tossed, robbed and murdered enroute, many of them professing Jews or forced converts after the Portuguese fashion, found in Cairo and elsewhere a community of the faithful very like themselves in circumstances described by R. Obadiah di Bertinoro in 1448 on his journey to Palestine. In speaking of the Cairo Spanish

Marranos, he says, "All are truly penitent. The majority of them are paupers, having left their houses and their substance and their sires and their grandsires."<sup>1598</sup>

The Ottoman Archives would tend to indicate<sup>1599</sup> that Cairo was not an abode of choice at this time, after the fashion of liberal Ottoman Solonica, for example, and the Jewish community of Palestine was relatively moribund. Jerusalem labored under crippling taxations of every kind, from which scholars were by and large exempt under Jewish law, about which we shall have more to say later. Safed, which lay by chance on the Cairo-Damascus road, had a Jewish community which was yet to discover its potentialities in not only Palestinean but in overseas trade. And besides, in spite of repeated invitations from Ottoman Jewish communities to their brethren to come and taste the draught of freedom and relative luxury, the trail to Turkey was a long and a foreign one, fraught with every danger of travel. For most refugees of the period, as for the famous Dona Grazia Mendes (Nasi)<sup>1600</sup> a bit later, the road to Turkey was to lead through Italy and up into the north of Europe.

That the communities of the north, particularly Holland, were already developing a form of merchant capitalism, made them at once a safer and more orderly

haven for the refugees, and at the same time and for the same reason guaranteed that these refugees could not look forward to being needed there, in that they had nothing to offer these countries that these countries could not in time do for themselves. Moreover, these families were diffused; branches of them were still in Iberia, some were (among the larger protocapitalist families<sup>S</sup> — the later Nasis were a good example in that they were the Rothschilds of their day, second only to the Fuggers in international finance) in the north of Europe, some agencies of the families were perhaps in relatively lenient papal states, and in time some were in Ottoman lands. <sup>1600</sup>

Now the Ottoman Empire offered a very sharp contrast to the protocapitalistic lowlands, and it is to this structural framework, destined to interact with the previous one, that we now turn.

## II. The Ottoman Structure in the Sixteenth Century.

### A. Selim, Bayezid, Suleiman, and Selim.

When Mehmet the Conqueror took Constantinople in 1450, he imposed a drastic change on an empire whose centers of power had been semiautonomous subcapitals in the political sense, such as Konya and Salonica, then as now a major nexus for the Greek trading nation.

Mehmet the Conqueror was, after all, not far removed from the Berab controversy of 1538. Mehmet's grandson, Suleiman II (second after King Solomon, son of David), who assumed power in 1520, promoted the structure of what were called "inner nations" under the Turkish system of "capitulation", according to which a subject people, a group which acknowledged its subjugation, received therefor special considerations, one of which was the relaxation of taxes into mere and often nominal tributes. Venice was such a nation, and the Venetians had a section of Salonica which was identified as theirs, and even a minor port privilege. The French traded for a similar privilege of being considered an "inner nation". Now the Jews in Salonica were in time a recognizable community. Did they as well seek such status, indispensable for competitive trade? How strongly did they seek to make their competitive position firm through exploiting the fact that only a few years before, the area trade and government had been so factionalized that even under Suleiman, when Constantinople was the nominal and official capital, competitive power was still vested in Salonica and elsewhere?

In attempting to assess the background of this area, one observer writes,



La regione di Palestina compreso Safet e Gerusalemme erano sotto il dominio dell 'Impero Ortomanno Turco durante quel periodo.

Il centro del governo Ortomanno si trovava in Costantinopoli, ma l'Impero si estendeva per diverse regioni. Malgrado il goerno centrale fosse in Costantinopoli, le diverse province avevano, in certo qual modo, un governo proprio.

Per circa due secoli prevalse la predominanza dei Turchi Osmanli sopra i Turchi Saljea e il rimanente Impero Bizantino. Durante detto periodo di consolidazione diversi governatorati Turchi furono eretti in differenti regioni della Turchia, Macedonia e Asia Minore. Piu' importanti fra queste citta furano Bursa, Salanika, Scutari, Magisiva, e Tarso.

L'ultima conquista di Costantinopoli da parte dei Turchi nella meta del 159 secolo causo' il trasferimento del trono da quella citta. In mezzo all'intero regno le diverse province furono governate con diverse leggi e condizioni. C'e da pensare che certe svantaggiose condizioni furono ottenute dalla politica dell'Impero Ottomanno. Le tassazioni erano diverse nelle differenti regioni e questo e riferito dai scritti Umur-i Muhimme Defteri.

Diverse alleanze esistevano a quel tempo. Relazioni commerciali erano attive fra Salonika, Smirne e Cairo;

una alleanza militare esisteva fra Erzerum e la frontiera Persiana. Ottime relazioni commerciali esistevano fra Salonika e diverse città dell'Asia Minore compreso Safed. Nonostante l'enorme distanza fra Salonika e Safed, vi sono molte evidenze delle attività commerciali fra queste due città e con altre come intermediarie. Il commercio della lana, grezza e lavorata è un esempio fra i prodotti di commercio della comunità Safed-Tiberias. L'attività pastorizia Anatolica non era a quel tempo molto attiva né la moderna Ankara che ricorda la lana angora fu di rilevante importanza economica.

Le barriere delle montagne Tauro isolarono Anatolia e Capadocia dalla importazione della lana di Safed. Le abbondanti acque del lago Tiberius furono un importante fattore nelle industrie di Safed.

Una importante rete commerciale nell'Impero Ottomano furono carovane fra Cairo e Damasco che attraversando Gerusalemme fecero di Safed una importante stazione.

Molti prodotti di generale importanza commerciale furono trasportati fra Cairo, Damasco e altre città. Fra questi vi fu cotone dall'Egitto, acciaio da Damasco, spezi e altri prodotti delle regioni orientali. Nelle vicinanze di Safed vi era il porto della città di Sidon e questo rappresentò un ottimo punto di appoggio per l'espansione del commercio fra Safed e altre comunità

che condussero a maggiori scambi commerciali con i porti Mediterranei e Europei.<sup>1602</sup>

The whole structure of the Turkish Empire was described by Busbecq<sup>1600</sup> and others, who at their best were foreign and often hostile observers of foreign customs in an unknown tongue of a misunderstood people. The most fabulous concoctions were gobbled up in Europe as fact for want of corroborative or testing sources of information. The rise of the power of the harem was misinterpreted astoundingly, and the position of Don Joseph Nasi became legendary. The facts were available and over-available, buried in an avalanche of legends, but no effort, then or now, was made to see the structural underpinnings of the facts.

In the latter part of the fifteenth century, as Hirsch summarizes,<sup>1604</sup> a new force became dominant on the European scene. Coming out of tribal Central Asia into Asia Minor, the Ottoman Turks established their own sizeable kingdom. In 1453, under Mehmed II "the Conqueror" (1451-1481) they achieved their ambition of taking Constantinople and in the succeeding years the conquest of the remains of the Byzantine Empire. From 1481 a

serious rivalry between the Egyptian Mameluk kingdom and the Ottoman Turks developed, ultimately culminating in the inevitable military contest between the two at Aleppo in 1516. The Ottoman Turks won an overwhelming victory, went on to take Egypt in 1517, and henceforth all of the Eastern Mediterranean world was in their possession.

The Ottoman Turkish Empire, thus, was not far removed from being a militarily oriented empire, and a Turkish slogan had it that the Sultan who left the saddle, i.e., the military leadership and direction, would bring down with him the Empire. By the time of the accession of Suleiman, several traditions were well established regarding the Sultanate. Firstly, he was a military leader, who directed campaigns in person, and whose authority was military. The very office of Sultan was a military office, like a Commander-in-Chief, and the various posts of the civil government were awarded under military titles, even though the civil responsibility might in fact be greater than the military obligations of a given office. Selim I died at the front, and Bayezid, father of Suleiman, breathed his last in a military tent. Suleiman at the time had to be called from another front to assume the reins

of office, and his first responsibilities on reaching the Porte were anent the janissaries. A feudal state the emphasis of whose thrust was the consumption of economic surplus rather than the production of it mastered in time a sizeable segment of Europe's backside, and drove deep into the Holy Roman Empire, only to retreat before no real opposition instead of settling down to rule and produce, once the victories had been won.

The janissaries were more than an army. They were an elite, producing the leadership of the empire culled from all the finest captive and volunteered talent available. The penipotentiary Ibrahim, who under Suleiman rose to rule the kingdom as had Se<sup>ian</sup>~~us~~ under Tiberius, was an alumnus of the janissary system, as were most of the higher echelon.

New lands were awarded in a feudal manner to soldiers, so that the entire janissary system from promotion to reward was on a merit system rather than a dynastic one. The Sultan too assumed his power not by automatic succession but by contest, provided he had not destroyed other contenders before the position became open. Sometimes, as with Selim and Bayezid his son, the position was "opened" ahead of schedule by the successor.

Until the rise to power of Hurrem or Roxelana, Suleiman's skilful Russian Kadin, the contest of power was a contest of skill and force between those men both capable and desirous of acceeding to the military throne, soldiers all, who led the expansionist ascending phase of feudal empire from a backwash Asian primitivism to what hostile European observers were compelled to acknowledge to be the most highly developed feudal civilization of its area. This civilization came to look upon Europe — perhaps rightly — as a mass of unwashed and semihuman barbarians, who had no friends, massacred their enemies, took rape and plunder for granted, knew an infinity of oaths of honor with a total lack of honor of oath, and combined, in a word, in themselves every chief trait of dishonor and effeteness. Such a Europe, divided into related houses which looked upon each other in a manner akin to the related houses of the Arab Middle East, offered little serious challenge to a strong martial expansion.

Suleiman himself may not have wished for the military life. When the opportunity presented itself, he sometimes delegated major campaigns to subordinates (particularly Ibrahim), an unheard-of move for a Sultan. <sup>1604 A</sup>

His great second campaign into Transylvania to Buda

from which he retreated in victory no less than his retreat from the prosecution of the Erzerum campaign against the Shahinshāh of Persia indicate in part the inability of the janissaries to maintain an extended campaign into winter — the inability of trained professional lifelong soldiers to conduct a campaign for half a year — and in part the lack of desire to push such a campaign on the part of the Sultan. How could a chief warrior in a warrior state, given to the principle of feudal military expansion, come to think in this way which is barely visible in Suleiman, highly patent in his successor Selim the Sot, and suicidal after Murad III? <sup>1605</sup>

One answer is that the pernicious effects of the historical force which found its expression in Iberia were subtly beginning to poison the descendents of the House of Osman by making available to them a way of shoring up a feudal economy without economic conquest. A second factor is that in the manner above examined, the empire was running up against the limits of its practicable expansion as a domain of force. The signs of this second, visible in strategic retreats from victorious positions, would not become patent for some years, until the general acceptance of the passage of the Cape of Good Hope would cut Turkey out of the Indian-European picture and hasten

its decline as a world power. In the meantime, the effects of the first were already visible by the time of the Berab controversy.

The revenue of the Turkish empire was derived from a variety of sources other than confiscation and conquest. At least half of it, perhaps as much as three fifths, came from a capitation tax, the kharaj, on the vast numbers of non-Moslems who sought abode within the Empire, which derived its laws and practices from religious texts and pretexts interpreted by the Mufti in accordance with that sage's perception of the desires of the Sultan.<sup>1606</sup> Who was exempt from this tax we shall soon consider.

Further, a direct tax was laid on produce; not a tax on profits, but an absolute levy on produce, which tended to favor artisanship and commerce, after the fashion of a land tax. Overlapping tax systems also, according to the files of the Mühimme Defteri, adduced income from principle cities of the empire, which was due from every household, carefully catalogued and listed by name, marital status, religion, property, "nation", and region.<sup>1607</sup> Each of these was the basis for at least one tax in the wildly overlapping tax structures. Taxes were levied on brides and animals alike, on offices and general



communities as a whole, and exemption ~~from~~ parts of the tax structure constituted a major commercial advantage<sup>1608</sup> to those who could obtain them.

Now structurally, as we shall see, there were two ways at least of approaching the problem of tax favors. Either exemptions could be conferred by the Ottoman Government (Heyd writes, "Ottoman law sometimes granted exceptions to clergymen, kle qodesh", etc., but I doubt that it drew a fine distinction between a musmakh and someone who is not.")<sup>1609</sup> or else by the "inner nation" itself. If conferred by the one, only the taxes of that one would be exempted, but a substantial break here would often spell the difference between competitive ability and the lack of it. If, of course, exemption could be obtained from both, the recipient would find his commercial position doubly blessed. Lewis' extensive studies of the Mühimme Defteri indicate that both Islamic and Jewish clerics were identified as such in the tax records. He draws the obvious conclusion that the Moslems were exempted, in whole or in part, from the tax structure. He never comments on why an official, utilitarian, and very terse tax record is scrupulous about observing which

Jews were, in our terminology, "laity" and which were "clergy", but the conclusion that the very presence of such a special designation in the tax record points to a special "break" of some kind seems inescapable. <sup>1640</sup>

At least the Christian raja under Suleiman, were taxed 1/10 of their total produce and 1/10 of their male children for the schools of the janissaries. Communal

taxes, according to many historians, generally were "tax farmed", or sold to the highest bidder. Often a community settlement, however, was agreed upon as a stable amount, according to the Archives, and the fixed amount remained constant from year to year. Further evidence against the common view is the existence of deftars which record the demand that the central government adjust the taxes due from the wealthy populace of Jewish Safed, no longer in keeping with the true economic picture, according to the complainants. These sources present a picture of a fairly well organized community which utilized its tax privileges to the point that government collectors felt themselves hampered by the skillful use of government practices on the part of the citizenry of the Jewish nation. <sup>1641</sup> Did the Jews ever succeed in

becoming an "inner nation", free of taxes and paying only a mild tribute? Would this not in fact have made them highly competitive with not only other "inner nations", but with other members of the Jewish religion not part of the formal "nation"? Could not such a mercantile advantage have entered the minds of the wealthy Berab and the new mercantile elements which entered Safed?

The history of Imperial Ottoman Turkey under Suleiman is a history of interaction with Europe. At one time, the emissary of Ferdinand was surprized to learn that the rulers of Poland, Venice, Hungary, and the Pope had acknowledged the majesty of Suleiman. Characteristically European, too, was Roxelana's manipulation of the throne from the harem. To a far greater degree than any previous kadin, she had, or rather took, a hand in determining policy. At one time, the Sultan spent so much of his time in her palaces that they became a secondary seat of government.

Under Ottoman practice prior to Roxelana, little confusion, oddly enough, surroounded the transfer of power. By the time that a new successor was called for, his rivals had been eliminated. Also, the death of a predecessor was not proclaimed until the next in line had had a chance

firmly to seize power, and to destroy any remaining possible contenders. Jem (Dzem) was a possible exception to the law of "one job, one man available", but the Christian Knights of Malta, after a mutually ruinous siege, solved that anomaly by selling his life to the Sultan as part of the cost of their safe conduct. Indeed, this was probably one of the major reasons for the pursuit of the seige past the point where it might normally have been abandoned.

In any case, the Russian Roxelana selected the next ruler, the elder and inept Selim, over the more capable Bayezid, and in other ways as well introduced the force of a manipulative woman behind the throne into Turkish politics. Perhaps it is in part due to her that the Ottoman Empire never rose beyond the feudal level.

But at least in great measure it must be as well due to another factor,. In Iberia, the feudality was never really forced to develop beyond itself because it found, providentially if you wish, the Inquisition to bolster the needs of the economy; in the Ottoman structure, the feudality was again never forced to become itself a capitalistic agency because it found available agencies of which it could make use without itself becoming one of them.

After the Crusades, the needs for world capitalistic

involvement would hardly be met by Syrian Christians, the most obvious available trade agency. Such men were untrustworthy. Welcomed in Christian Europe, their loyalties would hardly be to the Turk, if a choice ever faced them. They would have legitimate options facing them to turn to any of several European powers for protection and support.

There was one group, however, which was so admirably suited to meet the new need that it began to rise in prominence until, according to some observers, it dominated the economy.<sup>1612</sup> This group, identified readily by many historians as the Jewish Marrano group, grew to dominate areas of the economy of Salonica, Constantinople, and other cities, which, in view of the relative independence of these structural power centers, points to areas of general dominance in the Ottoman economy. What was it that this group had that made it so uniquely able to supply the needs of the time and the structure?

#### C. Aspects of the Rise of the Merchant Capitalist Class in Ottoman Turkey.

From the time that the small but influential class which has to some appeared to be mercantile and

protocapitalistic<sup>1619</sup> began to leave Iberia for obvious reasons, other members of the same class, sharing the same class interests, began to feel progressively more uncomfortable in areas of Europe itself. Even the Netherlands offered (as to Beatrice Grazia) only partial and temporary remedy from the opportunism and oppression which had driven them from Spain and Portugal. In a time of need, looters flourish, and in a time of looters, delators crawl forth. In such a time, no man is safe, and wisdom consists in seeing this early: that the higher the station, the more easily a man may be toppled therefrom, and the more persons stand below to shake the ladder.

Although Ferdinand (whom Bayezid considered a fool for enriching Turkey with Iberian Jews) may well have had no animus against highly placed New Christians some of whom were unquestionably as dear and useful to him as any courtiers are to a king, he was following the path of his own immediate best interests in looting them, and consequently in driving them from Spain. Manoel of Portugal too, much more efficiently since he had a chance to profit from Spanish errors, and in spite of the less advantageous "split" which he reached with the Holy Office, was acting in a manner which served his own

immediate best interests. The New Christians, however, were by the actions of the Inquisitions and the monarchs converted into a yet formidable group, possessed of high technical skill, administrative ability, banking experience, house (i.e., family branch) contacts throughout Europe, and vast amounts of available capital for investment. To the feudal mentality, available capital is stored for the service of the possessor; to the capitalist mentality, it is destined to be employed in the creation (it is no accident that to "make" money has been accepted as an American idiom) of additional surplus. The New Christians, no more "found" Turkey than Bayezid or Suleiman "found" them. They found each other in a mutual need.

The Christian merchants available to the service of the Turkish empire were a suspect lot, as we have seen. With the New Christians, however, it was a different story. Rejected for opposite reasons by two mentalities of Europe, they found themselves totally dependent on the grace of the Sultan. The European feudalists had no need of them because they were unprepared for what the New Christians might have to offer; the European protocapitalists had no need of them because they themselves could supply

their own needs. It should also in fairness to the Iberian feudality be noted that, so long as they remained New Christians in feudal Iberia, they were often feudal New Christians. Capitalism was not a matter of choice for them, but of structural compulsion in many cases.

Once in Turkey or destined for it, the entire religious-structural picture of the New Christians changed. Were they to enter Turkey as professing Christians, which they were when they left Iberia, they would assume precisely and predictably the position of the Christian merchants, with one additional debility; they would still be suspect subjects in the eyes of the Sultan, but they would have no recourse in flight to Europe.

Rejected as ~~not~~ Christian<sup>s</sup>, accused by Christians of Judaism or Judaizing, perpetually identified as ~~not~~ Jew<sup>s</sup> and paying heroic prices for the accusation, the New Christians, were they to have had the most orthodox of Christian intentions, would have been to say the least dismayed. Upon suddenly finding that only as Jews could they place themselves completely in the Sultan's hand, that is to say protectorate and dependency, and only thus could they attain the confidence of the Porte in one who could never



possibly betray him, it must have become evident that now being a Jew entailed at one stroke losing nothing that was not already lost and gaining a world of economic and trading advantage. The point is that the sudden "rediscovery" of their Jewishness by myriads of New Christians may have been but was not necessarily totally the result of pious commitments reemphasized in tolerant relative freedom.

Furthermore, what matter to the Sultan if this were the case? Whatever the personal loyalties of a New Christian who declared himself a Jew, such a person could nevermore resume a place in medieval Christian society, or for that matter in the renaissance, which was in many respects hardly better.

Such people could, regardless of their personal commitments, be relied on implicitly to further the ends of the Turkish empire, especially so since the Porte had fostered and protected, welcomed and saved them from and in Europe itself prior to their actual entry into imperial domains. In some cases, indeed, the Porte interceded, interfering with Continental domestic politics, in order to save the more important personages and their fortunes, knowing that ultimate safety for them lay only and obviously

under the Crescent, and knowing as well that they must realize it too.

Thus, ties of loyalty no less than of expediency united to demand both removal to Turkey and commitment to Judaism, regardless of the personal religious preferences of the New Christians. We have, in sum, no evidence of any substantial nature that the bulk of these New Christians were anything but what they professed to be at the time of their expulsion, and, judging from the fact that they had generally seldom given much attention to religion in any case, Jewish or Catholic, we may presume that the transition was an easy one. If it was easy, it was necessarily at the same time conspicuous. Dona Grazia's heavy endowments of scholarship are legendary, and Hebrew incunabula exist embodying lengthy dedications to her conspicuous generosity. Others were no less philanthropic and no less conspicuous in their philanthropy, which was on a level which could not fail to reach European ears, and confirm even more the trust of the Ottoman regime. This was, in fact, the one foreign group in the empire which could be trusted implicitly, not because of delusive or evanescent confidence, but because of the very structural

position in which they were placed. And the harvest of this commitment to the Sultan was very near economic domination of areas of the empire and a virtual monopoly on aspects of foreign trade, including under the Nasis a complete control of the all-important pepper trade, a commodity of no mean significance before food preservation; and of great expense even now.<sup>1614</sup> One may reasonably observe with that brilliant hindsight into the obvious which is the prerogative of ~~he~~<sup>she</sup> who did not have to make the decision at the time, that the delegation of the filling of the need of merchant capitalism by the Ottoman Empire to an agency not an intrinsic part of that empire both flowed from a deep historically rooted flaw in the feudal-military Ottoman self-image and was one of the major factors in the decline of the empire.

### III, A Note on the Scholar Class

#### A. A leadership class.

Since the earliest days of the hidden revolution<sup>1615</sup> of novel authority which took place in the umbra of the Maccabean revolt, the position of religious dominance attached to the scholar class became progressively more established. Institutions are subject to corruption as persons are subject

to disease, and once the authority of the Zadokite cultists had effectively been challenged, the challengers went from strength to strength; represented by their adversaries at first as an antireligious element, they came to ~~p~~represent viable religion, so that by the fifteenth century any ~~l~~struggle for supremacy in the religious area or areas upon which it bordered had to be fought out by scholars on both sides.

An analogy may prove useful: in our day, a struggle raged for a time between the American Medical Association and the American cigarette companies which involved vast investments. The textual position of the A.M.A. was that consumption of cigarettes was carcinogenic, and that of the companies was that it was not, or at least it was not demonstrably so.

Yet because of the nature of the texts — technical texts involving medical interpretation rather than techical texts requiring halakic interpretation — the entire struggle had to be fought out between doctors on both sides, so that although one may speak of the "doctors" vs. the "companies", an observer of the contest would see only doctors vs. doctors, the A.M.A. doctors vs. the cigarette company doctors. In other words, the nature of the texts

at the level <sup>at</sup> ~~of~~ which the battle was fought demanded that even those who opposed the position of the "doctors" had to be represented in the lists by their own doctors, who were nonetheless opposing the medical "Establishment".

A closer parallel is noticeable on the buckle of the canvas belt of Nazi troops in World War II, which bore the legend, "Gott Mit Uns". One of the avowed purposes of the Nazi state was the undermining of the religious establishment, a competitor for political power intolerable to a philosophy of "One People, One Leader". Yet the text, the principle of representing God, was appealed to by both sides (and as well by the Allies) as the source of their authority. Clearer examples repeatedly permeate the Middle Ages; and at the time of which we speak, both Luther and the Pope fought out the battle for cultural, economic, and social dominance on the same appeals. The German princes who shored up their own failing feudalisms by confiscating Catholic land and <sup>a</sup> ~~v~~alue holdings did so by appealing to the churchman Luther as a textual — or pretextual — guide. Thus, although the effective contest for the German princes may have involved the same sort of looting as the Holy Office practiced in Iberia, the battle had to be fought out — on the visible level —

between churchmen, clerics who represented the Church and clerics who effectively represented the principates. The ultimate structural error here is to identify a person as a cleric without noting that clerics, like doctors, do not all represent one view, but are available to represent a variety of competitive <sup>t</sup>structures. The attorney who appeals to the search for justice and truth and the dominion of pure law is either an attorney for the defense or for the prosecution, deriving in the several cases opposed views; yet the battle is fought out in terms of legal process and the search for academic precedent.

One may, then, and often does encounter a situation where people of the same commitments, lawyers to the law, scholars to the valid interpretation of the Torah, will be divided in the bitterest manner over what appears to be relative trivialities, such as the fact that one scholar is a merchant scholar of a particular breed while another scholar is not. It has become axiomatic that proximity breeds heat, that people whose interests are similar in all ways but a few will dispute with greater ferocity than those whose interests are entirely dissimilar, an argument, curiously, against the necessity of greater mutual understanding and interdependency leading to peace.

## B. Struggles for Power.

In the earliest times, and even through the Talmudic period, the scholar (or rabbinical) class was not an occupational class, but an arbitrary assembly of persons drawn from the poor and the wealthy, the gracious and the ruffianly (one of them, R. Simeon b. Laqish, was a famed bandit and hooligan with a Hellenistic taste for homosexual indulgences who became a gladiator in the arena. His undoing came when he once spied R. Meir bathing in a river and popped in to engage the sage in a bit of carefree sport, only to emerge fettered to the Torah and engaged to Meir's sister, described as "even more beautiful than I". Laqish went on to become one of the greatest sages in the history of the halaka, which says a good deal for Meir's persuasiveness). The disparate group was united only in the Pharisaic commitment and scholarship of its members, the grounds of common meeting. Its members were not professional rabbis, but were sandal-makers, woodcutters, merchants, etc.

Charged with formulating the laws, they formulated such privileges for themselves ( in the Sabbath and Nedarim and Baba Bathra citations, inter alia) as would allow them a maximum of time for study by exempting themselves from taxes and allowing themselves priorities in markets

and courts. The statements were lucid and the positions clear.

Partly as a result of the very clarity which made for studious integrity, a loophole was opened to scholarly misuse, whereby a scholar with vast economic interests could claim exemption from taxes to which his competitors would be subject.

A scholar so desiring could devote enough time and training to his studies to qualify as a scholar, and then pursue his unscholarly vocation of commerce. Because of this loophole within Jewish communal law, a great deal of the mercantile activity of a region might find its way into the hands of the scholar class, to the point where any mercantile contests at all would have to be fought out between scholars on either side. Habib, for example, clearly differentiates scholars whose scholarship is their principal occupation and those who use scholar-class privileges for mercantile advantage (Responsum #140). Habib himself was a relatively wealthy man; in fact, one who wished to become wealthy within the Jewish community could do no better than to become a member of the scholar class, which could in theory be attained to by select persons from any level of society. So keenly was the preeminence of the scholar class felt by those



who were not members of it that it was necessary to reinforce the Talmudic guarantees every few years with fresh responsa; but since protest in terms of Jewish jurisprudence could only, under the structure of Jewish law, be brought to this very class for adjudication, the preservation of the prerogatives was seldom in serious danger. Nonetheless, discontent was afoot in sixteenth century Ottoman Turkish Palestine, and from time to time a scholar was denounced to the ruling powers as having and holding out on great and untaxed wealth; in turn, the ban (or religious boycott or anathema) would be levelled against the informer. The issue could not die as long as the prerogatives were so important and available, but in areas which were old and stable, such as Jerusalem, there was no real and foreseeable way out either.

#### IV. Safed and Jerusalem.

##### A. Introduction from Salonica and Constantinople.

Shortly before the 16th century, Safed, in the upper Galilee (see map below), was an insignificant village.<sup>1616</sup>

Jewish life in Palestine revolved, as is historically proper, around the Holy City, Jerusalem. By 1538,

the year of the Berab controversy, Safed was a metropolis, and Jerusalem (in Habib's own bitter estimation, Qontres Hasemikah) <sup>d</sup>has become a mere shell, a reed, from which scholarship and luster <sup>d</sup>has fled. The trend continued until Safed at its height was the center of Palestine culturally, scholastically, intellectually (we shall see a difference), and economically, and was making its weight felt through Salonica (as a mutual trade agent) and threatening to become perhaps a force in the European wool industry. A sparse few decades after the Berab incident, Safed had lost its <sup>l</sup>glam although not all of its glory, and Jerusalem was rising once more to dominate what relapsed into becoming an isolated and provincial Palestinian sub-area once more. This striking and unique phenomenon, at the root of which we discern the key of the Berab controversy, was complexly overdetermined by a multiplicity of factors. The religious, the halakic (which we shall consider as well), the messianic factors have been dealt with in Schechter (Studies II, "Safed"), Rosanes (Op. cit.), Graetz (Op. cit), Larned (History for Ready Reference, 4:"Ottoman", "Palestine"), and Jewish Encyclopedia ("Safed", "Haalukkah", "Jerusalem"); Lewis, Heyd, Ben-Zvi, and others previously

cited; Samuel Avitsur, "Zephath Merkaz Leta'asiath Arige Zemer Bemea Hataw" ("Safed as a Wool Weaving Center in the 15th Century", Sephunoth 6:41-71, is one of the few who has at all considered the economic structures operative behind the phenomenal rise of Safed (the only one in the entire volume cited <sup>who</sup> ~~which~~ does so; the whole volume (Book 6, 5722) is dedicated to Safed studies), and he too does not draw the larger structural implications of an area which he has so thoroughly researched.

So that almost all of those who have dealt with Safed and its remarkable dominance, guiding themselves by precommitments to the "Marrano" New Christian notion of secret Jews of unquestionable loyalties to their religious commitments. Once we abandon the necessity of such precommitments, a picture emerges which could explain without such precommitments the dynamic rise to power of Safed, the relative fall of Jerusalem, and the key position of Berab and the Berab controversy in its historical Entwicklung.

#### B. Safed.

In Spain itself, one of the most prominent of the developing industries was the manufacture of fine woolen fabrics from the wool of the Merino sheep, a hardy, gregarious, white-wooled variety originating in that

country, whose fine wool exceeds in quality all comparable kinds.<sup>1613</sup> Weaving and working with such wool was one of the most important trades of the Iberian exiles, particularly of the Spanish Jews, and it was thus a likely source of primary income to those who maintained their Jewish integrity by leaving Iberia either prior to 1492 in Spain and 1497 in Portugal, or there after. Those who found themselves, as more and more did, gravitating towards the new and relatively free Ottoman state, found a ready market for their highly developed skills. The percentage of Jews who came to Palestine could settle in Jerusalem, which had little industry of any kind and which faced crippling taxes at every turn, and which in addition presented a picture of a stable and old society with a well-entrenched economic rulership in which the scholar class had a significant role, if not absolute dominance. If they chose to do so, they would encounter a mountainous clime removed from fresh water (essential to the fuller's processes) on no particular caravan route of importance, with every debility that mercantile stagnation could impose, near no markets, utterly removed from overseas ports (even to the Mediterranean), in the midst of poverty,

and gifted with overlapping Ottoman regimentations and consequent taxation systems which were bound to raise each year a fixed tax based on better times (the collectors of which faced imprisonment and/or fine for failure to collect it, and consequently raised the tax each year.) Of course, if he elected to abide in the City of David, an immigrant Spanish Jew could remain near the holy places.

If, on the other hand, he could persuade himself to forego these blessings, a world of opportunity opened before him. He might, on the one hand, go to Salonica, where considerable Jewish (New Jewish) industry was setting in, eventually to dominate the Salonican economy. But assuming that such an immigrant found himself somehow dissatisfied with the situation in Jerusalem, there was an alternative far less distant than Salonica or Constantinople which could not only match the advantages of these ports, but in fact exceed them.

The main port of the entire territory at this time was Zidon (Sidon), located relatively near the village of Safed, which from earlier times bore a population of already some 300 persons.<sup>1618</sup> The cost of living in Safed and the tax structure both were inviting, and both relatively

lower by far than Jerusalem. Scouring, cleansing, and thickening of cloth, all of which together comprise the fulling process, no less than the pasturage of animals, required vast amounts of fresh and soft water, available in Safed<sup>1619</sup> as nowhere else, creating a veritable invitation to those familiar with the clothworking industry. Tax and other evidence points to Safed as a wholesale and quantity manufacturing area specializing in the production of cloths (begeg, in the responsa literature) rather than finished garments, and a considerable export industry began to grow. Given the natural situation of the city, and given the governmental and fiscal policies affecting it, it is difficult to imagine how Safed could have failed to outstrip Jerusalem and to have become the dominant city of Palestine in its time.

The interesting thing to notice, insofar as the governmental structure was concerned, is that it is precisely the factors which make Jerusalem a functional cripple which build Safed into dominance. The policy of an established and constant tax figure, for one, acted in Jerusalem to make a small and poor population responsible to raise the taxes which were more fitting for a former large and more nearly affluent one. The selfsame policy in Safed acted to make a developing large and affluent community

responsible only for the taxes of a former small and relatively poor one (so that the deftars of the Archives address themselves continually to the tax-farmers' complaints that the inhabitants of Safed do not pay in accord with their real income and position, but no such deftars are found to deal with Jerusalem.)

Manufacturing, at its height, was in Safed largely controlled by the merchants, who brought in raw materials by ship (for reasons explained earlier referring to the isolating mountains), placed orders with preparers and fullers, and exported the finished product either themselves or through agents, as through Salonica, so that a central fabric market was located in Safed, not only virtually monopolistic in the area of wool, but bitterly competitive with Jerusalem markets even in cotton goods. Although spinning was at least in part done in homes by private workers (under a flat-fee system), fulling and weaving were done in plants, with the aid of waterpower. The biggest such fulling mill (or to employ the old Spanish name which was applied to the Safed mill, "batan") stands yet in Safed.

Violet, indigo, blue, green, yellow, orange, red — that is to say, the entire spectrum — of dyes were used

on a higher and more advanced qualitative level than what was available in Europe,<sup>1620</sup> and a variety of types of cloth were produced by what was evidently not only one of the major industries of the place, but conceivably of the time. The industrial income from Safed alone, in spite of the low tax factors mentioned, was 1/7 the total official income of the entire country, and more than 300 tons of wool were required — raw — per year. Avitsur estimates that annual production according to the markets reached 600,000 florins annually, over eight times the total official income of the Turkish state and its local rulers in the whole of Israel. At its height, the estimated number of Jews in Safed — professed Jews in Safed, note — was 20,000. Mercantile activity grew unbounded. Salonica acted as an agent for the transmission and reshipment of Safed wool, a commodity of great significance in the European world. ~~Marcus~~ cites a letter from a Jewish servant of Roxelana offering gifts appropriate for a queen to send and a kadin to receive, such as "garments of fine wool." We may ask, was it the garments she was after, or the patterns? The answer will have to deal with the Safed industry, and with the Sultan's very real interest in Safed. It will be remembered



that when the Porte wished to honor Don Joseph Nasi, he was given Tiberias, a scant few miles from Safed.

Incidentally, Nasi immediately plunged into the corollary silk industry, using all the resources above and Lake Tiberias as well for the raising of mulberry trees and the introduction of silkworms which feed on them. At the waters of Tiberias and the other advantaged of Safed, near the important Cairo-Damascus road, connected to Zidon, open to the Mediterranean, Don Joseph Nasi had no mean opportunity in the silk business, and his (voluntary) gravitation to Safed's vicinity was no accident.

#### C. Sources of Capital

A major element without which no Safed industry could ever have come into being was the availability of sources of capital crying for investment. In a structural situation, many currents are flowing at once; in a presentation of this kind, however, they must be dealt with seriatim, and we must step back now to note how capital became available in great amounts for the development of the Safed industrial complex.

When the Marranos (former New Christians, now "New Jews"; if you wish) were last considered, we left them in Salonica and Constantinople as banking and trading

immigrants with vast amounts of capital which had to be invested, seeking ways of doing so. That they invested in fact in Safed and made their influence and power felt in the town is a matter of historical record. <sup>1617</sup>

Three motivations militated to ensure that the capital available to the Marrano class would find a partial destiny in Safed:

1. The need for investment of capital in a growing industry which could benefit from the fact that the greater Marrano banking houses had international connections; i. e., an industry which, given the structure with which their precipitous history had dowered them, they could themselves promote or exercise from a position of relative privilege;
2. The need for conspicuous philanthropy in specifically Jewish areas, which could be painlessly resolved by any investment in Palestine; <sup>1622</sup>
3. The desire to support Spanish artisans and craftsmen who were by and large involved in the woolens industry, and perhaps the desire to support them as Jews. The incoming protocapitalist class may have been Jews, but they were certainly Iberians; they might be expected to be responsive

to the needs for supportive responsibility which they may have had as Jews, and certainly had as Iberians. It will be recalled that these people were not casual Iberians, but people who considered Spain and Portugal their ancestral <sup>o</sup>homes, people of attainment and distinction in Iberian life.

The role of psychological — guilt and other — motivations in such cases, even (sometimes especially) in cases where they had been manifestly "used" and exploited, is not to be underestimated.

That few of these people of great culture and attainment chose to settle in backward, beggar-ridden Jerusalem<sup>161.9</sup> is no more a source of wonder than that they chose not to invest in Jerusalem's functionally non-existent industrialization.

But the trade of Jerusalem was by no means non-existent, even though industrialization on a level to have international implications was effectively wanting. If this were the case, continual supplemental warnings protecting the mercantile rights of the scholar class would not have been necessary. What<sup>Δ</sup> trade there was, however, and the tax records make it clear that there was a good deal, was not by nature of the same character as the export

centered trade of the north.

The old establishment might not have, by the very fact that it was the old establishment, the new connections of the novel merchant capitalist class, but, again by the very fact that it was the old establishment, it did control a great deal of the internal economy of the country at one time. It is not fortuitous that the old cotton scales and markets were in Jerusalem, a political center rather than a merchant capitalist one. Not is it merely fortuitous that the old home of the scholar class was in the Holy City (as Habib describes in his cited responsum). One may licitly suspect that much of the prior — that is to say, internal — trade of the country centered about the Jerusalem area, offering, as it did, political advantages (and, to the scholars, tax advantages) which made it worthwhile for those with an investment there and dominance of the power structure there to remain.

#### D. Establishments and Internal/External Considerations.

Internal as opposed to export trade need not follow the same lines as the Safed community demonstrated. Habib was both a powerful and a <sup>e</sup>walthy man, and although many scholars deserted Jerusalem for Safed, as he

accusingly states in his Qontres Haemikah, merely for the money, converting Jerusalem into a worthless reed (in Habib's view of what Safed must think of it) by their absence, they did not desert: like for like. On the contrary, they deserted the limited economic structure where they stood at the top, for a truly unlimited economic structure where they might not stand at the top, in relative terms, but where the absolute potential of surplus to be controlled was greater. Habib, however, could never leave Jerusalem to join the ranks of those whose scholar-class services could be useful to the growing industrialization of Safed: he was not merely a big frog in small pond; he was the captain of the pond, and for him to leave would have meant giving up the pinnacle position to take a position perhaps more potent in absolute terms, but which could never become absolute in potential terms. Further, the man under whom he would find himself, the acknowledged leader of the Safed rabbinate, was Jacob Berab, with whom he had had severe differences in the past (an accidental circumstance which some oddly feel to be the only factor involved in the entire structural position of the two men). One can hardly presume (with Graetz inter alia, including Schechter) that a previous altercation was solely responsible for

Habib's action in condemning, repeatedly and publicly and vociferously and even intemperately, the Berab plan, but certainly it must have played a part, perhaps not unrelated to the position we have suggested for it above, i.e., that Berab was one of the major reasons why Habib himself could not desert Jerusalem.

One often finds, in war, that an army deserts in in order to join itself to a superior army; but one rarely finds that the chief of an army deserts to take a subordinate position in a greater army. Such is the nature of power that, once having tasted of it in its pure and absolute form, few will relinquish the cup. Habib's position could have been increased in extent, power, dominance, and control of economic surplus; it could not have been increased in absoluteness, in strength of position which he had built up over decades. He had no choice but to remain, and remaining, he had no choice but to stop Berab<sup>1624</sup> and the forces which were acting through Berab to the best of his ability, using every tool at his skilled command.

How else can one explain the fervor, the passion, the absolute and repeated viciousness of the Qontres Hasemikah, which was pretextually after all an academic point of

theoretical juridical interpretation of codical literature being discussed by two halakic academics? All the more is this evident when it is recalled that Habib was not a rash youth, but a seasoned scholar, accustomed to dispassionate consideration of juridical academica, even when it touched on putatively more serious matters. For example, the following:

On an unnumbered page of the Lemberg edition of Habib's responsa, a note in fine print misdirects the reader to an incorrectly numbered article which bears the wrong title and has been interjected out of sequence, on the subject <sup>f</sup> whether members of the scholar class should or should not pay taxes. <sup>1625</sup> Here Habib, while protecting his own rights from taxation, suggests that merchant scholars who are primarily merchants should perhaps not be considered in the same (exempt) class as licit scholars such as himself. And he does this with dispassion and calm, as befits one who is not overtly involved in a situation meant for publication. Incidentally, Berab (Collected Responsa, Jerusalem, 5718), who once ruled (Responsum #8) that a trust administrator did not need permission of a Jewish court to sell lands in his trust, never seemed to feel the need to justify his own exemptions in an

ascendent economy, where presumably little pressure and less resentment would be felt. It goes without saying that he never felt the necessity to distinguish merchant-scholars in order to tax them for their mercantile activity. Even Karo (Abhqath Rokhel #1) felt no such necessity, although he, coming in a period of incipient decline, defended exemptions. Moses de Trani, Karo's fellow ordinand at the hand of Berab, did however (in Responsum 25, section 2, unnumbered page 14b of the Venice 1629 edition, erroneously indexed as 14:3 in the same edition) defend with vigor the absolute right of scholars to be freed from every tax, and mentioned even the *kharaj*, or capitation tax, by name, laying the burden of applicable taxes such as they were on the community.

#### E. A Further Consideration.

Although the structural picture thus far delineated helps us perhaps to understand a critical factor involved in the Berab dispute, a situation such as this one is by necessity overdetermined, and even in seeking the most visible and reasonable determinants, by no means all factors operative, one must consider another operation which might very well have been served by the Berab scheme.



We have noted that not only were members of the scholar class functionally exempt from taxes (and, of course, interests of investment for which they acted as agents would benefit by their exemption), but that an "inner nation" system obtained among the Ottoman Turks, which is of considerable import to our deliberations.

As regards the first point, we note that the man who controls ~~sem~~<sup>i</sup>kah controls appointment to the scholar class, and the mercantile class as whose agent he <sup>h</sup>chooses to function is both totally dependent upon him, and on the other hand dowered with all the exemptions to which he claims right. The fact that such total dependence might not prove a welcome prospect to all members of a class noted for its own skillful use of power is patent, and the fact that no documentary evidence is available ~~linking~~ at least part of Habib's support with members of this class comes as no surprise, but does not rule out the likelihood, which is made stronger by the fact that Habib, potent in academic repute though he may have been, still surprises us in that he was able "unaided" <sup>1626</sup> to stop what was one of the most effectively executed plans of the century, <sup>1627</sup> and one is driven to suspect that some at least of the same forces which stood to profit by Berab's

agency looked with less than total satisfaction to the prospect of his absolute control.

As to the second point, on the matter of "inner nation" status, we have seen that a tightly organized "nation" within the Turkish state often benefitted immensely from being able to establish such a status, although as to on what other than tight internal organization such a status might depend (in the loosely organized Turkish empire) we have little clue.

If, however, the control of semikah would be, as well it might have been, a decisive step towards "inner nation" status, then it would have meant placing the Jewish nation in position to discharge with mere tributes (generally on a very minor scale) debts which were now calculated through capitation and overlapping Turkish taxes of every variety. Such a move would not only be of inestimable potential benefit to a class concerned with mercantile investment in Safed, but would have affected perhaps the entire Ottoman Jewish population, throwing all the issues thus far considered into magnification and heightening the potential power to be vested in the hands of Berab. That the local Ottoman administration might stand to lose revenue by such a move suggests yet another possible

source of Habib's sudden political potency.

Finally, if the semikah bid and the potential to become an "inner nation" would magnify every aspect of the situation, it would multiply the potential for expansion certainly of the Safed community and possibly of the Jerusalem one as well. But the Jerusalem community had already nearly reached the zenith of its potential, and Habib already stood at the apex of his own personal potential. Thus, the far greater benefit would accrue to the community of the north, even though some benefit no doubt would be felt in Jerusalem as well (so that Habib found his position espoused by himself and one colleague alone against the Jerusalem rabbinate as well.)

The positions of Berab and Habib on the controversy over the reestablishment of the licit semikah may thus be seen as the very key to the entire structural situation in Palestine in 1538, and, although we cannot read the minds of the men involved, we may say that structural necessity would have forced alert, cognizant, powerful, informed persons in their positions to act precisely as they respectively did.

## V. Halaka.

### A. The <sup>NY</sup>Structural Necessity.

One of the reasons that reconstruction of motivation must be tentative and extrapolated from available materials is that the formulary terminology in which official business is carried on operates at a level nearly unrelated to the real issues. Instead, formal and accepted "fundamental" texts and their interpretation form the visible basis of nearly all power contests in even moderately sophisticated societies.

Never, to take a relatively simple<sup>1</sup> example, is the struggle for personal power over a corporation and the attendant control and prestige ever couched by the combatants in terms which might remotely suggest that such considerations are at stake, or even involved; instead, two factions publish that their motivations are only "the greater good" of the corporate<sup>6</sup> entity, in some disinterested way.

The disastrous and bloody<sup>o</sup> and interminable struggle for factional ascendancy in the Roman Catholic Church under ~~Domitian~~<sup>the Arians</sup> did not, ~~from~~<sup>for</sup> the official records, involve competitive power factions which were engaged in the bitterest battles, unhesitatingly snuffing out

lives and employing every recourse of force and political manipulation, hounding Bishops across continents and subverting offices of government and church alike. Rather, all that was involved was whether one should read the academic description of Christ's physical relation to his Father as homoousion, "of the same substance", or homoiousion, "of like substance". How many buckets of blood were shed over the "i" which separates the two words must prove indeed puzzling to one who accepts the published documents as a true description of the real issues, without considering that the official documents, precisely because they are the official documents, will never reflect the real issues behind the controversy. Such documents serve as texts — or pretexts — on which the battle is allegedly based.

Similarly, one palace revolution after the other in Soviet Russia, which succeeded or attempted to succeed in bringing to ultimate power a new ruler or set of rulers, was fought not to vest ultimate power in the hands of the insurgents, but only to actualize and bring to fruition more effectively the Marxist-Leninist teachings which are the Bible of the Soviet religion; further, the revolt of Mao is, from the official communications, based purely

on some new homo (i) ousion of the Communist ideology.

Under that common interpretation of the controversy between the zugoth which holds (against the Zeitlin view) that lismokh refers to the special designation of animals, the only way to explain the length, the protraction, the heat, and the fundamentality of the dispute is to hold that the disputation over semikah was to the Jewish jurists a text, which concealed a more fundamental disagreement or conflict.

We may take it as a principle, that whenever a point at issue, particularly a miniscule, abstract, or academic point at issue, adduces to consequences far graver and incomparably more protracted than what is the case with similar points at issue, then, particularly when violence becomes involved, the point at issue is a pretext on which level is being reflected a contest which exists at a far graver level.

The historical commitments of the Church are such that any battle of significance must be fought out on the level of academic discussions of canon law. As the battle becomes more critical, more heated, more violent, the parallel and visible battle on the level of canon discussion becomes more involved, but it never leaves the area of canonical conflict to become something else.

Similarly in this area of Jewish juridical historical commitments, although many interlocking and overlapping structural considerations, of which we have touched on but a few, were involved in 16th century Ottoman Palestine, the visible battle between Berab and Habib addresses itself to an academic point at law. The interchanges are suspiciously heated, all the more suspiciously in view of the poise of the men involved, and the exchanges do touch significantly on economic and political structural tangents, but the main interchange addresses itself to an academic problem of just how one may read the significance of three appended words at the end of a discussion in a text of a juridical codifier.

B. An issue of halaka.

Maimonides in the Mishne Torah, wrote: <sup>1628</sup>

If there should be in all Palestine but one man competent <sup>1629</sup>  
to confer ordination, he could invite two others <sup>1630</sup>  
to sit with him and proceed to ordain seventy men,  
either en masse or one after the other. He and  
the other seventy men would then constitute the  
Supreme Court and would thus be in a position  
to ordain other tribunals.

It seems to me that if all the wise men in Palestine  
were to agree to appoint judges and to ordain  
them, the ordination would be valid, empowering  
the ordained to adjudicate cases involving fines <sup>1631</sup>

and to ordain others. If what we have said<sup>1632</sup> is true, the question arises: Why were the Rabbis disturbed over the matter of<sup>1633</sup> ordination, apprehending the abolition of the laws involving fines? Because Israel is scattered and agreement on the part of all is impossible. If, however, there were one ordained<sup>1634</sup> by a man who had himself been ordained, no unanimity would be necessary. He would have the right to adjudicate cases involving fines because he would be an ordained judge. But this matter<sup>1635</sup> requires careful reflection.<sup>1636</sup>

The argument from which he reasons is suggested in Talmudic sources,<sup>1637</sup> and formed the basis for the textual struggle which Berab pursued. Perhaps, Berab reasoned, if the acknowledged sages then resident in Palestine could agree to confer ordination on one man, any one man, for example himself, then that one could reinstitute the Sanhedrin, reinstitute penitential punishments which Berab claimed to see so eagerly sought by repentent Marranos, and perhaps even reunify the entire Jewish nation, not only in Turkey, but perhaps about this center in all the world.

The precedent is reasonably clearly presented in principle in the Maimonides citation above, and even more clearly in the Commentary of the Mishna because without the qualification reflected in the last six words of the English translation. This decisive commentary reads as follows:



A Reading of the Commentary on the Mishna by  
Moses Maimonides.

1:3 ORDINATION OF THE ELDERS AND BREAKING OF

THE NECK (Tractate Sanhedrin, Vilna, Rome, 1881, p. 242.

Ordination of the elders is appointment of the judges indicated by the use of the root S-M-K in the ordination of Joshua by Moses. We do not require that ordination be by laying on of hands, as it was in that case, but rather the Beth Din says to a man who is fit to be appointed, "you, Rabbi so and so, are ordained (samukh) and authorized to decide cases involving fines."

Thereby is a man ordained and fit to be called "Elohim" (that is, he may sit in a court which would then be fit to be designated by this title, and he may decide all cases of law.

This can only occur in Palestine, as our sages said, "there is no ordination abroad", but rather the appointee and the appointor must both be in Palestine.

Once he has ordination in Palestine, he is authorized to judge cases involving punitive fines even abroad, since the Sanhedrin operated both in Palestine and abroad, as has been explained previously.

It is doubtful whether three (who would constitute a Beth Din) ordinands would be necessary in order that they might ordain someone else. The Talmud specifies that the superior of them must be ordained, and that he may join to himself two persons, and ordain whom he wishes. It appears to me that if there could be an agreement of all the sages and disciples (who are in Palestine) to set at their head one of their number and to accord him reeminence over themselves, provided that this would be in Palestine as we have said, then it would follow that this man could reestablish the Collegium and would be an ordinand (would bear the licit semikah) and he could thereafter ordain whom he wished.

If you would not agree with this, then no Beth Din could be reconstituted ever, since you would have to require that every one of its members would be ordained (every one of its members would himself have to bear the licit ordination).

But we know that the Holy One, blessed be He, has promised the reinstitution, as we find, "and I will restore your judges as at the first, and your counsellors as at the beginning; afterward, you shall be called the City of Righteousness, the Faithful City." This will occur doubtless when the Blessed Creator will incline

the hearts of the sons of men so that their merit will increase and their desire for the <sup>D</sup> deity and the Torah will increase, and their wisdom will become great, prior to the advent of the Messiah, as is explained in many passages in the Scriptures.

It is apparent that there is little room for contest here, and Berab built a powerful case on this Maimonidean citation, using the Commentary on the Mishna to elucidate the codifier's intention in his code.

There remained to Habib four alternatives which could be used singly or together in attacking the presentation of Berab:

1. He could reject the authority of Maimonides as a textual justification for the proposed reinstitution of semikah;
2. He could deny that the presented interpretation was in fact the intention of Maimonides;
3. He could deny that Berab was a fit man to undertake the project and attack him personally;
4. He could reject the bid on procedural grounds accidental (in the technical sense) to the principles involved.

The first alternative involved flying in the face of an acknowledged authority, and would have to be pursued with caution; further, undercutting the ground of Maimonides would bear possible implications for Habib himself as one who based his authoritative actions in part on the codical work of the past. The second offered great grounds for endless cunctative action which would effectively

complicate and stop the political action, and was in fact Habib's main line of attack. The third shared the advantages of the second, and was well represented in Habib's rejoinder to Berab. The fourth presented even greater cunctative opportunities than the second, and was both unanswerable and incorruptable once a given step of procedure had been taken by Berab, and accordingly was also a major weapon in the arsenal of Habib's Qontres Hasemikah.

(The Laws of Sanhedrin)

Since the argument revolved about the 4th Cap. of Sec. 1 of book 14 of the Yad Hahazakah, it is worthwhile to examine collaterally the interpretations of this material in the Commentary of the RaDBaZ on the Mishne Torah adloc. by R. David b. Solomon ibn Abi Zimra (<sup>Z</sup>Amora) in the Keseph Mishne of R. Joseph b. Ephraim Karo, 1488-1575, of Safed and Cairo, 1479-1589, and in the Lehem Mishne commentary of R. Abraham (Aba) Hiyya b. Moses de Botton of Salonica, c. 1560-1609.

#### I. The Commentary of R. David b. Zimra.

David b. Zimra, a Spanish Talmudist and cabalist of great repute, b. Spain 1479, d. Safed 1589, left Iberia with his parents at fourteen and settled in Safed, removing later to Cairo, and was chief rabbi of Egypt

Since it would be worthwhile to examine these three readings, I hope to do so at some future time in an independent study.

It is ~~thus~~ apparent that a good case may be made in disputation of Berab's use of the Maimonides code. Using the arguments already cited, Habib in at least three separate interchanges, i.e., responses to advances by Berab, composed a veritable book, of 23 (double) folio pages with commentary reproduced in small print at the end of his collected responsa in the Lemberg edition, which begins with a disclaimer of personal involvement stating that he seeks only the academic truth, proceeds to marshal his arguments characteristically with the strongest first, and degenerates into what is functionally vituperation and ad hominem attacks, such as are suggested in rejoinder #2 of R. David b. Zimra q.v.s. At length, when it became apparent to both sides that Habib would by no means yield, the most violent diatribes began, so that Berab flung in Habib's face his compelled baptism in Portugal, and Habib, after issuing an apologia based on youth and compulsion, indicated his resolve to battle unceasingly, and that what Berab could not accomplish with <sup>o</sup>honey, he would be equally unable to achieve with acid. That Berab chose to use the acid approach at all only serves to indicate that he considered the cause all but lost, so that such a

putatively terminal step involved no further loss.

What the master had been unable to accomplish by coup, the disciple promoted by scholarship. Berab ordained with the licit semikah four students, the identities of two of whom are fairly certain: Joseph Karo and Moses b. Joseph di Trani the elder. The first of these, through the Beth Joseph and the subsequent Shu<sup>h</sup>han Arukh succeeded (with the help of Isserles) in unifying Israel in a manner which carried through the inspired plan of his mentor, at least in part. So that one may say that in a significant sense, Berab succeeded not only immediately (in that he did obtain majority consent at the time), but ultimately (through the unification of Israel as a result of the work of his disciple,) and that history, in her fascinating and curious manner, awarded him the laurel and ironically ensured that he would never realize it. His death not long after, proximal to that of Habib, marked the end of an epoch and an epic struggle, out of the seeds of which was to grow one of the greatest achievements of the Jewish juridical mind, and the ultimate functional unity of halakic Judaism to the present day.



## VI. The Decline of Safed.

### A. Structural considerations.

It is worthwhile that we spend a moment in consideration of the reasons why Safed, after the middle of the 16th century, began to decline.

That structural considerations which will face us will be many and overlapping is to be expected. For purposes of analysis, one may crudely distinguish those which <sup>center on Safed from</sup> others that affected the Ottoman Empire as a whole, and those which, participating in the general decline which followed the capitulative Treaty of France in 1535.

In Safed, the same objective determinants which caused the growth of industrial commerce also brought about its ultimate destruction, and a slight but noticeable rise in the fortunes of Jerusalem. World markets had been opened to fine woolens, and a demand created stimulated worldwide participation in the woolens industry. That Esperanza Malchi, private secretary to the Sultana, <sup>39</sup>16<sup>45</sup> (Kobler's terminology) could write to Queen Elizabeth in 1599 (Kobler 2:391) requesting "cloths of silk or wool, articles of fancy suited for so high a Queen as my Mistress," demonstrates that English trade was already in the ascendancy.

Fine and expensive materials were available from countries which did not formerly trade greatly with Turkey, and, after the passage by the Cape of Good Hope became commonly accepted as a sea route, the mediative dominance of Turkey between East and West was functionally crippled. All the centers of the woolen cloth industry in the Mediterranean were affected, not only Safed; even the industry of Salonica was adversely affected. <sup>1648</sup> New suppliers of wool to Europe on the one hand and to the central and eastern Mediterranean were stimulated by the needs which had utilized the Safed confluence of structures, and European development (in France under Colbert) led to the special trade treaties beginning 1535-6 with the Ottoman empire, guaranteeing French producers exclusive rights and leading to the rejection of Venice and other Italian cities from the markets of the Porte; but over all, England's booming ascendancy dominated trade with the East.

Capital investment in Safed tapered and waned, and capital pulled from there was transferred to other industries. Many unemployed artisans were left to settle in Salonica. The last known event related to the industry of Safed <sup>1649</sup> was the demand of large sums of money from Obadiah Alphandari, "Master of the Artisans" from a better time,

who fled a bankrupt to Egypt and was robbed and murdered near 1661 on his way to Morocco.

The total empire, too, was seeing the end of its days. Suleiman's successor and son Selim, weak and impotent, demonstrated that the line of the great Osmanlis concluded with his father, although the latter's Vizir, Mehmed Sokolli, kept the empire moving in some semblance of order under his Sultanate, and even for five years under Murad III. The decline hit the Sultanate more drastically than the deterioration of Imperial Spain after Philip II, but somehow the Turkish nation survived the decline of its governing powers. The four accusations of the historian Khoja Bey, three generations after Suleiman, had some truth in them:

1. In withdrawing from the ruling Divan, he made himself remote from his counselors;
2. In promoting Ibrahim and Rustem Pasha to the vizirate by favor, he undermined the system of merit;
3. In bowing to Rustem and especially to Roxelana, he stimulated the power of the harem, which was to control the Sultanate; and

4. In permitting Ibrahim and Rustem Pasha to  
 amass great wealth, he placed dangerous power  
 in the hands of the Wakf (religious foundations).

As soon as Selim II took power, he moved into the harem of the Serai. The slave women from whom the Sultans bred, under lax restraint, fought at first quietly, then savagely for privilege, wealth, and finally, for power. <sup>2</sup>1648

Although Sokolli effectively ran the empire, Selim's First Kadin, Nur Banu, mother of Murad, was ascending within the harem to the point that after Selim's death she proclaimed herself Sultan Valideh and held court as Queen Mother within the Serai itself, initiating the Century of the Reign of Women.

Murad III came to favor the Venetian slave Safiye, who essentially dictated policy in the interests of Venice, dispatched 19 of Murad's sons by other women, and manipulated her own son Mehmed III into the throne after the fashion and example of Roxelana. At the famous grated window which opened into the meeting rooms of the Divan (behind which she might or might not be sitting), she effectively controlled the Establishment as well. The Sultanate, meanwhile, declined to the point that when

the janissaries bodily took Mehmed III to lead them in impatient battle, in Hungary, it was the first time a Sultan had taken the field in thirty years. When Ibrahim acceded after Murad's death, a complete pervert held the throne, drowning himself in ambergris and women and jewels, emptying the treasury, and ruling himself and the country according to the whims of the harem, under the Sultan Valideh, Kiusem. The latter was functionally deposed by a ne<sup>w</sup>/~~A~~Sultan Valideh, Turkhan Sultan, who acceded to power shortly after the murder of Ibrahim. "The first of the brilliant Kuprulus became Vizir, and the <sup>e</sup>ign of the Women ended, a century after Roxelana had intercepted the messagas from Suleiman's son Mustapha, at Amasiya" (as part of her plot to kill Mustapha). 164<sup>3</sup>~~7~~

As for the center of Jewish history, it had long left the Ottoman empire. By 1657, England was at war with Spain, and the Marranos living there could no longer masquerade as Spanish citizens. Now the long and arduous work of Cromwell (and "on" Cromwell) began to pay dividends, so that when the Jews declared themselves openly in violation of the expulsion degree of 1290, Cromwell was able to give public support and comfort to the new community; but that is another story.

B. A note.

No attempt is claimed here to have presented an exhaustive treatment even of the limited areas of the structural considerations underlying the Berab controversy. The surface has barely been scratched, and the presentation has perhaps suggestive rather than resource value. Some effort has been made, not to present the infinity of details which are available to the interested reader, but to tie them together in <sup>o</sup> ~~sim~~ <sup>e/</sup> meaningful if broad way. The picture which has emerged has often been painted with palette knife and not detail brush, in the pursuit of form. A full structural treatment of the Berab controversy, which has not been attempted here, would evolve another Golden Bough, if not more. But perhaps a perspective has been suggested, or a new and enticing view, which may in ~~some~~ ~~small~~ ~~measure~~ stimulate someone to begin to redeem Berab and his magnificent Plan from relative obscurity, and to restore to the period and the man a fuller and more honest understanding.

PART SIX:  
THIRTY-SIX CONTEMPORARY DOCUMENTS OF AUTHORIZATION,  
SOME SIGNIFICANT HALAKIC IMPLICATIONS, AND POINTS  
OF COMPARISON.

A. Notes on the Documentary Texts.

It is interesting to consider the various halakic implications inherent in the framing of modern smikah <sup>1644</sup> documents in view of the historical shadows visible in the wording of their various texts.

The texts, some of the more characteristic ones with literal readings in English, are appended, and the table of comparisons would tend to indicate that there is no standard formulary structure to contemporary documents of investiture. <sup>1645</sup> Even with a given school, such as Hebrew Union College, we have at least four different texts up to 1937, and two more different texts thereafter.

Some texts employ the classic yore yore alone, some in conjunction with yadin yadin, and some in new formulations. Some omit it altogether. Formulary introductions vary and are not always present. The character of the signatory varies radically, often within one school, so that the 1961 text of H.U.C.-J.I.R. bears the seal of the Union of American Hebrew Congregations, the 1962 text does not, and the 1964 text is as yet undetermined.

Outside of the area of institutional texts, the problems multiply exceedingly. No two individual commendations read alike, and the fact that pains are taken to avoid the th



term semikah as such makes most such texts actually little more than commendations.

A general view is possible, however, of certain elements which are common to many texts, along with certain implications of such elements. There are thirteen elements in the formulary composite text which we shall consider, based on the thirty-five texts before us, some of the more interesting of which have been synopsized in the accompanying table.

1. Authority of promulgation.<sup>1646</sup>

As opposed to the signatory, who attests to the statements of the document or lends his name to them, this refers to the personality, corporate or personal, who is stating the forthcoming material. Since the document will be signed in any case, this is sometimes — rarely — omitted.

Further, it may differ from the signatory. None of the texts considered, it will be noted, claim civil recognition, license, or protection of the office which they confer.

2. Designation of receiver.

Almost invariably (but not in some of the Burick and other early documents<sup>0</sup>) the receiver is designated by patronymic, and sometimes by "alias", as in several Burick documents. Family names are rarely appended in

Hebrew texts, almost always in non-Hebrew texts.

Previous titles appear sporadically in all texts, with no consistency. Thus, academic titles (such as the B.A. degree) do and do not appear on H. U. C. English texts, and the designation talmid habher may appear on the Hebrew texts, with no indication of its technical significance, in view of the fact that the document is signed by the masters of the student colleague.

Sometimes the designation rabh or even morenu harabh is bestowed prior to its actual bestowal. Yihus or honorable ascendancy sometimes is included in the designation of the receiver.

### 3. Character references.

Oddly, these are eliminated from some texts, e.g., H. U. C. - J. I. R., where one would expect them (especially since they appear on the old H. U. C.), but are present on nearly all others. Basically, they are divided into two classes, (a) those which deal with the student's moral development, and (b) those which deal with the student's prior academic commitments; one text (Chicago) piously wishes, a bit wistfully perhaps, that the ordinand will not forsake his studies once he has passed the portals

of the Yeshibhah. What experiences led to that unusual charge are known but to God and the faculty.

#### 4. Years of study.

This may be undesignated, designated in general terms such as the modest "some" or the less reticent "many" — never "enough", although several texts comment that the student has learned to the best (limit?) of his abilities — or specific numerations varying from two to four or more years.

5. The earlier texts, besides embodying a beautiful and flowing text ("...hath attended upon the doors of this academy..."), also specify courses of study handled. These most generally are drawn from Bible, Midrash, Mishna, Gemara, the composite designation Talmud, Tosaphoth, Poseqim, Halaka, Aggadah, Mephoreshim, Yore Deah (only "Part I" in one case; the student never made it to Part II), History, Grammar, Semitics and Cognate Languages, Hebrew Literature, Juedische Wissenschaft, and others. Human relations is not mentioned on the present documents. Some specifications are highly technical and personalized, particularly on the earlier documents.

6. Additional requirements, beyond the normal academic disciplines, are common. Preaching was a specification in the old H.U.C. text, for example, and the submission and often defense of an acceptable thesis, whose title is embodied in the document, is frequently found. Many texts speak of oral and written examinations, and of teaching abilities tested in action, and of keen discernment in case matters of halaka.
7. Formulae of investiture are highly varied, and singly or in combination we have designated fourteen particular signs of investiture. Formal investitures, such as the use of the technical root S-M-K, Morenu Harabh, Yore Yore, Yadin Yadin, Rabh Beyisrael, "Rabbi" as such, etc., alternate with more descriptive investitures such as Wehakham yithqere, Werabbi yithqere, Higi'a Lehora'ah, etc., and with general designations of the document's own status itself and that of the the investiture involved, such as Semikhath Hakhamim, Hattarath Hora'ah, and permission for decision of Issur Weheter. Two formulary benedictions are so common as to be associated with formulary investiture, viz., Wihi Adonai Elohaw Imo, and Yizlah Weyirkabh 'al

Debhar Emeth, given in the H.U.C. semikoth.

both with and without the terminal We'anwe Zedeq.

#### 8. Definitions of functions.

These vary from none whatsoever to highly described areas of function. The later and institutional documents tend to increase vagueness in proportion to modernity, so that the present ones either refer broadly to one "licensed and ordained to perform all Rabbinical function", or say nothing whatever, as H.U.C.-J.I.R. Hebrew Text of 1962.

#### 9. Limitations of authority may be of four kinds.

- a. limitations on the academic areas in which the person may operate, as only ritual law;
- b. limitations of conditions under which he may function, as a document issued "on condition that he not rely upon his memory";
- c. limitations of area of authority or practice, as "in his congregation";
- d. limitations based on external determinants, as "until he return to our presence".

Other limitations, although rare, are possible, and

the inherent limitation is always present that one is invested to teach, not to innovate, so that one who departs from the Law, in the traditional structure, voids his authorization.

10. Signatories.

Even in highly formalized settings, signatories may be only (Lehranstalt) the Professor of Talmud and Poseqim, or may be the entire academic faculty including such gentile ministers or priests who happen to serve on that faculty (H.U.C. -J.I.R. 1962 and earlier), non-rabbinic staff, Boards of Governors, Congregational Unions, or what have you. In accord with the rabbinic example which we have considered earlier that one may claim to be a product of the head of a Collegium without having studied extensively under the man, the President usually signs. The signatures may be in Hebrew or in other languages. ~~In some institutions,~~ members of the faculty who in good conscience feel they cannot sign an individual semikah are nonetheless compelled to do so, resulting in the fact that the presence of a given master's signature on the document is no sign of his acquiescence to what he is signing.

11. Place of issue is generally designated in the formal signing, but not always. Also, several of the Burick documents were issued at places other than the normal area of residence and authority of the signatory.
12. Date of issue is almost always present, and generally given according to the Minor Reckoning. The Lehranstalt and other texts which omit it here are forms, and not ~~copies~~ of actual documents.
13. Particularly on pre-institutional documents and on earlier institutional documents, formulaary benedictions recur, such as 'Ale Wehazlah, Yoqer Laa<sup>gh</sup>her Yeuth Lo, Mishpete Urim Wethummim Yihyu 'al Libbo (in a Reform document, H. U. C. 1935), Yisroel Yisroel, and others.

B. A Listing of the appended texts of documents of investiture.

1. Rabbinical College of Venice, Hebrew Text, 1679 (Berial)
2. R. Marcus Benedict, Hebrew Text (Habher degree), 1828,  
(Nathan)
3. R. Naphtali Zebhi Judah Berlin, Wolozhin, Hebrew Text,  
1886 (Kaddushin)
4. R. Isaac Jacob Reines, Lyda, Hebrew Text, 1885  
(Kaddushin)
5. R. Yehiel Michael Halevi Epstein, Novhardak,  
Hebrew Text, 1885, (Kaddushin)
6. R. Isaac Elhanan Spektor, Kovno, Hebrew Text,  
1886 (Kaddushin)
7. R. Isaac Meir, Slobodka, Hebrew Text, 1886 (Kaddushin)
8. R. Judah Loeb Perelman, Minsk, Hebrew Text, 1886  
(Kaddushin)
9. R. Judah Levin, Detroit, Hebrew Text, 1921 (Burick)
10. R. Isaac b. Lohzaq (?), Warsaw (?), Hebrew Text,  
1921 (Burick)
11. R. Nathan Nata<sup>1</sup> Kabak, Warsaw (?), Hebrew Text  
1921 (Burick)
12. R. David Tevele Katzenellenbogen, Suwalki, Hebrew Text,  
1921 (Burick)



13. R. Moses Silberstein, Brooklyn (form. Poland) , Hebrew Text,  
c. 1925 (Burick)
14. R. Joseph Komisarsky, Chicago, Hebrew Text, 1926 (Burick)
- 14b. Hebrew Union College, Cincinnati, English Text, 1927  
(Glueck). Hebrew Text is same as Feuer.
15. R. Marcus Wuelliger, Sakhmor, Hebrew Text, 1927
16. R. Abraham Da gatchin, Warsaw, Hebrew Text, 1928 (Burick)
17. R. Gershon Lapidés, Jerusalem, Hebrew Text, 1928 (Burick)
18. R. Moses Isaac Koenigs berg, Boston and Poughkeepsie,  
Hebrew Text, 1931, (Burick)
19. Jewish Institute of Religion, New York City, Hebrew Text,  
1927 (Kaplan)
20. Hebrew Union College, Cincinnati, English Text, 1927 (Feuer) 1646a
21. Hebrew Union College, Cincinnati , Hebrew Text, 1927 (Feuer.)
22. Hebrew Union College, Cincinnati, English Text, 1935 (Ruslander) 1647
23. Hebrew Union College, Cincinnati, Hebrew Text, 1935 (Ruslander)
24. Jewish Theological Seminary, Breslau, Hebrew Text, n.d. 1648
25. Lehranstalt (Hochschule) fuer die Wissenschaft des  
Judenthums, Berlin, Hebrew Text, old form. 1649
26. Lehranstalt (Hochschule) fuer die Wissenschaft des Judenthums,  
Berlin, new form. Appended: table of credit requirments. 1650
27. Hattarath Hora'ah (Stern), Lodz, Hebrew Text, 1936 (Adler)
28. Hebrew Union College, Cincinnati, English Text, 1937 (Sandmel)

29. Hebrew Union College, Cincinnati, Hebrew Text, 1937 (Sandmel)
30. Jewish Theological Seminary, New York City, English Text,  
1942 (Bennett)
31. Jewish Theological Seminary, New York City, Hebrew Text,  
1942 (Bennett) 1651
32. Yeshibhath Beth Midrash Latorah, Chicago, Hebrew Text,  
1950 (Fox)
33. Yeshibhath R. Isaac Elhanan, New York City, Hebrew Text,  
1958, (Millen) 1652
34. Hebrew Union College-Jewish Institute of Religion, Cincinnati,  
English Text, 1962, (Podet) 1652
35. Hebrew Union College-Jewish Institute of Religion, Cincinnati,  
Hebrew Text, 1962 (Podet) 1653

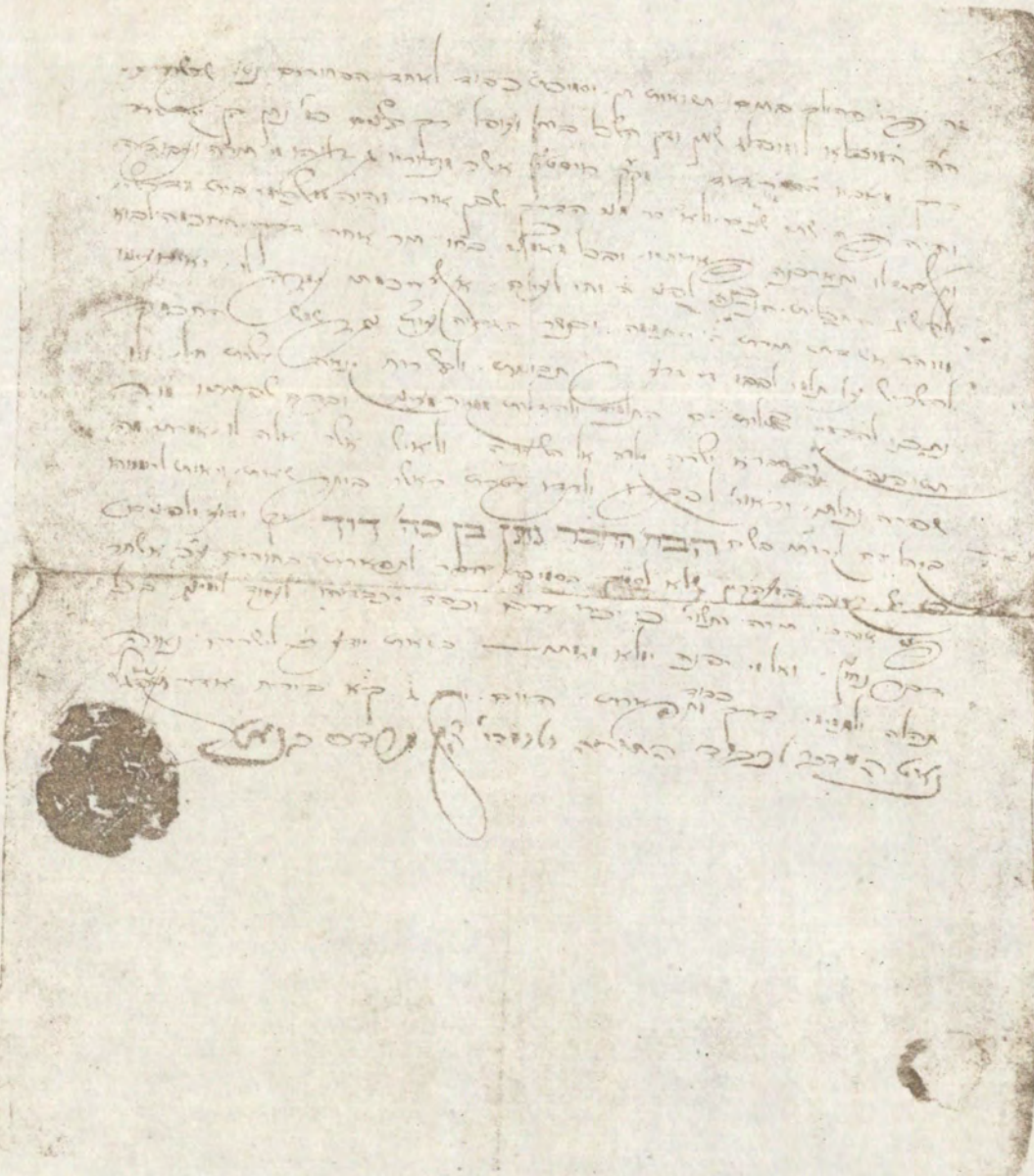
The following pages are to be found in the back pocket:

436-64; 468-69;









Diploma conferring the Haver Degree, issued by  
 Marcus Benedict, 1828 (from the Collection of  
 Professor G. Deutsch)



# מכתבי תהלה מגאוני זמנו. 1898

א. ③

מכתב תעודה מהגאון המפורסם רשכ"ה ר' יצחק אלחנן ספקטער אב"ד  
בעיר קאוונא.

Sem. Kah  
of  
R.  
Isaac  
Elkhanan  
Spector  
of  
Kovno  
קושט אמרי אמת ניתן לכתוב על האי נכרא יקרא  
הרב הגדול חריף ובקי מו"ה יצחק ל"ב קאדושין יליד  
ראדושקאוויץ שהיה ראש ישיבה ומ"ץ בעיר מינסק  
ופלפלתו עמו הרבה והוא מלא דבר ד' בשים ובפוסקים  
וגם הנהו דרשן משי"א נאה דורש ונאה מקיים וכבן אמר  
יש"ר בחו וחירו לאיריותא ויורה יורה ידן ידן בד"מ וגו"ה  
וטו"ה ויהא רעוא שישבח לו הרחמן מקום מכובד לפי  
כבודו כי ראוי והגון הרב הנ"ל לנהל צאן קדשים  
ובאתי ע"ה"ח יום ד' כ"ד ימים לחדש אדר ב' תרמ"ז.  
נאום יצחק אלחנן החופ"ק קאוונע.

ב. ④

Sem. Kah  
Sig  
R.  
Isaac  
Meir of  
Slobodke  
אף אנכי אבוא כיהודה ועוד לקרא למלאות דברי  
מרן הגאון שליט"א כי מכיר אנכי את כבוד הרב הגדול  
עדיו לגאון מו"ה יצחק ל"ב קאדושין זה יותר מד' שנים  
בהיותו לומד בעיר מושבי זאסלע ומשך רב למדנו  
בחברותא אחת והוא מלא ברכת ד' בשים ובפוסקים



ויוודע לפלפל בדרך שכל ישראל וכן, ובסוף העיר אשר  
תבחר בו לנהלם על מי התורה והלכה תפיק רצון  
מאתו וד' ישלח לו עזרתו במהרה. ובעתה ביום ד' כד  
ימים לחדש אדר ב' תרמ"ז פה סלאבאדקע.  
נאום יצחק מאיר החופ"ק חניל.

⑤ ג.

מכתב הרב הנאון רשכב"ה וכו' הר"ר נפתלי צבי יהודא ברלין  
ר"ם בוואלאוין.

הן המוכ"ז הרב הנ' חריף ובקי מ' יצחק יהודא ליב  
קאדושין יליד ראדושקאוויץ ידעתינו מכבר בהיותו נדר  
ועמל בתורה בשבת תחכמוני הישיבה היק דפה וואלא  
זין וידעתי כשרונותיו הנעלות חילו לאוריותא ומא  
ועד היום החזיק בתלמודו בש"ס ובפוסקים ושכלו ד  
וישר ונוכח להעלות חקר דין. ע"כ הנני סומך ידי עלי  
יורה יורה וידן וידן בדיני נזיק ומוטה"ר וד' יהי  
עמו ויבורך מעמו ויאשר שמו כנפש העמוס בעבודה  
הבעה"ח יום נ' ר"ח מנ"א תרמ"ב פה"ק וואלאוין.  
נפתלי צבי יהודא ליב ברלין ר"ם בוואלאוין.

⑥ ד.

עוד מכבר הכרתי לטוב את כבוד האי נכרא יקירא  
הרב הגדול עדיו לנאון חריף ובקי יא"ב כ"ש מו"ה יצחק  
ליב קאדושין נ"י מק"ק מינסק כי בהיותו עוד בוויילנא

Semikah  
of  
R.  
Naphtali  
Zehli  
Judah  
Berlin  
of  
Wolozhin

שב ועוסק בתורת ה' תהיה או על קנקנו וראיתי כי  
לא מלא ברכת ה' בש"ס ופוסקים וידיו רב לו בהוראת  
ש"ה ודימ ונוח, כאשר יש לו ממני בכתובים. והנה  
נתה עבר הרב הנ"ל דרך עירנו ועסקתי עמו באיזה  
צינים שונים, ולשמחת לבבי ראיתי כי הוסיף הרבה  
בכמה ודעת ויוודע לפלפל בסוגית הש"ס בדרך ישרה.  
ע"כ אמרתי להכיריהו לכל מאן דבעי למידע כי ראוי  
הוא האיש הזה לנהל צאן קדשים ויורה יורה, ידן ידן.  
ש לקוות כי העיר אשר תבחר בו לשום כתר הרבנות  
ראשו תפיק רצון ממנו. ויהא רעוא דתירום רישיה  
בתורת הבעה"ח לכבוד התורה ולומדיה. יום ד' ט' ניסן  
ד'ס"ה לידא.

יום יצחק יעקב ריינעס בעהמ"ח עדות ביעקב וחותם  
תכנית. אב"ד דק"ק הנ"ל.

⑦ ה.

כשם ד' יום ב' ט"ז אדר שני תרומם לפ"ק. הנח  
שם המוכ"ז היקר הרב ר' יצחק ליב יליד ראדוש-  
אויץ היה בפה"ד שנים מעוררי המוץ וראש ישיבה  
עידו לא מש מאהל תורה ומהתעסק בד"א של הלכה  
: ימצא כדי מדתו בהלכה ובאגדה אמנם כעת לדוחק  
זת נוסע לתור ולבקש לו מנוח ומקום מוצא לפרנסתו  
ע"כ מצוה לתמוכו ולעזור ולסעדו כי הוא נכרא  
וגדול בתורה והתומכים בו יאושרו בזה ובכא

Semikah  
of  
R.  
Isaac  
Jacob  
Reines  
of  
Lyda

Semikah  
of  
R. Judah  
Loeb  
Peralman  
of  
Minsk



בעושר ואושר כנפשם ונפש הכעה"ח ירוחם יהודה ליב  
פערילמאן החופ"ק מינסק.

(8) ו.

קושט אמרי אכת ניתן לכתוב על האי נברא יקירא  
הרב הגדול עריו לגאון חריף ובקי יא"מ מו"ה יצחק  
ליב קאדושין יליד ראדושקאוויץ שהיה מ"ץ במינסק  
מכיר אנכי אותו מכבר זה כשלשה שנים בהיותו בוילנא  
לומד ופלפלתי עמו הרבה והוא מלא ברכת ד' בש"ס  
ובפוסקים וראיתי חידושו על ש"ס ופוסקים ומצאתים  
יורדים לעומקא של הלכה וגם הנני מכירו לאיש ישר  
הולך עם ד' ואנשים וכעת כבואו לפה מצאתיו בתוספת  
חכמה ודעת וגם הנהו דרשן מפואר נאה דורש ונאה  
מקיים ובכן אמר ישר כחו וחילו לאורייתא ויורה יורה  
ידין ידין בדין גויח ואויה ובטח העדה אשר תבחר  
בו לשום כתר הרבנית על ראשו תפיק רצון מאתו ובאתי  
עה"ח יום ה' לסדר לשרת בקדש תרמ"ה לפ"ק פה  
נאוההרדק. נאום יחיאל מיכל הלוי עפשטיין החופ"ק.

Semikah  
of R.  
Yehiel  
Michael  
Ha-Levi  
Epstein  
of  
Novhardak

חבר הכבוד ואחיה דודו אהרן יצחק בן זכר  
נתן לנו את תורתו ונפש בן זכר נתיח חביון ולחשבו עמו  
ובחר בני משתה אברהם אבנו י"ו מאז מארבעים  
בנו כאות ברית אהבה וזה המצוה בידו אשר יאמרו ויפנו  
סבלות בשמחה ויפנו יעקב אהבה ויפנו כבדוהו כבדוהו  
ה"ה אך מית צדקה יצד על איפה חזקתו תאמר תבאנה בעת  
הם ונבונים המפדית למבית הלל ויפנו תבאנה ויפנו תבאנה  
האבנים מן המבית הולל ד"ה אי כבדו שאלוה בדת יפנו  
הטובות בידו יצד בן זכר נתיח חביון אשר יפנו ולחשבו  
כל הארץ במי העבדו ארדית ונתיח חביון נתיח חביון  
כתי בדעתו מדע לא יאנו תאמרו ער חביון חביון חביון  
ולשמירת תבאנה ד"ה מצוה בידו אשר יפנו לנו לאה  
תארת כי בשם יצחק יצד אנו תאמרו ירדית אנו עבדוהו  
ליכנו כמה מעבר חביון אהרן יצד אר המצוה הוא עריו ויפנו  
שמה ובטוב לבב חביון יצד חביון חביון חביון חביון  
כל מלאכה ולכל העבד יפנו חביון חביון חביון חביון  
הדבר אם ערית מלאכה יאנו תאמרו ואנו יראד שלא כן אהבה  
טוב ישלחו החופה אר במלאכה חביון הוא מברך כל איש מן  
על אשר יבא לפד שלא חביון חביון חביון חביון חביון  
יכולין (פערלערין) יבדו איש חביון חביון חביון חביון חביון  
איה תברות שונה על איש חביון חביון חביון חביון חביון

77  
07















[illegible]



ואם זו אסדר "ואלף" זאת העם כל עת וזו

בהיות רבים דפלטת זרה נשטטת דדות היבנה לסו סאו  
 סקרו אל ע"י מ"ה למזל פולט היטורן בזרזוק מ' יעלמ  
 ומד דפלטת זרה ומה אבמד ומהם סאו מ הוה הוה  
 כל דפלטת אלה ומהם דפלו את אמור את מ' דקמול  
 כל סלמל ומל אוסמל סאו וורה ליה כל סלורה סלורה  
 סלמל היינא מן ולמל ואלכו הקולה סקלורה אמורה מ  
 כחו אול יומת כל כל רצו רעה ואל יד דפונה ואל וית  
 למן דפלטת מ' רב דה דפלטת קאלן ומה רב  
 דפלטת דה מלה דפלטת מ' סאו דפלטת דה דפלטת







# Hebrew Union College

UNION OF AMERICAN HEBREW CONGREGATIONS

Cincinnati, Ohio, U.S.A.

By authority of  
The Union of  
American Hebrew Congregations

We  
The Faculty and Board of Governors  
of the  
Hebrew Union College

hereby certify that whereas

**Nelson Glueck**

has complied with all requirements for Graduation we have  
conferred upon him the degree of

**Rabbi**

and hereby authorize and license him to perform all  
Rabbinical functions in the name of  
God and Israel

Cincinnati, Ohio, United States of America  
this Second day of June, 5683, A. M., (1923.)



בעז"ה  
מעידים אנחנו ח"מ  
ראש בית המדרש לרבנים

בסינסינאטי  
והמורים בישיבה הזאת  
בפקד

אגרת קהלות ישרון אשר באמעריקא  
לפני כל אחב"י בכל מקומות מושבותיהם על תלמידו החבר  
ניסן בן משה יצחק כל מה שמפרש למטה:  
הבחור הזה שקד על דלתות בית מדרשו ויס אונן לכל למודי  
מוריו ועמד בבחינה מדי שנה בשנה עלה והצליח גם עשה פרי:  
גם מעידים אנחנו ח"מ כי תלמידו הנ"ל כל ימי שבתו עמנו  
התנהג בדרך מוסר וביראת ה':  
אחרי כלה את חקו בלמודים העמדנו לבחינה ררשנו וחקרנו  
חיטב על ידיעותיו במקרא ובמשנה ובגמרא בהלכה ובאגדה במפרשי  
הכתובים בחכמה האלהית היא פילוסופיא בקורות ישראל במשפטי  
הלשון העברית והלשונות הקרובות לה: גם דרש לפנינו הרכה פעמים  
פעם בבית החפלה אשר לשיבתנו פעם בכתי הכנסיות של הקהלות  
הגדולות אשר בעירנו ודבריו מצאו חן באוזני שמעיו: גם חבר ספר  
והביא לפנינו והראה בזה כי פריז יתן בעשו עם ספר מדור בשדה  
חכמת ישראל:  
ובכן נמנינו וגמדרנו אנחנו ח"מ לתת יקר לאשר יאות לו  
לעשר את תלמידו הנ"ל נור תפארה ומן היום הזה והלאה יקרא שמו  
בישראל מורנו הרב

ניסן בן משה יצחק

והרשות נתונה לו להיות רב וטורח בכל קהלות ישראל:  
יורה יורה ידן ידן כאחד המורים. משפטי אורים וחמים  
ידיו על לבו חתומים. ירפא החרוס ויחזק כל בדק. יצלה וירכב על דבר  
אסת וצדק:  
על זה באנו על החתום פה סינסינאטי יום שמונה עשר לחדש  
סיון שנת תרפ"ג לפ"ק.

The Faculty of the Hebrew Union College

Jacob Mann  
Solomon B. Freehof  
Henry Steinwald

Julian Morgenstern President  
Jacob Lauterberg  
Israel Bettan  
Abraham Kronbach

Miriam Buttner  
Louis B. Wolfenson  
Henry Englander Registrar

The Union of American Hebrew Congregations  
Charles Shohl President  
Gery Zepin Secretary

The Board of Governors of the Hebrew Union College  
Alfred M. Cohen President  
Isaac Bloom Secretary







הענין

הנאות הדור בדעתו. יפה. ומאכספי הדור יפה ה' איבד ושל  
הכב נעצוץ המילך וכו' ולעצמם גמולם כפי מה שפדו ויחזקו קדושת  
אשר. כאלו שמוע פועלם הם שלא היה חזקו ו' אליהם ויחזקו. כענין  
באמצעות. ופועל יחד הדעה אקדושת. וכו' זאת האמת הנ' להענין  
כי אין כפי ושלשון. זאת למד את גוף דקדושתם הם ענינים. זאת  
אשר נפלאות הדור. שאלו אשר דעתם אברהם דעתן. אלוהים אשר  
אמר כי אלהים כדעתם באור דעה. באמת אאספיקו. אלוהים הנצחית  
במחשבות הולדת אמת. אברהם דעה הארץ ה' דעת אברהם איבד אלוהים  
כפי אלוהים דקדושת דעתן. האמת האל באור אברהם ודעתו הנצחית  
ואברהם. ה' כי דעת יצחק ה' ענין אלוהים ילמדו ה' אברהם דעת אברהם  
בדעת. ילמדו אברהם. אברהם ילמד הם דעת האמת באור  
אברהם הנצחית. ואלוהים גוף לא יאמר חלף אלוהים ואלוהים  
אשר ענין אברהם יבא. כי גם הוא ילמד אברהם וכו' אברהם  
הם חלף אברהם

בזאת דעה ה' אשר "אברהם" ה' אלוהים מלך אברהם

אברהם במחשבות

ד' האלוהים בדעתם האמת. ואלוהים 15



(17) ב"ה מולק אסדר ואלה המלכסנים מולק תלמי ארבעת תפוחים  
 כמדת הנטף אלון פה דיטשען ממוצ צווייגן ונמצא נתיב בנות  
 הים המדול וכו' מולק למולק פ' ילול ב"ה למען י"ה שום אדם  
 ובמלך היות פה טיולתי עמו בעניינים שונות בחולק לאל  
 יאז ומלכותיו מאלו וקדוש ב"ה ה' האכה בזמנו הרבה  
 המפוסטים וירא ומרד אבר ה' יורה יורה ידיו ואפיון  
 מוסמך בעשרת הרבה ואלו ידיו הקדוה לעקבותיו אמורה ולפיון  
 ויורה וזה מלך מלך בברכה ועתה יורה ידיו ופיון  
 בהכרח פ' ילול ב"ה מולק אסדר ואלה המלכסנים

(18) ב"ה מולק אסדר ואלה המלכסנים מולק תלמי ארבעת תפוחים  
 כמדת הנטף אלון פה דיטשען ממוצ צווייגן ונמצא נתיב בנות  
 הים המדול וכו' מולק למולק פ' ילול ב"ה למען י"ה שום אדם  
 ובמלך היות פה טיולתי עמו בעניינים שונות בחולק לאל  
 יאז ומלכותיו מאלו וקדוש ב"ה ה' האכה בזמנו הרבה  
 המפוסטים וירא ומרד אבר ה' יורה יורה ידיו ואפיון  
 מוסמך בעשרת הרבה ואלו ידיו הקדוה לעקבותיו אמורה ולפיון  
 ויורה וזה מלך מלך בברכה ועתה יורה ידיו ופיון  
 בהכרח פ' ילול ב"ה מולק אסדר ואלה המלכסנים



FOUNDED 1922

THE DEGREE OF MASTER OF HEBREW LITERATURE  
*cum laude*

072

Julian Mack  
Chairman, Board of Trustees  
Stephen S. Weil  
Acting President  
Henry Heimlich  
Dean

Julius Friedman  
Fabian J. Horan  
Zur Harnum  
Cham Chermow  
Salomon  
Nelson Four off

Harry G Lewis Abraham M. Binder

Members of the Faculty

[illegible]



# Hebrew Union College

UNION OF AMERICAN HEBREW CONGREGATIONS CINCINNATI, OHIO, U.S.A.

PATRON

The Faculty and Board of Governors

of the

Hebrew Union College

hereby certify that whereas

Leon Israel Feuer, B. A.

has complied with all requirements for Graduation we have conferred upon him the degree of

Rabbi

and hereby authorize and license him to perform all Rabbinical functions in the name of God and Israel

Cincinnati, Ohio, United States of America, this Twenty-eighth day of May, 5687, A. M., (1927.)



בעז"ה

מעידים אנחנו ח"מ

ראש בית המדרש לרבנים

בסינסינאטי

והמורים בישיבה הזאת

בפקד

אגרת קהלות ישראל אשר באמעריקא

לפני כל אחב"י בכל מקומות מושבותיהם על תלמידנו החבר ישראל ליב בן יצחק כל מה שמפרש למטה:

הבחור הזה שקד על דלתות בית מדרשנו ויש אוננו לכל למורי מוריו ויעמד בבחינה מדי שנה בשנה עלה והצליח גם עשה פרי:

גם מעידים אנחנו ח"מ כי תלמידנו הנ"ל כל ימי שבתו עמנו התנהג בדרך מוסר וביראת ה':

אחרי כלתו את חקו בלמודים העמדנוהו לבחינה דרשנו וחקרנו היטב על ידיעותיו במקרא ובמשנה ובגמרא בהלכה ובאגדה במפרשי הכתובים בחכמה האלוהית היא פילוסופיא בקורות ישראל במשפטי הלשון העברית והלשנות הקרבות לה: גם דרש לפנינו הרבה פעמים פעם בבית התפלה אשר לישיבתנו פעם בבתי הכנסיות של הקהלות הגדולות אשר בעירנו ודבריו מצאו חן באוני שמעיו: גם חבר ספר וחבאי לפנינו והראה בזה כי פרי יתן בעטו עט ספר מחיר בשדה חכמת ישראל:

ובכן נמנינו וגמרנו אנחנו ח"מ לתת יקר לאשר יאות לו לעטר את תלמידנו הנ"ל נור תפארה ומן היום הזה והלאה יקרא שמו בישראל מורנו הרב

ישראל ליב בן יצחק

וחרשות נתונה לו להיות רב ומורה בכל קהלות ישראל:

יורה יורה ידיו ידיו כאחד המורים: משפטי אורים ותמים יהיו על לבו חתומים: ירפא החרוס ויחזק כל בדק: יצלה וירכב על דבר אמת וצדק:

על זה באנו על החתום פה סינסינאטי יום עשרים וששה לחדש אייר תרפ"ז לפ"ק.

The Faculty of the Hebrew Union College

Isaac Z. Lauterbach  
Abraham Z. Zilberstein  
Samuel V. Cohen  
Israel Bettan

Julian Morgenstern President  
Mordecai B. Sussman  
Jacob Mann  
Jacob Rader Marcus

Isidore B. Fineinger  
Abraham C. Brachbach  
Henry F. Oglan der Registrar  
Sheldon H. Blank



The Union of American Hebrew Congregations

Chairman Executive Board  
Secretary

The Board of Governors of the Hebrew Union College

Chairman  
Secretary





# Hebrew Union College



Cincinnati, Ohio, U.S.A.



The  
Faculty and Board of Governors  
of the  
Hebrew Union College  
hereby certify that whereas  
Selwyn David Ruslander, B.A.  
has fulfilled all requirements for Graduation  
he is herewith ordained as

**Rabbi**

and is authorized and licensed to perform  
all Rabbinical functions in the name of  
God and Israel

Cincinnati, Ohio, United States of America  
this 25th day of May, 1935

(22)

The Faculty of the Hebrew Union College

*Abraham Bronbach*  
*Isidor Feinstein*  
*Nelson Glueck*  
*Sheldon H. Blank*

President *Isidor Feinstein*  
Secretary *Isidor Feinstein*

*Isidor Feinstein*  
*Isidor Feinstein*

*Henry Langlander* Registrar

The Board of Governors of the Hebrew Union College

Chairman *Isidor Feinstein*  
Secretary *Isidor Feinstein*

The Union of American Hebrew Congregations

Chairman *Charles Lohr*  
Secretary *George Zippin*



(23)

ב"ה  
אנחנו החתומים מטה  
הראש וחבר המורים של  
בית המדרש לרבנים  
בסינסינאטי  
מעידים כי תלמידנו החבר  
שלום דוד בן אפרים  
בקר את בית מדרשנו משך כמה שנים ועסק  
במקרא במשנה בהלכה ובאגדה בחכמת  
ישראל תולדותיו וספרותו.  
ועתה אחרי גמורו את חק הלימודים הדרוש  
כפי התבנית של בית מדרשנו להשגת התואר רב  
בישראל, נמנינו ונמרנו בהסכמת ועד ההנהלה  
לסמוך את תלמידנו הנל ולתת לו רשות להיות  
רב ומורה  
בקהל ישראל: יורה יורה ידן ידן יצלה וירכב  
על דבר אמת וענוה צדק.  
ועל זה באנו על החתום פה סינסינאטי עש"ק  
דס כ"ב לחודש אייר שנת תרצ"ה לפק







מר.....בן.....מילדי  
 עיר.....השקה נסמו בחנה וגם אחרי  
 אשר נפתחו לפניו שערי הכמות אחרות לא עזב אהבת נעוריו ולא ימים  
 מחוץ אהלם ויהי כבודו הנה העיר הנזלה הזאת כלילה חכמה וכדע לסמוע  
 דברי חכמים ולהוסיף לקח ויאה לבו ימלאות ידו לד' ורוחו נדבה אותו  
 לבוא במספר חלמיו בית מורנו ויחבר על דלתותיו.....  
 וה"ה שיר לו און לשמוע וללמוד להבין ולהשכיל ובהראותו את עשר  
 חכמתו במטה אשר נסמך אותו פה אל פה ואת יקר חכמתו בספרו אשר  
 כתב כאשר הוכח עליו בענין.....  
 סמנו על ראשו :

נזה הקדש סתר העורר עטית דרונות

ונתנו בידו את המגלה הזאת למען תהיה לו לעדה לפני כל קהל ישראל  
 כי רב כחו לעמוד לפני העדה לזרז בנש ד" ולסמור משרת הקדש וללמד  
 כפי ישראל את הדרך ולקח בה ולדגות כל שואל וכל שפוט דבר ד" אך  
 ורק על פי חומה אשר הנהיגו הכספים ו"ל הישועים וראשונים  
 אשר מפיהם אנוסו חכם ופיו הם אנוכי חותם ואני הפלתי שלא יכסל  
 בדבר הלכה ולא יצא כעטל נחת ידו והי"ה אלתיו עמו ויעל מעלה  
 מילה ויבצר בעיניו חוצה וחסד ד" בידו יצלה לחרים קרן חכמת ישראל  
 להגדיל תורה ולהאדירה.

ברליון ב.....לחדס.....לנח.....

מורה לחלמוד ופוסקים בבית המדרס

לחכמת ישראל



## בעזרת השם

הנני החתום משה הרב ומורה לתלמוד ופוסקים בבית המדרש לחכמת ישראל

שבעיר ברלין באתי בזה להעיד ולפרסם על האיש היקר מורנו הרב

ששקד ולמד

יליד

בן

בבית מדרשנו זה שנים והקשיב לקח בכל ענפי חכמת ישראל. במשך הזמן

עלה מעלה מעלה והראה חריצותו וכשרונותיו. הוא השכיל לתלמוד בעיון ולהעמיק

חקר בדרכי התלמוד וספרשיו. הגה ולמד כמה מסכתות ולבו פתוח לכוון הימים

דברי חכמינו ז"ל. ידן משגת להשתמש במקורי ההלכה הראשונים וגדולי הפוסקים

ונושאי כליהם ורב חילו לרדת לעמקה של ההלכה. גם ראינו דרכי חיינו וידענו

בן כי איש ישר ומתיר לב הוא במעלליו, זך וחסיד במדות נפשו, יראת שמים וכבוד

ישראל נמועים בלבבו, וראוי והגון הוא לשרת בקדש ולשמור משמרת רב ומורה

בישראל. והיום אחרי אשר בא באחרונה בכור הבחינה ועמד בנסינו הנני מטלא

את ידו ומכתיר אותו בשם רב ומורה לחיות מנהל בעדתו.

יפוצו מעינותיו חוצה ידרוש תורת ה' ברבים וידרך את בני ישראל בשבילי.

האמונה והמוסר וחפץ ה' בידו יצלה.

לראיה באתי על החתום פה ברלין יום

לחדש



Studien- und Prüfungsordnung of the Lehranstalt (Hochschule)  
für die Wissenschaft des Judentums, showing the credit  
requirements.

— 14 —

### Beilage

Wer sich zur Schlußprüfung meldet (§ 22), muß fol-  
gende Vorlesungen gehört haben:

#### A. Bis zur Zwischenprüfung:

|                                            |        |           |
|--------------------------------------------|--------|-----------|
| 1. Grammatik der hebräischen Sprache       | 2 Sem. | je 2 Std. |
| "    "    "    aramäischen Sprache         | 2      | " 2 "     |
| 2. Bibel: Allgemeine Einleitung            | 1      | " 2 "     |
| "    Exegese                               | 4      | " 2 "     |
| "    Kommentare                            | 3      | " 2 "     |
| 3. Talmud: Exegese                         | 4      | " 6 "     |
| "    Dezissen                              | 2      | " 2 "     |
| "    Einleitung in die Mischna             | 1      | " 1 "     |
| 4. Midrasch                                | 2      | " 2 "     |
| 5. Religionsphilosophische Texte           | 2      | " 2 "     |
| 6. Jüdische Geschichte                     | 2      | " 2 "     |
| Literaturgeschichte                        | 2      | " 2 "     |
| 7. System und Geschichte der jüd. Liturgie | 2      | " 2 "     |

#### B. Nach der Zwischenprüfung:

|                                                                            |   |       |
|----------------------------------------------------------------------------|---|-------|
| 1. Biblexegese und                                                         | 4 | " 4 " |
| Uebungen                                                                   | 2 | " 2 " |
| 2. Talmud, Einleitung                                                      | 2 | " 1 " |
| "    Exegese bab.                                                          | 6 | " 6 " |
| "    "    jer.                                                             | 1 | " 1 " |
| Tur und Schulchan Aruch                                                    | 4 | " 2 " |
| 3. Midrasch                                                                | 3 | " 2 " |
| 4. Homiletik u. homil.-rel. gesch. Uebungen                                | 4 | " 1 " |
| 5. Methodik u. Didaktik d. jüd. Rel.-Unterr.                               | 2 | " 2 " |
| (für diejenigen, die die Rel.-Lehrerprüfung<br>ablegen wollen, 4 Semester) |   |       |
| 6. Religionsphilosophie:                                                   |   |       |
| Systematik und Uebungen                                                    | 4 | " 2 " |
| Geschichte                                                                 | 2 | " 2 " |
| Texte                                                                      | 3 | " 2 " |
| 7. Jüdische Geschichte oder Literatur-<br>geschichte mit Uebungen          | 4 | " 2 " |



ג

# כתב התרת הוראה

למה תלמיד חכם מפורסם הרב המופלג ומופלג בתורה ובדעה ארוץ ובקי  
 מה' הארץ ב'סו' יוסף שאל חדר נ"י חבן יקרה מתעסם בקהלתו הרמה  
 אשר יגע ועמל בתורה ואסף בחפניו הרבה שיעות השם ולן  
 בטמקס אל הלכה ובשלחן ערוך יורה דעה הרבה מהנתו  
 בקיאות רב ועצום על כן הנני נותן לו רשות יהורסנח מאדיות  
 איסור והיתר בכל קהלות הקודש שייערכו למורא הוראה  
 ופוטחני בו שידון ויורה כדת וכתורה ולא ילא מתחת ידו  
 דבר שאינו מתוקן ח"ו כי יחזתו הקודמת לחכמתו בודאי מגינה  
 זמנלא מכל טעות בהלכה ויאכלו ענוים וישבעו מהוראתו  
 בכל דבר איסור והיתר עלי שם חשש ופקפוק כלל  
 בעלמ פקק מ: לודאש יס ד' חסח חגפסח שנת תרל"ז לפק

לראון ר"ע לעבן

בשנת ה'תק"ל יחזקיהו רמב"ם ט' חלק

יחזקיהו רמב"ם

יחזקיהו רמב"ם

יחזקיהו רמב"ם



# Hebrew Union College



Cincinnati, Ohio, U.S.A.



The  
Faculty and Board of Governors  
of the  
Hebrew Union College  
hereby certify that whereas  
Samuel Sandmel, A.B.  
has fulfilled all requirements for Graduation  
he is herewith ordained as

## Rabbi

and is authorized and licensed to perform  
all Rabbinical functions in the name of  
God and Israel

Cincinnati, Ohio, United States of America  
this 22nd day of May, 1937

The Faculty of the Hebrew Union College

28  
Jacob Mann  
Samuel V. Cohen  
Israel Bettan

President Julian Morgenstern  
Jacob R. Marcus  
Sol Finesinger  
Abraham R. Fraumblau

29  
J. Kresnowsky  
Sheldon H. Blauk  
Abraham Bronbach  
Julius Levy  
H. Enry Englander Registrar

The Board of Governors of the Hebrew Union College

Ralph W. Mack Chairman  
Benjamin M. Mager Secretary

The Union of American Hebrew Congregations

Robert Goldman Chairman Executive Board  
George Zepin Secretary



ב"ה  
אנחנו החתומים מטה  
הראש וחבר המורים של  
בית המדרש לרבנים  
בסינסינאטי  
מעידים כי תלמידנו החבר  
שמואל בן משה

בקר את בית מדרשנו משך כמה שנים ועסק  
במקרא במשנה בהלכה ובאגדה בחכמת  
ישראל תולדותיו וספרותו.

ועתה אחרי גמרו את חק-הלמודים הדרוש  
כפי התבנית של בית מדרשנו להשגת התואר רב  
בישראל, גמנינו וגמרנו בהסכמת ועד-ההנהלה  
לסמוך את תלמידנו הנל ולתת לו רשות להיות

## רב ומורה

בקהל ישראל: יורה יורה ידין ידין. יצא וירכב  
על דבר אמת וענוה צדק.

ועל זה באנו על החתום פה סינסינאטי, עש"ק  
יום י"ב לחודש סיון שנת תרצ"ז לפ"ק



This Diploma  
witnesseth that  
The Jewish Theological Seminary of America  
has conferred upon


Aphraim Bennett  
The Degree and Title of Rabbi  
With Distinction

and he is hereby authorized to exercise the functions of  
Rabbi and Preacher and Teacher in Israel

In Testimony Whereof, we have hereunto set our hands and the seal of the  
Seminary

Done, in the City of New York, in the State of New York, this 7th  
day of June, in the year 1942

Attest:

  
*Levin*  
PRESIDENT

*Henry S. Friedman*  
HONORARY SECRETARY

30



בעזרת השם

אנחנו מורי

בית המדרש לרבנים באמריקא

מודיעים נאמנה כי תלמידנו

אפרים יצחק בן משה יוסף בנט

שקד על דלתי בית מדרשנו זה ארבע שנים וגמר את חק למודיו  
באופן מאוד נעלה

והננו מסמיכים אותו בסמיכת חכמים

וחכם יתקרי ורבי יתקרי

והננו ממלאים את ידיו לקחת על שכמו את משרת הרבנות  
להרביץ תורה ברבים ולהפיץ רוח דעת ויראת ד' בין קהל עדתו  
אשר יעמוד על משמרתה משמרת הקדש

יהי ד' אלהיו עמו ויעל

ובזה אנחנו באים על החתום יום כ"ב לחדש סיון שנת ת"ש"ב לפ"ק

אליהו ז"ל יתקד לשינוי סניף ה"י בעק"ט

מ"ה ח"מ מייזאבן די ר"ק א"ה ח"פ  
ה"ל כהר"ל ז"ל ז"ל ז"ל ז"ל  
מנחם פ"ה ח"מ אר"ט

ח"מ א"ה ק"ה מנחם ז"ל ז"ל ז"ל  
יסנאל ז"ל ז"ל ז"ל ז"ל ז"ל

כא"ל ב"ה ח"מ א"ה ז"ל ז"ל

לוי בן מנחם הרב יצחק ז"ל  
א"ל בסניף בן מנחם ז"ל ז"ל ז"ל  
ח"מ ז"ל ז"ל ז"ל ז"ל ז"ל  
א"ל ח"מ ז"ל ז"ל ז"ל ז"ל



# ישיבת בית מדרש לתורה בשיקאגה

בעה"ת

הנה הרב המופלא והנעלה מופלג ושנון משנתו קב ונקי איש המודות ומוכתר בנימוסין ומדות תרומיות בר אברהם ובר אוריין

מ"ה שמואל בן הר' צחק פאקס שליט"א

למד שנים רבות בשקידה גפ"ת ופוסקים בבית מדרש לרבנים דפה התמיד ומצא כדי מדתו כי ראה פרי ברכה בלימודו לישא ולתן בהלכה ובפפולכי דאורייתא בהשכל ובסברה ישרה ואחרי אשר עמד בבחינה לפנינו בגמרא ופוסקים מצאנו כי ידיו רב לו להורות ולאסוכי שמעתתא אליבא דהלכתא לכן הסכמנו להסמיכו בסמיכת חכמים כל מן דין סמוכי לנא

וידה
וידה

לאיש אשר אלה לו נאה להיות רב ומורה בעם ולהפיץ מעינותיו חוצה והרינו מאחלים שבתורתו וחכמתו ינהל את עדתו אשר תבחר בו לשומו אלוף לראשה על מבועי התורה והיראה ובצפיתנו צפינו כי ימשיך את לימודיו בש"ס ובפוסקים וחפץ ה' בידו יצליח שיהיה למאור לתהלה ולתפארת לכל קהלה שתעמידהו להורות להם את הדרך ילכו בה ויהי נועם ה' עליו לעשות ולהגדיל ולהאדיר את השפעת היהדות המסורתית בצלו יהיו וישאו פרי תנובה ויקוים בהם דברי חז"ל תיקף לתלמיד חכם ברכה ולראיה באנו על החתום יום ג' כ"ב כסלו שנת תש"י לפ"ק ושנה שולישית למדינת ישראל

|      |                        |      |                              |      |                     |
|------|------------------------|------|------------------------------|------|---------------------|
| נאום | א"ר ה"ר שמואל          | נאום | חמשקין דברה ר' אברהם בן נשיא | נאום | ר"מ ומנהל           |
| נאום | א"ר ה"ר יעקב הכהן כהנא | נאום | ר"מ לפוסקים                  | נאום | ר"מ לגפ"ת           |
| נאום | א"ר ה"ר אברהם הכהן קהל | נאום | ראש ישיבה                    | נאום | ר"מ לבית מדרש לתורה |





# ישיבת רבנו יצחק אלחנן

בעזה"ה  
ט"ו.ט.ת"ר

## — ה"ה הרב —

הגדול בתורה ויראה, מצויץ במעלות ומדות טובות  
כשת **הרב יצחק זאב בר פינחס מילעץ**

למד הרבה שנים בישיבת רבנו יצחק אלחנן ז"ל, יגע ועמל בתורתנו הקדושה  
ומצא כד' מדתו וזכה לעלות מעלה בקודש להיות מהתלמידים שהגיעו להוראה  
ונבחז מאתנו החתומים מטה במקצוע של איסור והיתר ביורה דעה חלק א', ומצאנו  
אותו יודע ובקי באלו הלכות וסמכנו אותו בסמיכת חכמים להורות לבני ישראל

**" יורה יורה באיסור והיתר "**

ויהי ד' עמו להגדיל תורה ולהאדירה  
ולראי' באנו על החתום יום ג' ו' לחודש תמוז שנת תשי"ח לפק פה ניו יארק



נאום | ס' ד'ה' | תמוז ו' | י"ח | אלחנן מילעץ

נאום | י"ח | ד'ה' | ז' |



# Hebrew Union College- Jewish Institute of Religion



ב"ה

אנחנו החתומים מטה  
הראש וחבר המורים של  
בית המדרש לרבנים

מעידים כי תלמידנו החבר

אברהם צבי בן יצחק מאיר

למד בבית מדרשנו תורה וחכמת ישראל  
וגמר את חק הלמודים הדרוש  
לכן נמנינו וגמרנו בהסכמת מועצת הנאמנים  
לסמכו ולהכתירו בתואר

מורנו הרב

יורה יורה ידן ידן ויהי ה' אלהיו עמו  
יעלה וירכב על דבר אמת  
וענוה - עדק

ובזה באנו על החתום פה בסינסינאטי  
עש"ק כ"ה אייר, תשכ"ב

The Faculty and  
Board of Governors of the  
Hebrew Union College-  
Jewish Institute of Religion

hereby certify that whereas

Allen Howard Podet

has fulfilled all requirements for  
Graduation he is herewith  
ordained as

Rabbi

and is authorized and licensed to  
perform all Rabbinical functions  
in the name of God and Israel

Cincinnati, Ohio, United States of America  
this 1st day of June, 1962

(34)

The Faculty:

Nelson Glueck

President

Samuel Sandmel

Robert L. Katz

Lowell G. McLaughlin

A. J. Reines

Joseph Kanner

Ellis R. Kirk

Isidore J. Rabinowitz

Mr. B. Kahane

Sheldon H. Blank

Sylvan D. Schweigman

William W. Hallo

Stanley H. Hirsch

Julius Levy

Eva Spruchman

Michael T. H. T. T.

Harold T. Cohen

Alexander G. Gellman

Eugene Michalsky

Norman Dole

Joseph G. Gellman

Alan L. Epstein

The Board of Governors

Stacy L. Fuchs

Chairman





|                                                | Reines<br>H<br>1885      | HUC<br>E<br>1927      | JIR<br>H<br>1927 | HUC<br>E<br>1935                  | HUC<br>H<br>1927   | HUC<br>H<br>1935   | Hattarath<br>Hora'ah-hoos<br>H-1936 | HUC-E<br>1937                     | HUC-H<br>1937      | JTS-E<br>1942                | JTS-H<br>1942         | Yeshibath<br>Beth Midrash<br>Latorah<br>H-1950 | Yeshibath<br>R. Isaac<br>Elhanan<br>H-1958 | HUC-JIR<br>E<br>1962  | HUC-JIR<br>H<br>1962 | OLD<br>LEHR      | NEW<br>LEHR     |
|------------------------------------------------|--------------------------|-----------------------|------------------|-----------------------------------|--------------------|--------------------|-------------------------------------|-----------------------------------|--------------------|------------------------------|-----------------------|------------------------------------------------|--------------------------------------------|-----------------------|----------------------|------------------|-----------------|
| I. Authority of Promulgation                   |                          |                       |                  |                                   |                    |                    |                                     |                                   |                    |                              |                       |                                                |                                            |                       |                      |                  |                 |
| A. Authority issuing the document              | Isaac<br>Jacob<br>Reines | Faculty<br>Board      | Faculty<br>Board | Faculty<br>Board                  | Pres. &<br>Faculty | Pres. &<br>Faculty | Bershop<br>Stearn                   | Faculty &<br>Board                | Pres. &<br>Faculty | The<br>Institute             | Faculty               | no<br>issuer                                   | no<br>issuer                               | Faculty<br>Board      | Pres<br>Faculty      | No               | Talmid<br>Prof. |
| B. Civil recognition                           | No                       | No                    | No               | No                                | No                 | No                 | No                                  | No                                | No                 | No                           | No                    | No                                             | No                                         | No                    | No                   | No               | No              |
| II. Designation of receiver                    |                          |                       |                  |                                   |                    |                    |                                     |                                   |                    |                              |                       |                                                |                                            |                       |                      |                  |                 |
| A. Patronymic                                  | No                       | No                    | YES              | No                                | YES                | YES                | YES                                 | No                                | YES                | No                           | No                    | YES                                            | YES                                        | YES                   | No                   | YES              | YES             |
| B. Previous title                              | morenu<br>harabb         | B.A.                  | No               | No                                | Talmid<br>Haber    | Talmid<br>Haber    | Talmid<br>Hakham +<br>Rav           | No                                | Talmid<br>Haber    | No                           | No                    | No                                             | No                                         | Talmid<br>Haber       | Talmid<br>Haber      | unk.             | unk.            |
| C. Yihus or honorable antecedents              | No                       | No                    | No               | No                                | No                 | No                 | No                                  | No                                | No                 | No                           | No                    | YES                                            | YES                                        | No                    | No                   | unk.             | unk.            |
| III. Character references                      | YES                      | No                    | No               | No                                | YES                | No                 | YES                                 | No                                | No                 | No                           | No                    | YES                                            | YES                                        | No                    | No                   | YES              | YES             |
| IV. Years of Study                             | YES                      | No                    | No               | No                                | unspecified        | unspecified        | No                                  | No                                | several            | No                           | four                  | "many"                                         | "many"                                     | No                    | No                   | YES              | YES             |
| V. Courses of Study                            | YES                      | No                    | YES              | No                                | YES                | YES                | YES                                 | No                                | YES                | No                           | No                    | YES                                            | YES                                        | No                    | YES                  | No               | YES             |
| A. Bible                                       | No                       | No                    | No               | No                                | YES                | YES                | YES                                 | No                                | YES                | No                           | No                    | No                                             | YES                                        | No                    | YES                  | No               | No              |
| B. Midrash                                     | No                       | No                    | No               | No                                | No                 | No                 | No                                  | No                                | No                 | No                           | No                    | No                                             | No                                         | No                    | No                   | No               | No              |
| C. Mishna                                      | No                       | No                    | No               | No                                | YES                | YES                | No                                  | No                                | YES                | No                           | No                    | No                                             | No                                         | No                    | No                   | No               | No              |
| D. Gemara                                      | No                       | No                    | No               | No                                | YES                | YES                | No                                  | No                                | YES                | No                           | No                    | YES                                            | No                                         | No                    | No                   | No               | No              |
| E. Talmud                                      | YES                      | No                    | No               | No                                | No                 | No                 | YES                                 | No                                | No                 | No                           | No                    | YES                                            | No                                         | No                    | No                   | No               | YES             |
| F. Tosaphoth                                   | No                       | No                    | No               | No                                | No                 | No                 | YES                                 | No                                | No                 | No                           | No                    | YES                                            | No                                         | No                    | No                   | No               | No              |
| G. Posquim                                     | YES                      | No                    | No               | No                                | No                 | No                 | No                                  | No                                | No                 | No                           | No                    | YES                                            | No                                         | No                    | No                   | YES              | YES             |
| H. Halakah                                     | YES                      | No                    | YES              | No                                | YES                | YES                | YES                                 | No                                | YES                | No                           | No                    | YES                                            | No                                         | No                    | No                   | YES              | No              |
| I. Aggadah                                     | No                       | No                    | YES              | No                                | YES                | YES                | No                                  | No                                | YES                | No                           | No                    | No                                             | No                                         | No                    | No                   | No               | No              |
| J. Mephoreshim                                 | No                       | No                    | YES              | No                                | No                 | No                 | No                                  | No                                | No                 | No                           | No                    | No                                             | No                                         | No                    | No                   | No               | No              |
| K. Yore Deah                                   | No                       | No                    | No               | No                                | No                 | No                 | YES                                 | No                                | No                 | No                           | No                    | No                                             | Part I                                     | No                    | No                   | No               | No              |
| L. History                                     | No                       | No                    | YES              | No                                | YES                | YES                | No                                  | No                                | YES                | No                           | No                    | No                                             | No                                         | No                    | No                   | No               | No              |
| M. Grammar                                     | No                       | No                    | YES              | No                                | YES                | No                 | No                                  | No                                | No                 | No                           | No                    | No                                             | No                                         | No                    | No                   | No               | No              |
| N. Semitic & Cognate languages                 | No                       | No                    | YES              | No                                | YES                | No                 | No                                  | No                                | No                 | No                           | No                    | No                                             | No                                         | No                    | No                   | No               | No              |
| O. Hebrew Literature                           | No                       | No                    | No               | No                                | No                 | YES                | No                                  | No                                | YES                | No                           | No                    | No                                             | No                                         | No                    | No                   | No               | No              |
| P. Other                                       | YES                      | REQUIRE-<br>MENTS     | Phil.            | REQUIRE-<br>MENTS                 | Phil.              | Jewd.<br>Wiss.     | No                                  | REQUIRE-<br>MENTS                 | Jewd.<br>Wiss.     | No                           | YES                   | No                                             | No                                         | No                    | No                   | No               | No              |
| VI. Additional requirements                    | No                       | No                    | No               | No                                | No                 | No                 | No                                  | No                                | No                 | No                           | No                    | No                                             | No                                         | No                    | Jewd.<br>Wiss.       | YES              | YES             |
| A. Preaching                                   | No                       | No                    | YES              | No                                | YES                | No                 | No                                  | No                                | No                 | No                           | No                    | No                                             | No                                         | No                    | No                   | No               | No              |
| B. Thesis                                      | No                       | No                    | YES              | No                                | YES                | No                 | No                                  | No                                | No                 | No                           | No                    | No                                             | No                                         | No                    | No                   | No               | No              |
| C. Examination                                 | YES                      | No                    | No               | No                                | No                 | No                 | No                                  | No                                | No                 | No                           | No                    | No                                             | No                                         | No                    | No                   | No               | No              |
| VII. Formulae of Investiture                   |                          |                       |                  |                                   |                    |                    |                                     |                                   |                    |                              |                       |                                                |                                            |                       |                      |                  |                 |
| A. Use of root S-M-K                           | No                       | No                    | No               | No                                | No                 | YES                | No                                  | No                                | YES                | No                           | YES                   | No                                             | YES                                        | No                    | No                   | No               | No              |
| B. Morenu Harabb                               | YES                      | No                    | YES              | No                                | YES                | No                 | No                                  | No                                | No                 | No                           | No                    | No                                             | No                                         | No                    | Jewd.<br>Wiss.       | No               | No              |
| C. Yore Yore                                   | YES                      | No                    | No               | YES                               | YES                | YES                | YES                                 | YES                               | YES                | No                           | YES                   | YES                                            | YES                                        | YES                   | YES                  | YES              | No              |
| D. Yadin Yadin                                 | YES                      | No                    | No               | No                                | YES                | YES                | YES                                 | YES                               | YES                | No                           | No                    | No                                             | No                                         | No                    | YES                  | No               | No              |
| E. Wihi Adamai Elchaw Timo                     | No                       | No                    | YES              | No                                | No                 | No                 | No                                  | No                                | No                 | No                           | YES                   | No                                             | YES                                        | No                    | YES                  | No               | No              |
| F. Yizlah weyiksal'el debar<br>emeth           | No                       | No                    | No               | No                                | YES                | YES                | No                                  | No                                | YES                | No                           | YES                   | No                                             | No                                         | No                    | YES                  | No               | No              |
| G. Rabb Beyisrael                              | No                       | No                    | No               | No                                | No                 | No                 | No                                  | No                                | No                 | No                           | No                    | No                                             | No                                         | No                    | YES                  | No               | No              |
| H. "Rabbi"                                     | YES                      | No                    | No               | YES                               | No                 | No                 | YES                                 | YES                               | No                 | No                           | No                    | No                                             | YES                                        | YES                   | YES                  | No               | No              |
| I. Issur Weheter                               | YES                      | No                    | No               | No                                | No                 | No                 | YES                                 | No                                | No                 | No                           | No                    | No                                             | YES                                        | No                    | YES                  | YES              | No              |
| J. Wehakham yithgere                           | No                       | No                    | No               | No                                | No                 | No                 | No                                  | No                                | No                 | No                           | YES                   | No                                             | No                                         | No                    | No                   | No               | No              |
| K. We Rabbi yithgere                           | No                       | No                    | No               | No                                | No                 | No                 | No                                  | No                                | No                 | No                           | YES                   | No                                             | No                                         | No                    | No                   | No               | No              |
| L. Higa behora'ah                              | No                       | No                    | No               | No                                | No                 | No                 | No                                  | No                                | No                 | No                           | No                    | No                                             | YES                                        | No                    | No                   | No               | No              |
| M. Hattarath hora'ah                           | No                       | No                    | No               | No                                | No                 | No                 | YES                                 | No                                | No                 | No                           | No                    | No                                             | No                                         | No                    | No                   | No               | No              |
| N. Semikath hakhamim                           | No                       | No                    | No               | No                                | No                 | No                 | No                                  | No                                | No                 | No                           | YES                   | YES                                            | YES                                        | YES                   | YES                  | No               | No              |
| O. Other                                       | YES                      | No                    | No               | No                                | No                 | No                 | No                                  | No                                | No                 | No                           | No                    | No                                             | No                                         | No                    | No                   | YES              | No              |
| VIII. Definition of Function                   | expound<br>teacher       | rabbi                 | rabbi<br>teacher | all<br>rabbinical<br>functions    | rabbi &<br>teacher | rabbi &<br>teacher | teach<br>judge                      | all rabbinical<br>functions       | rabbi &<br>teacher | Rabbi,<br>preach,<br>teacher | ordained              | No                                             | No                                         | ordained              | No                   | teach<br>cong    | teach<br>cong   |
| IX. Limitation of Authority                    | NONE                     | license to<br>perform | run a<br>cong    | licensed<br>& auth. to<br>perform | cong               | cong               | cong                                | licensed &<br>auth. to<br>perform | cong               | NONE                         | license to<br>perform | No                                             | No                                         | license to<br>perform | No                   | decide<br>Halaka | cong            |
| X. Signatories                                 |                          |                       |                  |                                   |                    |                    |                                     |                                   |                    |                              |                       |                                                |                                            |                       |                      |                  |                 |
| A. President                                   | No                       | YES                   | S.S.<br>WISE     | YES                               | No                 | YES                | No                                  | YES                               | YES                | YES                          | YES                   | YES                                            | No                                         | YES                   | YES                  | No               | No              |
| B. Board                                       | No                       | YES +<br>UNION        | No               | No                                | No                 | No                 | No                                  | YES                               | No                 | No                           | No                    | No                                             | No                                         | No                    | No                   | No               | No              |
| C. Congregational board                        | No                       | YES                   | No               | YES                               | YES                | YES                | No                                  | YES +<br>UNION                    | YES +<br>UNION     | No                           | No                    | No                                             | No                                         | YES +<br>UNION        | YES                  | No               | No              |
| D. Faculty                                     | I.J.<br>Reines           | YES                   | YES              | YES                               | YES                | YES                | No                                  | YES                               | YES                | No                           | YES                   | No                                             | No                                         | YES                   | YES                  | YES              | YES             |
| E. Other                                       | No                       | No                    | No               | No                                | No                 | No                 | No                                  | No                                | No                 | No                           | No                    | YES                                            | No                                         | No                    | YES                  | YES              | YES             |
| XI. Place of Issue                             | Lyda                     | Cinn                  | NYC              | CINN                              | CINN               | CINN               | Lodz                                | Cinn                              | Cinn               | NYC                          | NONE                  | Chicago                                        | NYC                                        | Cinn                  | CINN                 | BERLIN           | BERLIN          |
| XII. Date of Issue                             | 5645<br>1885             | 5687<br>5-28-27       | 1927<br>5687     | 5-25-35                           | 1927<br>5687       | 5695               | 5696                                | 1937                              | 56952              | 647242                       | 5702                  | 1950                                           | 571802                                     | 6-1-62                | 6-1-62               | No               | No              |
| XIII. Formulary Benedictions                   |                          |                       |                  |                                   |                    |                    |                                     |                                   |                    |                              |                       |                                                |                                            |                       |                      |                  |                 |
| A. Ale Wehalah                                 | No                       | No                    | No               | No                                | YES                | No                 | No                                  | No                                | No                 | No                           | No                    | No                                             | No                                         | No                    | No                   | No               | No              |
| B. Yoser leasher yuthila                       | No                       | No                    | No               | No                                | YES                | No                 | No                                  | No                                | No                 | No                           | No                    | No                                             | No                                         | No                    | No                   | No               | No              |
| C. Mishpete Urim wethum-<br>mim yihye'al libba | No                       | No                    | No               | No                                | YES                | No                 | No                                  | No                                | No                 | No                           | No                    | No                                             | No                                         | No                    | No                   | No               | No              |
| D. Yirpe beharus                               | No                       | No                    | No               | No                                | YES                | No                 | No                                  | No                                | No                 | No                           | No                    | No                                             | No                                         | No                    | No                   | No               | No              |
| E. Other                                       | YES                      | No                    | No               | No                                | No                 | No                 | No                                  | No                                | No                 | No                           | No                    | No                                             | No                                         | No                    | No                   | No               | No              |



### C. Some Prominent Jewish Schools of Higher Learning.

The following map represents an attempt to incorporate for easy reference and comparison a chart including the major academies of higher Jewish learning which have issued documents of authorization or have otherwise attained to a position of history or other eminence .

The primary listings may be assembled from the article "Yeshiba, "seminary" and "rabbinical" in Jewish Encyclopedia, along with the sources and bibliographies therein given.

For ease of comparison , the following plan has been adopted: cities marked on the map in brown were sites of yeshibas of eminence during the Talmudic period; green marks cities with yeshibas prominent from the tenth through the fifteenth centuries; cities with prominent yeshibas from the sixteenth through the eighteenth centuries are marked in blue; cities marked in red are the sites of leading seminaries from the nineteenth century to the present day. A black dot indicates cities which have contained or do contain several eminent schools of Jewish higher learning.

#### The Talmudic Age

Sepphoris

Pumbedita

Tiberias

Caesarea

Mahuza

Nehardea

Sura

| <u>10th-15th Centuries</u> | <u>16th-19th Centuries</u> |           |
|----------------------------|----------------------------|-----------|
| Bagdad                     | Padua                      | Jerusalem |
| Cairo                      | Cremona                    | Leghorn   |
| Kairwan                    | Grossvardein               | Metz      |
| Cordova                    | Jerusalem                  | Vilna     |
| Narbonne                   | Me'ah She'arim             | Minsk     |
| Lunel                      | New ' York                 | Slonim    |
| Beaucaire                  | Boston                     | Mir       |
| Marseilles                 | Philadelphia               | Eisheshok |
| Troyes                     | Pittsburg                  | Slobotko  |
| Ramerupt                   | Chicago                    | Vitebsk   |
| Paris                      | Amsterdam                  | Chelm     |
| Champagne                  | Hamburg                    | Lida      |
| Pampierre                  | Frankfort-on-the-Main      |           |
| London                     | Fuerth                     | Lubavitz  |
| Cordova                    | Metz                       | Zembin    |
| Granada                    | Nikolsburg                 | Horoditch |
| Lucena                     | Gracow                     | Dokshitz  |
| Toledo                     | Angevin                    |           |
| Barcelona                  | Yaroslav                   |           |
| Lucena                     | Lemberg                    |           |
| Mayence                    | Lublin                     |           |
| Pavia                      | Safed                      |           |

19th Century to the Present Day

Metz

Paris

Padua

Breslau

Berlin

New York

Cincinnati

Budapest

Vienna

Chicago

PART SEVEN

SUMMARY

A conclusion from a variegated halakic study must be tempered by an attention to the various aspects of the particular areas investigated. Any study of this limited nature can only touch somewhat briefly on selected aspects of a highly circumscribed segment of a body of literature.

Nonetheless it has seemed possible to emphasize as a thesis the following often overlooked point:

The Berab controversy teaches us most of all that no halakic structure dare be examined without due and full consideration to those "horizontal" structural elements which in part determine how the living halaka will express itself in a given structural situation. It is not sufficient to be content merely to draw the inference from the halaka in relation to previous codes, but one must be alert to the demands upon the halakist, growing out of the living situation.

We may conclude, on broad general principles emerging from close scrutiny of the texts, that the examined aspects of authority relationships in halakic Judaism seem at least in part to tend, whether the investiture be documentary or otherwise, whether the conferring agency be an institution or a person whose authority is individual, whether the relationship to formal or informal, to establish and protect the authority and status of the student.

PART EIGHT

THE CRITICAL BIBLIOGRAPHIES

## I. Introduction

In the critical bibliographies, an effort is made both to list books of relevance according to the following scheme and to provide some material of relevance of help to others who may have an interest in this area of enquiry. Sometimes it is deemed useful to discuss the authors' contentions in relation to views presented in the present study; sometimes it is considered useful to indicate that a deceptive title has been affixed to what is in reality a relatively poor source, in the hope of saving other students of this area time, effort, and outlay of "economic surplus".

The scheme of the critical bibliographies consists of four parts. Many books could have been listed under any one of two or more sections, since the areas in which they contribute are various. Some further texts have been listed in the text of the present study, although an effort has been made to reproduce them below. Numeration is continuous.

- I. Sources of the most fundamental and general significance;
- II. Sources of primary significance;
- III. Sources of secondary significance in the area of halaka;
- IV. Sources of secondary significance in the area of the Berab controversy and matters germane thereto.



I. Sources of the Most Fundamental and General Significance;

1. ---, The Holy Scriptures, Jewish Publication Society, Philadelphia, 1917 (1956 printing), xvi 1136 p.

An old standard, based on the King James version with many of the faults of that text. In some cases, it corrects errors of the KJV, but often is influenced to let archaic structures remain on grounds - presumably- habituation. A new version of the Bible is in the casting under the hand of the Society, which seems, from advance galleys, to be a significant improvement.

2. Leeser, Isaac, trans., The Holy Scriptures, Hebrew Publishing Company, New York, n.d., 2 vol. 1384 p. Eng.-1384 p. Heb.

This is a totally uninspired translation, the aim of which was to present some sort of English lexical equivalent for the Hebrew words of the Biblical text. Leeser customarily sacrifices English style and structure for conformity to the Hebrew; his translation has a mechanical ring to it. As a sequential lexicon, it is useful, and considering that it was likely the first translation to gain general acceptance among American Jewry, its importance is not to be slighted.

3. Sefer Torah Hebhiim Ukethubhim, M.H. Letteris, ed.,

4. Kittel, Rud., ed., Bibla Hebraica, Priv. Wuertemberg. Bibel., Stuttgart, 1929, liii 1434 p.

Still the best and clearest print easily available, and on rare occasions the critical apparatus has something of value to offer. Kittel's weird cantillative graphamata are easily learned, and his novel vowel symbols present no difficulty.

5. Miqraoth Gedoloth, Pardes, New York, 1951, 10 vol.

This edition of the Rabbinic Bible gives the masoretic Hebrew text of the Bible, with the several Targums opposite, and 32 rabbinic commentaries, of whom the major one are Rabbi Solomon b. Isaac of Troyes (Rashi), Abraham ibn Ezra, Rabbi Moses b. Nahman (Ramban), Sephorno, and Rabbenu Asher (Tur)

6. Mishna: Shisha Sidre Mishnah, with the customary commentators, including Obadiah of Bartinora (Bertinoro), Schulsinger, New York, 1948, 2 vols.

7. Tosephta: Tosephta Hazon Yehezqel, ed. Ezekiel Abramski, Ha-Sefer, Jerusalem, 1925, 42 folio p.

Totality of the Tosephta with introduction, commentaries, hiddushim, and critical apparatus.

- 8, Talmud: Talmud Babli, with all customary commentators, etc., Torah La-am, Jerusalem, 5717-1957, 13 vols. including Jerusalem Talmud.
- 9, Schwab, Moise, Le Talmud De Jerusalem, Maison-neuve, Paris, 1890, 11 vols. plus volume of introductory, tabular and index material, including a most useful subject index (Autorité e, p. cxxxi b), an index of Biblical citations (p. cli) to the whole work, and an index of all proper names (p. cxxxv a) occurring in the text, both Rabbinic and otherwise.

## II. Sources of Primary Significance

10. Adler, Elkan Nathan, Jewish Travellers, The Block Publishing Co., New York, 1931, xxiv-/- 391 p.

Included are the letters of Obadiah da Bertinora from 1487 to 1490 in which he described his travels in Palestine. According to the letters, he found few Jews in Palestine; and those in a not very prosperous condition. Obadiah sheds little light upon the actual lives of these Jews, but does mention that a number of them were peddlers. Included in this volume also, are extracts from the diary of David Reubeni, in which the enthusiastic welcome of Reubeni by the Marranos of Portugal,-- and the attendant discomfiture of the Portuguese officials because of this-- is made quite clear.

11. Alfasi, Hilkoth Rabh Alfasi, Vilna, Romm, 1908, with many appendixes and addenda, including Tos. references. A good general purpose edition, with many commentaries and supercommentaries.

12. Asaph, S., "Yiddish Letters from Jerusalem to Cairo", Zion 7:2 (1942) p. 65.

Asaph reproduces and discusses the Yiddish letter of a widow to her son describing Jerusalem conditions described in the present enquiry.



## INSERT

13, Danby, Herbert, The Mishnah, Oxford, London,  
1933, xxxii+844 p.

A fine translation whose notes, scriptural and subject indices, and introduction add depth to a clear and comprehensible presentation which remains at a high level of scholarship. In some ways, Danby is still preferable even to Blackman, notably in his use of the English medium, although of course the extensive notes of Blackman and the advantage of a facing Hebrew text cannot be countered.

14. Bader, Gershom, Cyclopedia of Hebrew Abbreviations, Pardes, NYC, 5711-1951.
15. Ben Menahem, "A Bibliography on Safed" in Sefunoth 6, p. 475.

This is perhaps the best available bibliography, highly classified, on problems related to Safed's development. The entire volume 6 is worth perusing for background on the Berab controversy.

16. Berab, R. Jacob, Responsa, Safra, Jerusalem, 5718, 77 pp., provided with a poor index by numerical order.
17. Brederick, Emil, Konkordanz zum Targum Onkelos, Toepelmann, Giessen, 1906, x 193 p.

A brilliant example of grundlich German scholarship at its best. Each term is carefully considered, many are analyzed and compared with the Hebrew, and what appear to be selected textual references to Onkelos are provided. Unfortunately, the value of the book is substantially impaired by the fact that the author neglected to explain his voluminous abbreviations.

18. Brown, Francis, S.R. Driver and Charles A. Briggs, A Hebrew and English Lexicon of the Old Testament, Oxford, London, 1907 (1957 Printing), xix 1127 p.

Even for its age, still considered by many the

## INSERT

19. Dimitrovsky, Hayim Z., "A Controversy Between Karo and Trani" in Sefunoth 6.

The mildness of this dispute is in sharp contrast to other contemporary academic and political disputes, as noted in the present text.

finest scholarly lexicon on the OT, the BDB is analytic in structure. It operates by root meaning system. In each case, a triliteral root is analyzed and compared with Assyrian, Ethiopic, Arabic, and other related to it. Family structures are built up, and in many cases, listings are made of the words' occurrences in the Hebrew Bible.

20. Chavel, Charles, The Book of Divine Commandments (The Sefer Ha-Mitzvoth of Moses Maimonides), Soncino, London, 1940, vol. 1, xxv 443 p.

The listing and classifying of the divine commandments is preceded by an illuminating essay on aspects of the "Concept of the Mitzvah."

21. Eisenstein, J. D., ed; Ozar Yisrael, Pardes, New York, 1951, 10 vol; Hebrew. An Encyclopedia of general Jewish knowledge.
22. Encyclopedia of Religion and Ethics, James Hastings, ed; Scribner's, NYC, 1928. An important collection of articles not paralleling the JE in scope or authority, but of great utility. The articles "Ordination", "Authority", and "Law" are most prominently useful.
23. Epstein, I; ed; The Babylonian Talmud, Soncino, London, 1935-52.

The clearest and most complete English translation of the Talmud, this edition has also notes, indices

and glossaries to each volume and to the set as a whole. The notes are sometimes confusing, the indices are always incomplete and the glossaries are sketchy, but these few drawbacks are more than offset by the magnificent proportions of the work. Epstein singles out Rodkinson for the scholar by virtue of completeness and exactness of translation.

Rodkinson is the more comprehensible. Occasionally too, there are blatant misreadings, such as the lovely business in vol. Sotah, p. 111 on Sotah 22a: ~~the~~ <sup>נשק</sup> ~~נשק~~, from the root <sup>נשק</sup> ~~נשק~~ to separate <sup>נשק</sup> ~~נשק~~ abstain (incidentally also the root of the word "Pharisee") is being discussed as one of the things that bring destruction on the world. Reference is made to frustrated nuns who fast, pray constantly, and abstain from sex. How in the world one can in this context translate abstinent woman, <sup>נשק</sup> ~~נשק~~, as "a female Pharisee" is difficult to understand; all the more difficult when one thinks that the Talmud is a Pharisaic product.

24. Feuer, Leon I., Jewish Literature Since the Bible, Book I, The Union of American Hebrew Congregations, Cincinnati, 1937, xiii / 206 p.

An elementary anthology of post-Biblical Jewish literature. Simplicity was a key to selecting the writings included, and therefore only well known and generally available material has found its way into the book. The contemporary

the book. The contemporary account of an Italian Jew of the expulsion from Spain is included, along with a selection from David Reubeni's diary and Joseph Ha-Cohen's Vale of Tears.

25. Freehof, Solomon B., A Treasury of Responsa, The Jewish Publication Society of America, Philadelphia, 5723-1963, pp. 97-107

Quoted are parts of the letter from Jacob Berab defending the ordination which he had instigated and Levi ibn Habib's summation of his objections to such ordination. The burden of Berab's argument is the need for an ordained court to impose flogging upon penitent apostates to take the place of karet (death). Berab here is speaking of the Marrano exiles who wished to atone for their apostasy. The importance of atonement to these exiles suggests not only religious satisfaction, but also the possibility of obtaining privileged status with the Safed economic structure by such atonement and the reversion to Judaism. Habib logically bases much of his objection to the ordination plan on the fact that he and his followers at Jerusalem were notified after the fact and were not consulted on the subject by the Safed group before the implementation of ordination. The correspondence of both Berab and Habib deals with ostensible and, to an extent, superficial aspects of the contro-



versy; their writings shed little light upon the structural context in which the problem presents itself. Freehof makes the perceptive comment that this was a time "before the age of socio-psychological studies." Nevertheless, it is not impossible to assume that contributing to the ordination controversy was the necessity of the Marrano-merchants group to enjoy the same rights as did the economically priveleged classes than existing in Palestine.

26. Glazer, R. Simon, Trans; Book of Mishnah Torah Yad Ha- Hazakah, with Rabad's criticism and References, Vol. 1, Maimonides Publishing Company, New York, 1927.

This translation, a reasonably felicitous one, has been reviewed in the text of the present enquiry. At times, its faithfulness has been the price of its polish.

27. Goldschmidt, <sup>L</sup>~~P~~azarus, Oznaim Latorah, ed. Rafaël Edelman, Munksgaard, Copenhagen, 1959, 607 p.

A subject concordance to the whole of the Babylonian Talmud, this is a primary source. The subject is followed by one-line quotations from each source where it occurs. Designed for use with Goldschmidt's German translation of the Talmud, this work is referenced to be used with any edition.

28. ibn Habib, R. Levi b. Jacob, Responsa, Lemberg, offset without date, Sentry, Brooklyn, 5722, 58 (double)

folios / the Qontres Hasemikah and other addenda, included by the editor "so as not to waste paper", and a highly faulty index, reduced doubtless for the same reason to miniscule print.

29. Hachonen, Pinehas Jacob, Ozar Habeurim Wehaperushim, Hamadpis, London, 5712 (1952) 625 pp. This is probably one of the best general bibliographies available, in which one may track down books without authors, authors without books, etc., a constant problem in the responsa field. The organization is clumsy, but most of the common and some of the rare material is there. The books are not critically described, but merely listed.

30. Harkavy, A., Teshubhoth Hageonim, Meqaze Nirdamim, Berlin, 1385, 418 p.

Those on pp. 80-81 deal specifically with scholars and taxation, and are utilized in this study.

31. Hershman, A.M., Code of Maimonides 14: Book Of Judges, Yale, New Haven, 1949, 335 pp.

An excellent and smooth translation, incorporating many corrections, "smoothing out", and emendations into the text unfortunately. One is reminded of the classic remark, "Translations are like women: if they are beautiful, they are not faithful; if they are faithful, they are not beautiful."

32. Heyd, Uriel, Ottoman Documents on Palestine, 1552-1665,  
A study of the Firman According to the Muhamme  
Defteri, Clarendon Press, Oxford, 1960, xvii / 204 p.  
/ XVII plates.

From the Muhamme Defteri, Registers of Important Affairs, Heyd has collected a group of decrees (firmans) dealing with such subjects as administration, taxation, trade, non-Moslems, etc. in Palestine from 1552-1665. Unfortunately, the earliest volume of decrees, dated 1544-45, was discovered after this book went to press and is mentioned only in an addendum. Two firmans from this volume are addressed to Palestine, both to the sanjak-beg (governor) of Safed; one dealing with the harsh rule of the sanjak-beg and the other with the necessity of more tax money from the growing Jewish population. The author gives no more information about these two decrees, rather arbitrarily deciding that "No important firmans concerning Palestine are found in this the earliest volume."

Among the decrees quoted are several containing significant information. In 1577, a census of the Jews in Safed was ordered so that taxes commensurate with their number and ability to pay could be assessed. (No. 71) In July, 1560, the order was given establishing Tiberius as a "pious foundation" (waqf), apparently on the petition of Joseph Nasi. The Suolime Porte seemed eager to grant the petition in anticipation of generous revenues from the petitioner. (No. 89).

Other firmans deal with the investigation of petitions of Jews alleging unjust treatment from the governors of Safed during the 1570's. Curiously, the only export mentioned in the firmans dealing with Palestinian trade is wheat, and very little is said about the handicrafts of industries of Palestine. Nowhere is the textile industry mentioned. From the tone of the text, the ~~omissions~~<sup>s</sup> are not due to the selectivity of the author, rather, they are omissions of the firmans.

Preceding each group of documents, Heyd provides an illuminating summary of the information contained therein.

33. Jacobson, B.S., A. Guttman, M.A. Cohen, Some Rabbinical Authorities and Codifiers, Hebrew Union College- Jewish Institute of Religion, Cincinnati, 5717.

A handy and useful index to the better-known rabbinical authorities, indexing easily by person, book, and period.

34. Kadushin, I.L., Brith Itzhak, Rosenberg, New York, 1871, 71/ 35/ several unnumbered sections. In presenting his credentials for this "Rabbis' Manual", Kadushin reproduces documents of primary importance, including a commendation of Reines bearing the yore yore yadin yadin formula.

35. Karpeles, Gustav, A Sketch of Jewish History,

The Jewish Publication Society of America, Philadelphia, 1897, 109 p.

This interesting little book is aptly called a sketch, almost too brief to deal with the complete outline of Jewish history, as it sets out to do. The facts take second place to the author's individual interpretation which can be summed up as a "great men and miracles" approach. According to Karpeles, should there be no great man on the scene of Israel's history at any given moment, then there was sure to be a miracle available, All of which makes for descriptive, rather than an analytical account.

2. Lewis, Bernard, "Haokhlusia Wehakhnasoth Hamissim Beerez-Yisrael", Jerusalem, an. 4, 5712.

A study in the Turkish Archives of primary importance, discussed extensively in the text.

37. Lewis, Bernard, "'Are Erez-Yisrael Bemea Hataz al-pi Teudoth Mehaarkhion Ha'otomani", Jerusalem, Kerakh 2:5, 5715, p.117.

A primary source of defters in the 1538 period, discussed extensively in the present inquiry.

38. Lewis, Bernard, "Erez- Yisrael Beyobhel Harishon Leshilton Ha'otomani al-pi Pinqase Haqarqa'oth Ha'otomaniim", Erez-Yisrael, Kerakh 4 5716. p.170

This a further investigation into the Ottoman Archives, Extensively dealt with in the present text.

The Jewish Publication Society of America, Philadelphia, 1897, 109 p.

This interesting little book is aptly called a sketch, almost too brief to deal with the complete outline of Jewish history, as it sets out to do. The facts take second place to the author's individual interpretation which can be summed up as a "great men and miracles" approach. According to Karpeles, should there be no great man on the scene of Israel's history at any given moment, then there was sure to be a miracle available, all of which makes for descriptive rather than an analytical account.

37. Karo, Joseph, et al., A Letter of Condemnation in Lunz, Jerusalem 5:1 (1898), p. 161 ff.

When Karo was head of the rabbinical establishment at Safed, he wrote the present letter of severe condemnation, employing all of the most fitting and apt forms to discredit an unnamed and unknown adversary. The letter seems to me to have possible reference to a delator, which would fit the structural expectations of the economy at that point.

46. Karo, Joseph, Shulhan Arukh, Eshle Rabhrabhi, Königsberg, Grüber and Longrien, 5619.

Another edition, inferior to the Romm.

41. Köbler, Franz, ed; A Treasury of Jewish Letters, Vol. 2, The Jewish Publication Society of America, Philadelphia, 5713-1953, viii 643 p.



This is a compilation of selected Jewish letters from the beginning of the sixteenth century to the middle of the eighteenth. Some are official documents; others, casual letters to relatives and associates. But they are alike in that they present a contemporary view of the period throughout the diaspora.

Particularly enlightening for the purposes of this study are letters of David Dei Rossi, writing from Safed in 1535 and several others dealing with conditions in Palestine during this period and the decline of Safed.

The author rarely attempts to put forth his evaluation of the bias of the various letters; when he does comment briefly, his judgement is generally sound. Kobler provides a bibliography from whence he gathered his collection. In some instances he gives as sources the original text, at times he mentions the original and its translation is a language other than English; some of his sources, such as the letter from the congregation of Cori quoted directly from Roth, he merely copies from authors who have used them in particular works. Occasionally the author does not quote an entire letter, although his deletions are few and short. Where Kobler uses his own translations, they are uniformly of good quality.

Beerez- Yisrael", Jerusalem, an 4, 5712.

A study in the Turkish Archives of primary importance, discussed extensively in the text.

43. Lewis, Bernard, "Aré Erez- Yisrael Bemea Hataz al-pi Teudoth Mehaarkhion Ha'otomani", Jerusalem, Kerakh 2:5, 5715, p. 117. A primary source of defters in the 1538 period, discussed extensively in the present enquiry.

44. Lewis, Bernard, "Erez-Yisrael Beyobhel Harishon Leshilton Ha'otomani al-pi Pinqase Haqarqa'oth Ha'otomaniim", Erez-Yisrael, Kerakh 4, 5716, p. 170.

This is a further investigation into the Ottoman Archives, Extensively dealt with in the present text.

45. Mantel, Hugo, Studies in the History of the Sanhedrin, Harvard University Press, Cambridge, 1961, x / 374 p.

As indicated by the title, Mantel has chosen to consider the Sanhedrin by means of a selective approach to certain specific problems related to that institution. Such an approach lends itself well to a study in depth, avoiding the danger of superficiality inherent in trying to encompass all the aspects of the subject in a limited work. While each chapter may be considered as a separate essay, the book taken as a whole achieves fairly well the author's stated purpose of picturing the general

functioning of

general functioning of the Sanhedrin.

Mantel presents both the Hellenistic view of the Sanhedrin as a political and legal body and the rabbinical view of that institution as primarily religious in character. Of more value than Mantel's attempt to reconcile the opposing views is his concise statement of the differing interpretations from which the student may evolve his own opinions. The author's documentation is discerning and thorough; his list of sources clearly and conveniently arranged.

46. Marcus, Jacob R., The Jew in the Medieval World, A Source Book, 315-1791, The Sinai Press, Cincinnati 1936, xxiv 504 p.

Marcus has provided a source book of primary and secondary materials in English dealing with medieval Jewry and its problems. Especially important to the present study are the sections which deal with the Spanish Expulsion and the Portuguese forced conversion, David Reubeni, Solomon Molko and Luria and the essay devoted to Joseph Nasi's rebuilding of Tiberias.

The author intrudes little comment of his own upon the text. He has, as is his purpose, let his sources speak for themselves. Marcus is painstaking in his translation of materials. His selection of what to include is, of course, arbitrary; what Marcus

believes to be pertinent might not be the choice of another researcher. For instance, it is hardly possible to take exception to the author's selection of a discerning description of the Spanish expulsion by a contemporary Italian Jew over the Edict of Expulsion itself. But one can quarrel with the decision to include the account of Joseph Ha-Kohen of the activities of David Reubeni himself. Nevertheless, as a concise gathering of material rendered exclusively in English, the book is a valuable tool for the study of <sup>the</sup> medieval Jew.

47. Midrash Rabba, "Midrash Press", Grossman and Weisberg, New York, 5712, is a good standard edition with most of the more important supercommentators and commentators, including Yede Moshe, Yepne Toa <sup>3</sup>, Rashi, Hildoushe Hardal, Mathenoth Kehuna, HaRaSHaSH, MaHARZOW, and others.

48. Mielziner, Moses, Introduction to the Talmud, Bloch, New York, 1925, 395 pp.

This is a brilliant organization of history and dynamics of the Talmud text, perhaps most outstanding in its treatment of the involved technical terminology of the legal hermeneutic method, and terminology of the Talmud. The Talmud cannot be approached without this work.

49. Rodkinson, Michael L., New Edition of the Babylonian Talmud, New Talmud, New York, 1899.

Still the most comprehensible edition of the Talmud in English, the Rodkinson has fallen into undeserved <sup>s</sup>disuse because it is incomplete and incorporates numerous errors. It is scrupulous in identifying and differentiating sources and strata, which Epstein (q.v.) does not always do.

50. Talmud Babhli, Vilna, Romm, 1881.

One of the classic editions, amply supplied with the revelant commentaries.

51. Torrey, R.A., New Topical Text Book, Revell, Chicago, 1897, 319 pp.

One of the few books presenting a true subject concordance to the Old Testament.

52. di Trani, R. Moses b. Joseph the Elder, Responsa, Venice, 1629, 198 folios. <sup>6</sup>Of particular interest is responsum "on the taxation of scholars", labelled 5:14:3 actually 14 b, discussed above.

53. Weiss, J. H., Dor Dor Wedornaw, Vilna, Romm, 1904, 5 vol.

This is one of the finest histories of the oral tradition ever produced, and a primary reference work on the <sup>b</sup>halkah. It is discussed in the present text.

III. Sources of Secondary Significance in the Area of Halaka



54. Albeck, H; "Ordination and Appointment at the Jewish Court", Zion, 8, pp. 85-93.

A brief study of requirements and procedures.

55. Albeck, Hanokh, " Semikah, Minui, and Beth Din", Zion 8:2 (January 1943) p. 85

Dr. Albeck summarizes the authority relations and struggles of the Beth Din. The relations of the Nasi and the Beth Din, important to the present discussions involving them, are also dealt with carefully.

56. Alt, Albrecht, Die Urspruenge des israelitischen Rechts, Hirzel, Leipzig, 1934, 72 p.

Although he concerns himself with many aspects of Jewish law, Alt touches upon comparative studies at several points. Useful also is his chart of comparative instances of legal concepts, which shows the penalties attached in other Biblical sources to decalogic infractions.

57. Asaph, "Lekorothe Harabbanuth", Reshumoth 2:259 (i.e., Beohole Ya'aqobh p. 46

A superficial study of the origins and authority fluctuations of the Rabbinic structure.

58. Auerbach, Charles, The Talmud, Western Reserve, Cleveland, 1952, 49 p.

Auerbach has attempted to show points of contact between common law

between common law and Talmudic law, and has done a restrained, creditable job where the tendency to drown in apologetic has claimed many. His analysis of Talmudic principles are valuable to one trained in modern modes of legal thought.

59. Baer, Yizhaq, "Hayesodoth, Hahistorioth shel Hahalakah", Zion, Jerusalem, 17, 5712,

Not only the historical foundations of the halakah, but the groundwork of the halaka on the Sanhedrin and the principles of legal process and authority are dealt with in this serial article. Baer includes crosscultural comparisons on both method and philosophy.

60. Baron, Salo, ed; and Joseph Blau, Judaism, Post-biblical and Talmudic Periods, Liberal Arts, New York, 1954, 245 pp. The treatment of development of authority is sketchy but balanced.

61. Bornstein, "The Rules of Ordination", Hatekufah, 4, pp. 393-426.

A summary and exposition on selected requirements for the procedure of investiture.

62. Benny, Philip Berger, The Criminal Code of the Jews, Smith Elder, London, 1880, 133 p.

Mr. Benny traces, in nontechnical form and in language geared to the lay reader, the development of Mosaic and Talmudic codes in their broadest foundations.

Benny sketches the structure of the courts and the rules of evidence, with particular emphasis on capital cases. He enjoys drawing parallels from modern procedure, but avoids using his theme as a ground for polemic or apologetic activity. The text is useful for the very broadest sort of introduction to the Rabbinic codes.

63. Berlin (Bar-Ilan), Rabbi Meyer, ed; Talmudic Encyclopedia, Jerusalem, 5717-1957, 9 vols. now available, Hebrew. Indexes and digests halakhic literature from the tannaitic period to the present time. The articles נדב and references thereon are of special use (8:609 ff), although unsigned.

64. Braunstein, Baruch, The Chuetas of Majorca, Conversos and the Inquisition of Majorca, Mennate Publishing House, Scottsdale, Pa., 1936, xvi / 227 p.

Braunstein deals exhaustively and authoritatively with one small phase of the Spanish Inquisition, the inquisition as it affected the island of Majorca. Incidentally, but effectively, he has added much to our understanding of the Inquisition as a whole. The author's contention is that the Inquisition was a tool of the State, much more valuable as a factor in the nationalizing of Spain than for the benefit of the Holy See in Rome. The author's aim of being scrupulously factual achieves his purpose of writing objectively and not using his work as

another polemic against the Catholic Chrch.

Braunstein has painstakingly gathered evidence of the Majorcan Inquiaition and although he makes no claim that his example is typical of all inquisitional activity, yet the contrasts presented in his work shed light on the problem as a whole.

65. Burstein, A; "On the Problem of Proclaiming Leap Years in the Dispersion", Sinai, 19, #226, pp. 32-46.

Reverant to the discussion of this problem in the present enquiry.

66. Clark, H.B., Biblical Law, Binfords, Portland, 1944, xxii 338 p.

Mr. Clark has run Biblical law through the mental categories with which a modern attorney operates, and has compared it to American case law. His organization is phenomenal. His effort lacks in selection, however, and principles of law are juxtaposed that find their origin in Deborah and in the New Testament.

67. Cruden, Alexander, Cruden's Unabridged Concordance, Baker, Grand Rapids, 1957, xv 719 p.

Will do if a Mandelkern is not available or accessible.

68. Darmesteter, Arsene, The Talmud, Jewish Publication Society, Philadelphia, 1897, 97 pp.

69. Daube, David, "Rabbinic Methods of Interpretation and Hellenistic Rhetoric", in Hebrew Union College Annual, Hebrew Union College, Cincinnati, 1949, 22:239-264.

Professor Daube makes and demonstrates the point that Rabbinic exegesis may represent an application of methods of interpretation current in the Hellenistic world of that time. The Rabbis, he maintains, were masters of this method, and not enslaved to it. Thus they could use it freely as a tool, in fact, as their primary tool, to put across that which needed putting, e.g., new laws to cover new cases. One misses the use that would have been served by a short summary to tie the argument up.

70. Daube, David, Studies in Biblical Law, Cambridge, London, 1947, viii 328 p.

Professor Daube has produced five essays, of which the third, 'Lex Talionis', demonstrates that the principle of compensation is legitimately to be seen in the earliest strata of this law. The essay is a clear and convincing use of Daube's approach to form-criticism and word-analysis.

71. Deutsch, Emanuel, The Talmud, Jewish Publication Society, Philadelphia, 1895, 107 pp.

In spite of its age, the major emphases of the book is on structural need modifications and their effect in Talmudic writing.

72. Driver, S. R., An Introduction to the Literature of the Old Testament, Meridian Editions, New York, 1956 (republication), xxv xi 577 p.

A classic analysis of formal and documentary considerations in scholarship of the Hebrew Bible.

73. Finkelstein, Louis, Haperushim Weanshe Keneseth Haged<sup>o</sup>loh, Jewish Theological Seminary of America, New York, 5710-1950, xv 102 p.

Dr. Finkelstein has produced an analysis of the Great Synagogue, the Hasideans, and the Pharisees. Ezra set in motion what may be considered the Society of the Hasideans, with the intention of carrying into practice the idea of a kingdom of priests. The Great Court (not Great Synagogue) was the organ of its operation. Later tensions caused the high priestly faction ( Sadducees) to break away from the Society, which was to become the Pharisees<sup>e</sup>, themselves operating with a pro-priestly faction and an anti-priestly faction. Although the evidence sometimes is not as convincing to me as it seems to Finkelstein, his brilliance is undoubted, although his ideas of the significance of the controversy over Semikah are not as open and shut as he makes them seem.

Finkelstein, Louis, "



74. Finkelstein, Louis, "The Pharisees: Their Origin and Their Philosophy", The Harvard Theological Revue, 22:3, July 1929, pp. 185-261.

Dr. Finkelstein brings to the Pharisees a vision of noble and progressive leaders of a liberal urban movement, not unlike the American Conservative Movement, which fought with the diehard reactionaries and are responsible for the survival of Judaism. The work is a piece of scholarship of a most persuasive order, but in spite of this, his treatment of Semikah seems superficial. He begins by raising certain obvious problems on the sources, but never really resolves them; at the end, one wonders just what the problem was raised for, and what place the discussion has in the larger issue he is trying to establish.

75. Ginzberg, , Louis, Geonica, Jewish Theological Seminary, New York, 1909, vol 2.

The origins of responsa collections and the principal geonic responsa (halaka) work is the center of this study relevant to the present inquiry.

76. Gordis, Robert, "The Rabbinat<sup>e</sup>", in Two Generations in Perspective, M<sub>o</sub>nde, New York, 1957, 23 pp.

Gordis traces sketchily the development of the Rabbinic form of communal leadership. His notes<sup>a</sup> are useful.

77. Greenberg, Simon, "The Multiplication of the Mitzvot",  
Mordecai M. Kaplan Jubilee Volume, English section  
 p. 381-397.

Mr. Greenberg sketches the derivation and force of the term "Mitzva" in the Biblical and Talmudic literature.

78. Gulak, Asher, Toledoth Hamishpat Beyisrael  
Bitequphath Hatalmid, Jerusalem, 1939.

Gulak traces the possible connections between Jewish law of the Talmudic period and Greco-Roman conceptualizations. He also points out the limitations of this procedure. This is a very heavily documented book, and a major source for deeper work.

79. Goodman, Paul, History of the Jews, Revised by  
 Israel Cohen, E. P. Dutton and Company, Inc.,  
 New York, 1953, 254 p.

A concise, readable history which, despite its briefness offers trenchant information. Goodman, and Cohen after him, have been extremely discerning in their selectivity of subject matter. This book is a good manuel, where a fact may be checked quickly and easily. It includes an index, although both footnotes and bibliography are missing. It is soundly conceived and carried through, given the limitations of its scope.

80. Guttman, Alexander, "Tractate Abot--its Place in Rabbinic Literature", Jewish Quarterly Review 51:2 (October 1950), p. 181.

In view of our extensive use of Abhoth in the present study, it is originally a part of the Mishna, but was added about 300 C.E. by which time the Tosephta had been compiled, partly in response to aggressive Christianity. Dr. Guttman here follows<sup>w</sup> a line of reasoning opened up by Dr. Michael Guttman, cited in his text.

81. Guttman, Alexander, "Foundations of Rabbinic Judaism", Hebrew Union College Annual, Cincinnati, 1950-51, 23:1:453-473.

This is a basic treatment which lays down the principle of tension between dynamic sociointellectual life and basically static religious creedal and practical life. Rabbinic Judaism, by interpretation of the old, brings it and the new into relationship. Hillel emphasized this mode, and a close analysis of his actions in Pesahim 66a forms a nucleus for Guttman's study. This material is directly relevant to all questions of Rabbinic understanding of biblical and other texts.

82. Guttman, Alexander, "The Problem of the Anonymous Mishna: A Study in the History of the Halakah", Hebrew Union College Annual, Cincinnati, 1941, 16: 137-155. Professor Guttman establishes that the

problem of the anonymous mishna of mishnaic halakah is a vital one, since so many strata are represented in the halakot of the tannaitic period. The higher critical interest of the Talmudists is shown by their attempts to label certain halakot as "Halakoth le-Mosheh mi- Sinai" or alternately as "Mishnah Rishonah." Guttman is forced to explain the principles of oral transmission in order to deal with first-level contradiction in his sources, and finds proof ultimately that controverted Setam statements originate most likely with the Rabbanan or Hakamim in both Talmuds.

83. Guttman, Michael, "Behinath Hamizwoth", Jahresbericht 1928, Juedisch- Theologischen Seminar, Breslau, 67 p.

Professor Guttman deals with the ~~mi~~zwoth here in respect to the manners in which they have been arranged, classified and studied. He considers the Saadianic arrangement of the total ~~mi~~zwoth system according to the Ten Commandments; before Saadi<sup>a</sup>'s time the mizwoth were not arranged in decalogic order, and even later then were arranged not clearly and without thoroughness of system.

84. Guttman, Yehiel Michael Hachohen, "Torah Batalmud", in Festschrift Adolf Schwarz, Loewit, Berlin, 1917, p. 1 (Hebrew Section).

Guttman traces the changes of meaning and nuance of the actual word, Torah, in its broad

significances, throughout a variety of situations. By so doing, he presents an example of various significances for a single significate, particularly of a technical one. The same principle in action calls for a retranslation of a Biblical citation in a non-Biblical setting, as has been the present practice.

85. Guttman, A; Mood of the Talmud, UAHC, New York, 1550 (1951), 19 pp.

Guttman uses a thread of thought to present the basic mood in which the Talmud may best be approached, important to an understanding of the emotive and other overtones of the halakah, beyond the gestic ones. His restraint prevents him from carrying the sense of excitement far enough to be of use to one trying to understand an attitude to what is in our time a dry subject to many.

~~In addition to Guttman Einleitung in die halacha:~~

~~Guttman's first section (1909) deals with the changing significance of the term Halaka and the actual complexities of the decision-making process.~~

86. Guttman, Michael, "The Decisions of Maimonides in his Commentary on the Mishna", Hebrew Union College Annual, II (1925), Cincinnati, p. 229

Guttman points out that not only did the Code succeed the Commentary, but it flowed out of the thinking embodied in the Commentary. He sees the

Commentary as the first clear case of Maimondes' codifying activity. This question is at the heart of the distinction between Code and Commentary on reinstitution of semikah, where the former reads "But the matter requires further clarification" whereas the latter does not. The Commentators (in the Derab study) point this up clearly.

87. Guttman, Prof. Dr. Michael, "~~Behinath~~/Qiyum Hamizwoth", in Jahresbericht 1930, Jeudisch-Theologischen Seminar, Breslau, 1931, 112 p.

An exhaustive analysis of the practice of the Mosaic commandments in its historical development. The text, clearly takes up in order (a) bases of practice and temporal limits inherent in commandments; (b) internal character of commandment and when they are voided; (c) internal disturbances in the Jewish body politic and the consequences for the commandments; (d) comparison of the Mizwoth system to other ancient religious systems; (conclusion) a comparison of mizwoth and dogma, a study in two forms of revelation.

88. Guttman, Prof. Dr. Michael, "Zur Einleitung in die Halcha, Jahresbericht der Landes-Rabbinerschule in Budapest, 3365 (1912-3), Alkalay, Pozsony. His section, "Die Kontroversen der Schriftgelehrten in ihrem Verhältnisse zur Praxis" is discussed in the present enquiry in establishing the structure of



the developing halakah. Guttman's first section (1909) deals with the changing significance of the term Halaka and the actual complexities of the decision-making process.

89. Higger, Michael, "A Yerushalmi View of the Authorship of the Tosefta", from Proceedings, American Academy for Jewish Research, New York, 1941, vol. 11, p43.

Mr. Higger presents evidence from the sources that at least some sages, for example R. Ze'orah, a pupil of R. Yohanan, assumed that R. Hoshaiiah was the author of the Tosefta. Insofar as the Tosefta enters into our calculations, this presentation should be considered germane to our endeavors.

90. Hyman, Aaron, Torah Hakduthubnah Wakamesbrah, Dvir, Tel Aviv, 1936, 3 vols.

A magnificent reference work, this text takes piecemeal every significant phrase of the Hebrew Bible and traces its occurrences in the Babylonian and Jerusalem Talmuds and in many other sources including the writings of several of the major commentators.

91. Asher, Jacob b., Tur, Yore Deah, Vilna, Rosenkranz and Schriftsetzer, 5682. Another <sup>e</sup>dition, inferior to the Romm.

92. Jacobs, Louis, Studies in Talmudic Logic and Methodology, Vallentine Mitchell, London, 1961, 164 pp.

Jacobs has produced an excellent analysis of

selected technical manipulations and thought patterns characteristic of Talmudic reasoning patterns, in contrast with more common contemporary ones. However, his work has few real advantages over Strack and Mielziner

93. Jastrow, Morris, Hebrew and Babylonian Traditions, Scribner's, New York, 1914, xv 376 p.

Dr. Jastrow uses points of comparison between the two systems to indicate the differences which each gave to a basic notion, such as Sabbath, or authority symbols.

94. The Jewish Encyclopedia, Funk and Wagnalls, New York, 1904, 12 vols.

The finest work of its kind ever produced, in any tongue. The men who contributed to its pages were the scholarly Sanhedrin of their day, and the monument they created has been but little affected by the passage of half a century. The editorial board reads like a listing of the greatest minds of the century, each in the area of his specialty: Cyrus Adler, Gotthard Deutsch, Richard Gottheil, Emil G. Hirsch, Kaufmann Kohler, Solomon Schechter, and hundreds more. It is odd that it has never been reissued, so that it is now rapidly becoming entirely <sup>u</sup>nobtainable.

95. Kobler, Franz, ed., A Treasury of Jewish Letters, Vol 2, The Jewish Publication Society of America, Philadelphia, 5713- 1953, viii / 643 p.

This is a compilation of selected Jewish letters from the beginning of the sixteenth century to the middle of the eighteenth. Particularly enlightening for the purposes of this study are the letters of David Dei Rossi, writing from Safed in 1535 and several others dealing with conditions in Palestine during this period and the decline of Safed.

Usually the author provides the original and its translation in a language other than English; some of his sources, such as the letter from the congregation of Cori quoted directly from Roth, he merely copies from authors who have used them in particular works. Where Kobler uses his own translations, they are uniformly of good quality.

96. Linfield, Harry Sebee, The Relation of Jewish to Babylonian Law, University of Chicago Library, Chicago, repr. fr. American Journal of Semitic Languages and Literatures, 36:1, October 1919, p. 40-66.

In this doctoral dissertation, Linfield makes the rather obvious point that there is a relation, but just what it is, he "plans to deal with in another place".

97. Linfield, H. S., "The Dependence of the Talmudic Principles of ASMAKTA on Babylonian Law", Journal

of the American Oriental Society, 40:2 (1920), P.126

Since one of the licit employments of ~~SAMK~~ was to indicate derivation of support for a legal act, this study germanely points out that the Jewish principle (1) legalized Babylonian practices, and (2) established a practice of extending case law into precedent law.

98. Lohse, Eduard, Die ordination im Spaetjudentum und im Neuen Testament, Vandenhoeck, Goettingen, 1951, From a dissertation, 108p. A sketchy treatment of ordination centering mostly on its usage in New Testament times. Lohse is uncritical in his use of the times comprehended within a given term, such as "Talmudic", for example.

99. Mandelkern, Solomon, Veteris Testamenti Concordantiae, Hebraicae, atque Chaldaicae, Shoken, Jerusalem, 1959 (reprint), 2 vol; Hebrew. The best concordance to the Hebrew Bible now available.

100. Mantel, Hugo, Studies in the History of the Sanhedrin, Harvard, Cambridge, 1961, 374 pp.

This is an excellent if Uncomprehensive survey of details of authority and relation in offices in the Sanhedrin, dealing particularly with titles and power relations.

101. Orlinsky, Harry M., Ancient Israel, Cornell, Ithaca, 1954

This is an interesting and readable account of Israel's origins written at the lay level or slightly above, and helps provide a historical background for our study.

A well constructed historical survey of the changing significance of the rabbinate, weighted to the halakic dominance of the role.

Patai, Raphael, "#Hebrew Installation Rites", Hebrew Union College Annual 20(1947) 83 pp.

This article , discussed in the present enquiry, present enquiry, presents and analyzes comparative rituals of investiture in variou periods, generally prior to our primary interest.

102. Rubin, Simon, Das Talmudische Recht, Steinmann, Vienna, 1938, 253 p.

103. Shanks, Hershel, "Is the Title RABBI Anachronistic in the G<sup>s</sup>ospels?" In Jewish Quarterly Review 53:4 (April 1963), p.337, with a REPLY by S. Zeitlin following.

In a general survey, Shanks has tried to make the point that the rabbinical title was well established by gospel times, and that criteria for ordination were fixed. Zeitlin attempts to establish the position that title came inot general use only after the desruction of the second Temple. The arguments on both sides are convincing, and the matter is by no means resolved clearly to all observers, but Zeitling, who writes with a rapier instead of a pen, seems to have a better case.

104. Smith, J.M. Powis, The Origin and History of Hebrew Law, University of Chicago, Chicago, 1931, ix 285 p.

A poorly indexed but well constructed book, it brings to bear representative ancient codes and concludes

that Hebrew Legislation was a dynamic, which it attempts to trace through time. A noble and partly successful effort.

105. Spicehandler, Ezra, The Local Community in Talmudic Babylonia, Ph. D. thesis, Hebrew Union College, Referee, A. Guttmann, n.d.

This text drew the writer through an analysis which took him through the entire text of the Talmud, and reflects the fine scholarship of an enquiring mind. It has been discussed in the present enquiry. It has been discussed in the present enquiry.

106. Strack, Hermann L., Einleitung in Talmud und Midrash, Beck, Maenchen, 1921, 233 pp. republished as Introduction to the Talmud and Midrash, Jewish Publication Society, Philadelphia, 1959 (c:1931), 372 pp.

A thorough and scholarly work, whose listings and descriptions of the scholars of the period, heavily and annotated, are of primary value. Terminology, history, development of the text, and procedural notes are handled with caution, thoroughness, and frankness, and placed into an easily available medium. It is, with Mielziner, the finest introduction of its kind available.

107. Tchernowitz, Chaim, Toledoth Hahalakah, Hamenabher, New York, 1936, 3 vol.

Dr. Tchernowitz has also



Dr. Tchernowitz has written a history of the development of the Jewish juridical structure from its earliest appearances through the conclusion of the Talmud. His work is considered a classic reference in its field.

His critical treatment shows thorough acquaintance with all the sources and perspective insight into social and legal principles.

108. Urbach, S.B., Amude Hamahashabha Hayisraelith, Histadruth, 5715 (1955), 560 pp.

Urbach's coverage in extenso of Halevi buttresses the picture of his involvement with the dominant culture given in the present study; his lengthy treatment of Maimonides is handled better elsewhere.

109. Weiner, Harold M., Studies in Biblical Law, Nutt, London, 1904 ix 128 p.

A clear presentation which, however, is superficial for our purposes.

110. Waxman, Meyer, "Civil and Criminal Procedure of Jewish Courts", Students Annual, Jewish Theological Seminary, New York, May 1914, p. 259-309.

This is a creditable job of assembly of materials and synthesis. In the short space allotted to him, Waxman has tried to cover a great deal of ground, and his account suffers from transparency.

111. Zeitlin, Solomon, The Semikah Controversy Between the Zugoth, Dropsie, Philadelphia, 1917, repr.: Jewish Quarterly Review new series, 7:4.

Professor Zeitlin shows, in a brilliant tour de force, that one of the major elements of contention between the Zugoth, the pairs of officers who served as units of ח' מ and י' נ' ז' ז' ח', was the question of hermeneutic derivation of new law. The entire question of novelty and law is germane to Zeitlin's argument, and helps us to understand the positions of these laws with which we have to deal.

112. Yahuda, Joseph, Law and Life According to Hebrew Thought, Oxford, London, 1932-, 229p.

This book is a systematic survey of topics in the Hebrew Bible, the New Testament, and selected Rabbinic material. Authority too is discussed, but because he has spread himself so thin, Yahuda cannot give it very deep treatment.

113. Zeitlin, Solomon, "A Note on the Principle of Intention in Tannaitic Literature", Alexander Marx Jubilee Volume, Jewish Theological Seminary, New York, 1950, p. 631-636.

Dr. Zeitlin makes the point that many of the Hillel-Shammai disputes may be understood in terms of acceptance or rejection of the principle of intention, e.g., preparation before an event specifically for the event, as in Batza 2a ff.

114. Zeitlin, Solomon, "Midrash: A Historical Study",  
Jewish Quarterly Review, 44:121-36, July 1953.

Dr Zeitlin presents in the second part of his study a keen analysis of the postulates of the Midrash and their relation to those of other exegetic literatures.

115. Zeitlin, Solomon, An Historical Study of the Canonization of the Hebrew Scriptures, Proceedings of the American Academy for Jewish Research, 1931-2, Jewish Publication Society, Philadelphia, 1933, 38 p.

An intelligent and stimulating analysis of the historical implications of canonization and exclusion. Some of his arguments, as in chapter 3: "The Holy Scriptures Defiles the Hands", have been better developed since.

116. Zeitlin, Solomon, "The Need for a New Code", Jewish Quarterly Review 52:3 (January 1962), p. 193

The title is deceptive; Zeitlin indulges in laying out elements in codical structure, especially in manipulation of latent authority devices.

IV. Sources of Secondary Significance in the Area of the  
Berab Controversy and Matters Germane Thereto.

- 117, Abrahams, Israel, Jewish Life in the Middle Ages, Meridian, New York, 1958-60, 452 pp.

Abrahams portrays synagogue and community life, trades and occupations with great utility to our understanding of the period and the specific areas of the present interest. A thorough index aids the utility of the text.

118. Abbot, G. F., Israel in Europe, Macmillan and Co., London, 1907, xix + 533p.

The author has compiled a long tale of the unmitigated misery of the Jew in Europe, and at times seems to be all but overwhelmed by his data. Due to his lack of understanding of Judaism and Jewish history, Abbot has failed to see any other facets of the Jewish experience. He feels compelled to fix blame for the unfortunate circumstances of the Jews on someone, but cannot decide whether the blame lies with the Jews or with the Gentiles or with neither group. His only conclusion is utter amazement that Judaism survived the Middle Ages.

119. Adler, Elkan Nathan, Auto de Fe and Jew, Oxford University Press, London, 1908, 195p.

Adler has written a careful and well documented study of the "acts of faith" of the Spanish and Portuguese world

at which Jews, and others as well, were persecuted unmercifully.

The author relies upon the argument of Christian piety for the inception of the Inquisition, neglecting too much the impetus of economic gain for both church and state.

Interestingly enough, among several facsimilies of documents relating to the autos de fe, Adler includes two grants of confiscated property to the Cordova monastery signed by Ferdinand and Isabella. A feature of this work are lists in tabular form of some 2,000 autos de fe in Spain and Portugal and their colonies. Statistically, these may be questioned but they provide a concise compilation of activity, although their contents must be used with caution. With each table, the author conveniently gives his sources.

Adler helpfully provides a brief partial critical bibliography. His work is valuable as a starting point, at least, for investigation of the Inquisition and attendant problems.

120. Baer, Yitzhak, A History of the Jews in Christian Spain, Volume I, The Jewish Publication Society of America, Philadelphia, 1961-5722 vii + 463 p.

An admirable scholarly work which traces Jewish history in Spain from the time of the reconquest at the end of the eleventh century to the fourteenth century.



121. Avitzur, Samuel, "Safed as a Woolens Industry Center in the Fifteenth Century", Sefunoth 6, Hebrew University, Jerusalem, 1962.

This is a splendid source book on woolens development, incorporating statistical and technical data, and reviewed in the present enquiry.

- (22. Bamberger, Bernard J., The Story of Judaism,  
Union of American Hebrew Congregations, New York, 1957,  
xiii -/ 477p.

A survey of the development of the Jewish religion.  
The author pays most attention to religious forces and  
institutions, mentioning social, economic and political  
forces which shaped the history of the Jewish people only  
in a very superficial way. An instructive discussion  
in its field for the lay reader, nevertheless, this text  
is written from a point of view which fails to make it  
helpful for this study.

- (23. Baron, Salo, W., A Social and Religious History of the Jews,  
Vol. II and III, Columbia University Press, New York,  
1937, ix -/ 462 p. and xi -/ 405 p.

Of particular interest is Baron's discussion of the part  
played by rising nationalism in the various western European  
Jewish communities. Baron contends that in ethnically  
differentiated nation-states the Jews enjoyed a relatively  
secure tenure, often becoming, in fact, because of their  
cosmopolitan outlook and influence a leading segment  
in holding together a heterogeneously constituted nation. On  
the other hand, Jewish fortunes suffered great disadvantages in

states wherein an ethnically homogenous nationalism arose, and the Jews were looked upon as aliens and foreigners in the midst of the dominant group.

Although Baron provides copious facts and, at times, lucid insights, yet his work suffers from lack of organization. The author fails to relate his material to the historical structures in which they occur; he treats medieval Jewry as a whole, for example, rather than differentiating the several Jewish communities which appeared at different places and following their differing fortunes vis-a-vis their relations to the several milieux which gave them a particular character. Therefore, Baron is most meaningful when studied after one has acquired elsewhere knowledge of the structural interaction of Jewish history within the larger scope of general history.

Volume III is devoted entirely to notes and an exhaustive bibliography and an index, done in a manner which enhances the value of the work as a whole.

124. Bildersee, Adele, Jewish Post-Biblical History through Great Personalities, The Union of American Hebrew Congregations, Cincinnati, 1918 - 295 p.

An elementary text which follows Jewish history from Jochann<sup>an</sup> b. Zakkai through Moses Mendelssohn, using short biographies of outstanding personalities as the method

of discussion. Although an informative little book, it is too superficial for the purposes of this study.

125. Brayer, R. Hirsch, Great Figures and Events in Jewish History, Vol I., Bloch Publishing Company, New York, 1930, xxi + 319 p.

A very simple textbook which treats the Gaonic period through the Golden Age in Spain. The work suffers from over-simplification, although it does present concise portraits of the leaders of the age.

126. Caplan, Samuel, and Ribalow, Harold U., The Great Jewish Books, Horizon Press, New York, 1952, 351 p.

This book provides a simple and lucid introduction to twelve of the most enduring and influential works of Jewish literature. Provided are selections from each work and a short discussion beforehand of the author and an evaluation of his work. Joseph Karo is discussed along with the significance and setting of his Shulhan Arukh. Grayzel's essay provides a particularly incisive and cogent criticism of Graetz's historiography.

127, Creasy, Sir Edward S., History of the Ottoman Turks,  
Henry Holt and Company, New York, 1877, xvi + 549 p.

In his History of the Ottoman Turks, Creasy again proves to be the outstanding historian he has shown himself to be in previous works. His interpretations are sound and well reasoned. He attempts to present a balanced picture of his subject and succeeds very well. In one volume, the author has compressed much valuable and pertinent information, yet without slighting the task of also evaluating the facts he has gathered. While acknowledging his debt to Von Hammer, the Austrian historian of the Turkish Empire, Creasy has written more than a condensation of the views and conclusions of the first. Throughout, Creasy's work bears the stamp of his originality and is from the pen of a first rank historiographer. Even though written nearly a century ago, this work merits careful examination by students of the subject today; Creasy's work shows the truth and timelessness of an extraordinary historical writer.

- (28) De Lamartine, A., History of Turkey, Vol. I, D. Appleton and Company, New York, 1855, 403 p.

Lamartine's History is yet another example of the French litterateur's ventures into the poetical and romanticised writing of history. The political purpose of his History of Turkey is clear enough. The author wrote, in the middle of the nineteenth century, a highly sympathetic account of Turkey to support his pro-Turkey, anti-Russian position. Although Lamartine as an objective Turkish historian can be completely discounted, his first volume does show the extreme importance, and the recognition of such, of Turkey throughout the Renaissance to the dominant European powers.

- (29) Diener, Bertha, Imperial Byzantium, Little, Brown and Company, Boston, 1938, 396p.

A fairly comprehensive overview of the Byzantine Empire. The book deals chiefly with the personalities of the Byzantium rulers and men of power. The author does not really come to grips with the decline of the Empire, and thereby sheds little light upon how the internal conditions prepared the way for the Turkish conquest.

- (30) Durant, Will, The Story of Civilization: The Age of Faith, Simon New York, 1950, 1196 pp.

Durant analyzes, with full notation and references (sometimes overfull perhaps), the thought patterns and social structures dominant in Mediaeval civilization. Specifically he has much to say about Eastern Islamic scholarship and mercantile policies and on the Byzantine antecedents of the Ottoman governing patterns.



131. Durant, Will, The Story of Civilization: The Renaissance, Simon and Schuster, New York, 1953, 776pp.

The work begun in the Age of Faith is continued here, as Durant presents<sup>4</sup> with copious notation, the thinking and practice of the successors to the age of faith and shows how and why halakic/textual type thinking gave way to other orientations.

132. Ekren, Lelma, Turkey Old and New, Charles Scribner's Sons, New York, 1947, 186 p.

Written in a popular style, this short work concerns itself most with a description of Turkey after that country became a republic. Important to the degeneration of the Turkish domain in the nineteenth century, the author believes, were the many unassimilated minorities, some of which were in sympathy with Western European powers and Russia.

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134. Elbogen, Ismar, History of the Jews: After the Fall of the Jewish State, Union of American Hebrew Congregations, Cincinnati, 1926, ix + 237p.

An elementary text which is nonetheless confusing. The wanderings of the Northern Jews toward Poland and the Southern Jews toward Turkey are mixed together.

Thus, the Caballa is discussed in both places simultaneously, making it extremely hard to sort out the different development in different places.

135. Engelman, Uriah Zevi, The Rise of the Jew in the Western World, Behrman's Jewish Book House, New York, 1944, xlii 4-238 p.

This is a well documented socio-economic study in which the author attempts, on the whole successfully, to explain the fortunes of the Jews in Europe in relation to the social economic and political forces assuming importance at various times on the continent. Particular cogent is the discussion of the opportunities which were opened to Jews as feudalism began to dissolve and a money economy began to replace it. Traditional Christian feudalistic economic values were rooted in the land, a system in which there was no place for the Jew. But with the onset of increasing urbanization and commercialism, the Jew's long standing as a dealer in credit rather than commodities became important, with the attendant advantages to the Jew of position.

136. Finkelstein, L. "On the Phraseology of the Tannaim", Tarbiz, 20, pp. 104 ff.

An especially good section on the function of the Mufla is found here. It is well to compare it with the definitions of "Rabbi" in Sota 22a, Shabbath 114a, and with Weiss, Dor, 5:167-9. Asaph, "Lekorothe Harabbanuth", Reshumaoth 2:259 (i.e., Bechole Ya'aqobh p.46). A superficial study of the origins and authority fluctuations of the Rabbinic structure.

137. Finkelstein, Louis, The Jews, Harper, NYC,

The finest analysis of this weak text is Zeitlin's "Goodwill and Scholarship", JQR 41:2 (October 1950) p.225, which is as neat a piece of surgery as the old master has produced. In fact, he had a lot of flab on which to operate.

138. Fisher, Sydney Nettleton, The Foreign Relations of Turkey, 1481-1512, University of Illinois, Urbana 1948, 125p.

Bayezid II was known as the Sultan of the consolidation and his crucial role played between the first flush of Ottoman power under Mehmed the Conqueror on the one hand and Selim the Grim and Suleiman the Magnificent on the other sets the stage for understanding the breadth of Turkish influence and power reflected in the Sublime Porte's later activities, such as Suleiman's position vis-avis the courts and power structures among which the Nasis and other Marrano families moved. Precisely during the heights of the Spanish and Portuguese Inquisitions, the often-neglected Bayezid was strengthening the Ottoman position to the point where it already challenged Venice for military and economic dominance, soon to be reflected in Ottoman Marrano politics. Fisher delineates clearly the Turkish involvement in European merchant politics which in the first place made it a natural mercantile retreat for the New Christian class and in the second place made feasible Palestinian involvement in international commerce.

- 139, Gibbons, Herbert Adams, The Foundation of the Ottoman Empire, 1300-1403, Clarendon Press, Oxford, 1916, 370p.

An original inquiry into the beginnings and basis of Ottoman power, Gibbons' work brings fresh insight on the problem. The author puts forth the thesis, new and controversial for its time, that the Ottoman power emerged from the ruins of the Byzantine Empire and was primarily based in the Balkans, rather than rising from Asia Minor. To support his contention Gibbons uses discerning and careful documentation naming his sources accurately and fully. The scholarship of this book is excellent; it is a valuable discussion of the rise of Turkish power.

- 140, Goodman, Paul, History of the Jews, Revised by Israel Cohen, E.P. Dutton and Company, Inc., New York, 1953, 254 p.

A concise, readable history which, despite its briefness, offers trenchant information. Goodman's sketch of Jewish activity in Turkey and events leading to it is a balanced account, although too brief to serve as more than an outline of the subjects. This book is a good manual, where a fact may be checked quickly and easily. It includes an index, although both footnotes and bibliography are missing. Given the limitations of its scope, it is soundly conceived and carried through.

141. Graetz, H. , History of the Jews, Jewish Publication Society, Philadelphia, 1893, 6 vol.

This is the standard history for generations of scholars. In a careful analysis, Graetz tries to follow the threads of Jewish history in a variety of cultures. His vision is not always clear, and bias plays a role, and his grasp of socioeconomic forces is not always evidenced, but his presentation is masterful, lucid and interesting.

142. Grayzel, Solomon, A History of the Jews, Jewish Publication Society, Philadelphia, 1912-1952, xxv 843 p.

A well-written, clear one-volume history of the Jews which provides a background to the discussions in our text supra. It is not, however, as smoothly done as Sachar, q.v.

143. Guttmann, Prof. Dr. Michael, "Zur Einleitung in die Halacha", Jahresbericht der Landes-Rabbinerschule in Budapest, 36 (1912-3), Alkalay, Pozsony.

His section, "Die Kontroversen der Schriftgelehrten in ihrem Verhaeltnisse zur Praxis" is discussed in the present enquiry in establishing the structure of the developing halakah.

144. Guttmann, Prof. Yehiel Michael Hachohen, Erez Yisrael Bemidrash Wetalmud, Breslau, Mass, 5690 (Berlin), 156pp. Primarily interested in the relation of the land of Israel to the fulfillment of the mitzvah system, Guttmann underscores the significance of Israel and residence there as indispensable for one who is in principle committed to fulfillment of the system, and delineates the tension of varieties in kind and degree of such commitment even at the Babylonian period.

145. Haberman, A. M., Kethabh Wasepher Betarbuth Ha'ibhrith, Hebrew University, Jerusalem, 5722 (1962), 45 pp.

Haberman discusses at length the development of written and printed communications as an index to the growth and directions of society in Spain and Portugal, later through Italy, and across the face of Europe. His numerous fold-out diagrams, maps and charts add to the utility of the book for gaining a clear view of his material.

146. Haberman, A.M. Nashim 'Ibhrioth Betor Madbisoth, Mesaderoth, Moziotn Laor, Wetzomkloth Bamehabberin, Mass, Berlin 5693.

Not only the Masses, with whom Haberman deals, but others of the period more or less in her position were led to support literary enterprises as she did-- or rather as they did, both Beatrice and Reyna.

147. Haberman, A.M. Toldoth Hasefer Ha'ivri, Mass, Jerusalem 4945, 128p.

A history of Hebrew bibliography with particular utility in responsa and earlier products.

148. Hausser, Ludwig, The Period of the Reformation, 1517 to 1648, Wilhelm Oncken, ed., American Tract Society, New York 1873, xxiii 702 p.

This account presents a political history of the Reformation as it was enacted in north and west Europe. For the most part, the Chronology is accurate; what the book lacks is a certain perspective of the interrelatedness of structural activities, such as those of the Turks which affected the primary topic with which it deals.



149. Heyd, Uriel, Hamizran Matikhon Bazeman Hehadash Kenose Lemeh qar Ulehora'ah, Hebrew University, Jerusalem 5713 (1953), 18 pp.

In this sketch, Dr. Heyd illuminates some of the structural eccentricities which affect depth studies in the Levantine field,

150. Heyd, Wilhelm, Geschichte des Levantehandels im Mittelalter, Cotta, Stuttgart, 1879, 781 pp.

An excellent if dated work for the economic background of the area, but deals little with our specific interests. Heyd presents a rounded picture of the structures operative through the period.

151. Hirsch, Richard G., The Sixteenth Century Attempt to Reestablish Palestine as the Center of World Jewry MHL thesis, HUC, Cincinnati, 1951, Ellis Rivkin, referee, 87 pp.

Hirsch has done a splendid piece of work, but has bitten off far too much to chew. His analyses are well worked out, reflecting the astuteness of a fine mind at work. I am convinced that the fine mind in his case, as largely in mine, is primarily that of his referee. His neglect of the responsa literature of the period is a hindrance, but his sources and references to contemporary accounts are extremely useful, and he uses the<sup>w</sup> well. Although it is in itself an excellent showing, perhaps the most pregnant comment in the text is not in it but on it: when Hirsch makes the point that some of the scholars of one community in passing, were at one time businessmen, the referee's pendilled, "Weren't they all?" suggests lines of thought beyond the grasp of the original thesis. The structural approach is used well, but Hirsch seems reticent about applying it, except for occasional summary paragraphs.

The Chronology at the rear is a useful feature.

152. Ostrow, Jonah, "Tannaitic and Roman Procedure in Homicide", Jewish Quarterly Review 48, ( April 1958), p.352.

The sections on "qualifications of judges," selection of judges," and "territorial jurisdiction" are of immediate relevance here.

153. Neuman, Abraham A., The Jews in Spain, Their Social Political and Cultural Life During the Middle Ages, Vol. I and II, The Jewish Publication Society of America, 5702-1942, xxxi / 286 p. and xi / 399 p.

These volumes are a thorough study of the social, political and cultural circumstances of the Jews of the Iberian peninsula from the middle of the fifteenth century. This background helps immeasurably to form opinions of the educated and competent Jews who were ultimately driven from Spain and Portugal. Many of these Jews and their descendants were to find new homes within the Ottoman Empire, where their traits of shrewdness and good judgement and their knowledge were to stand them in good stead. Neuman's study contributes much to an understanding of the desirable types which succeeded so well in the benign and tolerant atmosphere of Turkey. The books are well documented and indexed; the notes and bibliography are helpful.

154. Petuchowski, J.J. "The Modern Rabbi", Commentary, February 1963, p. 153.

155. Lamb, Harold, Suleiman the Magnificent, Doubleday and Co., Garden City, 1951, 1x / 370p.

Lamb has written a very readable biography of the great Suleiman. Certainly this is not a scholarly treatment of the subject, but a rather romanticized account. Nevertheless, Lamb has contributed to an understanding of the greatest of the Turkish rulers and the time of his power. The author has portrayed Suleiman affectionately, as a man very akin to the humanist in Western terms. How close this portrayal is to the actual character of Suleiman is a conjectural matter. We know that the Ottoman empire achieved the apogee of its expansion under the impetus of Suleiman's conquests and that this Sultan at times used ruthlessness and cruelty as had those who reigned before him. We also know of the stability of the Empire under Suleiman, and the tolerance accorded the various nationalities and minorities within the Ottoman domain. Since conclusive evidence is lacking, Lamb may be correct in his benevolent characterization of the ambivalent Suleiman, although the author seems at times so engrossed in admiration of his subject that he loses proportion and objectivity.

Lamb aptly discusses the various pressures that were brought to bear upon the Sultan's decisions. The beginnings of power within the harem is a good example, power which was first apparent in the influence wielded by the shrewd and resourceful Roxolana over Suleiman. Lamb's work adds to an understanding of the great Turk, although the author's interpretations and conclusions must be used with caution.

- 156, Lane-Poole, Stanley, et. al., The Story of Turkey, G. P. Putnam's Sons, London, 1888, 373 p.

This short history of Turkey is a well written, easily read book which depends heavily upon the more ambitious work of Greasy and the Austrian, Von Hammer. Thoroughly conventional in the treatment of its subject, the book attempts only the broadest of outlines. As an introduction to Turkish history, it is not badly conceived. It helpfully includes a geneological table of the Ottoman Sultans.

- 157, Latourette, Kenneth Scott, A History of Christianity, Harper and Brothers, New York, 1953, xxvii / 1516 p.

Latourette identifies the threats to Christianity from the fourteenth century through the sixteenth century as the rise of nationalism, the corruption and secularization of the institutions of the Church, the break-up of the feudal pattern which accomodated the Church and The need of Christianity to find new forms of adaptation to a growing urban society. Of primary importance, too, was the Turkish dominance of central Europe. The author has not seen fit to treat in any detail the economic <sup>colloraries</sup> ~~colloraries~~ of these movements, although such a discussion would have added immeasurably to his presentation.

- 158, Lengyel, Emil, The Danube, Random House, New York, 1939, 482 p.

One of the reasons given by the author for the successful penetration of the Danube valley by the Turks was Europe's paralysis by the forces of medieval Christianity. The Crusades

made warfare common to the European scene and divided the European people. Internal dissention, together with the stifling effect on intellect of the dogmatic and all-powerful Church, left Western Europe open to outside attack with neither sufficient physical nor moral power to withstand such attack. This is a soundly reasoned account of an area which historically has been troubled and unsettled.

159, Lengyel, Emil, Turkey, Random House, New York, 1941, x / 474 p.

In this general history of Turkey, the author points out the tolerance of the Turks toward the different peoples which came under Turkish domination. As the Ottoman Turks swept through Asia and Europe, their general policy was that of reconciling conquered peoples to Turkish rule, leaving to the various nationalities cultural and religious autonomy. This policy had many advantages for the rulers, not the least of which was gaining the political allegiance of the conquered to the Turkish empire.

160, Leroy-Beaulieu, Anatole, Israel Among the Nations: A study of the Jews and Antisemitism, G.P. Putnam's Sons, New York, 1900 xxiii / 315p.

A study of antisemitism of its time, this book was written by a French Christian and apparently inspired by the severe pogroms then being carried out in Russia. Although out of date, this work was thoughtfully conceived at the time it was written. The author places the blame for Jewish conditions which gave rise to antisemitism on the majorities in Europe among which the Jews lived ---

on the majorities in Europe among which the Jews lived ---

an observation which cannot be challenged.

161. Levi, Shoshanna, Hadephus Harishon Birushalayim, Iggud Sopherim, Jerusalem 5701, 52pp.

The first Hebrew press devoted itself largely to responsa and related materials, some of which are critically discussed very briefly.

162. Levinger, Lee J., Anti-Semitism: Yesterday and Tomorrow. The Macmillan Company, New York, 1936, xvi / 334 p.

The author compares and contrasts examples of some of the most virulent outcroakings of anti-semitism: the Spanish Inquisition, the Russian pogroms, the repressive regime of Nazi Germany. Levinger acknowledges the importance of economic motives of the Inquisition clothed in the guise of religious persecution. Later, the author states, persecutions were perpetrated in the name of national destiny rather than religion. Levinger, writing before the climax of the Nazi holocaust, shows extraordinary perception of the true nature of the menace.

163. Levinger, Elma Ehrlich and Lee J. Levinger, The Story of the Jew, Behrman House, Inc., New York, 1951, lx / 312p.

Only a very brief sketch of events leading to and the establishment of the mystical movement in Safed is included in this very simple text.

164. Lindo, E. H., The History of the Jews of Spain and Portugal, Longman, Brown, Green and Longmans, London, 1848 xiv 384 p.

Lindo limits his discussion of the Jews and Marranos to the physical surroundings of Spain and Portugal and does not attempt



to trace the wandering of those who ultimately left the Iberian peninsula except in the most superficial fashion.

Although the text is replete with statistics, they are in large part unsubstantiated. When sources are given, it is in the briefest notations, with insufficient bibliographical data and unexplained abbreviations. The author does list, at various places throughout the book, names and short descriptions of important Jews and Marranos and their works which may serve as a guide for further inquiry. As the veracity of this text can be questioned, it must be used with caution, although the book has some value as non-specific background material.

165. Luncz, A. M., "Safed and Tiberias" in Hayehudim Beerez Hazebbi", Jerusalem 5:3, 1900, pp. 235-324. Luncz's article deals with both economic and bibliographic elements, but his material is dated and better covered elsewhere.
166. Luncz, ed., Critical notes on the Kaphtor Upherah by a panel of scholars, Jerusalem 5:3, 1900. The text upon which the panel comments is mentioned in the present enquiry tangentially. The Jerusalem study supplies notes and corrections.
167. Marcus, Jacob Radar, "Notes on Sephardic Jewish History of the Sixteenth Century", Hebrew Union College Jubilee Volume, Cincinnati, 1925, pp.379-396

Marcus points out that material on Jewish history in the sixteenth century is not only scarce but, in large measure, unreliable. Especially does he criticize Jewish sources of this period for not being written, for many reasons, in the rationalistic spirit beginning to be felt in the Christian West.

The author cites examples of non-Jewish sources of this period which throw light upon socio-economic Jewish problems. Marcus draws from the archives of the several nations to which Sephardic Jewry dispersed. Strangely, he omits Turkish sources and does not explain the omission. More valuable than Marcus' assessment of these sources is the fact that he calls attention to them for the critical evaluation of those interested.

168. Marcus, Jacob R., The Jew in the Medieval World, A Source Book, 315-1791, The Sinai Press, Cincinnati, 1938 xxiv 504 p.

Marcus has provided a source book of primary and secondary materials in English dealing with medieval Jewry and its problems. Especially important to the present study are the sections which deal with the Spanish expulsion and the Portuguese forced conversion, David Reuteni, Solomon Molko and Isaac Luria and the essay devoted to Joseph Nasi's rebuilding of Tiberias.

The author intrudes little comment of his own upon the text. He has, as is his purpose, let his sources speak for themselves. Marcus is painstaking in his translation of materials. His selection of what to include is, of course, arbitrary: what Marcus believes to be pertinent might not be the choice of another researcher. For instance, it is hardly possible to take exception to the author's selection of a discerning description of the Spanish expulsion by a contemporary Italian Jew over the Edict of Expulsion itself. But one can quarrel with the decision to include the account of Joseph Ha-Monen of the activities of David Reubeni while omitting altogether the writings of Reubeni himself. Nevertheless, as a concise gathering of material rendered

exclusively in English, the book is a valuable tool for the study of the medieval Jew.

169. Margolis, Max L. and Alexander Marx, A History of the Jewish People, The Jewish Publication Society of America, Philadelphia, 1927, xxii ~~£~~ 823 p.

A complete, though conventional, marshaling of facts and dates. The text describes, rather than analyses such historical phenomena as the Spanish Inquisition, the ~~Italian~~ <sup>And</sup> Turkish havens, the rise of Safed as a Jewish center, etc. Although the facts are in place, the authors make little attempt to show casual relationships. Discussions of the state of different areas in the Diaspora are intermingled, thereby making it difficult to study the relation of the Jewish experience to any one particular culture as a whole.

The bibliography is fairly extensive and includes non-English works. Adding to the value of the book are extensive chronological tables of dates important to Jewish history and a section of excellent maps of the territories which figured significantly in Jewish life at different times.

170. Ranke, Leopold, The Ottoman and the Spanish Empires in the Sixteenth and Seventeenth Centuries, Lea and Blanchard, Philadelphia, 1845, 138 p.

171. Mattingly, Garrett, Catherine of Aragon, Vintage, New York, 1941, 415 pp.

This text goes beyond its title, to deal among others with the involvements of England with declining Spain and with ascending Turkey, and sets the stage upon which Cromwell played.

172. Minkin, Jacob S. Abrabanel : On the Expulsion of the Jews from Spain, Behrman's Jewish Book House, New York, 1938, 237 p.

This is a brief, popularly written account of with life and times of Isaac Abrabanel, of much more use to the lay reader than the scholar. Helpfully included is a list of the writings of Abrabanel and a short bibliography.

173. Neuman, Abraham A., The Jews in Spain, Vol. I and II, The Jewish Publication Society of America, Philadelphia, 1942-5702, xxxi / 286 p. and xi / 399 p.

These two volumes provide detailed information about the condition of Jewish life on the Iberian peninsula during the Middle Ages. This background helps immeasurably to form opinions of the educated and competent Jews who were ultimately to migrate to Italy and the Ottoman Empire.

174. Oliphant, Mrs., The Makers of Venice, A.L. Burt New York, N.D., xvi / 382 p.

told in narrative form, this book is little more than the author's impressions of the outstanding

personalities who had a hand in shaping the city-state of Venice. The author twists facts to suit her fancy, thereby rendering her work almost useless as source material,

175. Parkes, James, A History of the Jewish People, Weidenfeld and Nicolson, London, 1962, viii / 254 p.

A Christian historian who is of primary importance to Jewish Scholarship, Parkes' estimation of the interaction of Judaism and other forces is an illuminating study in perspective. The author's discussions in several places of unwilling Jewish apostasy and its consequences is very profitable.

176. Parkes, James, The Conflict of the Church and the Synagogue, The Soncino Press, London, 1934, xxvi / 450 p.

Parkes provides background for a consideration of the middle ages, Included are appendices of legislation affecting the Jews and pertinent extracts to supplant the text.

177. Pope, Arthur Ephraim, ed., The New Orient; A Series of of Monographs on Oriental Culture, Open Court Publishing Company, Chicago, 1933, Volume 2: The Far East, xii / 394 p.

The aristocratic involvement in the textile industry (cf. monograph, Ackerman, Phyllis, The Fine Fabrics of Turkey; Grousset, Rene, The Role

of Iran in the History of Asia; Pope, Arthur Upham, The Arts of Iran) reflects both the importance of the textile industry, particularly wool and silk, both in Turkey itself under the Timurids (1500) and their successors, the Shaibanides (1500-1599) on the one hand, and in terms of the mercantile invasion of Europe on the other.

178. Regensberg, C.D., "The Controversy between R. Jacob Serab and R. Levi ibn Habib concerning the "Renewal of Ordination", Kerem, I, pp. 87-96.

A good general description and referencing of some primary sources.

179. Rivkin, Ellis, "New Horizons in Jewish History", The Jewish Teacher, March 1960.

A summary of Rivkin's more elaborated thoughts elsewhere, reviewed in the present enquiry.

180. Rivkin, Ellis, "The Utilization of Non-Jewish Sources for the Reconstruction of Jewish History", Jewish Quarterly Review, n.s. 48 (1957), p. 183.

A classic presentation on method and practice in historiography, which may be objected to but can hardly be neglected by future historiographers and historians. This too was discussed in the present enquiry.

181. Rivkin, Ellis, "Purity of Blood in Spain", review in



Commentary, June 1962, p. 544.

The brilliant development of the concept of racial limpieza was one of the outstanding contributions of the Inquisition to political manipulation as an art. Rivkin's keen analysis here develops points which parallel points made in the present enquiry under this head.

182. Rivkin, Ellis, "A Decisive Pattern in American Jewish History", in American Jewish History, Hebrew Union College, Cincinnati, 1958, p. 23

Beyond his assigned title, Rivkin develops an entire philosophy of history in this article.

183. Rivkin, Ellis, "The Utilization of Non-Jewish Sources for the Reconstruction of Jewish History", The Jewish Quarterly Review, Vol XLVIII, October, 1957, pp. 183-203.

Rivkin has written a short, though extremely cogent essay on the critical scrutiny of sources by the Jewish historian. It is the author's contention that Jewish history is meaningful only when related to the organic general historical structure within which it occurs. Thus, valuable sources to explain Jewish historical phenomena are often found in non-Jewish works. For example, Rivkin attacks the position that the Inquisition was in large part caused by over-zealous Christian piety. More accurately, the Marranos fulfilled the same position as had the Jews in the earlier northern European feudal struggle, i.e., affluent and vulnerable

pawns in the battle between the monarchy and the nobility. Rivkin concludes, validly, that many contemporary Jewish documents were written to serve the purpose of Jewish needs rather than to portray structural truth. This criticism applies to Christian history of the period as well.

Inevitably, then, the critical historian must look for truth within the structure from which his sources issue, take into account the bias under which such sources were written and question those which do not agree with the general historical context from which they come.

184. Robinson, James Harvey, *An Introduction to the History of Western Europe*, Vol II, Ginn Company, Boston, 1926, x / 586 p.

This work deals briefly with the beginnings of the Ottoman Empire with the fall of Constantinople.

185. Rogow, Arnold A., ed., The Jew in a Gentile World, The MacMillan Company, New York, 1961, xvii / 385 p.

Among the selections are The "Secret Jew", a letter sent from Christian converts in Toledo to King Raseswinth of Spain in 654, assuring the ruler of their loyalty and faithfulness to their adopted religion. Another essay is The Spanish Inquisition, a description of the torture of a Marrano woman in 1568 from the official records of the secretary of the Inquisition.

- 186, Rosanes, Solomon Abrahams, Dibhre Yeme Yisrael Betogarma, 5668, (1907), 233 pp.

One of the finest compendia of sources on Turkish Jewry, 1300-1520.

- 187, Roth, Cecil, A Bird's-Eye View of Jewish History, Union of American Hebrew Congregations, New York, 1954, xiv / 466 p.

Roth's overview of Jewish history includes nothing of interest to this study that is not expounded more fully in specific works, i.e. A History of the Marranos, the two volumes of The House of Nasi, etc.

- 188, Roth, Cecil, "The European Age", Great Ages and Ideas of the Jewish People, Leon W. Wehwarz, ed., Random House, New York, 1956, pp.

Roth assesses the contributions of medieval European Jewry to modern day Judaism. The businessman-scholar, Roth contends, was a feature of both northern and southern European Jewish communities.

- 189, Roth, Cecil, The History of the Jews in Italy, The Jewish Publication Society of America, Philadelphia, 5706-1946, xiv / 575 p.

Roth has marshalled a wealth of information about Italian Jewry in this period. Particularly enlightening are his discussions of the capital manipulations of Jews and Marranos within Italy.

190. Roth, Cecil, A History of the Marranos, The Jewish Publication Society of America, Philadelphia, 1932, xiv 424 p.

A general introduction and survey which considers Marranism in Spain and Portugal and follows the Marrano diaspora throughout Europe, this book is an authoritative presentation for the general reader and a useful source book for the specialist. Even though he uses them well, the author has been somewhat uncritical of his sources. He has depended heavily upon secondary sources and has been prone to take many facts so presented at face value.

191. Roth, Cecil, The House of Nasi, Dona Gracia, The Jewish Publication Society of America, Philadelphia, 1948-1949, xiii 208 p.

This is the first of two volumes by Roth dealing with the rise of the fortunes of the Marrano family Nasi.

Roth valuably illuminates the milieu of his protagonist in the Turkish Empire in the middle years of the sixteenth century, and adds useful information for studying the period in question. His notes are a valuable and informative supplement to the text, although the work suffers from the lack of an index.

192. Roth, Cecil, The House of Nasi, The Duke of Naxos, The Jewish Publication Society of America, 1948-1949, xvi / 250 p.

The second volume of Roth's study of the Nasi Family

centers upon the life of Joseph Gracia. It is a continuation of the story of the Nasi ~~fortunes~~<sup>of</sup>.

The text is bolstered and elaborated upon by the author's incisive notes. As in Dona Gracia, an index is lacking, although such an addition would be of great help.

193. Sandmel, S., Philo's Place in Judaism, Hebrew Union College, Cincinnati, 1956, 218 pp. In analyzing the changing significance of Abraham as a concept in a variety of settings, Sandmel presents a structural approach and presuppositions of use in reconstructing the changing reinterpretations of concepts in other situations as well.

194. Sandmel, S., "The Clew to Survival", CCAR Yearbook #63, 1953. Sandmel investigates the role of the presence or absence of rabbinic leadership and a developing, living halakic system in the destiny of Alexandrian Jewry, and draws implications of structural relevance.

195. Sacher, Abram Leon, A History of the Jews, Alfred A. Knopf, New York, 1958, xvi -/ 455 -/ xvii p.

This book is a well known and deservedly popular general history. Sacher's views are authoritative, balanced and extremely readable. Although his History is limited to one not overly large volume, the author has been able to condense his work without distorting or sacrificing clarity. It provides a valuable section of background material on Jewish life, in Spain and a short, but succinct discussion of the Jews in Turkey after the Spanish expulsion.



- 196 Schechter, S., "Safed in the Sixteenth Century", Studies in Judaism, second series, The Jewish Publication Society of America, Philadelphia, 1908, pp. 202-285.

The title of this essay is misleading - and disappointing - to those who expect to find a guide to the rise, functioning, and decline of the economic, social and political Safed.

The researcher who is convinced that factors other than mysticism had an enormous part in the building, growth and decay of Safed will find Schechter unsatisfying as documentation for this general argument.

- 197 Scholem, Gershom G., Major Trends in Jewish Mysticism, Schocken, NYC, 1960 (c:1941), 460 pp.

Although Scholem is little interested in structural settings of the mysticism which he approaches "from within", his fully annotated and well indexed sections on Sabbateanism and its precedents cannot help noticing the desire from freedom from the old-line restrictivenesses which impelled the leadership of the Safed mystical movement.

- 198, Shotwell, James T. and Deak, Francis, Turkey at the Straits, The MacMillan Company, New York, 1940, xii + 196 p.

Primarily a diplomatic history of the Straits, this book deals briefly but cogently with the problem, of control of the Straits in the 15th century and the 16th.

The negotiations over the Straits demonstrate a major link between the commercial interests of Europe and the Ottoman Empire.

199. Tobin, Chester M., Turkey Key to the East, G.P. Putnam's Sons, New York, 1944, 170 p.

This is a long essay, dealing with the background of structural power and the diplomacy - both peaceful and warlike - which attempts to explain the position of Turkey in modern times vis-a-vis the powers of the Western world.

200. Waxman, Meyer, A History of Jewish Literature, from the Close of the Bible to Our Own Days, Vol. II., second ed., Bloch Publishing Company, New York, 1943, xiii + 734 p.

Of special interest is Waxman's treatment of rabbinic literature, particularly the responsa. He devotes a section to the responsa of eastern scholars, among them Berab and Habib and the two Di Tranis. The author deals also with the writings of the Abrabanel and the Nasis.

201. Wolf, Lucien, "Marranos of Portugal", Essays in Jewish History, The Jewish Historical Society of England, London, 1934, pp. 363-382.

Wolf's short essay covers the beginnings and history of the Portuguese Marranos from the forced conversions in 1496 to almost the present day.

PART NINE  
APPENDICES

No. 302 Toledo 1449 June 5th: The City of Toledo declares the conversos as being unfit to hold public office.

We, the said Pedro Sarmiento, chief repostero (a) of our Lord the King and of his court and Chairman of the Council of the heights of the very noble and loyal city of Toledo, and the justices of the peace, constables, knights, squires and citizens, community and population of the said city of Toledo . . . do affirm and declare that, inasmuch as it is publicly known, through canonical as well as civil law, that conversos of Jewish extraction, being suspect in the Faith of our Lord and Savior Jesus Christ, in which they easily break out Judaizing, cannot hold public or private offices or benefices such as through which they may be enabled to inflict outrages, offences and ill treatment upon genteel Old Christians, nor can they be acceptable as witnesses against them; THEREFORE concession was granted to this said city and the inhabitants thereof by King D. Alfonso, of blessed memory, that the said conversos should not hold, nor would they be enabled to hold the said offices or benefices, under great and severe penalties; and inasmuch as against a very large portion of the conversos of this city of Jewish extraction, it is proven, and has appeared, and does appear evident that they are very suspect in the Holy Catholic Faith, of holding and believing exceedingly great errors against the articles of the Holy Catholic Faith, by keeping the rites and ceremonies of the Old Law, and stating and affirming that our Savior and Redeemer was a man of their race killed by hanging whom the Christians reverence as God; and moreover, affirming and stating that there is a God and Goddess in Heaven (1), and moreover, on Good

- (a) The official in charge of provisions, instruments and persons generally of confectionary and beverage department; here title is clearly honorary. (MAC)
- (1) To what this superstition alludes, I cannot say.

Friday, while there is being consecrated in the Holy Church of Toledo the Most Holy Oil and Chrism, and the Body of our Redeemer is being put in the Sepulchre, the said conversos decapitate lambs, eat them and make other kinds of burnt offerings and sacrifices,<sup>3</sup> Judaizing, as is contained at greater length in the inquiry on this matter made by the vicars of the said Holy Church of Toledo, in virtue whereof, royal justice, following the pattern of the law, proceeded against some of them by fire or from there (4), because the Holy Decrees expect this, it results that the greater part of the said conversos are not favorably disposed toward the Holy Catholic Faith, which investigation we have here included (5) and have ordered it to be deposited in the archives of Toledo; and likewise inasmuch as beyond the aforesaid it is publicly known in this city, and as such do we consider and declare it, as in fact it is a publicly known case, that the said conversos live and behave without fear of God, and furthermore have shown and do show (themselves) to be enemies of the said city and Old Christian inhabitants thereof, and that flagrantly, at their instance, pursuit and solicitation, the main body of the army was assigned (to be) over the said city against us by the Condestable (b) don Alvaro de Luna and his followers and allies, our enemies, waging cruel war against us, with hands armed with blood and fire and havoc and injuries and robberies, as if we

- (3) cf. the investigation cited below, out of the Fort. fidei SS 9. It deals with the Rites of the Jewish Passover observance.  
 (4) Here the text does not appear to be entirely in order.  
 (5) The wording is defective.  
 (6) Printed  
 (b) Con destable - Chief constable, an honorary title (MAC)

were Moors, enemies of the Christian Faith, which injuries, evils and wars the Jews, enemies of our Holy Catholic Faith, from the time of the Passion of our Savior Jesus Christ thence, have always caused and demonstrated and even put into effect, and even the Jews who of old lived in this city, as it is found throughout ancient chronicles, when this city was besieged by the Moors, our enemies, by Tarife, their captain, after the death of King D. Rodrigo, they made a pact and sold the said city and the Christians thereof and gave entry unto the said Moors, in which pact and agreement it is found that three hundred and six Old Christians were decapitated by sword and more than a hundred and six who were taken out of the principal church thereof and from the church of St. Leocadia, and taken captives and prisoners, both men and women, children and adults, and in accordance with this, the said conversos of Jewish stock did this, and daily do this, who through great cunning and deceit have taken and carried off and robbed great and innumerable quantities of maravedis (c) and silver of the King our Lord and of his revenues and taxes and imposts, and have destroyed and ruined many noble ladies, knights and noblemen, and therefore have oppressed, destroyed, robbed and ruined the majority of ancient houses and estates of the Old Christians of this city and their land and jurisdiction and of all the realms of Castile, as is widely known and so do we consider it; and moreover, inasmuch as during the time which they have held the public offices of this city and administration

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(c) Maravedi: an old Spanish coin, worth about 1/6 of a cent (MAC)

and government thereof, a great and the larger part of the villages of the said city are become depopulated and destroyed, the land and estates of the said city lost and alienated, and beyond all this all the maravedis of the income and citizens of the said city (are) consumed on personal interests and estates, in such a manner that all the property and honors of the fatherland are consumed and destroyed, and they have become masters to destroy the Holy Catholic Faith and the Old Christians believing therein; and as confirmation of this it is well known unto the city and unto the citizens and inhabitants thereof, that a short while ago the said conversos in this city rose up - and all helped - and armed themselves, as is public(ly) and glaring(ly) (known), with the intent and purpose of putting an end to and all the Old Christians and me, the said Pedro Sarmiento, chief and principle (one), with them, and to throw them out of the said city and to take possession thereof and to deliver it to the enemies of the said city . . . THEREFORE, we find that we must declare and do (hereby) declare . . . that all the said conversos, descendants of the perverse stock of Jews, in whatsoever manner it be, both by virtue of canonical and civil law, which resolves against them in the aforementioned matters, as well as by virtue of the said concession, given unto this city by the said Lord King . . . don Alfonso . . ., and by the other lord kings . . . and sworn and confirmed by His Highness, as well as by reason of the heresies and other crimes, insults, seditions and offenses, committed and perpetrated by them unto this day, mention of which is made above, they



be held and considered as the law holds and considers them damnable, unfit, incapable and unworthy of holding any office or benefice, public or private in the said city of Toledo or in its territory, boundary and jurisdiction, wherewith they might hold power over the Old Christians believing in the Holy Catholic Faith of our Lord Jesus Christ, and inflict damages and injuries upon them, and likewise to be damnable, unfit, (and) incapable of giving testimony and faith as notaries public or as witnesses and especially in this city; and therefore this our decision and decree . . . we (hereby) deprive them . . . and order that they be deprived of whatsoever offices and benefices they have held and do hold in whatsoever way in this said city . . . (8) Ed. Antonio Martin Gamero, Hist. de Toledo, 1862, S. 1036 f. according to City Archives, cop. XVith cent, of S. 778. Amador de los Rios, III, 118f, Mariana, Hist. de Esp. VII (1791) 256 ff. On Pedro Sarmiento, his political endeavor and sudden downfall, of -outside of the facts from the years 1449 and 1450 - in Memorias de don Enrique IV, ed. Academia de la Historia. The Chronicle of Juan II, B.A.E. v. 68, S. 661 f. does not express clearly that it is a question of an uprising against conversos. It is therefore to be supposed that the author of the Circle of Conversos stood by and would hide (the fact) that the investigations of Sarmiento had brought to light compromises concerning the religious condition of the conversos. Cf. S. 664 col.

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(8) There follow the names of 14 conversos, who are removed through this judgment, from city positions, especially the office of Notary Public.

a. "And with the great tortures to which they subjected them, they made them say that which they had never considered, either in thought or in deed." The question of the authorship of this part of the Chronicle is still not settled. The Fourth General Chronicle (C.D.J.E. v. 106 s. 139) speaks more clearly: "Which Pedro Sarmiento . . . took possession of all the gates of the said city and with armed force ejected therefrom justices and knights, citizens of the said city, and the conversos, and robbed them of whatever estates they had, and (did) likewise unto the greater part of the abbots and incumbents of (other) benefices of the city. In all of which he was given aid and counsel by the Bachiller<sup>(d)</sup> Marcos Garcia de Mazarambroz, who was formerly called Bachiller Marquillos, and many others, who killed and robbed and had several conversos and conversas burned (at the stake), Cf. Also, Alonso de Palencia, Cronica de Enrique IV, translated by A. Paz y Melia, Madrid 1904-1908, V.I., S. 15. The Investigation mentioned in the verdict of the city appears to refer to a similar one out of Toledo, which is published in the Fortalitium Fidei, Bk II, cons. VI, her. I. There it is solemnly declared against the conversos:

1. That they circumcise their sons.
2. That the sacrament of the altar is nothing other than a certain ceremony for priests to attract people to piety.
3. That they send oil to and have lamps in the synagogues of the Jews.

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(d) Bachiller: a University title, corresponding roughly to our Bachelor's degree (MAC)

4. That they observe the Sabbath as Jews and work secretly on the Day of the Lord.

5. That they take oaths as Jews in their contracts, saying that by the name of the Living True Creator, who made sea and sands and sky and stars and gave the tablets of the Law to Moses, that he (i.e. the one taking the oath, (he himself) will give and discharge (his obligations) etc. (9)

6. That the Catholic Faith was something (that was a) fraud, and that there was nothing else in this life except to be born and to die, and that all else was vanity.

7. That when they found themselves in danger, they never mentioned Christ, nor the Blessed Virgin, but said: "May Adonay help you."

8. That the Virgin Mary was not to be called upon, since she was a certain sinner, who stands under the tail of Judah (sic MAC).

9. That on Holy Thursday they would kill and eat a lamb.

10. That when they are in church, they do not turn attentively when the Corpus Christi is being raised up, nor do they cross themselves, even with a half cross.

11. That they feign their children to be in danger when they are born, and say that they will baptize them after the danger (has passed), and it is not so, so that (for example) concerning the two daughters of Alfandarus, the house courier, it was found

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(9) Concerning this then obsolete form of the Jewish oath, cf. the Index

there, that they were baptized when they were eighteen years old.

12. That they perform, with respect to the dead, all the ceremonies of the Jews.

13. That they contract marriage, in prohibited degrees, without ecclesiastical dispensation.

14. That they send their children to the synagogues, that they might be taught in them.

15. That they scoff at the sacrament of baptism and at the (other) ceremonies that are performed by a priest.

16. That they lend publicly, with usury, to Old Christians, in the Law of Christ, saying that the said Christians are their enemies, and (that) by Law and intention, they do not sin by lending to them with usury, rather that when they do so, they gain indulgences.

17. That they do not trouble themselves about excommunications or the acceptance of absolution, nor do they believe or understand, if they are excommunicated, that they are excommunicated on account of what is due, to which they are held, when they are excommunicated in order to repay it, and if they do repay, they do this in order not to be caught and deprived of life, but not by the fear of God nor in order to avoid the danger of their (own) souls, and with this lack of faith, they pay no heed to absolution, saying that when the debt has been cancelled sin is removed and that they do not need absolution, and thus they abandon themselves to be excommunicated all the time of their lives.

18. That rarely do they hear Mass and Divine Office, even

rarely do they confess, and if they come to confession, they do this because of shame and in order not to be expelled from the churches, and never do they confess any sin, but work of virtue and sanctity, though they are known to be public sinners.

19. That twelve Hebrews instituted the sacrament of Confession, which (Hebrews) were the cause for more than twenty thousand persons to be killed throughout the world.<sup>(10)</sup>

20. That they are idolaters, since it was found in the same investigation by that witness, who saw, and so declared under oath, that Alfonsos Gundisalvus of Faro, citizen of the said city and of the aforesaid people, along with Mencia Alfonsi his wife, who had in this certain home a reproduction of the Tablets of Stone, made together with their doors, in which there were three images . . . (There follows a closer description of the images and their cult. Further assertions concerning the heresy of Bachiller Didacus Gomes and a Hebrew writing in an astrological vein concerning Abraham, Jesus and Mohammed. The writing carries on controversy especially against Jesus in the sense of the Maaseh Yoshav writings.)<sup>(11)</sup>

25. That a certain priest of the same people consecrated five hosts on a certain day, one of which went up and betrayed the others to his brethren, and it is known what was done with them. (i.e. the whole secret of the 5 hosts has been bared. MAC) (The acts of the Inquisition establish that this investigation, just like the one mentioned in the decree of the city of Toledo,

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(10) Perhaps a version taken from the Maaseh Yoshav Writings.

(11) Concerning this stand, a memorandum in Mario Esposito, Una manifestazione d'incredulita religiosa nel medioevo: Il detto dei

alludes to a legitimate hearing of witnesses).

Concerning an anti-Semitic pamphlet, which was circulated apparently during the unrest of 1449 or immediately thereafter, cf. H. Pflaum, R.E.J. 86 (1928) 131 f. (12)

Concerning contemporaneous struggles between Old Christians and Conversos in Ciudad-Real cf. Delgado Merchan S. 159f, 399f (Concession of John II, Valladolid 1449, Nov. 8, for the city, because of the unrest of the previous July, (to be found) below the insertion of an interesting report of the city concerning these struggles.

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"Tre Impostori" etc. Arch stor. italiano, 1931, p. 44f.

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(12) Against the observation of Pflaum, S. 143, I maintain that the Pamphlet of S. 149 ff (beg. with And for the present, etc) reproduces to the very end the form of a solemn kingly privilege. The mention of the Crown Prince and the Condestable at the end of the other dignitaries is usual.

3 0 3. SEGOVIA, July 15, 1449.

Don Enrique, Prince of Asturias, declares Isaac aben (ibem?) Zahal, "a Jew, my vassal, citizen of Medina del Campo" to be exempt from taxation.

Simancas, Mercedes, privileges, law 34, no. 24, with later ratifications.

3 0 4. FABRIANO, September 24, 1449. Pope Nicholas V, who has been informed that in Castile and Leon there is being circulated the tenet, that the Conversos are not (to be) admitted to honors and dignities (ad honores, dignitates, officia tabellionatus) and are not (to be) permitted as witnesses in lawsuits of Christians, confirms the decrees of King Alfonso X, Enrique (III?), and of the reigning King John II, in which it is decreed that no distinction be made between the Conversos and Old Christians relative to the investiture of ecclesiastical and secular dignities. If the Conversos show themselves to be untrustworthy in (matters of) faith, proper complaint shall be brought before the duly appointed judge.

3 0 5. 1450. The agents of the Jews disclose to the Chief Auditors the distribution of the servicio and medio servicio (a) which they have undertaken in the assemblies of the Jews.

Gentlemen, Chief Auditors of our lord the King: The division which I, Rabbi Joseph b. Santo, doctor and chief auditor of

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(a) These are technical terms referring to types and quantities of contributions to the king. I am unable to give more detailed information on this point now, as necessary source material is unavailable. (MAC)



the prince's accounts of the Prince, our lord, and of his Council, and Joseph Bienveniste, and Rabbi Isaac Canpanton and Ephraim ben Xuxen and Master Timon, by virtue of the power invested in us (lit. which we have) over the assemblies of the Jews of the realms and domains of the said lord King and confirmed by His Highness, do make of the 450,000 maravedis of the servicio and medio servicio which the said assemblies have to give and pay unto the said lord King this year of 1450, is as follows . . .

Simancas, chief notary of accounts, Cont. de la razon, leg. 1f 319 sq (contemporary copy). Similar lists for 1449 and 1453 *ibid.* fo. 368 ff. I have not made copies because the lists coincide, approximately, with those printed from 1474. See below, No. 323.

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- (1) Undoubtedly identical with the Philosopher, Joseph ben Shem Tob. cf. the declarations gathered from his works concerning his life and his relationship to Prince Henry, later King Henry IV. in S. Munk, *Melanges de philosophie juive et arabe*, S. 508; Steinschneider, *Hebr. Ubers.* ss. 107-111. Graetz 8, 163f, 178f, 412f. (Yet he is not to be identified with Joseph Nassi). - Assignment of a yearly amount of 40,000 maravedis for Rabbi Joseph aben Santo, doctor of the King, our Lord, 1453, Simancas, Quitaciones de corte (Court Salaries), leg. 1, fol. 136.

A Rabbi Joseph wassent in the commission of Prince Henry to Portugal, to complete a marriage settlement; he, however, was replaced by another on January 22, 1455; A. C. de Sousa, *Provas da historia genealogica da casa real portugueza I* (Lisbon, 1739) 658; A. de Palencia, *Cronica de Enrique IV*, trans. Paz I, 204, reports a Rabbi Joseph, dwelling in Segovia, "an eloquent man with good education (who) worked zealously to become employed with Diego Arias in the administration of the then Prince D. Henry." Entangled in court intrigues, he was forced to flee to Portugal. Graetz 8, 1st edition, s. 233 (omitted in the third edition), tells, through extracts from Alfonso de Palencia in Ferreras (inaccessible to me), about a Jewish doctor of Prince Henry, who was sent to the match-making in Portugal and later assassinated by Pedro Giro. It appears everywhere, concerning this matter, to deal with a personality identical to the philosopher. As is known, Joseph B. Shem Tob

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is mentioned by the editor of Jospeh Jaabez' Or Ha-Hayyim, Ferrara, 1554, (next to last side) with the supplementary note Ha-Mokom inkom nekumoso - Tax privilege of Henry IV for Master Joseph, my doctor, citizen of Segovia; Olmedo, Feb. 18, 1465. Simancas, Mercedes, leg. 9, No. 96.

- (2) See Index
- (3) Apparently identical with the Talmudic scholar known as the Catillian "Gaon".
- (4) Don Ephraim aben Xuxen of Toledo, tax-farmer 1444, 1452, 1453, B.A.H. 35, 440, 442, 454, 457, acc. to the minutes and agreements of the council of Fuencarral.

Appendix II: Aspects<sup>/</sup> of Maimonidean Thought

The amazing personality of Moses Maimonides has been insufficiently researched, and relatively few of the writings of this man, one of the finest and most systematic minds in the history of philosophy, have received proper scrutiny. Yet some knowledge, <sup>m</sup> some basic contact with an overview of his interests, is indispensable for an understanding of the background against which his codical work must be seen. <sup>1</sup>

Volume after volume <sup>s</sup> has been produced which analyzes details of Maimonidean thought, and sometimes which reproduces some fragment of his ideology. Even the comprehensive Code of Maimonides now appearing in fragments from the Yale Judaica Series, when completed, will present but one element in the man's general orientation. A brief and comprehensive overview of major segments of Maimonidean thought has yet to be written in a secondary source.

Astoundingly, something like such a document appears from the hand of the master himself. Buried within his Commentary on the Mishnah, appended to a comment on a phrase in a verse in Cap. 10, is a brief, terse, summary and clear overview of opinion, classification,

system and belief on Scripture, interpretation, the relation of man and God, the nature of prophecy, gentile religions in relation to Jewish belief, immortality, resurrection, prayer, ethics, the nature and <sup>A</sup>value of the commandments, ~~h~~heaven and hell, the proper relation to tradition, the foundations of Judaism critically expounded, and more. More astounding still, this microcosm of the world of Maimonides has never, to my knowledge, been made available to the English reader. Our purposes alone, and the insight which we would wish to bring to the Code of Maimonides and the man who created that code, would demand that we present a reading of this epitome of the thought of the master by his own hand. It would seem, however, that the utility of this document is not limited to our present situation, and that it may provide others with a usable tool in other areas of enquiry as well. In that hope, the following reading is presented.

A Reading of the Commentary to the Mishna of Moses  
Maimonides, from a Comment on a Phrase in Tractate  
Sanhedrin, Cap. 10.

ALL ISRAEL HAS A PORTION IN THE WORLD TO COME,  
AS IT IS SAID: AND THY PEOPLE. (B. Sanhedrin 90a)

I see fit to discuss here certain great principles of <sup>it</sup>faith, of magnitude and importance. You must realize that students <sup>o</sup>f the Torah disagreed among themselves as regards the good which may accrue to a man because of his performance of the commandments which God commanded us through Moses our teacher, may he rest in peace; and they also disagreed as to the evil that might chance upon a man if he violate them.

There were many great controversies according to their different mental outlooks, and the opinions became very confused in a great obfuscation with the result that one almost never will find a person to whom this matter is clear, nor will one find in it anything which is settled, but rather only great confusion.

THE FIRST GROUP ( OR CATEGORY) holds that the good is attainment of the Garden of Eden, and that this is the place where one may eat and drink without bodily discomfort and without labor, that they shall have good stone houses, and beds spread with silk, and rivers flowing with wine and perfumed oils, and many things of this kind; they also hold that the evil is Gehinnom, which is a place burning with fire in which bodies blaze and

people suffer varieties of pain and affliction, whose story is too much to tell.

Now this party brings evidence for their opinion from the words of our rabbis, their memory for a blessing, and from verses of the Pentateuch whose plain meaning is (literally) in whole or part, in accord with what they say.

THE SECOND GROUP reasons and thinks that the hoped for good is the coming of the Messiah, my he reveal himself speedily, and that at that time all men will be angels, all of them living and enduring forever. God then will increase their stature and they will multiply (or, be magnified) and become stronger until they populate the whole world forever. And that same Messiah, according to their opinion, will live /forever/ by the grace of God. At that time, the earth will bring forth ready woven clothing and baked bread and many things like these which are impossible. They hold conversely that the evil is that a man not be able to exist in those days and not merit to see the M<sup>e</sup>ssiah. They bring proof in many things which are found in our sages and in verses of the Pentateuch whose plain meaning agrees, in whole or in part, with what they say.

THE THIRD GROUP thinks that the hoped for good is to be the resurrection of the dead; that is, that a man may live after his death and return to be with his relatives and his household and eat and drink and not die again. They hold that the evil is that he not live after his death with those who shall live. And they bring <sup>P</sup>roof for this from many comments which are found in the words of the sages and from verses from the Pentateuch whose plain mēning teaches what they say or indicates it in part.

THE FOURTH GROUP holds that the goal which accrues to us through the performance of the c<sup>o</sup>mmandments is the repose of the body and the achievement of our ~~u~~ltimate desires in this world, like the fat of the earth, and many possessions, and a multitude of sons, and health of body, and peace and security; and that the ruling authority may be of Israel; and that we exercise mastery over those who have done evil to us.

And the evil which will fall upon him who rejects the principles of the Torah is the opposite of the above matters, for example, our present situation here in the diaspora. They bring evidence for their view from all



of the sources of the Pentateuch and curses and other things and from the many stories which are written in the Pentateuch.

THE FIFTH GROUP, and they are numerous, combine all of these matters together and they say the hope is that the Messiah will come, and that the dead will live, and that they will enter into the Garden of Eden, and eat there and drink, and enjoy good health eternally.

But it is a <sup>3</sup>marvellous thing that you will rarely find under any circumstances one to whom it occurs to say to what the name "World to Come" applies. Is it the good goal, or one of the evils that come before that goal? (Other texts read h-d-'w-th for h-r-'w-th, giving the reading, "is it the good conclusion, or one of the preceding propositions to the conclusion?")

Nor do they distinguish between the effect and the cause which leads to that effect (telios). (His question is, what is the relation of the "World to Come" to:

- a. The Garden of Eden
- b. Resurrection, and/or
- c. The days of the Messiah.)

But that which the entire people asks, both the multitude and the men of understanding, is, how: will the dead arise, naked or clothed<sup>d</sup>? And will they arise in the same shrouds in which they were buried, with their embroidered and decorated garments and finely sewn clothes, or with some covering which will simply cover their bodies? And when the Messiah comes, will there be at that time rich and poor? Or will there be in his days strong and weak? And there are always many questions like these. You, who study this book, may understand the following parable which I set to you, and then you will prepare your heart to understand my words about all of this.

Imagine to yourself that they brought a small boy to a teacher to teach him Torah, which is the greatest good for him, so that he might attain to perfection. But the child, because his years are tender and his intellect is weak, does not understand the value of that good nor what may accrue to him from perfection for its own sake. Therefore, the teacher is compelled, since he is more nearly perfect than the child, to move him to study by means of things which are clear to him according to his

tender years. So that the master may say to him,  
"Read and I will give you nuts and figs and a little honey,"  
(a Mutakallimun idea) and therefore the child reads and  
exerts himself, not for the essence of the reading, since  
he does not understand the value of it, but in order that  
his master give him the delicacy, and so that he may  
eat the tidbits which are more precious in his eyes than  
the reading and doubtless much better. Consequently  
the study is considered toil and labor, and he labors in it  
in order that there accrue to him because of that labor his  
desired end, which is a nut or a piece of honey.

When he grows up, and his intellect becomes stronger,  
the candy becomes insignificant in his eyes which was  
so precious to him at an earlier time, and he begins  
to value something else, then his teacher will motivate  
him and stir his desire by <sup>that</sup> which is now precious to him.  
His teacher will say to him, "Read and I will get for you  
fine shoes or good clothes," and in this way the youth will  
exert himself to read, not for the ~~essen~~ce of the study but  
for the clothing, the garment which is more honored  
in his eyes than the Torah. This is now the goal of his  
reading.

And when he is more mature in his intellect, he will despise this thing also and he will set his heart on what is higher or what is greater than this. Then his master will say to him, "Learn this pericope and I will give you a dinar or two dinars." In this manner the youth will read and exert himself to get the money, and that money will be more precious to him than study, since it is to him the goal of the study, by which he shall earn the gold promised him.

Now when his understanding is great, then this motivation will be despicable in his eyes, and he will know that this thing too is worthless. He will desire that which is more honored than this, and his master will say to him, "Learn so that you may be a chief and a judge and men will honor you and they will rise before you like So-and-so." And he reads and exerts himself so that he may achieve this superior thing. The goal will be the honor wherewith men will honor him, and raise him up, and praise him.

Now all this is discreditable, however much it may be necessary for a man of inferior intelligence that there be a goal for wisdom other than the wisdom itself

so that he say, "Let us study for smething, only so that we may achieve this honor by means of it."

But this is a mockery of the truth. It is about study like this that the sages say, "it is not for its own sake," that is to say, that he performs the commandment and that he learns and that he exerts himself in Torah, not for the thing itself, but for something else. The sages warned about this when they said, /Aboth, Cap. 4, Mishna 5/ "Do not make of the Torah a crown to glorify yourself with, nor a spade to dig with." They were hinting at what I have clarified for you: that there is no further goal for wisdom, neither to receive honor neither to receive honor from mankind nor to earn money.

So let him not occupy himself in the Torah of God, blessed be His name, to support himself ~~in the Torah of God,~~ ~~blessed be His name, to support himself~~ thereby, nor let there be for him a goal to the study of wisdom other than to know it alone. And similarly, there is no goal to the truth, other than knowing that it is the truth. The Torah is truth, and the goal of knowing it, is to do it. Thus it is forbidden for a perfect man to ask, "If I do these commandments, which are good principles, or if I will keep myself distant from the ~~truth~~

transgressions which are evil principles, which God, blessed be His name, commanded not to do, then what will be the recompense which I will receive for this?" Since this is like what the child says, "If I read this, what will he give me?" We may offer a child a particular thing because we see the poverty of his intellect, that he does not understand the value of the lesson and therefore he requests a further goal. So we give him another goal in keeping with his intellect, as the Proverbs say, "Answer a fool according to his foolishness."

The sages have already warned us about this also, that is to say, that a man should not provide a goal for doing the work of God, blessed be His name, nor should he perform the commandments for the sake of anything, and therefore a perfect man who apprehended the truth of these matters said ibid., Cap. 1, Mishna 3, Antigonus the man of Sokho said, "do not be like the servants who serve the master in order to receive a reward, but rather be like servants who serve their master not in order to receive a further reward." Truly he means to say regarding this, let him believe in the truth, in the truth for its own sake; this is the designate<sup>d</sup>/one who labors "out of love".

Our sages expound (Hagahoth Hagrib (supercommentary on Maimonides' Commentary on the Mishna, ph. by R. Judah b. Joshua Heskiel Bachrach, Lithuania 1775-Seiny 1846. Cf. Jewish Encyclopedia s.v. "Bachrach". His Nimmuge Hagrib on the Talmud appears in the same edition as our text of Maimonides' Commentary of the Mishna, viz, Vilna, 1880, p. 246): Abodah Zara 19b), "He desired greatly his commandments." R. Eliezer said, "His commandments" and not "the reward of His commandments." How clear this is; it is a clear proof of what has gone before in this article.

But even better than this is what they said in Siphre (Hagahoth Hagrib Bachrach): a matter like this is reported in Nedarim 62b): "lest you should say, "Behold I am studying Torah in order that I may be rich," or, "in order that I may be called Rabbi," or "in order that I shall receive a reward in the world to come," the Torah teaches, "to love the Lord your God": all that you do, do only from love. Thus the matter is clarified for you, and it becomes clear that this is the intention of the Torah and the fundamental intention of the sages, may they rest in peace. No one can deny this but a mad fool, whom



foolish thoughts and ugly reasons have made degraded and despicable. This is the virtue of Abraham our father, may he rest in peace (Hagahoth Hagrib Bachrach: cf. Sotah 31a), who used to serve out of love. This is the way according to which it is proper to be motivated (citation "stirred").

The sages, may they rest in peace, know that this in an extremely difficult matter, which not every man is able to comprehend. Even if he could comprehend, he might not agree with it from the onset because he might not think that there could be a pure faith since man does not do anything except in order that there accrue to him by means of it some benefit<sup>e</sup> or that some loss be averted. Were this not so, then that deed would be in his eyes a vain and profitless act.

How will he say to an adult man, "Do these things, but do not do them either from fear of punishment at the hands of God, blessed be His name, nor to inherit this good reward?" This is a very difficult thing, since not all men are able to achieve the truth unless they become like Abraham our father, may he rest in peace.

For this reason they permitted the multitude to base their motivation to do the commandments on the hope of reward and to shun transgressions<sup>1,3</sup> from fear of punishment.

They motivated them in this manner and strengthened their intentions until they attained ~~this~~ achievement and knew the truth.

But what is the truth? <sup>s</sup> ~~It is~~ not as with the child at the time of his learning, as I explained in the parable? ~~That they could~~ Thus they condemned Antigonos the man of Sokho, when he explained the truth to the multitude, and they said regarding him, "be cautious in your words," as it is explained in Aboth [Chapter 1, Mishna 11/].

But the multitude does not at all lose anything when they perform the commandments from fear of punishment and hope of reward; it is merely that they are imperfect. This motivation is good for them until they attain the strength and the habit and the exertion in the performance of the Torah; from this (i.e., performance for the sake of a reward) they will stir themselves to know the truth, and they will return to serve out of love. This is what our sages meant by (Hagahoth Hagri b Bachrach Pesahim 50b and ref. thereon), "A man should always occupy himself with Torah even if it is not for its own sake, because from not doing it for its own sake he may come to do it for its own sake."

Regarding what you must know, that in regard to the words of the sages, their memory for a blessing, men are divided as to how they interpret Scripture into three parties:

### I. The Literal Expositors

THE FIRST PARTY, which is the multitude of people that I have seen and whose partisans I have seen and I have heard about, they believe them — the words of the sages — according to their plain meaning. They do not think that there is some hidden meaning in them by any means.

The impossible things are as a whole necessary according to them in their essence. However, they hold thus because they will not understand wisdom<sup>m</sup>. They are far from understanding, and they have no perfection because of which they might motivate themselves in and by themselves, and they have not found a motivator which would stir their thoughts. They think the intention of the sages of blessed memory, in all of their sweet and correct words, is only that which they can understand according to their intellect, and that they are to be taken literally even though it would appear from some of their words that there is in them foolishness and absurdity to the point that if it were told according to its plain meaning to the ignorant, (and all the more so to the sages,) one would be astounded to hear them. We say of these, it is not possible that there could be in the world a man who will think as they think the sages do or will believe that this is a correct opinion, and

a fortiori, there is no one in whose eyes it would be acceptable.

This is the party of the poor of understanding, and they are to be pitied for their intellect, for they think they honor and exalt the sages through their misunderstanding, but they cast them down to the nadir and do not realize it. I swear to God that this party destroys the glory of the Torah and darkens its brilliance and makes the Torah of God, to be the opposite of its intention, since God, blessed be His name, has said in the perfect Torah, that if you shall obey all of these statutes, people shall say, "What a wise and understanding people is this great people." But this party so relates the words of the sages, of blessed memory, that when the other nation<sup>S</sup>/hear them, they will say, "What a foolish and corrupt nation is this small people." (Maimonides' point is that to listen, ie., to understand, the words of the hakhamim <sup>O</sup>ne must be an 'am hakham we-nabhon. Most of those who do this are the expositors who explain and inform the multitude of the people of that which they do not know. Would that since they do not know and do not understand, they would be silent, the proverb says, "Would that the mute will remain

mute, and it will be ascribed to him for wisdom;" or that they would say, "We do not understand the intention of the sages in this expression, nor how it should be explained." But they think that they understand and they attempt to inform, to explain to the people what they understand, they themselves with their weak understanding. But it is not what the sages have said. They preach before the people expositions from Tractate Berakoth and Pereq. Heleg and other sections according to their plain meaning, word by word.

## II. The Literal Polemicists

THE SECOND PARTY, they are also many, are those who see the words of the sages or hear them or understand them according to their literal meaning, and they think also that the intention of the sages is nothing but that which the literal sense indicates about them. But this group wishes to make the sages seem foolish and to ridicule them and they slander that which is not evil and they mock the word of the sages although their intellect (of the sages) is purer than theirs (of the mockers). They are deceived ignoramuses of inferior intellect, the very essence of stupidity, with the result that they cannot understand a word of wisdom by

any means. And most of those who fall into this error are related to the study of healing (medicine) and those who vainly pursue the laws of the stars (scientists, actually astrologers, the scientists of the day) because they according to their own opinion are understanding and wise in their eyes and keen minds and philosophers. But how far they are from those who are true sages and true philosopher<sup>S</sup>.

They are even greater fools than the first party and many of them are simpletons. This is a cursed party since they contradict great and exalted men whose wisdom is plain to the wise.

These simpleton, were their labor to be in wisdom with the result that they would know how properly to order and to write matters like<sup>k</sup> theology, as opposed to the multitude and the sages, then they would understand the practical aspect of philosophy, and then they would understand whether the sages, <sup>of</sup> ~~to~~ blessed memory, were truly sages or not, because the content of the sages' words would be clear to them.

### III. The True Philosophers

THE THIRD PARTY, as God lives, are very few, to the point that it is not proper to call them a party.

It is just as one might refer to the sun as a member of a class whereas it is really unique. (sui generis)

These are those human beings to whom has been revealed the greatness of the sages, may they rest in peace, and the excellency of their (the sages') intelligence. From that which is found in the generality of the sages' words, they learn about matters of great truth.

And even though they are few, and scattered in places far from their colleagues, they indicate their perfection, and that they have achieved the truth, and that it has become clear to them that the impossible can by no means exist as well as that that which is necessary must necessarily be found in reality, and yet they know that they (the sages, may they rest in peace) do not speak mockeries.

Thus it becomes clear to them that the words of the sages have a revealed part and a concealed part, and when in any case they are speaking of impossible things, they are speaking in riddle and allegory.

This is the manner of the great sages, and therefore the greatest of sages (Solomon) began his book (Proverbs) by saying, "to understand allegory and enigma," the words of the sages and their riddles. It is known to



grammarians that a riddle is a thing which is intended to express a secret thing and not a relatively revealed thing, just as one says, "I shall propound to you now a riddle, etc."

Since the words of the sages deal with the higher things which are the ultimate cause, certainly they are in riddle and allegory. How shall we blame them for composing wisdom in allegory and making it similar to things which are open and common, since we see that The Sage, more than any man, does this in the Holy Spirit: I refer to Solomon in the Proverbs and in the Song of Songs and to some extent in Ecclesiastes.

How do the other groups question us (of this class) when we give explanations for the sages' words, to free them from their literal meaning, merely so that they may be in agreement with Reason and agree with truth, since they are Holy Writings?

The sages themselves interpret the sentences of Scripture and free them from their literal meaning and understand them to be allegorical. This is the truth, for we find that they said (Hagahoth Hagrib Bachrach: 186<sup>b</sup>) in explanation of the sentence<sup>n</sup> (II Samuel 23:20 and I

Chronicles 11:22), "He smote the two leonine heroes of Moab," that it is entirely a homily. Similarly, to them the Scripture: "And He descended and smote the lion in the midst of the well" is homily. Similarly, the Scripture, "Who shall give me to drink waters from the well of Bethlehem" (Hagahoth Hagrib Bachrach: Baba Qama 60b ), and the rest of the sentence in its entirety, for the sages is a homily. Similarly, the story of Job in its entirety, according to some of the rabbis was a homily /Baba Bathra 15a/ , although they did not clarify to what thing this homily referred. Similarly, the dead in Chapter 37 of Ezekiel. /Cf. Sanhedrin 92b/, some of the rabbis said that that was a homily; there are many examples like these.

If you, the reader, are of one of the two first parties, you will not care for my words, or for anything regarding this matter, for no part of it will please you, but it will hurt you and you will have it. For how can light foods, few in quantity but good in quality be suitable to a man who is accustomed to gross foods which in reality harm him? He hates them. Do you not know that which was said by the men (refers to the Jew of Egypt) who were accustomed to eat onion, garlic, and fish, "We are

nauseated by manna?"

But if you are of the Third Party, then when you see a word from the rabbis which reason rejects, you will hold and examine it, and know that it is a riddle and a homily. You will lie down oppressed of heart and belabored of intellect to ponder its composition and its interpretation, and you will seek its rational meaning and the correct, right belief inherent in it, as it is said, "The preacher sought to find acceptable words, and that which was written was upright, even words of truth."

Then you may look into this my book, and it will be, with the help of God, of profit to you.

NOW I SHALL begin to speak of what I had intended.

It must be known, that just as the blind of eye cannot perceive colors, and the deaf cannot perceive the sounds of voices, and just as the eunuch does not desire sexual intercourse, similarly the body cannot achieve spiritual delight.

And just as the fishes do not know the element of fire because they exist in the element of water which is its opposite, similarly the joy of the spiritual world is not known in this material world; rather, such joy is not among us in any manner, but we have only physical delight

and sensual experience of food and drink and intercourse.

All else is without a physical being, so that we do not recognize it and we do not experience it when we just begin to think but only after great investigation.

It is fit that it should be so, since we are in the physical world, and therefore we only experience its temporal and coarse delights, whereas the spiritual delights are eternal, lasting forever, without ceasing. There is no relation between them and between physical delights, and they are not near in any manner. It is not proper for masters of the Torah and the greatest of the philosophers to have these physical desires, since it is known that the angels and the stars and the spheres do not have such delights. Of course in truth they have the greatest delight in that they know and experience the truth of the Creator, blessed be He, and in this they are in perpetual delight unceasing. But there is no physical delight as far as they are concerned, and they could not experience any since they have no senses as we do, by which they might experience them as we do.

Similarly, when one among us who is to become pure does become pure, he goes up to another level after his death, and he does not experience the physical

delights, nor does he desire them. His case is to *like* that of a king, who is the greatest one in the kingdom, and who desires his domain to extend itself. Therefore, he turns from playing ball with the youths as he used to do before he took empire, in his early years when he did not distinguish between the two values.

Similarly, we today exalt the delight of the body, and not the delights of the soul. But when you will examine these two delights, you will determine the baseness of the first and the value of the second, even in this world.

You will find that the majority of men, as a whole, trouble their souls and their bodies with toil and labor that has no value, so that they may achieve status and honor. But when men exalt them this pleasure is (it is obvious that their ~~highest~~ pleasure is...) not a physical pleasure of food or drink. Similarly, many men choose to be revenged upon their enemies more than to achieve physical delight. And many men remove themselves from the greatest physical pleasures from the fear that they will experience because of these pleasures <sup>u</sup>curses and shame from other men, or because of the desideratum that they might have a good name.

Now if the situation is thus even in this world, the physical one, how much the more so in the spiritual world, which is the world to come, where our souls become intelligent through knowing the Creator, blessed be He, just as the upper beings become intelligent, or even more.

And this delight is not segmented, nor is it numbered. And one will not find an allegory which hints at this delight, but rather as the prophet said (Cf. Tos. Yom Tob Oholoth, 11b), when he understood the greatness and value of the good: "How great is thy goodness which thou hast hidden away for thy righteous ones." (Psalms 31:20) And similarly they said (Berakoth 17a), "The world to come has no eating nor drinking nor washing nor anointing nor intercourse, (Maimonides is speaking against the Islamic philosophers) but the righteous sit with their crowns on their heads and enjoy the brilliance of the Shekinah."

This means to say, when the sages say that "their crowns are on their heads," they refer to the immortality of the intellect (muskal) which they have attained for themselves (var lect. LAH, referring to nephesh, as opposed to LAHEM referring to Zaddiqim), which is the Creator, blessed be He.

The rabbis refer to the concept, which is a unique

thing, as all the greatest of the philosophers have described it at greater length than we can here.

(Why do the rabbis, Maimonides asks, use the expression, "crowns on their heads?" The answer is that they mean to refer to the survival of the soul in existence, which is only attained conceptually. This conceptualization is God).

My view is that those selfsame souls shall take delight in that they will experience and know the truth of the Creator, blessed be He, just as the holy animals and the other levels of angels do to the limit that they can experience and know His reality. Behold, the good and the ultimate goal is to achieve this higher association.

The existence of the spirit beyond time, as we have explained, is connected with the existence of a Creator, blessed be He, which is the cause of the soul's existence insofar as it apprehends Him, as was explained by the earlier philosophers. (Var. lect.: Philosophy). This is the greatest good, with which no other good can be compared and with which no pleasure can be contrasted. How can you contrast the enduring, which has no end, with a thing which is ephemeral? This is the interpretation of (Qiddushin 39b, Hulin 14<sup>b</sup>2) of the Scriptures, "so that it may be well with thee and that thou mayest lengthen



thy days," in that world which is all of (infinite) length.

The perfect evil, and the great punishment, is that the soul be cut off and destroyed, and not be alive and existing. This is the "ct<sup>U</sup> off" that is written of in the Torah as, "that soul shall surely be cut off." The rabbis said (Sanhedrin 64b, 90a), "cut off" refers to in this world, and "surely cut off" refers to in the world to come; as Abigail said to David, "may the soul of my master be bound up in the bond of life." Behold whoever has chosen and is accustomed to the pleasures of the body, and despises the truth, and loves falsehood, he is cut off from value and he remains physical matter. The prophet has explained that the world to come is not experienced by physical senses, which is what is meant by, "no eye has seen God but thine." The sages said [Berakoth 34b, Shabbath 63a, Sanhedrin '99a/], all of the prophets as a whole only prophesied regarding the days of the Messiah, but as regards the world to come (which was to be after the coming of the Messiah), "no eye~~s~~ has seen God but thine."

Truly, the promises of good and the threats of evil which are written in the Torah, really mean this: That He tells you, "if you wish to do these commandments,

I shall help you to do them and to become perfect by means of them, and I shall turn away from you all the obstacles, because a man cannot do the commandments when he is sick or hungry or thirsty or in time of war or siege."

Therefore God witnesses that he will remove all of these things, and that men of good interest will be healthy and peaceful until they perfect their knowledge of God and merit the life of the world to come. Behold, this is reward for doing the Torah, (Var. Lect: is not that the earth will be productive and that men will live many years with healthy bodies but that they will be helped to fulfill the Torah).

Similarly, if they transgress the Torah their punishment will be that evils occur to them so that they will not be able to do the commandments, as it is said, "because that thou didst not do." And when you will comprehend this perfectly, you will find that it is as if He said to you, "if you will do some of the commandments out of love and effort, I will help you to do all of them and I will turn away from you oppressions and obstacles; but if you abandon any of them in a despising manner, I will bring you obstacles which will prevent you from doing them with the result that you will attain no perfection nor existence

(in the world to come.)" This is why the rabbis said,  
 "the reward of a commandment is a commandment and the  
 penalty of a transgression is a transgression." (The next-Secondary?—  
 section begins a total reversal of Maimonides' thought.)

But as to the Garden of Eden, it is a place of fresh  
 fat and oil, the choice of the earth. There are in it many  
 rivers and trees which give forth fruit, and the Lord will  
 reveal it to mankind in the future, and will show him  
 the way to get there and rejoice in it. And possibly they  
 will find there wondrous flowers (plants) which have many  
 practical, sweet and most delightful, uses besides those  
 which are known to us. All of this is neither impossible  
 nor far fetched, but it is likely. It would be so even if it were  
 not written in the Torah; how much the more so since it  
 is explained and elucidated among us by means of the  
 Torah. Indeed, Gehinnom is the name for the trouble  
 and the punishment which will overtake the evil persons.  
 There is no description in the Talmud for this punishment  
 /cf. well in Nedarim 8b and in Abhoda Zara 3b/, but  
 there are those who say that the sun will approach near,  
 and will burn, and their proof for this is Malachi 3,  
 "behold a day cometh which burneth like a furnace."  
 Some say that this is the strange heat which will develop in

their bodies and will burn them; and their proof for this is the text, "as to thy spirit, fire shall consume thee."

The resurrection of the dead is a principle of Moses our teacher, may he rest in peace; there is no belief or affiliation to the Jewish religion for him who does not believe this. Resurrection is only for the righteous. This is the meaning of Bereshith Rabbah, that "the rainfall (benefits of nature were) is for both the righteous and the wicked, but the resurrection of the dead is for the righteous alone." For how should the wicked live, when they are dead even when they are alivd, as it is said /Berakoth 18b/ "the evil ones, even in their life they are called dead; whereas the righteous ones, even when they are dead they are called alive."

(Was this last section an editorial gloss, is Maimonides contradicting himself, or is he intentionally "double talking" as some claim he does in the Moreh Nebhukbim, introduction?)

Know, that a man must inevitably die, and be separated (his body from his soul), and resolve into the elements from which he was constructed.

Certainly the Days of the Messiah is the time when sovereignty will return to Israel and when the Jews will

return to the land of Israel. The king (Messiah) shall be very great, and his kingdom (in Zion) shall make his name great; his renown shall fill all the peoples, more than that of King Solomon. All of the nations shall make peace with him and all of the lands shall serve him because of his great righteousness and because of the wonders which shall take place by his hand. God, may His name be blessed, will destroy and deliver all his enemies into His hand. Many verses of the Bible testify regarding His success and our success with him (military achievement); reality will in no way differ from what it is right now, except that dominion shall return to Israel. This is why the rabbis said /Hagahoth Hagrib Bachrach: Berakoth 34b; Sabbath 63a, 151b; Pesahim 68a; Sanhedrin 91b, 99a/ "There is no difference between this world and the days of the Messiah, except the subjugation of the dominating governments."

There will be in his days rich and poor, strong and weak, just as there are now, but in those days it will be very easy for human beings to find their sustenance, so that if a man will toil just a little, he will achieve a great result, and so the rabbis said, /Sabbath 30b/ "the land of Israel is destined to bring forth cakes and woolen cloaks." It is according as men say, as if a man might find something already prepared, "So-and -so found a

baked cake" or "a <sup>c</sup>oked dish". Thus the rabbis said,  
 "and the <sup>s</sup>trangers are your farmers and your viny<sup>e</sup>ard  
 keepers, to inform you that there will be ready<sup>har</sup>vest."

A sage once became angry who related this maxim  
 to his student, /see Sabbath 30b;ibid./ when he found the  
 student did not understand what he told him, and took his  
 words literally, whereas that was not the correct answer.  
 The evidence that this was not the correct answer, is  
 that he was rejoined with "answer not a fool according  
 to his folly. (Ecclesiastes.)

Now the great benefit which will be in those days  
 is that we may find respite from the subjugation of  
 emp<sup>i</sup>re, which prevents us from fulfilling all of the  
 commandments, so that wisdom may increase, as it is  
 said, "for the earth is filled with knowledge."  
 Wars will cease, as it is said, "and nation<sup>s</sup> shall not  
 lift up sword against nation." In those days will be  
 great fulfillment, and we shall merit the life of the world  
 to come, and the Messiah shall die, and his son will  
 rule after him, and his grandson; the prophet has already  
 described his death: "He shall not faint nor shall <sup>h</sup>e  
 hasten until he establish justice in the world." His  
 dominion shall long endure, and the lives of ordinary

men shall be lengthened; according as worries and anguish are dispelled, the life of men shall be increased. One should not be amazed if his kingdom endure for thousands of years, as the rabbis have said, "the good ingathering, is that when they shall have been gathered together, they will not quickly be separated."

We do not desire the days of the Messiah because of abundant produce or riches, nor so that we might ride on horses, nor drink wine and sing, as fools think. . Rather did the prophets and the pious ones desire the days of the Messiah, because there might be at that time an ingathering of the righteous ones and an administration of good and wisdom, and a righteous king, and an increase of uprightness, a dissemination of his wisdom and nearness to God, as it is said (Psalm 2:7b) 'the Lord said to me, "you are my son, this day have I begotten you," People will do the commandments of the doctrine of Moses our teacher, may he rest in peace, not with negligence and laziness, and not because of punishment as (Jeremiah 31:33a) "nor shall a man teach any more other men, etc.", saying, "know ye the Lord; for all of them will know Me from the small to the great, etc." "And I shall place my Torah in their heart!" etc., and "I shall take out the heart of stone from their flesh," and many verses



like these relate to this matter. (i.e., that they will know.)

Regarding such matters, the rabbis perceived the world to come clearly. The goal is the world to come, and besides this there is the effort; therefore the sage who is confined in the knowledge of truth, will see the ultimate goal, and he will let so anything other than that.

When he says "All Israel has a <sup>a</sup>part in the world to come," if it is the sought <sup>a</sup>goal, it is not fit for one who desires to serve God out of love, that he work to achieve the world to come, as we have explained previously. But he should work according to the <sup>t</sup>etha/<sup>c</sup>which I say, which is that since he believes that there is wisdom — which is the Torah which reached the prophet from the Creator, who related thereby the good commandments, and the evil transgressions — and since he is an honest man by temperment, then he should do the good and turn aside from the evil. When he does this, then the human element becomes perfected and he becomes differentiated from the animals.

When he will become a perfect man, <sup>in</sup> whose nature there is nothing to prevent that his soul live and endure, in the world to come, as we have said; thus, (Psalms 32), "do not be like a horse, or like the mule, who has no understanding, who must be held in with bit and bridle, which <sup>he</sup><sub>^</sub> thinks to be his ornament, lest he come near to you." This belief in the world to come is like that which

restrains animals from flaying; it is an external thing like the bridle or the bit. And it is not fit for a man. Rather, his restraints should be from himself.

I mean to say that the human form, when it becomes perfect, will in itself restrain us from those things which prevent us from achieving perfection, which are what we mean<sup>a</sup> by evil, and it will motivate us and urge us regarding that which will bring us to perfection, or the good. This becomes clear to me from the totality of the words of the rabbis regarding this matter of great weight and importance.

Hereafter, I shall write a composition and assemble in it all of the homilies<sup>i</sup> which<sup>c</sup> are found in the Talmud and other sources and I will explain<sup>a</sup> them, I will propound<sup>o</sup> opinions explaining the truth of these matters, and I will bring evidence from the word<sup>s</sup> of the rabbis. I shall reveal some of their homilies interpreted simply, noting which of them are allegory, and which of them were dreams, but described as if aware<sup>k</sup>. In that composition, I will explain to you many beliefs, and there I will explain all of the things of which I have given you the principles here, so you may draw an analogy to other things.

One cannot grapple with me, regarding what I have included in this essay, that which I have dispensed with in few words, and matters which the masters of wisdom grasp, for I have given this lesson in order to inform him who

had no earlier training in anything of this important matter, to which no to which not all men can attain to.

The word epikoros is Aramaic, and it refers to "a theological anarchist", one who despises the Torah or its students. Therefore they call by this name all who do not believe in the principles of the Torah and who (cf. Sanhedrin 99b) despise the sages, or a student of the sages who despises his master. Apocryphal and pseudepigraphal books, are called books of error. For example, one may say (in the sugyoth of Sanhedrin 100b) the book of Be<sup>DS</sup>aira, who was a scribe, is pure scoffing and partiality, and there is no sense to it nor profit, but only waste of time in vanity. Comparable are, for example, those books which are found among the Arabs, (drawing parallel to Arab non-canonical books), books of history and stories of the conduct of Kings, and the genealogies of Mohammed, and the Books of the Chant, and so on, Those books have no wisdom nor material of prophets but are only a waste of time.

He who mumbles over a wound reciting the verse Exodus 15:26 (an incantation of Sanhedrin 10:1 on 90a) except if it be in contempt, particularly if he spits, because there is in it despising of God; he who denotes the name of God by its letters Yod He Waw He, which is the Explicit Name; and he who does some already mentioned other things besides these — he who does them has no portion in the

world to come.

The rabbis said (Baba Mezia folio 58b), he who embarrasses his colleague in public (cf. chapter 3 of Hilkhoth Teshubhah) or does transgressions less serious than these, mentioned above, of them the sages say "one who is accustomed to practice these transgressions has no place in the world to come, namely. . .etc.", "one who calls his colleagues by an epithet, and one who honors himself in the disgrace of his colleague, etc;" the Keseph Mishne adds the following words: "As to what the master Maimonides numbered in the Hilkhoth Teshubhah, cap. 3, namely that one who calls his colleague by an epithet and honors himself in the disgrace of his colleague, I did not know of any place in which the sages said that he has no portion in the world to come."

But I wrote, in surprise, in the editions, that there was a novella which the Keseph Mishne had not seen, for in Jerusalem Talmud, Cap. "En Dorshin" (Hagiga 2), R. Yose said, "he who glorifies himself in the disgrace of his colleague, has no portion in the world to come." Cf. also the Magen Abraham, section #156. I wrote this on the Ms. by the help of God. Also in the question of

"giving first greeting" which I wrote with the help of God on the responsa or R. Ahai Gaon, I wrote clarifications of these matters. The above applies also to one who calls his colleague by an epithet or one who glorifies himself in the disgrace of his colleague, so that one may not do any of these deeds. Even though they are considered minor transgressions according to the doer, nonetheless they are of an ugly soul, which is imperfect and unfit for the world to come.

Herewith we must mention, that this is the most fitting of all places for the principles of our faith and its foundations, which are 13 in number.

THE FIRST FOUNDATION is to believe in the reality of the Creator, Who is present and perfect in all the paths of existence, Who is the essence of reality. Existing things derive their reality from the Sustainer of their reality, from Whom is their existence. Let it not occur to you to deny His reality, for in the denial (diminishing) of His reality you void the reality of all existing things, and there cannot remain a reality that could exist without the assumption of His reality.

If it should occur to us to deny existing things — all of them besides Him — this would not effect the existence of God. Nor would it diminish from it. There is no unity

or authority except His alone, of God, that is. For his existence is sufficient and necessary, and sufficient unto Him is himself, nor does he require <sup>for</sup> his existence any other thing. Anything other than Him, either of the angels (Var. Lect., Sikhlim, concepts) or of the bodies of the spheres, or what is within them, or what is under them: everything depends for its existence upon Him. This is the first foundation which is taught by the commandment, "I am the Lord Your God."

THE SECOND FOUNDATION is the unity of God; that is to say, we shall believe that He, the cause of everything, is Unique; He is not like one of a pair or like one of a kind or like one (Var. Lect. compared) individual which is divided into many units. Nor is He one like a simple body which is one of a number which can be divided infinitely. But He is God, unique in His unity, like which there is no unity. (Var. Lect. by any means) And this is the second foundation which is taught by that which is said, "Hear, O Israel, the Lord our God, the Lord is Unique."

THE THIRD FOUNDATION is the denial of His corporeality; that is, that we should believe that this Uniqueness which we have mentioned is not corporeal nor has the potential of a body, nor is it subject to corporeal events like motion and rest, nor spatial location, neither essential, nor by

chance. Therefore the sages negated both God's composition and division, and they said, "there is not above, either sitting or standing, and no neck and no turning." (Hagigah 15b; and Rashi wrote, "we have not learned that there is no support, there is no neck for on all of their sides they have a face; they turn in all directions") That is to say, no division, "and no neck" — and no connection, "no turning".

The word "turning" is in the sense of "and they turned the shoulder of the Philistines" (Isaiah). That is to say they pushed them by the shoulder in order to annex them. The prophet said, "to whom shall you compare Me that I should be like? says the Holy One."

Were He to have been a body, (he would) be like material bodies; therefore everything which is present in the Holy Writings which depicts Him in material terms, such as going and standing, and sitting and speech and so on, is all by way of comparison. Therefore the rabbis said (Berakoth 31b) "the Torah speaks in the language of man." The sages have already dealt at length with the matter.

This third foundation is taught by that which is said, "for you have not seen any picture." That is to say, you have not perceived Him to be possessed of any form, because He is, as we have said, not material and without the



potential of material.

THE FOURTH FOUNDATION is pre-existence or that we should believe that this uniqueness of which we speak, is clearly prior, and everything which exists besides it is not prior in relation to it. The proofs for this in Holy Scripture are many. This fourth foundation, it is taught by what is said, "from the beginning the Lord dwells," (Deuteronomy 33:27) "the ancient God is a refuge."

THE FIFTH FOUNDATION is that the Lord, may He be blessed, is the only One that it is fitting to serve and to magnify and to expound ~~whose~~ greatness, and to fulfill ~~whose~~ commandments, and that one shall not do in this manner to someone subordinate to Him in reality, nor to the angels or the stars, or the spheres or the elements or anything that is composed of them, for they are all of them created or formed, and as regards the work they do, they have no judgement nor choice except His alone, i. e., of the Lord.

Therefore it is not fit to serve them as mediary, as near to ~~Him~~, but to Him alone should thoughts be directed and anything else should be let alone. This is the fifth foundation, viz, that one should be wary of idolatry, ~~and~~ and the major part of the Torah cautions regarding this.

THE SIXTH FOUNDATION is prophecy, and this is that men might know that prophecy exists among men.

You will find among us individuals of an exalted nature and characteristic, and of great perfection, whose souls are prepared so that they may receive the form of another intellect. Then their human intellect will cleave to the Active Intellect and will be near it with great nearness; these are the prophets, and this is prophecy.

This is its nature, and the explanation of it as an element according to its very deepest sources.

It is not our intention to adduce a sign of each element and the explanation of <sup>2</sup>how it becomes real since this is the whole of wisdom, but I shall merely mention it. The texts of the Torah testify to the true prophecy of many prophets.

THE SEVENTH FOUNDATION is the prophecy of Moses our teacher, and it is that we must believe that he was the father of all of the prophets who were before him and who arose after him. All of them were beneath him in degree, and he was the choicest one of all of mankind, who achieved the attention of God.

More than all who did achieve or will achieve more than any man who did exist or who will exist, he attained to a quality of humanity of so very exalted a state that he was

inclined in the quality of the angels, and there remained no veil which did not split so that he might enter in through it.

No physical being appointed him, and he ~~suffered no~~ lack either great or small. He was free from imagination and sensation, and he achieved eminence after the cycle of excitement and relaxation, with the result that there remained only the intellect alone. And in evidence of this ~~was~~ it said of him that he spoke with God without an intermediary angel.

My intention was to explain this wondrous matter, and to present the key the texts of the Torah, so as to explain the meaning of "mouth to mouth" and every other text of this nature. But I have seen that these matters require much evidence, and thus involve many suggestions and parallels and allegories, and necessitate that there be explained at the beginning the reality of the angels and their degrees of distinction from the Creator. We will also have to explain and all of its potentialities, and the circle will inevitably widen with the result that we will have to speak of what form the prophets say would be proper for the Creator and the angels, and there would enter into this the Higher Lesson and its matter. And we would not be able to deal satisfactorily

with this matter alone even in, let us say, the shortest possible exposition, 100 pages.

Therefore I will let it be for its proper place, whether in a book of homilies which I have promised to compose, or in my book of prophecy on which I am working, or in a book which I will compose on my explanation of these foundations.

I shall instead return to my intention regarding this seventh principle, and I will say that the prophecy of Moses, our teacher, may he rest in peace, is distinguished from the prophecy of all of the prophets by four things:

1. The first is that as regards any common prophet, God did not speak to him except by means of intermediaries; but Moses was addressed without mediation, as it is said, "Mouth to mouth I will speak to him."
2. The second matter is that as regards any other prophet, prophecy only came to him when he was sleeping, as it is said in many places, "In a dream of the night," "In a vision in the night," and many cases of this kind. Or even if it was by day, it was after a slumber fell upon the man in a manner so that he would be deprived of all of his sensations, so that only his thoughts would remain free, as in a dream.

This is that matter which is called "vision", or

"sight", of which it is said, "In the vision of God" (Ezekiel 8:3, 40:2).

But as for Moses, the word of God came to him in the day while he was standing between the two cherubim, as God testified, 'and I will make myself known to you there' (Exodus 25:22); again, God said, "If your Prophet shall be" (Numbers 12:6)... "Not so is my servant Moses; mouth to mouth I shall speak with him.

The third matter is that the ordinary prophet, when the prophecy comes to him, even though it may be in a vision, or by means of an angel, his powers are weakened and his structure is ruined. He is seized by a very great dread, as if he were to die from it, as was said in Daniel when Gabriel spoke with him in a vision; he said, "there is no strength remaining in me and my glory is turned to destruction. I have no power stored up," and he said, "And I was asleep on my face, and my face was to the ground, and I said in a vision, all my powers are turned from me."

But Moses was not so; rather, when the speech of God came to him, there was no trembling or fear in any manner, as it is said (Exodus 33) "And the Lord spoke to Moses face to face as a man speaks to his friend," that is to say, just as terror would not seize a man from the speech of his friend, thus it was with Moses. He did not tremble because of the speech of God, even though he was face to face with Him,

which serves to strengthen our idea of his cleaving to intellect, as we have mentioned.

And the fourth matter is that as for all of the rest of the prophets, the spirit of prophecy did not rest upon them when they wished, but only according to the will of God. The prophet might wait days or years, but the prophecy might not come to him. And he might request from the Creator that God let him know a word of prophecy. And he might stand until he would prophesy or after days or after months or perhaps never, He would let him know (God might never give him the prophecy).

There were in existence sects that prepared themselves and purified themselves in thought, as Elisha did, as it is written in II Kings 3: "now take to me an instrument," and came to him prophecy. But he did not necessarily prophesy at the time when he prepared himself for this.

Whereas Moses, our teacher, at any time that he wished, said (Leviticus 9) "Stand up, and I will let you know what God has commanded you!" Or he said (Leviticus 16), "speak to Aaron your brother but let him not come at any time that he pleases to the sanctuary." Our sages said in explanation of this (Torath Kohanim, beginning of Parashath Ahare), "Aaron is not to come, but Moses is to come. (Aaron was included in the

the prohibition against coming, at his initiative, but Moses was not included in this prohibition).

THE EIGHTH FOUNDATION is that the Torah is from Heaven. That is, that we should believe that all of this Torah which was given by Moses, our teacher, is from the <sup>o</sup>mouth of the all powerful One. That is to say, it came to Moses, all of it, from the Lord, in the manner which is called for convenience sake "speech". It is not known how it actually came to him, but it was he, Moses, to whom it came. He was like a scribe, to whom one dictates, that he may write all of the events of the days (Chronicles) and the stories and the commandments; therefore he is called "The Engraver".

There is no difference between "And the sons of Ham, Cush, and Egypt," and "The name of his wife Mehitabel," and "Timna was a consort," on the one hand, and between "I am the Lord Your God" and "Hear O Israel" on the other, for all of it of it is from the mouth of the all- powerful One, and all it is all the Torah of God, perfect and pure and holy and true. (Therefore, he who says that certain verses and stories Moses related from his own invention, behold such a person is in relation to our sages and our prophets, a denier, and a haughty person, more so than all of the deniers, since he believes that there is :



is in the Torah a kernel and a shell, and that these histories and stories have no prophecy in them, and that they are by Moses our teacher rather than by God.

This is the matter discussed by the sages (Sanhedrin 90a): "The Torah is not from Heaven:" our sages said, he who believes that all of the Torah is from the Almighty One except for one particular sentence which the Holy One, praised be He, did not say, but rather Moses said on his own authority (ibid. 99a), even though he may have been inspired; this man is by definition a denier, for every single expression of the Torah has in it wisdom and wonders to him who understands them. But their (the deniers') wisdom is not achieved, for the Torah is broader than the world in its breadth and its measure, and wider than the sea, and a man has only to go in the footsteps of King David, to the God of Jacob, that he may pray for revelation, "Let me behold wonders out of your Torah" (Psalms 119).

Similarly, the received Torah explains also that it is from the mouth of the All-Powerful One, and this roof of the sukkah, that we make today, and the lulav, and the shofar and the zizith, and the tephillin, and the rest all are only to conform to the pattern which God showed to Moses and Moses told to us, for Moses was faithful in his mission. The proof which testifies to this foundation is related in

Leviticus 16, when Moses said, "thus shall you know that the Lord has sent me to do all of these deeds, that they are not from my own heart."

THE NINTH FOUNDATION is of faithful transmission. This Torah was transmitted by the Creator, the Lord, and not by anyone else, and one must not add thereto or detract therefrom, neither from the Written Torah nor from the Oral Torah. Thus it is said, "you shall not add to it and you shall not detract from it." We have already explained what one must explain regarding this foundation in the opening of this composition.

THE TENTH FOUNDATION is that the Lord knows the deeds of man and He hides not his eyes from them, and it is not according to him who says, the Lord has deserted the earth, but, it is according to him who says, (Jeremiah 32) "great is the advice and great is the deed, for your eyes are open upon all of the ways of the children of men." "And the Lord saw that great is the evil of man, and the earth..." (Genesis 6);, and it is said, "the <sup>U</sup>ostcry of Sodom and Gomorrah, that it is great" (Ibid. 18); and this teaches us regarding this tenth foundation.

THE ELEVENTH FOUNDATION is that God gives a reward to him who does the commandments of His Torah, and that He punishes one who transgresses its warnings, and that the reward is great, namely, the world to come, and that the penalty is strong, namely, being cut off. And we have already said regarding this matter what should be sufficient.

Scripture teaches regarding this foundation according to what is said in Exodus 32, "And now if you will do these transgressions, there will be no rest." "And God answered, he who sins against Me, I shall blot out from My book so that the transgressor may know and the sinner may know to give reward to this and punishment to that one."

THE TWELFTH FOUNDATION is the days of the <sup>Messiah.</sup> ~~Mishna.~~

One is to believe and to affirm that he will come and not to think that he will not come, even though he tarry. Wait for him, and do not fix for him a time nor make for him calculations on the basis of Scriptural texts, nor bring forth a time that he should come, regarding which the sages say (Sanhedrin 97b cf. there) "may that man be cursed who calculates the end."

(Messiah)  
One is to believe that he will have superiority and quality and honor more than all of the kings who ever were in the world, as was prophesied regarding him, by all of the prophets from Moses, our teacher until Malachi. And he who limits him <sup>o</sup> ~~or~~ who

limits him or who considers his quality to be low, denies the Torah, which testifies regarding him explicitly on Parashath Bilaam, and Parashath Atem Nizabim. We also see from the totality of this foundation, that there is no king for Israel except from the House of David and from the seat of Solomon alone, and anyone who disagrees that the Messiah will be of this family, denies the name of God and the words of His prophets.

THE THIRTEENTH FOUNDATION is the resurrection of the dead, which we have already explained.

Let a man believe in these principles, all of them, and let there be clarified through them his faith. Then may he enter into the totality of Israel; and it is commanded us to love him and to have pity upon him and to conduct oneself regarding him in all the ways that God has commanded for a man regarding his neighbor, out of love and brotherhood, and even to look upon his transgressions with brotherhood as the dominance of that lower nature which is to be accused for his sins; but he himself has a portion in the world to come, even though he be of the sinners, <sup>among</sup> ~~and~~ Israel.

But if there should be destroyed for a man any of these principles, then he has gone out of the totality, and he has denied the essence, and he is considered an apikoros, and his seed is cut off

and it is a commandment to hate him and to destroy him  
and regarding him it is said (Psalms 139) "have I not ,  
O Lord, hated him whom you hate."

And now behold I have expressed myself in very many  
words and I have digressed beyond the point of my  
composition, but I have done this because I saw in it an  
advantage regarding faith, in that I have gathered here  
helpful words which were scattered in many great books.  
Therefore know them and be successful with them and review  
them (these) (upon them) many times, and concentrate on them  
with great concentration. If your heart deceive you and you  
think that you understand this matter after one time or even ten,  
behold God knows that it is not true.

Therefore do not hurry in reading it, for I have not written  
this by chance as it might occur to me, but only after very  
great contemplation and concentration and after I  
formulated my opinions very clearly and correctly and  
weighed them all, and I have known that which it is fit  
to believe among them and I have brought evidence and  
reasons and proofs for every single matter. And I have found favor and  
been guided by God in the good way; and now I shall return  
to the substance of this chapter.

## FOOTNOTES

1. Semikah perhaps functionally died in the second century.

A codical survey must consequently exceed the strictest bounds both of code and of semikah.

2. This is a dist<sup>n</sup>iction which will be clarified in the text.

3. Actually, one becomes involved in the relation between teacher and student, a special relation under Jewish jurisprudence. Such a special relation is functionally unknown under Western civil jurisprudence, with the exception of the criminal law of the state of Ohio, which does provide for such a special relation, proscribing sexual relations stringently between those in a teacher-pupil relation. The following study has been worked up for this enquiry by a legal resource firm:



No male person over twenty-one years of age who is a superintendent, tutor, or teacher in a private, parochial, or public school, or a seminary or other public institution, or an instructor of a female in music, dancing, roller skating, athletic exercise, or other branch of learning shall have sexual intercourse with a female, with her consent, while under his instruction during the term of his engagement as such superintendent, tutor, or instructor.

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I, Mildred C. McCallister, a Notary Public in and for Montgomery County, Ohio, do hereby certify the above to be a true and correct copy of Section 2905.13, Ohio Revised Code as it appears on page 56 in Volume 29 Page's Ohio Revised Code.

*Mildred C. McCallister*  
MILDRED C. McCALLISTER, Notary Public  
In and for Montgomery County, Ohio  
My Commission Expires Aug. 31, 1967

Case Notes

General Code Sec 13444-23 (RC Sec. 2945.63) provides that in prosecutions under this section a conviction shall not be had on the testimony of the female unsupported by other evidence to the extent required as to the principal witnesses in case of perjury.

1. A male teacher, who has sexual intercourse with a female under his instruction, with her consent, at her father's house, after school hours of one day, and before school hours of the succeeding day, during the term of his engagement as her instructor, is liable to punishment under this section: Brown v. State, 38 OS 374
2. For form of charge as to corroboration (GC Sec 13444-23 (RC Sec. 2945.63)), see Wertenberger v. State, 99 OS 353, 124 NE 243.
3. In a prosecution under this section it is error to admit as evidence in behalf of the state an affidavit charging the accused with being the father of the bastard child of the pupil: Wertenberger vs. State, 99 OS 353, 124 NE 243.
4. A music teacher, employed to give a certain number of lessons but not for a definite time, who has intercourse with a female pupil during the time of such employment, is within the meaning of this section: Esley v. State, 10 CC(NS) 169, 19 CD 568.
5. In an indictment under this section it is not necessary to aver that the teacher and pupil were not husband and wife: Esley v. State, 10 CC(NS) 169, 19 CD 568.
6. Evidence of sexual intercourse between the parties at other times and places than those charged in the indictment are admissible: Esley vs. State, 10 CC(NS) 169, 19 CD 568.
7. The positive testimony of a witness of an act of sexual intercourse between a teacher and a female pupil, that such act occurred at a certain place on Wednesday, is sufficient to sustain a verdict of guilty, even though the complaining witness testified that no such act occurred at that place except on Sunday. Such testimony will not be excluded as not corroborative of the complaining witness: Esley v. State, 10 CC(NS) 169, 19 CD 568.

4. Comparative religious studies are highly limited, owing in part to language limitations.
5. One of the most involving of all investitures, the overtones of this gesture are worthy of lengthier examination than can be given here.
6. And specifically hattarath hora'ah.
7. There is truly no single "Talmudic" understanding, but a range of overlapping understandings is formulated for ease of discussion.
8. The "Permission to Teach", understanding the verb as a technical term, becomes more significant than semikah in some contexts, and often makes better structural sense.
9. Including the rishonim with the exception of Alfasi and most of the dominant later codifiers.
10. In order to draw every nuance out of the text which might be of significance to later interpreters or in understanding the mental set inherent in the work of the composer.
11. A special picture of the halaka as a living thing is presented, along with the ration therefor.
12. For which method I am totally indebted to Dr. Ellis

13. Rivkin.

13. With particularly interesting contrasts in the HUC and HUC-JIR documents. Among other findings, Dr. Nelson Glueck's rabbinical investiture was and presumably is by authority of the UAHC, a fact perhaps not often stressed.

14. Styled "critical" in that they attempt to be of some use to one who may work in this field. A few of the general primary resources were reviewed by me in previous publications.

15. After discussion in the text proper.

16. Smjkh, the nominal derivative of the verbal root  
s-m-k; cf. Francis Brown, S.R. Driver, C.A. Briggs,  
A Hebrew and English Lexicon of the Old Testament,  
 Oxford, 1907, 1957 revision and Marcus Jastrow,  
A Dictionary of the Targumun, the Talmud Babli  
 and Yerushalmi and the Midrashic Literature,  
 New York, 1950
  
17. Seldom is a clear differentiation of juridical from  
 other literatures available in the earlier works.  
 In later works, however, a certain clarity ob-  
 tains. For our purposes, the major codes in  
 this consideration are, in order of composition,
  - a. The Halakoth of Isaac Alfasi (12th century),  
 the first major code of note;
  - b. The Mishne Torah of Moses Maimonides  
 (12th century), the first topical code;
  - c. The Sefer Mizwoth Hagadol of Moses of  
 Caucy (c. 1250);
  - d. The Arba'a Turim of Jacob b. Asher (d. 1340);
  - e. The Beth Joseph of Joseph Karo (1488-1575);
  - f. The Shulhan Arukh of the same author,  
 based upon (e.).

The authority of (b.), (c.), (d.) and (f.) among ortho-  
 dox Jews will be discussed in the notes under "Codes", infra.

18. As in J. Kil. III 28d bot.
19. As in the Biblical examples, infra.
20. As in Menahoth 9:8 (93a); cf. Tos. Hag. 2:8 with 2:2.  
Cf. thereon Zeitlin, "The Semikah Controversy  
Between the Zugoth", in Jewish Quarterly Review  
7:14 (1917) and "The Principle of Intention" by the  
same author in the Jewish Quarterly Review.
21. As in Sanhedrin 14a
22. As at the present time.
- 23.
24. As in Shebi. 3:8
25. As in Mid. T. to Psalm 136, s.v. "Og."
26. As in J. Sab. 3 (5d) bot. cf. B. Sab. loc. cit.,  
where one vessel may be warmed by placing it  
near another.
27. As in Menahoth 9:8 et passim.
28. So Jastrow, op.cit, p. 1000b bot. Others disagree.

29. As in Sanhedrin 14a et passim.
30. As in J. Shebi. 10 (39c) on Deuteronomy 15:3;  
cf. "Asmakhtah" in Jastrow, op. cit.
31. As in Yeb. 4a on Exodus 22:17 and 18.
32. As in Numbers Rabba s. 9.
33. As in Genesis Rabba s. 45 et passim.
34. As in Targ. 2. Samuel 1:6 (Deuteronomy 33:7)
35. As in J. Kidd. 3 (64a) top.
36. As in J. B. Metz. 9c beg.
37. As in M. Kat. 13b
38. As in Targ. J. 1 (Deuteronomy 33:7)
39. Particularly are we indebted for some of the better ones to Dr. Solomon Zeitlin, "Semikah Controversy" supra.
40. Webster's New International Dictionary of the English Language, second edition, unabridged, G. and C. Merriam Company, Springfield, 1947, s.v., ordain, p. 1715a.

41. Ibid., Fr. Robert B. Mulcahy, D.D., of St. Joseph's Seminary, Yonkers, holds that it "designates consecration," The Catholic Encyclopedia Dictionary, New York, 1941, p. 708b, q.v.
42. Webster's is prepared to exclude all non-Christians, and Mulcahy all non-Catholics.
43. Webster's, loc. cit., Cf. in this regard the writings of Rudolph Otto, the equation of holy with taboo, "set apart, aside, prohibited." Cf. also sacred from the Latin sacer, "holy, cursed," cf. old Norse saett, "covenanted, taboo, restricted." Cf. also James Hastings, Encyclopedia of Religion and Ethics, New York, 1928, s.v. "authority"
44. Mulcahy, loc. cit. Cf. Webster's loc. cit., etymology
45. The same bland sloppiness in the use of technical terms is seen in the frequent descriptions of Jewish "excommunications" by those who fail to notice that Jews by and large do not administer, and consequently cannot withhold, the sacrament of holy communion.



46. By virtue of the sacred ("secret"?) service, but it is popularly held, and the idea is encouraged, that priests are somehow marked men from birth, "destined."
47. Polynesian tapu, "interdicted, cursed, holy, sacred, set apart."
48. Enhanced by special clothing, a magic language (so identified in the magical folk invocation based on hoc est corpus domini: ("hocus pocus dominocus,") non-fraternization (celibacy), a preference for the color black, a color of magic and often evil in certain European folk traditions.
49. "Catholic" as the classical priesthood par excellence, which set the tone for other sacerdotal functionaries just as the Jewish priesthood of the second Temple set the tone for it.
50. Political and economic control, favor.
51. The commercial interests of the Spanish clergy after 1492 will be discussed infra.

52. Voodoo is one example of an extreme, as are the powers — both for good and for evil — of the hetman and the shaman, and no less of some Christian medieval clergy, and of some Hasidic tsadikim. Prophets not only served in what we would today consider priestly capacities (Cf. II Isaiah) but manifested signs of magical powers. (Cf. Elijah and the rabbinic view of him presented in the Miqraoth Gedoloth or Psalm 121, especially verse 4) and often today reform rabbis in America are called on to perform theurgic functions, e.g. , blessing children or saying prayers "over" the sick, where the intent is what Nicholson (Philosophy of Religion, Urbana) calls the "manipulative control of transcendent power."
53. He is, in fact, considered often by many congregants to be analogous to the minister, or classically, the priest. Theurgic considerations have already been mentioned; as well, the question of kashruth generally breaks down into the following headings:

- a. Out of the home, public gathering;
- b. Out of the home, private gathering;
- c. In the home;
- d. The rabbi.

Here, (d.) represents a standard unto itself, just as the Priesthood in the days of the Pharisaic interpretation of the parah adumah was compelled to observe codes not incumbent on the populace at large. Many rabbis state that they come to feel that they are regarded as the community gedi-le-Azazel, or in some sense the gorban; in fact, however, it is not gorbanuth which most adequately describes this function, but vicarious atonement.

54. That it was not part of the categorical definition may be seen from the prohibition against using the Torah as a qardom lahpor bo in Abhoth; although the acts of rabbis are mentioned in the Talmud with regard to vicarious incrimination (Cf. Jewish Encyclopedia, s.v., Judah b. Baba), they are rarely held to be effective for vicarious atonement.

55. The concept "rabbi"

55. The concept "rabbi" is a changing one from time to time and from place to place, v.i.

56. In order,

- a. Ceremonial investiture;
- b. Fixed formulae of investment (q.v.i., text)
- c. Special functions from which non-initiated are debarred;
- d. Special knowledge (sacred, sacer, "secret");
- e. Formulary oath by candidate;
- f. Removal of candidate from "normal" life functions; biological, sartorial, social, moral, essential
- g. Atmosphere of mystery;
- h. Claims on transcendent power;
- i. Involvement with the political power structure.

57. I.e., the possession of special knowledge (d. supra) which, while not necessarily involving secret knowledge, was almost always a qualification for the Jewish ministry. Even here, however, whether an indispensable role was given knowledge in certain periods, as in the earlier Biblical or the late Hasidic, has been questioned. In that light,

one might conclude that the term "rabbi" has been applied to structures that are totally exclusive of one another.

58. Even within what we are calling the "Jewish" tradition, to say nothing of uses of the term outside that tradition.
59. Down to the present day.
60. Forms of ordination are found in Biblical times and in pre-Biblical texts. Examples of the former are: Numbers 27:18-23, Deuteronomy 34:9, and other P document occurrences. Ordination also applies to separation, segregation, or taboo for negative purposes, as in electing a scapegoat, in manumitting a slave, in preparing a sacrifice, in condemning a criminal, all v.i.
61. Beyond simply institutional creation of a controlled, licensed, scholar class.
62. Not only are the functions of prophet and political leader merged in Moses, who shares his own authority with others (v.i.), but Moses's transmission of the leadership to Joshua is at once a transfer of secular and religious leader-

ship. Zeitlin (Secular and Religious Leadership) has traced what may yet become a whole theory of Jewish history on the basis of the continued attempts, he would say, or the religious leadership to assume the powers and role of the secular leadership, and vice versa.

63. Thus, for example, Elijah and Elisha.
64. Not only Aaron, who was traditionally commissioned by God and therefore would not be a good example to the fundamentalist Bible scholar; certainly the court prophets were agents of the kings.
65. Used here in the sense of crowning. In the ancient Levant, the custom of seating heavy crowns of silver and gold on the head was not common. Instead, the practice of wetting down the skin with oil (the Egyptians even used to have oil pans under their ceremonial hats to drip oil down on them during the day) led to anointment as a symbol of assumption of rule.
66. I.e., a priest in his character and function qua priest; Cf. Webster s.v. "sacerdos," p. 2193b.

67. I.e., in the common meaning of a holy prophet, as opposed to a sacerdos; cf. Webster's s.v. "sacer vates," p. 2193 b.

68. If they were appealing to on the one hand religious authority, and on the other hand secular authority, as Zeitlin would have it (Secular and Religious Leadership), then what would be the grounds for conflict among themselves? Obviously they might compete in trying to gain ascendancy over the minds of the people, this one maintaining that the first loyalty of the people is due the secular, the other one the religious, authority. But between their respective authorities as such, there would be no point of contact, not to say conflict. The precise reason why they clash within their own structure is that they share a structure, i.e. the same authority; there is neither on the one hand a disparity between the authorities of the secular power and the religious. "Ordination", consequently, must inevitably, in dealing with that authority and how it is passed down, examine how the passage is from time to time contested.



69. Webster's, s.v. "code".
70. Elements which are codical and later incorporated into more nearly structured codes need not always demonstrate inherent systematization in their earliest forms. We do not, however, thereupon exclude them from our definition.
71. The one who compiles a code may not be, and often is not, the source of the materials codified. The material, in our view and for our present purposes, should not be excluded, from its earliest appearance, from the class of codical literature, on the grounds that it eventually became formally codical.
72. Structural aspects of Law and Jewish Law are discussed more fully in Podet, Elements in the Development of the Concept of False Witness from the Code of Hammurabi through the Babylonian and Jerusalem Talmuds, pp. 19-20 and footnotes thereon, pp. 159-164.
73. A code remains a code after its statutory power has

passed, or if it never achieves power. Cf.

Encyclopedia Britannica, art. "Law".

74. Ravina was the redactor (or one of the redactors) rather than the codifier of the Babylonian Talmud in substantially the form in which we now have it (cf. Bibliography) at or about the date given. Codification is not precisely assembly, nor is editing, but some of each (including perhaps redaction) were conceivably involved. Nor should it be supposed that after Ravina ("Rabina", q.v. in the Jewish Encyclopedia) the Talmud underwent only changes due to scribal errors. Often purges and expurgations necessitated word substitutions (e.g. "Rome" and "Esau", circumlocutions to avoid difficulties with Christian authorities, who nonetheless, often revealing self-incriminating sensitivities, condemned the Talmudic and codical texts nonetheless.
75. And is not the Mishna a code, codified in fact a century earlier? And were there no codes before the Mishna? Thus, a truly thorough survey of codical material would have to go back to the earliest materials, cf. Podet, op. cit., p.28ff. and footnotes thereon.

76. Rab Abina II bar Huna, 7th generation Babylonian Amora, 470-499, nephew of Ravina I, d. 420, pupil of Raba. Cf. Strack, p. 133.
77. Cf. art. "Talmud" in the Jewish Encyclopedia
78. "The codes which orthodox Jews consider as authoritative are specifically:
- a. The Mishne Torah, by Moses Maimonides;
  - b. The Sefer Mitzwoth Hagadol, by Moses of Coucy (1250);
  - c. The Arba'a Turim, by Jacob b. Asher (d. 1340);
  - d. The Shulhan Arukh, by Joseph Karo (1488-1575).

But these codes, especially the Shulhan Arukh, are considered authoritative only in connection with the commentaries thereon.

'Sources' are defined as:

- a. The Mishna;
- b. The Tosephta;
- c. Both Talmuds (When the sources contradict one another, then the Babylonian Talmud is given the preference.); and
- d. The Halakic Midrashim."

Cf. ext. mater. in Strack, op. cit., p. 89 and notes.

79. The recent issue of Responsa of the Jewish Welfare Board during the second World War represented responsa by the combined authorities of all divisions of institutionally organized American Jewish religious life, sitting in one congress. It tends to escape the charge, founded or otherwise, that Reform Responsa as collected by Freehof are sectarian and divisive. The Jewish Welfare Board responsa were products of the exigencies of a moment, but they were by and large accepted as binding. They represent a monumental work of cooperation, and the definitive work on them remains to be attempted.
80. In fact, a distinction should be made between the referents of the adjectives Canaanite, Hebrew (of the patriarchate and later), Israelite, and Judaeen, then Jewish, in the order of their appearance. In fact, however, the terms have become interchangeable in usage.
81. Cf. Rivkin, "Modern Trends in Judaism", in Kitagawa, Modern Trends in World Religions.

82. Broadly speaking, the first half of the millenium.
83. Broadly speaking, the area of the responsa literature.
84. Together with the Apocrypha and Pseudepigrapha and Greek Bible (New Testament) where these can shed light on the modes of thinking prevalent in the time of composition of the "Old Testament".
85. The methods of hermeneutics (cf. Jewish Encyclopedia, art., "Hermeneutics") always leave one in doubt as to whether the object was to propound or to deduce, whether to explain the inherent in the old or to link the novel to it (cf. Guttman, Behinath Ha-Mizwoth.) Certainly the qera was the starting point of every halakic discussion, and the question, tana heka kae? is to be answered tana agera kae.
86. In the sense of "master", "teacher", "leader", from rav, r-b-h to be great, to be many; some trace it to the biliteral root r-b, holding that the terminal h is an accretion.
87. In the sense of "ordination", "selection", "authorization", "leaning", "laying on of hands", "special designation",

from s-m-k, to lean, prop, rely, depend.

88. In the sense of "appointment", "designation", "charge", from m-n-h, to designate, appoint, or from the biliteral antecedent, cf. supra on r-b-h.
89. Priestly or prophetic.
90. In any of the classes above.
91. Of what we are going to consider beyond our legitimate purview no less than of how far we shall delve into that which is within our legitimate purview.
92. That is, we lay down the limitations before we survey the field, in order to know what of the undifferentiated field to in fact survey.
93. Organic in the sense that it presents an undifferentiated, unclassified, unoutlined collection of facts of equal weight or lack of weight. We then weight these facts more or less and arrange them.
94. Because it is inherent in the academic discipline. The imposition of that very discipline makes the

subject matter appear to come out disciplined.

95. Of employing a discipline to seek the presence of the discipline we employ. Heisinger's classic exposition of the Principle of Necessary Uncertainty applies here, in that the act of seeking determines the field of what is to be found.
96. Including, where useful, the pre-Biblical literature.
97. Contextual analyses of the terms, in the manner of a close textual analysis, may help us to deduce the meanings attached to the terms. Sociopolitical case analyses, while less "reliable" in the technical sense, may often be for us more "valid".
98. Based in part on Eduard Lohse, Die Ordination im Spätjudentum und im Neuen Testament, Goettingen, 1951



99. "lean, lay, rest, support" in Brown, Driver, Briggs, op. cit., p. 701b.
100. Rather than late or derived (cf. German "weak" i.e. modern) words. Generally these are action words.
101. Ibid.
102. By M. Lidzbarski, Nordsemitische Inschriften, ss. 317, 329.
103. S. 335; cf. Brown, Driver, Briggs, loc. cit.
104. Ibid. It survives the Geez in Amharic and appears in Aramaic with its earlier meanings, cf. supra note 99.
105. Solomon Mandelkern, Veteris Testamenti Concordantiae, Tel Aviv, 1959, II, 800d through 801 b.
106. Ibid. Cf. also Brown, Driver, Briggs, loc. cit.
107. Is it licit to take quotations from both J document and Ezekiel as if they were contemporaneous? It is in the present case, because we are laying the basis for the rabbinic interpretation of a term, and the rabbis often paid scant attention to times

of composition in selecting proof texts for buttressing positions. Although they would discriminate Pentateuch, Prophets, and Hagiographa in terms of authoritativeness, each class below the one before it, they did not differentiate in a developmental sense the temporal evolution of structures whose operational definitions would be reflected in specific terminological operations. Thus, the Mosaic ordination of the elders will become a precedent for rabbinic continuity of semikah, infra.

The text of the Ezekiel quotation reads, "Son of man, note this day, for on this very day the King of Babylonia leans against (attacks) Jerusalem." All translations are mine unless otherwise noted.

108. Exodus 29:10, 29:15, 29:19; Leviticus 1:4 ff (12 times); Numbers 8:10, 8:12, 24:14, 27:18, 27:23; Deuteronomy 34:9, all P documents using the dative, as opposed to J documents<sup>8</sup> use with the accusative, as in Genesis 27:37 q.v.i.
109. Used here with the dative 'al construct, in a figure; "You rested your anger on me, and the force of your crashing breakers afflicted me." Cf. sense 1, supra.

110. And Isaac answered Esau: "I have appointed him master over you, and all his brothers I have given into his service, and with corn and new wine sustained him; What is left for me to do for you, my son?"  
Employing the characteristic J document accusative structure. Cf. however, Psalm 54:6 where the same significance is communicated with the beth essentiae.
111. This is taken up further in W. Gesenius, Hebrew Grammar (ed. Kautsch), sec. 119 i, q.v.
112. Omitted in error from Mandelkern, op. cit., s.v., s-m-k, p. 800d.
113. It might be assumed that this (following Hastings Encyclopedia of Religion and Ethics art. "Ordination" q.v.) was investiture of sin-offerings (hattath) only, vide verse 14b; but in fact the same procedure is designated for an 'olah in verse 18a-beta, et passim.
114. Also P document. Leviticus 3:2 and 4:24 employ the formula, samakh yado 'al- or wesamakh yado 'al-.  
Leviticus 3:8, 3:13, 4:4, 4:29 and 4:33, however, employ the accusative eth of direct object in the formula:

samakh eth-yado 'al-rosh etc.

115. Some form of the formula. But Brown, Driver, Briggs, op. cit., states (p. 701b) that he can only find twelve. Our fourteen are 1:4; 3:2, 8, 13; 4:4, 15, 24, 29, 33; 8:14, 18, 22; 16:21; 24:4.
  
116. Yet both are united perhaps in purpose; they are both possibly intended lekhapper 'al-ha-leviim. We say "perhaps" because the verb lekhapper in verse 12-beta may be linked with either the 'olah or the hattath or both in verse 12-b-alpha. Vide Sforzo on Leviticus 1:5.
  
117. II Chronicles 29:23
  
118. Numbers 8:10: "Bring the Levites to the Lord, and let the Children of Israel lay their hands on them." With 'al-.
  
119. Which would unite aspects of 1: (a), (b), (c.), (d) with this category, 2: (b), leaving 2: (a) in a class by itself.
  
120. Making the witnesses primary agents of the law. Cf. Podet, op. cit., pp. 34-64 and notes.

121. Leviticus 24:14: "Take the blasphemer outside the camp, and let those who heard him lay their hands on his head ('al-) and then let all the assembly stone him."
122. Numbers 27:18: "The Lord said to Moses, Take Joshua, son of Nun, a man who has presence, and place your hand upon him." ('al-) Numbers 27:23 reads, "and He lay his hands (change to plural) on him and commanded him just as the Lord had said, By the hand of Moses."

Deuteronomy 34:9 reveals a startling result of this action in the eyes of the priestly redactor: "Joshua, son of Nun, was full of the spirit of wisdom, for Moses had laid his hands upon him; Israelites obeyed him and did as the Lord had commanded Moses." Seemingly Joshua has incarnated Moses' spirit with that of wisdom!

123. But there is disagreement as to the meaning of asher ruah bo. Some hold it means only stubbornness (so R. Solomon b. Isaac quoting Sifre, cf. R. Solomon b. Isaac ad loc. s.v. ruah.

124. Numbers 11:16-17: "The Lord said to Moses, Gather 70 elders of Israel whom you know to be sages and responsible, and stand with them at the tabernacle; so that I may descend and speak with you there, and share the spirit which is yours with them, that they may bear the business of the nation with you, and you need not bear it alone."

Numbers 11:24-25 reads, "Then Moses went out to tell the people what the Lord had said, and gathered 70 sages of the people and stood about the tabernacle, and the Lord descended in a cloud, and spoke with him, and shared the spirit which was his, and gave of it to the 70 sages, who, as soon as they had received it, commenced incessantly to prophesy (here a terminus technicus, prophesying may refer to glossolalia, speaking in tongues, an epileptic sort of frothy sounding considered magical)."

125. Maimonides, Yad, Sanhedrin 4:1 states that the 70 elders were ordained in the same way as Joshua. B. Sanhedrin 14a reinstitutes the title "zaqen" for ordinands, based on this verse, and as Deuteronomy 34:9

demonstrates (q.v.s.), this seemed to be a standard method of transfer of authority, if not in fact charisma.

126. Further evidence of this will become apparent in the treatment of the codes.

127. Since an animal may be the object of the act.

128. Else, why need one speak of one who s-m-k his hands upon...?

129. As in Judges 16:29, II Kings 18:21, II Chronicles 32:8, et passim.

130. Cf. Brown, Driver, Briggs, op. cit., p. 584a.

131. Ibid.

132. Brown, Driver, Briggs, reads each separately, deriving four definitions. The texts do not bear this out. Cf. ad loc.

133 As in Genesis 13:16

134. As in Numbers 23:10

135. As in Deuteronomy 1:5, 1:10, 1:11, et passim.



136. Genesis 13:16 J code
137. II Kings 12:11
138. Psalms 147:4
139. Jeremiah 33:13
140. Psalms 90:12
141. II Samuel 24:1, I Chronicles 21:1, 21:17. I Kings 20:25.
142. Genesis 13:16
143. I kings 3:8
144. I kings 8:5, repeated in II Chronicles 5:6. Should m-n-h here be read (1) "counted", or (2) "appointed"?
145. To count; intensively, to recount or relate. Cf. Brown, Driver, Briggs, op. cit., p. 707b ff. and the examples cited there.
146. As in Isaiah 65:12, with a play against m-n-y in verse 11. The name of this god deserves special consideration. Meni was a god of fate, whose name is related to the m-n-h sense of "apportionment",

of Brown, Driver, Briggs, op. cit., p. 584b top.

It may be related to the Arabic form of the god

Manniyat (and perhaps Manat, cf. J. Wellhausen,

Skizzen und Vorarbeiten, 3, 22 f 189. For the

Nabatean m-n-w-th-w cf. J. Euting, Nabatäische

Inschriften No. 2, l.f. Cf. T. K. Cheyne,

A. Dillman, F. Baethgen, Beiträge Zur Semitischen

Religionsgeschichte, p. 79

147. Isaiah 53:12

148. I Chronicles 9:29, in the intensive, with the dative 'al.

149. Jonah 2:1

150. Jonah 4:6

151. Jonah 4:7

152. Jonah 4:8

153. Jonah 2:1. Not a whale, as often read, although the miracle might have been greater so. No known whale can swallow a man whole. Some fish have been known to do so.

154. The anthropologists' concept of the aura of charismatic leadership. The so-called natural or born leader is anthropologically described as possessed of personal mana. The word is Polynesian, and a fuller description may be found in Webster, second edition, p. 1492 b bot.
155. As with Elijah and Elisha.
156. If the Elijah example be inconclusive, it is certainly clear that Moses loses no mana in ordaining the 70 elders who assisted him in governing in Numbers 11:16-17, 24-25.
157. Yad, Sanhedrin 4:1
158. A secondary source is quoted here - Maimonides on the Bible - since it will become a primary source as the development unfolds.
159. Numbers 27:22-23
160. Cf. Jewish Encyclopedia, 9:428 b ff.
161. Cf. Numbers 27:20 and Deuteronomy 34:9
162. Jewish Encyclopedia, 9:428 b.

163. Maimonides, Yad, Sanhedrin 4:1
164. Discussion of m-n-h b. (2).
165. Numbers 11:17 a-alpha.
166. The amount originally vested in Moses. But cf.  
Midrash Numbers Rabba 9n Numbers 11:17.
167. The implications of this for rabbinical seminaries will  
be discussed at another time. Salvation for the  
seminaries may be found in Numbers Rabba on  
Numbers 11:17, in which is considered evidence  
that Moses' stock was not diminished. Vide  
Midrash Numbers Rabba 15 (179d) to Numbers 11:16 ff.
168. Deuteronomy 34:9 a-beta.
169. "Rabbi yithqere", cf. infra.
170. Cf. word analyses of s-m-k and m-n-h supra, and  
the Biblical examples cited there.
171. There is rabbinic suggestion for this, viz,  
that animal sacrifice was a substitute for human  
sacrifice which was widely practised at one time.  
The Abraham story of the aqedah, or the binding  
of Isaac, clearly shows such a substitution at the  
Biblical level.

172. The scapegoat, or goat destined for Azazel.
173. Following Sforno on Leviticus 1:5 and Levi b. Gershon on Leviticus 1:4.
174. Which is itself, as in "affliction of the soul," repeatedly called for in the Old Testament.
175. If the loss to the donor were the sole aim?
176. So that the animal would then be called a "sin offering".
177. Ruah.
178. Ruah.
179. Sin, or the self-pollution which is seen as an effect of sinning.
180. Certainly in the case of ruah, cf. supra, text, on Moses and Joshua.
181. Min, "from" the ruah of Moses to Joshua, which the Lord transferred.
182. So that the scapegoat would not be a sufficient expiation.

183. In Deuteronomy 34.
184. In the Maimonidean code discussed infra.
185. The exceptions to this will be discussed in the sections on the codical manifestations of semikah.
186. Cf. Jewish Encyclopedia 11:183 a bot. and reference there.
187. Thus cf. Leviticus 1:4, 8:18; Exodus 29:15; Numbers 8:12. Again, for meal offerings, Leviticus 3:2, 3:8, 3:13; Cf. also Leviticus 8:22; Exodus 29:19. For sin offerings, Leviticus 4:4, 4:15, 4:24, 4:29 4:33, 8:11; Exodus 29:10; Numbers 8:12; II Chronicles 29:23. Cf. especially Leviticus 7:1-7 in connection with laying on of hands. N.B. Leviticus 1:46.
188. Ibid; where Jacob Zallel Lauterbach concludes that it was indeed an analogue to Manumission.
189. Ibid.
190. Philo Judaeus, De Victimis, S. 4, ed. Mangey p. 240.
191. Leviticus 16:21 ff.

192. Lauterbach, loc. cit., still identifies the semikah controversy between the zugoth as centering around animal sacrifices (Jewish Encyclopedia 11:183a f.), whereas Zeitlin ("The Semikah Controversy") attempts to demonstrate otherwise. Cf. Sidon, Die Controverse der Synhedria, Haupter, in Kaufmann Gedenkbuch, Breslau, 1900, pp. 355-364.
  
193. The date of Ravina's redaction has been dealt with in the introductory material, supra. The formula C. E. (Common Era) is a substitute for anno Domini, "Year of Lord", which appellation might suggest that there was a time when there was no Lord, a concept rejected by those who postulate the eternity and immanence of the Lord.
  
194. Maimonides, Yad, Sanhedrin 4:1.
  
195. Jewish Encyclopedia 9:428 b ff. Secondary material is entered here only to present an effective summary. Lauterbach's views will be discussed later.
  
196. The rabbinic interpretation of Numbers 27:15 ff., Deuteronomy 34:9, and Numbers 11:16 ff. q.v. lays the groundwork for what is to come.



197. Samaritan Targum to Numbers 27:18 makes this special observation. Otherwise the Targums confine themselves to straight paraphrasis of the incident.
  
198. C. the 2nd century of the Common Era, but again, perhaps reflecting earlier layers of thought.  
Sec. 357, 150a, in ed. Friedmann, Vilna, 1864.
  
199. Edition of Horowitz, Frankfurt am Main, 1917;  
Sifre on Deutoronomy is ed. Finkelstein, Breslau, 1935.
  
200. Tanhuma Pinehas 241a on this affair adds nothing to our previous understanding.
  
201. Venice, 1545 edition.
  
202. Lohse writes (p. 27):

Das rabbinische Judentum sah in der Einsetzung Josuas durch Mose das Vorbild fuer das Verhaeltnis von Lehrer und Schueler. Daher ist die Auslegung der alttestamentlichen Berichte von dem Brauch der Ordination der juedischen Gelehrten bestimmt. Nach juedischer Auffassung ist in einer ununterbrochenen Kette der geist der Weisheit von Mose bis auf die Handauflegung Josua bevollmaechtigte, als Lehrer und Richter gueltige Entscheidungen zu treffen, so ordinierte spaeter der Lehrer seinen Schueler. Diese Anwendung der Amtseinsetzung Josuas auf die juedische Ordination stellt die Verbindung von der

alttestamentlichen semikhah zur Praxis der Bevollmaechtigung der Gelehrten dar.

203. Vide supra on the similarities and distinctions of consecrative ordination of scholars and sacrifices.
  
204. Cf. Billerbeck, Kommentar zum Neuen Testament aus Talmud und Midrash, Munich, 1922, vol. 2, p. 648.
  
205. Cf. Encyclopedia of Religion and Ethics, op. cit., 9:554.
  
206. Adapted from Danby translation, p. 387.  
 The dating of this, like the dating of the Sanhedrin as a whole, is a matter of speculation. Cf. K. Kohler in Hebrew Union College Annual, Cincinnati, 1924, p. 338, et al.
  
207. This will become of special importance in the later codical literature, q.v.i.
  
208. Thus, a perennial question arises, "What did the Tannaitic teacher mean in speaking thus?" Such a question is generally followed by a hypothetical reconstruction of the intention of the earlier stratum. Such a reconstruction is valuable in itself, but does not always shed maximal light upon the original problem.

209. Mishna Sanhedrin 4:3; translation mine.
210. At the same time inaccurate, in that it conceals the fact that the Hebrew may be read, "wise student" or "sage disciple" by reading talmid in the absolute state rather than in the construct, and by taking hakham as an adjective rather than a noun. It is in fact my impression that this is the commoner understanding of the meaning of the term, but Danby's suits this context more effectively.
211. All translations mine unless otherwise stated. Note that Danby's widely accepted translation differs here.
212. Makir; Danby translates as if reading yada in order to employ the more felicitous English idiom.
213. The "proper" is Danby's addition, and does not appear in the original.
214. S-m-k , not m-n-h as suggested by "appoint". Note that the word is used in that form alone, without supplying the object to be ordained, as for

example, "to ordain a judge"; Later, the semikah controversy between the zugoth will employ the same term in the same way, and Zeitlin (Semikah Controversy) will reasonably conclude that it means there what it means here, or a related concept, and does not refer to animal sacrifices.

215. Present tense in original.
216. "Row" understood in the original.
217. Understood.
218. Presumably, to his place, but this is contradicted below; hence, this probably means that the new man came not to the seat vacancy of the departed scholar, but to the row vacancy, which would mean that the row once more consisted of a full quorum, but the new holder of the first seat was not necessarily the new addition from the inferior row. On the possibility of it actually being the new man, cf. infra.
219. Row, presumably, since the adjective is feminine as "row".

220. Understood
221. Row, again, from the gender.
222. Present tense in original. The variation is characteristic of the style, and bears no special significance.
223. "To them" in the original. The basis is not explicit here.
224. Or, "congregation". R. Solomon b. Isaac explains (ad loc) that the picture is of a semicircle of judges open at the bottom, underlined by a triple underline of the rows, beneath which sits the assembly of the open populace of non-appointed scholars.
225. Present tense in original.
226. Understood.
227. Person rather than row, from the gender. Obviously, the newly appointed person to the third row did not sit in the place of the first man, but rather the intention is to explain that he did not fill the seat

vacated by his immediate superior. Presumably the case is the same in the other instances as well.

228.

229. This opens the possibility that a scholar might indeed be assigned the vacated seat on the basis of superior scholarship which would advance him over members already in the row. It seems more likely however, that he would assume the most inferior seat in that row, this being perhaps by definition the proper place for a new accessor. We have no definitive evidence of this, however.

230. Cf. Tos. Sanhedrin 8:1 ff.

231. Tos. Hagiga 2:9; cf. Sanhedrin 88b

232. Sifre s. 92 on Numbers, edit. Friedmann, p. 25b.

233. Loc. cit.

234. I.e., Jerusalem.

235. Third century Palestinian Amora, cf. Jewish Encyclopedia 11:43b in Sanhedrin 19a.

236. The traditional examination often referred to is that of being able to prove, analogously to the manner of examining the candidates for the Sophists, that it was permissible to perform the impermissible, for example, to eat that which was proscribed. Far from being a sophistical exercise, this would demonstrate an ability to "use" logic as a tool, and at the same time guarantee that a brilliant presentation would not overly sway a naive judge, who would be analytically capable of reinterpreting the case evidence in his own construction.
237. Or, including the president, 71.
238. "Ant." 12:3, 3 quoted in Jewish Encyclopedia 11:42a.
239. Ibid.
240. Ibid.
241. At one time, the title meant nothing more than "council", and could refer to any council or congress whatever. Cf. Ellis Rivkin, The Pharisees, unpub. Ms. as of this date.
242. Cf. Sanhedrin 5b.



243. Cf. J. Sanhedrin 19a.
244. Tos. Sanhedrin 1:1; Kethuboth 112a
245. Cf. Zarah 8b, Sanhedrin 13b through 14a.  
Under Hadrian.
246. J. Sanhedrin 19a
247. Ibid. Simeon b. Gamliel was the first to receive  
the privilege of ordaining as an honorary function.  
Cf. Graetz, Geschichte der Juden, 3 ed., 4:453,  
quoted in Jewish Encyclopedia 9:429a.
248. Ibid. Juda b. Baba's secret ordination of his five  
students was in fact held between two cities in  
order to avoid the razing of the town which might  
harbor such a perpetration, which is an indication  
of the ferocity of such feral persecutions no less  
than of their astuteness in perceiving that in this  
institution lay the heart of the continuation of  
viable Judaism. Cf. Samuel Sandmel, The Clue  
to Jewish Survival , in which the same point is  
made even more strongly, in the Alexandrian context.

249. This distinction is preserved in the Jewish Theological Seminary semikah document of 5702, Hebrew text, appended, q.v.i.
250. Lauterbach, "Ordination", in Jewish Encyclopedia 9:429a.
251. Cf. Acts 6:6 and 13:3 for the apostles ordaining (or more properly laying hands upon in prayer) the seven disciples elected by the Jerusalem congregation. Investiture with grace and appointment as teacher is transferred or symbolized by laying on of hands in I Timothy 5:22 and II Timothy 1:6, where the force of the Greek of I Timothy 5:19 is rendered by David Ginsburg as "zaqen", "sage", Habrith Hahadashah, Trinitarian, London, p. 419b.
252. An interesting presentation may be found in the history of the polemics and apologetics of Reform Judaism, cf. Schwartzman, Making of Reform Judaism.
253. Institution in the sense of appointment. The Babylonian practice remained to refer to the process of investiture as semikah, or, as explained supra, text, semikutha. For further antecedents of this usage of the root m-n-h, cf. Daniel 1:11, I Chronicles 9:29; the Temple servants, appointed

to the service of the Deity, were called memunnim.

254. Cf. J. Sanhedrin 19a and text, supra. In order to prevent misreading, let us clarify that the root s-m-k is used consistently in the one talmud and the term m-n-h in the other, with minor deviations. By "interchangeable" we understand that in many (cf. Eisenstein, op. cit., with references listed there) cases the same or similar phrases occur in the two talmuds, and that where the Palestinian employs m-n-h, the Babylonian may use s-m-k. We do not mean to understand that within one context the roots are used interchangeably.
255. Ibid. Lauterbach ("Ordination", p. 429b) cites Graetz op. cit., 4:230, 453 that the Judah under whom this reform was introduced was Judah II, who was thus inhibited from ordaining unworthy candidates; but R. Solomon b. Isaac (on Baba Metzia 85b bot.) holds that it was Judah I, who was thus made unable to ordain Mar Samuel.
256. Maimonides, Yad, Sanhedrin, 4:8
257. Ibid. Sanhedrin 5a.

258. Ibid.
  
259. Cf. supra, text. Cf. Leviticus Rabba 4:2.  
 Lauterbach, "Ordination", cites Sachs, Beitraege zur Sprach und Alterthumskunde, 1:87.
  
260. Ibid.
  
261. Ibid.
  
262. Sanhedrin 13b; cf. Maimonides, Yad, Sanhedrin 4:2
  
263. Two examples cited in Lauterbach are Kethuboth 17a
  
264. Cf. Sanhedrin 7b
  
265. Already referred to in the attempts under the  
 Hadrianic persecutions, 2nd century C.E.
  
266. Actual ordination could take place, in the Talmudic  
Hadrianic sense, only in Palestine (cf. Sanhedrin 14a), although  
 it could be effected by a document or letter,  
 provided that both parties, the ordaining and the  
 ordained, were within Palestine at the time  
 (Maimonides, Yad, Sanhedrin, 4:6 ff.).
  
- 267.. C. 361 C.E.

268. The intercalation of a ("leap-") month, 1st Adar, seven times in the lunisolar cycle calendar of 19 years. This determines when the holidays shall fall.
269. A brilliant principle may be perceived here. A tendency to make the very structure of the universe center about the human being is visible in R. Eliezer's discovery that "we do not hearken to a bath kol." Similarly here, it requires the profoundest underestimation and disdain to suppose that the same principles of mathematics in regard to a recurrent cycle which are so obvious to a novice student of astronomy were somehow unavailable to the outstanding minds of this period, when the study of the stars was no mere interesting diversion but often had more serious overtones. It is much more likely that the operational principle, expressed today in the order of the liturgy by which the Lord is praised for sanctifying
1. Israel and
  2. the festivals,
- in that order, is what is significant here. One of the reasons adduced for the liturgical

oddity is that without the festivals (Hebrew: "times", in the sense of fixed times) there might still be an Israel, but without Israel (to observe them), there would be no festivals — nor, in all likelihood, need or use for them.

Similarly, the point of the second day of the Diaspora, the yom tov sheni shel galuyoth, can hardly be, except to the most presumptuous, that the finest minds of Babylonia could not figure out when a given day would fall on an experienced cycle, but precisely that the prerogative of calling or designating the holy day was vested in man rather than being left to nature, and that in this case, "man" was the authority at Jerusalem. Because of local conditions, it would be impossible for a person in Babylonia to know whether the declaration of the day had indeed fallen on the day anticipated according to the mathematics of calendation, and the bonfire system and the yom tov sheni system provided a means of recognizing the sovereignty of man over brute nature.

The same principle applies here in the discussion of the licit calendar, and one may conclude that the change effected by the sage Hillel II was not

so much to disperse knowledge of the mechanical tool of calendation, although such knowledge may indeed have been supplied to the more backward communities, as to authorize the employment of the tool itself, and that that move was made not out of a desire to deny the principle, but rather that it may be sufficiently explained in terms of compulsion, after the fashion of a "last resort," to prevent the observances of the fixed times from vanishing with the decline of the determining Jerusalem authority.

- 270. Maimonides, Sefer Hamizwoth, #153, cf. Nahmanides ad loc.
- 271. Just after the decline of semikah. He would thus address himself to the actual or authorized method or process of mathematical intercalation.
- 272. Cf. the interchangeable use in the codical material appended infra, and J.D. Eisenstein, "Hattarat Hora'ah", in Jewish Encyclopedia 6:261b ff.

Perhaps "to decide" a case is the preferable rendition of the word literally rendered "teach", as suggested in a communication of Dr. A. Guttman.



In any case, it is important to note that structurally there was no need to employ the hattarath hora'ah until the Resh Galutha started to disappear. Until that time, he could appoint the judges directly.

The functional and structural implications of what amounts to organized community in exile in Babylonia are most relevant to a predictable change in the authority structure. If the religious authority was broadly speaking centered in Palestine, then, since it was physically impossible either to administer the Babylonian governance from Palestine or to have all scholars, generation after generation, come to Palestine for (study and) ordination, a new authority was called for. The civil authority of Babylonia marks the new independence from the Jerusalem schools. It should be noted in this regard that the title hattarath hora'ah could just as easily have been something like hattarath hadin.

Perhaps whenever a unified authoritative function of religious and secular authorities gives way to an authority vacuum, that vacuum may be expected to be filled by the authority which does not base itself upon the religious tradition whose

stoppage, like a plug in a pipe, led to the vacuum in the first place. This authority will presumably be the civil authority which more nearly depends on the community itself, wherever it is.

Thus, the seeds of the civil authority stepping in to be utilized in filling the structural Babylonian vacuum is related to the struggle for religious authority dominance between the Collegium and the Nasi. Both of them are aspects or stages of the same structural process unfolding itself.

273. Cf. Kethuboth 79a for a related form of precedent ("moreh hora'ah").
274. Eisenstein, loc. cit.
275. Administered to those who possessed the hattarath hora'ah.
276. The MaHaRIL, d. 1427. In a later document, Don Isaac Abrabanel comments on Aboth 6:1 that the Ashkenazic use of the title "Doctor" in an imitation of the gentiles, cf. in Ganz, Zemah David, Frankfurt am Main, 1692, p. 42b.

277. And the chief of the sages is referred to as the h akham bashi in Turkey. Cf. David Messer Leon, Kevod Hakhamim, Meqize Nirdamim, Berlin, 1899, p. 63; Eisenstein, loc. cit.; Solomon ibn Adret of Barcelona designates his Responsa #79 and 395 to "the Great Hakham", using the title as a formal title of address to an individual in possible parallel to his Responsa #219 and 346, addressed to "the Great Rabbi"; cf. also the citations in Halevy, Doroth Harishonim, 2:20; cf. also the additional citations by Solomon Schechter in his article on Louis Ginzberg, "akam", in Jewish Encyclopedia 6:160a ff.
278. Isaac b. Shesheth in his famous responsa on the limits of rabbinical authority (#268-73), where the Chief Rabbi of Germany was restricted from ruling in the affairs of the French Provencal community. Already by this time (1380), the responsum indicates that German and French rabbis administered diplomas to the disciples of their respective institutions and recommended

their placement in local rabbinical positions.

279. Ibid., about 1380. R. Joseph Kolon (ed. Venice 1519) holds (Responsum #1) that legal complaints must be brought locally before the resident rabbi. Cf. Eisenstein, Op. cit., p. 262a. Cf. also Pahad Yizhaq, s.v. "Tav", Berlin, 1887, p. 158a. Cf. Samuel Archevolti's Legal Decisions quoted in Palge Mayim, Salonica, 1608, p. 15a.
280. Thus R. David Messer de Leon, who held the highest degree of Diploma from R. Judah Muentz of Padua, was elected by the Castilian Jews to the post of Avlona (1512), but could not enforce the Sabbath prohibitions among the Portuguese Jews of Avlona. Although he was justified in the following litigation (Responsum #22 of R. David Hakohen of Korfu, Salonica, 1803, pp. 80a-84a), he was still in umbra for his presumption (Bernfeld's introduction to R. David Messer Leon, -Kevod Kakhamin, p. xv).
281. As at Wuerzburg in the 14th and 15th centuries; cf. Eisenstein, loc. cit.

282. Ibid. Cf. Responsum Collection of R. Samuel of Modena, Salonica, 1582, 4:14; Cf. R. Joseph Karo, Beth Joseph to Tur Hoshen Mishpat sec. 11.
283. Cf. Ezra Spicehandler, The Local Community in Talmudic Babylonia, its Institutions, Leaders, and Ministrants, Ph.D. thesis, Cincinnati, pp. 84 ff., especially his discussion there of Qiddushin 49b. Spicehandler also distinguishes talmide hakhamim as the "unordained disciples of the hakhamim", whereas the hakhamim were charged with the responsibility not only of understanding but of being "able to give a legal opinion." Spicehandler relates the yahid to the talmid hakham in Qiddushin 49b.

"In Babylonia," Spicehandler later (p. 89) summarizes, the talmid hakham was called zurva merabanan," a term used interchangeably in the Talmud. This official merged secular and religious leadership and responsibility. This class clearly benefited from the indisputable talmudic position of freedom from most taxes (Baba Bathra 8a; Nedarim 62b), priority in the market place

(Baba Bathra 22a), and special consideration in the courts (Shabbath 119a). Spicehandler makes the point that they were often men of means and that their class status was akin to hereditary, although he does not here derive these expectations from the Talmudic prerogatives.

284. Zeitlin, Semikah Controversy, loc. cit.
285. Ibid., and references therein. By zugoth we understand the "pairs" of scholars, the primary one of which was nasi and the secondary ab beth din of the Sanhedrin. Their election and position was intimately linked, cf. Mishna Hagiga 2:2 and the Amoraic commentary and explanation of the passage in B. Hagiga 16a-b. J. Hagiga 2:77 stresses that the controversy over semikah was the first major halakic controversy, cf. Tos. Hagiga 2:8; cf. Sidon, Die Controverse der Synedrialhaeupter in Kaufmann Gedenkbuch, Breslau, 1900, p. 355, and Lauterbach, "Semikah", in Jewish Encyclopedia 11:182b ff.

286. The hermeneutic principles which functioned to create what we recognize as legal fictions, above and beyond positive takkanoth and negative gezeroth, always operated in such a way as to reinforce the law on a superficial level, and their often revolutionary effects were manifest only in practice. Thus, it was not necessary to suspend a law outright, nor in fact possible.
287. Cf. s.v. "Prosbul" in Jewish Encyclopedia. The institution amounted to a reversal of the earlier procedure.  
Cf. Podet, loc. cit.
288. Cf. Podet, loc. cit. for a full discussion of this point.
289. For the principle of juridical dynamics in its relation to the dynamics of society, cf. Sandment, Clew, loc. cit., and Podet, loc. cit. (beginning), with the basic definitions there.
290. Podet, loc. cit., and references there on Blackstone's analyses of "Law".
291. Podet, loc. cit. (beginning).

292. A clear example of such a derivation may be seen in the development of the laws relating to false witness, in Podet, Op. cit., from their Pentateuchal expressions through their reinterpretations in the Babylonian and Jerusalem Talmuds, which later in essence abrogate the intent of the naive reading of the original.
293. Eventually this will even apply to its use for precedent.
294. Cf. George Horowitz, The Spirit of Jewish Law : A brief account of Biblical and Rabbinical Jurisprudence, New York, 1963, p. 1 ff., pp. 19-25.
295. The Mishna is a redaction, in its present form, of academic texts, and often the relations are not made clear. However, the initial question of the Mishna, dealing with the proper time for recitation of the Shema prayer, presumes the Biblical prayer must be taught or recited, basing itself upon the Biblical text of the Shema itself (weshinnantam... wedibbarta bam.)
296. For the significance of the terminus technicus



"written text" here, see the discussion on "Written and Oral Law" in Podet, Op. cit.

297. Ginzberg ("Codification of Laws", in Jewish Encyclopedia 7:635b ff.) in his extensive treatment of the codes mentions over fifty codices and indices.
298. Such as continued respect for the personal authority of a great scholar, or the persistence of the power structure of which he was a part; negatively, a superior code may continue to be suppressed by continued opposition to the particular tradition, power structure, or perceived implications and consequences of the postulates and assumptions out of which he wrote.
299. Cf. Ginzberg, "Codification of Laws", loc. cit.
300. The consequence of the one for the other is summarized in Michael Guttmann, Zur Einleitung in die Halacha, zweites Heft, in Jahresbericht der Landes Rabbinerschule in Budapest 1912-13 #36, p. 91:

Die Verschiedenheit der Dezsionen hatte aehnliche Folgen wie die Kontroversen selbst. Einerseits hoerte die verschiedene, oertlich gebundene Praxis nicht auf, andererseits

entstand bei stetem Verkehr und haeufigen Begegnungen der Gelehrten grosse Unbestimmtheit in manchen Fragen des religioesen und rechtlichen Lebens. Von frueher aus ist schoen das Bestreben bekannt, zweien entgegengesetzten Lehrmeinungen nach Moeglichkeit gerecht zu werden, sich also die Praxis zu erschweren (Cf. erstes heft, p. 42).

301. M. Guttman, Op. cit., s.v. "Befriedigung gegensaeztlicher Meinungen und Dezisionen".
302. M. Guttman, loc. cit., p. 92, in interpreting an opinion: R. Nachman b. Jizchak meint, dass ein Gottesfuerchtiger beiden Lehrmeinungen zu entsprechen nabe. Es wird hier Einer genannt, der in seiner Praxis beiden Meinungen gerecht wird, und ein Anderer, der diese Maxime nicht beachtet.
303. Such as, for our purposes, an aspect of ordination.
304. Named for the Saboraim, who functionally established the most nearly definitive codical determining rules of precedence and procedure for the purpose of imparting to the Talmudic material a codical utility. Cf. Ginzberg, Op. cit., p. 639a.

305. When the term is used alone it generally refers to the Babylonian Talmud, which even at its later period left the actual halaka in a state of flux.
306. Yehudai Gaon (8th century), a contemporary of the Karaite Anan b. David who himself procuded a (Karaite) codex, is "the first of whom it is known that he summed up the final resylts of the discussions of the Talmud," according to Ginzberg, loc. cit.

His Halakhoth Pesuqoth (or Halakhoth Qetuoth) was studied for perhaps a century after its composition (cf. Paltoi Gaon Responsum #110 in his Hemdah Genuzah); Yehudai may have composed the Halakhoth Gedoloth (Ginzberg), but it is more likely that this work is the product of Simon Keyyara (9th century), as listed in B. S. Jacobson, A. Guttmann, M. A. Cohen, Some Rabbinical Authorities and Codifiers, Cincinnati, 5717, sec. 3, p. 1. The Halakhoth Gedoloth follows the pattern of the Mishna, devoting for example space to the laws which applied in the presence of

a functioning Temple cult.

Saadia's Book of Legacies (10th century), cf. Jacobson, Guttmann, Cohen, loc. cit., and Ginzberg, loc. cit., marks no major advance, although Saadia is considered the greatest of the Geonim. Hai's compendia on oaths, pledges, commerce, and the like (11th century) represent the individual works of a clear and closely reasoning mind, drawing first from the Talmud.

The great halakist Hananel b. Hushiel (North Africa, 11th century), was primarily interested in Talmudic exposition, but his compendious Sefer Hamiqzaoth betrays an interest in codification as well. Hephetz b. Yazliah, not documented in Jacobson, Guttmann, Cohen, was perhaps (10th century) the first codifier of the North African area or note, to judge by what is known of his Arabic Sefer Hamizwoth.

Wowever, the place of honor is generally conferred upon Isaac al-Fasi, or Alfasi, the RiF, so called from the initials of R. Isaac al-Fasi.

307. The surname Alfasi resolves into al-Fasi, i.e., "of Fez"; this is reflected in the title RiF, where the terminal letter is not the aleph but the phe.
308. Alfasi, Halakhoth, "Eruvin," end. Ed. Sulzbach, 1720
309. Ibid., Kethuboth 4:84b.
310. Ibid., 10:115a.
311. "The Luminary."
312. Cf. Jacobson, Guttman, Cohen, sec. 3, p. 5; Zerahiah's work is classed as 12th century, Tosafists of Provence, France. Jacobson, Guttman, Cohen state that his supercommentary is "against" Alfasi, but Friedlaender does not. Cf. Michael Friedlaender, "Alfasi", in Jewish Encyclopedia 1:375a ff.
313. I.e., from Zerahiah, "the brilliance of God", or the sun.
314. I. e., from Lunel, "the moon."
315. Hermann L. Strack, Einleitung in Talmud und Midrash, C.H. Beck, Muenchen 1921.

316. Moses Mielziner, Introduction to the Talmud,  
New York, 1925.
317. By the Jewish Publication Society, Philadelphia, 1956,  
in the English translation under the title, An  
Introduction to Talmud and Madrash.
318. Q.v.i. It was from this that the Shulhan Arukh  
was compiled.
319. Even those who disagreed with it found it to be the  
standard, the "code to beat", so to speak.
- 320.
321. P. 4 of sec. 3 in Jacobson, Guttman, Cohen;  
cf. Isaac Broyde, Jacob Zallel Lauterbach,  
"Moses ben Maimon," in Jewish Encyclopedia 9:  
73b-86b.
322. Broyde, Lauterbach, loc. cit.
323. To this day, one of the simplest and most effective  
learning and memory devices employed by some  
Jewish seminarians in the study of Aquinas is to  
take the view of Maimonides on a given subject,

modify the vocabulary in order to bring it into conformity with the terminology of the Church, and discover that the result is more often than not functionally the view of Aquinas.

324. "The Mighty Hand", a reference to the hand of God which drew the Israelites from Egypt.
325. First edition appeared in Italy about 1480, the second at Soncino ten years later.
326. "Repetition of the Torah", cf. Strack, Op. cit., p. 73. But Broyde and Lauterbach, Op. cit., p. 846 read "Second Law". Was it so called because it came to replace all previous codes, and would then be to the concerned a sort of "second Torah"? Or does it mean merely to collate the views of the writers of the Mishna and their successors on the unbroken tradition of the Torah? Was it in effect meant to reinforce the cumbersome rabbinic apparatus by providing a coherent index of sorts to the rabbinic opinions, or was it, by its very omission of sources, meant to do away with that apparatus, so that with this text anyone who was

capable of handling the relatively simple Mishnaic Hebrew style would be spared endless roaming through the disconnected almost Sassanian type of loose logic of the Talmud, and could with speed and definitiveness lay his hand upon the authoritative resolution of his problem? The question remains moot, although the present author inclines towards the last view.

327. Maimonides draws on the Babylonian and Jerusalem Talmuds, the Halakic midrashim, sifra, sifre, and mekhilta, and, of course, the written Torah itself; the geonic responsa; Alfasi and Joseph ibn Migass (whom he refers to as "my teachers"), and others. Cf. his "Preface" to the Mishne Torah.
328. Op. cit. p. 72 sec. 36.
329. Ibid., p. 73 sec. 37#1
330. Maimonides, Letter to Agnin (30b); cf. Maimonides, Sefer Hamizwoth, Preface, and his Responsum #140.
331. From the present writer's experience, admittedly



limited and insufficient. I know of few serious disagreements with this judgment.

332. To exclude the plethora of materials extraneous and subsequent to the Arba'a Turim and the Shulhan Arukh taken together with their major commentaries, as incorporated in the standard editions we shall come to below.
- 333.
334. Thirteenth century French Tosaphist, cf. Jacobson, Guttmann, Cohen, sec. 3, p. 7, cf. Max Schloessinger, "Moses ben Jacob of Coucy" in Jewish Encyclopedia 9:68b
335. So Schloessinger, loc. cit., but Ginzberg ("Codification") p. 643a) reads Baruch b. Isaac.
336. In contrast to Maimonides, for example.
337. The terminal Hagadol was supplied later in order to distinguish it from an extract prepared by Isaac of Corbeil, called the Sefer Mizwoth Haqatan (also 13th century, the SeMaQ).

338. The "Great Book of Commandments", and not, as is sometimes erroneously translated, the "Book of the Great Commandments". This latter is abhorrent to the rabbinic mind, which holds that every commandment is deserving of respect, in that one can never know in the divine economy just which is in fact a major and which a minor commandment.
339. Notably Ginzberg, Ibid.
340. Ibid.
341. With Karo, whose work, however, is dependent on Jacob b. Asher b. Yehiel.
342. V.s., text.
343. Cf. Jacobson, Guttman, Cohen, sec. 3, p. 8, 14th century Spain and North Africa; cf. Max Seligsohn, "Jacob ben Asher", in Jewish Encyclopedia 7:27b ff.
344. I.e. "The Master of (or the author of) the Turim."
345. For example, this class would include the Mishna itself, the Babylonian and Jerusalem Talmuds

each of which in the Gemara of the respective work adheres to this structure, the codex of Alfasi already discussed at length, etc.

346. The Torah or Pentateuch is not exclusively — some would say not even primarily in its present entirety — a book of legislation but rather a library on multiple subjects from equally multiple coigns of vantage, and it has not successfully yielded to direct use as a systematic legistic formulary.
347. The number is found as early as the Tannaitic Simon b. Eleazar (Mekhilta, Yithro, Bahodesh, 5), cf. Yebamoth 47b, Nedarim 25a, et passim. Cf. Weiss, Dor Dor Wedorshaw, p. 74, n. 50. Maimonides' contribution was to derive them from fourteen self-evident principles; this move was rejected by later codifiers, e.g. R. Moses of Coucy, who worked with the 613-365-248 or other related structures but based themselves on other determining principles of selection, arrangement, or relative import.

348. Issur weheter, a terminus technicus which shall be discussed infra.
349. R. Jacob b. Asher died at Toledo before 1340 according to David Abudarham.
350. The Arba'a Turim remained the standard for both Ashkenazim and Sephardim until the introduction of Karo's Shulhan Arukh.
351. R. Jacob b. Asher, Tur Orah Hayyim, introduction.
352. Ibid. For the discussion of this dynamic, cf. supra, text, p.
353. Cf. Seligsohn, loc. cit.
354. I am indebted for the idea of the following analysis, through the next two paragraphs of the text, to Dr. Solomon B. Freehof of Philadelphia.
355. Solomon B. Freehof, The Responsa Literature, Jewish Publication Society, Philadelphia, 1955.
356. With which we shall deal, infra.
357. That is, there is no translation at the disposal of the present writer in the languages available to him which seems to preserve the balance of being

as literal as possible and as free as necessary.

358. Ed. Slovita 1800, bearing a dedication to Tsar Alexander Pavlovitch.
359. The present writer has searched in vain for some simple and meaningful system of presenting
- A. A basic text;
  - B. Ten commentaries which treat of
    - 1. the basic text (A) and
    - 2. each other;
  - C. Subsequent basic texts, which involve
    - 1. the original basic text (A) and
    - 2. the commentaries (B) in their complexity and interinvolvement (B, 1 and 2) in relation to the original text (A);
  - D. The comentaries on the new text (C), which treat of
    - 1. the text itself;
    - 2. its relation to previous text and to previous commentaries;
    - 3. their won relationship to each other; and
  - E. My own ongoing analysis of each of the above.
- Conceivably parallel serial systems {1,2,3,4,...  
 A,B,C,D,.....alpha, beta, gamma, delta, ...  
 aleph, beth, gimel, daleth ...)

could be employed, but even the most conservative arrangement attempted utilizes over 20 running alphabets even after solving the problem of numeration over the 26th letter (by continuing the series AA, AB, AC, AD... instead of AA, BB, CC, DD..., to yield 26 x 26 places with two digits instead of 26  $\div$  26). Another alternative tried was the employment of designations a1, a2, a3, a4... so as to create the minimum 20 individuated series. This becomes in practice impossibly clumsy, and forces the reader to maintain at hand a chart to denote that b- series notes refer to a- series notes, d- and e- series notes speak on a- and c- series notes, etc. And, of course, the numbers will not match up, so that for example, e6 may be a comment on c3, the analysis of which would occur in j14.

Consequently, we have here adopted the simple system of normal serial numerical footnoting in extenso, not because of the excellency of the system to meet the need of critical analysis of interrelated texts, but for lack of a better one.

As a result, the footnotes from this point become vitally important, in that they reflect almost the whole base of the analysis and criticism on the textual material.

360. That is, anyone. The intent is not to exclude women, but to state a general principle applicable to all.
361. In fact, only those subject to the laws of Judaism from within the Jewish context are so commanded; according to Jewish law, a Noahide's expectations are not all of those incumbent upon a son of the covenant.
362. I.e., that he must observe.
363. In the two Hebrew decalogical formulations, Commandment #5.
364. In the sense of honor. The two terms are often used in reference to the proper relations with the Deity, cf. Genesis 20:11 (E code), Psalms 111:10, et passim; in the sense of religion, cf. Job 4:6 et passim.
365. Master and rabbi, hic et ubique, are interchangeable. In the Hebrew both are represented by rabh, and the proper rendering changes with the context.
366. Karo's Beth Joseph directs us to the source of this in Baba Metzia 33a, end of chapter 2; cf. also Kerithoth 28a end. Cf. Beth Joseph sec. 1,

infra, and comments thereon.

367. Isserles' Darkhe Moshe will comment on this point.  
Cf. Darkhe Moshe sec. 1, infra and comments thereon.
368. N.B.: not "into". The student's volition is stressed by accentuating the difference.
369. One of the basic rabbinic tenets to grow out of the Pharisaic teachings was the commitment to the belief in the "World to Come."
370. With the result in terms of practical application to the conduct of the student that, etc.
371. I.e., his honor and dread respectively are above that of anyone else.
372. Compared here to the fear of heaven since the fear (properly "awe") of heaven is transmitted only via the master. In principle, the vessel is being honored over regard for that which it contains, to employ the rabbinic metaphor.
373. Karo's Beth Joseph directs us to the source of this comment in Aboth, chapter 4. Cf. Beth Joseph sec. 2, infra and comments thereon.



374. In the sense of contradicts.
375. Beth Joseph directs us to "Heleq" 109a. By employing the initial word of the chapter, heleq, Karo means to direct us to B. Sanhedrin chapter 11 and the Gemara thereon. Cf. Beth Joseph sec. 3.
376. The indwelling presence of the Deity, cf. s.v. shekinah in Webster, Op. cit.
377. The same principle as "disputes" carried to the next level.
378. The conclusion of the train of thought must be to incite others after the fashion of ~~K~~Korah to follow in the rebellion.
379. The implication of this term may be to curse.
380. The legist wishes to establish at the outset what constitutes the first step in the path of depravity, for the counsel of travellers, that they may know well the road to avoid it.
381. R. Judah Ashkenazi Dayyan (Tiktin, Frankfort, 18th century) in his Baer Hetev, sec. 2, infra will comment on this point. A problem arises as to the identity of the author, cf. infra.

382. That is, teaches that it is to be treated as authoritative, or as a source for legistic action.
383. Beth Joseph, sec. 4 directs us to Maimonides, Hilkhoth Talmud Torah, chapter 5; but cf. RaMaKH ad loc. who differs with Maimonides' definition. Karo is asking why R. Jacob b. Asher is not quoting Maimonides here.
384. To teach, as we have seen, is often to decide a case in the sense of thereby teaching a precedent. Thus, to expound and to teach are not necessarily in parallel here, but may instead refer to two separable act; the one, to expound, may be an academic aspect of the act, whereas the other, to teach, may be the legal act.
385. How this permission is
- a. deserved;
  - b. attained; and
  - c. documented,
- will presently come under consideration, as will the problem of the limits of authority conferred by such permission. This, to our view, is the fundamental problem of hattarath hora'a.

386. That is, out of immediate contact where his own authority is being influenced somehow by the presence of another teacher.
387. This clarifies that the above (paragraph 3) applied only in the absence of the teacher.
388. Even if he attain to independent greatness, apparently. But if so, then how is the student to teach so that the master may judge his teaching?
389. Perhaps even by his leave, but certainly without it.
390. Is this hyperbolic? One would normally assume so, although if it occurred in a Maimonidean text one would have to wonder.
391. The word mil in the Hebrew tempts one to say "miles" in English, but the Roman mile and the medieval unit by that name are perhaps more nearly related to the Persian unit than to the American one which would be thus suggested.
392. Beth Joseph, sec. 5 directs us to Maimonides, Hilkhoth Talmud Torah, Cap. 5, which with regard

to this point explains Mishna Sanhedrin, Cap. 1 in Sanhedrin 5b exposition q.v., the incident of Rabbi. Cf. ibid. the incident of R. Tanhum b. R. Ammi. The reason for the selection of three parasangs as the critical distance here is that it was the breadth of the camp of Israel, and R. Solomon b. Isaac explains ad loc. that since this was the breadth of the camp, no one would need come from further away to consult Moses.

Cf. "Hadar", Sanhedrin 63a s.v. "in the name of Raba", on the setting of permissions and penalties. Ibid. "in the name of Ravina"

393. Not a claimant for justice, neither a plaintiff nor a defendant in a legal case, but an academic questioner.
394. Not in a legal case. In such a case, viz, an academic reconstruction or hypothecation, it was permitted under Talmudic law to refrain from commitment (cf. the terminus tekum, in which no resolution is reached); however in the presence of the case itself, a resolution must be forced.

395. Whence we derive that "teach" in the next verse is a technical term.
396. In effect, he would be establishing a presumed credential on his own capacities.
397. To sit in judgment, as the modern and medieval usage has it.
398. Actually to render the judgment. Thus, from the totality of the pause, we infer that he may not even hear the case.
399. That is, at a point where his teacher can neither be contacted for reference nor be challenged even indirectly by his assertion of authority.
400. This gives a rationale for the previous clause: he may not teach even at "the end of the world" because the situation may change, and the case, its principals, the legist, or the principle, may at some future time seek reversal of the decision from the master. The point to be stressed is that this section acts so as to protect the authority of the student.

401. Which will be significant for the implications which we shall see in the contemporary rabbinical graduation degrees and their disparate phraseology.
402. For R. Jacob b. Asher's use of his father as a legal source, cf. supra in the Introduction to the Code of R. Jacob b. Asher.
403. A terminus technicus, talmid gamur, whose implications shall become clarified by its contextual uses.
404. A round number, perhaps, with no special significance. Such round numbers occur again and again in the Hebraic as in other cultures; cf. 12 months, 12 signs of the zodiac, 12 hours, 12 days of the Winter solstice festival, in our time 12 days of Christmas, a dozen, the 12 furies, the 12 tables, and the Arabic square of perfection of 144 (12 x 12) segments. Cf. Nandor Fodor, M.D., New Directions in Dream Interpretation, Chap. "Studies in the Significance of Numbers", The Duodecad.
405. Cf. three parasangs infra.
406. Thus, the penalty is not to be applied; the transgressor is merely "worthy" of it.

407. I am inclined to regard this as hyperbolic, and intended rather to demonstrate the significance of the act than to serve as a juristic guide for action.
408. Perhaps also if he sits, i.e., if he deigns to hear the case; but this is not stated.
409. This would contradict our supposition that the penalty is hyperbolic, provided that it refers to the death penalty above. However, there is no case known to me where such a penalty was enforced, nor concrete provision for its actual effectuation.
410. A terminus technicus, talמיד habher, which we shall note again.
411. Either his normal domicile or his present location.
412. To teach certainly, and presumably to sit as well.
413. Again, the penalty presumptively is death, but the alternative exists that a penalty might be exacted by the local community or the constituted authority other than the one which we have described as hyperbolic.

We may ask, what, in dealing with a sophisticated

jurist, can be meant by a prohibition without penalty?

If we were concerned with a theocratic writer,  
or with a codifier naive in the ways of pragmatic  
jurisprudence, we could answer that such a state-  
ment is to be taken at the surface level. However,  
in approaching a judge and initiate in juridical  
process, it may well only express personal dis-  
approbation.

- 414. I.e., the student colleague, not the mere student.
- 415. That is, handing down a decision may not be  
grounds for moral or other indictment unless, etc.
- 416. A case which came, i.e., in the present or the past.  
In either case, he sees his act as a permanent one  
of establishing precedence.
- 417. Cf. Beth Joseph, sec. 6, and comments thereon, infra.
- 418. Other students exchanging opinions, without  
legal status being given to the expressions of  
opinion.
- 419. This may be formulary, but more likely it is  
exemplary.



420. Even though he is teaching (literally) a case which reflects the juridical opinion of someone else, he is not "teaching", since he is not teaching (deciding) the case himself. Here we find clarified the terminus technicus, "to teach".
421. Such as a particular twist to the circumstances of this case which might serve as grounds to contest its being placed in a certain broader category or class of cases, united in dealing with a specific principle.
422. The case and its decision.
423. Possibly one associated with a specific person who taught it; or alternatively, a case where the proper procedure is common knowledge, even if no specific authority is associated with it.
424. Cf. Beth Joseph, sec. 7, with attendant comments, infra.
425. I.e., obvious cases where the decision is well-known, and no confusion is possible.

426. That is, when he "sits".
427. That is, known to all; "free" in the sense of freely known. The possibility exists that this may refer to the fact that legal decision often carried an honorarium, but this is hardly likely.
428. "Warning" here is again a terminus technicus; under the classical jurisprudence, many categories of crimes were not subject to the highest penalties in the category unless the intended culprit were warned prior to the crime both of the nature of the crime and of its consequences. Obviously this could not apply to false witness, for example (cf. Podet, Op. cit.), but it could and did apply to inhibit those who would seek the capital penalty for homicide.
- It follows that the student here is merely acting as a citizen-at-large and that his special position as a student is not involved.
429. In the setting of the classical jurisprudence, this would be read, "if he sees a man about to transgress"; however, it makes sense to speak of it even in the

perfect tense as given, since

- a. without such warning, the man may transgress again; and
- b. in cognizance of his transgression, the man may attempt to make amends.

- 430. A juridical distinction is drawn here; a transgression through ignorance is not as serious as a transgression through malice.
- 431. Cf. Beth Joseph, sec. 8, with attendant comments.
- 432. In explanation, as opposed to the formal warning of prohibition. Thus, he is in this case permitted to teach, since he is not teaching a novel decision.
- 433. In the presence of his master. The case is that the master has not commented on the act ostensibly about to be performed, and the student need not solicit permission to do so.
- 434. Any act which violates the will of God. "Profanation of the Name," i. e., Profanation of God, is interpreted hic et ubique as an act by a Man, conceived of as the bearer of the divine Image

(the E concept in the beginning of the Creation Story), which would sully that Image. Conversely, a "Humanizing" act is seen as Sanctification of God's Name.

435. In the sense of "need not" rather than "does not".
436. I.e., for the human master. The thinking is that whereas the student is responsible to his master, both student and master are responsible to the Deity. Consequently the student's obligation to the Deity preceeds his obligation to his master.
437. Here, talmid, as opposed to talmid habher supra sec. 7.
438. To determine if it meets the ritual requirements, including freedom from any nicks or imperfections which might conceivably pain or damage the animal unnecessarily.
439. Such an examination is a prerequisite to proper ritual slaughter of edible animals, which is the case under consideration.
440. When the latter has the opportunity signaled by his presence.

441. Cf. Beth Joseph sec. 9, with attendant comments, infra.
442. Although the case may not be so, it would appear so to the casual onlooker. The legal principle here is that the appearance of an act to the casual observer is an item of legal significance. As the same principle was adopted by the Federal Bureau of Investigation's terse slogan, "It not only has to be right, it has to look right."
443. The student, talmid.
444. Without explicit and expressed permission or direction.
445. Juridical precedence, in the sense of prior authority. Even if the superior authority of the master would be manifest to the casual onlooker, and even if the superior qualifications of the master were well known. From this, too, it would appear that the intent of the document is here at least in part to protect the student, in this case from the charge of being a boor.
446. The master.

447. Of the Student, as either
- a. To perform the act of slaughter for someone himself; where "his own use" would mean that he planned to use the knife, or
  - b. To prepare meat for his own consumption; where "his own use" would mean for his own table.
448. This would seem to fix on alternative a supra, but in fact either reading is tenable here, depending on whether the benefit of the act, i.e., the consumption of the animal, be on his part or on someone else's.
449. Cf. Beth Joseph, infra, sec. 10, with attendant comments.
450. This would appear to be for the sake of convenience. One cannot hold that the talmid would be permitted to endanger his own halakic conformity simply because the principal of the case is himself and not another.
451. The decision of any other principle of halaka. It is possible here that a principle is operative which is often seen in the earlier Talmudic literature. The principle of exclusion operated by citation

of an exception or, more frequently, a deviant opinion, for the purpose of excluding the deviant opinion from becoming operative at a later time when the reasons for its original rejection would be forgotten. Similarly here, the permission to engage in this one act militates so as to strengthen the prohibition of the other possible 'halakic acts, by the device of presenting the limitations to which interpretive leniency in enforcement may properly go.

452. When no one else is concerned as a principal.

453. It is possible that the pronoun here may refer either to the teacher or to the student, but the former is the more likely.

454. Cf. Beth Joseph, infra, sec. 11, with comment.

455. Cf. Beth Joseph, infra, sec. 12, with comments,  
for Maimonides reference and discussion.

Cross-codical references will be dealt with in the discussion of the Beth Joseph.

456. This may mean,

- a. A person all of whose teachers have died; or
- b. A person whose sole teacher has died; or
- c. A person whose primary teacher has died.

The distinction will become plainer below, and will assume halakic significance.

- 457. In the sense of "fit"; the very violations of the mandate indicate the legal impossibility of enforcing this rule.
- 458. As above, to hear cases.
- 459. As above, to decide questions of halaka where novelty in the case structure is manifest.
- 460. In relation to his former master; presumably a student is not meant here in spite of the term talmid, but one accomplished in legal decisions.
- 461. The criteria of attainment are not discussed here. For an analysis of such criteria, cf. supra Maimonides s.v. "Qualifications for Candidacy."
- 462. As one who, inept as he may be in juridical circumspection, nonetheless may possess the academic qualifications and uses them to render juridical



decisions; otherwise, it would refer only to a usurper.

463. As Judges 9:40, where it is read, "many wounded were fallen", et passim.
464. An interesting inversion of construction vis-a-vis the text cited (Judges 9:40), and a more interesting and characteristic inversion of significances resolving to a single significate. In the Biblical text, the clause refers to mortal soldiers, and halalim is to be read "wounded"; in the codical text, it refers to the unfit judges, and halalim is related to hillul hashem, the profanation of the Name of God referred to supra, Notes. The term hahl here is related to profanation wherewith the judges are in fact afflicting the people, and horidu, a variation on the Biblical text, has as its subject the Deity.
465. Hakham is used here rather than the possible talmid hakham as above. This may be in order to avoid taking a marginal case.
466. As above, the qualifications of this designation are not expressed.

467. That is, refrains from teaching. Does this refer to teaching academically or to rendering legal decisions in case law? One is tempted to accept the former, but the precedent material implies the latter.
468. Cf. Beth Joseph infra, sec. 13, with attendant comments.
469. Not cited as a quotation, but found in Leviticus 19:14, and in other forms in Jeremiah 6:21, Ezekiel 3:20 et passim.
470. Proverbs 7:26, manifesting the inversions described supra, Notes. The biblical text is to be read, "and all her slain are a mighty host", where the subject of the clause is woman, especially a loose woman. Here the subject is not primary, and may even be a hypostasis of the Torah in itself in which case "her slain" would be either those who are learned in her, or those who seek her, i.e. the masses. In either case the identification of "slain" will serve to define those who are "bound up,"

A. If the "slain" are the scholars, then

1. the "bound" may be the scholars who do not speak, or
2. the "bound" may be the people who thirst for direction;

B. If the "slain" are the people, then

1. the "bound" may refer to their number, as a sign of multitude; or
2. the "bound" may refer to the agency of their death.

471. Small in spirit, as a term of opprobrium, and not necessarily a reference to age or other qualifications.

It will be recalled that physical height was a qualification (supra) in one set of criteria for admission to the Sanhedrin. This is not a corollary reference.

472. I.e., those who should be pupils, insofar as they are unfit to be judges. The remainder of the diatribe indicates that the very offense of which they are accused demands that they be invested with authority beyond that of actual pupils.

473. Presumably by increasing it first in themselves. Certainly to teach would be to increase Torah as

well, but it seems to me that only the first interpretation can square with the tenor of the passage.

474. To increase their status by pretending (in the technical sense) to the dignities of judicial office, to which they are not entitled by fitness, even if they be so by objective qualifications in the particular case.
475. In opprobrium, as to "play to the groundlings." By "ignorant" he means the uncritical, in parallel rather than in contrast to the "townspeople."
476. With precipitate action, as the fortunate English idiom has it.
477. Before those better suited. Alternately, and to our view less probably, at the head of the court.
478. In the worldwide community of Jewry rather than in the Palestinean milieu alone. Israel here is a generic term rather than a geographic one.
479. By giving unfounded opinions, which, not based

on authoritative knowledge or derivation, will differ from other similarly based opinions on the one hand and from sound ones on the other.

Alternatively, they cause the increase of controversy in that they teach in a manner which commands rebuke.

480. This may be an example of rabbinic ethical historiography, under the laws of which an unethical act may bear physical consequences. Thus, invasion and military destruction were precipitated under this historiography by the Qamza - Bar Qamza case, which involved public humiliation. Similarly, the profane use of dedicated marriage saplings had a comparable result. Alternately, this may be an example of rabbinic hyperbole.

481. Through the blackness of confusion which they cause to enter into the picture.

482. The vineyard is an example of a structured area in which ordered and purposeful work is done. In violating the structure and confusing the order

of the halaka, they ruin the vineyard. That this metaphor was selected for use at this point more likely derives from rather than leads to the verse from Canticles to follow.

483. Canticles is traditionally attributed in its generality to King Solomon, from the superscriptive opening verse (Canticles 1:1), "The song of songs, which is Solomon's..."

484. Again, the biblical text has been applied to a contemporary situation with major alterations of significance. Only from the preceeding section of R. Jacob b. Asher can one understand that the foxes are those who cunningly jump into authority, and that the vineyard is to be understood as supra, Notes. In the biblical setting, the verse is most difficult to explain contextually.

485. Canticles 2:15.

486. Here, a talmid rather than a talmid hakham.  
The talmid gamur will enter later.

487. Not merely "call", but "refer to" is indicated here.

488. I.e., by his given name rather than by the formal title.
489. Cf. Beth Joseph, sec. 14, infra, with attendant comments.
490. Clarifying "call" supra, Text.
491. Cf. Beth Joseph, sec. 15, infra, with attendant comments.
492. A formulary legal "blank". The point is clearly that ~~what~~ is involved is not identification of the name of the master but identification of the relation, of the student's acceptance of the master's mastery. The student is not chided as inaccurate but boorish.
493. The student.
494. The Master's.
495. The master. That is, the student is not permitted to employ the private name (rather than the formulary title) of his master even in the presence of his master, and even when referring to someone else of the same name.

496. Another master, perhaps. The objection is twofold:

A. Until it becomes clear that someone else is the referrent, the situation militates for confusion; and

B. Even if it is clear that another is the referrent, the name is still first (in order of priorities of honor) that of the present master. One may add another point:

C. The principle that the situation presents an opportunity for misinterpretation by the casual observer is active here as well.

497. In the absence of surnames, it should be noted that such names as Reuben b. Simeon and Reuben b. Levi are different names for the present purpose.

498. The student.

499. Of the referrent, such as e.g., by adding a patronymic. Perhaps a formulary title would do as well.

500. This may be either the master or the referrent other master. It might refer to the master if this clause modifies not only sec. 15 of the present text, but sec. 14 as well; it might



signify the referrent other master if it modifies only sec. 15. Division into numerated sections is a convenience of this rendition, and does not occur in this manner in some Hebrew texts.

- 501. Cf. R. Jacob b. Asher, this text, sec. 5 supra.
- 502. The formulary distinction about to be introduced is an attempt by formulary means to frustrate the familiarity of the casual.
- 503. The emphasis is in the last part of the verse, in the inserted word "casual".
- 504. The masses, those who do not stand in special relation with the master.
- 505. As equals. The whole formulary point is that he is not an equal, both for the dignity of his master and the protection of himself.
- 506. Cf. Beth Joseph, sec. 16, infra, with attendant comments.
- 507. The presence of the master is often compared with the indwelling presence of the Deity (the Shekinah).

508. Better, "awe". The same term is often applied to the Deity.
509. The title is the addition to the standard formula. This is sufficient to indicate and inculcate a distinction from the common run of men.
510. How his master is to greet him is not specified, but it must follow from the injunction to treat his students with honor (infra) that it, too, may be formulary in structure.
511. Mori werabbi, employing two terms generally rendered in English by master. The first is peculiarly a teacher, implying that the second connotes a moral superior.
512. The duplication or multiplication of terms can only be in response to the honor of having been addressed. The one who opens the conversation is by the very act lowering himself in greeting the other. Here, the other must clarify both academic and moral superiority as a response.
513. Since it might appear that either  
A. He is more diligent or eager than his master in

a matter of religion; or

B. He is not relating to his master after the fashion of people relating to royalty, who neither sit, nor eat, nor do any thing before the king has signalized that it is permissible by doing it himself.

514. In the sense of "prior to" rather than "in the presence of".

515. Cf. Beth Joseph, -sec. 17, infra, with attendant comments.

516. Since this involves a benediction; alternatively, this may be simply an extension of the principle of "Vis-a-vis royalty" supra, Notes.

517. "Temporally prior" rather than "in the presence of".

518. Cf. Beth Joseph, sec. 18, infra, with attendant comments.

519. These three words inserted for clarity.

520. The student.

521. In this case, in contrast to previous usage, the word refers to physical rather than temporal priority.

522. Which leaves the alternatives of  
A. obliquely; or  
B. in his absence.
523. Cf. Beth Joseph, sec. 19, infra with attendant comments.
524. Since the issue of principle is priority of spatial location as an index of prestige rather than the principle of priority in prayer.
525. I.e., together with him and even with him.  
Conversation between equals would be implied by such a relationship.
526. Not actually with him, as will become clear.
527. The master.
528. The point is that the student is in effect presenting himself in discontiguity with the master, so as to dissolve the putative relation between them.
529. That is, standing far back of the master but facing his back directly, so that he is putatively directing himself towards the master in spite of the distance.

530. I.e., at an oblique relation, or apparently a lack of relation.
531. The student is to walk obliquely to the Master.
532. Two students, walking with one master.
533. Cf. Beth Joseph, sec. 20, infra, with attendant comments.
534. Presumably in wisdom, but the criteria of evaluation of "greatness" are no clearer here than they were above.
535. I.e., a bit obliquely, to the master's own rear and left, facing the master, and opposite his fellow.
536. I.e., a bit obliquely, to the master's own rear and left, facing the master, and opposite his fellow.
537. Perhaps related to the "four cubits of the halaka"?
538. About five feet, reading amah as a measurement of perhaps fifteen inches.
539. Any stance relative to the person of the master.

540. Again, moral permission is meant here. No proviso is made for penalty for violating the inhibitions from sec. 14 of this text through the present section. Consequently, no enforceable jurisprudence is connoted at first view.
541. That is, they do not enter the bath house together. The intimacy suggested by a bath house (the actual sense of "bath") is here categorized as a violation of person of the master, and falls under the principles above.
542. Cf. Darkhe Moshe, sec. 10, infra, with attendant comments.
543. The master.
544. Requires the services, i. e., solicits the assistance, of the student.
545. Cf. Beth Joseph, sec. 21 infra, with attendant comments.
546. Here, not to audit cases but more likely merely to be seated in the master's presence.

547. The imperative. This would seem to imply that mere permission was insufficient, and that the student was forced to await the command.
548. As to take leave, which, undirected, might be seen as an affront.
549. Again the imperative, with the implications noted.
550. Cf. Beth Joseph, sec. 22, infra, with attendant comments.
551. In this case, the implication of the imperative "Sit!" is strengthened by its being specifically lifted for the parallel, "Stand!"
552. He leaves his presence, as to retire. It is presumed that the student attends upon the master rather than vice versa, and thus the subject is the student.
553. The objection is not that this is a sign of disrespect, but that it is
- A. the way of the common people, and
  - B. the way of equals in relating to each other.
554. I.e., walks out backwards, as with royalty.

555. That is, in the master's chair or accustomed seat.  
Otherwise, the action would be covered by the  
injunction not to sit in the master's presence, supra.
556. How much the more so in his --- i.e., the master's ---  
absence.
557. Refute, either in his presence or his absence.
558. Cf. Beth Joseph, sec. 23, infra, with attendant  
comments.
559. I.e., stand in his presence as a sign of respect.
560. As soon as the student sees the master, even if  
it be from a great distance, the entry of the master  
into his purview takes precedence over normal  
respect for persons in his present reshuth,  
and he rises in anticipation of the master's arrival.
561. Cf. Beth Joseph, sec. 24, infra, with attendant  
comments.
562. To indicate that the principle is not that of common  
reshuth, i.e., sharing of a common legal area,  
but the principle of respect in anticipation.



563. That is, until the master passes out of the range of the student's vision, rather than being blocked from his view by an intervention.
564. So that he, the master who is riding, would in any case be visibly superior to the student. To be riding had a status significance to Jacob b. Asher, and one who was, for example, seated on a horse was in a sense exalted over one who was merely on the ground. One might think that in such a case there would be no reason to rise in his presence, since his superior dignity would be connoted by the act of riding. However, the issue is not that the dignity be connoted by an act of the master, but that it be acknowledged by a positive act of the student. Consequently, the student must rise nonetheless.
565. The text reads k-m-h-l k, which, in view of the preceeding, may be read in either of two ways:
- A. K-m-h-l-k, "as if he were walking", to demonstrate by expansion the application of the previous principle. In this reading, the dignity of the master elicits the response

of standing regardless of the master's own position or action, in accord with the discussion immediately supra. Or,

B. K-h-m-l-k-, "as the king", reading with allowance for a possible and not unusual scribal transposition of the second and third letters. Here the parallelism with an example used previously and repeatedly would be emphasized: in the presence of the king, even if he be seated on a horse, the subject indicates his acknowledgment of fealty by rising.

Either reading is possible and defensible. We incline to the latter.

566. Cf. Beth Joseph, sec. 25, infra, with attendant comments.
567. I. e., customarily. The pupil is accustomed to sit when he studies with his master.
568. Upon his master's entering and leaving the room at momentary intervals, which would occur frequently throughout the day.

569. In respect. He will be risen, of course, in entering and leaving the academy; what is referred to here is a rising out of respect, which he may do in Maimonides' opinion no more than twice a day.
570. The dignity which he shows his master, by the act of acknowledgment.
571. Seem to exceed, in the sense of receiving more frequent acknowledgment.
572. For whom he rises in prayer. Perhaps already by this time (of Maimonides) the custom had become established in practice of transmuting the three prayer services, Shaharith (morning), Minhah (afternoon), and Arbhith (evening) into two effective services by causing the second and third to be contiguous.

In any case, the commandment in Deuteronomy 6:4-9 (The Shema) states that the times of speaking, interpreted as the proper times for offering up prayer, are "when you lie down and when you rise up", for a total of two. To acknowledge the honor of the master more than twice a day would

be tantamount to dignifying him more than the Deity. The use of the term Shekinah is a pious avoidance of direct reference to God.

573. This last opinion cited.
574. Cf. Hiddushe Hagahoth, sec. 7, infra, with attendant comments.
575. R. Abbahu was a third generation Palestinian Amora, one of the later pupils of Yohanan, a pupil also of Jose b. Hanina, well versed in Greek culture and philosophy, disputant with rising Christianity, and eventually head of his own school at Caesaria.
576. Although the relevant material of the idea of Abbahu (there is some confusion as to whether this opinion is of Abbahu or someone else, cf. infra on Hiddushe Hagahoth, sec. 7) has been presented, the full text is cited in an unusual duplication.
577. The honor of the master as symbolized by the number and degree of the student's acknowledgments.
578. It is interesting that the Amoraic layer does not

yet employ the circumlocution of person, Shekinah, but prefers the circumlocution of place, Heaven. That a circumlocution of some sort occurs is a pious expectation, but the form chosen is revelatory of the dynamic of the relation perceived by those who will select the object of the circumlocution in terms of person rather than place. Other pious circumlocutions, such as the circumlocution of attribute, Rahmana, "the Merciful One," are similarly revelatory of the needs and psychology of the people and the relationship sought and perceived. The definitive work on this interesting aspect of Jewish thought remains to be done.

579. R. Jacob b. Asher often cites his father, R. Asher b. Yehiel, as a codical source, but often (as here) only as a secondary source, quoting an opinion or backing an opinion which is at the same time at least equally grounded on another authority.
580. Here is a clear case of negative codical evidence. That a noted authority neglected the Amoraic comment attributed here to R. Abbahu is considered tantamount to having cited and rejected it.

581. The conclusion, rather than the argument. We shall deal with the Hagahoth and opinions of R. Isaac b. Jacob Hacohe Alfasi infra, in connection with the discussions on the Beth Joseph.
582. I.e., the law in practice follows his opinion.
583. So that one may rise to acknowledge the dignity of the master without limiting the number of times in a given day. Once more, one sees that the purpose of this principle of law was not, as is according to the common misunderstanding, to cause people to do that which they would otherwise not have done, but on the contrary, to inhibit them from going to excesses to which they would otherwise be prone. Similarly in the ritual codes connected with death and burial, the codes and rules are not to compel observance of practices which would otherwise be neglected, but rather to prevent excesses which would otherwise take place by delimiting the proper procedures. Many contemporary Reform Jewish approaches to the body of the Halaka, in neglecting this principle, held that they were freeing the people from undesirable practices compelled by the Halaka.

However, one may already see one unfortunate consequence of the general practical abrogation of the Halaka in that the lacuna created by the absence of the guidelines is often being filled today with excesses in observance of ceremonials of various kinds, including some of the grossest and most superstitious elements which it was the function, if not the purpose, of an area of the Halaka to enjoin.

584. Thus overturning the Maimonidean position, and permitting excesses of expressions of respect for the master. Who can say whether such thinking did not contribute to the adulations of the Hasidic period?
585. "Similarly" here indicates a further buttress of the argument to over throw the opinion of Maimonides. From the number of the sources invoked no less than from their authority, one may conjecture the potency of the Maimonidean opinion under discussion.
586. R. Akiba b. Joseph, flourished circa 110-135, second generation Palestinian Tanna, mentioned over 270 times in the Mishna, and set the system followed

in areas of Siphra, Siphre, and other texts.

587. Awe in the presence of the master on the part of the student.
588. Awe in the presence of God on the part of His creatures.
589. II Kings 17:39b. He read this so as to understand the object as including the master who is the subject of the present discussion.
590. His reasoning is made explicit here, so as to avoid misunderstanding or confusion. If this is so, one may reasonably ask, why is the inherent argument or application not always made explicit? The probable answer is that here, the major task of overturning the plain significance of the Maimonides opinion lays a special requirement for clarity which is not always otherwise present.
591. Rather than a practical case, e.g., encountering a miraculous experience, this is likely merely a hyperbolic metaphor substitution.
592. "Single" understood. The article is supplied.



593. "Would be required to..." The point is that numerical considerations tend to assume the possibility of quantifying what is to R. Akiba essentially a qualitative experience, and in so doing frustrate the nature of the experience qua experience, and consequently should be ruled out of consideration altogether.

594. Just as these parallel emotions are qualitative and not quantitative, essences of affect in themselves rather than functions of frequency of stimulus, so the parallel cases of encounter of the Shekinah and encounter of one's master are the same.

It is interesting that R. Akiba speaks here of the combination, "dread and fear", rather than the more common combinations, e.g., "love and fear"; in both cases, "fear" is akin to what we understand by "awe". Akiba's choice is not unique, but it does merit attention.

595. The general principle is being stated here. Often, even customarily, the general principle (kelal) is stated at the outset, and the elaborations follow. Especially is this true in primary codices, and

most especially where the elaborative material serves to extend the implicit principle of the previous case applications to yet other and unspecified instances.

596. Cf. Beth Joseph, sec. 26, infra, with attendant comments.
597. A pun on the two applications of the term, "master". In the first case, it is a "lord and master"; in the second, it is a teacher, a scholastic master. The point of the pun is that the relations are comparable in either case.
598. This verse is probably hyperbolic, even though hyperbole in a codex is dangerous, since it may be taken literally. The verse, however, does not originate in the codex but in the opinion of R. Akiba. One is tempted to see it as hyperbolic in that it tends to neglect the privileged status of the student vis-a-vis the master, a relationship which is not analogous to that of the servant vis-a-vis his lord.
599. The master, in the presence of the student, is the subject.

600. As in a strange town, on a journey, etc.
601. Not the student(s), patently, since if this were the case the injunction would not apply; this pronoun must therefore refer to the townspeople or casual observers.
602. Actually know his identity is a sufficient explanation of the term. It is not necessary to assume the formulary significance of formal recognition, i.e., conferral of honor.
603. Either the master or the student may be intended here. The import is that the casual observers are unaware of the special relationship which obtains between these two men. If the master is a well-known master, then it might be presumed that someone serving him would be a student. If, however, his identity is unknown, and that of the student is unknown qua student, then the disgraceful assumption might be forthcoming.
604. The master, who would probably not be a person who would subject slaves to public humiliating tasks.

605. To indicate that he is a Jew.
606. The student is the referrent of this pronoun, since he is performing menial tasks for another.
607. The student.
608. The student refrains from helping the master by placing the master's shoe on the master's foot, which he might otherwise do.
609. Since these are the acts of a body-servant, or slave, and the student's honor prohibits actions which would make him appear to be a slave, particularly before those unaware of the special relationship obtaining here.
- That this is for the protection of the student is obvious; that it is as well for the need for expression of the student is not obvious. The student bears a need to express in action his deference to the respected master. This requires elaboration, which is supplied in the following section.
610. Any master.
611. Out of a too highly developed concern for the student's dignity.

612. Even in nonacademic areas, after the manner of a servant.
613. The master prevents the student from attaining to worthiness of God's mercy.
614. By his overprotectiveness, he indoctrinates the student in carelessness in regard to things he should hold sacred.
615. Since the master stands in a certain sense in loco Dei, his waiver of his own body dignities involves the involuntary waiver of the dignities of Heaven, and the effect, even through its visible onset be protracted, is in the opinion of the codifier certain.
616. Even a voluntary act of personal service.
617. Which might indicate the honor which the student should accord the master.
618. Cf. Beth Joseph, sec. 27, infra, with attendant comments.
619. As embodied in the master and as respected in the

reflection of the respect of the student for the master.

620. A formulary clause of mild general indictment, reserved in the main for common transgressions against morality rather than legal torts of any kind.

The spirit of God is driven away from the world of men, or at least from the Jewish people (reading Israel in this sense) by p̄erverse and boorish acts.

621. Someone other than the principals, viz, student and master.

622. "Display honor to."

623. Interchangeable with "student".

624. "In the presence of" rather than either "prior to" or "to a greater degree than one honors the master of the pupil." The last two alternatives are absolutely boorish and covered in previous codical implications. By elimination, then, the first is the alternative applicable here.

625. Cf. Beth Joseph, sec. 27, infra, with attendant comments.

626. The injunction would, in form, have applied to

anyone present, including the master of the pupil himself. This exception, however, clarifies at this point that the initial subject of the injunction could only have been someone other than the principals, cf. immediately supra, Notes.

627. So that the Master may shower honors on a deserving pupil, and in so doing will not jeopardize his own dignity, since he is codically protective of the status of his pupil, as one who stands to some extent in loco parentis. If, however, someone else were to honor the pupil in the presence of the master, the possibility might arise of the situation being seen as competitive rather than supportive.

628. Cf. Darkhe Moshe, sec. 12, infra, with attendant comments.

629. The student or pupil.

630. Which is sufficiently clear so that there might be little chance of a mistaken apperception of the application of the precept to the particular case.

631. This is the formulary manner of correction, which

is primarily not correction at all, since it is not the pupil's place to correct the master. At the same time, the rules of the Deity are as binding on the master as upon the student, necessitating the student's correction of the master (or as well the father) in a confrontation with disobedience to a divine mandate. The solution of this impasse is a formulary petition for correction of the student himself, in presumption that he has misapprehended the situation. If the gravity of the situation or the blatancy of the transgression impede such a resolution, then the student circumvents the correction of his teacher by a formulary method which makes the teacher his own corrector. This latter is the force and rationale of the present formulation.

632. Opening the formulary possibility of the student's misinterpretation and leaving, since the authority cited is the master himself, the important opportunity for the latter to "save face."
633. Reiterating here the student's acceptance of the master to reinforce the formulation and its effect.
634. The contrary or correct practice.



635. Cf. Beth Joseph, sec. 29, infra, with attendant comments.
636. Pronounce or issue a teaching, expound an halaka.
637. To include a tradition. He is not to initiate a doctrine in his own name. Anonymous doctrines are equally proscribed. This is clearly for the protection of the student, although its phraseology does not emphasize that view.
638. Not a casual hearing, but a deliberate pronouncement or judgment.
639. Cf. Beth Joseph, sec. 30, infra, with attendant comments.
640. Cites or quotes; generally, not only the original source but the chain of transmission is cited in full as the source for an authoritative teaching.
641. Cite

642. Not only the one who said it first, but as supra, generally the chain of transmission. The text of the codex, however, would permit either citation in the name of the original teacher or in the name of him from whom the student heard the teaching, depending on whether one reads the word "first" after "said it" or alternately whether one understands "to the student" in that place.
643. Which may change his status, particularly as regards his right to teach.
644. A divergency of opinion is recorded here, which tends to give what follows a less compulsory value than would be the case otherwise. Since even in cases in which only one opinion is recorded, and hence stamped with the codifier's imprimatur, so to speak, a less than "hard" line has been adopted, one might suspect that here the material to follow is certainly not mandatory, perhaps merely suggestive, and possibly even academic.
645. Tears his garments one after the other successively as a sign of intense mourning, working from the

outer garment inwards at the same relative spot, so that eventually his chest is bared in the region of the left breast, formerly presumed to be the site over the location of the heart, the seat of emotion to the medieval world and of thought to the ancient one. Alternatively, a wide gash in one garment, as the outer garment, may be indicated. The former seems more likely indicated by the "until".

646. Part of the function of the garment is to beautify or glorify the wearer, and this action is on the one hand one of disdain for such motives, and on the other a confession that nothing can glorify, nothing can beautify, the intense grief so expressed.
647. Exposes to view.
648. E.g., after the period of mourning, so as to render the garments usable again.
649. Laces together the gash. To "sew" is to effect an actual repair, as if to undo that which was done. To "baste" may more nearly avoid the sense of undoing which is present in the former term.

650. Cf. Beth Joseph sec. 31, infra, with attendant comments.
651. Or, as he is more commonly known, Nahmanides;  
cf. Jewish Encyclopedia sv. d.
652. I.e., the student rends his garments in mourning for his master. That he is to do this is agreed; the disagreement is only on the extent.
653. Reading tephah as a unit of length of about 5 inches.
654. Cf. Hiddushe Hagahoth, Sec. 8, infra, with attendant comments.
655. As they apply to an immediate primary bereaved person, as to a son for a father.
656. For the distinction between the laws of abheluth and aninuth, cf. Jewish Encyclopedia s.v. Mourning.
657. Two possibilities are present here:
- A. He may observe all of the laws applicable upon the first day after the death, but observe them in less severity than is customary otherwise; or
  - B. He may observe fully those laws of this situation which he observes, but not observe all of the laws (practices, customs) which are generally associated with the period.

We have no grounds in the present text for determining either which of these alternatives is intended by Jacob b. Asher or for knowing, in case of the second alternative, which laws he is to observe.

- 658. Cf. Beth Joseph, sec. 32, infra, with attendant comments.
- 659. The summary of the relevant halaka, concluded after discussion, as opposed to an ipse dixit.
- 660. This it seems refers to the whole of the previous sections, dealing with service, relation, honor above and beyond what is customary in such situations, and mourning. The text of the codex, however, allows with equal probability that it may refer only to the last section, on mourning.
- 661. Held, as a legal terminus technicus.
- 662. The term "distinguished master:", a terminus technicus, becomes clear from further contextual examination.
- 663. Most of the traditions which the student knows have been learned from his present distinguished master.

664. Cf. Beth Joseph, sec. 33, infra, with attendant comments.
665. Or, patently, in all of them. The "or" does not have the force of exclusion here.
666. A general term with many meanings, cf. Sandmel, Samuel, "Torah, Law or Revelation", in Jewish Heritage 4:1, p. 21. Here, we may take it perhaps to mean Pentateuch.
667. Here a relative clarity as to the text concerned is present, but one suspects that here as in the case of "Torah" supra the text is to be considered with the commentary of the master, and hence "his knowledge in ... Mishna" is meant to include the interpretations of that text which he gleaned from his master, along with the all-important halakic implications of such interpretations.
668. Cf. Beth Joseph, sec. 34, infra, with attendant comments.
669. A gross distinction seems indicated here, since no basis for quantification is given, and it would have

been easy to do so. One need only have mentioned time of study — say, in years — as a criterion.

670. Used interchangeably with knowledge. Both terms likely refer to traditions utilizable in interpreting the halaka in case law applications.

671. Cf. Darkhe Moshe, sec. 14, infra, with attendant comments.

672. In the same category rather than being himself a student colleague. The difference between him and a student colleague will become clear presently, but for the moment it should be noted that he has not learned "most of his wisdom" from this specific master will influence the choice of relational category to which he will be assigned.

673. In the same category as talmid habher, a terminus technicus whose operational definition is emerging from its contextual uses.

674. Volition as opposed to compulsion seems to be the distinction here. It would seem that he is still permitted to honor him in the manners given,

but it is no longer incumbent upon him. The reasoning may involve the fact that although the master may be equally distinguished in the two cases, the student's responsibilities to honor him are responsive to the special relationship with the master which is the variable here.

675. The text sections including the servant's service of the lord-master and the area of nonacademic service seem included here.
676. In the presence of the master, he rises out of respect. This act has been detailed below, and the point of the present section is to indicate that it is equally incumbent upon this subject as it was upon the simple student, but that it is practiced to a lesser degree.

677. In this way, he at once attests to the honor due the master and demonstrates the modification of the special relationship of master and student.

677. Contrasted with the prior commitment to rise as soon as the master comes within view of the eye and remain standing until he leaves view, as



explained supra. For the comments on the four cubits, cf. supra, Notes, ad loc.

678. Cf. Beth Joseph, sec. 35, infra, with attendant comments.

679. The procedure in its totality has been described supra, text, and discussed in the notes ad loc.  
It should be noted that the issue of the degree of the practice (above it was discussed as to whether he was required to bare his heart) is not mentioned in this case. The essence is the observance, and not, as with his distinguished master, the degree of performance.

680. Cf. Beth Joseph, sec. 36, infra, with attendant comments.

681. This divergence from the pattern of this section established up to this point may be attributed to this reasoning; there are two elements involved in the observance here,

A. Acknowledgement of the dignity of the master; and

B. Distinction from the special relationship

between himself and e.g., his distinguished master.

Now, having established both, the first by performing the observances, and the second by modifying the degree of performance, it is permissible to give vent to full observance of the remaining elements of the mourning procedure. This supposition or construction is built on the principle that the codex, in cases like this one, acts not only or primarily for compulsion of performance of tasks otherwise neglected, but visibly for inhibition of natural excesses. It is to the latter element of the principle that the present concession ("and never bastes it") is made.

682. The alternative form here, reflecting the Hebrew, does not seem to suggest a deviation from the technical use of the term.
683. The connection of his relation with this master to a relation with his distinguished master is emphasized: the student must be in fact a student of this master; that the student is "a" student, almost in the professional sense, and that the master

is "a" master in the same manner, does not sufficiently establish the special relationship. This relationship, however tenuously, may be established by minimal common experience, "even if he learned from him only one thing"; but there must have been some real relationship.

- 684. The general term may be employed here to include items which are not properly "teachings" or decisive halakic practices.
- 685. This is suggestive of the dictum that the observer, lacking divine intuition, is in no real position to evaluate a mizwah as to its greatness or smallness; similarly, it does not follow that a teaching which seems more important to the student than another one actually is so. To the contrary, all that the student — or the master, for that matter — can with security assert is that he learned "an halaka", without securely designating its importance.
- 686. A full scholar is seemingly intended here, and not merely a student colleague.

687. I.e., who maintains that a given halakic principle pertains to a given case, and in making this assignment is in agreement with the other master.

688. Two possible expositions are involved here, both of them in eventual agreement with the stated view of the primary master:

A. The lesser scholar may speak in support of the greater scholar's conclusion while differing with his source justification; i.e., he may derive the same conclusion from other premises; or

B. The lesser scholar may expand the argument of the greater scholar, in support of both the latter's choice of sources (and hermeneutic process) and as well the latter's conclusion.

689. "In the presence of." A later object of consideration will be the interpretation of this conjunction in the sense, "within the jurisdiction of."

690. Once more, the ascertaining of degrees of greatness is not procedurally given, from which one may conclude that it refers either to

A. Years of study/teaching; or

B. A gross distinction, where the problem would not come up since the relative degree of achievement is a subject of general agreement.

One may assume that the latter is here the case.

691. This term was seen supra to be interchangeable with "knowledge", and intimately related to "teaching". One may suspect that it related to halakic experience, as it did before.

692. Even if the scholar in question has learned nothing from the superior scholar, not (as supra) even a relatively minor halaka. The terminology suggests the criterion for a posterior beth din to be able to reverse the decision(s) of a prior beth din:

A. The reversing beth din must be superior to the other in number of scholars seated upon it; and

B. The reversing beth din must be superior to the other in "wisdom"; while there is evidence that age, either plays a role in this factor, "wisdom" remains in its essence an undefined term.

1. age in terms of absolute chronology

of the persons, or

2. age in terms of years of study, under the Aggadic postulate that rebirth concepts are somehow associated with the onset of study, i.e., that in some sense one who is ignorant is as not living, and consequently in some manner age is for certain Aggadic purposes calculated from years of study rather than from physical chronology.

693. Cf. Beth Joseph, sec. 32, infra, with attendant comments.
694. This connective phrase seems to make no contextual sense. The section makes perfectly good sense if read without it, beginning from "If the distinguished master..."
695. Indicating that at least part of the immediately contiguous sections in the text supra have been dealing, if not with the distinguished master, at least with categories into which he falls.
696. To forego the signs of honor which the student is responsible to confer upon him. Such a move

is to be rejected not only on religious but on psychological grounds, and not only in consideration of the honor due the master (both in his own right and as a representative of a higher force) but as well in consideration of the student's need to confer honor on a deserving object.

697. Cf. Beth Joseph, sec. 38, infra, with attendant comments.

698. The separate permission is granted here for relinquishing all of his honors or any of them. Given the first permission, why does he require the second? One possibility is to establish that the entire matter rests in its totality in the hands of the master, and that the latter is not compelled to abide by an all-or-nothing choice, but retains irrevocably the right to remit and maintain as he sees fit. I am not entirely satisfied with this interpretation.

699. The same argument applies here, and here too, I can offer no explanation other than the one immediately above which I cannot find entirely satisfying.

700. Cf. Darkhe Moshe, sec. 15, infra, with attendant comments.
701. "(thus)" is supplied, since I feel ~~th~~at the correlation of the segments of the verse is not apparent without it.
702. Again, the force of "makes" intends to show that the thrust of the passage is to give the student free rein and permit him what he should naturally desire.
703. It is as if the master has deprived the student of a sought opportunity to fulfill a mizwah, to seize upon an opportunity to discharge a mandate of God.
704. The force of the codical mandate to honor the master at the opening of the code (section 1) is given the status of a mizwah. The reason for this ties into the principle that a codifier who builds upon the past speaks from the authority of that past, and not with new authority. His authority may be intended to be terminal; it is seldom intended to be original.
705. That this is a reciprocal relationship will be made explicit in the next sections.



706. That is to say, the same authority which buttresses the one, underpins the other.
707. Unenforceably responsible, in view of the discussion supra.
708. And for the same reason: the relationship, above and beyond the individual principals, is one of dignity and honor, and confers these things upon its members.
709. But not in the same manner; one cannot imagine a sage serving in servile manner his students as an habitual matter.
710. Cf. Beth Joseph, sec. 39, infra, with attendant comments.
711. Perhaps the implied indirect object of the verb is "himself", i.e., to the master, in which case a sense of intimacy is suggested; alternatively, the clause is reminiscent of the frequent formulaary clause which has as its object the Shekinah itself, in which case the duty of the master is to inspire

the student, not as a matter of good pedagogy merely, but for the sake of the glorification of Heaven.

712. Here used in the sense of "respect".
713. Since, from the master's point of view, he himself, in the sense of his enduring immortality, is preserved in and through them. Thus it was held that the monument of a sage is no stone to be worked away in a few years, but the words which he uttered, which endure forever. This immortality, however, is preserved in the hearts and minds only of the students, who are thus due the respect which the master would show himself.
714. Cf. Beth Joseph, sec. 40, infra, with attendant comments.
715. A. master.
716. "Keep from sin" is possibly the meaning of sh-m-r intended here, since one would hardly postulate physical protection or custody.

717. Thus, both an intellectual and an emotional attachment are indicated here, both to the student qua student and to the student as a total person.
718. Not only his spiritual descendents, but the seed of his own immortality.
719. Both the pleasure of teaching, which every true pedagogue knows, and the pleasure of spreading the truth.
720. A picture is drawn of the fate of the scholars in the world to come, which will be to continue their studies under infallible teachers and achieve perfect understanding. Beyond this, however, the intimations of immortality dealt with supra, Notes, suffice to explain the reference to the next life.
721. By their piercing questions, which cut away the incorrect and polish the proper in his teachings.
722. Since the teacher must deepen his wisdom in the sense of "understanding" in order to deal with the challenges which they raise.
723. By exposing him to other and unconsidered viewpoints on a given subject.

724. R. Hanina is the speaker here.
725. As a student, yet of immature mind.
726. Cf. Beth Joseph, sec. 41, *infra*, with attendant comments.
727. As a man of mature mind but limited experience, in testing his experiences and opinions with those of his fellow field colleagues.
728. As a mature mind, deep in understanding, he was broadened by the insights which he developed as a result of the attempt to meet the questions of his students.
729. Small in wisdom; note that the small twig must itself be burning brightly in order to ignite the great; similarly, it is only the keen and unafraid student, who likewise burns brightly, who ignites the mind of the great teacher.
730. Goads with penetrating questions.
731. Not, note, that the wisdom is that of the student, but the point is that the student is a goad to the master.

732. If the student must choose because of limited resources between making good one of the two losses.
733. This word inserted for clarity; otherwise, the text would suggest loss of life or liberty, which does not seem to be the intention.
734. The money or property of his father.
735. Insert, "the money or property of".
736. Only applicable when the master in question is both distinguished and in the personal relationship with him established supra.
737. Cf. Beth Joseph, sec. 42, infra, with attendant comments.
738. In the Hebrew text, this word does not conjoin to the act of assistance but refers to the "burden of his master" directly. The text here speaks of actually burdened men, but this may be a means of expressing in physical terms a pecuniary or other burden. In view of the successive section, I tend to favor this interpretation, although the other is possible.

739. Parenthetical clause inserted for clarity.
740. Note that the terminology does not specify "his distinguished master" in this case.
741. Cf. Darkhe Moshe , sec. 9, infra, with attendant comments.
742. That is, the claim upon him of his physical father or biological father does not take precedent to the claim upon him of his spiritual or pedagogic father. The implications of this principle for cases of adoption and subsequent reclamation are manifest.
743. His father and his master are encountered by the student both bearing physical burdens. The question arises, whose burden should he assume first, or, insofar as his capacities may not suffice for both, whose burden should he assume together? This is a case separable from the one in the preceeding section in that it possibly refers to a physical matter whereas the preceeding possibly refers to a pecuniary one.
744. Parenthetical adjective inserted for clarity and distinction from the contiguous section, supra.

745. By assumption of it.
746. To the limit of his capacities, so that he might not be able to assume the second burden at all.
747. As in a foreign captivity; it is possible that a slave auction is envisioned here.
748. Through purchase.
749. This case, in parallel to the preceeding, is expanded because one might think that the seriousness of the situation — leaving his father even for the moment to face deportation or sale — might alter the applicability of the principle. The case comes to tell you that it is not so.
750. A case reversal of the previous principle in form, but not in fact.
751. So that his father fits into both categories, of physical father and of sage. It is perhaps presumed that his father has taught him at least something, whence the previous doctrine that a relationship is established even over one halaka, would become effective.

752. My father, Cantor Irving M. Podet, taught,

It says that a man has a greater responsibility to his teacher than to his father: if they are burdened, the son relieves first the teacher; if they are in need, he takes care first of the teacher; if they are in danger, he rescues first the teacher. How can this be?

You learn from this not that the law comes to favor the teacher over the father, but that it comes to tell the father that he should be as well the teacher. The teaching of the boy is the father's job, and if someone else must take it over, then that someone is the true father.

753. Cf. Beth Joseph, sec. 43, infra, with attendant comments.

754. If his father was learned and attempted to impart some learning to the son-student.

755. In repute or in wisdom.

756. The student makes up to the limit of his capacities the pecuniary loss of his father-teacher and then turns to do the same with the losses of his other teacher.

757. We have noted before the conditions under which Jacob b. Asher generally seems to favor using supportive quotations cited from his father, R. Asher



b. Yehiel. Here, too, the citation comes to buttress a citation from Maimonides.

758. The indefinite pronoun. The question is precisely which shall be relieved of distress or unburdened first.

759. Thus far, R. Asher b. Yehiel agrees with Maimonides. However, a divergent opinion follows without comment. It is possible that its station, i.e., that it occurs after the Maimonides opinion, means that to R. Jacob b. Asher it prevails; it may also be possible that he is presenting both views without comment.

760. Since this is not a matter of such critical urgency as, e.g., redemption.

761. The father who was a sage, albeit unequal in wisdom to the master. That this is likely the case is structurally suggested by the fact that the father found it necessary to engage a master other than himself.

762. So that the greater scholar takes precedence. In addition to delineating orders of respect for

personages entitled to his (the student's) respect,  
it should be borne in mind that:

- A. Preferential treatment of the sage tends  
to preserve wisdom in Israel, especially  
when in a period of invasion, both sages  
and fathers are being captured;
- B. Preferential treatment of the sage tends  
to encourage pursuit of wisdom by those  
who have not attained it, and of more  
wisdom by those who have;
- C. Preferential treatment of a teacher tends  
to encourage fathers to assume the primary  
responsibility for instruction of their sons,  
as in the opinion of my father cited supra; and
- D. This text of this codex was written and trans-  
mitted by sages and teachers of high repute.

763. Both because this is possibly what may happen anyway,  
i. e., in response to the dictum that one does not  
outlaw what will in any case occur simply to  
make the Children of Israel become sinners, and  
secondly because the others depend upon him.

A corollary of the second point is this third one:  
that one is not permitted to break himself for some-  
one else, either to pauperize himself or other-  
wise.

764. Cf. Beth Joseph, sec. 44, infra, with attendant comments.
765. From Arba's Turim. The name is also applied to the codifier, R. Jacob b. Asher.
766. With the result that Bible courses at the Hebrew Union College must devote a considerable amount of time to pointing out that secondary material is often more valuable than primary, cf.  
Sheldon Blank, Prophetic Faith in Isaiah, Harper, New York, p958, p. 49 ff.
767. As, in a sense, does the Mishna itself.
768. From Talmudic times. The brilliance of R. Jacob b. Asher's method is that his systematization was seen as a codification of previous materials originating according to the halakic conception from Talmudic thought, whereas Maimonides's method was seen to produce a code in itself.

769. "Meaningful" and "significant" in the technical sense.
770. That is, it presents itself as a primary source of the material. In the case of Maimonides, the material itself is essentially Talmudic, but the formulation of it in Maimonides is primary. For this reason, it is not only unnecessary but perhaps detrimental to the nature of a "code" in the pure sense to link constantly one's formulations with the earlier sources and their development. The development and its presentation or lack of it is the key here.
771. Or so it presents itself or is considered.
772. But totally neglecting its development.
773. And in tracing in significant cases the development and even the controversies which were in effect the labor pains of the ultimate formulation at which he arrives.
774. Not only subsequent commentaries, which are quantitatively more extensively based on the Arba'a Turim method rather than on the Yad Hahazaqah method.

775. In order to preserve the historical Jewish juridical value of considering the present work an extension of the past. It is precisely here that Maimonides fails, in terms of the subsequent attitudes to his work.
776. Cf. Louis Ginzberg, "Joseph b. Ephraim Caro", in Jewish Encyclopedia 3:583b-588b.
777. Ginzberg, "Caro", loc. cit.
778. Q. V. art. in Jewish Encyclopedia
- 779.
780. Who instructed him in her mysteries because of his devotion to her.
781. Seemingly even then a center for mystical studies and activities.
782. About 1538 and onwards.
783. Cf. Qontres Hasemikah at the end of R. Levi ibn Habib's Collected Responsa, Lemberg edition. We are speaking of R. Levi b. Jacob ibn Habib, whose

father compiled the En Jacob, cf. infra.

784. Cf. infra, Part V, "The Attempted Reinstitution of Semikah. "
785. Q.v. infra.
786. Ginzberb, Ibid.
787. Cf. Text, Part V, infra.
788. Ginzberg, Ibid.
789. Perhaps in time Karo gave up the seemingly fruitless effort after he had ensured the continuation of the "true" semikah for one more academic generation. His silence in his Keseph Mishneh on Sanhedrin 4 on this point is perhaps indicative of such a resolution.
790. Cf. in Jewish Encyclopedia, s.v. Jacob Alshekh.
791. The Shulhan Arukh.
792. Not to Karo. He considered this work a minor revision downwards of his massive Beth Joseph, the work under consideration, introduced only as a handy index; its authority derives from its use,

which is a testimony to its very handiness no less than to the authority of its composer.

793. Abraham Moses Luncz, publishes in Jerusalem Yearbook Vol. 5 for 1901, p. 161 ff. a letter of condemnation by the rabbinical leadership of Safed, at whose head and whose spokesman was R. Joseph Karo. The letter is a perfect specimen of the utilization of the devices of formal execration in the hands of a superbly competent practitioner.
794. Evidence in Ibid.
795. Ibid.
796. So that R. Moses Isserles (Responsum #48) compelled acceptance of one of Karo's decisions while questioning it.
797. Ginzberg, Ibid.
798. "The House of Joseph," a phrase appearing in Joshua 18:5 et passim.
799. Ginzberg, Ibid.
800. Hugely manifest in a critical examination of his Moreh Nebhukhim.

801. For which he is criticised R. Hayyim b. Bezalel,  
Wikkuah Mayim Hayyim, "Introduction".
802. Of the Tur.
- 803.. Cf. introduction to the text of the Tur, supra.
804. No adequate critical reading of the Beth Joseph  
is available to my knowledge. The present reading  
is styled "synoptic" in that it, following the critical  
method, attempts to present material of greatest  
relevance and implication while at the same time attempt-  
ing to preserve the flavor to the extent possible of  
the original.

In the attempt to maintain the balance between  
reading as literally as possible and as freely as  
necessary, explanatory material sometimes  
cannot be other than inserted in the text. Other  
material may, after deliberation in judgment, per-  
haps be suspended without wreaking violence on the  
text, and a third body of matter may be synopsized.  
Delicate balances are involved here, and another  
reader may with equal justification produce a  
version to a greater or lesser degree from this one.



With this caveat in mind, it is hoped that the analysis will clarify the meaning inherent in the text, rather than adding a significance not implicit in it to the student halakist nor eliminating a significant element without which the text may lose much.

805. Reference on Arba'a Turim , sec. 1, paragraph 1.
806. The Beth Joseph often fails to give specific folio and page references. Sometimes, it contents itself with the chapter designation, which is administered in terms of the opening words of the chapter. The specific details are then left to the editor or the interested student to work out.
807. In cases such as the present one, the numeral designating a recto or folio (by the fact that it is followed by a lower case "a" or "b") refers to the appropriate passage of Gemara. A numeral alluding to a chapter of Mishna will not have the subdesignation. The terms of location, e.g. , "end", "bottom", etc. , refer to positions on the talmudic page. In the relatively rare cases where they are used in connection with a non-subdesignated

numeral, they refer to positions within the appropriate Mishna.

The editions of Mishna and Talmud here employed are discussed in the critical bibliographies.

808. The citation from Arba'a Turim, sec. 1, paragraph 2, is an exact quote. This is not always the case, since references are often made to paraphrases or epitomes or synopses of the texts in reference. The painstaking perseverance of the Beth Joseph in hunting these down is manifest.

809. From the Babylonian Talmud, cited exactly in Arba'a Turim loc. cit. Karo often crossreferences the Jerusalem Talmud where such crossreference is relevant. The title Sanhedrin, like the title "Heleq", is the title both of the Mishna and of the Gemara upon it, ~~so that in this case~~, folio 109a in chapter "Heleq" of the Gemara tractate Sanhedrin is a discussion of Mishna 11 of the tractate in the Mishna of the same name.

810. This is evidence of interpretive criticism of a nature which has appeared in no codification or code to this point. That one would not expect it in a code,

i.e., a source code, is apparent. But that R. Joseph Karo, placing himself in the position of R. Jacob b. Asher, attempts to reconstruct the thinking of the latter and to anticipate why the latter does not ask a given question, or bring into evidence a prominent quote, represents a signal achievement in resource codification methodology.

The significance of Maimonides here is that he is recognized in nature as a source, and that he should on this important point appear in a primary resource which does not hesitate to use him on other occasions.

811. Although in this case, the references to previously cited material have been made easy to follow, often Karo and other commentators continue a citation which has been begun in the text upon which they are commenting. When they indicate a previous quotation by an author not previously cited in the immediate commentary text, it may be generally found in the primary text to which they are addressing

the commentary.

812. The particular narrative will have occasion to reappear in greater detail. One may note here that often a citation is referenced to an occurrence or story entering about a personality, with the implication that implicit in the action of the protagonist is the halakic principle. This is essentially in consonance with the principle of case law.
813. This incident, also to be developed at greater length, represents a principle parallel rather than a contrary example.
814. The limit of three parasangs which serves as a *tehum*, here in the sense of a radius of authorization or prerogative.
815. His source, paraphrased, for the information on the radius of prerogative.
816. Here again, we see that not only the patriarchs, but earlier rabbinical authorities, begin to assume the aura of absolute authority. Without this

assumption, the citation of an act of Moses is meaningless; similarly supra, the citation of a case example from the incidents of Rabbi or of R. Tanhum b. R. Ammi is technically meaningless unless it be presumed that the very action of such men is an embodiment of case law precedent.

817. Here not an incident, but the teaching cited without giving the antecedent personality in whose name the tradition of the teaching was taught. In every case, the work of the Beth Joseph has been to shore up, substantiate, and make more "authentic" the teachings in the Arba'a Turim.
818. The Bedeq Habayith (a reading of II Kings 12:6, meaning here "A Fixing of the House") is a supplementary text of R. Joseph Karo which adds explanatory notes and sections to his Beth Joseph. For our convenience, it is assembled infra and divided into referable numbered sections, of which number 1 comes at this point.
819. As opposed to the Talmid. Here, the student colleague is permitted to differ with the master, a point

which was analyzed in its first appearance in the  
Arba'a Turim.

820. The "Maimonidean Notes", so called because they are notes on Maimonides' code, not as is often the custom in reference to the author; they are not by Maimonides.
821. The Maimonides text; the possible confusion here is that the reference is to the Hagahoth Maimoniot on the designated section of the Yad Hahazaqah.
822. Resolution uncertain. The texts with which we are dealing customarily employ a host of abbreviations for books, authors, subjects, methods, hermeneutics, etc. Many of these are common; a second group, not as common, may still be resolved with relative certainty through contextual evidence; a third group remains uncertain, either because of textual lack of a sufficiency of evidence within the texts under consideration, including parallel and other texts within the present writer's ken, or because the obvious resolutions do not seem to fit the expectations of the context. An effort has been made to resolve them in any case, but in

some cases the resolution is tentative. Such cases are so designated.

823. R. Mordecai b. Hillel b. Hillel, author of the Great Mordecai (so called to distinguish it from R. Samuel Schlettstadt, the Lesser Mordecai), was a German halakist of great note who died Nuremberg August 1, 1298. A student of R. Meir b. Barukh of Rothenburg wrote his legal compendium in the form of glosses to the codex of R. Isaac Alfasi, integrating some 350 authorities into his compilation which is often only superficially attached to the Alfasi code. He is more than a compiler, however, and his independent abilities of integration are visible in many critical synopses of discussions, cf. Weiss, Dor Dor Wedorshaw, p. 82. S. Kohn ascribes to him the authorship of the Hagahoth Maimoniot ("Notes on Maimonides"), a contention challenged by Louis Ginzberg in "Mordecai b. Hillel b. Hillel", in Jewish Encyclopedia 9:10b. The studies of "Moses b. Maimon" by Isaac Broyde and Jacob Zallel Lauterbach in Jewish Encyclopedia

9 do not mention any ascription of the Hagahoth  
Maimonieth to Maimonides.

824. Not only precedence is involved here, but livelihood:

A. If the master was accustomed to practice in  
that place, then this conduct implies an aspersion  
possibly against the competency of the customary  
authorities to handle the case in question;

B. If the master practices customarily in that  
place, he may depend upon such practice for  
his livelihood, and this would permit a des-  
tructive competition to be set up.

825. The radius of prerogative of the master in any  
case remains inviolate.

826. He is so permitted to practice particularly (a more  
felicitous reading than "even") with his master's  
explicit permission. This will become important  
for the consideration of permissions to teach up  
to the present day.

827. That the master may include him within the master's  
own radius of prerogative.

828. The actual order of precedence, or "pecking order"



to borrow an agricultural analogue, is set up in reference to another issue. The reference here, as so often, indicates where the relevant argument is to be found, and not necessarily the words of that argument.

829. The principle is illustrated supra in the first example of the two threats to the "sovereignty" of the rights of the master within the radius of prerogative.
830. Again, evidence is visible that one of the prime purposes of the structure as a whole was to protect the student from his own potential excesses or overreachings of authority, which would in time, in the possible presence of errors and consequent reversals in halaka, redound to his discredit and lack of personal authority.
831. Kethuboth 60b as indicated.
832. Of Pavia, Italy, 15th century. Cf. sec. 3, p. 10, in Jacobson, Guttman, Cohen, Op. cit.

833. Often writers of responsa or other bodies of similar types of literature will designate the divisions of their efforts by titles such as shoresh, meaning originally "root" and used in such cases in the sense of "principal", or siman, meaning originally "sign" and used in such cases to mean "section", or by other sectional designations (sometimes supplied by the editors) which seem to add a certain flavor to the text, for which reason they are generally supplied here.
834. That is, that he may teach outside of the three parasang limit but not within it.
835. Talmid Gamur, an accomplished student, but nonetheless a student still.
836. Who has not achieved equality in statue of colleague-ship with the master.
837. Cf. Darkhe Moshe infra with attendant notes, sec. 2
838. One who is in a position to ordain may not refrain from doing so.
839. The implication of the case development. In this

incident, the authority to override of the superior was contested on the grounds that the ordinand did not receive his ordination from that superior.

840. By which logic he would not be responsible to another independent authority.
841. R. Joseph Kolon, Op. cit.
842. Cf. Hiddushe Hagahoth infra with attendant notes, sec. 1.
843. Or, "simple compulsion", i.e., compulsion involving no other legal principles.
844. In the presence of the master.
845. Thus, the former is establishing his freedom from the authority of the latter by formulating the relationship between them as that of student-collegiality.
846. Cf. Darkhe Moshe infra with attendant notes, sec. 3.
847. Tos., ibid.
848. Tur, ibid.
849. This seems to be a dominant definition.

850. Maimonides, loc. cit.
851. Since he would already have been a student and a colleague before developing his own wisdom and greatness fully.
852. Cf. Darkhe Moshe infra with attendant notes, sec. 4.
853. This definition seems implicit in the thought of both Maimonides and Kolon.
854. Resolution tentative.
855. Hagahoth Maimonioth loc. cit.
856. Resolutions tentative.
857. Hagahoth Maimonioth loc. cit.
858. Resolution tentative.
859. In order to determine the applicable halakic principle.
860. Just as the student is forbidden to teach, so the master is forbidden to let him. It is a bilateral prohibition.'
861. Cf. Darkhe Moshe infra with attendant notes, sec. 5.

862. Cf. Baer Hetebh infra with attendant notes , sec. 2.
863. From the Baer Hetebh, cf. infra. By R. Judah Ashkenazi Dayyan (Tiktim, Frankfort), in Jacobson, Guttman, Cohen, Op. cit. , sec. 3, p. 16.  
Baer Hetebh, here, "Clear Explanation", is a reading of Deuteronomy 27:8. Cf. Baer Hetebh text and notes infra.
864. A reported teaching, cf. Mielziner Op. cit. , p. 227.
865. Because he would have been preempting the prerogative of authority of his master in his presence.
866. Or a decision of ritual law, "prohibition and permission". He may, in other words, explain, but not decide.
867. In the sense of "decision of cases of ritual law".
868. That is, ritual and civil law decisions.
869. Or, he may be more competent in the one area than in the other.
870. For which all would be necessarily competent.

871. The question is, where does the privilege conflict with the prerogative? One answer is, when the guest repeatedly officiates.
872. For the ritual slaughter.
873. Cf. Hiddushe Hagahoth infra with attendant notes, sec. 4.
874. Resolution tentative.
875. Cf. Bedeq Habayith infra with attendant notes, sec. 3.
876. Cf. Hiddushe Hagahoth infra with attendant notes, sec. 5.
877. Cf. Hiddushe Hagahoth infra with attendant notes, sec. 6.
878. Presumably in wisdom or numbers (of students), a definition which emerges from the parallel texts considered.
879. A new criterion, presumably differing from wisdom and numbers.
880. I.e., that the case indicates that only for that forty years that he waited one should have refrained from teaching, then the Maimonidean method would consider this case as sufficiently particular

that it could not serve as a guide to others in other situations, and he would be expected to eliminate it from his code.

- 881. "With the result that..."
- 882. Cf. Darkhe Moshe infra with attendant notes, sec. 6.
- 883. Actually a citation from the Sanhedrin passage.
- 884. The term "epicurean" often in the rabbinic literature, as here, does not have the meaning it bears in the Greek philosophical school of the same name. Because the Epicurean school came to some to represent certain hellenistic philosophical trends, the term came to mean sometimes one who preferred the methods of philosophy as a guide to truth to the methods of what was seen as Jewish tradition in its unfolding. Ultimately, an epicurean may be one who rejects the authority of Scripture or of the rabbinic tradition because of his philosophical pretensions or precommitments. On occasion the word "philosopher" is used in the same way. Numerous debates on God, tradition, etc. are recorded between the defenders of the faith and

assorted epicureans. One might with some justice hold that the use of epicurean in this manner parallels the use of "assimilated" in other literatures of later Jewish periods: a presumption of intellectual (and other) hostility is present.

885. Cf. Darkhe Moshe infra with attendant notes, sec. 7.

886. Ibid., sec. 8.

887. A delicate balance is drawn here. The master is deserving of the student's respect, but other things are more deserving, and respect and adulation must be discriminated sharply; the former is properly due to the master; the latter to God alone.

888. In private worship, where the two men are closeted in other than in a public worship service. In public an idolatrous inference from relative positions of stance would be rather unlikely.

889. Facing him. The emphasis here is both on the student's own psychology and on the understandings of the rest of the group of worshippers, the casual observers of what may become a repetitive pattern.

890. Cf. Darkhe Moshe infra with attendant notes, sec. 9.



891. Because he preempts the place of honor. An interesting parallel obtains here with the favored position of the right hand in Part I supra text. This inequality continues even into present usage, so that the flag in America is stationed on the "right", etc
892. The convenience aspect is not immediately visible, unless the freeing of the "weapons" hand of the man on the right, an Anglo-Saxon formulation, be intended. This is probably the reason why women and serfs in the Anglo-Saxon tradition walk on the left, so that their right hands are impeded from free motion.
893. The one aspect so far neglected, that of the master's own psychology, is brought into play here.
894. Reference tentative.
895. On the question of the honor due the father.
896. K-sh-s-th b-d-w-k-n, not an identifiable Biblical quotation, which is the common source for many literary titles, this is apparently the title of the

877. responsum of Adret, not listed as such in Hebrew Union College listings (Hebrew Union College Library, Cincinnati).
897. But on this a stronger position in defense of the father's honor will be taken in this text infra.
898. Habitually, as a student in study.
899. Whenever his master enters or leaves. The alternative would be for him to remain standing always in the presence of his master, even while at study.
900. Cf. Hiddushe Hagahoth infra with attendant notes, sec. 7.
901. Tying in here to the discussion on this point in the Tur q.v. notes.
902. Grandson of R. Solomon b. Isaac and himself a renowned scholar.
903. A hyperbolic rather than a definitive reference. The meaning is "many".
904. Because the presence of the master there is routine. '

905. Cf. Darkhe Moshe infra with attendant notes, sec. 11.
906. Cf. supra "The Great Mordecai" ad loc. cit.
907. To do honor.
908. Cf. Bedeq Habayith infra with attendant notes, sec. 4.
909. Cf. Darkhe Moshe infra with attendant notes, sec. 13.
910. Resolution tentative.
911. "The Law of Man (Adam)", responsa and teachings.
912. An analogy on an ideological congruency, con.  
a gezerah shawa, cf. Mielziner Op. cit. p. 142  
on the latter, p. 152 on the former.
913. R. Moses b. Nahman, Torath Haadam, 13th century.
914. 'S at' in a technical sense: he observed the rules of  
intensive mourning pertaining to the seven-day  
period called shibha, and also observed laws of  
the thirty day period of sheloshim.
915. Not listed in Strack, Op. cit. Perhaps the opinion of  
R. Hiyya b. Aba quoting his father is meant here.  
The Hiyya here (there were two) is perhaps Hiyya II,

the student of R. Yohanan, a third generation  
Palestinian Amora, often mentioned with R. Ammi.

916. R. Ammi b. Nathan, pupil of R. Yohanan, later at  
Tiberias. A third generation Palestinian Amora, and  
a contemporary of Diocletian.
917. If the previous quote is really from Hiyya II, then  
here he is quoting his teacher R. Yohanan and before  
he was giving his own opinion. This is a common  
talmudic resolution.
918. R. Yohanan b. Nappaha ("John Smith"), second  
generation Palestinian Amora, student of Jannai  
et al., colleague of Simeon b. Laqish, teacher at  
Sepphoris (his birthplace) and Tiberias. Sherira Gaon  
mentions that he presided over the college for  
eighty years, but this is questionable.
919. In this opinion, we are trying to explain why R. Ammi  
asked shibha and observed sheloshim for his master.  
Yohanan himself, it is here adduced, held that one  
day would have been sufficient (before the case came  
up, of course, since it is Yohanan who is involved).  
Hiyya II is contending that there was other than

the special student-teacher relation dictating the procedure here.

920. R. Nahman loc. cit.

921. His master is to be mourned by the student in this manner, similarly to the mourning of a parent. This is characteristic of his position.

922. After the mourning period to make the garment reusable.

923. If, say, a father dies but the son hears of it perhaps a year later, is he to mourn for the prescribed period "after the demise", which would long since have elapsed? This is the problem of the distant report of a close death. Even for the Nasi, it would be sufficient to follow the rule of distant report for close death, here stated as responsibility to mourn one day.

Surely the honor due the teacher may be analogized to the honor due the Nasi, is the thinking here. He does not spell out what he means by that.

924. One expects a reference here to the distinction between aninuth, the state of intense mourning between death and burial which would be perhaps one day, and abheluth, which includes shibha,

the state of mourning of the first seven days.

Removal of the shoes is part of the whole shibha.

Cf. Lewis N. Dembitz, Jewish Services in Synagogue and Home, Jewish Publication Society, Philadelphia, 1898, p. 329. ff.

925. Dembitz loc. cit. holds that taking off of the shoes historically is associated with the entire period of shibha, and not merely with a part of it. The possibility here is that R. Asher b. Yehiel observes shibha, or alternatively, that he merely selects this observance from the shibha practices.

926. Which would entail the observances of aninuth if the passage does not merely mean in a hyperbolic way to stress the involvement affectively with the death of the master.

927. R. Meir, pupil of Ishmael then of Akiba, also of Elisha b. Abuyah ("Aher"); a third generation Tanna, he lived in Hammetha near Tiberias or in Tiberias itself. He is mentioned in Mishna and Tosephta over 780 times. Resolution tentative.

928. In his application of the principle just dealt with ad. loc., ibid.

928. I.e., not merely a person who taught him text, but who communicated to him understanding. Alternatively, it may be (and this seems to me more likely) that this opinion wishes not to limit the definitions of mastery to textual instruction, but will include any communication of wisdom.
929. In his application of the principle just dealt with supra, text.
930. Considered as a minimal instruction.
931. R. Solomon b. Isaac considers the extreme case, where the "master" taught not even one new Mishna, but gave merely an insight into a familiar one. Alternatively, if he merely taught him an insight into the talmudic understanding of a Mishna.
932. Loc. cit. quoting his opinion.
933. Supra, text, immediately.
934. Supra, text, quoting his opinion.
935. Ibid.
936. Quoted at the beginning of the section.
937. Ibid.

938. Quoted ibid.
939. In one definition, contrived hermeneutic derivation, legal-mental gymnastics, sophistic derivations. The negative overtones of these definitions cannot be avoided, nor do they apply here. This use of pilpul (akin to "pepper", incidentally) means to say that the essence of the rabbinate derives from familiarity with legal procedure and hermeneutical methodology.
940. It is a waste of time, in that it is not true to the historic definition of the calling. One may perhaps sympathize....
941. Mishna Moed Qatan 3:1 and Gemara thereon. Actually this should be listed as "Weelu Megalehin", but it is, as has been seen, customarily denoted in this edition of Karo without the conjunction, waw.
942. Cf. infra for details.
943. Again, he refers to the son by the name of the father. Nahmanides is meant here. The original reads, "Nahman".



944. Loc. cit.
945. So as to subordinate one's own honors to that of the sage. If he is a colleague, is he bound to show honor to a dead master other than the honor due a peer? If so, then we may question whether indeed he is established as a colleague at all.
946. For a distinguished master one would have to extend greater show of honor.
947. Rise as far as he can see upon the master's approach, tear garments to the heart upon the master's death, and the other formulary signs of high respect.
948. I.e., that this protocol is common treatment in the Babylonian structure.
949. How much the more so for one who is.
950. Thus, the problem is unresolved. Karo does not wish here to express a definitive and guiding preference for one of the practices over the others.

951. As far as one can see. Here, too, Karo refrains from guidingly preferring one of the suggested alternatives, since this is really a corollary merely of the prior problem.
952. In this literature, the expression "Cap. 1" may mean merely the "beginning" of the selection, and thus not refer to a reference chapter 1 at all.
953. Very roughly, "controversy", discussion, dispute, point at issue. Jastrow Op. cit. s.v. sugya would add, "study, subject".
954. That is, Maimonides by using this hermeneutic (previously explained) permits it. It is notable that he felt called upon there to evidence the hermeneutic device.
955. There is no Gemara to Aboth either in the Palestinean or the Babylonian Talmud, but it is included in the printings nonetheless.'
956. To Karo.
957. I.e., merely stating "his master", and not

specifying distinguished. It would appear from a close look that the term referred to either a distinguished master or to one who was not so distinguished, and the referent of the term is given precedence. The explanatory note, "without qualification", is supplied.

958. In the case where... (dealing with the requisite honor forms).
959. Considered supra.
960. In other words, the ultimate conclusion is that he tears and never bastes the garment, but that he only does this for his distinguished master.

Note the ultimate achievement of the process, which is to harmonize and integrate apparently contradictory opinions by segregating universes of discourse. Thus, for example, if one says "for a master, one may tear and baste", and another says, "for a master, one may tear but may not baste," then, rather than accepting a divergency of view which forces a choice upon the codifier, one may maintain that both views are acceptable

and correct, and segregate universes of discourse by holding that the second refers only to a distinguished master, and the first refers to a master who is not distinguished.

961. This is a characteristic manner of introducing a new universe of discourse. The sense of the comment is not conditional, as would appear from the English reading, but rather something like, "Perhaps the case refers to a Babylonian scholar; let us assume so and see the implications."
962. This, as we have learned, is the general Babylonian scholarly protocol.
963. Q.v.s.
964. There was a question as to whether Hiyya II was speaking in his own behalf or citing his master.
965. Cited there by R. Hiyya.
966. After his brief digression, Karo returns to sec. 38 of the Tur, from which this line is quoted.
967. Mishna 7, which does not seem to have been intended to have halakic force.

It should be noted that Cap. "Qinyan Torah"

(the "Caput R. Meiris", glossary 6th chapter of

Aboth, cf. Danby Op. cit. pp. 458-461) reads:

"He who learns from his fellow a single chapter or halaka or verse or expression or even letter, must pay him honor, for so we find it with David King of Israel, who only learned two things (not to study alone and not to enter the House of Study haughtily, cf. Tiph. Yisrael) from Ahitophel, but called him his teacher, his companion, and his familiar friend, cf. Psalm 55:13.

- 968. On waivers of prerogative honors on the part of a distinguished master.
- 969. As if the only consideration here was the master's volition, and not the honor shown thereby to the Torah which in a sense he represents.
- 970. To prevent the possible interpretation in the previous note.
- 971. Mishna 12, here in the name of R. Eliezer (b. Shammua), and in Mishna Temurah 3:3.
- 972. If the loss sustained ("sustained" supplied) by

his father be as great as the loss sustained by his master, then the loss of his father takes precedence. Other forms of losses then are ready to be discussed. The whole issue of precedence is raised here.

973. I.e., he meets his prior obligation by addressing his resources first to alleviate or meliorate the loss of his father.
974. Were each bearing burdens, and he comes upon them both together. The point to be noted is that, in honoring his master, he is honoring his father as well, who has taught him to have respect where respect is due. Further, this is not (this point will be made later) a life and death case, and his father will understand his concern for his master.
975. The rationale of this point was dealt with in its appearance in the Tur.
976. A terminus technicus for the saving of a (potentially) endangered life.

977. In attainment in mastery. That is, to treat of piquah nephesh, the principle involved here, it is not necessary that his father be the equivalent in sagacity of his master in order to exercise prior claim upon the son/student.

978. Baba Mezia *ibid.*

979. I.e., where his life is in question, it no longer is relevant that his father was or was not the equivalent of his master in sagacity, a point which is relevant prior to so grave a case.

980. Thus, three situations are set up here as patterns or prototypes, and each of the three is appraised in terms of honor and other relevancies:

A. In a case of inconvenience, the basic principle is followed that insofar as both student and father are responsible for the honor of the master, the student gives first attention to the honor of the master, and his needs.

B. In a case of serious loss, his obligations to his master and to his father are in conflict. Nonetheless, and especially if his father is not the equal in scholarly attainment of his master, the above principle dominates,

and he attends with first attention to the needs of his master; finally,

- c. C. Where life itself is in jeopardy, the principle of honor gives way to the fact that his first obligation is to his father, which would parallel the normal expectations of such a situation in any case.

981. So that the son is no routine student but a true disciple, a "son" so to speak, of his master.
982. There is an assumption in the tripartite outline above, and it is carried over to the rationale for the last point. The principle that the father (as well as the son) is responsible for the honor of the master is not definitively established. If it is to be challenged, the whole argument structure is called into question.
983. Actually, depends on the assumption.
984. At least, if this was the basis for the decision that he must, it is less than unquestionably established.
985. At the same point in the Tur.



986. Resolutions supplied. Karo uses this term to refer to R. Jacob b. Asher often.
987. So that we have a contradictory tradition.
988. In apparant contrast to the cited view supra.
989. The distinguishment, then, may lie in the special relationship at least in part of the master and the student. The distinguished master is that one from whom the student has learned most of his knoledge of Torah. This is obviously not what is meant when the text speaks of "any of his distinguished masters," since it is impossible that he have learned most of his knowledge of Torah from more than one man, unless they were working in consonance.
990. An odd resolution, in that involves refection of a stated point of view. More customary is the process of establishing mutually exclusive universes of discourse, as examined supra.
991. A questionable assumption, all the more so since it was once questioned supra text.

992. The previous case, q.v.s.
993. He has still not made his case. It could refer to any master of his, or to a master who is not distinguished, or to a distinguished master.
994. They return to using the specific terminology.
995. And with the tripartite analysis notes supra.
996. So that at last the expected device has been employed to reach a conciliation.
997. Up until now, the assumed status was that the student encountered them both together. In this manner, one may break the universe of discourse into two separable cases.
998. If we assume that they were together in both cases, there is no way out of a contradiction.
999. Made by his wife, which he wished to annul. Actually, he could have exercised in some cases the husband's prerogative to do this.
1000. Since he might have done this perhaps himself, it is a particularly good test case.

1001. Rather inauthentically translated by Jastrow, since withholding from the taking of the Sacrament of Holy Communion is not generally involved in Judaism.
1002. We should not hesitate to lay on the ban for a direct act of the class "Profanation of the Name" of God, a heinous breach of the most serious variety. We should not even hesitate long enough to submit the question, as with other questions, to the master even if he be there, since this might imply that the procedure is not clear or that the reaction is capable of admitting compromise.
1003. After the death of the master.
1004. We may derive the source of authorization or corroboration for this.
1005. With whom he deals thus. That is, a man has an analogous special responsibility as regards his father in the twelvemonth after the latter's demise. Surely, how much the more so, does a special responsibility of this sort apply to the case of his master.
1006. Resolution tentative.
1007. Deuteronomy 5:9.

1008. Although this seems to be hyperbolic, either reading is possible from the Hebrew.
1009. Of R. Israel b. Petahya Isserlein.
1010. Not Isserlein ad loc., but the master.
1011. He should not be so punctilious, since he may not understand what is involved.
1012. Administer lashes.
1013. Which he has inflicted upon the neighbor.
1014. The distinction here is that if Moses enjoined an enactment, then that enactment, as a Scriptural enactment (assuming that the tradition is maintained that Moses wrote, but did not compose, the Pentateuch), would be binding to the extent that if one saw his master about to transgress such a Pentateuchal enactment, he would be bound to correct him. However, the distinction is made in that in the Pentateuch God was speaking, but Joshua derives his authority from the ordination of Moses. Consequently, we may summarize that the Pentateuchal enactment requires immediate and direct action when threatened with a violation, but a more

nearly rabbinical enactment may be subject to some leeway.

1015. Here is applied Bedeq Habayith q.v. infra with attendant notes, sec. 5.
1016. One of the aims of Higher Criticism in Biblical texts, which often in this regard has fallen prey to the trap inherent in the problem.
1017. The meaning of the text to the writer at the time when he wrote it and in the circumstantial Sitz im Leben out of which he wrote.
1018. Without the compulsive necessity of establishing that these texts influenced the writer of the primary text.
1019. Knowing in advance that he will never be 100% effective, but will sometimes slip.
1020. Even restricting our evidence to the limited section of the Bedeq Habayith which deals with the area of Tur Yore Deah #242.
1021. The reader is referred to the comments and notes

under the corresponding section (on Text and Analysis)  
in regard to the Tur.

1022. Cf. reference in Hiddushe Hagahoth infra  
with attendant notes, sec. 1.
1023. On Sanhedrin 63a.
1024. Resolution tentative. Cf. Moritz Kayserling, article  
in Jewish Encyclopedia 1:142b.
1025. This is the practice to be followed in a case where, &c.
1026. Resolutions tentative.
1027. Number of the responsum not given, contrary to  
sometime practice. I have been unable to find it.
1028. After taking permission from his master for a  
given day, he elects to remain in the city a second  
day.
1029. So that there will be no question that whatever he  
does on the second day was done with the master's  
approval or at least permission.
1030. In fact, when there is a conflict between the  
Shulhan Arukh and Isserles' Mappa Hagahoth,

the latter takes precedence. Cf. Max Seligsohn,,  
 "Moses b. Israel Isserles", in Jewish Encyclopedia  
 6:678a.

1031. From the famous, "From Moses to Moses  
 (Maimonides), there was none like Moses."
1032. Maimonides.
1033. Isserles.
1034. Cf. Deuteronomy 34:10.
1035. Which he would practice on the Sabbath as an in-  
 dication that he felt it was not profane.
1036. Seligsohn, loc. cit.
1037. Responsum 7.
1038. Selwyn D. Ruslander, Rabbinical Dissertation,  
 A Comparison of Maimonides "Milos Habigayon"  
 with Aristotle's "Logic", Ref. Z. Deisendruck,  
 Hebrew Union College, Cincinnati, 1935.
1039. "The Tablecloth."
1040. "The Paths of Moses."

1041. No date is available for the composition. One of the first printings was an abridgment, critical of Karo, dated Venice, 1593.
1042. I.e., the corresponding areas of text and notes of the Beth Joseph.
1043. I.e., the opening section of the Tur, cf. note 367. The numeration of sections and the divisions of paragraphs in this text, incidentally, correspond to the numeration of the references given at the corresponding points in the previous texts upon which the Darkhe Moshe comments.
1044. Cmp. on this the opening comments of the Beth Joseph.
1045. Preserving the distinctions cited above. To here, we have no evidence that Isserles differs with Maimonides' definitions.
1046. Cf. Darkhe Moshe on the Tur Yore Deah #246, and cf. the reference to the same section of the Tur in the Beth Joseph on this point.
1047. In the case of a father who is not a distinguished master. It seems to me that the stress here, vs.



Karo, is not on the bilaterality of the relationship with the son/student, but on possible protection of the master aspect by keeping it from overuse or consequent misuse.

1048. Cf. Darkhe Moshe, art. 246.

1049. "Translator", or expounder before the congregation of the pericopic reading. Perhaps he served in part at least as a microphone for the interpreter. In any case, he was not seen to be a primary scholar.

1050. Isserles is much more concerned with the analytical reasoning behind the law than is either Jacob b. Asher or Karo.

1051. Here the protection of the student — both his reputation and in terms of countersuit — is made explicit. It will be recalled that there was evidence for this view in the examination of the Karo text, but Karo himself did not bother to establish it.

One is impressed with the more leisurely pace with which Isserles moves. He is not, like Karo,

pressed to define, to supplement, to document;  
 he seems rather to make time for perusal and  
 examination, to explain, to interpret. Perhaps  
 this is in part due to a partial incorporation or at  
 least assumption of the Karo spadework.

- 1052. To remove the primary burden from his own shoulders.
- 1053. He is bringing up the Sephardic Adret for contrast.  
Cf. parallel citation in Beth Joseph.
- 1054. But rather between one who may practice within  
 the limit, and one who may not.
- 1055. This rationale developed in Beth Joseph in the  
 corresponding section.
- 1056. Citation explained in the Beth Joseph. I have been  
 unable to find this citation in Maimonides.
- 1057. Isserles' own crosscritical references are from  
 the citations in Tur, unless otherwise specified.
- 1058. He is perhaps primarily thinking of academic  
 disputation.

1059. Cf. S. Blackman, The Mishna, 6 vols., Appendix, for a full discussion of Talmudic and Mishnaic measures.
1060. Again, as in the precedent texts, in the sense of "decide" a case in ritual law essentially.
1061. If he had already prepared his analysis and "brief", i.e., decision. Then all that remains is to deliver it.
1062. A terminus technicus for ritual law, as known from precedent texts.
1063. Here it is clear that "teaching" was not simply reaching a decision, but as well communicating it. This is where the term "decide" a case breaks down as a translation for "teach".
1064. Which would be a highly available reference.
1065. Nahmanides. Authors are almost never given for books in this literature, but we have come across this reference in the Beth Joseph.
1066. Northern.
1067. Southern, Iberian.
1068. Or, if he drinks so great an amount that

1068. Or, if he drinks so great an amount that it is obvious.
1069. Not a controvesial case, but one for which there is clear precedent, as stated in Karo.
1070. A very obvious, abecedarian decision.
1071. Below the point upon which he is commenting.
1072. The case is that one sage prohibits(mahminr) a practice which it is not clear he was compelled to prohibit, whether another sage may permit it. One of the considerations, of great importance, which comes out of the consideration is that if the second permits, he casts doubt both upon his own permission and upon the prior man's prohibition.
1073. Accurate, in the tradition, and in correspondence with precedent.
1074. His actual given name and/or patronymic, as opposed to his title.
1075. With the explicit understanding that he will, etc.
1076. Beyond the time indicated.

1077. Here, too, a concern for interpretation and analysis has prompted the full use of this citation, on the part of Isserles.
1078. R. Elazar b. Judah, 12th centry, Ashkenazi.
1079. Responsa of the Rokeah, #335.
1080. And the other masters, whose mastery is acknowledged and yet who are not admitted into the special relation. Alternatively, the second use of the title may be honorific, all the more reason for the differentiation.
1081. Thus observing the order of protocol. If this was the act of a mere "philosopher", how much the more so on the part of one within the system. It is interesting that the mere philosopher is used as a precedent here.
1082. In this case, we have reference to a situation where, etc.
1083. Since, as we have seen, the principle of piguah nephesh takes precedence over honor, even when it is strained to this point.

1084. Needs.
1085. His point is, there is no way of telling whether in a particular case they are to share a common reservoir, into which they would actually enter together, and therefore it is generally to be suspected of involving undue intimacy of person. But in oor bath houses, where separable facilities seem to be available, it would be permissible for them to enter the general court of the baths together, where such intimacy of person would not be expected.
1086. Jacobson, Guttman, Cohen, Op. cit., sec. 3, p. 11. Responsa, #37.
1087. Since the principle of intention apparently is brought in here.
1088. Not listed in M. Richtmann, "Chronological Listing of the Commentators to Both Talmudim", etc., in his "Talmud Commentaries", Jewish Encyclopedia 12:28a.
1089. So that it is still not a move of choice, and is to be avoided.
1090. This statement was examined in its appearance

in Beth Joseph, with attention to the inherent principle therein.

- 1091. A master begins to act so.
- 1092. Fifteenth century Ashkenazi authority.
- 1093. Hiddushim, novel interpretations or explanations or derivations.
- 1094. Isserles has been criticised (cf. Seligsohn, loc. cit.) for attaching great and perhaps even inordinate importance to customs, minhagim, to the point where they become legal grounds. Perhaps our speculations of his need for justification under the discussions of his Method and Purpose supra cast some light on the structural reasons as to why he might have felt it necessary to act in this manner.
- 1095. A fundamental analytical point, which we have been compelled to develop at length in preparation for an understanding of the structural development up to this point.
- 1096. As a principle for any case involving authorization.

The implications of this for institutional authorization are interesting.

1097. The present document, currently in use.
1098. A phrase borrowed from the codical definition itself.
1099. Here follow Isserles' qualifications for a document of authorization:
- A. He may establish a collegium in any place;
  - B. He may expound;
  - C. He may teach (in the technical sense) to anyone.
1100. He makes the title rabh, Rabbi, master, dependent on these powers.
1101. At any time, even if his master is alive.
1102. Thus, a student colleague by virtue of his collegiality does not acknowledge a distinguished master, i.e., a master who is highly distinguished above his own station. Cmp. this with the definition of the student colleague where he was his student and is now his colleague, and maintains the relation designated, student - colleague and his master is still known as his distinguished master.



1103. Or documents of halizah, the ceremony of repudiation.
1104. Ante facto, merely from knowing who wrote them?  
Is there any inherent quality in the rabh which does not inhere in any Jew?
1105. I. e., a standard form.
1106. As long as the form is proper, it does not matter who wrote it.
1107. Resolution tentative.
1108. So that the semikah document has a direct protective value to the student and the teacher both.
1109. They call him, because of the documentary semikah.
1110. I. e., he can find no reason for it whatever.
1111. In Jacobson, Guttman, Cohen ad loc. and Jewish Encyclopedia ad loc.
1112. "Written".
1113. For several reasons. For one thing, it violates the principle of livelihood in that this deals with

an individual adjudicated and commissioned case.

For a second thing, it involves not only a standard form, but a legal decision on the grounds and circumstances meriting the divorcement.

This in itself involves civil law decisions. Thus the legal form of the document is no longer the most pressing issue.

1114. Because he is a recognized halakist.

1115. This is a fairly rare redundancy, used for clarity. The terminus technicus prohibition and permission is a designation for cases in ritual law.

1116. I.e., it only means that one who is fit has taken permission to teach.

1117. The honor.

1118. Because the scholar becomes an extension of the father.

1119. Ginzberg, "Joseph b. Ephraim Caro," loc. cit.
1120. Karo's "introduction" to the Shulhan Arukh comments that it was written for "immature students."
1121. Cf. Ginzberg, ibid.
1122. Cf. Darkhe Moshe on "Yore Deah" #35.
1123. As we have seen, with the force of law.
1124. With telling effect for the Ashkenazi community.
1125. A notable structural dissident is R. Mordecai Jaffe (Jafe) who in his Lebhushim set out to reject it, and supplant it, but was himself shattered by the critique of R. Alexander Falk Hacoen in the Meirath Enayim on part 4 of the Shulhan Arukh.
1126. Cf. R. Meir b. Gedalia Lublin, Responsa # 11, #102.
1127. The last of which of significance has also by now been incorporated into it, viz, the Bayith Hadash of R. Joel Sirkes (Saerkes), the "New House" which attempted to restore the functional authority of the Tur. Cf. Sirkes, Bayith Hadash on "Yore Deah" #279 and Responsum #80 (n.s. 42), but like his master

R. Joseph Luria, he succeeded only in entrenching the authority of the Shulhan Arukh.

1128. Who are R. Moses Lima b. Isaac, R. David b. Samuel Halevi, R. Sabbatai b. Meir Hacohein, R. Abraham Abele Gombiner, and R. Samuel b. Uri Phoebus of Waydyslav, all of the 17th century.
1129. Historically speaking. Halakically speaking in the terms of the structural development, it follows the Beth Joseph and consequently the Tur.
1130. Halakically, in such cases, Isserles is followed.

1131. The editor, following the general usage, is  
is employing this term in the technical sense.
1132. Cf. Baer Hagolah infra with attendant notes, sec. 1.
1133. Cf. Ture Zahabhinfra with attendant notes, sec. 1.
1134. As previously observed, much of the Karo text  
here is citation. Cf. Corresponding sections of Tur  
and Beth Joseph.
1135. Cf. Siphte Cohen infra with attendant notes, sec. 1
1136. Cf. Baer Hetebh infra with attendant notes, sec. 1
1137. In R. Moses Isserles, this customarily refers  
to R. Joseph Karo.
1138. Cf. Baer Hag'olah infra with attendant notes, sec. 2.
1139. Corresponding section (2).
1140. Cf. Siphte Cohen infra with attendant notes, sec. 3.
1141. Cf. Baer Hagolah infra with attendant notes, sec. 3.
1142. Ibid., sec. 4.
1143. Ibid., sec. 5

1144. Cf. Siphte Cohen infra with attendant notes, sec. 3.
1145. I.e., To challenge.
1146. Cf. Baer Hetebh infra with attendant notes, sec. 3.
1147. Of a textual nature or of a tradition.
1148. Occasional variations in reading will be noted between the appearance of an idea in the Tur, in the Beth Joseph, and in the present text. There are several reasons for this. Sometimes it reflects a difference in textual presentation, or minor inconsistency in the English reading; at other times it represents an attempt to underline some aspect of the citation which is of greater importance in the one context than in the other.
1149. Cf. Baer Hagolah infra with attendant notes, sec. 6.
1150. Receiving, here, of clearance, so as to become an extension in the sense of a colleague rather than a competitor.
1151. Cf. Siphte Cohen infra with attendant notes, sec. 4
1152. Cf. Baer Hetebh infra with attendant notes, sec. 4.

1153. Cf. Ture Zahabh infra with attendant notes, sec. 2

1154. Cf. Baer Hagolah infra with attendant notes, sec. 7.

1155. Cf. Siphthe Cohen infra with attendant notes, sec. 5.

1156. To teach without going through all the protocol.

This seems to present two possibilities:

A. To honor a master reflects honor on the student.

To honor a student colleague does not necessarily do this in the same way. On the contrary, it compromises the individual authority of the one who confers honor.

B. This procedure prevents one student colleague from stopping another from teaching.

1157. Cf. Siphthe Cohen infra with attendant notes, sec. 6.

1158. Cf. Baer Hetebh infra with attendant notes, sec. 5.

1159. I. e., physically.

1160. Cf. Baer Hagolah infra with attendant notes, sec. 8.

1161. The question was directed first to him.

1162. Cf. Baer Hagolah infra with attendant notes, sec. 9.

1163. N.B.: not "wisdom and number".
1164. Cf. Baer Hagolah infra with attendant notes, sec. 10.
1165. Cf. Siphte Cohen infra with attendant notes, sec. 7.
1166. Op. cit., sec. 11.
1167. Ibid., sec. 12.
1168. Cf. Baer Hetebh infra with attendant notes, sec. 6.
1169. Cf. Siphte Cohen infra with attendant notes, sec. 8.
1170. Cf. Siphte Cohen infra with attendant notes, sec. 9.
1171. Ibid., sec. 10
1172. Cf. Baer Hagolah infra with attendant notes, sec. 12  
(continued).
1173. Cf. Baer Hetebh infra with attendant notes, sec. 7.
1174. Cf. Baer Hagolah infra with attendant notes, sec. 13.
1175. Cf. Siphte Cohen infra with attendant notes, sec. 11.
1176. Cf. Baer Hetebh infra with attendant notes, sec. 8.
1177. Cf. Siphte Cohen infra with attendant notes, sec. 12.



1178. Which conflicts with a previous definition, and yet resolves the difficulty of how one man could acknowledge the existence of more than one distinguished master. The category is split, after the classical fashion, into "my" distinguished master and "unqualified" distinguished masters.
1170. This rationale has been discussed above at its first appearance.
1180. Cf. Baer Hetebh infra with attendant notes, sec. 9.
1181. Giving the functional definition for this term at which we arrived.
1182. Courtesy and protocol are involved in this qualification, rather than any necessary reason why he could not even become greater.
1183. Both discussed previously.
1184. Cf. Siphte Cohen infra with attendant notes, sec. 13.
1185. Cf. Baer Hetebh infra with attendant notes, sec. 10.
1186. The multiplicity of definitions creates the need to underscore here.
1187. Cf. Baer Hagolah infra with attendant notes, sec. 14.

1188. Possibly in the locale of his master is what is intended here; alternatively, the principle of agency may be referred to, so that his master could only ordain in person, a concept tangential to the principle of the laying on of hands, which could even in the case of animal sacrifices only be done by the donor; internal evidence presents no way of reconciling this dilemma, unless we resort to the rabbinic solution that both are intended.
1189. Cf. Baer Hagolah infra with attendant notes, sec. 15.
1190. On the prerogatives of the master in such cases, cf. supra.
1191. Presumably even though he had a hand in instructing him. For the contrary view, that anyone who taught him anything at all is to be considered his master (some exted it even to a letter), cf. supra.
1192. That is, the special protocol was as Isserles describes.
1193. Thus, the administration is identified by the name of the reigning rosh yeshibah, Head of the Collegium.
1194. Note that he has been citing characteristically customs with the force almost of laws.
1195. Cf. Baer Hagolah infra with attendant notes, sec. 16.

- 1196. Cf. Siphte Cohen infra with attendant notes, sec. 14.
- 1197. Cf. Baer Hatebh infra with attendant notes, sec. 11.
- 1198. Cf. Siphte Cohen infra with attendant notes, sec. 15.
- 1199. Cf. Baer Hagolah infra with attendant notes, sec. 17.
- 1200. Cf. Siphte Cohen infra with attendant notes, sec. 16.
- 1201. An editorially inserted reference.
- 1202. Cf. Baer Hagolah infra with attendant notes, sec. 18.
- 1203. Ibid., sec. 19.
- 1204. Cf. Siphte Cohen infra with attendant notes, sec. 17.
- 1205. Cf. Baer Hetebh infra with attendant notes, sec. 12.

Strange used here in the sense of inexplicable,  
 unusual in the sense that it is not customarily  
 permitted, but here is permitted because even  
 though the superficial characteristics of the case  
 might make it seem like the sort of thing which  
 is prohibited, the facts place it in another category.  
 Nonetheless, it is risky since the prima facie  
 interpretation will be that the prohibited has been

here permitted, and is perhaps permissible. A sort of example might be found in the numerous restaurants flourishing about the New York area which serve "bacon" made of kosher beef, "cream" for coffee made of soybeans, and "butter" for use with meat prepared from hydrogenated vegetable oils.

1206. Cf. Baer Hagolah infra with attendant notes, sec. 20.
1207. Ibid., sec. 21.
1208. For its own conduct, as e.g., if his cook or meat-cutter wanted instruction in proper preparation of a dish on a particular occasion.
1209. Again, the same dilemma of interpreting the "place" of his teacher.
1210. Cf. Baer Hetebh infra with attendant notes, sec. 13.
1211. Cf. Siphte Cohen infra with attendant notes, sec. 18.
1212. This is no clue, since in either case, the "place" would be removed.
1213. Tur, corresponding section.

1214. Cf. Baer Hagolah infra with attendant notes, sec. 22.
1215. Cf. Siphte Cohen infra with attendant notes, sec. 19.
1216. Repeating here the injunction of the Beth Joseph.
1217. Cf. Siphte Cohen infra with attendant notes, sec. 20.
1218. Cf. Baer Hetebh infra with attendant notes, sec. 14.
1219. Cf. Siphte Cohen infra with attendant notes, sec. 21.
1220. Cf. Ture Zahabh infra with attendant notes, sec. 3.
1221. Cf. Baer Hagolah infra with attendant notes, sec. 23.
1222. He characteristically analyzes the reasoning here.
1223. Resolution tentative.
1224. Here again, a clear and indisputable statement, made in all humility, of his regard for minhag.
1225. A "limited authority" semikah.
1226. Cf. Baer Hagolah infra with attendant notes, sec. 15.
1227. Cf. Siphte Cohen infra with attendant notes, sec. 22.
1228. His note of the propriety and permissibility of

changing the former significance is of great importance to understanding the dynamic that he saw in the halakic unfolding of the process.

- 1229. Cf. Baer Hagolah infra with attendant notes, sec. 24.
- 1230. Ibid., sec. 25.
- 1231. Ibid., sec. 26.
- 1232. Cf. Ture Zahabh infra with attendant notes, sec. 4.
- 1233. Cf. Baer Hetebh infra with attendant notes, sec. 16.
- 1234. Cf. Siphte Cohen infra with attendant notes, sec. 23.
- 1235. Cf. Baer Hagolah infra with attendant notes, sec. 27.
- 1236. Cf. Siphte Cohen infra with attendant notes, sec. 24.
- 1237. Cf. Baer Hagolah infra with attendant notes, sec. 28.
- 1238. Cf. Siphte Cohen infra with attendant notes, sec. 25.
- 1239. Cf. Ture Zahabh infra with attendant notes, sec. 5.
- 1240. To Isserles, this is tantamount to making a definitive pronouncement. He refers, of course, to the customary practice among the Ashkenazim.

1241. A reading of Job 29:8, by which he means that the inferior saw the superior and hid himself so as not to upon the conversation with him, considered here to be a prerogative of honor.
1242. Cf. Ture Zahabh infra with attendant notes, sec. 6.
1243. Cf. Baer Hagolah infra with attendant notes, sec. 29.
1244. Ibid., sec. 30
1245. Cf. Siphte Cohen infra with attendant notes, sec. 26.
1246. Ibid., sec. 27.
1247. Separately, so as to discriminate special relations.
1248. Cf. Siphte Cohen infra with attendant notes, sec. 28.
1249. Cf. Baer Hagolah infra with attendant notes, sec. 32.
1250. Cf. Baer Hetebh infra with attendant notes, sec. 17.
1251. Cf. Ture Zahabh infra with attendant notes, sec. 7.
1252. Cf. Siphte Cohen infra with attendant notes, sec. 29.
1253. Cf. Baer Hagolah infra with attendant notes, sec. 32.

1254. Cf. Siphte Cohen infra with attendant notes, sec. 30.
1255. Cf. Ture Zahabh infra with attendant notes, sec. 8.
1256. Cf. Baer Hagolah infra with attendant notes, sec. 33.
1257. Cf. Siphte Cohen infra with attendant notes, sec. 31.
1258. Another of the customary citations, passim  
throughout this text.
1259. Cf. Baer Hetebh infra with attendant notes, sec. 18.
1260. Cf. Siphte Cohen infra with attendant notes, sec. 32.
1261. So that it would seem to be permissible in these  
special circumstances.
1262. Cf. Baer Hagolah infra with attendant notes, sec. 34.
1263. Ibid., sec. 35.
1264. Cf. Tue Zahabh infra with attendant notes, sec. 9
1265. If he is visiting his master in the town of the latter  
and leaves his presence with the understanding  
and permission that he will practice there on that  
day, etc.



1266. Cf. Baer Hetebh infra with attendant notes, sec. 19.
1267. Cf. Siphte Cohen infra with attendant notes, sec. 33.
1268. Ibid., sec. 34.
1269. Cf. Ture Zahabh infra with attendant notes, sec. 10.
1270. Cf. Baer Hagolah infra with attendant notes, sec. 36.
1271. Ibid., sec. 37.
1272. Ibid., sec. 38.
1273. Ibid., sec. 39.
1274. Cf. Ture Zahabh infra with attendant notes, sec. 11
1275. Cf. Siphte Cohen infra with attendant notes, sec. 36.
1276. Cf. Baer Hetebh, infra with attendant notes, sec. 20.
1277. Cf. Siphte Cohen infra with attendant notes, sec. 35.
1278. Cf. Ture Zahabh infra with attendant notes, sec. 12.
1279. Cf. Baer Hetebh infra with attendant notes, sec. 21.
1280. Ibid., sec. 22.

1281. Where, the point is there made, functional routines must be set up to handle standard situations as this one.
1282. Cf. Siphte Cohen infra with attendant notes, sec. 37.
1283. That is, are unfamiliar that this is particularly his distinguished master.
1284. Cf. Baer Hetebh infra with attendant notes, sec. 23.
1285. Cf. Baer Hagolah infra with attendant notes, sec. 40.
1286. Cf. Baer Hetebh infra with attendant notes, sec. 24.
1287. Cf. Siphte Cohen infra with attendant notes, sec. 38.
1288. I.e., "at the mezuzah" or "at the doorstep", in the terminology of the earlier stratum.
1289. Cf. Baer Hagolah infra with attendant notes, sec. 41.
1290. Ibid., sec. 42.
1291. Which he would not do for someone else, merely because his master is risen. He may sit even when the Torah is out of the ark, since the bema as we usually understand it is a different reshuth from the congregational seating place at large.

In fact, given the usual architectural divisions between the area of the Torah and the area of the congregation, one need never rise when the Torah is removed from the ark only; it is done only as a token of respect, even though it is in another reshuth.

- 1292. Cf. Baer Hetebh infra with attendant notes, sec. 25.  
The point is, the master is already (physically) "ascendent" over him by virtue of position.
- 1293. Cf. Ture Zahabh infra with attendant notes, sec. 13.
- 1294. Which is the normal state of affairs.
- 1295. Cf. Baer Hagolah infra with attendant notes, sec. 43.
- 1296. At this point the publishing editor inserts a textual explanation in our text.
- 1297. Cf. Baer Hagolah infra with attendant notes, sec. 44.
- 1298. Ibid., sec. 45.
- 1299. Ibid., sec. 46.
- 1300. Ibid., sec. 47.
- 1301. Cf. Baer Hetebh, infra with attendant notes, sec. 26.

1302. Cf. Ture Zahabh infra with attendant notes, sec. 14.
1303. The old master, rather than the intermediary who is the student of this master and the master of the youngest student. That is, if A is the master of B who is in turn the master of C., then C need only rise before A to signalize some special relationship between C and A, not in connection with the special relationship between A and B. Of course, if A is also the master of C, then C rises before A. In any case, B rises before A.
1304. Cf. Sphte Cohen infra with attendant notes, sec. 39.
1305. Cf. Baer Hetebh infra with attendant notes, sec. 27.
1306. Cf. Siphte Cohen infra with attendant notes, sec. 40.
1307. Cf. Baer Hagolah infra with attendant notes, sec. 48.
1308. Cf. Siphte Cohen infra with attendant notes, sec. 41.
1309. Tbid., sec. 42.
1310. I.e., in doubt, subject to interpretation.
1311. Cf. Baer Hagolah infra with attendant notes, sec. 49.

1312. Cf. Siphte Cohen infra with attendant notes, sec. 43.
- 1313.
1314. Cf. Baer Hagolah infra with attendant notes, sec. 50.
1315. Cf. Baer Hetebh infra with attendant notes, sec. 28.
1316. Cf. Ture Zahabh infra with attendant notes, sec. 15.
1317. Cf. Baer Hagolah infra with attendant notes, sec. 51.
1318. Ibid., sec. 52.
1319. Cf. Siphte Cohen infra with attendant notes, sec. 44.
1320. Cf. Baer Hagolah infra with attendant notes, sec. 53.
1321. Ibid., sec. 54.
1322. Ibid., sec. 55.
1323. The report of death.
1324. Cf. Baer Hagolah infra with attendant notes, sec. 56.
1325. Ibid., sec. 57.
1326. Cf. Siphte Cohen infra with attendant notes, sec. 45.
1327. A member of his immediate family.

1328. Cf. Siphte Cohen *infra* with attendant notes, sec. 46.
1329. Cf. Baer Hagolah *infra* with attendant notes, sec. 58.
1330. Cf. Baer Hetebh *infra* with attendant notes, sec. 29.
1331. An alternate possibility feasible within the structure of the Hebrew, but to my view unlikely, particularly in view of the parallel texts. However, this may have been a link with the original idea which expressed itself in the statement.
1332. Cf. Baer Hagolah *infra* with attendant notes, sec. 59.
1333. A reading of Proverbs 8:36.
1334. Cf. Siphte Cohen *infra* with attendant notes, sec. 47.
1335. As a sign of violent hate, disrespect.
1336. Cf. Baer Hetebh *infra* with attendant notes, sec. 30.
1337. Cf. Baer Hagolah *infra* with attendant notes, sec. 60.
1338. Nowadays, he may be saying, it is not the function of the rabbi to derive new laws so much as to be able to apply the ones which exist. The sort of original authority which characterized the earlier rabbinate is not what is called for now. This is

one alternative, but it seems to me more likely that this is his intention: Nowadays, he says, the rabbinate occupies itself with frittering and clever exegesis and nonsense which displays ingenuity; this is not, he is saying, the essence of the rabbinate. The essence of the rabbinate is law and legal decision, right and proper action, and the ability to discern wisely and correctly the halaka, conceived of as a kind of (almost Greek concept of the "Law in Nature") pre-existing right path to be discovered rather than invented. This action, and not the verbal gymnastics, is the essence of the rabbinate, and the one who taught him this is his rabbinical master. My own bias may be influencing my view, but this is what I believe Isserles to be saying here.

- 1339. Cf. Baer Hagolah infra with attendant notes, sec. 61
- 1340. Cf. Siphte Cohen infra with attendant notes, sec. 45.
- 1341. Cf. Baer Hetebh infra with attendant notes, sec. 31.
- 1342. Cf. Ture Zahabh infra with attendant notes, sec. 16.
- 1343. Cf. Baer Hagolah infra with attendant notes, sec. 62.

1344. Ibid., sec. 63.
1345. Ibid., sec. 64.
1346. Cf. Siphte Cohen infra with attendant notes, sec. 49.
1347. Cf. Baer Hetebh infra with attendant notes, sec. 32.
1348. Cf. Siphte Cohen infra with attendant notes, sec. 50.
1349. Ibid., sec. 51.
1350. Cf. Baer Hetebh infra with attendant notes, sec. 33.
1351. Cf. Siphte Cohen infra with attendant notes, sec. 52.
1352. Ibid., sec. 53.
1353. Ibid., sec. 54.
1354. Cf. Baer Hetebh infra with attendant notes, sec. 34.
1355. Cf. Siphte Cohen infra with attendant notes, sec. 55.
1356. Ibid., sec. 56.
1357. Ibid., sec. 57.
1358. Cf. Baer Hetebh infra with attendant notes, sec. 35.



1359. Resolution tentative.
1360. Cf. Siphte Cohen infra with attendant notes, sec. 58.
1361. Cf. Baer Hetebh infra with attendant notes, sec. 36.
1362. Cf. Ture Zahabh infra with attendant notes, sec. 17.
1363. So that he will not blunder accidentally into being  
"played off" against his colleague.
1364. Cf. Siphte Cohen infra with attendant notes, sec. 59.
1365. Cf. Ture Zahabh infra with attendant notes, sec. 18.
1366. Cf. Baer Hetehh infra with attendant notes, sec. 37.
1367. The terminus technicus is shiqgul da'ath, "balance  
of opinion", indicating balance of judgment,  
deliberation, taking into account all the factors which  
make up the picture in its concrete complexity.  
Here, he uses it to refer to the necessity dictated  
by common sense logic of not prohibiting what is  
permitted since it casts doubt on the prohibition  
and the permission as well.
1368. Cf. Siphte Cohen infra with attendant notes, sec. 60.

1369. Cf. Baer Hetebh infra with attendant notes, sec. 38.
1370. Cf. Baer Hagolah infra with attendant notes, sec. 65.
1371. Ibid., sec. 66.
1372. Ibid., sec. 67.
1373. Ibid., sec. 68.
1374. Cf. Siphte Cohen infra with attendant notes, sec. 61.
1375. Cf. Baer Hetebh infra with attendant notes, sec. 39.
1376. Cf. Siphte Cohen infra with attendant notes, sec. 62.
1377. Cf. Baer Hagolah infra with attendant notes, sec. 69.
1378. Cf. Siphte Cohen infra with attendant notes, sec. 63.
1379. Ibid., sec. 64.
1380. Cf. Baer Hetebh infra with attendant notes, sec. 40.
1381. Cf. Siphte Cohen infra with attendant notes, sec. 65.
1382. Cf. Ture Zahabh infra with attendant notes, sec. 19.
1383. Cf. Siphte Cohen infra with attendant notes, sec. 66.
1384. Cf. Baer Hetebh infra with attendant notes, sec. 41.

1385. Cf. Siphte Cohen infra with attendant notes, sec. 67.
1386. Cf. Baer Hagolah infra with attendant notes, sec. 70.
1387. Ibid., sec. 71
1388. Cf. Baer Hetebh infra with attendant notes, sec. 42.
1389. Cf. Ture Zahabh infra with attendant notes, sec. 20.
1390. The following parenthetical explanation seems to be the contribution of the editor of this edition, although it is incorporated into the Baer Hagolah.
1391. Cf. Ture Zahabh infra with attendant notes, sec. 21.
1392. Cf. Baer Hetebh infra with attendant notes, sec. 43.
1393. Cf. Baer Hagolah infra with attendant notes, sec. 72.
1394. Cf. Baer Hetebh infra with attendant notes, sec. 44.
1395. Cf. Siphte Cohen infra with attendant notes, sec. 68.
1396. The same applies, to some extent, to codes and codifications.
1397. Freehof's Treasury of Responsa, balanced text though it is, provides an excellent illustration.

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1397. Freehof's Treasury of Responsa, balanced text though it is, provides an excellent illustration.

1398. Economics in its broad sense includes to us the interplay of power structures, dominance struggles, and control no less than the flow of actual money as such. The struggle for control of money cannot be divorced from the struggle for power as a whole. It is this which is meant when the forthcoming Berab struggle is said to have had economic aspects of far-reaching consequence.

1399. Inter alia, by magnifying the legal validity of custom. The custom involved, of course, is not the milder customs of the Sephardim, but the more exacting min-hagim of the Ashkenazim.

1400. Or "Ribkes, i.e., (son) of Rebecca. Cf. Isaac Broyde "Ribkas," in Jewish Encyclopedia 10:401b. Ribkas died in 1671 or 1672

1401. It is no accident that the most significant advance in modern cooperative halaka, spanning representatives of all orders or schools of Jewish thought, came out

of the JWB Responsa and the world's holocaust.

1402. As a result of the Russo-Polish war.

1403. C. 1665

1404. "Explaining of the Diaspora", incidentally, Not a  
Biblical quotation listed in Mendelkern, Op. cit.

1405. It is permitted for <sup>Him</sup>~~him~~ to teach without taking  
protocol permission; the implication is that it is still  
desirable.

1406. Or perhaps better, "argument."

1407. In that they too were ministrants, and perhaps that  
they too needed clearances of authority <sup>re</sup>~~from~~ a central  
source.

1408. So that the taking of permission was here a gratuitous  
protocol.

1409. On the corresponding section of the Karo text.

1410. The inferior, as the student.

1411. Occasional notes to the Baer Hagolah, such as this  
parenthetic one, are supplied by the editors of this edition.

1412. It would seem that Maimonides' daring use of the scribal error has become very firmly entrenched in the halakic thinking on this.

1413. Another editorial parenthetical statement of explanation.

1414. "The <sup>3</sup>Aronide". The name may be rendered as "Cohen" or as "Hacohen", incorporating in the latter case the definite article.

1415. A reading of Malachi 2:7, "For siphte -kohen, the lips of a priest, should guard knowledge, and men should seek instruction from his mouth." Here and in some other cases, but not with great regularity, the reading in the ~~the~~ Biblical setting and in the derived usage are identical.

1416. Friedberg, Bernard, "Shabbethai b. Meir Ha-Cohen", in Jewish Encyclopedia 11:217a ff.

/ 1417. His very prolixity will make it necessary within the limits of the present work to confine our reproduction to notes from the Cohen text rather than the total reading.

1418. Cf. Strack, Op. cit., p. 118 sec. 7.

1419. Cohen opens with the citation, which he shall proceed to discuss.
1420. The special relation has become the primary one between son and father.
1421. Since this is a late text in regard to the primary codical material, the liberty has at times been taken, particularly insofar as the text is labelled both with the term "notes" and "reading", of incorporating certain synoptic and presumptive material in the text for fluency, such as the last eleven words, from "in preferring."
1422. <sup>r</sup>O, perhaps less likely, "in being seated". In any case, the order of <sup>no</sup>h<sub>q</sub>rific precedence seems to be the matter alluded to here.
1423. Thus explaining why his son, presumably Gamliel III, referred to him by his academic title rather than by his paternal one.
1424. Which we shall consider later.
1425. The status of <sup>one</sup>~~one~~ who established for the master a Midrash. <sup>(school)</sup>  
^
1426. Considered infra.
1427. Of establishing a midrash <sup>(school)</sup>  
^ for the master.

1428. The comment of Isserles that is permitted to dispute with him.
1429. Recognized as a citation.
1430. Responsum number not available.
1431. In contrast to the Isserles notation which is Cohen's text.
1432. Isserles' gloss<sup>s</sup><sub>p</sub> specifies that this all applies only to the distinguished master.
1433. Isserles does not use the term, but related instead that some say that this legislation applies in the actual presence of the master.
1434. About the student colleague within twelve parasangs.
1435. Referring to Isserles in his attempt to define "accustomed to come to the city."
1435. Referring to Isserles in his attempt to define "accustomed to come to the city."
1436. He may teach provided there is no question of being "accustomed" to do so in the procribed way.
1437. Presumably even outside of the twelve parasangs.



1438. The actual text reads, "even though he took permission."

1439. Loc. cit.

1440. One of the original ordinands of Berab, with Joseph Karo.

1441. I.e., Gemara

1442. Since he is conflicting in potentia with all relevant authorities.

Again, it may be an argument from presumption, viz,  
since the masters were overlapping in instruction, they may  
be presumably overlapping in jurisdiction, and for his own  
protection he must clear with all.

1443. Actually an academic, even perhaps an historical point,  
but with possible decisive overtones.

1444. A hiddush of his own creation, tantamount from this view  
to an original teaching.

1445. Ibid., about Megillath Ta'anith.

1446. A listing of times when it is not permitted to fast or mourn,  
in spite of its title of "Scroll of the Fast". A good study  
with bibliography has been done by Dr. Solomon Zeitlin  
(his Ph. D. thesis) with the title "Megillath Ta'anith".  
Rashi's point, which Zeitlin comments on, is that  
the earlier halakhoth were not written in texts which

were transmitted to us. They have perhaps been written in school texts, lost to us, but our text of the earlier halakhoth almost invariably begin with citations of a transmitted oral tradition, memra, or teaching.

1447. The Lemberg text (Eshle Rabhrabhi) is occasionally critical, but does not identify source layers.
1448. "Laws of Accession to the Sanctuary" in the "Book of Worship", Yad Hahazaqah.
1449. With which we shall deal elsewhere.
1450. Either as a fence around the law, or because one may begin feasting early.
1451. I.e., the written Torah alone. The Sadducees denied the validity of the Rabbinic Oral Law, championed by the Pharisees. Cf. Rivkin, Ellis, The Pharisees, unpublished manuscript, for what may be the most cogent available account of the relationship and its underlying structures.
1452. Which we shall treat infra.
1453. Since he is not, having studied with him gratis, a mere extension of the father.
1454. In relation to his master.
1455. No other source indicates that an overt action, perhaps even a violent action, is called for.
1456. Relation, protocol.

1457. I.e., in the absence of an actual case before him.
1458. <sup>r</sup>O<sub>A</sub> students, as explained previously.
1459. Within each group, i.e., men of equal authorities  
as sources.
1460. The second scholar.
1462. For reasons already examined. He will do so anyway,  
in all likelihood.
1463. The Ture Zahabh, a reading of Canticles 1:11, "Let <sup>us</sup>~~sa~~  
make you ornaments of gold, ture zahabh."
1464. Ibid.
1465. The Aharonim, q.v., in Jewish Encyclopedia.
1466. So described in Jacobson, Guttman<sup>Cohen,</sup><sub>A</sub> Op. cit., sec. 3
1467. An anticipatory reference to the conclusion of the section.
1468. This is the opinion of all commentators.
1469. Cf. Deuteronomy 5:5.
1470. Thus, in answering his master, he should not reply with  
the same formula his master used, since this time

~~the recipient and consequent object of the formula~~  
~~his master used, since this time~~ the recipient and  
 consequent object of the formula is not on a level with  
 the previous recipient and object, but is superior.

1471. Derived from cited opinion of the Ran.

1472. Cf. Webster, Op. cit., s.v. "bema".

1473. So that one is not, according to the legal fiction,  
 in the actual presence (i.e., "place") of the Torah.

1474. "The Great Mordecai", loc. cit.

1475. Since she is a vessel so to speak, and participates in  
 reflected honor.

1476. I.e., it is not serious.

1477. Not qualified with a qualification such as, "Thus I have  
 it from so-and-so," or "Thus is my own view."

1478. So that the honesty of the reporter may be presumed.  
 He does not consider the possibility apparently of honest  
 but faulty reportage.

1479. "Explaining Well", a reading of Deuteronomy 27:8.

1480. A problem in identification exists here, which will be resolved infra.
1481. First editions of the first and second parts, Amsterdam, 1754 respectively.
1482. Seligsohn, "Zechariah Mendel", in Jewish Encyclopedia 12:648z.
1483. That is, he is relying on the same sources presumably as Seligsohn. The fact that he edits this edition tends without justice to give his attribution undue credential.
1484. So given in Moses Beer, "Ashkenazi (Tiktin), Judah b. Simon Sofer Frankfurt", in Jewish Encyclopedia 2:199b.
1485. Literally, "judge".
1486. Beer, loc. cit.
1487. Section 3, p. 16. The other one is not.
1488. The ascription made in our text. We may assume either that we have one text ascribed to two authors or two separable texts. It will not do to seek two texts, since others have written on Yore Deah using the commentative name, Baer Hetebh. R. Moses Frankfurter Dayyan of Amsterdam even wrote under the same title on

Hoshen Mishpat, and may have written on Yore Deah as well.

1489. The Baer Hetebh characteristically synthesizes the argument of Cohen.
1490. The Cohen version of this quotation was abbreviated, and so noted.
1491. His references are made in relation to the text upon which he comments, not necessarily his own text. This is characteristic.
1492. In the reading of Cohen supra, this section was highly synoptic in anticipation of its being rendered at greater length here.
1493. This comment, like numerous others, was held from the reading of Cohen in anticipation of the fuller treatment here.
1494. One who has drunk, not an inebriate.
1495. Last clause elaboration supplied.
1496. The Sirkes text and its interpretation of the quotation has been examined on its earlier appearance supra.
1497. I.e., ritual law.
1498. Defers, prior to the grace, after the meal. Alternately, leans in the others presence

1499. The Baer Hetebh here follows the derivative pro-  
scription following from the analysis of David b. Samuel.  
In so doing, he confirms it, and the process which  
produced it as well.
1500. Implied argument in the cited section of the Ture Zahabh  
supra.
1501. I.e., lest he assume a mantle of authority which does  
not rightfully belong about his shoulders. The image  
is an appealing one, and possibly a universal one in  
some form as well.
1502. He conceives of the salivation as the body's attempt  
to remove orally dangerous components of the food.  
Swallowing it, or specifically the phlegm of it, would  
frustrate this effort.
1503. In terms of protocol and deference.
1504. To deal in terms of unloading.
1505. As opposed to Moses.
1506. In marriage, in view of the attendant discussion.
1507. Of terms or cases.



1508. Son of Sarah(?) The name is found also as Saerkes,  
et al. It may be from a diminutive of Sarah, Sirke (Sarke).
1509. Cf. Bernhard Friedberg, "Joel b. Samuel Sirkes", in  
Jewish Encyclopedia 11:397b.
1510. Q.v. Webster Op. cit., p. 369b
1511. The "New House". Deuteronomy 20:5 informs us that  
 if a man builds a "New House".he is to be exempt from  
 the military draft. No further comment.
1512. Quotations in upper case are from the Tur, section #242.  
 They take the place of referential footnotes in the text  
 of the Tur itself, and represent an alternative attempt  
 to cope with the problem of extensive crossreferencing.
1513. Where a quotation appears in Maimonides and Tur,  
 cites it, the translation followed is that of the Tur,  
 which presumes the analysis appearing on the comment  
 at the place of its appearance, an opportunity not  
 present with the provisional translation of the Maimonides text  
 to the same degree.
1514. Whose revolt against the authority vested in Moses was  
 met by God.
1516. In opposition to him may be the significance of the dative.

1517. He is not in his presence. It is assumed that if he were in his physical presence, he would solicit permission. Thus, "in his presence" must be a terminus technicus referring to a given radius of authority.
1518. According to the Maimonidean set of definitions, reflected implicitly in the provisional translation supra.
1519. "Studs of Silver", a reading of Canticles 1:11, "We will make you ornaments of gold (tur zahabh), with studs of silver (nequddoth hakeseph)."
1520. In the section of Yore Deah with which we are dealing, only this one comment is made by the Nequddoth Hakeseph.
1521. From an acrostic of the initials of Rabbi Shelomo (Solomon) Eger.
1522. Cf. Friedberg, "Solomon Ben Akiba Eger", in Jewish Encyclopedia 5:53.
1523. He comments serially on the numbered sections of the Shulhan Arukh, Yore Deah, #242. It was mentioned supra that there is no totally satisfactory manner known to me to deal with the extensive crossreferencing and analyses of the texts, and extensive footnote use was an attempt to meet the problem. The present experiment is

in going according to serial section numbers of sections  
commented upon represents an alternative attempt.

1524. Jastro read, "excommunication". He is making himself  
more pious in a sense than his master.

1525. The student presumably may not accept an alternate  
master without clearance, and an alternate master  
may not usurp the place of the regular man.

1526. A sign that he has approached the end of his worship.

1527. That is, it gives the discouraged order of precedence  
in naming the scholars.

1528. The honors due his person are more within his volition  
to waive than those appertaining to his office.

1529. Cf. discussions supra on the Nahalath Zebhi and on the  
Pithhe Teshubhah; Cf., also N. T. London, "Abraham  
Hirsch b. Jacob Eisenstadt of Byelostok", s.v.  
H. Guttentstein, "Eisenstadt", in Jewish Encyclopedia  
5:82b

1530. Tentative identification in London, loc. cit.

1531. Ibid.

1532.. R. David b. Solomon ibn abi Zimra (Zamiro), known as the RaDBaZ (RiDBaZ) was a Spanish Talmudist and Cabalist, b. Spain c. 1479, d. Safed 1589. Member of the Cairo Beth Din in 1514, he acceded to the Chief Rabbinate of the city for forty years on the abolition of the office of Nagid by the Ottoman powers in 1517.

When he was ninety, he took his vast fortune, leaving much of it to poor and ~~w~~<sup>s</sup>cholars, and removed to Jerusalem c. 1569, a fact of importance for the Berab discussion to follow.

He did not remain in Jerusalem because of the crippling Ottoman taxes, but removed to Safed shortly, to become a member of Karo's Beth Din there. His responsa are considered by Isaac Broyde ("David Ben Solomon Ibn Abi Zimra", in Jewish Encyclopedia 4:469a ff.) as his greatest contribution to Jewish literature.

1533. A place of special honor.

1534. The reading of the Torah referred to is in the public worship service, and the positions of reader, in our time the position in the Orthodox service of blessing the reading, are distributed as honors, or at times even sold.

1535. Since he is rejecting the honor of reading it.

1536. On the part of the master and presumptively of the disciple.
1537. Since he would patently not be refusing, ~~where he is~~ were he to refuse, to honor his master.
1538. The distinction is drawn between profession consultation and meddling.
1539. London, loc. cit.
1540. Shulhan Arukh, Yore Deah, Romm, Vilna, 5671, (1911), combined edition.
1541. Cf. London, loc. cit.
1542. Evidence that they both agree in principle that the honor due the father takes preference, based on the principle that where A is obligated to B and both A and B are obligated to C; a conflict of needs between B and C must to A be resolved in favor of the precedence of C.
1543. Do not pose the following possible objection from the following case.
1544. So that this is not a true parallel case.
1545. It is no parallel. If it were, it would lead from the principle to an absurdity ~~in~~pradice.

1546. Resolution tentative. R. Simeon b. Yehozedeq's

are indeed often transmitted by R. Yohanan, and although he predeceased him, R. Simeon b. Laqish did study with R. Yohanan, so the resolutions are possible.

1547. M. Schloessinger, "Hanneles", in Jewish Encyclopedia 6:220a.

1548. In our edition (cf. Bibliographers), it is attributed to the

MaHaRLah, which might resolve into this writer, although no such abbreviation is listed in Jacobson, Guttmann, Cohen, Op. cit., or in Bader, Gershom, Cyclopedia of Hebrew Abbreviations, Pardes, New York, 5711 (1951). The proposed resolution is supplied by the editor in a later comment as H-N-L-Y-Sh, which might be Hanneles, a derivative from the genitive matronymic of "Hannah".

1549. Ibid. for alternate form.

1550. Ibid. Schloessinger's orthography is followed.

1551. Cf. also Furerst's article, Biblia Judaica 1:164, referred to in Schloessinger, loc. cit.

1552. So that he could set himself up as the single authority, but he still ran the risk of being wrong and subject to countersuit. It is necessary to say that he was exceptional to remove his case from the possibility of establishing

a precedent.

1553. Expansion supplied.

1554. Supplied.

1555. So that the son would not be relying on the father alone.

1556. That he should do.

1557. Vilna. Cf. Bibliographies.

1558. From internal evidence.

1559. An independent student, or the litigant himself.

1560. The second sage who was asked. This is a dangerous precedent for overriding.

1561. That is, his reversal amounts to a fresh decisions.

1562. Out of keeping with earlier decisions, but permitted here because the second is not, as in earlier texts, a student colleague but a second sage.

1563. May decide for permission.

1564. I. e., laws of purity or laws of ritual, opposed to civil laws where the remedy sought is economic essentially. A parallel may be brought from American civil jurisprudence, where an essential determinant of

whether a case will be tried in law or in equity is the remedy desired. If the remedy is money, the case will go to a court of law. If the remedy is other than money, then the case will go before a court of equity. Examples of the latter are, where the case deals with a sui generis, not replac<sup>a</sup>ble through an award of money, such as a given Rembrandt painting, where the remedy sought is not money; again, real property, any piece of which is non-duplicable, would go to contest before a court of equity, whose powers are therefore broader than those of a court of law. Here, too, the Hebrew civil jurisprudence refers to cases in law by the title "monetary" cases, whereas the powers of equity are distributed into ritual and other areas.

1565. A technical term which will shortly be defined.

1566. A notable and importan<sup>t</sup> point of preeminence in definitions.

1567. Economic loss in both cases, with the thrust here to emphasize that the criterion of the loss is not absolute but relative to the loser.

1568. An influential case. Obviously wide discretionary powers



are assumed here.

1569. A point or example reminiscent of Rashi's responsa on nesekh and the relations with gentiles of those involved in the wine industry.
1570. Acceptance of his decisions; he knows when to exert authority.
1571. The term "dependency" here is a terminus technicus, indicating the less potent of two conflicting positions. As Cohen points out, the reason for its secondary (or dependent) place may be the source of the tradition in terms of personal precedence or another reason, such as its authority being merely rabbinical as opposed to Scriptural.
1572. Compare the Sanhedrin procedure of entering a given argument only once.
1573. We understand throughout this study the term "economics" to refer to more than the mere exchange patterns of money. Economics, in the larger sense, must take into account the relations and changes of relation of power structures as a whole, in competition or cooperation for influences and control. Certainly to some extent this structural view, which sees a society as a system of evolving and interacting structures, from the seeds within which a

new system of relationships comes into being, will concern itself with flow and transfer of money. But this can never be the limit of one's understanding of the dynamics of the economic.

1574. A great deal of recent work has appeared on the political or economic or halakic structures of 16th century Safed, but seldom has an attempt been made to tie the material together in any meaningful way, to show some implications of one area for another.
1575. Since the appearance of Rivkin, Ellis, "A Decisive Pattern in American Jewish History", in Essays in Jewish History to Commemorate the Tenth Anniversary of the Founding of the American Jewish Archives under the Direction of Jacob Rader Marcus, Cincinnati, 1958, pp.23-61, it has been impossible not to take this view into account. The argument is summarized in Rivkin's "New Horizons in Jewish History", in The Jewish Teacher, U.A.H.C., New York 28:3 (March 1960).

The most significant document in the field, however, and one which must seriously influence subsequent enquiry, is Rivkin's brilliant exposition of structural methodology in "The Utilization of Non-Jewish Sources for the Reconstruction of Jewish History", in Jewish Quarterly Review, 48, October 1957.

1576. Economic surplus represents, at a later phase, a medium for indulging new appetites, but here it is merely a consumption of feudal exploitation which is limited by the very capacities of the exploiter.
1577. Prior to the recent Muhimme Defterleri studies in the Ottoman Archives by Heyd, Lewis, et al.
1578. Such as the right to trial by peer and freedom from some taxes.
1579. Which I have found hitherto stated by no analyst, but which seems to me to flow from the structural necessities of the situation.
1580. The first was Solomon, son of David. The Turks considered Suleiman to be his successor in name.
1581. And it can never be left permanently isolated, lest one gets the Roman situation of independent armies, whose fealty was to their commanders and not to the mechanism at Rome. Thus the obvious answer of permanent mercenaries in far-flung and permanent assignments of control does not work. The direction must always come from the central mechanism.
1582. And even in the case of money, it must be in the universal exchange, for the coin of Britain is worthless in Rome. If the new conquest is on which does not produce gold-- taking

that as the universal exchange--then of what profit is this conquest? Even if it does produce the universal exchange, will that provide more grain for the hungry Romans? Thus, the limits on expansion in terms of utilization capacity of distant sources of surplus are totally absolute and dictated largely by the capacity to transmit "real" surplus, capable of direct consumption, to the center of the consumptive feudal power.

The means of transmission may become better and better, the speed of transmission faster and faster, the agents of transmission less and less corrupt, but a limit is reached as to how good the means can become, how fast the speed may become, and how much the agents need for their own survival. When this limit reaches the level of availability of the surplus, the limit being a positive function of the distance, then further conquest is no longer profitable. And the needs become greater and greater as the supply-line becomes longer and longer.

1583. A Feudalism, in the broadest economic sense, we understand to be a system under which the ultimate and primary destiny of surplus is to be consumed. A true capitalism we understand to be a socioeconomic system which differs from a feudalism in that the proper eventuation of economic surplus is the production of more economic surplus. A man may be

a shoemaker who makes and sells shoes in a feudal manner or in a capitalistic manner. The feudal shoemaker consumes the surplus achieved through the sale of his shoes, looking upon the shoemaking as a means to an end; a capitalistic shoemaker uses, insofar as is possible, the surplus attained through the sale of his shoes to improve the manufacture of shoes, looking upon the perfection or expansion of the shoemaking process as a legitimate end in itself, from which he may nonetheless derive his support without ceasing to be a capitalist. The breaking point which separates a feudal orientation from a capitalist one is the principal destiny of the economic surplus: is it for consumption or to feed the mechanism of production? If the first, than no matter how highly developed an economic plant one is dealing with, the structural evolutionary laws of a feudal orientation will apply. If the second, then no matter how primitive or individualistic a productive plant<sup>n</sup> one is considering, the developmental laws will follow the capitalist pattern.

1584. One may add that the very demand of the capitalist system-- the destiny of surplus to serve the means of producing surplus necessitates due attention and consideration to the people who are the means of producing that surplus, i. e., the laborers or in a later society those who keep the machines of industry

moving. The exploitative America of the 1920's represented a feudal approach to what could have been, and did become, a capitalism, in that the fruits of surplus were destined for consumption, not destined to be primarily returned to the agency of production, which includes not only the machines but the people who run and build them. In a true capitalism, such as America is now approaching, the surplus created by the manufacture will be primarily reinvested in the process of manufacture, which includes the persons actually doing the manufacturing. It is not accidental that the mercantile exploiters of the 1920's were spoken of as "Barons".

1585. This is not to say that economic considerations are the only ones involved in the development of nations. However, in addition to the factors cited before, it is evident that the new rising class manifested certain characteristics which became and reflected world-significant forces, and this class was identified as the capitalist class. It remains a small if dynamic percentage of the population of the time, and was marked by other interests than what we are calling economic ones. This element is singled out, however, because it is that unique factor which seems closely allied with the dynamism and prominence of the results of the activities of this class as they affected and still affect the historical evolution of the

process.

1586. Roth, Cecil, A History of the Marranos, p.14, under Henry III, successor to Juan I of Castile. Roth is the finest collection of sources and references to the entire period, in all of his books and the further documentation he provides. Generally, however, he contents himself with presenting the positions stated in his sources, without analyzing the structural needs of the situation from within which such sources come. After all, David b. Zakkai's excommunication of Saadia was, if the source of David b. Zakkai be taken at face value, to defend the purity of the faith; similarly, Hitler's only interest in invading the German Sprachgebiet was to "liberate" it for self-determination.

1587. In the pre-Almohade days, in the united Cordovan caliphate and its successors. After the advance of the North African Almohades, brought to the peninsula to stop the advance of militant Christianity, many Jews fled to the Christian communities of the north. Roth (Marranos, p.9) dates the hegemony of the communities of Christian Spain from this point (after 1148) He also documents Islamic and Christian crypto-Judaism in this period.

1588. Roth, Marranos, p.19 and references

1589. Roth, Marranos, p.21

1590. As Roth states without qualification ibid., p. 28.

1591. And some in fact did. There is no effort here to deny that Marranism or crypto-Judaism did take place in fact; but the time at which it occurred and the scale on which it is usually presented as having functioned are highly open to question.

1592. The morbidly inclined may find a hesitant description in several of Roth's beautifully researched and annotated works in the Bibliographies, q.v., in Graetz volume 4, in Lea, and Rivkin holds that "none but the most integrated personalities" could withstand Inquisitorial persuasion, which was not alone based on physical pain, but exploited with maniac genius all of the repressed terrors and traumas of childhood in a well-calculated effort, procedurally formalized no less, to dissolve the human personality. Rivkin is being quite cautious.

We may learn from Inquisitorial methodology that most human beings, statistically speaking, may be reduced to slaving hulks of terror through mere pain, but others require methods which will suit the person involved. For a close-knit family, for example, or for an emotionally dependent man, it is faster to torture



a mother than a principal.

Poe's little classic to the Toledan Inquisition is by comparison expensive, slow, and not at all tailored to the individual's needs.

1593. That from time to time licit evidence, or at least credible or conceivable evidence, was unearthed is a fact; but the relative amount of such evidence unearthed in view of the tens of thousands of families looted (some estimates run into the hundreds of thousands) does not exceed statistical expectations on a purely chance basis.

Further, what we are calling "credible" evidence is merely an accusation which makes sense, such as having observed a Sabbath Service, and not at all "established" or proven cases. The vast majority of the recorded accusatory evidence, like "worshipping idols of stone tablets" or "eating lamb on Holy Thursday" is pure hokum, obviously betraying an accuser — and a court — which had no idea of what a Jewish practice was, and was forced to fabricate out of the whole cloth, so to speak, what might be a "Judaic" offense. Such lack of contact with the nature of Jewish

practices suggests something which is difficult to believe in view of the vast army of historiographers which has written ~~has written~~ on this subject.

If a Soviet court produced mass denunciations of Catholicizers who were recognizeable because they consumed antiproletarian foods on Lenin's birthday and worshipped idols of Trotsky, one would suspect that such a court had never seen a professing (or secret) Catholic. If the only evidence against any Catholics adduced by such a court was limited to vague statements about worshipping the Cross and other items which might be expected to be part of universal public knowledge, and if such items were invariably botched in the reporting (Catholics do not worship the Cross as such, and the oath by the name of "Adonai" was obsolete among Jews long before the accusations of its use), then such a conclusion would be inescapable.

Here too, if reason is to override emotional precommitments, a similar conclusion is inescapable, all the more so since the charges of the Inquisitional courts are far more clearly a patent tissue of hokum than even the Soviet-Catholic analogy above.

One attempt to resolve the facts with certain historiological theories often brought to them has been to hold

that the New Christians — the Marranos, that is — grew in time to observe an entirely new set of rituals, aimed at resisting the Church rather than at maintaining Judaism. The nature of the actual charges, the documentary evidence, rules this out. Even if it were the case, in what sense can it be maintained that such persons were Jews, rather than merely dissident Catholics, as the Church claimed?

1594. Mainly that of Judaizing, although curiously some were accused of being Christians, which would then make them backsliding Christians, of course, and subject to the Holy Office without further formality or ado.

1595. Let it be remembered that the oath of poverty comes wrapped in a swaddling of legal fictions, one of which is that the cleric does not possess, in the sense of having a legal deed in his name, the vast resources at his disposal; he merely enjoys the "use" of them.

1596. Joao's father Manoel, behind repeated official guarantees to the New Christian class, had secretly petitioned Rome in 1515, but had been unable to reach a working agreement.

1597. Not entirely. On December 3, 1496, an edict of

1597. Not entirely. On December 5, 1496, an edict of expulsion was proclaimed in Portugal, which allowed a grace period of 10 months, until October 1497; but the mistake was rapidly rectified, as we see.
1598. Roth, Marranos, p. 198.
1599. Cf. Heyd and Lewis and other studies of the Muhimme Defterleri on Cairo, Fostat, etc. Cf. Kobler, vol. II, letter from a Yiddish widow to her son describing plagues etc. among his Medieval sources.
1600. In connection with his two splendid source books on the House of Nasi; Dona Grazia Mendez and The House of Nasi: The Duke of Naxos, Roth cites and quotes reams of material in a score of languages, without at any time trying to draw the implications from his sources in a structural manner.
1601. It is interesting to observe, in connection with the Nasis, that when one would structurally expect them to be interested in transferring large amounts of surplus from one place to another, say from Holland to Ferrara or to establish themselves at the Sublime Porte, one member of the family denounces another as a Judaizer and the other, in this case Dona Beatrice herself, grabs the surplus and leaves, only to become reconciled with the first when the ultimate haven is

reached. In an age of intrigue where the simplest manouvres become involved manipulations, even observers in Amsterdam commented on the peculiar confluence of necessity and expediency in this case, which at once endeared one member of the family to the loyalties of the ruling powers while it permitted the other to make good a necessary escape without implicating the one remaining. Unfortunately, Dr. Roth seems to miss this point completely while presenting the sources from which the suggestion flows. Graetz (4:573) perceives the suggestion much more clearly. After Graetz (English translation, 1894), there is no excuse for Roth's oversight.

1602. Dr. B. Saidel writes in a correspondence of the whole of which the following is a translation:

"Dear Rabbi Podet:

"In response to questions concerning the subject of your thesis, it is possible to make the following general statements.

The area of Palestine, including Safed and Jerusalem, was under the domination of the Ottoman Turkish Empire at the time. The seat of the Ottoman Sultanate was Constantinople, but the empire was far flung with many individual provinces.

Several conditions may be implied upon the governmental structure of the entire Turkish Empire.

The emergence of the Osmanli Turk and his gradual preeminence over the Seljek Turk and the remnant of the Byzantine Empire was a period of conquest and consolidation which lasted the better part of two centuries. During this period of consolidation seats of Turkish government flourished in many areas of what is now Turkey, Macedonia, and the Middle East. Outstanding among these cities were Bursa, Salonica, Scutari, Magnisiya, and Tarsus.

The ultimate conquest of Constantinople by the Turk in the middle of the 15th century caused the removal of the divan and court to that city. Strong traditional patterns of the now provincial capitals <sup>operated</sup> in unequal zones of influence and importance within the total empire structure. There is reason to suspect that certain preferential commercial advantages were to be gained by exploiting the fractional political structure of the Ottoman Empire. Unequal taxation was apparent. We have records as in the "Umur-i Muhimme Defteri" of community obligations within more tightly controlled areas that were "tax-farmed" from the general populace.

Various axes of influence existed, ~~the~~ a commercial axis between Salonika, Smyrna, Cairo; a military axis involving Erzerum and the Persian border. One important commercial relation grew between the relatively autonomous city of Salonika and various middle eastern cities including

Safed. In spite of the distance between Salonika and Safed there is much evidence of trade between these cities and through them as agents for one another.

An example of an important product of the Safed-Tiberias community was trade in wool, both raw and finished products. The great sheep grazing potential of the Anatolian plateau was not realized at that time, and even modern Ankara, whose name commemorates angora wool, was of questionable economic importance. The barrier of the Taurus mountains further isolated Anatolia and Cappadocia from the sphere of Safed's wool influence. The abundance of fresh water from Lake Tiberias cannot be discounted as an important factor in the mill industry of Safed.

One of the dominant routes of trade in this area of the Ottoman Empire was the Cairo-Damascus caravan route, which, bypassing Jerusalem, made Safed an important way station. Many products of great commercial importance were transported between Cairo and Damascus and on to other outlets. These were Egyptian cotton, steel from Damascus, spices and other traditional items of eastern commerce.

Within the immediate locale of Safed was the important port city of Sidon. This represents a convenient port for expansion of trade from Safed and its feeder communities

into the general commerce of the time which included inroads  
onto Mediterranean and European commercial activity.

It is with a great deal of interest that I view your studies  
in this most important area of geography and history.

Looking forward to your continuing success, I remain,

Devotedly yours,

Dott. B. R. Saidel



1603. Forster, Charles T. and E. H. Blackburne, Life and Letters of Ogier Ghiselin de Busbecq, 2 vol., London, 1881. Cf. for a hostile and anti-Semitic witness the Diaries of Hans Dernschwam, factor of the Fuggers at the Porte, in Marcus, Op. Cit.

1604. Hirsch, Richard G., The Sixteenth Century Attempt to Reestablish Palestine as the Center of World Jewry, M.H.L. dissertation, Hebrew Union College, 1951. P.4.

1604A. Up to this time. Once the precedent was set, it was followed in succeeding rules. In the case of Ibrahim (Lamb p.213) Suleiman was compelled to take the reins again.

1605. Suleiman's three great campaigns into Transylvania were respectively to Mohacs, Buda, and Vienna. Hungary represented the "practical limit of radius of control" to the Turkish empire, and to master and remaster it involved what amounted to an expected triennial outing of the janissaries, to which Suleiman grudgingly acceded. His eldest son Mustapha, whose death was manipulated by Roxelana, was willing to fight, and came to be quite popular with the janissaries for this reason, successfully competing ultimately in popularity with his father, who was not so willing to undertake the campaigns. At one time, Suleiman

faced a near uprising from the janissaries because he was letting them lie fallow too long.

When he attained Erzerum in the East, he did not prosecute a martial victory but retreated after exacting a miniscule and disappointing token tribute. Later (the Erzerum campaign came between the Buda and Vienna campaigns) when he had Vienna under siege, he retreated again on the pretext that his personal enemy Charles V was not within the city, as if his entire campaign had been only to find this man.

After a long and hard siege at Rhodes, when he finally took the fortress, he gave up the fruits of the victory without coercion, provided transport off the Island for the Knights, etc., receiving in return little more than the life of the now-Christian Jem from the departing Knights.

1606. It will be useful to append here a table of some of the names which will be encountered, with approximate modern equivalents:

| <u>Military</u>         | <u>Religious</u>                     |
|-------------------------|--------------------------------------|
| Taman (Lieutenant)      | Hodga (Teacher of Religion)          |
| Yuzbashi (Head of 100)  | Iman (Priest)                        |
| Binbashi (Head of 1000) |                                      |
| Yar Bey (Lt. Colonel)   | (intermediary religious graduations) |
| Yezzer (Colonel)        |                                      |

Pasha (General)

Mufti

Beylerbey (Bey of Beys)

Sultan-known to the Shiite Persians

as Shahinshah (Shah of Shahs)

Thus for example, when Suleiman at Roxelana's bidding decided to do away with ~~his~~ ((and her) firstborn Bayezid, he posed a "theoretical case" to the Mufti, who was perceptive enough to decide that such a "theoretical" offender as had been described should be done to death. Once the decision had been rendered the Sultan was "forced" to kill his son, opening the throne to Hurrem's own favorite, Selim. It is a curious fact of jurisprudence that a tight system operating through legal fictions permits an amazing degree of freedom to act.

1607. Cf. Lewis, Heyd, and others on the Mülhimme Defteri finds.

1608. Cf. Canaani in Zion., Jerusalem, 6 (1934); Cf. also Lewis Bernard, Notes and Documents from the Turkish Archives, Jerusalem 1952; Isaac Ben-Zvi, Erez Yisrael Bime Hashilton Haotomani, Jerusalem, 5716; Heyd, Uriel, Ottoman Documents on Palestine 1552-1615, Oxford, 1960.

The conclusion of the present paragraph (of the text) is Heyd's, based on his Turkish researches, in a correspondence.

1609. In a correspondence. Dr. Heyd's qualification "sometimes" is related to the point made by Dr. Saidel, that both through

TIME AND THROUGHOUT THE REGIONS OF THE EMPIRE AT ANY

- (i) given time, neither the laws nor the administration  
<sup>were</sup>  
~~was~~ of a piece, but that vast differences obtained.

1610. Lewis' oversight is the more remarkable since  
 he notes that Christian clergy often were both designated  
 as such and freed from the kharaj, which was binding  
 on all other raja, the community of the unbelievers  
 (in Islam).

1611. The likelihood is that there were two taxes involved,  
 a major one on the community as a whole and a  
 "farmed" tax on another, possibly a regional basis;  
 all this, of course, in addition to the capitative  
kharaj.

An adept merchant scholar could deal with the  
 first through the community (perhaps claiming  
 exemption on the bases of Baba Bathra 8a, Nedarim 62b;  
 market privileges on the basis of Sabbath 119a.  
 The Talmudic positions are adopted in the responsa  
 "On the Taxation of Scholars" of Karo, Habib, Moses de Trani,  
 and others, to be dealt with), with the second on a  
 similar basis, and with the third through a  
 "clerical consideration" in Ottoman law, such as Heyd

suggests.

1612. Rosanes, Solomon A., Dibre Yeme Israel Betogarma, 2 vol., Husiatyn, 1912, p. 61 ff. cit. Hirsch; cf. Saul P. Rabinowitz., Mozae Hagolah, Warsaw, 1894, p. 61 citing Nikolas de Nikolai's letter of 1554; cf. Canaani, Op. cit., and Ben-Zvi, Op. cit., Cf. also Bernard Lewis, "Are Erez-Yisrael Bemea Hataz al-pi Teudoth Mehaarkhion Ha'otomani" in Jerusalem, kerakh 2/5, 5715, p. 117 ff. ----, "Haokhlusya Wehakhnasoth Hamissim Beerez Yisrael (Bema Hashesh-Esre al-pi Teudoth Turkioth)", in Jerusalem 4 (5712), p. 170.
1613. At this stage they had not yet developed the full capitalistic orientation, and if therefore not "capitalists", then "protocapitalists".
1614. I am informed that relatively few dining houses in America employ anything but artificial pepper to this day.
1615. Cf. Ellis Rivkin, The Hidden Revolution, unpub. MS. on the origins of the Pharisaic movement. Down to the time of the Hasmonean revolt, the Establishment cult

was in the hands of the official priesthood, which became, for reasons which Rivkin analyzes, progressively more corrupt. The Maccabean revolt was not only against the Syrian Greek military establishment, but against their puppets, the religious establishment as well. This, the "official" establishment, traced its authority to the sacerdotal investiture of Zadok, and bore the name Zadokites, cf. Sadducees. The new force, the "popular front" which sought another basis of authority, derived its authority from the adduction of an "Oral Torah", paralleling the "Written Torah" in authoritativeness, of which they were the custodians. This Oral Torah, which at length became embodied in the Talmud, could not be seen by the Establishment as other than heretical, and those who espoused it as "Heretics", i.e., Pharisees. The name "Heretic", Pharisee, was never used of course by the Pharisees in referring to themselves; they preferred titles reflective of their relation to the new authority, such as "Scholars", "Sages", "Scribes", the last of which suggested a forebear for the movement in Ezra, known too as a "Scribe", and who, too, had "discovered" a new Torah

in his time.

Once the corrupt establishment died completely, and even the remnants were destroyed in the destruction of the Temple in the year 70 C.E. , the scholar class of Pharisees was prepared to continue officially the leadership which they had assumed sometime since.

Rivkin shows that this "hidden" revolution was obscured by the military aspects of the Hanukkah story of the revolt against the Syrian Greek corruption, from which he derives his title.

1616. Joseph Mantabia (1481) estimates the total population of the entire Safed region (a tax-area denomination including far more than Safed, cf. Lewis, "Okhlusya") as a mere three hundred families (Luncz, Hamaamar 3:287 ff.; Eisenstein, J. D., Ozar Masa'oth, New York, 1926, p. 126) and an anonymous Venetian traveler cited in Hirsch (p. 43) and in Eisenstein ibid. corroborates the figure. A Franciscan monk (Canaani, Op. cit., p. 7, n. 1) records 8,000 to 10,000 Jews in Safed in midcentury, and one observer (ibid.) estimates the conservative equivalent of 80,000 by the end of the 16th century .

1617. Webster, Op. cit., s.v. Merino.
1618. Jaffa and Acre were functionally waste at this time.  
 Zidon was perhaps fifty miles from Safed, which  
 would be a goodly distance except for the fact that  
 Safed was on the Cairo-Damascus route, which  
 bypassed Zidon. Cf. Avitzur, loc. cit..
1619. The streams of En Po'em, Meron and Yaqim in a  
 brook of Dilbai, the Nahal Hatahanoth ("Mill Creek" sic.) in the  
 upper Nahal 'Amud, and the springs of and about  
 the city and in nearby En Zetun gave Safed a plentiful  
 supply.
1620. The principal sources were indigo for indigo and blue;  
 kermes (whence "crimson"), an extract of coccus  
 ilicus eggs for red and royal; fustic for yellow (from  
 a distillate of elements of pistachio trees); various  
 mordants for hues and intensity, and violet dyes  
 were also employed.
1621. Cf. Barukh Jacob b. Moses Hayyim Shibhte Yerushalayim  
 Livorno, 1785; Solomon Kohen, Responsa II:38.  
 Abraham Boton Responsum #148: Moses Almosnino,  
Maamaz Koah 16a, all on the involvements of



Marranos and Turkish Jews in the life of Safed.

On Safed's economic life, Jacob Canaani "Hahayyim Hakalkaliim Bizephath" (Zion, 6). On the Marranos, H. J. Zimmels, Die Marranen in der Rabbinischen Literatur, Berlin, 1932, pp. 69 ff. discusses the occupational life of the Marranos and their geographic distribution but curiously does not mention Safed (or Palestine); S. Assaf, "Anuse Sepharad Uphortugal Besiphruth Hateshubhoth" (Zion 5) discusses the Marranos of Iberia in the responsa literature without directly touching on the economic life. In comparing the one source with the other, however, and utilizing the material of one to fill the gaps in the other's interests, the structure represented in the present text emerges.

Dr. N.N. Glatzer (in a correspondence with Dr. A. Altmann on the present enquiry) mentions the letters of Bertinoro already treated (and discussed in Graetz (1877) 9:28 ff.), cf. the citation of the same in Jahrbuch fuer d. Jued. Geshichte, 1863, 3:209 and 222. Cf. the rivalry of Safed and Jerusalem in the letter of Shelomel b. Hayyim Meinstertl of Lundenburg (1607), now in K. Wilhelm, Roads to Zion, 1948, pp. 57-64, and also in Yaari, Iggeroth Erez Yisrael.

The researches of Dr. A.S. Halkin concur with the conclusions of Ben-Zvi's Erez Yisrael Weyishubha Bime Hashilton Haotomani (cited supra), p. 169 ff., on the economic position of Safed and its implications (from a correspondence) on the present enquiry).

1622. It will be noted that many Jews invest in Israel bonds, which yielded at original issue 12% and more, in a semicharitable mood.
1623. "Jerusalem" in Jewish Encyclopedia, cf. "Halukkah", On the subject of meshullahim who travelled about collecting moneys for support of Jerusalem, incidentally, "Esrin-Wearba" is a surname, not (Graetz) a title of honor nor even more unlikely (Hirsch) a designation of ignorance (Cf. Jewish Encyclopedia, "Halukkah").
1624. The Qontres Hasemikah is also found in (Fishman) Maimonides' work of Hiddush Hasanhedrin.

Dr. S.B. Hoenig mentions in a correspondence on the present enquiry also that Berab's activities in this area antedate his arrival in the Tiberias area. Cf. ibid., pp. 83, 103. Cf. also Newman's Semikah p. 161,

the note on that page, and Graetz-Shaffer, vol. 7,  
p. 216, n. 1.

Further evidence cf. Tchernowitz Toledoth Haposeqim  
3:11 and Margolis' Letoledoth Gedole Yisrael, 3:856.

Cf. also Hones, Toledoth Haposeqim, p. 83, citing  
"Wehu haya ish amud o gam soher, sholeh yad  
bemis-har," in reference to Berab.

1625. The volume paginates up to 54b and abruptly begins repagination. The responsum, #140, is found on 46a of the second pagination series.
1626. He had one supporter, and the rest of the Jerusalem rabbinate opposed him and sided with Berab.
1627. At the time that Berab became available for receiving the "universal ordination", he was instantly acclaimed by a jury of all of the dominant rabbis of Safed's vicinity. A knowledge of the historical Jewish genius for disagreement makes this appear little short of a miracle.
1628. Book 14, (Shophetim), section 1, (Sanhedrin), article 11, in Abraham M. Hershman, Code of Maimonides, vol. 3, Yale Judaica Series, New Haven, 1949, p. 15.

1629. I.e., possessing the valid semikah.
1630. And thus constitute a court of three, one of whom is ordained. Cf. article 3.
1631. Cases of kenas, the judgment of which requires the valid ordination. Someone bearing a guilt which is to be expiated by kenas must find the penance imposed by a valid ordinand. The choice of "penance" is not gratuitous here, but meant to reflect the thinking of those who were to come from Catholic Spain.
1632. I.e., that ordination can be revived.
1633. The possible break of the chain of the valid semikah?  
He refers to the praise of Baba.
1634. That is why they were anxious to perpetuate the institution of ordination.
1635. Hershman notes, "the matter of ordination", but he may be referring to the entire article. Habib holds that he refers specifically to reinstitution.
1636. In his Commentary on the Mishna, Sanhedrin 1:3, Maimonides states definitely that, by common consent of the sages in Palestine, the institution of ordination

can be revived, cf. R. David b. Zimra, ad loc.

1637. Cf. B. Sanhedrin 14a.

1638. Like the Keseph Mishne, from Genesis 43:12 (J)  
read there "money of double value", the Lehem Mishne,  
from Exodus 16:22 (P) read there "twice as much  
bread" is at once a Biblical citation and a punning  
reference to the text upon which one is commenting.  
The latter is the more ingenious, since Lehem Mishneh  
may be read "the dispute of the Mishne (Torah)."

1639. An office reserved for Jewish women.

1640. Avi~~ts~~sur, loc. cit.

1641. Ibid.

1642. Harold Lamb, Suleiman the Magnificent, New York,  
1951, p. 318.

1643. Ibid., p. 324.

1644. Not all of these documents are semikah documents.

Besides the obvious Haber investitures and appointments  
of other offices, relatively rarely does one find a  
modern text which claims to be bestowing actual  
"semikah" or which employs the terminology S -M-K

1645. A Typical Composite Text

1. Invocation
2. Institution
3. Declaration: "testimony" of the issuers:
  - a. sealed below (a confirmation of the issuing agency as a legal form.)
  - b. head (as representative. A man may claim to study with the head of his institution even though his contact with the man has been limited.)
  - c. faculty (as witnesses of the student's achievement, and thus directly capable of firsthand testimony.)
  - d. board (as representatives of the institution; technically unnecessary in view of "c".)
4. Designation (of the recipient)
  - a. student (establishing the relation with the institution; and the witnesses of the faculty.)
  - b. colleague (together with 4a, designates the recipient as a "student colleague", capable of exercising limited authority under the halaka, during the lifetime of his teachers.)
  - c. Rabbi (when it appears in this position, it is predictive, and of no halakic value, because the formula has not been invoked. However, -

this fulfills the qualification, "They call him Rabbi.")

- d. academic degree (of no halakic significance, unless it be for identification purposes.)

5. Character (The 4b student's intentions. He who can teach, principle "Torah with Derekh Erez" guarantees that the vessel must do so. It will suit that which is within it.)

#### 6. Participation

- a. visited, attended, studied (an interesting variation in terms. One HUC class "studied" there, but later ones merely "attended". The distinction is poetic, not halakic.

- b. with us, house of study, yeshibhah (the formal designation Collegium or Yeshibhah would seem codically clearer than merely "with us".)

7. Time (Specificity is a virtue in designative texts, and many are highly specific. However, the commendation would be valid without it. Some schools, perhaps, are not overly proud of the shortness or limits of their course requirements.)

#### 8. Academic

- a. occupied self, studied, learned, (cf. 5a)

- b. courses (Bible, Mishna, Halaka, Aggada, Wisdom of Israel, history, literature, prohibitions and permissions, yore deah, other.

- c. curriculum (rarely is the entire curriculum presented; it is unnecessary.)
  - d. consequence (because he hath finished) (this gives the condition on which the document was awarded.)
  - e. book
  - f. ability
  - g. examinations
9. Rabbi (degree title, function; Rabbi, Rabbi and teacher, our teacher the Rabbi, cf. 3d)
10. Ordain, confer. (The former is a rendering of S-M-K, the latter of a mere academic degree of no halakic significance.)
11. Board agreement. (Cf. 3d.)
12. Congregation of Israel. (in some cases, this is a limitation of practicing authority for protection of the candidate.)
13. Formula
- a. yore yore yadin yadin (the classic text)
  - b. yore yore beissur weheter (an odd combination, the second phrase explaining the first.)
  - c. yore yore (the same functionally as with the issur weheter)
  - d. weham yithqere werabbi yithqere (a reading of the actual method of ordination)



- e. fill his hands to take on his shoulders the task  
of the rabbinate
- f. ordination of the sages (the classic text)
- g. other

14. Benedictive quotations

- a. May he ride forth (Psalms 45:5)
- b. May the Lord his God be with him that he may  
prosper (II Chronicles 36:23)
- c. Magnify Torah and make it precious (Isaiah 42:21)
- d. Spread law among the multitudes (not in Mandelkern.)
- e. Scatter spirit of knowledge (not in Mandelkern.)
- f. Stand upon the guard of holiness (Numbers 18:5)

15. Seal (as a corporate signature)

16. Signed (Head, total faculty, board, representative faculty, officers  
only.)

17. Date: (secular, Hebrew. Sabbath shown? minor reckoning?  
place? (in order to establish the validity of the legal document.)

1646. Of all the theses considered, only the Glueck 1927 HUC English text reads anything like the present reading, "By Authority of the Union of American Hebrew Congregations." In this manner, that text becomes an investiture by virtue of the congregational authority, and a recognition of congregational autonomy not only in accepting a Rabbi, but in fact in ordaining him. There is to my knowledge no established precedent in modern times in common Jewish procedure which establishes validity of an institutional document of ordination by the authority of the congregational body. There is a precedent for such action, however, in Christian denominational investitures, wherein the ultimate authority not only of election to a pulpit but of actual ritual investiture is vested in the presbytery. In this case, the denominational influence, if that is what this represents, was quickly abandoned in subsequent HUC documents. How ironical it is that in 1962 the Union was totally cut out of the document. Aside from the halakic implication, the question of whether this text and its subsequent modification represents an increased security in self-affirmation on the part of the

1646a.

A reading of the Hebrew Text, Hebrew Union College Semikah, May 1927.  
A literal reading.

With the Help of the Name

Do we testify, those who are sealed below,

THE HEAD OF THE HOUSE OF STUDIES FOR RABBIS

In Cincinnati

And the Teachers of this Yeshibbah

at the order of

THE ASSEMBLY OF the CONGREGATIONS OF JESHURUN WHICH ARE IN AMERICA

Before all of our Brethren, the House of Israel, in all the places  
of their habitations, of our student, the Colleague ISRAEL LEV  
SON OF ISAAC, all which is explained below:

This youth hath attended upon the doors of our house of study  
(ad. fr. Proverbs 8:34), and hath inclined his ear unto all  
the teachings of its teachers, and hath stood in the examina-  
tions year by year, hath victoriously ascended and hath also  
given forth fruit;

Further do we testify, those who are sealed below, that our  
student who is mentioned above, all the days of his sojourn  
amongst us hath conducted himself in the way of instruction  
(ethically) and with fear of the Lord;

After that he hath finished his Statute in Studies, have we caused  
him to stand to an examination; we have sought and examined (derisna  
wehaqira) well as to his knowledge in text (Bible) and in Mishna

in divine wisdom which is Philosophy in the events

(qoroth) of Israel, in the Ordinances of the Hebrew Tongue and the Tongues which are near to it; he hath also expounded before us many times, a time in the House of Prayer which is of our Yeshibhah, a time in the Houses of Assembly which are of the Great Congregations which are in our City; and his Words have found favor in the ears of those who have hearkened unto him. He hath also composed a Book, and hath brought it before us, and hath thereby shown that he giveth forth his fruit. With his pen hath he penned a skillful book in the Field of the Wisdom of Israel.

Therefore have we appointed and concluded, we who are sealed below, to give preciousness to him to whom it is proper, to crown (atar) our student mentioned above with the Diadem of Glory, and from this day and further let his name be called in Israel our master the Rabbi

ISRAEL LEV SON OF ISAAC

and the permission is given to him to be a Rabbi and Teacher in all the Congregations of Israel.

YOPE YOPE YADIN YADIN as one of the teachers. May the ordinances of the Urim and Thummim be sealed upon his heart. May he heal the overthrown and strengthen ~~ay~~ who investigates. May he ride forth victoriously in his majesty for the cause of truth and right. Upon this have we come upon the seal here Cincinnati the twenty-and-sixth day of the month of Iyar, 5687 according to the Minor Reckoning.

framers of the text vis-a-vis the denominational precedent, or whether it merely reflects College-Union politics, must be left for another study.

1647. Hebrew Text of Hebrew Union College Semikah, May, 1935

With the Help of God,

We, Who are Sealed Below, the Head and the Fellowship of Teachers of

THE HOUSE OF STUDY FOR RABBIS in Cincinnati

do testify that Our Student, the Colleague

SHALOM DAVID SON OF EPHRAIM

Hath Visited our House of Study During the Course of Many Years and hath Occupied Himself with Text (of the Bible), with Mishna, with Halaka and with Aggadah, with the Wisdom of Israel, its Generations and its Literature.

And now, after his finishing the Statute of Students which is Required According to the Program of our House of Study for the Achievement of the Title of Rabbi in Israel, have We appointed and concluded with the Agreement of the Board of Direction to Ordain Our Student, who is mentioned above, and to give him permission to be

RABBI AND TEACHER

in the Congregation of Israel: Yore Yore, Yadin Yadin.

May he ride forth victoriously in his majesty for the cause of truth and the meekness of the right. (Psalms 45:5 adapted).

And upon this have we come upon the seal, Here, Cincinnati, the Eve of the Holy Sabbath, the 22nd day of the Month of Iyar, year 5695 According to the Minor Reckoning.

1648. A Reading of the Jewish Theological Seminary of Breslau Text.

By the grace of God <sup>6</sup>

I, the undersigned, Master <sup>1</sup> and teacher in the Rabbinical Seminary of Breslau, which city may God protect, hereby witness and publish of the gentleman, master <sup>1</sup> and teacher Dr. Alexander b. Michal ha-Kohen Guttmann, a native of Budapest, that he has studied diligently in this Seminary for a period of six years, and has received instruction in every branch of the science of Judaism. <sup>2</sup> During this time, he has progressed steadily and demonstrated his abilities and fitness. He has investigated properly and studied profoundly in the areas of Talmud and Commentaries, and has successfully completed many tractates. He is competent and capable in the area of rabbinics. <sup>3</sup> He is capable of using easily the primary sources <sup>4</sup> and has demonstrated

of Halaka and the greater Codifiers, and has demonstrated ability to undertake Halakic research in depth.

"We are impressed as well with his modus vivendi, and he is known to us as an honorable gentleman, of proper conduct, who is given to<sup>4</sup> the fear of Heaven and the honor of Israel. He is fit for holy office and to keep the office of Rabbi<sup>1</sup> and teacher in Israel. Now that he has completed his examination with a First, and has passed his inspections, do we empower him and confer upon him the title Rabbi<sup>1</sup> and Teacher, that he may serve as leader and guide. YOREH YOREH YADIN YADIN.<sup>5</sup>

May his teachings serve as guideposts, and may he preach the Torah of God among the multitudes, and guide with success the Children of Israel in paths of faith and morality and the love of God.

In witness whereof do I hereby seal in the city of Breslau on the 23rd day of the month of Shebat of the year A. M. 5---.

1. Rabh, master or rabbi

2. Cf. "Juedische Wissenschaft" in Encyclopedia Judaica

3. Or, "first"

4. "Committed to"

5. For the formulary conferral, see text. "He may surely teach, he may surely judge."

6. "with the help of"

1649. A Reading of the Old Lehrenstalt Text

Mr.....b....., a native of....., has studied Torah diligently, and has pursued his extensive studies on more advanced levels with equal diligence and completed his studies in this city. He has determined to enter the service of God, wherefore he enrolled in this institution and studied for ...years. In view of his understanding and knowledge, and in view of the fact that he ~~has~~ demonstrated the extent of his knowledge, has passed oral examinations, and has submitted a thesis on the subject, .....  
....., we confer upon him

THE CROWN OF HOLINESS, THE CROWN

OF TORAH, THE CROWN OF THE RABBINATE.

Further, we issue this document in public testimony that he is able to serve the public in the name of God, to keep holy office, to guide the Children of Israel, and to teach those who request the word of God according to Rabbinic doctrine of the Rishonim and the Aharonim



...who are our guides and standards.

I pray that he may administer the Halaka properly and correctly, and that in the presence of God he may rise even higher; may his teachings spread, and may God prosper his efforts to advance the wisdom of Judaism and the greatness and love of Torah.

Berlin, this....day of the month...  
of the year.....

By:

Instructor in Talmud  
and Codes in the Seminary  
for Jewish Science.

A More Literal Reading of the Same

Master....., the son of....., of those born  
in the city of ....., hath given drink to his soul  
of the Torah, and after that the gates of other wisdoms  
have been opened before him hath not abandoned the love  
of his youth (Proverbs 5:18, et al), nor doth he grope  
within her tent (Genesis 31:34).

And it was, upon him

And it was, upon his coming hither to this great city, a completion to wisdom and knowledge to hearken unto the words of the sages and to add doctrine, he lifted up his soul that he might fill his hand for the Lord, and his spirit dedicated him to come into the number of the students of our House of Study:

And he attended eagerly upon the doors thereof .....(years) and the Lord awakened in him an ear that he might hear, and that he might learn, that he might understand and that he might grow wise;

And when he had demonstrated the riches of his wisdom in the trial wherewith we have tested him, mouth to mouth, and the preciousness of his understanding in his book which he hath written, when that he hath expounded thereon upon the subject.....,

Then did we place upon his head  
THE DIADEM OF HOLINESS - THE CROWN OF THE TORAH -  
THE WREATH OF THE RABBINATE,  
and we did give into his hand this scroll that it might  
be unto him as a witness before all the congregation of

Israel that great is his strength to stand before the congregation, to serve in the name of the Lord, and to keep the holy guard, and to teach the children of Israel the way in which they should go, and to teach unto any who asketh and to any who beseecheth the word of the Lord, only and solely upon the mouth of the Torah which our sages, may their memory be for a blessing, both the earlier and the later, have left to us as a heritage; for by their mouths do we live, and from their days are we as fools.

And as for me, my prayer is that he may not stumble in the word of Halaka, nor shall a stumbling block issue from under his hand.

May the Lord his God be with him, that he may ascend ever higher (Deuteronomy 28:43), may his springs (Proverbs 5:16) be scattered abroad; may the will of the Lord prosper in his hand (Isaiah 53:10), that he may lift up the horn of the wisdom of Israel to magnify Torah and to make it well beloved.

Berlin, On the.....

of the month.....

Year.....

(By:)

Teacher of Talmud and Codifiers in the  
House of Study for the Wisdom of Israel

1650. A Reading of the New Lehranstalt Text

I, the undersigned, Rabbi and teacher of Talmud and Poseqim in the Seminary for Jewish Science of the City of Berlin, do hereby witness and publish of the precious man, Our Master, the Rabbi..... son of ..... a native of....., that he has attended and studied in our Seminary these..... years, and has given his attention to doctrine in every branch of Jewish Science. In the course of this time, he has ascended ever higher and demonstrated his aptitudes and abilities. He has learned wisely with interest and researched deeply into the ways of the Talmud and its Commentators. He has pondered and studied several tractates and his heart is open to incline well after the words of our sages, their memory for a blessing. His hand has attained to be able to use the primary sources for halaka and the the greatest of the Poseqim and their armour-bearers (supercommentators), and great is his valor to plumb to the depths of the halaka.

Also have we seen his modus vivendi, and we have known of him that he is an upright man and pure of heart, in his actions pure, and perfect in the attributes of his soul; fear of heaven and honor of Israel is

implanted in his heart, and is fit and proper to serve in  
 sanctity and to keep the office of Rabbi and Teacher  
 in Israel. And this day, after he has passed  
 his examination with honor and withstood his test,  
 do I fill his hand <sup>(empower)</sup> (confer) and crown him with the  
 name Rabbi and Teacher, that he may be a guide  
 to his Congregation.

May his streams burst forth (Proverbs 5"16); may he preach  
 the Torah of God among the Multitudes and successfully  
 lead the Children of Israel in the pathways of faith and ethics and to  
 the desire of God.

In evidence whereof do I affix my seal, there,  
 Berlin, day..., month..., year....

1651.

With the Help of the Name,

We, the Teachers of

The House of Study for Rabbis in America

Testify Verily that our Student

EPHRAIM ISAAC, SON OF MOSES JOSEPH BENNETT

Hath Attended upon the Doors of our House of Study These

Four Years, and hath finished the Statute of his Studies

IN A MANNER MOST EXALTED;

And behold, We do Ordain him with the Ordination

of the Sages:

AND LET HIM BE CALLED SAGE, AND LET HIM  
BE CALLED RABBI. (Aramic)

And behold We do Fill His Hands to Take upon His

Shoulders the Task of the Rabbinat, to Spread the

Law Among the Multitude and to Scatter the Spirit

of the Knowledge and the Fear of the Lord Among the

Congregation of His Assembly, Upon Whose Guard

may He Stand, the Guard of Holiness.

MAY THE LORD HIS GOD BE WITH HIM THAT HE MAY

PROSPER

And with This do we Come upon the Seal, the 23rd Day of the

Month of Sivan, year 5702, According to the Minor Reckoning.

Eliezer A.b.h.r.r.

Simeon Isaac Halevi

Finkelstein

Sig: Levi b.m.h. Isaac z.ts.l.  
 Alexander b.mhrr. Samson Marx  
 Mordecai Menahem bhrb. Israel Kaplan  
 Saul bhrb. r. Moses Lieberman

Middle Row: Hayim Aryeh br. Menahem Eliezer Halevi  
 Israel Boaz br. Aaron Joel ha-Cohen  
 Reuben br. Hayim Aryeh Gordis

Third Row: Moses Hayim Hayimzohn,  
 Rabbi of the Holy Congregation Orah Hayim  
 Hillel bhrb. r. Zalman Dov Babli  
 Menahem br. Hayim Arzt

1652. THE YESHIVA OF OUR MASTER ISAAC ELHANAN  
 With the Help of the Blessed Name

BEHOLD, THIS IS THE RABBI

Great in Torah and in Fear, Distinguished in Excellencies  
 and in Good Attributes, the Honor of the Name of His Glory,

THE RABBI ISAAC ZEEB b.r. PINEHAS MILLEN,

May his Torch Give Forth Light.

He hath Studied Many Years in the Yeshiva of Our  
 Master, Isaac Elhanan, may His Memory be for a Blessing;  
 He hath Troubled and Labored in Our Holy Doctrine,  
 and hath Found According to His Attribute, and hath  
 Merited to Ascend High in Holiness, to be of the Students  
 who Achieved Instruction; And He hath been Examined by  
 Us, who are Sealed Below, in the Field of Prohibition and  
 Permission, in Yore Deah Part I; and We have Found

Him Knowing and Expert in These Halakoth, and  
We have Ordained him with the Ordination of the Sages,  
to Teach the Children of Israel.

"YORE YORE BEISSUR WEHETER"

And May the Lord be With Him, to Magnify Torah  
and to Make it Precious. And in Evidence Have  
we Come to the Seal, the 3rd day, the 6th of the Month  
of Tammuz, year 5718 According to the Minor  
Reckoning, Here, New York.

[illegible]

(Seal)

1653. Hebrew Text of Hebrew Union College-Jewish Institute of  
Religion, Semikah, June 1962

With the Help of God,

We, Who are Sealed Below, the Head and the Fellowship of Teachers of

## THE HOUSE OF STUDY FOR RABBIS

do testify that our Student, the Colleague

ABRAHAM ZVI SON OF ISAAC MEIR

Hath Studied in our House of Study Torah and the Wisdom of Israel, and hath finished the Statute of Studies which is required. Therefore have we appointed and Concluded with the Agreement



of the Council of the Faithful to Ordain Him and to  
Crown Him with the Title

OUR TEACHER THE RABBI

Yore Yore Yadin Yadin and may the Lord his God be  
with Him. May he Ride forth victoriously in his majesty  
for the cause of truth and the meekness of the right  
(Psalms 45:5 adapted).

And with this have we come upon the seal, here in  
Cincinnati, the Eve of the Holy Sabbath, 25 Iyar, 5722.

1654. My reviews and critiques of the texts in the first  
of the critical bibliographies appear also in my  
Development of the Concept of False Witness, M.A. thesis,  
HUC-JIR.



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