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INTERNAL CONDITIONS OF JEWISH LIFE

IN GERMANY

IN THE SECOND HALF OF THE THIRTEENTH CENTURY

AS REFLECTED IN THE RESPONSA OF RABBI MEIR OF ROTHENBURG.

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FOR THE DEGREE OF RABBI
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- 19). Thiele, Die deutsche Frau im Mittelalter, Bochum 18781
- 20). Wiener, Regesten zur Geschichte der Juden in Deutschland während des Mittelalters, Hannover 1862.

List of Abbreviations.

B.	Responsa of R. Meir, edition Berlin,
I.	MS Parma,
II.	MS Amsterdam
III.	MS Prague.
Cr.	Responsa of R. Meir, edition Cremona.
L.	Responsa of R. Meir, edition Lemberg,
Pr.	Responsa of R. Meir, edition Prague.
Resp.	Responsum

Where only references are given, these are embodied in the text.
Notes follow at the end of each chapter.

I. Rabbi Meir.¹⁾

Rabbi Meir of Rothenburg, מו"ק ה"ר ר' מאיר מרוטנבורג, or abbreviated מהר"מ מרוטנבורג, descended from a father in whom talmudic erudition was cultivated. R. Baruch was a talmudic scholar and member of a rabbinical court, probably in Worms. The tombstone inscription, which is still preserved on his grave in Worms, speaks of him with the highest praise and mentions his piety and scholarship, his eloquence and popularity, and his intellectual acumen and physical spriness which remained with him even to his last days (Back, p. 7 note 2). R. Baruch seems to have reached a very old age, for most of the Responsa of R. Meir are composed during his life time and only comparatively few after R. Baruch's death.

R. Meir was probably born in Worms, where his father seems to have spent his entire life (Back, p. 8 and 21), although the argument advanced by Back (p. 21) that R. Meir was buried in Worms because he was born there is not quite conclusive, for not every Jewish community was permitted to have its own cemetery. Concerning his year of birth we have no definite information. According to Graetz (VII, p. 170) he was born in 1230; the same date is given by Frankel (Entwurf, p. 51), while Gross (in Frankel's Monatsschrift 1871, p. 257) states that he was, as a boy, the pupil of R. Isaac of Vienna in Würzburg, about 1230, and in Graetz' Monatsschrift 1885, p. 375, changes his view stating that he was born about 1223 and was in Würzburg about 1235. Back (p. 87) is of the opinion that he was born in 1215.

The essential fact, around which the fixing of the year of his birth centers, is the Zionide זיונה זיונה, which is recited on Tisho be-Av and which is ascribed to him. This song was composed on account of the burning of the Talmud in France in the year 1242²⁾, and the tone of it indicates that the author was an eye witness of this

event. However, it would not be necessary to accept as the year of R. Meir's birth as early a date as the year 1215, although it can not be denied that 1230 seems to be too late, in connection with the fact just mentioned.

Among his relatives we find a number of prominent rabbis and scholars. In his explanations to some Piyutim, which are in MS in the Hamburg library, he refers to his brother Abraham (Zunz, Ritus, p. 195, 199), besides frequent references to interpretations of his father (Back, p. 7, note 1; p. 17). Two other rabbis, R. Joseph b. Meir and Rabbi Nathan, he mentions as his uncles (ibid.). Other relatives, whose names are more or less well-known in Jewish history and whom he mentions quite frequently are: R. Samuel b. Baruch of Bamberg, R. Jakar b. Samuel Halevi, R. Judah Hakohen, perhaps of Friedberg, R. Menachem bar Natronai of Würzburg and many others ³⁾.

Part, at least, of his earlier youth he spent in Würzburg under the tutorship of R. Isaac of Vienna (Or Zorua). Later on he also studied in France. R. Joseph of Paris, who took a prominent part in defending the Talmud before Louis IX, R. Samuel b. Solomon of Falaise, R. Samuel b. Menachem of Würzburg, and R. Samuel of Evreux who lived in Chateau-Thierry, were his teachers (Back, p. 21ff.).

Although we know in which cities R. Meir lived and officiated as a rabbi, it seems impossible to ascertain in which order he accepted these offices. He was rabbi in Augsburg, Kostnitz, Mainz, Nürnberg, Rothenburg (ob der Tauber), Worms and Würzburg, although reference to the two last cities is made only by two of his disciples and may just speak of a temporary stay of R. Meir in these places (Cf. Back, p. 39). Back, more or less arbitrarily, indicates the order as follows: Kostnitz, Augsburg, Würzburg, Rothenburg, Worms, Nürnberg, Mainz (Back, p. 41).

The question why R.Meir's name has been attached to the city of Rothenburg is also not settled. Various scholars give different reasons. While Wiener (Frankel's Monatsschr. 1863, p. 169 fn.) and Frankel (Entwurf, p. 51) give as reasons that it was his first rabbinate, Landshut (הגות אגדה, p. 160) believes that it was either his birthplace or the city of his last activity (Back, p. 25). However, we know that in the year 1272 R.Meir lived in Rothenburg⁴⁾. If Rothenburg would have been his first position, only fourteen years would remain during which he officiated as rabbi in six different communities, since his activities as rabbi ceased in the year 1286, in which year he was taken captive and imprisoned. If Rothenburg was his last place of activity, the same condition holds true and this would mean that he led a rather migratory life, before he finally settled in Rothenburg for a stay of fourteen years. It seems therefore plausible to assume with Back (p. 40f.) that Rothenburg was the place of his longest and perhaps most fruitful activities and for that reason his name is connected with this city.

While he was not officially elected or appointed as Chief Rabbi - at least no conclusive proof has been assembled to establish this as a fact - he was recognized as the leading authority in all Jewish matters. The flowery addresses at the head of some of the Responsa do not prove this as plainly as the fact that his advice was solicited from communities all over Germany and Austria, from part of France and even from Acre (B.II.108, p. 199), (REJ vol.58 p. 58 to the contrary).

In one responsum (Cr. 108) we receive some information about his domicile. He tells us that in his house he has 24 Mezuzoth, both in the winter and in the summer-house. With the house was apparently connected a Beth Hamidrosch and it seems that he had a considerable number of disciples living in his own home, as appears from the expression

ס ס

4.

וילנא חדר וחרר ולכל בחור ובחור

R. Meir was of great modesty. Many addresses or signatures in his Responsa might be quoted in which he uses the humblest expressions. This, however, may be considered as being, more or less, in the style of the times. But Back (p. 10ff.) proves, conclusively, as it seems, that he avoided official meetings with his father in order not to receive from him the honors due as outstanding teacher and scholar of his times, and which his father undoubtedly would have been only too happy to render him (Cf. Yore Dea 240,7),

His modesty, however, did not prevent him from opposing, if the necessity arose, his former teacher, R. Samuel b. Solomon of Falaise, in a decision which attracted wide attention and from which R. Meir never withdrew. (Pr. 250, L. 386). In his firmness he even went to the extent of opposing, or at least expressing himself against, the government. While he acknowledges the old Jewish principle of Samuel, that *ד'נא דמלכותא דנא*, he draws the line when the authorities attempt to commit robbery by taxing the Jewish communities exceedingly heavy. He then states that this is not *ד'נא דמלכותא*, but *גזילת דמלכותא* (Pr. 708 a.e.).

In the responsa we find no report of any tragic event in his life. Once, mention is made of a spell of sickness (B.I.476, p. 58, II.174, p. 217, Cr. 315), but on the whole we are entirely in the dark as to the details of his career as well as to his family affairs. The tragic end of his life, however, throws a shadow of gloom over his last years. In the year 1286 he left his home intending to emigrate. The reason for this plan is not exactly known. It may have been due to the terrible persecutions and oppressions which the Jews of Germany suffered during the end of the thirteenth century, especially during the 'eighties in the Rhine and Main districts. Back (p. 68ff.) cites another possibility,

namely the imprisonment of R. Meir's son, concerning whom we have no other knowledge whatsoever, and on whose behalf R. Meir worked in order to obtain his freedom. Perhaps he pledged himself for the 1500 marks which the imprisoned man had promised to pay. However, he effected an escape and R. Meir may have feared to become involved in serious troubles, even based on political suspicions (Back, p. 66). Probably this was only one more reason for him to seek elsewhere a peaceful refuge for his last years.

On his way south he was recognized in a city in the mountains of Lombardy where he was waiting for the rest of the company to assemble - probably to emigrate across the sea to Palestine or Syria - by a Jewish apostate who traveled with the Bishop of Basle. He was taken prisoner by Count Meinhard of Goerz on the fourth of Tammus, 5046 (June 28, 1286), and handed over to King Rudolph who had him imprisoned (Back, p. 62ff.).

There can be no doubt that Rudolph intended to extort as high a ransom for his great prisoner as he could possibly obtain. But in addition to this he also was interested in keeping a man who meant so much to the Jews of Germany, and who would probably ^{draw} a large following after him, within the borders of Germany. He was probably held prisoner first in Wasserburg for a short while, and then in the "Tower of Ensisheim" in Alsace. During the years of his imprisonment the Jewish communities undoubtedly made every effort to obtain his freedom. They succeeded in making his life in captivity easier, and he was permitted to maintain contact with the outer world. In Wasserburg his disciples visit him on Friday nights, when the group assembles ^b around the chimney fire.

But all attempts to obtain his freedom were fruitless. Although the amount of 23 000 marks and, according to another source (Back, p. 75ff.) the tremendous sum of 30 000 marks were offered to King Rudolph⁵⁾. While originally R. Meir decided that captives had to be ransomed even against their will (Pr. 39, B.II. 128, p. 206 a.e.), he later on decreed that exorbitant ransoms should not be paid, and in all likelihood adhered to his decision even in his own tragic case, (Pr. 78). He continued to answer questions submitted to him from other communities, and it is pathetic to read the ending of one which follows here: But what can I know, a miserable being, who lives in darkness and in the shadow of death and, for three and one half years, without the regular order of life, being outside of everything which gives joy, a trodden-on threshold, once called Meir b. Baruch (Back, p. 84, B.II. 108, p. 20).

R. Meir died in the year 1293, after seven years of imprisonment (Back, p. 87). But even after his death his body was not handed over to the Jewish community for burial. Only fourteen years after his death, in the year 1307, his body was given over for burial, largely due to the efforts of a greathearted Jew, Alexander b. Solomon Wimpfen of Frankfurt a.M. Wimpfen's only request was to be buried next to R. Meir. He died in the following year and his tombstone is preserved in the cemetery of Worms next to that of R. Meir, the "Light of the Exile".

In the following chapters an attempt will be made to give an idea of the internal conditions^{of} Jewish life from conclusions based on the Responsa of Rabbi Meir of Rothenburg.

Notes to Chapter I.

1). This chapter is based largely on the monograph by S. Back, Rabbi Meir ben Baruch aus Rothenburg, Frankfurt a.M. 1895.

2). In it we read: 'אגמא לונש' ו'א'ך 'ערב לחכי אכנל אחרי ראו' אשר אסנו של'ך אל ה'ך רחוב כנרת ושרו של'ך אר המאם לבוא קה'ך.

Graetz (VII, note 5) asserts and proves that this, and not 1244, is the correct date of this event.

3). Back, p. 18ff., where also references.

4). Resp. L. 310 (Pr. 92) contains a question sent to R. Meir to Rothenburg concerning a woman who, in the absence of her husband, had committed adultery. It is the only responsum which contains a definite date. 'ובא לפנינו ב'ר'ח אב בשנת ל"ב. This is the year 1272.

5). How large these amounts were becomes clear from Kruse, Kölnische Geldgeschichte, p. 119, quoted in Ar. Reg. 694, p. 287. Kruse gives for that period (speaking of the year 1264) the value of the mark as 43,66 marks of our value. Even at this rate the amounts offered were 994 180 or 1 209 800 marks. But Lamprecht (Deutsches Wirtschaftsleben I, 1453, note 3, quoted according to Röscl, p. 29, note 2) gives for the mark the equivalent of 240 marks for the middle of the thirteenth century. Since the publication of the above mentioned works the rate of exchange has increased considerably.

II. Relations to Christians.

Scherer ¹⁾ states that the Jews during the Middle Ages were rather hostile toward the whole of Christendom. And since the two means of *ways* assimilation, namely the uniformity of religion and of nationality, were lacking, this fact in connection with certain prejudices formed a gap between them and the Christian population which could not be bridged over. So they were and remained strangers and were treated as such.

Without asking for the reasons behind this hostility and without making any attempt to account for it, the truth of this statement can hardly be doubted. Nevertheless the Responsa of R. Meir of Rothenburg reveal to us any number of examples from which we might gain a somewhat different picture. Even in this, rather limited, material we find so many instances of friendliness and intimacy between Jews and Christians that they can hardly be waived aside as "exceptions".

In the Rhine district it was customary to borrow, on the occasion of a wedding, large kettles from the Gentiles ²⁾. Beer made by Gentiles was consumed by Jews, a custom which aroused R. Meir's surprise ³⁾. In business dealings, partnership between a Jew and a Gentile was not infrequent. It is interesting to notice that any objection on the part of the Jews was not based on fear of or suspicion against the Christian partner, but rather was it the possibility that an oath might become necessary and the Jew be compelled to swear by the name of one of the Christian deities. But even this objection is no longer valid, our responsum states, since the Christian Saints usually invoked are named after human beings, while the Bible only forbids mentioning the names of other deities. ⁴⁾ Other undertakings in partnership with Gen-

by his saints!

titles are mentioned in Resp. L. 401, Pr. 452, Cr. 242 etc..

It is not surprising to find Jews even then in the favor of high officials. According to Resp. B.II. 52, p. 14ff. it was quite customary to honor princes with gifts ⁵⁾. One Jew is close enough to the queen to receive favors from her, inducing her to have some money coined for another Jew, thereby raising the value of the metal (Pr. 903).

But the Jews have not only the confidence of high officials, which might be explained by their being intimated and at the mercy of these officials, but also the confidence of plain citizens. A Gentile is desirous to buy a precious vessel of pure silver and goes to his Jewish friend. The latter is not in the possession of the desired object and offers to introduce his Gentile friend to a fellow-Jew. But he refuses to go and says instead: "You go and buy it for me" - which the Jew does. The purchase takes place, but the incident is not devoid of a certain humor; for while the deal between the Jew and the Gentile is satisfactorily conducted, the Jew being contented with a ridiculously small profit and the Gentile raising not the slightest objection to the price - the second Jew takes advantage of his coreligionist ⁶⁾.

Jews would keep and watch over the belongings of Gentiles as *שמירת רכוש גוים* (B. II. 62, p. 125) and would, on the other hand, store victuals, such as cheese, in the houses of their Gentile neighbors, even violating a religious command in eating the cheese afterwards (Pr. 214). A similar case of trusting the Gentile in religious matters is also told concerning Rabbenu Samuel (Pr. 215). On the other hand the Jews had not infrequently recourse to them. When a grain was found in a fowl on Passover, or other things, making the food unfit for the Jews to eat, there was usually a Gentile friend near at hand who would buy it from them (L.173; B.I.52, p. 14). While these conditions are perhaps a

quaint reminder of our own childhood days they prove beyond a doubt friendly relations between Jews and Gentiles in the thirteenth century.

In litigations between Jews and Gentiles the witnesses had to be Jews and Gentiles ⁷⁾. On the whole, the Jew was even in a more favorable position, since the Fridericianum gave him the part of the defendant, thereby making it incumbent upon him to prove his contention. Is he able to do so then he has won his case and, according to Scherer, it is easier for the defendant than for the plaintiff to prove his cause, in civil as well as in criminal cases.

But sometimes a Jew would even be willing to recognize Gentile witnesses in purely Jewish litigations (B.I. 284, p. 40; Cr. 245) and then would be held to his declaration even if it becomes manifest that the witness is bribed.

At this time the Jews of Germany did not yet live in a ghetto, separated from the Christian population, although the Bishop of Speyer as early as 1084 speaks of having severed them from communication with the other citizens and surrounded them with a wall, for their own protection, as he says ⁸⁾. They lived in a street for themselves ⁹⁾ or even in a quarter of the city, but the division from the remainder of the town by walls is as yet more or less fictitious, and contact with Christian neighbors exists. We must not forget that it was customary during the Middle Ages for a certain social or professional or commercial group to inhabit a street for itself ¹⁰⁾. But we learn of Christian neighbors ¹¹⁾, a condition which would sometimes necessitate the soliciting of their consent and coöperation for the preparation of an Eruv ¹²⁾. A Jew even contemplates selling his share in a house, $\frac{2}{3}$ of which is inhabited and owned by a Jewish family, to a Gentile, be-

cause he is badly in need of money. The context seems to show that there is a possibility of the Gentile moving into this house.¹³⁾

In spite of repeated enjoiners by various rulers and church dignitaries, beginning as early as in the fifth century,¹⁴⁾ Christian servants and wet-nurses seem to have been quite frequent in Jewish houses (L. 150, Pr. 665 A.e.), and they are even given presents on Purim (L. 184).

Neither can it be said that life willed it so that, in spite of mutual keen ill-feeling, Jews and Gentiles were dependent on one another, these occasional peaceful circumstances being merely a concession to the necessities of life. The theoretical aspect also reveals, at least on the Jewish side, great broadmindedness. We read that Jews are duty-bound to dissuade a Jew who is willing to take a false oath against a Christian with all means within their power from this plan (L. 233). Even stronger is the Responsum Cr. 246 in condemning false assertions in a litigation with a non-Jew. It is prohibited to take advantage of Christians and deceive them (Pr. 252), while R. Meir, in the following responsum even goes to the extent of stating that one must not differentiate between *לשון הרע* and *גזל הגוי*.

The broadmindedness of this attitude is to be marveled at. It seems to be justified therefore, on the basis of the preceding facts, to state that if one speaks of hostility, it was not so much on the part of the Jew as against him, so that Scherer's statement quoted at the beginning of the chapter would have to be slightly modified.

But the relations between Jews and Christians had still another side. Talmudic utterances, once used against heathen, are apparently still justified¹⁵⁾. Resp. Pr. 140 reports that a Jew in whose house a conflagration had started was always in danger of being cast into the flames by the infuriated Christians¹⁶⁾. The Jew's body and his property

were unprotected (Cr. 214) and it was the custom of the high officials to "ask ten times as much from the Jew as he possesses in order to terrify him" (Cr. 305). The Jew had to bribe the judge even to make him be impartial (Pr. 897).

Considering these few sidelights only, and neglecting the bloody persecutions which almost each year brought in its course, it would already be intelligible that certain talmudic laws, originally directed against the heathen, were still maintained. It was forbidden to take advantage of the Christian and to "cheat" him; but it was not commanded, in fact it was even prohibited, to call his attention to a mistake he had made, whereby he had lost (Pr. 326, 803), or to return to him objects which he had lost (Pr. 951).

Nevertheless, it seems safe to say, on the basis of the preceding details, that while Jewry as a whole formed a strange body within the non-Jewish society of the Middle Ages, numerous cases can be cited which manifest mutual confidence, trust and even friendship between Jewish and non-Jewish individuals, a situation which, in principle, prevails to this day in all lands.

Notes to Chapter II.

- 1). Scherer, Die Rechtsverhältnisse der Juden in den deutsch-österreichischen Ländern, Leipzig 1901, p. 8.
- 2). L. 117 **הם מעשים בכל יום ברינום בנישואין ששואלין יורה**
גדולה של נשים...
- 3). Pr. 154 **הימה איך נהגו לשמות סכר של נשים...**
- 4). B.I. 97, p. 31 **.. יסור לאדם שיעשה שוואות עם הנרי שחא יחייב לו**
שבועה ויסבך בשם ע"ז... אבל עתה שהקדושים שלהם נקרא בשמות בני אדם.. אין קנידה...
- 5). Incidentally these gifts consisted of animals or fish that were unclean and therefore, **לכתחלה**, even any use (**הנאה**) of them forbidden.
- 6). Pr. 842. Notice the expression: **הנרי אונב' ואני רוצה להמעותו...**
- 7). Cf. for the following Scherer l.c. p. 290f.
- 8). Stobbe, Die Juden in Deutschland während des Mittelalters, 1866, p. 177: "collectos igitur locavi extra communionem et habitationem ceterum civium et ne a peioris turbe insolencia facile turbarentur muro eis circumdedi". This motive for their separation, namely to afford them greater protection, is also voiced in an edict of the fourteenth century (Wiener, Regesten, p. 230, no. 98, of the year 1371).
- 9). Pr. 666, **רחוב היהודים**, Ar. Reg. 748, p. 315.
- 10). Stobbe, l.c. p. 176f.
- 11). Cr. 158 **ראובן חתור**, Pr. 1011 **ראובן שמכר ביתו לנרי אמצר רשמעון**
... לקנוג מן הנרי בית שהיה שמעון מפרן בו...
- 12). B. I. 334 p. 52, Pr. 428. - Stobbe l.c. p. 177 also comes to the conclusion that occasionally Gentiles lived in the Jewish quarter.
- 13). Pr. 970 **לכן אין רצוני שהמכור לגוי [מאומה] ולהרביע אר' אמצר אי...**
To deprive a Jew of contact with Christians is even used as a fine or a threat, Ar. Reg. 430, p. 190, 440, p. 194f.

14). Stobbe, p. 173; Ar. Reg. (for our period) no. 460, p. 202f., of the year 1233, 463, p. 204f, from the year 1234 a.e.

15). Ps. 144 applied as adage to the Gentiles in L. 86. Güdemann, Geschichte I. p. 170 n.5; Pr. 35, *אין א'סן א'סן א'סן* Pr. 44 a.e.

16). This attitude of the populace is not as outrageous as it appears at first glance, the fire-hazard being appalling since the houses in cities were constructed of wood and covered with straw and shingles. The first stone house built in Berlin was erected in the year 1388, Cf. Bauer, Die deutsche Frau in der Vergangenheit, Berlin 1907, p. 141.

III. Occupations of the Jews.

The foremost occupation of the Jews during the Middle Ages was that of financiers, or money lenders. The history and development of this profession has been so adequately described by Neumann in his *Die Geschichte des Wuchers in Deutschland*, that little can be added. From a study of our source material, however, we gain the impression that while the Church had repeatedly forbidden to her followers the lending of money on interest, beginning with the Church Fathers Augustinus, Ambrosius and Hieronymus (Neumann l.c. p. 5) the Christians did not entirely abstain from this profitable business. Not always did the Gentiles borrow money from the Jews, the opposite also was the case, and quite frequently, as it seems. Resp. Pr. 409 mentions a Jew who had given security to a Gentile; other references to the same or similar effect are not rare ¹⁾, while in B. II. 159 (p. 213) Christian money lenders are explicitly mentioned. So even the lending of money was not an exclusively Jewish business. The importance of this financial mediatorship of the Jews during the Middle Ages is pointed out by Neumann (p. 292ff.) and that those who accepted their services, at least sometimes, appreciated these services is shown by the fact that Gentiles brought presents to the Jews when they redeemed their pledges ²⁾.

It is natural to assume that ~~that~~ the Jews had still a considerable share in the commercial pursuits of the country. The crusades had brought about a noticeable change in this respect. The crusaders learned the ways to the Orient and also established business connections, thereby making the mediatorship of the Jews more or less superfluous.

Frequently we hear of Jews who are on extensive trips, although the expression **מדינת ה' ה' מדינת** can not always be taken literally ³⁾.

Export to Poland is mentioned in Resp. Pr. 885. Such trips sometimes extended over years (Pr. 869). The Jews seem to have traded extensively

by **מדינת ה' ה' מדינת**
at much earlier times.

in furs and Köln was the prominent market place for this article as well as for wool ⁴⁾. Salted fish likewise constituted a commerciable article (Pr. 898). The waterways were frequently used for transportation (Pr. 775, 898).

The references to export- and wholesale merchants, however, are not very numerous. As a rule the Jews were, so it seems, more small merchants, as appears from the petty litigations with which our material deals to a large extent. They were peddlers and brokers. In the former capacity they often established a sort of clientele in one of the neighboring towns or villages, called *שטעטלעך* ⁵⁾. Concerning the *שטעטלעך* certain customs and regulations existed, as appears from Pr. 815, which might not be changed. This responsum shows that it was considered unfair to do business in the *שטעטלעך* of someone else (ibid.). Merchants of Nürnberg were likewise warned and prohibited from transacting business in another town (Pr. 952). As a rule tradesmen of one city had to abstain from trading in a town under different sovereignty, except on market days (Pr. 359). As brokers and middlemen they would often receive large remunerations, not at all in proportion to the effort involved (Pr. 706). Business on a large as well as on a small basis involved the paying of duty and customs, as each city had its own sovereignty in the majority of cases. A Jew who was familiar with the roads and the customs officer sometimes succeeded in saving this expense, but on the whole this was a rather dangerous practice (Pr. 901).

Frequent mention is made of the *שולן* who sometimes travels all through the country and makes his living in this capacity (Pr. 952, Cr. 123, L. 308). He too receives remunerations which are often larger than his efforts deserve (Pr. 952). References to the *שולן*, however, are so numerous ⁶⁾ that one can not help but marvel at the Jews of those days who, in spite of their hard life, considered learning of such par-

amount importance, at a time when the art of reading was so rare and the art of writing was practised almost exclusively by a few secluded monks ⁷⁾. The teacher is generally exempt from taxes (Pr. 716). He is engaged for a term (Pr. 385, 833, L. 154, Cr. 125). A clever Jewish father made the contract that the teacher should forfeit his salary if he was found playing dice and refused to pay when he discovered the teacher doing so (Cr. 310). Other disagreements arise when the teacher or the pupil take ill. R. Meir is usually on the side of the teacher (Pr. 85, 385, Cr. 2, L. 157, 205 a.e.), and places him in the category of the *lyia*.

It is plausible to assume that there existed Jewish tailors, although our material furnishes no reference to that effect, bakers of whom mention is made in another document (Ar. 719, p. 299f. a.e.) and innkeepers (L. 68, B.I.68, p.27). We find goldsmiths and dealers in precious metals (Pr. 879, 1010) and, of course, physicians (Pr. 498, B.III. p. 318). A tanner is mentioned (Pr. 880) and a handicraft which is not specified, but for the practice of which a man is willing to pay in order to exclude a competitor (Pr. 677).

A rather unique occupation for a Jew is that of fencing master ⁸⁾ reported in B. III. p. 285. R. Meir considers this occupation of some importance because it protects the man who masters it. At the same time we see from this that Jews must have carried arms, in spite of the regulation expressed in the "Sachsenspiegel", according to which Jews and priests were not supposed to carry arms, lest they deprive themselves of the "Landfrieden", the king's protection. But it seems that the Jews were not unfamiliar with the use of arms, for they may, according to the "Schwabenspiegel" challenge Christians to a duel, although they were not compelled to fight this duel personally but may

*not reflected
shows fact
trading or
for machinery
to obtain
18 milch
cows.*

sometimes hire a proxy (Stobbe, l.c. p. 153). The duel was also a means of proving one's cause, as were witnesses, the oath and documents.

Scherer quotes the old regulation (L.c. p. 291ff., p. 311): "wll aber ein cristen man, ez muz ein iode mit im kemphen". Jews did carry arms and participated in the defense of their city when necessary ⁹⁾.

The frequent mention of horses and also that of cattle (Cr. 181, 182 a.fr.) would lead us to believe that farming and agricultural pursuits in general were not as rare among the Jews as one might be inclined to think. Horses are owned by Jews (Pr. 579, 902) or bought and sold by them (Pr. 575, Cr. 253, 254, 255), which in Nürnberg was one of the privileges granted to them (Stobbe l.c. p. 65), while they were restricted along other lines of trade.

They owned real estate, besides their homes, in the purchase and sale of which they were often restricted and were quite proud of such a possession (Cr. 211) because the majority of the people did not possess ground (Cr. 134). Real estate was apparently not taxed, and where it was taxed, the rate was lower than that on movable property (B.II. 128, p. 206; 141 p. 210) ¹⁰⁾. They possessed orchards and vineyards (L. 213; Pr. 152, 941), sometimes in partnership with a non-Jew (Pr. 452). They request information concerning the laws of יְיָ וְהַמֶּלֶךְ and ד' א' ב' (Pr. 442; Pr. 152). But besides the restrictions placed upon them, farming was the occupation of the poorer class (Pr. 941) ¹¹⁾.

In other sources we find a number of references to various kinds of real estate owned by Jews, besides their homes, as a mill (Ar. Reg. 482, p. 212) which would account for the fact that we meet several grain dealers (Pr. 818, 997), an orchard (Ar. Reg. 612, p. 259), a vineyard (Ar. Reg. 356, p. 158) and land in general (Ar. Reg. 386, p. 172). The trading in wine constituted a livelihood for some (L. 165, 196; Pr. 787).

So we do find the Jews in the thirteenth century busy in various kinds of trades and handicrafts, in spite of the numerous restrictions placed upon them, while they were not by any means the only ones who loaned money on interest and were frequently preferred to Christian money lenders, as for instance by Bernhard of Clairvaux¹²⁾, while the latter were so numerous that Pope Innocent III says (Scherer, p. 189): to penalize the Christian usurers would be equivalent to closing the churches.

Notes to Chapter III.

1). Pr. 116, 495, 496, Cr. 35, 294, 296, 303; L. 64; B.II. 119, p. 201; 127, p. 204.

20. Pr. 955 ה"נ צאם המקביל לוקם לעצמו הדורות שמבאים
הגויים כשבאים לפדות משכנותיהם...

3). Pr. 786, 890 a.e.

4). Pr. 766, 773, 775, 790, 828, 887.

5). Pr. 664, 815; Cf. Wiener Monatschr., 1863, p. 169 and Rap-
port, Preface to ~~שאלות הגלילות~~ , paragraph 16.

6). L. 144, 145. 146, 147, 205, 470 a. fr.

7). A striking example of the times is the fact that Wolfram
von Eschenbach was unable to write.

8)... ושאלת על ראובן ששטר את שמעון ללמדו אומנות בעלי תריסין...
... וכמה פעמים וטאומטת זו יש בו הצלת נפשות כשבאים לפטות על האדם...

9). B.I. 33, p. 9 צ"ש עתה שאנו דרים ביניהם שאפילו באו לשלול
בעלמא שיוצאין בכלי זין בשבת...

10). Pr. 941, על ליטרא של פרקמטיא יאנו דין שיקבלו על
ליטרא של קרקע שפחותה זו מזו...
Cp. also the following chapter, Taxes.

11). ibid. ותדע שהרי יצא בבני העיר עניים ואינם נושאים ונותנים
במעות ובפרקמטיא אע"פ שיש להם קרקעות אין חשר לוקח מהם...

Note 12) missing (see p. 19)

IV. Taxes.

The position of the Jews during the Middle Ages could be compared with that of a savings bank. They were closely watched and guarded, sometimes granted a certain measure of protection and even certain privileges, but only in order to permit the precious contents to accumulate and then to empty the savings bank.

The question of taxes therefore takes up much room in our source material and was naturally of the greatest importance to the Jews.

When a Jewish community had formed itself in a town, this community had then to pay taxes. Rösel¹⁾ describes the probable development of a particular Jewish tax as follows: Originally the king may have used some pretext in order to demand money from the Jews. If he granted them protection against attacks by the population, or if an individual was accused of a crime, the community was held responsible, or even several communities were penalized. This regular tax appears in the historical documents for the first time during the reign of Frederic II (1215-1250), according to Rösel (p. 11ff.). But Rashbam (Baba Bathra 55a to **מִתָּא עֲמֵיטָא**) speaks already of **מִסְכָּן לְשָׁנָה** and in explaining uses the same language which we find in Resp. 930 (see below note 6a)²⁾, which is unmistakably the echo of conditions during his time and so it seems that this yearly tax already in the middle of the twelfth century is an established institution. Besides this regular tax, which the emperor was sometimes compelled to mortgage to local or States authorities, extraordinary contributions continued to exist (Rösel, l.c. p. 14).

The amount of the tax to be paid by the Jewish community was, according to Rösel (p. 21) fixed by the king or his official in an agreement with the community; but Rösel points out that the expression "agreement"

(convencio) which is used in the documents is hardly correct since the Jews had little choice but were probably compelled to accept and to raise the amount imposed upon them . On the other hand, we have documents, which, at least on paper, concede to the Jews some influence in the assessment of taxes of those Jews who have just recently moved to the city. A document of the year 1262 (Ar. Reg. 716, p. 287f.) states that in Augsburg two Jews and two Christians shall state the amount to be paid to the king by recent immigrants.

In our source material this tax is called "the fixed tax", **המס**
הקצוי³⁾, the king raising a fixed amount every year from the whole
community. To be distinguished from the regular tax is the **מס שאין לו**
הקצוי which is called an extortion and robbery, but not **דמלכותא**,
law of the government ⁴⁾. Corresponding with the royal official, the
community had a body to whom the distributing of the quota was en-
trusted, as described in a responsum by Rabbenu Joseph Tob Elem (L.423).

Concerning the details of the raising of taxes no uniformity existed. R. Meir answers (Pr. 106) that the regulations concerning the taxes do not depend on earlier talmudic decisions nor on reason, but are merely subject to the local custom. Consequently there existed a considerable variety (Pr. 995). Nevertheless, several regulations were commonly adhered to. When an individual was assessed a certain amount, he was compelled to pay it but was permitted to appeal afterwards to the body, usually the *לחברתא דמדינתא*, 719. This practice was necessary, otherwise endless arguments between individuals and the community would have arisen (ibid. and 708, 716) ⁵⁾. Resp. Pr. 995 presents such a case.

After the quota to be raised was announced to the community by the authorities, this quota was distributed in such a way among the

members of the community that each "pound" of money in the possession of a person, or its equivalent in merchandise, was taxed, and taxed as high as was necessary in order to arrive at the assessed quota (Pr. 930, 941)⁶⁾. Real estate was, as a rule, not taxed. Joseph Tob Elem, (ibid.) points out that to tax vineyards in the same manner as movable property, namely to demand a certain percentage from the equivalent of each pound, valuing the vineyard in the same manner, would constitute an injustice, because the harvest is exposed to the changes of the weather and frequently stolen by the ruler. The vintage requires much care and yields little profit and can therefore not be taxed in the same way as trading or money lending, which can be pursued without effort and is more profitable⁷⁾. Similar conditions prevail in Germany according to the Responsa B.II.128, p. 206 and 141, p. 210). However, only the home is tax-exempt. If a man owns several houses, which constitute his source of income, he is compelled to pay taxes on them⁸⁾. In exceptional cases, communities may have had the custom of paying taxes even on property, as the Friedberg community (B.II. 127, p. 205). Not always was the individual assessed his quota, sometimes the tax was raised on the basis of a self-estimate (B.II. 127, p. 204)⁹⁾, occasionally confirmed by an oath (Rösel, p. 42, Pr. 992).

Besides soil, working tools were tax-exempt (Pr. 941), because they furnish their owner the means of livelihood. This responsum mentions several agricultural tools, thus furnishing additional proof that Jews followed agricultural pursuits, but it also states that ground is less valuable than movable property for which there always exists a possibility of sale. For the Jews of the Middle Ages movable property was, naturally, more desirable because they were able to turn it into money or take it with them whenever they were forced to leave or flee, while real estate was of little value under conditions then

existing. Books were likewise tax-exempt (B.II, 127, p. 204, 128, p. 206). Working capital, even if loaned out had to be taxed and only uncollectable accounts were free (L. 135, Pr. 941).¹⁰⁾

The "pro capita" was naturally different in the different communities. In Friedberg the quota was 3 Peshitim (Pfennige) to the ~~Sokuk~~ (silver mark) which they considered a rather low rate (B.II. 127, p. 204). The minimum portion which was taxed was a silver mark, but it seems that this limit was too severe because some people who owned this amount were yet compelled to rely on charity (L. 130)¹¹⁾. Teachers and scribes were tax-exempt not because of the profession which they pursued but because their income was lower than the taxation limit. However, this limit was raised for them, and their possessions up to two silver marks were not taxed (L. 131)¹²⁾. Servants were classed in the same group with scribes and teachers, as far as this tax limit was concerned, although one would hardly be justified in extending this identification to other aspects. If a man possessed more than a silver mark, or a house owner cash in addition to his domicile, or a teacher, scribe or servant more than two silver marks, the whole possession was taxable, not only the surplus¹³⁾.

Another group exempt from taxes were minor orphans¹⁴⁾, while the "man of leisure" (better perhaps "the unemployed") ~~השליח~~ who in the Talmud is freed from tax paying and only required to participate in the communal burdens, has to pay, though a lower rate of, taxes¹⁵⁾. Only when he was a pauper and the king had sent him a document of exemption was he released; this is the only example where an individual might forego the payment of taxes with the community, on the basis of a governmental decree.

The date on which taxes had to be paid was apparently not the

same in the entire country. Rösel (p. 43ff.) enumerates various dates on which, in different communities, the taxes became due, although the ruler, pressed for money, may often have demanded payment before it was due (ibid. p. 45). The Friedberg community paid on Chanukkah (B.II. 127, p. 204).

With the exception of the groups enumerated above, every individual had to pay taxes regardless whether the secular authorities had released them from this obligation or not. To be sure, many individuals endeavored to obtain tax-exemption from the authorities on the basis of personal connections. But the general regulation that the community accepted the obligation of paying the tax as one body, in partnership, *חב"ד*, and not the members individually, was strictly enforced ¹⁶⁾. The legal basis for the prohibition to make personal arrangements then was, that a partner may not leave the partnership without the consent of the party of the second part ¹⁷⁾. The reason was probably ¹⁸⁾ that a reduction of the originally assessed amount was hardly to be expected, even after individual members were released of the duty of paying their share, and so the other members of the community would have to be assessed higher than at first ¹⁹⁾. At the Synod of Mainz (July 1223) the rabbis decreed that those who had connections at the court could not free themselves from the tax ²⁰⁾, and in the Responsa of R. Meir two examples are cited of rabbis who refused to take advantage of the royal privilege granted them ²¹⁾.

However, the decree of the synod did not settle this question. A few decades later R. Meir expresses himself very definitely and courageously concerning this point and flatly declares that the government has no right to interfere with the community in these matters, its decree is not to be considered lawful but robbery, and the individual

has no right to avail himself of the governmental exemption ²²⁾.

Only under one condition does R. Meir permit individual arrangements, namely when it is age-old practice in a community. If that is the case, and if all the members paid individually and not collectively, then the individual can not be forced, against his will, to change this practice ²³⁾.

In all other cases, however, the community pays collectively. Persons who have petitioned the ruler, or to whom the ruler granted tax-exemption of his own accord and without any effort on the part of the individual, are not within their rights, and even if their share is returned to them by the government, they are not permitted to accept it, but it goes to the community funds ²⁴⁾.

Another question of importance: When does the obligation to pay begin? The regulation was that as soon as the amount of the tax had been announced to the community the members were under obligation although the quota had not as yet been distributed among the taxpayers ²⁵⁾. Similarly, a person can not escape the obligation of paying his share by emigrating from this town after this obligation is once incurred ²⁶⁾.

It occurred, however, that people moved outside of the city limits in order to avoid paying taxes. This was legitimate, if it was outside of the *חלץ דין*. It seems to have occurred quite frequently. This regulation, however, that people who lived a mile distant from town were not under obligation to pay taxes held apparently good only when the tax was paid to the local government, a prince or a church dignitary, who often owned these revenues. But when the tax was paid to the king, the Jews of the neighboring places likewise had to pay, even to a distance of eight miles ²⁷⁾. In such cases the community

would try to protect itself by prohibiting the emigrant under penalty to reenter the town. Only when he left outstanding debts behind, which he could not have collected before he changed his domicile, he was permitted to return, and then exclusively for the purpose of collecting these debts. If the community claims that he would have been able to collect these debts before leaving and he asserts that he was unable to do so, he will have to confirm this assertion with an oath²⁸).

When, at the time the tax was collected, a man possessed no ready cash, he was permitted to give to the tax collector, generally the treasurers of the congregation, security. If this pledge was lost the community was responsible, and the talmudic principle that "neither the pledge nor the cash was at hand" could not be applied. If, on the other hand, his pledge was worth more than the obligation, the Jewish tax collector was not compelled to sell it and return the surplus to him. Payments were given and received in cash as well as - and not infrequently as it seems - in kind; trade-in-money was still in its beginning as we can see, and in this case the owner of the pledge was the loser²⁹).

Scherer (L.C. p. 529ff.) describes five different kinds of taxes, of which the yearly contribution, however, is of greatest importance. A form of indirect taxation was the paying of duties and customs which must have assumed considerable proportions, especially when we consider that trade was largely in the hands of the Jews. Concerning the other taxes our source furnishes little material.

As has been stated before, the home was not taxable property, that is to say, as far as the yearly regular tax was concerned. For the upkeep of the walls and gates, however, a tax was paid from the houses; tall buildings were taxed more than low ones, because they

attracted the enemy's eye ³⁰⁾. Naturally the Jews were drawn upon to participate in the defense of the town, originally in person later on by contributions (Pr. 104)³¹⁾. From other sources we learn of similar conditions in Regensburg from the year 1251, in Köln from the year 1252, while in 1255 "they contribute again 150 pounds Heller for hiring soldiers for the protection of peace" in Worms.³²⁾

Stobbe states (p. 39) that the Church demanded the tithe from all soil owned by Jews, on the basis that if these properties were in the hands of Christians the Church would be entitled to this revenue. Nothing, however, is said about this obligation in our sources.

The irregular contributions to which the Jews were forced from time to time were undoubtedly much heavier than the yearly tax. Rösel remarks (p. 38) that in the middle of the thirteenth century only three German congregations are known to have paid 100 marks of silver or more as their yearly tax, to wit the communities of Würzburg, Strassburg and Worms. Concerning the extraordinary taxes, however, we gain an insight from a remark in Resp. B.III, 58, p. 277, which says that if the ruler demands one of those taxes in which he asks for all they possess or one half, or an extortionate amount, not caring how they managed to raise it, then everything had to be taxed, even the homes ³³⁾,

On the whole, however, the burden of taxes during the period with which we are dealing does not seem to weigh exceptionally heavy on the Jews. During the reign of Louis the Bavarian (1314-1347) we find ten communities who pay 100 marks of silver and more as their yearly tax. But that these exorbitant demands were not unknown to the Jews of Germany even of our time, and long before, is shown in Resp. B.II. 127f.p. 204ff., which clearly indicates the arbitrariness of

the individual rulers ³⁴⁾.

It seems that the Jews did not resent, at the time with which we are dealing, their regular financial obligations to the ruler but, on the contrary, considered their contributions as due to him for the protection granted them. At least this is the sentiment voiced by R. Meir in Resp. L. 108 ³⁵⁾, and we know him to be an outspoken and courageous man.

On the other hand they were not required to labor for the rulers, as were the Christian subjects, but were "considered as free men who had been compelled to leave their estates, but not to be sold as property, and this is also the attitude of the government". ³⁶⁾ This is certainly no small matter if one bears in mind that the vast majority of the country people were unfree (villain) and on this ground restricted in the most barbaric ways in numerous respects by their superiors ³⁷⁾.

Notes to Chapter IV.

1). I. Rösel, Die Reichssteuern der deutschen Judengemeinden von ihren Anfängen bis zur Mitte des vierzehnten Jahrhunderts, Berlin 1910, p. 10f.

2) כגון שהמלך רגיל ליקח מכולן מס קצוב לשנה ובאו לתבוע לנהל אחד כפי אומד דעתך עד שיעלה גיבויים לחשבון מס הקצוב.

3). L. 381. It is frequently referred to in similar expressions as in Pr. 992, B.III 58, p. 276 a.e.

4). B. II. 127, p. 204f. ... וראובן אומר אינו מנהג בגזילה כזאת ...
ה"מ במס הקצוב אבל בגזילה ועלילה ... L. 381

5). ועוד שכל הקהל שותפ' במס ושותף אינו חולק שלא לדעת חבירו ורשאיין בני העיר להסיע על קצותן כ"ש לגבות ממנו המס והב"א לשנות עליו הרציה.

6). כגון שהמלך רגיל לקח מכולם מס קצוב לשנה ובאו לתבוע Pr. 930
מכולם לכל א' לפי אומד דעתך עד שיעלה גיבוי לחשבון מס הקצוב ...

7). .. ולא כ' טוענת .. שהכרם צריך הוצאה מרובה וטורח כבוד בין Pr. 941
בעבודות .. בין באסיפתו ולא עוד אלא שבכל שנה בא' שרי חזירן ונוטלי' ממש
מנותיהם .. אבל ממון העומר לרביית או סחורה נוח הימנה שהרי משנתו בידו וממונו

הולך וגדול ...] אבל אם יש לו ב' זו ה' בתים 8). B.III 58, p. 277
שפורעים יש לתן מהם מ"ש מריוח אחר אבל מבית דירה לא יתן ..

9). להת מס ע"פ הוראה שהודינו קודם התפיסה ...

10). וכל חוב שאין אדם מתייאש ממנו צריך לתת L. 135

כ"כ המס אינו אלא מן המשא ומתן Pr. 941

11). שפחות מנזק פוטרים מן המס .. ושמא הטעם דבימינו המשא ומתן
מועט בזקוק .. והאקמן יש בני אדם שיש להם זקוק ועוד ומקבלין צדקה ..

12). מלמד ומשרת וסופר הנהיגו רבות' לפטור עד ב' נקוקין .. L. 131

13). מיהו עני' שיש לו יותר מנזק ומלמד ומשרת וסופר יותר ibid.
מב' נקוקים ובטח"ב שיש לו עודף על ממונו מועט צריך לתן מס מן הכל ..

14). וראיתי בקהלות חשונות שאין נבי' מן היתומי' עד שיגדלו B. I. 520, p. 69

15). זריב"ם כתב פירכתי .. אינו נותן כשאר בני המקום אלא פחות Pr. 930

16). Pr. 708 ... שכל הקהל שותפין במס , Pr. 134 למה , מס בשותפות .

17). Pr. 708 ושותף אינו חולק שלא לדעת חבירו...

18). Cf. Rösel p. 40. [למה מכביד לאחרים]

19). Pr. 134, Pr. 932 כל מה שמיקל , מה שהוא פוחם לו מכביד לאחרים,

20) Following Pr. 1022, Tekanoth לא יפסור אדם עצמו מן המס . לפי שרונכב בחצרי המלך.

21). Pr. 930 R. Eljakim, Pr. 932 R. Kalonymos .

22). Pr. 708 ודם באגה המלכות לשנות לפסור א' מן הקהל אז להקל עליו לא כל הימנו ואין זה רצא דמלכותא אלא נזילה דמלכותא ולא ארונים בדבר נז

23). Pr. 918 ר' הפורש מן הצבור שלא להם עמהם מס אם כך נהגו בעיר . מימי קדם שלא להם ביחד מלא כל אחד נותן לבד אינם יכולי לכוש ולשנות מנהג אם לא מדעתו

24). Pr. 932 יהודי אחד לא רצה לתן מס עם הקהל מפני שמחל לו ההגמון . לא כל כמיניה והציל לאמצע ואם נמן וחוזיר לו ההגמון הציל לאמצע.

25). Pr. 995 ...אך העירונים צוו להם ליהודי אחד ומאז היה נגבוי ואני לאחר כן באתי ולא נגחייבתי עמכם בזה המס ואם היהודי הרחיב עמכם הזמן ולא נגבה המס עד אחר בואי בזה אין לי חובה...

26). Pr. 369 כך מנהג בכל הקהלות .. שאין אדם יכול לפסור עצמו מן המס ביציאתו מן העיר אחר שנה חייב במס וגם אם אין שום מנהג נראה בעיני דין תורה כששאל המלך המס אצלו שערי דכדא משתעבדי למלך...

ומי שיצא מן העיר קודם שתבטל מס אע"פ In Resp. Cr. 111 we read:

... which would mean that official communication to the community had not been made yet, but the

amount was known, having perhaps previously been fixed for several years ahead. (Cr. 121.....

27). ... שיצא חוצא וביתו לעיר אחרת ושהה ימים רבים ולאחר שיצא מן העיר

נשאל המס אצל פסור אע"פ שהלך לגור בתוך פרסה פסור שהוא הלך חוצא לתחום ונהנה ונהנה ראיתי שהרבה הלכו ממקומם לגור במקום אחר שהוא בטוח

(... for taxes (שנהגו לכוון)).

חצי פרסה מן העיר ולא נתנו מס עם הקהל כי אם כשהיה מלך בעולם אז היו
 נותנים למלך עמהם אפילו עד ח' פרסאות... נשאל
 The expression: would confirm our interpretation of Resp. ^Ur. 111 in the pre-
 vious note and the assertion made above that the official announce-
 ment marked the beginning of the obligation. It is on the שאלה המס
 apparently, that the decision depends, and if the collection of the
 tax were meant, the verb נתן or גבה would probably have been used
 as customarily (Pr. 106, B.II. 139, p. 208 a.e.). This responsum
 seems to date from the Interregnum, if the words כשהיה מלך בעולם may
 be interpreted in this manner.

28). B. II. 140, p. 209 ושאלתני על קהלך שכבר עשו תקנה
 ביניהם.. שכל מי שיצא מן העיר לגור במקום אחר שלא יבגש לעיר לתקוף חובותיו
 בלא דעת הקהל... אפילו יצא משם קודם תקנתם אם משעה שיצא היה
 יכול לכוף בעלי חוביו לפורעו ולא עשה חייב לשא עמהם בכל מיני עולים
 מאותם חובות... ואם מרצון נפשם שהו יותר חייבים לתת מס עם בני
 העיר ואם בני העיר טוענים שהיו יכולים להוציא והם אומרים לא יכולנו
 ישבעו שלא יכלו להוציא קודם. ואם לא יכלו להוציא קודם מנהג הוא בכל
 הקהלות שאין לקח מהם מס...

29). B. II. 139, p. 208f. ושאלת על לוי שנתן משכון עבד
 חלקו מן המס ליד הגביר הקהל הגוברים את חמם ואבד המשכון אם
 חייב לשלם בל... כיון דהשר... חוזר.. עבד החסדון... על הקהל...
 פשט... הלא הם אינם חייבים לשלם כסף אלא או כסף או מכלאטלין שזה
 כסף וכך הוא דרך נותני משכון ליד הגביר ששביבא שליח השר
 לגבות אינם מוקרים המשכון ופורעי' לשלם מעות ומחזירי' המותר
 לבטלן אלא נותני' לו המשכון כמו שהוא בכל כך מעות שהבעלי'
 חייבים הן שהמשכון שזה הרבה יותר הן ששזה כל כך בצמצום
 וכיון שאין שום חילוק והטורש לגביר הקהל בין מעות מוכנים

בין משכון אין לחלק בין שנתן מעות בין שנתן משכון.

ואם אין מנהג קבוע בעיר חז' אם הוא 30). B. III. 57, p. 276
לצורך בנין חומת העיר ומגדל ליתיה ולשמירה ודאי יש לתן מנהג מן הבתים
ואם יש בתים גבוהים שעושין לשאר בתים קצין B. III. 58, p. 276
צריך לתן יותר ומחשבי' לפי זה שגורם העין ... אבל שאר מסים קצבתן
שנותנים בכל שנה למס לשי או לעירונם וכו' מחמת הצרכים שמצויה'
בעיר אין לתן מן הבתים

.. שהי מתחלה כשהיו שומרים כל אחד בעצמו 31). Pr. 104
מיהו כשפצמים יראים ושומרים את העיר and in Bohemia, B. I. 33, p. 99
32). Ar. Reg. 582, p. 248f, 586, p. 249, 622, p. 262 a.e. Cp.
also Stobbe p. 39.

33). .. אבל אם השר רוצה שיתנו כל אשר להם או חצי ממנום
או סכום גדול שאט חושש מאין לוקחים אותו או יתנומן הכל ואצ' מן הבתים
ועוד יאם הורגלו בורידבורק להיות שותפי' במסים שאין להם 34).
קצבה כאשר הוא מנהג כבר באלו המלכיות מימים רבים שאין קצבה
למסים אלא כל שר ושר לוקח לפי רצונו אין שותף חולק וגו'..
וכל כיוצא בהן כגון מסים להעלות לשר העיר שכל 35). L. 108
שמירת העיר מוטל עליו להצילם מן הגייסות..

36). Pr. 1001, Cr. 6, L. 313 ... זגם היהודים אינם מוכרנים
להתחייב בכל מקום שהם כמו שהגוי'ם מוכרנים אלא רואין אותן כמו שהן
בני חורין שירדו מנכסיהם ולא נמכרו ממכרה עבד וכן המלכות נוהגת..

37). Cf. Bauer, p. 130 concerning marriage restrictions and the
ius primae noctis, restrictions which never existed for the Jews in
this cruel manner.

existed even as late
as 19th c. in Bohemia
and Moravia
for example in
order not to increase
Jew. population

V. The Position of Woman.

Güdemann ¹⁾ remarks that her jewelry and her garments are of importance if we desire to judge the position of woman. While this is true it would be extremely difficult to gain an accurate impression concerning these two questions from the scanty material furnished by our sources. However, we find other indications by which we may gain an insight into the position of the women of the thirteenth century.

The first question to be treated here is the question of divorce. The Biblical legislation laid, naturally, the foundation for a certain freedom in this respect. A perusal of our responsa shows an overwhelming number of divorce cases. Of course, it would be nonsensical to deduce from this fact that marriage in the thirteenth century was treated lightly. It must be borne in mind that the Responsa literature gives us a picture of the irregularities of the various aspects of Jewish life. At the same time, however, it can not be denied that the right of divorce, unknown in the non-Jewish world of those days, gave to the woman an entirely different position, especially as the talmudic permission to divorce a wife against her will - which even in talmudic times was more or less theoretical - had fallen into disrespect since the decree of R. Gershom. In the thirteenth century this decree had apparently become the usual practice, and only in cases which, even today, seem entirely justified, was the permission given to the husband to divorce his wife against her will, for instance when their married life was a "widowhood during life". ²⁾

Neither was it the exclusive privilege of the man to reject the connubial duties which usually resulted in a divorce. Numerous responsa deal with the question of the *מורדת*, a condition which we would probably term today "incompatibility". This problem is already discussed

and regulated in the Talmud (Keth. 63b), but since then the regulations had grown in number and complexity and R. Meir states that it had become a very intricate and puzzling problem³⁾.

It is astonishing how many cases of the refusal of connubial rights came before R. Meir, and it seems plausible to assume that the comparative frequency of such cases in connection with the statement just referred to, namely its growing complexity, indicates that the woman was conceded an amount of individuality and independence which the non-Jewish woman never knew.

Only one case shall be quoted here, because it is the most liberal and instructive. The Tosafists did not compel the husband to give his wife a divorce when she refused the connubial duties⁴⁾, but in Resp. B. III. 337, p. 285 we read that the husband is compelled to do so immediately "lest the daughters of Israel fall into evil ways".⁵⁾

The question then arose as to whether she was to receive the Kethubah or not. R. Gershom had decided that she should receive the amount stipulated in the Bible, but not the additional stipulation which the husband had promised in the contract (B. III. 338, p. 285) in order that the Jewish women should have a certain protection⁶⁾. In this connection it is interesting to note that in B. III. 339, p. 285f. Maimonides is quoted to the same effect⁷⁾. But our editions of Maimonides read to the contrary, that she leaves without the Kethubah, being permitted only to take her used garments along⁸⁾. So Maimonides' authority is claimed in favor of a decision which he had regulated to the contrary.

This fact may likewise indicate that the legislation concerning women had become more liberal since the time of Maimonides, because the author seems to have quoted this authority from memory and in doing

may have had different reading

so was convinced that Maimonides agreed with him.

According to this Responsum then, the husband is forced to give his wife a divorce. If necessary this regulation is enforced by chastisement and physical punishment, to which the Rabbis of the thirteenth century seems to have occasionally resorted, although not everywhere did the Jews possess criminal jurisdiction (9). The returning of presents they had made to each other and even gifts received from their mutual friends was apparently agreed upon by all the rabbis.

Our author protests against the suspicion that such a practice might induce the Jewish women to take advantage of this favorable decision. He is convinced that no Jewish woman will go to this extreme unless driven by utter necessity (10). This remark confirms the statement made above (p. 34) that marriage was by no means treated lightly, in spite of occasional annulments. The abrogation of the older practice, according to which a wife who refused marital duties was to lose a certain amount of her Kethubah for every week of her refusal, as also the waiting of twelve months before she would receive her freedom (Keth. 63b and Pr. 261) show plainly that the position of women regarding the breaking of marriage had improved to an extent which even our courts do not grant her.

The Rabbinical Synod of Narbonne had decreed that a husband whose wife had died during the first year of their marriage without leaving a child, had to return the dowry she had brought him, to her family. Later decisions added that if she had died during the second year of their marriage half of the dowry had to be returned (Pr. 934, under the name of Süsskind Kohen of Erfurt).

On the whole, R. Meir was very unwilling to decide that a wife, even though she had committed a wrong which constituted a reason for

divorce should be divorced without the dower to which she was entitled through the Bible. He would only permit to divorce this wife against her will ¹¹⁾. Only in case of a severe and repeated offense which, however, is not expressly named, he gave the permission to divorce her without paying the Kethubah. But since we are not so much interested in his personal attitude toward this question as in the general attitude, the mere fact that the rabbis who solicited his advice in the matter were in doubt as to whether or no a second warning was necessary, is indicative of a very broadminded spirit prevailing in those days ¹²⁾.

Beating one's wife was considered an outrage. R. Meir states that "among the non-Jews this is customary, but God forbid that a Jew should commit such a crime". He gave permission to punish the offender most severely, to excommunicate him, to impose a fine upon him and even flog him. In case of repetition even to cut off his hand ¹³⁾, in which connection it may be mentioned that the Jews, in a few cities, were given the right of executing criminal jurisdiction. The Archbishop of Köln, in a decree of the year 1252, reserved unto himself the right of a final decision in cases of theft, assault, resistance against the communal ban, adultery with a Jewish or Gentile woman etc.. A similar regulation concerning the Jewish ban existed in Würzburg ¹⁴⁾.

In regard to the non-Jewish practice R. Meir shows himself to be well informed, for the Hamburg Law of the year 1270 gives the husband the right to chastise his wife, beat her and lock her into a chamber until she is willing to do her duty ¹⁵⁾.

A similar decision is given in Resp. Pr. 927 where, in addition, the husband can be forced to give to his wife a divorce. If he does not subject himself to this regulation, the secular authorities may be approached to enforce it ¹⁶⁾. This remark shows with what strong dis-

approval this un-Jewish demeanor was looked upon, as it was strictly forbidden for any individual to approach the non-Jewish authorities for a verdict in a matter which could be decided by the Jewish court¹⁷⁾.

Much consideration for the woman is also shown by the practice of the husband usually settling in the home of his wife. He was not permitted to take her to a strange land if she was unwilling to leave home¹⁸⁾. Even if the wedding took place in his home town - usually the Chuppah was in the house of the bride¹⁹⁾ the husband was compelled to return with his wife to her town to live²⁰⁾. This was the regulation not only for newly married people but general; no man could compel his wife to move to a town away from her home, much less to a foreign country. Even if the new location was more attractive, she could not be forced to go with him²¹⁾.

In one case, however, R. Meir decided that the man, although he had pledged himself to live in the home of his bride, should not be held to his promise. The reason for his decision is doubtful; probably because the climate was harmful to him. But this decision caused the disapproval of his contemporaries (Pr. 250 and 251).

In this connection it may be mentioned that the wife also had the right to insist that he should live with her in a home of their own if living with his mother or sisters was unpleasant, because of the fact that his relatives insulted her.²²⁾

It is natural to assume that there was good reason for such considerate and liberal treatment of the women in those days. And indeed we find that their chastity and trustworthiness was beyond reproach, that is to say, if we neglect an occasional complaint concerning their frivolity of which we shall speak presently.

Three examples shall find place here. In a town (Rockenhausen)

a number of Jews, men and women, had been taken captive. The rule is that a married woman who has lived among Gentiles as a captive is to be regarded as having broken her marriage vow. In our case, however, R. Meir permitted all the wives to return to their husbands, although proof which would have been sufficient for strict legal practice, was wanting ²³⁾. Naturally, we also find a wife who is not faithful to her husband. While he is gone on an extensive trip she commits adultery with a non-Jew and then kills the child. But this is such an extreme case that her own father is outraged to such an extent that he asks the rabbis for permission to kill his daughter with his own hands and drown her, which permission is, of course, not given. ²⁴⁾ But this seems to be one of those extreme cases which we would today consider as a matter of pathology rather than crime, as the explicit description preceding the plain statement of the father shows in our responsum. And even in this extreme case R. Meir is very hesitant about permitting the husband to divorce her without giving her the dower. In his opinion, the testimony is not sufficient, and so he admonishes the party not to be rash and permits only to divorce her, if necessary against her will ²⁵⁾. In our third case a woman had gone with two Jewish men, probably for the purpose of business, because the context shows that it had been a strenuous walk. In a forest, where they had sat down to rest, the two men overpower her, and now she comes and tells the rabbis her story. In this case also, she is permitted to return to her husband, because her confession shows that she was honest and not at fault. Her crying for help had not been heard and there were no witnesses. The legal basis for this decision is that there was no necessity for her to tell of the incident, therefore we believe her when she claims that she was not at fault ²⁶⁾. The fact that the woman

comes before the rabbis to make her confession and tell the case, likewise indicates the prevailing purity of morals.

However, complaints about the frivolity of women were not lacking. We hear that the present generation is a frivolous one ²⁷). Especially the women of Regensburg seem to have been in a rather ill repute concerning their behavior toward their husbands ²⁸). One might be inclined to believe that the peaceful conditions under which the Jews were privileged to live at Regensburg (Ar. Reg. 448, p. 197) is mirrored in a certain lightheartedness of the feminine part of the Jewish population. But these complaints about frivolousness among the Jewish women started in Biblical times with the prophets and continue to our own days. One must not, therefore, attribute too much weight to such remarks, especially when the practice shows what an elevated position the Jewish woman was granted.

In spite of the principle uttered by R. Meir (See end of chapter), the young women used to adorn themselves. So we learn that it was the fashion among the girls in the Rhine district to wear some hair ornament (B.I.30, p. 8). The headdress was apparently an important item and sometimes preserved in the family from generation to generation. (Pr. 880). Amulets were traded (Pr. 277) and seem to have brought a good price. Corals are mentioned (Cf. Güdemann I. p. 215) (L. 140) which word may also mean necklace. They were sometimes used to relieve headaches (see below, p. 56). One necklace is mentioned which is so valuable that when sold it provided a livelihood for a woman and her maid (Pr. 1006). Even fur is worn by the women (L. 427) besides other costly garments (ibid. and Pr. 982) although numerous sumptuary laws forbade the wearing of jewelry and restricted the right of wearing fur to the ladies of knights (Bauer, p. 145ff.)

The keys were the insignia of the dignity of the German housewife. Among the Jewish women it was customary to wear a key of silver in order to avoid conflicts with the Sabbath laws. They were sometimes made in the shape of an amulett (B. I. 29, p. 8; L. 206). The word Tachshitim is mentioned quite frequently and seems to have been an item of importance (Cr. 84, 290, L. 309. 359 a. fr.)

The Jewish education of the women was badly neglected even then. A girl who receives Kiddushin through a messenger - a not infrequent practice in those days when traveling was extremely difficult, expensive and dangerous - (Pr. 586 and 1015) and is silent when the confused man says "consecrated unto me" instead of "unto Reuben" is nevertheless lawfully married to Reuben. The fact that she does not contradict is explained by her not understanding Hebrew²⁹⁾. In another responsum it is stated that they do not understand what they say when they give grace after meals³⁰⁾.

Early marriages are a rather frequent occurrence and examples are to be found in numbers in our sources³¹⁾. Arrangements were sometimes made by the parents when the children were still very young (B.II. 100, p. 196)³²⁾, and R. Meir tells us that he married his daughter off when she was still a minor (B.I. 293, p. 43). Since in several of our cases the father of the girl shows himself to be the one who is the interested party there is reason to assume that the general uncertainty and the lack of safety, especially for unprotected women, was the cause for this endeavor. At that time it must also have been very difficult for a woman to earn a livelihood; conditions of life were very hard.

It was the general custom of the father to give the girl a dowry, in conformity with the talmudic custom. This dowry consisted of cash

in silver or gold, of jewelry, land, garments or probably a combination of all of them ³³⁾. In addition to this, it was incumbent upon the father of the bride to prepare the wedding feast ³⁴⁾. This dowry was considered an important matter and if a man had pledged himself to give it, he was compelled to keep his word, even if it was not the father but the brother who had promised to give his orphan sister a dowry ³⁵⁾. But it might be withheld if the groom was addicted to playing dice and if it was stipulated under the condition that he abstained from this vice (Pr. 933). Resp. Pr 442 states that it was customary to announce the same amount of a dowry for rich and poor, in order not to put the poor to shame ³⁶⁾.

Women who were occupied in carrying on trade were not unusual. Whether they helped their husbands or worked independently, in order to allow their husbands sufficient time to study, does not become clear. It is possible, however, that the Eastern European custom which still exists dates many centuries back. In case of litigations these women are permitted to confirm their claims by an oath ³⁷⁾, a very unusual practice (Cf. also Stammler, p. 37).

Concerning the regulation of נזילות the situation of the woman was unsatisfactory even then. For we hear that men would use the position which the Biblical law gives to the נזיל in order to extort money for giving them נזילות (Pr. 30). It may even be that they were, just then, taken advantage of more frequently, since R. Gershom's decree, not yet very old, made polygamy impossible. In such a case it was permissible to make all manner of promises to the נזיל which the Jewish court later on annulled even though he may have taken possession of the property already. The court may also have recourse to physical punishment ³⁸⁾. But this regulation holds good only when the

tries to take advantage of the widow. On the whole, Yibbum is not definitely discouraged, and if the *ḥalutz* is willing to marry her but she refuses it seems to be the custom that she is expected to pay in order to secure her freedom ³⁹⁾. The fact that the *ḥalutz* has accepted Christianity has no effect upon the Chalitzah, which must be performed even then ⁴⁰⁾.

Concerning two details of the Kethubah, however, the position of the woman has retrograded: the Kethubah is no longer raised from real estate but only from movable property; then however even from objects which the husband had given as presents to the children or to outsiders ⁴¹⁾. But in case of a debtor who demanded payment, he took precedence over the widow ⁴²⁾.

The writing of the Kethubah was not as serious a matter as that of the Get. Sometimes the scribe ⁴³⁾ writes these formulas in one town while the document is to be used by people in a neighboring place, mentioning the name of the place concerned and not that of the city where he had actually written it ⁴⁴⁾.

The custom of consecrating one's bride by means of a golden ring was already an established custom ⁴⁵⁾. When the first contract between the parties was effected money was given to make it binding (Shidduchin). Apparently this money had to be of more than local value (legal tender), for R. Samson b. Abraham (whose name, when abbreviated, has been mistaken for Solomon b. Abraham - Adret, Güdemann, I. p. 171) is asked whether the "Raimundensis" may be used for this purpose and answers in the affirmative, stating that it has "acquiring-power" just as has the signet ring in the Talmud ⁴⁶⁾. Probably the same conditions prevailed in Germany.

We have seen that the women of the thirteenth century enjoyed an

elevated and dignified position. If we may take R. Meir as an exponent of his time we are justified in saying that it was likewise a sound and healthy one, even though not quite in agreement with today's practice. We are referring to his opinion expressed in a responsum where he pronounces a curse upon the woman who has husband and does not adorn herself and the woman who has no husband and does 47).

Notes to Chapter V.

- 1). Güdemann, Geschichte des Erziehungswesens, p. 238.
- 2). Pr. 1021 ... והיו צרורים באלמוות חיות ולא ראי זה כראי זה
נאין הצד שמה ביניהם ... אז תדעי שחתרנו לו לגרשך על כרחך ...
ואם לא תעשה כמבואר לעיל הריני מסכים לכל דברי רבותינו ונתוני
מתיר לו עמהם לגרשה בעל כרחה
- 3). Pr. 946 .. כי הוינא בה בדינא דמורדת לא מסקין מינה ... כי
דבו בה דינן דינא דמתני' ודינא דגמרא ודינא דמתיבתא וקוד
הציבו לה צינן האחרונים ואנו יתמי דיתמי לא ידעי' איך נפתח לפניכם ...
כי בענין מורדת יש הרבה דינן ...
B. I. 53ff, p. 17ff.
- 4). Tosaf. Keth. 63b s.v. אבל אמרה, where we read at the end:
ורבינו חונא לא נמי פירש דאין כופין הבעל לחן גט וגם בקונטרס
לא פירש שיכופו הבעל ליתן גט ...
- 5). B. III. 337, p. 285 ... אבל שמה בזמן הזה ק"ל כרבנן סבורא
דהויבתראי והם תקנו וגזרו דכל אשה שתאמר לבעלה לא בעינא לך
כ"ע' ליה לבעל לא לתר לגרשה כי מצא בקעה וגדר גדרו שלא תצאנה
בנות ישראל לתרבות דעה ...
- 6). B. III. 338, p. 285 .. נ"ל דאין נותנין לה תוספת כתובה דהיא
דרבנן אבל מנה ומתא' דהיא דאורי' נותנין לה כי היכי דלא להוי
בנות ישראל כהפקר ...
- 7). B. III. 339, p. 286 .. אבל כתו' מנה ומתא' דהיא דאורי' יש
לה שלא יהו בנות ישראל כהפקר ...
- 8). Bloch (Berlin edition, p. 286) calls attention to this (see
footnote). Maimonides, הלכות אישות, 14, reads: כתובה
כלל ותשול בלאותיה הקיימין ...
- 9) ibid. ... הלכך איברר לן שכוף' אותו בשוטי' קר וסיתן לה גט
ויחזור לה מם שנתנה לו ואם לא ישמע מכין אותו בסי' לוא ...
- 10). ibid. .. וצ"ע לא שבקת חיי לכל אנשים כי כל נשים תאמרה ...

כן, ה' ליג נחשדו בנות ישראל על כך אי לאו דאנוסן הן מחמת מיאוס..
וכל מה שהכניסה לו איבעיגא מפקינן מיניה ויהבו לה..

11). L. 245 ..כ"ש זאת שבאתה עם אותה ריק שבשביל אהבתה
גידם לו להורגו מיהו כיון דלא התרה בה בעדים אינה יוצאה בלי כתובה...
יכול להרשה בעל כרחו מיהו אחר שיגרשנה יצטרך ליתן לה כתובה...
מורי הר"ם נשאל על אשת ראובן שקיבלה עליה בחימה 393. L. 12)
במעמד אנשי עירה וכתבו שטר על החרם וחתמו עליו כל אנשי העיר
ועתה עברה על החרם פעמיים ושלוש ויש עדים בדבר ועתה אנו
מספקים... להפסידה כתובה..

If the assumption is correct that in this case a question of sexual
morality was involved, it would also indicate that this offense was
considered graver than any other. However, we have better proof of
this.

13). Pr. 81. ..כל בן ברית חייב לכבד את אשתו יותר
מגופו עולה עמו ואינה יורדת עמו.. והמכה את אשתו מקובלני שיש
יותר להחמיר בו מבמכה את חבירו... ודרך הגוים בכך אבל
חלילה וחלילה ששום בן ברית מעשות זאת והעושה יש להחרימו
ולנדותו ולהלקותו ולעונשו בכל מיני רידוי ואף לקוץ ידו אם רחיל..

14). Cf. Scherer, l.c. p. 255ff. In 1331 we find in Nördlingen
the "Court of the Four", a court consisting of "four respectable, res-
ident Jews" to whom is granted "the right of blinding, cutting off
of limbs etc. according to the system of jurisdiction as the Jews of
Augsburg have it". The authorities are instructed to assist the Jews
in executing these judgements. Wiener Reg. No. 86, p. 36.

15). Stammer, l.c. p. 34. Also Bauer, l.c. p. 107. According
to the Saxonian Law of the thirteenth century the wife had the nine-
teenth place in the law, God being the first; then follows the Pope (2),
the bishop (3), ...priest (6), emperor (7) ...peasant (17)..woman and

and girl (19). Following the shepherd and two German tribes comes, at the end, the Jew. I am informed that a law on the Statute Books of Massachusetts, and still not repealed, gives to a husband the right of beating his wife with a stick not thicker than his thumb.

16). Pr. 927. ואם לא יעמוד הבעל בקיום השלום שיוסיף להנותה 16).
ולבנותה אנו מסכימים אחיהם להיות מנודה בב"ד עליון ובב"ד התחתון
ויעשוהו ע"י גוים לתת גט עשה מה שישראל אומר לך כי כן הסכמת
עם חברי שיהא גט מועשה בגוים כד"ן...

17). L. 136. והלא מנהג פשוט שאין יהודי ראוי לצוות יהודי חבירו בדין גוים 17).
Cf. Pr. 978, 995 a. fr.

18). Cr. 218. והלך הבחור ונשאה בעירה ודר שמה כמשלש חדשים ועכשיו הוא רוצה 18).
לכונה לילך אחריו למלכות ואביה אומר שהתנה עמו בשעת שידוכין לדור במקומו
ובעל אומר להל"מ... דבר פשוט שאין אביה צריך לשבע... ובל"ה אע"פ כול להוציאה ממקומה...
ראה ח"אך ציבור נוהג בכל מקום לעשות החופה בבית אבי הכלה 19). Pr. 211.

Among the non-Jews in Germany the plain people had the same custom, while the patricians celebrated weddings in the city hall or a neighboring monastery (Bauer, p. 152). It may be probable that the Jews imitated this custom, celebrating their weddings in the בית חתונות, referred to in Resp. Pr. 118 as בית חתונות של הקהל. Several cities had such a "Brauthaus". In Rothenburg it still exists and is today called "Tanzhaus". Aronius (Reg. 634, p. 267) reports the purchase of a "Gemeindehaus" in Köln, "welches Spielhaus genannt wird", while the Hebrew term is also בית חתונות.

20). B. II. 81, p. 189. וא"כ... אחרי שקדשה בעירה אינו יכול להוציאה 20).
משם שע"מ כן נשאה... ואם יש לושתיהן (לשת מקומות) דין שוות אצלו אם
קדשה במקומו כופין אותו לצאת ממקומו ולילך למקום אשתו...
.. ובל"ה אינו יכול להוציאה ממקומה לפי דברי ר"ת B. II. 83, p. 191

21). Cr. 36. וה"ה בכל שאר ארצות אין מוציאין מוה לזו אפילו מעיר לזו although a Tosefta states the contrary, R. Meir decides to this effect. This is probably the outcome of the talmudic regulation that if a man marries a girl saying (על תנאי) that he is poor while in reality he is rich this marriage is void if the woman so desires because she can say: "The shoe is too large for me".

22). Pr. 81. ובתשוב' הנאונ' מצאתי.. והאשה שקובלה על בעלה א"א, 81. Pr. 81. לדור עם אמן ואחיותך המחרת' ומגדפ' אותי חוב הבטל להוציא מהם לגור בבית אחר ואם לאו יוציא ויתן כתל'

If a man had treated his wife badly and contemplated divorcing her and she had died in consequence of this grief, the husband did not inherit anything of her property, Pr. 1000. מי שמתה אשתו בתוך

קטטה שבדעתו לגרשה שוב אין יורש אותה..

23). B. II. 80, p. 187. שאלה על אודות האנוסין פלמי דוקנהויזען בשאלתי על הנושים אם מותרות לבעליהן נ"ל.. כיון דהוי התם שאר יהודים מותרות אפילו לכהונה... כ"ש הכא דמחמת אונס נפשות עברו זכ"ש לפי מה שאומרים שמעולם לא עברו ע"ז אלא שהגלח אומר בפני הגוים דברי מנפתם זהם שתקו.. הלכך נ"ל דלאותן נשים שיש להן אפילו ק"א ואפ' אשה נכנסה ויוצאת שאמרה לא דאיננה שנבעלת מותרת לבעליהן..

24). L. 310. בנא גביה ואל שיה לפי שנים מן החתומים למשה ובא למלוק בנו להורות לו אם מותר להרוג בתו לאברהם מן העולם ולהטביעה בנהר ואמרנו לו למה ואמר לנו בת יאחזקאל יש לי והרה לזנונים וילדה ממדור מן הגוים שיש יותר משנה שהלך בעלה ממנה.. והיא זונה גמורה ומפורסמת וילדה בת זחילה הממזר..

25). ibid. אין בעדותם ממש דאין כאן אלא עד אחר.. ומכתובה אין לו כח להפסידה עד שיהיו עדי זנוג או עדי כיעור.. כלל דמלתא אמור לו לאדם לקיימה ורשע הוא לזרוק לו גט בע"כ.. ויש לשאול את פיה

למח כספה בגלל שלא היתה מעוברת... וכיוצא בזה לגור ולדרוש בחקדה
ובדרישה על כל דבר ודבר...

מעשה באשה שהלכה עם שני יהודים וכשבאו ביער ישבו 26). Pr. 573
לנוח וזבא אחד ותקפה והשני שימא אותה ופעקה ואין מושיע לה ואין עדים ובאתה
לפני רבותי וספרה להם המאורע ואמרה נאנסתי והיתורה לבטלה משום דאי בעי אמרה לא
נבעלתי

..אבל בדורות הללו שיש נשים פרוצות... 27). Cr. 271

אסנא בדורות הללו שאין בנות ישראל פטעוהו Pr. 442 פרוץ שהדור

...ויען כי גבהו בנות ריגוש פורק על בעליהן מיאז 28). Pr. 946
ומקדם ולש עתה...

...והאי דשתקה לא מבינה לשון הקודש 29). Pr. 1015

ונשים יוצאות בבהמץ שלנו אע"ג דלא 30). B. III. 28, p. 306,
ידעו מאי דאמרו

31) Pr. 50, 868, 939, 989 ; Cr. 31, 81, 217, 286,

L. 355, 389; B. I. 293, p. 43, B. II. 100, p. 196.

ונתב לו ר' לש' לכשיהיה בןך ראוי 32). B. II. 100, p. 196
לקדש יאם לא יקבל קדושי בתי איהא בעצמה לא תקבל קידושיה
אם תהיה ראוי לקבל קידושיה אז את חייב לך מעכשיו

But even the marriageable age was very
young for present day conceptions, and this correspondence was prob-
ably carried on some time previous to that; not because of the expres-
sion מעכשיו which only fixes the date because of a possible mortgage,
but because the whole letter would be rather superfluous otherwise.

הלכות 33). The formula of the Kethubah given in Maimonides, Yad, VI, does not specify the items of the dowry, giving just a
lump sum.

...אבל אני מקבל עלי לכת לה לא כסף ולא זהב ולא 34). Br. 873
תכשיטין ולא קרקע ולא סעודה אלא בגדים שבהא משמשת בהן בחול,

which shows that the general practice was different. Pr. 251 reads:

ראה היאך ביבור נוהג בכל מקום לעשות החופה בבית אביה כלה

על ראובן שפסק נדוניא לאחותו להשיאה והיא יתומה 35). Cr. 151
ונישאת ואינו רוצה לשלם הנזק.. דוראי לא שנא אב ולא שנא אח..

..ובזה המלכות נהוג לכתוב הנדוניא בשוה העשירי לא 36). Pr. 442
ירבה שלא לבייש מי שאין לו...

בזמן הזה כיון שרגילות הנשים לשא ולתן 37). B. I. 57, p. 21
הרי הן כאילו מינם בעליהם להיות שלוחים ואם יש עדים חייב הבעל
לשלם... ואם לאו נשבעות..

..יבם שדוחה את יבמתו לאחר מיתת הבעל ג' חדשים. 38). Pr. 492
מחלוצ ולויבם כתב שיטעקו בכל מה שיזכרו... ואם אין יכולין להטעותו כופין אותו בשומא..

..ואם נפלה לפני יבם ואין לו אשה ורוצה ליבם והיא 39). Pr. 866
אינה רוצה ואין בו מומין הוא יעגנה לעולם איתתן לו כסף שיחלוצ לה..
...על היבמה שנפלה לפני יבם משומד... כללו של דבר 40). Pr. 456
הרי הוא כישראל חשוד..

ה' מוציאין בזמן הזה מממלסלין שנתן לבניו 41). Cr. 192

דבעל חוב קודם בממלסלין כמו בימיהם ממקרקעי.. 42). Pr. 334

43). Our responsum (see following note) does not speak of a
scribe (סופר) but of the חזן as writing the document, which would
indicate that the חזן in the thirteenth century acted as secretary
of the congregation as in the Geonic period. But he is already the
singer as whom we know him and is met in this capacity in Resp. Pr.
867, where he (R. Jacob of Neumagen) sings for weddings.

..ואנו נוהגין פעמים שהחזן יושב כאן במעגגנץ וכותב 44). Pr. 805
כתובה לבני הכפרים ומזכיר שם הכפר ולא במעגגנץ

והמקדש בטבעת של נחושת כיון דלא אמר של זהב... 45). Cr. 107

Cf. Tosaf. Kidd. 9a, s.v. : הלכתא.

46). B. III. 354, p. 288 .. ועל ענין רוזמינש שנותנין בשעת
שירוכין קניא שתקנו העולם כמו שתקנו סי שומתא...

Güdemann, I. p. 171 gives this explanation of the word. Du Cange, Glossarium, vol. IV, p. 528, col 2f. explains it as follows: Monetae Baronum, Raimundensis, in nuncupata moneta Comitum Tolosae apud quos Raimundi nomen frequens fuit." It is first mentioned in a Charta from the year 1077, also in Papal decrees (1205 etc.) and retained this name even after the county had become royal property.

47). Pr. 199 תבא מארה לאשה שיש לה בעל ואינה מתקשטת
ותבא מארה לאשה שאין לה בעל ומתקשטת.

VI. Some Data Concerning Life in General.

The public safety in the Middle Ages was equal to nil. It is natural that the Jews who traveled extensively experienced the dangers of life to an even greater extent than the rest of the population. In Resp. Pr. 251 this condition is termed Cherum¹⁾, and seems to have been more dangerous than in France. Whole communities were forced to emigrate because of this lack of personal safety (L. 79, Pr. 841, 388). Journeying was particularly dangerous (Pr. 782) and when a person who was known to be rich traveled, this danger was still greater (Pr. 251). Robberies (Pr. 664; a. fr.) and murders (Pr. 371) were a frequent occurrence, the body of the murdered person sometimes being dragged away by dogs (ibid.). Not only common people but rulers robbed, although the latter were largely interested in cash (B. II. 19, p. 146ff.), taking even charity money away from the administrator (Pr. 196, 752). Resp. Pr. 201 tells of a man who had hired horse and wagon in order to travel to a place eight days distant, but had to return, because there was danger "on account of the shepherds"²⁾. This responsum is signed by Samson b. Abraham (of Sens) who lived approximately between 1150 and 1230. The revolt of the pastorelli began in the year 1320, but this remark indicates that even in his time the shepherds were a seditious element, perhaps already inclined to hostilities against the Jews.

Naturally the Jews were themselves affected by the crudeness of conditions around them. And so we also hear of Jews who tried to extort money from a group of coreligionists through threats (Pr. 595), and even a case of assault is reported (Pr. 383), is, however, something very unusual, even though committed in rage. The fact that the assailant drew his sword would also go to show that Jews carried arms, at least occasionally. Even hunting occurred and in a responsum by Or

General!

Zorua his only warning is that a man "who hunts deer with dogs like the non-Jews will not witness the joy of the Leviathan" (B. I. 27, p. 7), but he does not prohibit hunting.

Playing with dice also seems to have been a passion indulged in by many. In fact, some people were so little able to withstand the temptation that they tried to strengthen their will-power by vows never to play again (Pr. 493, 500), and even a teacher indulges in this form of entertainment (Cr. 310; see ab. p. 17). The game played with nuts was hardly more innocent since the winnings could amount to very considerable sums, as shown in Resp. B. I. 94, p. 30. These winnings had to be returned because they were considered robbery (*ibid.*).

The general coarseness of the time also finds expression in the not rare cases of hasty swearing or vowing, which the rash person sometimes regretted; as when he had sworn that a certain woman should no longer be his wife. If he was unfortunate enough to have a Sefer in his hands he could not be released from his vow (Pr. 120, 121).

Although we do find that in certain respects observance of the traditional law was more rigorous in Germany than in France (Cf. Pr. 221), Graetz overstates matters somewhat when he says (vol. VII, p. 157): "Ueberhaupt waren die deutschen Juden viel skrupulöser als die anderen Länder und fasteten noch immer den Versöhnungstag zwei Tage hintereinander". But Resp. Pr. 76, upon which the statement is based, speaks only of one individual who used to do this. That it was not the common, and certainly not the usual, practice is shown by the fact that he had to inquire and be given directions as to whether others might prepare a meal for him if his second day of Yom Kippur falls on a Friday, which plainly shows that not all the people kept two days of Yom Kippur.

The yellow badge was at this time still unknown in Germany it seems. We find only one reference to it, and its author, Or Zorua, states that he saw it in France. The context shows that in his time, at least, it was unknown in Germany. As is well known this decree was enacted by the Lateran Council of the year 1215. The chief reason stated in that document is³⁾: to make impossible intimacies between Jews and non-Jews under the veil of an error. But if one may judge from actual happenings this purpose at least was not accomplished, for such relations between Jewish men and non-Jewish women continued to exist and were not rare⁴⁾.

In most cities the Jews lived near the city wall and were permitted to empty the plumbing into the moat (Pr. 96, Cr. 178f. 236, 242 a.e.), while we know that in Würzburg the Jews lived in the center of the city and the non-Jews in the outer parts (Ar. Reg. 450, p. 198).

The synagog was, whether connected with a "community center", the "bridehouse", as has been mentioned before, or not, a center of daily life. The Chazzanim do not seem to have stood on a very high educational level; at least many of them did not measure up to the requirements of R. Meir (B.II. 94, p. 132). Since the community was not always able to pay him a fixed salary, he was compelled to receive gifts at wedding celebrations (Pr. 867; L. 112). The latter responsum throws an interesting light upon conditions in Poland, Russia and Hungary at that time, where, on account of financial need, the communities hire a man wherever they can find him who discharges the duty of teacher, judge and precentor. But while the average Chazzan may not have been highly endowed with secular and Jewish learning, there were some who took their office very seriously and we know of one (Pr. 137 and Ar. Reg. 405, p. 181) who refused indignantly to be in-

vested with this office by the bishop and threw the crown which signified this act angrily upon the floor.

Attendance in the synagog was very good and at all times many people were to be found there (Pr. 107). The building was usually lighted by oil-lamps, but candles were likewise in use (L. 269; Pr. 223; B.I. 299, p. 44). Paintings of animals were permitted as adornment (L. 496, Pr. 610) and their Machsorim were likewise illustrated (Cr. 24, B. II. 97, p. 134). Boys seem to have had a section for themselves and it was customary to endow the synagog with special chairs for them which might not be exchanged for others even though they be better than the original ones (Cr. 145). The synagog was the place of all public announcements, and even prospective sales of real estate were made known there (Cr. 262, B. II. 238, p. 239)⁵⁾.

Small communities would hire people for the Holy Days in order to have a Minyan of their own (Pr. 1016). Others would come to town for the High Holy Days and bring their Yom Kippur candles along with them (Pr. 153). In their legislation small communities would follow the practice of the larger ones in whose environment they lay (Pr. 383).

On the whole, however, the Jews lived in cities and not in the country (Stobbe, p. 46ff.) and we find references/^{only} to cities in western and southern Germany. It is apparently not until the second half of the thirteenth century that Jews with some form of communal organization are met with in northern Germany⁶⁾.

Two interesting customs deserve to be mentioned. It was customary for the boy as well as the girl who married to receive a dowry. This dowry consisted either of money or books, or, at least, one or several sets of clothing⁷⁾.

The second custom was the practice of an endorser who pledged himself for another's debt to eat one or two meals each day at the expense of this debtor, had he failed to pay at the proper time ⁸⁾. This means to compel a person to live up to his agreement had perhaps developed out of the custom of subtracting a certain amount every week from her Kethubah when a wife refused to perform her duties.

A number of superstitions are adhered to and show that even the rabbis were not free from these beliefs. The fear connected with the reading of the ^{written} ~~77517~~ is already ingrained in the people (L. 108). Amulets are worn as protection against the evil eye, as mentioned before, and if written by an expert may even be worn on the Sabbath. A headache is believed to disappear when the proper charm is pronounced or when the head was "spanned" ⁹⁾, while Resp. Pr. 498 speaks of another mysterious cure. People who eat between Minchah and Maariv will become the prey of the angel of death (Pr. 10f.) The belief in communication with spirits was not unusual (Pr. 498). Another practice which seems to have been quite common was that of making a pilgrimage to certain graves. R. Hayyim Paltiel expressed himself strongly against this custom, claiming that it was similar to "consulting of the dead" ¹⁰⁾. He objected to it probably because it suggested too plainly the Christian pilgrimages or because any association of praying before the "Matzevah" was deemed improper, even the name, reminiscent of ancient idolatry, being changed in the course of time, to "Ziyyon".

Interesting light is shed by our source material upon many other aspects of Jewish life in the thirteenth century, as for instance: the right to dwell in certain cities and restrictions connected therewith, their costumes, apostasy and acceptance of Judaism by Christians, coinage, the cost of living, their bill-of-fare etc. etc.

The limits of a work of this character make it impossible to even attempt a more detailed description of the general life of the Jews, although our sources furnish us with sufficient material to draw such a picture in almost every detail of communal and private life, in its legal and domestic aspects. Therefore the preceding chapters must suffice as a modest attempt at unfolding a picture of Jewish life in the thirteenth century, of its great suffering and its few joys.

Notes to Chapter VI.

- 1) .. כי אין יוכל לשלוח בתו וממונו בסכנה שאשכנז מקום חירות דמי.
- 2) ... וכשהלך ב' ימים נמלך לשון ששמע שיש סכנה בדרך מפני ^{הרועים} 201 Pr.
- 3) Scherer, p. 42: "Ne igitur tam damnatae commixtionis excessus per velamen erroris huiusmodi ulterioris excusationis possint habere diffugium, statuimus etc."
- 4) Pr. 463 .. אם חשוד לבעול גזירות דתני כמה פעמים...
- 5) .. הולגל בכל מלכותינו שכל מי שמוכר קרקע מחרימין בבית.
הכנסת על כל היודע שום ערעור על קרקע דה שיגיד לפני שובי העיר...
- 6) Ar. Reg. 677, p. 283, Pomerania, in the year 1261; 686, p. 285, Brunswick, Lüneburg (1263) and then more frequently, in Mecklenburg, Schwerin etc.
- 7) L. 327 ר' שזוג בנו לבת ש' וגדוניה שנתן לבנו נתן ביד ש'
Pr. 1004 .. בזמן הזה שמרב' גדוניה לבנות יותר מלבנים...
Also Pr. 249, 285, 848, 985 a.e. This custom has survived among the Jews of Germany until this day.
- 8) B.II. 69, p. 182 ר' שחייב לש' מנה ושם לוי דיהודה ערבים
לפרוע לו לזמן פלוני ונדדו הערבים לש' שאם לא יפרע לו ר' לזמן
שקבע לו שיאכלו בכל יום ב' אצילות על ר' עד שיפרע לש'..
Similarly Pr. 83 a.e.
- 9) This superstition is known here under the name of "Laying on of hands". Resp. Pr. 55.
- 10) L. 164 .. כי מאוד אני נכלא על בני אדם הנודרים ללך על בית
הקברות כי קצת היה דומה לדורש אל המתים...