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An Examination of the
BEHINAT HAKABBALA
of
Leon de Modena

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INTRODUCTION

The Behinat Hakabbala, a work issued in 1624 and traditionally ascribed to Leon De Modena, is the subject of our study. This work consists of two parts. Part One, the "Voice of the Fool" considers significant reforms in the theology and ritual of Judaism. Part Two, the "Roar of the Lion" is a fragmentary work of two brief chapters designed to refute the contentions made in Part One.

The chief concern of this study has been the summary and analysis of the ideas conveyed in the "Voice of the Fool." This volume has intrinsic importance as an attempt to harmonize Judaism with the rational spirit of the seventeenth century.

It is our thesis that the apparent motivation of this work was a desire to reform Jewish tradition in harmony with the criterion of reason and the emphasis on classic sources then in vogue. At times the concepts of this volume appear to reflect the anti-rabbinic bias of Karaism and also certain deistic tendencies discernible in earlier Jewish sources. It seems evident, however, that the development and promulgation of these concepts in their present form were largely inspired and called into being by the contact of the Jewish mind with currents of thought set in motion by the Renaissance and the growing emphasis on rationalism so

characteristic of the age.

A study was also made of the *Exemplar Humanae Vitae* of Uriel Da Costa which revealed a fully matured philosophy of pure Deism. The author of this volume does not appear to be motivated by the necessity of harmonizing Judaism with reason. On the other hand, Da Costa championed a universal religion of Deism more or less independent of the extant forms and expressions of institutionalized religion. In Part V the historical relationship of the two documents will be discussed.

The authorship of the "Voice of the Fool" is now a moot question in modern scholarship. An attempt to arrive at a definitive solution of this perplexing problem would transcend the limitations of the present writer as well as the scope of this study. Our primary task is not "higher criticism" but rather an appreciation of the concepts of this work and in this spirit the study was initiated. In order to achieve that purpose and avoid confusion, reference will be made throughout the synopsis and description to Modena as the author of both the "Voice of the Fool" and the "Roar of the Lion". This procedure seems justified in view of the fact that the manuscript discovered at Parma, Italy by R. Zalman Stern is in the handwriting of the Venetian rabbi and it is fair to assume that Modena had an integral relationship to this work in its present form. Various theories concerning the authorship will be considered in Part VI.

PART ONE

Leon De Modena - Child of the Renaissance

The promulgator of the "Examination of Tradition" was a true child of the Renaissance. The spirit and outlook of Modena faithfully mirror the mood of this era of transition from medievalism to modernism. The spirit of free inquiry, the renewed emphasis on reason, the rediscovered interest in classical learning - these are the dominant themes of the Renaissance spirit which animated the views of Modena. J. D. Symonds, the leading authority of the Renaissance period, has clearly demonstrated the strong impact of the revival of learning on contemporary theology. A new spirit of liberalism was wafted through the darkened corridors of the medieval mind. This revolutionary spirit shed light upon many of the failings of contemporary religion and created a well articulated sense of dissatisfaction with the status quo. In Christianity the reaction to this new spirit materialized in the Reformation- a movement designed to recover and restore the classic spirit of religion. The Bible was upheld as the source of revelation. The institutions and practices of the Church were put under fire and discarded as accretions which were not only superfluous to but inimical to the pristine spirit of primitive Christianity. The publication of the 95 Theses of Martin Luther in 1517 may well be considered as

the opening salvo of the war against the abuses of the Church and the campaign to restore the pure Christianity of the New Testament. Ulrich Zwingli's critique of the Church was even more radical, closely approaching the humanism of Erasmus. Another outstanding champion of religious reform was John Calvin, who published his famous treatise in 1536. According to a historian of this period, the "Institutes, greatly enlarged in subsequent editions, constituted the most scientific and critical attempt that had yet been made to reconstruct the church of Christ on the basis of evidence supplied by the New Testament." ¹ A general statement of the philosophy of the Reformation is afforded by a principle of the Westminster Confession:

"The whole counsel of God concerning all things necessary for His own glory, man's salvation, faith and life, is either expressly set down in Scripture, or by good and necessary consequence may be deduced from Scripture unto which nothing may be added, whether by new revelation of the spirit or tradition of men." ²

In Jewish life this general movement towards religious reformation and the return to the pristine sources had a feeble but nonetheless significant reverberation. Sceptics and rationalists began to question normative Judaism and applied themselves to a reevaluation of the Jewish heritage in light of these new criteria. As Philipson wrote: "The Jew has always been susceptible to the influences at work in the environment in which he has chanced to be." ³

Men like Uriel Da Costa, Leon de Modena, and Joseph Delmedigo were leading exponents of the new spirit and served as pioneers of the movement to return to a "classic" Judaism. They rebelled against that type of Judaism which Graetz has described as "...a rich kernel covered and concealed by crusts deposited one upon another, and by extraneous matter, so that ⁴only very few could recognize its true character." The "Examination of Tradition" in particular is the most outstanding document of the impact of the Renaissance-Reformation upon medieval Judaism. The freshness of its views and the modernity of its style have frequently impelled scholars to assign this work to a much later period (cf. below). It is our thesis, however, that this work was stimulated by the spirit of the age and is to be considered as the harbinger of the religious reformation in Judaism which came to full fruition two centuries later.

Leon De Modena himself was a citizen of Venice who personified the spirit of the day. The cosmopolitan culture and liberalism of the Venetian community had a marked influence on the personality and philosophy of the rabbi. According to Symonds, "it was chiefly at Venice which preserved the ancient forms of the oligarchical independence, that the grand style of the Renaissance continued to flourish!" ⁵ The Jewish community was obviously not impervious to the liberalizing influences of this movement. In his History of the Jews of Venice, Cecil Roth has depicted for us the

astonishingly modern character of the Venetian Ghetto. He pointed out that the opportunities for inter-cultural contact enjoyed by the denizens of the Ghetto were perhaps unparalleled in all of Jewish history from ancient Alexandria to modern New York.⁶ The outlook of the Jewish community must have been shaped not only by contact with the progressive spirits of Venice but also by intercourse with visitors from the Jewish communities of Amsterdam, London, and Hamburg. Venice was an international Jewish center where every current of Jewish life and thinking was faithfully reproduced. In the words of Roth, "Despite the high walls that surrounded it, there was none of that isolation from outside interests and outside influences which characterized the normal contemporary community."⁷ In terms of this background, the unprecedented liberalism of Modena becomes more intelligible and it is possible to appreciate what must have been a far-reaching influence of the Renaissance upon his world-outlook.

It would be irrelevant to reproduce here the details of Modena's versatile career portrayed in the autobiography "The Life of Judah" and adequately summarized by Cecil Roth.⁸ He was born in 1570 in Venice of a once prominent French family. He was given not only the traditional Jewish learning but also considerable knowledge of the classics, philosophy and history. As a child he displayed unusual promise, being a precocious student and demonstrating

abilities as a preacher and a writer. Sickness, family misfortunes, and unrelenting financial pressure seem to have given a peculiar twist of melancholia to his personality. The pages of the autobiography are redolent with a spirit of self-pity and commiseration. He was not averse to comparing himself to Job, writing that "I curse the day when I was born to see trouble and grief, for every day brings its great curse"⁹ Modena was plagued by a propensity for gambling, a characteristic weakness which constantly kept him on the verge of penury. He sought to rationalize this failing as being due to the inescapable power of the stars. He confessed that "they forced me during all my career to practice the folly of gambling although I knew its evils"¹⁰

A most bizarre pattern is presented by the personality of Modena. While giving considerable evidence of scientific insight and critical ability, he appears at the same time to have been credulous and superstitious - a man of remarkable inconsistency. He had a firm belief in the power of dreams, maintaining that he had received a posthumous visit from his father.¹¹ Though he became known as a free-thinker, he nevertheless remained a respected member of the rabbinate until the time of his death in 1648. Graetz has given us a most unsympathetic portrait of Modena as a man of volatile temperament who "had no real earnestness nor true conviction or, rather, according to his humor and mood, he had a different

tone every day without being a hypocrite!"¹² At one time or another, Modena followed 26 professions, desperately attempting to support his family and to meet his ever present gambling debts. His preoccupation with the support of his family may be echoed in the "Voice of the Fool"¹³ where reference is made to wife and children as "millstones around the neck." While his income was largely drawn from teaching, he also undertook such sundry occupations as tutoring, printing, chemistry, theatrical production, the arrangement of marriages, writing of amulets, the composition of laudatory poems in both Italian and Hebrew, etc. Hoping to improve his material position, he occasionally took up residence in Ferrara, Ancona, and Florence but always returned to Venice, the city most congenial to his cosmopolitan spirit.

Modena occupied the official position of Hazzan for the Italian congregation and preacher of the Spanish synagog, also serving as a member of the rabbinical commission of the community. He achieved remarkable success as the star orator of the Venetian Ghetto and attracted wide fame even in gentile circles. As Roth wrote: "Hardly a visitor of any eminence - not excepting princes of the blood- came to Venice without going to the Ghetto to listen to this marvel¹⁴ of Jewish eloquence and learning." Modena enjoyed numerous contacts with the Christian world, his position in Italy being comparable to that occupied by Menasseh ben Israel in Holland. He was the leading representative of Judaism

to the outside world, being intimate with clerics of high rank, patricians and ambassadors. He was in constant correspondence with the Bishop of Ledeve in France and Sir William Boswell and John Selden of England.

Modena was a prolific author writing on many diverse subjects. In one of his letters he stated: "All my life I have been eager to publish many books and no one is as pre-occupied with this ambition as I." ¹⁵ One of his best known works is the "Ari Nohem", in which he made a bold attack on the Kabbalah at a time when mysticism was widely prevalent in Jewish life. At the request of Sir Henry Wotton, Modena in 1637 composed a work on Jewish rites and ceremonies entitled "Historia dei Riti Ebraici" designed for King James of England. The "Magen V'tzinah" (1617) is a significant work which has considerable bearing upon the problem of the authorship of the "Behinat Hakkabala" (cf. below). This work consists of a refutation of 12 Theses attacking the validity of the Oral Law. Another significant work of Modena was the "Bet Yehudah" also known as "Haboneh". Published in 1635, this volume contains the haggadot omitted in the "Ein Yaakov". In the accompanying commentary, Modena indicated an inclination towards religious reform, maintaining that the rabbis have authority to modify the Talmudic stipulations. The fuller implications of Modena's philosophy

are revealed in the "Behinat Hakabbala", a work which if not altogether the contribution of Modena, bears definite signs of his influence and apparently expresses radical reviews towards which he must have been heartily in accord(cf. below).

Modena's unusual versatility, his predisposition towards liberalism in religion, his shallowness of conviction, his eccentricities of character - all identify him as one who was deeply influenced by the characteristic mood of Italy during the Renaissance period. Quick enthusasisms blended with changing interests distinguished the spirit of this Venetian rabbi. The personality of the man as reflected in the autobiography in particular as well as in the "Behinat Hakabbalah" reflect a fervent spirit, a man of considerable intellectual insight but lacking both profundity of mind and depth of piety. These deficiencies in character and endowment, however, did not inhibit him from making significant contributions to Jewish life (cf. Part IV).

The present work contains two brief chapters by Modena, while the authorship of Part One is attributed to one "Amitai ben Yedayah ibn Roz". In the introduction Modena alleges that a polemic against the Talmud and Rabbinic Judaism originally written in 1500 in Al-Kalah, Spain came into his hands in the year 1622. He avers that he copied the manuscript and in 1624 issued the work together with the refutation. Isaac Samuel de Reggio, the editor of the work first published in 1852 maintained that the author was none other than Modena,

a view that gained currency and has been only challenged in recent times.

PART TWO

A Synopsis of the "Examination of Tradition"

A. "The Voice of the Fool"

The first part of this work is divided into three main essays. In the course of this abstract we shall follow the outline of the present work. These summaries will provide the basis for the descriptive analysis of the present writer in Part III. Reference will be made to the accompanying commentary of De Reggio.

I. The Dogmas

In this first essay containing a brief summary of the basic dogmas of Judaism there is little of the polemic spirit which permeates the remaining two essays. Herein we have a simple exposition of religious dogmas which affords few if any novel insights into the problems discussed. As De Reggio pointed out, the author is following in the tradition of rationalists of whom Saadya Gaon was the first. An attempt is made to justify the dogmas in the light of reason and at the same time to find in the Torah a necessary authority based on revelation.

The Existence of God

The theme of this essay is set by the opening statement wherein Modena states that through the agency of reason (sechel), he will seek to find those beliefs which form the basis of his faith. Observation is his point of departure. Contemplating the phenomena of nature, he observes that everywhere there is order and purpose. In all the operations of nature there seems to be a power "which affects the existence of things, which is beneficent and all pervasive, which has created, shaped, and formed all existing things by simple will and also directs them according to His will." Modena¹⁶ thus posited the existence of God as the basic dogma of religion. Proceeding in logical manner, he is now able to construct a logical system of religious dogma, as corrolaries flow from this first principle.

Creation of the World

The next step in the theological system of the author is to account for the existence of the world. Here again his method is derived from logic. There are two alternatives: either the world was created or it has existed from eternity. To follow the first alternative, it would be in order to compare the world and God to a man having a soul and a body. The first alternative would mean that God has a fixed nature and could not alter his conduct.¹⁷ Just as man has control over the various parts of the body, so too the world would

predetermine the movements and activity of God Himself. Rejecting this possibility as logically unacceptable, Modena is led to accept the dogma that the world was created by God.

It is interesting that at this point he introduces Scriptural proof for the dogma. His reason has led him to substantiate the beginning of the Torah of Moses Ben Amram.¹⁸ The ultimate conclusion is "I believe that God is not attached to His world; He preceded it. He set it apart and created it from absolute nothingness."¹⁹

The Purpose of Creation

In approaching this problem, Modena seems to qualify his rationalistic approach, holding that man should not inquire after the purposes of God. He thus places a limit upon the range of speculation. He avers that men have no right to affirm that the works of God are without purpose. The real intent of creation was to afford God pleasure. God rejoices that His children, in varying degrees, come to recognize His Being. There is a gradation in revelation which God finds pleasing. Modena elaborates on the comparison of God to an earthly king who builds a palace replete with servants and domestic animals. The entire structure is intended to serve the personal pleasure of the king. While God is not dependent upon the world nor was it created for His benefit, he

derives pleasure from it. Modena thus anticipated the criticism that this view would imply that God was lacking in any quality. It is in man, the highest of all His creations, that God finds most enjoyment. And in so far as man represents the apex of creation, the world has, in a sense, been created for his sake. "Man is superior to all other creatures and all the world in its entirety above and beneath has been created only for his sake."²⁰

The variations in men, their differences in endowment and development, afford God pleasure. Man enjoys free will and acts in a variety of ways which affords God diversion. According to this view, man is the toy of God. It is interesting to observe that in seeking to find authority for this conclusion, Modena quotes both from Scripture and from Greek philosophy. Side by side with a quotation from Proverbs 8.30, he adds the statement of Plato, that "Man is the sport of God!"²¹

Providence

Every step in the theological system of Modena is well-considered. Having established the fact that God delights in the activities of men, he now carries the argument a step farther by insisting on the concept of providence. If God is to derive pleasure from the life of man, He must be cognizant of his movements and tendencies. "If this were not so, the aim for which the world had been created would have been invalidated!"²² His entire approach is purely

logical and in the ensuing discussion there is nothing that suggests a mystic or intuitive approach to the problem.

To the criticism that it would entail a lessening of the Divine honor if God were to concern Himself with all the petty actions of men, Modena has only a weak answer. He states that God is amused by the human species as a whole. He avoids the crux of the problem of personal providence in this wise. Modena sees no difficulty in the problem of the means whereby God might oversee the activities of thousands of people simultaneously. If a man playing a game of chess can watch the movements of 32 pieces and always be conscious of their potential relationships, so may we conclude that God is able to comprehend the activities of the entire species. Moreover, Modena makes a distinction between knowledge, human and divine. There is a qualitative difference. In the Divine epistemology, there is direct and spontaneous knowledge. God's impressions come to Him effortlessly and in a sense, mechanically. He has a direct impression of the world comparable to a mirror which receives reflections without any effort. Quoting the Rabbinic statement that while God is the place of the world He is yet transcendent to it,²³ Modena affirms that such a Power may enjoy personal providence. Moreover, as the creator of man, God knows all the mainprings of the human heart, quoting Ps. 33.13-15

Modena also attributes foreknowledge to God, who is the "Supreme Cause" and the "Prime Mover". "Everything

is present and established before Him and there is no past nor future with Him." ²⁴ In this way Modena believes that he has resolved the conflict between God's foreknowledge and man's free-will, as the former would not condition the latter.

This chapter is couched in the conventional terminology of medieval philosophy, reminiscent of Abraham Ibn Daud, Maimonides, and Albo, and indicates that the author apparently was steeped in their writings.

Reward and Punishment

Modena argues from analogy. God like man finds pleasure in what is pleasing to Him and rejects whatever is distasteful. The deeds of men are either deserving of reward or of punishment. Religion cannot dispense with the concept of sin. Without it there would be no distinction between man and animal and the very creation of man would have been without purpose. At the very moment of creation, man would have attained the completion of his entelechy.

²⁵
פאק'ררר פא'ררר ננסרר Only in so far as he enjoys free will is man distinguished from the animal world. He is free to change his conduct and his choices will determine whether reward or punishment will be his.

As De Reggio pointed out, Modena's discussion of this problem was rather superficial. The answer he gives is perhaps cogent but certainly not elevating. The whole structure of the concept of reward and punishment is made dependent upon

the whim of God.

Divine Origin of the Torah

Modena now essays to establish the sources for that way of life which will be pleasing to God and most rewarding to man. In this attempt he temporarily abandons his rationalistic approach. Human reason was not capable of working out a satisfactory way of life.

Modena affirms that the shortcomings of reason were apparent in the early beginnings of mankind as evidenced in the Biblical account. The natural endowments of man must necessarily be supplemented by some outside inspiration. That "order" so essential for the guidance of human life, Modena calls the "Torah". An extra-human source was needed to reveal and make known to man whatever was necessary for their salvation. To attain perfection or complete the entelechy of man, we need "revelation!"

The Torah of Moses contains this revelation. The Torah is unique because it embraces the natural order or natural religion. This revelation made to Israel is unique because it has been universally studied and applied. The implication of this contention will be considered below. It is significant that the author insists upon the absolute rationality of the Torah and claims that nothing in revelation is antagonistic to reason.

It is impossible to conceive that the human intelligence

could have created such a system of order and truth, embracing as it does all science, wisdom, and prophecy. Hence Modena concludes that the revelation necessarily was divine in origin. A "divine light" must have ^{shone} shown on Moses. The ultimate source of religion is Divine, not human.

Immortality of the Soul

Modena approaches this problem critically. He observes that from the standpoint of sensory experience,

Q. IN NO, there is no evidence of immortality and philosophers have thus far been able to give no demonstrable proof of the phenomenon. There is, on the contrary, abundant evidence to indicate the absence of immortality. Modena is astonished to find that in the entire Torah there is hardly an explicit statement of the survival of the soul after the death of the body. ²⁷ The references to reward are purely materialistic and are intended for this life.

Withal ²⁸ this, the author affirms his belief in immortality, asserting that the innate longing for eternal life implanted in the heart of man must have some basis. Nature does nothing without a reason. Another proof is the fact that man's mental powers seem to increase with age. A still more convincing proof is seen in the uniqueness of man. If man has been created for the amusement of God, he must enjoy some superiority over the animal world. He gives a poetic statement of immortality.:

"Should not man have some superiority over animals and should the accident of death be the same for both, and should the creature who by his reason builds cities, moves mountains, turns the course of rivers, knows the paths of the high heavens and recognizes his God, be exterminated and forever lost like a horse, a dog, or a fly?"²⁹

In order to compensate man for the grief which his reason and self-consciousness cause him, God has ordained a reward in the form of immortality. When man's body decays, the rational part is taken away and survives in a form in which it is capable of receiving reward or punishment. Modena thus makes immortality a logical necessity. He insists, however, that Moses hinted at the doctrine in the Torah.

Adversities of the Righteous

The author resolves the problem of the suffering of the righteous in this world by the simple statement that in this world there is no reward or punishment. There would be no free will if this were not the case. All men would see the consequences of their acts and "would know what is good and evil and will concentrate on the good out of fear, almost from necessity."³⁰ This would lead to a uniform pattern of conduct for all mankind and such uniformity would be monotonous to God. Modena seeks to establish this point through exegesis. It was God's will that men should be diverse in their activities and inclinations, quoting Job 7.1.

At this point, Modena digresses to consider the

power of the stars over the course of human life. Their power is supreme in all matters except piety. "But concerning the happenings of the world when the signs of predestination are clear as to whether good or evil may come to him, it is impossible to escape it!"³¹ (There is an identical passage in the autobiography.)³² This belief in astrology did not, however, lead Modena to question the doctrine of reward or punishment. After death all things will be equalized and God will repay man according to his work.

Modena claims thus to have solved a problem which perplexed even the great. Every step in his theology is consistent. This doctrine was known to Moses who explained the problem to the sages and bade them expound it to the people. He adds that although this doctrine was denied by the Sadducees, the light of faith has at last shown over the people.

The Nature of Reward and Punishment

Modena affirms that being unable to penetrate into the essence of the soul, it is therefore impossible to comprehend the nature of reward and punishment. Refusing to speculate on this issue, he concludes: "it is sufficient for us to know that it (the soul) will receive good or evil in payment of its deeds."³³ God is compared to a king who favors those who do His will and punishes with suffering those who rebel against Him.

Modena further points out that "when we are steeped in materialism, we cannot conceive what will be pleasurable or painful when we shall be undivided, changed in quality, and of another nature!"³⁴ This does not prevent him from venturing a description of reward as an inner pleasure enjoyed by the soul. It consists in the knowledge and recognition of God's glory. There would be gradations in reward but not competition among souls. Punishment would consist of banishment to a dark place like a prison.

As De Reggio pointed out, Modena used *אני צדק ואני צדק* and forgets his earlier statement of the impossibility of ever knowing the nature of reward and punishment.

Summary of the First Essay

In this section the author states that he categorically reaffirms the dogmas of Judaism despite any objections that might be raised. Having stated with the Psalmist "I have chosen the way of truth"³⁵, nothing will induce him to change his position. If necessary he will "force his reason" to maintain these dogmas. Whether or not he is justified can be ultimately known only if his soul survives. If, in the life hereafter, he finds himself saved from the greatest evil of all and merits the highest good, his study and reasoning will have been vindicated.

This essay concludes with a description of the misinterpretation of the Torah. While many may accept the dogmas outlined in this essay, the critical discussion of

the Torah may meet with opposition. The author affirms that the revolutionary concepts that are to follow will appeal only to those who are pure in heart. He concludes dramatically expressing the hope that an intelligent minority will recognize the "truth" he is to promulgate.

II. The History of Tradition

This essay consists of an attack upon the oral law. Modena seeks to prove that rabbinic tradition constitutes a deviation from the Torah of Moses.

Rejecting both the systems of the Christians and the Karaites, Modena points out that only in Islam may we find an example of a religion faithful to the written law. The Mohommedans did not evolve a tradition over a period of centuries which had never been implied in the work of the founder of the faith.

The basis of Modena's arguments against the validity of the rabbinic tradition is the Deuteronomic statement: "Ye shall not add unto the word which I command you; neither shall ye diminish ought from it, that ye may keep the commandments of the Lord Your God which I command you!"³⁶ All the efforts of Moses designed to ensure the proper understanding of the revelation have been nullified by the rabbis. Both the Karaites and the Christians likewise failed to understand the true meaning of the written law. Modena

dismisses the Karaite method of literal interpretation as ridiculous, comparing the Karaite to the child who upon being asked for a "couple of " grains of salt, counts out exactly two grains. The Christian method of allegorical interpretation is rejected since it was used to dissolve arbitrarily all of the commandments the fulfillment of which entailed difficulties.

Modena claims that the "sages of the gemara" were not loath to exploit both the literalist and the allegorical interpretations of these two groups in their arbitrary legislation. When the rabbis insisted upon the observation of the laws of phylacteries they conveniently applied a strict interpretation of Nu. 15.37. They emulated the laxity of the Christians when they insisted that the law governing the "blue String" was not binding at all times and required in all types of clothing. In a sharply worded statement,

Modena wrote: *ד"ו ר' איוו חרר חכמים ד' חכמים
37: חכמים חכמים חכמים חכמים חכמים חכמים חכמים חכמים חכמים חכמים*

The author anticipates two arguments, first, that the explanations of the rabbis are part of a bona fide tradition originating with Moses and hence are incontrovertible, second, that the commandments are solidly founded on Scripture, since the authority to explain the commandments was rightfully given to the Beth Din and to the sages. The author maintains in refutation that rabbinic law is a conscious digression. It has no antecedents in history and genuine

revelation. "The tradition died close to the time of its birth and was not continued from the time of Joshua and beyond!"³⁸

Modena argued that Moses had given Joshua a number of explanations to the commandments of the Torah. With the entrance of the Jews into Palestine, those explanations were forgotten. He offers Scriptural proof of the waywardness of the people.³⁹ This sinfulness can be explained only as evidence of the fact that the people lacked proper understanding of the mitzvot. He compares the Jews of that period to the Christians. The latter practice idolatry, worship images, and deny God's unity without specifically denying the commandment "Thou shalt have no graven image"(Ex.20.4) Modena accuses the rabbis of ingeniously permitting the violation of the commandments, while insisting at the same time the people were being faithful to the law of Moses.

He claims that the leaders of the people forgot the Torah. Evidence for this fact may be found in the incident of the discovery described in II Ki. 24. The book of the law was new even to the High Priest who was alleged to be a "master of the tradition". Modena believed that the entire Torah had been forgotten during the Babylonian Exile and that Ezra gave the people the Torah anew. A significant point in this discussion was the assertion that the Torah now extant "is the one we have received not from Moses but from Ezra."⁴⁰ Modena observed on the basis of Neh. 8.14 that

the laws of the Succah were novel to the people. Moreover, they failed to enter into the spirit of the text and would take literally such phrases as "when ye enter the land" and "in all your dwellings". With the exception of the laws of circumcision and of the Sabbath, the words of the Torah had been lost.

While laying stress on the role of Ezra as the restorer of the law, Modena denies that this leader could himself be the author of the oral law. Ezra was so occupied with the problems of gentile wives, sabbath legislation, and the Temple service, that he could not possibly have had time to prepare the oral law which the sages attributed to him. Modena singles out for ridicule the claim of the rabbis that the custom of eating garlic on the sabbath was one of the "Ten Ordinances of Ezra".⁴¹

Modena avers that there is a parallel in the events following the death of Joshua and Ezra. In both cases the valid tradition was lost. For 120 years following the death of Ezra, the Men of the Great Assembly took liberties with the explanation of the Torah. This evil tendency was combatted by the sects of the Sadducees and Boethesians who rose in protest against the validity of the rabbinical pronouncements. The Sadducees were called into being because of this conflict over the oral law rather than the merits of the doctrine of reward and punishment advanced at that time by Antigonus of Socho. "The cause for their

quarrel was the fact that they observed the sages arranging a new Torah through the (hermeneutical practices of) "superfluous words", "lack", and "change" from the written text of the Torah of Moses which Ezra derived from the prophets" ⁴²

The Karaite movement was the culmination of this tendency to deny the validity of this tradition arising after the death of Ezra.

אברהם בן משה
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משה בן עמרם
משה בן עמרם
משה בן עמרם

Modena laid considerable stress on the arguments of the Karaites, although he denied Karaism as a movement asserting:

He traces the history of the conflict. The Karaites affirmed that in the works of Ezra and the prophets they could find whatever explanations were needed for the fulfillment of the Torah. They questioned why the rabbinic enactments if derived from Moses were not actually practised by the people. How could the rabbis set themselves up as authorities higher than Ezra and the prophets? The example of the phylacteries is cited. If this commandment had been a Sinaitic law and if, as alleged, Michal the daughter of Saul used phylacteries, how was it possible to dispute this custom at all and render Dt. 6.8 in any other fashion?

The rise of different sects during the period of the second Temple is, for Modena, sufficient evidence to prove the absence of a valid oral tradition. He scores the Pharisees in particular for splitting Israel into conflicting camps. The very birth of Christianity was brought

about by these attempts to interpret the law. "For it was Jesus' purpose to establish another sect in the expounding⁴⁴ of the law of Moses according to its essence as he saw it." Modena observes on the basis of evidence in the New Testament that one of the chief points of disagreement between Jesus and the Rabbis was a question of how stringent the enforcement of the law of washing the hands should be.

The utter ridicule of rabbinic legislation was another argument. The rigorousness of the rabbis which led them to extremism of the most objectionable sort was evidence that they were not sure the people would accept their laws as genuine. Hence the rabbis moved heaven and earth to convince the people that this legislation was inspired at Sinai. To demonstrate the absurdity of rabbinic legislation, Modena cites the claim that Abraham himself observed the laws of kashruth! Another argument against the existence of a valid oral tradition is the controversey within the ranks of the Pharisees themselves. Hillel, Shammai, and their disciples were divided on a number of major principles. From this it is evidence that "if they had had a clear tradition, there⁴⁵ would have been no dispute among them." All this is made abundantly clear in the Talmudic disputes over matters of prohibition, permission, divorce, and betrothal.

Having now demolished to his complete satisfaction the rabbinic claim to a valid, Mosaic tradition, the author now proceeds to refute the so-called scriptural basis of

of Talmudic Judaism. When the rabbis found no specific authority in scripture for their enactments, they endeavored to find support by using the opening wedge afforded in the verses "If there arise a matter too hard for Thee in judgment" and "And thou shalt do according to the sentence of the law which they shall teach you!"⁴⁶ Modena denied the power of the rabbis to derive authority from a loose interpretation of these verses. A proper reading of the Torah to his mind would indicate that interpretation was allowed only in those cases where a judge was needed. We could not expect to find in the Torah all the potential law-cases that might arise in the relationships of men. Hence the Torah itself provided for considerable lee-way for interpretation by judges, as "Then shalt thou arise and get thee up to the place where the Lord Thy God shall choose!"⁴⁷ While making this slight concession to a liberal reading of the law, Modena is still adamant in denying the right of the rabbis to alter the law in any way. No changes can be made in the Mosaic law which was given in a form easily understood by mankind. He again cites those references which seem to prohibit the development of an oral law supplementing the Sinaitic revelation.⁴⁸

Modena accuses the rabbis of undermining the Torah while claiming that their legislation was intended only as a fence about the Torah. They took the liberty of making original legislation. Many of their laws have no relevance

to Scripture. As examples, Modena cites the law prohibiting the blowing of the Shofar on the sabbath, where Scripture had merely issued the simple commandment that the shofar was to be blown. Moreover, the rabbinic prohibition against carrying anything for a distance of 10 cubits on Rosh Hashanah is not to be found in Scripture.

The author uses the term *גאון* arrogance, to characterize the rabbis who tampered with the Mosaic legislation. They usurped the authority of the Torah, placing their own decrees on a level equal with that of Revelation. Modena cites the opinion of a famous contemporary (identity?) that incalculable damage is done when men tamper with Divinely ordained law. In this imminent danger, Modena saw the justification for the ancient prohibition against writing down the oral law. Nothing should be done to supplement the written law. He recognizes that from time to time temporary dispensations must be made by the Beth Din. But in no event should such judgments become a precedent for a body of law parallel to the written law:

אלוהים יתברך
49 "גאון" /כ"ס /ה"א /פ"ד

This chapter ends on a mild note that stands in marked contrast to Modena's customary antagonism to the rabbis. He asserts that the sages of the Mishnah, the Gaonim, and the rabbis after them had no tradition and no authority for their legislation. They acted independently. While

there is a note of remarkable moderation here:

ואם ישנה נקודה של מתינות יוצאת דופן

Modena ends with a statement that the net result of their efforts was confusion.

Modena now turns to a consideration of the history and distortion of Judaism following the destruction of the Second Temple. During those changed religious conditions, a complete religious adjustment was the need of the hour. Unfortunately, the rabbis failed to meet this need. Instead of formulating a new Torah, founded on the Mosaic Code to serve as a pattern for life in the exile, they continued to multiply laws and restrictions without reason or sense of proportion. A great opportunity was passed by when the rabbis failed to implement a program for the Judaism of the exile. During the succeeding centuries, an abnormal type of Judaism was fostered which brought sorrow upon the house of Israel.

Of extreme significance (cf. Part IV) is the formula which the author of the Kol Sachal gave for religious reform. He asserted the need of modifying Judaism without sacrificing any of the essentials:

אין לשנות דבר מן המצוות

But it was at this point that the rabbis failed. "Where they should have broadened and lightened the burden of the detailed commandments, they, on the contrary, took over all that was associated with Pharisaism and added many more laws!"

Modena lists three principal evils which ensued from the rabbinic program of legislation: First, it entailed a waste of funds on the part of Jews who had to comply with their meticulous restrictions. Second, it made Jewish life unpleasant. Third, it contributed to the antagonism which the Jews everywhere encountered in the diaspora. These three major criticisms are constantly reiterated throughout the essay.

Modena's attack upon the rabbis was vitriolic. He accused them of seeking to dictate and to exercise dominance over their congregations. By the simple ruse of refusing to set down the oral law in writing, they were able to make themselves, the interpreters of this law, absolutely indispensable to the community. The masses of Jews had to consult them and by this means they maintained a position of honor and power.⁵³

He maintained that originally rabbinic legislation was not intended to be binding. Violation of that system of law was not to be considered as a violation of the Mosaic law and deserving of punishment of equal severity. That measure of stringency was only a post-Exilic development. The principle behind the Pharisaic legislation was "Sanctify thyself even in that which is allowed."⁵⁴ Comparing Pharasaism to the contemporary monastic orders of the Christians, Modena seems quite disposed to the movement. Theirs was a self-

imposed system of religious discipline. They separated themselves from the masses and voluntarily followed a system of rigorous legalism. Even in the days of the Second Temple, the Pharisees did not insist on the observance of their law by the masses. Unfortunately great importance came to be attached to this body of oral law, which was elevated to a position of equality with the Torah. As Modena wrote: "They said that everything they received came either from Sinai⁵⁵ or from the Prophets."

It is notable that Modena is favorably inclined to Rabbi Judah the Prince and to Maimonides. In their work he saw an attempt to bring order out of the chaos of the oral law. He believed that the Mishnah was an attempt to put an end to the accretions of rabbinic enactments. Rabbi Judah was animated by a high aspiration of freeing the people from the onerous necessity of consulting the heads of their communities whenever they needed an interpretation of the Torah. In the Talmud, however, Modena sees another step in the ill-advised program of the rabbis to maintain power. The prejudice of the Venetian rabbi against the Talmud was unmitigated. He asserted that the Talmud was the product of the experience of the Jewish people living among the Babylonians, i.e., the confused ones. Hence the rabbis compiled a book of Babylonian or "confused" practices.⁵⁶ The Scriptural verse most descriptive of the Talmud to Modena's way of thinking was

Ps. 143.3: "He hath made me to dwell in darkness!" In the Gaonic writings, the Tosafoth, the Poskim, etc. he sees only the unfortunate prolongation of the Talmudic hedging and controversey. Maimonides is highly commended as one who accomplished the almost insuperable task of organizing and systematizing Talmudic legislation, Modena deplores the fact that rabbinic commentators criticized the work of Maimonides and failed to appreciate the underlying motivation which animated his work.

At this point, Modena engages in a digression wherein he attacks the Kabbalah viciously. He affirms that it is only an invention which came into being 350 years previous to his day. The exponents of mysticism are brash when they insist that the Kabbalah was directly inspired by God. Their doctrines are as untenable as those of the Christians! He deplores the fact that the Kabbalah found such wide acceptance among the people and interprets its popularity to the pains the Kabbalists took to show that the Kabbalah has its sources in the Talmud.⁵⁷ Modena comments that in another place, i.e., the "Ari Nohem" (cf. below) he has discussed the matter in more detail.

The summary of his criticism of rabbinic tradition is contained in these words: "All that was ordained by the sages of the Mishnah and after them, which is not written in the Torah and not clearly stated in ancient custom, was without

doubt not in tradition!"⁵⁸ This chapter concludes with a reiteration of the author's conviction that rabbinic tradition contributed to the decline of Judaism. If this development had not taken place, the Jews would have enjoyed salvation.

It is significant that Modena does not deny the need for some means of clarifying the Torah. He now undertakes to establish the value of some tradition which will interpret the written law but which shall always be understood as only an elucidation. The intent of his attack on rabbinic legislation was not to deny the value of a book which would explain to the people those principles which are essential to the proper fulfillment of the law of Moses. There was a need to examine the fine points of the law, to determine what constituted their proper execution and to state the penalties incurred in the violation of the law. At this point Modena seems to hedge, for in all the previous discussion, the very necessity of the oral law was consistently challenged. Even more revealing is his statement that those customs which have survived in the life of the people ought to be preserved in writing. This is a qualification of his earlier position which he explains in this wise: "For there never was a people in the world among whom some political custom was not ordained for the fulfillment of its law and faith."⁵⁹

Despite this concession, Modena is adamant in his

assertion that the oral law must never be considered equal in binding power to the Mosaic Code. In the supplementary oral law, he sees a violation of the Mosaic principle, "Thou shalt not add to it" and in this, a wide source of damage and danger. Only through the addition of this body of law have the people been led to err. They have been persuaded to accept all the commandments, oral and written, as of equal importance and subject to the same punishment. As an example of this confusion, Modena cites the law concerning the eating of an apple with honey on the evening of Rosh Hashanah. Violation of this rabbinic law was held to be as serious as the violation of the Mosaic Law requiring the eating of unleavened bread on the evening of Passover. "One who transgresses a minor item of these additional laws is comparable to one who transgresses a major law commanded by Moses"⁶⁰

The multiplicity of these laws has the effect of causing God's people to sin. If the people were obliged to fulfill merely the written law they might have been saved. The verse "Thy people shall all be righteous; they shall inherit the land for ever"⁶¹ might have been fulfilled in their lives. Contemplation of the evils wrought by the oral law would "make the hairs of your head stand on edge"⁶² The written law in itself could easily have been fulfilled by the people. It was readily available to them, as evidenced

in Scripture. ⁶³ Modena contended that the purpose behind the act of the worshipper is to acknowledge God. He emphasized the generality ארבע as opposed to undue attention to minor aspects of the law ארבעה ארבעה again stressing the need for making the law less rigorous.

Modena attaches tremendous importance to this lenient view of the law. If the rabbis had been more tolerant, the entire course of history might have been altered. The author allows himself to be carried away on the wings of fancy to portray a picture of religious universalism. It was Modena's contention that a pure Judaism without the trappings of rabbinic legislation might have met the need for a universal religion. History shows that the world accepted the written law, i.e. the revelation of Israel in an altered and falsified form. This is obviously a reference to Christianity. But if the nations of the world had been able to cleave to a pure form of Judaism, the messianic era would already be realized. The world would have been converted to Judaism and the vision of the end of days materialized.

The world rejected Judaism, however, because it appeared to be impractical. Mankind was repelled by the ridiculous nature of rabbinic legislation. As Modena wrote:

65. *ה'קל"ה* *ה'קל"ה* *ה'קל"ה* *ה'קל"ה* *ה'קל"ה*

Moreover, because of the absurd nature of their religion, the Jews were degraded and enslaved. In a dramatic state-

ment, Modena asserted that rabbinic Judaism was the pillar of the exile, the chief source of the darkness and misery of Jewish life.

At this point Modena presents a brief introduction to the third essay. He will attempt to deal concretely with the "true obligation of every Jew who wishes to fulfill the Torah of Moses our lord, to observe and to fulfill without subtractions and additions." ⁶⁶ This new code of ritual will not include the commandments binding on those dwelling in Palestine nor those dealing with the conditions of Temple days. Such matters of speculation, he modestly leaves to the Messiah. With his coming, there will be no need for the sages to explain the law.

In the forming of the code, Modena first planned to consider the positive and the negative commandments separately and to follow the order of the Torah according to the weekly divisions. He concluded however by following the arrangement of The Turim of Jacob ben Asher, believing that this arrangement was more suitable for the life of the Jew in exile.

The final justification for compiling such a code is given in the concluding paragraph, wherein the author again states his zeal for truth and disavows any pretensions to heresy: "The Lord knows that not because of arrogance,

heresy, nor through an inclination to lawlessness, did my mind lead me to this, but only the criterion of truth and zeal for its establishment..⁶⁷"

Between the second and third essays of this volume, Modena inserted a portion of a letter written by Ibn Caspi to his son. Di Reggio explains that this letter was found in the original Parma manuscript in the handwriting of Modena. It is his opinion that the author included this excerpt because it tended to coincide with his own arguments and views. He noted the association of views between Modena and Ibn Caspi on the subject of milk and meat. It may also be noted that Ibn Caspi and Modena had a similar view regard-⁶⁸ing the superiority of the theoretical over the practical. The excerpt is permeated with a strong anti-talmudic bias. It tells of an incident which prejudiced the father against the bigotry of the rabbis. Ibn Caspi arranged a banquet and a problem of ritual law arose when a servant put a milk utensil into the pot of meat. Not being expert in matters of kashruth, Ibn Caspi went to the local rabbi for an answer. He was forced to wait for the rabbi's reply and in the meantime his guests necessarily had to remain without food. The letter, which is couched in somewhat sarcastic language, ends with the question: "Why are not a verse, a knowledge, and a study of the existence of God and His Unity equal⁶⁹ in importance to a point in ritual law?" This letter which

merely reechoes the anti-Talmudic prejudices of Modena does not present any valid new evidence or advance the theory further.

The remaining chapter of the Kol Sachal is a detailed critique of the Turim. Following the form and plan of Jacob ben Asher, Modena arranges a minimum code of religious practice. It consists of a summary and running commentary on the rubrics of that larger compilation. The summary below will consist of the essence of the code, while an analysis will be given in Part III of this study.

III. The Code

Orach Hayyim

Rising, dressing, toilet.

These matters should not be taught explicitly. Modena severely scores the rabbis for having made such detailed examination of these matters. The discussion in tractate Berachoth reflects shame on Israel, since even the most ordinary writers among the non-Jews would not think of setting such issues in writing. The criterion of aesthetic appeal is implied.

Washing the hands.

This is similarly a matter of accepted usage and was clearly implied in Ezekiel 4.13. The author inveighs against the stringency of the regulation, particularly of the

rabbinic statement: "Anyone who makes light of the law
of washing one's hands will be uprooted from the world." 70

There is no scriptural basis for this commandment other than the simple exhortation in Lev. 14.9. Certainly the thousand minor restrictions have no authority.

Fringes

For Modena, this is "a true and clear commandment." He would be even more rigorous than the Code. The rabbis are criticized for their lack of balance. They are totally lacking in judgment: $\delta\eta\delta$ $\eta\eta\eta$ δ_2 $\rho\delta\delta\eta$ η η

in judgment: י' נה משפט
זמ צדק
זמ צדק
זמ צדק

Modena would make the wearing of fringes the duty of every Jew at all times. This obligation rests upon all those who are subject to the fulfillment of the commandments. Scriptural basis for this stringent view may be found in Nu. 15.39, 40. In particular, Modena disputes the decision of the rabbis in legislating that the fringes must be worn only during the day. Numerous scriptural references are advanced in support of this argument, principally, "Thou shalt make thee fringes upon the four quarters of thy vesture wherewith thou coverest thyself. Modena interprets this as a commandment to adorn blankets with fringes.

He disagrees with the rabbis who made a distinction between laws dealing with "things" and laws dealing with "men". From his point of view, "only man is subject to

to the commandments, only he who is endowed with memory and intelligence".⁷³ He likewise has no sympathy with the rabbinic tradition which specifies the number and length of the threads of the fringes. It is interesting that Modena's code would allow for varying procedures in this instance. "All this ought to depend on custom and the change in such a minor detail as this should not determine whether it is fit or unfit".⁷⁴

The rabbis were also in error in the matter of the blue string when they asserted that the "purple-shell" was the only source of the blue-color. By laying so much emphasis on the purple shell, they neglected the intent of the commandment which was merely to provide a blue color suggestive of the blueness of the sky. In so doing, they violated the principle of not adding to or diminishing from the law as stated in Dt. 4.2. Historically considered, the regulation concerning the halazon was a late development.

The rabbis were lenient in their regulation that it was sufficient to wear the external fringes only in the hour of worship. Modena held that the fringes should be worn as conspicuously as possible. He questions the custom of wearing the prayer-shawl, wondering whether it was introduced in emulation of the Mohomedans, or whether the commandment had first been promulgated and then it was to be fulfilled in accordance with the Mohomedan custom.

The essence of Modena's criticism at this point is that the rabbis derived their laws from their own sources:

77/121312 P-13NN P-13N 72 121 72 121 '3
They had no right to take such liberties with the commandments of scriptural origin and to modify them as the potter shapes the clay in his hands. The changes they made entailed disastrous consequences.

Phylacteries

Modena is unstinting in his denunciation of the phylacteries as an "invention made without doubt by the Pharisees in the days of the Second Temple"⁷⁶ In Josephus and in the New Testament he finds support for this contention. Not content with this denial, Modena sceptically inquires whether phylacteries were worn by the King, the High Priest, and the peasants. Somewhat irrelevantly he suggests that the phylacteries ought to be called totafoth - frontlets.

In this connection he draws upon the Karaite tradition, maintaining that the refusal of this group to continue the custom proves that it lacks scriptural basis. Moreover, if the purpose of the phylacteries had been to remind Israel of the commandments, the alleged scriptural authority, i.e., Dt. 6.8, ought to have contained an explicit statement in the spirit of "Speak to the children of Israel and let them make frontlets and strips of leather."⁷⁷ A final objection is that the phylacteries are superfluous since the fringes

consider this prayer as primary. He himself is guilty at this point of the fault he attributes to the rabbis, i.e., sanctioning legislation which lacks scriptural proof. In the Shema, he finds a statement of the recognition of God. Because of its intrinsic importance, therefore, he includes it in the code.

The petition for one's needs from the Highest Source is the definition of prayer which Modena proffers. He recognizes that the system of prayers was not explained in the Torah. This may be accounted for by the fact that the sacrificial order was then practised. However, he is able to find a number of Biblical references to prayer.⁷⁹ In Daniel 6.11, 14, Modena finds scriptural authority for the custom of praying three times daily. According to his view, prayer involves the recognition of the dogmas of faith, i.e. accepting the yoke of the kingdom through praise of God, petition, confession, and supplication.

While recognizing the importance of the Shema, Modena does not accept it in its present version. Beyond the initial statement of God's unity, the Shema includes a statement of the conditions of fulfilling the commandment. These statements Modena believes to be out of consonance with the prayer. He considers the selections from Dt. 6.4-9, 11.13-21, and Nu. 16.37-41 to be irrelevant. Modena suggests the following formulation of the Shema:

"The Lord our God is One and I accept upon myself His Law and His commandments, for He will reward the righteous and punish the evil-doer. He brought us out of the land of Egypt and I shall remember Him all the days of my life." 80

Modena makes the same criticism of the text of the prayer for the tefillin and the mezuzah. He considers it irrelevant that these symbols should contain a statement of the law requiring their fulfillment. If such a statement was necessary, Modena suggests that the Ten Commandments might well have been included. The author criticizes the custom of including in prayers commandments which have no organic relation to the prayer and which in fact detract from its merit and value. As another example, Modena cites Dt. 27.8. He inquires whether it was necessary to include on the engraving on the pillar of stones the words: "therefore it shall be when ye be gone over the Jordan?" By this reductio ad absurdum, Modena attacks the reasoning of those responsible for the present text of the Shema:

אין מן מקום כנסת ק"ל זכר וזכרון
כ"ג זכרון וזכרון וזכרון וזכרון

The Eighteen Blessings

In addition to some significant changes in the wording, Modena would revise the present order of the benedictions. In the intermediary blessings he finds a confusion of specific and general prayers and a mixture of confession and petition:

ואת זכר סדר וזכרון זכרון זכרון

He comments ironically on the stringent emphasis the rabbis were wont to place on the introductory form "Blessed art Thou". Some of the prayers concerning the fulfillment of which the rabbis were most exacting, viz., "Creator of Light", "A Great Love", and "Redeemer of Israel" were nothing but inventions of the rabbis which had no transcendent importance. They were simply "great rocks hewn from the mountain of their own mind, nothing else".⁸³

One of his chief criticisms of the contemporary order of prayer was their tediousness. Modena was quick to point out that lengthy prayers lead only to a weariness of spirit:

לפניך יהוה אלהינו
84 85" פשוט לומר

Moreover, the rabbis did not act wisely in drawing up the present system of prayers. They are unintelligible to the masses of the people. The rabbis were thus derelict in their duty. "He who arranges commandments which are obligatory on the people ought to make it possible for a majority to fulfill them."⁸⁵

Modena recommends a short prayer which might be recited three times daily by all in a brief time. This would provide a minimum, while individuals would be free to add prayers and could draw from the Psalms for such supplementary works. The "Havenu" marked a step in the desired direction. However, the value of this prayer was vitiated because the rabbis engaged in typical pilpul and

laid down a series of minute restrictions for the recitation of this prayer. Modena would simplify the restrictions and stipulate merely that the prayers should be uttered in a clean place and that the worshipper should pray with the greatest possible degree of "intention", or "Kawannah". Such devotion was precluded when the prayers were lengthy and often superfluous. In general, it is the contention of Modena, that short prayers are most conducive to proper and meaningful worship. He cites Eccles. 5.1, "Therefore let thy words be few" as scriptural evidence for this opinion.

Public Worship

In this discussion, Modena stresses above all the importance of achieving unity and uniformity of religious worship among all Jewish congregations. He favors a single, central synagog for the community of each city. If this is impossible, he recommends that the number of synagoges should be kept at a minimum. Decorum was another desideratum. Modena recommended that the hazzan pray in a loud voice and that the congregation remain silent and concentrate on their prayers with great devotion. He appears to have a prejudice against Piyutim. If it is necessary to prolong the service, it is preferable to add prayers concerning the redemption, even to include matters dealing with the sacrificial system.

However,

86"וּבְיָמֵינוּ פ'ב'ב'ב' פ'ב'ב'ב'.

He recommends

that a single prayerbook be issued to include the cycle of prayers for the entire year. He also recommended that with the exception of the Day of Atonement, prayers should be arranged "with the greatest possible brevity so that they should not stay in the synagog more than one hour at the most." ⁸⁷ Modena strongly deprecates the chaos that exists in Jewish life with divisions into Ashkenazim, Sefardim, and Italians. He deplores the fact that at that time each one of these groups comported itself as though each had its own separate Torah.

Saving of Grace

The scriptural basis for this custom is Dt. 8.10. Modena finds that in their present form, the blessings are lengthy and petitious. He offers some abbreviated texts of ⁸⁸ prayers.

The Sabbath

Modena was especially articulate in his criticism of rabbinic legislation governing sabbath observance. In particular, the negative commandments are cited as a demonstration of the custom of the rabbis to make minute regulations. The rabbinic categories of work are dismissed as ¹⁶¹² *nigle*. He contends that the determination of what actually constitutes "work" can best be left to the judgment of the individual. All that is required is that the individual

be given certain guiding principles. Such a principle would be the one which holds that whatever is done by the agency of a man is prohibited. Thus for example, the scriptural law (Ex. 35.3) prohibiting the kindling of fire on the sabbath is intended to prevent men from engaging in the labor of cooking. By a device of Biblical interpretation, holding that the verb "kindle" applies only to the direct act of an individual, Modena claimed that scripture did not forbid the hiring of another person to light a fire. Moreover a fire could always be extinguished without violating the sabbath. Modena ridicules the rabbis who would prohibit this even in cases when property might be destroyed by fire.

It is strange that Modena has some words of praise for the rabbis in connection with their act of prohibiting commerce on the sabbath: *אין קנין ופירוש אין קנין*

He finds a Scriptural basis for this prohibition in Jer. 17.22, by equating the word "masah" burden with "nosheh" relative to commerce. ⁹⁰ Modena treats the matter of traveling beyond the "limit" of the Sabbath with leniency. However, he affirms that it is well to prohibit traveling more than a mile beyond the city since traveling in a lonely place outside a settled region is exhausting. His position here is obviously somewhat obscure. He affirms that all types of

of prohibited work should be rendered permissible when any case of sickness is involved.

In general, Modena would transfer the burden of authority from the rabbis to the individual. One of his most interesting generalizations is that "everything should be according to the just eye of the doer after he considers the principles, since "God seeks the heart (Sanhedrin 106b)"⁹¹ He reaffirms the necessity of observing the sabbath properly through prayer, the commandments, and all things that sanctify. Despite this reaffirmation, he does not categorically define the laws of the Sabbath, however. Nor does he make explicit his opinion on the matter of cohabitation on the sabbath which is mentioned here. He cites possible scriptural references for such a prohibition,⁹² but does not say absolutely what the law should be. He remarks, "And if he is able, one should not cohabit on the evening and day of the Sabbath!"⁹³

Rosh Hodesh

Observance of this festival is stipulated. However, the observance should be of only one day's duration. The reference in I Sam. 20.27, he interprets as merely a reference to the second day of the month. The custom of blessing the moon he finds to be contrary to the spirit of scripture. This practice has no relevance and no basis on Dt. 4.19 and Is. 40.26. This custom is for Modena merely another "source

of scorn and shame from our neighbors!"⁹⁴

Passover

Modena would greatly simplify the observance of Passover. From the vast array of rabbinic lore, he would extract the "essential of the mitzvah". According to his view, the rabbis neglected this and on the contrary multiplied laws for women to follow. In a sweeping denunciation, he commented: "All the silly burdens of searching for leaven, its removal, the cleaning and scouring of vessels, the kneading and punctilious preparation of matzoth are a waste and empty task!"⁹⁵ The eating of the matzah alone. Even the requirement that the son "must ask and inquire into the meaning of Passover" as stated in the Hagadah is not obligatory!

Counting of the Omer

This to Modena is a custom of slight significance. Scripture intended it merely as a means of fixing the date of Shabuoth. Actually these should be days of rejoicing. They are bound up in the spirit of the following festival which commemorates the giving of the Torah. Modena comments on the characteristic perversity of the rabbis who made this a period of mourning for the 40,000 pupils of Rabbi Akiba. The author ironically comments that perhaps only 39,000 was the actual number.

Holidays

Modena singles out for special attack the custom of

observing the second day of the holidays. He sees no justification whatsoever for the *שני ימים* when it is now universally recognized that we can determine exactly the date of each festival. Here too Modena suggests that the burdensome legislation of the rabbis "exhausts the money of Israel." Moreover, the observance of the second day is a violation of the key-principle in Modena's critique, Dt. 4.2

Fast Days

Modena maintains that the rabbis went to extremes in declaring fasts. They placed inhuman burdens upon the aged and the pregnant. Scripture itself had ordained merely one fast day each year. In commenting on this discussion, De Reggio points out that Modena seems to neglect the Talmudic law (Baba Bathra 62a) that no fast may be made binding upon the public unless the majority of the people are able to sustain it. The editor points out significantly that inordinate fasting was customary in Venice at that time but insists that Modena should have distinguished between temporary custom and rabbinic law.

The Venetian rabbi suggests that the Tenth of Teveth be designated as the fast day in commemoration of the destruction. He gives voice to the concept of inwardness in religious practice. In one of those infrequent positive affirmations, Modena states: "The essential is that we should repent not afflict our bodies without purpose, the principle

being, rend your hearts, not your clothing."

Rosh Hashanah

In this connection, Modena has words of praise for the rabbis and commends them for having set aside one day of the year for repentance "The most necessary balm for the soul." However, he has little sympathy with their prohibition against blowing the shofar on the sabbath. He would likewise question the worth and validity of the great burden of restrictions governing the shofar. He labels them in categorical and derisive language as *p'elam d'v'n*. In the custom of eating the apple and the kapparoth ceremony, Modena sees not only a "great folly but also a trace of heresy and idolatry reminiscent of the early gentiles, the followers of idols." ⁹⁷ Following in the same vein, Modena accuses the rabbis of a complete misemphasis on the festival legislation. They were punctilious in their restrictions concerning the form of the shofar but failed to observe laws concerning the much more significant matters of repentance, of brotherly love, and of personal morality:

C. ... 1228 1650

The Day of Atonement

In his revision of the Code, Modena would completely undermine the basis of rabbinic legislation governing the observance of this solemn day. According to ⁹⁹de Reggio he

speaks for a complete individualism that would be destructive of organized religious life. Modena would recommend a flexible principle for the observance of Yom Kippur. Each man should afflict himself by departing from that which was customary to him. Moreover, "it may be called affliction even when he does not complete the measure of his righteousness." ¹⁰⁰ The author would place more emphasis on the spiritual aspects of the observance

Succoth

Modena greatly relaxed the laws of Succoth. It was to be observed for seven days. No regulations were to be made concerning the form of the Succah. The holiday could be observed by spending a minimum of one hour daily in the succah. Moreover, Modena challenges the rabbinic insistence upon the requirement of the "myrtle". Commenting that both Lev. 23.40 and Neh. 8.15 refer only to "branches of thick trees", Modena holds that any branch may be used as it will serve as a reminder. Certainly there is no need for a "science of geometry in this connection."

Modena comments only briefly on the meticulous restrictions governing the Chanukah lights. Writing of the Laws of Purim, he comments ironically that the entire observance was made dependent upon the reading of the Megillah.

HOSHEN HAMISHPAT

Modena alters the order of the Turim at this point and

instead of considering Yoreh Deah, turns to this section of the Code.

According to Modena, much of the legislation in this section of the code is a perversion of Scripture. There is no justification for such detailed provisions. A court could easily render decisions in these matters. Somewhat irrelevantly Modena now introduces a statement reaffirming his belief that the criterion of reason must always be applied to the evaluation of laws: "It is sufficient to say that all judgment and responsa which are not founded on logical deduction and the balance of reason are vanity and a matter of deception."¹⁰²

As De Reggio points out, the discussion of the Hoshen Hamishpat is poorly organized.¹⁰² Modena has merely included a number of quotations from the work of R. Abner attacking and ridiculing rabbinic legislation. Modena did not hesitate to draw arguments even from such an avowed enemy of Judaism as the apostate Abner of Burgos (1270-1348). It is a coincidence that both Abner and Modena had something of the same character, both believing that man's actions are governed by planetary influence.¹⁰³ The statements included here are points of rabbinic law. Taken out of context they seem to justify sharp criticism of the rabbis, e.g. he who is desirous of not having his vows fulfilled during the year should recite Kol Nidrae early on Rosh Hashanah. De Reggio describes Modena's method of approach in these words: "He considers

all the laws and selects a few taken without thought of system which appear to him to go far afield from the line of justice"¹⁰⁴

YOREH DEAH

In commenting on this section of the Tur, the author accepts the rabbinic legislation only when it has specific scriptural authority.

He agrees that shechitah was hinted at in the Torah but rejects the legislation governing the condition of the knife and the techniques of slaughter. He also rejects the law requiring the examination of the lung as being without scriptural basis. He finds further, that there is no prohibition against "unlawful food" except as regards food intended for sacrifices. He comments that Lev. 7.24 specifies only animals rendered unfit by beasts of the field. Consequently such types of unlawful food would not include cases of ordinary broken limbs, beaten animals, or those having internal adhesions.

He unequivocally rules out of the code many laws which were intended only for the priesthood in Temple days. He questions the categorizing of the arm, the jaw bones, and the stomach as "kadosh". He refuses to accept the ban on fat. For his justification in this case he draws from Ibn Ezra's commentary on Lev. 7.24, where it was maintained that this law applied only to meat prepared for sacrifices. The

author rebels against the stringency of the rabbis, complaining that "they have brought us to the point where we may eat but half of the rear portion of the animal!"¹⁰⁵

He recommends greater leniency in the prohibition against eating blood. Here again by a strict interpretation of scripture, he attempts to circumvent the rabbinic law. He takes Dt. 12.16 "Only ye shall not eat the blood; ye shall pour it upon the earth as water" to mean that blood is forbidden only when it is present in such quantities that it tends to run like water. The rabbis are therefore not justified in requiring that the very last trace of blood be removed as far as possible. Another reason for this leniency is the fact that the small quantity of blood remaining in the animal after slaughter, does not constitute the "life" of the animal and there is no violation of Dt. 12.23.

It is notable that in some cases (cf. below), Modena is more rigorous than the rabbis themselves. In his code, all creeping things would be prohibited on the basis of Lev. 20.25. De Reggio suggests that the author sought to win the approval of his readers by an occasional measure of strictness.¹⁰⁶

Modena rebels against the laws governing milk and meat. The scriptural references against seething a kid in the milk of its mother¹⁰⁷ he takes only in their literal meaning. Here is more or less a renunciation of the traditional system of kashruth. Concerning this body of legislation

Modena wrote: "On the basis of this may we say that it comes to prohibit all meat with milk in cooking, eating and enjoyment?"¹⁰⁸ As a literalist, Modena refuses to follow the rabbis who interpreted the word "kid" to include all types of cattle and fowl. As before, Modena accuses the rabbis of trying to ^{waste} exhaust the money of the Jewish people in such burdensome legislation requiring extra expense.

His criticism against the prohibition of "bread of the gentiles" is most pointed. Entirely without scriptural basis, this law is unjustified and ridiculous. For Modena, it constituted an unreasonable segregation of the Jew. "It is a ridiculous fence that would deprive a man of what is indispensable to him at all times; since we are living in their midst and not one in a thousand can separate from them."¹⁰⁹ The restrictions against the preparation of food by gentiles he dismisses as a "broken fence of stone." Modena recommended a simplification of those regulations governing the carrying of food by gentiles.

The laws providing for the purifying of dishes are summarily dismissed also. They lack scriptural basis. To Modena it was idle to assume that the dipping of dishes would render them ritually proper. Modena makes the acrid comment on the blessing over the dishes:¹¹⁰

"לך יין וסוף" 1250 5 30 41

He is bitter in discussing the rules governing suspected wine. The rabbis who sought to intimidate the masses of

Israel, have sought to base this legislation on the Torah. In doing this they have merely provided another source of antagonism between the Jew and the Gentile. This custom has invited the hatred and resentment of the outside world. In a strongly worded statement, Modena comments on the alleged stupidity of the rabbis:

וְהַרְבֵּה שֶׁהָרַבִּים
הָיוּ כְּשֶׁהָרַבִּים הָיוּ כְּשֶׁהָרַבִּים
הָיוּ כְּשֶׁהָרַבִּים הָיוּ כְּשֶׁהָרַבִּים

In this vitriolic attack on the work of the rabbis, the author deplored the myopic vision of the "evil and sinful men of Sodom" who ordained that the drinking of the wine of gentiles was the greatest of all sins.

The section on idol worship is one of the most enlightening aspects of the essay. Herein is reflected his liberal view of Jewish-Christian relations. He enumerates three aspects of idol-worship which obtained in olden times. First, idols and images are forbidden in accordance with Dt. 13.18. Second, all conduct which derives from idol-worship is anathematized. Third, close association with gentiles should be avoided, especially during their hour of worship. These principles Modena acknowledges to have been necessary in their day. Moreover, they had proper scriptural basis in Ex. 20.5: "For I the Lord thy God am a jealous God." But Modena recommends that many of these restrictions may now be relaxed. All things which contribute to anti-Semitism must be eschewed. Stressing the fact that anti-Jewish feeling

runs high, Modena recommends this basic principle: "We must seek to find favor in their eyes as far as possible without transgressing our religion"¹¹²

While recognizing the validity of the restrictions against associations with gentiles, he nevertheless finds justification for a more liberal attitude in modern times. He contends that these restrictions applied only to the idol worshippers. The modern interpreters of the law should have realized that the contemporary neighbors of Israel, the Mohomedans and Christians, are in an entirely different category. Modena is surprisingly tolerant. He affirms that in modern times the anti-gentile legislation is irrelevant because those words "were not said concerning those who recognize God."¹¹³ Therefore, it would seem that much of the persecution of the Jew has been self-induced. The misfortunes of Israel in every age seem to stem from the oral law. There the enemies of Israel never fail to find a pretext for their anti-semitism.

Modena inclined to liberalism in regard to the taking of interest. According to his view, the Torah prohibited only usury, i.e. that which "bites" or interest on unreasonable terms, as in Lev. 25.37 and Dt. 23.30. Recognizing that the economic welfare of society is dependent upon the relationship of credit, the author would allow for leniency in such matters.

Dealing with the rubric "Magic, divination, and witchcraft", Modena merely cites a number of superstitions which the Jews adopted from other peoples. He likewise has little original comment to make on matters of personal hygiene. With regard to the laws governing menstruation, however, he points out that the Torah was explicit on this subject. The sexual hygiene suggested by Lev. 18.19 needed no further commentary, but here again the rabbis found an opportunity for composing tractates of law entirely superfluous to the needs of the individual Jew.

Modena challenges the authority of the rabbis to make dispensations for vows idly made. He seems to insist on a literal and absolute interpretation of Nu. 30.3. However, in the phrase "according to all that proceedeth", he sees a pretext for giving the court power to make releases from vows on rare occasions. The rabbis are guilty of utter license when they make releases at their own discretion. There is no authority for this leniency.

The honoring of parents (cf. above Part III, A) is a matter which Modena takes as a derivative from "natural religion". Further legislation would be redundant. He ridicules the enactments of the rabbis concerning the "rebellious son."

In discussing the concept of Talmud Torah, Modena seems to veer from his usual adherence to the literal meaning

of the text. Rather than interpret Dt. 6.7 literally, he asserts that the time for study should be dependent upon the particular circumstances of the individual.

Charity likewise belongs to the realm of natural religion and requires no systematic legislation. Charity too is largely a matter of individual judgment. It is notable that Modena places considerable emphasis on the role of the preacher in stirring up enthusiasm for charitable works. He perhaps is speaking out of his own experience in Venice.

On the subject of circumcision, the author suggests that the rabbis failed to develop proper legislation. They neglected to stress the proper study of anatomy and skill in the art of circumcision. Moreover, they legislated concerning the uncovering of the corona, a matter which had no scriptural basis.

Modena in commenting on the rubric "slaves" points out that the Jews themselves are "slaves of slaves". In view of this statement, his recommendation that *Jews should not rule = slaves* "we should not rule over the peoples" seems somewhat obscure).

To the Venetian rabbi, rabbinic law was largely a matter of "tearing down and destroying" ¹¹⁴ This was particularly true in their legislation concerning converts. The rabbis should have recommended but not insisted on the prerequisite of circumcision. Modena points out that in the Torah, this

ceremony was not held to be indispensable for the "gerim". If the rabbis had not been so rigorous on this matter, many peoples might have been converted to Judaism and thus our "salvation" would have been hastened. He laments the rabbinic legislation which decreed that the property of the convert was outlawed. Thus by their own actions, the rabbis have hindered the growth of Judaism. Modena sees in the Talmud an unsurmountable obstacle to the progress of the Jewish people. It has poisoned the relations of Jews and gentiles. He writes: "I have always known that the science of the Talmud is really one of the pillars of the exile, which support and maintain us in our exile."¹¹⁵ It is interesting that ~~de~~ Reggio avers that Modena's libel of the Talmud as the "Laws of Sodom" has no foundation. Moreover, there is no occasion for Modena to appeal to God to remove the Talmud from the midst of Israel. The editor maintains that the rabbis themselves allowed for the adaptation of the Talmud¹¹⁶ to the needs of the day."

Modena boldly denies the institution of the mezuzah. It is entirely without scriptural basis and was not customary among the people in the early days.

He is stringent in regard to laws governing the mixing of materials in clothing. By a literal interpretation of the word "alecha" in Lev. 19.19, he asserts that the prohibition against mixing wool and flax applies to bed covering as well

as to clothing.

Visiting the sick belongs in the category of the "natural commandments." While insisting that this commandment is evident, Modena nevertheless goes on to suggest that one is obliged to serve the needs of the sick as well as to exchange greetings. He specifies certain duties which in view of his own argument ought to have been patent to all.

He asserts that in matters of mourning, one should follow the custom of the land. In the Torah the chief concern was that the mourner should come to recognize the justice of God. De Reggio feels that Modena's point is justified.

EBEN HAEZER

It is the contention of Modena that the rabbis laid far too great a stress on the importance of marriage. While it was the intent of the Torah to make the institution a matter of individual concern, the rabbis elevated the marital obligation to a place of supreme importance. With no attempt at objectivity, Modena attacks this emphasis. His statements may well reflect his own personal circumstances. He belabors the rabbis because "they darkened our eyes and oppressed our souls to waste our money and our bodies, causing us to live in poverty and affliction, filling us with sins and transgressions (forcing) us to feed and sustain a wife and sons,

millstones around the neck"¹¹⁷ In a somewhat hyperbolic statement he asserted that all our misfortunes stem from the rabbinic insistence upon marriage.

Modena would unequivocally abolish the institution of priestly and Levite division. These classifications no longer have any virtue in Jewish life and hence there can be no distinctions between Jew and Jew. With the destruction of the temple, those titles have lost all real justification. He also questions whether it is possible to trace one's lineage directly from the days of the Temple. The life of Israel in Exile has obliterated all such distinctions. Those laws listed in Kiddushin and Gitin, the purport of which was to heap honors on the priesthood, have all been nullified by history.

He heaps abuse on the rabbis for their legislation concerning women. Those laws deal with matters he considers indelicate. He is most outspoken against certain statements which he feels pervert the mind of the young. Nothing less than the complete excision of these laws from the code is recommended. As they are, they constitute a "disgrace and a derision to our enemies."

He is similarly intolerant of the legislation governing marriage agreements. Here again the rabbis heaped law upon law. Modena dismisses the entire tractate of Ketuboth arbitrarily as containing:

118' אגדה ופסוקים פ' אגדה פ' אגדה

Modena calls the rabbis to task for the liberties they took with the legislation governing divorce. According to scripture (Dt. 24.1) divorce is possible only in cases of adultery or immorality. But the rabbis decreed that divorce was possible even on a pretext as slight as the burning of the soup. However, the actual procedure of granting the divorce was much simpler in Scripture than in the oral law. The rabbis heaped law upon law providing in minute detail for the manner of writing and delivering the bill of divorcement. The slightest infraction on these laws would render the divorce invalid. If the purpose of the rabbis was to discourage divorce, they might well have followed scripture which limited the grounds for divorce. Their underlying motive, however, was to maintain their power over the Jewish community. The people would be forced to come to them for an interpretation of the highly involved procedures necessary for the securing of a divorce.

In discussing the levirate marriage and halitzah, Modena comments that the rabbis have misplaced the emphasis. Where the Torah made "yibbum" the essential matter and commented only incidentally on the ceremony of halitzah, the rabbis reversed the procedure. The Venetian rabbi objects strenuously to the custom of compelling halitzah. He accuses the rabbis of adapting the Torah to the needs of the moment in accordance with the ways of the Christians. They laid

great stress on halitzah because in this connection there was a wider field to expand their legislation and consequently add to their power over the community. That to Modena is the "secret underlying the whole matter." ¹¹⁹

Modena now introduces a plea for the arguments he has advanced. He confesses that he could not tolerate the evils of Talmudic Judaism and was compelled by inner force to make this statement. Realizing that this statement will evoke a storm of controversy, he comforts himself with the hope that "who knows but that it will reach and be seen by some individual in a generation free from the plague of folly, custom, and pride, and it is sufficient for me if I avail one in a thousand wise men." ¹²⁰

B. The Roar of the Lion

Introduction:

The second volume of the Behinat Hakabbalah consists merely of two brief chapters which purport to be a refutation of the arguments advanced in the Kol Sachal. According to Dr. I. Sonne, the reply is based entirely on the Kuzaria. ¹²¹ It ends abruptly without fully developing any arguments. The place and significance of this work will be discussed below

in Part VI.

Chapter One

The author calls the composer of the Kol Sachal to task for accepting the methods of interpretation used by both the Karaites and the Christians. He strongly reaffirms that the Torah may not be understood without some additional explanation. In the case of the Mohommedans, cited in the Kol Sachal, an allegoric interpretation was forbidden. The founder of that religion made this enactment because he was conscious of the weakness of his people. In the case of the Christians, no new Torah had been granted. Jesus merely reiterated the Torah of Moses in its extant form. Those who followed him were anxious to separate themselves from Judaism. In order to effect this separation without seeming to repudiate Jesus, they were compelled to interpret those laws symbolically. The written revelation of Israel is still unique.

Modena maintains that "every letter and every yod"¹²² lends itself to interpretation". Scriptural basis for this view is afforded in Dt. 6.4, the import of the passage being that a new understanding of scripture must constantly be sought. According to this view, the Torah could not have survived without undergoing a constant process of reinterpretation.

The position of the Karaites is held to be completely untenable. Modena quotes from the Kazarie to prove this contention: "We and the Karaites as well as all who acknowledge

that the Torah is to be read in the commonly accepted fashion are obliged to accept it (i.e. tradition).¹²³ If a tradition was necessary for the proper pronunciation and accentuation of the Torah, it was all the more essential in the process of fulfilling the commandments.

Modena maintains further that Moses himself was instructed in the oral law. During the forty days and nights spent on the mountain, the fine points of the law were expounded to him. The words "that thou mayest teach them" in Ex. 24.12 and "make them know" in 18.16 are taken to mean the oral tradition given to Moses. It was God's intention to reward those who studied and interpreted His word. Men have no right to question God's ways.

The Venetian rabbi affirms that the "destroyer", i.e. the author of the Kol Sachal, was forced to concede the existence of an oral tradition. The objection to the genuine character of this tradition is now discussed.

Chapter Two

Modena denies that prophecy ceased in Israel. He asserts that in every generation there was a great prophet who was the first to establish the tradition and a list of such prophets is given. In every case these men transmitted the Torah to the elect of each generation. The failure of the people to observe the Torah is no proof of the absence of a valid tradition (cf. Kol Sachal, p. 22). Moreover, the

law-book discovered by Hilkiah was not completely new to the king. On the basis of II Ki. 22.13, it is evident that the king had previously know of the rebuke. The Sefer Torah and its explanations were not forgotten by them.

He also affirms that the commandment concerning the Succah was not new; the people merely became more diligent in its observance. The holiday had been consistently observed throughout the generations, although the spirit of rejoicing characteristic of the days of Phineas, Samuel, David, and Solomon had been lacking. A similar difference in the spirit of holiday observance was noted in the case of Passover as shown in II Ki. 23.22.

The book ends on a rather obscure note with a reference to the refusal of the author of the Kol Sachal to accept the rabbinic enactments and his scornful rejection of the law requiring the eating of garlic on sabbath evenings.

The arguments listed here are obviously weak. The only valid point is the fact that if we accept the traditional system of reading the Torah, we must similarly accept the traditional system of interpreting that Torah. This is entirely unoriginal, being drawn from Judah Halevi. Modena again proves himself to be the eclectic (cf. below).

PART III

A Description of the "Voice of the Fool"

A. The Criterion of Reason; Its Use and Sources

One of the chief characteristics of the Kol Sachal is the continued reference to reason. This was especially true of the first essay on the "Dogmas" and other references to the so-called primacy of reason are to be found in the Code. Our task in the present chapter is to evaluate Modena's use of reason, to consider the harmonization of reason and revelation, and to suggest possible sources in the contemporary Jewish and non-Jewish modes of thinking.

At first sight it appears that the author of the Kol Sachal aims to arrive at a purely rationalistic philosophy of religion. The mood of the opening essay suggests a thoroughly critical approach devoid of all a priori conceptions. The author is going to imagine himself isolated from the society of his day and independent of their beliefs. With some traces of romanticism, he depicts himself as living among people who have no religion nor tradition. He avers that he will attempt to arrive at a system of religious belief merely on the basis of his rational powers. On the basis of
124
deductions from purely observable phenomena. This auspicious opening is paralleled by the statement concluding the

chapter. The author concludes with the proud assertion that he has discovered a theological system free from inner contradictions and false views after a discipline of insight and reasonable deduction.¹²⁵ Other references could be cited which indicate that the writer wishes to demonstrate his dependence upon reason rather than tradition or authority. His aim is to arrive at a theology which will be valid and authentic when subjected to that most exacting criterion. That aim was fully realized for the author has arrived at a completely consistent and harmonious philosophy. Concerning the dogmas, he writes: 126'נִסְתַּחֲמֵם לְפָנֵי ה' וְלֹא יִשְׁתַּחֲוּ לְבָנִים

This allegiance to reason is not adhered to throughout the discussion, however. It seems likely that the writer was interested in winning support for the dogmas on the part of those who were wont to apply the criterion of reason. For himself, reason was definitely not the last and final authority. As a matter of fact, Modena is more of the harmonizer than the rationalist. He follows in the tradition of Saadya¹²⁷ and of Thomas Aquinas. He is actually concerned with a vindication and reaffirmation of the teachings of revealed religion. This concern is betrayed by the author himself when he states that he is happy to have verified his faith through reason 128'וְעַתָּה יָדַעְתִּי כִּי אֱלֹהֵינוּ יֵשׁ. In another case he expresses his manifest satisfaction that his belief in

God has been verified: ¹²⁹ 231 107 5 1113N 15 1111N
p8163

There is conclusive proof that Modena was chiefly concerned with the substantiating and fortifying of the accepted dogmas of religion. No one alleging supreme loyalty to reason, could permit himself to make the strongly polemic statement that: "I am no longer concerned nor will I listen to them and I shall seek to force my reason to stand upon my present position!" ¹³⁰ This categorical statement stands in marked contrast to the spirit of the opening statements. It may be observed in this connection that in discussing the dogma of the creation of the world, Modena flatly refused to "reflect on the purpose of the Creator."

Modena is soon compelled to alter his position and to affirm that reason has definite shortcomings. To arrive at ultimate religious truth one must necessarily look beyond the scope of rationalism. It is only a tool. There must be some outside source where man can turn for the guidance that he needs. In a clearly worded statement, Modena confesses: "How can the reason of earthly man in itself be a source of the order and the law concerning all the affairs and happenings of men and how can he have insight into the secrets of nature, of things that exist, that are coming into being and that will evolve in the future?" ¹³¹ This is an unqualified and unequivocal statement of the insufficiency of reason.

This leads to a complete reaffirmation of revelation

for without this extra-human source of inspiration, man is totally bereft of all hope of salvation. Man is unable to discover by his own means the way of life that will be most pleasing to God. It becomes necessary to teach men and inspire them with deeper intuition into the nature of God's will. In view of this manifest need, the Torah now is seen to be indispensable to the world. Through the union of reason and revelation, man's salvation is assured.

Modena nevertheless does not insist upon the acceptance of the Torah as a dogma in itself. He seeks to prove that reason will lead us to an acceptance of the Torah. Two proofs for the rationality of the Torah are offered: First, the fact that it has gained wide, axiomatic acceptance; second, the fact that the Torah contains certain intuitions which are natural to all mankind.

The Torah of Israel is held to be authentic because all mankind accepts it as valid. Modena thus employs the logical criterion of universality to prove his case. As he writes: The proof of the completeness of this "Torah" is the fact that from the time it was revealed to the world, every people and every congregation desirous of arriving at justice, truth, studied and derived much from it." ¹³² He refers to the roots which all mankind accepts. The second justification for the Torah is the fact that it is logically acceptable and contains the "natural religion" of men. There is

nothing in the revelation that cannot be measured in the
scales of reason.¹³³

The occurrence of the term "natural religion" presents an interesting problem. The author uses the term in the essay on the Dogmas and also in the Code. He employs it in the Deistic sense, as connoting those simple principles of religious insight which stem from the very nature of man as a rational being. Thus for example, Modena points out that by nature men have an inclination towards a belief in immortality. He writes: "Nature, which does nothing without a purpose, has implanted within the consciousness of man a longing to live for ever."¹³⁴ He also refers in the Code to certain commandments which also seem to flow from the very heart of man without resort to revelation from a super-human source. The honoring of one's parents is founded on natural religion (p. 58). Again, charity is taught us by natural religion, and similarly, he refers to the visiting of the sick as a "commandment of natural origin."¹³⁵

Our problem is to determine the import of the use of this term. De Reggio tries to prove that Modena was actually concerned with the formulation of a world religion based on the essentials of "natural religion". As he wrote: "Modena was always hesitant to touch upon the differentiation of the Jewish people from the rest of humanity. On the other hand, he sought with all his force to remove the partition

that separates between Israel and the peoples and to nullify the differences between various creeds and faiths until all mankind would be united in the essential dogmas!"¹³⁶

It is conceivable that these scattered references to a religion based on man's inherent reason may reflect the Deistic movement. Prof. Samuel S. Cohon has suggested the possibility that Modena may have been influenced by incipient currents of thought in the larger world in that direction. According to this philosophy, religion is immanent in the very nature of man. That concept came into a rebirth at the time of the Renaissance and culminated in the enlightenment movement. The term occurs in the famous work of Francis Bacon "The Advancement of Learning" published in 1605. It also appears in the works of Grotius (1583-1645) and Descartes (1596-1650), writers who were contemporaries of the Venetian rabbi. The classic document of Deism, "De Veritate" was published by Lord Herbert of Cherbury (1583-1648) in 1624. Cecil Roth has furthermore shown that Modena was in contact with the leading intellects of England at that time.

It also cannot be denied that reason was the characteristic spirit of the age (cf. Part I). J. D. Symonds has written: "The Renaissance was the liberation of reason from a dungeon, the double discovery of the inner and outer world!"¹³⁷ These currents may have operated in the thinking of

Modena and hence the hypothesis that the Kol Sachal contains an appreciation of Deism may be valid.

However, it is necessary to raise the question whether the numbered references to "natural religion" are sufficient evidence for this interpretation. This movement stood in opposition to revealed religion and affirmed that reason alone was the absolute standard. Modena, while emphasizing the value of reason, did not go this far. The whole point seems to hinge about the relative importance and sufficiency of reason. This indeed was the moot question of the age of Modena. As Gwatkin wrote: "The pivot of the whole controversey is the disputed question of the sufficiency of natural reason to establish religion and enforce morality, a sufficiency as vehemently asserted by the Deists as it was denied by their¹³⁸ opponents." Nevertheless, if Modena's position cannot be equated completely with Deism, he must have been strongly influenced by the current emphasis on reason. He felt the impulsion to defend religion on rationalistic grounds. And the Kol Sachal may therefore be viewed as a possible reaction to the spirit of the age. In the Exemplar Vitae Humanae, however, we find a complete break with revealed religion and a total identification with Deism. If these two volumes have a common authorship (cf. Part VI) it may be concluded that in the latter volume published in 1640, the author had a change of heart.

In addition to the possibility of Modena having been influenced by the Deistic movement and the current rationalistic emphasis, it must also be considered that Jewish sources earlier than Modena contain a significant trend in this direction. He may well have employed the term "natural religion" from these sources without fully subscribing to the complete implications of the term.

The concept of "natural law" was known in the ancient world. As Georges Gurvitch pointed out, the Greek philosophers recognized the existence of a law grounded in the innermost nature of man.¹³⁹ The Stoics attempted a classification of religion and isolated certain beliefs which they found to be common to all cults. These they called natural religion. Cohon has quoted the significant statement of Cicero in De Natura Deorum II, 4f: "All nations agree that there are gods; the opinion is innate, and, as it were, engraved in the minds of all men."¹⁴⁰ Not only the Stoics, but the classic Greek philosophers Plato and Aristotle were conscious of the a priori element in law and religion. Jewish sources seem to reflect this concept. Saadya and Bahia recognized the "religion of reason. It is also possible that Modena may have taken the term from Albo who stated in his "Ikarim":

וְהַיְתָּא דְּהַיְתָּא דְּהַיְתָּא דְּהַיְתָּא דְּהַיְתָּא
 141/1226 53 p. 22 יְהוָה יְהוָה יְהוָה
 It is germane to observe furthermore that a number of Talmudic references indicate that the rabbis recognized the existence

of certain moral laws deductible from reason. "Had not the Torah been revealed we might have learned much of its ethical message from nature; chasteness from the cat, avoidance of theft from the ant"¹⁴².. Similarly it was stated that "Had they not been written in the Torah it would have been necessary to write them down"¹⁴³ The concept of the Noachian Laws, i.e. laws binding upon all mankind even before the revelation on Sinai, also figured prominently in Jewish tradition.¹⁴⁴

An ultimate conclusion, therefore, as to the sources of Modena's rationalism is difficult. It may be reasonable to observe that the author of the Kol Sachal was influenced by two forces, the contemporary trend towards Deism and the immanence of Deism in classic Greek and Jewish traditions.

Beyond this concern with rationalism, the statement of the dogmas has little import. Modena admits that his conclusions are not unconventional:

אם לא נחזקת דבריו נראה מן הדין "145"

His formulation of the dogmas in fact seems somewhat out of accord with the spirit of the Kol Sachal. The present writer could see no organic unity between the first essay and the balance of the Behinat Hakabbalah.

B. The Return to Scripture; Sources

The burden of Modena's arguments in favor of religious reform rests on the basis of a return to Scripture. As we shall observe in discussing his philosophy of halachah (cf. below section D), Modena established the distinction between Scriptural and secondary law. The Torah provided the chief source for religious law; all else was a matter of explanation and amplification. By no means was the explanation ever to be considered as tantamount in importance to the original Scriptural source.

The dominant theme of the entire work was the statement in Dt. 4.2 which established the principle that nothing should be added or detracted from the Torah. With this guiding principle in mind, Modena sought to challenge the basis of rabbinic law and to reduce it to a place of minor importance. The author recognized that at one time in Israel's history there was a bona fide system of oral law. It was inspired directly by God and was intended to enable mankind to understand the written revelation more thoroughly. That the Torah demands clarification is a fact which Modena did not deny. He cited numerous references to Scripture which demonstrated clearly enough that in itself the written law was not always explicit and that frequently people were led to sinfulness through lack of understanding the law. In view of this

fact, an oral tradition is needed to examine the fine points
146
of the law. He would therefore have no objection to the
composing of books which would serve as supplementary guides
to the proper fulfillment of the Torah. Moreover, customs
which may arise in the life of the people ought to be pre-
served in writing.

This concession to the principle of oral law does not,
however, mitigate Modena's antagonism to the Talmud and the
diverse compilations of rabbinic law. He rejects arbitrarily
the authority which tradition has placed in the Talmud. For
the extant oral law has failed its real purpose. It has
actually become primary in importance and frequently its expla-
nations have perverted the true meaning of Scripture. The
rabbis have relegated to themselves the authority that properly
belongs to the Torah alone.

Moreover, the present tradition is to be challenged
as to its validity. Modena denies that there is any genuine
link between rabbinic legislation and the original oral law
given to Moses. That original law was lost following the time
of Joshua. The interpretations of Ezra which might have been
valid were similarly lost and misconstrued following his demise.

Therefore, in order to reduce the present tradition
to a position of minor importance, Modena addresses himself
to the task of proving that it was a deviation from the Torah.

He claims that it was a spontaneous and entirely original creation of the rabbis.

The first argument is drawn from history. The very existence of the sects and the constant disagreement over matters of scriptural interpretation is evidence that this tradition was not genuine. The Sadducees and the Boethusians alone had vision enough to realize the danger that was imminent in this tradition. They saw that the rabbis were arranging a new Torah and consequently set themselves to the defense of the Scripture itself. Even sects and divisions within the Pharisees were called into being by this condition.

The lack of a genuine tradition gave rise to Christianity. According to Modena's hypothesis, if the method of explaining the Torah had been explicit in the days of the Second Temple, there would have been no occasion for Jesus to establish another system of interpretation. The total effect of rabbinic tradition was obviously to introduce confusion and preclude the proper fulfillment of scripture.

The second argument against the validity of rabbinic legislation is somewhat rationalistic. Modena reasons that the very rigorousness of rabbinic legislation is proof of its invalidity. The stringency of the rabbis reflects merely their own fears lest the people reject their decrees. Their attempt to justify the Sinaitic origin of such laws as deal

with the preparation of meals for the sabbath on a holy day occurring on a Friday, etc. betrays the ultimate weakness of their position. Thus Modena uses a process of *reductio ad absurdum* to establish his case. He believed that rabbinic legislation was something in the nature of a fraud which had been perpetrated upon the unthinking masses of Israel during the centuries following the exile.

The very motivation underlying the rabbinic tradition was sordid. Modena at times seems to look upon the Talmud as part of an underhanded scheme of the rabbis to maintain power over the masses. Through the agency of the oral law they sought lordship over the congregations, for they were indispensable in its interpretation.¹⁴⁷

Another reason for the rejection of rabbinic legislation was the fact that it entailed a heavy expense. The rabbis had been completely oblivious to the needs of their people. The refrain "wasting the money of Israel" occurs¹⁴⁸ frequently throughout the work. This objection is somewhat difficult to explain, but may be only a reflection of Modena's own persistent financial embarrassment.

We can only speculate concerning the sources of this criticism of rabbinic tradition. One possible explanation would be that Modena was strongly influenced by the Karaites.

This sect professed to follow the Bible to the exclusion of rabbinical laws and traditions. Its spokesmen challenged the validity of rabbinic law and insisted that the Bible was the only source of religion. At times Modena's arguments seem to parallel those of the Karaites rather closely. In one point of law re: the phylacteries, he states frankly that he is following the Karaites. He sympathizes with their position in refusing to accept a custom which did not have its basis in Scripture. In our classification of the laws of Modena's revised code we may observe a number of points wherein his stringency is strongly reminiscent of the strict constructionism of the Karaites. While there is a definite relationship between Karaism and Modena's thinking, it cannot be asserted, however, that Modena was a Karaite in outlook. He seems to frown on their method of interpreting Scripture. At one point he dismisses the Karaites along with the Christians, being equally intolerant of the rigorousness of the former and the laxity of the latter. He states frankly that his criticism of rabbinism may give rise to a misconception:

Modena uses Karaite arguments only when they serve as a buttress to his own resentment towards certain Talmudic laws. By and large, however, Modena is willing to accept much of the rabbinic tradition with the reservation that it be considered merely as secondary and supplementary to Scripture.

Another possible explanation for Modena's stress on the primacy of Scripture is the influence of the contemporary Reformation (cf. Part One). Modena may have been applying to the institutions of Judaism, i.e. the Talmud and the rabbinate, the same criticisms that the incipient Protestants were leveling against the medieval church. At least the spirit of Modena's polemics against the rabbis is reminiscent of Luther's and Calvin's attack upon the papacy and the evils of the Church system of commercialism. It must be recognized that Modena lived during a time when the return to scripture was a leading motif in religious thinking. If it is true that he visited England,¹⁵⁰ he must have come into intimate contact with men imbued with this point of view. His attitude may therefore reflect the current emphasis on a return to pristine religion as opposed to the forms and institutions of the church. A significant comment by Symonds may afford the clue to the problem presented by Modena's almost inordinate emphasis on the written law. Speaking of the spirit of revolt that was so characteristic of the Renaissance, he wrote: "Men found that in classical as well as Biblical antiquity existed an ideal of human life, both moral and intellectual by which they might profit in the present."¹⁵¹

It is also possible that Modena's view reflects the Deistic attack upon revealed religion. His animadversions

against the rabbis may reflect the Deistic prejudice against
the priesthood.¹⁵² It seems far more likely, however, that
these references stem from a personal experience with the
rabbinical leaders. There is a note of personal resentment
and bitterness which suggests this hypothesis. If it is
true, as will be suggested in Part VI, that the Kol Sachal
is an eclectic work containing stratum from the works of
Uriel Da Costa, then it is altogether possible that these
animadversions reflect the frustrating experience which da
Costa had with the rabbinate of Amsterdam (cf. below).

The general sources of the return to Scripture may
well have been, then, Karaism, the spirit of the Reformation,
and the trend towards Deism. It must not be forgotten, how-
ever, that even in Modena's days there were sects which
carried on the Sadducean tradition. Dr. I. Sonne has called
the writer's attention to a passage in the "Chain of Tradition"
by Gedaliah ben Yachya which points to the existence in
contemporary Holland of sects following the simple explana-
tion of the Torah.¹⁵³ What contact, if any, Modena had with
these sects is only a matter of speculation.

A. The Proposed Halachic Reformation

I. Guiding Principles

Our present task is to analyze the underlying philosophy of law of Modena in the revised Code. It has already been observed that Modena did not reject the oral law in toto. He merely established the primacy of Scripture as the source of religion and recognized considerable room for the explanation of the "commandments". He affirmed that rabbinic law was a deviation from Scripture. This contention, however, was not directed against the validity of the oral law, which he wished to retain but with significant reforms in attitude and in practice.

The most outstanding feature of Modena's philosophy of halacha was his distinction between the major and minor elements in law. Those laws which have a specific Scriptural basis are accepted as being of major importance. All rabbinic legislation is relegated to the secondary category, and its enforcement is therefore less stringent. The essential task is to discriminate and determine what is essential in the great mass of rabbinic lore. Thus he states that the religionist must be governed by the "general principles". His only responsibility is to these basic elements of religion; all else is of minor significance. Modena stresses this point observing that one should seek for : *לדבר הכלל ולא הפרט* 154

Therefore the aim of his revision will be the determination¹⁵⁵ of what constitutes the essence of the requirement of the law. In this reformulation he states that many changes will necessarily be made, yet there will be no deviations from the essential and significant elements of the law. The criterion he will follow is modification:¹⁵⁶ "מבדיל סוּר מִתְּקִין"

The religious life should therefore be devoted to what is of major import. Only those central and basic elements are to be made binding upon all the people. No one may consider himself free from a responsibility to that law. Whenever rabbinic law tends to coincide with those essentials, it becomes binding. In so far as they constitute a departure from that criterion, they are subject to revision and must be considered secondary in matters of fulfillment. In other words, the code will be an attempt to discriminate and to establish¹⁵⁷ a minimum code for all men.

In view of this distinction there must be a complete reevaluation of the work of the rabbis. Their halachic system is invalid in its present form because it considers everything to be of major importance. Both the oral and the written law have been considered as binding in the same way. Only through the arrogance of the sages of the Talmud has this unfortunate conception gained such wide acceptance:¹⁵⁸ "הַלְבַּח הַלְבַּח וְהַלְבַּח הַלְבַּח" "הַלְבַּח הַלְבַּח וְהַלְבַּח הַלְבַּח" "הַלְבַּח הַלְבַּח וְהַלְבַּח הַלְבַּח" Following the Exile, the rabbis introduced a criterion of stringency which completely altered the character of the oral

law. The Pharisees had practiced a number of restrictions and had created a body of custom and ritual which supplemented the Torah. The acceptance of that oral law was voluntary. The rabbis, however, equated that voluntary system with the binding quality of the Torah itself. The rabbis had lost all sense of balance and with characteristic perversity they confused the distinction between what is major and minor in the halachah. The rabbis took the liberty of asserting that the violation of these minor laws was as serious an offense as the violation of the written law. Thus, for example, the eating of the apple on Rosh Hashanah was held to be as serious a concern as the eating of the Matzah on Passover - a matter which had real scriptural authority. In another case, the rabbis insisted that he who makes light of washing the hands¹⁵⁹ is to be uprooted from the world. This misemphasis on the part of the rabbis has given rise to the fallacy that "He who violates even the slightest aspect of their accretions is to be considered as serious an offender as he who violated¹⁶⁰ the written law."

The second principle which animated Modena's revision was the stress laid upon individual initiative and sense of responsibility. His new code would allow a wide degree of latitude wherein the individual could determine what portions of this secondary, rabbinic law were necessary for his salvation. Thus the criterion of selecting positive elements

if the individual wishes: ¹⁶³

"אדם לא נאמר שיהיה חכם"

But in Modena's view, there could be absolutely no compulsion in the taking of these extra measures of piety. That there is a strong note of individualism here requires no comment. This principle is perhaps one of the most revolutionary advanced by Modena. If carried out in practice, it would mean the virtual dissolution of the contemporary system of halachah.

The third principle which we may observe operating in the thinking of Modena on the subject of halachic reform is a tendency towards leniency. He recommended a general relaxation of the extant rabbinic law. The present system was impossible to fulfill. As a matter of fact it is the very rigorousness of the rabbinic system which has precluded the Jew from ¹⁶⁴attaining salvation. The multiplicity of laws created a burden too onerous for the Jew. Modena goes even farther to assert that if the Torah had been more lenient it is entirely possible that the world at large would have accepted Judaism ¹⁶⁵and hence the Messianic era would have culminated. The present system of law, however, is simply "preposterous". It defies not only the imagination and ability of the non-Jewish world but even of the Jew himself. It is utterly out of harmony with the needs and abilities of the average individual.

The adoption of Modena's first principle of a differentiation between the major and the minor elements of law will of necessity remedy this situation and lighten the burden.

That characteristic stringency was after all only a post-exilic development. The pristine religion of Israel based on the Scripture lent itself to comparatively easy fulfillment. Our task is therefore to recover that ancient spirit. Modena constantly refers to Moses as the giver of a law which is easy to fulfill:

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גוייר משה ע"ה ומהו חמור וקל
ה"ק דאז ט"ן ד' משה

The Scriptural authority for his conclusion regarding the basic simplicity of this law is the famous statement in Dt. 30:11: "For this commandment which I command thee this day is not too hard for thee." The code of Modena is therefore largely an attempt to revamp rabbinic legislation in accordance with this criterion of leniency.

The necessity for leniency was especially felt in the exile. Under the changing conditions of Jewish life under adverse conditions in the Exile it was necessary to make certain changes. This criterion will be found to operate particularly in those rubrics wherein Modena discusses the problem of Jewish-Gentile relationships (cf. Part IV, principle of adaptation). The rabbis made a grievous error when they attempted to force this abnormal pattern of halachah on the people. They had completely lost sight of the principle: "He who arranges laws necessary for fulfillment must understand that the people will be able to fulfill them." There is consequently an urgent need to relax the rabbinic stringency and misemphasis.

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This new perspective of leniency has some implications for the concept of piety. Modena claims that there is a definite misconception on this subject. People have been induced to believe that the more rigorous the type of legislation they take upon themselves to fulfill, the higher and more noble is the quality of their piety. He categorically denies that there is any such correlation between piety and the fulfillment of a pattern of minute laws. Modena quotes with manifest scorn and contempt the prevalent concept that "he who is stringent is deserving of a ^{praise} blessing" ¹⁶⁸ Modena claims that this is a misconception of Judaism. It was deliberately fostered by the rabbis in order to ensure their indispensability to the congregations. The people would be forced to become subservient to their will in order to achieve piety and live in harmony with the will of God. As a matter of fact, Modena indicates that a relaxation of rabbinic law will enhance the piety of Israel. This modified law is more easily fulfilled and thus the salvation of Israel will be brought nigh. As part of this program of leniency, it will be observed that Modena suspends a good portion of rabbinic legislation as dealing with the Temple and the Priesthood. This recommendation has little practical import, for Modena seems merely to be following the rabbinic concept of the *זכרון ליום הבואה*.

Modena's view of the halachah was not consistently liberal, however. In the fourth principle, the literal

enforcement of certain Scriptural laws we find a degree of narrowness and stringency which appears somewhat incompatible with Modena's averred leniency. It has been observed that this rigorousness may reflect a Karaite influence on his thinking. It may also be a subtle attempt to circumvent the suspicion that he is completely undermining the concept of halachah. A group of laws will be cited wherein Modena seems far more rigorous than the rabbis. It has been observed (p. 52) that Modena censured the rabbis for failing to be rigorous where stringency was needed. ¹⁶⁹ Whatever the motivation behind this attitude, it stands in marked contrast to the general outlook of Modena.

Other aspects of his philosophy of halachah will be discussed in Part IV, i.e., his concern with aesthetic appeal, emphasis on kavanah.

Modena averred that his purpose was to promulgate a code of law based on the Torah which would be adaptable to the life of Israel in the Exile:

¹⁷⁰

הנהנינו חוקי חרות ופיקודי חרות
אשר לא יצאנו מן הארץ אשר אנחנו נכנסים
אלהה

His aim was to accomplish that which the rabbis failed to do at the opportune time when Israel was sent into the Diaspora. He will attempt to correct their errors and restore to the people a valid, genuine, Torah-true (cf. modern orthodox criterion) type of halachic pattern.

Yet the reader is surprised to find how mild the concrete suggestions of Modena actually are. It would appear that the most significant aspect of the Kol Sachal is the critique of the basis of rabbinic law and the intimation at least of a thorough-going reformulation of halachah. As a matter of fact his opposition to rabbinic law is much less radical than the reader has been led to anticipate. The trenchant arguments advanced in the second essay did not lead to a revolutionary reform. Modena did not carry out the implications and the promise of his philosophy of halachic reform.

As a matter of fact he allied himself with rabbinic tradition. He did not consider himself as a pioneer working independently and originally. He did not seek to create a new code ex nihilo. He used the Tur of Jacob Ben Asher (possibly the Schulchan Aruch) and as a matter of fact suggested modifications and omissions which already obtained in Jewish life. Essentially Modena proffered little more than a running commentary on the Tur. In 29 pages of notes we have only a fragmentary and sketchy draft of halachic reformulation.

One must admit the possibility that in attempting to reconstruct Modena's thinking, in effect he is super-imposing a pattern of his own devise. Modena's approach was far from systematic. The pages of the third essay in fact are permeated with a polemic spirit and steeped in relentless prejudice against the rabbis.

2. Laws Abrogated or Suspended

In this section we shall review a number of aspects of the code where Modena recommended some radical changes. While it is true that in dismissing a considerable section of rabbinic legislation dealing with the Temple and Palestine Modena did not go far beyond the position of the rabbis¹⁷⁰, his attitude is significant. He states that those laws have been nullified (p. 30) and that he will leave the entire matter to the Messiah who needs no sages to make fine distinctions in the law (p. 34). He does affirm that the references to the sacrificial system ought to be retained in the liturgy, however.¹⁷¹ But in general his attitude intimates a clear-cut break with this traditional pattern. This is most evident in the case of the legislation which distinguish the priest from the levite. He affirms frankly that from the point of view of the exile, those distinctions have little import. He further questions whether it is possible to trace the ancestry of these groups. In another case, Modena would nullify those laws governing food for sacrifices, averring that the categories of "kadosh" no longer have any relevance to modern life.

A definite and concrete step was taken to abolish arbitrarily those laws which tended to foster antagonism between Jew and Gentile. Modena thus inveighs strongly against the laws dealing with the wine of Gentiles and the

sharing of food with non-Jews. He feels justified in this action because he can apply the criterion of scriptural authority already established in the second essay. Not only are these laws an addition to Scripture but they are objectionable on realistic grounds. They would preclude the ability of the Jew to have business and social contacts with non-Jews. It is therefore "a foolish fence".¹⁷²

The laws dealing with idol worship are similarly abrogated. While Modena recognized that there was some scriptural basis, he nevertheless insisted that Scripture could not have had the Christians and Mohammedans in mind. These sects recognize God and consequently fall in another category. Modena's act here is illustrative of his principle of adaptation to the changing conditions of Jewish life. It is possible to conjecture that this attitude reflects his own experience in having intimate contacts with the non-Jewish world.

Modena likewise dismisses the laws dealing with prohibited fatty portions of the animal. In this case he attempts to circumvent Scripture by following Ibn Ezra's interpretation of Lev. 7.24.

The institution of the Mezuzah is arbitrarily dismissed as being a rabbinic innovation. A similar attitude is manifested toward the phylacteries. Modena claimed that both customs lacked a scriptural basis. He does not clarify further

what his objections might be.

Another far-reaching innovation first instituted by Modena was the abrogation of the ^{ר"י דק"ק פ"א} ¹¹¹⁸² ⁸⁶ ²¹⁶ ^{פ"א}. He claimed that these laws were not only a violation of Dt. 4.2 but actually had no relevance since the exact date of the festivals could now be uniformly ascertained. (p. 46).

We have already observed that Modena dismissed certain customs, as kapparoth and the eating of honey on Rosh Hashanah as being without scriptural authority and hence of no binding power.

3. Relaxation of Rabbinic "fences"

For the most part, as we have observed, Modena was concerned with a relaxation of the rabbinic "fences" and a greater emphasis on the "essential of the commandment", i.e. the specific basis in Scripture. Hence he sought to avoid the evils which he claimed were characteristic of the rabbinic system. The rabbis had been rigorous where leniency was in order. ¹⁷³ This principle is repeated as a kind of monotonous refrain throughout the code.

Thus, while accepting the regulation governing the washing of the hands, he recommends leniency in all the additional legislation of the rabbis. Always seeking to emphasize the scriptural intent of the laws, he modified the restrictions

governing the making of the fringes (p. 36-37). Again he points out that the essential in fulfilling the commandment concerning the blue string was the color, blue, and not the "purple shell" which the rabbis had insisted upon as the only valid source for the color (p. 37).

We have observed that he would reduce the Sabbath laws to a minimum, insisting only on the prohibition of work. It is a matter of individual judgment, when the categories of work are considered. The only guiding principle is the proper observance of the Sabbath as a day of rest. Modena was unusually lenient in dealing with this segment of rabbinic legislation. He relaxed the legislation at nearly every point (cf. Kol Sachal pp. 43-45, and synopsis, pp. 48-50). One of the most significant of his recommendations at this point was the abrogation of the principle of the "t'chum" (cf. with modern Reform, Part IV below).

Under the author's hands, the laws governing Passover undergo a deep transformation. Modena stresses merely the eating of the Matzah and makes light of all the punctilious requirements of the rabbis (cf. synopsis, p. 50).

The observance of the "Counting of the Omer" was similarly relaxed. It is significant that Modena essayed a complete reinterpretation of this holiday as a festive day. His reasons for ridiculing the solemn character of this festival are somewhat obscure. Laws governing fast days were RELAXED.

Not more than one day of fasting should be required in the course of any one year. (synopsis p. 51f, K.S. pp. 48-49). We have already observed that Modena recommended the greatest freedom in the observance of Yom Kippur, leaving the "fences" to the discretion of the individual. The stringent regulations governing the Succah and the specific requirement for using the "myrtle" would be relaxed. A similar leniency was recommended in the observance of Chanukah and Purim.

While retaining "ritual slaughter" as being hinted at in Scripture, Modena moved to discard or relax the stringent regulations governing the condition of the knife. It appears that Modena would also relax a great portion of the extant system of Kashruth. The blood would not have to be removed as thoroughly. As a literalist, Modena takes the scriptural references to the "kid" to include only that animal and nothing else. Hence the restrictions governing the preparation of other types of meat with milk are seemingly relaxed. Modena also ~~raised~~ an objection to the practice of allowing the consumption of cheese after meat, a matter which he believed to be injurious to health. In the main his criticism of the kashruth system is not explicit. In the interests of economy, he seems to champion a relaxation of the various fences.

Another case in point was his recommendation for

leniency in the matter of requiring circumcision for converts. This prerequisite should be recommended but not made obligatory. Only the rigorousness of the rabbis on this issue has precluded many non-Jews from embracing Judaism.¹⁷⁴ This is one of the few cases where the radicalism of Modena's theory is matched by any comparable radicalism in actual practice. In his universalistic zeal, Modena saw in the requirement for circumcision only a stumbling block to the salvation of Israel.

The laws of mourning would be made more lenient. In this case Modena would leave much to local custom and insist only on the reaffirmation of the piety of the individual mourner in bearing up under the loss.

The laws governing the delivery of the bill of divorcement would be simplified. He would annul much legislation concerning marriage. The only essentials were the ceremony of betrothal in the presence of a judge or five witnesses, the proper publication and not the emphasis on the ring. He has only contempt for the rabbinic lore studied in the yeshivot concerning such matters as whether marrying a virgin on the sabbath is permitted, etc. (cf. p. 63). The marriage agreement need only be drawn up in accordance with the "custom of the place." Thus for Modena the tractate Ketuboth is largely suspended as being a body of "impossible legislation"

Mention can be made of the relaxation of rabbinic

legislation on matters as diverse as the shaving of the beard, the lending of money, laws concerning menstruation, and others. In every case Modena would establish only the simple commandment as major and view with the utmost scorn the predilection of the rabbis for composing "tractates and expanding legislation."

4. Literal Enforcement of Scriptural Law

It is to be noted that at numerous points in the Code Modena seems to follow the policy of the Karaites and demonstrate an extremely rigorous attitude. He would at times follow the most literal interpretation of Scripture, always pointing out that the rabbis had operated under the misconception of tampering with scriptural law and emphasizing those explanations which ought to be considered secondary and not binding.

Thus for example, the author takes exception to the rabbis and insists that the fringes must be worn at all times. He wished to counter-act a laxity which stemmed from a failure to observe the letter of the text. In another case he affirmed that all creeping things were prohibited as food. In the rabbinic practice of making easy dispensations for vows, Modena saw a great evil and insisted on the most absolute interpretation of Nu. 30.3.

While holding fast to the principle of leniency as regards circumcision for converts, Modena was stringent in the legislation concerning circumcision. At this point he would be more rigorous than the rabbis and insist on legislation governing the skill and anatomical knowledge of the Mohel.(p.58).

A convincing demonstration of Modena's strict rendition of certain scriptural verses is his comment on the mixing of materials. He would extend the prohibition against mixing wool and flax to include bed-covering as well as clothing.

In discussing the grounds for divorce, Modena was insistent that beyond the law in Dt. 24.11 specifying adultery or immorality, no other conceivable pretext could rightfully be advanced for the dissolution of a marriage. The Rabbis were far too lenient, going beyond the stipulations of scripture. On the cognate subject of Levirate marriage, the Venetian rabbi was an absolute literalist, calling for a reemphasis on "yibbum" and a relaxing of the rabbinic emphasis on halitzah.

5. Simplification of Worship

Considering the various modifications in the system of worship and conditions of prayer as a whole, we find that Modena made some significant reforms. His revision is characterized by greater brevity, more aesthetic appeal, and more

inwardness in prayer. The morning blessings are not to be considered obligatory. The present form of the Shema is objectionable because of the digressions in the supplementary paragraphs. It was noted that he composed an original text (cf. p. 45 of the synopsis) in the interests of brevity. If composed in rather prosaic language, this text is at least concise and does not include the extraneous scriptural portions. He would introduce the much needed element of unity into all the prayers. He affirms that every prayer must include these essentials:¹⁷⁵ the acknowledgement of the dogmas of religion, i.e. the yoke of the heavenly kingdom, petition of needs, and confession of sins in the mood of supplication. This is a significant criterion and represents a somewhat radical approach to the traditional prayerbook which included various strata of the centuries and assorted accretions appended without discrimination.

The prayer, Havinenu, approached Modena's ideal more closely. The present text of the Shemoneh Esrae was found to be tedious and lacking in logical order. He would excise the phrase "shield of the fathers" and the "resurrection of the dead", maintaining that the refrain "the Holy God" was sufficient (p. 40). The addition by the rabbis of the "ashrae" and the "Ba l'tzion go-el" served only to make the present order of prayers unbearable. Modena's goal was a system of prayers

which all might recite alike in a short time, the learned as well as the ignorant, women and children as well as men. This is necessary in view of the contemporary situation when few people pray regularly and fulfill all the requirements of the rabbis.¹⁷⁶

Modena would revise all the rabbinic restrictions governing the time and place of prayer. The only essentials were a place conducive to devotion,¹⁷⁷ and an atmosphere of cleanliness and propriety. All the conventional rabbinic restrictions were only "spilt ink". He would insist that prayer thrice daily is binding upon all alike, individual and public, man and woman. He affirms in concluding that piety and devotion are more easily induced by short than by long prayers:¹⁷⁸ He would recommend the reduction in number of insertions of piyutin. (p.42) Only one statement of the Kedusha and the Kadish should be inserted in each service.

It has been observed (cf. synopsis p. 47f.) that Modena was concerned with restricting the number of synagogues and with the introduction of a uniform liturgy in all segments of Israel alike. The prayers were to be read by the Hazzan, while the people were to remain silent (p. 42) and concentrate on their worship. Worship should never be more than one hour's duration except in the case of the High Holidays.

He recommended a similar brevity in the saying of grace as well as in blessings on various occasions. He would not

insist that men must be meticulous in the recitation of the stipulated prayer for each occasion, since the essential is merely that the individual be reminded of the nearness of God. ¹⁷⁹

These recommendations of Modena reflect his desire for a simple ritual conducive to piety. The alterations he would make in the present liturgy were considerable. It remained for the Reform movement to continue in this direction (cf. below).

PART IV

The Kol Sachal as a First Draft of Reform

The Kol Sachal was not published until the year 1852 when De Reggio brought the Modena manuscripts to the attention of the general public. Obviously there can be no causal relationship between Modena's concepts of religious reform and the birth of the reform movement in the first quarter of the nineteenth century. And similarly there is small possibility of any influence of this volume on writers like Saul Berlin and Aaron Chorin who immediately preceded the rise of reform in Germany.

In view of this fact any comparison between the concepts of the Kol Sachal and the reform movement will serve

merely to demonstrate how far-reaching and revolutionary were the principles which Modena championed. This comparison is also significant, demonstrating as it does that the entire pattern of traditional rabbinic (so-called 'orthodox') Judaism had been seriously questioned as early as the seventeenth century. The rumblings of revolt against the binding authority of tradition had thus been sounded much earlier than is commonly realized.

A number of interesting parallels can be cited which tend to give the impression that in its day the Kol Sachal was almost an anachronism.

Reform Judaism in its incipient stages was largely concerned with a reformation of the liturgy. As E.G. Hirsch wrote: "The Reform movement in earlier stages was mere a more or less executed attempt to regulate public worship in the direction of beautifying it and rendering it more orderly" ¹⁸⁰ We have already seen (pp. 102-105 of mss.) that Modena anticipated this attempt by recommending a simplification and systematization of the liturgy.

Both Modena and the early reformers were concerned with the principle of adaptation. Every major platform of reform ¹⁸¹ includes some such statement. We have observed that this criterion was frequently operative in Modena's thinking. He had recognized the need of adapting Judaism to Jewish life in the Exile (p. 30) and had avowed that modifications were

necessary in view of the partially assimilated character of Jewish life. Thus he would annul legislation governing the eating of food prepared for gentiles as an impossible fence at a time "when we dwell among them and not one in a thousand can separate himself from them" (p. 54). Modena displayed unusual sensitivity to those laws which allegedly brought "shame and scorn" upon Israel (p. 55 and elsewhere). Good will seems to have been a cardinal principle with Modena, while his antagonism to certain aspects of traditional law would match the prejudice of his most articulate successors in the reform rabbinate. A convincing example of Modena's criterion of change was his recommendation for the alteration of laws governing interest to make them "adaptible to the order of the land as is customary among the 'political' peoples" (p. 56).

In another case, when Modena rejected the priestly caste as being inoperative in modern life (p. 62), he was anticipating the action of the Philadelphia Conference of 1869 which maintained: "Every distinction between the Aaronides and non-Aaronides, as far as religious rites and duties are concerned, is consequently inadmissible, both in the religious¹⁸² cult and in life." It must be acknowledged, however, that were the Reform movement categorically abrogated the laws of¹⁸³ the entire sacrificial system, Modena merely considered them "suspended" (cf. p. 30 of text and p. 95 of mss.).

The unequivocal action of Modena in dismissing the

observance of the second day of the holidays (cf. p. 46 and p. 48 of text), was later echoed by the reform movement, when in the course of the Breslau Conference (1844-46), it was stated: "The second days of the holidays, viz., the second and 8th days of Passover, the second day of the feast of weeks, of the New Year, of the Feast of Tabernacles, and of the Feast of Conclusion have no longer any significance for our time according to our sources".¹⁸⁴

While Modena clearly stated that circumcision for converts was not an indispensable prerequisite (p. 59), the reform movement seemed unable to reach an accord on this pressing issue. Emil G. Hirsch later maintained that the Abrahamic rite was not an essential condition for membership in Sinai congregation.¹⁸⁵ The Pittsburgh group had reached no agreement and discussion of this moot question continued for 35 years. It would appear from the ^{resolution} (manual for proselytes) adopted by the C.C.A.R. in 1927 that modern reform has relaxed this requirement. 1891

The sweeping changes that Modena recommended in sabbath legislation (p. 45, p. 48 of mss.) were echoed in later reform. The Breslau Conferences declared the ^{שבת} ^{הקדשה} and the ^{שבת} ^{הקדשה} 'inadmissible,' while a statement that the sabbath could be violated in the interest of preserving life or health closely paralleled Modena's recommendations.¹⁸⁶ The revision of mourning customs recommended by Modena (pp. 60-61)

were echoed in a statement of the Breslau Conference: It declared that such practices as the rending of the garments, allowing the beard to grow for thirty days after the death, sitting on the floor, removing of leather shoes, in the prohibitions of washing, bathing, and greeting, have lost all significance in these days..."¹⁸⁷ At this point, Modena was more unequivocal, as he dismissed these customs as all being of non-scriptural origin.

In the matter of the dietary laws, Modena merely intimated certain changes (pp. 54-55), insisting that these laws were merely unnecessary accretions to scriptural laws. Modern reform has not clearly defined its position on this subject, but generally the laws of kashruth have been identified with the levitical laws of purity. In the Pittsburgh Platform, dietary laws are included in the category of Mosaic and rabbinic laws, the observance of which is "apt rather to obstruct than to further modern spiritual elevation" K. Kohler has commented on the report made by David Einhorn in the Sinai 1859-1860, where beyond the prohibition of blood and of beasts that died a natural death, it was held that they (i.e. dietary laws) were of a "mere temporary ceremonial character and not essentially religious or moral laws."¹⁸⁸

There is a parallel in the attitude of Modena and the "reformers" toward the relative validity and binding authority of the Talmud and the Codes. Modena's anti-Talmudic bias

(cf. p. 30, 32, 59) was paralleled by the cry for revision of the Shulchan Aruch made in the reform movement. A basic difference must be noted, however, in the basis of the criticism of tradition. Modena objected to the oral law mainly on the ground that Scripture alone was supreme and the present tradition was a deviation from that divine source. This view did not prevent him from building on the foundations of tradition in his attempt to present a manual of explanations to the written law. More radical than Modena's distinction between scriptural and non-scriptural, was the action of the reform movement, largely inspired by Kantian moralism, of making a fundamental distinction between moral and ceremonial law. Thus the reform movement essayed a total reconstruction and reevaluation of all law and was definitely not inspired by a desire for a "return to Mosaism". The distinction between moral and ceremonial was thus not to be found in scripture.

It has been observed that Modena in practice did not break completely with tradition. In essence he modified the existing system of rabbinic law. This same principle of continuity is echoed in the reform movement which abolished many traditions but which did not repudiate the entire pattern of tradition. Both Modena and the later reformers sought to modify rather than to create ex nihilo. In the words of Abraham Geiger, "Salvation lies not in the violent and reckless excision of everything that has descended to us from the

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past..." Modena's example of modifying the Codes anticipated the later reform movement and may perhaps provide the pattern which contemporary halachic reformulation might follow.

An examination of the Kol Sachal reveals it to be a work inspired more by a polemic and antagonistic spirit rather than by a mood of piety and scholarly contemplation. This is obviously not a volume distinguished by spirituality or by any overtones of mystic feeling. Strong prejudices blended with a coldly rationalistic approach marked the temperament of the author. Modena appears more or less as merely an embittered and sour critic of the Judaism of his day.

Yet it must be affirmed that the Kol Sachal was a harbinger foreshadowing the course that Jewish life was to take in the nineteenth century. The author was a pioneer in opening new vistas for religious reform. He was perhaps the first to apply to Judaism the spirit of rationalism and the mood of liberalism - those intellectual currents which had been set in motion by the Renaissance and which marked the transition from medievalism to modernism. Had Jewish life by force of circumstance not been so insulated against the impact of these powerful influences, perhaps the Reform Movement might have been born in the seventeenth century, simultaneous

with the universal movement of religious change, crystallizing in the Deistic and Protestant movements.

While failing to implement his philosophy with a concrete program and neglecting to develop systematically the implications of his rationalism, Modena nevertheless made a remarkably significant statement of religious reform. He provided at least the rudiments of a blue-print for a liberalized Judaism two centuries before the famous Rabbinical conferences in Germany. It is pertinent to quote the statement of Samuel David Luzzatto concerning Modena: "...he was a greater reformer than Geiger. And this was 220 years previous".¹⁹⁰

PART V

A Comparison of the Kol Sachal and the Exemplar Vitae Humane of Uriel Da Costa

Striking parallels may be observed between some of the concepts advanced in the Kol Sachal and in this autobiographical essay of Uriel Da Costa. Definite implications of these parallels bearing on the authorship of the Kol Sachal will be considered in Part VI. This remarkable document is an impassioned apologia pro vita sua, which includes a vindicative attack on the institutions of Judaism and an outline

of a brief but systematic philosophy of natural religion. The importance of this work has been long obscured. According to one scholar,¹⁹¹ the philosophic system of Da Costa was one of the fundamental sources of the concept of natural religion promulgated by Jean Jacques Rousseau. Attention was first drawn to the *Exemplar Vitae Humanae* by a Hamburg priest in 1644. The first publication of the work appeared in 1687 in a volume by the Dutch editor, Philip Limborch.

The author was born in Oporto, Portugal in 1590 and died in Amsterdam in 1647, being a contemporary of Leon de Modena (1571-1648). Da Costa was of Marrano origin and had been educated in the doctrines of Catholicism. Feeling the ancestral call of his faith, he emigrated to Holland where he hoped that he might freely practice Judaism and throw off the mantle of Christianity. Soon he became disenchanted with the formal Judaism of the day. While in Hamburg, he published *Twelve Theses against the Oral Law* (1616). These Theses^{oil} arised the ire of the Jewish community and Da Costa was attacked by Leon de Modena, rabbi of Venice. It appears that there may have been some personal contact between these two spirits, as demonstrated in a passage in Immanuel Aboab's Nomologia, cited by I. Sonne.¹⁹² Living in Amsterdam, Da Costa soon ran afoul of the rabbinical authorities. The rebellious spirit of Da Costa was incompatible with Jewish life in Amsterdam. With the publication of Da Costa's work (1624) "*Examen dos Tradicoens*

Phariseas Conferidas..."the conflict became public and Da Costa was indicted before officials of the Amsterdam Jewish community and excommunicated. Finding himself ostracized, Da Costa in 1633 petitioned for readmission to the synagog. For a while he remained a nominal Jew, although inwardly he was veering from Judaism towards a universal religion of reason. Suspicions mounted against him, and finally after being accused of interfering with the conversions of two Christians to Judaism, Da Costa was excommunicated for the second time. After a period of seven years of isolation, the unfortunate convert submitted to the authority of the rabbis. He made a public avowal of his "sins" and underwent the customary public scourging. Soon after this gruelling experience Da Costa took his own life, having penned the Exemplar ^{Humanae} Vitae ~~Humane~~ shortly before his demise.

While many points of similarity can be observed between this autobiography and the Kol Sachal attributed to Modena, it is evident that in the Exemplar we find a theology far more radical than that enunciated in the latter volume. Modena had attempted to harmonize revealed religion with the dictates of reason. The dominant theme of the Kol Sachal is compromise and harmonization. He accepted the Torah as the supreme guide for the religious life, maintaining that it embraced the principles of 'natural religion' and included nothing that was alien to the criteria of intelligence. He had affirmed

the insufficiency of reason as a basis for a religious way of life (cf. p. 21 of the text and p. 72ff. of mss.). While Deistic philosophy may have operated in his thinking, Modena did not arrive at a Deistic statement.

The Exemplar is in essence a lucid statement of Deism and unlike the Kol Sachal is not motivated by any attempt to conform to tradition. In an early statement, Da Costa reaffirms the necessity of observing the Torah in its pristine and literal form.¹⁹³ It soon becomes apparent that Da Costa altered his position. He goes far beyond the point of view of the Kol Sachal. In contradistinction to Modena who maintained that nothing in the Torah contradicts human reason (p. 13 of the Kol Sachal), Da Costa discovers numerous irrational elements in the Torah: "at last I came to the conclusion that the Torah of Moses is not of Divine origin and that many things in the Torah are opposed to the laws of nature."¹⁹⁴ Unlike Modena, he does not attempt to justify all the commandments of the Torah.¹⁹⁵ He affirms only This point of view is a marked advance over the opinion expressed in the Kol Sachal that the Torah "contains all the natural and proper order or natural religion as we call it, which is necessary for the conduct of home and country."¹⁹⁶

Da Costa, on the contrary, is supremely concerned with defending the concept of natural religion. He states his

belief in a law implanted in the very nature of man. It binds all men in a universal fellowship, impelling them to live peacefully, fraternally, and justly.¹⁹⁷ The honoring of parents and the prohibition against theft are the first principles of this religion. These commandments stem from the very essence of man. Thus it is a matter of human nature for men to be zealous in guarding their property. Sheer self-interest will lead us to follow this principle. We refuse to steal that others may not steal from us. In this reality, Da Costa avers: "we easily find the basis of every type of religion!"¹⁹⁸

According to the author's Deistic system, the moral law is sufficient to guarantee the well-being of society: "If all men would follow pure reason and would live according to human nature, then all men would love each other and everyone would sympathize in the sufferings of his friend"(p. 64). Undergirding this revolutionary philosophy is a belief in the goodness of men: "If you do not have faith in man qua man, then you have reason to fear in his presence" (p. 64)

Da Costa's next step was to dismiss all the forms and dicta of organized religion, retaining only the Noahhian commandments. The practical commandments, customs, and laws are uniformly abrogated, for Da Costa champions a thorough-going antinomism which was never observable in the Kol Sachal. No less an authority than Carl Gebhardt concludes that Da Costa

broke completely with positive or revealed religion. He wrote: "Aus diesem Naturalismus heraus kehrt sich da Costa¹⁹⁹ ab von der positiven Religion." This is most evident in Da Costa's dismissal of the principles of institutionalized religion as adding nothing to life. "We do not embellish our lives by observing a host of worthless commandments but only²⁰⁰ by living a life of reason and knowledge alone." He has no sympathies with scriptural laws which attempt to go beyond the limits of natural religion. Thus for example a law which would require the sacrifice of human life is a violation of natural religion. The fact that such a law may have sanction in the Torah has no relevance for Da Costa. He is concerned only with what he calls a natural religious instinct: "How good and pleasant it would be if all men would remain in their natural boundaries and would never invent things as²⁰¹ destructive as these." This statement lauding natural religion is reminiscent of a statement in the Kol Sachal written in the same vein, but having reference to the fulfillment of scriptural (i.e. not "natural" in Da Costa's sense) law: "If men would only fulfill that which was commanded by Moses the verse 'And all you people shall be called righteous' would²⁰² have been fulfilled in them."

While the Exemplar Vitae Humanae is a Deistic statement and the Kol Sachal a rationalistic affirmation of revealed religion, there is nevertheless a tone common to both works.

Modena's strictures against the oral law²⁰² are closely paralleled by Da Costa's outbursts against artificially imposed laws. While Modena was attacking non-scriptural law and Da Costa, supra-natural law, the language of condemnation is almost identical:

י"א' לנב כמח צדק סדק ויסדקו כל צדק לאומי
מאין דקם דמח ותקנה לנבול מל לא
(Kol Sachal, p. 56) מורה
פ. 32

ומה נראה לא כמח מן הדם כל דמם כליל
מחוקק קבוצה מחזק מן הדם כליל
(Exemplar Vitae Humanae, p. 62)

It is to be noted, however, that the viewpoint of the first statement is 'particularistic', the latter, more universal in tone.

Both sources are permeated with an anti-rabbinical bias. It is evident from La Costa's autobiography, that the rabbis were the bane of his existence. They were deceivers, tyrants, and betrayers. Thanks to their machinations, men are prevented from attaining salvation (Exemplar, p. 62) and untold suffering is heaped on innocent men. La Costa is obviously reflecting his own tragic experience with the rabbinate at Amsterdam. While the Kol Sachal contains many animadversions against the rabbis (p. 30, 31, etc.), there is nevertheless a note of moderation altogether absent in the Exemplar. Modena acknowledged that the rabbis may have been inspired by good

intentions (p. 29, Kol Sachal). He commended certain aspects of rabbinic legislation, e.g. prohibition of commerce on the sabbath (p. 45) and the insistence upon the concept of repentance (p. 49). No such note of moderation is discernible in the Exemplar.

Da Costa carried over many of the Christian perspectives, as evidenced particularly by his attitude to the Pharisees and to Christianity itself. The Exemplar is full of vituperation against the Pharisees in the pattern of the New Testament. The statement is made that if Jesus were to reappear, the Pharisees (equated with the rabbis of Amsterdam) would again smite him (cf. pp. 64-65). In the Kol Sachal the term Pharisee is not used with such a derogatory connotation. Modena pointed out that the Pharisees were not to be blamed for the evils of the Oral Law, as that system had merely been voluntary with them (cf. Kol Sachal, p. 27). Da Costa has only words of praise for the Christians, who abrogated the ceremonial law and retained only the moral imperatives.²⁰⁴ Christianity receives no such plaudits in the Kol Sachal. While Modena recognizes that the Christians "acknowledge God" (Kol Sachal p. 56) and is sympathetic to their break with Judaism (p. 32), he is essentially hostile. Christian doctrines are held to be untenable (p. 32). The New Testament is a modification and falsification of the Torah of Moses (p. 33). Christians deserve only contempt for they used the allegorical method of

interpretation to escape the rigors of ceremonial law (p.22).

A marked difference may be noted on the subject of immortality and the problem of reward and punishment. Da Costa dismisses these doctrines as a religion of falsehood (p.62). He claims these doctrines are pure inventions. They are intended to frighten men and compel them to live a life of fear. To Da Costa, such intimidation based on deceit is not indispensable to the **cause** of the ethical life. Where true faith and piety are present, such extraneous appeals have no place. This complete rejection of immortality as a hoax stands in marked contrast to Modena's reaffirmation of this doctrine. Modena insisted that God had the power to grant immortality to the rational soul of man. Even the absence of scriptural authority for this doctrine, did not deter him (Kol Sachal, p. 15). Moreover, he subscribes to the doctrine of reward and punishment as being the sole guarantee for the righting of the injustices of this world (pp. 18-18). In contrast~~ed~~ distinction to this traditional view, Da Costa asserted that all suffering and injustice will be eliminated when men learn to follow the dictates of natural religion as 'revealed' in their own consciences.

Both the Kol Sachal and the Exemplar Vitae Humanae have a common spirit. Striking parallels in mood and form of expression may be observed. However, it is evident that the

latter volume represents a transition or an extension of the implications of the former volume. The Exemplar (Vitae Humanae) seems to be the ultimate development of certain implications of the Kol Sachal. It is the opinion of the present writer that Da Costa's work represents the culmination and fruition of a trend that was immanent in the work ascribed to Modena.

The point of view of the Kol Sachal is that of the traditionalist who feels the need of reconciling the Torah with the demands of reason. In the Exemplar, however, the author has rejected revealed religion unequivocally and arrived at a ^{position} ~~position~~ comparable to that held by the Deists.

If it is true that both the Kol Sachal and the Exemplar Vitae Humanae have a common authorship, then the conclusion is inescapable that the author had a change of heart in his later writings and arrived at a form of Deism at once revolutionary and inimical to the traditional concepts of revealed religion.

PART VI

Theories Concerning the Authorship of the Voice of the Fool

The problem of the authorship of this unusual document has long intrigued scholars. The strange circumstances of its publication as well as the radical views expressed on its pages have provoked much speculation. It is indeed a fascinating question which may never be resolved completely. Many of the entangled problems dealing with the texts are parallel to those encountered in "higher criticism" of the Bible, i.e. the identity of the author or authors, the possible composite nature of the text, and the dating of the composition. Some attempt must be made to enter into these problems in order to place the Kol Sachal in its historical perspective and to appreciate in terms of the conditions and the factors which called it into being.

The present text and commentary was published by Isaac de Reggio in 1852 at Goritzia. The editor had discovered excerpts of an interesting work in Latin, listed in a collection by Di Rossi. His interest in the work was heightened by the discovery of the manuscript in the handwriting of Modena in the library of the Duchess of Parma by R. Zalman Stern of Hungary. De Reggio then undertook to publish both tracts under a title of his own devise, "The Examination of Tradition!"

A. Modena as the Author

De Reggio promulgated the theory that Modena was the author of both the Voice of the Fool and the Roar of the Lion. 205 He asserted that Modena must have been reluctant to advance such radical theories under his own name and that he therefore employed the convenient ruse of attributing the Voice of the Fool to a Spanish author, Ibn Roz. De Reggio pointed out that the style and point of view of the Kol Sachal have marked parallels in the other writings of Modena. He cites the identical rejection of the Kabbalah as expressed in the "Ari Nohem" as well as in the second essay of the Kol Sachal. He found that Modena himself referred to a discussion of the Kabbalah in "another work". The view that the Zohar was written 350 years before his time is expressed in both sources. 206 He also cites strong parallels between Modena's "Di Riti" and the Kol Sachal. Both sources contain strictures against Rabbinic law and recommend reforms in matters of divorce, mixing of wool and flax, shaving of the beard, washing of the hands, and laws governing the succah..

De Reggio pointed out also a number of reasons why the Kol Sachal could not possibly have been written by a Spanish Jew. The recommendation in the Kol Sachal that the morning prayer could be recited until noon is viewed as a reflection of the Venetian practice. The reference to the need for a single

synagog in each community is taken to be a reflection of Modena's objection to the numerous synagoges of Venice, as there was no plethora of synagoges in Spain. The Italian community used three different types of prayerbooks, the Spanish community but one. Hence it is more likely that the author was Modena who was anxious to achieve uniformity in his own community. The term "hazan" was typical in Italy and not in Spain, where the term "shleach tzibbur" was current. The term "Tugar" used as a designation for Mohomedans was current in Venice, whereas the Spanish Jews were wont to employ the term "Ishmael". De Reggio maintains that the attitude in the Kol Sachal towards the issuing of divorces "according to the custom of the place" reflects the practice common in Italy of following the procedures of the Venetian community. De Reggio reasoned, further, that the author of a pamphlet would be loath to refer to himself as a "fool". He maintains that Modena cleverly contrived this title by manipulating the verse in Job 4.10 *"למה איה אקול סוף ואני כפיריך נחש"* hinting at his own authorship in the use of the term "aryeh". Modena had intended a play on the words "kefirim" and "kof-rim" similarly. De Reggio contends also that Modena failed to conceal his identity in using the term "ish rivi" (in the frontispiece of the mss.). It was odd that Modena should have referred to Ibn Roz as a contemporary, since he had stated that the book was written in the year 1500.

Explaining the fragmentary nature of the Roar of the Lion, De Reggio commented that a part of the manuscript had very likely been lost.

These explanations of De Reggio won acceptance and it has been generally maintained that Modena rather than the alleged "Ibn Roz" composed the Voice of the Fool. Abraham Geiger subscribed to this interpretation and was sympathetic to the motives of Modena in resorting to this literary hoax. According to Geiger, Modena was inspired by a great love of truth but feared to publicize his revolutionary views. It was an age wherein:

אברהם גייגר (1802-1859) נאמן על דברי
ה"א"ר (ה"א"ר 130, 131 - cf. Schur, p. 54)

B. The Kol Sachal as an

Anachronism

Some writers impressed by the parallel between the philosophy of the Kol Sachal and the spirit of the later Reform movement have asserted that this volume is necessarily an anachronism in the 17th century. A modern scholar, Gotthard Deutsch held that both the "Behinat Hakabbalah" and the "Magen v'tsinah" attributed to Modena, were actually forgeries set down in writing in the nineteenth century. He contended that these writings were couched in a modern style and that they could only reflect the opinions expressed at the Brunswick

Conference (June 12-19, 1844).²⁰⁷ Isaac Einhorn has recently advanced the hypothesis that the Behinat Hakabbalah was actually a work by Rabbi Saul Berlin (1740-1794). His argument derived from the fact that this volume reflected ideas which had not been promulgated until the time of Baruch Spinoza (1632-1677).²⁰⁸ The theory of the Behinat Hakabbalah as an anachronism must be rejected, however, on the conclusive evidence²⁰⁹ that the extant manuscript is in the handwriting of Modena. Additional proof is found in a reference to this work in one of Modena's own poems. In the שירי יואל we read:

יב הנהגה ומסור פה של איל סל וקדק סל 210
ש יקורא נ נהגה ל 3 נ' א' ב' ג' ד' ה' ו' ז' ח' ט' י' י"א י"ב י"ג י"ד י"ה י"ו י"ז י"ח י"ט י"א

C. Leon de Modena as an Eclectic

A more likely theory is the interpretation of Modena as an eclectic. New evidence for the authorship of this work has been uncovered in the volume of Carl Gebhardt: "Die Schriften des Uriel Da Costa mit Einleitung, Uebertragung und Regesten" 1922. On the basis of these newly discovered materials, Dr. Isaiah Sonne has advanced the hypothesis that the fundamental structure of the Kol Sachal may be attributed to Uriel Da Costa. As an eclectic, Modena appropriated the work of Da Costa, publishing²¹¹ it, however, with essential additions.

The "Magen v'tsinah" of Modena written in the year 1617 to refute the arguments of a "Jewish rationalist" against the oral law is now shown to have been directed against Uriel Da Costa's "Propostas Contra a Tradicao." The theses in the "Magen v'tsinah" are almost identical with those stated by Da Costa. According to Waxman (following Gebhardt), "The fact that Da Costa published these theses in Hamburg in 1616 the year given by Modena, establishes the authenticity of the opponent beyond any doubt."²¹² The "Magen v'tsinah" was written apparently at the invitation of the presiding officers of the Jewish community at Venice.

It also appears that Da Costa answered this refutation of Modena. The treatise "Examen das Tradicoens Phariseas con a Ley escrita por Uriel Jurista Hebreo..." is no longer extant but citations of this work by da Silva appear in Gebhardt's collection (pp. 35-101; 183-184). It is Sonne's thesis that this missing book may constitute the framework of the Kol Sachal.

Sonne attempts to prove that the three names employed by Modena in the title of the Kol Sachal, Amitai, Yedayah, and Roz can be interpreted as a reference to Da Costa. But far more convincing is the nexus established between the Kol Sachal and the "Magen v'tsinah" on the one hand, and between the Kol Sachal and the Exemplar Vitae Humanae on the other.

The presence of an essay on Dogmas in the Kol Sachal is explained as a reply to a question posed in the "Magen v'tsinah": "And in the articles of faith? Where do we find clearly in the Torah immortality of the soul?" In the Kol Sachal an attempt was made to establish this doctrine on rationalistic grounds. In the "Magen v'tsinah" there is a passage which includes an argument of the rabbis against the Karaites. In the Kol Sachal (p. 21) this argument is refuted. In another case, a statement in the "Magen v'tsinah" was transformed into its exact opposite in the Kol Sachal. In the former work, the view is held that the rabbis had the responsibility of instructing the people in the oral law in order that each might not make up his own interpretation. In the Kol Sachal it is maintained, on the contrary, that the sages created the oral law in order to dominate in the community. Sonne shows that similar parallelisms can be demonstrated.

Many concepts are common to the Kol Sachal and the Exemplar Vitae Humanae of Da Costa. The words in the Exemplar against the separatism of Israel are echoed in the Kol Sachal. There is also a marked parallel in the treatment of the "natural commandments" in the two volumes:

(Kol Sachal, p. 58)

14 3105 111 21 3/20

(Exemplar. p. 61)

ה'תר"ץ אלול א' ה'תר"ץ
ה'תר"ץ אלול א' ה'תר"ץ

A similar parallel is found in the treatment of the concept of immortality. Da Costa asserts "that from the Law it does not result that the soul of man is immortal, or that another life is reserved for it....It would be entirely impossible that the Law should not mention such a thing, for God does not hide the punishment from man, rather does He present it often before him, in order to keep him away from wickedness and through it" (cf. Geiger, Leon da Modena p. 31) More or less the same statement is found in the Kol Sachal: "The most surprising and amazing thing for every Jew is the fact that when we peruse the entire Torah from beginning to end, we find not a single word testifying to the immortality of the soul..." (Kol Sachal p. 14).

It is asserted that the closing words of the Kol Sachal are words unsuitable for Modena, a respected member of the rabbinate in Venice. They might well be attributed to Da Costa as a reflection of his experience with the rabbis. Sonne claims that this theory was never ventured before because it was doubted whether Da Costa had a familiarity with rabbinic lore such as ~~ex~~ is evinced in the Kol Sachal. To this Sonne replies that it is possible that Da Costa may have studied Hebrew, and that, furthermore, in the third treatise of the Kol Sachal, Da Costa may have used a Spanish translation of Caro's Schulchan

Aruch, viz., the well-known Mesa de el Alma, rather than the Turim of Rabbi Jacob ben Asher as alleged in the present text edited and amended by Modena.

Sonne explains that Modena failed to complete his reply to the Kol Sachal because a reply had come from Da Silva and because the questioner himself, Da Costa, had abandoned the viewpoint of the Kol Sachal.

The present writer is sympathetic to this hypothesis.

That Modena was an eclectic seems fairly obvious. De Reggio himself made the observation of Modena's methodology: "For it was his custom always to bring quotations into his works".²¹³

A number of evidences of this eclectic tendency were observed in the present work. On p. 29 a reference is made to a great man who said that tampering with Divine law entails great danger. On pp. 34-35 a selection was taken from the will of Ibn Caspi (1297-1340) to illustrate the arguments of the Kol Sachal. In another case, pp. 51-52, Modena quoted directly from a work by the apostate Abner of Burgos (1270-1348). The Venetian rabbi's dependence on the "Kuzarie" of R. Judah Ha Levi was already observed (ms. pp. 67, 68).

It therefore seems very likely that Modena would not hesitate to include important parts of Da Costa's work in the

Kol Sachal as well as in the Magen V'tsinah.

Modena's interest in Da Costa's works can be explained by his own concern with religious reform. Apparently he found in Da Costa's works a statement towards which he was strongly sympathetic. We know that Modena was occupied to some degree with the problem of religious reform. De Reggio commented on this tendency in "Di Riti" and might also have referred to the Beth Yehudah (Haboneh) where Modena recommended significant changes in ritual. Lebowitz has cited a number of references (pp. 29-34) in this work which conclusively establish Modena's interest in reform. Hence it seems fair to conclude that Modena adapted a work by Da Costa. By publishing the work anonymously and appending a super^{ficial}~~fictitious~~ "reply", he was able to express his sympathies with religious reform without prejudicing his interests as a Venetian Rabbi.

* * * *

Regardless of what theories are advanced concerning the authorship of the Kol Sachal, it seems fairly certain that the document dates from the seventeenth century. As such it remains a testament of the impact of the rationalistic spirit upon Judaism. It presaged many changes in the form and spirit of Judaism that were later to ensue under the aegis of the Reform Movement.

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NOTES

1. Schevill: A History of Europe, p. 130.
2. Hasting's Encyclopedia of Religion and Ethics, art., "Reformation" by H. M. Gwatkin, p. 615.
3. Philippson: History of the Reform Movement, p. 1.
4. Graetz: History of the Jews, Vol. V, p. 50.
5. Symonds: A Short History of the Renaissance in Italy, p. 291.
6. Roth: Venice, p. 193.
7. *ibid.*, p. 164.
8. *ibid.*, pp. 214-227.
9. Hayve Yehudah, p. 48.
10. *ibid.*, p. 50.
11. *ibid.*, p. 54.
12. Vol. V, op. cit., p. 67.
13. Behinat Hakabbalah, p. 62.
14. Roth, op. cit., p. 223.
15. Hayve Yehudah, cf. note on p. 64.
16. B. K. p. 6.
17. *ibid.*, p. 7.
18. " p. 7.
19. " p. 8.
20. " "
21. " p. 9.
22. " p. 10.

23. Gen. R., Vayetzae, LXVIII, 9.

24. В. Н., p. 10.

25. *ibid.*, p. 11.

26. " p. 12.

27. " p. 14.

28. *ibid.*

29. " p. 14.

30. " p. 16.

31. " p. 16

31. " p. 16
32. " p. 50, "ז' חזון עז יחד. בול עמאלט מנחם"

and cf. also, p. 19: "67 '30/1N"

33. *ibid.*, p. 18.

34. "

35. Ps. 119.30.

36. Dt. 4.2.; This verse is constantly quoted throughout the work.

37. *ibid.*, p. 22

38. "

39. Judg. 2.11, 21.17.

40. *Ibid.*, p. 27. This view was well-known in Holland and was articulated later by B. Spinoza.

41. p. 24.

42. v. 25.

43. v. 26.

44. p. 27.

45. p. 27.

46. Dt. 17.8, 10, 11.

47. Dt. 17.8.

48. Dt. 13.1, 4.2.

49. p. 29.

50. p. 29.

51. p. 30.

52. p. 30.

53. p. 30.

54. Yebamot 20a.

55. p. 30 and cf. p. 31: "למה נאמר לו ומה נאמר לו"

56. p. 31.

57. p. 32.

58. p. 32.

59. p. 32.

60. p. 33.

61. Is. 20.21.

62. p. 33.

63. Dt. 30.11-14.

64. p. 33.

65. p. 33.

66. p. 34

67. p. 34

68. p. 145

- 69. p. 35.
- 70. p. 36.
- 71. Josh. 1.8, Nu. 15.39, Dt. 22.17, Ps. 63.7.
- 72. p. 37
- 73. p. 37
- 74. p. 37.
- 75. p. 38.
- 76. p. 38.
- 77. p. 38.
- 78. p. 39.
- 79. Gen. 19.27, 24.63, 8.11, Nu. 23.25, Ps. 55.18, I Ki. 8.35.
- 80. p. 40.
- 81. p. 40.
- 82. p. 40.
- 83. p. 41.
- 84. p. 41.
- 85. p. 41.
- 86. p. 42.
- 87. p. 42.
- 88. p. 43.
- 89. p. 44.
- 90. and also Neh. 5.10, 13.15.
- 91. p. 46.
- 92. Ex. 19.10, 15, Is. 58.13.

- 93. p. 46.
- 94. p. 47.
- 95. p. 47.
- 96. p. 49.
- 97. p. 49.
- 98. p. 49.
- 99. p. 186.
- 100. p. 50.
- 101. p. 61.
- 102. p. 194.
- 103. Jewish Encyclopedia, Vol. I, p. 73.
- 104. pp. 193-195.
- 105. p. 53.
- 106. pp. 205-206.
- 107. Ex. 23.19, 34.26, Dt. 14.21.
- 108. p. 54.
- 109. p. 54.
- 110. p. 55.
- 111. p. 55.
- 112. p. 56.
- 113. p. 56.
- 114. p. 59.
- 115. p. 59.
- 116. p. 230.
- 117. p. 62.

141. Ikarim, מ"א, פ"א
142. Erubin 100b.
143. quoted by Cohon, *ibid.* Source is Sifra Aharae Mot XIII (ed. Weiss 86a), Yoma 67b, and cf. Maimonides, Shemoneh Perakim, VI.
144. Ab. Zarah ix.4, Sanh.56a, Maimonides, Yad, "Melakin", ix, 1, and etc.
145. Kol Sachal p. 21.
146. *ibid.* p. 32.
147. cf. p. 30: "כאן היה דבר אחר וזהו דבר
 p. 64: "זהו דבר אחר וזהו דבר"
148. p. 30, 34. 54. 62.
149. p. 25.
150. cf. Lebowitz: Leon Modena. N.Y. 1901, second edition., p. 61 with a letter of introduction to Elias Abernaker of London from John Owen.
151. *op. cit.*, p. 6.
152. suggested by S.S. Cohon; cf. also art. "Deism" in Encyclopedia Britannica, 11th ed., Vol. 7-8, p. 935.
153. "זהו דבר אחר וזהו דבר"
 Amsterdam. p. 84-85
 "ויספיק לי בדא"ק מהלכות פנימיות למצואם של הי"ק יותר
 מנ"ב במה ואמנם וזהו דבר אחר וזהו דבר אחר
 אלא פסל דבר אחר במה וזהו דבר אחר"
154. p. 47.
155. p. 32: "דבר אחר"
156. p. 30. "הוא דבר אחר וזהו דבר אחר"
157. p. 34:

158. p. 30.

159. p. 31.

160. p. 33.

161. p. 46, and cf. also, p. 44:

"יומנו לבין צדק האדם"

162. p. 57:

"לזה הוב מוקד אחד לביחוק ולחילוק לביחוק
ועד משיחא"

163. p. 41.

164. p. 31 "וצה כמח ומה דין וזאב ישלחם"

165. p. 31.

"היה מגדדק דב ומקדלם אורב
לביח נצורה וקורה"

166. p. 33.

167. p. 33.

168. p. 44 and also p. 49: "ט. המאמר הכי נכ משנה"

169. p. 58: "אלא לזה דיןם אהרם זל ביאוי לביחמיה"

170. cf. Meg. 2b, Git. 40.3, B.B. 90.3 for the concept of suspending that legislation until the Messianic advent.

171. p. 42:

"נכון להאריך קצת... אלא במאמרים ופרקים
דרבנא"

172. p. 54: "סיג שלטת"

173. p. 30, 49, 58.

174. p. 59:

"אם ירצה למקד עמו הכי טוב ואם לאו יאמר
ויחיה יחד ויספיק לו זה עבדות כלל לעבדות
ועדיות יורש ונוראם ל דבר שארם ושמעל"

175. p. 42:

"צריך שיהיה מקור ע דברים ואם הופלם לא יאמרו מהיות
ל יאמר מהיה או שמע או לשם"

176. p. 41:

"הנה ט כן כמח המבדלים קצת הי פחות לדרבנא
למ"

177. p. 41

178. p. 42. "מה שא"ל שיהי דאמן המבדל אחרות ויחיות"

179. p. 43:

"אך מה לבד דיוקין אק זירק אל זכר זכר
לפניו"

180. Jewish Encyclopedia, Vol. 10, p. 347, art., "Reform".
181. "We recognize in the Mosaic legislation a system of training the Jewish people for its mission during its national life in Palestine and today we accept as binding only its moral laws, and maintain only such ceremonies as elevate and sanctify our lives, but reject all such as are not adapted to the views and habits of modern civilization." --Pittsburgh Platform, cf. Philipson: "History of the Reform Movement, p. 356.
- And cf. Columbus Platform 1937: "Reform Judaism recognizes the principle of progressive development in religion and consciously applies this principle to spiritual as well as to cultural and social life!"
182. Philipson, op. cit., pp. 354-355.
183. cf. sec. 3 of Philadelphia program 1869 and sec. 4 of the Pittsburgh Platform.
184. Philipson, p. 215.
185. ibid., p. 371.
186. cf. Kol Sachal p. 45 and the Breslau statement: " That in case of danger to life, whether of self or others, of Israelites or non-Israelites, everything is permitted-yes, commanded- to be done to avert this danger" cf. Philipson, p. 213.
187. Jewish Encyclopedia, Vol. 4, p. 214.
188. ibid., p. 600.
189. cf. Philipson, p. 47.
190. cf. Lebowitz, p. 49 quoting from the "Letters", p. 980.
191. cf. Bernstein: " Behazon hadoroth", p. 44.
192. Jewish Quarterley Review, op. cit., p. 250.
193. Bernstein, op. cit., p. 51
194. ibid. p. 54.
195. ibid., p. 61.
196. Kol Sachal, p. 12

197. cf. Bernstein, op. cit., p. 61.

198. *ibid.*

199. "Die Schriften des Uriel La Costa. Amsterdam, p. XXXVI.

200. op. cit., p. 61.

201. *ibid.* p. 62.

202. p. 33 Kol Sachal

203. p. 30, 31, 33, 34 of *ibid.*

204. op. cit., p. 61:

א"ת ה'תש"ב ה'תש"ג ה'תש"ד ה'תש"ה ה'תש"ו ה'תש"ז ה'תש"ח ה'תש"ט ה'תש"י ה'תש"י
ה'תש"י ה'תש"י ה'תש"י ה'תש"י ה'תש"י ה'תש"י ה'תש"י ה'תש"י ה'תש"י ה'תש"י

205. p. 74ff.

206. Chap. 17 of Ari Nohem, p. 31 of Kol Sachal.

207. Menorah Journal, Vol. XVII, No. 6., p. 361.

208. Tarbiz, Vol. 13, No. 1, Oct. 1942, refuted in Vol. 13, No. 2-3, by Benjamin Klaar.

209. Verified by Dr. Isaiah Sonne.

210. *Ivan*, p. 159, ed. by S. Bernstein.

211. Jewish Quarterley Review, Vol. XXII, No. 3, pp. 247-295.

212. Vol. II, p. 578.

213. p.145.

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Isaac Einhorn and Benjamin Klaar.